than by incidental, unintentional Level B harassment;
(c) Take a marine mammal specified in §217.13(b) of this chapter if such tak-
ing 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 require-
ments of this subpart or a LOA issued under §§216.106 and 217.17 of this chap-
ter.
§ 217.15 Mitigation.
(a) The activity identified in §217.11(a) of this chapter must be con-
ducted in a manner that minimizes, to the greatest extent practicable, ad-
verse impacts on marine mammals and their habitats. When conducting the
activities identified in §217.11(a) of this chapter, the mitigation measures con-
tained in the LOA issued under §§216.106 and 217.17 of this chapter must
be implemented. These mitigation
measures include but are not limited to:
(1) Limiting the location of the au-
thorized fireworks displays to the four
specifically designated areas at Half
Moon Bay, the Santa Cruz/Soquel area,
the northeastern Monterey Break-
water, and Cambria (Santa Rosa
Creek);
(2) Limiting the frequency of author-
ized fireworks displays to no more than
twenty total displays per year and no
more than one fireworks display every
2 months in each of the four prescribed
areas;
(3) Limiting the duration of author-
ized individual fireworks displays to no
longer than 30 minutes each, with the
exception of two longer shows not to
exceed 1 hour;
(4) Prohibiting fireworks displays at
MBNMS between March 1 and June 30
of any year; and
(5) Continuing to implement author-
ization requirements and general and
special restrictions for each event, as
determined by MBNMS. Standard re-
quirements include, but are not limited
to, the use of a ramp-up period, where-
in salutes are not allowed in the first 5
minutes of the display; the removal of
plastic and aluminum labels and wrap-
pings; and post-show reporting and
cleanup. MBNMS shall continue to as-

sess displays and restrict the number
of aerial salute effects on a case-by-
case basis, and shall implement general
and special restrictions unique to each
fireworks event as necessary.
(b) The mitigation measures that the
individuals conducting the fireworks
are responsible for will be included as a
requirement in fireworks display au-
thorizations issued by MBNMS to the
individual entities.
§ 217.16 Requirements for monitoring
and reporting.
(a) MBNMS is responsible for ensur-
ing that all monitoring required under
a LOA is conducted appropriately, in-
cluding, but not limited to:
(1) A census of all pinnipeds in the
impact area on the day prior to all dis-
plays, with observations to occur for
no less than 30 minutes, and
(2) Reporting to NMFS of all marine
mammal injury, serious injury, or mor-
tality observed in the vicinity of the
display area. Monitoring for injury, se-
rious injury, or mortality shall occur
no later than the morning after each
fireworks display, and shall occur for
no less than 30 minutes.
(b) Unless specified otherwise in the
LOA, MBNMS must submit a draft an-
nual monitoring report to the Director,
Office of Protected Resources, NMFS,
no later than 60 days after the conclu-
sion of each calendar year. This report
must contain:
(1) An estimate of the number of ma-
rine mammals disturbed by the author-
ized activities.
(2) Results of the monitoring re-
quired in §217.16(a) of this chapter, and
any additional information required by
the LOA. A final annual monitoring re-
port must be submitted to NMFS with-
in 30 days after receiving comments
from NMFS on the draft report. If no
comments are received from NMFS,
the draft report will be considered to
be the final annual monitoring report.
(c) A draft comprehensive monitoring
report on all marine mammal moni-
toring conducted during the period of
these regulations must be submitted to
the Director, Office of Protected Re-
sources, NMFS at least 120 days prior
to expiration of these regulations. A
final comprehensive monitoring report
must be submitted to the NMFS within