

animal sighting to NMFS and the Marine Mammal Stranding Network. AGDC may continue its operations under such a case.

#### § 217.46 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to the regulations in this subpart, AGDC must apply for and obtain (LOAs) in accordance with § 216.106 of this chapter for conducting the activity identified in § 217.40(c).

(b) LOAs, unless suspended or revoked, may be effective for a period of time not to extend beyond the expiration date of the regulations in this subpart.

(c) If an LOA(s) expires prior to the expiration date of the regulations in this subpart, AGDC may apply for and obtain a renewal of the LOA(s).

(d) In the event of projected changes to the activity or to mitigation, monitoring, reporting (excluding changes made pursuant to the adaptive management provision of § 217.47(c)(1)) required by an LOA, AGDC must apply for and obtain a modification of LOAs as described in § 217.47.

(e) Each LOA must set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species, their habitat, and the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA(s) must be based on a determination that the level of taking must be consistent with the findings made for the total taking allowable under the regulations in this subpart.

(g) Notice of issuance or denial of the LOA(s) must be published in the FEDERAL REGISTER within 30 days of a determination.

#### § 217.47 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 217.46 for the activity identified in § 217.40(c) must be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and re-

porting measures, as well as the anticipated impacts, are the same as those described and analyzed for the regulations in this subpart (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA(s) under the regulations in this subpart were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations in this subpart 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 proposed LOA in the FEDERAL REGISTER, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 217.46 for the activity identified in § 217.40(c) may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* After consulting with AGDC regarding the practicability of the modifications, NMFS may modify (including by adding or removing measures) the existing mitigation, monitoring, or reporting measures if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the regulations in this subpart.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from AGDC's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by the regulations in this subpart or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS must publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(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 LOAs issued pursuant to §§216.106 of this chapter and 217.46, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within 30 days of the action.

§§ 217.48–217.49 [Reserved]

## Subpart F—Taking Marine Mammals Incidental to Lighthouse Repair and Tour Operations at Northwest Seal Rock, California

SOURCE: 87 FR 22492, Apr. 15, 2022, unless otherwise noted.

EFFECTIVE DATE NOTE: At 87 FR 22492, Apr. 15, 2022, subpart F was added, effective May 15, 2022, through May 14, 2027.

### § 217.50 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the St. George Reef Lighthouse Preservation Society (Society) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section and that occurs incidental to lighthouse repair and tour operation activities.

(b) The taking of marine mammals by the Society may be authorized in a Letter of Authorization (LOA) only if it occurs within Pacific Ocean waters in the vicinity of Northwest Seal Rock near Crescent City, California.

### § 217.51 Effective dates.

Regulations in this subpart are effective from May 15, 2022 through May 14, 2027.

### § 217.52 Permissible methods of taking.

Under LOAs issued pursuant to §216.106 of this chapter and §217.56, the Holder of the LOA (hereinafter “Society”) may incidentally, but not intentionally, take marine mammals within the area described in §217.50(b) by Level B harassment associated with lighthouse repair and tour operation activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

### § 217.53 Prohibitions.

Except for taking authorized by a LOA issued under §§216.106 and 217.56 of this chapter, it shall be unlawful for any person to do any of the following in connection with the activities described in §217.50:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §216.106 of this chapter and §217.56;

(b) Take any marine mammal not specified in such LOAs;

(c) Take any marine mammal specified in such LOAs in any manner other than as specified; or

(d) Take a marine mammal specified in such LOAs if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal.

### § 217.54 Mitigation requirements.

When conducting the activities identified in §217.50(a), the mitigation measures contained in any LOA issued under §216.106 of this chapter and §217.56 must be implemented. These mitigation measures shall include but are not limited to:

(a) *General conditions.* (1) A copy of any issued LOA must be in the possession of the Society, supervisory personnel, pilot, protected species observers (PSOs), and any other relevant designees of the Holder operating under the authority of this LOA at all times that activities subject to this LOA are being conducted.

(2) The Society must conduct training between supervisors and crews and the marine mammal monitoring team and relevant Society staff prior to the