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CODE OF FEDERAL REGULATIONS

Title 50
Wildlife and Fisheries

Parts 200 to 227

Revised as of October 1, 2015

Containing a codification of documents
of general applicability and future effect

As of October 1, 2015

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Cite this Code: CFR

To cite the regulations in this volume use title, part and section number. Thus, 50 CFR 216.1 *refers to title 50, part 216, section 1.*

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16.....as of January 1
Title 17 through Title 27.....as of April 1
Title 28 through Title 41.....as of July 1
Title 42 through Title 50.....as of October 1

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OLIVER A. POTTS,
Director,
Office of the Federal Register.
October 1, 2015.

THIS TITLE

Title 50—FISH AND WILDLIFE is composed of nine volumes. The parts in these volumes are arranged in the following order: Parts 1–16; part 17 (17.1 to 17.95(b)), part 17 (17.95(c) to end of 17.95), part 17 (17.96 to 17.99(h)), part 17 (17.99(i) to end of part 17), parts 18–199, parts 200–599, parts 600–659, and part 660 to end. The first six volumes consist of parts 1–16, part 17 (17.1 to 17.95(b)), part 17 (17.95(c) to end of 17.95), part 17 (17.96 to 17.99(h)), part 17 (17.99(i) to end of part 17), and parts 18–199 and contain the current regulations issued under chapter I—United States Fish and Wildlife Service, Department of the Interior. The seventh volume (parts 200–227) contains the current regulations issued under chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce; chapter III—International Fishing and Related Activities, chapter IV—Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee regulations; and chapter V—Marine Mammal Commission. The eighth volume (parts 228–599) contains the current regulations issued under chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce; chapter III—International Fishing and Related Activities, chapter IV—Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee regulations; and chapter V—Marine Mammal Commission. The ninth and tenth volumes (parts 600–659 and part 660 to end) contain the current regulations issued under chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce. The contents of these volumes represent all current regulations codified under this title of the CFR as of October 1, 2015.

Alphabetical listings of endangered and threatened wildlife and plants appear in §§ 17.11 and 17.12.

The OMB control numbers for the National Oceanic and Atmospheric Administration appear in 15 CFR 902.1.

For this volume, Kenneth R. Payne was Chief Editor. The Code of Federal Regulations publication program is under the direction of John Hyrum Martinez, assisted by Stephen J. Frattini.

Title 50—Wildlife and Fisheries

(This book contains parts 200 to 227)

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CHAPTER II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce 216

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

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

SOURCE: 39 FR 1852, Jan. 15, 1974, unless otherwise noted.

NOTE TO PART 216: See also 50 CFR parts 228 and 229 for regulations governing certain incidental takings of marine mammals.

Subpart A—Introduction

§ 216.1 Purpose of regulations.

The regulations in this part implement the Marine Mammal Protection Act of 1972, 86 Stat. 1027, 16 U.S.C. 1361–1407, Pub. L. 92–522, which, among other things, restricts the taking, possession, transportation, selling, offering for sale, and importing of marine mammals.

§ 216.2 Scope of regulations.

This part 216 applies solely to marine mammals and marine mammal products as defined in §216.3. For regulations under the MMPA, with respect to other marine mammals and marine mammal products, see 50 CFR part 18.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50375, Oct. 3, 1994]

§ 216.3 Definitions.

In addition to definitions contained in the MMPA, and unless the context otherwise requires, in this part 216:

Acts means, collectively, the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1361 *et seq.*, the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*, and the Fur Seal Act of 1966, as amended, 16 U.S.C. 1151 *et seq.*

Active sportfishing means paying passengers have their terminal fishing gear (lures, hooks, etc.) in the water in an attempt to catch fish or, in the case of fishing involving chumming, fishing is considered to be in progress from the instant fish have been sighted taking bait (boiling) during that chumming process.

Administrator, Southwest Region means the Regional Administrator, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, or his or her designee.

Agreement on the International Dolphin Conservation Program (Agreement on the IDCP) means the Agreement establishing the formal binding IDCP that was signed in Washington, DC on May 21, 1998.

Alaskan Native means a person defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)) (85 Stat. 588) as a citizen of the United States who is of one-fourth degree or more Alaska Indian (including Tsimishian Indians enrolled or not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood or combination thereof. The term includes any Native, as so defined, either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or group, of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any Native village or Native group. Any such citizen enrolled by the Secretary of the Interior pursuant to section 5 of the Alaska Native Claims Settlement Act shall be conclusively presumed to be an Alaskan Native for purposes of this part.

Albacore tuna means the species *Thunnus alalunga*.

Article of handicraft means items made by an Indian, Aleut or Eskimo from the nonedible byproducts of fur seals taken for personal or family consumption which—

(1) Were commonly produced by Alaskan Natives on or before October 14, 1983;

(2) Are composed wholly or in some significant respect of natural materials, and;

(3) Are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern tanning techniques at a tannery registered pursuant to § 216.23(c) may be used so long as no large scale mass production industry results. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting. The formation of traditional native groups, such as a cooperative, is permitted so long as no large scale mass production results.

Assistant Administrator means the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Silver Spring, MD 20910, or his/her designee.

Authentic native articles of handicrafts and clothing means items made by an Indian, Aleut or Eskimo which (a) were commonly produced on or before December 21, 1972, and (b) are composed wholly or in some significant respect of natural materials, and (c) are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern tanning techniques at a tannery registered pursuant to § 216.23(c) may be used so long as no large scale mass production industry results. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting. The formation of traditional native groups, such as a cooperative, is permitted so long as no large scale mass production results.

Bigeye tuna means the species *Thunnus obesus*.

Bluefin tuna means the species *Thunnus thynnus* or *Thunnus orientalis*.

Bona fide scientific research: (1) Means scientific research on marine mammals conducted by qualified personnel, the results of which:

(i) Likely would be accepted for publication in a refereed scientific journal;

(ii) Are likely to contribute to the basic knowledge of marine mammal biology or ecology. (Note: This includes, for example, marine mammal parts in a properly curated, professionally accredited scientific collection); or

(iii) Are likely to identify, evaluate, or resolve conservation problems.

(2) Research that is not on marine mammals, but that may incidentally take marine mammals, is not included in this definition (see sections 101(a)(3)(A), 101(a)(5)(A), and 101(a)(5)(D) of the MMPA, and sections 7(b)(4) and 10(a)(1)(B) of the ESA).

Carrying capacity means the Regional Director's determination of the maximum amount of fish that a vessel can carry in short tons based on the greater of the amount indicated by the builder of the vessel, a marine surveyor's report, or the highest amount reported landed from any one trip.

Certified charter vessel means a fishing vessel of a non-U.S. flag nation, which is operating under the jurisdiction of the marine mammal laws and regulations of another, harvesting, nation by a formal declaration entered into by mutual agreement of the nations.

Co-investigator means the on-site representative of a principal investigator.

Commercial fishing operation means the lawful harvesting of fish from the marine environment for profit as part of an ongoing business enterprise. Such terms may include licensed commercial passenger fishing vessel (as defined) activities, but no other sportfishing activities, whether or not the fish so caught are subsequently sold.

Commercial passenger fishing vessel means any vessel licensed for commercial passenger fishing purposes within the State out of which it is operating and from which, while under charter or hire, persons are legally permitted to conduct sportfishing activities.

Custody means holding a live marine mammal pursuant to the conditional authority granted under the MMPA, and the responsibility therein for captive maintenance of the marine mammal.

Declaration of Panama means the declaration signed in Panama City, Republic of Panama, on October 4, 1995.

Director, Office of Protected Resources means Director, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

Dolphin Mortality Limit (DML) means the maximum allowable number of incidental dolphin mortalities per calendar year assigned to a vessel, unless a shorter time period is specified.

Endangered Species means a species or subspecies of marine mammal listed as ''endangered'' pursuant to the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93–205 (see part 17 of this title).

ESA means the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq*.

ETP means the eastern tropical Pacific Ocean which includes the Pacific Ocean area bounded by 40° N. latitude, 40° S. latitude, 160° W. longitude and the coastlines of North, Central and South America.

Facility means, in the context specific to captive marine mammals,: (1) One or more permanent primary enclosures used to hold marine mammals captive (i.e., pools, lagoons) and associated infrastructure (i.e., equipment and supplies necessary for the care and maintenance of marine mammals) where these enclosures are either located within the boundaries of a single contiguous parcel of land and water, or are grouped together within the same general area within which enclosure-to-enclosure transport is expected to be completed in less than one hour; or

(2) A traveling display/exhibit, where the enclosure(s) and associated infrastructure is transported together with the marine mammals.

Feeding is offering, giving, or attempting to give food or non-food items to marine mammals in the wild. It includes operating a vessel or providing other platforms from which feeding is conducted or supported. It does not include the routine discard of bycatch during fishing operations or the routine discharge of waste or fish byproducts from fish processing plants or other platforms if the discharge is otherwise legal and is incidental to operation of the activity.

First exporter means the person or company that first exports the fish or fish product, or, in the case of shipments that are subject to the labeling requirements of 50 CFR part 247 and that only contain fish harvested by vessels of the United States, the first seller of the fish or fish product.

Fisheries Certificate of Origin, or *FCO*, means NOAA Form 370, as described in § 216.24(f)(4).

Force majeure means forces outside the vessel operator's or vessel owner's control that could not be avoided by the exercise of due care.

FSA means the Fur Seal Act of 1966, as amended, 16 U.S.C. 1151 *et seq*.

Fur seal means North Pacific fur seal, scientifically known as *Callorhinus ursinus*.

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

Harvesting nation means the country under whose flag one or more fishing vessels are documented, or which has by formal declaration agreed to assert jurisdiction over one or more certified charter vessels, from which vessel(s) fish are caught that are a part of any cargo or shipment of fish to be imported into the United States, regardless of any intervening transshipments.

Humane means the method of taking, import, export, or other activity which involves the least possible degree of pain and suffering practicable to the animal involved.

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the Customs laws of the United States; except that, for the purpose of any ban issued under 16 U.S.C. 1371(a)(2) on the importation of fish or fish products, the definition of ''import'' in § 216.24(f)(1)(ii) shall apply.

Incidental catch means the taking of a marine mammal (1) because it is directly interfering with commercial fishing operations, or (2) as a consequence of the steps used to secure the fish in connection with commercial fishing operations: *Provided,* That a marine mammal so taken must immediately be returned to the sea with a minimum of injury and further, that the taking of a marine mammal, which otherwise meets the requirements of this definition shall not be considered an incidental catch of that mammal if it is used subsequently to assist in commercial fishing operations.

Intentional purse seine set means that a tuna purse seine vessel or associated vessels chase marine mammals and subsequently make a purse seine set.

International Dolphin Conservation Program (IDCP) means the international program established by the agreement signed in La Jolla, California, in June 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama and the Agreement on the IDCP.

International Dolphin Conservation Program Act (IDCPA) means Public Law 105–42, enacted into law on August 15, 1997.

International Review Panel (IRP) means the International Review Panel established by the Agreement on the IDCP.

Intrusive research means a procedure conducted for bona fide scientific research involving: A break in or cutting of the skin or equivalent, insertion of an instrument or material into an orifice, introduction of a substance or object into the animal's immediate environment that is likely either to be ingested or to contact and directly affect animal tissues (i.e., chemical substances), or a stimulus directed at animals that may involve a risk to health or welfare or that may have an impact on normal function or behavior (i.e., audio broadcasts directed at animals that may affect behavior). For captive animals, this definition does not include:

(1) A procedure conducted by the professional staff of the holding facility or an attending veterinarian for purposes of animal husbandry, care, maintenance, or treatment, or a routine medical procedure that, in the reasonable judgment of the attending veterinarian, would not constitute a risk to the health or welfare of the captive animal; or

(2) A procedure involving either the introduction of a substance or object (i.e., as described in this definition) or a stimulus directed at animals that, in the reasonable judgment of the attending veterinarian, would not involve a risk to the health or welfare of the captive animal.

Label means a display of written, printed, or graphic matter on or affixed to the immediate container of any article.

Land or *landing* means to begin offloading any fish, to arrive in port with the intention of offloading fish, or to cause any fish to be offloaded.

Large-scale driftnet means a gillnet that is composed of a panel or panels of webbing, or a series of such gillnets, with a total length of 2.5 kilometers or more that is used on the high seas and allowed to drift with the currents and winds for the purpose of harvesting fish by entangling the fish in the webbing of the net.

Level A Harassment means any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild.

Level B Harassment means any act of pursuit, torment, or annoyance which has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.

Longtail tuna means the species *Thunnus tonngol*.

Marine environment means the oceans and the seas, including estuarine and brackish waters.

Marine mammal means those specimens of the following orders, which are morphologically adapted to the marine environment, and whether alive or dead, and any part thereof, including but not limited to, any raw, dressed or

dyed fur or skin: Cetacea (whales, dolphins, and porpoises) and Pinnipedia, other than walrus (seals and sea lions).

MMPA means the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1361 *et seq*.

Native village or town means any community, association, tribe, band, clan or group.

Optimum sustainable population is a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality.

Per-stock per-year dolphin mortality limit means the maximum allowable number of incidental dolphin mortalities and serious injuries from a specified stock per calendar year, as established under the IDCP.

Pregnant means pregnant near term.

Pribilovians means Indians, Aleuts, and Eskimos who live on the Pribilof Islands.

Principal investigator means the individual primarily responsible for the taking, importation, export, and any related activities conducted under a permit issued for scientific research or enhancement purposes.

Public display means an activity that provides opportunities for the public to view living marine mammals at a facility holding marine mammals captive.

Regional Director means the Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930; or Regional Administrator, Northwest Regional Office, NMFS, 7600 Sandpoint Way, N.E., Building 1, Seattle, WA 98115; or Regional Administrator, Southeast Regional Office, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702; or Regional Administrator, Southwest Regional Office, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802; or Regional Administrator, Pacific Islands Regional Office, NMFS, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814; or Regional Administrator, Alaska Regional Office, NMFS, PO Box 21668, Juneau, AK 99802.

Rehabilitation means treatment of beached and stranded marine mammals taken under section 109(h)(1) of the MMPA or imported under section 109(h)(2) of the MMPA, with the intent of restoring the marine mammal's health and, if necessary, behavioral patterns.

Secretary shall mean the Secretary of Commerce or his authorized representative.

Serious injury means any injury that will likely result in mortality.

Sexual harassment means any unwelcome sexual advance, request for sexual favors, or other verbal and physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Skipjack tuna means the species *Euthynnus (Katsuwonus) pelamis*.

Soft part means any marine mammal part that is not a hard part. Soft parts do not include urine or fecal material.

South Pacific Ocean means any waters of the Pacific Ocean that lie south of the equator.

South Pacific Tuna Treaty means the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America (50 CFR part 300, subpart D).

Southern bluefin tuna means the species *Thunnus maccoyii*.

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.

Subsistence means the use of marine mammals taken by Alaskan Natives for food, clothing, shelter, heating,

transportation, and other uses necessary to maintain the life of the taker or those who depend upon the taker to provide them with such subsistence.

Subsistence uses means the customary and traditional uses of fur seals taken by Pribilovians for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fur seals taken for personal or family consumption; and for barter, or sharing for personal or family consumption. As used in this definition—

(1) *Family* means all persons related by blood, marriage, or adoption, or any person living within a household on a permanent basis.

(2) *Barter* means the exchange of fur seals or their parts, taken for subsistence uses—

(i) For other wildlife or fish or their parts, or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

Take means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes, without limitation, any of the following: The collection of dead animals, or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild.

Threatened species means a species of marine mammal listed as ''threatened'' pursuant to the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93–205.

Trip means a voyage starting when a vessel leaves port with all fish wells empty of fish and ending when a vessel unloads all of its fish.

Tuna means any fish of the genus Thunnus and the species *Euthynnus (Katsuwonus) pelamis*.

Tuna product means any food product processed for retail sale and intended for human or animal consumption that contains an item listed in § 216.24(f)(2)(i) or (ii), but does not include perishable items with a shelf life of less than 3 days.

Wasteful manner means any taking or method of taking which is likely to result in the killing of marine mammals beyond those needed for subsistence, subsistence uses, or for the making of authentic native articles of handicrafts and clothing, or which results in the waste of a substantial portion of the marine mammal and includes, without limitation, the employment of a method of taking which is not likely to assure the capture or killing of a marine mammal, or which is not immediately followed by a reasonable effort to retrieve the marine mammal.

Yellowfin tuna means the species *Thunnus albacares* (synonomy: *Neothunnus macropterus*).

[39 FR 1852, Jan. 15, 1974]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 216.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 216.4 Other laws and regulations.

(a) *Federal*. Nothing in this part, nor any permit issued under authority of this part, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of the United States, including any applicable statutes or regulations relating to wildlife and fisheries, health, quarantine, agriculture, or customs.

(b) *State laws or regulations*. See part 403 of this chapter.

[39 FR 1852, Jan. 15, 1974, as amended at 41 FR 36662, Aug. 31, 1976; 58 FR 65134, Dec. 13, 1993]

§ 216.5 Payment of penalty.

The respondent shall have 30 days from receipt of the final assessment decision within which to pay the penalty assessed. Upon a failure to pay the penalty, the Secretary may request the Attorney General to institute a civil action in the appropriate United States District Court to collect the penalty.

[39 FR 1852, Jan. 15, 1974. Redesignated at 46 FR 61652, Dec. 18, 1981]

§ 216.6 Forfeiture and return of seized property.

(a) Whenever any cargo or marine mammal or marine mammal product has been seized pursuant to section 107 of the MMPA, the Secretary shall expedite any proceedings commenced under these regulations.

(b) Whenever a civil penalty has been assessed by the Secretary under these regulations, any cargo, marine mammal, or marine mammal product seized pursuant to section 107 of the MMPA shall be subject to forfeiture. If respondent voluntarily forfeits any such seized property or the monetary value thereof without court proceedings, the Secretary may apply the value thereof, if any, as determined by the Secretary, toward payment of the civil penalty.

(c) Whenever a civil penalty has been assessed under these regulations, and whether or not such penalty has been paid, the Secretary may request the Attorney General to institute a civil action in an appropriate United States District Court to compel forfeiture of such seized property or the monetary value thereof to the Secretary for disposition by him in such manner as he deems appropriate. If no judicial action to compel forfeiture is commenced within 30 days after final decision-making assessment of a civil penalty, pursuant to § 216.60, such seized property shall immediately be returned to the respondent.

(d) If the final decision of the Secretary under these regulations is that respondent has committed no violation of the MMPA or of any permit or regulations issued thereunder, any marine mammal, marine mammal product, or other cargo seized from respondent in connection with the proceedings under these regulations, or the bond or other monetary value substituted therefor, shall immediately be returned to the respondent.

(e) If the Attorney General commences criminal proceedings pursuant to section 105(b) of the MMPA, and such proceedings result in a finding that the person accused is not guilty of a criminal violation of the MMPA, the Secretary may institute proceedings for the assessment of a civil penalty under this part: *Provided,* That if no such civil penalty proceedings have been commenced by the Secretary within 30 days following the final disposition of the criminal case, any property seized pursuant to section 107 of the MMPA shall be returned to the respondent.

(f) If any seized property is to be returned to the respondent, the Regional Director shall issue a letter authorizing such return. This letter shall be dispatched to the respondent by registered mail, return receipt requested, and shall identify the respondent, the seized property, and, if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter and proper identification, the seized property is authorized to be released. All charges for storage, care, or handling of the seized property accruing 5 days or more after the date of the return receipt shall be for the account of the respondent: *Provided*, That if it is the final decision of the Secretary under these regulations that the respondent has committed the alleged violation, all charges which have accrued for the storage, care, or handling of the seized property shall be for the account of the respondent.

[39 FR 1852, Jan. 15, 1974. Redesignated at 46 FR 61652, Dec. 18, 1981, and amended at 59 FR 50375, Oct. 3, 1994]

§ 216.7 Holding and bonding.

(a) Any marine mammal, marine mammal product, or other cargo seized pursuant to section 107 of the MMPA shall be delivered to the appropriate Regional Director of the National Marine Fisheries Service (see § 201.2 of this title) or his designee, who shall either hold such seized property or arrange for the proper handling and care of such seized property.

(b) Any arrangement for the handling and care of seized property shall be in writing and shall state the compensation to be paid. Subpart F of 15 CFR part 904 contains additional procedures that govern seized property that is subject to forfeiture or has been forfeited under the MMPA.

[39 FR 1852, Jan. 15, 1974. Redesignated at 46 FR 61652, Dec. 18, 1981, and amended at 50 FR 12785, Apr. 1, 1985; 59 FR 50375, Oct. 3, 1994]

§ 216.8 Enforcement officers.

Enforcement Agents of the National Marine Fisheries Service shall enforce the provisions of the MMPA and may take any actions authorized by the MMPA with respect to enforcement. In addition, the Secretary may utilize, by agreement, the personnel, services, and facilities of any other Federal Agency for the purposes of enforcing this MMPA. Pursuant to the terms of section 107(b) of the MMPA, the Secretary may also designate officers and employees of any State or of any possession of the United States to enforce the provisions of this MMPA.

[39 FR 1852, Jan. 15, 1974. Redesignated at 46 FR 61652, Dec. 18, 1981, and amended at 59 FR 50375, Oct. 3, 1994]

Subpart B—Prohibitions

§ 216.11 Prohibited taking.

Except as otherwise provided in subparts C, D, and I of this part 216 or in part 228 or 229, it is unlawful for:

(a) Any person, vessel, or conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas, or

(b) Any person, vessel, or conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States, or

(c) Any person subject to the jurisdiction of the United States to take any marine mammal during the moratorium.

[39 FR 1852, Jan. 15, 1974, as amended at 47 FR 21254, May 18, 1982; 54 FR 21921, May 19, 1989]

§ 216.12 Prohibited importation.

(a) Except as otherwise provided in subparts C and D of this part 216, it is unlawful for any person to import any marine mammal or marine mammal product into the United States.

(b) Regardless of whether an importation is otherwise authorized pursuant to subparts C and D of this part 216, it is unlawful for any person to import into the United States any:

(1) Marine mammal:

(i) Taken in violation of the MMPA, or

(ii) Taken in another country in violation to the laws of that country;

(2) Any marine mammal product if

(i) The importation into the United States of the marine mammal from which such product is made would be unlawful under paragraph (b)(1) of this section, or

(ii) The sale in commerce of such product in the country of origin if the product is illegal.

(c) Except in accordance with an exception referred to in subpart C and §§ 216.31 (regarding scientific research permits only) and 216.32 of this part 216, it is unlawful to import into the United States any:

(1) Marine mammal which was pregnant at the time of taking.

(2) Marine mammal which was nursing at the time of taking, or less than 8 months old, whichever occurs later.

(3) Specimen of an endangered or threatened species of marine mammal.

(4) Specimen taken from a depleted species or stock of marine mammals, or

(5) Marine mammal taken in an inhumane manner.

(d) It is unlawful to import into the United States any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner proscribed by the Secretary of Commerce for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50375, Oct. 3, 1994]

§ 216.13 Prohibited uses, possession, transportation, sales, and permits.

It is unlawful for:

(a) Any person to use any port, harbor or other place under the jurisdiction of the United States for any purpose in any way connected with a prohibited taking or an unlawful importation of any marine mammal or marine mammal product; or

(b) Any person subject to the jurisdiction of the United States to possess any marine mammal taken in violation of the MMPA or these regulations, or to transport, sell, or offer for sale any such marine mammal or any marine mammal product made from any such mammal.

(c) Any person subject to the jurisdiction of the United States to use in a

commercial fishery, any means or method of fishing in contravention of regulations and limitations issued by the Secretary of Commerce for that fishery to achieve the purposes of this MMPA.

(d) Any person to violate any term, condition, or restriction of any permit issued by the Secretary.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50375, 50376, Oct. 3, 1994; 61 FR 21933, May 10, 1996]

§ 216.14 Marine mammals taken before the MMPA.

(a) Section 102(e) of the MMPA provides, in effect, that the MMPA shall not apply to any marine mammal taken prior to December 21, 1972, or to any marine mammal product, consisting of or composed in whole or in part of, any marine mammal taken before that date. This prior status of any marine mammal or marine mammal product may be established by submitting to the Director, National Marine Fisheries Service prior to, or at the time of importation, an affidavit containing the following:

(1) The Affiant's name and address;

(2) Identification of the Affiant;

(3) A description of the marine mammals or marine mammal products which the Affiant desires to import;

(4) A statement by the Affiant that, to the best of his knowledge and belief, the marine mammals involved in the application were taken prior to December 21, 1972;

(5) A statement by the Affiant in the following language:

> The foregoing is principally based on the attached exhibits which, to the best of my knowledge and belief, are complete, true and correct. I understand that this affidavit is being submitted for the purpose of inducing the Federal Government to permit the importation of—under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407) and regulations promulgated thereunder, and that any false statements may subject me to the criminal penalties of 13 U.S.C. 1001, or to penalties under the Marine Mammal Protection Act of 1972.

(b) Either one of two exhibits shall be attached to such affidavit, and will contain either:

(1) Records or other available evidence showing that the product consists of or is composed in whole or in part of marine mammals taken prior to the effective date of the MMPA. Such records or other evidentiary material must include information on how, when, where, and by whom the animals were taken, what processing has taken place since taking, and the date and location of such processing; or

(2) A statement from a government agency of the country of origin exercising jurisdiction over marine mammals that any and all such mammals from which the products sought to be imported were derived were taken prior to December 21, 1972.

(c) No pre-Act marine mammal or pre-Act marine mammal product may be imported unless the requirements of this section have been fulfilled.

(d) This section has no application to any marine mammal or marine mammal product intended to be imported pursuant to §§ 216.21, 216.31 or § 216.32.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50375, 50376, Oct. 3, 1994]

§ 216.15 Depleted species.

The following species or population stocks have been designated by the Assistant Administrator as depleted under the provisions of the MMPA.

(a) Hawaiian monk seal (*Monachus schauinslandi*).

(b) Bowhead whale (*Balaena mysticetus*).

(c) North Pacific fur seal (*Callorhinus ursinus*). Pribilof Island population.

(d) Bottlenose dolphin (*Tursiops truncatus*), coastal-migratory stock along the U.S. mid-Atlantic coast.

(e) Eastern spinner dolphin (*Stenella longirostris orientalis*).

(f) Northeastern offshore spotted dolphin (*Stenella attenuata*).

(g) Cook Inlet, Alaska, stock of beluga whales (*Delphinapterus leucas*). The stock includes all beluga whales occurring in waters of the Gulf of Alaska north of 58° North latitude including, but not limited to, Cook Inlet, Kamishak Bay, Chinitna Bay, Tuxedni Bay, Prince William Sound, Yakutat Bay, Shelikof Strait, and off Kodiak Island and freshwater tributaries to these waters.

(h) Eastern North Pacific Southern Resident stock of killer whales (Orcinus orca). The stock includes all resident killer whales in pods J, K, and

L in the waters of, but not limited to, the inland waterways of southern British Columbia and Washington, including the Georgia Strait, the Strait of Juan de Fuca, and Puget Sound.

(i) AT1 stock of killer whales (*Orcinus orca*). The stock includes all killer whales belonging to the AT1 group of transient killer whales occurring primarily in waters of Prince William Sound, Resurrection Bay, and the Kenai Fjords region of Alaska.

[53 FR 17899, May 18, 1988, as amended at 58 FR 17791, Apr. 6, 1993; 58 FR 45074, Aug. 26, 1993; 58 FR 58297, Nov. 1, 1993; 59 FR 50376, Oct. 3, 1994; 65 FR 34597, May 31, 2000; 68 FR 31983, May 29, 2003; 69 FR 31324, June 3, 2004]

§ 216.16 Prohibitions under the General Authorization for Level B harassment for scientific research.

It shall be unlawful for any person to:

(a) Provide false information in a letter of intent submitted pursuant to § 216.45(b);

(b) Violate any term or condition imposed pursuant to § 216.45(d).

[59 FR 50376, Oct. 3, 1994]

§ 216.17 General prohibitions.

It is unlawful for any person to:

(a) Assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search, inspection, investigation or seizure in connection with enforcement of the MMPA, DPCIA, or IDCPA.

(b) Interfere with, delay, or prevent by any means the apprehension of another person, knowing that such person has committed any act prohibited by the MMPA.

(c) Resist a lawful arrest for any act prohibited under the MMPA.

(d) Make any false statement, oral or written, to an authorized officer concerning any act under the jurisdiction of the MMPA, DPCIA, IDCPA, or attempt to do any of the above.

(e) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the MMPA, DPCIA, or IDCPA.

[70 FR 19008, Apr. 12, 2005]

Subpart C—General Exceptions

§ 216.21 Actions permitted by international treaty, convention, or agreement.

The MMPA and these regulations shall not apply to the extent that they are inconsistent with the provisions of any international treaty, convention or agreement, or any statute implementing the same relating to the taking or importation of marine mammals or marine mammal products, which was existing and in force prior to December 21, 1972, and to which the United States was a party. Specifically, the regulations in subpart B of this part and the provisions of the MMPA shall not apply to activities carried out pursuant to the Interim Convention on the Conservation of North Pacific Fur Seals signed at Washington on February 9, 1957, and the Fur Seal Act of 1966, 16 U.S.C. 1151 through 1187, as in each case, from time to time amended.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50376, Oct. 3, 1994]

§ 216.22 Taking by State or local government officials.

(a) A State or local government official or employee may take a marine mammal in the normal course of his duties as an official or employee, and no permit shall be required, if such taking:

(1) Is accomplished in a humane manner;

(2) Is for the protection or welfare of such mammal or for the protection of the public health or welfare; and

(3) Includes steps designed to insure return of such mammal, if not killed in the course of such taking, to its natural habitat. In addition, any such official or employee may, incidental to such taking, possess and transport, but not sell or offer for sale, such mammal and use any port, harbor, or other place under the jurisdiction of the United States. All steps reasonably practicable under the circumstances shall be taken by any such employee or official to prevent injury or death to the marine mammal as the result of such taking. Where the marine mammal in question is injured or sick, it shall be permissible to place it in temporary

captivity until such time as it is able to be returned to its natural habitat. It shall be permissible to dispose of a carcass of a marine mammal taken in accordance with this subsection whether the animal is dead at the time of taking or dies subsequent thereto.

(b) Each taking permitted under this section shall be included in a written report to be submitted to the Secretary every six months beginning December 31, 1973. Unless otherwise permitted by the Secretary, the report shall contain a description of:

(1) The animal involved;

(2) The circumstances requiring the taking;

(3) The method of taking;

(4) The name and official position of the State official or employee involved;

(5) The disposition of the animal, including in cases where the animal has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and

(6) Such other information as the Secretary may require.

(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) *Tranfers 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.

[39 FR 1852, Jan. 15, 1974, as amended at 56 FR 41307, Aug. 20, 1991]

§ 216.23 Native exceptions.

(a) *Taking.* Notwithstanding the prohibitions of subpart B of this part 216, but subject to the restrictions contained in this section, any Indian, Aleut, or Eskimo who resides on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, if such taking is:

(1) By Alaskan Natives who reside in Alaska for subsistence, or

(2) For purposes of creating and selling authentic native articles of handicraft and clothing, and

(3) In each case, not accomplished in a wasteful manner.

(b) *Restrictions.* (1) No marine mammal taken for subsistence may be sold or otherwise transferred to any person other than an Alaskan Native or delivered, carried, transported, or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Alaskan Native directly or through a registered agent to a tannery registered under paragraph (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Alaskan Native; or

(ii) It is sold or transferred to a registered agent in Alaska for resale or transfer to an Alaskan Native; or

(iii) It is an edible portion and it is sold in an Alaskan Native village or town.

(2) No marine mammal taken for purposes of creating and selling authentic native articles of handicraft and clothing may be sold or otherwise transferred to any person other than an Indian, Aleut or Eskimo, or delivered, carried, transported or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Indian, Aleut or Eskimo directly or through a registered agent to a tannery registered under paragraph (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Indian, Aleut or Eskimo; or

(ii) It is sold or transferred to a registered agent for resale or transfer to an Indian, Aleut, or Eskimo; or

(iii) It has first been transformed into an authentic native article of handicraft or clothing; or

(iv) It is an edible portion and sold (A) in an Alaskan Native village or town, or (B) to an Alaskan Native for his consumption.

(c) Any tannery, or person who wishes to act as an agent, within the jurisdiction of the United States may apply to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, for registration as a tannery or an agent which may possess and process marine mammal products for Indians, Aleuts, or Eskimos. The application shall include the following information:

(i) The name and address of the applicant;

(ii) A description of the applicant's procedures for receiving, storing, processing, and shipping materials;

(iii) A proposal for a system of bookkeeping and/or inventory segregation by which the applicant could maintain accurate records of marine mammals received from Indians, Aleuts, or Eskimos pursuant to this section;

(iv) Such other information as the Secretary may request;

(v) A certification in the following language:

> I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining the benefit of an exception under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the Marine Mammal Protection Act of 1972.

(vi) The signature of the applicant.

The sufficiency of the application shall be determined by the Secretary, and in that connection, he may waive any requirement for information, or require any elaboration or further information deemed necessary. The registration of a tannery or other agent shall be subject to such conditions as the Secretary prescribes, which may include, but are not limited to, provisions regarding records, inventory segregation, reports, and inspection. The Secretary may charge a reasonable fee for processing such applications, including an appropriate apportionment of overhead and administrative expenses of the Department of Commerce.

(d) Notwithstanding the preceding provisions of this section, whenever, under the MMPA, the Secretary determines any species of stock of marine mammals to be depleted, he may prescribe regulations pursuant to section 103 of the MMPA upon the taking of such marine animals by any Indian, Aleut, or Eskimo and, after promulgation of such regulations, all takings of such marine mammals shall conform to such regulations.

(e) *Marking and reporting of Cook Inlet Beluga Whales*—(1) *Definitions.* In addition to definitions contained in the MMPA and the regulations in this part:

(i) *Reporting* means the collection and delivery of biological data, harvest data, and other information regarding the effect of taking a beluga whale (*Delphinapterus leucas*) from Cook Inlet, as required by NMFS.

(ii) *Whaling captain or vessel operator* means the individual who is identified by Alaskan Natives as the leader of each hunting team (usually the other crew on the boat) and who is the whaling captain; or the individual operating the boat at the time the whale is harvested or transported to the place of processing.

(iii) *Cook Inlet* means all waters of Cook Inlet north of 59° North latitude, including, but not limited to, waters of Kachemak Bay, Kamishak Bay, Chinitna Bay, and Tuxedni Bay.

(2) *Marking.* Each whaling captain or vessel operator, upon killing and landing a beluga whale (*Delphinapterus leucas*) from Cook Inlet, Alaska, must remove the lower left jawbone, leaving the teeth intact and in place. When multiple whales are harvested during one hunting trip, the jawbones will be

marked for identification in the field to ensure correct reporting of harvest information by placing a label marked with the date, time, and location of harvest within the container in which the jawbone is placed. The jawbone(s) must be retained by the whaling captain or vessel operator and delivered to NMFS at the Anchorage Field Office, 222 West 7th Avenue, Anchorage, Alaska 99513 within 72 hours of returning from the hunt.

(3) *Reporting*. Upon delivery to NMFS of a jawbone, the whaling captain or vessel operator must complete and mail a reporting form, available from NMFS, to the NMFS Anchorage Field Office within 30 days. A separate form is required for each whale harvested.

(i) To be complete, the form must contain the following information: the date and location of kill, the method of harvest, and the coloration of the whale. The respondent will also be invited to report on any other observations concerning the animal or circumstance of the harvest.

(ii) Data collected pursuant to paragraph (e) of this section will be reported on forms obtained from the Anchorage Field Office. These data will be maintained in the NMFS Alaska Regional Office in Juneau, Alaska, where such data will be available for public review.

(4) No person may falsify any information required to be set forth on the reporting form as required by paragraph (e) of this section.

(5) The Anchorage Field Office of NMFS is located in room 517 of the Federal Office Building, 222 West 7th Avenue; its mailing address is: NMFS, Box 43, Anchorage, AK. 99513.

(f) *Harvest management of Cook Inlet beluga whales*—(1) *Cooperative management of subsistence harvest*. Subject to the provisions of 16 U.S.C. 1371(b) and any further limitations set forth in § 216.23, any taking of a Cook Inlet beluga whale by an Alaska Native must be authorized under an agreement for the co-management of subsistence uses (hereinafter in this paragraph ''co-management agreement'') between the National Marine Fisheries Service and an Alaska Native organization(s).

(2) *Limitations*. (i) *Sale of Cook Inlet beluga whale parts and products*. Authentic Native articles of handicraft and clothing made from nonedible byproducts of beluga whales taken in accordance with the provisions of this paragraph may be sold in interstate commerce. The sale of any other part or product, including food stuffs, from Cook Inlet beluga whales is prohibited, provided that nothing herein shall be interpreted to prohibit or restrict customary and traditional subsistence practices of barter and sharing of Cook Inlet beluga parts and products.

(ii) *Beluga whale calves or adults with calves*. The taking of a calf or an adult whale accompanied by a calf is prohibited.

(iii) *Season*. All takings of beluga whales authorized under § 216.23(f) shall occur no earlier than July 1 of each year.

(iv) *Taking during 2001–2004*. The harvest of Cook Inlet beluga whales is restricted during the four-year period of 2001–2004 as follows:

(A) *Strike limitations*. Subject to the suspension provision of subparagraph (C), a total of six (6) strikes, which could result in up to six landings, are to be allocated through co-management agreement(s).

(B) *Strike allocations*. Four strikes, not to exceed one per year, are allocated to the Native Village of Tyonek. The remaining two strikes will be allocated over the 4–year period through co-management agreement with other Cook Inlet community hunters, with no more than one such strike being allocated during every other year.

(C) *Emergency provisions*. Takings of beluga whales authorized under § 216.23 will be suspended whenever unusual mortalities exceed six (6) whales in any year. ''Unusual mortalities'' include all documented human-caused mortality (including illegal takings and net entanglements but excluding all legally harvested whales) and all documented mortality resulting from unknown or natural causes that occur above normal levels, considered for the purposes of this provision to be twelve beluga whales per year. The level of unusual mortalities shall be calculated by documenting mortality for the calendar year and subtracting twelve. The sum of this result and the carry over of unusual mortality from any previous year

from which the population has not recovered is the level of unusual mortalities for the current year. If in any year the number of unusual mortalities exceeds six whales, no strikes will be allowed in that year or in subsequent years until the population has recovered from those mortalities through foregone future harvests and natural recruitment.

(v) *Taking during 2008 and subsequent years.* (A) Co-management agreements pursuant to paragraph (f)(1) of this section may be established for 5–year intervals beginning in 2008. Agreements must include specific provisions regarding the number and allocation of strikes, hunting practices to promote consistency with limitations in paragraph (f)(2)(ii) of this section, and to improve efficiency of the harvest, mitigating measures, and enforcement. Agreements may include provisions regarding the sex composition of the beluga harvest.

(B) Strike/harvest levels for each 5–year planning interval beginning in 2008 will be determined by the recovery of this stock as measured by the average abundance in the prior 5–year interval and the best estimate of the population growth rate using information obtained in the 10 years prior to each 5–year interval. Criteria for categorizing growth rates are presented below as an algorithm using the estimated abundance, the distribution statistics for growth rates, and the date. Harvest levels are subject to the Expected Mortality Limit. The established strike levels are presented in the Harvest Table and the following algorithm will be used to determine harvest levels for each 5–year period beginning in 2008.

(*1*) NMFS will calculate the average stock abundance over the previous 5–year period.

(*2*) NMFS will calculate a population growth rates from abundance estimates for the most recent 10–year period prior to the next 5–year period.

(*3*) Using the abundance and growth information obtained in accordance with paragraphs (f)(2)(v)(B)(*1*) and (f)(2)(v)(B)(*2*), NMFS will calculate the probabilities that the growth rate within the population would be less than 1 percent, less than 2 percent, or greater than 3 percent. NMFS will then use paragraphs (f)(2)(v)(B)(*3*(*i*)) and (f)(2)(v)(B)(*3*)(*vi*) of this section to select the proper cell from the Harvest Table to determine the harvest levels for the next 5–year interval.

(*i*) Is the average stock abundance over the previous 5–year period less than 350 beluga whales? If yes, the Harvest Table provides that the harvest is zero during the next 5–year period. If no, go to (f)(2)(v)(B)(*3*)(*ii*) of this section.

(*ii*) Is the current year 2035 or later and is there more than a 20 percent probability the growth rate is less than 1 percent? If yes, the harvest is zero during the next 5–year period. If no, go to paragraph (f)(2)(v)(B)(*3*)(*iii*) of this section.

(*iii*) Is the current year between 2020 and 2034 and there is more than a 20 percent probability the growth rate is less than 1 percent? If yes, the harvest is three whales during the next 5–year period. If no, go to paragraph (f)(2)(v)(B)(*3*)(*iv*) of this section.

(*iv*) Is the current year 2015 or later and is there more than a 25 percent probability the growth rate is less than 2 percent? If yes, go to the harvest table using the ''Low'' growth rate column. If no, go to paragraph (f)(2)(v)(B)(*3*)(*vi*)) of this section.

(*v*) Is the current year prior to 2015 and is there more than a 75 percent probability the growth rate is less than 2 percent? If yes, go to the harvest table using the ''Low'' growth rate column. If no, go to paragraph (f)(2)(v)(B)(*3*)(*vi*) of this section.

(*vi*) Is there more than a 25–percent probability the growth rate is more than 3 percent? If yes, go to the harvest table using the ''High'' growth rate column. If no, go to the harvest table using the ''Intermediate'' growth rate column.

HARVEST TABLE

5–year population averages	''High'' growth rate	''Intermediate'' growth rate	''Low'' growth rate	Expected Mortality Limit
Less than 350	0	0	0	-

HARVEST TABLE—Continued

5–year population averages	"High" growth rate	"Intermediate" growth rate	"Low" growth rate	Expected Mortality Limit
350–399	8 strikes in 5 years	5 strikes in 5 years	5 strikes in 5 years	21
400–449	9 strikes in 5 years	8 strikes in 5 years	5 strikes in 5 years	24
450–499	10 strikes in 5 years	8 strikes in 5 years	5 strikes in 5 years	27
500–524	14 strikes in 5 years	9 strikes in 5 years	5 strikes in 5 years	30
525–549	16 strikes in 5 years	10 strikes in 5 years	5 strikes in 5 years	32
550–574	20 strikes in 5 years	15 strikes in 5 years	5 strikes in 5 years	33
575–599	22 strikes in 5 years	16 strikes in 5 years	5 strikes in 5 years	35
600–624	24 strikes in 5 years	17 strikes in 5 years	6 strikes in 5 years	36
625–649	26 strikes in 5 years	18 strikes in 5 years	6 strikes in 5 years	38
650–699	28 strikes in 5 years	19 strikes in 5 years	7 strikes in 5 years	39
700–779	32 strikes in 5 years	20 strikes in 5 years	7 strikes in 5 years	42
780 +	Consult with co-managers to expand harvest levels while allowing for the population to grow			

(C) At the beginning of each 5–year period, an Expected Mortality Limit is determined from the Harvest Table using the 5–year average abundance. During the course of each calendar year, the number of beach casts carcasses and carcasses found floating either reported to NMFS or observed by NMFS personnel will be the number of mortalities for that year. If at the end of each calendar year this number exceeds the Expected Mortality Limit, then an unusual mortality event has occurred. The Estimated Excess Mortalities will be calculated as twice the number of reported dead whales above the Expected Mortality Limit. The harvest will then be adjusted as follows:

(*1*) The harvest level for the remaining years of the current 5–year period will be recalculated by reducing the 5–year average abundance from the previous 5–year period by the Estimated Excess Mortalities. The revised abundance estimate would then be used in the harvest table for the remaining years and the harvest adjusted accordingly.

(*2*) For the subsequent 5–year period, for the purpose of calculating the 5–year average, the Estimated Excess Mortalities would be subtracted from the abundance estimates of the year of the excess mortality event so that the average would reflect the loss to the population. This average would then be used in the table to set the harvest level.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50376, Oct. 3, 1994; 64 FR 27927, May 24, 1999; 69 FR 17980, Apr. 6, 2004; 73 FR 60985, Oct. 15, 2008]

§ 216.24 Taking and related acts incidental to commercial fishing operations by tuna purse seine vessels in the eastern tropical Pacific Ocean.

(a)(1) No marine mammal may be taken in the course of a commercial fishing operation by a U.S. purse seine fishing vessel in the ETP unless the taking constitutes an incidental catch as defined in § 216.3, and vessel and operator permits have been obtained in accordance with these regulations, and such taking is not in violation of such permits or regulations.

(2)(i) It is unlawful for any person using a U.S. purse seine fishing vessel of 400 short tons (st) (362.8 metric tons (mt)) carrying capacity or less to intentionally deploy a net on or to encircle dolphins, or to carry more than two speedboats, if any part of its fishing trip is in the ETP.

(ii) It is unlawful for any person using a U.S. purse seine fishing vessel of greater than 400 st (362.8 mt) carrying capacity that does not have a valid permit obtained under these regulations to catch, possess, or land tuna if any part of the vessel's fishing trip is in the ETP.

(iii) It is unlawful for any person subject to the jurisdiction of the United States to receive, purchase, or possess

tuna caught, possessed, or landed in violation of paragraph (a)(2)(ii) of this section.

(iv) It is unlawful for any person subject to the jurisdiction of the United States to intentionally deploy a purse seine net on, or to encircle, dolphins from a vessel operating in the ETP when there is not a DML assigned to that vessel.

(v) It is unlawful for any person subject to the jurisdiction of the United States to intentionally deploy a purse seine net on, or to encircle, dolphins from a vessel operating in the ETP with an assigned DML after a set in which the DML assigned to that vessel has been reached or exceeded.

(vi) Alleged violations of the Agreement on the IDCP and/or these regulations identified by the International Review Panel will be considered for potential enforcement action by NMFS.

(3) Upon written request made in advance of entering the ETP, the limitations in paragraphs (a)(2)(ii) and (e)(1) of this section may be waived by the Administrator, Southwest Region, for the purpose of allowing transit through the ETP. The waiver will provide, in writing, the terms and conditions under which the vessel must operate, including a requirement to report to the Administrator, Southwest Region, the vessel's date of exit from or subsequent entry into the permit area.

(b) *Permits*—(1) *Vessel permit.* The owner or managing owner of a U.S. purse seine fishing vessel of greater than 400 st (362.8 mt) carrying capacity that participates in commercial fishing operations in the ETP must possess a valid vessel permit issued under paragraph (b) of this section. This permit is not transferable and must be renewed annually. If a vessel permit holder surrenders his/her permit to the Administrator, Southwest Region, the permit will not be returned and a new permit will not be issued before the end of the calendar year. Vessel permits will be valid through December 31 of each year.

(2) *Operator permit.* The person in charge of and actually controlling fishing operations (hereinafter referred to as the operator) on a U.S. purse seine fishing vessel engaged in commercial fishing operations under a vessel permit must possess a valid operator permit issued under paragraph (b) of this section. Such permits are not transferable and must be renewed annually. To receive a permit, the operator must have satisfactorily completed all required training under paragraph (c)(5) of this section. The operator's permit is valid only when the permit holder is on a vessel with a valid vessel permit. Operator permits will be valid through December 31 of each year.

(3) *Possession and display.* A valid vessel permit issued pursuant to paragraph (b)(1) of this section must be on board the vessel while engaged in fishing operations, and a valid operator permit issued pursuant to paragraph (b)(2) of this section must be in the possession of the operator to whom it was issued. Permits must be shown upon request to NMFS enforcement agents, U.S. Coast Guard officers, or designated agents of NMFS or the Inter-American Tropical Tuna Commission (IATTC) (including observers). A vessel owner or operator who is at sea on a fishing trip when his or her permit expires and to whom a permit for the next year has been issued, may take marine mammals under the terms of the new permit without having to display it on board the vessel until the vessel returns to port.

(4) *Application for vessel permit.* ETP tuna purse seine vessel permit application forms and instructions for their completion are available from NMFS. To apply for an ETP vessel permit, a vessel owner or managing owner must complete, sign, and submit the appropriate form via fax to (562) 980–4047, for prioritization purposes as described under § 300.22(b)(4)(i)(D)(*3*) of this title, allowing at least 15 days for processing. To request that a vessel in excess of 400 st (362.8 mt) carrying capacity be categorized as active on the Vessel Register under § 300.22(b)(4)(i) of this title in the following calendar year, the owner or managing owner must submit the vessel permit application via fax, payment of the vessel permit application fee, and payment of the vessel assessment fee no later than September 15 for vessels for which a DML is requested for the following year, and no later than November 30 for vessels for

which a DML is not requested for the following year.

(5) *Application for operator permit.* An applicant for an operator permit must complete, sign, and submit the appropriate form obtained from NMFS and submit payment of the permit application fee to the Administrator, Southwest Region, allowing at least 45 days for processing. Application forms and instructions for their completion are available from NMFS.

(6) *Fees*—(i) *Vessel permit application fees.* Payment of the permit application fee is required before NMFS will issue a permit. The Assistant Administrator may change the amount of this fee at any time if a different fee is determined in accordance with the NOAA Finance Handbook. The amount of the fee will be printed on the vessel permit application form provided by the Administrator, Southwest Region.

(ii) *Operator permit fee.* The Assistant Administrator may require a fee to be submitted with an application for an operator permit. The level of such a fee shall be determined in accordance with the NOAA Finance Handbook and specified by the Administrator, Southwest Region, on the application form.

(iii) *Vessel assessment fee.* The vessel assessment fee supports the placement of observers on individual tuna purse seine vessels, and maintenance of the observer program, as established by the IATTC or other approved observer program.

(A) The owner or managing owner of a purse seine vessel for which a DML has been requested must submit the vessel assessment fee, as established by the IATTC or other approved observer program, to the Administrator, Southwest Region, no later than September 15 of the year prior to the calendar year for which the DML is requested. Payment of the vessel assessment fee must be consistent with the fee for active status on the Vessel Register under § 300.22(b)(4) of this title.

(B) The owner or managing owner of a purse seine vessel for which active or inactive status on the Vessel Register, as defined in § 300.21 of this title, has been requested, but for which a DML has not been requested, must submit payment of the vessel assessment fee, as established by the IATTC or other approved observer program, to the Administrator, Southwest Region, no later than November 30 of the year prior to the calendar year in which the vessel will be listed on the Vessel Register. Payment of the vessel assessment fee is required only if the vessel is listed as active and is required to carry an observer, or if the vessel is listed as inactive and exceeds 400 st (362.8 mt) in carrying capacity. Payment of the vessel assessment fee must be consistent with the vessel's status, either active or inactive, on the Vessel Register in § 300.22(b)(4) of this title.

(C) The owner or managing owner of a purse seine vessel that is licensed under the South Pacific Tuna Treaty must submit the vessel assessment fee, as established by the IATTC or other approved observer program, to the Administrator, Southwest Region, prior to obtaining an observer and entering the ETP to fish. Consistent with § 300.22(b)(1)(i) of this title, this class of purse seine vessels is not required to be listed on the Vessel Register under § 300.22(b)(4) of this title in order to purse seine for tuna in the ETP during a single fishing trip per calendar year of 90 days or less. Payment of the vessel assessment fee must be consistent with the fee for active status on the Vessel Register under § 300.22(b)(4) of this title.

(D) The owner or managing owner of a purse seine vessel listed as inactive on the Vessel Register at the beginning of the calendar year and who requests to replace a vessel removed from active status on the Vessel Register under § 300.22(b)(4) of this title during the year, must pay the vessel assessment fee associated with active status, less the vessel assessment fee associated with inactive status that was already paid, before NMFS will request the IATTC Director change the status of the vessel from inactive to active. Payment of the vessel assessment fee is required only if the vessel is required to carry an observer.

(E) The owner or managing owner of a purse seine vessel not listed on the Vessel Register at the beginning of the calendar year and who requests to replace a vessel removed from active status on the Vessel Register under § 300.22(b)(4) of this title during the

year, must pay the vessel assessment fee associated with active status only if the vessel is required to carry an observer, before NMFS will request the IATTC Director change the status of the vessel to active.

(F) Payments will be subject to a 10 percent surcharge if received under paragraph (b)(6)(iii)(E) of this section for vessels that were listed as active on the Vessel Register in the calendar year prior to the year for which active status was requested; or if received after the dates specified in paragraphs (b)(6)(iii)(A) or (b)(6)(iii)(B) of this section for vessels for which active status is requested if the vessel was listed as active during the year the request was made. Payments will not be subject to a 10 percent surcharge if received under paragraph (b)(6)(iii)(C) or (b)(6)(iii)(D) of this section, or if received under paragraph (b)(6)(iii)(E) of this section for vessels that were not listed as active on the Vessel Register in the calendar year prior to the year for which active status was requested. Payments will also not be subject to a 10 percent surcharge if received after the date specified in paragraph (b)(6)(iii)(B) of this section for vessels for which inactive status is requested, or for vessels for which active status is requested if the vessel was not listed as active during the year the request was made. The Administrator, Southwest Region, will forward all vessel assessment fees described in this section to the IATTC or to the applicable organization approved by the Administrator, Southwest Region.

(7) *Application approval*. The Administrator, Southwest Region, will determine the adequacy and completeness of an application and, upon determining that an application is adequate and complete, will approve that application and issue the appropriate permit, except for applicants having unpaid or overdue civil penalties, criminal fines, or other liabilities incurred in a legal proceeding.

(8) *Conditions applicable to all permits*—(i) *General conditions*. Failure to comply with the provisions of a permit or with these regulations may lead to suspension, revocation, modification, or denial of a permit. The permit holder, vessel, vessel owner, operator, or master may be subject, jointly or severally, to the penalties provided for under the MMPA. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(ii) *Observer placement*. By obtaining a permit, the permit holder consents to the placement of an observer on the vessel during every trip involving operations in the ETP and agrees to payment of the fees for observer placement. No observer will be assigned to a vessel unless that vessel owner has submitted payment of observer fees to the Administrator, Southwest Region. The observers may be placed under an observer program of NMFS, IATTC, or another observer program approved by the Administrator, Southwest Region.

(iii) *Explosives*. The use of explosive devices is prohibited during all tuna purse seine operations that involve marine mammals.

(iv) *Reporting requirements*. (A) The vessel permit holder of each permitted vessel must notify the Administrator, Southwest Region or the IATTC contact designated by the Administrator, Southwest Region, at least 5 days in advance of the vessel's departure on a fishing trip to allow for observer placement on every trip.

(B) The vessel permit holder must notify the Administrator, Southwest Region, or the IATTC contact designated by the Administrator, Southwest Region, of any change of vessel operator at least 48 hours prior to departing on a fishing trip. In the case of a change in operator due to an emergency, notification must be made within 72 hours of the change.

(v) *Data release*. By using a permit, the permit holder authorizes the release to NMFS and the IATTC of all data collected by observers aboard purse seine vessels during fishing trips under the IATTC observer program or another international observer program approved by the Administrator, Southwest Region. The permit holder must furnish the international observer program with all release forms required to authorize the observer data to be provided to NMFS and the IATTC. Data obtained under such releases will be used for the same purposes as would data collected directly by observers placed by NMFS and will

be subject to the same standards of confidentiality.

(9) *Mortality and serious injury reports.* The Administrator, Southwest Region, will provide to the public periodic status reports summarizing the estimated incidental dolphin mortality and serious injury by U.S. vessels of individual species and stocks.

(c) *Purse seining by vessels with Dolphin Mortality Limits (DMLs).* In addition to the terms and conditions set forth in paragraph (b) of this section, any permit for a vessel to which a DML has been assigned under paragraph (c)(9) of this section and any operator permit when used on such a vessel are subject to the following terms and conditions:

(1) A vessel may be used to chase and encircle schools of dolphins in the ETP only under the immediate direction of the holder of a valid operator's permit.

(2) *No retention of live marine mammals.* Except as otherwise authorized by a specific permit, live marine mammals incidentally taken must be immediately returned to the ocean without further injury. The operator of a purse seine vessel must take every precaution to refrain from causing or permitting incidental mortality or serious injury of marine mammals. Live marine mammals may not be brailed, sacked up, or hoisted onto the deck during ortza retrieval.

(3) *Gear and equipment required for valid permit.* A vessel possessing a vessel permit for purse seining involving the intentional taking of marine mammals may not engage in fishing operations involving the intentional deployment of the net on or encirclement of dolphins unless it is equipped with a dolphin safety panel in its purse seine, has the other required gear and equipment, and uses the required procedures.

(i) *Dolphin safety panel.* The dolphin safety panel must be a minimum of 180 fathoms in length (as measured before installation), except that the minimum length of the panel in nets deeper than 18 strips must be determined in a ratio of 10 fathoms in length for each strip of net depth. It must be installed so as to protect the perimeter of the backdown area. The perimeter of the backdown area is the length of corkline that begins at the outboard end of the last bowbunch pulled and continues to at least two-thirds the distance from the backdown channel apex to the stern tiedown point. The dolphin safety panel must consist of small mesh webbing not to exceed 1¼ inches (3.18 centimeters (cm)) stretch mesh extending downward from the corkline and, if present, the base of the dolphin apron to a minimum depth equivalent to two strips of 100 meshes of 4¼ inches (10.80 cm) stretch mesh webbing. In addition, at least a 20–fathom length of corkline must be free from bunchlines at the apex of the backdown channel.

(ii) *Dolphin safety panel markers.* Each end of the dolphin safety panel and dolphin apron, if present, must be identified with an easily distinguishable marker.

(iii) *Dolphin safety panel hand holds.* Throughout the length of the corkline under which the dolphin safety panel and dolphin apron are located, hand hold openings must be secured so that they will not allow the insertion of a 1⅜ inch (3.50 cm) diameter cylindrical-shaped object.

(iv) *Dolphin safety panel corkline hangings.* Throughout the length of the corkline under which the dolphin safety panel and dolphin apron if present, are located, corkline hangings must be inspected by the vessel operator following each trip. Hangings found to have loosened to the extent that a cylindrical-shaped object with a 1⅜ inch (3.50 cm) diameter can be inserted between the cork and corkline hangings, must be tightened so as not to allow the insertion of a cylindrical-shaped object with a 1⅜ inch (3.50 cm) diameter.

(v) *Speedboats.* A minimum of three speedboats in operating condition must be carried. All speedboats carried aboard purse seine vessels and in operating condition must be rigged with tow lines and towing bridles or towing posts. Speedboat hoisting bridles may not be substituted for towing bridles.

(vi) *Raft.* A raft suitable to be used as a dolphin observation-and-rescue platform must be carried.

(vii) *Facemask and snorkel, or viewbox.* At least two facemasks and snorkels or viewboxes must be carried.

(viii) *Lights.* The vessel must be equipped with long-range, high-intensity floodlights with a sodium lamp of at least 1000 watts, or a multivapour lamp of at least 1500 watts, for use in darkness to ensure sufficient light to observe that procedures for dolphin release are carried out and to monitor incidental dolphin mortality.

(4) *Vessel inspection*—(i) *Twice per year.* At least twice during each calendar year, purse seine nets and other gear and equipment required under § 216.24(c)(3) must be made available for inspection and for a trial set/net alignment by an authorized NMFS inspector or IATTC staff as specified by the Administrator, Southwest Region, in order to obtain a vessel permit. The first such inspection shall be carried out before the vessel's request for a DML is submitted to the IATTC. The second such inspection shall be carried out before notification of any reallocation of DMLs for vessels with full-year DMLs or during the last quarter of the year for vessels with second-semester DMLs.

(ii) *Reinspection.* Purse seine nets and other gear and equipment required by these regulations must be made available for reinspection by an authorized NMFS inspector or IATTC staff as specified by the Administrator, Southwest Region. The vessel permit holder must notify the Administrator, Southwest Region, of any net modification at least 5 days prior to departure of the vessel in order to determine whether a reinspection or trial set/net alignment is required.

(iii) *Failure to pass inspection.* Upon failure to pass an inspection or reinspection, a vessel may not engage in purse seining involving the intentional taking of marine mammals until the deficiencies in gear or equipment are corrected as required by NMFS.

(5) *Operator permit holder training requirements.* An operator must maintain proficiency sufficient to perform the procedures required herein, and must attend and satisfactorily complete a formal training session approved by the Administrator, Southwest Region, in order to obtain his or her permit. At the training session, an attendee will be instructed on the relevant provisions and regulatory requirements of the MMPA and the IDCP, and the fishing gear and techniques that are required for reducing serious injury and mortality of dolphin incidental to purse seining for tuna. Operators who have received a written certificate of satisfactory completion of training and who possess a current or previous calendar year permit will not be required to attend additional formal training sessions unless there are substantial changes in the relevant provisions or implementing regulations of the MMPA or the IDCP, or in fishing gear and techniques. Additional training may be required for any operator who is found by the Administrator, Southwest Region, to lack proficiency in the required fishing procedures or familiarity with the relevant provisions or regulations of the MMPA or the IDCP.

(6) *Marine mammal release requirements.* All operators fishing pursuant to paragraph (c) of this section must use the following procedures during all sets involving the incidental taking of marine mammals in association with the capture and landing of tuna.

(i) *Backdown procedure.* Backdown must be performed following a purse seine set in which dolphins are captured in the course of catching tuna, and must be continued until it is no longer possible to remove live dolphins from the net by this procedure. At least one crewmember must be deployed during backdown to aid in the release of dolphins. Thereafter, other release procedures required will be continued so that all live dolphins are released prior to the initiation of the sack-up procedure.

(ii) *Prohibited use of sharp or pointed instrument.* The use of a sharp or pointed instrument to remove any marine mammal from the net is prohibited.

(iii) *Sundown sets prohibited.* On every set encircling dolphin, the backdown procedure must be completed no later than one-half hour after sundown, except as provided here. For the purpose of this section, sundown is defined as the time at which the upper edge of the sun disappears below the horizon or, if the view of the sun is obscured, the local time of sunset calculated from tables developed by the U.S. Naval Observatory or other authoritative source

approved by the Administrator, Southwest Region. A sundown set is a set in which the backdown procedure has not been completed and rolling the net to sack-up has not begun within one-half hour after sundown. Should a set extend beyond one-half hour after sundown, the operator must use the required marine mammal release procedures including the use of the high intensity lighting system. In the event a sundown set occurs where the seine skiff was let go 90 or more minutes before sundown, and an earnest effort to rescue dolphins is made, the International Review Panel of the IDCP may recommend to the United States that in the view of the International Review Panel, prosecution by the United States is not recommended. Any such recommendation will be considered by the United States in evaluating the appropriateness of prosecution in a particular circumstance.

(iv) *Dolphin safety panel.* During backdown, the dolphin safety panel must be positioned so that it protects the perimeter of the backdown area. The perimeter of the backdown area is the length of corkline that begins at the outboard end of the last bow bunch pulled and continues to at least two-thirds the distance from the backdown channel apex to the stern tiedown point.

(7) *Experimental fishing operations.* The Administrator, Southwest Region, may authorize experimental fishing operations, consistent with the provisions of the IDCP, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or serious injury, or do not require the encirclement of dolphins in the course of fishing operations. The Administrator, Southwest Region, may waive, as appropriate, any requirements of this section except DMLs and the obligation to carry an observer.

(i) A vessel permit holder may apply for an experimental fishing operation waiver by submitting the following information to the Administrator, Southwest Region, no less than 90 days before the date the proposed operation is intended to begin:

(A) The name(s) of the vessel(s) and the vessel permit holder(s) to participate;

(B) A statement of the specific vessel gear and equipment or procedural requirement to be exempted and why such an exemption is necessary to conduct the experiment;

(C) A description of how the proposed modification to the gear and equipment or procedures is expected to reduce incidental mortality or serious injury of marine mammals;

(D) A description of the applicability of this modification to other purse seine vessels;

(E) The planned design, time, duration, and general area of the experimental operation;

(F) The name(s) of the permitted operator(s) of the vessel(s) during the experiment;

(G) A statement of the qualifications of the individual or company doing the analysis of the research; and

(H) Signature of the permitted operator or of the operator's representative.

(ii) The Administrator, Southwest Region, will acknowledge receipt of the application and, upon determining that it is complete, will publish a notice in the FEDERAL REGISTER summarizing the application, making the full application available for inspection and inviting comments for a minimum period of 30 days from the date of publication.

(iii) The Administrator, Southwest Region, after considering the information submitted in the application identified in paragraph (c)(7)(i) of this section and the comments received, will either issue a waiver to conduct the experiment that includes restrictions or conditions deemed appropriate, or deny the application, giving the reasons for denial.

(iv) A waiver for an experimental fishing operation will be valid only for the vessels and operators named in the permit, for the time period and areas specified, for trips carrying an observer designated by the Administrator, Southwest Region, and when all the terms and conditions of the permit are met.

(v) The Administrator, Southwest Region, may suspend or revoke an experimental fishing waiver in accordance with 15 CFR part 904 if the terms and conditions of the waiver or the provisions of the regulations are not followed.

(8) *Operator permit holder performance requirements.* [Reserved]

(9) *Vessel permit holder dolphin mortality limits.* For purposes of this paragraph, the term ''vessel permit holder'' includes both the holder of a current vessel permit and also the holder of a vessel permit for the following year.

(i) By September 1 each year, a vessel permit holder desiring a DML for the following year must provide to the Administrator, Southwest Region, the name of the U.S. purse seine fishing vessel(s) of carrying capacity greater than 400 st (362.8 mt) that the owner intends to use to intentionally deploy purse seine fishing nets in the ETP to encircle dolphins in an effort to capture tuna during the following year. NMFS will forward the list of purse seine vessels to the Director of the IATTC on or before October 1, or as otherwise required by the IDCP, for assignment of a DML for the following year under the provisions of Annex IV of the Agreement on the IDCP.

(ii) Each vessel permit holder that desires a DML only for the period between July 1 to December 31 must provide the Administrator, Southwest Region, by September 1 of the prior year, the name of the U.S. purse seine fishing vessel(s) of greater than 400 st (362.8 mt) carrying capacity that the owner intends to use to intentionally deploy purse seine fishing nets in the ETP to encircle dolphins in an effort to capture tuna during the period. NMFS will forward the list of purse seine vessels to the Director of the IATTC on or before October 1, or as otherwise required under the IDCP, for possible assignment of a DML for the 6–month period July 1 to December 31. Under the IDCP, the DML will be calculated by the IDCP from any unutilized pool of DMLs in accordance with the procedure described in Annex IV of the Agreement on the IDCP and will not exceed one-half of an unadjusted full-year DML as calculated by the IDCP.

(iii)(A) The Administrator, Southwest Region, will notify vessel owners of the DML assigned for each vessel for the following year, or the second half of the year, as applicable.

(B) The Administrator, Southwest Region, may adjust the DMLs in accordance with Annex IV of the Agreement on the IDCP. All adjustments of full-year DMLs will be made before January 1, and the Administrator, Southwest Region, will notify the Director of the IATTC of any adjustments prior to a vessel departing on a trip using its adjusted DML. The notification will be no later than February 1 in the case of adjustments to full-year DMLs, and no later than May 1 in the case of adjustments to DMLs for the second half of the year.

(C) In accordance with the requirements of Annex IV of the Agreement on the IDCP, the Administrator, Southwest Region, may adjust a vessel's DML if it will further scientific or technological advancement in the protection of marine mammals in the fishery or if the past performance of the vessel indicates that the protection or use of the yellowfin tuna stocks or marine mammals is best served by the adjustment, within the mandates of the MMPA. Experimental fishing operation waivers or scientific research permits will be considered a basis for adjustments.

(iv)(A) A vessel assigned a full-year DML that does not make a set on dolphins by April 1 or that leaves the fishery will lose its DML for the remainder of the year, unless the failure to set on dolphins is due to force majeure or other extraordinary circumstances as determined by the International Review Panel.

(B) A vessel assigned a DML for the second half of the year will be considered to have lost its DML if the vessel has not made a set on dolphins before December 31, unless the failure to set on dolphins is due to force majeure or extraordinary circumstances as determined by the International Review Panel.

(C) Any vessel that loses its DML for 2 consecutive years will not be eligible to receive a DML for the following year.

(D) NMFS will determine, based on available information, whether a vessel has left the fishery.

(*1*) A vessel lost at sea, undergoing extensive repairs, operating in an ocean area other than the ETP, or for which other information indicates that vessel will no longer be conducting purse seine operations in the ETP for the remainder of the period covered by the DML will be determined to have left the fishery.

(*2*) NMFS will make all reasonable efforts to determine the intentions of the vessel owner. The owner of any vessel that has been preliminarily determined to have left the fishery will be provided notice of such preliminary determination and given the opportunity to provide information on whether the vessel has left the fishery prior to NMFS making a final determination under 15 CFR part 904 and notifying the IATTC.

(v) Any vessel that exceeds its assigned DML after any applicable adjustment under paragraph (c)(9)(iii) of this section will have its DML for the subsequent year reduced by 150 percent of the overage, unless another adjustment is determined by the International Review Panel, as mandated by the Agreement on the IDCP.

(vi) A vessel that is covered by a valid vessel permit and that does not normally fish for tuna in the ETP but desires to participate in the fishery on a limited basis may apply for a per-trip DML from the Administrator, Southwest Region, at any time, allowing at least 60 days for processing. The request must state the expected number of trips involving sets on dolphins and the anticipated dates of the trip or trips. The request will be forwarded to the Secretariat of the IATTC for processing in accordance with Annex IV of the Agreement on the IDCP. A per-trip DML will be assigned if one is made available in accordance with the terms of Annex IV of the Agreement on the IDCP. If a vessel assigned a per-trip DML does not set on dolphins during that trip, the vessel will be considered to have lost its DML unless this was a result of force majeure or other extraordinary circumstances as determined by the International Review Panel. After two consecutive losses of a DML, a vessel will not be eligible to receive a DML for the next fishing year.

(vii) Observers will make their records available to the vessel operator at any reasonable time, including after each set, in order for the operator to monitor the balance of the DML(s) remaining for use.

(viii) Vessel and operator permit holders must not deploy a purse seine net on or encircle any school of dolphins containing individuals of a particular stock of dolphins for the remainder of the calendar year:

(A) after the applicable per-stock per-year dolphin mortality limit for that stock of dolphins (or for that vessel, if so assigned) has been reached or exceeded; or

(B) after the time and date provided in actual notification or notification in the FEDERAL REGISTER by the Administrator, Southwest Region, based upon the best available evidence, stating when any applicable per-stock per-year dolphin mortality limit has been reached or exceeded, or is expected to be reached in the near future.

(ix) If individual dolphins belonging to a stock that is prohibited from being taken are not reasonably observable at the time the net skiff attached to the net is released from the vessel at the start of a set, the fact that individuals of that stock are subsequently taken will not be cause for enforcement action provided that all procedures required by the applicable regulations have been followed.

(x) Vessel and operator permit holders must not intentionally deploy a purse seine net on or encircle dolphins intentionally:

(A) after a set in which the vessel's DML, as adjusted, has been reached or exceeded; or

(B) after the date and time provided in actual notification by letter, facsimile, radio, or electronic mail, or notice in the FEDERAL REGISTER by the Administrator, Southwest Region, based upon the best available evidence, that intentional sets on dolphins must cease because the total of the DMLs assigned to the U.S. fleet has been reached or exceeded, or is expected to be exceeded in the near future.

(d) *Purse seining by vessels without assigned DMLs.* In addition to the requirements of paragraph (b) of this section, a vessel permit used for a trip not involving an assigned DML and the operator's permit when used on such a vessel are subject to the following terms and conditions: a permit holder may take marine mammals provided that such taking is an accidental occurrence in the course of normal commercial fishing operations and the vessel does not intentionally deploy its net on, or to encircle, dolphins; marine mammals taken incidental to such commercial fishing operations must be immediately returned to the environment where captured without further injury, using release procedures such as hand rescue, or aborting the set at the earliest effective opportunity; and the use of one or more rafts and facemasks or viewboxes to aid in the rescue of dolphins is recommended.

(e) *Observers*—(1) The holder of a vessel permit must allow an observer duly authorized by the Administrator, Southwest Region, to accompany the vessel on all fishing trips in the ETP for the purpose of conducting research and observing operations, including collecting information that may be used in civil or criminal penalty proceedings, forfeiture actions, or permit sanctions. A vessel that fails to carry an observer in accordance with these requirements may not engage in fishing operations.

(2) Research and observation duties will be carried out in such a manner as to minimize interference with commercial fishing operations. Observers must be provided access to vessel personnel and to dolphin safety gear and equipment, electronic navigation equipment, radar displays, high powered binoculars, and electronic communication equipment. The navigator must provide true vessel locations by latitude and longitude, accurate to the nearest minute, upon request by the observer. Observers must be provided with adequate space on the bridge or pilothouse for clerical work, as well as space on deck adequate for carrying out observer duties. No vessel owner, master, operator, or crew member of a permitted vessel may impair, or in any way interfere with, the research or observations being carried out. Masters must allow observers to use vessel communication equipment necessary to report information concerning the take of marine mammals and other observer collected data upon request of the observer.

(3) Any marine mammals killed during fishing operations that are accessible to crewmen and requested from the permit holder or master by the observer must be brought aboard the vessel and retained for biological processing, until released by the observer for return to the ocean. Whole marine mammals or marine mammal parts designated as biological specimens by the observer must be retained in cold storage aboard the vessel until retrieved by authorized personnel of NMFS or the IATTC when the vessel returns to port for unloading.

(4) It is unlawful for any person to forcibly assault, impede, intimidate, interfere with, or to influence or attempt to influence an observer, or to harass (including sexual harassment) an observer by conduct that has the purpose or effect of unreasonably interfering with the observer's work performance, or that creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(5)(i) All observers must be provided sleeping, toilet and eating accommodations at least equal to that provided to a full crew member. A mattress or futon on the floor or a cot is not acceptable in place of a regular bunk. Meal and other galley privileges must be the same for the observer as for other crew members.

(ii) Female observers on a vessel with an all-male crew must be accommodated either in a single-person cabin or, if reasonable privacy can be ensured by installing a curtain or other temporary divider, in a two-person cabin shared with a licensed officer of the vessel. If the cabin assigned to a female observer does not have its own toilet

and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing common facilities must be established before the placement meeting and approved by NMFS or other approved observer program and must be followed during the entire trip.

(iii) In the event there are one or more female crew members, the female observer must be provided a bunk in a cabin shared solely with female crew members, and provided toilet and shower facilities shared solely with these female crew members.

(f) *Importation, purchase, shipment, sale and transport.* (1)(i) It is illegal to import into the United States any fish, whether fresh, frozen, or otherwise prepared, if the fish have been caught with commercial fishing technology that results in the incidental kill or incidental serious injury of marine mammals in excess of that allowed under this part for U.S. fishermen, or as specified at paragraph (f)(6) of this section.

(ii) For purposes of this paragraph (f), and in applying the definition of an ''intermediary nation,'' an import occurs when the fish or fish product is released from a nation's Customs' custody and enters into the commerce of the nation. For other purposes, ''import'' is defined in § 216.3.

(2) *Imports requiring a Fisheries Certificate of Origin.* Shipments of tuna, tuna products, and certain other fish products identified in paragraphs (f)(2)(i), (f)(2)(ii), and (f)(2)(iii) of this section may not be imported into the United States unless a properly completed Fisheries Certificate of Origin (FCO), NOAA Form 370, is filed with U.S. Customs and Border Protection (CBP) at the time of importation.

(i) *Imports requiring a Fisheries Certificate of Origin, subject to yellowfin tuna embargo.* All shipments containing yellowfin tuna or yellowfin tuna products (other than fresh tuna) imported into the United States must be accompanied by an FCO, including, but not limited to, those imported under the following Harmonized Tariff Schedule of the United States (HTS) numbers. Updated HTS numbers can be identified by referencing the most current HTS in effect at the time of importation, available at *www.usitc.gov*. The scope of yellowfin tuna embargoes and procedures for attaining an affirmative finding are described under paragraphs (f)(6) and (f)(8) of this section, respectively.

(A) *Frozen*: (products containing Yellowfin).	
0303.42.0020	Yellowfin tunas, whole, frozen
0303.42.0040	Yellowfin tunas, head-on, frozen, except whole
0303.42.0060	Yellowfin tunas frozen, except whole, head-on, fillets, livers and roes
0304.29.6097	Tuna fish fillets, frozen, Not elsewhere specified or indicated (NESOI)
0304.99.1090	Tuna, frozen, in bulk or in immediate containers weighing with their contents over 6.8 kg each, NESOI
(B) *Airtight Containers:* (products containing Yellowfin).	
1604.14.1010	Tunas and skipjack, in oil, in airtight containers, in foil or other flexible containers weighing with their contents not more than 6.8 kg each
1604.14.1099	Tunas and skipjack, in oil, in airtight containers, NESOI
1604.14.2291	Other tunas and skipjack, no oil, in foil/flexible airtight containers, not over 6.8 kg, 4.8% of U.S. consumption of canned tuna during preceding year
1604.14.2299	Tunas, NESOI and skipjack, not in oil, in other airtight containers not over 7 kg, 4.8% of U.S. consumption of canned tuna during preceding year
1604.14.3091	Tunas and skipjack, NESOI, not in oil, in foil or other flexible airtight containers, weighing with their contents not more than 6.8 kg each
1604.14.3099	Other tunas and skipjack, not in oil, in airtight containers, NESOI
(C) *Loins:* (products containing Yellowfin).	
1604.14.4000	Tunas and skipjacks, prepared or preserved, not in airtight containers, not in oil, in bulk or immediate containers with their contents over 6.8 kg each
1604.14.5000	Tunas and skipjack, prepared or preserved, not in airtight containers, NESOI
(D) *Other:* (products containing Yellowfin).	
1604.20.1000	Fish pastes
1604.20.2500	Fish balls, cakes and puddings, not in oil, not in airtight containers, in immediate containers weighing with their contents not over 6.8 kg each
1604.20.3000	Fish balls, cakes and puddings, NESOI

(ii) *Imports requiring a Fisheries Certificate of Origin, not subject to yellowfin tuna embargo.* All shipments containing tuna or tuna products (other than fresh tuna or yellowfin tuna identified in paragraph (f)(2)(i) of this section) imported into the United States must be accompanied by an FCO, including, but not limited to, those imported under the following HTS numbers. Updated

HTS numbers can be identified by referencing the most current HTS in effect at the time of importation, available at *www.usitc.gov*.

(A) *Frozen*: (other than Yellowfin).

0303.41.0000	Albacore or longfinned tunas, frozen, except fillets, livers and roes
0303.43.0000	Skipjack tunas or stripe-bellied bonito, frozen, except fillets, livers and roes
0303.44.0000	Bigeye tunas, frozen, except fillets, livers and roes
0303.45.0000	Bluefin tunas, frozen, except fillets, livers and roes
0303.46.0000	Southern bluefin tunas, frozen, except fillets, livers and roes
0303.49.0100	Tunas, frozen, except fillets, livers and roes, NESOI
0304.29.6097	Tuna fish fillets, frozen, NESOI
0304.99.1090	Tuna, frozen, in bulk or in immediate containers weighing with their contents over 6.8 kg each, NESOI

(B) *Airtight Containers:* (other than Yellowfin).

1604.14.1010	Tunas and skipjack, in oil, in airtight containers, in foil or other flexible containers weighing with their contents not more than 6.8 kg each
1604.14.1091	Tunas, albacore, in oil, in airtight containers, NESOI
1604.14.1099	Tunas and skipjack, in oil, in airtight containers, NESOI
1604.14.2251	Albacore tuna, not in oil, in foil/flexible airtight containers, weighing not over 6.8 kg, 4.8% of U.S. consumption of canned tuna during preceding year
1604.14.2259	Albacore tuna, not in oil, in airtight containers weighing not over 7 kg, NESOI, 4.8% of U.S. consumption of canned tuna during preceding year
1604.14.2291	Other tunas and skipjack, no oil, in foil/flexible airtight containers, not over 6.8 kg, 4.8% of U.S. consumption of canned tuna during preceding year
1604.14.2299	Tunas, NESOI and skipjack, not in oil, in other airtight containers, not over 7 kg, 4.8% of U.S. consumption of canned tuna during preceding year
1604.14.3051	Tuna, albacore not in oil, in foil or other flexible airtight containers, weighing with contents not more than 6.8 kg each, NESOI
1604.14.3059	Tuna, albacore not in oil, in airtight containers, NESOI
1604.14.3091	Tunas and skipjack, NESOI, not in oil, in foil or other flexible airtight containers, weighing with their contents not more than 6.8 kg each
1604.14.3099	Other tunas and skipjack, not in oil, in airtight containers, NESOI

(C) *Loins:* (other than Yellowfin).

1604.14.4000	Tunas and skipjacks, prepared or preserved, not in airtight containers, not in oil, in bulk or immediate containers with their contents over 6.8 kg each
1604.14.5000	Tunas and skipjack, prepared or preserved, not in airtight containers, NESOI

(D) *Other:* (only if the product contains tuna).

1604.20.1000	Fish pastes
1604.20.2500	Fish balls, cakes and puddings, not in oil, not in airtight containers, in immediate containers weighing with their contents not over 6.8 kg each
1604.20.3000	Fish balls, cakes and puddings, NESOI

(iii) *Exports from driftnet nations only, requiring a Fisheries Certificate of Origin and official certification*. The following HTS numbers identify categories of fish and shellfish, in addition to those identified in paragraphs (f)(2)(i) and (f)(2)(ii) of this section, known to have been harvested using a large-scale driftnet and imported into the United States. Shipments exported from a large-scale driftnet nation, as identified under paragraph (f)(7) of this section, and imported into the United States, including but not limited to those imported into the United States under any of the HTS numbers listed in paragraph (f)(2) of this section, must be accompanied by an FCO and the official statement described in paragraph (f)(4)(xiii) of this section.

(A) *Frozen*:

0303.19.0012	Chinook (King) salmon (*Oncorhynchus tschawytscha*), frozen, except fillets, livers and roes
0303.19.0022	Chum (dog) salmon (*Oncorhynchus keta*), frozen, except fillets, livers and roes
0303.19.0032	Pink (humpie) salmon (*Oncorhynchus gorbuscha*), frozen, except fillets, livers and roes
0303.19.0052	Coho (silver) salmon (*Oncorhynchus kisutch*), frozen, except fillets, livers and roes
0303.19.0062	Pacific salmon (*Oncorhynchus masou, Oncorhynchus rhodurus*), frozen, except fillets, livers and roes, NESOI
0303.21.0000	Trout (*Salmo trutta; Oncorhynchus mykiss, clarki, aguabonita, gilae, apache, and chrysogaster*), frozen, except fillets, livers and roes
0303.22.0000	Atlantic salmon (*Salmo salar*) and Danube salmon (*Hucho hucho*), frozen, except fillets, livers and roes
0303.29.0000	Salmonidae, frozen, except fillets, livers and roes, NESOI
0303.61.0010	Swordfish steaks, frozen, except fillets
0303.61.0090	Swordfish, frozen, except steaks, fillets, livers and roes
0303.75.0010	Dogfish (Squalus spp.), frozen, except fillets, livers and roes
0303.75.0090	Sharks, frozen, except dogfish, fillets, livers and roes
0303.79.0079	Fish, frozen, except fillets, livers and roes, NESOI
0304.21.0000	Swordfish fillets, frozen, NESOI
0304.29.2066	Fish fillets, skinned, frozen blocks weighing over 4.5 kg each, to be minced, ground or cut into pieces of uniform weights and dimensions, NESOI

0304.29.6006	Atlantic Salmonidae (Salmo salar) fillets, frozen, NESOI
0304.29.6008	Salmonidae fillets, frozen, except Atlantic salmon, NESOI
0304.29.6099	Fish fillets, frozen, NESOI
0307.49.0010	Squid fillets, frozen
(B) *Canned:*.	
1604.11.2020	Pink (humpie) salmon, whole or in pieces, but not minced, in oil, in airtight containers
1604.11.2030	Sockeye (red) salmon, whole or in pieces, but not minced, in oil, in airtight containers
1604.11.2090	Salmon NESOI, whole or in pieces, but not minced, in oil, in airtight containers
1604.11.4010	Chum (dog) salmon, not in oil, canned
1604.11.4020	Pink (humpie) salmon, not in oil, canned
1604.11.4030	Sockeye (red) salmon, not in oil, canned
1604.11.4040	Salmon, NESOI, not in oil, canned
1604.11.4050	Salmon, whole or in pieces, but not minced, NESOI
1604.19.2000	Fish, NESOI, not in oil, in airtight containers
1604.19.3000	Fish, NESOI, in oil, in airtight containers
1605.90.6050	Loligo squid, prepared or preserved
1605.90.6055	Squid except Loligo, prepared or preserved
(C) Other:	
0305.30.6080	Fish fillets, dried, salted or in brine, but not smoked, NESOI
0305.41.000	Pacific salmon (*Oncorhynchus* spp.), Atlantic salmon (*Salmo salar*), and Danube salmon (*Hucho hucho*), including fillets, smoked
0305.49.4040	Fish including fillets, smoked, NESOI
0305.59.2000	Shark fins, dried, whether or not salted but not smoked
0305.59.4000	Fish, dried, whether or not salted but not smoked, NESOI
0305.69.4000	Salmon, salted but not dried or smoked; in brine
0305.69.5000	Fish in immediate containers weighing with their contents 6.8 kg or less each, salted but not dried or smoked; in brine, NESOI
0305.69.6000	Fish, salted but not dried or smoked; in brine, NESOI
0307.49.0022	Squid, *Loligo opalescens*, frozen (except fillets), dried, salted or in brine
0307.49.0024	Squid, *Loligo pealei*, frozen (except fillets), dried, salted or in brine
0307.49.0029	Loligo squid, frozen (except fillets), dried, salted or in brine, NESOI
0307.49.0050	Squid, frozen (except fillets), dried, salted or in brine, except Loligo squid
0307.49.0060	Cuttle fish (*Sepia officinalis, Rossia macrosoma, Sepiola* spp.), frozen, dried, salted or in brine

(3) *Disposition of Fisheries Certificates of Origin.* The FCO described in paragraph (f)(4) of this section may be obtained from the Administrator, Southwest Region, or downloaded from the Internet at *http://swr.nmfs.noaa.gov/noaa370.htm.*

(i) A properly completed FCO and its attached certificates as described in § 216.91(a), if applicable, must accompany the required CBP entry documents that are filed at the time of import.

(ii) FCOs and associated certifications as described in § 216.91(a), if any, that accompany imported shipments of tuna must be submitted by the importer of record to the Tuna Tracking and Verification Program, Southwest Region, within 10 calendar days of the shipment's entry into the commerce of the United States. FCOs submitted via mail should be sent to the Tuna Tracking and Verification Program, Southwest Region, P.O. Box 32469, Long Beach, CA 90832–2469. Copies of the documents may be submitted electronically using a secure file transfer protocol (FTP) site. Importers of record interested in submitting FCOs and associated certifications via FTP may contact a representative of the Tuna Tracking and Verification Program at the following email address: *SWRTuna.Track@noaa.gov.* The Tuna Tracking and Verification Program will facilitate secure transfer and protection of certifications by assigning a separate electronic folder for each importer. Access to the electronic folder will require a user identification and password. The Tuna Tracking and Verification Program will assign each importer a unique user identification and password. Safeguarding the confidentiality of the user identification and password is the responsibility of the importer to whom they are assigned. Copies of the documents may also be submitted via mail either on compact disc or as hard copies. All electronic submissions, whether via FTP or on compact disc, must be in Portable Document Format (PDF).

(iii) FCOs that accompany imported shipments of tuna destined for further processing in the United States must be endorsed at each change in ownership and submitted to the Administrator, Southwest Region, by the last endorser when all required endorsements are completed.

(iv) Importers and exporters are required to retain their records, including FCOs, import or export documents, invoices, and bills of lading for 2 years,

and such records must be made available within 30 days of a request by the Secretary or the Administrator, Southwest Region.

(4) *Contents of Fisheries Certificate of Origin*. An FCO, certified to be accurate by the exporter(s) of the accompanying shipment, must include the following information:

(i) CBP entry identification;

(ii) Date of entry;

(iii) Exporter's full name and complete address;

(iv) Importer's or consignee's full name and complete address;

(v) Species description, product form, and HTS number;

(vi) Total net weight of the shipment in kilograms;

(vii) Ocean area where the fish were harvested (ETP, western Pacific Ocean, south Pacific Ocean, north Pacific Ocean, eastern Atlantic Ocean, western Atlantic Ocean, Caribbean Sea, Indian Ocean, or other);

(viii) Type of fishing gear used to harvest the fish (purse seine, longline, baitboat, large-scale driftnet, gillnet, pole and line/hook and line, or other);

(ix) Country under whose laws the harvesting vessel operated based upon the flag of the vessel or, if a certified charter vessel, the country that accepted responsibility for the vessel's fishing operations;

(x) Dates on which the fishing trip began and ended;

(xi) The name of the harvesting vessel;

(xii) Dolphin-safe condition of the shipment, described by checking the appropriate statement on the form and attaching additional certifications as described in § 216.91(a) if required;

(xiii) For shipments containing fish or fish products exported from, or harvested on the high seas by vessels of a nation known to use large-scale driftnets, as determined by the Secretary pursuant to paragraph (f)(7) of this section, the High Seas Driftnet Certification contained on the FCO must be dated and signed by a responsible government official of the large-scale driftnet nation, certifying that the fish or fish products were harvested by a method other than large-scale driftnet; and

(xiv) Each importer, exporter, or processor who takes custody of the shipment must sign and date the form to certify that the form and attached documentation accurately describes the shipment of fish that they accompany.

(5) *Dolphin-safe label*. Tuna or tuna products sold in or exported from the United States that include on the label the term ''dolphin-safe'' or any other term or symbol that claims or suggests the tuna were harvested in a manner not injurious to dolphins are subject to the requirements of subpart H of this part (§ 216.90 *et seq*.).

(6) *Scope of embargoes*—(i) *ETP yellowfin tuna embargo*. Yellowfin tuna or products of yellowfin tuna harvested using a purse seine in the ETP identified by an HTS number listed in paragraph (f)(2)(i) of this section may not be imported into the United States if such tuna or tuna products were:

(A) Harvested on or after March 3, 1999, the effective date of section 4 of the IDCPA, and harvested by, or exported from, a nation that the Assistant Administrator has determined has jurisdiction over purse seine vessels of greater than 400 st (362.8 mt) carrying capacity harvesting tuna in the ETP, unless the Assistant Administrator has made an affirmative finding required for importation for that nation under paragraph (f)(8) of this section;

(B) Exported from an intermediary nation, as defined in Section 3 of the MMPA, and a ban is currently in force prohibiting the importation from that nation under paragraph (f)(9) of this section; or

(C) Harvested before March 3, 1999, the effective date of Section 4 of the IDCPA, and would have been banned from importation under Section 101(a)(2) of the MMPA at the time of harvest.

(ii) *Driftnet embargo*. A shipment containing fish or fish products identified by an HTS number listed in paragraph (f)(2) of this section may not be imported into the United States if it is harvested by a large-scale driftnet, or if it is exported from or harvested on the high seas by any nation determined by the Assistant Administrator to be engaged in large-scale driftnet fishing, unless a government official of the

large-scale driftnet nation completes, signs and dates the High Seas Driftnet section of the FCO certifying that the fish or fish products were harvested by a method other than large-scale driftnet.

(iii) *Pelly certification.* After 6 months of an embargo being in place against a nation under this section, the Secretary will certify that nation under section 8(a) of the Fishermen's Protective Act (22 U.S.C. 1978(a)). When such an embargo is lifted, the Secretary will terminate the certification under Section 8(d) of that Act (22 U.S.C. 1978(d)).

(iv) *Coordination.* The Assistant Administrator will promptly advise the Department of State and the Department of Homeland Security of embargo decisions, actions, and finding determinations.

(7) *Large-scale driftnet nation: determination.* Based upon the best information available, the Assistant Administrator will determine which nations have registered vessels that engage in fishing using large-scale driftnets. Such determinations will be published in the FEDERAL REGISTER. A responsible government official of any such nation may certify to the Assistant Administrator that none of the nation's vessels use large-scale driftnets. Upon receipt of the certification, the Assistant Administrator may find, and publish such finding in the FEDERAL REGISTER, that none of that nation's vessels engage in fishing with large-scale driftnets.

(8) *Affirmative finding procedure for nations harvesting yellowfin tuna using a purse seine in the ETP.* (i) The Assistant Administrator will determine, on an annual basis, whether to make an affirmative finding based upon documentary evidence provided by the government of the harvesting nation or by the IDCP and the IATTC, and will publish the finding in the FEDERAL REGISTER. A finding will remain valid for 1 year or for such other period as the Assistant Administrator may determine. An affirmative finding will be terminated if the Assistant Administrator determines that the requirements of this paragraph are no longer being met. Every 5 years, the government of the harvesting nation must submit such documentary evidence directly to the Assistant Administrator and request an affirmative finding. Documentary evidence must be submitted by the harvesting nation for the first affirmative finding application. The Assistant Administrator may require the submission of supporting documentation or other verification of statements made in connection with requests to allow importations. An affirmative finding applies to yellowfin tuna and yellowfin tuna products that were harvested by vessels of the nation after March 3, 1999. To make an affirmative finding, the Assistant Administrator must find that:

(A) The harvesting nation participates in the IDCP and is either a member of the IATTC or has initiated (and within 6 months thereafter completed) all steps required of applicant nations, in accordance with article V, paragraph 3, of the Convention establishing the IATTC, to become a member of that organization;

(B) The nation is meeting its obligations under the IDCP and its obligations of membership in the IATTC, including all financial obligations;

(C)(*1*) The annual total dolphin mortality of the nation's purse seine fleet (including certified charter vessels operating under its jurisdiction) did not exceed the aggregated total of the mortality limits assigned by the IDCP for that nation's purse seine vessels for the year preceding the year in which the finding would start; or

(*2*)(*i*) Because of extraordinary circumstances beyond the control of the nation and the vessel captains, the total dolphin mortality of the nation's purse seine fleet (including certified charter vessels operating under its jurisdiction) exceeded the aggregated total of the mortality limits assigned by the IDCP for that nation's purse seine vessels; and

(*ii*) Immediately after the national authorities discovered the aggregate mortality of its fleet had been exceeded, the nation required all its vessels to cease fishing for tuna in association with dolphins for the remainder of the calendar year; and

(D)(*1*) In any years in which the parties agree to a global allocation system for per-stock per-year individual stock

quotas, the nation responded to the notification from the IATTC that an individual stock quota had been reached by prohibiting any additional sets on the stock for which the quota had been reached;

(*2*) If a per-stock per-year quota is allocated to each nation, the annual per-stock per-year dolphin mortality of the nation's purse seine fleet (including certified charter vessels operating under its jurisdiction) did not exceed the aggregated total of the per-stock per-year limits assigned by the IDCP for that nation's purse seine vessels (if any) for the year preceding the year in which the finding would start; or

(*3*)(*i*) Because of extraordinary circumstances beyond the control of the nation and the vessel captains, the per-stock per-year dolphin mortality of the nation's purse seine fleet (including certified charter vessels operating under its jurisdiction) exceeded the aggregated total of the per-stock per-year limits assigned by the IDCP for that nation's purse seine vessels; and

(*ii*) Immediately after the national authorities discovered the aggregate per-stock mortality limits of its fleet had been exceeded, the nation required all its vessels to cease fishing for tuna in association with the stocks whose limits had been exceeded, for the remainder of the calendar year.

(ii) *Documentary Evidence and Compliance with the IDCP*—(A) *Documentary Evidence.* The Assistant Administrator will make an affirmative finding under paragraph (f)(8)(i) of this section only if the government of the harvesting nation provides directly to the Assistant Administrator, or authorizes the IATTC to release to the Assistant Administrator, complete, accurate, and timely information that enables the Assistant Administrator to determine whether the harvesting nation is meeting the obligations of the IDCP, and whether ETP-harvested tuna imported from such nation comports with the tracking and verification regulations of subpart H of this part.

(B) *Revocation.* After considering the information provided under paragraph (f)(8)(ii)(A) of this section, each party's financial obligations to the IATTC, and any other relevant information, including information that a nation is consistently failing to take enforcement actions on violations that diminish the effectiveness of the IDCP, the Assistant Administrator, in consultation with the Secretary of State, will revoke an affirmative finding issued to a nation that is not meeting the obligations of the IDCP.

(iii) A harvesting nation may apply for an affirmative finding at any time by providing to the Assistant Administrator the information and authorizations required in paragraphs (f)(8)(i) and (f)(8)(ii) of this section, allowing at least 60 days from the submission of complete information to NMFS for processing.

(iv) The Assistant Administrator will make or renew an affirmative finding for the period from April 1 through March 31 of the following year, or portion thereof, if the harvesting nation has provided all the information and authorizations required by paragraphs (f)(8)(i) and (f)(8)(ii) of this section, and has met the requirements of paragraphs (f)(8)(i) and (f)(8)(ii) of this section.

(v) *Reconsideration of finding.* The Assistant Administrator may reconsider a finding upon a request from, and the submission of additional information by, the harvesting nation, if the information indicates that the nation has met the requirements under paragraphs (f)(8)(i) and (f)(8)(ii) of this section.

(9) *Intermediary nation.* Except as authorized under this paragraph, no yellowfin tuna or yellowfin tuna products harvested by purse seine in the ETP classified under one of the HTS numbers listed in paragraph (f)(2)(i) of this section may be imported into the United States from any intermediary nation.

(i) An ''intermediary nation'' is a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to Section 101(a)(2)(B) of the MMPA.

(ii) Shipments of yellowfin tuna that pass through any nation (e.g. on a 'through Bill of Lading') and are not entered for consumption in that nation are not considered to be imports to

that nation and thus, would not cause that nation to be considered an intermediary nation under the MMPA.

(iii) The Assistant Administrator will publish in the FEDERAL REGISTER a notice announcing when NMFS has determined, based on the best information available, that a nation is an ''intermediary nation.'' After the effective date of that notice, the import restrictions of this paragraph shall apply.

(iv) *Changing the status of intermediary nation determinations.* Imports from an intermediary nation of yellowfin tuna and yellowfin tuna products classified under any of the HTS numbers in paragraph (f)(2)(i) of this section may be imported into the United States only if the Assistant Administrator determines, and publishes a notice of such determination in the FEDERAL REGISTER, that the intermediary nation has provided certification and reasonable proof that it has not imported in the preceding 6 months yellowfin tuna or yellowfin tuna products that are subject to a ban on direct importation into the United States under Section 101(a)(2)(B) of the MMPA. At that time, the nation shall no longer be considered an ''intermediary nation'' and these import restrictions shall no longer apply.

(v) The Assistant Administrator will review decisions under this paragraph upon the request of an intermediary nation. Such requests must be accompanied by specific and detailed supporting information or documentation indicating that a review or reconsideration is warranted. For purposes of this paragraph, the term ''certification and reasonable proof'' means the submission to the Assistant Administrator by a responsible government official from the nation of a document reflecting the nation's customs records for the preceding 6 months, together with a certification attesting that the document is accurate.

(10) *Fish refused entry.* If fish is denied entry under paragraph (f)(2) of this section, the Port Director of CBP shall refuse to release the fish for entry into the United States.

(11) *Disposition of fish refused entry into the United States.* Fish that is denied entry under paragraph (f)(2) of this section and that is not exported under CBP supervision within 90 days shall be disposed of under CBP laws and regulations at the importer's expense. Provided, however, that any disposition shall not result in an introduction into the United States of fish caught in violation of the MMPA.

(12) *Market Prohibitions.* (i) It is unlawful for any person to sell, purchase, offer for sale, transport, or ship in the United States, any tuna or tuna products unless the tuna products are either:

(A) Dolphin-safe under subpart H of this part; or

(B) Harvested in compliance with the IDCP by vessels under the jurisdiction of a nation that is a member of the IATTC or has initiated, and within 6 months thereafter completes, all steps required by an applicant nation to become a member of the IATTC.

(ii) It is unlawful for any exporter, transshipper, importer, processor, or wholesaler/distributor to possess, sell, purchase, offer for sale, transport, or ship in the United States, any tuna or tuna products bearing a label or mark that refers to dolphins, porpoises, or marine mammals unless the label or mark complies with the requirements of 16 U.S.C. 1385(d).

(g) *Penalties.* Any person or vessel subject to the jurisdiction of the United States will be subject to the penalties provided for under the MMPA for the conduct of fishing operations in violation of these regulations. Penalties for violating these regulations may include, but are not limited to, civil monetary fines, permit suspension or revocation, and reductions in current and future DMLs. Recommended sanctions are identified in the IDCPA/DPCIA Tuna/Dolphin Civil Administrative Penalty Schedule. Procedures for the imposition of penalties under the MMPA are found at 15 CFR part 904.

[69 FR 55297, Sept. 13, 2004, as amended at 70 FR 19008, Apr. 12, 2005; 74 FR 1613, Jan. 13, 2009]

§ 216.25 Exempted marine mammals and marine mammal products.

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

(1) To any marine mammal taken before December 21, 1972[1], 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 §216.12(c) (3) and (4) shall not apply to marine mammals or marine mammal products imported into the United States before the date on which a notice is published in the FEDERAL REGISTER with respect to the designation of the species or stock concerned as depleted or endangered.

(c) Section 216.12(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.

[39 FR 1852, Jan. 15, 1974, as amended at 56 FR 43888, Sept. 5, 1991; 59 FR 50376, Oct. 3, 1994]

§ 216.26 Collection of certain marine mammal parts without prior authorization.

Notwithstanding any other provision of this subpart:

(a) Any bones, teeth or ivory of any dead marine mammal may be collected from a beach or from land within¼ of a mile of the ocean. The term *ocean* includes bays and estuaries.

(b) Notwithstanding the provisions of subpart D, soft parts that are sloughed, excreted, or discharged naturally by a living marine mammal in the wild may be collected or imported for bona fide scientific research and enhancement, provided that collection does not involve the taking of a living marine mammal in the wild.

(c) Any marine mammal part collected under paragraph (a) of this section or any marine mammal part collected and imported under paragraph (b) of this section must be registered and identified, and may be transferred or otherwise possessed, in accordance with §216.22(c). In registering a marine mammal part collected or imported under paragraph (b) of this section, the person who collected or imported the part must also state the scientific research or enhancement purpose for which the part was collected or imported.

(d) No person may purchase, sell or trade for commercial purposes any marine mammal part collected or imported under this section.

(e) The export of parts collected without prior authorization under paragraph (b) of this section may occur if consistent with the provisions at §216.37(d) under subpart D.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50376, Oct. 3, 1994; 61 FR 21933, May 10, 1996]

§ 216.27 Release, non-releasability, and disposition under special exception permits for rehabilitated marine mammals.

(a) *Release requirements.* (1) Any marine mammal held for rehabilitation must be released within six months of capture or import unless the attending veterinarian determines that:

(i) The marine mammal might adversely affect marine mammals in the wild;

(ii) Release of the marine mammal to the wild will not likely be successful given the physical condition and behavior of the marine mammal; or

(iii) More time is needed to determine whether the release of the marine mammal to the wild will likely be successful. Releasability must be reevaluated at intervals of no less than six months until 24 months from capture or import, at which time there will be a rebuttable presumption that release into the wild is not feasible.

(2) The custodian of the rehabilitated marine mammal shall provide written notification prior to any release into the wild.

(i) Notification shall be provided to:

(A) The NMFS Regional Director at least 15 days in advance of releasing any beached or stranded marine mammal, unless advance notice is waived in writing by the Regional Director; or

(B) The Office Director at least 30 days in advance of releasing any imported marine mammal.

(ii) Notification shall include the following:

[1] In the context of captive maintenance of marine mammals, the only marine mammals exempted under this section are those that were actually captured or otherwise in captivity before December 21, 1972.

(A) A description of the marine mammal, including its physical condition and estimated age;

(B) The date and location of release; and

(C) The method and duration of transport prior to release.

(3) The Regional Director, or the Office Director as appropriate, may:

(i) Require additional information prior to any release;

(ii) Change the date or location of release, or the method or duration of transport prior to release;

(iii) Impose additional conditions to improve the likelihood of success or to monitor the success of the release; or

(iv) Require other disposition of the marine mammal.

(4) All marine mammals must be released near wild populations of the same species, and stock if known, unless a waiver is granted by the Regional Director or the Office Director.

(5) All marine mammals released must be tagged or marked in a manner acceptable to the Regional Director or the Office Director. The tag number or description of the marking must be reported to the Regional Director or Office Director following release.

(b) *Non-releasability and postponed determinations.* (1) The attending veterinarian shall provide the Regional Director or Office Director with a written report setting forth the basis of any determination under paragraphs (a)(1)(i) through (iii) of this section.

(2) Upon receipt of a report under paragraph (b)(1) of this section, the Regional Director or Office Director, in their sole discretion, may:

(i) Order the release of the marine mammal;

(ii) Order continued rehabilitation for an additional 6 months; or

(iii) Order other disposition as authorized.

(3) No later than 30 days after a marine mammal is determined unreleasable in accordance with paragraphs (a)(1)(i) through (iii) of this section, the person with authorized custody must:

(i) Request authorization to retain or transfer custody of the marine mammal in accordance with paragraph (c) of this section, or;

(ii) Humanely euthanize the marine mammal or arrange any other disposition of the marine mammal authorized by the Regional Director or Office Director.

(4) Notwithstanding any of the provisions of this section, the Office Director may require use of a rehabilitated marine mammal for any activity authorized under subpart D in lieu of animals taken from the wild.

(5) Any rehabilitated beached or stranded marine mammal placed on public display following a non-releasability determination under paragraph (a)(1) of this section and pending disposition under paragraph (c) of this section, or any marine mammal imported for medical treatment otherwise unavailable and placed on public display pending disposition after such medical treatment is concluded, must be held in captive maintenance consistent with all requirements for public display.

(c) *Disposition for a special exception purpose.* (1) Upon receipt of an authorization request made under paragraph (b)(3)(i) of this section, or release notification under (a)(2), the Office Director may authorize the retention or transfer of custody of the marine mammal for a special exception purpose authorized under subpart D.

(2) The Office Director will first consider requests from a person authorized to hold the marine mammal for rehabilitation. The Office Director may authorize such person to retain or transfer custody of the marine mammal for scientific research, enhancement, or public display purposes.

(3) The Office Director may authorize retention or transfer of custody of the marine mammal only if:

(i) Documentation has been submitted to the Office Director that the person retaining the subject animal or the person receiving custody of the subject animal by transfer, hereinafter referred to as the recipient, complies with public display requirements of 16 U.S.C. 1374(c)(2)(A) or, for purposes of scientific research and enhancement, holds an applicable permit, or an application for such a special exception permit under § 216.33 or a request for a major amendment under § 216.39 has

been submitted to the Office Director and has been found complete;

(ii) The recipient agrees to hold the marine mammal in conformance with all applicable requirements and standards; and

(iii) The recipient acknowledges that the marine mammal is subject to seizure by the Office Director:

(A) If, at any time pending issuance of the major amendment or permit, the Office Director determines that seizure is necessary in the interest of the health or welfare of the marine mammal;

(B) If the major amendment or permit is denied; or

(C) If the recipient is issued a notice of violation and assessment, or is subject to permit sanctions, in accordance with 15 CFR part 904.

(4) There shall be no remuneration associated with any transfer, provided that, the transferee may reimburse the transferor for any and all costs associated with the rehabilitation and transport of the marine mammal.

(5) Marine mammals undergoing rehabilitation or pending disposition under this section shall not be subject to public display, unless such activities are specifically authorized by the Regional Director or the Office Director, and conducted consistent with the requirements applicable to public display. Such marine mammals shall not be trained for performance or be included in any aspect of a program involving interaction with the public; and

(6) Marine mammals undergoing rehabilitation shall not be subject to intrusive research, unless such activities are specifically authorized by the Office Director in consultation with the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals, and are conducted pursuant to a scientific research permit.

(d) Reporting. In addition to the report required under §216.22(b), the person authorized to hold marine mammals for rehabilitation must submit reports to the Regional Director or Office Director regarding release or other disposition. These reports must be provided in the form and frequency specified by the Regional Director or Office Director.

[61 FR 21933, May 10, 1996]

Subpart D—Special Exceptions

§ 216.30 [Reserved]

§ 216.31 Definitions.

For the purpose of this subpart, the definitions set forth in 50 CFR part 217 shall apply to all threatened and endangered marine mammals, unless a more restrictive definition exists under the MMPA or part 216.

[61 FR 21935, May 10, 1996]

§ 216.32 Scope.

The regulations of this subpart apply to:

(a) All marine mammals and marine mammal parts taken or born in captivity after December 20, 1972; and

(b) All marine mammals and marine mammal parts that are listed as threatened or endangered under the ESA.

[61 FR 21935, May 10, 1996]

§ 216.33 Permit application submission, review, and decision procedures.

(a) *Application submission.* Persons seeking a special exemption permit under this subpart must submit an application to the Office Director. The application must be signed by the applicant, and provide in a properly formatted manner all information necessary to process the application. Written instructions addressing information requirements and formatting may be obtained from the Office Director upon request.

(b) *Applications to export living marine mammals.* For applicants seeking a special exception permit to export living marine mammals, the application must:

(1) Be submitted through the Convention on International Trade in Endangered Fauna and Flora management authority of the foreign government or, if different, the appropriate agency or agencies of the foreign government that exercises oversight over marine mammals.

(2) Include a certification from the foreign government that:

(i) The information set forth in the application is accurate;

(ii) The laws and regulations of the foreign governmentinvolved allow enforcement of the terms and conditions of the permit, and that the foreign government will enforce all terms and conditions; and

(iii) The foreign government involved will afford comity to any permit amendment, modification, suspension or revocation decision.

(c) *Initial review.* (1) NMFS will notify the applicant of receipt of the application.

(2) During the initial review, the Office Director will determine:

(i) Whether the application is complete.

(ii) Whether the proposed activity is for purposes authorized under this subpart.

(iii) If the proposed activity is for enhancement purposes, whether the species or stock identified in the application is in need of enhancement for its survival or recovery and whether the proposed activity will likely succeed in its objectives.

(iv) Whether the activities proposed are to be conducted consistent with the permit restrictions and permit specific conditions as described in § 216.35 and § 216.36(a).

(v) Whether sufficient information is included regarding the environmental impact of the proposed activity to enable the Office Director:

(A) To make an initial determination under the National Environmental Policy Act (NEPA) as to whether the proposed activity is categorically excluded from preparation of further environmental documentation, or whether the preparation of an environmental assessment (EA) or environmental impact statement (EIS) is appropriate or necessary; and

(B) To prepare an EA or EIS if an initial determination is made by the Office Director that the activity proposed is not categorically excluded from such requirements.

(3) The Office Director may consult with the Marine Mammal Commission (Commission) and its Committee of Scientific Advisors on Marine Mammals (Committee) in making these initial, and any subsequent, determinations.

(4) Incomplete applications will be returned with explanation. If the applicant fails to resubmit a complete application or correct the identified deficiencies within 60 days, the application will be deemed withdrawn. Applications that propose activities inconsistent with this subpart will be returned with explanation, and will not be considered further.

(d) *Notice of receipt and application review.* (1) Upon receipt of a valid, complete application, and the preparation of any NEPA documentation that has been determined initially to be required, the Office Director will publish a notice of receipt in the FEDERAL REGISTER. The notice will:

(i) Summarize the application, including:

(A) The purpose of the request;

(B) The species and number of marine mammals;

(C) The type and manner of special exception activity proposed;

(D) The location(s) in which the marine mammals will be taken, from which they will be imported, or to which they will be exported; and

(E) The requested period of the permit.

(ii) List where the application is available for review.

(iii) Invite interested parties to submit written comments concerning the application within 30 days of the date of the notice.

(iv) Include a NEPA statement that an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an EA or EIS, that an EA was prepared resulting in a finding of no significant impact, or that a final EIS has been prepared and is available for review.

(2) The Office Director will forward a copy of the complete application to the Commission for comment. If no comments are received within 45 days (or such longer time as the Office Director may establish) the Office Director will consider the Commission to have no objection to issuing a permit.

(3) The Office Director may consult with any other person, institution, or agency concerning the application.

(4) Within 30 days of publication of the notice of receipt in the FEDERAL REGISTER, any interested party may submit written comments or may request a public hearing on the application.

(5) If the Office Director deems it advisable, the Office Director may hold a public hearing within 60 days of publication of the notice of receipt in the FEDERAL REGISTER. Notice of the date, time, and place of the public hearing will be published in the FEDERAL REGISTER not less than 15 days in advance of the public hearing. Any interested person may appear in person or through representatives and may submit any relevant material, data, views, or comments. A summary record of the hearing will be kept.

(6) The Office Director may extend the period during which any interested party may submit written comments. Notice of the extension must be published in the FEDERAL REGISTER within 60 days of publication of the notice of receipt in the FEDERAL REGISTER.

(7) If, after publishing a notice of receipt, the Office Director determines on the basis of new information that an EA or EIS must be prepared, the Office Director must deny the permit unless an EA is prepared with a finding of no significant impact. If a permit is denied under these circumstances the application may be resubmitted with information sufficient to prepare an EA or EIS, and will be processed as a new application.

(e) *Issuance or denial procedures.* (1) Within 30 days of the close of the public hearing or, if no public hearing is held, within 30 days of the close of the public comment period, the Office Director will issue or deny a special exception permit.

(2) The decision to issue or deny a permit will be based upon:

(i) All relevant issuance criteria set forth at § 216.34;

(ii) All purpose-specific issuance criteria as appropriate set forth at § 216.41, § 216.42, and § 216.43;

(iii) All comments received or views solicited on the permit application; and

(iv) Any other information or data that the Office Director deems relevant.

(3) If the permit is issued, upon receipt, the holder must date and sign the permit, and return a copy of the original to the Office Director. The permit shall be effective upon the permit holder's signing of the permit. In signing the permit, the holder:

(i) Agrees to abide by all terms and conditions set forth in the permit, and all restrictions and relevant regulations under this subpart; and

(ii) Acknowledges that the authority to conduct certain activities specified in the permit is conditional and subject to authorization by the Office Director.

(4) Notice of the decision of the Office Director shall be published in the FEDERAL REGISTER within 10 days after the date of permit issuance or denial and shall indicate where copies of the permit, if issued, may be reviewed or obtained. If the permit issued involves marine mammals listed as endangered or threatened under the ESA, the notice shall include a finding by the Office Director that the permit:

(i) Was applied for in good faith;

(ii) If exercised, will not operate to the disadvantage of such endangered or threatened species; and

(iii) Is consistent with the purposes and policy set forth in section 2 of the ESA.

(5) If the permit is denied, the Office Director shall provide the applicant with an explanation for the denial.

(6) Under the MMPA, the Office Director may issue a permit for scientific research before the end of the public comment period if delaying issuance could result in injury to a species, stock, or individual, or in loss of unique research opportunities. The Office Director also may waive the 30-day comment period required under the ESA in an emergency situation where the health or life of an endangered or threatened marine mammal is threatened and no reasonable alternative is available. If a permit is issued under these circumstances, notice of such issuance before the end of the comment period shall be published in the FEDERAL REGISTER within 10 days of issuance.

(7) The applicant or any party opposed to a permit may seek judicial review of the terms and conditions of such permit or of a decision to deny such permit. Review may be obtained by filing a petition for review with the appropriate U.S. District Court as provided for by law.

[61 FR 21935, May 10, 1996]

§ 216.34 Issuance criteria.

(a) For the Office Director to issue any permit under this subpart, the applicant must demonstrate that:

(1) The proposed activity is humane and does not present any unnecessary risks to the health and welfare of marine mammals;

(2) The proposed activity is consistent with all restrictions set forth at § 216.35 and any purpose-specific restrictions as appropriate set forth at § 216.41, § 216.42, and § 216.43;

(3) The proposed activity, if it involves endangered or threatened marine mammals, will be conducted consistent with the purposes and policies set forth in section 2 of the ESA;

(4) The proposed activity by itself or in combination with other activities, will not likely have a significant adverse impact on the species or stock;

(5) Whether the applicant's expertise, facilities, and resources are adequate to accomplish successfully the objectives and activities stated in the application;

(6) If a live animal will be held captive or transported, the applicant's qualifications, facilities, and resources are adequate for the proper care and maintenance of the marine mammal; and

(7) Any requested import or export will not likely result in the taking of marine mammals or marine mammal parts beyond those authorized by the permit.

(b) The opinions or views of scientists or other persons or organizations knowledgeable of the marine mammals that are the subject of the application or of other matters germane to the application will be considered.

[61 FR 21936, May 10, 1996]

§ 216.35 Permit restrictions.

The following restrictions shall apply to all permits issued under this subpart:

(a) The taking, importation, export, or other permitted activity involving marine mammals and marine mammal parts shall comply with the regulations of this subpart.

(b) The maximum period of any special exception permit issued, or any major amendment granted, is five years from the effective date of the permit or major amendment. In accordance with the provisions of § 216.39, the period of a permit may be extended by a minor amendment up to 12 months beyond that established in the original permit.

(c) Except as provided for in § 216.41(c)(1)(v), marine mammals or marine mammal parts imported under the authority of a permit must be taken or imported in a humane manner, and in compliance with the Acts and any applicable foreign law. Importation of marine mammals and marine mammal parts is subject to the provisions of 50 CFR part 14.

(d) The permit holder shall not take from the wild any marine mammal which at the time of taking is either unweaned or less than eight months old, or is a part of a mother-calf/pup pair, unless such take is specifically authorized in the conditions of the special exception permit. Additionally, the permit holder shall not import any marine mammal that is pregnant or lactating at the time of taking or import, or is unweaned or less than eight months old unless such import is specifically authorized in the conditions of the special exception permit.

(e) Captive marine mammals shall not be released into the wild unless specifically authorized by the Office Director under a scientific research or enhancement permit.

(f) The permit holder is responsible for all activities of any individual who is operating under the authority of the permit;

(g) Individuals conducting activities authorized under the permit must possess qualifications commensurate with their duties and responsibilities, or must be under the direct supervision of a person with such qualifications;

(h) Persons who require state or Federal licenses to conduct activities authorized under the permit must be duly licensed when undertaking such activities;

(i) Special exception permits are not transferable or assignable to any other person, and a permit holder may not require any direct or indirect compensation from another person in return for requesting authorization for such person to conduct the taking, import, or export activities authorized under the subject permit;

(j) The permit holder or designated agent shall possess a copy of the permit when engaged in a permitted activity, when the marine mammal is in transit incidental to such activity, and whenever marine mammals or marine mammal parts are in the possession of the permit holder or agent. A copy of the permit shall be affixed to any container, package, enclosure, or other means of containment, in which the marine mammals or marine mammal parts are placed for purposes of transit, supervision, or care. For marine mammals held captive and marine mammal parts in storage, a copy of the permit shall be kept on file in the holding or storage facility.

[61 FR 21936, May 10, 1996]

§ 216.36 Permit conditions.

(a) *Specific conditions.* (1) Permits issued under this subpart shall contain specific terms and conditions deemed appropriate by the Office Director, including, but not limited to:

(i) The number and species of marine mammals that are authorized to be taken, imported, exported, or otherwise affected;

(ii) The manner in which marine mammals may be taken according to type of take;

(iii) The location(s) in which the marine mammals may be taken, from which they may be imported, or to which they may be exported, as applicable, and, for endangered or threatened marine mammal species to be imported or exported, the port of entry or export;

(iv) The period during which the permit is valid.

(2) [Reserved]

(b) *Other conditions.* In addition to the specific conditions imposed pursuant to paragraph (a) of this section, the Office Director shall specify any other permit conditions deemed appropriate.

[61 FR 21937, May 10, 1996]

§ 216.37 Marine mammal parts.

With respect to marine mammal parts acquired by take or import authorized under a permit issued under this subpart:

(a) Marine mammal parts are transferrable if:

(1) The person transferring the part receives no remuneration of any kind for the marine mammal part;

(2) The person receiving the marine mammal part is:

(i) An employee of NMFS, the U.S. Fish and Wildlife Service, or any other governmental agency with conservation and management responsibilities, who receives the part in the course of their official duties;

(ii) A holder of a special exception permit which authorizes the take, import, or other activity involving the possession of a marine mammal part of the same species as the subject part; or

(iii) In the case of marine mammal parts from a species that is not depleted, endangered or threatened, a person who is authorized under section 112(c) of the MMPA and subpart C of this part to take or import marine mammals or marine mammal parts;

(iv) Any other person specifically authorized by the Regional Director, consistent with the requirements of paragraphs (a)(1) and (a)(3) through (6) of this section.

(3) The marine mammal part is transferred for the purpose of scientific research, maintenance in a properly curated, professionally accredited scientific collection, or education, provided that, for transfers for educational purposes, the recipient is a museum, educational institution or equivalent that will ensure that the part is available to the public as part of an educational program;

(4) A unique number assigned by the permit holder is marked on or affixed to the marine mammal part or container;

(5) The person receiving the marine mammal part agrees that, as a condition of receipt, subsequent transfers may only occur subject to the provisions of paragraph (a) of this section; and

(6) Within 30 days after the transfer, the person transferring the marine mammal part notifies the Regional Director of the transfer, including a description of the part, the person to whom the part was transferred, the purpose of the transfer, certification that the recipient has agreed to comply with the requirements of paragraph (a) of this section for subsequent transfers, and, if applicable, the recipient's permit number.

(b) Marine mammal parts may be loaned to another person for a purpose described in paragraph (a)(3) of this section and without the agreement and notification required under paragraphs (a)(5) and (6) of this section, if:

(1) A record of the loan is maintained; and

(2) The loan is for not more than one year. Loans for a period greater than 12 months, including loan extensions or renewals, require notification of the Regional Director under paragraph (a)(6).

(c) Unless other disposition is specified in the permit, a holder of a special exception permit may retain marine mammal parts not destroyed or otherwise disposed of during or after a scientific research or enhancement activity, if such marine mammal parts are:

(1) Maintained as part of a properly curated, professionally accredited collection; or

(2) Made available for purposes of scientific research or enhancement at the request of the Office Director.

(d) Marine mammal parts may be exported and subsequently reimported by a permit holder or subsequent authorized recipient, for the purpose of scientific research, maintenance in a properly curated, professionally accredited scientific collection, or education, provided that:

(1) The permit holder or other person receives no remuneration for the marine mammal part;

(2) A unique number assigned by the permit holder is marked on or affixed to the marine mammal specimen or container;

(3) The marine mammal part is exported or reimported in compliance with all applicable domestic and foreign laws;

(4) If exported or reimported for educational purposes, the recipient is a museum, educational institution, or equivalent that will ensure that the part is available to the public as part of an educational program; and

(5) Special reports are submitted within 30 days after both export and reimport as required by the Office Director under § 216.38.

[61 FR 21937, May 10, 1996]

§ 216.38 Reporting.

All permit holders must submit annual, final, and special reports in accordance with the requirements established in the permit, and any reporting format established by the Office Director.

[61 FR 21937, May 10, 1996]

§ 216.39 Permit amendments.

(a) *General.* Special exception permits may be amended by the Office Director. Major and minor amendments may be made to permits in response to, or independent of, a request from the permit holder. Amendments must be consistent with the Acts and comply with the applicable provisions of this subpart.

(1) A *major amendment* means any change to the permit specific conditions under § 216.36(a) regarding:

(i) The number and species of marine mammals that are authorized to be taken, imported, exported, or otherwise affected;

(ii) The manner in which these marine mammals may be taken, imported, exported, or otherwise affected, if the proposed change may result in an increased level of take or risk of adverse impact;

(iii) The location(s) in which the marine mammals may be taken, from which they may be imported, and to which they may be exported, as applicable; and

(iv) The duration of the permit, if the proposed extension would extend the duration of the permit more than 12

months beyond that established in the original permit.

(2) A *minor amendment* means any amendment that does not constitute a major amendment.

(b) *Amendment requests and proposals.* (1) Requests by a permit holder for an amendment must be submitted in writing and include the following:

(i) The purpose and nature of the amendment;

(ii) Information, not previously submitted as part of the permit application or subsequent reports, necessary to determine whether the amendment satisfies all issuance criteria set forth at § 216.34, and, as appropriate, § 216.41, § 216.42, and § 216.43.

(iii) Any additional information required by the Office Director for purposes of reviewing the proposed amendment.

(2) If an amendment is proposed by the Office Director, the permit holder will be notified of the proposed amendment, together with an explanation.

(c) *Review of proposed amendments*—(1) *Major amendments.* The provisions of § 216.33(d) and (e) governing notice of receipt, review and decision shall apply to all proposed major amendments.

(2) *Minor amendments.* (i) After reviewing all appropriate information, the Office Director will provide the permit holder with written notice of the decision on a proposed or requested amendment, together with an explanation for the decision.

(ii) If the minor amendment extends the duration of the permit 12 months or less from that established in the original permit, notice of the minor amendment will be published in the FEDERAL REGISTER within 10 days from the date of the Office Director's decision.

(iii) A minor amendment will be effective upon a final decision by the Office Director.

[61 FR 21937, May 10, 1996]

§ 216.40 Penalties and permit sanctions.

(a) Any person who violates any provision of this subpart or permit issued thereunder is subject to civil and criminal penalties, permit sanctions and forfeiture as authorized under the Acts, and 15 CFR part 904.

(b) All special exception permits are subject to suspension, revocation, modification and denial in accordance with the provisions of subpart D of 15 CFR part 904.

[61 FR 21938, May 10, 1996]

§ 216.41 Permits for scientific research and enhancement.

In addition to the requirements under §§ 216.33 through 216.38, permits for scientific research and enhancement are governed by the following requirements:

(a) *Applicant.* (1) For each application submitted under this section, the applicant shall be the principal investigator responsible for the overall research or enhancement activity. If the research or enhancement activity will involve a periodic change in the principal investigator or is otherwise controlled by and dependent upon another entity, the applicant may be the institution, governmental entity, or corporation responsible for supervision of the principal investigator.

(2) For any scientific research involving captive maintenance, the application must include supporting documentation from the person responsible for the facility or other temporary enclosure.

(b) *Issuance Criteria.* For the Office Director to issue any scientific research or enhancement permit, the applicant must demonstrate that:

(1) The proposed activity furthers a bona fide scientific or enhancement purpose;

(2) If the lethal taking of marine mammals is proposed:

(i) Non-lethal methods for conducting the research are not feasible; and

(ii) For depleted, endangered, or threatened species, the results will directly benefit that species or stock, or will fulfill a critically important research need.

(3) Any permanent removal of a marine mammal from the wild is consistent with any applicable quota established by the Office Director.

(4) The proposed research will not likely have significant adverse effects on any other component of the marine ecosystem of which the affected species or stock is a part.

(5) For species or stocks designated or proposed to be designated as depleted, or listed or proposed to be listed as endangered or threatened:

(i) The proposed research cannot be accomplished using a species or stock that is not designated or proposed to be designated as depleted, or listed or proposed to be listed as threatened or endangered;

(ii) The proposed research, by itself or in combination with other activities will not likely have a long-term direct or indirect adverse impact on the species or stock;

(iii) The proposed research will either:

(A) Contribute to fulfilling a research need or objective identified in a species recovery or conservation plan, or if there is no conservation or recovery plan in place, a research need or objective identified by the Office Director in stock assessments established under section 117 of the MMPA;

(B) Contribute significantly to understanding the basic biology or ecology of the species or stock, or to identifying, evaluating, or resolving conservation problems for the species or stock; or

(C) Contribute significantly to fulfilling a critically important research need.

(6) For proposed enhancement activities:

(i) Only living marine mammals and marine mammal parts necessary for enhancement of the survival, recovery, or propagation of the affected species or stock may be taken, imported, exported, or otherwise affected under the authority of an enhancement permit. Marine mammal parts would include in this regard clinical specimens or other biological samples required for the conduct of breeding programs or the diagnosis or treatment of disease.

(ii) The activity will likely contribute significantly to maintaining or increasing distribution or abundance, enhancing the health or welfare of the species or stock, or ensuring the survival or recovery of the affected species or stock in the wild.

(iii) The activity is consistent with:

(A) An approved conservation plan developed under section 115(b) of the MMPA or recovery plan developed under section 4(f) of the ESA for the species or stock; or

(B) If there is no conservation or recovery plan, with the Office Director's evaluation of the actions required to enhance the survival or recovery of the species or stock in light of the factors that would be addressed in a conservation or recovery plan.

(iv) An enhancement permit may authorize the captive maintenance of a marine mammal from a threatened, endangered, or depleted species or stock only if the Office Director determines that:

(A) The proposed captive maintenance will likely contribute directly to the survival or recovery of the species or stock by maintaining a viable gene pool, increasing productivity, providing necessary biological information, or establishing animal reserves required to support directly these objectives; and

(B) The expected benefit to the species or stock outweighs the expected benefits of alternatives that do not require removal of marine mammals from the wild.

(v) The Office Director may authorize the public display of marine mammals held under the authority of an enhancement permit only if:

(A) The public display is incidental to the authorized captive maintenance;

(B) The public display will not interfere with the attainment of the survival or recovery objectives;

(C) The marine mammals will be held consistent with all requirements and standards that are applicable to marine mammals held under the authority of the Acts and the Animal Welfare Act, unless the Office Director determines that an exception is necessary to implement an essential enhancement activity; and

(D) The marine mammals will be excluded from any interactive program and will not be trained for performance.

(vi) The Office Director may authorize non-intrusive scientific research to be conducted while a marine mammal is held under the authority of an enhancement permit, only if such scientific research:

(A) Is incidental to the permitted enhancement activities; and

(B) Will not interfere with the attainment of the survival or recovery objectives.

(c) *Restrictions.* (1) The following restrictions apply to all scientific research permits issued under this subpart:

(i) Research activities must be conducted in the manner authorized in the permit.

(ii) Research results shall be published or otherwise made available to the scientific community in a reasonable period of time.

(iii) Research activities must be conducted under the direct supervision of the principal investigator or a co-investigator identified in the permit.

(iv) Personnel involved in research activities shall be reasonable in number and limited to:

(A) Individuals who perform a function directly supportive of and necessary to the permitted research activity; and

(B) Support personnel included for the purpose of training or as backup personnel for persons described in paragraph (c)(1)(iv)(A).

(v) Any marine mammal part imported under the authority of a scientific research permit must not have been obtained as the result of a lethal taking that would be inconsistent with the Acts, unless authorized by the Office Director.

(vi) Marine mammals held under a permit for scientific research shall not be placed on public display, included in an interactive program or activity, or trained for performance unless such activities:

(A) Are necessary to address scientific research objectives and have been specifically authorized by the Office Director under the scientific research permit; and

(B) Are conducted incidental to and do not in any way interfere with the permitted scientific research; and

(C) Are conducted in a manner consistent with provisions applicable to public display, unless exceptions are specifically authorized by the Office Director.

(vii) Any activity conducted incidental to the authorized scientific research activity must not involve any taking of marine mammals beyond what is necessary to conduct the research (i.e., educational and commercial photography).

(2) Any marine mammal or progeny held in captive maintenance under an enhancement permit shall be returned to its natural habitat as soon as feasible, consistent with the terms of the enhancement permit and the objectives of an approved conservation or recovery plan. In accordance with section 10(j) of the ESA, the Office Director may authorize the release of any population of an endangered or threatened species outside the current range of such species if the Office Director determines that such release will further the conservation of such species.

[61 FR 21938, May 10, 1996]

§ 216.42 Photography. [Reserved]

§ 216.43 Public display. [Reserved]

§ 216.44 Applicability/transition.

(a) *General.* The regulations of this subpart are applicable to all persons, including persons holding permits or other authorizing documents issued before June 10, 1996, by NMFS for the take, import, export, or conduct of any otherwise prohibited activity involving a marine mammal or marine mammal part for special exception purposes.

(b) *Scientific research.* Any intrusive research as defined in § 216.3, initiated after June 10, 1996, must be authorized under a scientific research permit. Intrusive research authorized by the Office Director to be conducted on captive marine mammals held for public display purposes prior to June 10, 1996, must be authorized under a scientific research permit one year after June 10, 1996.

[61 FR 21939, May 10, 1996]

§ 216.45 General Authorization for Level B harassment for scientific research.

(a) *General Authorization.* (1) Persons are authorized under section 104(c)(3)(C) of the MMPA to take marine mammals in the wild by Level B harassment, as defined in § 216.3, for purposes of bona fide scientific research *Provided*, That:

(i) They submit a letter of intent in accordance with the requirements of

paragraph (b) of this section, receive confirmation that the General Authorization applies in accordance with paragraph (c) of this section, and comply with the terms and conditions of paragraph (d) of this section; or

(ii) If such marine mammals are listed as endangered or threatened under the ESA, they have been issued a permit under Section 10(a)(1)(A) of the ESA and implementing regulations at 50 CFR parts 217–227, particularly at § 222.23 through § 222.28, to take marine mammals in the wild for the purpose of scientific research, the taking authorized under the permit involves such Level B harassment of marine mammals or marine mammal stocks, and they comply with the terms and conditions of that permit.

(2) Except as provided under paragraph (a)(1)(ii) of this section, no taking, including harassment, of marine mammals listed as threatened or endangered under the ESA is authorized under the General Authorization. Marine mammals listed as endangered or threatened under the ESA may be taken for purposes of scientific research only after issuance of a permit for such activities pursuant to the ESA.

(3) The following types of research activities will likely qualify for inclusion under the General Authorization: Photo-identification studies, behavioral observations, and vessel and aerial population surveys (except aerial surveys over pinniped rookeries at altitudes of less than 1,000 ft).

(b) *Letter of intent.* Except as provided under paragraph (a)(1)(ii) of this section, any person intending to take marine mammals in the wild by Level B harassment for purposes of bona fide scientific research under the General Authorization must submit, at least 60 days before commencement of such research, a letter of intent by certified return/receipt mail to the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910–3226.

(1) The letter of intent must be submitted by the principal investigator (who shall be deemed the applicant). For purposes of this section, the principal investigator is the individual who is responsible for the overall research project, or the institution, governmental entity, or corporation responsible for supervision of the principal investigator.

(2) The letter of intent must include the following information:

(i) The name, address, telephone number, qualifications and experience of the applicant and any co-investigator(s) to be conducting the proposed research, and a curriculum vitae for each, including a list of publications by each such investigator relevant to the objectives, methodology, or other aspects of the proposed research;

(ii) The species or stocks of marine mammals (common and scientific names) that are the subject of the scientific research and any other species or stock of marine mammals that may be harassed during the conduct of the research;

(iii) The geographic location(s) in which the research is to be conducted, e.g., geographic name or lat./long.;

(iv) The period(s) of time over which the research will be conducted (up to five years), including the field season(s) for the research, if applicable;

(v) The purpose of the research, including a description of how the proposed research qualifies as bona fide research as defined in § 216.3; and

(vi) The methods to be used to conduct the research.

(3) The letter of intent must be signed, dated, and certified by the applicant as follows:

In accordance with section 104(c)(3)(C) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and implementing regulations (50 CFR part 216), I hereby notify the National Marine Fisheries Service of my intent to conduct research involving only Level B harassment on marine mammals in the wild, and request confirmation that the General Authorization for Level B Harassment for Scientific Research applies to the proposed research as described herein. I certify that the information in this letter of intent is complete, true, and correct to the best of my knowledge and belief, and I understand that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or penalties under the MMPA and implementing regulations. I acknowledge and accept that authority to conduct scientific research on marine mammals in the wild under the General Authorization is a limited conditional authority restricted to

Level B harassment only, and that any other take of marine mammals, including the conduct of any activity that has the potential to injure marine mammals (i.e., Level A harassment), may subject me to penalties under the MMPA and implementing regulations.

(c) *Confirmation that the General Authorization applies or notification of permit requirement.* (1) Not later than 30 days after receipt of a letter of intent as described in paragraph (b) of this section, the Chief, Permits Division, NMFS will issue a letter to the applicant either:

(i) Confirming that the General Authorization applies to the proposed scientific research as described in the letter of intent;

(ii) Notifying the applicant that all or part of the research described in the letter of intent is likely to result in a taking of a marine mammal in the wild involving other than Level B harassment and, as a result, cannot be conducted under the General Authorization, and that a scientific research permit is required to conduct all or part of the subject research; or

(iii) Notifying the applicant that the letter of intent fails to provide sufficient information and providing a description of the deficiencies, or notifying the applicant that the proposed research as described in the letter of intent is not bona fide research as defined in § 216.3.

(2) A copy of each letter of intent and letter confirming that the General Authorization applies or notifying the applicant that it does not apply will be forwarded to the Marine Mammal Commission.

(3) Periodically, NMFS will publish a summary document in the FEDERAL REGISTER notifying the public of letters of confirmation issued.

(d) *Terms and conditions.* Persons issued letters of confirmation in accordance with paragraph (c) of this section are responsible for complying with the following terms and conditions:

(1) Activities are limited to those conducted for the purposes, by the means, in the locations, and during the periods of time described in the letter of intent and acknowledged as authorized under the General Authorization in the confirmation letter sent pursuant to paragraph (c) of this section;

(2) Annual reports of activities conducted under the General Authorization must be submitted to the Chief, Permits Division (address listed in paragraph (b) of this section) within 90 days of completion of the last field season(s) during the calendar year or, if the research is not conducted during a defined field season, no later than 90 days after the anniversary date of the letter of confirmation issued under paragraph (c) of this section. Annual reports must include:

(i) A summary of research activities conducted;

(ii) Identification of the species and number of each species taken by Level B harassment;

(iii) An evaluation of the progress made in meeting the objectives of the research as described in the letter of intent; and

(iv) Any incidental scientific, educational, or commercial uses of photographs, videotape, and film obtained as a result of or incidental to the research and if so, names of all photographers.

(3) Authorization to conduct research under the General Authorization is for the period(s) of time identified in the letter of intent or for a period of 5 years from the date of the letter of confirmation issued under paragraph (c) of this section, whichever is less, unless extended by the Director or modified, suspended, or revoked in accordance with paragraph (e) of this section;

(4) Activities conducted under the General Authorization may only be conducted under the on-site supervision of the principal investigator or co-investigator(s) named in the letter of intent. All personnel involved in the conduct of activities under the General Authorization must perform a function directly supportive of and necessary for the research being conducted, or be one of a reasonable number of support personnel included for the purpose of training or as back-up personnel;

(5) The principal investigator must notify the appropriate Regional Director, NMFS, (Regional Director) in writing at least 2 weeks before initiation of on-site activities. The Regional Director shall consider this information in efforts to coordinate field research activities to minimize adverse impacts

on marine mammals in the wild. The principal investigator must cooperate with coordination efforts by the Regional Director in this regard;

(6) If research activities result in a taking which exceeds Level B harassment, the applicant shall:

(i) Report the taking within 12 hours to the Director, Office of Protected Resources, or his designee as set forth in the letter authorizing research; and

(ii) Temporarily discontinue for 72 hours all field research activities that resulted in the taking. During this time period, the applicant shall consult with NMFS as to the circumstances surrounding the taking and any precautions necessary to prevent future taking, and may agree to amend the research protocol, as deemed necessary by NMFS.

(7) NMFS may review scientific research conducted pursuant to the General Authorization. If requested by NMFS, the applicant must cooperate with any such review and shall:

(i) Allow any employee of NOAA or any other person designated by the Director, Office of Protected Resources to observe research activities; and

(ii) Provide any documents or other information relating to the scientific research;

(8) Any photographs, videotape, or film obtained during the conduct of research under the General Authorization must be identified by a statement that refers to the General Authorization or ESA permit number, and includes the file number provided by NMFS in the confirmation letter, the name of the photographer, and the date the image was taken. This statement must accompany the image(s) in all subsequent uses or sales. The annual report must note incidental scientific, educational, or commercial uses of the images, and if there are any such uses, the names of all photographers; and

(9) Persons conducting scientific research under authority of the General Authorization may not transfer or assign any authority granted thereunder to any other person.

(e) *Suspension, revocation, or modification.* (1) NMFS may suspend, revoke, or modify the authority to conduct scientific research under the General Authorization if:

(i) The letter of intent included false information or statements of a material nature;

(ii) The research does not constitute bona fide scientific research;

(iii) Research activities result in takings of marine mammals other than by Level B harassment;

(iv) Research activities differ from those described in the letter of intent submitted by the applicant and letter of confirmation issued by NMFS; or

(v) The applicant violates any term or condition set forth in this section.

(2) Any suspension, revocation, or modification is subject to the requirements of 15 CFR part 904.

[59 FR 50376, Oct. 3, 1994]

§ 216.46 U.S. citizens on foreign flag vessels operating under the International Dolphin Conservation Program.

The MMPA's provisions do not apply to a citizen of the United States who incidentally takes any marine mammal during fishing operations in the ETP which are outside the U.S. exclusive economic zone (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)), while employed on a fishing vessel of a harvesting nation that is participating in, and in compliance with, the IDCP.

[65 FR 56, Jan. 3, 2000]

§ 216.47 Access to marine mammal tissue, analyses, and data.

(a) *Applications for the National Marine Mammal Tissue Bank samples (NMMTB).* (1) A principal investigator, contributor or holder of a scientific research permit issued in accordance with the provisions of this subpart may apply for access to a tissue specimen sample in the NMMTB. Applicants for tissue specimen samples from the NMMTB must submit a signed written request with attached study plan to the Marine Mammal Health and Stranding Response Program (MMHSRP) Program Manager, Office of Protected Resources, NMFS. The written request must include:

(i) A clear and concise statement of the proposed use of the banked tissue specimen. The applicant must demonstrate that the proposed use of the

banked tissue is consistent with the goals of the NMMTB and the MMHSRP.

(A) The goals of the MMHSRP are to facilitate the collection and dissemination of reference data on marine mammals and health trends of marine mammal populations in the wild; to correlate the health of marine mammals and marine mammal populations in the wild with available data on physical, chemical, and biological environmental parameters; and to coordinate effective responses to unusual mortality events.

(B) The goal of the NMMTB is to maintain quality controlled marine mammal tissues that will permit retrospective analyses to determine environmental trends of contaminants and other analytes of interest and that will provide the highest quality samples for analyses using new and innovative techniques.

(ii) A copy of the applicant's scientific research permit. The applicant must demonstrate that the proposed use of the banked tissue is authorized by the permit;

(iii) Name of principal investigator, official title, and affiliated research or academic organization;

(iv) Specific tissue sample and quantity desired;

(v) Research facility where analyses will be conducted. The applicant must demonstrate that the research facility will follow the Analytical Quality Assurance (AQA) program, which was designed to ensure the accuracy, precision, level of detection, and intercompatibility of data resulting from chemical analyses of marine mammal tissues. The AQA consists of annual interlaboratory comparisons and the development of control materials and standard reference materials for marine mammal tissues;

(vi) Verification that funding is available to conduct the research;

(vii) Estimated date for completion of research, and schedule/date of subsequent reports;

(viii) Agreement that all research findings based on use of the banked tissue will be reported to the NMMTB, MMHSRP Program Manager and the contributor; and the sequences of tissue specimen samples that are used/released for genetic analyses (DNA sequencing) will be archived in the National Center for biotechnology Information's GenBank. Sequence accessions in GenBank should document the source, citing a NIST field number that indentifies the animal; and

(ix) Agreement that credit and acknowledgment will be given to U.S. Fish and Wildlife Service (USFWS), US Geologic Service (USGS), National Institute of Standards and Technology (NIST), the Minerals Management Service (MMS), NMFS, the NMMTB, and the collector for use of banked tissues.

(2) The applicant shall insert the following acknowledgment in all publications, abstracts, or presentations based on research using the banked tissue:

> The specimens used in this study were collected by [the contributor] and provided by the National Marine Mammal Tissue Bank, which is maintained in the National Biomonitoring Specimen Bank at NIST and which is operated under the direction of NMFS with the collaboration of MMS, USGS, USFWS, and NIST through the Marine Mammal Health and Stranding Response Program [and the Alaska Marine Mammal Tissue Archival Project if the samples are from Alaska].

(3) Upon submission of a complete application, the MMHSRP Program Manager will send the request and attached study plan to the following entities which will function as the review committee:

(i) Appropriate Federal agency (NMFS or USFWS) marine mammal management office for that particular species; and

(ii) Representatives of the NMMTB Collaborating Agencies (NMFS, USFS, USGS Biological Resources Division, and NIST) If no member of the review committee is an expert in the field that is related to the proposed research activity, any member may request an outside review of the proposal, which may be outside of NMFS or USFWS but within the Federal Government.

(4) The MMHSRP Program Manager will send the request and attached study plan to any contributor(s) of the tissue specimen sample. The contributor(s) of the sample may submit comments on the proposed research activity to the Director, Office of Protected Resources within 30 days of the date

that the request was sent to the contributor(s).

(5) The USFWS Representative of the NMMTB Collaborating Agencies will be chair of review committees for requests involving species managed by the DOI. The MMHSRP Program Manager will be chair of all other review committees.

(6) Each committee chair will provide recommendations on the request and an evaluation of the study plan to the Director, Office of Protected Resources, NMFS.

(7) The Director, Office of Protected Resources, NMFS, will make the final decision on release of the samples based on the advice provided by the review committee, comments received from any contributor(s) of the sample within the time provided in paragraph (a)(4) of this section, and determination that the proposed use of the banked tissue specimen is consistent with the goals of the MMHSRP and the NMMTB. The Director will send a written decision to the applicant and send copies to all review committee members. If the samples are released, the response will indicate whether the samples have been homogenized and, if not, the homogenization schedule.

(8) The applicant will bear all shipping and homogenization costs related to use of any specimens from the NMMTB.

(9) The applicant will dispose of the tissue specimen sample consistent with the provisions of the applicant's scientific research permit after the research is completed, unless the requester submits another request and receives approval pursuant to this section. The request must be submitted within three months after the original project has been completed.

(b) [Reserved]

[69 FR 41979, July 13, 2004]

§§ 216.48–216.49 [Reserved]

Subpart E—Designated Ports

§ 216.50 Importation at designated ports.

(a) Any marine mammal or marine mammal product which is subject to the jurisdiction of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce and is intended for importation into the United States shall be subject to the provisions of 50 CFR part 14.

(b) For the information of importers, designated ports of entry for the United States are:

New York, N.Y.
Miami, Fla.
Chicago, Ill.
San Francisco, Calif.
Los Angeles, Calif.
New Orleans, La.
Seattle, Wash.
Honolulu, Hi.

(c) Additionally, marine mammals or marine mammal products which are entered into Alaska, Hawaii, Puerto Rico, Guam, American Samoa or the Virgin Islands and which are not to be forwarded or transhipped within the United States may be imported through the following ports:

Alaska—Juneau, Anchorage, Fairbanks
Hawaii—Honolulu
Puerto Rico—San Juan
Guam—Honolulu, Hi.
American Samoa—Honolulu, Hi.
Virgin Islands—San Juan, P.R.

(d) Importers are advised to see 50 CFR part 14 for importation requirements and information.

[39 FR 1852, Jan. 15, 1974. Redesignated at 59 FR 50376, Oct. 3, 1994]

Subpart F—Pribilof Islands, Taking for Subsistence Purposes

§ 216.71 Allowable take of fur seals.

Pribilovians may take fur seals on the Pribilof Islands if such taking is

(a) For subsistence uses, and

(b) Not accomplished in a wasteful manner.

[51 FR 24840, July 9, 1986. Redesignated at 61 FR 11750, Mar. 22, 1996]

§ 216.72 Restrictions on subsistence fur seal harvests.

(a) The harvests of seals on St. Paul and St. George Islands shall be treated independently for the purposes of this section. Any suspension, termination, or extension of the harvest is applicable only to the island for which it is issued.

(b) By April 1 of every third year, beginning April 1994, the Assistant Administrator will publish in the FEDERAL REGISTER a summary of the preceding 3 years of harvesting and a discussion of the number of seals expected to be taken annually over the next 3 years to satisfy the subsistence requirements of each island. This discussion will include an assessment of factors and conditions on St. Paul and St. George Islands that influence the need by Pribilof Aleuts to take seals for subsistence uses and an assessment of any changes to those conditions indicating that the number of seals that may be taken for subsistence each year should be made higher or lower. Following a 30-day public comment period, a final notification of the expected annual harvest levels for the next 3 years will be published.

(c)[Reserved]

(d) *St. George Island.* The subsistence fur seal harvest restrictions described in paragraphs (d)(1) through (d)(5) of this section apply exclusively to the harvest of sub-adult fur seals; restrictions that apply exclusively to the harvest of young of the year fur seals can be found in paragraphs (d)(6) through (d)(11) of this section.

(1) Pribilovians may only harvest sub-adult male fur seals 124.5 centimeters or less in length from June 23 through August 8 annually on St. George Island up to the lower end of the harvest range established in paragraph (b) of this section. When the lower end of the range has been reached paragraphs (f)(1)(iii) and (f)(3) of this section apply.

(2) Pribilovians may harvest sub-adult male fur seals at the hauling grounds shown in Figure 1 to part 216. No hauling ground may be harvested more than twice per week.

(3) Seals with tags and/or entangling debris may only be taken if so directed by NMFS scientists.

(4) The scheduling of the sub-adult male harvest is at the discretion of the Pribilovians, but must be such as to minimize stress to the harvested seals. The Pribilovians must give adequate advance notice of their harvest schedules to the NMFS representatives to allow for necessary monitoring activities. No fur seal may be taken except by experienced sealers using the traditional harvesting methods, including stunning followed immediately by exsanguination. The harvesting method shall include organized drives of sub-adult male fur seals to killing fields, unless the NMFS representatives determine, in consultation with the Pribilovians conducting the harvest, that alternative methods will not result in increased disturbance to the rookery or the increased accidental take of female seals.

(5) Any taking of adult fur seals or young of the year, or the intentional taking of sub-adult female fur seals is prohibited.

(6) Pribilovians may only harvest male young of the year from September 16 through November 30 annually on St. George Island. Pribilovians may harvest up to 150 male fur seal young of the year annually up to the lower end of the harvest range established for St. George in the notice published pursuant to paragraph (b) of this section. When the lower end of the harvest range has been reached paragraphs (f)(1)(iii) and (f)(3) of this section apply.

(7) No more than 50 male young of the year may be harvested from each of the following regions where fur seals congregate: East region includes the breeding areas known as East Reef and East Cliffs rookeries and the associated non-breeding hauling grounds; South region includes the breeding areas known as Zapadni and South rookeries and the associated non-breeding hauling grounds; and North region includes the breeding areas known as North and Staraya Artil rookeries and associated non-breeding hauling grounds, as shown in Figure 1 to part 216. No area may be harvested more than twice per week and must be in accordance with paragraph (d)(10) of this section.

(8) The scheduling of the young of the year harvest is at the discretion of the Pribilovians, but must be such as to minimize stress to the harvested and un-harvested fur seals and minimize the take of female fur seals. The Pribilovians must give adequate advance notice of their harvest schedules to the NMFS representatives to allow for necessary monitoring activities. No fur seal may be taken except by sealers

using the harvesting methods implemented to reduce disturbance, injury, and accidental mortality of female fur seals. Pribilovians may use, but are not limited to, organized drives of young of the year fur seals from congregating areas to inland killing fields. Methods of harvest must include identification of male young of the year, followed by stunning and immediate exsanguination, unless the NMFS representatives, in consultation with the Pribilovians conducting the harvest, determine that alternative methods will not result in increased stress to harvested and un-harvested fur seals, increased disturbance or injury to resting fur seals, or the accidental mortality of female seals.

(9) Any harvest of sub adult or adult fur seals or intentional harvest of young of the year female fur seals is prohibited.

(10) No young of the year fur seals may be taken from any designated breeding area or its associated hauling ground(s) where the most recent NMFS analysis projects that pup production has greater than a 5 percent probability of falling below a level capable of sustaining a harvest in 10 years.

(11) No more than 120 days after the final subsistence harvest each calendar year, NMFS representatives and St. George Island community members must review the implementation of the harvest and consider best harvest practices and determine if implementation can be improved to better meet the subsistence needs of the St. George Island community or reduce negative effects on fur seals.

(e) *St. Paul Island.* Seals may only be harvested from the following haulout areas: Zapadni, English Bay, Northeast Point, Polovina, Lukanin, Kitovi, and Reef. No haulout area may be harvested more than once per week.

(1) The scheduling of the harvest is at the discretion of the Pribilovians, but must be such as to minimize stress to the harvested fur seals. The Pribilovians must give adequate advance notice of their harvest schedules to the NMFS representatives to allow for necessary monitoring activities.

(2) No fur seal may be taken on the Pribilof Islands before June 23 of each year.

(3) No fur seal may be taken except by experienced sealers using the traditional harvesting methods, including stunning followed immediately by exsanguination. The harvesting method shall include organized drives of subadult males to killing fields unless it is determined by the NMFS representatives, in consultation with the Pribilovians conducting the harvest, that alternative methods will not result in increased disturbance to the rookery or the increased accidental take of female seals.

(4) Any taking of adult fur seals or pups, or the intentional taking of subadult female fur seals is prohibited.

(5) Only subadult male fur seals 124.5 centimeters or less in length may be taken.

(6) Seals with tags and/or entangling debris may only be taken if so directed by NMFS scientists.

(f) *Harvest suspension provisions.* (1) The Assistant Administrator is required to suspend the take provided for in §§ 216.71 and 216.72 when:

(i) (S)He determines, after reasonable notice by NMFS representatives to the Pribilovians on the island, that the subsistence needs of the Pribilovians on the island have been satisfied; or

(ii) (S)He determines that the harvest is otherwise being conducted in a wasteful manner; or

(iii) The lower end of the range of the estimated subsistence level provided in the notice issued under paragraph (b) of this section is reached; or

(iv) With regard to St. George Island, two female fur seals have been killed on St. George Island.

(2) A suspension based on a determination under paragraph (f)(1)(ii) of this section may be lifted by the Assistant Administrator if (s)he finds that the conditions that led to the determination that the harvest was being conducted in a wasteful manner have been remedied.

(3) A suspension issued in accordance with paragraph (f)(1)(iii) of this section may not exceed 48 hours in duration and shall be followed immediately by a review of the harvest data to determine if a finding under paragraph (f)(1)(i) of this section is warranted. If the harvest is not suspended under paragraph (f)(1)(i) of this section, the Assistant

Administrator must provide a revised estimate of the number of seals required to satisfy the Pribilovians' subsistence needs.

(4) A suspension based on a determination under paragraph (f)(1)(iv) of this section may be lifted by the Assistant Administrator if (s)he finds that the conditions that led to the killing of two female fur seals have been remedied and additional or improved methods to detect female fur seals in the harvest are being implemented.

(g) *Harvest termination provisions.* (1) The Assistant Administrator shall terminate the annual take provided for in §216.71 on August 8 for sub-adult males on St. Paul and St. George Islands and on November 30 for male young of the year on St. George Island.

(2) The Assistant Administrator shall terminate the take provided for in §216.71 when (s)he determines under paragraph (f)(1)(i) or (f)(1)(iii) of this section that the subsistence needs of the Pribilovians on the island have been satisfied or the upper end of the harvest range has been reached, whichever occurs first.

(3) The Assistant Administrator shall terminate the take on St. George Island provided for in §216.71 if a total of three female fur seals are killed during the season on St. George Island.

[51 FR 24840, July 9, 1986, as amended at 57 FR 33902, July 31, 1992; 59 FR 35474, July 12, 1994. Redesignated at 61 FR 11750, Mar. 22, 1996, as amended at 79 FR 65337, Nov. 4, 2014]

§216.73 Disposition of fur seal parts.

Except for transfers to other Alaskan Natives for barter or sharing for personal or family consumption, no part of a fur seal taken for subsistence uses may be sold or otherwise transferred to any person unless it is a nonedible byproduct which:

(a) Has been transformed into an article of handicraft, or

(b) Is being sent by an Alaskan Native directly, or through a registered agent, to a tannery registered under 50 CFR 216.23(c) for the purpose of processing, and will be returned directly to the Alaskan Native for conversion into an article of handicraft, or

(c) Is being sold or transferred to an Alaskan Native, or to an agent registered under 50 CFR 216.23(c) for resale or transfer to an Alaskan Native, who will convert the seal part into a handicraft.

[51 FR 24840, July 9, 1986. Redesignated at 61 FR 11750, Mar. 22, 1996]

§216.74 Cooperation between fur seal harvesters, tribal and Federal Officials.

(a) *St. George Island.* Federal scientists and Pribilovians cooperatively manage the subsistence harvest of northern fur seals under section 119 of the Marine Mammal Protection Act (16 U.S.C. 1388). The Federally recognized tribes on the Pribilof Islands have signed agreements describing a shared interest in the conservation and management of fur seals and the designation of co-management councils that meet and address the purposes of the co-management agreements for representatives from NMFS, St. George and St. Paul tribal governments. NMFS representatives are responsible for compiling information related to sources of human-caused mortality and serious injury of marine mammals. The Pribilovians are responsible for reporting their subsistence needs and actual level of subsistence take. This information is used to update stock assessment reports and make determinations under §216.72. Pribilovians who take fur seals for subsistence uses collaborate with NMFS representatives and the respective tribal representatives to consider best harvest practices under co-management and to facilitate scientific research.

(b) *St. Paul Island.* The Pribilovians who engage in the harvest of seals are required to cooperate with scientists engaged in fur seal research on the Pribilof Islands who may need assistance in recording tag or other data and collecting tissue or other fur seal samples for research purposes. In addition, Pribilovians who take fur seals for subsistence uses must, consistent with 5 CFR 1320.7(k)(3), cooperate with the NMFS representatives on the Pribilof Islands who are responsible for compiling the following information on a daily basis:

(1) The number of seals taken each day in the subsistence harvest,

(2) The extent of the utilization of fur seals taken, and

(3) Other information determined by the Assistant Administrator to be necessary for determining the subsistence needs of the Pribilovians or for making determinations under § 215.32(e) of this chapter.

[79 FR 65338, Nov. 4, 2014]

Subpart G—Pribilof Islands Administration

§ 216.81 Visits to fur seal rookeries.

From June 1 to October 15 of each year, no person, except those authorized by a representative of the National Marine Fisheries Service, or accompanied by an authorized employee of the National Marine Fisheries Service, shall approach any fur seal rookery or hauling grounds nor pass beyond any posted sign forbidding passage.

[41 FR 49488, Nov. 9, 1976. Redesignated at 61 FR 11750, Mar. 22, 1996]

§ 216.82 Dogs prohibited.

In order to prevent molestation of fur seal herds, the landing of any dogs at Pribilof Islands is prohibited.

[41 FR 49488, Nov. 9, 1976. Redesignated at 61 FR 11750, Mar. 22, 1996]

§ 216.83 Importation of birds or mammals.

No mammals or birds, except household cats, canaries and parakeets, shall be imported to the Pribilof Islands without the permission of an authorized representative of the National Marine Fisheries Service.

[41 FR 49488, Nov. 9, 1976. Redesignated at 61 FR 11750, Mar. 22, 1996]

§ 216.84 [Reserved]

§ 216.85 Walrus and Otter Islands.

By Executive Order 1044, dated February 27, 1909, Walrus and Otter Islands were set aside as bird reservations. All persons are prohibited to land on these islands except those authorized by the appropriate representative of the National Marine Fisheries Service.

[41 FR 49488, Nov. 9, 1976. Redesignated at 61 FR 11750, Mar. 22, 1996]

§ 216.86 Local regulations.

Local regulations will be published from time to time and will be brought to the attention of local residents and persons assigned to duty on the Islands by posting in public places and brought to the attention of tourists by personal notice.

[41 FR 49488, Nov. 9, 1976. Redesignated at 61 FR 11750, Mar. 22, 1996]

§ 216.87 Wildlife research.

(a) Wildlife research, other than research on North Pacific fur seals, including specimen collection, may be permitted on the Pribilof Islands subject to the following conditions:

(1) Any person or agency, seeking to conduct such research shall first obtain any Federal or State of Alaska permit required for the type of research involved.

(2) Any person seeking to conduct such research shall obtain prior approval of the Director, Pribilof Islands Program, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 1700 Westlake Avenue North, Seattle, WA 98109, by filing with the Director an application which shall include:

(i) Copies of the required Federal and State of Alaska permits; and

(ii) A resume of the intended research program.

(3) All approved research shall be subject to all regulations and administrative procedures in effect on the Pribilof Islands, and such research shall not commence until approval from the Director is received.

(4) Any approved research program shall be subject to such terms and conditions as the Director, Pribilof Islands Program deems appropriate.

(5) Permission to utilize the Pribilof Islands to conduct an approved research program may be revoked by the Director, Pribilof Islands Program at any time for noncompliance with any terms and conditions, or for violations of any regulation or administrative procedure in effect on the Pribilof Islands.

[43 FR 5521, Feb. 9, 1978. Redesignated at 61 FR 11750, Mar. 22, 1996]

Subpart H—Dolphin Safe Tuna Labeling

AUTHORITY: 16 U.S.C. 1385.

§ 216.90 Purposes.

This subpart governs the requirements for using the official mark described in § 216.95 or an alternative mark that refers to dolphins, porpoises, or marine mammals, to label tuna or tuna products offered for sale in or exported from the United States using the term dolphin-safe or suggesting the tuna were harvested in a manner not injurious to dolphins.

[69 FR 55307, Sept. 13, 2004]

§ 216.91 Dolphin-safe labeling standards.

(a) It is a violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any tuna products that are exported from or offered for sale in the United States to include on the label of those products the term ''dolphin-safe'' or any other term or symbol that claims or suggests that the tuna contained in the products were harvested using a method of fishing that is not harmful to dolphins if the products contain tuna harvested:

(1) *ETP large purse seine vessel.* In the ETP by a purse seine vessel of greater than 400 st (362.8 mt) carrying capacity unless:

(i) the documentation requirements for dolphin-safe tuna under § 216.92 and 216.93 are met;

(ii) No dolphins were killed or seriously injured during the sets in which the tuna were caught; and

(iii) None of the tuna were caught on a trip using a purse seine net intentionally deployed on or to encircle dolphins, provided that this paragraph (a)(1)(iii) will not apply if the Assistant Administrator publishes a notification in the FEDERAL REGISTER announcing a finding under 16 U.S.C. 1385(g)(2) that the intentional deployment of purse seine nets on or encirclement of dolphins is not having a significant adverse impact on any depleted stock.

(2) *Non-ETP purse seine vessel.* Outside the ETP by a vessel using a purse seine net:

(i) In a fishery in which the Assistant Administrator has determined that a regular and significant association occurs between dolphins and tuna (similar to the association between dolphins and tuna in the ETP), unless such products are accompanied as described in § 216.24(f)(3) by a written statement, executed by the Captain of the vessel and an observer participating in a national or international program acceptable to the Assistant Administrator, certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the particular trip on which the tuna were caught and no dolphins were killed or seriously injured in the sets in which the tuna were caught; or

(ii) In any other fishery on a fishing trip that began before July 13, 2013 unless the products are accompanied as described in § 216.93(d), (e), or (f), as appropriate, by a written statement executed by the Captain of the vessel certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the particular trip on which the tuna was harvested;

(iii) In any other fishery on a fishing trip that began on or after July 13, 2013 unless the products are accompanied as described in § 216.93(d), (e), or (f), as appropriate, by:

(A) A written statement executed by the Captain of the vessel certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the fishing trip in which the tuna were caught, and that no dolphins were killed or seriously injured in the sets in which the tuna were caught; and

(B) Where the Assistant Administrator has determined that observers participating in a national or international observer program are qualified and authorized to certify that no purse seine net was intentionally deployed on or used to encircle dolphins during the fishing trip in which the tuna were caught, and that no dolphins were killed or seriously injured in the sets in which the tuna were caught, and where such an observer is on board

the vessel, a written statement executed by the observer, or by an authorized representative of a nation participating in the observer program based on information from the observer, certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the fishing trip in which the tuna were caught and that no dolphins were killed or seriously injured in the sets in which the tuna were caught. Any determination by the Assistant Administrator shall be announced in a notice published in the FEDERAL REGISTER. Determinations under this subparagraph will also be publicized on the Web site of the NMFS Southwest Region (*http://swr.nmfs.noaa.gov/*).

(3) *Driftnet*. By a vessel engaged in large-scale driftnet fishing; or

(4) *Other fisheries*. By a vessel on a fishing trip that began on or after July 13, 2013 in a fishery other than one described in paragraphs (a)(1) through (3) of this section unless such product is accompanied as described in section 216.93(d), (e), or (f), as appropriate, by:

(i) A written statement executed by the Captain of the vessel certifying that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught;

(ii) Where the Assistant Administrator has determined that observers participating in a national or international observer program are qualified and authorized to certify that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught, and where such an observer is on board the vessel, a written statement executed by the observer, or by an authorized representative of a nation participating in the observer program based on information from the observer, certifying that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught. Any determination by the Assistant Administrator shall be announced in a notice published in the FEDERAL REGISTER. Determinations under this subparagraph will also be publicized on the Web site of the NMFS Southwest Region (*http://swr.nmfs.noaa.gov/*); and

(iii) In any other fishery that is identified by the Assistant Administrator as having a regular and significant mortality or serious injury of dolphins, a written statement executed by an observer participating in a national or international program acceptable to the Assistant Administrator, that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught, provided that the Assistant Administrator determines that such an observer statement is necessary.

(5) *All Fisheries*. On a fishing trip that began on or after July 13, 2013 during which any dolphin was killed or seriously injured, unless the tuna labeled dolphin-safe was caught in a set or other gear deployment was stored separately from tuna caught in non-dolphin-safe sets or other gear deployments by the use of netting, other material, or separate storage areas from the time of capture through unloading. If a purse seine vessel has more than one well used to store tuna, all tuna inside a well shall be considered non-dolphin-safe, if at any time non-dolphin-safe tuna is loaded into the well, regardless of the use of netting or other material inside the well.

(b) It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to willingly and knowingly use a label referred to in this section in a campaign or effort to mislead or deceive consumers about the level of protection afforded dolphins under the IDCP.

(c) A tuna product that is labeled with the official mark, described in § 216.95, may not be labeled with any other label or mark that refers to dolphins, porpoises, or marine mammals.

[69 FR 55307, Sept. 13, 2004, as amended at 74 FR 1617, Jan. 13, 2009; 78 FR 41002, July 9, 2013]

§ 216.92 Dolphin-safe requirements for tuna harvested in the ETP by large purse seine vessels.

(a) *U.S. vessels*. Tuna products that contain tuna harvested by U.S. flag purse seine vessels of greater than 400 st (362.8 mt) carrying capacity in the ETP may be labeled dolphin-safe only if the following requirements are met:

(1) Tuna Tracking Forms containing a complete record of all the fishing activities on the trip, certified by the vessel Captain and the observer, are submitted to the Administrator, Southwest Region, at the end of the fishing trip during which the tuna was harvested;

(2) The tuna is delivered for processing to a U.S. tuna processor in a plant located in one of the 50 states, Puerto Rico, or American Samoa that is in compliance with the tuna tracking and verification requirements of § 216.93; and

(3) The tuna or tuna products meet the dolphin-safe labeling standards under § 216.91.

(b) *Imported tuna.* (1) Yellowfin tuna or tuna products harvested in the ETP by vessels of greater than 400 st (362.8 mt) carrying capacity and presented for import into the United States may be labeled dolphin-safe only if the yellowfin tuna was harvested by a U.S. vessel fishing in compliance with the requirements of the IDCP and applicable U.S. law, or by a vessel belonging to a nation that has obtained an affirmative finding under § 216.24(f)(8).

(2) Tuna or tuna products, other than yellowfin tuna, harvested in the ETP by purse seine vessels of greater than 400 st (362.8 mt) carrying capacity and presented for import into the United States may be labeled dolphin-safe only if:

(i) The tuna was harvested by a U.S. vessel fishing in compliance with the requirements of the IDCP and applicable U.S. law, or by a vessel belonging to a nation that is a Party to the Agreement on the IDCP or has applied to become a Party and is adhering to all the requirements of the Agreement on the IDCP Tuna Tracking and Verification Plan;

(ii) The tuna or tuna products are accompanied as described in § 216.24(f)(3) by a properly completed FCO; and

(iii) The tuna or tuna products are accompanied as described in § 216.24(f)(3) by valid documentation signed by a representative of the appropriate IDCP member nation, containing the harvesting vessel names and tuna tracking form numbers represented in the shipment, and certifying that:

(A) There was an IDCP approved observer on board the vessel(s) during the entire trip(s); and

(B) The tuna contained in the shipment were caught according to the dolphin-safe labeling standards of § 216.91.

[69 FR 55307, Sept. 13, 2004, as amended at 74 FR 1617, Jan. 13, 2009]

§ 216.93 Tracking and verification program.

The Administrator, Southwest Region, has established a national tracking and verification program to accurately document the dolphin-safe condition of tuna, under the standards set forth in §§ 216.91 and 216.92. The tracking program includes procedures and reports for use when importing tuna into the United States and during U.S. fishing, processing, and marketing in the United States and abroad. Verification of tracking system operations is attained through the establishment of audit and document review requirements. The tracking program is consistent with the international tuna tracking and verification program adopted by the Parties to the Agreement on the IDCP.

(a) *Tuna tracking forms.* Whenever a U.S. flag tuna purse seine vessel of greater than 400 st (362.8 mt) carrying capacity fishes in the ETP, IDCP approved Tuna Tracking Forms (TTFs), bearing a unique number assigned to that trip, are used by the observer to record every set made during that trip. One TTF is used to record dolphin-safe sets and a second TTF is used to record non-dolphin-safe sets. The information entered on the TTFs following each set includes the date, well number, weights by species composition, estimated tons loaded, and additional notes, if any. The observer and the vessel engineer initial the entry as soon as possible following each set, and the vessel captain and observer review and sign both TTFs at the end of the fishing trip certifying that the information on the forms is accurate. TTFs are confidential official documents of the IDCP, consistent with Article XVIII of the Agreement on the IDCP, and the Agreement on the IDCP Rules of Confidentiality.

(b) *Dolphin-Safe Certification.* Upon request, the Office of the Administrator,

Southwest Region, will provide written certification that tuna harvested by U.S. purse seine vessels greater than 400 st (362.8 mt) carrying capacity is dolphin-safe, but only if NMFS' review of the TTFs for the subject trip shows that the tuna for which the certification is requested is dolphin-safe under the requirements of the Agreement on the IDCP and U.S. law.

(c) *Tracking fishing operations.* (1) *ETP large purse seine vessel.* In the ETP by a purse seine vessel of greater than 400 st (362.8 mt) carrying capacity:

(i) During fishing trips, any part of which included fishing in the ETP, by purse seine vessels greater than 400 st (362.8 mt) carrying capacity, tuna caught in sets designated as dolphin-safe by the vessel observer must be stored separately from tuna caught in non-dolphin-safe sets from the time of capture through unloading. Vessel personnel will decide into which wells tuna will be loaded. The observer will initially designate whether each set is dolphin-safe or not, based on his/her observation of the set. The observer will initially identify a vessel fish well as dolphin-safe if the first tuna loaded into the well during a trip was captured in a set in which no dolphin died or was seriously injured. The observer will initially identify a vessel fish well as non-dolphin-safe if the first tuna loaded into the well during a trip was captured in a set in which a dolphin died or was seriously injured. Any tuna loaded into a well previously designated non-dolphin-safe is considered non-dolphin-safe tuna. The observer will change the designation of a dolphin-safe well to non-dolphin-safe if any tuna are loaded into the well that were captured in a set in which a dolphin died or was seriously injured.

(ii) The captain, managing owner, or vessel agent of a U.S. purse seine vessel greater than 400 st (362.8 mt) returning to port from a trip, any part of which included fishing in the ETP, must provide at least 48 hours' notice of the vessel's intended place of landing, arrival time, and schedule of unloading to the Administrator, Southwest Region.

(iii) If the trip terminates when the vessel enters port to unload part or all of its catch, new TTFs will be assigned to the new trip, and any information concerning tuna retained on the vessel will be recorded as the first entry on the TTFs for the new trip. If the trip is not terminated following a partial unloading, the vessel will retain the original TTFs and submit a copy of those TTFs to the Administrator, Southwest Region, within 5 working days. In either case, the species and amount unloaded will be noted on the respective originals.

(iv) Tuna offloaded to trucks, storage facilities, or carrier vessels must be loaded or stored in such a way as to maintain and safeguard the identification of the dolphin-safe or non-dolphin-safe designation of the tuna as it left the fishing vessel.

(v) The handling of TTFs and the tracking and verification of tuna caught in the Convention Area by a U.S. purse seine vessel greater than 400 st (362.8 mt) carrying capacity shall be conducted consistent with the international tuna tracking and verification program adopted by the Parties to the Agreement on the IDCP.

(2) *Purse seine vessel other than ETP large purse seine vessel.* This paragraph (c)(2) applies to tuna product labeled dolphin-safe that includes tuna harvested on a fishing trip that began on or after July 13, 2013, in the ETP by a purse seine vessel of 400 st (362.8 mt) or less carrying capacity or by a purse seine vessel outside the ETP of any carrying capacity.

(i) Tuna caught in sets designated as dolphin-safe must be stored separately from tuna caught in non-dolphin-safe sets from the time of capture through unloading. Tuna caught in sets where a dolphin died or was seriously injured must be stored in a well designated as non-dolphin-safe by the captain or, where applicable, by a qualified and authorized observer under § 216.91. Any tuna loaded into a well previously designated non-dolphin-safe is considered non-dolphin-safe tuna. The captain or, where applicable, a qualified and authorized observer under § 216.91, will change the designation of a dolphin-safe well to non-dolphin-safe if any tuna are loaded into the well that were captured in a set in which a dolphin died or was seriously injured. If a purse seine vessel has only one well used to store tuna, dolphin-safe tuna must be

kept physically separate from non-dolphin-safe tuna by using netting or other material. If a purse seine vessel has more than one well used to store tuna, all tuna inside a well shall be considered non-dolphin-safe, if at any time non-dolphin-safe tuna is loaded into the well, regardless of the use of netting or other material inside the well.

(ii) Tuna offloaded to trucks, storage facilities, or carrier vessels must be loaded or stored in such a way as to maintain and safeguard the identification of the dolphin-safe or non-dolphin-safe designation of the tuna as it left the fishing vessel.

(3) *Other vessels.* This paragraph (c)(3) applies to tuna product labeled dolphin-safe that includes tuna harvested by a vessel on a fishing trip that began on or after July 13, 2013 other than ones described in paragraphs (c)(1) or (2) of this section:

(i) Tuna caught in sets or other gear deployments designated as dolphin-safe must be stored separately from tuna caught in non-dolphin-safe sets or other gear deployments from the time of capture through unloading. Dolphin-safe tuna must be kept physically separate from non-dolphin-safe tuna by using netting, other material, or separate storage areas. The captain or, where applicable, a qualified and authorized observer under § 216.91, must designate the storage areas for dolphin-safe and non-dolphin-safe tuna.

(ii) Tuna offloaded to trucks, storage facilities, or carrier vessels must be loaded or stored in such a way as to maintain and safeguard the identification of the dolphin-safe or non-dolphin-safe designation of the tuna as it left the fishing vessel.

(d) *Tracking cannery operations.* (1) Whenever a U.S. tuna canning company in the 50 states, Puerto Rico, or American Samoa receives a domestic or imported shipment of tuna for processing, a NMFS representative may be present to monitor delivery and verify that dolphin-safe and non-dolphin-safe tuna are clearly identified and remain segregated. Such inspections may be scheduled or unscheduled, and canners must allow the NMFS representative access to all areas and records.

(2) Tuna processors must submit a report to the Administrator, Southwest Region, of all tuna received at their processing facilities in each calendar month whether or not the tuna is actually canned or stored during that month. Monthly cannery receipt reports must be submitted electronically or by mail before the last day of the month following the month being reported. Monthly reports must contain the following information:

(i) *Domestic receipts:* whether the tuna is eligible to be labeled dolphin-safe under § 216.91, species, condition (round, loin, dressed, gilled and gutted, other), weight in short tons to the fourth decimal, ocean area of capture (ETP, western Pacific, Indian, eastern and western Atlantic, other), catcher vessel, gear type, trip dates, carrier name, unloading dates, and location of unloading. Where the processor indicates the tuna is eligible to be labeled dolphin-safe under § 216.91, it must enclose the certifications required by that section.

(ii) *Import receipts:* In addition to the information required in paragraph (d)(2)(i) of this section, a copy of the FCO for each imported receipt must be provided.

(3) Tuna processors must report on a monthly basis the amounts of ETP-caught tuna that were immediately utilized upon receipt or removed from cold storage. This report may be submitted in conjunction with the monthly report required in paragraph (d)(2) of this section. This report must contain:

(i) The date of removal from cold storage or disposition;

(ii) Storage container or lot identifier number(s) and dolphin-safe or non-dolphin-safe designation of each container or lot; and

(iii) Details of the disposition of fish (for example, canning, sale, rejection, etc.).

(4) During canning activities, non-dolphin-safe tuna may not be mixed in any manner or at any time during processing with any dolphin-safe tuna or tuna products and may not share the same storage containers, cookers, conveyers, tables, or other canning and labeling machinery.

(e) *Tracking processor operations other than cannery operations.* U.S. tuna processors other than cannery operations

engaged in processing tuna products, including frozen, dried, or smoked tuna products, must submit a report to the Administrator, Southwest Region that includes the information set out in § 216.93(d)(2) and (3) on a monthly basis for all tuna received at their processing facilities that will be included in any tuna product labeled dolphin-safe.

(f) *Tracking imports.* All tuna products, except fresh tuna, that are imported into the United States must be accompanied as described in § 216.24(f)(3) by a properly certified FCO as required by § 216.24(f)(2). For tuna tracking purposes, copies of FCOs and associated certifications must be submitted by the importer of record to the Administrator, Southwest Region, within 10 calendar days of the shipment's entry into the commerce of the United States as required by § 216.24(f)(3)(ii).

(g) *Verification requirements.* (1) *Record maintenance.* Any exporter, transshipper, importer, processor, or wholesaler/distributor of any tuna or tuna products must maintain records related to that tuna for at least 2 years. These records include, but are not limited to: FCOs and required certifications, any reports required in paragraphs (a), (b), (d) and (e) of this section, invoices, other import documents, and trip reports.

(2) *Record submission.* Within 10 calendar days of receiving a shipment of tuna or tuna products, any exporter, transshipper, importer, processor, or wholesaler/distributor of tuna or tuna products must submit to the Administrator, Southwest Region, all corresponding FCOs and required certifications for those tuna or tuna products.

(3) *Audits and spot checks.* Upon request of the Administrator, Southwest Region, any exporter, transshipper, importer, processor, or wholesaler/distributor of tuna or tuna products must provide the Administrator, Southwest Region, timely access to all pertinent records and facilities to allow for audits and spot-checks on caught, landed, stored, and processed tuna.

(h) *Confidentiality of proprietary information.* Information submitted to the Assistant Administrator under this section will be treated as confidential in accordance with NOAA Administrative Order 216–100 ''Protection of Confidential Fisheries Statistics.''

[78 FR 41002, July 9, 2013]

§ 216.94 False statements or endorsements.

Any person who knowingly and willfully makes a false statement or false endorsement required by § 216.92 is liable for a civil penalty not to exceed $100,000, that may be assessed in an action brought in any appropriate District Court of the United States on behalf of the Secretary.

[61 FR 27794, June 3, 1996. Redesignated at 69 FR 55307, Sept. 13, 2004]

§ 216.95 Official mark for "Dolphin-safe" tuna products.

(a) This is the ''official mark'' (see figure 1) designated by the United States Department of Commerce that may be used to label tuna products that meet the ''dolphin-safe'' standards set forth in the Dolphin Protection Consumer Information Act, 16 U.S.C. 1385, and implementing regulations at §§ 216.91 through 216.94:

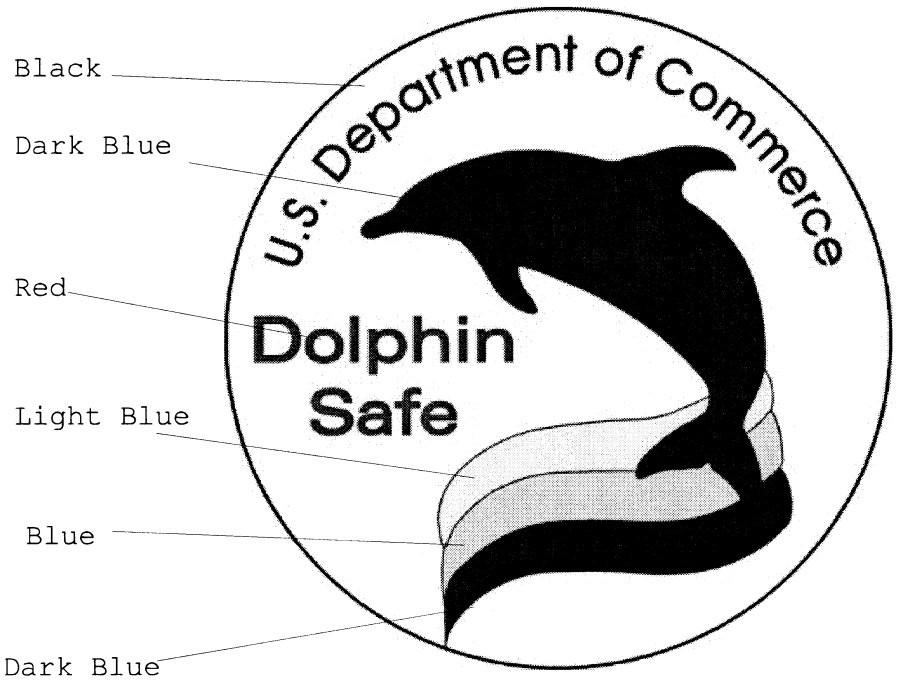


Figure 1.

(b) *Location and size of the official mark.* The official mark on labels must allow the consumer to identify the official mark and be similar in design and scale to figure 1. A full color version of the official mark is available at *http://swr.ucsd.edu/dsl.htm.*

[65 FR 34410, May 30, 2000. Redesignated at 69 FR 55307, Sept. 13, 2004]

Subpart I—General Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities

SOURCE: 61 FR 15887, Apr. 10, 1996, unless otherwise noted.

§ 216.101 Purpose.

The regulations in this subpart implement section 101(a)(5) (A) through (D) 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, 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 geographic region.

§ 216.102 Scope.

The taking of small numbers of marine mammals under section 101(a)(5)(A) through (D) of the Marine Mammal Protection Act may be allowed only if the National Marine Fisheries Service:

(a) Finds, based on the best scientific evidence available, that the total taking by the specified activity during the specified time period will have a negligible impact on species or stock of

marine mammal(s) and will not have an unmitigable adverse impact on the availability of those species or stocks of marine mammals intended for subsistence uses;

(b) Prescribes either regulations under § 216.106, or requirements and conditions contained within an incidental harassment authorization issued under § 216.107, setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species or stock of marine mammal and its habitat and on the availability of the species or stock of marine mammal for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance; and

(c) Prescribes either regulations or requirements and conditions contained within an incidental harassment authorization, as appropriate, pertaining to the monitoring and reporting of such taking. The specific regulations governing certain specified activities are contained in subsequent subparts of this part.

§ 216.103 Definitions.

In addition to definitions contained in the MMPA, and in § 216.3, and unless the context otherwise requires, in subsequent subparts to this part:

Arctic waters means the marine and estuarine waters north of 60° N. lat.

Citizens of the United States and *U.S. citizens* mean individual U.S. citizens or any corporation or similar entity if it is organized under the laws of the United States or any governmental unit defined in 16 U.S.C. 1362(13). U.S. Federal, state and local government agencies shall also constitute citizens of the United States for purposes of this part.

Incidental harassment, incidental taking and *incidental, but not intentional, taking* all mean an accidental taking. This does not mean that the taking is unexpected, but rather it includes those takings that are infrequent, unavoidable or accidental. (A complete definition of ''take'' is contained in § 216.3).

Negligible impact is an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Small numbers means a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.

Specified activity means any activity, other than commercial fishing, that takes place in a specified geographical region and potentially involves the taking of small numbers of marine mammals.

Specified geographical region means an area within which a specified activity is conducted and that has certain biogeographic characteristics.

Unmitigable adverse impact means an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by:

(i) Causing the marine mammals to abandon or avoid hunting areas;

(ii) Directly displacing subsistence users; or

(iii) Placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

§ 216.104 Submission of requests.

(a) In order for the National Marine Fisheries Service to consider authorizing the taking by U.S. citizens of small numbers of marine mammals incidental to a specified activity (other than commercial fishing), or to make a finding that an incidental take is unlikely to occur, a written request must be submitted to the Assistant Administrator. All requests must include the following information for their activity:

(1) A detailed description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals;

(2) The date(s) and duration of such activity and the specific geographical region where it will occur;

(3) The species and numbers of marine mammals likely to be found within the activity area;

(4) A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks of marine mammals likely to be affected by such activities;

(5) The type of incidental taking authorization that is being requested (i.e., takes by harassment only; takes by harassment, injury and/or death) and the method of incidental taking;

(6) By age, sex, and reproductive condition (if possible), the number of marine mammals (by species) that may be taken by each type of taking identified in paragraph (a)(5) of this section, and the number of times such takings by each type of taking are likely to occur;

(7) The anticipated impact of the activity upon the species or stock of marine mammal;

(8) The anticipated impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses;

(9) The anticipated impact of the activity upon the habitat of the marine mammal populations, and the likelihood of restoration of the affected habitat;

(10) The anticipated impact of the loss or modification of the habitat on the marine mammal populations involved;

(11) The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance;

(12) Where the proposed activity would take place in or near a traditional Arctic subsistence hunting area and/or may affect the availability of a species or stock of marine mammal for Arctic subsistence uses, the applicant must submit either a plan of cooperation or information that identifies what measures have been taken and/or will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses. A plan must include the following:

(i) A statement that the applicant has notified and provided the affected subsistence community with a draft plan of cooperation;

(ii) A schedule for meeting with the affected subsistence communities to discuss proposed activities and to resolve potential conflicts regarding any aspects of either the operation or the plan of cooperation;

(iii) A description of what measures the applicant has taken and/or will take to ensure that proposed activities will not interfere with subsistence whaling or sealing; and

(iv) What plans the applicant has to continue to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation;

(13) The suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity. Monitoring plans should include a description of the survey techniques that would be used to determine the movement and activity of marine mammals near the activity site(s) including migration and other habitat uses, such as feeding. Guidelines for developing a site-specific monitoring plan may be obtained by writing to the Director, Office of Protected Resources; and

(14) Suggested means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking and evaluating its effects.

(b)(1) The Assistant Administrator shall determine the adequacy and completeness of a request and, if determined to be adequate and complete, will begin the public review process by publishing in the FEDERAL REGISTER either:

(i) A proposed incidental harassment authorization; or

(ii) A notice of receipt of a request for the implementation or reimplementation of regulations governing the incidental taking.

(2) Through notice in the FEDERAL REGISTER, newspapers of general circulation, and appropriate electronic media in the coastal areas that may be affected by such activity, NMFS will invite information, suggestions, and comments for a period not to exceed 30 days from the date of publication in the FEDERAL REGISTER. All information and suggestions will be considered by the National Marine Fisheries Service in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization or conditions governing the issuance of an incidental harassment authorization.

(3) Applications that are determined to be incomplete or inappropriate for the type of taking requested, will be returned to the applicant with an explanation of why the application is being returned.

(c) The Assistant Administrator shall evaluate each request to determine, based upon the best available scientific evidence, whether the taking by the specified activity within the specified geographic region will have a negligible impact on the species or stock and, where appropriate, will not have an unmitigable adverse impact on the availability of such species or stock for subsistence uses. If the Assistant Administrator finds that the mitigating measures would render the impact of the specified activity negligible when it would not otherwise satisfy that requirement, the Assistant Administrator may make a finding of negligible impact subject to such mitigating measures being successfully implemented. Any preliminary findings of ''negligible impact'' and ''no unmitigable adverse impact'' shall be proposed for public comment along with either the proposed incidental harassment authorization or the proposed regulations for the specific activity.

(d) If, subsequent to the public review period, the Assistant Administrator finds that the taking by the specified activity would have more than a negligible impact on the species or stock of marine mammal or would have an unmitigable adverse impact on the availability of such species or stock for subsistence uses, the Assistant Administrator shall publish in the FEDERAL REGISTER the negative finding along with the basis for denying the request.

§ 216.105 Specific regulations.

(a) For all petitions for regulations under this paragraph, applicants must provide the information requested in § 216.104(a) on their activity as a whole, which includes, but is not necessarily limited to, an assessment of total impacts by all persons conducting the activity.

(b) For allowed activities that may result in incidental takings of small numbers of marine mammals by harassment, serious injury, death or a combination thereof, specific regulations shall be established for each allowed activity that set forth:

(1) Permissible methods of taking;

(2) Means of effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting, including requirements for the independent peer-review of proposed monitoring plans where the proposed activity may affect the availability of a species or stock for taking for subsistence uses.

(c) Regulations will be established based on the best available information. As new information is developed, through monitoring, reporting, or research, the regulations may be modified, in whole or in part, after notice and opportunity for public review.

§ 216.106 Letter of Authorization.

(a) A Letter of Authorization, which may be issued only to U.S. citizens, is required to conduct activities pursuant to any regulations established under § 216.105. Requests for Letters of Authorization shall be submitted to the Director, Office of Protected Resources. The information to be submitted in a request for an authorization will be specified in the appropriate subpart to this part or may be obtained by writing to the above named person.

(b) Issuance of a Letter of Authorization will be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations.

(c) Letters of Authorization will specify the period of validity and any additional terms and conditions appropriate for the specific request.

(d) Notice of issuance of all Letters of Authorization will be published in the FEDERAL REGISTER within 30 days of issuance.

(e) Letters of Authorization shall be withdrawn or suspended, either on an individual or class basis, as appropriate, if, after notice and opportunity for public comment, the Assistant Administrator determines that:

(1) The regulations prescribed are not being substantially complied with; or

(2) The taking allowed is having, or may have, more than a negligible impact on the species or stock or, where relevant, an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

(f) The requirement for notice and opportunity for public review in §216.106(e) shall not apply if the Assistant Administrator determines that an emergency exists that poses a significant risk to the wellbeing of the species or stocks of marine mammals concerned.

(g) A violation of any of the terms and conditions of a Letter of Authorization or of the specific regulations shall subject the Holder and/or any individual who is operating under the authority of the Holder's Letter of Authorization to penalties provided in the MMPA.

§216.107 Incidental harassment authorization for Arctic waters.

(a) Except for activities that have the potential to result in serious injury or mortality, which must be authorized under §216.105, incidental harassment authorizations may be issued, following a 30-day public review period, to allowed activities that may result in only the incidental harassment of a small number of marine mammals. Each such incidental harassment authorization shall set forth:

(1) Permissible methods of taking by harassment;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting, including requirements for the independent peer-review of proposed monitoring plans where the proposed activity may affect the availability of a species or stock for taking for subsistence uses.

(b) Issuance of an incidental harassment authorization will be based on a determination that the number of marine mammals taken by harassment will be small, will have a negligible impact on the species or stock of marine mammal(s), and will not have an unmitigable adverse impact on the availability of species or stocks for taking for subsistence uses.

(c) An incidental harassment authorization will be either issued or denied within 45 days after the close of the public review period.

(d) Notice of issuance or denial of an incidental harassment authorization will be published in the FEDERAL REGISTER within 30 days of issuance of a determination.

(e) Incidental harassment authorizations will be valid for a period of time not to exceed 1 year but may be renewed for additional periods of time not to exceed 1 year for each reauthorization.

(f) An incidental harassment authorization shall be modified, withdrawn, or suspended if, after notice and opportunity for public comment, the Assistant Administrator determines that:

(1) The conditions and requirements prescribed in the authorization are not being substantially complied with; or

(2) The authorized taking, either individually or in combination with other authorizations, is having, or may have, more than a negligible impact on the species or stock or, where relevant, an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

(g) The requirement for notice and opportunity for public review in paragraph (f) of this section shall not apply if the Assistant Administrator determines that an emergency exists that poses a significant risk to the wellbeing of the species or stocks of marine mammals concerned.

(h) A violation of any of the terms and conditions of an incidental harassment authorization shall subject the

holder and/or any individual who is operating under the authority of the holder's incidental harassment authorization to penalties provided in the MMPA.

§ 216.108 Requirements for monitoring and reporting under incidental harassment authorizations for Arctic waters.

(a) Holders of an incidental harassment authorization in Arctic waters and their employees, agents, and designees must cooperate with the National Marine Fisheries Service and other designated Federal, state, or local agencies to monitor the impacts of their activity on marine mammals. Unless stated otherwise within an incidental harassment authorization, the holder of an incidental harassment authorization effective in Arctic waters must notify the Alaska Regional Director, National Marine Fisheries Service, of any activities that may involve a take by incidental harassment in Arctic waters at least 14 calendar days prior to commencement of the activity.

(b) Holders of incidental harassment authorizations effective in Arctic waters may be required by their authorization to designate at least one qualified biological observer or another appropriately experienced individual to observe and record the effects of activities on marine mammals. The number of observers required for monitoring the impact of the activity on marine mammals will be specified in the incidental harassment authorization. If observers are required as a condition of the authorization, the observer(s) must be approved in advance by the National Marine Fisheries Service.

(c) The monitoring program must, if appropriate, document the effects (including acoustical) on marine mammals and document or estimate the actual level of take. The requirements for monitoring plans, as specified in the incidental harassment authorization, may vary depending on the activity, the location, and the time.

(d) Where the proposed activity may affect the availability of a species or stock of marine mammal for taking for subsistence purposes, proposed monitoring plans or other research proposals must be independently peer-reviewed prior to issuance of an incidental harassment authorization under this subpart. In order to complete the peer-review process within the time frames mandated by the MMPA for an incidental harassment authorization, a proposed monitoring plan submitted under this paragraph must be submitted to the Assistant Administrator no later than the date of submission of the application for an incidental harassment authorization. Upon receipt of a complete monitoring plan, and at its discretion, the National Marine Fisheries Service will either submit the plan to members of a peer review panel for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan. The applicant must submit a final monitoring plan to the Assistant Administrator prior to the issuance of an incidental harassment authorization.

(e) At its discretion, the National Marine Fisheries Service may place an observer aboard vessels, platforms, aircraft, etc., to monitor the impact of activities on marine mammals.

(f)(1) As specified in the incidental harassment authorization, the holder of an incidental harassment authorization for Arctic waters must submit reports to the Assistant Administrator within 90 days of completion of any individual components of the activity (if any), within 90 days of completion of the activity, but no later than 120 days prior to expiration of the incidental harassment authorization, whichever is earlier. This report must include the following information:

(i) Dates and type(s) of activity;

(ii) Dates and location(s) of any activities related to monitoring the effects on marine mammals; and

(iii) Results of the monitoring activities, including an estimate of the actual level and type of take, species name and numbers of each species observed, direction of movement of species, and any observed changes or modifications in behavior.

(2) Monitoring reports will be reviewed by the Assistant Administrator and, if determined to be incomplete or inaccurate, will be returned to the

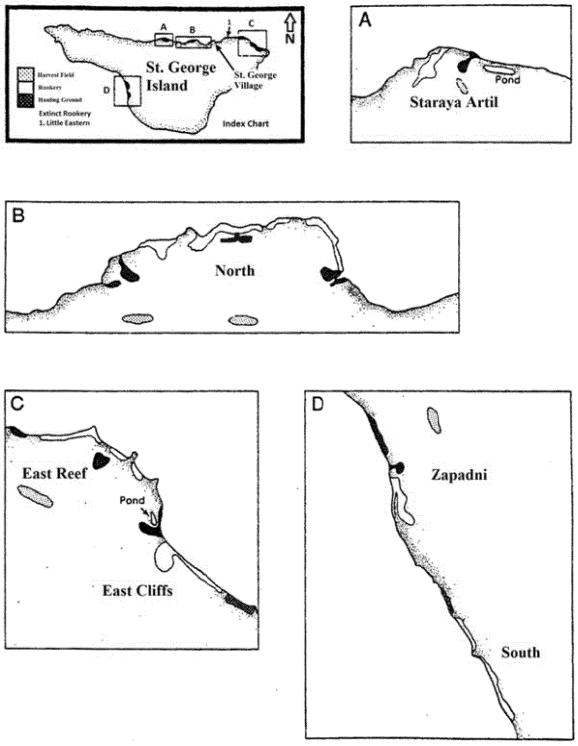
holder of the authorization with an explanation of why the report is being returned. If the authorization holder disagrees with the findings of the Assistant Administrator, the holder may request an independent peer review of the report. Failure to submit a complete and accurate report may result in a delay in processing future authorization requests.

(g) Results of any behavioral, feeding, or population studies, that are conducted supplemental to the monitoring program, should be made available to the National Marine Fisheries Service before applying for an incidental harassment authorization for the following year.

Subparts J–X [Reserved]

FIGURE 1 TO PART 216—NORTHERN FUR SEAL BREEDING AREAS (ROOKERIES) AND HAULING GROUNDS ON ST. GEORGE ISLAND, ALASKA

Figure 1 to Part 216-- Northern Fur Seal Breeding Areas (Rookeries) and Hauling Grounds on St. George Island, Alaska



[79 FR 65338, Nov. 4, 2014]

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

Subpart A [Reserved]

Subpart B—Taking of Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

Sec.

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Subparts C–E [Reserved]

Subpart F—Taking of Marine Mammals Incidental To Target and Missile Launch Activities From San Nicolas Island, CA

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Subpart G—Taking of Marine Mammals Incidental to U.S. Air Force Launches, Aircraft and Helicopter Operations, and Harbor Activities Related to Launch Vehicles From Vandenberg Air Force Base (VAFB), California

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Subpart H—Taking of Marine Mammals Incidental to Space Vehicle and Missile Launches at Kodiak Launch Complex, Alaska

217.70 Specified activity and specified geographical region.
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217.73 Prohibitions.
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217.75 Requirements for monitoring and reporting.
217.76 Letter of Authorization.
217.77 Renewal of a Letter of Authorization and adaptive management.
217.78 Modifications to a Letter of Authorization.

Subpart I—Taking of Marine Mammals Incidental to Naval Explosive Ordnance Disposal School Training Operations

217.80 Specified activity and specified geographical region.
217.81 Effective dates.
217.82 Permissible methods of taking.
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217.84 Mitigation.
217.85 Requirements for monitoring and reporting.
217.86 Applications for Letters of Authorization.
217.87 Letters of Authorization.
217.88 Renewal and review of Letters of Authorization and adaptive management.
217.89 Modifications of Letters of Authorization.

Subparts J–K [Reserved]

Subpart L—Taking Marine Mammals Incidental to Conducting Precision Strike Weapon and Air-to-Surface Gunnery Missions at Eglin Gulf Test and Training Range (EGTTR) in the Gulf of Mexico

217.110 Specified activity and specified geographical region.
217.111 Effective dates.
217.112 Permissible methods of taking.
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217.114 Mitigation.
217.115 Requirements for monitoring and reporting.
217.116 Applications for Letters of Authorization.
217.117 Letters of Authorization.
217.118 Renewals and Modifications of Letters of Authorization.

Subparts M–N [Reserved]

Subpart O—Taking of Marine Mammals Incidental to Operation of Offshore Oil and Gas Facilities in the U.S. Beaufort Sea

217.140 Specified activity and specified geographical region.
217.141 Effective dates.
217.142 Permissible methods of taking.
217.143 Prohibitions.
217.144 Mitigation.
217.145 Measures to ensure availability of species for subsistence uses.
217.146 Requirements for monitoring and reporting.
217.147 Applications for Letters of Authorization.
217.148 Letters of Authorization.
217.149 Renewal of Letters of Authorization and adaptive management.
217.150 Modifications of Letters of Authorization.

Subpart P—Taking Marine Mammals Incidental to Construction and Operation of a Liquefied Natural Gas Deepwater Port in the Gulf of Mexico

217.151 Specified activity and specified geographical region.
217.152 Effective dates.
217.153 Permissible methods of taking.
217.154 Prohibitions.
217.155 Mitigation.
217.156 Requirements for monitoring and reporting.
217.157 Letters of Authorization.
217.158 Renewals and Modifications of Letters of Authorization.

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

SOURCE: 74 FR 35143, July 20, 2009, unless otherwise noted.

Subpart A [Reserved]

Subpart B—Taking of Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

SOURCE: 77 FR 31544, May 29, 2012, unless otherwise noted.

EFFECTIVE DATE NOTE: At 77 FR 31544, May 29, 2012, subpart B was added, effective June 28, 2012, through June 28, 2017.

§ 217.11 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the Monterey Bay National Marine Sanctuary (MBNMS) and those

persons it authorizes to display fireworks within the MBNMS for the taking of marine mammals that occurs in the area described in paragraph (b) of this section and that occurs incidental to authorization of commercial fireworks displays.

(b) The taking of marine mammals by MBNMS may be authorized in a Letter of Authorization (LOA) only if it occurs in waters of the MBNMS.

§ 217.12 Effective dates.

Regulations in this subpart are effective from June 28, 2012, through June 28, 2017.

§ 217.13 Permissible methods of taking.

(a) Under LOAs issued pursuant to §§ 216.106 and 217.17 of this chapter, the Holder of the LOA (hereinafter ''MBNMS'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.11(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in § 217.11(a) of this chapter is limited to the following species and is limited to Level B Harassment:

(1) Harbor seal (*Phoca vitulina*)—1,150 (an average of 230 annually)

(2) California sea lion (*Zalophus californianus*)—21,095 (an average of 4,219 annually)

§ 217.14 Prohibitions.

Notwithstanding takings contemplated in § 217.11 of this chapter and authorized by a LOA issued under §§ 216.106 and 217.17 of this chapter, no person in connection with the activities described in § 217.11 of this chapter may:

(a) Take any marine mammal not specified in § 217.13(b) of this chapter;

(b) Take any marine mammal specified in § 217.13(b) of this chapter other than by incidental, unintentional Level B harassment;

(c) Take a marine mammal specified in § 217.13(b) of this chapter if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 and 217.17 of this chapter.

§ 217.15 Mitigation.

(a) The activity identified in § 217.11(a) of this chapter must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting the activities identified in § 217.11(a) of this chapter, the mitigation measures contained in the LOA issued under §§ 216.106 and 217.17 of this chapter must be implemented. These mitigation measures include but are not limited to:

(1) Limiting the location of the authorized fireworks displays to the four specifically designated areas at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Breakwater, and Cambria (Santa Rosa Creek);

(2) Limiting the frequency of authorized fireworks displays to no more than twenty total displays per year and no more than one fireworks display every 2 months in each of the four prescribed areas;

(3) Limiting the duration of authorized individual fireworks displays to no longer than 30 minutes each, with the exception of two longer shows not to exceed 1 hour;

(4) Prohibiting fireworks displays at MBNMS between March 1 and June 30 of any year; and

(5) Continuing to implement authorization requirements and general and special restrictions for each event, as determined by MBNMS. Standard requirements include, but are not limited to, the use of a ramp-up period, wherein salutes are not allowed in the first 5 minutes of the display; the removal of plastic and aluminum labels and wrappings; and post-show reporting and cleanup. MBNMS shall continue to assess displays and restrict the number of aerial salute effects on a case-by-case basis, and shall implement general and special restrictions unique to each fireworks event as necessary.

(b) The mitigation measures that the individuals conducting the fireworks are responsible for will be included as a requirement in fireworks display authorizations issued by MBNMS to the individual entities.

§ 217.16 Requirements for monitoring and reporting.

(a) MBNMS is responsible for ensuring that all monitoring required under a LOA is conducted appropriately, including, but not limited to:

(1) A census of all pinnipeds in the impact area on the day prior to all displays, with observations to occur for no less than 30 minutes, and

(2) Reporting to NMFS of all marine mammal injury, serious injury, or mortality observed in the vicinity of the display area. Monitoring for injury, serious injury, or mortality shall occur no later than the morning after each fireworks display, and shall occur for no less than 30 minutes.

(b) Unless specified otherwise in the LOA, MBNMS must submit a draft annual monitoring report to the Director, Office of Protected Resources, NMFS, no later than 60 days after the conclusion of each calendar year. This report must contain:

(1) An estimate of the number of marine mammals disturbed by the authorized activities,

(2) Results of the monitoring required in § 217.16(a) of this chapter, and any additional information required by the LOA. A final annual monitoring report must be submitted to NMFS within 30 days after receiving comments from NMFS on the draft report. If no comments are received from NMFS, the draft report will be considered to be the final annual monitoring report.

(c) A draft comprehensive monitoring report on all marine mammal monitoring conducted during the period of these regulations must be submitted to the Director, Office of Protected Resources, NMFS at least 120 days prior to expiration of these regulations. A final comprehensive monitoring report must be submitted to the NMFS within 30 days after receiving comments from NMFS on the draft report. If no comments are received from NMFS, the draft report will be considered to be the final comprehensive monitoring report.

§ 217.17 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, MBNMS must apply for and obtain a LOA.

(b) A LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, MBNMS must apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, MBNMS must apply for and obtain a modification of the LOA as described in § 217.18 of this chapter.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (i.e., mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of a LOA shall be published in the FEDERAL REGISTER within 30 days of a determination.

§ 217.18 Renewals and modifications of Letters of Authorization.

(a) A LOA issued under §§ 216.106 and 217.17 of this chapter for the activity identified in § 217.11(a) of this chapter shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in § 217.18(c)(1) of this chapter), and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in §217.18(c)(1) of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis illustrating the change, and solicit public comment before issuing the LOA .

(c) A LOA issued under §§217.106 and 217.17 of this chapter for the activity identified in §217.11(a) of this chapter may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with MBNMS regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from MBNMS's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in §217.13(b) of this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notification would be published in the FEDERAL REGISTER within 30 days of the action.

Subparts C–E [Reserved]

Subpart F—Taking of Marine Mammals Incidental To Target and Missile Launch Activities From San Nicolas Island, CA

SOURCE: 79 FR 32684, June 3, 2014, unless otherwise noted.

EFFECTIVE DATE NOTE: At 79 FR 32684, June 3, 2014, subpart F was added, effective June 3, 2014, through June 3, 2019.

§217.50 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of marine mammals specified in paragraph (b) of this section by the Naval Air Warfare Center Weapons Division, U.S. Navy, and those persons it authorizes to engage in target missile launch activities and associated aircraft and helicopter operations at the Naval Air Warfare Center Weapons Division facilities on San Nicolas Island, California.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited to the following species: Northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*), and California sea lions (*Zalophus californianus*).

(c) This Authorization is valid only for activities associated with the launching of a total of 40 vehicles (e.g., RAM, Coyote, MSST, Terrier, SM–3, or similar) from Alpha Launch Complex and smaller missiles and targets from Building 807 on San Nicolas Island, California.

§217.51 Effective dates.

Regulations in this subpart are effective from June 3, 2014, through June 3, 2019.

§ 217.52 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to § 216.106 and 217.57 of this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by harassment, within the area described in § 217.50, provided the activity is in compliance with all terms, conditions, and requirements of the regulations and the appropriate Letter of Authorization.

(b) The activities identified in § 217.50 must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals is authorized for the species listed in § 217.50(b) and is limited to Level B Harassment.

§ 217.53 Prohibitions.

Notwithstanding takings contemplated in § 217.50 and authorized by a Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter, no person in connection with the activities described in § 217.50 may:

(a) Take any marine mammal not specified in § 217.50(b);

(b) Take any marine mammal specified in § 217.50(b) other than by incidental, unintentional harassment;

(c) Take a marine mammal specified in § 217.50(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter.

§ 217.54 Mitigation.

(a) When conducting operations identified in § 217.50(c), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 217.57 must be implemented. These mitigation measures include, but are not limited to:

(1) The holder of the Letter of Authorization must not enter pinniped haul-out sites below the missile's predicted flight path for 2 hours prior to planned missile launches.

(2) The holder of the Letter of Authorization must avoid, whenever possible, launch activities during harbor seal pupping season (February to April), unless constrained by factors including, but not limited to, human safety, national security, or for vehicle launch trajectory necessary to meet mission objectives.

(3) The holder of the Letter of Authorization must limit, whenever possible, launch activities during other pinniped pupping seasons, unless constrained by factors including, but not limited to, human safety, national security, or for vehicle launch trajectory necessary to meet mission objectives.

(4) The holder of the Letter of Authorization must not launch vehicles from the Alpha Complex at low elevation (less than 1,000 feet (305 m)) on launch azimuths that pass close to pinniped haul-out sites when occupied.

(5) The holder of the Letter of Authorization must avoid, where practicable, launching multiple target missiles in quick succession over haul-out sites, especially when young pups are present.

(6) The holder of the Letter of Authorization must limit launch activities during nighttime hours, except when required by the test objectives.

(7) Aircraft and helicopter flight paths must maintain a minimum altitude of 1,000 feet (305 m) from pinniped haul-outs and rookeries, except in emergencies or for real-time security incidents (e.g., search-and-rescue, firefighting), which may require approaching pinniped haul-outs and rookeries closer than 1,000 feet (305 m).

(8) If post-launch surveys determine that an injurious or lethal take of a marine mammal has occurred or there is an indication that the distribution, size, or productivity of the potentially affected pinniped populations has been affected, the launch procedure and the monitoring methods must be reviewed, in cooperation with NMFS, and, if necessary, appropriate changes must be made through modification to a Letter of Authorization, prior to conducting the next launch of the same vehicle under that Letter of Authorization.

(9) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 217.55 Requirements for monitoring and reporting.

(a) Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Administrator, West Coast Region, NMFS, by letter or telephone, at least 2 weeks prior to activities possibly involving the taking of marine mammals. If the authorized activity identified in § 217.50 is thought to have resulted in the mortality or injury of any marine mammals or in any take of marine mammals not identified in § 217.50(b), then the Holder of the Letter of Authorization must notify the Director, Office of Protected Resources, NMFS, or designee, by telephone (301–427–8401), and the Administrator, West Coast Region, NMFS, or designee, by telephone (562–980–3232), within 48 hours of the discovery of the injured or dead animal.

(b) The National Marine Fisheries Service must be informed immediately of any changes or deletions to any portions of the proposed monitoring plan submitted, in accordance with the Letter of Authorization.

(c) The holder of the Letter of Authorization must designate biologically trained, on-site individual(s), approved in advance by NMFS, to record the effects of the launch activities and the resulting noise on pinnipeds.

(d) The holder of the Letter of Authorization must implement the following monitoring measures:

(1) *Visual land-based monitoring.* (i) Prior to each missile launch, an observer(s) will place three autonomous digital video cameras overlooking chosen haul-out sites located varying distances from the missile launch site. Each video camera will be set to record a focal subgroup within the larger haul-out aggregation for a maximum of 4 hours or as permitted by the videotape capacity.

(ii) Systematic visual observations, by those individuals, described in paragraph (c) of this section, of pinniped presence and activity will be conducted and recorded in a field logbook a minimum of 2 hours prior to the estimated launch time and for no less than 1 hour immediately following the launch of target missiles.

(iii) Systematic visual observations, by those individuals, described in paragraph (c) of this section, of pinniped presence and activity will be conducted and recorded in a field logbook a minimum of 2 hours prior to launch, during launch, and for no less than 1 hour after the launch of the BQM–34, BQM–74, Tomahawk, RAM target and similar types of missiles.

(iv) Documentation, both via autonomous video camera and human observer, will consist of:

(A) Numbers and sexes of each age class in focal subgroups;

(B) Description and timing of launch activities or other disruptive event(s);

(C) Movements of pinnipeds, including number and proportion moving, direction and distance moved, and pace of movement;

(D) Description of reactions;

(E) Minimum distances between interacting and reacting pinnipeds;

(F) Study location;

(G) Local time;

(H) Substratum type;

(I) Substratum slope;

(J) Weather condition;

(K) Horizontal visibility; and

(L) Tide state.

(2) *Acoustic monitoring.* (i) During all target missile launches, calibrated recordings of the levels and characteristics of the received launch sounds will be obtained from three different locations of varying distances from the target missile's flight path. To the extent practicable, these acoustic recording locations will correspond with the haul-out sites where video and human observer monitoring is done.

(ii) Acoustic recordings will be supplemented by the use of radar and telemetry systems to obtain the trajectory of target missiles in three dimensions.

(iii) Acoustic equipment used to record launch sounds will be suitable for collecting a wide range of parameters, including the magnitude, characteristics, and duration of each target missile.

(e) The holder of the Letter of Authorization must implement the following reporting requirements:

(1) For each target missile launch, the lead contractor or lead observer for

the holder of the Letter of Authorization must provide a status report to NMFS, West Coast Regional Office, providing reporting items found under the Letter of Authorization, unless other arrangements for monitoring are agreed upon in writing.

(2) The Navy shall submit an annual report describing their activities and including the following information:

(i) Timing, number, and nature of launch operations;

(ii) Summary of mitigation and monitoring implementation;

(iii) Summary of pinniped behavioral observations; and

(iv) Estimate of the amount and nature of all takes by harassment or by other means.

(3) The Navy shall submit a draft comprehensive technical report to the Office of Protected Resources and West Coast Regional Office, NMFS, 180 days prior to the expiration of the regulations in this subpart, providing full documentation of the methods, results, and interpretation of all monitoring tasks for launches to date plus preliminary information for missile launches during the first 6 months of the regulations.

(4) A revised final comprehensive technical report, including all monitoring results during the entire period of validity of the Letter of Authorization, will be due 90 days after the end of the period of effectiveness of the regulations in this subpart.

(5) The final report will be subject to review and comment by NMFS. Any recommendations made by NMFS must be addressed in the final comprehensive technical report prior to acceptance by NMFS.

(f) Activities related to the monitoring described in paragraphs (c) and (d) of this section, or in the Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter, including the retention of marine mammals, may be conducted without the need for a separate scientific research permit.

(g) In coordination and compliance with appropriate Navy regulations, the NMFS may, at its discretion, place an observer on San Nicolas Island for any activity involved in marine mammal monitoring either prior to, during, or after a missile launch in order to monitor the impact on marine mammals.

§ 217.56 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to the regulations in this subpart, the U.S. citizen (as defined by § 216.6 of this chapter) conducting the activity identified in § 217.50 (the U.S. Navy) must apply for and obtain either an initial LOA in accordance with § 217.57 or a renewal under § 217.58.

§ 217.57 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (i.e., mitigation); and

(3) Requirements for mitigation, monitoring, and reporting.

(c) Issuance and renewal of the Letter of Authorization will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 217.58 Renewals and Modifications of Letters of Authorization.

(a) A Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter for the activity identified in § 217.50 will be renewed or modified upon request of the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision of this chapter), and;

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis illustrating the change, and solicit public comments before issuing the LOA.

(c) An LOA issued under §§ 216.106 and 217.57 of this chapter for the activity identified in § 217.50 may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data could contribute to the decision to modify the mitigation, monitoring, and reporting measures in an LOA:

(A) Results from the Navy's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.50(b), a Letter of Authorization may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within 30 days of the action.

Subpart G—Taking of Marine Mammals Incidental to U.S. Air Force Launches, Aircraft and Helicopter Operations, and Harbor Activities Related to Launch Vehicles From Vandenberg Air Force Base (VAFB), California

SOURCE: 79 FR 10026, Feb. 24, 2014, unless otherwise noted.

EFFECTIVE DATE NOTE: At 79 FR 10026, Feb. 24, 2014, subpart H was added, effective from Mar. 26, 2014, through Mar. 26, 2019.

§ 217.60 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the 30th Space Wing, United States Air Force (USAF), at Vandenberg Air Force Base and those persons it authorizes to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to:

(1) Launching up to 15 space and each year from Vandenberg Air Force Base, for a total of up to 75 missiles over the 5-year period of these regulations,

(2) Launching up to 35 rockets each year from Vandenberg Air Force Base, for a total of up to 175 rocket launches over the 5-year period of these regulations,

(3) Aircraft flight test operations,

(4) Helicopter operations from Vandenberg Air Force Base, and

(5) *Delta Mariner* (or a similar vessel) operations, cargo unloading activities, and harbor maintenance dredging.

(b) The taking of marine mammals by the USAF may be authorized in a Letter of Authorization only if it occurs from the space launch complexes, launch facilities, and test pads on north and south Vandenberg Air Force Base and the Vandenberg Air Force Base harbor on South Base.

§ 217.61 Effective dates.

Regulations in this subpart are effective from March 26, 2014 through March 26, 2019.

§ 217.62 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 217.60 of this chapter, the Holder of the Letter of Authorization (herein after the USAF) may incidentally, but not intentionally, take marine mammals by harassment, within the area described in § 217.60(b), provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate Letter of Authorization.

(b) The activities identified in § 217.60(a) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 217.60(a) of this chapter is limited to the indicated number of Level B harassment takes on an annual basis of the following species:

(1) Harbor seals (*Phoca vitulina*)—31,161;

(2) California sea lions (*Zalophus californianus*)—465,129;

(3) Northern elephant seals (*Mirounga angustirostris*)—80,024;

(4) Northern fur seals (*Callorhinus ursinus*)—62,500; and

(5) Steller sea lions (*Eumetopias jubatus*)—1,824.

§ 217.63 Prohibitions.

Notwithstanding takings contemplated in § 217.62(c) and authorized by a Letter of Authorization issued under §§ 216.106 and 217.66 of this chapter, no person in connection with the activities described in § 217.60 may:

(a) Take any marine mammal not specified in § 217.62(c);

(b) Take any marine mammal specified in § 217.62(c) other than by incidental, unintentional Level B harassment;

(c) Take a marine mammal specified in § 217.62(c) if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§ 216.106 and 217.66 of this chapter.

§ 217.64 Mitigation.

(a) When conducting the activities identified in § 217.60(a), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 217.66 of this chapter must be implemented. These mitigation measures include (but are not limited to):

(1) All aircraft and helicopter flight paths must maintain a minimum distance of 1,000 ft (305 m) from recognized seal haul-outs and rookeries (e.g., Point Sal, Purisima Point, Rocky Point), except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting), which may require approaching pinniped haul-outs and rookeries closer than 1,000 ft (305 m).

(2) For missile and rocket launches, holders of Letters of Authorization must avoid, whenever possible, launches during the harbor seal pupping season of March through June, unless constrained by factors including, but not limited to, human safety, national security, or for space vehicle launch trajectory necessary to meet mission objectives.

(3) Vandenberg Air Force Base must avoid, whenever possible, launches which are predicted to produce a sonic boom on the Northern Channel Islands during harbor seal, elephant seal, California sea lion, and northern fur seal pupping seasons of March through June.

(4) If post-launch surveys determine that an injurious or lethal take of a marine mammal has occurred, the launch procedure and the monitoring methods must be reviewed, in cooperation with the National Marine Fisheries Service (NMFS), and appropriate changes must be made through modification to a Letter of Authorization, prior to conducting the next launch under that Letter of Authorization.

(5) *Delta Mariner* (or a similar vessel) operations, cargo unloading, and harbor maintenance dredging measures:

(i) If activities occur during nighttime hours, turn on lighting equipment before dusk. Lights must remain on for the entire night to avoid startling pinnipeds.

(ii) Initiate operations before dusk.

(iii) Keep construction noises at a constant level (i.e., not interrupted by

periods of quiet in excess of 30 minutes) while pinnipeds are present.

(iv) Initiate a gradual start-up of activities to ensure a gradual increase in noise levels if activities cease for longer than 30 minutes and pinnipeds are in the area.

(v) Conduct visual monitor, by a qualified observer, of the harbor seals on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of activities described in § 217.60(a).

(vi) The *Delta Mariner* and accompanying vessels must enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks; reducing speed to 1.5 to 2 knots (1.5–2 nm/hr; 2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel must enter the harbor stern first, approaching the wharf and moorings at less than 0.75 knot (1.4 km/hr).

(vii) Explore alternate dredge methods and introduce quieter techniques and equipment as they become available.

(6) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 217.65 Requirements for monitoring and reporting.

(a) Unless specified otherwise in the Letter of Authorization, the USAF must notify the Administrator, West Coast Region, NMFS, by letter or telephone, at least 2 weeks prior to activities possibly involving the taking of marine mammals. If the authorized activity identified in § 217.60(a) is thought to have resulted in the mortality or injury of any marine mammals or in any take of marine mammals not identified in § 217.62(c), then the USAF must notify the Director, Office of Protected Resources, NMFS, or designee, by telephone (301–427–8401), within 48 hours of the discovery of the injured or dead animal.

(b) To conduct monitoring of launch activities, the USAF must designate qualified, on-site individuals approved in advance by NMFS, as specified in the Letter of Authorization, to:

(1) Conduct observations on pinniped activity in the vicinity of the rookery nearest the launch platform or, in the absence of pinnipeds at that location, at another nearby haul-out, for at least 72 hours prior to any planned launch occurring during the harbor seal pupping season (1 March through 30 June) and continue for a period of time not less than 48 hours subsequent to launching.

(2) For launches during the harbor seal pupping season (March through June), conduct follow-up surveys within 2 weeks of the launch to ensure that there were no adverse effects on any marine mammals,

(3) Monitor haul-out sites on the Northern Channel Islands, if it is determined by modeling that a sonic boom of greater than 1 psf is predicted to impact one of the Islands between March 1 and June 30, greater than 1.5 psf between July 1 and September 30, and greater than 2 psf between October 1 and February 28. Monitoring will be conducted at the haul-out site closest to the predicted sonic boom impact area.

(4) Investigate the potential for spontaneous abortion, disruption of effective female-neonate bonding, and other reproductive dysfunction,

(5) Supplement observations on Vandenberg and on the Northern Channel Islands with video-recording of mother-pup seal responses for daylight launches during the pupping season,

(6) Conduct acoustic measurements of those launch vehicles that have not had sound pressure level measurements made previously, and

(7) Include multiple surveys each day that surveys are required that record the species, number of animals, general behavior, presence of pups, age class, gender and reaction to launch noise, sonic booms or other natural or human caused disturbances, in addition to recording environmental conditions such as tide, wind speed, air temperature, and swell.

(c) To conduct monitoring of harbor activities, the USAF must designate qualified, on-site individuals approved in advance by NMFS, as specified in the Letter of Authorization. During nighttime activities, the harbor area will be illuminated, and the observer will use a night vision scope. Monitoring activities will consist of the following:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities.

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough (less than or equal to 2 ft (0.61 m) for pinnipeds to haul out.

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

(d) Holders of Letters of Authorization must conduct additional monitoring as required under a Letter of Authorization.

(e) The USAF must submit a report to the West Coast Regional Administrator, NMFS, within 90 days after each launch. This report must contain the following information:

(1) Date(s) and time(s) of the launch,

(2) Design of the monitoring program, and

(3) Results of the monitoring program, including, but not necessarily limited to:

(i) Numbers of pinnipeds present on the haul-out prior to commencement of the launch,

(ii) Numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of launch noise,

(iii) The length of time pinnipeds remained off the haul-out or rookery,

(iv) Numbers of pinniped adults, juveniles or pups that may have been injured or killed as a result of the launch, and

(v) Behavioral modifications by pinnipeds that were likely the result of launch noise or the sonic boom.

(f) An annual report must be submitted on March 1 of each year.

(g) A final report must be submitted at least 180 days prior to expiration of these regulations. This report will:

(1) Summarize the activities undertaken and the results reported in all previous reports,

(2) Assess the impacts at each of the major rookeries,

(3) Assess the cumulative impacts on pinnipeds and other marine mammals from the activities specified in § 217.60(a), and

(4) State the date(s), location(s), and findings of any research activities related to monitoring the effects on launch noise, sonic booms, and harbor activities on marine mammal populations.

§ 217.66 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the USAF must apply for and obtain a Letter of Authorization.

(b) A Letter of Authorization, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If a Letter of Authorization expires prior to the expiration date of these regulations, the USAF must apply for and obtain a renewal of the Letter of Authorization.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by a Letter of Authorization, the USAF must apply for and obtain a modification of the Letter of Authorization as described in § 217.67.

(e) The Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (i.e., mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the Letter of Authorization shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of a Letter of Authorization shall be published in the FEDERAL REGISTER within 30 days of a determination.

§ 217.67 Renewals and modifications of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 and § 217.66 of this chapter for the activity identified in § 217.60(a) shall be renewed or modified

upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in §217.67(c)(1) of this chapter), and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous Letter of Authorization under these regulations were implemented.

(b) For Letter of Authorization modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in §217.67(c)(1)) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed Letter of Authorization in the FEDERAL REGISTER, including the associated analysis illustrating the change, and solicit public comment before issuing the Letter of Authorization.

(c) A Letter of Authorization issued under §216.106 and §217.66 of this chapter for the activity identified in §217.60(a) may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the USAF regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a Letter of Authorization:

(A) Results from the USAF's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed Letter of Authorization in the FEDERAL REGISTER and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in §217.62(c) of this chapter, a Letter of Authorization may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within 30 days of the action.

Subpart H—Taking of Marine Mammals Incidental to Space Vehicle and Missile Launches at Kodiak Launch Complex, Alaska

SOURCE: 76 FR 16318, Mar. 23, 2011, unless otherwise noted.

EFFECTIVE DATE NOTE: At 76 FR 16318, Mar. 23, 2011, subpart H was added, effective Mar. 22, 2011, to Mar. 22, 2016.

§217.70 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of marine mammals specified in paragraph (b) of this section by U.S. citizens engaged in space vehicle and missile launch activities at the Kodiak Launch Complex on Kodiak Island, Alaska.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited to 32 juvenile and adult Steller sea lions (*Eumetopius jubatus*), 1,125 Pacific harbor seals (*Phoca vitulina*) of all ages, and 17 harbor seal pups.

§217.71 Effective dates.

Regulations in this subpart are effective from March 22, 2011 through March 22, 2016.

§ 217.72 Permissible methods of taking.

(a) Under a Letter of Authorization issued pursuant to § 216.106 of this chapter, the Alaska Aerospace Corporation and its contractors may incidentally, but not intentionally, take Steller sea lions and Pacific harbor seals by Level B harassment and harbor seal pups by Level A harassment or mortality in the course of conducting space vehicle and missile launch activities within the area described in § 217.70(a), provided all terms, conditions, and requirements of these regulations and such Letter of Authorization are complied with.

(b) The activities identified in § 217.70(a) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitat.

§ 217.73 Prohibitions.

The following activities are prohibited:

(a) The taking of a marine mammal that is other than unintentional.

(b) The violation of, or failure to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under § 216.106 of this chapter.

(c) The incidental taking of any marine mammal of a species not specified, or in a manner not authorized, in this subpart.

§ 217.74 Mitigation.

(a) The activity identified in § 217.70(a) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in § 217.70(a), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 of this chapter and 217.76 must be implemented. These mitigation measures include (but are not limited to):

(1) Security overflights by helicopter associated with a launch will not approach occupied pinniped haulouts on Ugak Island by closer than 0.25 mile (0.4 km), and will maintain a vertical distance of 1000 ft (305 m) from the haulouts when within 0.5 miles (0.8 km), unless indications of human presence or activity warrant closer inspection of the area to assure that national security interests are protected in accordance with law;

(2) For missile and rocket launches, holders of Letters of Authorization must avoid launches during the harbor seal pupping season of May 15 through June 30, except when launches are necessary for the following purposes: human safety, national security, space vehicle launch trajectory necessary to meet mission objectives, or other purposes related to missile or rocket launches.

(3) All flights by fixed-wing aircraft associated with the marine mammal abundance quarterly surveys must maintain a minimum altitude of 500 ft (152 m) and remain 0.25 miles from recognized seal haulouts.

(4) If launch monitoring or quarterly aerial surveys indicate that the distribution, size, or productivity of the potentially affected pinniped populations has been affected due to the specified activity, the launch procedures and the monitoring methods will be reviewed, in cooperation with NMFS, and, if necessary, appropriate changes may be made through modifications to a given LOA, prior to conducting the next launch of the same vehicle under that LOA.

(5) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 217.75 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization issued pursuant to §§ 216.106 of this chapter and 217.76 for activities described in § 217.70(a) are required to cooperate with NMFS, and any other Federal, State, or local agency with authority to monitor the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Administrator, Alaska Region, NMFS, by letter, e-mail or telephone, prior to each launch. If the authorized activity identified in § 217.70(a) is thought to have resulted in the take of marine mammals not identified in § 217.70(b), then the Holder of the Letter of Authorization must notify the Director, Office of Protected Resources, NMFS,

or designee, by telephone (301–713–2289), within 48 hours of the discovery of the take.

(b) Holders of Letters of Authorization must designate qualified protected species observers, approved in advance by NMFS, as specified in the Letter of Authorization, to:

(1) Deploy for AAC a remote camera system designed to detect pinniped responses to rocket launches for at least the first five launches conducted under these regulations. AAC will conduct visual monitoring for at least 2 hours before, during, and 2 hours after launch;

(2) Ensure a remote camera system will be in place and operating in a location which allows visual monitoring of a harbor seal rookery, if a launch during the harbor seal pupping season cannot be avoided;

(3) Relocate the camera system to or re-aim the camera system on another haulout to be chosen in cooperation with NMFS after the first five launches with harbor seals present;

(4) Review and log pinniped presence, behavior, and re-occupation time data from the visual footage obtained from the remote camera system and report results to NMFS within 90 days post launch;

(5) Obtain, whenever a new class of rocket is flown from the Kodiak Launch Complex, a real-time sound pressure and sound exposure record for documentation purposes and to correlate with the behavioral response record. Two monitors shall be used: one shall be placed at the established recording location known as Narrow Cape, and the other as close as practical to the remote video system;

(6) Conduct quarterly aerial surveys, ideally during midday coinciding with low tide, to obtain data on pinniped presence, abundance, and behavior within the action area to determine long-term trends in pinniped haulout use. Results of these quarterly surveys will be reported once as part of the year-end summary report that will accompany the request for a new LOA.

(c) Holders of Letters of Authorization must conduct additional monitoring as required under an annual Letter of Authorization.

(d) Holders of Letters of Authorization must submit a report to the Alaska Region Administrator, NMFS, within 90 days after each launch. This report must contain the following information:

(1) Date(s) and time(s) of the launch;

(2) Location of camera system and acoustic recorders (if used);

(3) Design of the monitoring program and a description of how data is stored and analyzed; and

(4) Results of the monitoring program, including, but not necessarily limited to:

(i) Numbers of pinnipeds, by species and age class (if possible), present on the haulout prior to commencement of the launch;

(ii) Numbers of pinnipeds, by species and age class (if possible), that may have been harassed, including the number that entered the water as a result of launch noise;

(iii) The length of time pinnipeds remained off the haulout during post-launch monitoring;

(iv) Number of harbor seal pups that may have been injured or killed as a result of the launch; and

(v) Other behavioral modifications by pinnipeds that were likely the result of launch noise.

(5) Results of sound pressure and sound exposure level monitoring will be reported in flat weighted, A-weighted, and peak measurements.

(e) An annual report must be submitted at the time of request for a renewal of the Letter of Authorization; it will include results of the aerial quarterly trend counts of pinnipeds at Ugak Island.

(f) A final report must be submitted at least 90 days prior to expiration of these regulations if new regulations are sought or 180 days after expiration of regulations. This report will:

(1) Summarize the activities undertaken and the results reported in all previous reports;

(2) Assess the impacts of launch activities on pinnipeds within the action area, including potential for pup injury and mortality; and

(3) Assess the cumulative impacts on pinnipeds and other marine mammals from multiple rocket launches.

§ 217.76 Letter of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time specified in the Letter of Authorization, but a Letter of Authorization may not be valid beyond the effective period of the regulations.

(b) A Letter of Authorization with a period of validity less than the effective period of the regulations in this subpart may be renewed subject to renewal conditions in § 217.76.

(c) A Letter of Authorization will set forth:

(1) The number of marine mammals, by species and age class, authorized to be taken;

(2) Permissible methods of incidental taking;

(3) Specified geographical region;

(4) Means of effecting the least practicable adverse impact on the species of marine mammals authorized for taking and its habitat; and

(5) Requirements for monitoring and reporting incidental takes.

(d) Issuance of a Letter of Authorization will be based on a determination that the total taking by the activity as a whole will have no more than a negligible impact on the affected species or stocks of marine mammal(s).

(e) Notice of issuance or denial of a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

§ 217.77 Renewal of a Letter of Authorization and adaptive management.

(a) A Letter of Authorization issued under § 216.106 of this chapter and § 217.76 for the activity identified in § 217.70(a) will be renewed annually upon:

(1) Notification to NMFS that the activity described in the application for a Letter of Authorization submitted under § 217.76 will be undertaken and that there will not be a substantial modification to the described activity, mitigation, or monitoring undertaken during the upcoming season;

(2) Timely receipt of and acceptance by NMFS of the monitoring reports required under § 217.75;

(3) A determination by NMFS that the mitigation, monitoring, and reporting measures required under §§ 217.74 and 217.75 and the Letter of Authorization were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization; and

(4) A determination that the number of marine mammals taken by the activity will have no more than a negligible impact on the affected species or stocks of marine mammal(s), and that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(b) If a request for a renewal of a Letter of Authorization issued under §§ 216.106 and 216.128 of this chapter indicates that a substantial modification to the described work, mitigation, or monitoring undertaken during the upcoming season will occur, NMFS will provide the public a period of 30 days to review and comment on the request. Review and comment on renewals of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration; and

(2) Proposed changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

(d) NMFS, in response to new information and in consultation with the AAC, may modify the mitigation or monitoring measures in subsequent LOAs if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation or monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the AAC's monitoring from the previous year.

(2) Results from general marine mammal and sound research.

§ 217.78 Modifications to a Letter of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to a Letter of Authorization issued pursuant to the provisions of this subpart shall be made by NMFS until after notification and an opportunity for public comment has been provided. A renewal of a Letter of Authorization under § 217.77 without modification is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.70(b), a Letter of Authorization may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subpart I—Taking of Marine Mammals Incidental to Naval Explosive Ordnance Disposal School (NEODS) Training Operations

SOURCE: 77 FR 16736, Mar. 22, 2012, unless otherwise noted.

§ 217.80 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of those marine mammals specified in paragraph (b) of this section by the United States Air Force, Headquarters 96th Air Base Wing, Eglin Air Force Base, and those persons who engage in activities described in paragraphs (a)(1) through (7) of this section and the area set forth in paragraph (b) of this section.

(1) NEODS missions involving underwater detonations of small, live explosive charges adjacent to inert mines in order to disable the mine function,

(2) Live training events occurring eight times annually, averaging one event occurring every 6 to 7 weeks,

(3) Four of the training events involving 5-lb charges, and four events involving 10-lb charges,

(4) Up to 20 5-lb detonations and twenty 10-lb detonations annually, for a total of 40 detonations,

(5) The five charges occurring for each training event shall be detonated individually with a maximum separation time of 20 minutes between each detonation,

(6) Mine shapes and debris shall be recovered and removed from the Gulf of Mexico waters when training is completed, and

(7) Each training team has two days to complete their entire evolution (*i.e.*, detonation of five charges). If operations cannot be completed on the first live demolition day, the second live demolition day shall be utilized to complete the evolution.

(b) The incidental take of marine mammals at Eglin Air Force Base, within the Eglin Military Complex, including three sites in the Eglin Gulf Test and Training Range at property off Santa Rosa Island, Florida, in the northern Gulf of Mexico, under the activity identified in paragraph (a) of this section, is limited to the following species: Atlantic bottlenose dolphins (*Tursiops truncatus*).

(1) The latitude/longitude of corners of W–151 in the Eglin Gulf Test and Training Range are:

(i) 30.24006° North, −86.808838° West
(ii) 29.539011° North, −84.995536° West
(iii) 28.03949° North, −85.000147° West
(iv) 28.027598° North, −85.199395° West
(v) 28.505304° North, −86.799043° West

(2) The latitude/longitude of corners of W–151A in the Eglin Gulf Test and Training Range are:

(i) 30.24006° North, −86.808838° West
(ii) 30.07499° North, −85.999327° West
(iii) 29.179968° North, −85.996341° West
(iv) 29.384439° North, −86.802579° West

§ 217.81 Effective dates.

Regulations in this subpart are effective from April 23, 2012, through April 24, 2017.

§ 217.82 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to § 216.106 of this chapter and § 217.87, the U.S. Department of the Air Force, Headquarters 96th Air Base Wing, Eglin Air Force Base (U.S. Air Force), its contractors, and clients,

may incidentally, but not intentionally, take marine mammals by Level B harassment, within the area described in § 217.80, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The incidental taking of marine mammals is authorized for the species listed in § 217.80(b) and is limited to Level B harassment.

(c) The incidental taking of an average of 10 individuals annually and 50 individuals during the 5-year rule, for Atlantic bottlenose dolphins.

(d) The U.S. Air Force shall suspend NEODS training operations until it obtains additional authorization for the take of marine mammals if:

(1) A marine mammal is injured, seriously injured, or killed during training operations;

(2) The injury, serious injury, or death could be associated with the activities; and

(3) After coordination and concurrence with NMFS, the U.S. Air Force determines that supplementary measures are unlikely to reduce the risk of injury, serious injury or death to a very low level, require the U.S. Air Force to suspend its activities until an authorization for such taking has been obtained.

§ 217.83 Prohibitions.

Notwithstanding takings contemplated in § 217.80 and authorized by a Letter of Authorization issued under §§ 216.106 of this chapter and 217.87, no person in connection with the activities described in § 217.80 may:

(a) Take any marine mammal not specified in § 217.80(b);

(b) Take any marine mammal specified in § 217.80(b) other than by incidental take as specified in § 217.82(a) through (d);

(c) Take a marine mammal specified in § 217.80(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§ 216.106 of this chapter and 217.87.

§ 217.84 Mitigation.

(a) The activity identified in § 217.80(a) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in § 217.80(a), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 of this chapter and 217.87 must be implemented. These mitigation measures include (but are not limited to):

(1) Underwater detonations using timed delay devices will only be conducted during daylight hours. The time of detonation shall be limited to an hour after sunrise and an hour before sunset.

(2) NEODS missions shall be postponed if:

(i) The Beaufort sea state is greater than scale number three. Such a delay would maximize detection of marine mammals.

(ii) Large concentrations of fish, jellyfish, and/or large *Sargassum* rafts are observed within the mitigation-monitoring zone. The delay would continue until the fish, jellyfish, and/or *Sargassum* rafts that cause the postponement are confirmed to be outside the mitigation-monitoring zone.

(3) Time delays longer than 10 minutes will not be used. Initiation of the timer device will not start until the mitigation-monitoring zone is clear of marine mammals for 30 minutes.

(4) A calculated mitigation-monitoring zone will be established around each underwater detonation location based on charge weight and length of time-delay used. When conducting surveys within the mitigation-monitoring zone radius (but always outside the detonation plume radius/human safety zone) and travel in a circular pattern around the detonation point, surveying the inner (toward the detonation site) and outer (away from the detonation site) areas. For a survey radius of 914.4 meters, the boat will be positioned at 457.2 meters from the detonation point. Similarly, for a survey radius of 1,280.2 meters, boats will be positioned at 640.1 meter distance.

(5) For a survey radius of 914.4 meters, two boats are required. For a radius of 1,280.2 meters, either three

boats or two boats/one helicopter are required.

(6) When using two boats, each boat will be positioned on opposite sides of the detonation location, separated by 180 degrees. When using three boats, each boat will be separated by 120 degrees (equidistant from each other).

(7) Two observers in each boat will conduct continuous visual surveys of the mitigation-monitoring zone for the entire duration of the training event, including at least 30 minutes prior to detonation. Observers will search the mitigation-monitoring zone for the presence of marine mammals, and other marine species such as sea turtles, diving birds, large concentrations of fish or jellyfish, and large *Sargassum* mats. The presence of diving birds, fish, jellyfish, and *Sargassum* may indicate an increased likelihood of dolphin presence.

(8) To the extent practicable, boats will maintain 18.5 kilometer per hour search speed. This search speed is expected to ensure adequate coverage of the buffer zone. While weather conditions and sea state may require slower speeds in some instances, 18.5 kilometers per hour is considered a prudent, safe, and executable speed that will allow adequate surveillance. For a 914.4 meter survey zone, a boat traveling at 18.5 kilometers per hour and 457.2 meters from the detonation point would circle the point approximately 3.2 times during a 30 minute survey period. By using two boats, approximately 6.4 circles would be completed in total. Similarly, for a 1,280.2 meter radius, each boat would circle the detonation point approximately 2.3 times within 30 minutes, and use of three boats would result in 6.9 total circles.

(9) If available, a U.S. Navy helicopter can be used in lieu of one of the survey boats, so long as safety of flight is not jeopardized. U.S. Navy helicopter pilots are trained to conduct searches for relatively small objects in the water, such as a missing person. A helicopter search pattern is dictated by standard U.S. Navy protocols and accounts for multiple variables, such as size and shape of the search area, size of the object, and environmental conditions, among others.

(10) The mitigation-monitoring zone will be surveyed for 30 minutes prior to detonation and continue for 30 minutes after detonation (concentrated on the area down current of the test site), in order to monitor for marine mammals and other protected species. It is the U.S. Air Force's (on behalf of the U.S. Navy) intent to conduct five successive detonations with a maximum time of 20 minutes between detonations, although a variety of factors can cause a delay of longer than 20 minutes between detonations, although a variety of factors can cause a delay of longer than 20 minutes, including a delay until the following day. Monitoring would continue during the 20 minutes time between detonations, and would serve as both post-detonation monitoring as well as pre-mission monitoring for the next detonation. If the time between detonations is delayed beyond 20 minutes, post-mission monitoring will be conducted for 30 minutes. At the conclusion of the final detonation, post-monitoring will be conducted for 30 minutes.

(11) Other personnel besides designated observers shall also maintain situational awareness of the presence of marine mammals within the mitigation-monitoring zone to the extent practicable given dive safety considerations.

(12) Divers placing the charges on mines will observe the immediate underwater area around the detonation site for marine mammals and other marine species such as diving birds, sea turtles, and Gulf sturgeon, and report sightings to surface observers.

(13) If a marine mammal is sighted within an established mitigation-monitoring zone or moving towards it, underwater detonation events will be postponed or suspended until the marine mammal that caused the postponement/suspension of training operations has voluntarily left the area and the area is clear of marine mammals for at least 30 minutes.

(14) If a marine mammal is detected within or about to enter an established mitigation-monitoring zone and subsequently cannot be reacquired, the mission will be postponed or suspended until the last verified location is outside the mitigation-monitoring zone,

the animals is moving away from the area, and the area is clear of marine mammals for at least 30 minutes.

(15) Any marine mammal observed after an underwater detonation either injured or exhibiting signs of distress will be reported to Eglin Air Force Base. Eglin Air Force Base will coordinate with other members of marine mammal stranding networks, as appropriate, and report these events to NMFS or U.S. Fish and Wildlife Service. The report will contain date and time of sighting, location, species description, and indications of the animal's status.

(16) Training operations shall be suspended if the conditions of § 217.83(a)–(d) regarding the injury, serious injury, or death of a marine mammal during NEODS training operations are met.

(17) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 217.85 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization pursuant to § 216.106 of this chapter and § 217.87 for activities described in § 216.80(a) are required to cooperate with NMFS, and any other Federal, state, or local agency with authority to monitor the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Administrator, Southeast Region, NMFS, by letter or telephone, prior to activities possibly involving the taking of marine mammals. If the authorized activity identified in § 217.80(a) is thought to have resulted in the mortality or injury of any marine mammals or in any take of marine mammals not identified in § 217.80(b), then the Holder of the Letter of Authorization must, in addition to complying with the requirements of § 217.82(a)–(d), notify the Director, Office of Protected Resources, NMFS, or designee, by telephone (301–427–8400), within 24 hours of the discovery of the injured or dead animal.

(b) Holders of Letters of Authorization must designate trained, qualified, on-site individuals approved in advance by NMFS, as specified in the Letter of Authorization, to perform the following monitoring requirements:

(1) For NEODS testing, areas to be used in missions shall be visually monitored for marine mammal presence from a surface support vessel prior to detonation of mine neutralization charges. Monitoring shall be conducted 30 minutes before missions to clear the mitigation-monitoring zone. Post-mission monitoring shall also be conducted for 30 minutes after the final detonation (concentrated on the area down current of the test site). If marine mammals are inside the mitigation-monitoring zone, detonations shall be postponed until they have left the area. The observer on the vessel must be equipped with the proper optical equipment and lines of communication in order to recommend the decision to move forward with the mission.

(2) Monitoring shall occur pre-mission (for 30 minutes), throughout the mission, and post-mission (for 30 minutes). Post-mission monitoring shall concentrate on the area down current of the test site.

(3) Survey clearance procedures shall be conducted using best operational methods possible. After the mitigation-monitoring zone is cleared, all dolphins and protected species indicators (e.g., *Sargassum* rafts) shall be avoided to the maximum extent possible.

(4) Clearance procedures shall be reconducted if dolphins or protected species indicators (e.g., *Sargassum* rafts) are encountered.

(5) After conducting post-mission monitoring, NEODS training operations data as required by Eglin Air Force Base's Natural Resources Section, 96 CEG/CEVSN shall be reported. Post-mission monitoring shall commence immediately following each detonation and shall be concentrated on the area down current of the test site. If any injured or dead marine mammals are observed, that information will be reported and coordinated with marine animals stranding networks.

(6) An annual summary (coordinated through 96 CEG/CEVSN) of mission observations shall be submitted to: NMFS, Southeast Regional Office, Protected Resources Division, 9721 Executive Center Drive North, St. Petersburg, Florida 33702; and NMFS, Office

of Protected Resources, 1315 East West Highway, Silver Spring, Maryland 20910.

(c) Holders of Letters of Authorization must conduct additional monitoring as required under an annual Letter of Authorization.

(d) Holders of Letters of Authorization must submit an annual report summarizing the specified activity as well as monitoring and mitigation data to the Southeast Regional Administrator and Director of the Office of Protected Resources, NMFS, within 90 days after the conclusion of the NEODS training operations. This report must contain the following information:

(1) Date(s), time(s), and location(s) of explosive activities,

(2) Design of the monitoring program,

(3) Results of the monitoring program including, but not necessarily limited to:

(i) Species counts,

(ii) Numbers of observed disturbances,

(iii) Descriptions of the disturbance behaviors before, during, and after explosive activities,

(iv) Bearing and distances,

(v) Observations of unusual behaviors, numbers, or distributions of marine mammals in the activity area shall be reported to NMFS and the U.S. Fish and Wildlife Service so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing marine mammals, sea turtles, and fish carcasses as well as any rare or unusual species of marine mammals and fish shall be reported to NMFS and U.S. Fish and Wildlife Service.

(e) An annual report (referred to in §217.85(d)) must be submitted at the time of notification of the renewal of the Letter of Authorization.

(f) A draft comprehensive final report must be submitted at least 180 days prior to expiration of these regulations. This comprehensive technical report shall provide full documentation of methods, results, and interpretation of all monitoring during the first four and a half years of the Letter of Authorization. A revised final comprehensive technical report, including all monitoring results during the entire period of the Letters of Authorization, must be submitted 90 days after the end of the period of effectiveness of the regulations. This report shall summarize the activities undertaken and the results reported in all previous reports.

(g)(1) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by a Letter of Authorization, such as an injury, serious injury, or mortality, Eglin Air Force Base will immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov*, and the NMFS Southeast Regional Marine Mammal Stranding Network at 877–433–8299 (*Blair.Mase@noaa.gov* and *Erin.Fougeres@noaa.gov*) (Florida Marine Mammal Stranding Hotline at 888–404–3922). The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident;

(iii) Status of all noise-generating source use in the 24 hours preceding the incident;

(iv) Water depth;

(v) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(vi) Description of all marine mammal observations in the 24 hours preceding the incident;

(vii) Species identification or description of the animal(s) involved;

(viii) Fate of the animal(s); and

(ix) Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with Eglin Air Force Base to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Eglin Air Force Base may not resume their activities until notified by NMFS via letter or email, or telephone.

(2) In the event that Eglin Air Force Base discovers an injured or dead marine mammal, and the lead observer determines that the cause of injury or death is unknown and the death is relatively recent (*i.e.*, less than a moderate state of decomposition as described in the next paragraph), Eglin Air Force Base will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov* and the NMFS Southeast Region Marine Mammal Stranding Network (877–433–8299) and/or by email to the Southeast Regional Stranding Coordinator (*Blair.Mase@noaa.gov*) and Southeast Regional Stranding Program Administrator (*Erin.Fougeres@noaa.gov*). The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident, NMFS will work with Eglin Air Force Base to determine whether modifications in the activities are appropriate.

(3) In the event that Eglin Air Force Base discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the Letter of Authorization (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Eglin Air Force Base will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov*, and the NMFS Southeast Regional Marine Mammal Stranding Network (877–433–8299), and/or by email to the Southeast Regional Stranding Coordinator (*Blair.Mase@noaa.gov*) and Southeast Regional Stranding Program Administrator (*Erin.Fougeres@noaa.gov*), within 24 hours of discovery. Eglin Air Force Base will provide photographs or video footage (if available) or other documentation of the stranded animals sighting to NMFS and the Marine Mammal Stranding Network.

§ 217.86 Applications for Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the U.S. citizen (as defined by § 216.103) conducting the activity identified in § 217.80(a) must apply for and obtain either an initial Letter of Authorization in accordance with § 217.87 or a renewal under § 217.88.

(b) The application must be submitted to NMFS at least 30 days before the activity is scheduled to begin.

(c) Application for a Letter of Authorization and for renewals of Letters of Authorization must include the following:

(1) Name of the U.S. citizen requesting the authorization;

(2) A description of the activity, the dates of the activity, and the specific location of the activity; and

(3) Plans to monitor the behavior and effects of the activity on marine mammals.

(d) A copy of the Letter of Authorization must be in the possession of the persons conducting activities that may involve incidental takings of marine mammals.

(e) [Reserved]

§ 217.87 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, shall be valid for a period of time not to exceed the period of validity of this subpart.

(b) The Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring, and reporting.

(c) Issuance and renewal of the Letter of Authorization shall be based on a determination that the total number of marine mammals taken by the activity as a whole shall have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 217.88 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under § 216.106 of this chapter and § 217.87 for the activity identified in § 217.80(a) shall be renewed upon a request by the applicant or determination by NMFS and the applicant that modifications are appropriate pursuant to the adaptive management component of these regulations, provided that:

(1) NMFS is notified that the activity described in the application submitted under § 217.86 shall be undertaken and there shall not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) NMFS has received, reviewed, and accepted the monitoring reports required under § 217.85(d) and (e) and the Letter of Authorization issued under § 217.87;

(3) NMFS determines that the mitigation, monitoring, and reporting measures required under §§ 217.84 and 217.85 and the Letter of Authorization issued under §§ 216.106 and 217.87 of this chapter, were undertaken and shall be undertaken during the upcoming annual period of validity of a renewed Letter of Authorization; and

(4) NMFS makes the determination required by § 217.87(c).

(b) If either a request for a renewal of a Letter of Authorization issued under § 216.106 of this chapter and § 217.88, or a determination by NMFS and the applicant that modifications are appropriate pursuant to the adaptive management component of these regulations indicates that a substantial modification, as determined by NMFS, to the described work, mitigation or monitoring undertaken during the upcoming season shall occur, NMFS shall publish a proposed modification to the Letter of Authorization in the FEDERAL REGISTER and provide the public a period of 30 days for review and comment. Review and comment on renewals or modifications of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed substantive changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization shall be published in the FEDERAL REGISTER.

(d) Adaptive Management—NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with the U.S. Air Force regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the U.S. Air Force's monitoring from the previous year;

(2) Results from marine mammal and sound research; or

(3) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.

§ 217.89 Modifications of Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS issued pursuant to § 216.106 of this chapter and § 217.87 of this chapter and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 217.88, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.80(b), a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 217.87 of this chapter may be substantively

modified without prior notification and an opportunity for public comment. Notification shall be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subparts J–K [Reserved]

Subpart L—Taking Marine Mammals Incidental to Conducting Precision Strike Weapon and Air-to-Surface Gunnery Missions at Eglin Gulf Test and Training Range (EGTTR) in the Gulf of Mexico

SOURCE: 79 FR 13588, Mar. 11, 2014, unless otherwise noted.

§ 217.110 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Air Force for the incidental taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Air Force is only authorized if it occurs within the Eglin Air Force Base Gulf Test and Training Range (as depicted in Figure 1–9 of the Air Force's Request for a Letter of Authorization). The EGTTR is the airspace over the Gulf of Mexico beyond 3 nm from shore that is controlled by Eglin Air Force Base. The specified activities will take place within the boundaries of Warning Area W–151. The inshore and offshore boundaries of W–151 are roughly parallel to the shoreline contour. The shoreward boundary is 3 nm from shore, while the seaward boundary extends approximately 85 to 100 nm offshore, depending on the specific location. W–151 has a surface area of approximately 10,247 nm^2 (35,145 km^2), and includes water depths ranging from approximately 20 to 700 m.

(c) The taking of marine mammals by the Air Force is only authorized of it occurs incidental to the following activities within the designated amounts of use:

(1) The use of the following Precision Strike Weapons (PSWs) for PSW training activities, in the amounts indicated below:

(i) Joint Air-to-Surface Stand-Off Missile (JASSM) AGM–158 A and B—two live shots (single) and 4 inert shots (single) per year;

(ii) Small-diameter bomb (SDB) GBU–39/B—six live shots per year, with two of the shots occurring simultaneously, and 12 inert shots per year, with up to two occurring simultaneously.

(2) The use of the following ordnance for daytime Air-to-Surface (AS) Gunnery training activities, in the amounts indicated below:

(i) 105 mm HE Full Up (FU)—25 missions per year with 30 rounds per mission;

(ii) 40 mm HE—25 missions per year with 64 rounds per mission;

(iii) 25 mm HE—25 mission per year with 560 rounds per mission.

(3) The use of the following ordnance for nighttime Air-to-Surface (AS) Gunnery training activities, in the amounts indicated below:

(i) 105 mm HE Training Round (TR)—45 missions per year with 30 rounds per mission;

(ii) 40 mm HE—45 missions per year with 64 rounds per mission;

(iii) 25 mm HE—45 mission per year with 560 rounds per mission.

§ 217.111 Effective dates.

Regulations in this subpart are effective March 11, 2014 and applicable to Eglin AFB March 5, 2014, through March 4, 2019.

§ 217.112 Permissible methods of taking.

(a) Under a Letter of Authorization issued pursuant to §§ 216.106 and 217.117 of this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by Level A and Level B harassment within the area described in § 217.110(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of this subpart and the appropriate Letter of Authorization.

(b) The activities identified in § 217.110(c) of this chapter must be conducted in a manner that minimizes, to

the greatest extent practicable, any adverse impact on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 217.110(c) is limited to the following species, by the indicated method of take and the indicated number:

(1) Level B Harassment:

(i) Atlantic bottlenose dolphin (*Tursiops truncatus*)—2,200 (an average of 444 annually);

(ii) Atlantic spotted dolphin (*Stenella frontalis*)—1,765 (an average of 353 annually);

(iii) Pantropical spotted dolphin (*S. attenuate*)—15 (an average of 3 annually);

(iv) Spinner dolphin (*S. longirostris*)—15 (an average of 3 annually);

(v) Dwarf or pygmy sperm whale (*Kogia simus or Kogia breviceps*)—10 (an average of 2 annually).

(2) Level A Harassment:

(i) Atlantic bottlenose dolphin (*Tursiops truncatus*)—25 (an average of 5 annually);

(ii) Atlantic spotted dolphin (*Stenella frontalis*)—20 (an average of 4 annually).

§ 217.113 Prohibitions.

No person in connection with the activities described in § 217.110 shall:

(a) Take any marine mammal not specified in § 217.112(c);

(b) Take any marine mammal specified in § 217.112(c) other than by incidental take as specified in § 217.112(c)(1) and (c)(2);

(c) Take a marine mammal specified in § 217.112(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§ 216.106 and 217.117 of this chapter.

§ 217.114 Mitigation.

(a) The activities identified in § 217.110(c) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in § 217.110(c), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 217.117 of this chapter must be implemented.

(b) Precision Strike Weapon Missions:

(1) Safety Zones;

(i) For the JASSM, the Air Force must establish and monitor a safety zone for marine mammals with a radius of 2.0 nm (3.7 km) from the center of the detonation and a buffer zone with a radius of 1.0 nm (1.85 km) radius from the outer edge of the safety zone.,

(ii) For the SDB, the holder of the Letter of Authorization must establish and monitor a safety zone for marine mammals with a radius of no less than 5 nm (9.3 km) for single bombs and 10 nm (18.5 km) for double bombs and a buffer zone from the outer edge of the safety zone with a radius of at least 2.5 nm (4.6 km) for single bombs and 5 nm (18.5 km) for double bombs.

(2) For PSW missions, the holder of the Letter of Authorization must comply with the monitoring requirements, including pre-mission monitoring, set forth in § 217.115(c).

(3) When detonating explosives:

(i) If any marine mammals or sea turtles are observed within the designated safety zone or the buffer zone prescribed in the condition in paragraph (b)(1) of this section or that are on a course that will put them within the safety zone prior to JASSM or SDB launch, the launching must be delayed until all marine mammals are no longer within the designated safety zone.

(ii) If any marine mammals are detected in the buffer zone and subsequently cannot be reacquired, the mission launch will not continue until the next verified location is outside of the safety zone and the animal is moving away from the mission area.

(iii) If large Sargassum rafts or large concentrations of jellyfish are observed within the safety zone, the mission launch will not continue until the Sargassum rafts or jellyfish that caused the postponement are confirmed to be outside of the safety zone due to the current and/or wind moving them out of the mission area.

(iv) If weather and/or sea conditions preclude adequate aerial surveillance for detecting marine mammals or sea turtles, detonation must be delayed

until adequate sea conditions exist for aerial surveillance to be undertaken. Adequate sea conditions means the sea state does not exceed Beaufort sea state 3.5 (i.e., whitecaps on 33 to 50 percent of surface; 0.6 m (2 ft) to 0.9 m (3 ft) waves), the visibility is 5.6 km (3 nm) or greater, and the ceiling is 305 m (1,000 ft) or greater.

(v) To ensure adequate daylight for pre- and post-detonation monitoring, mission launches may not take place earlier than 2 hours after sunrise, and detonations may not take place later than 2 hours prior to sunset, or whenever darkness or weather conditions will preclude completion of the post-test survey effort described in § 217.115.

(vi) If post-detonation surveys determine that a serious injury or lethal take of a marine mammal has occurred, the test procedure and the monitoring methods must be reviewed with the National Marine Fisheries Service and appropriate changes to avoid unauthorized take must be made prior to conducting the next mission detonation.

(vii) Mission launches must be delayed if aerial or vessel monitoring programs described under § 217.115 cannot be fully carried out.

(c) Air-to-Surface Gunnery Missions:

(1) Sea State Restrictions:

(i) If daytime weather and/or sea conditions preclude adequate aerial surveillance for detecting marine mammals and other marine life, air-to-surface gunnery exercises must be delayed until adequate sea conditions exist for aerial surveillance to be undertaken. Daytime air-to-surface gunnery exercises will be conducted only when sea surface conditions do not exceed Beaufort sea state 4 (i.e., wind speed 13–18 mph (11–16 knots); wave height 1 m (3.3 ft)), the visibility is 5.6 km (3 nm) or greater, and the ceiling is 305 m (1,000 ft) or greater.

(ii) [Reserved]

(2) Pre-mission and Mission Monitoring:

(i) The aircrews of the air-to-surface gunnery missions will initiate location and surveillance of a suitable firing site immediately after exiting U.S. territorial waters (> 12 nm).

(ii) Prior to each firing event, the aircraft crew will conduct a visual and/or instrument survey of the 5-nm (9.3-km) wide prospective target area to locate any marine mammals that may be present.

(A) The AC–130 gunship will conduct at least two complete orbits at a minimum safe airspeed around a prospective target area at an altitude of approximately 6,000 ft (1,829 m).

(B) If marine mammals are not detected, the AC–130 can then continue orbiting the selected target point as it climbs to the mission testing altitude.

(C) During the low altitude orbits and the climb to testing altitude, aircraft crew will scan the sea surface within the aircraft's orbit circle for the presence of marine mammals.

(D) The AC–130's optical and electronic sensors must be employed for target detection, especially at night when visibility will be poor.

(E) If any marine mammals are detected within the AC–130's orbit circle, either during initial clearance or after commencement of live firing, the mission will be immediately halted and relocated as necessary or suspended until the marine mammal has left the area. If relocated to another target area, the clearance procedures described in paragraph (c)(2)(ii) of this section must be repeated.

(F) If multiple firing events occur within the same flight, these clearance procedures must precede each event.

(iii) If no marine mammals are detected, gunnery exercises may begin with the deployment of MK–25 flares into the center of the designated 5-nm target area.

(3) Operational Mitigation Measures:

(i) Ramp-up air-to-surface gunnery firing activities by beginning with the lowest caliber monition and proceeding to the highest, which means the munitions would be fired in the following order: 25 mm; 40 mm; and 105 mm.

(ii) Air-to-surface gunnery exercises conducted after sunset must use the 105-mm training round instead of the 105-mm full up round.

(iii) One mission per year may be conducted beyond the 200 m isobaths, which is south of a line delineating the shelf break with coordinates of 29°42.73′ N, 86°48.27′ W and 29°12.73′ N, 85°59.88′ W (Figure 1–12 in Eglin AFB's LOA application). The single mission beyond the

shelf break will occur during daylight hours only.

(4) Post-mission Monitoring:

(i) Aircrews will initiate the post-mission clearance procedures beginning at the operational altitude of approximately 15,000 to 20,000 ft (4572 to 6096 m) elevation, and then initiate a spiraling descent down to an observation altitude of approximately 6,000 ft (1,829 m) elevation. Rates of descent will occur over a 3- to 5-minute time frame.

(ii) If post-detonation surveys determine that an injury or lethal take of a marine mammal has occurred, the test procedure and the monitoring methods must be reviewed with the National Marine Fisheries Service and appropriate changes to avoid unauthorized take must be made, prior to conducting the next air-to-surface gunnery exercise.

§ 217.115 Requirements for monitoring and reporting.

(a) The Holder of the Letter of Authorization issued pursuant to §§ 216.106 and 217.117 of this chapter for activities described in § 217.110(c) is required to conduct the monitoring and reporting measures specified in this section and § 217.114 and any additional monitoring measures contained in the Letter of Authorization.

(b) The Holder of the Letter of Authorization is required to cooperate with the National Marine Fisheries Service, and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Director, Office of Protected Resources, National Marine Fisheries Service, or designee, by letter or telephone (301–427–8401), at least 2 weeks prior to any modification to the activity identified in § 217.110(c) that has the potential to result in the serious injury, mortality or Level A or Level B harassment of a marine mammal that was not identified and addressed previously.

(c) Monitoring Procedures for PSW Missions:

(1) The Holder of this Authorization must:

(i) Designate qualified on-site individual(s) to record the effects of mission launches on marine mammals that inhabit the northern Gulf of Mexico;

(ii) Have on-site individuals, approved in advance by the National Marine Fisheries Service, to conduct the mitigation, monitoring and reporting activities specified in this subpart and in the Letter of Authorization issued pursuant to §§ 216.106 and 217.117 of this chapter.

(iii) Conduct aerial surveys to reduce impacts on protected species. The aerial survey/monitoring team will consist of two experienced marine mammal observers, approved in advance by the Southeast Region, National Marine Fisheries Service. The aircraft will also have a data recorder who would be responsible for relaying the location, the species if possible, the direction of movement, and the number of animals sighted.

(iv) Conduct shipboard monitoring to reduce impacts to protected species. Trained observers will conduct monitoring from the highest point possible on each mission or support vessel(s). The observer on the vessel must be equipped with optical equipment with sufficient magnification (e.g., 25x power ''Big-Eye'' binoculars).

(2) The aerial and shipboard monitoring teams will maintain proper lines of communication to avoid communication deficiencies. The observers from the aerial team and operations vessel will have direct communication with the lead scientist aboard the operations vessel.

(3) Pre-mission Monitoring: Approximately 5 hours prior to the mission, or at daybreak, the appropriate vessel(s) would be on-site in the primary test site near the location of the earliest planned mission point. Observers onboard the vessel will assess the suitability of the test site, based on visual observation of marine mammals and sea turtles, the presence of large Sargassum mats, seabirds and jellyfish aggregations and overall environmental conditions (visibility, sea state, etc.). This information will be relayed to the lead scientist.

(4) Three Hours Prior to Mission:

(i) Approximately three hours prior to the mission launch, aerial monitoring will commence within the test site to evaluate the test site for environmental suitability. Evaluation of the entire test site would take approximately 1 to 1.5 hours. The aerial monitoring team will begin monitoring the safety zone and buffer zone around the target area.

(ii) Shipboard observers will monitor the safety and buffer zone, and the lead scientist will enter all marine mammals and sea turtle sightings, including the time of sighting and the direction of travel, into a marine animal tracking and sighting database.

(5) One to 1.5 Hours Prior to Mission Launch:

(i) Depending upon the mission, aerial and shipboard viewers will be instructed to leave the area and remain outside the safety area. The aerial team will report all marine animals spotted and their directions of travel to the lead scientist onboard the vessel.

(ii) The shipboard monitoring team will continue searching the buffer zone for protected species as it leaves the safety zone. The surface vessels will continue to monitor from outside of the safety area until after impact.

(6) Post-mission monitoring:

(i) The vessels will move into the safety zone from outside the safety zone and continue monitoring for at least two hours, concentrating on the area down current of the test site.

(ii) The holder of the Letter of Authorization will closely coordinate mission launches with marine animal stranding networks.

(iii) The monitoring team will document any dead or injured marine mammals or turtles and, if practicable, recover and examine any dead animals.

(d) Monitoring Procedures for A–S Gunnery Missions:

(1) In addition to the monitoring requirements in 217.114(c), the holder of the Letter of Authorization must:

(i) Cooperate with the National Marine Fisheries Service and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals.

(ii) Require aircrews to initiate the post-mission clearance procedures beginning at the operational altitude of approximately 15,000 to 20,000 ft (4572 to 6096 m) elevation, and then initiate a spiraling descent down to an observation altitude of approximately 6,000 ft (1,829 m) elevation. Rates of descent will occur over a 3- to 5-minute time frame.

(iii) Track their use of the EGTTR for test firing missions and marine mammal observations, through the use of mission reporting forms.

(iv) Coordinate air-to-surface gunnery exercises with future flight activities to provide supplemental post-mission observations of marine mammals in the operations area of the exercise.

(2) [Reserved]

(e) In accordance with provisions in § 217.118(b)(2), the Holder of the Letter of Authorization must conduct the research required under the Letter of Authorization.

(f) Reporting:

(1) Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must conduct all of the monitoring and reporting required under the LOA and submit an annual report to the Director, Office of Protected Resources, National Marine Fisheries Service by a date certain specified in the LOA. This report must include the following information:

(i) Date and time of each PSW/air-to-surface gunnery exercise;

(ii) A complete description of the pre-exercise and post-exercise activities related to mitigating and monitoring the effects of PSW/air-to-surface gunnery exercises on marine mammal populations;

(iii) Results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of the training exercises and number of marine mammals (by species if possible) that may have been harassed due to presence within the applicable safety zone;

(iv) A detailed assessment of the effectiveness of sensor-based monitoring in detecting marine mammals in the area of air-to-surface gunnery operations; and

(v) Results of coordination with coastal marine mammal stranding networks.

(2) The final comprehensive report on all marine mammal monitoring and research conducted during the applicability period of this subpart must be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service at least 240 days prior to expiration of applicability of this subpart or 240 days after the expiration of applicability of this subpart if new regulations will not be requested.

§ 217.116 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to this subpart, the U.S. citizen (as defined at § 216.103 of this chapter) conducting the activities identified in § 217.110(c) must apply for and obtain either an initial Letter of Authorization in accordance with §§ 216.106 and 217.117 of this chapter or a renewal under § 217.118.

§ 217.117 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the species or stock of affected marine mammals.

§ 217.118 Renewals and Modifications of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 and § 217.117 of this chapter for the activities identified in § 217.110(c) will be renewed or modified upon request of the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for this subpart (excluding changes made pursuant to adaptive management) and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous Letter of Authorization under this subpart were implemented.

(b) For Letter of Authorization modifications or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to adaptive management) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of a proposed Letter of Authorization in the FEDERAL REGISTER, including the associate analysis illustrating the change, and solicit public comment before issuing the Letter of Authorization.

(c) A Letter of Authorization issued under §§ 216.106 and 217.117 of this chapter for the activity identified in § 217.110(c) may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with the U.S. Air Force regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(i) Results from the U.S. Air Force's monitoring from the previous year;

(ii) Results from marine mammal and sound research; or

(iii) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by this subpart or subsequent Letters of Authorization.

(2) Emergencies. If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.112(c), a Letter of Authorization issued pursuant to §§ 216.106

and 217.117 of this chapter may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subparts M–N [Reserved]

Subpart O—Taking of Marine Mammals Incidental to Operation of Offshore Oil and Gas Facilities in the U.S. Beaufort Sea

SOURCE: 78 FR 75507, Dec. 12, 2013, unless otherwise noted.

EFFECTIVE DATE NOTE: At 78 FR 75507, Dec. 12, 2013, subpart O was added, effective Jan. 13, 2014, through Jan. 14, 2019.

§ 217.140 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to BP Exploration (Alaska) Inc. (BP) and those persons it authorizes to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to operation of offshore oil and gas facilities in the U.S. Beaufort Sea, Alaska, in the Northstar Development Area.

(b) The taking of marine mammals by BP may be authorized in a Letter of Authorization only if it occurs in the geographic region that encompasses the Northstar Oil and Gas Development area within state and/or Federal waters in the U.S. Beaufort Sea.

§ 217.141 Effective dates.

Regulations in this subpart are effective from January 13, 2014 through January 14, 2019.

§ 217.142 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 217.148 of this chapter, the Holder of the Letter of Authorization (hereinafter ''BP'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.140(b), provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate Letter of Authorization.

(b) The activities identified in § 217.140(a) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 217.140(a) is limited to the following species and by the indicated method and amount of take:

(1) Level B Harassment:

(i) Cetaceans:

(A) Bowhead whale (*Balaena mysticetus*)—75 (an average of 15 annually)

(B) Gray whale (*Eschrichtius robustus*)—10 (an average of 2 annually)

(C) Beluga whale (*Delphinapterus leucas*)—100 (an average of 20 annually)

(ii) Pinnipeds:

(A) Ringed seal (*Phoca hispida*)—155 (an average of 31 annually)

(B) Bearded seal (*Erignathus barbatus*)—25 (an average of 5 annually)

(C) Spotted seal (*Phoca largha*)—25 (an average of 5 annually)

(2) Level A Harassment and Mortality: Ringed seal—25 (an average of 5 annually)

§ 217.143 Prohibitions.

Notwithstanding takings contemplated in § 217.140 and authorized by a Letter of Authorization issued under §§ 216.106 and 217.148 of this chapter, no person in connection with the activities described in § 217.140 may:

(a) Take any marine mammal not specified in § 217.142(c);

(b) Take any marine mammal specified in § 217.142(c) other than by incidental take as specified in § 217.142(c)(1) and (c)(2);

(c) Take a marine mammal specified in § 217.172(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal;

(d) Take a marine mammal specified in § 217.172(c) if such taking results in an unmitigable adverse impact on the species or stock for taking for subsistence uses; or

(e) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of

Authorization issued under §§ 216.106 and 217.148 of this chapter.

§ 217.144 Mitigation.

(a) When conducting the activities identified in § 217.140(a), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 217.148 of this chapter must be implemented. These mitigation measures include but are not limited to:

(1) Ice-covered Season:

(i) In order to reduce the taking of ringed seals to the lowest level practicable, BP must begin winter construction activities, principally ice roads, as soon as possible once weather and ice conditions permit such activity.

(ii) Any ice roads or other construction activities that are initiated after March 1, in previously undisturbed areas in waters deeper than 10 ft (3 m), must be surveyed, using trained dogs in order to identify and avoid ringed seal structures by a minimum of 492 ft (150 m).

(iii) After March 1 of each year, activities should avoid, to the greatest extent practicable, disturbance of any located seal structure.

(2) Open-water Season:

(i) BP will establish and monitor, during all daylight hours, a 190 dB re 1 μPa (rms) exclusion zone for seals around the island for all activities with sound pressure levels (SPLs) that are expected to exceed that level in waters beyond the Northstar facility on Seal Island.

(ii) BP will establish and monitor, during all daylight hours, a 180 dB re 1 μPa (rms) exclusion zone for cetaceans around the island for all activities with SPLs that are expected to exceed that level in waters beyond the Northstar facility at Seal Island.

(iii) If any marine mammals are observed within the relevant exclusion zone, described in § 217.144(a)(2)(i) or (a)(2)(ii), the activity creating the noise will shutdown or reduce its SPL sufficiently (*i.e.*, power down) to ensure that received SPLs do not exceed those prescribed SPL intensities at the affected marine mammal. The shutdown or reduced SPL shall be maintained until such time as the observed marine mammal(s) has been seen to have left the applicable exclusion zone or until 15 minutes have elapsed in the case of a pinniped or odontocete or 30 minutes in the case of a mysticete without resighting, whichever occurs sooner.

(iv) The entire exclusion zones prescribed in § 217.144(a)(2)(i) or (a)(2)(ii) must be visible during the entire 30-minute pre-activity monitoring time period in order for the activity to begin.

(v) BP shall employ a ramp-up technique at the beginning of each day's in-water pile driving activities and if pile driving resumes after it has ceased for more than 1 hour.

(A) If a vibratory driver is used, BP is required to initiate sound from vibratory hammers for 15 seconds at reduced energy followed by a 1-minute waiting period. The procedure shall be repeated two additional times before full energy may be achieved.

(B) If a non-diesel impact hammer is used, BP is required to provide an initial set of strikes from the impact hammer at reduced energy, followed by a 1-minute waiting period, then two subsequent sets.

(C) If a diesel impact hammer is used, BP is required to turn on the sound attenuation device for 15 seconds prior to initiating pile driving.

(vi) New drilling into oil-bearing strata shall not take place during either open-water or spring-time broken ice conditions.

(vii) All non-essential boats, barge, and air traffic will be scheduled to avoid periods when bowhead whales are migrating through the area where they may be affected by noise from these activities.

(3) Helicopter flights to support Northstar activities must be limited to a corridor from Seal Island to the mainland, and, except when limited by weather or personnel safety, must maintain a minimum altitude of 1,000 ft (305 m), except during takeoff and landing.

(4) Additional mitigation measures as contained in a Letter of Authorization issued under §§ 216.106 and 217.148 of this chapter.

(b) [Reserved]

§ 217.145 Measures to ensure availability of species for subsistence uses.

When applying for a Letter of Authorization pursuant to § 217.147 or a renewal of a Letter of Authorization pursuant to § 217.149, BP must submit a Plan of Cooperation that identifies what measures have been taken and/or will be taken to minimize any adverse effects on the availability of marine mammal species or stocks for taking for subsistence uses. A plan shall include the following:

(a) A statement that the applicant has notified and met with the affected subsistence communities to discuss proposed activities and to resolve potential conflicts regarding timing and methods of operation;

(b) A description of what measures BP has taken and/or will take to ensure that the proposed activities will not interfere with subsistence whaling or sealing; and

(c) What plans BP has to continue to meet with the affected communities to notify the communities of any changes in operation.

§ 217.146 Requirements for monitoring and reporting.

(a) BP must notify the Alaska Regional Office, NMFS, within 48 hours of starting ice road construction, cessation of ice road usage, and the commencement of icebreaking activities for the Northstar facility.

(b) BP must designate qualified, onsite individuals, approved in advance by NMFS, to conduct the mitigation, monitoring, and reporting activities specified in the Letter of Authorization issued under §§ 216.106 and 217.148 of this chapter.

(c) Monitoring measures during the ice-covered season shall include, but are not limited to, the following:

(1) After March 1, trained dogs must be used to detect seal lairs in previously undisturbed areas that may be potentially affected by on-ice construction activity, if any. Surveys for seal structures should be conducted to a minimum distance of 492 ft (150 m) from the outer edges of any disturbance.

(2) If ice road construction occurs after March 1, conduct a follow-up assessment in May of that year of the fate of all seal structures located during monitoring conducted under paragraph (c)(1) of this section near the physically disturbed areas.

(3) BP shall conduct acoustic measurements to document sound levels, characteristics, and transmissions of airborne sounds with expected source levels of 90 dBA or greater created by on-ice activity at Northstar that have not been measured in previous years. In addition, BP shall conduct acoustic measurements to document sound levels, characteristics, and transmissions of airborne sounds for sources on Northstar Island with expected received levels at the water's edge that exceed 90 dBA that have not been measured in previous years.

(d) Monitoring measures during the open-water season shall include, but are not limited to, the following:

(1) Acoustic monitoring of the bowhead whale migration.

(2) BP shall monitor the exclusion zones of activities capable of producing pulsed underwater sound with levels ≥180 or ≥190 dB re 1 μPa (rms) at locations where cetaceans or seals could be exposed. At least one on-island observer shall be stationed at a location providing an unobstructed view of the predicted exclusion zone. The observer(s) shall scan the exclusion zone continuously for marine mammals for 30 minutes prior to the operation of the sound source. Observations shall continue during all periods of operation and for 30 minutes after the cessation of the activity. The observer shall record the: species and numbers of marine mammals seen within the 180 or 190 dB zones; bearing and distance of the marine mammals from the observation point; and behavior of marine mammals and any indication of disturbance reactions to the monitored activity.

(e) BP shall conduct any additional monitoring measures contained in a Letter of Authorization issued under §§ 216.106 and 217.148 of this chapter.

(f) BP shall submit an annual report to NMFS within the time period specified in a Letter of Authorization issued under §§ 216.106 and 217.148 of this chapter.

(g) If specific mitigation and monitoring are required for activities on the sea ice initiated after March 1 (requiring searches with dogs for lairs), during the operation of strong sound sources (requiring visual observations and shutdown procedures), or for the use of new sound sources that have not previously been measured, then a preliminary summary of the activity, method of monitoring, and preliminary results shall be submitted to NMFS within 90 days after the cessation of that activity. The complete description of methods, results, and discussion shall be submitted as part of the annual report described in paragraph (f) of this section.

(h) BP shall submit a draft comprehensive report to NMFS, Office of Protected Resources, and NMFS, Alaska Regional Office (specific contact information to be provided in Letter of Authorization), no later than 240 days prior to the expiration of the regulations in this subpart. This comprehensive technical report shall provide full documentation of methods, results, and interpretation of all monitoring during the first four and a quarter years of the LOA. Before acceptance by NMFS as a final comprehensive report, the draft comprehensive report shall be subject to review and modification by NMFS scientists.

(i)(1) In the unanticipated event that Northstar operations clearly causes the death of more than five ringed seals annually or the take of a marine mammal in a manner prohibited by this final rule, such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction), BP shall immediately take steps to cease the operations that caused the unauthorized take and report the incident as soon as practicable and no later than 24 hours after the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, or his designee, the Alaska Regional Office, and the Alaska Regional Stranding Coordinators (specific contact information to be provided in Letter of Authorization). The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) The type of equipment involved in the incident;

(iii) Description of the incident;

(iv) Water depth, if relevant;

(v) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(vi) Species identification or description of the animal(s) involved;

(vii) The fate of the animal(s); and

(viii) Photographs or video footage of the animal (if equipment is available).

(2) Activities shall not resume until NMFS is able to review the circumstances causing the exceedance of the authorized take. NMFS will work with BP to identify additional measures to minimize the likelihood that more than five ringed seals will not be killed each year (or other marine mammal species that may have been injured, seriously injured, or killed) from BP's activities. BP may not resume their activities until notified by NMFS via letter, email, or telephone.

(3) In the event that BP discovers an injured or dead marine mammal, and it is determined that the cause of the injury or death is unknown and the death is relatively recent (*i.e.*, in less than a moderate state of decomposition as described in the next paragraph), BP will report the incident/discovery as soon as practicable and no later than 24 hours after the incident/discovery to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, by phone or email, the Alaska Regional Office, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators (specific contact information to be provided in Letter of Authorization). The report must include the same information identified in § 217.146(i)(1). Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with BP to determine whether modifications in the activities are appropriate.

(4) In the event that BP discovers an injured or dead marine mammal, and it is determined that the injury or death is not associated with or related to the activities authorized in this final rule (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), BP

shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, by phone or email and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators (specific contact information to be provided in Letter of Authorization), as soon as practicable and no later than 24 hours after the discovery. BP shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

§ 217.147 Applications for Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the U.S. Citizen (as defined by § 216.103 of this chapter) conducting the activity identified in § 217.140(a) (*i.e.*, BP) must apply for and obtain either an initial Letter of Authorization in accordance with § 217.148 or a renewal under § 217.149.

(b) [Reserved]

§ 217.148 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, shall be valid for a period of time not to exceed the period of validity of this subpart.

(b) The Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization shall be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s) and will not have an unmitigable adverse impact on the availability of species or stocks of marine mammals for taking for subsistence uses.

§ 217.149 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under § 216.106 and § 217.148 of this chapter for the activity identified in § 217.140(a) shall be renewed upon request by the applicant or determination by NMFS and the applicant that modifications are appropriate pursuant to the adaptive management component of these regulations, provided that:

(1) NMFS is notified that the activity described in the application submitted under § 217.147 will be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) NMFS receives the monitoring reports required under § 217.146(f) and (g); and

(3) NMFS determines that the mitigation, monitoring and reporting measures required under §§ 217.144 and 217.146 and the Letter of Authorization issued under §§ 216.106 and 217.148 of this chapter were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization.

(b) If either a request for a renewal of a Letter of Authorization issued under §§ 216.106 and 217.149 of this chapter or a determination by NMFS and the applicant that modifications are appropriate pursuant to the adaptive management component of these regulations indicates that a substantial modification, as determined by NMFS, to the described work, mitigation or monitoring undertaken during the upcoming season will occur, NMFS will provide the public a period of 30 days for review and comment on the request. Review and comment on renewals of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed substantive changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization

will be published in the FEDERAL REGISTER.

(d) *Adaptive management*—NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with BP regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from BP's monitoring from the previous year;

(2) Results from general marine mammal and sound research; or

(3) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

§ 217.150 Modifications of Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization issued by NMFS, pursuant to §§ 216.106 and 217.148 of this chapter and subject to the provisions of this subpart, shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 217.149, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.142(c), a Letter of Authorization issued pursuant to §§ 216.106 and 217.148 of this chapter may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subpart P—Taking Marine Mammals Incidental to Construction and Operation of a Liquefied Natural Gas Deepwater Port in the Gulf of Mexico

SOURCE: 78 FR 20816, Apr. 8, 2013, unless otherwise noted.

EFFECTIVE DATE NOTE: At 78 FR 20816, Apr. 8, 2013, subpart P was added, effective June 1, 2013, to May 31, 2018.

§ 217.151 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to Port Dolphin Energy LLC (Port Dolphin) and those persons it authorizes to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to construction and operation of the Port Dolphin Deepwater Port (Port).

(b) The taking of marine mammals by Port Dolphin may be authorized in a Letter of Authorization (LOA) only if it occurs in the vicinity of the Port Dolphin Deepwater Port in the eastern Gulf of Mexico or along the associated pipeline route.

§ 217.152 Effective dates.

Regulations in this subpart are effective from June 1, 2013, through May 31, 2018.

§ 217.153 Permissible methods of taking.

(a) Under LOAs issued pursuant to §§ 216.106 and 217.157 of this chapter, the Holder of the LOA (hereinafter ''Port Dolphin'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.151(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in § 217.151(a) of this chapter is limited to the following species and is limited to Level B Harassment:

(1) Bottlenose dolphin (*Tursiops truncatus*)—3,388 (860 the first year and an average of 632 annually thereafter)

(2) Atlantic spotted dolphin (*Stenella frontalis*)—1,274 (290 the first year and an average of 246 annually thereafter)

§ 217.154 Prohibitions.

Notwithstanding takings contemplated in § 217.151 of this chapter and authorized by a LOA issued under §§ 216.106 and 217.157 of this chapter, no person in connection with the activities described in § 217.151 of this chapter may:

(a) Take any marine mammal not specified in § 217.153(b) of this chapter;

(b) Take any marine mammal specified in § 217.153(b) of this chapter other than by incidental, unintentional Level B Harassment;

(c) Take a marine mammal specified in § 217.153(b) of this chapter if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 and 217.157 of this chapter.

§ 217.155 Mitigation.

(a) When conducting the activities identified in § 217.151(a) of this chapter, the mitigation measures contained in any LOA issued under §§ 216.106 and 217.157 of this chapter must be implemented. These mitigation measures include but are not limited to:

(1) General Conditions:

(i) Briefings shall be conducted between the Port Dolphin project construction supervisors and the crew, protected species observer(s) (PSO), and acoustic monitoring team prior to the start of all construction activity, and when new personnel join the work, to explain responsibilities, communication procedures, protected species monitoring protocol, and operational procedures.

(ii) Port Dolphin shall comply with all applicable equipment sound standards and ensure that all construction equipment has sound control devices no less effective than those provided on the original equipment. Vessel crew and contractors shall minimize the production of underwater sound to the extent possible. Equipment and/or procedures used may include the use of enclosures and mufflers on equipment, minimizing the use of thrusters, and turning off engines and equipment when not in use.

(iii) All vessels associated with Port Dolphin construction and operations shall comply with NMFS Vessel Strike Avoidance Measures and Reporting for Mariners and applicable regulations. All vessels associated with Port Dolphin construction and operations shall remain 500 yd (457 m) away from North Atlantic right whales (*Eubalaena glacialis*) and 100 yd (91 m) away from all other marine mammals, except in cases where small marine mammals (i.e., delphinids) voluntarily approach within 100 yd or unless constrained by human safety concerns or navigational constraints.

(2) Shutdown and Monitoring:

(i) Shutdown zone: For all stationary activities, shutdown zones shall be established. These zones shall include all areas where underwater sound pressure levels (SPLs) are anticipated to equal or exceed 180 dB re: 1 μPa rms, as determined by modeled scenarios approved by NMFS for each specific activity. The actual size of these zones shall be empirically determined and reported by Port Dolphin. For all non-stationary activities (e.g., pipeline burial, shuttle regasification vessel (SRV) maneuvering), Port Dolphin shall adhere to Vessel Strike Avoidance Measures described in § 217.155(a)(1)(iii) of this chapter, but shall not otherwise be required to establish shutdown zones.

(ii) Disturbance zone: For all construction activities, disturbance zones shall be established. For impact pile driving, these zones shall include all areas where underwater SPLs are anticipated to equal or exceed 160 dB re: 1 μPa rms. For all other activities these zones shall include all areas where underwater SPLs are anticipated to equal or exceed 120 dB re: 1 μPa rms. These zones shall be established on the basis of modeled scenarios approved by NMFS for each specific activity. The actual size of disturbance zones shall be empirically determined and reported by Port Dolphin, and on-site PSOs shall be aware of the size of these

zones. However, because of the large size of these zones, monitoring of the zone is required only to maximum line-of-sight distance from established monitoring locations.

(iii) Visual monitoring shall occur for all construction activities. The following measures shall apply:

(A) Zones shall be monitored from the appropriate vessel or work platform, or other suitable vantage point. Port Dolphin shall at all times employ, at minimum, two PSOs in association with each concurrent specified construction activity.

(B) Shutdown zones shall be monitored for the presence of marine mammals before, during, and after construction activity. For all activities, the shutdown zone shall be monitored for 30 minutes prior to initiating the start of activity and for 30 minutes following the completion of activity. If marine mammals are present within the shutdown zone prior to initiating activity, the start shall be delayed until the animals leave the shutdown zone of their own volition or until 15 minutes has elapsed without observing the animal. If a marine mammal is observed within or approaching the shutdown zone, activity shall be halted as soon as it is safe to do so, until the animal is observed exiting the shutdown zone or 15 minutes has elapsed. If a marine mammal is observed within the disturbance zone, a take shall be recorded and behaviors documented.

(C) PSOs shall be on watch at all times during daylight hours when in-water operations are being conducted, unless conditions (e.g., fog, rain, darkness) make observations impossible. The lead PSO on duty shall make this determination. If conditions deteriorate during daylight hours such that the sea surface observations are halted, visual observations must resume as soon as conditions permit. While activities will be permitted to continue during low-visibility conditions, they must have been initiated following proper clearance of the shutdown zone under acceptable observation conditions and must be restarted, if halted for any reason, using the appropriate shutdown zone clearance procedures as described in § 217.155(a)(2)(iii)(B) of this chapter.

(3) Pile driving:

(i) A minimum shutdown zone of 250 m radius shall be established around all impact pile driving activity.

(ii) Contractors shall reduce the power of impact hammers to minimum energy levels required to drive a pile.

(iii) Port Dolphin shall use a sound attenuation measure for impact driving of pilings. Prior to beginning construction, Port Dolphin must provide information to NMFS about the device to be used, including technical specifications. NMFS must approve use of the device before construction may begin. If a bubble curtain or similar measure is used, it shall distribute small air bubbles around 100 percent of the piling perimeter for the full depth of the water column. Any other attenuation measure (e.g., temporary sound attenuation pile) must provide 100 percent coverage in the water column for the full depth of the pile. Prior to any impact pile driving, a performance test of the sound attenuation device must be conducted in accordance with a NMFS-approved acoustic monitoring plan. If a bubble curtain or similar measure is utilized, the performance test shall confirm the calculated pressures and flow rates at each manifold ring.

(iv) Ramp-up:

(A) A ramp-up technique shall be used at the beginning of each day's in-water pile driving activities and if pile driving resumes after it has ceased for more than 1 hour.

(B) If a vibratory driver is used, contractors shall be required to initiate sound from vibratory hammers for 15 seconds at reduced energy followed by a 1-minute waiting period. The procedure shall be repeated two additional times before full energy may be achieved.

(C) If a non-diesel impact hammer is used, contractors shall be required to provide an initial set of strikes from the impact hammer at reduced energy, followed by a 1-minute waiting period, then two subsequent sets.

(D) If a diesel impact hammer is used, contractors shall be required to turn on the sound attenuation device for 15 seconds prior to initiating pile driving.

(v) No impact pile driving shall occur when visibility in the shutdown zone is significantly limited, such as during heavy rain or fog.

(4) Additional mitigation measures:

(i) Use of lights during construction activities shall be limited to areas where work is actually occurring, and all other lights must be extinguished. Lights must be shielded such that they illuminate the deck and do not intentionally illuminate surrounding waters, to the extent possible.

(ii) Additional mitigation measures as contained in a LOA issued under §§ 216.106 and 217.157 of this chapter.

(b) [Reserved]

§ 217.156 Requirements for monitoring and reporting.

(a) Visual monitoring program:

(1) Port Dolphin shall employ, at minimum, two qualified PSOs during specified construction-related activities at each site where such activities are occurring. All PSOs must be selected in conformance with NMFS' minimum qualifications, as described in the preamble to this rule, and must receive training sponsored by Port Dolphin, with topics to include, at minimum, implementation of the monitoring protocol, identification of marine mammals, and reporting requirements. The PSOs shall be responsible for visually locating marine mammals in the shutdown and disturbance zones and, to the extent possible, identifying the species. PSOs shall record, at minimum, the following information:

(i) A count of all marine mammals observed by species, sex, and age class, when possible.

(ii) Their location within the shutdown or disturbance zone, and their reaction (if any) to construction activities, including direction of movement.

(iii) Activity that is occurring at the time of observation, including time that activity begins and ends, any acoustic or visual disturbance, and time of the observation.

(iv) Environmental conditions, including wind speed, wind direction, visibility, and temperature.

(2) Port Dolphin shall sponsor a training course to designated crew members assigned to vessels associated with construction activities or support of operations who will have responsibilities for watching for marine mammals. This course shall cover topics including, but not limited to, descriptions of the marine mammals found in the area, mitigation and monitoring requirements contained in a LOA, sighting log requirements, provisions of NMFS Vessel Strike Avoidance Measures and Reporting for Mariners, and procedures for reporting injured or dead marine mammals.

(3) Monitoring shall be conducted using appropriate binoculars, such as 8x50 marine binoculars. When possible, digital video or still cameras shall also be used to document the behavior and response of marine mammals to construction activities or other disturbances.

(4) Each PSO shall have two-way communication capability for contact with other PSOs or work crews. PSOs shall implement shut-down or delay procedures when applicable by calling for the shut-down to the equipment/vessel operator.

(5) A GPS unit and/or appropriate range finding device shall be used for determining the observation location and distance to marine mammals, vessels, and construction equipment.

(b) Acoustic monitoring program:

(1) Acoustic monitoring must be conducted in accordance with the NMFS-approved acoustic monitoring plan.

(2) Port Dolphin shall provide NMFS with empirically measured source level data for designated sources of sound associated with Port construction and operation activities and shall verify distances to relevant sound thresholds. Measurements shall be carefully coordinated with sound-producing activities.

(3) [Reserved]

(c) Reporting—Port Dolphin must implement the following reporting requirements:

(1) A report of data collected during monitoring shall be submitted to NMFS following conclusion of construction activities. Subsequent reports concerning Port operations shall be submitted annually. The reports shall include:

(i) All data required to be collected during monitoring, as described under § 217.156(a) of this chapter, including

observation dates, times, and conditions;

(ii) Correlations of observed behavior with activity type and received levels of sound, to the extent possible; and

(iii) Estimations of total incidental take of marine mammals, extrapolated from observed incidental take.

(2) Port Dolphin shall also submit a report(s) concerning the results of all acoustic monitoring. Acoustic monitoring reports shall include information as described in a NMFS-approved acoustic monitoring plan.

(3) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by a LOA (if issued), such as an injury (Level A harassment), serious injury, or mortality, Port Dolphin shall immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Southeast Regional Stranding Coordinator, NMFS. The report must include the following information:

(A) Time and date of the incident;

(B) Description of the incident;

(C) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(D) Description of all marine mammal observations in the 24 hours preceding the incident;

(E) Species identification or description of the animal(s) involved;

(F) Fate of the animal(s); and

(G) Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Port Dolphin to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Port Dolphin may not resume their activities until notified by NMFS.

(ii) In the event that Port Dolphin discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (e.g., in less than a moderate state of decomposition), Port Dolphin shall immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Southeast Regional Stranding Coordinator, NMFS. The report must include the same information identified in § 217.156(b)(3)(i) of this chapter. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Port Dolphin to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that Port Dolphin discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the LOA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Port Dolphin shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Southeast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Port Dolphin shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

(4) *Annual reports.* (i) A report summarizing all marine mammal monitoring and construction activities shall be submitted to NMFS, Office of Protected Resources, and NMFS, Southeast Regional Office (specific contact information to be provided in LOA) following the conclusion of construction activities. Thereafter, Port Dolphin shall submit annual reports summarizing operations activities.

(ii) The annual reports shall include data collected for each marine mammal species observed in the project area. Description of marine mammal behavior, overall numbers of individuals observed, frequency of observation, and any behavioral changes and the context of the changes relative to activities shall also be included in the reports. Additional information that shall be recorded during activities and contained in the reports include: date and time of marine mammal detections, weather conditions, species identification, approximate distance from

the source, and activity at the construction site when a marine mammal is sighted. Port Dolphin shall extrapolate observed incidences of take to provide an estimate of actual incidences of take.

(5) *Five-year comprehensive report.* (i) Port Dolphin shall submit a draft comprehensive final report to NMFS, Office of Protected Resources, and NMFS, Southeast Regional Office (specific contact information to be provided in LOA) 180 days prior to the expiration of the regulations. This comprehensive technical report shall provide full documentation of methods, results, and interpretation of all monitoring during the first 4.5 years of the activities conducted under the regulations in this subpart.

(ii) Port Dolphin shall submit a revised final comprehensive technical report, including all monitoring results during the entire period of the LOAs, 90 days after the end of the period of effectiveness of the regulations to NMFS, Office of Protected Resources, and NMFS, Southeast Regional Office (specific contact information to be provided in LOA).

§ 217.157 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, Port Dolphin must apply for and obtain a LOA.

(b) A LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, Port Dolphin must apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, Port Dolphin must apply for and obtain a modification of the LOA as described in § 217.158 of this chapter.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of a LOA shall be published in the FEDERAL REGISTER within 30 days of a determination.

§ 217.158 Renewals and modifications of Letters of Authorization.

(a) A LOA issued under §§ 216.106 and 217.157 of this chapter for the activity identified in § 217.151(a) of this chapter shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in § 217.158(c)(1) of this chapter).

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in § 217.158(c)(1) of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) A LOA issued under §§ 216.106 and 217.157 of this chapter for the activity identified in § 217.151(a) of this chapter may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Port Dolphin regarding the practicability of the modifications) if doing

so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from Port Dolphin's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.153(b) of this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within 30 days of the action.

Subpart Q [Reserved]

Subpart R—Taking of Marine Mammals Incidental to Operation and Maintenance of the Neptune Liquefied Natural Gas Facility Off Massachusetts

SOURCE: 76 FR 34172, June 13, 2011, unless otherwise noted.

EFFECTIVE DATE NOTE: At 76 FR 34172, June 13, 2011, subpart R was added, effective July 11, 2011, through July 10, 2016.

§ 217.170 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to Neptune LNG LLC (Neptune) and those persons it authorizes to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to commissioning and operation, including maintenance and repair activities, at the Neptune Deepwater Port (Port).

(b) The taking of marine mammals by Neptune may be authorized in a Letter of Authorization only if it occurs at the Neptune Deepwater Port within Outer Continental Shelf blocks NK 19–04 6525 and NK 19–04 6575, which are located at approximately 42°28′09″ N. lat and 70°36′22″ W. long.

§ 217.171 Effective dates.

Regulations in this subpart are effective from July 11, 2011, through July 10, 2016.

[76 FR 35996, June 21, 2011]

§ 217.172 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 217.177 of this chapter, the Holder of the Letter of Authorization (hereinafter ''Neptune'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.170(b), provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate Letter of Authorization.

(b) The incidental take of marine mammals under the activities identified in § 217.170(a) is limited to the following species and is limited to Level B Harassment:

(1) Mysticetes:

(i) North Atlantic right whale (*Eubalaena glacialis*)—120 (an average of 24 annually).

(ii) Fin whale (*Balaenoptera physalus*)—145 (an average of 29 annually).

(iii) Humpback whale (*Megaptera novaeangliae*)—390 (an average of 78 annually).

(iv) Minke whale (*Balaenoptera acutorostrata*)—90 (an average of 18 annually).

(v) Sei whale (*Balaenoptera borealis*)—60 (an average of 12 annually).

(2) Odontocetes:

(i) Long-finned pilot whale (*Globicephala melas*)—595 (an average of 119 annually).

(ii) Atlantic white-sided dolphin (*Lagenorhynchus acutus*)—1,935 (an average of 387 annually).

(iii) Bottlenose dolphin (*Tursiops truncatus*)—50 (an average of 10 annually).

(iv) Common dolphin (*Delphinus delphis*)—100 (an average of 20 annually).

(v) Risso's dolphin (*Grampus griseus*)—100 (an average of 20 annually).

(vi) Killer whale (*Orcinus orca*)—100 (an average of 20 annually).

(vii) Harbor porpoise (*Phocoena phocoena*)—25 (an average of 5 annually).

(3) Pinnipeds:

(i) Harbor seal (*Phoca vitulina*)—75 (an average of 15 annually).

(ii) Gray seal (*Halichoerus grypus*)—75 (an average of 15 annually).

§ 217.173 Prohibitions.

Notwithstanding takings contemplated in § 217.170 and authorized by a Letter of Authorization issued under §§ 216.106 and 217.177 of this chapter, no person in connection with the activities described in § 217.170 may:

(a) Take any marine mammal not specified in § 217.172(b);

(b) Take any marine mammal specified in § 217.172(b) other than by incidental, unintentional Level B Harassment;

(c) Take a marine mammal specified in § 217.172(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§ 216.106 and 217.177 of this chapter.

§ 217.174 Mitigation.

(a) When conducting the activities identified in § 217.170(a), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 217.177 must be implemented. These mitigation measures include but are not limited to:

(1) Major Repairs (May 1–November 30):

(i) During repairs, if a marine mammal is detected within 0.6 mi (1 km) of the repair vessel (or acoustically), the vessel superintendent or on-deck supervisor shall be notified immediately. The vessel's crew will be put on a heightened state of alert. The marine mammal will be monitored constantly to determine if it is moving toward the repair area.

(ii) Repair vessels shall cease any movement in the area if a marine mammal other than a right whale is sighted within or approaching to a distance of 100 yd (91 m) from the operating repair vessel. Repair vessels shall cease any movement in the construction area if a right whale is sighted within or approaching to a distance of 500 yd (457 m) from the operating vessel. Vessels transiting the repair area, such as pipe haul barge tugs, shall also be required to maintain these separation distances.

(iii) Repair vessels shall cease all sound emitting activities if a marine mammal other than a right whale is sighted within or approaching to a distance of 100 yd (91 m) or if a right whale is sighted within or approaching to a distance of 500 yd (457 m), from the operating repair vessel. The back-calculated source level, based on the most conservative cylindrical model of acoustic energy spreading, is estimated to be 139 dB re 1 μPa.

(iv) Repair activities may resume after the marine mammal is positively reconfirmed outside the established zones (either 500 yd (457 m) or 100 yd (91 m), depending upon species) or if the marine mammal has not been re-sighted in the established zones for 30 minutes.

(v) While under way, all repair vessels shall remain 500 yd (457 m) away from right whales and 100 yd (91 m) away from all other marine mammals, unless constrained by human safety concerns or navigational constraints.

(vi) All repair vessels 300 gross tons or greater must maintain a speed of 10 knots (18.5 km/hr) or less. Vessels less than 300 gross tons carrying supplies or crew between the shore and the repair site must contact the Mandatory Ship Reporting System, the U.S. Coast Guard (USCG), or the protected species observers (PSOs) at the repair site before leaving shore for reports of recent right whale sightings or active Dynamic Management Areas (DMAs) and,

consistent with navigation safety, restrict speeds to 10 knots (18.5 km/hr) or less within 5 mi (8 km) of any recent sighting location and within any existing DMA.

(vii) Vessels transiting through the Cape Cod Canal and Cape Cod Bay (CCB) between January 1 and May 15 must reduce speeds to 10 knots (18.5 km/hr) or less, follow the recommended routes charted by NOAA to reduce interactions between right whales and shipping traffic, and avoid aggregations of right whales in the eastern portion of CCB.

(2) Major Repairs (December 1–April 30): If unplanned/emergency repair activities cannot be conducted between May 1 and November 30, then Neptune shall implement the following mitigation measures in addition to those listed in § 217.174(a)(1)(i) through (vii):

(i) If on-board PSOs do not have at least 0.6-mi (1-km) visibility, they shall call for a shutdown of repair activities. If dive operations are in progress, then they shall be halted and divers brought on board until visibility is adequate to see a 0.6-mi (1-km) range. At the time of shutdown, the use of thrusters must be minimized to the lowest level needed to maintain personnel safety. If there are potential safety problems due to the shutdown, the captain must decide what operations can safely be shut down and shall document such activities in the data log.

(ii) Prior to leaving the dock to begin transit, the barge must contact one of the PSOs on watch to receive an update of sightings within the visual observation area. If the PSO has observed a North Atlantic right whale within 30 minutes of the transit start, the vessel shall hold for 30 minutes and again seek clearance to leave from the PSOs on board. PSOs will assess whale activity and visual observation ability at the time of the transit request to clear the barge for release and will grant clearance if no North Atlantic right whales have been sighted in the last 30 minutes in the visual observation area.

(iii) Neptune or its contractor shall provide a half-day training course to designated crew members assigned to the transit barges and other support vessels who will have responsibilities for watching for marine mammals. This course shall cover topics including, but not limited to, descriptions of the marine mammals found in the area, mitigation and monitoring requirements contained in the Letter of Authorization, sighting log requirements, and procedures for reporting injured or dead marine mammals. These designated crew members shall be required to keep watch on the bridge and immediately notify the navigator of any whale sightings. All watch crew members shall sign into a bridge log book upon start and end of watch. Transit route, destination, sea conditions, and any protected species sightings/mitigation actions during watch shall be recorded in the log book. Any whale sightings within 3,281 ft (1,000 m) of the vessel shall result in a high alert and slow speed of 4 knots (7.4 km/hr) or less. A sighting within 2,461 ft (750 m) shall result in idle speed and/or ceasing all movement.

(iv) The material barges and tugs used for repair work shall transit from the operations dock to the work sites during daylight hours, when possible, provided the safety of the vessels is not compromised. Should transit at night be required, the maximum speed of the tug shall be 5 knots (9.3 km/hr).

(v) Consistent with navigation safety, all repair vessels must maintain a speed of 10 knots (18.5 km/hr) or less during daylight hours. All vessels shall operate at 5 knots (9.3 km/hr) or less at all times within 3.1 mi (5 km) of the repair area.

(3) Speed Restrictions in Seasonal Management Areas (SMAs): Repair vessels and shuttle regasification vessels (SRVs) shall transit at 10 knots (18.5 km/hr) or less in the following seasons and areas, which either correspond to or are more restrictive than the times and areas in NMFS' regulations at 50 CFR 224.105 that implement speed restrictions to reduce the likelihood and severity of ship strikes of right whales:

(i) CCB SMA from January 1 through May 15, which includes all waters in CCB, extending to all shorelines of the Bay, with a northern boundary of 42°12′ N. latitude;

(ii) Off Race Point SMA year round, which is bounded by straight lines connecting the following coordinates in the order stated: 42°30′ N. 69°45′ W.;

thence to 42°30′ N. 70°30′ W.; thence to 42°12′ N. 70°30′ W.; thence to 42°12′ N. 70°12′ W.; thence to 42°04′56.5″ N. 70°12′ W.; thence along mean high water line and inshore limits of COLREGS limit to a latitude of 41°40′ N.; thence due east to 41°41′ N. 69°45′ W.; thence back to starting point; and

(iii) Great South Channel (GSC) SMA from April 1 through July 31, which is bounded by straight lines connecting the following coordinates in the order stated:

(A) 42°30′ N. 69°45′ W.
(B) 41°40′ N. 69°45′ W.
(C) 41°00′ N. 69°05′ W.
(D) 42°09′ N. 67°08′24″ W.
(E) 42°30′ N. 67°27′ W.
(F) 42°30′ N. 69°45′ W.

(4) Additional Mitigation Measures:

(i) When approaching and departing from the Neptune Port, SRVs shall use the Boston Traffic Separation Scheme (TSS) starting and ending at the entrance to the GSC. Upon entering the TSS, the SRV shall go into a ''heightened awareness'' mode of operation.

(ii) In the event that a whale is visually observed within 0.6 mi (1 km) of the Port or a confirmed acoustic detection is reported on either of the two auto-detection buoys (ABs) closest to the Port, departing SRVs shall delay their departure from the Port, unless extraordinary circumstances, defined in the Marine Mammal Detection, Monitoring, and Response Plan (the Plan), require that the departure is not delayed. The departure delay shall continue until either the observed whale has been visually (during daylight hours) confirmed as more than 0.6 mi (1 km) from the Port or 30 minutes have passed without another confirmed detection either acoustically within the acoustic detection range of the two ABs closest to the Port or visually within 0.6 mi (1 km) from Neptune.

(iii) SRVs that are approaching or departing from the Port and are within the Area to be Avoided (ATBA) surrounding Neptune shall remain at least 0.6 mi (1 km) away from any visually detected right whales and at least 100 yd (91 m) away from all other visually detected whales unless extraordinary circumstances, as defined in Section 1.2 of the Plan, require that the vessel stay its course. The ATBA is defined in 33 CFR 150.940. It is the largest area of the Port marked on nautical charts, and it is enforceable by the USCG in accordance with the 33 CFR 150.900 regulations. The Vessel Master shall designate at least one lookout to be exclusively and continuously monitoring for the presence of marine mammals at all times while the SRV is approaching or departing Neptune.

(iv) Neptune shall ensure that other vessels providing support to Port operations during regasification activities that are approaching or departing from the Port and are within the ATBA shall be operated so as to remain at least 0.6 mi (1 km) away from any visually detected right whales and at least 100 yd (91 m) from all other visually detected whales.

(v) PSOs shall direct a moving vessel to slow to idle if a baleen whale is seen less than 0.6 mi (1 km) from the vessel.

(vi) Use of lights during repair or maintenance activities shall be limited to areas where work is actually occurring, and all other lights must be extinguished. Lights must be downshielded to illuminate the deck and shall not intentionally illuminate surrounding waters, so as not to attract whales or their prey to the area.

(vii) Neptune must immediately suspend any repair and maintenance or operations activities if a dead or injured marine mammal is found in the vicinity of the project area, and the death or injury of the animal could be attributable to the Port facility activities. Upon finding a dead or injured marine mammal, Neptune must contact NMFS, the Northeast Stranding and Disentanglement Program, and the USCG. NMFS will review the documentation submitted by the PSO and attempt to attribute a cause of death. Activities shall not resume until review and approval has been given by NMFS.

(5) Additional mitigation measures as contained in a Letter of Authorization issued under §§ 216.106 and 217.177 of this chapter.

(b) [Reserved]

§ 217.175 Requirements for monitoring and reporting.

(a) Visual Monitoring Program:

(1) Neptune shall employ PSOs during maintenance- and repair-related activities on each vessel that has a dynamic positioning system. Two (2) PSOs shall be on-duty at all times. All PSOs must receive NMFS-approved PSO training and be approved in advance by NMFS after a review of their qualifications.

(2) Qualifications for these PSOs shall include direct field experience on a marine mammal observation vessel and/or aerial surveys in the Atlantic Ocean/Gulf of Mexico.

(3) The PSOs (one primary and one secondary) are responsible for visually locating marine mammals at the ocean's surface and, to the extent possible, identifying the species. The primary PSO shall act as the identification specialist, and the secondary PSO shall serve as data recorder and also assist with identification. Both PSOs shall have responsibility for monitoring for the presence of marine mammals.

(4) The PSOs shall monitor the maintenance/repair area using the naked eye, hand-held binoculars, and/or power binoculars.

(5) The PSOs shall scan the ocean surface during maintenance- and repair-related activities and record all sightings in marine mammal field sighting logs. Observations of marine mammals shall be identified to the species or the lowest taxonomic level possible, and their relative position in relation to the vessel shall be recorded.

(6) While a SRV is navigating within the designated TSS, three people have lookout duties on or near the bridge of the ship including the SRV Master, the Officer-of-the-Watch, and the Helmsman on watch.

(7) In addition to standard watch procedures, while the SRV is within the ATBA and/or while actively engaging in the use of thrusters, an additional lookout shall be designated to exclusively and continuously monitor for marine mammals. Once the SRV is moored and regasification activities have begun, the vessel is no longer considered in ''heightened awareness'' status.

(8) At the conclusion of regasification activities, when the SRV is prepared to depart from the Port, the Master shall once again ensure that the responsibilities as defined in the Plan are carried out. All sightings of marine mammals by the designated lookout, individuals posted to navigational lookout duties, and/or any other crew member while the SRV is within the TSS, in transit to the ATBA, within the ATBA, and/or when actively engaging in the use of thrusters shall be immediately reported to the Officer-of-the-Watch who shall then alert the Master.

(b) Passive Acoustic Monitoring (PAM) Program:

(1) Neptune shall work with NMFS, Stellwagen Bank National Marine Sanctuary (SBNMS), and other scientists to install and monitor an array of passive acoustic detection buoys in the Boston TSS that meets the criteria specified in the recommendations developed by NOAA through consultation with the USCG under the National Marine Sanctuary Act (NMSA). The system shall provide near real-time information on the presence of vocalizing whales in the shipping lanes.

(2) Neptune shall work with NMFS, SBNMS, and other scientists to monitor the archival array of acoustic recording units (ARUs), or ''pop-ups,'' around the Port that meets the criteria specified in the program developed by NOAA in consultation with the USCG under the NMSA. The ARUs shall remain in place for 5 years following initiation of operations to monitor the actual acoustic output of port operations and alert NOAA to any unanticipated adverse effects of port operations, such as large-scale abandonment of the area or greater acoustic impacts than predicted through modeling.

(3) Passive acoustic devices shall be actively monitored for detections by a NMFS-approved bioacoustic technician.

(4) Repair Activity PAM Measures: PAM, in addition to that required in this section of these regulations, shall be required, on a case-by-case basis, during both planned and emergency repair activities in order to better detect right whales in the area of repair work and to collect additional data on the noise levels produced during repair and maintenance activities.

(i) Neptune shall work with NOAA (NMFS and SBNMS) to evaluate when

to install and maintain an array of real-time passive acoustic detection buoys to provide early warnings for potential occurrence of right whales in the vicinity of the repair area. The number of passive acoustic detection buoys installed around the activity site, if deemed necessary, shall be commensurate with the type and spatial extent of maintenance/repair work required, but must be sufficient to detect vocalizing right whales within the 120-dB impact zone.

(ii) Neptune shall provide NMFS with empirically measured source level data for all sources of noise associated with Port maintenance and repair activities. Measurements shall be carefully planned and coordinated with noise-producing activities and shall be collected from the passive detection network.

(5) SRV Regasification PAM Measures: Source levels associated with dynamic positioning of SRVs at the buoys shall be estimated using empirical measurements collected from a platform positioned as close as practicable to thrusters while in use.

(c) Neptune must implement the following reporting requirements:

(1) Because the Port is within the Mandatory Ship Reporting Area (MSRA), all SRVs transiting to and from the Port must report their activities to the mandatory reporting section of the USCG to remain apprised of North Atlantic right whale movements within the area. All vessels entering and exiting the MSRA must report their activities to WHALESNORTH. Any North Atlantic right whale sightings must be reported to the NMFS Sighting Advisory System.

(2) *Repair work reports.* (i) For major repair work associated with the pipeline lateral or other port components, Neptune shall notify the appropriate NOAA personnel as soon as practicable after it is determined that repair work must be conducted.

(ii) During maintenance and repair of the pipeline lateral or other port components, weekly status reports must be provided to NOAA. The weekly report must include data collected for each distinct marine mammal species observed in the project area during the period of the repair activity. The weekly reports shall include the following:

(A) The location, time, and nature of the pipeline lateral activities;

(B) Whether the dynamic position (DP) system was operated and, if so, the number of thrusters used and the time and duration of DP operation;

(C) Marine mammals observed in the area (number, species, age group, and initial behavior);

(D) The distance of observed marine mammals from the repair activities;

(E) Observed marine mammal behaviors during the sighting;

(F) Whether any mitigation measures were implemented;

(G) Weather conditions (sea state, wind speed, wind direction, ambient temperature, precipitation, and percent cloud cover, *etc.*);

(H) Condition of the marine mammal observation (visibility and glare); and

(I) Details of passive acoustic detections and any action taken in response to those detections.

(iii) For all minor repair work, Neptune must notify NOAA regarding when and where the repair/maintenance work is to take place along with a tentative schedule and description of the work, as soon as practicable after it is determined that repair work must be conducted. Vessel crews shall record/document any marine mammal sightings during the work period.

(iv) At the conclusion of all minor repair work, Neptune shall provide NOAA with a report describing any marine mammal sightings, the type of work taking place when the sighting occurred, and any avoidance actions taken during the repair/maintenance work.

(3) *Incident reports.* During all phases of project repair/maintenance activities and operation, sightings of any injured or dead marine mammals must be reported immediately to the Chief, Permits, Conservation and Education Division or staff member and the Northeast Stranding and Disentanglement Program, regardless of whether the injury or death is caused by project activities. If the injury or death was caused by a project vessel (*e.g.*, SRV, support vessel, or construction vessel), the USCG must be notified immediately, and a full report

must be provided to NMFS. Activities will not resume until review and approval has been given by NMFS. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) The name and type of vessel involved;

(iii) The vessel's speed during the incident;

(iv) Description of the incident;

(v) Water depth;

(vi) Environmental conditions (*e.g.*, wind speed and direction, sea state, cloud cover, and visibility);

(vii) Species identification or description of the animal;

(viii) The fate of the animal; and

(ix) Photographs or video footage of the animal (if equipment is available).

(4) *Annual reports.* (i) An annual report on marine mammal monitoring and mitigation shall be submitted to NMFS, Office of Protected Resources, and NMFS, Northeast Regional Office (specific contact information to be provided in Letter of Authorization), on August 1 of each year. The annual report shall cover the time period of January 1 through December 31 of each year of activity.

(ii) The annual report shall include data collected for each distinct marine mammal species observed in the project area in the Massachusetts Bay during the period of Port operations and repair/maintenance activities. The annual report shall also include a description of marine mammal behavior, overall numbers of individuals observed, frequency of observation, and any behavioral changes and the context of the changes relative to operation and repair/maintenance activities. Additional information that shall be recorded by Neptune or its contractor during operations and repair/maintenance activities and contained in the reports include: results of empirical source level estimation for thrusters while in use and activities associated with maintenance and repair events, date and time of marine mammal detections (visually or acoustically), weather conditions, species identification, approximate distance from the source, activity of the vessel when a marine mammal is sighted, and whether thrusters were in use and, if so, how many at the time of the sighting.

(5) *Five-year comprehensive report.* (i) Neptune shall submit a draft comprehensive final report to NMFS, Office of Protected Resources, and NMFS, Northeast Regional Office (specific contact information to be provided in Letter of Authorization), 180 days prior to the expiration of the regulations. This comprehensive technical report shall provide full documentation of methods, results, and interpretation of all monitoring during the first four and a half years of the LOA.

(ii) Neptune shall submit a revised final comprehensive technical report, including all monitoring results during the entire period of the LOAs, 90 days after the end of the period of effectiveness of the regulations to NMFS, Office of Protected Resources, and NMFS, Northeast Regional Office (specific contact information to be provided in Letter of Authorization).

§ 217.176 Applications for Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the U.S. Citizen (as defined by § 216.103) conducting the activity identified in § 217.170(a) (*i.e.*, Neptune) must apply for and obtain either an initial Letter of Authorization in accordance with § 217.177 or a renewal under § 217.178.

(b) [Reserved]

§ 217.177 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, shall be valid for a period of time not to exceed the period of validity of this subpart.

(b) The Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization shall be based on a determination that the total number of

marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 217.178 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under §§ 216.106 and 217.177 of this chapter for the activity identified in § 217.170(a) shall be renewed upon request by the applicant or determination by NMFS and the applicant that modifications are appropriate pursuant to the adaptive management component of these regulations, provided that:

(1) NMFS is notified that the activity described in the application submitted under § 217.176 will be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) NMFS receives the monitoring reports required under § 217.175(c)(1)–(4); and

(3) NMFS determines that the mitigation, monitoring and reporting measures required under §§ 217.174 and 217.175 and the Letter of Authorization issued under §§ 216.106 and 217.177 of this chapter were undertaken and will be undertaken during the upcoming annual period of validity of a renewed Letter of Authorization.

(b) If either a request for a renewal of a Letter of Authorization issued under §§ 216.106 and 217.178 or a determination by NMFS and the applicant that modifications are appropriate pursuant to the adaptive management component of these regulations indicates that a substantial modification, as determined by NMFS, to the described work, mitigation or monitoring undertaken during the upcoming season will occur, NMFS will provide the public a period of 30 days for review and comment on the request. Review and comment on renewals of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed substantive changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER.

(d) Adaptive Management—NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with Neptune regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from Neptune's monitoring from the previous year;

(2) Results from general marine mammal and sound research; or

(3) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

§ 217.179 Modifications of Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization issued by NMFS, pursuant to §§ 216.106 and 217.177 of this chapter and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 217.178, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.172(b), a Letter of Authorization issued pursuant to §§ 216.106 and 217.177 of this chapter may be substantively modified

without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subparts S–T [Reserved]

Subpart U—Taking Of Marine Mammals Incidental To The Port of Anchorage Marine Terminal Redevelopment Project

§ 217.200 Specified activities and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of those marine mammals specified in § 217.202(b) by the Port of Anchorage and the U.S. Department of Transportation Maritime Administration (MARAD), and those persons it authorizes to engage in construction activities associated with the Port of Anchorage Marine Terminal Redevelopment Project, specifically in-water pile driving, at the Port of Anchorage, Alaska.

(b) [Reserved]

§ 217.201 Effective dates.

Regulations in this subpart are effective from July 15, 2009, through July 14, 2014.

§ 217.202 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to § 216.106 of this chapter and § 217.207, the Port of Anchorage and MARAD, and persons under their authority, may incidentally, but not intentionally, take marine mammals by harassment, within the area described in § 217.200, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The taking of marine mammals under a Letter of Authorization is limited to the incidental take, by Level B harassment only, of the following species under the activities identified in § 217.200(a): Cook Inlet beluga whales (Delphinapterus leucas), harbor seals (Phoca vitulina), harbor porpoises (Phocoena phocoena), and killer whales (Orcinus orca).

(c) The taking by injury or death of the species listed in paragraph (b) of this section or the taking by Level B harassment, injury or death of any other marine mammal species is prohibited and may result in the modification, suspension, or revocation of a Letter of Authorization.

§ 217.203 Prohibitions.

Notwithstanding takings contemplated in § 217.202(b) and authorized by a Letter of Authorization issued under § 216.106 of this chapter and § 217.207, no person in connection with the activities described in § 217.200 may:

(a) Take any marine mammal not specified in § 217.202(b);

(b) Take any marine mammal specified in § 217.202(b) other than by incidental, unintentional Level B harassment;

(c) Take a marine mammal specified in § 217.202(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under § 216.106 of this chapter and § 217.207.

§ 217.204 Mitigation.

(a) When conducting operations identified in § 217.200(a), the mitigation measures contained in the Letter of Authorization, issued under § 216.106 of this chapter and § 217.207, must be implemented. These mitigation measures are:

(1) Through monitoring described under § 217.205, the Holder of a Letter of Authorization will ensure that no marine mammal is subjected to a sound pressure levels of 190 or 180 dB re: 1 microPa or greater for pinnipeds and cetaceans, respectively. If a marine mammal is detected within or approaching a distance 200 m from in-water pile driving or in-water chipping, operations shall be immediately delayed or suspended until the marine mammal moves outside these designated zones or the animal is not detected within 15 minutes of the last sighting.

(2) If a marine mammal is detected within or approaching the Level B harassment zone designated for impact pile driving (350 m) prior to in-water impact pile driving, operations shall not commence until the animal moves outside this zone or it is not detected within 15 minutes of the last sighting.

(3) If a marine mammal is detected within or approaching the Level B harassment zone designated for vibratory pile driving (1,300 m) prior to in-water vibratory pile driving, operations shall not commence until the marine mammal moves outside this zone or it is not detected within 15 minutes of the last sighting.

(4) A start'' technique shall be used at the beginning of each day's in-water pile driving activities or if pile driving has ceased for more than one hour to allow any marine mammal that may be in the immediate area to leave before piling driving reaches full energy. For vibratory hammers, the soft start requires the holder of the Letter of Authorization to initiate noise from the hammers for 15 seconds at reduced energy followed by 1-minute waiting period and repeat the procedure two additional times. If an impact hammer is used, the soft start requires an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one minute waiting period, then two subsequent 3 strike sets.

(5) In-water pile driving or chipping shall not occur when conditions restrict clear, visible detection of all waters within the appropriate harassment zones or the 200 m safety zone. Such conditions that can impair sightibility include, but are not limited to, fog and rough sea state.

(6) In-water piles will be driven with a vibratory hammer to the maximum extent possible (i.e., until a desired depth is achieved or to refusal) prior to using an impact hammer.

(7) In-water impact pile driving shall not occur during the period from two hours before low tide until two hours after low tide.

(8) The following measures apply to all in-water pile driving, except during the ''stabbing'' phase, and all in-water chipping associated with demolition of the existing dock:

(i) No in-water pile driving (impact or vibratory) or chipping shall occur if any marine mammal is located within 200m of the hammer in any direction. If any marine mammal is sighted within or approaching this 200m safety zone, pile-driving or chipping must be suspended until the animal has moved outside the 200m safety zone or the animal is not resighted within 15 minutes.

(ii) If a group of more than 5 beluga whales is sighted within the Level B harassment isopleths, in-water pile driving shall be suspended. If the group is not re-sighted within 15 minutes, pile driving may resume.

(iii) If a beluga whale calf or group with a calf is sighted within or approaching a harassment zone, in-water pile driving shall cease and shall not be resumed until the calf or group is confirmed to be outside of the harassment zone and moving along a trajectory away from such zone. If the calf or group with a calf is not re-sighted within 15 minutes, pile driving may resume.

(9) If maximum authorized take is reached or exceeded for a particular species, any marine mammal of that species entering into the harassment or safety isopleths will trigger mandatory in-water pile driving shut down.

(10) For Port of Anchorage operated in-water heavy machinery work other than pile driving or chipping (i.e., dredging, dump scowles, tug boats used to move barges, barge mounted hydraulic excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 50 m, those operations will cease and vessels will reduce to the slowest speed practicable while still maintaining control of the vessel and safe working conditions.

(11) In the event the Port of Anchorage conducts out-of-water blasting, detonation of charges will be delayed if a marine mammal is detected anywhere within a visible distance from the detonation site.

(12) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 217.205 Requirements for monitoring and reporting.

(a) The Holder of a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 217.207, for activities described in § 217.200(a) is required to cooperate with NMFS, and any other Federal, state or local agency with authority to monitor the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Administrator, Alaska Region, NMFS, by letter, e-mail, or telephone, at least 2 weeks prior to commencement of seasonal activities and dock demolition possibly involving the taking of marine mammals. If the activity identified in § 217.200(a) is thought to have resulted in the mortality or injury of any marine mammals or in any take of marine mammals not identified in § 217.202(b), the Holder of the Letter of Authorization must notify the Director, Office of Protected Resources, NMFS, or designee, by e-mail or telephone (301–713–2289), within 24 hours of the discovery of the injured or dead animal.

(b) The Holder of a Letters of Authorization must designate qualified, on-site marine mammal observers (MMOs), approved in advance by NMFS, as specified in the Letter of Authorization, to:

(1) Conduct visual marine mammal monitoring at the Port of Anchorage beginning 30 minutes prior to and during all in-water pile driving or chipping and out-of-water blasting.

(2) Record the following information on NMFS-approved marine mammal sighting sheets whenever a marine mammal is detected:

(i) Date and time of initial sighting to end of sighting, tidal stage, and weather conditions (including Beaufort Sea State);

(ii) Species, number, group composition, initial and closest distance to pile driving hammer, and behavior (e.g., activity, group cohesiveness, direction and speed of travel, etc.) of animals throughout duration of sighting;

(iii) Any discrete behavioral reactions to in-water work;

(iv) The number (by species) of marine mammals that have been taken;

(v) Pile driving, chipping, or out of water blasting activities occurring at the time of sighting and if and why shut down was or was not implemented.

(3) Employ a scientific marine mammal monitoring team separate from the on-site MMOs to characterize beluga whale abundance, movements, behavior, and habitat use around the Port of Anchorage and observe, analyze, and document potential changes in behavior in response to in-water construction work. This monitoring team is not required to be present during all in-water pile driving operations but will continue monitoring one-year post in-water construction. The on-site MMOs and this marine mammal monitoring team shall remain in contact to alert each other to marine mammal presence when both teams are working.

(c) The Holder of a Letter of Authorization must conduct additional monitoring as required under an annual Letter of Authorization.

(d) The Holder of a Letter of Authorization shall submit a monthly report to NMFS' Headquarters Permits, Education and Conservation Division and the Alaska Region, Anchorage for all months in-water pile driving or chipping takes place. This report must contain the information listed in paragraph (b)(2) of this section.

(e) An annual report must be submitted at the time of application for renewal of a Letter of Authorization. This report will summarize all in-water construction activities and marine mammal monitoring from January 1-December 31, annually, and any discernable short or long term impacts from the Marine Terminal Expansion Project.

(f) A final report must be submitted to NMFS upon application for a subsequent incidental take authorization or, if no future authorization is requested, no later than 90 days post expiration of these regulations. This report will:

(1) Summarize the activities undertaken and the results reported in all previous reports;

(2) Assess the impacts to marine mammals from the port expansion project; and

(3) Assess the cumulative impacts on marine mammals.

§ 217.206 Applications for Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the U.S. citizen (as defined by § 216.103 of this chapter) conducting the activity identified in § 217.200(a) (the Port of Anchorage and MARAD) must apply for and obtain either an initial Letter of Authorization in accordance with § 217.207 or a renewal under § 217.208.

(b) The application must be submitted to NMFS at least 60 days before the expiration of the initial or current Letter of Authorization.

(c) Applications for a Letter of Authorization and for renewals of Letters of Authorization must include the following:

(1) Name of the U.S. citizen requesting the authorization,

(2) The date(s), duration, and the specified geographic region where the activities specified in § 217.200 will occur; and

(3) The most current population estimate of Cook Inlet beluga whales and the estimated percentage of marine mammal populations potentially affected for the 12-month period of effectiveness of the Letter of Authorization;

(4) A summary of take levels, monitoring efforts and findings at the Port of Anchorage to date.

(d) The National Marine Fisheries Service will review an application for a Letter of Authorization in accordance with this section and, if adequate and complete, issue a Letter of Authorization.

§ 217.207 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart, but must be renewed annually subject to annual renewal conditions in § 217.208.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking; and

(2) Requirements for mitigation, monitoring and reporting, including, but not limited to, means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses.

(c) Issuance of a Letter of Authorization will be based on the determination that the number of marine mammals taken during the period the Letter of Authorization is valid will be small, that the total taking of marine mammals by the activities specified in § 217.200(a) will have no more than a negligible impact on the species or stock of affected marine mammal(s), and that the total taking will not have an unmitigable adverse impact on the availability of species or stocks of marine mammals for subsistence uses.

(d) Notice of issuance or denial of an application for a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

§ 217.208 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 of this chapter and § 217.207 for the activity identified in § 217.200(a) will be renewed annually upon:

(1) Notification to NMFS that the activity described in the application submitted under § 217.206 will be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) Timely receipt of the monitoring reports required under § 217.205(d) and (e), and the Letter of Authorization issued under § 217.207, which has been reviewed and accepted by NMFS; and

(3) A determination by NMFS that the mitigation, monitoring and reporting measures required under §§ 217.204 and 217.205 and the Letter of Authorization issued under § 216.106 of this chapter and § 217.207, were undertaken and will be undertaken during the upcoming annual period of validity of a renewed Letter of Authorization; and

(4) A determination by NMFS that the number of marine mammals taken during the period of the Letter of Authorization will be small, that the total taking of marine mammals by the activities specified in § 217.200(a) will have no more than a negligible impact on the species or stock of affected marine mammal(s), and that the total

taking will not have an unmitigable adverse impact on the availability of species or stocks of marine mammals for subsistence uses.

(b) If a request for a renewal of a Letter of Authorization issued under § 216.106 of this chapter and this section indicates that a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season will occur, NMFS will provide the public a period of 30 days for review and comment on the request.

(c) Notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

§ 217.209 Modifications of Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to § 216.106 of this chapter and § 217.207 and subject to the provisions of this subpart, shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 217.208, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.202(b), a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 217.207 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subpart W—Taking of Marine Mammals Incidental to the Elliott Bay Seawall Project

SOURCE: 78 FR 63402, Oct. 24, 2013, unless otherwise noted.

EFFECTIVE DATE NOTE: At 78 FR 63402, Oct. 24, 2013, subpart W was added, effective Oct. 21, 2013, through Oct. 21, 2018.

§ 217.220 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the Elliott Bay Seawall project and those persons it authorizes to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section incidental to seawall construction associated with the Elliott Bay Seawall project.

(b) The taking of marine mammals by the City of Seattle's Department of Transportation (SDOT) may be authorized in a Letter of Authorization (LOA) only if it occurs in Elliott Bay, Washington.

§ 217.221 Effective dates.

This subpart is effective October 21, 2013, through October 21, 2018.

§ 217.222 Permissible methods of taking.

(a) Under LOAs issued pursuant to §§ 216.106 and 217.226 of this chapter, the Holder of the LOA (hereinafter ''SDOT'' and ''City'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.220(b), provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in § 217.220(a) is limited to the indicated number of Level B harassment takes of the following species/stocks:

(1) Harbor seal (*Phoca vitulina*)—3,500 (an average of 700 animals per year)

(2) California sea lion (*Zalophus californianus*)—875 (an average of 175 animals per year)

(3) Steller sea lion (*Eumetopias jubatus*)—875 (an average of 175 animals per year)

(4) Harbor porpoise (*Phocoena phocoena*)—1,575 (an average of 315 animals per year)

(5) Dall's porpoise (*Phocoenoides dalli*)—350 (an average of 70 animals per year)

(6) Killer whale (*Orcinus orca*), Eastern North Pacific Southern resident—80 (a maximum of 16 animals per year)

(7) Killer whale (*Orcinus orca*), Eastern North Pacific transient—120 (an average of 24 animals per year)

(8) Gray whale (*Eschrichtius robustus*)—40 (an average of 8 animals per year)

(9) Humpback whale (*Megaptera novaeangliae*)—20 (an average of 4 animals per year)

§ 217.223 Prohibitions.

Notwithstanding takings contemplated in § 217.222(b) and authorized by an LOA issued under § 216.106 and § 217.226 of this chapter, no person in connection with the activities described in § 217.220 may:

(a) Take any marine mammal not specified in § 217.222(b);

(b) Take any marine mammal specified in § 217.222(b) other than by incidental, unintentional Level B harassment;

(c) Take a marine mammal specified in § 217.222(b) if NMFS determines such taking results in more than a negligible impact on the species or stock of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or an LOA issued under §§ 216.106 and 217.226 of this chapter.

§ 217.224 Mitigation.

(a) When conducting the activities identified in § 217.220(a), the mitigation measures contained in the LOA issued under §§ 216.106 and 217.226 of this chapter must be implemented. These mitigation measures include:

(1) *Limited Impact Pile Driving.* (i) All sheet piles shall be installed using a vibratory driver, unless impact driving is required to install piles that encounter consolidated sediments or for proofing load bearing sections.

(ii) Any impact driver used in conjunction with vibratory pile driving shall employ sound attenuation devices, where applicable.

(iii) Any attenuation devices that become available for vibratory pile driving shall be considered for additional mitigation.

(2) *Containment of Impact Pile Driving.* The majority of permanent concrete piles shall be driven behind the temporary containment wall.

(3) *Additional Attenuation Measures.* In the event that underwater sound monitoring shows that noise generation from pile installation exceeds the levels originally expected, SDOT shall immediately notify NMFS so it can evaluate the need for implementation of additional attenuation devices or other mitigation measures.

(4) *Ramp-up.* (i) Ramp-up shall be used at the beginning of each day's in-water pile-related activities or if pile driving has ceased for more than 1 hour.

(ii) If a vibratory hammer is used, contractors shall initiate sound from vibratory hammers for 15 seconds at reduced energy followed by a 1-minute waiting period. This procedure shall be repeated two additional times before full energy may be achieved.

(iii) If a non-diesel impact hammer is used, contractors shall provide an initial set of strikes from the impact hammer at reduced energy, followed by a 1-minute waiting period, then two subsequent sets.

(iv) Ramp-up shall be implemented if pile driving or removal is delayed or shutdown for >15 minutes due to the presence of a delphinid or pinniped within or approaching the exclusion zone, or if pile driving or removal is delayed or shutdown for >30 minutes due to the presence of a large whale.

(5) *Marine Mammal Exclusion Zones.* (i) The following exclusion zones shall be established to prevent the Level A harassment of all marine mammals and to reduce the Level B harassment of large whales:

(A) An exclusion zone for delphinids or pinnipeds shall be established with a radius of 200 feet (61 meters) waterward of each steel sheet pile during impact pile driving;

(B) An exclusion zone for delphinids and pinnipeds shall be established with a radius of 50 feet (15 meters) waterward of each concrete pile during impact pile driving;

(C) An exclusion zone for large whales shall be established with a radius of 3,280 feet (1,000 meters) waterward of each steel sheet or concrete pile during impact pile driving;

(D) An exclusion zone for large whales shall be established with a radius of 2.5 miles (3,981 meters)

waterward of each steel sheet pile during vibratory pile driving.

(ii) Temporary buoys shall be used, as feasible, to mark the distance to each exclusion zone during in-water pile-related activities.

(iii) The exclusion zones shall be used to provide a physical threshold for the shutdown of in-water pile-related activities.

(iv) At the start of in-water pile related activities each day, a minimum of one qualified protected species observer shall be staged on land (or an adjacent pier) near the location of in-water pile-related activities to document and report any marine mammal that approaches or enters a relevant exclusion zone throughout the day.

(v) Additional land-based observers shall be deployed if needed to ensure the construction area is adequately monitored.

(vi) Observers shall monitor for the presence of marine mammals 30 minutes before, during, and for 30 minutes after any in-water pile-related activities.

(vii) In-water pile-related activities shall not occur if any part of the exclusion zones are obscured by fog or poor lighting conditions.

(6) *Shutdown and Delay Procedures.* (i) If a marine mammal is seen approaching or entering a relevant exclusion zone (as specified in § 217.224(5)(i)), observers will immediately notify the construction personnel operating the pile-related equipment to shut down pile-related activities.

(ii) If a marine mammal(s) is present within the applicable exclusion zone prior to in-water pile-related activities, pile driving/removal shall be delayed until the animal(s) has left the exclusion zone or until 15 minutes (pinniped or small cetacean) or 30 minutes (large cetacean) have elapsed without observing the animal.

(7) Additional mitigation measures as contained in an LOA issued under §§ 216.106 and 217.226 of this chapter.

§ 217.225 Requirements for monitoring and reporting.

(a) When conducting the activities identified in § 217.220(a), the monitoring and reporting measures contained in the LOA issued under §§ 216.106 and 217.226 of this chapter must be implemented. These measures include:

(1) *Visual Monitoring.* (i) In addition to the mitigation monitoring described in § 217.224 of this chapter, at least two protected species observers shall be positioned on land near the 2.5 mile exclusion zone to monitor for marine mammals during vibratory pile-related activities or any other construction activities that may pose a threat to marine mammals.

(A) Observers shall use the naked eye, wide-angle binoculars with reticles, and any other necessary equipment to scan the Level B harassment isopleth.

(B) Observers shall work, on average, eight hours per day and shall be relieved by a fresh observer if pile driving lasts longer than usual (*i.e.*, 12–16 hours).

(C) The number of observers shall be increased and/or positions changed to ensure full visibility of the Level B harassment isopleth.

(D) Land-based visual monitoring shall be conducted during all days of vibratory pile driving.

(E) All land-based monitoring shall begin at least 30 minutes prior to the start of in-water pile-related activities, and continue during active construction and for 30 minutes following the end of in-water pile-related activities.

(ii) At a minimum, observers shall record the following information:

(A) Date of observation period, monitoring type (land-based/boat-based), observer name and location, climate and weather conditions, and tidal conditions;

(B) Environmental conditions that could confound marine mammal detections and when/where they occurred;

(C) For each marine mammal sighting, the time of initial sighting and duration to the end of the sighting period;

(D) Observed species, number, group composition, distance to pile-related activities, and behavior of animals throughout the sighting;

(E) Discrete behavioral reactions, if apparent;

(F) Initial and final sighting locations marked on a grid map; and

(G) Pile-related activities taking place during each sighting and if/why a shutdown was or was not triggered.

(2) *Acoustic Monitoring.* (i) Acoustic monitoring shall be conducted during in-water pile-related activities to identify or confirm noise levels for pile-related activities during in-water construction.

(A) Acoustic data shall be collected using hydrophones connected to a drifting boat to reduce the effect of flow noise and an airborne microphone. There shall be a direct line of acoustic transmission through the water column between the pile and the hydrophones in all cases, without any interposing structures, including other piles.

(B) A stationary two-channel hydrophone recording system shall be deployed to record a representative sample (subset of piles) during the monitoring period. Acoustic data shall be collected 1 m below the water surface and 1 m above the sea floor.

(ii) Background noise recordings (in the absence of pile driving) shall be collected to provide a baseline background noise profile. The results and conclusions of the study shall be summarized and presented to NMFS with recommendations for any modifications to the monitoring plan or exclusion zones.

(iii) All sensors, signal conditioning equipment, and sampling equipment shall be calibrated at the start of the monitoring period and rechecked at the start of each day.

(iv) Prior to monitoring, water depth measurements shall be taken to ensure that hydrophones do not drag on the bottom during tidal changes.

(v) Underwater and airborne acoustic monitoring shall occur for the first five steel sheet pile and the first five concrete piles during the duration of pile driving. If a representative sample has not been achieved after the five piles have been monitored (e.g., if there is high variability of sound levels between pilings), acoustic monitoring shall continue until a representative acoustic sample has been collected.

(vi) Acoustic data shall be downloaded periodically (*i.e.*, daily or on another appropriate schedule) and analyzed following the first year of construction. Post-analysis of underwater sound level signals shall include the following:

(A) RMS values (average, standard deviation/error, minimum, and maximum) for each recorded pile. The 10-second RMS averaged values will be used for determining the source value and extent of the 120 dB underwater isopleth;

(B) Frequency spectra for each functional hearing group; and

(C) Standardized underwater source levels to a reference distance of 10 m (33 ft).

(vii) Post-analysis of airborne noise would be presented in an unweighted format and include:

(A) The unweighted RMS values (average, minimum, and maximum) for each recorded pile. The average values would be used for determining the extent of the airborne isopleths relative to species-specific criteria;

(B) Frequency spectra from 10 Hz to 20 kHz for representative pile-related activity; and

(C) Standardized airborne source levels to a reference distance of approximately 15 m (50 ft).

(viii) In the event noise levels surpass estimated levels for extended periods of time, construction shall be stopped and NMFS shall be contacted to discuss the cause and potential solutions.

(3) *General Reporting.* (i) All marine mammal sightings shall be documented by observers on a NMFS-approved sighting form.

(ii) Marine mammal reporting shall include all data described previously under Proposed Monitoring, including observation dates, times, and conditions, and any correlations of observed marine mammal behavior with activity type and received levels of sound, to the extent possible.

(iii) A report with the results of all acoustic monitoring shall include the following:

(A) Size and type of piles;

(B) A detailed description of any sound attenuation device used, including design specifications;

(C) The impact hammer energy rating used to drive the piles, make and model of the hammer(s), and description of the vibratory hammer;

(D) A description of the sound monitoring equipment;

(E) The distance between hydrophones and depth of water and the hydrophone locations;

(F) The depth of the hydrophones;

(G) The distance from the pile to the water's edge;

(H) The depth of water in which the pile was driven;

(I) The depth into the substrate that the pile was driven;

(J) The physical characteristics of the bottom substrate into which the pile were driven;

(K) The total number of strikes to drive each pile;

(L) The results of the hydroacoustic monitoring, including the frequency spectrum, ranges and means for the peak and RMS sound pressure levels, and an estimation of the distance at which RMS values reach the relevant marine mammal thresholds and background sound levels.

(M) Vibratory driving results would include the maximum and overall average RMS calculated from 30-s RMS values during the drive of the pile; and

(N) A description of any observable marine mammal behavior in the immediate area and, if possible, correlation to underwater sound levels occurring at that time.

(iv) An annual report on monitoring and mitigation shall be submitted to NMFS, Office of Protected Resources, and NMFS, Northwest Regional Office. The annual reports shall summarize include data collected for each marine mammal species observed in the project area, including descriptions of marine mammal behavior, overall numbers of individuals observed, frequency of observation, any behavioral changes and the context of the changes relative to activities would also be included in the annual reports, date and time of marine mammal detections, weather conditions, species identification, approximate distance from the source, and activity at the construction site when a marine mammal is sighted.

(v) A draft comprehensive report on monitoring and mitigation shall be submitted to NMFS, Office of Protected Resources, and NMFS, Northwest Regional Office, 180 days prior to the expiration of the regulations. The comprehensive technical report shall provide full documentation of methods, results, and interpretation of all monitoring during the first 4.5 years of the regulations. A revised final comprehensive technical report, including all monitoring results during the entire period of the regulations, shall be due 90 days after the end of the period of effectiveness of the regulations.

(4) *Reporting Injured or Dead Marine Mammals.* (i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by an LOA (if issued), such as an injury (Level A harassment), serious injury, or mortality, the Holder shall immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Northwest Regional Stranding Coordinator. The report must include the following information:

(A) Time and date of the incident;

(B) Description of the incident;

(C) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(D) Description of all marine mammal observations in the 24 hours preceding the incident;

(E) Species identification or description of the animal(s) involved;

(F) Fate of the animal(s); and

(G) Photographs or video footage of the animal(s).

(ii) Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the Holder to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Holder may not resume their activities until notified by NMFS.

(iii) In the event that the Holder discovers an injured or dead marine mammal, and the lead protected species observer determines that the cause of the injury or death is unknown and the death is relatively recent (e.g., in less than a moderate state of decomposition), the Holder shall immediately report the incident to the Chief of the

Permits and Conservation Division, Office of Protected Resources, NMFS, and the Northwest Regional Stranding Coordinator. The report must include the same information identified in § 217.225(a)(3) of this chapter. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the Holder to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iv) In the event that the Holder discovers an injured or dead marine mammals, and the lead protected species observer determines that the injury or death is not associated with or related to the activities authorized in the LOA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Holder shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Northwest Regional Stranding Coordinator, within 24 hours of the discovery. The Holder shall provide photographs or video footage or other documentation of the stranding animal sighting to NMFS.

§ 217.226 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the applicant must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, the Holder must apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the Holder must apply for and obtain a modification of the LOA as described in § 217.227.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species and its habitat; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the FEDERAL REGISTER within 30 days of a determination.

§ 217.227 Renewals and Modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 and 217.226 of this chapter for the activity identified in § 217.220(a) of this chapter shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in § 217.227(c)(1)), and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in § 217.227(c)(1)) that do not change the findings made for the regulations or that result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis illustrating the change, and solicit public comments before issuing the LOA.

(c) An LOA issued under §§ 216.106 and 217.226 of this chapter for the activity identified in § 217.220(a) may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the Holder regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more

effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA include the following:

(A) Results from the Holder's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies;

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comments.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in §217.222(b), an LOA may be modified without prior notice or opportunity for public comment. Notice of such action will be published in the FEDERAL REGISTER within 30 days of the action.

[74 FR 35143, July 20, 2009, as amended at 76 FR 16318, Mar. 23, 2011; 76 FR 34172, June 13, 2011; 77 FR 31544, May 29, 2012; 78 FR 20816, Apr. 8, 2013; 78 FR 63402, Oct. 24, 2013; 78 FR 75507, Dec. 12, 2013; 79 FR 10026, Feb. 24, 2014; 79 FR 32684, June 6, 2014]

PART 218—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

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AUTHORITY: 16 U.S.C. 1361 *et seq.*

SOURCE: 74 FR 28343, June 15, 2009, unless otherwise noted.

Subpart A [Reserved]

Subpart B—Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Joint Logistics Over-the-Shore (JLOTS) Training Activities in Virginia and North Carolina

SOURCE: 80 FR 31321, June 2, 2015, unless otherwise noted.

EFFECTIVE DATE NOTE: At 80 FR 31321, June 2, 2015, subpart B was added, effective June 2, 2015, through June 2, 2020.

§ 218.10 Specified activity and region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the JLOTS training areas, which is in nearshore shallow waters at the Joint Expeditionary Base (JEB) Little Creek-Fort Story in Virginia and at Camp Lejeune in North Carolina.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the JLOTS training activities in the JLOTS training areas, which may occur any time of year, but not more than once annually at JEB Little Creek-Fort Story, and once annually at Camp Lejeune.

§ 218.11 Effective dates.

Regulations in this subpart are effective June 2, 2015, through June 2, 2020.

§ 218.12 Permissible methods of taking.

(a) Under Letters of Authorization (LOAs) issued pursuant to § 218.17, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by sound in the water from pile driving activities within the area described in § 218.10, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate LOA.

(b) The activities identified in § 218.10(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 218.10(c) is limited to Level B behavioral harassment:

(1) Bottlenose dolphin (*Tursiops truncatus*)/Northern North Carolina Estuarine System: 250 (50 per year);

(2) Bottlenose dolphin (*Tursiops truncatus*)/Southern North Carolina Estuarine System: 300 (60 per year); and

(3) Atlantic spotted dolphin (*Stenella frontalis*)/Western North Atlantic: 250 (50 per year).

§ 218.13 Prohibitions.

Notwithstanding takings contemplated in § 218.12 and authorized by an LOA issued under § 216.106 of this chapter and § 218.17, no person in connection with the activities described in § 218.10 may:

(a) Take any marine mammal not specified in § 218.12(c);

(b) Take any marine mammal specified in § 218.12(c) other than by incidental take as specified in § 218.12(c);

(c) Take a marine mammal specified in § 218.12(c) if a finding is made that such taking is having more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or an LOA issued under § 216.106 of this chapter and § 218.17.

§ 218.14 Mitigation.

(a) When conducting training and testing activities identified in § 218.10, the mitigation measures contained in

the LOA issued under § 216.106 of this chapter and § 218.17 must be implemented. These mitigation measures include, but are not limited to:

(1) *Establishing mitigation zone.* (i) A mitigation zone of 60 yards (55 m) around the pile being driven must be established.

(ii) Visual observation must be conducted starting 30 minutes prior to, during, and until 30 minutes after the ELCAS (M) exercise within the mitigation zone. The exercise must not commence if concentrations of floating vegetation (Sargassum) are observed in the mitigation zone.

(2) *Soft starts.* (i) Soft starts, or gradually ramping up the power of pile driving hammer, must be performed during impact installation each day.

(ii) During a soft start, an initial set of strikes from the impact hammer at reduced energy are performed before it is able to be operated at full power and speed.

(3) *Shutdown measures.* (i) Pile driving must cease if a marine mammal is visually detected within or approaching the mitigation zone.

(ii) Pile driving may resume if any one of the following conditions is met:

(A) The animal is observed exiting the mitigation zone,

(B) The animal is thought to have exited the mitigation zone based on its course and speed, or

(C) The mitigation zone has been clear from any additional sightings for a period of 30 minutes.

(b) *Marine species awareness training.* (1) All personnel standing watch on the bridge, Commanding Officers, Executive Officers, and Lookouts must successfully complete the Marine Species Awareness Training prior to standing watch or serving as a Lookout.

(2) The Marine Species Awareness Training must be designed to improve the effectiveness of visual observations for marine resources, including marine mammals.

(3) The training must provide information on sighting cues, visual observation tools and techniques, and sighting notification procedures.

(c) *Vessels.* Vessels must avoid approaching marine mammals head on and must maneuver to maintain a mitigation zone of 500 yards (457 m) around observed whales and 200 yards (183 m) around all other marine mammals (except bow riding dolphins), providing it is safe to do so.

(d) *North Atlantic Right Whale Protection.* When transiting within the following areas between November 1 and April 30, the Navy must practice increased vigilance, exercise extreme caution, and proceed at the slowest speed that is consistent with safety, mission, and training objectives:

(1) Chesapeake Bay: Within a 20 nm radius of the following (as measured seaward from the COLREGS lines): 37°00′36.9″ North/075°57′50.5″ West.

(2) Morehead City, North Carolina: Within a 20 nm radius of the following (as measured seaward from the COLREGS lines): 34°41′32.0″ North/076°40′08.3″ West.

(3) Wilmington, North Carolina, through South Carolina, and to Brunswick, Georgia: Within a continuous area 20 nautical miles from shore and west back to shore bounded by 34°10′30″ North/077°49′12″ West; 33°56′42″ North/077°31′30″ West; 33°36′30″ North/077°47′06″ West; 33°28′24″ North/078°32′30″ West; 32°59′06″ North/078°50′18″ West; 31°50′00″ North/080°33′12″ West; 31°27′00″ North/080°51′36″ West.

§ 218.15 Requirements for monitoring and reporting.

(a) *Monitoring measures*—(1) *Standard watch personnel.* (i) Ships operated by or for the Navy must have personnel assigned to stand watch at all times, day and night, when moving through the water.

(ii) Watch personnel must undertake extensive training in accordance with the U.S. Navy Lookout Training Handbook or civilian equivalent, including on-the-job instruction and a formal Personal Qualification Standard program (or equivalent program for supporting contractors or civilians), to certify that they have demonstrated all necessary skills (such as detection and reporting of floating or partially submerged objects).

(iii) While on watch, watch personnel must employ visual search techniques, including the use of binoculars, using a scanning method in accordance with the U.S. Navy Lookout Training Handbook or civilian equivalent.

(iv) After sunset and prior to sunrise, watch personnel must employ night visual search techniques, which could include the use of night vision devices.

(v) A primary duty of watch personnel is to detect and report all objects and disturbances sighted in the water that may be indicative of a threat to the ship and its crew, such as debris, a periscope, surfaced submarine, or surface disturbance.

(vi) Per safety requirements, watch personnel also report any marine mammals sighted that have the potential to be in the direct path of the ship as a standard collision avoidance procedure. Because watch personnel are primarily posted for safety of navigation, range clearance, and man-overboard precautions, they are not normally posted while ships are moored to a pier.

(vii) When anchored or moored to a buoy, a watch team is still maintained but with fewer personnel than when underway.

(viii) When moored or at anchor, watch personnel may maintain security and safety of the ship by scanning the water for any indications of a threat.

(ix) While underway, Navy ships (with the exception of submarines) greater than 65 ft. (20 m) in length have at least two watch personnel; Navy ships less than 65 ft. (20 m) in length, surfaced submarines, and contractor ships have at least one watch person. While underway, watch personnel are alert at all times and have access to binoculars. Due to limited manning and space limitations, small boats and some craft transferring cargo from ship to shore do not have dedicated watch personnel, and the boat crew is responsible for maintaining the safety of the boat and surrounding environment.

(x) All vessels use extreme caution and proceed at a ''safe speed'' so they can take proper and effective action to avoid a collision with any sighted object or disturbance and can be stopped within a distance appropriate to the prevailing circumstances and conditions.

(2) *Lookouts.* (i) Lookouts must perform similar duties to standard watch personnel, and are also responsible for satisfying mitigation requirements.

(ii) The Navy must have one Lookout positioned on the platform (which could include a small boat, the elevated causeway, or the shore) that must maximize the potential for sightings during pile driving and pile removal.

(iii) The Lookout positioned on the elevated causeway or the shore must be dedicated solely to diligent observation of the air and surface of the water. They must have multiple observation objectives, which include but are not limited to detecting the presence of biological resources and recreational or fishing boats, observing the mitigation zone, and monitoring for equipment and personnel safety concerns.

(iv) A Lookout positioned on a small boat may include a member of the boat crew, and may be responsible for tasks in addition to observing the air or surface of the water (*e.g.*, navigation of a rigid hull inflatable boat). However, a boat Lookout must, to the maximum extent practicable and consistent with safety and training requirements, comply with the observation objectives described above for a Lookout positioned on the elevated causeway or the shore.

(v) Lookouts must also perform visual observation starting 30 minutes prior to, during, and 30 minutes after the exercise within a mitigation zone of 60 yards (55 m) around the pile being driven.

(3) *Integrated comprehensive monitoring program.* (i) The Navy must use the existing Integrated Comprehensive Monitoring Program (ICMP) and its new ''study-based'' approach.

(ii) [Reserved]

(b) *Reporting measures*—(1) *General notification of injured or dead marine mammals.* (i) Navy personnel must ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as clearance procedures allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy training exercise.

(ii) The Navy must provide NMFS with species identification or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location,

time of first discovery, observed behaviors (if alive), and photographs or video (if available).

(2) *Annual monitoring and exercise report.* (i) Reports from individual monitoring events, results of analyses, publications, and periodic progress reports for specific monitoring projects must be posted to the *Navy's Marine Species Monitoring web portal* as they become available.

(ii) Progress and results from all monitoring activity conducted within the JLOTS training area must be summarized in an annual report. This report must detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

(iii) Draft reports should be combined with the Navy's Atlantic Fleet Training and Testing exercise and monitoring reports and submitted to NMFS for review by February 13 (for exercises) and April 1 (for monitoring) each year. NMFS will review the report and provide comments for incorporation within 3 months.

§ 218.16 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to the regulations in this subpart, the U.S. Navy must apply for and obtain either an initial LOA in accordance with § 218.17.

§ 218.17 Letters of Authorization.

(a) An LOA, unless suspended or revoked, must be valid for a period of time not to exceed the period of validity of this subpart.

(b) Each LOA must set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance of the LOA will be based on a determination that the total number of marine mammals taken by the activity as a whole must have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 218.18 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the LOA by NMFS, issued pursuant to § 216.106 of this chapter and § 218.17 and subject to the provisions of this subpart must be made until after notification and an opportunity for public comment has been provided.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.12(c), an LOA issued pursuant to § 216.106 of this chapter and § 218.17 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subpart C–D [Reserved]

Subpart E—Taking Marine Mammals Incidental to U.S. Marine Corps Training Exercises at Brant Island Bombing Target and Piney Island Bombing Range, Pamlico Sound, North Carolina

SOURCE: 80 FR 13284, Mar. 13, 2015, unless otherwise noted.

EFFECTIVE DATE NOTE: At 80 FR 13284, Mar. 13, 2015, subpart E was added, effective March 13, 2015, through March 12, 2020.

§ 218.40 Specified activity and location of specified activities.

(a) Regulations in this subpart apply only to the U.S. Marine Corps (Marine Corps) for the incidental taking of marine mammals that occurs in the area outlined in paragraph (b) of this section incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Marine Corps is only authorized if it occurs within the Brant Island Target (BT–9) and Piney Island Bombing Range (BT–11) bombing targets at

the Marine Corps Air Station Cherry Point Range Complex located within Pamlico Sound, North Carolina (as depicted in Figure 3–1 of the Marine Corps' request for regulations and Letter of Authorization). The BT–9 area is a water-based bombing target and mining exercise area located approximately 52 kilometers (km) (32.3 miles (mi)) northeast of Marine Air Corps Station Cherry Point. The BT–11 area encompasses a total of 50.6 square kilometers (km^2) (19.5 square miles (mi^2)) on Piney Island located in Carteret County, North Carolina.

(c) The taking of marine mammals by the Marine Corps is only authorized if it occurs incidental to the following activities within the annual amounts of use:

(1) The level of training activities in the amounts indicated here:

(i) Surface-to-Surface Exercises—up to 471 vessel-based sorties annually at BT–9 and BT–11; and

(ii) Air-to-Surface Exercises—up to 14,586 air-based based sorties annually at BT–9 and BT–11.

(2) The use of the following live ordnance for Marine Corps training activities at BT–9, in the total amounts over the course of the five-year rule indicated here:

(i) 30 mm HE—17,160 rounds;

(ii) 40 mm HE—52,100 rounds;

(iii) 2.75-inch Rocket—1,100 rounds;

(iv) 5-inch Rocket—340 rounds; and

(v) G911 Grenade—720 rounds.

(3) The use of the following inert ordnance for Marine Corps training activities at BT–9 and BT–11, in the total amounts over the course of the five-year rule indicated here:

(i) Small arms excluding .50 cal (7.62 mm)—2,628,050 rounds at BT–9 and 3,054,785 rounds at BT–11;

(ii) 0.50 Caliber arms—2,842,575 rounds at BT–9 and 1,833,875 rounds at BT–11;

(iii) Large arms (up to 25 mm)—602,025 rounds at BT–9 and 1,201,670 rounds at BT–11;

(iv) Rockets, inert (2.75-inch rocket, 2.75-inch illumination, 2.75-inch white phosphorus, 2.75-inch red phosphorus; 5-inch rocket, 5-inch illumination, 5-inch white phosphorus, 5-inch red phosphorus)—4,220 rounds at BT–9 and 27,960 rounds at BT–11;

(v) Bombs, inert (BDU–45 practice bomb, MK–76 practice bomb, MK–82 practice bomb, MK–83 practice bomb)—4,055 rounds at BT–9 and 22,114 rounds at BT–11; and

(vi) Pyrotechnics—4,496 rounds at BT–9 and 8,912 at BT–11.

§ 218.41 Effective dates.

Regulations in this subpart are effective from March 13, 2015 until March 12, 2020.

§ 218.42 Permissible methods of taking.

(a) Under a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 218.47, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by Level A and Level B harassment only within the area described in § 218.40(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The incidental take of marine mammals under the activities identified in § 218.40(c) is limited to the following species, by the indicated method of take and the indicated number over a five-year period:

(1) Level B Harassment:

(i) Atlantic bottlenose dolphin (*Tursiops truncatus*)—1,615.

(ii) [Reserved]

(2) Level A Harassment:

(i) Atlantic bottlenose dolphin—170.

(ii) [Reserved]

§ 218.43 Prohibitions.

No person in connection with the activities described in § 218.40 shall:

(a) Take any marine mammal not specified in § 218.42(c);

(b) Take any marine mammal specified in § 218.42(c) other than by incidental take as specified in § 218.42(c)(1) and (2);

(c) Take a marine mammal specified in § 218.42(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter

of Authorization issued under § 216.106 of this chapter and § 218.47.

§ 218.44 Mitigation.

(a) When conducting operations identified in § 218.40(c), the mitigation measures contained in the Letter of Authorization issued under § 216.106 of this chapter and § 218.47 must be implemented. These mitigation measures include, but are not limited to:

(b) Training Exercises at BT–9 and BT–11:

(1) Safety Zone:

(i) The Marine Corps shall establish and monitor a safety zone for marine mammals comprising the entire Rattan Bay area at BT–11.

(ii) The Marine Corps shall establish and monitor a safety zone for marine mammals comprising a radius of 914 meters (m) (3,000 feet) around the target area at BT–9.

(2) For training exercises, the Marine Corps shall comply with the monitoring requirements, including pre-mission and post-mission monitoring, set forth in § 218.45(c).

(3) When detonating explosives or delivering ordnance:

(i) If personnel observe any marine mammals within the safety zone prescribed in paragraph (b)(1) of this section, or if personnel observe marine mammals that are on a course that will put them within the designated safety zone prior to surface-to-surface or air-to-surface training exercises, the Marine Corps shall delay ordnance delivery and/or explosives detonations until all marine mammals are no longer within the designated safety zone.

(ii) If personnel cannot reacquire marine mammals detected in the safety zone after delaying training missions, the Marine Corps shall not commence activities until the next verified location of the animal is outside of the safety zone and the animal is moving away from the mission area.

(iii) If personnel are unable to monitor the safety zone prescribed in paragraph (b)(1) of this section, then the Marine Corps shall delay training exercises.

(iv) If daytime weather and/or sea conditions preclude adequate surveillance for detecting marine mammals, then the Marine Corps shall postpone training exercises until adequate sea conditions exist for adequate monitoring of the safety zone prescribed in paragraph (b)(1) of this section.

(4) Pre-Mission and Post-Mission Monitoring:

(i) Range operators shall conduct or direct visual surveys to monitor BT–9 or BT–11 for marine mammals before and after each exercise. Range operation and control personnel shall monitor the target area through two tower-mounted safety and surveillance cameras.

(ii) Range operators shall use the surveillance camera's night vision (*i.e.*, infrared) capabilities to monitor BT–9 or BT–11 for marine mammals during night-time exercises.

(iii) For BT–9, in the event that a marine mammal is sighted within the 914-m (3,000-ft) radius around the target area, personnel shall declare the area as fouled and cease training exercises. Personnel shall commence operations in BT–9 only until the marine mammal moves beyond and on a path away from the 914-m (3,000 ft) radius from the BT–9 target.

(iv) For BT–11, in the event that a marine mammal is sighted anywhere within the confines of Rattan Bay, personnel shall declare the water-based targets within Rattan Bay as fouled and cease training exercises. Personnel shall commence operations in BT–11 only after the animal has moved out of Rattan Bay.

(5) Range Sweeps for Safety Zone Monitoring and Delay of Exercises:

(i) The Marine Corps shall conduct a range sweep the morning of each exercise day prior to the commencement of range operations.

(ii) The Marine Corps shall also conduct a range sweep after each exercise following the conclusion of range operations.

(iii) Marine Corps Air Station personnel shall conduct the sweeps by aircraft at an altitude of 100 to 300 m (328 to 984 ft) above the water surface, at airspeeds between 60 to 100 knots.

(iv) The path of the sweeps shall run down the western side of BT–11, circle around BT–9, and then continue down the eastern side of BT–9 before leaving the area.

(v) The maximum number of days that shall elapse between pre- and post-exercise monitoring events shall be approximately 3 days, and will normally occur on weekends.

(6) Cold Pass by Aircraft:

(i) For waterborne targets, the pilot must perform a low-altitude visual check immediately prior to ordnance delivery at the bombing targets both day and night to ensure the target area is clear of marine mammals. This is referred to as a ''cold'' or clearing pass.

(ii) Pilots shall conduct the cold pass with the aircraft (helicopter or fixed-winged) flying straight and level at altitudes of 61 to 914 m (200 to 3,000 ft) over the target area.

(iii) If marine mammals are present in the target area during a range sweep, cold pass, or visual surveillance with the camera, the Range Controller shall deny ordnance delivery to the target as conditions warrant. If marine mammals are not present in the target area, the Range Controller may grant clearance to the pilot as conditions warrant.

(7) Vessel Operation:

(i) All vessels used during training operations shall abide by NMFS' Southeast Regional Viewing Guidelines designed to prevent harassment to marine mammals (*http://www.nmfs.noaa.gov/pr/education/southeast/)*.

(ii) [Reserved]

§ 218.45 Requirements for monitoring and reporting.

(a) The Holder of the Letter of Authorization issued pursuant to § 216.106 of this chapter and § 218.47 for activities described in § 218.40(c) is required to conduct the monitoring and reporting measures specified in this section and § 218.44 and any additional monitoring measures contained in the Letter of Authorization.

(b) The Holder of the Letter of Authorization is required to cooperate with the National Marine Fisheries Service, and any other Federal, state, or local agency monitoring the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Director, Office of Protected Resources, National Marine Fisheries Service, or designee, by letter or telephone (301–427–8401), at least 2 weeks prior to any modification to the activity identified in § 218.40(c) that has the potential to result in the serious injury, mortality, or Level A or Level B harassment of a marine mammal that was not identified and addressed previously.

(c) Monitoring Procedures for Missions at BT–9 and BT–11:

(1) The Holder of this Authorization shall:

(i) Designate qualified on-site individual(s) to record the effects of training exercises on marine mammals that inhabit Pamlico Sound;

(ii) Require operators of small boats, and other personnel monitoring for marine mammals from watercraft to take the Marine Species Awareness Training (Version 2), provided by the Department of the Navy.

(iii) Instruct pilots conducting range sweeps on marine mammal observation techniques during routine Range Management Department briefings. This training would make personnel knowledgeable of marine mammals, protected species, and visual cues related to the presence of marine mammals and protected species.

(iv) Continue the Long-Term Monitoring Program to obtain abundance, group dynamics (*e.g.*, group size, age census), behavior, habitat use, and acoustic data on the bottlenose dolphins which inhabit Pamlico Sound, specifically those around BT–9 and BT–11.

(v) Continue the Passive Acoustic Monitoring (PAM) Program to provide additional insight into how dolphins use BT–9 and BT–11 and to monitor for vocalizations.

(vi) Continue to refine the real-time passive acoustic monitoring system at BT–9 to allow automated detection of bottlenose dolphin whistles.

(d) Reporting:

(1) Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization shall conduct all of the monitoring and reporting required under the LOA and shall submit an annual and comprehensive report to the Director, Office of Protected Resources, National Marine

Fisheries Service by a date certain to be specified in the LOA. This report must include the following information:

(i) Date and time of each training exercise;

(ii) A complete description of the pre-exercise and post-exercise activities related to mitigating and monitoring the effects of the training exercises on marine mammal populations;

(iii) Results of the Marine Corps monitoring, including numbers by species/stock of any marine mammals injured or killed as a result of the training exercises and number of marine mammals (by species, if possible) that may have been harassed due to presence within the applicable safety zone;

(iv) A detailed assessment of the effectiveness of the sensor-based monitoring in detecting marine mammals in the area of the training exercises; and

(v) Results of coordination with coastal marine mammal stranding networks. The Marine Corps shall coordinate with the local NMFS Stranding Coordinator to discuss any unusual marine mammal behavior and any stranding, beached (live or dead), or floating marine mammals that may occur at any time during training activities or within 24 hours after completion of training.

(2) The Marine Corps will submit an annual report to NMFS by June 1st of each year starting in 2016. The first report will cover the time period from issuance of the March 2015 Letter of Authorization through March 12, 2016. Each annual report after that time will cover the time period from March 13 through March 12, annually.

(3) The Marine Corps shall submit a draft comprehensive report on all marine mammal monitoring and research conducted during the period of these regulations to the Director, Office of Protected Resources, NMFS at least 180 days prior to expiration of these regulations or 180 days after the expiration of these regulations if the Marine Corps will not request new regulations.

(i) The draft comprehensive report will be subject to review and comment by NMFS. Prior to acceptance by NMFS, the Marine Corps must address any recommendations made by NMFS, within 60 days of its receipt, in the final comprehensive report.

(ii) [Reserved]

(4) General Notification of Injured or Dead Marine Mammals:

(i) The Marine Corps shall systematically observe training operations for injured or disabled marine mammals. In addition, the Marine Corps shall monitor the principal marine mammal stranding networks and other media to correlate analysis of any dolphin strandings that could potentially be associated with BT–9 or BT–11 training operations.

(ii) Marine Corps personnel shall notify NMFS immediately, or as soon as clearance procedures allow, if personnel find an injured, stranded, or dead marine mammal during or shortly after, and in the vicinity of, any training operations. The Marine Corps shall provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

(iii) In the event that an injured, stranded, or dead marine mammal is found by Marine Corps personnel that is not in the vicinity of, or found during or shortly after operations, the Marine Corps personnel will report the same information listed above as soon as operationally feasible and clearance procedures allow.

(5) General Notification of a Ship Strike:

(i) In the event of a vessel strike, at any time or place, the Marine Corps shall do the following:

(ii) Immediately report to NMFS the species identification (if known), location (lat/long) of the animal (or the strike if the animal has disappeared), and whether the animal is alive or dead (or unknown);

(iii) Report to NMFS as soon as operationally feasible the size and length of the animal, an estimate of the injury status (*e.g.*, dead, injured but alive, injured and moving, unknown, etc.), vessel class/type, and operational status;

(iv) Report to NMFS the vessel length, speed, and heading as soon as feasible; and

(v) Provide NMFS with a photo or video, if equipment is available.

§ 218.46 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. citizen (as defined at § 216.103 of this chapter) conducting the activities identified in § 218.40 must apply for and obtain either an initial Letter of Authorization in accordance with § 216.106 of this chapter and § 218.47 or a renewal under § 218.48.

§ 218.47 Letter of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the Marine Corps must apply for and obtain a Letter of Authorization.

(b) A Letter of Authorization, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If a Letter of Authorization expires prior to the expiration date of these regulations, the Marine Corps must apply for and obtain a renewal of the Letter of Authorization.

(d) In the event of any changes to the activity or to mitigation and monitoring measures required by a Letter of Authorization, the Marine Corps must apply for and obtain a modification of the Letter of Authorization as described in § 218.48.

(e) The Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the Letter of Authorization shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of a Letter of Authorization shall be published in the FEDERAL REGISTER within 30 days of a determination.

§ 218.48 Renewals and Modifications of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 of this chapter and § 218.47 for the activity identified in § 218.40 shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in § 218.47(c)(1)), and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous Letter of Authorization under these regulations were implemented.

(b) For Letter of Authorization modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in § 218.47(c)(1)) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed Letter of Authorization in the FEDERAL REGISTER, including the associated analysis illustrating the change, and solicit public comment before issuing the Letter of Authorization.

(c) A Letter of Authorization issued under § 216.106 of this chapter and § 218.47 for the activity identified in § 218.40 may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the Marine Corps regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify

the mitigation, monitoring, or reporting measures in a Letter of Authorization include:

(A) Results from the Marine Corps' monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent Letters of Authorization.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS shall publish a notice of proposed Letter of Authorization in the FEDERAL REGISTER and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.42(c), a Letter of Authorization may be modified without prior notice or opportunity for public comment. NMFS will publish a notice in the FEDERAL REGISTER within 30 days subsequent to the action.

Subparts F–G [Reserved]

Subpart H—Taking and Importing Marine Mammals; U.S. Navy's Hawaii-Southern California Training and Testing (HSTT)

SOURCE: 78 FR 78152, Dec. 24, 2013, unless otherwise noted.

EFFECTIVE DATE NOTE: At 78 FR 78152, Dec. 24, 2013, subpart H was added, effective Dec. 24, 2013, through Dec. 24, 2018.

§ 218.70 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the HSTT Study Area, which is comprised of established operating and warning areas across the north-central Pacific Ocean, from Southern California west to Hawaii and the International Date Line (see Figure 1–1 in the Navy's application). The Study Area includes three existing range complexes: the Southern California (SOCAL) Range Complex, Hawaii Range Complex (HRC), and Silver Strand Training Complex (SSTC). In addition, the Study Area includes other areas where training and testing activities occur, including the pierside locations in San Diego Bay and Pearl Harbor, the transit corridor between SOCAL and Hawaii, and throughout the San Diego Bay.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) Non-impulsive Sources Used During Training:

(i) Mid-frequency (MF) Source Classes:

(A) MF1—an average of 11,588 hours per year.

(B) MF1K—an average of 88 hours per year.

(C) MF2—an average of 3,060 hours per year.

(D) MF2K—an average of 34 hours per year.

(E) MF3—an average of 2,336 hours per year.

(F) MF4—an average of 888 hours per year.

(G) MF5—an average of 13,718 items per year.

(H) MF11—an average of 1,120 hours per year.

(I) MF12—an average of 1,094 hours per year.

(ii) High-frequency (HF) and Very High-frequency (VHF) Source Classes:

(A) HF1—an average of 1,754 hours per year.

(B) HF4—an average of 4,848 hours per year.

(iii) Anti-Submarine Warfare (ASW) Source Classes:

(A) ASW1—an average of 224 hours per year.

(B) ASW2—an average of 1,800 items per year.

(C) ASW3—an average of 16,561 hours per year.

(D) ASW4—an average of 1,540 items per year.

(iv) Torpedoes (TORP) Source Classes:

(A) TORP1—an average of 170 items per year.

(B) TORP2—an average of 400 items per year.

(2) Non-impulsive Sources Used During Testing:

(i) Low-frequency (LF) Source Classes:

(A) LF4—an average of 52 hours per year.

(B) LF5—an average of 2,160 hours per year.

(C) LF6—an average of 192 hours per year.

(ii) Mid-frequency (MF):

(A) MF1—an average of 180 hours per year.

(B) MF1K—an average of 18 hours per year.

(C) MF2—an average of 84 hours per year.

(D) MF3—an average of 392 hours per year.

(E) MF4—an average of 693 hours per year.

(F) MF5—an average of 5,024 items per year.

(G) MF6—an average of 540 items per year.

(H) MF8—an average of 2 hours per year.

(I) MF9—an average of 3,039 hours per year.

(J) MF10—an average of 35 hours per year.

(K) MF12—an average of 336 hours per year.

(iii) High-frequency (HF) and Very High-frequency (VHF):

(A) HF1—an average of 1,025 hours per year.

(B) HF3—an average of 273 hours per year.

(C) HF4—an average of 1,336 hours per year.

(D) HF5—an average of 1,094 hours per year.

(E) HF6—an average of 3,460 hours per year.

(iv) ASW:

(A) ASW1—an average of 224 hours per year.

(B) ASW2—an average of 2,260 items per year.

(C) ASW2—an average of 255 hours per year.

(D) ASW3—an average of 1,278 hours per year.

(E) ASW4—an average of 477 items per year.

(v) TORP:

(A) TORP1—an average of 701 items per year.

(B) TORP2—an average of 732 items per year.

(vi) Acoustic Modems (M):

(A) M3—an average of 4,995 hours per year.

(B) [Reserved]

(vii) Swimmer Detection Sonar (SD):

(A) SD1—an average of 38 hours per year.

(B) [Reserved]

(viii) Airguns (AG):

(A) AG—an average of 5 airgun uses per year.

(B) [Reserved]

(ix) Synthetic Aperture Sonar (SAS):

(A) SAS1—an average of 2,700 hours per year.

(B) SAS2—an average of 4,956 hours per year.

(C) SAS3—an average of 3,360 hours per year.

(3) Annual Number of Impulsive Source Detonations During Training:

(i) Explosive Classes:

(A) E1 (0.1 lb to 0.25 lb NEW)—an average of 19,840 detonations per year.

(B) E2 (1.26 lb to 0.5 lb NEW)—an average of 1,044 detonations per year.

(C) E3 (>0.5 lb to 2.5 lb NEW)—an average of 3,020 detonations per year.

(D) E4 (>2.5 lb to 5 lb NEW)—an average of 668 detonations per year.

(E) E5 (>5 lb to 10 lb NEW)—an average of 8,154 detonations per year.

(F) E6 (>10 lb to 20 lb NEW)—an average of 538 detonations per year.

(G) E7 (>20 lb to 60 lb NEW)—an average of 407 detonations per year.

(H) E8 (>60 lb to 100 lb NEW)—an average of 64 detonations per year.

(I) E9 (>100 lb to 250 lb NEW)—an average of 16 detonations per year.

(J) E10 (>250 lb to 500 lb NEW)—an average of 19 detonations per year.

(K) E11 (>500 lb to 650 lb NEW)—an average of 8 detonations per year.

(L) E12 (>650 lb to 1,000 lb NEW)—an average of 224 detonations per year.

(M) E13 (>1,000 lb to 1,740 lb NEW)—an average of 9 detonations per year.

(ii) [Reserved]

(4) Impulsive Source Detonations During Testing:

(i) Explosive Classes:

(A) E1 (0.1 lb to 0.25 lb NEW)—an average of 14,501 detonations per year.

(B) E2 (0.26 lb to 0.5 lb NEW)—an average of 0 detonations per year.

(C) E3 (>0.5 lb to 2.5 lb NEW)—an average of 2,990 detonations per year.

(D) E4 (>2.5 lb to 5 lb NEW)—an average of 753 detonations per year.

(E) E5 (>5 lb to 10 lb NEW)—an average of 202 detonations per year.

(F) E6 (>10 lb to 20 lb NEW)—an average of 37 detonations per year.

(G) E7 (>20 lb to 60 lb NEW)—an average of 21 detonations per year.

(H) E8 (>60 lb to 100 lb NEW)—an average of 12 detonations per year.

(I) E9 (>100 lb to 250 lb NEW)—an average of 0 detonations per year.

(J) E10 (>250 lb to 500 lb NEW)—an average of 31 detonations per year.

(K) E11 (>500 lb to 650 lb NEW)—an average of 14 detonations per year.

(L) E12 (>650 lb to 1,000 lb NEW)—an average of 0 detonations per year.

(M) E13 (>1,000 lb to 1,740 lb NEW)—an average of 0 detonations per year.

(ii) Pile Driving: No more than four events per year.

§ 218.71 Effective dates and definitions.

(a) The regulations in this subpart are effective December 24, 2013, through December 24, 2018.

(b) The following definitions are utilized in this subpart:

(1) *Uncommon Stranding Event (USE)*—A stranding event that takes place within an OPAREA where a Major Training Event (MTE) occurs and involves any one of the following:

(i) Two or more individuals of any cetacean species (not including mother/calf pairs), unless of species of concern listed in paragraph (b)(1)(ii) of this section found dead or live on shore within a 2-day period and occurring within 30 miles of one another.

(ii) A single individual or mother/calf pair of any of the following marine mammals of concern: beaked whale of any species, *Kogia* spp., Risso's dolphin, melon-headed whale, pilot whale, humpback whale, sperm whale, blue whale, fin whale, sei whale, or monk seal.

(iii) A group of two or more cetaceans of any species exhibiting indicators of distress.

(2) *Shutdown*—The cessation of active sonar operation or detonation of explosives within 14 nautical miles of any live, in the water, animal involved in a USE.

§ 218.72 Permissible methods of taking.

(a) Under Letters of Authorization (LOAs) issued pursuant to § 218.77, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 218.70, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in § 218.70(c) is limited to the following species, by the identified method of take:

(1) Harassment (Level A and Level B) for all Training and Testing Activities:

(i) Mysticetes:

(A) Blue whale (*Balaenoptera musculus*)—23,699.

(B) Bryde's whale (*Balaenoptera edeni*)—1,287.

(C) Fin whale (*Balaenoptera physalus*)—9,656.

(D) Gray whale (*Eschrichtius robustus*), Eastern North Pacific—60,590.

(E) Gray whale (Eschrichtius robustus), Western North Pacific—60.

(F) Humpback whale (*Megaptera novaeangliae*)—51,000.

(G) Minke whale (*Balaenoptera acutorostrata*)—4,425.

(H) Sei whale (*Balaenoptera borealis*)—3,251.

(ii) Odontocetes:

(A) Baird's beaked whale (*Berardius bairdii*)—27,325.

(B) Blainville's beaked whale (*Mesoplodon densirostris*)—52,972.

(C) Bottlenose dolphin (*Tursiops truncatus*), California Coastal—5,600.

(D) Bottlenose dolphin (Tursiops truncatus), CA/OR/WA—145,125.

(E) Bottlenose dolphin (Tursiops truncatus), Hawaii pelagic—20,995.

(F) Bottlenose dolphin (Tursiops truncatus), Oahu—3,879.

(G) Bottlenose dolphin (Tursiops truncatus), 4-Islands region—999.
(H) Bottlenose dolphin (Tursiops truncatus), Kauai and Niihau—960.
(I) Bottlenose dolphin (Tursiops truncatus), Hawaii Island—666.
(J) Cuvier's beaked whale (*Ziphius cavirostris*)—349,130.
(K) Dwarf sperm whale (*Kogia sima*)—113,525.
(L) Dall's porpoise (*Phocoenoidea dalli*)—210,925.
(M) False killer whale (*Pseudorca crassidens*), Main Hawaiian Islands insular—240.
(N) False killer whale (*Pseudorca crassidens*)—3,147.
(O) Fraser's dolphin (*Lagenodelphis hosei*)—9,034.
(P) Killer whale (*Orcinus orca*)—2,762.
(Q) *Kogia* spp.—71,070.
(R) Long-beaked common dolphin (*Delphinus capensis*)—604,715.
(S) Longman's beaked whale (*Indopacetus pacificus*)—19,476.
(T) Melon-headed whale (*Peponocephala electra*)—7,353.
(U) Mesoplodon beaked whales—11,695.
(V) Northern right whale dolphin (*Lissodelphis borealis*)—286,635.
(W) Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)—216,885.
(X) Pantropical spotted dolphin (*Stenella attenuata*)—51,864.
(Y) Pygmy killer whale (*Feresa attenuata*)—2,908.
(Z) Pygmy sperm whale (*Kogia breviceps*)—1,683.
(AA) Risso's dolphin (*Grampus griseus*)—481,677.
(BB) Rough-toothed dolphin (*Steno bredanensis*)—24,815.
(CC) Short-beaked common dolphin (*Delphinus delphis*)—5,610,700.
(DD) Short-finned pilot whale (*Globicephala macrorhynchus*)—46,680.
(EE) Sperm whale (*Physeter macrocephalus*)—17,235.
(FF) Spinner dolphin (*Stenella longirostris*)—11,900.
(GG) Striped dolphin (*Stenella coerulealba*)—39,487.
(iii) Pinnipeds:
(A) California sea lion (*Zalophus californianus*)—699,605.
(B) Guadalupe fur seal (*Arctocephalus townsendi*)—14,360.
(C) Harbor seal (*Phoca vitulina*)—34,025.
(D) Hawaiian monk seal (*Monachus schauinslandi*)—8,124.
(E) Northern elephant seal (*Mirounga angustirostris*)—126,275.
(F) Northern fur seal (*Callorhinus ursinus*)—105,895.
(3) Mortality (or lesser Level A injury) for all Training and Testing Activities:
(i) No more than 130 mortalities applicable to any small odontocete (i.e., dolphin) or pinniped (with the exception of Hawaiian monk seal) species from an impulse source.
(ii) No more than 10 beaked whale mortalities.
(iii) No more than 15 large whale injuries or mortalities or serious injuries from vessel strike.

§ 218.73 Prohibitions.

Notwithstanding takings contemplated in § 218.72 and authorized by an LOA issued under §§ 216.106 and 218.77 of this chapter, no person in connection with the activities described in § 218.70 may:
(a) Take any marine mammal not specified in § 218.72(c);
(b) Take any marine mammal specified in § 218.72(c) other than by incidental take as specified in § 218.72(c);
(c) Take a marine mammal specified in § 218.72(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or
(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or an LOA issued under §§ 216.106 and 218.77.

§ 218.74 Mitigation.

(a) When conducting training and testing activities, as identified in § 218.70, the mitigation measures contained in the LOA issued under §§ 216.106 and 218.77 of this chapter must be implemented. These mitigation measures include, but are not limited to:
(1) *Lookouts*—The following are protective measures concerning the use of Lookouts.
(i) Lookouts positioned on ships will be dedicated solely to diligent observation of the air and surface of the water.

Their observation objectives will include, but are not limited to, detecting the presence of biological resources and recreational or fishing boats, observing mitigation zones, and monitoring for vessel and personnel safety concerns.

(ii) Lookouts positioned in aircraft or on small boats will, to the maximum extent practicable and consistent with aircraft and boat safety and training and testing requirements, comply with the observation objectives described above in § 218.74 (a)(1)(i).

(iii) Lookout measures for non-impulsive sound:

(A) With the exception of ships less than 65 ft (20 m) in length and ships which are minimally manned, ships using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea will have two Lookouts at the forward position of the ship. For the purposes of this rule, low-frequency active sonar does not include surveillance towed array sensor system low-frequency active sonar.

(B) While using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea, vessels less than 65 ft (20 m) in length and ships which are minimally manned will have one Lookout at the forward position of the vessel due to space and manning restrictions.

(C) Ships conducting active sonar activities while moored or at anchor (including pierside testing or maintenance) will maintain one Lookout.

(D) Surface ships or aircraft conducting high-frequency or non-hull-mounted mid-frequency active sonar activities associated with anti-submarine warfare and mine warfare activities at sea will have one Lookout.

(iv) Lookout measures for explosives and impulsive sound:

(A) Aircraft conducting IEER sonobuoy activities will have one Lookout.

(B) Explosive sonobuoys with 0.6 to 2.5 lb net explosive weight will have one Lookout.

(C) Surface vessels conducting anti-swimmer grenade activities will have one Lookout.

(D) During general mine countermeasure and neutralization activities using up to a 500-lb net explosive weight detonation (bin E10 and below), vessels greater than 200 ft will have two Lookouts, while vessels less than 200 ft or aircraft will have one Lookout.

(E) General mine countermeasure and neutralization activities using a 501 to 650-lb net explosive weight detonation (bin E11), will have two Lookouts. One Lookout will be positioned in an aircraft and one in a support vessel.

(F) During activities involving diver-placed mines under positive control, activities using up to a 500 lb net explosive weight (bin E10) detonation will have a total of two Lookouts (one Lookout positioned on two small boats, or one small boat in combination with either a helicopter or shore-based. The shore-based observer would be stationed at an elevated on-shore position and would only be used during activities conducted in very shallow waters.

(G) When mine neutralization activities using diver-placed charges with up to a 29-lb net explosive weight detonation (bin E7) are conducted with a time-delay firing device, four Lookouts will be used. Two Lookouts will be positioned in each of two small rigid hull inflatable boats or on one boat. In addition, when aircraft are used, the pilot or member of the aircrew will serve as an additional Lookout. The divers placing the charges on mines will report all marine mammal sightings to their dive support vessel or Range Safety Officer.

(H) Surface vessels or aircraft conducting small- and medium-caliber gunnery exercises against a surface target will have one Lookout.

(I) Surface vessels conducting large-caliber gunnery exercises against a surface target will have one Lookout.

(J) Aircraft conducting missile exercises (including rockets) against surface targets will have one Lookout.

(K) Aircraft conducting bombing exercises will have one Lookout.

(L) During explosive torpedo testing, one Lookout will be used and positioned in an aircraft.

(M) During sinking exercises, two Lookouts will be used. One Lookout will be positioned in an aircraft and one on a surface vessel.

(N) Each surface vessel supporting at-sea explosive testing will have at least one Lookout.

(O) During pile driving, one Lookout will be used and positioned on the platform that will maximize the potential for marine mammal sightings (e.g., the shore, an elevated causeway, or on a small boat).

(P) Surface vessels conducting explosive and non-explosive large-caliber gunnery exercises will have one Lookout. This may be the same Lookout used during large-caliber gunnery exercises with a surface target.

(v) Lookout measures for physical strike and disturbance:

(A) While underway, surface ships will have at least one Lookout.

(B) During activities using towed in-water devices, when towed from a manned platform, one Lookout will be used.

(C) Activities involving non-explosive practice munitions (e.g., small-, medium-, and large-caliber gunnery exercises) using a surface target will have one Lookout.

(D) During activities involving non-explosive bombing exercises, one Lookout positioned in an aircraft will be used.

(E) During activities involving non-explosive missile exercises (including rockets) using a surface target, one Lookout will be used.

(2) *Mitigation Zones*—The following are protective measures concerning the implementation of mitigation zones.

(i) Mitigation zones will be measured as the radius from a source and represent a distance to be monitored.

(ii) Visual detections of marine mammals within a mitigation zone will be communicated immediately to a watch station for information dissemination and appropriate action.

(iii) Mitigation zones for non-impulsive sound:[1]

(A) When marine mammals are visually detected, the Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmission levels are limited to at least 6 dB below normal operating levels, for sources that can be powered down, if any detected marine mammals are within 1,000 yd (914 m) of the sonar dome (the bow).

(B) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are limited to at least 10 dB below the equipment's normal operating level, for sources that can be powered down, if any detected marine mammals are within 500 yd (457 m) of the sonar dome.

(C) The Navy shall ensure that low-frequency sonar and hull-mounted mid-frequency active sonar transmissions are ceased, for sources that can be turned off during the activity, if any visually detected marine mammals are within 200 yd (183 m) of the sonar dome. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source; the mitigation zone has been clear from any additional sightings for a period of 30 minutes; the ship has transited more than 2,000 yd (1.8 km) beyond the location of the last sighting; or the ship concludes that dolphins are deliberately closing in on the ship to ride the ship's bow wave (and there are no other marine mammal sightings within the mitigation zone). Active transmission may resume when dolphins are bow riding because they are out of the main transmission axis of the active sonar while in the shallow-wave area of the bow.

(D) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are ceased for sources that cannot be powered down during the activity, if any visually detected marine mammals are within 200 yd (183 m) of the source. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source; the mitigation zone has been clear from any additional sightings for a period of

[1] The mitigation zone would be 200 yd (183 m) for low-frequency non-hull mounted sources in bins LF4 and LF5.

30 minutes; the ship has transited more than 400 yd (366 m) beyond the location of the last sighting.

(E) When marine mammals are visually detected, the Navy shall ensure that high-frequency and non-hull-mounted mid-frequency active sonar transmission levels are ceased if any visually detected marine mammals are within 200 yd (183 m) of the source. Transmissions will not resume until one of the following conditions is met: the animals is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source; the mitigation zone has been clear from any additional sightings for a period of 10 minutes for an aircraft-deployed source; the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a vessel-deployed source; the vessel or aircraft has repositioned itself more than 400 yd (366 m) away from the location of the last sighting; or the vessel concludes that dolphins are deliberately closing to ride the vessel's bow wave (and there are no other marine mammal sightings within the mitigation zone).

(iv) Mitigation zones for explosive and impulsive sound:

(A) A mitigation zone with a radius of 600 yd (549 m) shall be established for IEER sonobuoys (bin E4).

(B) A mitigation zone with a radius of 350 yd (320 m) shall be established for explosive sonobuoys using 0.6 to 2.5 lb net explosive weight (bin E3).

(C) A mitigation zone with a radius of 200 yd (183 m) shall be established for anti-swimmer grenades (bin E2).

(D) A mitigation zone ranging from 600 yd (549 m) to 2,100 yd (1.9 km), dependent on charge size, shall be established for general mine countermeasure and neutralization activities using positive control firing devices. Mitigation zone distances are specified for charge size in Table 11–2 of the Navy's application.

(E) A mitigation zone ranging from 350 yd (320 m) to 850 yd (777 m), dependent on charge size, shall be established for mine countermeasure and neutralization activities using diver-placed positive control firing devices. Mitigation zone distances are specified for charge size in Table 11–2 of the Navy's application.

(F) A mitigation zone with a radius of 1,000 yd (914 m) shall be established for mine neutralization diver placed mines using time-delay firing devices (bin E7).

(G) A mitigation zone with a radius of 200 yd (183 m) shall be established for small- and medium-caliber gunnery exercises with a surface target (bin E2).

(H) A mitigation zone with a radius of 600 yd (549 m) shall be established for large-caliber gunnery exercises with a surface target (bin E5).

(I) A mitigation zone with a radius of 900 yd (823 m) shall be established for missile exercises (including rockets) with up to 250 lb net explosive weight and a surface target (up to bin E9).

(J) A mitigation zone with a radius of 2,000 yd (1.8 km) shall be established for missile exercises with 251 to 500 lb net explosive weight and a surface target (E10).

(K) A mitigation zone with a radius of 2,500 yd (2.3 km) shall be established for bombing exercises (up to bin E12).

(L) A mitigation zone with a radius of 2,100 yd (1.9 km) shall be established for torpedo (explosive) testing (up to bin E11).

(M) A mitigation zone with a radius of 2.5 nautical miles shall be established for sinking exercises (up to bin E12).

(N) A mitigation zone with a radius of 1,600 yd (1.4 km) shall be established for at-sea explosive testing (up to bin E5).

(O) A mitigation zone with a radius of 60 yd (55 m) shall be established for elevated causeway system pile driving.

(P) A mitigation zone with a radius of 70 yd (64 m) within 30 degrees on either side of the gun target line on the firing side of the vessel for explosive and non-explosive large-caliber gunnery exercises.

(v) Mitigation zones for vessels and in-water devices:

(A) A mitigation zone of 500 yd (457 m) for observed whales and 200 yd (183 m) for all other marine mammals (except bow riding dolphins) shall be established for all vessel movement, providing it is safe to do so.

(B) A mitigation zone of 250 yd (229 m) for any observed marine mammal shall be established for all towed in-water devices that are towed from a manned platform, providing it is safe to do so.

(vi) Mitigation zones for non-explosive practice munitions:

(A) A mitigation zone of 200 yd (183 m) shall be established for small, medium, and large caliber gunnery exercises using a surface target with non-explosive practice munitions.

(B) A mitigation zone of 1,000 yd (914 m) shall be established for bombing exercises with non-explosive practice munitions.

(C) A mitigation zone of 900 yd (823 m) shall be established for missile exercises (including rockets) using a surface target.

(vii) Mitigation zones for the use of Navy sea lions:

(A) If a monk seal is seen approaching or within 100 m of a Navy sea lion, the handler will hold the Navy sea lion in the boat or recall the Navy sea lion immediately if it has already been released.

(3) Humpback Whale Cautionary Area:

(i) The Navy will maintain a 5-km (3.1-mi) buffer zone between December 15 and April 15 where conducting mid-frequency active sonar exercises will require authorization by the Commander, U.S. Pacific Fleet (CPF).

(ii) If authorized, the CPF will provide specific direction on required mitigation prior to operational units transiting to and training in the area.

(iii) The Navy will provide NMFS with advance notification of any mid-frequency active sonar training and testing activities in the humpback whale cautionary area between December 15 and April 15.

(4) Stranding Response Plan:

(i) The Navy shall abide by the letter of the ''Stranding Response Plan for Major Navy Training Exercises in the HSTT Study Area,'' to include the following measures:

(A) Shutdown Procedures—When an Uncommon Stranding Event (USE—defined in §218.71 (b)(1)) occurs during a Major Training Exercise (MTE) in the HSTT Study Area, the Navy shall implement the procedures described below.

(*1*) The Navy shall implement a shutdown (as defined §218.71 (b)(2)) when advised by a NMFS Office of Protected Resources Headquarters Senior Official designated in the HSTT Study Area Stranding Communication Protocol that a USE involving live animals has been identified and that at least one live animal is located in the water. NMFS and the Navy will maintain a dialogue, as needed, regarding the identification of the USE and the potential need to implement shutdown procedures.

(*2*) Any shutdown in a given area shall remain in effect in that area until NMFS advises the Navy that the subject(s) of the USE at that area die or are euthanized, or that all live animals involved in the USE at that area have left the area (either of their own volition or herded).

(*3*) If the Navy finds an injured or dead animal floating at sea during an MTE, the Navy shall notify NMFS immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s), including carcass condition if the animal(s) is/are dead, location, time of first discovery, observed behavior (if alive), and photo or video (if available). Based on the information provided, NFMS will determine if, and advise the Navy whether a modified shutdown is appropriate on a case-by-case basis.

(*4*) In the event, following a USE, that qualified individuals are attempting to herd animals back out to the open ocean and animals are not willing to leave, or animals are seen repeatedly heading for the open ocean but turning back to shore, NMFS and the Navy shall coordinate (including an investigation of other potential anthropogenic stressors in the area) to determine if the proximity of mid-frequency active sonar training activities or explosive detonations, though farther than 14 nautical miles from the distressed animal(s), is likely contributing to the animals' refusal to return to the open water. If so, NMFS and the Navy will further coordinate to determine what measures are necessary to

improve the probability that the animals will return to open water and implement those measures as appropriate.

(B) Within 72 hours of NMFS notifying the Navy of the presence of a USE, the Navy shall provide available information to NMFS (per the HSTT Study Area Communication Protocol) regarding the location, number and types of acoustic/explosive sources, direction and speed of units using mid-frequency active sonar, and marine mammal sightings information associated with training activities occurring within 80 nautical miles (148 km) and 72 hours prior to the USE event. Information not initially available regarding the 80-nautical miles (148-km), 72-hour period prior to the event will be provided as soon as it becomes available. The Navy will provide NMFS investigative teams with additional relevant unclassified information as requested, if available.

(b) [Reserved]

§ 218.75 Requirements for monitoring and reporting.

(a) As outlined in the HSTT Study Area Stranding Communication Plan, the Holder of the Authorization must notify NMFS immediately (or as soon as operational security considerations allow) if the specified activity identified in § 218.70 is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified in § 218.71.

(b) The Holder of the LOA must conduct all monitoring and required reporting under the LOA, including abiding by the HSTT Monitoring Plan.

(c) General Notification of Injured or Dead Marine Mammals—Navy personnel shall ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as operational security considerations allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, an Navy training or testing activity utilizing mid- or high-frequency active sonar, or underwater explosive detonations. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). The Navy shall consult the Stranding Response Plan to obtain more specific reporting requirements for specific circumstances.

(d) Vessel Strike—In the event that a Navy vessel strikes a whale, the Navy shall do the following:

(1) Immediately report to NMFS (pursuant to the established Communication Protocol) the:

(i) Species identification if known;

(ii) Location (latitude/longitude) of the animal (or location of the strike if the animal has disappeared);

(iii) Whether the animal is alive or dead (or unknown); and

(iv) The time of the strike.

(2) As soon as feasible, the Navy shall report to or provide to NMFS, the:

(i) Size, length, and description (critical if species is not known) of animal;

(ii) An estimate of the injury status (e.g., dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, etc.);

(iii) Description of the behavior of the whale during event, immediately after the strike, and following the strike (until the report is made or the animal is no long sighted);

(iv) Vessel class/type and operation status;

(v) Vessel length

(vi) Vessel speed and heading; and

(vii) To the best extent possible, obtain

(3) Within 2 weeks of the strike, provide NMFS:

(i) A detailed description of the specific actions of the vessel in the 30-minute timeframe immediately preceding the strike, during the event, and immediately after the strike (e.g., the speed and changes in speed, the direction and changes in the direction, other maneuvers, sonar use, etc., if not classified); and

(ii) A narrative description of marine mammal sightings during the event and immediately after, and any information as to sightings prior to the strike, if available; and

(iii) Use established Navy shipboard procedures to make a camera available to attempt to capture photographs following a ship strike.

(e) Annual HSTT Monitoring Plan Report—(1) The Navy shall submit an annual report for the HSTT Monitoring Plan in April of each year, describing the implementation and results from the previous calendar year. Data collection methods will be standardized across range complexes and study areas to allow for comparison in different geographic locations. Although additional information will be gathered, the protected species observers collecting marine mammal data pursuant to the HSTT Monitoring Plan shall, at a minimum, provide the same marine mammal observation data required in § 218.75. (2) As an alternative, the Navy may submit a multi-Range Complex annual Monitoring Plan report to fulfill this requirement. Such a report would describe progress of knowledge made with respect to monitoring plan study questions across all Navy ranges associated with the ICMP. Similar study questions shall be treated together so that progress on each topic shall be summarized across all Navy ranges. The report need not include analyses and content that does not provide direct assessment of cumulative progress on the monitoring plan study questions.

(f) Annual HSTT Exercise and Testing Reports—The Navy shall submit preliminary reports detailing the status of authorized sound sources within 21 days after the end of the annual authorization cycle. The Navy shall submit detailed reports 3 months after the anniversary of the date of issuance of the LOA. The detailed annual reports shall contain information on Major Training Exercises (MTE), Sinking Exercise (SINKEX) events, and a summary of sound sources used, as described below. The analysis in the detailed reports will be based on the accumulation of data from the current year's report and data collected from previous reports. The detailed reports shall contain information identified in paragraphs (e)(1) through (e)(5) of this section.

(1) Major Training Exercises/SINKEX:

(i) This section shall contain the reporting requirements for Coordinated and Strike Group exercises and SINKEX. Coordinated and Strike Group Major Training Exercises include:

(A) Sustainment Exercise (SUSTAINEX).

(B) Integrated ASW Course (IAC).

(C) Composite Training Unit Exercises (COMPTUEX).

(D) Joint Task Force Exercises (JTFEX).

(E) Undersea Warfare Exercise (USWEX).

(ii) Exercise information for each MTE:

(A) Exercise designator.

(B) Date that exercise began and ended.

(C) Location (operating area).

(D) Number of items or hours (per the LOA) of each sound source bin (impulsive and non-impulsive) used in the exercise.

(E) Number and types of vessels, aircraft, etc., participating in exercise.

(F) Individual marine mammal sighting info for each sighting for each MTE:

(*1*) Date/time/location of sighting.

(*2*) Species (if not possible, indication of whale/dolphin/pinniped).

(*3*) Number of individuals.

(*4*) Initial detection sensor.

(*5*) Indication of specific type of platform the observation was made from (including, for example, what type of surface vessel or testing platform).

(*6*) Length of time observers maintained visual contact with marine mammal(s).

(*7*) Sea state.

(*8*) Visibility.

(*9*) Sound source in use at the time of sighting.

(*10*) Indication of whether animal is <200 yd, 200–500 yd, 500–1,000 yd, 1,000–2,000 yd, or >2,000 yd from sound source.

(*11*) Mitigation implementation—whether operation of sonar sensor was delayed, or sonar was powered or shut down, and how long the delay was; or whether navigation was changed or delayed.

(*12*) If source in use is a hull-mounted sonar, relative bearing of animal from ship and estimation of anima's motion relative to ship (opening, closing, parallel).

(*13*) Observed behavior—watchstanders shall report, in plain

language and without trying to categorize in any way, the observed behavior of the animal(s) (such as closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.), and if any calves present.

(G) An evaluation (based on data gathered during all of the MTEs) of the effectiveness of mitigation measures designed to minimize the received level to which marine mammals may be exposed. This evaluation shall identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.

(iii) Exercise information for each SINKEX:

(A) List of the vessels and aircraft involved in the SINKEX.

(B) Location (operating area).

(C) Chronological list of events with times, including time of sunrise and sunset, start and stop time of all marine species surveys that occur before, during, and after the SINKEX, and ordnance used.

(D) Visibility and/or weather conditions, wind speed, cloud cover, etc. throughout exercise if it changes.

(E) Aircraft used in the surveys, flight altitude, and flight speed and the area covered by each of the surveys, given in coordinates, map, or square miles.

(F) Passive acoustic monitoring details (number of sonobuoys, area and depth that was heard, detections of biologic activity, etc.).

(G) Individual marine mammal sighting info for each sighting that required mitigation to be implemented:

(*1*) Date/time/location of sighting.

(*2*) Species (if not possible, indication of whale/dolphin/pinniped).

(*3*) Number of individuals.

(*4*) Initial detection sensor.

(*5*) Indication of specific type of platform the observation was made from (including, for example what type of surface vessel or platform).

(*6*) Length of time observers maintained visual contact with marine mammal(s).

(*7*) Sea state.

(*8*) Visibility.

(*9*) Indication of whether animal is <200 yd, 200–500 yd, 500–1,000 yd, 1,000–2,000 yd, or >2,000 yd from the target.

(*10*) Mitigation implementation—whether the SINKEX was stopped or delayed and length of delay.

(*11*) Observed behavior—watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.), and if any calves present.

(H) List of the ordnance used throughout the SINKEX and net explosive weight (NEW) of each weapon and the combined ordnance NEW.

(2) Summary of Sources Used.

(i) This section shall include the following information summarized from the authorized sound sources used in all training and testing events:

(A) Total annual hours or quantity (per the LOA) of each bin of sonar or other non-impulsive source;

(B) Total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive bin;

(C) Total annual airgun use; and

(D) Improved Extended Echo-Ranging System (IEER)/sonobuoy summary, including:

(*1*) Total expended/detonated rounds (buoys).

(*2*) Total number of self-scuttled IEER rounds.

(3) Sonar Exercise Notification—The Navy shall submit to NMFS (specific contact information to be provided in LOA) either an electronic (preferably) or verbal report within fifteen calendar days after the completion of any major exercise (RIMPAC, USWEX, or Multi Strike Group) indicating:

(i) Location of the exercise.

(ii) Beginning and end dates of the exercise.

(iii) Type of exercise (e.g., RIMPAC, USWEX, or Multi Strike Group).

(4) Geographic Information Presentation—The reports shall present an annual (and seasonal, where practical) depiction of training exercises and testing bin usage geographically across the Study Area.

(5) Special Reporting Requirements—To the extent practicable, and as it applies to the specific Study Area, these reports will also include:

(i) The total hours (from 15 December through 15 April) of hull-mounted active sonar operation occurring in the dense humpback areas generally shown on the Mobley map (73 FR 35510, 35520) plus a 5-km buffer, but not including the Pacific Missile Range Facility (as illustrated in the HSTT FEIS/OEIS).

(ii) The total estimated annual hours of hull-mounted active sonar operation conducted in the Humpback Whale Cautionary Area between 15 December and 15 April.

(6) 5-year Close-out Exercise and Testing Report—This report will be included as part of the 2019 annual exercise or testing report. This report will provide the annual totals for each sound source bin with a comparison to the annual allowance and the 5-year total for each sound source bin with a comparison to the 5-year allowance. Additionally, if there were any changes to the sound source allowance, this report will include a discussion of why the change was made and include the analysis to support how the change did or did not result in a change in the FEIS and final rule determinations. The report will be submitted 3 months after the expiration of the rule. NMFS will submit comments on the draft close-out report, if any, within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 3 months after the submittal of the draft if NMFS does not provide comments.

§ 218.76 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to the regulations in this subpart, the U.S. citizen (as defined by § 216.106) conducting the activity identified in § 218.70(c) (the U.S. Navy) must apply for and obtain either an initial LOA in accordance with § 218.77 or a renewal under § 218.78.

§ 218.77 Letters of Authorization.

(a) An LOA, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart.

(b) Each LOA will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (i.e., mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the LOA will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 218.78 Renewals and modifications of Letters of Authorization.

(a) A Letter of Authorization issued under §§ 216.106 and 218.77 for the activity identified in § 218.70(c) will be renewed or modified upon request of the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision of this chapter), and;

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis illustrating the change, and solicit public comment before issuing the LOA.

(c) A LOA issued under § 216.106 and § 218.77 of this chapter for the activity identified in § 218.70(c) of this chapter may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the

existing mitigation, monitoring, or reporting measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, and reporting measures in an LOA:

(A) Results from Navy's monitoring form the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.72(c) of this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within 30 days of the action.

Subpart I—Taking and Importing Marine Mammals; U.S. Navy's Atlantic Fleet Training and Testing (AFTT)

SOURCE: 78 FR 73065, Dec. 4, 2013, unless otherwise noted.

§ 218.80 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the AFTT Study Area, which is comprised of established operating and warning areas across the North Atlantic Ocean and the Gulf of Mexico (see Figure 1–1 in the Navy's application). In addition, the Study Area also includes U.S. Navy pierside locations where sonar maintenance and testing occurs within the Study Area, and areas on the high seas that are not part of the range complexes, where training and testing may occur during vessel transit.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) Active Acoustic Sources Used During Annual Training:

(i) Mid-frequency (MF) Source Classes:

(A) MF1—an average of 9,844 hours per year.

(B) MF1K—an average of 163 hours per year.

(C) MF2—an average of 3,150 hours per year.

(D) MF2K—an average of 61 hours per year.

(E) MF3—an average of 2,058 hours per year.

(F) MF4—an average of 927 hours per year.

(G) MF5—an average of 14,556 sonobuoys per year.

(H) MF11—an average of 800 hours per year.

(I) MF12—an average of 687 hours per year.

(ii) High-frequency (HF) and Very High-frequency (VHF) Source Classes:

(A) HF1—an average of 1,676 hours per year.

(B) HF4—an average of 8,464 hours per year.

(iii) Anti-Submarine Warfare (ASW) Source Classes:

(A) ASW1—an average of 128 hours per year.

(B) ASW2—an average of 2,620 sonobuoys per year.

(C) ASW3—an average of 13,586 hours per year.

(D) ASW4—an average of 1,365 devices per year.

(iv) Torpedoes (TORP) Source Classes:

(A) TORP1—an average of 54 torpedoes per year.

(B) TORP2—an average of 80 torpedoes year.

(2) Active Acoustic Sources Used During Annual Testing:

(i) LF:

(A) LF4—an average of 254 hours per year.

(B) LF5—an average of 370 hours per year.

(ii) MF:

(A) MF1—an average of 220 hours per year.

(B) MF1K—an average of 19 hours per year.

(C) MF2—an average of 36 hours per year.

(D) MF3—an average of 434 hours per year.

(E) MF4—an average of 776 hours per year.

(F) MF5—an average of 4,184 sonobuoys per year.

(G) MF6—an average of 303 items per year.

(H) MF8—an average of 90 hours per year.

(I) MF9—an average of 13,034 hours per year.

(J) MF10—an average of 1,067 hours per year.

(K) MF12—an average of 144 hours per year.

(iii) HF and VHF:

(A) HF1—an average of 1,243 hours per year.

(B) HF3—an average of 384 hours per year.

(C) HF4—an average of 5,572 hours per year.

(D) HF5—an average of 1,206 hours per year.

(E) HF6—an average of 1,974 hours per year.

(F) HF7—an average of 366 hours per year.

(iv) ASW:

(A) ASW1—an average of 96 hours per year.

(B) ASW2—an average of 2,743 sonobuoys per year.

(C) ASW2—an average of 274 hours per year.

(D) ASW3—an average of 948 hours per year.

(E) ASW4—an average of 483 devices per year.

(v) TORP:

(A) TORP1—an average of 581 torpedoes per year.

(B) TORP2—an average of 521 torpedoes per year.

(vi) Acoustic Modems (M):

(A) M3—an average of 461 hours per year.

(B) [Reserved]

(vii) Swimmer Detection Sonar (SD):

(A) SD1 and SD2—an average of 230 hours per year.

(B) [Reserved]

(viii) Forward Looking Sonar (FLS):

(A) FLS2 and FLS3—an average of 365 hours per year.

(B) [Reserved]

(ix) Synthetic Aperture Sonar (SAS):

(A) SAS1—an average of 6 hours per year.

(B) SAS2—an average of 3,424 hours per year.

(3) Explosive Sources Used During Annual Training:

(i) Explosive Classes:

(A) E1 (0.1 to 0.25 lb NEW)—an average of 124,552 detonations per year.

(B) E2 (0.26 to 0.5 lb NEW)—an average of 856 detonations per year.

(C) E3 (>0.5 to 2.5 lb NEW)—an average of 3,132 detonations per year.

(D) E4 (>2.5 to 5 lb NEW)—an average of 2,190 detonations per year.

(E) E5 (>5 to 10 lb NEW)—an average of 14,370 detonations per year.

(F) E6 (>10 to 20 lb NEW)—an average of 500 detonations per year.

(G) E7 (>20 to 60 lb NEW)—an average of 322 detonations per year.

(H) E8 (>60 to 100 lb NEW)—an average of 77 detonations per year.

(I) E9 (>100 to 250 lb NEW)—an average of 2 detonations per year.

(J) E10 (>250 to 500 lb NEW)—an average of 8 detonations per year.

(K) E11 (>500 to 650 lb NEW)—an average of 1 detonations per year.

(L) E12 (>650 to 1,000 lb NEW)—an average of 133 detonations per year.

(ii) [Reserved]

(4) Explosive Sources Used During Annual Testing:

(i) Explosive Classes:

(A) E1 (0.1 to 0.25 lb NEW)—an average of 25,501 detonations per year.

(B) E2 (0.26 to 0.5 lb NEW)—an average of 0 detonations per year.

(C) E3 (>0.5 to 2.5 lb NEW)—an average of 2,912 detonations per year.

(D) E4 (>2.5 to 5 lb NEW)—an average of 1,432 detonations per year.

(E) E5 (>5 to 10 lb NEW)—an average of 495 detonations per year.

(F) E6 (>10 to 20 lb NEW)—an average of 54 detonations per year.
(G) E7 >20 to 60 lb NEW)—an average of 0 detonations per year.
(H) E8 (>60 to 100 lb NEW)—an average of 11 detonations per year.
(I) E9 (>100 to 250 lb NEW)—an average of 0 detonations per year.
(J) E10 (>250 to 500 lb NEW)—an average of 10 detonations per year.
(K) E11 (>500 to 650 lb NEW)—an average of 27 detonations per year.
(L) E12 (>650 to 1,000 lb NEW)—an average of 0 detonations per year.
(M) E13 (>1,000 to 1,740 lb NEW)—an average of 0 detonations per year.
(N) E14 (>1,714 to 3,625 lb NEW)—an average of 4 detonations per year.
(ii) [Reserved]
(5) Active Acoustic Source Used During Non-Annual Training:
(i) HF4—an average of 192 hours.
(ii) [Reserved]
(6) Active Acoustic Sources Used During Non-Annual Testing:
(i) LF5—an average of 240 hours.
(ii) MF9—an average of 480 hours.
(iii) HF5—an average of 240 hours.
(iv) HF6—an average of 720 hours.
(v) HF7—an average of 240 hours.
(vi) FLS2 and FLS3—an average of 240 hours.
(vii) SAS2—an average of 720 hours.
(7) Explosive Sources Used During Non-Annual Training:
(i) E2 (0.26 to 0.5 lbs NEW)—an average of 2.
(ii) E4 (2.6 to 5 lbs NEW)—an average of 2.
(8) Explosive Sources Used During Non-Annual Testing:
(i) E1 (0.1 to 0.25 lbs NEW)—an average of 600.
(ii) E16 (7,251 to 14,500 lbs NEW)—an average of 12.
(iii) E17 (14,501 to 58,000 lbs NEW)—an average of 4.

§ 218.81 Effective dates and definitions.

(a) Regulations are effective December 3, 2013 and applicable to the Navy November 14, 2013 through November 13, 2018.
(b) The following definitions are utilized in these regulations:
(1) *Uncommon Stranding Event (USE)*—A stranding event that takes place within an OPAREA where a major training event (MTE) occurs and involves any one of the following:
(i) Two or more individuals of any cetacean species (not including mother/calf pairs), unless of species of concern listed in § 218.81(b)(1)(ii) found dead or live on shore within a 2-day period and occurring within 30 miles of one another.
(ii) A single individual or mother/calf pair of any of the following marine mammals of concern: beaked whale of any species, *Kogia* spp., Risso's dolphin, melon-headed whale, pilot whale, North Atlantic right whale, humpback whale, sperm whale, blue whale, fin whale, or sei whale.
(iii) A group of two or more cetaceans of any species exhibiting indicators of distress.
(2) *Shutdown*—The cessation of MFAS/HFAS operation or detonation of explosives within 14 nautical miles of any live, in the water, animal involved in a USE.

§ 218.82 Permissible methods of taking.

(a) Under Letters of Authorization (LOAs) issued pursuant to § 218.87, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 218.80, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate LOA.
(b) The incidental take of marine mammals under the activities identified in § 218.80(c) is limited to the following species, by the identified method of take:
(1) Harassment (Level A and Level B) for all Training and Testing Activities:
(i) Mysticetes:
(A) Blue whale (*Balaenoptera musculus*)—817.
(B) Bryde's whale (*Balaenoptera edeni*)—5,079.
(C) Fin whale (*Balaenoptera physalus*)—25,239.
(D) North Atlantic right whale (*Eubalaena glacialis*)—955.
(E) Humpback whale (*Megaptera novaeangliae*)—9,196.
(F) Minke whale (*Balaenoptera acutorostrata*)—336,623.

(G) Sei whale (*Balaenoptera borealis*)—54,766.

(ii) Odontocetes:

(A) Atlantic spotted dolphin (*Stenella frontalis*)—994,221.

(B) Atlantic white-sided dolphin (Lagenorhynchus acutus)—206,144.

(C) Blainville's beaked whale (*Mesoplodon densirostris*)—164,454.

(D) Bottlenose dolphin (*Tursiops truncatus*)—1,570,031.

(E) Clymene dolphin (Stenella clymene)—108,199.

(F) Common dolphin (Delphinus spp.)—2,562,969.

(G) Cuvier's beaked whale (*Ziphius cavirostris*)—204,945.

(H) False killer whale (*Pseudorca crassidens*)—4,062.

(I) Fraser's dolphin (*Lagenodelphis hosei*)—11,816.

(J) Gervais' beaked whale (Mesoplodon europaeus)—164,663.

(K) Harbor porpoise (*Phocoena phocoena*)—11,072,415.

(L) Killer whale (*Orcinus orca*)—77,448.

(M) *Kogia* spp.—31,095.

(N) Melon-headed whale (*Peponocephala electra*)—111,360.

(O) Northern bottlenose whale (Hyperoodon ampullatus)—152,201.

(P) Pantropical spotted dolphin (*Stenella attenuata*)—393,316.

(Q) Pilot whale (*Globicephala spp.*)—581,032.

(R) Pygmy killer whale (*Feresa attenuata*)—8,041.

(S) Risso's dolphin (*Grampus griseus*)—1,306,404.

(T) Rough-toothed dolphin (*Steno bredanensis*)—5,911.

(U) Sowerby's beaked whale (*Mesoplodon bidens*)—63,156.

(V) Sperm whale (*Physeter macrocephalus*)—82,282.

(W) Spinner dolphin (*Stenella longirostris*)—115,310.

(X) Striped dolphin (*Stenella coerulealba*)—1,222,149.

(Y) True's beaked whale (*Mesoplodon mirus*)—99,123.

(Z) White-beaked dolphin (Lagenorhynchus albirostris)—16,400.

(iii) Pinnipeds:

(A) Gray seal (*Halichoerus grypus*)—14,511.

(B) Harbor seal (*Phoca vitulina*)—39,519.

(C) Harp seal (*Pagophilus groenlanica*)—16,319.

(D) Hooded seal (*Cystophora cristata*)—1,472.

(E) Ringed seal (*Pusa hispida*)—1,795.

(F) Bearded seal (*Erignathus barbatus*)—161.

(2) Mortality (or lesser Level A injury) for all Training and Testing Activities:

(i) No more than 140 mortalities applicable to any small odontocete species from an impulse source.

(ii) No more than 10 beaked whale mortalities (2 per year).

(iii) No more than 11 large whale mortalities from vessel strike.

(iv) No more than 25 mortalities (no more than 20 in any given year) applicable to any small odontocete species from Ship Shock trials.

§ 218.83 Prohibitions.

Notwithstanding takings contemplated in § 218.82 and authorized by an LOA issued under §§ 216.106 of this chapter and 218.87, no person in connection with the activities described in § 218.80 may:

(a) Take any marine mammal not specified in § 218.82(c);

(b) Take any marine mammal specified in § 218.82(c) other than by incidental take as specified in § 218.82(c);

(c) Take a marine mammal specified in § 218.82(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or an LOA issued under §§ 216.106 of this chapter and 218.87.

§ 218.84 Mitigation.

(a) When conducting training and testing activities, as identified in § 218.80, the mitigation measures contained in the LOA issued under §§ 216.106 and 218.87 must be implemented. These mitigation measures include, but are not limited to:

(1) *Lookouts.* The following are protective measures concerning the use of lookouts.

(i) Lookouts positioned on ships will be dedicated solely to diligent observation of the air and surface of the water.

Their observation objectives will include, but are not limited to, detecting the presence of biological resources and recreational or fishing boats, observing mitigation zones, and monitoring for vessel and personnel safety concerns.

(ii) Lookouts positioned in aircraft or on small boats will, to the maximum extent practicable and consistent with aircraft and boat safety and training and testing requirements, comply with the observation objectives described in § 218.84 (a)(1)(i).

(iii) Lookout measures for non-impulsive sound:

(A) With the exception of ships less than 65 ft (20 m) in length and ships that are minimally manned, ships using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea will have two Lookouts at the forward position of the ship. For the purposes of this rule, low-frequency active sonar does not include surveillance towed array sensor system low-frequency active sonar.

(B) While using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea, vessels less than 65 ft (20 m) in length and ships that are minimally manned will have one Lookout at the forward position of the vessel due to space and manning restrictions.

(C) Ships conducting active sonar activities while moored or at anchor (including pierside testing or maintenance) will maintain one Lookout.

(D) Surface ships or aircraft conducting high-frequency or non-hull-mounted mid-frequency active sonar activities associated with anti-submarine warfare and mine warfare activities at sea will have one Lookout.

(E) Surface ships or aircraft conducting high-frequency active sonar activities associated with anti-submarine warfare and mine warfare activities at sea will have one Lookout.

(iv) Lookout measures for explosives and impulsive sound:

(A) Aircraft conducting activities with IEER sonobuoys and explosive sonobuoys with 0.6 to 2.5 lbs net explosive weight will have one Lookout.

(B) Surface vessels conducting anti-swimmer grenade activities will have one Lookout.

(C) During general mine countermeasure and neutralization activities using up to a 500-lb net explosive weight detonation (bin E10 and below), vessels greater than 200 ft will have two Lookouts, while vessels less than 200 ft or aircraft will have one Lookout.

(D) General mine countermeasure and neutralization activities using a 501 to 650-lb net explosive weight detonation (bin E11), will have two Lookouts. One Lookout will be positioned in an aircraft and one in a support vessel.

(E) Mine neutralization activities involving diver-placed charges using up to 100-lb net explosive weight detonation (E8) conducted with a positive control device will have a total of two Lookouts. One Lookout will be positioned in each of the two support vessels, or one in a support vessel and one in a helicopter. All divers placing the charges on mines will support the Lookouts while performing their regular duties. The divers placing the charges on mines will report all marine mammal sightings to their dive support vessel or Range Safety Officer.

(F) When mine neutralization activities using diver-placed charges with up to a 20-lb net explosive weight detonation (bin E6) are conducted with a time-delay firing device, four Lookouts will be used. Two Lookouts will be positioned in each of two small rigid hull inflatable boats. In addition, when aircraft are used, the pilot or member of the aircrew will serve as an additional Lookout. The divers placing the charges on mines will report all marine mammal sightings to their dive support vessel or Range Safety Officer.

(G) Surface vessels conducting line charge testing will have one Lookout.

(H) Surface vessels or aircraft conducting small- and medium-caliber gunnery exercises against a surface target will have one Lookout.

(I) Surface vessels conducting large-caliber gunnery exercises against a surface target will have one Lookout.

(J) Aircraft conducting missile exercises (including rockets) against surface targets will have one Lookout.

(K) Aircraft conducting bombing exercises will have one Lookout.

(L) During explosive torpedo testing, one Lookout will be used and positioned in an aircraft.

(M) During sinking exercises, two Lookouts will be used. One Lookout will be positioned in an aircraft and one on a surface vessel.

(N) Prior to commencing, during, and after completion of ship shock trials using up to 10,000 lb. HBX charges, the Navy will have at least 10 Lookouts or trained marine species observers (or a combination thereof) positioned either in an aircraft or on multiple vessels (i.e., a Marine Animal Response Team boat and the test ship). If aircraft are used, there will be Lookouts or trained marine species observers positioned in an aircraft and positioned on multiple vessels. If vessels are the only platform, a sufficient number of additional Lookouts or trained marine species observers will be used to provide visual observation of the mitigation zone comparable to that achieved by aerial surveys.''

(O) Prior to commencing, during, and after completion of ship shock trials using up to 40,000 lb. HBX charges, the Navy will have at least 10 Lookouts or trained marine species observers (or a combination thereof) positioned in an aircraft and on multiple vessels (i.e., a Marine Animal Response Team boat and the test ship).

(P) Each surface vessel supporting at-sea explosive testing will have at least one lookout.

(Q) Surface vessels conducting explosive and non-explosive large-caliber gunnery exercises will have one lookout. This may be the same lookout used during large-caliber gunnery exercises with a surface target as described in § 218.84(a)(1)(iv)(I) and (a)(1)(v)(C).

(v) Lookout measures for physical strike and disturbance:

(A) While underway, surface ships will have at least one lookout.

(B) During activities using towed in-water devices that are towed from a manned platform, one lookout will be used.

(C) Activities involving non-explosive practice munitions (e.g., small-, medium-, and large-caliber gunnery exercises) using a surface target will have one lookout.

(D) During activities involving non-explosive bombing exercises, one lookout will be used.

(E) During activities involving non-explosive missile exercises (including rockets) using a surface target, one lookout will be used.

(2) *Mitigation Zones.* The following are protective measures concerning the implementation of mitigation zones.

(i) Mitigation zones will be measured as the radius from a source and represent a distance to be monitored.

(ii) Visual detections of marine mammals within a mitigation zone will be communicated immediately to a watch station for information dissemination and appropriate action.

(iii) Mitigation zones for non-impulsive sound:

(A) When marine mammals are visually detected, the Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmission levels are limited to at least 6 dB below normal operating levels, for sources that can be powered down, if any detected marine mammals are within 1,000 yd (914 m) of the sonar dome (the bow).

(B) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are limited to at least 10 dB below the equipment's normal operating levels, for sources that can be powered down, if any detected marine mammals are within 500 yd (457 m) of the sonar dome.

(C) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are ceased, for sources that can be turned off during the activity, if any visually detected marine mammals are within 200 yd (183 m) of the sonar dome. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 30 min., the ship has transited more than 2,000 yd (1.8 km) beyond the location of the

last sighting, or the ship concludes that dolphins are deliberately closing in on the ship to ride the ship's bow wave (and there are no other marine mammal sightings within the mitigation zone). Active transmission may resume when dolphins are bow riding because they are out of the main transmission axis of the active sonar while in the shallow-wave area of the bow.

(D) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are ceased, for sources that cannot be powered down during the activity, if any visually detected marine mammals are within 200 yd (183 m) of the source. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 30 min., the ship has transited more than 400 yd (366 m) beyond the location of the last sighting.

(E) When marine mammals are visually detected, the Navy shall ensure that high-frequency and non-hull-mounted mid-frequency active sonar transmission levels are ceased if any visually detected marine mammals are within 200 yd (183 m) of the source. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 10 min. for an aircraft-deployed source, the mitigation zone has been clear from any additional sightings for a period of 30 min. for a vessel-deployed source, the vessel or aircraft has repositioned itself more than 400 yd. (366 m) away from the location of the last sighting, or the vessel concludes that dolphins are deliberately closing in to ride the vessel's bow wave (and there are no other marine mammal sightings within the mitigation zone).

(iv) Mitigation zones for explosive and impulsive sound:

(A) A mitigation zone with a radius of 600 yd (549 m) shall be established for IEER sonobuoys (bin E4).

(B) A mitigation zone with a radius of 350 yd (320 m) shall be established for explosive sonobuoys using 0.6 to 2.5 lb net explosive weight (bin E3).

(C) A mitigation zone with a radius of 200 yd (183 m) shall be established for anti-swimmer grenades (up to bin E2).

(D) A mitigation zone ranging from 600 yd (549 m) to 2,100 yd (1.9 km), dependent on charge size, shall be established for general mine countermeasure and neutralization activities using positive control firing devices. Mitigation zone distances are specified for charge size in Table 11–2 of the Navy's application.

(E) A mitigation zone ranging from 350 yd (320 m) to 850 yd (777 m), dependent on charge size, shall be established for mine countermeasure and neutralization activities using diver placed positive control firing devices. Mitigation zone distances are specified for charge size in Table 11–2 of the Navy's application.

(F) A mitigation zone with a radius of 1,000 yd (914 m) shall be established for mine neutralization diver placed mines using time-delay firing devices (up to bin E6).

(G) A mitigation zone with a radius of 900 yd (823 m) shall be established for ordnance testing (line charge testing) (bin E4).

(H) A mitigation zone with a radius of 200 yd (183 m) shall be established for small- and medium-caliber gunnery exercises with a surface target (up to bin E2).

(I) A mitigation zone with a radius of 600 yd (549 m) shall be established for large-caliber gunnery exercises with a surface target (bin E5).

(J) A mitigation zone with a radius of 900 yd (823 m) shall be established for missile exercises (including rockets) with up to 250 lb net explosive weight and a surface target (up to bin E9).

(K) A mitigation zone with a radius of 2,000 yd (1.8 km) shall be established for missile exercises with 251 to 500 lb net explosive weight and a surface target (E10).

(L) A mitigation zone with a radius of 2,500 yd (2.3 km) shall be established for bombing exercises (up to bin E12).

(M) A mitigation zone with a radius of 2,100 yd (1.9 km) shall be established for torpedo (explosive) testing (up to bin E11).

(N) A mitigation zone with a radius of 2.5 nautical miles shall be established for sinking exercises (up to bin E12).

(O) A mitigation zone with a radius of 1,600 yd (1.4 km) shall be established for at-sea explosive testing (up to bin E5).

(P) A mitigation zone with a radius of 3.5 nautical miles shall be established for a shock trial.

(Q) A mitigation zone with a radius of 70 yd (64 m), within 30 degrees on either side of the gun target line on the firing side of the ship, shall be established for all explosive and non-explosive large-caliber gunnery exercises.

(v) Mitigation zones for vessels and in-water devices:

(A) A mitigation zone of 500 yd (457 m) for observed whales and 200 yd (183 m) for all other marine mammals (except bow riding dolphins) shall be established for all vessel movement, providing it is safe to do so.

(B) A mitigation zone of 250 yd (229 m) for any observed marine mammal shall be established for all towed in-water devices that are towed from a manned platform, providing it is safe to do so.

(vi) Mitigation zones for non-explosive practice munitions:

(A) A mitigation zone of 200 yd (183 m) shall be established for small, medium, and large caliber gunnery exercises using a surface target.

(B) A mitigation zone of 1,000 yd (914 m) shall be established for bombing exercises.

(C) A mitigation zone of 900 yd (823 m) shall be established for missile exercises (including rockets) using a surface target.

(3) Protective Measures Specific to North Atlantic Right Whales:

(i) North Atlantic Right Whale Calving Habitat off the Southeast United States.

(A) The Southeast Right Whale Mitigation Area is defined by a 5 nm (9.3 km) buffer around the coastal waters between 31–15 N. lat. and 30–15 N. lat. extending from the coast out 15 nm (27.8 km), and the coastal waters between 30–15 N. lat. to 28–00 N. lat. from the coast out to 5 nm (9.3 km).

(B) Between November 15 and April 15, the following activities are prohibited within the Southeast Right Whale Mitigation Area:

(*1*) Low-frequency and hull-mounted mid-frequency active sonar (except in § 218.84(a)(3)(i)(C).

(*2*) High-frequency and non-hull mounted mid-frequency active sonar (except helicopter dipping).

(*3*) Missile activities (explosive and non-explosive).

(*4*) Bombing exercises (explosive and non-explosive).

(*5*) Underwater detonations.

(*6*) Improved extended echo ranging sonobuoy exercises.

(*7*) Torpedo exercises (explosive).

(*8*) Small-, medium-, and large-caliber gunnery exercises.

(C) Between November 15 and April 15, use of the following systems is to be minimized to the maximum extent practicable within the Southeast Right Whale Mitigation Area:

(*1*) Helicopter dipping using active sonar.

(*2*) Low-frequency and hull-mounted mid-frequency active sonar used for navigation training.

(*3*) Low-frequency and hull-mounted mid-frequency active sonar used for object detection exercises.

(D) Prior to transiting or training or testing in the Southeast Right Whale Mitigation Area, ships shall contact Fleet Area Control and Surveillance Facility, Jacksonville, to obtain the latest whale sightings and other information needed to make informed decisions regarding safe speed and path of intended movement. Submarines shall contact Commander, Submarine Force United States Atlantic Fleet for similar information.

(E) The following specific mitigation measures apply to activities occurring within the Southeast Right Whale Mitigation Area:

(*1*) When transiting within the Southeast Right Whale Mitigation Area, vessels shall exercise extreme caution and proceed at a slow safe speed. The speed shall be the slowest safe speed that is

consistent with mission, training, and operations.

(*2*) Speed reductions (adjustments) are required when a North Atlantic right whale is sighted by a vessel, when the vessel is within 9 km (5 nm) of a sighting reported within the past 12 hours, or when operating at night or during periods of poor visibility.

(*3*) Vessels shall avoid head-on approaches to North Atlantic right whales(s) and shall maneuver to maintain at least 457 m (500 yd) of separation from any observed whale if deemed safe to do so. These requirements do not apply if a vessel's safety is threatened, such as when a change of course would create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver.

(*4*) Vessels shall minimize to the extent practicable north-south transits through the Southeast Right Whale Mitigation Area. If transit in a north-south direction is required during training or testing activities, the Navy shall implement the measures described in §218.84(a)(3)(i)(E)(*1*) through (*3*).

(*5*) Ship, surfaced subs, and aircraft shall report any North Atlantic right whale sightings to Fleet Area Control and Surveillance Facility, Jacksonville, by the most convenient and fastest means. The sighting report shall include the time, latitude/longitude, direction of movement and number and description of whale (i.e., adult/calf).

(ii) North Atlantic Right Whale Foraging Habitat off the Northeast United States:

(A) The Northeast Right Whale Mitigation Area consists of two areas: the Great South Channel and Cape Cod Bay. The Great South Channel is defined by the following coordinates: 41–40 N. Lat., 69–45 W. Long.; 41–00 N. Lat., 69–05 W. Long.; 41–38 N. Lat., 68–13 W. Long.; and 42–10 N. Lat., 68–31 W. Long. Cape Cod Bay is defined by the following coordinates: 42–04.8 N. Lat., 70–10 W. Long.; 42–10 N. Lat., 70–15 W. Long.; 42–12 N. Lat., 70–30 W. Long.; 41–46.8 N. Lat., 70–30 W. Long.; and on the south and east by the interior shoreline of Cape Cod.

(B) Year-round, the following activities are prohibited within the Northeast Right Whale Mitigation Area:

(*1*) Improved extended echo ranging sonobuoy exercises in or within 5.6 km (3 nm) of the mitigation area.

(*2*) Bombing exercises (explosive and non-explosive).

(*3*) Underwater detonations.

(*4*) Torpedo exercises (explosive).

(C) Year-round, use of the following systems is to be minimized to the maximum extent practicable within the Northeast Right Whale Mitigation Area:

(*1*) Low-frequency and hull-mounted mid-frequency active sonar.

(*2*) High-frequency and non-hull mounted mid-frequency active sonar, including helicopter dipping.

(D) Prior to transiting or training in the Northeast Right Whale Mitigation Area, ships and submarines shall contact the Northeast Right Whale Sighting Advisory System to obtain the latest whale sightings and other information needed to make informed decisions regarding safe speed and path of intended movement.

(E) The following specific mitigation measures apply to activities occurring within the Northeast Right Whale Mitigation Area:

(*1*) When transiting within the Northeast Right Whale Mitigation Area, vessels shall exercise extreme caution and proceed at a slow safe speed. The speed shall be the slowest safe speed that is consistent with mission, training, and operations.

(*2*) Speed reductions (adjustments) are required when a North Atlantic right whale is sighted by a vessel, when the vessel is within 9 km (5 nm) of a sighting reported within the past week, or when operating at night or during periods of poor visibility.

(*3*) When conducting TORPEXs, the following additional speed restrictions shall be required: during transit, surface vessels and submarines shall maintain a speed of no more than 19 km/hour (10 knots); during torpedo firing exercises, vessel speeds should, where feasible, not exceed 10 knots; when a submarine is used as a target, vessel speeds should, where feasible, not exceed 18 knots; when surface vessels are used as targets, vessels may

exceed 18 knots for a short period of time (e.g., 10–15 minutes).

(*4*) Vessels shall avoid head-on approaches to North Atlantic right whales(s) and shall maneuver to maintain at least 457 m (500 yd) of separation from any observed whale if deemed safe to do so. These requirements do not apply if a vessel's safety is threatened, such as when a change of course would create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver.

(*5*) Non-explosive torpedo testing shall be conducted during daylight hours only in Beaufort sea states of 3 or less to increase the probability of marine mammal detection.

(*6*) Non-explosive torpedo testing activities shall not commence if concentrations of floating vegetation (*Sargassum* or kelp patties) are observed in the vicinity.

(*7*) Non-explosive torpedo testing activities shall cease if a marine mammal is visually detected within the immediate vicinity of the activity. The tests may recommence when any one of the following conditions are met: the animal is observed exiting the immediate vicinity of the activity; the animal is thought to have exited the immediate vicinity based on a determination of its course and speed and the relative motion between the animal and the source; or the immediate vicinity of the activity has been clear from any additional sightings for a period of 30 minutes.

(iii) North Atlantic Right Whale Mid-Atlantic Migration Corridor:

(A) The Mid-Atlantic Right Whale Mitigation Area consists of the following areas:

(*1*) Block Island Sound: the area bounded by 40–51–53.7 N. Lat., 70–36–44.9 W. Long.; 41–20–14.1 N. Lat., 70–49–44.1 W. Long; 41–4–16.7 N. Lat., 71–51–21 W. Long.; 41–35–56.5 N. Lat., 71–38–25.1 W. Long; then back to first set of coordinates.

(*2*) New York and New Jersey: within a 37 km (20 nm) radius of the following (as measured seaward from the COLREGS lines) 40–29–42.2 N. Lat., 73–55–57.6 W. Long.

(*3*) Delaware Bay: within a 37 km (20 nm) radius of the following (as measured seaward from the COLREGS lines) 38–52–27.4 N. Lat., 75–01–32.1 W. Long.

(*4*) Chesapeake Bay: within a 37 km (20 nm) radius of the following (as measured seaward from the COLREGS lines) 37–00–36.9 N. Lat., 75–57–50.5 W. Long.

(*5*) Morehead City, North Carolina: within a 37 km (20 nm) radius of the following (as measured seaward from the COLREGS lines) 34–41–32 N. Lat., 76–40–08.3 W. Long.

(*6*) Wilmington, North Carolina, through South Carolina, and to Brunswick, Georgia: within a continuous area 37 km (20 nm) from shore and west back to shore bounded by 34–10–30 N. Lat., 77–49–12 W. Long.; 33–56–42 N. Lat., 77–31–30 W. Long.; 33–36–30 N. Lat., 77–47–06 W. Long.; 33–28–24 N. Lat., 78–32–30 W. Long.; 32–59–06 N. Lat., 78–50–18 W. Long.; 31–50 N. Lat., 80–33–12 W. Long.; 31–27 N. Lat., 80–51–36 W. Long.

(B) Between November 1 and April 30, when transiting within the Mid-Atlantic Right Whale Mitigation Area, vessels shall exercise extreme caution and proceed at a slow safe speed. The speed shall be the slowest safe speed that is consistent with mission, training, and operations.

(iv) Planning Awareness Areas:

(A) The Navy shall avoid planning major training exercises involving the use of active sonar in the specified planning awareness areas (PAAs—see Figure 5.3–1 in the AFTT FEIS/OEIS) where feasible. Should national security require the conduct of more than four major exercises (C2X, JTFEX, or similar scale event) in these areas (meaning all or a portion of the exercise) per year, or more than one within the Gulf of Mexico areas per year, the Navy shall provide NMFS with prior notification and include the information in any associated after-action or monitoring reports.

(4) Stranding Response Plan:

(i) The Navy shall abide by the current Stranding Response Plan for Major Navy Training Exercises in the Study Area, to include the following measures:

(A) Shutdown Procedures—When an Uncommon Stranding Event (USE—defined in § 218.71 (b)(1)) occurs during a Major Training Exercise (MTE) in the

AFTT Study Area, the Navy shall implement the procedures described. in paragraphs (a)(4)(i)(A)(*1*) through (*4*) of this section.

(*1*) The Navy shall implement a shutdown (as defined § 218.81(b)(2)) when advised by a NMFS Office of Protected Resources Headquarters Senior Official designated in the AFTT Study Area Stranding Communication Protocol that a USE involving live animals has been identified and that at least one live animal is located in the water. NMFS and the Navy will maintain a dialogue, as needed, regarding the identification of the USE and the potential need to implement shutdown procedures.

(*2*) Any shutdown in a given area shall remain in effect in that area until NMFS advises the Navy that the subject(s) of the USE at that area die or are euthanized, or that all live animals involved in the USE at that area have left the area (either of their own volition or herded).

(*3*) If the Navy finds an injured or dead animal floating at sea during an MTE, the Navy shall notify NMFS immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s), including carcass condition if the animal(s) is/are dead, location, time of first discovery, observed behavior (if alive), and photo or video (if available). Based on the information provided, NFMS will determine if, and advise the Navy whether a modified shutdown is appropriate on a case-by-case basis.

(*4*) In the event, following a USE, that qualified individuals are attempting to herd animals back out to the open ocean and animals are not willing to leave, or animals are seen repeatedly heading for the open ocean but turning back to shore, NMFS and the Navy shall coordinate (including an investigation of other potential anthropogenic stressors in the area) to determine if the proximity of mid-frequency active sonar training activities or explosive detonations, though farther than 14 nautical miles from the distressed animal(s), is likely contributing to the animals' refusal to return to the open water. If so, NMFS and the Navy will further coordinate to determine what measures are necessary to improve the probability that the animals will return to open water and implement those measures as appropriate.

(B) Within 72 hours of NMFS notifying the Navy of the presence of a USE, the Navy shall provide available information to NMFS (per the AFTT Study Area Communication Protocol) regarding the location, number and types of acoustic/explosive sources, direction and speed of units using mid-frequency active sonar, and marine mammal sightings information associated with training activities occurring within 80 nautical miles (148 km) and 72 hours prior to the USE event. Information not initially available regarding the 80-nautical miles (148-km), 72-hour period prior to the event will be provided as soon as it becomes available. The Navy will provide NMFS investigative teams with additional relevant unclassified information as requested, if available.

(ii) [Reserved]

§ 218.85 Requirements for monitoring and reporting.

(a) As outlined in the AFTT Study Area Stranding Communication Plan, the Holder of the Authorization must notify NMFS immediately (or as soon as clearance procedures allow) if the specified activity identified in § 218.80 is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified in § 218.81.

(b) The Holder of the LOA must conduct all monitoring and required reporting under the LOA, including abiding by the AFTT Monitoring Plan.

(c) General Notification of Injured or Dead Marine Mammals—Navy personnel shall ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as clearance procedures allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of a Navy training or testing activity utilizing mid- or high-frequency active sonar or underwater explosive detonations. The Navy shall provide NMFS with species identification or description of the animal(s), the condition of

the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). The Navy shall consult the Stranding Response Plan to obtain more specific reporting requirements for specific circumstances.

(d) Annual AFTT Monitoring Plan Report—The Navy shall submit an annual report of the AFTT Monitoring Plan on April 1 of each year describing the implementation and results from the previous calendar year. Data collection methods will be standardized across range complexes and study areas to allow for comparison in different geographic locations. Although additional information will be gathered, the protected species observers collecting marine mammal data pursuant to the AFTT Monitoring Plan shall, at a minimum, provide the same marine mammal observation data required in § 218.85. As an alternative, the Navy may submit a multi-Range Complex annual Monitoring Plan report to fulfill this requirement. Such a report would describe progress of knowledge made with respect to monitoring plan study questions across all Navy ranges associated with the ICMP. Similar study questions shall be treated together so that progress on each topic shall be summarized across all Navy ranges. The report need not include analyses and content that do not provide direct assessment of cumulative progress on the monitoring plan study questions.

(e) Vessel Strike—In the event that a Navy vessel strikes a whale, the Navy shall do the following:

(1) Immediately report to NMFS (pursuant to the established Communication Protocol) the:

(i) Species identification if known;

(ii) Location (latitude/longitude) of the animal (or location of the strike if the animal has disappeared);

(iii) Whether the animal is alive or dead (or unknown); and

(iv) The time of the strike.

(2) As soon as feasible, the Navy shall report to or provide to NMFS, the:

(i) Size, length, and description (critical if species is not known) of animal;

(ii) An estimate of the injury status (e.g., dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, etc.);

(iii) Description of the behavior of the whale during event, immediately after the strike, and following the strike (until the report is made or the animal is no long sighted);

(iv) Vessel class/type and operation status;

(v) Vessel length

(vi) Vessel speed and heading; and

(vii) To the best extent possible, obtain

(3) Within 2 weeks of the strike, provide NMFS:

(i) A detailed description of the specific actions of the vessel in the 30-minute timeframe immediately preceding the strike, during the event, and immediately after the strike (e.g., the speed and changes in speed, the direction and changes in the direction, other maneuvers, sonar use, etc., if not classified); and

(ii) A narrative description of marine mammal sightings during the event and immediately after, and any information as to sightings prior to the strike, if available; and

(iii) Use established Navy shipboard procedures to make a camera available to attempt to capture photographs following a ship strike.

(f) Annual AFTT Exercise and Testing Report—The Navy shall submit ''quick-look'' reports detailing the status of authorized sound sources within 21 days after the end of the annual authorization cycle. The Navy shall submit detailed reports 3 months after the anniversary of the date of issuance of the LOA. The annual reports shall contain information on Major Training Exercises (MTE), Sinking Exercise (SINKEX) events, and a summary of sound sources used, as described in paragraphs (f)(2)(i)(A) through (C) of this section. The analysis in the reports will be based on the accumulation of data from the current year's report and data collected from previous reports. These reports shall contain information identified in paragraphs (e)(1) through (5) of this section.

(1) Major Training Exercises/SINKEX—

(i) This section shall contain the reporting requirements for Coordinated

and Strike Group exercises and SINKEX. Coordinated and Strike Group Major Training Exercises:

(A) Sustainment Exercise (SUSTAINEX).

(B) Integrated ASW Course (IAC).

(C) Joint Task Force Exercises (JTFEX).

(D) Composite Training Unit Exercises (COMPTUEX).

(ii) Exercise information for each MTE:

(A) Exercise designator.

(B) Date that exercise began and ended.

(C) Location (operating area).

(D) Number of items or hours (per the LOA) of each sound source bin (impulsive and non-impulsive) used in the exercise.

(E) Number and types of vessels, aircraft, etc., participating in exercise.

(F) Individual marine mammal sighting info for each sighting for each MTE:

(*1*) Date/time/location of sighting.

(*2*) Species (if not possible, indication of whale/dolphin/pinniped).

(*3*) Number of individuals.

(*4*) Initial detection sensor.

(*5*) Indication of specific type of platform the observation was made from (including, for example, what type of surface vessel or testing platform).

(*6*) Length of time observers maintained visual contact with marine mammal(s).

(*7*) Sea state.

(*8*) Visibility.

(*9*) Sound source in use at the time of sighting.

(*10*) Indication of whether animal is <200 yd, 200–500 yd, 500–1,000 yd, 1,000–2,000 yd, or >2,000 yd from sound source.

(*11*) Mitigation implementation—whether operation of sonar sensor was delayed, or sonar was powered or shut down, and how long the delay was; or whether navigation was changed or delayed.

(*12*) If source in use is a hull-mounted sonar, relative bearing of animal from ship and estimation of animal's motion relative to ship (opening, closing, parallel).

(*13*) Observed behavior—watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animal(s) (such as closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.), and if any calves present.

(G) An evaluation (based on data gathered during all of the MTEs) of the effectiveness of mitigation measures designed to minimize the received level to which marine mammals may be exposed. This evaluation shall identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.

(iii) Exercise information for each SINKEX:

(A) List of the vessels and aircraft involved in the SINKEX.

(B) Location (operating area).

(C) Chronological list of events with times, including time of sunrise and sunset, start and stop time of all marine species surveys that occur before, during, and after the SINKEX, and ordnance used.

(D) Visibility and/or weather conditions, wind speed, cloud cover, etc. throughout exercise if it changes.

(E) Aircraft used in the surveys, flight altitude, and flight speed and the area covered by each of the surveys, given in coordinates, map, or square miles.

(F) Passive acoustic monitoring details (number of sonobuoys, detections of biologic activity, etc.).

(G) Individual marine mammal sighting info for each sighting that required mitigation to be implemented:

(*1*) Date/time/location of sighting.

(*2*) Species (if not possible, indication of whale/dolphin/pinniped).

(*3*) Number of individuals.

(*4*) Initial detection sensor.

(*5*) Indication of specific type of platform the observation was made from (including, for example what type of surface vessel or platform).

(*6*) Length of time observers maintained visual contact with marine mammal(s).

(*7*) Sea state.

(*8*) Visibility.

(*9*) Indication of whether animal is <200 yd, 200–500 yd, 500–1,000 yd, 1,000–2,000 yd, or >2,000 yd from the target.

(*10*) Mitigation implementation—whether the SINKEX was stopped or delayed and length of delay.

(*11*) Observed behavior—watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.), and if any calves present.

(H) List of the ordnance used throughout the SINKEX and net explosive weight (NEW) of each weapon and the combined ordnance NEW.

(2) Summary of Sources Used.

(i) This section shall include the following information summarized from the authorized sound sources used in all training and testing events:

(A) Total annual hours or quantity (per the LOA) of each bin of sonar or other non-impulsive source.

(B) Total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive bin.

(C) Improved Extended Echo-Ranging System (IEER)/sonobuoy summary, including:

(*1*) Total expended/detonated rounds (buoys).

(*2*) Total number of self-scuttled IEER rounds.

(3) Sonar Exercise Notification—The Navy shall submit to NMFS (specific contact information to be provided in LOA) either an electronic (preferably) or verbal report within fifteen calendar days after the completion of any major exercise indicating:

(i) Location of the exercise.

(ii) Beginning and end dates of the exercise.

(iii) Type of exercise.

(4) Geographic Information Presentation—The reports shall present an annual (and seasonal, where practical) depiction of training exercises and testing bin usage geographically across the Study Area.

(g) 5-yr Close-out Exercise and Testing Report—This report will be included as part of the 2019 annual exercise or testing report. This report will provide the annual totals for each sound source bin with a comparison to the annual allowance and the 5-year total for each sound source bin with a comparison to the 5-year allowance. Additionally, if there were any changes to the sound source allowance, this report will include a discussion of why the change was made and include the analysis to support how the change did or did not result in a change in the FEIS and final rule determinations. The report will be submitted April 1 following the expiration of the rule. NMFS will submit comments on the draft close-out report, if any, within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 3 months after the submittal of the draft if NMFS does not provide comments.

(h) Ship Shock Trial Report—The reporting requirements will be developed in conjunction with the individual test-specific mitigation plan for each ship shock trial. This will allow both the Navy and NMFS to take into account specific information regarding location, assets, species, and seasonality.

§ 218.86 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to the regulations in this subpart, the U.S. citizen (as defined by § 216.106) conducting the activity identified in § 218.80(c) (the U.S. Navy) must apply for and obtain either an initial LOA in accordance with § 218.87 or a renewal under § 218.88.

§ 218.87 Letters of Authorization.

(a) An LOA, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart.

(b) Each LOA will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species (i.e., mitigation), its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the LOA will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 218.88 Renewals and Modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 218.87 for the activity identified in § 218.80(c) will be renewed or modified upon request of the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision of this chapter), and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis illustrating the change, and solicit public comment before issuing the LOA .

(c) A LOA issued under § 216.106 and § 218.87 of this chapter for the activity identified in § 218.80(c) of this chapter may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from Navy's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.82(c) this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within 30 days of the action.

Subpart J—Taking and Importing Marine Mammals; U.S. Navy's Mariana Islands Training and Testing (MITT)

SOURCE: 80 FR 46163, Aug. 3, 2015, unless otherwise noted.

EFFECTIVE DATE NOTE: At 80 FR 46163, Aug. 3, 2015, subpart J was added, effective from Aug. 3, 2015, through Aug. 3, 2020.

§ 218.90 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the MITT Study Area, which includes the Mariana Islands Range Complex (MIRC) and areas to the north and west. The Study Area includes established ranges, operating areas, warning areas, and special use airspace in the region of the Mariana Islands that are part of the MIRC, its surrounding seas, and a transit corridor to the Hawaii Range Complex. The Study Area also includes Navy

pierside locations where sonar maintenance and testing may occur.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities within the designated amounts of use:

(1) Non-impulsive Sources Used During Training and Testing:

(i) Low-frequency (LF) Source Classes:

(A) LF4—an average of 123 hours per year.

(B) LF5—an average of 11 hours per year.

(C) LF6—an average of 40 hours per year.

(ii) Mid-frequency (MF) Source Classes:

(A) MF1—an average of 1,872 hours per year.

(B) MF2—an average of 625 hours per year.

(C) MF3—an average of 192 hours per year.

(D) MF4—an average of 214 hours per year.

(E) MF5—an average of 2,588 items per year.

(F) MF6—an average of 33 items per year.

(G) MF8—an average of 123 hours per year.

(H) MF9—an average of 47 hours per year.

(I) MF10—an average of 231 hours per year.

(J) MF11—an average of 324 hours per year.

(K) MF12—an average of 656 hours per year.

(iii) High-frequency (HF) and Very High-frequency (VHF) Source Classes:

(A) HF1—an average of 113 hours per year.

(B) HF4—an average of 1,060 hours per year.

(C) HF5—an average of 336 hours per year.

(D) HF6—an average of 1,173 hours per year.

(iv) Anti-Submarine Warfare (ASW) Source Classes:

(A) ASW1—an average of 144 hours per year.

(B) ASW2—an average of 660 items per year.

(C) ASW3—an average of 3,935 hours per year.

(D) ASW4—an average of 32 items per year.

(v) Torpedoes (TORP) Source Classes:

(A) TORP1—an average of 115 items per year.

(B) TORP2—an average of 62 items per year.

(vi) Acoustic Modems (M):

(A) M3—an average of 112 hours per year.

(B) [Reserved]

(vii) Swimmer Detection Sonar (SD):

(A) SD1—an average 2,341 hours per year.

(B) [Reserved]

(2) Impulsive Source Detonations During Training and Testing:

(i) Explosive Classes:

(A) E1 (0.1 to 0.25 lb NEW)—an average of 10,140 detonations per year.

(B) E2 (0.26 to 0.5 lb NEW)—an average of 106 detonations per year.

(C) E3 (>0.5 to 2.5 lb NEW)—an average of 932 detonations per year.

(D) E4 (>2.5 to 5 lb NEW)—an average of 420 detonations per year.

(E) E5 (>5 to 10 lb NEW)—an average of 684 detonations per year.

(F) E6 (>10 to 20 lb NEW)—an average of 76 detonations per year.

(G) E8 (>60 to 100 lb NEW)—an average of 16 detonations per year.

(H) E9 (>100 to 250 lb NEW)—an average of 4 detonations per year.

(I) E10 (>250 to 500 lb NEW)—an average of 12 detonations per year.

(J) E11 (>500 to 650 lb NEW)—an average of 6 detonations per year.

(K) E12 (>650 to 2,000 lb NEW)—an average of 184 detonations per year.

(ii) [Reserved]

§ 218.91 Effective dates and definitions.

(a) Regulations in this subpart are effective August 3, 2015 through August 3, 2020.

(b) The following definitions are utilized in these regulations:

(1) *Uncommon Stranding Event (USE)*—A stranding event that takes place within an OPAREA where a Major Training Exercise (MTE) occurs and involves any one of the following:

(i) Two or more individuals of any cetacean species (not including mother/calf pairs, unless of species of concern listed in paragraph (b)(1)(ii) of this section) found dead or live on shore within

a 2-day period and occurring within 30 miles of one another.

(ii) A single individual or mother/calf pair of any of the following marine mammal species of concern: Beaked whale of any species, *Kogia* spp., Risso's dolphin, melon-headed whale, pilot whale, humpback whale, sperm whale, blue whale, fin whale, or sei whale.

(iii) A group of two or more cetaceans of any species exhibiting indicators of distress.

(2) *Shutdown*—The cessation of active sonar operation or detonation of explosives within 14 nautical miles of any live, in the water, animal involved in a USE.

§ 218.92 Permissible methods of taking.

(a) Under a Letter of Authorization (LOA) issued pursuant to § 218.97, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 218.90, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate LOA.

(b) The activities identified in § 218.90(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 218.90(c) is limited to the following species, by the identified method of take:

(1) Level B Harassment for all Training and Testing Activities:

(i) Mysticetes:

(A) Blue whale (*Balaenoptera musculus*)—140 (an average of 28 annually)

(B) Bryde's whale (*Balaenoptera edeni*)—1,990 (an average of 398 annually)

(C) Fin whale (*Balaenoptera physalus*)—140 (an average of 28 annually)

(D) Humpback whale (*Megaptera novaeangliae*)—4,300 (an average of 860 annually)

(E) Minke whale (*Balaenoptera acutorostrata*)—505 (an average of 101 annually)

(F) Sei whale (*Balaenoptera borealis*)—1,595 (an average of 319 annually)

(G) Omura's whale (*Balaenoptera omurai*)—515 (an average of 103 annually)

(ii) Odontocetes:

(A) Blainville's beaked whale (*Mesoplodon densirostris*)—22,130 (an average of 4,426 annually)

(B) Bottlenose dolphin (*Tursiops truncatus*)—3,705 (an average of 741 annually)

(C) Cuvier's beaked whale (*Ziphius cavirostris*)—112,705 (an average of 22,541 annually)

(D) Dwarf sperm whale (*Kogia sima*)—71,085 (an average of 14,217 annually)

(E) False killer whale (*Pseudorca crassidens*)—2,775 (an average of 555 annually)

(F) Fraser's dolphin (*Lagenodelphis hosei*)—12,860 (an average of 2,572 annually)

(G) Gingko-toothed beaked whale (*Mesoplodon ginkgodens*)—19,485 (an average of 3,897 annually)

(H) Killer whale (*Orcinus orca*)—420 (an average of 84 annually)

(I) Longman's beaked whale (*Indopacetus pacificus*)—9,620 (an average of 1,924 annually)

(J) Melon-headed whale (*Peponocephala electra*)—10,425 (an average of 2,085 annually)

(K) Pantropical spotted dolphin (*Stenella attenuata*)—64,055 (an average of 12,811 annually)

(L) Pygmy killer whale (*Feresa attenuata*)—525 (an average of 105 annually)

(M) Pygmy sperm whale (*Kogia breviceps*)—27,895 (an average of 5,579 annually)

(N) Risso's dolphin (*Grampus griseus*)—2,525 (an average of 505 annually)

(O) Rough-toothed dolphin (*Steno bredanensis*)—9,095 (an average of 1,819 annually)

(P) Short-finned pilot whale (*Globicephala macrorhynchus*)—9,075 (an average of 1,815 annually)

(Q) Sperm whale (*Physeter macrocephalus*)—2,530 (an average of 506 annually)

(R) Spinner dolphin (*Stenella longirostris*)—2,945 (an average of 589 annually)

(S) Striped dolphin (*Stenella coerulealba*)—16,490 (an average of 3,298 annually)

(2) Level A Harassment for all Training and Testing Activities:

(i) Odontocetes:

(A) Dwarf sperm whale (*Kogia sima*)—205 (an average of 41 annually)

(B) Pygmy sperm whale (*Kogia breviceps*)—75 (an average of 15 annually)

(ii) [Reserved]

§ 218.93 Prohibitions.

Notwithstanding takings contemplated in § 218.92 and authorized by an LOA issued under §§ 216.106 and 218.97 of this chapter, no person in connection with the activities described in § 218.90 may:

(a) Take any marine mammal not specified in § 218.92(c);

(b) Take any marine mammal specified in § 218.92(c) other than by incidental take as specified in § 218.92(c);

(c) Take a marine mammal specified in § 218.92(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or an LOA issued under §§ 216.106 and 218.97.

§ 218.94 Mitigation.

(a) When conducting training and testing activities, as identified in § 218.90, the mitigation measures contained in the LOA issued under §§ 216.106 and 218.97 of this chapter must be implemented. These mitigation measures include, but are not limited to:

(1) *Lookouts.* The following are protective measures concerning the use of lookouts.

(i) Lookouts positioned on surface ships will be dedicated solely to diligent observation of the air and surface of the water. Their observation objectives will include, but are not limited to, detecting the presence of biological resources and recreational or fishing boats, observing mitigation zones, and monitoring for vessel and personnel safety concerns.

(ii) Lookouts positioned in aircraft or on boats will, to the maximum extent practicable and consistent with aircraft and boat safety and training and testing requirements, comply with the observation objectives described in paragraph (a)(1)(i) of this section.

(iii) Lookout measures for non-impulse sound:

(A) With the exception of vessels less than 65 ft (20 m) in length and ships that are minimally manned, ships using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea will have two lookouts at the forward position. For the purposes of this rule, low-frequency active sonar does not include surface towed array surveillance system low-frequency active sonar.

(B) While using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea, ships less than 65 ft (20 m) in length and ships that are minimally manned will have one lookout at the forward position of the vessel due to space and manning restrictions.

(C) Ships conducting active sonar activities while moored or at anchor (including pierside testing or maintenance) will maintain one lookout.

(D) Surface ships or aircraft conducting high-frequency or non-hull mounted mid-frequency active sonar activities associated with anti-submarine warfare and mine warfare activities at sea will have one lookout.

(iv) Lookout measures for explosives and impulse sound:

(A) Aircraft conducting IEER sonobuoy activities and explosive sonobuoy exercises will have one lookout.

(B) Surface vessels conducting anti-swimmer grenade activities will have one lookout.

(C) During general mine countermeasure and neutralization activities using up to a 20-lb net explosive weight detonation (bin E6 and below), vessels greater than 200 ft (61 m) will have two lookouts, while vessels less than 200 ft (61 m) or aircraft will have one lookout.

(D) Mine neutralization activities involving positive control diver-placed charges using up to a 20-lb net explosive weight detonation will have two lookouts. The divers placing the

charges on mines will report all marine mammal sightings to their supporting small boat or Range Safety Officer.

(E) When mine neutralization activities using diver-placed charges with up to a 20-lb net explosive weight detonation are conducted with a time-delay firing device, four lookouts will be used. Two lookouts will be positioned in each of two small rigid hull inflatable boats. When aircraft are used, the pilot or member of the aircrew will serve as an additional lookout. The divers placing the charges on mines will report all marine mammal sightings to their supporting small boat or Range Safety Officer.

(F) Surface vessels or aircraft conducting small- or medium-caliber gunnery exercises against a surface target will have one lookout.

(G) Aircraft conducting missile exercises (including rockets) against surface targets will have one lookout.

(H) Aircraft conducting bombing exercises will have one lookout.

(I) During explosive torpedo testing, one lookout will be used and positioned in an aircraft.

(J) During sinking exercises, two lookouts will be used. One lookout will be positioned in an aircraft and one on a surface vessel.

(K) Surface vessels conducting explosive and non-explosive large-caliber gunnery exercises will have one lookout.

(v) Lookout measures for physical strike and disturbance:

(A) While underway, surface ships will have at least one lookout.

(B) During activities using towed in-water devices, that are towed from a manned platform, one lookout will be used.

(C) Non-explosive small-, medium-, and large-caliber gunnery exercises using a surface target will have one lookout.

(D) Non-explosive bombing exercises will have one lookout.

(2) *Mitigation zones.* The following are protective measures concerning the implementation of mitigation zones.

(i) Mitigation zones will be measured as the radius from a source and represent a distance to be monitored.

(ii) Visual detections of marine mammals within a mitigation zone will be communicated immediately to a watch station for information dissemination and appropriate action.

(iii) Mitigation zones for non-impulse sound:

(A) When marine mammals are visually detected, the Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmission levels are limited to at least 6 dB below normal operating levels (for sources that can be powered down during the activity) if any visually detected marine mammals are within 1,000 yd (914 m) of the source (*i.e.*, the bow).

(B) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are limited to at least 10 dB below the equipment's normal operating level (for sources that can be powered down during the activity) if any detected marine mammals are sighted within 500 yd (457 m) of the source.

(C) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions (for sources that can be turned off during the activity) are ceased if any visually detected marine mammals are within 200 yd (183 m) of the sonar dome. Active transmission will recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source; the mitigation zone has been clear from any additional sightings for a period of 30 minutes; the ship has transited more than 2,000 yd. (1.8 kilometers [km]) beyond the location of the last sighting; or the ship concludes that dolphins are deliberately closing in on the ship to ride the ship's bow wave (and there are no other marine mammal sightings within the mitigation zone).

(D) If the source is not able to be powered down during the activity (*e.g.*, low-frequency sources within bins LF4 and LF5), mitigation will involve ceasing active transmission if a marine mammal is sighted within 200 yd. (183 m). Active transmission will recommence if any one of the following conditions is met: The animal is observed

exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source; the mitigation zone has been clear from any additional sightings for a period of 30 minutes; or the ship has transited more than 400 yd. (366 m) beyond the location of the last sighting.

(E) With the exception of activities involving platforms operating at high altitudes, when marine mammals are visually detected, the Navy shall ensure that high-frequency and non-hull-mounted mid-frequency active sonar transmission (for sources that can be turned off during the activity) is ceased if any visually detected marine mammals are within 200 yd (183 m) of the source. Active transmission will recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 10 minutes for an aircraft-deployed source, the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a vessel-deployed source, the vessel or aircraft has repositioned itself more than 400 yd. (366 m) away from the location of the last sighting, or the vessel concludes that dolphins are deliberately closing in to ride the vessel's bow wave (and there are no other marine mammal sightings within the mitigation zone).

(F) Prior to start up or restart of active sonar, operators shall check that the mitigation zone radius around the sound source is clear of marine mammals.

(G) Generally, the Navy shall operate sonar at the lowest practicable level, not to exceed 235 dB, except as required to meet tactical training objectives.

(iv) Mitigation zones for explosive and impulse sound:

(A)(*1*) A mitigation zone with a radius of 600 yd (549 m) shall be established for IEER sonobuoys (bin E4). Mitigation would include pre-exercise aerial observation and passive acoustic monitoring, which would begin 30 minutes before the first source/receiver pair detonation and continue throughout the duration of the exercise. The pre-exercise aerial observation would include the time it takes to deploy the sonobuoy pattern (deployment is conducted by aircraft dropping sonobuoys in the water). Explosive detonations would cease if a marine mammal is sighted within the mitigation zone. Detonations would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 30 minutes.

(*2*) Passive acoustic monitoring would be conducted with Navy assets, such as sonobuoys, already participating in the activity. These assets would only detect vocalizing marine mammals within the frequency bands monitored by Navy personnel. Passive acoustic detections would not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive acoustic detections would be reported to lookouts posted in aircraft and on vessels in order to increase vigilance of their visual observation.

(B)(*1*) A mitigation zone with a radius of 350 yd (320 m) shall be established for explosive sonobuoys using 0.5–2.5 lb net explosive weight (bin E3). Mitigation would include pre-exercise aerial monitoring during deployment of the field of sonobuoy pairs (typically up to 20 minutes) and continuing throughout the duration of the exercise within a mitigation zone of 350 yd (320 m) around an explosive sonobuoy. Explosive detonations would cease if a marine mammal is sighted within the mitigation zone. Detonations would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between

the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes.

(*2*) Passive acoustic monitoring would also be conducted with Navy assets, such as sonobuoys, already participating in the activity. These assets would only detect vocalizing marine mammals within the frequency bands monitored by Navy personnel. Passive acoustic detections would not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive acoustic detections would be reported to lookouts posted in aircraft in order to increase vigilance of their visual observation.

(C) A mitigation zone with a radius of 200 yd (183 m) shall be established for anti-swimmer grenades (bin E2). Mitigation would include visual observation from a small boat immediately before and during the exercise within a mitigation zone of 200 yd (183 m) around an anti-swimmer grenade. Explosive detonations would cease if a marine mammal is sighted within the mitigation zone. Detonations would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 30 minutes, or the activity has been repositioned more than 400 yd (366 m) away from the location of the last sighting.

(D) A mitigation zone ranging from 350 yd (320 m) to 800 yd (732 m), dependent on charge size and if the activity involves the use of diver-placed charges, shall be established for mine countermeasure and neutralization activities using positive control firing devices. Mitigation zone distances are specified for charge size in the following table.

Charge size net explosive weight (bins)	General mine countermeasure and neutralization activities using positive control firing devices [1]				Mine countermeasure and neutralization activities using diver placed charges under positive control [2]			
	Predicted average range to TTS	Predicted average range to PTS	Predicted maximum range to PTS	Recommended mitigation zone	Predicted average range to TTS	Predicted average range to PTS	Predicted maximum range to PTS	Recommended mitigation zone
2.5–5 lb. (1.2–2.3 kg) (E4)	434 yd (474 m)	197 yd (180 m)	563 yd (515 m)	600 yd (549 m)	545 yd (498 m)	169 yd (155 m)	301 yd (275 m)	350 yd. (320 m).
5–10 lb. (2.7–4.5 kg) (E5)	525 yd (480 m)	204 yd (187 m)	649 yd (593 m)	800 yd (732 m)	587 yd (537 m)	203 yd (185 m)	464 yd (424 m)	500 yd. (457 m).
>10–20 lb. (5–9.1 kg) (E6)	766 yd (700 m)	288 yd (263 m)	648 yd (593 m)	800 yd (732 m)	647 yd (592 m)	232 yd (212 m)	469 yd (429 m)	500 yd. (457 m).

PTS: permanent threshold shift; TTS: temporary threshold shift.

[1] These mitigation zones are applicable to all mine countermeasure and neutralization activities conducted in all locations specified in Chapter 2 of the Navy's LOA application.

[2] These mitigation zones are only applicable to mine countermeasure and neutralization activities involving the use of diver placed charges. These activities are conducted in shallow-water and the mitigation zones are based only on the functional hearing groups with species that occur in these areas (mid-frequency cetaceans and sea turtles).

(*1*) During general mine countermeasure and neutralization activities, mitigation would include visual observation from one or more small boats or aircraft beginning 30 minutes before, during, and 30 minutes after (when helicopters are not involved in the activity) or 10 minutes before, during, and 10 minutes after (when helicopters are involved in the activity) the completion of the exercise within the mitigation zones around the detonation site.

(*2*) For activities involving diver-placed charges, visual observation would be conducted by either two small boats, or one small boat in combination with one helicopter. Boats would position themselves near the mid-point of the mitigation zone radius (but always outside the detonation plume radius and human safety zone) and travel in a circular pattern around the detonation location. When using two boats, each boat would be positioned on opposite sides of the detonation location,

separated by 180 degrees. If used, helicopters would travel in a circular pattern around the detonation location.

(*3*) For both general and diver-placed positive control mine countermeasure and neutralization activities, explosive detonations will cease if a marine mammal is sighted within the mitigation zone. Detonations will recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 30 minutes, when helicopters are not involved in the activity or the mitigation zone has been clear from any additional sightings for a period of 10 minutes when helicopters are involved in the activity.

(E) A mitigation zone with a radius of 1,000 yd (914 m) shall be established for mine countermeasure and neutralization activities using diver-placed time-delay firing devices (bin E6). Mine neutralization activities involving diver-placed charges would not include time-delay longer than 10 minutes. Mitigation would include visual observation from small boats or aircraft commencing 30 minutes before, during, and until 30 minutes after the completion of the exercise within a mitigation zone of 1,000 yd (914 m) around the detonation site. During activities using time-delay firing devices involving up to a 20 lb net explosive weight charge, visual observation will take place using two small boats. Fuse initiation would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 30 minutes.

(*1*) Survey boats would position themselves near the mid-point of the mitigation zone radius (but always outside the detonation plume radius/human safety zone) and travel in a circular pattern around the detonation location. One lookout from each boat would look inward toward the detonation site and the other lookout would look outward away from the detonation site. When using two small boats, each boat would be positioned on opposite sides of the detonation location, separated by 180 degrees. If available for use, helicopters would travel in a circular pattern around the detonation location.

(*2*) [Reserved]

(F) A mitigation zone with a radius of 200 yd (183 m) shall be established for small- and medium-caliber gunnery exercises with a surface target (bin E2). Mitigation would include visual observation from a vessel or aircraft immediately before and during the exercise within a mitigation zone of 200 yd (183 m) around the intended impact location. Vessels would observe the mitigation zone from the firing position. When aircraft are firing, the aircrew would maintain visual watch of the mitigation zone during the activity. Firing would cease if a marine mammal is sighted within the mitigation zone. Firing would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 10 minutes for a firing aircraft, the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a firing vessel, or the intended target location has been repositioned more than 400 yd (366 m) away from the location of the last sighting.

(G) A mitigation zone with a radius of 600 yd (549 m) shall be established for large-caliber gunnery exercises with a surface target (bin E5). Mitigation would include visual observation from a ship immediately before and during the exercise within a mitigation zone of 600 yd (549 m) around the intended impact location. Ships would observe the mitigation zone from the firing position. Firing would cease if a marine mammal is sighted within the mitigation zone. Firing would recommence if any one of the following conditions is

met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 30 minutes.

(H) A mitigation zone with a radius of 900 yd (823 m) around the deployed target shall be established for missile exercises involving aircraft firing up to 250 lb net explosive weight using and a surface target (bin E9). When aircraft are firing, mitigation would include visual observation by the aircrew or supporting aircraft prior to commencement of the activity within a mitigation zone of 900 yd (823 m) around the deployed target. Firing would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes or 30 minutes (depending on aircraft type).

(I) A mitigation zone with a radius of 2,000 yd (1.8 km) shall be established for missile exercises involving aircraft firing >250 to 500 lb net explosive weight using and a surface target (bin E10). When aircraft are firing, mitigation would include visual observation by the aircrew prior to commencement of the activity within a mitigation zone of 2,000 yd (1.8 km) around the intended impact location. Firing would cease if a marine mammal is sighted within the mitigation zone. Firing would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes or 30 minutes (depending on aircraft type).

(J) A mitigation zone with a radius of 2,500 yd (2.3 km) shall be established for bombing exercises (bin E12). Mitigation would include visual observation from the aircraft immediately before the exercise and during target approach within a mitigation zone of 2,500 yd (2.3 km) around the intended impact location. Bombing would cease if a marine mammal is sighted within the mitigation zone. Bombing would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes.

(K)(*1*) A mitigation zone with a radius of 2,100 yd (1.9 km) shall be established for torpedo (explosive) testing (except for aircraft operating at high altitudes) (bin E11). Mitigation would include visual observation by aircraft immediately before, during, and after the exercise within a mitigation zone of 2,100 yd (1.9 km) around the intended impact location. Firing would cease if a marine mammal is sighted within the mitigation zone. Firing would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes or 30 minutes (depending on aircraft type).

(*2*) In addition to visual observation, passive acoustic monitoring would be conducted with Navy assets, such as passive ships sonar systems or sonobuoys, already participating in the activity. Passive acoustic observation would be accomplished through the use of remote acoustic sensors or expendable sonobuoys, or via passive acoustic sensors on submarines when they participate in the proposed action. These assets would only detect vocalizing marine mammals within the frequency bands monitored by Navy personnel. Passive acoustic detections would not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive

acoustic detections would be reported to the lookout posted in the aircraft in order to increase vigilance of the visual observation and to the person in control of the activity for their consideration in determining when the mitigation zone is free of visible marine mammals.

(L) A mitigation zone with a radius of 2.5 nautical miles around the target ship hulk shall be established for sinking exercises (bin E12). Mitigation would include aerial observation beginning 90 minutes before the first firing, visual observations from vessels throughout the duration of the exercise, and both aerial and vessel observation immediately after any planned or unplanned breaks in weapons firing of longer than 2 hours. Prior to conducting the exercise, the Navy would review remotely sensed sea surface temperature and sea surface height maps to aid in deciding where to release the target ship hulk.

(*1*) The Navy would also monitor using passive acoustics during the exercise. Passive acoustic monitoring would be conducted with Navy assets, such as passive ships sonar systems or sonobuoys, already participating in the activity. These assets would only detect vocalizing marine mammals within the frequency bands monitored by Navy personnel. Passive acoustic detections would not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive acoustic detections would be reported to lookouts posted in aircraft and on vessels in order to increase vigilance of their visual observation. Lookouts will also increase observation vigilance before the use of torpedoes or unguided ordnance with a net explosive weight of 500 lb or greater, or if the Beaufort sea state is a 4 or above.

(*2*) The exercise would cease if a marine mammal is sighted within the mitigation zone. The exercise would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 30 minutes. Upon sinking the vessel, the Navy would conduct post-exercise visual observation of the mitigation zone for 2 hours (or until sunset, whichever comes first).

(M) A mitigation zone with a radius of 70 yd (64 m) within 30 degrees on either side of the gun target line on the firing side of the vessel for explosive and non-explosive large-caliber gunnery exercises conducted from a ship. Firing would cease if a marine mammal is sighted within the mitigation zone. Firing would recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 30 minutes, or the vessel has repositioned itself more than 140 yd (128 m) away from the location of the last sighting.

(v) Mitigation zones for vessels and in-water devices:

(A) A mitigation zone of 500 yd (457 m) for observed whales and 200 yd (183 m) for all other marine mammals (except bow riding dolphins) shall be established for all vessel movement, providing it is safe to do so.

(B) A mitigation zone of 250 yd (229 m) shall be established for all towed in-water devices that are towed from a manned platform, providing it is safe to do so.

(vi) Mitigation zones for non-explosive practice munitions:

(A) A mitigation zone of 200 yd (183 m) shall be established for non-explosive small-, medium-, and large-caliber gunnery exercises using a surface target. Mitigation would include visual observation immediately before and during the exercise within a mitigation zone of 200 m around the intended impact location. Firing would cease if a marine mammal is visually detected within the mitigation zone. Firing would recommence if any one of the following conditions are met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its

course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 10 minutes for a firing aircraft, the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a firing vessel, or the intended target location has been repositioned more than 400 yd (366 m) away from the location of the last sighting and the animal's estimated course direction.

(B) A mitigation zone of 1,000 yd (914 m) shall be established for non-explosive bombing exercises. Mitigation would include visual observation from the aircraft immediately before the exercise and during target approach within a mitigation zone of 1000 yd (914 m) around the intended impact location. Bombing would cease if a marine mammal is visually detected within the mitigation zone. Bombing would recommence if any one of the following conditions are met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes.

(3) Stranding Response Plan:

(i) The Navy shall abide by the letter of the ''Stranding Response Plan for Major Navy Training Exercises in the MITT Study Area,'' to include the following measures:

(A) Shutdown Procedures—When an Uncommon Stranding Event (USE—defined in § 218.91) occurs during a Major Training Exercise (MTE) in the MITT Study Area, the Navy shall implement the procedures described below.

(*1*) The Navy shall implement a shutdown (as defined § 218.91) when advised by a NMFS Office of Protected Resources Headquarters Senior Official designated in the MITT Study Area Stranding Communication Protocol that a USE involving live animals has been identified and that at least one live animal is located in the water. NMFS and the Navy will maintain a dialogue, as needed, regarding the identification of the USE and the potential need to implement shutdown procedures.

(*2*) Any shutdown in a given area shall remain in effect in that area until NMFS advises the Navy that the subject(s) of the USE at that area die or are euthanized, or that all live animals involved in the USE at that area have left the area (either of their own volition or herded).

(*3*) If the Navy finds an injured or dead animal floating at sea during an MTE, the Navy shall notify NMFS immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s), including carcass condition if the animal(s) is/are dead, location, time of first discovery, observed behavior (if alive), and photo or video (if available). Based on the information provided, NFMS will determine if, and advise the Navy whether a modified shutdown is appropriate on a case-by-case basis.

(*4*) In the event, following a USE, that qualified individuals are attempting to herd animals back out to the open ocean and animals are not willing to leave, or animals are seen repeatedly heading for the open ocean but turning back to shore, NMFS and the Navy shall coordinate (including an investigation of other potential anthropogenic stressors in the area) to determine if the proximity of mid-frequency active sonar training activities or explosive detonations, though farther than 14 nautical miles from the distressed animal(s), is likely contributing to the animals' refusal to return to the open water. If so, NMFS and the Navy will further coordinate to determine what measures are necessary to improve the probability that the animals will return to open water and implement those measures as appropriate.

(*5*) Within 72 hours of NMFS notifying the Navy of the presence of a USE, the Navy shall provide available information to NMFS (per the MITT Study Area Communication Protocol) regarding the location, number and types of acoustic/explosive sources, direction and speed of units using mid-frequency active sonar, and marine mammal sightings information associated with training activities occurring

within 80 nautical miles (148 km) and 72 hours prior to the USE event. Information not initially available regarding the 80-nautical miles (148-km), 72-hour period prior to the event will be provided as soon as it becomes available. The Navy will provide NMFS investigative teams with additional relevant unclassified information as requested, if available.

(b) [Reserved]

§ 218.95 Requirements for monitoring and reporting.

(a) As outlined in the MITT Study Area Stranding Communication Plan, the Holder of the Authorization must notify NMFS immediately (or as soon as operational security considerations allow) if the specified activity identified in § 218.90 is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified in § 218.91.

(b) The Holder of the LOA must conduct all monitoring and required reporting under the LOA, including abiding by the MITT Monitoring Project Description.

(c) *General notification of injured or dead marine mammals.* Navy personnel shall ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as operational security considerations allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, an Navy training or testing activity utilizing mid- or high-frequency active sonar, or underwater explosive detonations. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). The Navy shall consult the Stranding Response Plan to obtain more specific reporting requirements for specific circumstances.

(d) *Vessel strike.* In the event that a Navy vessel strikes a whale, the Navy shall do the following:

(1) Immediately report to NMFS (pursuant to the established Communication Protocol) the:

(i) Species identification if known;

(ii) Location (latitude/longitude) of the animal (or location of the strike if the animal has disappeared);

(iii) Whether the animal is alive or dead (or unknown); and

(iv) The time of the strike.

(2) As soon as feasible, the Navy shall report to or provide to NMFS, the:

(i) Size, length, and description (critical if species is not known) of animal;

(ii) An estimate of the injury status (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, etc.);

(iii) Description of the behavior of the whale during event, immediately after the strike, and following the strike (until the report is made or the animal is no long sighted);

(iv) Vessel class/type and operation status;

(v) Vessel length

(vi) Vessel speed and heading; and

(vii) To the best extent possible, obtain

(3) Within 2 weeks of the strike, provide NMFS:

(i) A detailed description of the specific actions of the vessel in the 30-minute timeframe immediately preceding the strike, during the event, and immediately after the strike (*e.g.,* the speed and changes in speed, the direction and changes in the direction, other maneuvers, sonar use, etc., if not classified); and

(ii) A narrative description of marine mammal sightings during the event and immediately after, and any information as to sightings prior to the strike, if available; and

(iii) Use established Navy shipboard procedures to make a camera available to attempt to capture photographs following a ship strike.

(e) *Annual MITT monitoring program report.* (1) The Navy shall submit an annual report describing the implementation and results of the MITT Monitoring Program, described in § 218.95. Data standards will be consistent to the extent appropriate across range complexes and study areas to allow for comparison in different geographic locations. Although additional information will be gathered, the protected species observers collecting marine mammal data pursuant to the MITT

Monitoring Program shall, at a minimum, provide the same marine mammal observation data required in this section.

(2) As an alternative, the Navy may submit a multi-range complex annual monitoring plan report to fulfill this requirement. Such a report would describe progress of knowledge made with respect to monitoring plan study questions across multiple Navy ranges associated with the ICMP. Similar study questions shall be treated together so that progress on each topic shall be summarized across all Navy ranges. The report need not include analyses and content that does not provide direct assessment of cumulative progress on the monitoring plan study questions. The report shall be submitted either 90 days after the calendar year, or 90 days after the conclusion of the monitoring year date to be determined by the Adaptive Management process.

(f) *Sonar exercise notification.* The Navy shall submit to NMFS (specific contact information to be provided in the LOA) either an electronic (preferably) or verbal report within 15 calendar days after the completion of any major exercise indicating:

(1) Location of the exercise.

(2) Beginning and end dates of the exercise.

(3) Type of exercise.

(g) *Annual MITT exercise and testing report.* The Navy shall submit preliminary reports detailing the status of authorized sound sources within 21 days after the anniversary of the date of issuance of the LOA. The Navy shall submit a detailed report 3 months after the anniversary of the date of issuance of the LOA. The detailed annual report shall contain information on Major Training Exercises (MTE), Sinking Exercise (SINKEX) events, and a summary of sound sources used, as described below. The analysis in the detailed report will be based on the accumulation of data from the current year's report and data collected from previous reports. The detailed report shall contain information identified in § 218.95(e)(1) and (2).

(1) Major Training Exercises/SINKEX:

(i) This section shall contain the reporting requirements for Coordinated and Strike Group exercises and SINKEX. Coordinated and Strike Group Major Training Exercises include:

(A) Joint Multi-Strike Group Exercise (Valiant Shield).

(B) Joint Expeditionary Exercise

(ii) Exercise information for each MTE:

(A) Exercise designator.

(B) Date that exercise began and ended.

(C) Location (operating area).

(D) Number of items or hours (per the LOA) of each sound source bin (impulsive and non-impulsive) used in the exercise.

(E) Number and types of vessels, aircraft, etc., participating in exercise.

(F) Individual marine mammal sighting info for each sighting during each MTE:

(*1*) Date/time/location of sighting.

(*2*) Species (if not possible, indication of whale/dolphin).

(*3*) Number of individuals.

(*4*) Initial detection sensor.

(*5*) Indication of specific type of platform the observation was made from (including, for example, what type of surface vessel or testing platform).

(*6*) Length of time observers maintained visual contact with marine mammal(s).

(*7*) Sea state.

(*8*) Visibility.

(*9*) Sound source in use at the time of sighting.

(*10*) Indication of whether animal is <200 yd, 200 to 500 yd, 500 to 1,000 yd, 1,000 to 2,000 yd, or >2,000 yd from sound source.

(*11*) Mitigation Implementation—Whether operation of sonar sensor was delayed, or sonar was powered or shut down, and how long the delay was; or whether navigation was changed or delayed.

(*12*) If source in use is a hull-mounted sonar, relative bearing of animal from ship, and estimation of animal's motion relative to ship (opening, closing, parallel).

(*13*) Observed behavior—Watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animal(s) (such as animal closing to bow ride, paralleling course/

speed, floating on surface and not swimming, etc.) and if any calves present.

(iii) An evaluation (based on data gathered during all of the MTEs) of the effectiveness of mitigation measures designed to minimize the received level to which marine mammals may be exposed. This evaluation shall identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.

(iv) Exercise information for each SINKEX:

(A) List of the vessels and aircraft involved in the SINKEX.

(B) Location (operating area).

(C) Chronological list of events with times, including time of sunrise and sunset, start and stop time of all marine species surveys that occur before, during, and after the SINKEX, and ordnance used.

(D) Visibility and/or weather conditions, wind speed, cloud cover, etc. throughout exercise if it changes.

(E) Aircraft used in the surveys, flight altitude, and flight speed and the area covered by each of the surveys, given in coordinates, map, or square miles.

(F) Passive acoustic monitoring details (number of sonobuoys, area, detections of biologic activity, etc.).

(G) Individual marine mammal sighting info for each sighting that required mitigation to be implemented:

(*1*) Date/time/location of sighting.

(*2*) Species (if not possible, indication of whale/dolphin).

(*3*) Number of individuals.

(*4*) Initial detection sensor.

(*5*) Indication of specific type of platform the observation was made from (including, for example, what type of surface vessel or platform).

(*6*) Length of time observers maintained visual contact with marine mammal(s).

(*7*) Sea state.

(*8*) Visibility.

(*9*) Indication of whether animal is <200 yd, 200–500 yd, 500–1,000 yd, 1,000–2,000 yd, or >2,000 yd from the target.

(*10*) Mitigation implementation—Whether the SINKEX was stopped or delayed and length of delay.

(*11*) Observed behavior—Watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.), and if any calves present.

(H) List of the ordnance used throughout the SINKEX and net explosive weight (NEW) of each weapon and the combined NEW.

(2) *Summary of sources used.* (i) This section shall include the following information summarized from the authorized sound sources used in all training and testing events:

(A) Total annual or quantity (per the LOA) of each bin of sonar or other non-impulsive source;

(B) Total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive bin; and

(C) Improved Extended Echo-Ranging System (IEER)/sonobuoy summary, including:

(*1*) Total expended/detonated rounds (buoys).

(*2*) Total number of self-scuttled IEER rounds.

(3) *Geographic information presentation.* The reports shall present an annual (and seasonal, where practical) depiction of training exercises and testing bin usage geographically across the Study Area.

(h) *Five-year close-out exercise and testing report.*—This report will be included as part of the 2020 annual exercise or testing report. This report will provide the annual totals for each sound source bin with a comparison to the annual allowance and the 5-year total for each sound source bin with a comparison to the 5-year allowance. Additionally, if there were any changes to the sound source allowance, this report will include a discussion of why the change was made and include the analysis to support how the change did or did not result in a change in the FEIS and final rule determinations. The report will be submitted 3 months after the expiration of the rule. NMFS will submit comments on the draft close-out report, if any, within 3 months of receipt. The report will be considered final after the Navy has addressed

NMFS' comments, or 3 months after the submittal of the draft if NMFS does not provide comments.

§ 218.96 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to the regulations in this subpart, the U.S. citizen (as defined by § 216.106 of this chapter) conducting the activity identified in § 218.90(c) (the U.S. Navy) must apply for and obtain either an initial LOA in accordance with § 218.97 or a renewal under § 218.98.

§ 218.97 Letters of Authorization.

(a) An LOA, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart.

(b) The LOA will set forth:

(1) Permissible methods and extent of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance of the LOA will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 218.98 Renewals and modifications of Letters of Authorization.

(a) A Letter of Authorization issued under §§ 216.106 and 218.97 of this chapter for the activity identified in § 218.90(c) will be renewed or modified upon request of the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are within the scope of those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision of this chapter), and;

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years). NMFS may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis illustrating the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 and 218.97 of this chapter for the activity identified in § 218.94 of this chapter may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* NMFS may modify (including augmenting, changing, or reducing) the existing mitigation, monitoring, or reporting measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, and reporting measures in an LOA:

(A) Results from Navy's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOA.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS would publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.92(c), an LOA may be modified without prior notification and

an opportunity for public comment. Notification would be published in the FEDERAL REGISTER within 30 days of the action.

Subparts J–K [Reserved]

Subpart L—Taking and Importing Marine Mammals; U.S. Navy's Mariana Islands Training Range Complex (MIRC)

SOURCE: 75 FR 45547, Aug. 3, 2010, unless otherwise noted.

EFFECTIVE DATE NOTE: At 75 FR 45547, Aug. 3, 2010, subpart L was added, effective Aug. 3, 2010, through Aug. 3, 2015.

§ 218.100 Specified activity and specified geographical area.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy may be authorized in a Letter of Authorization (LOA) if it occurs within the Mariana Islands Range Complex (MIRC) Study Area (as depicted in Figure 1–1 in the Navy's application for MIRC), which is bounded by a pentagon with the following five corners: 16°46′29.3376″ N. lat., 138°00′59.835″ E. long.; 20°02′24.8094″ N. lat., 140°10′13.8642″ E. long.; 20°3′27.5538″ N. lat., 149°17′41.0388″ E. long.; 7°0′30.0702″ N. lat., 149°16′14.8542″ E. long; and 6°59′24.633″ N. lat, 138°1′29.7228″ E. long.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) The use of the following mid-frequency active sonar (MFAS) and high frequency active sonar (HFAS) sources, or similar sources, for Navy training, maintenance, or research, development, testing, and evaluation (RDT&E) (estimated amounts below):

(i) AN/SQS–53 (hull-mounted active sonar)—up to 10865 hours over the course of 5 years (an average of 2173 hours per year);

(ii) AN/SQS–56 (hull-mounted active sonar)–up to 705 hours over the course of 5 years (an average of 141 hours per year);

(iii) AN/SSQ–62 (Directional Command Activated Sonobuoy System (DICASS) sonobuoys)–up to 8270 sonobuoys over the course of 5 years (an average of 1654 sonobuoys per year);

(iv) AN/AQS–22 (helicopter dipping sonar)—up to 2,960 dips over the course of 5 years (an average of 592 dips per year);

(v) AN/BQQ–10 (submarine hull-mounted sonar)—up to 60 hours over the course of 5 years (an average of 12 hours per year);

(vi) MK–48, MK–46, or MK–54 (torpedoes)—up to 200 torpedoes over the course of 5 years (an average of 40 torpedoes per year);

(vii) AN/SSQ–110 (IEER)—up to 530 buoys deployed over the course of 5 years (an average of 106 per year);

(viii) AN/SSQ–125 (AEER)—up to 530 buoys deployed over the course of 5 years (an average of 106 per year);

(ix) Range Pingers—up to 1,400 hours over the course of 5 years (an average of 280 hours per year); and

(x) PUTR Transponder—up to 1,400 hours over the course of 5 years (an average of 280 hours per year).

(2) The detonation of the underwater explosives indicated in paragraph (c)(2)(i) of this section, or similar explosives, conducted as part of the training exercises indicated in paragraph (c)(2)(ii) of this section:

(i) Underwater Explosives (Net Explosive Weight (NEW)):

(A) 5″ Naval Gunfire (9.5 lbs NEW);

(B) 76 mm rounds (1.6 lbs NEW);

(C) Maverick (78.5 lbs NEW);

(D) Harpoon (448 lbs NEW);

(E) MK–82 (238 lbs NEW);

(F) MK–83 (574 lbs NEW);

(G) MK–84 (945 lbs NEW);

(H) MK–48 (851 lbs NEW);

(I) Demolition Charges (10 lbs NEW);

(J) AN/SSQ–110A (IEER explosive sonobuoy—5 lbs NEW);

(K) Hellfire (16.5 lbs NEW);

(L) GBU 38/32/31.

(ii) Training Events:

(A) Gunnery Exercises (S–S GUNEX)—up to 60 exercises over the course of 5 years (an average of 12 per year);

(B) Bombing Exercises (BOMBEX)—up to 20 exercises over the course of 5 years (an average of 4 per year);

(C) Sinking Exercises (SINKEX)—up to 10 exercises over the course of 5 years (an average of 2 per year);

(D) Extended Echo Ranging and Improved Extended Echo Ranging (EER/IEER) Systems—up to 530 deployments over the course of 5 years (an average of 106 per year);

(E) Demolitions—up to 250 over the course of 5 years (an average of 50 per year); and

(F) Missile exercises (A–S MISSILEX)—up to 10 exercises over the course of 5 years (an average of 2 per year).

(d) The taking of marine mammals may also be authorized in an LOA for the activities and sources listed in § 218.100(c) should the amounts (*i.e.*, hours, dips, number of exercises) vary from those estimated in § 218.100(c), provided that the variation does not result in exceeding the amount of take indicated in § 218.102.

[75 FR 45547, Aug. 3, 2010, as amended at 77 FR 4924, Feb. 1, 2012]

§ 218.101 Effective dates.

Amended regulations are effective February 1, 2012, through August 3, 2015.

[77 FR 4924, Feb. 1, 2012]

§ 218.102 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 218.107 of this chapter, the Holder of the Letter of Authorization (hereinafter ''Navy'') may incidentally, but not intentionally, take marine mammals within the area described in § 218.100(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The activities identified in § 218.100(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 218.100(c) is limited to the species listed in this paragraph (4), (5), and (6) of this section (c) by the indicated method of take and the indicated number of times (estimated based on the authorized amounts of sound source operation), but with the following allowances for annual variation in activities:

(1) In any given year, annual take, by harassment, of any species of marine mammal may not exceed the amount identified in paragraphs (b)(4) and (b)(5) of this section, for that species by more than 25% (a post-calculation/estimation of which must be provided in the annual LOA application);

(2) In any given year, annual take by harassment of all marine mammal species combined may not exceed the estimated total of all species combined, indicated in paragraphs (b)(4) and (b)(5) of this section, by more than 10%; and

(3) Over the course of the effective period of this subpart, total take, by harassment, of any species may not exceed the 5-year amounts indicated in paragraphs (b)(4) and (b)(5) of this section by more than 10%. A running calculation/estimation of takes of each species over the course of the years covered by the rule must be maintained.

(4) Level B Harassment:

(i) Mysticetes:

(A) Humpback whale (*Megaptera novaeangliae*)—4,025 (an average of 805 annually);

(B) Fin whale (*Balaenoptera physalus*)—910 (an average of 182 annually);

(C) Blue whale (*Balaenoptera musculus*)—650 (an average of 130 annually);

(D) Sei whale (*Balaenoptera borealis)*—1,625 (an average of 325 annually);

(E) Minke whale (*Balaenoptera acutorostrata*)—2,225 (an average of 445 annually);

(F) Bryde's whale (*Balaenoptera edeni*)—2,285 (an average of 457 annually); and

(G) Unidentified Baleanopterid whales—360 (an average of 72 annually).

(ii) Odontocetes:

(A) Sperm whales (*Physeter macrocephalus*)—4,120 (an average of 824 annually);

(B) Killer whale (*Orcinus orca*)- 1,150 (an average of 230 annually);

(C) Pygmy or dwarf sperm whales (*Kogia breviceps or Kogia sima*)—33,530 (an average of 6,706 annually);

(D) Blainville's beaked whales (Mesoplodon densirostris);—3,850 (an average of 770 annually);

(E) Cuvier's beaked whales (*Ziphius cavirostris*)—18,140 (an average of 3,628 annually);

(F) Ginkgo-toothed beaked whales (*Mesoplodon ginkgodens*)—2,150 (an average of 430 annually);

(G) Longman's beaked whale (Indopacetus pacificus)—1,030 (an average of 206 annually);

(H) Short-finned pilot whale (*Globicephala macrorynchus*)—11,370 (an average of 2,274 annually);

(I) Melon-headed whale (*Peponocephala electra*)—14,315 (an average of 2,863 annually);

(J) Pygmy killer whale (*Feresa attenuata*)—800 (an average of 160 annually);

(K) False killer whale (*Pseudorca crassidens*)—6,445 (an average of 1,289 annually);

(L) Striped dolphin (*Stenella coeruleoalba*)—44,290 (an average of 8,858 annually);

(M) Short-beaked common dolphin (*Delphinus delphis*)—4,715 (an average of 943 annually);

(N) Risso's dolphin (*Grampus griseus*)—33,865 (an average of 6,773 annually);

(O) Bottlenose dolphin (*Tursiops truncates*)—855 (an average of 171 annually);

(P) Fraser's dolphin (*Lagenodelphis hosei*)—23,075 (an average of 4,615 annually);

(Q) Pantropical spotted dolphin (*Stenella attenuata*)—162,495 (an average of 32,499 annually);

(R) Rough-toothed dolphin (*Steno bredanensis*)—1,205 (an average of 241 annually);

(S) Spinner dolphin (*Stenella longirostris*)—10,720 (an average of 2,144 annually); and

(T) Unidentified delphinid—7,690 (an average of 1,538 annually).

(5) Level A Harassment:

(i) Sperm whale—5 (an average of 1 annually);

(ii) Pantropical spotted dolphin—5 (an average of 1 annually);

(6) Level A Harassment and/or mortality of no more than 10 beaked whales (total), of any of the species listed in §218.102(c)(4)(ii)(D) through (G) over the course of the 5-year regulations.

§218.103 Prohibitions.

No person in connection with the activities described in §218.100 may:

(a) Take any marine mammal not specified in §218.102(c);

(b) Take any marine mammal specified in §218.102(c) other than by incidental take as specified in §§218.102(c)(1) and (c)(2);

(c) Take a marine mammal specified in §218.102(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under §§216.106 and 218.107 of this chapter.

§218.104 Mitigation.

(a) When conducting training and utilizing the sound sources or explosives identified in §218.100(c), the mitigation measures contained in a Letter of Authorization issued under §§216.106 and 218.107 of this chapter must be implemented. These mitigation measures include, but are not limited to:

(1) Personnel Training:

(i) All commanding officers (COs), executive officers (XOs), lookouts, Officers of the Deck (OODs), junior OODs (JOODs), maritime patrol aircraft aircrews, and Anti-submarine Warfare (ASW)/Mine Warfare (MIW) helicopter crews shall complete the NMFS-approved Marine Species Awareness Training (MSAT) by viewing the U.S. Navy MSAT digital versatile disk (DVD). All bridge lookouts shall complete both parts one and two of the MSAT; part two is optional for other personnel.

(ii) Navy lookouts shall undertake extensive training in order to qualify as a watchstander in accordance with the Lookout Training Handbook (Naval Education and Training Command [NAVEDTRA] 12968–D).

(iii) Lookout training shall include on-the-job instruction under the supervision of a qualified, experienced lookout. Following successful completion

of this supervised training period, lookouts shall complete the Personal Qualification Standard Program, certifying that they have demonstrated the necessary skills (such as detection and reporting of partially submerged objects). Personnel being trained as lookouts can be counted among required lookouts as long as supervisors monitor their progress and performance.

(iv) Lookouts shall be trained in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of protective measures if marine species are spotted.

(v) All lookouts onboard platforms involved in ASW training events will review the NMFS-approved Marine Species Awareness Training material prior to use of MFAS.

(vi) All COs, XOs, and officers standing watch on the bridge will review the Marine Species Awareness Training material prior to a training event employing the use of MFAS/HFAS.

(2) General Operating Procedures (for all training types):

(i) Prior to major exercises, a Letter of Instruction, Mitigation Measures Message or Environmental Annex to the Operational Order shall be issued to further disseminate the personnel training requirement and general marine species protective measures.

(ii) COs shall make use of marine species detection cues and information to limit interaction with marine mammals to the maximum extent possible consistent with safety of the ship.

(iii) While underway, surface vessels shall have at least two lookouts with binoculars; surfaced submarines shall have at least one lookout with binoculars. Lookouts already posted for safety of navigation and man-overboard precautions may be used to fill this requirement. As part of their regular duties, lookouts will watch for and report to the OOD the presence of marine mammals.

(iv) On surface vessels equipped with a multi-function active sensor, pedestal mounted ''Big Eye'' (20 × 110) binoculars shall be properly installed and in good working order to assist in the detection of marine mammals in the vicinity of the vessel.

(v) Personnel on lookout shall employ visual search procedures employing a scanning methodology in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

(vi) After sunset and prior to sunrise, lookouts shall employ Night Lookouts Techniques in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

(vii) While in transit, naval vessels shall be alert at all times, use extreme caution, and proceed at a ''safe speed'', which means the speed at which the CO can maintain crew safety and effectiveness of current operational directives, so that the vessel can take action to avoid a collision with any marine mammal.

(viii) When marine mammals have been sighted in the area, Navy vessels shall increase vigilance and take all reasonable actions to avoid collisions and close interaction of naval assets and marine mammals. Such action may include changing speed and/or direction and are dictated by environmental and other conditions (*e.g.*, safety, weather).

(ix) Navy aircraft participating in exercises at-sea shall conduct and maintain surveillance for marine mammals as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.

(x) All marine mammal detections shall be immediately reported to assigned Aircraft Control Unit for further dissemination to ships in the vicinity of the marine species as appropriate when it is reasonable to conclude that the course of the ship will likely result in a closing of the distance to the detected marine mammal.

(xi) Naval vessels will maneuver to keep at least 1,500 ft (500 yds) away from any observed whale in the vessel's path and avoid approaching whales head-on. These requirements do not apply if a vessel's safety is threatened, such as when change of course will create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Restricted maneuverability includes, but is not limited to, situations when vessels are engaged in dredging, submerged activities,

launching and recovering aircraft or landing craft, minesweeping activities, replenishment while underway and towing activities that severely restrict a vessel's ability to deviate course. Vessels will take reasonable steps to alert other vessels in the vicinity of the whale. Given rapid swimming speeds and maneuverability of many dolphin species, naval vessels would maintain normal course and speed on sighting dolphins unless some condition indicated a need for the vessel to maneuver.

(3) Operating Procedures (for Anti-submarine Warfare (ASW) Operations):

(i) On the bridge of surface ships, there shall always be at least three people on watch whose duties include observing the water surface around the vessel.

(ii) All surface ships participating in ASW training events shall have, in addition to the three personnel on watch noted in (i), at least two additional personnel on watch as lookouts at all times during the exercise.

(iii) Personnel on lookout and officers on watch on the bridge will have at least one set of binoculars available for each person to aid in the detection of marine mammals.

(iv) Personnel on lookout shall be responsible for reporting all objects or anomalies sighted in the water (regardless of the distance from the vessel) to the Officer of the Deck, since any object or disturbance (*e.g.*, trash, periscope, surface disturbance, discoloration) in the water may be indicative of a threat to the vessel and its crew or indicative of a marine mammal that may need to be avoided.

(v) All personnel engaged in passive acoustic sonar operation (including aircraft, surface ships, or submarines) shall monitor for marine mammal vocalizations and report the detection of any marine mammal to the appropriate watch station for dissemination and appropriate action.

(vi) During MFAS operations, personnel shall utilize all available sensor and optical systems (such as night vision goggles) to aid in the detection of marine mammals.

(vii) Aircraft with deployed sonobuoys shall use only the passive capability of sonobuoys when marine mammals are detected within 200 yds (183 m) of the sonobuoy.

(viii) Helicopters shall observe/survey the vicinity of an ASW exercise for 10 minutes before the first deployment of active (dipping) sonar in the water.

(ix) Helicopters shall not dip their sonar within 200 yards of a marine mammal and shall cease pinging if a marine mammal closes within 200 yards after pinging has begun.

(x)(A) Safety Zones—When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically) the Navy shall ensure that sonar transmission levels are limited to at least 6 dB below normal operating levels if any detected marine mammals are within 1000 yards (914 m) of the sonar dome (the bow) (*i.e.*, limit to at most 229 dB for AN/SQS–53 and 219 dB for AN/SQS–56, etc.). Ships and submarines shall continue to limit maximum transmission levels by this 6-dB factor until the animal has been seen to leave the 1000-yd safety zone, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yds (1829 m) beyond the location of the last detection.

(B) When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically) the Navy shall ensure that sonar transmission levels are limited to at least 10 dB below normal operating levels if any detected marine mammals are within 500 yards (457 m) of the sonar dome (the bow). Ships and submarines shall continue to limit maximum ping levels by this 10-dB factor until the animal has been seen to leave the 500-yd safety zone, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yds (1829 m) beyond the location of the last detection.

(C) When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically) the Navy shall ensure that sonar transmission ceases if any detected marine mammals are within 200 yards (183 m) of the sonar dome (the bow). Sonar shall not resume until the animal has been seen to leave the 200-yd safety zone, has not been detected for 30 minutes, or the vessel has transited more

than 2,000 yds (457 m) beyond the location of the last detection.

(D) Special conditions applicable for dolphins and porpoises only: If, after conducting an initial maneuver to avoid close quarters with dolphins or porpoises, the OOD concludes that dolphins or porpoises are deliberately closing to ride the vessel's bow wave, no further mitigation actions are necessary while the dolphins or porpoises continue to exhibit bow wave riding behavior.

(xi) Prior to start up or restart of active sonar, operators will check that the 1000-m Safety Zone radius around the sound source is clear of marine mammals.

(xii) Active sonar levels (generally)—Navy shall operate active sonar at the lowest practicable level, not to exceed 235 dB, except as required to meet tactical training objectives.

(xiii) Submarine sonar operators will review detection indicators of close-aboard marine mammals prior to the commencement of ASW training events involving MFAS.

(E) If the need for power-down should arise (as detailed in 218.114(a)(3)(x)) when the Navy is operating a hull-mounted or sub-mounted source above 235 dB (infrequent), the Navy shall follow the requirements as though they were operating at 235 dB—the normal operating level (*i.e.*, the first power-down will be to 229 dB, regardless of at what level above 235 dB active sonar was being operated).

(4) Operating Procedures for Underwater Detonations (up to 10-lb charges):

(i) Exclusion Zones—All demolitions and ship mine countermeasures training exercises involving the use of explosive charges must include exclusion zones for marine mammals to prevent physical and/or acoustic effects to those species. These exclusion zones shall extend in a 700-yard arc radius around the detonation site. Should a marine mammal be present within the surveillance area, the explosive event shall not be started until the animal leaves the area.

(ii) Pre-Exercise Surveys—For Demolition and Ship Mine Countermeasures Operations, pre-exercise surveys shall be conducted for 30 minutes prior to the commencement of the scheduled explosive event. The survey may be conducted from the surface, by divers, and/or from the air, and personnel shall be alert to the presence of any marine mammal. Should such an animal be present within the survey area, the explosive event shall not be started until the animal voluntarily leaves the area. The Navy will ensure the area is clear of marine mammals for a full 30 minutes prior to initiating the explosive event. Personnel will record any marine mammal observations during the exercise as well as measures taken if species are detected within the exclusion zone.

(iii) Post-Exercise Surveys—Surveys within the same exclusion zone radius shall also be conducted within 30 minutes after the completion of the explosive event.

(iv) Reporting—If there is evidence that a marine mammal may have been stranded, injured or killed by the action, Navy training activities shall be immediately suspended and the situation immediately reported by the participating unit to the Officer in Charge of the Exercise (OCE), who will follow Navy procedures for reporting the incident to Commander, Pacific Fleet, Commander, Navy Region Marianas, Environmental Director, and the chain-of-command. The situation shall also be reported to NMFS (see Stranding Plan for details).

(5) Sinking Exercise:

(i) All weapons firing shall be conducted during the period 1 hour after official sunrise to 30 minutes before official sunset.

(ii) An exclusion zone with a radius of 1.0 nm (1.9 km) will be established around each target. An additional buffer of 0.5 nm (0.9 km) will be added to account for errors, target drift, and animal movements. Additionally, a safety zone, which will extend beyond the buffer zone by an additional 0.5 nm (0.9 km), shall be surveyed. Together, the zone extends out 2 nm (3.7 km) from the target.

(iii) A series of surveillance overflights shall be conducted within the 2-nm zone around the target, prior to and during the exercise, when feasible. Survey protocol shall be as follows:

(A) Overflights within the 2-nm zone around the target shall be conducted in a manner that optimizes the surface area of the water observed. This may be accomplished through the use of the Navy's Search and Rescue Tactical Aid, which provides the best search altitude, ground speed, and track spacing for the discovery of small, possibly dark objects in the water based on the environmental conditions of the day. These environmental conditions include the angle of sun inclination, amount of daylight, cloud cover, visibility, and sea state.

(B) All visual surveillance activities shall be conducted by Navy personnel trained in visual surveillance. At least one member of the mitigation team will have completed the Navy's marine mammal training program for lookouts.

(C) In addition to the overflights, the 2-nm zone around the target shall be monitored by passive acoustic means, when assets are available. This passive acoustic monitoring would be maintained throughout the exercise. Additionally, passive sonar onboard submarines may be utilized to detect any vocalizing marine mammals in the area. The OCE will be informed of any aural detection of marine mammals and will include this information in the determination of when it is safe to commence the exercise.

(D) On each day of the exercise, aerial surveillance of the 2-nm zone around the target shall commence 2 hours prior to the first firing.

(E) The results of all visual, aerial, and acoustic searches shall be reported immediately to the OCE. No weapons launches or firing may commence until the OCE declares this 2-nm zone around the target is free of marine mammals.

(F) If a marine mammal is observed within the 2-nm zone around the target, firing will be delayed until the animal is re-sighted outside the 2-nm zone around the target, or 30 minutes have elapsed. After 30 minutes, if the animal has not been re-sighted it can be assumed to have left the 2-nm zone around the target. The OCE will determine if the marine mammal is in danger of being adversely affected by commencement of the exercise.

(G) During breaks in the exercise of 30 minutes or more, the 2-nm zone around the target shall again be surveyed for any marine mammal. If marine mammals are sighted within the 2-nm zone around the target, the OCE shall be notified, and the procedures described in this section shall be followed.

(H) Upon sinking of the vessel, a final surveillance of the 2-nm zone around the target shall be monitored for 2 hours, or until sunset, to verify that no marine mammals were harmed.

(iv) Aerial surveillance shall be conducted using helicopters or other aircraft based on necessity and availability. The Navy has several types of aircraft capable of performing this task; however, not all types are available for every exercise. For each exercise, the available asset best suited for identifying objects on and near the surface of the ocean shall be used. These aircraft shall be capable of flying at the slow safe speeds necessary to enable viewing of marine vertebrates with unobstructed, or minimally obstructed, downward and outward visibility. The exclusion and safety zone surveys may be cancelled in the event that a mechanical problem, emergency search and rescue, or other similar and unexpected event preempts the use of one of the aircraft onsite for the exercise.

(v) Every attempt shall be made to conduct the exercise in sea states that are ideal for marine mammal sighting, Beaufort Sea State 3 or less. In the event of a 4 or above, survey efforts shall be increased within the 2-nm zone around the target. This shall be accomplished through the use of an additional aircraft, if available, and conducting tight search patterns.

(vi) The exercise shall not be conducted unless the 2-nm zone around the target could be adequately monitored visually. Should low cloud cover or surface visibility prevent adequate visual monitoring as described previously, the exercise would be delayed until conditions improved, and all of the above monitoring criteria could be met.

(vii) In the event that any marine mammals are observed to be harmed in the area, a detailed description of the animal shall be taken, the location

noted, and if possible, photos taken of the marine mammal. This information shall be provided to NMFS via the Navy's regional environmental coordinator for purposes of identification (see the Stranding Plan for detail).

(viii) An after action report detailing the exercise's time line, the time the surveys commenced and terminated, amount, and types of all ordnance expended, and the results of survey efforts for each event shall be submitted to NMFS.

(6) Surface-to-Surface Gunnery (up to 5-inch Explosive Rounds):

(i) For exercises using targets towed by a vessel, target-towing vessels shall maintain a trained lookout for marine mammals when feasible. If a marine mammal is sighted in the vicinity, the tow vessel will immediately notify the firing vessel, which will suspend the exercise until the area is clear.

(ii) A 600 yard (585 m) radius buffer zone will be established around the intended target.

(iii) From the intended firing position, trained lookouts will survey the buffer zone for marine mammals prior to commencement and during the exercise as long as practicable. Due to the distance between the firing position and the buffer zone, lookouts are only expected to visually detect breaching whales, whale blows, and large pods of dolphins and porpoises.

(iv) The exercise will be conducted only when the buffer zone is visible and marine mammals are not detected within it.

(7) Surface-to-Surface Gunnery (non-explosive rounds):

(i) A 200-yd (183 m) radius buffer zone shall be established around the intended target.

(ii) From the intended firing position, trained lookouts shall survey the buffer zone for marine mammals prior to commencement and during the exercise as long as practicable.

(iii) If available, target towing vessels shall maintain a lookout (unmanned towing vessels will not have a lookout available). If a marine mammal is sighted in the vicinity of the exercise, the tow vessel shall immediately notify the firing vessel in order to secure gunnery firing until the area is clear.

(iv) The exercise shall be conducted only when the buffer zone is visible and marine mammals are not detected within the target area and the buffer zone.

(8) Surface-to-Air Gunnery (Explosive and Non-explosive Rounds):

(i) Vessels will orient the geometry of gunnery exercises in order to prevent debris from falling in the area of sighted marine mammals.

(ii) Vessels will attempt to recover any parachute deploying aerial targets to the extent practicable (and their parachutes if feasible) to reduce the potential for entanglement of marine mammals.

(iii) Target towing aircraft shall maintain a lookout if feasible. If a marine mammal is sighted in the vicinity of the exercise, the tow aircraft will immediately notify the firing vessel in order to secure gunnery firing until the area is clear.

(9) Air-to-Surface Gunnery (Explosive and Non-explosive Rounds):

(i) A 200 yard (183 m) radius buffer zone will be established around the intended target.

(ii) If surface vessels are involved, lookout(s) will visually survey the buffer zone for marine mammals to and during the exercise.

(iii) Aerial surveillance of the buffer zone for marine mammals will be conducted prior to commencement of the exercise. Aerial surveillance altitude of 500 feet to 1,500 feet (152–456 m) is optimum. Aircraft crew/pilot will maintain visual watch during exercises. Release of ordnance through cloud cover is prohibited; aircraft must be able to actually see ordnance impact areas.

(iv) The exercise will be conducted only if marine mammals are not visible within the buffer zone.

(10) Small Arms Training (Grenades, Explosive and Non-explosive Rounds)—Lookouts will visually survey for marine mammals. Weapons will not be fired in the direction of known or observed marine mammals.

(11) Air-to-Surface At-sea Bombing Exercises (explosive bombs and rockets):

(i) If surface vessels are involved, trained lookouts shall survey for marine mammals. Ordnance shall not be targeted to impact within 1,000 yds (914

m) of known or observed marine mammals.

(ii) A 1,000 yd (914 m) radius buffer zone shall be established around the intended target.

(iii) Aircraft shall visually survey the target and buffer zone for marine mammals prior to and during the exercise. The survey of the impact area shall be made by flying at 1,500 ft (152 m) or lower, if safe to do so, and at the slowest safe speed. When safety or other considerations require the release of weapons without the releasing pilot having visual sight of the target area, a second aircraft, the ''wingman,'' will clear the target area and perform the clearance and observation functions required before the dropping plane may release its weapons. Both planes must have direct communication to assure immediate notification to the dropping plane that the target area may have been fouled by encroaching animals or people. The clearing aircraft will assure it has visual site of the target area at a maximum height of 1500 ft. The clearing plane will remain within visual sight of the target until required to clear the area for safety reasons. Survey aircraft shall employ most effective search tactics and capabilities.

(iv) The exercise will be conducted only if marine mammals are not visible within the buffer zone.

(12) Air-to-Surface At-Sea Bombing Exercises (Non-explosive Bombs and Rockets):

(i) If surface vessels are involved, trained lookouts will survey for marine mammals. Ordnance shall not be targeted to impact within 1,000 yards (914 m) of known or observed or marine mammals.

(ii) A 1,000 yard (914 m) radius buffer zone will be established around the intended target.

(iii) Aircraft will visually survey the target and buffer zone for marine mammals prior to and during the exercise. The survey of the impact area will be made by flying at 1,500 feet (456 m) or lower, if safe to do so, and at the slowest safe speed. When safety or other considerations require the release of weapons without the releasing pilot having visual sight of the target area, a second aircraft, the ''wingman,'' will clear the target area and perform the clearance and observation functions required before the dropping plane may release its weapons. Both planes must have direct communication to assure immediate notification to the dropping plane that the target area may have been fouled by encroaching animals or people. The clearing aircraft will assure it has visual site of the target area at a maximum height of 1500 ft. The clearing plane will remain within visual sight of the target until required to clear the area for safety reasons. Survey aircraft shall employ most effective search tactics and capabilities.

(iv) The exercise will be conducted only if marine mammals and are not visible within the buffer zone.

(13) Air-to-Surface Missile Exercises (explosive and non-explosive):

(i) Aircraft will visually survey the target area for marine mammals. Visual inspection of the target area will be made by flying at 1,500 (457 m) feet or lower, if safe to do so, and at slowest safe speed. Firing or range clearance aircraft must be able to actually see ordnance impact areas.

(ii) Explosive ordnance shall not be targeted to impact within 1,800 yds (1646 m) of sighted marine mammals.

(14) Aircraft Training Activities Involving Non-Explosive Devices:

An exclusion zone of 200 yds around the target location, therefore, shall be clear of marine mammals. Pre- and post-surveillance and reporting requirements outlined for underwater detonations shall be implemented during Mining Training Activities.

(15) Extended Echo Ranging/Improved Extended Echo Ranging and Advanced Extended Echo-ranging (EER/IEER/AEER)—The following mitigation measures shall be used with the employment of IEER/AEER sonobuoys:

(i) Crews shall conduct visual reconnaissance of the drop area prior to laying their intended sonobuoy pattern. This search shall be conducted at an altitude below 500 yd (457 m) at a slow speed, if operationally feasible and weather conditions permit. In dual aircraft operations, crews are allowed to conduct coordinated area clearances.

(ii) For IEER (AN/SSQ–110A), crews shall conduct a minimum of 30 minutes of visual and aural monitoring of the search area prior to commanding the

first post detonation. This 30-minute observation period may include pattern deployment time.

(iii) For any part of the intended sonobuoy pattern where a post (source/receiver sonobuoy pair) will be deployed within 1,000 yd (914 m) of observed marine mammal activity, the Navy shall deploy the receiver ONLY (i.e., not the source) and monitor while conducting a visual search. When marine mammals are no longer detected within 1,000 yd (914 m) of the intended post position, the source sonobuoy (AN/SSQ–110A/SSQ–125) will be co-located with the receiver.

(iv) When operationally feasible, Navy crews shall conduct continuous visual and aural monitoring of marine mammal activity. This shall include monitoring of own-aircraft sensors from the time of the first sensor placement until the aircraft have left the area and are out of RF range of these sensors.

(v) *Aural Detection*. If the presence of marine mammals is detected aurally, then that shall cue the Navy aircrew to increase the diligence of their visual surveillance. Subsequently, if no marine mammals are visually detected, then the crew may continue multistatic active search.

(vi) *Visual Detection*. If marine mammals are visually detected within 1,000 yd (914 m) of the explosive source sonobuoy (AN/SSQ–110A/SSQ–125) intended for use, then that payload shall not be activated. Aircrews may utilize this post once the marine mammals have not been re-sighted for 30 minutes, or are observed to have moved outside the 1,000 yd (914 m) safety buffer. Aircrews may shift their multi-static active search to another post, where marine mammals are outside the 1,000 yd (914 m) safety buffer.

(vii) For IEER (AN/SSQ–110A), aircrews shall make every attempt to manually detonate the unexploded charges at each post in the pattern prior to departing the operations area by using the ''Payload 1 Release'' command followed by the ''Payload 2 Release'' command. Aircrews shall refrain from using the ''Scuttle'' command when two payloads remain at a given post. Aircrews shall ensure that a 1,000 yd (914 m) safety buffer, visually clear of marine mammals, is maintained around each post as is done during active search operations.

(viii) Aircrews shall only leave posts with unexploded charges in the event of a sonobuoy malfunction, an aircraft system malfunction, or when an aircraft must immediately depart the area due to issues such as fuel constraints, inclement weather, and in-flight emergencies. In these cases, the sonobuoy will self-scuttle using the secondary or tertiary method.

(ix) The Navy shall ensure all payloads are accounted for. Explosive source sonobuoys (AN/SSQ–110A) that cannot be scuttled shall be reported as unexploded ordnance via voice communications while airborne, then upon landing via naval message.

(x) Marine mammal monitoring shall continue until out of own-aircraft sensor range.

(16) The Navy shall implement the ''Stranding Response Plan for Major Navy Training Exercises in the MIRC'' (available at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*), which is incorporated herein by reference, including the following measures:

(i) *Shutdown Procedures*. When an Uncommon Stranding Event (USE—defined in § 216.271) occurs during a Major Training Exercise (MTE) (as defined in the Stranding Plan, meaning including Multi-strike group exercises, Joint Expeditionary exercises, and Marine Air Ground Task Force exercises in the MIRC), the Navy shall implement the procedures described in this section.

(A) The Navy shall implement a Shutdown (as defined in the Stranding Response Plan for MIRC) when advised by a NMFS Office of Protected Resources Headquarters Senior Official designated in the MIRC Stranding Communication Protocol that a USE (as defined in the Stranding Response Plan for MIRC) involving live animals has been identified and that at least one live animal is located in the water. NMFS and Navy shall communicate, as needed, regarding the identification of the USE and the potential need to implement shutdown procedures.

(B) Any shutdown in a given area shall remain in effect in that area until NMFS advises the Navy that the subject(s) of the USE at that area die or

are euthanized, or that all live animals involved in the USE at that area have left the area (either of their own volition or herded).

(C) If the Navy finds an injured or dead marine mammal floating at sea during an MTE, the Navy shall notify NMFS immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s) including carcass condition if the animal(s) is/are dead, location, time of first discovery, observed behaviors (if alive), and photo or video of the animals (if available). Based on the information provided, NMFS shall determine if, and advise the Navy whether, a modified shutdown is appropriate on a case-by-case basis.

(D) In the event, following a USE, that: (a) Qualified individuals are attempting to herd animals back out to the open ocean and animals are not willing to leave, or (b) animals are seen repeatedly heading for the open ocean but turning back to shore, NMFS and the Navy shall coordinate (including an investigation of other potential anthropogenic stressors in the area) to determine if the proximity of MFAS/HFAS activities or explosive detonations, though farther than 14 nm from the distressed animal(s), is likely decreasing the likelihood that the animals return to the open water. If so, NMFS and the Navy shall further coordinate to determine what measures are necessary to further minimize that likelihood and implement those measures as appropriate.

(ii) Within 72 hours of NMFS notifying the Navy of the presence of a USE, the Navy shall provide available information to NMFS (per the MIRC Communication Protocol) regarding the location, number and types of acoustic/explosive sources, direction and speed of units using MFAS/HFAS, and marine mammal sightings information associated with training activities occurring within 80 nm (148 km) and 72 hours prior to the USE event. Information not initially available regarding the 80 nm (148 km), 72 hours, period prior to the event shall be provided as soon as it becomes available. The Navy shall provide NMFS investigative teams with additional relevant unclassified information as requested, if available.

(b) [Reserved]

§ 218.105 Requirements for monitoring and reporting.

(a) *General Notification of Injured or Dead Marine Mammals.* Navy personnel shall ensure that NMFS is notified immediately ((see Communication Plan) or as soon as clearance procedures allow) if an injured, stranded, or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy training exercise utilizing MFAS, HFAS, or underwater explosive detonations. The Navy will provide NMFS with the name of species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video of the animal(s) (if available). In the event that an injured, stranded, or dead marine mammal is found by the Navy that is not in the vicinity of, or during or shortly after, MFAS, HFAS, or underwater explosive detonations, the Navy will report the same information as listed above as soon as operationally feasible and clearance procedures allow.

(b) *General Notification of Ship Strike.* In the event of a ship strike by any Navy vessel, at any time or place, the Navy shall do the following:

(1) Immediately report to NMFS the species identification (if known), location (lat/long) of the animal (or the strike if the animal has disappeared), and whether the animal is alive or dead, or whether its status is unknown.

(2) Report to NMFS as soon as operationally feasible the size and length of animal, an estimate of the injury status (ex., dead, injured but alive, injured and moving, unknown, etc.), vessel class/type and operational status.

(3) Report to NMFS the vessel length, speed, and heading as soon as feasible.

(4) Provide NMFS a photo or video of the animal(s), if equipment is available.

(c) The Navy must conduct all monitoring and/or research required under the Letter of Authorization, including

abiding by the annual MIRC Monitoring Plan. (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*)

(d) *Report on Monitoring required in paragraph (c) of this section*. The Navy shall submit a report annually describing the implementation and results of the monitoring required in paragraph (c) of this section. Required submission date will be identified each year in the LOA. Navy will standardize data collection methods across ranges to allow for comparison in different geographic locations.

(e) *Sonar Exercise Notification*. The Navy shall submit to the NMFS Office of Protected Resources (specific contact information to be provided in LOA) either an electronic (preferably) or verbal report within fifteen calendar days after the completion of any Major Training Exercise for Reporting (MTER) indicating:

(1) Location of the exercise;

(2) Beginning and end dates of the exercise; and

(3) Type of exercise.

(f) *Annual MIRC Report*. The Navy will submit an Annual Exercise MIRC Report every year. This report shall contain the subsections and information indicated below.

(1) MFAS/HFAS Major Training Exercises—This section shall contain the following information for the following Coordinated and Strike Group exercises, which for simplicity will be referred to as MTERs: Joint Multi-strike Group Exercises; Joint Expeditionary Exercises; and Marine Air Ground Task Force MIRC:

(i) Exercise Information (for each MTER):

(A) Exercise designator;

(B) Date that exercise began and ended;

(C) Location;

(D) Number and types of active sources used in the exercise;

(E) Number and types of passive acoustic sources used in exercise;

(F) Number and types of vessels, aircraft, etc., participating in exercise;

(G) Total hours of observation by watchstanders;

(H) Total hours of all active sonar source operation;

(I) Total hours of each active sonar source (along with explanation of how hours are calculated for sources typically quantified in alternate way (buoys, torpedoes, etc.)); and

(J) Wave height (high, low, and average during exercise).

(ii) Individual marine mammal sighting info (for each sighting in each MTER):

(A) Location of sighting;

(B) Species (if not possible—indication of whale/dolphin/pinniped);

(C) Number of individuals;

(D) Calves observed (y/n);

(E) Initial Detection Sensor;

(F) Indication of specific type of platform observation made from (including, for example, what type of surface vessel, *i.e.*, FFG, DDG, or CG);

(G) Length of time observers maintained visual contact with marine mammal(s);

(H) Wave height (in feet);

(I) Visibility;

(J) Sonar source in use (y/n);

(K) Indication of whether animal is <200 yd, 200–500 yd, 500–1,000 yd, 1,000–2,000 yd, or >2,000 yd from sonar source in paragraph (f)(1)(i)(J) of this section;

(L) *Mitigation Implementation*. Whether operation of sonar sensor was delayed, or sonar was powered or shut down, and how long the delay was;

(M) If source in use in paragraph (f)(1)(i)(J) is hullmounted, true bearing of animal from ship, true direction of ship's travel, and estimation of animal's motion relative to ship (opening, closing, parallel); and

(N) *Observed behavior*. Watchstanders shall describe, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.).

(iii) An evaluation (based on data gathered during all of the MTERs) of the effectiveness of mitigation measures designed to avoid exposing marine mammals to MFAS. This evaluation shall identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.

(2) *ASW Summary*. This section shall include the following information as summarized from non-major training exercises (unit-level exercises, such as TRACKEXs):

(i) *Total Hours*. Total annual hours of each type of sonar source (along with explanation of how hours are calculated for sources typically quantified in alternate way (buoys, torpedoes, etc.));

(ii) *Cumulative Impacts*. To the extent practicable, the Navy, in coordination with NMFS, shall develop and implement a method of annually reporting non-major training (*i.e.*, ULT) utilizing hull-mounted sonar. The report shall present an annual (and seasonal, where practicable) depiction of non-major training exercises geographically across MIRC. The Navy shall include (in the MIRC annual report) a brief annual progress update on the status of the development of an effective and unclassified method to report this information until an agreed-upon (with NMFS) method has been developed and implemented.

(3) *Sinking Exercises (SINKEXs)*. This section shall include the following information for each SINKEX completed that year:

(i) Exercise info:

(A) Location;

(B) Date and time exercise began and ended;

(C) Total hours of observation by watchstanders before, during, and after exercise;

(D) Total number and types of rounds expended/explosives detonated;

(E) Number and types of passive acoustic sources used in exercise;

(F) Total hours of passive acoustic search time;

(G) Number and types of vessels, aircraft, etc., participating in exercise;

(H) Wave height in feet (high, low and average during exercise); and

(I) Narrative description of sensors and platforms utilized for marine mammal detection and timeline illustrating how marine mammal detection was conducted.

(ii) Individual marine mammal observation during SINKEX (by Navy lookouts) information:

(A) Location of sighting;

(B) Species (if not possible—indication of whale/dolphin/pinniped);

(C) Number of individuals;

(D) Calves observed (y/n);

(E) Initial detection sensor;

(F) Length of time observers maintained visual contact with marine mammal;

(G) Wave height;

(H) Visibility;

(I) Whether sighting was before, during, or after detonations/exercise, and how many minutes before or after;

(J) Distance of marine mammal from actual detonations (or target spot if not yet detonated)—use four categories to define distance:

(*1*) The modeled injury threshold radius for the largest explosive used in that exercise type in that OPAREA (TBD m for SINKEX in MIRC);

(*2*) The required exclusion zone (1 nm for SINKEX in MIRC);

(*3*) The required observation distance (if different than the exclusion zone (2 nm for SINKEX in MIRC); and

(*4*) Greater than the required observed distance. For example, in this case, the observer shall indicate if <TBD m, from 426 m–1 nm, from 1 nm–2 nm, and >2 nm.

(K) Observed behavior—Watchstanders will describe, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming etc.), including speed and direction.

(L) Resulting mitigation implementation—Indicate whether explosive detonations were delayed, ceased, modified, or not modified due to marine mammal presence and for how long.

(M) If observation occurs while explosives are detonating in the water, indicate munitions type in use at time of marine mammal detection.

(4) Improved Extended Echo-Ranging System (IEER)/Advanced Extended Echo-Ranging (AEER) Summary:

(i) Total number of IEER and AEER events conducted in MIRC;

(ii) Total expended/detonated rounds (buoys); and

(iii) Total number of self-scuttled IEER rounds.

(5) *Explosives Summary*. The Navy is in the process of improving the methods used to track explosive use to provide increased granularity. To the extent practicable, the Navy shall provide the information described below

for all of their explosive exercises. Until the Navy is able to report in full the information below, they will provide an annual update on the Navy's explosive tracking methods, including improvements from the previous year.

(i) Total annual number of each type of explosive exercise (of those identified as part of the ''activity'' in this Subpart) conducted in MIRC; and

(ii) Total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive type.

(g) *MIRC 5-year Comprehensive Report.* The Navy shall submit to NMFS a draft report that analyzes and summarizes all of the multi-year marine mammal information gathered during ASW and explosive exercises for which annual reports are required (Annual MIRC Exercise Reports and MIRC Monitoring Plan Reports). This report will be submitted at the end of the fourth year of the rule (November 2014), covering activities that have occurred through July 15, 2014.

(h) *Comprehensive National ASW Report.* By June, 2014, the Navy shall submit a draft National Report that analyzes, compares, and summarizes the active sonar data gathered (through January 1, 2014) from the watchstanders and pursuant to the implementation of the Monitoring Plans for the Northwest Training Range Complex, the Southern California Range Complex, the Atlantic Fleet Active Sonar Training, the Hawaii Range Complex, the Mariana Islands Range Complex, and the Gulf of Alaska.

(i) The Navy shall comply with the 2009 Integrated Comprehensive Monitoring Program (ICMP) Plan and continue to improve the program in consultation with NMFS. Changes and improvements to the program made during 2010 (as prescribed in the 2009 ICMP and deemed appropriate by the Navy and NMFS) will be described in an updated 2010 ICMP and submitted to NMFS by October 31, 2010, for review. An updated 2010 ICMP will be finalized by December 31, 2010.

§ 218.106 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. Citizen (as defined by § 216.103) conducting the activity identified in § 218.100(c) (*i.e.*, the Navy) must apply for and obtain either an initial Letter of Authorization in accordance with § 218.107 or a renewal under § 218.108.

§ 218.107 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the periods of validity of this subpart, but may be renewed or modified sooner subject to the renewal conditions in § 218.108 and the modification conditions in § 218.109.

(b) Each Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization shall be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

[75 FR 45547, Aug. 3, 2010, as amended at 77 FR 4924, Feb. 1, 2012]

§ 218.108 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under § 216.106 of this chapter and § 218.107 for the activity identified in § 218.100(c) will be renewed upon:

(1) Notification to NMFS that the activity described in the application submitted under § 218.106 will be undertaken and that there will not be a substantial modification to the desired work, mitigation, or monitoring undertaken during the upcoming period of validity;

(2) Receipt of the monitoring reports and notifications within the timeframes indicated in the previous LOA; and

(3) A determination by NMFS that the mitigation, monitoring and reporting measures required under § 218.104 and the Letter of Authorization issued under § 216.106 of this chapter and

§ 218.107, were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §§ 216.106 and 218.208 indicates that a substantial modification, as determined by NMFS, to the described work, mitigation or monitoring undertaken during the upcoming season will occur, NMFS will provide the public a period of 30 days for review and comment on the request.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER.

(d) *Adaptive Management.* NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the Navy's monitoring from the previous year (either from the MIRC Study Area or other locations).

(2) Findings of the Monitoring Workshop that the Navy will convene in 2011.

(3) Compiled results of Navy funded research and development (R&D) studies (presented pursuant to the Integrated Comprehensive Monitoring Plan).

(4) Results from specific stranding investigations (either from the MIRC Study Area or other locations, and involving coincident MFAS/HFAS or explosives training or not involving coincident use).

(5) Results from the Long Term Prospective Study described in the preamble to these regulations.

(6) Results from general marine mammal and sound research.

(7) Any information which reveals that marine mammals may have been taken in a manner, extent or number not anticipated by these regulations or subsequent Letters of Authorization.

[75 FR 45547, Aug. 3, 2010, as amended at 77 FR 4924, Feb. 1, 2012]

§ 218.109 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to §§ 216.106 and 218.107 of this chapter and subject to the provisions of this subpart, shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 218.108 without modification (except for the period of validity) is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.100(b), a Letter of Authorization issued pursuant to §§ 216.106 and 218.107 of this chapter may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subpart M—Taking and Importing Marine Mammals; U.S. Navy's Northwest Training Range Complex (NWTRC)

SOURCE: 75 FR 69319, Nov. 10, 2010, unless otherwise noted.

EFFECTIVE DATE NOTE: At 75 FR 69319, Nov. 10, 2010, subpart M was added, effective Nov. 9, 2010, through Nov. 9, 2015.

§ 218.110 Specified activity and specified geographical area.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the Offshore area of the Northwest Training Range Complex (NWTRC) (as depicted in Figure ES–1 in the Navy's Draft Environmental Impact Statement for NWTRC), which is bounded by 48°30′ N. lat.; 130°00′ W. long.; 40°00′ N. lat.; and on the east by 124°00′ W. long or by the shoreline where the shoreline extends west of 124°00′ W. long (excluding the Strait of Juan de Fuca (east of 124°40′ W. long), which is not included in the Offshore area).

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) The use of the following mid-frequency active sonar (MFAS) and high frequency active sonar (HFAS) sources, or similar sources, for Navy training, maintenance, or research, development, testing, and evaluation (RDT&E) (estimated amounts below):

(i) AN/SQS–53 (hull-mounted active sonar)—up to 215 hours over the course of 5 years (an average of 43 hours per year);

(ii) AN/SQS–56 (hull-mounted active sonar)—up to 325 hours over the course of 5 years (an average of 65 hours per year);

(iii) SSQ–62 (Directional Command Activated Sonobuoy System (DICASS) sonobuoys)—up to 4430 sonobuoys over the course of 5 years (an average of 886 sonobuoys per year)

(iv) MK–48 (heavyweight torpedoes)—up to 10 torpedoes over the course of 5 years (an average of 2 torpedoes per year);

(v) AN/BQS–15 (mine detection and submarine navigational sonar)—up to 210 hours over the course of 5 years (an average of 42 hours per year);

(vi) AN/SSQ–125 (AEER)—up to 745 buoys deployed over the course of 5 years (total combined with the AN/SSQ–110A (IEER)) (an average of 149 per year);

(vii) Range Pingers—up to 900 hours over the course of 5 years (an average of 180 hours per year); and

(viii) PUTR Uplink—up to 750 hours over the course of 5 years (an average of 150 hours per year).

(2) The detonation of the underwater explosives indicated in paragraph (c)(2)(i) of this section, or similar explosives, conducted as part of the training exercises indicated in paragraph (c)(2)(ii) of this section:

(i) Underwater Explosives:

(A) 5″ Naval Gunfire (9.5 lbs);

(B) 76 mm rounds (1.6 lbs);

(C) Maverick (78.5 lbs);

(D) Harpoon (448 lbs);

(E) MK–82 (238 lbs);

(F) MK–48 (851 lbs);

(G) Demolition Charges (2.5 lbs);

(H) AN/SSQ–110A (IEER explosive sonobuoy—5 lbs);

(I) HARM;

(J) Hellfire;

(K) SLAM; and

(L) GBU 10, 12, and 16.

(ii) Training Events:

(A) Surface-to-surface Gunnery Exercises (S–S GUNEX)—up to 1700 exercises over the course of 5 years (an average of 340 per year).

(B) Bombing Exercises (BOMBEX)—up to 150 exercises over the course of 5 years (an average of 30 per year).

(C) Sinking Exercises (SINKEX)—up to 10 exercises over the course of 5 years (an average of 2 per year).

(D) Extended Echo Ranging and Improved Extended Echo Ranging (EER/IEER) Systems—up to 60 exercises (total combined with the AN/SSQ–125A (AEER)) over the course of 5 years (an average of 12 per year).

(3) The taking of marine mammals may also be authorized in an LOA for the activities and sources listed in § 218.110(c)(1) should the amounts (*i.e.*, hours, dips, number of exercises) vary from those estimated in § 218.110(c)(2), provided that the variation does not result in exceeding the amount of take indicated in § 218.112(c).

[75 FR 45547, Aug. 3, 2010, as amended at 77 FR 4924, Feb. 1, 2012]

§ 218.111 Effective dates.

Amended regulations are effective February 1, 2012, through November 9, 2015.

[77 FR 4924, Feb. 1, 2012]

§ 218.112 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 218.117

of this chapter, the Holder of the Letter of Authorization (hereinafter ''Navy'') may incidentally, but not intentionally, take marine mammals within the area described in § 218.110(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) [Reserved]

(c) The incidental take of marine mammals under the activities identified in § 218.110(c) is limited to the species listed in paragraphs (c)(4) and (5) of this section by the indicated method of take and the indicated number of times (estimated based on the authorized amounts of sound source operation), but with the following allowances for annual variation in sonar activities:

(1) In any given year, annual take, by harassment, of any species of marine mammal may not exceed the amount indentified in paragraph (c)(4) and (5) of this section, for that species by more than 25 percent (a post-calculation/estimation of which must be provided in the annual LOA application);

(2) In any given year, annual take by harassment of all marine mammal species combined may not exceed the estimated total of all species combined, indicated in paragraphs (c)(4) and (5), by more than 10 percent; and

(3) Over the course of the effective period of this subpart, total take, by harassment, of any species may not exceed the 5-year amounts indicated in paragraphs (c)(4) and (5) by more than 10 percent. A running calculation/estimation of takes of each species over the course of the years covered by the rule must be maintained.

(4) Level B Harassment:

(i) Mysticetes:

(A) Humpback whale (*Megaptera novaeangliae*)—75 (an average of 15 annually);

(B) Fin whale (*Balaenoptera physalus*)—720 (an average of 144 annually);

(C) Blue whale (*Balaenoptera musculus*)—95 (an average of 19 annually);

(D) Sei whale (*Balaenoptera borealis)*—5 (an average of 1 annually);

(E) Minke whale (*Balaenoptera acutorostrata*)—45 (an average of 9 annually); and

(F) Gray whale (*Eschrichtius robustus*)—20 (an average of 4 annually).

(ii) Odontocetes:

(A) Sperm whales (*Physeter macrocephalus*)—635 (an average of 127 annually);

(B) Killer whale (*Orcinus orca*)—70 (an average of 14 annually);

(C) Pygmy or dwarf sperm whales (*Kogia breviceps or Kogia sima*)—20 (an average of 4 annually);

(D) Mesoplodont beaked whales—75 (an average of 15 annually);

(E) Cuvier's beaked whales (*Ziphius cavirostris*)—70 (an average of 14 annually);

(F) Baird's beaked whales (*Berardius bairdii*)—65 (an average of 13 annually);

(G) Short-finned pilot whale (*Globicephala macrorynchus*)—10 (an average of 2 annually);

(H) Striped dolphin (*Stenella coeruleoalba*)—200 (an average of 40 annually);

(I) Short-beaked common dolphin (*Globicephala macrorhynchus*)—6280 (an average of 1256 annually);

(J) Risso's dolphin (*Grampus griseus*)—500 (an average of 100 annually);

(K) Northern right whale dolphin (*Lissodelphis borealis*)—3705 (an average of 741 annually);

(L) Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)—2855 (an average of 571 annually);

(M) Dall's porpoise (*Phocoenoides dalli*)—23760 (an average of 4752 annually); and

(N) Harbor Porpoise (*Phocoena phocoena*)—596370 (an average of 119274 annually).

(ii) Pinnipeds:

(A) Northern elephant seal (*Mirounga angustirostris*)—1890 (an average of 378 annually);

(B) Pacific harbor seal (*Phoca vitulina*)—2930 (an average of 586 annually);

(C) California sea lion (*Zalophus californianus*)—1430 (an average of 286 annually);

(D) Northern fur seal (*Callorhinus ursinus*)—6825 (an average of 1365 annually); and

(E) Steller sea lion (*Eumetopias jubatus*)—600 (an average of 120 annually).

(5) Level A Harassment:

(i) Fin whale—5 (an average of 1 annually);

(ii) Sperm whale—5 (an average of 1 annually);

(iii) Dall's Porpoise—15 (an average of 3 annually);

(iv) Harbor Porpoise—5 (an average of 1 annually);

(v) Northern right whale dolphin—5 (an average of 1 annually);

(vi) Short-beaked common dolphin—10 (an average of 2 annually);

(vii) Northern elephant seal—10 (an average of 2 annually);

(viii) Pacific harbor seal—5 (an average of 1 annually); and

(ix) Northern fur seal—5 (an average of 1 annually).

EDITORIAL NOTE: At 75 FR 69319, Nov. 10, 2010, subpart M was added; at that time, § 218.112 was added with two paragraphs (a)(4)(ii).

§ 218.113 Prohibitions.

No person in connection with the activities described in § 218.110 may:

(a) Take any marine mammal not specified in § 218.112(c);

(b) Take any marine mammal specified in § 218.112(c) other than by incidental take as specified in §§ 218.112(c)(1) and (c)(2);

(c) Take a marine mammal specified in § 218.112(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under §§ 216.106 and 218.117 of this chapter.

§ 218.114 Mitigation.

(a) When conducting training and utilizing the sound sources or explosives identified in § 218.110(c), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 218.117 of this chapter must be implemented. These mitigation measures include, but are not limited to:

(1) Navy's General Maritime Measures for All Training at Sea:

(i) Personnel Training (for all Training Types):

(A) All commanding officers (COs), executive officers (XOs), lookouts, Officers of the Deck (OODs), junior OODs (JOODs), maritime patrol aircraft aircrews, and Anti-submarine Warfare (ASW)/Mine Warfare (MIW) helicopter crews shall complete the NMFS-approved Marine Species Awareness Training (MSAT) by viewing the U.S. Navy MSAT digital versatile disk (DVD). All bridge lookouts shall complete both parts one and two of the MSAT; part two is optional for other personnel.

(B) Navy lookouts shall undertake extensive training in order to qualify as a watchstander in accordance with the Lookout Training Handbook (Naval Education and Training Command [NAVEDTRA] 12968–D) available at *https://portal.navfac.navy.mil/go/navytraining-env-docs*.

(C) Lookout training shall include on-the-job instruction under the supervision of a qualified, experienced lookout. Following successful completion of this supervised training period, lookouts shall complete the Personal Qualification Standard Program, certifying that they have demonstrated the necessary skills (such as detection and reporting of partially submerged objects). Personnel being trained as lookouts can be counted among required lookouts as long as supervisors monitor their progress and performance.

(D) Lookouts shall be trained in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of protective measures if marine species are spotted.

(ii) Operating Procedures and Collision Avoidance:

(A) Prior to major exercises, a Letter of Instruction, Mitigation Measures Message or Environmental Annex to the Operational Order shall be issued to further disseminate the personnel training requirement and general marine species protective measures.

(B) COs shall make use of marine species detection cues and information to limit interaction with marine species to the maximum extent possible consistent with safety of the ship.

(C) While underway, surface vessels shall have at least two lookouts with binoculars; surfaced submarines shall have at least one lookout with binoculars. Lookouts already posted for safety of navigation and man-overboard precautions may be used to fill this requirement. As part of their regular duties, lookouts will watch for and report to the OOD the presence of marine mammals.

(D) On surface vessels equipped with a multi-function active sensor, pedestal mounted ''Big Eye'' (20 × 110) binoculars shall be properly installed and in good working order to assist in the detection of marine mammals in the vicinity of the vessel.

(E) Personnel on lookout shall employ visual search procedures employing a scanning methodology in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

(F) After sunset and prior to sunrise, lookouts shall employ Night Lookouts Techniques in accordance with the Lookout Training Handbook. (NAVEDTRA 12968–D).

(G) While in transit, naval vessels shall be alert at all times, use extreme caution, and proceed at a ''safe speed'' so that the vessel can take proper and effective action to avoid a collision with any marine animal and can be stopped within a distance appropriate to the prevailing circumstances and conditions.

(H) When marine mammals have been sighted in the area, Navy vessels shall increase vigilance and take reasonable and practicable actions to avoid collisions and activities that might result in close interaction of naval assets and marine mammals. Actions may include changing speed and/or direction and are dictated by environmental and other conditions (e.g., safety, weather).

(I) Naval vessels shall maneuver to keep at least 1,500 ft (500 yds) away from any observed whale in the vessel's path and avoid approaching whales head-on. These requirements do not apply if a vessel's safety is threatened, such as when change of course will create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Restricted maneuverability includes, but is not limited to, situations when vessels are engaged in dredging, submerged activities, launching and recovering aircraft or landing craft, minesweeping activities, replenishment while underway and towing activities that severely restrict a vessel's ability to deviate course. Vessels will take reasonable steps to alert other vessels in the vicinity of the whale. Given rapid swimming speeds and maneuverability of many dolphin species, naval vessels would maintain normal course and speed on sighting dolphins unless some condition indicated a need for the vessel to maneuver.

(J) Navy aircraft participating in exercises at sea shall conduct and maintain, when operationally feasible and safe, surveillance for marine mammals as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties. Marine mammal detections shall be immediately reported to assigned Aircraft Control Unit for further dissemination to ships in the vicinity of the marine species as appropriate when it is reasonable to conclude that the course of the ship will likely result in a closing of the distance to the detected marine mammal.

(K) All vessels shall maintain logs and records documenting training operations should they be required for event reconstruction purposes. Logs and records will be kept for a period of 30 days following completion of a major training exercise.

(2) Navy's Measures for MFAS Operations:

(i) Personnel Training (for MFAS Operations):

(A) All lookouts onboard platforms involved in ASW training events shall review the NMFS-approved Marine Species Awareness Training material prior to use of mid-frequency active sonar.

(B) All COs, XOs, and officers standing watch on the bridge shall have reviewed the Marine Species Awareness Training material prior to a training event employing the use of mid-frequency active sonar.

(C) Navy lookouts shall undertake extensive training in order to qualify as a watchstander in accordance with the Lookout Training Handbook (Naval

Educational Training [NAVEDTRA], 12968–D).

(D) Lookout training shall include on-the-job instruction under the supervision of a qualified, experienced watchstander. Following successful completion of this supervised training period, lookouts shall complete the Personal Qualification Standard program, certifying that they have demonstrated the necessary skills (such as detection and reporting of partially submerged objects). This does not forbid personnel being trained as lookouts from being counted as those listed in previous measures so long as supervisors monitor their progress and performance.

(E) Lookouts shall be trained in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of mitigation measures if marine species are spotted.

(ii) Lookout and Watchstander Responsibilities:

(A) On the bridge of surface ships, there shall always be at least three people on watch whose duties include observing the water surface around the vessel.

(B) All surface ships participating in ASW training events shall, in addition to the three personnel on watch noted previously, have at all times during the exercise at least two additional personnel on watch as marine mammal lookouts.

(C) Personnel on lookout and officers on watch on the bridge shall have at least one set of binoculars available for each person to aid in the detection of marine mammals.

(D) On surface vessels equipped with mid-frequency active sonar, pedestal mounted ''Big Eye'' (20 × 110) binoculars shall be present and in good working order to assist in the detection of marine mammals in the vicinity of the vessel.

(E) Personnel on lookout shall employ visual search procedures employing a scanning methodology in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

(F) After sunset and prior to sunrise, lookouts shall employ Night Lookouts Techniques in accordance with the Lookout Training Handbook.

(G) Personnel on lookout shall be responsible for reporting all objects or anomalies sighted in the water (regardless of the distance from the vessel) to the Officer of the Deck, since any object or disturbance (*e.g.*, trash, periscope, surface disturbance, discoloration) in the water may be indicative of a threat to the vessel and its crew or indicative of a marine species that may need to be avoided as warranted.

(iii) Operating Procedures (for MFAS Operations):

(A) Navy will distribute final mitigation measures contained in the LOA and the Incidental take statement of NMFS' biological opinion to the Fleet.

(B) COs shall make use of marine species detection cues and information to limit interaction with marine species to the maximum extent possible consistent with safety of the ship.

(C) All personnel engaged in passive acoustic sonar operation (including aircraft, surface ships, or submarines) shall monitor for marine mammal vocalizations and report the detection of any marine mammal to the appropriate watch station for dissemination and appropriate action.

(D) During mid-frequency active sonar operations, personnel shall utilize all available sensor and optical systems (such as night vision goggles) to aid in the detection of marine mammals.

(E) Navy aircraft participating in exercises at sea shall conduct and maintain, when operationally feasible and safe, surveillance for marine species of concern as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.

(F) Aircraft with deployed sonobuoys shall use only the passive capability of sonobuoys when marine mammals are detected within 200 yds (183 m) of the sonobuoy.

(G) Marine mammal detections shall be immediately reported to assigned Aircraft Control Unit for further dissemination to ships in the vicinity of the marine species as appropriate where it is reasonable to conclude that the course of the ship will likely result in a closing of the distance to the detected marine mammal.

(H) Safety Zones—When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically) the Navy shall ensure that sonar transmission levels are limited to at least 6 dB below normal operating levels if any detected marine mammals are within 1,000 yards (914 m) of the sonar dome (the bow).

(*1*) Ships and submarines shall continue to limit maximum transmission levels by this 6-dB factor until the animal has been seen to leave the 1,000-yd safety zone, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yds (1829 m) beyond the location of the last detection.

(*2*) When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically) the Navy shall ensure that sonar transmission levels are limited to at least 10 dB below normal operating levels if any detected marine mammals are within 500 yards (497 m) of the sonar dome (the bow). Ships and submarines shall continue to limit maximum ping levels by this 10-dB factor until the animal has been seen to leave the 500-yd safety zone, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yds (1829 m) beyond the location of the last detection.

(*3*) When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically) the Navy shall ensure that sonar transmission ceases if any detected marine mammals are within 200 yards (183 m) of the sonar dome (the bow). Sonar shall not resume until the animal has been seen to leave the 200-yd safety zone, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yds (1829 m) beyond the location of the last detection.

(*4*) Special conditions applicable for dolphins and porpoises only: If, after conducting an initial maneuver to avoid close quarters with dolphins or porpoises, the OOD concludes that dolphins or porpoises are deliberately closing to ride the vessel's bow wave, no further mitigation actions are necessary while the dolphins or porpoises continue to exhibit bow wave riding behavior.

(*5*) If the need for power-down should arise as detailed in ''Safety Zones'' above, the Navy shall follow the requirements as though they were operating at 235 dB—the normal operating level (*i.e.*, the first power-down will be to 229 dB, regardless of at what level above 235 dB active sonar was being operated).

(I) Prior to start up or restart of active sonar, operators will check that the Safety Zone radius around the sound source is clear of marine mammals.

(J) Active sonar levels (generally)—Navy shall operate active sonar at the lowest practicable level, not to exceed 235 dB, except as required to meet tactical training objectives.

(K) Helicopters shall observe/survey the vicinity of an ASW training event for 10 minutes before the first deployment of active (dipping) sonar in the water.

(L) Helicopters shall not dip their active sonar within 200 yds (183 m) of a marine mammal and shall cease pinging if a marine mammal closes within 200 yds of the sound source (183 m) after pinging has begun.

(M) Submarine sonar operators shall review detection indicators of close-aboard marine mammals prior to the commencement of ASW training events involving active mid-frequency sonar.

(N) Night vision goggles shall be available to all ships and air crews, for use as appropriate.

(3) Navy's Measures for Underwater Detonations:

(i) Surface-to-Surface Gunnery (non-explosive rounds)

(A) A 200-yd (183 m) radius buffer zone shall be established around the intended target.

(B) From the intended firing position, trained lookouts shall survey the buffer zone for marine mammals prior to commencement and during the exercise as long as practicable.

(C) If applicable, target towing vessels shall maintain a lookout. If a marine mammal is sighted in the vicinity of the exercise, the tow vessel shall immediately notify the firing vessel in order to secure gunnery firing until the area is clear.

(D) The exercise shall be conducted only when the buffer zone is visible and

marine mammals are not detected within the target area and the buffer zone.

(ii) Surface-to-Air Gunnery (explosive and non-explosive rounds)

(A) Vessels shall orient the geometry of gunnery exercises in order to prevent debris from falling in the area of sighted marine mammals.

(B) Vessels will attempt to recover any parachute deploying aerial targets to the extent practicable (and their parachutes if feasible) to reduce the potential for entanglement of marine mammals.

(C) For exercises using targets towed by a vessel or aircraft, target towing vessel/aircraft shall maintain a lookout. If a marine mammal is sighted in the vicinity of the exercise, the tow aircraft shall immediately notify the firing vessel in order to secure gunnery firing until the area is clear.

(iii) Air-to-Surface At-sea Bombing Exercises (explosive and non-explosive):

(A) If surface vessels are involved, trained lookouts shall survey for floating kelp and marine mammals. Ordnance shall not be targeted to impact within 1,000 yds (914 m) of known or observed floating kelp or marine mammals.

(B) A 1,000 yd (914 m) radius buffer zone shall be established around the intended target.

(C) Aircraft shall visually survey the target and buffer zone for marine mammals prior to and during the exercise. The survey of the impact area shall be made by flying at 1,500 ft (457 m) or lower, if safe to do so, and at the slowest safe speed. Release of ordnance through cloud cover is prohibited: aircraft must be able to actually see ordnance impact areas. Survey aircraft should employ most effective search tactics and capabilities.

(D) The exercise will be conducted only if marine mammals are not visible within the buffer zone.

(iv) Air-to-Surface Missile Exercises (explosive and non-explosive):

(A) Ordnance shall not be targeted to impact within 1,800 yds (1646 m) of known or observed floating kelp.

(B) Aircraft shall visually survey the target area for marine mammals. Visual inspection of the target area shall be made by flying at 1,500 ft (457 m) or lower, if safe to do so, and at slowest safe speed. Firing or range clearance aircraft must be able to actually see ordnance impact areas. Explosive ordnance shall not be targeted to impact within 1,800 yds (1646 m) of sighted marine mammals.

(v) Demolitions, Mine Warfare, and Mine Countermeasures (up to a 2.5-lb charge):

(A) Exclusion Zones—All Mine Warfare and Mine Countermeasures Operations involving the use of explosive charges must include exclusion zones for marine mammals to prevent physical and/or acoustic effects to those species. These exclusion zones shall extend in a 700-yard arc radius around the detonation site.

(B) Pre-Exercise Surveys—For Demolition and Ship Mine Countermeasures Operations, pre-exercise surveys shall be conducted within 30 minutes prior to the commencement of the scheduled explosive event. The survey may be conducted from the surface, by divers, and/or from the air, and personnel shall be alert to the presence of any marine mammal. Should such an animal be present within the survey area, the explosive event shall not be started until the animal voluntarily leaves the area. The Navy will ensure the area is clear of marine mammals for a full 30 minutes prior to initiating the explosive event. Personnel will record any marine mammal observations during the exercise as well as measures taken if species are detected within the exclusion zone.

(C) Post-Exercise Surveys—Surveys within the same radius shall also be conducted within 30 minutes after the completion of the explosive event.

(D) Reporting—If there is evidence that a marine mammal may have been stranded, injured or killed by the action, Navy training activities shall be immediately suspended and the situation immediately reported by the participating unit to the Officer in Charge of the Exercise (OCE), who will follow Navy procedures for reporting the incident to Commander, Pacific Fleet, Commander, Navy Region Northwest, Environmental Director, and the chain-of-command. The situation shall

also be reported to NMFS (see Stranding Plan for details).

(vi) Sink Exercise:

(A) All weapons firing shall be conducted during the period 1 hour after official sunrise to 30 minutes before official sunset.

(B) An exclusion zone with a radius of 1.5 nm shall be established around each target. This 1.5 nm zone includes a buffer of 0.5 nm to account for errors, target drift, and animal movement. In addition to the 1.5 nm exclusion zone, a further safety zone, which extends from the exclusion zone at 1.5 nm out an additional 0.5 nm, shall be surveyed. Together, the zones extend out 2 nm (3.7 km) from the target.

(C) A series of surveillance overflights shall be conducted within the 2-nm zone around the target, prior to and during the exercise, when feasible. Survey protocol shall be as follows:

(*1*) Overflights within the 2-nm zone around the target shall be conducted in a manner that optimizes the surface area of the water observed. This may be accomplished through the use of the Navy's Search and Rescue Tactical Aid, which provides the best search altitude, ground speed, and track spacing for the discovery of small, possibly dark objects in the water based on the environmental conditions of the day. These environmental conditions include the angle of sun inclination, amount of daylight, cloud cover, visibility, and sea state.

(*2*) All visual surveillance activities shall be conducted by Navy personnel trained in visual surveillance. At least one member of the mitigation team is required to have completed the Navy's marine mammal training program for lookouts.

(*3*) In addition to the overflights, the 2-nm zone around the target shall be monitored by passive acoustic means, when assets are available. This passive acoustic monitoring would be maintained throughout the exercise. Potential assets include sonobuoys, which can be utilized to detect any vocalizing marine mammals (particularly sperm whales) in the vicinity of the exercise. The sonobuoys shall be re-seeded as necessary throughout the exercise. Additionally, if submarines are present, passive sonar onboard shall be utilized to detect any vocalizing marine mammals in the area. The OCE would be informed of any aural detection of marine mammals and would include this information in the determination of when it is safe to commence the exercise.

(*4*) On each day of the exercise, aerial surveillance of the 2-nm zone around the target shall commence 2 hours prior to the first firing.

(*5*) The results of all visual, aerial, and acoustic searches shall be reported immediately to the OCE. No weapons launches or firing may commence until the OCE declares the 2-nm zone around the target free of marine mammals.

(*6*) If a marine mammal observed within the 2-nm zone around the target is diving, firing would be delayed until the animal is re-sighted outside the 2-nm zone around the target, or 30 minutes have elapsed. After 30 minutes, if the animal has not been re-sighted it would be assumed to have left the exclusion zone. The OCE would determine if the identified marine mammal is in danger of being adversely affected by commencement of the exercise.

(*7*) During breaks in the exercise of 30 minutes or more, the 2-nm zone around the target shall again be surveyed for any marine mammal. If marine mammals are sighted within 2-nm zone around the target, the OCE shall be notified, and the procedure described in (vi)(c)(1)–(6) would be followed.

(*8*) Upon sinking of the vessel, a final surveillance of the 2-nm zone around the target shall be monitored for 2 hours, or until sunset, to verify that no marine mammals were injured.

(D) Aerial surveillance shall be conducted using helicopters or other aircraft based on necessity and availability.

(E) Where practicable, the Navy shall conduct the exercise in sea states that are ideal for marine mammal sighting, *i.e.*, Beaufort Sea State 3 or less. In the event of a Beaufort Sea State 4 or above, survey efforts shall be increased within the 2-nm zone around the target. This shall be accomplished through the use of an additional aircraft, if available, and conducting tight search patterns.

(F) The sink exercise shall not be conducted unless the 2-nm zone around

the target could be adequately monitored visually.

(G) In the event that any marine mammals are observed to be harmed in the area, NMFS shall be notified as soon as feasible following the stranding communication protocol. A detailed description of the animal shall be taken, the location noted, and if possible, photos taken. This information shall be provided to NMFS as soon as practicable via the Navy's regional environmental coordinator for purposes of identification.

(H) An after action report detailing the exercise's time line, the time the surveys commenced and terminated, amount, and types of all ordnance expended, and the results of survey efforts for each event shall be submitted to NMFS.

