

§ 18.24

continued lawful possession. Non-response may result in the Service determining the wildlife to be illegally possessed and subject the individual to penalties under this title.

[39 FR 7262, Feb. 25, 1974, as amended at 40 FR 59444, Dec. 24, 1975; 45 FR 54057, Aug. 14, 1980; 51 FR 17981, May 16, 1986; 53 FR 24283, June 28, 1988]

§ 18.24 Taking incidental to commercial fishing operations.

Persons may take marine mammals incidental to commercial fishing operations until October 21, 1974: *Provided*, That such taking is by means of equipment and techniques prescribed in regulations issued by the Secretary of Commerce. However, any marine mammal taken as an incidental catch may not be retained. It shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

§ 18.25 Exempted marine mammals or marine mammal products.

(a) The provisions of the Act and these regulations shall not apply:

(1) To any marine mammal taken before December 21, 1972, or

(2) To any marine mammal product if the marine mammal portion of such product consists solely of a marine mammal taken before such date.

(b) The prohibitions contained in § 18.12(c) (3) and (4) shall not apply to marine mammals or marine mammal products imported into the United States before the date on which notice is published in the FEDERAL REGISTER of the proposed rulemaking with respect to the designation of the species of stock concerned as depleted or endangered:

(c) Section 18.12(b) shall not apply to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

50 CFR Ch. I (10–1–10 Edition)

§ 18.26 Collection of certain dead marine mammal parts.

(a) Any bones, teeth or ivory of any dead marine mammal may be collected from a beach or from land within ¼ of a mile of the ocean. The term “ocean” includes bays and estuaries.

(b) Marine mammal parts so collected may be retained if registered within 30 days with an agent of the National Marine Fisheries Service, or an agent of the U.S. Fish and Wildlife Service.

(c) Registration shall include (1) the name of the owner, (2) a description of the article to be registered and (3) the date and location of collection.

(d) Title to any marine mammal parts collected under this section is not transferable, unless consented to in writing by the agent referred to in paragraph (b) of this section.

[39 FR 7262, Feb. 25, 1974, as amended at 51 FR 17981, May 16, 1986]

§ 18.27 Regulations governing small takes of marine mammals incidental to specified activities.

(a) *Purpose of regulations.* The regulations in this section implement Section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1371(a)(5), which provides a mechanism for allowing, upon request, during periods of not more than five consecutive years each, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region.

(b) *Scope of regulations.* The taking of small numbers of marine mammals under section 101(a)(5) of the Marine Mammal Protection Act may be allowed only if the Director of the Fish and Wildlife Service (1) finds, based on the best scientific evidence available, that the total taking during the specified time period will have 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 uses; (2) prescribes regulations setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat and on the availability of the