

determination by NMFS and the applicant that modifications are appropriate pursuant to the adaptive management component of these regulations indicates that a substantial modification, as determined by NMFS, to the described work, mitigation or monitoring undertaken during the upcoming season shall occur, NMFS shall publish a proposed modification to the Letter of Authorization in the FEDERAL REGISTER and provide the public a period of 30 days for review and comment. Review and comment on renewals or modifications of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed substantive changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization shall be published in the FEDERAL REGISTER.

(d) 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 set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

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

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

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

§ 217.89 Modifications of Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authoriza-

tion by NMFS issued pursuant to § 216.106 of this chapter and § 217.87 of this chapter and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 217.88, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.80(b), a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 217.87 of this chapter may be substantively modified without prior notification and an opportunity for public comment. Notification shall be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subpart J—Taking and Importing Marine Mammals; U.S. Navy's Submarine Base New London Pier Construction

SOURCE: 83 FR 36788, July 31, 2018, unless otherwise noted.

EFFECTIVE DATE NOTE: At 83 FR 36788, July 31, 2018, subpart J was added, effective Mar. 1, 2020, until Feb. 28, 2025.

§ 217.90 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy (Navy) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy may be authorized in Letters of Authorization (LOAs) only if it occurs within the Navy Submarine Base New London Study Area, which is located in the towns of Groton and Ledyard in New London County, Connecticut.