

## § 216.208

the plan. Unless specified in the Letter of Authorization, the applicant must submit a final monitoring plan to the Assistant Administrator prior to the issuance of an initial Letter of Authorization.

### § 216.208 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart, but must be renewed annually subject to annual renewal conditions in § 216.209.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(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, including any requirements for the independent peer-review of proposed monitoring plans.

(c) Issuance and renewal of each Letter of Authorization will be based on a determination that the number of marine mammals taken by the activity will be small, 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 mammal(s), and will not have an unmitigable adverse impact on the availability of species or stocks of marine mammals for taking for subsistence uses.

(d) Notice of issuance or denial of a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

### § 216.209 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 and § 216.208 for the activity identified in § 216.200 will be renewed annually upon:

(1) Notification to the National Marine Fisheries Service that the activity described in the application submitted under § 216.207 will be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season;

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(2) Timely receipt of the monitoring reports required under § 216.205, and the Letter of Authorization issued under § 216.208, which have been reviewed and accepted by the National Marine Fisheries Service, and of the Plan of Cooperation required under § 216.205; and

(3) A determination by the National Marine Fisheries Service that the mitigation, monitoring and reporting measures required under § 216.204 and the Letter of Authorization issued under §§ 216.106 and 216.208, were undertaken and will be undertaken during the upcoming annual period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §§ 216.106 and 216.208 indicates that a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season will occur, the National Marine Fisheries Service will provide the public a minimum of 30 days for review and comment on the request. Review and comment on renewals of Letters of Authorization are restricted to:

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

(2) The Plan of Cooperation, and

(3) The proposed monitoring plan.

(c) A notice of issuance or denial of a Renewal of a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

### § 216.210 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by the National Marine Fisheries Service, issued pursuant to §§ 216.106 and 216.208 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 § 216.209, without modification (except for the period of validity), is not considered a substantive modification.