



**BILLING CODE: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XG994**

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Ice Road and Ice Trail Construction and Maintenance on Alaska's North Slope.**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of application for Letter of Authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from Hilcorp Alaska, LLC (Hilcorp) and Eni US Operating Co. Inc. (Eni) for authorization to take small numbers of marine mammals incidental to ice road and ice trail construction, maintenance, and operation in Alaska's North Slope over the course of five years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Hilcorp and Eni's joint request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on Hilcorp and Eni's application and request.

**DATES:** Comments and information must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries

Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.guan@noaa.gov*.

*Instructions:* NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/node/23111> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401. An electronic copy of Hilcorp and Eni's application may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas>. In case of problems accessing these documents, please call the contact listed above.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

### **Summary of Request**

On December 2, 2018, NMFS received a joint application from Hilcorp and Eni requesting authorization for take of marine mammals incidental to construction activities related to ice roads and ice trails in North Slope, Alaska. The requested regulations would be valid for five years, from approximately December 1, 2019 through November 30, 2024. Hilcorp and Eni plan to conduct necessary work, including use of heavy machinery on ice, to facilitate access to North Slope offshore oil and gas facilities. The proposed action may incidentally expose marine

mammals occurring in the vicinity to elevated levels of sound, human presence on ice habitat, and interactions with heavy machinery, thereby resulting in incidental take, by Level B harassment and serious injury or mortality. NMFS provided questions and comments to Hilcorp and Eni after receiving the initial application regarding the scope of the project and impact analysis. Hilcorp and Eni submitted a modified request on May 21, 2019 and NMFS deemed the application adequate and complete on May 31, 2019.

### **Specified Activities**

Hilcorp and Eni conduct oil and gas operations at Northstar Production Facility (Northstar) and Spy Island Drillsite (SID), respectively, in coastal Beaufort Sea waters, Alaska. Ice roads and ice trails are constructed yearly to connect and allow access to offshore facilities. The process of constructing ice roads includes clearing of snow, drilling holes in the ice, pumping seawater to the surface, and the operation of tracked and wheeled vehicles. Construction of ice trails and maintenance of ice roads generally requires the presence of vehicles and personnel with snow blowing equipment.

Each year, Hilcorp will construct and maintain an estimated 11.7 kilometer (km) ice road and approximately 21.9 kms of ice trails to their Northstar Island and West Dock facilities. Each year, Eni will construct and maintain an estimated 6.8 km of ice roads and 6.8 km of ice trails related to their SID facility, and an additional 8.9 to 11.2 km of ice roads related to their Oooguruk activities.

Construction of ice roads and ice trails generally begins in late December and the process takes approximately six weeks. These roads and trails are used and maintained until Mid-May when the ice becomes too unstable to access. Ringed seals (*Phoca hispida hispida*) are the only

marine mammal species expected to occur in the action area during construction, use, and maintenance activity.

### **Information Solicited**

Interested persons may submit information, suggestions, and comments concerning Hilcorp and Eni's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by Hilcorp and Eni, if appropriate.

Dated: July 3, 2019.

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Donna Wieting

Director, Office of Protected Resources,

National Marine Fisheries Service.

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