

requirements in Standard No. 121, *Air Brake Systems*, for converter dollies and trailers designed to tow other air braked vehicles. The agency has since learned that the docket number in the heading of that document is incorrect. (60 FR 38762) Today's document corrects the docket number to read "[Docket No. 85-07; Notice 11]". The July 28, 1995 document had read "[Docket No. 85-07; Notice 10]".

EFFECTIVE DATE: The correction to the July 28, 1995 document is effective on August 17, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Carter, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-5274).

Issued on: August 11, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95-20345 Filed 8-16-95; 8:45 am]

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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 and Notice of Availability of a Completed Final Polar Bear Habitat Conservation Strategy.

SUMMARY: Pursuant to the requirements contained in final regulations effective in December 1993 to govern the incidental, unintentional take of small numbers of polar bears and walrus during year-round oil and gas operations (exploration, development, and production) in the Beaufort Sea and adjacent northern coast of Alaska (50 CFR 18.122), the Fish and Wildlife Service hereby modifies and extends for an additional 40 months through December 15, 1998, the effectiveness of those final regulations. The original final Beaufort Sea regulations were effective beginning on December 16, 1993, for 18 months through June 16, 1995. On June 14, 1995, those regulations were extended for an additional 60 days through August 15, 1995. In addition to this current final rule action to extend the effective date through December 15, 1998, (for a total effective period of five years as

authorized by the Marine Mammal Protection Act of 1972, as amended (MMPA)), the regulations have also been modified in consideration of concerns received during the public comment period.

In addition to this final rule, the Service announces availability of its final Polar Bear Habitat Conservation Strategy (Strategy), the completion of which was prompted by provisions of the 1993 Beaufort Seas regulations.

DATES: This rule is effective beginning on August 15, 1995. It extends the effective period of regulations that appears at 50 CFR part 18, subpart J through December 15, 1998.

ADDRESSES: Comments and materials received in response to this action are available for public inspection during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, at the Office of Marine Mammals Management, Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503. Copies of the final Polar Bear Habitat Conservation Strategy are available on request from this same office.

FOR FURTHER INFORMATION CONTACT: David McGillivray, Supervisor, Office of Marine Mammals Management, Anchorage, Alaska, at 907/786-3800; or Jeff Horwath, Division of Fish and Wildlife Management Assistance, Arlington, Virginia, at 703/358-1718.

SUPPLEMENTARY INFORMATION:

Background

Under section 101(a)(5)(A) of the 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 a 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; meanings 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, 1991, 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 Environment 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 bears 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 that 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 impact on these species and would not have an unmitigable adverse impact on the availability of these species for subsistence uses by Alaskan Natives.

However, although the MMPA authorizes incidental take regulations to be issued for periods of up to five years, these were initially effective only for an 18-month period through June 16, 1995, because of additional provisions at 50 CFR 18.122 in the final regulations requiring the Service to develop and begin implementing a 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). The Strategy could identify and designate special considerations or closures of any polar bear habitat components to be further protected, with public notice and comment sought on such considerations or closure. Pursuant to notice and opportunity for public comment, extension of the final Beaufort Sea regulations for an

additional 42 months for the full five-year term authorized by the MMPA (through December 15, 1998) was contingent upon: (1) the Service, by June 16, 1995, developing and beginning to implement the Strategy; (2) review of monitoring reports submitted by holders of Letters of Authorization issued according to the Beaufort Sea regulatory provisions at 50 CFR 18.127; and (3) an affirmative finding by the Secretary of the Interior.

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 this 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 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, the State of Alaska, conservation organizations, academia, and others. It included Native traditional knowledge on polar bear behavior and habitat use.

The draft Strategy identified and designated important polar bear feeding and denning areas and proposed measures for enhanced consideration of these areas from oil and gas exploration, development, and production. It also proposed additional measures for polar bear habitat protection in furtherance of the goals of the 1973 Agreement. These measures consisted 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 identified 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 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, for an additional 42 months through December 15, 1998. 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 March 17, 1995, proposed rule 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 would not expire, but 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 expressed its belief that the total expected takings of polar bears and walrus during energy operations would have a negligible impact on these species, and there would be no unmitigable adverse impacts on the availability of these species for subsistence uses by Alaskan Natives. Thus, if the provisions of the draft Strategy were adopted, and its implementation was initiated, the requirements of the Beaufort Sea regulations will have been met, and they could be extended for an additional 42 months.

Subsequently, the Service determined that completion of the final Strategy could not be achieved by June 16, 1995, because of extensive public interest and the substantial number of comments received concerning the draft Strategy. Since Beaufort Sea oil and gas activities continued to post no more than a negligible impact to polar bears and walrus, it was decided that a short-term 60-day extension of the incidental take regulations was in order so that a full and fair review of all public comments on the draft Strategy could be made. The Service determined that this extension would not affect its "negligible impact" finding or its finding that oil and gas activities in the Beaufort Sea would not have an unmitigable adverse effect on the availability of polar bears and walrus for subsistence uses. The Service, therefore, extended the effective period of the Beaufort Sea regulations through August 15, 1995, in a final rulemaking published in the **Federal Register** on June 14, 1995 (60 FR 31258). The Service believed this action to be prudent and justifiable in order to allow adequate time to review comments, finalize the Strategy, and begin its implementation. This 60-day extension of the Beaufort Sea regulations was effective immediately; to do otherwise would have allowed the regulations to lapse, thereby denying Industry the basic protection afforded by the MMPA's section 101(a)(5)(A). While the Service believed that prudent policy called for further deliberation on the draft Strategy, there was no biological justification for allowing the Beaufort Sea regulations to expire.

The final rule action described in the previous paragraph neither reopened 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 did 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 extended for 60 days the effectiveness of the Beaufort Sea regulations during which time the Service would 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, would not be the same for both documents (i.e., the Strategy and the proposed rule).

The comment periods on both the draft Strategy and the proposed rule to extend the Beaufort Sea regulations through December 15, 1998, expired on May 16, 1995. The Service has completed its review of the substantial

number of public comments that were submitted with regard to the draft Strategy, and comments submitted in response to the proposed rule to extend the Beaufort Sea regulations.

Findings and Conclusion Related to the Strategy

The Service announces completion of its final Strategy. The Strategy identifies important polar bear feeding and denning areas and contains measures for enhanced consideration of these areas during oil and gas exploration, development, and production activities. It also contains 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 final 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 following tasks have been implemented, or are in the process of being implemented, by the Service to comply with the provision of the Beaufort Sea regulations regarding development of the Strategy and beginning its implementation. These tasks include: conducting a marine mammal carcass survey to determine important feeding habitat; coordinating with the Service's representative to the Working Group for the Conservation of Flora and Fauna (CAFF) regarding the contents of the Strategy for its use with the CAFF Working Group; and developing a polar bear contaminants proposal, and coordinating with others to obtain funding for the study. Copies of the draft Strategy were provided to the parties to the 1973 Agreement, and members of the Polar Bear Specialists Group.

A substantial number of comments were submitted to the Service with respect to the draft Strategy during its 75-day public comment period. The Service has carefully examined and considered those comments and modified and corrected, as necessary and appropriate, the final Strategy. However, neither the comments nor the Service's responses to those comments are included in this final rule. Instead, those comments are presented in detail and addressed in a separate section entitled, "Consultation and Coordination," in the final Strategy. Included in this final rule is a discussion of the comments submitted with respect to the provisions of the

Beaufort Sea incidental take regulations and the Service's proposed rule to extend the effective period of those regulations through December 15, 1998, along with any specific comments submitted on the draft Strategy if those comments are specifically directed at the Beaufort Sea regulations.

Discussion of Comments on the Proposed Rule of March 17, 1995, To Extend Beaufort Sea Incidental Take Regulations Through December 15, 1998

Comment: Comments received regarding the incidental take regulations included sentiment that: (1) Closer scrutiny is needed to define what constitutes bona fide incidental take; (2) incidental take should include the language in the 1994 amendments to the MMPA regarding lethal take in defense of life; and (3) incidental take should include a system for permitting unintentional harassment.

Response: With regard to (1), the provisions of section 101(a)(5)(A) authorize the incidental, unintentional take of small numbers of marine mammals during the course of specified activities other than commercial fishing. Implementing regulations in 50 CFR 18.27 define incidental, but not intentional, taking as those takes which are infrequent, unavoidable, or accidental. It does not mean that the taking must be unexpected. In addition, the MMPA defines "takes" as meaning to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill; this definition is further defined in regulations at 50 CFR 18.3. As regards the current action, the term incidental take is considered to mean an alteration in natural behavioral patterns caused by human actions. With respect to (2) regarding the inclusion of language in the 1994 amendments to the MMPA at section 101(c) that authorizes lethal take of marine mammals in defense of life, such takings are not applicable to the current action in that such lethal takes could not be considered unintentional. Injecting into the current discussion the 1994 amendment language that authorizes lethal take in defense of human life is not justified. With respect to (3), the 1994 amendments to the MMPA included new provisions at section 101(a)(5)(D) that authorize the incidental, unintentional taking of small numbers of marine mammals by harassment if the Service determines that such harassment has no more than a negligible impact on the species or stock, and will not have an unmitigable adverse impact on the availability of the species or stock for subsistence

purposes. As defined in the 1994 amendments and appearing in section 3 of the MMPA, harassment is defined 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). This information has been inserted into the final Strategy. While the Service has not yet implemented the harassment provisions of the 1994 amendments, efforts to do so should begin in the near future. In any event, the final regulations, as extended, provide sufficient protection for Industry from incidental take liability as long as provisions of the regulations and the conditions of any Letters of Authorization are observed.

Comment: One respondent stated that it is not only inappropriate to link development of the Strategy with the incidental take regulations, but it is also not authorized by law. It was stated that no authority exists in either the 1973 Agreement (of which the United States, Canada, Russia, Denmark, and Norway are signatories) or the MMPA that authorizes implementation of the Strategy, much less make extension of the Beaufort Sea incidental take regulations contingent upon completion of the Strategy.

Furthermore, it was expressed that the incidental take regulations at 50 CFR 18.123(b) exceeded the MMPA's authority in that the statute set a standard of "negligible impact" while the Service's regulations contained language that went beyond the negligible impact standard as evidenced by the last sentence of 50 CFR 18.123(b) that states, "Subsequent to implementation by the Service of its Polar Bear Habitat Conservation Strategy, no adverse impacts will be authorized in those identified polar bear habitat areas afforded special protection through implementation of that strategy." Those respondents expressed the belief that this language contradicts the MMPA in which Congress established the standard of "least practicable adverse impact," even for sensitive areas such as rookeries or denning areas. The Service was requested to delete the above quoted language from 50 CFR 18.123(b).

Response: The Service believes that ample direction and authority exists through the 1973 Agreement and the MMPA to justify and support actions

intended to assure the long-term welfare of polar bears and their environment. As quoted previously in this **Federal Register** final rule under the **SUPPLEMENTARY INFORMATION, Background** Section, Article II of the 1973 Agreement directs Contracting Parties to “* * * take appropriate action to protect the ecosystems of which polar bears are part, with special attention to * * * denning and feeding sites * * *” The 1973 Agreement is not self-executing; however, with respect to the current issue, the Service believes that the MMPA provides the authority not only to implement measures, such as the final Strategy, through the 1973 Agreement, but also to carry out language in the MMPA to protect important polar bear habitat. The last sentence of section 2(2) of the MMPA, amended in 1994, states, “* * * In particular, efforts should be made to protect essential habitats, including the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man’s actions;”. While this language, in the context of the opening provisions of section 2(2), appears to be linked to measures that should be taken to restore any species or stock to its optimum sustainable population (OSP) level, it follows that the Service should not stand idly by while a species or stock declined below its OSP level before taking necessary actions to maintain the species or stock at its OSP. In addition, the Service believes that authority exists in the MMPA’s section 112, Regulations and Administration, to provide necessary authority to protect important polar bear habitat. In particular, section 112(a) state that, “The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this title.” Thus, the Service believes that ample guidance and authority exists to develop a “Habitat Conservation Strategy for Polar Bears in Alaska” as called for in Beaufort Sea incidental take regulations at 50 CFR Part 18, Subpart J and prompt its completion in order to extend the Beaufort Sea incidental take regulations. The Service believes the final Strategy will assist in the LOA decision process and serve as an important vehicle to mitigate adverse impacts to polar bears and their habitat.

