

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(c) 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.

§ 217.118 Renewals and Modifications of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 and § 217.117 of this chapter for the activities identified in § 217.110(c) will be renewed or modified upon request of the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for this subpart (excluding changes made pursuant to adaptive management) and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous Letter of Authorization under this subpart were implemented.

(b) For Letter of Authorization modifications or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to adaptive management) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of a proposed Letter of Authorization in the FEDERAL REGISTER, including the associate analysis illustrating the change, and solicit public comment before issuing the Letter of Authorization.

(c) A Letter of Authorization issued under §§ 216.106 and 217.117 of this chapter for the activity identified in § 217.110(c) may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify or augment the existing mitigation or monitoring measures

(after consulting with the U.S. Air Force regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(i) Results from the U.S. Air Force's monitoring from the previous year;

(ii) Results from marine mammal and sound research; or

(iii) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by this subpart or subsequent Letters of Authorization.

(2) Emergencies. If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.112(c), a Letter of Authorization issued pursuant to §§ 216.106 and 217.117 of this chapter 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.

Subpart M [Reserved]

Subpart N—Taking Marine Mammals Incidental to Seismic Surveys in Cook Inlet, Alaska

SOURCE: 81 FR 47275, July 20, 2016, unless otherwise noted.

EFFECTIVE DATE NOTE: At 81 FR 47275, July 20, 2016, subpart N was added, effective Aug. 19, 2016, through July 20, 2021.

§ 217.130 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to Apache Alaska Corporation (Apache), and those persons it authorizes to conduct activities on its behalf, for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section incidental to Apache's oil and gas exploration seismic survey program operations.