

Federal Communications Commission.

**Douglas W. Webbink,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 95-14523 Filed 6-13-95; 8:45 am]

BILLING CODE 6712-01-F

#### 47 CFR Part 73

[MM Docket No. 93-311; RM-8382]

#### Radio Broadcasting Services; Bagdad, AZ

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 276C3 to Bagdad, Arizona, as that community's second local aural transmission service, in response to a petition for rule making filed by Chris Sarros. See 59 FR 43, January 3, 1994. Bagdad is located within 320 kilometers (199 miles) of the United States-Mexico border and therefore, concurrence of the Mexican government in this proposal was obtained. Coordinates used for Channel 276C3 at Bagdad are 34-28-50 and 113-20-08. With this action, the proceeding is terminated.

**DATES:** Effective July 24, 1995. The window period for filing applications on Channel 276C3 at Bagdad, Arizona, will open on July 24, 1995, and close on August 24, 1995.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 276C3 at Bagdad should be addressed to the Audio Services Division, FM Branch, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93-311, adopted June 2, 1995, and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

**Authority:** Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona is amended by adding Channel 276C3 at Bagdad.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 95-14524 Filed 6-13-95; 8:45 am]

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#### 47 CFR Part 73

[MM Docket No. 92-246, RM-8091]

#### Television Broadcasting Services; Ridgecrest, CA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** This document denies the petition for reconsideration filed by Valley Public Television of the *Report and Order*, 58 FR 58833 (November 4, 1993), in which the Commission dismissed Valley's proposal either to substitute Channel \*41 for Channel \*25 or place a site restriction on Channel \*25 at Ridgecrest, California, after Valley requested and was granted dismissal of the application which it intended to accommodate. The Commission determined that the reason given in support of the petition for reconsideration, to accommodate Valley's future plan to apply for Channel \*39 at Bakersfield, California, was speculative and did not warrant reconsideration of its action dismissing the Ridgecrest proposal. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** June 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Mass Media Bureau, (202) 776-1653.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 92-246, adopted June 1, 1995 and released June 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International

Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

#### List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

**Douglas W. Webbink,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

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#### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

#### 50 CFR Part 18

RIN 1018-AD21

#### Marine Mammals; Incidental Take During Specified Activities

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) hereby extends for an additional 60 days through August 15, 1995, the final regulations that authorize and govern the incidental, unintentional take of small numbers of polar bear and walrus during year-around oil and gas industry operations (exploration, development, and production) in the Beaufort Sea and adjacent north coast of Alaska.

**DATES:** This rule will be effective on June 14, 1995. It extends the effective period of regulations that appear at 50 CFR Part 18, Subpart J, for 60 days through August 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** David McGillivray, Supervisor, Office of Marine Mammals Management, Anchorage, AK, at (907) 786-3800; or Jeff Horwath, U.S. Fish and Wildlife Service, at (703) 385-1718.

**SUPPLEMENTARY INFORMATION:** Under provisions of section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended (MMPA), the taking of small numbers of marine mammals may be allowed incidental to specified activities other than commercial fishing if the Director of the Service finds, based on the best scientific evidence available, that the cumulative total of such taking over a five-year period will have negligible effect on these species and will not have an unmitigable adverse impact on the availability of these species for subsistence uses by Alaskan Natives. If these findings are made, the Service is required to establish specific regulations for the

activity that set forth: permissible methods of taking; means of effecting the least practicable adverse impact on the species and their habitat and on the availability of the species for subsistence uses; and requirements for monitoring and reporting.

On December 17, 1994, BP Exploration (Alaska), Inc., for itself and on behalf of 14 other energy related entities (hereafter collectively referred to as "Industry") petitioned the Service to promulgate regulations pursuant to section 101(a)(5)(A) of the MMPA. A proposed rule was published by the Service on December 30, 1992 (57 FR 62283), with a 75-day comment period that expired on March 15, 1993.

The proposed rule announced that the Service had prepared a draft Environmental Assessment in conjunction with the rulemaking action; and that when a final decision was made on the Industry applications for incidental take authority, the Service would decide whether this was a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). On April 26, 1993, following the close of the proposed rule's comment period, the Service concluded in a Finding of No Significant Impact (FONSI) that this was not a major Federal action under the NEPA and preparation of an Environmental Impact Statement was not required.

Subsequently, on November 16, 1993, the Service published final regulations in the **Federal Register** (58 FR 60402) effective December 16, 1993, to authorize and govern the incidental, unintentional take of small numbers of polar bear and walrus during Industry operations (exploration, development, and production) year-round in the Beaufort Sea and adjacent northern coast of Alaska. The Service concluded in the final rule, based on the best scientific evidence available, that the cumulative total of such taking by Industry over a five-year period would have a negligible effect on these species and would not have an unmitigable adverse impact on the availability of these species for subsistence used by Alaskan Natives.

However, although the MMPA authorizes regulations to be used for periods of up to five years, the Service's final regulations were initially effective only for an 18-month period through June 16, 1995, as a result of additional provisions in the final regulations. These provisions stipulate that extension of the final regulations for an additional 42 months for the full five-

year term authorized by the MMPA (through December 15, 1998) is contingent upon the following: (1) Within a period of 18 months from the effective date of this rulemaking, the Service must develop and begin implementing a Polar Bear Habitat Conservation Strategy (Strategy), pursuant to the management planning process in section 115 of the MMPA, and in furtherance of the goals of Article II of the 1973 International Agreement on the Conservation of Polar Bears (1973 Agreement); (2) the identification and designation of special considerations of closures of any polar bear habitat components to be further protected; (3) public notice and comment on those considerations of closures; (4) affirmative findings of the Secretary of the Interior; and (5) public notice and comment on the Secretary's intention to extend the term of the incidental take regulations for a period not to exceed a total of five years.

The final rule explained the additional requirement to develop a Strategy as follows:

In addition to its responsibilities under the [MMPA], the Department of the Interior has further responsibilities under the 1973 multilateral Polar Bear Agreement. Specifically, Article II of the Agreement requires that:

Each contracting Party shall take appropriate action to protect the ecosystems of which polar bears are a part, with special attention to habitat components such as denning and feeding sites and migration patterns \* \* \*

In comport with, and to meet more fully the intent of the Agreement, under this final rulemaking, within 18 months of its effective date, the Service has been directed by the Secretary of the Interior to develop and begin implementing a strategy for the identification and protection of important polar bear habitats. Development of such strategy will be done as part of the Service's management plan process pursuant to Section 115 of the [MMPA], and in cooperation with signatories to the Polar Bear Agreement, the Department of State, the State of Alaska, Alaskan Natives, Industry, conservation organizations, and academia.

The Service has developed a draft Strategy, published notice of its availability in the **Federal Register** (February 28, 1995, at 60 FR 10868), and sought review and comment on it. The draft Strategy was developed with the involvement and input of Alaskan Natives, Industry, the National Biological Service, that State of Alaska, conservation organizations, academia, and others. Its includes Native traditional knowledge on polar bear behavior and habitat use.

The draft Strategy identifies and designates important polar bear feeding and denning areas and proposes

measures for enhanced consideration of these areas from oil and gas exploration, development, and production. It also proposes additional measures for polar bear habitat protection in furtherance of the goals of the 1973 Agreement. These measures consist of a proposed Native Village Communication Plan, creation and support of a Polar Bear Advisory Council, and development of International Conservation Initiatives. The draft Strategy also identifies research needs related to habitat use and relative importance of habitat types, and effects of contaminants and industrial activities on polar bears.

The original 60-day period to comment on the draft Strategy would have expired on May 1, 1995. However, on May 8, 1995, the Service announced in the **Federal Register** (60 FR 22584) that it had extended the comment period for an additional 15 days through May 16, 1995. It was extended in response to several April 28, 1995 letters that requested a 30-day extension; those requests stated that additional time was needed to complete a review of the draft Strategy.

While the Service agreed to extend the comment period, it was determined that a 30-day extension would not allow us adequate time to analyze comments and to make a decision on the draft Strategy and on the associated proposed rule that was published in the **Federal Register** on March 17, 1995, (60 FR 14408) to extend the effective period of incidental take regulations at 50 CFR Part 18, Subpart J. Because of the short timeframes involved, it was determined that the draft Strategy's comment period could only be extended for 15 days through May 16, 1995. This deadline also coincided with the close of the comment period on the proposed rule to extend the incidental take regulations at 50 CFR Part 18, Subpart J for an additional 42 months.

For the reasons set out in the Service's proposed rule of March 17, 1995, (as identified in the previous paragraph) to extend the effective period of incidental take regulations, and in the final Beaufort Sea rule published on November 16, 1993, the Service proposed to extend the regulations in 50 CFR Part 18, Subpart J for the full five-year term authorized by the MMPA. Thus, the regulations currently in effect from December 16, 1993, through June 16, 1995, would not expire but rather would be extended through December 15, 1998. The proposal to extend the final Beaufort Sea regulations was made on the basis that the Service's draft Strategy, if adopted, would meet the stipulations in those regulations. The Service believes that the total expected

takings of polar bear and walrus during energy operations will have a negligible impact on these species, and there will be no unmitigable adverse impacts on the availability of these species for subsistence uses by Alaskan Natives. If the provisions of the draft Strategy are adopted, and its implementation is initiated, the requirements of the Beaufort Sea regulations will have been met, and they can extend for an additional 42 months.

