

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
At downstream corporate limits for City of Richwood.....	*2,159
Laurel Creek:	
At confluence with Cherry River.....	*2,117
Approximately 1,050 feet upstream of County Highway 39-14.....	*2,178
Maps available for inspection at the County Commissioners Office, County Courthouse, 700 Main Street, Summersville, West Virginia.	
WISCONSIN	
Burnett County (unincorporated areas) (FEMA Docket No. 7016)	
Trade River:	
About 3,000 feet downstream of State Highway 87.....	*877
About 800 feet upstream of Cedar Point Road.....	*911
Wood River:	
At mouth.....	*919
Just downstream of County Highway M.....	*819
Just upstream of County Highway M.....	*924
Just downstream of Fink Road.....	*966
Wood Lake: Entire shoreline.....	*919
Little Wood Lake: Entire shoreline.....	*939
Big Trade Lake: Entire shoreline.....	*911
Little Trade Lake: Entire shoreline.....	*911
Lipsett Lake: Entire shoreline.....	*976
Rice Lake: Entire shoreline.....	*975
Benoit Lake: Entire shoreline.....	*975
Yellow Lake: Entire shoreline.....	*931
Little Yellow Lake: Entire shoreline.....	*931
Spirit Lake: Entire shoreline.....	*945
Clam Lake: Entire shoreline.....	*956
Lower Clam Lake: Entire shoreline.....	*956
Danbury Flowage: Entire shoreline.....	*930
Maps available for inspection at the Zoning Administration Office, County Government Center, 7410 County Road K, Siren, Wisconsin.	
Pittsville (city), Wood County (FEMA Docket No. 7013)	
Yellow River:	
About 1.06 miles downstream of Veedum Road.....	*1005
About 0.82 mile upstream of Riverside Park Dam.....	*1021
Cat Creek:	
At mouth.....	*1014
About 750 feet upstream of Second Street.....	*1017
Maps available for inspection at the City Hall, 5388 Fourth Street, Pittsville, Wisconsin.	
Waushara County (unincorporated areas) (FEMA Docket No. 7013)	
Fox River:	
At eastern county boundary.....	*756
About 0.87 mile downstream of State Highway XX.....	*757
Pine River:	
At mouth.....	*750
Just downstream of County Highway E.....	*800
Just upstream of Pine River Dam.....	*809
Just downstream of County Highway W.....	*827
Just upstream of Saxeville Dam.....	*835
About 1,300 feet upstream of Private Road.....	*866
Little Silver Creek:	
At mouth.....	*789
About 2,600 feet upstream of County Highway E.....	*803
Carpenter Creek:	
At mouth.....	*793
Just downstream of County Highway E.....	*803
Popple Creek:	
At mouth.....	*826
Just downstream of 26th Road.....	*840
Willow Creek:	
About 2,800 feet downstream of State Highway 49.....	*760
Just downstream of 29th Lane.....	*765
Just upstream of 29th Lane.....	*770
About 1,200 feet upstream of County Highway S.....	*800

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Maps available for inspection at the County Courthouse, Zoning Office, Wautoma, Wisconsin.	

Issued: August 6, 1991.
C.M. "Bud" Schauerte,
Administrator, Federal Insurance Administration.
 [FR Doc. 91-19801 Filed 8-19-91; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are determined for the communities listed below.

The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-2754.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR part 67. An opportunity for the community or individuals to appeal proposed

determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood Insurance, Flood Plains.

The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the ninety-day period and the proposed base flood elevations have not been changed.

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
FLORIDA	
Clearwater (city), Pinellas County (FEMA Docket No. 7020)	
Alligator Creek Channel A:	
At mouth.....	*10
Just downstream of Sunset Point.....	*54
Alligator Creek Channel B:	
At mouth.....	*20
Just downstream of State Road 590.....	*41
Just upstream of State Road 590.....	*51
Just downstream of 4th Avenue South.....	*89
Alligator Creek Channel C:	
About 100 feet upstream of mouth.....	*38
Just downstream of Sunset Point Road.....	*60
Just upstream of Sunset Point Road.....	*65
Alligator Creek Channel E:	
Within community.....	*21
Alligator Creek Channel G:	
At mouth.....	*20
Just downstream of Drew Street.....	*21
Alligator Creek Channel H:	
At mouth.....	*26
Just downstream of weir structure.....	*30

