

shall not exceed an EIRP of -27 dBm/MHz.

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(h) *Transmit Power Control (TPC) and Dynamic Frequency Selection (DFS)*.

(1) *Transmit power control (TPC)*. U-NII devices operating in the 5.47–5.725 GHz band shall employ a TPC mechanism. The U-NII device is required to have the capability to operate at least 6 dB below the mean EIRP value of 30 dBm.

(2) *Dynamic Frequency Selection (DFS)*. U-NII devices operating in the 5.25–5.35 GHz and 5.47–5.725 GHz bands shall employ a DFS mechanism to detect the presence of radar systems and to avoid co-channel operation with radar systems. The minimum DFS detection threshold for devices with a maximum e.i.r.p. of 200 mW to 1 W is -64 dBm. For devices that operate with less than 200 mW e.i.r.p. the minimum detection threshold is -62 dBm. The detection threshold is the received power averaged over 1 microsecond referenced to a 0 dBi antenna.

(i) *Operational Modes*. The DFS requirement applies to the following operational modes:

(A) The requirement for channel availability check time applies in the master operational mode; and

(B) The requirement for channel move time applies in both the master and slave operational modes.

(ii) *Channel Availability Check Time*. A U-NII device shall check if there is a radar system already operating on the channel before it can initiate a transmission on a channel and when it has to move to a new channel. The U-NII device may start using the channel if no radar signal with a power level greater than the interference threshold values, as listed in (h)(2) of this section, is detected within 60 seconds.

(iii) *Channel Move Time*. After a radar's presence is detected, all transmissions shall cease on the operating channel within 10 seconds. Transmissions during this period will consist of normal traffic for typically less than 100 ms and a maximum of 200ms after detection of the radar signal. In addition, intermittent management and control signals can be sent during the remaining time to facilitate vacating the operating channel. The aggregate time of the intermittent management and control signals are typically less than 20 ms.

(iv) *Non-occupancy Period*. A channel that has been flagged as containing a radar system, either by a channel availability check or in-service monitoring, is subject to a non-occupancy period of at least 30 minutes.

The non-occupancy period starts at the time when the radar system is detected.

[FR Doc. 03-18971 Filed 7-24-03; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

RIN 1018-AH92

Marine Mammals; Incidental Take During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service, are proposing regulations that would authorize the incidental, unintentional take of small numbers of polar bears and Pacific walrus during year-round oil and gas industry (Industry) exploration, development, and production operations in the Beaufort Sea and adjacent northern coast of Alaska. Industry operations for the covered period are similar to and include all activities covered by the 3-year Beaufort Sea incidental take regulations that were effective from March 30, 2000, through March 31, 2003 (65 FR 16828). We are proposing that this rule be effective for approximately 16 months from date of issuance.

We will also be conducting an evaluation for a new 5-year regulation based on a petition received from Industry on August 23, 2002. We will work to assess the effects of Industry activities for the requested period (5 years) and expect to publish a longer term proposed rule during the period that this rule is in effect.

We propose a finding that the total expected takings of polar bear and Pacific walrus during oil and gas industry exploration, development, and production activities will have a negligible impact on these species and no unmitigable adverse impacts on the availability of these species for subsistence use by Alaska Natives. We base this finding on the results of 9 years of monitoring and evaluating interactions between polar bears, Pacific walrus, and Industry, and on oil spill trajectory models, polar bear density models, and independent population recruitment and survival models that determine the likelihood of impacts to polar bears should an accidental oil release occur. We are seeking public comments on this proposed rule.

DATES: Comments on this proposed rule must be received by August 25, 2003.

ADDRESSES: You may submit comments by any of the following methods:

1. By mail to: Craig Perham, Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503.

2. By Fax to: (907) 786-3816.

3. By Internet, electronic mail by sending to: FW7MMM@fws.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: RIN 1018-AH92" and your name and return address in your Internet message subject header. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at U.S. Fish and Wildlife Service, Office of Marine Mammals Management, (907)-786-3810 or 1-800-362-5148.

4. By hand-delivery to: Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503.

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, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Craig Perham, Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503; Telephone 907-786-3810 or 1-800-362-5148; or Internet craig_perham@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 1371(a)(5)(A) of the Marine Mammal Protection Act (Act) (16 U.S.C. 1361-1407) gives the Secretary of the Interior (Secretary) through the Director of the U.S. Fish and Wildlife Service (we) the authority to allow the incidental, but not intentional, taking of small numbers of marine mammals, in response to requests by U.S. citizens (you) [as defined in 50 CFR 18.27(c)] engaged in a specified activity (other than commercial fishing) in a specified geographic region. If regulations allowing such incidental taking are issued, we can issue Letters of Authorization (LOA) to conduct activities under the provisions of these regulations when requested by citizens of the United States.

We propose to authorize the incidental taking of polar bears and Pacific walrus based on our proposed