(vii) Extended Echo Ranging/Improved Extended Echo Ranging (EER/IEER):

(A) Crews shall conduct visual reconnaissance of the drop area prior to laying their intended sonobuoy pattern. This search shall be conducted at an altitude below 457 m (500 yd) at a slow speed, if operationally feasible and weather conditions permit. In dual aircraft operations, crews are allowed to conduct area clearances utilizing more than one aircraft.

(B) For IEER (AN/SSQ–110A), crews shall conduct a minimum of 30 minutes of visual and aural monitoring of the search area prior to commanding the first post detonation. This 30-minute observation period may include pattern deployment time.

(C) For any part of the intended sonobuoy pattern where a post (source/receiver sonobuoy pair) will be deployed within 914 m (1,000 yd) of observed marine mammal activity, the Navy shall deploy the receiver ONLY (*i.e.*, not the source) and monitor while conducting a visual search. When marine mammals are no longer detected within 914 m (1,000 yd) of the intended post position, the source sonobuoy (AN/SSQ–110A/SSQ–125) will be co-located with the receiver.

(D) When operationally feasible, Navy crews shall conduct continuous visual and aural monitoring of marine mammal activity. This shall include monitoring of aircraft sensors from the time of the first sensor placement until the aircraft have left the area and are out of RF range of these sensors.

(E) Aural Detection—If the presence of marine mammals is detected aurally, then that shall cue the Navy aircrew to increase the vigilance of their visual surveillance. Subsequently, if no marine mammals are visually detected, then the crew may continue multi-static active search.

(F) Visual Detection—If marine mammals are visually detected within 914 m (1,000 yd) of the explosive source sonobuoy (AN/SSQ–110A) intended for use, then that payload shall not be detonated. Aircrews may utilize this post once the marine mammals have not been re-sighted for 30 minutes, or are observed to have moved outside the 914 m (1,000 yd) safety buffer. Aircrews may shift their multi-static active search to another post, where marine mammals are outside the 914 m (1,000 yd) safety buffer.

(G) For IEER (AN/SSQ–110A), aircrews shall make every attempt to manually detonate the unexploded charges at each post in the pattern prior to departing the operations area by using the ''Payload 1 Release'' command followed by the ''Payload 2 Release'' command. Aircrews shall refrain from using the ''Scuttle'' command when two payloads remain at a given post. Aircrews will ensure that a 914 m (1,000 yd) safety buffer, visually clear of marine mammals, is maintained around each post as is done during active search operations.

(H) Aircrews shall only leave posts with unexploded charges in the event of a sonobuoy malfunction, an aircraft system malfunction, or when an aircraft must immediately depart the area due to issues such as fuel constraints, inclement weather, or in-flight emergencies. In these cases, the sonobuoy will self-scuttle using the secondary or tertiary method.

(I) The Navy shall ensure all payloads are accounted for. Explosive source sonobuoys (AN/SSQ–110A) that cannot be scuttled shall be reported as unexploded ordnance via voice communications while airborne, then upon landing via naval message.

(J) Mammal monitoring shall continue until out of own-aircraft sensor range.

(b) [Reserved]

§ 218.115 Requirements for monitoring and reporting.

(a) *General Notification of Injured or Dead Marine Mammals*—Navy personnel shall ensure that NMFS is notified immediately ((see Communication Plan) or as soon as clearance procedures allow) if an injured, stranded, or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy training exercise utilizing MFAS, HFAS, or underwater explosive detonations. The Navy will provide NMFS with the name of species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). In the event that an injured, stranded, or dead marine mammal is found by the Navy that is not in the vicinity of, or during or shortly after, MFAS, HFAS, or underwater explosive detonations, the Navy will report the same information as listed above as soon as operationally feasible and clearance procedures allow.

(b) *General Notification of Ship Strike*—In the event of a ship strike by any Navy vessel, at any time or place, the Navy shall do the following:

(1) Immediately report to NMFS the species identification (if known), location (lat/long) of the animal (or the strike if the animal has disappeared), and whether the animal is alive or dead (or unknown).

(2) Report to NMFS as soon as operationally feasible the size and length of animal, an estimate of the injury status (ex., dead, injured but alive, injured and moving, unknown, etc.), vessel class/type and operational status.

(3) Report to NMFS the vessel length, speed, and heading as soon as feasible.

(4) Provide NMFS a photo or video, if equipment is available.

(c) *Event Communication Plan*—The Navy shall develop a communication plan that will include all of the communication protocols (phone trees, etc.) and associated contact information required for NMFS and the Navy to carry out the necessary expeditious communication required in the event of a stranding or ship strike, including as described in the proposed notification measures above.

(d) The Navy must conduct all monitoring and/or research required under the Letter of Authorization, including abiding by the annual NWTRC Monitoring Plan. (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*)

(e) The Navy shall comply with the 2009 Integrated Comprehensive Monitoring Program (ICMP) Plan and continue to improve the program in consultation with NMFS. Changes and improvements to the program made during 2010 (as prescribed in the 2009 ICMP and otherwise deemed appropriate by the Navy and NMFS) will be described in an updated 2010 ICMP and submitted to NMFS by October 31, 2010 for review. An updated 2010 ICMP will be finalized by December 31, 2010.

(f) *Report on Monitoring required in paragraph (e) of this section*—The Navy shall submit a report annually describing the implementation and results of the monitoring required in paragraph (d) of this section. The required submission date will be identified each year in the LOA. The Navy will standardize data collection methods across ranges to allow for comparison in different geographic locations.

(g) *Annual NWTRC Report*—The Navy will submit an Annual NWTRC Report every year. The required submission date will be identified each year in the LOA. This report shall contain the subsections and information indicated below.

(1) ASW Summary—This section shall include the following information as summarized from non-major training exercises (unit-level exercises, such as TRACKEXs and MIW):

(i) *Total Hours*—Total annual hours of each type of sonar source (along with explanation of how hours are calculated for sources typically quantified in alternate way (buoys, torpedoes, etc.))

(ii) *Cumulative Impacts*—To the extent practicable, the Navy, in coordination with NMFS, shall develop and implement a method of annually reporting non-major training (i.e., ULT) utilizing hull-mounted sonar. The report shall

present an annual (and seasonal, where practicable) depiction of non-major training exercises geographically across NWTRC. The Navy shall include (in the NWTRC annual report) a brief annual progress update on the status of the development of an effective and unclassified method to report this information until an agreed-upon (with NMFS) method has been developed and implemented.

(2) [Reserved]

(h) *Sinking Exercises (SINKEXs)*—This section shall include the following information for each SINKEX completed that year:

(1) Exercise Info:

(i) Location;

(ii) Date and time exercise began and ended;

(iii) Total hours of observation by watchstanders before, during, and after exercise;

(iv) Total number and types of rounds expended/explosives detonated;

(v) Number and types of passive acoustic sources used in exercise;

(vi) Total hours of passive acoustic search time;

(vii) Number and types of vessels, aircraft, etc., participating in exercise;

(viii) Wave height in feet (high, low and average during exercise); and

(ix) Narrative description of sensors and platforms utilized for marine mammal detection and timeline illustrating how marine mammal detection was conducted.

(2) Individual marine mammal observation during SINKEX (by Navy lookouts) information:

(i) Location of sighting;

(ii) Species (if not possible—indication of whale/dolphin/pinniped);

(iii) Number of individuals;

(iv) Calves observed (y/n);

(v) Initial detection sensor;

(vi) Length of time observers maintained visual contact with marine mammal;

(vii) Wave height;

(viii) Visibility;

(ix) Whether sighting was before, during, or after detonations/exercise, and how many minutes before or after;

(x) Distance of marine mammal from actual detonations (or target spot if not yet detonated)—use four categories to define distance:

(A) the modeled injury threshold radius for the largest explosive used in that exercise type in that OPAREA (662 m for SINKEX in NWTRC);

(B) the required exclusion zone (1 nm for SINKEX in NWTRC);

(C) the required observation distance (if different than the exclusion zone (2 nm for SINKEX in NWTRC)); and

(D) greater than the required observed distance. For example, in this case, the observer would indicate if <662 m, from 738 m–1 nm, from 1 nm–2 nm, and >2 nm.

(xi) Observed behavior—Watchstanders will report, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming etc.), including speed and direction.

(xii) Resulting mitigation implementation—Indicate whether explosive detonations were delayed, ceased, modified, or not modified due to marine mammal presence and for how long.

(xiii) If observation occurs while explosives are detonating in the water, indicate munitions type in use at time of marine mammal detection.

(i) Improved Extended Echo-Ranging System (IEER) Summary

(1) Total number of IEER events conducted in NWTRC;

(2) Total expended/detonated rounds (buoys); and

(3) Total number of self-scuttled IEER rounds.

(j) *Explosives Summary*—The Navy is in the process of improving the methods used to track explosive use to provide increased granularity. To the extent practicable, the Navy shall provide the information described below for all of their explosive exercises. Until the Navy is able to report in full the information below, they will provide an annual update on the Navy's explosive tracking methods, including improvements from the previous year.

(k) Total annual number of each type of explosive exercise (of those identified as part of the ''specified activity'' in this final rule) conducted in NWTRC; and

(2) Total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive type.

(l) *NWTRC 5-Yr Comprehensive Report*—The Navy shall submit to NMFS a draft report that analyzes and summarizes all of the multi-year marine mammal information gathered during ASW and explosive exercises for which annual reports are required (Annual NWTRC Exercise Reports and NWTRC Monitoring Plan Reports). This report will be submitted at the end of the fourth year of the rule (July 2014), covering activities that have occurred through February 1, 2014.

(m) *Comprehensive National ASW Report*—By June, 2014, the Navy shall submit a draft National Report that analyzes, compares, and summarizes the active sonar data gathered (through January 1, 2014) from the watchstanders and pursuant to the implementation of the Monitoring Plans for the Northwest Training Range Complex, the Southern California Range Complex, the Atlantic Fleet Active Sonar Training, the Hawaii Range Complex, the Marianas Islands Range Complex, and the Gulf of Alaska.

(n) The Navy shall respond to NMFS comments and requests for additional information or clarification on the NWTRC Comprehensive Report, the Comprehensive National ASW report, the Annual NWTRC Exercise Report, or the Annual NWTRC Monitoring Plan Report (or the multi-Range Complex Annual Monitoring Plan Report, if that is how the Navy chooses to submit the information) if submitted within 3 months of receipt. These reports will be considered final after the Navy has addressed NMFS' comments or provided the requested information, or three months after the submittal of the draft if NMFS does not comment by then.

(o) In 2011, the Navy shall convene a Monitoring Workshop in which the Monitoring Workshop participants will be asked to review the Navy's Monitoring Plans and monitoring results and make individual recommendations (to the Navy and NMFS) of ways of improving the Monitoring Plans. The recommendations shall be reviewed by the Navy, in consultation with NMFS, and modifications to the Monitoring Plan shall be made, as appropriate.

EDITORIAL NOTE: At 75 FR 69319, Nov. 10, 2010, subpart M was added; at that time, §218.115 was added without a paragraph (k)(1) designation.

§ 218.116 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. Citizen (as defined by §216.103) conducting the activity identified in §218.110(c) (*i.e.*, the Navy) must apply for and obtain either an initial Letter of Authorization in accordance with §218.117 or a renewal under §218.118.

§ 218.117 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the periods of validity of this subpart, but may be renewed or modified sooner subject to the renewal conditions in §218.118 and the modification conditions in §218.119.

(b) Each Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (i.e., mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization shall be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

[75 FR 45547, Aug. 3, 2010, as amended at 77 FR 4924, Feb. 1, 2012]

§ 218.118 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under §§216.106 of this chapter and 218.117 for the activity identified in §218.110(c) will be renewed upon:

(1) Notification to NMFS that the activity described in the application submitted under §218.116 will be undertaken and that there will not be a substantial modification to the desired work, mitigation, or monitoring undertaken during the upcoming period of validity;

(2) Receipt of the monitoring reports and notifications within the timeframes indicated in the previous LOA; and

(3) A determination by NMFS that the mitigation, monitoring and reporting measures required under § 218.114 and the Letter of Authorization issued under § 216.106 of this chapter and § 218.117, were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §§ 216.106 and 216.118 indicates that a substantial modification, as determined by NMFS, to the described work, mitigation or monitoring undertaken during the upcoming season will occur, the NMFS will provide the public a period of 30 days for review and comment on the request.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER.

(d) Adaptive Management—NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the Navy's monitoring from the previous year (either from the NWTRC Study Area or other locations).

(2) Findings of the Monitoring Workshop that the Navy will convene in 2011.

(3) Compiled results of Navy funded research and development (R&D) studies (presented pursuant to the Integrated Comprehensive Monitoring Plan).

(4) Results from specific stranding investigations (either from the NWTRC Study Area or other locations, and involving coincident MFAS/HFAS or explosives training or not involving coincident use).

(5) Results from the Long Term Prospective Study described in the preamble to these regulations.

(6) Results from general marine mammal and sound research (funded by the Navy or otherwise).

(7) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.

[75 FR 45547, Aug. 3, 2010, as amended at 77 FR 4924, Feb. 1, 2012]

§ 218.119 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to §§ 216.106 and 218.117 of this chapter and subject to the provisions of this subpart, shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 218.118, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.112(c), a Letter of Authorization issued pursuant to §§ 216.106 and 218.117 of this chapter may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subpart N—Taking and Importing Marine Mammals; Gulf of Alaska Temporary Maritime Activities Area (GoA TMAA)

SOURCE: 76 FR 25505, May 4, 2011, unless otherwise noted.

EFFECTIVE DATE NOTE: At 76 FR 25505, May 4, 2011, subpart N was added, effective May 4, 2011, through May 4, 2016.

§ 218.120 Specified activity and geographical area.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the Gulf of Alaska Temporary Maritime Activities Area (GoA TMAA) (as depicted in Figure 1–1 in the Navy's application for GoA TMAA), which is bounded by a hexagon with the following six corners: 57°30′ N. lat., 141°30′ W. long.; 59°36′ N. lat., 148°10′ W. long.; 58°57′ N. lat., 150°04′ W. long.; 58°20′ N. lat., 151°00′ W. long.; 57°16′ N. lat., 151°00′ W. long.; and 55°30′ N. lat., 142°00′ W. long.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) The use of the following mid-frequency active sonar (MFAS) sources, high-frequency active sonar (HFAS) sources, or similar sources for Navy training activities (estimated amounts below):

(i) AN/SQS–53 (hull-mounted active sonar)—up to 2,890 hours over the course of 5 years (an average of 578 hours per year);

(ii) AN/SQS–56 (hull-mounted active sonar)—up to 260 hours over the course of 5 years (an average of 52 hours per year);

(iii) AN/SSQ–62 (Directional Command Activated Sonobuoy System (DICASS) sonobuoys)—up to 1,330 sonobuoys over the course of 5 years (an average of 266 sonobuoys per year);

(iv) AN/AQS–22 (helicopter dipping sonar)—up to 960 ''dips'' over the course of 5 years (an average of 192 ''dips'' per year);

(v) AN/BQQ–10 (submarine hull-mounted sonar)—up to 240 hours over the course of 5 years (an average of 48 hours per year);

(vi) MK–48 (torpedo)—up to 10 torpedoes over the course of 5 years (a maximum of 2 torpedoes per year);

(vii) AN/SSQ–110A (IEER)—up to 400 buoys deployed over the course of 5 years (an average of 80 per year maximum combined use of AN/SSQ–110A or AN/SSQ–125);

(viii) AN/SSQ–125 (MAC)—up to 400 buoys deployed over the course of 5 years (an average of 80 per year maximum combined use of AN/SSQ–110A or AN/SSQ–125);

(ix) Range Pingers—up to 400 hours over the course of 5 years (an average of 80 hours per year);

(x) SUS MK–84—up to 120 devices over the course of 5 years (an average of 24 per year);

(xi) PUTR Transponder—up to 400 hours over the course of 5 years (an average of 80 hours per year); and

(xii) MK–39 EMATT Targets—up to 60 devices over the course of 5 years (an average of 12 per year).

(2) The detonation of the underwater explosives indicated in paragraph (c)(2)(i) of this section, or similar explosives, conducted as part of the training exercises indicated in paragraph (c)(2)(ii) of this section:

(i) Underwater Explosives (Net Explosive Weight (NEW)):

(A) 5″ Naval Gunfire (9.5 lbs NEW);

(B) 76 mm rounds (1.6 lbs NEW);

(C) Maverick (78.5 lbs NEW);

(D) MK–82 (238 lbs NEW);

(E) MK–83 (238 lbs NEW);

(F) MK–83 (574 lbs NEW);

(G) MK–84 (945 lbs NEW);

(H) MK–48 (851 lbs NEW);

(I) AN/SSQ–110A (IEER explosive sonobuoy—5 lbs NEW);

(ii) Training Events:

(A) Gunnery Exercises (S–S GUNEX)—up to 60 exercises over the course of 5 years (an average of 12 per year);

(B) Bombing Exercises (BOMBEX)—up to 180 exercises over the course of 5 years (an average of 36 per year);

(C) Sinking Exercises (SINKEX)—up to 10 exercises over the course of 5 years (a maximum of 2 per year);

(D) Extended Echo Ranging and Improved Extended Echo Ranging (EER/IEER) Systems—up to 400 deployments over the course of 5 years (an average of 80 per year);

(E) Missile exercises (A–S MISSILEX)—up to 20 exercises over the course of 5 years (an average of 4 per year).

(d) The taking of marine mammals may be authorized in an LOA for the

activities and sources listed in §218.120(c) should the amounts (*i.e.,* hours, dips, number of exercises) vary from those estimated in §218.120(c), provided that the variation does not result in exceeding the amount of take indicated in §218.122(c).

§ 218.121 Effective dates.

Amended regulations in this subpart are effective February 1, 2012, through May 4, 2016.

[77 FR 4925, Feb. 1, 2012]

§ 218.122 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§216.106 and 218.127 of this chapter, the Holder of the Letter of Authorization (hereinafter ''Navy'') may incidentally, but not intentionally, take marine mammals within the area described in §218.120(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The activities identified in §218.120(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in §218.120(c) is limited to the species listed below in paragraphs (c)(4) and (5) of this section by the indicated method of take and the indicated number of times (estimated based on the authorized amounts of sound source operation), but with the following allowances for annual variation in activities:

(1) In any given year, annual take, by harassment, of any species of marine mammal may not exceed the amount identified in paragraphs (c)(4) and (5) of this section, for that species by more than 25 percent (a post-calculation/estimation of which must be provided in the annual LOA application);

(2) In any given year, annual take by harassment of all marine mammal species combined may not exceed the estimated total of all species combined, indicated in paragraphs (c)(4) and (5) of this section, by more than 10 percent; and

(3) Over the course of the effective period of this subpart, total take, by harassment, of any species may not exceed the 5-year amounts indicated in paragraphs (c)(4) and (5) of this section by more than 10 percent. A running calculation/estimation of takes of each species over the course of the years covered by the rule must be maintained.

(4) Level B Harassment:

(i) Mysticetes:

(A) Humpback whale (*Megaptera novaeangliae*)—6,975 (an average of 1,395 annually);

(B) Fin whale (*Balaenoptera physalus*)—55185 (an average of 11,037 annually);

(C) Blue whale (*Balaenoptera musculus*)—10 (an average of 2 annually);

(D) Sei whale (*Balaenoptera borealis)*—40 (an average of 8 annually);

(E) Minke whale (*Balaenoptera acutorostrata*)—3,405 (an average of 681 annually);

(F) Gray whale (*Eschrichtius robustus*)—1,940 (an average of 388 annually); and

(G) North Pacific right whale (*Eubalaena japonica*)—10 (an average of 2 annually).

(ii) Odontocetes:

(A) Sperm whales (*Physeter macrocephalus*)—1,645 (an average of 329 annually);

(B) Killer whale (*Orcinus orca*)—53,245 (an average of 10,649 annually);

(C) Harbor porpoise (*Phocoena phocoena*)—27,200 (an average of 5,440 annually);

(D) Baird's beaked whales (*Berardius bairdii*)—2,435 (an average of 487 annually);

(E) Cuvier's beaked whales (*Ziphius cavirostris*)—11,560 (an average of 2,312 annually);

(F) Stejneger's beaked whales (*Mesoplodon stejnegeri*)—11,565 (an average of 2,313 annually);

(G) Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)—84,955 (an average of 16,991 annually); and

(H) Dall's porpoise (*Phocoenoides dalli*)—1,031,870 (an average of 206,374 annually).

(iii) Pinnipeds:

(A) Steller sea lion (*Eumetopias jubatus*)—55,540 (an average of 11,108 annually)

(B) California sea lion (*Zalophus californianus*)—10 (an average of 2 annually);

(C) Harbor seal (*Phoca vitulina richardsi*)—10 (an average of 2 annually);

(D) Northern elephant seal (*Mirounga angustirostris*)—10,345 (an average of 2,069 annually); and

(E) Northern fur seal (*Callorhinus ursinus*)—771,010 (an average of 154,202 annually).

(5) Level A Harassment and/or mortality of no more than 15 beaked whales (total), of any of the species listed in § 218.122(c)(1)(ii)(D) through (F) over the course of the 5-year regulations.

§ 218.123 Prohibitions.

No person in connection with the activities described in § 218.120 may:

(a) Take any marine mammal not specified in § 218.122(c);

(b) Take any marine mammal specified in § 218.122(c) other than by incidental take as specified in §§ 218.122(c)(1), (c)(2), and (c)(3);

(c) Take a marine mammal specified in § 218.122(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under §§ 216.106 and 218.127 of this chapter.

§ 218.124 Mitigation.

(a) When conducting training and utilizing the sound sources or explosives identified in § 218.120(c), the mitigation measures contained in a Letter of Authorization issued under §§ 216.106 and 218.127 of this chapter must be implemented. These mitigation measures include, but are not limited to:

(1) Personnel Training (for all Training Types):

(i) All commanding officers (COs), executive officers (XOs), Lookouts, Officers of the Deck (OODs), junior OODs (JOODs), maritime patrol aircraft aircrews, and Anti-Submarine Warfare (ASW) helicopter crews shall complete the NMFS-approved Marine Species Awareness Training (MSAT) by viewing the U.S. Navy MSAT digital versatile disk (DVD). All bridge Lookouts shall complete both parts one and two of the MSAT; part two is optional for other personnel.

(ii) Navy Lookouts shall undertake extensive training in order to qualify as a watchstander in accordance with the Lookout Training Handbook (Naval Education and Training Command [NAVEDTRA] 12968–D).

(iii) Lookout training shall include on-the-job instruction under the supervision of a qualified, experienced Lookout. Following successful completion of this supervised training period, Lookouts shall complete the Personal Qualification Standard Program, certifying that they have demonstrated the necessary skills (such as detection and reporting of partially submerged objects). Personnel being trained as Lookouts can be counted among required Lookouts as long as supervisors monitor their progress and performance.

(iv) Lookouts shall be trained in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of protective measures if marine species are spotted.

(v) All Lookouts onboard platforms involved in ASW training events shall review the NMFS-approved Marine Species Awareness Training material prior to use of mid-frequency active sonar.

(vi) All COs, XOs, and officers standing watch on the bridge shall have reviewed the Marine Species Awareness Training material prior to a training event employing the use of MFAS/HFAS.

(2) General Operating Procedures (for all Training Types):

(i) Prior to major exercises, a Letter of Instruction, Mitigation Measures Message or Environmental Annex to the Operational Order shall be issued to further disseminate the personnel training requirement and general marine species protective measures.

(ii) COs shall make use of marine species detection cues and information to

limit interaction with marine mammals to the maximum extent possible consistent with safety of the ship.

(iii) While underway, surface vessels shall have at least two Lookouts with binoculars; surfaced submarines shall have at least one Lookout with binoculars. Lookouts already posted for safety of navigation and man-overboard precautions may be used to fill this requirement. As part of their regular duties, Lookouts shall watch for and report to the OOD the presence of marine mammals.

(iv) On surface vessels equipped with mid-frequency active sonar, pedestal mounted ''Big Eye'' (20 × 110) binoculars shall be properly installed and in good working order to assist in the detection of marine mammals in the vicinity of the vessel.

(v) Personnel on Lookout shall employ visual search procedures employing a scanning methodology in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

(vi) After sunset and prior to sunrise, Lookouts shall employ Night Lookouts Techniques in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).

(vii) While in transit, naval vessels shall be alert at all times, use extreme caution, and proceed at a ''safe speed,'' which means the speed at which the CO can maintain crew safety and effectiveness of current operational directives, so that the vessel can take action to avoid a collision with any marine mammal.

(viii) When marine mammals have been sighted in the area, Navy vessels shall increase vigilance and take all reasonable and practicable actions to avoid collisions and activities that might result in close interaction of naval assets and marine mammals. Such action may include changing speed and/or direction and are dictated by environmental and other conditions (*e.g.*, safety, weather).

(ix) Navy aircraft participating in exercises at sea shall conduct and maintain surveillance for marine mammals as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.

(x) All marine mammal detections shall be immediately reported to assigned Aircraft Control Unit for further dissemination to ships in the vicinity of the marine species as appropriate when it is reasonable to conclude that the course of the ship will likely result in a closing of the distance to the detected marine mammal.

(xi) Naval vessels shall maneuver to keep at least 1,500 ft (500 yd or 457 m) away from any observed whale in the vessel's path and avoid approaching whales head-on. These requirements do not apply if a vessel's safety is threatened, such as when change of course will create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Restricted maneuverability includes, but is not limited to, situations when vessels are engaged in dredging, submerged activities, launching and recovering aircraft or landing craft, minesweeping activities, replenishment while underway and towing activities that severely restrict a vessel's ability to deviate course. Vessels shall take reasonable steps to alert other vessels in the vicinity of the whale. Given rapid swimming speeds and maneuverability of many dolphin species, naval vessels would maintain normal course and speed on sighting dolphins unless some condition indicated a need for the vessel to maneuver.

(3) Operating Procedures (for Anti-submarine Warfare (ASW) Operations):

(i) On the bridge of surface ships, there shall always be at least three people on watch whose duties include observing the water surface around the vessel.

(ii) All surface ships participating in ASW training events shall have, in addition to the three personnel on watch noted in paragraph (i), at least two additional personnel on watch as Lookouts at all times during the exercise.

(iii) Personnel on Lookout and officers on watch on the bridge shall have at least one set of binoculars available for each person to aid in the detection of marine mammals.

(iv) Personnel on Lookout shall be responsible for reporting all objects or anomalies sighted in the water (regardless of the distance from the vessel) to

the Officer of the Deck, since any object or disturbance (*e.g.*, trash, periscope, surface disturbance, discoloration) in the water may be indicative of a threat to the vessel and its crew or indicative of a marine mammal that may need to be avoided as warranted.

(v) All personnel engaged in passive acoustic sonar operation (including aircraft, surface ships, or submarines) shall monitor for marine mammal vocalizations and report the detection of any marine mammal to the appropriate watch station for dissemination and appropriate action.

(vi) During mid-frequency active sonar operations, personnel shall utilize all available sensor and optical systems (such as night vision goggles) to aid in the detection of marine mammals.

(vii) Aircraft with deployed sonobuoys shall use only the passive capability of sonobuoys when marine mammals are detected within 200 yd (183 m) of the sonobuoy.

(viii) Helicopters shall observe/survey the vicinity of an ASW exercise for 10 minutes before the first deployment of active (dipping) sonar in the water.

(ix) Helicopters shall not dip their sonar within 200 yd (183 m) of a marine mammal and shall cease pinging if a marine mammal closes within 200 yd (183 m) of the sound source after pinging has begun.

(x) Safety Zones—When marine mammals are detected by any means (aircraft, shipboard Lookout, or acoustically) within 1,000 yd (914 m) of the sonar dome (the bow), the ship or submarine shall limit active transmission levels to at least 6 decibels (dB) below normal operating levels for that source (*i.e.*, limit to at most 229 dB for AN/SQS–53 and 219 for AN/SQS–56, *etc.*).

(A) Ships and submarines shall continue to limit maximum transmission levels by this 6–dB factor until the animal has been seen to leave the 1,000-yd (914 m) exclusion zone, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yds (1,829 m) beyond the location of the last detection.

(B) Should a marine mammal be detected within 500 yd (457 m) of the sonar dome, active sonar transmissions shall be limited to at least 10 dB below the equipment's normal operating level (*i.e.*, limit to at most 225 dB for AN/SQS–53 and 215 for AN/SQS–56, *etc.*). Ships and submarines shall continue to limit maximum ping levels by this 10–dB factor until the animal has been seen to leave the 500-yd (457 m) safety zone (at which point the 6–dB powerdown applies until the animal leaves the 1,000-yd (914 m) safety zone), has not been detected for 30 minutes, or the vessel has transited more than 2,000 yd (1,829 m) beyond the location of the last detection.

(C) Should the marine mammal be detected within 200 yd (183 m) of the sonar dome, active sonar transmissions shall cease. Sonar shall not resume until the animal has been seen to leave the 200-yd (183 m) safety zone (at which point the 10–dB or 6–dB powerdowns apply until the animal leaves the 500-yd (457 m) or 1,000-yd (914 m) safety zone, respectively), has not been detected for 30 minutes, or the vessel has transited more than 2,000 yd (1,829 m) beyond the location of the last detection.

(D) Special conditions applicable for dolphins and porpoises only: If, after conducting an initial maneuver to avoid close quarters with dolphins or porpoises, the OOD concludes that dolphins or porpoises are deliberately closing to ride the vessel's bow wave, no further mitigation actions are necessary while the dolphins or porpoises continue to exhibit bow wave riding behavior.

(xi) Prior to start up or restart of active sonar, operators shall check that the Safety Zone radius around the sound source is clear of marine mammals.

(xii) Active sonar levels (generally)—Navy shall operate active sonar at the lowest practicable level, not to exceed 235 dB, except as required to meet tactical training objectives.

(xiii) Submarine sonar operators shall review detection indicators of close-aboard marine mammals prior to the commencement of ASW training events involving MFAS.

NOTE TO PARAGRAPH (a)(3): If the need for power-down should arise (as detailed in 218.114(a)(3)(x)) when the Navy is operating a hull-mounted or sub-mounted source above 235 db (infrequent), the Navy shall follow the

requirements as though they were operating at 235 dB—the normal operating level (*i.e.*, the first power-down will be to 229 dB, regardless of at what level above 235 dB active sonar was being operated).

(4) Sinking Exercise:

(i) All weapons firing shall be conducted during the period 1 hour after official sunrise to 30 minutes before official sunset.

(ii) An exclusion zone with a radius of 1.0 nm (1.9 km) shall be established around each target. An additional buffer of 0.5 nm (0.9 km) will be added to account for errors, target drift, and animal movements. Additionally, a safety zone, which will extend beyond the buffer zone by an additional 0.5 nm (0.9 km), shall be surveyed. Together, the zones extend out 2 nm (3.7 km) from the target.

(iii) A series of surveillance overflights shall be conducted within the exclusion and the safety zones, prior to and during the exercise, when feasible. Survey protocol shall be as follows:

(A) Overflights within the exclusion zone shall be conducted in a manner that optimizes the surface area of the water observed. This may be accomplished through the use of the Navy's Search and Rescue Tactical Aid, which provides the best search altitude, ground speed, and track spacing for the discovery of small, possibly dark objects in the water based on the environmental conditions of the day. These environmental conditions include the angle of sun inclination, amount of daylight, cloud cover, visibility, and sea state.

(B) All visual surveillance activities shall be conducted by Navy personnel trained in visual surveillance. At least one member of the mitigation team shall have completed the Navy's marine mammal training program for Lookouts.

(C) In addition to the overflights, the exclusion zone shall be monitored by passive acoustic means, when assets are available. This passive acoustic monitoring shall be maintained throughout the exercise. Potential assets include sonobuoys, which can be utilized to detect any vocalizing marine mammals (particularly sperm whales) in the vicinity of the exercise. The sonobuoys shall be re-seeded as necessary throughout the exercise. Additionally, if submarines are present, passive sonar onboard submarines may be utilized to detect any vocalizing marine mammals in the area. The OCE shall be informed of any aural detection of marine mammals and shall include this information in the determination of when it is safe to commence the exercise.

(D) On each day of the exercise, aerial surveillance of the exclusion and safety zones shall commence 2 hours prior to the first firing.

(E) The results of all visual, aerial, and acoustic searches shall be reported immediately to the OCE. No weapons launches or firing may commence until the OCE declares the safety and exclusion zones free of marine mammals.

(F) If a marine mammal is observed within the exclusion zone, firing shall be delayed until the animal is re-sighted outside the exclusion zone, or 30 minutes have elapsed. After 30 minutes, if the animal has not been resighted it can be assumed to have left the exclusion zone. The OCE shall determine if the marine mammal is in danger of being adversely affected by commencement of the exercise.

(G) During breaks in the exercise of 30 minutes or more, the exclusion zone shall again be surveyed for any marine mammal. If marine mammals are sighted within the exclusion zone or buffer zone, the OCE shall be notified, and the procedure described above shall be followed.

(H) Upon sinking of the vessel, a final surveillance of the exclusion zone shall be monitored for 2 hours, or until sunset, to verify that no marine mammals were harmed.

(iv) Aerial surveillance shall be conducted using helicopters or other aircraft based on necessity and availability.

(v) Where practicable, the Navy shall conduct the exercise in sea states that are ideal for marine mammal sighting, Beaufort Sea State 3 or less. In the event of a Beaufort Sea State 4 or above, survey efforts shall be increased within the zones. This shall be accomplished through the use of an additional aircraft, if available, and conducting tight search patterns.

(vi) The exercise shall not be conducted unless the exclusion zone can be adequately monitored visually.

(vii) In the event that any marine mammals are observed to be harmed in the area, NMFS shall be notified as soon as feasible following the stranding communication protocol. A detailed description of the animal shall be taken, the location noted, and if possible, photos taken of the marine mammal. This information shall be provided to NMFS via the Navy's regional environmental coordinator for purposes of identification (see the draft Stranding Plan for detail).

(viii) An after action report detailing the exercise's time line, the time the surveys commenced and terminated, amount, and types of all ordnance expended, and the results of survey efforts for each event shall be submitted to NMFS.

(5) Surface-to-Surface Gunnery (up to 5-inch Explosive Rounds):

(i) For exercises using targets towed by a vessel, target-towing vessels shall maintain a trained Lookout for marine mammals when feasible. If a marine mammal is sighted in the vicinity, the tow vessel shall immediately notify the firing vessel, which shall suspend the exercise until the area is clear.

(ii) A 600-yd (585 m) radius buffer zone shall be established around the intended target.

(iii) From the intended firing position, trained Lookouts shall survey the buffer zone for marine mammals prior to commencement and during the exercise as long as practicable. Due to the distance between the firing position and the buffer zone, Lookouts are only expected to visually detect breaching whales, whale blows, and large pods of dolphins and porpoises.

(iv) The exercise shall be conducted only when the buffer zone is visible and marine mammals are not detected within it.

(6) Surface-to-Surface Gunnery (non-explosive rounds):

(i) A 200-yd (183 m) radius buffer zone shall be established around the intended target.

(ii) From the intended firing position, trained Lookouts shall survey the buffer zone for marine mammals prior to commencement and during the exercise as long as practicable.

(iii) If available, target-towing vessels shall maintain a Lookout (unmanned towing vessels will not have a Lookout available). If a marine mammal is sighted in the vicinity of the exercise, the tow vessel shall immediately notify the firing vessel in order to secure gunnery firing until the area is clear.

(iv) The exercise shall be conducted only when the buffer zone is visible and marine mammals are not detected within the target area and the buffer zone.

(7) Surface-to-Air Gunnery (Explosive and Non-explosive Rounds):

(i) Vessels shall orient the geometry of gunnery exercises in order to prevent debris from falling in the area of sighted marine mammals.

(ii) Vessels shall expedite the attempt to recover any parachute deploying aerial targets to reduce the potential for entanglement of marine mammals.

(iii) Target-towing aircraft shall maintain a Lookout if feasible. If a marine mammal is sighted in the vicinity of the exercise, the tow aircraft shall immediately notify the firing vessel in order to secure gunnery firing until the area is clear.

(8) Air-to-Surface Gunnery (Explosive and Non-explosive Rounds):

(i) A 200-yd (183 m) radius buffer zone shall be established around the intended target.

(ii) If surface vessels are involved, Lookout(s) shall visually survey the buffer zone for marine mammals prior to commencement and during the exercise.

(iii) Aerial surveillance of the buffer zone for marine mammals shall be conducted prior to commencement of the exercise. Aerial surveillance altitude of 500 ft to 1,500 ft (152–456 m) is optimum. Aircraft crew/pilot shall maintain visual watch during exercises. Release of ordnance through cloud cover is prohibited; aircraft must be able to actually see ordnance impact areas.

(iv) The exercise shall be conducted only if marine mammals are not visible within the buffer zone.

(9) Small Arms Training (Grenades, Explosive and Non-explosive Rounds)—

Lookouts shall visually survey for marine mammals. Weapons shall not be fired in the direction of known or observed marine mammals.

(10) Air-to-Surface At-sea Bombing Exercises (explosive bombs and rockets):

(i) If surface vessels are involved, trained Lookouts shall survey for marine mammals. Ordnance shall not be targeted to impact within 1,000 yd (914 m) of known or observed marine mammals.

(ii) A 1,000-yd (914 m) radius buffer zone shall be established around the intended target.

(iii) Aircraft shall visually survey the target and buffer zone for marine mammals prior to and during the exercise. The survey of the impact area shall be made by flying at 1,500 ft (457 m) or lower, if safe to do so, and at the slowest safe speed. Release of ordinance through cloud cover is prohibited: Aircraft must be able to see ordnance impact areas. Survey aircraft shall employ most effective search tactics and capabilities.

(iv) The exercise shall be conducted only if marine mammals are not visible within the buffer zone.

(11) Air-to-Surface At-Sea Bombing Exercises (Non-explosive Bombs and Rockets):

(i) If surface vessels are involved, trained Lookouts shall survey for marine mammals. Ordnance shall not be targeted to impact within 1,000 yd (914 m) of known or observed marine mammals.

(ii) A 1,000-yd (914 m) radius buffer zone shall be established around the intended target.

(iii) Aircraft shall visually survey the target and buffer zone for marine mammals prior to and during the exercise. The survey of the impact area shall be made by flying at 1,500 ft (457 m) or lower, if safe to do so, and at the slowest safe speed. Release of ordnance through cloud cover is prohibited: Aircraft must be able to actually see ordnance impact areas. Survey aircraft shall employ most effective search tactics and capabilities.

(iv) The exercise shall be conducted only if marine mammals and are not visible within the buffer zone.

(12) Air-to-Surface Missile Exercises (explosive and non-explosive):

(i) Aircraft shall visually survey the target area for marine mammals. Visual inspection of the target area shall be made by flying at 1,500 ft (457 m) or lower, if safe to do so, and at the slowest safe speed. Firing or range clearance aircraft must be able to actually see ordnance impact areas.

(ii) Explosive ordnance shall not be targeted to impact within 1,800 yd (1646 m) of sighted marine mammals.

(13) Aircraft Training Activities Involving Non-Explosive Devices:

(i) Non-explosive devices such as some sonobuoys and inert bombs involve aerial drops of devices that have the potential to hit marine mammals if they are in the immediate vicinity of a floating target. The exclusion zone (200 yd), therefore, shall be clear of marine mammals and around the target location.

(ii) [Reserved]

(14) Extended Echo Ranging/Improved Extended Echo Ranging (EER/IEER):

(i) Crews shall conduct visual reconnaissance of the drop area prior to laying their intended sonobuoy pattern. This search shall be conducted at an altitude below 500 yd (457 m) at a slow speed, if operationally feasible and weather conditions permit. In dual aircraft operations, crews are allowed to conduct coordinated area clearances.

(ii) Crews shall conduct a minimum of 30 minutes of visual and aural monitoring of the search area prior to commanding the first post detonation. This 30-minute observation period may include pattern deployment time.

(iii) For any part of the intended sonobuoy pattern where a post (source/receiver sonobuoy pair) shall be deployed within 1,000 yd (914 m) of observed marine mammal activity, the Navy shall deploy the receiver ONLY and monitor while conducting a visual search. When marine mammals are no longer detected within 1,000 yd (914 m) of the intended post position, the Navy shall colocate the explosive source sonobuoy (AN/SSQ–110A) (source) with the receiver.

(iv) When operationally feasible, Navy crews shall conduct continuous visual and aural monitoring of marine mammal activity. This is to include

monitoring of own-aircraft sensors from first sensor placement to checking off station and out of RF range of these sensors.

(v) Aural Detection—If the presence of marine mammals is detected aurally, then that shall cue the Navy aircrew to increase the diligence of their visual surveillance. Subsequently, if no marine mammals are visually detected, then the crew may continue multi-static active search.

(vi) Visual Detection—If marine mammals are visually detected within 1,000 yd (914 m) of the explosive source sonobuoy (AN/SSQ–110A) intended for use, then that payload shall not be detonated. Aircrews may utilize this post once the marine mammals have not been re-sighted for 30 minutes, or are observed to have moved outside the 1,000-yd (914 m) safety buffer. Aircrews may shift their multi-static active search to another post, where marine mammals are outside the 1,000-yd (914 m) safety buffer.

(vii) Aircrews shall make every attempt to manually detonate the unexploded charges at each post in the pattern prior to departing the operations area by using the ''Payload 1 Release'' command followed by the ''Payload 2 Release'' command. Aircrews shall refrain from using the ''Scuttle'' command when two payloads remain at a given post. Aircrews shall ensure that a 1,000-yd (914 m) safety buffer, visually clear of marine mammals, is maintained around each post as is done during active search operations.

(viii) Aircrews shall only leave posts with unexploded charges in the event of a sonobuoy malfunction, an aircraft system malfunction, or when an aircraft must immediately depart the area due to issues such as fuel constraints, inclement weather, and in-flight emergencies. In these cases, the sonobuoy shall self-scuttle using the secondary or tertiary method.

(ix) The Navy shall ensure all payloads are accounted for. Explosive source sonobuoys (AN/SSQ–110A) that cannot be scuttled shall be reported as unexploded ordnance via voice communications while airborne, then upon landing via naval message.

(x) Marine mammal monitoring shall continue until out of own-aircraft sensor range.

(15) The Navy shall abide by the letter of the ''Stranding Response Plan for Major Navy Training Exercises in the GoA TMAA'' (available at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*), which is incorporated herein by reference, to include the following measures:

(i) Shutdown Procedures—When an Uncommon Stranding Event (USE—defined in § 216.271) occurs during a Major Training Exercise (MTE) (as defined in the Stranding Plan, meaning including Multi-strike group exercises, Joint Expeditionary exercises, and Marine Air Ground Task Force exercises in the GoA TMAA), the Navy shall implement the procedures described below.

(A) The Navy shall implement a Shutdown (as defined in the Stranding Response Plan for GoA TMAA) when advised by a NMFS Office of Protected Resources Headquarters Senior Official designated in the GoA TMAA Stranding Communication Protocol that a USE (as defined in the Stranding Response Plan for the GoA TMAA) involving live animals has been identified and that at least one live animal is located in the water. NMFS and Navy shall communicate, as needed, regarding the identification of the USE and the potential need to implement shutdown procedures.

(B) Any shutdown in a given area shall remain in effect in that area until NMFS advises the Navy that the subject(s) of the USE at that area die or are euthanized, or that all live animals involved in the USE at that area have left the area (either of their own volition or herded).

(C) If the Navy finds an injured or dead marine mammal floating at sea during an MTE, the Navy shall notify NMFS immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with the species or description of the animal(s), the condition of the animal(s) including carcass condition if the animal(s) is/are dead), location, time of first discovery, observed behavior(s) (if alive), and photo or video of the animal(s) (if available). Based on the information provided, NMFS shall determine if, and

advise the Navy whether a modified shutdown is appropriate on a case-by-case basis.

(D) In the event, following a USE, that: Qualified individuals are attempting to herd animals back out to the open ocean and animals are not willing to leave, or animals are seen repeatedly heading for the open ocean but turning back to shore, NMFS and the Navy shall coordinate (including an investigation of other potential anthropogenic stressors in the area) to determine if the proximity of MFAS/HFAS activities or explosive detonations, though farther than 14 nm from the distressed animal(s), is likely decreasing the likelihood that the animals return to the open water. If so, NMFS and the Navy shall further coordinate to determine what measures are necessary to further minimize that likelihood and implement those measures as appropriate.

(ii) Within 72 hrs of NMFS notifying the Navy of the presence of a USE, the Navy shall provide available information to NMFS (per the GoA TMAA Communication Protocol) regarding the location, number and types of acoustic/explosive sources, direction and speed of units using MFAS/HFAS, and marine mammal sightings information associated with training activities occurring within 80 nm (148 km) and 72 hrs prior to the USE event. Information not initially available regarding the 80 nm (148 km) and 72 hrs prior to the event shall be provided as soon as it becomes available. The Navy shall provide NMFS investigative teams with additional relevant unclassified information as requested, if available.

(iii) Memorandum of Agreement (MOA)—The Navy and NMFS shall develop a MOA, or other mechanism, that will establish a framework whereby the Navy can (and provide the Navy examples of how they can best) assist NMFS with stranding investigations in certain circumstances.

(b) [Reserved]

§ 218.125 Requirements for monitoring and reporting.

(a) General Notification of Injured or Dead Marine Mammals—Navy personnel shall ensure that NMFS is notified immediately ((see Communication Plan) or as soon as clearance procedures allow) if an injured, stranded, or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy training exercise utilizing MFAS, HFAS, or underwater explosive detonations. The Navy shall provide NMFS with the species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behavior(s) (if alive), and photo or video of the animal(s) (if available). In the event that an injured, stranded, or dead marine mammal is found by the Navy that is not in the vicinity of, or during or shortly after, MFAS, HFAS, or underwater explosive detonations, the Navy shall report the same information as listed above as soon as operationally feasible and clearance procedures allow.

(b) General Notification of Ship Strike—In the event of a ship strike by any Navy vessel, at any time or place, the Navy shall do the following:

(1) Immediately report to NMFS the species identification (if known), location (lat/long) of the animal (or the strike if the animal has disappeared), and whether the animal is alive or dead, or whether its status is unknown.

(2) Report to NMFS as soon as operationally feasible the size and length of animal, an estimate of the injury status (*e.g.*, dead, injured but alive, injured and moving, unknown, *etc*)., vessel class/type and operational status.

(3) Report to NMFS the vessel length, speed, and heading as soon as feasible.

(4) Provide NMFS a photo or video of the animal(s), if equipment is available.

(c) The Navy must conduct all monitoring and/or research required under the Letter of Authorization including abiding by the GoA TMAA Monitoring Plan. (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*)

(d) Report on Monitoring required in paragraph (c) of this section—The Navy shall submit a report annually on December 15 describing the implementation and results (through October of the same year) of the monitoring required in paragraph (c) of this section.

The Navy shall standardize data collection methods across ranges to allow for comparison in different geographic locations.

(e) *Sonar Exercise Notification*—The Navy shall submit to the NMFS Office of Protected Resources (specific contact information to be provided in LOA) either an electronic (preferably) or verbal report within 15 calendar days after the completion of any MTER indicating:

(1) Location of the exercise;

(2) Beginning and end dates of the exercise; and

(3) Type of exercise.

(f) Annual GoA TMAA Report—The Navy shall submit an Annual Exercise GoA TMAA Report on December 15 of every year (covering data gathered through October). This report shall contain the subsections and information indicated below.

(1) MFAS/HFAS Training Exercises—This section shall contain the following information for the following Coordinated and Strike Group exercises: Joint Multi-strike Group Exercises; Joint Expeditionary Exercises; and Marine Air Ground Task Force GoA TMAA:

(i) Exercise Information (for each exercise):

(A) Exercise designator;

(B) Date that exercise began and ended;

(C) Location;

(D) Number and types of active sources used in the exercise;

(E) Number and types of passive acoustic sources used in exercise;

(F) Number and types of vessels, aircraft, *etc.*, participating in exercise;

(G) Total hours of observation by watchstanders;

(H) Total hours of all active sonar source operation;

(I) Total hours of each active sonar source (along with explanation of how hours are calculated for sources typically quantified in alternate way (buoys, torpedoes, *etc.*)); and

(J) Wave height (high, low, and average during exercise).

(ii) Individual marine mammal sighting info (for each sighting in each exercise):

(A) Location of sighting;

(B) Species (if not possible—indication of whale/dolphin/pinniped);

(C) Number of individuals;

(D) Calves observed (y/n);

(E) Initial Detection Sensor;

(F) Indication of specific type of platform observation made from (including, for example, what type of surface vessel; *i.e.*, FFG, DDG, or CG);

(G) Length of time observers maintained visual contact with marine mammal(s);

(H) Wave height (ft);

(I) Visibility;

(J) Sonar source in use (y/n);

(K) Indication of whether animal is <200 yd, 200–500 yd, 500–1,000 yd, 1,000–2,000 yd, or >2,000 yd from sonar source in (x) above;

(L) Mitigation Implementation—Whether operation of sonar sensor was delayed, or sonar was powered or shut down, and how long the delay was;

(M) If source in use (x) is hull-mounted, true bearing of animal from ship, true direction of ship's travel, and estimation of animal's motion relative to ship (opening, closing, parallel); and

(N) Observed behavior—Watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, *etc.*).

(iii) An evaluation (based on data gathered during all of the exercises) of the effectiveness of mitigation measures designed to avoid exposing marine mammals to MFAS. This evaluation shall identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.

(2) ASW Summary—This section shall include the following information as summarized from non-major training exercises (unit-level exercises, such as TRACKEXs):

(i) Total Hours—Total annual hours of each type of sonar source (along with explanation of how hours are calculated for sources typically quantified in alternate way (buoys, torpedoes, *etc.*)).

(ii) Cumulative Impacts—To the extent practicable, the Navy, in coordination with NMFS, shall develop and implement a method of annually reporting other training (*i.e.*, Unit Level Training (ULT)) utilizing hull-mounted sonar. The report shall present an annual (and seasonal, where practicable) depiction of non-major training exercises geographically across the GoA TMAA. The Navy shall include (in the GoA TMAA annual report) a brief annual progress update on the status of the development of an effective and unclassified method to report this information until an agreed-upon (with NMFS) method has been developed and implemented.

(3) Sinking Exercises (SINKEXs)—This section shall include the following information for each SINKEX completed that year:

(i) Exercise info:

(A) Location;

(B) Date and time exercise began and ended;

(C) Total hours of observation by watchstanders before, during, and after exercise;

(D) Total number and types of rounds expended/explosives detonated;

(E) Number and types of passive acoustic sources used in exercise;

(F) Total hours of passive acoustic search time;

(G) Number and types of vessels, aircraft, *etc.*, participating in exercise;

(H) Wave height in feet (high, low, and average during exercise); and

(I) Narrative description of sensors and platforms utilized for marine mammal detection and timeline illustrating how marine mammal detection was conducted.

(ii) Individual marine mammal observation during SINKEX (by Navy Lookouts) information:

(A) Location of sighting;

(B) Species (if not possible—indication of whale/dolphin/pinniped);

(C) Number of individuals;

(D) Calves observed (y/n);

(E) Initial detection sensor;

(F) Length of time observers maintained visual contact with marine mammal;

(G) Wave height (ft);

(H) Visibility;

(I) Whether sighting was before, during, or after detonations/exercise, and how many minutes before or after;

(J) Distance of marine mammal from actual detonations (or target spot if not yet detonated)—use four categories to define distance:

(*1*) The modeled injury threshold radius for the largest explosive used in that exercise type in that OPAREA (762 m for SINKEX in the GoA TMAA);

(*2*) The required exclusion zone (1 nm for SINKEX in the GoA TMAA);

(*3*) The required observation distance (if different than the exclusion zone (2 nm for SINKEX in the GoA TMAA); and

(*4*) Greater than the required observed distance. For example, in this case, the observer shall indicate if <762 m, from 762 m–1 nm, from 1 nm–2 nm, and >2 nm.

(K) Observed behavior—Watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming *etc.*), including speed and direction.

(L) Resulting mitigation implementation—Indicate whether explosive detonations were delayed, ceased, modified, or not modified due to marine mammal presence and for how long.

(M) If observation occurs while explosives are detonating in the water, indicate munitions type in use at time of marine mammal detection.

(4) Improved Extended Echo-Ranging System (IEER) Summary:

(i) Total number of IEER events conducted in the GoA TMAA;

(ii) Total expended/detonated rounds (buoys); and

(iii) Total number of self-scuttled IEER rounds.

(5) Explosives Summary—The Navy is in the process of improving the methods used to track explosive use to provide increased granularity. To the extent practicable, the Navy shall provide the information described below for all of their explosive exercises. Until the Navy is able to report in full the information below, they shall provide an annual update on the Navy's

explosive tracking methods, including improvements from the previous year.

(i) Total annual number of each type of explosive exercise (of those identified as part of the ''specified activity'' in this final rule) conducted in the GoA TMAA; and

(ii) Total annual expended/detonated rounds (missiles, bombs, *etc.*) for each explosive type.

(g) GoA TMAA 5–Yr Comprehensive Report—The Navy shall submit to NMFS a draft report that analyzes and summarizes all of the multi-year marine mammal information gathered during ASW and explosive exercises for which annual reports are required (Annual GoA TMAA Exercise Reports and GoA TMAA Monitoring Plan Reports). This report shall be submitted at the end of the fourth year of the rule (December 2014), covering activities that have occurred through October 2014.

(h) Comprehensive National ASW Report—By June, 2014, the Navy shall submit a draft National Report that analyzes, compares, and summarizes the active sonar data gathered (through January 1, 2014) from the watchstanders and pursuant to the implementation of the Monitoring Plans for the Northwest Training Range Complex, the Southern California Range Complex, the Atlantic Fleet Active Sonar Training, the Hawaii Range Complex, the Mariana Islands Range Complex, and the Gulf of Alaska.

(i) The Navy shall comply with the Integrated Comprehensive Monitoring Program (ICMP) Plan and continue to improve the program in consultation with NMFS.

§ 218.126 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. Citizen (as defined by § 216.103 of this chapter) conducting the activity identified in § 218.120(c) (*i.e.*, the Navy) must apply for and obtain either an initial Letter of Authorization in accordance with § 218.127 or a renewal under § 218.128.

§ 218.127 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the periods of validity of this subpart, but may be renewed or modified sooner subject to the renewal conditions in § 218.128 and the modification conditions in § 218.129.

(b) Each Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization shall be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

[76 FR 25505, May 4, 2011, as amended at 77 FR 4925, Feb. 1, 2012]

§ 218.128 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under § 216.106 of this chapter and § 218.127 for the activity identified in § 218.120(c) will be renewed upon:

(1) Notification to NMFS that the activity described in the application submitted under § 218.126 will be undertaken and that there will not be a substantial modification to the desired work, mitigation, or monitoring undertaken during the upcoming period of validity;

(2) Receipt of the monitoring reports and notifications within the indicated timeframes required under § 218.125(b through j); and

(3) A determination by NMFS that the mitigation, monitoring and reporting measures required under § 218.124 and the Letter of Authorization issued under § 216.106 of this chapter and § 218.127, were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §§ 216.126 and 216.128 indicates that a substantial modification, as determined by NMFS, to the described work, mitigation or monitoring undertaken

during the upcoming season will occur, NMFS will provide the public a period of 30 days for review and comment on the request. Review and comment on renewals of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER.

(d) Adaptive Management—NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the Navy's monitoring from the previous year (either from the GoA TMAA or other locations).

(2) Findings of the Monitoring Workshop that the Navy will convene in 2011.

(3) Compiled results of Navy-funded research and development (R&D) studies (presented pursuant to the Integrated Comprehensive Monitoring Plan).

(4) Results from specific stranding investigations (either from the GoA TMAA or other locations, and involving coincident MFAS/HFAS or explosives training or not involving coincident use).

(5) Results from the Long Term Prospective Study described in the preamble to these regulations.

(6) Results from general marine mammal and sound research (funded by the Navy (described below) or otherwise).

[76 FR 25505, May 4, 2011, as amended at 77 FR 4925, Feb. 1, 2012]

§ 218.129 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to §§ 216.126 and 218.127 of this chapter and subject to the provisions of this subpart, shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 218.128, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.120(b), a Letter of Authorization issued pursuant to §§ 216.126 and 218.127 of this chapter may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subparts O–Q [Reserved]

Subpart R—Taking Marine Mammals Incidental to U.S. Navy Research, Development, Test, and Evaluation Activities in the Naval Sea System Command (NAVSEA) Naval Undersea Warfare Center (NUWC) Keyport Range Complex and the Associated Proposed Extensions Study Area

SOURCE: 76 FR 20274, Apr. 12, 2011, unless otherwise noted.

EFFECTIVE DATE NOTE: At 76 FR 20274, Apr. 12, 2011, subpart R was added, effective Apr. 11, 2011, through Apr. 11, 2016.

§ 218.170 Specified activity and specified geographical area and effective dates.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occur in the area outlined in paragraph (b) of this

section and that occur incidental to the activities described in paragraph (c) of this section.

(b) These regulations apply only to the taking of marine mammals by the Navy that occurs within the Keyport Range Complex Action Area, which includes the extended Keyport Range Site, the extended Dabob Bay Range Complex (DBRC) Site, and the extended Quinault Underwater Tracking Range (QUTR) Site, as presented in the Navy's LOA application. The NAVSEA NUWC Keyport Range Complex is divided into open ocean/offshore areas and in-shore areas:

(1) Open Ocean Area—air, surface, and subsurface areas of the NAVSEA NUWC Keyport Range Complex Extension that lie outside of 12 nautical miles (nm) from land.

(2) Offshore Area—air, surface, and subsurface ocean areas within 12 nm of the Pacific Coast.

(3) In-shore—air, surface, and subsurface areas within the Puget Sound, Port Orchard Reach, Hood Canal, and Dabob Bay.

(c) These regulations apply only to the taking of marine mammals by the Navy if it occurs incidental to the following activities, or similar activities, and sources, or similar sources (estimate amounts of use below):

(1) Range Activities Using Active Acoustic Devices:

(i) General range tracking: Narrow frequency output between 10 to 100 kHz with source levels (SL) between 195–203 dB re 1 microPa @ 1 m—up to 504.5 hours per year.

(ii) UUV Payloads: Operating frequency of 10 to 100 kHz with SLs less than 195 dB re 1 microPa @ 1 m at all range sites—up to 166 hours per year.

(iii) Torpedo Sonars: Operating frequency from 10 to 100 kHz with SL under 233 dB re 1 microPa @ 1 m—up to 21 hours per year.

(iv) Range Targets and Special Test Systems: 5 to 100 kHz frequency range with a SL less than 195 dB re 1 microPa @ 1 m at the Keyport Range Site and SL less than 238 dB re microPa @ 1 m at the DBRC and QUTR sites—up to 9 hours per year.

(v) Special Sonars (non-Navy, shore/pire static testing, diver activities) and Fleet Aircraft (active sonobuoys and dipping sonars): Frequencies vary from 100 to 2,500 kHz with SL less than 235 dB re 1 microPa @ 1 m—up to 321 hours per year.

(vi) Side Scan Sonar: Multiple frequencies typically at 100 to 700 kHz with SLs less than 235 dB re 1 microPa @ 1 m—up to 166 hours per year.

(vii) Other Acoustic Sources:

(A) Acoustic Modems: Emit pulses at frequencies from 10 to 300 kHz with SLs less than 210 dB re 1 microPa @ 1 m—up to 166 hours per year.

(B) Sub-bottom Profilers: Operate at 2 to 7 kHz at SLs less than 210 dB re 1 microPa @ 1 m, and 35 to 45 kHz at SLs less than 220 dB re 1 microPa @ 1 m—up to 192 hours per year.

(C) Target simulator (surface vessels, submarines, torpedoes, and UUV engine noise): Acoustic energy from engines usually from 50 Hz to 10 kHz at SLs less than 170 dB re 1 microPa @ 1 m—up to 24.5 hours per year.

(2) Increased Tempo and Activities due to Range Extension: Estimates of annual range activities and operations are listed in the following table, but may vary provided that the variation does not result in exceeding the amount of take indicated in § 218.171(c):

Range activity	Platform/system used	Proposed number of activities/year [1]		
		Keyport range site	DBRC site	QUTR site
Test Vehicle Propulsion	Thermal propulsion systems	5	130	30
	Electric/Chemical propulsion systems	55	140	30
Other Testing Systems and Activities.	Submarine testing	0	45	15
	Inert mine detection, classification and localization.	5	20	10
	Non-Navy testing	5	5	5
	Acoustic & non-acoustic sensors (magnetic array, oxygen).	20	10	5
	Countermeasure test	5	50	5
	Impact testing	0	10	5
	Static in-water testing	10	10	6
	UUV test	45	120	40

Range activity	Platform/system used	Proposed number of activities/year [1]		
		Keyport range site	DBRC site	QUTR site
	Unmanned Aerial System (UAS) test	0	2	2
Fleet Activities [2] (excluding RDT&E).	Surface Ship activities	1	10	10
	Aircraft activities	0	10	10
	Submarine activities	0	30	30
	Diver activities	45	5	15
Deployment Systems (RDT&E).	Range support vessels:			
	Surface launch craft	35	180	30
	Special purpose barges	25	75	0
	Fleet vessels [3]	15	20	20
	Aircraft (rotary and fixed wing)	0	10	20
	Shore and pier	45	30	30

[1] There may be several activities in 1 day. These numbers provide an estimate of types of range activities over the year.
[2] Fleet activities in the NAVSEA NUWC Keyport Range Complex do not include the use of surface ship and submarine hull-mounted active sonars.
[3] As previously noted, Fleet vessels can include very small craft such as SEAL Delivery Vehicles.

(d) Amended regulations are effective February 1, 2012, through April 11, 2016.

(e) The taking of marine mammals may be authorized in an LOA for the activities and sources listed in § 218.170(c) should the amounts (e.g., hours, number of exercises) vary from those estimated in § 218.170(c), provided that the variation does not result in exceeding the amount of take indicated in § 218.171(c).

[76 FR 20274, Apr. 12, 2011, as amended at 77 FR 4925, Feb. 1, 2012]

§ 218.171 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 218.176 of this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 218.170(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The activities identified in § 218.170(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 218.170(c) is limited to the following species, by Level B harassment only and the indicated number of times:

(1) Harbor porpoise (*Phocoena phocoena*)—56,415 (an average of 11,283 annually);

(2) Northern fur seal (*Callorhinus ursinus*)—220 (an average of 44 annually);

(3) California sea lion (*Zalophus californianus*)—570 (an average of 114 annually);

(4) Northern elephant seal (*Mirounga angustirostris*)—70 (an average of 14 annually);

(5) Harbor seal (*Phoca vitulina richardsi)* (Washington Inland Waters stock)—27,340 (an average of 5,468 annually); and

(6) Harbor seal (*P. v. richardsi*) (Oregon/Washington Coastal stock)—505 (an average of 101 annually).

§ 218.172 Prohibitions.

Notwithstanding takings contemplated in § 218.171 and authorized by a Letter of Authorization issued under § 216.106 of this chapter and § 218.176, no person in connection with the activities described in § 218.170 may:

(a) Take any marine mammal not specified in § 218.171(c);

(b) Take any marine mammal specified in § 218.171(c) other than by incidental take as specified in § 218.171 (c);

(c) Take a marine mammal specified in § 218.171(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter

of Authorization issued under § 216.106 of this chapter and § 218.176.

§ 218.173 Mitigation.

When conducting RDT&E activities identified in § 218.170(c), the mitigation measures contained in this subpart and subsequent Letters of Authorization issued under § 216.106 of this chapter and § 218.176 must be implemented. These mitigation measures include, but are not limited to:

(a) Marine mammal observers training:

(1) All range personnel shall be trained in marine mammal recognition.

(2) Marine mammal observer training shall be conducted by qualified organizations approved by NMFS.

(b) Lookouts onboard vessels:

(1) Vessels on a range shall use lookouts during all hours of range activities.

(2) Lookout duties include looking for marine mammals.

(3) All sightings of marine mammals shall be reported to the Range Officer in charge of overseeing the activity.

(c) Visual surveillance shall be conducted just prior to all in-water exercises.

(1) Surveillance shall include, as a minimum, monitoring from all participating surface craft and, where available, adjacent shore sites.

(2) When cetaceans have been sighted in the vicinity of the operation, all range participants increase vigilance and take reasonable and practicable actions to avoid collisions and activities that may result in close interaction of naval assets and marine mammals.

(3) Actions may include changing speed and/or direction, subject to environmental and other conditions (*e.g.*, safety, weather).

(d) An ''exclusion zone'' shall be established and surveillance will be conducted to ensure that there are no marine mammals within this exclusion zone prior to the commencement of each in-water exercise.

(1) For cetaceans, the exclusion zone shall extend out 1,000 yards (914.4 m) from the intended track of the test unit.

(2) For pinnipeds, the exclusion zone shall extend out 100 yards (91 m) from the intended track of the test unit.

(e) Range craft shall not approach within 100 yards (91 m) of marine mammals, to the extent practicable considering human and vessel safety priorities. This includes marine mammals ''hauled-out'' on islands, rocks, and other areas such as buoys.

(f) In the event of a collision between a Navy vessel and a marine mammal, NUWC Keyport activities shall notify immediately the Navy chain of Command, which shall notify NMFS immediately.

(g) Passive acoustic monitoring for cetaceans will be implemented throughout the NUWC Keyport Range Complex during RDT&E testing activities involving active sonar transmissions when passive acoustic monitoring capabilities are being operated during the testing activity.

(h) Procedures for reporting marine mammal sightings on the NAVSEA NUWC Keyport Range Complex shall be promulgated, and sightings shall be entered into the Range Operating System and forwarded to NOAA/NMML Platforms of Opportunity Program.

(i) If there is clear evidence that a marine mammal is injured or killed as a result of the proposed Navy RDT&E activities, the Naval activities shall be immediately suspended and the situation immediately reported by personnel involved in the activity to the Ranger Officer, who will follow Navy procedures for reporting the incident to NMFS through the Navy's chain-of-command.

(j) For nighttime RDT&E activities of active acoustic transmissions in the Keyport Range proposed extension area, the Navy shall conduct passive acoustic monitoring within the Agate Pass and south of University Point in southern Port Orchard Reach. If Southern Resident killer whales are detected in the vicinity of the Keyport Range Site, the Range Office shall be notified immediately and the active acoustic sources must be shutdown if killer whales are confirmed to approach at 1,000 yards from the source.

§ 218.174 Requirements for monitoring and reporting.

(a) The Holder of the Letter of Authorization issued pursuant to § 216.106 of this chapter and § 218.176 for activities described in § 218.170(c) is required to cooperate with the NMFS when monitoring the impacts of the activity on marine mammals.

(b) The Holder of the Authorization must notify NMFS immediately (or as soon as clearance procedures allow) if the specified activity identified in § 218.170(c) is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified or authorized in § 218.171(c).

(c) The Navy must conduct all monitoring and required reporting under the Letter of Authorization, including abiding by the NAVSEA NUWC Keyport Range Complex Monitoring Plan, which is incorporated herein by reference, and which requires the Navy to implement, at a minimum, the monitoring activities summarized below:

(1) Visual Surveys:

(i) The Holder of this Authorization shall conduct a minimum of 2 special visual surveys per year to monitor HFAS and MFAS respectively at the DBRC Range site.

(ii) For specified events, shore-based and vessel surveys shall be used 1 day prior to and 1–2 days post activity.

(A) Shore-based Surveys:

(*1*) Shore-based monitors shall observe test events that are planned in advance to occur adjacent to near shore areas where there are elevated topography or coastal structures, and shall use binoculars or theodolite to augment other visual survey methods.

(*2*) Shore-based surveys of the test area and nearby beaches shall be conducted for stranded marine animals following nearshore events. If any distressed, injured or stranded animals are observed, an assessment of the animal's condition (alive, injured, dead, or degree of decomposition) shall be reported immediately to the Navy and the information shall be transmitted immediately to NMFS through the appropriate chain of command.

(B) Vessel-based Surveys:

(*1*) Vessel-based surveys shall be designed to maximize detections of marine mammals near mission activity event.

(*2*) Post-analysis shall focus on how the location, speed and vector of the range craft and the location and direction of the sonar source (*e.g.* Navy surface vessel) relates to the animal.

(*3*) Any other vessels or aircraft observed in the area shall also be documented.

(iii) Surveys shall include the range site with special emphasis given to the particular path of the test run. When conducting a particular survey, the survey team shall collect the following information.

(A) Species identification and group size;

(B) Location and relative distance from the acoustic source(s);

(C) The behavior of marine mammals including standard environmental and oceanographic parameters;

(D) Date, time and visual conditions associated with each observation;

(E) Direction of travel relative to the active acoustic source; and

(F) Duration of the observation.

(iv) Animal sightings and relative distance from a particular active acoustic source shall be used post-survey to determine potential received energy (dB re 1 micro Pa-sec). This data shall be used, post-survey, to estimate the number of marine mammals exposed to different received levels (energy based on distance to the source, bathymetry, oceanographic conditions and the type and power of the acoustic source) and their corresponding behavior.

(2) Passive Acoustic Monitoring (PAM):

(i) The Navy shall deploy a hydrophone array in the Keyport Range Complex Study Area for PAM.

(ii) The array shall be utilized during the two special monitoring surveys in DBRC as described in § 218.174(c)(1)(i).

(iii) The array shall have the capability of detecting low frequency vocalizations (<1,000 Hz) for baleen whales and relatively high frequency (up to 30 kHz) for odontocetes.

(iv) Acoustic data collected from the PAM shall be used to detect acoustically active marine mammals as appropriate.

(3) Marine Mammal Observers on range craft or Navy vessels:

(i) Navy Marine mammal observers (NMMOs) may be placed on a range craft or Navy platform during the event being monitored.

(ii) The NMMO must possess expertise in species identification of regional marine mammal species and experience collecting behavioral data.

(iii) NMMOs may be placed alongside existing lookouts during the two specified monitoring events as described in § 218.174(c)(1)(i).

(iv) NMMOs shall inform the lookouts of any marine mammal sighting so that appropriate action may be taken by the chain of command. NMMOs shall schedule their daily observations to duplicate the lookouts' schedule.

(v) NMMOs shall observe from the same height above water as the lookouts, and they shall collect the same data collected by lookouts listed in § 218.174(c)(1)(iii).

(d) The Navy shall complete an Integrated Comprehensive Monitoring Program (ICMP) Plan in 2009. This planning and adaptive management tool shall include:

(1) A method for prioritizing monitoring projects that clearly describes the characteristics of a proposal that factor into its priority.

(2) A method for annually reviewing, with NMFS, monitoring results, Navy R&D, and current science to use for potential modification of mitigation or monitoring methods.

(3) A detailed description of the Monitoring Workshop to be convened in 2011 and how and when Navy/NMFS will subsequently utilize the findings of the Monitoring Workshop to potentially modify subsequent monitoring and mitigation.

(4) An adaptive management plan.

(5) A method for standardizing data collection for NAVSEA NUWC Keyport Range Complex Extension and across range complexes.

(e) Notification of Injured or Dead Marine Mammals—Navy personnel shall ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as clearance procedures allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy activities utilizing sonar. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

(f) Annual Keyport Range Complex Monitoring Plan Report—The Navy shall submit a report annually by December 1 describing the implementation and results (through September 1 of the same year) of the Keyport Range Complex Monitoring Plan. Data collection methods will be standardized across range complexes to allow for comparison in different geographic locations. Although additional information will also be gathered, the NMMOs collecting marine mammal data pursuant to the Keyport Range Complex Monitoring Plan shall, at a minimum, provide the same marine mammal observation data required in § 218.174(c). The Keyport Range Complex Monitoring Plan Report may be provided to NMFS within a larger report that includes the required Monitoring Plan Reports from Keyport Range Complex and multiple range complexes.

(g) Keyport Range Complex 5-yr Comprehensive Report—The Navy shall submit to NMFS a draft comprehensive report that analyzes and summarizes *all* of the multi-year marine mammal information gathered during tests involving active acoustic sources for which individual reports are required in § 218.174 (d)–(f). This report will be submitted at the end of the fourth year of the rule (June 2013), covering activities that have occurred through September 1, 2013.

(h) The Navy shall respond to NMFS comments and requests for additional information or clarification on the Keyport Range Complex Extension Comprehensive Report, the Annual Keyport Range Complex Monitoring Plan Report (or the multi-Range Complex Annual Monitoring Report, it that is how the Navy chooses to submit the information) if submitted within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or three

months after the submittal of the draft if NMFS does not comment by then.

(i) In 2011, the Navy shall convene a Monitoring Workshop in which the Monitoring Workshop participants will be asked to review the Navy's Monitoring Plans and monitoring results and make individual recommendations (to the Navy and NMFS) of ways of improving the Monitoring Plans. The recommendations shall be reviewed by the Navy, in consultation with NMFS, and modifications to the Monitoring Plan shall be made, as appropriate.

§ 218.175 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations for the activities identified in § 218.170(c), the U.S. Navy must apply for and obtain either an initial Letter of Authorization in accordance with § 218.176 or a renewal under § 218.177.

§ 218.176 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart, but may be renewed or modified sooner subject to the renewal conditions in § 218.177 and the modification conditions in § 218.178.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

[76 FR 20274, Apr. 12, 2011, as amended at 77 FR 4925, Feb. 1, 2012]

§ 218.177 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under §§ 216.106 of this chapter and 218.176 for the activity identified in § 218.170(c) will be renewed upon:

(1) Notification to NMFS that the activity described in the application submitted under § 218.175 will be undertaken and that there will not be a substantial modification to the desired work, mitigation, or monitoring undertaken during the upcoming period of validity;

(2) Timely receipt of the monitoring reports required under § 218.174(b); and

(3) A determination by NMFS that the mitigation, monitoring and reporting measures required under § 218.173 and the Letter of Authorization issued under § 216.106 of this chapter and § 218.176, were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §§ 216.106 and 218.177 indicates that a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season will occur, the NMFS will provide the public a period of 30 days for review and comment on the request. Public comment on renewals of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER.

(d) NMFS, in response to new information and in consultation with the Navy, may modify the mitigation or monitoring measures in subsequent LOAs if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the Navy's monitoring from the previous year (either

from Keyport Range Complex Study Area or other locations).

(2) Findings of the Monitoring Workshop that the Navy will convene in 2011 (§ 218.174(i)).

(3) Compiled results of Navy funded research and development (R&D) studies (presented pursuant to the ICMP (§ 218.174(d)).

(4) Results from specific stranding investigations (either from the Keyport Range Complex Study Area or other locations).

(5) Results from the Long Term Prospective Study described in the preamble to these regulations.

(6) Results from general marine mammal and sound research (funded by the Navy (described below) or otherwise).

(7) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.

[76 FR 20274, Apr. 12, 2011, as amended at 77 FR 4925, Feb. 1, 2012]

§ 218.178 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section and § 218.177(d), no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to § 216.106 of this chapter and § 218.176 and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 218.177, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.171(b), a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 218.176 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subparts S–W [Reserved]

Subpart X—Taking and Importing of Marine Mammals; Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) Sonar

SOURCE: 77 FR 50316, Aug. 20, 2012, unless otherwise noted.

EFFECTIVE DATE NOTE: At 77 FR 50316, Aug. 20, 2012, subpart X was added, effective Aug. 15, 2012, through Aug. 15, 2017.

§ 218.230 Specified activity, level of taking, and species.

Regulations in this subpart apply only to the incidental taking of those marine mammal species specified in paragraph (b) of this section by the U.S. Navy, Department of Defense, while engaged in the operation of no more than four SURTASS LFA sonar systems conducting active sonar operations in areas specified in paragraph (a) of this section. The authorized activities, as specified in a Letter of Authorization issued under §§ 216.106 and 218.238, include the transmission of low frequency sounds from the SURTASS LFA sonar system and the transmission of high frequency sounds from the mitigation sonar described in § 218.234 during routine training and testing as well as during military operations.

(a) The incidental take, by Level A and Level B harassment, of marine mammals from the activity identified in this section may be authorized in certain areas of the Pacific, Atlantic, and Indian Oceans and the Mediterranean Sea, as specified in a Letter of Authorization.

(b) The incidental take, by Level A and Level B harassment, of marine mammals from the activity identified in this section is limited to the following species and species groups:

(1) *Mysticetes*–blue whale (*Balaenoptera musculus*), bowhead whale (*Balaena mysticetus*), Bryde's whale (*Balaenoptera edeni*), fin whale (*Balaenoptera physalus*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), minke whale

(*Balaenoptera acutorostrata*), North Atlantic right whale (*Eubalaena glacialis*), North Pacific right whale (*Eubalena japonica*), pygmy right whale (*Caperamarginata*), sei whale (*Balaenoptera borealis*), southern right whale (*Eubalaena australis*),

(2) *Odontocetes*–Andrew's beaked whale (*Mesoplodon bowdoini*), Arnoux's beaked whale (*Berardius arnuxii*), Atlantic spotted dolphin (*Stenella frontalis*), Atlantic white-sided dolphin (*Lagenorhynchus acutus*), Baird's beaked whale (*Berardius bairdii*), Beluga whale (*Dephinapterus leucas*), Blainville's beaked whale (*Mesoplodon densirostris*), Chilean dolphin (*Cephalorhynchus eutropia*), Clymene dolphin (*Stenella clymene*), Commerson's dolphin (*Cephalorhynchus commersonii*), common bottlenose dolphin (*Tursiops truncatus*), Cuvier's beaked whale (*Ziphiuscavirostris*), Dall's porpoise (*Phocoenoides dalli*), Dusky dolphin (*Lagenorhynchus obscurus*), dwarf sperm and pygmy sperm whales (*Kogia simus* and *K. breviceps*), false killer whale (*Pseudorca crassidens*), Fraser's dolphin (*Lagenodelphis hosei*), Gervais' beaked whale (*Mesoplodon europaeus*), ginkgo-toothed beaked whale (*Mesoplodon ginkgodens*), Gray's beaked whale (*Mesoplodon grayi*), Heaviside's dolphin (*Cephalorhynchus heavisidii*), Hector's beaked whale (*Mesoplodon hectori*), Hector's dolphin (*Cephalorhynchus hectori*); Hourglass dolphin (*Lagenorhynchus cruciger*), Hubbs' beaked whale (*Mesoplodon carhubbsi*), harbor porpoise (*Phocoena phocoena*); Indo-Pacific bottlenose dolphin (*Tursiops aduncus*), killer whale (*Orca orcinus*), long-beaked common dolphin (*Delphinuscapensis*), long-finned pilot whale (*Globicephalamelas*), Longman's beaked whale (*Indopacetus pacificus*), melon-headed whale (*Peponocephala electra*), northern bottlenose whale (*Hyperodon ampullatus*), northern right whale dolphin (*Lissodelphis borealis*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), pantropical spotted dolphin (*Stenella attenuata*), Peale's dolphin (*Lagenorhynchus australis*), Perrin's beaked whale (*Mesoplodon perrini*), pygmy beaked whale (*Mesoplodon peruvianus*), pygmy killer whale (*Feresa attenuata*), Risso's dolphin (*Grampus griseus*), rough-toothed dolphin (*Steno bredanensis*), Shepherd's beaked whale (*Tasmacetus sheperdii*), short-beaked common dolphin (*Delphinus delphis*), short-finned pilot whale (*Globicephala macrorhynchus*), southern bottlenose whale (*Hyperodon planifrons*), southern right whale dolphin (*Lissodelphis peronii*), Sowerby's beaked whale (*Mesoplodon bidens*), spade-toothed beaked whale (*Mesoplodon traversii*), spectacled porpoise (*Phocoena dioptrica*), sperm whale (*Physeter macrocephalus*), spinner dolphin (*Stenella longirostris*), Stejneger's beaked whale (*Mesoplodon stejnegeri*), strap-toothed beaked whale (*Mesoplodon layardii*), striped dolphin (*Stenella coeruleoalba*), True's beaked whale (*Mesoplodon mirus*), white-beaked dolphin (*Lagenorhynchus albirostris*),

(3) *Pinnipeds*–Australian sea lion (*Neophoca cinerea*), California sea lion (*Zalophus californianus*), Galapagos fur seal (*Arctocephalus galapagoensis*), Galapagos sea lion (*Zalophus wollebaeki*), gray seal (*Halichoerus grypus*), Guadalupe fur seal (*Arctocephalus townsendi*), harbor seal (*Phoca vitulina*), harp seal (*Pagophilus groenlandicus*), Hawaiian monk seal (*Monachus schauinslandi*), hooded seal (*Cystophora cristata*), Juan Fernadez fur seal (*Arctocephalus philippi*), Mediterranean monk seal (*Monachus monachus*), New Zealand fur seal (*Arctocephalus forsteri*), New Zealand fur seal (*Phocarctos hookeri*), northern elephant seal (*Mirounga angustirostris*), northern fur seal (*Callorhinus ursinus*), ribbon seal (*Phoca fasciata*), South African and Australian fur seals (*Arctocephalus pusillus*), South American fur seal (*Arctocephalus australis*), South American sea lion (*Otaria flavescens*), southern elephant seal (*Mirounga leonina*), spotted seal (*Phoca largha*), Steller sea lion (*Eumetopias jubatus*), subantarctic fur seal (*Arctocephalus tropicalis*).

§ 218.231 Effective dates.

Regulations are effective August 15, 2012 through August 15, 2017.

§ 218.232 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 218.238

of this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by Level A and Level B harassment within the areas described in §218.230(a), provided that the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The Holder of the Letter of Authorization must conduct the activities identified in §218.230 in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in §218.230 is limited to the species listed in §218.230(b) by the method of take indicated in paragraphs (c)(2) through (5) of this section.

(1) The Navy must maintain a running calculation/estimation of takes of each species over the effective period of these regulations.

(2) Level B harassment will not exceed 12 percent of any marine mammal stock listed in §218.230(b)(1) through (3) annually over the course of the five-year regulations. This annual per-stock cap of 12 percent applies regardless of the number of SURTASS LFA sonar vessels operating.

(3) Level A harassment of no more than six mysticetes (total), of any of the species listed in §218.230(b)(1) over the course of the five-year regulations.

(4) Level A harassment of no more than 25 odontocetes (total), of any of the species listed in §218.230(b)(2) over the course of the five-year regulations.

(5) Level A harassment of no more than 25 pinnipeds (total), of any of the species listed in §218.230(b)(3) over the course of the five-year regulations.

§218.233 Prohibitions.

No person in connection with the activities described in §218.230 may:

(a) Take any marine mammal not specified in §218.230(b);

(b) Take any marine mammal specified in §218.230 other than by incidental take as specified in §218.232(c)(2) through (5);

(c) Take any marine mammal specified in §218.230 if NMFS makes a determination that such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, any of the terms, conditions, or requirements of these regulations or a Letter of Authorization issued under §§216.106 and 218.238 of this chapter.

§218.234 Mitigation.

When conducting operations identified in §218.230, the mitigation measures described in this section and in any Letter of Authorization issued under §§216.106 and 218.238 must be implemented.

(a) *Personnel Training—Lookouts:* (1) The Navy shall train the lookouts in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of protective measures if they spot marine mammals.

(2) The Navy will hire one or more marine mammal biologists qualified in conducting at-sea marine mammal visual monitoring from surface vessels to train and qualify designated ship personnel to conduct at-sea visual monitoring.

(b) *General Operating Procedures:* (1) Prior to SURTASS LFA sonar operations, the Navy will promulgate executive guidance for the administration, execution, and compliance with these regulations and any Letters of Authorization issued.

(2) The Holder of a Letter of Authorization will not transmit the SURTASS LFA sonar signal at a frequency greater than 500 Hertz (Hz).

(c) *LFA Sonar Mitigation Zone and 1-km Buffer Zone; Suspension and Delay:* (1) Prior to commencing and during SURTASS LFA sonar transmissions, the Holder of a Letter of Authorization will determine the propagation of LFA sonar signals in the ocean and the distance from the SURTASS LFA sonar source to the 180-decibel (dB) re: 1 μPa isopleth.

(2) The Holder of a Letter of Authorization will establish a 180-dB LFA sonar mitigation zone around the surveillance vessel that is equal in size to the 180-dB re: 1 μPa isopleth (i.e., the volume subjected to sound pressure levels of 180 dB or greater) as well as a

one-kilometer (1-km) buffer zone around the LFA sonar mitigation zone.

(3) If a marine mammal is detected, through monitoring required under § 218.235, within or about to enter the LFA sonar mitigation zone plus the 1-km buffer zone, the Holder of the Letter of Authorization will immediately delay or suspend SURTASS LFA sonar transmissions.

(d) *Resumption of SURTASS LFA sonar transmissions:* (1) The Holder of a Letter of Authorization will not resume SURTASS LFA sonar transmissions earlier than 15 minutes after:

(i) All marine mammals have left the area of the SURTASS LFA sonar mitigation and buffer zones; and

(ii) There is no further detection of any marine mammal within the LFA sonar mitigation and buffer zones as determined by the visual, passive, and high frequency monitoring described in § 218.235.

(e) *Ramp-up Procedures for the high-frequency marine mammal monitoring (HF/M3) sonar required under § 218.235:* (1) The Holder of a Letter of Authorization will ramp up the HF/M3 sonar power level beginning at a maximum source sound pressure level of 180 dB re: 1 μPa at 1 meter in 10-dB increments to operating levels over a period of no less than five minutes:

(i) At least 30 minutes prior to any SURTASS LFA sonar transmissions;

(ii) Prior to any SURTASS LFA sonar calibrations or testing that are not part of regular SURTASS LFA sonar transmissions described in § 218.230; and

(iii) Anytime after the HF/M3 active sonar source has been powered down for more than two minutes.

(2) The Holder of a Letter of Authorization will not increase the HF/M3 active sonar system's sound pressure level once a marine mammal is detected; ramp-up may resume once marine mammals are no longer detected.

(f) *Geographic Restrictions on the SURTASS LFA Sonar Sound Field:* (1) The Holder of a Letter of Authorization will not operate the SURTASS LFA sonar such that:

(i) The SURTASS LFA sonar sound field exceeds 180 dB re: 1 μPa (rms) at a distance less than 12 nautical miles (nm) (22 kilometers (km)) from any coastline, including offshore islands;

(ii) The SURTASS LFA sonar sound field exceeds 180 dB re: 1 μPa (rms) at a distance less than 1 km (0.5 nm) seaward of the outer perimeter of any offshore biologically important area designated in § 218.234(f)(2) during the period specified.

(2) The Offshore Biologically Important Areas (OBIAs) for marine mammals (with specified periods) for SURTASS LFA sonar operations are the following:

Name of area	Location of area	Months of importance
(i) Georges Bank	40°00′ N, 72°30′ W; 39°37′ N, 72°09′ W; 39°54′ N, 71°43′ W; 40°02′ N, 71°20′ W; 40°08′ N, 71°01′ W; 40°04′ N, 70°44′ W; 40°00′ N, 69°24′ W; 40°16′ N, 68°27′ W; 40°34′ N, 67°13′ W; 41°00′ N, 66°24′ W; 41°52′ N, 65°47′ W; 42°20′ N, 66°06′ W; 42°18′ N, 67°23′ W.	Year-round.
(ii) Roseway Basin Right Whale Conservation Area.	43°05′ N, 65°40′ W; 43°05′ N, 65°03′ W; 42°45′ N, 65°40′ W; 42°45′ N, 65°03′ W.	June through December, annually.
(iii) Great South Channel, U.S. Gulf of Maine, and Stellwagen Bank National Marine Sanctuary (NMS).	41°00.000′ N, 69°05.000′ W; 42°09.000′ N, 67°08.400′ W; 42°53.436′ N, 67°43.873′ W; 44°12.541′ N, 67°16.847′ W; 44°14.911′ N, 67°08.936′ W; 44°21.538′ N, 67°03.663′ W; 44°26.736′ N, 67°09.596′ W; 44°16.805′ N, 67°27.394′ W; 44°11.118′ N, 67°56.398′ W; 43°59.240′ N, 68°08.263′ W; 43°36.800′ N, 68°46.496′ W; 43°33.925′ N, 69°19.455′ W; 43°32.008′ N, 69°44.504′ W; 43°21.922′ N, 70°06.257′ W; 43°04.084′ N, 70°21.418′ W; 42°51.982′ N, 70°31.965′ W; 42°45.187′ N, 70°23.396′ W; 42°39.068′ N, 70°30.188′ W; 42°32.892′ N, 70°35.873′ W; 42°07.748′ N, 70°28.257′ W; 42°05.592′ N, 70°02.136′ W; 42°03.664′ N, 69°44.000′ W; 41°40.000′ N, 69°45.000′ W.	January 1 to November 14, annually.

Name of area	Location of area	Months of importance
(iv) Southeastern U.S. Right Whale Seasonal Habitat.	Critical Habitat Boundaries are coastal waters between 31°15′ N and 30°15′ N from the coast out 15 nautical miles (nmi); and the coastal waters between 30°15′ N and 28°00″ N from the coast out 5 nmi. (50 CFR § 226.13(c)); OBIA Boundaries are coastal waters between 31°15″ N and 30°15″ N from 12 to 15 nmi..	November 15 to April 15, annually.
(v) North Pacific Right Whale Critical Habitat.	57°03′ N, 153°00′ W; 57°18′ N, 151°30′ W; 57°00′ N, 151°30′ W; 56°45′ N, 153°00′ W. (50 CFR § 226.215).	March through August, annually.
(vi) Silver Bank and Navidad Bank.	Silver Bank: ..... 20°38.899′ N, 69°23.640′ W; 20°55.706′ N, 69°57.984′ W; 20°25.221′ N, 70°00.387′ W; 20°12.833′ N, 69°40.604′ W; 20°13.918′ N, 69°31.518′ W; 20°28.680′ N, 69°31.900′ W. Navidad Bank: 20°15.596′ N, 68°47.967′ W; 20°11.971′ N, 68°54.810′ W; 19°52.514′ N, 69°00.443′ W; 19°54.957′ N, 68°51.430′ W; 19°51.513′ N, 68°41.399′ W.	December through April, annually.
(vii) Coastal waters of Gabon, Congo and Equatorial Guinea.	An exclusion zone following the 500-m isobath extending from 3°31.055′ N, 9°12.226″ E in the north offshore of Malabo southward to 8°57.470″ S, 12°55.873″ E offshore of Luanda	June through October, annually.
(viii) Patagonian Shelf Break	Between 200- and 2000-m isobaths and the following latitudes: 35°00″ S, 39°00″ S, 40°40″ S, 42°30″ S, 46°00″ S, 48°50″ S..	Year-round.
(ix) Southern Right Whale Seasonal Habitat.	Coastal waters between 42°00″ S and 43°00″ S from 12 to 15 nm including the enclosed bays of Golfo Nuevo, Golfo San Jose, and San Matias. Golfos San Jose and San Nuevo are within 22 km (14 mi; 12 nm) coastal exclusion zone	May through December, annually.
(x) Central California National Marine Sanctuaries.	Single stratum boundary created from the Cordell Bank (15 CFR 922.10), Gulf of the Farallones (15 CFR 922.80), and Monterey Bay (15 CFR 922.30) NMS legal boundaries. Monterey Bay NMS includes the Davidson Seamount Management Zone	June through November, annually.
(xi) Antarctic Convergence Zone	30° E to 80° E, 45° S; 80° E to 150° E, 55° S; 150° E to 50° W, 60° S; 50° W to 30° E, 50° S.	October through March, annually.
(xii) Piltun and Chayvo offshore feeding grounds in the Sea of Okhotsk.	54°09.436′ N, 143°47.408′ W; 54°09.436′ N, 143°17.354′ W; 54°01.161′ N, 143°17.354′ W; 53°53.580′ N, 143°13.398′ W; 53°26.963′ N, 143°28.230′ W; 53°07.013′ N, 143°35.481′ W; 52°48.705′ N, 143°38.447′ W; 52°32.077′ N, 143°37.788′ W; 52°21.605′ N, 143°34.163′ W; 52°09.470′ N, 143°26.582′ W; 51°57.686′ N, 143°30.208′ W; 51°36.033′ N, 143°42.794′ W; 51°08.082′ N, 143°51.301′ W; 51°08.082′ N, 144°16.742′ W; 51°24.514′ N, 144°11.139′ W; 51°48.116′ N, 144°10.809′ W; 52°03.194′ N, 144°20.363′ W; 52°23.235′ N, 144°10.150′ W; 52°28.674′ N, 144°12.787′ W; 52°42.523′ N, 144°10.150′ W; 53°12.972′ N, 143°55.648′ W; 53°18.505′ N, 143°56.637′ W; 53°23.041′ N, 143°53.011′ W; 53°28.250′ N, 143°53.341′ W; 53°44.039′ N, 143°49.056′ W; 53°53.207′ N, 143°50.045′ W; 53°59.819′ N, 143°48.067′ W.	June through November, annually.
(xiii) Coastal waters off Madagascar.	16°03′55.04″ S, 50°27′12.59″ E; 16°12′23.03″ S, 51°03′37.38″ E; 24°30′45.06″ S, 48°26′00.94″ E; 24°15′28.07″ S, 47°46′51.16″ E; 22°18′00.74″ S, 48°14′13.52″ E; 20°52′24.12″ S, 48°43′13.49″ E; 19°22′33.24″ S, 49°15′45.47″ E; 18°29′46.08″ S, 49°37′32.25″ E; 17°38′27.89″ S, 49°44′27.17″ E; 17°24′39.12″ S, 49°39′17.03″ E; 17°19′35.34″ S, 49°54′23.82″ E; 16°45′41.71″ S, 50°15′56.35″ E.	July through September, annually for humpback whale breeding and November through December, annually for migrating blue whales.
(xiv) Madagascar Plateau, Madagascar Ridge, and Walters Shoal.	25°55′20.00″ S, 44°05′15.45″ E; 25°46′31.36″ S, 47°22′35.90″ E; 27°02′37.71″ S, 48°03′31.08″ E; 35°13′51.37″ S, 46°26′19.98″ E; 35°14′28.59″ S, 42°35′49.20″ E; 31°36′57.96″ S, 42°37′49.35″ E; 27°41′11.21″ S, 44°30′11.01″ E.	November through December, annually.

Name of area	Location of area	Months of importance
(xv) Ligurian-Corsican-Provencal Basin and Western Pelagos Sanctuary in the Mediterranean Sea.	42°50.271′ N, 06°31.883″ E; 42°55.603′ N, 06°43.418″ E; 43°04.374′ N, 06°52.165″ E; 43°12.600′ N, 07°10.440″ E; 43°21.720′ N, 07°19.380″ E; 43°30.600′ N, 07°32.220″ E; 43°33.900′ N, 07°49.920″ E; 43°36.420′ N, 08°05.580″ E; 43°42.600′ N, 08°22.140″ E; 43°50.880′ N, 08°34.500″ E; 43°58.560′ N, 08°47.700″ E; 43°59.040′ N, 08°56.040″ E; 43°57.047′ N, 09°03.540″ E; 43°52.260′ N, 09°08.520″ E; 43°47.580′ N, 09°13.500″ E; 43°36.060′ N, 09°16.620″ E; 43°28.440′ N, 09°05.820″ E; 43°21.360′ N, 09°02.100″ E; 43°16.020′ N, 08°57.240″ E; 43°04.440′ N, 08°47.580″ E; 42°54.900′ N, 08°35.400″ E; 42°45.900′ N, 08°27.540″ E; 42°36.060′ N, 08°22.020″ E; 42°22.620′ N, 08°15.849″ E; 42°07.202′ N, 08°17.174″ E; 41°52.800′ N, 08°15.720″ E; 41°39.780′ N, 08°05.280″ E; 41°28.200′ N, 08°51.600″ E; 42°57.060′ N, 06°19.860″ E.	July to August, annually.
(xvi) Hawaiian Islands Humpback Whale NMS and Penguin Bank.	21°10′02.179″ N, 157°30′58.217″ W; 21°09′46.815″ N, 157°30′22.367″ W; 21°06′39.882″ N, 157°31′00.778″ W; 21°02′51.976″ N, 157°30′30.049″ W; 20°59′52.725″ N, 157°29′28.591″ W; 20°58′05.174″ N, 157°27′35.919″ W; 20°55′49.456″ N, 157°30′58.217″ W; 20°50′44.729″ N, 157°42′42.418″ W; 20°51′02.654″ N, 157°44′45.333″ W; 20°53′56.784″ N, 157°46′04.716″ W; 20°56′32.988″ N, 157°45′33.987″ W; 21°01′27.472″ N, 157°43′10.586″ W; 21°05′20.499″ N, 157°39′27.802″ W; 21°10′02.179″ N, 157°30′58.217″ W.	November through April, annually.
(xvii) Costa Rica Dome	Centered at 9° N and 88° W	Year-round.
(xviii) Great Barrier Reef Between 16° S and 21° S.	16°01.829″ S, 145°38.783″ E; 15°52.215″ S, 146°20.936″ E; 17°28.354″ S, 146°59.392″ E; 20°16.228″ S, 151°39.674″ E; 20°58.381″ S, 150°30.897″ E; 20°17.007″ S, 149°38.247″ E; 20°10.941″ S, 149°18.247″ E; 20°02.403″ S, 149°12.623″ E; 19°53.287″ S, 149°03.986″ E; 19°49.866″ S, 148°52.135″ E; 19°53.287″ S, 148°44.302″ E; 19°47.965″ S, 148°36.870″ E; 19°47.205″ S, 148°26.024″ E; 19°19.978″ S, 147°39.626″ E; 19°14.065″ S, 147°37.014″ E; 19°08.913″ S, 147°31.993″ E; 19°05.667″ S, 147°24.160″ E; 19°07.576″ S, 147°18.134″ E; 18°51.718″ S, 146°51.219″ E; 18°44.258″ S, 146°54.031″ E; 18°37.175″ S, 146°51.420″ E; 18°31.620″ S, 146°43.385″ E; 18°27.595″ S, 146°40.573″ E; 17°36.676″ S, 146°20.488″ E; 17°20.484″ S, 146°16.671″ E; 17°07.745″ S, 146°13.056″ E; 16°49.769″ S, 146°11.047″ E; 16°41.835″ S, 146°03.817″ E; 16°39.706″ S, 145°54.979″ E.	May through September, annually.
(xix) Bonney Upwelling on the south coast of Australia.	37°12′20.036″ S, 139°31′17.703″ E; 37°37′33.815″ S, 139°42′42.508″ E; 38°10′36.144″ S, 140°22′57.345″ E; 38°44′50.558″ S, 141°33′50.342″ E; 39°07′04.125″ S, 141°11′00.733″ E; 37°28′33.179″ S, 139°10′52.263″ E.	December through May, annually.
(xx) Northern Bay of Bengal and Head of Swatch-of-No-Ground.	20°59.735′ N, 89°07.675″ E; 20°55.494′ N, 89°09.484″ E; 20°52.883′ N, 89°12.704″ E; 20°55.275′ N, 89°18.133″ E; 21°04.558′ N, 89°25.294″ E; 21°12.655′ N, 89°25.354″ E; 21°13.279′ N, 89°16.833″ E; 21°06.347′ N, 89°15.011″ E.	Year-round.
(xxi) Olympic Coast NMS and Prairie, Barkley Canyon, and Nitnat Canyon.	Boundaries within 23 nm (26.5 m; 42.6 km) of the coast from 47°07′ N to 48°30′ N latitude.	Olympic NMS: December, January, March, and May, annually.
	48°30′01.995″ N, 125°58′38.786″ W; 48°16′55.605″ N, 125°38′52.052″ W; 48°23′07.353″ N, 125°17′10.935″ W; 48°12′38.241″ N, 125°16′42.339″ W; 47°58′20.361″ N, 125°31′14.517″ W; 47°58′20.361″ N, 126°06′16.322″ W; 48°09′46.665″ N, 126°25′48.758″ W.	The Prairie, Barkley Canyon, and Nitnat Canyon: June through September, annually.

Name of area	Location of area			Months of importance
(xxii) Abrolhos Bank	16°35′34.909″ 38°43′41.069″; 19°30′59.069″ 39°33′38.351″; 18°52′16.884″ 39°32′27.709″; 18°27′28.985″ 39°26′21.073″; 18°09′24.931″ 39°12′30.425″; 18°08′50.404″ 38°31′41.385″; 17°58′01.372″ 38°29′34.612″; 16°43′15.682″ 38°53′40.007″.	38°52′30.455″; 16°40′00.131″ 37°23′52.446″; 19°20′24.752″ 39°32′31.789″; 18°30′59.345″ 39°30′13.453″; 18°07′43.518″ 39°16′24.913″; 18°10′20.682″ 38°35′00.059″; 18°02′09.399″ 38°28′45.409″; 16°48′58.768″	16°35′31.619″ 37°23′52.492″; 19°30′59.974″ 39°30′33.03″; 18°45′09.937″ 39°30′59.669″; 18°17′30.429″ 39°19′52.924″; 18°10′04.585″ 38°39′06.185″; 18°06′05.466″ 38°29′26.179″; 17°53′58.883″ 38°55′23.768″;	August through November, annually.

(g) *Operational Exception for the SURTASS LFA Sonar Sound Field.* During military operations SURTASS LFA sonar transmissions may exceed 180 dB re: 1 μPa (rms) within the boundaries of a SURTASS LFA sonar OBIA when: operationally necessary to continue tracking an existing underwater contact; or operationally necessary to detect a new underwater contact within the OBIA. This exception does not apply to routine training and testing with the SURTASS LFA sonar systems.

§ 218.235 Requirements for monitoring.

(a) The Holder of a Letter of Authorization issued pursuant to §§ 216.106 and 218.238 must:

(1) Conduct visual monitoring from the ship's bridge during daylight hours (30 minutes before sunrise until 30 minutes after sunset) during operations that employ SURTASS LFA sonar in the active mode. The SURTASS vessels shall have lookouts to maintain a topside watch with standard binoculars (7x) and with the naked eye.

(2) Use low frequency passive SURTASS sonar to listen for vocalizing marine mammals; and

(3) Use the HF/M3 active sonar to locate and track marine mammals in relation to the SURTASS LFA sonar vessel and the sound field produced by the SURTASS LFA sonar source array, subject to the ramp-up requirements in § 216.234(e).

(b) Monitoring under paragraph (a) of this section must:

(1) Commence at least 30 minutes before the first SURTASS LFA sonar transmission;

(2) Continue between transmission pings; and

(3) Continue either for at least 15 minutes after completion of the SURTASS LFA sonar transmission exercise or, if marine mammals are exhibiting unusual changes in behavioral patterns, for a period of time until behavior patterns return to normal or conditions prevent continued observations.

(c) Holders of Letters of Authorization for activities described in § 218.230 are required to cooperate with the National Marine Fisheries Service and any other federal agency for monitoring the impacts of the activity on marine mammals.

(d) Holders of Letters of Authorization must designate qualified on-site individuals to conduct the mitigation, monitoring and reporting activities specified in the Letter of Authorization.

(e) Holders of Letters of Authorization will continue to assess data from the Marine Mammal Monitoring Program and work toward making some portion of that data, after appropriate security reviews, available to scientists with appropriate clearances. Any portions of the analyses conducted by these scientists based on these data that are determined to be unclassified after appropriate security reviews will be made publically available.

(f) Holders of Letters of Authorization will continue to explore the feasibility of coordinating with other fleet

assets and/or range monitoring programs to include the use of SURTASS towed horizontal line arrays to augment the collection of marine mammal vocalizations before, during, and after designated exercises.

(g) Holders of Letters of Authorization will collect ambient noise data and will explore the feasibility of declassifying and archiving the ambient noise data for incorporation into appropriate ocean noise budget efforts.

(h) Holders of Letters of Authorization will convene a Scientific Advisory Group (SAG) to analyze different types of monitoring/research that could increase the understanding of the potential effects of low-frequency active sonar transmissions on beaked whales and/or harbor porpoises.

(i) Holders of Letters of Authorization must conduct all monitoring required under the Letter of Authorization.

§ 218.236 Requirements for reporting.

(a) The Holder of the Letter of Authorization must submit classified and unclassified quarterly mission reports to the Director, Office of Protected Resources, NMFS, no later than 30 days after the end of each quarter beginning on the date of effectiveness of a Letter of Authorization or as specified in the appropriate Letter of Authorization. Each quarterly mission report will include all active-mode missions completed during that quarter. At a minimum, each classified mission report must contain the following information:

(1) Dates, times, and location of each vessel during each mission;

(2) Information on sonar transmissions during each mission;

(3) Results of the marine mammal monitoring program specified in the Letter of Authorization; and

(4) Estimates of the percentages of marine mammal species and stocks affected (both for the quarter and cumulatively for the year) covered by the Letter of Authorization.

(b) The Holder of a Letter of Authorization must submit an unclassified annual report to the Director, Office of Protected Resources, NMFS, no later than 45 days after the expiration of a Letter of Authorization. The reports must contain all the information required by the Letter of Authorization.

(c) A final comprehensive report must be submitted to the Director, Office of Protected Resources, NMFS, at least 240 days prior to expiration of these regulations. In addition to containing all the information required by any final year Letter of Authorization, this report must contain an unclassified analysis of new passive sonar technologies and an assessment of whether such a system is feasible as an alternative to SURTASS LFA sonar.

(d) The Navy will continue to assess the data collected by its undersea arrays and work toward making some portion of that data, after appropriate security reviews, available to scientists with appropriate clearances. Any portions of the analyses conducted by these scientists based on these data that are determined to be unclassified after appropriate security reviews will be made publically available. The Navy will provide a status update to NMFS when they submit their annual application.

(e) Following the Scientific Advisory Group's (SAG) submission of findings, and assuming the SAG recommends going forward with beaked whale and/or harbor porpoise monitoring/research, the Navy will either:

(1) Draft a plan of action outlining their strategy for implementing the SAG's recommendations; or

(2) Describe in writing why none of the SAG's recommendations are feasible and meet with NMFS to discuss any other potential options.

§ 218.237 Applications for Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the U.S. Navy authority conducting the activity identified in § 218.230 must apply for and obtain a Letter of Authorization in accordance with § 216.106.

(b) The application for a Letter of Authorization must be submitted to the Director, Office of Protected Resources, NMFS, at least 60 days before the date that either the vessel is scheduled to begin conducting SURTASS LFA sonar operations or the previous

Letter of Authorization is scheduled to expire.

(c) All applications for a Letter of Authorization must include the following information:

(1) The date(s), duration, and the area(s) where the vessel's activity will occur;

(2) The species and/or stock(s) of marine mammals likely to be found within each area;

(3) The type of incidental taking authorization requested (i.e., take by Level A and/or Level B harassment);

(4) The estimated percentage and numbers of marine mammal species/stocks potentially affected in each area for the period of effectiveness of the Letter of Authorization; and

(5) The means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and the level of taking or impacts on marine mammal populations.

(d) The National Marine Fisheries Service will review an application for a Letter of Authorization in accordance with §216.104(b) and, if adequate and complete, issue a Letter of Authorization.

§218.238 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed one year, but may be renewed annually subject to renewal conditions in §218.239.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Authorized geographic areas for incidental takings;

(3) Means of effecting the least practicable adverse impact on the species of marine mammals authorized for taking, their habitat, and the availability of the species for subsistence uses; and

(4) Requirements for monitoring and reporting incidental take.

(c) Issuance of a letter of authorization will be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(d) Notice of issuance or denial of an application for a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

§218.239 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued for the activity identified in §218.230 may be renewed upon:

(1) Notification to NMFS that the activity described in the application submitted under §218.237 will be undertaken and that there will not be a substantial modification to the described activity, mitigation or monitoring undertaken during the upcoming period;

(2) Notification to NMFS of the information identified in §218.237(c);

(3) Timely receipt of the monitoring reports required under §218.236, which have been reviewed by NMFS and determined to be acceptable;

(4) A determination by NMFS that the mitigation, monitoring and reporting measures required under §§218.234, 218.235, and 218.236 and the previous Letter of Authorization were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization; and

(5) A determination by NMFS that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(b) If a request for a renewal of a Letter of Authorization indicates that a substantial modification to the described work, mitigation, or monitoring will occur, or if NMFS proposes a substantial modification to the Letter of Authorization, NMFS will provide a period of 30 days for public review and comment on the proposed modification. Amending the areas for upcoming SURTASS LFA sonar operations is not considered a substantial modification to the Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

§ 218.240 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantial modification (including withdrawal or suspension) to a Letter of Authorization subject to the provisions of this subpart shall be made by NMFS until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization, without modification, except for the period of validity and a listing of planned operating areas, or for moving the authorized SURTASS LFA sonar system from one ship to another, is not considered a substantial modification.

(b) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.230(b)(1), (2), or (3), NMFS may modify a Letter of Authorization without prior notice and opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days of the action.

§ 218.241 Adaptive management.

NMFS may modify (including through addition or deletion) or augment the existing mitigation or monitoring measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. NMFS will provide a period of 30 days for public review and comment if such modifications are substantial. NMFS and the Navy will meet annually (if deemed necessary by either agency) to discuss the monitoring reports, Navy research and development outcomes, current science, and determine whether mitigation or monitoring modifications are appropriate. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(a) Results from the Navy's monitoring from the previous year's operation of SURTASS LFA sonar.

(b) Compiled results of Navy-funded research and development studies.

(c) Results from specific stranding investigations.

(d) Results from general marine mammal and sound research funded by the Navy or other sponsors.

(e) Any information that reveals marine mammals may have been taken in a manner, extent or number not anticipated by these regulations or subsequent Letters of Authorization.

PART 219—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Subpart A—Taking Marine Mammals Incidental to Southwest Fisheries Science Center Fisheries Research in the California Current

Sec.
219.1 Specified activity and specified geographical region.
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219.21 Specified activity and specified geographical region.
219.22 Effective dates.
219.23 Permissible methods of taking.
219.24 Prohibitions.
219.25 Mitigation requirements.

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219.27 Letters of Authorization.
219.28 Renewals and modifications of Letters of Authorization.
219.29–219.30 [Reserved]

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Effective Date Note:
At 80 FR 59004, Sept. 30, 2015, part 219 was added, effective Oct. 30, 2015, through Oct. 30, 2020.

Subpart A—Taking Marine Mammals Incidental to Southwest Fisheries Science Center Fisheries Research in the California Current

§ 219.1 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the National Marine Fisheries Service's (NMFS) Southwest Fisheries Science Center (SWFSC) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to research survey program operations.

(b) The taking of marine mammals by SWFSC may be authorized in a Letter of Authorization (LOA) only if it occurs within the California Current Ecosystem.

§ 219.2 Effective dates.

Regulations in this subpart are effective October 30, 2015, through October 30, 2020.

§ 219.3 Permissible methods of taking.

(a) Under LOAs issued pursuant to § 216.106 and § 219.7 of this chapter, the Holder of the LOA (hereinafter ''SWFSC'') may incidentally, but not intentionally, take marine mammals within the area described in § 219.1(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in § 219.1(a) of this chapter is limited to the indicated number of takes on an annual basis (by Level B harassment) or over the five-year period of validity of these regulations (by mortality) of the following species:

(1) Level B harassment:

(i) Cetaceans:

(A) Gray whale (*Eschrichtius robustus*)—346;

(B) Humpback whale (*Megaptera novaeangliae*)—14;

(C) Minke whale (*Balaenoptera acutorostrata*)—13;

(D) Sei whale (*Balaenoptera borealis*)—1;

(E) Fin whale (*Balaenoptera physalus*)—33;

(F) Blue whale (*Balaenoptera musculus*)—24;

(G) Sperm whale (*Physeter macrocephalus*)—65;

(H) Pygmy or dwarf sperm whale (*Kogia* spp.)—42;

(I) Cuvier's beaked whale (*Ziphius cavirostris*)—146;

(J) Baird's beaked whale (*Berardius bairdii*)—34;

(K) Hubbs', Blainville's, ginkgo-toothed, Perrin's, lesser, or Stejneger's beaked whales (*Mesoplodon* spp.)—40;

(L) Bottlenose dolphin (*Tursiops truncatus*)—32;

(M) Striped dolphin (*Stenella coeruleoalba*)—301;

(N) Long-beaked common dolphin (*Delphinis capensis*)—348;

(O) Short-beaked common dolphin (*Delphinis delphis*)—5,592;

(P) Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)—378;

(Q) Northern right whale dolphin (*Lissodelphis borealis*)—176;

(R) Risso's dolphin (*Grampus griseus*)—188;

(S) Killer whale (*Orcinus orca*)—13;

(T) Short-finned pilot whale (*Globicephala macrorhynchus*)—12;

(U) Harbor porpoise (*Phocoena phocoena*)—682; and

(V) Dall's porpoise (*Phocoenoides dalli*)—1,365.

(ii) Pinnipeds:

(A) Guadalupe fur seal (*Arctocephalus philippii townsendi*)—134;

(B) Northern fur seal (*Callorhinus ursinus*), California stock—236;

(C) Northern fur seal, Pribilof Islands/Eastern Pacific stock—11,555;

(D) California sea lion (*Zalophus californianus*)—4,302;

(E) Steller sea lion (*Eumetopias jubatus*)—1,055;
(F) Harbor seal (*Phoca vitulina*)—910; and
(G) Northern elephant seal (*Mirounga angustirostris*)—4,743.
(2) Mortality (midwater trawl gear only):
(i) Cetaceans:
(A) Bottlenose dolphin (California, Oregon, and Washington offshore stock)—8;
(B) Bottlenose dolphin (California coastal stock)—3;
(C) Striped dolphin—11;
(D) Long-beaked common dolphin—11;
(E) Short-beaked common dolphin—11;
(F) Pacific white-sided dolphin—35;
(G) Northern right whale dolphin—10;
(H) Risso's dolphin—11;
(I) Harbor porpoise—5;
(J) Dall's porpoise—5;
(K) Unidentified cetacean (Family Delphinidae or Family Phocoenidae)—1.
(ii) Pinnipeds:
(A) Northern fur seal—5;
(B) California sea lion—20;
(C) Steller sea lion—9;
(D) Harbor seal—9;
(E) Northern elephant seal—5; and
(F) Unidentified pinniped—1.
(3) Mortality (pelagic longline gear only):
(i) Cetaceans:
(A) Pygmy or dwarf sperm whale—1;
(B) Bottlenose dolphin—1;
(C) Striped dolphin—1;
(D) Long-beaked common dolphin—1;
(E) Short-beaked common dolphin—1;
(F) Risso's dolphin—1; and
(G) Short-finned pilot whale—1.
(ii) Pinnipeds:
(A) California sea lion—5;
(B) Steller sea lion—1; and
(C) Unidentified pinniped—1.

§ 219.4 Prohibitions.

Notwithstanding takings contemplated in § 219.1 of this chapter and authorized by a LOA issued under §§ 216.106 and 219.7 of this chapter, no person in connection with the activities described in § 219.1 of this chapter may:

(a) Take any marine mammal not specified in § 219.3(b) of this chapter;

(b) Take any marine mammal specified in § 219.3(b) of this chapter in any manner other than as specified;

(c) Take a marine mammal specified in § 219.3(b) of this chapter if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal;

(d) Take a marine mammal specified in § 219.3(b) of this chapter if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses; or

(e) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 and 219.7 of this chapter.

§ 219.5 Mitigation requirements.

When conducting the activities identified in § 219.1(a) of this chapter, the mitigation measures contained in any LOA issued under §§ 216.106 and 219.7 of this chapter must be implemented. These mitigation measures shall include but are not limited to:

(a) General conditions:

(1) SWFSC shall take all necessary measures to coordinate and communicate in advance of each specific survey with the National Oceanic and Atmospheric Administration's (NOAA) Office of Marine and Aviation Operations (OMAO) or other relevant parties on non-NOAA platforms to ensure that all mitigation measures and monitoring requirements described herein, as well as the specific manner of implementation and relevant event-contingent decision-making processes, are clearly understood and agreed upon.

(2) SWFSC shall coordinate and conduct briefings at the outset of each survey and as necessary between ship's crew (Commanding Officer/master or designee(s), as appropriate) and scientific party in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(3) SWFSC shall coordinate as necessary on a daily basis during survey cruises with OMAO personnel or other relevant personnel on non-NOAA platforms to ensure that requirements,

procedures, and decision-making processes are understood and properly implemented.

(4) When deploying any type of sampling gear at sea, SWFSC shall at all times monitor for any unusual circumstances that may arise at a sampling site and use best professional judgment to avoid any potential risks to marine mammals during use of all research equipment.

(5) SWFSC shall implement handling and/or disentanglement protocols as specified in guidance provided to SWFSC survey personnel.

(b) Midwater trawl survey protocols:

(1) SWFSC shall conduct trawl operations as soon as is practicable upon arrival at the sampling station.

(2) SWFSC shall initiate marine mammal watches (visual observation) no less than thirty minutes prior to sampling. Marine mammal watches shall be conducted by scanning the surrounding waters with the naked eye and rangefinding binoculars (or monocular). During nighttime operations, visual observation shall be conducted using the naked eye and available vessel lighting.

(3) SWFSC shall implement the move-on rule. If one or more marine mammals are observed within 1 nm of the planned location in the thirty minutes before setting the trawl gear, SWFSC shall transit to a different section of the sampling area to maintain a minimum set distance of 1 nm from the observed marine mammals. If, after moving on, marine mammals remain within 1 nm, SWFSC may decide to move again or to skip the station. SWFSC may use best professional judgment in making this decision but may not elect to conduct midwater trawl survey activity when animals remain within the 1-nm zone.

(4) SWFSC shall maintain visual monitoring effort during the entire period of time that midwater trawl gear is in the water (*i.e.*, throughout gear deployment, fishing, and retrieval). If marine mammals are sighted before the gear is fully removed from the water, SWFSC shall take the most appropriate action to avoid marine mammal interaction. SWFSC may use best professional judgment in making this decision.

(5) If trawling operations have been suspended because of the presence of marine mammals, SWFSC may resume trawl operations when practicable only when the animals are believed to have departed the 1 nm area. SWFSC may use best professional judgment in making this determination.

(6) SWFSC shall implement standard survey protocols to minimize potential for marine mammal interactions, including maximum tow durations at target depth and maximum tow distance, and shall carefully empty the trawl as quickly as possible upon retrieval. Trawl nets must be cleaned prior to deployment.

(7) SWFSC must install and use a marine mammal excluder device at all times when the Nordic 264 trawl net or other net for which the device is appropriate is used.

(8) SWFSC must install and use acoustic deterrent devices whenever any midwater trawl net is used, with two to four devices placed along the footrope and/or headrope of the net. SWFSC must ensure that the devices are operating properly before deploying the net.

(c) Pelagic longline survey protocols:

(1) SWFSC shall deploy longline gear as soon as is practicable upon arrival at the sampling station.

(2) SWFSC shall initiate marine mammal watches (visual observation) no less than thirty minutes prior to both deployment and retrieval of the longline gear. Marine mammal watches shall be conducted by scanning the surrounding waters with the naked eye and rangefinding binoculars (or monocular). During nighttime operations, visual observation shall be conducted using the naked eye and available vessel lighting.

(3) SWFSC shall implement the move-on rule. If one or more marine mammals are observed within 1 nm of the planned location in the thirty minutes before gear deployment, SWFSC shall transit to a different section of the sampling area to maintain a minimum set distance of 1 nm from the observed marine mammals. If, after moving on, marine mammals remain within 1 nm, SWFSC may decide to move again or to skip the station. SWFSC may use best professional judgment in

making this decision but may not elect to conduct pelagic longline survey activity when animals remain within the 1-nm zone. Implementation of the move-on rule is not required upon observation of five or fewer California sea lions.

(4) SWFSC shall maintain visual monitoring effort during the entire period of gear deployment and retrieval. If marine mammals are sighted before the gear is fully deployed or retrieved, SWFSC shall take the most appropriate action to avoid marine mammal interaction. SWFSC may use best professional judgment in making this decision.

(5) If deployment or retrieval operations have been suspended because of the presence of marine mammals, SWFSC may resume such operations when practicable only when the animals are believed to have departed the 1 nm area. SWFSC may use best professional judgment in making this decision.

(6) SWFSC shall implement standard survey protocols, including maximum soak durations and a prohibition on chumming.

§ 219.6 Requirements for monitoring and reporting.

(a) Visual monitoring program:

(1) Dedicated marine mammal visual monitoring, conducted by trained SWFSC personnel with no other responsibilities during the monitoring period, shall occur:

(i) For a minimum of thirty minutes prior to deployment of midwater trawl and pelagic longline gear;

(ii) Throughout deployment of gear and active fishing of midwater trawl gear;

(iii) For a minimum of thirty minutes prior to retrieval of pelagic longline gear; and

(iv) Throughout retrieval of all research gear.

(2) Marine mammal watches shall be conducted by watch-standers (those navigating the vessel and/or other crew) at all times when the vessel is being operated.

(b) Marine mammal excluder device (MMED)—SWFSC shall conduct an evaluation of the feasibility of MMED development for the modified-Cobb midwater trawl net.

(c) Analysis of bycatch patterns—SWFSC shall conduct an analysis of past bycatch patterns in order to better understand what factors might increase the likelihood of incidental take in research survey gear. This shall include an analysis of research trawl data for any link between trawl variables and observed marine mammal bycatch, as well as a review of historical fisheries research data to determine whether sufficient data exist for similar analysis.

(d) Training:

(1) SWFSC must conduct annual training for all chief scientists and other personnel who may be responsible for conducting dedicated marine mammal visual observations to explain mitigation measures and monitoring and reporting requirements, mitigation and monitoring protocols, marine mammal identification, completion of datasheets, and use of equipment. SWFSC may determine the agenda for these trainings.

(2) SWFSC shall also dedicate a portion of training to discussion of best professional judgment, including use in any incidents of marine mammal interaction and instructive examples where use of best professional judgment was determined to be successful or unsuccessful.

(3) SWFSC shall coordinate with NMFS' Northwest Fisheries Science Center (NWFSC) regarding surveys conducted in the California Current Ecosystem, such that training and guidance related to handling procedures and data collection is consistent.

(e) Handling procedures and data collection:

(1) SWFSC must develop and implement standardized marine mammal handling, disentanglement, and data collection procedures. These standard procedures will be subject to approval by NMFS' Office of Protected Resources (OPR).

(2) When practicable, for any marine mammal interaction involving the release of a live animal, SWFSC shall collect necessary data to facilitate a serious injury determination.

(3) SWFSC shall provide its relevant personnel with standard guidance and

training regarding handling of marine mammals, including how to identify different species, bring an individual aboard a vessel, assess the level of consciousness, remove fishing gear, return an individual to water, and log activities pertaining to the interaction.

(4) SWFSC shall record such data on standardized forms, which will be subject to approval by OPR. SWFSC shall also answer a standard series of supplemental questions regarding the details of any marine mammal interaction.

(f) Reporting:

(1) SWFSC shall report all incidents of marine mammal interaction to NMFS' Protected Species Incidental Take database within 48 hours of occurrence, and shall provide supplemental information to OPR upon request. Information related to marine mammal interaction (animal captured or entangled in research gear) must include details of survey effort, full descriptions of any observations of the animals, the context (vessel and conditions), decisions made, and rationale for decisions made in vessel and gear handling.

(2) Annual reporting:

(i) SWFSC shall submit an annual summary report to OPR not later than ninety days following the end of a given year. SWFSC shall provide a final report within thirty days following resolution of comments on the draft report.

(ii) These reports shall contain, at minimum, the following:

(A) Annual line-kilometers surveyed during which the EK60, ME70, SX90 (or equivalent sources) were predominant and associated pro-rated estimates of actual take;

(B) Summary information regarding use of all longline (including bottom and vertical lines) and trawl (including bottom trawl) gear, including number of sets, hook hours, tows, etc., specific to each gear;

(C) Accounts of all incidents of marine mammal interactions, including circumstances of the event, descriptions of any mitigation procedures implemented or not implemented and why, and, for interactions due to use of pelagic longline, whether the move-on rule was waived due to the presence of five or fewer California sea lions;

(D) A written evaluation of the effectiveness of SWFSC mitigation strategies in reducing the number of marine mammal interactions with survey gear, including best professional judgment and suggestions for changes to the mitigation strategies, if any, and an assessment of the practice of discarding spent bait relative to interactions with pelagic longline, if any;

(E) Final outcome of serious injury determinations for all incidents of marine mammal interactions where the animal(s) were released alive;

(F) Updates as appropriate regarding the development/implementation of MMEDs and analysis of bycatch patterns; and

(G) A summary of all relevant training provided by SWFSC and any coordination with NWFSC or NMFS' West Coast Regional Office.

(g) Reporting of injured or dead marine mammals:

(1) In the unanticipated event that the activity defined in §219.1(a) of this chapter clearly causes the take of a marine mammal in a prohibited manner, SWFSC personnel engaged in the research activity shall immediately cease such activity until such time as an appropriate decision regarding activity continuation can be made by the SWFSC Director (or designee). The incident must be reported immediately to OPR and the West Coast Regional Stranding Coordinator, NMFS. OPR will review the circumstances of the prohibited take and work with SWFSC to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The immediate decision made by SWFSC regarding continuation of the specified activity is subject to OPR concurrence. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident;

(iii) Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility);

(iv) Description of all marine mammal observations in the 24 hours preceding the incident;

(v) Species identification or description of the animal(s) involved;

(vi) Status of all sound source use in the 24 hours preceding the incident;

(vii) Water depth;

(viii) Fate of the animal(s); and

(ix) Photographs or video footage of the animal(s).

(2) In the event that SWFSC discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), SWFSC shall immediately report the incident to OPR and the West Coast Regional Stranding Coordinator, NMFS. The report must include the information identified in § 219.6(g)(1) of this section. Activities may continue while OPR reviews the circumstances of the incident. OPR will work with SWFSC to determine whether additional mitigation measures or modifications to the activities are appropriate.

(3) In the event that SWFSC discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities defined in § 219.1(a) of this chapter (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), SWFSC shall report the incident to OPR and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. SWFSC shall provide photographs or video footage or other documentation of the stranded animal sighting to OPR.

§ 219.7 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, SWFSC must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, SWFSC may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, SWFSC must apply for and obtain a modification of the LOA as described in § 219.8 of this chapter.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the FEDERAL REGISTER within thirty days of a determination.

§ 219.8 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 and 219.7 of this chapter for the activity identified in § 219.1(a) of this chapter shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in § 219.8(c)(1) of this chapter), and

(2) OPR determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For an LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in § 219.8(c)(1) of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), OPR may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 and 219.7 of this chapter for the activity identified in § 219.1(a) of this chapter

may be modified by OPR under the following circumstances:

(1) Adaptive Management—OPR may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with SWFSC regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from SWFSC's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, OPR will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) Emergencies—If OPR determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in §219.2(b) of this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within thirty days of the action.

§§ 219.9–219.10 [Reserved]

Subpart B—Taking Marine Mammals Incidental to Southwest Fisheries Science Center Fisheries Research in the Eastern Tropical Pacific

§ 219.11 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the National Marine Fisheries Service's (NMFS) Southwest Fisheries Science Center (SWFSC) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to research survey program operations.

(b) The taking of marine mammals by SWFSC may be authorized in a Letter of Authorization (LOA) only if it occurs within the Eastern Tropical Pacific.

§ 219.12 Effective dates.

Regulations in this subpart are effective October 30, 2015, through October 30, 2020.

§ 219.13 Permissible methods of taking.

(a) Under LOAs issued pursuant to §§216.106 and 219.17 of this chapter, the Holder of the LOA (hereinafter ''SWFSC'') may incidentally, but not intentionally, take marine mammals within the area described in §219.11(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in §219.11(a) of this chapter is limited to the indicated number of takes on an annual basis (by Level B harassment) or over the five-year period of validity of these regulations (by mortality) of the following species:

(1) Level B harassment:

(i) Cetaceans:

(A) Humpback whale (*Megaptera novaeangliae*)—1;

(B) Bryde's whale (*Balaenoptera edeni*)—4;

(C) Blue whale (*Balaenoptera musculus*)—2;

(D) Sperm whale (*Physeter macrocephalus*)—4;

(E) Dwarf sperm whale (*Kogia sima*)—14;

(F) Cuvier's beaked whale (*Ziphius cavirostris*)—24;

(G) Longman's beaked whale (*Indopacetus pacificus*)—1;

(H) Blainville's, ginkgo-toothed, or lesser beaked whales (*Mesoplodon* spp.)—30;

(I) Rough-toothed dolphin (*Steno bredanensis*)—45;

(J) Bottlenose dolphin (*Tursiops truncatus*)—139;

(K) Striped dolphin (*Stenella coeruleoalba*)—401;
(L) Pantropical spotted dolphin (*Stenella attenuata*)—1,088;
(M) Spinner dolphin (*Stenella longirostris*)—442;
(N) Long-beaked common dolphin (*Delphinis capensis*)—173;
(O) Short-beaked common dolphin (*Delphinis delphis*)—1,300;
(P) Fraser's dolphin (*Lagenodelphis hosei*)—121;
(Q) Dusky dolphin (*Lagenorhynchus obscurus*)—18;
(R) Risso's dolphin (*Grampus griseus*)—46;
(S) Melon-headed whale (*Peponocephala electra*)—19;
(T) Pygmy killer whale (*Feresa attenuata*)—17;
(U) False killer whale (*Pseudorca crassidens*)—17;
(V) Killer whale (*Orcinus orca*)—3; and
(W) Short-finned pilot whale (*Globicephala macrorhynchus*)—723.
(ii) Pinnipeds:
(A) Guadalupe fur seal (*Arctocephalus philippii townsendi*)—66;
(B) California sea lion (*Zalophus californianus*)—1,442;
(C) South American sea lion (*Otaria byronia*)—1,442; and
(D) Northern elephant seal (*Mirounga angustirostris*)—3,248.
(2) Mortality (pelagic longline gear only):
(i) Cetaceans:
(A) Dwarf sperm whale—1;
(B) Rough-toothed dolphin—1;
(C) Bottlenose dolphin—1;
(D) Striped dolphin—1;
(E) Pantropical spotted dolphin—1;
(F) Long-beaked common dolphin—1;
(G) Short-beaked common dolphin—1;
(H) Risso's dolphin—1;
(I) False killer whale—1; and
(J) Short-finned pilot whale—1.
(ii) Pinnipeds:
(A) California sea lion—5;
(B) South American sea lion—5; and
(C) Unidentified pinniped—1.

§ 219.14 Prohibitions.

Notwithstanding takings contemplated in § 219.11 of this chapter and authorized by a LOA issued under §§ 216.106 and 219.17 of this chapter, no person in connection with the activities described in § 219.11 of this chapter may:
(a) Take any marine mammal not specified in § 219.13(b) of this chapter;
(b) Take any marine mammal specified in § 219.13(b) of this chapter in any manner other than as specified;
(c) Take a marine mammal specified in § 219.13(b) of this chapter if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal;
(d) Take a marine mammal specified in § 219.13(b) of this chapter if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses; or
(e) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 and 219.17 of this chapter.

§ 219.15 Mitigation requirements.

When conducting the activities identified in § 219.11(a) of this chapter, the mitigation measures contained in any LOA issued under §§ 216.106 and 219.17 of this chapter must be implemented. These mitigation measures shall include but are not limited to:
(a) General conditions:
(1) SWFSC shall take all necessary measures to coordinate and communicate in advance of each specific survey with the National Oceanic and Atmospheric Administration's (NOAA) Office of Marine and Aviation Operations (OMAO) or other relevant parties on non-NOAA platforms to ensure that all mitigation measures and monitoring requirements described herein, as well as the specific manner of implementation and relevant event-contingent decision-making processes, are clearly understood and agreed upon.
(2) SWFSC shall coordinate and conduct briefings at the outset of each survey and as necessary between ship's crew (Commanding Officer/master or designee(s), as appropriate) and scientific party in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.
(3) SWFSC shall coordinate as necessary on a daily basis during survey cruises with OMAO personnel or other

relevant personnel on non-NOAA platforms to ensure that requirements, procedures, and decision-making processes are understood and properly implemented.

(4) When deploying any type of sampling gear at sea, SWFSC shall at all times monitor for any unusual circumstances that may arise at a sampling site and use best professional judgment to avoid any potential risks to marine mammals during use of all research equipment.

(5) SWFSC shall implement handling and/or disentanglement protocols as specified in guidance provided to SWFSC survey personnel.

(b) Pelagic longline survey protocols:

(1) SWFSC shall deploy longline gear as soon as is practicable upon arrival at the sampling station.

(2) SWFSC shall initiate marine mammal watches (visual observation) no less than thirty minutes prior to both deployment and retrieval of the longline gear. Marine mammal watches shall be conducted by scanning the surrounding waters with the naked eye and rangefinding binoculars (or monocular). During nighttime operations, visual observation shall be conducted using the naked eye and available vessel lighting.

(3) SWFSC shall implement the move-on rule. If one or more marine mammals are observed within 1 nm of the planned location in the thirty minutes before gear deployment, SWFSC shall transit to a different section of the sampling area to maintain a minimum set distance of 1 nm from the observed marine mammals. If, after moving on, marine mammals remain within 1 nm, SWFSC may decide to move again or to skip the station. SWFSC may use best professional judgment in making this decision but may not elect to conduct pelagic longline survey activity when animals remain within the 1-nm zone.

(4) SWFSC shall maintain visual monitoring effort during the entire period of gear deployment and retrieval. If marine mammals are sighted before the gear is fully deployed or retrieved, SWFSC shall take the most appropriate action to avoid marine mammal interaction. SWFSC may use best professional judgment in making this decision.

(5) If deployment or retrieval operations have been suspended because of the presence of marine mammals, SWFSC may resume such operations when practicable only when the animals are believed to have departed the 1 nm area. SWFSC may use best professional judgment in making this determination.

(6) SWFSC shall implement standard survey protocols, including maximum soak durations and a prohibition on chumming.

§ 219.16 Requirements for monitoring and reporting.

(a) Visual monitoring program:

(1) Dedicated marine mammal visual monitoring, conducted by trained SWFSC personnel with no other responsibilities during the monitoring period, shall occur:

(i) For a minimum of thirty minutes prior to deployment of pelagic longline gear;

(ii) Throughout deployment of gear;

(iii) For a minimum of thirty minutes prior to retrieval of pelagic longline gear; and

(iv) Throughout retrieval of all research gear.

(2) Marine mammal watches shall be conducted by watch-standers (those navigating the vessel and/or other crew) at all times when the vessel is being operated.

(b) Training:

(1) SWFSC must conduct annual training for all chief scientists and other personnel who may be responsible for conducting dedicated marine mammal visual observations to explain mitigation measures and monitoring and reporting requirements, mitigation and monitoring protocols, marine mammal identification, completion of datasheets, and use of equipment. SWFSC may determine the agenda for these trainings.

(2) SWFSC shall also dedicate a portion of training to discussion of best professional judgment, including use in any incidents of marine mammal interaction and instructive examples where use of best professional judgment was determined to be successful or unsuccessful.

(c) Handling procedures and data collection:

(1) SWFSC must develop and implement standardized marine mammal handling, disentanglement, and data collection procedures. These standard procedures will be subject to approval by NMFS' Office of Protected Resources (OPR).

(2) When practicable, for any marine mammal interaction involving the release of a live animal, SWFSC shall collect necessary data to facilitate a serious injury determination.

(3) SWFSC shall provide its relevant personnel with standard guidance and training regarding handling of marine mammals, including how to identify different species, bring an individual aboard a vessel, assess the level of consciousness, remove fishing gear, return an individual to water, and log activities pertaining to the interaction.

(4) SWFSC shall record such data on standardized forms, which will be subject to approval by OPR. SWFSC shall also answer a standard series of supplemental questions regarding the details of any marine mammal interaction.

(d) Reporting:

(1) SWFSC shall report all incidents of marine mammal interaction to NMFS' Protected Species Incidental Take database within 48 hours of occurrence, and shall provide supplemental information to OPR upon request. Information related to marine mammal interaction (animal captured or entangled in research gear) must include details of survey effort, full descriptions of any observations of the animals, the context (vessel and conditions), decisions made, and rationale for decisions made in vessel and gear handling.

(2) Annual reporting:

(i) SWFSC shall submit an annual summary report to OPR not later than ninety days following the end of a given year. SWFSC shall provide a final report within thirty days following resolution of comments on the draft report.

(ii) These reports shall contain, at minimum, the following:

(A) Annual line-kilometers surveyed during which the EK60, ME70, SX90 (or equivalent sources) were predominant and associated pro-rated estimates of actual take;

(B) Summary information regarding use of all longline gear, including number of sets, hook hours, etc.;

(C) Accounts of all incidents of marine mammal interactions, including circumstances of the event and descriptions of any mitigation procedures implemented or not implemented and why;

(D) A written evaluation of the effectiveness of SWFSC mitigation strategies in reducing the number of marine mammal interactions with survey gear, including best professional judgment and suggestions for changes to the mitigation strategies, if any; and an assessment of the practice of discarding spent bait relative to interactions with pelagic longline, if any;

(E) Final outcome of serious injury determinations for all incidents of marine mammal interactions where the animal(s) were released alive; and

(F) A summary of all relevant training provided by SWFSC.

(e) Reporting of injured or dead marine mammals:

(1) In the unanticipated event that the activity defined in § 219.1(a) of this chapter clearly causes the take of a marine mammal in a prohibited manner, SWFSC personnel engaged in the research activity shall immediately cease such activity until such time as an appropriate decision regarding activity continuation can be made by the SWFSC Director (or designee). The incident must be reported immediately to OPR. OPR will review the circumstances of the prohibited take and work with SWFSC to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The immediate decision made by SWFSC regarding continuation of the specified activity is subject to OPR concurrence. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident;

(iii) Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility);

(iv) Description of all marine mammal observations in the 24 hours preceding the incident;

(v) Species identification or description of the animal(s) involved;

(vi) Status of all sound source use in the 24 hours preceding the incident;

(vii) Water depth;

(viii) Fate of the animal(s); and

(ix) Photographs or video footage of the animal(s).

(2) In the event that SWFSC discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), SWFSC shall immediately report the incident to OPR. The report must include the same information identified in §219.16(e)(1) of this section. Activities may continue while OPR reviews the circumstances of the incident. OPR will work with SWFSC to determine whether additional mitigation measures or modifications to the activities are appropriate.

(3) In the event that SWFSC discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities defined in §219.11(a) of this chapter (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), SWFSC shall report the incident to OPR within 24 hours of the discovery. SWFSC shall provide photographs or video footage or other documentation of the stranded animal sighting to OPR.

§219.17 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, SWFSC must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, SWFSC may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, SWFSC must apply for and obtain a modification of the LOA as described in §219.18 of this chapter.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the FEDERAL REGISTER within thirty days of a determination.

§219.18 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§216.106 and 219.17 of this chapter for the activity identified in §219.11(a) of this chapter shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in §219.18(c)(1) of this chapter), and

(2) OPR determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For an LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in §219.18(c)(1) of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), OPR may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 and 219.17 of this chapter for the activity identified in § 219.11(a) of this chapter may be modified by OPR under the following circumstances:

(1) Adaptive Management—OPR may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with SWFSC regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from SWFSC's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, OPR will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) Emergencies—If OPR determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 219.12(b) of this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within thirty days of the action.

§§ 219.19–219.20 [Reserved]

Subpart C—Taking Marine Mammals Incidental to Southwest Fisheries Science Center Fisheries Research in the Antarctic

§ 219.21 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the National Marine Fisheries Service's (NMFS) Southwest Fisheries Science Center (SWFSC) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to research survey program operations.

(b) The taking of marine mammals by SWFSC may be authorized in a Letter of Authorization (LOA) only if it occurs within the Antarctic Marine Living Resources Ecosystem.

§ 219.22 Effective dates.

Regulations in this subpart are effective October 30, 2015, through October 30, 2020.

§ 219.23 Permissible methods of taking.

(a) Under LOAs issued pursuant to §§ 216.106 and 219.27 of this chapter, the Holder of the LOA (hereinafter ''SWFSC'') may incidentally, but not intentionally, take marine mammals within the area described in § 219.21(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in § 219.21(a) of this chapter is limited to the indicated number of takes on an annual basis of the following species and is limited to Level B harassment:

(1) Cetaceans:

(i) Southern right whale (*Eubalaena australis*)—1;

(ii) Humpback whale (*Megaptera novaeangliae*)—92;

(iii) Antarctic minke whale (*Balaenoptera bonaerensis*)—6;

(iv) Fin whale (*Balaenoptera physalus*)—114;

(v) Sperm whale (*Physeter macrocephalus*)—3;

(vi) Arnoux' beaked whale (*Berardius arnuxii*)—37;

(vii) Southern bottlenose whale (*Hyperoodon planifrons*)—37;

(viii) Hourglass dolphin (*Lagenorhynchus cruciger*)—12;

(ix) Killer whale (*Orcinus orca*)—11;

(x) Long-finned pilot whale (*Globicephala melas*)—43; and

(xi) Spectacled porpoise (*Phocoena dioptrica*)—12.

(2) Pinnipeds:

(i) Antarctic fur seal (*Arctocephalus philippii townsendi*)—553;

(ii) Southern elephant seal (*Mirounga leonina*)—6;

(iii) Weddell seal (*Leptonychotes weddellii*)—4;

(iv) Crabeater seal (*Lobodon carcinophaga*)—7; and

(v) Leopard seal (*Hydrurga leptonyx*)—5.

§ 219.24 Prohibitions.

Notwithstanding takings contemplated in § 219.21 of this chapter and authorized by a LOA issued under §§ 216.106 and 219.27 of this chapter, no person in connection with the activities described in § 219.21 of this chapter may:

(a) Take any marine mammal not specified in § 219.23(b) of this chapter;

(b) Take any marine mammal specified in § 219.23(b) of this chapter in any manner other than as specified;

(c) Take a marine mammal specified in § 219.23(b) of this chapter if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal;

(d) Take a marine mammal specified in § 219.23(b) of this chapter if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses; or

(e) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 and 219.27 of this chapter.

§ 219.25 Mitigation requirements.

When conducting the activities identified in § 219.21(a), the mitigation measures contained in any LOA issued under §§ 216.106 and 219.27 of this chapter must be implemented. These mitigation measures shall include but are not limited to:

(a) General conditions:

(1) SWFSC shall take all necessary measures to coordinate and communicate in advance of each specific survey with the National Oceanic and Atmospheric Administration's (NOAA) Office of Marine and Aviation Operations (OMAO) or other relevant parties on non-NOAA platforms to ensure that all mitigation measures and monitoring requirements described herein, as well as the specific manner of implementation and relevant event-contingent decision-making processes, are clearly understood and agreed upon.

(2) SWFSC shall coordinate and conduct briefings at the outset of each survey and as necessary between ship's crew (Commanding Officer/master or designee(s), as appropriate) and scientific party in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(3) SWFSC shall coordinate as necessary on a daily basis during survey cruises with OMAO personnel or other relevant personnel on non-NOAA platforms to ensure that requirements, procedures, and decision-making processes are understood and properly implemented.

(4) When deploying any type of sampling gear at sea, SWFSC shall at all times monitor for any unusual circumstances that may arise at a sampling site and use best professional judgment to avoid any potential risks to marine mammals during use of all research equipment.

(5) SWFSC shall implement handling and/or disentanglement protocols as specified in guidance provided to SWFSC survey personnel.

(b) Trawl survey protocols—SWFSC shall conduct trawl operations as soon as is practicable upon arrival at the sampling station.

§ 219.26 Requirements for monitoring and reporting.

(a) Visual monitoring program:

(1) Marine mammal watches shall be conducted by watch-standers (those navigating the vessel and/or other crew) at all times when the vessel is being operated.

(2) SWFSC shall monitor any potential disturbance of pinnipeds on ice, paying particular attention to the distance at which different species of pinniped are disturbed. Disturbance shall be recorded according to a three-point scale representing increasing seal response to disturbance.

(b) Training:

(1) SWFSC must conduct annual training for all chief scientists and

other personnel who may be responsible for conducting dedicated marine mammal visual observations to explain mitigation measures and monitoring and reporting requirements, mitigation and monitoring protocols, marine mammal identification, recording of count and disturbance observations, completion of datasheets, and use of equipment. SWFSC may determine the agenda for these trainings.

(2) SWFSC shall also dedicate a portion of training to discussion of best professional judgment, including use in any incidents of marine mammal interaction and instructive examples where use of best professional judgment was determined to be successful or unsuccessful.

(c) Handling procedures and data collection:

(1) SWFSC must develop and implement standardized marine mammal handling, disentanglement, and data collection procedures. These standard procedures will be subject to approval by NMFS' Office of Protected Resources (OPR).

(2) When practicable, for any marine mammal interaction involving the release of a live animal, SWFSC shall collect necessary data to facilitate a serious injury determination.

(3) SWFSC shall provide its relevant personnel with standard guidance and training regarding handling of marine mammals, including how to identify different species, bring an individual aboard a vessel, assess the level of consciousness, remove fishing gear, return an individual to water, and log activities pertaining to the interaction.

(4) SWFSC shall record such data on standardized forms, which will be subject to approval by OPR. SWFSC shall also answer a standard series of supplemental questions regarding the details of any marine mammal interaction.

(d) Reporting:

(1) SWFSC shall report all incidents of marine mammal interaction to NMFS' Protected Species Incidental Take database within 48 hours of occurrence, and shall provide supplemental information to OPR upon request. Information related to marine mammal interaction (animal captured or entangled in research gear) must include details of survey effort, full descriptions of any observations of the animals, the context (vessel and conditions), decisions made, and rationale for decisions made in vessel and gear handling.

(2) Annual reporting:

(i) SWFSC shall submit an annual summary report to OPR not later than ninety days following the end of a given year. SWFSC shall provide a final report within thirty days following resolution of comments on the draft report.

(ii) These reports shall contain, at minimum, the following:

(A) Annual line-kilometers surveyed during which the EK60, ME70, SX90 (or equivalent sources) were predominant and associated pro-rated estimates of actual take;

(B) Summary information regarding use of all trawl gear, including number of tows, etc.;

(C) Accounts of all incidents of marine mammal interactions, including circumstances of the event and descriptions of any mitigation procedures implemented or not implemented and why;

(D) Summary information related to any on-ice disturbance of pinnipeds, including event-specific total counts of animals present, counts of reactions according to a three-point scale of response severity (1 = alert; 2 = movement; 3 = flight), and distance of closest approach;

(E) A written evaluation of the effectiveness of SWFSC mitigation strategies in reducing the number of marine mammal interactions with survey gear, including best professional judgment and suggestions for changes to the mitigation strategies, if any;

(F) Final outcome of serious injury determinations for all incidents of marine mammal interactions where the animal(s) were released alive; and

(G) A summary of all relevant training provided by SWFSC.

(e) Reporting of injured or dead marine mammals:

(1) In the unanticipated event that the activity defined in §219.1(a) of this chapter clearly causes the take of a marine mammal in a prohibited manner, SWFSC personnel engaged in the research activity shall immediately cease such activity until such time as

an appropriate decision regarding activity continuation can be made by the SWFSC Director (or designee). The incident must be reported immediately to OPR. OPR will review the circumstances of the prohibited take and work with SWFSC to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The immediate decision made by SWFSC regarding continuation of the specified activity is subject to OPR concurrence. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident;

(iii) Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility);

(iv) Description of all marine mammal observations in the 24 hours preceding the incident;

(v) Species identification or description of the animal(s) involved;

(vi) Status of all sound source use in the 24 hours preceding the incident;

(vii) Water depth;

(viii) Fate of the animal(s); and

(ix) Photographs or video footage of the animal(s).

(2) In the event that SWFSC discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), SWFSC shall immediately report the incident to OPR. The report must include the same information identified in §219.26(e)(1) of this section. Activities may continue while OPR reviews the circumstances of the incident. OPR will work with SWFSC to determine whether additional mitigation measures or modifications to the activities are appropriate.

(3) In the event that SWFSC discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities defined in §219.21(a) of this chapter (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), SWFSC shall report the incident to OPR within 24 hours of the discovery. SWFSC shall provide photographs or video footage or other documentation of the stranded animal sighting to OPR.

§219.27 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, SWFSC must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, SWFSC may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, SWFSC must apply for and obtain a modification of the LOA as described in §219.28 of this chapter.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the FEDERAL REGISTER within thirty days of a determination.

§219.28 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§216.106 and 219.27 of this chapter for the activity identified in §219.21(a) of this chapter shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in §219.28(c)(1) of this chapter), and

(2) OPR determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For an LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in §219.28(c)(1) of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), OPR may publish a notice of proposed LOA in the FEDERAL REGISTER, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§216.106 and 219.27 of this chapter for the activity identified in §219.21(a) of this chapter may be modified by OPR under the following circumstances:

(1) Adaptive Management—OPR may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with SWFSC regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from SWFSC's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, OPR will publish a notice of proposed LOA in the FEDERAL REGISTER and solicit public comment.

(2) Emergencies—If OPR determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in §219.22(b) of this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the FEDERAL REGISTER within thirty days of the action.

§§ 219.29–219.30 [Reserved]

PART 220 [RESERVED]

PART 221—CONDITIONS AND PRESCRIPTIONS IN FERC HYDROPOWER LICENSES

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AUTHORITY: 16 U.S.C. 797(e), 811, 823d.

SOURCE: 80 FR 17207, Mar. 31, 2015, unless otherwise noted.

Subpart A—General Provisions

§ 221.1 What is the purpose of this part, and to what license proceedings does it apply?

(a) *Hearing process.* (1) The regulations in subparts A and B of this part contain rules of practice and procedure applicable to hearings on disputed issues of material fact with respect to mandatory conditions and prescriptions that the Department of Commerce (acting through the National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS) and other NOAA entities) may develop for inclusion in a hydropower license issued under subchapter I of the Federal Power Act (FPA), 16 U.S.C. 791 *et seq.* The authority to develop these conditions and prescriptions is granted by FPA sections 4(e) and 18, 16 U.S.C. 797(e) and 811, which authorize the Secretary of Commerce to condition hydropower licenses issued by the Federal Energy Regulatory Commission (FERC) and to prescribe fishways.

(2) The hearing process under this part does not apply to provisions that the Department of Commerce may submit to FERC under any authority other than FPA section 4(e) and 18, including recommendations under FPA section 10(a) or (j), 16 U.S.C. 803(a), (j), or terms and conditions under FPA section 30(c), 16 U.S.C. 823a(c).

(3) The FPA also grants the Department of Agriculture and the Department of the Interior the authority to develop mandatory conditions, and the Department of the Interior the authority to develop mandatory prescriptions, for inclusion in a hydropower license. Where the Department of Commerce and either or both of these other Departments develop conditions or prescriptions to be included in the same hydropower license and where the Departments agree to consolidate the hearings under § 221.23:

(i) A hearing conducted under this part will also address disputed issues of

material fact with respect to any condition or prescription developed by one of the other Departments; or

(ii) A hearing requested under this part will be conducted by one of the other Departments, pursuant to 7 CFR 1.601 *et seq.* or 43 CFR 45.1 *et seq.*, as applicable.

(4) The regulations in subparts A and B of this part will be construed and applied to each hearing process to achieve a just and speedy determination, consistent with adequate consideration of the issues involved and the provisions of § 221.60(a).

(b) *Alternatives process.* The regulations in subparts A and C of this part contain rules of procedure applicable to the submission and consideration of alternative conditions and prescriptions under FPA section 33, 16 U.S.C. 823d. That section allows any party to the license proceeding to propose an alternative to a condition deemed necessary by NOAA under section 4(e) or a fishway prescribed by NMFS under section 18.

(c) *Reserved authority.* Where NOAA has notified or notifies FERC that it is reserving its authority to develop one or more conditions or prescriptions at a later time, the hearing and alternatives processes under this part for such conditions or prescriptions will be available if and when NOAA exercises its reserved authority.

(d) *Applicability.* (1) This part applies to any hydropower license proceeding for which the license had not been issued as of November 17, 2005, and for which one or more preliminary conditions or prescriptions have been or are filed with FERC before FERC issues the license.

(2) This part also applies to any exercise of NOAA's reserved authority under paragraph (c) of this section with respect to a hydropower license issued before or after November 17, 2005.

§ 221.2 What terms are used in this part?

As used in this part:

ALJ means an administrative law judge appointed under 5 U.S.C. 3105 and assigned to preside over the hearing process under subpart B of this part.

Alternative means a condition or prescription that a license party other than NOAA or another Department develops as an alternative to a preliminary condition or prescription from NOAA or another Department, under FPA sec. 33, 16 U.S.C. 823d.

Condition means a condition under FPA sec. 4(e), 16 U.S.C. 797(e), for the adequate protection and utilization of a reservation.

Day means a calendar day.

Department means the Department of Agriculture, Department of Commerce, or Department of the Interior.

Department of Commerce's designated ALJ office means the ALJ office that is assigned to preside over the hearing process for NOAA.

Discovery means a prehearing process for obtaining facts or information to assist a party in preparing or presenting its case.

Ex parte communication means an oral or written communication to the ALJ that is made without providing all parties reasonable notice and an opportunity to participate.

FERC means the Federal Energy Regulatory Commission.

FPA means the Federal Power Act, 16 U.S.C. 791 *et seq.*

Intervention means a process by which a person who did not request a hearing under § 221.21 can participate as a party to the hearing under § 221.22.

License party means a party to the license proceeding, as that term is defined at 18 CFR 385.102(c).

License proceeding means a proceeding before FERC for issuance of a license for a hydroelectric facility under 18 CFR part 4 or 5.

Material fact means a fact that, if proved, may affect a Department's decision whether to affirm, modify, or withdraw any condition or prescription.

Modified condition or prescription means any modified condition or prescription filed by a Department with FERC for inclusion in a hydropower license.

NEPA document means an environmental document as defined at 40 CFR 1508.10 to include an environmental assessment, environmental impact statement (EIS), finding of no significant impact, and notice of intent to prepare an EIS. Such documents are issued to comply with the requirements of the

National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, *and the CEQ Regulations Implementing the Procedural Requirements of NEPA (40 CFR parts 21500–1508)*.

NMFS means the National Marine Fisheries Service, a constituent agency of the Department of Commerce, acting by and through the Assistant Administrator for Fisheries or one of NMFS's six Regional Administrators, as appropriate.

NOAA means the National Oceanic and Atmospheric Administration, a constituent agency of the Department of Commerce, acting by and through its Administrator, the Undersecretary of Commerce for Oceans and Atmosphere or one of its line offices.

Office of Habitat Conservation means the NMFS Office of Habitat Conservation. Address: Chief, Habitat Protection Division, Office of Habitat Conservation, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Telephone 301–427–8601. Facsimile number 301–713–4305.

Party means, with respect to NOAA's hearing process under subpart B of this part:

(1) A license party that has filed a timely request for a hearing under:

(i) Section 221.21; or

(ii) Either 7 CFR 1.621 or 43 CFR 45.21, with respect to a hearing process consolidated under § 221.23;

(2) A license party that has filed a timely notice of intervention and response under:

(i) Section 221.22; or

(ii) Either 7 CFR 1.622 or 43 CFR 45.22, with respect to a hearing process consolidated under § 221.23;

(3) NOAA; and

(4) Any other Department that has filed a preliminary condition or prescription, with respect to a hearing process consolidated under § 221.23.

Person means an individual; a partnership, corporation, association, or other legal entity; an unincorporated organization; and any Federal, State, tribal, county, district, territorial, or local government or agency.

Preliminary condition or prescription means any preliminary condition or prescription filed by a Department with FERC for potential inclusion in a hydropower license.

Prescription means a fishway prescribed under FPA sec. 18, 16 U.S.C. 811, to provide for the safe, timely, and effective passage of fish.

Representative means a person who:

(1) Is authorized by a party to represent the party in a hearing process under this subpart; and

(2) Has filed an appearance under § 221.10.

Reservation has the same meaning as the term ''reservations'' in FPA sec. 3(2), 16 U.S.C. 796(2).

Secretary means the Secretary of Commerce or his or her designee.

Senior Department employee has the same meaning as the term ''senior employee'' in 5 CFR 2637.211(a).

You refers to a party other than a Department.

§ 221.3 How are time periods computed?

(a) *General.* Time periods are computed as follows:

(1) The day of the act or event from which the period begins to run is not included.

(2) The last day of the period is included.

(i) If that day is a Saturday, Sunday, or Federal holiday, the period is extended to the next business day.

(ii) The last day of the period ends at 5 p.m. at the place where the filing or other action is due.

(3) If the period is less than 7 days, any Saturday, Sunday, or Federal holiday that falls within the period is not included.

(b) *Extensions of time.* (1) No extension of time can be granted to file a request for a hearing under § 221.21, a notice of intervention and response under § 221.22, an answer under § 221.25, or any document under subpart C of this part.

(2) An extension of time to file any other document under subpart B of this part may be granted only upon a showing of good cause.

(i) To request an extension of time, a party must file a motion under § 221.35 stating how much additional time is needed and the reasons for the request.

(ii) The party must file the motion before the applicable time period expires, unless the party demonstrates extraordinary circumstances that justify a delay in filing.

(iii) The ALJ may grant the extension only if:

(A) It would not unduly prejudice other parties; and

(B) It would not delay the decision under § 221.60.

§ 221.4 What deadlines apply to the trial-type hearing and alternatives processes?

(a) The following table summarizes the steps in the trial-type hearing process under subpart B of this part and indicates the deadlines generally applicable to each step. If the deadlines in this table are in any way inconsistent with the deadlines as set by other sections of this part or by the ALJ, the deadlines as set by those other sections or by the ALJ control.

Process step	Process day	Must generally be completed	See section
(1) NOAA files preliminary condition(s) or prescription(s) with FERC.	0	.....	221.20.
(2) License party files request for hearing	30	Within 30 days after NOAA files preliminary condition(s) or prescription(s) with FERC.	221.21(a).
(3) Any other license party files notice of intervention and response.	50	Within 20 days after deadline for filing requests for hearing.	221.22(a).
(4) NOAA may file answer	80	Within 50 days after deadline for filing requests for hearing.	221.25(a).
(5) Office of Habitat Conservation refers case to ALJ office for hearing and issues referral notice to parties.	85	Within 55 days after deadline for filing requests for hearing.	221.26(a).
(6) Parties may meet and agree to discovery (optional step).	86–91	Before deadline for filing motions seeking discovery.	221.41(a).
(7) ALJ office sends docketing notice, and ALJ issues notice setting date for initial prehearing conference.	90	Within 5 days after effective date of referral notice.	221.30.
(8) Party files motion seeking discovery from another party.	92	Within 7 days after effective date of referral notice.	221.41(d).
(9) Other party files objections to discovery motion or specific portions of discovery requests.	99	Within 7 days after service of discovery motion.	221.41(e).
(10) Parties meet to discuss discovery and hearing schedule.	100–104	Before date set for initial prehearing conference.	221.40(d).
(11) ALJ conducts initial prehearing conference.	105	On or about 20th day after effective date of referral notice.	221.40(a).
(12) ALJ issues order following initial prehearing conference.	107	Within 2 days after initial prehearing conference.	221.40(g).
(13) Party responds to interrogatories from another party as authorized by ALJ.	120–22	Within 15 days after ALJ's order authorizing discovery during or following initial prehearing conference.	221.43(c).
(14) Party responds to requests for documents, etc., from another party as authorized by ALJ.	120–22	Within 15 days after ALJ's order authorizing discovery during or following initial prehearing conference.	221.45(c).
(15) Parties complete all discovery, including depositions, as authorized by ALJ.	130	Within 25 days after initial prehearing conference.	221.41(i).
(16) Parties file updated lists of witnesses and exhibits.	140	Within 10 days after deadline for completion of discovery.	221.42(b).
(17) Parties file written direct testimony	140	Within 10 days after deadline for completion of discovery.	221.52(a).
(18) Parties complete prehearing preparation and ALJ commences hearing.	155	Within 25 days after deadline for completion of discovery.	221.50(a).
(19) ALJ closes hearing record	160	When ALJ closes hearing	221.58.
(20) Parties file post-hearing briefs	175	Within 15 days after hearing closes	221.59(a).
(21) ALJ issues decision	190	Within 30 days after hearing closes	221.60(a).

(b) The following table summarizes the steps in the alternatives process under subpart C of this part and indicates the deadlines generally applicable to each step. If the deadlines in this table are in any way inconsistent with the deadlines as set by other sections of this part, the deadlines as set by those other sections control.

Process step	Process day	Must generally be completed	See section
(1) NOAA files preliminary condition(s) or prescription(s) with FERC.	0	.....	221.20.
(2) License party files alternative condition(s) or prescription(s).	30	Within 30 days after NOAA files preliminary condition(s) or prescription(s) with FERC.	221.71(a).
(3) ALJ issues decision on any hearing request.	190	Within 30 days after hearing closes (see previous table).	221.60(a).
(4) License party files revised alternative condition(s) or prescription(s) if authorized.	210	Within 20 days after ALJ issues decision	221.72(a).
(5) NOAA files modified condition(s) or prescription(s) with FERC.	300	Within 60 days after the deadline for filing comments on FERC's draft NEPA document.	221.73(a).

Subpart B—Hearing Process

REPRESENTATIVES

§ 221.10 Who may represent a party, and what requirements apply to a representative?

(a) *Individuals.* A party who is an individual may either represent himself or herself in the hearing process under this subpart or authorize an attorney to represent him or her.

(b) *Organizations.* A party that is an organization or other entity may authorize one of the following to represent it:

(1) An attorney;

(2) A partner, if the entity is a partnership;

(3) An officer or agent, if the entity is a corporation, association, or unincorporated organization;

(4) A receiver, administrator, executor, or similar fiduciary, if the entity is a receivership, trust, or estate; or

(5) An elected or appointed official or an employee, if the entity is a Federal, State, tribal, county, district, territorial, or local government or component.

(c) *Appearance.* An individual representing himself or herself and any other representative must file a notice of appearance. The notice must:

(1) Meet the form and content requirements for documents under § 221.11;

(2) Include the name and address of the party on whose behalf the appearance is made;

(3) If the representative is an attorney, include a statement that he or she is a member in good standing of the bar of the highest court of a state, the District of Columbia, or any territory or commonwealth of the United States (identifying which one); and

(4) If the representative is not an attorney, include a statement explaining his or her authority to represent the entity.

(d) *Lead representative.* If a party has more than one representative, the ALJ may require the party to designate a lead representative for service of documents under § 221.13.

(e) *Disqualification.* The ALJ may disqualify any representative for misconduct or other good cause.

DOCUMENT FILING AND SERVICE

§ 221.11 What are the form and content requirements for documents under this subpart?

(a) *Form.* Each document filed in a case under this subpart must:

(1) Measure 8½ by 11 inches, except that a table, chart, diagram, or other attachment may be larger if folded to 8½ by 11 inches and attached to the document;

(2) Be printed on just one side of the page (except that service copies may be printed on both sides of the page);

(3) Be clearly typewritten, printed, or otherwise reproduced by a process that yields legible and permanent copies;

(4) Use 11 point font size or larger;

(5) Be double-spaced except for footnotes and long quotations, which may be single-spaced;

(6) Have margins of at least 1 inch; and

(7) Be bound on the left side, if bound.

(b) *Caption.* Each document filed under this subpart must begin with a caption that sets forth:

(1) The name of the case under this subpart and the docket number, if one has been assigned;

(2) The name and docket number of the license proceeding to which the case under this subpart relates; and

(3) A descriptive title for the document, indicating the party for whom it is filed and the nature of the document.

(c) *Signature.* The original of each document filed under this subpart must be signed by the representative of the person for whom the document is filed. The signature constitutes a certification by the representative that he or she has read the document; that to the best of his or her knowledge, information, and belief, the statements made in the document are true; and that the document is not being filed for the purpose of causing delay.

(d) *Contact information.* Below the representative's signature, the document must provide the representative's name, mailing address, street address (if different), telephone number, facsimile number (if any), and electronic mail address (if any).

§ 221.12 Where and how must documents be filed?

(a) *Place of filing.* Any documents relating to a case under this subpart must be filed with the appropriate office, as follows:

(1) Before NOAA refers a case for docketing under § 221.26, any documents must be filed with the Office of Habitat Conservation. The Office of Habitat Conservation's address, telephone number, and facsimile number are set forth in § 221.2.

(2) NOAA will notify the parties of the date on which it refers a case for docketing under § 221.26. After that date, any documents must be filed with:

(i) The Department of Commerce's designated ALJ office, if the Department of Commerce will be conducting the hearing. The name, address, telephone number, and facsimile number of the designated ALJ office will be provided in the referral notice from NOAA; or

(ii) The hearings component of or used by another Department, if that Department will be conducting the hearing. The name, address, telephone number, and facsimile number of the appropriate hearings component will be provided in the referral notice from NOAA.

(b) *Method of filing.* (1) A document must be filed with the appropriate office under paragraph (a) of this section using one of the following methods:

(i) By hand delivery of the original document and two copies;

(ii) By sending the original document and two copies by express mail or courier service; or

(iii) By sending the document by facsimile if:

(A) The document is 20 pages or less, including all attachments;

(B) The sending facsimile machine confirms that the transmission was successful; and

(C) The original of the document and two copies are sent by regular mail on the same day.

(2) Parties are encouraged, and may be required by the ALJ, to supplement any filing by providing the appropriate office with an electronic copy of the document on compact disc or other suitable media. With respect to any supporting material accompanying a request for hearing, a notice of intervention and response, or an answer, the party may submit in lieu of an original and two hard copies:

(i) An original; and

(ii) One copy on a compact disc or other suitable media.

(c) *Date of filing.* A document under this subpart is considered filed on the date it is received. However, any document received after 5 p.m. at the place where the filing is due is considered filed on the next regular business day.

(d) *Nonconforming documents.* If any document submitted for filing under this subpart does not comply with the requirements of this subpart or any applicable order, it may be rejected.

§ 221.13 What are the requirements for service of documents?

(a) *Filed documents.* Any document related to a case under this subpart must be served at the same time the document is delivered or sent for filing. Copies must be served as follows:

(1) A complete copy of any request for a hearing under § 221.21 must be delivered or sent to FERC and each license party, using one of the methods

of service in paragraph (c) of this section or under 18 CFR 385.2010(f)(3) for license parties that have agreed to receive electronic service.

(2) A complete copy of any notice of intervention and response under § 221.22 must be:

(i) Delivered or sent to FERC, the license applicant, any person who has filed a request for hearing under § 221.21, and NOAA, using one of the methods of service in paragraph (c) of this section; and

(ii) Delivered or sent to any other license party using one of the methods of service in paragraph (c) of this section or under 18 CFR 385.2010(f)(3) for license parties that have agreed to receive electronic service, or by regular mail.

(3) A complete copy of any answer or notice under § 221.25 and any other document filed by any party to the hearing process must be delivered or sent on every other party to the hearing process, using one of the methods of service in paragraph (c) of this section.

(b) *Documents issued by the ALJ.* A complete copy of any notice, order, decision, or other document issued by the ALJ under this subpart must be served on each party, using one of the methods of service in paragraph (c) of this section.

(c) *Method of service.* Unless otherwise agreed to by the parties and ordered by the ALJ, service must be accomplished by one of the following methods:

(1) By hand delivery of the document;

(2) By sending the document by express mail or courier service for delivery on the next business day;

(3) By sending the document by facsimile if:

(i) The document is 20 pages or less, including all attachments;

(ii) The sending facsimile machine confirms that the transmission was successful; and

(iii) The document is sent by regular mail on the same day; or

(4) By sending the document, including all attachments, by electronic means if the party to be served has consented to that means of service in writing. However, if the serving party learns that the document did not reach the party to be served, the serving party must re-serve the document by another method set forth in paragraph (c) of this section (including another electronic means, if the party to be served has consented to that means in writing).

(d) *Certificate of service.* A certificate of service must be attached to each document filed under this subpart. The certificate must be signed by the party's representative and include the following information:

(1) The name, address, and other contact information of each party's representative on whom the document was served;

(2) The means of service, including information indicating compliance with paragraph (c)(3) or (c)(4) of this section, if applicable; and

(3) The date of service.

INITIATION OF HEARING PROCESS

§ 221.20 What supporting information must NOAA provide with its preliminary conditions or prescriptions?

(a) *Supporting information.* (1) When NOAA files a preliminary condition or prescription with FERC, it must include a rationale for the condition or prescription and an index to NOAA's administrative record that identifies all documents relied upon.

(2) If any of the documents relied upon are not already in the license proceeding record, NOAA must:

(i) File them with FERC at the time it files the preliminary condition or prescription;

(ii) Provide copies to the license applicant; and

(b) *Service.* NOAA will serve a copy of its preliminary condition or prescription on each license party.

§ 221.21 How do I request a hearing?

(a) *General.* To request a hearing on disputed issues of material fact with respect to any preliminary condition or prescription filed by NOAA, you must:

(1) Be a license party; and

(2) File with the Office of Habitat Conservation, at the address provided in § 221.2, a written request for a hearing:

(i) For a case under § 221.1(d)(1), within 30 days after NOAA files a preliminary condition or prescription with FERC; or

(ii) For a case under § 221.1(d)(2), within 60 days after NOAA files a preliminary condition or prescription with FERC.

(b) *Content.* Your hearing request must contain:

(1) A numbered list of the factual issues that you allege are in dispute, each stated in a single, concise sentence;

(2) The following information with respect to each issue:

(i) The specific factual statements made or relied upon by NOAA under § 221.20(a) that you dispute;

(ii) The basis for your opinion that those factual statements are unfounded or erroneous; and

(iii) The basis for your opinion that any factual dispute is material.

(3) With respect to any scientific studies, literature, and other documented information supporting your opinions under paragraphs (b)(2)(ii) and (b)(2)(iii) of this section, specific citations to the information relied upon. If any such document is not already in the license proceeding record, you must provide a copy with the request; and

(4) A statement indicating whether or not you consent to service by electronic means under § 221.13(c)(4) and, if so, by what means.

(c) *Witnesses and exhibits.* Your hearing request must also list the witnesses and exhibits that you intend to present at the hearing, other than solely for impeachment purposes.

(1) For each witness listed, you must provide:

(i) His or her name, address, telephone number, and qualifications; and

(ii) A brief narrative summary of his or her expected testimony.

(2) For each exhibit listed, you must specify whether it is in the license proceeding record.

(d) *Page limits.* (1) For each disputed factual issue, the information provided under paragraph (b)(2) of this section may not exceed two pages.

(2) For each witness, the information provided under paragraph (c)(1) of this section may not exceed one page.

§ 221.22 How do I file a notice of intervention and response?

(a) *General.* (1) To intervene as a party to the hearing process, you must:

(i) Be a license party; and

(ii) File with the Office of Habitat Conservation, at the address provided in § 221.2, a notice of intervention and a written response to any request for a hearing within 20 days after the deadline in § 221.21(a)(2).

(2) A notice of intervention and response must be limited to one or more of the issues of material fact raised in the hearing request and may not raise additional issues.

(b) *Content.* In your notice of intervention and response you must explain your position with respect to the issues of material fact raised in the hearing request under § 221.21(b).

(1) If you agree with the information provided by NOAA under § 221.20(a) or by the requester under § 221.21(b), your response may refer to NOAA's explanation or the requester's hearing request for support.

(2) If you wish to rely on additional information or analysis, your response must provide the same level of detail with respect to the additional information or analysis as required under § 221.21(b).

(3) Your notice of intervention and response must also indicate whether or not you consent to service by electronic means under § 221.13(c)(4) and, if so, by what means.

(c) *Witnesses and exhibits.* Your response and notice must also list the witnesses and exhibits that you intend to present at the hearing, other than solely for impeachment purposes.

(1) For each witness listed, you must provide:

(i) His or her name, address, telephone number, and qualifications; and

(ii) A brief narrative summary of his or her expected testimony; and

(2) For each exhibit listed, you must specify whether it is in the license proceeding record.

(d) *Page limits.* (1) For each disputed factual issue, the information provided under paragraph (b) of this section (excluding citations to scientific studies, literature, and other documented information supporting your opinions) may not exceed two pages.

(2) For each witness, the information provided under paragraph (c)(1) of this section may not exceed one page.

§ 221.23 Will hearing requests be consolidated?

(a) *Initial Department coordination.* If NOAA has received a copy of a hearing request, it must contact the other Departments and determine:

(1) Whether any of the other Departments has also filed a preliminary condition or prescription relating to the license with FERC; and

(2) If so, whether the other Department has also received a hearing request with respect to the preliminary condition or prescription.

(b) *Decision on consolidation.* Where more than one Department has received a hearing request, the Departments involved must decide jointly:

(1) Whether the cases should be consolidated for hearing under paragraphs (c)(3)(ii) through (c)(3)(iv) of this section; and

(2) If so, which Department will conduct the hearing on their behalf.

(c) *Criteria.* Cases will or may be consolidated as follows:

(1) All hearing requests with respect to any conditions from the same Department will be consolidated for hearing.

(2) All hearing requests with respect to any prescriptions from the same Department will be consolidated for hearing.

(3) All or any portion of the following may be consolidated for hearing, if the Departments involved determine that there are common issues of material fact or that consolidation is otherwise appropriate:

(i) Two or more hearing requests with respect to any condition and any prescription from the same Department;

(ii) Two or more hearing requests with respect to conditions from different Departments;

(iii) Two or more hearing requests with respect to prescriptions from different Departments; or

(iv) Two or more hearing requests with respect to any condition from one Department and any prescription from another Department.

§ 221.24 Can a hearing process be stayed to allow for settlement discussions?

(a) Prior to referral to the ALJ, the hearing requester and NOAA may by agreement stay the hearing process under this subpart for a period not to exceed 120 days to allow for settlement discussions, if the stay period and any subsequent hearing process (if required) can be accommodated within the time frame established for the license proceeding.

(b) Any stay of the hearing process will not affect the deadline for filing a notice of intervention and response, if any, pursuant to § 221.22(a)(1)(ii).

§ 221.25 How will NOAA respond to any hearing requests?

(a) *General.* Within 50 days after the deadline in § 221.21(a)(2) or 30 days after the expiration of any stay period under § 221.24, whichever is later, NOAA may file with the Office of Habitat Conservation an answer to any hearing request under § 221.21.

(b) *Content.* If NOAA files an answer:

(1) For each of the numbered factual issues listed under § 221.21(b)(1), the answer must explain NOAA's position with respect to the issues of material fact raised by the requester, including one or more of the following statements as appropriate:

(i) That NOAA is willing to stipulate to the facts as alleged by the requester;

(ii) That NOAA believes the issue listed by the requester is not a factual issue, explaining the basis for such belief;

(iii) That NOAA believes the issue listed by the requester is not material, explaining the basis for such belief; or

(iv) That NOAA agrees that the issue is factual, material, and in dispute.

(2) The answer must also indicate whether the hearing request will be consolidated with one or more other hearing requests under § 221.23 and, if so:

(i) Identify any other hearing request that will be consolidated with this hearing request; and

(ii) State which Department will conduct the hearing and provide contact information for the appropriate Department hearings component.

(3) If NOAA plans to rely on any scientific studies, literature, and other documented information that are not already in the license proceeding record, it must provide a copy with its answer.

(4) The answer must also indicate whether or not NOAA consents to service by electronic means under § 221.13(c)(4) and, if so, by what means.

(c) *Witnesses and exhibits.* NOAA's answer must also list the witnesses and exhibits that it intends to present at the hearing, other than solely for impeachment purposes.

(1) For each witness listed, NOAA must provide:

(i) His or her name, address, telephone number, and qualifications; and

(ii) A brief narrative summary of his or her expected testimony.

(2) For each exhibit listed, NOAA must specify whether it is in the license proceeding record.

(d) *Page limits.* (1) For each disputed factual issue, the information provided under paragraph (b)(1) of this section may not exceed two pages.

(2) For each witness, the information provided under paragraph (c)(1) of this section may not exceed one page.

(e) *Notice in lieu of answer.* If NOAA elects not to file an answer to a hearing request:

(1) NOAA is deemed to agree that the issues listed by the requester are factual, material, and in dispute;

(2) NOAA may file a list of witnesses and exhibits with respect to the request only as provided in § 221.42(b); and

(3) NOAA must file a notice containing the information required by paragraph (b)(2) of this section, if the hearing request will be consolidated with one or more other hearing requests under § 221.23, and the statement required by paragraph (b)(4) of this section.

§ 221.26 What will the Office of Habitat Conservation do with any hearing requests?

(a) *Case referral.* Within 55 days after the deadline in § 221.21(a)(2) or 35 days after the expiration of any stay period under § 221.24, whichever is later, the Office of Habitat Conservation will refer the case for a hearing as follows:

(1) If the hearing is to be conducted by NOAA, the Office of Habitat Conservation will refer the case to the Department of Commerce's designated ALJ office.

(2) If the hearing is to be conducted by another Department, the Office of Habitat Conservation will refer the case to the hearings component used by that Department.

(b) *Content.* The case referral will consist of the following:

(1) Two copies of any preliminary condition or prescription under § 221.20;

(2) The original and one copy of any hearing request under § 221.21;

(3) The original and one copy of any notice of intervention and response under § 221.22;

(4) The original and one copy of any answer under § 221.25; and

(5) The original and one copy of a referral notice under paragraph (c) of this section.

(c) *Notice.* At the time the Office of Habitat Conservation refers the case for a hearing, it must provide a referral notice that contains the following information:

(1) The name, address, telephone number, and facsimile number of the Department hearings component that will conduct the hearing;

(2) The name, address, and other contact information for the representative of each party to the hearing process;

(3) An identification of any other hearing request that will be consolidated with this hearing request; and

(4) The effective date of the case referral to the appropriate Department hearings component.

(d) *Delivery and service.* (1) The Office of Habitat Conservation must refer the case to the appropriate Department hearings component by one of the methods identified in § 221.12(b)(1)(i) and (b)(1)(ii).

(2) The Office of Habitat Conservation must serve a copy of the referral notice on FERC and each party to the hearing by one of the methods identified in § 221.13(c)(1) and (c)(2).

§ 221.27 What regulations apply to a case referred for a hearing?

(a) If the Office of Habitat Conservation refers the case to the Department of Commerce's designated ALJ office,

the regulations in this subpart will continue to apply to the hearing process.

(b) If the Office of Habitat Conservation refers the case to the United States Department of Agriculture's Office of Administrative Law Judges, the regulations at 7 CFR 1.601 *et seq.* will apply from that point on.

(c) If the Office of Habitat Conservation refers the case to the Department of the Interior's Office of Hearings and Appeals, the regulations at 43 CFR 45.1 *et seq.* will apply from that point on.

GENERAL PROVISIONS RELATED TO HEARINGS

§ 221.30 What will the Department of Commerce's designated ALJ office do with a case referral?

Within 5 days after the effective date stated in the referral notice under § 221.26(c)(4), 43 CFR 45.26(c)(4), or 7 CFR 1.626(c)(4):

(a) The Department of Commerce's designated ALJ office must:

(1) Docket the case;

(2) Assign an ALJ to preside over the hearing process and issue a decision; and

(3) Issue a docketing notice that informs the parties of the docket number and the ALJ assigned to the case; and

(b) The ALJ must issue a notice setting the time, place, and method for conducting an initial prehearing conference under § 221.40. This notice may be combined with the docketing notice under paragraph (a)(3) of this section.

§ 221.31 What are the powers of the ALJ?

The ALJ will have all powers necessary to conduct a fair, orderly, expeditious, and impartial hearing process relating to NOAA's or any other Department's condition or prescription that has been referred to the ALJ for hearing, including the powers to:

(a) Administer oaths and affirmations;

(b) Issue subpoenas under § 221.47;

(c) Shorten or enlarge time periods set forth in these regulations, except that the deadline in § 221.60(a)(2) can be extended only if the ALJ must be replaced under § 221.32 or 221.33;

(d) Rule on motions;

(e) Authorize discovery as provided for in this subpart;

(f) Hold hearings and conferences;

(g) Regulate the course of hearings;

(h) Call and question witnesses;

(i) Exclude any person from a hearing or conference for misconduct or other good cause;

(j) Summarily dispose of any hearing request or issue as to which the ALJ determines there is no disputed issue of material fact;

(k) Issue a decision consistent with § 221.60(b) regarding any disputed issue of material fact; and

(l) Take any other action authorized by law.

§ 221.32 What happens if the ALJ becomes unavailable?

(a) If the ALJ becomes unavailable or otherwise unable to perform the duties described in § 221.31, the Department of Commerce's designated ALJ office will designate a successor.

(b) If a hearing has commenced and the ALJ cannot proceed with it, a successor ALJ may do so. At the request of a party, the successor ALJ may recall any witness whose testimony is material and disputed, and who is available to testify again without undue burden. The successor ALJ may, within his or her discretion, recall any other witness.

§ 221.33 Under what circumstances may the ALJ be disqualified?

(a) The ALJ may withdraw from a case at any time the ALJ deems himself or herself disqualified.

(b) At any time before issuance of the ALJ's decision, any party may move that the ALJ disqualify himself or herself for personal bias or other valid cause.

(1) The party must file the motion promptly after discovering facts or other reasons allegedly constituting cause for disqualification.

(2) The party must file with the motion an affidavit or declaration setting forth the facts or other reasons in detail.

(c) The ALJ must rule upon the motion, stating the grounds for the ruling.

(1) If the ALJ concludes that the motion is timely and meritorious, he or

she must disqualify himself or herself and withdraw from the case.

(2) If the ALJ does not disqualify himself or herself and withdraw from the case, the ALJ must continue with the hearing process and issue a decision.

§ 221.34 What is the law governing ex parte communications?

(a) Ex parte communications with the ALJ or his or her staff are prohibited in accordance with 5 U.S.C. 554(d).

(b) This section does not prohibit ex parte inquiries concerning case status or procedural requirements, unless the inquiry involves an area of controversy in the hearing process.

§ 221.35 What are the requirements for motions?

(a) *General.* Any party may apply for an order or ruling on any matter related to the hearing process by presenting a motion to the ALJ. A motion may be presented any time after the Department of Commerce's designated ALJ office issues a docketing notice under § 221.30.

(1) A motion made at a hearing may be stated orally on the record, unless the ALJ directs that it be reduced to writing.

(2) Any other motion must:

(i) Be in writing;

(ii) Comply with the requirements of this subpart with respect to form, content, filing, and service; and

(iii) Not exceed 15 pages, including all supporting arguments.

(b) *Content.* (1) Each motion must state clearly and concisely:

(i) Its purpose and the relief sought;

(ii) The facts constituting the grounds for the relief sought; and

(iii) Any applicable statutory or regulatory authority.

(2) A proposed order must accompany the motion.

(c) *Response.* Except as otherwise required by this part, any other party may file a response to a written motion within 10 days after service of the motion. The response may not exceed 15 pages, including all supporting arguments. When a party presents a motion at a hearing, any other party may present a response orally on the record.

(d) *Reply.* Unless the ALJ orders otherwise, no reply to a response may be filed.

(e) *Effect of filing.* Unless the ALJ orders otherwise, the filing of a motion does not stay the hearing process.

(f) *Ruling.* The ALJ will rule on the motion as soon as practicable, either orally on the record or in writing. He or she may summarily deny any dilatory, repetitive, or frivolous motion.

Prehearing Conferences and Discovery

§ 221.40 What are the requirements for prehearing conferences?

(a) *Initial prehearing conference.* The ALJ will conduct an initial prehearing conference with the parties at the time specified in the notice under § 221.30, on or about the 20th day after the effective date stated in the referral notice under § 221.26(c)(4), 7 CFR 1.626(c)(4), or 43 CFR 45.26(c)(4).

(1) The initial prehearing conference will be used:

(i) To identify, narrow, and clarify the disputed issues of material fact and exclude issues that do not qualify for review as factual, material, and disputed;

(ii) To consider the parties' motions for discovery under § 221.41 and to set a deadline for the completion of discovery;

(iii) To discuss the evidence on which each party intends to rely at the hearing;

(iv) To set deadlines for submission of written testimony under § 221.52 and exchange of exhibits to be offered as evidence under § 221.54; and

(v) To set the date, time, and place of the hearing.

(2) The initial prehearing conference may also be used:

(i) To discuss limiting and grouping witnesses to avoid duplication;

(ii) To discuss stipulations of fact and of the content and authenticity of documents;

(iii) To consider requests that the ALJ take official notice of public records or other matters;

(iv) To discuss the submission of written testimony, briefs, or other documents in electronic form; and

(v) To consider any other matters that may aid in the disposition of the case.

(b) *Other conferences.* The ALJ may in his or her discretion direct the parties to attend one or more other prehearing conferences, if consistent with the need to complete the hearing process within 90 days. Any party may by motion request a conference.

(c) *Notice.* The ALJ must give the parties reasonable notice of the time and place of any conference. A conference will ordinarily be held by telephone, unless the ALJ orders otherwise.

(d) *Preparation.* (1) Each party's representative must be fully prepared to discuss all issues pertinent to that party that are properly before the conference, both procedural and substantive. The representative must be authorized to commit the party that he or she represents respecting those issues.

(2) Before the date set for the initial prehearing conference, the parties' representatives must make a good faith effort:

(i) To meet in person, by telephone, or by other appropriate means; and

(ii) To reach agreement on discovery and the schedule of remaining steps in the hearing process.

(e) *Failure to attend.* Unless the ALJ orders otherwise, a party that fails to attend or participate in a conference, after being served with reasonable notice of its time and place, waives all objections to any agreements reached in the conference and to any consequent orders or rulings.

(f) *Scope.* During a conference, the ALJ may dispose of any procedural matters related to the case.

(g) *Order.* Within 2 days after the conclusion of each conference, the ALJ must issue an order that recites any agreements reached at the conference and any rulings made by the ALJ during or as a result of the conference.

§ 221.41 How may parties obtain discovery of information needed for the case?

(a) *General.* By agreement of the parties or with the permission of the ALJ, a party may obtain discovery of information to assist the party in preparing or presenting its case. Available methods of discovery are:

(1) Written interrogatories as provided in § 221.43;

(2) Depositions of witnesses as provided in paragraph (h) of this section; and

(3) Requests for production of designated documents or tangible things or for entry on designated land for inspection or other purposes.

(b) *Criteria.* Discovery may occur only as agreed to by the parties or as authorized by the ALJ during a prehearing conference or in a written order under § 221.40(g). The ALJ may authorize discovery only if the party requesting discovery demonstrates:

(1) That the discovery will not unreasonably delay the hearing process;

(2) That the information sought:

(i) Will be admissible at the hearing or appears reasonably calculated to lead to the discovery of admissible evidence;

(ii) Is not already in the license proceeding record or otherwise obtainable by the party;

(iii) Is not cumulative or repetitious; and

(iv) Is not privileged or protected from disclosure by applicable law;

(3) That the scope of the discovery is not unduly burdensome;

(4) That the method to be used is the least burdensome method available;

(5) That any trade secrets or proprietary information can be adequately safeguarded; and

(6) That the standards for discovery under paragraphs (f) through (h) of this section have been met, if applicable.

(c) *Motions.* A party may initiate discovery:

(1) Pursuant to an agreement of the parties; or

(2) By filing a motion that:

(i) Briefly describes the proposed method(s), purpose, and scope of the discovery;

(ii) Explains how the discovery meets the criteria in paragraphs (b)(1) through (b)(6) of this section; and

(iii) Attaches a copy of any proposed discovery request (written interrogatories, notice of deposition, or request for production of designated documents or tangible things or for entry on designated land).

(d) *Timing of motions.* A party must file any discovery motion under paragraph (c)(2) of this section within 7 days after the effective date stated in the referral notice under § 221.26(c)(4), 7 CFR 1.626(c)(4), or 43 CFR 45.26(c)(4).

(e) *Objections.* (1) A party must file any objections to a discovery motion or to specific portions of a proposed discovery request within 7 days after service of the motion.

(2) An objection must explain how, in the objecting party's view, the discovery sought does not meet the criteria in paragraphs (b)(1) through (b)(6) of this section.

(f) *Materials prepared for hearing.* A party generally may not obtain discovery of documents and tangible things otherwise discoverable under paragraph (b) of this section if they were prepared in anticipation of or for the hearing by or for another party's representative (including the party's attorney, expert, or consultant).

(1) If a party wants to discover such materials, it must show:

(i) That it has substantial need of the materials in preparing its own case; and

(ii) That the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means.

(2) In ordering discovery of such materials when the required showing has been made, the ALJ must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney.

(g) *Experts.* Unless restricted by the ALJ, a party may discover any facts known or opinions held by an expert through the methods set out in paragraph (a) of this section concerning any relevant matters that are not privileged. Such discovery will be permitted only if:

(1) The expert is expected to be a witness at the hearing; or

(2) The expert is relied on by another expert who is expected to be a witness at the hearing, and the party shows:

(i) That it has a compelling need for the information; and

(ii) That it cannot practicably obtain the information by other means.

(h) *Limitations on depositions.* (1) A party may depose an expert or non-expert witness only if the party shows that the witness:

(i) Will be unable to attend the hearing because of age, illness, or other incapacity; or

(ii) Is unwilling to attend the hearing voluntarily, and the party is unable to compel the witness's attendance at the hearing by subpoena.

(2) Paragraph (h)(1)(ii) of this section does not apply to any person employed by or under contract with the party seeking the deposition.

(3) A party may depose a senior Department employee only if the party shows:

(i) That the employee's testimony is necessary in order to provide significant, unprivileged information that is not available from any other source or by less burdensome means; and

(ii) That the deposition would not significantly interfere with the employee's ability to perform his or her government duties.

(4) Unless otherwise stipulated to by the parties or authorized by the ALJ upon a showing of extraordinary circumstances, a deposition is limited to 1 day of 7 hours.

(i) *Completion of discovery.* All discovery must be completed within 25 days after the initial prehearing conference.

§ 221.42 When must a party supplement or amend information it has previously provided?

(a) *Discovery.* A party must promptly supplement or amend any prior response to a discovery request if it learns that the response:

(1) Was incomplete or incorrect when made; or

(2) Though complete and correct when made, is now incomplete or incorrect in any material respect.

(b) *Witnesses and exhibits.* (1) Within 10 days after the date set for completion of discovery, each party must file an updated version of the list of witnesses and exhibits required under §§ 221.21(c), 221.22(c), or 221.25(c).

(2) If a party wishes to include any new witness or exhibit on its updated list, it must provide an explanation of why it was not feasible for the party to include the witness or exhibit on its

list under §§ 221.21(c), 221.22(c), or 221.25(c).

(c) *Failure to disclose.* (1) A party will not be permitted to introduce as evidence at the hearing testimony from a witness or other information that it failed to disclose under §§ 221.21(c), 221.22(c), or 221.25(c), or paragraphs (a) or (b) of this section.

(2) Paragraph (c)(1) of this section does not apply if the failure to disclose was substantially justified or is harmless.

(3) A party may object to the admission of evidence under paragraph (c)(1) of this section before or during the hearing.

(4) The ALJ will consider the following in determining whether to exclude evidence under paragraphs (c)(1) through (3) of this section:

(i) The prejudice to the objecting party;

(ii) The ability of the objecting party to cure any prejudice;

(iii) The extent to which presentation of the evidence would disrupt the orderly and efficient hearing of the case;

(iv) The importance of the evidence; and

(v) The reason for the failure to disclose, including any bad faith or willfulness regarding the failure.

§ 221.43 What are the requirements for written interrogatories?

(a) *Motion; limitation.* Except upon agreement of the parties:

(1) A party wishing to propound interrogatories must file a motion under § 221.41(c); and

(2) A party may propound no more than 25 interrogatories, counting discrete subparts as separate interrogatories, unless the ALJ approves a higher number upon a showing of good cause.

(b) *ALJ order.* The ALJ will issue an order under § 221.41(b) with respect to any discovery motion requesting the use of written interrogatories. The order will:

(1) Grant the motion and approve the use of some or all of the proposed interrogatories; or

(2) Deny the motion.

(c) *Answers to interrogatories.* Except upon agreement of the parties, the party to whom the proposed interrogatories are directed must file its answers to any interrogatories approved by the ALJ within 15 days after issuance of the order under paragraph (b) of this section.

(1) Each approved interrogatory must be answered separately and fully in writing.

(2) The party or its representative must sign the answers to interrogatories under oath or affirmation.

(d) *Access to records.* A party's answer to an interrogatory is sufficient when:

(1) The information may be obtained from an examination of records, or from a compilation, abstract, or summary based on such records;

(2) The burden of obtaining the information from the records is substantially the same for all parties;

(3) The answering party specifically identifies the individual records from which the requesting party may obtain the information and where the records are located; and

(4) The answering party provides the requesting party with reasonable opportunity to examine the records and make a copy, compilation, abstract, or summary.

§ 221.44 What are the requirements for depositions?

(a) *Motion and notice.* Except upon agreement of the parties, a party wishing to take a deposition must file a motion under § 221.41(c). Any notice of deposition filed with the motion must state:

(1) The time and place that the deposition is to be taken;

(2) The name and address of the person before whom the deposition is to be taken;

(3) The name and address of the witness whose deposition is to be taken; and

(4) Any documents or materials that the witness is to produce.

(b) *ALJ order.* The ALJ will issue an order under § 221.41(b) with respect to any discovery motion requesting the taking of a deposition. The order will:

(1) Grant the motion and approve the taking of the deposition, subject to any conditions or restrictions the ALJ may impose; or

(2) Deny the motion.

(c) *Arrangements.* If the parties agree to or the ALJ approves the taking of the deposition, the party requesting the deposition must make appropriate arrangements for necessary facilities and personnel.

(1) The deposition will be taken at the time and place agreed to by the parties or indicated in the ALJ's order.

(2) The deposition may be taken before any disinterested person authorized to administer oaths in the place where the deposition is to be taken.

(3) Any party that objects to the taking of a deposition because of the disqualification of the person before whom it is to be taken must do so:

(i) Before the deposition begins; or

(ii) As soon as the disqualification becomes known or could have been discovered with reasonable diligence.

(4) A deposition may be taken by telephone conference call, if agreed to by the parties or approved in the ALJ's order.

(d) *Testimony.* Each witness deposed must be placed under oath or affirmation, and the other parties must be given an opportunity for cross-examination.

(e) *Representation of witness.* The witness being deposed may have counsel or another representative present during the deposition.

(f) *Recording and transcript.* Except as provided in paragraph (g) of this section, the deposition must be stenographically recorded and transcribed at the expense of the party that requested the deposition.

(1) Any other party may obtain a copy of the transcript at its own expense.

(2) Unless waived by the deponent, the deponent will have 3 days after receiving the transcript to read and sign it.

(3) The person before whom the deposition was taken must certify the transcript following receipt of the signed transcript from the deponent or expiration of the 3-day review period, whichever occurs first.

(g) *Video recording.* The testimony at a deposition may be recorded on videotape, subject to any conditions or restrictions that the parties may agree to or the ALJ may impose, at the expense of the party requesting the recording.

(1) The video recording may be in conjunction with an oral examination by telephone conference held under paragraph (c)(4) of this section.

(2) After the deposition has been taken, the person recording the deposition must:

(i) Provide a copy of the videotape to any party that requests it, at the requesting party's expense; and

(ii) Attach to the videotape a statement identifying the case and the deponent and certifying the authenticity of the video recording.

(h) *Use of deposition.* A deposition may be used at the hearing as provided in § 221.53.

§ 221.45 What are the requirements for requests for documents or tangible things or entry on land?

(a) *Motion.* Except upon agreement of the parties, a party wishing to request the production of designated documents or tangible things or entry on designated land must file a motion under § 221.41(c). A request may include any of the following that are in the possession, custody, or control of another party:

(1) The production of designated documents for inspection and copying, other than documents that are already in the license proceeding record;

(2) The production of designated tangible things for inspection, copying, testing, or sampling; or

(3) Entry on designated land or other property for inspection and measuring, surveying, photographing, testing, or sampling either the property or any designated object or operation on the property.

(b) *ALJ order.* The ALJ will issue an order under § 221.41(b) with respect to any discovery motion requesting the production of documents or tangible things or entry on land for inspection, copying, or other purposes. The order will:

(1) Grant the motion and approve the use of some or all of the proposed requests; or

(2) Deny the motion.

(c) *Compliance with order.* Except upon agreement of the parties, the party to whom any approved request

for production is directed must permit the approved inspection and other activities within 15 days after issuance of the order under paragraph (a) of this section.

§ 221.46 What sanctions may the ALJ impose for failure to comply with discovery?

(a) Upon motion of a party, the ALJ may impose sanctions under paragraph (b) of this section if any party:

(1) Fails to comply with an order approving discovery; or

(2) Fails to supplement or amend a response to discovery under § 221.42(a).

(b) The ALJ may impose one or more of the following sanctions:

(1) Infer that the information, testimony, document, or other evidence withheld would have been adverse to the party;

(2) Order that, for the purposes of the hearing, designated facts are established;

(3) Order that the party not introduce into evidence, or otherwise rely on to support its case, any information, testimony, document, or other evidence:

(i) That the party improperly withheld; or

(ii) That the party obtained from another party in discovery;

(4) Allow another party to use secondary evidence to show what the information, testimony, document, or other evidence withheld would have shown; or

(5) Take other appropriate action to remedy the party's failure to comply.

§ 221.47 What are the requirements for subpoenas and witness fees?

(a) *Request for subpoena.* (1) Except as provided in paragraph (a)(2) of this section, any party may request by written motion that the ALJ issue a subpoena to the extent authorized by law for the attendance of a person, the giving of testimony, or the production of documents or other relevant evidence during discovery or for the hearing.

(2) A party may request a subpoena for a senior Department employee only if the party shows:

(i) That the employee's testimony is necessary in order to provide significant, unprivileged information that is not available from any other source or by less burdensome means; and

(ii) That the employee's attendance would not significantly interfere with the ability to perform his or her government duties.

(b) *Service.* (1) A subpoena may be served by any person who is not a party and is 18 years of age or older.

(2) Service must be made by hand delivering a copy of the subpoena to the person named therein.

(3) The person serving the subpoena must:

(i) Prepare a certificate of service setting forth:

(A) The date, time, and manner of service; or

(B) The reason for any failure of service; and

(ii) Swear to or affirm the certificate, attach it to a copy of the subpoena, and return it to the party on whose behalf the subpoena was served.

(c) *Witness fees.* (1) A party who subpoenas a witness who is not a party must pay him or her the same fees and mileage expenses that are paid witnesses in the district courts of the United States.

(2) A witness who is not a party and who attends a deposition or hearing at the request of any party without having been subpoenaed is entitled to the same fees and mileage expenses as if he or she had been subpoenaed. However, this paragraph does not apply to Federal employees who are called as witnesses by a Department.

(d) *Motion to quash.* (1) A person to whom a subpoena is directed may request by motion that the ALJ quash or modify the subpoena.

(2) The motion must be filed:

(i) Within 5 days after service of the subpoena; or

(ii) At or before the time specified in the subpoena for compliance, if that is less than 5 days after service of the subpoena.

(3) The ALJ may quash or modify the subpoena if it:

(i) Is unreasonable;

(ii) Requires production of information during discovery that is not discoverable; or

(iii) Requires disclosure of irrelevant, privileged, or otherwise protected information.

(e) *Enforcement.* For good cause shown, the ALJ may apply to the appropriate United States District Court for the issuance of an order compelling the appearance and testimony of a witness or the production of evidence as set forth in a subpoena that has been duly issued and served.

HEARING, BRIEFING, AND DECISION

§ 221.50 When and where will the hearing be held?

(a) Except as provided in paragraph (b) of this section, the hearing will be held at the time and place set at the initial prehearing conference under § 221.40, generally within 25 days after the date set for completion of discovery.

(b) On motion by a party or on the ALJ's initiative, the ALJ may change the date, time, or place of the hearing if he or she finds:

(1) That there is good cause for the change; and

(2) That the change will not unduly prejudice the parties and witnesses.

§ 221.51 What are the parties' rights during the hearing?

Each party has the following rights during the hearing, as necessary to assure full and accurate disclosure of the facts:

(a) To present testimony and exhibits, consistent with the requirements in §§ 221.21(c), 221.22(c), 221.25(c), 221.42(b), and 221.52;

(b) To make objections, motions, and arguments; and

(c) To cross-examine witnesses and to conduct re-direct and re-cross examination as permitted by the ALJ.

§ 221.52 What are the requirements for presenting testimony?

(a) *Written direct testimony.* Unless otherwise ordered by the ALJ, all direct hearing testimony for each party's initial case must be prepared and submitted in written form. The ALJ will determine whether rebuttal testimony, if allowed, must be submitted in written form.

(1) Prepared written testimony must:

(i) Have line numbers inserted in the left-hand margin of each page;

(ii) Be authenticated by an affidavit or declaration of the witness;

(iii) Be filed within 10 days after the date set for completion of discovery; and

(iv) Be offered as an exhibit during the hearing.

(2) Any witness submitting written testimony must be available for cross-examination at the hearing.

(b) *Oral testimony.* Oral examination of a witness in a hearing, including on cross-examination or redirect, must be conducted under oath and in the presence of the ALJ, with an opportunity for all parties to question the witness.

(c) *Telephonic testimony.* The ALJ may by order allow a witness to testify by telephonic conference call.

(1) The arrangements for the call must let each party listen to and speak to the witness and each other within the hearing of the ALJ.

(2) The ALJ will ensure the full identification of each speaker so the reporter can create a proper record.

(3) The ALJ may issue a subpoena under § 221.47 directing a witness to testify by telephonic conference call.

§ 221.53 How may a party use a deposition in the hearing?

(a) *In general.* Subject to the provisions of this section, a party may use in the hearing any part or all of a deposition taken under § 221.44 against any party who:

(1) Was present or represented at the taking of the deposition; or

(2) Had reasonable notice of the taking of the deposition.

(b) *Admissibility.* (1) No part of a deposition will be included in the hearing record, unless received in evidence by the ALJ.

(2) The ALJ will exclude from evidence any question and response to which an objection:

(i) Was noted at the taking of the deposition; and

(ii) Would have been sustained if the witness had been personally present and testifying at a hearing.

(3) If a party offers only part of a deposition in evidence:

(i) An adverse party may require the party to introduce any other part that ought in fairness to be considered with the part introduced; and

(ii) Any other party may introduce any other parts.

(c) *Videotaped deposition.* If the deposition was recorded on videotape and is admitted into evidence, relevant portions will be played during the hearing and transcribed into the record by the reporter.

§ 221.54 What are the requirements for exhibits, official notice, and stipulations?

(a) *General.* (1) Except as provided in paragraphs (b) through (d) of this section, any material offered in evidence, other than oral testimony, must be offered in the form of an exhibit.

(2) Each exhibit offered by a party must be marked for identification.

(3) Any party who seeks to have an exhibit admitted into evidence must provide:

(i) The original of the exhibit to the reporter, unless the ALJ permits the substitution of a copy; and

(ii) A copy of the exhibit to the ALJ.

(b) *Material not offered.* If a document offered as an exhibit contains material not offered as evidence:

(1) The party offering the exhibit must:

(i) Designate the matter offered as evidence;

(ii) Segregate and exclude the material not offered in evidence, to the extent practicable; and

(iii) Provide copies of the entire document to the other parties appearing at the hearing.

(2) The ALJ must give the other parties an opportunity to inspect the entire document and offer in evidence any other portions of the document.

(c) *Official notice.* (1) At the request of any party at the hearing, the ALJ may take official notice of any matter of which the courts of the United States may take judicial notice, including the public records of any Department party.

(2) The ALJ must give the other parties appearing at the hearing an opportunity to show the contrary of an officially noticed fact.

(3) Any party requesting official notice of a fact after the conclusion of the hearing must show good cause for its failure to request official notice during the hearing.

(d) *Stipulations.* (1) The parties may stipulate to any relevant facts or to the authenticity of any relevant documents.

(2) If received in evidence at the hearing, a stipulation is binding on the stipulating parties.

(3) A stipulation may be written or made orally at the hearing.

§ 221.55 What evidence is admissible at the hearing?

(a) *General.* (1) Subject to the provisions of § 221.42(b), the ALJ may admit any written, oral, documentary, or demonstrative evidence that is:

(i) Relevant, reliable, and probative; and

(ii) Not privileged or unduly repetitious or cumulative.

(2) The ALJ may exclude evidence if its probative value is substantially outweighed by the risk of undue prejudice, confusion of the issues, or delay.

(3) Hearsay evidence is admissible. The ALJ may consider the fact that evidence is hearsay when determining its probative value.

(4) The Federal Rules of Evidence do not directly apply to the hearing, but may be used as guidance by the ALJ and the parties in interpreting and applying the provisions of this section.

(b) *Objections.* Any party objecting to the admission or exclusion of evidence must concisely state the grounds. A ruling on every objection must appear in the record.

§ 221.56 What are the requirements for transcription of the hearing?

(a) *Transcript and reporter's fees.* The hearing will be transcribed verbatim.

(1) The Department of Commerce's designated ALJ office will secure the services of a reporter and pay the reporter's fees to provide an original transcript to the Department of Commerce's designated ALJ office on an expedited basis.

(2) Each party must pay the reporter for any copies of the transcript obtained by that party.

(b) *Transcript Corrections.* (1) Any party may file a motion proposing corrections to the transcript. The motion must be filed within 5 days after receipt of the transcript, unless the ALJ sets a different deadline.

(2) Unless a party files a timely motion under paragraph (b)(1) of this section, the transcript will be presumed to be correct and complete, except for obvious typographical errors.

(3) As soon as practicable after the close of the hearing and after consideration of any motions filed under paragraph (b)(1) of this section, the ALJ will issue an order making any corrections to the transcript that the ALJ finds are warranted.

§ 221.57 Who has the burden of persuasion, and what standard of proof applies?

(a) Any party who has filed a request for a hearing has the burden of persuasion with respect to the issues of material fact raised by that party.

(b) The standard of proof is a preponderance of the evidence.

§ 221.58 When will the hearing record close?

(a) The hearing record will close when the ALJ closes the hearing, unless he or she directs otherwise.

(b) Evidence may not be added after the hearing record is closed, but the transcript may be corrected under § 221.56(b).

§ 221.59 What are the requirements for post-hearing briefs?

(a) *General.* (1) Each party may file a post-hearing brief within 15 days after the close of the hearing.

(2) A party may file a reply brief only if requested by the ALJ. The deadline for filing a reply brief, if any, will be set by the ALJ.

(3) The ALJ may limit the length of the briefs to be filed under this section.

(b) *Content.* (1) An initial brief must include:

(i) A concise statement of the case;

(ii) A separate section containing proposed findings regarding the issues of material fact, with supporting citations to the hearing record;

(iii) Arguments in support of the party's position; and

(iv) Any other matter required by the ALJ.

(2) A reply brief, if requested by the ALJ, must be limited to any issues identified by the ALJ.

(c) *Form.* (1) An exhibit admitted in evidence or marked for identification in the record may not be reproduced in the brief.

(i) Such an exhibit may be reproduced, within reasonable limits, in an appendix to the brief.

(ii) Any pertinent analysis of an exhibit may be included in a brief.

(2) If a brief exceeds 20 pages, it must contain:

(i) A table of contents and of points made, with page references; and

(ii) An alphabetical list of citations to legal authority, with page references.

§ 221.60 What are the requirements for the ALJ's decision?

(a) *Timing.* The ALJ must issue a decision within the shorter of the following time periods:

(1) 30 days after the close of the hearing under § 221.58; or

(2) 120 days after the effective date stated in the referral notice under § 221.26(c)(4), 7 CFR 1.626(c)(4), or 43 CFR 45.26(c)(4).

(b) *Content.* (1) The decision must contain:

(i) Findings of fact on all disputed issues of material fact;

(ii) Conclusions of law necessary to make the findings of fact (such as rulings on materiality and on the admissibility of evidence); and

(iii) Reasons for the findings and conclusions.

(2) The ALJ may adopt any of the findings of fact proposed by one or more of the parties.

(3) The decision will not contain conclusions as to whether any preliminary condition or prescription should be adopted, modified, or rejected, or whether any proposed alternative should be accepted or rejected.

(c) *Service.* Promptly after issuing his or her decision, the ALJ must:

(1) Serve the decision on each party to the hearing;

(2) Prepare a list of all documents that constitute the complete record for the hearing process (including the decision) and certify that the list is complete; and

(3) Forward to FERC the complete record for the hearing process, along with the certified list prepared under

paragraph (c)(2) of this section, for inclusion in the record for the license proceeding. Materials received in electronic form, *e.g.*, as attachments to electronic mail, should be transmitted to FERC in electronic form. However, for cases in which a settlement was reached prior to a decision, the entire record need not be transmitted to FERC. In such situations, only the initial pleadings (hearing requests with attachments, any notices of intervention and response, answers, and referral notice) and any dismissal order of the ALJ need be transmitted.

(d) *Finality*. The ALJ's decision under this section with respect to the disputed issues of material fact will not be subject to further administrative review. To the extent the ALJ's decision forms the basis for any condition or prescription subsequently included in the license, it may be subject to judicial review under 16 U.S.C. 825*l*(b).

Subpart C—Alternatives Process

§ 221.70 How must documents be filed and served under this subpart?

(a) *Filing*. (1) A document under this subpart must be filed using one of the methods set forth in § 221.12(b).

(2) A document is considered filed on the date it is received. However, any document received after 5 p.m. at the place where the filing is due is considered filed on the next regular business day.

(b) *Service*. (1) Any document filed under this subpart must be served at the same time the document is delivered or sent for filing. A complete copy of the document must be delivered or sent to each license party and FERC, using:

(i) One of the methods of service in § 221.13(c); or

(ii) Regular mail.

(2) The provisions of § 221.13(d) regarding a certificate of service apply to service under this subpart.

§ 221.71 How do I propose an alternative?

(a) *General*. To propose an alternative condition or prescription, you must:

(1) Be a license party; and

(2) File a written proposal with the Office of Habitat Conservation, at the address set forth in § 221.2:

(i) For a case under § 221.1(d)(1), within 30 days after NOAA files a preliminary condition or prescription with FERC; or

(ii) For a case under § 221.1(d)(2), within 60 days after NOAA files a proposed condition or prescription with FERC.

(b) *Content*. Your proposal must include:

(1) A description of the alternative, in an equivalent level of detail to NOAA's preliminary condition or prescription;

(2) An explanation of how the alternative:

(i) If a condition, will provide for the adequate protection and utilization of the reservation; or

(ii) If a prescription, will be no less protective than the fishway prescribed by NMFS;

(3) An explanation of how the alternative, as compared to the preliminary condition or prescription, will:

(i) Cost significantly less to implement; or

(ii) Result in improved operation of the project works for electricity production;

(4) An explanation of how the alternative will affect:

(i) Energy supply, distribution, cost, and use;

(ii) Flood control;

(iii) Navigation;

(iv) Water supply;

(v) Air quality; and

(vi) Other aspects of environmental quality; and

(5) Specific citations to any scientific studies, literature, and other documented information relied on to support your proposal, including any assumptions you are making (*e.g.*, regarding the cost of energy or the rate of inflation). If any such document is not already in the license proceeding record, you must provide a copy with the proposal.

§ 221.72 May I file a revised proposed alternative?

(a) Within 20 days after issuance of the ALJ's decision under § 221.60, you may file with the Office of Habitat

Conservation, at the address set forth in § 221.2, a revised proposed alternative condition or prescription if:

(1) You previously filed a proposed alternative that met the requirements of § 221.71; and

(2) Your revised proposed alternative is designed to respond to one or more findings of fact by the ALJ.

(b) Your revised proposed alternative must:

(1) Satisfy the content requirements for a proposed alternative under § 221.71(b); and

(2) Identify the specific ALJ finding(s) to which the revised proposed alternative is designed to respond and how the revised proposed alternative differs from the original alternative.

(c) Filing a revised proposed alternative will constitute a withdrawal of the previously filed proposed alternative.

§ 221.73 When will NOAA file its modified condition or prescription?

(a) Except as provided in paragraph (b) of this section, if any license party proposes an alternative to a preliminary condition or prescription under § 221.71, NOAA will do the following within 60 days after the deadline for filing comments on FERC's draft NEPA document under 18 CFR 5.25(c):

(1) Analyze under § 221.74 any alternative condition or prescription proposed under § 221.71 or 221.72; and

(2) File with FERC:

(i) Any condition or prescription that NOAA adopts as its modified condition or prescription; and

(ii) Its analysis of the modified condition or prescription and any proposed alternative under § 221.74(c).

(b) If NOAA needs additional time to complete the steps set forth in paragraphs (a)(1) and (a)(2) of this section, it will so inform FERC within 60 days after the deadline for filing comments on FERC's draft NEPA document under 18 CFR 5.25(c).

§ 221.74 How will NOAA analyze a proposed alternative and formulate its modified condition or prescription?

(a) In deciding whether to accept an alternative proposed under § 221.71 or 221.72, NOAA must consider evidence and supporting material provided by any license party or otherwise reasonably available to NOAA, including:

(1) Any evidence on the implementation costs or operational impacts for electricity production of the proposed alternative;

(2) Any comments received on NOAA's preliminary condition or prescription;

(3) Any ALJ decision on disputed issues of material fact issued under § 221.60 with respect to the preliminary condition or prescription;

(4) Comments received on any draft or final NEPA documents; and

(5) The license party's proposal under § 221.71 or § 221.72.

(b) NOAA must accept a proposed alternative if NOAA determines, based on substantial evidence provided by any license party or otherwise reasonably available to NOAA, that the alternative:

(1) Will, as compared to NOAA's preliminary condition or prescription:

(i) Cost significantly less to implement; or

(ii) Result in improved operation of the project works for electricity production; and

(2) Will:

(i) If a condition, provide for the adequate protection and utilization of the reservation; or

(ii) If a prescription, be no less protective than NMFS's preliminary prescription.

(c) For purposes of paragraphs (a) and (b) of this section, NOAA will consider evidence and supporting material provided by any license party by the deadline for filing comments on FERC's NEPA document under 18 CFR 5.25(c).

(d) When NOAA files with FERC the condition or prescription that NOAA adopts as its modified condition or prescription under § 221.73(a)(2), it must also file:

(1) A written statement explaining:

(i) The basis for the adopted condition or prescription;

(ii) If NOAA is not accepting any pending alternative, its reasons for not doing so; and

(iii) If any alternative submitted under § 221.71 was subsequently withdrawn by the license party, that the alternative was withdrawn; and

(2) Any study, data, and other factual information relied on that is not already part of the licensing proceeding record.

(e) The written statement under paragraph (d)(1) of this section must demonstrate that NOAA gave equal consideration to the effects of the condition or prescription adopted and any alternative not accepted on:

(1) Energy supply, distribution, cost, and use;

(2) Flood control;

(3) Navigation;

(4) Water supply;

(5) Air quality; and

(6) Preservation of other aspects of environmental quality.

§ 221.75 Has OMB approved the information collection provisions of this subpart?

Yes. This rule contains provisions that would collect information from the public. It therefore requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (PRA). According to the PRA, a Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number that indicates OMB approval. OMB has reviewed the information collection in this rule and approved it under OMB control number 1094–0001.

PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

Subpart A—Introduction and General Provisions

Sec.

222.101 Purpose and scope of regulations.
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AUTHORITY: 16 U.S.C. 1531 *et seq.;* 16 U.S.C. 742a *et seq.*

Section 222.403 also issued under 16 U.S.C. 1361 *et seq.*

SOURCE: 64 FR 14054, Mar. 23, 1999, unless otherwise noted.

Subpart A—Introduction and General Provisions

§ 222.101 Purpose and scope of regulations.

(a) The regulations of parts 222, 223, and 224 of this chapter implement the Endangered Species Act (Act), and govern the taking, possession, transportation, sale, purchase, barter, exportation, importation of, and other requirements pertaining to wildlife and plants under the jurisdiction of the Secretary of Commerce and determined to be threatened or endangered pursuant to section 4(a) of the Act. These regulations are implemented by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, This part pertains to general provisions and definitions. Specifically, parts 223 and 224 pertain to provisions to threatened species and endangered

species, respectively. Part 226 enumerates designated critical habitat for endangered and threatened species. Certain of the endangered and threatened marine species enumerated in §§ 224.102 and 223.102 are included in Appendix I or II to the Convention on International Trade of Endangered Species of Wild Fauna and Flora. The importation, exportation, and re-exportation of such species are subject to additional regulations set forth at 50 CFR part 23, chapter I.

(b) For rules and procedures relating to species determined to be threatened or endangered under the jurisdiction of the Secretary of the Interior, see 50 CFR parts 10 through 17. For rules and procedures relating to the general implementation of the Act jointly by the Departments of the Interior and Commerce and for certain species under the joint jurisdiction of both the Secretaries of the Interior and Commerce, see 50 CFR Chapter IV. Marine mammals listed as endangered or threatened and subject to these regulations may also be subject to additional requirements pursuant to the Marine Mammal Protection Act (for regulations implementing that act, see 50 CFR part 216).

(c) No statute or regulation of any state shall be construed to relieve a person from the restrictions, conditions, and requirements contained in parts 222, 223, and 224 of this chapter. In addition, nothing in parts 222, 223, and 224 of this chapter, including any permit issued pursuant thereto, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of any state or of the United States, including any applicable health, quarantine, agricultural, or customs laws or regulations, or any other National Marine Fisheries Service enforced statutes or regulations.

§ 222.102 Definitions.

Accelerator funnel means a device used to accelerate the flow of water through a shrimp trawl net.

Act means the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq*.

Adequately covered means, with respect to species listed pursuant to section 4 of the Act, that a proposed conservation plan has satisfied the permit issuance criteria under section 10(a)(2)(B) of the Act for the species covered by the plan and, with respect to unlisted species, that a proposed conservation plan has satisfied the permit issuance criteria under section 10(a)(2)(B) of the Act that would otherwise apply if the unlisted species covered by the plan were actually listed. For the Services to cover a species under a conservation plan, it must be listed on the section 10(a)(1)(B) permit.

Alaska Regional Administrator means the Regional Administrator for the Alaska Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Alaska Regional Administrator should be addressed: Alaska Regional Administrator, F/AK, Alaska Regional Office, National Marine Fisheries Service, NOAA, P.O. Box 21668 Juneau, AK 99802–1668.

Approved turtle excluder device (TED) means a device designed to be installed in a trawl net forward of the cod end for the purpose of excluding sea turtles from the net, as described in 50 CFR 223.207.

Assistant Administrator means the Assistant Administrator for Fisheries of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or his authorized representative. Mail sent to the Assistant Administrator should be addressed: Assistant Administrator for Fisheries, National Marine Fisheries Service, NOAA, 1315 East-West Highway, Silver Spring, MD 20910.

Atlantic Area means all waters of the Atlantic Ocean south of 36°33′00.8″ N. lat. (the line of the North Carolina/Virginia border) and adjacent seas, other than waters of the Gulf Area, and all waters shoreward thereof (including ports).

Atlantic Shrimp Fishery—Sea Turtle Conservation Area (Atlantic SFSTCA) means the inshore and offshore waters extending to 10 nautical miles (18.5 km) offshore along the coast of the States of Georgia and South Carolina from the Georgia-Florida border (defined as the line along 30°42′45.6″ N. lat.) to the

North Carolina-South Carolina border (defined as the line extending in a direction of 135°34′55″ from true north from the North Carolina-South Carolina land boundary, as marked by the border station on Bird Island at 33°51′07.9″ N. lat., 078°32′32.6″ W. long.).

Authorized officer means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any special agent or enforcement officer of the National Marine Fisheries Service;

(3) Any officer designated by the head of a Federal or state agency that has entered into an agreement with the Secretary or the Commandant of the Coast Guard to enforce the provisions of the Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Bait shrimper means a shrimp trawler that fishes for and retains its shrimp catch alive for the purpose of selling it for use as bait.

Beam trawl means a trawl with a rigid frame surrounding the mouth that is towed from a vessel by means of one or more cables or ropes.

Certificate of exemption means any document so designated by the National Marine Fisheries Service and signed by an authorized official of the National Marine Fisheries Service, including any document which modifies, amends, extends or renews any certificate of exemption.

Chain mat means a device designed to be installed in a scallop dredge forward of the sweep, as described in 50 CFR 223.206, for the purpose of excluding sea turtles from the dredge.

Changed circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan that can reasonably be anticipated by plan developers and NMFS and that can be planned for (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events).

Commercial activity means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling: Provided, however, that it does not include the exhibition of commodities by museums or similar cultural or historical organizations.

Conservation plan means the plan required by section 10(a)(2)(A) of the Act that an applicant must submit when applying for an incidental take permit. Conservation plans also are known as ''habitat conservation plans'' or ''HCPs.''

Conserved habitat areas means areas explicitly designated for habitat restoration, acquisition, protection, or other conservation purposes under a conservation plan.

Cooperative Agreement means an agreement between a state(s) and the National Marine Fisheries Service, NOAA, Department of Commerce, which establishes and maintains an active and adequate program for the conservation of resident species listed as endangered or threatened pursuant to section 6(c)(1) of the Endangered Species Act.

Diamonds, with respect to dredge or dredge gear as defined in this section, means the triangular shaped portions of the ring bag on the ''dredge bottom'' as defined in 50 CFR 648.2.

Dredge or dredge gear, with respect to the fishery operating under the Atlantic Sea Scallop Fishery Management Plan, means gear consisting of a mouth frame attached to a holding bag constructed of metal rings, or any other modification to this design, that can be or is used in the harvest of sea scallops.

Fishing, or *to fish*, means:

(1) The catching, taking, or harvesting of fish or wildlife;

(2) The attempted catching, taking, or harvesting of fish or wildlife;

(3) Any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish or wildlife; or

(4) Any operations on any waters in support of, or in preparation for, any activity described in paragraphs (1) through (3) of this definition.

Footrope means a weighted rope or cable attached to the lower lip (bottom edge) of the mouth of a trawl net along the forward most webbing.

Footrope length means the distance between the points at which the ends of the footrope are attached to the trawl

net, measured along the forward-most webbing.

Foreign commerce includes, among other things, any transaction between persons within one foreign country, or between persons in two or more foreign countries, or between a person within the United States and a person in one or more foreign countries, or between persons within the United States, where the fish or wildlife in question are moving in any country or countries outside the United States.

Four-seam, straight-wing trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top panel, a bottom panel, and two side panels of webbing. The upper and lower edges of the side panels of webbing are parallel over the entire length.

Four-seam, tapered-wing trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top panel, a bottom panel, and two side panels of webbing. The upper and lower edges of the side panels of webbing converge toward the rear of the trawl.

Gillnet means a panel of netting, suspended vertically in the water by floats along the top and weights along the bottom, to entangle fish that attempt to pass through it.

Gulf Area means all waters of the Gulf of Mexico west of 81° W. long. (the line at which the Gulf Area meets the Atlantic Area) and all waters shoreward thereof (including ports).

Gulf Shrimp Fishery-Sea Turtle Conservation Area (Gulf SFSTCA) means the offshore waters extending to 10 nautical miles (18.5 km) offshore along the coast of the States of Texas and Louisiana from the South Pass of the Mississippi River (west of 89°08.5′ W. long.) to the U.S.-Mexican border.

Habitat restoration activity means an activity that has the sole objective of restoring natural aquatic or riparian habitat conditions or processes.

Hard lay lines mean lines that are at least as stiff as 5/16 inch (0.8 cm) diameter line composed of polyester wrapped around a blend of polypropylene and polyethylene and 42 visible twists of strands per foot of line.

Harm in the definition of ''take'' in the Act means an act which actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including, breeding, spawning, rearing, migrating, feeding or sheltering.

Headrope means a rope that is attached to the upper lip (top edge) of the mouth of a trawl net along the forward-most webbing.

Headrope length means the distance between the points at which the ends of the headrope are attached to the trawl net, measured along the forward-most webbing.

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the tariff laws of the United States.

Inshore means marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by the National Oceanic and Atmospheric Administration (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80.

Modified pound net leader means a pound net leader that is affixed to or resting on the sea floor and made of a lower portion of mesh and an upper portion of only vertical lines such that the mesh size is equal to or less than 8 inches (20.3 cm) stretched mesh; at any particular point along the leader, the height of the mesh from the seafloor to the top of the mesh must be no more than one-third the depth of the water at mean lower low water directly above that particular point; the mesh is held in place by a bottom chain that forms the lowermost part of the pound net leader; the vertical lines extend from the top of the mesh up to a top line, which is a line that forms the uppermost part of the pound net leader; the vertical lines are equal to or greater than 5/16 inch (0.8 cm) in diameter and strung vertically at a minimum of every 2 feet (61 cm); and the vertical lines are hard lay lines.

Nearshore pound net leader or nearshore pound net means a pound net with every part of the leader (from the most offshore pole at the pound end of the leader to the most inshore pole of the leader) in less than 14 feet (4.3 m) of water at any tidal condition.

Northeast Regional Administrator means the Regional Administrator for the Northeast Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Northeast Regional Administrator should be addressed: Northeast Regional Administrator, F/NE, Northeast Regional Office, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930–2298.

Northwest Regional Administrator means the Regional Administrator for the Northwest Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Northwest Regional Administrator should be addressed: Northwest Regional Administrator, F/NW, Northwest Regional Office, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

Office of Enforcement means the national fisheries enforcement office of the National Marine Fisheries Service. Mail sent to the Office of Enforcement should be addressed: Office of Enforcement, F/EN, National Marine Fisheries Service, NOAA, 8484 Suite 415, Georgia Ave., Silver Spring, MD 20910.

Office of Protected Resources means the national program office of the endangered species and marine mammal programs of the National Marine Fisheries Service. Mail sent to the Office of Protected Resources should be addressed: Office of Protected Resources, F/PR, National Marine Fisheries Service, NOAA, 1315 East West Highway, Silver Spring, MD 20910.

Offshore means marine and tidal waters seaward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by the National Oceanic and Atmospheric Administration (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80.

Offshore pound net leader or offshore pound net means a pound net with any part of the leader (from the most offshore pole at the pound end of the leader to the most inshore pole of the leader) in water greater than or equal to 14 feet (4.3 m) at any tidal condition.

Operating conservation program means those conservation management activities which are expressly agreed upon and described in a Conservation Plan or its Implementing Agreement. These activities are to be undertaken for the affected species when implementing an approved Conservation Plan, including measures to respond to changed circumstances.

Permit means any document so designated by the National Marine Fisheries Service and signed by an authorized official of the National Marine Fisheries Service, including any document which modifies, amends, extends, or renews any permit.

Person means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal government of any state or political subdivision thereof or of any foreign government.

Possession means the detention and control, or the manual or ideal custody of anything that may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercises it in one's place and name. Possession includes the act or state of possessing and that condition of facts under which persons can exercise their power over a corporeal thing at their pleasure to the exclusion of all other persons. Possession includes constructive possession that which means not an actual but an assumed existence one claims to hold by virtue of some title, without having actual custody.

Pound net means a fixed entrapment gear attached to posts or stakes with three continuous sections from offshore to inshore consisting of:

(1) A pound made of mesh netting that entraps the fish;

(2) At least one heart made of a mesh netting that is generally in the shape of a heart and aids in funneling fish into the pound; and

(3) A leader, which is a long, straight element consisting of mesh or vertical lines that directs the fish offshore towards the pound.

Pound net leader means a long straight net that directs fish offshore towards the pound, an enclosure that captures the fish. Some pound net leaders are all mesh, while others have stringers and mesh. Stringers, also known as vertical lines, are spaced a regular distance apart and are not crossed by other lines to form mesh.

Pound Net Regulated Area I means Virginia waters of the mainstem Chesapeake Bay and the portion of the James River seaward of the Hampton Roads Bridge Tunnel (Interstate Highway-64) and the York River seaward of the Coleman Memorial Bridge (Route 17), bounded to the south and east by the Chesapeake Bay Bridge Tunnel (Route 13; extending from approximately 37°07′ N. lat., 75°58′ W. long. to 36°55′ N. lat., 76°08′ W. long.), and to the north by the following points connected by straight lines and in the order listed:

Point	Area description
1	Where 37°19.0′ N. lat. meets the shoreline of the Severn River fork, near Stump Point, Virginia (western portion of Mobjack Bay), which is approximately 76°26.75′ W. long.
2	37°19.0′ N. lat., 76°13.0′ W. long.
3	37°13.0′ N. lat., 76°13.0′ W. long.
4	Where 37°13.0′ N. lat. meets the eastern shoreline of Chesapeake Bay, Virginia, near Elliotts Creek, which is approximately 76°00.75′ W. long.

Pound Net Regulated Area II means Virginia waters of the Chesapeake Bay outside of Pound Net Regulated Area I, bounded by the Maryland-Virginia State line to the north and by the COLREGS line at the mouth of the Chesapeake Bay and 37°07′ N. lat. between Kiptopeke and Smith Island, Northampton County, Virginia to the south and east. This area includes the Great Wicomico River seaward of the Jessie Dupont Memorial Highway Bridge (Route 200), the Rappahannock River downstream of the Robert Opie Norris Jr. Bridge (Route 3), the Piankatank River downstream of the Route 3 Bridge, and all other tributaries within these boundaries.

Pre-Act endangered species part means any sperm whale oil, including derivatives and products thereof, which was lawfully held within the United States on December 28, 1973, in the course of a commercial activity; or any finished scrimshaw product, if such product or the raw material for such product was lawfully held within the United States on December 28, 1973, in the course of a commercial activity.

Properly implemented conservation plan means any conservation plan, implementing agreement, or permit whose commitments and provisions have been or are being fully implemented by the permittee.

Pusher-head trawl (chopsticks) means a trawl that is spread by two poles suspended from the bow of the trawler in an inverted ''V'' configuration.

Resident species means, for purposes of entering into cooperative agreements with any state pursuant to section 6(c) of the Act, a species that exists in the wild in that state during any part of its life.

Right whale means, as used in § 224.103(c), any whale that is a member of the western North Atlantic population of the northern right whale species (*Eubalaena glacialis*).

Roller trawl means a variety of beam trawl that is used, usually by small vessels, for fishing over uneven or vegetated sea bottoms.

Scrimshaw product means any art form which involves the substantial etching or engraving of designs upon, or the substantial carving of figures, patterns, or designs from any bone or tooth of any marine mammal of the order Cetacea. For purposes of this part, polishing or the adding of minor superficial markings does not constitute substantial etching, engraving, or carving.

Secretary means the Secretary of Commerce or an authorized representative.

Shrimp means any species of marine shrimp (Order Crustacea) found in the Atlantic Area or the Gulf Area, including, but not limited to:

(1) Brown shrimp (*Penaeus aztecus*).

(2) White shrimp (*Penaeus setiferus*).

(3) Pink shrimp (*Penaeus duorarum*).

(4) Rock shrimp (*Sicyonia brevirostris*).

(5) Royal red shrimp (*Hymenopenaeus robustus*).

(6) Seabob shrimp (*Xiphopenaeus kroyeri*).

Shrimp trawler means any vessel that is equipped with one or more trawl nets and that is capable of, or used for, fishing for shrimp, or whose on-board or landed catch of shrimp is more than 1 percent, by weight, of all fish comprising its on-board or landed catch.

Skimmer trawl means a trawl that is fished along the side of the vessel and is held open by a rigid frame and a lead weight. On its outboard side, the trawl is held open by one side of the frame extending downward and, on its inboard side, by a lead weight attached by cable or rope to the bow of the vessel.

Southeast Regional Administrator means the Regional Administrator for the Southeast Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Southeast Regional Administrator should be addressed: Southeast Regional Administrator, F/SE, Southeast Regional Office, National Marine Fisheries Service, NOAA, 9721 Executive Center Drive N., St. Petersburg, FL 33702–2432.

Southwest Regional Administrator means the Regional Administrator for the Southwest Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Southwest Regional Administrator should be addressed: Southwest Regional Administrator, F/SW, Southwest Regional Office, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213.

Stretched mesh size means the distance between the centers of the two opposite knots in the same mesh when pulled taut.

Summer flounder means the species *Paralichthys dentatus*.

Summer flounder fishery-sea turtle protection area means all offshore waters, bounded on the north by a line along 37°05′ N. lat. (Cape Charles, VA) and bounded on the south by a line extending in a direction of 135°34′55″ from true north from the North Carolina-South Carolina land boundary, as marked by the border station on Bird Island at 33°51′07.9″ N. lat., 078°32′32.6″ W. long.(the North Carolina-South Carolina border).

Summer flounder trawler means any vessel that is equipped with one or more bottom trawl nets and that is capable of, or used for, fishing for flounder or whose on-board or landed catch of flounder is more than 100 lb (45.4 kg).

Sweep, with respect to dredge or dredge gear as defined in this section, means a chain extending, usually in an arc, from one end of the dredge frame to the other to which the ring bag, including the diamonds, is attached. The sweep forms the edge of the opening of the dredge bag.

Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.

Taper, in reference to the webbing used in trawls, means the angle of a cut used to shape the webbing, expressed as the ratio between the cuts that reduce the width of the webbing by cutting into the panel of webbing through one row of twine (bar cuts) and the cuts that extend the length of the panel of webbing by cutting straight aft through two adjoining rows of twine (point cuts). For example, sequentially cutting through the lengths of twine on opposite sides of a mesh, leaving an uncut edge of twines all lying in the same line, produces a relatively strong taper called ''all-bars''; making a sequence of 4-bar cuts followed by 1-point cut produces a more gradual taper called ''4 bars to 1 point'' or ''4b1p''; similarly, making a sequence of 2-bar cuts followed by 1-point cut produces a still more gradual taper called ''2b1p''; and making a sequence of cuts straight aft does not reduce the width of the panel and is called a ''straight'' or ''all-points'' cut.

Taut means a condition in which there is no slack in the net webbing.

Test net, or *try net*, means a net pulled for brief periods of time just before, or during, deployment of the primary net(s) in order to test for shrimp

concentrations or determine fishing conditions (e.g., presence or absence of bottom debris, jellyfish, bycatch, seagrasses, etc.).

Tongue means any piece of webbing along the top, center, leading edge of a trawl, whether lying behind or ahead of the headrope, to which a towing bridle can be attached for purposes of pulling the trawl net and/or adjusting the shape of the trawl.

Transportation means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage, or transportation.

Triple-wing trawl means a trawl with a tongue on the top, center, leading edge of the trawl and an additional tongue along the bottom, center, leading edge of the trawl.

Two-seam trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top and a bottom panel of webbing that are directly attached to each other down the sides of the trawl.

Underway with respect to a vessel, means that the vessel is not at anchor, or made fast to the shore, or aground.

Unforeseen circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan that could not reasonably have been anticipated by plan developers and NMFS at the time of the conservation plan's negotiation and development, and that result in a substantial and adverse change in the status of the covered species.

Vessel means a vehicle used, or capable of being used, as a means of transportation on water which includes every description of watercraft, including nondisplacement craft and seaplanes.

Vessel restricted in her ability to maneuver has the meaning specified for this term at 33 U.S.C. 2003(g).

Wildlife means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

Wing net (butterfly trawl) means a trawl that is fished along the side of the vessel and that is held open by a four-sided, rigid frame attached to the outrigger of the vessel.

[64 FR 14054, Mar. 23, 1999, as amended at 64 FR 60731, Nov. 8, 1999; 67 FR 13101, Mar. 21, 2002; 67 FR 41203, June 17, 2002; 67 FR 71899, Dec. 3, 2002; 68 FR 8467, Feb. 21, 2003; 68 FR 17562, Apr. 10, 2003; 69 FR 25011, May 5, 2004; 70 FR 1832, Jan. 11, 2005; 71 FR 36032, June 23, 2006; 71 FR 50372, Aug. 25, 2006; 74 FR 46933, Sept. 14, 2009; 80 FR 6928, Feb. 9, 2015]

§ 222.103 Federal/state cooperation in the conservation of endangered and threatened species.

(a) *Application for and renewal of cooperative agreements.* (1) The Assistant Administrator may enter into a Cooperative Agreement with any state that establishes and maintains an active and adequate program for the conservation of resident species listed as endangered or threatened. In order for a state program to be deemed an adequate and active program, the Assistant Administrator must find, and annually reconfirm that the criteria of either sections 6(c)(1) (A) through (E) or sections 6(c)(1) (i) and (ii) of the Act have been satisfied.

(2) Following receipt of an application by a state for a Cooperative Agreement with a copy of a proposed state program, and a determination by the Assistant Administrator that the state program is adequate and active, the Assistant Administrator shall enter into an Agreement with the state.

(3) The Cooperative Agreement, as well as the Assistant Administrator's finding upon which it is based, must be reconfirmed annually to ensure that it reflects new laws, species lists, rules or regulations, and programs and to demonstrate that it is still adequate and active.

(b) *Allocation and availability of funds.* (1) The Assistant Administrator shall allocate funds, appropriated for the purpose of carrying out section 6 of the Act, to various states using the following as the basis for the determination:

(i) The international commitments of the United States to protect endangered or threatened species;

(ii) The readiness of a state to proceed with a conservation program consistent with the objectives and purposes of the Act;

(iii) The number of federally listed endangered and threatened species within a state;

(iv) The potential for restoring endangered and threatened species within a state; and

(v) The relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of survival of the species.

(2) Funds allocated to a state are available for obligation during the fiscal year for which they are allocated and until the close of the succeeding fiscal year. Obligation of allocated funds occurs when an award or contract is signed by the Assistant Administrator.

(c) *Financial assistance and payments.* (1) A state must enter into a Cooperative Agreement before financial assistance is approved by the Assistant Administrator for endangered or threatened species projects. Specifically, the Agreement must contain the actions that are to be taken by the Assistant Administrator and/or by the state, the benefits to listed species expected to be derived from these actions, and the estimated cost of these actions.

(2) Subsequent to such Agreement, the Assistant Administrator may further agree with a state to provide financial assistance in the development and implementation of acceptable projects for the conservation of endangered and threatened species. Documents to provide financial assistance will consist of an application for Federal assistance and an award or a contract. The availability of Federal funds shall be contingent upon the continued existence of the Cooperative Agreement and compliance with all applicable Federal regulations for grant administration and cost accounting principles.

(3)(i) The payment of the Federal share of costs incurred when conducting activities included under a contract or award shall not exceed 75 percent of the program costs as stated in the agreement. However, the Federal share may be increased to 90 percent when two or more states having a common interest in one or more endangered or threatened resident species, the conservation of which may be enhanced by cooperation of such states, jointly enter into an agreement with the Assistant Administrator.

(ii) The state share of program costs may be in the form of cash or in-kind contributions, including real property, subject to applicable Federal regulations.

(4) Payments of funds, including payment of such preliminary costs and expenses as may be incurred in connection with projects, shall not be made unless all necessary or required documents are first submitted to and approved by the Assistant Administrator. Payments shall only be made for expenditures reported and certified by the state agency. Payments shall be made only to the state office or official designated by the state agency and authorized under the laws of the state to receive public funds for the state.

Subpart B—Certificates of Exemption for Pre-Act Endangered Species Parts

§ 222.201 General requirements.

(a) The Assistant Administrator may exempt any pre-Act endangered species part from the prohibitions of sections 9(a)(1)(A), 9(a)(1)(E), or 9(a)(1)(F) of the Act.

(1) No person shall engage in any activities identified in such sections of the Act that involve any pre-Act endangered species part without a valid Certificate of Exemption issued pursuant to this subpart B.

(2) No person may export, deliver, receive, carry, transport or ship in interstate or foreign commerce in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce any pre-Act finished scrimshaw product unless that person has been issued a valid Certificate of Exemption and the product or the raw material for such product was held by such certificate holder on October 13, 1982.

(3) Any person engaged in activities otherwise prohibited under the Act or regulations shall bear the burden of proving that the exemption or certificate is applicable, was granted, and

was valid and in force at the time of the otherwise prohibited activity.

(b) Certificates of Exemption issued under this subpart are no longer available to new applicants. However, the Assistant Administrator may renew or modify existing Certificates of Exemptions as authorized by the provisions set forth in this subpart.

(c) Any person granted a Certificate of Exemption, including a renewal, under this subpart, upon a sale of any exempted pre-Act endangered species part, must provide the purchaser in writing with a description (including full identification number) of the part sold and must inform the purchaser in writing of the purchaser's obligation under paragraph (b) of this section, including the address given in the certificate to which the purchaser's report is to be sent.

(d) Any purchaser of pre-Act endangered species parts included in a valid Certificate of Exemption, unless an ultimate user, within 30 days after the receipt of such parts, must submit a written report to the address given in the certificate. The report must specify the quantity of such parts or products received, the name and address of the seller, a copy of the invoice or other document showing the serial numbers, weight, and descriptions of the parts or products received, the date on which such parts or products were received, and the intended use of such parts by the purchaser. The term ''ultimate user'', for purposes of this paragraph, means any person who acquired such endangered species part or product for his or her own consumption or for other personal use (including gifts) and not for resale.

§ 222.202 Certificate renewal.

(a) Any person to whom a Certificate of Exemption has been issued by the National Marine Fisheries Service may apply to the Assistant Administrator for renewal of such certificate. Any person holding a valid Certificate of Exemption which was renewed after October 13, 1982, and was in effect on March 31, 1988, may apply to the Secretary for one renewal for a period not to exceed 5 years.

(b) The sufficiency of the application shall be determined by the Assistant Administrator in accordance with the requirements of paragraph (c) of this section. At least 15 days should be allowed for processing. When an application for a renewal has been received and deemed sufficient, the Assistant Administrator shall issue a Certificate of Renewal to the applicant as soon as practicable.

(c) The following information will be used as the basis for determining whether an application for renewal of a Certificate of Exemption is complete:

(1) Title: Application for Renewal of Certificate of Exemption.

(2) The date of application.

(3) The identity of the applicant, including complete name, original Certificate of Exemption number, current address, and telephone number. If the applicant is a corporation, partnership, or association, set forth the details.

(4) The period of time for which a renewal of the Certificate of Exemption is requested. However, no renewal of Certificate of Exemption, or right claimed thereunder, shall be effective after the close of the 5-year period beginning on the date of the expiration of the previous renewal of the certificate of exemption.

(5)(i) A complete and detailed updated inventory of all pre-Act endangered species parts for which the applicant seeks exemption. Each item on the inventory must be identified by the following information: A unique serial number; the weight of the item to the nearest whole gram; and a detailed description sufficient to permit ready identification of the item. Small lots, not exceeding five pounds (2,270 grams), of scraps or raw material, which may include or consist of one or more whole raw whale teeth, may be identified by a single serial number and total weight. All finished scrimshaw items subsequently made from a given lot of scrap may be identified by the lot serial number plus additional digits to signify the piece number of the individual finished item. Identification numbers will be in the following format: 00–000000–0000. The first two digits will be the last two digits of the appropriate certificate of exemption number; the next six digits, the serial number of the individual piece or lot of scrap or raw material; and the last four digits,

where applicable, the piece number of an item made from a lot of scrap or raw material. The serial numbers for each certificate holder's inventory must begin with 000001, and piece numbers, where applicable, must begin with 0001 for each separate lot.

(ii) Identification numbers may be affixed to inventory items by any means, including, but not limited to, etching the number into the item, attaching a label or tag bearing the number to the item, or sealing the item in a plastic bag, wrapper or other container bearing the number. The number must remain affixed to the item until the item is sold to an ultimate user, as defined in § 222.201(d).

(iii) No renewals will be issued for scrimshaw products in excess of any quantities declared in the original application for a Certificate of Exemption.

(6) A Certification in the following language: I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a renewal of my Certificate of Exemption under the Endangered Species Act, as amended, and the Department of Commerce regulations issued thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to the penalties under the Act.

(7) Signature of the applicant.

(d) Upon receipt of an incomplete or improperly executed application for renewal, the applicant shall be notified of the deficiency in the application for renewal. If the application for renewal is not corrected and received by the Assistant Administrator within 30 days following the date of receipt of notification, the application for renewal shall be considered abandoned.

§ 222.203 Modification, amendment, suspension, and revocation of certificates.

(a) When circumstances have changed so that an applicant or certificate holder desires to have any material, term, or condition of the application or certificate modified, the applicant or certificate holder must submit in writing full justification and supporting information in conformance with the provisions of this part.

(b) All certificates are issued subject to the condition that the Assistant Administrator reserves the right to amend the provisions of a Certificate of Exemption for just cause at any time. Such amendments take effect on the date of notification, unless otherwise specified.

(c) Any violation of the applicable provisions of parts 222, 223, or 224 of this chapter, or of the Act, or of a condition of the certificate may subject the certificate holder to penalties provided in the Act and to suspension, revocation, or modification of the Certificate of Exemption, as provided in subpart D of 15 CFR part 904.

§ 222.204 Administration of certificates.

(a) The Certificate of Exemption covers the business or activity specified in the Certificate of Exemption at the address described therein. No Certificate of Exemption is required to cover a separate warehouse facility used by the certificate holder solely for storage of pre-Act endangered species parts, if the records required by this subpart are maintained at the address specified in the Certificate of Exemption served by the warehouse or storage facility.

(b) Certificates of Exemption issued under this subpart are not transferable. However, in the event of the lease, sale, or other transfer of the operations or activity authorized by the Certificate of Exemption, the successor is not required to obtain a new Certificate of Exemption prior to commencing such operations or activity. In such case, the successor will be treated as a purchaser and must comply with the record and reporting requirements set forth in § 222.201(d).

(c) The Certificate of Exemption holder must notify the Assistant Administrator, in writing, of any change in address, in trade name of the business, or in activity specified in the certificate. The Assistant Administrator must be notified within 10 days of a change of address, and within 30 days of a change in trade name. The certificate with the change of address or in trade name must be endorsed by the Assistant Administrator, who shall

provide an amended certificate to the person to whom it was issued. A certificate holder who seeks amendment of a certificate may continue all authorized activities while awaiting action by the Assistant Administrator.

(d) A Certificate of Exemption issued under this subpart confers no right or privilege to conduct a business or an activity contrary to state or other law. Similarly, compliance with the provisions of any state or other law affords no immunity under any Federal laws or regulations of any other Federal agency.

(e) Any person authorized to enforce the Act may enter the premises of any Certificate of Exemption holder or of any purchaser during business hours, including places of storage, for the purpose of inspecting or of examining any records or documents and any endangered species parts.

(f) The records pertaining to pre-Act endangered species parts prescribed by this subpart shall be in permanent form and shall be retained at the address shown on the Certificate of Exemption or at the principal address of a purchaser in the manner prescribed by this subpart.

(g)(1) Holders of Certificates of Exemption must maintain records of all pre-Act endangered species parts they receive, sell, transfer, distribute or dispose of otherwise. Purchasers of pre-Act endangered species parts, unless ultimate users, as defined in § 222.201(d), must similarly maintain records of all such parts or products they receive.

(2) Such records referred to in paragraph (g)(1) of this section may consist of invoices or other commercial records, which must be filed in an orderly manner separate from other commercial records maintained and be readily available for inspection. Such records must show the name and address of the purchaser, seller, or other transferor; show the type, quantity, and identity of the part or product; show the date of such sale or transfer; and be retained, in accordance with the requirements of this subpart, for a period of not less than 3 years following the date of sale or transfer. Each pre-Act endangered species part will be identified by its number on the updated inventory required to renew a Certificate of Exemption.

(i) Each Certificate of Exemption holder must submit a quarterly report (to the address given in the certificate) containing all record information required by paragraph (g)(2) of this section, on all transfers of pre-Act endangered species parts made in the previous calendar quarter, or such other record information the Assistant Administrator may specify from time to time.

(ii) Quarterly reports are due on January 15, April 15, July 15, and October 15.

(3) The Assistant Administrator may authorize the record information to be submitted in a manner other than that prescribed in paragraph (g)(2) of this section when the record holder demonstrates that an alternate method of reporting is reasonably necessary and will not hinder the effective administration or enforcement of this subpart.

§ 222.205 Import and export requirements.

(a) Any fish and wildlife subject to the jurisdiction of the National Marine Fisheries Service and is intended for importation into or exportation from the United States, shall not be imported or exported except at a port(s) designated by the Secretary of the Interior. Shellfish and fishery products that are neither endangered nor threatened species and that are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes are excluded from this requirement. The Secretary of the Interior may permit the importation or exportation at non-designated ports in the interest of the health or safety of the species for other reasons if the Secretary deems it appropriate and consistent with the purpose of facilitating enforcement of the Act and reducing the costs thereof. Importers and exporters are advised to see 50 CFR part 14 for importation and exportation requirements and information.

(b) No pre-Act endangered species part shall be imported into the United States. A Certificate of Exemption

issued in accordance with the provisions of this subpart confers no right or privilege to import into the United States any such part.

(c)(1) Any person exporting from the United States any pre-Act endangered species part must possess a valid Certificate of Exemption issued in accordance with the provisions of this subpart. In addition, the exporter must provide to the Assistant Administrator, in writing, not less than 10 days prior to shipment, the following information: The name and address of the foreign consignee, the intended port of exportation, and a complete description of the parts to be exported. No shipment may be made until these requirements are met by the exporter.

(2) The exporter must send a copy of the Certificate of Exemption, and any endorsements thereto, to the District Director of Customs at the port of exportation, which must precede or accompany the shipment in order to permit the appropriate inspection prior to lading. Upon receipt, the District Director may order such inspection, as deemed necessary; the District will clear the merchandise for export, prior to the lading of the merchandise. If they are satisfied that the shipment is proper and complies with the information contained in the certificate and any endorsement thereto. The certificate, and any endorsements, will be forwarded to the Chief of the Office of Enforcement for NMFS.

(3) No pre-Act endangered species part in compliance with the requirements of this subpart may be exported except at a port or ports designated by the Secretary of the Interior, pursuant to § 222.103.

(4) Notwithstanding any provision of this subpart, it shall not be required that the Assistant Administrator authorizes the transportation in interstate or foreign commerce of pre-Act endangered species parts.

EFFECTIVE DATE NOTE: At 64 FR 14054, Mar. 23, 1999, part 222 was revised, effective Mar. 23, 1999, with the exception of § 222.205, paragraphs (c)(1) and (2), which contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

Subpart C—General Permit Procedures

§ 222.301 General requirements.

(a)(1) The regulations in this subpart C provide uniform rules and procedures for application, issuance, renewal, conditions, and general administration of permits issuable pursuant to parts 222, 223, and 224 of this chapter. While this section provides generic rules and procedures applicable to all permits, other sections may provide more specific rules and procedures with respect to certain types of permits. In such cases, the requirements in all applicable sections must be satisfied.

(2) Notwithstanding paragraph (a)(1) of this section, the Assistant Administrator may approve variations from the requirements of parts 222, 223, and 224 of this chapter when the Assistant Administrator finds that an emergency exists and that the proposed variations will not hinder effective administration of those parts and will not be unlawful. Other sections within parts 222, 223, and 224 of this chapter may allow for a waiver or variation of specific requirements for emergency situations, upon certain conditions. In such cases, those conditions must be satisfied in order for the waiver or variation to be lawful.

(b) No person shall take, import, export or engage in any other prohibited activity involving any species of fish or wildlife under the jurisdiction of the Secretary of Commerce that has been determined to be endangered under the Act, or that has been determined to be threatened and for which the prohibitions of section 9(a)(1) of the Act have been applied by regulation, without a valid permit issued pursuant to these regulations. The permit shall entitle the person to whom it is issued to engage in the activity specified in the permit, subject to the limitations of the Act and the regulations in parts 222, 223, and 224 of this chapter, for the period stated on the permit, unless sooner modified, suspended or revoked.

(c) Each person intending to engage in an activity for which a permit is required by parts 222, 223, and 224 of this chapter or by the Act shall, before commencing such activity, obtain a valid permit authorizing such activity.

Any person who desires to obtain permit privileges authorized by parts 222, 223, and 224 of this chapter must apply for such permit in accordance with the requirements of these sections. If the information required for each specific, permitted activity is included, one application may be accepted for all permits required, and a single permit may be issued.

(d)(1) Any permit issued under these regulations must be in the possession of the person to whom it is issued (or of an agent of such person) while any animal subject to the permit is in the possession of such person or agent. Specifically, a person or his/her agent must be in possession of a permit during the time of the authorized taking, importation, exportation, or of any other act and during the period of any transit incident to such taking, importation, exportation, or to any other act.

(2) A duplicate copy of the issued permit must be physically attached to the tank, container, package, enclosure, or other means of containment, in which the animal is placed for purposes of storage, transit, supervision, or care.

(e) The authorizations on the face of a permit setting forth specific times, dates, places, methods of taking, numbers and kinds of fish or wildlife, location of activity, authorize certain circumscribed transactions, or otherwise permit a specifically limited matter, are to be strictly construed and shall not be interpreted to permit similar or related matters outside the scope of strict construction.

(f) Permits shall not be altered, erased, or mutilated, and any permit which has been altered, erased, or mutilated shall immediately become invalid.

(g) Any permit issued under parts 222, 223, and 224 of this chapter shall be displayed for inspection, upon request, to an authorized officer, or to any other person relying upon its existence.

(h) Permittees may be required to file reports of the activities conducted under the permit. Any such reports shall be filed not later than March 31 for the preceding calendar year ending December 31, or any portion thereof, during which a permit was in force, unless the regulations of parts 222, 223, or 224 of this chapter or the provisions of the permit set forth other reporting requirements.

(i) From the date of issuance of the permit, the permittee shall maintain complete and accurate records of any taking, possession, transportation, sale, purchase, barter, exportation, or importation of fish or wildlife pursuant to such permit. Such records shall be kept current and shall include the names and addresses of persons with whom any fish or wildlife has been purchased, sold, bartered, or otherwise transferred, and the date of such transaction, and such other information as may be required or appropriate. Such records, unless otherwise specified, shall be entered in books, legibly written in the English language. Such records shall be retained for 5 years from the date of issuance of the permit.

(j) Any person holding a permit pursuant to parts 222, 223, and 224 of this chapter shall allow the Assistant Administrator to enter the permit holder's premises at any reasonable hour to inspect any fish or wildlife held or to inspect, audit, or copy any permits, books, or records required to be kept by these regulations or by the Act. Such person shall display any permit issued pursuant to these regulations or to the Act upon request by an authorized officer or by any other person relying on its existence.

§ 222.302 Procedure for obtaining permits.

(a) Applications must be submitted to the Assistant Administrator, by letter containing all necessary information, attachments, certification, and signature, as specified by the regulations in parts 222, 223, and 224 of this chapter, or by the Act. In no case, other than for emergencies pursuant to § 222.301(a)(2), will applications be accepted either orally or by telephone.

(b) Applications must be received by the Assistant Administrator at least 90 calendar days prior to the date on which the applicant desires to have the permit made effective, unless otherwise specified in the regulations or guidelines pertaining to a particular permit. The National Marine Fisheries

Service will attempt to process applications deemed sufficient in the shortest possible time, but does not guarantee that the permit will be issued 90 days after notice of receipt of the application is published in the FEDERAL REGISTER.

(c)(1) Upon receipt of an insufficiently or improperly executed application, the applicant shall be notified of the deficiency in the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered abandoned.

(2) The sufficiency of the application shall be determined by the Assistant Administrator in accordance with the requirements of this part. The Assistant Administrator, however, may waive any requirement for information or require any elaboration or further information deemed necessary.

§ 222.303 Issuance of permits.

(a)(1) No permit may be issued prior to the receipt of a written application unless an emergency pursuant to § 222.301(a)(2) exists, and a written variation from the requirements is recorded by the National Marine Fisheries Service.

(2) No representation of an employee or agent of the United States shall be construed as a permit unless it meets the requirements of a permit defined in § 222.102.

(3) Each permit shall bear a serial number. Upon renewal, such a number may be reassigned to the permittee to whom issued so long as the permittee maintains continuity of renewal.

(b) When an application for a permit received by the Assistant Administrator is deemed sufficient, the Assistant Administrator shall, as soon as practicable, publish a notice in the FEDERAL REGISTER. Information received by the Assistant Administrator as a part of the application shall be available to the public as a matter of public record at every stage of the proceeding. An interested party, within 30 days after the date of publication of such notice, may submit to the Assistant Administrator written data, views, or arguments with respect to the taking, importation, or to other action proposed in the application, and may request a hearing in connection with the action to be taken thereon.

(c) If a request for a hearing is made within the 30-day period referred to in paragraph (b) of this section, or if the Assistant Administrator determines that a hearing would otherwise be advisable, the Assistant Administrator may, within 60 days after the date of publication of the notice referred to in paragraph (b) of this section, afford to such requesting party or parties an opportunity for a hearing. Such hearing shall also be open to participation by any interested members of the public. Notice of the date, time, and place of such hearing shall be published in the FEDERAL REGISTER not less than 15 days in advance of such hearing. Any interested person may appear at the hearing in person or through a representative and may submit any relevant material, data, views, comments, arguments, or exhibits. A summary record of the hearing shall be kept.

(d) Except as provided in subpart D to 15 CFR part 904, as soon as practicable but not later than 30 days after the close of the hearing. If no hearing is held, as soon as practicable but not later than 30 days from the publication of the notice in the FEDERAL REGISTER, the Assistant Administrator shall issue or deny issuance of the permit. Notice of the decision of the Assistant Administrator shall be published in the FEDERAL REGISTER within 10 days after the date of the issuance or denial and indicate where copies of the permit, if issued, may be obtained.

(e)(1) The Assistant Administrator shall issue the permit unless:

(i) Denial of the permit has been made pursuant to subpart D to 15 CFR part 904;

(ii) The applicant has failed to disclose material or information required, or has made false statements as to any material fact, in connection with the application;

(iii) The applicant has failed to demonstrate a valid justification for the permit or a showing of responsibility;

(iv) The authorization requested potentially threatens a fish or wildlife population; or

(v) The Assistant Administrator finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

(2) The applicant shall be notified in writing of the denial of any permit request, and the reasons thereof. If authorized in the notice of denial, the applicant may submit further information or reasons why the permit should not be denied. Such further information shall not be considered a new application. The final action by the Assistant Administrator shall be considered the final administrative decision of the Department of Commerce.

(f) If a permit is issued under § 222.308, the Assistant Administrator shall publish notice thereof in the FEDERAL REGISTER, including the Assistant Administrator's finding that such permit—

(1) Was applied for in good faith;

(2) Will not operate to the disadvantage of such endangered species; and

(3) Will be consistent with the purposes and policy set forth in section 2 of the Act.

(g) The Assistant Administrator may waive the 30-day period in an emergency situation where the health or life of an endangered animal is threatened and no reasonable alternative is available to the applicant. Notice of any such waiver shall be published by the Assistant Administrator in the FEDERAL REGISTER within 10 days following the issuance of the permit.

§ 222.304 Renewal of permits.

When the permit is renewable and a permittee intends to continue the activity described in the permit during any portion of the year ensuing its expiration, the permittee shall, unless otherwise notified in writing by the Assistant Administrator, file a request for permit renewal, together with a certified statement, verifying that the information in the original application is still currently correct. If the information is incorrect the permittee shall file a statement of all changes in the original application, accompanied by any required fee at least 30 days prior to the expiration of the permit. Any person holding a valid renewable permit, who has complied with the foregoing provision of this section, may continue such activities as were authorized by the expired permit until the renewal application is acted upon.

§ 222.305 Rights of succession and transfer of permits.

(a)(1) Except as otherwise provided in this section, permits issued pursuant to parts 222, 223, and 224 of this chapter are not transferable or assignable. In the event that a permit authorizes certain business activities in connection with a business or commercial enterprise, which is then subject to any subsequent lease, sale or transfer, the successor to that enterprise must obtain a permit prior to continuing the permitted activity, with the exceptions provided in paragraphs (a)(2) and (a)(3) of this section.

(2) Certain persons, other than the permittee, are granted the right to carry on a permitted activity for the remainder of the term of a current permit, provided that they furnish the permit to the issuing officer for endorsement within 90 days from the date the successor begins to carry on the activity. Such persons are the following:

(i) The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee, and

(ii) The receiver or trustee in bankruptcy or a court designated assignee for the benefit of creditors.

(3) Incidental take permits issued under § 222.307, and enhancement permits issued under § 222.308, as part of a Safe Harbor Agreement with Assurances or Candidate Conservation Agreement with Assurances, may be transferred in whole or in part through a joint submission by the permittee and the proposed transferee, or in the case of a deceased permittee, the deceased permittee's legal representative and the proposed transferee, provided NMFS determines in writing that:

(i) The proposed transferee meets all of the qualifications under parts 222, 223, or 224 (as applicable) for holding a permit;

(ii) The proposed transferee has provided adequate written assurances that it will provide sufficient funding for the conservation plan or other agreement or plan associated with the permit and will implement the relevant

terms and conditions of the permit, including any outstanding minimization and mitigation requirements; and

(iii) The proposed transferee has provided such other information as NMFS determines is relevant to process the transfer.

(b) Except as otherwise stated on the face of the permit, any person who is under the direct control of the permittee, or who is employed by or under contract to the permittee for purposes authorized by the permit, may carry out the activity authorized by the permit.

[64 FR 14054, Mar. 23, 1999, as amended at 67 FR 57973, Sept. 13, 2002]

EFFECTIVE DATE NOTE: At 64 FR 14054, Mar. 23, 1999, part 222 was revised, effective Mar. 23, 1999, with the exception of §222.305, paragraph (a), which contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§222.306 Modification, amendment, suspension, cancellation, and revocation of permits.

(a) When circumstances have changed so that an applicant or a permittee desires to have any term or condition of the application or permit modified, the applicant or permittee must submit in writing full justification and supporting information in conformance with the provisions of this part and the part under which the permit has been issued or requested. Such applications for modification are subject to the same issuance criteria as original applications.

(b) Notwithstanding the requirements of paragraph (a) of this section, a permittee may change the mailing address or trade name under which business is conducted without obtaining a new permit or being subject to the same issuance criteria as original permits. The permittee must notify the Assistant Administrator, in writing within 30 days, of any change in address or of any change in the trade name for the business or activity specified in the permit. The permit with the change of address or in trade name must be endorsed by the Assistant Administrator, who shall provide an amended permit to the person to whom it was issued.

(c) All permits are issued subject to the condition that the National Marine Fisheries Service reserves the right to amend the provisions of a permit for just cause at any time during its term. Such amendments take effect on the date of notification, unless otherwise specified.

(d) When any permittee discontinues the permitted activity, the permittee shall, within 30 days thereof, mail the permit and a request for cancellation to the issuing officer, and the permit shall be deemed void upon receipt. No refund of any part of an amount paid as a permit fee shall be made when the operations of the permittee are, for any reason, discontinued during the tenure of an issued permit.

(e) Any violation of the applicable provisions of parts 222, 223, or 224 of this chapter, or of the Act, or of a term or condition of the permit may subject the permittee to both the penalties provided in the Act and suspension, revocation, or amendment of the permit, as provided in subpart D to 15 CFR part 904.

§222.307 Permits for incidental taking of species.

(a) *Scope.* (1) The Assistant Administrator may issue permits to take endangered and threatened species incidentally to an otherwise lawful activity under section 10(a)(1)(B) of the Act. The regulations in this section apply to all endangered species, and those threatened species for which the prohibitions of section 9(a)(1) of the Act, under the jurisdiction of the Secretary of Commerce, apply.

(2) If the applicant represents an individual or a single entity, such as a corporation, the Assistant Administrator will issue an individual incidental take permit. If the applicant represents a group or organization whose members conduct the same or a similar activity in the same geographical area with similar impacts on listed species for which a permit is required, the Assistant Administrator will issue a general incidental take permit. To be covered by a general incidental take permit, each individual conducting the activity must have a

certificate of inclusion issued under paragraph (f) of this section.

(b) *Permit application procedures.* Applications should be sent to the Assistant Administrator. The Assistant Administrator shall determine the sufficiency of the application in accordance with the requirements of this section. At least 120 days should be allowed for processing. Each application must be signed and dated and must include the following:

(1) The type of application, either:

(i) Application for an Individual Incidental Take Permit under the Act; or

(ii) Application for a General Incidental Take Permit under the Act;

(2) The name, address, and telephone number of the applicant. If the applicant is a partnership or a corporate entity or is representing a group or an organization, the applicable details;

(3) The species or stocks, by common and scientific name, and a description of the status, distribution, seasonal distribution, habitat needs, feeding habits and other biological requirements of the affected species or stocks;

(4) A detailed description of the proposed activity, including the anticipated dates, duration, and specific location. If the request is for a general incidental take permit, an estimate of the total level of activity expected to be conducted;

(5) A conservation plan, based on the best scientific and commercial data available, which specifies the following:

(i) The anticipated impact (i.e., amount, extent, and type of anticipated taking) of the proposed activity on the species or stocks;

(ii) The anticipated impact of the proposed activity on the habitat of the species or stocks and the likelihood of restoration of the affected habitat;

(iii) The steps (specialized equipment, methods of conducting activities, or other means) that will be taken to monitor, minimize, and mitigate such impacts, and the funding available to implement such measures;

(iv) The alternative actions to such taking that were considered and the reasons why those alternatives are not being used; and

(v) A list of all sources of data used in preparation of the plan, including reference reports, environmental assessments and impact statements, and personal communications with recognized experts on the species or activity who may have access to data not published in current literature.

(c) *Issuance criteria.* (1) In determining whether to issue a permit, the Assistant Administrator will consider the following:

(i) The status of the affected species or stocks;

(ii) The potential severity of direct, indirect, and cumulative impacts on the species or stocks and habitat as a result of the proposed activity;

(iii) The availability of effective monitoring techniques;

(iv) The use of the best available technology for minimizing or mitigating impacts; and

(v) The views of the public, scientists, and other interested parties knowledgeable of the species or stocks or other matters related to the application.

(2) To issue the permit, the Assistant Administrator must find that—

(i) The taking will be incidental;

(ii) The applicant will, to the maximum extent practicable, monitor, minimize, and mitigate the impacts of such taking;

(iii) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild;

(iv) The applicant has amended the conservation plan to include any measures (not originally proposed by the applicant) that the Assistant Administrator determines are necessary or appropriate; and

(v) There are adequate assurances that the conservation plan will be funded and implemented, including any measures required by the Assistant Administrator.

(d) *Permit conditions.* In addition to the general conditions set forth in this part, every permit issued under this section will contain such terms and conditions as the Assistant Administrator deems necessary and appropriate, including, but not limited to the following:

(1) Reporting requirements or rights of inspection for determining whether the terms and conditions are being complied with;

(2) The species and number of animals covered;

(3) The authorized method of taking;

(4) The procedures to be used to handle or dispose of any animals taken; and

(5) The payment of an adequate fee to the National Marine Fisheries Service to process the application.

(e) *Duration of permits.* The duration of permits issued under this section will be such as to provide adequate assurances to the permit holder to commit funding necessary for the activities authorized by the permit, including conservation activities. In determining the duration of a permit, the Assistant Administrator will consider the duration of the proposed activities, as well as the possible positive and negative effects on listed species associated with issuing a permit of the proposed duration, including the extent to which the conservation plan is likely to enhance the habitat of the endangered species or to increase the long-term survivability of the species.

(f) *Certificates of inclusion.* (1) Any individual who wishes to conduct an activity covered by a general incidental take permit must apply to the Assistant Administrator for a Certificate of Inclusion. Each application must be signed and dated and must include the following:

(i) The general incidental take permit under which the applicant wants coverage;

(ii) The name, address, and telephone number of the applicant. If the applicant is a partnership or a corporate entity, the applicable details;

(iii) A description of the activity the applicant seeks to have covered under the general incidental take permit, including the anticipated dates, duration, and specific location; and

(iv) A signed certification that the applicant has read and understands the general incidental take permit and the conservation plan, will comply with their terms and conditions, and will fund and implement applicable measures of the conservation plan.

(2) To issue a Certificate of Inclusion, the Assistant Administrator must find that:

(i) The applicant will be engaged in the activity covered by the general permit, and

(ii) The applicant has made adequate assurances that the applicable measures of the conservation plan will be funded and implemented.

(g) *Assurances provided to permittee in case of changed or unforeseen circumstances.* The assurances in this paragraph (g) apply only to incidental take permits issued in accordance with paragraph (c) of this section where the conservation plan is being properly implemented, and apply only with respect to species adequately covered by the conservation plan. These assurances cannot be provided to Federal agencies. This rule does not apply to incidental take permits issued prior to March 25, 1998. The assurances provided in incidental take permits issued prior to March 25, 1998, remain in effect, and those permits will not be revised as a result of this rulemaking.

(1) *Changed circumstances provided for in the plan.* If additional conservation and mitigation measures are deemed necessary to respond to changed circumstances and were provided for in the plan's operating conservation program, the permittee will implement the measures specified in the plan.

(2) *Changed circumstances not provided for in the plan.* If additional conservation and mitigation measures are deemed necessary to respond to changed circumstances and such measures were not provided for in the plan's operating conservation program, NMFS will not require any conservation and mitigation measures in addition to those provided for in the plan without the consent of the permittee, provided the plan is being properly implemented.

(3) *Unforeseen circumstances.* (i) In negotiating unforeseen circumstances, NMFS will not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed upon for the species covered by the conservation plan without the consent of the permittee.

(ii) If additional conservation and mitigation measures are deemed necessary to respond to unforeseen circumstances, NMFS may require additional measures of the permittee where the conservation plan is being properly implemented. However, such additional measures are limited to modifications within any conserved habitat areas or to the conservation plan's operating conservation program for the affected species. The original terms of the conservation plan will be maintained to the maximum extent possible. Additional conservation and mitigation measures will not involve the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources otherwise available for development or use under the original terms of the conservation plan without the consent of the permittee.

(iii) NMFS has the burden of demonstrating that unforeseen circumstances exist, using the best scientific and commercial data available. These findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species. NMFS will consider, but not be limited to, the following factors:

(A) Size of the current range of the affected species;

(B) Percentage of range adversely affected by the conservation plan;

(C) Percentage of range conserved by the conservation plan;

(D) Ecological significance of that portion of the range affected by the conservation plan;

(E) Level of knowledge about the affected species and the degree of specificity of the species' conservation program under the conservation plan; and

(F) Whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

(h) Nothing in this rule will be construed to limit or constrain the Assistant Administrator, any Federal, State, local, or tribal government agency, or a private entity, from taking additional actions at his or her own expense to protect or conserve a species included in a conservation plan.

§ 222.308 Permits for scientific purposes or for the enhancement of propagation or survival of species.

(a) *Scope.* The Assistant Administrator may issue permits for scientific purposes or for the enhancement of the propagation or survival of the affected endangered or threatened species in accordance with the regulations in parts 222, 223, and 224 of this chapter and under such terms and conditions as the Assistant Administrator may prescribe, authorizing the taking, importation, or other acts otherwise prohibited by section 9 of the Act. Within the jurisdication of a State, more restrictive state laws or regulations in regard to endangered species shall prevail in regard to taking. Proof of compliance with applicable state laws will be required before a permit will be issued.

(b) *Application procedures.* Any person desiring to obtain such a permit may make application therefor to the Assistant Administrator. Permits for marine mammals shall be issued in accordance with the provisions of part 216, subpart D of this chapter. Permits relating to sea turtles may involve the Fish and Wildlife Service, in which case the applicant shall follow the procedures set out in § 222.309. The following information will be used as the basis for determining whether an application is complete and whether a permit for scientific purposes or for enhancement of propagation or survival of the affected species should be issued by the Assistant Administrator. An application for a permit shall provide the following information and such other information that the Assistant Administrator may require:

(1) Title, as applicable, either—

(i) Application for permit for scientific purposes under the Act; or

(ii) Application for permit for the enhancement of the propagation or survival of the endangered species Under the Act.

(2) The date of the application.

(3) The identity of the applicant including complete name, address, and telephone number. If the applicant is a partnership or a corporate entity, set

forth the details. If the endangered species is to be utilized by a person other than the applicant, set forth the name of that person and such other information as would be required if such person were an applicant.

(4) A description of the purpose of the proposed acts, including the following:

(i) A detailed justification of the need for the endangered species, including a discussion of possible alternatives, whether or not under the control of the applicant; and

(ii) A detailed description of how the species will be used.

(5) A detailed description of the project, or program, in which the endangered species is to be used, including the following:

(i) The period of time over which the project or program will be conducted;

(ii) A list of the names and addresses of the sponsors or cooperating institutions and the scientists involved;

(iii) A copy of the formal research proposal or contract if one has been prepared;

(iv) A statement of whether the proposed project or program has broader significance than the individual researcher's goals. For example, does the proposed project or program respond directly or indirectly to recommendation of any national or international scientific body charged with research or management of the endangered species? If so, how?; and

(v) A description of the arrangements, if any, for the disposition of any dead specimen or its skeleton or other remains in a museum or other institutional collection for the continued benefit to science.

(6) A description of the endangered species which is the subject of the application, including the following:

(i) A list of each species and the number of each, including the common and scientific name, the subspecies (if applicable), population group, and range;

(ii) A physical description of each animal, including the age, size, and sex;

(iii) A list of the probable dates of capture or other taking, importation, exportation, and other acts which require a permit for each animal and the location of capture or other taking, importation, exportation, and other acts which require a permit, as specifically as possible;

(iv) A description of the status of the stock of each species related insofar as possible to the location or area of taking;

(v) A description of the manner of taking for each animal, including the gear to be used;

(vi) The name and qualifications of the persons or entity which will capture or otherwise take the animals; and

(vii) If the capture or other taking is to be done by a contractor, a statement as to whether a qualified member of your staff (include name(s) and qualifications) will supervise or observe the capture or other taking. Accompanying such statement shall be a copy of the proposed contract or a letter from the contractor indicating agreement to capture or otherwise take the animals, should a permit be granted.

(7) A description of the manner of transportation for any live animal taken, imported, exported, or shipped in interstate commerce, including the following:

(i) Mode of transportation;

(ii) Name of transportation company;

(iii) Length of time in transit for the transfer of the animal(s) from the capture site to the holding facility;

(iv) Length of time in transit for any planned future move or transfer of the animals;

(v) The qualifications of the common carrier or agent used for transportation of the animals;

(vi) A description of the pen, tank, container, cage, cradle, or other devices used to hold the animal at both the capture site and during transportation;

(vii) Special care before and during transportation, such as salves, antibiotics, moisture; and

(viii) A statement as to whether the animals will be accompanied by a veterinarian or by another similarly qualified person, and the qualifications of such person.

(8) Describe the contemplated care and maintenance of any live animals sought, including a complete description of the facilities where any such animals will be maintained including:

(i) The dimensions of the pools or other holding facilities and the number, sex, and age of animals by species to be held in each;

(ii) The water supply, amount, and quality;

(iii) The diet, amount and type, for all animals;

(iv) Sanitation practices used;

(v) Qualifications and experience of the staff;

(vi) A written certification from a licensed veterinarian or from a recognized expert who are knowledgeable on the species (or related species) or group covered in the application. The certificate shall verify that the veterinarian has personally reviewed the amendments for transporting and maintaining the animal(s) and that, in the veterinarian's opinion, they are adequate to provide for the well-being of the animal; and

(vii) The availability in the future of a consulting expert or veterinarian meeting paragraph requirements of (b)(8)(vi) in this section.

(9) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a stud book.

(10) A statement of how the applicant's proposed project or program will enhance or benefit the wild population.

(11) For the 5 years preceding the date of application, the applicant shall provide a detailed description of all mortalities involving species under the control of or utilized by the applicant and are either presently listed as endangered species or are taxonomically related within the Order to the species which is the subject of this application, including:

(i) A list of all endangered species and related species that are the subject of this application that have been captured, transported, maintained, or utilized by the applicant for scientific purposes or for the enhancement of propagation or survival of the affected species, and/or of related species that are captured, transported, maintained, or utilized by the applicant for scientific purposes or for enhancement of propagation or survival of the affected species;

(ii) The numbers of mortalities among such animals by species, by date, by location of capture, i.e., from which population, and the location of such mortalities;

(iii) The cause(s) of any such mortality; and

(iv) The steps which have been taken by applicant to avoid or decrease any such mortality.

(12) A certification in the following language: I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Endangered Species Act, as amended, and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the Act.

(13) The applicant and/or an officer thereof must sign the application.

(14) Assistance in completing this application may be obtained by writing Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 or calling the Office of Protected Resources at 301–713–1401. Allow at least 90 days for processing.

(c) *Issuance criteria.* In determining whether to issue a permit for scientific purposes or to enhance the propagation or survival of the affected endangered species, the Assistant Administrator shall specifically consider, among other application criteria, the following:

(1) Whether the permit was applied for in good faith;

(2) Whether the permit, if granted and exercised, will not operate to the disadvantage of the endangered species;

(3) Whether the permit would be consistent with the purposes and policy set forth in section 2 of the Act;

(4) Whether the permit would further a bona fide and necessary or desirable scientific purpose or enhance the propagation or survival of the endangered species, taking into account the benefits anticipated to be derived on behalf of the endangered species;

(5) The status of the population of the requested species and the effect of the proposed action on the population, both direct and indirect;

(6) If a live animal is to be taken, transported, or held in captivity, the applicant's qualifications for the proper care and maintenance of the species and the adequacy of the applicant's facilities;

(7) Whether alternative non-endangered species or population stocks can and should be used;

(8) Whether the animal was born in captivity or was (or will be) taken from the wild;

(9) Provision for disposition of the species if and when the applicant's project or program terminates;

(10) How the applicant's needs, program, and facilities compare and relate to proposed and ongoing projects and programs;

(11) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application; and

(12) Opinions or views of scientists or other persons or organizations knowledgeable about the species which is the subject of the application or of other matters germane to the application.

(d) *Terms and conditions.* Permits applied for under this section shall contain terms and conditions as the Assistant Administrator may deem appropriate, including but not limited to the following:

(1) The number and kind of species covered;

(2) The location and manner of taking;

(3) Port of entry or export;

(4) The methods of transportation, care, and maintenance to be used with live species;

(5) Any requirements for reports or rights of inspections with respect to any activities carried out pursuant to the permit;

(6) The transferability or assignability of the permit;

(7) The sale or other disposition of the species, its progeny, or the species product; and

(8) A reasonable fee covering the costs of issuance of such permit, including reasonable inspections and an appropriate apportionment of overhead and administrative expenses of the Department of Commerce. All such fees will be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the service.

§ 222.309 Permits for listed species of sea turtles involving the Fish and Wildlife Service.

(a) This section establishes specific procedures for issuance of the following permits: scientific purposes or to enhance the propagation or survival of endangered or threatened species of sea turtles; zoological exhibition or educational purposes for threatened species of sea turtles; and permits that requires coordination with the Fish and Wildlife Service. The National Marine Fisheries Service maintains jurisdiction for such species in the marine environment. The Fish and Wildlife Service maintains jurisdiction for such species of sea turtles in the land environment.

(b) For permits relating to any activity in the marine environment exclusively, permit applicants and permittees must comply with the regulations in parts 222, 223, and 224 of this chapter.

(c) For permits relating to any activity in the land environment exclusively, permit applicants must submit applications to the Wildlife Permit Office (WPO) of the U.S. Fish and Wildlife Service in accordance with either 50 CFR 17.22(a), if the species is endangered, or 50 CFR 17.32(a), if the species is threatened.

(d) For permits relating to any activity in both the land and marine environments, applicants must submit applications to the WPO. WPO will forward the application to NMFS for review and processing of those activities under its jurisdiction. Based on this review and processing, WPO will issue either a permit or a letter of denial in accordance with its own regulations.

(e) For permits relating to any activity in a marine environment and that also requires a permit under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (TIAS 8249, July 1, 1975) (50 CFR part 23), applicants must submit applications to the WPO. WPO will forward the application to NMFS for review and processing, after which WPO will issue a combination ESA/CITES permit or a letter of denial.

§ 222.310 Permit authority for designated agents and employees of specified Federal and state agencies.

(a) This section constitutes a programmatic permit, pursuant to 16 U.S.C. 1539(a)(1)(A), that authorizes activities by agents and employees of Federal and state agencies, as described in paragraph (b) of this section, to aid stranded endangered sea turtles, and to salvage, collect data from, and dispose of, dead carcasses of endangered sea turtles in the marine environment. For purposes of this section, 'stranded' means endangered sea turtles, in the marine environment, that are alive but sick, injured, or entangled.

(b) If any member of any endangered species of sea turtle is found stranded or dead in the marine environment, any agent or employee of the National Marine Fisheries Service, the Fish and Wildlife Service, the U.S. Coast Guard, or any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife who is designated by his or her agency for such purposes, may, when acting in the course of his or her official duties, take such endangered sea turtles if such taking is necessary to aid a stranded sea turtle, or dispose of or salvage a dead sea turtle, or collect data from a dead sea turtle which may be useful for scientific and educational purposes. Live turtles will be handled as described in § 223.206(d)(1). Whenever possible, live sea turtles shall be returned to their aquatic environment as soon as possible. The following data collection activities for live turtles while they are in the marine environment are allowed:

(1) Turtles may be flipper and passive integrated transponder (PIT) tagged, prior to release. Flipper tags would be applied to the trailing edge of either the front or rear flippers with standard tagging applicators after the tagging area has been cleaned with alcohol or iodine solution. PIT tags would be inserted according to best practice, approved scientific protocols, after cleaning the insertion site with alcohol or iodine solution. Before application of flipper tags or insertion of PIT tags, all flippers and the neck/shoulder area will be examined and scanned for the presence of any pre-existing flipper or PIT tags.

(2) Turtles may also be weighed, measured, and photographed prior to release.

(3) When handling turtles exhibiting fibropapilloma, all equipment (tagging equipment, tape measures, etc.) that comes in contact with the turtle shall be cleaned with a mild bleach solution.

(c) Every action shall be reported in writing to the Assistant Administrator, or authorized representative, via the agency or institution designated by the state to record such events. Reports shall contain the following information:

(1) Name and position of the official or employee involved;

(2) Description of the sea turtle(s) involved including species and condition of the animal;

(3) When applicable, description of entangling gear, its location on the turtle, and the amount of gear left on the turtle at release;

(4) Method, date and location of disposal of the sea turtle(s), including, if applicable, where the sea turtle(s) has been retained in captivity; and

(5) Such other information as the Assistant Administrator, or authorized representative, may require.

[70 FR 42509, July 25, 2005]

Subpart D—Observer Requirement

SOURCE: 72 FR 43185, Aug. 3, 2007, unless otherwise noted.

§ 222.401 Observer requirement.

Any United States fishing vessel, either commercial or recreational, which operates within the territorial seas or exclusive economic zone of the United States or on the high seas, or any fishing vessel that is otherwise subject to the jurisdiction of the United States, operating in a fishery that is identified through the annual determination process specified in § 222.402 must carry aboard a NMFS-approved observer upon request by the NMFS Assistant Administrator, in consultation with NMFS Regional Administrators and

Science Center Directors, as appropriate. NMFS and/or interested cooperating entities will pay direct costs for the observer. Owners and operators must comply with observer safety requirements specified at 50 CFR 600.725 and 50 CFR 600.746 and the terms and conditions specified in the written notification.

§ 222.402 Annual determination of fisheries to be observed; notice and comment.

(a) The Assistant Administrator, in consultation with Regional Administrators and Science Center Directors, will make an annual determination identifying which fisheries the agency intends to observe. This determination will be based on the extent to which:

(1) The fishery operates in the same waters and at the same time as sea turtles are present;

(2) The fishery operates at the same time or prior to elevated sea turtle strandings; or

(3) The fishery uses a gear or technique that is known or likely to result in incidental take of sea turtles based on documented or reported takes in the same or similar fisheries; and

(4) NMFS intends to monitor the fishery and anticipates that it will have the funds to do so.

(b) The Assistant Administrator shall publish the proposed determination and any final determination in the FEDERAL REGISTER. Public comment will be sought at the time of publication of the proposed determination. In addition, a written notification of the final determination will be sent to the address specified for the vessel in either the NMFS or state fishing permit application, or to the address specified for registration or documentation purposes, or such notification will be otherwise served on the owners or operator of the vessel. Additionally, NMFS will notify state agencies and provide notification through publication in local newspapers, radio broadcasts, and any other means as appropriate. The proposed and any final determinations will include, to the extent practicable, information on fishing sector, targeted gear type, target fishery, temporal and geographic scope of coverage, or other information, as appropriate.

(c) Fisheries listed on the most recent annual Marine Mammal Protection Act List of Fisheries in any given year, in accordance with 16 U.S.C. 1387, will serve as the comprehensive set of commercial fisheries to be considered for inclusion in the annual determination. Recreational fisheries may also be included in the annual determination.

(d) Publication of the proposed and final determinations should be coordinated to the extent possible with the annual Marine Mammal Protection Act List of Fisheries process as specified at 50 CFR 229.8.

(e) Inclusion of a fishery in a proposed or final determination does not constitute a conclusion by NMFS that those participating in the fishery are illegally taking sea turtles.

§ 222.403 Duration of selection; effective date.

(a) Fisheries included in the final annual determination in a given year will remain eligible for observer coverage under this rule for five years, without need for NMFS to include the fishery in the intervening proposed annual determinations, to enable the design of an appropriate sampling program and to ensure collection of scientific data. If NMFS wishes to continue observations beyond the fifth year, NMFS must include the fishery in the proposed annual determination and seek comment, prior to the expiration of the fifth year.

(b) A 30–day delay in effective date for implementing observer coverage will follow the annual notification, except for those fisheries that were included in a previous determination within the preceding five years or where the AA has determined that there is good cause pursuant to the Administrative Procedure Act to make the rule effective without a 30–day delay.

§ 222.404 Observer program sampling.

(a) During the program design, NMFS would be guided by the following standards in the distribution and placement of observers among fisheries and vessels in a particular fishery:

(1) The requirements to obtain the best available scientific information;

(2) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery;

(3) The requirement that no individual person or vessel, or group of persons or vessels, be subject to inappropriate, excessive observer coverage; and

(4) The need to minimize costs and avoid duplication, where practicable.

(b) Consistent with 16 U.S.C. 1881(b), vessels where the facilities for accommodating an observer or carrying out observer functions are so inadequate or unsafe (due to size or quality of equipment, for example) that the health or safety of the observer or the safe operation of the vessel would be jeopardized, would not be required to take observers under this rule.

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

Subpart A—General Provisions

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AUTHORITY: 16 U.S.C. 1531 1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

SOURCE: 43 FR 32809, July 28, 1978, unless otherwise noted. Redesignated at 64 FR 14068, Mar. 23, 1999.

Subpart A—General Provisions

§ 223.101 Purpose and scope.

(a) The regulations contained in this part identify the species under the jurisdiction of the Secretary of Commerce that have been determined to be threatened species pursuant to section 4(a) of the Act, and provide for the conservation of such species by establishing rules and procedures to govern activities involving the species.

(b) The regulations contained in this part apply only to the threatened species enumerated in § 223.102.

(c) The provisions of this part are in addition to, and not in lieu of, other regulations of parts 222 through 226 of this chapter which prescribe additional restrictions or conditions governing threatened species.

[64 FR 14068, Mar. 23, 1999, as amended at 79 FR 20806, Apr. 14, 2014]

§ 223.102 Enumeration of threatened marine and anadromous species.

(a) The table below identifies the species under the jurisdiction of the Secretary of Commerce that have been determined to be threatened pursuant to section 4(a) of the Act, species treated as threatened because they are sufficiently similar in appearance to threatened species, and experimental populations of threatened species.

(b) The columns entitled ''Common name,'' ''Scientific name,'' and ''Description of listed entity'' define the species within the meaning of the Act. In the ''Common name'' column, experimental populations are identified as ''XE'' for essential populations or ''XN'' for nonessential populations. Species listed based on similarity of appearance are identified as ''S/A.'' Although a column for ''Common name'' is included, common names cannot be relied upon for identification of any specimen, because they may vary greatly in local usage. The ''Scientific name'' column provides the most recently accepted scientific name, relying to the extent practicable on the *International Code of Zoological Nomenclature*. In cases in which confusion might arise, a synonym(s) will be provided in parentheses. The ''Description of listed entity'' column identifies whether the listed entity comprises the entire species, a subspecies, or a distinct population segment (DPS) and provides a description for any DPSs. Unless otherwise indicated in the ''Description of listed entity'' column, all individual members of the listed entity and their progeny retain their listing status wherever found, including individuals in captivity. Information regarding the general range of the species, subspecies, or DPS may be found in the FEDERAL REGISTER notice(s) cited in the ''Citation(s) for listing determination(s)'' column.

(c) The ''Citation(s) for listing determination(s)'' column provides reference to the FEDERAL REGISTER notice(s) determining the species' status under the Act. The abbreviation ''(SPR)'' (significant portion of its range) after a citation indicates that the species was listed based on its status in a significant portion of its range. If a citation does not include the ''(SPR)'' notation, it means that the species was listed based on its status throughout its entire range. For ''(SPR)'' listings, a geographical description of the SPR may be found in the referenced FEDERAL REGISTER notice. The ''(SPR)'' notation serves an informational purpose only and does not imply any limitation on the application of the prohibitions or restrictions of the Act or implementing rules.

(d) The ''Critical habitat'' and ''ESA rules'' columns provide cross-references to other sections in this part and part 226. The term ''NA'' appearing in the ''Critical habitat'' column indicates that there are no critical habitat designations for that species; similarly, the term ''NA'' appearing in the ''ESA rules'' column indicates that there are no ESA rules for that species. However, all other applicable rules in parts 222 through 226 and part 402 still apply to that species. Also, there may be other rules in this title that relate to such wildlife. The ''ESA rules'' column is not intended to list all Federal, state, tribal, or local governmental regulations that may apply to the species.

(e) The threatened species under the jurisdiction of the Secretary of Commerce are:

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Marine Mammals					
Seal, bearded (Beringia DPS).	*Erignathus barbatus nauticus.*	Bearded seals originating from breeding areas in the Arctic Ocean and adjacent seas in the Pacific Ocean between 145° E. Long. (Novosibirskiye) and 130° W. Long., and east of 157° E. Long. or east of the Kamchatka Peninsula.	77 FR 76740, Dec 28, 2012.	NA	NA.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Seal, bearded (Okhotsk DPS).	*Erignathus barbatus nauticus.*	Bearded seals originating from breeding areas in the Pacific Ocean west of 157° E. Long. or west of the Kamchatka Peninsula.	77 FR 76740, Dec 28, 2012.	NA	NA.
Seal, Guadalupe fur.	*Arctocephalus townsendi.*	Entire species	50 FR 51252, Dec 16, 1985.	NA	223.201.
Seal, ringed (Arctic subspecies).	*Phoca (=Pusa) hispida hispida.*	Entire subspecies	77 FR 76706, Dec 28, 2012.	NA	NA.
Seal, ringed (Baltic subspecies).	*Phoca (=Pusa) hispida botnica.*	Entire subspecies	77 FR 76706, Dec 28, 2012.	NA	NA.
Seal, ringed (Okhotsk subspecies).	*Phoca (=Pusa) hispida ochotensis.*	Entire subspecies	77 FR 76706, Dec 28, 2012.	NA	NA.
Seal, spotted (Southern DPS).	*Phoca largha*	Spotted seals originating from breeding areas in the Pacific Ocean south of 43° N. Lat.	75 FR 65239, Oct 22, 2010.	NA	223.212.
Sea Turtles [2]					
Sea turtle, green.	*Chelonia mydas.*	Entire species, except when listed as endangered under § 224.101.	43 FR 32800, Jul 28, 1978.	226.208	223.205, 223.206, 223.207.
Sea turtle, loggerhead (Northwest Atlantic Ocean DPS).	*Caretta caretta.*	Loggerhead sea turtles originating from the Northwest Atlantic Ocean west of 40° W. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207.
Sea turtle, loggerhead (South Atlantic Ocean DPS).	*Caretta caretta.*	Loggerhead sea turtles originating from the South Atlantic Ocean west of 20° E. Long. and east of 67° W. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207.
Sea turtle, loggerhead (Southeast Indo-Pacific Ocean DPS).	*Caretta caretta.*	Loggerhead sea turtles originating from the Southeast Indian Ocean east of 80° E. Long. and from the South Pacific Ocean west of 141° E. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207.
Sea turtle, loggerhead (Southwest Indian Ocean DPS).	*Caretta caretta.*	Loggerhead sea turtles originating from the Southwest Indian Ocean west of 80° E. Long. and east of 20° E. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207.
Sea turtle, olive ridley.	*Lepidochelys olivacea.*	Entire species, except when listed as endangered under § 224.101.	43 FR 32800, Jul 28, 1978.	NA	223.205, 223.206, 223.207.
Fishes					
Eulachon (Southern DPS).	*Thaleichthys pacificus.*	Eulachon originating from the Skeena River in British Columbia south to and including the Mad River in northern California.	75 FR 13012, Mar 18, 2010.	226.222	NA.
Rockfish, canary (Puget Sound/Georgia Basin DPS).	*Sebastes pinniger.*	Canary rockfish originating from Puget Sound and the Georgia Basin.	75 FR 22276, Apr 28, 2010.	226.224	NA.
Rockfish, yelloweye (Puget Sound/Georgia Basin DPS).	*Sebastes ruberrimus.*	Yelloweye rockfish originating from Puget Sound and the Georgia Basin.	75 FR 22276, Apr 28, 2010.	226.224	NA.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Salmon, Chinook (California Coastal ESU).	*Oncorhynchus tshawytscha.*	Naturally spawned Chinook salmon originating from rivers and streams south of the Klamath River to and including the Russian River.	70 FR 37160, Jun 28, 2005.	226.211	223.203.
Salmon, Chinook (Central Valley spring-run ESU).	*Oncorhynchus tshawytscha.*	Naturally spawned spring-run Chinook salmon originating from the Sacramento River and its tributaries. Also, spring-run Chinook salmon from the Feather River Hatchery Spring-run Chinook Program. This DPS does not include Chinook salmon that are designated as part of an experimental population.	70 FR 37160, Jun 28, 2005.	226.211	223.203.
Salmon, Chinook (Central Valley spring-run ESU–XN).	*Oncorhynchus tshawytscha.*	Central Valley spring-run Chinook salmon only when, and at such times as, they are found in the San Joaquin River from Friant Dam downstream to its confluence with the Merced River, delineated by a line between decimal latitude and longitude coordinates: 37.348930° N., 120.975174° W. and 37.349099° N., 120.974749° W., as well as all sloughs, channels, floodways, and waterways connected with the San Joaquin River that allow for Central Valley spring-run Chinook salmon access, but excluding the Merced River. Also, Central Valley spring-run Chinook salmon when found in portions of the Kings River that connect with the San Joaquin River during high water years.	78 FR 79622, Dec 31, 2013.	NA	223.301.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Salmon, Chinook (Lower Columbia River ESU).	*Oncorhynchus tshawytscha.*	Naturally spawned Chinook salmon originating from the Columbia River and its tributaries downstream of a transitional point east of the Hood and White Salmon Rivers, and any such fish originating from the Willamette River and its tributaries below Willamette Falls. Not included in this DPS are: (1) spring-run Chinook salmon originating from the Clackamas River; (2) fall-run Chinook salmon originating from Upper Columbia River bright hatchery stocks, that spawn in the mainstem Columbia River below Bonneville Dam, and in other tributaries upstream from the Sandy River to the Hood and White Salmon Rivers; (3) spring-run Chinook salmon originating from the Round Butte Hatchery (Deschutes River, Oregon) and spawning in the Hood River; (4) spring-run Chinook salmon originating from the Carson National Fish Hatchery and spawning in the Wind River; and (5) naturally spawning Chinook salmon originating from the Rogue River Fall Chinook Program. This DPS does include Chinook salmon from 15 artificial propagation programs: the Big Creek Tule Chinook Program; Astoria High School Salmon-Trout Enhancement Program (STEP) Tule Chinook Program; Warrenton High School STEP Tule Chinook Program; Cowlitz Tule Chinook Program; North Fork Toutle Tule Chinook Program; Kalama Tule Chinook Program; Washougal River Tule Chinook Program; Spring Creek National Fish Hatchery (NFH) Tule Chinook Program; Cowlitz Spring Chinook Program in the Upper Cowlitz River and the Cispus River; Friends of the Cowlitz Spring Chinook Program; Kalama River Spring Chinook Program; Lewis River Spring Chinook Program; Fish First Spring Chinook Program; and the Sandy River Hatchery (Oregon Department of Fish and Wildlife Stock #11).	70 FR 37160, Jun 28, 2005.	226.212	223.203.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Salmon, Chinook (Puget Sound ESU).	*Oncorhynchus tshawytscha.*	Naturally spawned Chinook salmon originating from rivers flowing into Puget Sound from the Elwha River (inclusive) eastward, including rivers in Hood Canal, South Sound, North Sound and the Strait of Georgia. Also, Chinook salmon from 26 artificial propagation programs: the Kendall Creek Hatchery Program; Marblemount Hatchery Program (spring subyearlings and summer-run); Harvey Creek Hatchery Program (summer-run and fall-run); Whitehorse Springs Pond Program; Wallace River Hatchery Program (yearlings and subyearlings); Tulalip Bay Program; Issaquah Hatchery Program; Soos Creek Hatchery Program; Icy Creek Hatchery Program; Keta Creek Hatchery Program; White River Hatchery Program; White Acclimation Pond Program; Hupp Springs Hatchery Program; Voights Creek Hatchery Program; Diru Creek Program; Clear Creek Program; Kalama Creek Program; George Adams Hatchery Program; Rick's Pond Hatchery Program; Hamma Hamma Hatchery Program; Dungeness/Hurd Creek Hatchery Program; Elwha Channel Hatchery Program; and the Skookum Creek Hatchery Spring-run Program.	70 FR 37160, Jun 28, 2005.	226.212	223.203.
Salmon, Chinook (Snake River fall-run ESU).	*Oncorhynchus tshawytscha.*	Naturally spawned fall-run Chinook salmon originating from the mainstem Snake River below Hells Canyon Dam and from the Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River subbasins. Also, fall-run Chinook salmon from four artificial propagation programs: the Lyons Ferry Hatchery Program; Fall Chinook Acclimation Ponds Program; Nez Perce Tribal Hatchery Program; and the Oxbow Hatchery Program.	70 FR 37160, Jun 28, 2005.	226.205	223.203.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Salmon, Chinook (Snake River spring/summer-run ESU).	*Oncorhynchus tshawytscha.*	Naturally spawned spring/summer-run Chinook salmon originating from the mainstem Snake River and the Tucannon River, Grande Ronde River, Imnaha River, and Salmon River subbasins. Also, spring/summer-run Chinook salmon from 11 artificial propagation programs: the Tucannon River Program; Lostine River Program; Catherine Creek Program; Lookingglass Hatchery Program; Upper Grande Ronde Program; Imnaha River Program; Big Sheep Creek Program; McCall Hatchery Program; Johnson Creek Artificial Propagation Enhancement Program; Pahsimeroi Hatchery Program; and the Sawtooth Hatchery Program.	70 FR 37160, Jun 28, 2005.	226.205	223.203.
Salmon, Chinook (Upper Willamette River ESU).	*Oncorhynchus tshawytscha.*	Naturally spawned spring-run Chinook salmon originating from the Clackamas River and from the Willamette River and its tributaries above Willamette Falls. Also, spring-run Chinook salmon from six artificial propagation programs: the McKenzie River Hatchery Program (Oregon Department of Fish and Wildlife (ODFW) Stock #23); Marion Forks Hatchery/North Fork Santiam River Program (ODFW Stock #21); South Santiam Hatchery Program (ODFW Stock #24) in the South Fork Santiam River and Mollala River; Willamette Hatchery Program (ODFW Stock #22); and the Clackamas Hatchery Program (ODFW Stock #19).	70 FR 37160, Jun 28, 2005.	226.212	223.203.
Salmon, Chinook (Upper Columbia River spring-run ESU–XN).	*Oncorhynchus tshawytscha.*	Upper Columbia River spring-run Chinook salmon only when, and at such times, as they are found in the mainstem or tributaries of the Okanogan River from the Canada-United States border to the confluence of the Okanogan River with the Columbia River, Washington.	79 FR 40004, Jul 11, 2014.	NA	223.301
Salmon, chum (Columbia River ESU).	*Oncorhynchus keta.*	Naturally spawned chum salmon originating from the Columbia River and its tributaries in Washington and Oregon. Also, chum salmon from two artificial propagation programs: the Grays River Program and the Washougal River Hatchery/Duncan Creek Program.	70 FR 37160, Jun 28, 2005.	226.212	223.203.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Salmon, chum (Hood Canal summer-run ESU).	*Oncorhynchus keta*.	Naturally spawned summer-run chum salmon originating from Hood Canal and its tributaries as well as from Olympic Peninsula rivers between Hood Canal and Dungeness Bay (inclusive). Also, summer-run chum salmon from four artificial propagation programs: the Hamma Hamma Fish Hatchery Program; Lilliwaup Creek Fish Hatchery Program; Tahuya River Program; and the Jimmycomelately Creek Fish Hatchery Program.	70 FR 37160, Jun 28, 2005.	226.212	223.203.
Salmon, coho (Lower Columbia River ESU).	*Oncorhynchus kisutch*.	Naturally spawned coho salmon originating from the Columbia River and its tributaries downstream from the Big White Salmon and Hood Rivers (inclusive) and any such fish originating from the Willamette River and its tributaries below Willamette Falls. Also, coho salmon from 21 artificial propagation programs: the Grays River Program; Peterson Coho Project; Big Creek Hatchery Program (Oregon Department of Fish and Wildlife (ODFW) Stock #13); Astoria High School Salmon-Trout Enhancement Program (STEP) Coho Program; Warrenton High School STEP Coho Program; Cowlitz Type-N Coho Program in the Upper and Lower Cowlitz Rivers; Cowlitz Game and Anglers Coho Program; Friends of the Cowlitz Coho Program; North Fork Toutle River Hatchery Program; Kalama River Type-N Coho Program; Kalama River Type-S Coho Program; Lewis River Type-N Coho Program; Lewis River Type-S Coho Program; Fish First Wild Coho Program; Fish First Type-N Coho Program; Syverson Project Type-N Coho Program; Washougal River Type-N Coho Program; Eagle Creek National Fish Hatchery Program; Sandy Hatchery Program (ODFW Stock #11); and the Bonneville/Cascade/Oxbow Complex (ODFW Stock #14) Hatchery Program.	70 FR 37160, Jun 28, 2005.	NA	223.203.
Salmon, coho (Oregon Coast ESU).	*Oncorhynchus kisutch*.	Naturally spawned coho salmon originating from coastal rivers south of the Columbia River and north of Cape Blanco. Also, coho salmon from one artificial propagation program: the Cow Creek Hatchery Program (Oregon Department of Fish and Wildlife Stock #18).	76 FR 35755, Jun 20, 2011.	226.212	223.203.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Salmon, coho (Southern Oregon/ Northern California Coast ESU).	*Oncorhynchus kisutch.*	Naturally spawned coho salmon originating from coastal streams and rivers between Cape Blanco, Oregon, and Punta Gorda, California. Also, coho salmon from three artificial propagation programs: the Cole Rivers Hatchery Program (ODFW Stock #52); Trinity River Hatchery Program; and the Iron Gate Hatchery Program.	70 FR 37160, Jun 28, 2005.	226.210	223.203.
Salmon, sockeye (Ozette Lake ESU).	*Oncorhynchus nerka.*	Naturally spawned sockeye salmon originating from the Ozette River and Ozette Lake and its tributaries. Also, sockeye salmon from two artificial propagation programs: the Umbrella Creek Hatchery Program; and the Big River Hatchery Program.	70 FR 37160, Jun 28, 2005.	226.212	223.203.
Shark, scalloped hammerhead (Central & Southwest Atlantic DPS).	*Sphyrna lewini*	Scalloped hammerhead sharks originating from the Central & Southwest Atlantic Ocean, including all waters of the Caribbean Sea, the Bahamas' EEZ off the coast of Florida, the U.S. EEZ off Puerto Rico and the U.S. Virgin Islands, and Cuba's EEZ, and further delineated by the following boundary lines: bounded to the north by 28° N. lat., to the east by 30° W. long., and to the south by 36° S. lat.	79 FR 38214, Jul 3, 2014	NA	NA
Shark, scalloped hammerhead (Indo-West Pacific DPS).	*Sphyrna lewini*	Scalloped hammerhead sharks originating from the Indo-West Pacific Ocean, delineated by the following boundary lines: bounded to the south by 36° S. lat., to the west by 20° E. long., and to the north by 40° N. lat. In the east, the boundary line extends from 175° E. long. due south to 10° N. lat., then due east along 10° N. lat. to 150° W. long., then due south to 4° S. lat., then due east along 4° S. lat. to 130° W. long, and then extends due south along 130° W. long.	79 FR 38214, Jul 3, 2014	NA	NA
Steelhead (California Central Valley DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and manmade impassable barriers from the Sacramento and San Joaquin Rivers and their tributaries; excludes such fish originating from San Francisco and San Pablo Bays and their tributaries. This DPS does include steelhead from two artificial propagation programs: the Coleman National Fish Hatchery Program, and the Feather River Fish Hatchery Program.	71 FR 834, Jan 5, 2006	226.211	223.203.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Steelhead (Central California Coast DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and man-made impassable barriers from the Russian River to and including Aptos Creek, and all drainages of San Francisco and San Pablo Bays eastward to Chipps Island at the confluence of the Sacramento and San Joaquin Rivers. Also, steelhead from two artificial propagation programs: the Don Clausen Fish Hatchery Program, and the Kingfisher Flat Hatchery Program (Monterey Bay Salmon and Trout Project).	71 FR 834, Jan 5, 2006	226.211	223.203.
Steelhead (Lower Columbia River DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and man-made impassable barriers from rivers between the Cowlitz and Wind Rivers (inclusive) and the Willamette and Hood Rivers (inclusive); excludes such fish originating from the upper Willamette River basin above Willamette Falls. This DPS does include steelhead from seven artificial propagation programs: the Cowlitz Trout Hatchery Late Winter-run Program (Lower Cowlitz); Kalama River Wild Winter-run and Summer-run Programs; Clackamas Hatchery Late Winter-run Program (Oregon Department of Fish and Wildlife (ODFW) Stock #122); Sandy Hatchery Late Winter-run Program (ODFW Stock #11); Hood River Winter-run Program (ODFW Stock #50); and the Lewis River Wild Late-run Winter Steelhead Program.	71 FR 834, Jan 5, 2006	226.212	223.203.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Steelhead (Middle Columbia River DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and manmade impassable barriers from the Columbia River and its tributaries upstream of the Wind and Hood Rivers (exclusive) to and including the Yakima River; excludes such fish originating from the Snake River basin. This DPS does include steelhead from seven artificial propagation programs: the Touchet River Endemic Program; Yakima River Kelt Reconditioning Program (in Satus Creek, Toppenish Creek, Naches River, and Upper Yakima River); Umatilla River Program (Oregon Department of Fish and Wildlife (ODFW) Stock #91); and the Deschutes River Program (ODFW Stock #66). This DPS does not include steelhead that are designated as part of an experimental population.	71 FR 834, Jan 5, 2006	226.212	223.203.
Steelhead (Middle Columbia River DPS–XN).	*Oncorhynchus mykiss.*	Middle Columbia River steelhead only when, and at such times as, they are found above Round Butte Dam.	78 FR 2893, Jan. 15, 2013.	NA	223.301.
Steelhead (Northern California DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and manmade impassable barriers in California coastal river basins from Redwood Creek to and including the Gualala River.	71 FR 834, Jan 5, 2006	226.211	223.203.
Steelhead (Puget Sound DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and manmade impassable barriers from rivers flowing into Puget Sound from the Elwha River (inclusive) eastward, including rivers in Hood Canal, South Sound, North Sound and the Strait of Georgia. Also, steelhead from six artificial propagation programs: the Green River Natural Program; White River Winter Steelhead Supplementation Program; Hood Canal Steelhead Supplementation Off-station Projects in the Dewatto, Skokomish, and Duckabush Rivers; and the Lower Elwha Fish Hatchery Wild Steelhead Recovery Program.	72 FR 26722, May 11, 2007.	NA	223.203.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Steelhead (Snake River Basin DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and manmade impassable barriers from the Snake River basin. Also, steelhead from six artificial propagation programs: the Tucannon River Program; Dworshak National Fish Hatchery Program; Lolo Creek Program; North Fork Clearwater Program; East Fork Salmon River Program; and the Little Sheep Creek/Imnaha River Hatchery Program (Oregon Department of Fish and Wildlife Stock #29).	71 FR 834, Jan 5, 2006	226.212	223.203.
Steelhead (South-Central California Coast DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and manmade impassable barriers from the Pajaro River to (but not including) the Santa Maria River.	71 FR 834, Jan 5, 2006	226.211	223.203.
Steelhead (Upper Columbia River DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and manmade impassable barriers from the Columbia River and its tributaries upstream of the Yakima River to the U.S.-Canada border. Also, steelhead from six artificial propagation programs: the Wenatchee River Program; Wells Hatchery Program (in the Methow and Okanogan Rivers); Winthrop National Fish Hatchery Program; Omak Creek Program; and the Ringold Hatchery Program.	71 FR 834, Jan 5, 2006	226.212	223.203.
Steelhead (Upper Willamette River DPS).	*Oncorhynchus mykiss.*	Naturally spawned anadromous winter-run *O. mykiss* (steelhead) originating below natural and manmade impassable barriers from the Willamette River and its tributaries upstream of Willamette Falls to and including the Calapooia River.	71 FR 834, Jan 5, 2006	226.212	223.203.
Sturgeon, Atlantic (Atlantic subspecies; Gulf of Maine DPS).	*Acipenser oxyrinchus oxyrinchus.*	Anadromous Atlantic sturgeon originating from watersheds from the Maine/Canadian border and extending southward to include all associated watersheds draining into the Gulf of Maine as far south as Chatham, Massachusetts.	77 FR 5880, Feb 6, 2012	NA	223.211.
Sturgeon, Atlantic (Gulf subspecies).	*Acipenser oxyrinchus desotoi.*	Entire subspecies	56 FR 49653, Sep 30, 1991.	226.214	17.44(v).
Sturgeon, green (Southern DPS).	*Acipenser medirostris.*	Green sturgeon originating from the Sacramento River basin and from coastal rivers south of the Eel River (exclusive).	71 FR 17757, April 7, 2006; 71 FR 19241, April 13, 2006.	226.219	223.210.
Corals					
Coral, [no common name].	*Acropora globiceps.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Coral, [no common name].	*Acropora jacquelineae.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Acropora lokani.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Acropora pharaonis.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Acropora retusa.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Acropora rudis*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Acropora speciosa.*	Entire species.	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Acropora tenella.*	Entire species.	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Anacropora spinosa.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Euphyllia paradivisa.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Isopora crateriformis.*	Entire species.	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Montipora australiensis.*	Entire species.	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Pavona diffluens.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Porites napopora.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, [no common name].	*Seriatopora aculeata.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, boulder star.	*Orbicella franksi.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, elkhorn	*Acropora palmata.*	Entire species	79 FR 53852, Sep 10, 2014.	226.216	223.208
Coral, lobed star.	*Orbicella annularis.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, mountainous star.	*Orbicella faveolata.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, pillar	*Dendrogyra cylindrus.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, rough cactus.	*Mycetophyllia ferox.*	Entire species	79 FR 53852, Sep 10, 2014.	NA	NA
Coral, staghorn	*Acropora cervicornis.*	Entire species	79 FR 53852, Sep 10, 2014.	226.216	223.208
Marine Plants					
Seagrass, Johnson's.	*Halophila johnsonii.*	Entire species	63 FR 49035, Sep 14, 1998.	226.213	NA.

[1] Species 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).

[2] 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.

[79 FR 20806, Apr. 14, 2014, as amended at 79 FR 38240, July 3, 2014; 79 FR 40015, July 11, 2014; 79 FR 54122, Sept. 10, 2014; 80 FR 7978, Feb. 13, 2051]

Subpart B—Restrictions Applicable to Threatened Marine and Anadromous Species

§ 223.201 Guadalupe fur seal.

(a) *Prohibitions.* The prohibitions of section 9 of the Act (16 U.S.C. 1538) relating to endangered species apply to the Guadalupe fur seal except as provided in paragraph (b) of this section.

(b) *Exceptions.* (1) The Assistant Administrator may issue permits authorizing activities which would otherwise be prohibited under paragraph (a) of this section subject to the provisions of part 222 subpart C, General Permit Procedures.

(2) Any Federal, State or local government official, employee, or designated agent may, in the course of official duties, take a stranded Guadalupe fur seal without a permit if such taking:

(i) Is accomplished in a humane manner;

(ii) Is for the protection or welfare of the animal, is for the protection of the public health or welfare, or is for the salvage or disposal of a dead specimen;

(iii) Includes steps designed to ensure the return of the animal to its natural habitat, if feasible; and

(iv) Is reported within 30 days to the Regional Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.

(3) Any animal or specimen taken under paragraph (b)(2) of this section may only be retained, disposed of, or salvaged in accordance with directions from the Director, Southwest Region.

[50 FR 51258, Dec. 16, 1985. Redesignated and amended at 64 FR 14068, Mar. 23, 1999, as amended at 79 FR 20812, Apr. 14, 2014]

§ 223.202 [Reserved]

§ 223.203 Anadromous fish.

Available guidance documents cited in the regulatory text are listed in Appendix A to this section.

(a) *Prohibitions.* The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to fish with an intact adipose fin that are part of the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102.

(b) Limits on the prohibitions. The limits to the prohibitions of paragraph (a) of this section relating to threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 are described in the following paragraphs:

(1) The exceptions of section 10 of the ESA (16 U.S.C. 1539) and other exceptions under the Act relating to endangered species, including regulations in part 222 of this chapter implementing such exceptions, also apply to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102.

(2) The prohibitions of paragraph (a) of this section relating to threatened Puget Sound steelhead listed in § 223.102 do not apply to:

(i) Activities specified in an application for a permit for scientific purposes or to enhance the conservation or survival of the species, provided that the application has been received by the Assistant Administrator for Fisheries, NOAA (AA), no later than November 14, 2008. The prohibitions of this section apply to these activities upon the AA's rejection of the application as insufficient, upon issuance or denial of a permit, or June 1, 2009, whichever occurs earliest, or

(ii) Steelhead harvested in tribal or recreational fisheries prior to June 1, 2009, so long as the harvest is authorized by the State of Washington or a tribe with jurisdiction over steelhead harvest. If NMFS does not receive a fishery management plan for Puget Sound steelhead by November 14, 2008, subsequent take by harvest will be subject to the take prohibitions.

(3) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 do not apply to any employee or designee of NMFS, the United States Fish and Wildlife Service, any Federal land management agency, the Idaho Department of Fish and Game (IDFG), Washington Department of Fish and Wildlife (WDFW), the Oregon Department of Fish and Wildlife (ODFW), California Department of Fish and Game (CDFG), or of any other governmental entity that has co-management authority for the listed salmonids, when the employee or designee, acting in the course of his or her official duties, takes a threatened salmonid without a permit if such action is necessary to:

(i) Aid a sick, injured, or stranded salmonid,

(ii) Dispose of a dead salmonid, or

(iii) Salvage a dead salmonid which may be useful for scientific study.

(iv) Each agency acting under this limit on the take prohibitions of paragraph (a) of this section is to report to NMFS the numbers of fish handled and

their status, on an annual basis. A designee of the listed entities is any individual the Federal or state fishery agency or other co-manager has authorized in writing to perform the listed functions.

(4) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 do not apply to fishery harvest activities provided that:

(i) Fisheries are managed in accordance with a NMFS-approved Fishery Management and Evaluation Plan (FMEP) and implemented in accordance with a letter of concurrence from NMFS. NMFS will approve an FMEP only if it clearly defines its intended scope and area of impact and sets forth the management objectives and performance indicators for the plan. The plan must adequately address the following criteria:

(A) Define populations within affected listed ESUs, taking into account spatial and temporal distribution, genetic and phenotypic diversity, and other appropriate identifiably unique biological and life history traits. Populations may be aggregated for management purposes when dictated by information scarcity, if consistent with survival and recovery of the listed ESU. In identifying management units, the plan shall describe the reasons for using such units in lieu of population units, describe how the management units are defined, given biological and life history traits, so as to maximize consideration of the important biological diversity contained within the listed ESU, respond to the scale and complexity of the ESU, and help ensure consistent treatment of listed salmonids across a diverse geographic and jurisdictional range.

(B) Utilize the concepts of ''viable'' and ''critical'' salmonid population thresholds, consistent with the concepts contained in the technical document entitled ''Viable Salmonid Populations (NMFS, 2000b).'' The VSP paper provides a framework for identifying the biological requirements of listed salmonids, assessing the effects of management and conservation actions, and ensuring that such actions provide for the survival and recovery of listed species. Proposed management actions must recognize the significant differences in risk associated with viable and critical population threshold states and respond accordingly to minimize the long-term risks to population persistence. Harvest actions impacting populations that are functioning at or above the viable threshold must be designed to maintain the population or management unit at or above that level. For populations shown with a high degree of confidence to be above critical levels but not yet at viable levels, harvest management must not appreciably slow the population's achievement of viable function. Harvest actions impacting populations that are functioning at or below critical threshold must not be allowed to appreciably increase genetic and demographic risks facing the population and must be designed to permit the population's achievement of viable function, unless the plan demonstrates that the likelihood of survival and recovery of the entire ESU in the wild would not be appreciably reduced by greater risks to that individual population.

(C) Set escapement objectives or maximum exploitation rates for each management unit or population based on its status and on a harvest program that assures that those rates or objectives are not exceeded. Maximum exploitation rates must not appreciably reduce the likelihood of survival and recovery of the ESU. Management of fisheries where artificially propagated fish predominate must not compromise the management objectives for commingled naturally spawned populations.

(D) Display a biologically based rationale demonstrating that the harvest management strategy will not appreciably reduce the likelihood of survival and recovery of the ESU in the wild, over the entire period of time the proposed harvest management strategy affects the population, including effects reasonably certain to occur after the proposed actions cease.

(E) Include effective monitoring and evaluation programs to assess compliance, effectiveness, and parameter validation. At a minimum, harvest monitoring programs must collect catch and

effort data, information on escapements, and information on biological characteristics, such as age, fecundity, size and sex data, and migration timing.

(F) Provide for evaluating monitoring data and making any revisions of assumptions, management strategies, or objectives that data show are needed.

(G) Provide for effective enforcement and education. Coordination among involved jurisdictions is an important element in ensuring regulatory effectiveness and coverage.

(H) Include restrictions on resident and anadromous species fisheries that minimize any take of listed species, including time, size, gear, and area restrictions.

(I) Be consistent with plans and conditions established within any Federal court proceeding with continuing jurisdiction over tribal harvest allocations.

(ii) The state monitors the amount of take of listed salmonids occurring in its fisheries and provides to NMFS on a regular basis, as defined in NMFS' letter of concurrence for the FMEP, a report summarizing this information, as well as the implementation and effectiveness of the FMEP. The state shall provide NMFS with access to all data and reports prepared concerning the implementation and effectiveness of the FMEP.

(iii) The state confers with NMFS on its fishing regulation changes affecting listed ESUs to ensure consistency with the approved FMEP. Prior to approving a new or amended FMEP, NMFS will publish notification in the FEDERAL REGISTER announcing its availability for public review and comment. Such an announcement will provide for a comment period on the draft FMEP of not less than 30 days.

(iv) NMFS provides written concurrence of the FMEP which specifies the implementation and reporting requirements. NMFS' approval of a plan shall be a written approval by NMFS Southwest or Northwest Regional Administrator, as appropriate. On a regular basis, NMFS will evaluate the effectiveness of the program in protecting and achieving a level of salmonid productivity commensurate with conservation of the listed salmonids. If it is not, NMFS will identify ways in which the program needs to be altered or strengthened. If the responsible agency does not make changes to respond adequately to the new information, NMFS will publish notification in the FEDERAL REGISTER announcing its intention to withdraw the limit for activities associated with that FMEP. Such an announcement will provide for a comment period of not less than 30 days, after which NMFS will make a final determination whether to withdraw the limit so that the prohibitions would then apply to those fishery harvest activities. A template for developing FMEPs is available from NMFS Northwest Region's website (*www.nwr.noaa.gov*).

(v) [Reserved]

(5) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 do not apply to activity associated with artificial propagation programs provided that:

(i) A state or Federal Hatchery and Genetics Management Plan (HGMP) has been approved by NMFS as meeting the following criteria:

(A) The HGMP has clearly stated goals, performance objectives, and performance indicators that indicate the purpose of the program, its intended results, and measurements of its performance in meeting those results. Goals shall address whether the program is intended to meet conservation objectives, contribute to the ultimate sustainability of natural spawning populations, and/or intended to augment tribal, recreational, or commercial fisheries. Objectives should enumerate the results desired from the program that will be used to measure the program's success or failure.

(B) The HGMP utilizes the concepts of viable and critical salmonid population threshold, consistent with the concepts contained in the technical document entitled ''Viable Salmonid Populations'' (NMFS, 2000b). Listed salmonids may be purposefully taken for broodstock purposes only if the donor population is currently at or above the viable threshold and the collection will not impair its function; if

the donor population is not currently viable but the sole objective of the current collection program is to enhance the propagation or survival of the listed ESU; or if the donor population is shown with a high degree of confidence to be above critical threshold although not yet functioning at viable levels, and the collection will not appreciably slow the attainment of viable status for that population.

(C) Taking into account health, abundances, and trends in the donor population, broodstock collection programs reflect appropriate priorities. The primary purpose of broodstock collection programs of listed species is to reestablish indigenous salmonid populations for conservation purposes. Such programs include restoration of similar, at-risk populations within the same ESU, and reintroduction of at-risk populations to underseeded habitat. After the species' conservation needs are met and when consistent with survival and recovery of the ESU, broodstock collection programs may be authorized by NMFS such for secondary purposes, as to sustain tribal, recreational, and commercial fisheries.

(D) The HGMP includes protocols to address fish health, broodstock collection, broodstock spawning, rearing and release of juveniles, deposition of hatchery adults, and catastrophic risk management.

(E) The HGMP evaluates, minimizes, and accounts for the propagation program's genetic and ecological effects on natural populations, including disease transfer, competition, predation, and genetic introgression caused by the straying of hatchery fish.

(F) The HGMP describes interrelationships and interdependencies with fisheries management. The combination of artificial propagation programs and harvest management must be designed to provide as many benefits and as few biological risks as possible for the listed species. For programs whose purpose is to sustain fisheries, HGMPs must not compromise the ability of FMEPs or other management plans to conserve listed salmonids.

(G) Adequate artificial propagation facilities exist to properly rear progeny of naturally spawned broodstock, to maintain population health and diversity, and to avoid hatchery-influenced selection or domestication.

(H) Adequate monitoring and evaluation exist to detect and evaluate the success of the hatchery program and any risks potentially impairing the recovery of the listed ESU.

(I) The HGMP provides for evaluating monitoring data and making any revisions of assumptions, management strategies, or objectives that data show are needed;

(J) NMFS provides written concurrence of the HGMP which specifies the implementation and reporting requirements. For Federally operated or funded hatcheries, the ESA section 7 consultation will achieve this purpose.

(K) The HGMP is consistent with plans and conditions set within any Federal court proceeding with continuing jurisdiction over tribal harvest allocations.

(ii) The state monitors the amount of take of listed salmonids occurring in its hatchery program and provides to NMFS on a regular basis a report summarizing this information, and the implementation and effectiveness of the HGMP as defined in NMFS' letter of concurrence. The state shall provide NMFS with access to all data and reports prepared concerning the implementation and effectiveness of the HGMP.

(iii) The state confers with NMFS on a regular basis regarding intended collections of listed broodstock to ensure congruity with the approved HGMP.

(iv) Prior to final approval of an HGMP, NMFS will publish notification in the FEDERAL REGISTER announcing its availability for public review and comment for a period of at least 30 days.

(v) NMFS' approval of a plan shall be a written approval by NMFS Southwest or Northwest Regional Administrator, as appropriate.

(vi) On a regular basis, NMFS will evaluate the effectiveness of the HGMP in protecting and achieving a level of salmonid productivity commensurate with the conservation of the listed salmonids. If the HGMP is not effective, the NMFS will identify to the jurisdiction ways in which the program needs to be altered or strengthened. If the responsible agency does not make

changes to respond adequately to the new information, NMFS will publish notification in the FEDERAL REGISTER announcing its intention to withdraw the limit on activities associated with that program. Such an announcement will provide for a comment period of no less than 30 days, after which NMFS will make a final determination whether to withdraw the limit so that take prohibitions, likeall other activity not within a limit, would then apply to that program. A template for developing HGMPs is available from NMFS Northwest Region's website (*www.nwr.noaa.gov*).

(6) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in §223.102 do not apply to actions undertaken in compliance with a resource management plan developed jointly by the States of Washington, Oregon and/or Idaho and the Tribes (joint plan) within the continuing jurisdiction of *United States* v. *Washington* or *United States* v. *Oregon*, the on-going Federal court proceedings to enforce and implement reserved treaty fishing rights, provided that:

(i) The Secretary has determined pursuant to 50 CFR 223.209 and the government-to-government processes therein that implementing and enforcing the joint tribal/state plan will not appreciably reduce the likelihood of survival and recovery of affected threatened ESUs.

(ii) The joint plan will be implemented and enforced within the parameters set forth in *United States* v. *Washington* or *United States* v. *Oregon*.

(iii) In making that determination for a joint plan, the Secretary has taken comment on how any fishery management plan addresses the criteria in §223.203(b)(4), or on how any hatchery and genetic management plan addresses the criteria in §223.203(b)(5).

(iv) The Secretary shall publish notice in the FEDERAL REGISTER of any determination whether or not a joint plan, will appreciably reduce the likelihood of survival and recovery of affected threatened ESUs, together with a discussion of the biological analysis underlying that determination.

(v) On a regular basis, NMFS will evaluate the effectiveness of the joint plan in protecting and achieving a level of salmonid productivity commensurate with conservation of the listed salmonids. If the plan is not effective, then NMFS will identify to the jurisdiction ways in which the joint plan needs to be altered or strengthened. If the responsible agency does not make changes to respond adequately to the new information, NMFS will publish notification in the FEDERAL REGISTER announcing its intention to withdraw the limit on activities associated with that joint plan. Such an announcement will provide for a comment period of no less than 30 days, after which NMFS will make a final determination whether to withdraw the limit so that take prohibitions would then apply to that joint plan as to all other activity not within a limit.

(7) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in §223.102 do not apply to scientific research activities provided that:

(i) Scientific research activities involving purposeful take is conducted by employees or contractors of the ODFW, WDFW (Agencies), IDFG, or CDFG (Agencies), or as a part of a monitoring and research program overseen by or coordinated with that Agency.

(ii) The Agencies provide for NMFS' review and approval a list of all scientific research activities involving direct take planned for the coming year, including an estimate of the total direct take that is anticipated, a description of the study design, including a justification for taking the species and a description of the techniques to be used, and a point of contact.

(iii) The Agencies annually provide to NMFS the results of scientific research activities directed at threatened salmonids, including a report of the direct take resulting from the studies and a summary of the results of such studies.

(iv) Scientific research activities that may incidentally take threatened salmonids are either conducted by

agency personnel, or are in accord with a permit issued by the Agency.

(v) The Agencies provide NMFS annually, for its review and approval, a report listing all scientific research activities it conducts or permits that may incidentally take threatened salmonids during the coming year. Such reports shall also contain the amount of incidental take of threatened salmonids occurring in the previous year's scientific research activities and a summary of the results of such research.

(vi) Electrofishing in any body of water known or suspected to contain threatened salmonids is conducted in accordance with NMFS ''Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act'' (NMFS, 2000a).

(vii) NMFS' approval of a research program shall be a written approval by NMFS Northwest or Southwest Regional Administrator.

(8) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 do not apply to habitat restoration activities, as defined in paragraph (b)(8)(iv) of this section, provided that the activity is part of a watershed conservation plan, and:

(i) The watershed conservation plan has been certified by the State of Washington, Oregon, Idaho, or California (State) to be consistent with the state's watershed conservation plan guidelines.

(ii) The State's watershed conservation plan guidelines have been found by NMFS to provide for plans that:

(A) Take into account the potential severity of direct, indirect, and cumulative impacts of proposed activities in light of the status of affected species and populations.

(B) Will not reduce the likelihood of either survival or recovery of listed species in the wild.

(C) Ensure that any taking will be incidental.

(D) Minimize and mitigate any adverse impacts.

(E) Provide for effective monitoring and adaptive management.

(F) Use the best available science and technology, including watershed analysis.

(G) Provide for public and scientific review and input.

(H) Include any measures that NMFS determines are necessary or appropriate.

(I) Include provisions that clearly identify those activities that are part of plan implementation.

(J) Control risk to listed species by ensuring funding and implementation of the above plan components.

(iii) NMFS will periodically review state certifications of Watershed Conservation Plans to ensure adherence to approved watershed conservation plan guidelines.

(iv) ''Habitat restoration activity'' is defined as an activity whose primary purpose is to restore natural aquatic or riparian habitat conditions or processes. ''Primary purpose'' means the activity would not be undertaken but for its restoration purpose.

(v) Prior to approving watershed conservation plan guidelines under paragraph (b)(8)(ii) of this section, NMFS will publish notification in the FEDERAL REGISTER announcing the availability of the proposed guidelines for public review and comment. Such an announcement will provide for a comment period on the draft guidelines of no less than 30 days.

(9) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 do not apply to the physical diversion of water from a stream or lake, provided that:

(i) NMFS' engineering staff or any resource agency or tribe NMFS designates (authorized officer) has agreed in writing that the diversion facility is screened, maintained, and operated in compliance with Juvenile Fish Screen Criteria, National Marine Fisheries Service, Northwest Region, Revised February 16, 1995, with Addendum of May 9, 1996, or in California with NMFS' Southwest Region ''Fish Screening Criteria for Anadromous Salmonids, January 1997'' or with any subsequent revision.

(ii) The owner or manager of the diversion allows any NMFS engineer or authorized officer access to the diversion facility for purposes of inspection and determination of continued compliance with the criteria.

(iii) On a case by case basis, NMFS or an Authorized Officer will review and approve a juvenile fish screen design and construction plan and schedule that the water diverter proposes for screen installation. The plan and schedule will describe interim operation measures to avoid take of threatened salmonids. NMFS may require a commitment of compensatory mitigation if implementation of the plan and schedule is terminated prior to completion. If the plan and schedule are not met, or if a schedule modification is made that is not approved by NMFS or Authorized Officer, or if the screen installation deviates from the approved design, the water diversion will be subject to take prohibitions and mitigation.

(iv) This limit on the prohibitions of paragraph (a) of this section does not encompass any impacts of reduced flows resulting from the diversion or impacts caused during installation of the diversion device. These impacts are subject to the prohibition on take of listed salmonids.

(10) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 do not apply to routine road maintenance activities provided that:

(i) The activity results from routine road maintenance activity conducted by ODOT employees or agents that complies with ODOT's Transportation Maintenance Management System Water Quality and Habitat Guide (July, 1999); or by employees or agents of a state, county, city or port that complies with a program substantially similar to that contained in the ODOT Guide that is determined to meet or exceed the protections provided by the ODOT Guide; or by employees or agents of a state, county, city or port that complies with a routine road maintenance program that meets proper functioning habitat conditions as described further in subparagraph (ii) following. NMFS' approval of state, city, county, or port programs that are equivalent to the ODOT program, or of any amendments, shall be a written approval by NMFS Northwest or Southwest Regional Administrator, whichever is appropriate. Any jurisdiction desiring its routine road maintenance activities to be within this limit must first commit in writing to apply management practices that result in protections equivalent to or better than those provided by the ODOT Guide, detailing how it will assure adequate training, tracking, and reporting, and describing in detail any dust abatement practices it requests to be covered.

(ii) NMFS finds the routine road maintenance activities of any state, city, county, or port to be consistent with the conservation of listed salmonids' habitat when it contributes, as does the ODOT Guide, to the attainment and maintenance of properly functioning condition (PFC). NMFS defines PFC as the sustained presence of natural habitat-forming processes that are necessary for the long-term survival of salmonids through the full range of environmental variation. Actions that affect salmonid habitat must not impair properly functioning habitat, appreciably reduce the functioning of already impaired habitat, or retard the long-term progress of impaired habitat toward PFC. Periodically, NMFS will evaluate an approved program for its effectiveness in maintaining and achieving habitat function that provides for conservation of the listed salmonids. Whenever warranted, NMFS will identify to the jurisdiction ways in which the program needs to be altered or strengthened. Changes may be identified if the program is not protecting desired habitat functions, or where even with the habitat characteristics and functions originally targeted, habitat is not supporting population productivity levels needed to conserve the ESU. If any jurisdiction within the limit does not make changes to respond adequately to the new information in the shortest amount of time feasible, but not longer than one year, NMFS will publish notification in the FEDERAL REGISTER announcing its intention to withdraw the

limit so that take prohibitions would then apply to the program as to all other activity not within a limit. Such an announcement will provide for a comment period of no less than 30 days, after which NMFS will make a final determination whether to subject the activities to the ESA section 9(a)(1) prohibitions.

(iii) Prior to implementing any changes to a program within this limit the jurisdiction provides NMFS a copy of the proposed change for review and approval as within this limit.

(iv) Prior to approving any state, city, county, or port program as within this limit, or approving any substantive change in a program within this limit, NMFS will publish notification in the FEDERAL REGISTER announcing the availability of the program or the draft changes for public review and comment. Such an announcement will provide for a comment period of not less than 30 days.

(v) Pesticide and herbicide spraying is not included within this limit, even if in accord with the ODOT guidance.

(11) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 do not apply to activities within the City of Portland, Oregon Parks and Recreation Department's (PP&R) Pest Management Program (March 1997), including its Waterways Pest Management Policy updated December 1, 1999, provided that:

(i) Use of only the following chemicals is included within this limit on the take prohibitions: Round Up, Rodeo, Garlon 3A, Surfactant LI–700, Napropamide, Cutrine Plus, and Aquashade.

(ii) Any chemical use is initiated in accord with the priorities and decision processes of the Department's Pest Management Policy, including the Waterways Pest Management Policy, updated December 1, 1999.

(iii) Any chemical use within a 25 ft. (7.5 m) buffer complies with the buffer application constraints contained in PP&R's Waterways Pest Management Policy (update December 1, 1999).

(iv) Prior to implementing any changes to this limit, the PP&R provides NMFS with a copy of the proposed change for review and approval as within this limit.

(v) Prior to approving any substantive change in a program within this limit, NMFS will publish notification in the FEDERAL REGISTER announcing the availability of the program or the draft changes for public review and comment. Such an announcement will provide for a comment period of no less than 30 days.

(vi) NMFS' approval of amendments shall be a written approval by NMFS Northwest Regional Administrator.

(vii) NMFS finds the PP&R Pest Management Program activities to be consistent with the conservation of listed salmonids' habitat by contributing to the attainment and maintenance of properly functioning condition (PFC). NMFS defines PFC as the sustained presence of a watershed's natural habitat-forming processes that are necessary for the long-term survival of salmonids through the full range of environmental variation. Actions that affect salmonid habitat must not impair properly functioning habitat, appreciably reduce the functioning of already impaired habitat, or retard the long-term progress of impaired habitat toward PFC. Periodically, NMFS will evaluate the effectiveness of an approved program in maintaining and achieving habitat function that provides for conservation of the listed salmonids. Whenever warranted, NMFS will identify to the jurisdiction ways in which the program needs to be altered or strengthened. Changes may be identified if the program is not protecting desired habitat functions, or where even with the habitat characteristics and functions originally targeted, habitat is not supporting population productivity levels needed to conserve the ESU. If any jurisdiction within the limit does not make changes to respond adequately to the new information in the shortest amount of time feasible, but not longer than 1 year, NMFS will publish notification in the FEDERAL REGISTER announcing its intention to withdraw the limit so that take prohibitions would then apply to the program as to all other activity not within a limit. Such an announcement will provide for a

comment period of no less than 30 days, after which NMFS will make a final determination whether to subject the activities to the ESA section 9(a)(1) prohibitions.

(12) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 do not apply to municipal, residential, commercial, and industrial (MRCI) development (including redevelopment) activities provided that:

(i) Such development occurs pursuant to city, county, or regional government ordinances or plans that NMFS has determined are adequately protective of listed species; or within the jurisdiction of the Metro regional government in Oregon and pursuant to ordinances that Metro has found comply with its Urban Growth Management Functional Plan (Functional Plan) following a determination by NMFS that the Functional Plan is adequately protective. NMFS approval or determinations about any MRCI development ordinances or plans, including the Functional Plan, shall be a written approval by NMFS Northwest or Southwest Regional Administrator, whichever is appropriate. NMFS will apply the following 12 evaluation considerations when reviewing MRCI development ordinances or plans to assess whether they adequately conserve listed salmonids by maintaining and restoring properly functioning habitat conditions:

(A) MRCI development ordinance or plan ensures that development will avoid inappropriate areas such as unstable slopes, wetlands, areas of high habitat value, and similarly constrained sites.

(B) MRCI development ordinance or plan adequately avoids stormwater discharge impacts to water quality and quantity or to the hydrograph of the watershed, including peak and base flows of perennial streams.

(C) MRCI development ordinance or plan provides adequately protective riparian area management requirements to attain or maintain PFC around all rivers, estuaries, streams, lakes, deepwater habitats, and intermittent streams. Compensatory mitigation is provided, where necessary, to offset unavoidable damage to PFC due to MRCI development impacts to riparian management areas.

(D) MRCI development ordinance or plan avoids stream crossings by roads, utilities, and other linear development wherever possible, and, where crossings must be provided, minimize impacts through choice of mode, sizing, and placement.

(E) MRCI development ordinance or plan adequately protects historical stream meander patterns and channel migration zones and avoids hardening of stream banks and shorelines.

(F) MRCI development ordinance or plan adequately protects wetlands and wetland functions, including isolated wetlands.

(G) MRCI development ordinance or plan adequately preserves the hydrologic capacity of permanent and intermittent streams to pass peak flows.

(H) MRCI development ordinance or plan includes adequate provisions for landscaping with native vegetation to reduce need for watering and application of herbicides, pesticides, and fertilizer.

(I) MRCI development ordinance or plan includes adequate provisions to prevent erosion and sediment run-off during construction.

(J) MRCI development ordinance or plan ensures that water supply demands can be met without impacting flows needed for threatened salmonids either directly or through groundwater withdrawals and that any new water diversions are positioned and screened in a way that prevents injury or death of salmonids.

(K) MRCI development ordinance or plan provides necessary enforcement, funding, reporting, and implementation mechanisms and formal plan evaluations at intervals that do not exceed 5 years.

(L) MRCI development ordinance and plan complies with all other state and Federal environmental and natural resource laws and permits.

(ii) The city, county or regional government provides NMFS with annual reports regarding implementation and

effectiveness of the ordinances, including: any water quality monitoring information the jurisdiction has available; aerial photography (or some other graphic display) of each MRCI development or MRCI expansion area at sufficient detail to demonstrate the width and vegetation condition of riparian set-backs; information to demonstrate the success of stormwater management and other conservation measures; and a summary of any flood damage, maintenance problems, or other issues.

(iii) NMFS finds the MRCI development activity to be consistent with the conservation of listed salmonids' habitat when it contributes to the attainment and maintenance of PFC. NMFS defines PFC as the sustained presence of a watershed's habitat-forming processes that are necessary for the long-term survival of salmonids through the full range of environmental variation. Actions that affect salmonid habitat must not impair properly functioning habitat, appreciably reduce the functioning of already impaired habitat, or retard the long-term progress of impaired habitat toward PFC. Periodically, NMFS will evaluate an approved program for its effectiveness in maintaining and achieving habitat function that provides for conservation of the listed salmonids. Whenever warranted, NMFS will identify to the jurisdiction ways in which the program needs to be altered or strengthened. Changes may be identified if the program is not protecting desired habitat functions, or where even with the habitat characteristics and functions originally targeted, habitat is not supporting population productivity levels needed to conserve the ESU. If any jurisdiction within the limit does not make changes to respond adequately to the new information in the shortest amount of time feasible, but not longer than 1 year, NMFS will publish notification in the FEDERAL REGISTER announcing its intention to withdraw the limit so that take prohibitions would then apply to the program as to all other activity not within a limit. Such an announcement will provide for a comment period of no less than 30 days, after which NMFS will make a final determination whether to subject the activities to the ESA section 9(a)(1) prohibitions.

(iv) Prior to approving any city, county, or regional government ordinances or plans as within this limit, or approving any substantive change in an ordinance or plan within this limit, NMFS will publish notification in the FEDERAL REGISTER announcing the availability of the ordinance or plan or the draft changes for public review and comment. Such an announcement will provide for a comment period of no less than 30 days.

(13) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in § 223.102 do not apply to non-Federal forest management activities conducted in the State of Washington provided that:

(i) The action is in compliance with forest practice regulations adopted and implemented by the Washington Forest Practices Board that NMFS has found are at least as protective of habitat functions as are the regulatory elements of the Forests and Fish Report dated April 29, 1999, and submitted to the Forest Practices Board by a consortium of landowners, tribes, and state and Federal agencies.

(ii) All non-regulatory elements of the Forests and Fish Report are being implemented.

(iii) Actions involving use of herbicides, pesticides, or fungicides are not included within this limit.

(iv) Actions taken under alternative plans are included in this limit provided that the Washington Department of Natural Resources (WDNR) finds that the alternate plans protect physical and biological processes at least as well as the state forest practices rules and provided that NMFS, or any resource agency or tribe NMFS designates, has the opportunity to review the plan at every stage of the development and implementation. A plan may be excluded from this limit if, after such review, WDNR determines that the plan is not likely to adequately protect listed salmon.

(v) Prior to determining that regulations adopted by the Forest Practice Board are at least as protective as the

elements of the Forests and Fish Report, NMFS will publish notification in the FEDERAL REGISTER announcing the availability of the Report and regulations for public review and comment.

(vi) NMFS finds the activities to be consistent with the conservation of listed salmonids' habitat by contributing to the attainment and maintenance of PFC. NMFS defines PFC as the sustained presence of a watershed's natural habitat-forming processes that are necessary for the long-term survival of salmonids through the full range of environmental variation. Actions that affect salmonid habitat must not impair properly functioning habitat, appreciably reduce the functioning of already impaired habitat, or retard the long-term progress of impaired habitat toward PFC. Programs must meet this biological standard in order for NMFS to find they qualify for a habitat-related limit. NMFS uses the best available science to make these determinations. NMFS may review and revise previous findings as new scientific information becomes available. NMFS will evaluate the effectiveness of the program in maintaining and achieving habitat function that provides for conservation of the listed salmonids. If the program is not adequate, NMFS will identify to the jurisdiction ways in which the program needs to be altered or strengthened. Changes may be identified if the program is not protecting desired habitat functions or where even with the habitat characteristics and functions originally targeted, habitat is not supporting population productivity levels needed to conserve the ESU. If Washington does not make changes to respond adequately to the new information, NMFS will publish notification in the FEDERAL REGISTER announcing its intention to withdraw the limit on activities associated with the program. Such an announcement will provide for a comment period of no less than 30 days, after which NMFS will make a final determination whether to subject the activities to the ESA section 9(a)(1) take prohibitions.

(vii) NMFS approval of regulations shall be a written approval by NMFS Northwest Regional Administrator.

(c) *Affirmative Defense.* In connection with any action alleging a violation of the prohibitions of paragraph (a) of this section with respect to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus *Oncorhynchus*) listed in §223.102, any person claiming the benefit of any limit listed in paragraph (b) of this section or §223.204(a) shall have a defense where the person can demonstrate that the limit is applicable and was in force, and that the person fully complied with the limit at the time of the alleged violation. This defense is an affirmative defense that must be raised, pleaded, and proven by the proponent. If proven, this defense will be an absolute defense to liability under section 9(a)(1)(G) of the ESA with respect to the alleged violation.

(d) *Severability.* The provisions of this section and the various applications thereof are distinct and severable from one another. If any provision or the application thereof to any person or circumstances is stayed or determined to be invalid, such stay or invalidity shall not affect other provisions, or the application of such provisions to other persons or circumstances, which can be given effect without the stayed or invalid provision or application.

APPENDIX A TO §223.203—LIST OF GUIDANCE DOCUMENTS

The following is a list of documents cited in the regulatory text. Copies of these documents may be obtained upon request from the Northwest or Southwest Regional Administrators (see Table 1 in §600.502 of this title).

1. Oregon Department of Transportation (ODOT) Maintenance Management System Water Quality and Habitat Guide (July, 1999).

2. Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act.

3. Fish Screening Criteria for Anadromous Salmonids, National Marine Fisheries Service, Southwest Region, 1997.

4. Viable Salmonid Populations and the Recovery of Evolutionarily Significant Units. (June 2000).

[65 FR 42475, July 10, 2000, as amended at 67 FR 1129, Jan. 9, 2002; 67 FR 68725, Nov. 12, 2002; 70 FR 37202, 37203, June 28, 2005; 71 FR 5180, Feb. 1, 2006; 73 FR 7843, Feb. 11, 2008; 73 FR 55455, Sept. 25, 2008; 76 FR 12293, Mar. 7, 2011; 79 FR 20812, Apr. 14, 2014]

§ 223.204 Tribal plans.

(a) *Limits on the prohibitions.* The prohibitions of § 223.203(a) of this subpart relating to threatened species of salmonids listed in § 223.102 do not apply to any activity undertaken by a tribe, tribal member, tribal permittee, tribal employee, or tribal agent in compliance with a tribal resource management plan (Tribal Plan), provided that the Secretary determines that implementation of such Tribal Plan will not appreciably reduce the likelihood of survival and recovery of the listed salmonids. In making that determination the Secretary shall use the best available biological data (including any tribal data and analysis) to determine the Tribal Plan's impact on the biological requirements of the species, and will assess the effect of the Tribal Plan on survival and recovery, consistent with legally enforceable tribal rights and with the Secretary's trust responsibilities to tribes.

(b) *Consideration of a Tribal Plan.* (1) A Tribal Plan may include but is not limited to plans that address fishery harvest, artificial production, research, or water or land management, and may be developed by one tribe or jointly with other tribes. The Secretary will consult on a government-to-government basis with any tribe that so requests and will provide to the maximum extent practicable technical assistance in examining impacts on listed salmonids and other salmonids as tribes develop tribal resource management plans that meet the management responsibilities and needs of the tribes. A Tribal Plan must specify the procedures by which the tribe will enforce its provisions.

(2) Where there exists a Federal court proceeding with continuing jurisdiction over the subject matter of a Tribal Plan, the plan may be developed and implemented within the ongoing Federal Court proceeding. In such circumstances, compliance with the Tribal Plan's terms shall be determined within that Federal Court proceeding.

(3) The Secretary shall seek comment from the public on the Secretary's pending determination whether or not implementation of a Tribal Plan will appreciably reduce the likelihood of survival and recovery of the listed salmonids.

(4) The Secretary shall publish notification in the FEDERAL REGISTER of any determination regarding a Tribal Plan and the basis for that determination.

[65 FR 42485, July 10, 2000. Redesignated at 70 FR 37203, June 28, 2005]

§ 223.205 Sea turtles.

(a) The prohibitions of section 9 of the Act (16 U.S.C. 1538) relating to endangered species apply to threatened species of sea turtle, except as provided in § 223.206.

(b) Except as provided in § 223.206, it is unlawful for any person subject to the jurisdiction of the United States to do any of the following:

(1) Own, operate, or be on board a vessel, except if that vessel is in compliance with all applicable provisions of § 223.206(d);

(2) Fish for, catch, take, harvest, or possess, fish or wildlife while on board a vessel, except if that vessel is in compliance with all applicable provisions of § 223.206(d);

(3) Fish for, catch, take, harvest, or possess, fish or wildlife contrary to any notice of tow-time or other restriction specified in, or issued under, § 223.206(d)(3) or (d)(4);

(4) Possess fish or wildlife taken in violation of paragraph (b) of this section;

(5) Fail to follow any of the sea turtle handling and resuscitation requirements specified in § 223.206(d)(1);

(6) Possess a sea turtle in any manner contrary to the handling and resuscitation requirements of § 223.206(d)(1);

(7) Fail to comply immediately, in the manner specified at § 600.730 (b) through (d) of this Title, with instructions and signals specified therein issued by an authorized officer, including instructions and signals to haul back a net for inspection;

(8) Refuse to allow an authorized officer to board a vessel, or to enter an area where fish or wildlife may be found, for the purpose of conducting a boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(9) Destroy, stave, damage, or dispose of in any manner, fish or wildlife, gear, cargo, or any other matter after a communication or signal from an authorized officer, or upon the approach of

such an officer or of an enforcement vessel or aircraft, before the officer has an opportunity to inspect same, or in contravention of directions from the officer;

(10) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere with an authorized officer in the conduct of any boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(11) Interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person committed an act prohibited by this section;

(12) Resist a lawful arrest for an act prohibited by this section;

(13) Make a false statement, oral or written, to an authorized officer or to the agency concerning the fishing for, catching, taking, harvesting, landing, purchasing, selling, or transferring fish or wildlife, or concerning any other matter subject to investigation under this section by such officer, or required to be submitted under this part 223;

(14) Sell, barter, trade or offer to sell, barter, or trade, a TED that is not an approved TED;

(15) Fail to comply with the restrictions set forth in § 223.206(d)(10) regarding pound net leaders;

(16) Set, use, or fail to remove a pound net leader in Pound Net Regulated Area I or Pound Net Regulated Area II at any time from May 6 through July 15 that does not meet the leader construction specifications described in 50 CFR 223.206(d)(10) and 50 CFR 222.102;

(17) Set, fish with, or fail to remove a modified pound net leader in Pound Net Regulated Area I or Pound Net Regulated Area II defined in 50 CFR 222.102 and referenced in 50 CFR 223.206(d)(10) at any time from May 6 through July 15 unless the pound net licensee and the vessel operator meet the modified pound net leader compliance training requirements in accordance with § 223.206(d)(10)(vii).

(18) Alter or replace any portion of a modified pound net leader so that the altered or replaced portion no longer meets the modified pound net leader definition in 50 CFR 222.102, unless that alteration or replacement occurs outside the regulated period of May 6 through July 15.

(19) Set, fish with, or fail to remove a modified pound net leader at any time from May 6 through July 15 in Pound Net Regulated Area I or Pound Net Regulated Area II unless the fisherman has on board the vessel a valid modified pound net leader compliance training certificate issued by NMFS.

(20) Set, fish with, or fail to remove pound net gear in Pound Net Regulated Area I or Pound Net Regulated Area II, unless it has the all three continuous sections as defined in 50 CFR 222.102, except that one or more sections may be missing for a maximum period of 10 days for purposes of setting, removing, and/or repairing pound nets.

(21) Fail to comply with the restrictions set forth in § 223.206(d)(11) regarding sea scallop dredges; or

(22) Attempt to do, solicit another to do, or cause to be done, any of the foregoing.

(c) In connection with any action alleging a violation of this section, any person claiming the benefit of any exemption, exception, or permit under this subpart B has the burden of proving that the exemption, exception, or permit is applicable, was granted, and was valid and in force at the time of the alleged violation. Further, any person claiming that a modification made to a TED that is the subject of such an action complies with the requirements of § 223.207 (c) or (d) has the burden of proving such claim.

[64 FR 14069, Mar. 23, 1999, as amended at 67 FR 41203, June 17, 2002; 69 FR 25012, May 5, 2004; 71 FR 50372, Aug. 25, 2006; 73 FR 68354, Nov. 18, 2008; 80 FR 6928, Feb. 9, 2015]

§ 223.206 Exceptions to prohibitions relating to sea turtles.

(a) *Permits*—(1) *Scientific research, education, zoological exhibition, or species enhancement permits.* The Assistant Administrator may issue permits authorizing activities which would otherwise be prohibited under § 223.205(a) for scientific or educational purposes, for zoological exhibition, or to enhance the propagation or survival of threatened species of sea turtles, in accordance with and subject to the conditions of part 222, subpart C—General Permit Procedures.

(2) *Incidental-take permits.* The Assistant Administrator may issue permits authorizing activities that would otherwise be prohibited under § 223.205(a) in accordance with section 10(a)(1)(B) of the Act (16 U.S.C. 1539(a)(1)(B)), and in accordance with, and subject to, the implementing regulations in part 222 of this chapter. Such permits may be issued for the incidental taking of threatened and endangered species of sea turtles.

(b) *Exception for injured, dead, or stranded specimens.* If any member of any threatened species of sea turtle is found injured, dead, or stranded, any agent or employee of the National Marine Fisheries Service, the Fish and Wildlife Service, the U.S. Coast Guard, or any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife who is designated by his or her agency for such purposes, may, when acting in the course of his or her official duties, take such specimens without a permit if such taking is necessary to aid a sick, injured, or stranded specimen or dispose of a dead specimen or salvage a dead specimen which may be useful for scientific study. Whenever possible, live specimens shall be returned to their aquatic environment as soon as possible. Every action shall be reported in writing to the Assistant Administrator within 30 days, and reports of further occurrence shall be made as deemed appropriate by the Assistant Administrator until the specimen is either returned to its environment or disposed of. Reports shall be mailed by registered or certified mail, return receipt requested, to the Assistant Administrator and shall contain the following information:

(1) Name and position of the official or employee involved;

(2) Description of the specimen(s) involved;

(3) Date and location of disposal;

(4) Circumstances requiring the action;

(5) Method of disposal;

(6) Disposition of the specimen(s), including, where the specimen(s) has been retained in captivity, a description of the place and means of confinement, and the measures taken for its maintenance and care; and

(7) Such other information as the Assistant Administrator may require.

(c) *Exception for research or conservation.* Any employee or agent of the National Marine Fisheries Service, the Fish and Wildlife Service, or a state fish and wildlife agency operating a conservation program pursuant to the terms of a Cooperative Agreement with the National Marine Fisheries Service or the Fish and Wildlife Service in accordance with section 6(c) of the Act, designated by his or her agency for such purposes, may, when acting in the course of his or her official duties, take any threatened species to carry out scientific research or conservation programs. All such takings shall be reported within 30 days of the taking to the Assistant Administrator who may request additional reports of the taking and research at the Assistant Administrator's discretion.

(d) *Exception for incidental taking.* The prohibitions against taking in § 223.205(a) do not apply to the incidental take of any member of a threatened species of sea turtle (i.e., a take not directed towards such member) during fishing or scientific research activities, to the extent that those involved are in compliance with all applicable requirements of paragraphs (d)(1) through (d)(11) of this section, or in compliance with the terms and conditions of an incidental take permit issued pursuant to paragraph (a)(2) of this section.

(1) *Handling and resuscitation requirements.* (i) Any specimen taken incidentally during the course of fishing or scientific research activities must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

(A) Sea turtles that are actively moving or determined to be dead as described in paragraph (d)(1)(i)(C) of this section must be released over the stern of the boat. In addition, they must be released only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

(B) Resuscitation must be attempted on sea turtles that are comatose, or inactive, as determined in paragraph (d)(1) of this section, by:

(*1*) Placing the turtle on its bottom shell (plastron) so that the turtle is right side up and elevating its hindquarters at least 6 inches (15.2 cm) for a period of 4 up to 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Periodically, rock the turtle gently left to right and right to left by holding the outer edge of the shell (carapace) and lifting one side about 3 inches (7.6 cm) then alternate to the other side. Gently touch the eye and pinch the tail (reflex test) periodically to see if there is a response.

(*2*) Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance be placed into a container holding water. A water-soaked towel placed over the head, carapace, and flippers is the most effective method in keeping a turtle moist.

(*3*) Sea turtles that revive and become active must be released over the stern of the boat only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Sea turtles that fail to respond to the reflex test or fail to move within 4 hours (up to 24, if possible) must be returned to the water in the same manner as that for actively moving turtles.

(C) A turtle is determined to be dead if the muscles are stiff (rigor mortis) and/or the flesh has begun to rot; otherwise the turtle is determined to be comatose or inactive and resuscitation attempts are necessary.

(ii) In addition to the provisions of paragraph (d)(1)(i) of this section, a person aboard a vessel in the Atlantic, including the Caribbean Sea and the Gulf of Mexico, that has pelagic or bottom longline gear on board and that has been issued, or is required to have, a limited access permit for highly migratory species under §635.4 of this title, must comply with the handling and release requirements specified in §635.21 of this title.

(iii) Any specimen taken incidentally during the course of fishing or scientific research activities must not be consumed, sold, landed, offloaded, transshipped, or kept below deck.

(2) *Gear requirements for trawlers*—(i) *TED requirement for shrimp trawlers.* Any shrimp trawler that is in the Atlantic Area or Gulf Area must have an approved TED installed in each net that is rigged for fishing. A net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the shrimp trawler. Exceptions to the TED requirement for shrimp trawlers are provided in paragraph (d)(2)(ii) of this section.

(ii) *Exemptions from the TED requirement*—(A) *Alternative tow-time restrictions.* A shrimp trawler is exempt from the TED requirements of paragraph (d)(2)(i) of this section if it complies with the alternative tow-time restrictions in paragraph (d)(3)(i) of this section and if it:

(*1*) Has on board no power or mechanical-advantage trawl retrieval system (i.e., any device used to haul any part of the net aboard);

(*2*) Is a bait shrimper that retains all live shrimp on board with a circulating seawater system, if it does not possess more than 32 lb. (14.5 kg) of dead shrimp on board, if it has a valid original state bait-shrimp license, and if the state license allows the licensed vessel to participate in the bait shrimp fishery exclusively;

(*3*) Has only a pusher-head trawl, skimmer trawl, or wing net rigged for fishing;

(*4*) Is in an area during a period for which tow-time restrictions apply under paragraphs (d)(3)(ii) or (iii) of this section, if it complies with all applicable provisions imposed under those paragraphs; or

(*5*) Is using a single test net (try net) with a headrope length of 12 ft (3.6 m) or less and with a footrope length of 15 ft (4.6 m) or less, if it is pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net, in which case the exemption

under this paragraph (d)(2)(ii)(A) applies to the test net.

(B) *Exempted gear or activities.* The following fishing gear or activities are exempted from the TED requirements of paragraph (d)(2)(i) of this section:

(*1*) A beam or roller trawl, if the frame is outfitted with rigid vertical bars, and if none of the spaces between the bars, or between the bars and the frame, exceeds 4 inches (10.2 cm); and

(*2*) A shrimp trawler fishing for, or possessing, royal red shrimp, if royal red shrimp constitutes at least 90 percent (by weight) of all shrimp either found on board, or offloaded from that shrimp trawler.

(iii) *Gear requirement—summer flounder trawlers*—(A) *TED requirement.* (*1*) Any summer flounder trawler in the summer flounder fishery-sea turtle protection area must have an approved TED installed in each net that is rigged for fishing. A net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the summer flounder trawler. Exceptions to the TED requirement for summer flounder trawlers are provided in paragraph (d)(2)(iii)(B) of this section.

(*2*) Any approved hard TED or special hard TED installed in a summer flounder trawl must be installed in a TED extension. The TED extension is a cylindrical piece of webbing distinct from the main trawl's body, wings, codend, and any other net extension(s). The TED extension must be constructed of webbing no larger than 3.5 inch (8.9 cm) stretched mesh. The TED extension must extend at least 24 inches (61.0 cm) but not more than 36 inches (91.4 cm) forward of the leading edge of the TED and aft of the trailing edge of the grid.

(B) *Exemptions from the TED requirement.* Any summer flounder trawler north of 35°46.1′ N. lat. (Oregon Inlet, NC) from January 15 through March 15 annually is exempt from the TED requirement of paragraph (d)(2)(iii)(A) of this section, unless the Assistant Administrator determines that TED use is necessary to protect sea turtles or ensure compliance, pursuant to the procedures of paragraph (d)(4) of this section.

(C) *Monitoring.* Summer flounder trawlers must carry onboard a NMFS-approved observer if requested by the Southeast Regional Administrator or the Northeast Regional Administrator. A written notification will be sent to the address specified for the vessel in either the NMFS or state fishing permit application, or to the address specified for registration or documentation purposes, or upon written notification otherwise served on the owner or operator of the vessel. Owners and operators must comply with the terms and conditions specified in such written notification. All NMFS-approved observers will report any violations of this section, or other applicable regulations and laws. Information collected by observers may be used for enforcement purposes.

(D) *Additional sea turtle conservation measures.* The Assistant Administrator may impose other such restrictions upon summer flounder trawlers as the Assistant Administrator deems necessary or appropriate to protect sea turtles and ensure compliance, pursuant to the procedures of paragraph (d)(4) of this section. Such measures may include, but are not limited to, a requirement to use TEDs in areas other than summer flounder fishery-sea turtle protection area, a requirement to use limited tow-times, and closure of the fishery.

(3) *Tow-time restrictions*—(i) *Duration of tows.* If tow-time restrictions are utilized pursuant to paragraph (d)(2)(ii), (d)(3)(ii), or (d)(3)(iii) of this section, a shrimp trawler must limit tow times. The tow time is measured from the time that the trawl door enters the water until it is removed from the water. For a trawl that is not attached to a door, the tow time is measured from the time the codend enters the water until it is removed from the water. Tow times may not exceed:

(A) 55 minutes from April 1 through October 31; and

(B) 75 minutes from November 1 through March 31.

(ii) *Alternative—special environmental conditions.* The Assistant Administrator may allow compliance with tow-time restrictions, as an alternative to

the TED requirement of paragraph (d)(2)(i) of this section, if the Assistant Administrator determines that the presence of algae, seaweed, debris or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable.

(iii) *Substitute—ineffectiveness of TEDs.* The Assistant Administrator may require compliance with tow-time restrictions, as a substitute for the TED requirement of paragraph (d)(2)(i) of this section, if the Assistant Administrator determines that TEDs are ineffective in protecting sea turtles.

(iv) *Notice; applicability; conditions.* The Assistant Administrator will publish notification concerning any tow-time restriction imposed under paragraph (d)(3)(ii) or (iii) of this section in the FEDERAL REGISTER and will announce it in summary form on channel 16 of the marine VHF radio. A notification of tow-time restrictions will include findings in support of these restrictions as an alternative to, or as substitute for, the TED requirements. The notification will specify the effective dates, the geographic area where tow-time restrictions apply, and any applicable conditions or restrictions that the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance, including, but not limited to, a requirement to carry observers, to register vessels in accordance with procedures at paragraph (d)(5) of this section, or for all shrimp trawlers in the area to synchronize their tow times so that all trawl gear remains out of the water during certain times. A notification withdrawing tow-time restrictions will include findings in support of that action.

(v) *Procedures.* The Assistant Administrator will consult with the appropriate fishery officials (state or Federal) where the affected shrimp fishery is located in issuing a notification concerning tow-time restrictions. An emergency notification can be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each if the Assistant Administrator finds that the conditions necessitating the imposition of tow-time restrictions continue to exist. The Assistant Administrator may invite comments on such an action, and may withdraw or modify the action by following procedures similar to those for implementation. The Assistant Administrator will implement any permanent tow-time restriction through rulemaking.

(4) *Limitations on incidental takings during fishing activities*—(i) *Limitations.* The exemption for incidental takings of sea turtles in paragraph (d) of this section does not authorize incidental takings during fishing activities if the takings:

(A) Would violate the restrictions, terms, or conditions of an incidental take statement or biological opinion;

(B) Would violate the restrictions, terms, or conditions of an incidental take permit; or

(C) May be likely to jeopardize the continued existence of a species listed under the Act.

(ii) *Determination; restrictions on fishing activities.* The Assistant Administrator may issue a determination that incidental takings during fishing activities are unauthorized. Pursuant thereto, the Assistant Administrator may restrict fishing activities in order to conserve a species listed under the Act, including, but not limited to, restrictions on the fishing activities of vessels subject to paragraph (d)(2) of this section. The Assistant Administrator will take such action if the Assistant Administrator determines that restrictions are necessary to avoid unauthorized takings that may be likely to jeopardize the continued existence of a listed species. The Assistant Administrator may withdraw or modify a determination concerning unauthorized takings or any restriction on fishing activities if the Assistant Administrator determines that such action is warranted.

(iii) *Notice; applicability; conditions.* The Assistant Administrator will publish a notification of a determination concerning unauthorized takings or a notification concerning the restriction of fishing activities in the FEDERAL REGISTER. The Assistant Administrator will provide as much advance notice as possible, consistent with the requirements of the Act, and will announce the notification in summary form on channel 16 of the marine VHF radio.

Notification of a determination concerning unauthorized takings will include findings in support of that determination; specify the fishery, including the target species and gear used by the fishery, the area, and the times, for which incidental takings are not authorized; and include such other conditions and restrictions as the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance. Notification of restriction of fishing activities will include findings in support of the restriction, will specify the time and area where the restriction is applicable, and will specify any applicable conditions or restrictions that the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance. Such conditions and restrictions may include, but are not limited to, limitations on the types of fishing gear that may be used, tow-time restrictions, alteration or extension of the periods of time during which particular tow-time requirements apply, requirements to use TEDs, registration of vessels in accordance with procedures at paragraph (d)(5) of this section, and requirements to provide observers. Notification of withdrawal or modification will include findings in support of that action.

(iv) *Procedures.* The Assistant Administrator will consult with the appropriate fisheries officials (state or Federal) where the fishing activities are located in issuing notification of a determination concerning unauthorized takings or notification concerning the restriction of fishing activities. An emergency notification will be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each, except that emergency placement of observers will be effective for a period of up to 180 days and may be renewed for an additional period of 60 days. The Assistant Administrator may invite comments on such action, and may withdraw or modify the action by following procedures similar to those for implementation. The Assistant Administrator will implement any permanent determination or restriction through rulemaking.

(5)–(6) [Reserved]

(7) Restrictions applicable to gillnet fisheries in North Carolina. No person may fish with gillnet fishing gear which has a stretched mesh size larger than 4 ¼ inches (10.8 cm), annually from September 1 through December 15, in the inshore waters of Pamlico Sound, North Carolina, and all contiguous tidal waters, bounded on the north by 35°46.3′ N. lat., on the south by 35°00′ N. lat., and on the west by 76°30′ W. long.

(8) *Restrictions applicable to large mesh gillnet fisheries in the mid-Atlantic region.* No person may fish with or possess on board a boat, any gillnet with a stretched mesh size 7–inches (17.8 cm) or larger, unless such gillnets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or the rail, and all buoys larger than 6–inches (15.2 cm) in diameter, high flyers, and anchors are disconnected. This restriction applies in the Atlantic Exclusive Economic Zone (as defined in 50 CFR 600.10) during the following time periods and in the following area:

(i) Waters north of 33°51.0′ N. (North Carolina/South Carolina border at the coast) and south of 35°46.0′ N. (Oregon Inlet) at any time;

(ii) Waters north of 35°46.0′ N. (Oregon Inlet) and south of 3°22.5′ N. (Currituck Beach Light, NC) from March 16 through January 14;

(iii) Waters north of 36°22.5′ N. (Currituck Beach Light, NC) and south of 37°34.6′ N. (Wachapreague Inlet, VA) from April 1 through January 14; and

(iv) Waters north of 37°34.6′ N. (Wachapreague Inlet, VA) and south of 37°56.0′ N. (Chincoteague, VA) from April 16 through January 14.

(9) *Restrictions applicable to Pacific pelagic longline vessels.* In addition to the general prohibitions specified in § 600.725 of chapter VI of this title, it is unlawful for any person who is not operating under a western Pacific longline permit under § 665.801 of this title to do any of the following on the high seas of the Pacific Ocean east of 150° W. long. and north of the Equator (0° N. lat.):

(i) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear.

(ii) Possess a light stick on board a longline vessel. A light stick as used in this paragraph is any type of light emitting device, including any fluorescent *glow bead*, chemical, or electrically powered light that is affixed underwater to the longline gear.

(iii) An operator of a longline vessel subject to this section may land or possess no more than 10 swordfish from a fishing trip where any part of the trip included fishing east of 150° W. long. and north of the equator (0° N. lat.).

(iv) Fail to employ basket-style longline gear such that the mainline is deployed slack when fishing.

(v) When a conventional monofilament longline is deployed by a vessel, no fewer than 15 branch lines may be set between any two floats. Vessel operators using basket-style longline gear must set a minimum of 10 branch lines between any 2 floats.

(vi) Longline gear must be deployed such that the deepest point of the main longline between any two floats, i.e., the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.

(10) *Restrictions applicable to pound nets in Virginia*—(i) *Offshore pound net leaders in Pound Net Regulated Area I.* During the time period of May 6 through July 15 each year, any offshore pound net leader in Pound Net Regulated Area I must meet the definition of a modified pound net leader. Any offshore pound net leader in Pound Net Regulated Area I that does not meet the definition of a modified pound net leader must be removed from the water prior to May 6 and may not be reset until July 16.

(ii) *Nearshore pound net leaders in Pound Net Regulated Area I and all pound net leaders in Pound Net Regulated Area II.* During the time period of May 6 to July 15 each year, any nearshore pound net leader in Pound Net Regulated Area I and any pound net leader in Pound Net Regulated Area II must have only mesh size less than 12 inches (30.5 cm) stretched mesh and may not employ stringers. Any nearshore pound net leader in Pound Net Regulated Area I or any pound net leader in Pound Net Regulated Area II with stretched mesh measuring 12 inches (30.5 cm) or greater, or with stringers, must be removed from the water prior to May 6 and may not be reset until July 16. A pound net leader is exempt from these measures only if it meets the definition of a modified pound net leader.

(iii) *Protocol for measuring mesh size.* This protocol applies to measuring mesh size in leaders described in 50 CFR 223.206(d)(10)(i) and 223.206(d)(10)(ii). Mesh sizes are measured by a wedge-shaped gauge having a taper of 0.79 in. (2 cm) in 3.15 in. (8 cm) and a thickness of 0.09 in. (2.3 mm) inserted into the meshes under a pressure or pull of 11.02 lb. (5 kg). The mesh size is the average of the measurement of any series of 20 consecutive meshes. The mesh in the leader is measured at or near the horizontal and vertical center of a leader panel.

(iv) *Reporting requirement.* At any time during the year, if a sea turtle is taken live and uninjured in a pound net operation, the operator of the vessel must report the incident to the NMFS Northeast Regional Office, (978) 281–9328 or fax (978) 281–9394, within 24 hours of returning from the trip in which the incidental take was discovered. The report shall include a description of the sea turtles condition at the time of release and the measures taken as required in paragraph (d)(1) of this section. At any time during the year, if a sea turtle is taken in a pound net operation, and is determined to be injured, or if a turtle is captured dead, the operator of the vessel shall immediately notify NMFS Northeast Regional Office and the appropriate rehabilitation or stranding network, as determined by NMFS Northeast Regional Office.

(v) *Monitoring.* Owners or operators of pound net fishing operations must allow access to the pound net gear so it may be observed by a NMFS-approved observer if requested by the Northeast Regional Administrator. All NMFS-approved observers will report any violations of this section, or other applicable regulations and laws. Information collected by observers may be used for law enforcement purposes.

(vi) *Expedited modification of restrictions and effective dates.* From May 6 to July 15 of each year, if NMFS receives

information that one sea turtle is entangled alive or that one sea turtle is entangled dead, and NMFS determines that the entanglement contributed to its death, in pound net leaders that are in compliance with the restrictions described in paragraph (d)(10)(ii) of this section, NMFS may issue a final rule modifying the restrictions on pound net leaders as necessary to protect threatened sea turtles. Such modifications may include, but are not limited to, reducing the maximum allowable mesh size of pound net leaders and prohibiting the use of pound net leaders regardless of mesh size. In addition, if information indicates that a significant level of sea turtle entanglements, impingements or strandings will likely continue beyond July 15, NMFS may issue a final rule extending the effective date of the restrictions, including any additional restrictions imposed under this paragraph (d)(10)(vi), for an additional 15 days, but not beyond July 30, to protect threatened sea turtles.

(vii) *Modified pound net leader compliance training.* Any pound net licensee and any vessel operator who have modified pound net leaders set in Pound Net Regulated Area I or Pound Net Regulated Area II at any time from May 6 through July 15 must have completed modified pound net leader compliance training and possess on board the vessel a valid modified pound net leader compliance training certificate issued by NMFS. NMFS retains discretion to provide exemptions in limited circumstances where appropriate. Notice will be given by NMFS announcing the times and locations of modified pound net leader compliance training.

(11) *Restrictions applicable to sea scallop dredges in the mid-Atlantic*—(i) *Gear Modification.* During the time period of May 1 through November 30, any vessel with a sea scallop dredge and required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, that enters waters west of 71° W. long., from the shoreline to the outer boundary of the Exclusive Economic Zone must have on each dredge a chain mat described as follows. The chain mat must be composed of horizontal (''tickler'') chains and vertical (''up-and-down'') chains that are configured such that the openings formed by the intersecting chains have no more than four sides. The vertical and horizontal chains must be hung to cover the opening of the dredge bag such that the vertical chains extend from the back of the cutting bar to the sweep. The horizontal chains must intersect the vertical chains such that the length of each side of the openings formed by the intersecting chains is less than or equal to 14 inches (35.5 cm) with the exception of the side of any individual opening created by the sweep. The chains must be connected to each other with a shackle or link at each intersection point. The measurement must be taken along the chain, with the chain held taut, and include one shackle or link at the intersection point and all links in the chain up to, but excluding, the shackle or link at the other intersection point.

(ii) Any vessel that enters the waters described in paragraph (d)(11)(i) of this section and that is required to have a Federal Atlantic sea scallop fishery permit must have the chain mat configuration installed on all dredges for the duration of the trip.

(iii) Vessels subject to the requirements in paragraphs (d)(11)(i) and (ii) of this section transiting waters west of 71° W. long., from the shoreline to the outer boundary of the Exclusive Economic Zone, will be exempted from the chain-mat requirements provided the dredge gear is not available for immediate use as defined by § 648.2 of this title and there are no scallops onboard.

[64 FR 14070, Mar. 23, 1999]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 223.206, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

EFFECTIVE DATE NOTES: 1. At 64 FR 14070, Mar. 23, 1999, newly redesignated § 223.206 was revised. Paragraph (d)(5) contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

2. At 67 FR 41203, June 17, 2002, § 223.206 was amended by adding paragraph (d)(2)(v). Paragraph (d)(2)(v)(C) contains information collection and recordkeeping requirements and will not become effective until approval has

been given by the Office of Management and Budget.

§ 223.207 Approved TEDs.

Any netting, webbing, or mesh that may be measured to determine compliance with this section is subject to measurement, regardless of whether it is wet or dry. Any such measurement will be of the stretched mesh size.

(a) *Hard TEDs.* Hard TEDs are TEDs with rigid deflector grids and are categorized as ''hooped hard TEDs'' and ''single-grid hard TEDs'' such as the Matagorda and Georgia TED (Figures 3 & 4 to this part). Hard TEDs complying with the following generic design criteria are approved TEDs:

(1) *Construction materials*—(i) *Single-grid and inshore hooped hard TED.* A single-grid hard TED or an inshore hooped hard TED must be constructed of one or a combination of the following materials, unless otherwise specifically restricted below, with minimum dimensions as follows:

(A) Solid steel rod with a minimum outside diameter of ¼ inch (0.64 cm);

(B) Fiberglass or aluminum rod with a minimum outside diameter of ½ inch (1.27 cm); or

(C) Steel or aluminum round, oval, or rectangular tubing with a minimum outside diameter or width of ½ inch (1.27 cm) and a minimum wall thickness of ⅛ inch (0.32 cm; also known as schedule 40 tubing).

(D) Steel or aluminum flat bar with dimensions no less than ¼ inch (0.64 cm) in thickness by 1½ inches (3.85 cm) in depth. For flat bar less than ⅜ inch (0.95 cm) in thickness, a horizontal brace bar to reinforce the deflector bars must be permanently attached to the frame and the rear face of each of the deflector bars within 4 inches (10.2 cm) of the midpoint of the TED frame. The horizontal brace bar must be constructed of approved material consistent with paragraph (a)(1)(i) of this section. The horizontal brace bar may be offset behind the deflector bars, using spacer bars, not to exceed 5 inches (12.7 cm) in length and constructed of the same size or larger flat bar as the deflector bars.

(ii) *Offshore hooped hard TED.* An offshore hooped hard TED must be constructed of aluminum, with minimum dimensions as follows:

(A) Solid rod with a minimum outside diameter of ⅝ inch (1.59 cm); or

(B) Tubing with a minimum outside diameter of 1 inch (2.54 cm) and a minimum wall thickness of ⅛ inch (0.32 cm).

(2) *Method of attachment.* A hard TED must be sewn into the trawl around the entire circumference of the TED with heavy twine.

(3) *Angle of deflector bars.* (i) The angle of the deflector bars must be between 30° and 55° from the normal, horizontal flow through the interior of the trawl, except as provided in paragraph (a)(3)(ii) of this section.

(ii) For any shrimp trawler fishing in the Gulf SFSTCA or the Atlantic SFSTCA, a hard TED with the position of the escape opening at the bottom of the net when the net is in its deployed position, the angle of the deflector bars from the normal, horizontal flow through the interior of the trawl, at any point, must not exceed 55°, and the angle of the bottom-most 4 inches (10.2 cm) of each deflector bar, measured along the bars, must not exceed 45° (Figures 14a and 14b to this part).

(4) *Space between bars.* The space between deflector bars and the deflector bars and the TED frame must not exceed 4 inches (10.2 cm).

(5) *Direction of bars.* The deflector bars must run from top to bottom of the TED, as the TED is positioned in the net, except that up to four of the bottom bars and two of the top bars, including the frame, may run from side to side of the TED. The deflector bars must be permanently attached to the TED frame or to the horizontal bars, if used, at both ends.

(6) *Position of the escape opening.* The escape opening must be made by removing a rectangular section of webbing from the trawl, except for a TED with an escape opening size described at paragraph (a)(7)(ii)(A) for which the escape opening may alternatively be made by making a horizontal cut along the same plane as the TED. The escape opening must be centered on and immediately forward of the frame at either the top or bottom of the net when the net is in the deployed position. The escape opening must be at the top of

the net when the slope of the deflector bars from forward to aft is upward, and must be at the bottom when such slope is downward. The passage from the mouth of the trawl through the escape opening must be completely clear of any obstruction or modification, other than those specified in paragraph (d) of this section.

(7) *Size of escape opening*—(i) *Hooped hard TEDs*—(A) *Escape opening for inshore hooped hard TED*. The inshore hooped hard TED escape opening must have a horizontal measurement of no less than 35 inches (89 cm) wide and a forward measurement of no less than 27 inches (69 cm). A hinged door frame may be used to partially cover the escape opening as provided in paragraph (d)(7) of this section. Alternatively, a webbing flap may be used as provided in paragraph (d)(3)(i) of this section. The resultant opening with a webbing flap must be a minimum width of 35 inches (89 cm) and a minimum height of 20 inches (51 cm), with each measurement taken simultaneously. This opening may only be used in inshore waters, except it may not be used in the inshore waters of Georgia and South Carolina.

(B) *Escape opening for offshore hooped hard TED*. The offshore hooped hard TED escape opening must have a horizontal measurement of no less than 40 inches (102 cm) wide and a forward measurement of no less than 35 inches (89 cm). A hinged door frame may be used to partially cover the escape opening as provided in paragraph (d)(7) of this section. Alternatively, a webbing flap may be used as provided in paragraph (d)(3)(ii) of this section. The resultant escape opening with a webbing flap must have a stretched mesh circumference of no less than 142 inches (361 cm).

(ii) *Single-grid hard TEDs*. On a single-grid hard TED, the horizontal cut(s) for the escape opening may not be narrower than the outside width of the TED frame minus 4 inches (10.2 cm) on both sides of the grid, when measured as a straight line width. Fore-and-aft cuts to remove a rectangular piece of webbing must be made from the ends of the horizontal cuts along a single row of meshes along each side. The overall size of the escape opening must match one of the following specifications:

(A) *44–inch inshore opening*. The escape opening must have a minimum width of 44 inches (112 cm) and a minimum height of 20 inches (51 cm) with each measurement taken separately. A webbing flap, as described in paragraph (d)(3)(i) of this section, may be used with this escape hole, so long as this minimum opening size is achieved. This opening may only be used in inshore waters, except it may not be used in the inshore waters of Georgia and South Carolina.

(B) *The 71–inch offshore opening*: The two forward cuts of the escape opening must not be less than 26 inches (66 cm) long from the points of the cut immediately forward of the TED frame. The resultant length of the leading edge of the escape opening cut must be no less than 71 inches (181 cm) with a resultant circumference of the opening being 142 inches (361 cm) (Figure 12 to this part). A webbing flap, as described in paragraph (d)(3)(ii) of this section, may be used with this escape hole, so long as this minimum opening size is achieved. Either this opening or the one described in paragraph (a)(7)(ii)(C) of this section must be used in all offshore waters and in all inshore waters in Georgia and South Carolina, but may also be used in other inshore waters.

(C) *Double cover offshore opening*. The two forward cuts of the escape opening must not be less than 20 inches (51 cm) long from the points of the cut immediately forward of the TED frame. The resultant length of the leading edge of the escape opening cut must be no less than 56 inches (142 cm)(Figure 16 to this part illustrates the dimensions of these cuts). A webbing flap, as described in paragraph (d)(3)(iii) of this section, may be used with this escape hole. Either this opening or the one described in paragraph (a)(7)(ii)(B) of this section must be used in all offshore waters but also in all inshore waters in Georgia and South Carolina, and may be used in other inshore waters.

(D) *Boone Wedge Cut opening*. (Figure 17 to this part). The escape opening is made by making two cuts in the TED extension; one cut is fore and aft (i.e., along the length of the extension) and

the other cut is horizontal to the extension. The horizontal cut is 50 meshes long and begins at a point 4 inches (10.2 cm) inward from the outside edge of the grid on one side and runs to the same point on the opposite side of the grid. The fore and aft cut begins in the middle of the horizontal cut and runs forward 49.5 inches (125.7 cm) toward the front edge of the TED extension. The added wedge of webbing is attached along its two leading edges to the edges of the fore and aft cut. The webbing wedge is made of 1⅞ inch (4.8 cm) webbing and must have at least 41 meshes measuring at least 72 inches wide (182.9 cm) along its base (aft edge). The height of the wedge must measure at least 48.5 inches (123 cm). The top of the wedge is two bars across the leading edge then cut with a 1 point then 6 bar taper. A webbing flap, as described in paragraph (d)(3)(iv) of this section, may be used with this escape opening, so long as the minimum opening size is achieved.

(E) *Large TED openings*. (Figures 18a, 18b, and 18c to this part). Large TED escape openings may be utilized in the following configurations:

(*1*) A triangular cut (Figure 18a to this part), where the base of the triangle is defined by a straight-line measurement of the opening between the webbing attachment points on the TED frame that is no less than 40 inches (102 cm). The two side cuts of the triangle must be an all-bar taper from the point at which the webbing attaches to the TED frame to the apex of the triangle cut. Each side cut of the triangle must measure no less than 53 inches (135 cm). The sum of the straight-line base measurement and two side cuts must be no less than 147 inches (373 cm). The side cuts of the triangular opening may be reinforced using rib lines attached from the TED frame to the apex of the opening. A webbing flap, as described in either paragraph (d)(3)(ii) or (d)(3)(iii) of this section, may be used with this escape opening, so long as the minimum opening size is achieved.

(*2*) All-bar or all-points side cuts and a horizontal leading edge cut (Figures 18b and 18c to this part), where the straight-line measurement of the opening between the webbing attachment points on the TED frame may not be less than 40 inches (102 cm), and the two side cuts of the escape opening must not be less than 26 inches (66 cm) long from the points of the cut immediately forward of the TED frame. Only all-bar or all-points side cuts may be used; no combination tapers may be used when making the side cuts. The sum of the straight-line base measurement and the stretched measurements of the side cuts and leading edge cut must be no less than 147 inches (373 cm). A webbing flap, as described in either paragraph (d)(3)(ii) or (d)(3)(iii) of this section, may be used with this escape opening, so long as the minimum opening size is achieved.

(8) *Size of hoop or grid*—(i) *Hooped hard TED*—(A) *Inshore hooped hard TED*. The front hoop on an inshore hooped hard TED must have an inside horizontal measurement of at least 35 inches (89 cm) and an inside vertical measurement of at least 30 inches (76 cm). The minimum clearance between the deflector bars and the forward edge of the escape opening must be at least 20 inches (51 cm).

(B) *Offshore hooped hard TED*. The front hoop on an offshore hooped hard TED must have an inside horizontal measurement of at least 40 inches (102 cm) and an inside vertical measurement of at least 30 inches (76 cm). The minimum clearance between the deflector bars and the forward edge of the escape opening must be at least 23¼ inches (59 cm).

(ii) *Single-grid hard TED*. A single-grid hard TED must have a minimum outside horizontal and vertical measurement of 32 inches (81 cm). The required outside measurements must be at the mid-point of the deflector grid.

(9) *Flotation*. Floats must be attached to the top one-half of all hard TEDs with bottom escape openings. The floats may be attached either outside or inside the net, but not to a flap. Floats attached inside the net must be behind the rear surface of the TED. Floats must be attached with heavy twine or rope. Floats must be constructed of aluminum, hard plastic, expanded polyvinyl chloride, or expanded ethylene vinyl acetate unless otherwise specified. The requirements of this

paragraph may be satisfied by compliance with either the dimension requirements of paragraph (a)(9)(i) of this section, or the buoyancy requirements of paragraph (a)(9)(ii) of this section, or the buoyancy-dimension requirements of paragraph (a)(9)(iii) of this section. If roller gear is used pursuant to paragraph (d)(5) of this section, the roller gear must be included in the circumference measurement of the TED or the total weight of the TED.

(i) *Float dimension requirements.* (A) For hard TEDs with a circumference of 120 inches (304.8 cm) or more, a minimum of either one round, aluminum or hard plastic float, no smaller than 9.8 inches (25.0 cm) in diameter, or two expanded polyvinyl chloride or expanded ethylene vinyl acetate floats, each no smaller than 6.75 inches (17.2 cm) in diameter by 8.75 inches (22.2 cm) in length, must be attached.

(B) For hard TEDs with a circumference of less than 120 inches (304.8 cm), a minimum of either one round, aluminum or hard plastic float, no smaller than 9.8 inches (25.0 cm) in diameter, or one expanded polyvinyl chloride or expanded ethylene vinyl acetate float, no smaller than 6.75 inches (17.2 cm) in diameter by 8.75 inches (22.2 cm) in length, must be attached.

(ii) *Float buoyancy requirements.* Floats of any size and in any combination must be attached such that the combined buoyancy of the floats, as marked on the floats, equals or exceeds the weight of the hard TED, as marked on the TED. The buoyancy of the floats and the weight of the TED must be clearly marked on the floats and the TED as follows:

(A) *Float buoyancy markings.* Markings on floats must be made in clearly legible raised or recessed lettering by the original manufacturer. The marking must identify the buoyancy of the float in water, expressed in grams or kilograms, and must include the metric unit of measure. The marking may additionally include the buoyancy in English units. The marking must identify the nominal buoyancy for the manufactured float.

(B) *TED weight markings.* The marking must be made by the original TED manufacturer and must be permanent and clearly legible. The marking must identify the in-air, dry weight of the TED, expressed in grams or kilograms, and must include the metric unit of measure. The marking may additionally include the weight in English units. The marked weight must represent the actual weight of the individual TED as manufactured. Previously manufactured TEDs may be marked upon return to the original manufacturer. Where a TED is comprised of multiple detachable components, the weight of each component must be separately marked.

(iii) *Buoyancy-dimension requirements.* Floats of any size and in any combination, provided that they are marked pursuant to paragraph (a)(9)(ii)(A) of this section, must be attached such that the combined buoyancy of the floats equals or exceeds the following values:

(A) For floats constructed of aluminum or hard plastic, regardless of the size of the TED grid, the combined buoyancy must equal or exceed 14 lb (6.4 kg);

(B) For floats constructed of expanded polyvinyl chloride or expanded ethylene vinyl acetate, where the circumference of the TED is 120 inches (304.8 cm) or more, the combined buoyancy must equal or exceed 20 lb (9.1 kg); or

(C) For floats constructed of expanded polyvinyl chloride or expanded ethylene vinyl acetate, where the circumference of the TED is less than 120 inches (304.8 cm), the combined buoyancy must equal or exceed 10 lb (4.5 kg).

(b) *Special Hard TEDs.* Special hard TEDs are hard TEDs which do not meet all of the design and construction criteria of the generic standards specified in paragraph (a) of this section. The following special hard TEDs are approved TEDs:

(1) *Flounder TED.* (Figure 10 to this part). The Flounder TED is approved for use only in the Atlantic summer flounder bottom trawl fishery. The Flounder TED is not an approved TED for use by shrimp trawlers. The Flounder TED must be constructed of at least 1¼ inch (3.2 cm) outside diameter aluminum or steel pipe with a wall thickness of at least ⅛ inch (0.3 cm). It must have a rectangular frame with

outside dimensions which can be no less than 51 inches (129.5 cm) in length and 32 inches (81.3 cm) in width. It must have at least five vertical deflector bars, with bar spacings of no more than 4 inches (10.2 cm). The vertical bars must be connected to the top of the frame and to a single horizontal bar near the bottom. The horizontal bar must be connected at both ends to the sides of the frame and parallel to the bottom bar of the frame. There must be a space no larger than 10 inches (25.4 cm) between the horizontal bar and the bottom bar of the frame. One or more additional vertical bars running from the bottom bar to the horizontal bar must divide the opening at the bottom into two or more rectangles, each with a maximum height of 10 inches (25.4 cm) and a maximum width of 14½ inches (36.8 cm). This TED must comply with paragraph (a)(2) of this section. The angle of the deflector bars must be between 30 and 55 from the normal, horizontal flow through the interior of the trawl. The entire width of the escape opening from the trawl must be centered on and immediately forward of the frame at the top of the net when the net is in its deployed position. The escape opening must be at the top of the net and the slope of the deflector bars from forward to aft is upward. The escape opening must be cut horizontally along the same plane as the TED, and may not be cut in a fore-and-aft direction. The cut in the trawl webbing for the escape opening cannot be narrower than the outside width of the grid minus 4 inches (10.2 cm) on both sides of the grid, when measured as a straight line width. The resulting escape opening in the net webbing must measure at least 35 inches (88.9 cm) in horizontal taut length and, simultaneously, 12 inches (30.5 cm) in vertical taut height. The vertical measurement must be taken at the midpoint of the horizontal measurement. This TED may not be configured with a bottom escape opening. Installation of an accelerator funnel is not permitted with this TED.

(2) *Weedless TED.* The weedless TED must meet all the requirements of paragraph (a) of this section for single-grid hard TEDs, with the exception of paragraphs (a)(1) and (a)(5) of this section. The weedless TED must be constructed of at least 1–1/4 inch (3.2 cm) outside diameter aluminum with a wall thickness of at least ⅛ inch (0.3 cm). The deflector bars must run from top to bottom of the TED, as the TED is positioned in the net. The ends of the deflectors bars on the side of the frame opposite to the escape opening must be permanently attached to the frame. The ends of the deflector bars nearest the escape opening are not attached to the frame and must lie entirely forward of the leading edge of the outer frame. The ends of the unattached deflector bars must be no more than 4 inches (10.2 cm) from the frame and may not extend past the frame. A horizontal brace bar to reinforce the deflector bars, constructed of the same size or larger pipe as the deflector bars, must be permanently attached to the frame and the rear face of each of the deflector bars at a position anywhere between the vertical mid-point of the frame and the unattached ends of the deflector bars. The horizontal brace bar may be offset behind the deflector bars, using spacer bars, not to exceed 5 inches (12.7 cm) in length and constructed of the same size or larger pipe as the deflector bars. See Figure 15.

(3) *Boone Big Boy TED.* The Boone Big Boy TED is a single-grid hard TED with a minimum outside horizontal and vertical measurement of 36.5 inches (92.7 cm) and 48 inches (121.9 cm), respectively. The frame must be constructed of steel rod with a minimum outside diameter of ⅜ inch (0.95 cm). The deflector bars must be constructed of steel rod with a minimum outside diameter of ¼ inch (0.64 cm). The space between the deflector bars must not exceed 4 inches (10.2 cm). A horizontal brace bar constructed of at least ¼-inch (0.64-cm) steel rod must be permanently attached to the frame and the rear face of each of the deflector bars within 4 inches (10.2 cm) of the midpoint of the TED frame. The horizontal brace bar may be offset behind the deflector bars, using spacer bars, not to exceed 5 inches (12.7 cm) in length and must be constructed of the same size or larger material as the deflector bars. The Boone Big Boy TED must be used with the Boone Wedge Cut escape opening specified in

(a)(7)(ii)(D) of this section. The angle of the deflector bars must be between 30° and 55° from the normal, horizontal flow through the interior of the trawl. The Boone Big Boy TED is exempt from the requirements of paragraph (a)(3)(ii) of this section, and may be installed at 55° when fishing in the Gulf SFSTCA or the Atlantic SFSTCA.

(4) *Modified flounder TED.* (Figure 11 to this part). The modified flounder TED is approved for use only in the Atlantic summer flounder bottom trawl fishery. The modified flounder TED is not an approved TED for use by shrimp trawlers. The modified flounder TED incorporates two separate grid frames that are attached together. The frames of the grids must be constructed of at least 1¼ inch (3.2 cm) outside diameter aluminum or steel pipe with a wall thickness of at least ⅛ inch (0.32 cm). Each of the two grids of the modified flounder TED must have outside dimensions of at least 36 inches (91.4 cm) in height and at least 48 inches (121.9 cm) in width. The upper grid is equipped with vertical deflector bars, which must be constructed of aluminum or steel flat bar with a minimum depth of 1¼ inches (3.2 cm) and a minimum thickness of ⅜ inch (0.95 cm). Vertical deflector bars must be connected to the top and bottom of the upper grid. The space between the deflector bars of the upper grid must not exceed 4 inches (10.2 cm). The lower grid is fabricated with both horizontal and vertical deflector bars, creating four narrow horizontal openings at the top, and three large rectangular openings along the bottom of the grid. The lower grid must have at least three horizontal deflector bars, constructed of aluminum or steel flat bar with a minimum depth of 1½ inches (3.8 cm) and a minimum thickness of ⅜ inch (0.95 cm), which are connected to each side of the grid and angled at 30° from the horizontal plane. Below this, a fourth horizontal deflector bar must be constructed of aluminum or steel pipe with a wall thickness of at least ⅛ inch (0.32 cm) and with a 1¼ inch (3.2 cm) outside diameter. These horizontal deflector bars must yield maximum spacings of 4½ inches (11.4 cm), 5½ inches (14.0 cm), 5½ inches (14.0 cm), and 4½ inches (11.4 cm), as constructed from top to bottom and measured between the leading edges of adjacent deflector bars. There must be a maximum 10-inch (25.4 cm) space between the bottom-most horizontal deflector pipe bar and the grid frame bottom. Two additional vertical pipe sections running from the bottom of the grid frame to the bottom-most horizontal deflector pipe bar must divide the opening at the bottom into three rectangles, each with a maximum height of 10 inches (25.4 cm) and a maximum width of 14 inches (35.6 cm). This TED must comply with paragraph (a)(2) of this section. The upper and lower grids of this TED must be laced together with heavy twine no less than ¼ inch (0.64 cm) in diameter in order to maintain a consistent angle in both sections. There may be a gap between the two sections not to exceed 1 inch (2.54 cm). The angle of the entire TED frame must be between 30° and 45° from the normal, horizontal flow through the interior of the trawl. The entire width of the escape opening from the trawl must be centered on and immediately forward of the frame at the top of the net when the net is in its deployed position. The slope of the grids and the vertical deflector bars from forward to aft is upward. The modified flounder TED must use an escape opening consistent with paragraph (a)(7)(ii)(B), (C), (D), or (E) of this section. A webbing flap, as described in paragraphs (d)(3)(ii), (iii), or (iv) of this section, may be used with this escape opening, so long as the minimum opening size is achieved. This TED may not be configured with a bottom escape opening. Installation of an accelerator funnel is not permitted with this TED.

(c) *Soft TEDs.* Soft TEDs are TEDs with deflector panels made from polypropylene or polyethylene netting. The following soft TEDs are approved TEDs:

(1) *Parker TED.* The Parker TED is a soft TED, consisting of a single triangular panel, composed of webbing of two different mesh sizes, that forms a complete barrier inside a trawl and that angles toward an escape opening in the top of the trawl.

(i) *Excluder Panel.* (Figure 5 to this part) The excluder panel of the Parker TED must be constructed of a single

triangular piece of 8-inch (20.3 cm) stretched mesh webbing and two trapezoidal pieces of 4-inch (10.2-cm) stretched mesh webbing. The webbing must consist of number 48 (3-mm thick) or larger polypropylene or polyethylene webbing that is heat-set knotted or braided. The leading edge of the 8-inch (20.3-cm) mesh panel must be 36 meshes wide. The 8-inch (20.3-cm) mesh panel must be tapered on each side with all-bar cuts to converge on an apex, such that the length of each side is 36 bars. The leading edges of the 4-inch (10.2-cm) mesh panels must be 8 meshes wide. The edges of the 4-inch (10.2-cm) mesh panels must be cut with all-bar cuts running parallel to each other, such that the length of the inner edge is 72 bars and the length of the outer edge is 89 bars and the resulting fore-and-aft edge is 8 meshes deep. The two 4-inch (10.2-cm) mesh panels must be sewn to the 8-inch (20.3-cm) mesh panel to create a single triangular excluder panel. The 72-bar edge of each 4-inch (10.2-cm) mesh panel must be securely joined with twine to one of the 36-bar edges of the 8-inch (20.3-cm) mesh panel, tied with knots at each knot of the 4-inch (10.2-cm) webbing and at least two wraps of twine around each bar of 4-inch (10.2-cm) mesh and the adjoining bar of the 8-inch (20.3-cm) mesh. The adjoining fore-and-aft edges of the two 4-inch (10.2-cm) mesh panels must be sewn together evenly.

(ii) *Limitations on which trawls may have a Parker TED installed.* The Parker TED must not be installed or used in a two-seam trawl with a tongue, nor in a triple-wing trawl (a trawl with a tongue along the headrope and a second tongue along the footrope). The Parker TED may be installed and used in any other trawl if the taper of the body panels of the trawl does not exceed 4b1p and if it can be properly installed in compliance with paragraph (c)(1)(iii) of this section.

(iii) *Panel installation*—(A) *Leading edge attachment.* The leading edge of the excluder panel must be attached to the inside of the bottom of the trawl across a straight row of meshes. For a two-seam trawl or a four-seam, tapered-wing trawl, the row of meshes for attachment to the trawl must run the entire width of the bottom body panel, from seam to seam. For a four-seam, straight-wing trawl, the row of meshes for attachment to the trawl must run the entire width of the bottom body panel and half the height of each wing panel of the trawl. Every mesh of the leading edge of the excluder panel must be evenly sewn to this row of meshes; meshes may not be laced to the trawl. The row of meshes for attachment to the trawl must contain the following number of meshes, depending on the stretched mesh size used in the trawl:

(*1*) For a mesh size of 2¼ inches (5.7 cm), 152–168 meshes;

(*2*) For a mesh size of 2⅛ inches (5.4 cm), 161–178 meshes;

(*3*) For a mesh size of 2 inches (5.1 cm), 171–189 meshes;

(*4*) For a mesh size of 1⅞ inches (4.8 cm), 182–202 meshes;

(*5*) For a mesh size of 1¾ inches (4.4 cm), 196–216 meshes;

(*6*) For a mesh size of 1⅝ inches (4.1 cm), 211–233 meshes;

(*7*) For a mesh size of 1½ inches (3.8 cm), 228–252 meshes;

(*8*) For a mesh size of 1⅜ inches (3.5 cm), 249–275 meshes; and

(*9*) For a mesh size of 1¼ inches (3.2 cm), 274–302 meshes.

(B) *Apex attachment.* The apex of the triangular excluder panel must be attached to the inside of the top body panel of the trawl at the centerline of the trawl. The distance, measured aft along the centerline of the top body panel from the same row of meshes for attachment of the excluder panel to the bottom body panel of the trawl, to the apex attachment point must contain the following number of meshes, depending on the stretched mesh size used in the trawl:

(*1*) For a mesh size of 2¼ inches (5.7 cm), 78–83 meshes;

(*2*) For a mesh size of 2⅛ inches (5.4 cm), 83–88 meshes;

(*3*) For a mesh size of 2 inches (5.1 cm), 87–93 meshes;

(*4*) For a mesh size of 1⅞ inches (4.8 cm), 93–99 meshes;

(*5*) For a mesh size of 1¾ inches (4.4 cm), 100–106 meshes;

(*6*) For a mesh size of 1⅝ inches (4.1 cm), 107–114 meshes;

(*7*) For a mesh size of 1½ inches (3.8 cm), 114–124 meshes;

(*8*) For a mesh size of 1⅜ inches (3.5 cm), 127–135 meshes; and

(*9*) For a mesh size of 1¼ inches (3.2 cm), 137–146 meshes.

(C) *Side attachment.* The sides of the excluder panel must be attached evenly to the inside of the trawl from the outside attachment points of the excluder panel's leading edge to the apex of the excluder panel. Each side must be sewn with the same sewing sequence, and, if the sides of the excluder panel cross rows of bars in the trawl, the crossings must be distributed evenly over the length of the side attachment.

(iv) *Escape opening.* The escape opening for the Parker soft TED must match one of the following specifications:

(A) *Inshore opening.* This opening is the minimum size opening that may be used in inshore waters, except it may not be used in the inshore waters of Georgia and South Carolina, in which a larger minimum opening is required. A slit at least 56 inches (1.4 m) in taut length must be cut along the centerline of the top body panel of the trawl net immediately forward of the apex of the panel webbing. The slit must not be covered or closed in any manner. The edges and end points of the slit must not be reinforced in any way; for example, by attaching additional rope or webbing or by changing the orientation of the webbing.

(B) *Offshore opening.* A horizontal cut extending from the attachment of one side of the deflector panel to the trawl to the attachment of the other side of the deflector panel to the trawl must be made in a single row of meshes across the top of the trawl and measure at least 96 inches (243.8 cm) in taut width. All trawl webbing above the deflector panel between the 96-inch (243.8-cm) cut and edges of the deflector panel must be removed. A rectangular flap of nylon webbing not larger than 2-inch (5.1-cm) stretched mesh may be sewn to the forward edge of the escape opening. The width of the flap must not be larger than the width of the forward edge of the escape opening. The flap must not extend more than 12 inches (30.5 cm) beyond the rear point of the escape opening. The sides of the flap may be attached to the top of the trawl but must not be attached farther aft than the row of meshes through the rear point of the escape opening. One row of steel chain not larger than ¼ inch (0.64 cm) may be sewn evenly to the back edge of the flap. The stretched length of the chain must not exceed 96 inches (244 cm). A Parker TED using the escape opening described in this paragraph meets the requirements of § 223.206(d)(2)(iv)(B). This opening or one that is larger must be used in all offshore waters and in the inshore waters of Georgia and South Carolina. It also may be used in other inshore waters..

(2) [Reserved]

(d) *Allowable modifications to hard TEDs and special hard TEDs.* Unless otherwise prohibited in paragraph (b) of this section, only the following modifications may be made to an approved hard TED or an approved special hard TED:

(1) *Floats.* In addition to floats required pursuant to paragraph (a)(9) of this section, floats may be attached to the top one-half of the TED, either outside or inside the net, but not to a flap. Floats attached inside the net must be behind the rear surface at the top of the TED.

(2) *Accelerator funnel.* An accelerator funnel may be installed in the trawl, if it is made of net webbing material with a stretched mesh size of not greater than 1⅝ inches (4 cm), if it is inserted in the net immediately forward of the TED, and if its rear edge does not extend past the bars of the TED. The trailing edge of the accelerator funnel may be attached to the TED on the side opposite the escape opening if not more than one-third of the circumference of the funnel is attached, and if the inside horizontal opening as described above in maintained. In a bottom opening TED only the top one-third of the circumference of the funnel may be attached to the TED. In a top opening TED only the bottom one-third of the circumference of the funnel may be attached to the TED.

(i) In inshore waters, other than the inshore waters of Georgia and South Carolina in which a larger opening is required, the inside horizontal opening of the accelerator funnel must be at least 44 inches (112 cm).

(ii) In offshore waters and the inshore waters of Georgia and South Carolina, the inside horizontal opening of the accelerator funnel must be at least 71 inches (180 cm).

(3) *Webbing flap.* A webbing flap may be used to cover the escape opening under the following conditions: No device holds it closed or otherwise restricts the opening; it is constructed of webbing with a stretched mesh size no larger than 2 inches (5.1 cm); it lies on the outside of the trawl; it is attached along its entire forward edge forward of the escape opening; it is not attached on the sides beyond the row of meshes that lies 6 inches (15.2 cm) behind the posterior edge of the grid; the sides of the flap are sewn on the same row of meshes fore and aft; and the flap does not overlap the escape hole cut by more than 5 inches (12.7 cm) on either side.

(i) *44–inch inshore TED flap.* This flap may not extend more than 24 inches (61 cm) beyond the posterior edge of the grid.

(ii) *71–inch offshore TED Flap.* The flap must be a 133–inch (338–cm) by 52–inch (132–cm) piece of webbing. The 133–inch (338–cm) edge of the flap is attached to the forward edge of the opening (71–inch (180–cm) edge). The flap may extend no more than 24 inches (61 cm) behind the posterior edge of the grid (Figure 12 to this part illustrates this flap).

(iii) *Double cover offshore TED flap.* This flap must be composed of two equal size rectangular panels of webbing. Each panel must be no less than 58 inches (147.3 cm) wide and may overlap each other no more than 15 inches (38.1 cm). The panels may only be sewn together along the leading edge of the cut. The trailing edge of each panel must not extend more than 24 inches (61 cm) past the posterior edge of the grid (Figure 16 to this part). Each panel may be sewn down the entire length of the outside edge of each panel. Paragraph (d)(3) of this section notwithstanding, this flap may be installed on either the outside or inside of the TED extension. For interior installation, the flap may be sewn to the interior of the TED extension along the leading edge and sides to a point intersecting the TED frame; however, the flap must be sewn to the exterior of the TED extension from the point at which it intersects the TED frame to the trailing edge of the flap. Chafing webbing described in paragraph (d)(4) of this section may not be used with this type of flap.

(iv) *Boone Wedge Cut opening flap.* (Figure 17 to this part). This escape opening flap is attached to the trailing edge of the horizontal cut and the wedge. The flap is made from a piece of 1⅞ inch (4.8 cm) webbing that is trapezoid in shape. The leading edge must be at least 94 meshes wide, stretching to at least 164.5 inches (417.8 cm). The trailing edge is at least 87 meshes wide and at least 152 inches (386.1 cm). The two sides are at least 8 meshes long and at least 15 inches (38.1 cm). The escape opening flap is attached only to the leading edge of the escape opening cut and is not attached along its sides.

(A) *Edge lines.* Optional edge lines can be used in conjunction with this flap. The line must be made of polyethylene with a maximum diameter of ⅜ inches (.95 cm). A single length of line must be used for each flap panel. The line must be sewn evenly to the unattached, inside edges and trailing edges, of each flap panel. When edge lines are installed, the outside edge of each flap panel must be attached along the entire length of the flap panel.

(B) [Reserved]

(4) *Chafing webbing.* A single piece of nylon webbing, with a twine size no smaller than size 36 (2.46 mm in diameter), may be attached outside of the escape opening webbing flap to prevent chafing on bottom opening TEDs. This webbing may be attached along its leading edge only. This webbing may not extend beyond the trailing edge or sides of the existing escape opening webbing flap, and it must not interfere or otherwise restrict the turtle escape opening.

(5) *Roller gear.* Roller gear may be attached to the bottom of a TED to prevent chafing on the bottom of the TED and the trawl net. When a webbing flap is used in conjunction with roller gear, the webbing flap must be of a length such that no part of the webbing flap can touch or come in contact with any part of the roller gear assembly or the means of attachment of the roller gear

assembly to the TED, when the trawl net is in its normal, horizontal position. Roller gear must be constructed according to one of the following design criteria:

(i) A single roller consisting of hard plastic shall be mounted on an axle rod, so that the roller can roll freely about the axle. The maximum diameter of the roller shall be 6 inches (15.24 cm), and the maximum width of the axle rod shall be 12 inches (30.4 cm). The axle rod must be attached to the TED by two support rods. The maximum clearance between the roller and the TED shall not exceed 1 inch (2.5 cm) at the center of the roller. The support rods and axle rod must be made from solid steel or solid aluminum rod no larger than ½ inch (1.28 cm) in diameter. The attachment of the support rods to the TED shall be such that there are no protrusions (lips, sharp edges, burrs, etc.) on the front face of the grid. The axle rod and support rods must lie entirely behind the plane of the face of the TED grid.

(ii) A single roller consisting of hard plastic tubing shall be tightly tied to the back face of the TED grid with rope or heavy twine passed through the center of the roller tubing. The roller shall lie flush against the TED. The maximum outside diameter of the roller shall be 3½ inches (8.0 cm), the minimum outside diameter of the roller shall be 2 inches (5.1 cm), and the maximum length of the roller shall be 12 inches (30.4 cm). The roller must lie entirely behind the plane of the face of the grid.

(6) *Water deflector fin for hooped hard TEDs.* On a hooped hard TED, a water deflector fin may be welded to the forward edge of the escape opening. The fin must be constructed of a flat aluminum bar, up to ⅜ inch (0.95 cm) thick and up to 4 inches (10.2 cm) deep. The fin may be as wide as the width of the escape opening, minus 1 inch (2.5 cm). The fin must project aft into the TED with an angle between 5° and 45° from the normal, horizontal plane of the trawl. On an inshore hooped hard TED, the clearance between the deflector bars and the posterior edge of the deflector fin must be at least 20 inches (51 cm). On an offshore hooped hard TED, the clearance between the deflector bars and the posterior edge of the deflector fin must be at least 23–1/4 inches (59 cm).

(7) *Hinged door frame for hooped hard TEDs.* A hinged door frame may be attached to the forward edge of the escape opening on a hooped hard TED. The door frame must be constructed of materials specified at paragraphs (a)(1)(i) or (a)(1)(ii) of this section for inshore and offshore hooped hard TEDs, respectively. The door frame may be covered with a single panel of mesh webbing that is taut and securely attached with twine to the perimeter of the door frame, with a mesh size not greater than that used for the TED extension webbing. The door frame must be at least as wide as the TED escape opening. The door frame may be a maximum of 24 inches (61 cm) long. The door frame must be connected to the forward edge of the escape opening by a hinge device that allows the door to open outwards freely. The posterior edge of the door frame, in the closed position, must lie at least 12 inches (30 cm) forward of the posterior edge of the escape opening. A water deflector fin may be welded to the posterior edge of the hinged door frame. The fin must be constructed of a flat aluminum bar, up to ⅜ inch (0.95 cm) thick and up to four inches (10.2 cm) deep. The fin may be as wide as the width of the escape opening, minus one inch (2.5 cm). The fin must project aft into the TED with an angle between 5° and 45° from the normal, horizontal plane of the trawl, when the door is in the closed position. The clearance between the posterior edge of the escape opening and the posterior edge of the door frame or the posterior edge of the water deflector fin, if installed, must be no less than 12 inches (30 cm), when the door is in the closed position. Two stopper ropes or a hinge limiter may be used to limit the maximum opening height of the hinged door frame, as long as they do not obstruct the escape opening in any way or restrict the free movement of the door to its fully open position. When the door is in its fully open position, the minimum clearance between any part of the deflector bars and any part of the door, including a water deflector fin if installed, must be at least 20 inches (51 cm) for an inshore hooped

hard TED and at least 23¼ inches (59 cm) for an offshore hooped hard TED. The hinged door frame may not be used in combination with a webbing flap specified at paragraph (d)(3) of this section or with a water deflection fin specified at paragraph (d)(6) of this section.

(8) *Chauvin shrimp deflector.* (Figures 19a and 19b to this part). The Chauvin shrimp deflector may be used on any approved TED design, but its installation must not reduce the minimum stretched measurements of the TED opening. The Chauvin shrimp deflector may not be installed with a bottom escape opening. The Chauvin shrimp deflector is constructed from a single piece of 3-inch (7.6-cm) inside diameter PVC pipe which measures 30 inches (76.2 cm) in length; the ends of the PVC pipe are left uncapped. A webbing or mesh bag is made and is used to encase the PVC pipe (Figure 19a to this part). The mesh bag is created using a single piece of 1⅝ inch (4.1 cm) stretched-mesh webbing made of nylon or polyethylene with dimensions 57 meshes wide by 10 meshes deep. The leading edge of the 57-mesh piece of webbing is attached around the PVC pipe and back to the row of meshes located 7 meshes down the 10-mesh length. The ends of the webbing are sewn together on each end forming a webbing bag to assure the PVC pipe remains encased in the webbing. This leaves a 3-mesh tail hanging from the encased PVC pipe. The 3-mesh tail of the encased PVC pipe is then sewn to a single row of meshes on the inside of the trawl along the 57-mesh edge, 3 meshes ahead of the forward cut of the TED escape opening. This would allow a 3-mesh overlap to the left and right of the forward cut (Figure 19b to this part).

(9) *Brace bar.* (Figure 14a of this part). A horizontal brace bar may be added to a TED if the brace bar is constructed of aluminum or steel rod or tubing specified in 50 CFR 223.207(a)(1)(i)(A) through (C), or flat bar ⅜-inch (0.95 cm) or more in thickness, and is permanently attached to the rear of the outer frame; for TEDs constructed of flat bar less than ⅜-inch (0.95 cm) in thickness, the regulations specified in 50 CFR 223.207(a)(1)(i)(D) apply. The horizontal brace bar may be permanently secured to the rear face of each of the deflector bars. The horizontal brace bar may be offset behind the deflector bars, using spacer bars attached to the rear face of each of the deflector bars, not to exceed 5 inches (12.7 cm) in length, and must be constructed of the same size or larger material as the deflector bars.

(e) *Revision of generic design criteria, and approval of TEDs, of allowable modifications of hard TEDs, and of special hard TEDs.* (1) The Assistant Administrator may revise the generic design criteria for hard TEDs set forth in paragraph (a) of this section, may approve special hard TEDs in addition to those listed in paragraph (b) of this section, may approve allowable modifications to hard TEDs in addition to those authorized in paragraph (d) of this section, or may approve other TEDs, by regulatory amendment, if, according to a NMFS-approved scientific protocol, the TED demonstrates a sea turtle exclusion rate of 97 percent or greater (or an equivalent exclusion rate). Two such protocols have been published by NMFS (52 FR 24262, June 29, 1987; and 55 FR 41092, October 9, 1990) and will be used only for testing relating to hard TED designs. Testing under any protocol must be conducted under the supervision of the Assistant Administrator, and shall be subject to all such conditions and restrictions as the Assistant Administrator deems appropriate. Any person wishing to participate in such testing should contact the Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Dr., Miami, FL 33149–1003.

(2) Upon application, the Assistant Administrator may issue permits, subject to such conditions and restrictions as the Assistant Administrator deems appropriate, authorizing public or private experimentation aimed at improving shrimp retention efficiency of existing approved TEDs and at developing additional TEDs, or conducting fishery research, that would otherwise be subject to §223.206(d)(2). Applications should be made to the Southeast Regional Administrator (see §222.102

definition of ''Southeast Regional Administrator'').

[64 FR 14073, Mar. 23, 1999, as amended at 64 FR 55438, Oct. 13, 1999; 66 FR 1603, Jan. 9, 2001; 66 FR 24288, May 14, 2001; 68 FR 8467, Feb. 21, 2003; 68 FR 51514, Aug. 27, 2003; 68 FR 54934, Sept. 19, 2003; 69 FR 31037, June 2, 2004; 77 FR 29907, May 21, 2012; 77 FR 48106, Aug. 13, 2012]

EFFECTIVE DATE NOTE: At 64 FR 14073, Mar. 23, 1999, §223.207 was added. Paragraphs (a)(9)(ii) (A) and (B) contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 223.208 Corals.

(a) *Prohibitions.* (1) The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals listed as threatened in §223.102, except as provided in §223.208(c).

(2) It is unlawful for any person subject to the jurisdiction of the United States to do any of the following:

(i) Fail to comply immediately, in the manner specified at §600.730 (b) through (d) of this title, with instructions and signals specified therein issued by an authorized officer, including instructions and signals to haul back a net for inspection;

(ii) Refuse to allow an authorized officer to board a vessel, or to enter an area where fish or wildlife may be found, for the purpose of conducting a boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(iii) Destroy, stave, damage, or dispose of in any manner, fish or wildlife, gear, cargo, or any other matter after a communication or signal from an authorized officer, or upon the approach of such an officer or of an enforcement vessel or aircraft, before the officer has an opportunity to inspect same, or in contravention of directions from the officer;

(iv) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere with an authorized officer in the conduct of any boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(v) Interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person committed an act prohibited by this section;

(vi) Resist a lawful arrest for an act prohibited by this section;

(vii) Make a false statement, oral or written, to an authorized officer or to the agency concerning applicability of the exceptions enumerated in paragraph (c) of this section relating to elkhorn and staghorn corals;

(viii) Make a false statement, oral or written, to an authorized officer or to the agency concerning the fishing for, catching, taking, harvesting, landing, purchasing, selling, or transferring fish or wildlife, or concerning any other matter subject to investigation under this section by such officer, or required to be submitted under this part 223; or

(ix) Attempt to do, solicit another to do, or cause to be done, any of the foregoing.

(b) *Affirmative defense.* In connection with any action alleging a violation of this section, any person claiming the benefit of any exception, exemption, or permit under this section has the burden of proving that the exception, exemption, or permit is applicable, was granted, and was valid and in force at the time of the alleged violation, and that the person fully complied with the exception, exemption, or permit.

(c) *Exceptions.* Exceptions to the prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) applied in paragraph (a) of this section relating to elkhorn and staghorn corals are described in the following paragraphs (1) through (6):

(1) Permitted scientific research and enhancement. Any export or take of elkhorn or staghorn corals resulting from conducting scientific research or enhancement directed at elkhorn and staghorn corals is excepted from the prohibitions in ESA sections 9(a)(1)(A), (B) and (C) provided a valid research or enhancement permit has been obtained from one of the following Federal or state agencies: NOAA National Ocean Service National Marine Sanctuary Program, National Park Service, U.S. Fish and Wildlife Service, Florida Fish and Wildlife Conservation Commission, Puerto Rico Department of Natural and Environmental Resources, or the U.S. Virgin Islands Department of

Planning and Natural Resources. The exportation or take must be in compliance with the applicable terms and conditions of the applicable research or enhancement permit, and the permit must be in the possession of the permittee while conducting the activity. Export of elkhorn or staghorn corals from the United States to conduct excepted research or enhancement activities requires a CITES export permit from the U.S. Fish and Wildlife Service in addition to the research permit for collection. Import of elkhorn or staghorn corals into the United States to conduct excepted research or enhancement activities must be in compliance with the provisions of section 9(c) of the ESA.

(2) Restoration activities. Any agent or employee of governmental agencies listed in Table 1 may take listed elkhorn or staghorn corals without a permit, when acting in the course of conducting a restoration activity directed at elkhorn or staghorn coral which is authorized by an existing authority (see Table 1 to this section). Take of elkhorn or staghorn corals during such restoration activity is excepted from the prohibitions in ESA sections 9(a)(1)(B) and (C). An excepted restoration activity is defined as the methods and processes used to provide aid to injured individual elkhorn or staghorn coral.

(3) Section 10 scientific and enhancement permits. The Assistant Administrator may issue permits authorizing activities that would otherwise be prohibited under §223.208(a) for scientific purposes or to enhance the propagation or survival of elkhorn or staghorn corals, in accordance with and subject to the conditions of part 222, subpart C-General Permit Procedures.

(4) Section 10 incidental take permits. The Assistant Administrator may issue permits authorizing activities that would otherwise be prohibited under §223.208(a) in accordance with section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), and in accordance with, and subject to the conditions of part 222 of this chapter. Such permits may be issued for the incidental taking of elkhorn and staghorn corals.

(5) Section 7 Interagency consultation. Any incidental taking that is in compliance with the terms and conditions specified in a written statement provided under section 7(b)(4)(C) of the ESA (16 U.S.C. 1536(b)(4)(C)) shall not be considered a prohibited taking of elkhorn and staghorn corals pursuant to paragraph (o)(2) of section 7 of the ESA (16 U.S.C. 1536(o)(2)).

(6) Importation under the Convention on International Trade of Endangered Species. Any importation of elkhorn or staghorn corals in compliance with the provisions of section 9(c) of the ESA (16 U.S.C. 1538(c)) shall not be considered a violation of any provision of the ESA or any regulation issued pursuant to the ESA.

TABLE 1 TO §223.208. AGENCIES AND AUTHORIZING STATUTES WHOSE CORAL RESTORATION ACTIVITIES ARE EXCEPTED FROM CERTAIN PROHIBITIONS IN PARAGRAPH (a) OF THIS SECTION.

FEDERAL:	
Agency/Person	Statute and Specific Provision(s)
NOAA, National Ocean Service (NOS)	National Marine Sanctuaries Act 16 U.S.C. 1431 *et seq.*
NOAA, NOS	Coral Reef Conservation Act 16 U.S.C. 6406
Commandant, U.S. Coast Guard (USCG), Authorized representatives of States or Indian Tribes.	"Oil Pollution Act" 33 U.S.C. 2702
Designated Federal, State or Indian tribal natural resources trustees, including NOAA, Department of Interior (DOI), Florida Department of Environmental Protection (FDEP), Puerto Rico Department of Natural and Environmental Resources (DNER), and U.S. Virgin Islands Department of Planning and Natural Resources (DPNR)	33 U.S.C. 2706
Administrator, Environmental Protection Agency (EPA) or Commandant, USCG; Authorized representatives of States.	"Clean Water Act" 33 U.S.C. 1321

TABLE 1 TO § 223.208. AGENCIES AND AUTHORIZING STATUTES WHOSE CORAL RESTORATION ACTIVITIES ARE EXCEPTED FROM CERTAIN PROHIBITIONS IN PARAGRAPH (a) OF THIS SECTION.—Continued

FEDERAL:	
Agency/Person	Statute and Specific Provision(s)
Designated Federal, State or Indian tribal natural resources trustees, including NOAA, DOI, FDEP, DNER, and DPNR.	
Administrator of the EPA; States or Indian Tribes in cooperative agreements with EPA; Heads of other Federal agencies where release is from vessel or facility solely under their control.	″Superfund Act″ (CERCLA) 42 U.S.C. 9604
Administrator of the EPA	42 U.S.C. 9606
Designated Federal, State or Indian tribal natural resources trustees, including NOAA, DOI, FDEP, DNER, and DPNR	42 U.S.C. 9607
DOI, National Park Service (NPS)	Park System Resource Protection Act, 16 U.S.C. 19jj 16 U.S.C. 668dd–668ee (National Wildlife Refuge System)
DOI	National Wildlife Refuge System Administration Act, 16 U.S.C. 668
FLORIDA:	
The Board of Trustees of the Internal Improvement Trust Fund	State Lands; Board of Trustees to Administer FL Statute § 253.03 Duty of Board to Protect, etc. FL Statute. § 253.04 FDEP
Governor and Cabinet; FDEP	Land Acquisition for Conservation or Recreation; Conservation and Recreation Lands Trust Fund FL Statute § 259.032
FDEP	Pollutant Discharge Prevention and Removal; Liability for Damage to Natural Resources FL Statute § 376.121
FDEP	Land and Water Management; Coral Reef Restoration FL Statute § 390.0558
Florida Fish and Wildlife Conservation Commission	Fish and Wildlife Conservation Commission FL Statute § 20.331
U.S. VIRGIN ISLANDS:	
DPNR	DPNR; Powers and Duties of Department 3 V.I.C. § 401
DPNR	Conservation; Croix East End Marine Park Established; 12 V.I.C. § 98
PUERTO RICO:	
DNER	Conservation; Protection, Conservation and Management of Coral Reefs 12 L.P.R.A. §§ 241-241g *et seq.*
DNER	Conservation; Natural Patrimony Program 12 L.P.R.A. § 1225 *et seq.*
DNER	Conservation; Natural Resources; Declarations of Marine Reserves (and other protected areas) containing elkhorn and staghorn corals 12 L.P.R.A.; Subtitle 6A; Chapter 252; §§ 5011 *et seq.*

[73 FR 64276, Oct. 29, 2008, as amended at 79 FR 20813, Apr. 14, 2014]

§ 223.209 [Reserved]

§ 223.210 Green sturgeon.

(a) *Prohibitions.* The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to the threatened Southern Distinct Population Segment (DPS) of green sturgeon listed in § 223.102.

(b) *Exceptions.* Exceptions to the take prohibitions described in section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) applied in paragraph (a) of this section to the threatened Southern DPS listed in § 223.102 are described in the following paragraphs (b)(1) through (b)(3).

(1) *Scientific research and monitoring exceptions.* The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in § 223.102 do not apply to ongoing or future Federal, state, or private-sponsored scientific research or monitoring activities if:

(1) Scientific Research and Monitoring Exceptions. The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in § 223.102(c)(1) do not apply to ongoing or future Federal, state, or private-sponsored scientific research or monitoring activities if:

(i) The scientific research or monitoring activity complies with required state reviews or permits;

(ii) The research or monitoring activity is directed at the Southern DPS and is not incidental to research or monitoring of another species;

(iii) Take of live mature adults in the lower Feather River from the confluence with the Sacramento River to the Oroville Dam (rkm 116), the lower Yuba River from the confluence with the Feather River to the Daguerre Dam (rkm 19), or Suisun, San Pablo, and San Francisco Bays or the Sacramento-San Joaquin Delta from the Golden Gate Bridge up into the Sacramento River to Keswick Dam (rkm 483) occurs from July 1 through March 1 so as to substantially increase the likelihood that uninterrupted upstream spawning migrations of adults will occur;

(iv) Take is non-lethal;

(v) Take involving the removal of any life stage of the Southern DPS from the wild does not exceed 60 minutes;

(vi) Take does not involve artificial spawning or enhancement activities;

(vii) A description of the study objectives and justification, a summary of the study design and methodology, estimates of the total non-lethal take of Southern DPS fish anticipated, estimates of incidental take of other ESA listed species anticipated and proof that those takes have been authorized by NMFS or the USFWS, identification of funding sources, and a point of contact is reported to the NMFS Southwest Regional Office in Long Beach at least 60 days prior to the start of the study, or by August 31, 2010 for ongoing studies;

(viii) Reports that include the total number of Southern DPS and any other ESA listed species taken, information that supports that take was non-lethal, and a summary of the project results is submitted to the NMFS Southwest Regional Office in Long Beach on a schedule to be determined by NMFS; and

(ix) Research or monitoring that involves action, permitting, or funding by a Federal agency still complies with the requirements of ESA section 7(a)(2) in order to ensure that the action will not jeopardize the continued existence of the threatened Southern DPS.

(2) *Enforcement exception.* The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in § 223.102 do not apply to any employee of NMFS, when the employee, acting in the course of his or her official duties, takes a Southern DPS fish listed in § 223.102 without a permit, if such action is necessary for purposes of enforcing the ESA or its implementing regulations.

(3) *Emergency fish rescue and salvage exceptions.* The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in § 223.102 do not apply to emergency fish rescue and salvage activities that include aiding sick, injured, or stranded fish, disposing of dead fish, or salvaging dead fish for use in scientific studies, if:

(i) The activity complies with required state or other Federal reviews or permits;

(ii) The activity is conducted by an employee or designee of NMFS or the U.S. Fish and Wildlife Service (USFWS), any Federal land management agency, or California Department of Fish and Game, Oregon Department of Fish and Wildlife, Washington Department of Fish and Wildlife, or Alaska Department of Fish and Game;

(iii) The activity benefits the Southern DPS; and

(iv) Those carrying out the activity submit a report to the NMFS Southwest Regional Office in Long Beach that includes, at a minimum, the number and status of fish handled, the location of rescue and/or salvage operations, and the potential causes(s) of the emergency situation within 10 days after conducting the emergency rescue.

(4) *Habitat restoration exceptions.* The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in § 223.102 do not apply to habitat restoration activities including barrier removal or modification to restore water flows, riverine or estuarine bed restoration, natural bank stabilization, restoration of native vegetation, removal of non-native species, or removal of contaminated sediments, that reestablish self-sustaining habitats for the Southern DPS, if:

(i) The activity complies with required state and Federal reviews and permits;

(ii) Those carrying out the activity submit a detailed description of the restoration activity to the NMFS Southwest Regional Office in Long Beach at least 60 days prior to the start of the restoration project, or, for ongoing studies, by August 31, 2010, which includes: the geographic area affected; when activities will occur; how they will be conducted; and the severity of direct, indirect, and cumulative impacts of activities on the Southern DPS; identification of funding sources; demonstration that all state and Federal regulatory requirements have been met; a description of methods used to ensure that the likelihood of survival or recovery of the listed species is not reduced; a plan for minimizing and mitigating any adverse impacts to Southern DPS spawning or rearing habitat; an estimate of the amount of incidental take of the listed species that may occur and a description of how that estimate was made; a plan for effective monitoring and adaptive management; a pledge to use best available science and technology when conducting restoration activities; and a point of contact;

(iii) Those carrying out the activity submit progress reports that include the total number of Southern DPS fish taken, information regarding whether the take was lethal or non-lethal, a summary of the status of the project, and any changes in the methods being used, to the NMFS Southwest Regional Office in Long Beach on a schedule to be determined by NMFS; and

(iv) An activity that involves action, permitting, or funding by a Federal agency complies with the requirements of ESA section 7(a)(2) in order to ensure that the action will not jeopardize the continued existence of the threatened Southern DPS.

(c) *Exemptions via ESA 4(d) Program Approval.* Exemptions from the take prohibitions described in section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) applied in paragraph (a) of this section to the threatened Southern DPS listed in § 223.102 are described in the following paragraphs:

(1) *Scientific research and monitoring exemptions.* The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in § 223.102 do not apply to ongoing or future state-sponsored scientific research or monitoring activities that are part of a NMFS-approved, ESA-compliant state 4(d) research program conducted by, or in coordination with, state fishery management agencies (California Department of Fish and Game, Oregon Department of Fish and Wildlife, Washington Department of Fish and Wildlife, or Alaska Department of Fish and Game), or as part of a monitoring and research program overseen by, or coordinated by, one of these agencies. State 4(d) research programs must meet the following criteria:

(i) Descriptions of the ongoing and future 4(d) research or monitoring activity, as described in paragraph (c)(1)(ii) of this section, must be received by the NMFS Southwest Regional Office in Long Beach during the mid-September through mid-October

2010 application period. This exception to the section 9 take prohibitions expires if the proposal is rejected as insufficient or is denied. If the state 4(d) research program package is received during the mid-September to mid-October application period, ongoing state-supported scientific research activities may continue until NMFS issues a written decision of approval or denial. If approved, the state 4(d) program authorization will cover one calendar year and state-supported researchers would have to renew authorizations annually during subsequent application periods.

(ii) Descriptions of ongoing and future state-supported research activities must include the following information and should be submitted to NMFS by the State: an estimate of total direct or incidental take; a description of the study design and methodology; a justification for take and the techniques employed; and a point of contact.

(iii) NMFS will provide written approval of a state 4(d) research program.

(iv) The State agency will provide an annual report to NMFS that, at a minimum, summarizes the number of Southern DPS green sturgeon taken directly or incidentally, and summarizes the results of the project.

(2) *Fisheries exemptions.* The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in §223.102 do not apply to fisheries activities that are conducted in accordance with a NMFS-approved Fishery Management and Evaluation Plan (FMEP). If NMFS finds that an FMEP meets the criteria listed below, a letter of concurrence which sets forth the terms of the FMEP's implementation and the duties of the parties pursuant to the FMEP, will be issued to the applicant.

(i) An FMEP must prohibit retention of green sturgeon (*i.e.,* zero bag limit); set maximum incidental take levels, include restrictions to minimize incidental take of the green sturgeon (*e.g.,* temporal/spatial restrictions, size of fish, gear used); provide a biologically based rationale demonstrating that the incidental take management strategy will not significantly reduce the likelihood of survival or recovery of the Southern DPS; include effective monitoring and evaluation plans; provide for evaluating monitoring data and making revisions to the FMEP; provide for effective enforcement and education; provide a timeframe for FMEP implementation; and report the amount of incidental take and summarize the effectiveness of the FMEP to NMFS on a biannual basis.

(ii) The ESA section 9(a)(1)(B) and (a)(1)(C) take prohibitions will not apply to ongoing commercial and recreational fisheries activities until September 30, 2010 if a letter of intent to develop an FMEP that is protective of green sturgeon has been received by NMFS by July 2, 2010. The exemption will expire if the letter of intent is rejected without further review of a FMEP. If the letter of intent is received by August 31, 2010, a draft FMEP must be received by NMFS within 6 months from the date of receipt of the letter of intent. A final FMEP must be received by NMFS within 3 months from the date of receipt of NMFS' comments on the draft FMEP. Ongoing commercial and recreational fisheries activities may continue until NMFS issues a letter of concurrence or denial for final FMEPs.

(iii) NMFS will provide a public comment period (≥30 days) before approval of new or amended FMEPs; provide a letter of concurrence for approved FMEPs that specifies the implementation and reporting requirements; evaluate FMEPs every 5 years and identify changes that would improve their effectiveness; and provide a public comment period (≥30 days) before withdrawing approval of an FMEP.

(3) *Tribal exemptions.* The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in §223.102 do not apply to fishery harvest or other activities undertaken by a tribe, tribal member, tribal permittee, tribal employee, or tribal agent in Willapa Bay, WA, Grays Harbor, WA, Coos Bay, OR, Winchester Bay, OR, Humboldt Bay, CA, and any other area where tribal treaty fishing occurs, if those activities are compliant with a tribal resource management plan (Tribal Plan), provided that the Secretary determines that implementation of such Tribal Plan will not appreciably reduce the likelihood of survival

and recovery of the Southern DPS. In making that determination the Secretary shall use the best available biological data (including any tribal data and analysis) to determine the Tribal Plan's impact on the biological requirements of the species, and will assess the effect of the Tribal Plan on survival and recovery, consistent with legally enforceable tribal rights and with the Secretary's trust responsibilities to tribes.

(i) A Tribal Plan may include, but is not limited to, plans that address fishery harvest, artificial production, research, or water or land management, and may be developed by one tribe or jointly with other tribes. The Secretary will consult on a government-to-government basis with any tribe that so requests and will provide, to the maximum extent practicable, technical assistance in examining impacts on the Southern DPS as tribes develop Tribal Plans. A Tribal Plan must specify the procedures by which the tribe will enforce its provisions.

(ii) Where there exists a Federal court proceeding with continuing jurisdiction over the subject matter of a Tribal Plan, the plan may be developed and implemented within the ongoing Federal Court proceeding. In such circumstances, compliance with the Tribal Plan's terms shall be determined within that Federal Court proceeding.

(iii) The Secretary shall seek comment from the public on the Secretary's pending determination whether implementation of a Tribal Plan will appreciably reduce the likelihood of survival and recovery of the listed Southern DPS.

(iv) The Secretary shall publish notification in the FEDERAL REGISTER of any determination regarding a Tribal Plan and the basis for that determination.

(d) *ESA section 10 permits.* The exceptions of section 10 of the ESA (16 U.S.C. 1539) and other exceptions under the ESA relating to endangered species, including regulations in part 222 of this chapter II implementing such exceptions, also apply to the threatened Southern DPS listed in § 223.102. Federal, state, and private-sponsored research activities for scientific research or enhancement purposes that are not covered under Scientific Research and Monitoring Exceptions as described in paragraph (b)(1) of this section or Scientific Research and Monitoring Exemptions as described in paragraph (c)(1) of this section, may take Southern DPS fish pursuant to the specifications of an ESA section 10 permit.

(e) *Affirmative defense.* In connection with any action alleging a violation of the prohibitions of paragraph (a) of this section with respect to the threatened Southern DPS listed in § 223.102, any person claiming that his or her take is excepted via methods listed in paragraph (b) of this section shall have a defense where the person can demonstrate that the exception is applicable and was in force, and that the person fully complied with the exception's requirements at the time of the alleged violation. This defense is an affirmative defense that must be raised, pleaded, and proven by the proponent. If proven, this defense will be an absolute defense to liability under section 9(a)(1)(G) of the ESA with respect to the alleged violation.

[75 FR 30728, June 2, 2010, as amended at 79 FR 20813, Apr. 14, 2014]

§ 223.211 Atlantic sturgeon.

(a) *Prohibitions.* The prohibitions of sections 9(a)(1)(A) through 9(a)(1)(G) of the ESA (16 U.S.C. 1538) relating to endangered species apply to the threatened Gulf of Maine Distinct Population Segment (Gulf of Maine DPS) of Atlantic sturgeon listed in § 223.102(c)(29).

(b) [Reserved]

[78 FR 69315, Nov. 19, 2013]

§ 223.212 Southern DPS of spotted seal.

The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species shall apply to the Southern Distinct Population Segment of spotted seal listed in § 223.102.

[79 FR 20814, Apr. 14, 2014]

§§ 223.213–223.300 [Reserved]

§ 223.301 Special rules—marine and anadromous fishes.

(a) *Middle Columbia River steelhead (Oncorhynchus mykiss.)* (1) The Middle Columbia River steelhead located in

the geographic areas identified in paragraph (a)(4) of this section comprise a nonessential, experimental population (NEP).

(2) *Take of this species that is allowed in the NEP area.* (i) Taking of Middle Columbia River (MCR) steelhead that is otherwise prohibited by paragraph (a)(3) of this section and 50 CFR 223.203(a), provided that the taking is unintentional; not due to negligent conduct; and incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Examples of otherwise lawful activities include recreational fishing, recreation, agriculture, forestry, municipal usage, and other similar activities, which are carried out in accordance with Federal, state, and local laws and regulations as well as applicable tribal regulations.

(ii) Handling of MCR steelhead in the NEP area by NMFS, Oregon Department of Fish and Wildlife (ODFW) and the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWS) employees and authorized agents acting on their behalf for scientific purposes and by the Portland General Electric Company (PGE) and CTWS employees and authorized agents acting on their behalf for the purpose of monitoring and evaluating the ongoing reintroduction under the Federal Energy Regulatory Commission (FERC) license for the Pelton Round Butte Hydroelectric Project (FERC No. 2030).

(iii) Taking of MCR steelhead incidental to any activities related to or associated with the operation and maintenance of Pelton Round Butte Hydroelectric Project's (FERC Project No. 2030) Round Butte Dam by PGE or CTWS as administered under a license issued by FERC. Acceptable forms of taking of steelhead include, but are not limited to, mortality, stranding, injury, impingement at Round Butte Dam facilities, or delay in up- or downstream passage associated with or caused by any of the following activities. Activities related to the operation and maintenance of Round Butte Dam include, but are not limited to:

(A) Hydroelectric generation;

(B) Maintenance of project facilities;

(C) Provision of upstream and downstream fish passage,

(D) Fish handling at fish separation and counting facilities;

(E) Fish conservation activities;

(F) Fish handling, tagging, and sampling in connection with FERC approved studies; and

(G) Approved resource protection, mitigation, and enhancement measures.

(iv) Handling MCR steelhead by Deschutes Valley Water District employees and agents acting on their behalf for the purpose of monitoring and evaluating the Opal Springs Hydroelectric Project (FERC No. 5891).

(v) Take incidental to any activities related to or associated with the operation and maintenance of the Opal Springs Hydroelectric Project (FERC Project No. 5891) as administered under a license issued by FERC and the Settlement Agreement Concerning License Amendment for Fish Passage, dated October 2011.

(vi) Take of MCR steelhead by any person with a valid permit issued by NMFS and a valid permit issued by the ODFW for educational purposes, scientific purposes, and the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the ESA.

(3) *Take of this species that is not allowed in the NEP area.* (i) Except as expressly allowed in paragraph (a)(2) of this section, the taking of MCR steelhead is prohibited within the NEP geographic area, as provided in 50 CFR 223.203(a).

(ii) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, MCR steelhead taken in violation of this paragraph (a)(3)(ii) and 50 CFR 223.203(a).

(4) *Geographic extent of the nonessential experimental population of Middle Columbia River steelhead.* (i) The geographic range of this experimental population is all accessible reaches upstream of Round Butte Dam on the Deschutes River, including tributaries Whychus Creek, Crooked River and Metolius River. More specifically, the geographic range includes all accessible reaches of the Deschutes River downstream to Round Butte Dam; the Whychus Creek subbasin; the Metolius

River subbasin; and the Crooked River subbasin from Bowman Dam downstream (including the Ochoco and McKay Creek watersheds) to its point of confluence with the Deschutes River.

(ii) Round Butte Dam is the downstream terminus of this NEP. When MCR steelhead are below the Round Butte Dam, they will be outside the NEP area and thus considered part of the nonexperimental population.

(5) *Review and evaluation of nonessential experimental population.* As a requirement under its Federal license to operate the Pelton Round Butte Project, Portland General Electric Company and the Confederated Tribes of the Warm Springs Reservation of Oregon will conduct monitoring over the 50-year term of the license. This monitoring will include collecting information on the reintroduction program that NMFS will use in evaluating the NEP designation.

(6) *Time frame for NEP designation.* This NEP designation will expire on January 15, 2025.

(b) *San Joaquin River Central Valley (CV) spring-run Chinook Salmon Experimental Population (Oncorhynchus tshawytscha).* (1) The San Joaquin River CV spring-run Chinook salmon population identified in paragraph (b)(2) of this section is designated as a nonessential experimental population under section 10(j) of the ESA.

(2) San Joaquin River CV Spring-run Chinook Salmon Experimental Population. All CV spring-run Chinook salmon, including those that have been released or propagated, naturally or artificially, within the experimental population area in the San Joaquin River as defined here are considered part of the San Joaquin River experimental population. The boundaries of this experimental population area include the San Joaquin River from Friant Dam downstream to its confluence with the Merced River, delineated by a line between decimal latitude and longitude coordinates: 37.348930° N, 120.975174° W and 37.349099° N, 120.974749° W, as well as all sloughs, channels, floodways, and waterways connected with the San Joaquin River that allow for CV spring-run Chinook salmon access, but excluding the Merced River. Those portions of the Kings River that connect with the San Joaquin River during high water years are also part of the experimental population area.

(3) Prohibitions. Except as expressly allowed in paragraph (b)(4) of this section, all prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)), except 9(a)(1)(C), apply to fish that are part of the threatened, nonessential experimental population of CV spring-run Chinook salmon identified in paragraph (b)(2) of this section.

(4) Exceptions to the Application of Section 9 Take Prohibitions in the Experimental Population Area. The following forms of take in the experimental population area identified in paragraph (b)(2) of this section are not prohibited by this section:

(i) Any taking of CV spring-run Chinook salmon provided that it is unintentional, not due to negligent conduct, and incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

(ii) Any taking of CV spring-run Chinook salmon by an employee or designee of NMFS, the USFWS, other Federal resource management agencies, the California Department of Fish and Wildlife, or any other governmental entity if in the course of their duties it is necessary to: aid a sick, injured or stranded fish; dispose of a dead fish; or salvage a dead fish which may be useful for scientific study. Any agency acting under this provision must report to NMFS (see **ADDRESSES** section) the numbers of fish handled and their status on an annual basis.

(iii) Any taking of CV spring-run Chinook salmon for scientific research or enhancement purposes by a person or entity with a valid section ESA 10(a)(1)(A) permit issued by NMFS and a valid incidental take permit, consistency determination, or other take authorization issued by the CDFW.

(iv) Any taking of CV spring-run Chinook salmon for scientific research purposes by the CDFW provided that:

(A) Scientific research activities involving purposeful take are conducted by employees or contractors of CDFW or as a part of a monitoring and research program overseen by or coordinated with CDFW.

(B) CDFW provides for NMFS' review and approval a list of all scientific research activities involving direct take planned for the coming year, including an estimate of the total direct take that is anticipated, a description of the study design, including a justification for taking the species and a description of the techniques to be used, and a point of contact.

(C) CDFW annually provides to NMFS the results of scientific research activities directed at fish in the experimental population, including a report of the direct take resulting from the studies and a summary of the results of such studies.

(D) Scientific research activities that may incidentally take fish in the experimental population are either conducted by CDFW personnel, or are in accord with a permit issued by the CDFW.

(E) CDFW provides NMFS annually, for its review and approval, a report listing all scientific research activities it conducts or permits that may incidentally take fish in the experimental population during the coming year. Such reports shall also contain the amount of incidental take occurring in the previous year's scientific research activities and a summary of the results of such research.

(F) Electro fishing in any body of water known or suspected to contain fish in the experimental population is conducted in accordance with NMFS ''Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act'' (NMFS, 2000a).

(G) CDFW provides NMFS, for its review and approval, the Monitoring and Analysis Plan produced by the San Joaquin River Restoration Program, including an estimate of the direct and indirect take that may result from all scientific research activities in that plan for the period from January 30, 2014 until January 30, 2015.

(H) NMFS' approval of a research program shall be a written approval by the NMFS West Coast Regional Administrator.

(5) Limited Exception to the Application of Section 9(a)(1) Take Prohibitions Outside of the Experimental Population Area. The following forms of take are not prohibited:

(i) Any taking of CV spring-run Chinook salmon in those portions of the lower San Joaquin River and its tributaries, including the Merced River, downstream from its confluence with the Merced River to Mossdale County Park in San Joaquin County, that the avoidance of which would impose more than *de minimus* water supply reductions, additional storage releases, or bypass flows on unwilling persons or entities diverting or receiving water pursuant to applicable State and Federal laws.

(ii)(A) Any taking of CV spring-run Chinook salmon by the Central Valley Project (CVP) and State Water Project (SWP) that originates from reintroduction to the San Joaquin River that the avoidance of which would impose more than *de minimus* water supply reductions, additional storage releases, or bypass flows on unwilling persons or entities diverting or receiving water pursuant to applicable State and Federal laws.

(B) NMFS will prepare a technical memorandum that describes the methodology to ensure that CV spring-run Chinook salmon originating from reintroduction to the San Joaquin River do not cause more than *de minimus* water supply reductions, additional storage releases, or bypass flows associated with the operations of the CVP and SWP under any ESA section 7 biological opinion or section 10 permit that is in effect at the time for operations of the CVP and SWP. To the maximum extent feasible, NMFS will develop this technical memorandum in coordination with and with opportunity for comment by interested parties. The first technical memorandum will be completed before CV spring-run Chinook salmon will be released in the San Joaquin River. Prior to January 15 of each succeeding year, NMFS will update the technical memorandum and, if required by the methodology, determine the share of take at the CVP and SWP facilities that originates from the reintroduction to the San Joaquin River. This share of take of CV spring-run Chinook salmon reintroduced to the San Joaquin River will be deducted from or otherwise used to adjust the

operational triggers and incidental take statements associated with any biological opinion that is in effect at the time for operations of the CVP and SWP facilities. NMFS will use best available commercial or scientific information to inform these calculations. The technical memorandum and annual determination will ensure that the reintroduction of CV spring-run Chinook salmon will not result in more than *de minimus* water supply reductions, additional storage releases or bypass flows of the CVP and SWP operations under any biological opinion or ESA section 10 permit that is in effect at the time for operations of the CVP and SWP on unwilling persons or entities diverting or receiving water pursuant to applicable State and Federal laws.

(c) *Okanogan River UCR spring-run Chinook Salmon Experimental Population (Oncorhynchus tshawytscha).* (1) The Upper Columbia River (UCR) spring-run Chinook salmon population located in the geographic area identified in paragraph (c)(5) of this section shall comprise the Okanogan River nonessential experimental population (NEP), and shall be treated as a ''threatened species'' pursuant to 16 U.S.C. 1539(j)(2)(C).

(2) *Prohibitions.* Except as provided in paragraph (c)(3) of this section, the prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to UCR spring-run Chinook salmon in the Okanogan River NEP Area, defined in paragraph (c)(5) of this section.

(3) *Exceptions to the Application of Section 9 Take Prohibitions in the Experimental Population Area.* Take of UCR spring-run Chinook salmon that is otherwise prohibited by paragraph (c)(2) of this section and 50 CFR 223.203(a) in the Okanogan River NEP Area is allowed, except as otherwise noted, provided it falls within one of the following categories:

(i) Any activity taken pursuant to a valid permit issued by NMFS under § 223.203(b)(1) and (7) for scientific research activities;

(ii) Aid, disposal, or salvage of fish by authorized agency personnel acting in compliance with 50 CFR 223.203(b)(3);

(iii) Activities associated with artificial propagation of the experimental population under an approved Hatchery Genetic Management Plan (HGMP) that complies with the requirements of 50 CFR 223.203(b)(5);

(iv) Any harvest-related activity undertaken by a tribe, tribal member, tribal permittee, tribal employee, or tribal agent consistent with tribal harvest regulations and an approved Tribal Resource Management Plan (TRMP) that complies with the requirements of 50 CFR 223.204;

(v) Any harvest-related activity consistent with state harvest regulations and an approved Fishery Management Evaluation Plan (FMEP) that complies with the requirements of 50 CFR 223.203(b)(4); or

(vi) Any take that is incidental to an otherwise lawful activity, provided that the taking is unintentional; not due to negligent conduct; and incidental to, and not the purpose of, the carrying out of the otherwise lawful activity. Otherwise lawful activities include, but are not limited to, agricultural, water management, construction, recreation, navigation, or forestry practices, when such activities are in full compliance with all applicable laws and regulations. Any fish that is incidentally taken in a manner allowed by this paragraph may not be collected and must be immediately returned to its habitat.

(4) *Prohibited take outside the NEP area.* Outside the Okanogan River NEP Area, UCR spring-run Chinook salmon are not considered to be part of the NEP, irrespective of their origin, and therefore the take prohibitions for endangered UCR spring-run Chinook salmon apply.

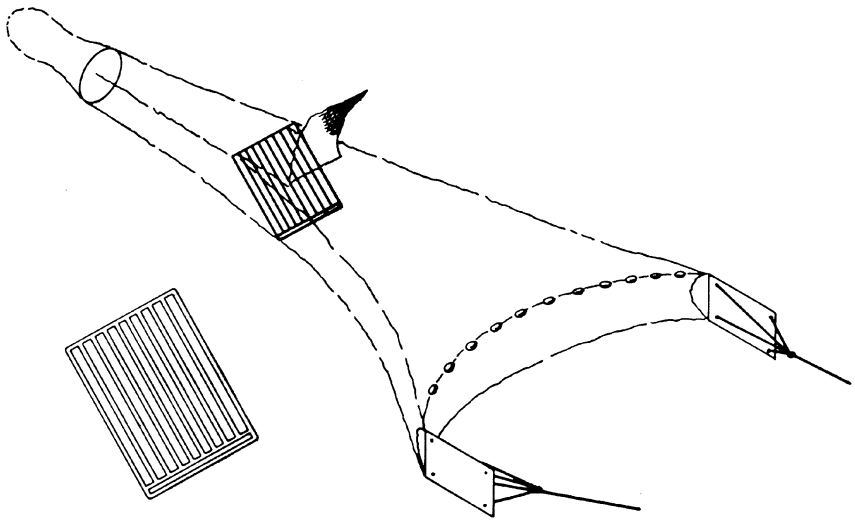
(5) *Geographic extent of the Okanogan River NEP Area.* The geographic boundary defining the Okanogan River NEP Area for UCR spring-run Chinook salmon is the mainstem and all tributaries of the Okanogan River between the Canada-United States border to the confluence of the Okanogan River with the Columbia River. All UCR spring-run Chinook salmon in this defined

Okanogan River NEP Area are considered part of the NEP, irrespective of where they originated.

[78 FR 2907, Jan. 15, 2013, as amended at 78 FR 79632, Jan. 30, 2014; 79 FR 40015, July 11, 2014]

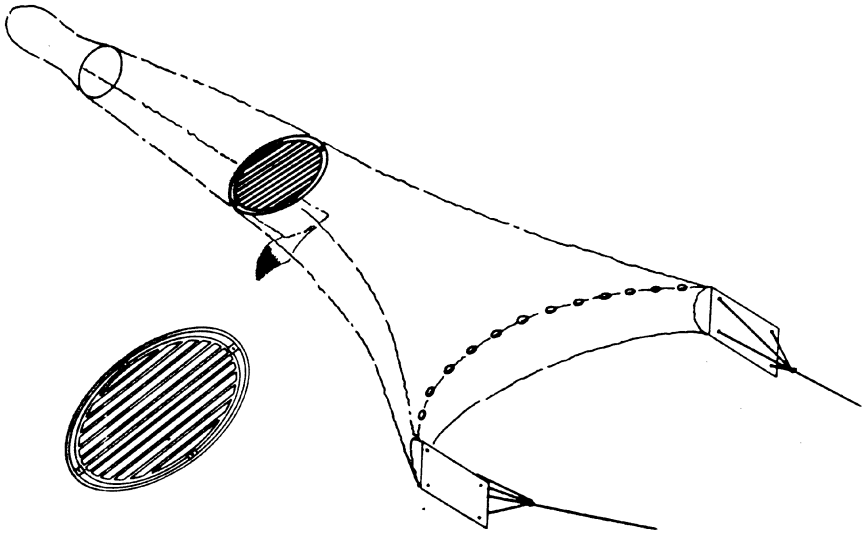
FIGURES 1–2 TO PART 223 [RESERVED]

FIGURE 3 TO PART 223—MATAGORDA TED



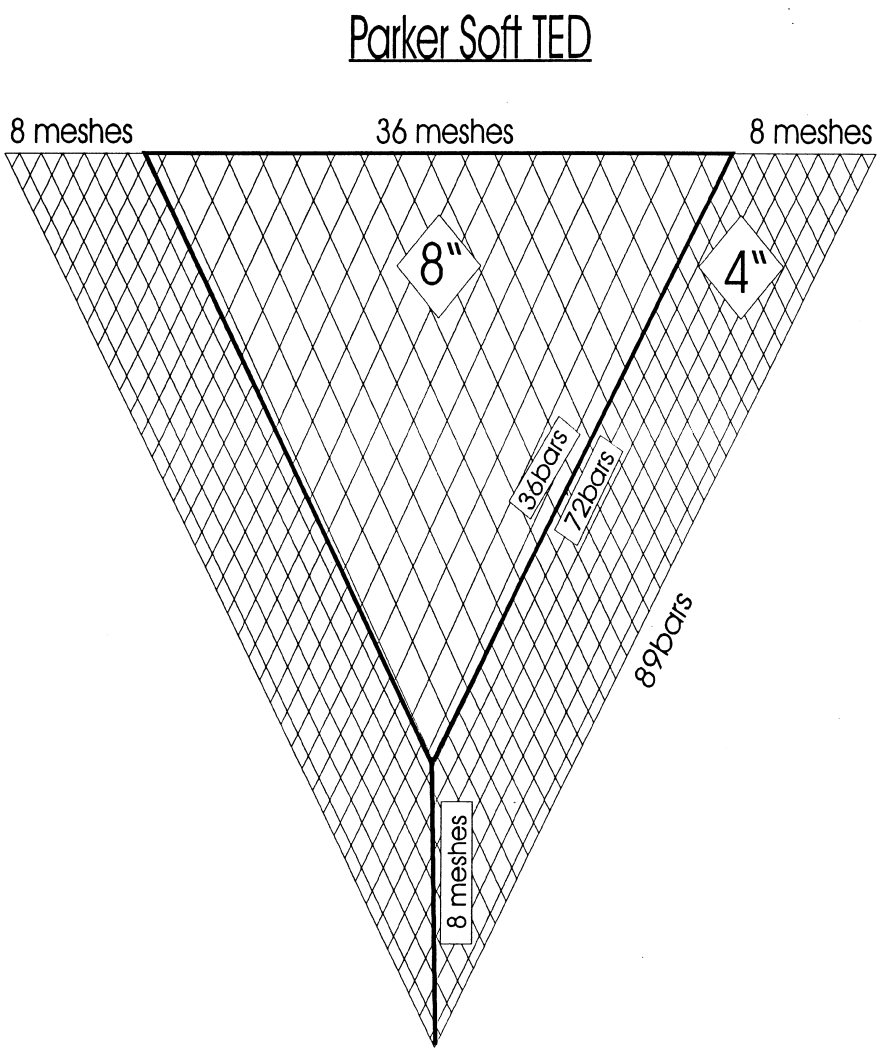
[52 FR 24260, June 29, 1987. Redesignated at 57 FR 40868, Sept. 8, 1992]

FIGURE 4 TO PART 223—GEORGIA TED



[52 FR 24261, June 29, 1987. Redesignated at 57 FR 40868, Sept. 8, 1992]

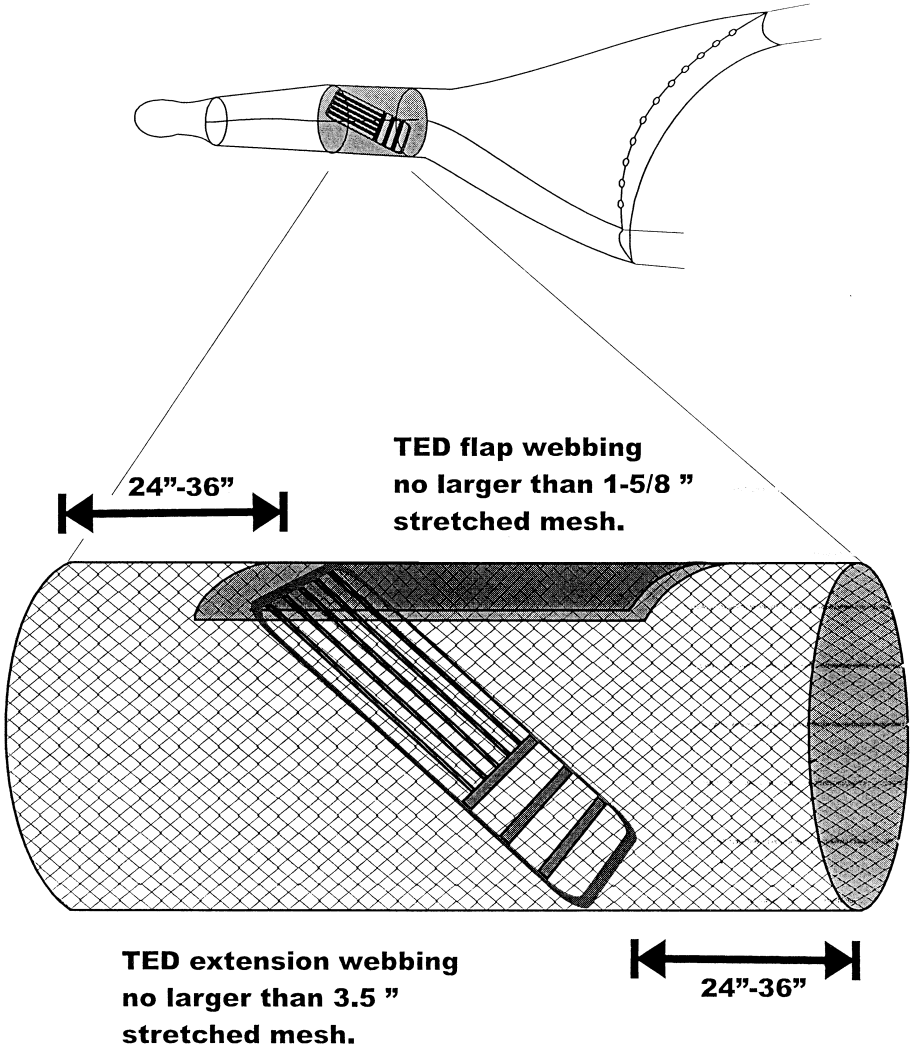
FIGURE 5 TO PART 223—NET DIAGRAM FOR THE EXCLUDER PANEL OF THE PARKER SOFT TED



The side panels are composed from 4-inch stretched mesh polyethylene or polypropylene webbing with No.48 twine size (3mm).
The main panel is composed of 8-inch stretced mesh polyethylene or polypropylene webbing with No.48 twine size (3mm).

[63 FR 17958, Apr. 13, 1998]

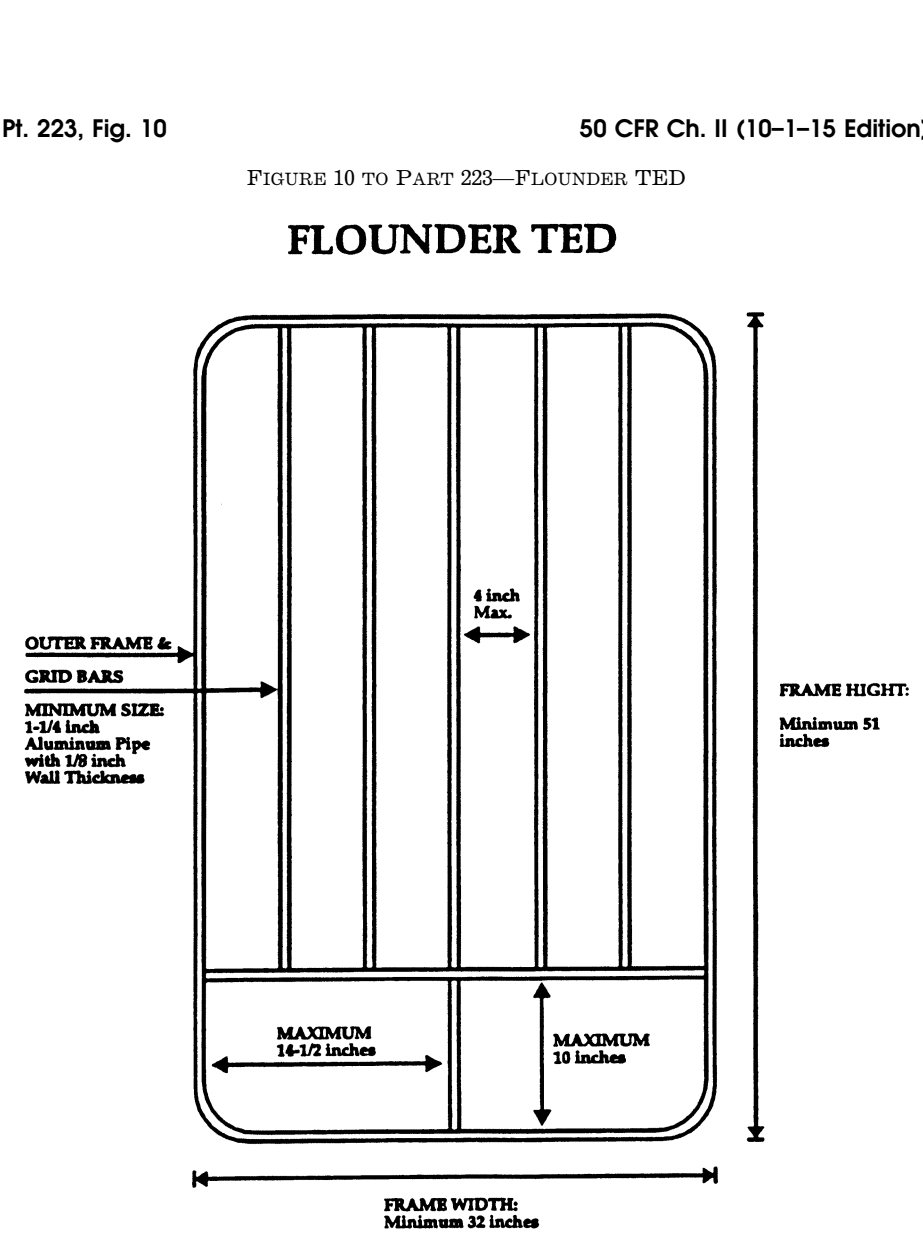
FIGURE 6 TO PART 223—TED EXTENSION IN SUMMER FLOUNDER TRAWL



[64 FR 55864, Oct. 15, 1999]

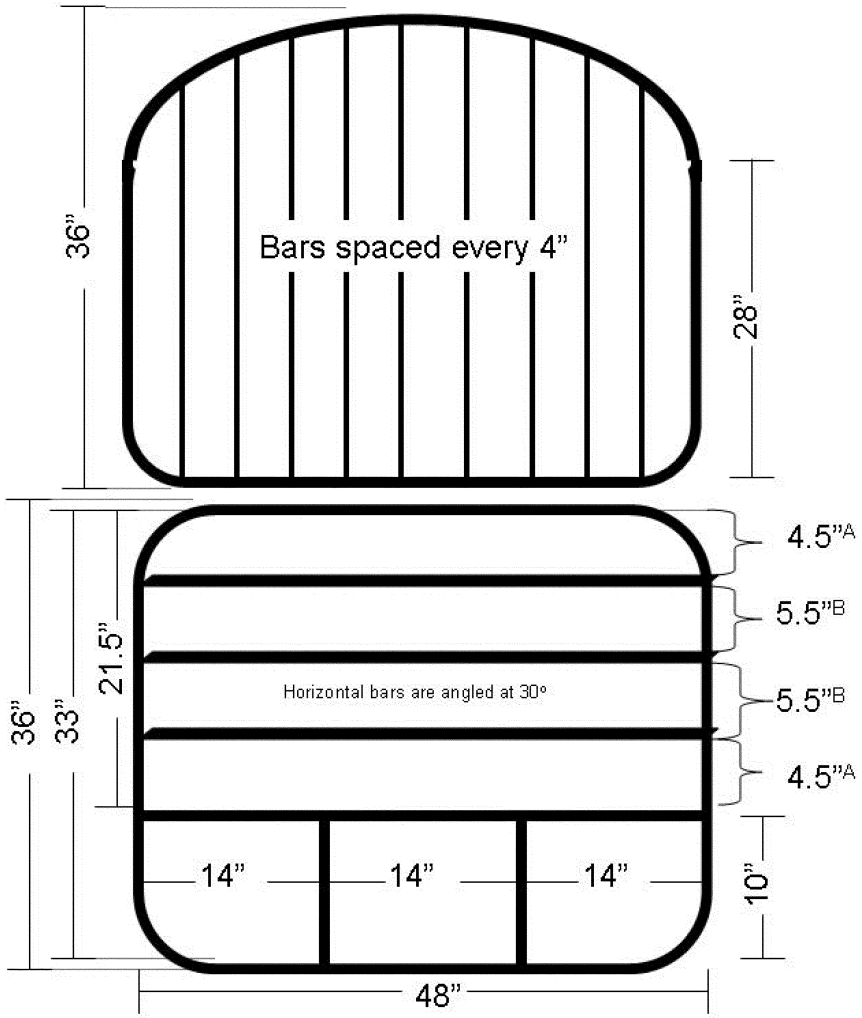
FIGURES 7–9b TO PART 223 [RESERVED]

FIGURE 10 TO PART 223—FLOUNDER TED



[58 FR 54069, Oct. 20, 1993]

FIGURE 11 TO PART 223—MODIFIED FLOUNDER TED



All pipe must be a minimum of 1.25" O.D.; horizontal flat bars shall be a minimum of 1.5" x 0.375"; vertical flat bars shall be a minimum of 1.25" x 0.375"

A – Space between edge of round bar and the leading edge of the adjacent bar is 4.5"

B – Space between leading edge of one bar and the leading edge of the adjacent bar is 5.5"

FIGURE 11 TO PART 223 -- MODIFIED FLOUNDER TED

[77 FR 29910, May 21, 2012]

FIGURE 12 TO PART 223—ESCAPE OPENING & COVER DIMENSIONS FOR 71-INCH TED

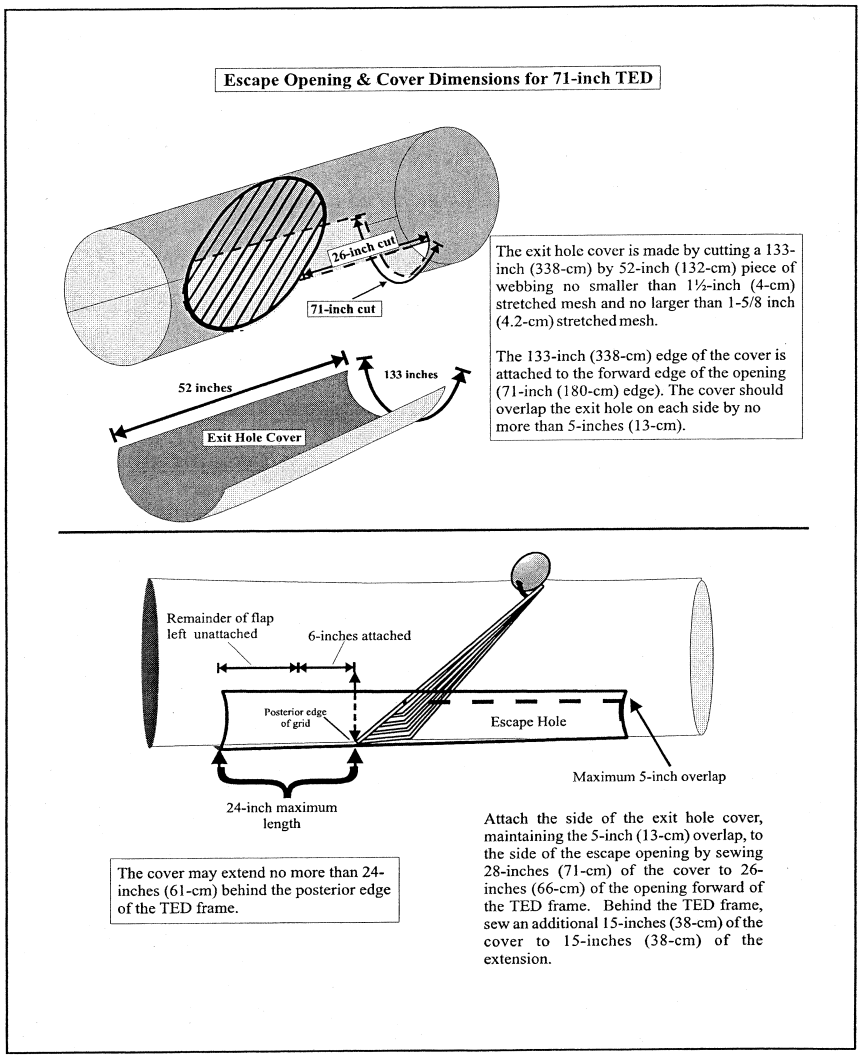
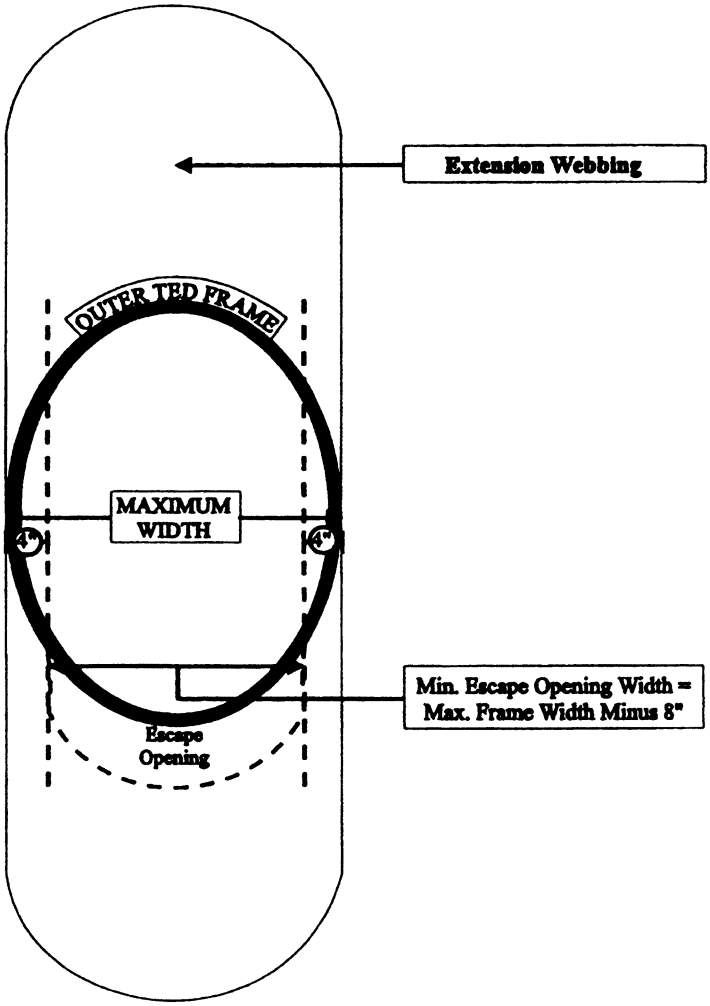


Figure 12 to Part 223

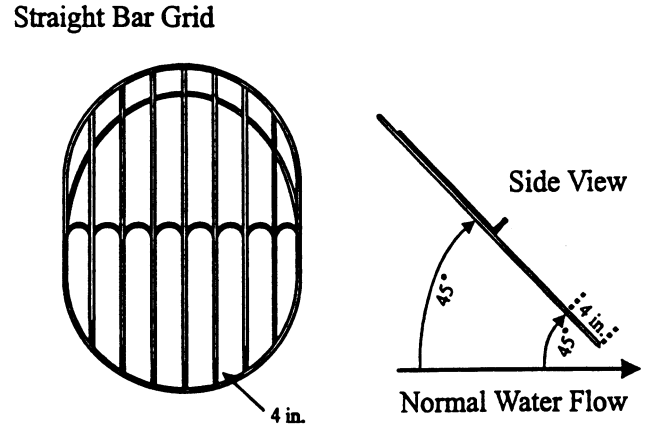
[68 FR 8469, Feb. 21, 2003]

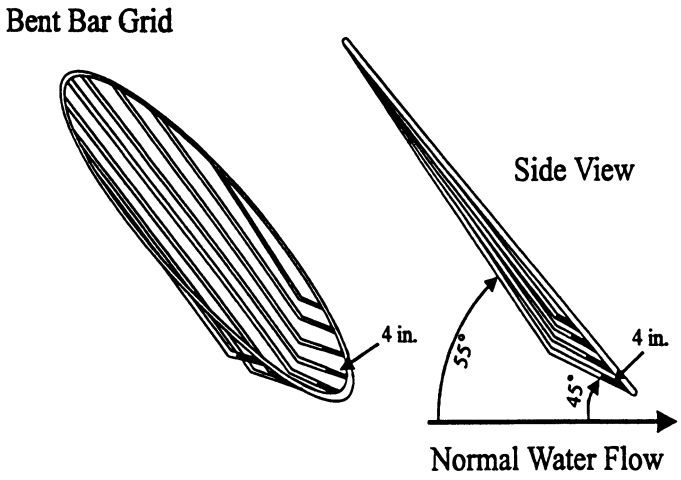
FIGURE 13 TO PART 223—SINGLE GRID HARD TED ESCAPE OPENING



[60 FR 15520, Mar. 24, 1995]

FIGURES 14a AND 14b TO PART 223—MAXIMUM ANGLE OF DEFLECTOR BARS WITH STRAIGHT BARS ATTACHED TO THE BOTTOM OF THE FRAME AND MAXIMUM ANGLE OF DEFLECTOR BARS WITH BENT BARS ATTACHED TO THE BOTTOM OF THE FRAME





[61 FR 66946, Dec. 19, 1996]

FIGURE 15 TO PART 223—WEEDLESS TED BRACE BAR DESCRIPTION

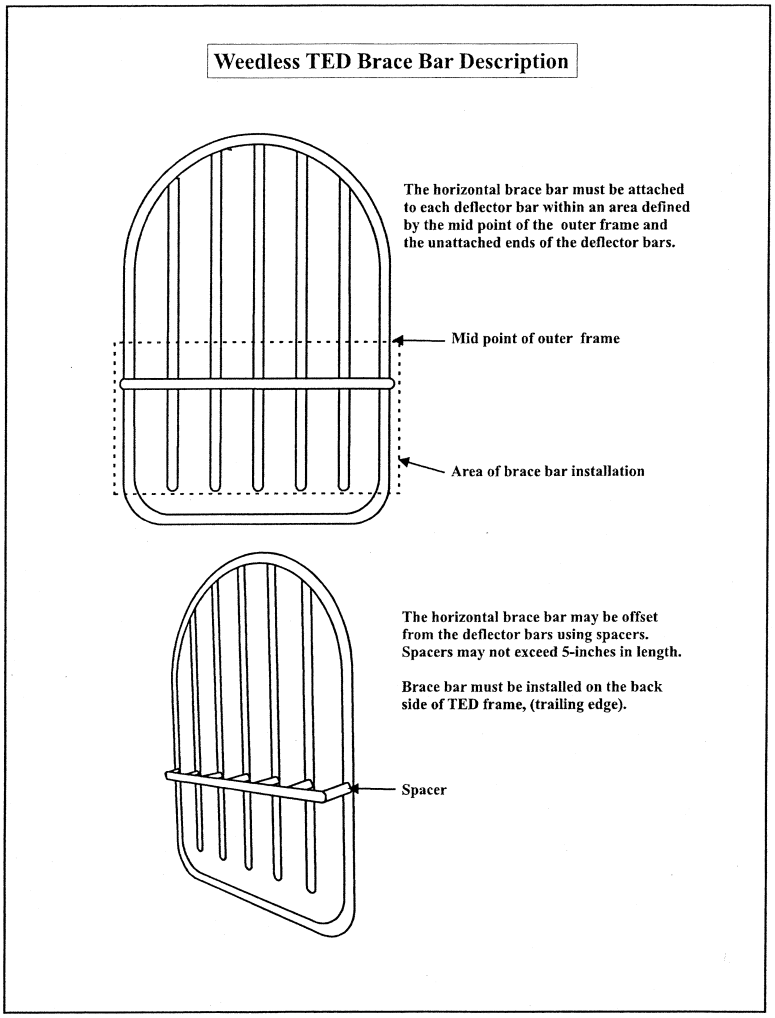
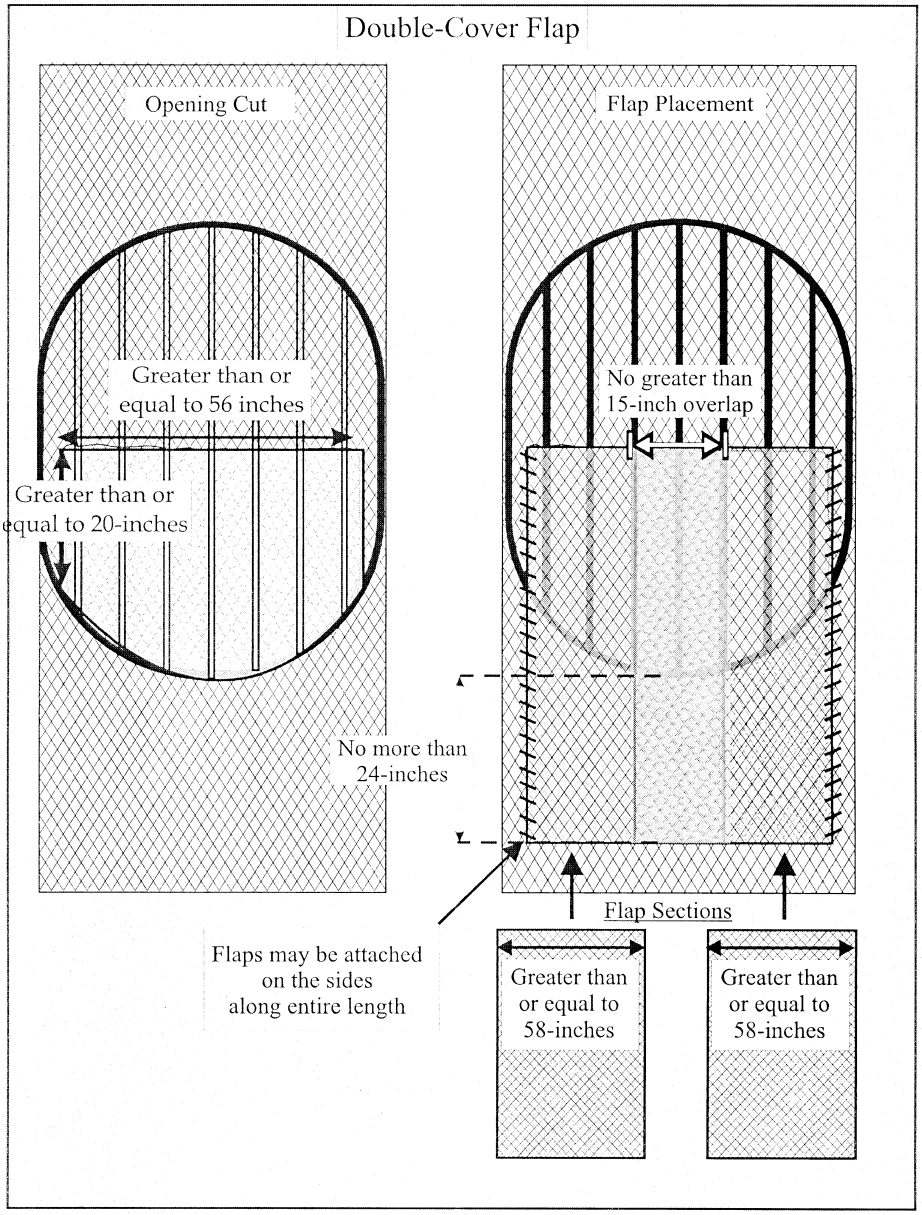


Figure 15 to Part 223

[68 FR 8469, Feb. 21, 2003]

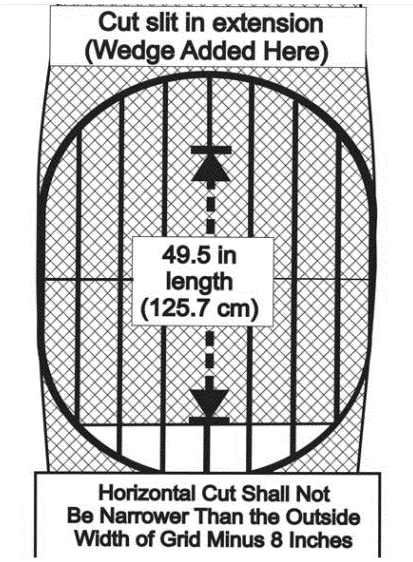
FIGURE 16 TO PART 223—ESCAPE OPENING AND FLAP DIMENSIONS FOR THE DOUBLE COVER FLAP TED



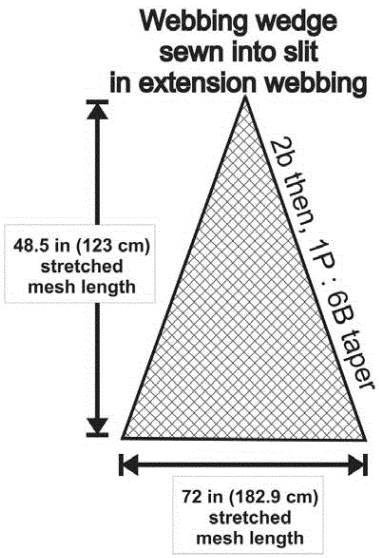
[69 FR 31037, June 2, 2004]

FIGURE 17 TO PART 223—BOONE WEDGE CUT ESCAPE OPENING

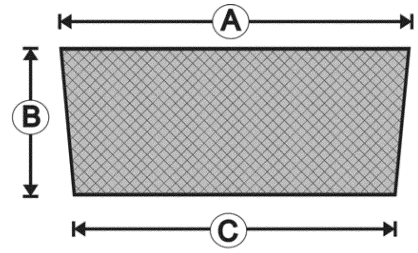
Escape Opening Cut Dimensions



Webbing Wedge Dimensions



Escape Opening Flap Dimensions



A Leading Edge Width -
164.5 Inches (417.8 cm) Stretched
(94 Meshes of 1-7/8 In. (48 mm) Webbing)

B Depth - 15 Inches (38 cm) Stretched
(8meshes of 1-7/8 In. (48 mm) Webbing)

C Width Trailing Edge -
152 Inches Stretched (87m of 1-7/8")

Escape Opening Flap Attachment

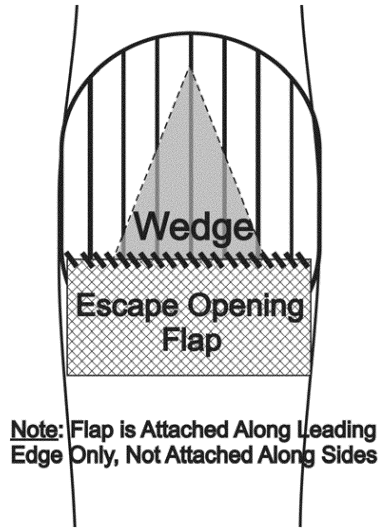
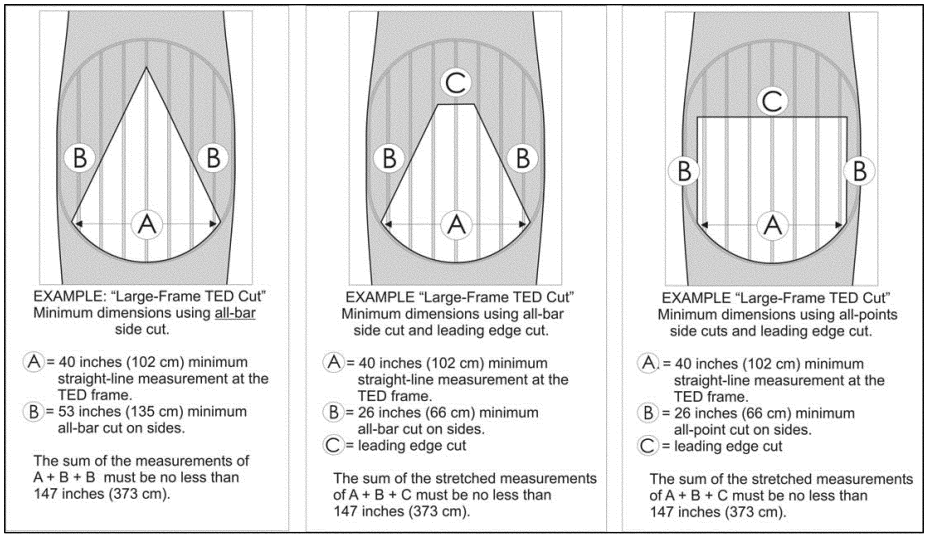


FIGURE 17 TO PART 223 -- BOONE WEDGE CUT ESCAPE OPENING

[77 FR 29911, May 21, 2012]

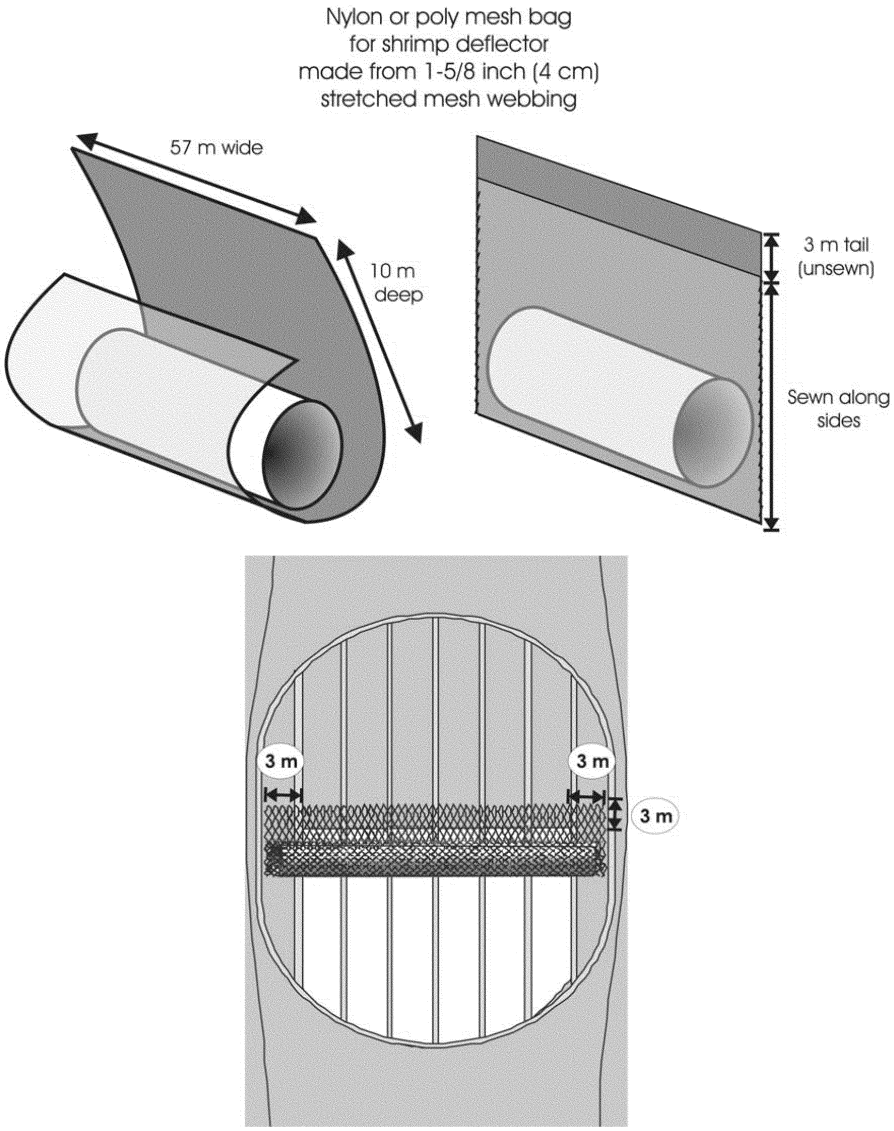
FIGURES 18a, 18b AND 18c TO PART 223—LARGE FRAME TED ESCAPE OPENING; MINIMUM DIMENSIONS USING ALL-BAR CUTS (TRIANGULAR CUTS); LARGE FRAME TED ESCAPE OPENING; MINIMUM DIMENSIONS USING ALL-BAR CUTS AND LEADING EDGE CUT; LARGE FRAME TED ESCAPE OPENING; MINIMUM DIMENSIONS USING ALL-POINTS SIDE CUTS (RECTANGULAR CUT)



FIGURES 18a, 18b, AND 18c TO PART 223. LARGE FRAME TED ESCAPE OPENING: MINIMUM DIMENSIONS USING ALL-BAR CUTS (TRIANGULAR CUT); LARGE FRAME TED ESCAPE OPENING: MINIMUM DIMENSIONS USING ALL-BAR CUTS AND LEADING EDGE CUT; LARGE FRAME TED ESCAPE OPENING: MINIMUM DIMENSIONS USING ALL-POINTS SIDE CUT (RECTANGULAR CUT)

[77 FR 29912, May 21, 2012]

FIGURES 19a AND 19b TO PART 223—CHAUVIN SHRIMP DEFLECTOR INSTALLATION DETAILS



FIGURES 19a AND 19b TO PART 223. CHAUVIN SHRIMP DEFLECTOR INSTALLATION DETAILS

[77 FR 29912, May 21, 2012]

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

Sec.

224.101 Enumeration of endangered marine and anadromous species.
224.102 Permits for endangered marine and anadromous species.
224.103 Special prohibitions for endangered marine mammals.
224.104 Special requirements for fishing activities to protect endangered sea turtles.
224.105 Speed restrictions to protect North Atlantic Right Whales.

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.

§ 224.101 Enumeration of endangered marine and anadromous species.

(a) The regulations in this part identify the species under the jurisdiction of the Secretary of Commerce that have been determined to be endangered species pursuant to section 4(a) of the Act, and provide for the conservation of such species by establishing rules and procedures to governing activities involving the species.

(b) The regulations in this part apply only to the endangered species enumerated in this section.

(c) The provisions of this part are in addition to, and not in lieu of, other regulations of parts 222 through 226 of this chapter which prescribe additional restrictions or conditions governing endangered species.

(d) The table below identifies the species under the jurisdiction of the Secretary of Commerce that have been determined to be endangered pursuant to section 4(a) of the Act, species treated as endangered because they are sufficiently similar in appearance to endangered species, and experimental populations of endangered species.

(e) The columns entitled ''Common name,'' ''Scientific name,'' and ''Description of listed entity'' define the species within the meaning of the Act. In the ''Common name'' column, experimental populations are identified as ''XE'' for essential populations or ''XN'' for nonessential populations. Species listed based on similarity of appearance are identified as ''S/A.'' Although a column for ''Common name'' is included, common names cannot be relied upon for identification of any specimen, because they may vary greatly in local usage. The ''Scientific name'' column provides the most recently accepted scientific name, relying to the extent practicable on the *International Code of Zoological Nomenclature*. In cases in which confusion might arise, a synonym(s) will be provided in parentheses. The ''Description of listed entity'' column identifies whether the listed entity comprises the entire species, a subspecies, or a distinct population segment (DPS) and provides a description for any DPSs. Unless otherwise indicated in the ''Description of listed entity'' column, all individual members of the listed entity and their progeny retain their listing status wherever found, including individuals in captivity. Information regarding the general range of the species, subspecies, or DPS may be found in the FEDERAL REGISTER notice(s) cited in the ''Citation(s) for listing determination(s)'' column.

(f) The ''Citation(s) for listing determination(s)'' column provides reference to the FEDERAL REGISTER notice(s) determining the species' status under the Act. The abbreviation ''(SPR)'' (significant portion of its range) after a citation indicates that the species was listed based on its status in a significant portion of its range. If a citation does not include the ''(SPR)'' notation, it means that the species was listed based on its status throughout its entire range. For ''(SPR)'' listings, a geographical description of the SPR may be found in the referenced FEDERAL REGISTER Notice. The ''(SPR)'' notation serves an informational purpose only and does not imply any limitation on the application of the prohibitions or restrictions of the Act or implementing rules.

(g) The ''Critical habitat'' and ''ESA rules'' columns provide cross-references to other sections in this part and part 226. The term ''NA'' appearing in the ''Critical habitat'' column indicates that there are no critical habitat designations for that species; similarly, the term ''NA'' appearing in the ''ESA rules'' column indicates that there are no ESA rules for that species. However, all other applicable rules in parts 222

through 226 and part 402 still apply to that species. Also, there may be other rules in this title that relate to such wildlife. The ''ESA rules'' column is not intended to list all Federal, state, tribal, or local governmental regulations that may apply to the species.

(h) The endangered species under the jurisdiction of the Secretary of Commerce are:

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Marine Mammals					
Dolphin, Chinese River (aka baiji).	*Lipotes vexillifer*	Entire species	54 FR 22906, May 30, 1989.	NA	NA.
Dolphin, South Asian River (Indus River subspecies).	*Platanista gangetica minor.*	Entire subspecies	55 FR 50835, Dec 11, 1990.	NA	NA.
Porpoise, Gulf of California harbor (aka vaquita or cochito).	*Phocoena sinus*	Entire species	50 FR 1056, Jan 9, 1985.	NA	NA.
Sea lion, Steller (Western DPS).	*Eumetopias jubatus.*	Steller sea lions born in the wild, west of 144° W. Long. Also, Steller sea lions born in captivity whose mother was born in the wild, west of 144° W. Long., and progeny of these captives.	62 FR 24345, May 5, 1997.	226.202	224.103, 226.202.
Seal, Hawaiian monk.	*Neomonachus schauinslandi* (= *Monachus schauinslandi.*)	Entire Species	41 FR 51611, Nov 23, 1976.	226.201	NA
Seal, Mediterranean monk.	*Monachus monachus.*	Entire species	35 FR 8491, June 2, 1970.	NA	NA.
Seal, ringed (Ladoga subspecies).	*Phoca (=Pusa) hispida ladogensis.*	Entire subspecies	77 FR 76706; Dec 28, 2012.	NA	NA.
Seal, ringed (Saimaa subspecies).	*Phoca (=Pusa) hispida saimensis.*	Entire subspecies	58 FR 26920, May 6, 1993.	NA	NA.
Whale, beluga (Cook Inlet DPS).	*Delphinapterus leucas.*	Beluga whales originating from Cook Inlet, Alaska.	73 FR 62919, Oct 22, 2008.	226.220	NA.
Whale, blue	*Balaenoptera musculus.*	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.
Whale, bowhead	*Balaena mysticetus*	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.
Whale, false killer (Main Hawaiian Islands Insular DPS).	*Pseudorca crassidens.*	False killer whales found from nearshore of the main Hawaiian Islands out to 140 km (approximately 75 nautical miles) and that permanently reside within this geographic range.	77 FR 70915, November 28, 2012.	NA	NA.
Whale, fin or finback.	*Balaenoptera physalus.*	Entire species	35 FR 8491, June 2, 1970.	NA	NA.
Whale, gray (Western North Pacific DPS).	*Eschrichtius robustus.*	Western North Pacific (Korean) gray whales.	35 FR 8491, June 2, 1970; 59 FR 31094, June 16, 1994.	NA	NA.
Whale, humpback ..	*Megaptera novaeangliae.*	Entire species	35 FR 18319, Dec 2, 1970.	NA	224.103.
Whale, killer (Southern Resident DPS).	*Orcinus orca*	Killer whales from the J, K, and L pods.	80 FR 7380, Feb. 10, 2015.	226.206	224.103
Whale, North Atlantic right.	*Eubalaena glacialis*	Entire species	73 FR 12024, Mar 6, 2008.	226.203	224.103, 224.105.
Whale, North Pacific right.	*Eubalaena japonica.*	Entire species	73 FR 12024, Mar 6, 2008.	226.215	224.103.
Whale, sei	*Balaenoptera borealis.*	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.
Whale, Southern right.	*Eubalaena australis*	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Whale, sperm	*Physeter macrocephalus* (= *catodon*).	Entire species	35 FR 18319, Dec 2, 1970.	NA	NA.
Sea Turtles [2]					
Sea turtle, green	*Chelonia mydas*	Breeding colony populations in Florida and on the Pacific coast of Mexico.	43 FR 32800, July 28, 1978.	226.208	224.104.
Sea turtle, hawksbill	*Eretmochelys imbricata*.	Entire species	35 FR 8491, June 2, 1970.	226.209	224.104.
Sea turtle, Kemp's ridley.	*Lepidochelys kempii*.	Entire species	35 FR 18319, Dec 2, 1970.	NA	224.104.
Sea turtle, leatherback.	*Dermochelys coriacea*.	Entire species	35 FR 8491, June 2, 1970.	226.207	224.104.
Sea turtle, loggerhead (Mediterranean Sea DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Mediterranean Sea.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, loggerhead (North Indian Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the North Indian Ocean.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, loggerhead (North Pacific Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the North Pacific Ocean.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, loggerhead (Northeast Atlantic Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Northeast Atlantic Ocean east of 40° W. Long., except in the vicinity of the Strait of Gibraltar where the eastern boundary is 5°36′ W. Long.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, loggerhead (South Pacific Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the South Pacific Ocean west of 67° W. Long., and east of 141° E. Long.	76 FR 58868, Sep 22, 2011.	NA	224.104.
Sea turtle, olive ridley.	*Lepidochelys olivacea*.	Breeding colony populations on the Pacific coast of Mexico.	43 FR 32800, July 28, 1978.	NA	224.104.
Fishes					
Bocaccio (Puget Sound/Georgia Basin DPS).	*Sebastes paucispinis*.	Bocaccio originating from Puget Sound and the Georgia Basin.	75 FR 22276, Apr 28, 2010.	226.224	NA.
Salmon, Atlantic (Gulf of Maine DPS).	*Salmo salar*	Naturally spawned Atlantic salmon originating from the Gulf of Maine, including such Atlantic salmon originating from watersheds from the Androscoggin River northward along the Maine coast to the Dennys River. Also, Atlantic salmon from two artificial propagation programs: Green Lake National Fish Hatchery (GLNFH) and Craig Brook National Fish Hatchery (CBNFH). This DPS does not include landlocked salmon and those salmon raised in commercial hatcheries for aquaculture.	74 FR 29344, June 19, 2009.	226.217	NA.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Salmon, Chinook (Sacramento River winter-run ESU).	*Oncorhynchus tshawytscha.*	Naturally spawned winter-run Chinook salmon originating from the Sacramento River and its tributaries. Also, winter-run Chinook salmon from one artificial propagation program: the Livingston Stone National Fish Hatchery.	70 FR 37160, June 28, 2005.	226.204	NA.
Salmon, Chinook (Upper Columbia River spring-run ESU).	*Oncorhynchus tshawytscha.*	Naturally spawned spring-run Chinook salmon originating from Columbia River tributaries upstream of the Rock Island Dam and downstream of Chief Joseph Dam (excluding the Okanogan River subbasin). Also, spring-run Chinook salmon from six artificial propagation programs: the Twisp River Program; Chewuch River Program; Methow Program; Winthrop National Fish Hatchery Program; Chiwawa River Program; and the White River Program.	70 FR 37160, June 28, 2005.	226.212	NA.
Salmon, coho (Central California Coast ESU).	*Oncorhynchus kisutch.*	Naturally spawned coho salmon originating from rivers south of Punta Gorda, California to and including Aptos Creek, as well as such coho salmon originating from tributaries to San Francisco Bay. Also, coho salmon from three artificial propagation programs: the Don Clausen Fish Hatchery Captive Broodstock Program; the Scott Creek/King Fisher Flats Conservation Program; and the Scott Creek Captive Broodstock Program.	70 FR 37160, June 28, 2005; 77 FR 19552, Apr 2, 2012.	226.210	NA.
Salmon, sockeye (Snake River ESU).	*Oncorhynchus nerka.*	Naturally spawned anadromous and residual sockeye salmon originating from the Snake River basin. Also, sockeye salmon from one artificial propagation program: the Redfish Lake Captive Broodstock Program.	70 FR 37160, June 28, 2005.	226.205	NA.
Sawfish, dwarf	*Pristis clavata*	Entire species	79 FR 73978, 12/12/2014.	NA	NA
Sawfish, green	*Pristis zijsron*	Entire species	79 FR 73978, 12/12/2014.	NA	NA
Sawfish, largetooth	*Pristis pristis* (formerly *Pristis perotteti, Pristis pristis,* and *Pristis microdon*).	Entire species	79 FR 73978, 12/12/2014.	NA	NA
Sawfish, narrow	*Anoxypristis cuspidata.*	Entire species	79 FR 73978, 12/12/2014.	NA	NA
Sawfish, smalltooth (United States DPS).	*Pristis pectinata*	Smalltooth sawfish originating from U.S. waters.	68 FR 15674, Apr 1, 2003.	226.218	NA.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Sawfish, smalltooth (Non-U.S. DPS).	*Pristis pectinata*	Smalltooth sawfish originating from non-U.S. waters.	79 FR 73978, 12/12/2014.	NA	NA
Shark, scalloped hammerhead (Eastern Atlantic DPS).	*Sphyrna lewini*	Scalloped hammerhead sharks originating from the Eastern Atlantic Ocean, including all waters of the Mediterranean Sea, and delineated by the following boundary lines: bounded to the west by 30° W. long., to the north by 40° N. lat., to the south by 36° S. lat., and to the east by 20° E. long.	79 FR 38214, Jul 3, 2014.	NA	NA
Shark, scalloped hammerhead (Eastern Pacific DPS).	*Sphyrna lewini*	Scalloped hammerhead sharks originating from the Eastern Pacific Ocean, delineated by the following boundary lines: bounded to the north by 40° N lat. and to the south by 36° S lat. The western boundary line extends from 140° W. long. due south to 10° N., then due west along 10° N. lat. to 150° W. long., then due south to 4° S. lat., then due east along 4° S. lat. to 130° W. long, and then extends due south along 130° W. long.	79 FR 38214, Jul 3, 2014.	NA	NA
Steelhead (Southern California DPS).	*Oncorhynchus mykiss*.	Naturally spawned anadromous *O. mykiss* (steelhead) originating below natural and man-made impassable barriers from the Santa Maria River to the U.S.-Mexico Border.	71 FR 834, Jan 5, 2006.	226.211	NA.
Sturgeon, Adriatic ..	*Acipenser naccarii*	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, Atlantic (Atlantic subspecies; Carolina DPS).	*Acipenser oxyrinchus oxyrinchus*.	Atlantic sturgeon originating from watersheds (including all rivers and tributaries) from Albemarle Sound southward along the southern Virginia, North Carolina, and South Carolina coastal areas to Charleston Harbor.	77 FR 5914, Feb 6, 2012.	NA	NA.
Sturgeon, Atlantic (Atlantic subspecies; Chesapeake Bay DPS).	*Acipenser oxyrinchus oxyrinchus*.	Anadromous Atlantic sturgeon originating from watersheds that drain into the Chesapeake Bay and into coastal waters from the Delaware-Maryland border on Fenwick Island to Cape Henry, Virginia.	77 FR 5880, Feb 6, 2012.	NA	NA.
Sturgeon, Atlantic (Atlantic subspecies; New York Bight DPS).	*Acipenser oxyrinchus oxyrinchus*.	Anadromous Atlantic sturgeon originating from watersheds that drain into coastal waters, including Long Island Sound, the New York Bight, and Delaware Bay, from Chatham, Massachusetts to the Delaware-Maryland border on Fenwick Island.	77 FR 5880, Feb 6, 2012.	NA	NA.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Sturgeon, Atlantic (Atlantic subspecies; South Atlantic DPS).	*Acipenser oxyrinchus oxyrinchus.*	Atlantic sturgeon originating from watersheds (including all rivers and tributaries) of the ACE (Ashepoo, Combahee, and Edisto) Basin southward along the South Carolina, Georgia, and Florida coastal areas to the St. Johns River, Florida.	77 FR 5914, Feb 6, 2012.	NA	NA.
Sturgeon, Chinese	*Acipenser sinensis*	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, European	*Acipenser sturio*	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, Kaluga	*Huso dauricus*	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, Sakhalin	*Acipenser mikadoi*	Entire species	79 FR 31222, Jun 2, 2014.	NA	NA
Sturgeon, shortnose	*Acipenser brevirostrum.*	Entire species	32 FR 4001, Mar 11, 1967.	NA	NA.
Totoaba	*Cynoscion macdonaldi.*	Entire species	44 FR 29480, May 21, 1979.	NA	NA.
Molluscs					
Abalone, black	*Haliotis cracherodii*	Entire species	74 FR 1937, Jan 14, 2009.	226.221	NA.
Abalone, white	*Haliotis sorenseni*	Entire species	66 FR 29054, May, 29, 2001.	NA	NA.

[1] Species 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).

[2] 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.

[79 FR 20814, Apr. 14, 2014, as amended at 79 FR 31227, June 2, 2014; 79 FR 38241, July 3, 2014; 79 FR 74005, Dec. 12, 2014; 79 FR 78725, Dec. 31, 2014; 79 FR 68372, Nov. 17, 2014; 80 FR 7978, Feb. 13, 2015; 80 FR 7390, Feb. 10, 2015]

§ 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.

(b) *Approaching humpback whales in Alaska*—(1) *Prohibitions.* Except as provided under paragraph (b)(2) of this section, 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 Alaska, or within inland waters of the state, any of the acts in paragraphs (b)(1)(i) through (b)(1)(iii) of this section with respect to humpback whales (*Megaptera novaeangliae*):

(i) Approach, by any means, including by interception (i.e., placing a vessel in the path of an oncoming humpback whale so that the whale surfaces within 100 yards (91.4 m) of the vessel), within 100 yards (91.4 m) of any humpback whale;

(ii) Cause a vessel or other object to approach within 100 yards (91.4 m) of a humpback whale; or

(iii) Disrupt the normal behavior or prior activity of a whale by any other act or omission, as described in paragraph (a)(4) of this section.

(2) *Exceptions.* The following exceptions apply to this paragraph (b), but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(i) Paragraph (b)(1) of this section does not apply if an approach is authorized by the National Marine Fisheries Service through a permit issued under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar authorization.

(ii) Paragraph (b)(1) of this section does not apply to the extent that a vessel is restricted in her ability to maneuver and, because of the restriction, cannot comply with paragraph (b)(1) of this section.

(iii) Paragraph (b)(1) of this section does not apply to commercial fishing vessels lawfully engaged in actively setting, retrieving or closely tending commercial fishing gear. For purposes of this paragraph (b), commercial fishing means taking or harvesting fish or fishery resources to sell, barter, or trade. Commercial fishing does not include commercial passenger fishing operations (i.e. charter operations or sport fishing activities).

(iv) Paragraph (b)(1) of this section does not apply to state, local, or Federal government vessels operating in the course of official duty.

(v) Paragraph (b)(1) of this section does not affect the rights of Alaska Natives under 16 U.S.C. 1539(e).

(vi) These regulations shall not take precedence over any more restrictive conflicting Federal regulation pertaining to humpback whales, including the regulations at 36 CFR 13.65 that pertain specifically to the waters of Glacier Bay National Park and Preserve.

(3) *General measures.* Notwithstanding the prohibitions and exceptions in paragraphs (b)(1) and (2) of this section, to avoid collisions with humpback whales, vessels must operate at a slow, safe speed when near a humpback whale. ''Safe speed'' has the same meaning as the term is defined in 33 U.S.C. 2006 and the International Regulations for Preventing Collisions at Sea 1972 (see 33 U.S.C. 1602), with respect to avoiding collisions with humpback whales.

(c) *Approaching right whales*—(1) *Prohibitions.* Except as provided under paragraph (c)(3) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, to solicit another to commit, or cause to be committed any of the following acts:

(i) Approach (including by interception) within 500 yards (460 m) of a right whale by vessel, aircraft, or any other means;

(ii) Fail to undertake required right whale avoidance measures specified under paragraph (c)(2) of this section.

(2) *Right whale avoidance measures.* Except as provided under paragraph (c)(3) of this section, the following avoidance measures must be taken if within 500 yards (460 m) of a right whale:

(i) If underway, a vessel must steer a course away from the right whale and immediately leave the area at a slow safe speed.

(ii) An aircraft must take a course away from the right whale and immediately leave the area at a constant airspeed.

(3) *Exceptions.* The following exceptions apply to this section, but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(i) Paragraphs (c)(1) and (c)(2) of this section do not apply if a right whale approach is authorized by the National Marine Fisheries Service through a permit issued under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar authorization.

(ii) Paragraphs (c)(1) and (c)(2) of this section do not apply where compliance would create an imminent and serious threat to a person, vessel, or aircraft.

(iii) Paragraphs (c)(1) and (c)(2) of this section do not apply when approaching to investigate a right whale entanglement or injury, or to assist in the disentanglement or rescue of a right whale, provided that permission is received from the National Marine Fisheries Service or designee prior to the approach.

(iv) Paragraphs (c)(1) and (c)(2) of this section do not apply to an aircraft unless the aircraft is conducting whale watch activities.

(v) Paragraph (c)(2) of this section does not apply to the extent that a vessel is restricted in her ability to maneuver and, because of the restriction, cannot comply with paragraph (c)(2) of this section.

(d) *Special prohibitions relating to endangered Steller sea lion protection*—(1) *General Prohibitions.* The following regulatory provisions shall apply to the western population of Steller sea lions:

(i) *No discharge of firearms.* Except as provided in paragraph (d)(2) of this section, no person subject to the jurisdiction of the United States may discharge a firearm at or within 100 yards (91.4 meters) of a Steller sea lion west of 144 °W longitude. A firearm is any weapon, such as a pistol or rifle, capable of firing a missile using an explosive charge as a propellant.

(ii) *No approach in buffer areas.* Except as provided in paragraph (d)(2) of this section:

(A) No owner or operator of a vessel may allow the vessel to approach within 3 nautical miles (5.5 kilometers) of a Steller sea lion rookery site listed in paragraph (d)(1)(iii) of this section;

(B) No person may approach on land not privately owned within one-half statutory mile (0.8 kilometers) or within sight of a Steller sea lion rookery site listed in paragraph (d)(1)(iii) of this section, whichever is greater, except on Marmot Island; and

(C) No person may approach on land not privately owned within one and one-half statutory miles (2.4 kilometers) or within sight of the eastern shore of Marmot Island, including the Steller sea lion rookery site listed in paragraph (d)(1)(iii) of this section, whichever is greater.

(iii) *Listed sea lion rookery sites.* Listed Steller sea lion rookery sites consist of the rookeries in the Aleutian Islands and the Gulf of Alaska listed in Table 1.

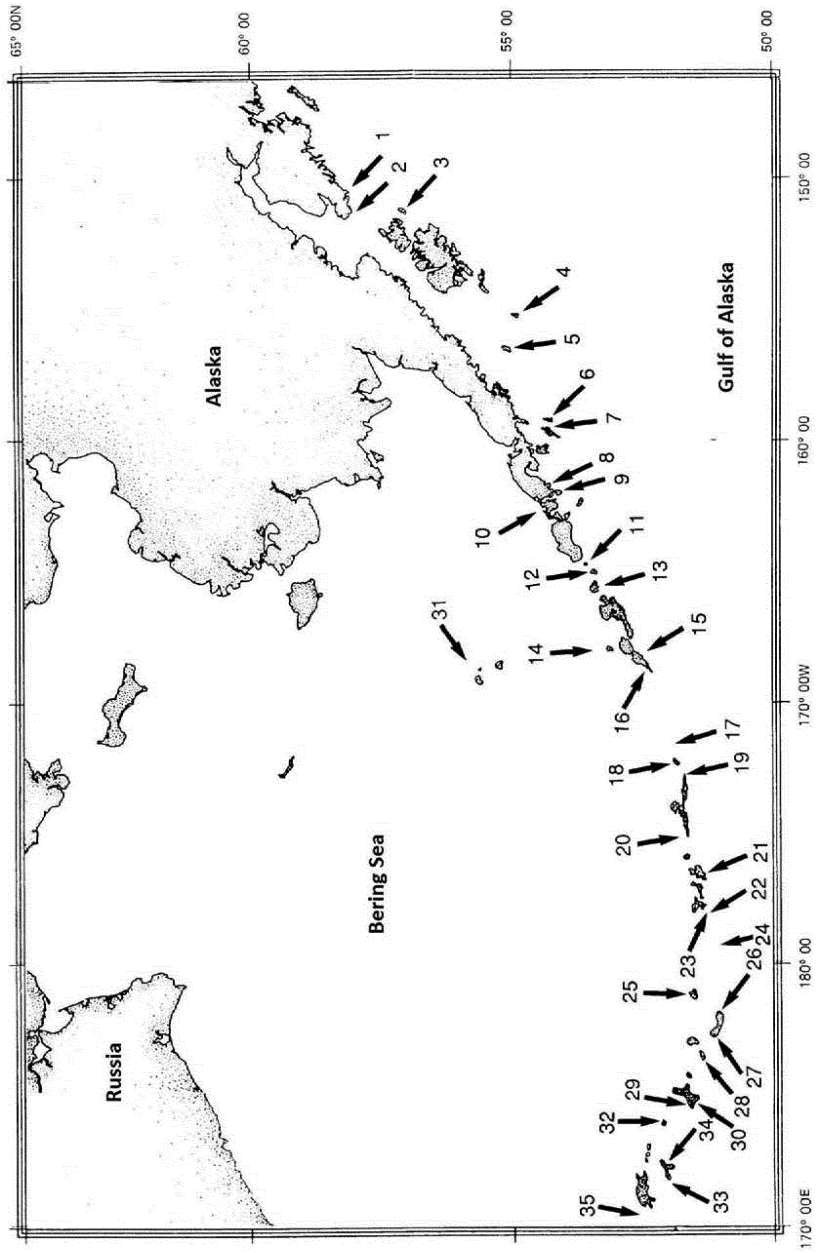
TABLE 1 TO § 224.103—LISTED STELLER SEA LION ROOKERY SITES [1]

Island	From		To		NOAA Chart	Notes
	Lat.	Long.	Lat.	Long.		
1. Outer I.	59°20.5 N	150°23.0 W	59°21.0 N	150°24.5 W	16681	S quadrant.
2. Sugarloaf I.	58°53.0 N	152°02.0 W			16580	Whole island.
3. Marmot I.	58°14.5 N	151°47.5 W	58°10.0 N	151°51.0 W	16580	SE quadrant.
4. Chirikof I.	55°46.5 N	155°39.5 W	55°46.5 N	155°43.0 W	16580	S quadrant.
5. Chowiet I.	56°00.5 N	156°41.5 W	56°00.5 N	156°42.0 W	16013	S quadrant.
6. Atkins I.	55°03.5 N	159°18.5 W			16540	Whole island.
7. Chernabura I.	54°47.5 N	159°31.0 W	54°45.5 N	159°33.5 W	16540	SE corner.
8. Pinnacle Rock	54°46.0 N	161°46.0 W			16540	Whole island.
9. Clubbing Rks (N).	54°43.0 N	162°26.5 W			16540	Whole island.
Clubbing Rks (S)	54°42.0 N	162°26.5 W			16540	Whole Island.
10. Sea Lion Rks	55°28.0 N	163°12.0 W			16520	Whole island.
11. Ugamak I.	54°14.0 N	164°48.0 W	54°13.0 N	164°48.0 W	16520	E end of island.
12. Akun I.	54°18.0 N	165°32.5 W	54°18.0 N	165°31.5 W	16547	Billings Head Bight.

TABLE 1 TO § 224.103—LISTED STELLER SEA LION ROOKERY SITES [1]—Continued

Island	From		To		NOAA Chart	Notes
	Lat.	Long.	Lat.	Long.		
13. Akutan I.	54°03.5 N	166°00.0 W	54°05.5 N	166°05.0 W	16520	SW corner, Cape Morgan.
14. Bogoslof I.	53°56.0 N	168°02.0 W			16500	Whole island.
15. Ogchul I.	53°00.0 N	168°24.0 W			16500	Whole island.
16. Adugak I.	52°55.0 N	169°10.5 W			16500	Whole island.
17. Yunaska I.	52°42.0 N	170°38.5 W	52°41.0 N	170°34.5 W	16500	NE end.
18. Seguam I.	52°21.0 N	172°35.0 W	52°21.0 N	172°33.0 W	16480	N coast, Saddleridge Pt.
19. Agligadak I.	52°06.5 N	172°54.0 W			16480	Whole island.
20. Kasatochi I.	52°10.0 N	175°31.5 W	52°10.5 N	175°29.0 W	16480	N half of island.
21. Adak I.	51°36.5 N	176°59.0 W	51°38.0 N	176°59.5 W	16460	SW Point, Lake Point.
22. Gramp rock	51°29.0 N	178°20.5 W			16460	Whole island.
23. Tag I.	51°33.5 N	178°34.5 W			16460	Whole island.
24. Ulak I.	51°20.0 N	178°57.0 W	51°18.5 N	178°59.5 W	16460	SE corner, Hasgox Pt.
25. Semisopochnoi.	51°58.5 N	179°45.5 E	51°57.0 N	179°46.0 E	16440	E quadrant, Pochnoi Pt.
Semisopochnoi	52°01.5 N	179°37.5 E	52°01.5 N	179°39.0 E	16440	N quadrant, Petrel Pt.
26. Amchitka I.	51°22.5 N	179°28.0 E	51°21.5 N	179°25.0 E	16440	East Cape.
27. Amchitka I.	51°32.5 N	178°49.5 E			16440	Column Rocks.
28. Ayugadak Pt.	51°45.5 N	178°24.5 E			16440	SE coast of Rat Island.
29. Kiska I.	51°57.5 N	177°21.0 E	51°56.5 N	177°20.0 E	16440	W central, Lief Cove.
30. Kiska I.	51°52.5 N	177°13.0 E	51°53.5 N	177°12.0 E	16440	Cape St. Stephen.
31. Walrus I.	57°11.0 N	169°56.0 W			16380	Whole island.
32. Buldir I.	52°20.5 N	175°57.0 E	52°23.5 N	175°51.0 E	16420	Se point to NW point.
33. Agattu I.	52°24.0 N	173°21.5 E			16420	Gillion Point.
34. Agattu I.	52°23.5 N	173°43.5 E	52°22.0 N	173°41.0 E	16420	Cape Sabak.
35. Attu I.	52°54.5 N	172°28.5 E	52°57.5 N	172°31.5 E	16681	S Quadrant.

[1] Each site extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower low water to the second set of coordinates; or, if only one set of geographic coordinates is listed, the site extends around the entire shoreline of the island at mean lower low water.


65° 00N
60° 00
55° 00
50° 00
150° 00
160° 00
170° 00W
180° 00
170° 00E
Alaska
Gulf of Alaska
Bering Sea
Russia
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
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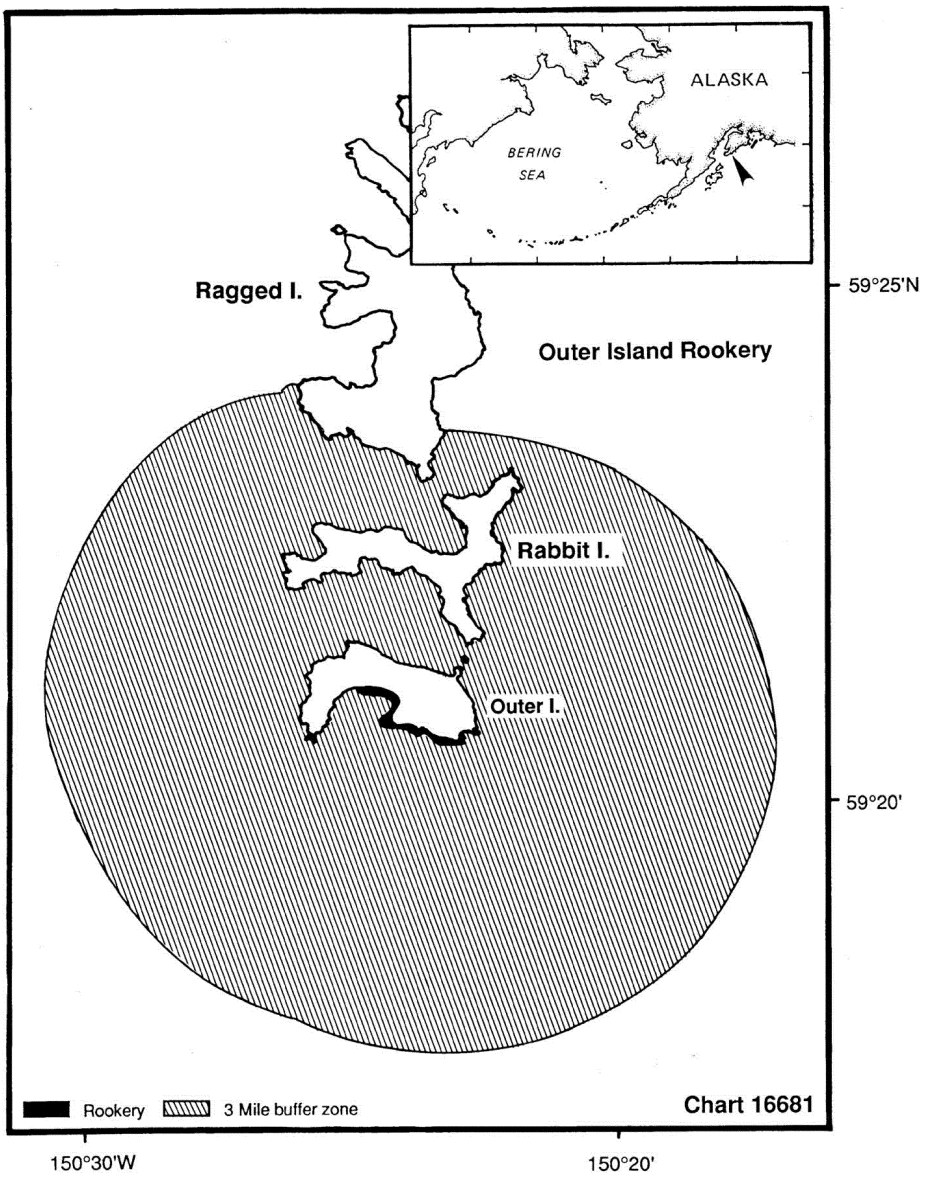
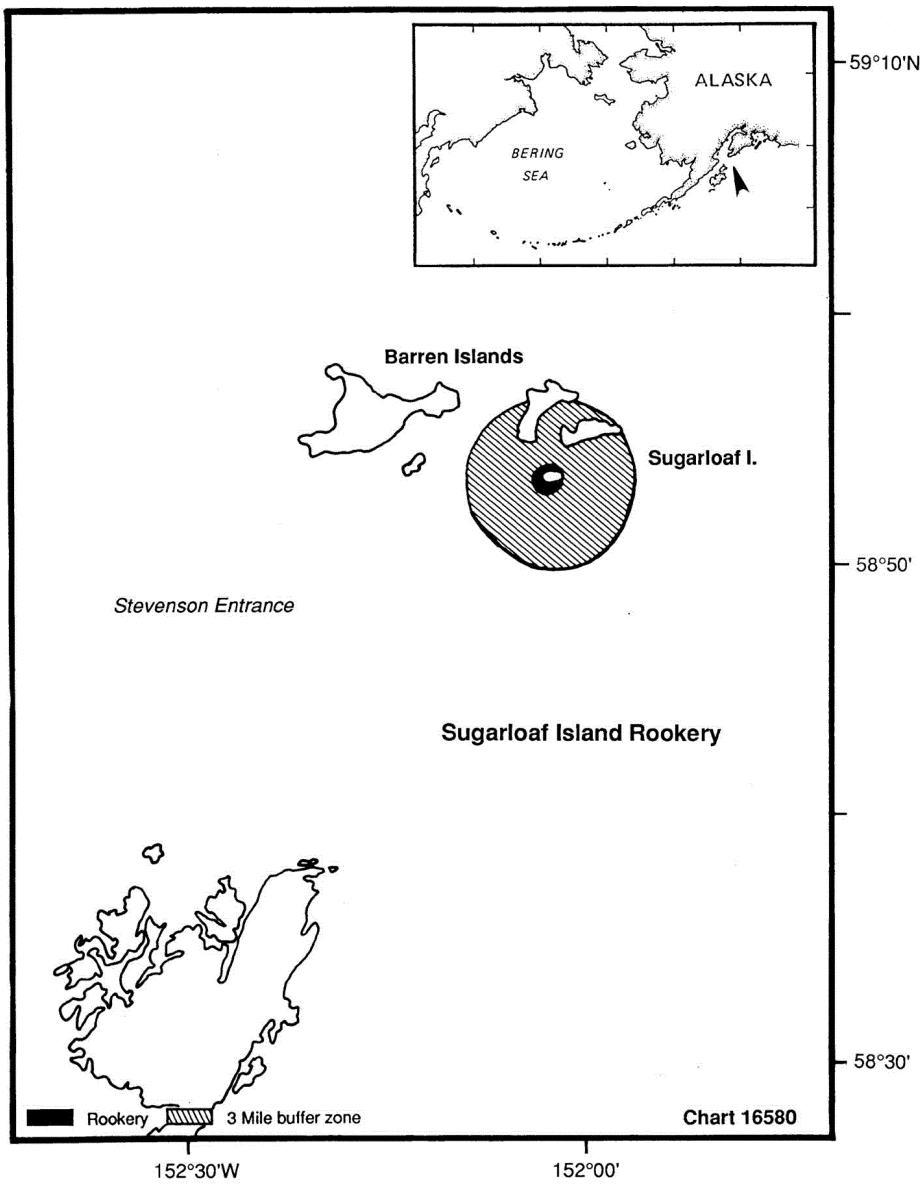
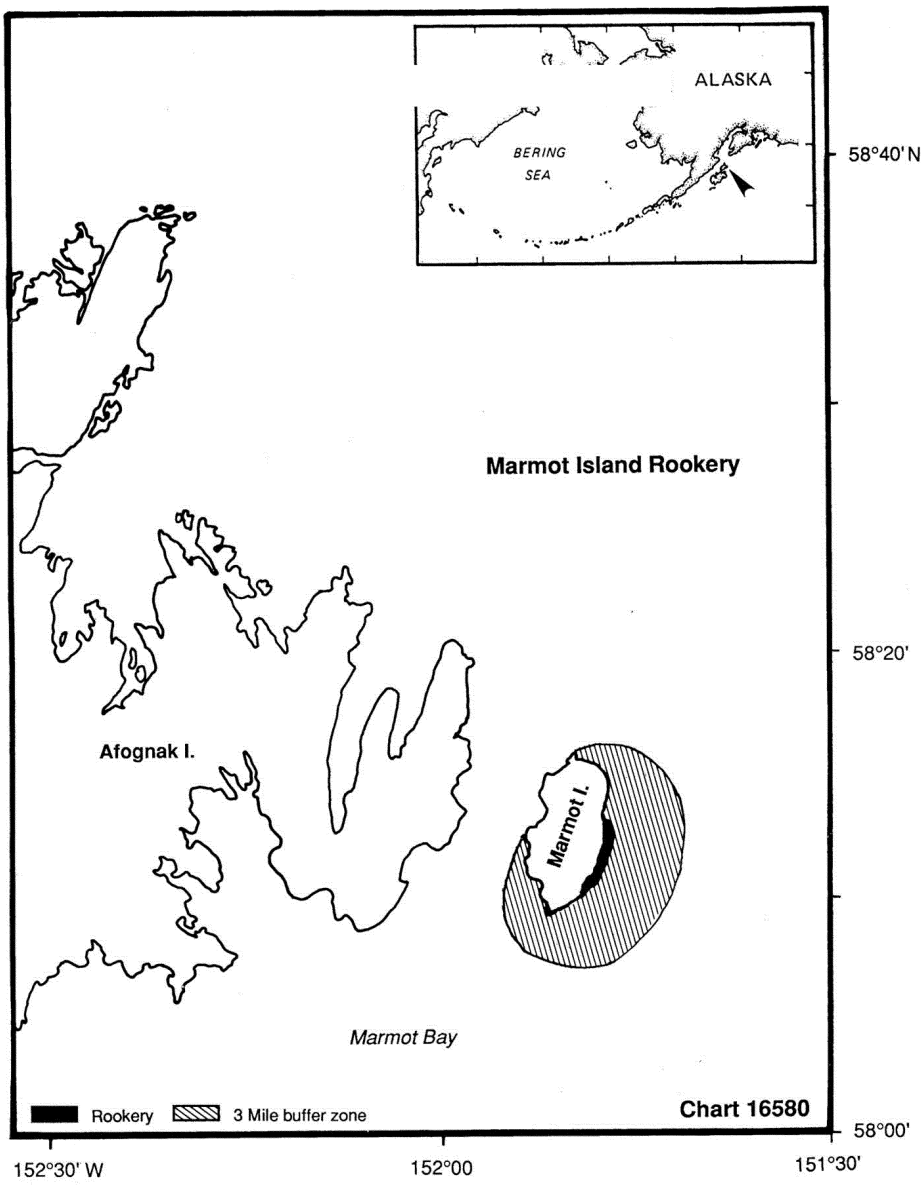
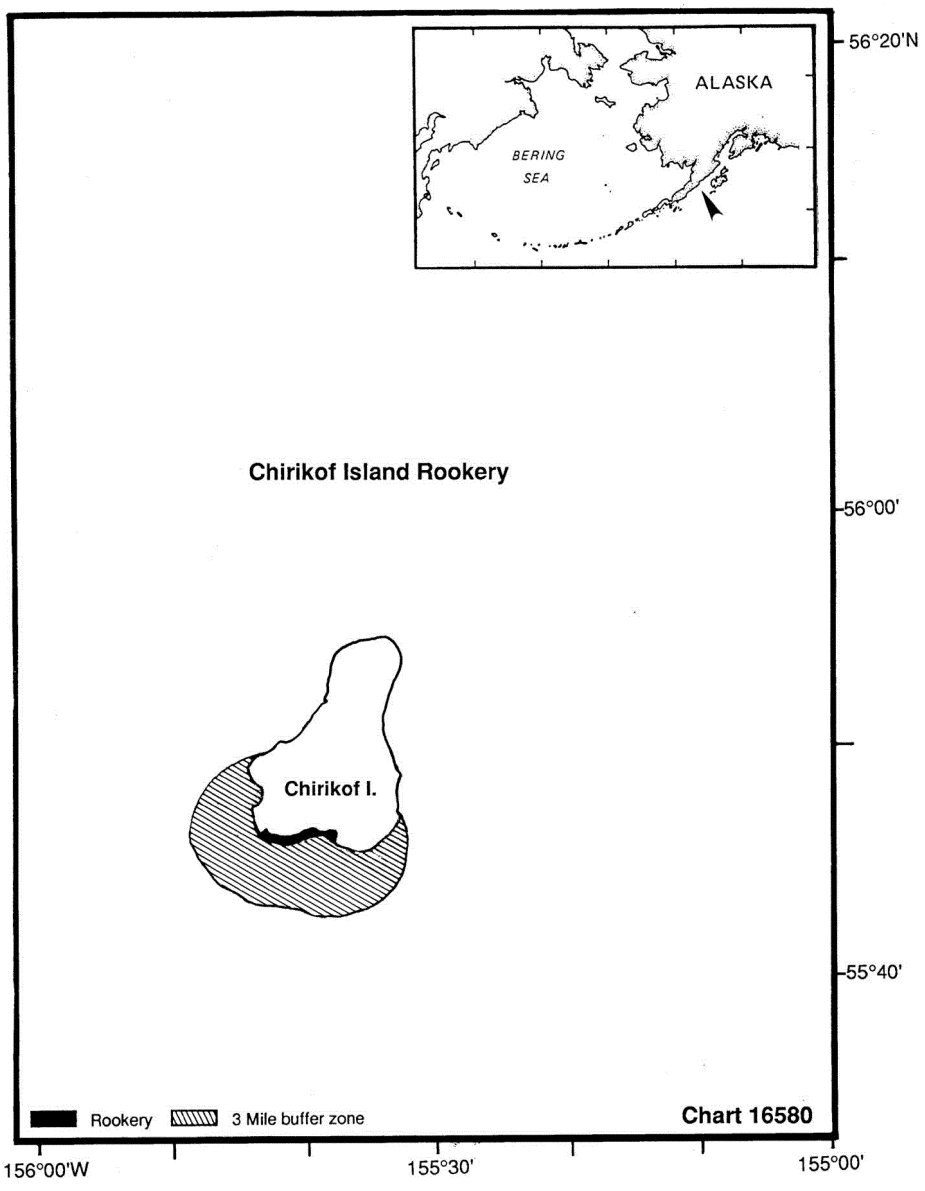
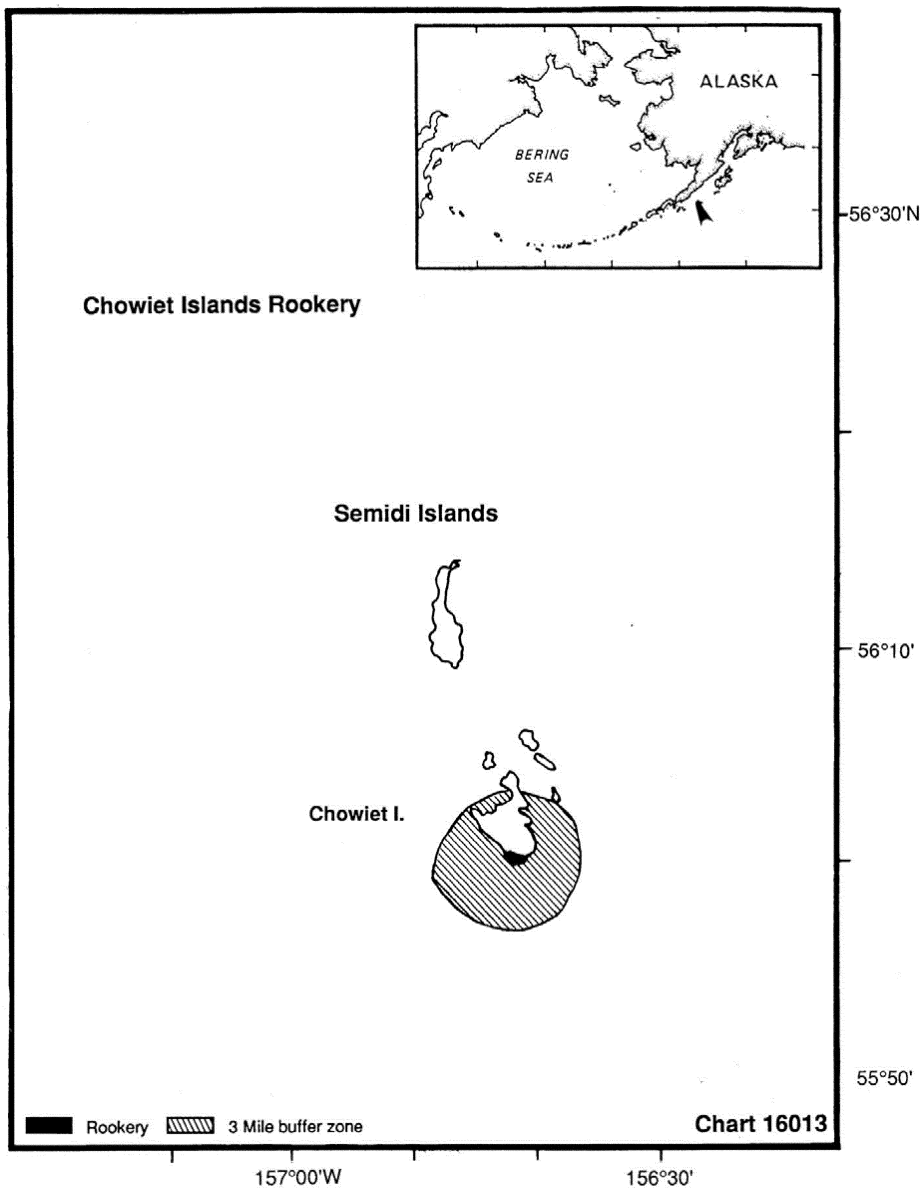
31
32
33
34
35

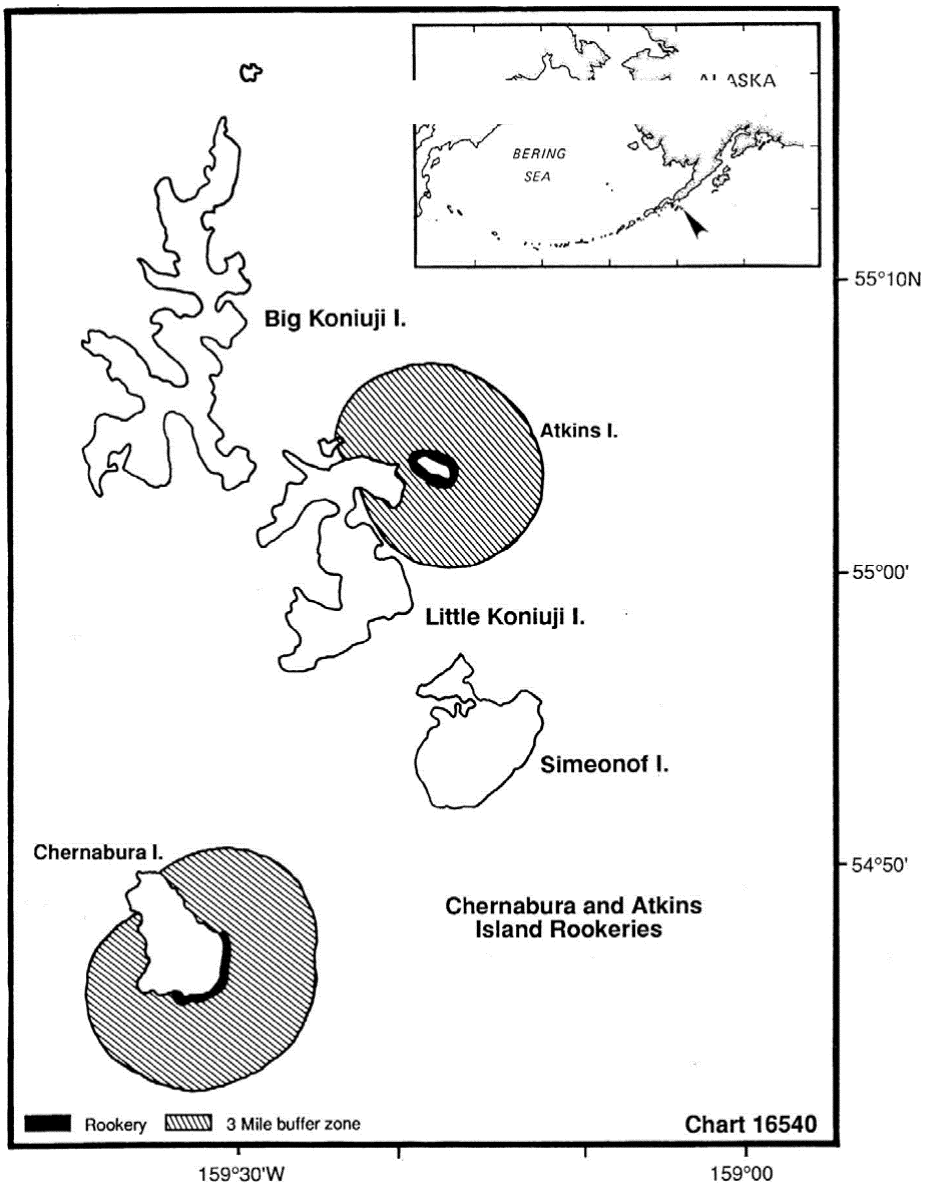

ALASKA
BERING SEA
Ragged I.
Outer Island Rookery
Rabbit I.
Outer I.
59°25'N
59°20'
Rookery
3 Mile buffer zone
Chart 16681
150°30'W
150°20'

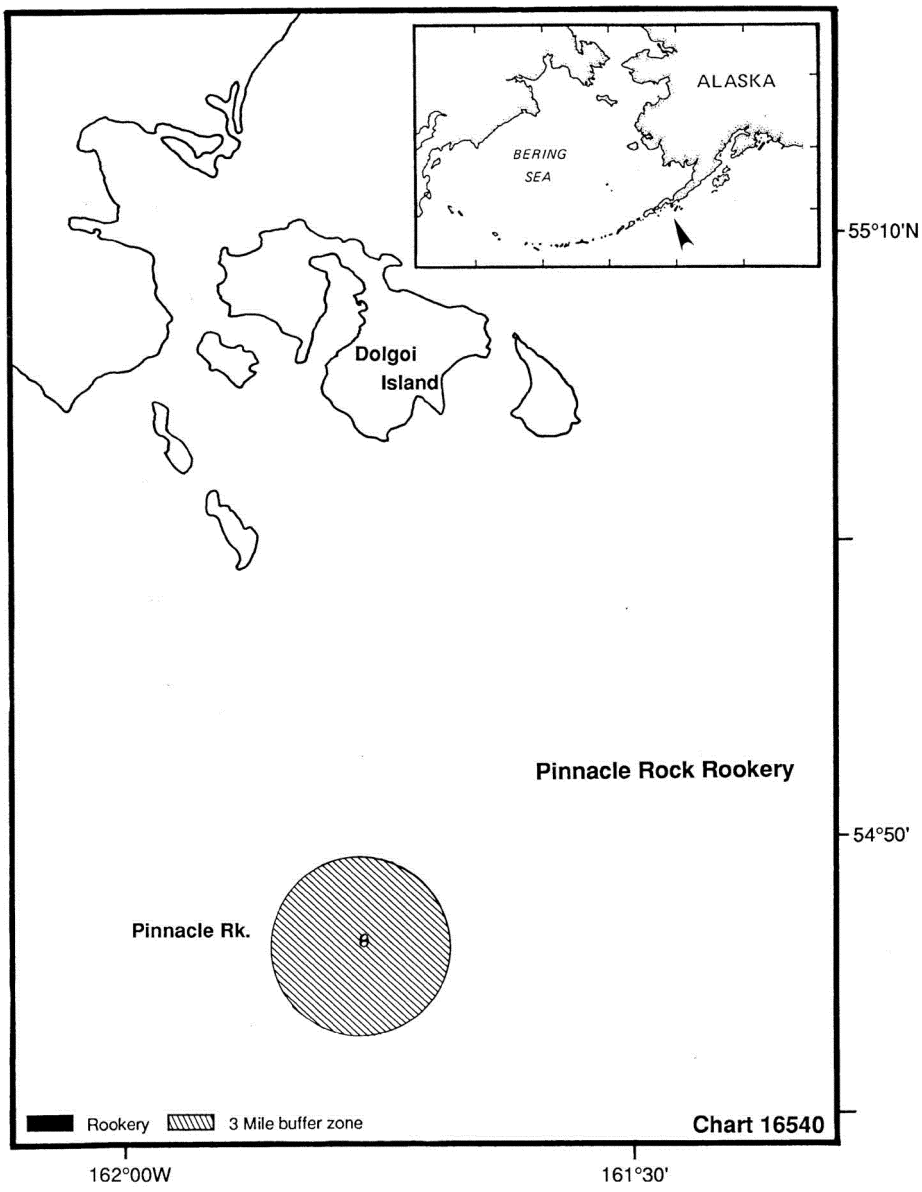

ALASKA
BERING SEA
59°10'N
Barren Islands
Sugarloaf I.
58°50'
Stevenson Entrance
Sugarloaf Island Rookery
58°30'
Rookery
3 Mile buffer zone
Chart 16580
152°30'W
152°00'

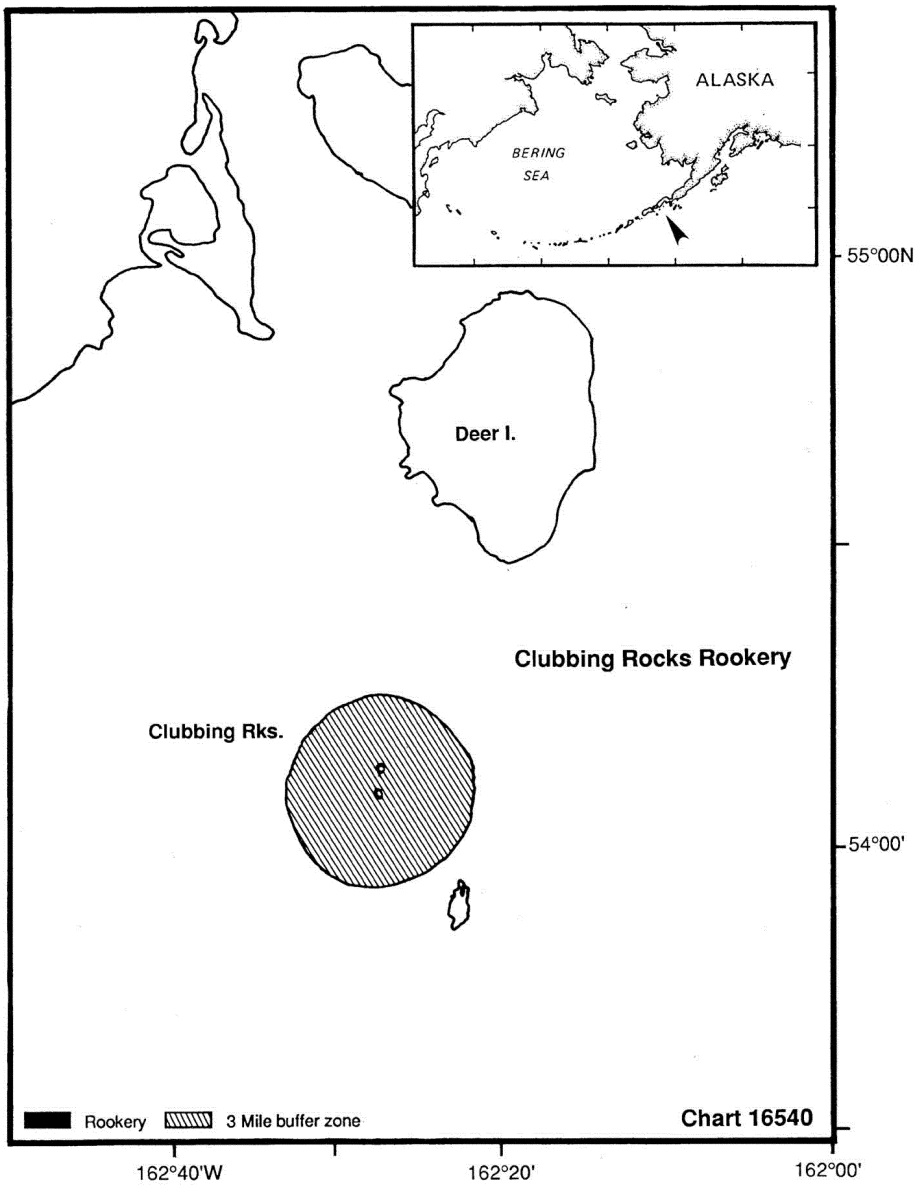

ALASKA
BERING SEA
58°40' N
Marmot Island Rookery
58°20'
Afognak I.
Marmot I.
Marmot Bay
Rookery
3 Mile buffer zone
Chart 16580
58°00'
152°30' W
152°00
151°30'

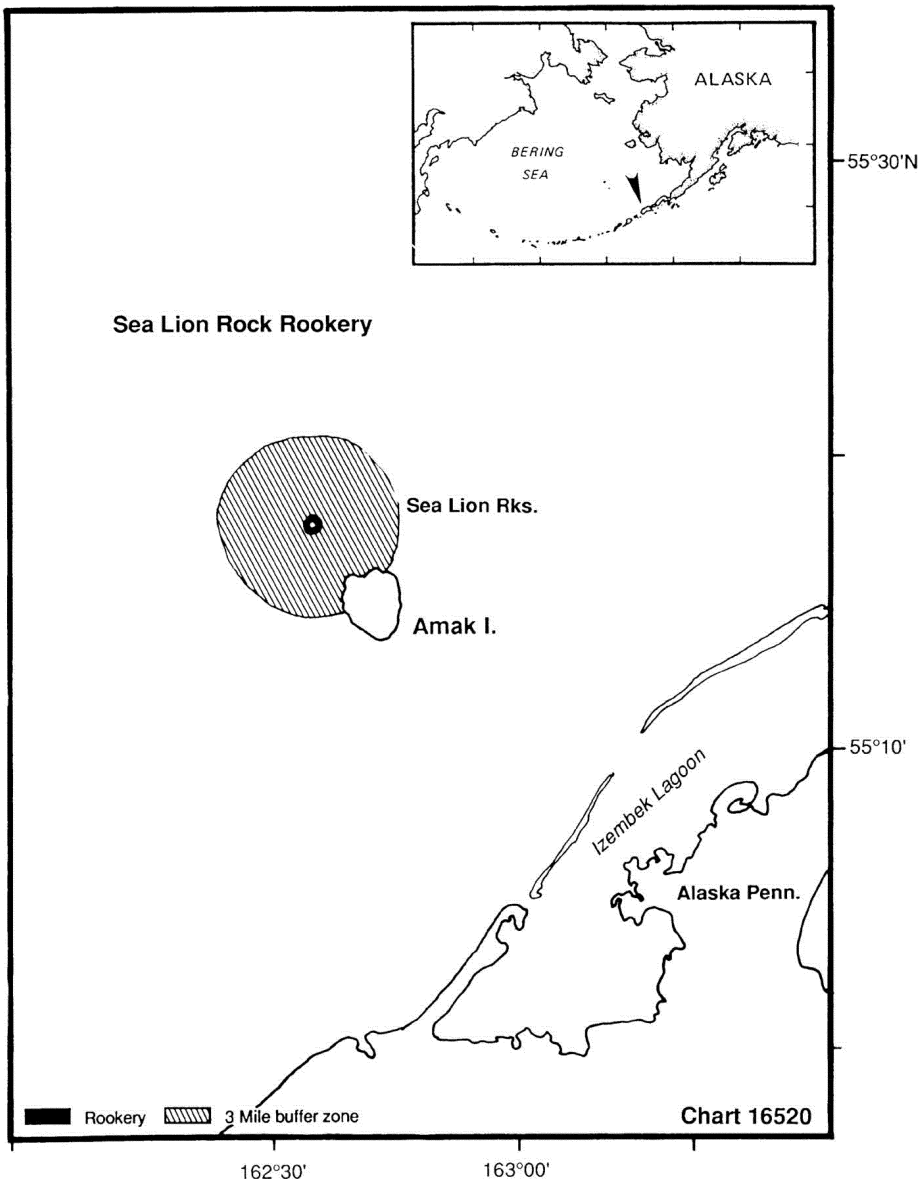

ALASKA
BERING SEA
Chirikof Island Rookery
Chirikof I.
56°20'N
56°00'
55°40'
Rookery
3 Mile buffer zone
Chart 16580
156°00'W
155°30'
155°00'

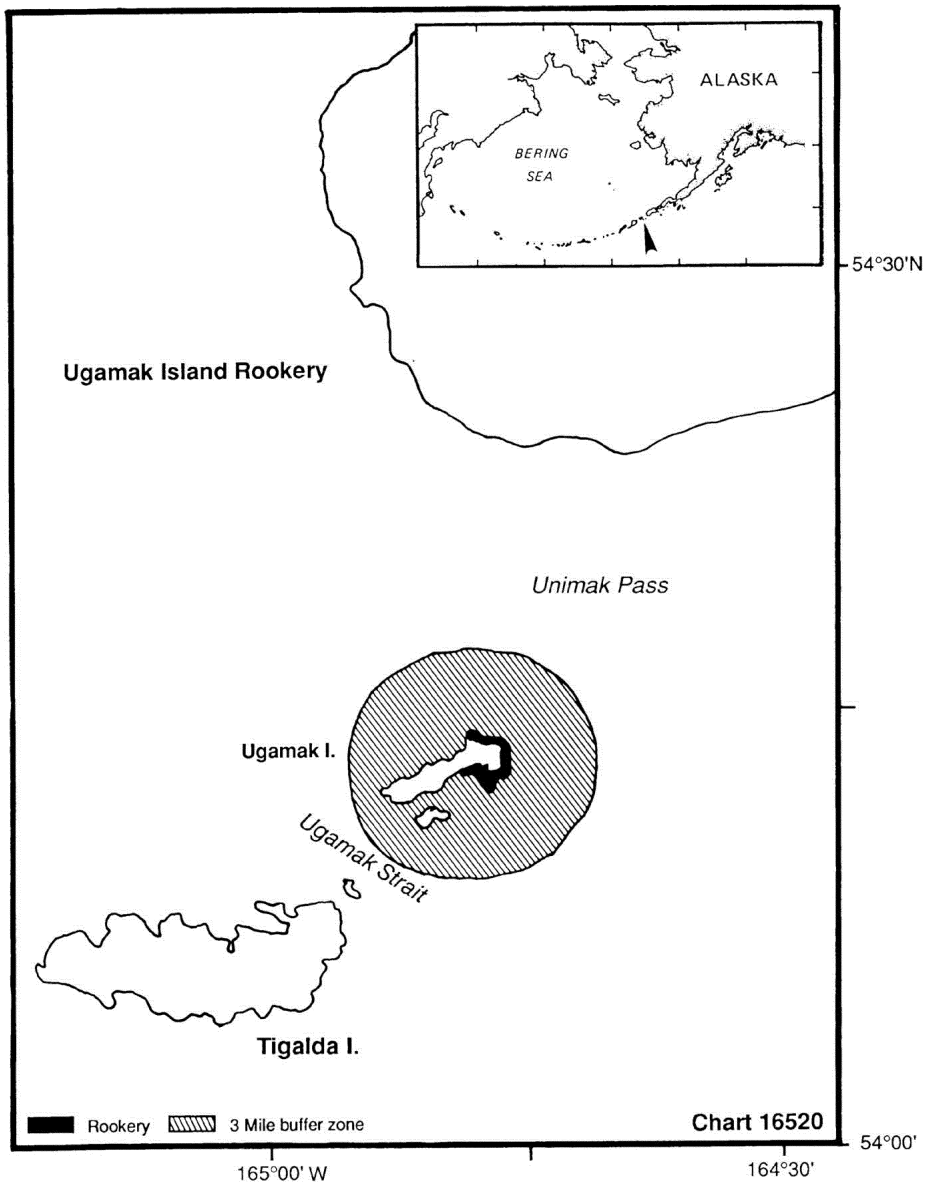

ALASKA
BERING SEA
56°30'N
Chowiet Islands Rookery
Semidi Islands
56°10'
Chowiet I.
55°50'
Rookery
3 Mile buffer zone
Chart 16013
157°00'W
156°30'

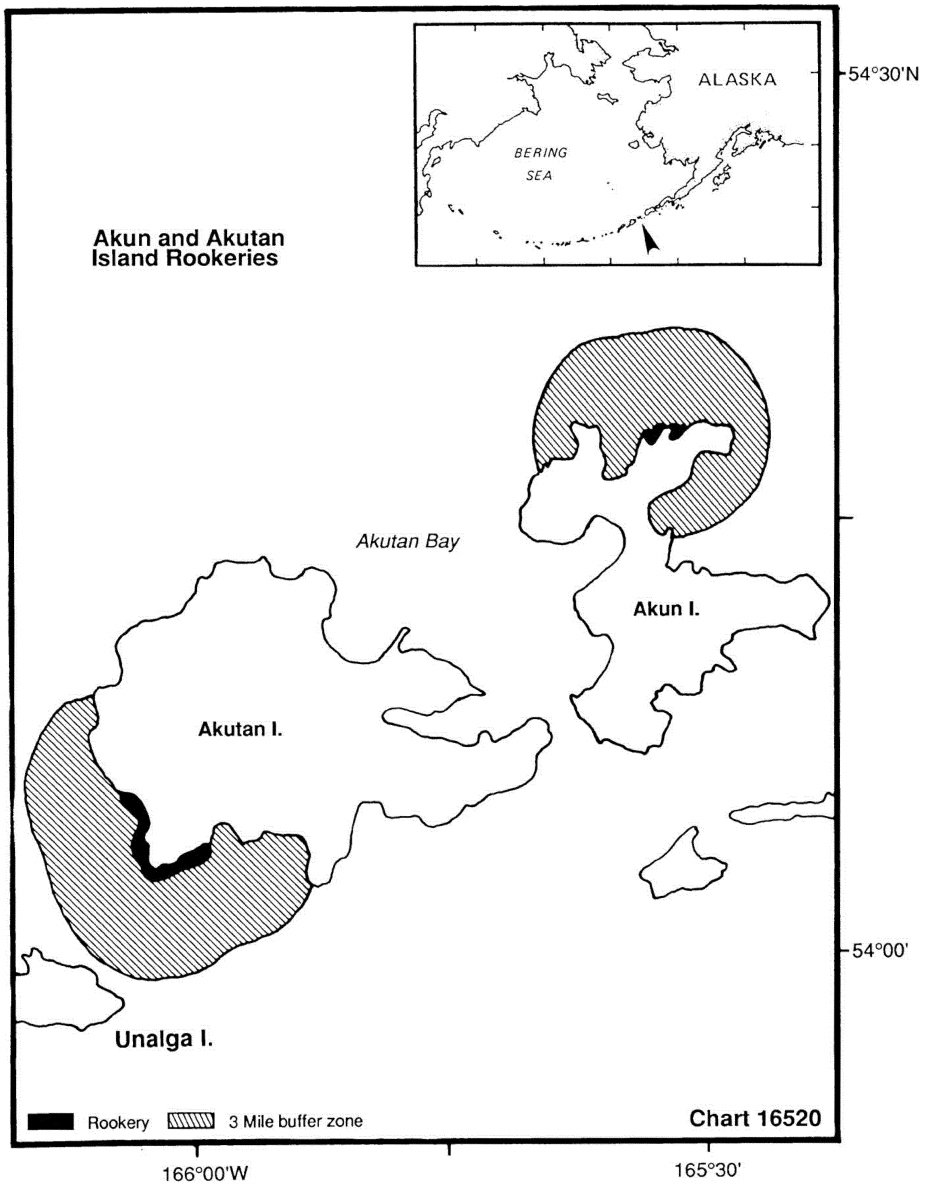

ALASKA
BERING SEA
55°10N
Big Koniuji I.
Atkins I.
55°00'
Little Koniuji I.
Simeonof I.
Chernabura I.
54°50'
Chernabura and Atkins Island Rookeries
Rookery
3 Mile buffer zone
Chart 16540
159°30'W
159°00

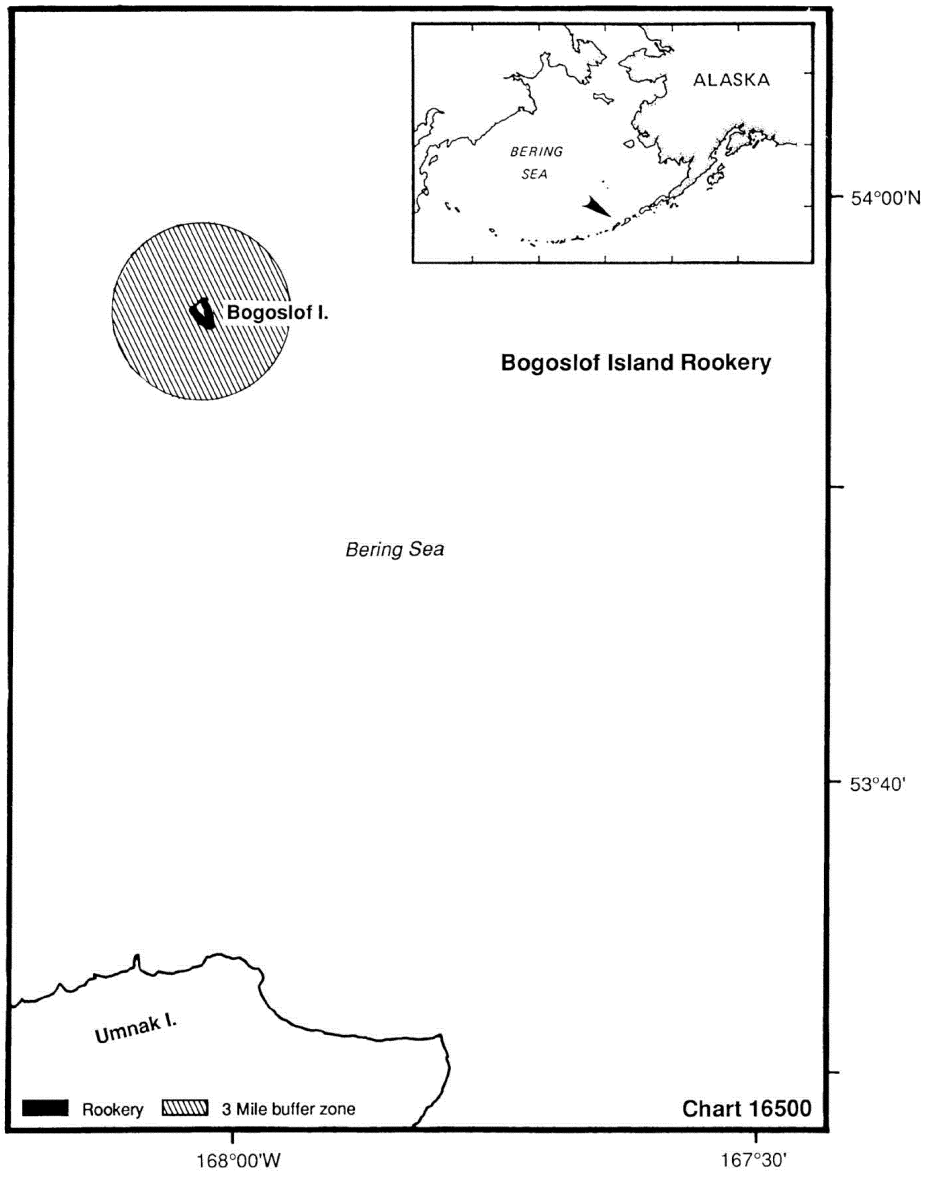

ALASKA
BERING SEA
55°10'N
Dolgoi Island
Pinnacle Rock Rookery
54°50'
Pinnacle Rk.
Rookery
3 Mile buffer zone
Chart 16540
162°00W
161°30'

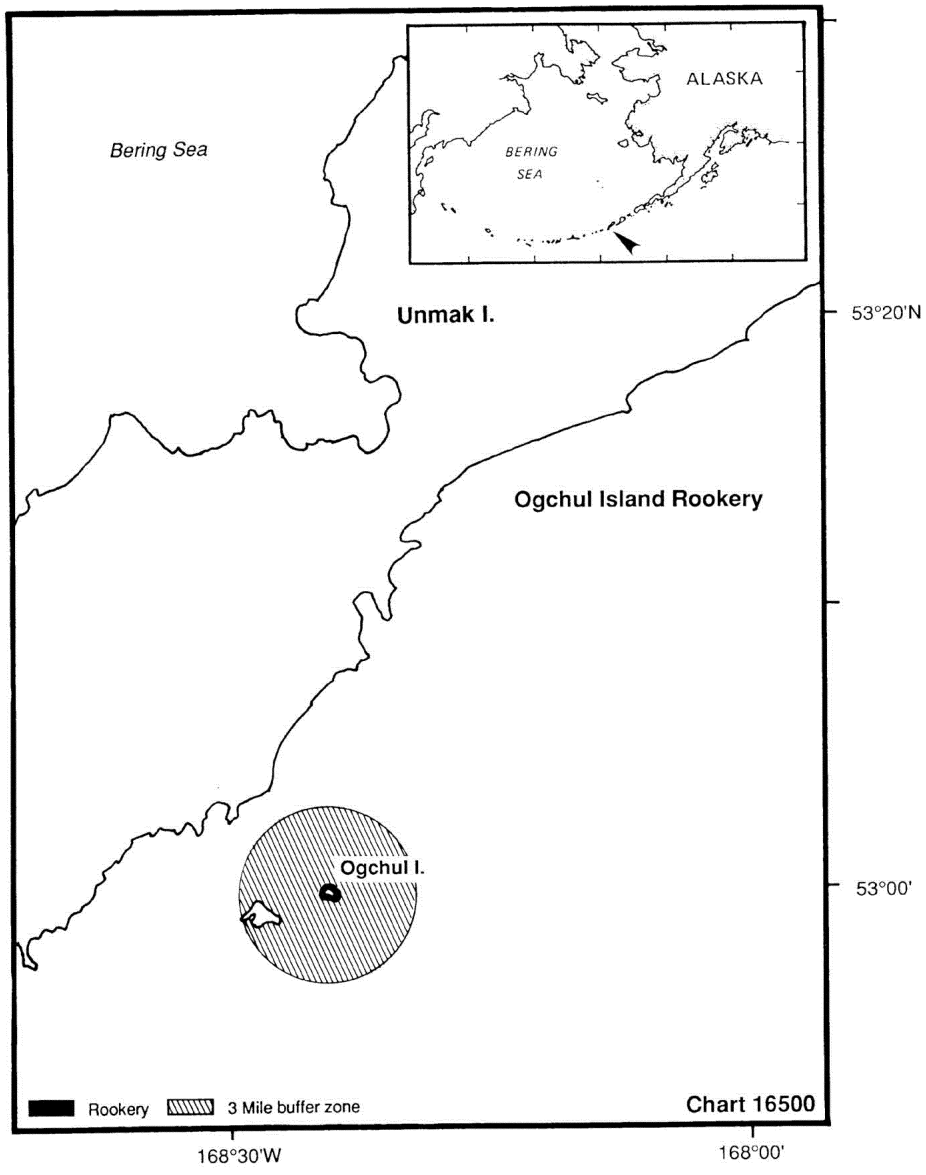

ALASKA
BERING SEA
55°00N
Deer I.
Clubbing Rocks Rookery
Clubbing Rks.
54°00'
Rookery
3 Mile buffer zone
Chart 16540
162°40'W
162°20'
162°00'

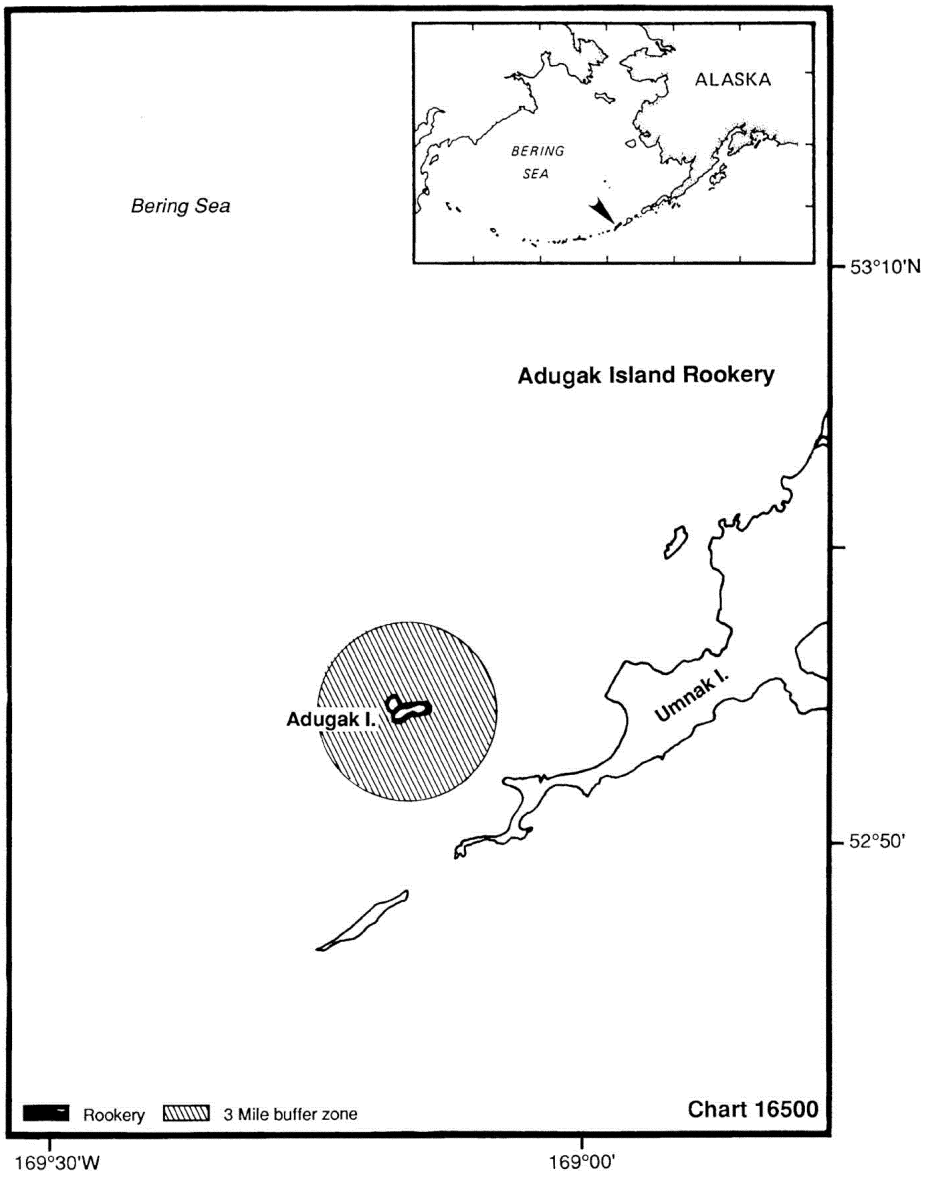

ALASKA
BERING SEA
55°30'N
Sea Lion Rock Rookery
Sea Lion Rks.
Amak I.
55°10'
Izembek Lagoon
Alaska Penn.
Rookery
3 Mile buffer zone
Chart 16520
162°30'
163°00'

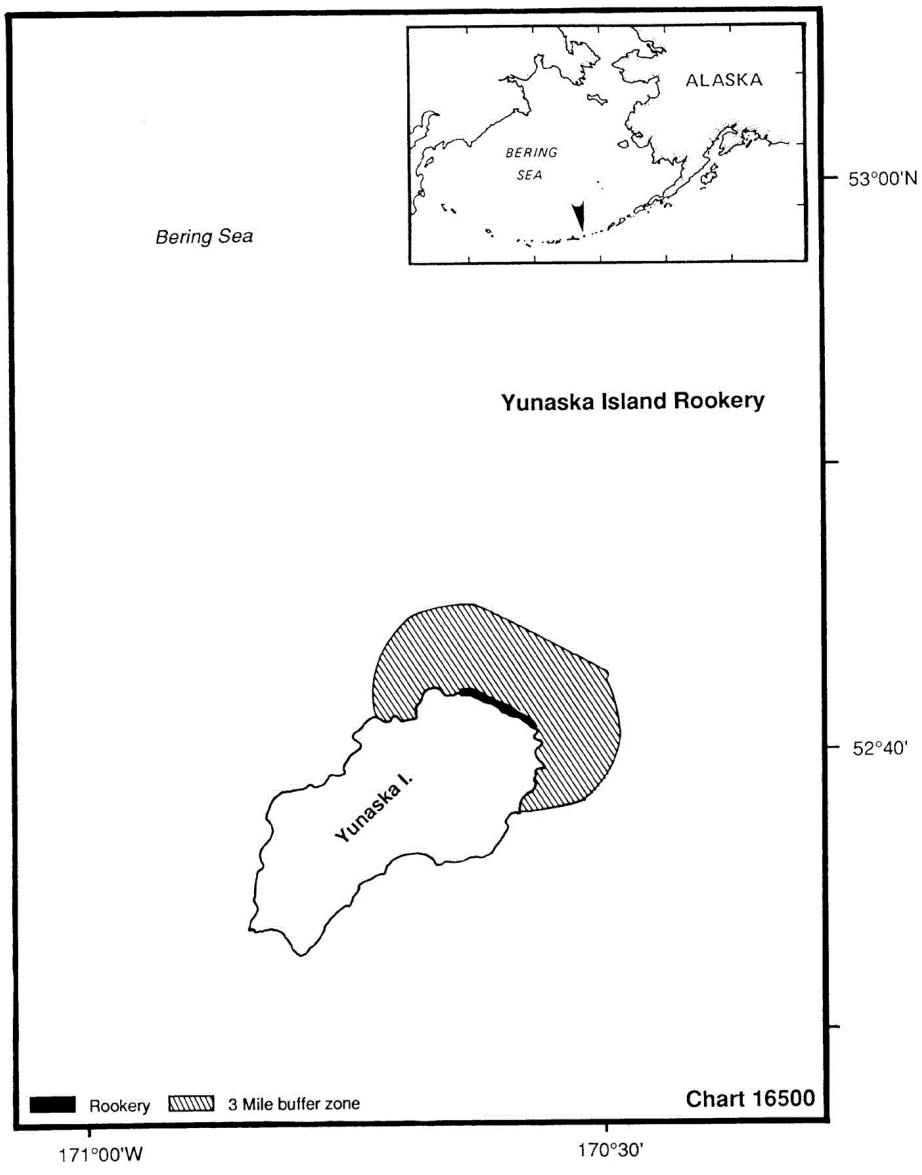

ALASKA
BERING SEA
54°30'N
Ugamak Island Rookery
Unimak Pass
Ugamak I.
Ugamak Strait
Tigalda I.
Rookery
3 Mile buffer zone
Chart 16520
54°00'
165°00' W
164°30'

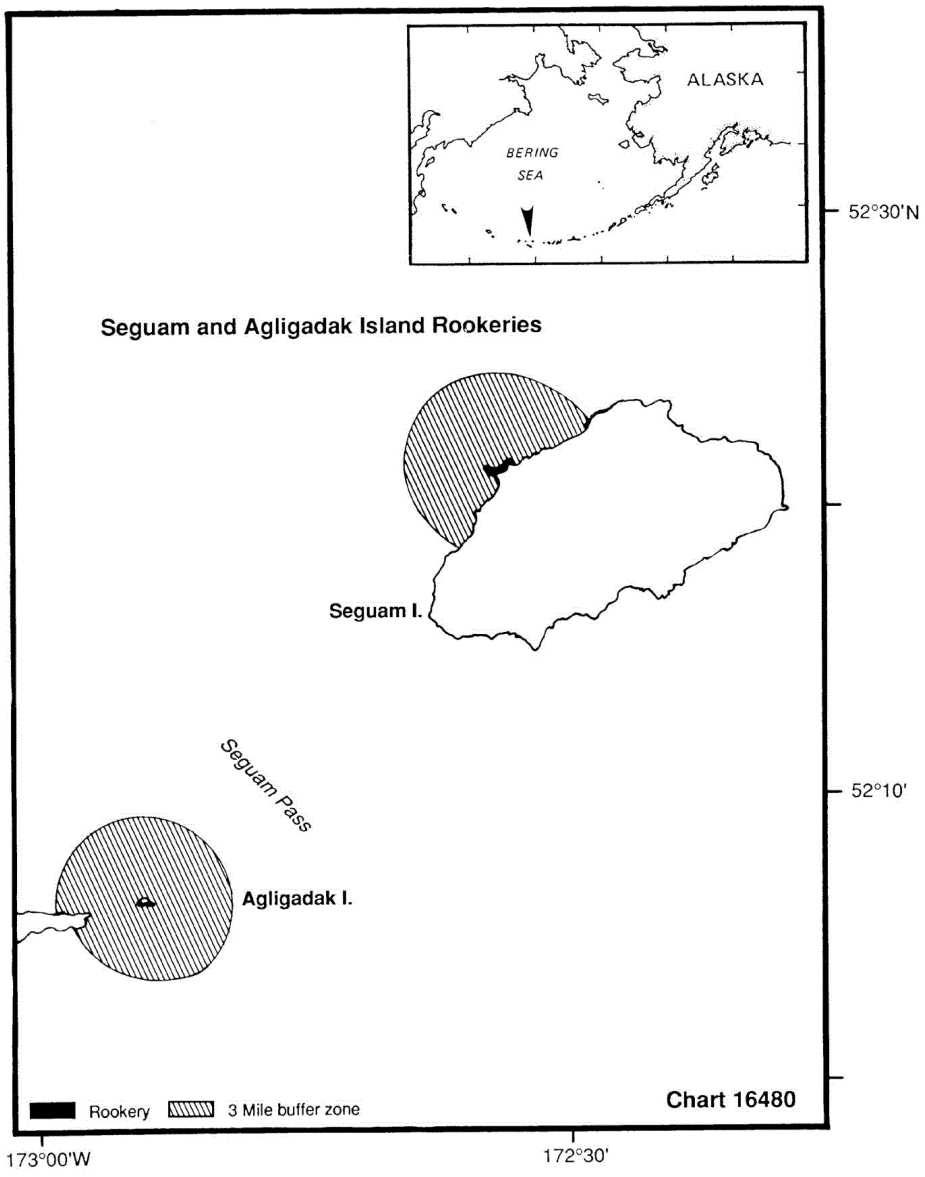

ALASKA
BERING SEA
Akun and Akutan Island Rookeries
54°30'N
Akutan Bay
Akun I.
Akutan I.
54°00'
Unalga I.
Rookery
3 Mile buffer zone
Chart 16520
166°00'W
165°30'

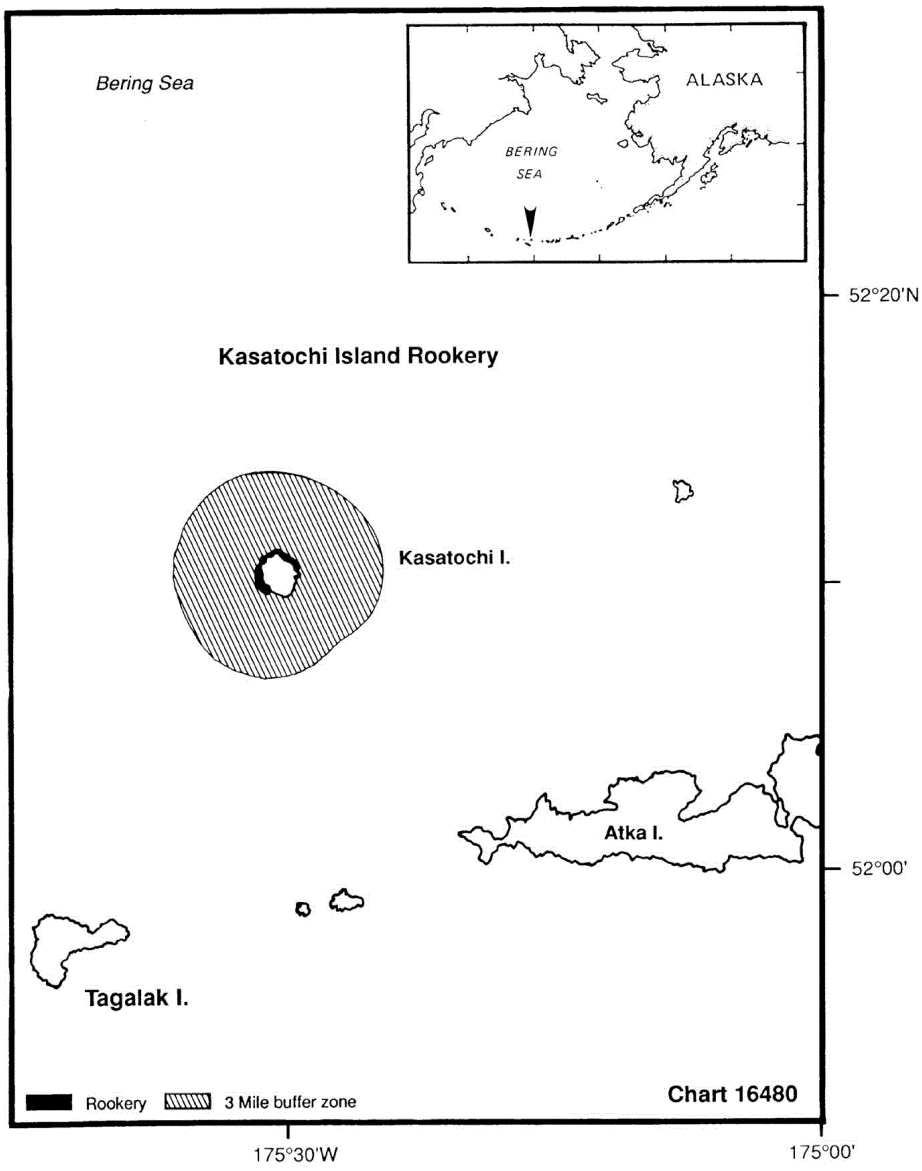

ALASKA
BERING SEA
54°00'N
Bogoslof I.
Bogoslof Island Rookery
Bering Sea
53°40'
Umnak I.
Rookery
3 Mile buffer zone
Chart 16500
168°00'W
167°30'

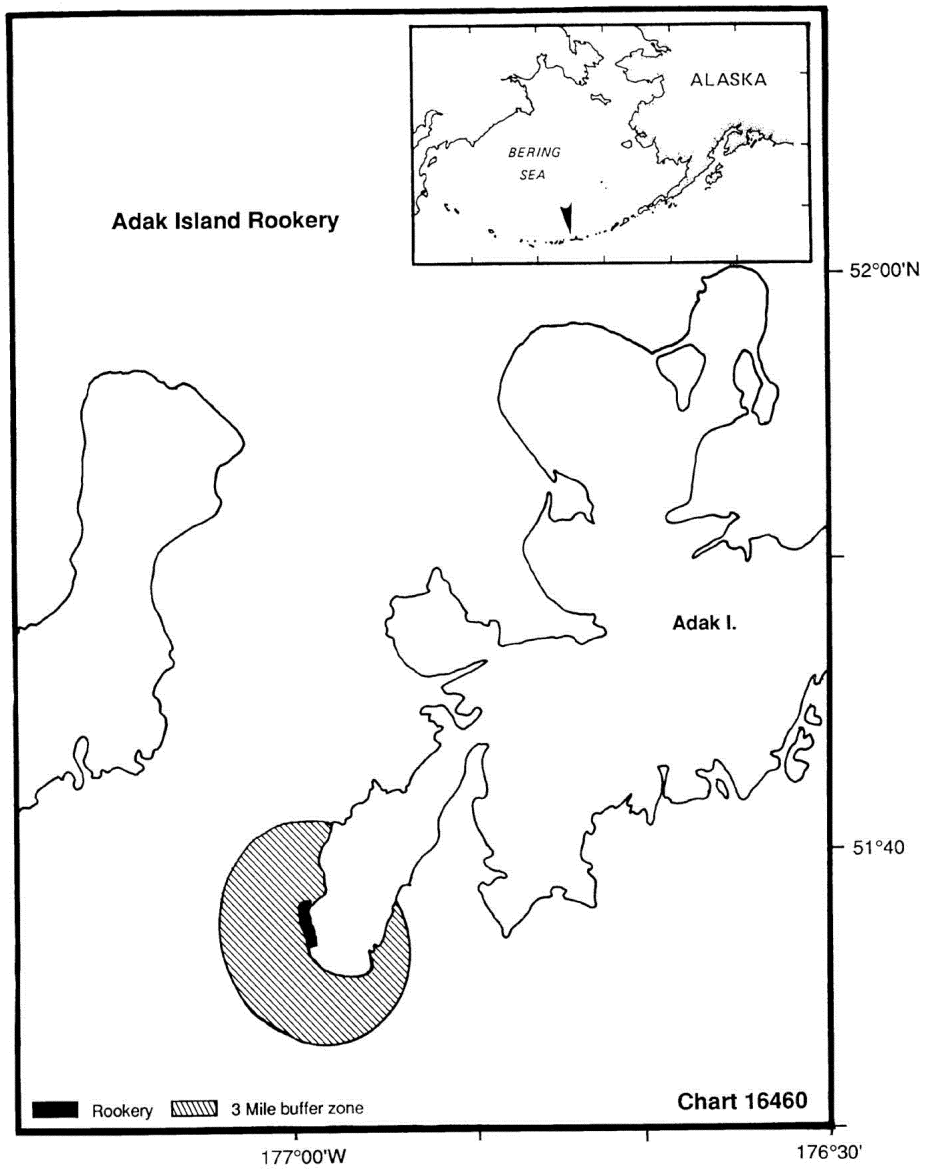

ALASKA
BERING SEA
Bering Sea
Unmak I.
53°20'N
Ogchul Island Rookery
Ogchul I.
53°00'
Rookery
3 Mile buffer zone
Chart 16500
168°30'W
168°00'

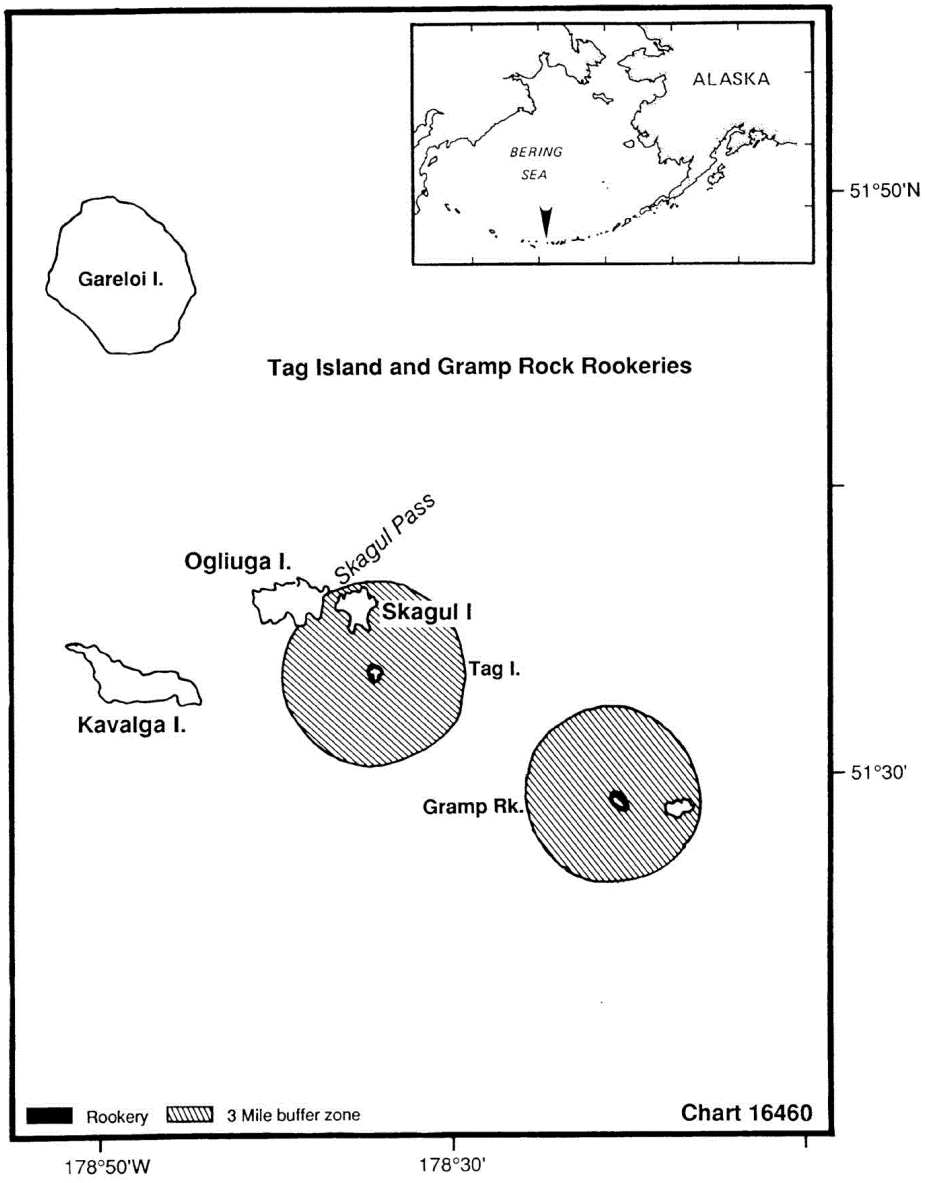

ALASKA
BERING SEA
Bering Sea
53°10'N
Adugak Island Rookery
Adugak I.
Umnak I.
52°50'
Rookery
3 Mile buffer zone
Chart 16500
169°30'W
169°00'

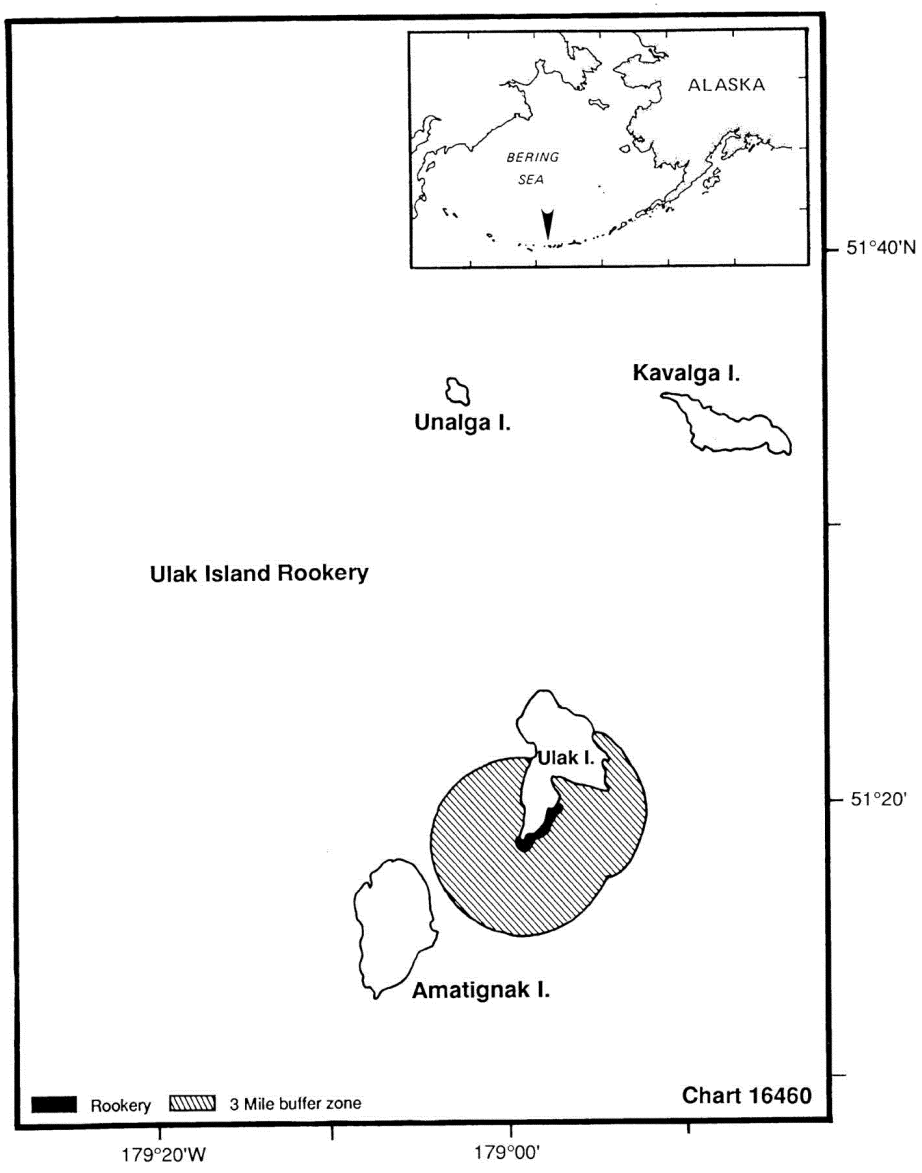

ALASKA
BERING SEA
Bering Sea
53°00'N
Yunaska Island Rookery
52°40'
Yunaska I.
Rookery
3 Mile buffer zone
Chart 16500
171°00'W
170°30'

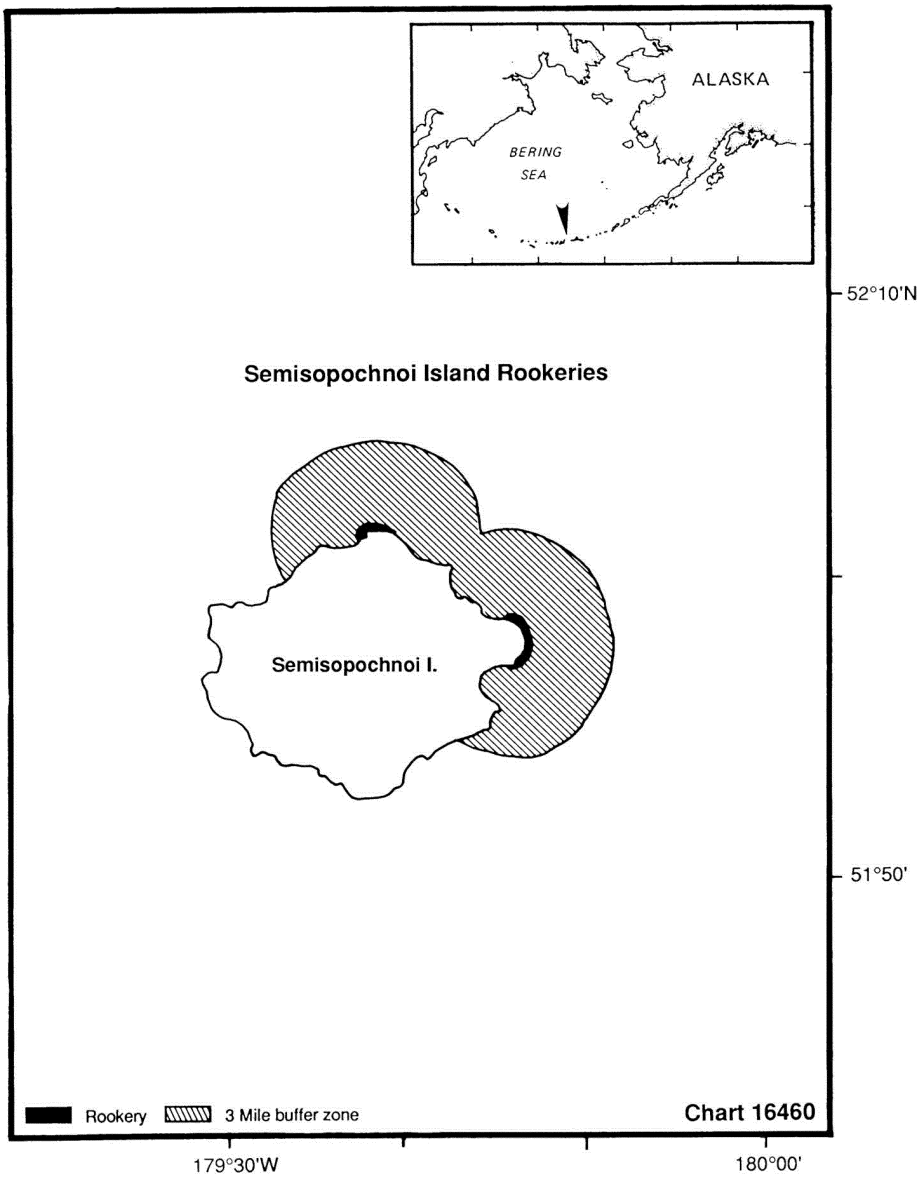

ALASKA
BERING SEA
52°30'N
Seguam and Agligadak Island Rookeries
Seguam I.
Seguam Pass
52°10'
Agligadak I.
Rookery
3 Mile buffer zone
Chart 16480
173°00'W
172°30'

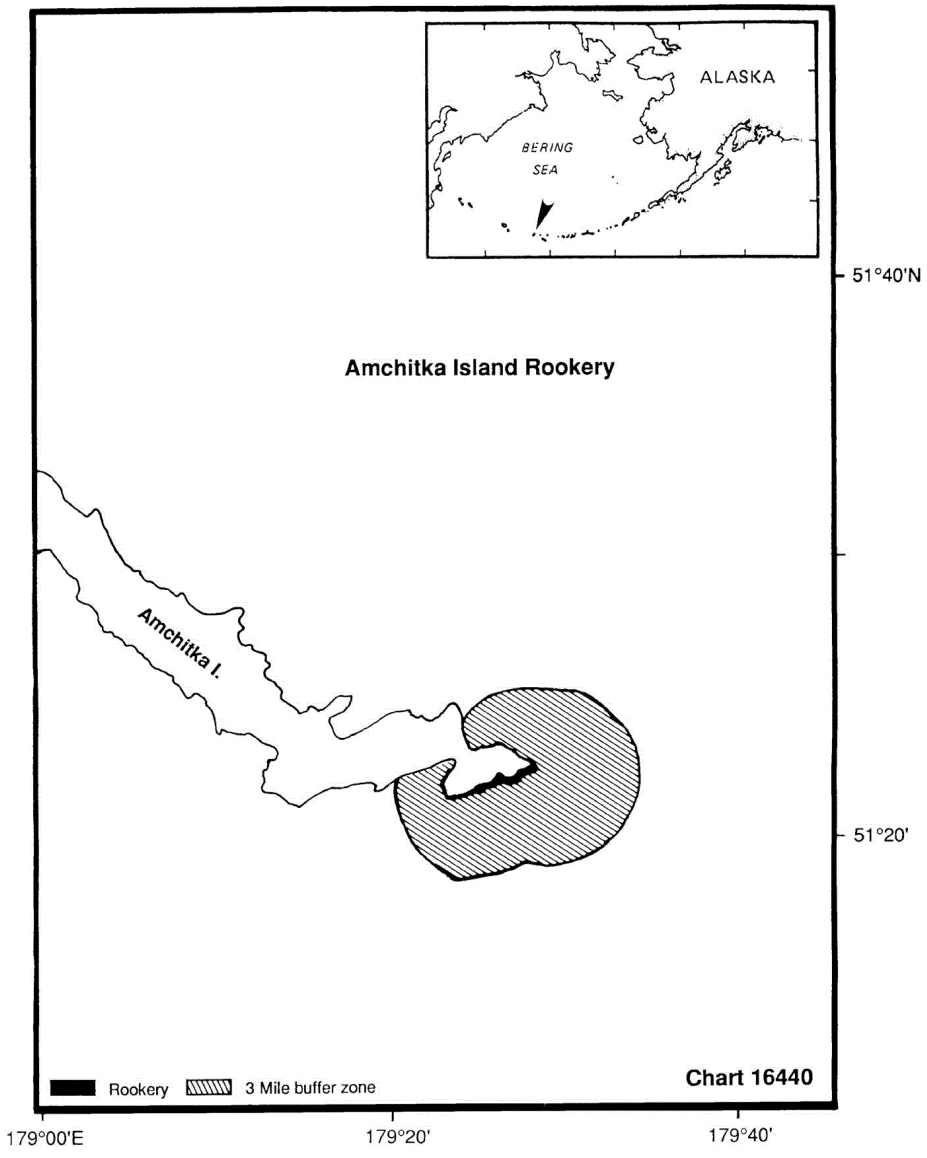

Bering Sea
ALASKA
BERING SEA
52°20'N
Kasatochi Island Rookery
Kasatochi I.
Atka I.
52°00'
Tagalak I.
Rookery
3 Mile buffer zone
Chart 16480
175°30'W
175°00'

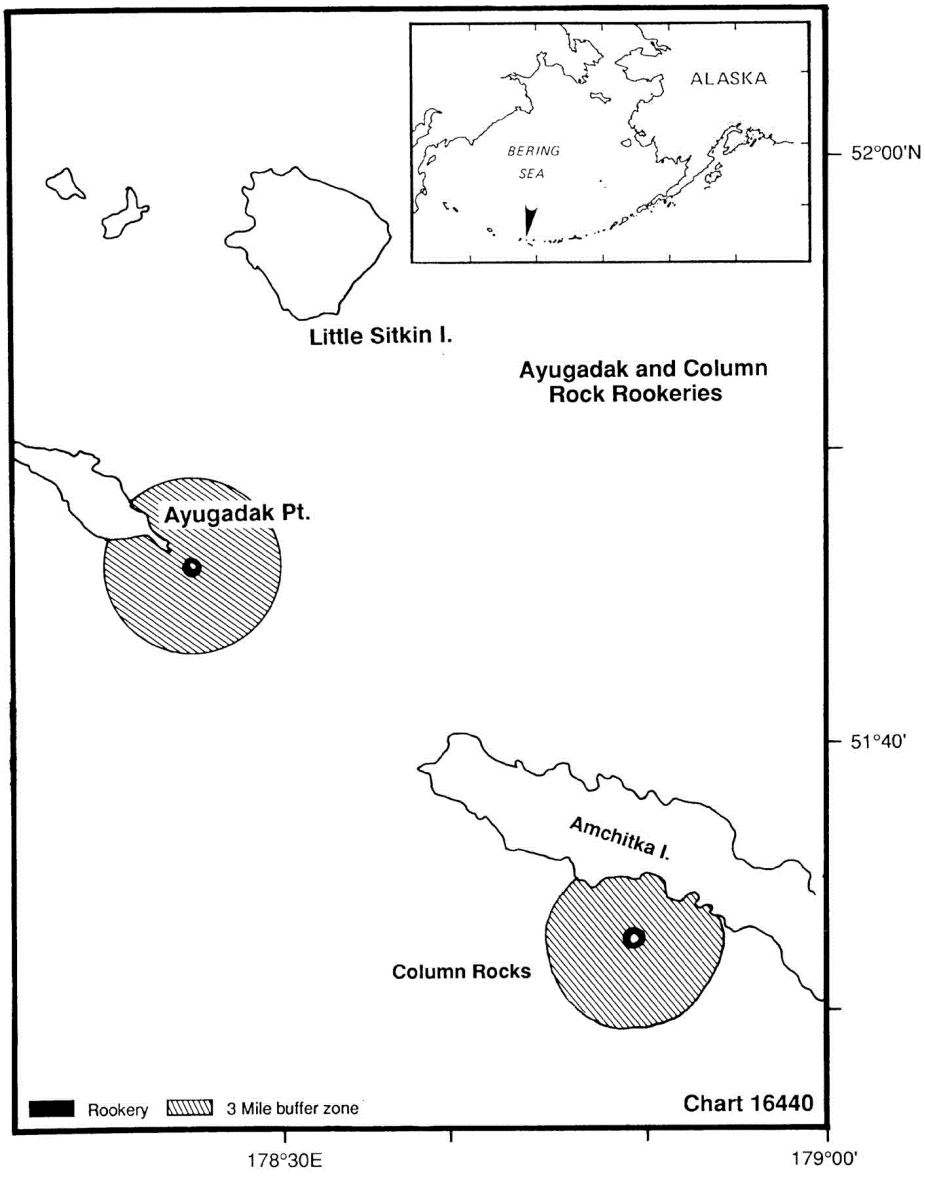

ALASKA
BERING SEA
Adak Island Rookery
52°00'N
Adak I.
51°40
Rookery
3 Mile buffer zone
Chart 16460
177°00'W
176°30'

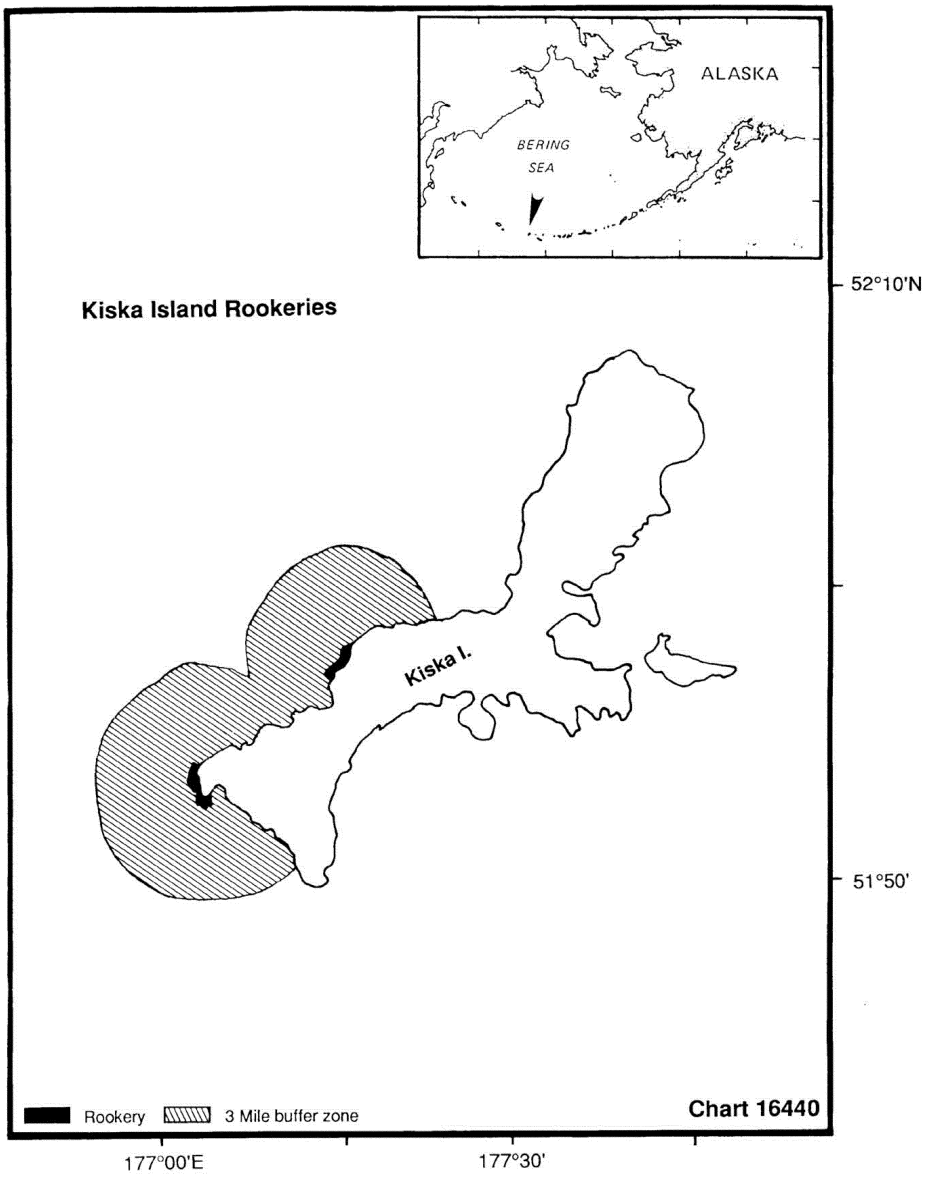

ALASKA
BERING SEA
51°50'N
Gareloi I.
Tag Island and Gramp Rock Rookeries
Ogliuga I.
Skagul Pass
Skagul I
Tag I.
Kavalga I.
51°30'
Gramp Rk.
Rookery
3 Mile buffer zone
Chart 16460
178°50'W
178°30'

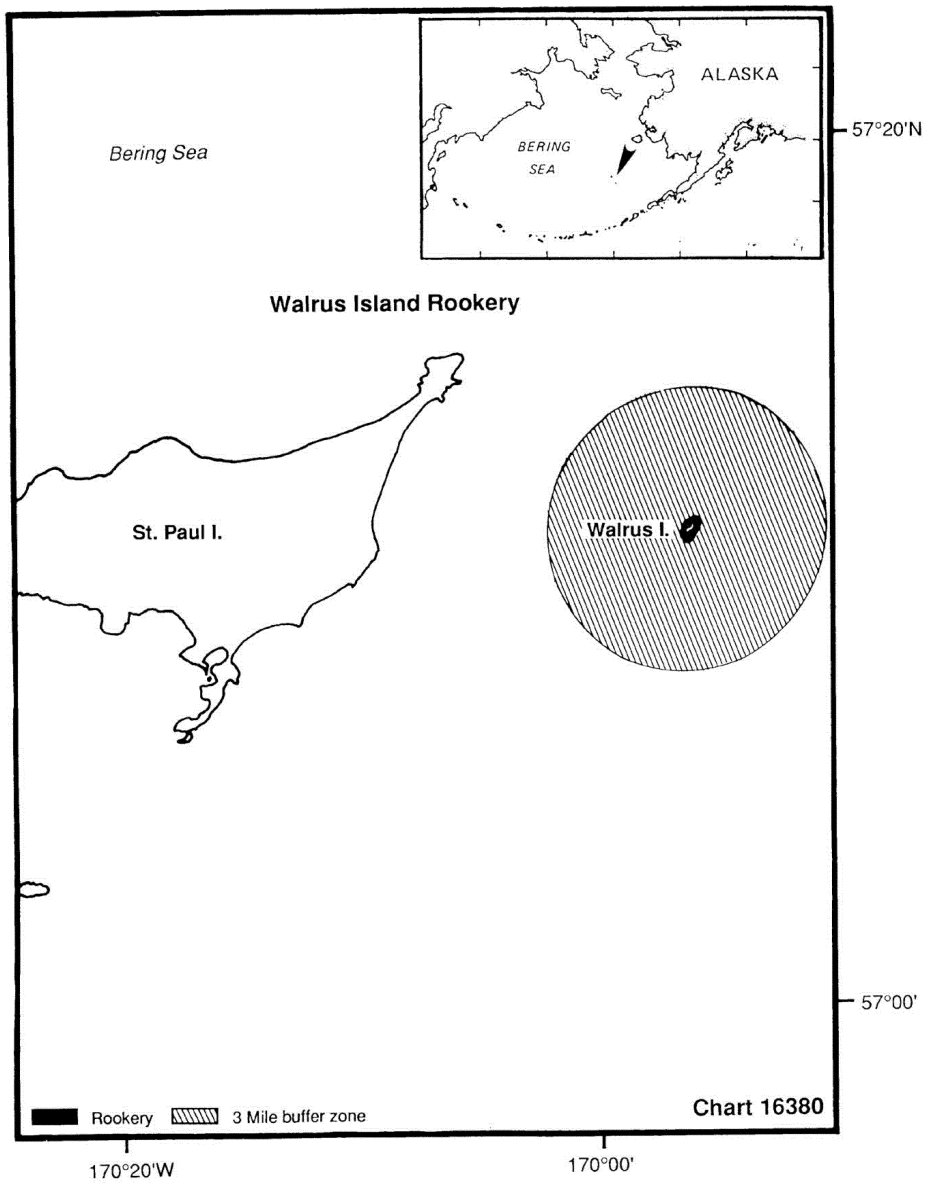

ALASKA
BERING SEA
51°40'N
Kavalga I.
Unalga I.
Ulak Island Rookery
Ulak I.
51°20'
Amatignak I.
Rookery
3 Mile buffer zone
Chart 16460
179°20'W
179°00'

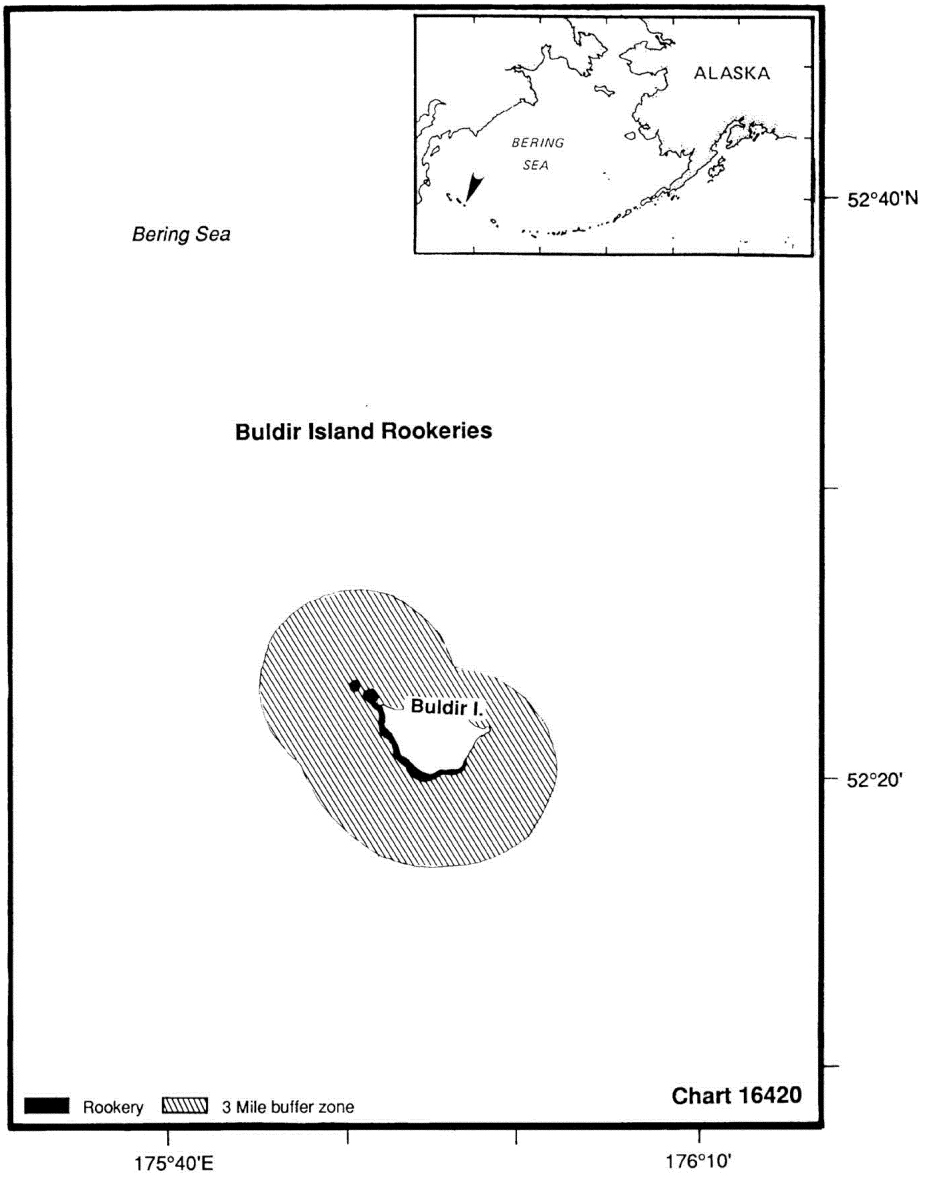

ALASKA
BERING SEA
52°10'N
Semisopochnoi Island Rookeries
Semisopochnoi I.
51°50'
Rookery
3 Mile buffer zone
Chart 16460
179°30'W
180°00'

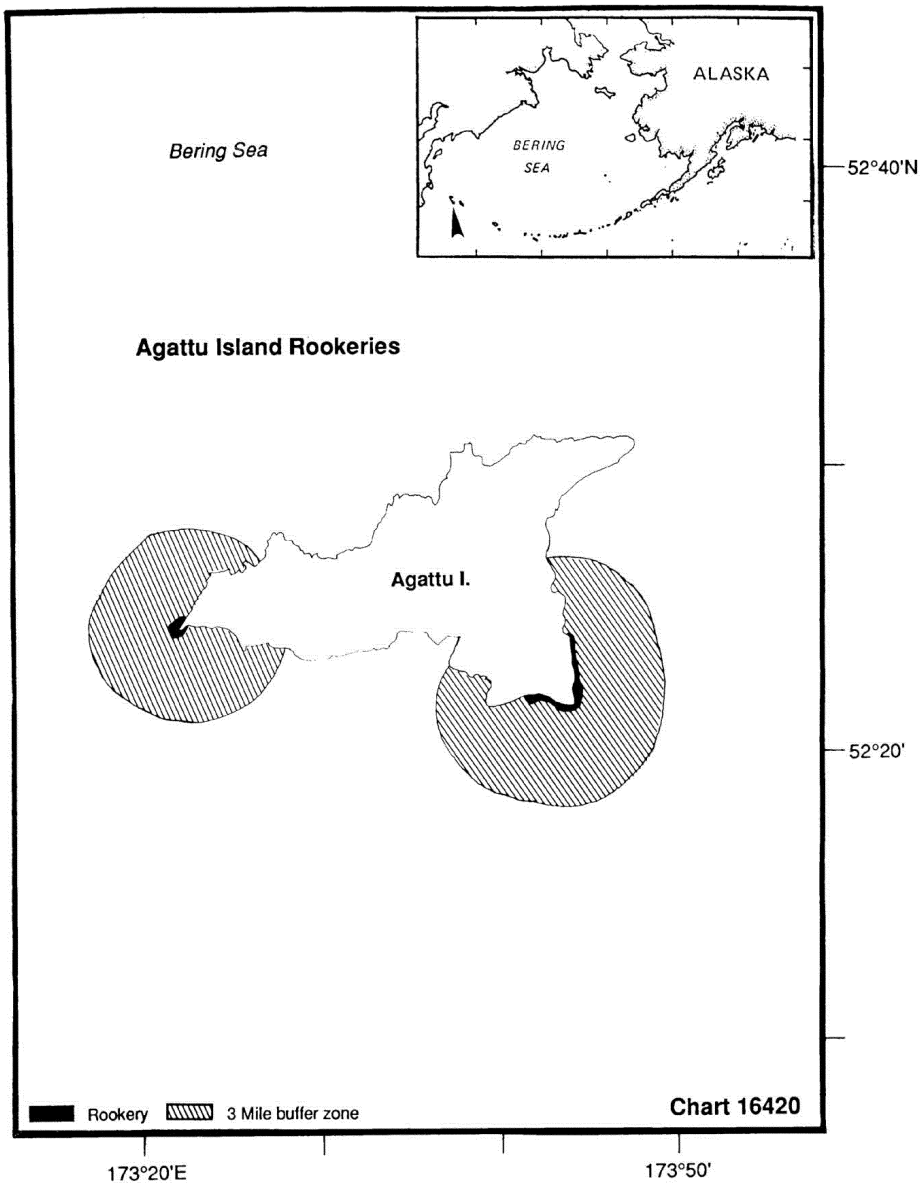

ALASKA
BERING SEA
51°40'N
Amchitka Island Rookery
Amchitka I.
51°20'
Rookery
3 Mile buffer zone
Chart 16440
179°00'E
179°20'
179°40'

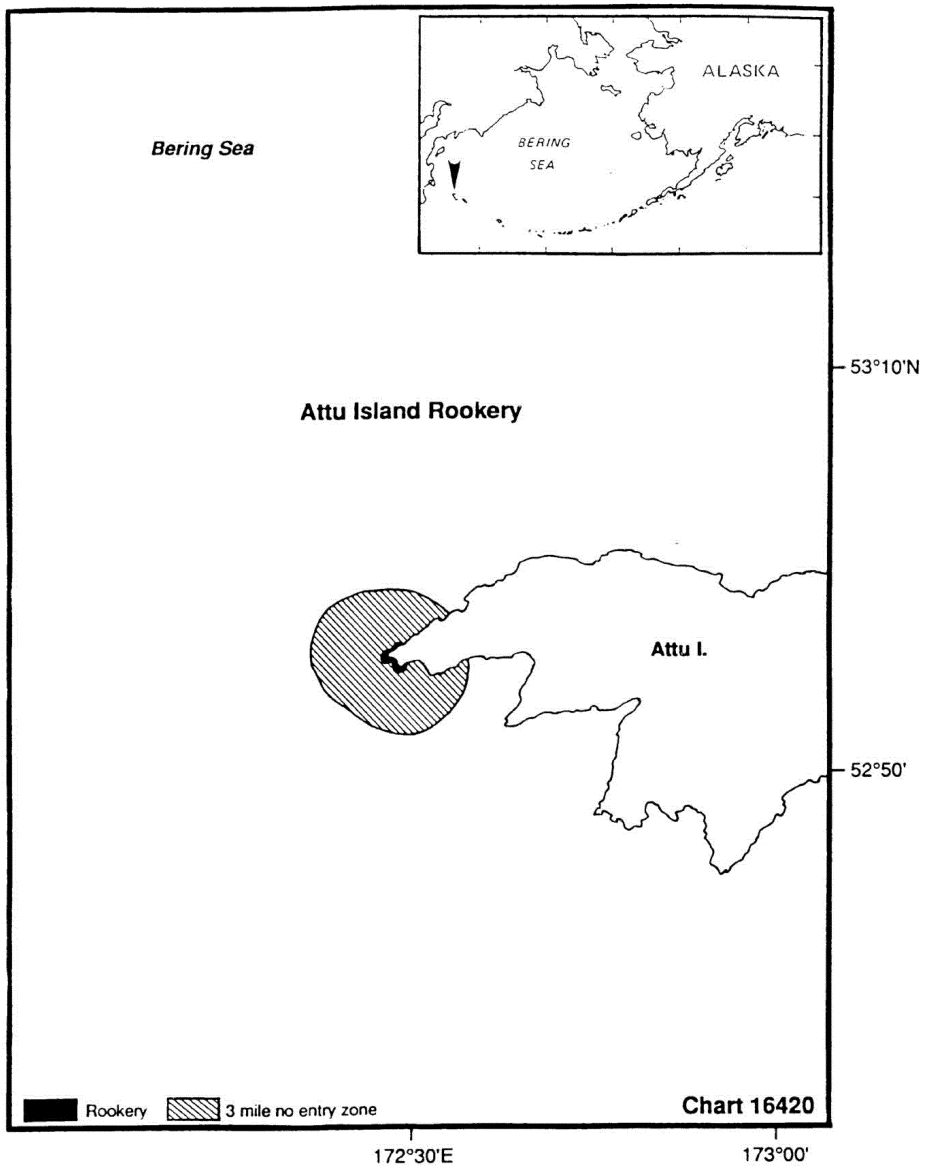

ALASKA
BERING SEA
52°00'N
Little Sitkin I.
Ayugadak and Column Rock Rookeries
Ayugadak Pt.
51°40'
Amchitka I.
Column Rocks
Rookery
3 Mile buffer zone
Chart 16440
178°30E
179°00'


ALASKA
BERING SEA
Kiska Island Rookeries
Kiska I.
52°10'N
51°50'
Rookery
3 Mile buffer zone
Chart 16440
177°00'E
177°30'


ALASKA
BERING SEA
Bering Sea
57°20'N
Walrus Island Rookery
St. Paul I.
Walrus I.
57°00'
Rookery
3 Mile buffer zone
Chart 16380
170°20'W
170°00'


ALASKA
BERING SEA
Bering Sea
52°40'N
Buldir Island Rookeries
Buldir I.
52°20'
Rookery
3 Mile buffer zone
Chart 16420
175°40'E
176°10'


ALASKA
BERING SEA
Bering Sea
52°40'N
Agattu Island Rookeries
Agattu I.
52°20'
Rookery
3 Mile buffer zone
Chart 16420
173°20'E
173°50'



(iv) *Commercial Fishing Operations.* The incidental mortality and serious injury of endangered Steller sea lions in commercial fisheries can be authorized in compliance with sections 101(a)(5) and 118 of the Marine Mammal Protection Act.

(2) *Exceptions*—(i) *Permits.* The Assistant Administrator may issue permits authorizing activities that would otherwise be prohibited under paragraph (d)(1) of this section in accordance with and subject to the provisions of part

222, subpart C of this chapter—General Permit Procedures.

(ii) *Official activities.* The taking of Steller sea lions must be reported within 30 days to the Regional Administrator, Alaska Region. Paragraph (d)(1) of this section does not prohibit or restrict a Federal, state or local government official, or his or her designee, who is acting in the course of official duties from:

(A) Taking a Steller sea lion in a humane manner, if the taking is for the protection or welfare of the animal, the protection of the public health and welfare, or the nonlethal removal of nuisance animals; or

(B) Entering the buffer areas to perform activities that are necessary for national defense, or the performance of other legitimate governmental activities.

(iii) *Subsistence takings by Alaska natives.* Paragraph (d)(1) of this section does not apply to the taking of Steller sea lions for subsistence purposes under section 10(e) of the Act.

(iv) *Emergency situations.* Paragraph (d)(1)(ii) of this section does not apply to an emergency situation in which compliance with that provision presents a threat to the health, safety, or life of a person or presents a significant threat to the vessel or property.

(v) *Exemptions.* Paragraph (d)(1)(ii) of this section does not apply to any activity authorized by a prior written exemption from the Regional Administrator, Alaska Region, National Marine Fisheries Service. Concurrently with the issuance of any exemption, the Assistant Administrator will publish notice of the exemption in the FEDERAL REGISTER. An exemption may be granted only if the activity will not have a significant adverse effect on Steller sea lions, the activity has been conducted historically or traditionally in the buffer zones, and there is no readily available and acceptable alternative to or site for the activity.

(vi) *Navigational transit.* Paragraph (d)(1)(ii) of this section does not prohibit a vessel in transit from passing through a strait, narrows, or passageway listed in this paragraph if the vessel proceeds in continuous transit and maintains a minimum of 1 nautical mile from the rookery site. The listing of a strait, narrows, or passageway does not indicate that the area is safe for navigation. The listed straits, narrows, or passageways include the following:

Rookery	Straits, narrow, or pass
Akutan Island	Akutan Pass between Cape Morgan and Unalga Island.
Clubbing Rocks	Between Clubbing Rocks and Cherni Island.
Outer Island	Wildcat Pass between Rabbit and Ragged Islands.

(3) *Penalties.* (i) Any person who violates this section or the Act is subject to the penalties specified in section 11 of the Act, and any other penalties provided by law.

(ii) Any vessel used in violation of this subsection or the Endangered Species Act is subject to forfeiture under section 11(e)(4)(B) of the Act.

(e) *Protective regulations for killer whales in Washington*—(1) *Applicability.* The following restrictions apply to all motorized and non-motorized vessels in inland waters of the United States east of a line connecting Cape Flattery, Washington (48°23′10″ N./124°43′32″ W.), Tatoosh Island, Washington (48°23′30″ N./124°44′12″ W.), and Bonilla Point, British Columbia (48°35′30″ N./124°43′00″ W.) and south of the U.S./Canada international boundary. The shoreline boundary is the charted mean high water line cutting across the mouths of all rivers and streams.

(2) *Prohibitions.* Except as provided in paragraph (e)(3) of this section, it is unlawful for any person subject to the jurisdiction of the United States to:

(i) Cause a vessel to approach, in any manner, within 200 yards (182.9 m) of any killer whale.

(ii) Position a vessel to be in the path of any killer whale at any point located within 400 yards (365.8 m) of the whale. This includes intercepting a killer whale by positioning a vessel so that the prevailing wind or water current carries the vessel into the path of the whale.

(3) *Exceptions.* The following exceptions apply to this section:

(i) The prohibitions of paragraph (e)(2) of this section do not apply to

(A) Federal Government vessels operating in the course of their official duty or state and local government vessels when engaged in official duties involving law enforcement, search and rescue, or public safety.

(B) Vessels participating with a Vessel Traffic Service (VTS) and following a Traffic Separation Scheme or complying with a VTS Measure of Direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats.

(C) Vessels engaged in an activity, such as scientific research, authorized through a permit issued by the National Marine Fisheries Service under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar National Marine Fisheries Service authorization.

(D) Vessels lawfully engaged in commercial or treaty Indian fishing that are actively setting, retrieving, or closely tending fishing gear.

(E) Vessel operations necessary to avoid an imminent and serious threat to a person, vessel or the environment, including when necessary for overall safety of navigation and to comply with the Navigation Rules.

(ii) [Reserved]

(4) *Affirmative defense.* In connection with any action alleging a violation of the prohibitions of paragraph (e)(2) of this section, any person claiming the benefit of any exception listed in paragraph (e)(3) of this section has the burden of raising, pleading, and proving such affirmative defense.

(b) [Reserved]

[64 FR 14066, Mar. 23, 1999, as amended at 66 FR 29509, May 31, 2001; 69 FR 69537, Nov. 30, 2004; 70 FR 1832, Jan. 11, 2005; 76 FR 20890, Apr. 14, 2011; 78 FR 66169, Nov. 4, 2013]

§ 224.104 Special requirements for fishing activities to protect endangered sea turtles.

(a) Shrimp fishermen in the southeastern United States and the Gulf of Mexico who comply with rules for threatened sea turtles specified in § 223.206 of this chapter will not be subject to civil penalties under the Act for incidental captures of endangered sea turtles by shrimp trawl gear.

(b) Summer flounder fishermen in the Summer flounder fishery-sea turtle protection area who comply with rules for threatened sea turtles specified in § 223.206 of this chapter will not be subject to civil penalties under the Act for incidental captures of endangered sea turtles by summer flounder gear.

(c) Special prohibitions relating to sea turtles are provided at § 223.206(d).

[64 FR 14066, Mar. 23, 1999, as amended at 66 FR 44552, Aug. 24, 2001; 66 FR 67496, Dec. 31, 2001; 68 FR 8471, Feb. 21, 2003; 69 FR 18453, Apr. 7, 2004; 72 FR 31757, June 8, 2007]

§ 224.105 Speed restrictions to protect North Atlantic Right Whales.

(a) The following restrictions apply to: All vessels greater than or equal to 65 ft (19.8 m) in overall length and subject to the jurisdiction of the United States, and all other vessels greater than or equal to 65 ft (19.8 m) in overall length entering or departing a port or place subject to the jurisdiction of the United States. These restrictions shall not apply to U.S. vessels owned or operated by, or under contract to, the Federal Government. This exemption extends to foreign sovereign vessels when they are engaging in joint exercises with the U.S. Department of the Navy. In addition, these restrictions do not apply to law enforcement vessels of a State, or political subdivision thereof, when engaged in law enforcement or search and rescue duties.

(1) Southeast U.S. (south of St. Augustine, FL to north of Brunswick, GA): Vessels shall travel at a speed of 10 knots or less over ground during the period of November 15 to April 15 each year in the area bounded by the following: Beginning at 31°27′00.0″ N–080°51′36.0″ W; thence west to charted mean high water line then south along charted mean high water line and inshore limits of COLREGS limit to a latitude of 29°45′00.0″ N thence east to 29°45′00.0″ N–080°51′36.0″ W; thence back to starting point. (Fig. 1).

(2) Mid-Atlantic U.S. (from north of Brunswick, Georgia to Rhode Island): Vessels shall travel 10 knots or less over ground in the period November 1 to April 30 each year:

(i) In the area bounded by the following: 33°56′42.0″ N–077°31′30.0″ W; thence along a NW bearing of 313.26° True to charted mean high water line then south along mean high water line and inshore limits of COLREGS limit to a latitude of 31°27′00.0″ N; thence east to 31°27′00.0″ N–080°51′36.0″ W; thence to 31°50′00.0″ N–080°33′12.0″ W; thence to 32°59′06.0″ N–078°50′18.0″ W; thence to 33°28′24.0″ N–078°32′30.0″ W; thence to 33°36′30.0″ N–077°47′06.0″ W; thence back to starting point.;

(ii) Within a 20-nm (37 km) radius (as measured seaward from COLREGS delineated coast lines and the center point of the port entrance) (Fig. 2) at the

(A) Ports of New York/New Jersey: 40°29′42.2″ N–073°55′57.6″ W;

(B) Delaware Bay (Ports of Philadelphia and Wilmington): 38°52′27.4″ N–075°01′32.1″ W;

(C) Entrance to the Chesapeake Bay (Ports of Hampton Roads and Baltimore): 37°00′36.9″ N–075°57′50.5″ W; and

(D) Ports of Morehead City and Beaufort, NC: 34°41′32.0″ N–076°40′08.3″ W; and

(iii) In Block Island Sound, in the area bounded by the following coordinates: Beginning at 40°51′53.7″ N–70°36′44.9″ W; thence to 41°20′14.1″ N–70°49′44.1″ W; thence to 41°04′16.7″ N–71°51′21.0″ W; thence to 40°35′56.5″ N–71°38′25.1″ W; thence back to starting point. (Fig. 2).

(3) Northeast U.S. (north of Rhode Island):

(i) In Cape Cod Bay, MA: Vessels shall travel at a speed of 10 knots or less over ground during the period of January 1 to May 15 in Cape Cod Bay, in an area beginning at 42°04′56.5″ N–070°12′00.0″ W; thence north to 42°12′00.0″ N–070°12′00.0″ W; thence due west to charted mean high water line; thence along charted mean high water within Cape Cod Bay back to beginning point. (Fig. 3).

(ii) Off Race Point: Vessels shall travel at a speed of 10 knots or less over ground during the period of March 1 to April 30 each year in waters bounded by straight lines connecting the following points in the order stated (Fig. 3): 42°30′00.0″ N–069°45′00.0″ W; thence to 42°30′00.0″ N–070°30′00.0″ W; thence to 42°12′00.0″ N–070°30′00.0″ W; thence to 42°12′00.0″ N–070°12′00.0″ W; thence to 42°04′56.5″ N–070°12′00.0″ W; thence along charted mean high water line and inshore limits of COLREGS limit to a latitude of 41°40′00.0″ N; thence due east to 41°41′00.0″ N–069°45′00.0″ W; thence back to starting point.

(iii) Great South Channel: Vessels shall travel at a speed of 10 knots or less over ground during the period of April 1 to July 31 each year in all waters bounded by straight lines connecting the following points in the order stated (Fig. 3):

42°30′00.0″ N–069°45′00.0″ W
41°40′00.0″ N–069°45′00.0″ W
41°00′00.0″ N–069°05′00.0″ W
42°09′00.0″ N–067°08′24.0″ W
42°30′00.0″ N–067°27′00.0″ W
42°30′00.0″ N–069°45′00.0″ W

(b) Except as noted in paragraph (c) of this section, it is unlawful under this section:

(1) For any vessel subject to the jurisdiction of the United States to violate any speed restriction established in paragraph (a) of this section; or

(2) For any vessel entering or departing a port or place under the jurisdiction of the United States to violate any speed restriction established in paragraph (a) of this section.

(c) A vessel may operate at a speed necessary to maintain safe maneuvering speed instead of the required ten knots only if justified because the vessel is in an area where oceanographic, hydrographic and/or meteorological conditions severely restrict the maneuverability of the vessel and the need to operate at such speed is confirmed by the pilot on board or, when a vessel is not carrying a pilot, the master of the vessel. If a deviation from the ten-knot speed limit is necessary, the reasons for the deviation, the speed at which the vessel is operated, the latitude and longitude of the area, and the time and duration of such deviation shall be entered into the logbook of the vessel. The master of the vessel shall attest to the accuracy of the logbook entry by signing and dating it.

(d) No later than January 1, 2019, the National Marine Fisheries Service will publish and seek comment on a report evaluating the conservation value and

economic and navigational safety impacts of this section, including any recommendations to minimize burden of such impacts.

[79 FR 34245, June 16, 2014]

PART 225 [RESERVED]

PART 226—DESIGNATED CRITICAL HABITAT

Sec.

226.101 Purpose and scope.
226.201 Critical habitat for the Hawaiian monk seal (Neomonachus schauinslandi).
226.202 Critical habitat for Steller sea lions.
226.203 Critical habitat for northern right whales.
226.204 Critical habitat for Sacramento winter-run chinook salmon.
226.205 Critical habitat for Snake River sockeye salmon, Snake River fall chinook salmon, and Snake River spring/summer chinook salmon.
226.206 Critical habitat for the Southern Resident killer whale (*Orcinus orca*).
226.207 Critical habitat for leatherback turtles (*Dermochelys coriacea*).
226.208 Critical habitat for green turtle.
226.209 Critical habitat for hawksbill turtle.
226.210 Central California Coast Coho Salmon (*Oncorhynchus kisutch*), Southern Oregon/Northern California Coasts Coho Salmon (*Oncorhynchus kisutch*).
226.211 Critical habitat for Seven Evolutionarily Significant Units (ESUs) of Salmon (*Oncorhynchus spp.*) in California.
226.212 Critical habitat for 12 Evolutionarily Significant Units (ESUs) of salmon and steelhead (*Oncorhynchus spp.*) in Washington, Oregon and Idaho.
226.213 Critical habitat for Johnson's seagrass.
226.214 Critical habitat for Gulf sturgeon.
226.215 Critical habitat for the North Pacific Right Whale (*Eubalaena japonica*).
226.216 Critical habitat for elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals.
226.217 Critical habitat for the Gulf of Maine Distinct Population Segment of Atlantic Salmon (Salmo salar).
226.218 Critical habitat for the U.S. DPS of smalltooth sawfish (Pristis pectinata).
226.219 Critical habitat for the Southern Distinct Population Segment of North American Green Sturgeon (Acipenser medirostris).
226.220 Critical habitat for the Cook Inlet beluga whale (Delphinapterus leucas).
226.221 Critical habitat for black abalone (Haliotis cracherodii).
226.222 Critical habitat for the southern Distinct Population Segment of eulachon (Thaleichthys pacificus).
226.223 Critical habitat for the Northwest Atlantic Ocean Distinct Population Segment of the loggerhead sea turtle (Caretta caretta).
226.224 Critical habitat for the Puget Sound/Georgia Basin DPS of yelloweye rockfish (*Sebastes ruberrimus*), canary rockfish (*S. pinniger*), and bocaccio (*S. paucispinus*).
TABLE 1 TO PART 226—MAJOR STELLER SEA LION ROOKERY SITES
TABLE 2 TO PART 226—MAJOR STELLER SEA LION HAULOUT SITES IN ALASKA
TABLE 3 TO PART 226—HYDROLOGIC UNITS CONTAINING CRITICAL HABITAT FOR SNAKE RIVER SOCKEYE SALMON AND SNAKE RIVER SPRING/SUMMER AND FALL CHINOOK SALMON
TABLE 4 TO PART 226 [RESERVED]
TABLE 5 TO PART 226—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR CENTRAL CALIFORNIA COAST COHO SALMON, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS/RESERVOIRS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT
TABLE 6 TO PART 226—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR SOUTHERN OREGON/NORTHERN CALIFORNIA COASTS COHO SALMON, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS/RESERVOIRS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

AUTHORITY: 16 U.S.C. 1533.

§ 226.101 Purpose and scope.

The regulations contained in this part identify those habitats designated by the Secretary of Commerce as critical, under section 4 of the Act, for endangered and threatened species under the jurisdiction of the Secretary of Commerce. Those species are enumerated at § 223.102 of this chapter if threatened and at § 224.101 of this chapter if endangered. For regulations pertaining to the designation of critical habitat, see part 424 of this title; for regulations pertaining to prohibitions against the adverse modification or destruction of critical habitat, see part 402 of this title. Additional information regarding designated critical habitats that is not provided in this section may be obtained upon request to the Office of Protected Resources (*see* § 222.102, definition of ''Office of Protected Resources'').

[77 FR 25622, May 1, 2012]

§ 226.201 Critical habitat for the Hawaiian monk seal (Neomonachus schauinslandi).

Critical habitat is designated for Hawaiian monk seals as described in this section. The textual descriptions of critical habitat in this section are the definitive source for determining the critical habitat boundaries.

(a) *Critical habitat boundaries.* Critical habitat is designated to include all areas in paragraphs (a)(1) and (2) of this section and as described in paragraphs (b)(1) and (2) of this section:

(1) Northwestern Hawaiian Islands: Hawaiian monk seal critical habitat areas include all beach areas, sand spits and islets, including all beach crest vegetation to its deepest extent inland, lagoon waters, inner reef waters, and including marine habitat through the water's edge, including the seafloor and all subsurface waters and marine habitat within 10 m of the seafloor, out to the 200-m depth contour line (relative to mean lower low water) around the following 10 areas:

(i) Kure Atoll,
(ii) Midway Islands,
(iii) Pearl and Hermes Reef,
(iv) Lisianski Island,
(v) Laysan Island,
(vi) Maro Reef,
(vii) Gardner Pinnacles,
(viii) French Frigate Shoals,
(ix) Necker Island, and
(x) Nihoa Island.

(2) Main Hawaiian Islands: Hawaiian monk seal critical habitat areas surrounding the following islands listed below are defined in the marine environment by a seaward boundary that extends from the 200-m depth contour line (relative to mean lower low water), including the seafloor and all subsurface waters and marine habitat within 10 m of the seafloor, through the water's edge into the terrestrial environment where the inland boundary extends 5 m (in length) from the shoreline between identified boundary points listed in the table below around the areas listed in paragraphs (a)(2)(i)–(vi) of this section. The shoreline is described by the upper reaches of the wash of the waves, other than storm or seismic waves, at high tide during the season in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth or the upper limit of debris (except those areas identified in paragraph (c) of this section). In areas where critical habitat does not extend inland, the designation has a seaward boundary of a line that marks mean lower low water.

Area	Island	Textual description of segment	Boundary points	Latitude	Longitude
13	Kauai	Southeast coast of Kauai (Nomilu Fishpond area through Mahaulepu).	KA 11	21°53′08″ N.	159°31′48″ W.
			KA 12	21°53′34″ N.	159°24′25″ W.
13	Kauai	Kawelikoa Point to Molehu	KA 21	21°54′26″ N.	159°23′26″ W.
			KA 22	21°54′48″ N.	159°23′08″ W.
13	Kauai	Lydgate Park through Wailua canal	KA 31	22°02′11″ N.	159°20′08″ W.
			KA 32	22°02′41″ N.	159°20′11″ W.
13	Kauai	Wailua canal through Waikaea canal	KA 41	22°02′45″ N.	159°20′10″ W.
			KA 42	22°04′14″ N.	159°18′60″ W.
13	Kauai	Waikaea canal through Kealia	KA 51	22°04′15″ N.	159°19′01″ W.
			KA 52	22°05′59″ N.	159°18′08″ W.
13	Kauai	Anahola and Aliomanu areas	KA 61	22°07′46″ N.	159°17′35″ W.
			KA 62	22°09′28″ N.	159°18′18″ W.
13	Kauai	Moloaa Bay through Kepuhi Point	KA 71	22°11′38″ N.	159°19′46″ W.
			KA 72	22°12′52″ N.	159°21′14″ W.
13	Kauai	Southeast of Kilauea	KA 81	22°13′48″ N.	159°23′52″ W.
			KA 82	22°13′55″ N.	159°24′06″ W.
13	Kauai	Wainiha Beach Park through Kee Beach Park	KA 91	22°12′60″ N.	159°32′30″ W.
			KA 92	22°13′13″ N.	159°35′01″ W.
13	Kauai	Milolii State Park Beach Area	KA 101	22°09′13″ N.	159°42′52″ W.
			KA 102	22°08′59″ N.	159°43′21″ W.
14	Oahu	Keana Point Area	OA 11	21°34′43″ N.	158°15′37″ W.
			OA 12	21°32′45″ N.	158°14′25″ W.
14	Oahu	Maili Beach through Kalaeloa Barbers Point Harbor.	OA 21	21°25′43″ N.	158°10′48″ W.
			OA 22	21°19′24″ N.	158°07′20″ W.
14	Oahu	Kalaeloa Barbers Point Harbor through Iroquois Point.	OA 31	21°19′18″ N.	158°07′17″ W.
			OA 32	21°19′20″ N.	157°58′17″ W.
14	Oahu	Diamond Head area	OA 41	21°15′27″ N.	157°49′05″ W.
			OA 42	21°15′24″ N.	157°47′45″ W.
14	Oahu	Hanauma Bay through Sandy Beach	OA 51	21°16′05″ N.	157°41′50″ W.
			OA 52	21°17′45″ N.	157°39′27″ W.

Area	Island	Textual description of segment	Boundary points	Latitude	Longitude
14	Oahu	Makapuu Beach Area	OA 61	21°18′36″ N.	157°39′31″ W.
			OA 62	21°18′58″ N.	157°39′55″ W.
14	Oahu	Lori Point through Waimea Bay	OA 71	21°40′26″ N.	157°56′00″ W.
			OA 72	21°38′18″ N.	158°03′56″ W.
14	Oahu	Kapapa Island (Kaneohe Bay)	OAi 1	21°28′36″ N.	157°47′55″ W.
14	Oahu	Mokulua—Moku Nui	OAi 2	21°23′30″ N.	157°41′56″W.
14	Oahu	Mokulua—Moku Iki	OAi 3	21°23′16″ N.	157°41′52″ W.
14	Oahu	Manana (Rabbit Island)	OAi 4	21°19′44″ N.	157°39′24″ W.
15	Molokai	Laau Point Area	MO 11	21°07′49″ N.	157°17′47″ W.
			MO 12	21°05′21″ N.	157°15′50″ W.
15	Molokai	Kalaupapa Area	MO 21	21°12′33″ N.	156°58′52″ W.
			MO 22	21°11′28″ N.	156°59′06″ W.
15	Molokai	Moku Hooniki	MOi 1	21°07′59″ N.	156°42′10″ W.
15	Lanai	Shipwreck Beach Area	LA 11	20°54′45″ N.	156°53′45″ W.
			LA 12	20°55′20″ N.	156°56′45″ W.
15	Lanai	Northwest Lanai (Including Polihua Beach)	LA 21	20°55′42″ N.	156°59′47″ W.
			LA 22	20°52′02″ N.	157°02′33″ W.
15	Lanai	North of Kamalapau Harbor	LA 31	20°48′38″ N.	156°59′15″ W.
			LA 32	20°47′17″ N.	156°59′24″ W.
15	Lanai	Kamalapau Harbor through Kaholo Pali	LA 41	20°47′13″ N.	156°59′27″ W.
			LA 42	20°46′59″ N.	156°59′31″ W.
15	Lanai	Kaholo Pali through Manele Harbor	LA 51	20°44′13″ N.	156°58′01″ W.
			LA 52	20°44′29″ N.	156°53′15″ W.
15	Lanai	Manele Harbor through Nakalahale Cliff	LA 61	20°44′35″ N.	156°53′14″ W.
			LA 62	20°44′49″ N.	156°52′16″ W.
15	Lanai	Nakalahale Cliff through Lopa Beach	LA 71	20°45′07″ N.	156°51′50″ W.
			LA 72	20°48′21″ N.	156°48′24″ W.
15	Lanai	Puupehe*	LAi 1	20°44′04″ N.	156°53′25″ W.
15	Kahoolawe.	Mid-North coast (including Kaukamoku and Ahupuiki).	KH 11	20°34′36″ N.	156°37′36″ W.
			KH 12	20°34′10″ N.	156°38′15″ W.
15	Kahoolawe.	Eastern coast of Kahoolawe (Honokoa through Sailer's Hat).	KH 21	20°33′08″ N.	156°40′35″ W.
			KH 22	20°30′04″ N.	156°40′23″ W.
15	Maui	Kuloa Point through Hana Wharf and Ramp	MA 11	20°40′02″ N.	156°02′27″ W.
			MA 12	20°45′21″ N.	155°58′54″ W.
15	Maui	Hana Wharf and Ramp through Kainalimu Bay	MA 21	20°45′20″ N.	155°58′56″ W.
			MA 22	20°46′08″ N.	155°59′04″ W.
15	Maui	Keanae Pennisula to Nauailua Bay	MA 31	20°51′56″ N.	156°08′46″ W.
			MA 32	20°51′41″ N.	156°08′55″ W.
15	Maui	Maliko Bay through Papaula Point	MA 41	20°56′11″ N.	156°21′11″ W.
			MA 42	20°54′30″ N.	156°25′06″ W.
15	Maui	Kahului Harbor West through Waihee Beach Park.	MA 51	20°53′53″ N.	156°28′47″ W.
			MA 52	20°56′04″ N.	156°30′15″ W.
15	Maui	Punalau Beach through to Mala Wharf	MA 61	21°01′20″ N.	156°37′28″ W.
			MA 62	20°53′09″ N.	156°41′10″ W.
15	Maui	Southeast of Mala Wharf through to Lahaina Harbor.	MA 71	20°53′04″ N.	156°41′12″ W.
			MA 72	20°52′26″ N.	156°40′43″ W.
15	Maui	Southeast of Lahaina Harbor through to Papalaua.	MA 81	20°52′12″ N.	156°40′39″ W.
			MA 82	20°47′34″ N.	156°34′00″ W.
15	Maui	East of Maalaea Harbor through to Kihei boat ramp.	MA 91	20°47′32″ N.	156°30′34″ W.
			MA 92	20°42′29″ N.	156°26′46″ W.
15	Maui	South of Kihei Boat Ramp through Ahihi Bay	MA 101	20°42′27″ N.	156°26′47″ W.
			MA 102	20°37′39″ N.	156°26′40″ W.
15	Maui	La Perouse Bay from Kalaeloa Point through Pohakueaea Point.	MA 111	20°35′43″ N.	156°25′33″ W.
			MA 112	20°34′45″ N.	156°23′29″ W.
15	Maui	Molokini Crater	MAi 1	20°37′51″ N.	156°29′43″ W.
16	Hawaii	Waimanu through Laupahoehoenui	HA 11	20°08′35″ N.	155°37′59″ W.
			HA 12	20°09′54″ N.	155°39′18″ W.
16	Hawaii	Keokea Bay through Kauhola Point	HA 21	20°13′39″ N.	155°44′49″ W.
			HA 22	20°14′44″ N.	155°46′18″ W.
16	Hawaii	Kapaa Beach County Park to Mahukona Harbor.	HA 31	20°12′16″ N.	155°54′06″ W.
			HA 32	20°11′04″ N.	155°54′05″ W.
16	Hawaii	South of Mahukona Harbor	HA 41	20°10′60″ N.	155°54′03″ W.
			HA 42	20°10′51″ N.	155°54′07″ W.
16	Hawaii	Pauoa Bay to Makaiwa Bay area	HA 51	19°57′03″ N.	155°51′49″ W.
			HA 52	19°56′38″ N.	155°52′10″ W.
16	Hawaii	Anaehoomalu Bay area through Keawaiki Bay area.	HA 61	19°54′42″ N.	155°53′26″ W.
			HA 62	19°53′09″ N.	155°54′34″ W.
16	Hawaii	Puu Alii Bay Area through Mahaiula Bay	HA 71	19°47′37″ N.	156°01′33″ W.
			HA 72	19°46′53″ N.	156°02′18″ W.
16	Hawaii	Keahole Point through Kaloko-Honokohau National Historic Park.	HA 81	19°43′54″ N.	156°03′26″ W.
			HA 82	19°40′28″ N.	156°01′34″ W.
16	Hawaii	South of Oneo Bay area through to Holualoa Bay area.	HA 91	19°38′10″ N.	155°59′29″ W.
			HA 92	19°36′31″ N.	155°58′41″ W.

Area	Island	Textual description of segment	Boundary points	Latitude	Longitude
16	Hawaii	Kahaluu Bay Area through Keauhou Bay Area	HA 101	19°34′49″ N.	155°57′59″ W.
			HA 102	19°33′43″ N.	155°57′43″ W.
16	Hawaii	Kealakekua Bay Area	HA 111	19°28′38″ N.	155°55′13″ W.
			HA 112	19°28′25″ N.	155°55′10″ W.
16	Hawaii	Honaunau Bay Area	HA 121	19°25′35″ N.	155°55′02″ W.
			HA 122	19°25′01″ N.	155°54′42″ W.
16	Hawaii	Milolii Bay Area through Honomalino Bay Area	HA 131	19°11′07″ N.	155°54′29″ W.
			HA 132	19°10′04″ N.	155°54′35″ W.
16	Hawaii	Ka Lae National Historic Landmark District through Mahana Bay.	HA 141	18°54′54″ N.	155°40′59″ W.
			HA 142	18°55′00″ N.	155°40′09″ W.
16	Hawaii	Papakolea Green Sand Beach Area	HA 151	18°56′10″ N.	155°38′47″ W.
			HA 152	18°56′11″ N.	155°38′45″ W.
16	Hawaii	Kaalualu Bay Area	HA 161	18°58′14″ N.	155°37′01″ W.
			HA 162	18°58′18″ N.	155°36′49″ W.
16	Hawaii	Whittington Beach Area through Punaluu Beach Area.	HA 171	19°05′04″ N.	155°33′03″ W.
			HA 172	19°08′06″ N.	155°30′09″ W.
16	Hawaii	Halape Area through Keauhou Point Area	HA 181	19°16′14″ N.	155°15′20″ W.
			HA 182	19°15′45″ N.	155°13′59″ W.
16	Hawaii	Kapoho Bay Area	HA 191	19°29′38″ N.	154°49′01″ W.
			HA 192	19°30′10″ N.	154°48′46″ W.
16	Hawaii	Lehia Beach Park through to Hilo Harbor	HA 201	19°44′07″ N.	155°00′38″ W.
			HA 202	19°43′56″ N.	155°03′02″ W.
16	Hawaii	Papaikou Area	HA 211	19°46′39″ N.	155°05′18″ W.
			HA 212	19°46′43″ N.	155°05′18″ W.
16	Hawaii	Onomea Bay Area	HA 221	19°48′33″ N.	155°05′34″ W.
			HA 222	19°48′37″ N.	155°05′22″ W.
16	Hawaii	Hakalau Area	HA 231	19°54′02″ N.	155°07′32″ W.
			HA 232	19°54′05″ N.	155°07′43″ W.

(i) Kaula Island,
(ii) Niihau,
(iii) Kauai,
(iv) Oahu,
(v) Maui Nui (including Kahoolawe, Lanai, Maui, and Molokai), and
(vi) Hawaii.

(b) *Essential features.* The essential features for the conservation of the Hawaiian monk seal are the following:

(1) *Terrestrial areas and adjacent shallow, sheltered aquatic areas with characteristics preferred by monk seals for pupping and nursing.* Preferred areas that serve an essential service or function for Hawaiian monk seal conservation are defined as those areas where two or more females have given birth or where a single female chooses to return to the same site more than one year. Preferred pupping areas generally include sandy, protected beaches located adjacent to shallow sheltered aquatic areas, where the mother and pup may nurse, rest, swim, thermoregulate, and shelter from extreme weather. Additionally, this habitat area provides relatively protected space for the newly weaned pup to acclimate to life on its own. The newly weaned pup uses these areas for swimming, exploring, socializing, thermoregulatory cooling and the first attempts at foraging. Characteristics of terrestrial pupping habitat may include various substrates such as sand, shallow tide pools, coral rubble, or rocky substrates, as long as these substrates provide accessibility to seals for hauling out. Some preferred sites may also incorporate areas with low lying vegetation used by the pair for shade or cover, or relatively low levels of anthropogenic disturbance. Characteristics of the adjoined sheltered aquatic sites may include reefs, tide pools, gently sloping beaches, and shelves or coves that provide refuge from storm surges and predators.

(2) *Marine areas from 0 to 200 m in depth that support adequate prey quality and quantity for juvenile and adult monk seal foraging.* Inshore, benthic and offshore teleosts, cephalopods, and crustaceans are commonly described as monk seal prey items. Habitat types that are regularly used for foraging include the sand terraces, talus slopes, submerged reefs and banks, nearby seamounts, barrier reefs, and slopes of reefs and islands. Monk seals focus foraging in bottom habitats on bottom-associated prey species, with most foraging occurring in waters between 0 to 200 m in depth. Habitat conditions, such as water quality, substrate composition

and available habitat, should support growth and recruitment of bottom-associated prey species to the extent that monk seal populations are able to successfully forage.

(3) *Significant areas used by monk seals for hauling out, resting or molting.* Significant haul-out areas are defined by the frequency with which local populations of seals use a stretch of coastline or particular beach. Significant haul-out areas are defined as natural coastlines that are accessible to Hawaiian monk seals and are frequented by Hawaiian monk seals at least 10 percent as often as the highest used haul out site(s) on individual islands, or islets. Significant haul-out areas are essential to Hawaiian monk seal conservation because these areas provide space that supports natural behaviors important to health and development, such as resting, molting, and social interactions. Hawaiian monk seals use terrestrial habitat to haul out for resting, and molting. Certain areas of coastline are more often favored by Hawaiian monk seals for hauling out. These favored areas may be located near preferred foraging areas, allow for relatively undisturbed periods of rest, or allow small numbers of Hawaiian monk seals to socially interact as young seals and reproductive adults. These haul-out sites are generally characterized by sandy beaches, sand spits, or low shelving reef rocks accessible to seals.

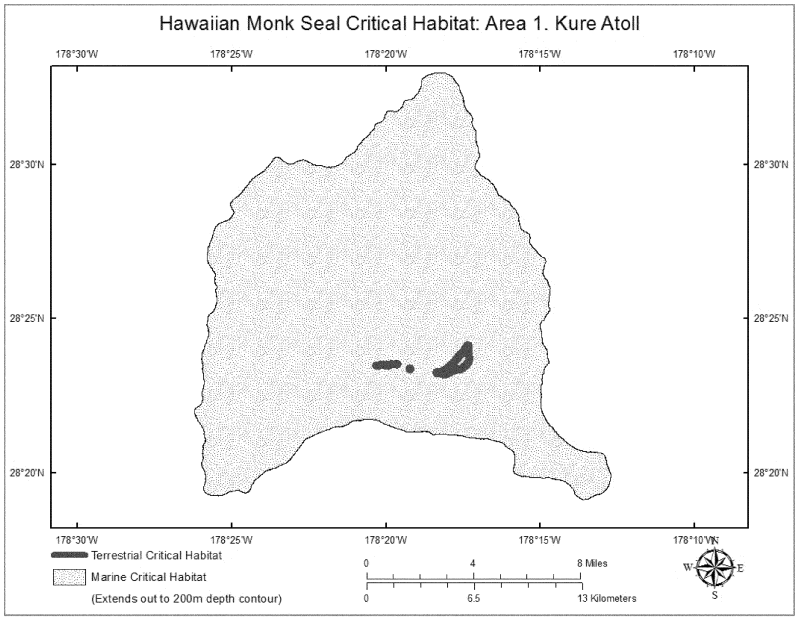
(c) *Areas not included in critical habitat.* Critical habitat does not include the following particular areas where they overlap with the areas described in paragraph (a) of this section:

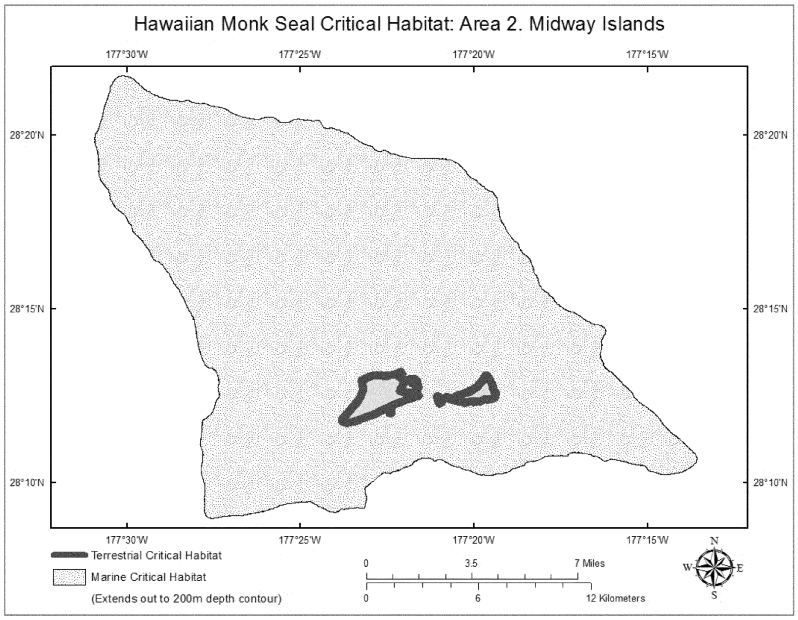
(1) Pursuant to ESA section 3(5)(A)(i), all cliffs and manmade structures, such as docks, seawalls, piers, fishponds, roads, pipelines, boat ramps, platforms, buildings, ramparts and pilings existing within the legal boundaries on September 21, 2015.

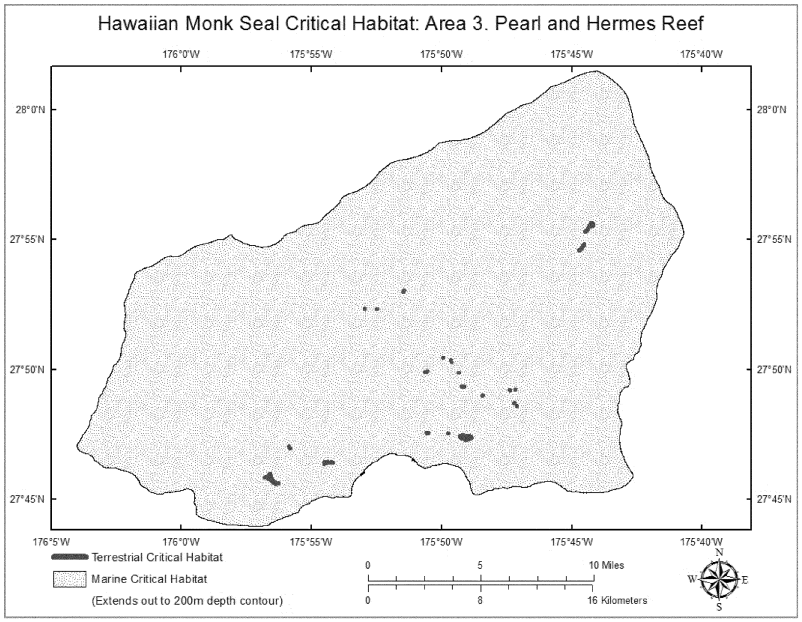
(2) Pursuant to ESA section 4(a)(3)(B) all areas subject to the Marine Corps Base Hawaii, the Joint Base Pearl Harbor-Hickam, and the Pacific Missile Range Facility Integrated Natural Resource Management Plans.

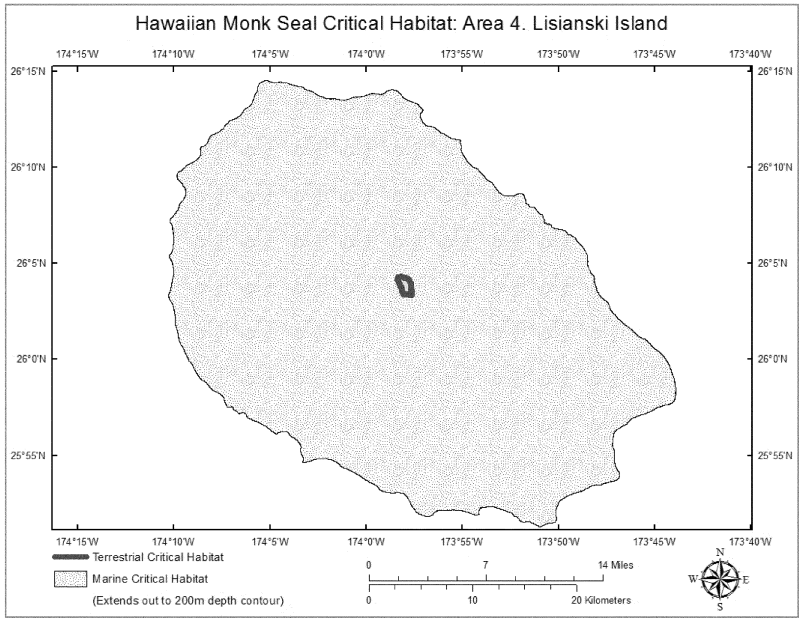
(3) Pursuant to ESA section 4(b)(2) the following areas have been excluded from the designation: The Kingfisher Underwater Training area in marine areas off the northeast coast of Niihau; the Pacific Missile Range Facility Offshore Areas in marine areas off the western coast of Kauai; the Puuloa Underwater Training Range in marine areas outside Pearl Harbor, Oahu; and the Shallow Water Minefield Sonar Training Range off the western coast of Kahoolawe in the Maui Nui area.

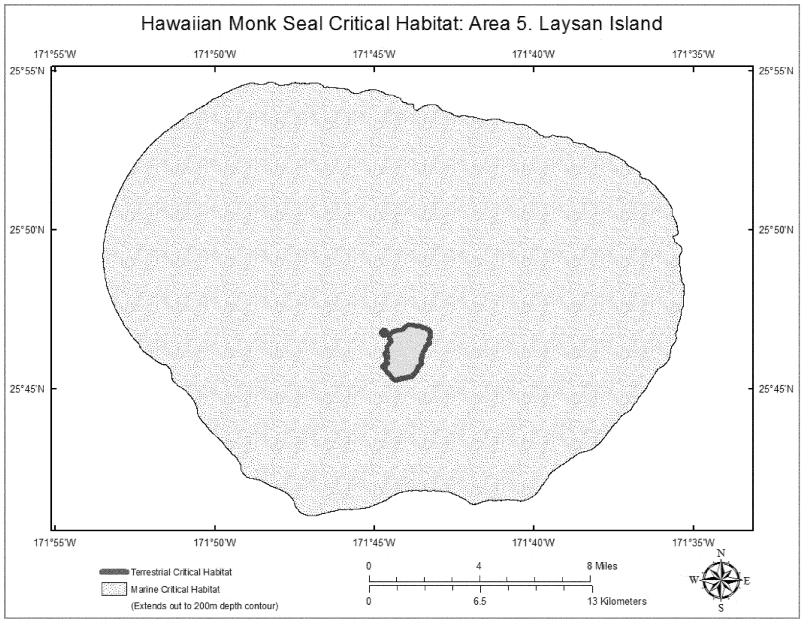
(d) *Maps of Hawaiian monk seal critical habitat.* The following are the overview maps of Hawaiian monk seal critical habitat:

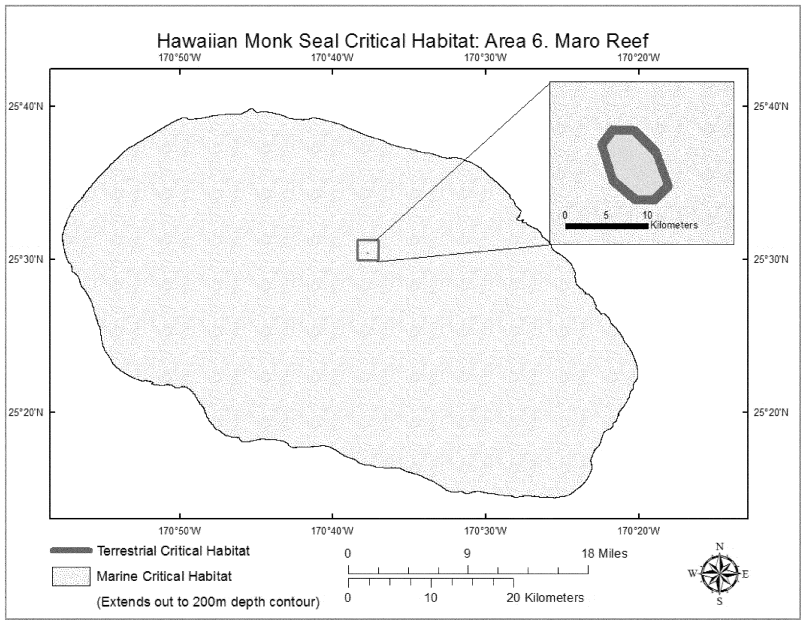

Hawaiian Monk Seal Critical Habitat: Area 1. Kure Atoll
178°30'W
178°25'W
178°20'W
178°15'W
178°10'W
28°30'N
28°25'N
28°20'N
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0
4
8 Miles
0
6.5
13 Kilometers
N
W
E
S

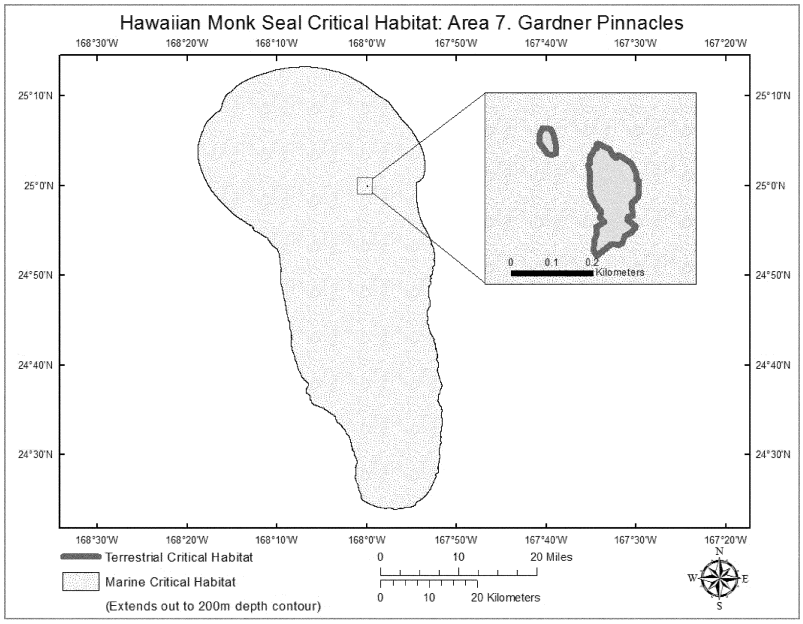

Hawaiian Monk Seal Critical Habitat: Area 2. Midway Islands
177°30'W
177°25'W
177°20'W
177°15'W
28°20'N
28°15'N
28°10'N
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0
3.5
7 Miles
0
6
12 Kilometers
N
W
E
S

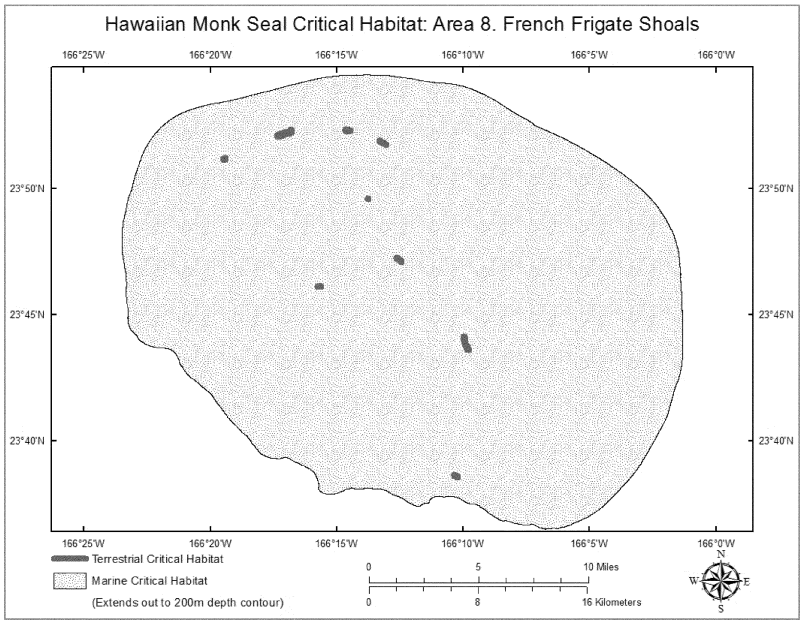

Hawaiian Monk Seal Critical Habitat: Area 3. Pearl and Hermes Reef
176°0'W
175°55'W
175°50'W
175°45'W
175°40'W
28°0'N
27°55'N
27°50'N
27°45'N
176°5'W
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0
5
10 Miles
0
8
16 Kilometers
N
W
E
S

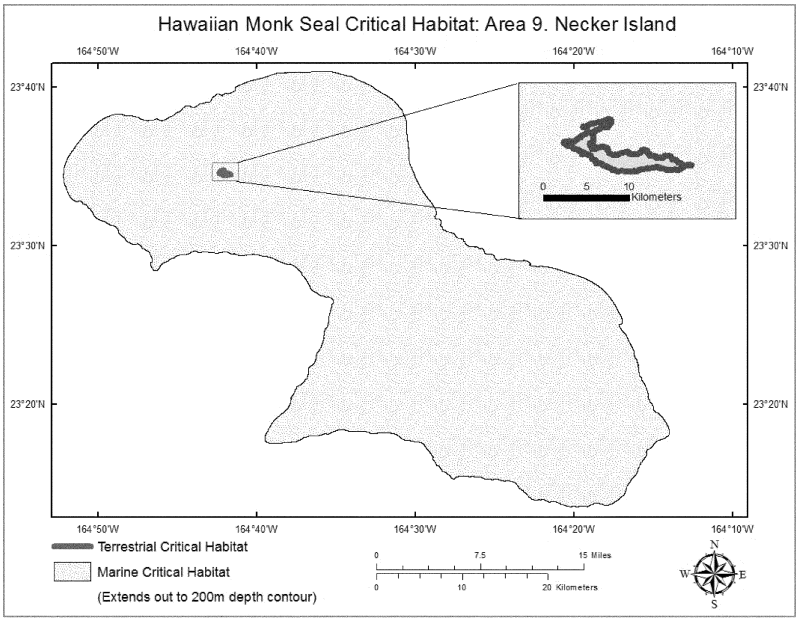

Hawaiian Monk Seal Critical Habitat: Area 4. Lisianski Island
174°15'W
174°10'W
174°5'W
174°0'W
173°55'W
173°50'W
173°45'W
173°40'W
26°15'N
26°10'N
26°5'N
26°0'N
25°55'N
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0
7
14 Miles
0
10
20 Kilometers
N
W
E
S

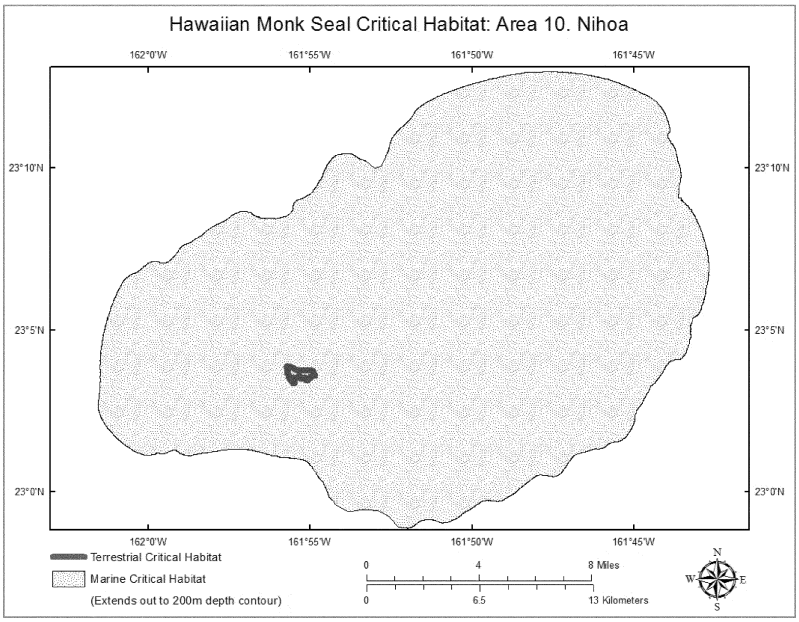

Hawaiian Monk Seal Critical Habitat: Area 5. Laysan Island
171°55'W
171°50'W
171°45'W
171°40'W
171°35'W
25°55'N
25°50'N
25°45'N
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0
4
8 Miles
0
6.5
13 Kilometers
N
W
E
S

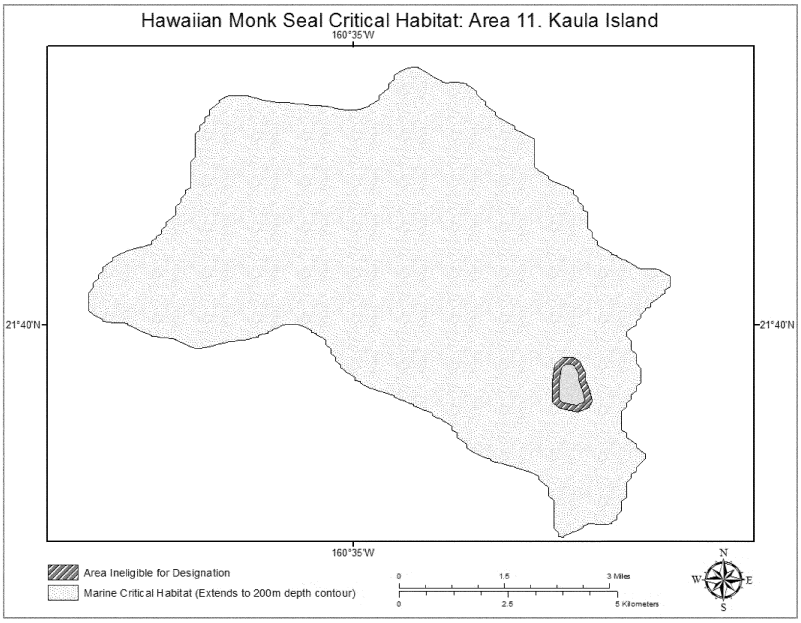

Hawaiian Monk Seal Critical Habitat: Area 6. Maro Reef
170°50'W
170°40'W
170°30'W
170°20'W
25°40'N
25°30'N
25°20'N
0
5
10
Kilometers
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0
9
18 Miles
0
10
20 Kilometers
N
W
E
S

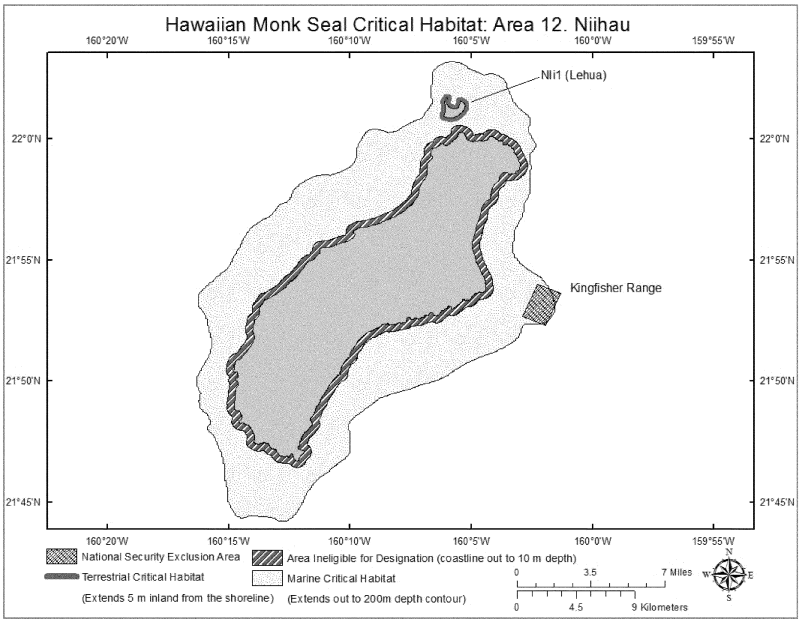

Hawaiian Monk Seal Critical Habitat: Area 7. Gardner Pinnacles
168°30'W
168°20'W
168°10'W
168°0'W
167°50'W
167°40'W
167°30'W
167°20'W
25°10'N
25°0'N
24°50'N
24°40'N
24°30'N
0 0.1 0.2
Kilometers
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0 10 20 Miles
0 10 20 Kilometers
N
W
E
S

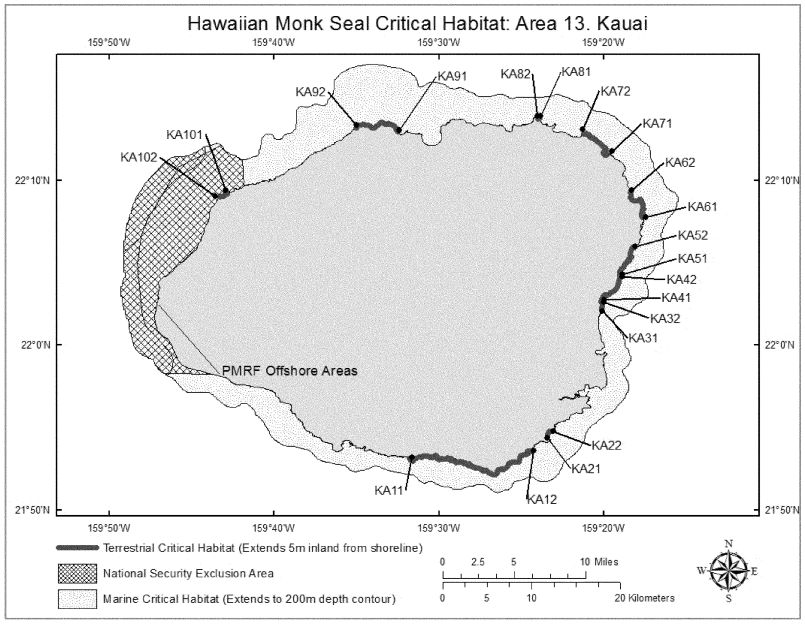

Hawaiian Monk Seal Critical Habitat: Area 8. French Frigate Shoals
166°25'W
166°20'W
166°15'W
166°10'W
166°5'W
166°0'W
23°50'N
23°45'N
23°40'N
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0 5 10 Miles
0 8 16 Kilometers
N
W
E
S

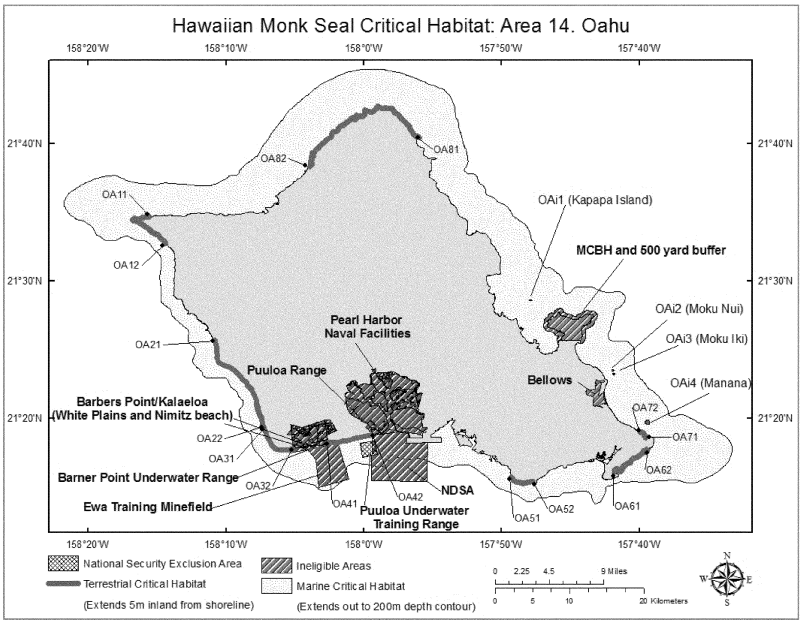

Hawaiian Monk Seal Critical Habitat: Area 9. Necker Island
164°50'W
164°40'W
164°30'W
164°20'W
164°10'W
23°40'N
23°30'N
23°20'N
0 5 10 Kilometers
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0 7.5 15 Miles
0 10 20 Kilometers
N
W
E
S

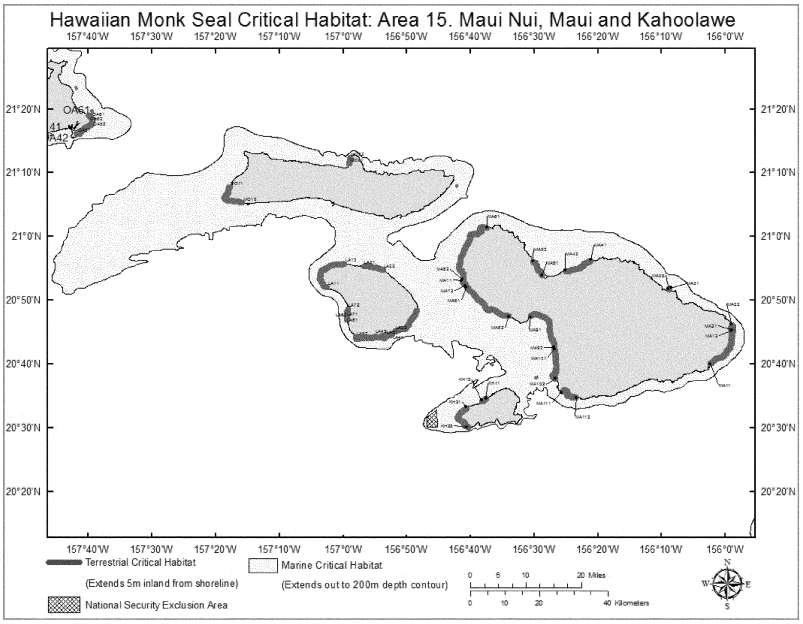

Hawaiian Monk Seal Critical Habitat: Area 10. Nihoa
162°0'W
161°55'W
161°50'W
161°45'W
23°10'N
23°5'N
23°0'N
Terrestrial Critical Habitat
Marine Critical Habitat
(Extends out to 200m depth contour)
0 4 8 Miles
0 6.5 13 Kilometers
N
W
E
S

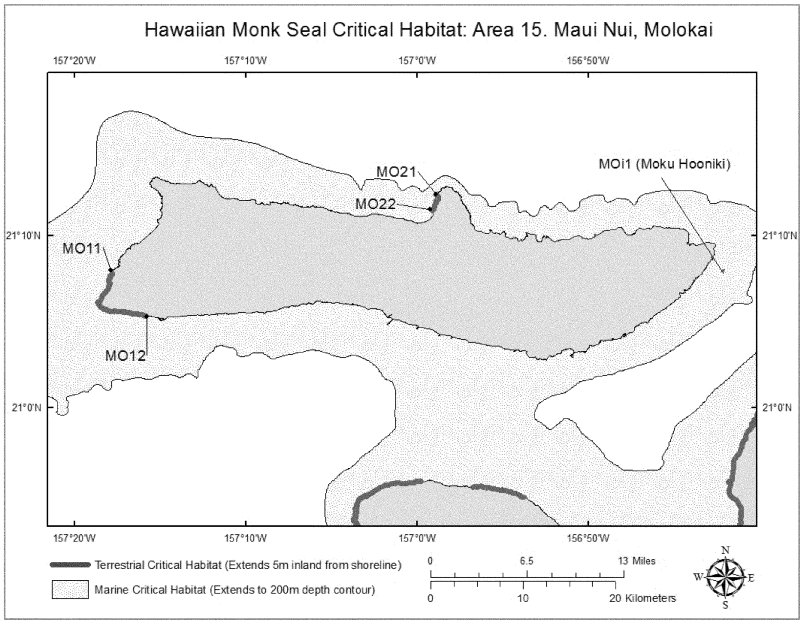

Hawaiian Monk Seal Critical Habitat: Area 11. Kaula Island
160°35'W
21°40'N
Area Ineligible for Designation
Marine Critical Habitat (Extends to 200m depth contour)
0 1.5 3 Miles
0 2.5 5 Kilometers
N
W
E
S

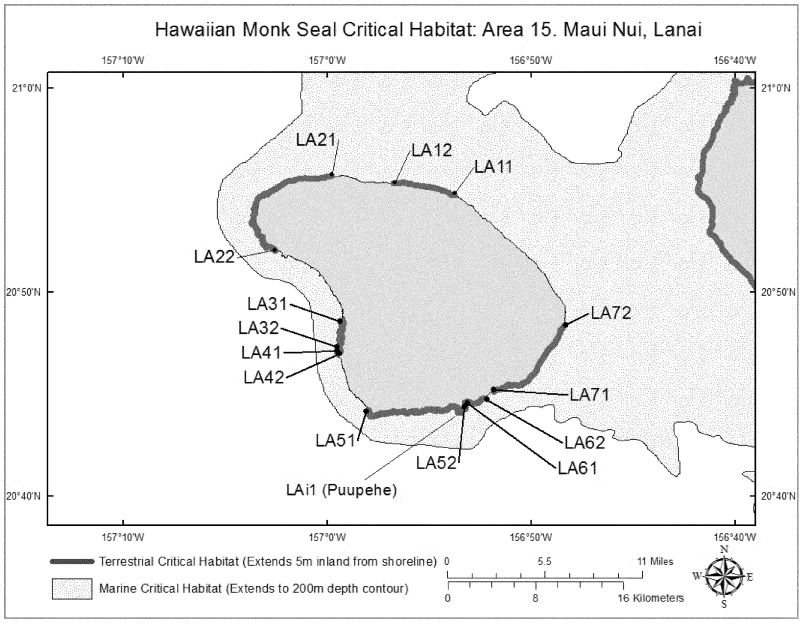

Hawaiian Monk Seal Critical Habitat: Area 12. Niihau
160°20'W
160°15'W
160°10'W
160°5'W
160°0'W
159°55'W
22°0'N
21°55'N
21°50'N
21°45'N
Nii1 (Lehua)
Kingfisher Range
National Security Exclusion Area
Terrestrial Critical Habitat
(Extends 5 m inland from the shoreline)
Area Ineligible for Designation (coastline out to 10 m depth)
Marine Critical Habitat
(Extends out to 200m depth contour)
0 3.5 7 Miles
0 4.5 9 Kilometers
N
W
E
S

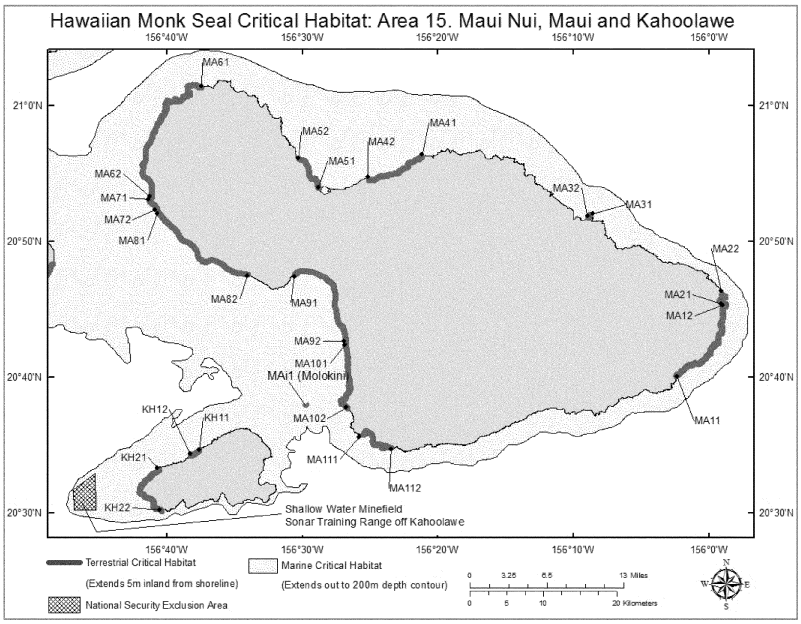

Hawaiian Monk Seal Critical Habitat: Area 13. Kauai
159°50'W
159°40'W
159°30'W
159°20'W
22°10'N
22°0'N
21°50'N
KA101
KA102
KA92
KA91
KA82
KA81
KA72
KA71
KA62
KA61
KA52
KA51
KA42
KA41
KA32
KA31
KA22
KA21
KA11
KA12
PMRF Offshore Areas
Terrestrial Critical Habitat (Extends 5m inland from shoreline)
National Security Exclusion Area
Marine Critical Habitat (Extends to 200m depth contour)
0 2.5 5 10 Miles
0 5 10 20 Kilometers
N
W
E
S

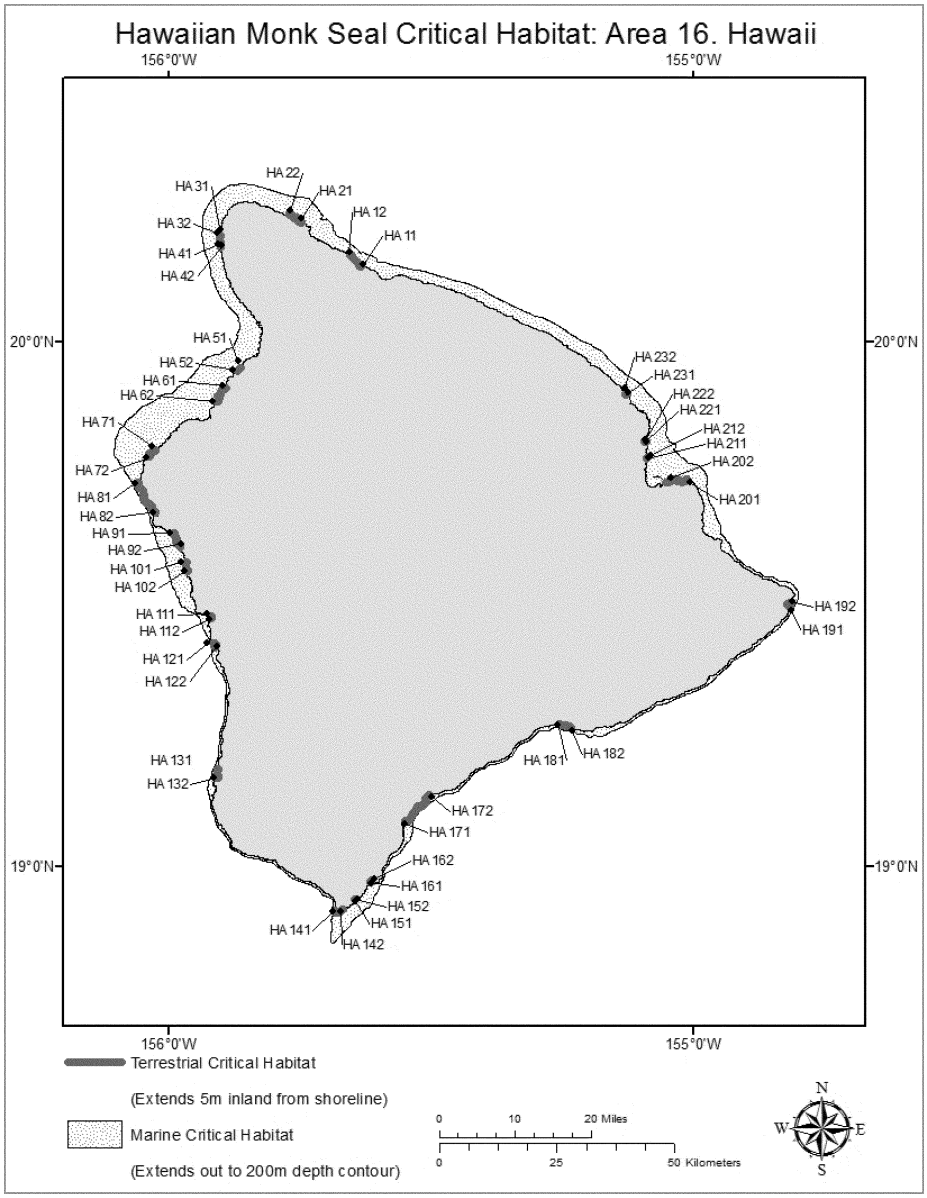

Hawaiian Monk Seal Critical Habitat: Area 14. Oahu
158°20'W
158°10'W
158°0'W
157°50'W
157°40'W
21°40'N
21°30'N
21°20'N
OA82
OA81
OA11
OA12
OA21
OA22
OA31
OA32
OA41
OA42
OA51
OA52
OA61
OA62
OA71
OA72
OAi1 (Kapapa Island)
MCBH and 500 yard buffer
OAi2 (Moku Nui)
OAi3 (Moku Iki)
OAi4 (Manana)
Pearl Harbor
Naval Facilities
Puuloa Range
Bellows
Barbers Point/Kalaeloa
(White Plains and Nimitz beach)
Barner Point Underwater Range
Ewa Training Minefield
NDSA
Puuloa Underwater
Training Range
National Security Exclusion Area
Terrestrial Critical Habitat
(Extends 5m inland from shoreline)
Ineligible Areas
Marine Critical Habitat
(Extends out to 200m depth contour)
0 2.25 4.5 9 Miles
0 5 10 20 Kilometers
N
W
E
S

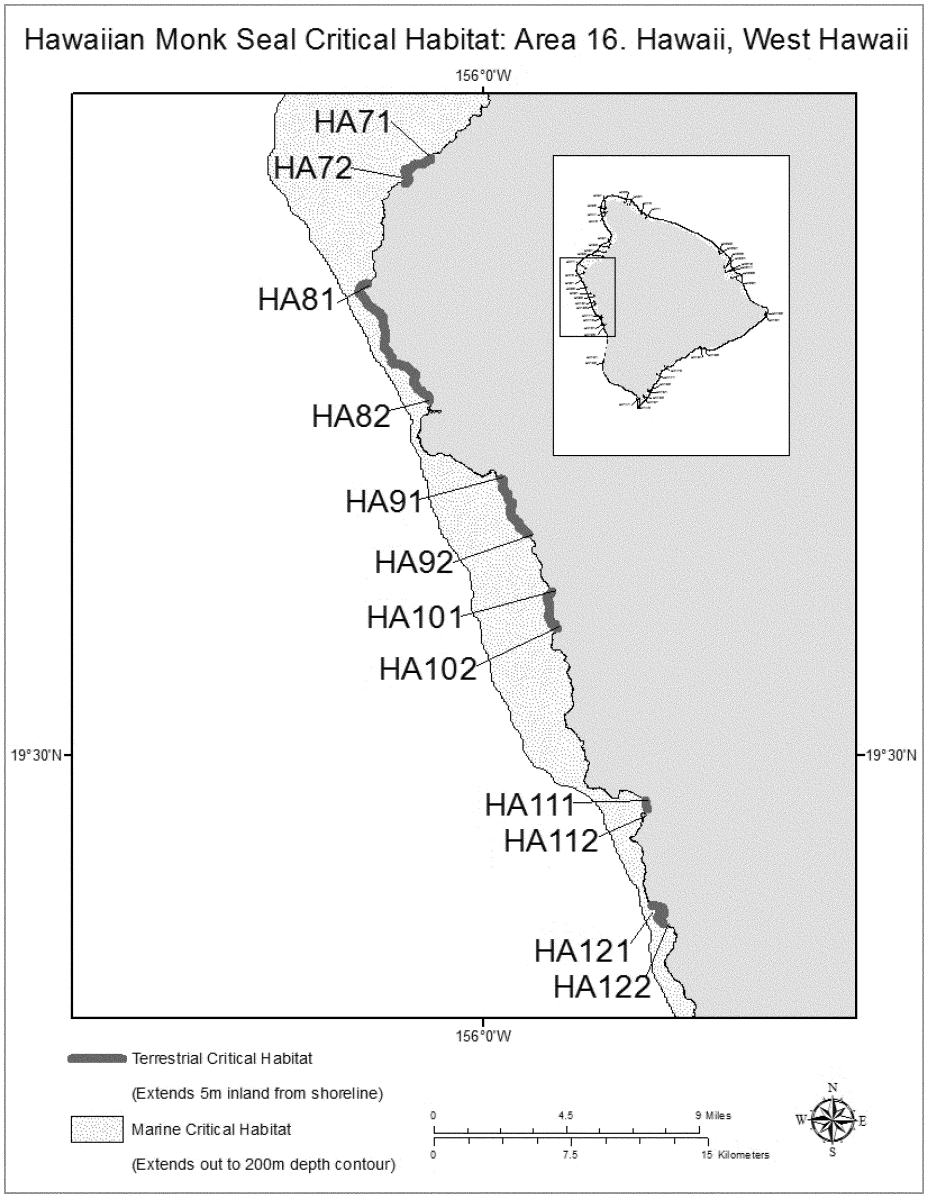

Hawaiian Monk Seal Critical Habitat: Area 15. Maui Nui, Maui and Kahoolawe
157°40'W
157°30'W
157°20'W
157°10'W
157°0'W
156°50'W
156°40'W
156°30'W
156°20'W
156°10'W
156°0'W
21°20'N
21°10'N
21°0'N
20°50'N
20°40'N
20°30'N
20°20'N
OA16
41
A42
Terrestrial Critical Habitat
(Extends 5m inland from shoreline)
Marine Critical Habitat
(Extends out to 200m depth contour)
National Security Exclusion Area
0 5 10 20 Miles
0 10 20 40 Kilometers
N
W
E
S


Hawaiian Monk Seal Critical Habitat: Area 15. Maui Nui, Molokai
157°20'W
157°10'W
157°0'W
156°50'W
21°10'N
21°0'N
MO21
MO22
MOi1 (Moku Hooniki)
MO11
MO12
Terrestrial Critical Habitat (Extends 5m inland from shoreline)
Marine Critical Habitat (Extends to 200m depth contour)
0 6.5 13 Miles
0 10 20 Kilometers
N
W
E
S


Hawaiian Monk Seal Critical Habitat: Area 15. Maui Nui, Lanai
157°10'W
157°0'W
156°50'W
156°40'W
21°0'N
20°50'N
20°40'N
LA21
LA12
LA11
LA22
LA31
LA32
LA41
LA42
LA72
LA71
LA51
LA52
LA62
LA61
LAi1 (Puupehe)
Terrestrial Critical Habitat (Extends 5m inland from shoreline)
Marine Critical Habitat (Extends to 200m depth contour)
0 5.5 11 Miles
0 8 16 Kilometers
N
W
E
S


Hawaiian Monk Seal Critical Habitat: Area 15. Maui Nui, Maui and Kahoolawe
156°40'W
156°30'W
156°20'W
156°10'W
156°0'W
21°0'N
20°50'N
20°40'N
20°30'N
MA61
MA52
MA41
MA42
MA51
MA62
MA71
MA72
MA81
MA32
MA31
MA22
MA82
MA91
MA21
MA12
MA92
MA101
MAi1 (Molokini)
KH12
KH11
MA102
MA11
KH21
MA111
MA112
KH22
Shallow Water Minefield
Sonar Training Range off Kahoolawe
Terrestrial Critical Habitat
(Extends 5m inland from shoreline)
Marine Critical Habitat
(Extends out to 200m depth contour)
National Security Exclusion Area
0 3.25 6.5 13 Miles
0 5 10 20 Kilometers
N
W
E
S


Hawaiian Monk Seal Critical Habitat: Area 16. Hawaii
156°0'W
155°0'W
20°0'N
19°0'N
HA 31
HA 22
HA 21
HA 12
HA 11
HA 32
HA 41
HA 42
HA 51
HA 52
HA 61
HA 62
HA 71
HA 72
HA 81
HA 82
HA 91
HA 92
HA 101
HA 102
HA 111
HA 112
HA 121
HA 122
HA 131
HA 132
HA 141
HA 142
HA 151
HA 152
HA 161
HA 162
HA 171
HA 172
HA 181
HA 182
HA 191
HA 192
HA 201
HA 202
HA 211
HA 212
HA 221
HA 222
HA 231
HA 232
Terrestrial Critical Habitat
(Extends 5m inland from shoreline)
Marine Critical Habitat
(Extends out to 200m depth contour)
0 10 20 Miles
0 25 50 Kilometers
N
W
E
S



[80 FR 50974, Aug. 21, 2015]

§ 226.202 Critical habitat for Steller sea lions.

STELLER SEA LION (*Eumetopias jubatus*)

(a) *Alaska rookeries, haulouts, and associated areas.* In Alaska, all major Steller sea lion rookeries identified in Table 1 and major haulouts identified in Table 2 and associated terrestrial, air, and aquatic zones. Critical habitat includes a terrestrial zone that extends 3,000 feet (0.9 km) landward from the baseline or base point of each major rookery and major haulout in Alaska. Critical habitat includes an air zone that extends 3,000 feet (0.9 km) above the terrestrial zone of each major rookery and major haulout in Alaska, measured vertically from sea level. Critical habitat includes an aquatic zone that extends 3,000 feet (0.9 km) seaward in State and Federally managed waters from the baseline or basepoint of each major rookery and major haulout in Alaska that is east of 144° W. longitude. Critical habitat includes an aquatic zone that extends 20 nm (37 km) seaward in State and Federally managed waters from the baseline or basepoint of each major rookery and major haulout in Alaska that is west of 144° W. longitude.

(b) *California and Oregon rookeries and associated areas.* In California and Oregon, all major Steller sea lion rookeries identified in Table 1 and associated air and aquatic zones. Critical habitat includes an air zone that extends 3,000 feet (0.9 km) above areas historically occupied by sea lions at each major rookery in California and Oregon, measured vertically from sea level. Critical habitat includes an aquatic zone that extends 3,000 feet (0.9 km) seaward in State and Federally managed waters from the baseline or basepoint of each major rookery in California and Oregon.

(c) *Three special aquatic foraging areas in Alaska.* Three special aquatic foraging areas in Alaska, including the Shelikof Strait area, the Bogoslof area, and the Seguam Pass area.

(1) Critical habitat includes the Shelikof Strait area in the Gulf of Alaska and consists of the area between the Alaska Peninsula and Tugidak, Sitkinak, Aiaktilik, Kodiak, Raspberry, Afognak and Shuyak Islands (connected by the shortest lines); bounded on the west by a line connecting Cape Kumlik (56°38″/157°27′ W) and the southwestern tip of Tugidak Island (56°24′ N/154°41′ W) and bounded in the east by a line connecting Cape Douglas (58°51′ N/153°15′ W) and the northernmost tip of Shuyak Island (58°37′ N/152°22′ W).

(2) Critical habitat includes the Bogoslof area in the Bering Sea shelf and consists of the area between 170°00′ W and 164°00′ W, south of straight lines connecting 55°00′ N/170°00′ W and 55°00′ N/168°00′ W; 55°30′ N/168°00′ W and 55°30′ N/166°00′ W; 56°00′ N/166°00′ W and 56°00′ N/164°00′ W and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed:

52°49.2′ N/169°40.4′ W
52°49.8′ N/169°06.3′ W
53°23.8′ N/167°50.1′ W
53°18.7′ N/167°51.4′ W
53°59.0′ N/166°17.2′ W
54°02.9′ N/166°03.0′ W
54°07.7′ N/165°40.6′ W
54°08.9′ N/165°38.8′ W
54°11.9′ N/165°23.3′ W
54°23.9′ N/164°44.0′ W

(3) Critical habitat includes the Seguam Pass area and consists of the area between 52°00′ N and 53°00′ N and between 173°30′ W and 172°30′ W.

[58 FR 45278, Aug. 27, 1993. Redesignated and amended at 64 FR 14067, Mar. 23, 1999]

§ 226.203 Critical habitat for northern right whales.

(a) *Great South Channel.* The area bounded by 41°40′ N/69°45′ W; 41°00′ N/69°05′ W; 41°38′ N/68°13′ W; and 42°10′ N/68°31′ W.

(b) *Cape Cod Bay, Massachusetts.* The area bounded by 42°04.8′ N/70°10′ W; 42°12′ N/70°15′ W; 42°12′ N/70°30′ W; 41°46.8′ N/70°30′ W and on the south and east by the interior shore line of Cape Cod, Massachusetts.

(c) *Southeastern United States.* The coastal waters between 31°15′ N and 30°15′ N from the coast out 15 nautical miles; and the coastal waters between 30°15′ N and 28°00′ N from the coast out 5 nautical miles (Figure 8 to part 226).

[59 FR 28805, June 3, 1994. Redesignated and amended at 64 FR 14067, Mar. 23, 1999; 68 FR 17562, Apr. 10, 2003; 70 FR 1832, Jan. 11, 2005; 71 FR 38293, July 6, 2006; 73 FR 19011, Apr. 8, 2008]

§ 226.204 Critical habitat for Sacramento winter-run chinook salmon.

The following waterways, bottom and water of the waterways and adjacent riparian zones: The Sacramento River from Keswick Dam, Shasta County (River Mile 302) to Chipps Island (River Mile 0) at the westward margin of the Sacramento-San Joaquin Delta, all waters from Chipps Island westward to Carquinez Bridge, including Honker Bay, Grizzly Bay, Suisun Bay, and Carquinez Strait, all waters of San Pablo Bay westward of the Carquinez Bridge, and all waters of San Francisco Bay (north of the San Francisco/Oakland Bay Bridge) from San Pablo Bay to the Golden Gate Bridge.

[58 FR 33218, June 16, 1993. Redesignated and amended at 64 FR 14067, Mar. 23, 1999]

§ 226.205 Critical habitat for Snake River sockeye salmon, Snake River fall chinook salmon, and Snake River spring/summer chinook salmon.

The following areas consisting of the water, waterway bottom, and adjacent riparian zone of specified lakes and river reaches in hydrologic units presently or historically accessible to listed Snake River salmon (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams). Adjacent riparian zones are defined as those areas within a horizontal distance of 300 feet (91.4 m) from the normal line of high water of a stream channel (600 feet or 182.8 m, when both sides of the stream channel are included) or from the shoreline of a standing body of water. The complete text delineating critical habitat for each species follows. Hydrologic units (table 3) are those defined by the Department of the Interior (DOI), U.S. Geological Survey (USGS) publication, ''Hydrologic Unit Maps, United States Geological Survey Water Supply Paper 2294, 1987'', and the following DOI, USGS, 1:500,000 scale hydrologic unit map: State of Oregon, 1974; State of Washington, 1974; State of Idaho, 1974, which are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the USGS publication and maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Endangered Species Branch, Environmental and Technical Services Division, 911 NE. 11th Avenue, room 620, Portland, OR 97232, NMFS, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal__register/code__of__federal__regulations/ibr__locations.html*.

(a) *Snake River Sockeye Salmon (Oncorhynchus nerka).* 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) and including all Columbia River estuarine areas and river reaches upstream to the confluence of the Columbia and Snake Rivers; all Snake River reaches from the confluence of the Columbia River upstream to the confluence of the Salmon River; all Salmon River reaches from the confluence of the Snake River upstream to Alturas Lake Creek; Stanley, Redfish, Yellow Belly, Pettit, and Alturas Lakes (including their inlet and outlet creeks); Alturas Lake Creek, and that portion of Valley Creek between Stanley Lake Creek and the Salmon River. Critical habitat is comprised of all river lakes and reaches presently or historically accessible (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) to Snake River sockeye salmon in the following hydrologic units: Lower Salmon, Lower Snake, Lower Snake-Asotin, Lower Snake-Tucannon, Middle Salmon-Chamberlain, Middle Salmon-Panther, and Upper Salmon. Critical habitat borders on or passes through the following counties in Oregon: Clatsop, Columbia, Gillium, Hood River, Morrow, Multnomah, Sherman, Umatilla, Wallowa, Wasco; the following counties in Washington: Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, Walla, Whitman; and the following counties in Idaho: Blaine,

Custer, Idaho, Lemhi, Lewis, Nez Perce.

(b) *Snake River Spring/Summer Chinook Salmon (Oncorhynchus tshawytscha)*. Geographic Boundaries. Critical habitat is designated to include 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) and including all Columbia River estuarine areas and river reaches proceeding upstream to the confluence of the Columbia and Snake Rivers; all Snake River reaches from the confluence of the Columbia River upstream to Hells Canyon Dam. Critical habitat also includes river reaches presently or historically accessible (except reaches above impassable natural falls (including Napias Creek Falls) and Dworshak and Hells Canyon Dams) to Snake River spring/summer chinook salmon in the following hydrologic units: Hells Canyon, Imnaha, Lemhi, Little Salmon, Lower Grande Ronde, Lower Middle Fork Salmon, Lower Salmon, Lower Snake-Asotin, Lower Snake-Tucannon, Middle Salmon-Chamberlain, Middle Salmon-Panther, Pahsimeroi, South Fork Salmon, Upper Middle Fork Salmon, Upper Grande Ronde, Upper Salmon, Wallowa. Critical habitat borders on or passes through the following counties in Oregon: Baker, Clatsop, Columbia, Gillium, Hood River, Morrow, Multnomah, Sherman, Umatilla, Union, Wallowa, Wasco; the following counties in Washington: Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, Walla, Whitman; and the following counties in Idaho: Adams, Blaine, Custer, Idaho, Lemhi, Lewis, Nez Perce, Valley.

(c) *Snake River Fall Chinook Salmon (Oncorhynchus tshawytscha)*. 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) and including all Columbia River estuarine areas and river reaches proceeding upstream to the confluence of the Columbia and Snake Rivers; the Snake River, all river reaches from the confluence of the Columbia River, upstream to Hells Canyon Dam; the Palouse River from its confluence with the Snake River upstream to Palouse Falls; the Clearwater River from its confluence with the Snake River upstream to its confluence with Lolo Creek; the North Fork Clearwater River from its confluence with the Clearwater River upstream to Dworshak Dam. Critical habitat also includes river reaches presently or historically accessible (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) to Snake River fall chinook salmon in the following hydrologic units; Clearwater, Hells Canyon, Imnaha, Lower Grande Ronde, Lower North Fork Clearwater, Lower Salmon, Lower Snake, Lower Snake-Asotin, Lower Snake-Tucannon, and Palouse. Critical habitat borders on or passes through the following counties in Oregon: Baker, Clatsop, Columbia, Gillium, Hood River, Morrow, Multnomah, Sherman, Umatilla, Wallowa, Wasco; the following counties in Washington: Adams, Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Lincoln, Pacific, Skamania, Spokane, Wahkiakum, Walla, Whitman; and the following counties in Idaho: Adams, Benewah, Clearwater, Idaho, Latah, Lewis, Nez Perce, Shoshone, Valley.

[58 FR 68551, Dec. 28, 1993, as amended at 63 FR 1393, Jan. 9, 1998. Redesignated and amended at 64 FR 14067, Mar. 23, 1999; 64 FR 57403, Oct. 25, 1999; 69 FR 18803, Apr. 9, 2004]

§ 226.206 Critical habitat for the Southern Resident killer whale (*Orcinus orca*).

Critical habitat is designated for the Southern Resident killer whale as described in this section. The textual descriptions of critical habitat in this section are the definitive source for determining the critical habitat boundaries. The overview map is provided for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

(a) *Critical Habitat Boundaries*. Critical habitat includes three specific marine areas of Puget Sound, Washington, within the following counties: Clallam, Jefferson, King, Kitsap, Island, Mason, Pierce, San Juan, Skagit, Snohomish,

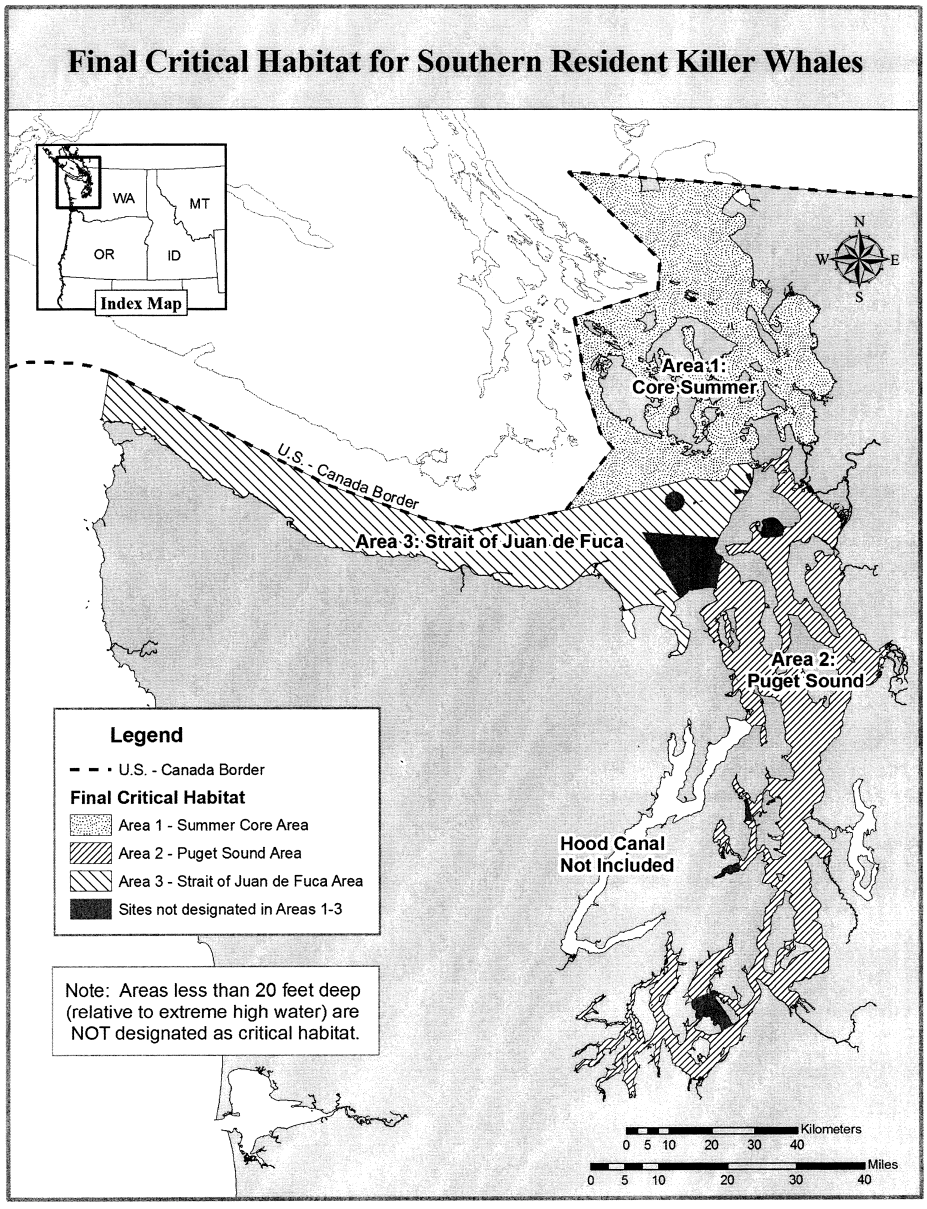
Thurston, and Whatcom. Critical habitat includes all waters relative to a contiguous shoreline delimited by the line at a depth of 20 feet (6.1 m) relative to extreme high water in each of the following areas:

(1) *Summer Core Area:* All U.S. marine waters in Whatcom and San Juan counties; and all marine waters in Skagit County west and north of the Deception Pass Bridge (Highway 20) (48°24′25″ N./122°38′35″ W.).

(2) *Puget Sound Area:* All marine waters in Island County east and south of the Deception Pass Bridge (Highway 20) (48°24′25″ N./122°38′35″ W.), and east of a line connecting the Point Wilson Lighthouse (48°8′39″ N./122°45′12″ W.) and a point on Whidbey Island located at 48°12′30″ N./122°44′26″ W.; all marine waters in Skagit County east of the Deception Pass Bridge (Highway 20) (48°24′25″ N./122°38′35″ W.); all marine waters of Jefferson County east of a line connecting the Point Wilson Lighthouse (48°8′39″ N./122°45′12″ W.) and a point on Whidbey Island located at latitude 48°12′30″ N./122°44′26″ W., and north of the Hood Canal Bridge (Highway 104) (47°51′36″ N./122°37′23″ W.); all marine waters in eastern Kitsap County east of the Hood Canal Bridge (Highway 104) (47°51′36″ N./122°37′23″ W.); all marine waters (excluding Hood Canal) in Mason County; and all marine waters in King, Pierce, Snohomish, and Thurston counties.

(3) *Strait of Juan de Fuca Area:* All U.S. marine waters in Clallam County east of a line connecting Cape Flattery, Washington (48°23′10″ N./124°43′32″ W.), Tatoosh Island, Washington (48°23′30″ N./124°44′12″ W.), and Bonilla Point, British Columbia (48°35′30″ N./124°43′00″ W.); all marine waters in Jefferson and Island counties west of the Deception Pass Bridge (Highway 20) (48°24′25″ N./122°38′35″ W.), and west of a line connecting the Point Wilson Lighthouse (48°8′39″ N./122°45′12″ W.) and a point on Whidbey Island located at 48°12′30″ N./122°44′26″ W.

(b) An overview map of final critical habitat for the Southern Resident killer whale follows.



(c) *Primary Constituent Elements.* The primary constituent elements essential for conservation of the Southern Resident killer whale are:

(1) Water quality to support growth and development;

(2) Prey species of sufficient quantity, quality, and availability to support individual growth, reproduction, and development, as well as overall population growth; and

(3) Passage conditions to allow for migration, resting, and foraging.

(d) *Sites owned or controlled by the Department of Defense.* Critical habitat does not include the following areas owned or controlled by the Department of Defense, or designated for its use, in the State of Washington, including shoreline, nearshore areas around structures such as docks and piers, and marine areas:

(1) Naval Undersea Warfare Center, Keyport;

(2) Naval Ordnance Center, Port Hadlock (Indian Island);

(3) Naval Fuel Depot, Manchester;

(4) Naval Air Station, Whidbey Island;

(5) Naval Station, Everett;

(6) Naval Hospital Bremerton;

(7) Fort Lewis (Army);

(8) Pier 23 (Army);

(9) Puget Sound Naval Ship Yard;

(10) Strait of Juan de Fuca naval air-to-surface weapon range, restricted area;

(11) Strait of Juan de Fuca and Whidbey Island naval restricted areas;

(12) Admiralty Inlet naval restricted area;

(13) Port Gardner Naval Base restricted area;

(14) Port Orchard Passage naval restricted area;

(15) Sinclair Inlet naval restricted area;

(16) Carr Inlet naval restricted area;

(17) Port Townsend/Indian Island/Walan Point naval restricted area; and

(18) Crescent Harbor Explosive Ordnance Units Training Area.

[71 FR 69068, Nov. 29, 2006]

§ 226.207 Critical habitat for leatherback turtles (*Dermochelys coriacea*).

Critical habitat is designated for leatherback turtles as described in this section. The textual descriptions of critical habitat in this section are the definitive source for determining the critical habitat boundaries. The overview map is provided for general guidance purposes only and not as a definitive source for determining critical habitat boundaries.

(a) The waters adjacent to Sandy Point, St. Croix, U.S. Virgin Islands, up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17°42′12″ N. and 64°50′00″ W.

(b) All U.S. coastal marine waters within the areas in paragraphs (b)(1) and (2) of this section and as described in paragraphs (b)(3) and (4) of this section and depicted in paragraph (b)(5) of this section:

(1) California.

(i) The area bounded by Point Sur (36°18′22″ N./121°54′9″ W.) then north along the shoreline following the line of extreme low water to Point Arena, California (38°57′14″ N./123°44′26″ W.) then west to 38°57′14″ N./123°56′44″ W. then south along the 200 meter isobath to 36°18′46″ N./122°4′43″ W. then east to the point of origin at Point Sur.

(ii) Nearshore area from Point Arena, California, to Point Arguello, California (34°34′33″ N./120°38′41″ W.), exclusive of Area 1 (see above) and offshore to a line connecting 38°57′14″ N./124°18′36″ W. and 34°34′32″ N./121°39′51″ W along the 3000 meter isobath.

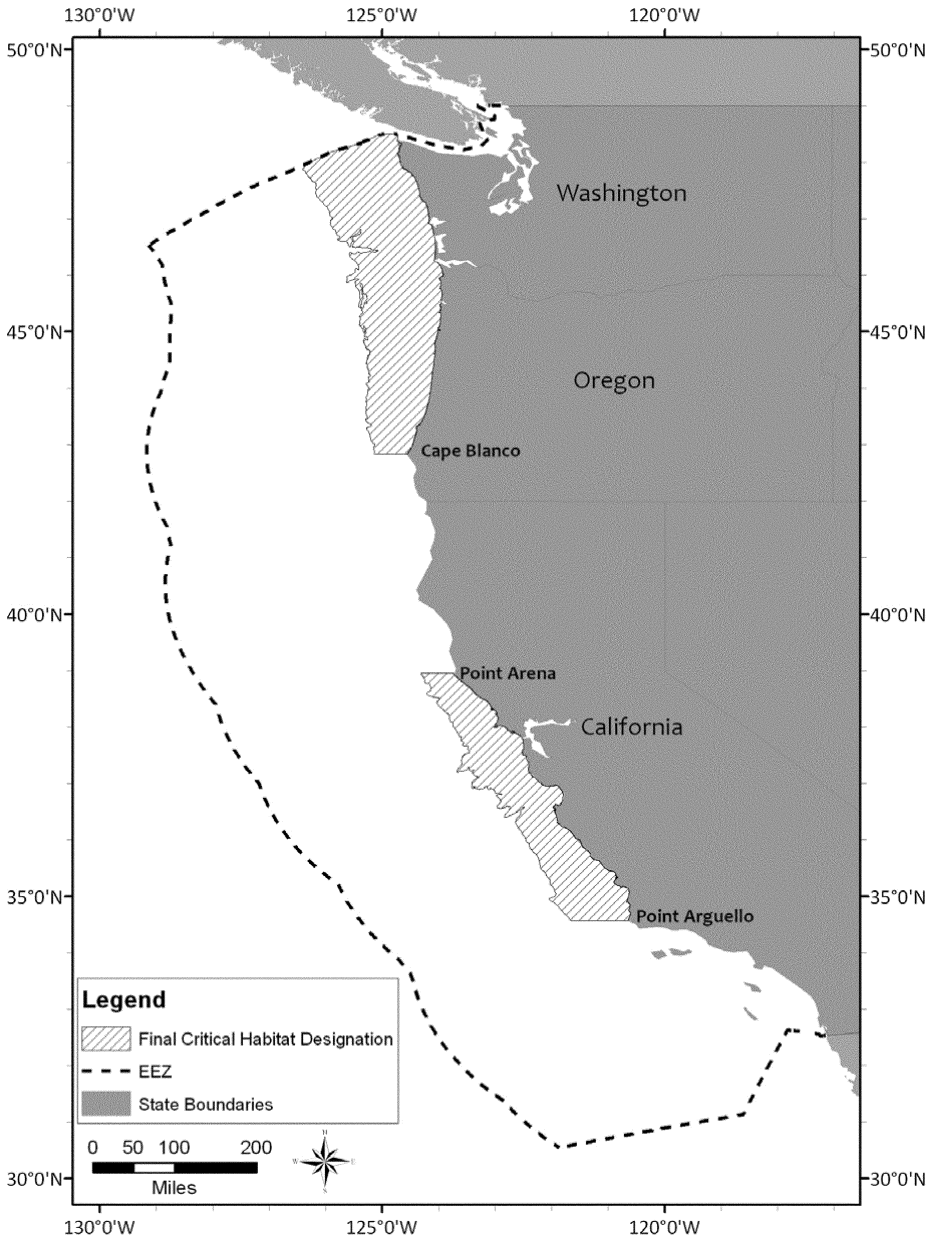
(2) Oregon/Washington. The area bounded by Cape Blanco, Oregon (42°50′4″ N./124°33′44″ W.) north along the shoreline following the line of extreme low water to Cape Flattery, Washington (48°23′10″ N./124°43′32″ W.) then north to the U.S./Canada boundary at 48°29′38″ N./124°43′32″ W. then west and south along the line of the U.S. Exclusive Economic Zone to 47°57′38″ N./126°22′54″ W. then south along a line approximating the 2,000 meter isobath that passes through points at 47°39′55″ N./126°13′28″ W., 45°20′16″ N./125°21′ W. to 42°49′59″ N./125°8′10″ W. then east to the point of origin at Cape Blanco.

(3) Critical habitat extends to a water depth of 80 meters from the ocean surface and is delineated along the shoreline at the line of extreme low water, except in the case of estuaries and bays where COLREGS lines (defined at 33 CFR part 80) shall be used as the shoreward boundary of critical habitat.

(4) Primary Constituent Elements. The primary constituent element essential for conservation of leatherback turtles is the occurrence of prey species, primarily scyphomedusae of the order Semaeostomeae (*Chrysaora, Aurelia, Phacellophora,* and *Cyanea*), of

sufficient condition, distribution, diversity, abundance and density necessary to support individual as well as population growth, reproduction, and development of leatherbacks.

(5) A map of critical habitat for leatherback sea turtles follows.



[77 FR 4200, Jan. 26, 2012]

§ 226.208 Critical habitat for green turtle.

(a) Culebra Island, Puerto Rico—Waters surrounding the island of Culebra from the mean high water line seaward to 3 nautical miles (5.6 km). These waters include Culebra's outlying Keys including Cayo Norte, Cayo Ballena, Cayos Geniquí, Isla Culebrita, Arrecife Culebrita, Cayo de Luis Peña, Las Hermanas, El Mono, Cayo Lobo, Cayo Lobito, Cayo Botijuela, Alcarraza, Los Gemelos, and Piedra Steven.

(b) [Reserved]

[63 FR 46701, Sept. 2, 1998. Redesignated and amended at 64 FR 14067, Mar. 23, 1999]

§ 226.209 Critical habitat for hawksbill turtle.

(a) Mona and Monito Islands, Puerto Rico—Waters surrounding the islands of Mona and Monito, from the mean high water line seaward to 3 nautical miles (5.6 km).

(b) [Reserved]

[63 FR 46701, Sept. 2, 1998. Redesignated and amended at 64 FR 14067, Mar. 23, 1999]

§ 226.210 Central California Coast Coho Salmon (*Oncorhynchus kisutch*), Southern Oregon/Northern California Coasts Coho Salmon (*Oncorhynchus kisutch*).

Critical habitat is designated to include all river reaches accessible to listed coho within the range of the ESUs listed, except for reaches on Indian lands defined in Tables 5 and 6 to this part. Critical habitat consists of the water, substrate, and adjacent riparian zone of estuarine and riverine reaches in hydrologic units and counties identified in Tables 5 and 6 to this part for all of the coho ESUs listed in this section. Accessible reaches are those within the historical range of the ESUs that can still be occupied by any life stage of coho salmon. Inaccessible reaches are those above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years) and specific dams within the historical range of each ESU identified in Tables 5 and 6 to this part. Hydrologic units are those defined by the Department of the Interior (DOI), U.S. Geological Survey (USGS) publication, ''Hydrologic Unit Maps,'' Water Supply Paper 2294, 1987, and the following DOI, USGS, 1:500,000 scale hydrologic unit maps: State of Oregon, 1974 and State of California, 1978 which are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the USGS publication and maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Protected Resources Division, 525 NE Oregon Street—Suite 500, Portland, OR 97232–2737, or NMFS, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal__register/code__of__federal__regulations/ibr__locations.html*.

(a) *Central California Coast Coho Salmon (Oncorhynchus kisutch)*. Critical habitat is designated to include all river reaches accessible to listed coho salmon from Punta Gorda in northern California south to the San Lorenzo River in central California, including Arroyo Corte Madera Del Presidio and Corte Madera Creek, tributaries to San Francisco Bay. Critical habitat consists of the water, substrate, and adjacent riparian zone of estuarine and riverine reaches (including off-channel habitats) in hydrologic units and counties identified in Table 5 of this part. Accessible reaches are those within the historical range of the ESU that can still be occupied by any life stage of coho salmon. Inaccessible reaches are those above specific dams identified in Table 5 of this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(b) *Southern Oregon/Northern California Coasts Coho Salmon (Oncorhynchus kisutch)*. Critical habitat is designated to include all river reaches accessible to listed coho salmon between Cape Blanco, Oregon, and Punta Gorda, California. Critical habitat consists of the water, substrate, and adjacent riparian zone of estuarine

and riverine reaches (including off-channel habitats) in hydrologic units and counties identified in Table 6 of this part. Accessible reaches are those within the historical range of the ESU that can still be occupied by any life stage of coho salmon. Inaccessible reaches are those above specific dams identified in Table 6 of this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

[64 FR 24061, May 5, 1999, as amended at 69 FR 18803, Apr. 9, 2004]

§ 226.211 Critical habitat for Seven Evolutionarily Significant Units (ESUs) of Salmon (*Oncorhynchus spp.*) in California.

Critical habitat is designated in the following California counties for the following ESUs as described in paragraph (a) of this section, and as further described in paragraphs (b) through (e) of this section. The textual descriptions of critical habitat for each ESU are included in paragraphs (f) through (l) of this section, and these descriptions are the definitive source for determining the critical habitat boundaries. General location maps are provided at the end of each ESU description (paragraphs (f) through (l) of this section) and are provided for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

(a) Critical habitat is designated for the following ESUs in the following California counties:

ESU	State—counties
(1) California Coastal Chinook	*CA*—Humboldt, Trinity, Mendocino, Sonoma, Lake, Napa, Glenn, Colusa, and Tehama.
(2) Northern California Steelhead	*CA*—Humboldt, Trinity, Mendocino, Sonoma, Lake, Glenn, Colusa, and Tehama.
(3) Central California Coast Steelhead	*CA*—Lake, Mendocino, Sonoma, Napa, Marin, San Francisco, San Mateo, Santa Clara, Santa Cruz, Alameda, Contra Costa, and San Joaquin.
(4) South-Central Coast Steelhead	*CA*—Monterey, San Benito, Santa Clara, Santa Cruz, San Luis Obispo.
(5) Southern California Steelhead	*CA*—San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange and San Diego.
(6) Central Valley spring-run Chinook	*CA*—Tehama, Butte, Glenn, Shasta, Yolo, Sacramento, Solano, Colusa, Yuba, Sutter, Trinity, Alameda, San Joaquin, and Contra Costa.
(7) Central Valley Steelhead	*CA*—Tehama, Butte, Glenn, Shasta, Yolo, Sacramento, Solona, Yuba, Sutter, Placer, Calaveras, San Joaquin, Stanislaus, Tuolumne, Merced, Alameda, Contra Costa.

(b) *Critical habitat boundaries.* Critical habitat includes the stream channels within the designated stream reaches, and includes a lateral extent as defined by the ordinary high-water line (33 CFR 329.11). In areas where the ordinary high-water line has not been defined, the lateral extent will be defined by the bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series. Critical habitat in estuaries (*e.g.* San Francisco-San Pablo-Suisun Bay, Humboldt Bay, and Morro Bay) is defined by the perimeter of the water body as displayed on standard 1:24,000 scale topographic maps or the elevation of extreme high water, whichever is greater.

(c) *Primary constituent elements.* Within these areas, the primary constituent elements essential for the conservation of these ESUs are those sites and habitat components that support one or more life stages, including:

(1) Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development;

(2) Freshwater rearing sites with:

(i) Water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility;

(ii) Water quality and forage supporting juvenile development; and

(iii) Natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels, and undercut banks.

(3) Freshwater migration corridors free of obstruction and excessive predation with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival.

(4) Estuarine areas free of obstruction and excessive predation with:

(i) Water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh- and saltwater;

(ii) Natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels; and

(iii) Juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation.

(d) *Exclusion of Indian lands.* Critical habitat does not include occupied habitat areas on Indian lands. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including:

(1) Lands held in trust by the United States for the benefit of any Indian tribe;

(2) Land held in trust by the United States for any Indian Tribe or individual subject to restrictions by the United States against alienation;

(3) Fee lands, either within or outside the reservation boundaries, owned by the tribal government; and

(4) Fee lands within the reservation boundaries owned by individual Indians.

(e) *Land owned or controlled by the Department of Defense.* Additionally, critical habitat does not include the following areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a):

(1) Camp Pendleton Marine Corps Base;

(2) Vandenberg Air Force Base;

(3) Camp San Luis Obispo;

(4) Camp Roberts; and

(5) Mare Island Army Reserve Center.

(f) *California Coastal Chinook Salmon (Oncorhynchus tshawytscha).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic units:

(1) Redwood Creek Hydrologic Unit 1107—(i) *Orick Hydrologic Sub-area 110710.* Outlet(s) = Redwood Creek (Lat –41.2923, Long –124.0917) upstream to endpoint(s) in: Boyes Creek (41.3639, –123.9845); Bridge Creek (41.137, –124.0012); Brown Creek (41.3986, –124.0012); Emerald (Harry Weir) (41.2142, –123.9812); Godwood Creek (41.3889, –124.0312); Larry Dam Creek (41.3359, –124.003); Little Lost Man Creek (41.2944, –124.0014); Lost Man Creek (41.3133, –123.9854); May Creek (41.3547, –123.999); McArthur Creek (41.2705, –124.041); North Fork Lost Man Creek (41.3374, –123.9935); Prairie Creek (41.4239, –124.0367); Tom McDonald (41.1628, –124.0419).

(ii) *Beaver Hydrologic Sub-area 110720.* Outlet(s) = Redwood Creek (Lat 41.1367, Long –123.9309) upstream to endpoint(s): Lacks Creek (41.0334, –123.8124); Minor Creek (40.9706, –123.7899).

(iii) *Lake Prairie Hydrologic Sub-area 110730.* Outlet(s) = Redwood Creek (Lat 40.9070, Long –123.8170) upstream to endpoint(s) in: Redwood Creek (40.7432, –123.7206).

(2) Trinidad Hydrologic Unit 1108—(i) *Big Lagoon Hydrologic Sub-area 110810.* Outlet(s) = Maple Creek (Lat 41.1555, Long –124.1380) upstream to endpoint(s) in: North Fork Maple Creek (41.1317, –124.0824); Maple Creek (41.1239, –124.1041).

(ii) *Little River Hydrologic Sub-area 110820.* Outlet(s) = Little River (41.0277, –124.1112) upstream to endpoint(s) in: South Fork Little River (40.9908, –124.0412); Little River (41.0529, –123.9727); Railroad Creek (41.0464, –124.0475); Lower South Fork Little River (41.0077, –124.0078); Upper South Fork Little River (41.0131, –123.9853).

(3) Mad River Hydrologic Unit 1109—(i) *Blue Lake Hydrologic Sub-area 110910.* Outlet(s) = Mad River (Lat 40.9139,

Long –124.0642) upstream to endpoint(s) in: Lindsay Creek (40.983, –124.0326); Mill Creek (40.9008, –124.0086); North Fork Mad River (40.8687, –123.9649); Squaw Creek (40.9426, –124.0202); Warren Creek (40.8901, –124.0402).

(ii) *North Fork Mad River 110920*. Outlet(s) = North Fork Mad River (Lat 40.8687, Long –123.9649) upstream to endpoint(s) in: Sullivan Gulch (40.8646, –123.9553); North Fork Mad River (40.8837, –123.9436).

(iii) *Butler Valley 110930*. Outlet(s) = Mad River (Lat 40.8449, Long –123.9807) upstream to endpoint(s) in: Black Creek (40.7547, –123.9016); Black Dog Creek (40.8334, –123.9805); Canon Creek (40.8362, –123.9028); Dry Creek (40.8218, –123.9751); Mad River (40.7007, –123.8642); Maple Creek (40.7928, –123.8742); Unnamed (40.8186, –123.9769).

(4) Eureka Plain Hydrologic Unit 1110—(i) *Eureka Plain Hydrologic Sub-area 111000*. Outlet(s) = Mad River (Lat 40.9560, Long –124.1278); Jacoby Creek (40.8436, –124.0834); Freshwater Creek (40.8088, –124.1442); Elk River (40.7568, –124.1948); Salmon Creek (40.6868, –124.2194) upstream to endpoint(s) in: Bridge Creek (40.6958, –124.0795); Dunlap Gulch (40.7101, –124.1155); Freshwater Creek (40.7389, –123.9944); Gannon Slough (40.8628, –124.0818); Jacoby Creek (40.7944, –124.0093); Little Freshwater Creek (40.7485, –124.0652); North Branch of the North Fork Elk River (40.6878, –124.0131); North Fork Elk River (40.6756, –124.0153); Ryan Creek (40.7835, –124.1198); Salmon Creek (40.6438, –124.1319); South Branch of the North Fork Elk River (40.6691, –124.0244); South Fork Elk River (40.6626, –124.061); South Fork Freshwater Creek (40.7097, –124.0277).

(ii) [Reserved]

(5) Eel River Hydrologic Unit 1111—(i) *Ferndale Hydrologic Sub-area 111111*. Outlet(s) = Eel River (Lat 40.6282, Long –124.2838) upstream to endpoint(s) in: Atwell Creek (40.472, –124.1449); Howe Creek (40.4748, –124.1827); Price Creek (40.5028, –124.2035); Strongs Creek (40.5986, –124.1222); Van Duzen River (40.5337, –124.1262).

(ii) *Scotia Hydrologic Sub-area 111112*. Outlet(s) = Eel River (Lat 40.4918, Long –124.0998) upstream to endpoint(s) in: Bear Creek (40.391, –124.0156); Chadd Creek (40.3921, –123.9542); Jordan Creek (40.4324, –124.0428); Monument Creek (40.4676, –124.1133).

(iii) *Larabee Creek Hydrologic Sub-area 111113*. Outlet(s) = Larabee Creek (40.4090, Long –123.9334) upstream to endpoint(s) in: Carson Creek (40.4189, –123.8881); Larabee Creek (40.3950, –123.8138).

(iv) *Hydesville Hydrologic Sub-area 111121*. Outlet(s) = Van Duzen River (Lat 40.5337, Long –124.1262) upstream to endpoint(s) in: Cummings Creek (40.5258, –123.9896); Fielder Creek (40.5289, –124.0201); Hely Creek (40.5042, –123.9703); Yager Creek (40.5583, –124.0577).

(v) *Yager Creek Hydrologic Sub-area 111123*. Outlet(s) = Yager Creek (Lat 40.5583, Long –124.0577) upstream to endpoint(s) in: Corner Creek (40.6189, –123.9994); Fish Creek (40.6392, –124.0032); Lawrence Creek (40.6394, –123.9935); Middle Fork Yager Creek (40.5799, –123.9015); North Fork Yager Creek (40.6044, –123.9084); Owl Creek (40.5557, –123.9362); Shaw Creek (40.6245, –123.9518); Yager Creek (40.5673, –123.9403).

(vi) *Weott Hydrologic Sub-area 111131*. Outlet(s) = South Fork Eel River (Lat 40.3500, Long –213.9305) upstream to endpoint(s) in: Bridge Creek (40.2929, –123.8569); Bull Creek (40.3148, –124.0343); Canoe Creek (40.2909, –123.922); Cow Creek (40.3583, –123.9626); Cuneo Creek (40.3377, –124.0385); Elk Creek (40.2837, –123.8365); Fish Creek (40.2316, –123.7915); Harper Creek (40.354, –123.9895); Mill Creek (40.3509, –124.0236); Salmon Creek (40.2214, –123.9059); South Fork Salmon River (40.1769, –123.8929); Squaw Creek (40.3401, –123.9997); Tostin Creek (40.1722, –123.8796).

(vii) *Benbow Hydrologic Sub-area 111132*. Outlet(s) = South Fork Eel River (Lat 40.1932, Long –123.7692) upstream to endpoint(s) in: Anderson Creek (39.9337, –123.8933); Bear Pen Creek (39.9125, –123.8108); Bear Wallow Creek (39.7296, –123.7172); Bond Creek (39.7856, –123.6937); Butler Creek (39.7439, –123.692); China Creek (40.1035, –123.9493); Connick Creek (40.0911, –123.8187); Cox Creek (40.0288, –123.8542); Cummings Creek (39.8431, –123.5752); Dean Creek (40.1383, –123.7625); Dinner Creek (40.0915, –123.937); East Branch South Fork Eel River (39.9433, –123.6278); Elk Creek (39.7986, –123.5981);

Fish Creek (40.0565, –123.7768); Foster Creek (39.8455, –123.6185); Grapewine Creek (39.7991, –123.5186); Hartsook Creek (40.012, –123.7888); Hollow Tree Creek (39.7316, –123.6918); Huckleberry Creek (39.7315, –123.7253); Indian Creek (39.9464, –123.8993); Jones Creek (39.9977, –123.8378); Leggett Creek (40.1374, –123.8312); Little Sproul Creel (40.0897, –123.8585); Low Gap Creek (39.993, –123.767); McCoy Creek (39.9598, –123.7542); Michael's Creek (39.7642, –123.7175); Miller Creek (40.1215, –123.916); Moody Creek (39.9531, –123.8819); Mud Creek (39.8232, –123.6107); Piercy Creek (39.9706, –123.8189); Pollock Creek (40.0822, –123.9184); Rattlesnake Creek (39.7974, –123.5426); Redwood Creek (39.7721, –123.7651); Redwood Creek (40.0974, –123.9104); Seely Creek (40.1494, –123.8825); Somerville Creek (40.0896, –123.8913); South Fork Redwood Creek (39.7663, –123.7579); Spoul Creek (40.0125, –123.8585); Standley Creek (39.9479, –123.8083); Tom Long Creek (40.0315, –123.6891); Twin Rocks Creek (39.8269, –123.5543); Warden Creek (40.0625, –123.8546); West Fork Sproul Creek (40.0386, –123.9015); Wildcat Creek (39.9049, –123.7739); Wilson Creek (39.841, –123.6452); Unnamed Tributary (40.1136, –123.9359).

(viii) *Laytonville Hydrologic Sub-area 111133*. Outlet(s) = South Fork Eel River (Lat 39.7665, Long –123.6484)) upstream to endpoint(s) in: Bear Creek (39.6413, –123.5797); Cahto Creek (39.6624, –123.5453); Dutch Charlie Creek (39.6892, –123.6818); Grub Creek (39.7777, –123.5809); Jack of Hearts Creek (39.7244, –123.6802); Kenny Creek (39.6733, –123.6082); Mud Creek (39.6561, –123.592); Redwood Creek (39.6738, –123.6631); Rock Creek (39.6931, –123.6204); South Fork Eel River (39.6271, –123.5389); Streeter Creek (39.7328, –123.5542); Ten Mile Creek (39.6651, –123.451).

(ix) *Sequoia Hydrologic Sub-area 111141*. Outlet(s) = Eel River (Lat 40.3557, Long –123.9191); South Fork Eel River (40.3558, –123.9194) upstream to endpoint(s) in: Brock Creek (40.2411, –123.7248); Dobbyn Creek (40.2216, –123.6029); Hoover Creek (40.2312, –123.5792); Line Gulch (40.1655, –123.4831); North Fork Dobbyn Creek (40.2669, –123.5467); South Fork Dobbyn Creek (40.1723, –123.5112); South Fork Eel River (40.35, –123.9305); Unnamed Tributary (40.3137, –123.8333); Unnamed Tributary (40.2715, –123.549).

(x) *Spy Rock Hydrologic Sub-area 111142*. Outlet(s) = Eel River (Lat 40.1736, Long –123.6043) upstream to endpoint(s) in: Bell Springs Creek (39.9399, –123.5144); Burger Creek (39.6943, –123.413); Chamise Creek (40.0563, –123.5479); Jewett Creek (40.1195, –123.6027); Kekawaka Creek (40.0686, –123.4087); Woodman Creek (39.7639, –123.4338).

(xi) *North Fork Eel River Hydrologic Sub-area 111150*. Outlet(s) = North Fork Eel River (Lat 39.9567, Long –123.4375) upstream to endpoint(s) in: North Fork Eel River (39.9370, –123.3758).

(xii) *Outlet Creek Hydrologic Sub-area 111161*. Outlet(s) = Outlet Creek (Lat 39.6263, Long –123.3453) upstream to endpoint(s) in: Baechtel Creek (39.3688, –123.4028); Berry Creek (39.4272, –123.2951); Bloody Run (39.5864, –123.3545); Broaddus Creek (39.3907, –123.4163); Davis Creek (39.3701, –123.3007); Dutch Henry Creek (39.5788, –123.4543); Haehl Creek (39.3795, –123.3393); Long Valley Creek (39.6091, –123.4577); Ryan Creek (39.4803, –123.3642); Upp Creek (39.4276, –123.3578); Upp Creek (39.4276, –123.3578); Willits Creek (39.4315, –123.3794).

(xiii) *Tomki Creek Hydrologic Sub-area 111162*. Outlet(s) = Eel River (Lat 39.7138, Long –123.3531) upstream to endpoint(s) in: Cave Creek (39.3925, –123.2318); Long Branch Creek (39.4074, –123.1897); Rocktree Creek (39.4533, –123.3079); Salmon Creek (39.4461, –123.2104); Scott Creek (39.456, –123.2297); String Creek (39.4855, –123.2891); Tomki Creek (39.549, –123.3613); Wheelbarrow Creek (39.5029, –123.3287).

(xiv) *Lake Pillsbury Hydrologic Sub-area 111163*. Outlet(s) = Eel River (Lat 39.3860, Long –123.1163) upstream to endpoint(s) in: Eel River (39.4078, –122.958).

(xv) *Eden Valley Hydrologic Sub-area 111171*. Outlet(s) = Middle Fork Eel River (Lat 39.8146, Long –123.1332) upstream to endpoint(s) in: Middle Fork Eel River (39.8145, –123.1333).

(xvi) *Round Valley Hydrologic Sub-area 111172*. Outlet(s) = Mill Creek (Lat 39.7396, Long –123.1420); Williams Creek (39.8145, –123.1333) upstream to endpoint(s) in: Mill Creek (39.8456, –123.2822); Murphy Creek (39.8804,

–123.1636); Poor Mans Creek (39.8179, –123.1833); Short Creek (39.8645, –123.2242); Turner Creek (39.7238, –123.2191); Williams Creek (39.8596, –123.1341).

(6) *Cape Mendocino Hydrologic Unit 1112*—(i) *Capetown Hydrologic Sub-area 111220*. Outlet(s) = Bear River (Lat 40.4744, Long –124.3881) upstream to endpoint(s) in: Bear River (40.3591, –124.0536); South Fork Bear River (40.4271, –124.2873).

(ii) *Mattole River Hydrologic Sub-area 111230*. Outlet(s) = Mattole River (Lat 40.2942, Long –124.3536) upstream to endpoint(s) in: Bear Creek (40.1262, –124.0631); Blue Slide Creek (40.1286, –123.9579); Bridge Creek (40.0503, –123.9885); Conklin Creek (40.3169, –124.229); Dry Creek (40.2389, –124.0621); East Fork Honeydew Creek (40.1633, –124.0916); East Fork of the North Fork Mattole River (40.3489, –124.2244); Eubanks Creek (40.0893, –123.9743); Gilham Creek (40.2162, –124.0309); Grindstone Creek (40.1875, –124.0041); Honeydew Creek (40.1942, –124.1363); Mattole Canyon (40.1833, –123.9666); Mattole River (39.9735, –123.9548); McGinnis Creek (40.3013, –124.2146); McKee Creek (40.0674, –123.9608); Mill Creek (40.0169, –123.9656); North Fork Mattole River (40.3729, –124.2461); North Fork Bear Creek (40.1422, –124.0945); Oil Creek (40.3008, –124.1253); Rattlesnake Creek (40.2919, –124.1051); South Fork Bear Creek (40.0334, –124.0232); Squaw Creek (40.219, –124.1921); Thompson Creek (39.9969, –123.9638); Unnamed (40.1522, –124.0989); Upper North Fork Mattole River (40.2907, –124.1115); Westlund Creek (40.2333, –124.0336); Woods creek (40.2235, –124.1574); Yew Creek (40.0019, –123.9743).

(7) Mendocino Coast Hydrologic Unit 1113—(i) *Wages Creek Hydrologic Sub-area 111312*. Outlet(s) = Wages Creek (Lat 39.6513, Long –123.7851) upstream to endpoint(s) in: Wages Creek (39.6393, –123.7146).

(ii) *Ten Mile River Hydrologic Sub-area 111313*. Outlet(s) = Ten Mile River (Lat 39.5529, Long –123.7658) upstream to endpoint(s) in: Middle Fork Ten Mile River (39.5397, –123.5523); Little North Fork Ten Mile River (39.6188, –123.7258); Ten Mile River (39.5721, –123.7098); South Fork Ten Mile River (39.4927, –123.6067); North Fork Ten Mile River (39.5804, –123.5735).

(iii) Noyo River Hydrologic Sub-area 111320. Outlet(s) = Noyo River (Lat 39.4274, Long –123.8096) upstream to endpoint(s) in: North Fork Noyo River (39.4541, –123.5331); Noyo River (39.431, 123.494); South Fork Noyo River (39.3549, –123.6136).

(iv) *Big River Hydrologic Sub-area 111330*. Outlet(s) = Big River (Lat 39.3030, Long –123.7957) upstream to endpoint(s) in: Big River (39.3095, –123.4454).

(v) *Albion River Hydrologic Sub-area 111340*. Outlet(s) = Albion River (Lat 39.2253, Long –123.7679) upstream to endpoint(s) in: Albion River (39.2644, –123.6072).

(vi) *Garcia River Hydrologic Sub-area 111370*. Outlet(s) = Garcia River (Lat 38.9455, Long –123.7257) upstream to endpoint(s) in: Garcia River (38.9160, –123.4900).

(8) Russian River Hydrologic Unit 1114—(i) *Guerneville Hydrologic Sub-area 111411*. Outlet(s) = Russian River (Lat 38.4507, Long –123.1289) upstream to endpoint(s) in: Austin Creek (38.5099, –123.0681); Mark West Creek (38.4961, –122.8489).

(ii) *Austin Creek Hydrologic Sub-area 111412*. Outlet(s) = Austin Creek (Lat 38.5099, Long –123.0681) upstream to endpoint(s) in: Austin Creek (38.5326, –123.0844).

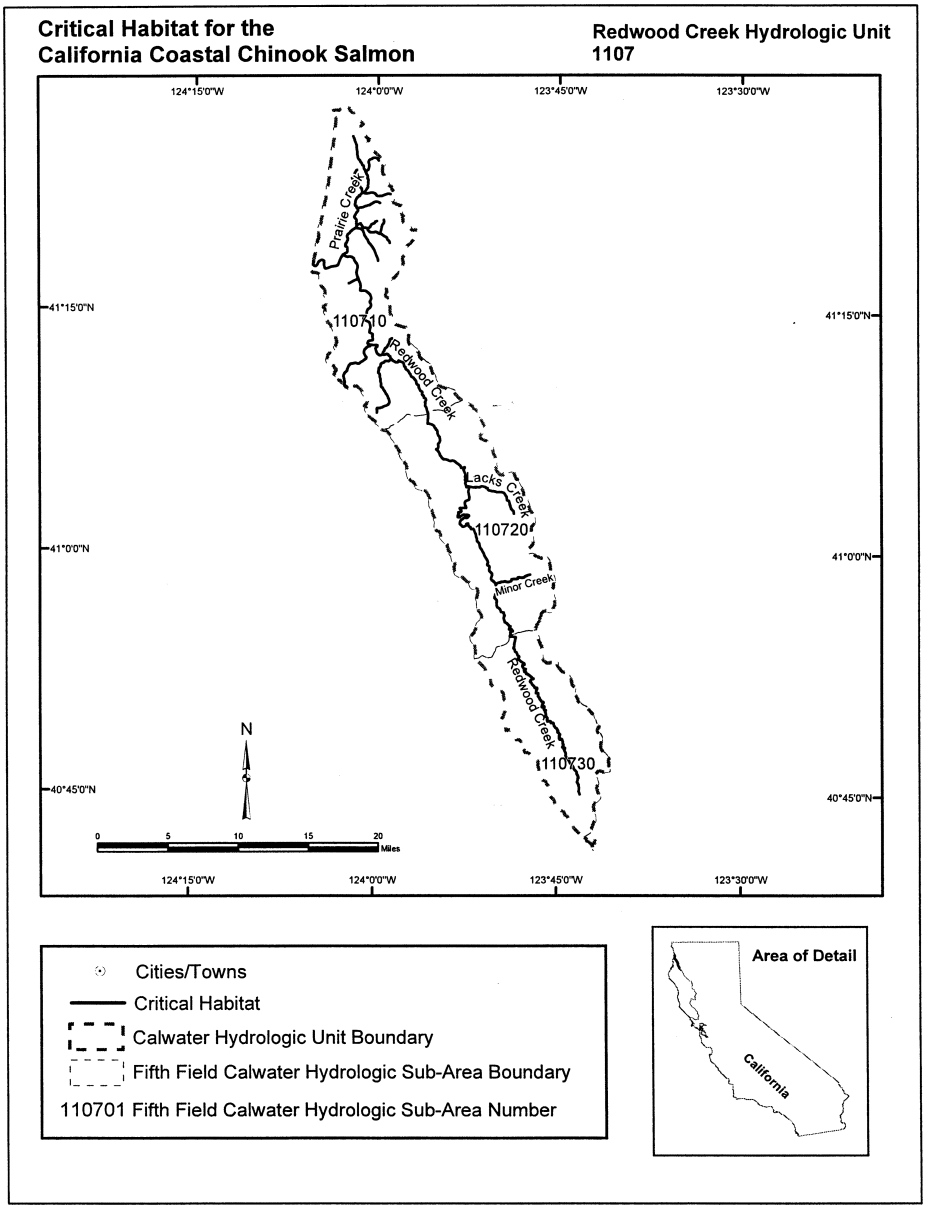
(iii) *Warm Springs Hydrologic Sub-area 111424*. Outlet(s) = Dry Creek (Lat 38.5861, Long –122.8573) upstream to endpoint(s) in: Dry Creek (38.7179, –123.0075).

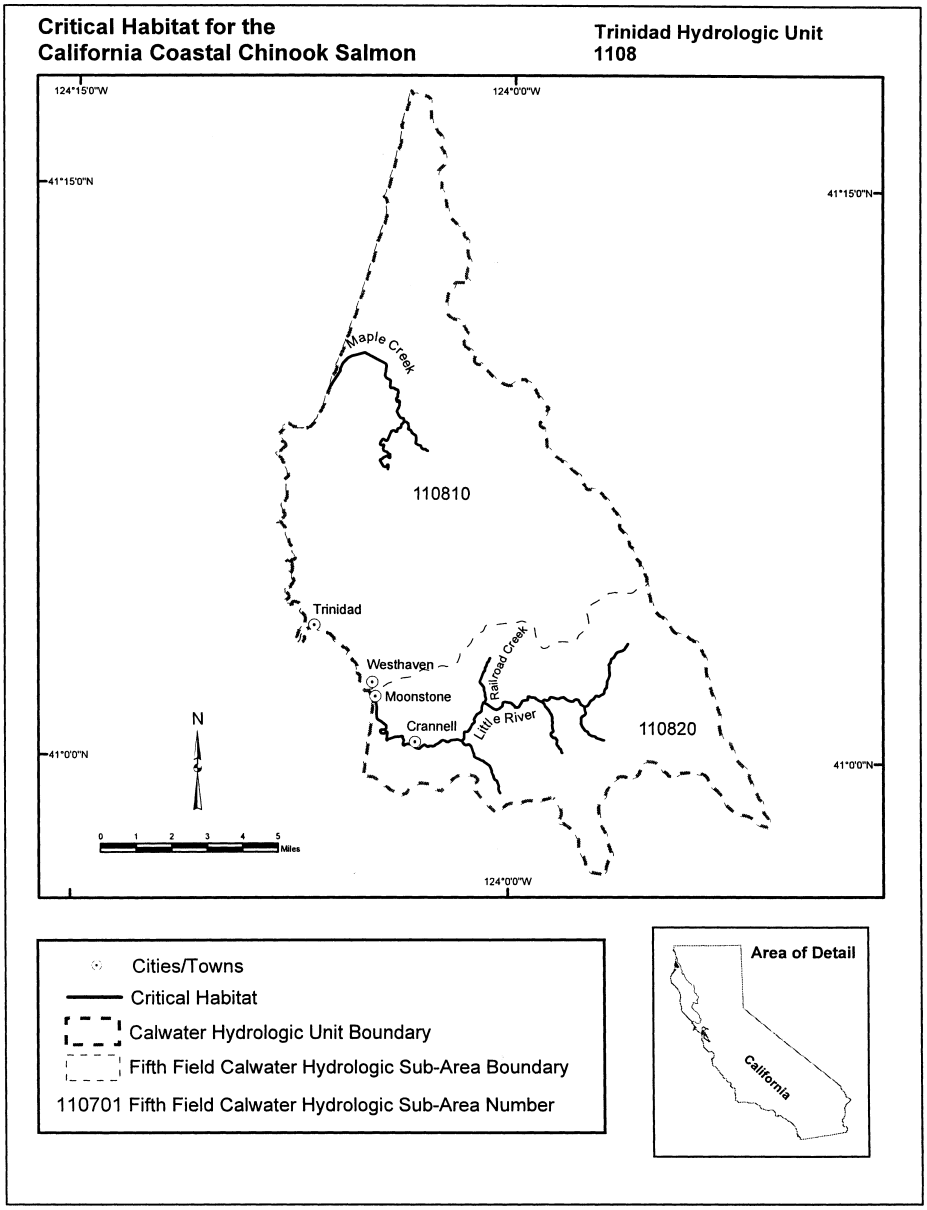
(iv) *Geyserville Hydrologic Sub-area 111425*. Outlet(s) = Russian River (Lat 38.6132, Long –122.8321) upstream.

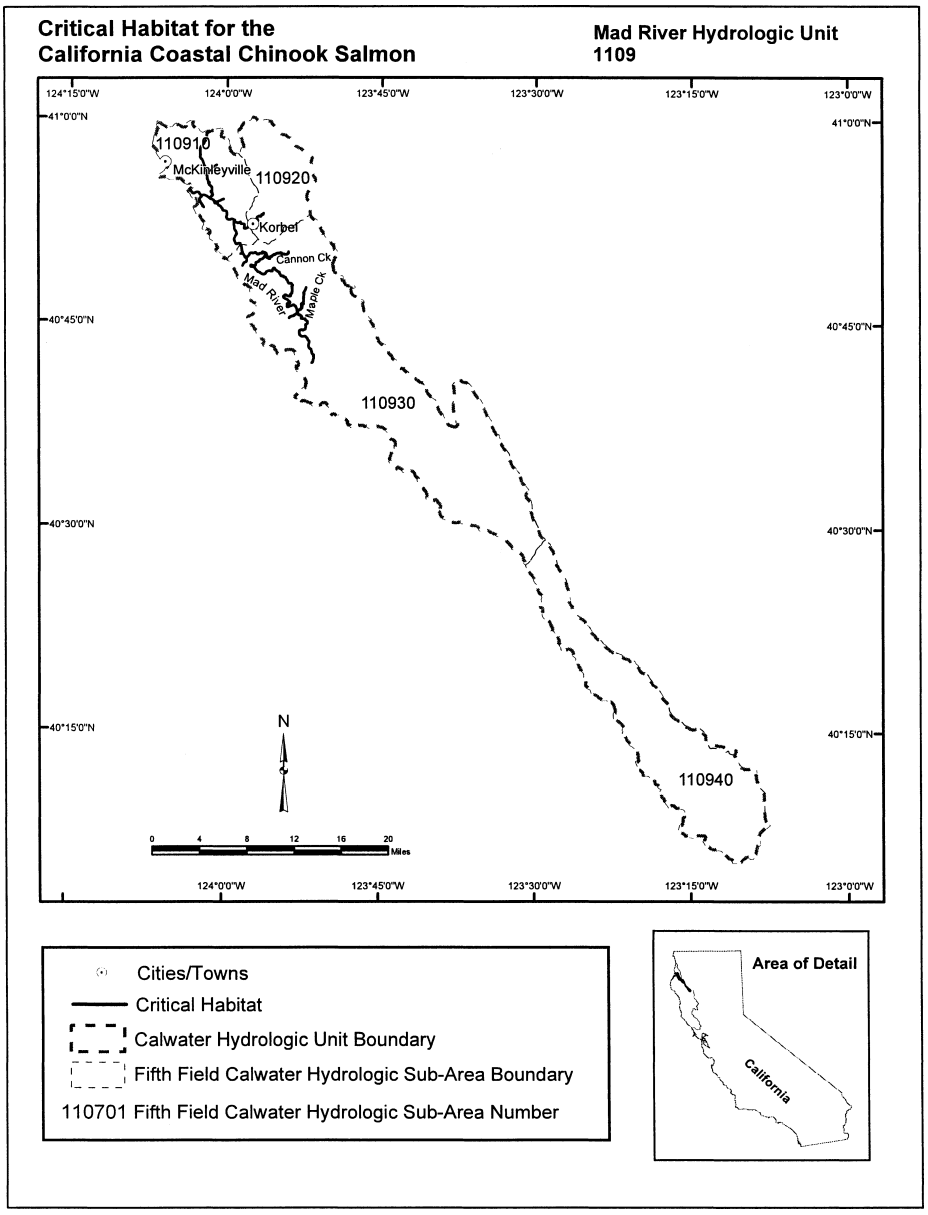
(v) *Ukiah Hydrologic Sub-area 111431*. Outlet(s) = Russian River (Lat 38.8828, Long –123.0557) upstream to endpoint(s) in: Feliz Creek (38.9941, –123.1779).

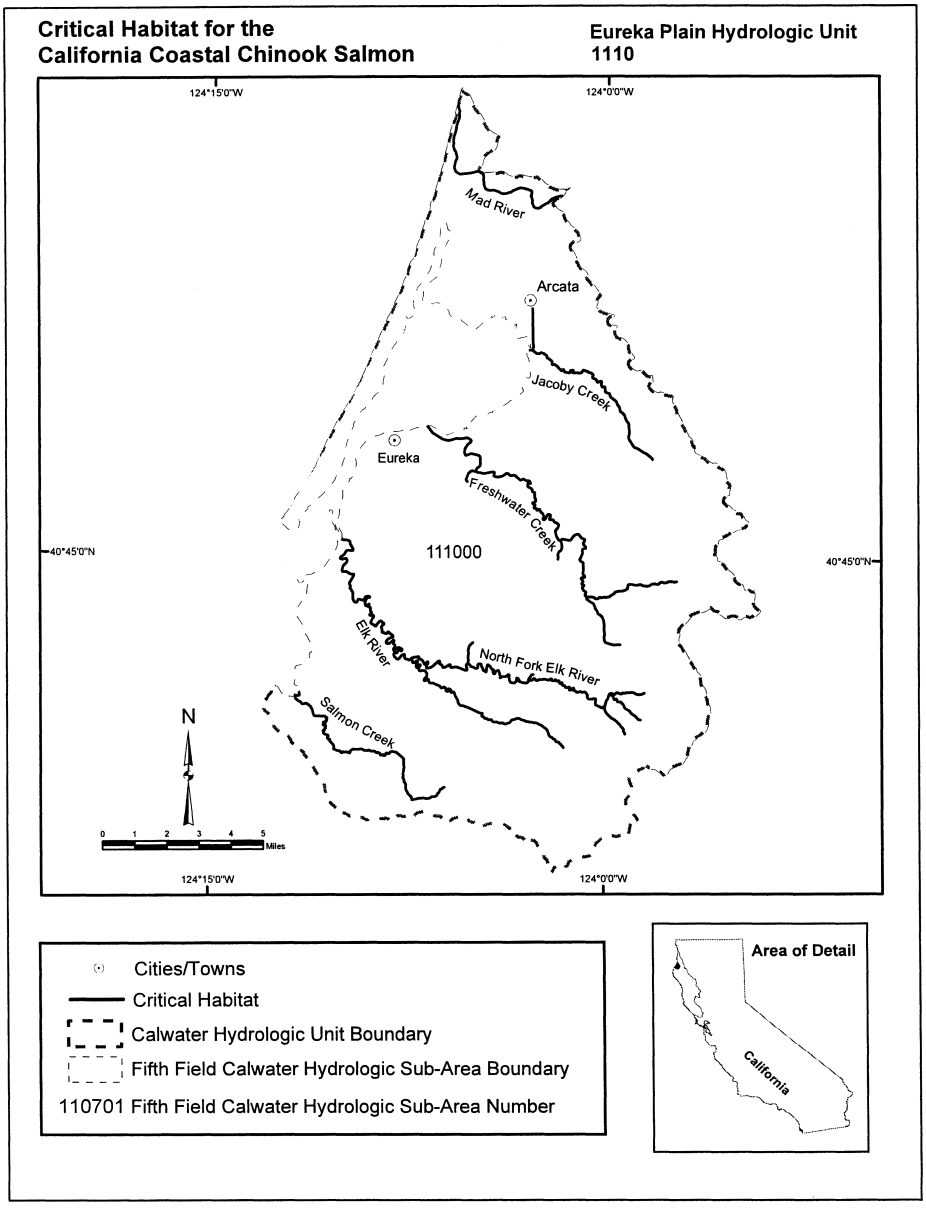
(vi) *Forsythe Creek Hydrologic Sub-area 111433*. Outlet(s) = Russian River (Lat 39.2257, Long –123.2012) upstream to endpoint(s) in: Forsythe Creek (39.2780, –123.2608); Russian River (39.3599, –123.2326).

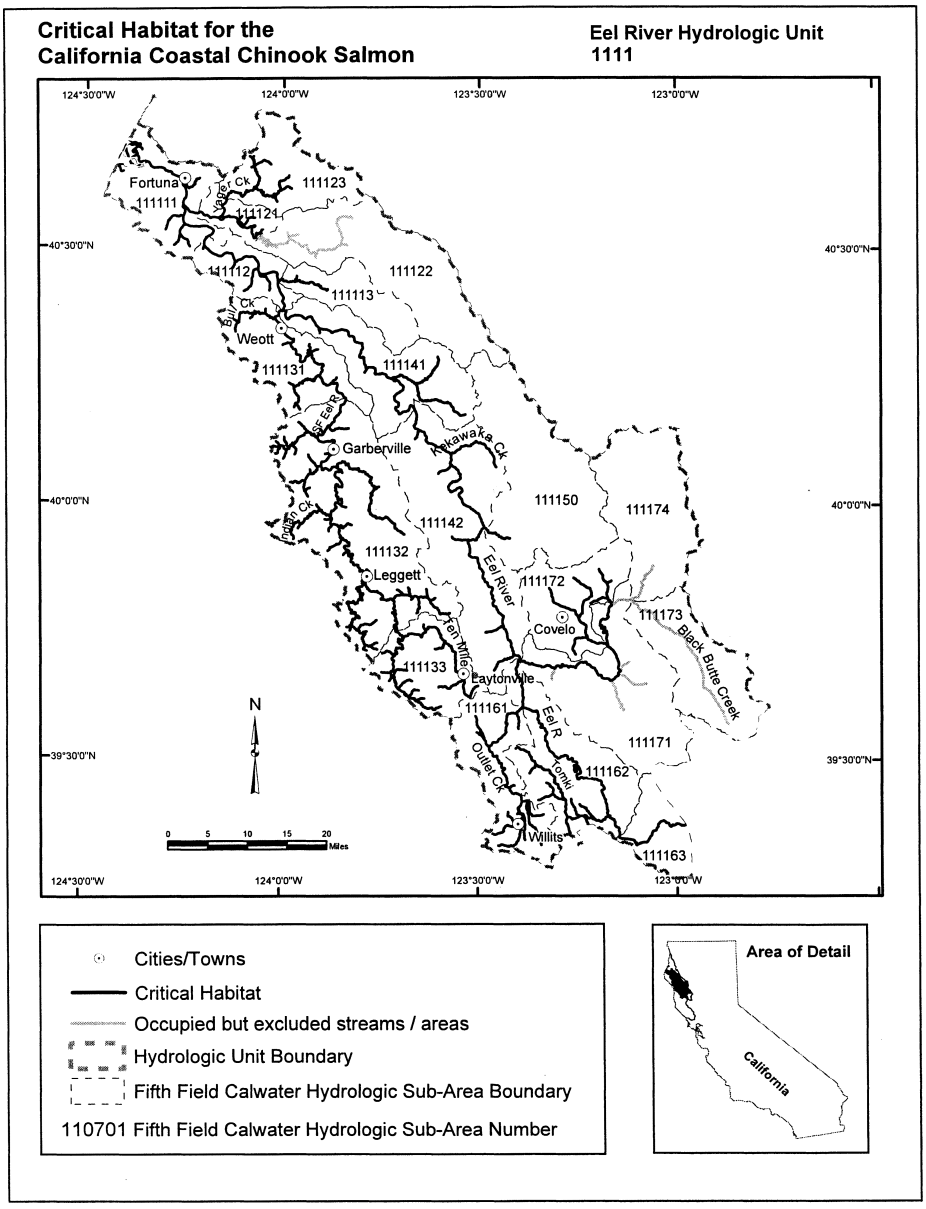
(9) Maps of critical habitat for the California Coast chinook salmon ESU follow:

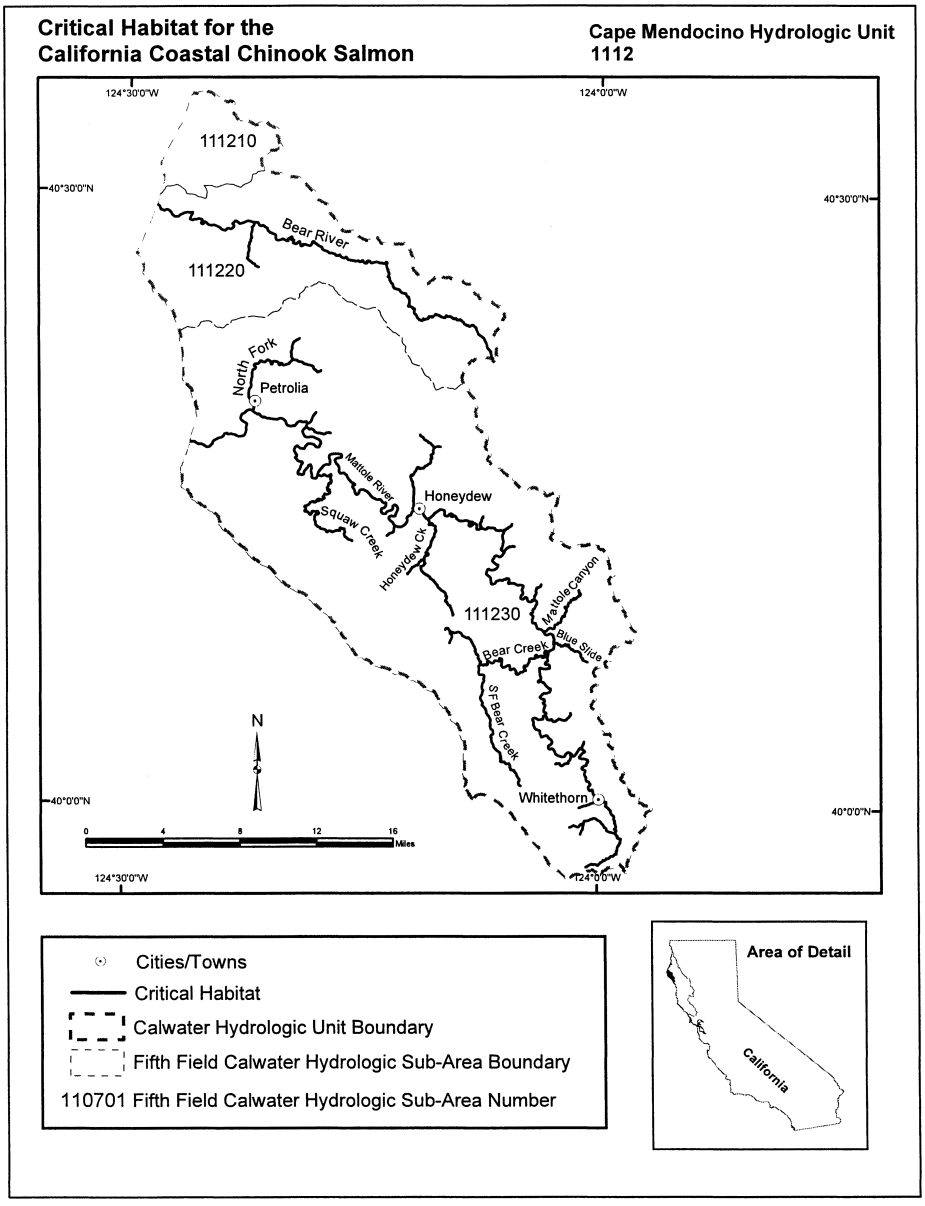

Critical Habitat for the
California Coastal Chinook Salmon
Redwood Creek Hydrologic Unit
1107
124°15'0"W
124°0'0"W
123°45'0"W
123°30'0"W
41°15'0"N
41°0'0"N
40°45'0"N
Prairie Creek
110710
Redwood Creek
Lacks Creek
110720
Minor Creek
Redwood Creek
110730
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

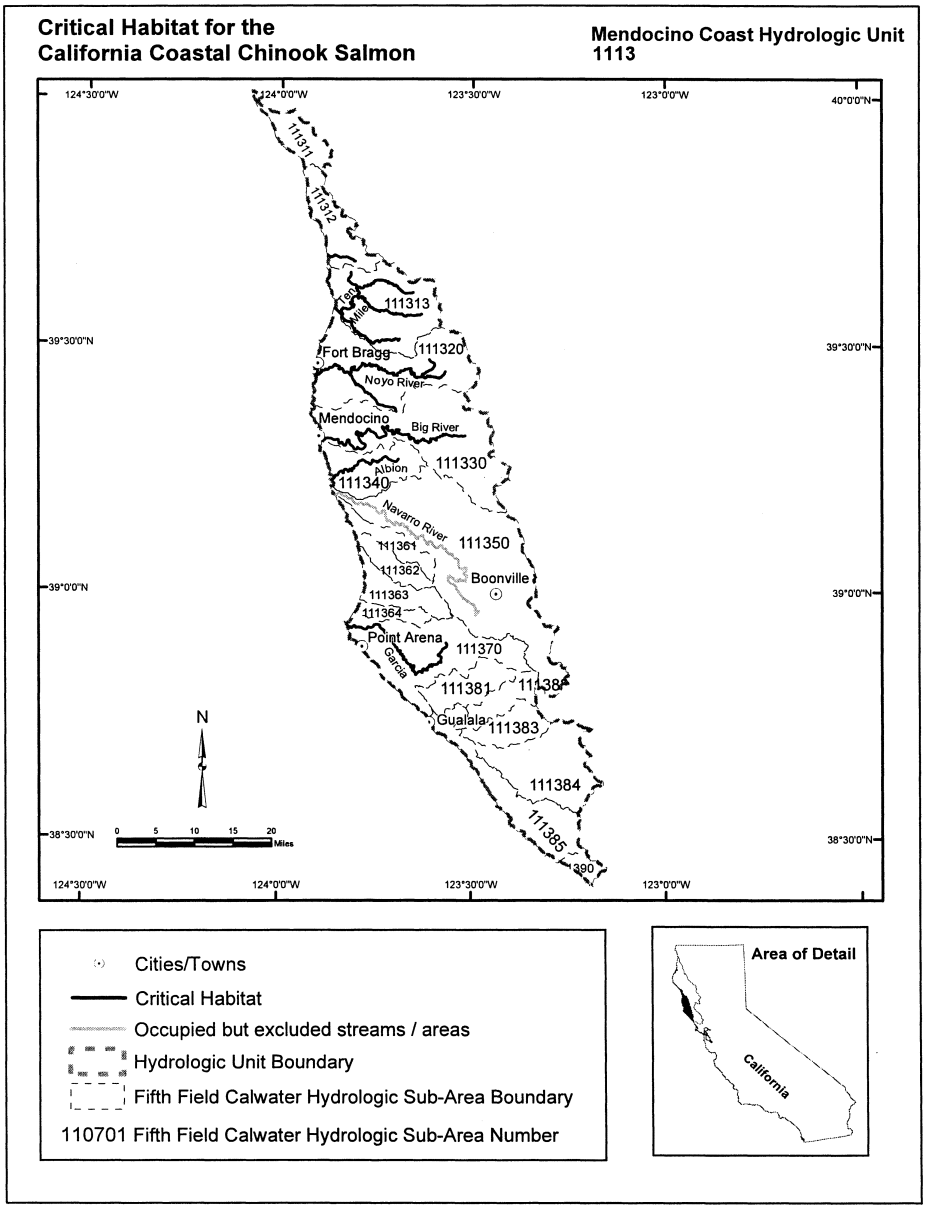

Critical Habitat for the
California Coastal Chinook Salmon
Trinidad Hydrologic Unit
1108
124°15'0"W
124°0'0"W
41°15'0"N
41°0'0"N
Maple Creek
110810
Trinidad
Westhaven
Moonstone
Crannell
Railroad Creek
Little River
110820
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

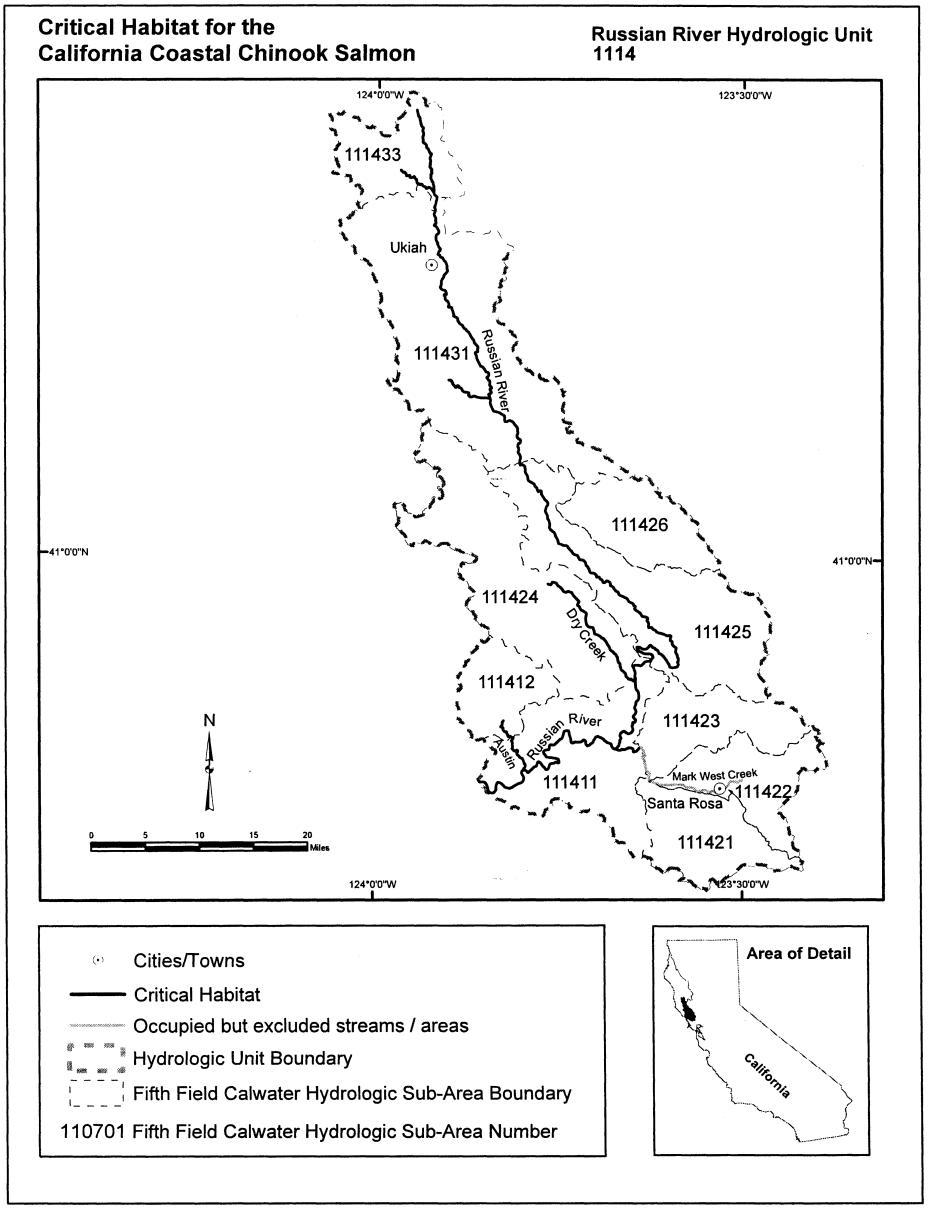

Critical Habitat for the
California Coastal Chinook Salmon
Mad River Hydrologic Unit
1109
124°15'0"W
124°0'0"W
123°45'0"W
123°30'0"W
123°15'0"W
123°0'0"W
41°0'0"N
40°45'0"N
40°30'0"N
40°15'0"N
110910
McKinleyville
110920
Korbel
Cannon Ck
Mad River
Maple Ck
110930
110940
N
0 4 8 12 16 20
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Coastal Chinook Salmon
Eureka Plain Hydrologic Unit
1110
124°15'0"W
124°0'0"W
40°45'0"N
Mad River
Arcata
Jacoby Creek
Eureka
Freshwater Creek
111000
Elk River
North Fork Elk River
Salmon Creek
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Coastal Chinook Salmon
Eel River Hydrologic Unit
1111
124°30'0"W
124°0'0"W
123°30'0"W
123°0'0"W
40°30'0"N
40°0'0"N
39°30'0"N
Fortuna
Yager Ck
111111
111123
111124
111122
111112
111113
Bull Ck
Weott
111131
111141
SF Eel R
Garberville
Redwood Ck
Dobbs Ck
111150
111174
111142
111132
Leggett
Eel River
111172
Covelo
111173
Black Butte Creek
Tenmile
111133
Laytonville
111161
N
Eel R
Outlet Ck
Tomki
111171
111162
0 5 10 15 20
Miles
Willits
111163
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Coastal Chinook Salmon
Cape Mendocino Hydrologic Unit
1112
124°30'0"W
124°0'0"W
40°30'0"N
40°0'0"N
111210
111220
111230
Bear River
North Fork
Petrolia
Mattole River
Squaw Creek
Honeydew
Honeydew Ck
Mattole Canyon
Blue Slide
Bear Creek
S F Bear Creek
Whitethorn
N
0 4 8 12 16
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Coastal Chinook Salmon
Mendocino Coast Hydrologic Unit
1113
124°30'0"W
124°0'0"W
123°30'0"W
123°0'0"W
40°0'0"N
39°30'0"N
39°0'0"N
38°30'0"N
111311
111312
Big River
111313
Fort Bragg
111320
Noyo River
Mendocino
Big River
111330
Albion
111340
Navarro River
111350
111361
111362
Boonville
111363
111364
Point Arena
Garcia
111370
111381
111384
Gualala
111383
111384
111385
390
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



(g) *Northern California Steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic units:

(1) Redwood Creek Hydrologic Unit 1107—(i) *Orick Hydrologic Sub-area 110710.* Outlet(s) = Boat Creek (Lat 41.4059, Long –124.0675); Home Creek (41.4027, –124.0683); Redwood Creek (41.2923, –124.0917); Squashan Creek (41.3889, –124.0703) upstream to endpoint(s) in: Boat Creek (41.4110,

–124.0583); Bond Creek (41.2326, –124.0262); Boyes Creek (41.3701, –124.9891); Bridge Creek (41.1694, –123.9964); Brown Creek (41.3986, –124.0012); Cloquet Creek (41.2466, –123.9884); Cole Creek (41.2209, –123.9931); Copper Creek (41.1516, –123.9258); Dolason Creek (41.1969, –123.9667); Elam Creek (41.2613, –124.0321); Emerald Creek (41.2164, –123.9808); Forty Four Creek (41.2187, –124.0195); Gans South Creek (41.2678, –124.0071); Godwood Creek (41.3787, –124.0354); Hayes Creek (41.2890, –124.0164); Home Creek (41.3951, –124.0386); Larry Dam Creek (41.3441, –123.9966); Little Lost Man Creek (41.3078, –124.0084); Lost Man Creek (41.3187, –123.9892); May Creek (41.3521, –124.0164); McArthur Creek (41.2702, –124.0427); Miller Creek (41.2305, –124.0046); North Fork Lost Man Creek (41.3405, –123.9859); Oscar Larson Creek (41.2559, –123.9943); Prairie Creek (41.4440, –124.0411); Skunk Cabbage Creek (41.3211, –124.0802); Slide Creek (41.1736, –123.9450); Squashan Creek (41.3739, –124.0440); Streelow Creek (41.3622, –124.0472); Tom McDonald Creek (41.1933, –124.0164); Unnamed Tributary (41.3619, –123.9967); Unnamed Tributary (41.3424, –124.0572).

(ii) *Beaver Hydrologic Sub-area 110720*. Outlet(s) = Redwood Creek (Lat 41.1367, Long –123.9309) upstream to endpoint(s) in: Beaver Creek (41.0208, –123.8608); Captain Creek (40.9199, –123.7944); Cashmere Creek (41.0132, –123.8862); Coyote Creek (41.1251, –123.8926); Devils Creek (41.1224, –123.9384); Garcia Creek (41.0180, –123.8923); Garrett Creek (41.0904, –123.8712); Karen Court Creek (41.0368, –123.8953); Lacks Creek (41.0306, –123.8096); Loin Creek (40.9465, –123.8454); Lupton Creek (40.9058, –123.8286); Mill Creek (41.0045, –123.8525); Minor Creek (40.9706, –123.7899); Molasses Creek (40.9986, –123.8490); Moon Creek (40.9807, –123.8368); Panther Creek (41.0732, –123.9275); Pilchuck Creek (41.9986, –123.8710); Roaring Gulch (41.0319, –123.8674); Santa Fe Creek (40.9368, –123.8397); Sweathouse Creek (40.9332, –123.8131); Toss–Up Creek (40.9845, –123.8656); Unnamed Tributary (41.1270, –123.8967); Wiregrass Creek (40.9652, –123.8553).

(iii) *Lake Prairie Hydrologic Sub-area 110730*. Outlet(s) = Redwood Creek (Lat 40.9070, Long –123.8170) upstream to endpoint(s) in: Bradford Creek (40.7812, –123.7215); Cut–Off Meander (40.8507, –123.7729); Emmy Lou Creek (40.8655, –123.7771); Gunrack Creek (40.8391, –123.7650); High Prairie Creek (40.8191, –123.7723); Jena Creek (40.8742, –123.8065); Lake Prairie Creek (40.7984, –123.7558); Lupton Creek (40.9058, –123.8286); Minon Creek (40.8140, –123.7372); Noisy Creek (40.8613, –123.8044); Pardee Creek (40.7779, –123.7416); Redwood Creek (40.7432, –123.7206); Simion Creek (40.8241, –123.7560); Six Rivers Creek (40.8352, –123.7842); Smokehouse Creek (40.7405, –123.7278); Snowcamp Creek (40.7415, –123.7296); Squirrel Trail Creek (40.8692, –123.7844); Twin Lakes Creek (40.7369, –123.7214); Panther Creek (40.8019, –123.7094); Windy Creek (40.8866, –123.7956).

(2) Trinidad Hydrologic Unit 1108—(i) *Big Lagoon Hydrologic Sub-area 110810*. Outlet(s) = Maple Creek (Lat 41.1555, Long –124.1380); McDonald Creek (41.2521, –124.0919) upstream to endpoint(s) in: Beach Creek (41.0716, –124.0239); Clear Creek (41.1031, –124.0030); Diamond Creek (41.1571, –124.0926); Maple Creek (41.0836, –123.9790); McDonald Creek (41.1850, –124.0773); M-Line Creek (41.0752, –124.0787); North Fork Maple Creek (41.1254, –124.0539); North Fork McDonald Creek (41.2107, –124.0664); Pitcher Creek (41.1518, –124.0874); South Fork Maple Creek (41.1003, –124.1119); Tom Creek (41.1773, –124.0966); Unnamed Tributary (41.1004, –124.0155); Unnamed Tributary (41.0780, –124.0676); Unnamed Tributary (41.1168, –124.0886); Unnamed Tributary (41.0864, –124.0899); Unnamed Tributary (41.1132, –124.0827); Unnamed Tributary (41.0749, –124.0889); Unnamed Tributary (41.1052, –124.0675); Unnamed Tributary (41.0714, –124.0611); Unnamed Tributary (41.0948, –124.0016).

(ii) *Little River Hydrologic Sub-area 110820*. Outlet(s) = Little River (Lat 41.0277, Long –124.1112) upstream to endpoint(s) in: Freeman Creek (41.0242, –124.0582); Little River (40.9999, –123.9232); Lower South Fork Little River (41.0077, –124.0079); Railroad Creek (41.0468, –124.0466); South Fork Little River (40.9899, –124.0394); Unnamed Tributary (41.0356, –123.9958); Unnamed Tributary (41.0407, –124.0598); Unnamed Tributary (41.0068, –123.9830);

Unnamed Tributary (41.0402, –124.0111); Unnamed Tributary (41.0402, –124.0189); Unnamed Tributary (41.0303, –124.0366); Unnamed Tributary (41.0575, –123.9710); Unnamed Tributary (41.0068, –123.9830); Upper South Fork Little River (41.0146, –123.9826).

(3) Mad River Hydrologic Unit 1109—(i) *Blue Lake Hydrologic Sub-area 110910*. Outlet(s) = Mad River (Lat 40.9139, Long –124.0642); Strawberry Creek (40.9964, –124.1155); Widow White Creek (40.9635, –124.1253) upstream to endpoint(s) in: Boundary Creek (40.8395, –123.9920); Grassy Creek (40.9314, –124.0188); Hall Creek (40.9162, –124.0141); Kelly Creek (40.8656, –124.0260); Leggit Creek (40.8808, –124.0269); Lindsay Creek (40.9838, –124.0283); Mather Creek (40.9796, –124.0526); Mill Creek (40.9296, –124.1037); Mill Creek (40.9162, –124.0141); Mill Creek (40.8521, –123.9617); North Fork Mad River (40.8687, –123.9649); Norton Creek (40.9572, –124.1003); Palmer Creek (40.8633, –124.0193); Puter Creek (40.8474, –123.9966); Quarry Creek (40.8526, –124.0098); Squaw Creek (40.9426, –124.0202); Strawberry Creek (40.9761, –124.0630); Unnamed Tributary (40.9624, –124.0179); Unnamed Tributary (40.9549, –124.0554); Unnamed Tributary (40.9672, –124.0218); Warren Creek (40.8860, –124.0351); Widow White Creek (40.9522, –124.0784).

(ii) *North Fork Mad River Hydrologic Sub-area 110920*. Outlet(s) = North Fork Mad River (Lat 40.8687, Long –123.9649) upstream to endpoint(s) in: Bald Mountain Creek (40.8922, –123.9097); Canyon Creek (40.9598, –123.9269); Denman Creek (40.9293, –123.9429); East Fork North Fork (40.9702, –123.9449); Gosinta Creek (40.9169, –123.9420); Hutchery Creek (40.8730, –123.9503); Jackson Creek (40.9388, –123.9462); Krueger Creek (40.9487, –123.9571); Long Prairie Creek (40.9294, –123.8842); Mule Creek (40.9416, –123.9309); North Fork Mad River (40.9918, –123.9610); Pine Creek (40.9274, –123.9096); Pollock Creek (40.9081, –123.9071); Sullivan Gulch (40.8646, –123.9553); Tyson Creek (40.9559, –123.9738); Unnamed Tributary (40.9645, –123.9338); Unnamed Tributary (40.9879, –123.9511); Unnamed Tributary (40.9906, –123.9540); Unnamed Tributary (40.9866, –123.9788); Unnamed Tributary (40.9927, –123.9736).

(iii) *Butler Valley Hydrologic Sub-area 110930*. Outlet(s) = Mad River (Lat 40.8449, Long –123.9807) upstream to endpoint(s) in: Bear Creek (40.5468, –123.6728); Black Creek (40.7521, –123.9080); Black Dog Creek (40.8334, –123.9805); Blue Slide Creek (40.7333, –123.9225); Boulder Creek (40.7634, –123.8667); Bug Creek (40.6587, –123.7356); Cannon Creek (40.8535, –123.8850); Coyote Creek (40.6147, –123.6488); Devil Creek (40.8032, –123.9175); Dry Creek (40.8218, –123.9751); East Creek (40.5403, –123.5579); Maple Creek (40.7933, –123.8353); Pilot Creek (40.5950, –123.5888); Simpson Creek (40.8138, –123.9156); Unnamed Tributary (40.7306, –123.9019); Unnamed Tributary (40.7739, –123.9255); Unnamed Tributary (40.7744, –123.9137); Unnamed Tributary (40.8029, –123.8716); Unnamed Tributary (40.8038, –123.8691); Unnamed Tributary (40.8363, –123.9025).

(4) Eureka Plain Hydrologic Unit 1110—(i) *Eureka Plain Hydrologic Sub-area 111000*. Outlet(s) = Elk River (Lat 40.7568, Long –124.1948); Freshwater Creek (40.8088, –124.1442); Jacoby Creek (40.8436, –124.0834); Mad River (40.9560, –124.1278); Rocky Gulch (40.8309, –124.0813); Salmon Creek (40.6868, –124.2194); Washington Gulch (40.8317, –124.0805) upstream to endpoint(s) in: Bridge Creek (40.6958, –124.0805); Browns Gulch (40.7038, –124.1074); Clapp Gulch (40.6967, –124.1684); Cloney Gulch (40.7826, –124.0347); Doe Creek (40.6964, –124.0201); Dunlap Gulch (40.7076, –124.1182); Falls Gulch (40.7655, –124.0261); Fay Slough (40.8033, –124.0574); Freshwater Creek (40.7385, –124.0035); Golf Course Creek (40.8406, –124.0402); Graham Gulch (40.7540, –124.0228); Guptil Gulch (40.7530, –124.1202); Henderson Gulch (40.7357, –124.1394); Jacoby Creek (40.7949, –124.0096); Lake Creek (40.6848, –124.0831); Line Creek (40.6578, –124.0460); Little Freshwater Creek (40.7371, –124.0649); Little North Fork Elk River (40.6972, –124.0100); Little South Fork Elk River (40.6555, –124.0877); Martin Slough (40.7679, –124.1578); McCready Gulch (40.7824, –124.0441); McWinney Creek (40.6968, –124.0616); Morrison Gulch (40.8169, –124.0430); North Branch of the North Fork Elk River (40.6879, –124.0130); North Fork Elk River (40.6794–123.9834); Railroad Gulch

(40.6955, –124.1545); Rocky Gulch (40.8170, –124.0613); Ryan Creek (40.7352, –124.0996); Salmon Creek (40.6399, –124.1128); South Branch of the North Fork Elk River (40.6700, –124.0251); South Fork Elk River (40.6437, –124.0388); South Fork Freshwater Creek (40.7110, –124.0367); Swain Slough (40.7524, –124.1825); Tom Gulch (40.6794, –124.1452); Unnamed Tributary (40.7850, –124.0561); Unnamed Tributary (40.7496, –124.1651); Unnamed Tributary (40.7785,—124.1081); Unnamed Tributary (40.7667, –124.1054); Unnamed Tributary (40.7559, –124.0870); Unnamed Tributary (40.7952, –124.0568); Unnamed Tributary (40.7408, –124.1118); Unnamed Tributary (40.7186, –124.1385); Unnamed Tributary (40.7224, –124.1038); Unnamed Tributary (40.8210, –124.0111); Unnamed Tributary (40.8106, –124.0083); Unnamed Tributary (40.7554, –124.1379); Unnamed Tributary (40.7457, –124.1138); Washington Gulch (40.8205, –124.0549).

(ii) [Reserved]

(5) Eel River Hydrologic Unit 1111—(i) *Ferndale Hydrologic Sub-area 111111*. Outlet(s) = Eel River (Lat 40.6275, Long –124.2520) upstream to endpoint(s) in: Atwell Creek (40.4824, –124.1498); Dean Creek (40.4847, –124.1217); Horse Creek (40.5198, –124.1702); Howe Creek (40.4654, –124.1916); Nanning Creek (40.4914, –124.0652); North Fork Strongs Creek (40.6077, –124.1047); Price Creek (40.5101, –124.2731); Rohner Creek (40.6151, –124.1408); Strongs Creek (40.5999, –124.0985); Sweet Creek (40.4900, –124.2007); Van Duzen River (40.5337, –124.1262).

(ii) *Scotia Hydrologic Sub-area 111112*. Outlet(s) = Eel River (Lat 40.4918, Long –124.0988) upstream to endpoint(s) in: Bear Creek (40.3942, –124.0262); Bridge Creek (40.4278, –123.9317); Chadd Creek (40.3919, –123.9540); Darnell Creek (40.4533, –123.9808); Dinner Creek (40.4406, –124.0855); Greenlow Creek (40.4315, –124.0231); Jordan Creek (40.4171, –124.0517); Kiler Creek (40.4465, –124.0952); Monument Creek (40.4371, –124.1165); Shively Creek (40.4454, –123.9539); South Fork Bear Creek (40.3856, –124.0182); Stitz Creek (40.4649, –124.0531); Twin Creek (40.4419, –124.0714); Unnamed Tributary (40.3933, –123.9984); Weber Creek (40.3767, –123.9094).

(iii) *Larabee Creek Hydrologic Sub-area 111113*. Outlet(s) = Larabee Creek (Lat 40.4090, Long –123.9334) upstream to endpoint(s) in: Arnold Creek (40.4006, –123.8583); Balcom Creek (40.4030, –123.8986); Bosworth Creek (40.3584, –123.7089); Boulder Flat Creek (40.3530, –123.6381); Burr Creek (40.4250, –123.7767); Carson Creek (40.4181, –123.8879); Chris Creek (40.4146, –123.9235); Cooper Creek (40.3123, –123.6463); Dauphiny Creek (40.4049, –123.8893); Frost Creek (40.3765, –123.7357); Hayfield Creek (40.3350, –123.6535); Knack Creek (40.3788, –123.7385); Larabee Creek (40.2807, –123.6445); Martin Creek (40.3730, –123.7060); Maxwell Creek (40.3959, –123.8049); McMahon Creek (40.3269, –123.6363); Mill Creek (40.3849, –123.7440); Mountain Creek (40.2955, –123.6378); Scott Creek (40.4020, –123.8738); Smith Creek (40.4194, –123.8568); Thurman Creek (40.3506, –123.6669); Unnamed Tributary (40.3842, –123.8062); Unnamed Tributary (40.3982, –123.7862); Unnamed Tributary (40.3806, –123.7564); Unnamed Tributary (40.3661, –123.7398); Unnamed Tributary (40.3524, –123.7330).

(iv) *Hydesville Hydrologic Sub-area 111121*. Outlet(s) = Van Duzen River (Lat 40.5337, Long –124.1262) upstream to endpoint(s) in: Cuddeback Creek (40.5421, –124.0263); Cummings Creek (40.5282, –123.9770); Fiedler Creek (40.5351, –124.0106); Hely Creek (40.5165, –123.9531); Yager Creek (40.5583, –124.0577); Unnamed Tributary (40.5718, –124.0946).

(v) *Bridgeville Hydrologic Sub-area 111122*. Outlet(s) = Van Duzen River (Lat 40.4942, Long –123.9720) upstream to endpoint(s) in: Bear Creek (40.3455, –123.5763); Blanket Creek (40.3635, –123.5710); Browns Creek (40.4958, –123.8103); Butte Creek (40.4119, –123.7047); Dairy Creek (40.4174, –123.5981); Fish Creek (40.4525, –123.8434); Grizzly Creek (40.5193, –123.8470); Little Larabee Creek (40.4708, –123.7395); Little Van Duzen River (40.3021, –123.5540); North Fork Van Duzen (40.4881, –123.6411); Panther Creek (40.3921, –123.5866); Root Creek (40.4490, –123.9018); Stevens Creek (40.5062, –123.9073); Thompson Creek (40.4222, –123.6084); Van Duzen River (40.4820, –123.6629); Unnamed Tributary (40.3074, –123.5834).

(vi) *Yager Creek Hydrologic Sub-area 111123.* Outlet(s) = Yager Creek (Lat 40.5583, Long –124.0577) upstream to endpoint(s) in: Bell Creek (40.6809, –123.9685); Blanten Creek (40.5839, –124.0165); Booths Run (40.6584, –123.9428); Corner Creek (40.6179, –124.0010); Fish Creek (40.6390, –124.0024); Lawrence Creek (40.6986, –123.9314); Middle Fork Yager Creek (40.5782, –123.9243); North Fork Yager Creek (40.6056, –123.9080); Shaw Creek (40.6231, –123.9509); South Fork Yager Creek (40.5451, –123.9409); Unnamed Tributary (40.5892, –123.9663); Yager Creek (40.5673, –123.9403).

(vii) *Weott Hydrologic Sub-area 111131.* Outlet(s) = South Fork Eel River (Lat 40.3500, Long –123.9305) upstream to endpoint(s) in: Albee Creek (40.3592, –124.0088); Bull Creek (40.3587, –123.9624); Burns Creek (40.3194, –124.0420); Butte Creek (40.1982, –123.8387); Canoe Creek (40.2669, –123.9556); Coon Creek (40.2702, –123.9013); Cow Creek (40.2664, –123.9838); Cuneo Creek (40.3401, –124.0494); Decker Creek (40.3312, –123.9501); Elk Creek (40.2609, –123.7957); Fish Creek (40.2459, –123.7729); Harper Creek (40.3591, –123.9930); Mill Creek (40.3568, –124.0333); Mowry Creek (40.2937, –123.8895); North Fork Cuneo Creek (40.3443, –124.0488); Ohman Creek (40.1924, –123.7648); Panther Creek (40.2775, –124.0289); Preacher Gulch (40.2944, –124.0047); Salmon Creek (40.2145, –123.8926); Slide Creek (40.3011, –124.0390); South Fork Salmon Creek (40.1769, –123.8929); Squaw Creek (40.3167, –123.9988); Unnamed Tributary (40.3065, –124.0074); Unnamed Tributary (40.2831, –124.0359).

(viii) *Benbow Hydrologic Sub-area 111132.* Outlet(s) = South Fork Eel River (Lat 40.1929, Long –123.7692) upstream to endpoint(s) in: Anderson Creek (39.9325, –123.8928); Bear Creek (39.7885, –123.7620); Bear Pen Creek (39.9201, –123.7986); Bear Wallow Creek (39.7270, –123.7140); Big Dan Creek (39.8430, –123.6992); Bond Creek (39.7778, –123.7060); Bridges Creek (39.9087, –123.7142); Buck Mountain Creek (40.0944, –123.7423); Butler Creek (39.7423, –123.6987); Cedar Creek (39.8834, –123.6216); China Creek (40.1035, –123.9493); Connick Creek (40.0912, –123.8154); Cox Creek (40.0310, –123.8398); Cruso Cabin Creek (39.9281, –123.5842); Durphy Creek (40.0205, –123.8271); East Branch South Fork Eel River (39.9359, –123.6204); Elkhorn Creek (39.9272, –123.6279); Fish Creek (40.0390, –123.7630); Hartsook Creek (40.0081, –123.8113); Hollow Tree Creek (39.7250, –123.6924); Huckleberry Creek (39.7292, –123.7275); Indian Creek (39.9556, –123.9172); Islam John Creek (39.8062, –123.7363); Jones Creek (39.9958, –123.8374); Leggett Creek (40.1470, –123.8375); Little Sproul Creek (40.0890, –123.8577); Lost Man Creek (39.7983, –123.7287); Low Gap Creek (39.8029, –123.6803); Low Gap Creek (39.9933, –123.7601); McCoy Creek (39.9572, –123.7369); Michael's Creek (39.7665, –123.7035); Middle Creek (39.8052, –123.7691); Milk Ranch Creek (40.0102, –123.7514); Mill Creek (39.8673, –123.7605); Miller Creek (40.1319, –123.9302); Moody Creek (39.9471, –123.8827); Mule Creek (39.8169, –123.7745); North Fork Cedar Creek (39.8864, –123.6363); North Fork McCoy Creek (39.9723, –123.7496); Piercy Creek (39.9597, –123.8442); Pollock Creek (40.0802, –123.9341); Red Mountain Creek (39.9363, –123.7203); Redwood Creek (39.7723, –123.7648); Redwood Creek (40.0974, –123.9104); Rock Creek (39.8962, –123.7065); Sebbas Creek (39.9934, –123.8903); Somerville Creek (40.1006, –123.8884); South Fork Mule Creek (39.8174, –123.7788); South Fork Redwood Creek (39.7662, –123.7579); Sproul Creek (40.0226, –123.8649); Squaw Creek (40.0760, –123.7257); Standly Creek (39.9327, –123.8309); Tom Long Creek (40.0175, –123.6551); Waldron Creek (39.7469, –123.7465); Walter's Creek (39.7921, –123.7250); Warden Creek (40.0629, –123.8551); West Fork Sproul Creek (40.0587, –123.9170); Wildcat Creek (39.8956, –123.7820); Unnamed Tributary (39.9927, –123.8807).

(ix) *Laytonville Hydrologic Sub-area 111133.* Outlet(s) = South Fork Eel River (Lat 39.7665, Long –123.6484) upstream to endpoint(s) in: Bear Creek (39.6418, –123.5853); Big Rick Creek (39.7117, –123.5512); Cahto Creek (39.6527, –123.5579); Dark Canyon Creek (39.7333, –123.6614); Dutch Charlie Creek (39.6843, –123.7023); Elder Creek (39.7234, –123.6192); Fox Creek (39.7441, –123.6142); Grub Creek (39.7777, –123.5809); Jack of Hearts Creek (39.7136, –123.6896); Kenny Creek (39.6838, –123.5929); Little Case Creek (39.6892, –123.5441); Mill Creek (39.6839, –123.5118); Mud Creek (39.6713,

–123.5741); Mud Springs Creek (39.6929, –123.5629); Redwood Creek (39.6545, –123.6753); Rock Creek (39.6922, –123.6090); Section Four Creek (39.6137, –123.5297); South Fork Eel River (39.6242, –123.5468); Streeter Creek (39.7340, –123.5606); Ten Mile Creek (39.6652, –123.4486); Unnamed Tributary (39.7004, –123.5678).

(x) *Sequoia Hydrologic Sub-area 111141*. Outlet(s) = Eel River (Lat 40.3557, Long –123.9191) upstream to endpoint(s) in: Beatty Creek (40.3198, –123.7500); Brock Creek (40.2410, –123.7246); Cameron Creek (40.3313, –123.7707); Dobbyn Creek (40.2216, –123.6029); Kapple Creek (40.3531, –123.8585); Line Gulch Creek (40.1640, –123.4783); Mud Creek (40.2078, –123.5143); North Fork Dobbyn Creek (40.2669, –123.5467); Sonoma Creek (40.2974, –123.7953); South Fork Dobbyn Creek (40.1723, –123.5112); South Fork Eel River (40.3500, –123.9305); South Fork Thompson Creek (40.3447, –123.8334); Thompson Creek (40.3552, –123.8417); Unnamed Tributary (40.2745, –123.5487).

(xi) *Spy Rock Hydrologic Sub-area 111142*. Outlet(s) = Eel River (Lat 40.1736, Long –123.6043) upstream to endpoint(s) in: Bear Pen Canyon (39.6943, –123.4359); Bell Springs Creek (39.9457, –123.5313); Blue Rock Creek (39.8937, –123.5018); Burger Creek (39.6693, –123.4034); Chamise Creek (40.0035, –123.5945); Gill Creek (39.7879, –123.3465); Iron Creek (39.7993, –123.4747); Jewett Creek (40.1122, –123.6171); Kekawaka Creek (40.0686, –123.4087); Rock Creek (39.9347, –123.5187); Shell Rock Creek (39.8414, –123.4614); Unnamed Tributary (39.7579, –123.4709); White Rock Creek (39.7646, –123.4684); Woodman Creek (39.7612, –123.4364).

(xii) *Outlet Creek Hydrologic Sub-area 111161*. Outlet(s) = Outlet Creek (Lat 39.6265, Long –123.3449) upstream to endpoint(s) in: Baechtel Creek (39.3623, –123.4143); Berry Creek (39.4271, –123.2777); Bloody Run Creek (39.5864, –123.3545); Broaddus Creek (39.3869, –123.4282); Cherry Creek (39.6043, –123.4073); Conklin Creek (39.3756, –123.2570); Davis Creek (39.3354, –123.2945); Haehl Creek (39.3735, –123.3172); Long Valley Creek (39.6246, –123.4651); Mill Creek (39.4196, –123.3919); Outlet Creek (39.4526, –123.3338); Ryan Creek (39.4804, –123.3644); Unnamed Tributary (39.4956, –123.3591); Unnamed Tributary (39.4322, –123.3848); Unnamed Tributary (39.5793, –123.4546); Unnamed Tributary (39.3703, –123.3419); Upp Creek (39.4479, –123.3825); Willts Creek (39.4686, –123.4299).

(xiii) *Tomki Creek Hydrologic Sub-area 111162*. Outlet(s) = Eel River (Lat 39.7138, Long –123.3532) upstream to endpoint(s) in: Cave Creek (39.3842, –123.2148); Dean Creek (39.6924, –123.3727); Garcia Creek (39.5153, –123.1512); Little Cave Creek (39.3915, –123.2462); Little Creek (39.4146, –123.2595); Long Branch Creek (39.4074, –123.1897); Rocktree Creek (39.4534, –123.3053); Salmon Creek (39.4367, –123.1939); Scott Creek (39.4492, –123.2286); String Creek (39.4658, –123.3206); Tarter Creek (39.4715, –123.2976); Thomas Creek (39.4768, –123.1230); Tomki Creek (39.5483, –123.3687); Whitney Creek (39.4399, –123.1084); Wheelbarrow Creek (39.5012, –123.3304).

(xiv) *Eden Valley Hydrologic Sub-area 111171*. Outlet(s) = Middle Fork Eel River (Lat 39.7138, Long –123.3532) upstream to endpoint(s) in: Crocker Creek (39.5559, –123.0409); Eden Creek (39.5992, –123.1746); Elk Creek (39.5371, –123.0101); Hayshed Creek (39.7082, –123.0967); Salt Creek (39.6765, –123.2740); Sportsmans Creek (39.5373, –123.0247); Sulper Springs (39.5536, –123.0365); Thatcher Creek (39.6686, –123.0639).

(xv) *Round Valley Hydrologic Sub-area 111172*. Outlet(s) = Mill Creek (Lat 39.7396, Long –123.1420); Williams Creek (39.8145, –123.1333) upstream to endpoint(s) in: Cold Creek (39.8714, –123.2991); Grist Creek (39.7640, –123.2883); Mill Creek (39.8481, –123.2896); Murphy Creek (39.8885, –123.1612); Short Creek (39.8703, –123.2352); Town Creek (39.7991, –123.2889); Turner Creek (39.7218, –123.2175); Williams Creek (39.8903, –123.1212); Unnamed Tributary (39.7428, –123.2757); Unnamed Tributary (39.7493, –123.2584).

(xvi) *Black Butte River Hydrologic Sub-area 111173*. Outlet(s) = Black Butte River (Lat 39.8239, Long –123.0880) upstream to endpoint(s) in: Black Butte River (39.5946, –122.8579); Buckhorn Creek (39.6563, –122.9225); Cold Creek (39.6960, –122.9063); Estell Creek (39.5966, –122.8224); Spanish Creek (39.6287, –122.8331).

(xvii) *Wilderness Hydrologic Sub-area 111174*. Outlet(s) = Middle Fork Eel River (Lat 39.8240, Long –123.0877) upstream to endpoint(s) in: Beaver Creek (39.9352, –122.9943); Fossil Creek (39.9447, –123.0403); Middle Fork Eel River (40.0780, –123.0442); North Fork Middle Fork Eel River (40.0727, –123.1364); Palm of Gileade Creek (40.0229, –123.0647); Pothole Creek (39.9347, –123.0440).

(6) Cape Mendocino Hydrologic Unit 1112—(i) *Oil Creek Hydrologic Sub-area 111210*. Outlet(s) = Guthrie Creek (Lat 40.5407, Long –124.3626); Oil Creek (40.5195, –124.3767) upstream to endpoint(s) in: Guthrie Creek (40.5320, –124.3128); Oil Creek (40.5061, –124.2875); Unnamed Tributary (40.4946, –124.3091); Unnamed Tributary (40.4982, –124.3549); Unnamed Tributary (40.5141, –124.3573); Unnamed Tributary (40.4992, –124.3070).

(ii) *Capetown Hydrologic Sub-area 111220*. Outlet(s) = Bear River (Lat 40.4744, Long –124.3881); Davis Creek (40.3850, –124.3691); Singley Creek (40.4311, –124.4034) upstream to endpoint(s) in: Antone Creek (40.4281, –124.2114); Bear River (40.3591, –124.0536); Beer Bottle Gulch (40.3949, –124.1410); Bonanza Gulch (40.4777, –124.2966); Brushy Creek (40.4102, –124.1050); Davis Creek (40.3945, –124.2912); Harmonica Creek (40.3775, –124.0735); Hollister Creek (40.4109, –124.2891); Nelson Creek (40.3536, –124.1154); Peaked Creek (40.4123, –124.1897); Pullen Creek (40.4057, –124.0814); Singley Creek (40.4177, –124.3305); South Fork Bear River (40.4047, –124.2631); Unnamed Tributary (40.4271, –124.3107); Unnamed Tributary (40.4814, –124.2741); Unnamed Tributary (40.3633, –124.0651); Unnamed Tributary (40.3785, –124.0599); Unnamed Tributary (40.4179, –124.2391); Unnamed Tributary (40.4040, –124.0923); Unnamed Tributary (40.3996, –124.3175); Unnamed Tributary (40.4045, –124.0745); Unnamed Tributary (40.4668, –124.2364); Unnamed Tributary (40.4389, –124.2350); Unnamed Tributary (40.4516, –124.2238); Unnamed Tributary (40.4136, –124.1594); Unnamed Tributary (40.4350, –124.1504); Unnamed Tributary (40.4394, –124.3745); West Side Creek (40.4751, –124.2432).

(iii) *Mattole River Hydrologic Sub-area 111230*. Outlet(s) = Big Creek (Lat 40.1567, Long –124.2114); Big Flat Creek (40.1275, –124.1764); Buck Creek (40.1086, –124.1218); Cooskie Creek (40.2192, –124.3105); Fourmile Creek (40.2561, –124.3578); Gitchell Creek (40.0938, –124.1023); Horse Mountain Creek (40.0685, –124.0822); Kinsey Creek (40.1717, –124.2310); Mattole River (40.2942, –124.3536); McNutt Gulch (40.3541, –124.3619); Oat Creek (40.1785, –124.2445); Randall Creek (40.2004, –124.2831); Shipman Creek (40.1175, –124.1449); Spanish Creek (40.1835, –124.2569); Telegraph Creek (40.0473, –124.0798); Whale Gulch (39.9623, –123.9785) upstream to endpoint(s) in: Anderson Creek (40.0329, –123.9674); Baker Creek (40.0143, –123.9048); Bear Creek (40.1262, –124.0631); Bear Creek (40.2819, –124.3336); Bear Trap Creek (40.2157, –124.1422); Big Creek (40.1742, –124.1924); Big Finley Creek (40.0910, –124.0179); Big Flat Creek (40.1444, –124.1636); Blue Slide Creek (40.1562, –123.9283); Box Canyon Creek (40.1078, –123.9854); Bridge Creek (40.0447, –124.0118); Buck Creek (40.1166, –124.1142); Conklin Creek (40.3197, –124.2055); Cooskie Creek (40.2286, –124.2986); Devils Creek (40.3432, –124.1365); Dry Creek (40.2646, –124.0660); East Branch North Fork Mattole River (40.3333, –124.1490); East Fork Honeydew Creek (40.1625, –124.0929); Eubank Creek (40.0997, –123.9661); Fire Creek (40.1533, –123.9509); Fourmile Creek (40.2604, –124.3079); Fourmile Creek (40.1767, –124.0759); French Creek (40.1384, –124.0072); Gibson Creek (40.0304, –123.9279); Gilham Creek (40.2078, –124.0085); Gitchell Creek (40.1086, –124.0947); Green Ridge Creek (40.3254, –124.1258); Grindstone Creek (40.2019, –123.9890); Harris Creek (40.0381, –123.9304); Harrow Creek (40.1612, –124.0292); Helen Barnum Creek (40.0036, –123.9101); Honeydew Creek (40.1747, –124.1410); Horse Mountain Creek (40.0769, –124.0729); Indian Creek (40.2772, –124.2759); Jewett Creek (40.1465, –124.0414); Kinsey Creek (40.1765, –124.2220); Lost Man Creek (39.9754, –123.9179); Mattole Canyon (40.2021, –123.9570); Mattole River (39.9714, –123.9623); McGinnis Creek (40.3186, –124.1801); McKee Creek (40.0864, –123.9480); McNutt Gulch (40.3458, –124.3418); Middle Creek (40.2591, –124.0366); Mill Creek (40.0158, –123.9693); Mill Creek (40.3305, –124.2598); Mill Creek (40.2839, –124.2946); Nooning Creek (40.0616, –124.0050); North Fork

Mattole River (40.3866, –124.1867); North Fork Bear Creek (40.1494, –124.1060); North Fork Fourmile Creek (40.2019, –124.0722); Oat Creek (40.1884, –124.2296); Oil Creek (40.3214, –124.1601); Painter Creek (40.0844, –123.9639); Prichett Creek (40.2892, –124.1704); Randall Creek (40.2092, –124.2668); Rattlesnake Creek (40.3250, –124.0981); Shipman Creek (40.1250, –124.1384); Sholes Creek (40.1603, –124.0619); South Branch West Fork Bridge Creek (40.0326, –123.9853); South Fork Bear Creek (40.0176, –124.0016); Spanish Creek (40.1965, –124.2429); Squaw Creek (40.1934, –124.2002); Stanley Creek (40.0273, –123.9166); Sulphur Creek (40.3647, –124.1586); Telegraph Creek (40.0439, –124.0640); Thompson Creek (39.9913, –123.9707); Unnamed Tributary (40.3475, –124.1606); Unnamed Tributary (40.3522, –124.1533); Unnamed Tributary (40.0891, –123.9839); Unnamed Tributary (40.2223, –124.0172); Unnamed Tributary (40.1733, –123.9515); Unnamed Tributary (40.2899, –124.0955); Unnamed Tributary (40.2853, –124.3227); Unnamed Tributary (39.9969, –123.9071); Upper East Fork Honeydew Creek (40.1759, –124.1182); Upper North Fork Mattole River (40.2907, –124.1115); Vanauken Creek (40.0674, –123.9422); West Fork Bridge Creek (40.0343, –123.9990); West Fork Honeydew Creek (40.1870, –124.1614); Westlund Creek (40.2440, –124.0036); Whale Gulch (39.9747, –123.9812); Woods Creek (40.2119, –124.1611); Yew Creek (40.0018, –123.9762).

(7) Mendocino Coast Hydrologic Unit 1113—(i) *Usal Creek Hydrologic Sub-area 111311*. Outlet(s) = Jackass Creek (Lat 39.8806, Long –123.9155); Usal Creek (39.8316, –123.8507) upstream to endpoint(s) in: Bear Creek (39.8898, –123.8344); Jackass Creek (39.8901, –123.8928); Julias Creek (39.8542, –123.7937); Little Bear Creek (39.8629, –123.8400); North Fork Jackass Creek (39.9095, –123.9101); North Fork Julias Creek (39.8581, –123.8045); Soldier Creek (39.8679, –123.8162); South Fork Usal Creek (39.8356, –123.7865); Unnamed Tributary (39.8890, –123.8480); Usal Creek (39.8957, –123.8797); Waterfall Gulch (39.8787, –123.8680).

(ii) *Wages Creek Hydrologic Sub-area 111312*. Outlet(s) = Cottaneva Creek (Lat 39.7360, Long –123.8293); DeHaven Creek (39.6592, –123.7863); Hardy Creek (39.7107, –123.8082); Howard Creek (39.6778, –123.7915); Juan Creek (39.7028, –123.8042); Wages Creek (39.6513, –123.7851) upstream to endpoint(s) in: Cottaneva Creek (39.7825, –123.8210); DeHaven Creek (39.6687, –123.7060); Dunn Creek (39.8103, –123.8320); Hardy Creek (39.7221, –123.7822); Howard Creek (39.6808, –123.7463); Juan Creek (39.7107, –123.7472); Kimball Gulch (39.7559, –123.7828); Little Juan Creek (39.7003, –123.7609); Middle Fork Cottaneva Creek (39.7738, –123.8058); North Fork Cottaneva Creek (39.8011, –123.8047); North Fork Dehaven Creek (39.6660, –123.7382); North Fork Wages Creek (39.6457, –123.7066); Rider Gulch (39.6348, –123.7621); Rockport Creek (39.7346, –123.8021); Slaughterhouse Gulch (39.7594, –123.7914); South Fork Cottaneva Creek (39.7447, –123.7773); South Fork Wages Creek (39.6297, –123.6862); Wages Creek (39.6297, –123.6862).

(iii) *Ten Mile River Hydrologic Sub-area 111313*. Outlet(s) = Abalobadiah Creek (Lat 39.5654, Long –123.7672); Chadbourne Gulch (39.6133, –123.7822); Ten Mile River (39.5529, –123.7658); Seaside Creek (39.5592, –123.7655) upstream to endpoint(s) in: Abalobadiah Creek (39.5878, –123.7503); Bald Hill Creek (39.6278, –123.6461); Barlow Gulch (39.6046, –123.7384); Bear Pen Creek (39.5824, –123.6402); Booth Gulch (39.5567, –123.5918); Buckhorn Creek (39.6093, –123.6980); Campbell Creek (39.5053, –123.6610); Cavanough Gulch (39.6107, –123.6776); Chadbourne Gulch (39.6190, –123.7682); Clark Fork (39.5280, –123.5134); Curchman Creek (39.4789, –123.6398); Gulch 11 (39.4687, –123.5816); Gulch 19 (39.5939, –123.5781); Little Bear Haven Creek (39.5655, –123.6147); Little North Fork (39.6264, –123.7350); Mill Creek (39.5392, –123.7068); North Fork Ten Mile River (39.5870, –123.5480); O'Conner Gulch (39.6042, –123.6632); Patsy Creek (39.5714, –123.5669); Redwood Creek (39.5142, –123.5620); Seaside Creek (39.5612, –123.7501); Smith Creek (39.5251, –123.6499); South Fork Bear Haven Creek (39.5688, –123.6527); South Fork Ten Mile River (39.5083, –123.5395); Ten Mile River (39.5721, –123.7098); Unnamed Tributary (39.5180, –123.5948); Unnamed Tributary (39.5146, –123.6183); Unnamed Tributary (39.5898, –123.7657); Unnamed Tributary (39.5813, –123.7526); Unnamed Tributary (39.5936, –123.6034).

(iv) *Noyo River Hydrologic Sub-area 111320*. Outlet(s) = Digger Creek (Lat 39.4088, Long –123.8164); Hare Creek (39.4171, –123.8128); Jug Handle Creek (39.3767, –123.8176); Mill Creek (39.4894, –123.7967); Mitchell Creek (39.3923, –123.8165); Noyo River (39.4274, –123.8096); Pudding Creek (39.4588, –123.8089); Virgin Creek (39.4714, –123.8045) upstream to endpoint(s) in: Bear Gulch (39.3881, –123.6614); Brandon Gulch (39.4191, –123.6645); Bunker Gulch (39.3969, –123.7153); Burbeck Creek (39.4354, –123.4235); Covington Gulch (39.4099, –123.7546); Dewarren Creek (39.4974, –123.5535); Digger Creek (39.3932, –123.7820); Duffy Gulch (39.4469, –123.6023); Gulch Creek (39.4441, –123.4684); Gulch Seven (39.4523, –123.5183); Hare Creek (39.3781, –123.6922); Hayworth Creek (39.4857, –123.4769); Hayshed Creek (39.4200, –123.7391); Jug Handle Creek (39.3647, –123.7523); Kass Creek (39.4262, –123.6807); Little North Fork (39.4532, –123.6636); Little Valley Creek (39.5026, –123.7277); Marble Gulch (39.4423, –123.5479); McMullen Creek (39.4383, –123.4488); Middle Fork North Fork (39.4924, –123.5231); Mill Creek (39.4813, –123.7600); Mitchell Creek (39.3813, –123.7734); North Fork Hayworth Creek (39.4891, –123.5026); North Fork Noyo River (39.4765, –123.5535); North Fork Noyo (39.4765, –123.5535); North Fork South Fork Noyo River (39.3971, –123.6108); Noyo River (39.4242, –123.4356); Olds Creek (39.3964, –123.4448); Parlin Creek (39.3700, –123.6111); Pudding Creek (39.4591, –123.6516); Redwood Creek (39.4660, –123.4571); South Fork Hare Creek (39.3785, –123.7384); South Fork Noyo River (39.3620, –123.6188); Unnamed Tributary (39.4113, –123.5621); Unnamed Tributary (39.3918, –123.6425); Unnamed Tributary (39.4168, –123.4578); Unnamed Tributary (39.4656, –123.7467); Unnamed Tributary (39.4931, –123.7371); Unnamed Tributary (39.4922, –123.7381); Unnamed Tributary (39.4939, –123.7184); Unnamed Tributary (39.4158, –123.6428); Unnamed Tributary (39.4002, –123.7347); Unnamed Tributary (39.3831, –123.6177); Unnamed Tributary (39.4926, –123.4764); Virgin Creek (39.4621, –123.7855); Unnamed Tributary (39.4650, –123.7463).

(v) *Big River Hydrologic Sub-area 111330*. Outlet(s) = Big River (Lat 39.3030, Long –123.7957); Casper Creek (39.3617, –123.8169); Doyle Creek (39.3603, –123.8187); Jack Peters Creek (39.3193, –123.8006); Russian Gulch (39.3288, –123.8050) upstream to endpoint(s) in: Berry Gulch (39.3585, –123.6930); Big River (39.3166, –123.3733); Casper Creek (39.3462, –123.7556); Chamberlain Creek (39.4007, –123.5317); Daugherty Creek (39.1700, –123.3699); Doyle Creek (39.3517, –123.8007); East Branch Little North Fork Big River (39.3372, –123.6410); East Branch North Fork Big River (39.3354, –123.4652); Gates Creek (39.2083, –123.3944); Jack Peters Gulch (39.3225, –123.7850); James Creek (39.3922, –123.4747); Johnson Creek (39.1963, –123.3927); Johnson Creek (39.2556, –123.4485); Laguna Creek (39.2910, –123.6334); Little North Fork Big River (39.3497, –123.6242); Marten Creek (39.3290, –123.4279); Mettick Creek (39.2591, –123.5193); Middle Fork North Fork Casper Creek (39.3575, –123.7170); North Fork Big River (39.3762, –123.4591); North Fork Casper Creek (39.3610, –123.7356); North Fork James Creek (39.3980, –123.4939); North Fork Ramone Creek (39.2760, –123.4846); Pig Pen Gulch (39.3226, –123.4609); Pruitt Creek (39.2592, –123.3812); Ramone Creek (39.2714, –123.4415); Rice Creek (39.2809, –123.3963); Russell Brook (39.2863, –123.4461); Russian Gulch (39.3237, –123.7650); Snuffins Creek (39.1836, –123.3854); Soda Creek (39.2230, –123.4239); South Fork Big River (39.2317, –123.3687); South Fork Casper Creek (39.3493, –123.7216); Two Log Creek (39.3484, –123.5781); Unnamed Tributary (39.3897, –123.5556); Unnamed Tributary (39.3637, –123.5464); Unnamed Tributary (39.3776, –123.5274); Unnamed Tributary (39.4029, –123.5771); Valentine Creek (39.2694, –123.3957); Water Gulch (39.3607, –123.5891).

(vi) *Albion River Hydrologic Sub-area 111340*. Outlet(s) = Albion River (Lat 39.2253, Long –123.7679); Big Salmon Creek (39.2150, –123.7660); Buckhorn Creek (39.2593, –123.7839); Dark Gulch (39.2397, –123.7740); Little Salmon Creek (39.2150, –123.7660); Little River (39.2734, –123.7914) upstream to endpoint(s) in: Albion River (39.2613, –123.5766); Big Salmon Creek (39.2070, –123.6514); Buckhorn Creek (39.2513, –123.7595); Dark Gulch (39.2379, –123.7592); Duck Pond Gulch (39.2456, –123.6960); East Railroad Gulch (39.2604, –123.6381);

Hazel Gulch (39.2141, –123.6418); Kaison Gulch (39.2733, –123.6803); Little North Fork South Fork Albion River (39.2350, –123.6431); Little River (39.2683, –123.7190); Little Salmon Creek (39.2168, –123.7515); Marsh Creek (39.2325, –123.5596); Nordon Gulch (39.2489, –123.6503); North Fork Albion River (39.2854, –123.5752); Pleasant Valley Gulch (39.2379, –123.6965); Railroad Gulch (39.2182, –123.6932); Soda Springs Creek (39.2943, –123.5944); South Fork Albion River (39.2474, –123.6107); Tom Bell Creek (39.2805, –123.6519); Unnamed Tributary (39.2279, –123.6972); Unnamed Tributary (39.2194, –123.7100); Unnamed Tributary (39.2744, –123.5889); Unnamed Tributary (39.2254, –123.6733).

(vii) *Navarro River Hydrologic Sub-area 111350*. Outlet(s) = Navarro River (Lat 39.1921, Long –123.7611) upstream to endpoint(s) in: Alder Creek (38.9830, –123.3946); Anderson Creek (38.9644, –123.2907); Bailey Creek (39.1733, –123.4804); Barton Gulch (39.1804, –123.6783); Bear Creek (39.1425, –123.4326); Bear Wallow Creek (39.0053, –123.4075); Beasley Creek (38.9366, –123.3265); Bottom Creek (39.2117, –123.4607); Camp 16 Gulch (39.1937, –123.6095); Camp Creek (38.9310, –123.3527); Cold Spring Creek (39.0376, –123.5027); Con Creek (39.0374, –123.3816); Cook Creek (39.1879, –123.5109); Cune Creek (39.1622, –123.6014); Dago Creek (39.0731, –123.5068); Dead Horse Gulch (39.1576, –123.6124); Dutch Henry Creek (39.2112, –123.5794); Floodgate Creek (39.1291, –123.5365); Fluem Gulch (39.1615, –123.6695); Flynn Creek (39.2099, –123.6032); German Creek (38.9452, –123.4269); Gut Creek (39.0803, –123.3312); Ham Canyon (39.0164, –123.4265); Horse Creek (39.0144, –123.4960); Hungry Hollow Creek (39.1327, –123.4488); Indian Creek (39.0708, –123.3301); Jimmy Creek (39.0117, –123.2888); John Smith Creek (39.2275, –123.5366); Little North Fork Navarro River (39.1941, –123.4553); Low Gap Creek (39.1590, –123.3783); Navarro River (39.0537, –123.4409); Marsh Gulch (39.1692, –123.7049); McCarvey Creek (39.1589, –123.4048); Mill Creek (39.1270, –123.4315); Minnie Creek (38.9751, –123.4529); Murray Gulch (39.1755, –123.6966); Mustard Gulch (39.1673, –123.6393); North Branch (39.2069, –123.5361); North Fork Indian Creek (39.1213, –123.3345); North Fork Navarro River (39.1708, –123.5606); Parkinson Gulch (39.0768, –123.4070); Perry Gulch (39.1342, –123.5707); Rancheria Creek (38.8626, –123.2417); Ray Gulch (39.1792, –123.6494); Robinson Creek (38.9845, –123.3513); Rose Creek (39.1358, –123.3672); Shingle Mill Creek (39.1671, –123.4223); Soda Creek (39.0238, –123.3149); Soda Creek (39.1531, –123.3734); South Branch (39.1409, –123.3196); Spooner Creek (39.2221, –123.4811); Tramway Gulch (39.1481, –123.5958); Yale Creek (38.8882, –123.2785).

(viii) *Greenwood Creek Hydrologic Sub-area 111361*. Outlet(s) = Greenwood Creek (Lat 39.1262, Long –123.7181) upstream to endpoint(s) in: Greenwood Creek (39.0894, –123.5924).

(ix) *Elk Creek Hydrologic Sub-area 111362*. Outlet(s) = Elk Creek (Lat 39.1024, Long –123.7080) upstream to endpoint(s) in: Elk Creek (39.0657, –123.6245).

(x) *Alder Creek Hydrologic Sub-area 111363*. Outlet(s) = Alder Creek (Lat 39.0044, Long –123.6969); Mallo Pass Creek (39.0341, –123.6896) upstream to endpoint(s) in: Alder Creek (38.9961, –123.6471); Mallo Pass Creek (39.0287, –123.6373).

(xi) *Brush Creek Hydrologic Sub-area 111364*. Outlet(s) = Brush Creek (Lat 38.9760, Long –123.7120) upstream to endpoint(s) in: Brush Creek (38.9730, –123.5563); Mill Creek (38.9678, –123.6515); Unnamed Tributary (38.9724, –123.6571).

(xii) *Garcia River Hydrologic Sub-area 111370*. Outlet(s) = Garcia River (Lat 38.9550, Long –123.7338); Point Arena Creek (38.9141, –123.7103); Schooner Gulch (38.8667, –123.6550) upstream to endpoint(s) in: Blue Water Hole Creek (38.9378, –123.5023); Flemming Creek (38.8384, –123.5361); Garcia River (38.8965, –123.3681); Hathaway Creek (38.9287, –123.7011); Inman Creek (38.8804, –123.4370); Larmour Creek (38.9419, –123.4469); Mill Creek (38.9078, –123.3143); North Fork Garcia River (38.9233, –123.5339); North Fork Schooner Gulch (38.8758, –123.6281); Pardaloe Creek (38.8895, –123.3423); Point Arena Creek (38.9069, –123.6838); Redwood Creek (38.9241, –123.3343); Rolling Brook (38.8965, –123.5716); Schooner Gulch (38.8677, –123.6198); South Fork Garcia River (38.8450, –123.5420); Stansburry Creek (38.9422, –123.4720); Signal Creek (38.8639, –123.4414); Unnamed Tributary

(38.8758, –123.5692); Unnamed Tributary (38.8818, –123.5723); Whitlow Creek (38.9141, –123.4624).

(xiii) *North Fork Gualala River Hydrologic Sub-area 111381*. Outlet(s) = North Fork Gualala River (Lat 38.7784, Long –123.4992) upstream to endpoint(s) in: Bear Creek (38.8347, –123.3842); Billings Creek (38.8652, –123.3496); Doty Creek (38.8495, –123.5131); Dry Creek (38.8416, –123.4455); Little North Fork Gualala River (38.8295, –123.5570); McGann Gulch (38.8026, –123.4458); North Fork Gualala River (38.8479, –123.4113); Robinson Creek (38.8416, –123.3725); Robinson Creek (38.8386, –123.4991); Stewart Creek (38.8109, –123.4157); Unnamed Tributary (38.8487, –123.3820).

(xiv) *Rockpile Creek Hydrologic Sub-area 111382*. Outlet(s) = Rockpile Creek (Lat 38.7507, Long –123.4706) upstream to endpoint(s) in: Rockpile Creek (38.7966, –123.3872).

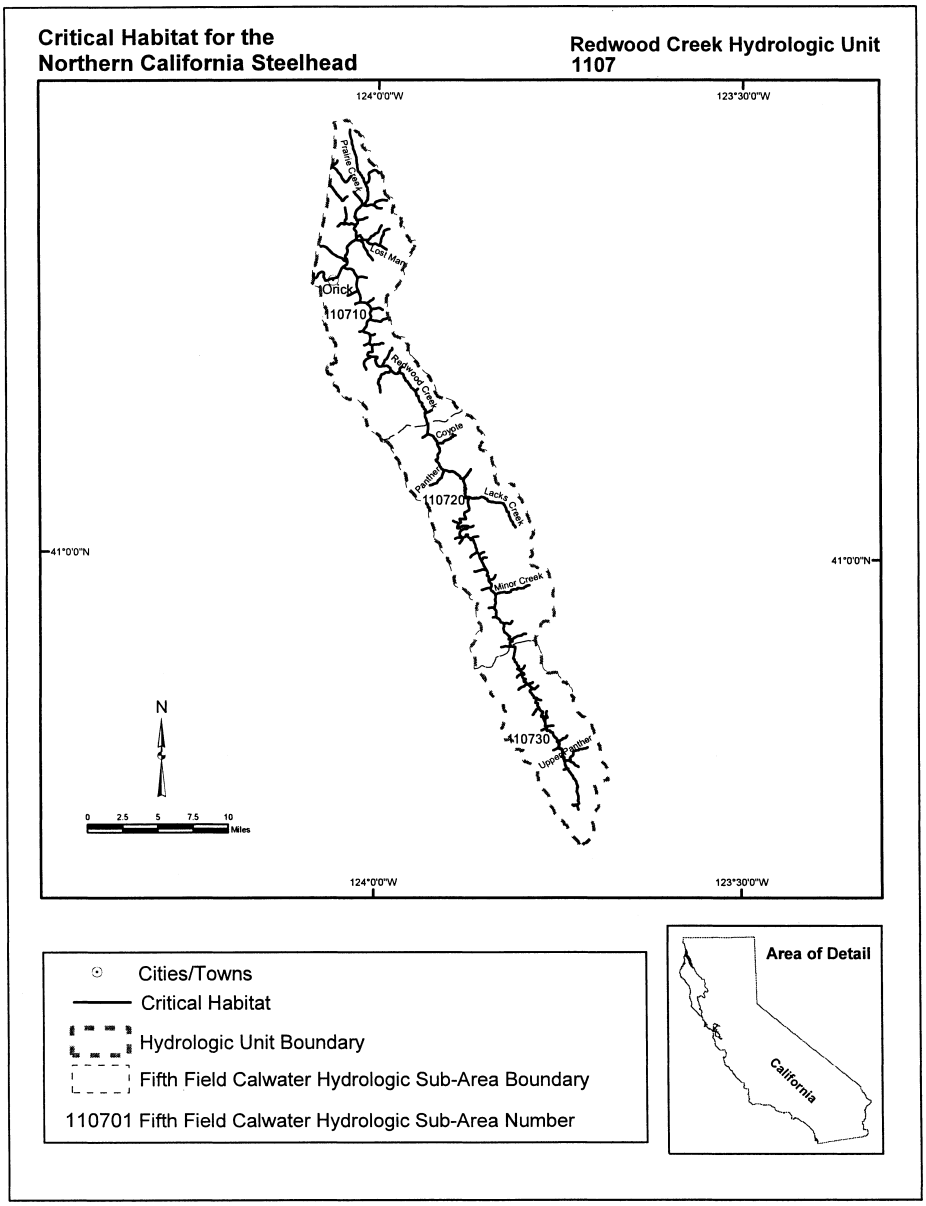
(xv) *Buckeye Creek Hydrologic Sub-area 111383*. Outlet(s) = Buckeye Creek (Lat 38.7403, Long –123.4580) upstream to endpoint(s) in: Buckeye Creek (38.7400, –123.2697); Flat Ridge Creek (38.7616, –123.2400); Franchini Creek (38.7500, –123.3708); North Fork Buckeye (38.7991, –123.3166).

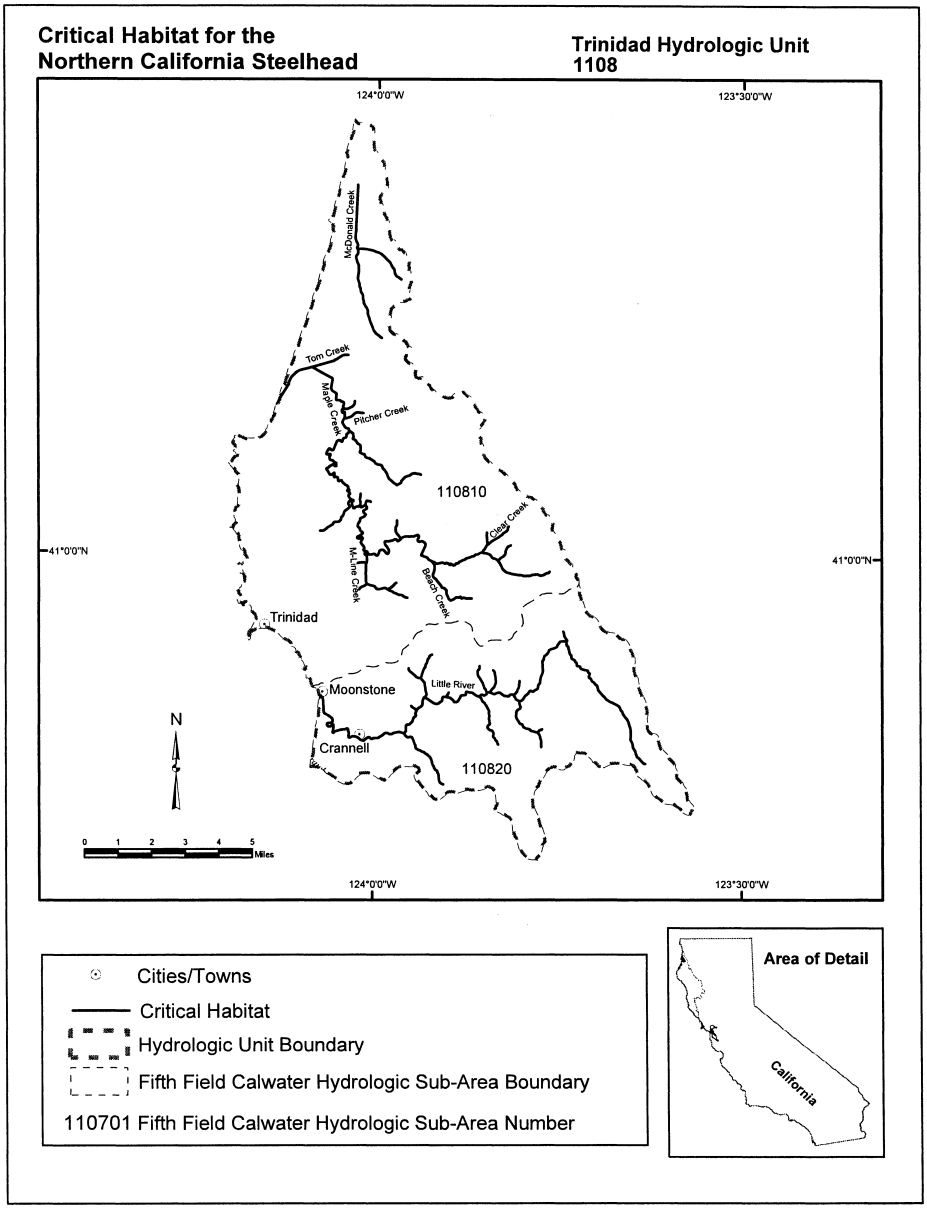
(xvi) *Wheatfield Fork Hydrologic Sub-area 111384*. Outlet(s) = Wheatfield Fork Gualala River (Lat 38.7018, Long –123.4168) upstream to endpoint(s) in: Danfield Creek (38.6369, –123.1431); Fuller Creek (38.7109, –123.3256); Haupt Creek (38.6220, –123.2551); House Creek (38.6545, –123.1184); North Fork Fuller Creek (38.7252, –123.2968); Pepperwood Creek (38.6205, –123.1665); South Fork Fuller Creek (38.6973, –123.2860); Tombs Creek (38.6989, –123.1616); Unnamed Tributary (38.7175, –123.2744); Wheatfield Fork Gualala River (38.7497, –123.2215).

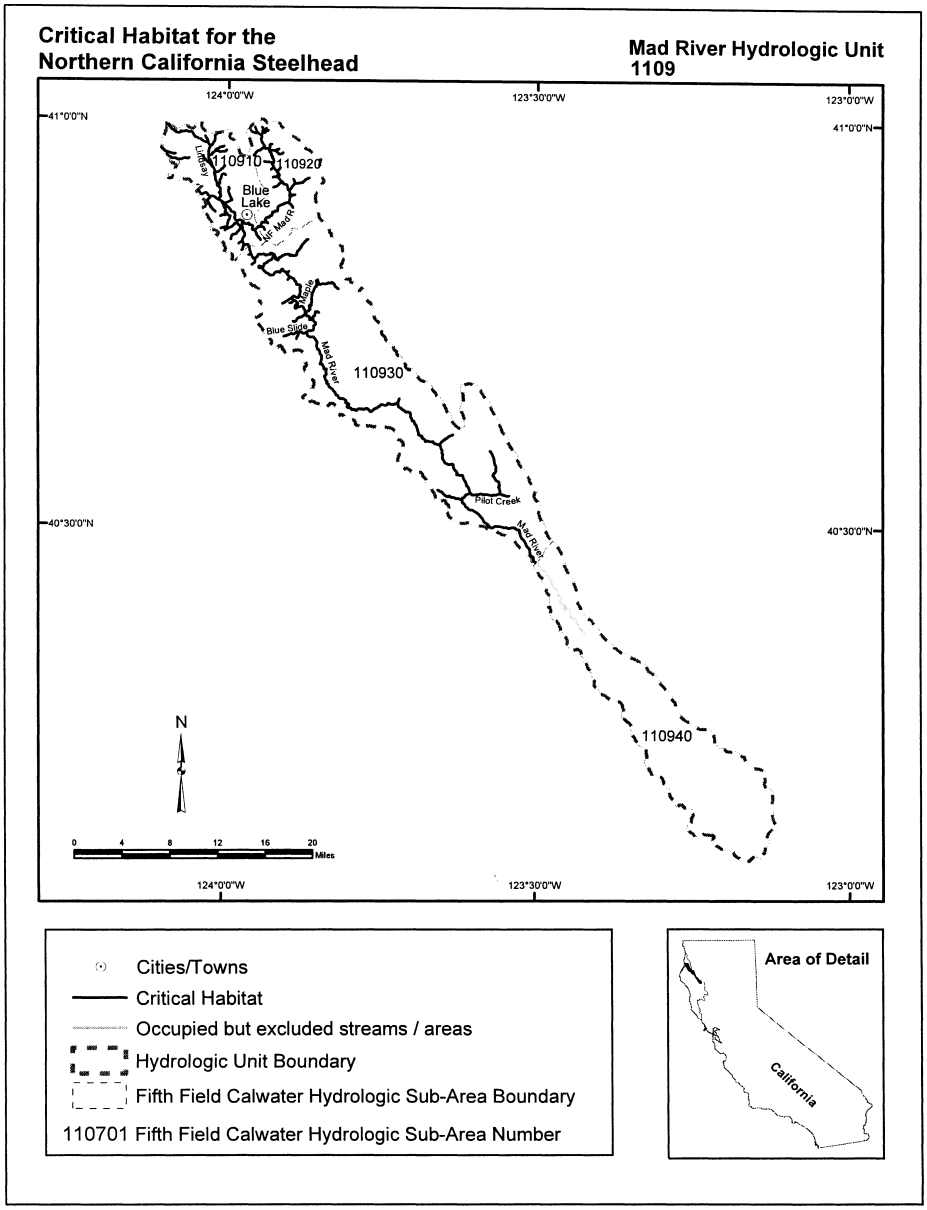
(xvii) *Gualala Hydrologic Sub-area 111385*. Outlet(s) = Fort Ross Creek (Lat 38.5119, Long –123.2436); Gualala River (38.7687, –123.5334); Kolmer Gulch (38.5238, –123.2646) upstream to endpoint(s) in: Big Pepperwood Creek (38.7951, –123.4638); Carson Creek (38.5653, –123.1906); Fort Ross Creek (38.5174, –123.2363); Groshong Gulch (38.7814, –123.4904); Gualala River (38.7780, –123.4991); Kolmer Gulch (38.5369, –123.2247); Little Pepperwood (38.7738, –123.4427); Marshall Creek (38.5647, –123.2058); McKenzie Creek (38.5895, –123.1730); Palmer Canyon Creek (38.6002, –123.2167); South Fork Gualala River (38.5646, –123.1689); Sproule Creek (38.6122, –123.2739); Turner Canyon (38.5294, –123.1672); Unknown Tributary (38.5634, –123.2003).

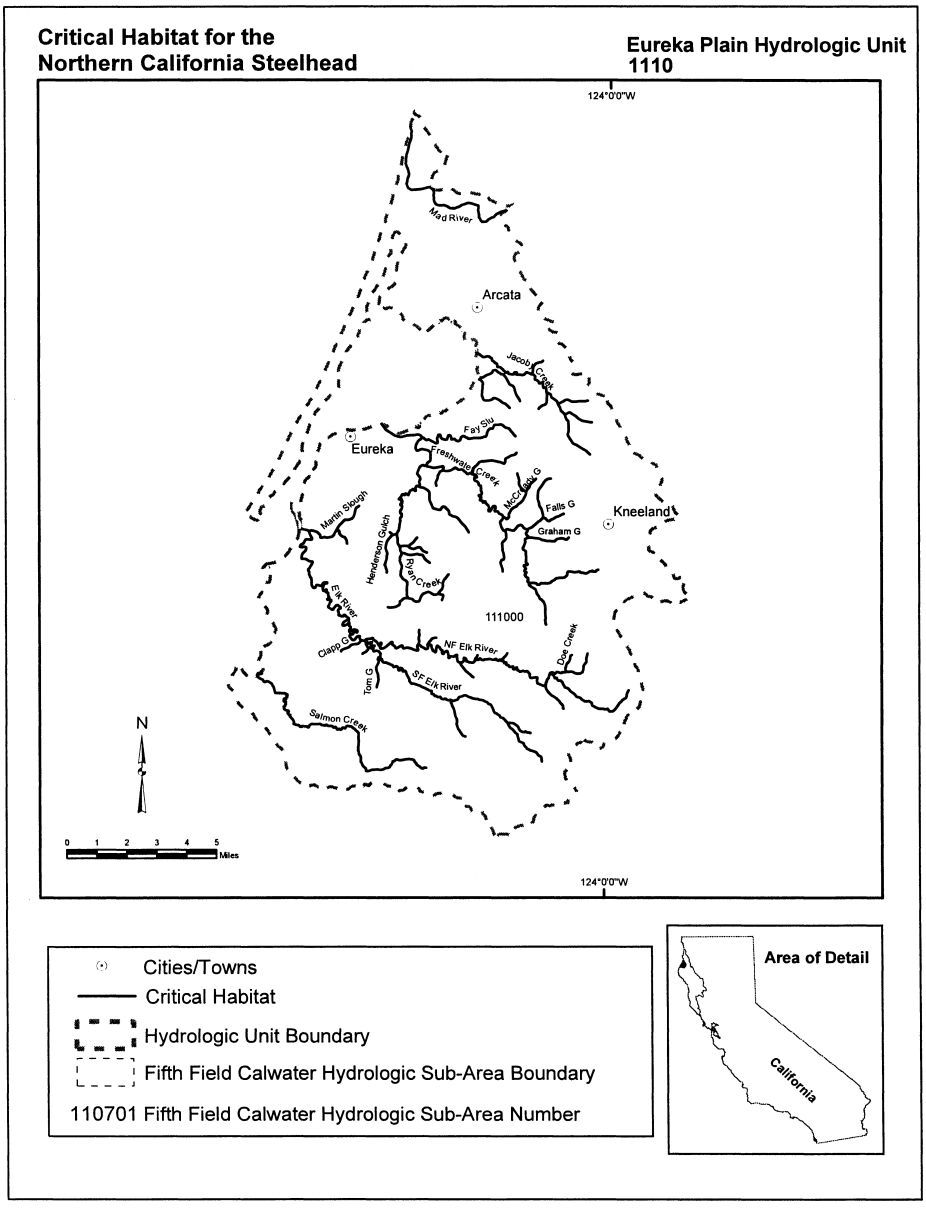
(xviii) *Russian Gulch Hydrologic Sub-area 111390*. Outlet(s) = Russian Gulch Creek (Lat 38.4669, Long –123.1569) upstream to endpoint(s) in: Russian Gulch Creek (38.4956, –123.1535); West Branch Russian Gulch Creek (38.4968, –123.1631).

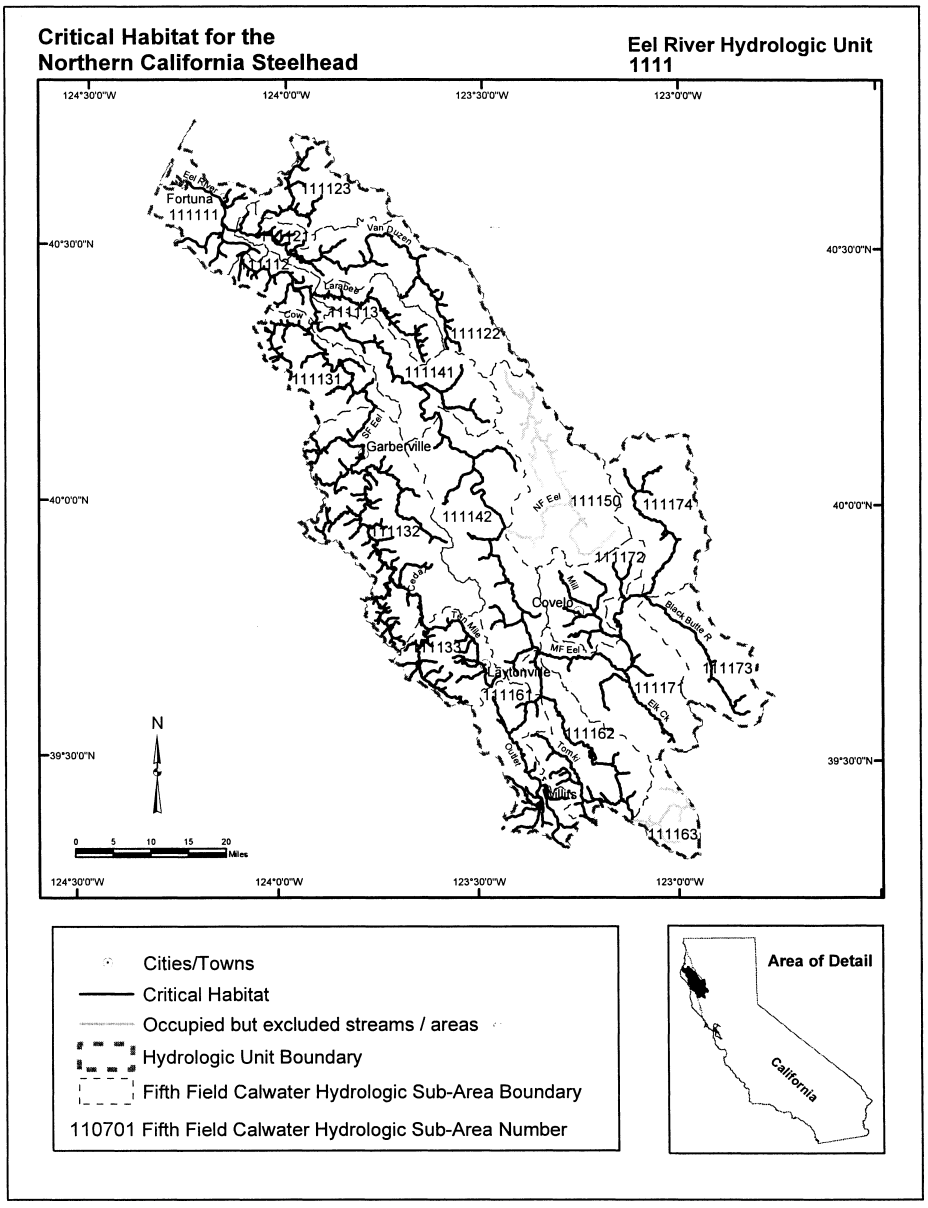
(8) Maps of critical habitat for the Northern California Steelhead ESU follow:

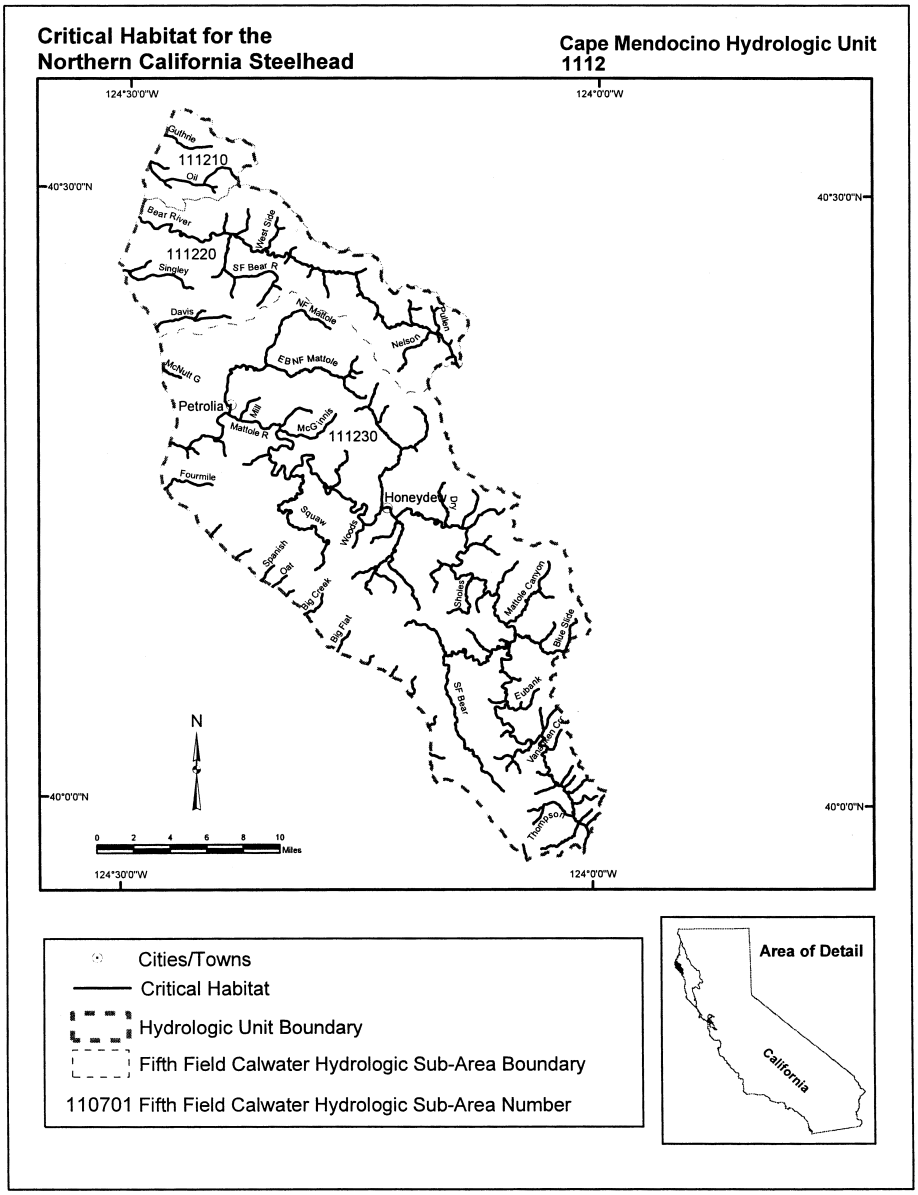

Critical Habitat for the
Northern California Steelhead
Redwood Creek Hydrologic Unit
1107
124°0'0"W
123°30'0"W
41°0'0"N
Prairie Creek
Coal Mine
Orick
110710
Redwood Creek
Coyote
Panther
110720
Lacks Creek
Minor Creek
110730
Upper Panther
N
0 2.5 5 7.5 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

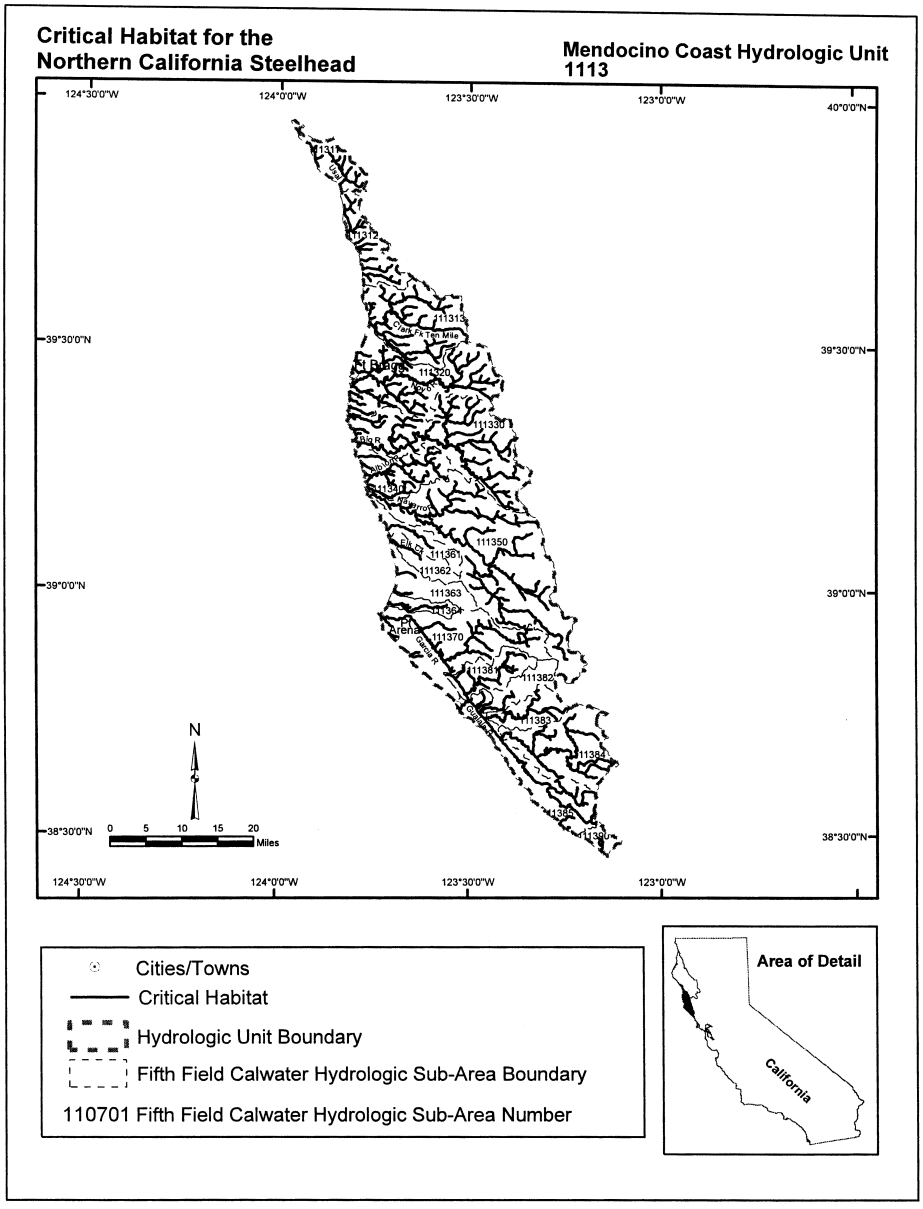

Critical Habitat for the
Northern California Steelhead
Trinidad Hydrologic Unit
1108
124°0'0"W
123°30'0"W
41°0'0"N
McDonald Creek
Tom Creek
Maple Creek
Pitcher Creek
110810
Clear Creek
McLinn Creek
Beaver Creek
Trinidad
Moonstone
Little River
Crannell
110820
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Northern California Steelhead
Mad River Hydrologic Unit
1109
124°0'0"W
123°30'0"W
123°0'0"W
41°0'0"N
40°30'0"N
110910
110920
Blue Lake
Mill Creek
Blue Slide
Mad River
110930
Pilot Creek
Mad River
110940
N
0 4 8 12 16 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Northern California Steelhead
Eureka Plain Hydrologic Unit
1110
124°0'0"W
Mad River
Arcata
Jacoby Creek
Eureka
Fay Slu
Freshwater Creek
McCullen G
Falls G
Kneeland
Graham G
Martin Slough
Henderson Gulch
Riverl Creek
Elk River
111000
Clapp Gulch
NF Elk River
Dow Creek
Tom G
SF Elk River
Salmon Creek
N
0 1 2 3 4 5
Miles
124°0'0"W
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Northern California Steelhead
Eel River Hydrologic Unit
1111
124°30'0"W
124°0'0"W
123°30'0"W
123°0'0"W
40°30'0"N
40°0'0"N
39°30'0"N
Fortuna
111111
111123
111211
111212
111213
111122
111141
111131
Garberville
111142
111132
111150
111174
111172
Covelo
111133
Laytonville
11161
11117
111173
111162
Willits
111163
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Northern California Steelhead
Cape Mendocino Hydrologic Unit
1112
124°30'0"W
124°0'0"W
40°30'0"N
40°0'0"N
Cuthie
111210
Oil
Bear River
West Side
111220
Singley
SF Bear R
Davis
NF Mattole
Nelson
EBNF Mattole
McNutt G
Petrolia
Mill
Mattole R
McGinnis
111230
Fourmile
Honeydew
Squaw
Woods
Spanish
Ont
Big Creek
Big Flat
Shipman
Mattole Canyon
Blue Slide
SF Beer
Rainbow
Thompson
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



(h) *Central California Coast Steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(1) Russian River Hydrologic Unit 1114—(i) *Guerneville Hydrologic Sub-area 111411.* Outlet(s) = Russian River (Lat 38.4507, Long –123.1289) upstream to endpoint(s) in: Atascadero Creek (38.3473, –122.8626); Austin Creek

(38.5098, –123.0680); Baumert Springs (38.4195, –122.9658); Dutch Bill Creek (38.4132, –122.9508); Duvoul Creek (38.4527, –122.9525); Fife Creek (38.5584, –122.9922); Freezeout Creek (38.4405, –123.0360); Green Valley Creek, (38.4445, –122.9185); Grub Creek (38.4411, –122.9636); Hobson Creek (38.5334, –122.9401); Hulbert Creek (38.5548, –123.0362); Jenner Gulch (38.4869, –123.0996); Kidd Creek (38.5029, –123.0935); Lancel Creek (38.4247, –122.9322); Mark West Creek (38.4961, –122.8489); Mays Canyon (38.4800, –122.9715); North Fork Lancel Creek (38.4447, –122.9444); Pocket Canyon (38.4650, –122.9267); Porter Creek (38.5435, –122.9332); Purrington Creek (38.4083, –122.9307); Sheep House Creek (38.4820, –123.0921); Smith Creek (38.4622, –122.9585); Unnamed Tributary (38.4560, –123.0246); Unnamed Tributary (38.3976, –122.8994); Unnamed Tributary (38.3772, –122.8938); Willow Creek (38.4249, –123.0022).

(ii) *Austin Creek Hydrologic Sub-area 111412*. Outlet(s) = Austin Creek (Lat 38.5098, Long –123.0680) upstream to endpoint(s) in: Austin Creek (38.6262, –123.1347); Bear Pen Creek (38.5939, –123.1644); Big Oat Creek (38.5615, –123.1299); Black Rock Creek (38.5586, –123.0730); Blue Jay Creek (38.5618, –123.1399); Conshea Creek (38.5830, –123.0824); Devil Creek (38.6163, –123.0425); East Austin Creek (38.6349, –123.1238); Gilliam Creek (38.5803, –123.0152); Gray Creek (38.6132, –123.0107); Thompson Creek (38.5747, –123.0300); Pole Mountain Creek (38.5122, –123.1168); Red Slide Creek (38.6039, –123.1141); Saint Elmo Creek (38.5130, –123.1125); Schoolhouse Creek (38.5595, –123.0175); Spring Creek (38.5041, –123.1364); Sulphur Creek (38.6187, –123.0553); Ward Creek (38.5720, –123.1547).

(iii) *Mark West Hydrologic Sub-area 111423*. Outlet(s) = Mark West Creek (Lat 38.4962, Long –122.8492) upstream to endpoint(s) in: Humbug Creek (38.5412, –122.6249); Laguna de Santa Rosa (38.4526, –122.8347); Mark West Creek (38.5187, –122.5995); Pool Creek (38.5486, –122.7641); Pruit Creek (38.5313, –122.7615); Windsor Creek (38.5484, –122.8101).

(iv) *Warm Springs Hydrologic Sub-area 111424*. Outlet(s) = Dry Creek (Lat 38.5862, Long –122.8577) upstream to endpoint(s) in: Angel Creek (38.6101, –122.9833); Crane Creek (38.6434, –122.9451); Dry Creek (38.7181, –123.0091); Dutcher Creek (38.7223, –122.9770); Felta Creek (38.5679, –122.9379); Foss Creek (38.6244, –122.8754); Grape Creek (38.6593, –122.9707); Mill Creek (38.5976, –122.9914); North Slough Creek (38.6392, –122.8888); Palmer Creek (38.5770, –122.9904); Pena Creek (38.6384, –123.0743); Redwood Log Creek (38.6705, –123.0725); Salt Creek (38.5543, –122.9133); Wallace Creek (38.6260, –122.9651); Wine Creek (38.6662, –122.9682); Woods Creek (38.6069, –123.0272).

(v) *Geyserville Hydrologic Sub-area 111425*. Outlet(s) = Russian River (Lat 38.6132, Long –122.8321) upstream to endpoint(s) in: Ash Creek (38.8556, –123.0082); Bear Creek (38.7253, –122.7038); Bidwell Creek (38.6229, –122.6320); Big Sulphur Creek (38.8279, –122.9914); Bluegum Creek (38.6988, –122.7596); Briggs Creek (38.6845, –122.6811); Coon Creek (38.7105, –122.6957); Crocker Creek (38.7771, –122.9595); Edwards Creek (38.8592, –123.0758); Foote Creek (38.6433, –122.6797); Foss Creek (38.6373, –122.8753); Franz Creek (38.5726, –122.6343); Gill Creek (38.7552, –122.8840); Gird Creek (38.7055, –122.8311); Ingalls Creek (38.7344, –122.7192); Kellog Creek (38.6753, –122.6422); Little Briggs Creek (38.7082, –122.7014); Maacama Creek (38.6743, –122.7431); McDonnell Creek (38.7354, –122.7338); Mill Creek (38.7009, –122.6490); Miller Creek (38.7211, –122.8608); Oat Valley Creek (38.8461, –123.0712); Redwood Creek (38.6342, –122.6720); Sausal Creek (38.6924, –122.7930); South Fork Gill Creek (38.7420, –122.8760); Unnamed Tributary (38.7329, –122.8601); Yellowjacket Creek (38.6666, –122.6308).

(vi) *Sulphur Creek Hydrologic Sub-area 111426*. Outlet(s) = Big Sulphur Creek (Lat 38.8279, Long –122.9914) upstream to endpoint(s) in: Alder Creek (38.8503, –122.8953); Anna Belcher Creek (38.7537, –122.7586); Big Sulphur Creek (38.8243, –122.8774); Frasier Creek (38.8439, –122.9341); Humming Bird Creek (38.8460, –122.8596); Little Sulphur Creek (38.7469, –122.7425); Lovers Gulch (38.7396, –122.8275); North Branch Little Sulphur Creek (38.7783, –122.8119); Squaw Creek (38.8199, –122.7945).

(vii) *Ukiah Hydrologic Sub-area 111431*. Outlet(s) = Russian River (Lat 38.8828, Long –123.0557) upstream to endpoint(s) in: Pieta Creek (38.8622, –122.9329).

(viii) *Forsythe Creek Hydrologic Sub-area 111433*. Outlet(s) = West Branch Russian River (Lat 39.2257, Long –123.2012) upstream to endpoint(s) in: Bakers Creek (39.2859, –123.2432); Eldridge Creek (39.2250, –123.3309); Forsythe Creek (39.2976, –123.2963); Jack Smith Creek (39.2754, –123.3421); Mariposa Creek (39.3472, –123.2625); Mill Creek (39.2969, –123.3360); Salt Hollow Creek (39.2585, –123.1881); Seward Creek (39.2606, –123.2646); West Branch Russian River (39.3642, –123.2334).

(2) Bodega Hydrologic Unit 1115—(i) *Salmon Creek Hydrologic Sub-area 111510*. Outlet(s) = Salmon Creek (Lat 38.3554, Long –123.0675) upstream to endpoint(s) in: Coleman Valley Creek (38.3956, –123.0097); Faye Creek (38.3749, –123.0000); Finley Creek (38.3707, –123.0258); Salmon Creek (38.3877, –122.9318); Tannery Creek (38.3660, –122.9808).

(ii) *Estero Americano Hydrologic Sub-area 111530*. Outlet(s) = Estero Americano (Lat 38.2939, Long –123.0011) upstream to endpoint(s) in: Estero Americano (38.3117, –122.9748); Ebabias Creek (38.3345, –122.9759).

(3) Marin Coastal Hydrologic Unit 2201—(i) *Walker Creek Hydrologic Sub-area 220112*. Outlet(s) = Walker Creek (Lat 38.2213, Long –122.9228); Millerton Gulch (38.1055, –122.8416) upstream to endpoint(s) in: Chileno Creek (38.2145, –122.8579); Frink Canyon (38.1761, –122.8405); Millerton Gulch (38.1376, –122.8052); Verde Canyon (38.1630, –122.8116); Unnamed Tributary (38.1224, –122.8095); Walker Creek (38.1617, –122.7815).

(ii) *Lagunitas Creek Hydrologic Sub-area 220113*. Outlet(s) = Lagunitas Creek (Lat 38.0827, Long –122.8274) upstream to endpoint(s) in: Cheda Creek (38.0483, –122.7329); Devil's Gulch (38.0393, –122.7128); Giacomini Creek (38.0075, –122.7386); Horse Camp Gulch (38.0078, –122.7624); Lagunitas Creek (37.9974, –122.7045); Olema Creek (37.9719, –122.7125); Quarry Gulch (38.0345, –122.7639); San Geronimo Creek (38.0131, –122.6499); Unnamed Tributary (37.9893, –122.7328); Unnamed Tributary (37.9976, –122.7553).

(iii) *Point Reyes Hydrologic Sub-area 220120*. Outlet(s) = Creamery Bay Creek (Lat 38.0779, Long –122.9572); East Schooner Creek (38.0913, –122.9293); Home Ranch (38.0705, –122.9119); Laguna Creek (38.0235, –122.8732); Muddy Hollow Creek (38.0329, –122.8842) upstream to endpoint(s) in: Creamery Bay Creek (38.0809, –122.9561); East Schooner Creek (38.0928, –122.9159); Home Ranch Creek (38.0784, –122.9038); Laguna Creek (38.0436, –122.8559); Muddy Hollow Creek (38.0549, –122.8666).

(iv) *Bolinas Hydrologic Sub-area 220130*. Outlet(s) = Easkoot Creek (Lat 37.9026, Long –122.6474); McKinnon Gulch (37.9126, –122.6639); Morse Gulch (37.9189, –122.6710); Pine Gulch Creek (37.9218, –122.6882); Redwood Creek (37.8595, –122.5787); Stinson Gulch (37.9068, –122.6517); Wilkins Creek (37.9343, –122.6967) upstream to endpoint(s) in: Easkoot Creek (37.8987, –122.6370); Kent Canyon (37.8866, –122.5800); McKinnon Gulch (37.9197, –122.6564); Morse Gulch (37.9240, –122.6618); Pine Gulch Creek (37.9557, –122.7197); Redwood Creek (37.9006, –122.5787); Stinson Gulch (37.9141, –122.6426); Wilkins Creek (37.9450, –122.6910).

(4) San Mateo Hydrologic Unit 2202—(i) *San Mateo Coastal Hydrologic Sub-area 220221*. Outlet(s) = Denniston Creek (37.5033, –122.4869); Frenchmans Creek (37.4804, –122.4518); San Pedro Creek (37.5964, –122.5057) upstream to endpoint(s) in: Denniston Creek (37.5184, –122.4896); Frenchmans Creek (37.5170, –122.4332); Middle Fork San Pedro Creek (37.5758, –122.4591); North Fork San Pedro Creek (37.5996, –122.4635).

(ii) *Half Moon Bay Hydrologic Sub-area 220222*. Outlet(s) = Pilarcitos Creek (Lat 37.4758, Long –122.4493) upstream to endpoint(s) in: Apanolio Creek (37.5202, –122.4158); Arroyo Leon Creek (37.4560, –122.3442); Mills Creek (37.4629, –122.3721); Pilarcitos Creek (37.5259, –122.3980); Unnamed Tributary (37.4705, –122.3616).

(iii) *Tunitas Creek Hydrologic Sub-area 220223*. Outlet(s) = Lobitos Creek (Lat 37.3762, Long –122.4093); Tunitas Creek (37.3567, –122.3999) upstream to endpoint(s) in: East Fork Tunitas Creek (37.3981, –122.3404); Lobitos Creek (37.4246, –122.3586); Tunitas Creek (37.4086, –122.3502).

(iv) *San Gregorio Creek Hydrologic Sub-area 220230*. Outlet(s) = San Gregorio Creek (Lat 37.3215, Long –122.4030) upstream to endpoint(s) in: Alpine Creek (37.3062, –122.2003); Bogess Creek (37.3740, –122.3010); El Corte Madera Creek (37.3650, –122.3307); Harrington Creek (37.3811, –122.2936); La Honda Creek (37.3680, –122.2655); Langley Creek (37.3302, –122.2420); Mindego Creek (37.3204, –122.2239); San Gregorio Creek (37.3099, –122.2779); Woodruff Creek (37.3415, –122.2495).

(v) *Pescadero Creek Hydrologic Sub-area 220240*. Outlet(s) = Pescadero Creek (Lat 37.2669, Long –122.4122); Pomponio Creek (37.2979, –122.4061) upstream to endpoint(s) in: Bradley Creek (37.2819, –122.3802); Butano Creek (37.2419, –122.3165); Evans Creek (37.2659, –122.2163); Honsinger Creek (37.2828, –122.3316); Little Boulder Creek (37.2145, –122.1964); Little Butano Creek (37.2040, –122.3492); Oil Creek (37.2572, –122.1325); Pescadero Creek (37.2320, –122.1553); Lambert Creek (37.3014, –122.1789); Peters Creek (37.2883, –122.1694); Pomponio Creek (37.3030, –122.3805); Slate Creek (37.2530, –122.1935); Tarwater Creek (37.2731, –122.2387); Waterman Creek (37.2455, –122.1568).

(5) Bay Bridge Hydrologic UnitT 2203—(i) *San Rafael Hydrologic Sub-area 220320*. Outlet(s) = Arroyo Corte Madera del Presidio (Lat 37.8917, Long –122.5254); Corte Madera Creek (37.9425, –122.5059) upstream to endpoint(s) in: Arroyo Corte Madera del Presidio (37.9298, –122.5723); Cascade Creek (37.9867, –122.6287); Cascade Creek (37.9157, –122.5655); Larkspur Creek (37.9305, –122.5514); Old Mill Creek (37.9176, –122.5746); Ross Creek (37.9558, –122.5752); San Anselmo Creek (37.9825, –122.6420); Sleepy Hollow Creek (38.0074, –122.5794); Tamalpais Creek (37.9481, –122.5674).

(ii) [Reserved]

(6) Santa Clara Hydrologic Unit 2205—(i) *Coyote Creek Hydrologic Sub-area 220530*. Outlet(s) = Coyote Creek (Lat 37.4629, Long –121.9894; 37.2275, –121.7514) upstream to endpoint(s) in: Arroyo Aguague (37.3907, –121.7836); Coyote Creek (37.2778, –121.8033; 37.1677, –121.6301); Upper Penitencia Creek (37.3969, –121.7577).

(ii) *Guadalupe River—San Jose Hydrologic Sub-area 220540*. Outlet(s) = Coyote Creek (Lat 37.2778, Long –121.8033) upstream to endpoint(s) in: Coyote Creek (37.2275, –121.7514).

(iii) *Palo Alto Hydrologic Sub-area 220550*. Outlet(s) = Guadalupe River (Lat 37.4614, Long –122.0240); San Francisquito Creek (37.4658, –122.1152); Stevens Creek (37.4456, –122.0641) upstream to endpoint(s) in: Bear Creek (37.4164, –122.2690); Corte Madera Creek (37.4073, –122.2378); Guadalupe River (37.3499, –.121.9094); Los Trancos (37.3293, –122.1786); McGarvey Gulch (37.4416, –122.2955); Squealer Gulch (37.4335, –122.2880); Stevens Creek (37.2990, –122.0778); West Union Creek (37.4528, –122.3020).

(7) San Pablo Hydrologic Unit 2206—(i) *Petaluma River Hydrologic Sub-area 220630*. Outlet(s) = Petaluma River (Lat 38.1111, Long –122.4944) upstream to endpoint(s) in: Adobe Creek (38.2940, –122.5834); Lichau Creek (38.2848, –122.6654); Lynch Creek (38.2748, –122.6194); Petaluma River (38.3010, –122.7149); Schultz Slough (38.1892, –122.5953); San Antonio Creek (38.2049, –122.7408); Unnamed Tributary (38.3105, –122.6146); Willow Brook (38.3165, –122.6113).

(ii) *Sonoma Creek Hydrologic Sub-area 220640*. Outlet(s) = Sonoma Creek (Lat 38.1525, Long –122.4050) upstream to endpoint(s) in: Agua Caliente Creek (38.3368, –122.4518); Asbury Creek (38.3401, –122.5590); Bear Creek (38.4656, –122.5253); Calabazas Creek (38.4033, –122.4803); Carriger Creek (38.3031, –122.5336); Graham Creek (38.3474, –122.5607); Hooker Creek (38.3809, –122.4562); Mill Creek (38.3395, –122.5454); Nathanson Creek (38.3350, –122.4290); Rodgers Creek (38.2924, –122.5543); Schell Creek (38.2554, –122.4510); Sonoma Creek (38.4507, –122.4819); Stuart Creek (38.3936, –122.4708); Yulupa Creek (38.3986, –122.5934).

(iii) *Napa River Hydrologic Sub-area 220650*. Outlet(s) = Napa River (Lat 38.0786, Long –122.2468) upstream to endpoint(s) in: Bale Slough (38.4806, –122.4578); Bear Canyon Creek (38.4512, –122.4415); Bell Canyon Creek (38.5551, –122.4827); Brown's Valley Creek (38.3251, –122.3686); Canon Creek (38.5368, –122.4854); Carneros Creek (38.3108, –122.3914); Conn Creek (38.4843, –122.3824); Cyrus Creek (38.5776, –122.6032); Diamond Mountain Creek

(38.5645, –122.5903); Dry Creek (38.4334, –122.4791); Dutch Henery Creek (38.6080, –122.5253); Garnett Creek (38.6236, –122.5860); Huichica Creek (38.2811, –122.3936); Jericho Canyon Creek (38.6219, –122.5933); Miliken Creek (38.3773, –122.2280); Mill Creek (38.5299, –122.5513); Murphy Creek (38.3155, –122.2111); Napa Creek (38.3047, –122.3134); Napa River (38.6638, –122.6201); Pickle Canyon Creek (38.3672, –122.4071); Rector Creek (38.4410, –122.3451); Redwood Creek (38.3765, –122.4466); Ritchie Creek (38.5369, –122.5652); Sarco Creek (38.3567, –122.2071); Soda Creek (38.4156, –122.2953); Spencer Creek (38.2729, –122.1909); Sulphur Creek (38.4895, –122.5088); Suscol Creek (38.2522, –122.2157); Tulucay Creek (38.2929, –122.2389); Unnamed Tributary (38.4248, –122.4935); Unnamed Tributary (38.4839, –122.5161); York Creek (38.5128, –122.5023).

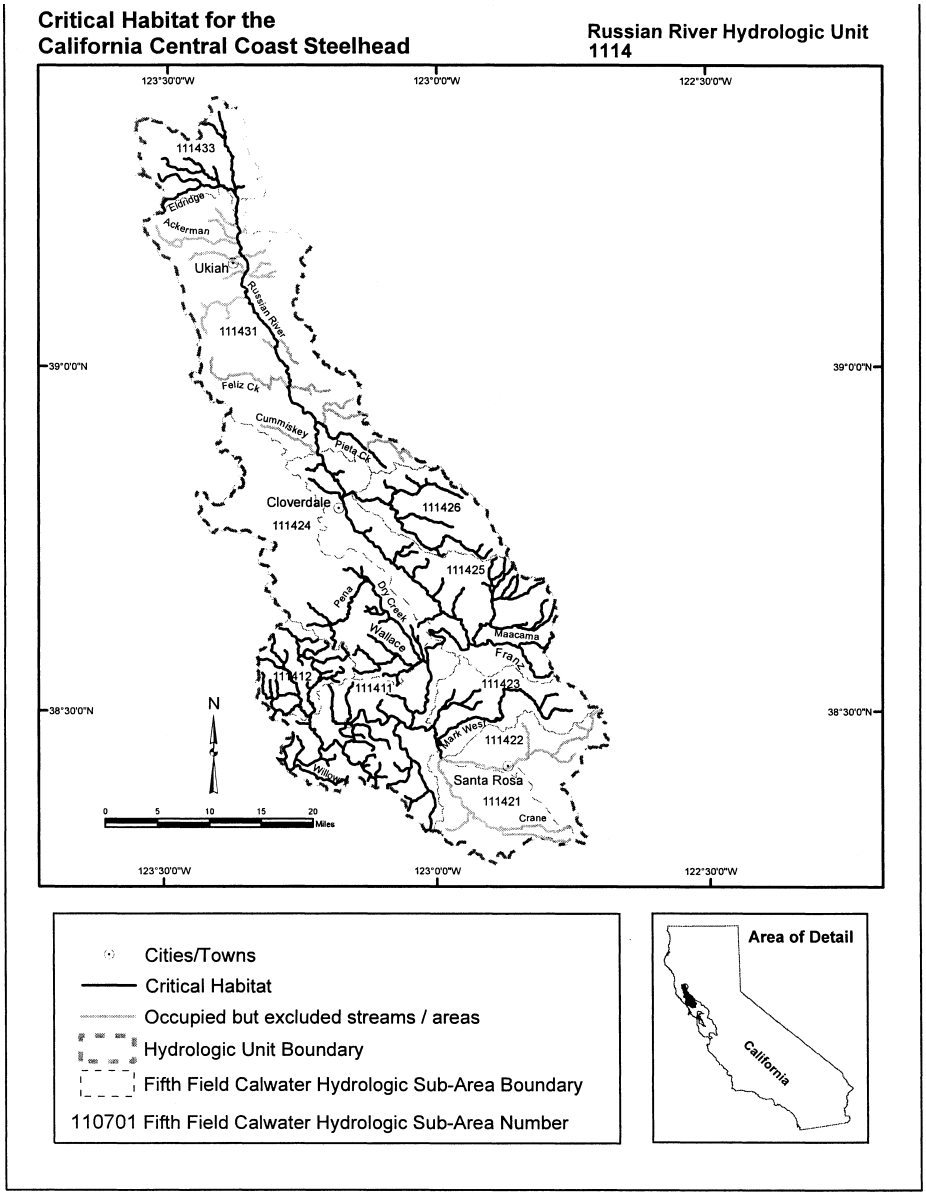
(8) Big Basin Hydrologic Unit 3304—(i) *Davenport Hydrologic Sub-area 330411*. Outlet(s) = Baldwin Creek (Lat 36.9669, –122.1232); Davenport Landing Creek (37.0231, –122.2153); Laguna Creek (36.9824, –122.1560); Liddell Creek (37.0001, –122.1816); Majors Creek (36.9762, –122.1423); Molino Creek (37.0368, –122.2292); San Vicente Creek (37.0093, –122.1940); Scott Creek (37.0404, –122.2307); Waddell Creek (37.0935, –122.2762); Wilder Creek (36.9535, –122.0775) upstream to endpoint(s) in: Baldwin Creek (37.0126, –122.1006); Bettencourt Creek (37.1081, –122.2386); Big Creek (37.0832, –122.2175); Davenport Landing Creek (37.0475, –122.1920); East Branch Waddell Creek (37.1482, –122.2531); East Fork Liddell Creek (37.0204, –122.1521); Henry Creek (37.1695, –122.2751); Laguna Creek (37.0185, –122.1287); Little Creek (37.0688, –122.2097); Majors Creek (36.9815, –122.1374); Middle Fork East Fork Liddell Creek (37.0194, –122.1608); Mill Creek (37.1034, –122.2218); Mill Creek (37.0235, –122.2218); Molino Creek (37.0384, –122.2125); Peasley Gulch (36.9824, –122.0861); Queseria Creek (37.0521, –122.2042); San Vicente Creek (37.0417, –122.1741); Scott Creek (37.1338, –122.2306); West Branch Waddell Creek (37.1697, –122.2642); West Fork Liddell Creek (37.0117, –122.1763); Unnamed Tributary (37.0103, –122.0701); Wilder Creek (37.0107, –122.0770).

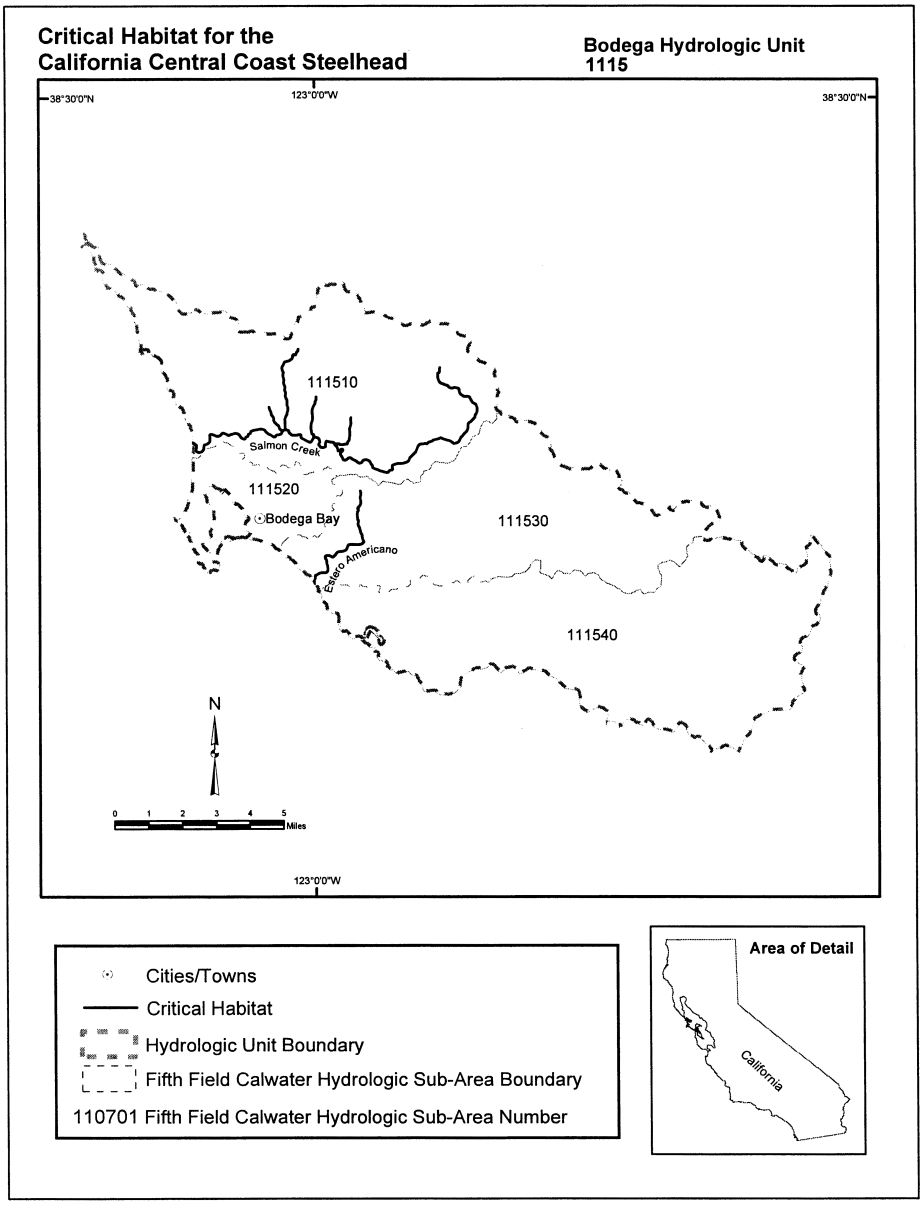
(ii) *San Lorenzo Hydrologic Sub-area 330412*. Outlet(s) = Arana Gulch Creek (Lat 36.9676, Long –122.0028); San Lorenzo River (36.9641, –122.0125) upstream to endpoint(s) in: Arana Gulch Creek (37.0270, –121.9739); Bean Creek (37.0956, –122.0022); Bear Creek (37.1711, –122.0750); Boulder Creek (37.1952, –122.1892); Bracken Brae Creek (37.1441, –122.1459); Branciforte Creek (37.0701, –121.9749); Crystal Creek (37.0333, –121.9825); Carbonera Creek (37.0286, –122.0202); Central Branch Arana Gulch Creek (37.0170, –121.9874); Deer Creek (37.2215, –122.0799); Fall Creek (37.0705, –122.1063); Gold Gulch Creek (37.0427, –122.1018); Granite Creek (37.0490, –121.9979); Hare Creek (37.1544, –122.1690); Jameson Creek (37.1485, –122.1904); Kings Creek (37.2262, –122.1059); Lompico Creek (37.1250, –122.0496); Mackenzie Creek (37.0866, –122.0176); Mountain Charlie Creek (37.1385, –121.9914); Newell Creek (37.1019, –122.0724); San Lorenzo River (37.2276, –122.1384); Two Bar Creek (37.1833, –122.0929); Unnamed Tributary (37.2106, –122.0952); Unnamed Tributary (37.2032, –122.0699); Zayante Creek (37.1062, –122.0224).

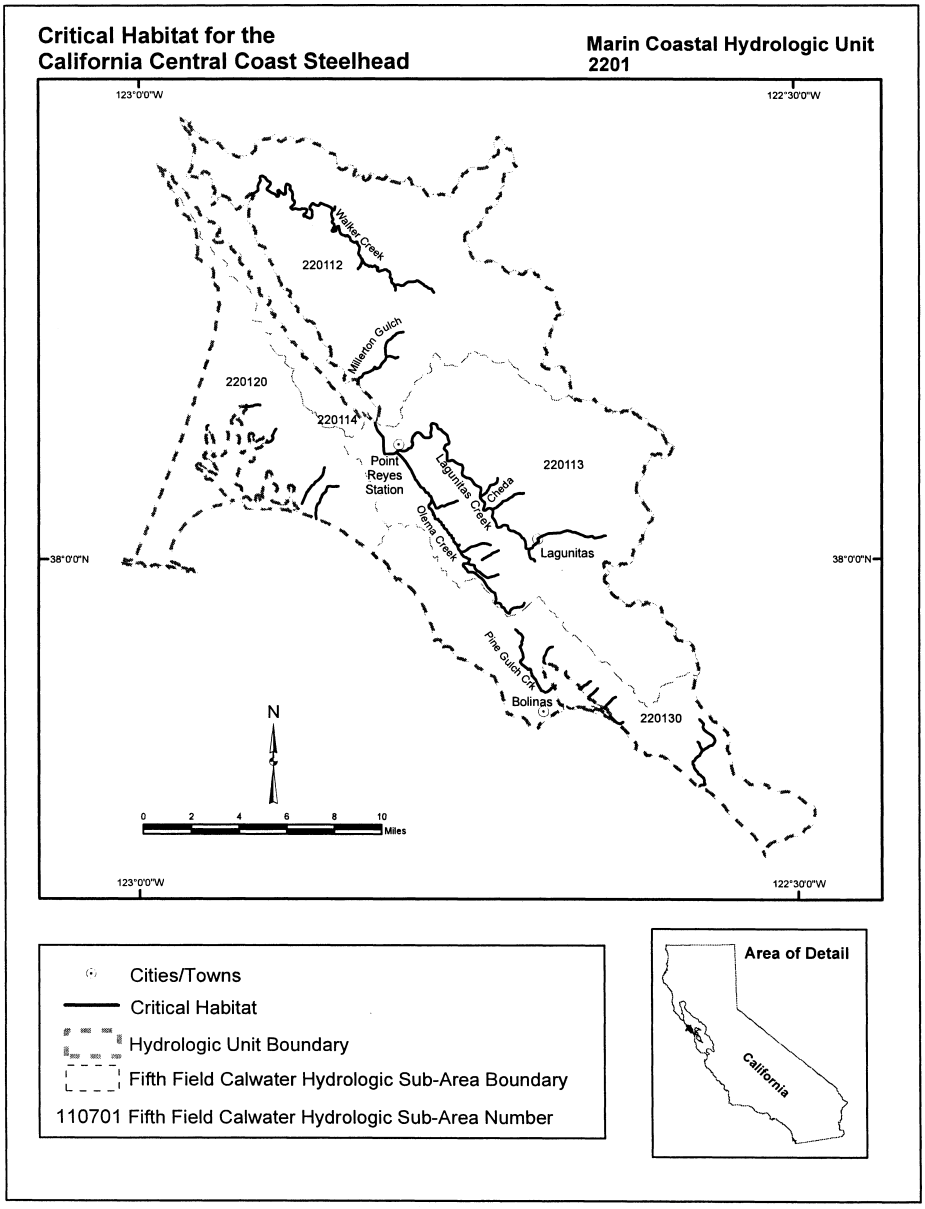
(iii) *Aptos-Soquel Hydrologic Sub-area 330413*. Outlet(s) = Aptos Creek (Lat 36.9692, Long –121.9065); Soquel Creek (36.9720, –121.9526) upstream to endpoint(s) in: Amaya Creek (37.0930, –121.9297); Aptos Creek (37.0545, –121.8568); Bates Creek (37.0099, –121.9353); Bridge Creek (37.0464, –121.8969); East Branch Soquel Creek (37.0690, –121.8297); Hester Creek (37.0967, –121.9458); Hinckley Creek (37.0671, –121.9069); Moores Gulch (37.0573, –121.9579); Valencia Creek (37.0323, –121.8493); West Branch Soquel Creek (37.1095, –121.9606).

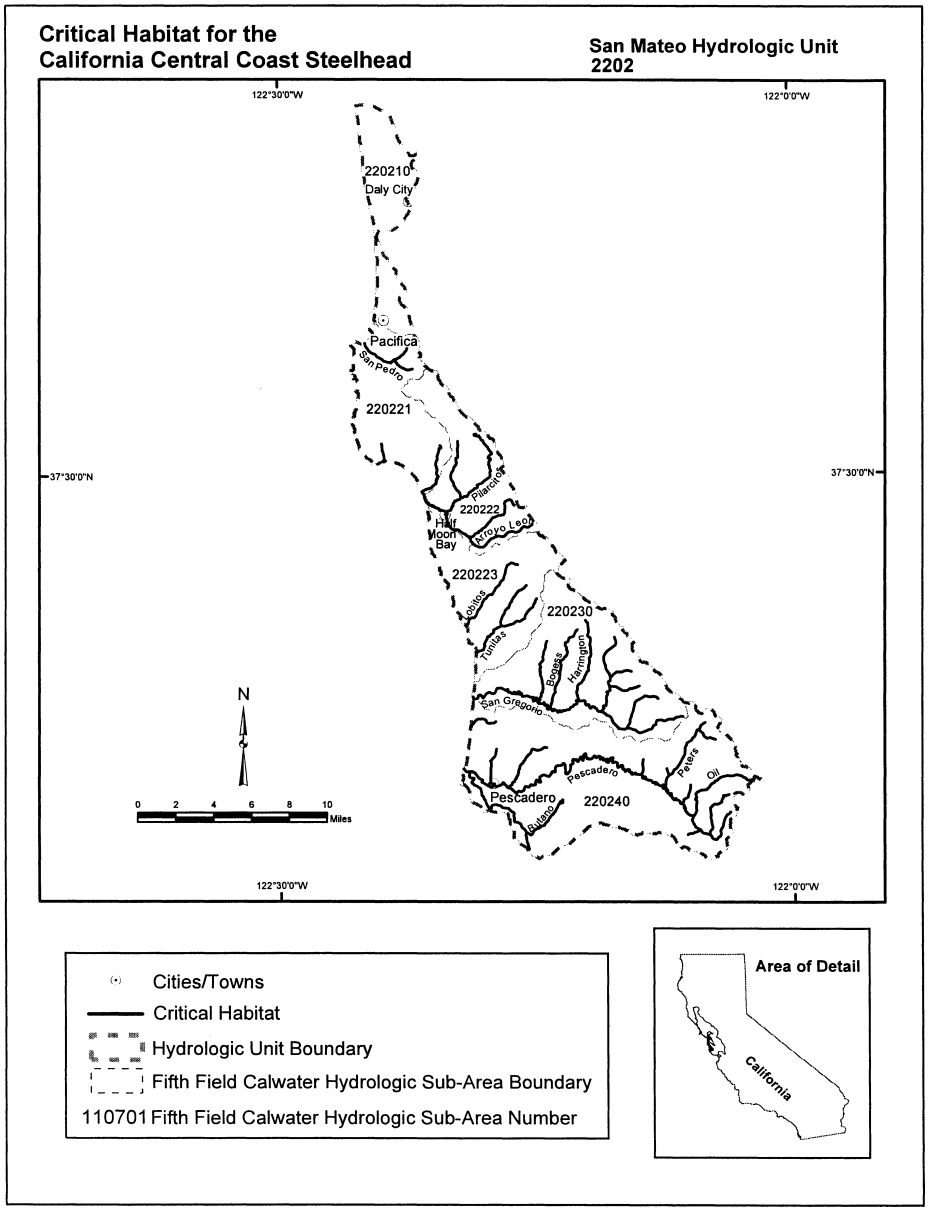
(iv) *Ano Nuevo Hydrologic Sub-area 330420*. Outlet(s) = Ano Nuevo Creek (Lat 37.1163, Long –122.3060); Gazos Creek (37.1646, –122.3625); Whitehouse Creek (37.1457, –122.3469) upstream to endpoint(s) in: Ano Nuevo Creek (37.1269, –122.3039); Bear Gulch (37.1965, –122.2773); Gazos Creek (37.2088, –122.2868); Old Womans Creek (37.1829, –122.3033); Whitehouse Creek (37.1775, –122.2900).

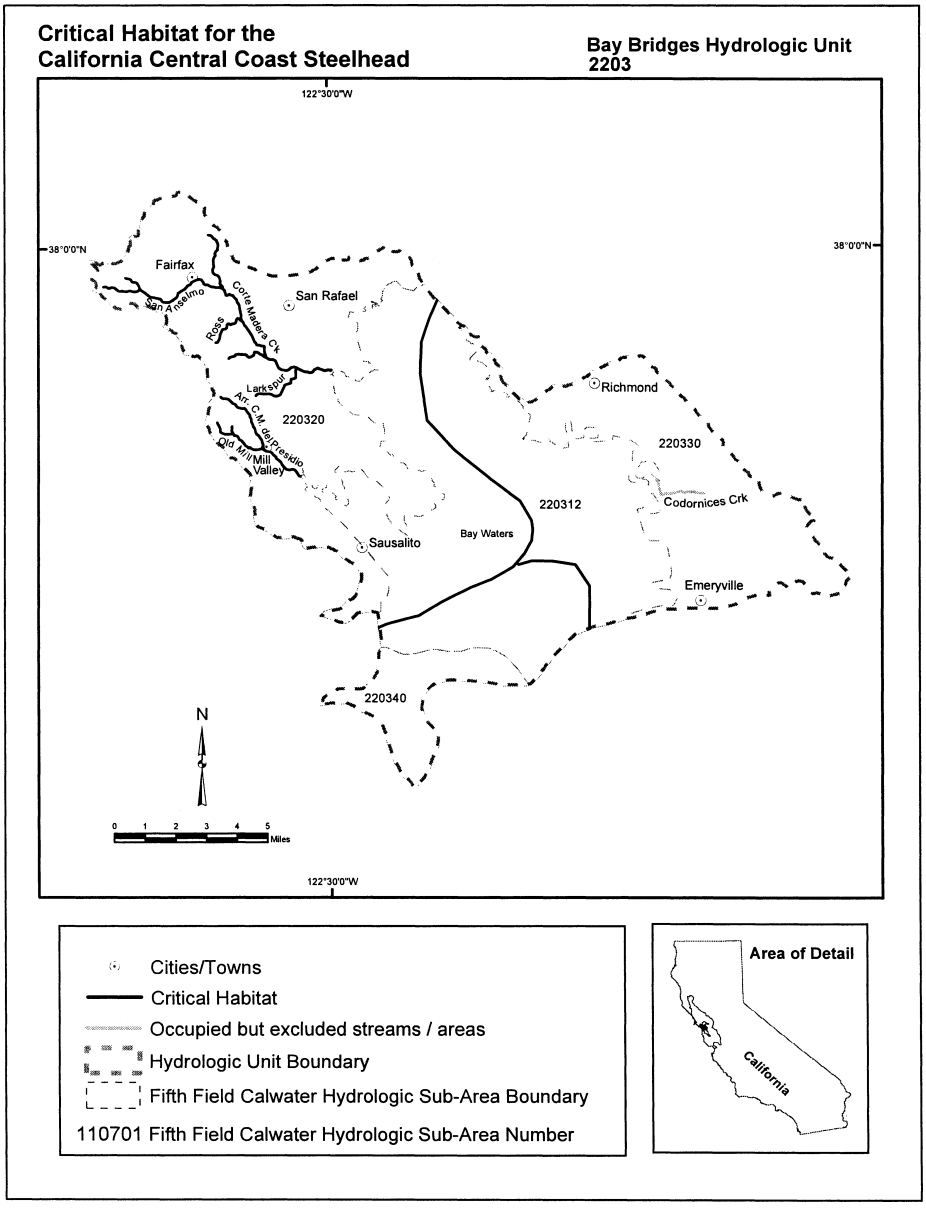
(9) Maps of critical habitat for the Central California Coast Steelhead ESU follow:

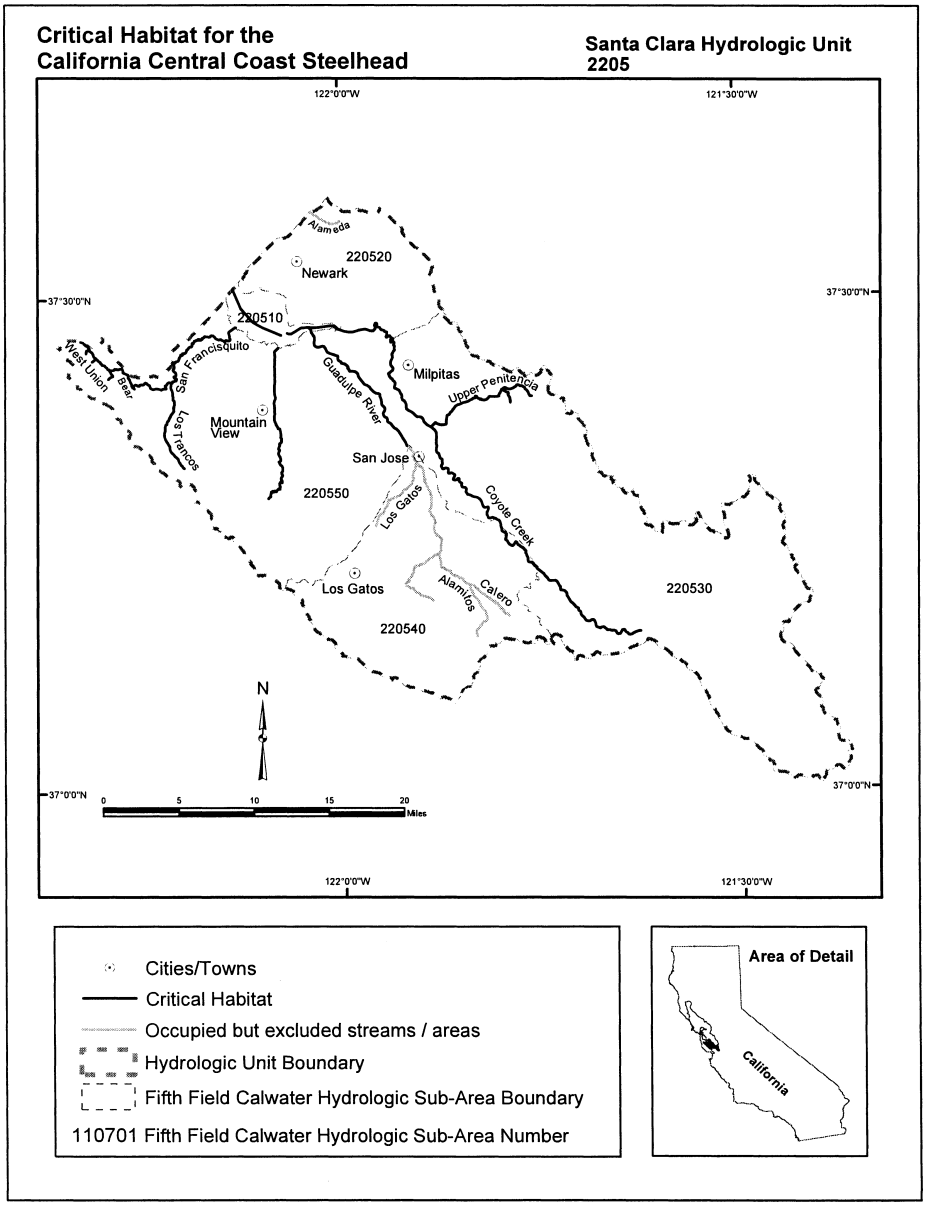


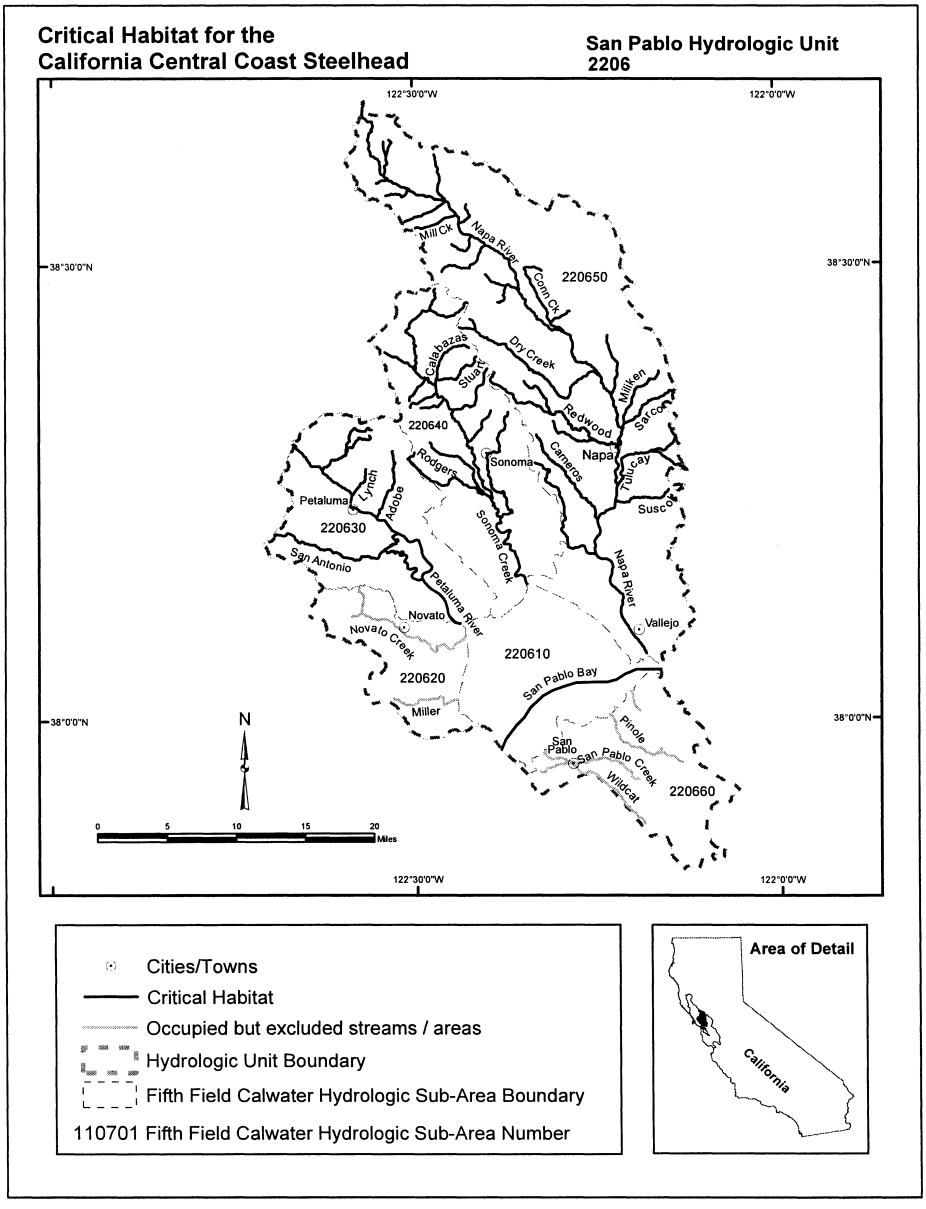

Critical Habitat for the
California Central Coast Steelhead
Bodega Hydrologic Unit
1115
38°30'0"N
123°0'0"W
38°30'0"N
111510
Salmon Creek
111520
Bodega Bay
111530
Estero Americano
111540
N
0 1 2 3 4 5
Miles
123°0'0"W
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

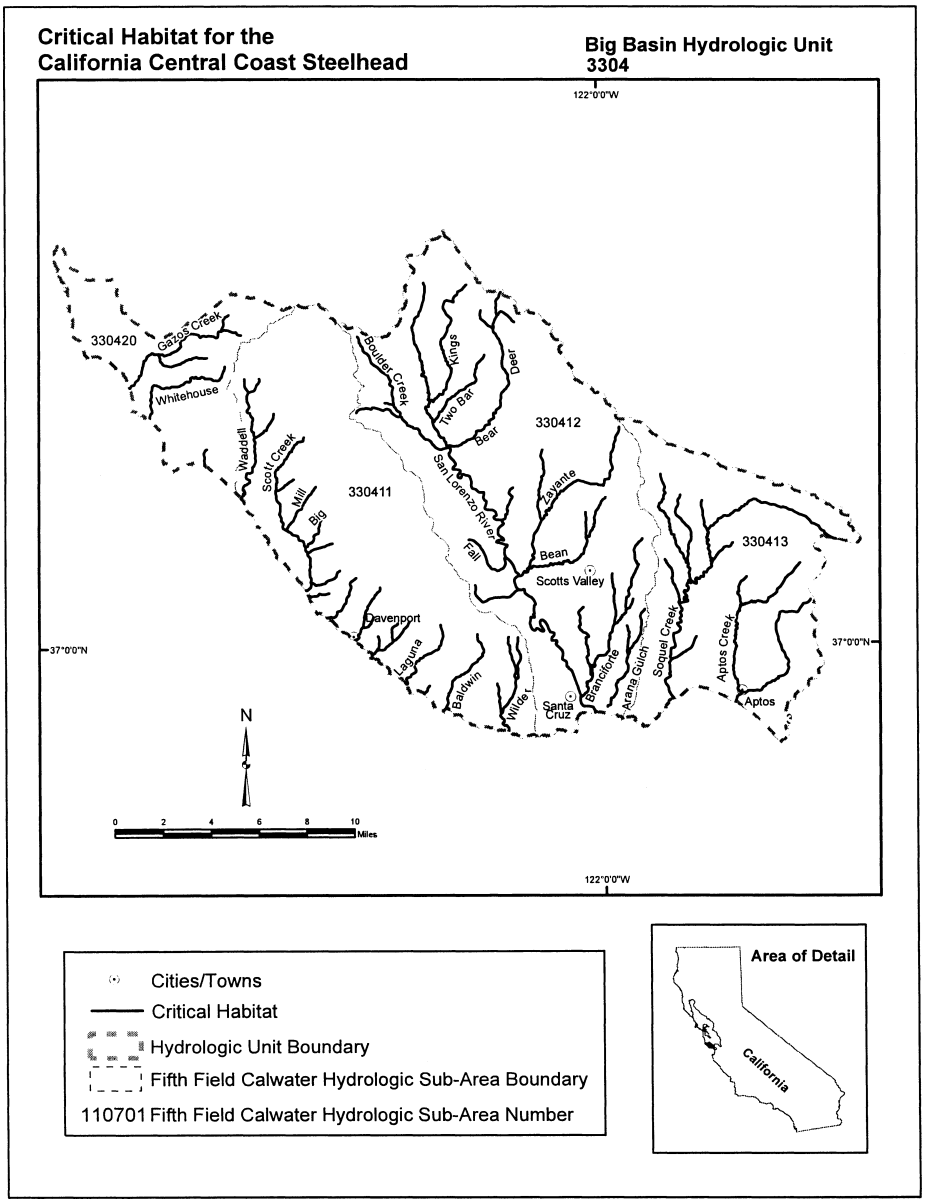

Critical Habitat for the
California Central Coast Steelhead
Marin Coastal Hydrologic Unit
2201
123°0'0"W
122°30'0"W
38°0'0"N
Walker Creek
220112
Millerton Gulch
220120
220114
Point
Reyes
Station
220113
Lagunitas Creek
Chela
Olema Creek
Lagunitas
Pine Gulch Crk
Bolinas
220130
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Coast Steelhead
San Mateo Hydrologic Unit
2202
122°30'0"W
122°0'0"W
37°30'0"N
220210
Daly City
Pacifica
San Pedro
220221
Pilarcitos
220222
Half Moon Bay
Arroyo Leon
220223
Lobitos
Tunitas
220230
Bogess
Harrington
San Gregorio
Pescadero
Butano
Peters
Oil
220240
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Coast Steelhead
Bay Bridges Hydrologic Unit
2203
122°30'0"W
38°0'0"N
Fairfax
San Anselmo
Corte Madera Ck
San Rafael
Ross
Larkspur
Arr. C.M. del Presidio
Old Mill
Mill Valley
220320
Richmond
220330
220312
Codornices Crk
Bay Waters
Sausalito
Emeryville
220340
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Coast Steelhead
Santa Clara Hydrologic Unit
2205
122°0'0"W
121°30'0"W
37°30'0"N
37°0'0"N
Alameda
220520
Newark
220510
San Francisquito
West Union Creek
Los Trancos
Mountain View
Guadalupe River
Milpitas
Upper Penitencia
San Jose
220550
Los Gatos
Coyote Creek
Los Gatos
Alamitos
Calero
220530
220540
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Coast Steelhead
San Pablo Hydrologic Unit
2206
122°30'0"W
122°0'0"W
38°30'0"N
38°0'0"N
Mill Ck
Napa River
Conn Ck
220650
Dry Creek
Calabazas
Sulphur
Milliken
Sarco
Redwood
220640
Rodgers
Sonoma
Napa
Tulucay
Carneros
Lynch
Adobe
Petaluma
Suscol
220630
Sonoma Creek
San Antonio
Petaluma River
Napa River
Novato
Vallejo
Novato Creek
220610
220620
San Pablo Bay
Miller
Pinole
San Pablo
San Pablo Creek
Wildcat
220660
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



(i) *South-Central California Coast Steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(1) Pajaro River Hydrologic Unit 3305—(i) *Watsonville Hydrologic Sub-area 330510.* Outlet(s) = Pajaro River (Lat 36.8506, Long –121.8101) upstream to endpoint(s) in: Banks Canyon Creek (36.9958, –121.7264); Browns Creek

(37.0255, –121.7754); Casserly Creek (36.9902, –121.7359); Corralitos Creek (37.0666, –121.8359); Gaffey Creek (36.9905, –121.7132); Gamecock Canyon (37.0362, –121.7587); Green Valley Creek (37.0073, –121.7256); Ramsey Gulch (37.0447, –121.7755); Redwood Canyon (37.0342, –121.7975); Salsipuedes Creek (36.9350, –121.7426); Shingle Mill Gulch (37.0446, –121.7971).

(ii) *Santa Cruz Mountains Hydrologic Sub-area 330520*. Outlet(s) = Pajaro River (Lat 36.9010, Long –121.5861); Bodfish Creek (37.0041, –121.6667); Pescadero Creek (36.9125, –121.5882); Tar Creek (36.9304, –121.5520); Uvas Creek (37.0146, –121.6314) upstream to endpoint(s) in: Blackhawk Canyon (37.0168, –121.6912); Bodfish Creek (36.9985, –121.6859); Little Arthur Creek (37.0299, –121.6874); Pescadero Creek (36.9826, –121.6274); Tar Creek (36.9558, –121.6009); Uvas Creek (37.0660, –121.6912).

(iii) *South Santa Clara Valley Hydrologic Sub-area 330530*. Outlet(s) = San Benito River (Lat 36.8961, Long –121.5625); Pajaro River (36.9222, –121.5388) upstream to endpoint(s) in: Arroyo Dos Picachos (36.8866, –121.3184); Bodfish Creek (37.0080, –121.6652); Bodfish Creek (37.0041, –121.6667); Carnadero Creek (36.9603, –121.5328); Llagas Creek (37.1159, –121.6938); Miller Canal (36.9698, –121.4814); Pacheco Creek (37.0055, –121.3598); San Felipe Lake (36.9835, –121.4604); Tar Creek (36.9304, –121.5520); Tequisquita Slough (36.9170, –121.3887); Uvas Creek (37.0146, –121.6314).

(iv) *Pacheco-Santa Ana Creek Hydrologic Sub-area 330540*. Outlet(s) = Arroyo Dos Picachos (Lat 36.8866, Long –121.3184); Pacheco Creek (37.0055, –121.3598) upstream to endpoint(s) in: Arroyo Dos Picachos (36.8912, –121.2305); Cedar Creek (37.0922, –121.3641); North Fork Pacheco Creek (37.0514, –121.2911); Pacheco Creek (37.0445, –121.2662); South Fork Pacheco Creek (37.0227, –121.2603).

(v) *San Benito River Hyddrologic Sub-area 330550*. Outlet(s) = San Benito River (Lat 36.7838, Long –121.3731) upstream to endpoint(s) in: Bird Creek (36.7604, –121.4506); Pescadero Creek (36.7202, –121.4187); San Benito River (36.3324, –120.6316); Sawmill Creek (36.3593, –120.6284).

(2) Carmel River Hydrologic Unit 3307—(i) *Carmel River Hydrologic Sub-area 330700*. Outlet(s) = Carmel River (Lat 36.5362, Long –121.9285) upstream to endpoint(s) in: Aqua Mojo Creek (36.4711, –121.5407); Big Creek (36.3935, –121.5419); Blue Creek (36.2796, –121.6530); Boronda Creek (36.3542, –121.6091); Bruce Fork (36.3221, –121.6385); Cachagua Creek (36.3909 , –121.5950); Carmel River (36.2837, –121.6203); Danish Creek (36.3730, –121.7590); Hitchcock Canyon Creek (36.4470, –121.7597); James Creek (36.3235, –121.5804); Las Garzas Creek (36.4607, –121.7944); Millers Fork (36.2961, –121.5697); Pinch Creek (36.3236, –121.5574); Pine Creek (36.3827, –121.7727); Potrero Creek (36.4801, –121.8258); Rana Creek (36.4877, –121.5840); Rattlesnake Creek (36.3442, –121.7080); Robertson Canyon Creek (36.4776, –121.8048); Robertson Creek (36.3658, –121.5165); San Clemente Creek (36.4227, –121.8115); Tularcitos Creek (36.4369, –121.5163); Ventana Mesa Creek (36.2977, –121.7116).

(ii) [Reserved]

(3) Santa Lucia Hydrologic Unit 3308-(i) *Santa Lucia Hydrologic Sub-area 330800*. Outlet(s) = Alder Creek (Lat 35.8578, Long –121.4165); Big Creek (36.0696, –121.6005); Big Sur River (36.2815, –121.8593); Bixby Creek (36.3713, –121.9029); Garrapata Creek (36.4176, –121.9157); Limekiln Creek (36.0084, –121.5196); Little Sur River (36.3350, –121.8934); Malpaso Creek (36.4814, –121.9384); Mill Creek (35.9825, –121.4917); Partington Creek (36.1753, –121.6973); Plaskett Creek (35.9195, –121.4717); Prewitt Creek (35.9353, –121.4760); Rocky Creek (36.3798, –121.9028); Salmon Creek (35.3558, –121.3634); San Jose Creek (36.5259, –121.9253); Vicente Creek (36.0442, –121.5855); Villa Creek (35.8495, –121.4087); Willow Creek (35.8935, –121.4619) upstream to endpoint(s) in: Alder Creek (35.8685, –121.3974); Big Creek (36.0830, –121.5884); Big Sur River (36.2490, –121.7269); Bixby Creek (36.3715, –121.8440); Devil's Canyon Creek (36.0773, –121.5695); Garrapata Creek (36.4042, –121.8594); Joshua Creek (36.4182, –121.9000); Limekiln Creek (36.0154, –121.5146); Little Sur River (36.3312, –121.7557); Malpaso Creek (36.4681, –121.8800); Mill Creek (35.9907, –121.4632); North Fork Big Sur River (36.2178, –121.5948); Partington Creek (36.1929, –121.6825); Plaskett Creek

(35.9228, –121.4493); Prewitt Creek (35.9419, –121.4598); Redwood Creek (36.2825, –121.6745); Rocky Creek (36.3805, –121.8440); San Jose Creek (36.4662, –121.8118); South Fork Little Sur River (36.3026, –121.8093); Vicente Creek (36.0463, –121.5780); Villa Creek (35.8525, –121.3973); Wildcat Canyon Creek (36.4124, –121.8680); Williams Canyon Creek (36.4466, –121.8526); Willow Creek (35.9050, –121.3851).

(ii) [Reserved]

(4) Salinas River Hydrologic Unit 3309–(i) *Neponset Hydrologic Sub-area 330911*. Outlet(s) = Salinas River (Lat 36.7498, Long –121.8055); upstream to endpoint(s) in: Gabilan Creek (36.6923, –121.6300); Old Salinas River (36.7728, –121.7884); Tembladero Slough (36.6865, –121.6409).

(ii) *Chualar Hydrologic Sub-area 330920*. Outlet(s) = Gabilan Creek (Lat 36.6923, Long –121.6300) upstream.

(iii) *Soledad Hydrologic Sub-area 330930*. Outlet(s) = Salinas River (Lat 36.4878, Long –121.4688) upstream to endpoint(s) in: Arroyo Seco River (36.2644, –121.3812); Reliz Creek (36.2438, –121.2881).

(iv) *Upper Salinas Valley Hydrologic Sub-area 330940*. Outlet(s) = Salinas River (Lat 36.3183, Long –121.1837) upstream.

(v) *Arroyo Seco Hydrologic Sub-area 330960*. Outlet(s) = Arroyo Seco River (Lat 36.2644, Long –121.3812); Reliz Creek (36.2438, –121.2881); Vasqueros Creek (36.2648, –121.3368) upstream to endpoint(s) in: Arroyo Seco River (36.2041, –121.5002); Calaboose Creek (36.2942, –121.5082); Church Creek (36.2762, –121.5877); Horse Creek (36.2046, –121.3931); Paloma Creek (36.3195, –121.4894); Piney Creek (36.3023, –121.5629); Reliz Creek (36.1935, –121.2777); Rocky Creek (36.2676, –121.5225); Santa Lucia Creek (36.1999, –121.4785); Tassajara Creek (36.2679, –121.6149); Vaqueros Creek (36.2479, –121.3369); Willow Creek (36.2059, –121.5642).

(vi) *Gabilan Range Hydrologic Sub-area 330970*. Outlet(s) = Gabilan Creek (Lat 36.7800, –121.5836) upstream to endpoint(s) in: Gabilan Creek (36.7335, –121.4939).

(vii) *Paso Robles Hydrologic Sub-area 330981*. Outlet(s) = Salinas River (Lat 35.9241, Long –120.8650) upstream to endpoint(s) in:

Atascadero Creek (35.4468, –120.7010); Graves Creek (35.4838, –120.7631); Jack Creek (35.5815, –120.8560); Nacimiento River (35.7610, –120.8853); Paso Robles Creek (35.5636, –120.8455); Salinas River (35.3886, –120.5582); San Antonio River (35.7991, –120.8849); San Marcos Creek (35.6734, –120.8140); Santa Margarita Creek (35.3923, –120.6619); Santa Rita Creek (35.5262, –120.8396); Sheepcamp Creek (35.6145, –120.7795); Summit Creek (35.6441, –120.8046); Tassajera Creek (35.3895, –120.6926); Trout Creek (35.3394, –120.5881); Willow Creek (35.6107, –120.7720).

(5) Estero Bay Hydrologic Unit 3310—(i) *San Carpoforo Hydrologic Sub-area 331011*. Outlet(s) = San Carpoforo Creek (Lat 35.7646, Long –121.3247) upstream to endpoint(s) in: Dutra Creek (35.8197, –121.3273); Estrada Creek (35.7710, –121.2661); San Carpoforo Creek (35.8202, –121.2745); Unnamed Tributary (35.7503, –121.2703); Wagner Creek (35.8166, –121.2387).

(ii) *Arroyo De La Cruz Hydrologic Sub-area 331012*. Outlet(s) = Arroyo De La Cruz (Lat 35.7097, Long –121.3080) upstream to endpoint(s) in: Arroyo De La Cruz (35.6986, –121.1722); Burnett Creek (35.7520, –121.1920); Green Canyon Creek (35.7375 , –121.2314); Marmolejo Creek (35.6774, –121.1082); Spanish Cabin Creek (35.7234, –121.1497); Unnamed Tributary (35.7291, –121.1977); West Fork Burnett Creek (35.7516, –121.2075).

(iii) *San Simeon Hydrologic Sub-area 331013*. Outlet(s) = Arroyo del Corral (Lat 35.6838, Long –121.2875); Arroyo del Puerto (35.6432, –121.1889); Little Pico Creek (35.6336, –121.1639); Oak Knoll Creek (35.6512, –121.2197); Pico Creek (35.6155, –121.1495); San Simeon Creek (35.5950, –121.1272) upstream to endpoint(s) in: Arroyo Laguna (35.6895, –121.2337); Arroyo del Corral (35.6885, –121.2537); Arroyo del Puerto (35.6773, –121.1713); Little Pico Creek (35.6890, –121.1375); Oak Knoll Creek (35.6718, –121.2010); North Fork Pico Creek (35.6886, –121.0861); San Simeon Creek (35.6228, –121.0561); South Fork Pico Creek (35.6640, –121.0685); Steiner Creek (35.6032, –121.0640); Unnamed Tributary (35.6482, –121.1067); Unnamed Tributary (35.6616, –121.0639); Unnamed Tributary (35.6741, –121.0981); Unnamed Tributary

(35.6777, –121.1503); Unnamed Tributary (35.6604, –121.1571); Unnamed Tributary (35.6579, –121.1356); Unnamed Tributary (35.6744, –121.1187); Unnamed Tributary (35.6460, –121.1373); Unnamed Tributary (35.6839, –121.0955); Unnamed Tributary (35.6431, –121.0795); Unnamed Tributary (35.6820, –121.2130); Unnamed Tributary (35.6977, –121.2613); Unnamed Tributary (35.6702, –121.1884); Unnamed Tributary (35.6817, –121.0885); Van Gordon Creek (35.6286, –121.0942).

(iv) *Santa Rosa Hydrologic Sub-area 331014*. Outlet(s) = Santa Rosa Creek (Lat 35.5685, Long –121.1113) upstream to endpoint(s) in: Green Valley Creek (35.5511, –120.9471); Perry Creek (35.5323–121.0491); Santa Rosa Creek (35.5525, –120.9278); Unnamed Tributary (35.5965, –120.9413); Unnamed Tributary (35.5684, –120.9211); Unnamed Tributary (35.5746, –120.9746).

(v) *Villa Hydrologic Sub-area 331015*. Outlet(s) = Villa Creek (Lat 35.4601, Long –120.9704) upstream to endpoint(s) in: Unnamed Tributary (35.4798, –120.9630); Unnamed Tributary (35.5080, –121.0171); Unnamed Tributary (35.5348, –120.8878); Unnamed Tributary (35.5510, –120.9406); Unnamed Tributary (35.5151, –120.9497); Unnamed Tributary (35.4917, –120.9584); Unnamed Tributary (35.5173, –120.9516); Villa Creek (35.5352, –120.8942).

(vi) *Cayucos Hydrologic Sub-area 331016*. Outlet(s) = Cayucos Creek (Lat 35.4491, Long –120.9079) upstream to endpoint(s) in: Cayucos Creek (35.5257, –120.9271); Unnamed Tributary (35.5157, –120.9005); Unnamed Tributary (35.4943, –120.9513); Unnamed Tributary (35.4887, –120.8968).

(vii) *Old Hydrologic Sub-area 331017*. Outlet(s) = Old Creek (Lat 35.4345, Long –120.8868) upstream to endpoint(s) in: Old Creek (35.4480, –120.8871)

(viii) *Toro Hydrologic Sub-area 331018*. Outlet(s) = Toro Creek (Lat 35.4126, Long –120.8739) upstream to endpoint(s) in: Toro Creek (35.4945, –120.7934); Unnamed Tributary (35.4917, –120.7983).

(ix) *Morro Hydrologic Sub-area 331021*. Outlet(s) = Morro Creek (Lat 35.3762, Long –120.8642) upstream to endpoint(s) in: East Fork Morro Creek (35.4218, –120.7282); Little Morro Creek (35.4155, –120.7532); Morro Creek (35.4291, –120.7515); Unnamed Tributary (35.4292, –120.8122); Unnamed Tributary (35.4458, –120.7906); Unnamed Tributary (35.4122, –120.8335); Unnamed Tributary (35.4420, –120.7796).

(x) *Chorro Hydrologic Sub-area 331022*. Outlet(s) = Chorro Creek (Lat 35.3413, Long –120.8388) upstream to endpoint(s) in: Chorro Creek (35.3340, –120.6897); Dairy Creek (35.3699, –120.6911); Pennington Creek (35.3655, –120.7144); San Bernardo Creek (35.3935, –120.7638); San Luisito (35.3755, –120.7100); Unnamed Tributary (35.3821, –120.7217); Unnamed Tributary (35.3815, –120.7350).

(xi) *Los Osos Hydrologic Sub-area 331023*. Outlet(s) = Los Osos Creek (Lat 35.3379, Long –120.8273) upstream to endpoint(s) in: Los Osos Creek (35.2718, –120.7627).

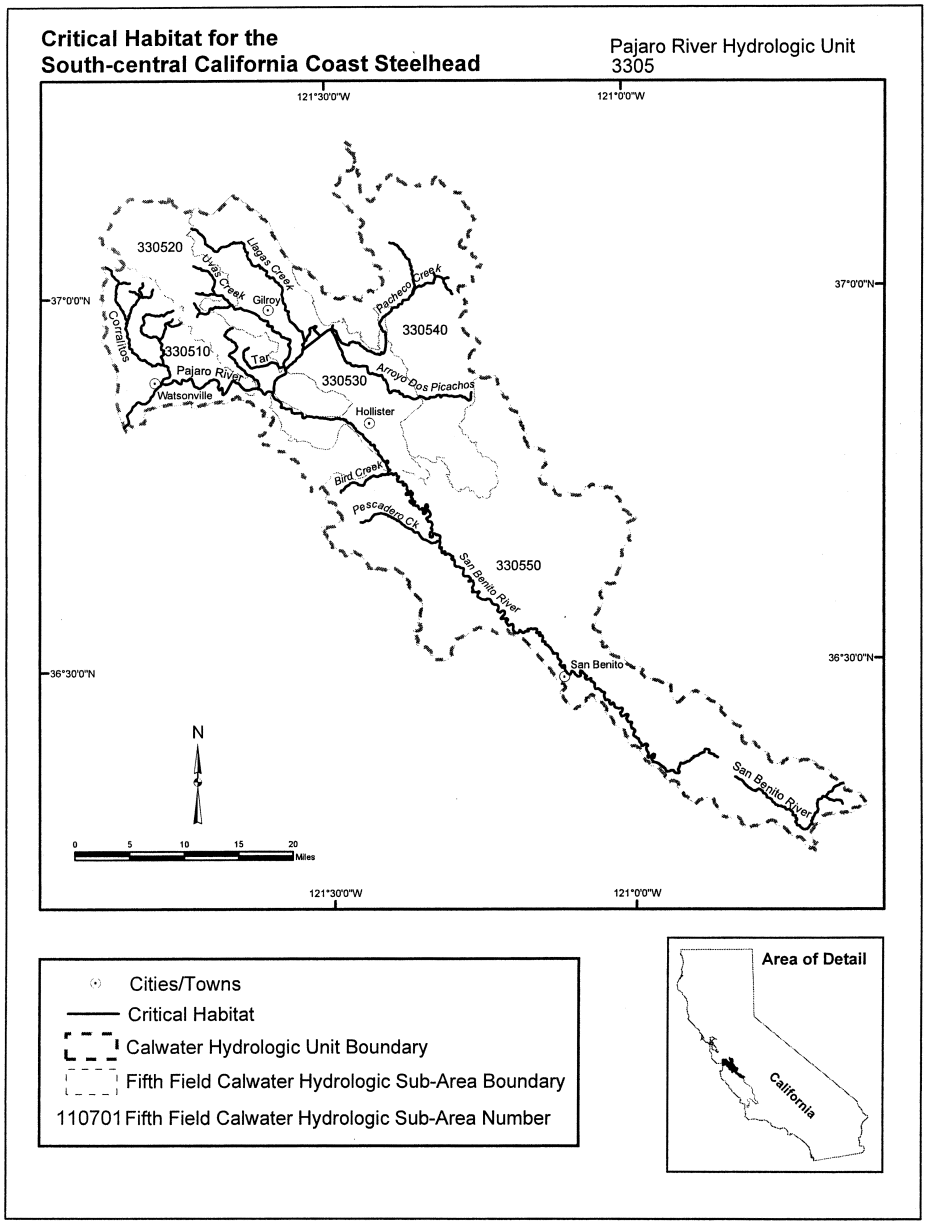
(xii) *San Luis Obispo Creek Hydrologic Sub-area 331024*. Outlet(s) = San Luis Obispo Creek (Lat 35.1822, Long –120.7303) upstream to endpoint(s) in: Brizziolari Creek (35.3236, –120.6411); Froom Creek (35.2525, –120.7144); Prefumo Creek (35.2615, –120.7081); San Luis Obispo Creek (35.3393, –120.6301); See Canyon Creek (35.2306, –120.7675); Stenner Creek (35.3447, –120.6584); Unnamed Tributary (35.2443, –120.7655).

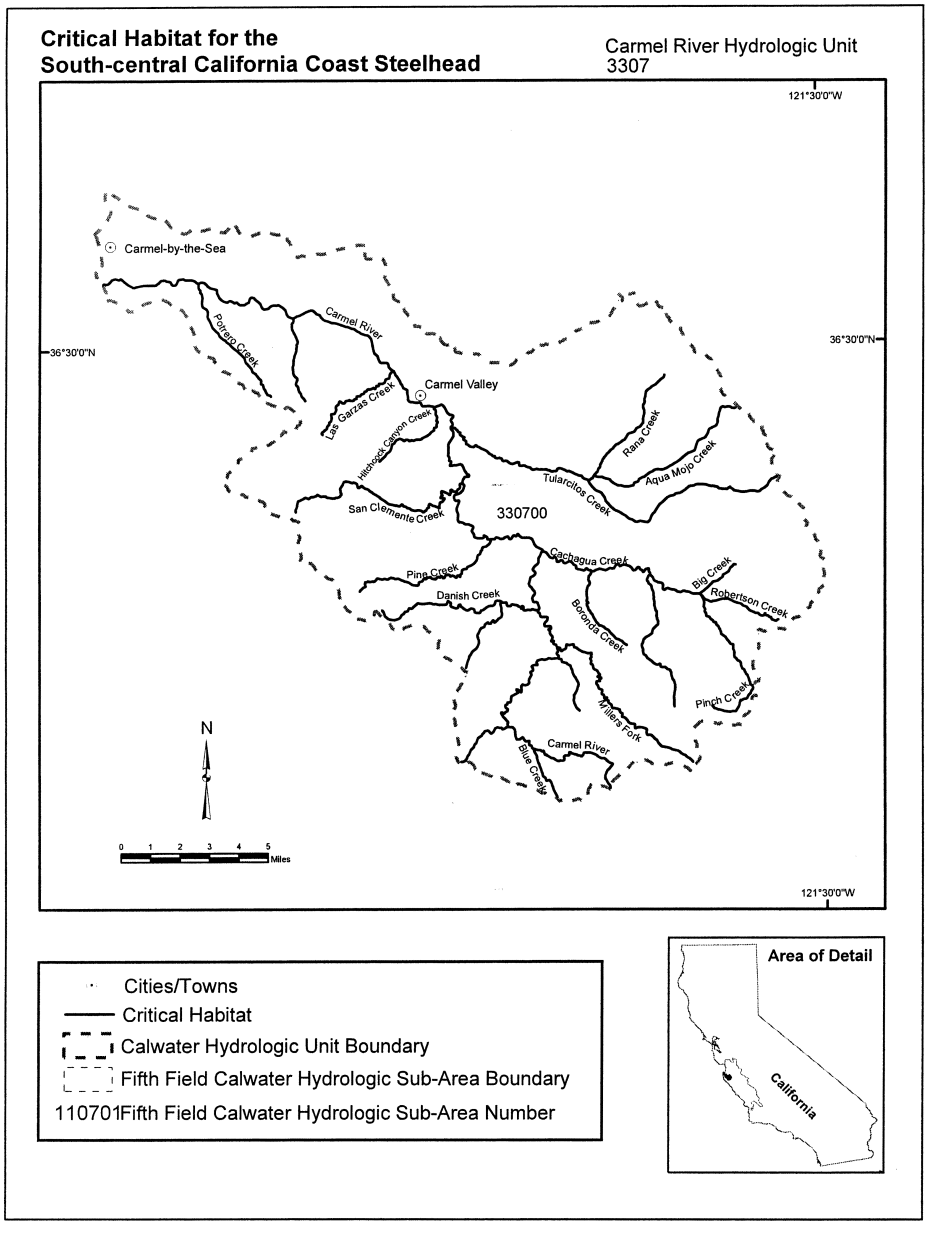
(xiii) *Point San Luis Hydrologic Sub-area 331025*. Outlet(s) = Coon Creek (Lat 35.2590, Long –120.8951); Islay Creek (35.2753, –120.8884) upstream to endpoint(s) in: Coon Creek (35.2493, –120.7774); Islay Creek (35.2574, –120.7810); Unnamed Tributary (35.2753, –120.8146); Unnamed Tributary (35.2809, –120.8147); Unnamed Tributary (35.2648, –120.7936).

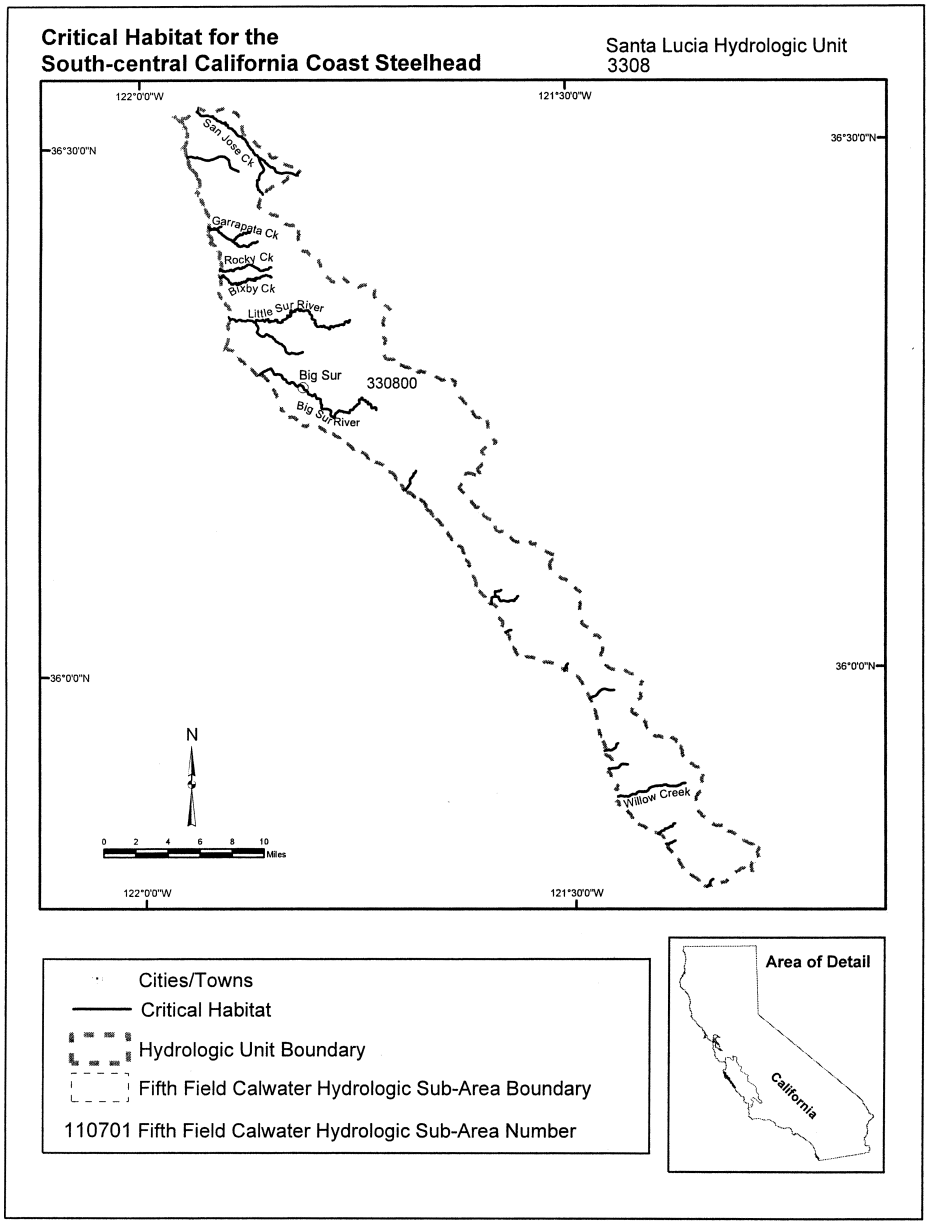
(xiv) *Pismo Hydrologic Sub-area 331026*. Outlet(s) = Pismo Creek (Lat 35.1336, Long –120.6408) upstream to endpoint(s) in: East Corral de Piedra Creek (35.2343, –120.5571); Pismo Creek (35.1969, –120.6107); Unnamed Tributary (35.2462, –120.5856).

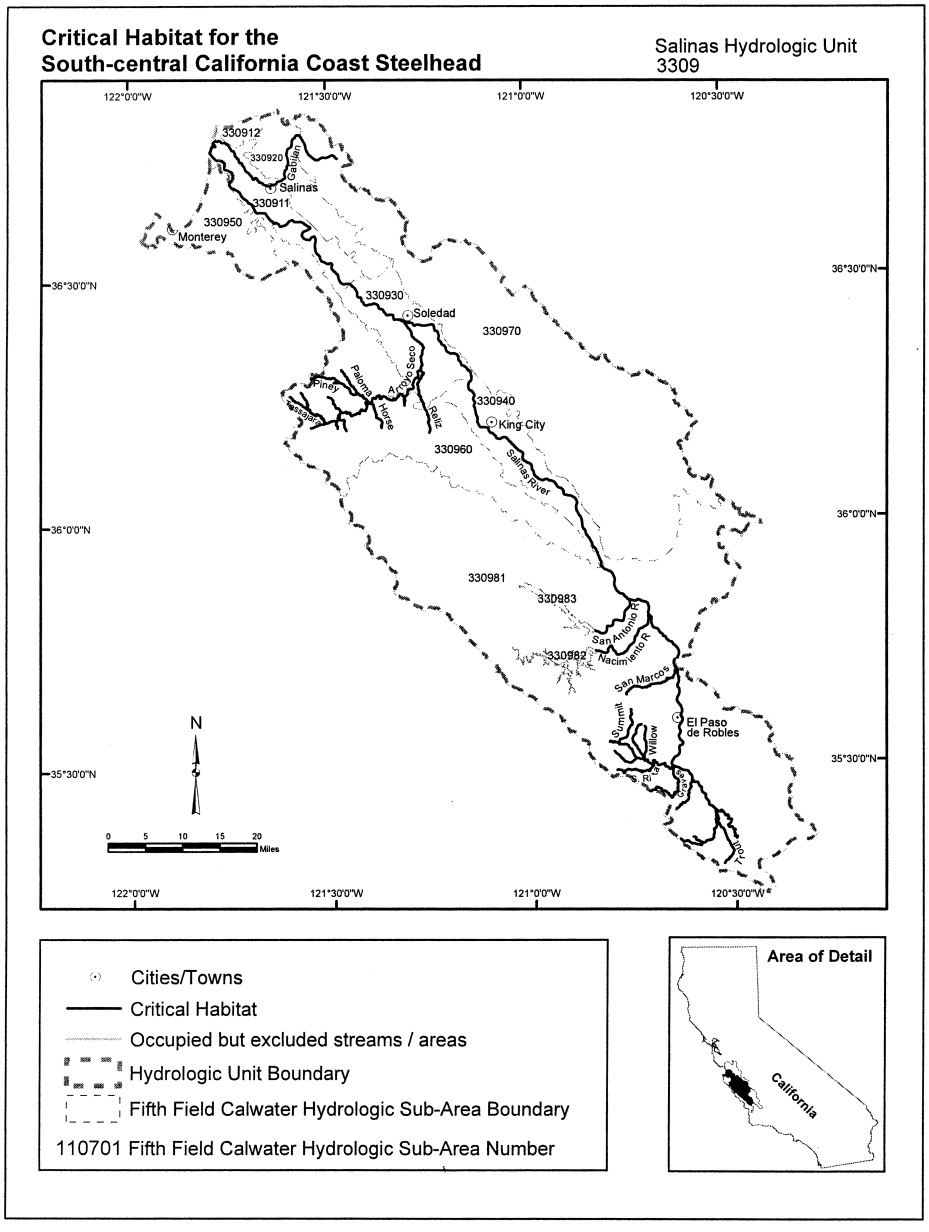
(xv) *Oceano Hydrologic Sub-area 331031*. Outlet(s) = Arroyo Grande Creek (Lat 35.1011, Long –120.6308) upstream to endpoint(s) in: Arroyo Grande Creek (35.1868, –120.4881); Los Berros Creek (35.0791, –120.4423).

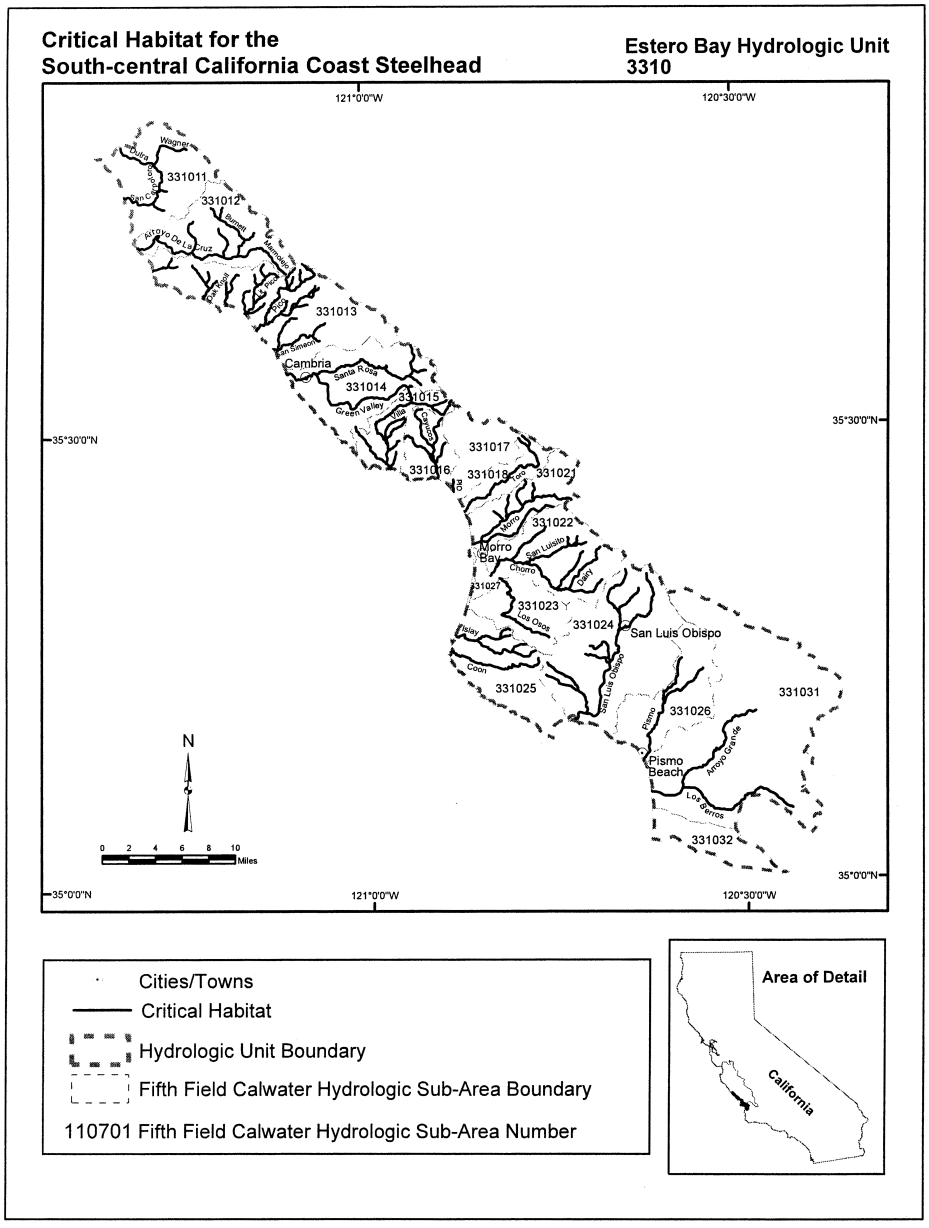
(6) Maps of critical habitat for the South-Central Coast Steelhead ESU follow:


Critical Habitat for the
South-central California Coast Steelhead
Pajaro River Hydrologic Unit
3305
121°30'0"W
121°0'0"W
37°0'0"N
36°30'0"N
330520
Uvas Creek
Llagas Creek
Gilroy
Pacheco Creek
330540
Corralitos
330510
Tar
Pajaro River
Watsonville
330530
Arroyo Dos Picachos
Hollister
Bird Creek
Pescadero Ck
San Benito River
330550
San Benito
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
South-central California Coast Steelhead
Carmel River Hydrologic Unit
3307
121°30'0"W
36°30'0"N
Carmel-by-the-Sea
Carmel River
Portero Creek
Carmel Valley
Las Garzas Creek
Hitchcock Canyon Creek
Rana Creek
Aqua Mojo Creek
Tularcitos Creek
San Clemente Creek
330700
Cachagua Creek
Big Creek
Robertson Creek
Pine Creek
Danish Creek
Boronda Creek
Pinch Creek
Willies Fork
Carmel River
Blue Creek
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
South-central California Coast Steelhead
Santa Lucia Hydrologic Unit
3308
122°0'0"W
121°30'0"W
36°30'0"N
36°0'0"N
San Jose Ck
Garrapata Ck
Rocky Ck
Bixby Ck
Little Sur River
Big Sur
330800
Big Sur River
Willow Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
South-central California Coast Steelhead
Salinas Hydrologic Unit
3309
122°0'0"W
121°30'0"W
121°0'0"W
120°30'0"W
36°30'0"N
36°0'0"N
35°30'0"N
330912
330920
Salinas
330911
330950
Monterey
330930
Soledad
330970
330940
King City
330960
330981
330983
330982
El Paso de Robles
Arroyo Seco
Piney
Paloma
Horse
Reliz
Salinas River
San Antonio R
Nacimiento R
San Marcos
Summit
Willow
Estrella
Cholame
Huer Huero
N
0 5 10 15 20
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



(j) *Southern California Steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(1) Santa Maria River Hydrologic Unit 3312—(i) *Santa Maria Hydrologic Sub-area 331210.* Outlet(s) = Santa Maria River (Lat 34.9710, Long –120.6504) upstream to endpoint(s) in:

Cuyama River (34.9058, –120.3026); Santa Maria River (34.9042, –120.3077); Sisquoc River (34.8941, –120.3063).

(ii) *Sisquoc Hydrologic Sub-area 331220*. Outlet(s) = Sisquoc River (Lat 34.8941, Long –120.3063) upstream to endpoint(s) in: Abel Canyon (34.8662, –119.8354); Davey Brown Creek (34.7541, –119.9650); Fish Creek (34.7531, –119.9100); Foresters Leap (34.8112, –119.7545); La Brea Creek (34.8804, –120.1316); Horse Creek (34.8372, –120.0171); Judell Creek (34.7613, –119.6496); Manzana Creek (34.7082, –119.8324); North Fork La Brea Creek (34.9681, –120.0112); Sisquoc River (34.7087, –119.6409); South Fork La Brea Creek (34.9543, –119.9793); South Fork Sisquoc River (34.7300, –119.7877); Unnamed Tributary (34.9342, –120.0589); Unnamed Tributary (34.9510, –120.0140); Unnamed Tributary (34.9687, –120.1419); Unnamed Tributary (34.9626, –120.1500); Unnamed Tributary (34.9672, –120.1194); Unnamed Tributary (34.9682, –120.0990); Unnamed Tributary (34.9973, –120.0662); Unnamed Tributary (34.9922, –120.0294); Unnamed Tributary (35.0158, –120.0337); Unnamed Tributary (34.9464, –120.0309); Unnamed Tributary (34.7544, –119.9476); Unnamed Tributary (34.7466, –119.9047); Unnamed Tributary (34.7646, –119.8673); Unnamed Tributary (34.8726, –119.9525); Unnamed Tributary (34.8884, –119.9325); Unnamed Tributary (34.8659, –119.8982); Unnamed Tributary (34.8677, –119.8513); Unnamed Tributary (34.8608, –119.8541); Unnamed Tributary (34.8784, –119.8458); Unnamed Tributary (34.8615, –119.8159); Unnamed Tributary (34.8694, –119.8229); Unnamed Tributary (34.7931, –119.8485); Unnamed Tributary (34.7846, –119.8337); Unnamed Tributary (34.7872, –119.7684); Unnamed Tributary (34.7866, –119.7552); Unnamed Tributary (34.8129, –119.7714); Unnamed Tributary (34.7760, –119.7448); Unnamed Tributary (34.7579, –119.7999); Unnamed Tributary (34.7510, –119.7921); Unnamed Tributary (34.7769, –119.7149); Unnamed Tributary (34.7617, –119.6878); Unnamed Tributary (34.7680, –119.6503); Unnamed Tributary (34.7738, –119.6493); Unnamed Tributary (34.7332, –119.6286); Unnamed Tributary (34.7519, –119.6209); Unnamed Tributary (34.7188, –119.6673); Water Canyon (34.8754, –119.9324).

(2) Santa Ynex Hydrologic Unit 3314—(i) *Mouth of Santa Ynez Hydrologic Sub-area 331410*. Outlet(s) = Santa Ynez River (Lat 34.6930, Long –120.6033) upstream to endpoint(s) in: San Miguelito Creek (34.6309, –120.4631).

(ii) *Santa Ynez, Salsipuedes Hydrologic Sub-area 331420*. Outlet(s) = Santa Ynez River (Lat 34.6335, Long –120.4126) upstream to endpoint(s) in: El Callejon Creek (34.5475, –120.2701); El Jaro Creek (34.5327, –120.2861); Llanito Creek (34.5499, –120.2762); Salsipuedes Creek (34.5711, –120.4076).

(iii) *Santa Ynez, Zaca Hydrologic Sub-area 331430*. Outlet(s) = Santa Ynez River (Lat 34.6172, Long –120.2352) upstream.

(iv) *Santa Ynez to Bradbury Hydrologic Sub-area 331440*. Outlet(s) = Santa Ynez River (Lat 34.5847, Long –120.1445) upstream to endpoint(s) in: Alisal Creek (34.5465, –120.1358); Hilton Creek (34.5839, –119.9855); Quiota Creek (34.5370, –120.0321); San Lucas Creek (34.5558, –120.0119); Santa Ynez River (34.5829, –119.9805); Unnamed Tributary (34.5646, –120.0043).

(3) South Coast Hydrologic Unit 3315—(i) *Arroyo Hondo Hydrologic Sub-area 331510*. Outlet(s) = Alegria Creek (Lat 34.4688, Long –120.2720); Arroyo Hondo Creek (34.4735, –120.1415); Cojo Creek (34.4531, –120.4165); Dos Pueblos Creek (34.4407, –119.9646); El Capitan Creek (34.4577, –120.0225); Gato Creek (34.4497, –119.9885); Gaviota Creek (34.4706, –120.2267); Jalama Creek (34.5119, –120.5023); Refugio Creek (34.4627, –120.0696); Sacate Creek (34.4708, –120.2942); San Augustine Creek (34.4588, –120.3542); San Onofre Creek (34.4699, –120.1872); Santa Anita Creek (34.4669, –120.3066); Tecolote Creek (34.4306, –119.9173) upstream to endpoint(s) in: Alegria Creek (34.4713, –120.2714); Arroyo Hondo Creek (34.5112, –120.1704); Cojo Creek (34.4840, –120.4106); Dos Pueblos Creek (34.5230, –119.9249); El Capitan Creek (34.5238, –119.9806); Escondido Creek (34.5663, –120.4643); Gato Creek (34.5203, –119.9758); Gaviota Creek (34.5176, –120.2179); Jalama Creek (34.5031, –120.3615); La Olla (34.4836, –120.4071); Refugio Creek (34.5109, –120.0508); Sacate Creek (34.4984, –120.2993); San Augustine Creek (34.4598, –120.3561); San Onofre Creek (34.4853, –120.1890); Santa Anita Creek (34.4742, –120.3085); Tecolote Creek (34.5133, –119.9058); Unnamed Tributary (34.5527, –120.4548); Unnamed Tributary (34.4972, –120.3026).

(ii) *UCSB Slough Hydrologic Sub-area 331531*. Outlet(s) = San Pedro Creek (Lat 34.4179, Long –119.8295); Tecolito Creek (34.4179, –119.8295) upstream to endpoint(s) in: Atascadero Creek (34.4345, –119.7755); Carneros Creek (34.4674, –119.8584); Cieneguitas Creek (34.4690, –119.7565); Glen Annie Creek (34.4985, –119.8666); Maria Ygnacio Creek (34.4900, –119.7830); San Antonio Creek (34.4553, –119.7826); San Pedro Creek (34.4774, –119.8359); San Jose Creek (34.4919, –119.8032); Tecolito Creek (34.4478, –119.8763); Unnamed Tributary (34.4774, –119.8846).

(iii) *Mission Hydrologic Sub-area 331532*. Outlet(s) = Arroyo Burro Creek (Lat 34.4023, Long –119.7430); Mission Creek (34.4124, –119.6876); Sycamore Creek (34.4166, –119.6668) upstream to endpoint(s) in: Arroyo Burro Creek (34.4620, –119.7461); Mission Creek (34.4482, –119.7089); Rattlesnake Creek (34.4633, –119.6902); San Roque Creek (34.4530, –119.7323); Sycamore Creek (34.4609, –119.6841).

(iv) *San Ysidro Hydrologic Sub-area 331533*. Outlet(s) = Montecito Creek (Lat 34.4167, Long –119.6344); Romero Creek (34.4186, –119.6208); San Ysidro Creek (34.4191, –119.6254); upstream to endpoint(s) in: Cold Springs Creek (34.4794, –119.6604); Montecito Creek (34.4594, –119.6542); Romero Creek (34.4452, –119.5924); San Ysidro Creek (34.4686, –119.6229); Unnamed Tributary (34.4753, –119.6437).

(v) *Carpinteria Hydrologic Sub-area 331534*. Outlet(s) = Arroyo Paredon (Lat 34.4146, Long –119.5561); Carpenteria Lagoon (Carpenteria Creek) (34.3904, –119.5204); Rincon Lagoon (Rincon Creek) (34.3733, –119.4769) upstream to endpoint(s) in: Arroyo Paredon (34.4371, –119.5481); Carpinteria Creek (34.4429, –119.4964); El Dorado Creek (34.4682, –119.4809); Gobernador Creek (34.4249, –119.4746); Rincon Lagoon (Rincon Creek) (34.3757, –119.4777); Steer Creek (34.4687, –119.4596); Unnamed Tributary (34.4481, –119.5112).

(4) Ventura River Hydrologic Unit 4402—(i) *Ventura Hydrologic Sub-area 440210*. Outlet(s) = Ventura Estuary (Ventura River) (Lat 34.2742, Long –119.3077) upstream to endpoint(s) in: Canada Larga (34.3675, –119.2377); Hammond Canyon (34.3903, –119.2230); Sulphur Canyon (34.3727, –119.2362); Unnamed Tributary (34.3344, –119.2426); Unnamed Tributary (34.3901, –119.2747).

(ii) *Ventura Hydrologic Sub-area 440220*. Outlet(s) = Ventura River (Lat 34.3517, Long –119.3069) upstream to endpoint(s) in: Coyote Creek (34.3735, –119.3337); Matilija Creek (34.4846, –119.3086); North Fork Matilija Creek (34.5129, –119.2737); San Antonio Creek (34.4224, –119.2644); Ventura River (34.4852, –119.3001).

(iii) *Lions Hydrologic Sub-area 440231*. Outlet(s) = Lion Creek (Lat 34.4222, Long –119.2644) upstream to endpoint(s) in: Lion Creek (34.4331, –119.2004).

(iv) *Thatcher Hydrologic Sub-area 440232*. Outlet(s) = San Antonio Creek (Lat 34.4224, Long –119.2644) upstream to endpoint(s) in: San Antonio Creek (34.4370, –119.2417).

(5) Santa Clara Calleguas Hydrologic Unit 4403—(i) *Mouth of Santa Clara Hydrologic Sub-area 440310*. Outlet(s) = Santa Clara River (Lat 34.2348, Long –119.2568) upstream.

(ii) *Santa Clara, Santa Paula Hydrologic Sub-area 440321*. Outlet(s) = Santa Clara River (Lat 34.2731, Long –119.1474) upstream to endpoint(s) in: Santa Paula Creek (34.4500, –119.0563).

(iii) *Sisar Hydrologic Sub-area 440322*. Outlet(s) = Sisar Creek (Lat 34.4271, Long –119.0908) upstream to endpoint(s) in: Sisar Creek (34.4615, –119.1312).

(iv) *Sespe, Santa Clara Hydrologic Sub-area 440331*. Outlet(s) = Santa Clara River (Lat 34.3513, Long –119.0397) upstream to endpoint(s) in: Sespe Creek (34.4509, –118.9258).

(v) *Sespe Hydrologic Sub-area 440332*. Outlet(s) = Sespe Creek (Lat 34.4509, Long –118.9258) upstream to endpoint(s) in: Abadi Creek (34.6099, –119.4223); Alder Creek (34.5691, –118.9528); Bear Creek (34.5314, –119.1041); Chorro Grande Creek (34.6285, –119.3245); Fourfork Creek (34.4735, –118.8893); Howard Creek (34.5459, –119.2154); Lady Bug Creek (34.5724, –119.3173); Lion Creek (34.5047, –119.1101); Little Sespe Creek (34.4598, –118.8938); Munson Creek (34.6152, –119.2963); Park Creek (34.5537, –119.0028); Piedra Blanca Creek (34.6109, –119.1838); Pine Canyon Creek (34.4488, –118.9661); Portrero John Creek (34.6010, –119.2695); Red Reef Creek (34.5344, –119.0441); Rose Valley Creek (34.5195, –119.1756); Sespe Creek (34.6295, –119.4412); Timber Creek (34.5184,

–119.0698); Trout Creek (34.5869, –119.1360); Tule Creek (34.5614, –119.2986); Unnamed Tributary (34.5125, –118.9311); Unnamed Tributary (34.5537, –119.0088); Unnamed Tributary (34.5537, –119.0048); Unnamed Tributary (34.5757, –119.3051); Unnamed Tributary (34.5988, –119.2736); Unnamed Tributary (34.5691, –119.3428); West Fork Sespe Creek (34.5106, –119.0502).

(vi) *Santa Clara, Hopper Canyon, Piru Hydrologic Sub-area 440341.* Outlet(s) = Santa Clara River (Lat 34.3860, Long –118.8711) upstream to endpoint(s) in: Hopper Creek (34.4263, –118.8309); Piru Creek (34.4613, –118.7537); Santa Clara River (34.3996, –118.7837).

(6) Santa Monica Bay Hydrologic Unit 4404—(i) *Topanga Hydrologic Sub-area 440411.* Outlet(s) = Topanga Creek (Lat 34.0397, Long –118.5831) upstream to endpoint(s) in: Topanga Creek (34.0838, –118.5980).

(ii) *Malibu Hydrologic Sub-area 440421.* Outlet(s) = Malibu Creek (Lat 34.0322, Long –118.6796) upstream to endpoint(s) in: Malibu Creek (34.0648, –118.6987).

(iii) *Arroyo Sequit Hydrologic Sub-area 440444.* Outlet(s) = Arroyo Sequit (Lat 34.0445, Long –118.9338) upstream to endpoint(s) in: Arroyo Sequit (34.0839, –118.9186); West Fork Arroyo Sequit (34.0909, –118.9235).

(7) Calleguas Hydrologic Unit 4408—(i) *Calleguas Estuary Hydrologic Sub-area 440813.* Outlet(s) = Mugu Lagoon (Calleguas Creek) (Lat 34.1093, Long –119.0917) upstream to endpoint(s) in: Mugu Lagoon (Calleguas Creek) (Lat 34.1125, Long –119.0816).

(ii) [Reserved]

(8) San Juan Hydrologic Unit 4901—(i) *Middle Trabuco Hydrologic Sub-area 490123.* Outlet(s) = Trabuco Creek (Lat 33.5165, Long –117.6727) upstream to endpoint(s) in: Trabuco Creek (33.5264, –117.6700).

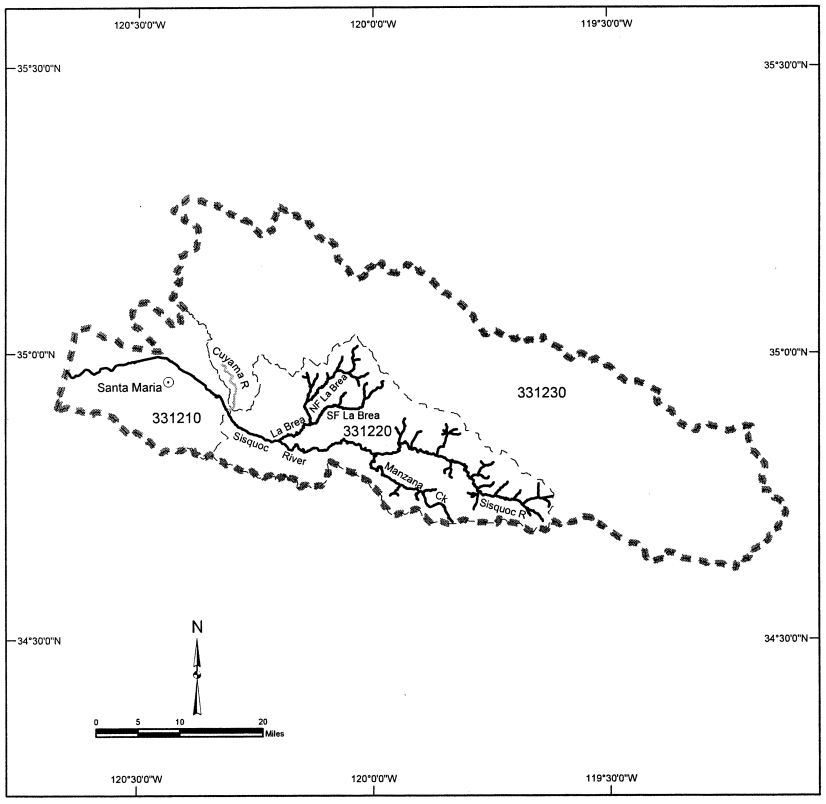
(ii) *Lower San Juan Hydrologic Sub-area 490127.* Outlet(s) = San Juan Creek (Lat 33.4621, Long –117.6842) upstream to endpoint(s) in: San Juan Creek (33.4929, –117.6610); Trabuco Creek (33.5165, –117.6727).

(iii) *San Mateo Hydrologic Sub-area 490140.* Outlet(s) = San Mateo Creek (Lat 33.3851, Long –117.5933) upstream to endpoint(s) in: San Mateo Creek (33.4779, –117.4386); San Mateo Canyon (33.4957, –117.4522).

(9) Maps of critical habitat for the Southern California Steelhead ESU follow:

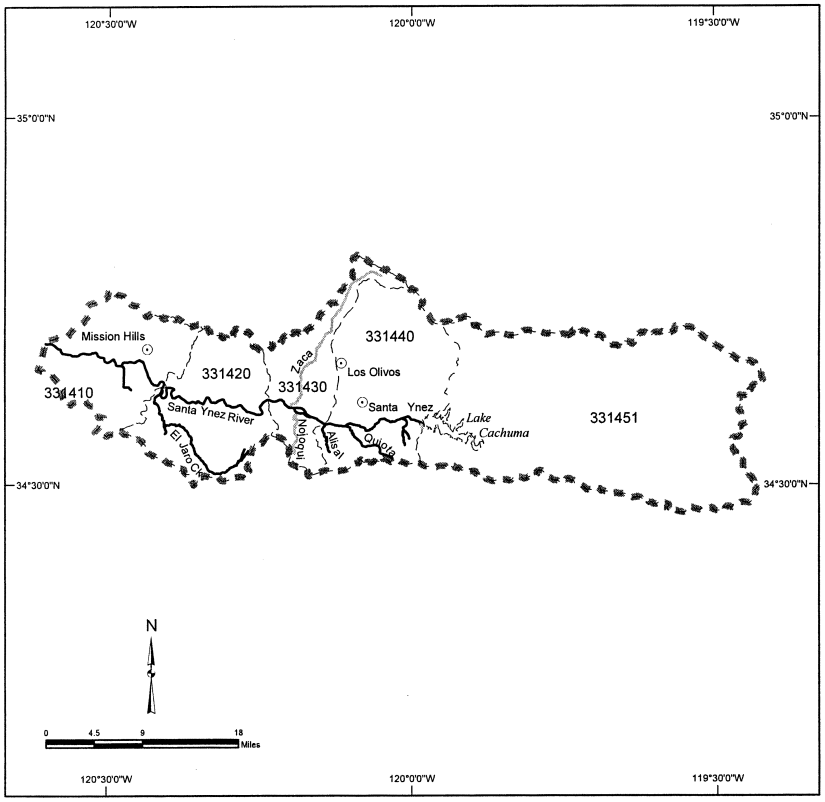
Critical Habitat for the Southern California Steelhead

Santa Maria River Hydrologic Unit 3312

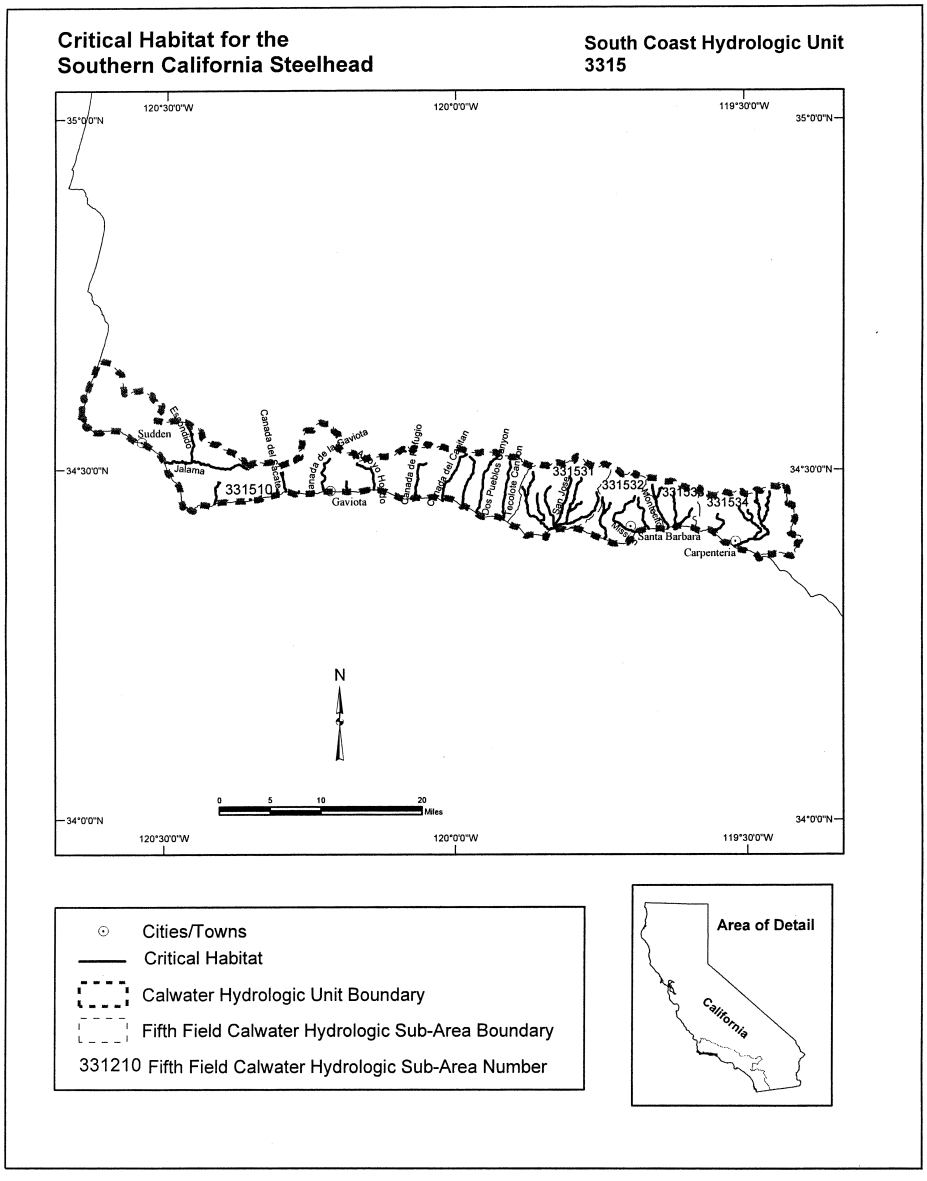


Critical Habitat for the Southern California Steelhead

Santa Ynez Hydrologic Unit 3314

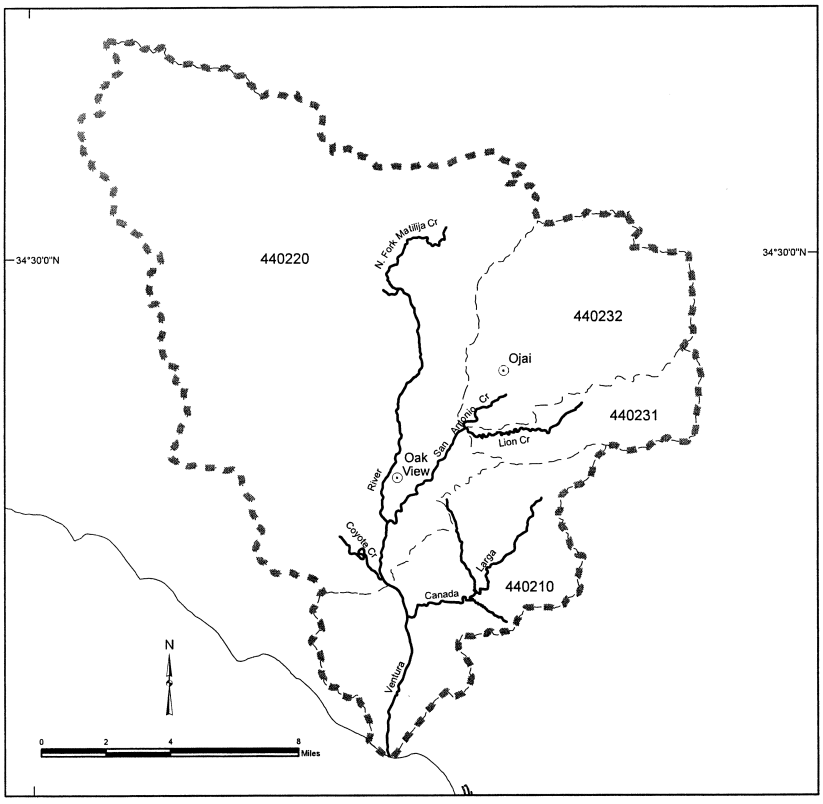


- ⊙ Cities/Towns
- Critical Habitat
- Occupied but excluded streams / areas
- Calwater Hydrologic Unit Boundary
- Fifth Field Calwater Hydrologic Sub-Area Boundary
- 331210 Fifth Field Calwater Hydrologic Sub-Area Number


Critical Habitat for the
Southern California Steelhead
South Coast Hydrologic Unit
3315
120°30'0"W
120°0'0"W
119°30'0"W
35°0'0"N
34°30'0"N
34°0'0"N
Sudden
Jalama
Gaviota
331510
331531
331532
331533
331534
Santa Barbara
Carpenteria
N
0 5 10 20
Miles
Cities/Towns
Critical Habitat
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
331210 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

Critical Habitat for the Southern California Steelhead

Ventura River Hydrologic Unit 4402



Cities/Towns

Critical Habitat

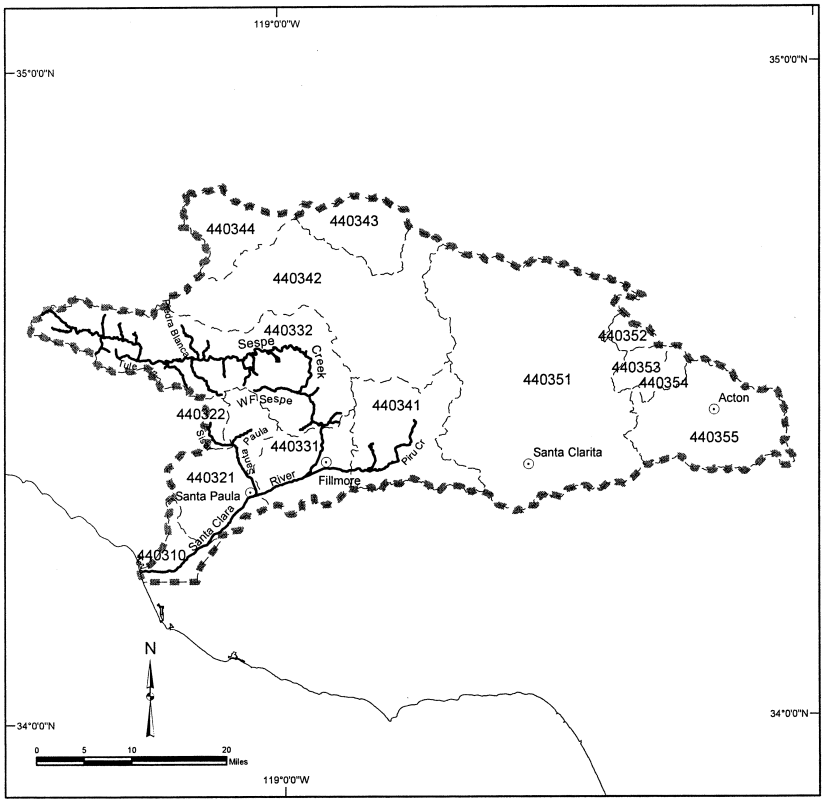
Calwater Hydrologic Unit Boundary

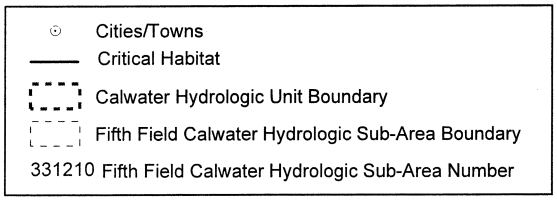
Fifth Field Calwater Hydrologic Sub-Area Boundary

331210 Fifth Field Calwater Hydrologic Sub-Area Number

Critical Habitat for the Southern California Steelhead

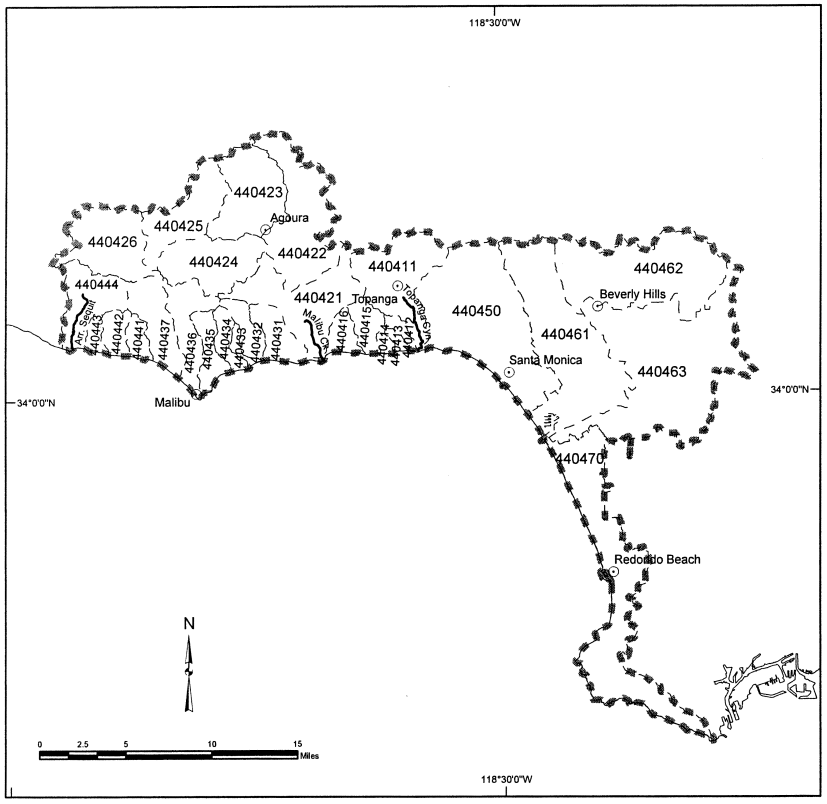
Santa Clara-Calleguas Hydrologic Unit 4403

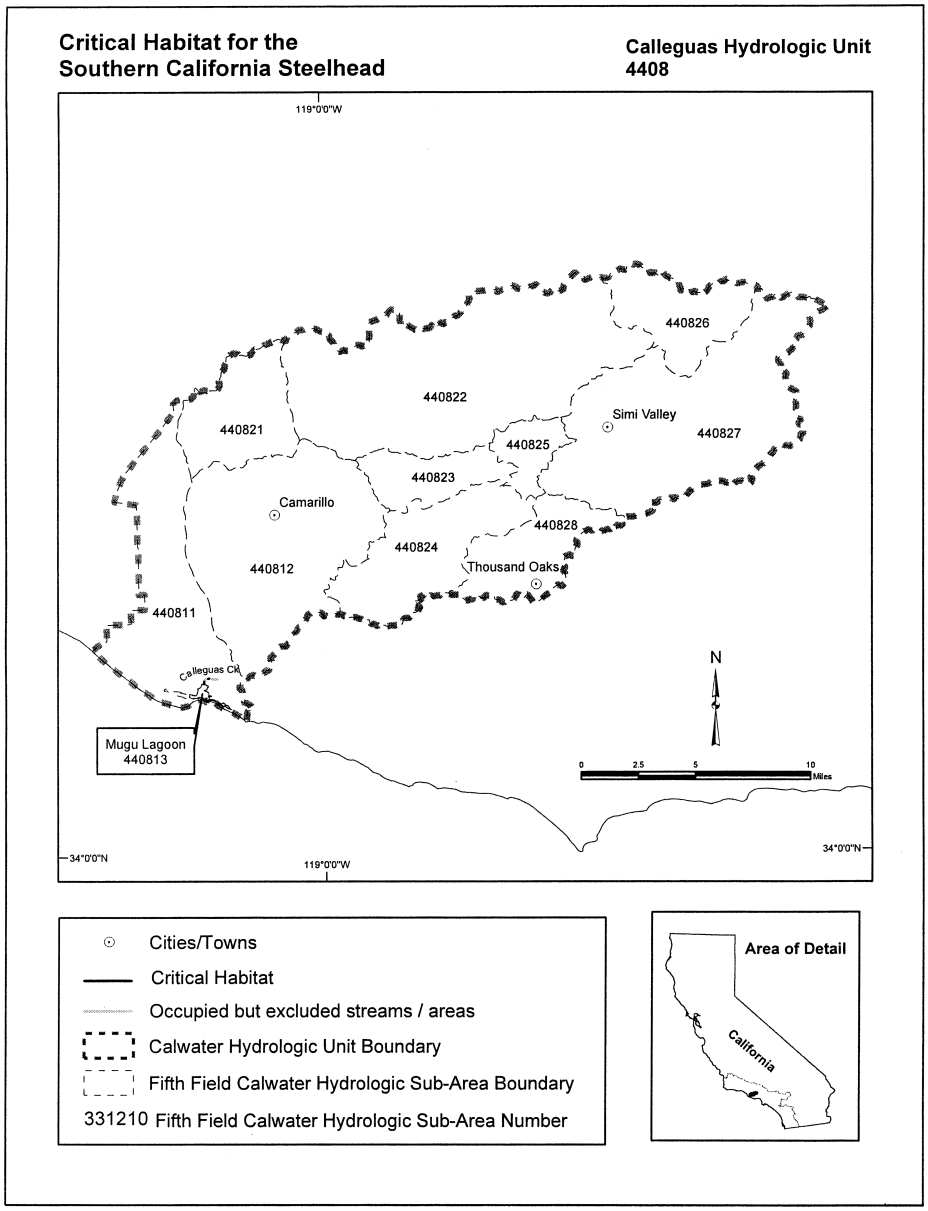


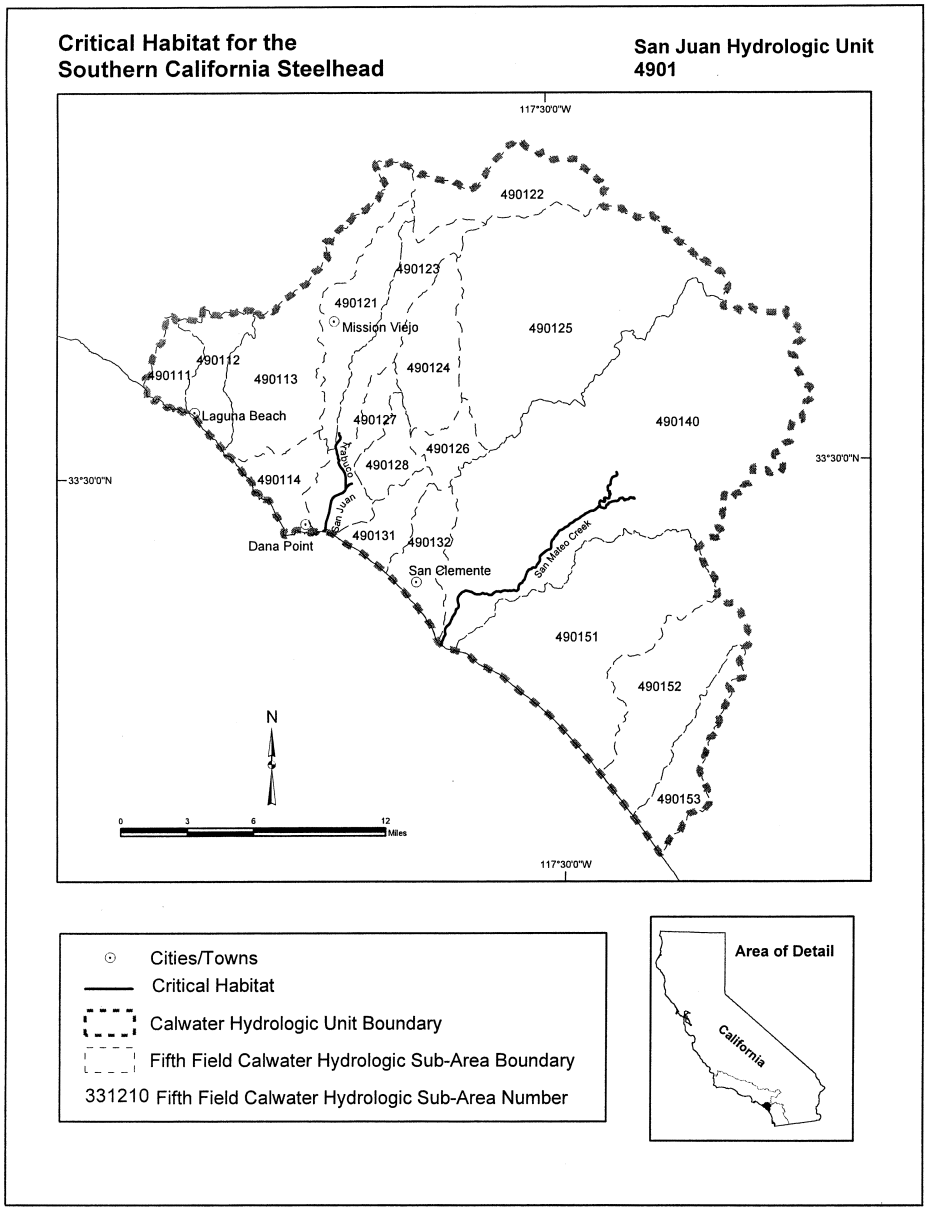


Critical Habitat for the Southern California Steelhead

Santa Monica Bay Hydrologic Unit 4404




Critical Habitat for the
Southern California Steelhead
Calleguas Hydrologic Unit
4408
119°0'0"W
440826
440822
Simi Valley
440821
440827
440825
440823
Camarillo
440828
440824
440812
Thousand Oaks
440811
Calleguas Ck
N
Mugu Lagoon
440813
0 2.5 5 10
Miles
34°0'0"N
119°0'0"W
34°0'0"N
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Calwater Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
331210 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



(k) *Central Valley Spring Run Chinook Salmon (O. tshawytscha).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(l) Tehama Hydrologic Unit 5504—(i) *Lower Stony Creek Hydrologic Sub-area 550410.* Outlet(s) = Glenn-Colusa Canal (Lat 39.6762, Long –122.0151); Stony Creek (39.7122, –122.0072) upstream to endpoint(s) in: Glenn-Colusa Canal

(39.7122, –122.0072); Stony Creek (39.8178, –122.3253).

(ii) *Red Bluff Hydrologic Sub-area 550420*. Outlet(s) = Sacramento River (Lat 39.6998, Long –121.9419) upstream to endpoint(s) in: Antelope Creek (40.2023, –122.1275); Big Chico Creek (39.7757, –121.7525); Blue Tent Creek (40.2284, –122.2551); Burch Creek (39.8526, –122.1502); Butler Slough (40.1579, –122.1320); Coyote Creek (40.0929, –122.1621); Craig Creek (40.1617, –122.1350); Deer Creek (40.0144, –121.9481); Dibble Creek (40.2003, –122.2420); Dye Creek (40.0904, –122.0767); Elder Creek (40.0526, –122.1717); Jewet Creek (39.8913, –122.1005); Kusal Slough (39.7577, –121.9699); Lindo Channel (39.7623, –121.7923); McClure Creek (40.0074, –122.1729); Mill Creek (40.0550, –122.0317); Mud Creek (39.7931, –121.8865); New Creek (40.1873, –122.1350); Oat Creek (40.0847, –122.1658); Pine Creek (39.8760, –121.9777); Red Bank Creek (40.1391, –122.2157); Reeds Creek (40.1687, –122.2377); Rice Creek (39.8495, –122.1626); Rock Creek (39.8189, –121.9124); Salt Creek (40.1869, –122.1845); Singer Creek (39.9200, –121.9612); Thomes Creek (39.8822, –122.5527); Toomes Creek (39.9808, –122.0642); Unnamed Tributary (39.8532, –122.1627); Unnamed Tributary (40.1682, –122.1459); Unnamed Tributary (40.1867, –122.1353).

(2) Whitmore Hydrologic Unit 5507—(i) *Inks Creek Hydrologic Sub-area 550711*. Outlet(s) = Inks Creek (Lat 40.3305, Long –122.1520) upstream to endpoint(s) in: Inks Creek 40.3418, –122.1332).

(ii) *Battle Creek Hydrologic Sub-area 550712* Outlet(s) = Battle Creek (Lat 40.4083, Long –122.1102) upstream to endpoint(s) in: Battle Creek (40.4228, –121.9975); North Fork Battle Creek (40.4746, –121.8436); South Fork Battle Creek (40.3549, –121.6861).

(iii) *Inwood Hydrologic Sub-area 550722*. Outlet(s) = Bear Creek (Lat 40.4352, Long –122.2039) upstream to endpoint(s) in: Bear Creek (40.4859, –122.1529); Dry Creek (40.4574, –122.1993).

(3) Redding Hydrologic Unit 5508—(i) *Enterprise Flat Hydrologic Sub-area 550810*. Outlet(s)= Sacramento River (Lat 40.2526, Long –122.1707) upstream to endpoint(s) in: Anderson Creek (40.3910, –122.1984); Ash Creek (40.4451, –122.1815); Battle Creek (40.4083, –122.1102); Churn Creek (40.5431, –122.3395); Clear Creek (40.5158, –122.5256); Cow Creek (40.5438, –122.1318); Olney Creek (40.5262, –122.3783); Paynes Creek (40.2810, –122.1587); Stillwater Creek (40.4789, –122.2597).

(ii) *Lower Cottonwood Hydrologic Sub-area 550820*. Outlet(s) = Cottonwood Creek (Lat 40.3777, Long –122.1991) upstream to endpoint(s) in: Cottonwood Creek (40.3943, –122.5254); Middle Fork Cottonwood Creek (40.3314, –122.6663); South Fork Cottonwood Creek (40.1578, –122.5809).

(4) Eastern Tehama Hydrologic Unit 5509—(i) *Big Chico Creek Hydrologic Sub-area 550914*. Outlet(s) = Big Chico Creek (Lat 39.7757, Long –121.7525) upstream to endpoint(s) in: Big Chico Creek (39.8873, –121.6979).

(ii) *Deer Creek Hydrologic Sub-area 550920*. Outlet(s) = Deer Creek (Lat 40.0144, Long –121.9481) upstream to endpoint(s) in: Deer Creek (40.2019, –121.5130).

(iii) *Upper Mill Creek Hydrologic Sub-area 550942*. Outlet(s) = Mill Creek (Lat 40.0550, Long –122.0317) upstream to endpoint(s) in: Mill Creek (40.3997, –121.5131).

(iv) *Antelope Creek Hydrologic Sub-area 550963*. Outlet(s) = Antelope Creek (Lat 40.2023, Long –122.1272) upstream to endpoint(s) in: Antelope Creek (40.2416, –121.8630); North Fork Antelope Creek (40.2691, –121.8226); South Fork Antelope Creek (40.2309, –121.8325).

(5) Sacramento Delta Hydrologic Unit 5510—(i) *Sacramento Delta Hydrologic Sub-area 551000*. Outlet(s) = Sacramento River (Lat 38.0612, Long –121.7948) upstream to endpoint(s) in: Cache Slough (38.3086, –121.7633); Delta Cross Channel (38.2433, –121.4964); Elk Slough (38.4140, –121.5212); Elkhorn Slough (38.2898, –121.6271); Georgiana Slough (38.2401, –121.5172); Miners Slough (38.2864, –121.6051); Prospect Slough (38.1477, –121.6641); Sevenmile Slough (38.1171, –121.6298); Steamboat Slough (38.3052, –121.5737); Sutter Slough (38.3321, –121.5838); Threemile Slough (38.1155, –121.6835); Yolo Bypass (38.5800, –121.5838).

(ii) [Reserved]

(6) Valley-Putah-Cache Hydrologic Unit 5511—(i) *Lower Putah Creek Hydrologic Sub-area 551120*. Outlet(s) = Yolo Bypass (Lat 38.5800, Long –121.5838) upstream to endpoint(s) in: Sacramento

Bypass (38.6057, –121.5563); Yolo Bypass (38.7627, –121.6325).

(ii) [Reserved]

(7) Marysville Hydrologic Unit 5515—(i) *Lower Yuba River Hydrologic Sub-area 551510*. Outlet(s) = Bear River (Lat 38.9398, Long –121.5790) upstream to endpoint(s) in: Bear River (38.9783, –121.5166).

(ii) *Lower Yuba River Hydrologic Sub-area 551530*. Outlet(s) = Yuba River (Lat 39.1270, Long –121.5981) upstream to endpoint(s) in: Yuba River (39.2203, –121.3314).

(iii) *Lower Feather River Hydrologic Sub-area 551540*. Outlet(s) = Feather River (Lat 39.1270, Long –121.5981) upstream to endpoint(s) in: Feather River (39.5203, –121.5475).

(8) Yuba River Hydrologic Unit 5517—(i) *Browns Valley Hydrologic Sub-Area 551712*. Outlet(s) = Dry Creek (Lat 39.2207, Long –121.4088); Yuba River (39.2203, –121.3314) upstream to endpoint(s) in: Dry Creek (39.3201, –121.3117); Yuba River (39.2305, –121.2813).

(ii) *Englebright Hydrologic Sub-area 551714*. Outlet(s) = Yuba River (Lat 39.2305, Long –121.2813) upstream to endpoint(s) in: Yuba River (39.2388, –121.2698).

(9) Valley-American Hydrologic Unit 5519—(i) *Lower American Hydrologic Sub-area 551921*. Outlet(s) = American River (Lat 38.5971, Long –121.5088) upstream to endpoint(s) in: American River (38.5669, –121.3827).

(ii) *Pleasant Grove Hydrologic Sub-area 551922*. Outlet(s) = Sacramento River (Lat 38.5965, Long –121.5086) upstream to endpoint(s) in: Feather River (39.1270, –121.5981).

(10) Colusa Basin Hydrologic Unit 5520—(i) *Sycamore-Sutter Hydrologic Sub-area 552010*. Outlet(s) = Sacramento River (Lat 38.7604, Long –121.6767) upstream to endpoint(s) in: Tisdale Bypass (39.0261, –121.7456).

(ii) *Sutter Bypass Hydrologic Sub-area 552030*. Outlet(s) = Sacramento River (Lat 38.7849, Long –121.6219) upstream to endpoint(s) in: Butte Creek (39.1987, –121.9285); Butte Slough (39.1987, –121.9285); Nelson Slough (38.8901, –121.6352); Sacramento Slough (38.7843, –121.6544); Sutter Bypass (39.1417, –121.8196; 39.1484, –121.8386); Tisdale Bypass (39.0261, –121.7456); Unnamed Tributary (39.1586, –121.8747).

(iii) *Butte Basin Hydrologic Sub-area 552040*. Outlet(s) = Butte Creek (Lat 39.1990, Long –121.9286); Sacramento River (39.4141, –122.0087) upstream to endpoint(s) in: Butte creek (39.7095, –121.7506); Colusa Bypass (39.2276, –121.9402); Unnamed Tributary (39.6762, –122.0151).

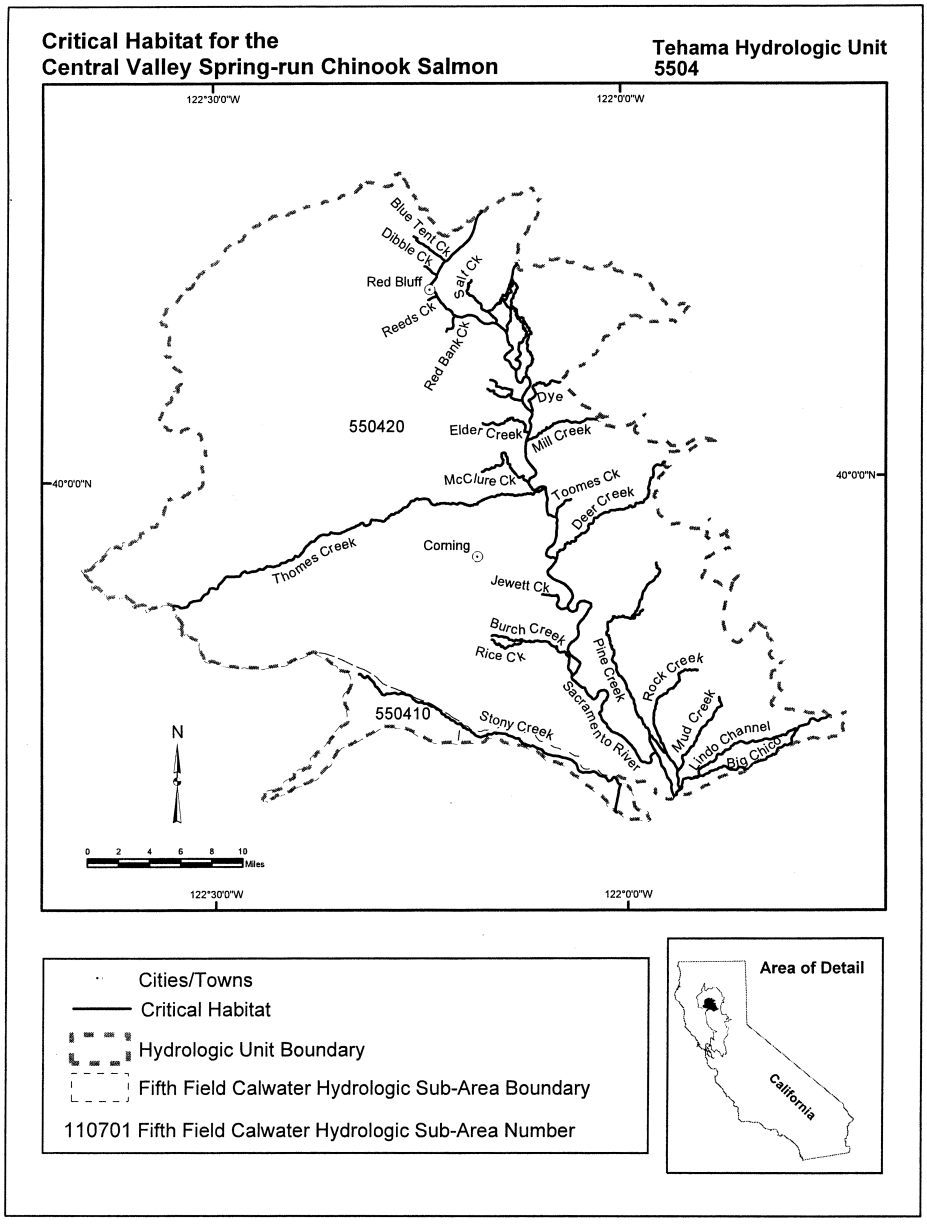
(11) Butte Creek Hydrologic Unit 5521—*Upper Little Chico Hydrologic Sub-area 552130*. Outlet(s) = Butte Creek (Lat 39.7096, –121.7504) upstream to endpoint(s) in Butte Creek (39.8665, –121.6344).

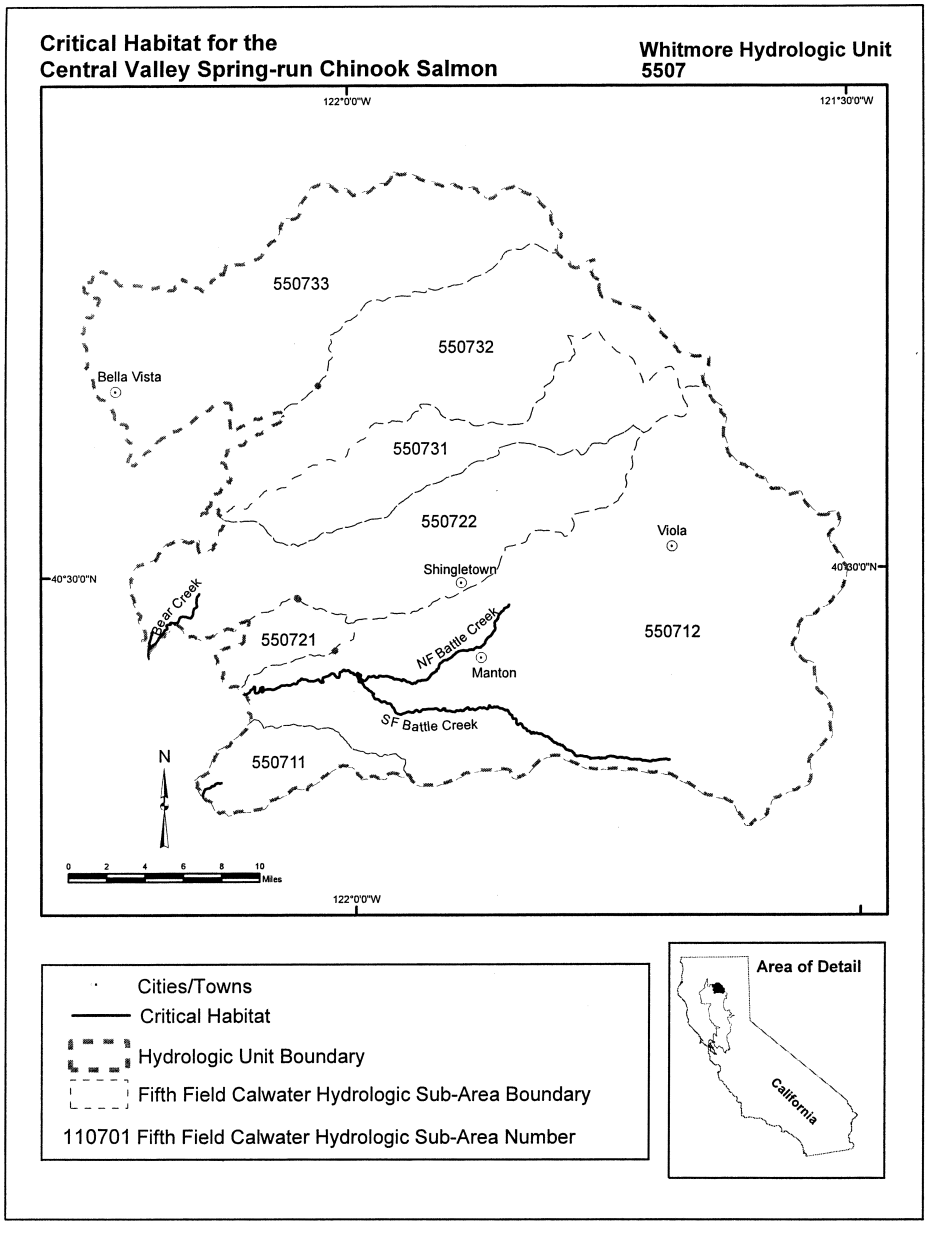
(12) Shasta Bally Hydrologic Unit 5524—(i) *Platina Hydrologic Sub-area 552436*. Outlet(s) = Middle Fork Cottonwood Creek (Lat 40.3314, –122.6663) upstream to endpoint(s) in Beegum Creek (40.3066, –122.9205); Middle Fork Cottonwood Creek (40.3655, –122.7451).

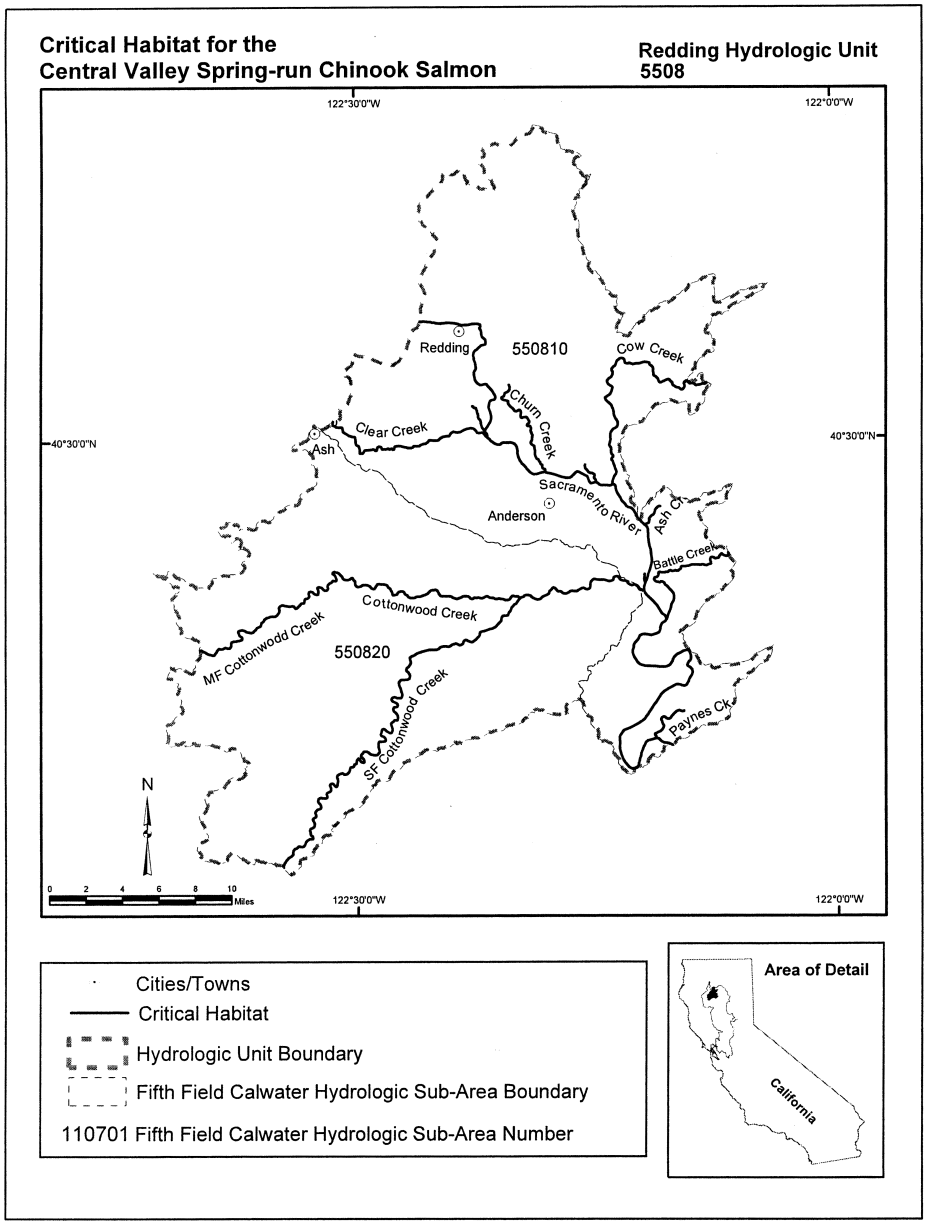
(ii) *Spring Creek Hydrologic Sub-area 552440*. Outlet(s) = Sacramento River (Lat 40.5943, Long –122.4343) upstream to endpoint(s) in: Sacramento River (40.6116, –122.4462)

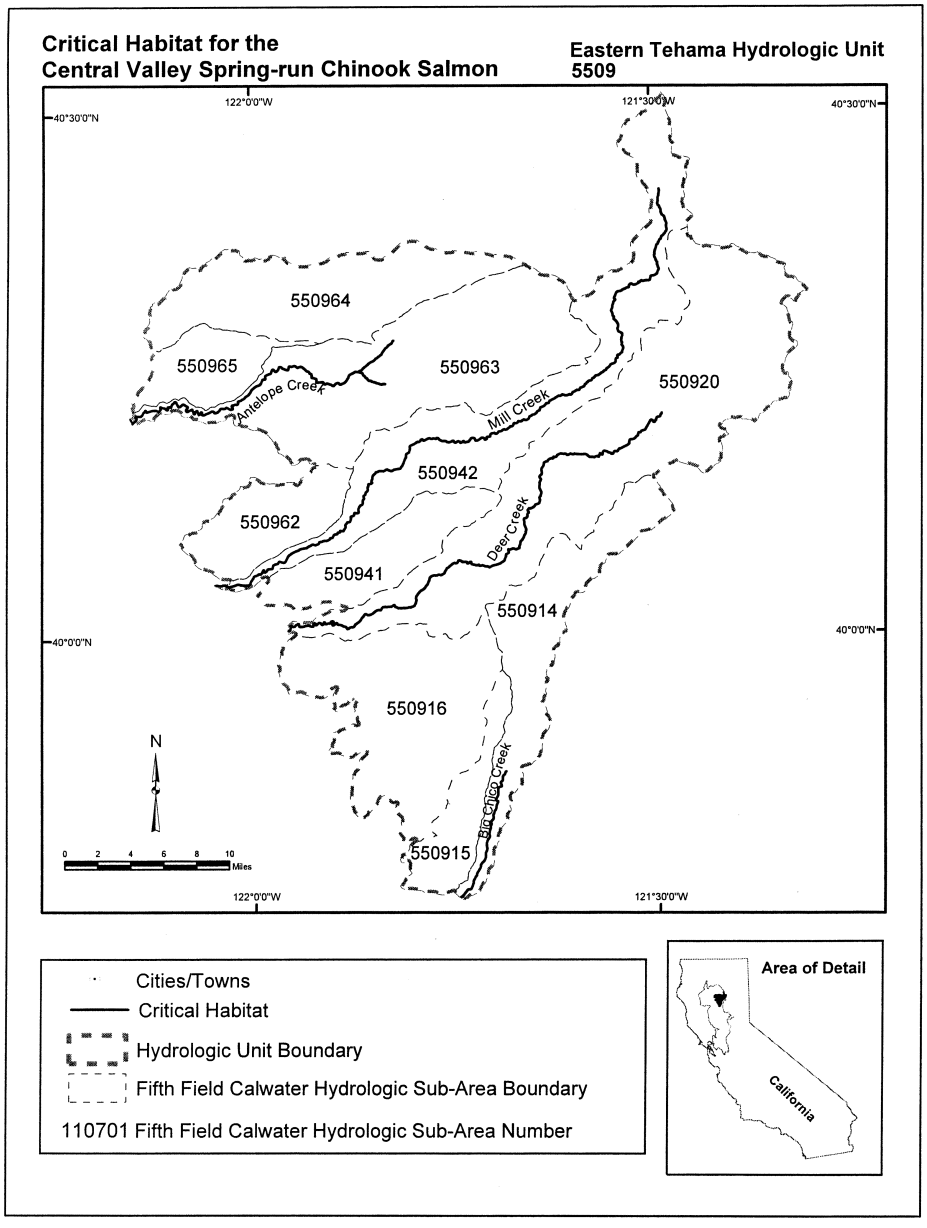
(iii) *Kanaka Peak Hydrologic Sub-area 552462*. Outlet(s) = Clear Creek (Lat 40.5158, Long –122.5256) upstream to endpoint(s) in: Clear Creek (40.5992, –122.5394).

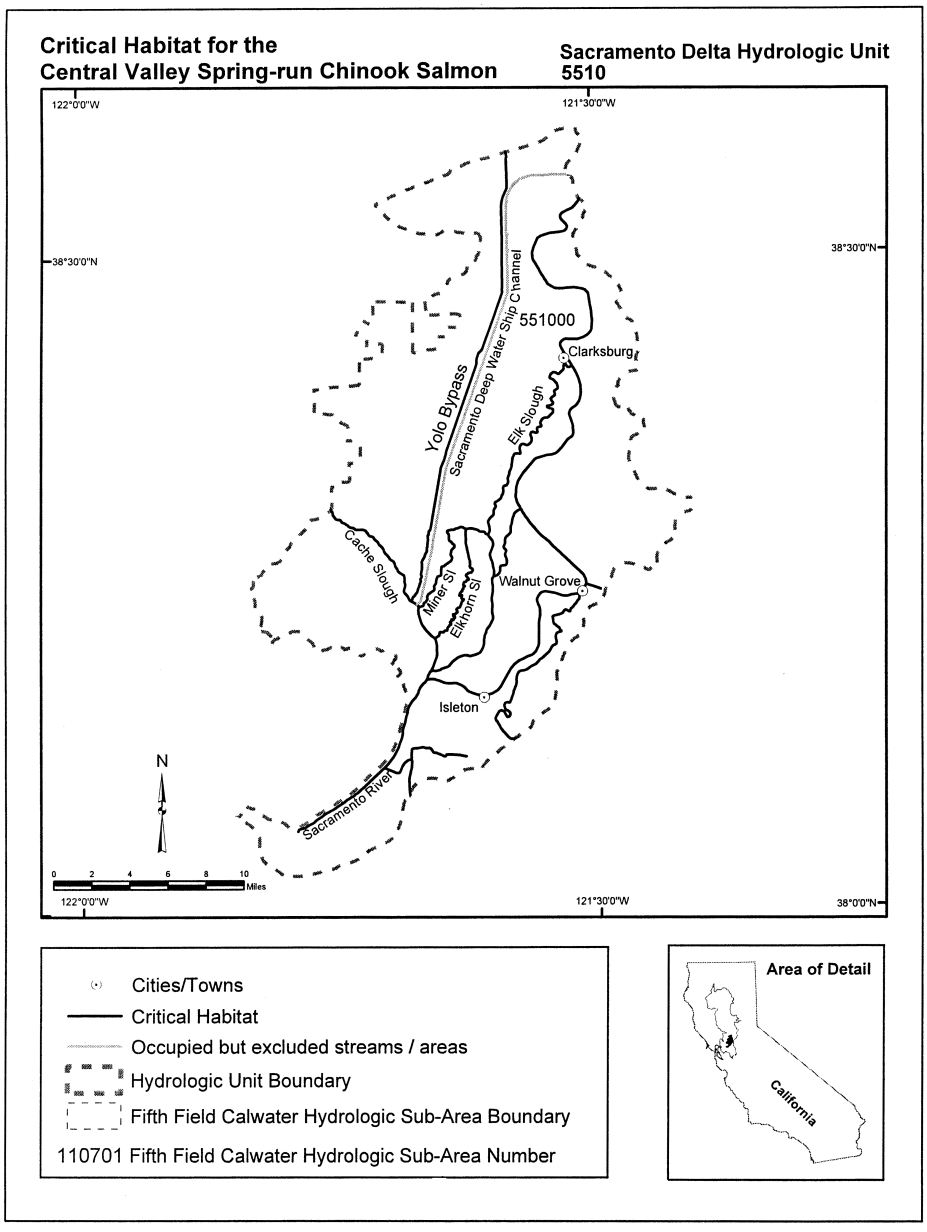
(13) Maps of critical habitat for the Central Valley Spring Run Chinook ESU follow:

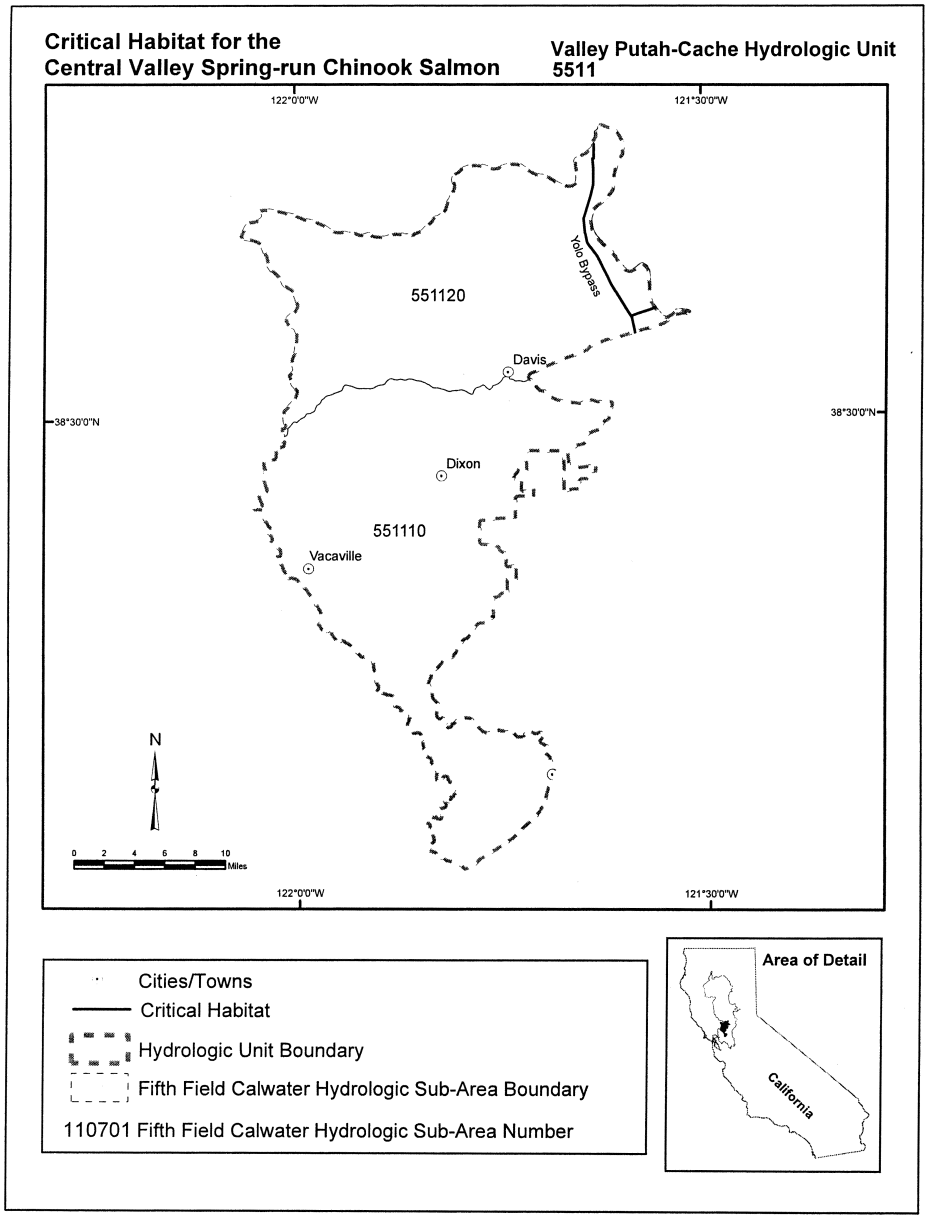

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Tehama Hydrologic Unit
5504
122°30'0"W
122°0'0"W
40°0'0"N
Blue Tent Ck
Dibble Ck
Red Bluff
Salt Ck
Reeds Ck
Red Bank Ck
Dye
550420
Elder Creek
Mill Creek
McClure Ck
Toomes Ck
Deer Creek
Thomes Creek
Corning
Jewett Ck
Burch Creek
Rice Ck
Pine Creek
Rock Creek
Sacramento River
Mud Creek
Lindo Channel
Big Chico
550410
Stony Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

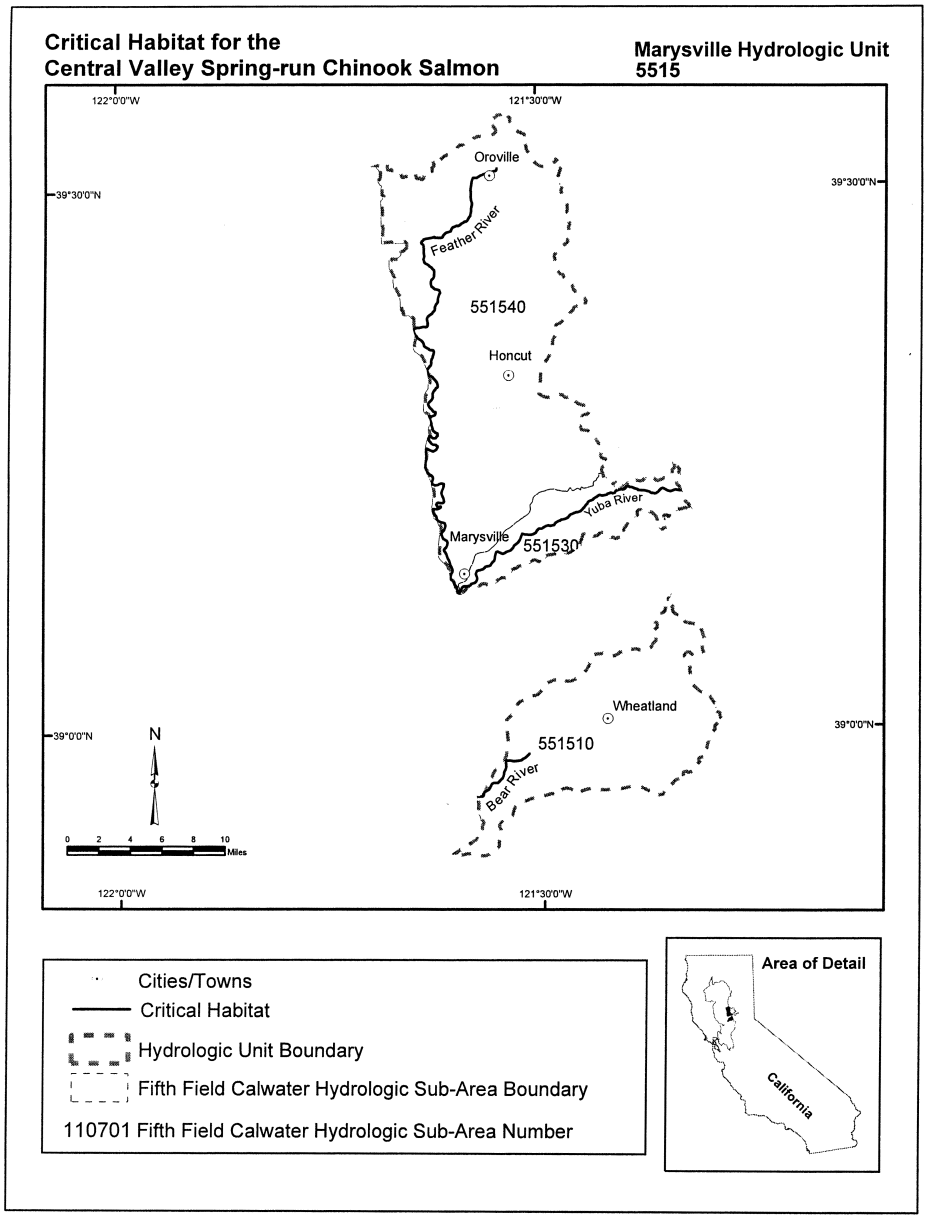

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Whitmore Hydrologic Unit
5507
122°0'0"W
121°30'0"W
40°30'0"N
550733
550732
550731
550722
550721
550712
550711
Bella Vista
Viola
Shingletown
Manton
Bear Creek
NF Battle Creek
SF Battle Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

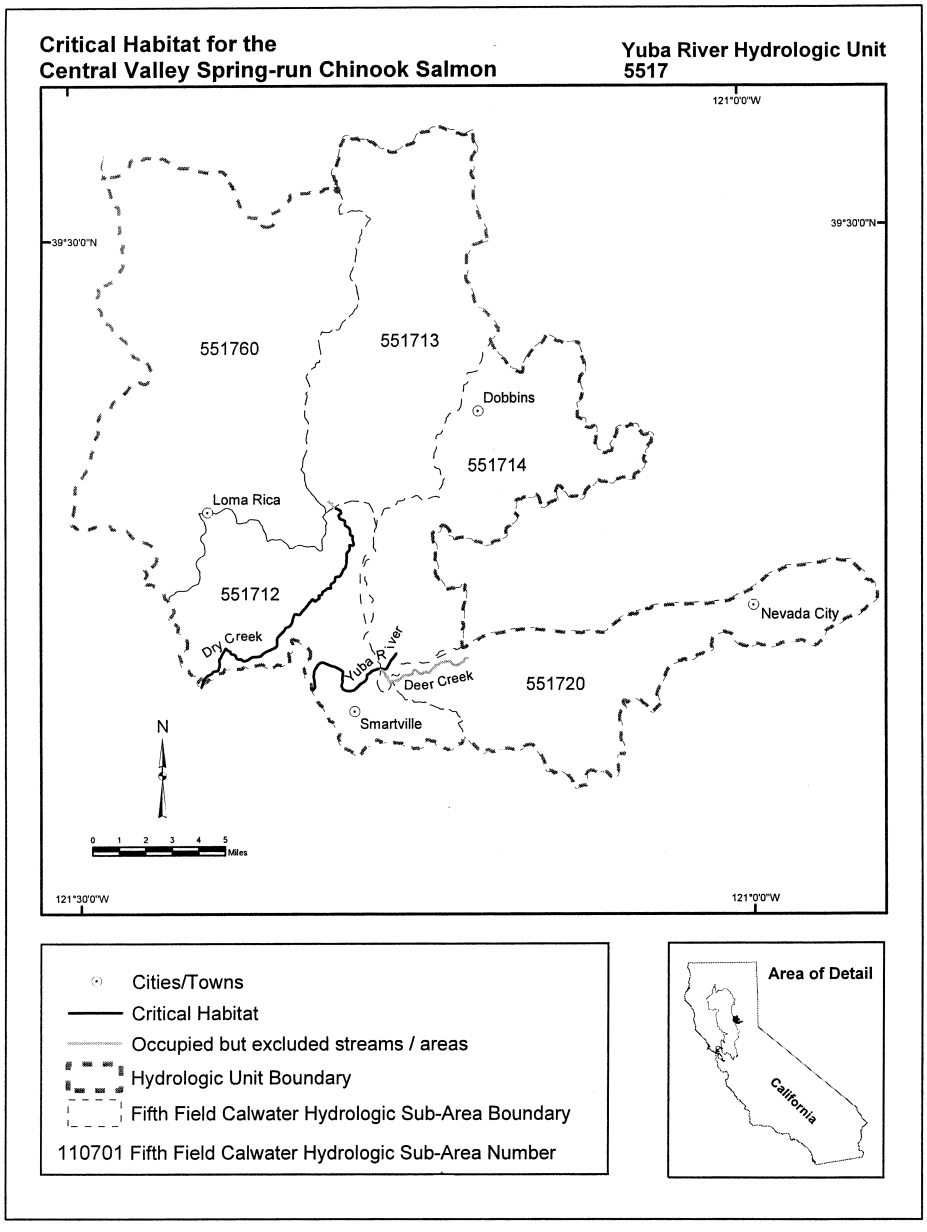

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Redding Hydrologic Unit
5508
122°30'0"W
122°0'0"W
40°30'0"N
Redding
550810
Cow Creek
Churn Creek
Clear Creek
Ash
Sacramento River
Anderson
Ash Cr
Battle Creek
Cottonwood Creek
MF Cottonwood Creek
550820
SF Cottonwood Creek
Paynes Ck
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

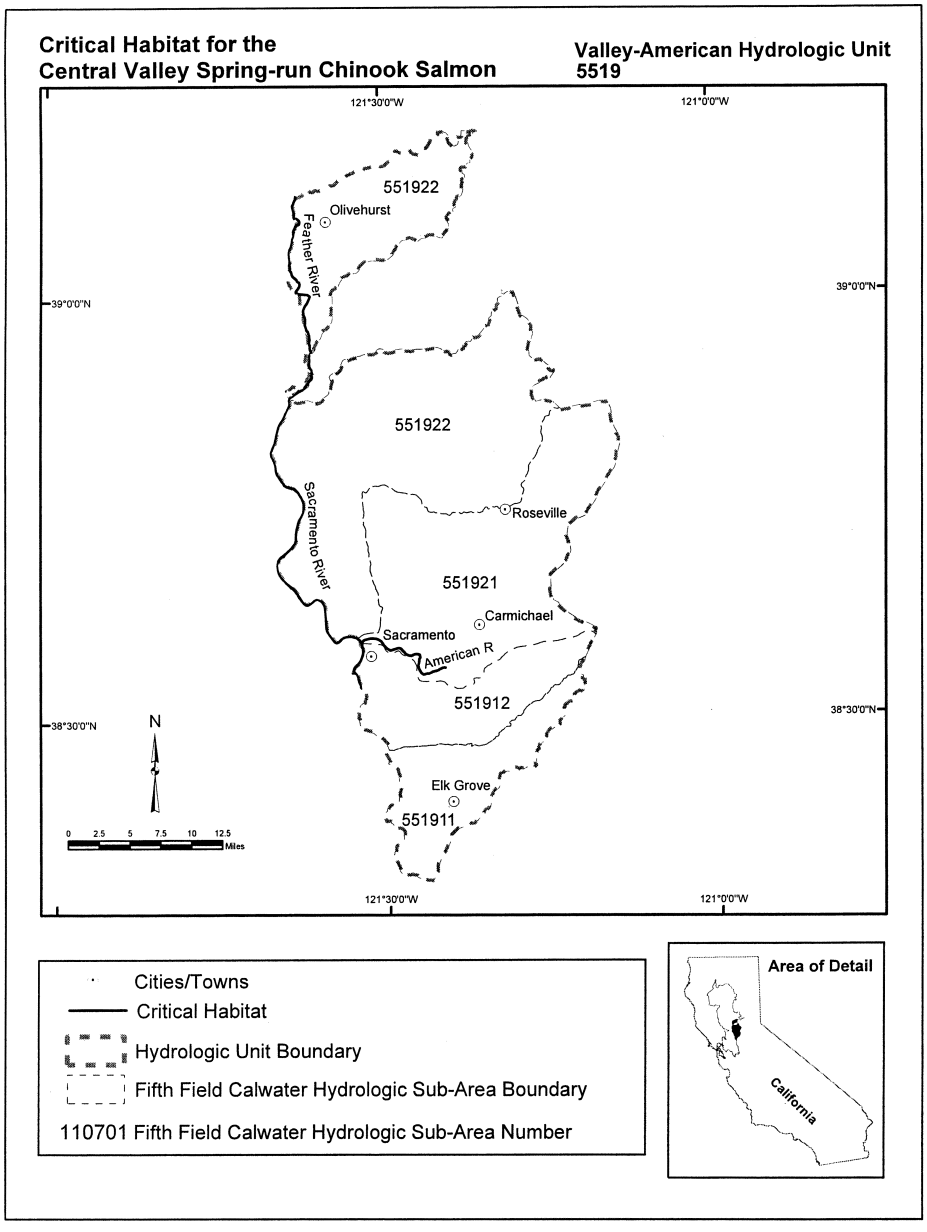

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Eastern Tehama Hydrologic Unit
5509
122°0'0"W
121°30'0"W
40°30'0"N
40°0'0"N
550964
550965
550963
550920
Antelope Creek
Mill Creek
550942
550962
Deer Creek
550941
550914
550916
Big Chico Creek
550915
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

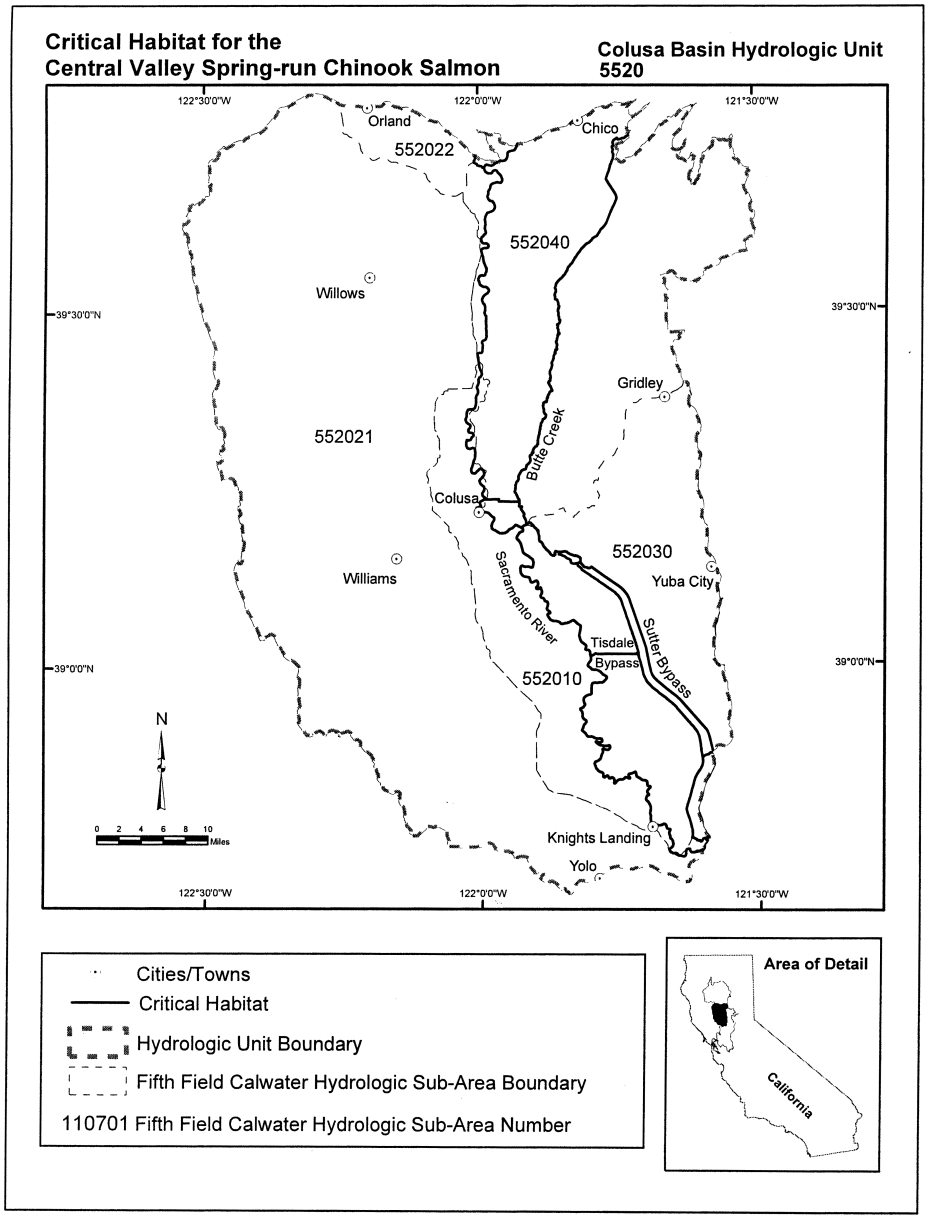

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Sacramento Delta Hydrologic Unit
5510
122°0'0"W
121°30'0"W
38°30'0"N
38°0'0"N
551000
Clarksburg
Yolo Bypass
Sacramento Deep Water Ship Channel
Elk Slough
Cache Slough
Miner Sl
Elkhorn Sl
Walnut Grove
Isleton
Sacramento River
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

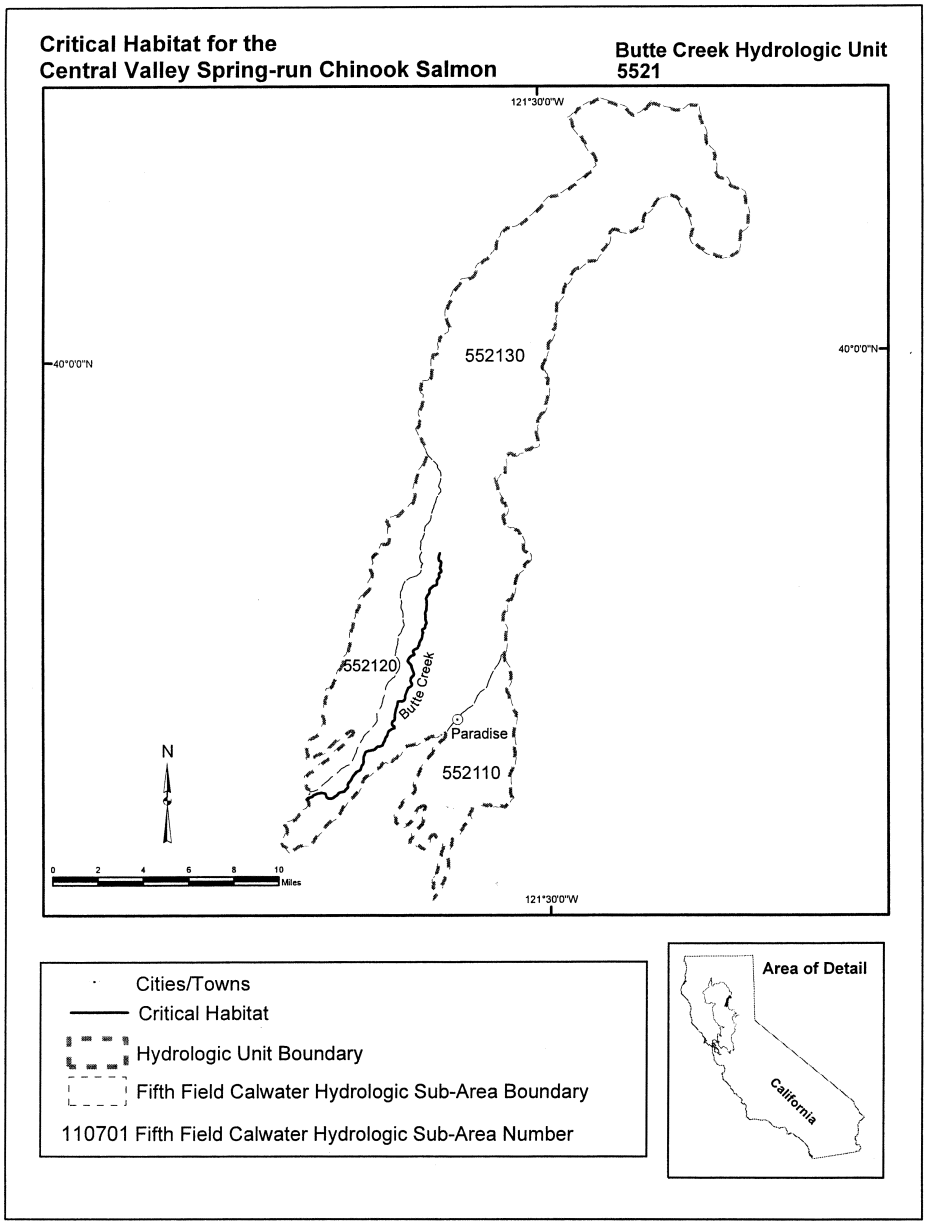

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Valley Putah-Cache Hydrologic Unit
5511
122°0'0"W
121°30'0"W
38°30'0"N
Yolo Bypass
551120
Davis
Dixon
551110
Vacaville
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

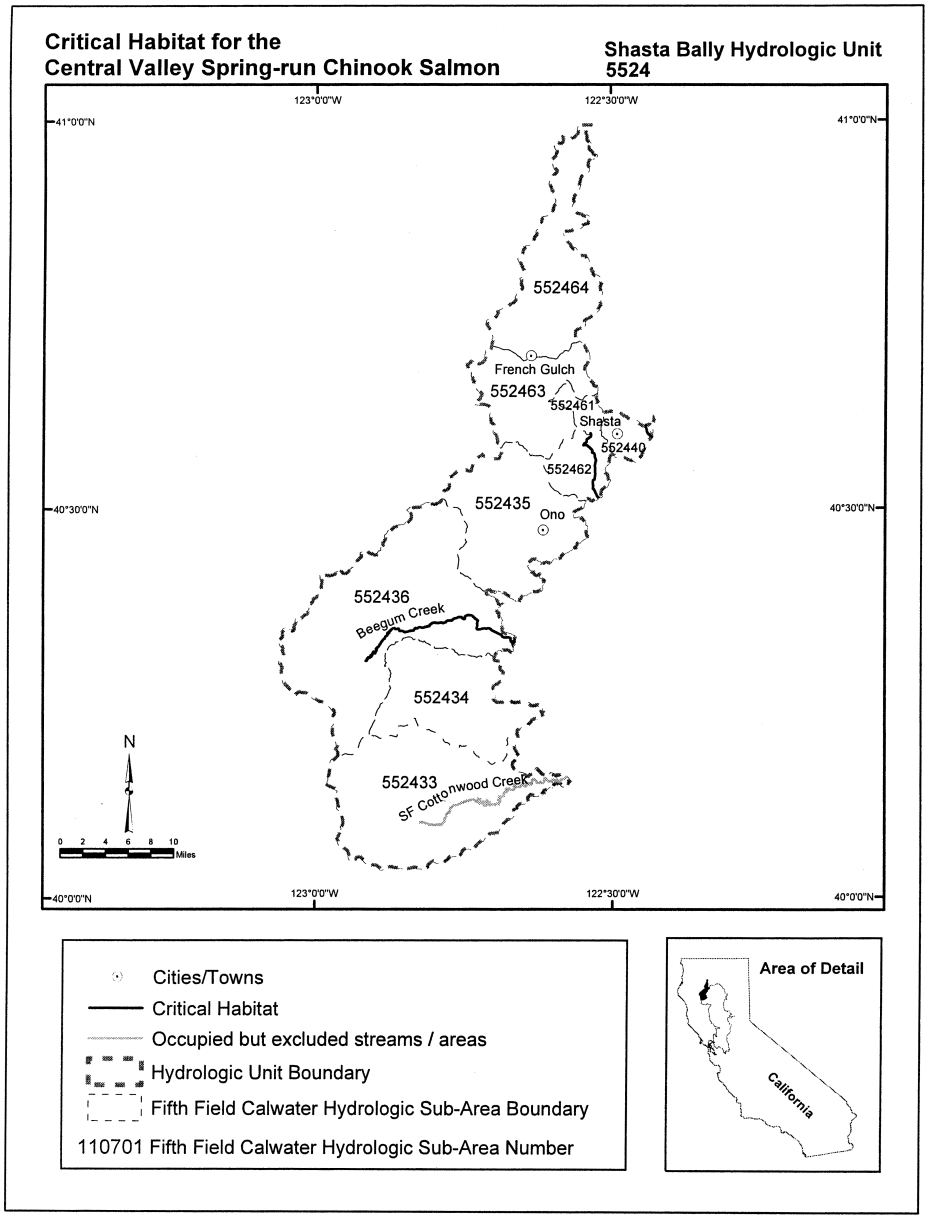

Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Marysville Hydrologic Unit
5515
122°0'0"W
121°30'0"W
39°30'0"N
39°0'0"N
Oroville
Feather River
551540
Honcut
Yuba River
Marysville
551530
Wheatland
551510
Bear River
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Yuba River Hydrologic Unit
5517
121°0'0"W
39°30'0"N
551760
551713
Dobbins
551714
Loma Rica
551712
Dry Creek
Yuba River
Deer Creek
551720
Nevada City
Smartville
N
0 1 2 3 4 5
Miles
121°30'0"W
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Valley-American Hydrologic Unit
5519
121°30'0"W
121°0'0"W
39°0'0"N
38°30'0"N
551922
Olivehurst
Feather River
551922
Roseville
Sacramento River
551921
Carmichael
Sacramento
American R
551912
Elk Grove
551911
N
0 2.5 5 7.5 10 12.5
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Colusa Basin Hydrologic Unit
5520
122°30'0"W
122°0'0"W
121°30'0"W
39°30'0"N
39°0'0"N
Orland
Chico
552022
552040
Willows
Gridley
552021
Butte Creek
Colusa
552030
Williams
Yuba City
Sacramento River
Tisdale
Bypass
Sutter Bypass
552010
N
0 2 4 6 8 10
Miles
Knights Landing
Yolo
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
Central Valley Spring-run Chinook Salmon
Butte Creek Hydrologic Unit
5521
121°30'0"W
40°0'0"N
552130
552120
Butte Creek
Paradise
552110
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California



(l) *Central Valley steelhead (O. mykiss).* Critical habitat is designated to include the areas defined in the following CALWATER Hydrologic Units:

(1) Tehama Hydrologic Unit 5504—(i) *Lower Stony Creek Hydrologic Sub-area 550410.* Outlet(s) = Stony Creek (Lat 39.6760, Long –121.9732) upstream to

endpoint(s) in: Stony Creek (39.8199, –122.3391).

(ii) Red Bluff Hydrologic Sub-area 550420. Outlet(s) = Sacramento River (Lat 39.6998, Long –121.9419) upstream to endpoint(s) in: Antelope Creek (40.2023, –122.1272); Big Chico Creek (39.7757, –121.7525); Blue Tent Creek (40.2166, –122.2362); Burch Creek (39.8495, –122.1615); Butler Slough (40.1579, –122.1320); Craig Creek (40.1617, –122.1350); Deer Creek (40.0144, –121.9481); Dibble Creek (40.2002, –122.2421); Dye Creek (40.0910, –122.0719); Elder Creek (40.0438, –122.2133); Lindo Channel (39.7623, –121.7923); McClure Creek (40.0074, –122.1723); Mill Creek (40.0550, –122.0317); Mud Creek (39.7985, –121.8803); New Creek (40.1873, –122.1350); Oat Creek (40.0769, –122.2168); Red Bank Creek (40.1421, –122.2399); Rice Creek (39.8495, –122.1615); Rock Creek (39.8034, –121.9403); Salt Creek (40.1572, –122.1646); Thomes Creek (39.8822, –122.5527); Unnamed Tributary (40.1867, –122.1353); Unnamed Tributary (40.1682, –122.1459); Unnamed Tributary (40.1143, –122.1259); Unnamed Tributary (40.0151, –122.1148); Unnamed Tributary (40.0403, –122.1009); Unnamed Tributary (40.0514, –122.0851); Unnamed Tributary (40.0530, –122.0769).

(2) Whitmore Hydrologic Unit 5507—(i) *Inks Creek Hydrologic Sub-area 550711*. Outlet(s) = Inks Creek (Lat 40.3305, Long –122.1520) upstream to endpoint(s) in: Inks Creek (40.3418, –122.1332).

(ii) *Battle Creek Hydrologic Sub-area 550712*. Outlet(s) = Battle Creek (Lat 40.4083, Long –122.1102) upstream to endpoint(s) in: Baldwin Creek (40.4369, –121.9885); Battle Creek (40.4228, –121.9975); Brush Creek (40.4913, –121.8664); Millseat Creek (40.4808, –121.8526); Morgan Creek (40.3654, –121.9132); North Fork Battle Creek (40.4877, –121.8185); Panther Creek (40.3897, –121.6106); South Ditch (40.3997, –121.9223); Ripley Creek (40.4099, –121.8683); Soap Creek (40.3904, –121.7569); South Fork Battle Creek (40.3531, –121.6682); Unnamed Tributary (40.3567, –121.8293); Unnamed Tributary (40.4592, –121.8671).

(iii) *Ash Creek Hydrologic Sub-area 550721*. Outlet(s) = Ash Creek (Lat 40.4401, Long –122.1375) upstream to endpoint(s) in: Ash Creek (40.4628, –122.0066).

(iv) *Inwood Hydrologic Sub-area 550722*. Outlet(s) = Ash Creek (Lat 40.4628, Long –122.0066); Bear Creek (40.4352, –122.2039) upstream to endpoint(s) in: Ash Creek (40.4859, –121.8993); Bear Creek (40.5368, –121.9560); North Fork Bear Creek (40.5736, –121.8683).

(v) *South Cow Creek Hydrologic Sub-area 550731*. Outlet(s) = South Cow Creek (Lat 40.5438, Long –122.1318) upstream to endpoint(s) in: South Cow Creek (40.6023, –121.8623).

(vi) *Old Cow Creek Hydrologic Sub-area 550732*. Outlet(s) = Clover Creek (Lat 40.5788, Long –122.1252); Old Cow Creek (40.5442, –122.1317) upstream to endpoint(s) in: Clover Creek (40.6305, –122.0304); Old Cow Creek (40.6295, –122.9619).

(vii) *Little Cow Creek Hydrologic Sub-area 550733*. Outlet(s) = Little Cow Creek (Lat 40.6148, –122.2271); Oak Run Creek (40.6171, –122.1225) upstream to endpoint(s) in: Little Cow Creek (40.7114, –122.0850); Oak Run Creek (40.6379, –122.0856).

(3) Redding Hydrologic Unit 5508—(i) *Enterprise Flat Hydrologic Sub-area 550810*. Outlet(s) = Sacramento River (Lat 40.2526, Long –122.1707) upstream to endpoint(s) in: Ash Creek (40.4401, –122.1375); Battle Creek (40.4083, –122.1102); Bear Creek (40.4360, –122.2036); Calaboose Creek (40.5742, –122.4142); Canyon Creek (40.5532, –122.3814); Churn Creek (40.5986, –122.3418); Clear Creek (40.5158, –122.5256); Clover Creek (40.5788, –122.1252); Cottonwood Creek (40.3777, –122.1991); Cow Creek (40.5437, –122.1318); East Fork Stillwater Creek (40.6495, –122.2934); Inks Creek (40.3305, –122.1520); Jenny Creek (40.5734, –122.4338); Little Cow Creek (40.6148, –122.2271); Oak Run (40.6171, –122.1225); Old Cow Creek (40.5442, –122.1317); Olney Creek (40.5439, –122.4687); Oregon Gulch (40.5463, –122.3866); Paynes Creek (40.3024, –122.1012); Stillwater Creek (40.6495, –122.2934); Sulphur Creek (40.6164, –122.4077).

(ii) *Lower Cottonwood Hydrologic Sub-area 550820*. Outlet(s) = Cottonwood Creek (Lat 40.3777, Long –122.1991) upstream to endpoint(s) in: Cold Fork Cottonwood Creek (40.2060, –122.6608); Cottonwood Creek (40.3943, –122.5254); Middle Fork Cottonwood Creek (40.3314, –122.6663); North Fork Cottonwood

Creek (40.4539, –122.5610); South Fork Cottonwood Creek (40.1578, –122.5809).

(4) Eastern Tehama Hydrologic Unit 5509—(i) *Big Chico Creek Hydrologic Sub-area 550914*. Outlet(s) = Big Chico Creek (Lat 39.7757, Long –121.7525) upstream to endpoint(s) in: Big Chico Creek (39.8898, –121.6952).

(ii) *Deer Creek Hydrologic Sub-area 550920*. Outlet(s) = Deer Creek (Lat 40.0142, Long –121.9476) upstream to endpoint(s) in: Deer Creek (40.2025, –121.5130).

(iii) *Upper Mill Creek Hydrologic Sub-area 550942*. Outlet(s) = Mill Creek (Lat 40.0550, Long –122.0317) upstream to endpoint(s) in: Mill Creek (40.3766, –121.5098); Rocky Gulch Creek (40.2888, –121.5997).

(iv) *Dye Creek Hydrologic Sub-area 550962*. Outlet(s) = Dye Creek (Lat 40.0910, Long –122.0719) upstream to endpoint(s) in: Dye Creek (40.0996, –121.9612).

(v) *Antelope Creek Hydrologic Sub-area 550963*. Outlet(s) = Antelope Creek (Lat 40.2023, Long –122.1272) upstream to endpoint(s) in: Antelope Creek (40.2416, –121.8630); Middle Fork Antelope Creek (40.2673, –121.7744); North Fork Antelope Creek (40.2807, –121.7645); South Fork Antelope Creek (40.2521, –121.7575).

(5) Sacramento Delta Hydrologic Unit 5510—*Sacramento Delta Hydrologic Sub-area 551000*. Outlet(s) = Sacramento River (Lat 38.0653, Long –121.8418) upstream to endpoint(s) in: Cache Slough (38.2984, –121.7490); Elk Slough (38.4140, –121.5212); Elkhorn Slough (38.2898, –121.6271); Georgiana Slough (38.2401, –121.5172); Horseshoe Bend (38.1078, –121.7117); Lindsey Slough (38.2592, –121.7580); Miners Slough (38.2864, –121.6051); Prospect Slough (38.2830, –121.6641); Putah Creek (38.5155, –121.5885); Sevenmile Slough (38.1171, –121.6298); Streamboat Slough (38.3052, –121.5737); Sutter Slough (38.3321, –121.5838); Threemile Slough (38.1155, –121.6835); Ulatis Creek (38.2961, –121.7835); Unnamed Tributary (38.2937, –121.7803); Unnamed Tributary (38.2937, –121.7804); Yolo Bypass (38.5800, –121.5838).

(6) Valley-Putah-Cache Hydrologic Unit 5511—*Lower Putah Creek Hydrologic Sub-area 551120*. Outlet(s) = Sacramento Bypass (Lat 38.6057, Long –121.5563); Yolo Bypass (38.5800, –121.5838) upstream to endpoint(s) in: Sacramento Bypass (38.5969, –121.5888); Yolo Bypass (38.7627, –121.6325).

(7) American River Hydrologic Unit 5514—*Auburn Hydrologic Sub-area 551422*. Outlet(s) = Auburn Ravine (Lat 38.8921, Long –121.2181); Coon Creek (38.9891, –121.2556); Doty Creek (38.9401, –121.2434) upstream to endpoint(s) in: Auburn Ravine (38.8888, –121.1151); Coon Creek (38.9659, –121.1781); Doty Creek (38.9105, –121.1244).

(8) Marysville Hydrologic Unit 5515—(i) *Lower Bear River Hydrologic Sub-area 551510*. Outlet(s) = Bear River (Lat 39.9398, Long –121.5790) upstream to endpoint(s) in: Bear River (39.0421, –121.3319).

(ii) *Lower Yuba River Hydrologic Sub-area 551530*. Outlet(s) = Yuba River (Lat 39.1270, Long –121.5981) upstream to endpoint(s) in: Yuba River (39.2203, –121.3314).

(iii) *Lower Feather River Hydrologic Sub-area 551540*. Outlet(s) = Feather River (Lat 39.1264, Long –121.5984) upstream to endpoint(s) in: Feather River (39.5205, –121.5475).

(9) Yuba River Hydrologic Unit 5517—(i) *Browns Valley Hydrologic Sub-area 551712*. Outlet(s) = Dry Creek (Lat 39.2215, Long –1121.4082); Yuba River (39.2203, –1121.3314) upstream to endpoint(s) in: Dry Creek (39.3232, Long –1121.3155); Yuba River (39.2305, –1121.2813).

(ii) *Englebright Hydrologic Sub-area 551714*. Outlet(s) = Yuba River (Lat 39.2305, Long –1121.2813) upstream to endpoint(s) in: Yuba River (39.2399, –1121.2689).

(10) Valley American Hydrologic Unit 5519—(i) *Lower American Hydrologic Sub-area 551921*. Outlet(s) = American River (Lat 38.5971, –1121.5088) upstream to endpoint(s) in: American River (38.6373, –1121.2202); Dry Creek (38.7554, –1121.2676); Miner's Ravine (38.8429, –1121.1178); Natomas East Main Canal (38.6646, –1121.4770); Secret Ravine(38.8541, –1121.1223).

(ii) *Pleasant Grove Hydrologic Sub-area 551922*. Outlet(s) = Sacramento River (Lat 38.6026, Long –1121.5155) upstream to endpoint(s) in: Auburn Ravine (38.8913, –1121.2424); Coon Creek (38.9883, –1121.2609); Doty Creek (38.9392, –1121.2475); Feather River (39.1264, –1121.5984).

(11) Colusa Basin Hydrologic Unit 5520—(i) *Sycamore-Sutter Hydrologic Sub-area 552010*. Outlet(s) = Sacramento River (Lat 38.7604, Long –1121.6767) upstream to endpoint(s) in: Tisdale Bypass (39.0261, –1121.7456).

(ii) *Sutter Bypass Hydrologic Sub-area 552030*. Outlet(s) = Sacramento River (Lat 38.7851, Long –1121.6238) upstream to endpoint(s) in: Butte Creek (39.1990, –1121.9286); Butte Slough (39.1987, –1121.9285); Nelson Slough (38.8956, –1121.6180); Sacramento Slough (38.7844, –1121.6544); Sutter Bypass (39.1586, –1121.8747).

(iii) *Butte Basin Hydrologic Sub-area 552040*. Outlet(s) = Butte Creek (Lat 39.1990, Long –1121.9286); Sacramento River (39.4141, –1122.0087) upstream to endpoint(s) in: Butte Creek (39.7096, –1121.7504); Colusa Bypass (39.2276, –1121.9402); Little Chico Creek (39.7380, –1121.7490); Little Dry Creek (39.6781, –1121.6580).

(12) Butte Creek Hydrologic Unit 5521—(i) *Upper Dry Creek Hydrologic Sub-area 552110*. Outlet(s) = Little Dry Creek (Lat 39.6781, –1121.6580) upstream to endpoint(s) in: Little Dry Creek (39.7424, –1121.6213).

(ii) *Upper Butte Creek Hydrologic Sub-area 552120*. Outlet(s) = Little Chico Creek (Lat 39.7380, Long –1121.7490) upstream to endpoint(s) in: Little Chico Creek (39.8680, –1121.6660).

(iii) *Upper Little Chico Hydrologic Sub-area 552130*. Outlet(s) = Butte Creek (Lat 39.7096, Long –1121.7504) upstream to endpoint(s) in: Butte Creek (39.8215, –1121.6468); Little Butte Creek (39.8159, –1121.5819).

(13) Ball Mountain Hydrologic Unit 5523—*Thomes Creek Hydrologic Sub-area 552310*. Outlet(s) = Thomes Creek (39.8822, –1122.5527) upstream to endpoint(s) in: Doll Creek (39.8941, –1122.9209); Fish Creek (40.0176, –1122.8142); Snake Creek (39.9945, –1122.7788); Thomes Creek (39.9455, –1122.8491); Willow Creek (39.8941, –1122.9209).

(14) Shasta Bally Hydrologic Unit 5524—(i) *South Fork Hydrologic Sub-area 552433*. Outlet(s) = Cold Fork Cottonwood Creek (Lat 40.2060, Long –1122.6608); South Fork Cottonwood Creek (40.1578, –1122.5809) upstream to endpoint(s) in: Cold Fork Cottonwood Creek (40.1881, –1122.8690); South Fork Cottonwood Creek (40.1232, –1122.8761).

(ii) *Platina Hydrologic Sub-area 552436*. Outlet(s) = Middle Fork Cottonwood Creek (Lat 40.3314, Long –1122.6663) upstream to endpoint(s) in: Beegum Creek (40.3149, –1122.9776): Middle Fork Cottonwood Creek (40.3512, –1122.9629).

(iii) *Spring Creek Hydrologic Sub-area 552440*. Outlet(s) = Sacramento River (Lat 40.5943, Long –1122.4343) upstream to endpoint(s) in: Middle Creek (40.5904, –1121.4825); Rock Creek (40.6155, –1122.4702); Sacramento River (40.6116, –1122.4462); Salt Creek (40.5830, –1122.4586); Unnamed Tributary (40.5734, –1122.4844).

(iv) *Kanaka Peak Hydrologic Sub-area 552462*. Outlet(s) = Clear Creek (Lat 40.5158, Long –1122.5256) upstream to endpoint(s) in: Clear Creek (40.5998, 122.5399).

(15) North Valley Floor Hydrologic Unit 5531—(i) *Lower Mokelumne Hydrologic Sub-area 553120*. Outlet(s) = Mokelumne River (Lat 38.2104, Long –1121.3804) upstream to endpoint(s) in: Mokelumne River (38.2263, –1121.0241); Murphy Creek (38.2491, –1121.0119).

(ii) *Lower Calaveras Hydrologic Sub-area 553130*. Outlet(s) = Calaveras River (Lat 37.9836, Long –1121.3110); Mormon Slough (37.9456,-121.2907) upstream to endpoint(s) in: Calaveras River (38.1025, –1120.8503); Mormon Slough (38.0532, –1121.0102); Stockton Diverting Canal (37.9594, –1121.2024).

(16) Upper Calaveras Hydrologic Unit 5533—*New Hogan Reservoir Hydrologic Sub-area 553310*. Outlet(s) = Calaveras River (Lat 38.1025, Long –1120.8503) upstream to endpoint(s) in: Calaveras River (38.1502, –1120.8143).

(17) Stanislaus River Hydrologic Unit 5534—*Table Mountain Hydrologic Sub-area 553410*. Outlet(s) = Stanislaus River (Lat 37.8355, Long –1120.6513) upstream to endpoint(s) in: Stanislaus River (37.8631, –1120.6298).

(18) San Joaquin Valley Floor Hydrologic Unit 5535—(i) *Riverbank Hydrologic Sub-area 553530*. Outlet(s) = Stanislaus River (Lat 37.6648, Long –1121.2414) upstream to endpoint(s) in: Stanislaus River (37.8355, –1120.6513).

(ii) *Turlock Hydrologic Sub-area 553550*. Outlet(s) = Tuolumne River (Lat 37.6059, Long –1121.1739) upstream to

endpoint(s) in: Tuolumne River (37.6401, –1120.6526).

(iii) *Montpelier Hydrologic Sub-area 553560*. Outlet(s) = Tuolumne River (Lat 37.6401, Long –1120.6526) upstream to endpoint(s) in: Tuolumne River (37.6721, –1120.4445).

(iv) *El Nido-Stevinson Hydrologic Sub-area 553570*. Outlet(s) = Merced River (Lat 37.3505, Long –1120.9619) upstream to endpoint(s) in: Merced River (37.3620, –1120.8507).

(v) *Merced Hydrologic Sub-area 553580*. Outlet(s) = Merced River (Lat 37.3620, Long –1120.8507) upstream to endpoint(s) in: Merced River (37.4982, –1120.4612).

(vi) *Fahr Creek Hydrologic Sub-area 553590*. Outlet(s) = Merced River (Lat 37.4982, Long –1120.4612) upstream to endpoint(s) in: Merced River (37.5081, –1120.3581).

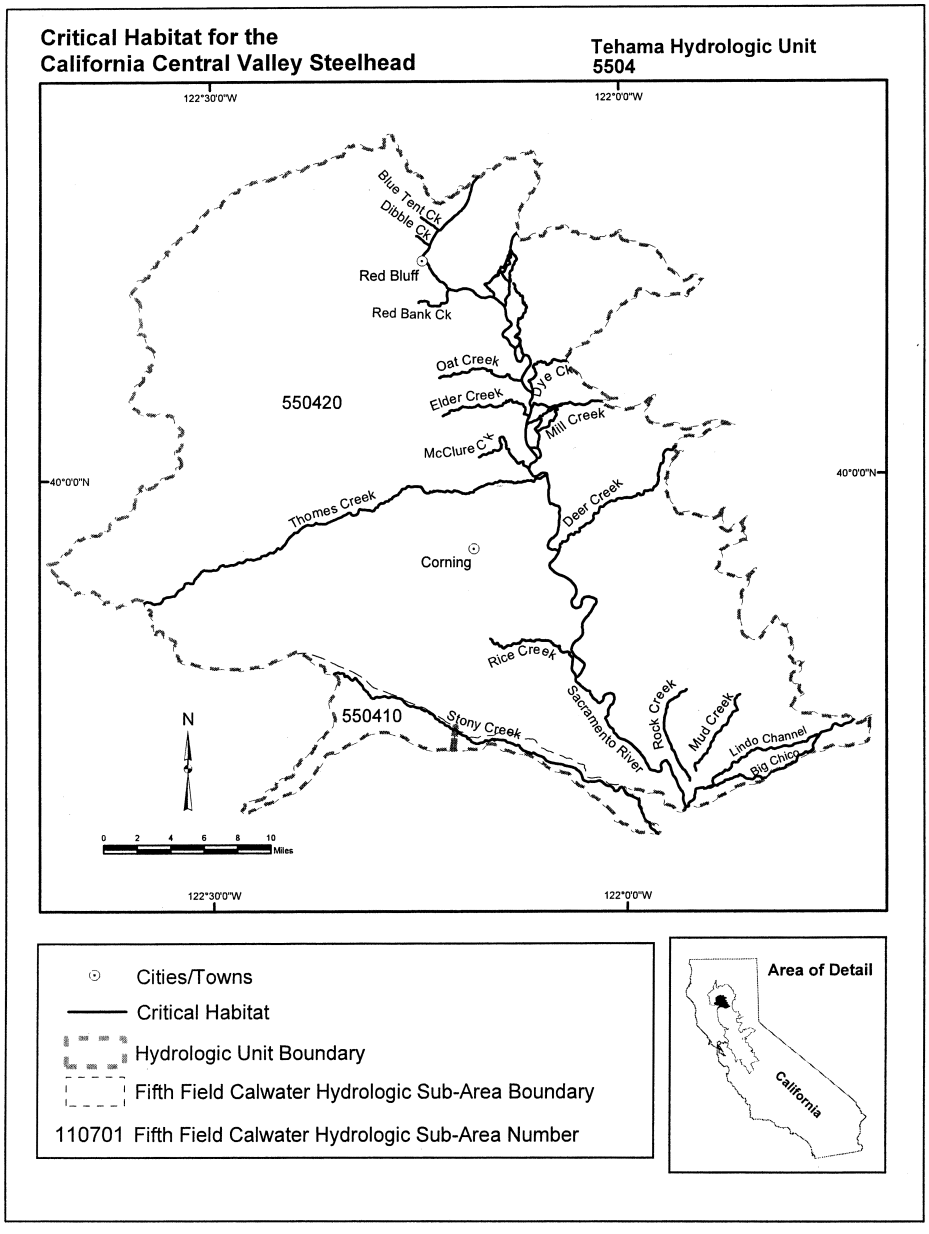
(19) Delta-Mendota Canal Hydrologic Unit 5541—(i) *Patterson Hydrologic Sub-area 554110*. Outlet(s) = San Joaquin River (Lat 37.6763, Long –1121.2653) upstream to endpoint(s) in: San Joaquin River (37.3491, –1120.9759).

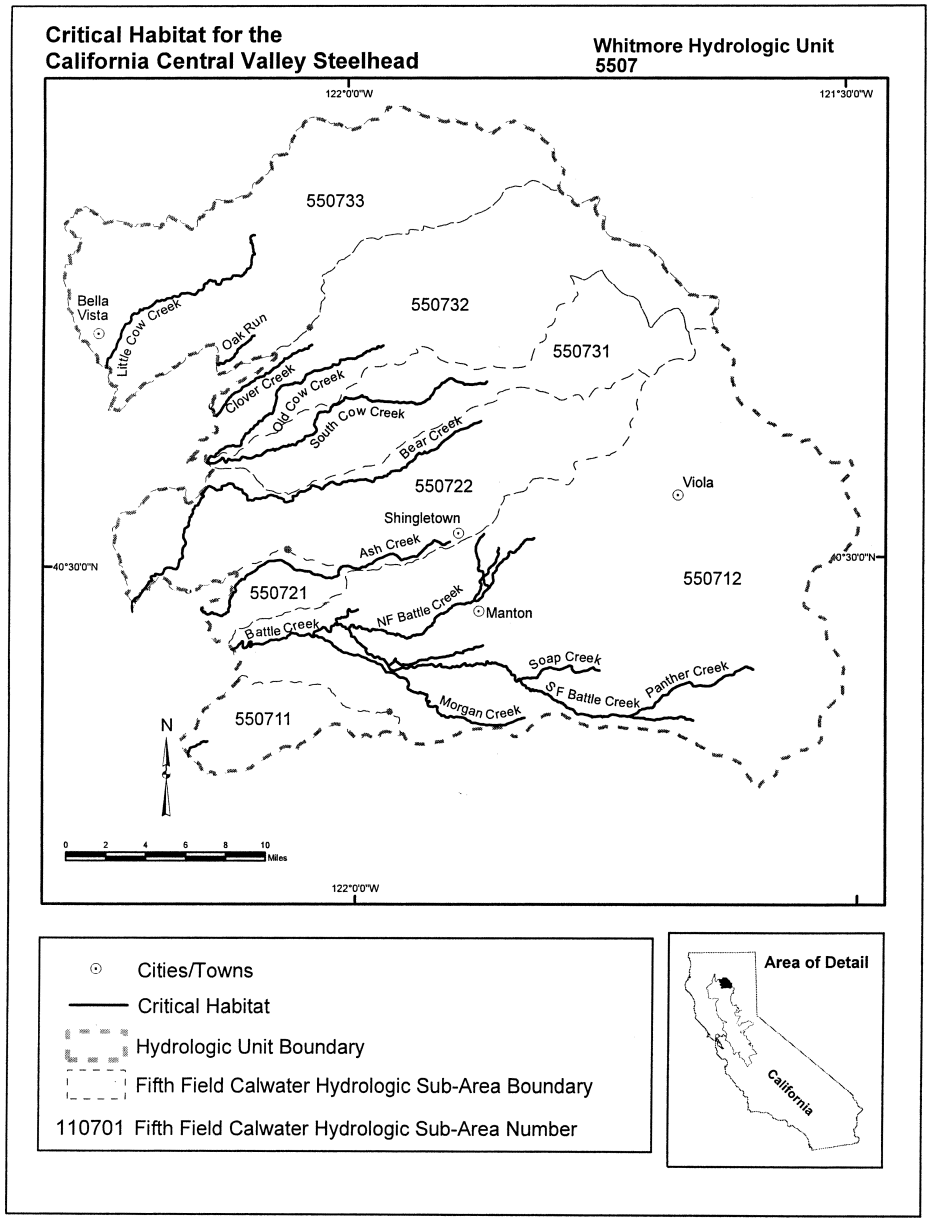
(ii) *Los Banos Hydrologic Sub-area 554120*. Outlet(s) = Merced River (Lat 37.3490, Long –1120.9756) upstream to endpoint(s) in: Merced River (37.3505, –1120.9619).

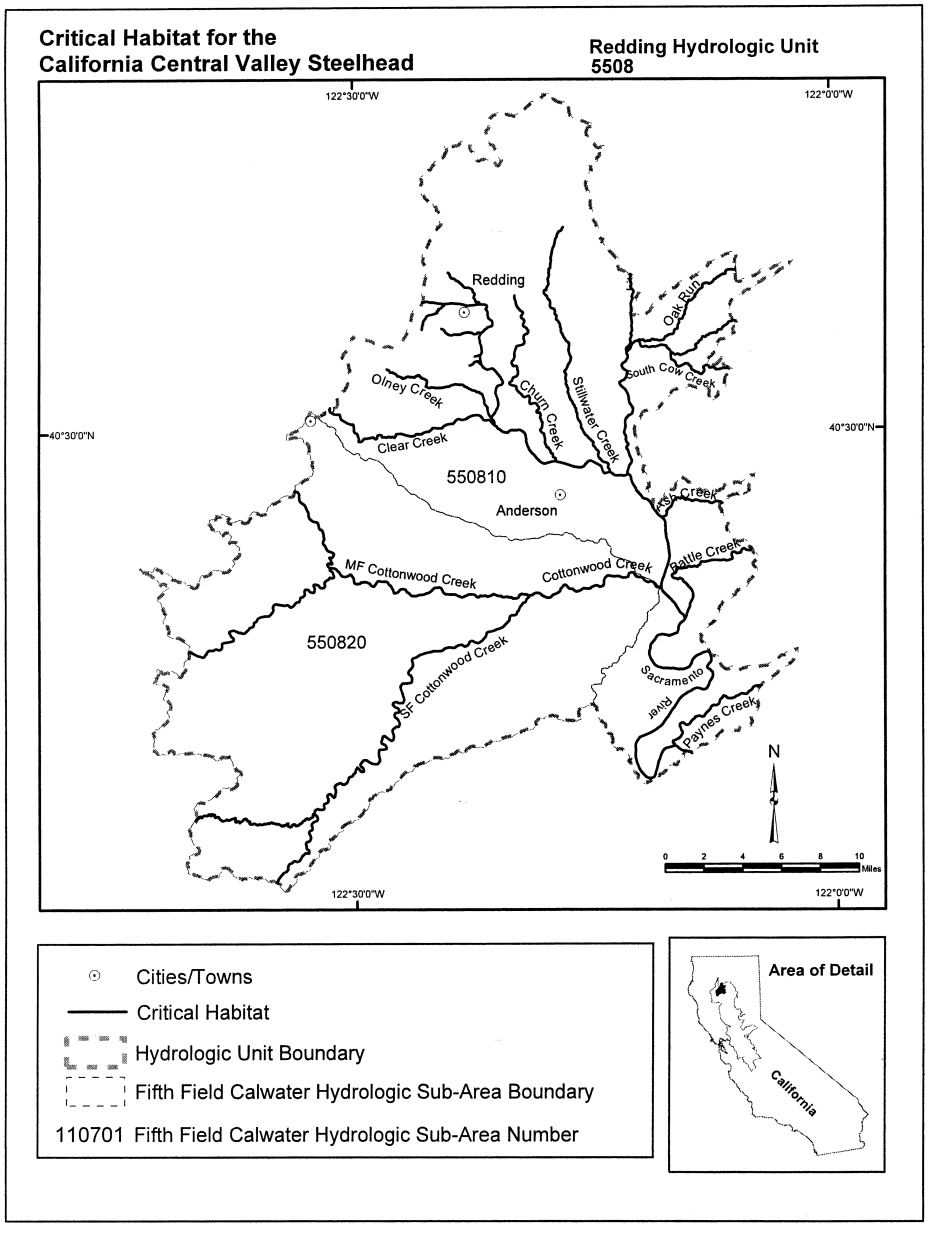
(20) North Diablo Range Hydrologic Unit 5543—*North Diablo Range Hydrologic Sub-area 554300*. Outlet(s) = San Joaquin River (Lat 38.0247, Long –1121.8218) upstream to endpoint(s) in: San Joaquin River (38.0246, –1121.7471).

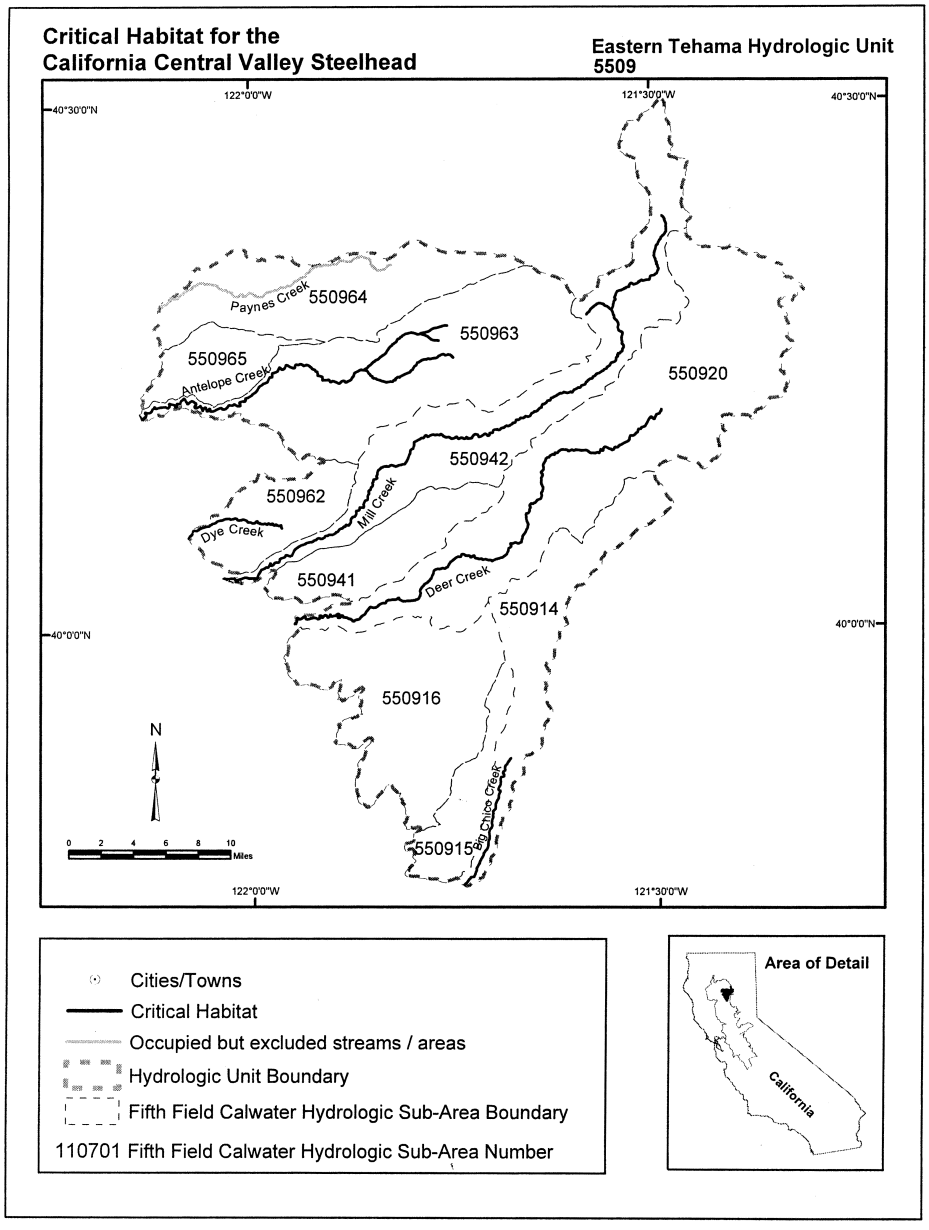
(21) San Joaquin Delta Hydrologic Unit 5544—*San Joaquin Delta Hydrologic Sub-area 554400*. Outlet(s) = San Joaquin River (Lat 38.0246, Long –1121.7471) upstream to endpoint(s) in: Big Break (38.0160, –1121.6849); Bishop Cut (38.0870, –1121.4158); Calaveras River (37.9836, –1121.3110); Cosumnes River (38.2538, –1121.4074); Disappointment Slough (38.0439, –1121.4201); Dutch Slough (38.0088, –1121.6281); Empire Cut (37.9714, –1121.4762); False River (38.0479, –1121.6232); Frank's Tract (38.0220, –1121.5997); Frank's Tract (38.0300, –1121.5830); Holland Cut (37.9939, –1121.5757); Honker Cut (38.0680, –1121.4589); Kellog Creek (37.9158, –1121.6051); Latham Slough (37.9716, –1121.5122); Middle River (37.8216, –1121.3747); Mokelumne River (38.2104, –1121.3804); Mormon Slough (37.9456,-121.2907); Mosher Creek (38.0327, –1121.3650); North Mokelumne River (38.2274, –1121.4918); Old River (37.8086, –1121.3274); Orwood Slough (37.9409, –1121.5332); Paradise Cut (37.7605, –1121.3085); Pixley Slough (38.0443, –1121.3868); Potato Slough (38.0440, –1121.4997); Rock Slough (37.9754, –1121.5795); Sand Mound Slough (38.0220, –1121.5997); Stockton Deep Water Channel (37.9957, –1121.4201); Turner Cut (37.9972, –1121.4434); Unnamed Tributary (38.1165, –1121.4976); Victoria Canal (37.8891, –1121.4895); White Slough (38.0818, –1121.4156); Woodward Canal (37.9037, –1121.4973).

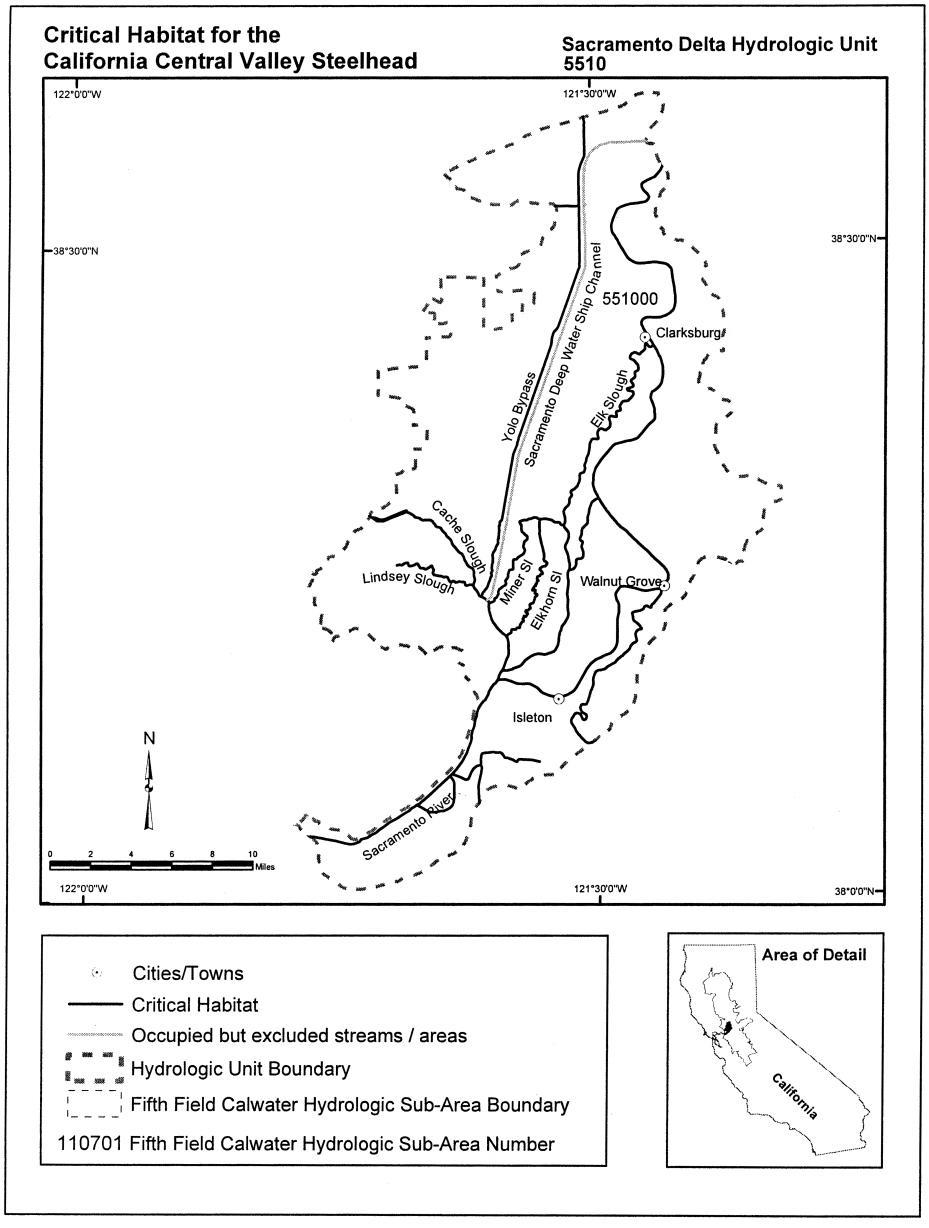
(22) Maps of critical habitat for the Central Valley Steelhead ESU follow:

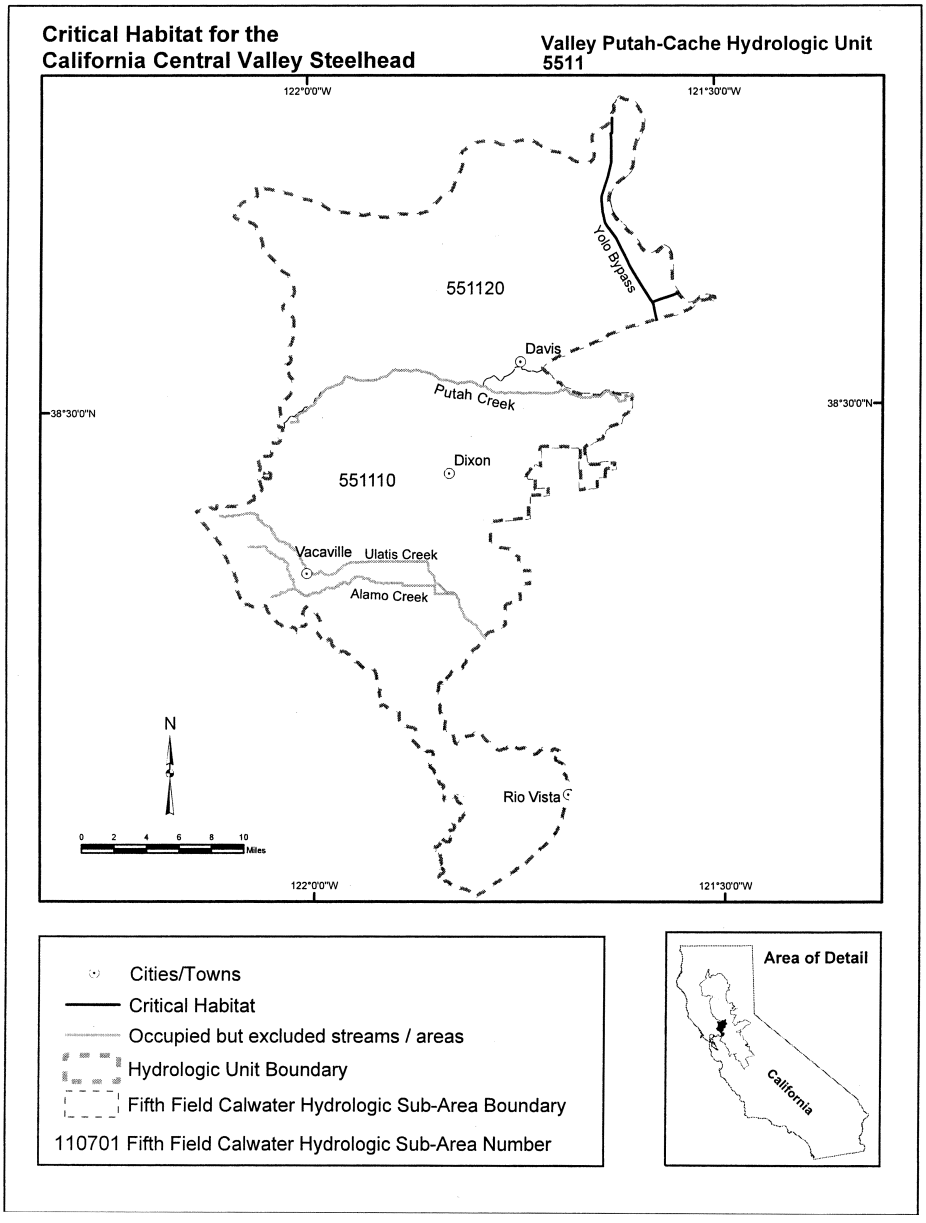

Critical Habitat for the
California Central Valley Steelhead
Tehama Hydrologic Unit
5504
122°30'0"W
122°0'0"W
40°0'0"N
Blue Tent Ck
Dibble Ck
Red Bluff
Red Bank Ck
Oat Creek
Dye Ck
Elder Creek
Mill Creek
McClure Ck
550420
Thomes Creek
Deer Creek
Corning
Rice Creek
Sacramento River
Rock Creek
Mud Creek
Lindo Channel
Big Chico
550410
Stony Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

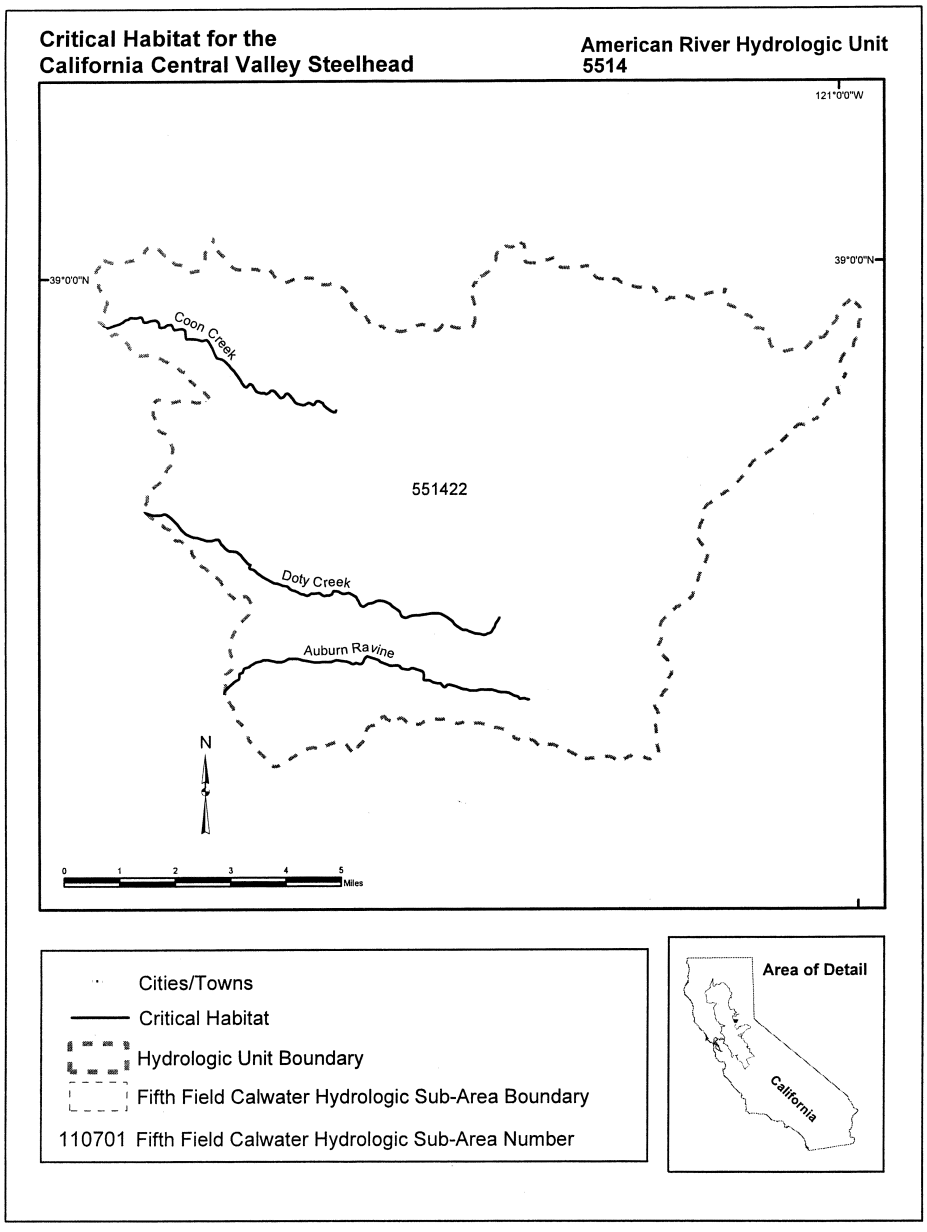

Critical Habitat for the
California Central Valley Steelhead
Whitmore Hydrologic Unit
5507
122°0'0"W
121°30'0"W
40°30'0"N
550733
550732
550731
550722
550721
550712
550711
Bella Vista
Little Cow Creek
Oak Run
Clover Creek
Old Cow Creek
South Cow Creek
Bear Creek
Shingletown
Ash Creek
Viola
Manton
NF Battle Creek
Battle Creek
Soap Creek
SF Battle Creek
Panther Creek
Morgan Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

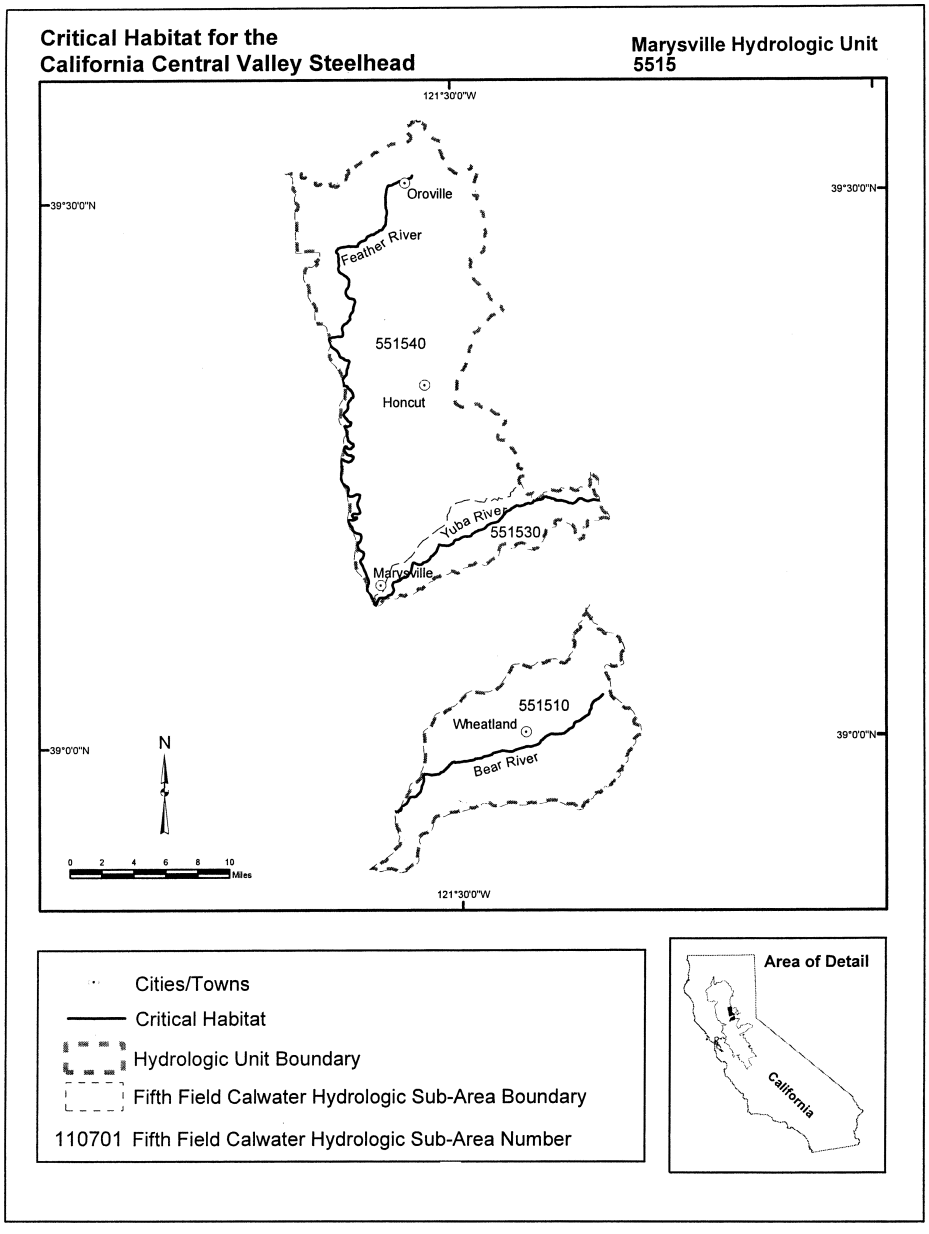

Critical Habitat for the
California Central Valley Steelhead
Redding Hydrologic Unit
5508
122°30'0"W
122°0'0"W
40°30'0"N
Redding
Oak Run
South Cow Creek
Olney Creek
Churn Creek
Stillwater Creek
Clear Creek
550810
Anderson
Battle Creek
MF Cottonwood Creek
Cottonwood Creek
550820
SF Cottonwood Creek
Sacramento River
Paynes Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

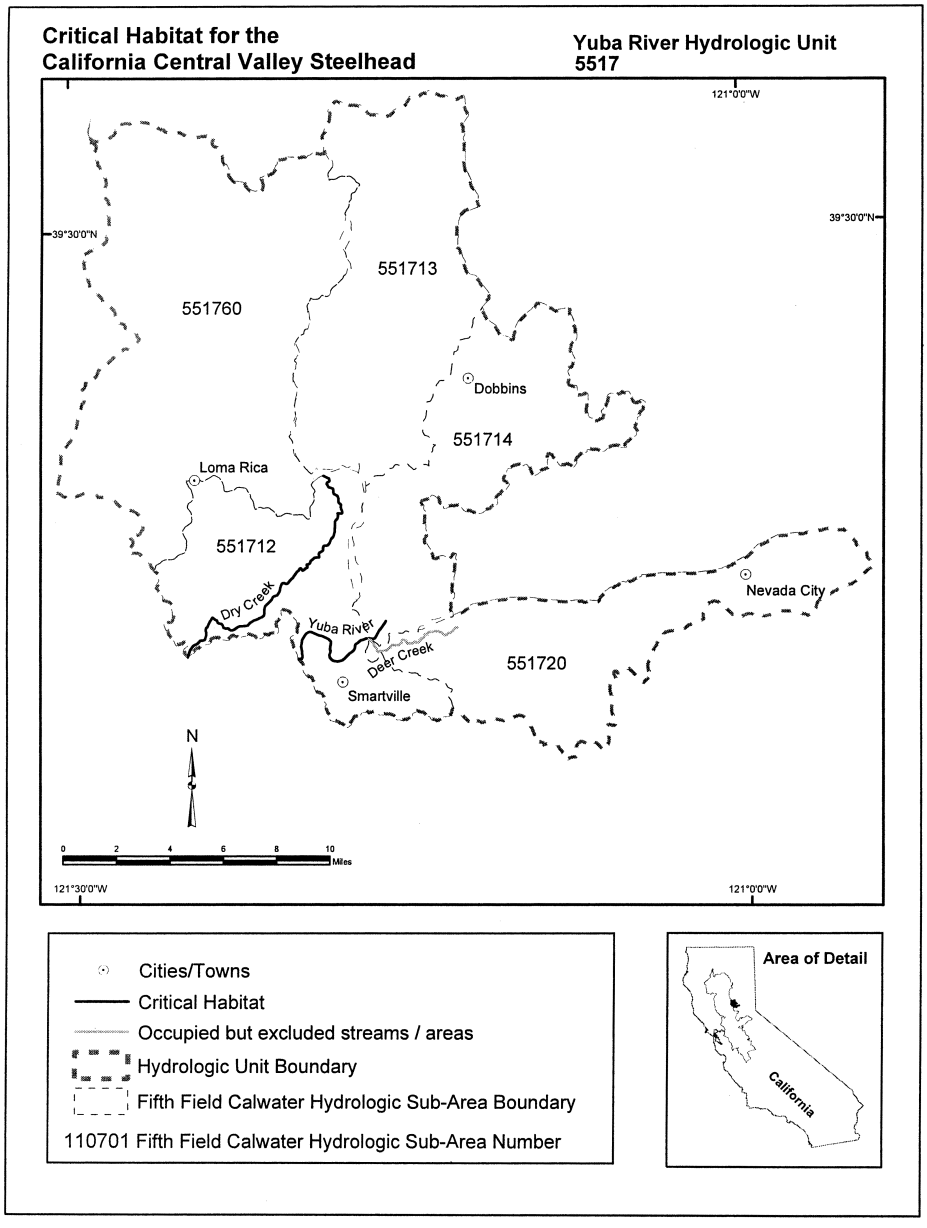

Critical Habitat for the
California Central Valley Steelhead
Eastern Tehama Hydrologic Unit
5509
122°0'0"W
121°30'0"W
40°30'0"N
40°0'0"N
Paynes Creek
550964
550963
550965
Antelope Creek
550920
550942
550962
Mill Creek
Dye Creek
550941
Deer Creek
550914
550916
550915
Big Chico Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

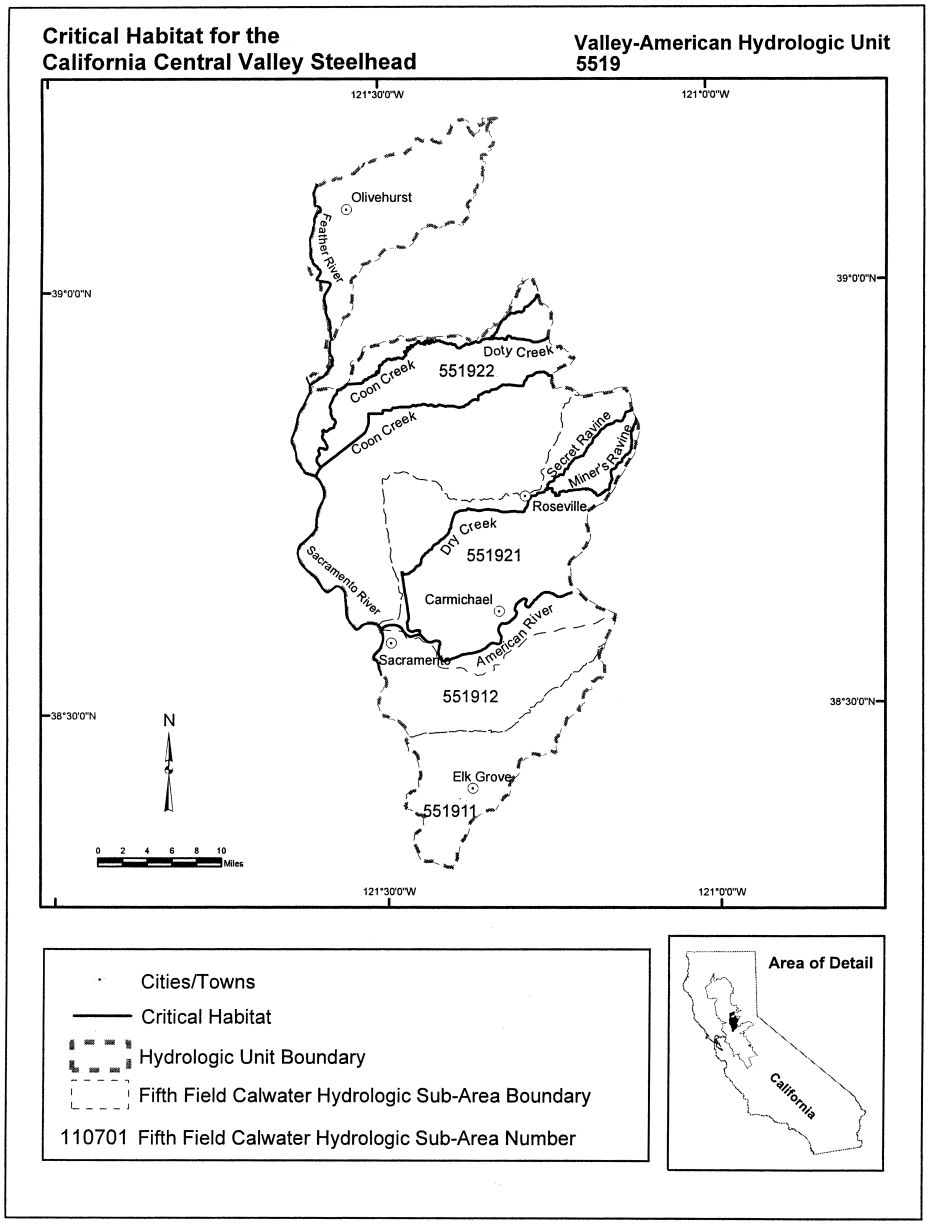

Critical Habitat for the
California Central Valley Steelhead
Sacramento Delta Hydrologic Unit
5510
122°0'0"W
121°30'0"W
38°30'0"N
38°0'0"N
551000
Clarksburg
Yolo Bypass
Sacramento Deep Water Ship Channel
Elk Slough
Cache Slough
Lindsey Slough
Miner Sl
Elkhorn Sl
Walnut Grove
Isleton
Sacramento River
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

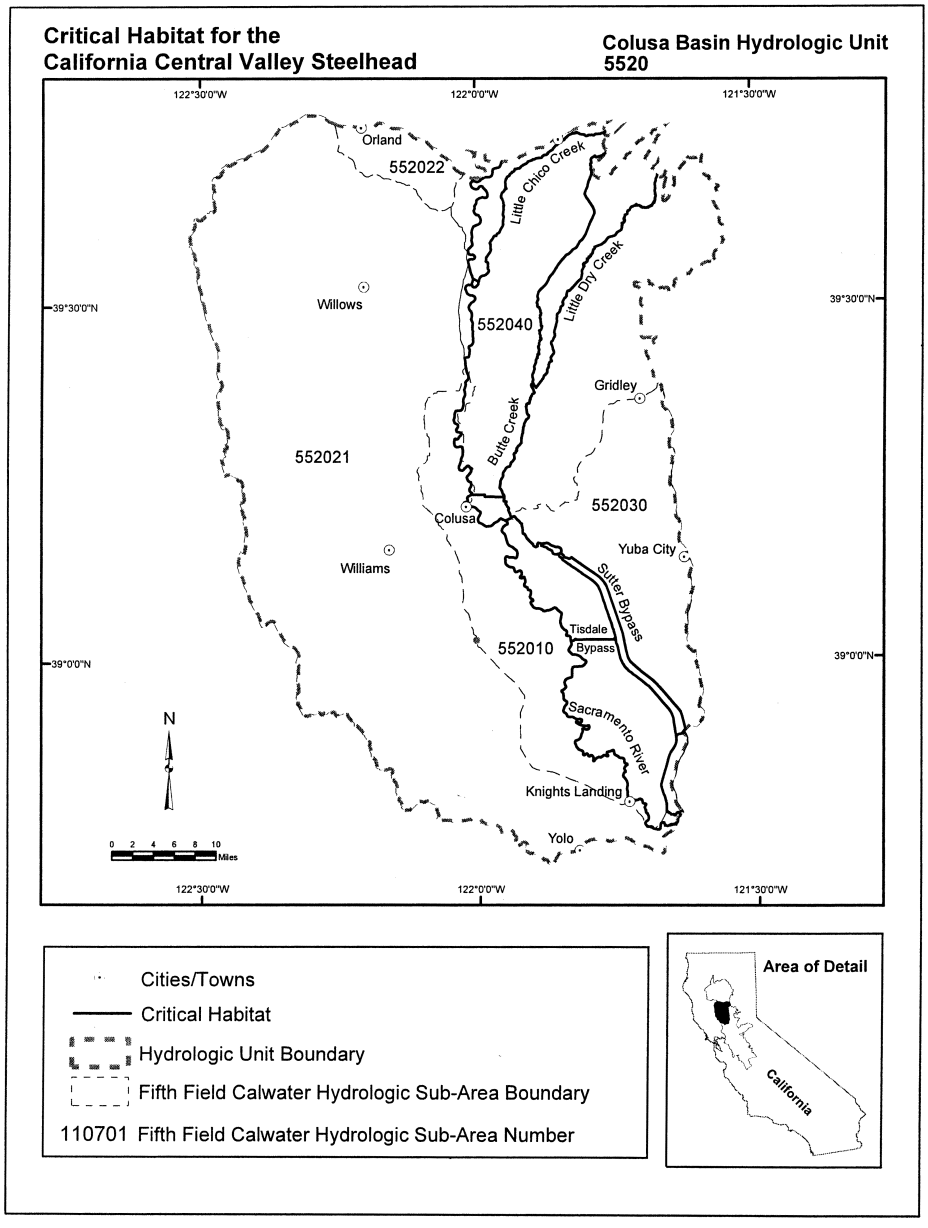

Critical Habitat for the
California Central Valley Steelhead
Valley Putah-Cache Hydrologic Unit
5511
122°0'0"W
121°30'0"W
38°30'0"N
551120
551110
Yolo Bypass
Davis
Putah Creek
Dixon
Vacaville
Ulatis Creek
Alamo Creek
Rio Vista
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

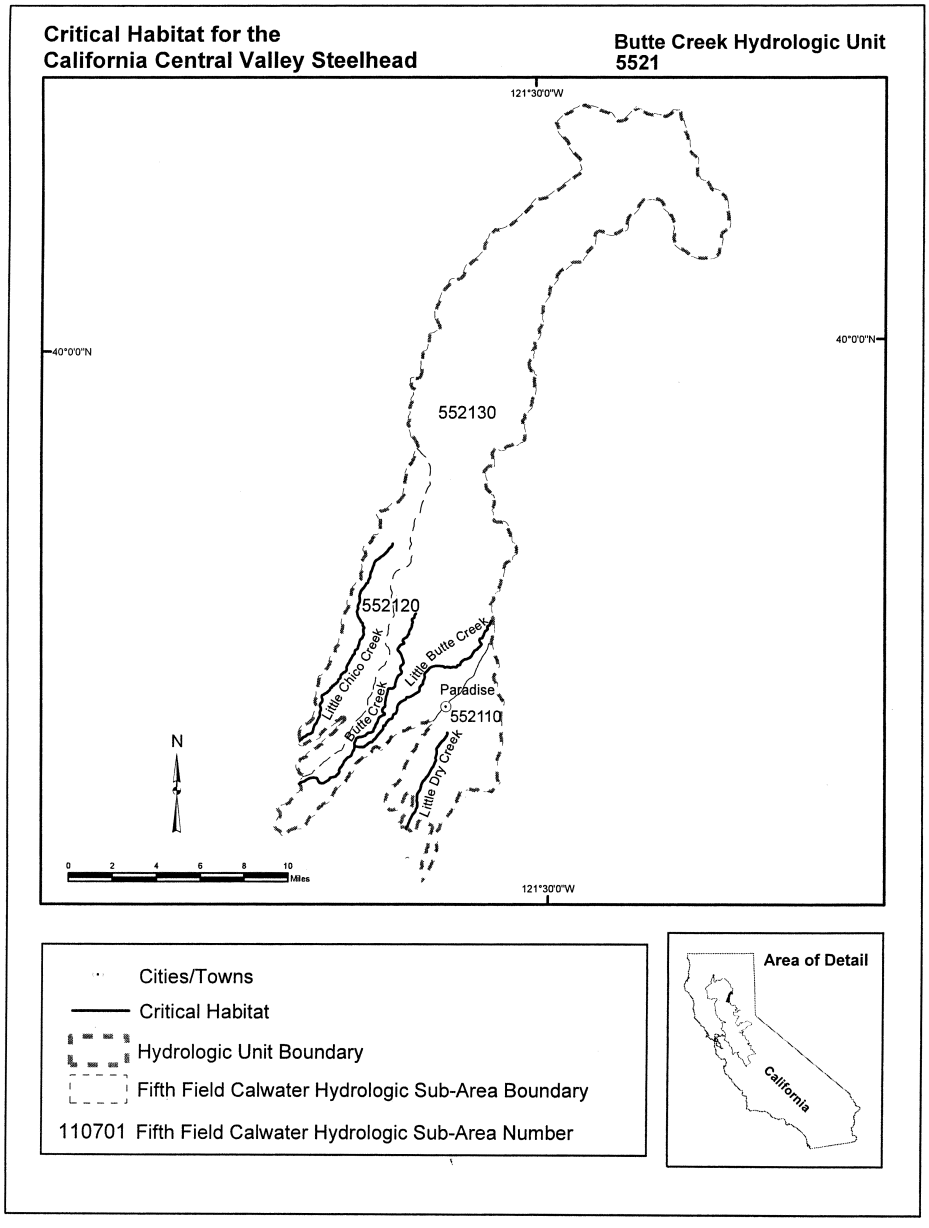

Critical Habitat for the
California Central Valley Steelhead
American River Hydrologic Unit
5514
121°0'0"W
39°0'0"N
39°0'0"N
Coon Creek
551422
Doty Creek
Auburn Ravine
N
0 1 2 3 4 5
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

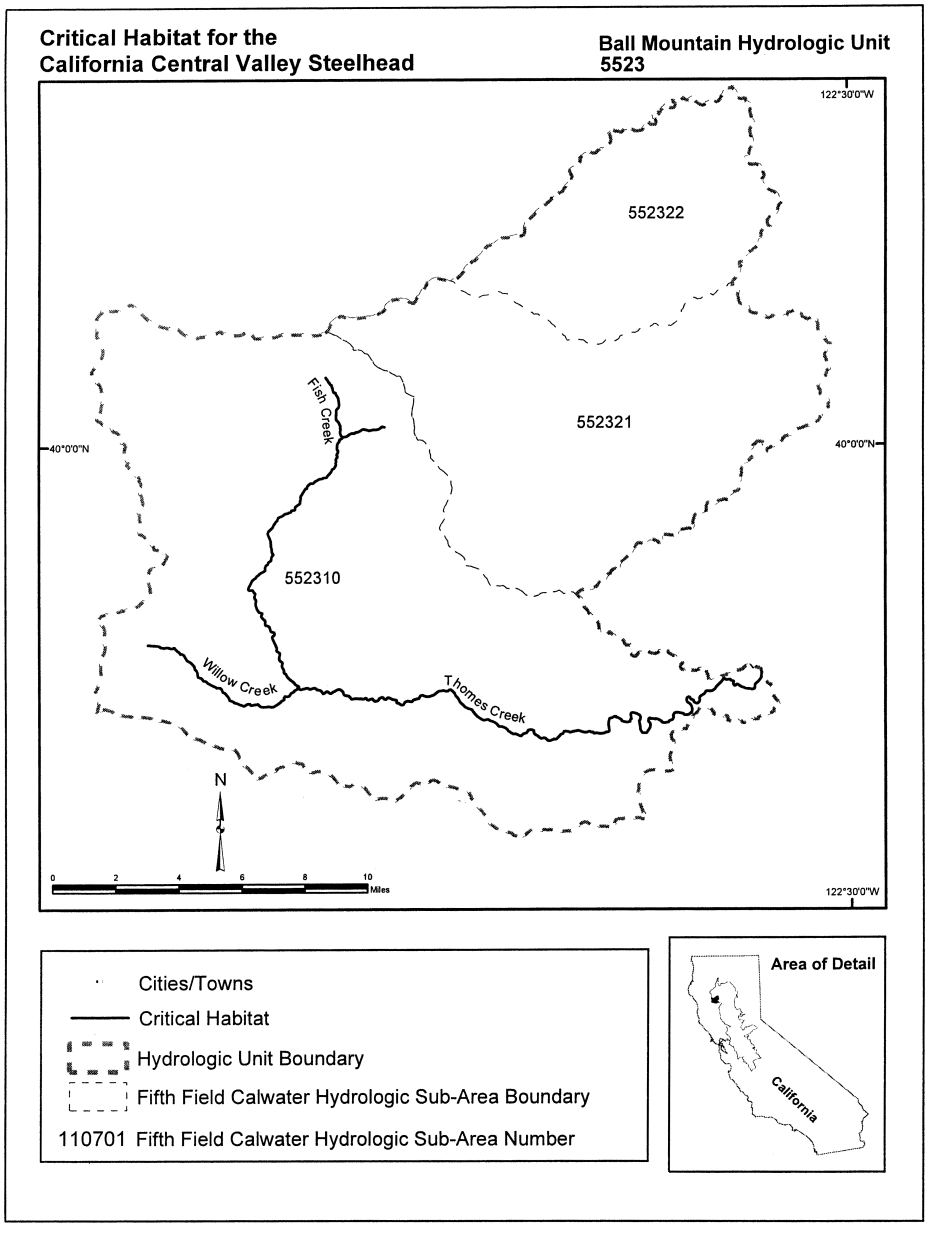

Critical Habitat for the
California Central Valley Steelhead
Marysville Hydrologic Unit
5515
121°30'0"W
39°30'0"N
39°0'0"N
Oroville
Feather River
551540
Honcut
Yuba River
551530
Marysville
551510
Wheatland
Bear River
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

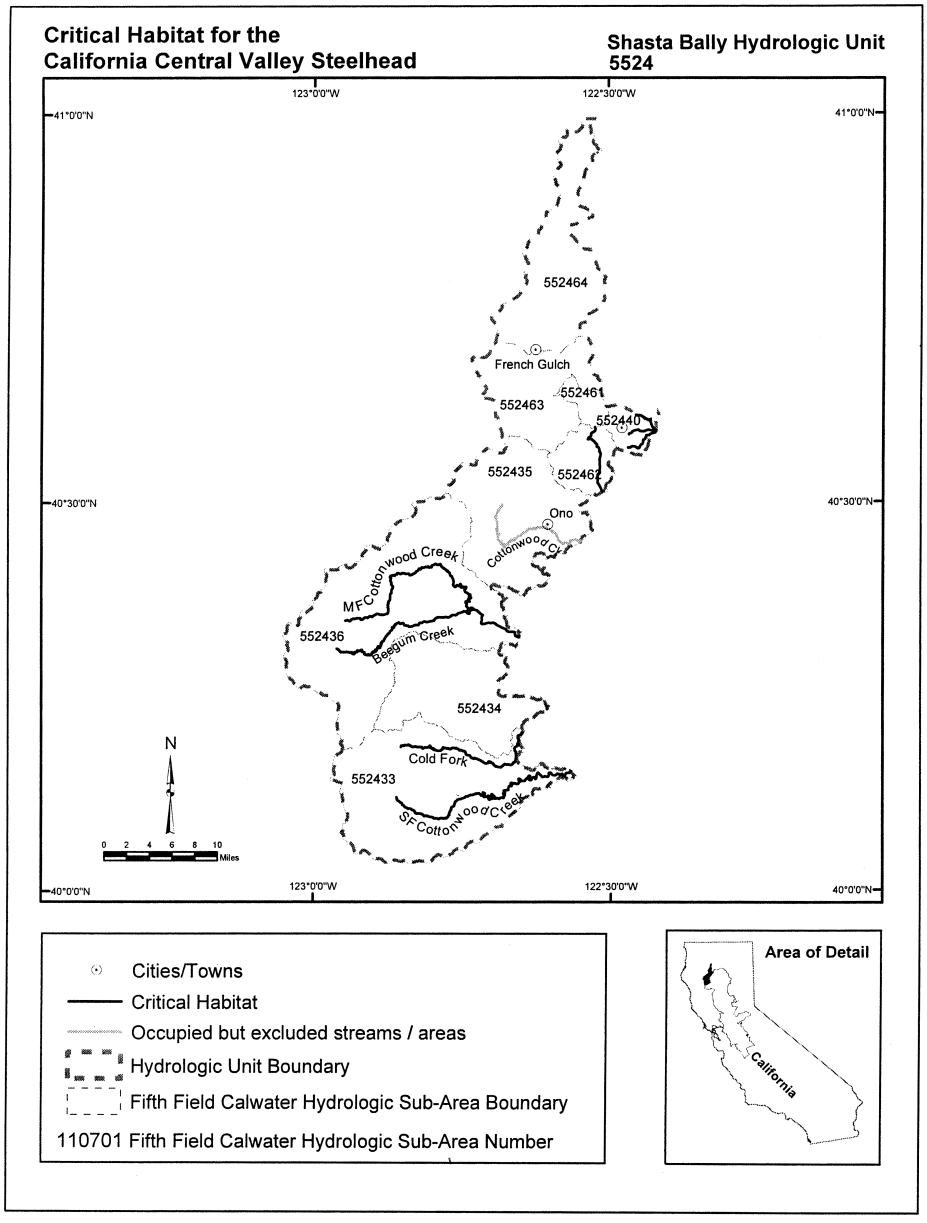

Critical Habitat for the
California Central Valley Steelhead
Yuba River Hydrologic Unit
5517
121°0'0"W
39°30'0"N
551713
551760
Dobbins
551714
Loma Rica
551712
Dry Creek
Yuba River
Deer Creek
Nevada City
551720
Smartville
N
0 2 4 6 8 10
Miles
121°30'0"W
121°0'0"W
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

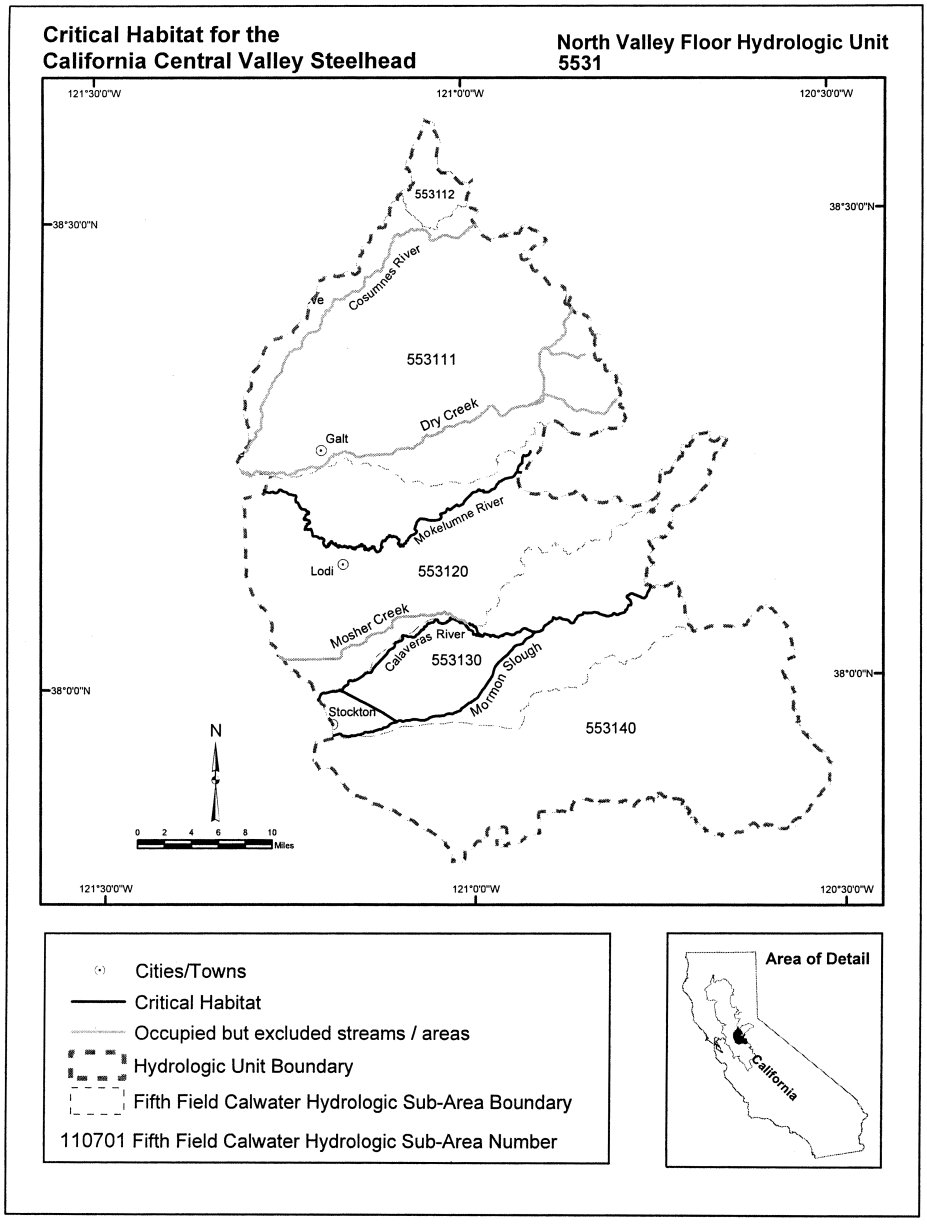

Critical Habitat for the
California Central Valley Steelhead
Valley-American Hydrologic Unit
5519
121°30'0"W
121°0'0"W
39°0'0"N
38°30'0"N
Olivehurst
Feather River
Doty Creek
Coon Creek
551922
Coon Creek
Secret Ravine
Miner's Ravine
Roseville
Dry Creek
551921
Sacramento River
Carmichael
American River
Sacramento
551912
Elk Grove
551911
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

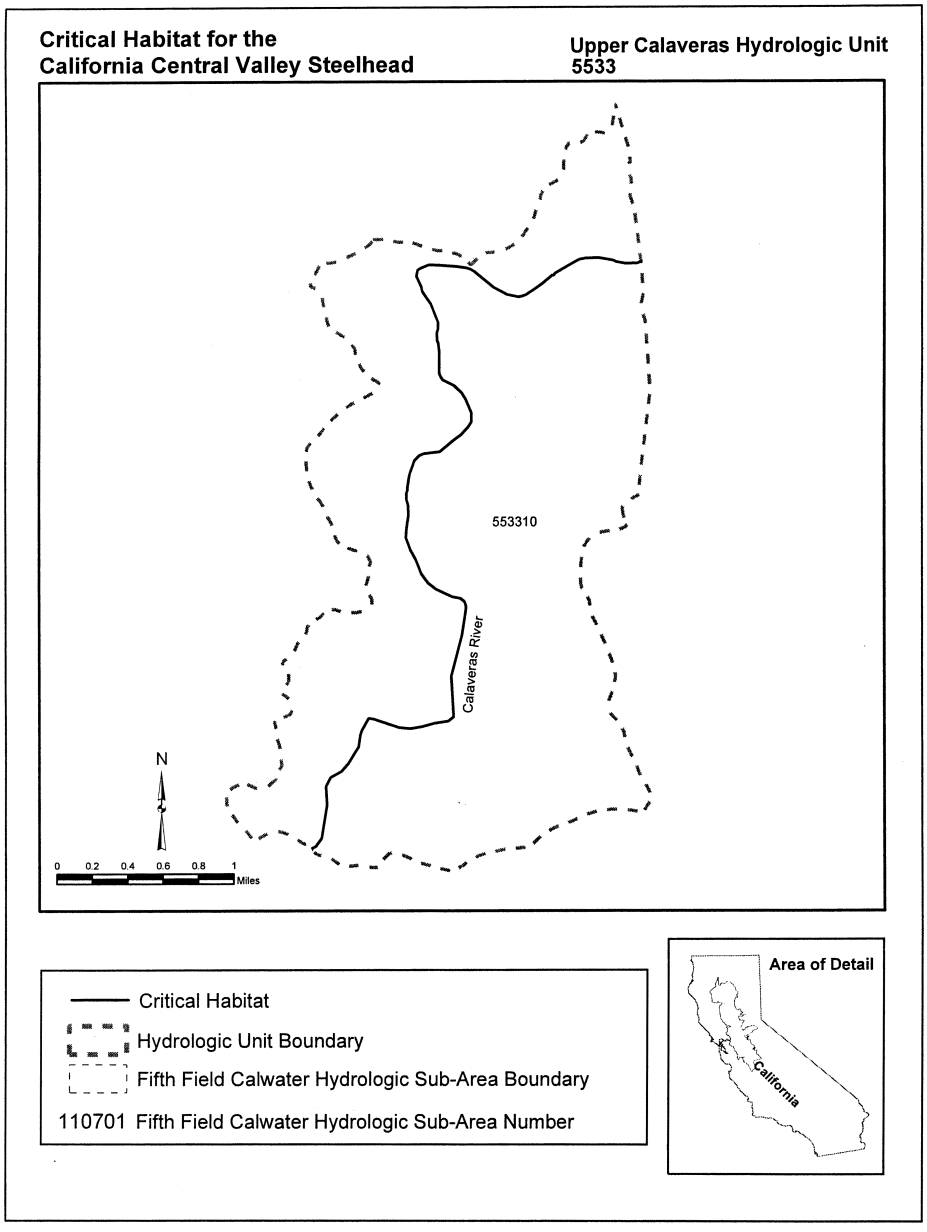

Critical Habitat for the
California Central Valley Steelhead
Colusa Basin Hydrologic Unit
5520
122°30'0"W
122°0'0"W
121°30'0"W
39°30'0"N
39°0'0"N
Orland
552022
Little Chico Creek
Little Dry Creek
Willows
552040
Gridley
Butte Creek
552021
552030
Colusa
Yuba City
Williams
Sutter Bypass
Tisdale
Bypass
552010
Sacramento River
Knights Landing
Yolo
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

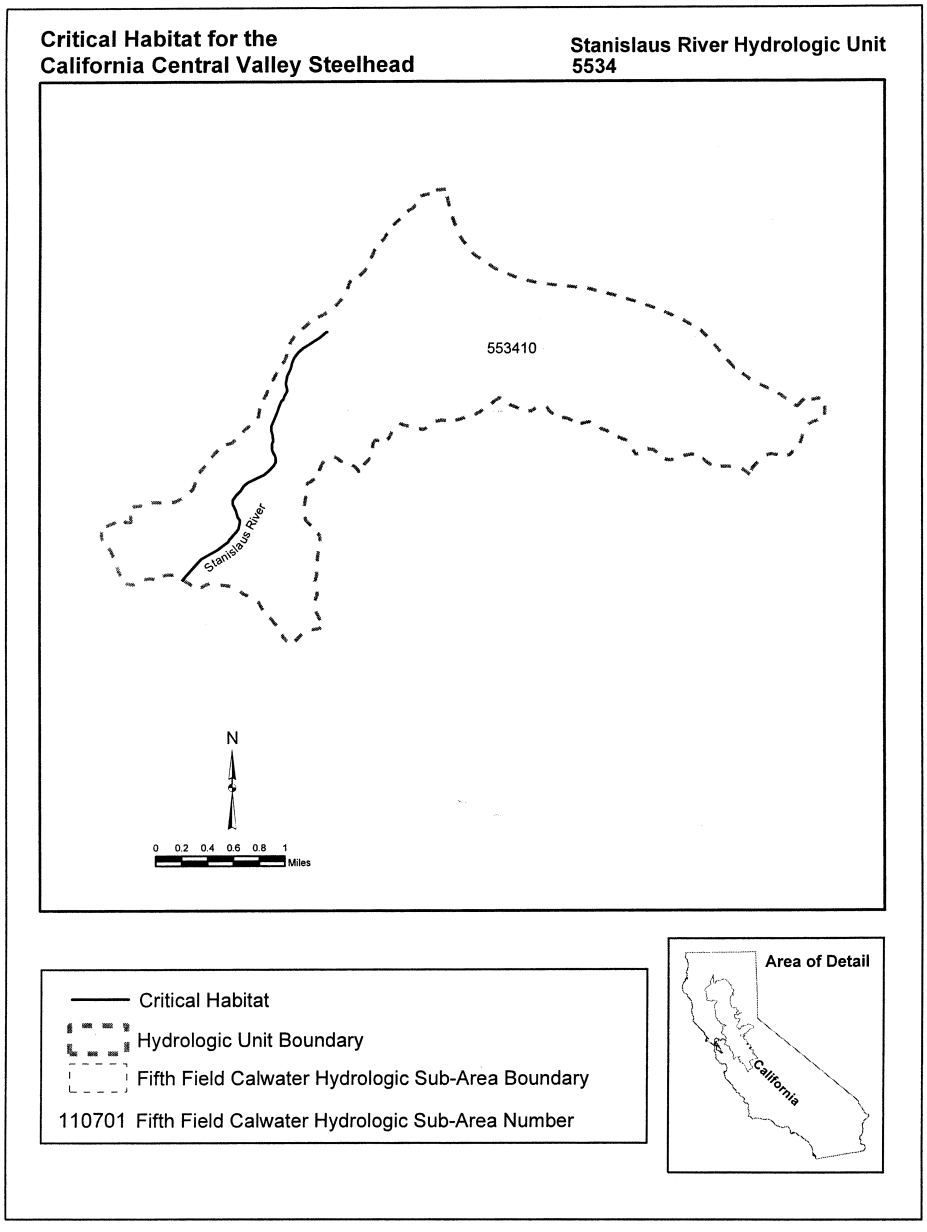

Critical Habitat for the
California Central Valley Steelhead
Butte Creek Hydrologic Unit
5521
121°30'0"W
40°0'0"N
552130
552120
Little Chico Creek
Little Butte Creek
Butte Creek
Paradise
552110
Little Dry Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

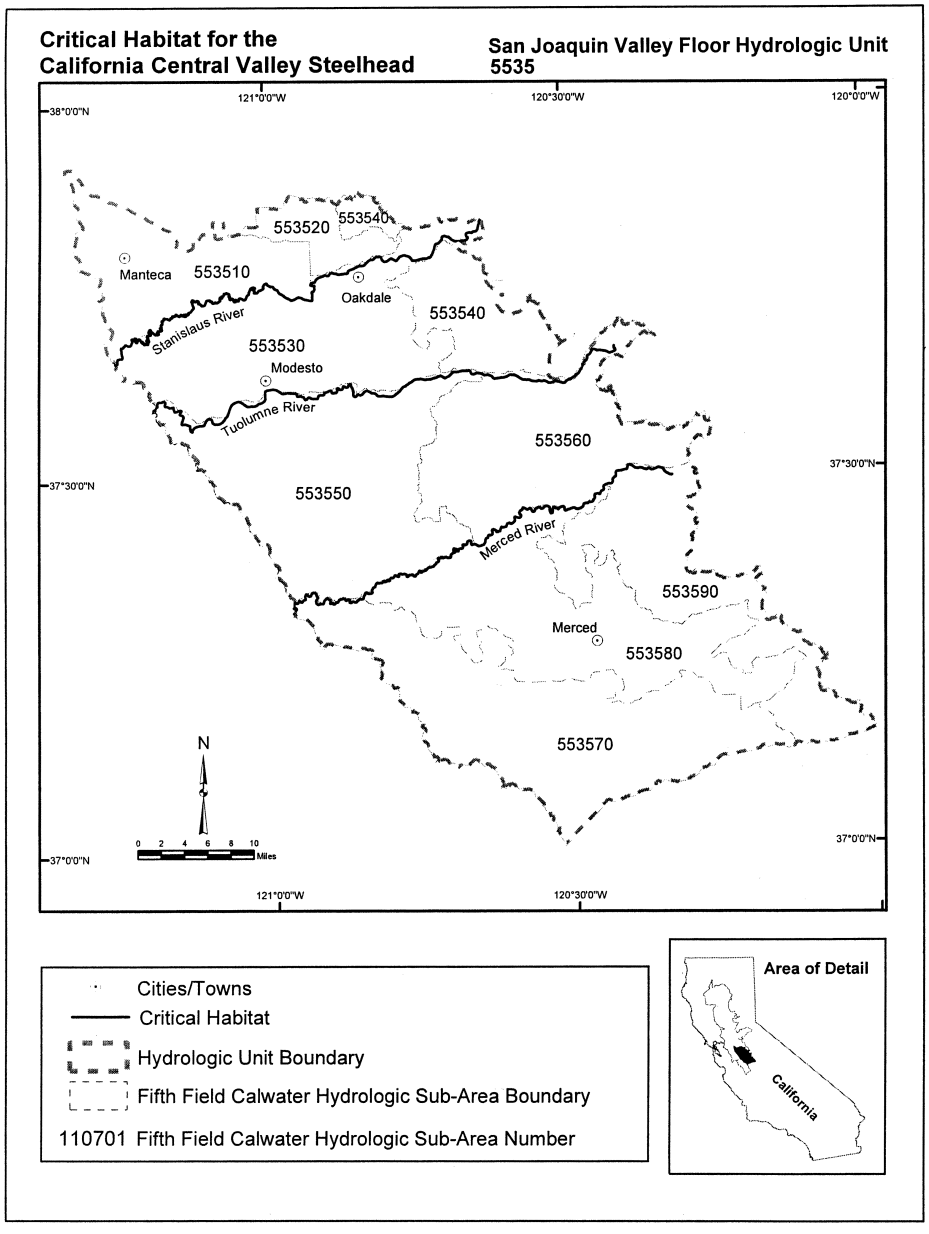

Critical Habitat for the
California Central Valley Steelhead
Ball Mountain Hydrologic Unit
5523
122°30'0"W
552322
552321
Fish Creek
40°0'0"N
552310
Willow Creek
Thomes Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

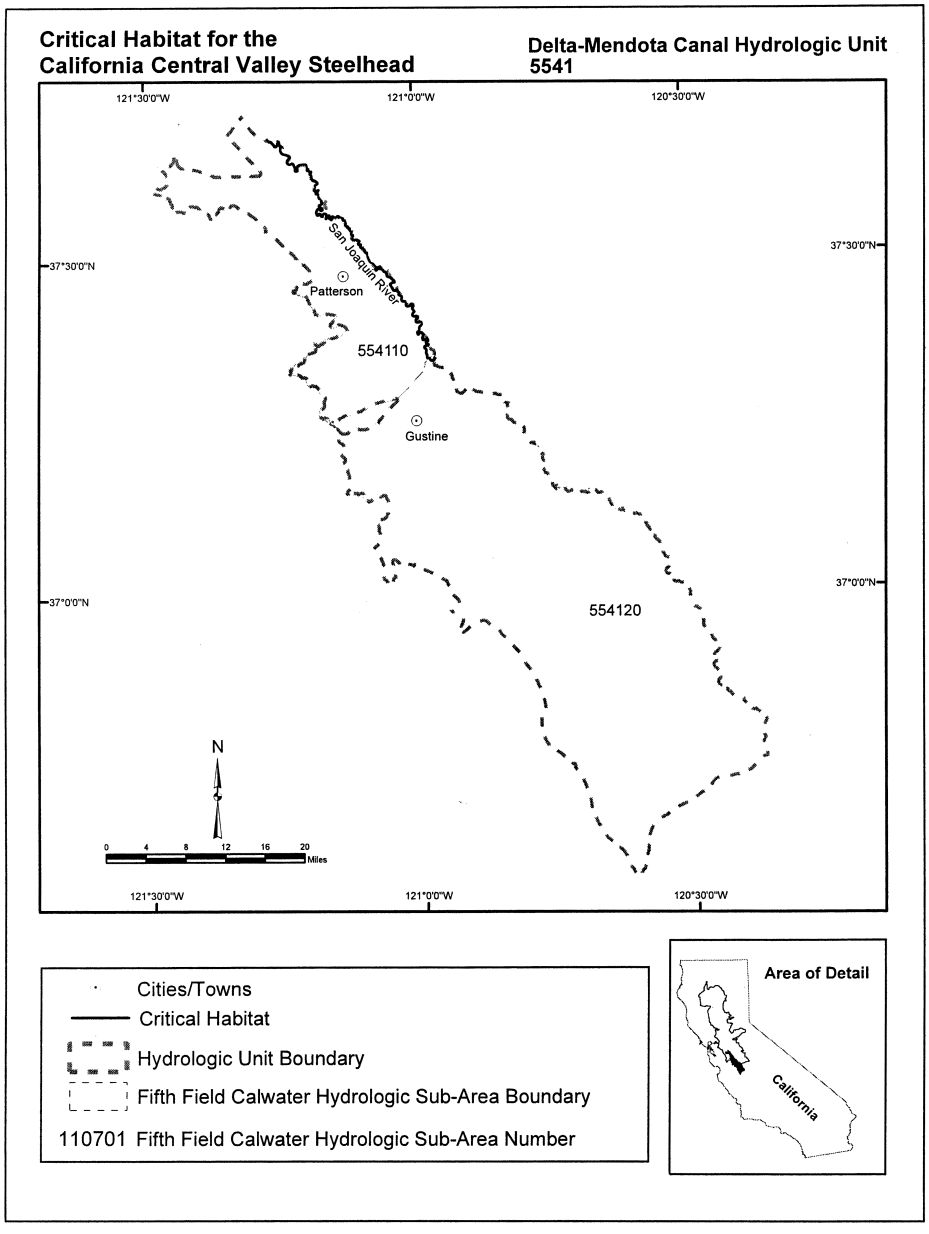

Critical Habitat for the
California Central Valley Steelhead
Shasta Bally Hydrologic Unit
5524
123°0'0"W
122°30'0"W
41°0'0"N
40°30'0"N
40°0'0"N
552464
French Gulch
552461
552463
552440
552435
552462
Ono
Cottonwood Cr
MF Cottonwood Creek
552436
Beegum Creek
552434
Cold Fork
552433
SF Cottonwood Creek
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

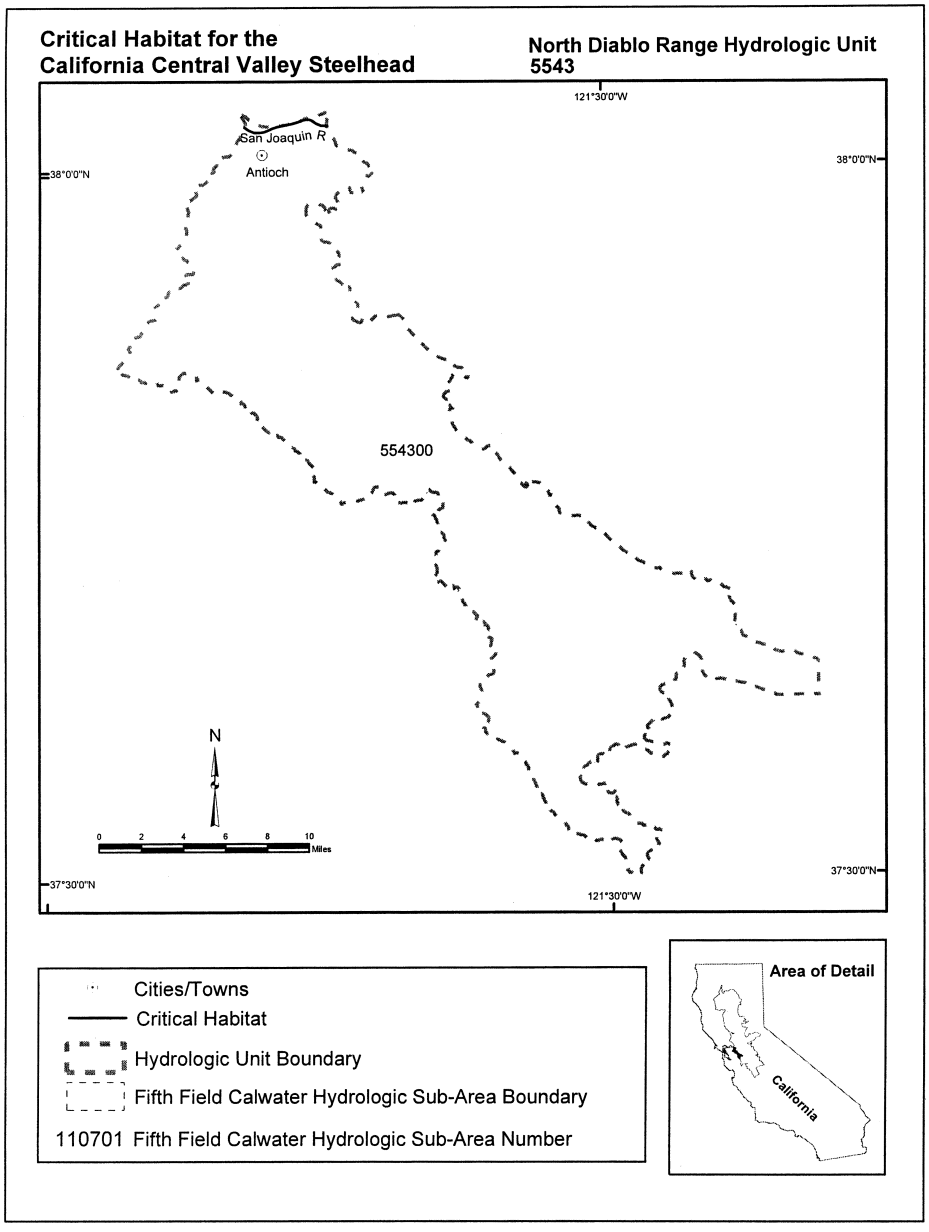

Critical Habitat for the
California Central Valley Steelhead
North Valley Floor Hydrologic Unit
5531
121°30'0"W
121°0'0"W
120°30'0"W
38°30'0"N
38°0'0"N
553112
553111
553120
553130
553140
Cosumnes River
Dry Creek
Galt
Mokelumne River
Lodi
Mosher Creek
Calaveras River
Mormon Slough
Stockton
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Occupied but excluded streams / areas
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

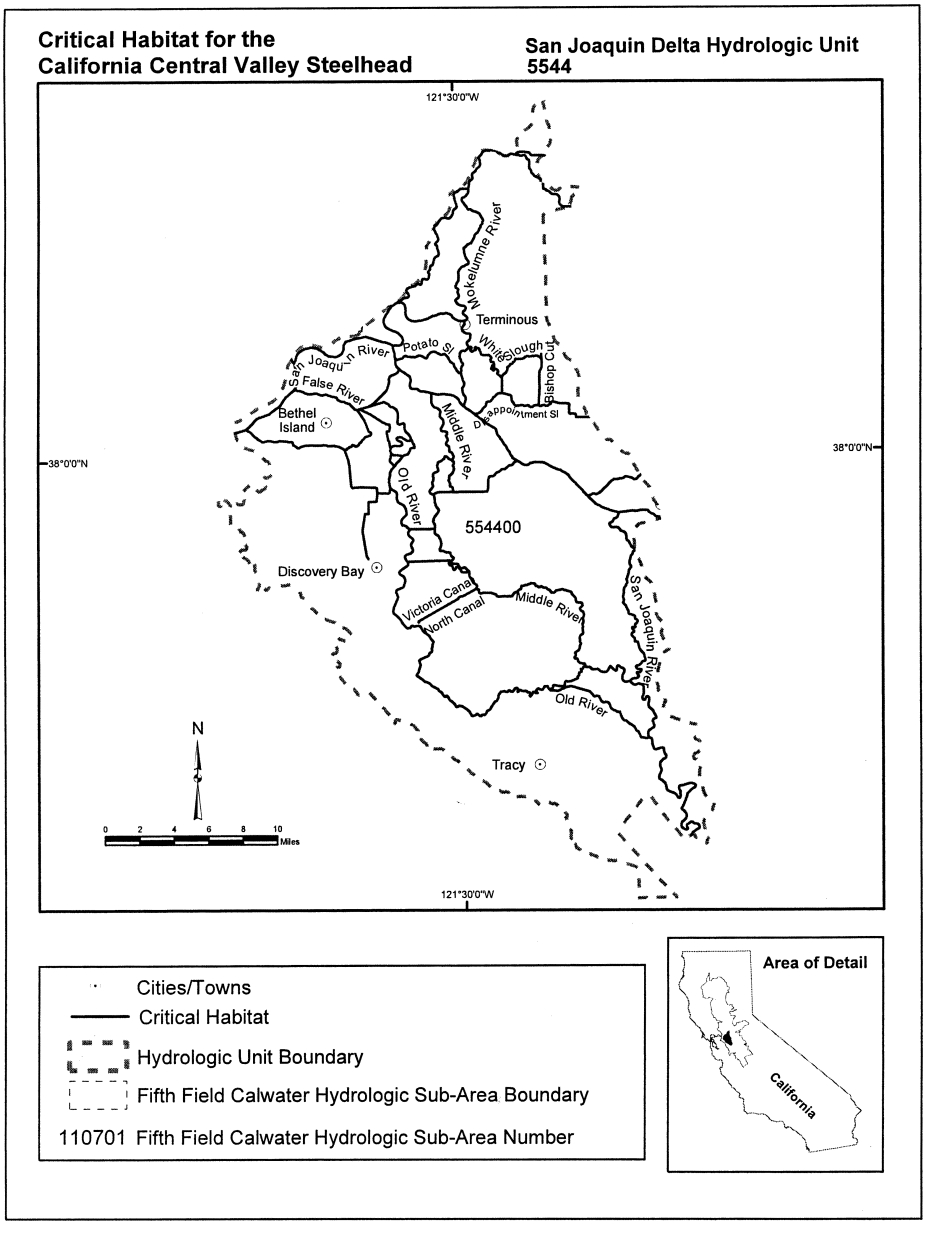

Critical Habitat for the
California Central Valley Steelhead
Upper Calaveras Hydrologic Unit
5533
553310
Calaveras River
N
0 0.2 0.4 0.6 0.8 1
Miles
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Valley Steelhead
Stanislaus River Hydrologic Unit
5534
553410
Stanislaus River
N
0 0.2 0.4 0.6 0.8 1
Miles
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Valley Steelhead
San Joaquin Valley Floor Hydrologic Unit
5535
121°0'0"W
120°30'0"W
120°0'0"W
38°0'0"N
37°30'0"N
37°0'0"N
553520
553540
Manteca
553510
Oakdale
553540
Stanislaus River
553530
Modesto
Tuolumne River
553560
553550
Merced River
553590
Merced
553580
553570
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Valley Steelhead
Delta-Mendota Canal Hydrologic Unit
5541
121°30'0"W
121°0'0"W
120°30'0"W
37°30'0"N
37°0'0"N
San Joaquin River
Patterson
554110
Gustine
554120
N
0 4 8 12 16 20
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Valley Steelhead
North Diablo Range Hydrologic Unit
5543
121°30'0"W
38°0'0"N
37°30'0"N
San Joaquin R.
Antioch
554300
N
0 2 4 6 8 10
Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California


Critical Habitat for the
California Central Valley Steelhead
San Joaquin Delta Hydrologic Unit
5544
121°30'0"W
38°0'0"N
Mokelumne River
Terminous
San Joaquin River
Potato Sl
Whiskey Slough
Bishop Cut
False River
Bethel Island
Middle River
Disappointment Sl
Old River
554400
Discovery Bay
Victoria Canal
North Canal
Middle River
San Joaquin River
Old River
Tracy
N
0 2 4 6 8 10 Miles
Cities/Towns
Critical Habitat
Hydrologic Unit Boundary
Fifth Field Calwater Hydrologic Sub-Area Boundary
110701 Fifth Field Calwater Hydrologic Sub-Area Number
Area of Detail
California

[70 FR 52536, Sept. 2, 2005]

§ 226.212 Critical habitat for 13 Evolutionarily Significant Units (ESUs) of salmon and steelhead (Oncorhynchus spp.) in Washington, Oregon and Idaho.