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Just upstream of weir structure.....	*35
Just downstream of Drew Street.....	*40
<i>Stevenson Creek:</i>	
Just upstream of Palmetto Street.....	*12
Just downstream of Bellair Road.....	*40
Maps available for inspection at the Planning and Development Department, City Hall Annex, 10 S. Missouri Avenue, Clearwater, Florida 34618.	
NEVADA	
Carlin (city), Elko County (FEMA Docket No. 7022)	
<i>Maggie Creek:</i>	
At confluence with Humboldt River.....	*4,895
Between Southern Pacific Railroad and U.S. Highway 10.....	*4,910
Just above Interstate 90.....	*4,917
Maps are available for review at City Hall, 101 South Eighth Street, Carlin, Nevada.	
NEW JERSEY	
Palisades Park (borough), Bergen County (FEMA Docket No. 7017)	
<i>Overpeck Creek:</i>	
At downstream corporate limits.....	*7
At upstream corporate limits.....	*7
Maps available for inspection at the Borough Clerk's Office, 275 Broad Avenue, Palisades Park, New Jersey.	
VIRGINIA	
Pulaski (town), Pulaski County (FEMA Docket No. 7017)	
<i>Sproules Run:</i>	
Approximately 320 feet upstream of confluence with Peak Creek.....	*1,802
Approximately 900 feet upstream of U.S. Route 11.....	*1,916
Maps available for inspection at the Town Engineer's Office, 42 First Street, Pulaski, Virginia.	

Issued: July 24, 1991.

C.M. "Bud" Schauerte,
Administrator, Federal Insurance
Administration.

[FR Doc. 91-19802 Filed 8-9-91; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

[Ex Parte No. 55 (Sub-No. 22A)]

RIN 3120-AB53

Implementation of Environmental Laws

AGENCY: Interstate Commerce
Commission.

ACTION: Final rules; correction.

SUMMARY: In a final rule proceeding published in the Federal Register on July 31, 1991 at 56 FR 36105 the Commission added a new paragraph to § 1011.8. The amendatory instruction #2 for the new

paragraph (c)(10) is corrected, as set forth below.

EFFECTIVE DATE: September 29, 1991.

FOR FURTHER INFORMATION CONTACT:
Kathleen Gass (202) 275-6796.

SUPPLEMENTARY INFORMATION:

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for part 1011 continues to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

The amendatory instruction #2 is corrected to read as follows:

§ 1011.8 [Corrected]

2. In § 1011.8 the new paragraph (c)(10) is added to read as follows:

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 91-19914 Filed 8-19-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 901196-1168]

RIN 0648-AD71

Disposition of Tissues From Stranded Marine Mammals

AGENCY: National Marine Fisheries
Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: This rule allows salvage of tissues for scientific purposes from stranded marine mammals by individuals who are specifically authorized to do so. It requires the registration of such tissues with the appropriate Regional Office of NMFS within 30 days and requires notification or authorization for subsequent transfer of such materials for scientific or educational purposes.

EFFECTIVE DATE: September 19, 1991.

FOR FURTHER INFORMATION CONTACT:
Dean Wilkinson, Permits Division,
Office of Protected Resources, Silver
Spring, Maryland, 301-427-2322.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 1990, at 55 FR 52194, NMFS proposed a rule to clarify the procedures for salvage of materials from dead stranded marine mammals and the procedures for subsequent transfer of such materials. The proposed rule requested comments from the public and contained a discussion of the background for the proposed rule. The background will not be repeated here.

This rule clarifies existing procedures for retention of dead stranded marine mammals or parts therefrom and sets out procedures for transferring such tissues for scientific or educational purposes.

Comments and Responses

Comments were received from, the Marine Mammal Commission, the National Museum of Natural History of the Smithsonian Institution, the Oregon Parks and Recreation Department, the Chair of the American Society of Mammalogy's Committee on Marine Mammals, the Center for Marine Conservation, the Cascadia Research Collective, the Minnesota Zoo, the Mystic Marineline Aquarium, the Stranding Network Coordinator for Alabama, and the International Wildlife Coalition.

