

## §216.256

(j) The Holder of the Letter of Authorization must conduct any marine mammal research required under the Letter of Authorization.

(k) *Reporting.* (1) Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must submit an annual report to the Director, Office of Protected Resources, National Marine Fisheries Service, no later than 30 days prior to the date of expiration of the Letter of Authorization. This report must contain all information required by these regulations and the Letter of Authorization.

(2) The final comprehensive report on all marine mammal monitoring and research conducted during the period of these regulations must be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service at least 240 days prior to expiration of these regulations or 240 days after the expiration of these regulations if new regulations will not be requested.

### §216.256 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. citizen (as defined at §216.103 ) conducting the activity identified in §216.250(a) must apply for and obtain either an initial Letter of Authorization in accordance with §§216.106 and 216.257 or a renewal under §216.258.

### §216.257 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time specified in the Letter of Authorization, but may not to exceed the period of validity of this subpart, and must be renewed annually subject to annual renewal conditions in §216.258.

(b) A Letter of Authorization with a period of validity less than the period of this subpart may be renewed subject to renewal conditions in §216.258.

(c) 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,

## 50 CFR Ch. II (10–1–07 Edition)

its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting incidental takes.

(d) 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 species or stock of affected marine mammals.

(e) Except for the initial Letter of Authorization, notice of issuance or denial of subsequent Letters of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

### §216.258 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under §216.106 and §216.257 for the activity identified in §216.250(a) will be renewed annually upon:

(1) Notification to the National Marine Fisheries Service that the activity described in the application submitted under §216.256 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) Timely receipt of the monitoring report required under §216.255(k), and the Letter of Authorization, which has been reviewed and accepted by the National Marine Fisheries Service; and

(3) A determination by the National Marine Fisheries Service that the mitigation, monitoring and reporting measures required under §216.254, §216.255, and the Letter of Authorization issued under §§216.106 and 216.257, 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 216.258 indicates that a substantial modification to the described work, mitigation, monitoring or research undertaken during the upcoming season will occur, the National Marine Fisheries Service will provide the public a period of 30 days for review and seek comment on:

(1) New cited information and data that indicates that the determinations

made for promulgating these regulations are in need of reconsideration, and

(2) Proposed changes to the mitigation, monitoring and research requirements contained in these regulations or in the current Letter of Authorization.

#### **§216.259 Modifications to Letters of Authorization.**

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to a Letter of Authorization issued pursuant to §§216.106 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 §216.258, 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 §216.250(b), a Letter of Authorization issued pursuant to §§216.106 and 216.257 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.

### **PARTS 217–220 [RESERVED]**

## **PART 221—PRESCRIPTIONS IN FERC HYDROPOWER LICENSES**

### **Subpart A—General Provisions**

Sec.

- 221.1 What is the purpose of this part, and to what license proceedings does it apply?  
 221.2 What terms are used in this part?  
 221.3 How are time periods computed?  
 221.4 What deadlines apply to pending applications?

### **Subpart B—Hearing Process**

#### **REPRESENTATIVES**

- 221.10 Who may represent a party, and what requirements apply to a representative?

#### **DOCUMENT FILING AND SERVICE**

- 221.11 What are the form and content requirements for documents under this subpart?  
 221.12 Where and how must documents be filed?  
 221.13 What are the requirements for service of documents?

#### **INITIATION OF HEARING PROCESS**

- 221.20 What supporting information must NMFS provide with its preliminary prescriptions?  
 221.21 How do I request a hearing?  
 221.22 How do I file a notice of intervention and response?  
 221.23 When will hearing requests be consolidated?  
 221.24 How will NMFS respond to any hearing requests?  
 221.25 What will NMFS do with any hearing requests?  
 221.26 What regulations apply to a case referred for a hearing?

#### **GENERAL PROVISIONS RELATED TO HEARINGS**

- 221.30 What will the Department of Commerce's designated ALJ office do with a case referral?  
 221.31 What are the powers of the ALJ?  
 221.32 What happens if the ALJ becomes unavailable?  
 221.33 Under what circumstances may the ALJ be disqualified?  
 221.34 What is the law governing ex parte communications?  
 221.35 What are the requirements for motions?

#### **PREHEARING CONFERENCES AND DISCOVERY**

- 221.40 What are the requirements for prehearing conferences?  
 221.41 How may parties obtain discovery of information needed for the case?  
 221.42 When must a party supplement or amend information it has previously provided?  
 221.43 What are the requirements for written interrogatories?  
 221.44 What are the requirements for depositions?  
 221.45 What are the requirements for requests for documents or tangible things or entry on land?  
 221.46 What sanctions may the ALJ impose for failure to comply with discovery?  
 221.47 What are the requirements for subpoenas and witness fees?

#### **HEARING, BRIEFING, AND DECISION**

- 221.50 When and where will the hearing be held?  
 221.51 What are the parties' rights during the hearing?  
 221.52 What are the requirements for presenting testimony?