

## § 217.153

## 50 CFR Ch. II (10–1–22 Edition)

the regulations in this subpart and the appropriate LOAs.

### § 217.153 Prohibitions.

Notwithstanding takings contemplated in § 217.152 and authorized by the LOAs issued under §§ 216.106 of this chapter and 217.156, no person in connection with the activities described in § 217.150 may:

- (a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or an LOA issued under §§ 216.106 of this chapter and 217.156;
- (b) Take any marine mammal not specified in such LOAs;
- (c) Take any marine mammal specified in such LOAs in any manner other than as specified;
- (d) Take a marine mammal specified in such LOAs 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 LOAs 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.

### § 217.154 Mitigation requirements.

When conducting the activities identified in § 217.150(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 217.156 must be implemented. These mitigation measures shall include but are not limited to:

- (a) *General conditions.* (1) Hilcorp and Eni must renew, on an annual basis, the Plans of Cooperation (POCs), throughout the life of the regulations;
- (2) Copies of any issued LOAs must be in the possession of Hilcorp and Eni, their designees, and work crew personnel operating under the authority of the issued LOAs; and
- (3) Prior to initiation of sea ice road- and ice trail-related activities, project personnel associated with ice road construction, maintenance, use or decommissioning must receive annual training on implementing mitigation and monitoring measures:
  - (i) Personnel must be advised that interactions with, or approaching, any wildlife is prohibited;

- (ii) Annual training must also include reviewing Hilcorp and Eni's Wildlife Management Plan; and

(iii) In addition to the mitigation and monitoring plans, other topics in the training must include:

- (A) Ringed seal identification and brief life history;
- (B) Physical environment (habitat characteristics and how to potentially identify habitat);
- (C) Ringed seal use in the ice road region (timing, location, habitat use, birthing lairs, breathing holes, basking, etc.);
- (D) Potential effects of disturbance; and
- (E) Importance of lairs, breathing holes and basking to ringed seals.

(b) *General mitigation measures throughout the Ice Road/Trail Season (December through May).* (1) Ice road/trail speed limits must be no greater than 72.4 km (45 miles) per hour (mph); speed limits must be determined on a case-by-case basis based on environmental, road conditions and ice road/trail longevity considerations;

(2) Following existing safety measures, delineators must mark the roadway in a minimum of 0.4 km (¼-mile) increments on both sides of the ice road to delineate the path of vehicle travel and areas of planned on-ice activities (e.g., emergency response exercises). Following existing safety measures currently used for ice trails, delineators must mark one side of an ice trail a minimum of every 0.4 km (¼ mile). Delineators must be color-coded, following existing safety protocol, to indicate the direction of travel and location of the ice road or trail;

(3) Corners of rig mats, steel plates, and other materials used to bridge sections of hazardous ice, must be clearly marked or mapped using GPS coordinates of the locations; and

(4) Personnel must be instructed to remain in the vehicle and safely continue, if they encounter a ringed seal while driving on the road.

(c) *Additional mitigation measures after March 1st.* In addition to the general mitigation measures listed in § 217.154(b), the following measures must also be implemented after March 1st:

(1) Ice road/trail construction, maintenance and decommissioning must be performed within the boundaries of the road/trail and shoulders, with most work occurring within the driving lane. To the extent practicable and when safety of personnel is ensured, equipment must travel within the driving lane and shoulder areas.

(2) Blading and snow blowing of ice roads must be limited to the previously disturbed ice road/shoulder areas to the extent safe and practicable. Snow must be plowed or blown from the ice road surface.

(3) In the event snow is accumulating on a road within a 50 m (164 ft) radius of an identified downwind seal or seal lair, operational measures must be used to avoid seal impacts, such as pushing snow further down the road before blowing it off the roadway. Vehicles must not stop within 50 m (164 ft) of identified seals or within 150 m (500 ft) of known seal lairs.

(4) To the extent practicable and when safety of personnel is ensured, tracked vehicle operation must be limited to the previously disturbed ice trail areas. When safety requires a new ice trail to be constructed after March 1st, construction activities such as drilling holes in the ice to determine ice quality and thickness, must be conducted only during daylight hours with good visibility.

(5) Ringed seal structures must be avoided by a minimum of 50 m (164 ft) during ice testing and new trail construction.

(6) Once the new ice trail is established, tracked vehicle operation must be limited to the disturbed area to the extent practicable and when safety of personnel is ensured.

(7) If a seal is observed on ice within 50 m (164 ft) of the centerline of the ice road/trail, the following mitigation measures must be implemented:

(i) Construction, maintenance or decommissioning activities associated with ice roads and trails must not occur within 50 m (164 ft) of the observed ringed seal, but may proceed as soon as the ringed seal, of its own accord, moves farther than 50 m (164 ft) distance away from the activities or has not been observed within that area for at least 24 hours; and

(ii) Transport vehicles (*i.e.*, vehicles not associated with construction, maintenance or decommissioning) may continue their route within the designated road/trail without stopping.

**§217.155 Requirements for monitoring and reporting.**

(a) All marine mammal monitoring must be conducted in accordance with Hilcorp and Eni's Marine Mammal Mitigation and Monitoring Plan (4MP). This plan may be modified throughout the life of the regulations upon NMFS review and approval.

(b) General monitoring measures will be implemented through the entire ice road/trail season including during construction, maintenance, use and decommissioning.

(1) If a ringed seal is observed within 50 m (164 ft) of the center of an ice road or trail, the operator's Environmental Specialist must be immediately notified with the information provided in paragraph (e) of this section.

(i) The Environmental Specialist must relay the seal sighting location information to all ice road personnel and the company's office personnel responsible for wildlife interaction, following notification protocols described in the company-specific Wildlife Management Plan. All other data will be recorded and logged.

(ii) The Environmental Specialist or designated person must monitor the ringed seal to document the animal's location relative to the road/trail. All work that is occurring when the ringed seal is observed and the behavior of the seal during those activities must be documented until the animal is at least 50 m (150 ft) away from the center of the road/trail or is no longer observed.

(2) [Reserved]

(c) Additional monitoring measures after March 1st. In addition to the general monitoring measures listed in §217.155(b), the following measures must also be implemented after March 1st:

(1) If an ice road or trail is being actively used, under daylight conditions with good visibility, a dedicated observer (not the vehicle operator) must conduct a survey along the sea ice road/trail to observe if any ringed seals are within 150 m (500 ft) of the roadway