Six commenters supported the rule, although several made suggestions as to specific changes. One commenter opposed the rule and raised specific issues. One commenter stated that the proposed rule would not alter existing practice. Several commenters made suggestions for changes in the proposed rule and raised issues that they believed should be addressed. Specific comments are addressed below:

Comment: Authority for State, local, and Federal employees to take marine mammals under this provision should be limited to activities in the normal course of the employee's duties.

Response: NMFS agrees and the final rule incorporates this suggestion.

Comment: Several commenters raised concern that temporary transfer of tissues to a laboratory for analysis would require authorization. Commenters stated that such a procedure could interfere with successful examination of soft tissues for such things as histopathology or contaminant analysis.

Response: NMFS does not believe that temporary transfer of tissues for analysis alters the ultimate responsibility and control of a tissue. In cases where tissues are temporarily transferred for analysis, responsibility for assuring that such materials do not

enter commerce and that tissues are not otherwise misused remains the responsibility of the party to whom the tissues are registered. The final rule has been altered to clarify this issue. It should be noted, though, that when material is permanently transferred for a researcher's or facility's own projects, the procedures described in the rule should be followed.

Comment: Museums often loan specimens to other museums on a temporary or permanent basis. The system of recording transfers and loans is common museum practice. Hence, in the case of museums, the proposed rule would duplicate long established procedures.

Response: NMFS recognizes that professionally accredited museums generally are responsible in transfer of specimens. There are reasons, however, for knowing where marine mammal parts are located. First, several commenters expressed the hope that the registration would help in locating parts of particular species for scientific research. Second, to fulfill its enforcement responsibilities, NMFS must be able to establish that possession of parts is legitimate. NMFS recognizes that museums often provide short-term loans to other museums for exhibitions and does not intend to unduly restrict such activities. The important issue is effective control. While short-term loans can reasonably be assumed to be under the effective control of the institution with the authorization, permanent loans are different. Therefore, the final rule exempts loans between professionally accredited collections for a period of up to 1 year. Loans beyond 1 year will require either notification or authorization.

Comment: One commenter requested a minor change to the requirement for written authorization for specimen transfer. This requirement would not be a problem if such authorization could be provided on a general basis to include tissues to be collected in the future.

Response: Current practice is for Regional Offices to provide advance authorization for transfer of tissues for specific research projects. This practice is not changed. For the sake of clarity, however, a minor change has been made to § 216.22(c)(5)(ii) to allow transfer without prior authorization to individuals who have received advance approval under § 216.22(c)(6).

Comment: Several individuals commented on assigning the registration number.

One commenter expressed concern that it could duplicate existing numbering systems. Requiring a museum

to associate yet another number to an individual specimen has the potential of generating confusion both in the literature and in the management of computerized data bases. In addition, there are physical problems in marking each individual bone and soft tissue with two numbers, the institution's catalog number and the regional number. There could be confusion if each region sets up its own system. The Smithsonian currently maintains a system based on stranding records with collector's field number. The data base has been in existence since the early 1970s. A new system will create confusion.

Another commenter stated that sample or field identification numbers should provide as much information as possible about the region or geographical location from which the tissue was collected, species of marine mammal the tissue was collected from, and type of tissue. Alphanumeric codes are currently employed in some States, such as Texas.

A third commenter pointed out that by assigning a single identification number to each animal and its associated parts, there now will be a means of long-term cataloging of specimens and their parts. It was recommended that this specimen number be associated with the investigator-assigned Field Identification Number. This would cause less confusion.

Another commenter pointed out that, under collection and curatorial standards of the American Society of Mammalogists, all accessioned and cataloged specimens are assigned a unique number, the catalog number. The catalog number is written on each bone, in the case of osteological material, and associated via a label with frozen or fluid-preserved (wet) specimens. It is standard practice to identify specimen materials used for analysis in scientific publications, as well as in reporting on permit activities by their catalog number.

Response: NMFS has no desire to require duplication of specimen numbers, but it is important that tissues be traceable to the original animal if meaningful scientific information is to be gained. The important factor is that there be a number, not in what form that number is generated. Currently, stranding report forms contain a space for a field identification number. NMFS does not see any reason for changing this system. NMFS acknowledges the role of the Smithsonian Institution in maintaining records of strandings but notes that not all retained material is recorded in the Smithsonian's data base. As the most obvious example, the

Smithsonian data base does not include pinniped strandings. For both scientific and enforcement purposes, NMFS believes that a record of retained specimens should be maintained.

Although a single identification numbering scheme would be of use to the scientific community, NMFS is not comfortable dictating such a system. NMFS explained in the proposed rule that a field identification number or museum acquisition number would be acceptable. Despite that language, however, there was concern that a Regional Office would develop its own system. A minor change has been added in the final rule to clarify that the assigned number will be provided by the person registering the material.

Comment: One commenter stated that they currently register hard parts with the Law Enforcement Division of the NMFS Regional Office. Would this be in addition to the present requirement?

Response: An additional registration would not be required. The commenter is presently registering tissues with the Regional Office, which is the requirement in the rule. It is at the discretion of the Regional Director as to whom the registration should be sent.

Comment: Can registration be by telephone or FAX, or must it be written? The commenter recommended that the reporting of voucher specimen material and numbers be done in conjunction with the already existing stranding reports.

Response: NMFS intends that the registration occur in conjunction with the stranding report. To the extent that provisions have been made in the Region to accommodate filing of stranding reports in other than written form, alternative methods could be used. Although it might be difficult to submit an entire stranding report by telephone, there is certainly promise in the utilization of facsimile transmission. Similarly, one regional stranding network has discussed the possibility of transmitting stranding reports via a computer network.

Comment: Some stranded animals are decomposed. The proposed rule would require a registration number for the carcass and permission from the Regional Director before disposing of it.

Response: This rule addresses salvage and retention of tissues for scientific research and does nothing to alter existing arrangements for disposal of carcasses. Stranding network members are currently authorized to dispose of carcasses, and this final rule will not affect such an authorization. It will only apply if tissues are retained from a stranded marine mammal.

Comment: There are problems with designating general body regions, such as "head," because this does not indicate whether parts like eyes, brain, pituitary, or endoparasites were also collected. However, we understand that the recordkeeping for this task would be monumental.

Response: NMFS appreciates the commenter's understanding. While having a complete record of individual tissues taken would be of benefit to the scientific community, it would markedly increase the reporting burden.

Comment: What is the relationship of the proposed rule to 50 CFR 216.26 and 50 CFR 18.26?

Response: The two sections cited provided that bones, teeth, and ivory from a marine mammal may be retained by any individual that finds them along a beach provided that such parts are registered within 30 days with an agent of NMFS or the U.S. Fish and Wildlife Service. The rule would not alter this provision. Unauthorized individuals may not remove stranded animals. Nor can they remove hard parts from a stranded animal. The sections cited apply to the individual who may find a tooth or bone along the beach and not to retention of tissues for scientific purposes.

Comment: Three commenters addressed the 30-day period for registration of materials.

The first commented that the new rule provides a 30-day period during which a stranded animal must be registered with NMFS. This period allows researchers ample time to preserve, examine, and decide on the best form of analysis or curation for all specimen material.

The second commented that each NMFS Regional Office requires stranding reports at different times of the month. In the Southwest Region, monthly stranding reports must be submitted by the 10th of each month. NMFS should make every attempt to coordinate the 30-day notification requirement.

The third commenter stated that the requirement that separate reports for salvaged parts or carcasses with attendant 30-day time limits is overly burdensome and confusing. If the current time frame of 6 months is not frequent enough to meet Agency needs, then the frequency of reports could be amended to quarterly.

Response: NMFS agrees with the first commenter. A check with the Southwest Regional Office for interpretation of their current requirement revealed that the proposed regulation would be less restrictive than current practice. The suggestion that the 6-month reporting period should be adequate is unreasonable. First, a delay in

processing and reporting increases the probability of error in providing information. Second, a 6-month delay in reporting strandings decreases the probability that NMFS can fulfill management responsibilities in a timely fashion. As an example, it is possible that an epizootic would not be detected in time to respond. The comments reveal one of the reasons for promulgation of the rule, i.e., inconsistencies among the Regions as the reporting requirements and how disposition of tissues is to be handled. Although it may be a side effect of the rule, the 30-day reporting requirement may help to introduce a degree of consistency among the Regions.

Comment: Two commenters suggested that NMFS define curation standards. Once stated that few scientists, stranding network members, environmental organizations, and general public know these protocols or standards. The rule should contain such protocols.

Response: NMFS disagrees. If an individual is collecting tissues for scientific research, it should be assumed that the individual is familiar with the basics of tissue collection and curation. If the individual is unable to do this, there is a question as to whether the research is, in fact, legitimate. The rule does address curation standards in one important way so that material can be traced back to the original animal by requiring the permanent marking of a hard part or container. NMFS would be willing to provide researchers with current curation standards and is currently developing protocols for those individuals who might provide tissues to NMFS. To incorporate actual curation standards into the rule would make it unduly complicated and make it more difficult to amend such standards as new techniques are developed.

Comment: The proposed rule should be incorporated into existing paragraphs § 216.22(a) and § 216.22(b), and additional changes should be made to those sections to reflect current stranding network operations.

Response: NMFS recognizes that changes in the Act have not been reflected in these two paragraphs, and changes in the paragraphs will be addressed at a later time. The issue of consistency in handling of tissues was immediately pressing, however. As an example, differences among the Regions in handling transfers of tissues had created enforcement problems. Stranding network members might well have been subject to enforcement action by transferring tissues from one Region to another because of such inconsistencies. Several stranding

network members and two Regional Offices have requested clarification of this issue. The new regulation is intended to be consistent with any additional changes that may be made in the future to the preceding two paragraphs.

Comment: Does the requirement of prior written authorization apply to transfers outside the United States? Is there a specified period for approval of this transfer?

Response: Section 216.22(c)(7) requires that authorization be received before tissues may be transferred out of the United States. NMFS intends to process such requests expeditiously, assuming that complete information is received. It should be noted that this process should be less burdensome than the past policy of requiring a scientific research permit for transfer of such materials.

Comment: Nowhere do the proposed regulations indicate that NMFS personnel will coordinate specimen disposition or work to enhance the resources of stranding organizations. They simply place additional restriction and reporting requirements on our voluntary efforts.

Response: NMFS considers this comment to be outside the scope of the proposed regulation. However, that Act does prohibit the taking and transport of marine mammals or marine mammal parts with certain limited exceptions. NMFS is responsible for regulating such activities and assuring that no marine mammals or marine mammal parts enter into commerce. Conceivably, NMFS could absolutely prohibit the retention of parts from stranded animals except under a permit for scientific research. NMFS believes, however, that providing scientists ready access to parts contributes significantly to the body of scientific knowledge and has chosen to apply the provisions of section 122(c) of the Act to stranding network operations. NMFS readily acknowledges that the volunteers of the stranding networks have provided important information to help the agency in its management responsibilities. Such an acknowledgement does not reduce NMFS enforcement responsibilities, however.

Comment: Some marine mammals are also listed as endangered or threatened under the Endangered Species Act. How would the rule address such species?

Response: This rule does not address the take of beached and stranded non-mammal species. NMFS recognizes that a number of marine mammal species are listed as endangered or threatened under the Endangered Species Act.

NMFS believes that valuable scientific information can be gained from the examination of these animals and intends to administer the reporting and registration requirements contained in this rule consistently for all marine mammal strandings that are responded to by Federal, State, or local authorities and other authorized persons, regardless of the species' listing status with respect to the Endangered Species Act. Draft recovery plans for the northern right whale, the humpback whale, and the Steller sea lion all contain recommendations emphasizing the importance of gaining a maximum amount of knowledge from stranded animals. This approach will help ensure that scientific information is collected uniformly for all marine mammals involved in strandings.

Summary of Regulation

The regulation provides for the salvage of dead stranded marine mammals for utilization in scientific research or for maintenance in a properly curated, professionally accredited scientific collection. The standards of the American Society of Mammalogists are an example of acceptable curation and accreditation standards. An authorized person is required to register the salvage of the specimen with the appropriate NMFS Regional Office within 30 days after the taking. It is not intended that every single tissue be identified if the salvage is of an entire animal. Under such circumstances, a registration listing "carcass" will be sufficient. Similarly, when appropriate, "skeleton" or "head" will satisfy the requirement for a description of parts. The Regional Director will assign a single number provided by the registrant to all parts from a carcass. Such a number could be the field identification number or museum acquisition number that is currently reported on marine mammal stranding forms. It is required that all parts of a salvaged marine mammal have that number affixed permanently, and the number will remain with the parts, including after any subsequent transfer, so that all parts can be traced back to the original animal. This is commonly accepted as a minimum curation standard.

