

regulations implementing such exceptions, also apply to the threatened species of salmon listed in § 227.4 (f), (g), (h), and (i). This section supersedes other restrictions on the applicability of parts 217 and 222 of this chapter, including, but not limited to, the restrictions specified in §§ 217.2 through 222.22(a) of this chapter with respect to the species identified in § 227.21(a).

(2) The prohibitions of paragraph (a) of this section relating to threatened species of salmon listed in § 227.4(i) do not apply to activities specified in an application for a permit for scientific purposes or to enhance the propagation or survival of the species, provided that the application has been received by the Assistant Administrator for Fisheries, NOAA (AA), by September 16, 1997. This exception ceases upon the AA's rejection of the application as insufficient, upon issuance or denial of a permit, or on January 20, 1998 whichever occurs earliest.

(3) The prohibitions of paragraph (a) of this section relating to threatened species of salmon listed in § 227.4(i) do not apply to any employee or agent of the NMFS, any other Federal land management agency, or the Oregon Department of Fish and Wildlife (ODFW) or the California Department of Fish and Game (CDFG), who is designated by his/her agency for such purposes, when that employee or agent, acting in the course of his/her official duties, takes a coho salmon in California or Oregon without a permit if such action is necessary to: (1) Aid a sick, injured, or stranded individual, (2) dispose of a dead individual, or (3) salvage a dead individual, which may be useful for scientific study.

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§ 227.22 Southern Oregon/Northern California Coast (SONCC) coho salmon.

The following exceptions to the prohibitions of section 227.21(a) apply to SONCC coho salmon:

(a) Take of SONCC coho salmon within three miles (approximately 5 km) of the coast, and in bay, estuarine or freshwater fisheries regulated under the sole authority of the State of Oregon is not prohibited, if the take results from a fisheries harvest program

conducted in accordance with the Oregon Coastal Salmon Restoration Initiative of March 1997 (OCSRI), provided that NMFS has issued written concurrence that the fisheries regulations are consistent with the OCSRI using information provided through the April 1997 Memorandum of Agreement (MOA) between the State of Oregon and NMFS.

(b) Incidental take of SONCC coho salmon in ocean fisheries within 3 miles (approximately 5 km) of the coast that are regulated under the sole authority of the State of California is not prohibited, provided that the ocean salmon fishing regulations adopted by the California Fish and Game Commission and CDFG for recreational and commercial fisheries within 3 miles (approximately 5 km) of the coast are consistent with the Pacific Fishery Management Council's Fishery Management Plan for Ocean Salmon Fisheries and the annual ocean salmon fishing regulations issued by the Secretary of Commerce for the Federal EEZ.

(c) Take of SONCC coho salmon in a hatchery program regulated under the sole authority of the State of Oregon is not prohibited, if the take results from a hatchery program conducted in accordance with the OCSRI, and the take is counted against the total allocation of harvest-related mortality as specified in the OCSRI, provided that NMFS has issued written concurrence that the hatchery program is consistent with the OCSRI including the hatchery and genetic management plan adopted pursuant to the OCSRI, using information provided through the MOA.

(d) Take of SONCC coho salmon in fisheries research and monitoring activities conducted in California and Oregon is not prohibited *provided that*:

(1) Research and monitoring involving directed take of coho salmon is conducted by CDFG personnel (in California) and ODFW personnel (in Oregon).

(2) The CDFG and ODFW, respectively, provide NMFS with a list of all research and monitoring activities involving coho salmon directed take planned for the coming year for NMFS' review and approval, including an estimate of the total directed take that is anticipated, a description of the study

design including a justification for taking the species and a description of the techniques to be used, and a point of contact.

(3) The CDFG and ODFW, respectively, annually provide NMFS with the results of research and monitoring studies directed at SONCC coho salmon, including a report of the directed take resulting from the studies.

(4) The CDFG and ODFW, respectively, provide NMFS annually with a list of all research and monitoring studies each permits that may incidentally take listed coho salmon during the coming year and report the level of incidental take of listed coho salmon from the previous year's research and monitoring activities, for NMFS' review and approval.

(5) The research and monitoring activities do not include the use of electrofishing in any body of water known or suspected to contain coho salmon.

(e) Incidental take of the SONCC coho salmon in Oregon that results from a habitat restoration activity, as defined in paragraph (4), is not prohibited, *provided that*:

(1) The activity is conducted pursuant to a watershed action or restoration plan that the state has affirmed in writing is consistent with state watershed plan guidelines that NMFS has found meet the standards set forth in 50 CFR 222.22(c), and NMFS concurs in writing that the plan is consistent with those guidelines; or

(2) Until a watershed action or restoration plan is approved by both Oregon and NMFS as described in paragraph (e)(1) of this section, or until August 18, 1999, whichever occurs first, the ODFW has made a written finding that the activity is consistent with state restoration activity guidelines that NMFS has agreed in writing meet the standards set forth in 50 CFR 222.22(c); or January 19, 1998.

(3) Until January 20, 1998, the activity is any restoration action listed in the Southwest Oregon Salmon Restoration Initiative (OCSRI ch. 17F), provided that any action involving in-water work receives written approval from ODFW as to timing, scope, and methods.

(4) "Habitat restoration activity" is defined as an activity that has the sole objective of restoring natural aquatic or riparian habitat conditions or processes.

(f) Incidental take of the SONCC coho salmon in California that results from a habitat restoration activity, as defined in paragraph (3) of this section, is not prohibited, provided that California has a program in effect that NMFS finds will assure technically supported watershed assessments and coordinated long-term monitoring strategies for watershed protection plans and activities and:

(1) The activity is conducted pursuant to a watershed protection plan that CDFG has affirmed in writing is consistent with state watershed plan guidelines for California's Watershed Protection Program that NMFS has found meet the standards set forth in 50 CFR 222.22(c), and NMFS concurs in writing that the plan is consistent with those guidelines; or

(2) Until a watershed protection or restoration plan is certified by the State of California and NMFS as described in paragraph (f)(1) of this section, or until August 18, 1999, whichever occurs first, NMFS has made a written finding that the activity is consistent with State of California conservation guidelines that NMFS has previously found meet the standards set forth in 50 CFR 222.22(c).

(3) "Habitat restoration activity" is defined as an activity that has the sole objective of restoring natural aquatic or riparian habitat conditions or processes.

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Subpart D—Threatened Marine Reptiles

§ 227.71 Prohibitions.

(a) Except as provided in § 227.72, the prohibitions of section 9 of the Act (16 U.S.C. 1538) relating to endangered species apply to any species of sea turtle enumerated in § 227.4.

(b) Except as provided in § 227.72, it is unlawful for any person subject to the jurisdiction of the United States to do any of the following: