

8401) and Alaska Region Stranding Coordinator (877-925-7773) within 48 hours of discovery.

§217.156 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, Hilcorp and Eni 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, Hilcorp or Eni 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, Hilcorp and Eni must apply for and obtain a modification of the LOA as described in §217.57.

(e) The LOAs shall set forth:

(1) Permissible methods 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 LOAs 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 30 days of a determination.

§217.157 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§216.106 of this chapter and 217.156 for the activity identified in §217.150(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 determines that the mitigation, monitoring, and reporting measures required by the previous LOAs under these regulations were implemented.

(b) For LOAs modification or renewal requests by the applicants that include 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 may publish a notice of proposed LOAs in the FEDERAL REGISTER, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) The LOAs issued under §§216.106 of this chapter and 217.156 for the activity identified in §217.150(a) may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Hilcorp or Eni 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:

(A) Results from Hilcorp or Eni's monitoring from the previous year(s).

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

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

(2) *Emergencies.* If NMFS 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 217.156, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within 30 days of the action.

§§ 217.158—217.159 [Reserved]

Subpart Q—Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Oil and Gas Activities in Cook Inlet, Alaska.

SOURCE: 84 FR 37502, July 31, 2019, unless otherwise noted.

EFFECTIVE DATE NOTE: At 84 FR 37502, July 31, 2019, subpart Q was added, effective from July 30, 2019, to July 30, 2024.

§ 217.160 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to Hilcorp Alaska LLC (Hilcorp) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by Hilcorp may be authorized in Letters of Authorization (LOAs) only if it occurs within the action area defined in Cook Inlet, Alaska.

(c) The taking of marine mammals by Hilcorp is only authorized if it occurs incidental to Hilcorp's oil and gas activities including use of seismic airguns, sub-bottom profiler, vertical seismic profiling, pile driving, conductor pipe driving, and water jets.

§ 217.161 Effective dates.

Regulations in this subpart are effective July 30, 2019, through July 30, 2024.

§ 217.162 Permissible methods of taking.

Under LOAs issued pursuant to §§216.106 of this chapter and 217.166, the Holder of the LOAs (hereinafter “Hilcorp”) may incidentally, but not

intentionally, take marine mammals within the area described in §217.160(b) by Level A harassment and Level B harassment associated with oil and gas activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOAs.

§ 217.163 Prohibitions.

Notwithstanding takings contemplated in §217.162 and authorized by LOAs issued under §§216.106 of this chapter and 217.166, no person in connection with the activities described in §217.160 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§216.106 of this chapter and 217.166;

(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 availability of such species or stock of marine mammal for taking for subsistence uses.

§ 217.164 Mitigation requirements.

When conducting the activities identified in §217.160(c), the mitigation measures contained in any LOAs issued under §§216.106 of this chapter and 217.166 must be implemented. These mitigation measures must include but are not limited to:

(a) Hilcorp must conduct a sound source verification (SSV) for 3D seismic and sub-bottom profiler use. Results of this SSV must be sent to NMFS and mitigation and monitoring zones may be adjusted based on the results of the SSV.

(b) If any marine mammal species for which take is not authorized are sighted within or entering the relevant zones within which they are exposed to sound above the 120 dB re 1 μ Pa