With regard to a perceived conflict between the statute’s standard of negligible impact and the implementing regulations’ “no adverse impact” language, the Service has determined at this time as a matter of policy to delete the cited language from 50 CFR 18.123(b) because the final Strategy does

not establish regulatory controls that require compliance with a “no adverse impact” standard. The Strategy emphasizes areas of special concern that, on a case-by-case basis, will be evaluated to determine what level of oil and gas activity can be maintained without crossing the “negligible impact” threshold. The Service does believe, however, that adequate guidance and authority exists in the MMPA’s sections 2, 101(a)(5)(A), and 112, and Section II of the 1973 Agreement to justify implementing a further level of protection for polar bear habitat if deemed necessary to satisfy the criteria of section 101(a)(5). Presently, however, the Service believes that regulatory measures currently in place, together with the measures addressed in the Strategy, and Industry’s cooperation and adherence to established guidelines to mitigate impacts to polar bears provide adequate protection to these animals and their habitat.

Comment: Respondents stated that it would be inappropriate not to expand the incidental take regulations to the Coastal Plain 1002 area of the Arctic National Wildlife Refuge (ANWR) because this area is particularly important polar bear denning habitat. One respondent stated that the incidental take regulations are not scientifically defensible and questioned how the draft Environmental Assessment (EA) for incidental take regulations determined that there will be a negligible effect on polar bear populations when OSP levels have not been identified, and the nature, timing, and levels of proposed oil and gas activities, as well as the effect of past activities have not been determined. According to one commenter, the Service should consider discontinuing the regulations because the draft Strategy fails to provide significant offsetting protection as required by Article III of the 1973 Agreement. In addition, the commenter stated that the draft Strategy, draft EA, and Beaufort Sea incidental take regulations all fail to quantify levels of take.

Response: The Strategy intentionally does not propose to expand the incidental take regulations to the Coastal Plain of ANWR since that area by designation is a national wildlife refuge where oil and gas activity is currently prohibited. Additionally, expanding the regulations to cover the Coastal Plain of ANWR could send the erroneous message that oil and gas operations on ANWR could be authorized under current provisions, when in fact, that is clearly not the case. As indicated with the final EA for the

Strategy, this is the area where the likelihood of maternity den encounters [by Industry] is the greatest on the Alaska Beaufort Sea coast. Consequently, it is also the area in which the Service would most likely make a finding of Industry activity exceeding a finding of negligible impact.

The Service is responsible for polar bear conservation and believes it has correctly determined that the proposed industrial activities described in Industry’s petitions will not result in a greater than negligible impact to polar bears. The finding is based on the most current available knowledge and is fully consistent with the standards and procedures of section 101(a)(5), which requires no finding on OSP. The Service continues to evaluate the population information for the Beaufort Sea polar bear population in an attempt to estimate OSP. Within the petitioned scope of operations, the risk of lethal takes has been minimized by Industry’s efforts to conduct monitoring, provide bear awareness training, and other activities. The Service, through the Strategy, has reserved judgment on the effects of industrial activities occurring in Important Habitat Areas for polar bears as identified in the final Strategy, and will evaluate the effects of activities in these areas on a case-by-case basis.

The Service disagrees with the proposition that the incidental take regulations and final Strategy should be discontinued and maintains that both are valuable tools for managers in conserving polar bears. The Service also feels that the Beaufort Sea regulations, in conjunction with the final Strategy, contributes to meeting U.S. obligations under the 1973 Agreement.

