

to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Navy shall report the incident to the NMFS Office of Protected Resources, NMFS, and the Greater Atlantic Regional Stranding Coordinators, within 24 hours of the discovery. The Navy shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. The Navy can continue its operations under such a case.

#### § 217.96 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the Navy must apply for and obtain LOAs in accordance with § 216.106 of this chapter for conducting the activity identified in § 217.90(c).

(b) LOAs, unless suspended or revoked, may be effective for a period of time not to extend beyond the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, the Navy may apply for and obtain a renewal of the LOAs.

(d) In the event of projected changes to the activity or to mitigation, monitoring, reporting (excluding changes made pursuant to the adaptive management provision of § 217.97(c)(1)) required by an LOA, the Navy must apply for and obtain a modification of LOAs as described in § 217.97.

(e) Each LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (i.e., mitigation) on the species, their habitat, and the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOAs shall be based on a determination that the level of taking shall be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of the LOAs shall be published in the FEDERAL REGISTER within 30 days of a determination.

#### § 217.97 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under § 216.106 of this chapter and § 217.96 for the activity identified in § 217.90(c) shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOAs under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under § 216.106 of this chapter and § 217.96 for the activity identified in § 217.90(c) may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* After consulting with the Navy regarding the practicability of the modifications, NMFS may modify (including by adding or removing measures) the existing mitigation, monitoring, or reporting measures if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

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(A) Results from the Navy's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS shall 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 § 217.96, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within thirty days of the action.

## §§ 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

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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