

subsistence purposes, proposed monitoring plans or other research proposals must be independently peer-reviewed prior to issuance of an incidental harassment authorization under this subpart. In order to complete the peer-review process within the time frames mandated by the MMPA for an incidental harassment authorization, a proposed monitoring plan submitted under this paragraph must be submitted to the Assistant Administrator no later than the date of submission of the application for an incidental harassment authorization. Upon receipt of a complete monitoring plan, and at its discretion, the National Marine Fisheries Service will either submit the plan to members of a peer review panel for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan. The applicant must submit a final monitoring plan to the Assistant Administrator prior to the issuance of an incidental harassment authorization.

(e) At its discretion, the National Marine Fisheries Service may place an observer aboard vessels, platforms, aircraft, etc., to monitor the impact of activities on marine mammals.

(f)(1) As specified in the incidental harassment authorization, the holder of an incidental harassment authorization for Arctic waters must submit reports to the Assistant Administrator within 90 days of completion of any individual components of the activity (if any), within 90 days of completion of the activity, but no later than 120 days prior to expiration of the incidental harassment authorization, whichever is earlier. This report must include the following information:

- (i) Dates and type(s) of activity;
- (ii) Dates and location(s) of any activities related to monitoring the effects on marine mammals; and
- (iii) Results of the monitoring activities, including an estimate of the actual level and type of take, species name and numbers of each species observed, direction of movement of species, and any observed changes or modifications in behavior.

(2) Monitoring reports will be reviewed by the Assistant Administrator and, if determined to be incomplete or inaccurate, will be returned to the

holder of the authorization with an explanation of why the report is being returned. If the authorization holder disagrees with the findings of the Assistant Administrator, the holder may request an independent peer review of the report. Failure to submit a complete and accurate report may result in a delay in processing future authorization requests.

(g) Results of any behavioral, feeding, or population studies, that are conducted supplemental to the monitoring program, should be made available to the National Marine Fisheries Service before applying for an incidental harassment authorization for the following year.

Subpart J—Taking of Ringed Seals Incidental to On-Ice Seismic Activities

SOURCE: 63 FR 5283, Feb. 2, 1998, unless otherwise noted.

EFFECTIVE DATE NOTE: At 63 FR 5283, Feb. 2, 1998, subpart J was revised, effective Feb. 2, 1998, to Dec. 31, 2002.

§ 216.111 Specified activity and specified geographical region.

Regulations in this subpart apply only to the incidental taking of ringed seals (*Phoca hispida*) and bearded seals (*Erignathus barbatus*) by U.S. citizens engaged in on-ice seismic exploratory and associated activities over the Outer Continental Shelf of the Beaufort Sea of Alaska, from the shore outward to 45 mi (72 km) and from Point Barrow east to Demarcation Point, from January 1 through May 31 of any calendar year.

§ 216.112 Effective dates.

Regulations in this subpart are effective from February 2, 1998 through December 31, 2002.

§ 216.113 Permissible methods.

The incidental, but not intentional, taking of ringed and bearded seals from January 1 through May 31 by U.S. citizens holding a Letter of Authorization, issued under § 216.106, is permitted during the course of the following activities:

(a) On-ice geophysical seismic activities involving vibrator-type, airgun, or other energy source equipment shown to have similar or lesser effects.

(b) Operation of transportation and camp facilities associated with seismic activities.

§216.114 Mitigation.

(a) All activities identified in §216.113 must be conducted in a manner that minimizes to the greatest extent practicable adverse effects on ringed and bearded seals and their habitat.

(b) All activities identified in §216.113 must be conducted as far as practicable from any observed ringed or bearded seal or ringed seal lair. No energy source must be placed over an observed ringed seal lair, whether or not any seal is present.

§216.115 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization are required to cooperate with the National Marine Fisheries Service and any other Federal, state, or local agency monitoring the impacts on ringed or bearded seals.

(b) Holders of Letters of Authorization must designate qualified on-site individuals, as specified in the Letter of Authorization, to observe and record the presence of ringed or bearded seals and ringed seal lairs along shot lines and around camps, and the information required in paragraph (d) of this section.

(c) Holders of Letters of Authorization must conduct additional monitoring as required under an annual Letter of Authorization.

(d) An annual report must be submitted to the Assistant Administrator for Fisheries within 90 days after completing each year's activities and must include the following information:

(1) Location(s) of survey activities.

(2) Level of effort (e.g., duration, area surveyed, number of surveys), methods used, and a description of habitat (e.g., ice thickness, surface topography) for each location.

(3) Numbers of ringed seals, bearded seals, or other marine mammals observed, proximity to seismic or associated activities, and any seal reactions observed for each location.

(4) Numbers of ringed seal lairs observed and proximity to seismic or associated activities for each location.

(5) Other information as required in a Letter of Authorization.

§216.116 Applications for Letters of Authorization.

(a) To incidentally take ringed and bearded seals pursuant to these regulations, each company conducting seismic operations between January 1 and May 31 in the geographical area described in §216.111, must apply for and obtain a Letter of Authorization in accordance with §216.106.

(b) The application must be submitted to the National Marine Fisheries Service at least 90 days before the activity is scheduled to begin.

(c) Applications for Letters of Authorization and for renewals of Letters of Authorization must include the following:

(1) Name of company requesting the authorization;

(2) A description of the activity including method to be used (vibroseis, airgun, watergun), the dates and duration of the activity, the specific location of the activity and the estimated area that will actually be affected by the exploratory activity;

(3) Any plans to monitor the behavior and effects of the activity on marine mammals;

(4) A description of what measures the applicant has taken and/or will take to ensure that proposed activities will not interfere with subsistence sealing; and

(5) What plans the applicant has to continue to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation.

(d) A copy of the Letter of Authorization must be in the possession of the persons conducting activities that may involve incidental takings of ringed and bearded seals.

§216.117 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under §216.106 for the activity identified in §216.111 will be renewed annually upon: