

section, for liver, heart, lung, heart-lung and combined liver-kidney when,

(j) The hospitals are under common control or have a formal affiliation arrangement with each other under the auspices of an organization such as a university or a legally-constituted medical research institute;

(ii) The hospitals share resources by using the same personnel or services in their transplant programs. The individual physician members of the transplant team practice in all of the hospitals;

(iii) The same organ procurement organization, immunology, and tissue typing services are used by all the hospitals; and

(iv) The hospital submits its individual and combined experience and survival data to the CHAMPUS authorizing authority, and

(v) If one of the hospitals is a pediatric transplant program, in addition to the requirements previously listed the following apply;

(A) Although pediatric surgeons and pathologists are not required to practice in the adult hospital and vice versa, it can be documented that they otherwise function as members of the transplant team.

(B) The facility must have other solid organ transplant program(s) that meet CHAMPUS criteria for certification based on actuarial survival rates and experience.

(C) The surgeon responsible for the transplant is commonly involved in the type of surgery (i.e., related to hepatology, cardiology and pulmonary medicine) with children of the age and size in whom the transplant is being performed, and

(D) If the program involves heart transplant, the facility must have an active pediatric cardiovascular medical and surgical program with a minimum of 150 cardiac catheterizations performed per year on patients in the pediatric range. A surgical case load of 200 operations per year should be performed in combined adult and pediatric programs: Of these, at least 100 operation per year (three of four should use extracorporeal circulation) should be on pediatric patients. In programs serving only a pediatric population, at least 100 cardiac surgical procedures (three of four should use extracorporeal circulation) should be performed per year.

\* \* \* \* \*

4. Section 199.7 is proposed to be amended by revising paragraph (f)(1)(ii) to read as follows:

**§ 199.7 Claims submission, review, and payment.**

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(ii) *Time limit on preauthorization.*

Approved preauthorizations are valid for specific periods of time, appropriate for the circumstances presented and specified at the time the preauthorization is approved. In general, preauthorizations are valid for 30 days. If the preauthorized service or supplies are not obtained or commenced within the specified time limit, a new preauthorization is required before benefits may be extended. Special rules apply for organ, stem cell transplantation, and air ambulance (in conjunction with lung or heart-lung transplantation preauthorizations) (refer to § 199.4(e)(5)(ii)).

\* \* \* \* \*

5. Section 199.15 is proposed to be amended by revising paragraph (b)(4)(ii)(C) to read as follows:

**§ 199.15 Quality and utilization review peer review organization program.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(ii) \* \* \*

(C) An approved preauthorization shall state the number of days, appropriate for the type of care involved, for which it is valid. In general, preauthorizations will be valid for 30 days. If the services or supplies are not obtained within the number of days specified, a new preauthorization request is required. Special rules apply for organ, stem cell transplantation, and air ambulance (in conjunction with lung or heart-lung transplantation preauthorizations (refer to § 199.4(e)(5)(ii)).

\* \* \* \* \*

Dated: March 13, 1995.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 95-6561 Filed 3-16-95; 8:45 am]

BILLING CODE 5000-04-M

**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:** Proposed rule.

**SUMMARY:** The Fish and Wildlife Service (Service) hereby proposes to extend for an additional 42 months through December 15, 1998, the effectiveness of the final regulations that authorize and govern the incidental, unintentional take of small numbers of polar bear and walrus during year-round oil and gas industry operations (exploration, development, and production) in the Beaufort Sea and adjacent northern coast of Alaska.

**DATES:** Comments on this proposed rule must be received by May 16, 1995.

**ADDRESSES:** Written comments should be submitted by mail to Supervisor, Office of Marine Mammals Management, Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503. Comments may also be hand delivered to the same address during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, or sent by FAX to 907/786-3816. Comments and materials received in response to this proposed action will be available for public inspection at this address during the normal working hours identified above.

**FOR FURTHER INFORMATION CONTACT:** Dave McGillivray, Supervisor, Office of Marine Mammals Management, Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503, 907/786-3800, or Jeff Horwath, in the Service's Division of Fish and Wildlife Management Assistance, Arlington, Virginia, at 703/358-1718.

**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 available scientific evidence available, that the cumulative total of such taking over a 5-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; 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, 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) 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 has 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). Subsequent to 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 in the **Federal Register** final regulations 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 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 5-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 uses by Alaskan Natives.

However, although the MMPA authorizes regulations to be issued for periods of up to five years, the Service's final regulations are initially effective only for an 18-month period through June 16, 1995, as a result of additional provisions in the final regulations. The provisions stipulate that extension of the final regulations for an additional 42 months for the full 5-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 or

closures of any polar bear habitat components to be further protected; (3) public notice and comment on those considerations or 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 5 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 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.

As required by the final Beaufort Sea incidental take regulations, the Service has developed a draft Strategy, published public notice of its availability in the **Federal Register** (60 FR 10868), and is seeking review and comment on it. It was developed with the involvement and input of Alaska Natives, Industry, the National Biological Service, State of Alaska, conservation organizations, academia, and others, and it 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 multilateral Polar Bear 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.

