

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, AAC must apply for and obtain a modification of the LOA as described in § 217.77.

(e) The LOA shall set forth:

(1) The number of marine mammals, by species, authorized to be taken;

(2) Permissible methods of incidental taking;

(3) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species of marine mammals authorized for taking, its habitat, and on the availability of the species for subsistence uses; and

(4) Requirements for monitoring and reporting.

(f) Issuance of an LOA shall be based on a determination that the level of taking shall be consistent with the findings made for the total taking allowable under these regulations.

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

§ 217.77 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under § 216.106 of this chapter and § 217.76 for the activity identified in § 217.70(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (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 under these regulations were implemented.

(b) For an LOA modification or renewal request by the applicant that includes changes to the activity or the mitigation, monitoring, or reporting (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 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 § 217.76 for the activity identified in § 217.70(a) may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with AAC regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations:

(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 AAC's monitoring from the previous year(s);

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

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or any LOA issued under §§ 216.106 and 217.76 of this chapter.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS shall 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 §§ 217.70(b) and 217.72(a), an LOA may be modified without prior notice or opportunity for public comment. A notice shall be published in the FEDERAL REGISTER within 30 days of the action.