The regulation also prescribes procedures for the subsequent transfer of any parts, prohibits the sale or trade for commercial purposes, and allows the transfer of specimen materials without prior authorization to individuals who are themselves authorized to salvage materials. In such an instance, the only requirement is to notify NMFS of the transfer within 30 days. The regulation

also allows the transfer of materials for scientific research, maintenance in properly curated, professionally accredited scientific collection, or for educational purposes to other persons with the prior authorization of the Regional Director of the appropriate NMFS Regional Office. Temporary transfer of specimens to laboratories for analysis and short-term loans of up to 1 year between professionally accredited scientific collections do not require either notification or prior authorization.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this regulation will not significantly affect the quality of the human environment. Therefore, no environmental assessment or draft or final environmental impact statement was prepared. The rule would be a minor revision of reporting requirements and existing practice.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. The rule is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) an increase in costs or prices for consumers, individual industries, government agencies, or geographical regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The MMPA prohibits the sale of marine mammal parts and products. Therefore, tissues from stranded marine mammals do not enter into commerce, and no small businesses should be affected.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The Office of Management and Budget (OMB) has reviewed and approved these information collection requirements (OMB approval number 0648-0178).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Marine mammals, Reporting and recordkeeping requirements.

Dated: August 14, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

For the reasons set out in the preamble, 50 CFR Part 216 is amended as follows:

PART 216—[AMENDED]

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.3 new definitions for "hard part," "soft part," and "stranded or stranded marine mammal" are added in alphabetical order, to read as follows:

§ 216.3 Definitions.

* * * * *

Hard part means any bone, tooth, baleen, treated pelt, or other part of a marine mammal that is relatively solid or durable.

* * * * *

Soft part means any tissue, organ, or other part of a marine mammal that is not relatively solid or durable.

Stranded or stranded marine mammal means a marine mammal specimen under the jurisdiction of the Secretary:

(1) If the specimen is dead, and is on a beach or shore, or is in the water within the Exclusive Economic Zone of the United States; or

(2) If the specimen is alive, and is on a beach or shore and is unable to return to the water, or is in the water within the Exclusive Economic Zone of the United States where the water is so shallow that the specimen is unable to return to its natural habitat under its own power.

* * * * *

3. In § 216.22, the section heading is revised, and a new paragraph (c) is added to read as follows:

§ 216.22 Taking by state or local government officials.

* * * * *

(c) Salvage of dead stranded marine mammals or parts therefrom and subsequent transfer.

(1) *Salvage*. In the performance of official duties, a state or local government employee; an employee of the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, or any other Federal agency with jurisdiction and conservation responsibilities in marine shoreline areas; or a person authorized under 16 U.S.C. 1382(c) may take and salvage a marine mammal specimen if it is stranded and dead or it was stranded or rescued and died during treatment, transport, captivity or other

rehabilitation subsequent to that stranding or distress if salvage is for the purpose of utilization in scientific research or for the purpose of maintenance in a properly curated, professionally accredited scientific collection.

(2) *Registration.* A person salvaging a dead marine mammal specimen under this section must register the salvage of the specimen with the appropriate Regional Office of the National Marine Fisheries Service within 30 days after the taking or death occurs. The registration must include:

(i) The name, address, and any official position of the individual engaged in the taking and salvage;

(ii) A description of the marine mammal specimen salvaged including the scientific and common names of the species;

(iii) A description of the parts salvaged;

(iv) The date and the location of the taking;

(v) Such other information as deemed necessary by the Assistant Administrator.

(3) *Identification and curation.* The Regional Director will assign a single unique number to each carcass, and the parts thereof, that are salvaged under the provisions of this section. The person who salvaged the specimen may designate the number to be assigned. After this number is assigned, the person who salvaged the specimen must permanently mark that number on each separate hard part of that specimen and must affix that number with tags or labels to each soft part of that specimen or the containers in which that soft part is kept. Each specimen salvaged under this section must be curated in accordance with professional standards.

(4) *No sale or commercial trade.* No person may sell or trade for commercial purposes any marine mammal specimen salvaged under this section.

(5) *Transfer without prior authorization.* A person who salvages a marine mammal specimen under this section may transfer that specimen to another person if:

(i) The person transferring the marine mammal specimen does not receive remuneration for the specimen;

(ii) The person receiving the marine mammal specimen is an employee of the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, or any other Federal agency with jurisdiction and conservation responsibilities in marine shoreline areas; is a person authorized under 16 U.S.C. 1382(c); or is a person who has received prior authorization under paragraph (c)(6) of this section;

(iii) The marine mammal specimen is transferred for the purpose of scientific research, for the purpose of maintenance in a properly curated, professionally accredited scientific collection, or for educational purposes;

(iv) The unique number assigned by the National Marine Fisheries Service is on, marked on, or affixed to the marine mammal specimen or container; and

(v) Except as provided under paragraph (c)(8) of this section, the person transferring the marine mammal specimen notifies the appropriate Regional Office of the National Marine Fisheries Service of the transfer, including notification of the number of the specimen transferred and the person to whom the specimen was transferred, within 30 days after the transfer occurs.

(6) *Other transfers within the United States.* Except as provided under paragraphs (c)(5) and (c)(8) of this section, a person who salvages a marine mammal specimen, or who has received a marine mammal specimen under the provisions of this section, may not transfer that specimen to another person within the United States unless the Regional Director of the appropriate Regional Office of the National Marine Fisheries Service grants prior written authorization for the transfer. The Regional Director may grant authorization for the transfer if there is evidence that the conditions listed under paragraphs (c)(5)(i), (c)(5)(iii), and (c)(5)(iv) of this section are met.

(7) *Transfers outside of the United States.* A person who salvages a marine mammal specimen, or a person who has received a marine mammal specimen under the provisions of this section, may not transfer that specimen to a person outside of the United States unless the Assistant Administrator grants prior written authorization for the transfer. The Assistant Administrator may grant authorization for the transfer if there is evidence that the conditions listed under paragraphs (c)(5)(i), (c)(5)(iii), and (c)(5)(iv) of this section are met.

(8) *Exceptions to requirements for notification or prior authorization.* A person may transfer a marine mammal specimen salvaged under this section without the notification required in paragraph (c)(5)(v) of this section or the prior authorization required in paragraph (c)(6) of this section if:

(i) The transfer is a temporary transfer to a laboratory or research facility within the United States so that analyses can be performed for the person salvaging the specimen; or

(ii) The transfer is a loan of not more than 1 year to another professionally

accredited scientific collection within the United States.

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50 CFR Part 216

[Docket No. 901231-1203]

Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of finding of non-conformance.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), announces that the Republic of Vanuatu and the Republic of Venezuela have submitted documentary evidence that establishes under the yellowfin tuna importation regulations that the average rates of incidental taking of marine mammals by vessels of the harvesting nations are not comparable to the average rate of incidental taking of marine mammals by U.S. vessels in the course of harvesting yellowfin tuna by purse seine in the eastern tropical Pacific Ocean (ETP). As a result of these findings, yellowfin tuna and yellowfin tuna products from Vanuatu and Venezuela may not be imported into the United States until the Assistant Administrator determines otherwise.

EFFECTIVE DATES: This finding is effective August 19, 1991, and remains in effect until superseded.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Regional Director, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, CA 90731. Phone (213) 514-6196, FAX (213) 514-6194.

SUPPLEMENTARY INFORMATION: On March 30, 1990, NMFS promulgated a final rule (55 FR 11921) to implement portions of the Marine Mammal Protection Act Amendments of 1988. Regulations implemented by that rule govern the importation of yellowfin tuna caught by purse seining in the ETP and require submission of an annual report to include, among other things, the number, by species, of marine mammals killed and seriously injured, and the number of sets made. On March 26, 1991, the U.S. District Court for the Northern District of California ordered the Secretary of the Treasury to prohibit immediately the entry of "yellowfin tuna or yellowfin tuna products harvested with purse seines in the ETP by any foreign nation, unless and until the Secretary of Commerce makes a positive