

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