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.

(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 §216.110(b), a Letter of Authorization issued pursuant to §§216.106 and 216.117 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.
its contractors, and clients, may incidentally, but not intentionally, take marine mammals by harassment, with-in the area described in §216.120, provided the activity is in compliance with all terms, conditions, and require-ments of the regulations in this sub-part and the appropriate Letter of Au-thorization.

(b) The taking of marine mammals is authorized for the species listed in §216.120(b) and is limited to Level B Harassment.

§ 216.123 Prohibitions.

Notwithstanding takings specified in §216.120 and authorized by a Letter of Authorization issued under §§216.106 and 216.127, no person in connection with the activities described in §216.120 may:

(a) Take any marine mammal not specified in §216.120(b);

(b) Take any marine mammal specified in §216.120(b) other than by incidental, unintentional harassment;

(c) Take a marine mammal specified in §216.120(b) if such taking results in more than a negligible impact on the species or stocks of such marine mam-mal; or

(d) Violate, or fail to comply with, the terms, conditions, and require-ments of this subpart or a Letter of Authorization issued under §§216.106 and 216.127.

§ 216.124 Mitigation.

(a) The activity identified in §216.120(a) must be conducted in a man-ner that minimizes, to the greatest ex-tent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in §216.120(a), the mitigation measures contained in the Letter of Authorization issued under §§216.106 and 216.127 must be implemented. These mitiga-tion measures include (but are not lim-ited to):

1. All aircraft and helicopter flight paths must maintain a minimum dis-tance of 1,000 ft (305 m) from recognized seal haul-outs and rookeries (e.g., Point Sal, Purisima Point, Rocky Point), except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting), which may require approaching pinniped haul-outs and rookeries closer than 1,000 ft (305 m).

2. For missile and rocket launches, holders of Letters of Authorization must avoid, whenever possible, launches during the harbor seal pupping season of March through June, unless constrained by factors includ-ing, but not limited to, human safety, national security, or for space vehicle launch trajectory necessary to meet mission objectives.

3. Vandenberg Air Force Base must avoid, whenever possible, launches which are predicted to produce a sonic boom on the Northern Channel Islands during harbor seal, elephant seal, Cali-fornia sea lion, and northern fur seal pupping seasons of March through June.

4. If post-launch surveys determine that an injurious or lethal take of a marine mammal has occurred or there is an indication that the distribution, size, or productivity of the potentially affected pinniped populations has been affected, the launch procedure and the monitoring methods must be reviewed, in cooperation with NMFS, and, if neces-sary, appropriate changes must be made through modification to a Letter of Authorization, prior to conducting the next launch of the same vehicle under that Letter of Authorization.

5. Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 216.125 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization issued pursuant to §§216.106 and 216.127 for activities described in §216.120(a) are required to cooperate with NMFS, and any other Federal, state or local agency with authority to monitor the impacts of the activity on marine mammals. Unless specified other-wise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Administrator, Southwest Region, NMFS, by letter or telephone, at least 2 weeks prior to ac-tivities possibly involving the taking of marine mammals. If the authorized activity identified in §216.120(a) is