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indicates that a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season will occur, NMFS will provide the public a period of 30 days for review and comment on the request.

(c) Notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

§ 217.209 Modifications of Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to § 216.106 of this chapter and § 217.207 and subject to the provisions of this subpart, shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 217.208, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.202(b), a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 217.207 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subpart W—Taking and Importing Marine Mammals Incidental to Hampton Roads Connector Partners Construction at Norfolk, Virginia

SOURCE: 86 FR 17490, Apr. 2, 2021, unless otherwise noted.

EFFECTIVE DATE NOTE: At 86 FR 17490, Apr. 2, 2021, subpart W was added, effective Apr. 2, 2021, through Apr. 1, 2026.

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§ 217.210 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the Hampton Roads Connector Partners (HRCP) and those persons it authorizes or funds to conduct activities on its 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 activities including marine structure maintenance, pile replacement, and select waterfront improvements at the Hampton Roads Bridge Tunnel Expansion Project (HRBT).

(b) The taking of marine mammals by HRCP may be authorized in a Letter of Authorization (LOA) only if it occurs at the Hampton Roads Bridge Tunnel Expansion project location in the James River between Norfolk, VA and Hampton, VA.

§ 217.211 Effective dates.

Regulations in this subpart are effective from April 2, 2021 through April 2, 2026.

§ 217.212 Permissible methods of taking.

(a) Under an LOA issued pursuant to §§ 216.106 of this chapter and 217.216, the Holder of the LOA (hereinafter “HRCP”) may incidentally, but not intentionally, take marine mammals within the area described in § 217.210(b) by Level A and Level B harassment associated with construction activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOA.

(b) [Reserved]

§ 217.213 Prohibitions.

(a) Except for the takings contemplated in § 217.22 and authorized by an LOA issued under §§ 216.106 of this chapter and 217.216, it is unlawful for any person to do any of the following in connection with the activities described in § 217.210:

- (1) 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 217.216;
- (2) Take any marine mammal not specified in such LOA;