

§217.126

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report must include the following information:

(i) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

(ii) Species identification (if known) or description of the animal(s) involved;

(iii) Condition of the animal(s) (including carcass condition if the animal is dead);

(iv) Observed behaviors of the animal(s), if alive;

(v) If available, photographs or video footage of the animal(s); and

(vi) General circumstances under which the animal was discovered.

(c) *Annual report.* (1) A draft annual report covering the period of January 1 through December 31 of each year must be submitted to NMFS Office of Protected Resources by April 1 of each year. The final annual report after year five may be included as part of the final report (see below). The report must include the information gathered pursuant to the monitoring requirements set forth above and in the LOA at minimum, and must also include raw sightings data.

(2) A final annual report must be submitted to the Director of the NMFS Office of Protected Resources within 30 days after receiving comments from NMFS on the draft annual report. If no comments are received from NMFS, the draft annual report will be considered the final report.

(d) *Final report.* A draft final report must be submitted to NMFS Office of Protected Resources within 60 days after the conclusion of the fifth year. A final report must be submitted to the Director of the NMFS Office of Protected Resources within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered the final report.

§217.126 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, Point Blue must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of

time not to exceed the expiration date of these regulations.

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

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, Point Blue must apply for and obtain a modification of the LOA as described in §217.127.

(e) The LOA shall set forth:

(1) Permissible methods and numbers of incidental taking;

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

(3) Requirements for monitoring and reporting.

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

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

§217.127 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§216.106 of this chapter and 217.126 for the activity identified in §217.120(a) 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' Office of Protected Resources determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For an LOA modification or renewal requests by the applicant that includes changes to the activity or the mitigation, monitoring, or reporting (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' Office of Protected Resources 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 217.126 for the activity identified in §217.120(a) may be modified by NMFS' Office of Protected Resources under the following circumstances:

(1) *Adaptive management*—NMFS' Office of Protected Resources may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Point Blue regarding the practicability of the modifications) 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 include:

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

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

(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' Office of Protected Resources will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) *Emergencies*. If NMFS' Office of Protected Resources 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 217.126, an LOA may be modified without prior notice or opportunity for public com-

ment. Notice would be published in the FEDERAL REGISTER within thirty days of the action.

§§ 217.128–217.129 [Reserved]

Subpart N [Reserved] □

Subpart P—Taking Marine Mammals Incidental to Ice Roads and Ice Trails Construction and Maintenance on Alaska's North Slope

SOURCE: 85 FR 83471, Dec. 22, 2020, unless otherwise noted.

EFFECTIVE DATE NOTE: At 85 FR 83471, Dec. 22, 2020, subpart P was added, effective Dec. 22, 2020, through Nov. 30, 2025

§217.150 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to Hilcorp Alaska, LLC (Hilcorp) and Eni US Operating Co. Inc. (Eni) and those persons they authorize or fund to conduct activities on their behalf for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section and that occurs incidental to construction and maintenance of ice roads and ice trails.

(b) The taking of marine mammals by Hilcorp and Eni may be authorized in two Letters of Authorization (LOAs) only if it occurs on Alaska's North Slope.

§217.151 Effective dates.

Regulations in this subpart are effective from December 22, 2020 through November 30, 2025.

§217.152 Permissible methods of taking.

Under LOAs issued pursuant to §§216.106 of this chapter and 217.156, the Holders of the LOAs (hereinafter "Hilcorp" and "Eni") may incidentally, but not intentionally, take marine mammals within the area described in §217.150(b) by mortality, serious injury, Level A harassment, or Level B harassment associated with ice road and ice trail construction and maintenance activities, provided the activities are in compliance with all terms, conditions, and requirements of