

§217.152

incidental to construction and operation of the Port Dolphin Deepwater Port (Port).

(b) The taking of marine mammals by Port Dolphin may be authorized in a Letter of Authorization (LOA) only if it occurs in the vicinity of the Port Dolphin Deepwater Port in the eastern Gulf of Mexico or along the associated pipeline route.

§217.152 Effective dates.

Regulations in this subpart are effective from June 1, 2013, through May 31, 2018.

§217.153 Permissible methods of taking.

(a) Under LOAs issued pursuant to §§216.106 and 217.157 of this chapter, the Holder of the LOA (hereinafter “Port Dolphin”) may incidentally, but not intentionally, take marine mammals within the area described in §217.151(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in §217.151(a) of this chapter is limited to the following species and is limited to Level B Harassment:

(1) Bottlenose dolphin (*Tursiops truncatus*)—3,388 (860 the first year and an average of 632 annually thereafter)

(2) Atlantic spotted dolphin (*Stenella frontalis*)—1,274 (290 the first year and an average of 246 annually thereafter)

§217.154 Prohibitions.

Notwithstanding takings contemplated in §217.151 of this chapter and authorized by a LOA issued under §§216.106 and 217.157 of this chapter, no person in connection with the activities described in §217.151 of this chapter may:

(a) Take any marine mammal not specified in §217.153(b) of this chapter;

(b) Take any marine mammal specified in §217.153(b) of this chapter other than by incidental, unintentional Level B Harassment;

(c) Take a marine mammal specified in §217.153(b) of this chapter if such taking results in more than a neg-

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ligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§216.106 and 217.157 of this chapter.

§217.155 Mitigation.

(a) When conducting the activities identified in §217.151(a) of this chapter, the mitigation measures contained in any LOA issued under §§216.106 and 217.157 of this chapter must be implemented. These mitigation measures include but are not limited to:

(1) General Conditions:

(i) Briefings shall be conducted between the Port Dolphin project construction supervisors and the crew, protected species observer(s) (PSO), and acoustic monitoring team prior to the start of all construction activity, and when new personnel join the work, to explain responsibilities, communication procedures, protected species monitoring protocol, and operational procedures.

(ii) Port Dolphin shall comply with all applicable equipment sound standards and ensure that all construction equipment has sound control devices no less effective than those provided on the original equipment. Vessel crew and contractors shall minimize the production of underwater sound to the extent possible. Equipment and/or procedures used may include the use of enclosures and mufflers on equipment, minimizing the use of thrusters, and turning off engines and equipment when not in use.

(iii) All vessels associated with Port Dolphin construction and operations shall comply with NMFS Vessel Strike Avoidance Measures and Reporting for Mariners and applicable regulations. All vessels associated with Port Dolphin construction and operations shall remain 500 yd (457 m) away from North Atlantic right whales (*Eubalaena glacialis*) and 100 yd (91 m) away from all other marine mammals, except in cases where small marine mammals (i.e., delphinids) voluntarily approach within 100 yd or unless constrained by human safety concerns or navigational constraints.

(2) Shutdown and Monitoring: