

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

§ 224.101 Enumeration of endangered marine and anadromous species.

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- 224.104 Special requirements for fishing activities to protect endangered sea turtles.
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AUTHORITY: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

SOURCE: 64 FR 14066, Mar. 23, 1999, unless otherwise noted.

The marine and anadromous species determined by the Secretary of Commerce to be endangered pursuant to section 4(a) of the Act, as well as species listed under the Endangered Species Conservation Act of 1969 by the Secretary of the Interior and currently under the jurisdiction of the Secretary of Commerce, are the following:

(a) *Marine and anadromous fish.* The following table lists the common and scientific names of endangered species, the locations where they are listed, and the citations for the listings and critical habitat designations.

Species ¹		Where listed	Citation(s) for listing determination(s)	Citation for critical habitat designation
Common name	Scientific name			
Shortnose sturgeon.	<i>Acipenser brevirostrum.</i>	Everywhere	32 FR 4001, Mar. 11, 1967.	NA.
Smalltooth sawfish	<i>Pristis pectinata</i> ...	U.S.A.	68 FR 15674, Apr. 1, 2003.	NA.
Totoaba	<i>Cynoscion macdonaldi.</i>	Everywhere	44 FR 29480, May 21, 1979.	NA.
Gulf of Maine Atlantic salmon.	<i>Salmo salar</i>	U.S.A., ME, Gulf of Maine Distinct Population Segment. The GOM DPS includes all anadromous Atlantic salmon whose freshwater range occurs in the watersheds from the Androscoggin River northward along the Maine coast to the Dennys River, and wherever these fish occur in the estuarine and marine environment. The following impassable falls delimit the upstream extent of the freshwater range: Rumford Falls in the town of Rumford on the Androscoggin River; Snow Falls in the town of West Paris on the Little Androscoggin River; Grand Falls in Township 3 Range 4 BKP WKR, on the Dead River in the Kennebec Basin; the un-named falls (impounded by Indian Pond Dam) immediately above the Kennebec River Gorge in the town of Indian Stream Township on the Kennebec River; Big Niagara Falls on Nesowadnehunk Stream in Township 3 Range 10 WELS in the Penobscot Basin; Grand Pitch on Webster Brook in Trout Brook Township in the Penobscot Basin; and Grand Falls on the Passadumkeag River in Grand Falls Township in the Penobscot Basin. The marine range of the GOM DPS extends from the Gulf of Maine, throughout the Northwest Atlantic Ocean, to the coast of Greenland. Included are all associated conservation hatchery populations used to supplement these natural populations; currently, such conservation hatchery populations are maintained at Green Lake National Fish Hatchery (GLNFH) and Craig Brook National Fish Hatchery (CBNFH). Excluded are landlocked salmon and those salmon raised in commercial hatcheries for aquaculture.	65 FR 69469; November 17, 2000; 74 FR 29344, June 19, 2009.	NA

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Species ¹		Where listed	Citation(s) for listing determination(s)	Citation for critical habitat designation
Common name	Scientific name			
Snake River sockeye.	<i>Oncorhynchus nerka</i> .	U.S.A., ID, including all anadromous and residual sockeye salmon from the Snake River Basin, Idaho, as well as artificially propagated sockeye salmon from the Redfish Lake captive propagation program.	56 FR 58619, Nov. 20, 1991. June 28, 2005.	58 FR 68543, Dec. 28, 1993.
Sacramento River winter-run Chinook.	<i>Oncorhynchus tshawytscha</i> .	U.S.A., CA, including all naturally spawned populations of winter-run Chinook salmon in the Sacramento River and its tributaries in California, as well as two artificial propagation programs: winter-run Chinook from the Livingston Stone National Fish Hatchery (NFH), and winter run Chinook in a captive broodstock program maintained at Livingston Stone NFH and the University of California Bodega Marine Laboratory.	52 FR 6041; Feb. 27, 1987. 55 FR 49623; Nov. 30, 1990. 59 FR 440; Jan. 1, 1994. June 28, 2005.	58 FR 33212, June 16, 1993.
Upper Columbia spring-run Chinook.	<i>Oncorhynchus tshawytscha</i> .	U.S.A., WA, including all naturally spawned populations of Chinook salmon in all river reaches accessible to Chinook salmon in Columbia River tributaries upstream of the Rock Island Dam and downstream of Chief Joseph Dam in Washington (excluding the Okanogan River), the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to Chief Joseph Dam in Washington, as well as six artificial propagation programs: the Twisp River, Chewuch River, Methow Composite, Winthrop NFH, Chiwawa River, and White River spring-run Chinook hatchery programs.	64 FR 14308, Mar. 24, 1999. June 28, 2005.	NA. [vacated 9/29/03; 68 FR 55900].
Central California Coast coho.	<i>Oncorhynchus kisutch</i> .	U.S.A., CA, including all naturally spawned populations of coho salmon from Punta Gorda in northern California south to and including the San Lorenzo River in central California, as well as populations in tributaries to San Francisco Bay, excluding the Sacramento-San Joaquin River system, as well four artificial propagation programs: the Don Clausen Fish Hatchery Captive Broodstock Program, Scott Creek/King Fisher Flats Conservation Program, Scott Creek Captive Broodstock Program, and the Noyo River Fish Station egg-take Program coho hatchery programs.	61 FR 56138, Oct. 31, 1996. June 28, 2005.	64 FR 24049, May 5, 1999.
Southern California Steelhead.	<i>Oncorhynchus mykiss</i> .	U.S.A., CA. Distinct Population Segment including all naturally spawned anadromous <i>O. mykiss</i> (steelhead) populations below natural and manmade impassable barriers in streams from the Santa Maria River, San Luis Obispo County, California, (inclusive) to the U.S.-Mexico Border.	62 FR 43937, Aug. 18, 1997. Jan. 5, 2006	70 FR 52488, Sept. 2, 2005.
Puget Sound/ Georgia Basin DPS—Bocaccio.	<i>Sebastes paucispinis</i> .	U.S.A., Washington, and British Columbia, including Puget Sound and Georgia Basin.	75 FR 22290, Apr. 28, 2010.	75 FR 22290, Apr. 28, 2010.

