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and that occurs incidental to rocket and missile launches and aircraft operations.

(b) The taking of marine mammals by the USAF may be authorized in a Letter of Authorization (LOA) only if it occurs from activities originating at Vandenberg Air Force Base.

§ 217.61 Effective dates.

Regulations in this subpart are effective from April 10, 2019, until April 10, 2024.

§ 217.62 Permissible methods of taking.

(a) Under an LOA issued pursuant to §§ 216.106 and 217.60 of this chapter, the Holder of the LOA (herein after ''USAF'') may incidentally, but not intentionally, take marine mammals by Level B harassment, within the area described in § 217.60(b), provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

§ 217.63 Prohibitions.

Notwithstanding takings contemplated in § 217.62(c) and authorized by an LOA issued under §§ 216.106 and 217.66 of this chapter, no person in connection with the activities described in § 217.60 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or an LOA issued under §§ 216.106 of this chapter and 217.66;

(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;

(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; or

(e) Take a marine mammal specified in such LOAs if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

§ 217.64 Mitigation requirements.

When conducting the activities identified in § 217.60(a), the mitigation measures contained in any Letter of Authorization issued under §§ 216.106 of this chapter and 217.66 must be implemented. These mitigation measures include (but are not limited to):

(a) For missile and rocket launches, the USAF must avoid, whenever possible, launches during the harbor seal pupping season of March through June, unless constrained by factors including, but not limited to, human safety, national security, or launch mission objectives.

(b) For rocket launches, the USAF must avoid, whenever possible, launches which are predicted to produce a sonic boom on the Northern Channel Islands from March through June.

(c) Aircraft and helicopter flight paths must maintain a minimum distance of 1,000 feet (ft) (305 meters (m)) from recognized pinniped haulouts and rookeries, whenever possible, except for one area near the VAFB harbor over which aircraft may be flown to within 500 ft of a haulout, and except in emergencies or for real-time security incidents, which may require approaching pinniped haulouts and rookeries closer than 1,000 ft (305 m).

(d) Except for during take-off and landing actions, the following minimum altitudes must be maintained over all known marine mammal haulouts when marine mammals are present: For Class 0–2 UAS, a minimum of 300 ft; for Class 3 UAS, a minimum of 500 ft; and for Class 4 or 5 UAS, a minimum of 1,000 ft.

(e) If post-launch surveys determine that an injurious or lethal take of a marine mammal has occurred, the launch procedure and the monitoring methods must be reviewed, in cooperation with the National Marine Fisheries Service (NMFS), and appropriate changes must be made through modification to a Letter of Authorization, prior to conducting the next launch under that Letter of Authorization.

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