

§§ 217.48–217.49

substantial, NMFS must publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in LOAs issued pursuant to §§ 216.106 of this chapter and 217.46, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within 30 days of the action.

§ § 217.48–217.49 [Reserved]

Subpart F [Reserved]

Subpart G—Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Air Force Launches and Operations at Vandenberg Air Force Base, California

SOURCE: 84 FR 14333, Apr. 10, 2019, unless otherwise noted.

EFFECTIVE DATE NOTE: At 84 FR 14333, Apr. 10, 2019, subpart G was added, effective Apr. 10, 2019, until Apr. 10, 2024.

§ 217.60 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the 30th Space Wing, United States Air Force (USAF) and those persons it authorizes 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 occurs incidental to rocket and missile launches and aircraft operations.

(b) The taking of marine mammals by the USAF may be authorized in a Letter of Authorization (LOA) only if it occurs from activities originating at Vandenberg Air Force Base.

§ 217.61 Effective dates.

Regulations in this subpart are effective from April 10, 2019, until April 10, 2024.

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§ 217.62 Permissible methods of taking.

(a) Under an LOA issued pursuant to §§ 216.106 and 217.60 of this chapter, the Holder of the LOA (herein after “USAF”) may incidentally, but not intentionally, take marine mammals by Level B harassment, within the area described in § 217.60(b), provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

§ 217.63 Prohibitions.

Notwithstanding takings contemplated in § 217.62(c) and authorized by an LOA issued under §§ 216.106 and 217.66 of this chapter, no person in connection with the activities described in § 217.60 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or an LOA issued under §§ 216.106 of this chapter and 217.66;

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

(c) Take any marine mammal specified in such LOAs in any manner other than as specified;

(d) Take a marine mammal specified in such LOAs 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 LOAs 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.

§ 217.64 Mitigation requirements.

When conducting the activities identified in § 217.60(a), the mitigation measures contained in any Letter of Authorization issued under §§ 216.106 of this chapter and 217.66 must be implemented. These mitigation measures include (but are not limited to):

(a) For missile and rocket launches, the USAF must avoid, whenever possible, launches during the harbor seal pupping season of March through June, unless constrained by factors including, but not limited to, human safety, national security, or launch mission objectives.