¹Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

(b) *Marine mammals*. Beluga whale (*Delphinapterus leucas*), Cook Inlet distinct population segment; Blue whale (*Balaenoptera musculus*); Bowhead whale (*Balaena mysticetus*); Chinese river dolphin (*Lipotes vexillifer*); Cochito (*Phocoena sinus*); Fin or finback whale (*Balaenoptera physalus*); Hawaiian monk seal (*Monachus schauinslandi*); Humpback whale (*Megaptera novaeangliae*); Indus River dolphin (*Platanista minor*); Mediterranean monk seal (*Monachus monachus*); North Atlantic right whale (*Eubalaena glacialis*); North Pacific right whale (*Eubalaena japonica*); Southern right whale (*Eubalaena australis*); Saimaa seal (*Phoca hispida saimensis*); Sei whale

(*Balaenoptera borealis*); Sperm whale (*Physeter catodon*); Western North Pacific (Korean) gray whale (*Eschrichtius robustus*); Steller sea lion, western population, (*Eumetopias jubatus*), which consists of Steller sea lions from breeding colonies located west of 144° W. longitude.

(c) *Sea turtles*. Green turtle (*Chelonia mydas*) breeding colony populations in Florida and on the Pacific coast of Mexico; Hawksbill turtle (*Eretmochelys imbricata*); Kemp's ridley turtle (*Lepidochelys kempii*); Leatherback turtle (*Dermochelys coriacea*); Olive ridley

turtle (*Lepidochelys olivacea*) breeding colony population on the Pacific coast of Mexico.

NOTE TO §224.101(c): Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

(d) *Marine invertebrates*. The following table lists the common and scientific names of endangered species, the locations where they are listed, and the citations for the listings and critical habitat designations.

Species		Where Listed	Citation (s) for Listing Determinations	Citations (s) for Critical Habitat Designations
Common name	Scientific name			
Black abalone	<i>Haliotis cracherodii</i>	USA, CA. From Crescent City, California, USA to Cape San Lucas, Baja California, Mexico, including all offshore islands.	74 FR 1937; January 14, 2009	N/A
White abalone	<i>Haliotis sorenseni</i>	USA, CA. From Point Conception, California to Punta Abreojos, Baja California, Mexico including all offshore islands and banks.	NOAA 2001; 66 FR 29054, May, 29, 2001.	Deemed not prudent NOAA 2001; 66 FR 29054, May, 29, 2001.

[64 FR 14066, Mar. 23, 1999, as amended 64 FR 14328, Mar. 24, 1999; 65 FR 20918, Apr. 19, 2000; 65 FR 69481, Nov. 17, 2000; 66 FR 29055, May 29, 2001; 67 FR 21598, May 1, 2002; 68 FR 15680, Apr. 1, 2003; 70 FR 37203, June 28, 2005; 70 FR 69912, Nov. 18, 2005; 71 FR 861, Jan. 5, 2006; 73 FR 12030, Mar. 6, 2008; 73 FR 63907, Oct. 28, 2008; 73 FR 62930, Oct. 22, 2008; 74 FR 1946, Jan. 14, 2009; 74 FR 29386, June 19, 2009; 75 FR 22290, Apr. 28, 2010]

§ 224.102 Permits for endangered marine and anadromous species.

No person shall take, import, export, or engage in any activity prohibited by section 9 of the Act involving any marine species that has been determined to be endangered under the Endangered Species Conservation Act of 1969 or the Act, and that is under the jurisdiction of the Secretary, without a valid permit issued pursuant to part 222, subpart C of this chapter.

§ 224.103 Special prohibitions for endangered marine mammals.

(a) *Approaching humpback whales in Hawaii*. Except as provided in part 222, subpart C, of this chapter (General Permit Procedures), it is unlawful for any person subject to the jurisdiction of

the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, within 200 nautical miles (370.4 km) of the Islands of Hawaii, any of the following acts with respect to humpback whales (*Megaptera novaeangliae*):

(1) Operate any aircraft within 1,000 feet (300 m) of any humpback whale;

(2) Approach, by any means, within 100 yard (90 m) of any humpback whale;

(3) Cause a vessel or other object to approach within 100 yd (90 m) of a humpback whale; or

(4) Disrupt the normal behavior or prior activity of a whale by any other act or omission. A disruption of normal behavior may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities, attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movement; or the abandonment of a previously frequented area.