

U.S. Fish and Wildlife Serv., Interior

§ 18.116

2013 for year-round oil and gas exploration activities.

§ 18.114 How do I obtain a Letter of Authorization?

(a) You must be a U.S. citizen as defined in § 18.27(c).

(b) If you are conducting an oil and gas exploration activity in the specified geographic region described in § 18.112 that may cause the taking of Pacific walrus (walrus) or polar bears and you want nonlethal incidental take authorization under this rule, you must apply for a Letter of Authorization for each exploration activity. You must submit the application for authorization to our Alaska Regional Director (see 50 CFR 2.2 for address) at least 90 days prior to the start of the proposed activity.

(c) Your application for a Letter of Authorization must include the following information:

(1) A description of the activity, the dates and duration of the activity, the specific location, and the estimated area affected by that activity, *i.e.*, a plan of operation.

(2) A site-specific plan to monitor and mitigate the effects of the proposed activity on walrus and polar bears encountered during the ongoing activities, *i.e.*, a marine mammal monitoring and mitigation plan. Your monitoring program must document the effects on these marine mammals and estimate the actual level and type of take. The monitoring requirements will vary depending on the activity, the location, and the time of year.

(3) A site-specific polar bear awareness and interaction plan, *i.e.*, a polar bear interaction plan.

(4) A record of community consultation. Applicants must consult with potentially affected subsistence communities along the Chukchi Sea coast (Point Hope, Point Lay, Wainwright, and Barrow) and appropriate subsistence user organizations (the Eskimo Walrus Commission and the Alaska Nanuq (polar bear) Commission) to discuss the location, timing, and methods of proposed operations and support activities and identify any potential conflicts with subsistence walrus and polar bear hunting activities in the communities. Applications for Letters

of Authorization must include documentation of all consultations with potentially affected user groups. Documentation must include a summary of any concerns identified by community members and hunter organizations, and the applicant's responses to identified concerns. Mitigation measures are described in § 18.118.

§ 18.115 What criteria does the Service use to evaluate Letter of Authorization requests?

(a) We will evaluate each request for a Letter of Authorization based on the specific activity and the specific geographic location. We will determine whether the level of activity identified in the request exceeds that analyzed by us in considering the number of animals likely to be taken and evaluating whether there will be a negligible impact on the species or adverse impact on the availability of the species for subsistence uses. If the level of activity is greater, we will reevaluate our findings to determine if those findings continue to be appropriate based on the greater level of activity that you have requested. Depending on the results of the evaluation, we may grant the authorization, add further conditions, or deny the authorization.

(b) In accordance with § 18.27(f)(5), we will make decisions concerning withdrawals of Letters of Authorization, either on an individual or class basis, only after notice and opportunity for public comment.

(c) The requirement for notice and public comment in paragraph (b) of this section will not apply if we determine that an emergency exists that poses a significant risk to the well-being of species or stocks of walrus or polar bears.

§ 18.116 What does a Letter of Authorization allow?

(a) Your Letter of Authorization may allow the nonlethal incidental, but not intentional, take of walrus and polar bears when you are carrying out one or more of the following activities:

(1) Conducting geological and geophysical surveys and associated activities;

(2) Drilling exploratory wells and associated activities; or

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(3) Conducting environmental monitoring activities associated with exploration activities to determine specific impacts of each activity.

(b) Each Letter of Authorization will identify conditions or methods that are specific to the activity and location.

§ 18.117 What activities are prohibited?

(a) Intentional take and lethal incidental take of walruses or polar bears; and

(b) Any take that fails to comply with this part or with the terms and conditions of your Letter of Authorization.

§ 18.118 What are the mitigation, monitoring, and reporting requirements?

(a) *Mitigation.* Holders of a Letter of Authorization must use methods and conduct activities in a manner that minimizes to the greatest extent practicable adverse impacts on walruses and polar bears, their habitat, and on the availability of these marine mammals for subsistence uses. Dynamic management approaches, such as temporal or spatial limitations in response to the presence of marine mammals in a particular place or time or the occurrence of marine mammals engaged in a particularly sensitive activity (such as feeding), must be used to avoid or minimize interactions with polar bears, walruses, and subsistence users of these resources.

(1) *Operating conditions for operational and support vessels.*

(i) Operational and support vessels must be staffed with dedicated marine mammal observers to alert crew of the presence of walruses and polar bears and initiate adaptive mitigation responses.

(ii) At all times, vessels must maintain the maximum distance possible from concentrations of walruses or polar bears. Under no circumstances, other than an emergency, should any vessel approach within a 805-m (0.5-mi) radius of walruses or polar bears observed on land or ice.

(iii) Vessel operators must take every precaution to avoid harassment of concentrations of feeding walruses when a vessel is operating near these animals. Vessels should reduce speed and main-

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tain a minimum 805-m (0.5-mi) operational exclusion zone around feeding walrus groups. Vessels may not be operated in such a way as to separate members of a group of walruses from other members of the group. When weather conditions require, such as when visibility drops, vessels should adjust speed accordingly to avoid the likelihood of injury to walruses.

(iv) The transit of operational and support vessels through the specified geographic region is not authorized prior to July 1. This operating condition is intended to allow walruses the opportunity to disperse from the confines of the spring lead system and minimize interactions with subsistence walrus hunters. Exemption waivers to this operating condition may be issued by the Service on a case-by-case basis, based upon a review of seasonal ice conditions and available information on walrus and polar bear distributions in the area of interest.

(v) All vessels must avoid areas of active or anticipated subsistence hunting for walrus or polar bear as determined through community consultations.

(2) *Operating conditions for aircraft.*

(i) Operators of support aircraft should, at all times, conduct their activities at the maximum distance possible from concentrations of walruses or polar bears.

(ii) Under no circumstances, other than an emergency, should aircraft operate at an altitude lower than 305 m (1,000 ft) within 805 m (0.5 mi) of walruses or polar bears observed on ice or land. Helicopters may not hover or circle above such areas or within 805 m (0.5 mile) of such areas. When weather conditions do not allow a 305-m (1,000-ft) flying altitude, such as during severe storms or when cloud cover is low, aircraft may be operated below the 305-m (1,000-ft) altitude stipulated above. However, when aircraft are operated at altitudes below 305 m (1,000 ft) because of weather conditions, the operator must avoid areas of known walrus and polar bear concentrations and should take precautions to avoid flying directly over or within 805 m (0.5 mile) of these areas.

(iii) Plan all aircraft routes to minimize any potential conflict with active or anticipated walrus or polar bear