Findings and Conclusions Related To Extending the Beaufort Sea Incidental Take Regulations Through December 15, 1998

For the reasons set out in this final rule, and in accordance with the stipulations contained in the final Beaufort Sea rule published on November 16, 1993, the Service hereby modifies and extends through December 15, 1998, the effectiveness of the regulations in 50 CFR Part 18, Subpart J (Taking of Marine Mammals Incidental to Oil and Gas Exploration, Development, and Production Activities in the Beaufort Sea and Adjacent Northern Coast of Alaska) for the full five-year term authorized by the MMPA. The regulations currently in effect through August 15, 1995, are now extended through December 15, 1998. Extending these final Beaufort Sea regulations is made on the basis that the Service’s final Strategy is in keeping

with the stipulations in those final regulations. The Service has determined that it has met the requirements of the Beaufort Sea regulations.

Effective Date of Rule

In accordance with 5 U.S.C. 553(d)(1), the Service has determined that this final rule is effective on August 16, 1995. It is considered to be a substantive rule, the provisions of which relieve restrictions on Industry operations in the Beaufort Sea and adjacent northern coast of Alaska (excluding the Arctic National Wildlife Refuge) by authorizing incidental takes of polar bears and walrus during year-round oil and gas operations under provisions of the MMPA. Any delay in the effective date beyond August 16, 1995, could subject the Industry to penalties as provided in the MMPA if it conducted activities that resulted in incidental take of polar bears or walrus.

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.*, the Service determined the rule would not have a significant economic effect on a substantial number of small entities. Oil companies and their contractors, conducting exploration, development, and production activities in Alaska, were identified as the only likely applicants under the regulations, and these potential applicants were not identified as small businesses. 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 bears and walrus by Industry and thereby exempted 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:

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

2. Section 181.121 is amended by correcting the typographical error in the second sentence as follows:

The phrase “* * * Outer Continental Shelf waters east of * * *” is revised to read “* * * Outer Continental Shelf waters east of * * *”

3. Section 18.122 is revised to read as follows:

§ 18.122 Effective dates.

Regulations in this subpart will continue in effect through December 15, 1998, for oil and gas exploration, development, and production activities.

4. Sections 18.123(b) of subpart J is revised to read as follows:

§ 18.123 Permissible methods.

* * * * *

(b) The methods and activities identified in § 18.123(a) must be conducted in a manner that minimizes to the greatest extent practicable adverse impacts on polar bear and walrus, their habitat and on the availability of these marine mammals for subsistence uses.”

Dated: August 14, 1995.

Robert P. Davison,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95-20437 Filed 8-14-95; 3:33 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No. 950427119-5203-05; I.D. 080195D]

RIN 0648-AH98

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawling Activities; Additional Turtle Excluder Device Requirements Within Certain Fishery Statistical Zones

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary additional restrictions on fishing by shrimp trawlers in the nearshore waters off Georgia and a portion of South Carolina to protect sea turtles; request for comments.

SUMMARY: NMFS is imposing, for a 30-day period, additional restrictions on shrimp trawlers fishing in offshore waters out to 10 nautical miles (nm) (18.5 km) from the COLREGS line between 30°45' N. lat. and 33°00' N. lat. in the Atlantic Area. This area includes all of the Georgia coast and the southern portion of the South Carolina coast, which includes all or a portion of Zones 30 through 32. The restrictions include prohibitions on the use by shrimp trawlers of soft turtle excluder devices (TEDs) and try nets with a headrope length greater than 12 ft (3.6 m) or a footrope length greater than 15 ft (4.5 m), unless the try nets are equipped with approved TEDs other than soft TEDs. This action is necessary to ensure protection for sea turtles and to prevent the continuation of high levels of mortality and strandings of threatened and endangered sea turtles.

DATES: This action is effective from 12:01 a.m. (local time) August 11, 1995, until 11:59 p.m. (local time) on September 9, 1995. Comments on this action must be submitted by September 13, 1995.

ADDRESSES: Comments on this action and requests for a copy of the environmental assessment (EA) or biological opinion (BO) prepared for this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813-570-5312, or Phil Williams, 301-713-1401.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.