

greatest extent practicable adverse impacts on polar bear and walrus, their habitat and on the availability of these marine mammals for subsistence uses.”

(c) The Service will evaluate each request for a Letter of Authorization based on the specific activity and the specific geographical location. Each Letter of Authorization will identify allowable conditions or methods that are specific to the activity and location.

[58 FR 60410, Nov. 16, 1993, as amended at 60 FR 42809, Aug. 17, 1995]

EFFECTIVE DATE NOTE: At 60 FR 42809, Aug. 17, 1995, in § 18.123, paragraph (b) was revised, effective Aug. 15, 1995 through Dec. 15, 1998.

#### **§ 18.124 Prohibitions.**

(a) Intentional takes of polar bear or walrus are not authorized by the regulations in this subpart. (Note: Pursuant to section 109(h)(1) of the Marine Mammal Protection Act, the Service may authorize the intentional take (e.g., harassment associated with deterrent activities and/or lethal take) for the protection of human life or welfare.)

(b) Any take that fails to comply with the terms and conditions of the specific regulations in this subpart or of the Letters of Authorization is prohibited.

#### **§ 18.125 Level of activity.**

When Letters of Authorization are requested, the Service will determine whether the level of activity identified in the request exceeds that considered by the Service in making a finding of negligible impact on the species and a finding of no unmitigable adverse impact on the availability of the species for subsistence. If the level of activity is greater, the Service will re-evaluate its findings to determine if those findings continue to be appropriate based on the greater level of activity. Depending on the results of the evaluation, the Service may allow the authorization to stand as is, add further conditions, or withdraw or suspend the authorization.

#### **§ 18.126 Measures to ensure availability of species for subsistence.**

When applying for a Letter of Authorization, the applicant must submit a plan of cooperation that identifies

what measures have been, and will be, taken to minimize adverse effects on the availability of polar bear and walrus for subsistence uses. The applicant must contact affected subsistence communities to discuss potential conflicts with the location, timing, and methods of planned operations. The applicant must make reasonable efforts to assure that activities do not interfere with subsistence hunting or that adverse effects on the availability of polar bear or walrus are properly mitigated.

#### **§ 18.127 Requirements for monitoring and reporting.**

(a) Holders of Letters of Authorization are required to cooperate with the Service and other designated Federal, State, or local agencies to monitor the impacts of oil and gas exploration, development and production activities on polar bear and walrus.

(b) Holders of Letters of Authorization must designate a qualified individual or individuals to observe and record the effects of the activities on polar bear and walrus.

(c) When applying for a Letter of Authorization, the applicant must include a site-specific plan to monitor the effects of the activity on the populations of polar bear and walrus that are present during the on-going activities. This plan, which must be approved by the Service's Alaska Regional Director, must identify the survey techniques that will be utilized to determine the actions of the polar bear and walrus in response to the on-going activity. The monitoring program must document the actions of these marine mammals and estimate the actual level of take. The monitoring requirements will vary depending on the activity, the location, and the time.

(d) If the activity is planned in polar bear habitat, the operator must develop a polar bear awareness and interaction plan subject to approval by the Service. For the protection of human life and welfare, each employee on site must complete a basic polar bear encounter training course.

(e) At its discretion, the Service may place an observer on site of the activity, on board drillships, drill rigs, aircraft, icebreakers, or other support

vessels or vehicles to monitor the impact of the activity on polar bear and walrus.

(f) The holder of the Letter of Authorization must submit a report to the Service's Alaska Regional Director within 90 days after completion of activities. For development and production activities, the annual monitoring report must be submitted no later than 15 days after completion of the previous year's activities. The report must include, at a minimum, the following information:

- (1) Dates and time of activity;
- (2) Dates and locations of polar bear or walrus activity related to monitoring the effects of the activity; and
- (3) Results of the monitoring activities including an estimate of the actual level of take.

**§ 18.128 Letters of Authorization.**

(a) Each person or entity conducting an oil and gas exploration, development, or production activity in the geographical area described in § 18.121, that may take a polar bear or walrus in execution of those activities, should apply for a Letter of Authorization for each exploration activity or a Letter of Authorization for each development and production area. The application for authorization must be submitted to the Service's Alaska Regional Director at least 90 days prior to the start of the proposed activity.

NOTE: The requirement that an application for a Letter of Authorization be filed at least 90 days before an activity is scheduled to begin becomes effective March 6, 1994. The final regulations in this subpart become effective December 16, 1993.

(b) When an application for a Letter of Authorization is submitted, it must include the following information:

- (1) A description of the activity, the dates and duration, the specific location and the estimated area affected by that activity;
- (2) A plan to monitor the behavior and effects of the activity on polar bear and walrus; and
- (3) A polar bear awareness and interaction plan.
- (4) Where relevant, a cooperation plan that describes the measures to be taken to mitigate potential conflicts between the proposed activity and subsistence hunting.

(c) In accordance with § 18.27(f), decisions made concerning withdrawals of Letters of Authorization, either on an individual or class basis, with regard to factors other than the term of Letters of Authorization, will be made only after notice and opportunity for public comment.

(d) The requirement for notice and public comment in § 18.128(c) will not apply should the Service determine that an emergency exists that poses a significant risk to the well-being of the species or stock of polar bear or walrus.

**§ 18.129 Information collection requirements.**

(a) The collections of information contained in this subpart 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. It is necessary to collect the information in order to describe the activity and estimate the cumulative impacts of potential takings by all persons conducting the activity. The information is used to evaluate the application and determine whether to issue specific regulations and, subsequently, Letters of Authorization.

(b) The public burden associated with the 5-year period potentially covered by this is estimated at 5,802 hours including 1,002 hours to complete the three applications for specific regulations (334 hours each), 720 hours to complete 90 applications for Letters of Authorization (8 hours each), 2,880 hours to comply with recordkeeping requirements associated with 90 Letters of Authorization, and 1,200 hours to complete 150 required annual reports (8 hours each). Direct comments regarding the burden estimate or any other aspect of this requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, Department of the Interior, Mail Stop 224 ARLSQ, 1849 C Street, NW., Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project (1018-0070), Washington, DC 20503.