

§§ 217.98–217.99 [Reserved]

Subpart K—Taking Marine Mammals Incidental to Rocky Intertidal Monitoring Surveys Along the Oregon and California Coasts

SOURCE: 85 FR 18467, Apr. 2, 2020, unless otherwise noted.

EFFECTIVE DATE NOTE: At 85 FR 18467, Apr. 2, 2020, subpart K was added, effective Apr. 12, 2020, through Apr. 11, 2021. At 85 FR 20201, Apr. 10, 2020, the end date was corrected to Apr. 11, 2025.

§ 217.100 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the University of California Santa Cruz’s Partnership for Interdisciplinary Studies of Coastal Oceans (UCSC/PISCO) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section and that occur incidental to rocky intertidal monitoring research surveys.

(b) The taking of marine mammals by UCSC/PISCO may be authorized in a Letter of Authorization (LOA) only if it occurs on the coasts of Oregon or California.

§ 217.101 Effective dates.

Regulations in this subpart are effective from April 12, 2020 through April 11, 2025.

§ 217.102 Permissible methods of taking.

Under LOAs issued pursuant to §§ 216.106 of this chapter and 217.106, the Holder of the LOA (hereinafter “UCSC/PISCO”) may incidentally, but not intentionally, take marine mammals within the area described in § 217.100(b) by Level B harassment associated with rocky intertidal monitoring activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

§ 217.103 Prohibitions.

Notwithstanding takings contemplated in § 217.100 and authorized by

a LOA issued under §§ 216.106 of this chapter and 217.106, no person in connection with the activities described in § 217.100 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 of this chapter and 217.106;

(b) Take any marine mammal not specified in such LOA;

(c) Take any marine mammal specified in such LOA in any manner other than as specified in § 217.102;

(d) Take a marine mammal specified in such LOA if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(e) Take a marine mammal specified in such LOA if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

§ 217.104 Mitigation requirements.

When conducting the activities identified in § 217.100(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 217.106 must be implemented. These mitigation measures shall include but are not limited to:

(a) *General conditions.* (1) Researchers must observe a site from a distance for at least five minutes, using binoculars if necessary, to detect any marine mammals prior to approach to determine if mitigation is required (*i.e.*, site surveys will not be conducted if other species of pinnipeds are present, researchers will approach with caution, walking slowly, quietly, and close to the ground to avoid surprising any hauled-out individuals and to reduce flushing/stampeding of individuals).

(2) Researchers must avoid pinnipeds along access ways to sites by locating and taking a different access way. Researchers must keep a safe distance from and not approach any marine mammal while conducting research, unless it is absolutely necessary to approach a marine mammal in order to continue conducting research (*i.e.*, if a site cannot be accessed or sampled due to the presence of pinnipeds).