Critical habitat is designated in the following states and counties for the following ESUs as described in paragraph (a) of this section, and as further described in paragraphs (b) through (g) of this section. The textual descriptions of critical habitat for each ESU are included in paragraphs (i) through (u) of this section, and these descriptions are the definitive source for determining the critical habitat boundaries. General location maps are provided at the end of each ESU description (paragraphs (i) through (u) of this section) and are provided for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

(a) Critical habitat is designated for the following ESUs in the following states and counties:

ESU	State—Counties
(1) Puget Sound chinook salmon	*WA*—Clallam, Jefferson, King, Mason, Pierce, Skagit, Snohomish, Thurston, and Whatcom.
(2) Lower Columbia River chinook salmon	(i) *OR*—Clackamas, Clatsop, Columbia, Hood River, and Multnomah. (ii) *WA*—Clark, Cowlitz, Klickitat, Lewis, Pacific, Skamania, and Wahkiakum.
(3) Upper Willamette River chinook salmon	(i) *OR*—Benton, Clackamas, Clatsop, Columbia, Lane, Linn, Marion, Multnomah, Polk, and Yamhill. (ii) *WA*—Clark, Cowlitz, Pacific, and Wahkiakum.
(4) Upper Columbia River spring-run chinook salmon	(i) *OR*—Clatsop, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Umatilla, and Wasco. (ii) *WA*—Benton, Chelan, Clark, Cowlitz, Douglas, Franklin, Grant, Kittitas, Klickitat, Okanogan, Pacific, Skamania, Wahkiakum, Walla Walla, and Yakima.
(5) Hood Canal summer-run chum salmon	*WA*—Clallam, Jefferson, Kitsap, and Mason.
(6) Columbia River chum salmon	(i) *OR*—Clatsop, Columbia, Hood River, and Multnomah. (ii) *WA*—Clark, Cowlitz, Klickitat, Lewis, Pacific, Skamania, and Wahkiakum.
(7) Ozette Lake sockeye salmon	*WA*—Clallam.
(8) Upper Columbia River steelhead	(i) *OR*—Clatsop, Columbia, Gilliam, Hood River, Morrow, Multnomah, Umatilla, and Wasco. (ii) *WA*—Adams, Benton, Chelan, Clark, Cowlitz, Douglas, Franklin, Grant, Kittitas, Klickitat, Okanogan, Pacific, Skamania, Wahkiakum, Walla Walla, and Yakima.
(9) Snake River Basin steelhead	(i) *ID*—Adams, Blaine, Clearwater, Custer, Idaho, Latah, Lemhi, Lewis, Nez Perce, and Valley. (ii) *OR*—Clatsop, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Umatilla, Union, Wallowa, and Wasco. (iii) *WA*—Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Pacific, Skamania, Walla Walla, Wahkiakum, and Whitman.
(10) Middle Columbia River steelhead	(i) *OR*—Clatsop, Columbia, Crook, Gilliam, Grant, Hood River, Jefferson, Morrow, Multnomah, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler. (ii) *WA*—Benton, Clark, Cowlitz, Columbia, Franklin, King, Kittitas, Klickitat, Lewis, Pacific, Pierce, Skamania, Wahkiakum, Walla Walla, and Yakima.
(11) Lower Columbia River steelhead	(i) *OR*—Clackamas, Clatsop, Columbia, Hood River, Marion, and Multnomah. (ii) *WA*—Clark, Cowlitz, Klickitat, Lewis, Pacific, Skamania, and Wahkiakum.
(12) Upper Willamette River steelhead	(i) *OR*—Benton, Clackamas, Clatsop, Columbia, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill. (ii) *WA*—Clark, Cowlitz, Pacific, and Wahkiakum.
(13) Oregon Coast coho salmon	*OR*—Benton, Clatsop, Columbia, Coos, Curry, Douglas, Lane, Oregon Lincoln, Polk, Tillamook, Washington, and Yamhill.

(b) *Critical habitat boundaries.* Critical habitat includes the stream channels within the designated stream reaches, and includes a lateral extent as defined by the ordinary high-water line (33 CFR 319.11). In areas where ordinary high-water line has not been defined, the lateral extent will be defined by

the bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series. Critical habitat in lake areas is defined by the perimeter of the water body as displayed on standard 1:24,000 scale topographic maps or the elevation of ordinary high water, whichever is greater. In estuarine and nearshore marine areas critical habitat includes areas contiguous with the shoreline from the line of extreme high water out to a depth no greater than 30 meters relative to mean lower low water.

(c) *Primary constituent elements.* Within these areas, the primary constituent elements essential for the conservation of these ESUs are those sites and habitat components that support one or more life stages, including:

(1) Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development;

(2) Freshwater rearing sites with:

(i) Water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility;

(ii) Water quality and forage supporting juvenile development; and

(iii) Natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels, and undercut banks.

(3) Freshwater migration corridors free of obstruction and excessive predation with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival;

(4) Estuarine areas free of obstruction and excessive predation with:

(i) Water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh- and saltwater;

(ii) Natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels; and

(iii) Juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation.

(5) Nearshore marine areas free of obstruction and excessive predation with:

(i) Water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation; and

(ii) Natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels.

(6) Offshore marine areas with water quality conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation.

(d) *Exclusion of Indian lands.* Critical habitat does not include habitat areas on Indian lands. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including:

(1) Lands held in trust by the United States for the benefit of any Indian tribe;

(2) Land held in trust by the United States for any Indian Tribe or individual subject to restrictions by the United States against alienation;

(3) Fee lands, either within or outside the reservation boundaries, owned by the tribal government; and

(4) Fee lands within the reservation boundaries owned by individual Indians.

(e) *Land owned or controlled by the Department of Defense.* Critical habitat does not include any areas subject to an approved Integrated Natural Resource Management Plan or associated with Department of Defense easements or right-of-ways. In areas within Navy security zones identified at 33 CFR 334 that are outside the areas described above, critical habitat is only designated within a narrow nearshore zone from the line of extreme high tide down to the line of mean lower low water. The specific sites addressed include:

(1) Naval Submarine Base, Bangor;

(2) Naval Undersea Warfare Center, Keyport;

(3) Naval Ordnance Center, Port Hadlock (Indian Island);

(4) Naval Radio Station, Jim Creek;

(5) Naval Fuel Depot, Manchester;

(6) Naval Air Station Whidbey Island;
(7) Naval Air Station, Everett;
(8) Bremerton Naval Hospital;
(9) Fort Lewis (Army);
(10) Pier 23 (Army);
(11) Yakima Training Center (Army);
(12) Puget Sound Naval Shipyard;
(13) Naval Submarine Base Bangor security zone;
(14) Strait of Juan de Fuca naval air-to-surface weapon range, restricted area;
(15) Hood Canal and Dabob Bay naval non-explosive torpedo testing area;
(16) Strait of Juan de Fuca and Whidbey Island naval restricted areas;
(17) Admiralty Inlet naval restricted area;
(18) Port Gardner Naval Base restricted area;
(19) Hood Canal naval restricted areas;
(20) Port Orchard Passage naval restricted area;
(21) Sinclair Inlet naval restricted areas;
(22) Carr Inlet naval restricted areas;
(23) Dabob Bay/Whitney Point naval restricted area; and
(24) Port Townsend/Indian Island/Walan Point naval restricted area.

(f) *Land subject to the Washington Department of Natural Resources Habitat Conservation Plan*. Critical habitat is excluded on lands covered by the incidental take permit issued by NMFS under section 10(a)(1)(B) of the ESA to the Washington Department of Natural Resources.

(g) *Land subject to the Green Diamond Company Habitat Conservation Plan*. Critical habitat is excluded on lands covered by the incidental take permit issued by NMFS under section 10(a)(1)(B) of the ESA to the Green Diamond Resources Company (formerly Simpson Timber Company).

(h) *Land subject to the West Fork Timber Company Habitat Conservation Plan*. Critical habitat is excluded on lands covered by the incidental take permit issued by NMFS under section 10(a)(1)(B) of the ESA to the West Fork Timber Company (formerly Murray Pacific Corporation).

(i) *Puget Sound Chinook Salmon (Oncorhynchus tshawytscha)*. Critical habitat is designated to include the areas defined in the following subbasins:

(1) Nooksack Subbasin 17110004—(i) *Upper North Fork Nooksack River Watershed 1711000401*. Outlet(s) = North Fork Nooksack River (Lat 48.9055, Long –121.9886) upstream to endpoint(s) in: Boyd Creek (48.8998, –121.8640); Canyon Creek (48.9366, –121.9451); Cascade Creek (48.8996, –121.8621); Cornell Creek (48.8882, –121.9594); Deadhorse Creek (48.9024, –121.8359); Gallop Creek (48.8849, –121.9447); Glacier Creek (48.8197, –121.8931); Hedrick Creek (48.8953, –121.9705); Thompson Creek (48.8837, –121.9028); Wells Creek (48.8940, –121.7976).

(ii) *Middle Fork Nooksack River Watershed 1711000402*. Outlet(s) = Middle Fork Nooksack River (Lat 48.8342, Long –122.1540) upstream to endpoint(s) in: Canyon Creek (48.8374, –122.1198); Clearwater Creek (48.7841, –122.0293); Middle Fork Nooksack River (48.7249, –121.8999); Porter Creek (48.7951, –122.1098); Sister Creek (48.7492, –121.9736); Unnamed (48.7809, –122.1157); Unnamed (48.7860, –122.1214); Warm Creek (48.7559, –121.9741).

(iii) *South Fork Nooksack River Watershed 1711000403*. Outlet(s) = South Fork Nooksack River (Lat 48.8095, Long –122.2026) upstream to endpoint(s) in: Black Slough (48.7715, –122.1931); Cavanaugh Creek (48.6446, –122.1094); Deer Creek (48.6041, –122.0912); Edfro Creek (48.6607, –122.1206); Fobes Creek (48.6230, –122.1139); Hard Scrabble Falls Creek (48.7601, –122.2273); Howard Creek (48.6118, –121.9639); Hutchinson Creek (48.7056, –122.1663); Jones Creek (48.7186, –122.2130); McCarty Creek (48.7275, –122.2188); Plumbago Creek (48.6088, –122.0949); Pond Creek (48.6958, –122.1651); Skookum Creek (48.6871, –122.1029); South Fork Nooksack River (48.6133, –121.9000); Standard Creek (48.7444, –122.2191); Sygitowicz Creek (48.7722, –122.2269); Unnamed (48.6048, –121.9143); Unnamed (48.6213, –122.1039); Unnamed (48.7174, –122.1815); Unnamed (48.7231, –122.1968); Unnamed (48.7843, –122.2188).

(iv) *Lower North Fork Nooksack River Watershed 1711000404*. Outlet(s) = Nooksack River (Lat 48.8711, Long –122.3227) upstream to endpoint(s) in: Anderson Creek (48.8088, –122.3410); Boulder Creek (48.9314, –122.0258); Coal

Creek (48.8889, –122.1506); Kendall Creek (48.9251, –122.1455); Kenney Creek (48.8510, –122.1368); Macaulay Creek (48.8353, –122.2345); Maple Creek (48.9262, –122.0751); Mitchell Creek (48.8313, –122.2174); North Fork Nooksack River (48.9055, –121.9886); Racehorse Creek (48.8819, –122.1272); Smith Creek (48.8439, –122.2544); Unnamed (48.8103, –122.1855); Unnamed (48.9002, –122.1205); Unnamed (48.9040, –122.0875); Unnamed (48.9131, –122.0127); Unnamed (48.9158, –122.0091); Unnamed (48.9162, –122.0615); Unnamed (48.9200, –122.0463); Wildcat Creek (48.9058, –121.9995); Deer Creek (48.8439, –122.4839).

(v) *Nooksack River Watershed 1711000405*. Outlet(s) = Lummi River (Lat 48.8010, Long –122.6582); Nooksack River (48.7737, –122.5986); Silver Creek (48.7786, –122.5635); Slater Slough (48.7759, –122.6029); Unnamed (48.7776, –122.5708); Unnamed (48.7786, –122.5677); Unnamed (48.7973, –122.6717); Unnamed (48.8033, –122.6771) upstream to endpoint(s) in: Fishtrap Creek (49.0025, –122.4053); Fourmile Creek (48.8890, –122.4213); Lummi River (48.8198, –122.6049); Nooksack River (48.8711, –122.3227); Pepin Creek (49.0024, –122.4724); Slater Slough (48.7778, –122.6041); Tenmile Creek (48.8457, –122.3661); Unnamed (48.8191, –122.5705); Unnamed (48.8453, –122.6071); Unnamed (48.8548, –122.4749); Unnamed (48.9609, –122.5312); Unnamed (48.9634, –122.3928); Unnamed (49.0024, –122.4730); Unnamed (49.0025, –122.5218).

(2) Upper Skagit Subbasin 17110005—(i) *Skagit River/Gorge Lake Watershed 1711000504*. Outlet(s) = Skagit River (Lat 48.6725, Long –121.2633) upstream to endpoint(s) in: Goodell Creek (48.6890, –121.2718); Skagit River (48.6763, –121.2404).

(ii) *Skagit River/Diobsud Creek Watershed 1711000505*. Outlet(s) = Skagit River (Lat 48.5218, Long –121.4315) upstream to endpoint(s) in: Bacon Creek (48.6456, –121.4244); Diobsud Creek (48.5761, –121.4309); Falls Creek (48.6334, –121.4258); Skagit River (48.6725, –121.2633).

(iii) *Cascade River Watershed 1711000506*. Outlet(s) = Cascade River (Lat 48.5218, Long –121.4315) upstream to endpoint(s) in: Found Creek (48.4816, –121.2437); Kindy Creek (48.4613, –121.2094); Marble Creek (48.5398, –121.2612); North Fork Cascade River (48.4660, –121.1641); South Fork Cascade River (48.4592, –121.1494).

(iv) *Skagit River/Illabot Creek Watershed 1711000507*. Outlet(s) = Skagit River (Lat 48.5333, Long –121.7370) upstream to endpoint(s) in: Illabot Creek (48.4498, –121.4551); Jackman Creek (48.5294, –121.6957); Skagit River (48.5218, –121.4315); Unnamed (48.5013, –121.6598).

(3) Sauk Subbasin 17110006—(i) *Upper Sauk River Watershed 1711000601*. Outlet(s) = Sauk River (Lat 48.1731, Long –121.4714) upstream to endpoint(s) in: Camp Creek (48.1559, –121.2909); North Fork Sauk River (48.0962, –121.3710); Owl Creek (48.1623, –121.2948); South Fork Sauk River (48.0670, –121.4088); Swift Creek (48.1011, –121.3975); Unnamed (48.1653, –121.3288); White Chuck River (48.1528, –121.2645).

(ii) *Upper Suiattle River Watershed 1711000602*. Outlet(s) = Suiattle River (Lat 48.2586, Long –121.2237) upstream to endpoint(s) in: Downey Creek (48.2828, –121.2083); Milk Creek (48.2207, –121.1634); Suiattle River (48.2211, –121.1609); Sulphur Creek (48.2560, –121.1773); Unnamed (48.2338, –121.1792).

(iii) *Lower Suiattle River Watershed 1711000603*. Outlet(s) = Suiattle River (Lat 48.3384, Long –121.5482) upstream to endpoint(s) in: Big Creek (48.3435, –121.4416); Buck Creek (48.2753, –121.3268); Circle Creek (48.2555, –121.3395); Lime Creek (48.2445, –121.2933); Straight Creek (48.2594;–121.4009); Suiattle River (48.2586, –121.2237); Tenas Creek (48.3371, –121.4304).

(iv) *Lower Sauk River Watershed 1711000604*. Outlet(s) = Sauk River (Lat 48.4821, Long –121.6060) upstream to endpoint(s) in: Dan Creek (48.2702, –121.5473); Sauk River (48.1731, –121.4714); Unnamed (48.2247, –121.5826); Unnamed (48.3187, –121.5480).

(4) Lower Skagit Subbasin 17110007—(i) *Middle Skagit River/Finney Creek Watershed 1711000701*. Outlet(s) = Skagit River (Lat 48.4891, Long –122.2178) upstream to endpoint(s) in: Alder Creek (48.5280, –121.9498); Day Creek (48.4689, –122.0216); Finney Creek (48.4655, –121.6858); Grandy Creek (48.5510, –121.8621); Hansen Creek (48.5600, –122.2069); Jims Slough (48.5274, –122.0227); Jones Creek (48.5418, –122.0494); Mannser Creek (48.5260,

–122.0430); Muddy Creek (48.5278, –122.0007); Pressentin Creek (48.5099, –121.8449); Skagit River (48.5333, –121.7370); Sorenson Creek (48.4875, –122.1029); Unnamed (48.4887, –122.0747); Unnamed (48.5312, –122.0149); Wiseman Creek (48.5160, –122.1286).

(ii) *Lower Skagit River/Nookachamps Creek Watershed 1711000702*. Outlet(s) = Browns Slough (Lat 48.3305, Long –122.4194); Freshwater Slough (48.3109, –122.3883); Hall Slough (48.3394, –122.4426); Isohis Slough (48.2975, –122.3711); North Fork Skagit River (48.3625, –122.4689); South Fork Skagit River (48.2920, –122.3670); Unnamed (48.3085, –122.3868); Unnamed (48.3831, –122.4842) upstream to endpoint(s) in: Britt Slough (48.3935, –122.3571); Browns Slough (48.3411, –122.4127); East Fork Nookachamps Creek (48.4044, –122.1790); Hall Slough (48.3437, –122.4376); Mundt Creek (48.4249, –122.2007); Skagit River (48.4891, –122.2178); Unnamed (48.3703, –122.3081); Unnamed (48.3827, –122.1893); Unnamed (48.3924, –122.4822); Walker Creek (48.3778, –122.1899).

(5) Stillaguamish Subbasin 17110008—(i) *North Fork Stillaguamish River Watershed 1711000801*. Outlet(s) = North Fork Stillaguamish River (Lat 48.2037, Long –122.1256) upstream to endpoint(s) in: Ashton Creek (48.2545, –121.6708); Boulder River (48.2624, –121.8090); Deer Creek (48.2835, –121.9255); French Creek (48.2534, –121.7856); Furland Creek (48.2624, –121.6749); Grant Creek (48.2873, –122.0118); North Fork Stillaguamish River (48.3041, –121.6360); Rollins Creek (48.2908, –121.8441); Squire Creek (48.2389, –121.6374); Unnamed (48.2393, –121.6285); Unnamed (48.2739, –121.9948).

(ii) *South Fork Stillaguamish River Watershed 1711000802*. Outlet(s) = South Fork Stillaguamish River (Lat 48.2037, Long –122.1256) upstream to endpoint(s) in: Jim Creek (48.2230, –121.9483); North Fork Canyon Creek (48.1697, –121.8194); Siberia Creek (48.1731, –122.0377); South Fork Canyon Creek (48.1540, –121.7840); South Fork Stillaguamish River (48.0454, –121.4819); Unnamed (48.1463, –122.0162).

(iii) *Lower Stillaguamish River Waterhed 1711000803*. Outlet(s) = Stillaguamish River (Lat 48.2385, Long –122.3749); Unnamed (48.1983, –122.3579) upstream to endpoint(s) in: Armstrong Creek (48.2189, –122.1347); Pilchuck Creek (48.2983, –122.1672); Stillaguamish River (48.2037, –122.1256).

(6) Skykomish Subbasin 17110009—(i) *Tye and Beckler River Watershed 1711000901*. Outlet(s) = South Fork Skykomish River (Lat 47.7147, Long –121.3393) upstream to endpoint(s) in: East Fork Foss River (47.6522, –121.2792); Rapid River (47.8131, –121.2470) Tye River (47.7172, –121.2254) Unnamed (47.8241, –121.2979); West Fork Foss River (47.6444, –121.2972).

(ii) *Skykomish River Forks Watershed 1711000902*. Outlet(s) = North Fork Skykomish River (Lat 47.8133, Long –121.5782) upstream to endpoint(s) in: Bridal Veil Creek (47.7987, –121.5597); Lewis Creek (47.8223, –121.5160); Miller River (47.7018, –121.3950); Money Creek (47.7208, –121.4062); North Fork Skykomish River (47.9183, –121.3073); South Fork Skykomish River (47.7147, –121.3393); Unnamed (47.7321, –121.4176); Unnamed (47.8002, –121.5548).

(iii) *Skykomish River/Wallace River Watershed 1711000903*. Outlet(s) = Skykomish River (Lat 47.8602, Long–121.8190) upstream to endpoint(s) in: Deer Creek (47.8191, –121.5805); Olney Creek (47.8796, –121.7163); Proctor Creek (47.8216, –121.6460); Skykomish River (47.8133, –121.5782); Unnamed (47.8507, –121.8010); Wagleys Creek (47.8674, –121.7972); Wallace River (47.8736, –121.6491).

(iv) *Sultan River Watershed 1711000904*. Outlet(s) = Sultan River (Lat 47.8602, Long –121.8190) upstream to endpoint(s) in: Sultan River (47.9598, –121.7951).

(v) *Skykomish River/Woods Creek Watershed 1711000905*. Outlet(s) = Skykomish River (Lat 47.8303, Long –122.0451) upstream to endpoint(s) in: Elwell Creek (47.8038, –121.8524); Skykomish River (47.8602, –121.8190); Unnamed (47.8890, –121.8637); West Fork Woods Creek (47.9627, –121.9707); Woods Creek (47.8953, –121.8742); Youngs Creek (47.8081, –121.8332).

(7) Snoqualmie Subbasin 17110010—(i) *Middle Fork Snoqualmie River Watershed 1711001003*. Outlet(s) = Snoqualmie River (Lat 47.6407, Long –121.9261) upstream to endpoint(s) in: Canyon Creek (47.5837, –121.9623); Deep Creek (47.4764, –121.8905); Griffin Creek (47.6164, –121.9014); Lake Creek (47.5036, –121.9035); Patterson Creek (47.6276, –121.9855); Raging River (47.4795,

–121.8691); Snoqualmie River (47.5415, –121.8362); Tokul Creek (47.5563, –121.8285).

(ii) *Lower Snoqualmie River Watershed 1711001004*. Outlet(s) = Snoqualmie River (Lat 47.8303, Long –122.0451) upstream to endpoint(s) in: Cherry Creek (47.7465, –121.8953); Margaret Creek (47.7547, –121.8933); North Fork Tolt River (47.7060, –121.7957); Snoqualmie River (47.6407, –121.9261); South Fork Tolt River (47.6969, –121.7861); Tuck Creek (47.7442, –122.0032); Unnamed (47.6806, –121.9730); Unnamed (47.6822, –121.9770); Unnamed (47.7420, –122.0084); Unnamed (47.7522, –121.9745); Unnamed (47.7581, –121.9586).

(8) Snohomish Subbasin 17110011—(i) *Pilchuck River Watershed 1711001101*. Outlet(s) = Pilchuck River (Lat 47.9013, Long –122.0917) upstream to endpoint(s) in: Pilchuck River (48.0052, –121.7718).

(ii) *Snohomish River Watershed 1711001102*. Outlet(s) = Quilceda Creek (Lat 48.0556, Long –122.1908); Skykomish River (48.0173, –122.1877); Steamboat Slough (48.0365, –122.1814); Union Slough (48.0299, –122.1794); Unnamed (48.0412, –122.1723) upstream to endpoint(s) in: Allen Creek (48.0767, –122.1404); Quilceda Creek (48.1124, –122.1540); Skykomish River (47.8303, –122.0451); Unnamed (47.9545, –122.1969); Unnamed (47.9777, –122.1632); Unnamed (48.0019, –122.1283); Unnamed (48.0055, –122.1303); Unnamed (48.1330, –122.1472).

(9) Lake Washington Subbasin 17110012—(i) *Cedar River Watershed 1711001201*. Outlet(s) = Cedar River (Lat 47.5003, Long –122.2146) upstream to endpoint(s) in: Cedar River (47.4192, –121.7805); Rock Creek (47.3673, –122.0132); Unnamed (47.4092, –122.0358); Webster Creek (47.3857, –121.9845).

(ii) *Lake Washington Watershed 1711001203*. Outlet(s) = Lake Washington (Lat 47.6654, Long –122.3960) upstream to endpoint(s) in: Cedar River (47.5003, –122.2146); Sammamish River (47.7543, –122.2465).

(10) Duwamish Subbasin 17110013—(i) *Upper Green River Watershed 1711001301*. Outlet(s) = Green River (Lat 47.2234, Long –121.6081) upstream to endpoint(s) in: Friday Creek (47.2204, –121.4559); Intake Creek (47.2058, –121.4049); McCain Creek (47.2093, –121.5292); Sawmill Creek (47.2086, –121.4675); Smay Creek (47.2508, –121.5872); Snow Creek (47.2607, –121.4046); Sunday Creek (47.2587, –121.3659); Tacoma Creek (47.1875, –121.3630); Unnamed (47.2129, –121.4579).

(ii) *Middle Green River Watershed 1711001302*. Outlet(s) = Green River (Lat 47.2911, Long –121.9714) upstream to endpoint(s) in: Bear Creek (47.2774, –121.7990); Cougar Creek (47.2439, –121.6442); Eagle Creek (47.3051, –121.7219); Gale Creek (47.2644, –121.7085); Green River (47.2234, –121.6081); Piling Creek (47.2820, –121.7553); Sylvester Creek (47.2457, –121.6537); Unnamed (47.2360, –121.6333).

(iii) *Lower Green River Watershed 1711001303*. Outlet(s) = Duwamish River (Lat 47.5113, Long –122.2951) upstream to endpoint(s) in: Big Soos Creek (47.4191, –122.1599); Burns Creek (47.2779, –122.1087); Covington Creek (47.3341, –122.0399); Crisp Creek (47.2897, –122.0590); Green River (47.2911, –121.9714); Jenkins Creek (47.3791, –122.0899); Little Soos Creek (47.4031, –122.1235); Mill Creek (47.3263, –122.2455); Newaukum Creek (47.2303, –121.9518); Unnamed (47.2765, –121.9730); Unnamed (47.2891, –122.1557); Unnamed (47.3007, –122.1774); Unnamed (47.3250, –122.1961); Unnamed (47.3464, –122.2397); Unnamed (47.3751, –122.2648); Unnamed (47.4046, –122.2134); Unnamed (47.4525, –122.2354); Unnamed (47.4618, –122.2315); Unnamed (47.4619, –122.2554); Unnamed (47.4876, –122.2781).

(11) Puyallup Subbasin 17110014—(i) *Upper White River Watershed 1711001401*. Outlet(s) = White River (Lat 47.1588, Long –121.6587) upstream to endpoint(s) in: Greenwater River (47.1204, –121.5055); Huckleberry Creek (47.0612, –121.6033); Pinochle Creek (47.0478, –121.7043); Unnamed (46.9935, –121.5295); West Fork White River (47.0483, –121.6916); Wrong Creek (47.0403, –121.6999).

(ii) *Lower White River Watershed 1711001402*. Outlet(s) = White River (Lat 47.2001, Long –122.2579) upstream to endpoint(s) in: Boise Creek (47.1958, –121.9467); Camp Creek (47.1430, –121.7012); Clearwater River (47.0852, –121.7823); Unnamed (47.1509, –121.7236); Unnamed (47.2247, –122.1072); Unnamed (47.2307, –122.1079); Unnamed (47.2383, –122.2234); Unnamed (47.2498, –122.2346); White River (47.1588, –121.6587).

(iii) *Carbon River Watershed 1711001403*. Outlet(s) = Carbon River (Lat 47.1308, Long –122.2315) upstream

to endpoint(s) in: Carbon River (46.9965, –121.9198); South Fork South Prairie Creek (47.1203, –121.9963); Voight Creek (47.0751, –122.1285); Wilkeson Creek (47.0972, –122.0245).

(iv) *Upper Puyallup River Watershed 1711001404*. Outlet(s) = Puyallup River (Lat 47.1308, Long –122.2315) upstream to endpoint(s) in: Deer Creek (46.8547, –121.9680); Kapowsin Creek (46.9854, –122.2008); Kellog Creek (46.9164, –122.0652); Mowich River (46.9209, –121.9739); Rushingwater Creek (46.8971, –121.9439); Unnamed (46.8867, –122.0194); Unnamed (46.8899, –121.9657).

(v) *Lower Puyallup River Watershed 1711001405*. Outlet(s) = Hylebos Creek (Lat 47.2611, Long –122.3591); Puyallup River (47.2501, –122.4131) upstream to endpoint(s) in: Canyonfalls Creek (47.1421, –122.2186); Clarks Creek (47.1757.–122.3168); Clear Creek (47.2187, –122.3727); Fennel Creek (47.1495, –122.1849); Puyallup River (47.1308, –122.2315); Unnamed (47.1779, –122.1992); Unnamed (47.1799, –122.3066); Unnamed (47.1928, –122.3371); Unnamed (47.2723, –122.3216); West Hylebos Creek (47.2736, –122.3289).

(12) Nisqually Subbasin 17110015—(i) *Mashel/Ohop Watershed 1711001502*. Outlet(s) = Nisqually River (Lat 46.8646, Long –122.4776) upstream to endpoint(s) in: Little Mashel River (46.8504, –122.2724); Lynch Creek (46.8760, –122.2625); Mashel River (46.8431, –122.1205); Nisqually River (46.8303, –122.3225); Ohop Creek (46.9264, –122.2603); Powell Creek (46.8528, –122.4505); Tanwax Creek (46.8630, –122.4549); Twentyfive Mile Creek (46.9274, –122.2558).

(ii) *Lowland Watershed 1711001503*. Outlet(s) = McAllister Creek (Lat 47.1120, Long –122.7215); Nisqually River (47.1110, –122.7026); Unnamed (47.0071, –122.6556); Yelm Creek (46.9712, –122.6263) upstream to endpoint(s) in: Horn Creek (46.9042, –122.4776); McAllister Creek (47.0299, –122.7236); Nisqually River (46.8646, –122.4776); Unnamed (46.9108, –122.5032); Unnamed (47.0001, –122.6510); Unnamed (47.0055, –122.6520); Yelm Creek (46.9629, –122.6194). Excluded is that segment of the Nisqually River from Lat 47.0703, Long –122.7017, to Lat 46.9668, Long –122.5640.

(13) Skokomish Subbasin 17110017—*Skokomish River Watershed 1711001701*. Outlet(s) = Skokomish River (Lat 47.3543, Long –123.1122); Unnamed (47.3420, –123.1092); Unnamed (47.3471, –123.1275); Unnamed (47.3509, –123.1101) upstream to endpoint(s) in: Brown Creek (47.4238, –123.3052); Fir Creek (47.3363, –123.3016); McTaggert Creek (47.3749, –123.2318); North Fork Skokomish River (47.5197, –123.3329); Purdy Canyon (47.3021, –123.1803); Unnamed (47.3048, –123.1528); Unnamed (47.3077, –123.2012); Unnamed (47.3146, –123.1353); Unnamed (47.3209, –123.2212); Unnamed (47.3222, –123.3060); Unnamed (47.3237, –123.1467); Unnamed (47.3250, –123.1250); Vance Creek (47.3300, –123.3137); Weaver Creek (47.3097, –123.2384).

(14) Hood Canal Subbasin 17110018—(i) *Hamma Hamma River Watershed 1711001803*. Outlet(s) = Hamma Hamma River (Lat 47.5471, Long –123.0440) upstream to endpoint(s) in: Hamma Hamma River (47.5590, –123.0632); North Fork John Creek (47.5442, –123.0696)

(ii) *Duckabush River Watershed 1711001804*. Outlet(s) = Duckabush River (Lat 47.6502, Long –122.9348) upstream to endpoint(s) in: Duckabush River (47.6825, –123.0675).

(iii) *Dosewallips River Watershed 1711001805*. Outlet(s) = Dosewallips River (Lat 47.6881, Long –122.8945); Unnamed (47.6857, –122.8967) upstream to endpoint(s) in: Dosewallips River (47.7289, –123.1111); Rocky Brook (47.7212, –122.9405); Unnamed (47.6886, –122.8977).

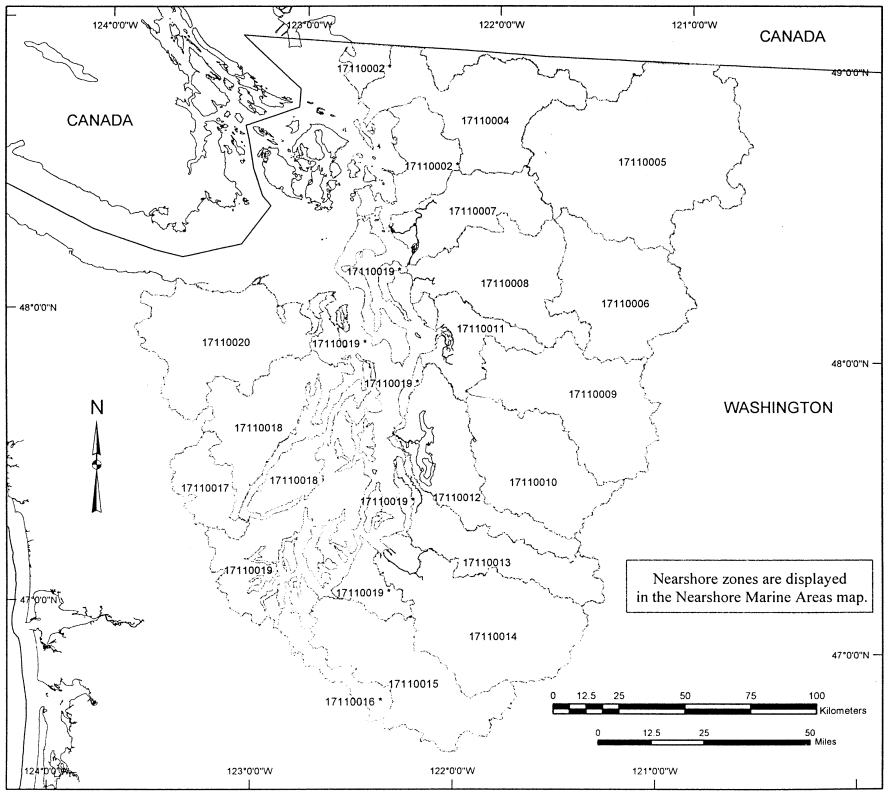
(15) Dungeness/Elwha 17110020—(i) *Dungeness River Watershed 1711002003*. Outlet(s) = Dungeness River (Lat 48.1506, Long –123.1311); Unnamed (48.1537, –123.1267) upstream to endpoint(s) in: Dungeness River (47.9386, –123.0885); Gray Wolf River (47.9168, –123.2409); Matriotti Creek (48.1368, –123.1428); Unnamed (48.1514, –123.1216).

(ii) *Elwha River Watershed 1711002007*. Outlet(s) = Elwha River (Lat 48.1466, Long –123.5671); Unnamed (48.1483, –123.5599) upstream to endpoint(s) in: Elwha River (48.0927, –123.5614).

(16) Nearshore Marine Areas—Except as provided in paragraph (e) of this section, critical habitat includes all nearshore marine areas (including areas adjacent to islands) of the Strait of Georgia (south of the international border), Puget Sound, Hood Canal, and the Strait of Juan de Fuca (to the western end of the Elwha River delta) from the line of extreme high tide out to a depth of 30 meters.

(17) Maps of critical habitat for the Puget Sound chinook salmon ESU follow:

Map of the Puget Sound Chinook Salmon ESU



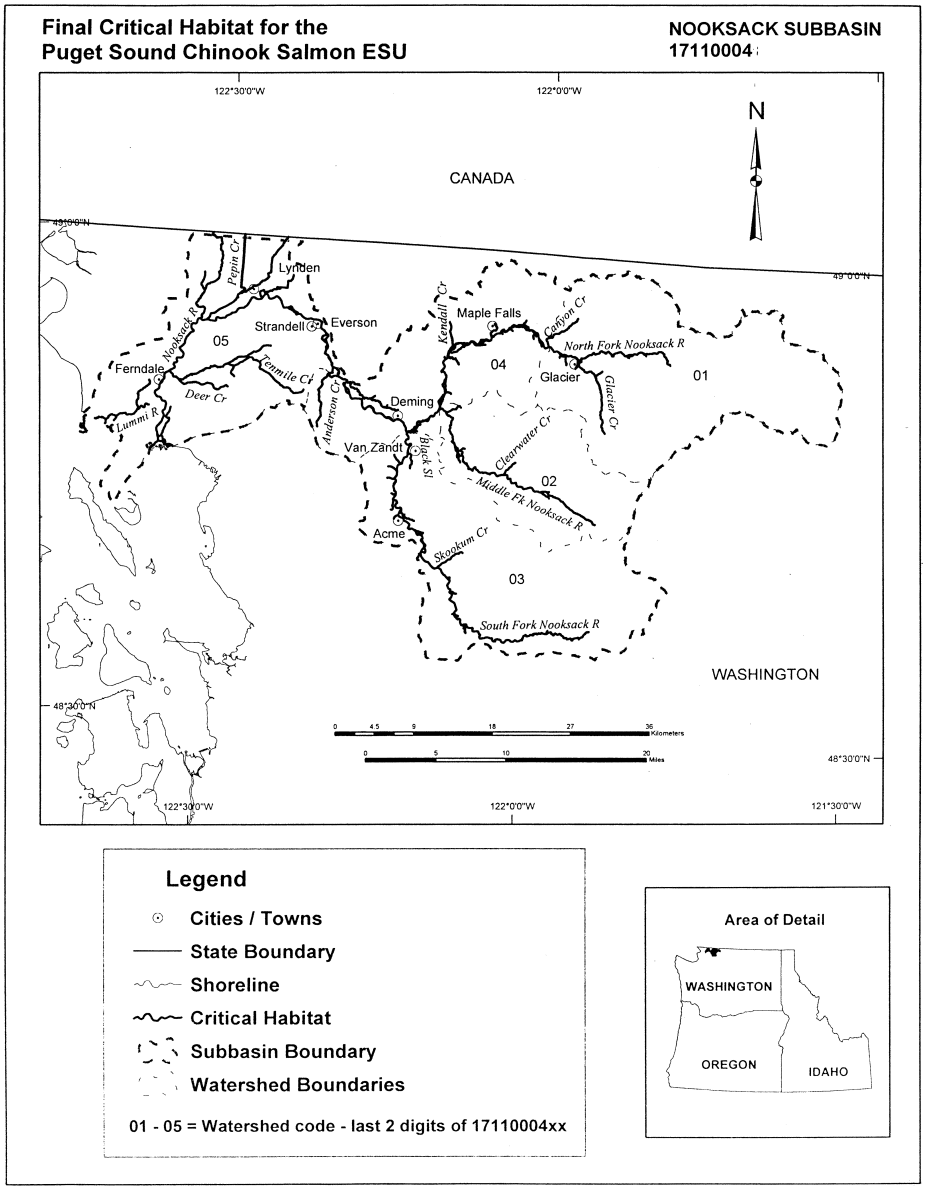
Legend

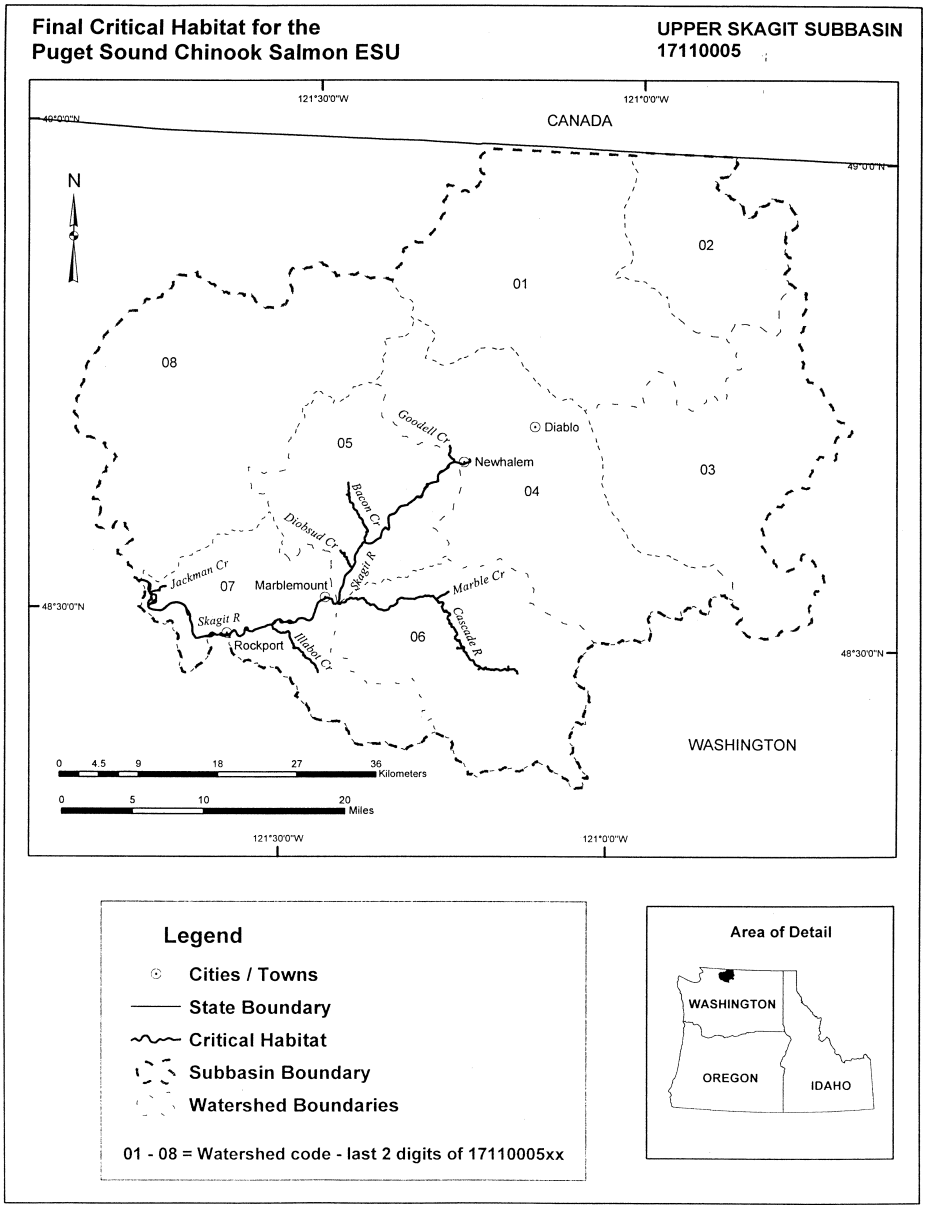
State Boundaries

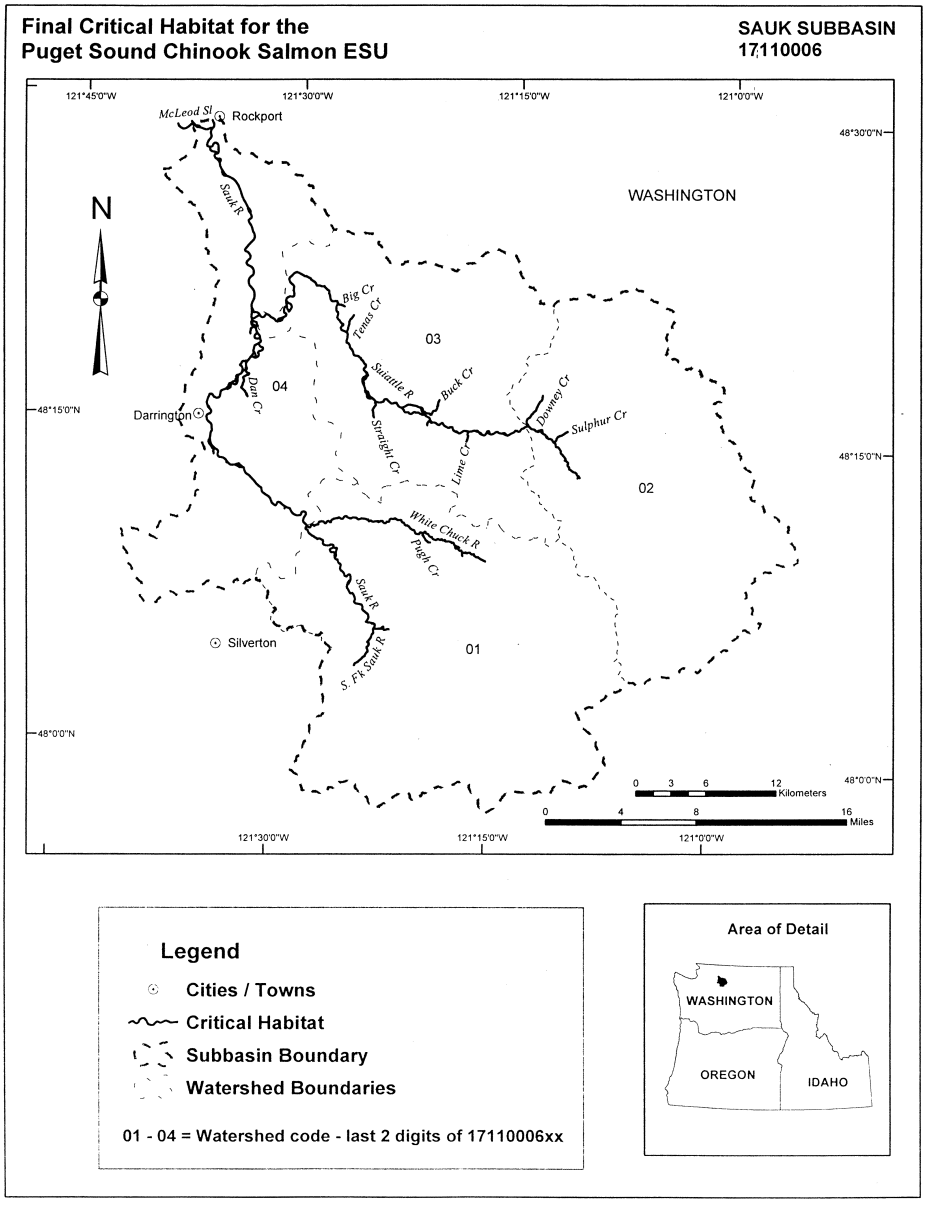
Subbasin Boundaries

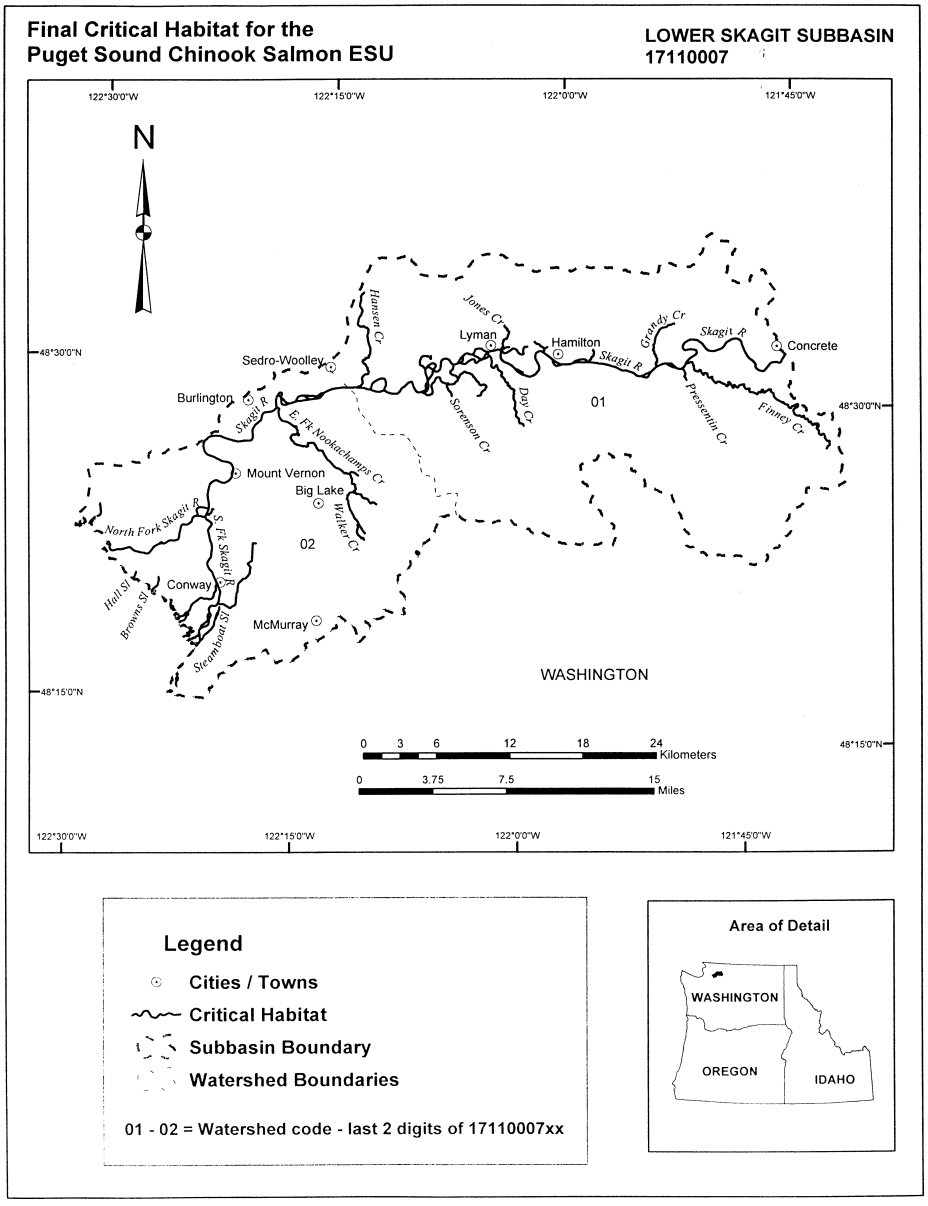
* All habitat areas in subbasin are proposed for exclusion

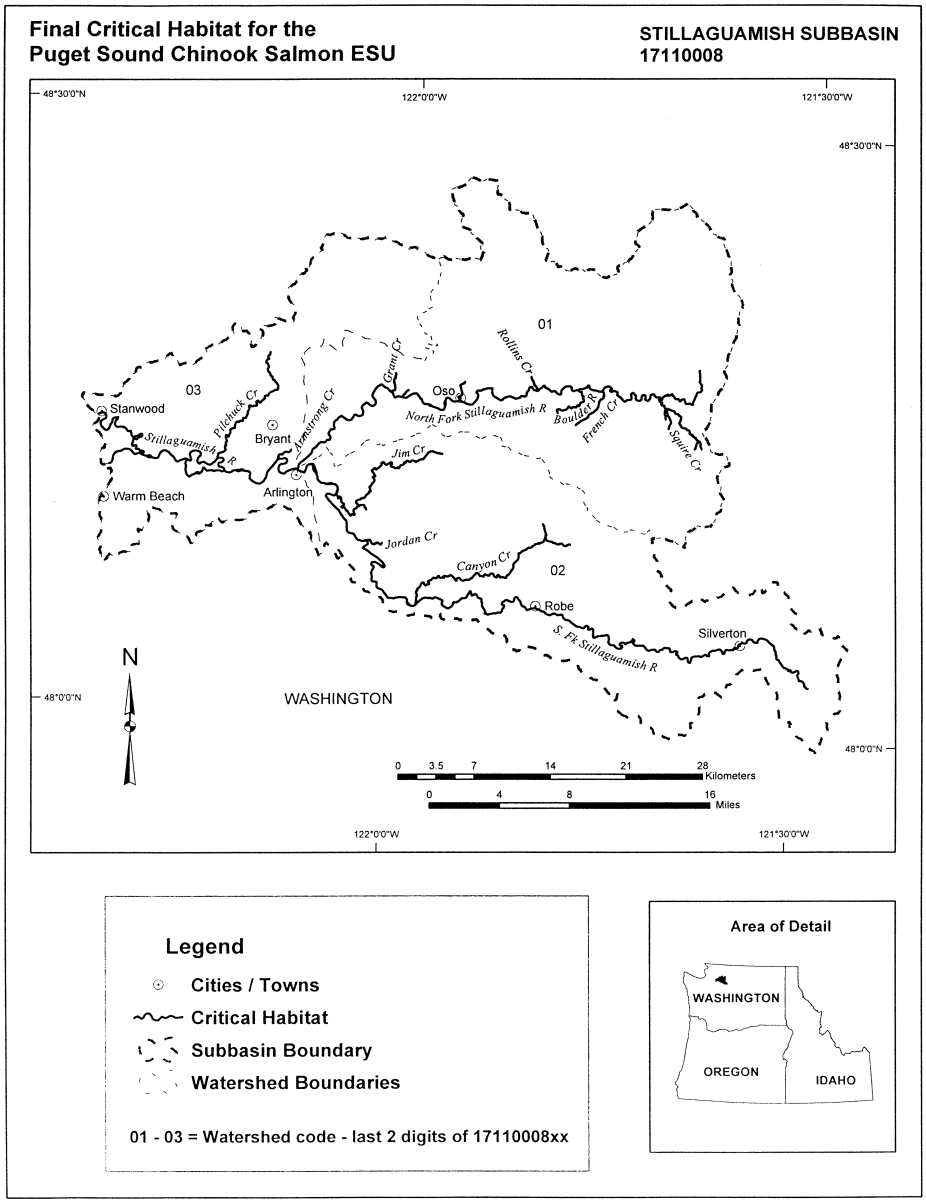
Area of Detail

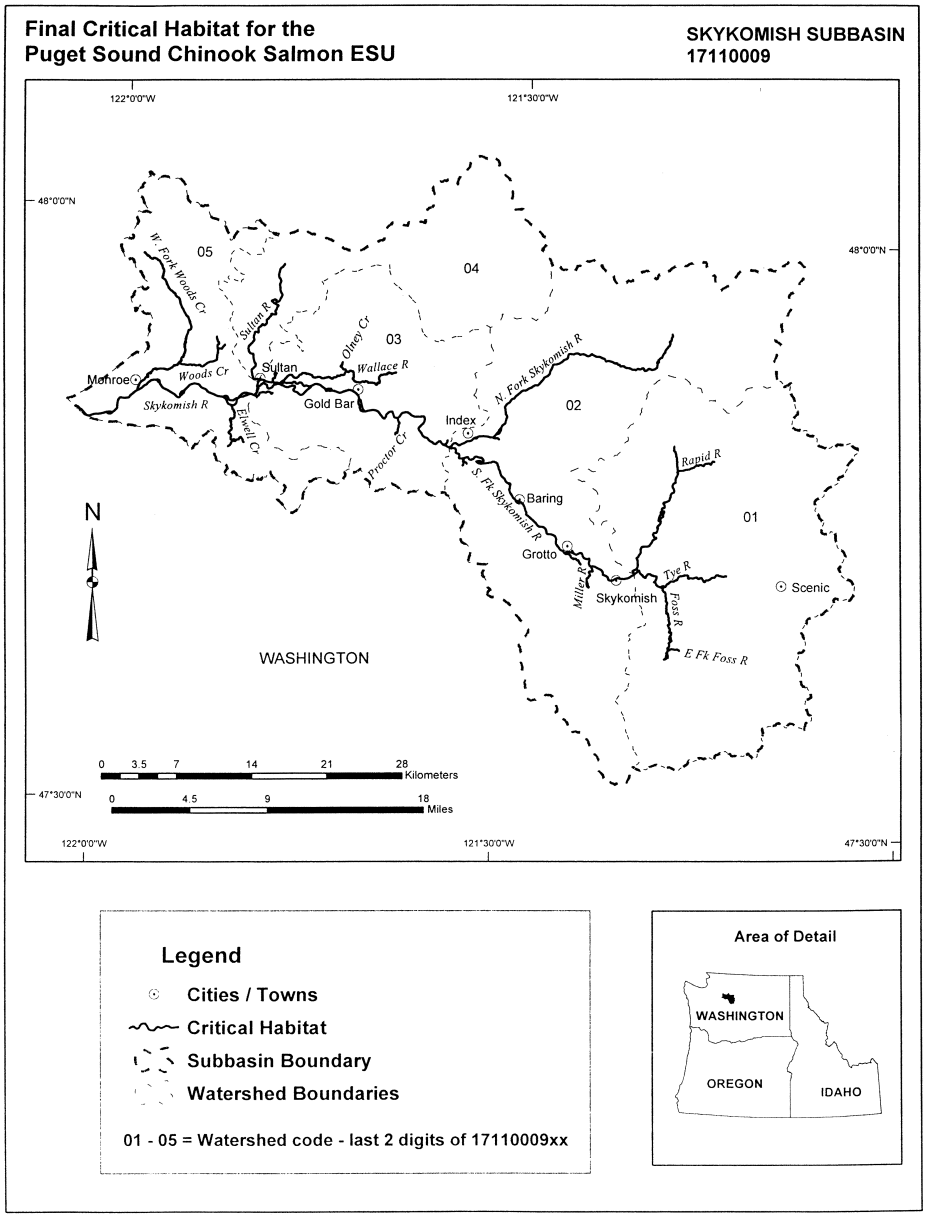

Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
NOOKSACK SUBBASIN
17110004
122°30'0"W
122°0'0"W
N
CANADA
49°0'0"N
Lynden
Pepin Cr
Strandell Cr
Everson
Nooksack R
05
Ferndale
Tennile Cr
Deer Cr
Lummi R
Kendall Cr
Maple Falls
Canyon Cr
North Fork Nooksack R
04
Glacier
Glacier Cr
01
Deming
Anderson Cr
Van Zandt
Bell St
Clearwater Cr
Middle Fk Nooksack R
02
Acme
Skookum Cr
03
South Fork Nooksack R
WASHINGTON
48°30'0"N
0 4.5 9 18 27 36 Kilometers
0 5 10 20 Miles
122°30'0"W
122°0'0"W
121°30'0"W
Legend
Cities / Towns
State Boundary
Shoreline
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17110004xx
Area of Detail
WASHINGTON
OREGON
IDAHO

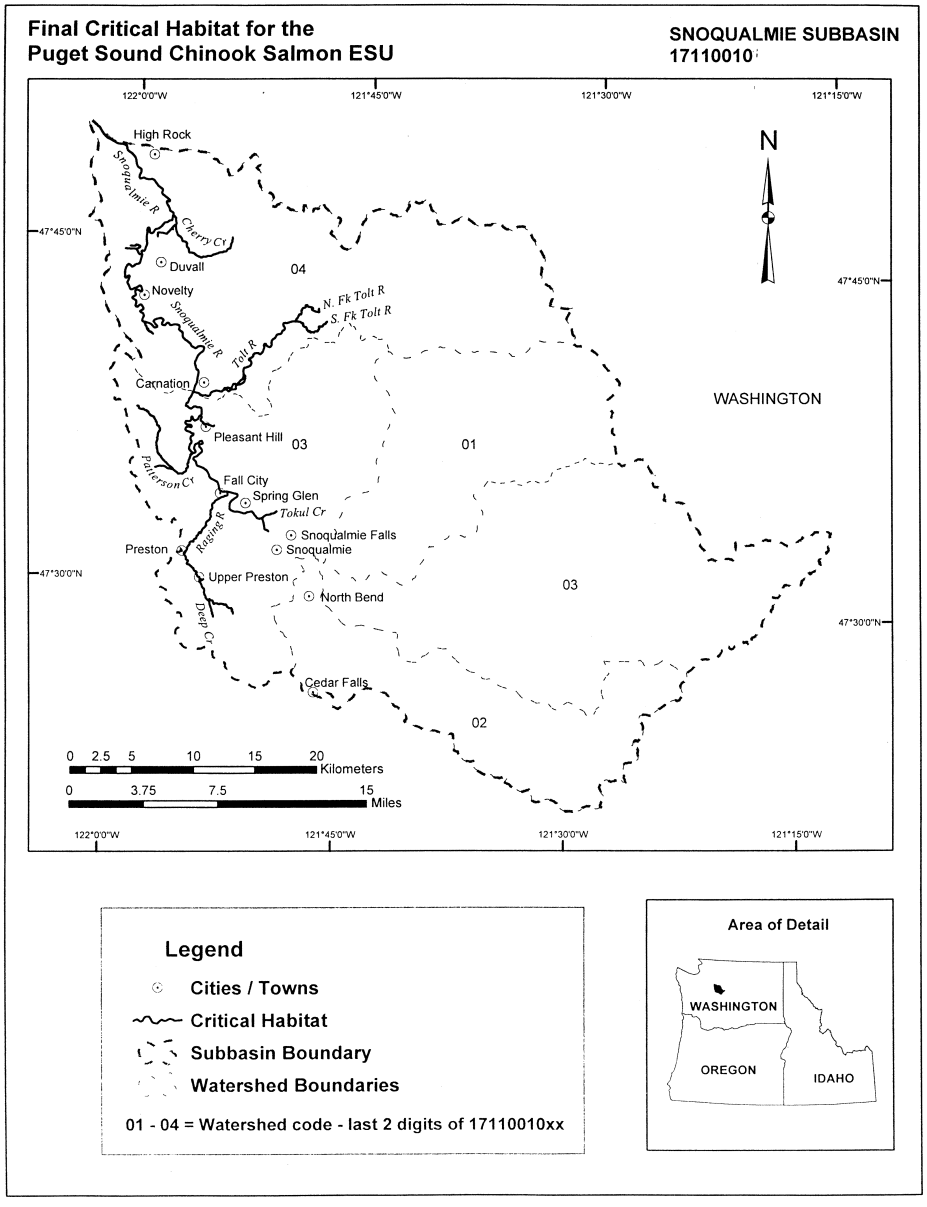

Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
UPPER SKAGIT SUBBASIN
17110005
121°30'0"W
121°0'0"W
49°0'0"N
CANADA
N
01
02
03
04
05
06
07
08
Goodell Cr
Diablo
Newhalem
Bacon Cr
Diobsud Cr
Skagit R
Jackman Cr
Marblemount
Marble Cr
Cascade R
Skagit R
Rockport
Illabot Cr
48°30'0"N
WASHINGTON
0 4.5 9 18 27 36 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17110005xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
SAUK SUBBASIN
17110006
121°45'0"W
121°30'0"W
121°15'0"W
121°0'0"W
48°30'0"N
48°15'0"N
48°0'0"N
McLeod Sl
Rockport
WASHINGTON
N
Sauk R
Big Cr
Tenas Cr
03
Suiattle R
Buck Cr
Downey Cr
Sulphur Cr
Dan Cr
04
Darrington
Straight Cr
Lime Cr
02
White Chuck R
Pugh Cr
Sauk R
Silverton
S. Fk Sauk R
01
0 3 6 12 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17110006xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
LOWER SKAGIT SUBBASIN
17110007
122°30'0"W
122°15'0"W
122°0'0"W
121°45'0"W
N
48°30'0"N
48°15'0"N
Sedro-Woolley
Burlington
Skagit R
Hansen Cr
Jones Cr
Lyman
Hamilton
Skagit R
Grandy Cr
Skagit R
Concrete
Day Cr
Stetattle Cr
01
Prescentin Cr
Finney Cr
E. Fk Nookachamps Cr
Mount Vernon
Big Lake
Walker Cr
North Fork Skagit R
S. Fk Skagit R
02
Hall Sl
Browns Sl
Conway
Steamboat Sl
McMurray
WASHINGTON
0 3 6 12 18 24 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 02 = Watershed code - last 2 digits of 17110007xx
Area of Detail
WASHINGTON
OREGON
IDAHO

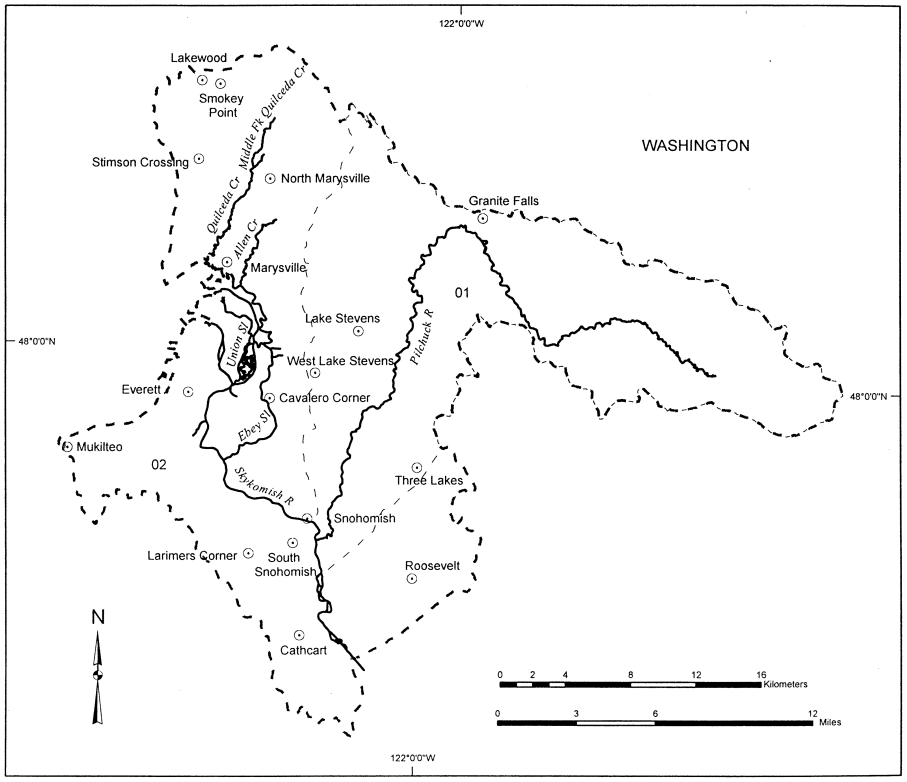

Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
STILLAGUAMISH SUBBASIN
17110008
48°30'0"N
122°0'0"W
121°30'0"W
48°0'0"N
01
02
03
Oso
Stanwood
Bryant
Arlington
Warm Beach
Silverton
Robe
Rollins Cr
Granite Cr
Pilchuck Cr
Armstrong Cr
Stillaguamish R
North Fork Stillaguamish R
Boulder R
French Cr
Squire Cr
Jim Cr
Jordan Cr
Canyon Cr
S. Fk Stillaguamish R
N
WASHINGTON
0 3.5 7 14 21 28 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17110008xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
SKYKOMISH SUBBASIN
17110009
122°0'0"W
121°30'0"W
48°0'0"N
47°30'0"N
05
04
03
02
01
W. Fork Woods Cr
Sultan R
Olney Cr
Wallace R
N. Fork Skykomish R
Woods Cr
Monroe
Sultan
Gold Bar
Skykomish R
Ewell Cr
Proctor Cr
Index
S. Fk Skykomish R
Baring
Rapid R
Grotto
Miller R
Skykomish
Tye R
Foss R
E Fk Foss R
Scenic
N
WASHINGTON
0 3.5 7 14 21 28 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17110009xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
SNOQUALMIE SUBBASIN
17110010
122°0'0"W
121°45'0"W
121°30'0"W
121°15'0"W
47°45'0"N
47°30'0"N
N
High Rock
Snoqualmie R
Cherry Cr
Duvall
Novelty
Snoqualmie R
N. Fk Tolt R
S. Fk Tolt R
Tolt R
Carnation
Pleasant Hill
Patterson Cr
Fall City
Spring Glen
Tokul Cr
Raging R
Snoqualmie Falls
Snoqualmie
Preston
Upper Preston
North Bend
Deep Cr
Cedar Falls
04
03
01
02
WASHINGTON
0 2.5 5 10 15 20 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17110010xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Puget Sound Chinook Salmon ESU

SNOHOMISH SUBBASIN 17110011

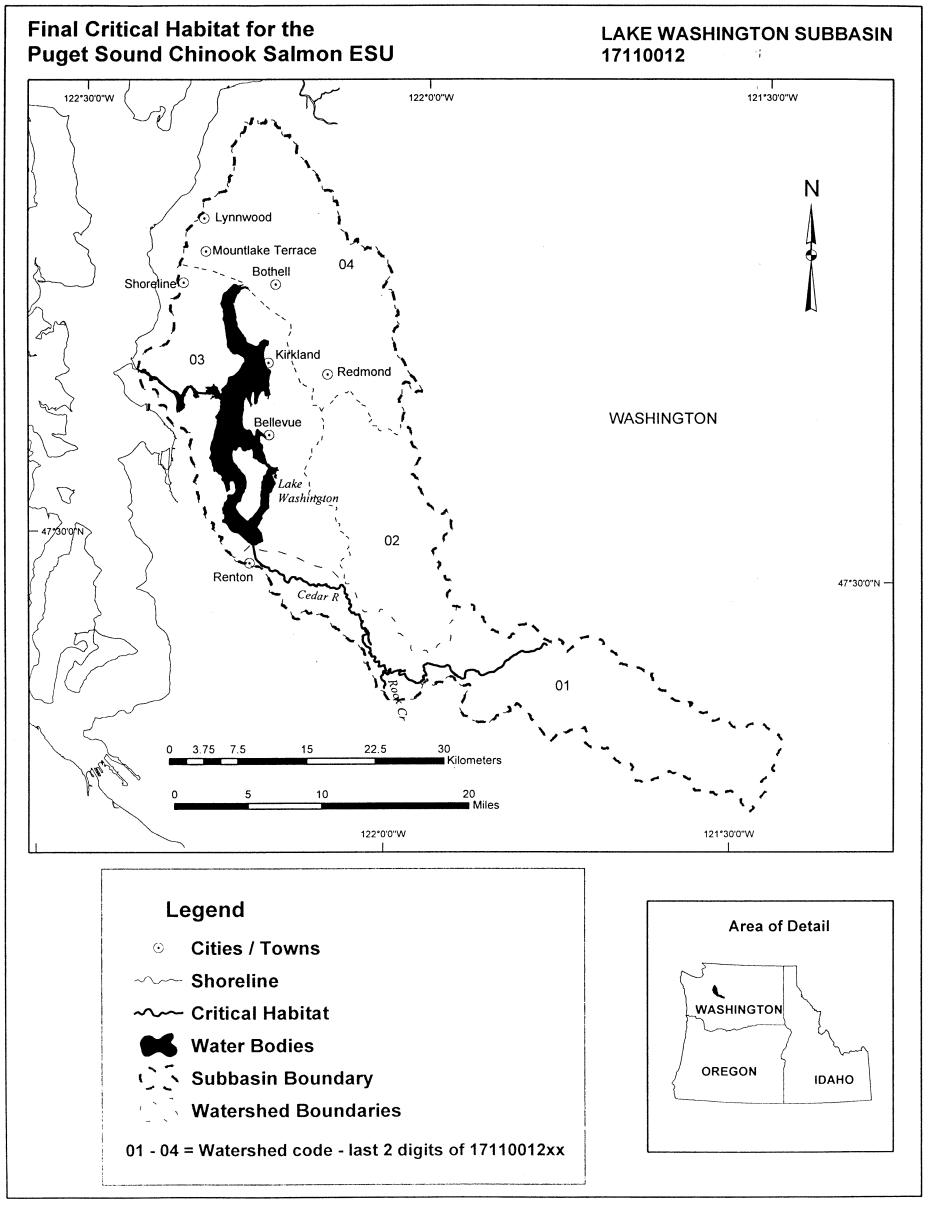


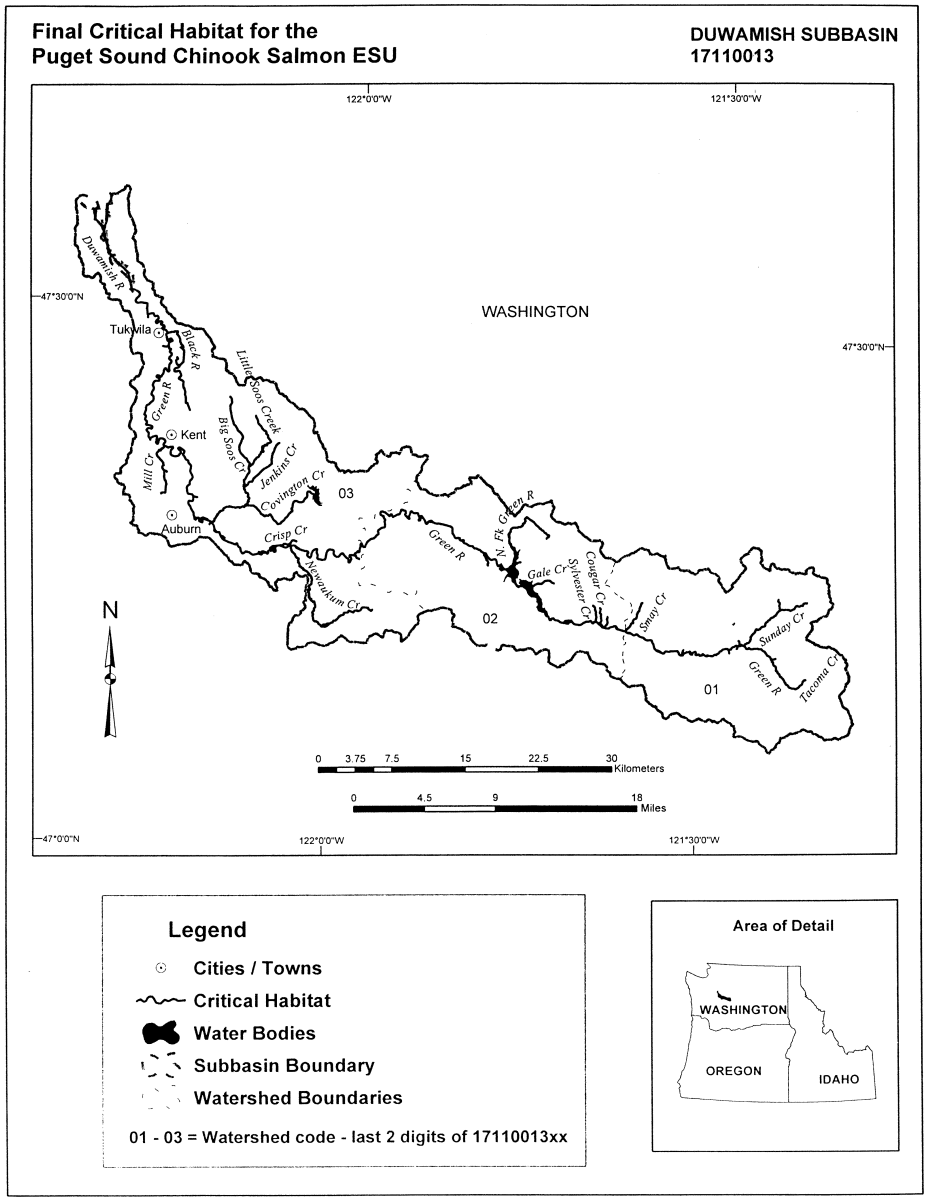
Legend

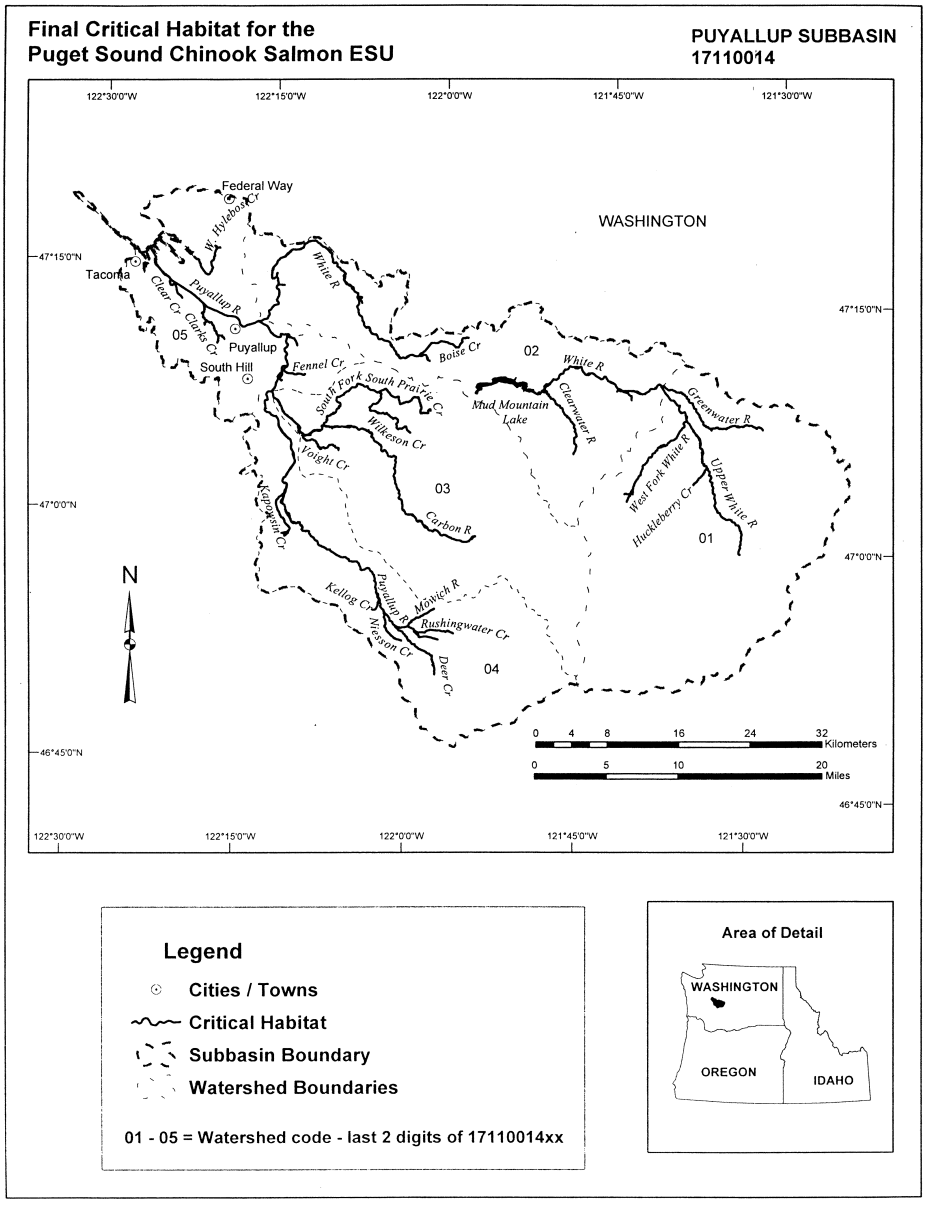
- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

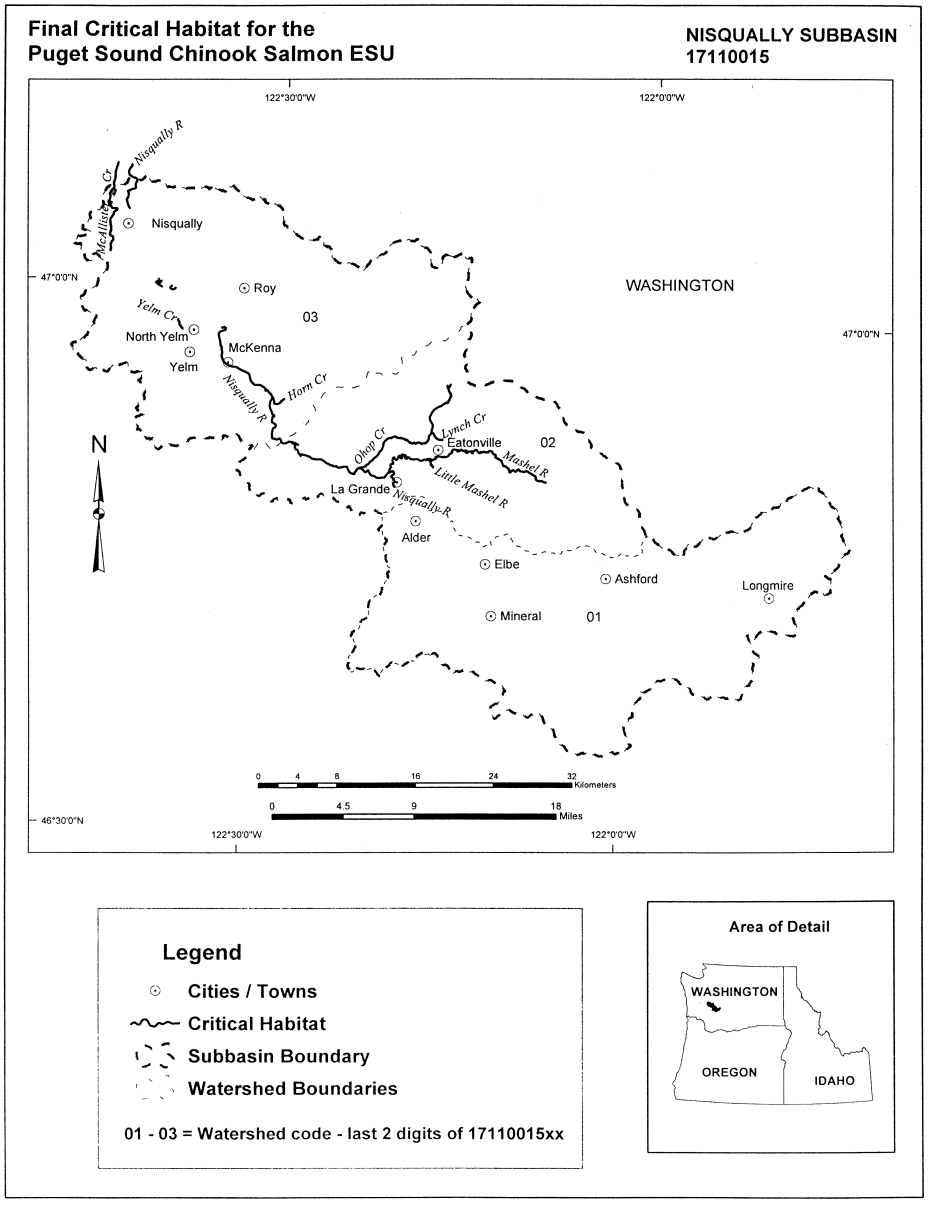
01 - 02 = Watershed code - last 2 digits of 17110011xx

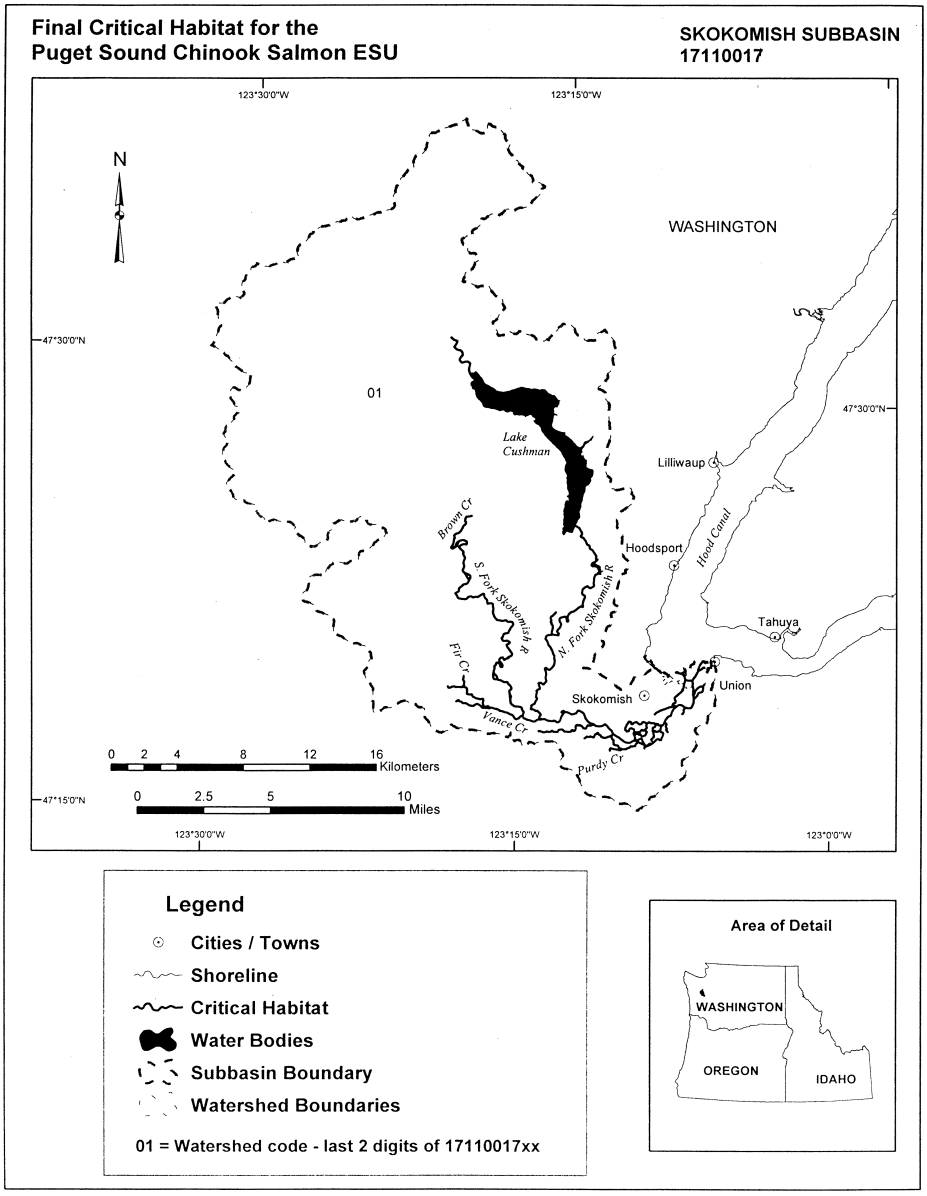
Area of Detail

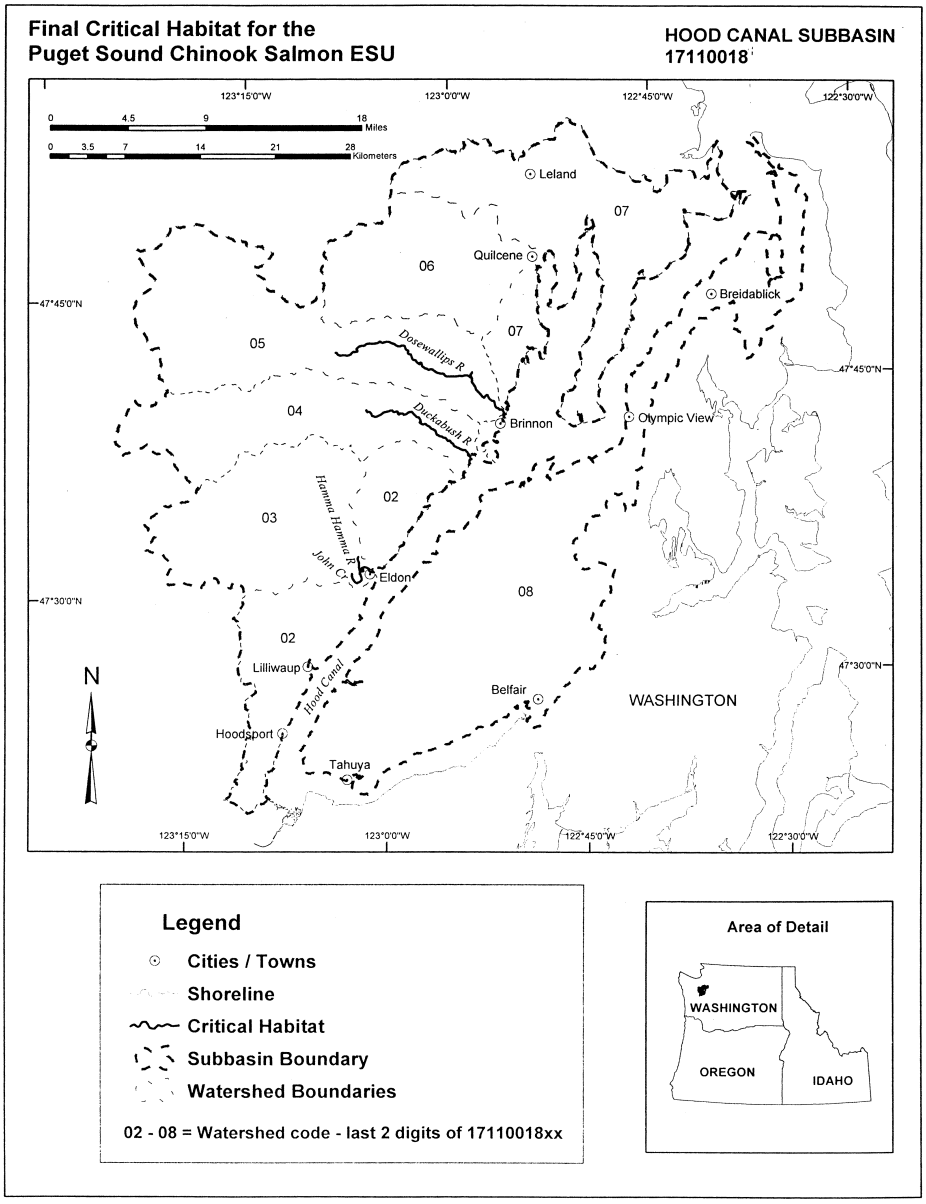

Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
LAKE WASHINGTON SUBBASIN
17110012
122°30'0"W
122°0'0"W
121°30'0"W
N
Lynnwood
Mountlake Terrace
Bothell
Shoreline
04
03
Kirkland
Redmond
Bellevue
WASHINGTON
Lake Washington
02
47°30'0"N
Renton
Cedar R.
Rock Cr.
01
0 3.75 7.5 15 22.5 30 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Shoreline
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17110012xx
Area of Detail
WASHINGTON
OREGON
IDAHO

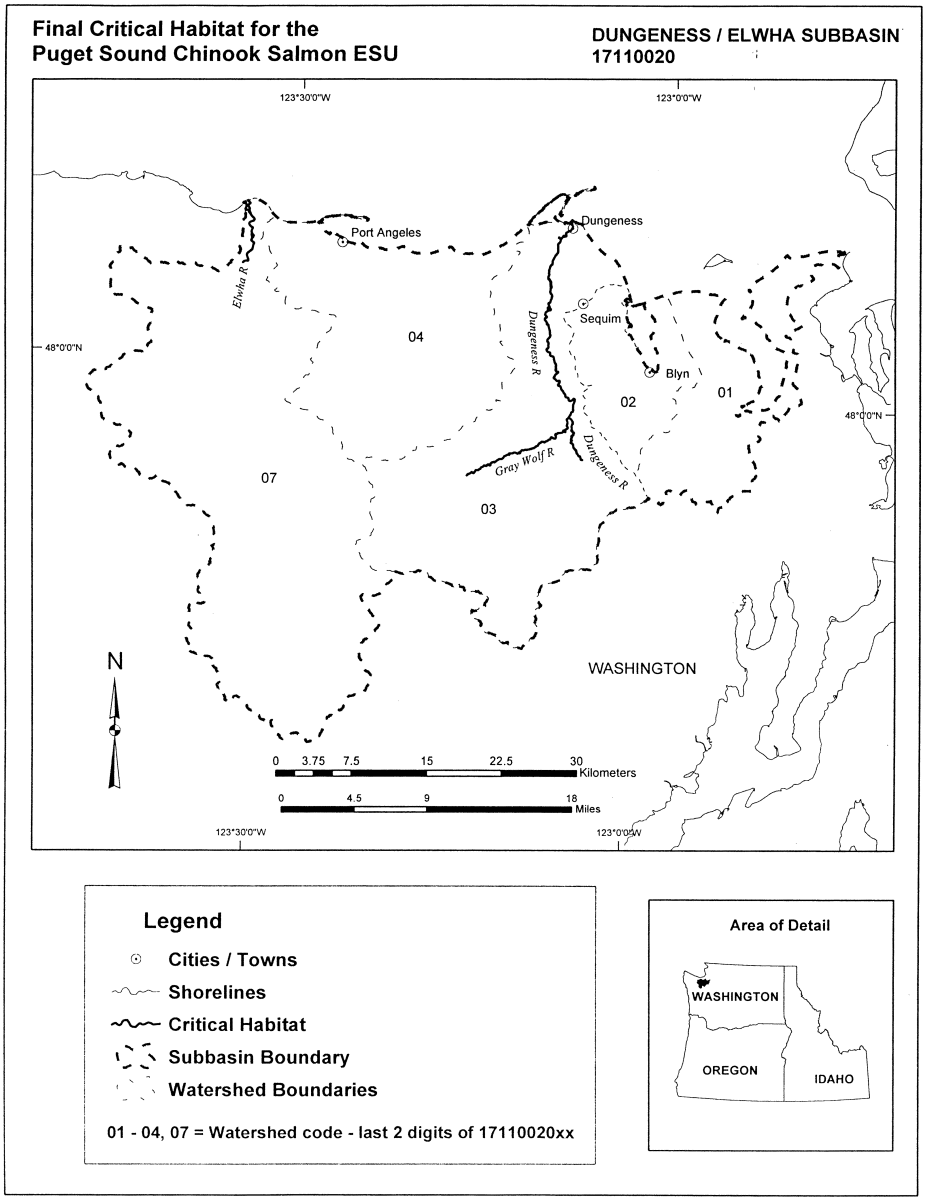

Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
DUWAMISH SUBBASIN
17110013
122°0'0"W
121°30'0"W
47°30'0"N
47°0'0"N
WASHINGTON
Tukwila
Kent
Auburn
Duwamish R
Black R
Green R
Mill Cr
Little Soos Creek
Big Soos Cr
Jenkins Cr
Covington Cr
Crisp Cr
Newaukum Cr
Green R
N. Fk. Green R
Gale Cr
Sylvester Cr
Cougar Cr
Smay Cr
Sunday Cr
Green R
Tacoma Cr
03
02
01
N
0 3.75 7.5 15 22.5 30 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17110013xx
Area of Detail
WASHINGTON
OREGON
IDAHO

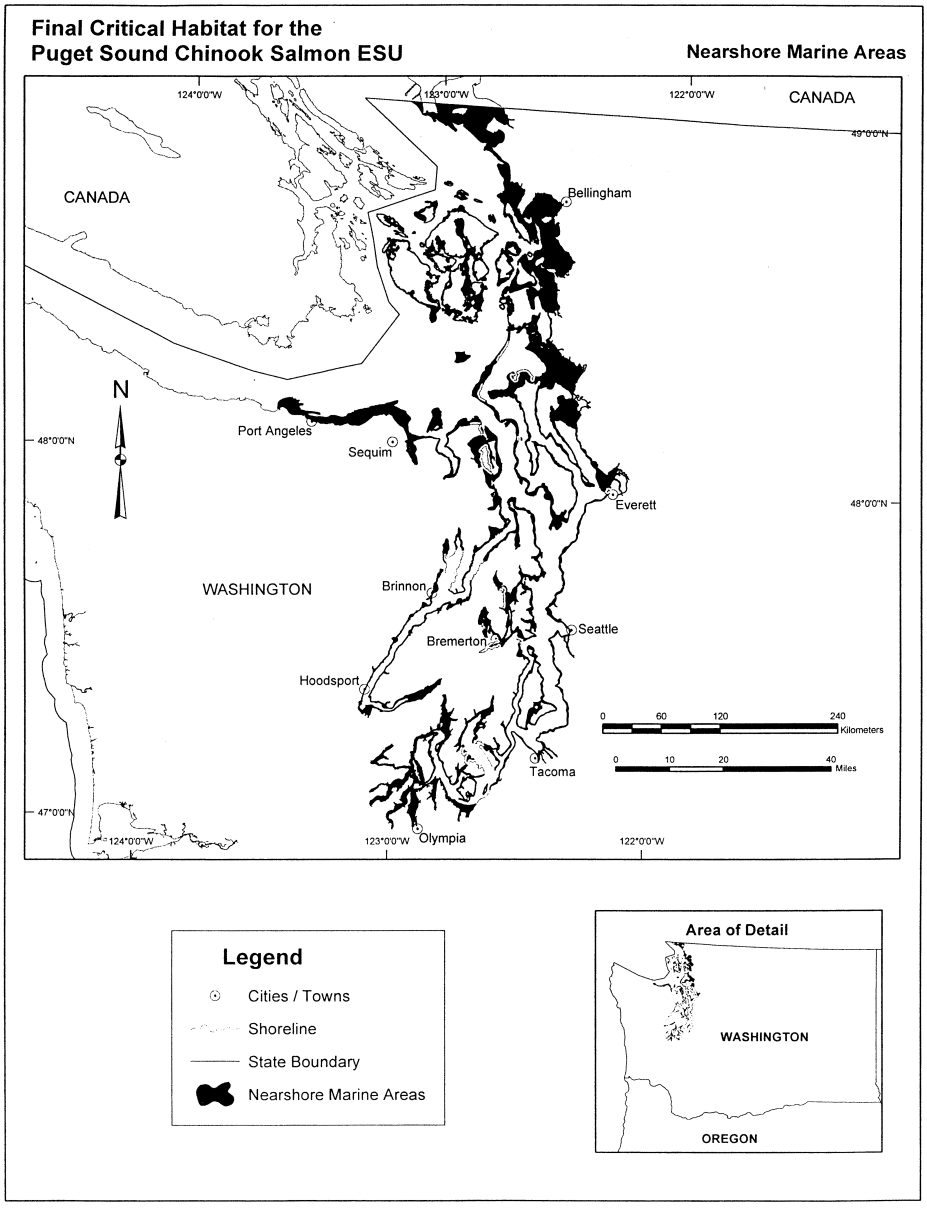

Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
PUYALLUP SUBBASIN
17110014
122°30'0"W
122°15'0"W
122°0'0"W
121°45'0"W
121°30'0"W
47°15'0"N
47°0'0"N
46°45'0"N
Federal Way
Tacoma
Puyallup
South Hill
WASHINGTON
W. Hylebos Cr
Clear Cr
Clarks Cr
Puyallup R
White R
Boise Cr
Fennel Cr
South Fork South Prairie Cr
Mud Mountain Lake
Clearwater R
Greenwater R
Wilkeson Cr
Voight Cr
Carbon R
Kapowsin Cr
West Fork White R
Huckleberry Cr
Upper White R
Kellog Cr
Puyallup R
Mowich R
Rushingwater Cr
Nickson Cr
Deer Cr
05
02
03
01
04
N
0 4 8 16 24 32 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17110014xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
NISQUALLY SUBBASIN
17110015
122°30'0"W
122°0'0"W
47°0'0"N
46°30'0"N
Nisqually R
McAllister Cr
Nisqually
Roy
WASHINGTON
Yelm Cr
North Yelm
Yelm
McKenna
03
Horn Cr
Nisqually R
Lynch Cr
Eatonville
02
Ohop Cr
Mashel R
Little Mashel R
La Grande
Nisqually R
Alder
Elbe
Ashford
Longmire
Mineral
01
N
0 4 8 16 24 32 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17110015xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
SKOKOMISH SUBBASIN
17110017
123°30'0"W
123°15'0"W
N
WASHINGTON
47°30'0"N
01
Lake Cushman
Lilliwaup
Hoodsport
Hood Canal
Brown Cr
S. Fork Skokomish R
N. Fork Skokomish R
Tahuya
Union
Skokomish
Vance Cr
Purdy Cr
0 2 4 8 12 16 Kilometers
47°15'0"N
0 2.5 5 10 Miles
123°0'0"W
Legend
Cities / Towns
Shoreline
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 = Watershed code - last 2 digits of 17110017xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
HOOD CANAL SUBBASIN
17110018
123°15'0"W
123°0'0"W
122°45'0"W
122°30'0"W
0 4.5 9 18 Miles
0 3.5 7 14 21 28 Kilometers
Leland
Quilcene
Breidablick
Brinnon
Olympic View
Eldon
Lilliwaup
Belfair
Hoodsport
Tahuya
Dosewallips R.
Duckabush R.
Hamma Hamma R.
John Cr.
Hood Canal
WASHINGTON
47°45'0"N
47°30'0"N
N
05
06
07
04
03
02
08
Legend
Cities / Towns
Shoreline
Critical Habitat
Subbasin Boundary
Watershed Boundaries
02 - 08 = Watershed code - last 2 digits of 17110018xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Puget Sound Chinook Salmon ESU
DUNGENESS / ELWHA SUBBASIN
17110020
123°30'0"W
123°0'0"W
48°0'0"N
Port Angeles
Dungeness
Sequim
Blyn
Elwha R
Dungeness R
Gray Wolf R
04
01
02
03
07
N
WASHINGTON
0 3.75 7.5 15 22.5 30
Kilometers
0 4.5 9 18
Miles
Legend
Cities / Towns
Shorelines
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04, 07 = Watershed code - last 2 digits of 17110020xx
Area of Detail
WASHINGTON
OREGON
IDAHO



(j) *Lower Columbia River Chinook Salmon (Oncorhynchus tshawytscha).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Middle Columbia/Hood Subbasin 17070105—(i) *East Fork Hood River Watershed 1707010506.* Outlet(s) = Hood River (Lat 45.6050, Long –121.6323) upstream to endpoint(s) in: Dog River (45.4655, –121.5656); East Fork Hood River

(45.4665, –121.5669); Pinnacle Creek (45.4595, –121.6568); Tony Creek (45.5435, –121.6411).

(ii) *West Fork Hood River Watershed 1707010507*. Outlet(s) = West Fork Hood River (Lat 45.6050, Long –121.6323) upstream to endpoint(s) in: Divers Creek (45.5457, –121.7447); Elk Creek (45.4277, –121.7889); Indian Creek (45.5375, –121.7857); Jones Creek (45.4629, –121.7942); Lake Branch (45.5083, –121.8485); McGee Creek (45.4179, –121.7675); No Name Creek (45.5347, –121.7929); Red Hill Creek (45.4720, –121.7705), Unnamed (45.5502, –121.7014).

(iii) *Hood River Watershed 1707010508*. Outlet(s) = Hood River (Lat 45.7205, Long –121.5055) upstream to endpoint(s) in: Hood River (45.6050, –121.6323).

(iv) *White Salmon River Watershed 1707010509*. Outlet(s) = White Salmon River (Lat 45.7226, Long –121.5214) upstream to endpoint(s) in: White Salmon River (45.7677, –121.5374).

(v) *Wind River Watershed 1707010511*. Outlet(s) = Wind River (Lat 45.7037, Long –121.7946) upstream to endpoint(s) in: Bear Creek (45.7620, –121.8293); Big Hollow Creek (45.9399, –121.9996); Dry Creek (45.9296, –121.9721); Falls Creek (45.9105, –121.9222); Little Wind River (45.7392, –121.7772); Ninemile Creek (45.8929, –121.9526); Paradise Creek (45.9527, –121.9408); Trapper Creek (45.8887, –122.0065); Trout Creek (45.8021, –121.9313); Wind River (45.9732, –121.9031).

(vi) *Middle Columbia/Grays Creek Watershed 1707010512*. Outlet(s) = Columbia River (Lat 45.7044, Long –121.7980) upstream to endpoint(s) in: Columbia River (45.7205, –121.5056).

(vii) *Middle Columbia/Eagle Creek Watershed 1707010513*. Outlet(s) = Columbia River (Lat 45.6447, Long –121.9395) upstream to endpoint(s) in: Camp Creek (45.6676, –121.8167); Carson Creek (45.7206, –121.8184); Columbia River (45.7044, –121.7980); Dry Creek (45.6717, –121.8732); Eagle Creek (45.6365, –121.9171); East Fork Herman Creek (45.6538, –121.8122); Herman Creek (45.6749, –121.8477); Rock Creek (45.6958, –121.8915); Unnamed (45.6654, –121.8164); Unnamed (45.6674, –121.8487); Unnamed (45.6689, –121.8444); Unnamed (45.6762, –121.9350); Unnamed (45.6902, –121.9034); Unnamed (45.6948, –121.9424).

(2) Lower Columbia/Sandy Subbasin 17080001—(i) *Salmon River Watershed 1708000101*. Outlet(s) = Salmon River (Lat 45.3768, Long –122.0293) upstream to endpoint(s) in: Cheeney Creek (45.3104, –121.9561); Copper Creek (45.2508, –121.9053); Salmon River (45.2511, –121.9025); South Fork Salmon River (45.2606, –121.9474); Unnamed (45.3434, –121.9920).

(ii) *Zigzag River Watershed 1708000102*. Outlet(s) = Zigzag River (Lat 45.3489, Long –121.9442) upstream to endpoint(s) in: Henry Creek (45.3328, –121.9110); Still Creek (45.2755, –121.8413); Unnamed (45.3019, –121.8202); Zigzag River (45.3092, –121.8642).

(iii) *Upper Sandy River Watershed 1708000103*. Outlet(s) = Sandy River (Lat 45.3489, Long –121.9442) upstream to endpoint(s) in: Clear Creek (45.3712, –121.9246); Clear Fork Sandy River (45.3994, –121.8525); Horseshoe Creek (45.3707, –121.8936); Lost Creek (45.3709, –121.8150); Sandy River (45.3899, –121.8620).

(iv) *Middle Sandy River Watershed 1708000104*. Outlet(s) = Sandy River (Lat 45.4464, Long –122.2459) upstream to endpoint(s) in: Alder Creek (45.3776, –122.0994); Bear Creek (45.3368, –121.9265); Cedar Creek (45.4087, –122.2617); North Boulder Creek (45.3822, –122.0168); Sandy River (45.3489, –121.9442).

(v) *Bull Run River Watershed 1708000105*. Outlet(s) = Bull Run River (Lat 45.4464, Long –122.2459) upstream to endpoint(s) in: Bull Run River (45.4455, –122.1561); Little Sandy Creek (45.4235, –122.1975).

(vi) *Washougal River (1708000106)*. Outlet(s) = Washougal River (Lat 45.5795, Long –122.4022) upstream(s) to endpoint(s) in: Cougar Creek (45.6265, –122.2987); Dougan Creek (45.6770, –122.1522); Lacamas Creek (45.5972, –122.3933); Little Washougal River (45.6315, –122.3767); Washougal River (45.6729, –122.1524); West Fork Washougal River (45.6205, –122.2149).

(vii) *Columbia Gorge Tributaries Watershed 1708000107*. Outlet(s) = Columbia River (Lat 45.5735, Long –122.3945) upstream to endpoint(s) in: Bridal Veil Creek (45.5542, –122.1793); Columbia River (45.6447, –121.9395); Coopey Creek (45.5656, –122.1671); Government Cove (45.5948, –122.0630); Hamilton Creek

(45.6414, –121.9764); Hardy Creek (45.6354, –121.9987); Horsetail Creek (45.5883, –122.0675); Latourell Creek (45.5388, –122.2173); McCord Creek (45.6115, –121.9929); Moffett Creek (45.6185, –121.9662); Multnomah Creek (45.5761, –122.1143), Oneonta Creek (45.5821, –122.0718); Tanner Creek (45.6264, –121.9522); Turnaft Creek (45.6101, –122.0284); Unnamed (45.5421, –122.2624); Unnamed (45.5488, –122.3504); Unnamed (45.6025, –122.0443); Unnamed (45.6055, –122.0392); Unnamed (45.6083, –122.0329); Unnamed (45.6118, –122.0216); Unnamed (45.6124, –122.0172); Unnamed (45.6133, –122.0055); Wahkeena Creek (45.5755, –122.1266); Young Creek (45.5480, –122.1997).

(viii) *Lower Sandy River Watershed 1708000108*. Outlet(s) = Sandy River (Lat 45.5680, Long –122.4023) upstream to endpoint(s) in: Beaver Creek (45.5258, –122.3822); Gordon Creek (45.4915, –122.2423); Sandy River (45.4464, –122.2459); Trout Creek (45.4844, –122.2785); Unnamed (45.5542, –122.3768); Unnamed (45.5600, –122.3650).

(3) Lewis Subbasin 17080002—(i) *East Fork Lewis River Watershed 1708000205*. Outlet(s) = East Fork Lewis River (Lat 45.8664, Long –122.7189) upstream to endpoint(s) in: East Fork Lewis River (45.8395, –122.4463).

(ii) *Lower Lewis River Watershed 1708000206*. Outlet(s) = Lewis River (Lat 45.8519, Long –122.7806) upstream to endpoint(s) in: Cedar Creek (45.9049, –122.3684); Chelatchie Creek (45.9169, –122.4130); Johnson Creek (45.9385, –122.6261); Lewis River (45.9570, –122.5550); Pup Creek (45.9391, –122.5440); Unnamed (45.8882, –122.7412); Unnamed (45.9153, –122.4362).

(4) Lower Columbia/Clatskanie Subbasin 17080003—(i) *Kalama River Watershed 1708000301*. Outlet(s) = Burris Creek (45.8926, –122.7892); Kalama River (46.0340, –122.8695) upstream to endpoint(s) in: Arnold Creek (46.0463, –122.5938); Burris Creek (45.9391, –122.7780); Elk Creek (46.0891, –122.5117); Gobar Creek (46.0963, –122.6042); Hatchery Creek (46.0459, –122.8027); Kalama River (46.1109, –122.3579); Little Kalama River (45.9970, –122.6939); North Fork Kalama River (46.1328, –122.4118); Wild Horse Creek (46.0626, –122.6367).

(ii) *Clatskanie River Watershed 1708000303*. Outlet(s) = Clatskanie River (Lat 46.1398, Long –123.2303) upstream to endpoint(s) in: Clatskanie River (46.0435, –123.0829); Merrill Creek (46.0916, –123.1727); Perkins Creek (46.0826, –123.1678).

(iii) *Skamokawa/Elochoman Watershed 1708000305*. Outlet(s) = Elochoman River (Lat 46.2269, Long –123.4040); Skamokawa Creek (46.2677, –123.4562); Unnamed (46.2243, –123.3975) upstream to endpoint(s) in: Beaver Creek (46.2256, –123.3071); Elochoman River (46.3503, –123.2428); Falk Creek (46.2954, –123.4413); Left Fork Skamokawa Creek (46.3249, –123.4538); McDonald Creek (46.3398, –123.4116); Standard Creek (46.3292, –123.3999); West Fork Elochoman River (46.3211, –123.2605); West Fork Skamokawa Creek (46.2871, –123.4654); Wilson Creek (46.2970, –123.3434).

(iv) *Plympton Creek Watershed 1708000306*. Outlet(s) = Westport Slough (Lat 46.1434, Long –123.3816) upstream to endpoint(s) in: Plympton Creek (46.1261, –123.3842); Westport Slough (46.1195, –123.2797).

(5) Upper Cowlitz Subbasin 17080004—(i) *Headwaters Cowlitz River 1708000401*. Outlet(s) = Cowlitz River (Lat 46.6580, Lat –121.6032) upstream to endpoint(s) in: Clear Fork Cowlitz River (46.6858, –121.5668); Muddy Fork Cowlitz River (46.6994, –121.6169); Ohanapecosh River (46.6883, –121.5809).

(ii) *Upper Cowlitz River Watershed 1708000402*. Outlet(s) = Cowlitz River (Lat 46.5763, Long –121.7051) upstream to endpoint(s) in: Cowlitz River (46.6580, –121.6032).

(iii) *Cowlitz Valley Frontal Watershed 1708000403*. Outlet(s) = Cowlitz River (Lat 46.4765, Long –122.0952) upstream to endpoint(s) in: Cowlitz River (46.5763, –121.7051); Silver Creek (46.5576, –121.9178).

(iv) *Upper Cispus River Watershed 1708000404*. Outlet(s) = Cispus River (Lat 46.4449, Long –121.7954) upstream to endpoint(s) in: Cispus River (46.3410, –121.6709); East Canyon Creek (46.3454, –121.7031); North Fork Cispus River (46.4355, –121.654).

(v) *Lower Cispus River Watershed 1708000405*. Outlet(s) = Cispus River (Lat 46.4765, Long –122.0952) upstream to endpoint(s) in: Cispus River (46.4449, –121.7954); McCoy Creek (46.3892,

–121.8190); Yellowjacket Creek (46.3871, –121.8335).

(6) Cowlitz Subbasin 17080005—(i) *Riffe Reservoir Watershed 1708000502*. Outlet(s) = Cowlitz River (Lat 46.5033, Long –122.5870) upstream to endpoint(s) in: Cowlitz River (46.4765, –122.0952).

(ii) *Jackson Prairie Watershed 1708000503*. Outlet(s) = Cowlitz River (Lat 46.3678, Long –122.9337) upstream to endpoint(s) in: Bear Creek (46.4215, –122.9224); Blue Creek (46.4885, –122.7253); Cowlitz River (46.5033, –122.5870); Lacamas Creek (46.5118, –122.8113); Mill Creek (46.4701, –122.8557); Mill Creek (46.5176;–122.6209); Otter Creek (46.4800, –122.6996); Salmon Creek (46.4237, –122.8400); Skook Creek (46.5035, –122.7556).

(iii) *North Fork Toutle River Watershed 1708000504*. Outlet(s) = North Fork Toutle River (Lat 46.3669, Long –122.5859) upstream to endpoint(s) in: North Fork Toutle River (46.3718, –122.5847).

(iv) *Green River Watershed 1708000505*. Outlet(s) = Green River (Lat 46.3718, Long –122.5847) upstream to endpoint(s) in: Cascade Creek (46.3924, –122.3530); Devils Creek (46.3875, –122.5113); Elk Creek (46.3929, –122.3224); Green River (46.3857, –122.1815); Miners Creek (46.3871, –122.2091); Shultz Creek (46.3744, –122.2987); Unnamed (46.3796, –122.3632).

(v) *South Fork Toutle River Watershed 1708000506*. Outlet(s) = South Fork Toutle River (Lat 46.3282, Long –122.7215) upstream to endpoint(s) in: Johnson Creek (46.3100, –122.6338); South Fork Toutle River (46.2306, –122.4439); Studebaker Creek (46.3044, –122.6777).

(vi) *East Willapa Watershed 1708000507*. Outlet(s) = Cowlitz River (Lat 46.2660, Long –122.9154) upstream to endpoint(s) in: Arkansas Creek (46.3275, –123.0123); Baxter Creek (46.3034, –122.9709); Brim Creek (46.4263, –123.0139); Campbell Creek (46.3756, –123.0401); Cowlitz River (46.3678, –122.9337); Delameter Creek (46.2495, –122.9916); Hemlock Creek (46.2585, –122.7269); Hill Creek (46.3724, –122.9211); King Creek (46.5076, –122.9885); Monahan Creek (46.2954, –123.0286); North Fork Toutle River (46.3669, –122.5859); Olequa Creek (46.5174, –122.9042); Stillwater Creek (46.3851, –123.0478); Sucker Creek (46.2628, –122.8116); Unnamed (46.5074, –122.9585); Unnamed (46.5405, –122.9090); Wyant Creek (46.3424, –122.6302).

(vii) *Coweeman Watershed 1708000508*. Outlet(s) = Cowlitz River (Lat 46.0977, Long –122.9141); Owl Creek (46.0771, –122.8676) upstream to endpoint(s) in: Baird Creek (46.1704, –122.6119); Coweeman River (46.1505, –122.5792); Cowlitz River (46.2660, –122.9154); Leckler Creek (46.2092, –122.9206); Mulholland Creek (46.1932, –122.6992); North Fork Goble Creek (46.1209, –122.7689); Ostrander Creek (46.2095, –122.8623); Owl Creek (46.0914, –122.8692); Salmon Creek (46.2547, –122.8839); South Fork Ostrander Creek (46.1910, –122.8600); Unnamed (46.0838, –122.7264).

(7) Lower Columbia Subbasin 17080006—(i) *Big Creek Watershed 1708000602*. Outlet(s) = Bear Creek (Lat 46.1719; Long –123.6642); Big Creek (46.1847, –123.5943); Blind Slough (46.2011, –123.5822); John Day River (46.1820, –123.7392) upstream to endpoint(s) in: Bear Creek (46.1181, –123.6388); Big Creek (46.1475, –123.5819); Gnat Creek (46.1614, –123.4813); John Day River (46.1763, –123.7474).

(ii) *Grays Bay Watershed 1708000603*. Outlet(s) = Crooked Creek (Lat 46.2962, Long –123.6795); Deep River (46.3035, –123.7092); Grays River (46.3035, –123.6867); Sisson Creek (46.3011, –123.7237); Unnamed (46.3042, –123.6870) upstream to endpoint(s) in: Crooked Creek (46.3033, –123.6222); East Fork Grays River (46.4425, –123.4081); Fossil Creek (46.3628, –123.5530); Grays River (46.4910, –123.4334); Hull Creek (46.3725, –123.5866); Johnson Canyon (46.3699, –123.6659); Klints Creek (46.3562, –123.5675); Malone Creek (46.3280, –123.6545); Mitchell Creek (46.4512, –123.4371) South Fork Grays River (46.3813, –123.4581); Sweigiler Creek (46.4195, –123.5375); Unnamed (46.3283, –123.7376); Unnamed (46.3651, –123.6839); Unnamed (46.4701, –123.4515); West Fork Grays River (46.4195, –123.5530).

(8) Clackamas Subbasin 17090011—(i) *Lower Clackamas River Watershed 1709001106*. Outlet(s) = Clackamas River (Lat 45.3719, Long –122.6071) upstream to endpoint(s) in: Clackamas River (45.2440, –122.2798); Clear Creek (45.3568, –122.4781); Deep Creek (45.3916, –122.4028); Richardson Creek (45.3971,

–122.4712); Rock Creek (45.4128, –122.5043).

(ii) [Reserved]

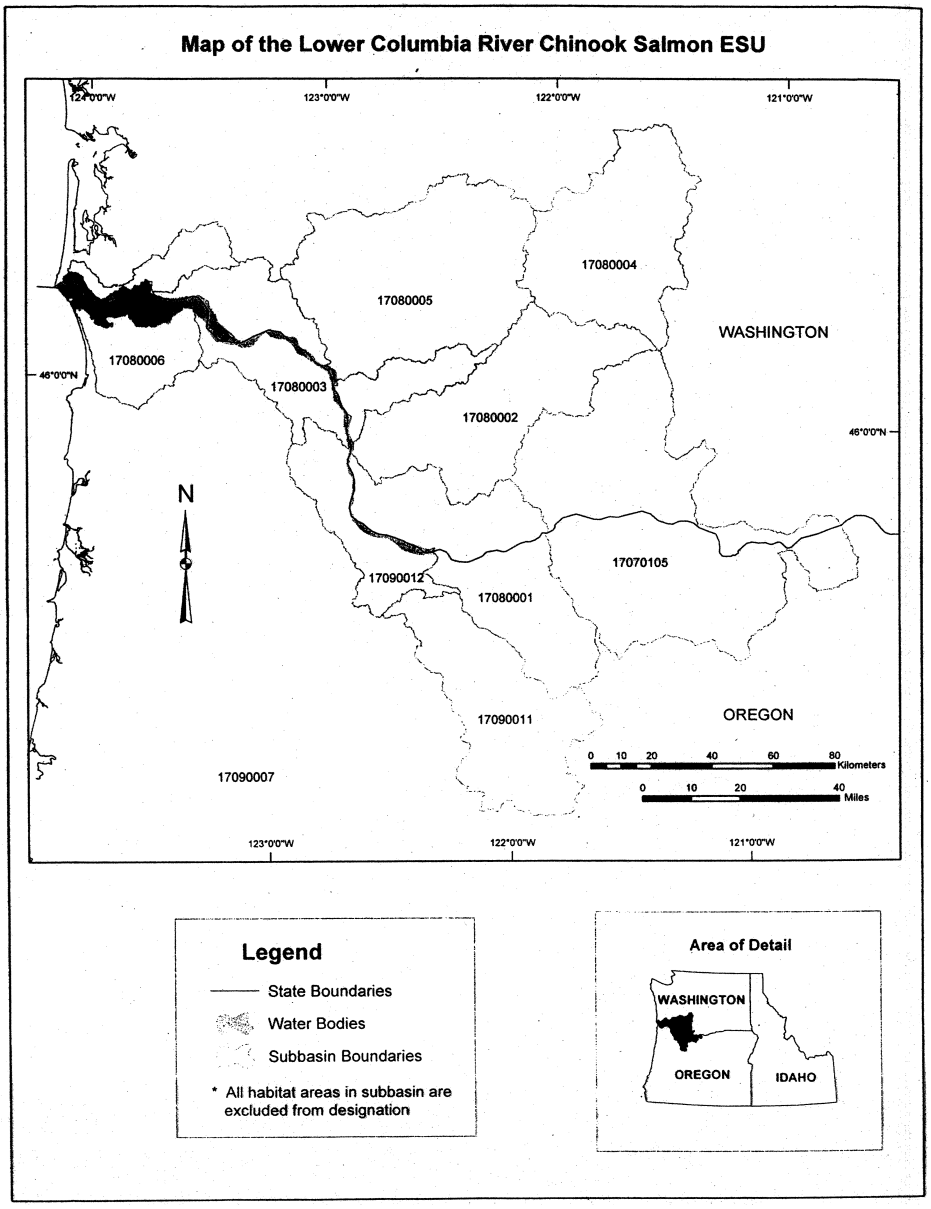
(9) Lower Willamette Subbasin 17090012—(i) *Johnson Creek Watershed 1709001201*. Outlet(s) = Willamette River (Lat 45.4423, Long –122.6453) upstream to endpoint(s) in: Crystal Springs Creek (45.4770, –122.6403); Kellogg Creek (45.4344, –122.6314); Tryon Creek (45.4239, –122.6595); Unnamed (45.4002, –122.6423); Willamette River (45.3719, –122.6071).

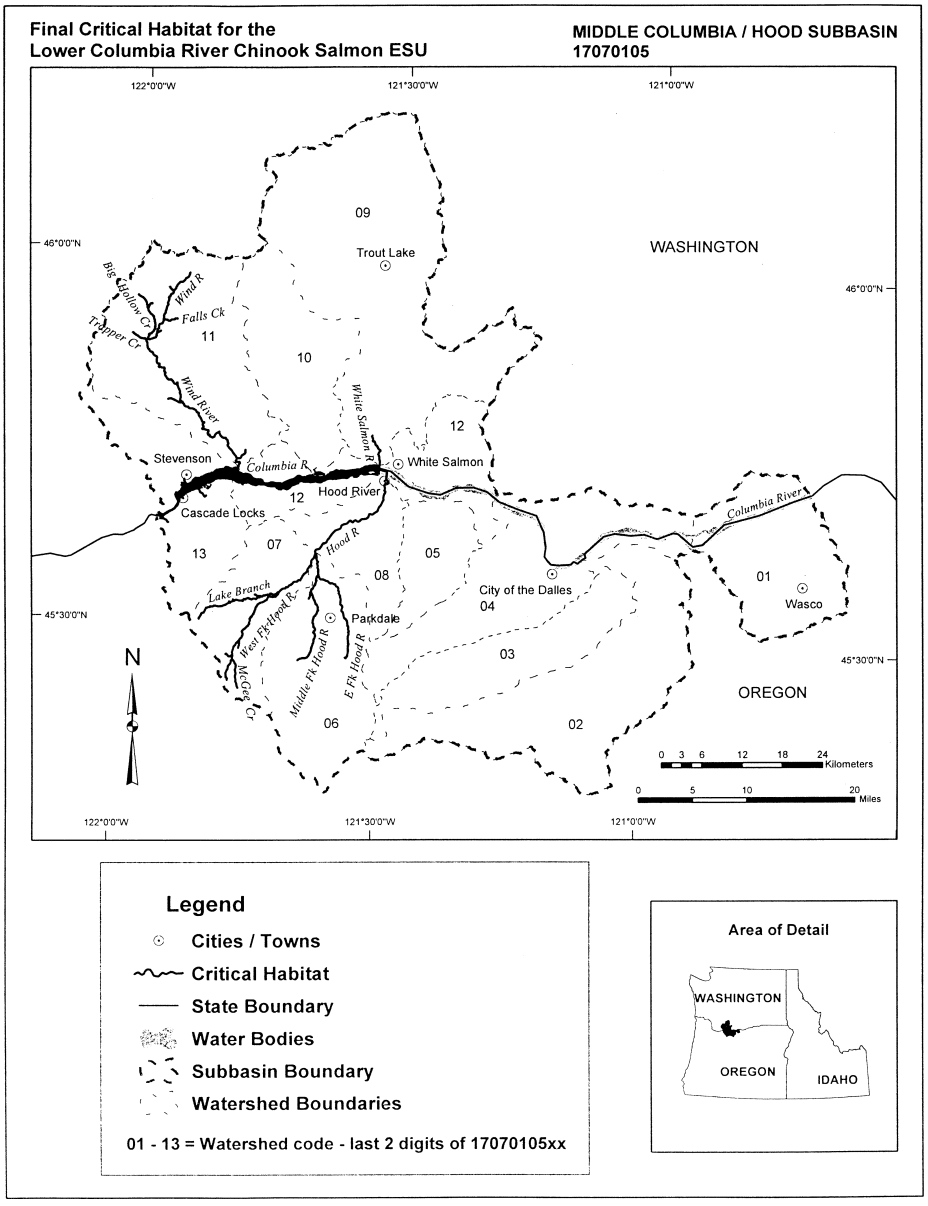
(ii) *Scappoose Creek Watershed 1709001202*. Outlet(s) = Multnomah Channel (Lat 45.8577, Long –122.7919) upstream to endpoint(s) in: Cunningham Slough (45.8250, –122.8069); Multnomah Channel (45.6188, –122.7921); North Scappoose Creek (45.8014, –122.9340).

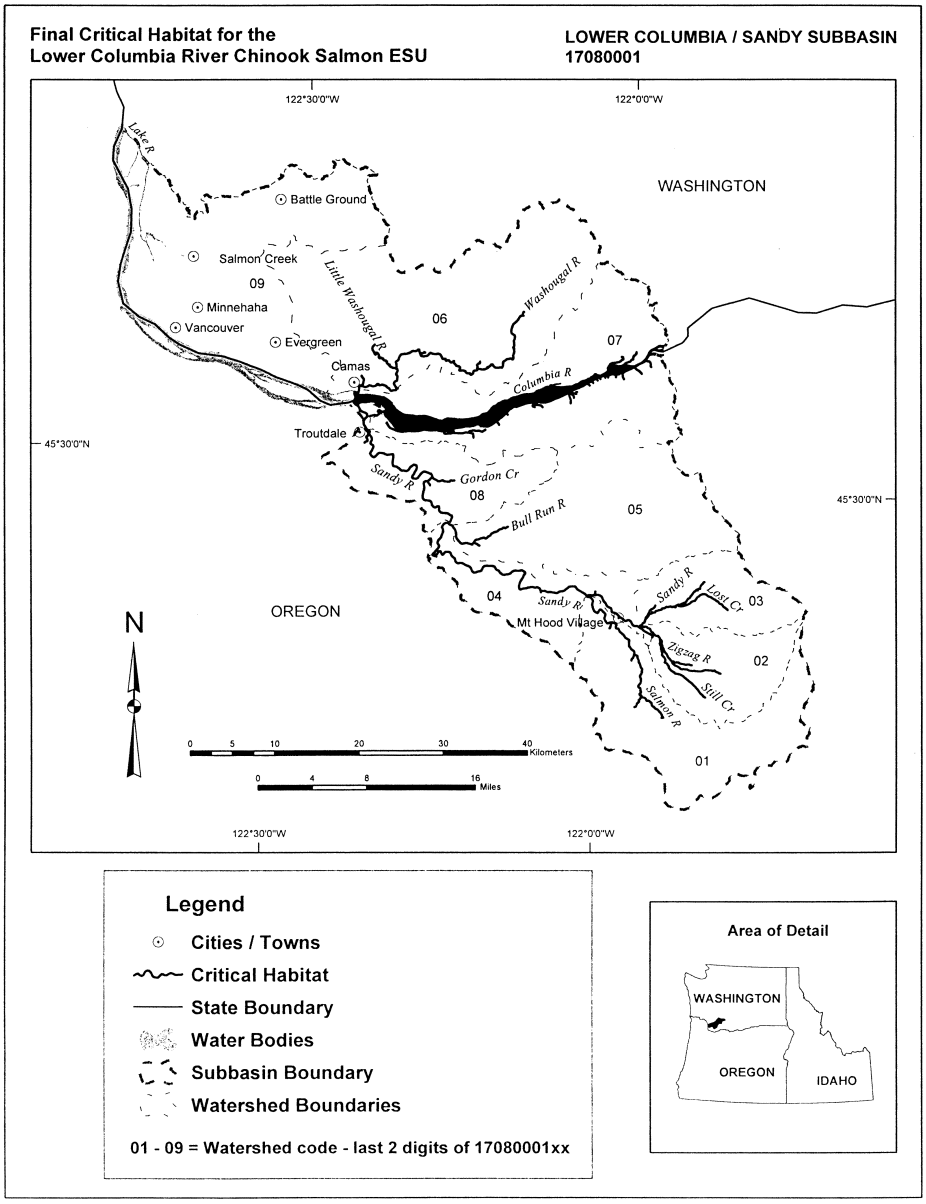
(iii) *Columbia Slough/Willamette River Watershed 1709001203*. Outlet(s) = Willamette River (Lat 45.6530, Long –122.7646) upstream to endpoint(s) in: Bybee/Smith Lakes (45.6189, –122.7333); Columbia Slough (45.5979, –122.7137); Willamette River (45.4423, –122.6453).

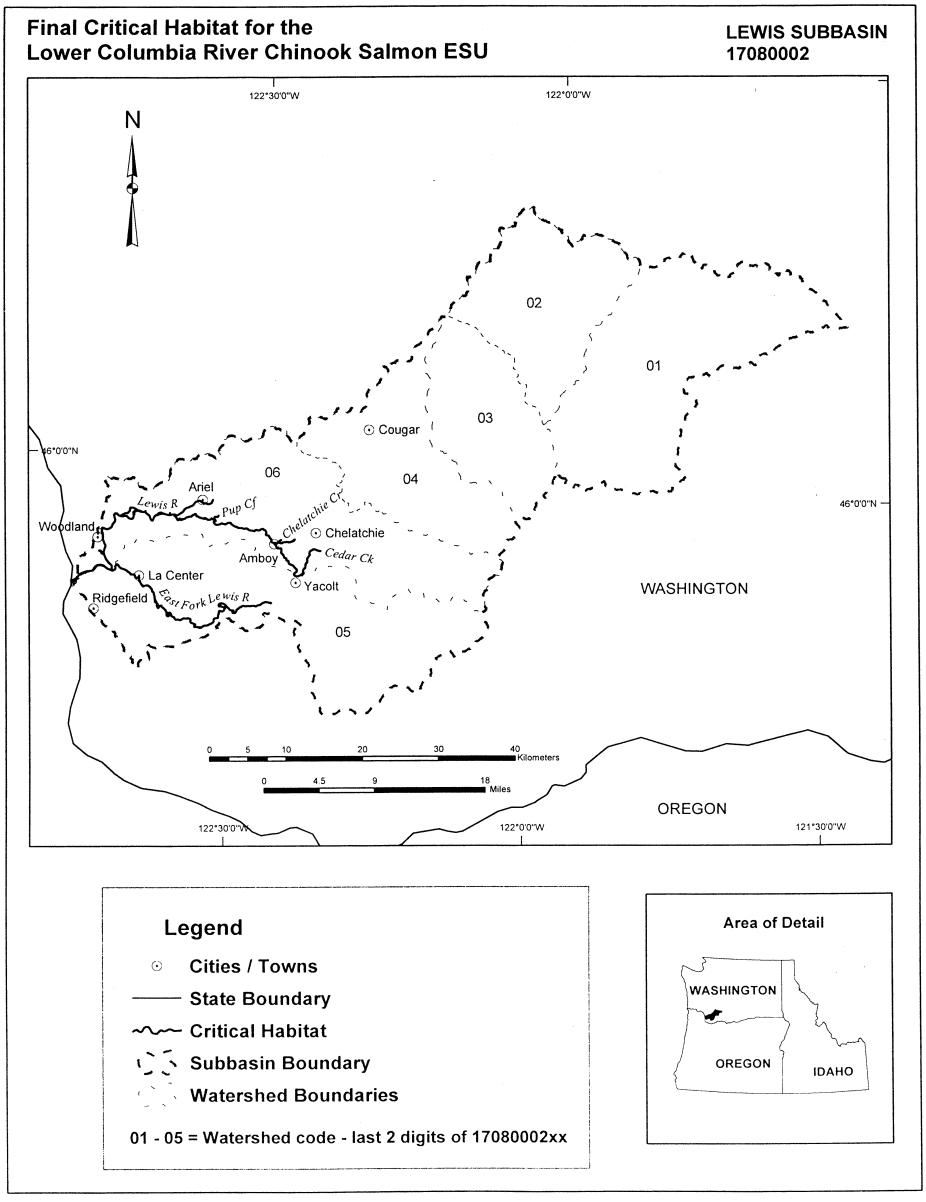
(10) Lower Columbia River Corridor—Lower Columbia River Corridor. Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (45.5709, –122.4021).

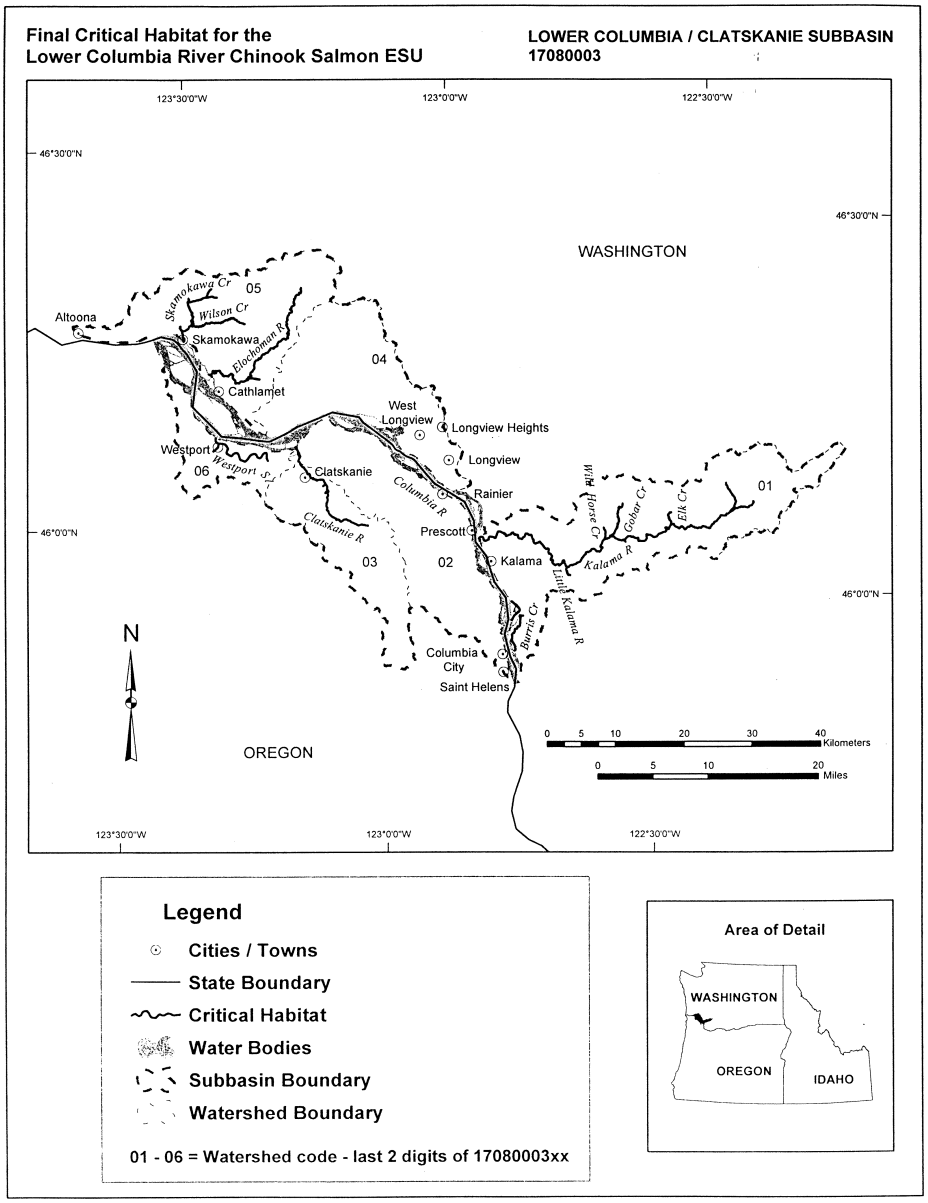
(11) Maps of critical habitat for the Lower Columbia River chinook salmon ESU follow:

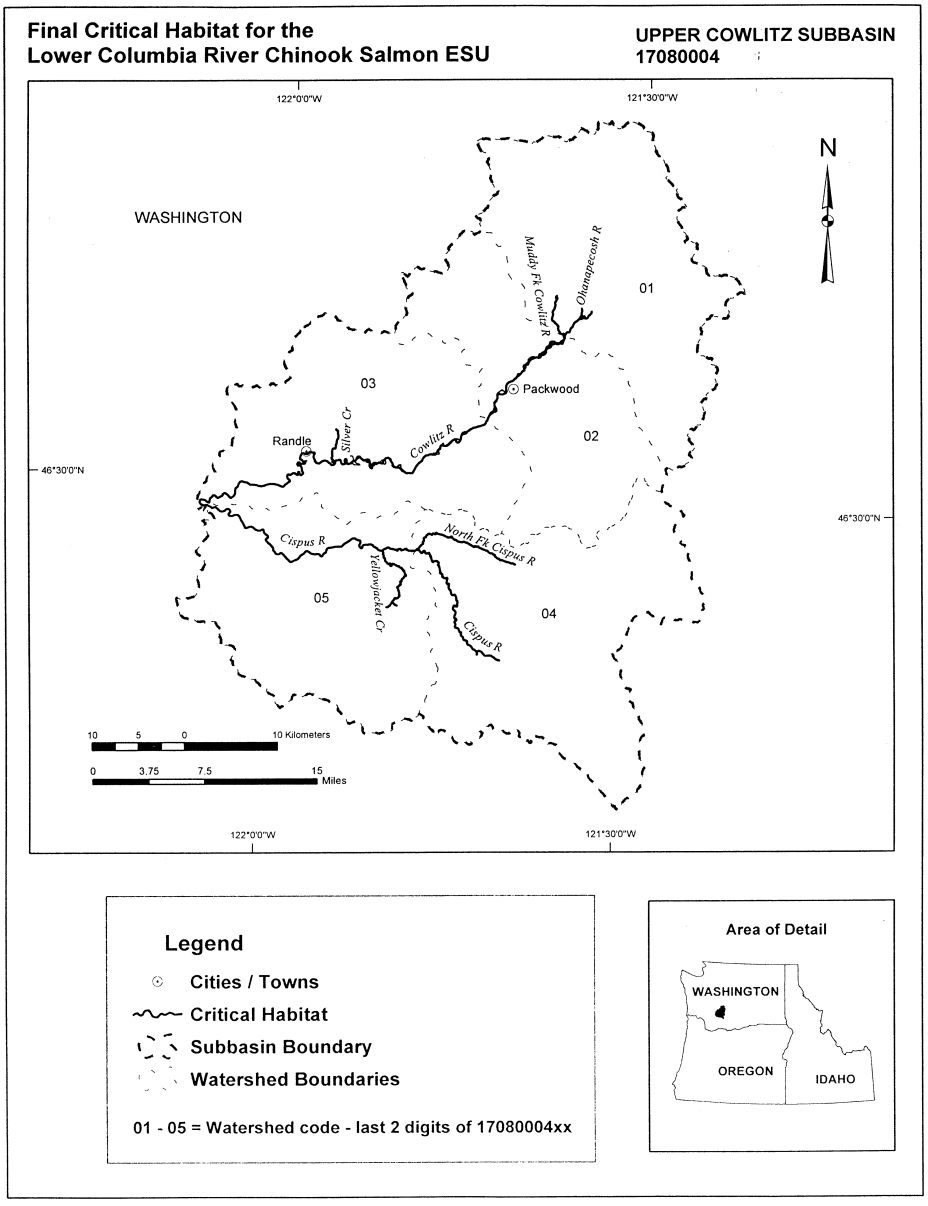

Map of the Lower Columbia River Chinook Salmon ESU
124°0'0"W
123°0'0"W
122°0'0"W
121°0'0"W
46°0'0"N
17080004
17080005
WASHINGTON
17080006
17080003
17080002
N
17070105
17090012
17080001
17090011
OREGON
17090007
0 10 20 40 60 80 Kilometers
0 10 20 40 Miles
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
* All habitat areas in subbasin are excluded from designation
Area of Detail
WASHINGTON
OREGON
IDAHO

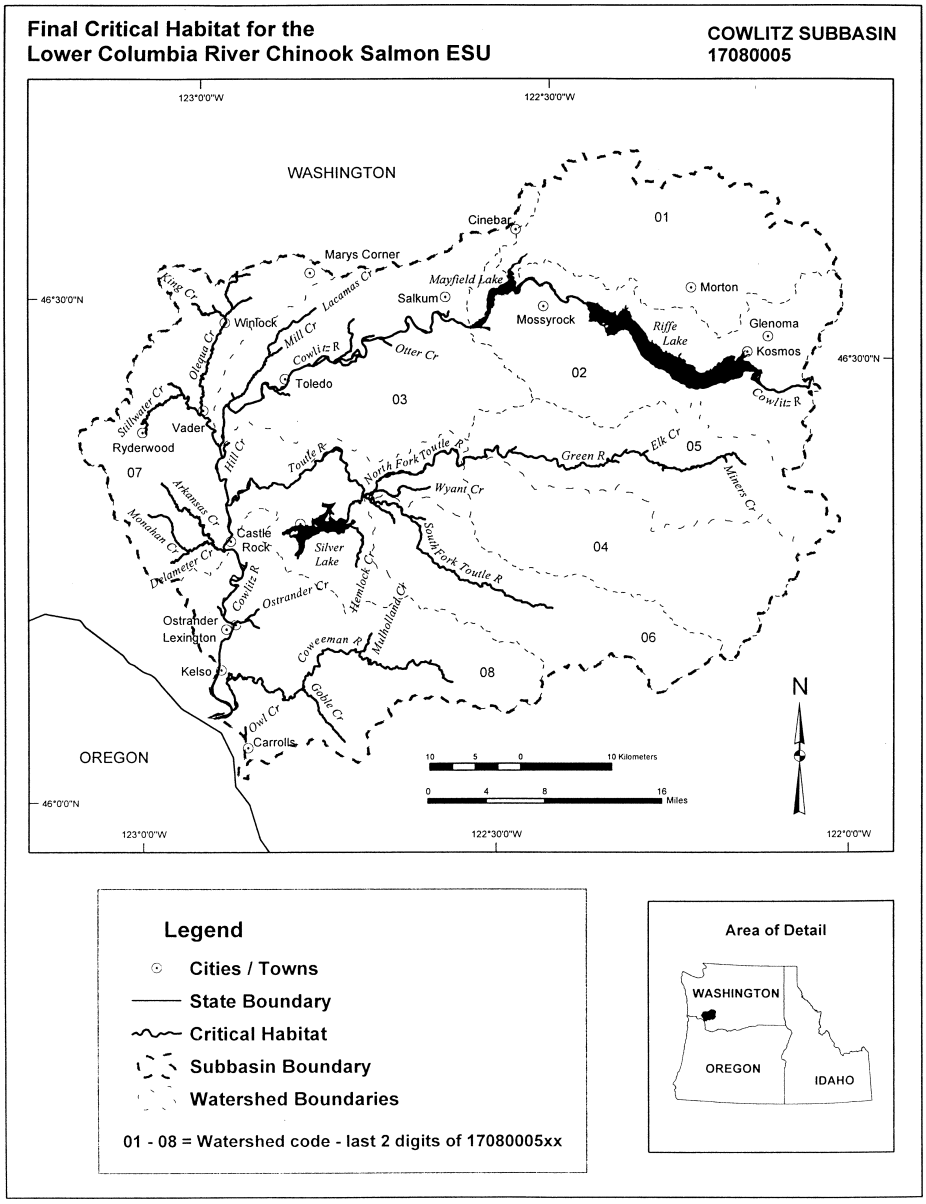

Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
MIDDLE COLUMBIA / HOOD SUBBASIN
17070105
122°0'0"W
121°30'0"W
121°0'0"W
46°0'0"N
45°30'0"N
WASHINGTON
OREGON
09
10
11
12
13
07
08
05
04
03
02
06
01
Trout Lake
Stevenson
White Salmon
Hood River
Cascade Locks
City of the Dalles
Wasco
Parkdale
Columbia R
Columbia River
Wind R
Falls Ck
Trapper Ck
Big Muddy Ck
Wind River
White Salmon R
Hood R
Lake Branch
West Fk Hood R
Middle Fk Hood R
E Fk Hood R
McGee Ck
N
0 3 6 12 18 24 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
State Boundary
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 13 = Watershed code - last 2 digits of 17070105xx
Area of Detail
WASHINGTON
OREGON
IDAHO

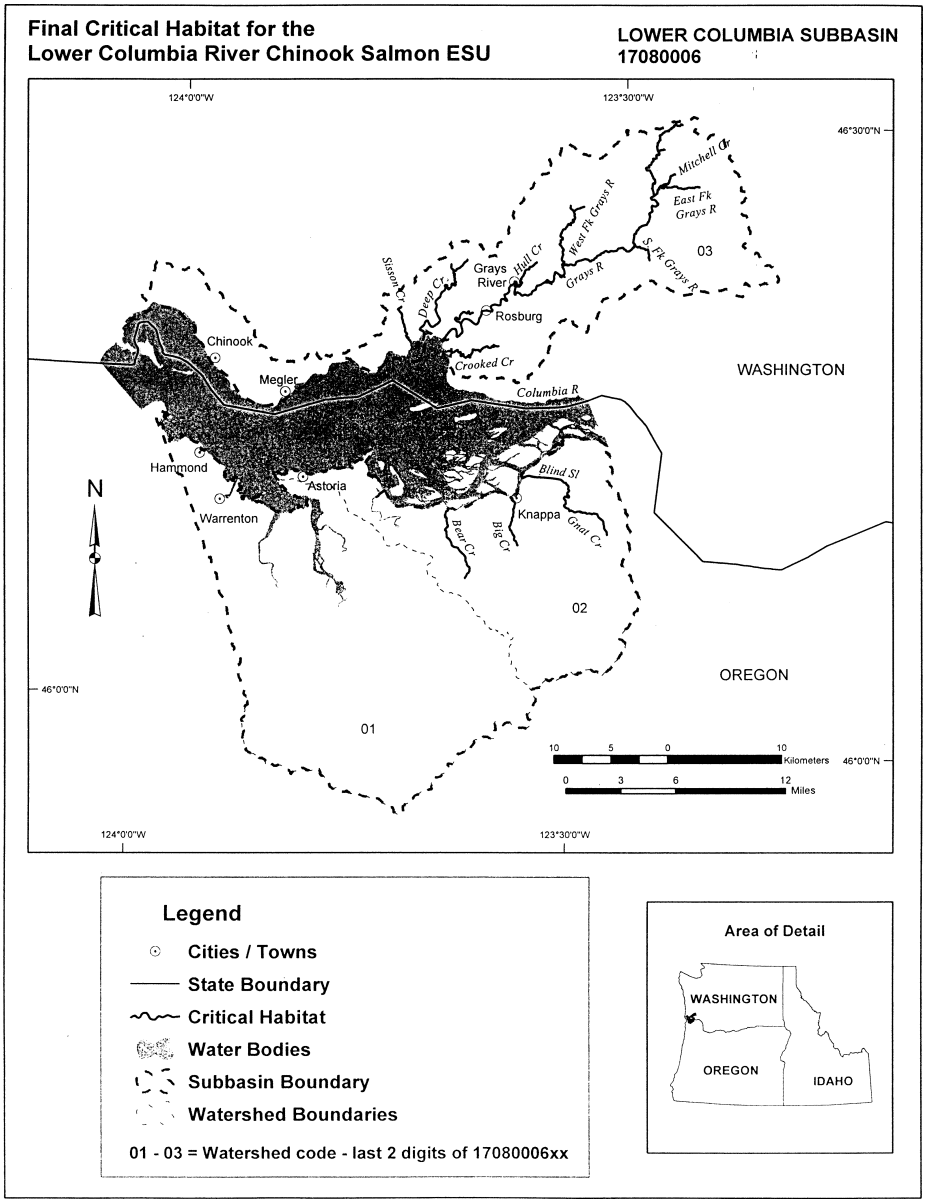

Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
LOWER COLUMBIA / SANDY SUBBASIN
17080001
122°30'0"W
122°0'0"W
45°30'0"N
WASHINGTON
OREGON
Lake R
Battle Ground
Salmon Creek
09
Minnehaha
Vancouver
Evergreen
Camas
Little Washougal R
Washougal R
06
07
Columbia R
Troutdale
Sandy R
Gordon Cr
08
Bull Run R
05
04
Sandy R
Mt Hood Village
Sandy R
Lost Cr
03
Zigzag R
02
Still Cr
Salmon R
01
N
0 5 10 20 30 40 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
Critical Habitat
State Boundary
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 09 = Watershed code - last 2 digits of 17080001xx
Area of Detail
WASHINGTON
OREGON
IDAHO

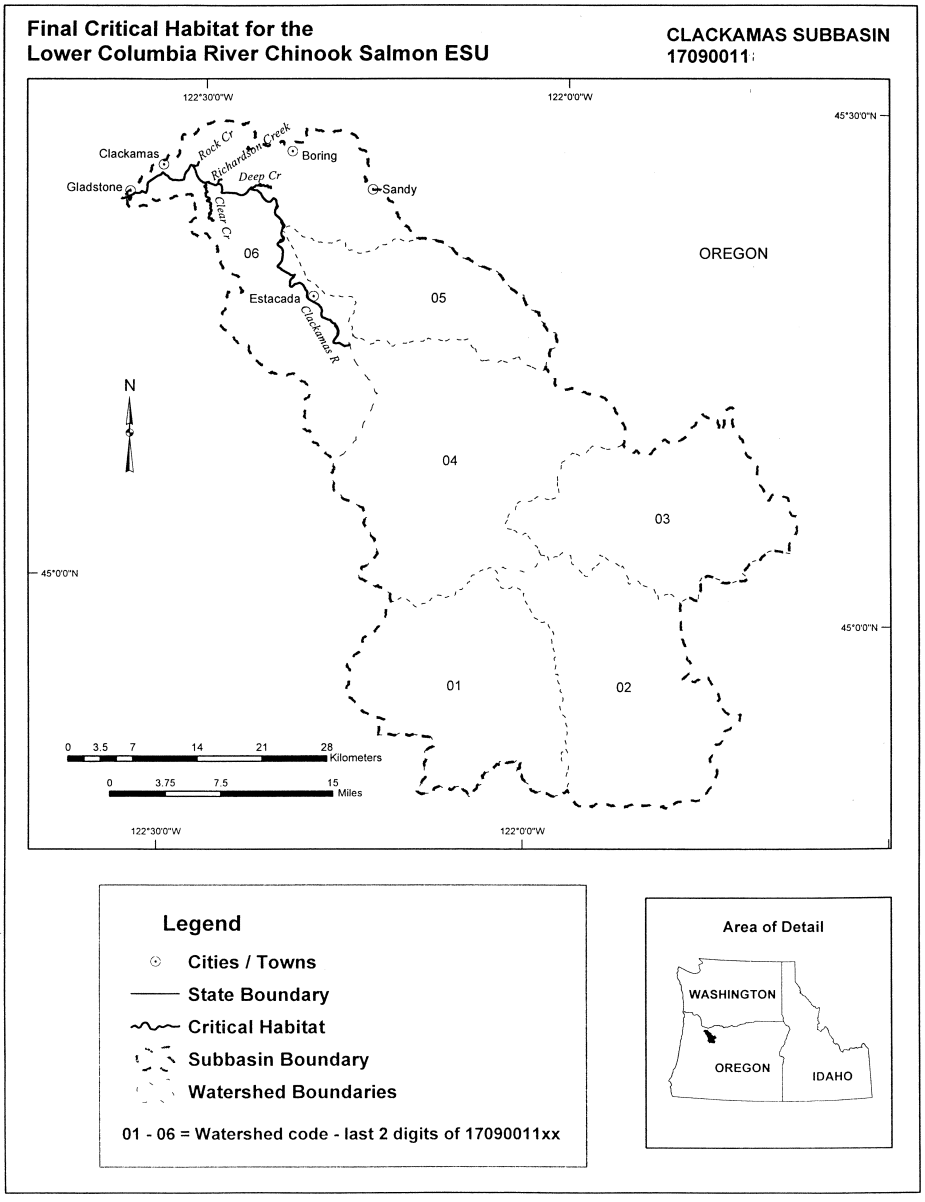

Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
LEWIS SUBBASIN
17080002
122°30'0"W
122°0'0"W
N
02
01
03
Cougar
46°0'0"N
06
04
Ariel
Lewis R
Pup Cr
Chelatchie Cr
Woodland
Chelatchie
Amboy
Cedar Ck
La Center
Yacolt
Ridgefield
East Fork Lewis R
WASHINGTON
05
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
OREGON
122°30'0"W
122°0'0"W
121°30'0"W
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17080002xx
Area of Detail
WASHINGTON
OREGON
IDAHO

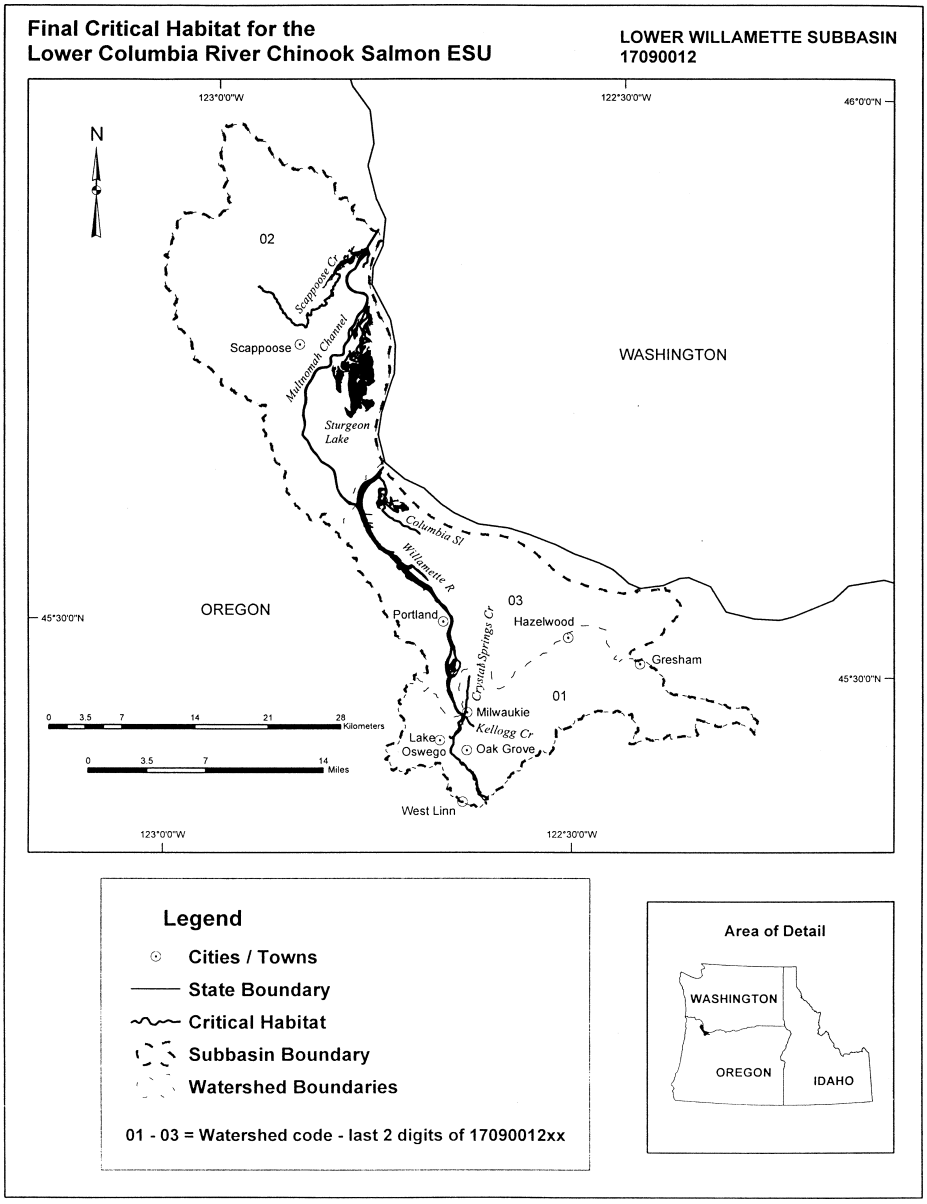

Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
LOWER COLUMBIA / CLATSKANIE SUBBASIN
17080003
123°30'0"W
123°0'0"W
122°30'0"W
46°30'0"N
46°0'0"N
WASHINGTON
OREGON
Skamokawa Cr
Wilson Cr
Elochoman R
Altoona
Skamokawa
Cathlamet
05
04
West Longview
Longview Heights
Longview
Westport
Westport Slough
06
Clatskanie
Columbia R
Rainier
Prescott
Clatskanie R
03
02
Kalama
Kalama R
Little Kalama R
Burris Cr
Elk Cr
Cedar Cr
Wild Horse Cr
01
Columbia City
Saint Helens
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundary
01 - 06 = Watershed code - last 2 digits of 17080003xx
Area of Detail
WASHINGTON
OREGON
IDAHO

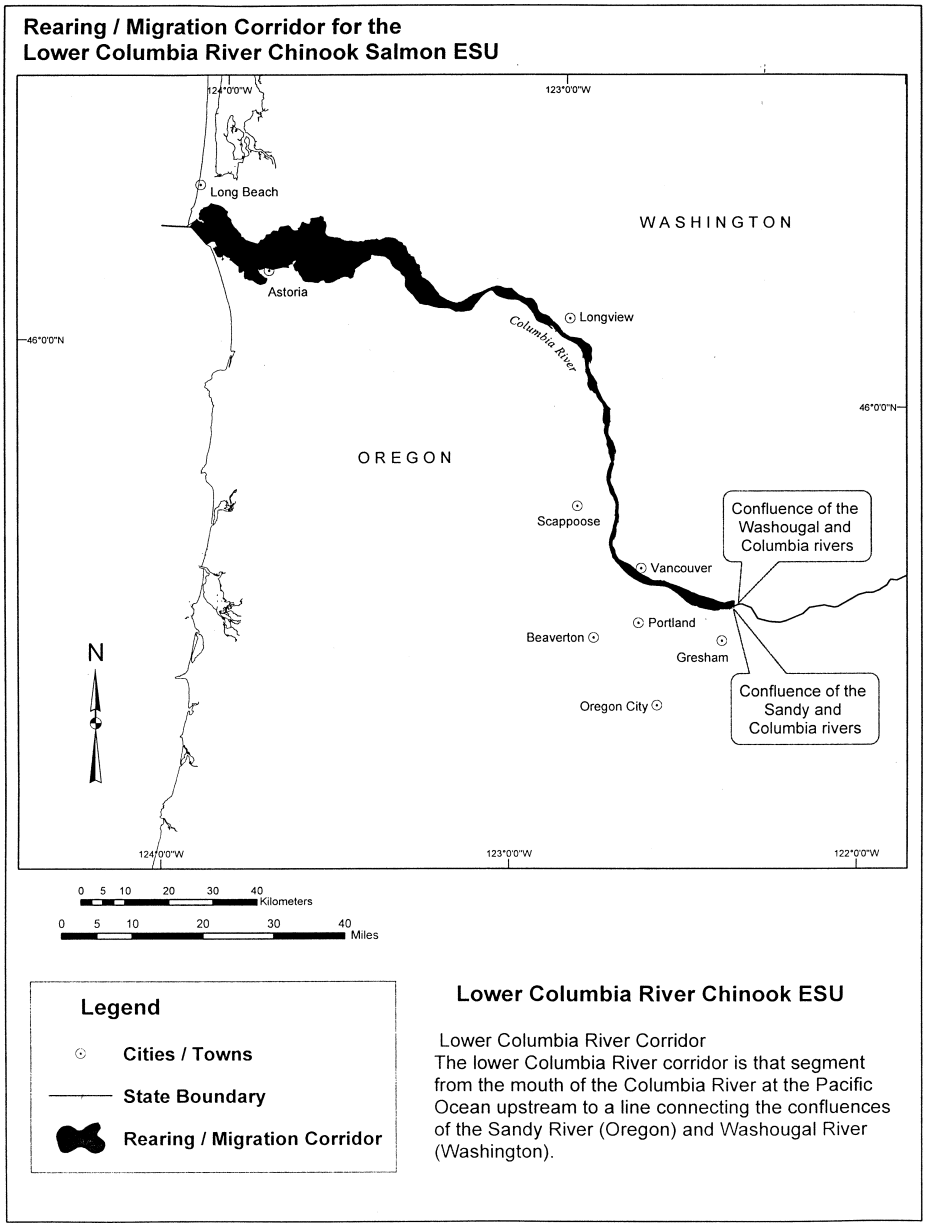

Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
UPPER COWLITZ SUBBASIN
17080004
122°0'0"W
121°30'0"W
N
WASHINGTON
Muddy Fk Cowlitz R
Ohanapecosh R
01
03
Packwood
Randle
Silver Cr
Cowlitz R
02
46°30'0"N
Cispus R
North Fk Cispus R
Yellowjacket Cr
05
04
Cispus R
10 5 0 10 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17080004xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
COWLITZ SUBBASIN
17080005
123°0'0"W
122°30'0"W
WASHINGTON
OREGON
46°30'0"N
46°0'0"N
Cinebar
Marys Corner
Salkum
Mayfield Lake
Mossyrock
Morton
Riffe Lake
Glenoma
Kosmos
Winlock
Toledo
Vader
Ryderwood
Castle Rock
Silver Lake
Ostrander
Lexington
Kelso
Carrolls
King Cr
Lacamas Cr
Mill Cr
Olequa Cr
Cowlitz R
Otter Cr
Stillwater Cr
Hill Cr
Toutle R
North Fork Toutle R
Green R
Elk Cr
Miners Cr
Wyant Cr
South Fork Toutle R
Arkansas Cr
Monahan Cr
Delameter Cr
Ostrander Cr
Hemlock Cr
Mulholland Cr
Coweeman R
Gobin Cr
Owl Cr
01
02
03
04
05
06
07
08
10 5 0 10 Kilometers
0 4 8 16 Miles
N
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17080005xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
LOWER COLUMBIA SUBBASIN
17080006
124°0'0"W
123°30'0"W
46°30'0"N
46°0'0"N
Mitchell Cr
East Fk Grays R
West Fk Grays R
S. Fk Grays R
Hull Cr
Grays River
Grays R
Deep Cr
Skeson Cr
Rosburg
Chinook
Megler
Crooked Cr
Columbia R
WASHINGTON
Hammond
Astoria
Warrenton
Blind Sl
Knappa
Bear Cr
Big Cr
Gnat Cr
03
02
01
OREGON
N
10 5 0 10 Kilometers
0 3 6 12 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17080006xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
CLACKAMAS SUBBASIN
17090011
122°30'0"W
122°0'0"W
45°30'0"N
45°0'0"N
Clackamas
Gladstone
Rock Cr
Richardson Creek
Boring
Deep Cr
Sandy
Clear Cr
OREGON
06
05
Estacada
Clackamas R
N
04
03
01
02
0 3.5 7 14 21 28 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090011xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Chinook Salmon ESU
LOWER WILLAMETTE SUBBASIN
17090012
123°0'0"W
122°30'0"W
46°0'0"N
45°30'0"N
N
02
Scappoose Cr
Scappoose
Multnomah Channel
Sturgeon Lake
WASHINGTON
OREGON
Columbia R
Willamette R
Portland
03
Hazelwood
Crystal Springs Cr
Gresham
01
Milwaukie
Kellogg Cr
Lake Oswego
Oak Grove
West Linn
0 3.5 7 14 21 28 Kilometers
0 3.5 7 14 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17090012xx
Area of Detail
WASHINGTON
OREGON
IDAHO



(k) *Upper Willamette River Chinook Salmon (Oncorhynchus tshawytscha).* Critical habitat is to include the areas defined in the following subbasins:

(1) Middle Fork Willamette Subbasin 17090001—(i) *Upper Middle Fork Willamette River Watershed 1709000101.* Outlet(s) = Middle Fork Willamette River (Lat 43.4961, Long –122.3989) upstream to

endpoint(s) in: Echo Creek (43.4670, –122.3172); Found Creek (43.5048, –122.2831); Middle Fork Willamette River (43.4801, –122.2534); Noisy Creek (43.5083, –122.3016); Simpson Creek (43.5031, –122.3801); Skunk Creek (43.5069, –122.2866); Staley Creek (43.4527, –122.3650); Swift Creek (43.5438, –122.2431); Tumblebug Creek (43.4740, –122.2549); Unnamed (43.4967, –122.2645); Unnamed (43.4986, –122.2686); Unnamed (43.5020, –122.2764).

(ii) *Hills Creek Watershed 1709000102*. Outlet(s) = Hills Creek (Lat 43.7071, Long –122.4195) upstream to endpoint(s) in: Hills Creek (43.6718, –122.3502).

(iii) *Salt Creek/Willamette River Watershed 1709000103*. Outlet(s) = Salt Creek (Lat 43.7261, Long –122.4381) upstream to endpoint(s) in: Coyote Creek (43.6682, –122.2378); Eagle Creek (43.6795, –122.2293); Salt Creek (43.6204, –122.1413); South Fork Salt Creek (43.6518, –122.2261).

(iv) *Hills Creek Reservoir Watershed 1709000105*. Outlet(s) = Middle Fork Willamette River (Lat 43.7589, Long –122.5242) upstream to endpoint(s) in: Big Willow Creek (43.6341, –122.4139); Buck Creek (43.5945, –122.4272); Bull Creek (43.6598, –122.4014); Coal Creek (43.4882, –122.4246); Coffeepot Creek (43.6182, –122.4160); Gold Creek (43.5860, –122.4768); Indian Creek (43.5034, –122.4638); Larison Creek (43.6851, –122.4760); Middle Fork Willamette River (43.4961, –122.3989); Packard Creek (43.6516, –122.4904); Snake Creek (43.5388, –122.4554) Snow Creek (43.6061, –122.4585); Windfall Creek (43.5984, –122.4638).

(v) *North Fork of Middle Fork Willamette River Watershed 1709000106*. Outlet(s) = North Fork Middle Fork Willamette River (Lat 43.7589, Long –122.5242) upstream to endpoint(s) in: Cayuse Creek (43.8651, –122.1856); Chalk Creek (43.8750, –122.4044); Christy Creek (43.9079, –122.3796); Fisher Creek (43.8699, –122.1551); North Fork Middle Fork Willamette River (43.8671, –122.0711).

(vi) *Middle Fork Willamette/Lookout Point Watershed 1709000107*. Outlet(s) = Middle Fork Willamette River (Lat 43.9495, Long –122.8471) upstream to endpoint(s) in: Anthony Creek (43.8799, –122.8498); Bannister Creek (43.8743, –122.6538); Buckhead Creek (43.7753, –122.5253); Burnt Bridge Creek (43.7900, –122.5334); Carr Creek (43.8558, –122.8177); Deception Creek (43.7551, –122.5541); East Fork Minnow Creek (43.8902, –122.7342); Goodman Creek (43.8309, –122.6940); Gosage Creek (43.8446, –122.8129); Guiley Creek (43.8419, –122.7962); Hazel Creek (43.8637, –122.6891); Lost Creek (43.8427, –122.7781); Middle Creek (43.8624, –122.8323); Middle Fork Willamette River (43.7589, –122.5242); Minnow Creek (43.8872, –122.7458); North Creek (43.8247, –122.6236); Rolling Riffle Creek (43.8750, –122.7052); School Creek (43.8604, –122.6099); South Creek (43.8230, –122.6216); Unnamed (43.8329, –122.6775); Unnamed (43.8427, –122.6643); Unnamed (43.8433, –122.6950).

(vii) *Little Fall Creek Watershed 1709000108*. Outlet(s) = Little Fall Creek (Lat 43.9577, Long –122.8166) upstream to endpoint(s) in: Little Fall Creek (44.0579, –122.5440); Norton Creek (44.0006, –122.7044); Sturdy Creek (44.0196, –122.6475).

(viii) *Fall Creek Watershed 1709000109*. Outlet(s) = Fall Creek (Lat 43.9707, Long –122.8677) upstream to endpoint(s) in: Alder Creek (44.0000, –122.4993); Fall Creek (43.9922, –122.3758); Gold Creek (43.9772, –122.4051); Logan Creek (43.9447, –122.4504); Nelson Creek (43.9285, –122.6850); Portland Creek (43.9331, –122.4655); Sunshine Creek (43.9943, –122.4672); Winberry Creek (43.9142, –122.6890).

(ix) *Lower Middle Fork Willamette River Wateshed 1709000110*. Outlet(s) = Middle Fork Willamette River (Lat 44.0226, Long –123.0169) upstream to endpoint(s) in: Hills Creek (43.9945, –122.8651); Middle Fork Willamette River (43.9495, –122.8471); Mill Race (44.0407, –123.0004); Pudding Creek (44.0173, –122.9501); Rattlesnake Creek (43.9352, –122.8608); Wallace Creek (44.0074, –122.8984).

(2) Upper Willamette Subbasin 17090003—(i) *Muddy Creek Watershed 1709000302*. Outlet(s) = Willamette River (Lat 44.6400, Long –123.1096) upstream to endpoint(s) in: Willamette River (44.0226, –123.0169).

(ii) *Calapooia River Watershed 1709000303*. Outlet(s) = Calapooia River (Lat 44.5088, Long –123.1101) upstream to endpoint(s) in: Calapooia River (44.2354, –122.4128).

(iii) *Oak Creek Watershed 1709000304*. Outlet(s) = Willamette River (Lat 44.7504, Long –123.1421) upstream to endpoint(s) in: Calapooia River (44.5088, –123.1101); Willamette River (44.6400, –123.1096).

(iv) *Marys River Watershed 1709000305*. Outlet(s) = Marys River (Lat 44.5566, Long –123.2597) upstream to endpoint(s) in: Beaver Creek (44.4554, –123.3748); Marys River (44.5373, –123.3762); Oak Creek (44.5636, –123.2932).

(v) *Luckiamute River Watershed 1709000306*. Outlet(s) = Luckiamute River (Lat 44.7561, Long –123.1468) upstream to endpoint(s) in: Soap Creek (44.7317, –123.2151); Unnamed (44.7661, –123.2011).

(3) McKenzie Subbasin 17090004—(i) *Upper McKenzie River Watershed 1709000401*. Outlet(s) = McKenzie River (Lat 44.1721, Long –122.2058) upstream to endpoint(s) in: Deer Creek (44.2677, –122.0712); Frissell Creek (44.2288, –122.0699); Lost Creek (44.1729, –122.0401); McKenzie River (44.3109, –122.0199); Scott Creek (44.1981, –122.0195); Smith River (44.2824, –122.0506).

(ii) *Horse Creek Watershed 1709000402*. Outlet(s) = West Fork Horse Creek (Lat 44.1721, Long –122.2058) upstream to endpoint(s) in: Cedar Swamp Creek (44.1563, –122.1132); Horse Creek (44.0602, –122.0087); King Creek (44.1635, –122.1693); Separation Creek (44.1274, –122.0077).

(iii) *South Fork McKenzie River Watershed 1709000403*. Outlet(s) = South Fork McKenzie River (Lat 44.1595, Long –122.2946) upstream to endpoint(s) in: Augusta Creek (43.9562, –122.1632); Cougar Creek (44.1397, –122.2437); East Fork South Fork McKenzie (44.0850, –122.0997); Elk Creek (43.9455, –122.0384); French Pete Creek (44.0402, –122.1854); Hardy Creek (44.0345, –122.2047); Rebel Creek (44.0167, –122.1505); Roaring River (43.9479, –122.0811); South Fork McKenzie River (43.9533, –121.9995).

(iv) *McKenzie River/Quartz Creek Watershed 1709000405*. Outlet(s) = McKenzie River (Lat 44.1112, Long –122.4209) upstream to endpoint(s) in: Cone Creek (44.1528, –122.3649); McKenzie River (44.1721, –122.2058); Quartz Creek (44.0188, –122.3015); Wycoff Creek (44.0846, –122.3143).

(v) *Lower McKenzie River Watershed 1709000407*. Outlet(s) = McKenzie River (Lat 44.1255, Long –123.1059) upstream to endpoint(s) in: Boulder Creek (44.0601, –122.7825); Camp Creek (44.0896, –122.8544); Deer Creek (44.0895, –122.4234); Ennis Creek (44.0804, –122.3754); Finn Creek (44.1471, –122.5972); Forest Creek (44.0861, –122.7153); Haagen Creek (44.0880, –122.7126); Hatchery Creek (44.1449, –122.6056); Holden Creek (44.1056, –122.7061); Indian Creek (44.1526, –122.5816); Lane Creek (44.0928, –122.7323); Marten Creek (44.1075, –122.5046); McKenzie River (44.1112, –122.4209); North Fork Gate Creek (44.1718, –122.5248); Osborn Creek (44.0565, –122.7880); Ritchie Creek (44.1028, –122.6567); South Fork Gate Creek (44.1667, –122.4980); Taylor Creek (44.0783, –122.7481); Toms Creek (44.1316, –122.5586); Unnamed (44.0646, –122.9399); Walterville Canal (44.0765, –122.7537).

(4) North Santiam Subbasin 17090005—(i) *Middle North Santiam River Watershed 1709000504*. Outlet(s) = North Santiam River (Lat 44.7852, Long –122.6079) upstream to endpoint(s) in: Mad Creek (44.7453, –122.3898); North Santiam River (44.7510, –122.2821); Rock Creek (44.7077, –122.4171); Snake Creek (44.7477, –122.4905).

(ii) *Little North Santiam River Watershed 1709000505*. Outlet(s) = Little North Santiam River (Lat 44.7852, Long –122.6079) upstream to endpoint(s) in: Elkhorn Creek (44.8134, –122.3561); Little North Santiam River (44.8390, –122.3364); Little Sinker Creek (44.8191, –122.4111); Sinker Creek (44.8166, –122.4174).

(iii) *Lower North Santiam River Watershed 1709000506*. Outlet(s) = Santiam River (Lat 44.7504, Long –123.1421) upstream to endpoint(s) in: Bear Branch (44.7559, –122.7974); Cold Creek (44.7522, –122.8848); Morgan Creek (44.7500, –123.0376); North Santiam River (44.7852, –122.6079); Salem Ditch (44.8000, –122.8120); Smallman Creek (44.7300, –122.9098); Stout Creek (44.7930, –122.6177); Trask Creek (44.7725, –122.6152); Unnamed (44.7672, –123.0517); Valentine Creek (44.8013, –122.7176).

(5) South Santiam Subbasin 17090006—(i) *Hamilton Creek/South Santiam River Watershed 1709000601*. Outlet(s) = South Santiam River (Lat 44.6869, Long –123.0052) upstream to endpoint(s) in: Hamilton Creek (44.5037,

–122.7667); McDowell Creek (44.4580, –122.7128); Mill Creek (44.6750, –122.9721); Noble Creek (44.4519, –122.7976); South Santiam River (44.4163, –122.6693); Spring Branch (44.6821, –122.9811); Unnamed (44.6703, –122.9870); Unnamed (44.6801, –122.9786).

(ii) *Crabtree Creek Watershed 1709000602*. Outlet(s) = Crabtree Creek (Lat 44.6756, Long –122.9557) upstream to endpoint(s) in: Bald Peter Creek (44.5682, –122.5825); Beaver Creek (44.6271, –122.8504); Crabtree Creek (44.6058, –122.5405); Roaring River (44.6251, –122.7283); South Fork Crabtree Creek (44.5741, –122.5744).

(iii) *Thomas Creek Watershed 1709000603*. Outlet(s) = Thomas Creek (Lat 44.6778, Long –122.9654) upstream to endpoint(s) in: Jordan Creek (44.7531, –122.6595); Mill Creek (44.7055, –122.7842); Neal Creek (44.7101, –122.6912); South Fork Neal Creek (44.7033, –122.7078); Thomas Creek (44.6776, –122.4650).

(iv) *South Santiam River Watershed 1709000606*. Outlet(s) = South Santiam River (Lat 44.3977, Long –122.4491) upstream to endpoint(s) in: Falls Creek (44.4007, –122.3828); South Santiam River (44.3980, –122.2610).

(v) *South Santiam River/Foster Reservoir Watershed 1709000607*. Outlet(s) = South Santiam River (Lat 44.4163, Long –122.6693) upstream to endpoint(s) in: Middle Santiam River (44.4498, –122.5479); South Santiam River (44.3977, –122.4491).

(vi) *Wiley Creek Watershed 1709000608*. Outlet(s) = Wiley Creek (Lat 44.4140, Long –122.6752) upstream to endpoint(s) in: Little Wiley Creek (44.3673, –122.5916); Wiley Creek (44.3488, –122.5900).

(6) Middle Willamette Subbasin 17090007—(i) *Mill Creek/Willamette River Watershed 1709000701*. Outlet(s) = Mill Creek (Lat 44.9520, Long –123.0381) upstream to endpoint(s) in: Mill Creek (44.8255, –122.8226).

(ii) *Rickreall Creek Watershed 1709000702*. Outlet(s) = Willamette River (Lat 44.9288, Long –123.1124) upstream to endpoint(s) in: Willamette River (44.7504, –123.1421).

(iii) *Willamette River/Chehalem Creek Watershed 1709000703*. Outlet(s) = Willamette River (Lat 45.2552, Long –122.8806) upstream to endpoint(s) in: Willamette River (44.9288, –123.1124).

(iv) *Abernethy Creek Watershed 1709000704*. Outlet(s) = Willamette River (Lat 45.3719, Long –122.6071) upstream to endpoint(s) in: Willamette River (45.2552, –122.8806).

(7) Molalla/Pudding Subbasin 17090009—(i) *Butte Creek/Pudding River Watershed 1709000902*. Outlet(s) = Pudding River (Lat 45.1907, Long –122.7527) upstream to endpoint(s) in: Pudding River (45.0740, –122.8525).

(ii) *Senecal Creek/Mill Creek Watershed 1709000904*. Outlet(s) = Pudding River (Lat 45.2843, Long –122.7149) upstream to endpoint(s) in: Pudding River (45.1907, –122.7527).

(iii) *Upper Molalla River Watershed 1709000905*. Outlet(s) = Molalla River (Lat 45.1196, Long –122.5342) upstream to endpoint(s) in: Molalla River (44.9124, –122.3228); North Fork Molalla River (45.0872, –122.3849); Table Rock Fork Molalla River (44.9876, –122.2741).

(iv) *Lower Molalla River Watershed 1709000906*. Outlet(s) = Molalla River (Lat 45.2979, Long –122.7141) upstream to endpoint(s) in: Gribble Creek (45.2146, –122.6988); Milk Creek (45.2278, –122.5670); Molalla River (45.1196, –122.5342).

(8) Clackamas Subbasin 17090011—(i) *Collawash River Watershed 1709001101*. Outlet(s) = Collawash River (Lat 45.0321, Long –122.0600) upstream to endpoint(s) in: Blister Creek (44.9594, –122.1590); Collawash River (44.9507, –122.0350); Hot Springs Fk Collawash River (44.9385, –122.1721); Nohorn Creek (44.9442, –122.1957).

(ii) *Upper Clackamas River 1709001102*. Outlet(s) = Clackamas River (Lat 45.0321, Long –122.0600) upstream to endpoint(s) in: Cabin Creek (45.0087, –121.8958); Clackamas River (44.8966, –121.8800); Cub Creek (44.8969, –121.8876); Granite Creek (45.0184, –121.9885); Hunter Creek (44.9086, –121.8929); Last Creek (44.9715, –121.8547); Lowe Creek (44.9487, –121.8983); Pot Creek (45.0149, –121.9084); Unnamed (44.9469, –121.8691); Wall Creek (44.9555, –121.8843).

(iii) *Oak Grove Fork Clackamas River Watershed 1709001103*. Outlet(s) = Oak Grove Fork Clackamas River (Lat 45.0746, Long –122.0520) upstream to endpoint(s) in: Oak Grove Fork Clackamas River (45.0822, –121.9859).

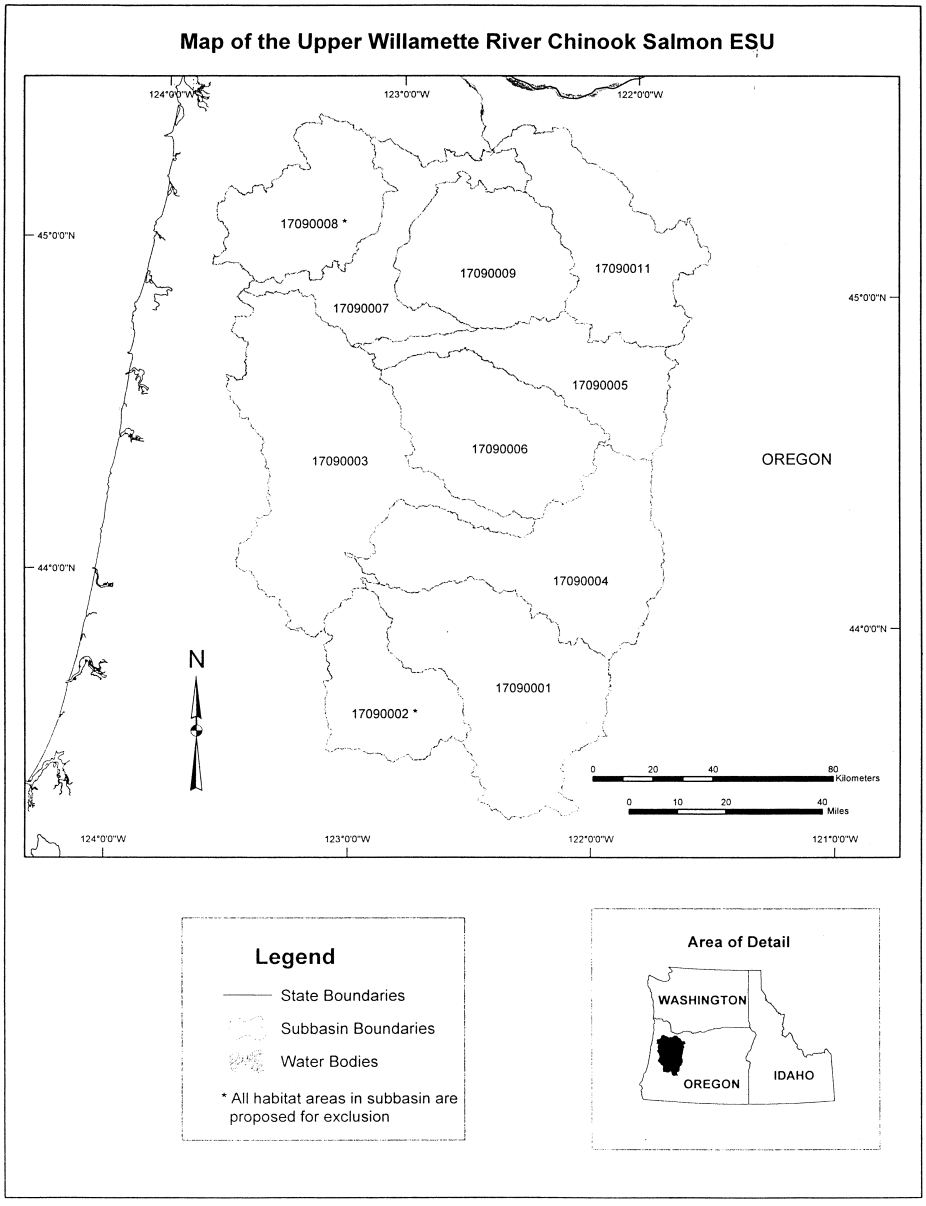
(iv) *Middle Clackamas River Watershed 1709001104*. Outlet(s) = Clackamas River

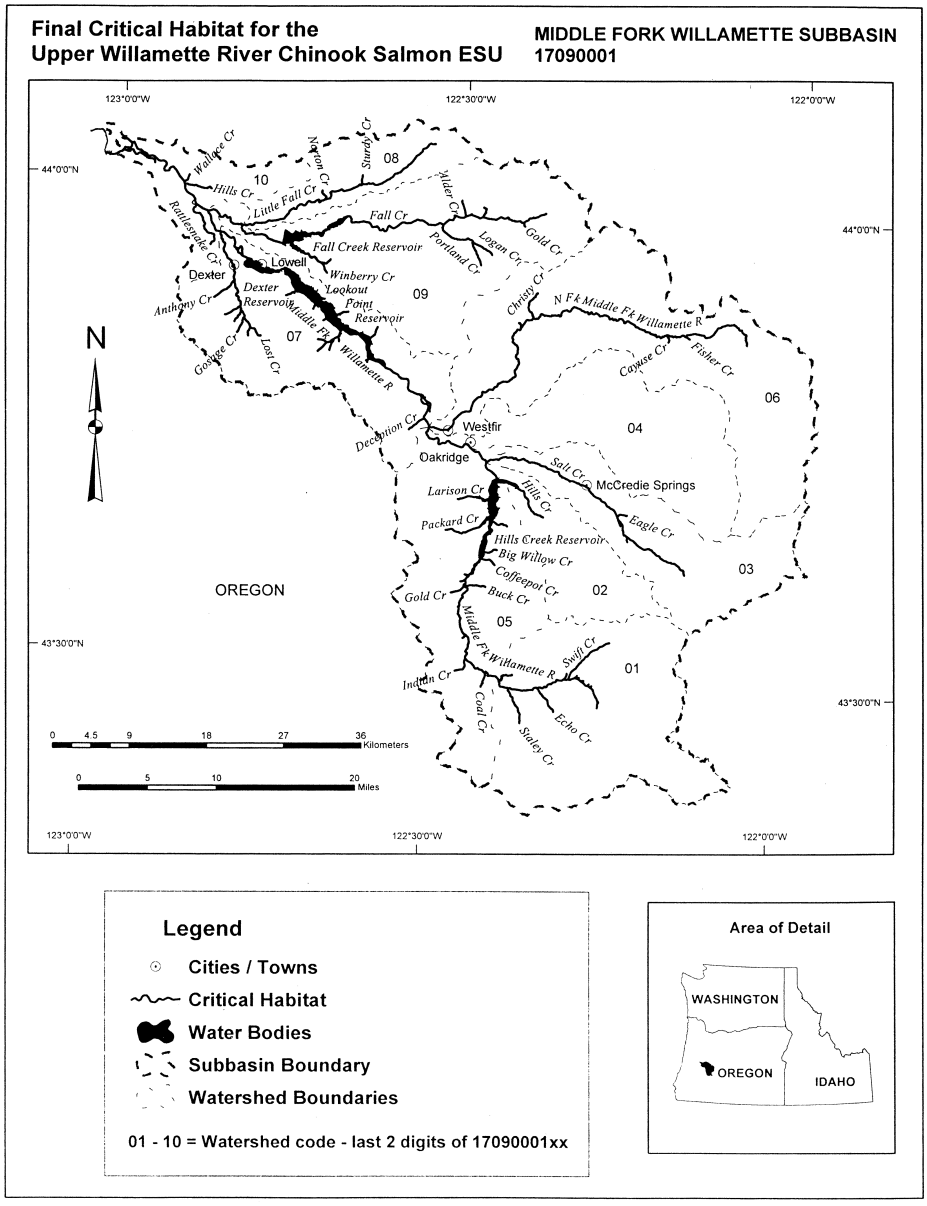
(Lat 45.2440, Long –122.2798) upstream to endpoint(s) in: Clackamas River (45.0321, –122.0600); Fish Creek (45.0962, –122.1683); North Fork Clackamas River (45.2361, –122.2186); Roaring River (45.1773, –122.0650); South Fork Clackamas River (45.1939, –122.2257); Tag Creek (45.0607, –122.0512); Tar Creek (45.0494, –122.0570).

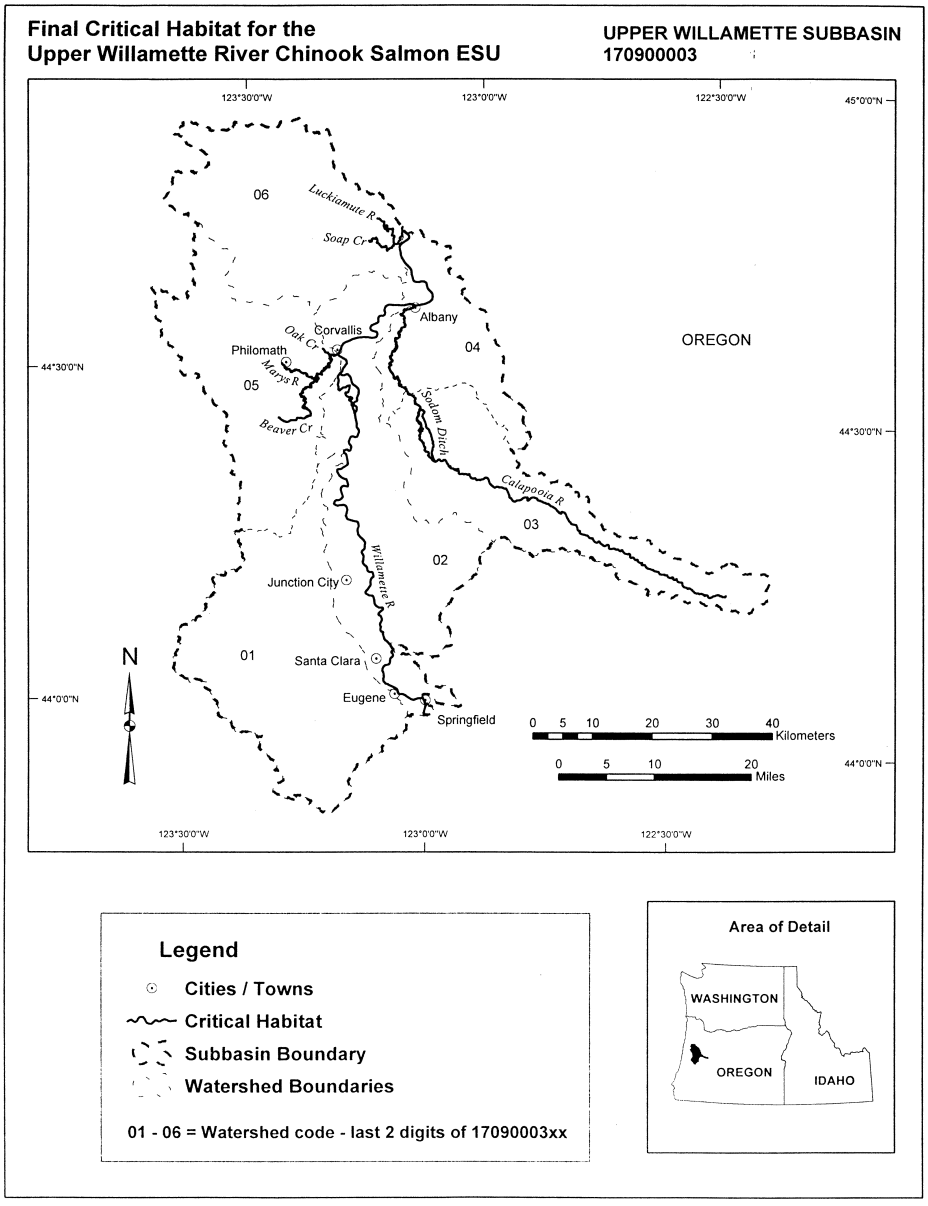
(v) *Lower Clackamas River Watershed 1709001106*. Outlet(s) = Clackamas River (Lat 45.3719, Long –122.6071) upstream to endpoint(s) in: Clackamas River (45.2440, –122.2798); Clear Creek (45.3568, –122.4781); Deep Creek (45.3937, –122.4095); Richardson Creek (45.3971, –122.4712).

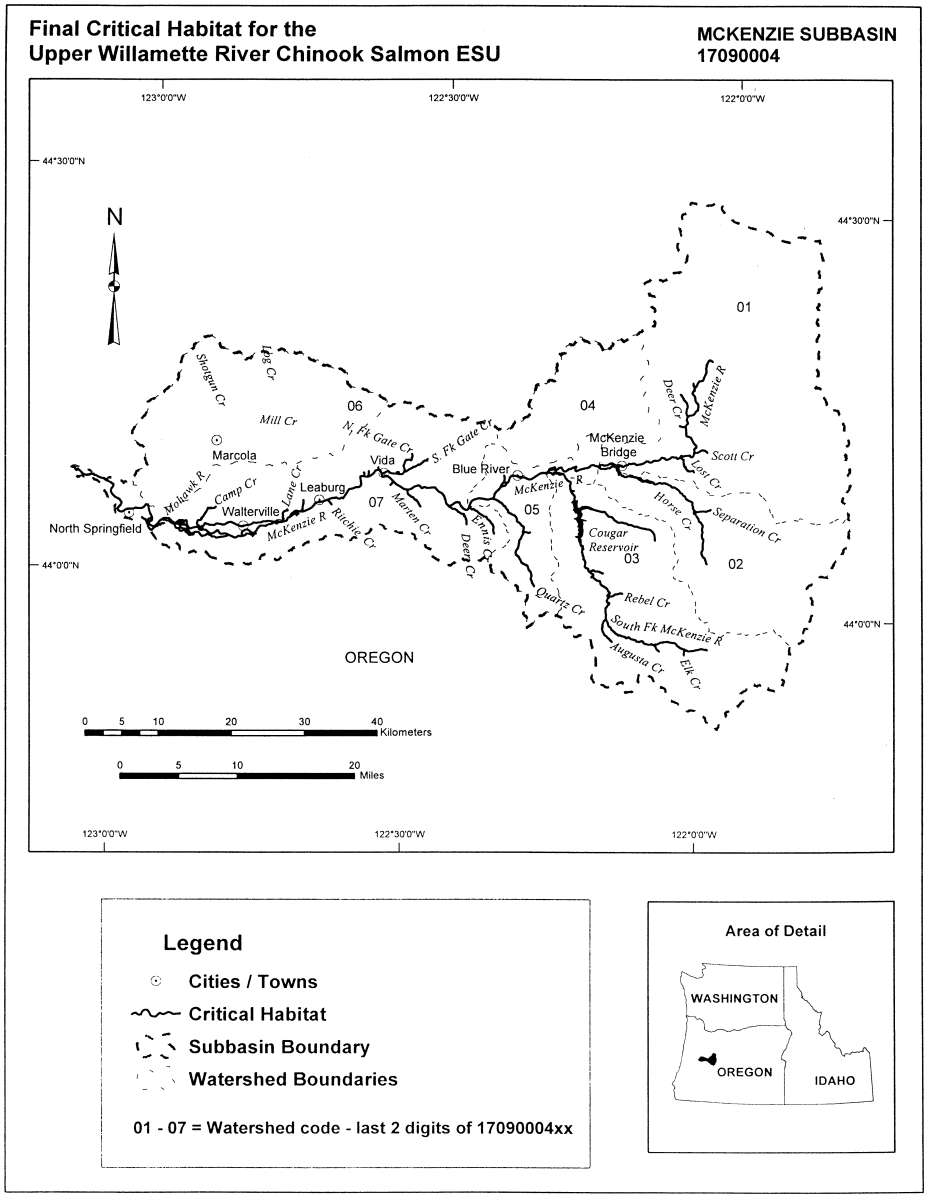
(9) Lower Willamette/Columbia River Corridor—*Lower Willamette/Columbia River Corridor*. Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Willamette River (45.3719, –122.6071).

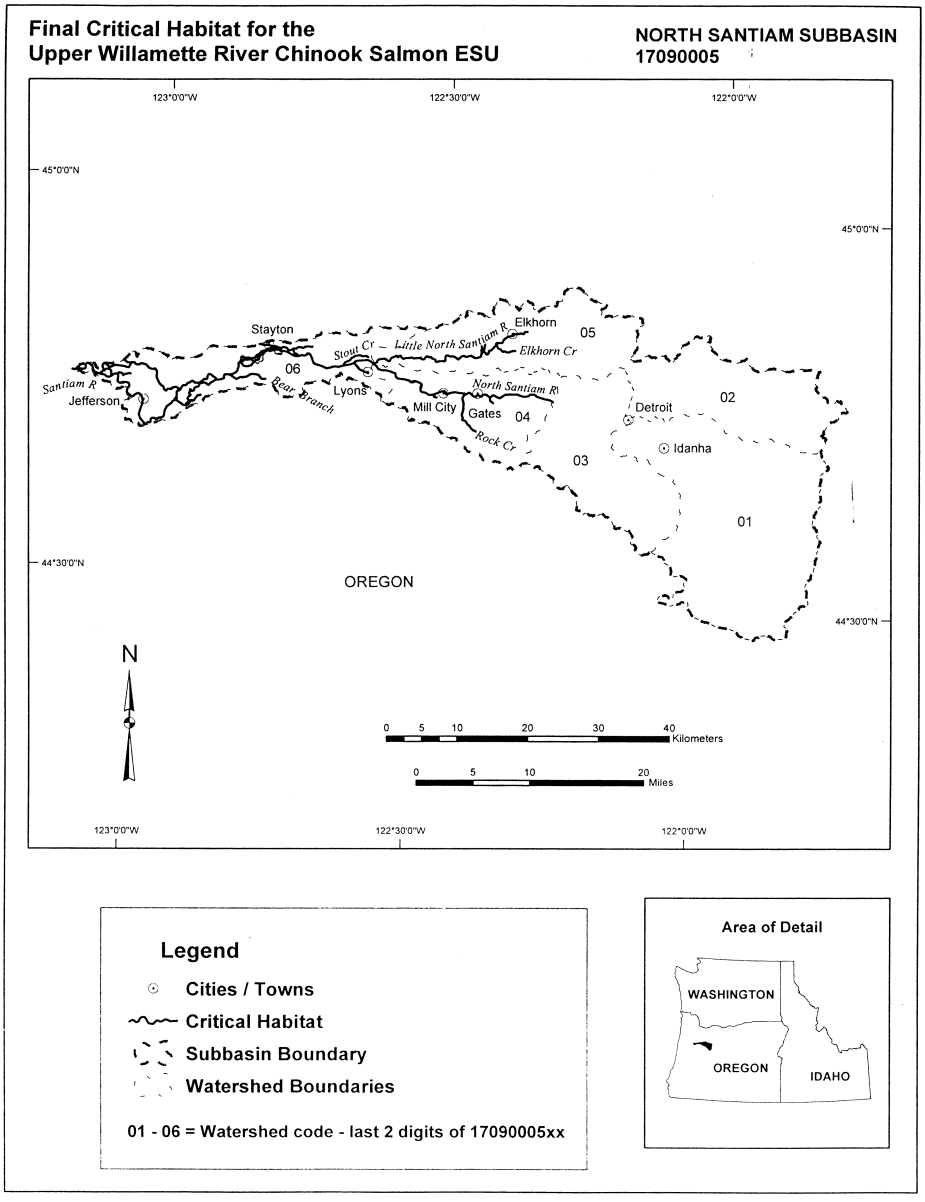
(10) Maps of critical habitat for the Upper Willamette River chinook salmon ESU follow:

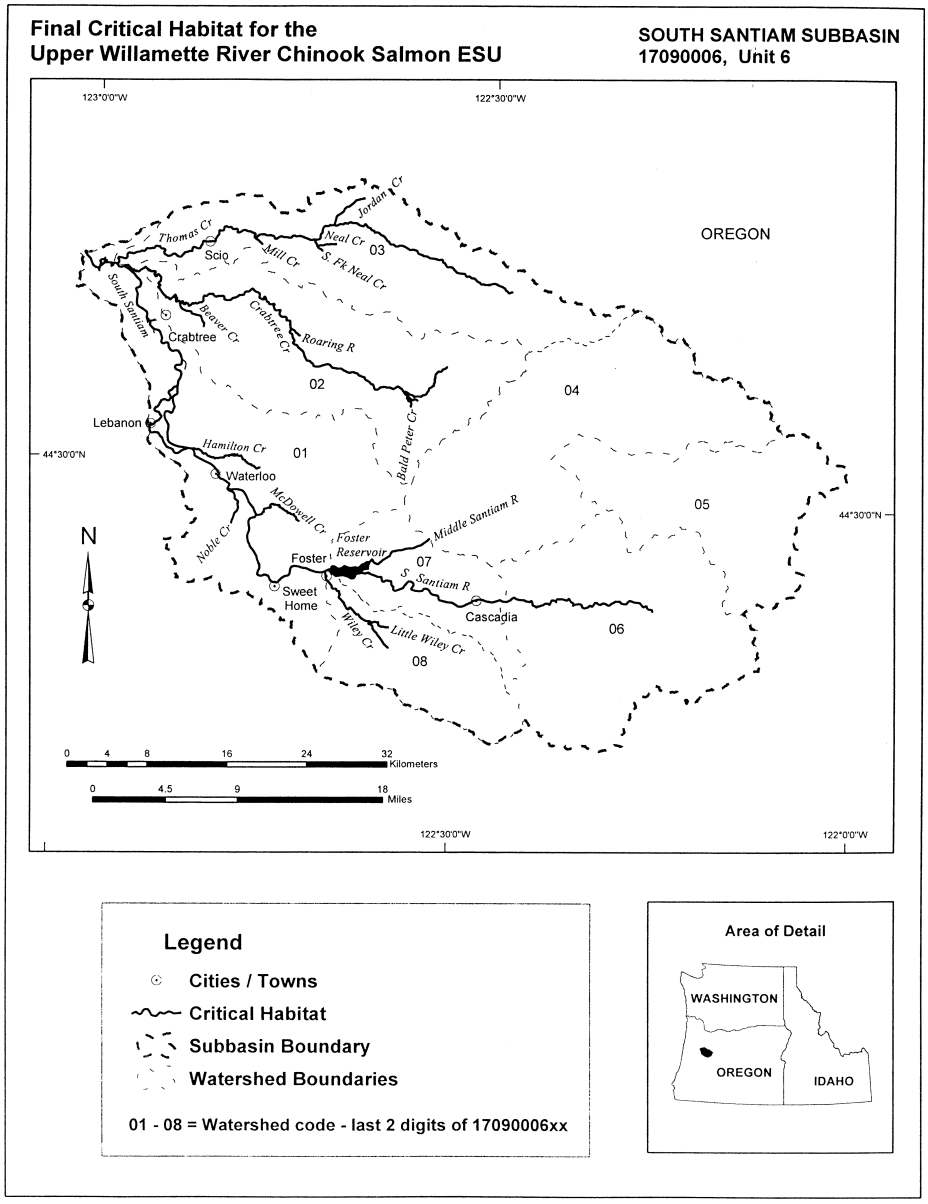

Map of the Upper Willamette River Chinook Salmon ESU
124°0'0"W
123°0'0"W
122°0'0"W
45°0'0"N
44°0'0"N
17090008 *
17090009
17090011
17090007
17090005
17090006
17090003
OREGON
17090004
17090001
17090002 *
N
0 20 40 80 Kilometers
0 10 20 40 Miles
121°0'0"W
Legend
State Boundaries
Subbasin Boundaries
Water Bodies
* All habitat areas in subbasin are proposed for exclusion
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Chinook Salmon ESU
MIDDLE FORK WILLAMETTE SUBBASIN
17090001
123°0'0"W
122°30'0"W
122°0'0"W
44°0'0"N
43°30'0"N
N
OREGON
Lowell
Dexter
Dexter Reservoir
Fall Creek Reservoir
Winberry Cr
Lookout Point Reservoir
Middle Fk Willamette R
N Fk Middle Fk Willamette R
Westfir
Oakridge
McCredie Springs
Hills Creek Reservoir
Wallace Cr
Hills Cr
Little Fall Cr
Fall Cr
Rattlesnake Cr
Anthony Cr
Gosage Cr
Lost Cr
Alder Cr
Portland Cr
Logan Cr
Gold Cr
Christy Cr
Cowse Cr
Fisher Cr
Deception Cr
Salt Cr
Larison Cr
Packard Cr
Eagle Cr
Big Willow Cr
Coffeepot Cr
Buck Cr
Swift Cr
Indian Cr
Coal Cr
Staley Cr
Echo Cr
01
02
03
04
05
06
07
08
09
10
0 4.5 9 18 27 36 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 10 = Watershed code - last 2 digits of 17090001xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Chinook Salmon ESU
UPPER WILLAMETTE SUBBASIN
170900003
123°30'0"W
123°0'0"W
122°30'0"W
45°0'0"N
44°30'0"N
44°0'0"N
06
05
04
03
02
01
Luckiamute R
Soap Cr
Albany
Corvallis
Oak Cr
Philomath
Marys R
Beaver Cr
Calapooia R
Willamette R
Junction City
Santa Clara
Eugene
Springfield
OREGON
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090003xx
Area of Detail
WASHINGTON
OREGON
IDAHO

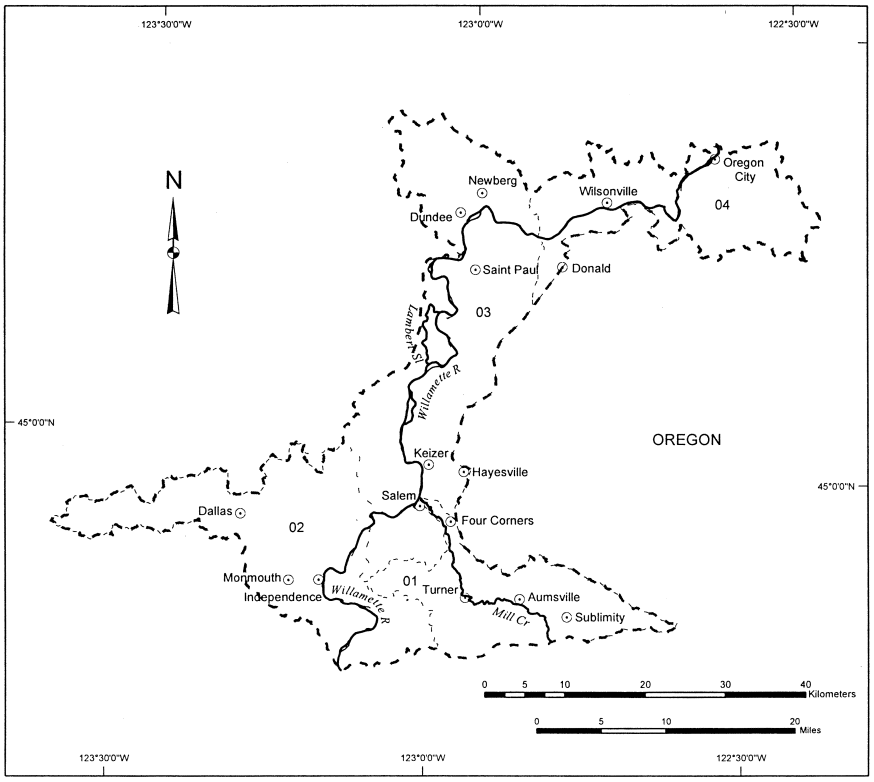

Final Critical Habitat for the
Upper Willamette River Chinook Salmon ESU
MCKENZIE SUBBASIN
17090004
123°0'0"W
122°30'0"W
122°0'0"W
44°30'0"N
44°0'0"N
N
01
02
03
04
05
06
07
Shotgun Cr
Big Cr
Mill Cr
N. Fk Gate Cr
S. Fk Gate Cr
Deer Cr
McKenzie R
Scott Cr
Lost Cr
Horse Cr
Separation Cr
Cougar Reservoir
Rebel Cr
South Fk McKenzie R
Augusta Cr
Elk Cr
Quartz Cr
Deer Cr
Fantz Cr
Marten Cr
Ritchie Cr
Lane Cr
Camp Cr
Mohawk R
Marcola
Vida
Leaburg
Walterville
North Springfield
Blue River
McKenzie Bridge
OREGON
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17090004xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Chinook Salmon ESU
NORTH SANTIAM SUBBASIN
17090005
123°0'0"W
122°30'0"W
122°0'0"W
45°0'0"N
44°30'0"N
Stayton
Elkhorn
05
Stout Cr
Little North Santiam R
Elkhorn Cr
06
Santiam R
Jefferson
Bear Branch
Lyons
North Santiam R
Mill City
Gates
04
Rock Cr
Detroit
02
Idanha
03
01
OREGON
N
0 5 10 20 30 40
Kilometers
0 5 10 20
Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090005xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Chinook Salmon ESU
SOUTH SANTIAM SUBBASIN
17090006, Unit 6
123°0'0"W
122°30'0"W
122°0'0"W
44°30'0"N
OREGON
Jordan Cr
Thomas Cr
Neal Cr
Mill Cr
S. Fk Neal Cr
Scio
03
South Santiam
Beaver Cr
Crabtree Cr
Roaring R
Crabtree
02
04
Lebanon
Bald Peter Cr
Hamilton Cr
01
Waterloo
McDowell Cr
Middle Santiam R
05
N
Noble Cr
Foster Reservoir
Foster
07
S. Santiam R
Sweet Home
Cascadia
Wiley Cr
Little Wiley Cr
06
08
0 4 8 16 24 32 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17090006xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Upper Willamette River Chinook Salmon ESU

MIDDLE WILLAMETTE SUBBASIN 17090007

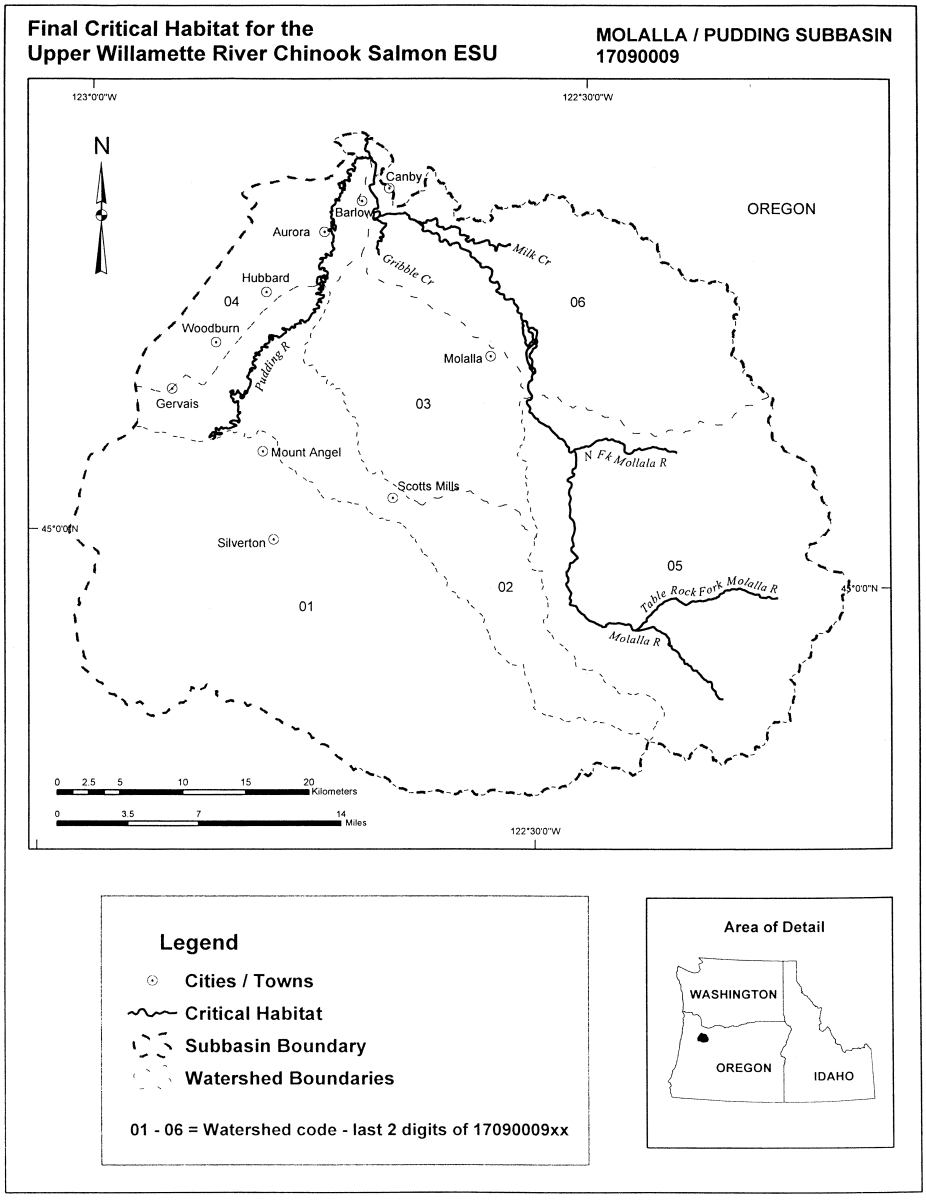


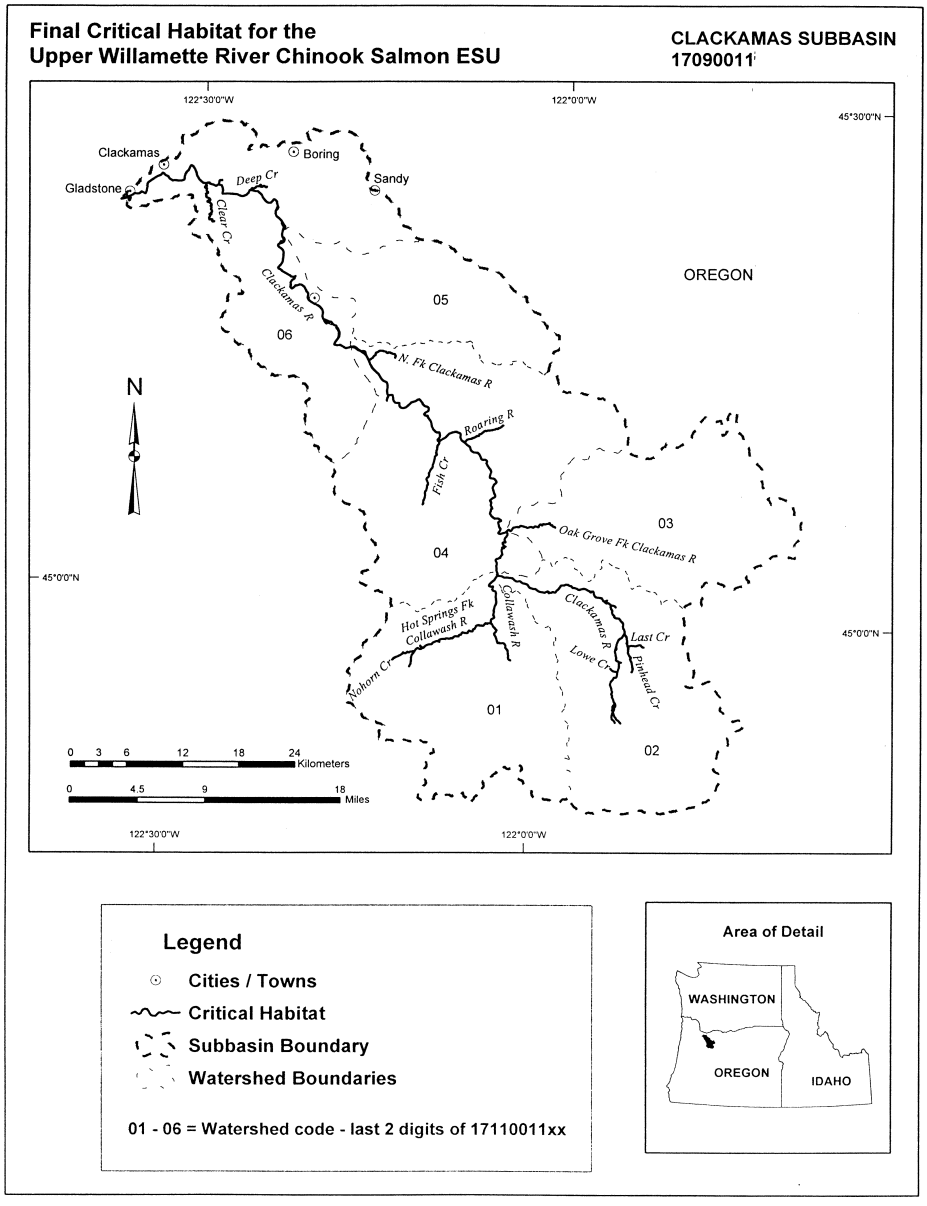
Legend

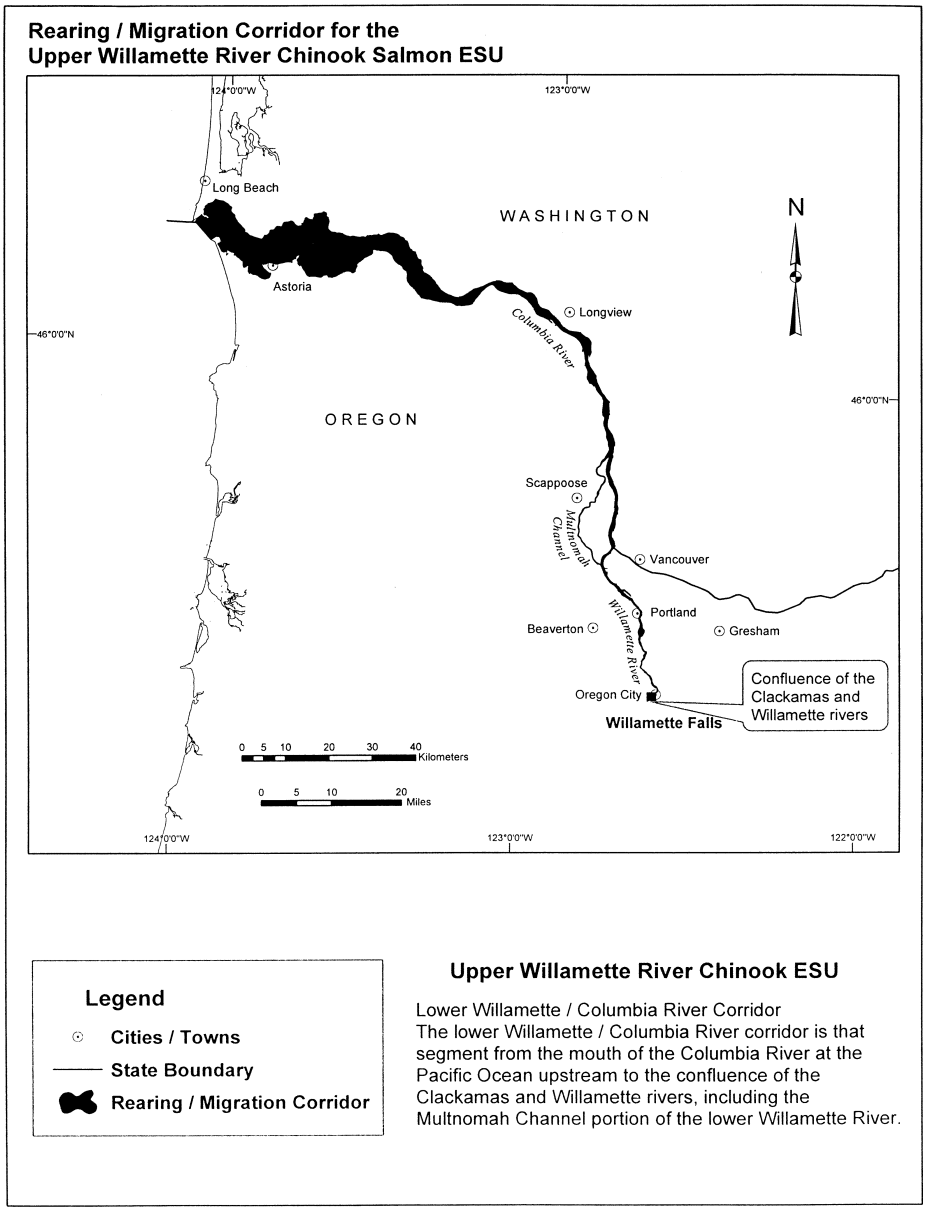
- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

01 - 04 = Watershed code - last 2 digits of 17090007xx

Area of Detail


Final Critical Habitat for the
Upper Willamette River Chinook Salmon ESU
MOLALLA / PUDDING SUBBASIN
17090009
123°0'0"W
122°30'0"W
N
Canby
Barlow
Aurora
Hubbard
Woodburn
Gervais
Mount Angel
Scotts Mills
Silverton
Molalla
OREGON
Milk Cr
Gribble Cr
Pudding R
N Fk Mollala R
Table Rock Fork Molalla R
Molalla R
04
06
03
05
02
01
45°0'0"N
0 2.5 5 10 15 20 Kilometers
0 3.5 7 14 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090009xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Chinook Salmon ESU
CLACKAMAS SUBBASIN
17090011
122°30'0"W
122°0'0"W
45°30'0"N
45°0'0"N
Clackamas
Boring
Gladstone
Deep Cr
Sandy
Clear Cr
Clackamas R
OREGON
05
06
N. Fk Clackamas R
Roaring R
Fish Cr
03
04
Oak Grove Fk Clackamas R
Hot Springs Fk Collawash R
Collawash R
Clackamas R
Last Cr
Pinhead Cr
Lowe Cr
Wahorn Cr
01
02
N
0 3 6 12 18 24 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17110011xx
Area of Detail
WASHINGTON
OREGON
IDAHO



(l) *Upper Columbia River Spring Chinook Salmon (Oncorhynchus tshawytscha).* Critical habitat is to include the areas defined in the following subbasins:

(1) Chief Joseph Subbasin 17020005—*Upper Columbia/Swamp Creek Watershed 1702000505.* Outlet(s) = Columbia River (Lat 47.8077, Long –119.9754) upstream to endpoint(s) in: Columbia River (48.0502, –119.8942).

(2) Methow Subbasin 17020008—(i) *Lost River Watershed 1702000801* Outlet(s) = Lost River Gorge (Lat 48.6501, Long –120.5103) upstream to endpoint(s) in: Eureka Creek (48.7020, –120.4986); Lost River Gorge (48.7324, –120.4475).

(ii) *Upper Methow River Watershed 1702000802*. Outlet(s) = Methow River (Lat 48.6015, Long –120.4376) upstream to endpoint(s) in: Early Winters Creek (48.5999, –120.5840); Methow River (48.6417, –120.6150); Rattlesnake Creek (48.6523, –120.5733); Robinson Creek (48.6680, –120.5394); South Fork Trout Creek (48.6448, –120.6030).

(iii) *Upper Chewuch River Watershed 1702000803*. Outlet(s) = Chewuch River (Lat 48.7501, Long –120.1356) upstream to endpoint(s) in: Andrews Creek (48.7855, –120.1087); Chewuch River (48.8614, –120.0288); Dog Creek (48.8218, –120.0151); Lake Creek (48.8258, –120.1996); Thirtymile Creek (48.8109, –120.0199).

(iv) *Lower Chewuch River Watershed 1702000804*. Outlet(s) = Chewuch River (Lat 48.4751, Lat –120.1790) upstream to endpoint(s) in: Boulder Creek (48.5797, –120.1538); Chewuch River (48.7501, –120.1356); Cub Creek (48.5513, –120.1899); Eightmile Creek (48.6071, –120.1775); Lake Creek (48.4926, –120.1629); Twentymile Creek (48.7029, –120.1117).

(v) *Twisp River Watershed 1702000805*. Outlet(s) = Twisp River (Lat 48.3682, Long –120.1176) upstream to endpoint(s) in: Buttermilk Creek (48.3528, –120.3239); Eagle Creek (48.3584, –120.3914); North Creek (48.4587, –120.5595); Poorman Creek (48.3674, –120.1997); South Creek (48.4330, –120.5431); Twisp River (48.4615, –120.5764); War Creek (48.3649, –120.4030).

(vi) *Middle Methow River Watershed 1702000806*. Outlet(s) = Methow River (Lat 48.2495, Long –120.1156) upstream to endpoint(s) in: Bear Creek (48.4527, –120.1423); Goat Creek (48.5888, –120.3705); Little Boulder Creek (48.5700, –120.3797); Methow River (48.6015, –120.4376); Wolf Creek (48.4776, –120.2840) Unnamed (48.4896, –120.2116).

(vii) *Lower Methow River Watershed 1702000807*. Outlet(s) = Methow River (Lat 48.0502, Long –119.8942) upstream to endpoint(s) in: Methow River (48.2495, –120.1156).

(3) Upper Columbia/Entiat Subbasin 17020010—(i) *Entiat River Watershed 1702001001*. Outlet(s) = Entiat River (Lat 47.6585, Long –120.2194) upstream to endpoint(s) in: Entiat River (47.9855, –120.5749); Hornet Creek (47.7714, –120.4403); Mad River (47.7804, –120.4403); Tillicum Creek (47.7295, –120.4304).

(ii) *Lake Entiat Watershed 1702001002*. Outlet(s) = Columbia River (Lat 47.3438, Long –120.0929) upstream to endpoint(s) in: Columbia River (47.8077, –119.9754).

(4) Wenatchee Subbasin 17020011—(i) *White River Watershed 1702001101*. Outlet(s) = White River (Lat 47.8088, Long –120.7159) upstream to endpoint(s) in: Little Wenatchee River (47.8526, –120.9541); Napeequa River (47.9285, –120.8829); Panther Creek (47.9355, –120.9482); White River (47.9535, –120.9380).

(ii) *Chiwawa River Watershed 1702001102*. Outlet(s) = Chiwawa River (Lat 47.7880, Long –120.6589) upstream to endpoint(s) in: Alder Creek (47.8483, –120.6587); Chikamin Creek (47.9785, –120.7194); Chiwawa River (48.1048, –120.8773); Goose Creek (47.8392, –120.6461); Minnow Creek (47.9137, –120.7182); Phelps Creek (48.0794, –120.8400); Unnamed (48.0366, –120.7615).

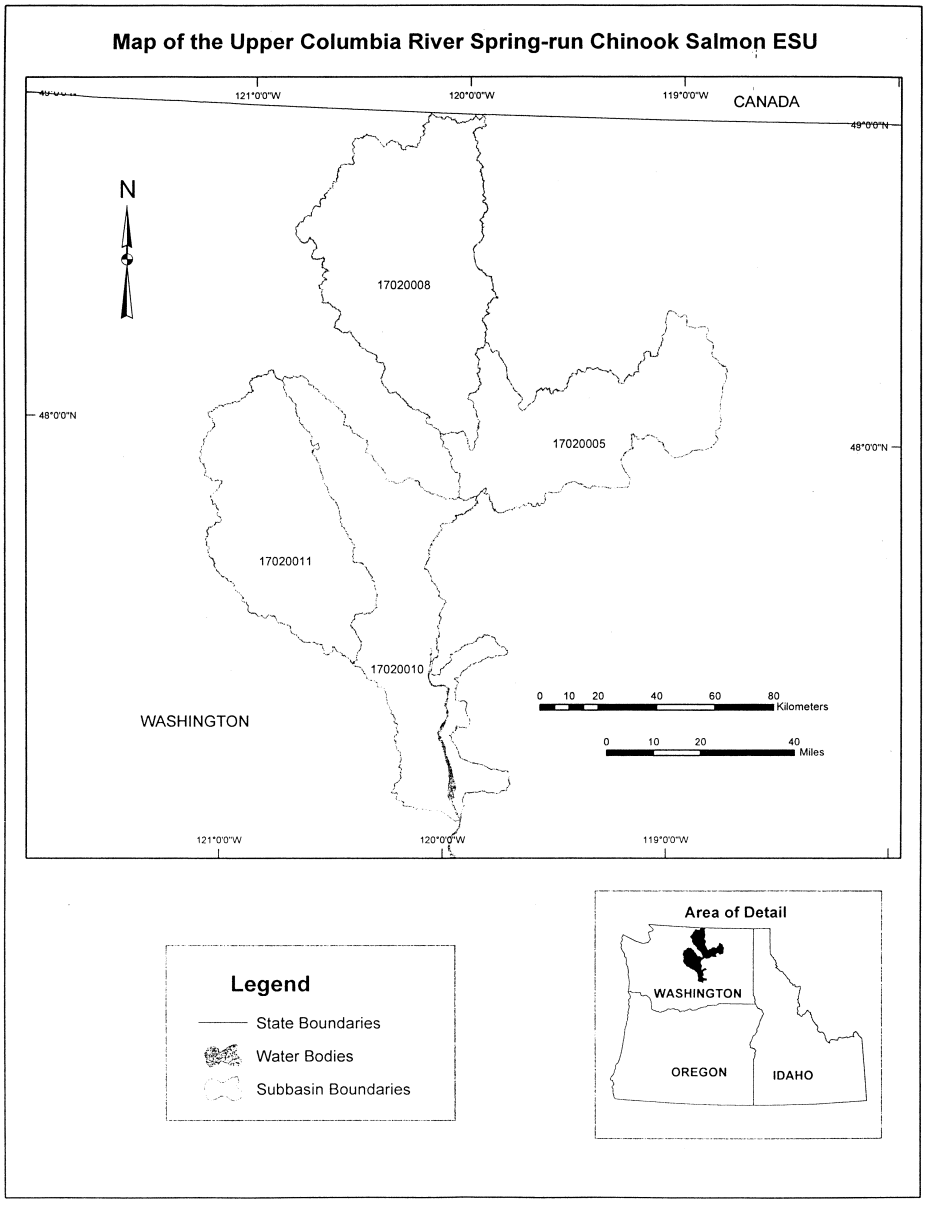
(iii) *Nason/Tumwater Watershed 1702001103*. Outlet(s) = Wenatchee River (Lat 47.5801, Long –120.6660) upstream to endpoint(s) in: Chiwaukum Creek (47.7039, –120.7791); Nason Creek (47.7769, –120.9103); Skinney Creek (47.6894, –120.7351).

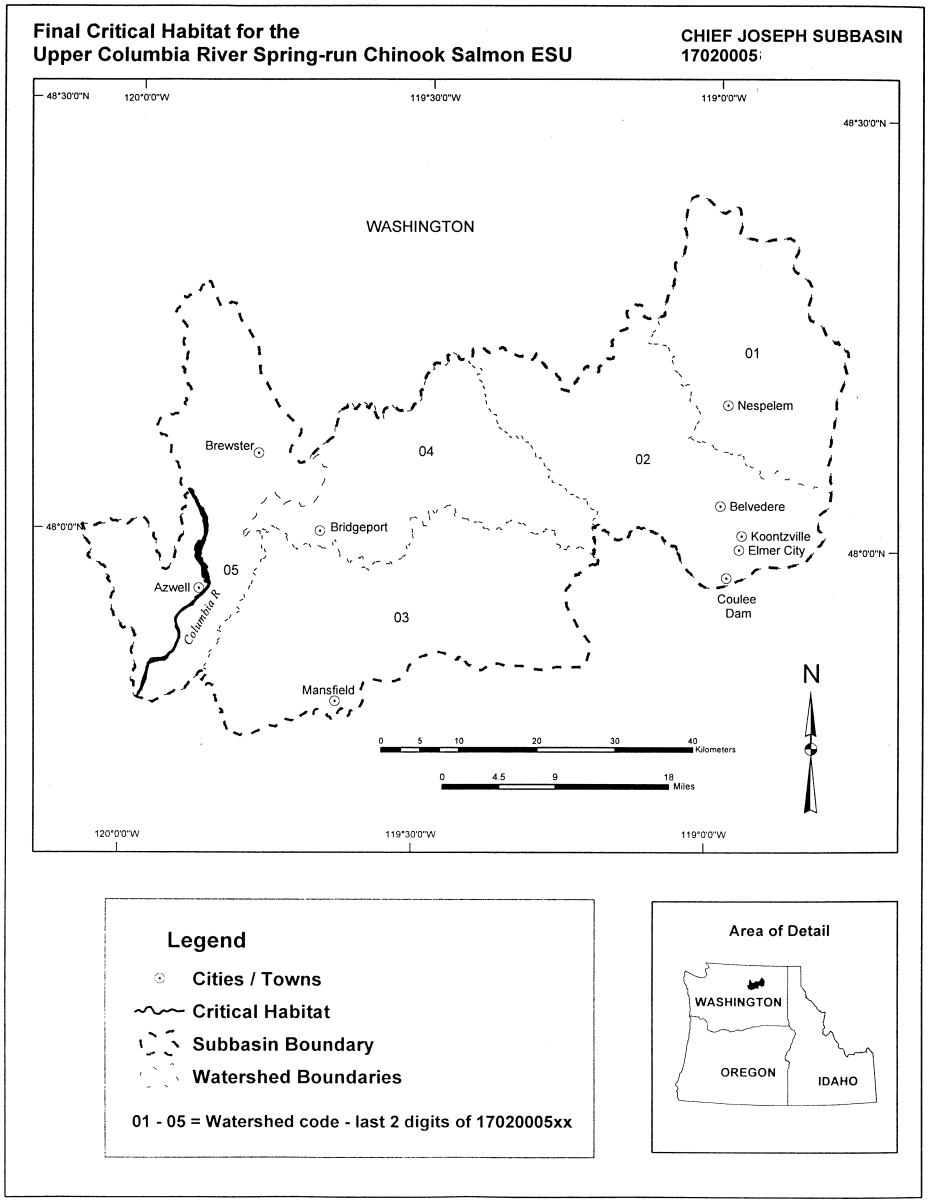
(iv) *Icicle/Chumstick Watershed 1702001104*. Outlet(s) = Wenatchee River (Lat 47.5575, Long –120.5729) upstream to endpoint(s) in: Wenatchee River (47.5801, –120.6660).

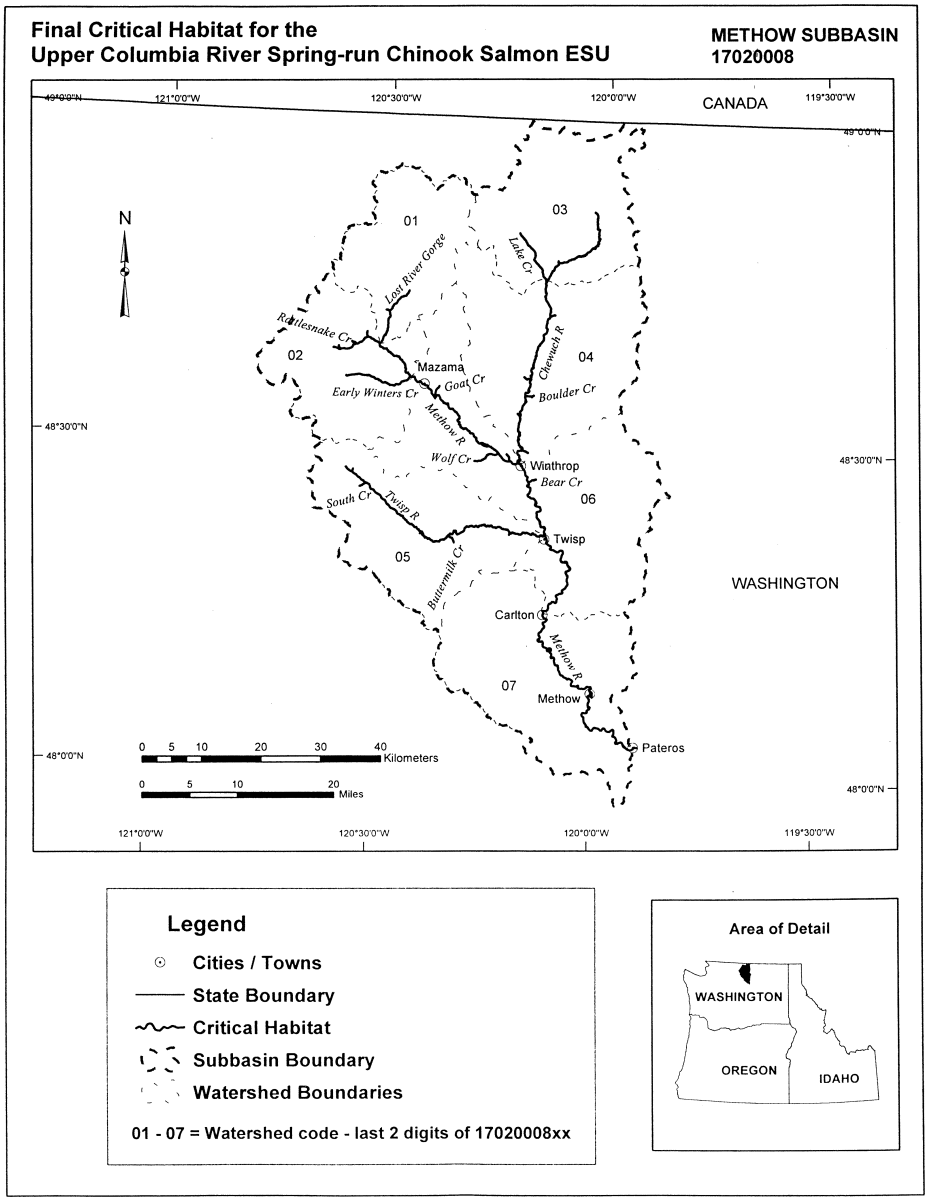
(v) *Lower Wenatchee River Watershed 1702001105*. Outlet(s) = Wenatchee River (Lat 47.4553, Long –120.3185) upstream to endpoint(s) in: Wenatchee River (47.5575, –120.5729).

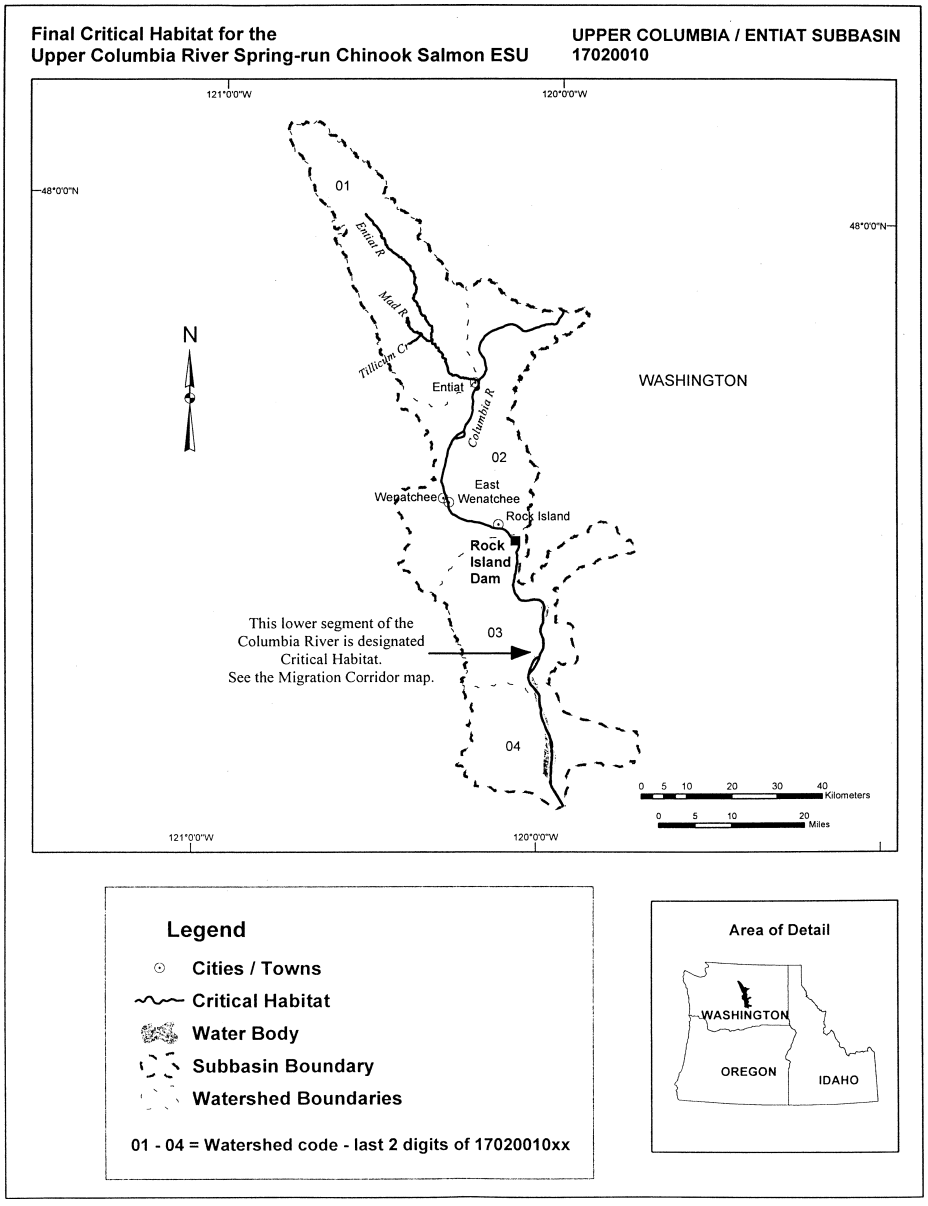
(5) Columbia River Corridor—*Columbia River Corridor* Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (47.3438, –120.0929).

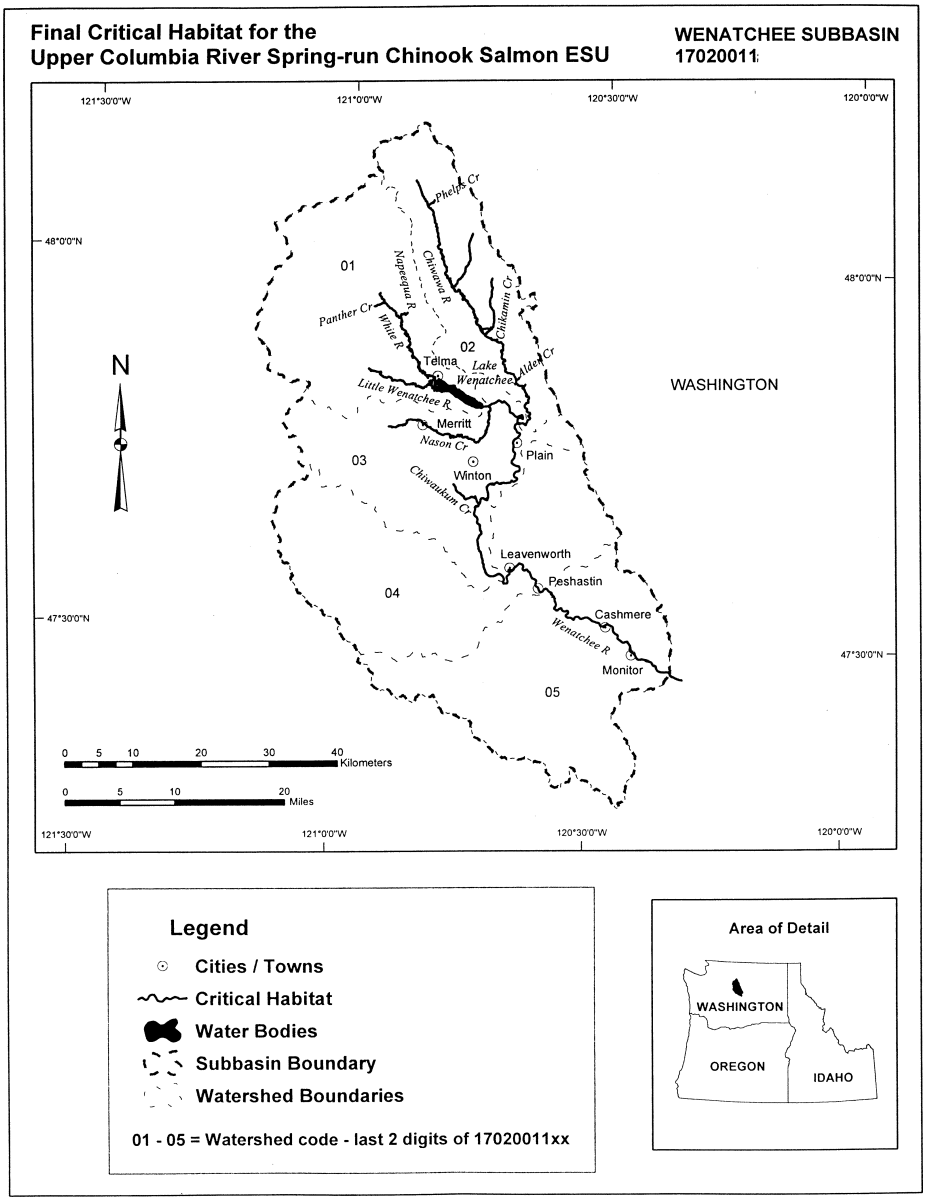
(6) Maps of critical habitat for the Upper Columbia River Spring-run chinook salmon ESU follow:


Map of the Upper Columbia River Spring-run Chinook Salmon ESU
121°0'0"W
120°0'0"W
119°0'0"W
CANADA
49°0'0"N
N
17020008
48°0'0"N
17020005
17020011
17020010
WASHINGTON
0 10 20 40 60 80 Kilometers
0 10 20 40 Miles
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
Area of Detail
WASHINGTON
OREGON
IDAHO

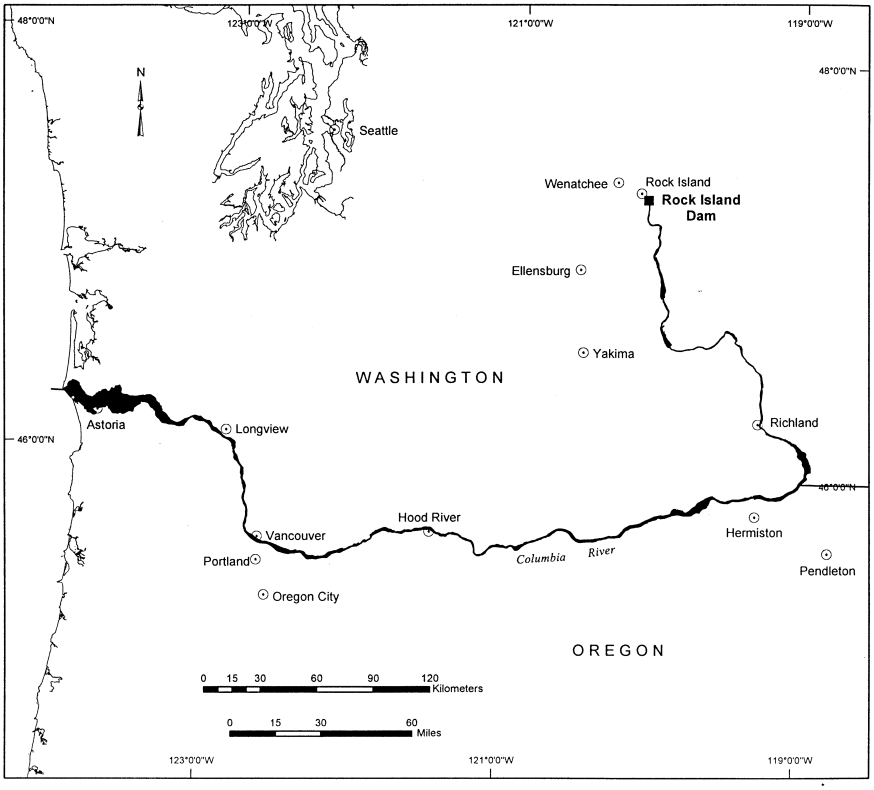

Final Critical Habitat for the
Upper Columbia River Spring-run Chinook Salmon ESU
CHIEF JOSEPH SUBBASIN
17020005
48°30'0"N
120°0'0"W
119°30'0"W
119°0'0"W
WASHINGTON
01
Nespelem
Brewster
04
02
Belvedere
Bridgeport
Koontzville
Elmer City
48°0'0"N
05
Azwell
Columbia R.
Coulee Dam
03
Mansfield
N
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17020005xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Columbia River Spring-run Chinook Salmon ESU
METHOW SUBBASIN
17020008
CANADA
WASHINGTON
N
01
02
03
04
05
06
07
Lost River Gorge
Rattlesnake Cr
Lake Cr
Chewuch R
Mazama
Goat Cr
Early Winters Cr
Boulder Cr
Methow R
Wolf Cr
Winthrop
Bear Cr
South Cr
Twisp R
Twisp
Buttermilk Cr
Carlton
Methow
Pateros
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
121°0'0"W
120°30'0"W
120°0'0"W
119°30'0"W
49°0'0"N
48°30'0"N
48°0'0"N
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17020008xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Columbia River Spring-run Chinook Salmon ESU
UPPER COLUMBIA / ENTIAT SUBBASIN
17020010
121°0'0"W
120°0'0"W
48°0'0"N
01
Entiat R
Mad R
Tillicum Cr
Entiat
Columbia R
WASHINGTON
N
02
East
Wenatchee
Wenatchee
Rock Island
Rock
Island
Dam
This lower segment of the
Columbia River is designated
Critical Habitat.
See the Migration Corridor map.
03
04
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Water Body
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17020010xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Columbia River Spring-run Chinook Salmon ESU
WENATCHEE SUBBASIN
17020011
121°30'0"W
121°0'0"W
120°30'0"W
120°0'0"W
48°0'0"N
47°30'0"N
N
01
02
03
04
05
Phelps Cr
Chiwawa R
Napeequa R
Panther Cr
White R
Chikamin Cr
Alder Cr
Lake Wenatchee
Little Wenatchee R
Telma
Merritt
Nason Cr
Plain
Winton
Chiwaukum Cr
Leavenworth
Peshastin
Cashmere
Wenatchee R
Monitor
WASHINGTON
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17020011xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Rearing / Migration Corridor for the Upper Columbia River Spring-run Chinook Salmon ESU



Legend

- Cities / Towns
- State Boundary
- Rearing / Migration Corridor

Upper Columbia River Spring Chinook ESU

Columbia River Corridor
The Columbia River Corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to Rock Island Dam.

(m) *Hood Canal Summer-run Chum Salmon (Oncorhynchus keta).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Skokomoish Subbasin 17110017—*Skokomish River 1711001701.* Outlet(s) = Skokomish River (Lat 47.3543, Long –123.1122), Unnamed (47.3420, –123.1092), Unnamed (47.3471, –123.1275), Unnamed (47.3509. –123.1101) upstream to endpoint(s) in: Mussel Sheel Creek (47.3039, –123.1590); Skokomish (47.3199, –123.2198); Unnamed (47.3209, –123.2211).

(2) Hood Canal Subbasin 17110018—(i) *Lower West Hood Canal Frontal Watershed 1711001802*. Outlet(s)= Eagle Creek (Lat 47.4849, Long –123.0766); Finch Creek (47.4067, –123.1377); Fulton Creek (47.6183, –122.9736); Jorsted Creek (47.5263, –123.0489); Lilliwaup Creek (47.4689, –123.1136); Unnamed (47.4576, –123.1117) upstream to endpoint(s) in: Eagle Creek (47.4905, –123.0830); Finch Creek (47.4076, –123.1586); Fulton Creek (47.6275, –122.9805); Jorsted Creek (47.5246, –123.0649); Lilliwaup Creek (47.4704, –123.1166); Unnamed (47.4585, –123.1186).

(ii) *Hamma Hamma River Watershed 1711001803*. Outlet(s) = Hamma Hamma River (Lat 47.5471, Long –123.0440) upstream to endpoint(s) in: Hamma Hamma River (47.5547, –123.0623); John Creek (47.5369, –123.0619).

(iii) *Duckabush River Watershed 1711001804*. Outlet(s) = Duckabush River (Lat 47.6502, Long –122.9348) upstream to endpoint(s) in: Duckabush River (47.6654, –122.9728).

(iv) *Dosewallips River Watershed 1711001805*. Outlet(s) = Dosewallips River (Lat 47.6880, Long –122.8949) upstream to endpoint(s) in: Dosewallips River (47.7157, –122.9396).

(v) *Big Quilcene River Watershed 1711001806*. Outlet(s) = Big Quilcene River (Lat 47.8188, Long –122.8605) upstream to endpoint(s) in: Big Quilcene River (47.8102, –122.9119).

(vi) *Upper West Hood Canal Frontal Watershed 1711001807*. Outlet(s) = Little Quilcene River (Lat 47.8266; Long –122.8608) upstream to endpoint(s) in: Little Quilcene River (47.8374, –122.8854).

(vii) *West Kitsap Watershed 1711001808*. Outlet(s) = Anderson Creek (Lat 47.5670, Long –122.9664); Big Beef Creek (47.6521, –122.7823); Dewatto River (47.4538, –123.0474); Little Anderson Creek (47.6653, –122.7554); Tahuya River (47.3767, –123.0355); Union River (47.4484, –122.8368); Unnamed (47.3767, –123.0372); Unnamed (47.4537, –123.0474) upstream to endpoint(s) in: Anderson Creek (47.5596, –122.9354); Bear Creek (47.4980, –122.8074); Big Beef Creek (47.6385, –122.7868); Dewatto River (47.4937, –122.9914); East Fork Union River (47.5056, –122.7897); Hazel Creek (47.5170, –122.7945); Little Anderson Creek (47.6606, –122.7543); North East Fork Union River (47.4954, –122.7819); Tahuya River (47.4510, –122.9597); Union River (47.5273, –122.7846); Unnamed (47.4492, –122.9229); Unnamed (47.4527, –122.8294); Unnamed (47.4553, –122.8301); Unnamed (47.4594, –122.8396); Unnamed (47.4700, –122.8300); Unnamed (47.4852, –122.8313); Unnamed (47.4966, –122.8393); Unnamed (47.4971, –122.8315); Unnamed (47.6600, –122.7559); Unnamed (47.6642, –122.7534).

(3) Puget Sound Subbasin 17110019—*Port Ludlow/Chimacum Creek Watershed 1711001908*. Outlet(s) = Chimacum Creek (Lat 48.0507, Long –122.7832) upstream to endpoint(s) in: Chimacum Creek (47.9743, –122.7764).

