§ 217.142 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§216.106 and 217.148 of this chapter, the Holder of the Letter of Authorization (hereinafter “BP”) may incidentally, but not intentionally, take marine mammals within

Subparts M–N (Reserved)
§ 217.143 Prohibitions.

Notwithstanding takings contemplated in §217.140 and authorized by a Letter of Authorization issued under §§216.106 and 217.148 of this chapter, no person in connection with the activities described in §217.140 may:

(a) Take any marine mammal not specified in §217.142(c);

(b) Take any marine mammal specified in §217.142(c) other than by incidental take as specified in §217.142(c)(1) and (c)(2);

(c) Take a marine mammal specified in §217.172(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal;

(d) Take a marine mammal specified in §217.172(c) if such taking results in an unmitigable adverse impact on the species or stock for taking for subsistence uses; or

(e) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§216.106 and 217.148 of this chapter.

§ 217.144 Mitigation.

(a) When conducting the activities identified in §217.140(a), the mitigation measures contained in the Letter of Authorization issued under §§216.106 and 217.148 of this chapter must be implemented. These mitigation measures include but are not limited to:

(1) Ice-covered Season:

(i) In order to reduce the taking of ringed seals to the lowest level practicable, BP must begin winter construction activities, principally ice roads, as soon as possible once weather and ice conditions permit such activity.

(ii) Any ice roads or other construction activities that are initiated after March 1, in previously undisturbed areas in waters deeper than 10 ft (3 m), must be surveyed, using trained dogs in order to identify and avoid ringed seal structures by a minimum of 492 ft (150 m).

(iii) After March 1 of each year, activities should avoid, to the greatest extent practicable, disturbance of any located seal structure.

(2) Open-water Season:

(i) BP will establish and monitor, during all daylight hours, a 190 dB re 1 μPa (rms) exclusion zone for seals around the island for all activities with sound pressure levels (SPLs) that are expected to exceed that level in waters beyond the Northstar facility on Seal Island.

(ii) BP will establish and monitor, during all daylight hours, a 180 dB re 1 μPa (rms) exclusion zone for cetaceans around the island for all activities with SPLs that are expected to exceed that level in waters beyond the Northstar facility at Seal Island.

(iii) If any marine mammals are observed within the relevant exclusion zone, described in §217.144(a)(2)(i) or (a)(2)(ii), the activity creating the noise will shutdown or reduce its SPL sufficiently (i.e., power down) to ensure that received SPLs do not exceed those prescribed SPL intensities at the affected marine mammal. The shutdown