National Marine Fisheries Service/NOAA, Commerce § 216.22

Taking by State or local government officials.

(a) A State or local government official or employee may take a marine mammal in the normal course of his duties as an official or employee, and no permit shall be required, if such taking:
   (1) Is accomplished in a humane manner;
   (2) Is for the protection or welfare of such mammal or for the protection of the public health or welfare; and
   (3) Includes steps designed to insure return of such mammal, if not killed in the course of such taking, to its natural habitat. In addition, any such official or employee may, incidental to such taking, possess and transport, but not sell or offer for sale, such mammal and use any port, harbor, or other place under the jurisdiction of the United States. All steps reasonably practicable under the circumstances shall be taken by any such employee or official to prevent injury or death to the marine mammal as the result of such taking. Where the marine mammal in question is injured or sick, it shall be permissible to place it in temporary captivity until such time as it is able to be returned to its natural habitat. It shall be permissible to dispose of a carcass of a marine mammal taken in accordance with this subsection whether the animal is dead at the time of taking or dies subsequent thereto.

(b) Each taking permitted under this section shall be included in a written report to be submitted to the Secretary every six months beginning December 31, 1973. Unless otherwise permitted by the Secretary, the report shall contain a description of:
   (1) The animal involved;
   (2) The circumstances requiring the taking;
   (3) The method of taking;
   (4) The name and official position of the State official or employee involved;
   (5) The disposition of the animal, including in cases where the animal has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and
   (6) Such other information as the Secretary may require.

(c) Salvage of dead stranded marine mammals or parts therefrom and subsequent transfer.

(1) Salvage. In the performance of official duties, a state or local government employee; an employee of the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, or any other Federal agency with jurisdiction and conservation responsibilities in marine shoreline areas; or a person authorized under 16 U.S.C. 1382(c) may take and salvage a marine mammal specimen if it is stranded and dead or it was stranded or rescued and died during treatment, transport, captivity or other rehabilitation subsequent to that stranding or distress if salvage is for the purpose of utilization in scientific research or for the purpose of maintenance in a properly curated, professionally accredited scientific collection.

(2) Registration. A person salvaging a dead marine mammal specimen under this section must register the salvage of the specimen with the appropriate Regional Office of the National Marine Fisheries Service within 30 days after the taking or death occurs. The registration must include:
   (i) The name, address, and any official position of the individual engaged in the taking and salvage;
   (ii) A description of the marine mammal specimen salvaged including the scientific and common names of the species;
   (iii) A description of the parts salvaged;
   (iv) The date and the location of the taking;
   (v) Such other information as deemed necessary by the Assistant Administrator.

(3) Identification and curation. The Regional Director will assign a single unique number to each carcass, and the parts thereof, that are salvaged under the provisions of this section. The person who salvaged the specimen may designate the number to be assigned. After this number is assigned, the person who salvaged the specimen must permanently mark that number on
§ 216.23 Native exceptions.

(a) Taking. Notwithstanding the prohibitions of subpart B of this part 216, but subject to the restrictions contained in this section, any Indian, Aleut, or Eskimo who resides on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, if such taking is:

(1) By Alaskan Natives who reside in Alaska for subsistence, or

(2) by any Indian, Aleut, or Eskimo who resides on the coast of the North Pacific Ocean or the Arctic Ocean and who takes any marine mammal for subsistence or for the purpose of maintaining a properly curated, professionally accredited scientific collection within the United States.

(b) Other transfers within the United States. Except as provided under paragraphs (c)(5) and (c)(8) of this section, a person who salvages a marine mammal specimen, or who has received a marine mammal specimen under the provisions of this section, may not transfer that specimen to another person within the United States unless the Regional Director of the appropriate Regional Office of the National Marine Fisheries Service grants prior written authorization for the transfer. The Regional Director may grant authorization for the transfer if there is evidence that the conditions listed under paragraphs (c)(5)(i), (c)(5)(iii), and (c)(5)(iv) of this section are met.

(c) Exception to requirements for notification or prior authorization. A person may transfer a marine mammal specimen salvaged under this section without the notification required in paragraph (c)(5)(v) of this section or the prior authorization required in paragraph (c)(6) of this section if:

(1) the transfer is a temporary transfer to a laboratory or research facility within the United States so that analyses can be performed for the person salvaging the specimen; or

(2) the transfer is a loan of not more than 1 year to another professionally accredited scientific collection within the United States.