However, the Service has determined that completion of the final Strategy cannot be achieved by June 16, 1995, because of extensive public interest and the substantial number of comments received concerning the draft Strategy. Under current circumstances, which indicate that Beaufort Sea oil and gas activities continue to pose no more than a negligible impact to polar bear and walrus, a short-term extension of the incidental take regulations is in order so that a full and fair review of all public comments on the draft Strategy can be made. The Service finds that an extension of 60 days will not affect its "negligible impact" finding or its finding that oil and gas activities in the Beaufort Sea will not have an unmitigable adverse effect on the availability of polar bear and walrus for subsistence uses. The Service therefore is extending the effective period of the Beaufort Sea regulations for an additional 60 days through August 15, 1995. This is a prudent and justifiable action that will allow time to adequately review comments, finalize the Strategy, and begin its implementation.

This final rule action neither reopens the comment period on either the draft Strategy or the proposed rule to extend the period of effectiveness of the Beaufort Sea regulations through December 15, 1998, nor does it complete the Service's decision making on the March 17, 1995, proposed rule to extend the effective date of those final regulations through December 15, 1998. It merely extends for 60 days the effectiveness of the Beaufort Sea regulations during which time the Service will analyze public comments and make final decisions on the Strategy and the March 17, 1995, proposed rule. The new final decision date of August 15, 1995, will be the same for both documents (i.e., the Strategy and the proposed rule).

This 60-day extension of the Beaufort Sea regulations is effective immediately. The Service believes there is good cause to take this immediate action because of extensive public interest, the need to thoroughly consider the substantial number of comments that were submitted and to make any necessary

and appropriate changes to the draft Strategy prior to making final decisions on both the draft Strategy and proposed rule to extend the Beaufort Sea regulations, and because to do otherwise would cause the Beaufort Sea regulations to lapse, thereby denying Industry the basic protections afforded by the MMPA's section 101(a)(5)(A). While prudent policy calls for further deliberation on the draft Strategy, there is no biological justification for allowing the Beaufort Sea regulations to expire.

#### Required Determinations

During the rulemaking process to develop Beaufort Sea regulations, the Service prepared an Environmental Assessment with a FONSI on Industry's proposed actions. This rule was not subject to review by the Office of Management and Budget under Executive Order 12866. Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it was also determined the rule would not have a significant economic effect on a substantial number of small entities. Furthermore, the final rule was not expected to have a potential takings implication under Executive Order 12630 because it authorized incidental, but not intentional, take of polar bear and walrus by Industry and thereby exempts them from civil and criminal liability. The rule also did not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612. The above identified required determinations associated with the Service's original rulemaking process associated with the Beaufort Sea are still valid for this current final rule.

The collections of information associated with this final rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and assigned clearance number 1018-0070.

#### List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Imports, Indians, Marine mammals, Transportation.

For the reasons set forth in the preamble, Part 18, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations is amended as set forth below:

#### PART 18—MARINE MAMMALS

1. The authority citation for 50 CFR Part 18 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.*

2. Section 18.122 of Subpart J is revised to read as follows:

#### § 18.122 Effective dates.

Regulations in this subpart, originally effective for an 18-month period from December 16, 1993, through June 16, 1995, will continue in effect for an additional 60-day period through August 15, 1995, for oil and gas exploration, development, and production activities.

Dated: June 5, 1995.

**George T. Frampton, Jr.,**  
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95-14512 Filed 6-13-95; 8:45 am]

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 301

[Docket No. 950106003-5070-02; I.D. 060895A]

#### Pacific Halibut Fisheries

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

**ACTION:** Inseason action; non-treaty commercial fishing period limits in Area 2A.

**SUMMARY:** The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes this inseason action pursuant to IPHC regulations approved by the U.S. Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of the Pacific halibut stock in order to help sustain it at an adequate level in the northern Pacific Ocean and Bering Sea. **EFFECTIVE DATE:** 8:00 a.m. through 6:00 p.m., July 5, 1995.

**FOR FURTHER INFORMATION CONTACT:** Steven Penoyer, 907-586-7221; William W. Stelle, Jr., 206-526-6140; or Donald McCaughran, 206-634-1838.

**SUPPLEMENTARY INFORMATION:** The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by NMFS (60 FR 14651, March 20, 1995).