For the reasons set out in this notice and in the final Beaufort Sea rule published on November 16, 1993, the Service hereby proposes to extend 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 5-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. This proposal to extend the final Beaufort Sea regulations is made on the basis that the Service's draft Strategy, if adopted, is in keeping with the stipulations in those final regulations. If the provisions of the draft Strategy are adopted, and its implementation is initiated, the Service will have met the requirements of the Beaufort Sea regulations; a final rule would be issued subsequent to the close of the comment period associated with the draft Strategy, and this proposed rule's public comment period.

#### Required Determinations

During the rulemaking process to develop Beaufort Sea regulations, the Service prepared an Environmental Assessment with FONSI on Industry's proposed actions. The rule was also reviewed 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 proposed rule.

The collections of information associated with this proposed 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 I, Title 50 of the Code of Federal Regulations is proposed to be 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 proposed to be 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 42 month period through December 15, 1998, for oil and gas exploration, development, and production activities.

Dated: March 10, 1995.

**George T. Frampton, Jr.**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 95-6593 Filed 3-16-95; 8:45 am]

BILLING CODE 4310-55-M

### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 222

### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; 12 Month Finding for a Petition to List the Anadromous Atlantic Salmon (*Salmo Salar*) Populations in the United States as Endangered or Threatened

**AGENCIES:** National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce; and Fish and Wildlife Service, Interior.

**ACTION:** Notice of petition finding.

**SUMMARY:** The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS),

collectively the Services, announce a 12-month finding on a petition to list the Atlantic salmon (*Salmo salar*) throughout its range in the United States as an endangered species pursuant to the Endangered Species Act of 1973 (Act). A Biological Review Team (Team), comprising staff from both NMFS and FWS, have compiled and analyzed available data, and prepared a "Status Review for Anadromous Atlantic Salmon in the United States." The Services have determined that available biological evidence indicates that the species described in the petition does not meet the definition of "species" under the Endangered Species Act. Consequently, the Services conclude that the petitioned action to list Atlantic salmon throughout its historic United States range is not warranted.

**DATES:** The finding made in this document was made on March 10, 1995.

**ADDRESSES:** Comments or questions concerning this petition finding should be sent to the Chief, Division of Endangered Species, FWS, 300 Westgate Center Drive, Hadley, Massachusetts 01035, or the Chief, Habitat and Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, Massachusetts 01930. The petition finding and supporting data are available for public inspection by appointment during normal business hours at the above addresses and at FWS, 1033 South Main Street, Old Town, Maine 04468 (207-827-5938).

**FOR FURTHER INFORMATION CONTACT:** Paul Nickerson, Chief, Division of Endangered Species, at the Hadley, Massachusetts address (413-253-8615) or Mary Colligan, Marine Habitat Specialist, at the Gloucester, Massachusetts address (508-281-9116).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(B) of the Act requires that for any petition to revise the List of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information indicating that the petitioned action may be warranted, the FWS or the NMFS, as appropriate, must undertake a review of the species in question and make a finding within 12 months of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Section 4(b)(3)(C) requires that petitions for which the requested action is found to be "warranted but precluded" should be treated as though

resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months.

In October and November, 1993, the Services received a petition from RESTORE: the North Woods, Biodiversity Legal Foundation and Jeffrey Elliot to list naturally spawning anadromous Atlantic salmon (*Salmo salar*) throughout its known historic range in the conterminous United States, and to designate critical habitat. The petitioners presented current and historical information on Atlantic salmon populations, identified possible threats including commercial and sport fishing, pollution, barriers, land use practices, genetic disruption and others, and cited numerous scientific articles to support the petition.

The Services published a notice of finding on January 20, 1994 (59 FR 3067-3068), stating that the petition presented substantial information indicating that the requested action may be warranted. The Services also announced their intention to conduct a status review and solicited information from interested parties. To formalize the cooperative approach between NMFS and FWS in response to this petition, a Memorandum of Agreement was signed on March 14, 1994, by the regional directors of the respective agencies. A Biological Review Team (Team), comprising staff from the Services, has compiled and analyzed available data. The Team prepared a report entitled "Status Review for Anadromous Atlantic Salmon in the United States, January 1995" which provides detailed information, discussion and references. This report is summarized below and is available upon request (see **ADDRESSES**).

##### Life History

Anadromous Atlantic salmon have a relatively complex life history that extends from spawning and juvenile rearing in freshwater rivers to extensive feeding migration in the high seas. As a result, Atlantic salmon have several distinct phases in their life history that are identified by specific behavioral and physiological changes. Adult Atlantic salmon ascend the rivers of New England beginning in spring, a migration that peaks in June and continues into fall. Spawning occurs in late October through November. Good spawning habitat has a gravel substrate and adequate water circulation to keep eggs well oxygenated. Female anadromous Atlantic salmon produce between 1,500 and 1,800 eggs per kilogram (2.2 pounds) of body weight; on average each female Maine Atlantic salmon produces 7,200 eggs. Eggs hatch in late March or April and the resulting