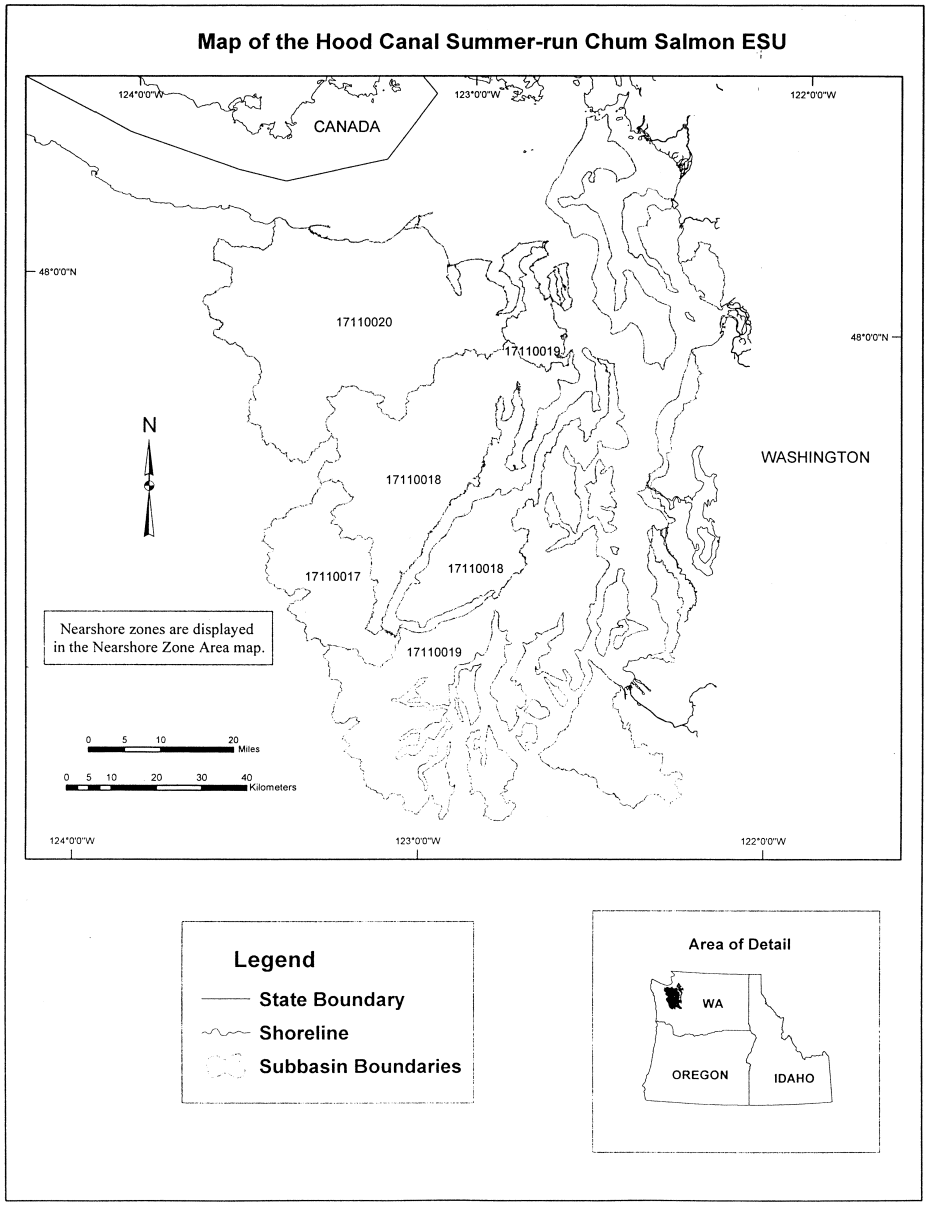
(4) Dungeness/Elwha Subbasin 17110020—(i) *Discovery Bay Watershed 1711002001*. Outlet(s) = Salmon Creek (Lat 47.9895, Long –122.8879); Snow Creek (47.9900, –122.8834) upstream to endpoint(s) in: Salmon Creek (47.9775, –122.9191); Snow Creek (47.9638, –122.8827).

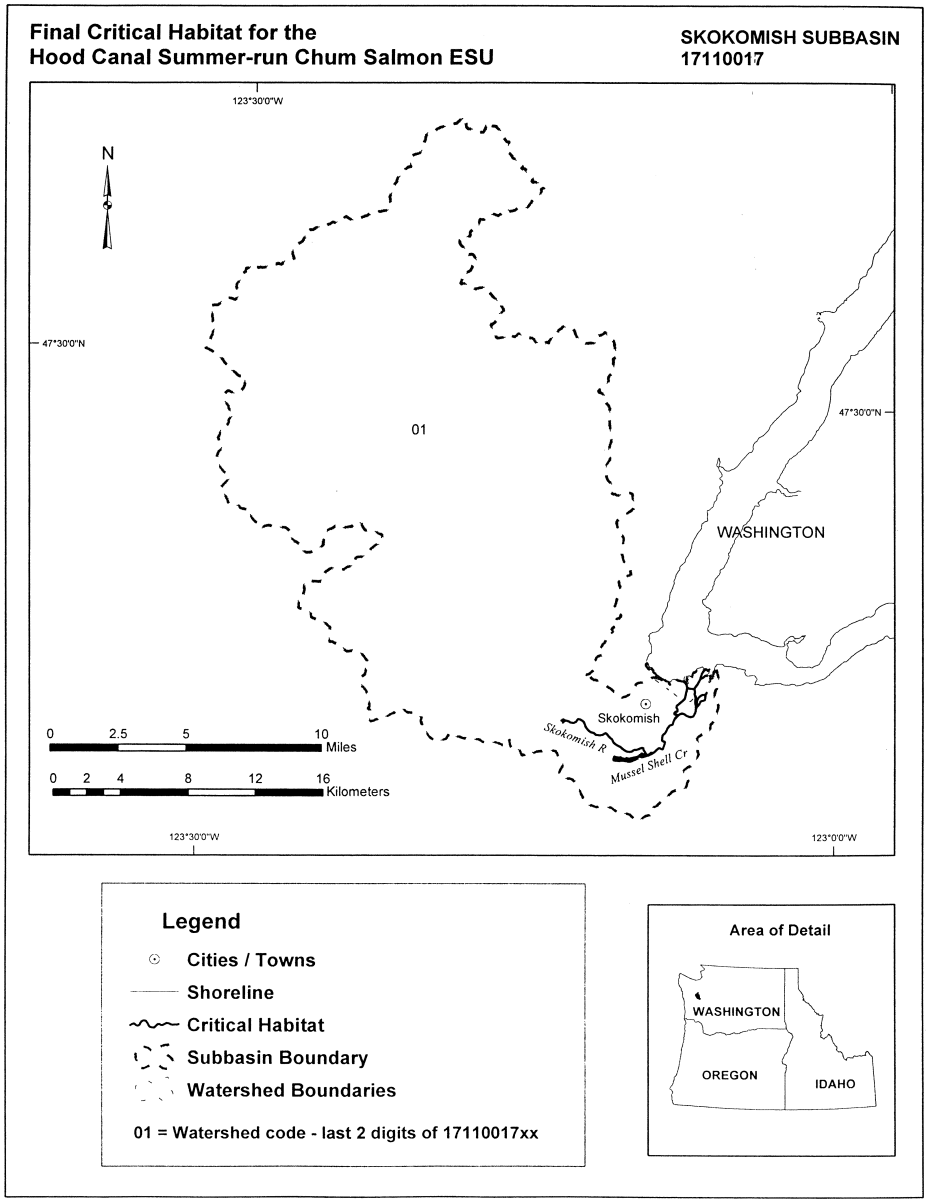
(ii) *Sequim Bay Watershed 1711002002*. Outlet(s) = Jimmycomelately Creek (Lat 48.0235, Long –123.0039) upstream to endpoint(s) in: Jimmycomelately Creek (48.0125, –123.0026).

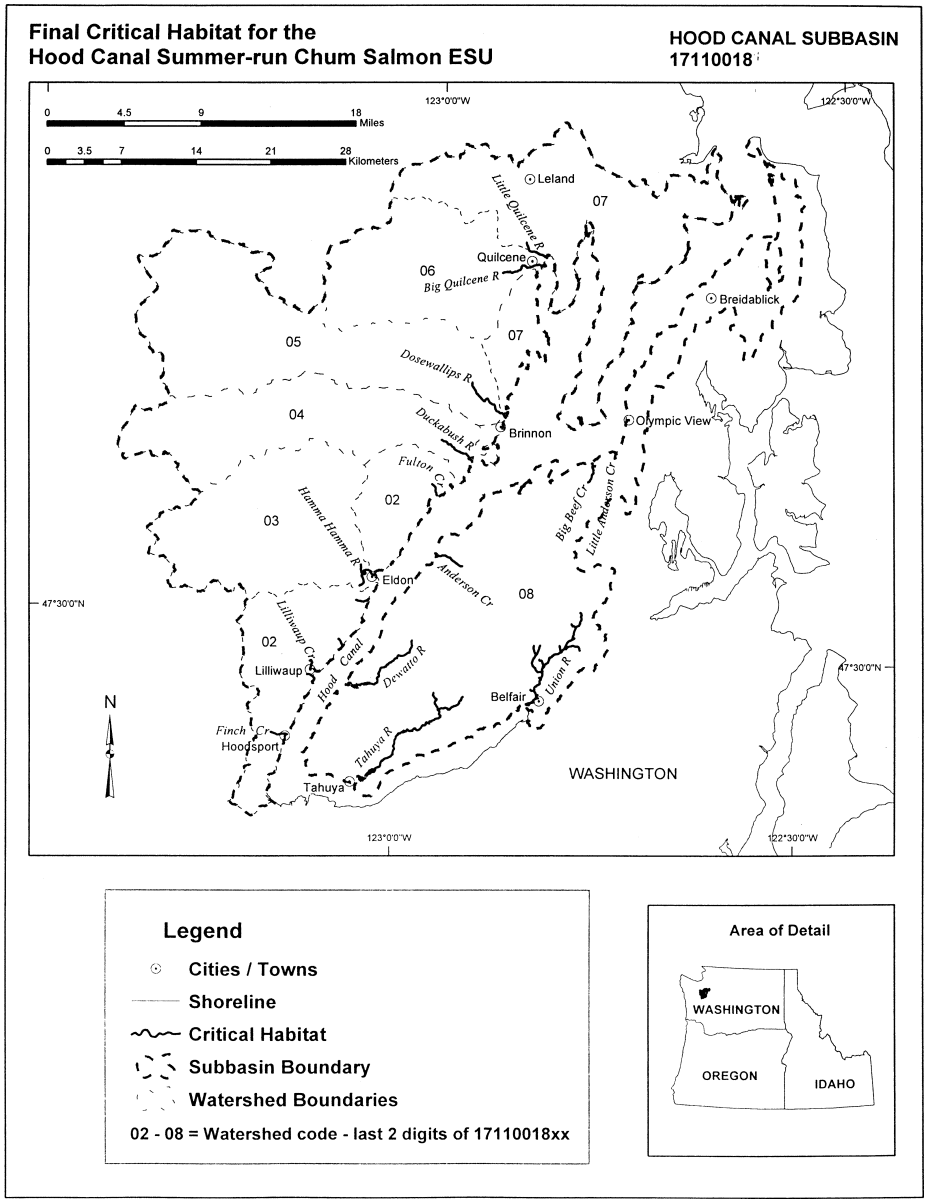
(iii) *Dungeness River Watershed 1711002003*. Outlet(s) = Dungeness River (Lat 48.1506, Long –123.1311); Unnamed (48.1537, –123.1267) upstream to endpoint(s) in: Dungeness River (48.0258, –123.1358); Matriotti Creek (48.1369, –123.1488); Unnamed (48.1167, –123.1403); Unnamed (48.1514, –123.1216).

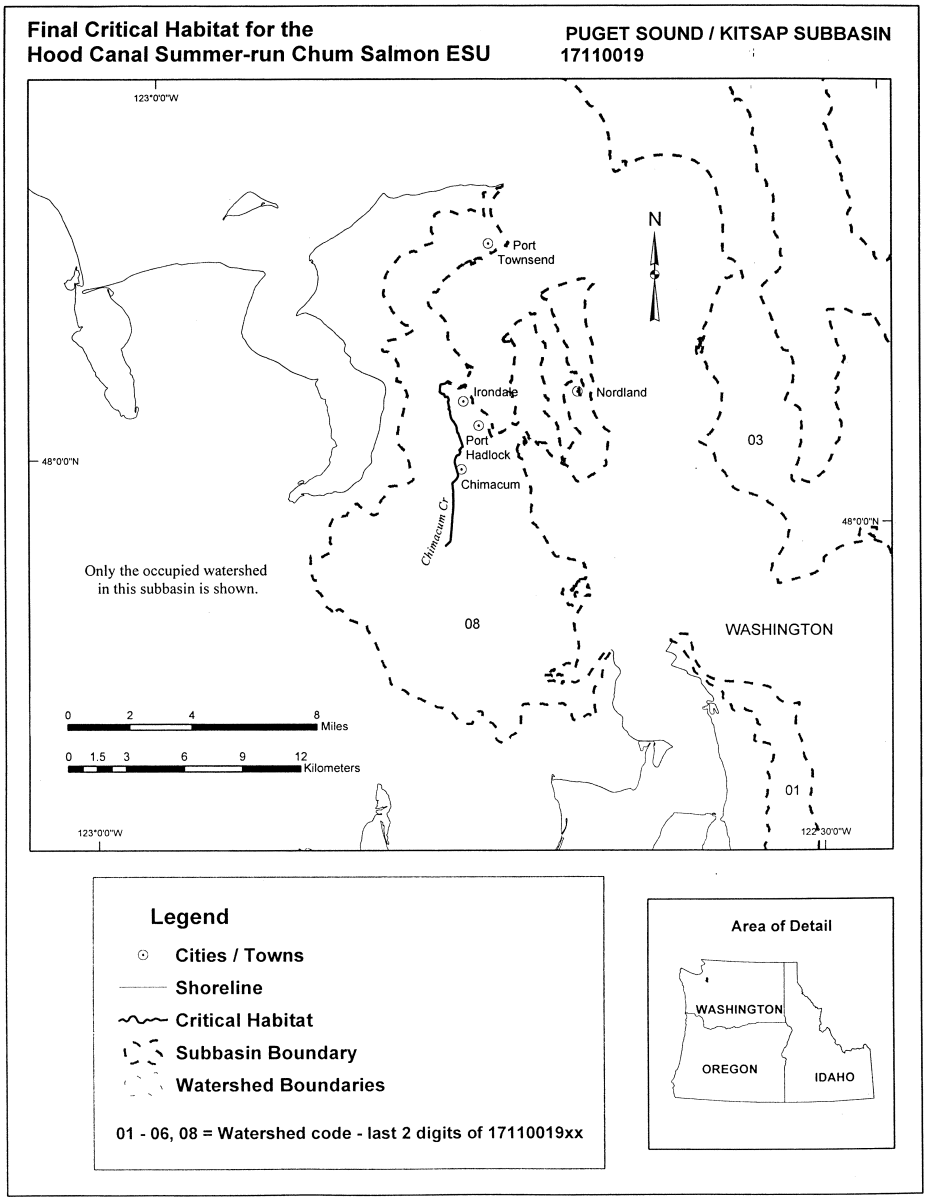
(5) Nearshore Marine Areas—Except as provided in paragraph (e) of this section, critical habitat includes all nearshore marine areas (including areas adjacent to islands) of Hood Canal and the Strait of Juan de Fuca (to Dungeness Bay) from the line of extreme high tide out to a depth of 30 meters.

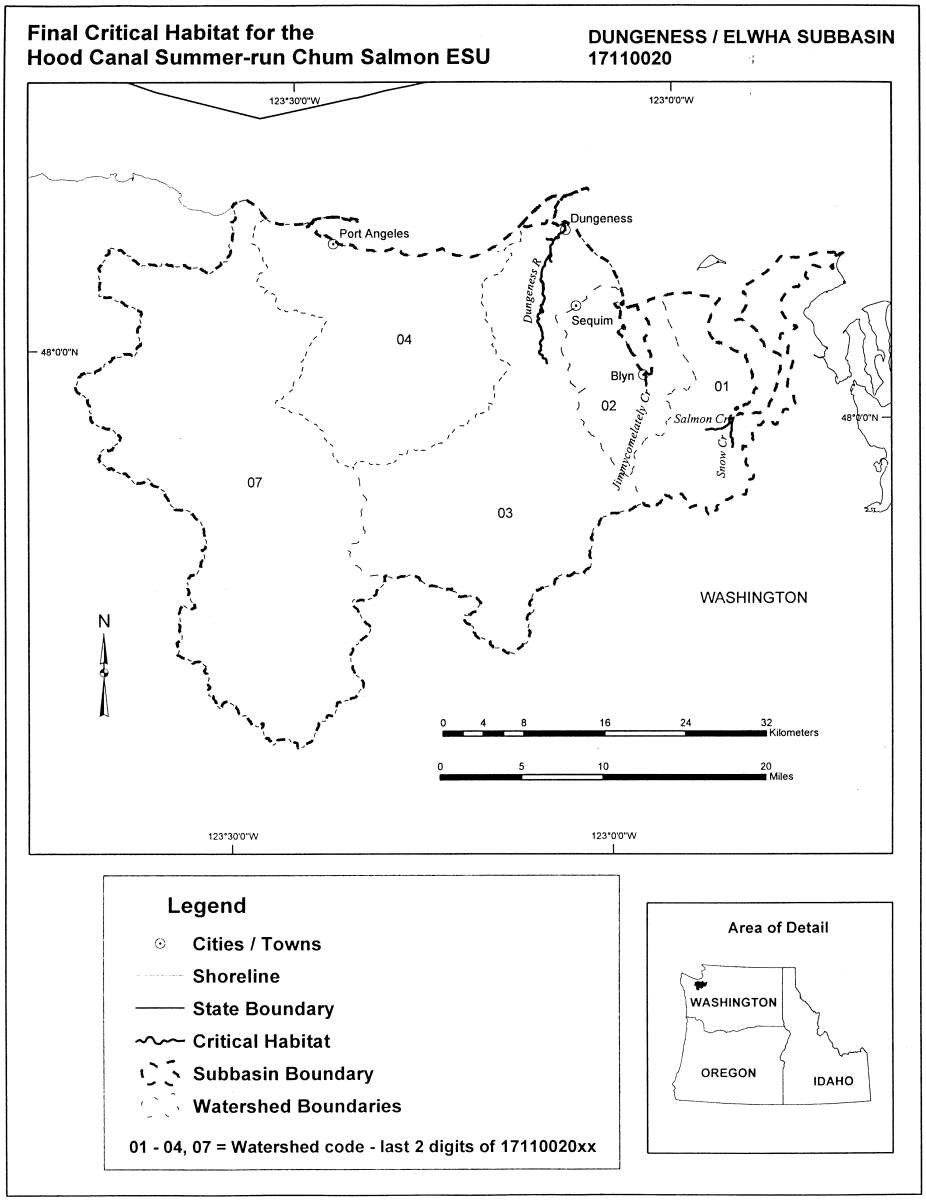
(6) Maps of critical habitat for the Hood Canal summer-run chum salmon ESU follow:

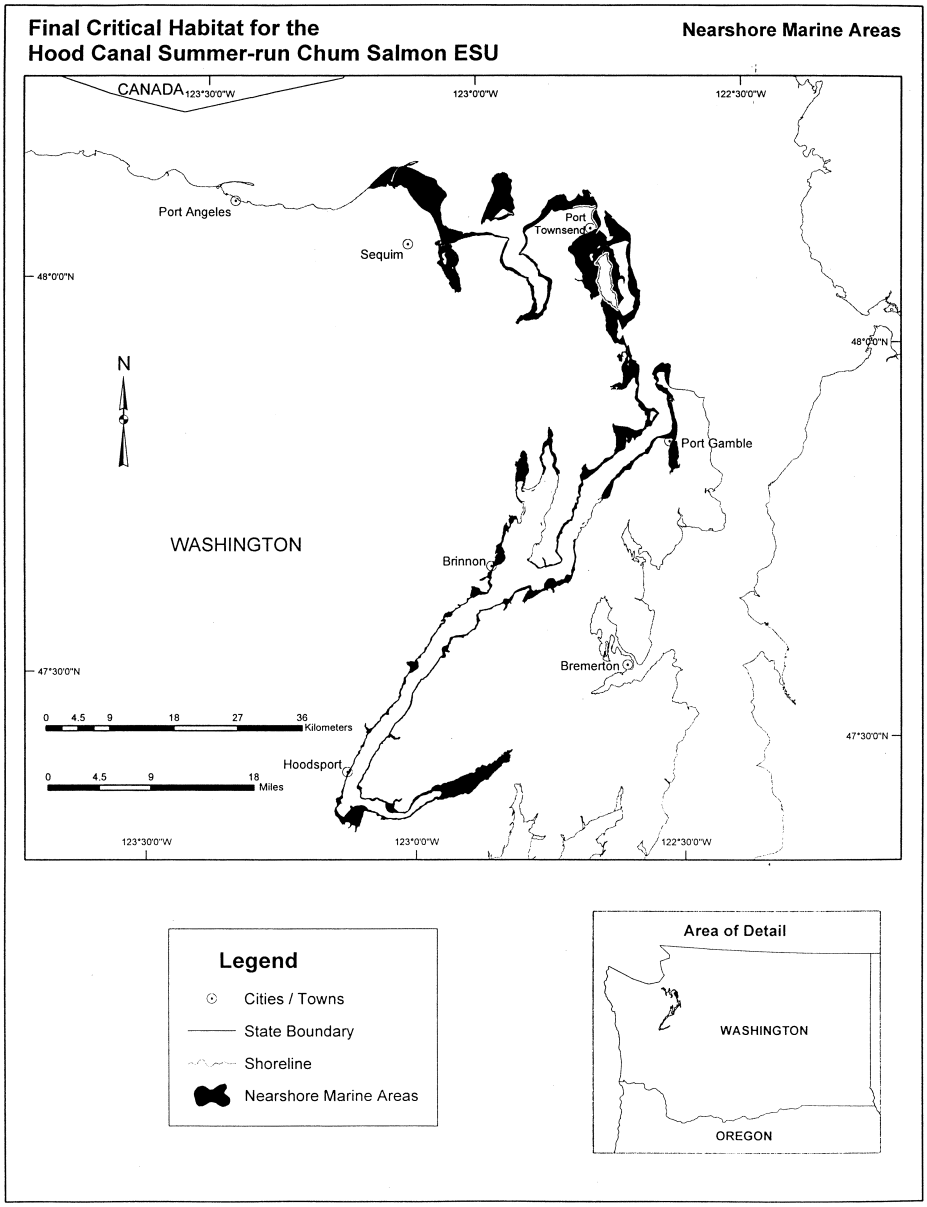

Map of the Hood Canal Summer-run Chum Salmon ESU
124°0'0"W
123°0'0"W
122°0'0"W
CANADA
48°0'0"N
17110020
17110019
WASHINGTON
N
17110018
17110017
17110018
17110019
Nearshore zones are displayed in the Nearshore Zone Area map.
0 5 10 20 Miles
0 5 10 20 30 40 Kilometers
Legend
State Boundary
Shoreline
Subbasin Boundaries
Area of Detail
WA
OREGON
IDAHO


Final Critical Habitat for the
Hood Canal Summer-run Chum Salmon ESU
SKOKOMISH SUBBASIN
17110017
123°30'0"W
N
47°30'0"N
01
WASHINGTON
Skokomish
Skokomish R
Mussel Shell Cr
0 2.5 5 10 Miles
0 2 4 8 12 16 Kilometers
123°30'0"W
123°0'0"W
Legend
Cities / Towns
Shoreline
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 = Watershed code - last 2 digits of 17110017xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Hood Canal Summer-run Chum Salmon ESU
HOOD CANAL SUBBASIN
17110018
0 4.5 9 18 Miles
0 3.5 7 14 21 28 Kilometers
123°0'0"W
122°30'0"W
47°30'0"N
Leland
Quilcene
Breidablick
Brinnon
Olympic View
Eldon
Lilliwaup
Belfair
Hoodsport
Tahuya
Little Quilcene R
Big Quilcene R
Dosewallips R
Duckabush R
Fulton Cr
Hamma Hamma R
Anderson Cr
Big Beef Cr
Little Anderson Cr
Lilliwaup Cr
Hood Canal
Dewatto R
Union R
Finch Cr
Tahuya R
05
06
07
04
03
02
08
N
WASHINGTON
Legend
Cities / Towns
Shoreline
Critical Habitat
Subbasin Boundary
Watershed Boundaries
02 - 08 = Watershed code - last 2 digits of 17110018xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Hood Canal Summer-run Chum Salmon ESU
PUGET SOUND / KITSAP SUBBASIN
17110019
123°0'0"W
48°0'0"N
Port Townsend
Irondale
Nordland
Port Hadlock
Chimacum
Chimacum Cr
N
03
08
01
WASHINGTON
Only the occupied watershed in this subbasin is shown.
0 2 4 8 Miles
0 1.5 3 6 9 12 Kilometers
122°30'0"W
Legend
Cities / Towns
Shoreline
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06, 08 = Watershed code - last 2 digits of 17110019xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Hood Canal Summer-run Chum Salmon ESU
DUNGENESS / ELWHA SUBBASIN
17110020
123°30'0"W
123°0'0"W
Port Angeles
Dungeness
Dungeness R.
Sequim
48°0'0"N
04
Blyn
01
02
Salmon Cr.
Jimmycomelately Cr.
Snow Cr.
07
03
WASHINGTON
N
0 4 8 16 24 32 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Shoreline
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04, 07 = Watershed code - last 2 digits of 17110020xx
Area of Detail
WASHINGTON
OREGON
IDAHO



(n) *Columbia River Chum Salmon (Oncorhynchus keta)*. Critical habitat is designated to include the areas defined in the following subbasins:

(1) Middle Columbia/Hood Subbasin 17070105—(i) *White Salmon River Watershed 1707010509*. Outlet(s) = White Salmon River (Lat 45.7267, Long –121.5209) upstream to endpoint(s) in: White Salmon River (45.7677, –121.5374).

(ii) *Middle Columbia/Grays Creek Watershed 1707010512*. Outlet(s) = Columbia

River (Lat 45.7074, Long –121.7965) upstream to endpoint(s) in: Columbia River (45.7267, –121.5209).

(iii) *Middle Columbia/Eagle Creek 1707010513*. Outlet(s) = Columbia River (Lat 45.6453, Long –121.9395) upstream to endpoint(s) in: Columbia River (45.7074, –121.7965).

(2) Lower Columbia/Sandy Subbasin 17080001—(i) *Washougal River Watershed 1708000106*. Outlet(s) = Unnamed (Lat 45.5812, Long –122.4077); Washougal River (45.5795, –122.4023) upstream to endpoint(s) in: Lacamas Creek (45.5972, –122.3933); Little Washougal River (45.6210, –122.3750); Unnamed (45.5861, –122.4083); Washougal River (45.6232, –122.2738).

(ii) *Columbia Gorge Tributaries Watershed 1708000107*. Outlet(s) = Columbia River (Lat 45.5709, Long –122.4020) upstream to endpoint(s) in: Columbia River (45.6453, –121.9395); Duncan Creek (45.6136, –122.0539); Gibbons Creek (45.5710, –122.3147); Greenleaf Creek (45.6548, –121.9569); Hamilton Creek (45.6535, –121.9879); Hardy Creek (45.6354, –121.9987); Indian Mary Creek (45.6066, –122.0716); Lawton Creek (45.5746, –122.2501); Unnamed (45.5673, –122.3033); Unnamed (45.6017, –122.1106); Unnamed (45.6017, –122.1087); Unnamed (45.6483, –121.9725); Unnamed (45.6509, –121.9502); Walton Creek (45.5757, –122.2618).

(iii) *Salmon Creek Watershed 1708000109*. Outlet(s) = Lake River (Lat 45.8437, Long –122.7800); Love Creek (45.5976, –122.5443); Unnamed (45.5867, –122.5015); Unnamed (45.5919, –122.5241); Unnamed (45.5952, –122.5366) upstream to endpoint(s) in: Love Creek (45.5981, –122.5444); Salmon Creek (45.7089, –122.6480); Unnamed (45.5873, –122.5015); Unnamed (45.5924, –122.5242); Unnamed (45.5955, –122.5360).

(3) Lewis Subbasin 17080002—(i) *East Fork Lewis River Watershed 1708000205*. Outlet(s) = East Fork Lewis River (Lat 45.8664, Long –122.7189); Gee Creek (45.8462, –122.7803) upstream to endpoint(s) in: Brezee Creek (45.8622, –122.6667); East Fork Lewis River (45.8395, –122.4463); Gee Creek (45.8264, –122.7458); Lockwood Creek (45.8578, –122.6259); Mason Creek (45.8410, –122.5919); McCormick Creek (45.8521, –122.6907); Riley Creek (45.8663, –122.6349); Unnamed (45.8076, –122.5878); Unnamed (45.8076, –122.6286); Unnamed (45.8090, –122.6089); Unnamed (45.8111, –122.5860); Unnamed (45.8149, –122.5654); Unnamed (45.8201, –122.5991); Unnamed (45.8241, –122.6380); Unnamed (45.8280, –122.6431); Unnamed (45.8292, –122.6040); Unnamed (45.8389, –122.6456); Unnamed (45.8439, –122.6478); Unnamed (45.8439, –122.6605).

(ii) *Lower Lewis River Watershed 1708000206*. Outlet(s) = Lewis River (Lat 45.8519, Long –122.7806) upstream to endpoint(s) in: Cedar Creek (45.9383, –122.5818); Colvin Creek (45.9400, –122.6081); Houghton Creek (45.9395, –122.6478); Johnson Creek (45.9385, –122.6261); Lewis River (45.9570, –122.5550); Ross Creek (45.9340, –122.7076).

(4) Lower Columbia/Clatskanie Subbasin 17080003—(i) *Kalama River Watershed 1708000301*. Outlet(s) = Kalama River (Lat 46.0340, Long –122.8696) upstream to endpoint(s) in: Kalama River (46.0449, –122.8034).

(ii) *Germany/Abernathy Watershed 1708000304*. Outlet(s) = Abernethy Creek (Lat 46.1908, Long –123.1661); Germany Creek (46.1895, –123.1244); Mill Creek (46.1888, –123.1745) upstream to endpoint(s) in: Abernethy Creek (46.2263, –123.1467); Germany Creek (46.2221, –123.1353); Mill Creek (46.1932, –123.1834).

(iii) *Skamokawa/Elochoman Watershed 1708000305*. Outlet(s) = Elochoman River (Lat 46.2269, Long –123.4039); Jim Crow Creek (46.2662, –123.5511); Skamokawa Creek (46.2677, –123.4562); Unnamed (46.2243, –123.3975) upstream to endpoint(s) in: Beaver Creek (46.2262, –123.3239); Brooks Slough (46.2502, –123.4094); Clear Creek (46.2611, –123.2996); Duck Creek (46.2517, –123.3159); Eggman Creek (46.3248, –123.4951); Elochoman River (46.2615, –123.2965); Indian Jack Slough (46.2371, –123.3955); Jim Crow Creek (46.2891, –123.5553); Kelly Creek (46.3109, –123.4797); Left Fork Skamokawa Creek (46.3331, –123.4610); Quarry Creek (46.3292, –123.4241); Skamokawa Creek (46.3277, –123.4236); Unnamed (46.2338, –123.3282); Unnamed (46.3293, –123.4534); West Fork Skamokawa Creek (46.3119, –123.4889); West Valley Creek (46.2981, –123.4698); Wilson Creek (46.3006, –123.3787).

(5) Lower Cowlitz Subbasin 17080005—(i) *Jackson Prairie Watershed 1708000503*. Outlet(s) = Cowlitz River (Lat 46.3678,

Long –122.9337) upstream to endpoint(s) in: Bear Creek (46.4544, –122.9187); Blue Creek (46.4885, –122.7253); Coon Creek (46.4272, –122.9109); Cowlitz River (46.5033, –122.5871); Lacamas Creek (46.5564, –122.6878); Mill Creek (46.5025, –122.8017); Salmon Creek (46.4130, –122.8165); Skook Creek (46.4708, –122.7594); Unnamed (46.4191, –122.8205); Unnamed (46.4205, –122.8662); Unnamed (46.4280, –122.8380); Unnamed (46.4707, –122.7713); Unnamed (46.4885, –122.8068); Unnamed (46.5076, –122.6675); Unnamed (46.5311, –122.8194); Unnamed (46.5432, –122.7466).

(ii) *South Fork Toutle River Watershed 1708000506*. Outlet(s) = South Fork Toutle River (Lat 46.3282, Long –122.7215) upstream to endpoint(s) in: Johnson Creek (46.3102, –122.6444); South Fork Toutle River (46.2817, –122.6420).

(iii) *East Willapa Watershed 1708000507*. Outlet(s) = Cowlitz River (Lat 46.2660, Long –122.9154) upstream to endpoint(s) in: Arkansas Creek (46.3032, –122.9801); Cowlitz River (46.3678, –122.9337); Delameter Creek (46.2598, –122.9679); Hill Creek (46.3704, –122.9267); McMurphy Creek (46.4082, –122.9520); Monahan Creek (46.2636, –122.9727); North Fork Toutle River (46.3669, –122.5859); Olequa Creek (46.4324, –122.9688); Unnamed (46.2606, –122.9551); Unnamed (46.2642, –122.9291); Unnamed (46.2689, –122.9589); Unnamed (46.2880, –122.9051); Unnamed (46.2892, –122.9626); Unnamed (46.3294, –122.9085); Unnamed (46.3371, –122.8922); Unnamed (46.3491, –122.7052); Unnamed (46.3571, –122.7684); Unnamed (46.3587, –122.7478); Unnamed (46.3683, –122.7503); Unnamed (46.3814, –122.6091); Wyant Creek (46.3314, –122.6768).

(iv) *Coweeman Watershed 1708000508*. Outlet(s) = Cowlitz River (Lat 46.0977, Long –122.9141); Owl Creek (46.0768, –122.8679) upstream to endpoint(s) in: Baird Creek (46.1789, –122.5822); Butler Creek (46.1491, –122.5170); Cowlitz River (46.2660, –122.9154); Goble Creek (46.1074, –122.7068);Leckler Creek (46.2164, –122.9325); Mulholland Creek (46.2004, –122.6484); Nineteen Creek (46.1593, –122.6095); North Fork Goble Creek (46.1208, –122.7691); Owl Creek (46.0914, –122.8692); Salmon Creek (46.2547, –122.8839); Sandy Bend Creek (46.2318, –122.9143); Skipper Creek (46.1625, –122.5915); Turner Creek (46.1167, –122.8150); Unnamed (46.0719, –122.8607); Unnamed (46.0767, –122.8604); Unnamed (46.0897, –122.7355); Unnamed (46.1295, –122.8993); Unnamed (46.1369, –122.8034); Unnamed (46.1441, –122.5816); Unnamed (46.1478, –122.8649); Unnamed (46.1516, –122.8749); Unnamed (46.1558, –122.7803); Unnamed (46.1727, –122.7716); Unnamed (46.1753, –122.7657); Unnamed (46.1940, –122.7068); Unnamed (46.2021, –122.6941); Unnamed (46.2416, –122.8869).

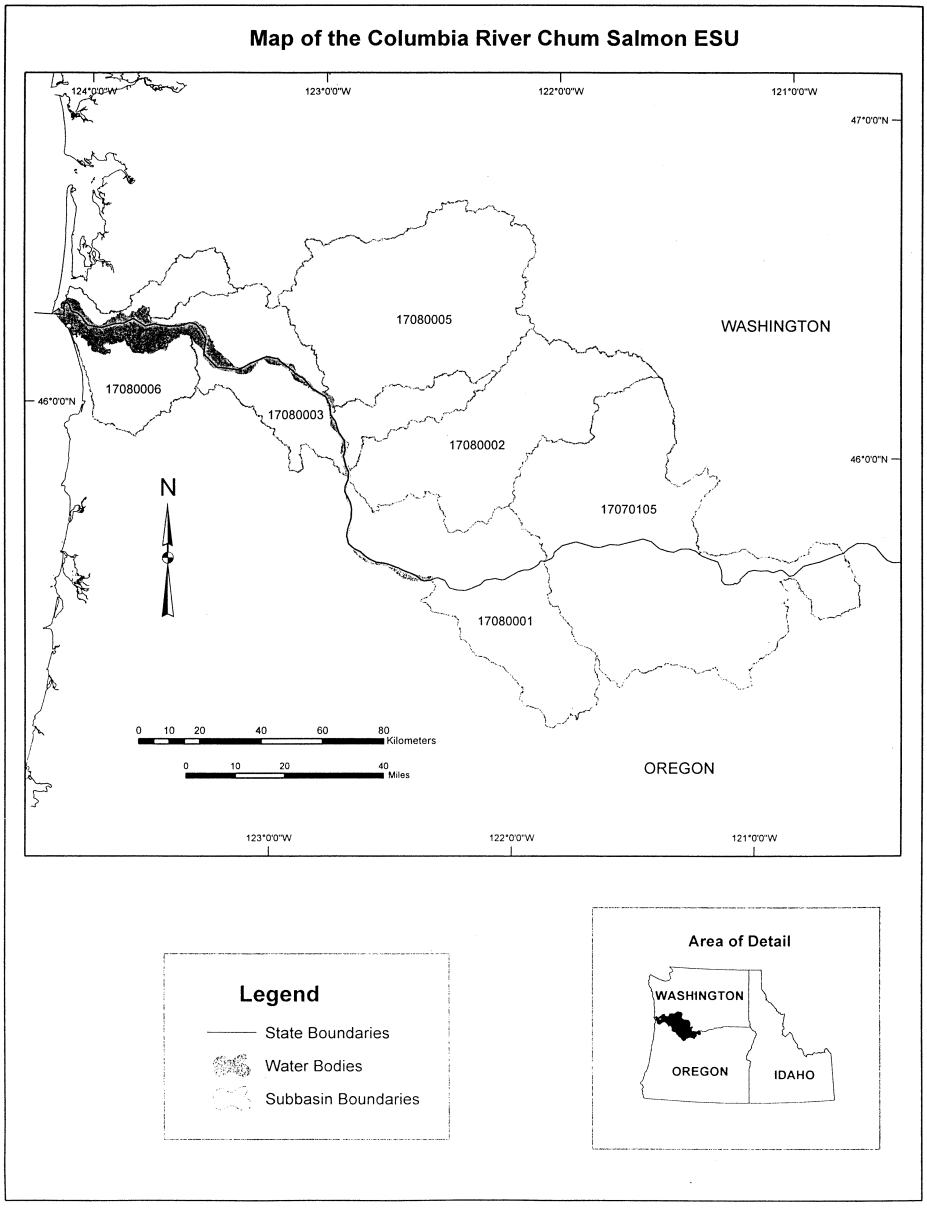
(6) Lower Columbia Subbasin 17080006—(i) *Big Creek Watershed 1708000602*. Outlet(s) = Big Creek (Lat 46.1848, Long –123.5943) upstream to endpoint(s) in: Big Creek (46.1476, –123.5820); Little Creek (46.1510, –123.6007).

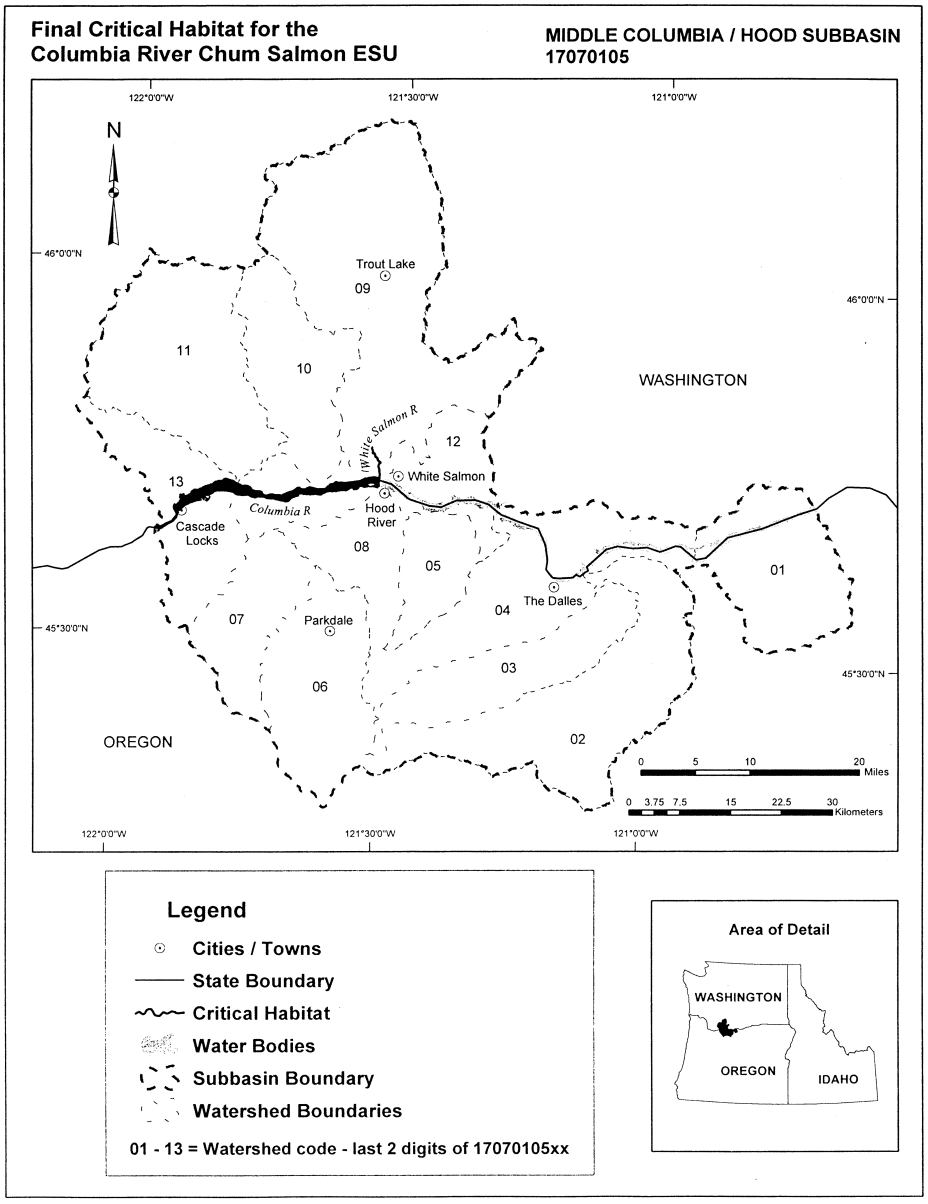
(ii) *Grays Bay Watershed 1708000603*. Outlet(s) = Deep River (Lat 46.3035, Long –123.7092); Grays River (46.3035, –123.6867); Unnamed (46.2419, –123.8842); Unnamed (46.3026, –123.9702) upstream to endpoint(s) in: Alder Creek (46.4279, –123.4621); Blaney Creek (46.3957, –123.4607); Campbell Creek (46.3435, –123.7087); Chinook River (46.2685, –123.9233); Deep River (46.3480, –123.6865); East Fork Grays River (46.4424, –123.4120); Fossil Creek (46.3612, –123.5217); Grays River (46.4628, –123.4602); Johnson Creek (46.4544, –123.4732); Kessel Creek (46.3336, –123.5850); King Creek (46.3444, –123.5774); Lassila Creek (46.3343, –123.7108); Mitchell Creek (46.4512, –123.4269); South Fork Grays River (46.3836, –123.4592); Thadbar Creek (46.3331, –123.6092); Unnamed (46.2502, –123.8833); Unnamed (46.2847, –123.9402); Unnamed (46.2901, –123.9368); Unnamed (46.3605, –123.5228); Unnamed (46.3838, –123.5454); Unnamed (46.4328, –123.4444); West Fork Grays River (46.3942, –123.5611).

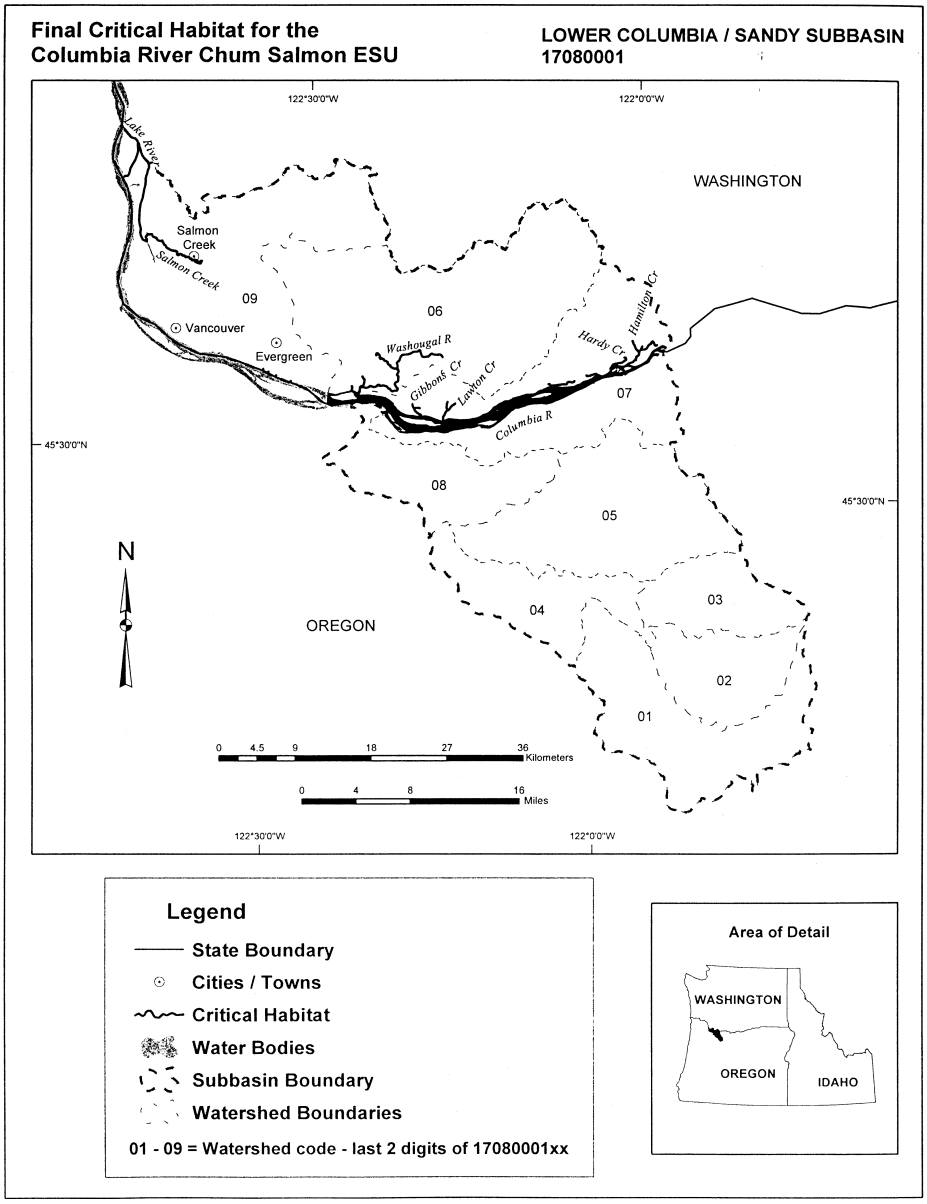
(7) Lower Columbia River Corridor—*Lower Columbia River Corridor*

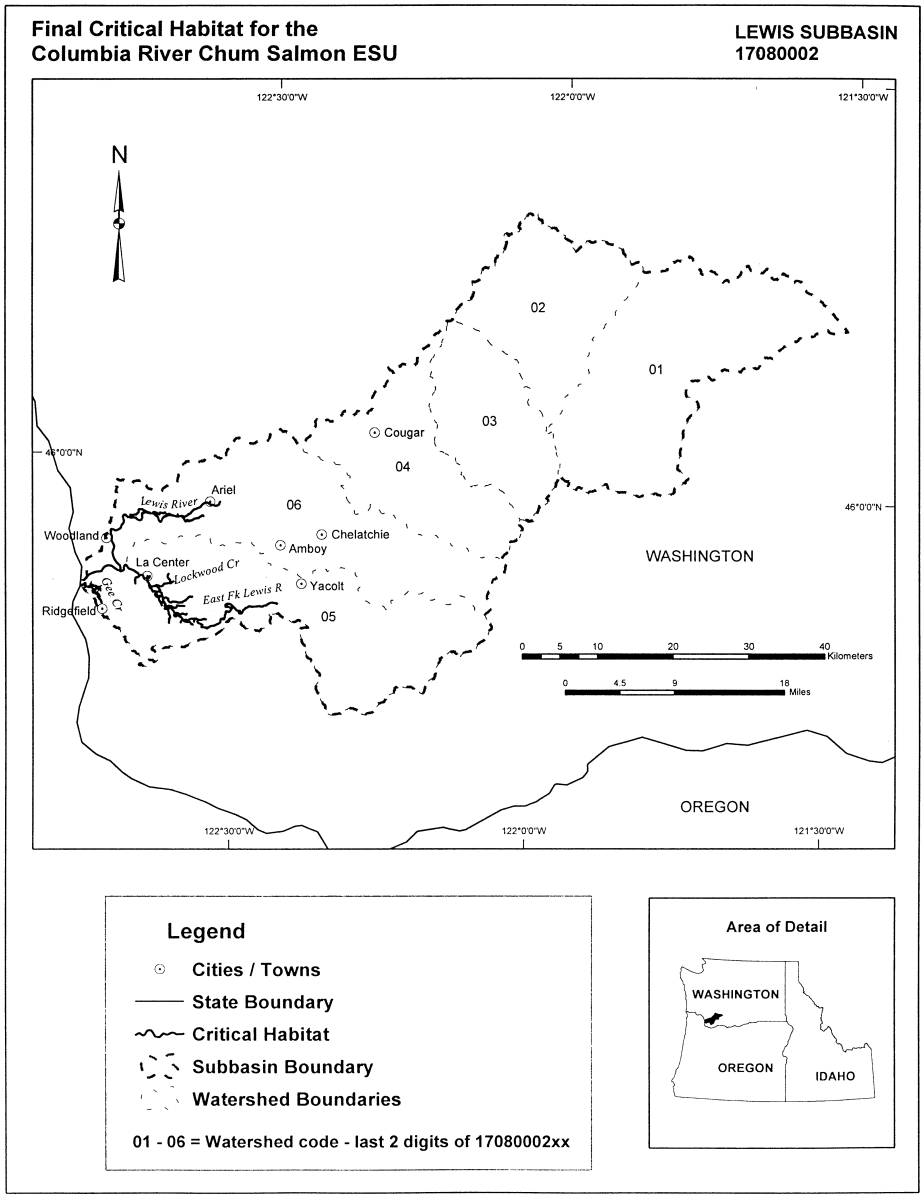
Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (45.5709, –122.4020).

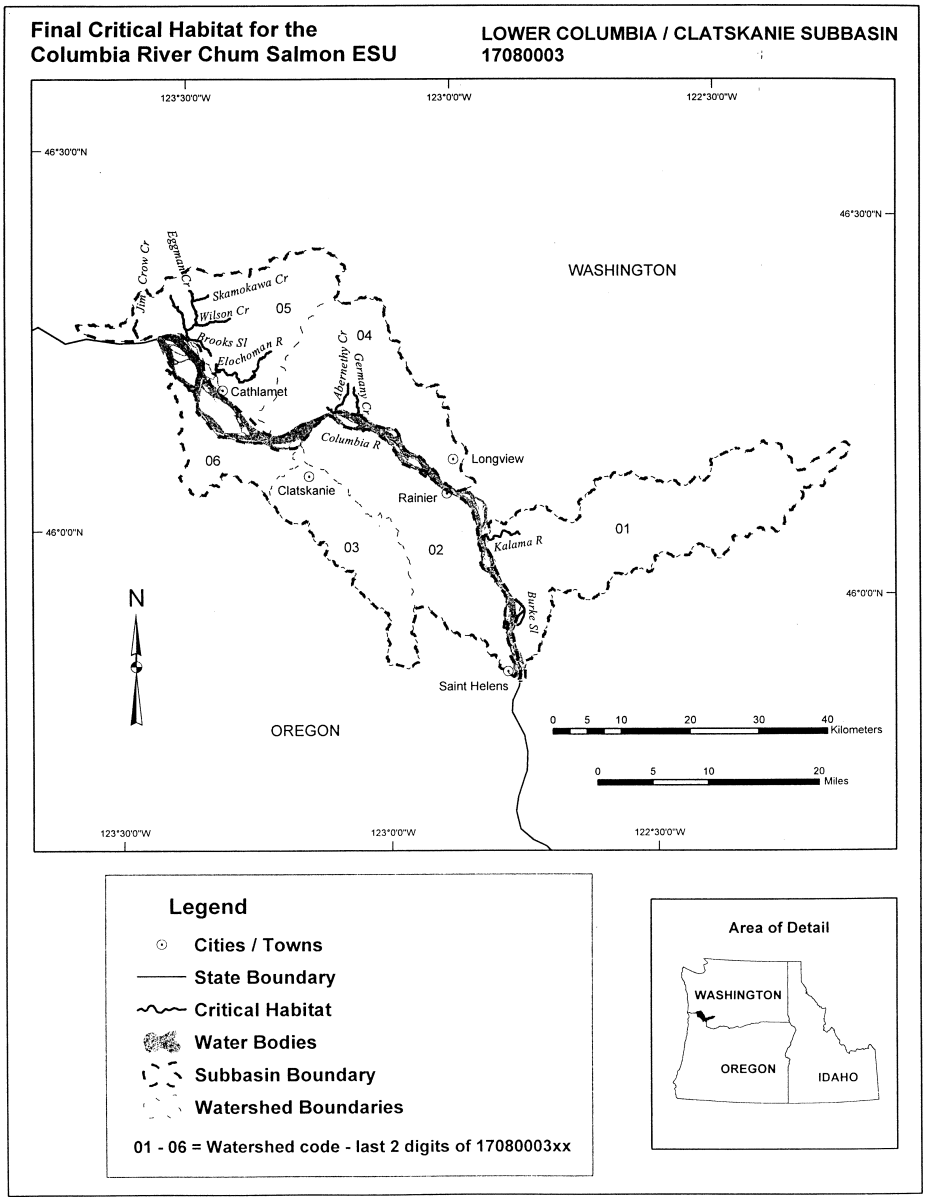
(8) Maps of critical habitat for the Columbia River chum salmon ESU follow:

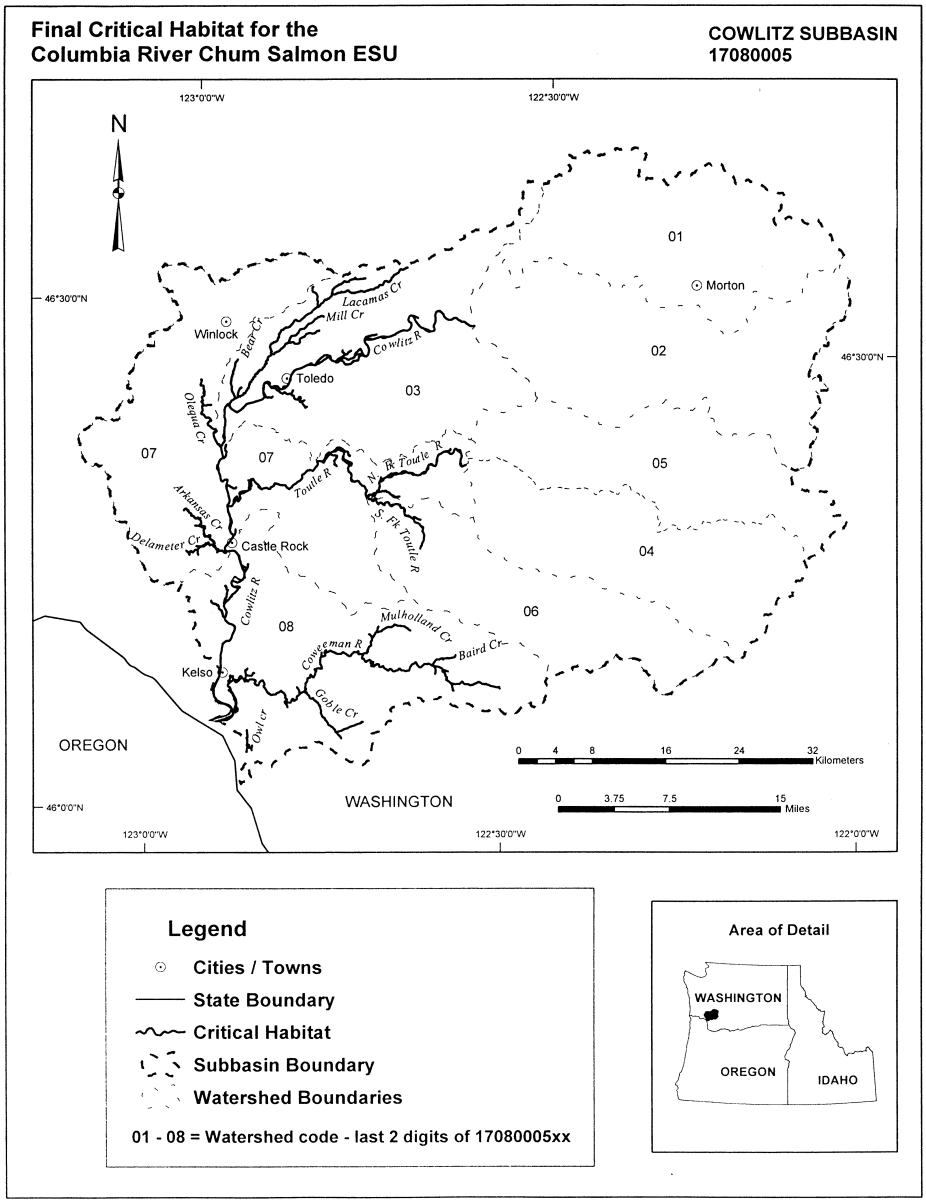

Map of the Columbia River Chum Salmon ESU
124°0'0"W
123°0'0"W
122°0'0"W
121°0'0"W
47°0'0"N
46°0'0"N
17080005
WASHINGTON
17080006
17080003
17080002
17070105
17080001
N
0 10 20 40 60 80
Kilometers
0 10 20 40
Miles
OREGON
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
Area of Detail
WASHINGTON
OREGON
IDAHO

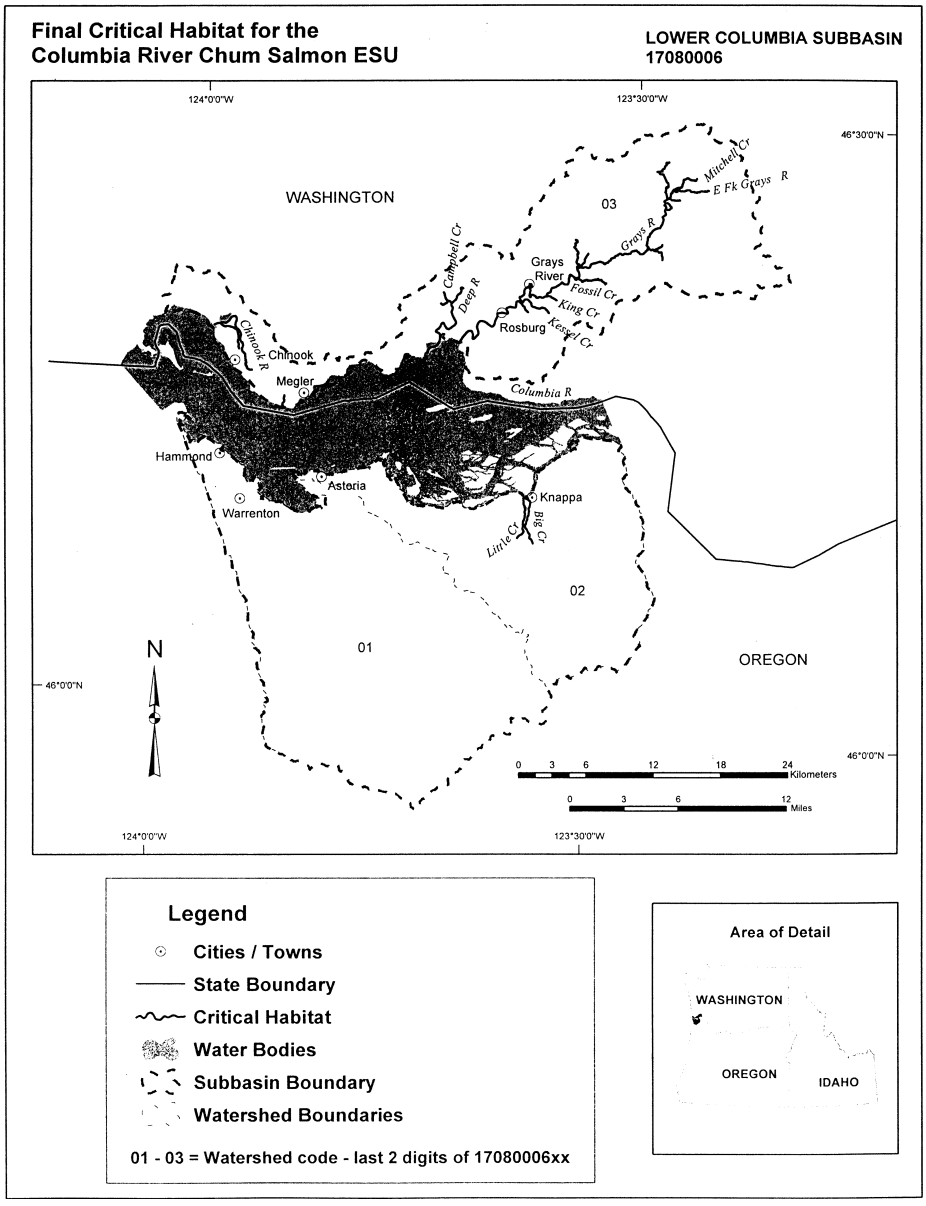

Final Critical Habitat for the
Columbia River Chum Salmon ESU
MIDDLE COLUMBIA / HOOD SUBBASIN
17070105
122°0'0"W
121°30'0"W
121°0'0"W
N
46°0'0"N
45°30'0"N
Trout Lake
09
11
10
WASHINGTON
White Salmon R
12
White Salmon
13
Columbia R
Cascade Locks
Hood River
08
05
01
The Dalles
04
07
Parkdale
03
06
OREGON
02
0 5 10 20 Miles
0 3.75 7.5 15 22.5 30 Kilometers
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 13 = Watershed code - last 2 digits of 17070105xx
Area of Detail
WASHINGTON
OREGON
IDAHO

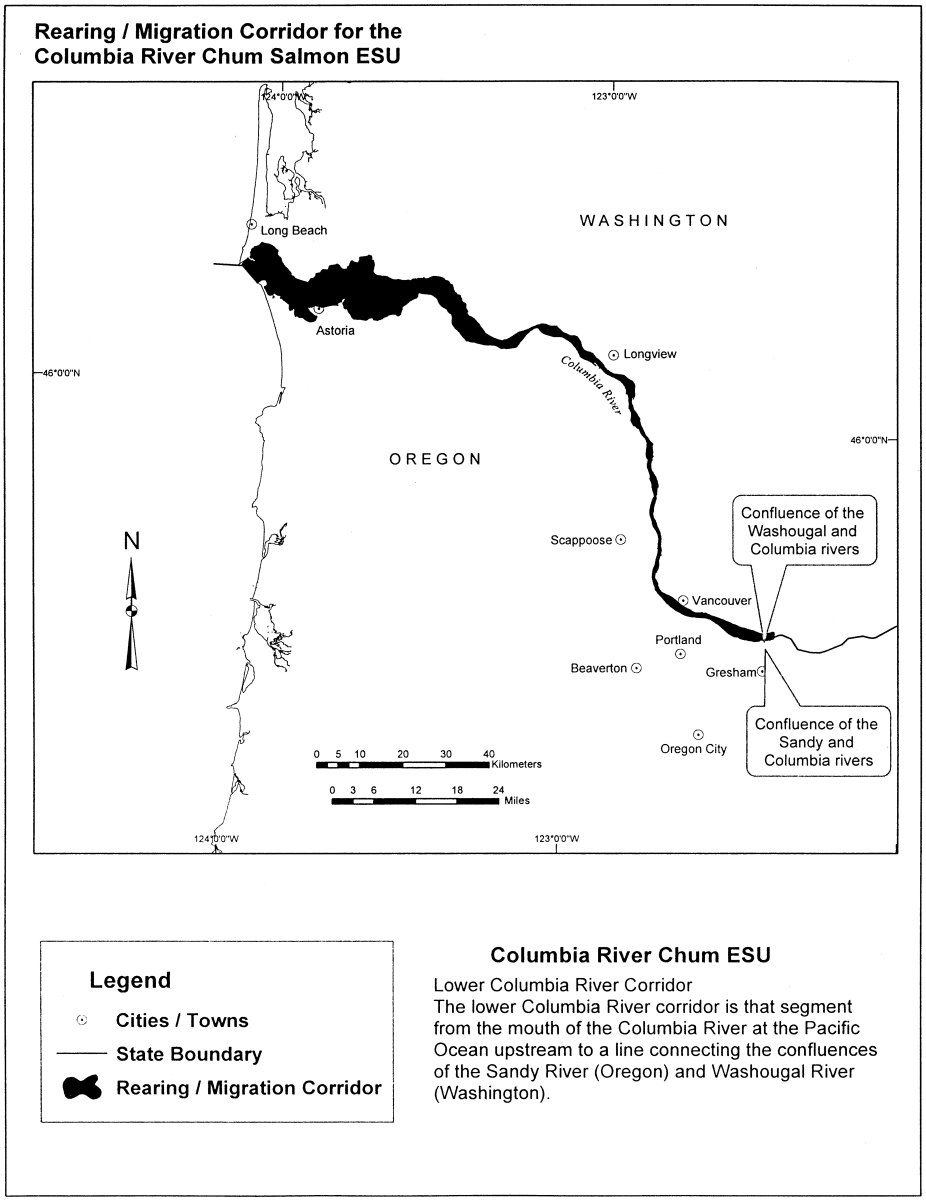

Final Critical Habitat for the
Columbia River Chum Salmon ESU
LOWER COLUMBIA / SANDY SUBBASIN
17080001
122°30'0"W
122°0'0"W
WASHINGTON
Lake River
Salmon Creek
Salmon Creek
09
06
Vancouver
Evergreen
Washougal R
Gibbons Cr
Lawton Cr
Hardy Cr
Hamilton Cr
07
Columbia R
45°30'0"N
08
05
N
OREGON
04
03
02
01
0 4.5 9 18 27 36 Kilometers
0 4 8 16 Miles
Legend
State Boundary
Cities / Towns
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 09 = Watershed code - last 2 digits of 17080001xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Columbia River Chum Salmon ESU
LEWIS SUBBASIN
17080002
122°30'0"W
122°0'0"W
121°30'0"W
N
02
01
03
Cougar
04
46°0'0"N
Ariel
Lewis River
06
Chelatchie
Amboy
Woodland
La Center
Lockwood Cr
Yacolt
East Fk Lewis R
Gee Cr
Ridgefield
05
WASHINGTON
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
OREGON
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17080002xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Columbia River Chum Salmon ESU
LOWER COLUMBIA / CLATSKANIE SUBBASIN
17080003
123°30'0"W
123°0'0"W
122°30'0"W
46°30'0"N
46°0'0"N
WASHINGTON
OREGON
Jim Crow Cr
Skamokawa Cr
Wilson Cr
Brooks Sl
Elochoman R
Germany Cr
Abernethy Cr
Columbia R
Cathlamet
Clatskanie
Longview
Rainier
Kalama R
Burke Sl
Saint Helens
01
02
03
04
05
06
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17080003xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Columbia River Chum Salmon ESU
COWLITZ SUBBASIN
17080005
123°0'0"W
122°30'0"W
N
46°30'0"N
46°0'0"N
01
02
03
04
05
06
07
08
Morton
Winlock
Toledo
Castle Rock
Kelso
Lacamas Cr
Mill Cr
Beaver Cr
Cowlitz R
Olequa Cr
Toutle R
N. Fk Toutle R
S. Fk Toutle R
Arkansas Cr
Delameter Cr
Mulholland Cr
Baird Cr
Coweeman R
Goble Cr
Owl Cr
OREGON
WASHINGTON
0 4 8 16 24 32 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17080005xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Columbia River Chum Salmon ESU
LOWER COLUMBIA SUBBASIN
17080006
124°0'0"W
123°30'0"W
46°30'0"N
46°0'0"N
WASHINGTON
OREGON
03
02
01
Mitchell Cr
E Fk Grays R
Grays R
Campbell Cr
Deep R
Grays River
Fossil Cr
King Cr
Kessel Cr
Rosburg
Chinook R
Chinook
Megler
Columbia R
Hammond
Astoria
Warrenton
Knappa
Big Cr
Little Cr
N
0 3 6 12 18 24 Kilometers
0 3 6 12 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17080006xx
Area of Detail
WASHINGTON
OREGON
IDAHO



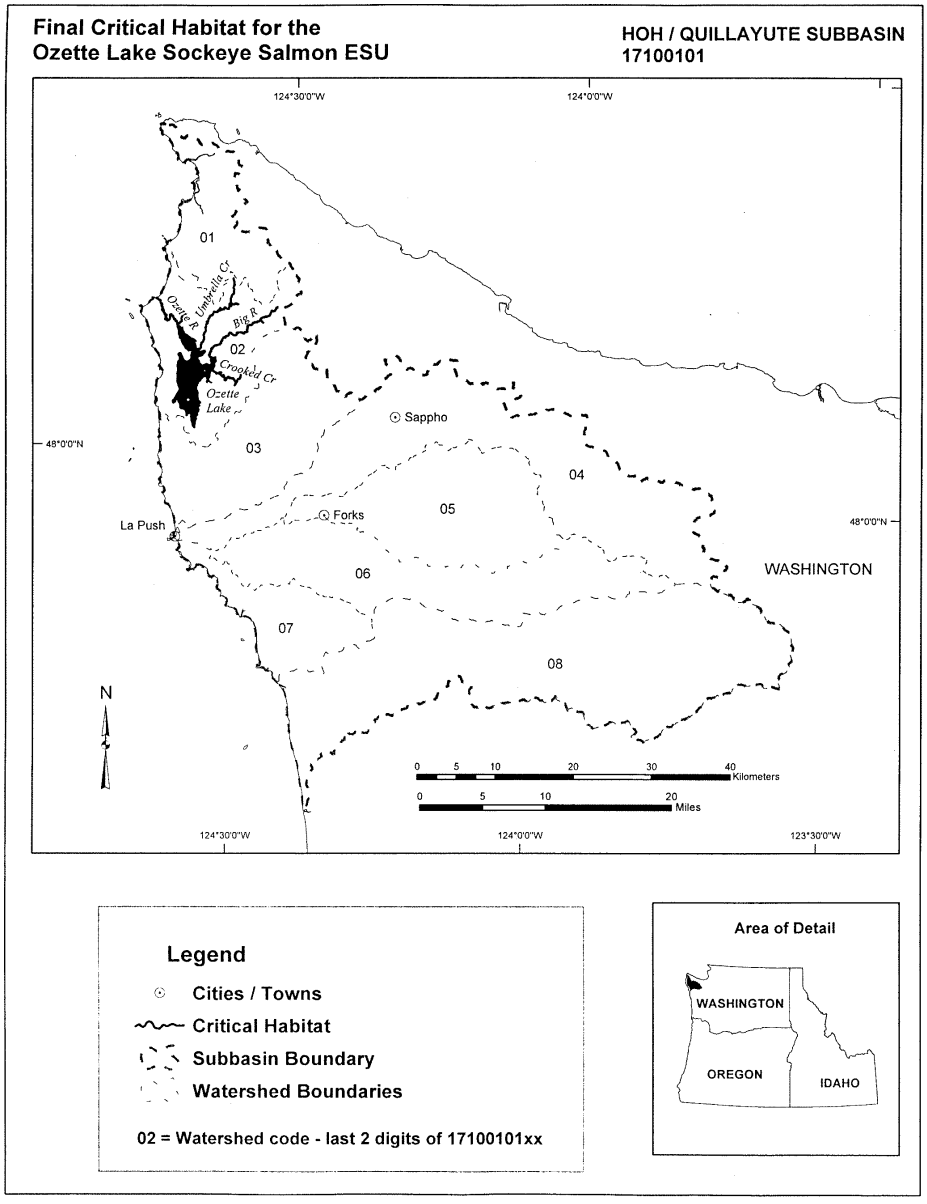
(o) Ozette Lake Sockeye Salmon (Oncorhynchus nerka). Critical habitat is designated to include the areas defined in the following subbasin:

(1) Hoh/Quillayute Subbasin 17100101—(i) Ozette Lake Watershed 1710010102. Outlet(s) = Ozette River (Lat 48.1818, Long –124.7076) upstream to endpoints in: Big River (48.1844, –124.4987); Coal Creek (48.1631, –124.6612); East Branch Umbrella Creek (48.1835, –124.5659); North Fork Crooked Creek

(48.1020, –124.5507); Ozette River (48.0370, –124.6218); South Fork Crooked Creek (48.0897, –124.5597); Umbrella Creek (48.2127, –124.5787); Unnamed (48.1771, –124.5967); Unnamed (48.1740, –124.6005); Unnamed (48.1649, –124.5208).

(ii) [Reserved]

(2) A map of critical habitat for the Ozette Lake sockeye salmon ESU follows:



(p) *Upper Columbia River Steelhead (Oncorhynchus mykiss)*. Critical habitat is designated to include the areas defined in the following subbasins:

(1) Chief Joseph Subbasin 17020005—*Upper Columbia/Swamp Creek Watershed 1702000505*. Outlet(s) = Columbia River (Lat 47.8077, Long –119.9754) upstream to endpoint(s) in: Columbia River (48.0828, –119.7062).

(2) Okanogan Subbasin 17020006—(i) *Upper Okanogan River Watershed 1702000601*. Outlet(s) = Okanogan River (Lat 48.7350, Long –119.4280) upstream to endpoint(s) in: Antoine Creek (48.7474, –119.3655); Ninemile Creek (48.9755, –119.3834); Okanogan River (49.0002, –119.4409); Similkameen River (48.9345, –119.4411); Tomasket Creek (48.9502, –119.3618); Whitestone Creek (48.7773, –119.4170).

(ii) *Okanogan River/Bonaparte Creek Watershed 1702000602*. Outlet(s) = Okanogan River (Lat 48.5612, Long –119.4863) upstream to endpoint(s) in: Aeneas Creek (48.6629, –119.4953); Bonaparte Creek (48.6824, –119.3947); Okanogan River (48.7350, –119.4280); Tunk Creek (48.5644, –119.4718).

(iii) *Salmon Creek Watershed 1702000603*. Outlet(s) = Salmon Creek (Lat 48.3593, Long –119.5805) upstream to endpoint(s) in: Salmon Creek (48.5374, –119.7465).

(iv) *Okanogan River/Omak Creek Watershed 1702000604*. Outlet(s) = Okanogan River (Lat 48.3593, Long –119.5805) upstream to endpoint(s) in: Okanogan River (48.5612, –119.4863); Omak Creek (48.3698, –119.4365); Unnamed (48.3802, –119.4915).

(v) *Lower Okanogan River Watershed 1702000605*. Outlet(s) = Okanogan River (Lat 48.0976, Long –119.7352) upstream to endpoint(s) in: Chiliwist Creek (48.2643, –119.7304); Loup Loup Creek (48.3080, –119.7128); Okanogan River (48.3593, –119.5805).

(3) Similkameen Subbasin 17020007—*Lower Similkameen River Watershed 1702000704*. Outlet(s) = Similkameen River (Lat 48.9345, Long –119.4411) upstream to endpoint(s) in: Similkameen River (48.9657, –119.5009).

(4) Methow Subbasin 17020008—(i) *Lost River Watershed 1702000801*. Outlet(s) = Lost River Gorge (Lat 48.6501, Long –120.5103) upstream to endpoint(s) in: Lost River Gorge (48.7324, –120.4475).

(ii) *Upper Methow River Watershed 1702000802*. Outlet(s) = Methow River (Lat 48.6015, Long –120.4376) upstream to endpoint(s) in: Early Winters Creek (48.5889, –120.4711); Methow River (48.6597, –120.5368).

(iii) *Upper Chewuch River Watershed 1702000803*. Outlet(s) = Chewuch River (Lat 48.7501, Long –120.1356) upstream to endpoint(s) in: Andrews Creek (48.7855, –120.1087); Chewuch River (48.8614, –120.0288); Lake Creek (48.8258, –120.1996).

(iv) *Lower Chewuch River Watershed 1702000804*. Outlet(s) = Chewuch River (Lat 48.4751, Long –120.1790) upstream to endpoint(s) in: Boulder Creek (48.5804, –120.1521); Chewuch River (48.7501, –120.1356); Eightmile Creek (48.6167, –120.1975); Twentymile Creek (48.7025, –120.1087).

(v) *Twisp River Watershed 1702000805*. Outlet(s) = Twisp River (Lat 48.3682, Long –120.1176) upstream to endpoint(s) in: Buttermilk Creek 48.3414, –120.3034); Eagle Creek (48.3579, –120.3953); Little Bridge Creek (48.4289, –120.3552); South Creek (48.4329, –120.5434); Twisp River (48.4545, –120.5621); War Creek (48.3626, –120.4106).

(vi) *Middle Methow River Watershed 1702000806*. Outlet(s) = Methow River (Lat 48.2495, Long –120.1156) upstream to endpoint(s) in: Goat Creek (48.6101, –120.3692); Hancock Creek (48.5338, –120.3310); Little Boulder Creek (48.5569, –120.3847); Methow River (48.6015, –120.4376); North Fork Beaver Creek (48.4340, –120.0228); Wolf Creek (48.4777, –120.2844).

(vii) *Lower Methow River Watershed 1702000807*. Outlet(s) = Methow River (Lat 48.0502, Long –119.8942) upstream to endpoint(s) in: Black Canyon Creek (48.0721, –120.0168); Foggy Dew Creek (48.1869, –120.2344); Gold Creek (48.2113, –120.2021); Libby Creek (48.2548, –120.1653); Methow River (48.2495, –120.1156); South Fork Gold Creek (48.1468, –120.1650).

(5) Upper Columbia/Entiat Subbasin 17020010—(i) *Entiat River Watershed 1702001001*. Outlet(s) = Entiat River (Lat 47.6585, Long –120.2194) upstream to endpoint(s) in: Entiat River (47.9855, –120.5749); Mad River (47.8254, –120.5301); Potato Creek (47.7944, –120.3889); Roaring Creek (47.6795, –120.4163); Stormy Creek (47.8246, –120.4125); Tamarack

Creek (47.6699, –120.4041); Tillicum Creek (47.7295, –120.4303).

(ii) *Lake Entiat Watershed 1702001002*. Outlet(s) = Columbia River (Lat 47.3539, Long –120.1105) upstream to endpoint(s) in: Columbia River (47.8077, –119.9754).

(iii) *Columbia River/Lynch Coulee Watershed 1702001003*. Outlet(s) = Columbia River (Lat 47.0494, Long –120.0241) upstream to endpoint(s) in: Brushy Creek (47.1316, –120.1493); Colockum Creek (47.2919, –120.1592); Columbia River (47.3539, –120.1105); Lynch Coulee (47.2320, –119.9943); Quilomene Creek (47.1105, –120.0379); Tarpiscan Creek (47.2264, –120.0922); Tekison Creek (47.1816, –120.0206).

(iv) *Columbia River/Sand Hollow Watershed 1702001004*. Outlet(s) = Columbia River (Lat 46.8159, Long –119.9255) upstream to endpoint(s) in: Columbia River (47.0494, –120.0241); Sand Hollow (46.9296, –119.9365); Whiskey Dick Creek (47.0302, –120.0331).

(6) Wenatchee Subbasin 17020011—(i) *White River Watershed 1702001101*. Outlet(s) = White River (Lat 47.8088, Long –120.7159) upstream to endpoint(s) in: Little Wenatchee River (47.8526, –120.9541); Napeequa River (47.9359, –120.8712); Panther Creek (47.9375, –120.9408); White River (47.9535, –120.9380).

(ii) *Chiwawa River Watershed 1702001102*. Outlet(s) = Chiwawa River (Lat 47.7880, Long –120.6589) upstream to endpoint(s) in: Alder Creek (47.8565, –120.6564); Alpine Creek (48.0823, –120.8683); Buck Creek (48.1045, –120.8815); Chikamin Creek (47.9111, –120.7165); Chiwawa River (48.1140, –120.8775); Clear Creek (47.8016, –120.6210); James Creek (48.0748, –120.8598); Phelps Creek (48.0743, –120.8484); Unnamed (47.9727, –120.7878).

(iii) *Nason/Tumwater Watershed 1702001103*. Outlet(s) = Wenatchee River (Lat 47.5801, Long –120.6660) upstream to endpoint(s) in: Beaver Creek (47.7649, –120.6553); Chiwaukum Creek (47.7038, –120.7788); Coulter Creek (47.7594, –120.7969); Gill Creek (47.7716, –120.8237); Kahler Creek (47.7691, –120.7558); Mill Creek (47.7744, –121.0117); Nason Creek (47.7825, –121.0464); Roaring Creek (47.7572, –120.8203); Skinney Creek (47.7247, –120.7370).

(iv) *Icicle/Chumstick Watershed 1702001104*. Outlet(s) = Wenatchee River (Lat 47.5575, Long –120.5729) upstream to endpoint(s) in: Chumstick Creek (47.6785, –120.6385); Derby Canyon (47.6036, –120.5623); Eagle Creek (47.6342, –120.6261); Icicle Creek (47.6460, –120.9833); Wenatchee River (47.5801, –120.6660).

(v) *Lower Wenatchee River Watershed 1702001105*. Outlet(s) = Wenatchee River (Lat 47.4553, Long –120.3185) upstream to endpoint(s) in: Brender Creek (47.5214, –120.4844); Ingalls Creek (47.4612, –120.6776); King Canyon (47.3522, –120.4423); Mill Creek (47.5139, –120.6724); Mission Creek (47.3289, –120.4771); Peshastin Creek (47.4380, –120.6590); Sand Creek (47.4321, –120.5307); Wenatchee River (47.5575, –120.5729).

(7) Lower Crab Subbasin 17020015—*Lower Crab Creek Watershed 1702001509*. Outlet(s) = Lower Crab Creek (Lat 46.8159, Long –119.9255) upstream to endpoint(s) in: Hayes Creek (46.8821, –119.2703); Lower Crab Creek (46.9028, –119.2785); Unnamed (46.8157, –119.4326); Unnamed (46.8243, –119.4429); Unnamed (46.8353, –119.3750); Unnamed (46.8658, –119.3757); Unnamed (46.8770, –119.5863).

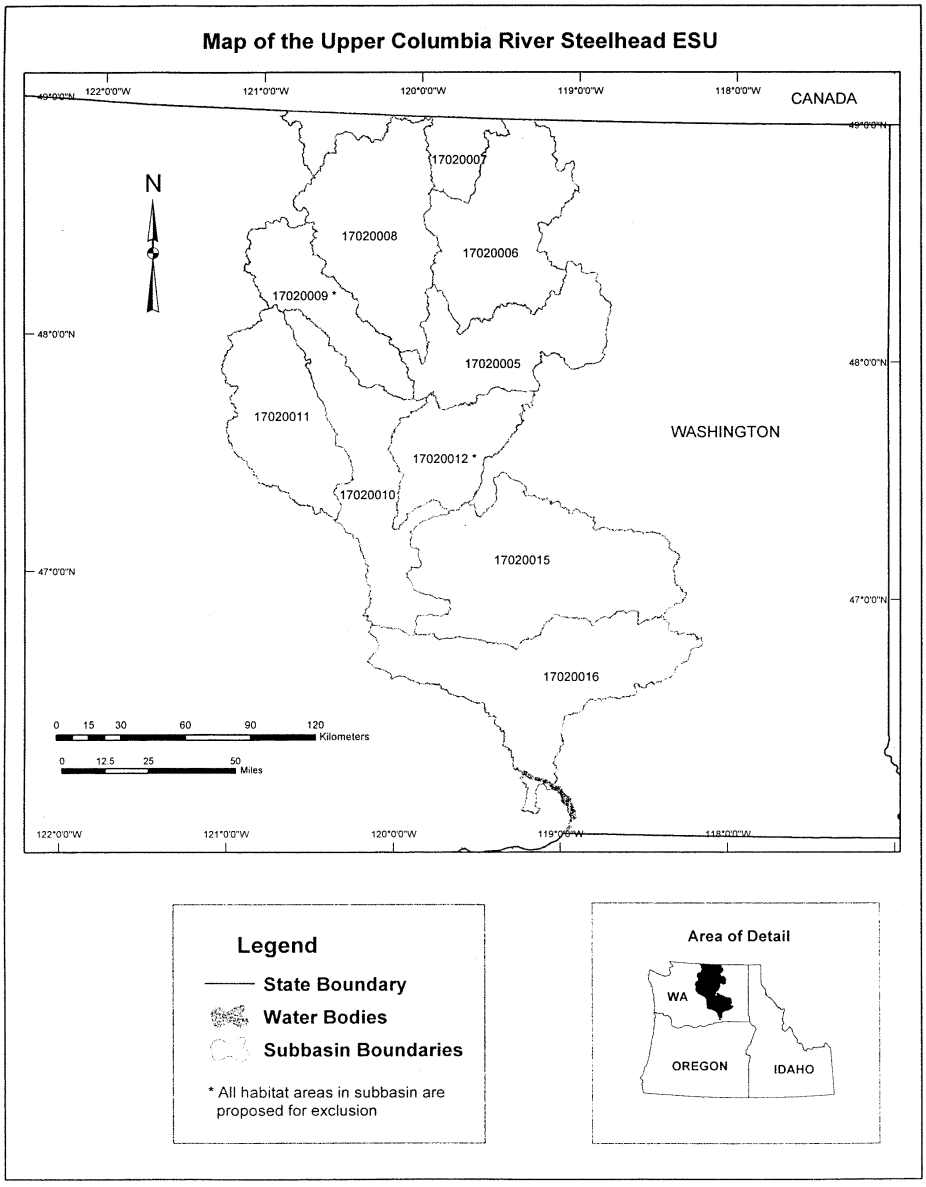
(8) Upper Columbia/Priest Rapids Subbasin 17020016—(i) *Yakima River/Hanson Creek Watershed 1702001604*. Outlet(s) = Columbia River (Lat 46.7159, Long –119.5294) upstream to endpoint(s) in: Columbia River (46.8159, –119.9255).

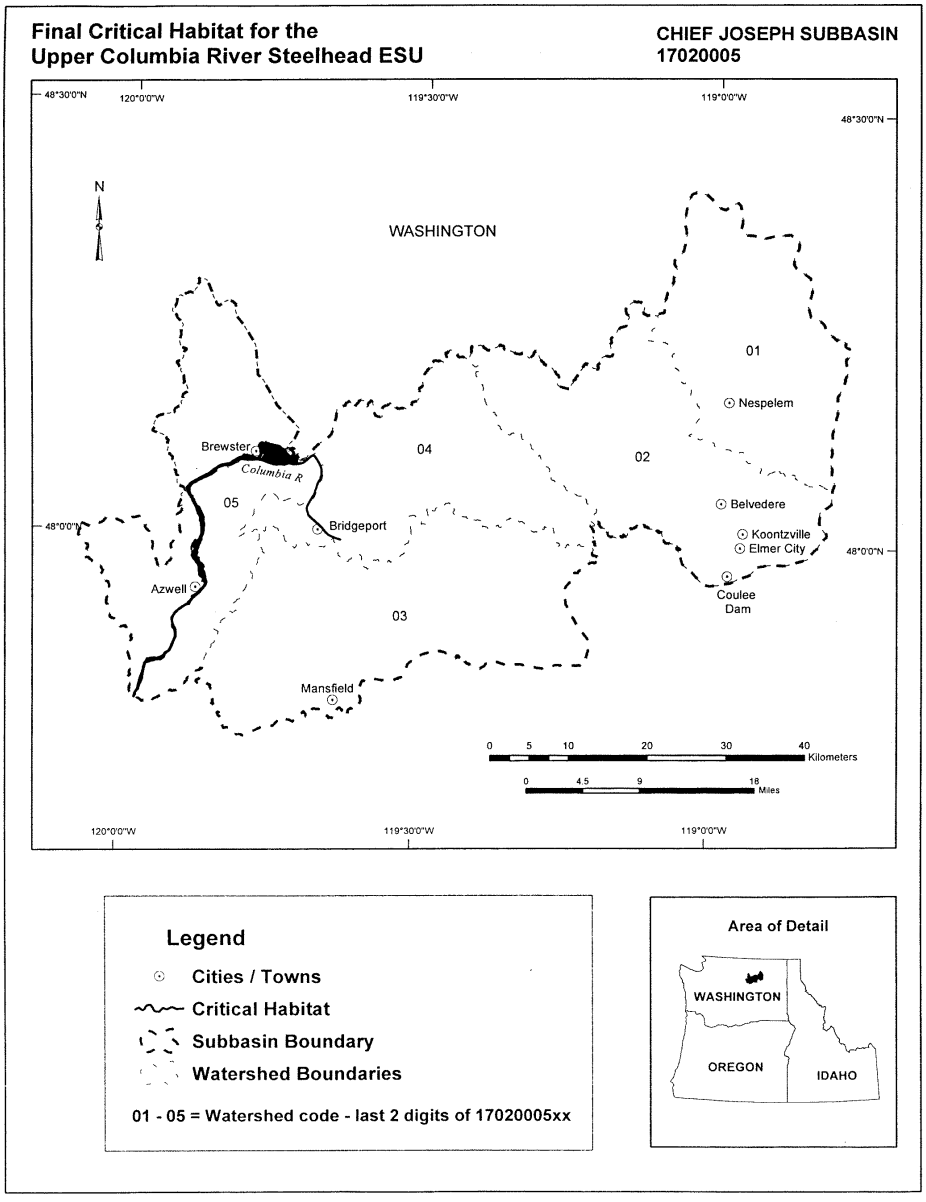
(ii) *Middle Columbia/Priest Rapids Watershed 1702001605*. Outlet(s) = Columbia River (Lat 46.5091, Long –119.2661) upstream to endpoint(s) in: Columbia River (46.7159, –119.5294).

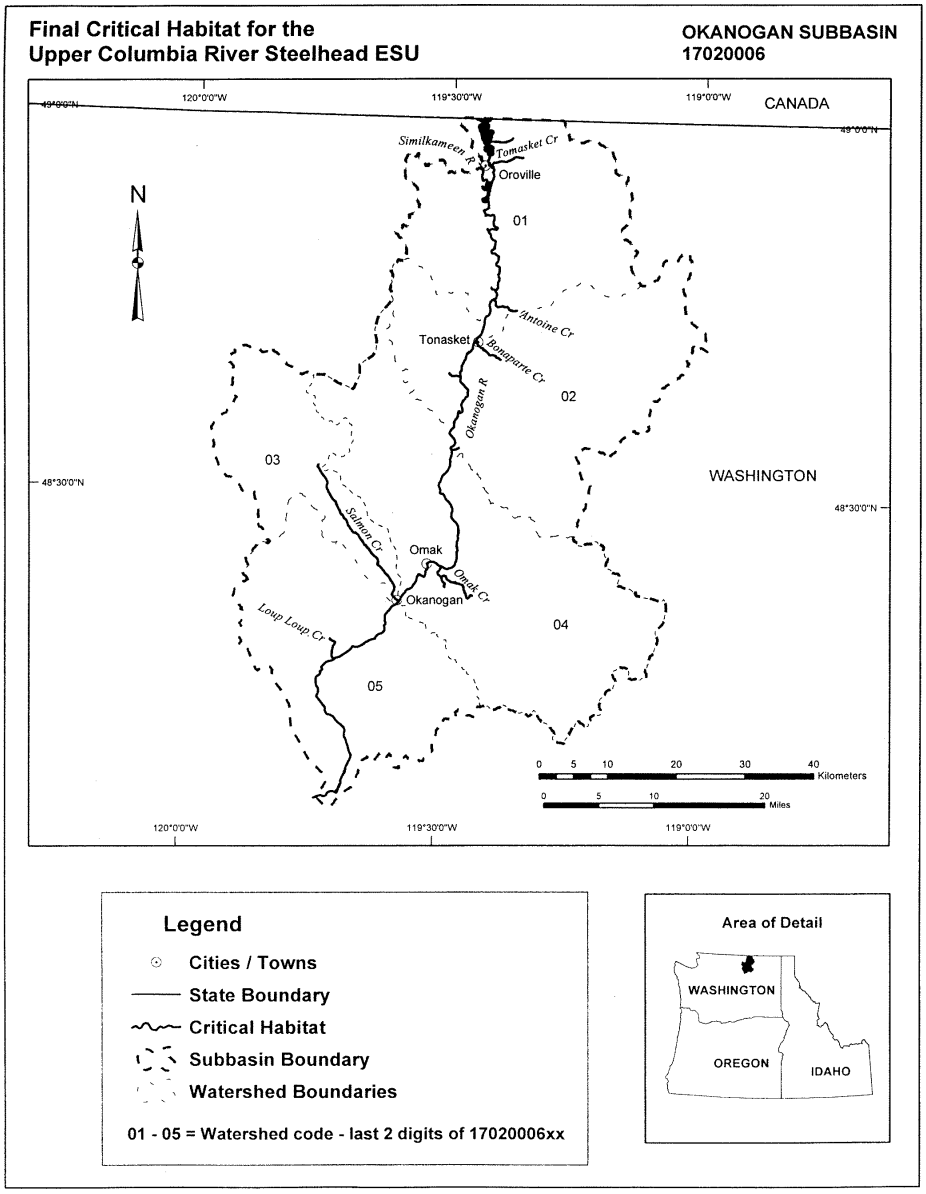
(iii) *Columbia River/Zintel Canyon Watershed 1702001606*. Outlet(s) = Columbia River (Lat 46.2534, Long –119.2268) upstream to endpoint(s) in: Columbia River (46.5091, –119.2661).

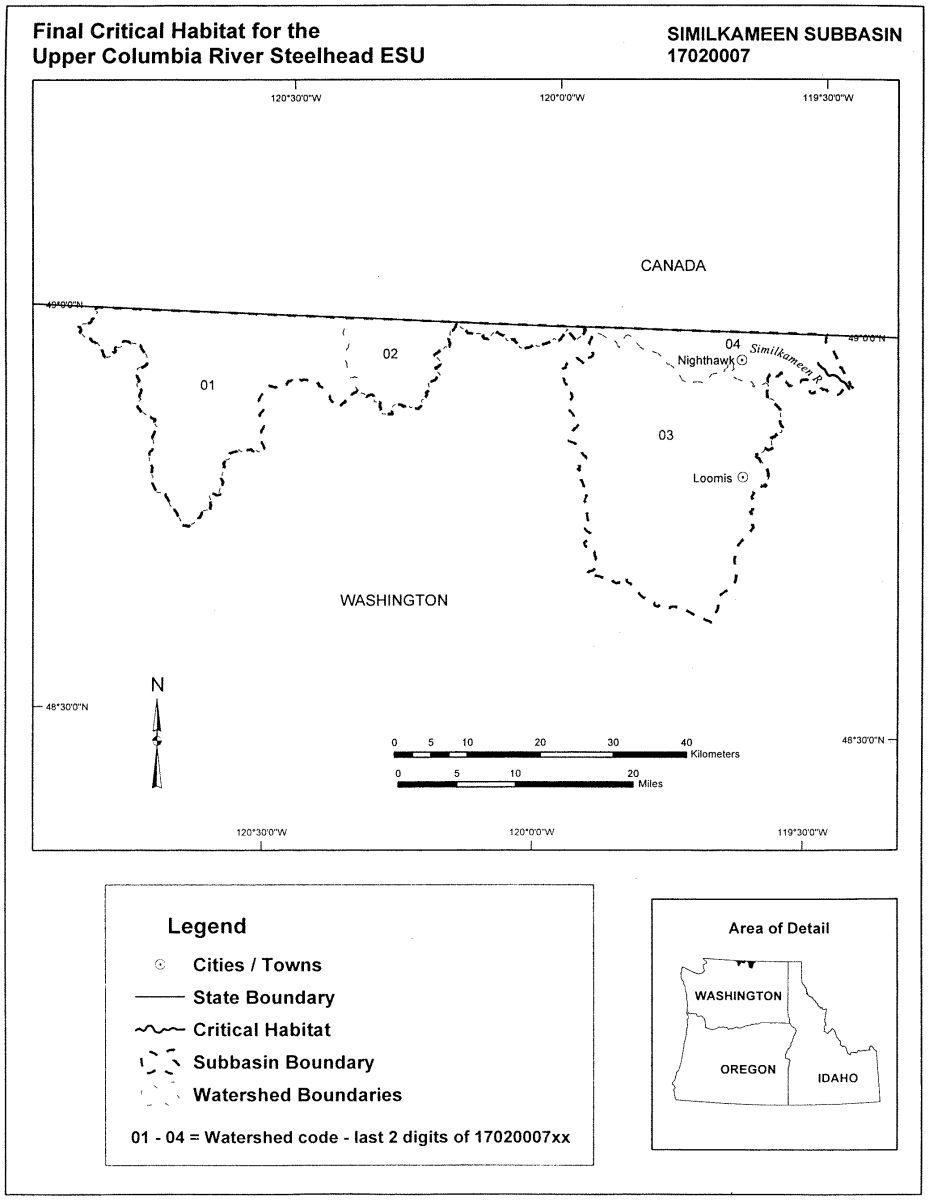
(9) Columbia River Corridor—*Columbia River Corridor*. Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (46.2534, –119.2268).

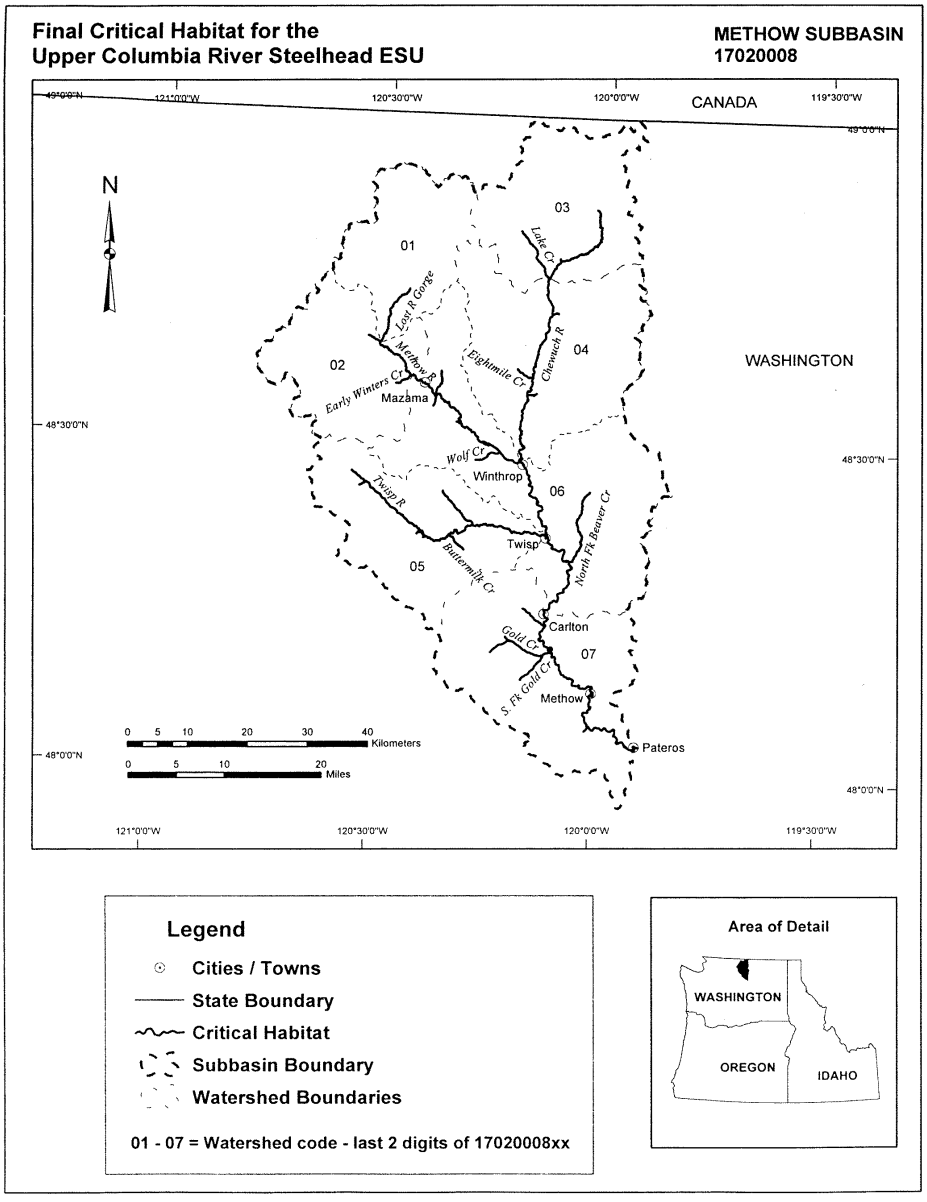
(10) Maps of critical habitat for the Upper Columbia River Steelhead ESU follow:

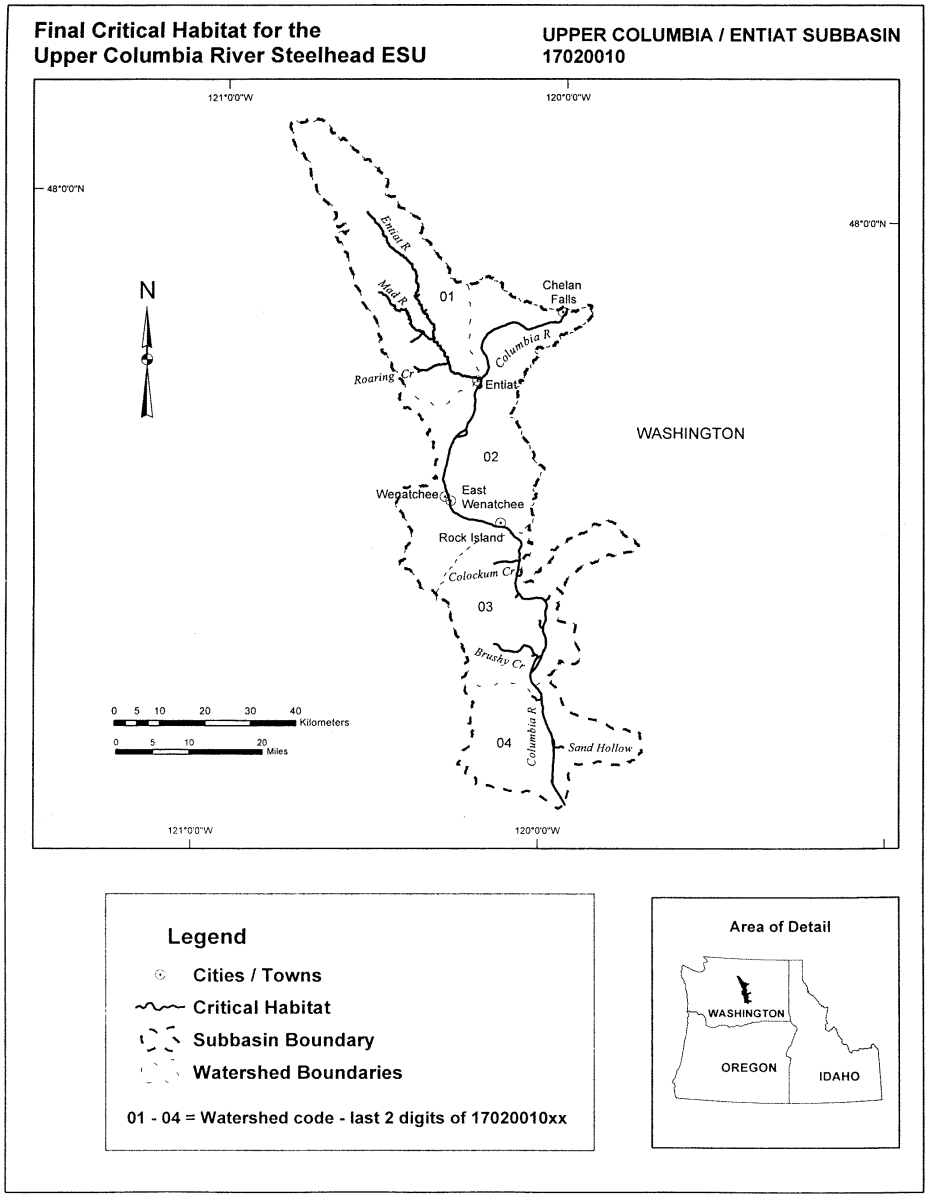

Map of the Upper Columbia River Steelhead ESU
122°0'0"W
121°0'0"W
120°0'0"W
119°0'0"W
118°0'0"W
CANADA
49°0'0"N
N
17020007
17020008
17020006
17020009 *
48°0'0"N
17020005
17020011
WASHINGTON
17020012 *
17020010
17020015
47°0'0"N
17020016
0 15 30 60 90 120
Kilometers
0 12.5 25 50
Miles
Legend
State Boundary
Water Bodies
Subbasin Boundaries
* All habitat areas in subbasin are proposed for exclusion
Area of Detail
WA
OREGON
IDAHO

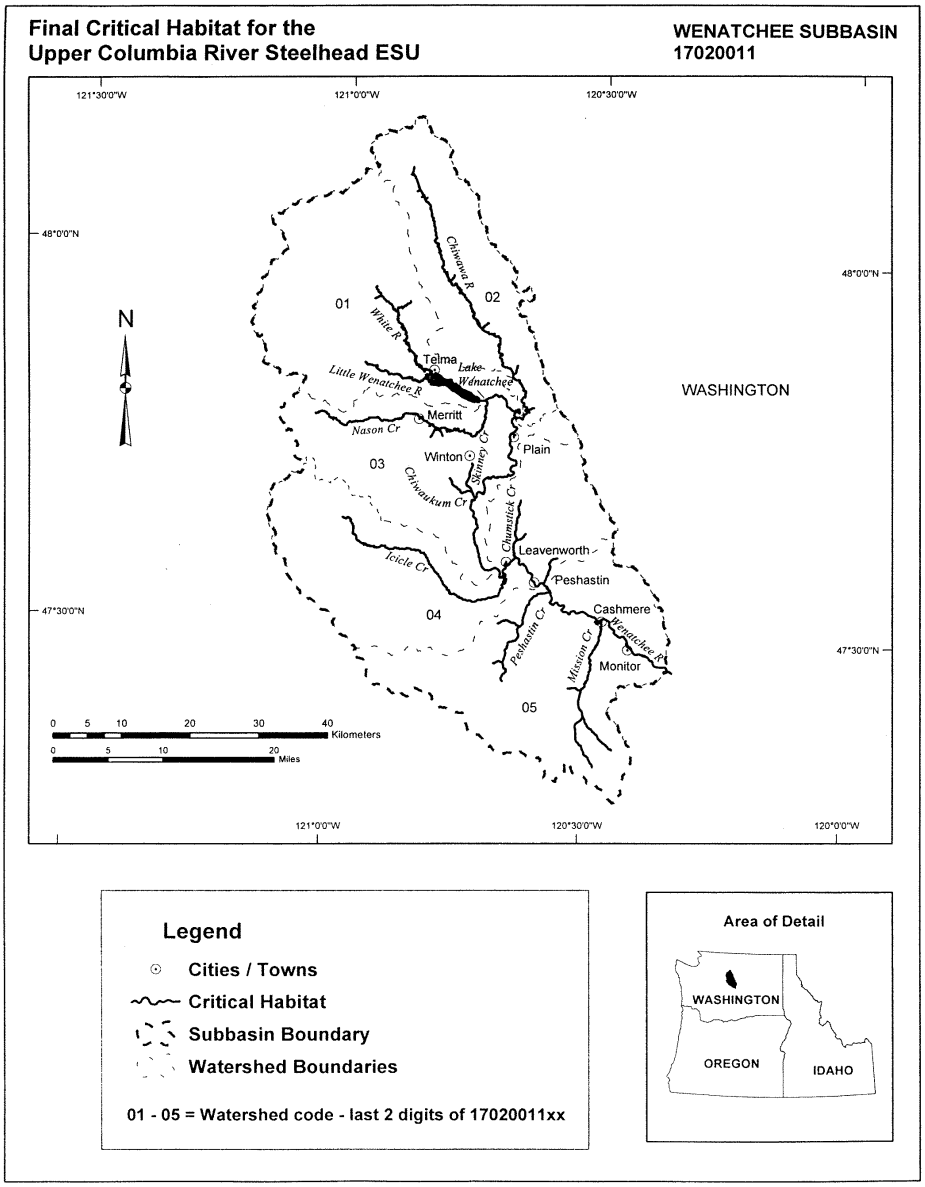

Final Critical Habitat for the
Upper Columbia River Steelhead ESU
CHIEF JOSEPH SUBBASIN
17020005
48°30'0"N
120°0'0"W
119°30'0"W
119°0'0"W
N
WASHINGTON
01
Nespelem
02
Belvedere
Koontzville
Elmer City
Coulee Dam
04
Brewster
Columbia R.
05
Bridgeport
Azwell
03
Mansfield
48°0'0"N
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17020005xx
Area of Detail
WASHINGTON
OREGON
IDAHO

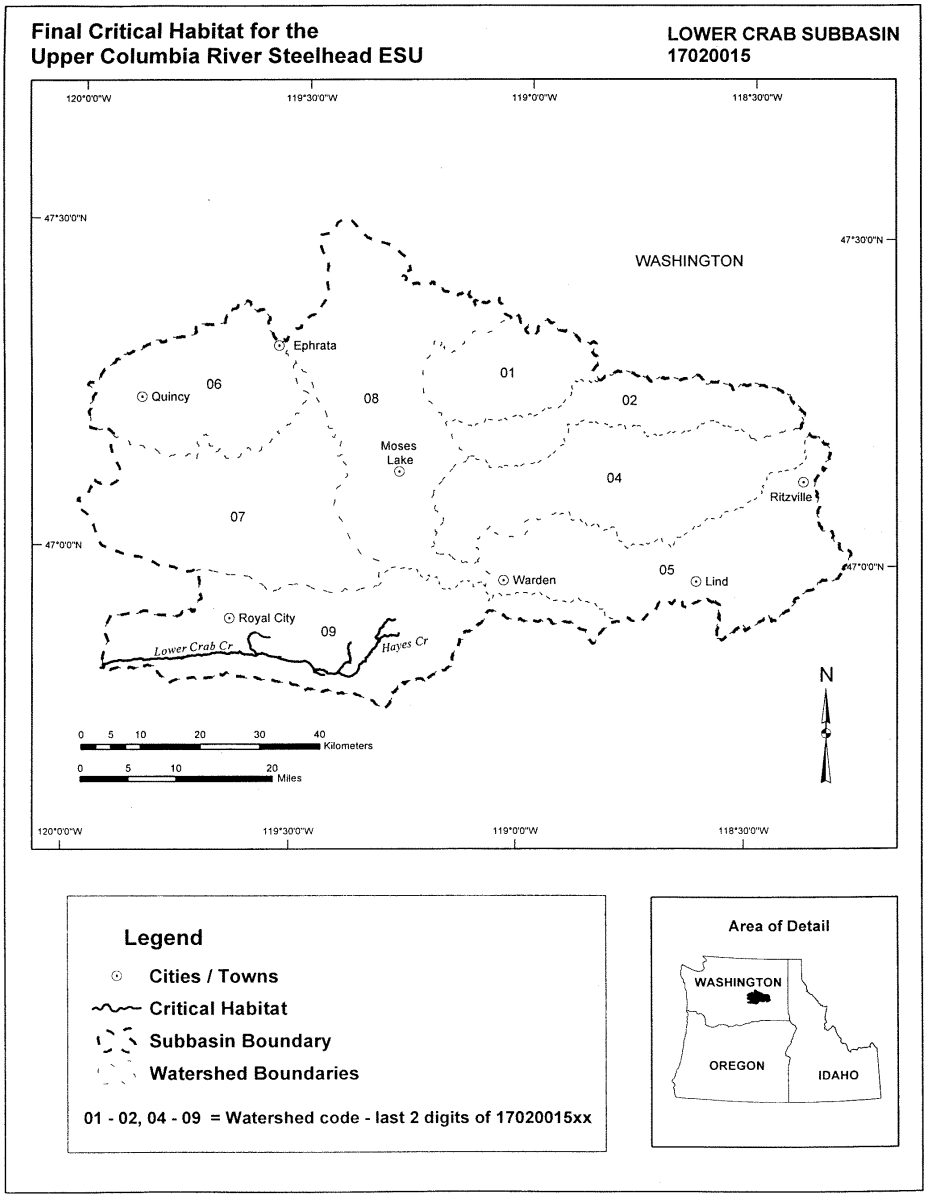

Final Critical Habitat for the
Upper Columbia River Steelhead ESU
OKANOGAN SUBBASIN
17020006
CANADA
WASHINGTON
Similkameen R
Tomasket Cr
Oroville
N
01
Antoine Cr
Tonasket
Bonaparte Cr
Okanogan R
02
03
Salmon Cr
Omak
Omak Cr
Okanogan
Loup Loup Cr
04
05
120°0'0"W
119°30'0"W
119°0'0"W
48°30'0"N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17020006xx
Area of Detail
WASHINGTON
OREGON
IDAHO

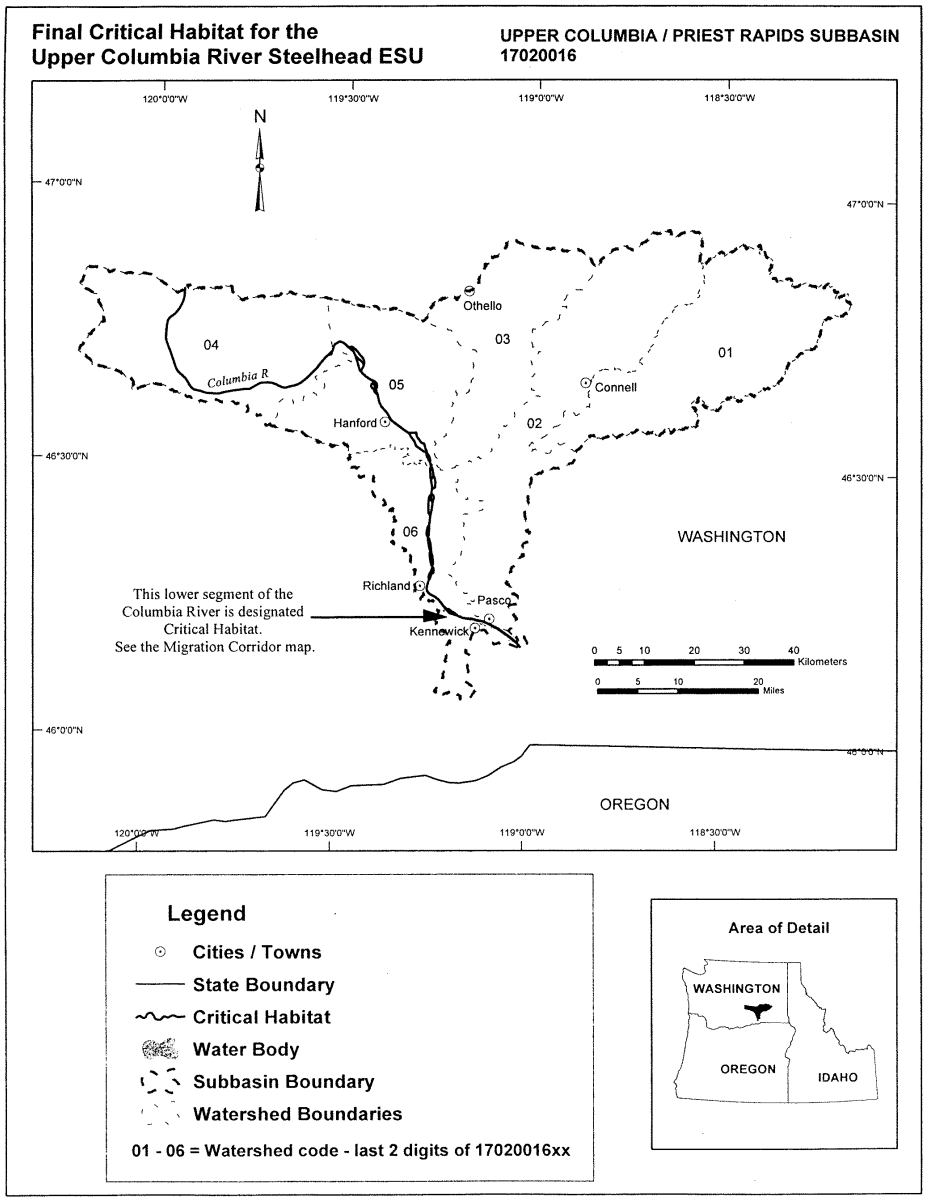

Final Critical Habitat for the
Upper Columbia River Steelhead ESU
SIMILKAMEEN SUBBASIN
17020007
120°30'0"W
120°0'0"W
119°30'0"W
CANADA
49°0'0"N
01
02
03
04
Similkameen R.
Nighthawk
Loomis
WASHINGTON
N
48°30'0"N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17020007xx
Area of Detail
WASHINGTON
OREGON
IDAHO

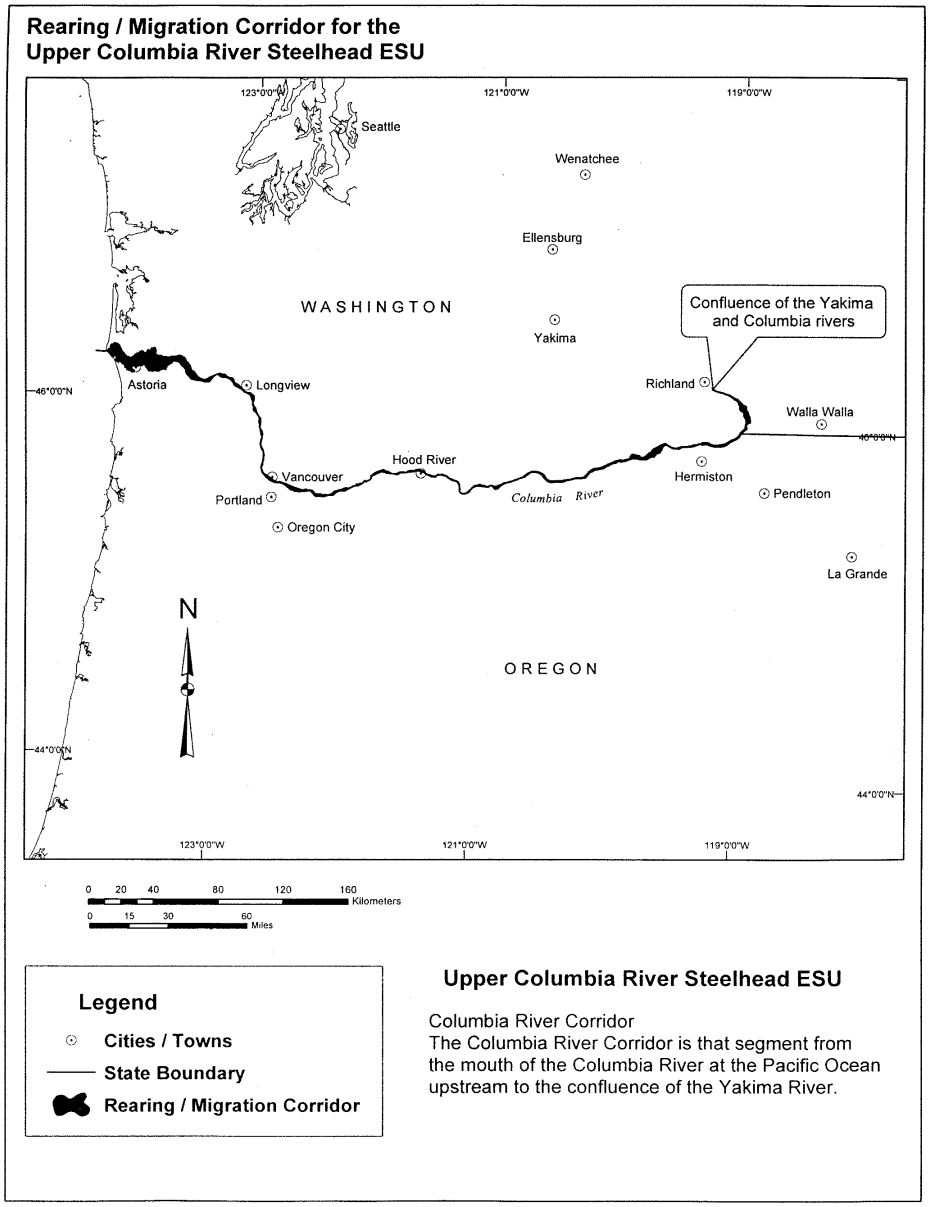

Final Critical Habitat for the
Upper Columbia River Steelhead ESU
METHOW SUBBASIN
17020008
CANADA
WASHINGTON
N
01
02
03
04
05
06
07
Lake Cr
Lost R Gorge
Methow R
Eightmile Cr
Chewuch R
Early Winters Cr
Mazama
Wolf Cr
Winthrop
Twisp R
Twisp
Buttermilk Cr
North Fk Beaver Cr
Carlton
Gold Cr
S. Fk Gold Cr
Methow
Pateros
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
48°30'0"N
48°0'0"N
121°0'0"W
120°30'0"W
120°0'0"W
119°30'0"W
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17020008xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Columbia River Steelhead ESU
UPPER COLUMBIA / ENTIAT SUBBASIN
17020010
121°0'0"W
120°0'0"W
48°0'0"N
N
Entiat R.
Mad R.
01
Chelan
Falls
Columbia R.
Roaring Cr.
Entiat
WASHINGTON
02
Wenatchee
East
Wenatchee
Rock Island
Colockum Cr.
03
Brushy Cr.
04
Columbia R.
Sand Hollow
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17020010xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Columbia River Steelhead ESU
WENATCHEE SUBBASIN
17020011
121°30'0"W
121°0'0"W
120°30'0"W
48°0'0"N
47°30'0"N
N
01
02
03
04
05
White R
Chiwawa R
Telma
Lake Wenatchee
Little Wenatchee R
Merritt
Nason Cr
Winton
Skinney Cr
Plain
Chiwaukum Cr
Chumstick Cr
Leavenworth
Icicle Cr
Peshastin
Cashmere
Peshastin Cr
Mission Cr
Wenatchee R
Monitor
WASHINGTON
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17020011xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Columbia River Steelhead ESU
LOWER CRAB SUBBASIN
17020015
120°0'0"W
119°30'0"W
119°0'0"W
118°30'0"W
47°30'0"N
47°0'0"N
WASHINGTON
Ephrata
Quincy
Moses Lake
Ritzville
Warden
Lind
Royal City
Lower Crab Cr
Hayes Cr
01
02
04
05
06
07
08
09
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 02, 04 - 09 = Watershed code - last 2 digits of 17020015xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Columbia River Steelhead ESU
UPPER COLUMBIA / PRIEST RAPIDS SUBBASIN
17020016
120°0'0"W
119°30'0"W
119°0'0"W
118°30'0"W
N
47°0'0"N
46°30'0"N
46°0'0"N
Othello
Connell
Hanford
Richland
Pasco
Kennewick
Columbia R
01
02
03
04
05
06
WASHINGTON
OREGON
This lower segment of the Columbia River is designated Critical Habitat. See the Migration Corridor map.
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Body
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17020016xx
Area of Detail
WASHINGTON
OREGON
IDAHO



(q) *Snake River Basin Steelhead (Oncorhynchus mykiss).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Hells Canyon Subbasin 17060101—(i) *Snake River/Granite Creek Watershed 1706010101.* Outlet(s) = Snake River (Lat 45.467, Long –116.554) upstream to endpoint(s) in: Battle Creek (45.307, –116.697); Bernard Creek (45.387, –116.569); Brush Creek (45.275, –116.657); Bull Creek (45.329, –116.673); Deep Creek

(45.237, –116.674); Devils Farm Creek (45.301, –116.611); Granite Creek (45.277, –116.630); Hells Canyon (45.254, –116.698); Lightning Creek (45.440, –116.500); Little Granite Creek (45.335, –116.636); North Fork Battle Creek (45.316, –116.687); Rattlesnake Creek (45.457, –116.610); Rough Creek (45.397, –116.638); Rush Creek (45.468, –116.596); Saddle Creek (45.375, –116.721); Sheep Creek (45.406, –116.523); Sluice Creek (45.445, –116.622); Snake River (45.243, –116.700); Stud Creek (45.267, –116.693); Three Creek (45.353, –116.610); Unnamed (45.468, –116.610); Unnamed (45.4787, –116.4799); Wild Sheep Creek (45.326, –116.676).

(ii) *Snake River/Getta Creek Watershed 1706010102*. Outlet(s) = Snake River (Lat 45.747, Long –116.543) upstream to endpoint(s) in: Big Canyon Creek (45.689, –116.467); Corral Creek (45.588, –116.433); Cove Creek (45.553, –116.574); Durham Creek (45.595, –116.472); Getta Creek (45.736, –116.421); Highrange Creek (45.738, –116.518); Indian Creek (45.744, –116.449); Jones Creek (45.703, –116.526); Kirby Creek (45.575, –116.454); Kirkwood Creek (45.548, –116.457); Klopton Creek (45.627, –116.434); Kurry Creek (45.656, –116.426); Lookout Creek (45.713, –116.542); Lost Valley Creek (45.550, –116.482); Pleasant Valley Creek (45.647, –116.492); Salt Creek (45.576, –116.554); SCreek (45.491, –116.574); Snake River (45.468, –116.554); Somers Creek (45.645, –116.553); Temperance Creek (45.537, –116.571); Tryon Creek (45.694, –116.540); Two Corral Creek (45.561, –116.526); Unnamed (45.5817, –116.5098); West Creek (45.664, –116.453); West Fork West Creek (45.669, –116.463).

(iii) *Snake River/Divide Creek Watershed 1706010104*. Outlet(s) = Snake River (Lat 45.857 Long –116.794) upstream to endpoint(s) in: Divide Creek (45.859, –116.741); Dry Creek (45.842, –116.598); Snake River (45.747, –116.543); Unnamed (45.7599, –116.6456); Wolf Creek (45.776, –116.567).

(2) Imnaha River Subbasin 17060102—

(i) *Upper Imnaha River Watershed 1706010201*. Outlet(s) = Imnaha River (Lat 45.232, Long –116.844) upstream to endpoint(s) in: Crazyman Creek (45.190, –116.811); Dry Creek (45.123, –116.867); Gumboot Creek (45.147, –116.968); Mahogany Creek (45.201, –116.905); North Fork Dry Creek (45.143, –116.850); North Fork Gumboot Creek (45.184, –116.928); North Fork Imnaha River (45.118, –117.129); Skookum Creek (45.117, –116.938); South Fork Imnaha River (45.111, –117.230); Unnamed (45.188, –116.923); Unnamed (45.208, –116.890).

(ii) *Middle Imnaha River Watershed 1706010202*. Outlet(s) = Imnaha River (Lat 45.557, Long –116.834) upstream to endpoint(s) in: Freezeout Creek (45.352, –116.761); Grouse Creek (45.179, –116.976); Imnaha River (45.232, –116.844); Morgan Creek (45.261, –116.948); Rich Creek (45.243, –116.869); Road Creek (45.279, –116.932); Shadow Canyon (45.295, –116.860); Summit Creek (45.228, –116.793); Unnamed (45.203, –116.978); Unnamed (45.203, –116.943); Unnamed (45.250, –116.923).

(iii) *Big Sheep Creek Watershed 1706010203*. Outlet(s) = Big Sheep Creek (Lat 45.520, Long –116.859) upstream to endpoint(s) in: Big Sheep Creek (45.171, –117.086); Carrol Creek (45.240, –117.063); Griffith Creek (45.273, –117.061); Lick Creek (45.133, –117.056); Marr Creek (45.299, –116.949); North Fork Carrol Creek (45.295, –116.993); South Fork Squaw Creek (45.354, –116.872); Tyee Creek (45.188, –116.991); Unnamed (45.164, –117.023); Unnamed (45.239, –117.045); Unnamed (45.297, –116.940).

(iv) *Little Sheep Creek Watershed 1706010204*. Outlet(s) = Big Sheep Creek (Lat 45.557, Long –116.834) upstream to endpoint(s) in: Bear Gulch (45.379, –116.955); Big Sheep Creek (45.520, –116.859); Camp Creek (45.544, –116.959); Canal Creek (45.256, –117.103); Devils Gulch (45.428, –116.962); Downey Gulch (45.405, –116.958); Ferguson Creek (45.267, –117.106); Lightning Creek (45.475, –117.020); Little Sheep Creek (45.236, –117.083); McCully Creek (45.295, –117.107); Redmont Creek (45.250, –117.099); South Fork Lightning Creek (45.473, –117.019); Summit Creek (45.390, –116.930); Threebuck Creek (45.395, –117.012); Trail Creek (45.563, –116.898).

(v) *Lower Imnaha River Watershed 1706010205*. Outlet(s) = Imnaha River (Lat 45.817, Long –116.764) upstream to endpoint(s) in: Corral Creek (45.708, –116.815); Cottonwood Creek (45.659, –116.865); Cow Creek (45.573, –116.628); Dodson Fork (45.725, –116.821); East Fork Fence Creek (45.652, –116.855); Fence Creek (45.655, –116.875); Horse Creek (45.421, –116.725); Imnaha River (45.557, –116.834); Lightning Creek

(45.447, –116.682); Prong (45.589, –116.592); Pumpkin Creek (45.517, –116.758); Sleepy Creek (45.604, –116.666); Stubblefield Fork (45.711, –116.815); Tulley Creek (45.743, –116.766).

(3) Lower Snake/Asotin Subbasin 17060103—(i) *Snake River/Rogersburg Watershed 1706010301*. Outlet(s) = Snake River (Lat 46.080, Long –116.978) upstream to endpoint(s) in: Cache Creek (45.976, –116.928); Cave Gulch (46.023, –116.840); Cook Creek (45.901, –116.865); Corral Creek (46.055, –116.875); Cottonwood Creek (45.944, –116.860); Garden Creek (45.972, –116.903); Snake River (45.857, –116.794).

(ii) *Asotin River Watershed 1706010302*. Outlet(s) = Asotin Creek (Lat 46.345, Long –117.053) upstream to endpoint(s) in: Ayers Gulch (46.278, –117.094); Charley Creek (46.271, –117.460); Coombs Canyon (46.128, –117.276); George Creek (46.144, –117.303); Hefflefinger Gulch (46.151, –117.231); Huber Gulch (46.155, –117.188); Kelly Creek (46.251, –117.114); Lick Creek (46.260, –117.358); Middle Branch North Fork Asotin Creek (46.195, –117.439); Nims Gulch (46.178, –117.121); North Fork Asotin Creek (46.207, –117.478); Pintler Creek (46.194, –117.153); South Fork Asotin Creek (46.174, –117.341); South Fork North Fork Asotin Creek (46.192, –117.425).

(iii) *Snake River/Captain John Creek Watershed 1706010303*. Outlet(s) = Snake River (Lat 46.428, Long –117.038) upstream to endpoint(s) in: Captain John Creek (46.145, –116.821); Couse Creek (46.157, –117.032); Edeburn Gulch (46.142, –117.008); Mill Creek (46.157, –117.078); Redbird Creek (46.220, –116.898); Snake River (46.080, –116.978); South Fork Captain John Creek (46.123, –116.864); Tammany Creek (46.362, –117.052); Tenmile Canyon (46.284, –116.976); Tenmile Creek (46.123, –117.086); Unnamed (46.119, –117.100); Unnamed (46.124, –117.111).

(4) Upper Grande Ronde River Subbasin 17060104—(i) *Upper Grande Ronde River Watershed 1706010401*. Outlet(s) = Grande Ronde River (Lat 45.264, Long –118.376) upstream to endpoint(s) in: Chicken Creek (44.987, –118.378); Clear Creek (45.014, –118.329); Dry Creek (45.052, –118.380); East Fork Grande Ronde River (45.060, –118.237); East Sheep Creek (44.987, –118.425); Fly Creek (45.125, –118.596); Grande Ronde River (44.998, –118.273); Limber Jim Creek (45.107, –118.270); Little Clear Creek (45.038, –118.300); Little Fly Creek (45.062, –118.504); Lookout Creek (45.065, –118.543); Muir Creek (45.066, –118.297); North Fork Limber Jim Creek (45.125, –118.308); Sheep Creek (45.016, –118.507); South Fork Limber Jim Creek (45.088, –118.304); Squaw Creek (45.103, –118.554); Umapine Creek (45.116, –118.571); Unnamed (45.042, –118.269); Unnamed (45.045, –118.417); West Chicken Creek (45.025, –118.404); Winter Canyon (45.215, –118.361).

(ii) *Meadow Creek Watershed 1706010402*. Outlet(s) = Meadow Creek (Lat 45.264, Long –118.376) upstream to endpoint(s) in: Battle Creek (45.216, –118.507); Bear Creek (45.210, –118.577); Burnt Corral Creek (45.159, –118.524); Dark Canyon (45.382, –118.394); East Burnt Corral Creek (45.173, –118.498); Ensign Creek (45.361, –118.554); Little Dark Canyon (45.322, –118.418); Marley Creek (45.177, –118.476); McCoy Creek (45.322, –118.628); McIntyre Creek (45.345, –118.459); Meadow Creek (45.286, –118.716); Peet Creek (45.233, –118.611); Smith Creek (45.295, –118.594); Sullivan Gulch (45.200, –118.515); Syrup Creek (45.296, –118.543); Tybow Canyon (45.214, –118.467); Unnamed (45.206, –118.552); Unnamed (45.275, –118.695); Unnamed (45.295, –118.718); Unnamed (45.330, –118.551); Waucup Creek (45.243, –118.660).

(iii) *Grande Ronde River/Beaver Creek Watershed 1706010403*. Outlet(s) = Grande Ronde River (Lat 45.347, Long –118.221) upstream to endpoint(s) in: Bear Creek (45.283, –118.270); Beaver Creek (45.146, –118.206); Dry Beaver Creek (45.168, –118.316); East Fork Rock Creek (45.166, –118.111); Grande Ronde River (45.264, –118.376); Graves Creek (45.245, –118.161); Hoodoo Creek (45.154, –118.259); Jordan Creek (45.162, –118.187); Little Beaver Creek (45.185, –118.333); Little Whiskey Creek (45.209, –118.178); Rock Creek (45.172, –118.139); Sheep Creek (45.281, –118.130); South Fork Spring Creek (45.346, –118.363); Spring Creek (45.396, –118.372); Unnamed (45.167, –118.144); Unnamed (45.227, –118.262); Unnamed (45.231, –118.279); Unnamed (45.232, –118.091); Unnamed (45.240, –118.257); Watermelon Creek (45.195, –118.277); Whiskey Creek (45.198, –118.181).

(iv) *Grande Ronde River/Five Points Creek Watershed 1706010404*. Outlet(s) = Grande Ronde River (Lat 45.408, Long –117.930) upstream to endpoint(s) in: California Gulch (45.406, –118.335); Conley Creek (45.406, –118.084); Dobbin Ditch (45.377, –118.017); Dry Creek (45.426, –118.379); Fiddlers Hell (45.443, –118.145); Five Points Creek (45.482, –118.143); Grande Ronde River (45.347, –118.221); Little John Day Creek (45.430, –118.192); Middle Fork Five Points Creek (45.485, –118.129); Mt Emily Creek (45.465, –118.125); Pelican Creek (45.438, –118.318); Tie Creek (45.420, –118.129); Unnamed (45.385, –118.043); Unnamed (45.423, –118.243).

(v) *Catherine Creek Watershed 1706010405*. Outlet(s) = Catherine Creek (Lat 45.219, Long –117.915) upstream to endpoint(s) in: Buck Creek (45.132, –117.606); Camp Creek (45.100, –117.596); Collins Creek (45.100, –117.531); Corral Creek (45.113, –117.575); Little Catherine Creek (45.148, –117.716); Middle Fork Catherine Creek (45.155, –117.567); Milk Creek (45.092, –117.717); North Fork Catherine Creek (45.221, –117.610); Pole Creek (45.123, –117.544); Prong Creek (45.096, –117.565); SPass Creek (45.115, –117.528); Scout Creek (45.105, –117.644); South Fork Catherine Creek (45.116, –117.503); Unnamed (45.104, –117.685).

(vi) *Ladd Creek Watershed 1706010406*. Outlet(s) = Ladd Creek (Lat 45.282, Long –117.936) upstream to endpoint(s) in: Catherine Creek (45.219, –117.915); Ladd Creek (45.215, –118.024); Little Creek (45.210, –117.784); Mill Creek (45.263, –118.083); Unnamed (45.259, –118.039).

(vii) *Grande Ronde River/Mill Creek Watershed 1706010407*. Outlet(s) = Grande Ronde River (Lat 45.408, Long –117.930) upstream to endpoint(s) in: Catherine Creek (45.282, –117.936); McAlister Slough (45.315, –117.973); Mill Creek (45.278, –117.728); Unnamed (45.297, –117.806).

(viii) *Phillips Creek/Willow Creek Watershed 1706010408*. Outlet(s) = Willow Creek (Lat 45.492, Long –117.931) upstream to endpoint(s) in: Dry Creek (45.640, –118.114); End Creek (45.4622, –118.0316); Finley Creek (45.625, –118.099); Fir Creek (45.5171, –118.0568); Little Dry Creek (45.5348, –118.0393); McDonald Creek (45.5348, –118.0393); Mill Creek (45.568, –118.025); Slide Creek (45.422, –118.028); Smith Creek (45.5256, –118.0537); Unnamed (45.525, –118.014).

(ix) *Grande Ronde River/Indian Creek Watershed 1706010409*. Outlet(s) = Grande Ronde River (Lat 45.560, Long –117.910) upstream to endpoint(s) in: Camp Creek (45.386, –117.720); Clark Creek (45.409, –117.728); East Fork Indian Creek (45.363, –117.737); Grande Ronde River (45.408, –117.930); Indian Creek (45.332, –117.717); Little Indian Creek (45.375, –117.785); Middle Fork Clark Creek (45.462, –117.764); North Fork Clark Creek (45.502, –117.733); North Fork Indian Creek (45.419, –117.787); Unnamed (45.375, –117.739); Unnamed (45.476, –117.757).

(x) *Lookingglass Creek Watershed 1706010410*. Outlet(s) = Lookingglass Creek (Lat 45.707, Long –117.841) upstream to endpoint(s) in: Buzzard Creek (45.845, –117.939); Eagle Creek (45.723, –118.005); Jarboe Creek (45.776, –117.855); Little Lookingglass Creek (45.848, –117.901); Lookingglass Creek (45.777, –118.070); Mottet Creek (45.827, –117.958); Unnamed (45.835, –117.869); Unnamed (45.844, –117.893).

(xi) *Grande Ronde River/Cabin Creek Watershed 1706010411*. Outlet(s) = Grande Ronde River (Lat 45.726, Long –117.784) upstream to endpoint(s) in: Buck Creek (45.662, –117.919); Duncan Canyon (45.654, –117.776); East Phillips Creek (45.669, –118.066); Gordon Creek (45.665, –118.001); Grande Ronde River (45.560, –117.910); Little Phillips Creek (45.668, –118.036); North Fork Cabin Creek (45.721, –117.929); Pedro Creek (45.676, –118.051); Phillips Creek (45.666, –118.089); Rysdam Canyon (45.633, –117.812); South Fork Cabin Creek (45.698, –117.963); Unnamed (45.661, –117.930); Unnamed (45.672, –117.941); Unnamed (45.682, –117.974); Unnamed (45.695, –117.927); Unnamed (45.707, –117.916).

(5) Wallowa River Subbasin 17060105—

(i) *Upper Wallowa River Watershed 1706010501*. Outlet(s) = Wallowa River (Lat 45.427, Long –117.310) upstream to endpoint(s) in: Hurricane Creek (45.337, –117.291); Little Hurricane Creek (45.407, –117.276); Prairie Creek (45.394, –117.189); Spring Creek (45.406, –117.287); Trout Creek (45.455, –117.281); Unnamed (45.387, –117.215); Unnamed (45.392, –117.214); Unnamed (45.411, –117.264); Unnamed (45.412, –117.156); Unnamed

(45.424, –117.313); Wallowa River (45.335, –117.222).

(ii) *Lostine River Watershed 1706010502*. Outlet(s) = Lostine River (Lat 45.552, Long –117.489) upstream to endpoint(s) in: Lostine River (45.245, –117.375); Silver Creek (45.394, –117.420).

(iii) *Middle Wallowa River Watershed 1706010503*. Outlet(s) = Wallowa River (Lat 45.584, Long –117.540) upstream to endpoint(s) in: Middle Fork Whisky Creek (45.590, –117.342); North Fork Whisky Creek (45.614, –117.331); Parsnip Creek (45.533, –117.419); South Fork Whisky Creek (45.590, –117.413); Straight Whisky Creek (45.622, –117.396); Wallowa River (45.427, –117.310); Whisky Creek (45.608, –117.397).

(iv) *Bear Creek Watershed 1706010504*. Outlet(s) = Bear Creek (Lat 45.584, Long –117.540) upstream to endpoint(s) in: Bear Creek (45.347, –117.500); Doc Creek (45.449, –117.572); Fox Creek (45.447, –117.562); Goat Creek (45.413, –117.519); Little Bear Creek (45.456, –117.500).

(v) *Minam River Watershed 1706010505*. Outlet(s) = Minam River (Lat 45.621, Long –117.720) upstream to endpoint(s) in: Cougar Creek (45.517, –117.672); Elk Creek (45.157, –117.480); Little Minam River (45.338, –117.643); Minam River (45.149, –117.392); Murphy Creek (45.414, –117.644); North Minam River (45.275, –117.520); Patrick Creek (45.426, –117.645); Squaw Creek (45.576, –117.706); Trout Creek (45.471, –117.652).

(vi) *Lower Wallowa River Watershed 1706010506*. Outlet(s) = Wallowa River (Lat 45.726, Long –117.784) upstream to endpoint(s) in: Deer Creek (45.452, –117.606); Dry Creek (45.650, –117.439); Fisher Creek (45.666, –117.750); Howard Creek (45.735, –117.695); Reagin Gulch (45.670, –117.559); Rock Creek (45.679, –117.620); Sage Creek (45.486, –117.590); Tamarack Canyon (45.656, –117.518); Unnamed (45.618, –117.629); Unnamed (45.654, –117.442); Unnamed (45.678, –117.556); Wallowa River (45.584, –117.540); Water Canyon (45.589, –117.614); Wise Creek (45.671, –117.705).

(6) Lower Grande Ronde Subbasin 17060106—(i) *Grande Ronde River/Rondowa Watershed 1706010601*. Outlet(s) = Grande Ronde River (Lat 45.896, Long –117.493) upstream to endpoint(s) in: Alder Creek (45.844, –117.750); Bear Creek (45.885, –117.752); Clear Creek (45.775, –117.714); Deep Creek (45.817, –117.651); East Grossman Creek (45.819, –117.625); Elbow Creek (45.927, –117.630); Grande Ronde River (45.726, –117.784); Grossman Creek (45.732, –117.614); Meadow Creek (45.825, –117.760); Sheep Creek (45.756, –117.797); Sickfoot Creek (45.842, –117.567); Unnamed (45.746, –117.656).

(ii) *Grande Ronde River/Mud Creek Watershed 1706010602*. Outlet(s) = Grande Ronde River (Lat 45.946, Long –117.450) upstream to endpoint(s) in: Bishop Creek (45.747, –117.555); Bobcat Creek (45.853, –117.370); Buck Creek (45.758, –117.298); Burnt Creek (45.769, –117.283); Courtney Creek (45.857, –117.314); Grande Ronde River (45.896, –117.493); Little Courtney Canyon (45.903, –117.385); McAllister Creek (45.683, –117.361); McCubbin Creek (45.700, –117.294); Mud Creek (45.633, –117.291); Unnamed (45.867, –117.329); Shamrock Creek (45.828, –117.335); Simmons Draw (45.730, –117.514); Sled Creek (45.730, –117.278); Teepee Creek (45.694, –117.349); Tope Creek (45.634, –117.330); Unnamed (45.710, –117.283); Unnamed (45.856, –117.312); Wallupa Creek (45.765, –117.528); Wildcat Creek (45.732, –117.489).

(iii) *Wenaha River Watershed 1706010603*. Outlet(s) = Wenaha River (Lat 45.946, Long –117.450) upstream to endpoint(s) in: Beaver Creek (46.002, –117.815); Crooked Creek (46.046, –117.624); First Creek (46.071, –117.519); Melton Creek (46.060, –117.566); Milk Creek (45.973, –117.902); North Fork Wenaha River (46.064, –117.912); Rock Creek (45.999, –117.766); Second Creek (46.065, –117.595); Slick Ear Creek (45.983, –117.784); South Fork Wenaha River (45.872, –117.897); Third Creek (46.089, –117.627); Weller Creek (45.989, –117.648); West Fork Butte Creek (46.064, –117.759).

(iv) *Chesnimnus Creek Watershed 1706010604*. Outlet(s) = Chesnimnus Creek (Lat 45.715, Long –117.155) upstream to endpoint(s) in: Alder Creek (45.702, –116.997); Billy Creek (45.815, –117.032); Butte Creek (45.641, –117.096); Chesnimnus Creek (45.718, –116.906); Deadman Gulch (45.659, –117.049); Devils Run Creek (45.775, –116.882); Doe Creek (45.751, –117.029); Dry Salmon Creek (45.663, –117.051); East Fork Peavine Creek (45.830, –117.061); Gooseberry

Creek (45.681, –117.110); McCarty Gulch (45.749, –117.064); Peavine Creek (45.795, –117.084); Pine Creek (45.673, –117.029); Poison Creek (45.791, –116.979); Salmon Creek (45.662, –117.038); South Fork Chesnimnus Creek (45.743, –116.861); Sterling Gulch (45.712, –117.000); Summit Creek (45.794, –116.947); Telephone Gulch (45.767, –117.076); TNT Gulch (45.754, –116.919); Unnamed (45.694, –117.013); Unnamed (45.709, –116.878); Unnamed (45.724, –116.867); Unnamed (45.742, –117.090); Unnamed (45.825, –117.004); Unnamed (45.838, –117.009); Unnamed (45.846, –117.029); West Fork Peavine Creek (45.805, –117.100).

(v) *Upper Joseph Creek Watershed 1706010605*. Outlet(s) = Joseph Creek (Lat 45.823, Long –117.231) upstream to endpoint(s) in: Alford Gulch (45.729, –117.165); Cougar Creek (45.806, –117.150); Crow Creek (45.536, –117.115); Davis Creek (45.658, –117.257); Elk Creek (45.598, –117.167); Gould Gulch (45.657, –117.181); Little Elk Creek (45.694, –117.199); Sumac Creek (45.753, –117.148); Swamp Creek (45.543, –117.218); Unnamed (45.597, –117.141).

(vi) *Lower Joseph Creek Watershed 1706010606*. Outlet(s) = Joseph Creek (Lat 46.053, Long –117.005) upstream to endpoint(s) in: Basin Creek (45.910, –117.057); Broady Creek (45.882, –117.076); Cottonwood Creek (45.832, –116.950); Horse Creek (45.945, –116.962); Joseph Creek (45.823, –117.231); Peavine Creek (45.879, –117.162); Rush Creek (45.899, –117.150); Tamarack Creek (45.964, –117.127); Unnamed (45.826, –116.957); West Fork Broady Creek (45.862, –117.102).

(vii) *Lower Grande Ronde River/Menatchee Creek Watershed 1706010607*. Outlet(s) = Grande Ronde River (Lat 46.080, Long –116.978) upstream to endpoint(s) in: Bear Creek (45.973, –117.455); Buford Creek (45.975, –117.276); Cottonwood Creek (46.071, –117.301); Cougar Creek (46.049, –117.327); Deer Creek (45.992, –117.191); East Bear Creek (45.960, –117.307); Grande Ronde River (45.946, –117.450); Grouse Creek (46.031, –117.460); Menatchee Creek (46.018, –117.371); Rattlesnake Creek (46.079, –117.204); Shumaker Creek (46.049, –117.117); West Bear Creek (45.951, –117.337); West Branch Rattlesnake Creek (46.086, –117.258).

(7) Lower Snake/Tucannon Subbasin 17060107—(i) *Alpowa Creek Watershed 1706010701*. Outlet(s) = Alpowa Creek (Lat 46.422, Long –117.203) upstream to endpoint(s) in: Kidwell Gulch (46.338, –117.480); Page Creek (46.402, –117.210); Pow Wah Kee Creek (46.389, –117.288).

(ii) *Snake River/Steptoe Canyon Watershed 1706010702*. Outlet(s) = Snake River (Lat 46.660, Long –117.433) upstream to endpoint(s) in: Offield Canyon (46.648, –117.420); Snake River (46.428, –117.038); Steptoe Canyon (46.455, –117.192); Truax Canyon (46.565, –117.348); Wawawai Canyon (46.636, –117.375).

(iii) *Deadman Creek Watershed 1706010703*. Outlet(s) = Deadman Creek (Lat 46.626, Long –117.799) upstream to endpoint(s) in: Deadman Gulch (46.574, –117.565); Lynn Gulch (46.628, –117.597); North Deadman Creek (46.578, –117.457); North Meadow Creek (46.517, –117.489); South Meadow Creek (46.507, –117.508).

(iv) *Upper Tucannon River Watershed 1706010706*. Outlet(s) = Tucannon River (Lat 46.509, Long –117.995) upstream to endpoint(s) in: Cummings Creek (46.235, –117.610); Little Tucannon River (46.221, –117.758); Meadow Creek (46.163, –117.728); Panjab Creek (46.171, –117.709); Sheep Creek (46.196, –117.623); Tucannon River (46.168, –117.559); Tumalum Creek (46.315, –117.585).

(v) *Lower Tucannon River Watershed 1706010707*. Outlet(s) = Tucannon River (Lat 46.558, Long –118.174) upstream to endpoint(s) in: Kellogg Creek (46.430, –118.067); Smith Hollow (46.463, –118.017); Tucannon River (46.509, –117.995).

(vi) *Snake River/Penawawa Creek Watershed 1706010708*. Outlet(s) = Snake River (Lat 46.589, Long –118.215) upstream to endpoint(s) in: Almota Creek (46.706, –117.363); Little Almota Creek (46.715, –117.465); Penawawa Creek (46.728, –117.625); Snake River (46.660, –117.433); Unnamed (46.698, –117.381).

(8) Upper Salmon Subbasin 17060201—(i) *Salmon River/Challis Watershed 1706020101*. Outlet(s) = Salmon River (Lat 44.692, Long –114.049) upstream to endpoint(s) in: Challis Creek (44.563, –114.246); Salmon River (44.470, –114.192).

(ii) *Salmon River/Bayhorse Creek Watershed 1706020104*. Outlet(s) = Salmon River (Lat 44.470, Long –114.192) upstream to endpoint(s) in: Bayhorse Creek (44.395, –114.308); Salmon River (44.268, –114.326).

(iii) *East Fork Salmon River/McDonald Creek Watershed 1706020105*. Outlet(s) = East Fork Salmon River (Lat 44.268, Long –114.326) upstream to endpoint(s) in: Big Lake Creek (44.165, –114.394); East Fork Salmon River (44.147, –114.378); McDonald Creek (44.091, –114.318); Pine Creek (44.136, –114.367).

(iv) *Herd Creek Watershed 1706020108*. Outlet(s) = Herd Creek (Lat 44.154, Long –114.300) upstream to endpoint(s) in: East Fork Herd Creek (44.037, –114.203); East Pass Creek (44.009, –114.369); Lake Creek (44.103, –114.194); Taylor Creek (44.067, –114.317); West Fork Herd Creek (44.032, –114.248).

(v) *East Fork Salmon River/Big Boulder Creek Watershed 1706020109*. Outlet(s) = East Fork Salmon River (Lat 44.147, Long –114.378) upstream to endpoint(s) in: Big Boulder Creek (44.131, –114.518); East Fork Salmon River (44.039, –114.461); Little Boulder Creek (44.065, –114.542).

(vi) *Upper East Fork Salmon River Watershed 1706020110*. Outlet(s) = East Fork Salmon River (Lat 44.039, Long –114.461) upstream to endpoint(s) in: Bowery Creek (44.0316, –114.4587); South Fork East Fork Salmon River (43.902, –114.562); West Fork East Fork Salmon River (43.929, –114.575); West Pass Creek (43.922, –114.446).

(vii) *Germania Creek Watershed 1706020111*. Outlet(s) = Germania Creek (Lat 44.039, Long –114.461) upstream to endpoint(s) in: Germania Creek (44.003, –114.532).

(viii) *Salmon River/Kinnikinic Creek Watershed 1706020112*. Outlet(s) = Salmon River (Lat 44.268, Long –114.326) upstream to endpoint(s) in: Kinnikinic Creek (44.2667, –144.4026); Salmon River (44.249, –114.454).

(ix) *Salmon River/Slate Creek Watershed 1706020113*. Outlet(s) = Salmon River (Lat 44.249, Long –114.454) upstream to endpoint(s) in: Holman Creek (44.250, –114.529); Salmon River (44.254, –114.675); Silver Rule Creek (44.198, –114.588); Slate Creek (44.168, –114.626); Thompson Creek (44.318, –114.588).

(x) *Warm Springs Creek Watershed 1706020114*. Outlet(s) = Warm Springs Creek (Lat 44.254, Long –114.675) upstream to endpoint(s) in: Warm Springs Creek (44.151, –114.718).

(xi) *Salmon River/Big Casino Creek Watershed 1706020115*. Outlet(s) = Salmon River (Lat 44.254, Long –114.675) upstream to endpoint(s) in: Big Casino Creek (44.216, –114.830); Little Casino Creek (44.224, –114.861); Lower Harden Creek (44.274, –114.778); Nip Tuck Creek (44.234, –114.929); Salmon River (44.169, –114.898); Upper Harden Creek (44.272, –114.791).

(xii) *Salmon River/Fisher Creek Watershed 1706020117*. Outlet(s) = Salmon River (Lat 44.169, Long –114.898) upstream to endpoint(s) in: Decker Creek (44.072, –114.879); Gold Creek (44.114, –114.846); Huckleberry Creek (44.061, –114.875); Salmon River (44.032, –114.836); Williams Creek (44.096, –114.852).

(xiii) *Salmon River/Fourth of July Creek Watershed 1706020118*. Outlet(s) = Salmon River (Lat 44.032, Long –114.836) upstream to endpoint(s) in: Champion Creek (44.019, –114.825); Fourth of July Creek (44.035, –114.784); Hell Roaring Creek (44.0268, –114.9252); Salmon River (44.004, –114.836); Unnamed (44.017, –114.879).

(xiv) *Upper Salmon River Watershed 1706020119*. Outlet(s) = Salmon River (Lat 44.004, Long –114.836) upstream to endpoint(s) in: Beaver Creek (43.919, –114.813); Camp Creek (43.876, –114.738); Frenchman Creek (43.822, –114.792); Pole Creek (43.940, –114.686); Salmon River (43.837, –114.759); Smiley Creek (43.829, –114.823); Twin Creek (43.935, –114.723); Unnamed (43.843, –114.742); Unnamed (43.990, –114.803).

(xv) *Alturas Lake Creek Watershed 1706020120*. Outlet(s) = Alturas Lake Creek (Lat 44.004, Long –114.836) upstream to endpoint(s) in: Alpine Creek (43.905, –114.923); Alturas Lake Creek (43.895, –114.910); Cabin Creek (43.937, –114.856); Pettit Lake Creek (43.961, –114.916); Unnamed (43.952, –114.858); Vat Creek (43.967, –114.871); Yellowbelly Creek (43.995, –114.847).

(xvi) *Redfish Lake Creek Watershed 1706020121*. Outlet(s) = Redfish Lake Creek (Lat 44.169, Long –114.898) upstream to endpoint(s) in: Fishhook Creek (44.137, –114.966); Redfish Lake Creek (44.097, –114.959).

(xvii) *Valley Creek/Iron Creek Watershed 1706020122*. Outlet(s) = Valley Creek (Lat 44.225, Long –114.927) upstream to endpoint(s) in: Crooked Creek (44.214, –115.034); Goat Creek (44.179, –115.008); Iron Creek (44.191, –115.025); Job Creek (44.242, –115.027);

Meadow Creek (44.190, –114.961); Park Creek (44.281, –115.036); Stanley Creek (44.276, –114.938); Valley Creek (44.291, –115.018).

(xviii) *Upper Valley Creek Watershed 1706020123*. Outlet(s) = Valley Creek (Lat 44.291, Long –115.018); Stanley Lake Creek (44.2535, –115.0040) upstream to endpoint(s) in: East Fork Valley Creek (44.347, –114.999); Elk Creek (44.227, –115.145); Hanna Creek (44.314, –115.041); Meadow Creek (44.291, –115.119); Stanley Lake Creek (44.248, –115.045); Trap Creek (44.311, –115.121); Valley Creek (44.392, –114.980).

(xix) *Basin Creek Watershed 1706020124*. Outlet(s) = Basin Creek (Lat 44.264, Long –114.817) upstream to endpoint(s) in: Basin Creek (44.361, –114.902); East Basin Creek (44.314, –114.823).

(xx) *Yankee Fork/Jordan Creek Watershed 1706020125*. Outlet(s) = Yankee Fork (Lat 44.270, Long –114.734) upstream to endpoint(s) in: Eightmile Creek (44.448, –114.639); Fivemile Creek (44.355, –114.615); Jordan Creek (44.457, –114.752); Ramey Creek (44.355, –114.641); Sevenmile Creek (44.423, –114.608); Sixmile Creek (44.394, –114.585); Yankee Fork (44.426, –114.619).

(xxi) *West Fork Yankee Fork Watershed 1706020126*. Outlet(s) = West Fork Yankee Fork (Lat 44.351, Long –114.727) upstream to endpoint(s) in: Cabin Creek (44.428, –114.881); Deadwood Creek (44.356, –114.834); Lightning Creek (44.466, –114.787); Sawmill Creek (44.341, –114.765); West Fork Yankee Fork (44.386, –114.919).

(xxii) *Upper Yankee Fork Watershed 1706020127*. Outlet(s) = Yankee Fork (Lat 44.426, Long –114.619) upstream to endpoint(s) in: Elevenmile Creek (44.436, –114.544); McKay Creek (44.475, –114.491); Ninemile Creek (44.439, –114.590); Tenmile Creek (44.484, –114.646); Twelvemile Creek (44.497, –114.614); Yankee Fork (44.510, –114.588).

(xxiii) *Squaw Creek Watershed 1706020128*. Outlet(s) = Squaw Creek (Lat 44.249, Long –114.454) upstream to endpoint(s) in: Cash Creek (44.353, –114.473); Cinnabar Creek (44.359, –114.503); Squaw Creek (44.420, –114.489).

(xxiv) *Garden Creek Watershed 1706020129*. Outlet(s) = Garden Creek (Lat 44.511, Long –114.203) upstream to endpoint(s) in: Garden Creek (44.468, –114.325).

(xxv) *Challis Creek/Mill Creek Watershed 1706020130*. Outlet(s) = Challis Creek (Lat 44.563, Long –114.246) upstream to endpoint(s) in: Challis Creek (44.573, –114.309); Darling Creek (44.572, –114.252).

(xxvi) *Morgan Creek Watershed 1706020132*. Outlet(s) = Morgan Creek (Lat 44.612, Long –114.168) upstream to endpoint(s) in: Blowfly Creek (44.714, –114.326); Corral Creek (44.8045, –114.2239); Lick Creek (44.7371, –114.2948); Morgan Creek (44.8029, –114.2561); Van Horn Creek (44.7614, –114.2680); West Fork Morgan Creek (44.710, –114.335).

(9) Pahsimeroi Subbasin 17060202—(i) *Lower Pahsimeroi River Watershed 1706020201*. Outlet(s) = Pahsimeroi River (Lat 44.692, Long –114.049) upstream to endpoint(s) in: Pahsimeroi River (44.559, –113.900); Patterson Creek (44.561, –113.897).

(ii) *Paterson Creek Watershed 1706020203*. Outlet(s) = Patterson Creek (Lat 44.534, Long –113.837) upstream to endpoint(s) in: Patterson Creek (44.566, –113.670).

(10) Middle Salmon-Panther Subbasin 17060203—(i) *Salmon River/Colson Creek Watershed 1706020301*. Outlet(s) = Salmon River (Lat 45.297, Long –114.591) upstream to endpoint(s) in: Colson Creek (45.307, –114.531); Owl Creek (45.340, –114.462); Salmon River (45.316, –114.405).

(ii) *Owl Creek Watershed 1706020302*. Outlet(s) = Owl Creek (Lat 45.340, Long –114.462) upstream to endpoint(s) in: East Fork Owl Creek (45.367, –114.430); Owl Creek (45.382, –114.469).

(iii) *Salmon River/Pine Creek Watershed 1706020303*. Outlet(s) = Salmon River (Lat 45.316, Long –114.405) upstream to endpoint(s) in: Boulder Creek (45.385, –114.297); Pine Creek (45.307, –114.186); Salmon River (45.399, –114.168); Spring Creek (45.421, –114.278); Squaw Creek (45.449, –114.215).

(iv) *Indian Creek Watershed 1706020304*. Outlet(s) = Indian Creek (Lat 45.400, Long –114.167) upstream to endpoint(s) in: Indian Creek (45.523, –114.151); McConn Creek (45.519, –114.185); West Fork Indian Creek (45.481, –114.168).

(v) *Salmon River/Moose Creek Watershed 1706020305*. Outlet(s) = Salmon River (Lat 45.399, Long –114.168) upstream to endpoint(s) in: Dump Creek (45.369, –114.035); Fourth of July Creek

(45.417, –113.857); Little Fourth of July Creek (45.396, –113.912); Moose Creek (45.346, –114.080); Salmon River (45.320, –113.909); Wagonhammer Creek (45.395, –113.945).

(vi) *North Fork Salmon River Watershed 1706020306*. Outlet(s) = North Fork Salmon River (Lat 45.405, Long –113.994) upstream to endpoint(s) in: Anderson Creek (45.577, –113.918); Dahlonega Creek (45.559, –113.845); Ditch Creek (45.534, –113.994); Hughes Creek (45.541, –114.069); Hull Creek (45.471, –114.016); Moose Creek (45.674, –113.951); Pierce Creek (45.640, –113.937); Sheep Creek (45.502, –113.889); Smithy Creek (45.575, –113.889); Threemile Creek (45.577, –113.866); Twin Creek (45.591, –114.081).

(vii) *Salmon River/Tower Creek Watershed 1706020307*. Outlet(s) = Salmon River (Lat 45.320, Long –113.909) upstream to endpoint(s) in: Salmon River (45.250, –113.899); Tower Creek (45.367, –113.857); Wallace Creek (45.2645, –113.9035).

(viii) *Carmen Creek Watershed 1706020308*. Outlet(s) = Carmen Creek (Lat 45.250, Long –113.899) upstream to endpoint(s) in: Carmen Creek (45.316, –113.800); Freeman Creek (45.269, –113.752).

(ix) *Salmon River/Jesse Creek Watershed 1706020309*. Outlet(s) = Salmon River (Lat 45.250, Long –113.899) upstream to endpoint(s) in: Salmon River (45.109, –113.901); Unnamed (45.180, –113.930).

(x) *Salmon River/Williams Creek Watershed 1706020310*. Outlet(s) = Salmon River (Lat 45.109, Long –113.901) upstream to endpoint(s) in: Salmon River (45.011, –113.932); Williams Creek (45.081, –113.935).

(xi) *Salmon River/Twelvemile Creek Watershed 1706020311*. Outlet(s) = Salmon River (Lat 45.011, Long –113.932) upstream to endpoint(s) in: Lake Creek (45.015, –113.959); Salmon River (44.896, –113.963); Twelvemile Creek (45.011, –113.927).

(xii) *Salmon River/Cow Creek Watershed 1706020312*. Outlet(s) = Salmon River (Lat 44.896, Long –113.963) upstream to endpoint(s) in: Cow Creek (44.730, –113.940); McKim Creek (44.810, –114.008); Poison Creek (44.876, –113.934); Salmon River (44.692, –114.049); Warm Spring Creek (44.913, –113.914).

(xiii) *Hat Creek Watershed 1706020313*. Outlet(s) = Hat Creek (Lat 44.795, Long –114.001) upstream to endpoint(s) in: Hat Creek (44.785, –114.040).

(xiv) *Iron Creek Watershed 1706020314*. Outlet(s) = Iron Creek (Lat 44.887, Long –113.968) upstream to endpoint(s) in: Iron Creek (44.921, –114.124).

(xv) *Upper Panther Creek Watershed 1706020315*. Outlet(s) = Panther Creek (Lat 45.022, Long –114.313) upstream to endpoint(s) in: Cabin Creek (44.957, –114.365); Opal Creek (44.901, –114.307); Panther Creek (44.887, –114.305); Porphyry Creek (45.034, –114.388).

(xvi) *Moyer Creek Watershed 1706020316*. Outlet(s) = Moyer Creek (Lat 45.024, Long –114.311) upstream to endpoint(s) in: Moyer Creek (44.949, –114.265); South Fork Moyer Creek (44.944, –114.305).

(xvii) *Panther Creek/Woodtick Creek Watershed 1706020317*. Outlet(s) = Panther Creek (Lat 45.079, Long –114.251) upstream to endpoint(s) in: Copper Creek (45.060, –114.258); Fawn Creek (45.073, –114.247); Musgrove Creek (45.054, –114.368); Panther Creek (45.022, –114.313); Woodtick Creek (45.008, –114.235).

(xviii) *Deep Creek Watershed 1706020318*. Outlet(s) = Deep Creek (Lat 45.126, Long –114.215) upstream to endpoint(s) in: Deep Creek (45.108, –114.179).

(xix) *Panther Creek/Spring Creek Watershed 1706020320*. Outlet(s) = Panther Creek (45.176, Long –114.314) upstream to endpoint(s) in: Little Deer Creek (45.156, –114.298); Panther Creek (45.079, –114.251); Spring Creek (45.088, –114.223).

(xx) *Big Deer Creek Watershed 1706020321*. Outlet(s) = Big Deer Creek (Lat 45.1763, Long –114.3138) upstream to endpoint(s) in: Big Deer Creek (45.1695, –114.3256).

(xxi) *Panther Creek/Trail Creek Watershed 1706020322*. Outlet(s) = Panther Creek (Lat 45.316, Long –114.405) upstream to endpoint(s) in: Beaver Creek (45.2816, –114.2744); Garden Creek (45.2959, –114.4293); Trail Creek (45.2318, –114.2663); Panther Creek (45.176, –114.314).

(xxii) *Clear Creek Watershed 1706020323*. Outlet(s) = Clear Creek (Lat 45.295, Long –114.351) upstream to endpoint(s) in: Clear Creek (45.210, –114.485).

(11) Lemhi Subbasin 17060204—(i) *Lemhi River/Bohannon Creek Watershed 1706020401*. Outlet(s) = Lemhi River (Lat 45.188, Long –113.889) upstream to endpoint(s) in: Bohannon Creek (45.189, –113.692); Lemhi River (45.098, –113.720).

(ii) *Lemhi River/Whimpey Creek Watershed 1706020402*. Outlet(s) = Lemhi River (Lat 45.098, Long –113.720) upstream to endpoint(s) in: Lemhi River (45.032, –113.662); Wimpey Creek (45.131, –113.678); Withington Creek (45.058, –113.750).

(iii) *Lemhi River/Kenney Creek Watershed 1706020403*. Outlet(s) = Lemhi River (Lat 45.032, Long –113.662) upstream to endpoint(s) in: Kenney Creek (45.087, –113.551); Lemhi River (44.940, –113.639).

(iv) *Lemhi River/McDevitt Creek Watershed 1706020405*. Outlet(s) = Lemhi River (Lat 44.940, Long –113.639) upstream to endpoint(s) in: Lemhi River (44.870, –113.626).

(v) *Lemhi River/Yearian Creek Watershed 1706020406*. Outlet(s) = Lemhi River (Lat 44.867, Long –113.626) upstream to endpoint(s) in: Lemhi River (44.778, –113.535).

(vi) *Peterson Creek Watershed 1706020407*. Outlet(s) = Lemhi River (Lat 44.778, Long –113.535) upstream to endpoint(s) in: Lemhi River (44.739, –113.459).

(vii) *Big Eight Mile Creek Watershed 1706020408*. Outlet(s) = Lemhi River (Lat 44.739, Long –113.459) upstream to endpoint(s) in: Lemhi River (44.692, –113.366).

(viii) *Canyon Creek Watershed 1706020409*. Outlet(s) = Lemhi River (Lat 44.692, Long –113.366) upstream to endpoint(s) in: Lemhi River (44.682, –113.355).

(ix) *Texas Creek Watershed 1706020412*. Outlet(s) = Texas Creek (Lat 44.6822, Long –113.3545) upstream to endpoint(s) in: Purcell Creek (44.5726, –113.3459), Texas Creek (44.5348, –113.3018).

(x) *Hayden Creek Watershed 1706020414*. Outlet(s) = Hayden Creek (Lat 44.870, Long –113.626) upstream to endpoint(s) in: Bear Valley Creek (44.796, –113.790); East Fork Hayden Creek (44.708, –113.661); Hayden Creek (44.726, –113.769); Kadletz Creek (44.761, –113.767); West Fork Hayden Creek (44.706, –113.768); Wright Creek (44.759, –113.794).

(12) Upper Middle Fork Salmon Subbasin 17060205—(i) *Lower Loon Creek Watershed 1706020501*. Outlet(s) = Loon Creek (Lat 44.808, Long –114.811) upstream to endpoint(s) in: Cabin Creek (44.742, –114.708); Loon Creek (44.552, –114.849).

(ii) *Warm Springs Watershed 1706020502*. Outlet(s) = Warm Spring Creek (Lat 44.653, Long –114.736) upstream to endpoint(s) in: Trapper Creek (44.504, –114.617); Warm Spring Creek (44.609, –114.481).

(iii) *Upper Loon Creek Watershed 1706020503*. Outlet(s) = Loon Creek (Lat 44.552, Long –114.849) upstream to endpoint(s) in: Cottonwood Creek (44.593, –114.679); East Fork Mayfield Creek (44.494, –114.700); Loon Creek (44.469, –114.923); Pioneer Creek (44.466, –114.873); South Fork Cottonwood Creek (44.563, –114.780); Trail Creek (44.506, –114.959); West Fork Mayfield Creek (44.473, –114.730).

(iv) *Little Loon Creek Watershed 1706020504*. Outlet(s) = Little Loon Creek (Lat 44.731, Long –114.940) upstream to endpoint(s) in: Little Loon Creek (44.615, –114.963).

(v) *Rapid River Watershed 1706020505*. Outlet(s) = Rapid River (Lat 44.680, Long –115.152) upstream to endpoint(s) in: Float Creek (44.546, –115.148); North Fork Sheep Creek (44.656, –114.997); Rapid River (44.551, –115.007); South Fork Sheep Creek (44.628, –114.988); Vanity Creek (44.500, –115.072).

(vi) *Marsh Creek Watershed 1706020506*. Outlet(s) = Marsh Creek (Lat 44.449, Long –115.230) upstream to endpoint(s) in: Asher Creek (44.374, –115.126); Banner Creek (44.291, –115.187); Bear Creek (44.490, –115.098); Beaver Creek (44.494, –114.964); Camp Creek (44.384, –115.144); Cape Horn Creek (44.333, –115.287); Knapp Creek (44.424, –114.915); Marsh Creek (44.329, –115.091); Swamp Creek (44.300, –115.175); Winnemucca Creek (44.479, –114.972).

(vii) *Middle Fork Salmon River/Soldier Creek Watershed 1706020507*. Outlet(s) = Middle Fork Salmon River (Lat 44.680, Long –115.152) upstream to endpoint(s) in: Boundary Creek (44.507, –115.328); Dagger Creek (44.498, –115.307); Elkhorn Creek (44.582, –115.369); Greyhound Creek (44.626, –115.158); Middle Fork Salmon River (44.449, –115.230); Soldier Creek (44.528, –115.201).

(viii) *Bear Valley Creek Watershed 1706020508*. Outlet(s) = Bear Valley Creek (Lat 44.449, Long –115.230) upstream to endpoint(s) in: Ayers Creek (44.454, –115.330); Bear Valley Creek (44.236, –115.499); Bearskin Creek (44.331, –115.528); Cache Creek (44.286, –115.409); Cold Creek (44.371, –115.317); Cook Creek (44.389, –115.438); East Fork Elk Creek (44.481, –115.359); Fir Creek (44.354, –115.296); Little Beaver Creek (44.415, –115.504); Little East Fork Elk Creek (44.479, –115.407); Mace Creek (44.289, –115.443); North Fork Elk Creek (44.527, –115.458); Poker Creek (44.444, –115.345); Pole Creek (44.361, –115.366); Porter Creek (44.466, –115.529); Sack Creek (44.320, –115.351); Sheep Trail Creek (44.360, –115.451); West Fork Elk Creek (44.485, –115.499); Wyoming Creek (44.362, –115.335).

(ix) *Sulphur Creek Watershed 1706020509*. Outlet(s) = Sulphur Creek (Lat 44.555, Long –115.297) upstream to endpoint(s) in: Blue Moon Creek (44.572, –115.364); Full Moon Creek (44.535, –115.400); Honeymoon Creek (44.605, –115.399); North Fork Sulphur Creek (44.583, –115.467); Sulphur Creek (44.510, –115.518).

(x) *Pistol Creek Watershed 1706020510*. Outlet(s) = Pistol Creek (Lat 44.724, Long –115.149) upstream to endpoint(s) in: Little Pistol Creek (44.721, –115.404); Luger Creek (44.636, –115.386); Pistol Creek (44.644, –115.442).

(xi) *Indian Creek Watershed 1706020511*. Outlet(s) = Indian Creek (Lat 44.770, Long –115.089) upstream to endpoint(s) in: Big Chief Creek (44.817, –115.368); Indian Creek (44.803, –115.383); Little Indian Creek (44.879, –115.226).

(xii) *Upper Marble Creek Watershed 1706020512*. Outlet(s) = Marble Creek (Lat 44.797, Long –114.971) upstream to endpoint(s) in: Big Cottonwood Creek (44.879, –115.206); Canyon Creek (44.822, –114.943); Cornish Creek (44.933, –115.127); Dynamite Creek (44.871, –115.207); Marble Creek (44.983, –115.079); Trail Creek (44.917, –114.930).

(xiii) *Middle Fork Salmon River/Lower Marble Creek Watershed 1706020513*. Outlet(s) = Middle Fork Salmon River (Lat 44.808, Long –114.811) upstream to endpoint(s) in: Marble Creek (44.797, –114.971); Middle Fork Salmon River (44.680, –115.152).

(13) Lower Middle Fork Salmon Subbasin 17060206—(i) *Lower Middle Fork Salmon River Watershed 1706020601*. Outlet(s) = Middle Fork Salmon River (Lat 45.297, Long –114.591) upstream to endpoint(s) in: Middle Fork Salmon River (45.095, –114.732); Roaring Creek (45.186, –114.574); Stoddard Creek (45.244, –114.702).

(ii) *Wilson Creek Watershed 1706020602*. Outlet(s) = Wilson Creek (Lat 45.033, Long –114.723) upstream to endpoint(s) in: Wilson Creek (45.032, –114.659).

(iii) *Middle Fork Salmon River/Brush Creek Watershed 1706020603*. Outlet(s) = Middle Fork Salmon River (Lat 45.095, Long –114.732) upstream to endpoint(s) in: Brush Creek (44.955, –114.733); Middle Fork Salmon River (44.958, –114.747).

(iv) *Yellow Jacket Creek Watershed 1706020604*. Outlet(s) = Yellowjacket Creek (Lat 44.892, Long –114.644) upstream to endpoint(s) in: Beagle Creek (44.993, –114.466); Hoodoo Creek (44.993, –114.568); Lake Creek (44.967, –114.603); Little Jacket Creek (44.931, –114.505); Meadow Creek (44.984, –114.481); Shovel Creek (45.006, –114.463); Trail Creek (44.939, –114.461); Yellowjacket Creek (45.050, –114.480).

(v) *Silver Creek Watershed 1706020605*. Outlet(s) = Silver Creek (Lat 44.830, Long –114.501) upstream to endpoint(s) in: Silver Creek (44.856, –114.458).

(vi) *Upper Camas Creek Watershed 1706020606*. Outlet(s) = Camas Creek (Lat 44.830, Long –114.501) upstream to endpoint(s) in: Castle Creek (44.825, –114.415); Fly Creek (44.703, –114.509); Furnace Creek (44.767, –114.421); J Fell Creek (44.669, –114.459); South Fork Camas Creek (44.731, –114.553); Spider Creek (44.688, –114.495); White Goat Creek (44.731, –114.460).

(vii) *West Fork Camas Creek Watershed 1706020607*. Outlet(s) = West Fork Camas Creek (Lat 44.831, Long –114.504) upstream to endpoint(s) in: Flume Creek (44.806, –114.526); Martindale Creek (44.822, –114.560); West Fork Camas Creek (44.795, –114.595).

(viii) *Lower Camas Creek Watershed 1706020608*. Outlet(s) = Camas Creek (Lat 44.892, Long –114.722) upstream to endpoint(s) in: Camas Creek (44.830, –114.501); Duck Creek (44.852, –114.521); Woodtick Creek (44.870, –114.636).

(ix) *Middle Fork Salmon River/Sheep Creek Watershed 1706020609*. Outlet(s) =

Middle Fork Salmon River (Lat 44.955, Long –114.733) upstream to endpoint(s) in: Middle Fork Salmon River (44.808, –114.811); Sheep Creek (44.923, –114.873).

(x) *Rush Creek Watershed 1706020610*. Outlet(s) = Rush Creek (Lat 45.105, Long –114.861) upstream to endpoint(s) in: Rush Creek (44.958, –114.992); South Fork Rush Creek (45.013, –114.972); Two Point Creek (45.027, –114.947).

(xi) *Monumental Creek Watershed 1706020611*. Outlet(s) = Monumental Creek (Lat 45.160, Long –115.129) upstream to endpoint(s) in: Monumental Creek (44.952, –115.179); Snowslide Creek (45.055, –115.266); West Fork Monumental Creek (45.011, –115.244).

(xii) *Big Creek/Little Marble Creek Watershed 1706020612*. Outlet(s) = Big Creek (Lat 45.163, Long –115.128) upstream to endpoint(s) in: Big Creek (45.153, –115.297); Little Marble Creek (45.062, –115.276).

(xiii) *Upper Big Creek Watershed 1706020613*. Outlet(s) = Big Creek (Lat 45.153, Long –115.297) upstream to endpoint(s) in: Big Creek (45.075, –115.342); Jacobs Ladder Creek (45.063, –115.322); Middle Fork Smith Creek (45.166, –115.411); Smith Creek (45.170, –115.380); Unnamed (45.129, –115.422).

(xiv) *Beaver Creek Watershed 1706020614*. Outlet(s) = Beaver Creek (Lat 45.163, Long –115.242) upstream to endpoint(s) in: Beaver Creek (45.242, –115.314); Coin Creek (45.218, –115.328); HCreek (45.266, –115.270).

(xv) *Big Ramey Creek Watershed 1706020615*. Outlet(s) = Big Ramey Creek (Lat 45.177, Long –115.159) upstream to endpoint(s) in: Big Ramey Creek (45.279, –115.243).

(xvi) *Big Creek/Crooked Creek Watershed 1706020616*. Outlet(s) = Big Creek (Lat 45.127, Long –114.935) upstream to endpoint(s) in: Big Creek (45.163, –115.128); Cave Creek (45.219, –114.916); Coxey Creek (45.181, –115.022); East Fork Crooked Creek (45.250, –114.975); Fawn Creek (45.125, –115.032); West Fork Crooked Creek (45.251, –115.117).

(xvii) *Lower Big Creek Watershed 1706020617*. Outlet(s) = Big Creek (Lat 45.095, Long –114.732) upstream to endpoint(s) in: Big Creek (45.127, –114.935); Cabin Creek (45.195, –114.837); Canyon Creek (45.087, –114.997); Cliff Creek (45.127, –114.857); Cougar Creek (45.138, –114.813); Pioneer Creek (45.066, –114.842).

(14) Middle Salmon-Chamberlain Subbasin 17060207—(i) *Salmon River/Fall Creek Watershed 1706020701*. Outlet(s) = Salmon River (Lat 45.426, Long –116.025) upstream to endpoint(s) in: Carey Creek (45.4242, –115.9343); Fall Creek (45.4153, –115.9755); Salmon River (45.455, –115.941).

(ii) *Wind River Watershed 1706020702*. Outlet(s) = Wind River (Lat 45.4553, Long –115.9411) upstream to endpoint(s) in: Wind River (45.4657, –115.9394).

(iii) *Salmon River/California Creek Watershed 1706020703*. Outlet(s) = Salmon River (Lat 45.455, Long –115.941) upstream to endpoint(s) in: Bear Creek (45.435, –115.852); Bull Creek (45.482, –115.716); California Creek (45.341, –115.850); Cottontail Creek (45.388, –115.752); Maxwell Creek (45.392, –115.841); Salmon River (45.434, –115.666).

(iv) *Sheep Creek Watershed 1706020704*. Outlet(s) = Sheep Creek (Lat 45.468, Long –115.810) upstream to endpoint(s) in: East Fork Sheep Creek (45.546, –115.769); Meadow Creek (45.544, –115.792); Plummer Creek (45.531, –115.807); Porcupine Creek (45.506, –115.817); Sheep Creek (45.591, –115.705).

(v) *Crooked Creek Watershed 1706020705*. Outlet(s) = Crooked Creek (Lat 45.434, Long –115.666) upstream to endpoint(s) in: Arlington Creek (45.491, –115.678); Crooked Creek (45.515, –115.554); Lake Creek (45.616, –115.686).

(vi) *Salmon River/Rabbit Creek Watershed 1706020706*. Outlet(s) = Salmon River (Lat 45.434, Long –115.666) upstream to endpoint(s) in: Indian Creek (45.409, –115.608); Rabbit Creek (45.416, –115.667); Salmon River (45.378, –115.512).

(vii) *Salmon River/Trout Creek Watershed 1706020708*. Outlet(s) = Salmon River (Lat 45.378, Long –115.512) upstream to endpoint(s) in: Big Blowout Creek (45.468, –115.432); Big Elkhorn Creek (45.521, –115.331); Fivemile Creek (45.391, –115.452); Jersey Creek (45.494, –115.531); Little Fivemile Creek (45.416, –115.425); Little Mallard Creek (45.538, –115.317); Rhett Creek (45.483, –115.410); Richardson Creek (45.499, –115.265); Salmon River (45.567, –115.191); Trout Creek (45.396, –115.315).

(viii) *Bargamin Creek Watershed 1706020709*. Outlet(s) = Bargamin Creek (Lat 45.567, Long –115.191) upstream to

endpoint(s) in: Bargamin Creek (45.706, –115.046); Cache Creek (45.691, –115.180); Porcupine Creek (45.725, –115.128); Prospector Creek (45.688, –115.153); Rainey Creek (45.617, –115.210); Salt Creek (45.643, –115.189).

(ix) *Salmon River/Rattlesnake Creek Watershed 1706020710*. Outlet(s) = Salmon River (Lat 45.567, Long –115.191) upstream to endpoint(s) in: Rattlesnake Creek (45.560, –115.143); Salmon River (45.511, –115.041).

(x) *Sabe Creek Watershed 1706020711*. Outlet(s) = Sabe Creek (Lat 45.507, Long –115.024) upstream to endpoint(s) in: Center Creek (45.573, –115.040); Hamilton Creek (45.544, –114.826).

(xi) *Salmon River/Hot Springs Creek Watershed 1706020712*. Outlet(s) = Salmon River (Lat 45.511, Long –115.041) upstream to endpoint(s) in: Big Harrington Creek (45.498, –114.895); Hot Springs Creek (45.465, –115.135); Salmon River (45.454, –114.931).

(xii) *Salmon River/Disappointment Creek Watershed 1706020713*. Outlet(s) = Salmon River (Lat 45.454, Long –114.931) upstream to endpoint(s) in: Salmon River (45.395, –114.732).

(xiii) *Horse Creek Watershed 1706020714*. Outlet(s) = Horse Creek (Lat 45.395, Long –114.732) upstream to endpoint(s) in: East Fork Reynolds Creek (45.541, –114.493); Horse Creek (45.498, –114.421); Reynolds Creek (45.555, –114.558); West Horse Creek (45.494, –114.754).

(xiv) *Salmon River/Kitchen Creek Watershed 1706020715*. Outlet(s) = Salmon River (Lat 45.395, Long –114.732) upstream to endpoint(s) in: Corn Creek (45.370, –114.681); Kitchen Creek (45.295, –114.752); Salmon River (45.297, –114.591).

(xv) *Cottonwood Creek Watershed 1706020716*. Outlet(s) = Cottonwood Creek (Lat 45.394, Long –114.802) upstream to endpoint(s) in: Cottonwood Creek (45.354, –114.823).

(xvi) *Lower Chamberlain/McCalla Creek Watershed 1706020717*. Outlet(s) = Chamberlain Creek (Lat 45.454, Long –114.931) upstream to endpoint(s) in: McCalla Creek (45.321, –115.115); Unnamed (45.433, –114.935); Whimstick Creek (45.241, –115.053).

(xvii) *Upper Chamberlain Creek Watershed 1706020718*. Outlet(s) = Chamberlain Creek (Lat 45.414, Long –114.981) upstream to endpoint(s) in: Flossie Creek (45.384, –115.248); Lodgepole Creek (45.305, –115.254); Moose Creek (45.283, –115.292); South Fork Chamberlain Creek (45.288, –115.342).

(xviii) *Warren Creek Watershed 1706020719*. Outlet(s) = Warren Creek (Lat 45.397, Long –115.592) upstream to endpoint(s) in: Richardson Creek (45.372, –115.625); Slaughter Creek (45.269, –115.648); Steamboat Creek (45.259, –115.722); Warren Creek (45.248, –115.653).

(15) South Fork Salmon Subbasin 17060208—(i) *Lower South Fork Salmon River Watershed 1706020801*. Outlet(s) = South Fork Salmon River (Lat 45.378, Long –115.512) upstream to endpoint(s) in: Big Buck Creek (45.253, –115.554); Pony Creek (45.209, –115.663); Porphyry Creek (45.255, –115.462); Smith Creek (45.265, –115.550); South Fork Salmon River (45.156, –115.585).

(ii) *South Fork Salmon River/Sheep Creek Watershed 1706020802*. Outlet(s) = South Fork Salmon River (Lat 45.156, Long –115.585) upstream to endpoint(s) in: Bear Creek (45.124, –115.643); Contux Creek (45.155, –115.620); Deer Creek (45.162, –115.606); Elk Creek (45.149, –115.506); Sheep Creek (45.039, –115.583); South Fork Salmon River (45.025, –115.706).

(iii) *Lower East Fork South Fork Salmon River Watershed 1706020803*. Outlet(s) = East Fork South Fork Salmon River (Lat 45.015, Long –115.713) upstream to endpoint(s) in: Caton Creek (44.900, –115.584); East Fork South Fork Salmon River (44.963, –115.501); Loosum Creek (44.918, –115.529); Parks Creek (44.969, –115.530).

(iv) *Upper East Fork South Fork Salmon River Watershed 1706020804*. Outlet(s) = East Fork South Fork Salmon River (Lat 44.963, Long –115.501) upstream to endpoint(s) in: East Fork South Fork Salmon River (44.934, –115.336); Profile Creek (45.035, –115.409); Quartz Creek (45.048, –115.496); Salt Creek (44.962, –115.329); Sugar Creek (44.975, –115.245); Tamarack Creek (44.995, –115.318).

(v) *Lower Johnson Creek Watershed 1706020805*. Outlet(s) = Johnson Creek (Lat 44.963, Long –115.501) upstream to endpoint(s) in: Johnson Creek (44.803, –115.518); Riordan Creek (44.898, –115.472); Trapper Creek (44.829, –115.508).

(vi) *Burntlog Creek Watershed 1706020806*. Outlet(s) = Burntlog Creek (Lat 44.803, Long –115.518) upstream to endpoint(s) in: Burntlog Creek (44.718, –115.419).

(vii) *Upper Johnson Creek Watershed 1706020807*. Outlet(s) = Johnson Creek (Lat 44.803, Long –115.518) upstream to endpoint(s) in: Boulder Creek (44.565, –115.595); Johnson Creek (44.550, –115.590); Landmark Creek (44.630, –115.574); Rock Creek (44.600, –115.592); SCreek (44.609, –115.413); Whiskey Creek (44.563, –115.486).

(viii) *Upper South Fork Salmon River Watershed 1706020808*. Outlet(s) = South Fork Salmon River (Lat 44.652, Long –115.703) upstream to endpoint(s) in: Bear Creek (44.607, –115.600); Camp Creek (44.605, –115.633); Curtis Creek (44.593, –115.752); Lodgepole Creek (44.576, –115.610); Mormon Creek (44.499, –115.654); Rice Creek (44.510, –115.644); South Fork Salmon River (44.480, –115.688); Tyndall Creek (44.568, –115.736).

(ix) *South Fork Salmon River/Cabin Creek Watershed 1706020809*. Outlet(s) = South Fork Salmon River (Lat 44.759, Long –115.684) upstream to endpoint(s) in: Cabin Creek (44.713, –115.638); Dollar Creek (44.759, –115.751); North Fork Dollar Creek (44.755, –115.745); Six-Bit Creek (44.684, –115.724); South Fork Salmon River (44.652, –115.703); Two-bit Creek (44.655, –115.747); Warm Lake Creek (44.653, –115.662).

(x) *South Fork Salmon River/Blackmare Creek Watershed 1706020810*. Outlet(s) = South Fork Salmon River (Lat 44.898, Long –115.715) upstream to endpoint(s) in: Blackmare Creek (44.809, –115.795); Camp Creek (44.889, –115.691); Cougar Creek (44.823, –115.804); Phoebe Creek (44.910, –115.705); South Fork Salmon River (44.759, –115.684).

(xi) [Reserved]

(xii) *Buckhorn Creek Watershed 1706020811*. Outlet(s) = Buckhorn Creek (Lat 44.922, Long –115.736) upstream to endpoint(s) in: Buckhorn Creek (44.881, –115.856); Little Buckhorn Creek (44.902, –115.756); West Fork Buckhorn Creek (44.909, –115.832).

(xiii) *South Fork Salmon River/Fitsum Creek Watershed 1706020812*. Outlet(s) = South Fork Salmon River (Lat 45.025, Long –115.706) upstream to endpoint(s) in: Fitsum Creek (44.996, –115.784); North Fork Fitsum Creek (44.992, –115.870); South Fork Fitsum Creek (44.981, –115.768); South Fork Salmon River (44.898, –115.715).

(xiv) *Lower Secesh River Watershed 1706020813*. Outlet(s) = Secesh River (Lat 45.025, Long –115.706) upstream to endpoint(s) in: Cly Creek (45.031, –115.911); Hum Creek (45.070, –115.903); Lick Creek (45.049, –115.906); Secesh River (45.183, –115.821); Split Creek (45.109, –115.805); Zena Creek (45.057, –115.732).

(xv) *Middle Secesh River Watershed 1706020814*. Outlet(s) = Secesh River (Lat 45.183, Long –115.821) upstream to endpoint(s) in: Grouse Creek (45.289, –115.835); Secesh River (45.257, –115.895); Victor Creek (45.186, –115.831).

(xiv) *Upper Secesh River Watershed 1706020815*. Outlet(s) = Secesh River (Lat 45.257, Long –115.895) upstream to endpoint(s) in: Lake Creek (45.374, –115.867); Threemile Creek (45.334, –115.891).

(16) Lower Salmon Subbasin 17060209—(i) *Salmon River/China Creek Watershed 1706020901*. Outlet(s) = Salmon River (Lat 45.857, Long –116.794) upstream to endpoint(s) in: China Creek (46.004, –116.817); Flynn Creek (45.911, –116.714); Salmon River (45.999, –116.695); Wapshilla Creek (45.945, –116.766).

(ii) *Eagle Creek Watershed 1706020902*. Outlet(s) = Eagle Creek (Lat 45.997, Long –116.700) upstream to endpoint(s) in: Eagle Creek (46.057, –116.814).

(iii) *Deer Creek Watershed 1706020903*. Outlet(s) = Deer Creek (Lat 45.999, Long –116.695) upstream to endpoint(s) in: Deer Creek (46.051, –116.702).

(iv) *Salmon River/Cottonwood Creek Watershed 1706020904*. Outlet(s) = Salmon River (Lat 45.999, Long –116.695) upstream to endpoint(s) in: Billy Creek (45.990, –116.643); Cottonwood Creek (45.932, –116.598); Maloney Creek (46.068, –116.625); Salmon River (46.038, –116.625); West Fork Maloney Creek (46.061, –116.632).

(v) *Salmon River/Deep Creek Watershed 1706020905*. Outlet(s) = Salmon River (Lat 46.038, Long –116.625) upstream to endpoint(s) in: Burnt Creek (45.966, –116.548); Deep Creek (46.005, –116.547); Round Spring Creek (45.972, –116.501); Salmon River (45.911, –116.410); Telcher Creek (45.978, –116.443).

(vi) *Rock Creek Watershed 1706020906*. Outlet(s) = Rock Creek (Lat 45.905, Long –116.396) upstream to endpoint(s) in: Grave Creek (45.978, –116.359); Johns Creek (45.930, –116.245); Rock Creek (45.919, –116.245).

(vii) *Salmon River/Hammer Creek Watershed 1706020907*. Outlet(s) = Salmon River (Lat 45.911, Long –116.410) upstream to endpoint(s) in: Salmon River (45.752, –116.322).

(viii) *White Bird Creek Watershed 1706020908*. White Bird Creek (Lat 45.752, Long –116.322) upstream to endpoint(s) in: Asbestos Creek (45.722, –116.050); Cabin Creek (45.842, –116.110); Chapman Creek (45.841, –116.216); Cold Springs Creek (45.716, –116.037); Fish Creek (45.865, –116.084); Jungle Creek (45.739, –116.063); Little White Bird Creek (45.740, –116.087); North Fork White Bird Creek (45.797, –116.089); Pinnacle Creek (45.779, –116.086); South Fork White Bird Creek (45.772, –116.028); Twin Cabins Creek (45.782, –116.048); Unnamed (45.809, –116.086); Unnamed (45.841, –116.114); Unnamed (45.858, –116.105).

(ix) *Salmon River/McKinzie Creek Watershed 1706020909*. Outlet(s) = Salmon River (Lat 45.752, Long –116.322) upstream to endpoint(s) in: Deer Creek (45.706, –116.332); McKinzie Creek (45.676, –116.260); Salmon River (45.640, –116.284); Sotin Creek (45.725, –116.341).

(x) *Skookumchuck Creek Watershed 1706020910*. Outlet(s) = Skookumchuck Creek (Lat 45.700, Long –116.317) upstream to endpoint(s) in: North Fork Skookumchuck Creek (45.728, –116.114); South Fork Skookumchuck Creek (45.711, –116.197).

(xi) *Slate Creek Watershed 1706020911*. Outlet(s) = Slate Creek (Lat 45.640, Long –116.284) upstream to endpoint(s) in: Deadhorse Creek (45.603, –116.093); Little Slate Creek (45.587, –116.075); North Fork Slate Creek (45.671, –116.095); Slate Creek (45.634, –116.000); Slide Creek (45.662, –116.146); Unnamed (45.5959, –116.1061); Waterspout Creek (45.631, –116.115).

(xii) *Salmon River/John Day Creek Watershed 1706020912*. Outlet(s) = Salmon River (Lat 45.640, Long –116.284) upstream to endpoint(s) in: China Creek (45.547, –116.310); Cow Creek (45.539, –116.330); East Fork John Day Creek (45.575, –116.221); Fiddle Creek (45.495, –116.269); John Day Creek (45.564, –116.220); Race Creek (45.437, –116.316); South Fork Race Creek (45.440, –116.403); West Fork Race Creek (45.464, –116.352).

(xiii) *Salmon River/Lake Creek Watershed 1706020913*. Outlet(s) = Salmon River (Lat 45.437, Long –116.316) upstream to endpoint(s) in: Allison Creek (45.507, –116.156); Berg Creek (45.426, –116.244); Lake Creek (45.294, –116.219); Salmon River (45.418, –116.162); West Fork Allison Creek (45.457, –116.184); West Fork Lake Creek (45.370, –116.241).

(xiv) *Salmon River/Van Creek Watershed 1706020914*. Outlet(s) = Salmon River (Lat 45.418, Long –116.162) upstream to endpoint(s) in: Robbins Creek (45.430, –116.026); Salmon River (45.426, –116.025); Van Creek (45.431, –116.138).

(xv) *French Creek Watershed 1706020915*. Outlet(s) = French Creek (Lat 45.425, Long –116.030) upstream to endpoint(s) in: French Creek (45.375, –116.040).

(xvi) *Partridge Creek Watershed 1706020916*. Outlet(s) = Elkhorn Creek (Lat 45.4043, Long –116.0941); Partridge Creek (45.408, –116.126) upstream to endpoint(s) in: Elkhorn Creek (45.369, –116.092); Partridge Creek (45.369, –116.146).

(17) Little Salmon Subbasin 17060210—(i) *Lower Little Salmon River Watershed 1706021001*. Outlet(s) = Little Salmon River (Lat 45.417, Long –116.313) upstream to endpoint(s) in: Denny Creek (45.306, –116.359); Elk Creek (45.218, –116.311); Hat Creek (45.313, –116.354); Little Salmon River (45.204, –116.310); Lockwood Creek (45.254, –116.366); North Fork Squaw Creek (45.4234, –116.4320); Papoose Creek (45.4078, –116.3920); Rattlesnake Creek (45.268, –116.339); Sheep Creek (45.344, –116.336); South Fork Squaw Creek (45.4093, –116.4356).

(ii) *Little Salmon River/Hard Creek Watershed 1706021002*. Outlet(s) = Little Salmon River (Lat 45.204, Long –116.310) upstream to endpoint(s) in: Bascum Canyon (45.145, –116.248); Hard Creek (45.125, –116.239); Little Salmon River (45.123, –116.298); Trail Creek (45.164, –116.338).

(iii) *Hazard Creek Watershed 1706021003*. Outlet(s) = Hazard Creek (Lat 45.183, Long –116.283) upstream to

endpoint(s) in: Hazard Creek (45.201, –116.248).

(iv) *Boulder Creek Watershed 1706021006*. Outlet(s) = Boulder Creek (Lat 45.204, Long –116.310) upstream to endpoint(s) in: Ant Basin Creek (45.128, –116.447); Boulder Creek (45.103, –116.479); Bull Horn Creek (45.159, –116.407); Pollock Creek (45.168, –116.395); Pony Creek (45.190, –116.374); Squirrel Creek (45.198, –116.368); Star Creek (45.152, –116.418); Unnamed (45.095, –116.461); Unnamed (45.116, –116.455); Yellow Jacket Creek (45.141, –116.426).

(v) *Rapid River Watershed 1706021007*. Outlet(s) = Rapid River (Lat 45.375, Long –116.355) upstream to endpoint(s) in: Granite Fork Lake Fork Rapid River (45.179, –116.526); Paradise Creek (45.223, –116.550); Rapid River (45.157, –116.489); Shingle Creek (45.369, –116.409); West Fork Rapid River (45.306, –116.425).

(18) Upper Selway Subbasin 17060301—(i) *Selway River/Pettibone Creek Watershed 1706030101*. Outlet(s) = Selway River (Lat 46.122, Long –114.935) upstream to endpoint(s) in: Ditch Creek (46.022, –114.900); Elk Creek (45.987, –114.872); Pettibone Creek (46.105, –114.745); Selway River (45.962, –114.828).

(ii) *Bear Creek Watershed 1706030102*. Outlet(s) = Bear Creek (Lat 46.019, Long –114.844) upstream to endpoint(s) in: Bear Creek (46.104, –114.588); Brushy Fork Creek (45.978, –114.602); Cub Creek (46.021, –114.662); Granite Creek (46.102, –114.619); Paradise Creek (46.036, –114.710); Wahoo Creek (46.104, –114.633).

(iii) *Selway River/Gardner Creek Watershed 1706030103*. Outlet(s) = Selway River (Lat 45.962, Long –114.828) upstream to endpoint(s) in: Bad Luck Creek (45.899, –114.752); Crooked Creek (45.865, –114.764); Gardner Creek (45.937, –114.772); Magruder Creek (45.702, –114.795); North Star Creek (45.950, –114.806); Selway River (45.707, –114.719); Sheep Creek (45.821, –114.741); Snake Creek (45.855, –114.728).

(iv) *White Cap Creek Watershed 1706030104*. Outlet(s) = White Cap Creek (Lat 45.860, Long –114.744) upstream to endpoint(s) in: Barefoot Creek (45.886, –114.639); Canyon Creek (45.878, –114.422); Cedar Creek (45.895, –114.668); Cooper Creek (45.861, –114.557); Elk Creek (45.928, –114.574); Fox Creek (45.898, –114.597); Granite Creek (45.931, –114.506); Lookout Creek (45.959, –114.626); Paloma Creek (45.918, –114.592); Peach Creek (45.868, –114.607); South Fork Lookout Creek (45.929, –114.649); Unnamed (45.855, –114.557); White Cap Creek (45.947, –114.534).

(v) *Indian Creek Watershed 1706030105*. Outlet(s) = Indian Creek (Lat 45.792, Long –114.764) upstream to endpoint(s) in: Indian Creek (45.786, –114.581); Jack Creek (45.789, –114.681); Saddle Gulch (45.766, –114.641); Schofield Creek (45.818, –114.586).

(vi) *Upper Selway River Watershed 1706030106*. Outlet(s) = Selway River (Lat 45.707, Long –114.719) upstream to endpoint(s) in: Cayuse Creek (45.752, –114.572); Deep Creek (45.703, –114.517); French Creek (45.609, –114.561); Gabe Creek (45.714, –114.666); Hells Half Acre Creek (45.689, –114.708); Lazy Creek (45.670, –114.553); Line Creek (45.590, –114.585); Mist Creek (45.561, –114.629); Pete Creek (45.720, –114.557); Selway River (45.502, –114.702); Slow Gulch Creek (45.678, –114.520); Storm Creek (45.641, –114.596); Surprise Creek (45.533, –114.672); Swet Creek (45.516, –114.804); Three Lakes Creek (45.620, –114.803); Unnamed (45.569, –114.642); Vance Creek (45.681, –114.594); Wilkerson Creek (45.561, –114.601).

(vii) *Little Clearwater River Watershed 1706030107*. Outlet(s) = Little Clearwater River (Lat 45.754, Long –114.775) upstream to endpoint(s) in: Burnt Knob Creek (45.697, –114.950); FCreek (45.644, –114.847); Little Clearwater River (45.740, –114.949); Lonely Creek (45.727, –114.865); Salamander Creek (45.655, –114.883); Short Creek (45.759, –114.859); Throng Creek (45.736, –114.904).

(viii) *Running Creek Watershed 1706030108*. Outlet(s) = Running Creek (Lat 45.919, Long –114.832) upstream to endpoint(s) in: Eagle Creek (45.844, –114.886); Lynx Creek (45.794, –114.993); Running Creek (45.910, –115.027); South Fork Running Creek (45.820, –115.024).

(ix) *Goat Creek Watershed 1706030109*. Outlet(s) = Goat Creek (Lat 45.962, Long –114.828) upstream to endpoint(s) in: Goat Creek (45.940, –115.038).

(19) Lower Selway Subbasin 17060302—(i) *Selway River/Goddard Creek Watershed 1706030201*. Outlet(s) = Selway River (Lat 46.140, Long –115.599) upstream to endpoint(s) in: Boyd Creek

(46.092, –115.431); Glover Creek (46.082, –115.361); Goddard Creek (46.059, –115.610); Johnson Creek (46.139, –115.514); Rackliff Creek (46.110, –115.494); Selway River (46.046, –115.295).

(ii) *Gedney Creek Watershed 1706030202*. Outlet(s) = Gedney Creek (Lat 46.056, Long –115.313) upstream to endpoint(s) in: Gedney Creek (46.111, –115.268).

(iii) *Selway River/Three Links Creek Watershed 1706030203*. Outlet(s) = Selway River (Lat 46.046, Long –115.295) upstream to endpoint(s) in: Mink Creek (46.041, –115.087); Otter Creek (46.042, –115.216); Pinchot Creek (46.120, –115.108); Selway River (46.098, –115.071); Three Links Creek (46.143, –115.093).

(iv) *Upper Three Links Creek Watershed 1706030204*. Outlet(s) = Three Links Creek (Lat 46.143, Long –115.093) upstream to endpoint(s) in: Three Links Creek (46.155, –115.100).

(v) *Rhoda Creek Watershed 1706030205*. Outlet(s) = Rhoda Creek (Lat 46.234, Long –114.960) upstream to endpoint(s) in: Lizard Creek (46.220, –115.136); Rhoda Creek (46.252, –115.164); Wounded Doe Creek (46.299, –115.078).

(vi) *North Fork Moose Creek Watershed 1706030207*. Outlet(s) = North Fork Moose Creek (Lat 46.165, Long –114.897) upstream to endpoint(s) in: North Fork Moose Creek (46.305, –114.853); West Moose Creek (46.322, –114.970).

(vii) *East Fork Moose Creek/Trout Creek Watershed 1706030208*. Outlet(s) = Selway River (Lat 46.098, Long –115.071) upstream to endpoint(s) in: Double Creek (46.230, –114.837); East Fork Moose Creek (46.204, –114.722); Elbow Creek (46.200, –114.716); Fitting Creek (46.231, –114.861); Maple Creek (46.218, –114.785); Monument Creek (46.189, –114.728); Selway River (46.122, –114.935); Trout Creek (46.141, –114.861).

(viii) *Upper East Fork Moose Creek Watershed 1706030209*. Outlet(s) = East Fork Moose Creek (Lat 46.204, Long –114.722) upstream to endpoint(s) in: Cedar Creek (46.291, –114.708); East Fork Moose Creek (46.253, –114.700).

(ix) *Marten Creek Watershed 1706030210*. Outlet(s) = Marten Creek (Lat 46.099, Long –115.052) upstream to endpoint(s) in: Marten Creek (45.988, –115.029).

(x) *Upper Meadow Creek Watershed 1706030211*. Outlet(s) = Meadow Creek (Lat 45.88043738, Long –115.1034371) upstream to endpoint(s) in: Butter Creek (45.804, –115.149); Meadow Creek (45.698, –115.217); Three Prong Creek (45.790, –115.062).

(xi) *Middle Meadow Creek Watershed 1706030212*. Outlet(s) = Meadow Creek (Lat 45.88157325, Long –115.2178401) upstream to endpoint(s) in: East Fork Meadow Creek (45.868, –115.067); Meadow Creek (45.880, –115.103); Sable Creek (45.853, –115.219); Schwar Creek (45.905, –115.108); Simmons Creek (45.856, –115.247).

(xii) *Lower Meadow Creek Watershed 1706030213*. Outlet(s) = Meadow Creek (Lat 46.04563958, Long –115.2953459) upstream to endpoint(s) in: Buck Lake Creek (45.992, –115.084); Butte Creek (45.878, –115.248); Fivemile Creek (45.953, –115.310); Little Boulder Creek (45.935, –115.293); Meadow Creek (45.882, –115.218).

(xiii) *O'Hara Creek Watershed 1706030214*. Outlet(s) = OHara Creek (Lat 46.08603027, Long –115.5170987) upstream to endpoint(s) in: East Fork OHara Creek (45.995, –115.521); West Fork O'Hara Creek (45.995, –115.543).

(20) Lochsa Subbasin 17060303—(i) *Lower Lochsa River Watershed 1706030301*. Outlet(s) = Lochsa River (Lat 46.14004554, Long –115.5986467) upstream to endpoint(s) in: Canyon Creek (46.227, –115.580); Coolwater Creek (46.215, –115.464); Deadman Creek (46.262, –115.517); East Fork Deadman Creek (46.275, –115.505); Fire Creek (46.203, –115.411); Kerr Creek (46.162, –115.579); Lochsa River (46.338, –115.314); Nut Creek (46.180, –115.601); Pete King Creek (46.182, –115.697); Placer Creek (46.196, –115.631); South Fork Canyon Creek (46.211, –115.556); Split Creek (46.207, –115.364); Walde Creek (46.193, –115.662).

(ii) *Fish Creek Watershed 1706030302*. Outlet(s) = Fish Creek (Lat 46.33337703, Long –115.3449332) upstream to endpoint(s) in: Alder Creek (46.319, –115.460); Ceanothus Creek (46.341, –115.470); Fish Creek (46.341, –115.575); Frenchman Creek (46.330, –115.544); Gass Creek (46.390, –115.511); Ham Creek (46.391, –115.365); Hungery Creek (46.377, –115.542); Myrtle Creek (46.343, –115.569); Poker Creek (46.346, –115.447); Willow Creek (46.396, –115.369).

(iii) *Lochsa River/Stanley Creek Watershed 1706030303*. Outlet(s) = Lochsa River (Lat 46.33815653, Long

–115.3141495) upstream to endpoint(s) in: Bald Mountain Creek (46.406, –115.254); Dutch Creek (46.377, –115.211); Eagle Mountain Creek (46.428, –115.130); Indian Grave Creek (46.472, –115.103); Indian Meadow Creek (46.450, –115.060); Lochsa River (46.466, –114.985); Lost Creek (46.432, –115.116); Sherman Creek (46.352, –115.320); Stanley Creek (46.387, –115.144); Unnamed (46.453, –115.028); Unnamed (46.460, –115.006); Unnamed (46.502, –115.050); Weir Creek (46.490, –115.035).

(iv) *Lochsa River/Squaw Creek Watershed 1706030304*. Outlet(s) = Lochsa River (Lat 46.4656626, Long –114.9848623) upstream to endpoint(s) in: Badger Creek (46.535, –114.833); Bear Mtn. Creek (46.471, –114.962); Cliff Creek (46.482, –114.708); Colgate Creek (46.455, –114.914); Doe Creek (46.534, –114.914); East Fork Papoose Creek (46.555, –114.743); Jay Creek (46.513, –114.739); Lochsa River (46.508, –114.681); Postoffice Creek (46.529, –114.948); Squaw Creek (46.567, –114.859); Unnamed (46.463, –114.923); Wendover Creek (46.521, –114.788); West Fork Papoose Creek (46.576, –114.758); West Fork Postoffice Creek (46.493, –114.985); West Fork Squaw Creek (46.545, –114.884).

(v) *Lower Crooked Fork Watershed 1706030305*. Outlet(s) = Crooked Fork Lochsa River (Lat 46.50828495, Long –114.680785) upstream to endpoint(s) in: Crooked Fork Lochsa River (46.578, –114.612).

(vi) *Upper Crooked Fork Watershed 1706030306*. Outlet(s) = Crooked Fork Lochsa River (Lat 46.57831788, Long –114.6115072) upstream to endpoint(s) in: Boulder Creek (46.636, –114.703); Crooked Fork Lochsa River (46.653, –114.670); Haskell Creek (46.605, –114.596); Shotgun Creek (46.601, –114.667).

(vii) *Brushy Fork Watershed 1706030307*. Outlet(s) = Brushy Fork (Lat 46.57831788, Long –114.6115072) upstream to endpoint(s) in: Brushy Fork (46.619, –114.450); Pack Creek (46.580, –114.588); Spruce Creek (46.609, –114.433).

(viii) *Lower White Sands Creek Watershed 1706030308*. Outlet(s) = White Sands Creek (Lat 46.50828495, Long –114.680785) upstream to endpoint(s) in: Beaver Creek (46.509, –114.619); Cabin Creek (46.518, –114.641); Walton Creek (46.500, –114.673); White Sands Creek (46.433, –114.540).

(ix) *Storm Creek Watershed 1706030309*. Outlet(s) = Storm Creek (Lat 46.46307502, Long –114.5482819) upstream to endpoint(s) in: Maud Creek (46.495, –114.511); Storm Creek (46.540, –114.424).

(x) *Upper White Sands Creek Watershed 1706030310*. Outlet(s) = White Sands Creek (Lat 46.4330966, Long –114.5395027) upstream to endpoint(s) in: Big FCreek (46.401, –114.475); Big SCreek (46.407, –114.534); Colt Creek (46.403, –114.726); White Sands Creek (46.422, –114.462).

(xi) *Warm Springs Creek Watershed 1706030311*. Outlet(s) = Warm Springs Creek (Lat 46.4733796, Long –114.8872254) upstream to endpoint(s) in: Cooperation Creek (46.453, –114.866); Warm Springs Creek (46.426, –114.868).

(xii) *Fish Lake Creek Watershed 1706030312*. Outlet(s) = Fish Lake Creek (Lat 46.46336343, Long –114.9957028) upstream to endpoint(s) in: Fish Lake Creek (46.405, –115.000); Heslip Creek (46.393, –115.027); Sponge Creek (46.384, –115.048).

(xiii) *Boulder Creek Watershed 1706030313*. Outlet(s) = Boulder Creek (Lat 46.33815653, Long –115.3141495) upstream to endpoint(s) in: Boulder Creek (46.320, –115.199).

(xiv) *Old Man Creek Watershed 1706030314*. Outlet(s) = Old Man Creek (Lat 46.2524595, Long –115.3988563) upstream to endpoint(s) in: Old Man Creek (46.256, –115.343).

(21) Middle Fork Clearwater Subbasin 17060304—(i) *Middle Fork Clearwater River/Maggie Creek Watershed 1706030401*. Outlet(s) = Middle Fork Clearwater River (Lat 46.1459, Long –115.9797) upstream to endpoint(s) in: Maggie Creek (46.195, –115.801); Middle Fork Clearwater River (46.140, –115.599).

(ii) *Clear Creek Watershed 1706030402*. Outlet(s) = Clear Creek (Lat 46.1349, Long –115.9515) upstream to endpoint(s) in: Browns Spring Creek (46.067, –115.658); Clear Creek (46.056, –115.659); Kay Creek (46.005, –115.725); Middle Fork Clear Creek (46.030, –115.739); Pine Knob Creek (46.093, –115.702); South Fork Clear Creek (45.941, –115.769); West Fork Clear Creek (46.013, –115.821).

(22) South Fork Clearwater Subbasin 17060305—(i) *Lower South Fork Clearwater River Watershed 1706030501*. Outlet(s) = South Fork Clearwater River (Lat 46.1459, Long –115.9797) upstream to endpoint(s) in: Butcher Creek (45.945,

–116.064); Castle Creek (45.834, –115.966); Earthquake Creek (45.853, –116.005); Green Creek (45.957, –115.937); Lightning Creek (45.936, –115.946); Mill Creek (45.934, –116.010); Rabbit Creek (46.028, –115.877); Sally Ann Creek (46.019, –115.893); Schwartz Creek (45.914, –116.000); South Fork Clearwater River (45.830, –115.931); Wall Creek (45.998, –115.926).

(ii) *South Fork Clearwater River/Meadow Creek Watershed 1706030502*. Outlet(s) = South Fork Clearwater River (Lat 45.8299, Long –115.9312) upstream to endpoint(s) in: Covert Creek (45.890, –115.933); North Meadow Creek (45.923, –115.890); South Fork Clearwater River (45.824, –115.889); Storm Creek (45.952, –115.848); Whitman Creek (45.914, –115.919).

(iii) *South Fork Clearwater River/Peasley Creek Watershed 1706030503*. Outlet(s) = South Fork Clearwater River (Lat 45.8239, Long –115.8892) upstream to endpoint(s) in: South Fork Clearwater River (45.795, –115.763).

(iv) *South Fork Clearwater River/Leggett Creek Watershed 1706030504*. Outlet(s) = South Fork Clearwater River (Lat 45.7952, Long –115.7628) upstream to endpoint(s) in: Allison Creek (45.832, –115.588); Buckhorn Creek (45.807, –115.658); Fall Creek (45.833, –115.696); Leggett Creek (45.862, –115.685); Maurice Creek (45.856, –115.514); Moose Creek (45.835, –115.578); Rabbit Creek (45.822, –115.603); Santiam Creek (45.811, –115.624); South Fork Clearwater River (45.808, –115.474); Twentymile Creek (45.791, –115.765); Whiskey Creek (45.869, –115.544).

(v) *Newsome Creek Watershed 1706030505*. Outlet(s) = Newsome Creek (Lat 45.8284, Long –115.6147) upstream to endpoint(s) in: Baldy Creek (45.944, –115.681); Bear Creek (45.887, –115.580); Beaver Creek (45.943, –115.568); Haysfork Creek (45.953, –115.678); Mule Creek (45.985, –115.606); Newsome Creek (45.972, –115.654); Nuggett Creek (45.897, –115.600); Pilot Creek (45.939, –115.716); Sawmill Creek (45.904, –115.701); Sing Lee Creek (45.898, –115.677); West Fork Newsome Creek (45.880, –115.661).

(vi) *American River Watershed 1706030506*. Outlet(s) = American River (Lat 45.8082, Long –115.4740) upstream to endpoint(s) in: American River (45.996, –115.445); Big Elk Creek (45.902, –115.513); Box Sing Creek (45.850, –115.386); Buffalo Gulch (45.873, –115.522); East Fork American River (45.905, –115.381); Flint Creek (45.913, –115.423); Kirks Fork American River (45.842, –115.385); Lick Creek (45.945, –115.477); Little Elk Creek (45.894, –115.476); Monroe Creek (45.871, –115.495); Unnamed (45.884, –115.510); West Fork American River (45.934, –115.510); West Fork Big Elk Creek (45.883, –115.515).

(vii) *Red River Watershed 1706030507*. Outlet(s) = Red River (Lat 45.8082, Long –115.4740) upstream to endpoint(s) in: Bridge Creek (45.814, –115.163); Campbell Creek (45.792, –115.486); Dawson Creek (45.728, –115.393); Deadwood Creek (45.794, –115.471); Ditch Creek (45.7941, –115.2923); Jungle Creek (45.710, –115.286); Little Campbell Creek (45.801, –115.478); Little Moose Creek (45.710, –115.399); Moose Butte Creek (45.695, –115.365); Otterson Creek (45.803, –115.222); Red Horse Creek (45.822, –115.355); Red River (45.788, –115.174); Siegel Creek (45.800, –115.323); Soda Creek (45.741, –115.257); South Fork Red River (45.646, –115.407); Trail Creek (45.784, –115.265); Trapper Creek (45.672, –115.311); Unnamed (45.788, –115.199); West Fork Red River (45.662, –115.447).

(viii) *Crooked River Watershed 1706030508*. Outlet(s) = Crooked River (Lat 45.8241, Long –115.5291) upstream to endpoint(s) in: American Creek (45.7159, –115.9679); East Fork Crooked River (45.655, –115.562); East Fork Relief Creek (45.7363, –115.4511); Fivemile Creek (45.721, –115.568); Quartz Creek (45.702, –115.536); Relief Creek (45.712, –115.472); Silver Creek (45.713, –115.535); Trout Creek (45.6876, –115.9463); West Fork Crooked River (45.666, –115.596).

(ix) *Ten Mile Creek Watershed 1706030509*. Outlet(s) = Tenmile Creek (Lat 45.8064, Long –115.6833) upstream to endpoint(s) in: Mackey Creek (45.754, –115.683); Morgan Creek (45.731, –115.672); Sixmile Creek (45.762, –115.641); Tenmile Creek (45.694, –115.694); Williams Creek (45.703, –115.636).

(x) *John's Creek Watershed 1706030510*. Outlet(s) = Johns Creek (Lat 45.8239, Long –115.8892) upstream to endpoint(s) in: American Creek (45.750, –115.961); Frank Brown Creek (45.708, –115.785); Gospel Creek (45.637, –115.915); Johns Creek (45.665, –115.827); Trout Creek

(45.750, –115.909); West Fork Gospel Creek (45.657, –115.949).

(xi) *Mill Creek Watershed 1706030511*. Outlet(s) = Mill Creek (Lat 45.8299, Long –115.9312) upstream to endpoint(s) in: Adams Creek (45.6556, –116.0408); Camp Creek (45.6613, –115.9820); Corral Creek (45.6719, –115.9779); Hunt Creek (45.6768, –115.9640); Mill Creek (45.641, –116.008); Unnamed (45.6964, –115.9641).

(xii) *Cottonwood Creek Watershed 1706030513*. Outlet(s) = Cottonwood Creek (Lat 46.0810, Long –115.9764) upstream to endpoint(s) in: Cottonwood Creek (46.0503, –116.1109); Red Rock Creek (46.0807, –116.1579).

(23) Clearwater Subbasin 17060306—(i) *Lower Clearwater River Watershed 1706030601*. Outlet(s) = Clearwater River (Lat 46.4281, Long –117.0380) upstream to endpoint(s) in: Clearwater River (46.447, –116.837).

(ii) *Clearwater River/Lower Potlatch River Watershed 1706030602*. Outlet(s) = Clearwater River (Lat 46.4467, Long –116.8366) upstream to endpoint(s) in: Catholic Creek (46.489, –116.841); Clearwater River (46.474, –116.765); Howard Gulch (46.4976, –116.7791); Little Potlatch Creek (46.6322, –116.8320); Potlatch River (46.523, –116.728).

(iii) *Potlatch River/Middle Potlatch Creek Watershed 1706030603*. Outlet(s) = Potlatch River (Lat 46.5231, Long –116.7284) upstream to endpoint(s) in: Middle Potlatch Creek (46.669, –116.796); Potlatch River (46.583, –116.700).

(iv) *Lower Big Bear Creek Watershed 1706030604*. Outlet(s) = Big Bear Creek (Lat 46.6180, Long –116.6439) upstream to endpoint(s) in: Big Bear Creek (46.7145, –116.6632); Little Bear Creek (46.7360, –116.7010), West Fork Little Bear Creek (46.7413, –116.7789).

(v) *Upper Big Bear Creek 1706030605*. Outlet(s) = Big Bear Creek (Lat 46.7145, Long –116.6632) upstream to endpoint(s) in: East Fork Big Bear Creek (46.8141, –116.5984).

(vi) *Potlatch River/Pine Creek Watershed 1706030606*. Outlet(s) = Potlatch River (Lat 46.5830, Long –116.6998) upstream to endpoint(s) in: Boulder Creek (46.711, –116.450); Leopold Creek (46.6547, –116.4407); Pine Creek (46.706, –116.554); Potlatch River (46.699, –116.504).

(vii) *Upper Potlatch River Watershed 1706030607*. Outlet(s) = Potlatch River (Lat 46.6987, Long –116.5036) upstream to endpoint(s) in: Corral Creek (46.8012, –116.4746); East Fork Potlatch River (46.876, –116.247); Feather Creek (46.938, –116.411); Head Creek (46.942, –116.366); Little Boulder Creek (46.768, –116.414); Nat Brown Creek (46.911, –116.375); Pasture Creek (46.940, –116.371); Porcupine Creek (46.937, –116.379); Potlatch River (46.941, –116.359); Ruby Creek (46.7992, –116.3037); Unnamed (46.8938, –116.3617); Unnamed (46.922, –116.449); West Fork Potlatch River (46.931, –116.458).

(viii) *Clearwater River/Bedrock Creek Watershed 1706030608*. Outlet(s) = Clearwater River (Lat 46.4741, Long –116.7652) upstream to endpoint(s) in: Bedrock Creek (46.5738, –116.5000); Clearwater River (46.516, –116.590); Louse Creek (46.5380, –116.4411); Pine Creek (46.579, –116.615).

(ix) *Clearwater River/Jack's Creek Watershed 1706030609*. Outlet(s) = Clearwater River (Lat 46.5159, Long –116.5903) upstream to endpoint(s) in: Clearwater River (46.498, –116.433); Jacks Creek (46.435, –116.462).

(x) *Big Canyon Creek Watershed 1706030610*. Outlet(s) = Big Canyon Creek (Lat 46.4984, Long –116.4326) upstream to endpoint(s) in: Big Canyon Creek (46.2680, –116.5396); Cold Springs Creek (46.2500, –116.5210); Posthole Canyon (46.318, –116.450); Sixmile Canyon (46.372, –116.441); Unnamed (46.3801, –116.3750).

(xi) *Little Canyon Creek Watershed 1706030611*. Outlet(s) = Little Canyon Creek (Lat 46.4681, Long –116.4172) upstream to endpoint(s) in: Little Canyon Creek (46.295, –116.279).

(xii) *Clearwater River/Lower Orofino Creek Watershed 1706030612*. Outlet(s) = Clearwater River (Lat 46.4984, Long –116.4326) upstream to endpoint(s) in: Clearwater River (46.476, –116.254); Orofino Creek (46.485, –116.196); Whiskey Creek (46.5214, –116.1753).

(xiii) *Jim Ford Creek Watershed 1706030614*. Outlet(s) = Jim Ford Creek (Lat 46.4394, Long –116.2115) upstream to endpoint(s) in: Jim Ford Creek (46.3957, –115.9570).

(xiv) *Lower Lolo Creek Watershed 1706030615*. Outlet(s) = Lolo Creek (Lat 46.3718, Long –116.1697) upstream to endpoint(s) in: Big Creek (46.392, –116.118); Lolo Creek (46.284, –115.882), Schmidt Creek (46.3617, –116.0426).

(xv) *Middle Lolo Creek Watershed 1706030616*. Outlet(s) = Lolo Creek (Lat 46.2844, Long –115.8818) upstream to endpoint(s) in: Crocker Creek (46.254, –115.859); Lolo Creek (46.381, –115.708); Mud Creek (46.274, –115.759); Nevada Creek (46.322, –115.735); Pete Charlie Creek (46.289, –115.823); Yakus Creek (46.238, –115.763).

(xvi) *Musselshell Creek Watershed 1706030617*. Outlet(s) = Jim Brown Creek (Lat 46.3098, Long –115.7531) upstream to endpoint(s) in: Gold Creek (46.376, –115.735); Jim Brown Creek (46.357, –115.790); Musselshell Creek (46.394, –115.744).

(xvii) *Upper Lolo Creek Watershed 1706030618*. Outlet(s) = Lolo Creek (Lat 46.3815, Long –115.7078) upstream to endpoint(s) in: Camp Creek (46.416, –115.624); Lolo Creek (46.425, –115.648); Max Creek (46.384, –115.679); Relaskon Creek (46.394, –115.647); Siberia Creek (46.384, –115.707); Yoosa Creek (46.408, –115.589).

(xviii) *Eldorado Creek Watershed 1706030619*. Outlet(s) = Eldorado Creek (Lat 46.2947, Long –115.7500) upstream to endpoint(s) in: Cedar Creek (46.298, –115.711); Dollar Creek (46.301, –115.640); Eldorado Creek (46.300, –115.645); Four Bit Creek (46.294, –115.644).

(xix) *Clearwater River/Fivemile Creek Watershed 1706030620*. Outlet(s) = Clearwater River (Lat 46.4759, Long –116.2543) upstream to endpoint(s) in: Clearwater River (46.350, –116.154); Fivemile Creek (46.3473, –116.1859).

(xx) *Clearwater River/Sixmile Creek Watershed 1706030621*. Outlet(s) = Clearwater River (Lat 46.3500, Long –116.1541) upstream to endpoint(s) in: Clearwater River (46.257, –116.067); Sixmile Creek (46.269, –116.213).

(xxi) *Clearwater River/Tom Taha Creek Watershed 1706030622*. Outlet(s) = Clearwater River (Lat 46.2565, Long –116.067) upstream to endpoint(s) in: Clearwater River (46.146, –115.980); Tom Taha Creek (46.244, –115.993).

(xxii) *Lower Lawyer Creek Watershed 1706030623*. Outlet(s) = Lawyer Creek (Lat 46.2257, Long –116.0116) upstream to endpoint(s) in: Lawyer Creek (46.155, –116.190), Sevenmile Creek (46.1498, –116.0838).

(xxiii) *Middle Lawyer Creek Watershed 1706030624*. Outlet(s) = Lawyer Creek (Lat 46.1546, Long –116.1899) upstream to endpoint(s) in: Lawyer Creek (46.188, –116.380).

(xxiv) *Cottonwood Creek Watershed 1706030627*. Outlet(s) = Cottonwood Creek (Lat 46.5023, Long –116.7127) upstream to endpoint(s) in: Cottonwood Creek (46.387, –116.622), Coyote Creek (46.4622, –116.6377), Magpie Creek (46.4814, –116.6643).

(xxv) *Upper Lapwai Creek Watershed 1706030628*. Outlet(s) = Lapwai Creek (Lat 46.3674, Long –116.7352) upstream to endpoint(s) in: Lapwai Creek (46.2961, –116.5955); Unnamed (46.3346, –116.5794).

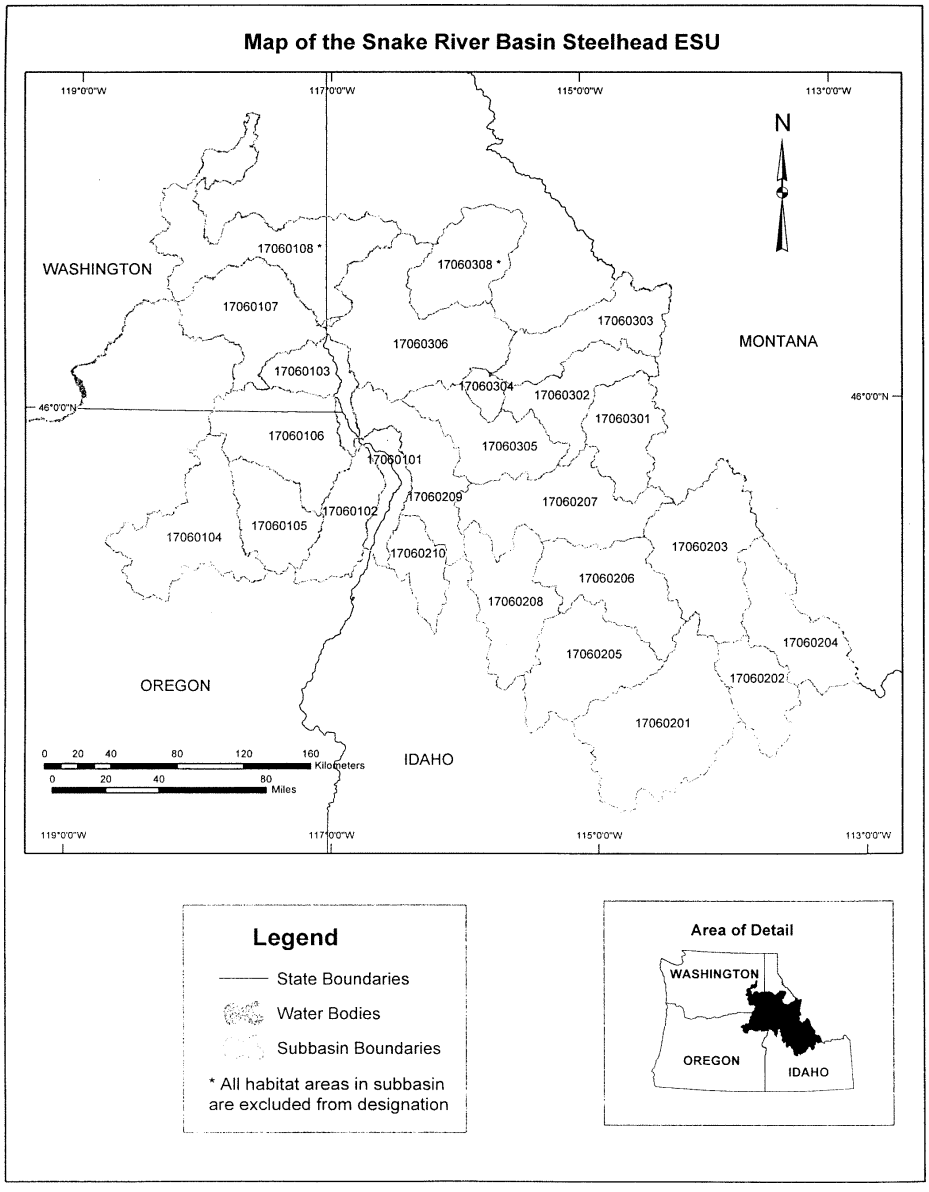
(xxvi) *Mission Creek Watershed 1706030629*. Outlet(s) = Mission Creek (Lat 46.3674, Long –116.73525) upstream to endpoint(s) in: Mission Creek (46.2724, –116.6949); Rock Creek (46.3048, –116.6250).

(xxvii) *Upper Sweetwater Creek Watershed 1706030630*. Outlet(s) = Webb Creek (Lat 46.3310, Long –116.8369) upstream to endpoint(s) in: Sweetwater Creek (46.2751, –116.8513); Webb Creek (46.2338, –116.7500).

(xxviii) *Lower Sweetwater Creek Watershed 1706030631*. Outlet(s) = Lapwai Creek (Lat 46.4512, Long –116.8182) upstream to endpoint(s) in: Lapwai Creek (46.364, –116.750); Sweetwater Creek (46.331, –116.837); Tom Beall Creek (46.4240, –116.7822).

(24) Lower Snake/Columbia River Corridor—*Lower Snake/Columbia River Corridor*. Outlet(s) = Columbia River mouth (Lat 46.2485, Long –124.0782) upstream to endpoint at the confluence of the Palouse River (46.589, –117.215).

(25) Maps of critical habitat for the Snake River Basin Steelhead ESU follow:


Map of the Snake River Basin Steelhead ESU
119°0'0"W
117°0'0"W
115°0'0"W
113°0'0"W
N
WASHINGTON
MONTANA
OREGON
IDAHO
46°0'0"N
17060108 *
17060308 *
17060107
17060303
17060306
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17060304
17060302
17060301
17060106
17060305
17060101
17060209
17060207
17060102
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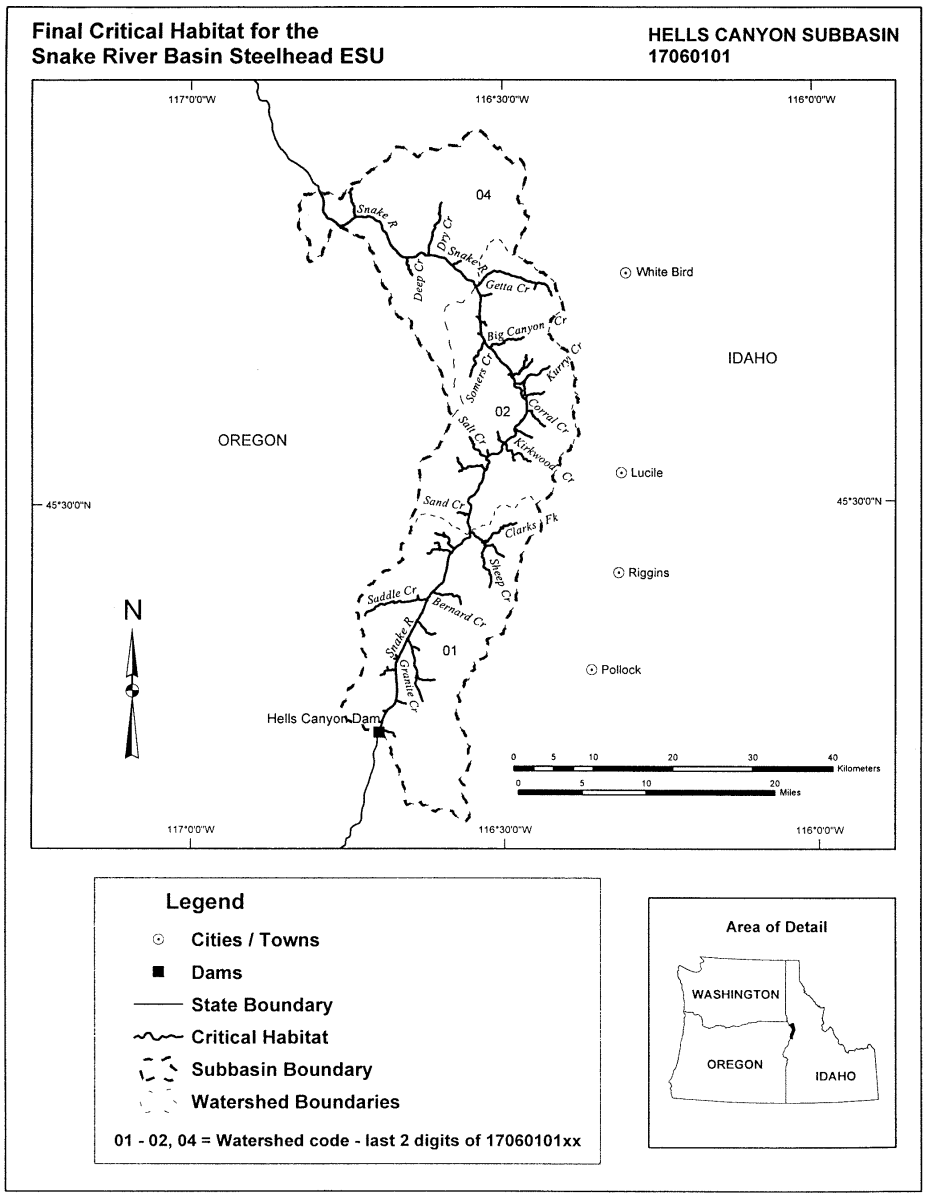
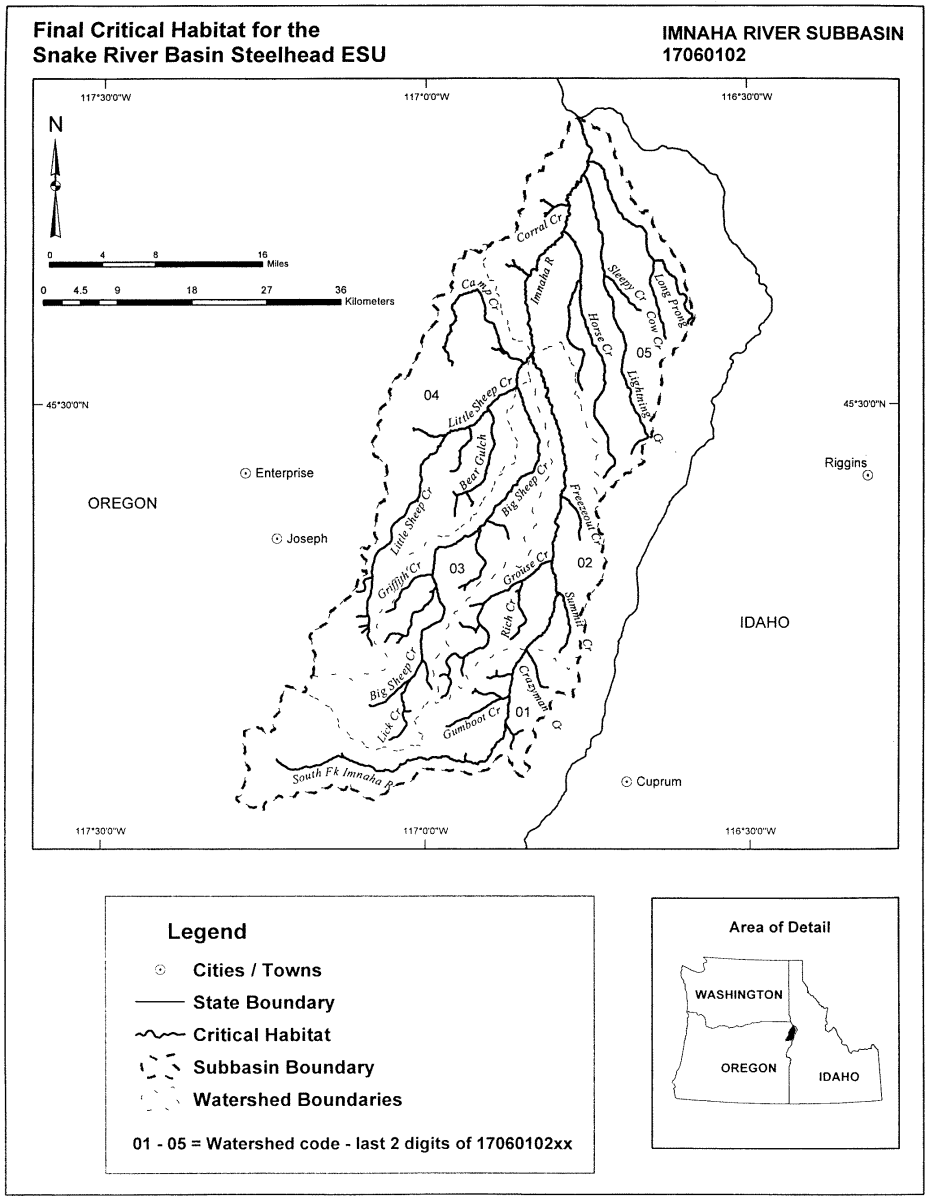
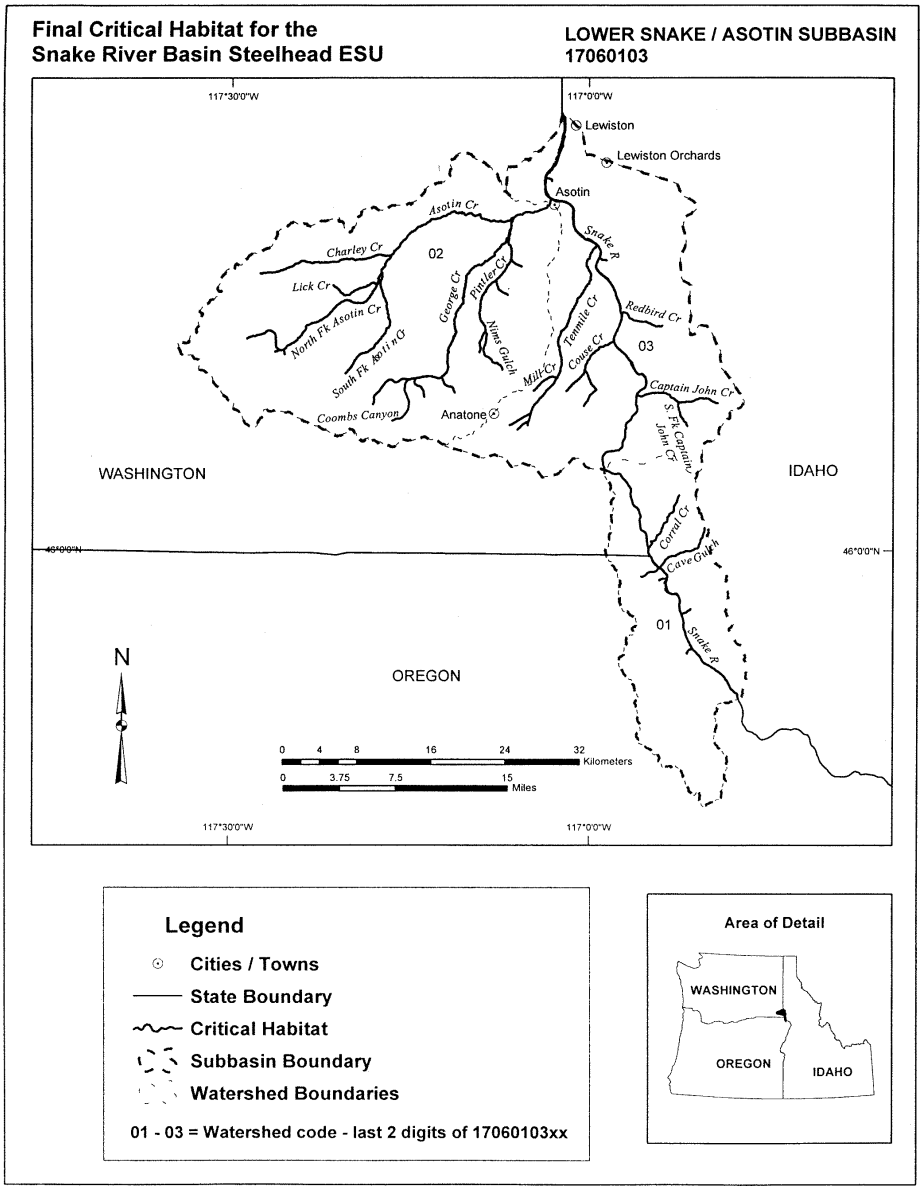
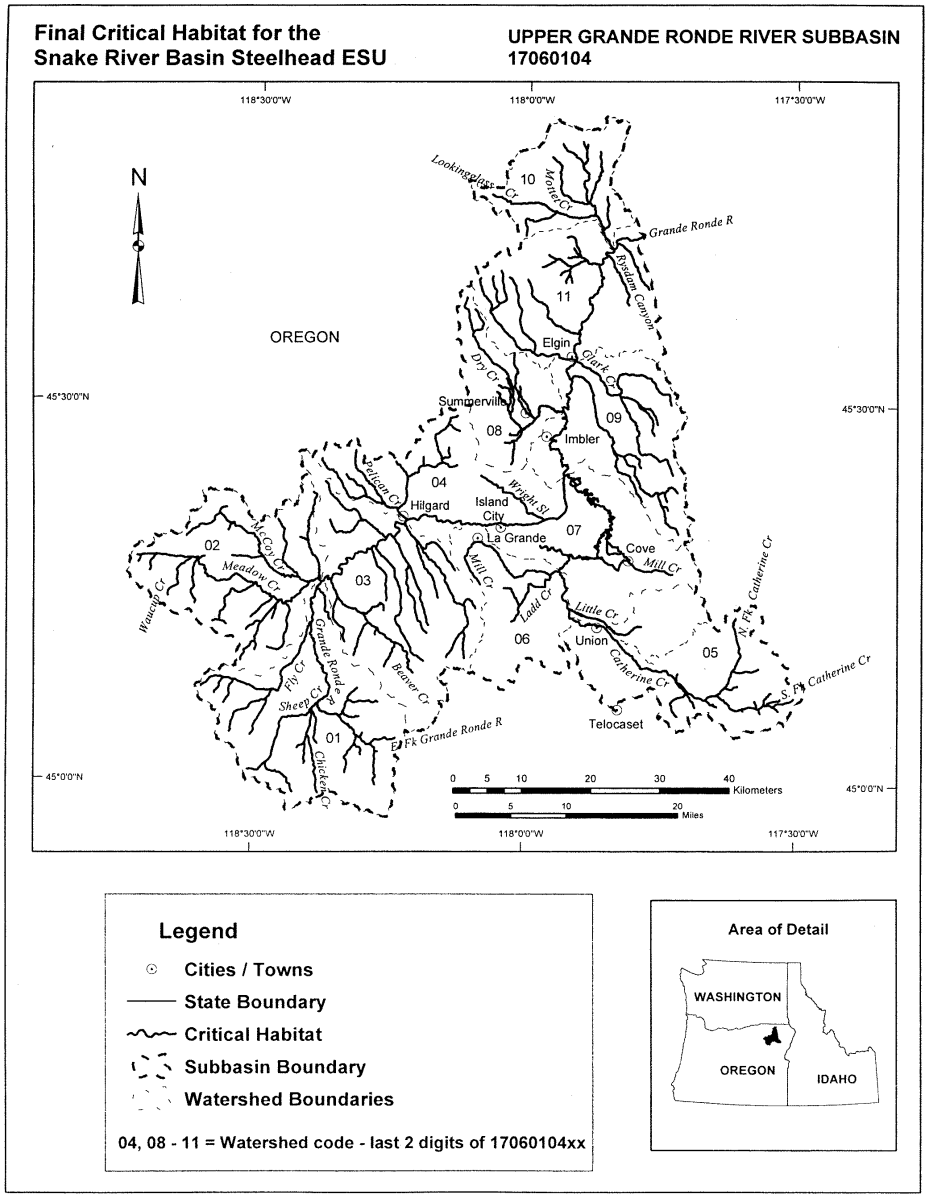
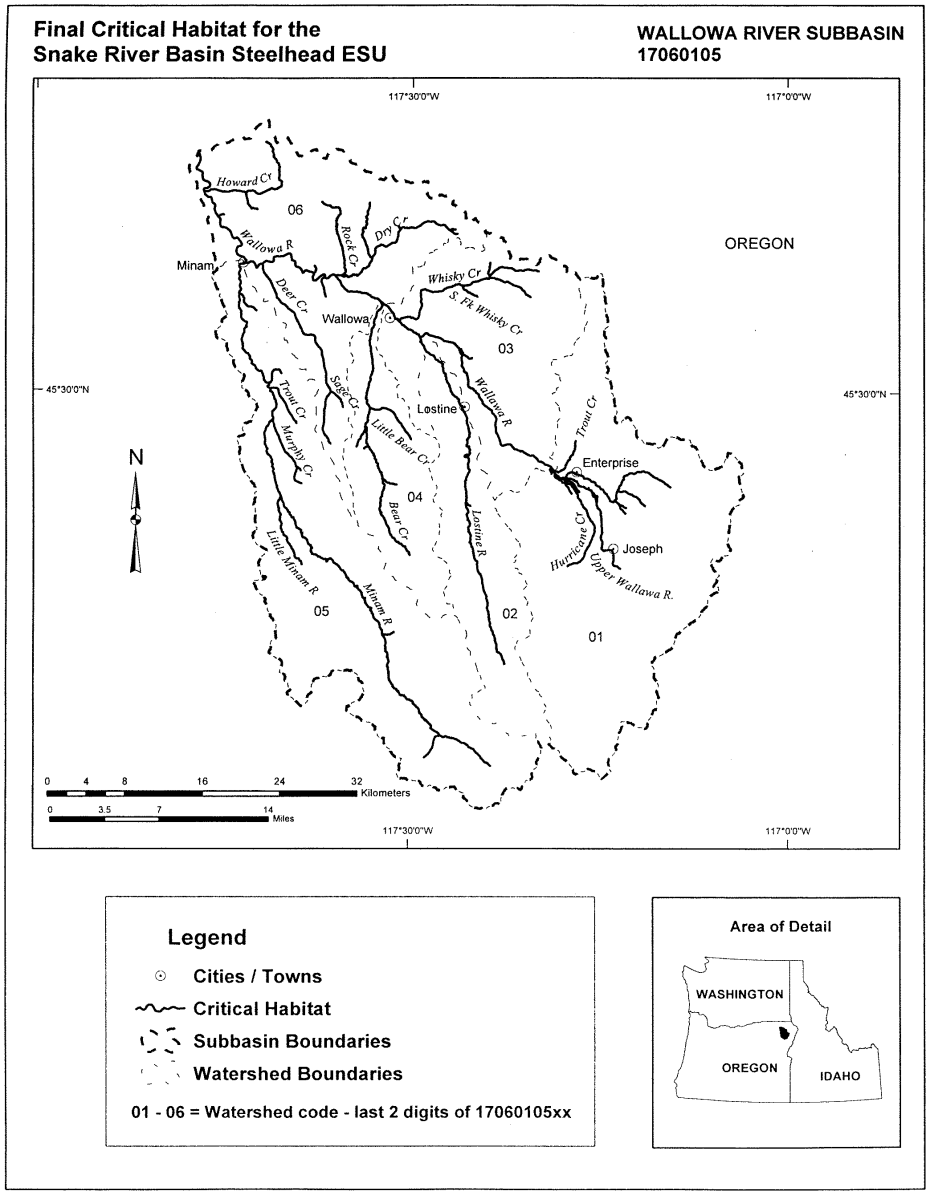
17060210
17060203
17060206
17060208
17060204
17060205
17060202
17060201
0 20 40 80 120 160 Kilometers
0 20 40 80 Miles
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
* All habitat areas in subbasin are excluded from designation
Area of Detail
WASHINGTON
OREGON
IDAHO

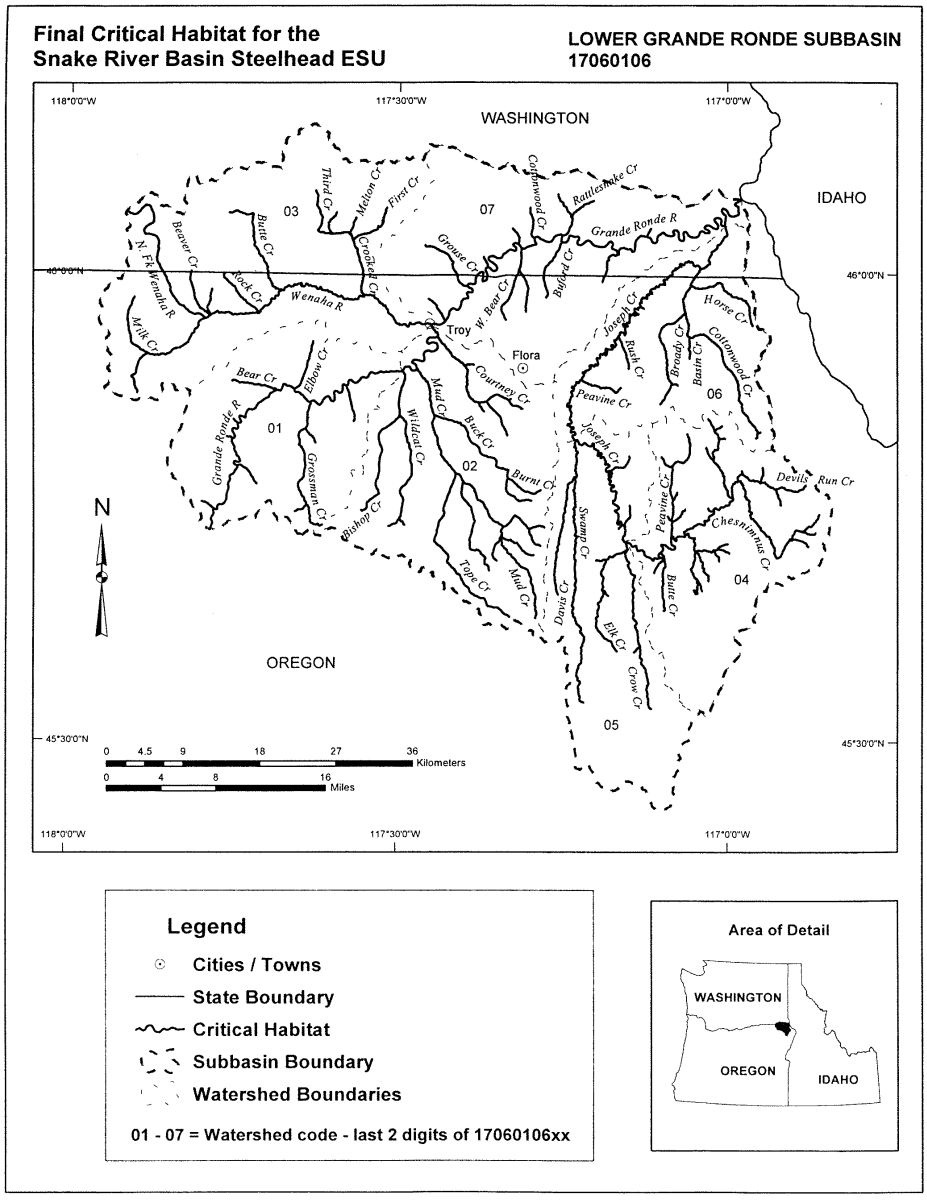

Final Critical Habitat for the
Snake River Basin Steelhead ESU
HELLS CANYON SUBBASIN
17060101
117°0'0"W
116°30'0"W
116°0'0"W
45°30'0"N
04
02
01
Snake R
Dry Cr
Deep Cr
Snake R
Getta Cr
Big Canyon Cr
Somers Cr
Kurry Cr
Conrad Cr
Salt Cr
Kirkwood Cr
Sand Cr
Clarks Fk
Sheep Cr
Saddle Cr
Bernard Cr
Snake R
Granite Cr
Hells Canyon Dam
White Bird
Lucile
Riggins
Pollock
OREGON
IDAHO
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Dams
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 02, 04 = Watershed code - last 2 digits of 17060101xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
IMNAHA RIVER SUBBASIN
17060102
117°30'0"W
117°0'0"W
116°30'0"W
45°30'0"N
N
0 4 8 16 Miles
0 4.5 9 18 27 36 Kilometers
Corral Cr
Camp Cr
Imnaha R
Sheep Cr
Cow Cr
Long Prong
Horse Cr
Lightning Cr
05
04
Little Sheep Cr
Bear Gulch
Big Sheep Cr
Freezeout Cr
Enterprise
OREGON
Joseph
Riggins
Little Sheep Cr
Griffith Cr
03
Grouse Cr
02
Summit Cr
IDAHO
Rich Cr
Big Sheep Cr
Lick Cr
Gumboot Cr
Cinnamon Cr
01
South Fk Imnaha R
Cuprum
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17060102xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
LOWER SNAKE / ASOTIN SUBBASIN
17060103
117°30'0"W
117°0'0"W
Lewiston
Lewiston Orchards
Asotin
Asotin Cr
Charley Cr
Lick Cr
North Fk Asotin Cr
South Fk Asotin Cr
Coombs Canyon
Anatone
George Cr
Pintler Cr
Nines Gulch
Mill Cr
Tennile Cr
Couse Cr
Redbird Cr
Snake R
02
03
01
Captain John Cr
S Fk Captain John Cr
Corral Cr
Cave Gulch
WASHINGTON
IDAHO
OREGON
46°0'0"N
N
0 4 8 16 24 32 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17060103xx
Area of Detail
WASHINGTON
OREGON
IDAHO

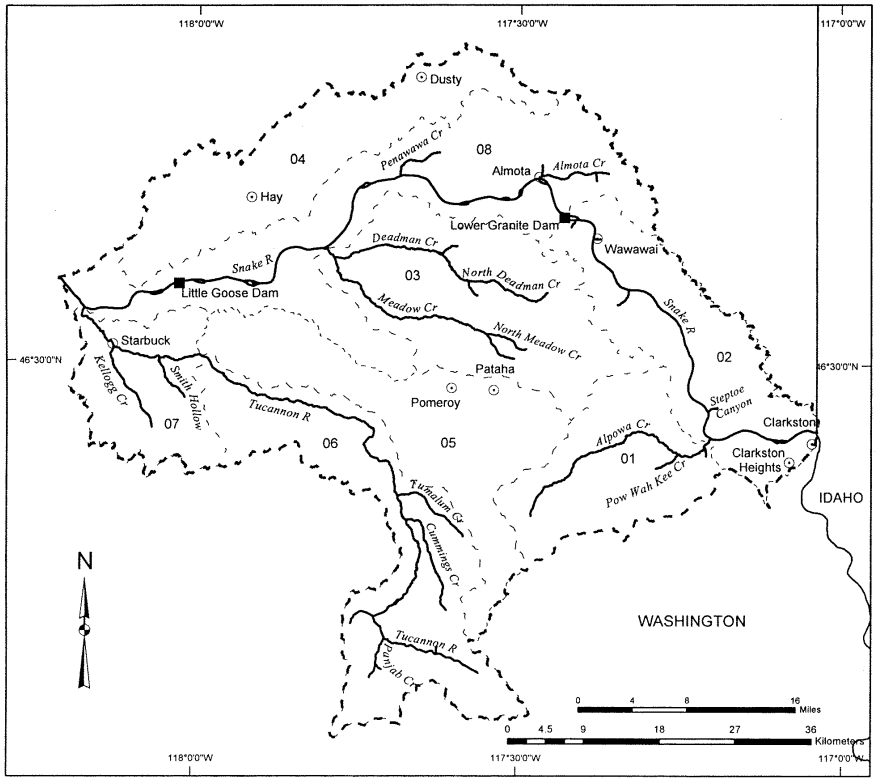

Final Critical Habitat for the
Snake River Basin Steelhead ESU
UPPER GRANDE RONDE RIVER SUBBASIN
17060104
118°30'0"W
118°0'0"W
117°30'0"W
45°30'0"N
45°0'0"N
N
OREGON
Lookingglass Cr
Monte Cr
Grande Ronde R
Bryson Canyon
Elgin
Dry Cr
Clark Cr
Summerville
Imbler
Hilgard
Island City
La Grande
Cove
Wright St
Mill Cr
Ladd Cr
Little Cr
Union
Catherine Cr
N. Fk Catherine Cr
S. Fk Catherine Cr
Telocaset
Meadow Cr
McCoy Cr
Wauna Cr
Fly Cr
Sheep Cr
Beaver Cr
E. Fk Grande Ronde R
Chicken Cr
01
02
03
04
05
06
07
08
09
10
11
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
04, 08 - 11 = Watershed code - last 2 digits of 17060104xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
WALLOWA RIVER SUBBASIN
17060105
117°30'0"W
117°0'0"W
45°30'0"N
OREGON
Howard Cr
Wallowa R
Rock Cr
Dry Cr
Whisky Cr
S. Fk Whisky Cr
Minam
Deer Cr
Wallowa
Trout Cr
Sage Cr
Murphy Cr
Little Bear Cr
Lostine
Wallowa R
Trout Cr
Enterprise
Bear Cr
Lostine R
Hurricane Cr
Joseph
Upper Wallawa R.
Little Minam R
Minam R
06
03
04
05
02
01
N
0 4 8 16 24 32 Kilometers
0 3.5 7 14 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundaries
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17060105xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
LOWER GRANDE RONDE SUBBASIN
17060106
WASHINGTON
IDAHO
OREGON
118°0'0"W
117°30'0"W
117°0'0"W
46°0'0"N
45°30'0"N
N
01
02
03
04
05
06
07
Troy
Flora
Grande Ronde R
Wenaha R
N. Fk Wenaha R
Milk Cr
Beaver Cr
Butte Cr
Rock Cr
Third Cr
Melton Cr
First Cr
Crooked Cr
Grouse Cr
W. Bear Cr
Cottonwood Cr
Rattlesnake Cr
Buford Cr
Joseph Cr
Rush Cr
Horse Cr
Broady Cr
Basin Cr
Cottonwood Cr
Bear Cr
Elbow Cr
Courtney Cr
Mud Cr
Buck Cr
Wildcat Cr
Grossman Cr
Bishop Cr
Burnt Cr
Peavine Cr
Devils Run Cr
Chesnimnus Cr
Snows Cham Cr
Trope Cr
Davis Cr
Elk Cr
Crow Cr
Butte Cr
0 4.5 9 18 27 36 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17060106xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Snake River Basin Steelhead ESU

LOWER SNAKE / TUCANNON SUBBASIN 17060107

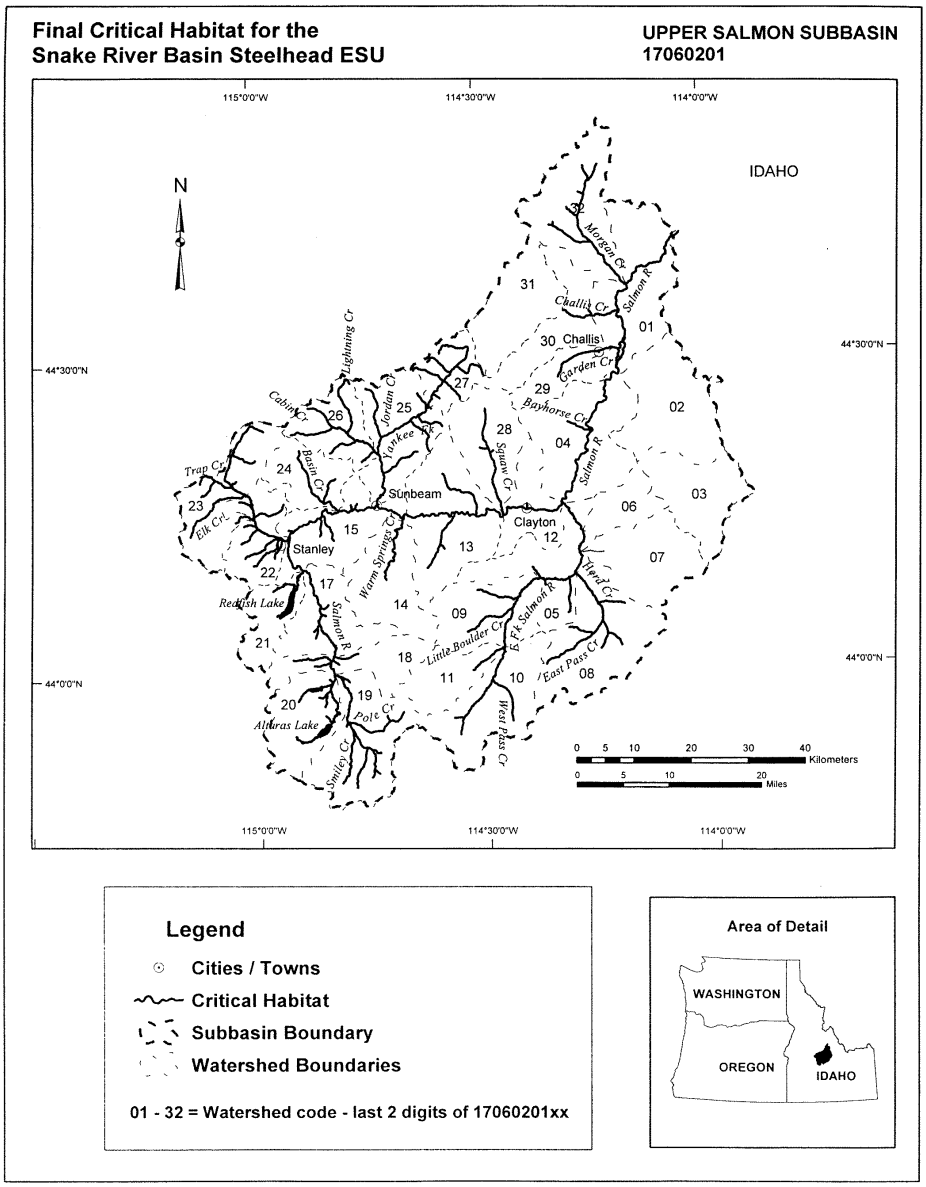


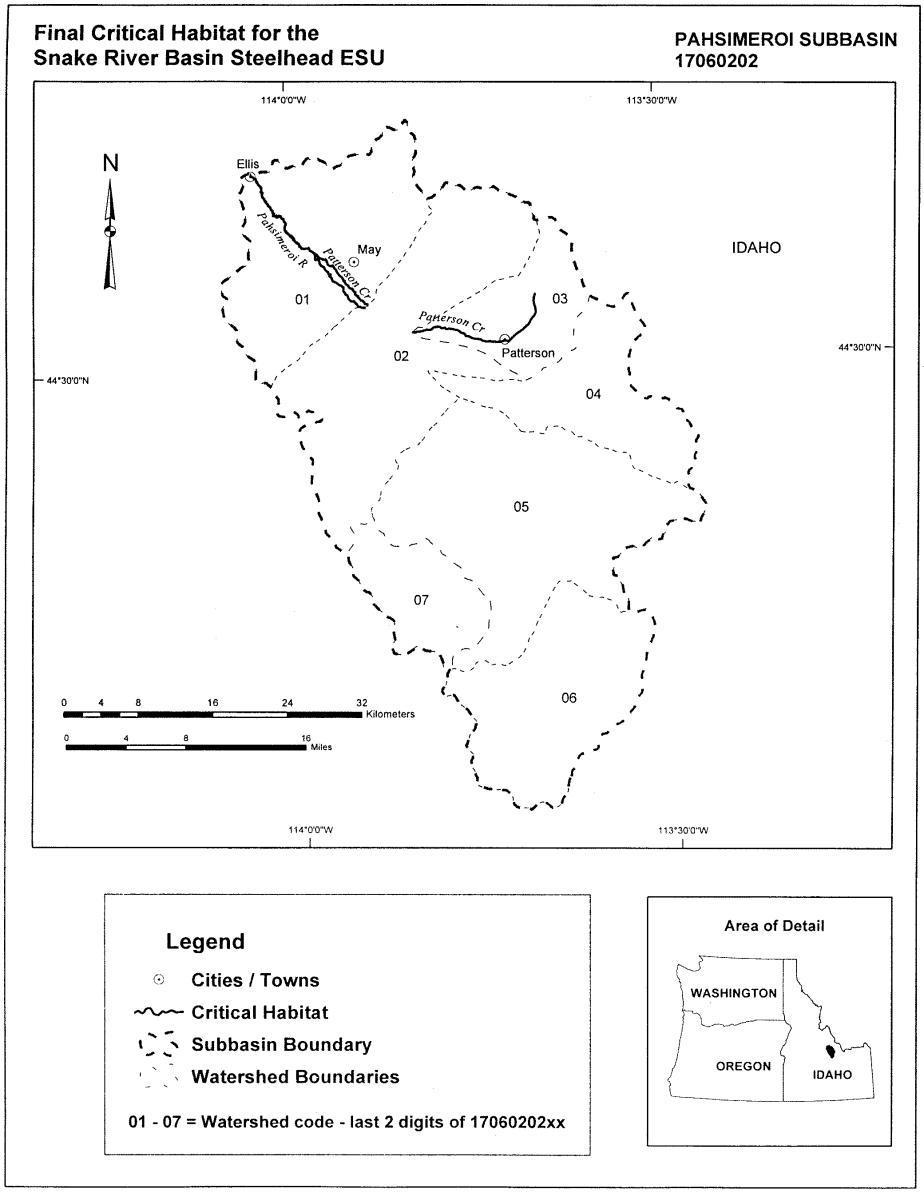
Legend

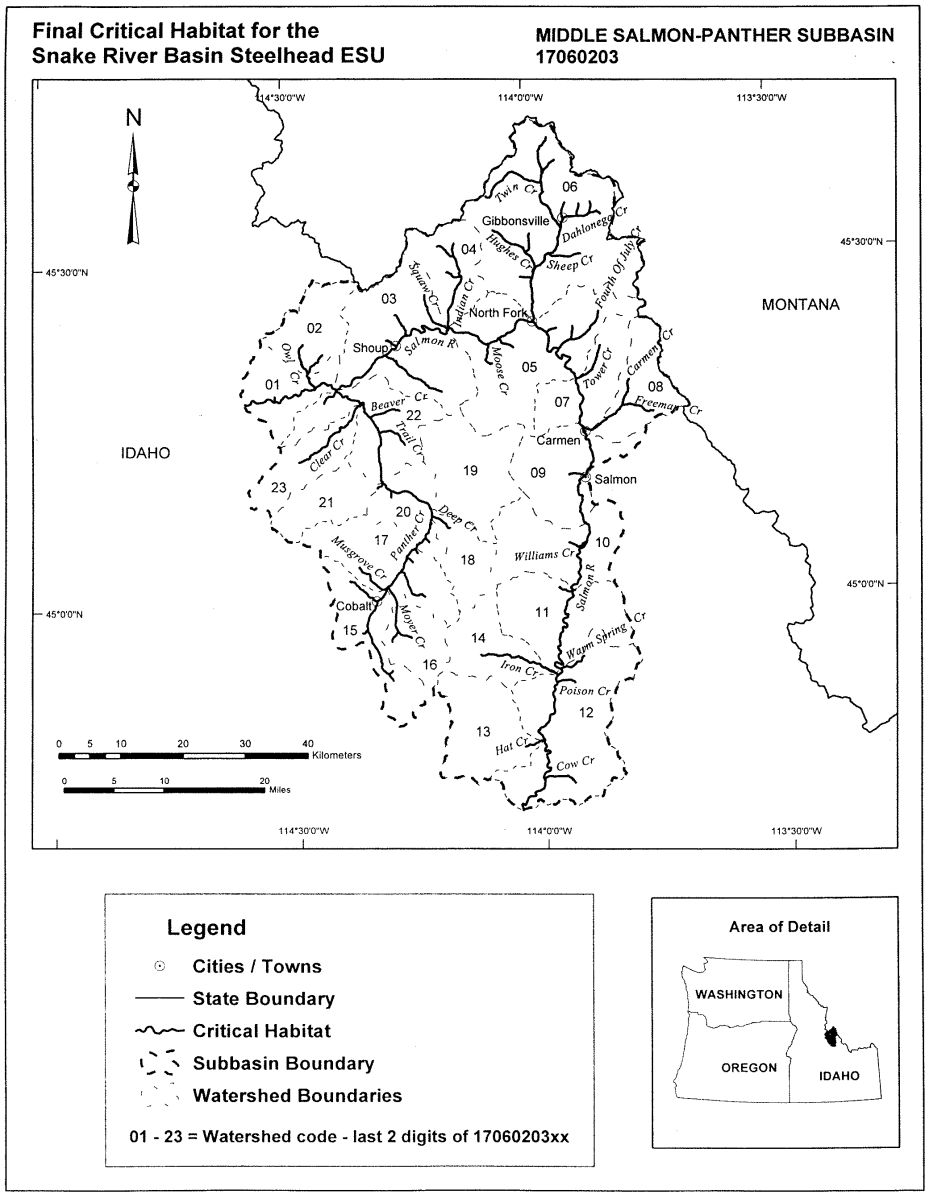
- Cities / Towns
- Dams
- State Boundary
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

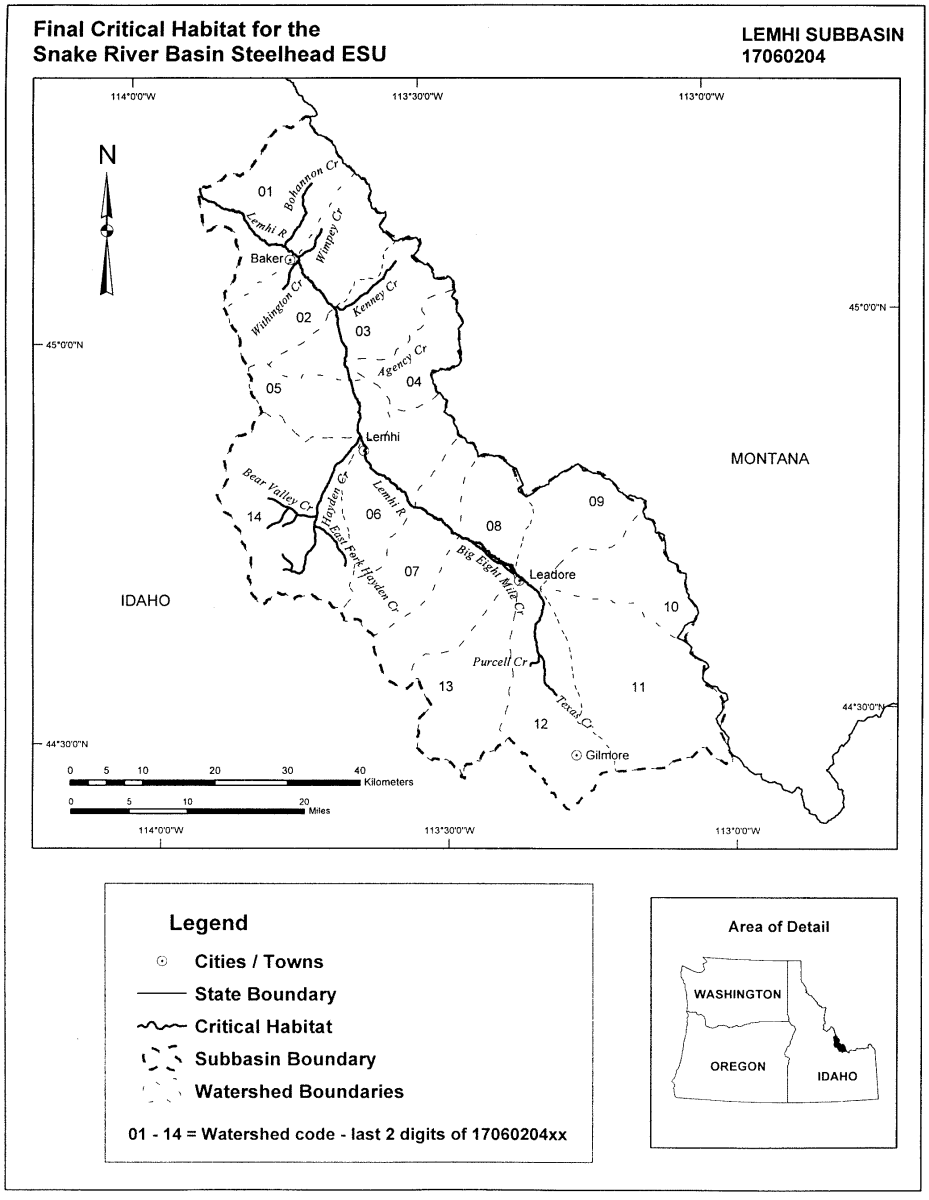
01 - 08 = Watershed code - last 2 digits of 17060107xx

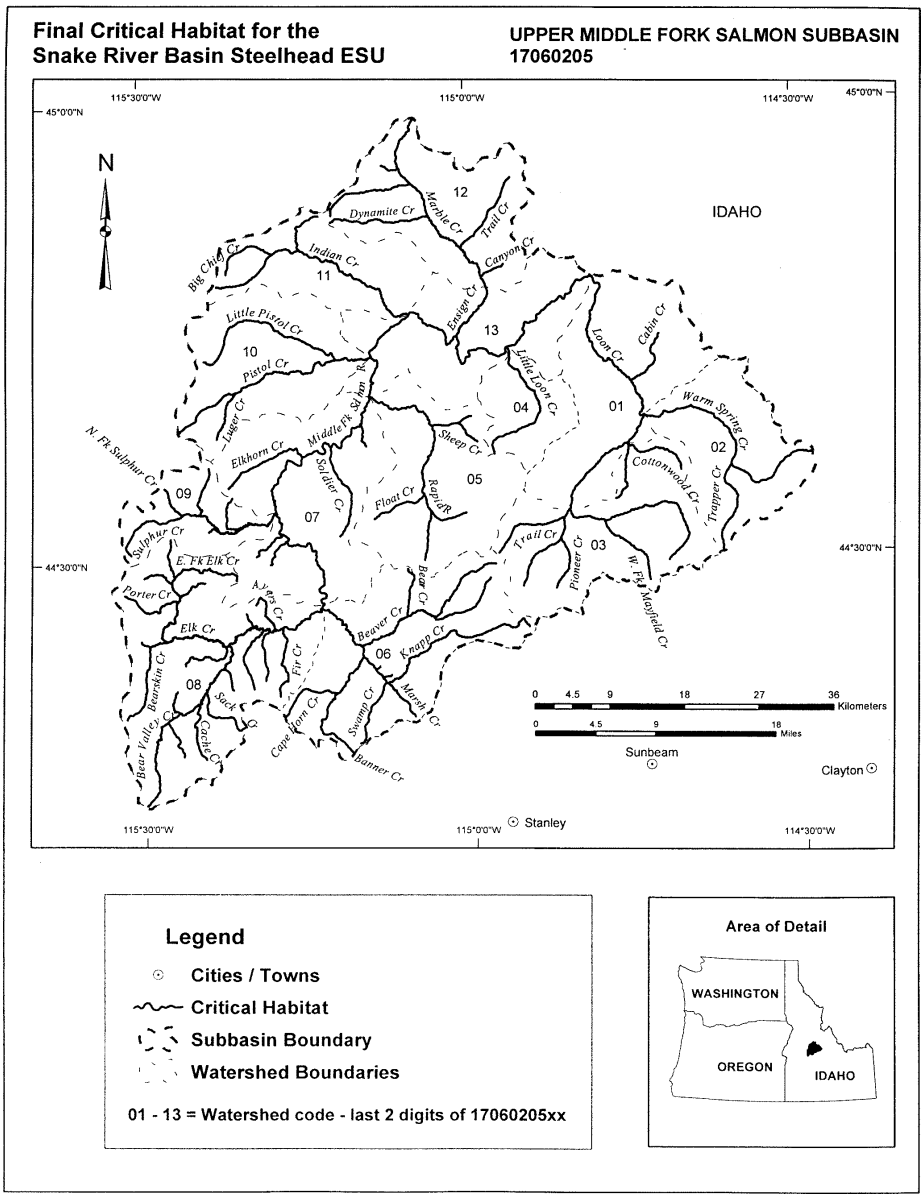
Area of Detail


Final Critical Habitat for the
Snake River Basin Steelhead ESU
UPPER SALMON SUBBASIN
17060201
115°0'0"W
114°30'0"W
114°0'0"W
44°30'0"N
44°0'0"N
N
IDAHO
Morgan Cr
Salmon R
Challis Cr
Lightning Cr
Garden Cr
Bayhorse Cr
Cabin Cr
Jordan Cr
Yankee Fk
Trap Cr
Basin Cr
Elk Cr
Sunbeam
Squaw Cr
Clayton
Stanley
Warm Springs Cr
Hyndman Cr
Redfish Lake
Salmon R
E. Fk. Salmon R
Little Boulder Cr
East Pass Cr
Alturas Lake
Pole Cr
Smiley Cr
West Pass Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
15
17
18
19
20
21
22
23
24
25
26
27
28
29
30 Challis
31
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 32 = Watershed code - last 2 digits of 17060201xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
PAHSIMEROI SUBBASIN
17060202
114°0'0"W
113°30'0"W
N
Ellis
Pahsimeroi R
May
Patterson Cr
IDAHO
01
03
Patterson Cr
Patterson
02
04
44°30'0"N
05
07
06
0 4 8 16 24 32 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17060202xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
MIDDLE SALMON-PANTHER SUBBASIN
17060203
N
114°30'0"W
114°0'0"W
113°30'0"W
45°30'0"N
45°0'0"N
MONTANA
IDAHO
Gibbonsville
North Fork
Shoup
Carmen
Salmon
Cobalt
Twin Cr
Dahlonega Cr
Hughes Cr
Sheep Cr
Fourth Of July Cr
Shaw Cr
Indian Cr
Salmon R
Owl Cr
Moore Cr
Power Cr
Carmen Cr
Freeman Cr
Beaver Cr
Trail Cr
Clear Cr
Deep Cr
Panther Cr
Musgrove Cr
Williams Cr
Moyer Cr
Warm Spring Cr
Iron Cr
Poison Cr
Hat Cr
Cow Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
15
16
17
18
19
20
21
22
23
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 23 = Watershed code - last 2 digits of 17060203xx
Area of Detail
WASHINGTON
OREGON
IDAHO

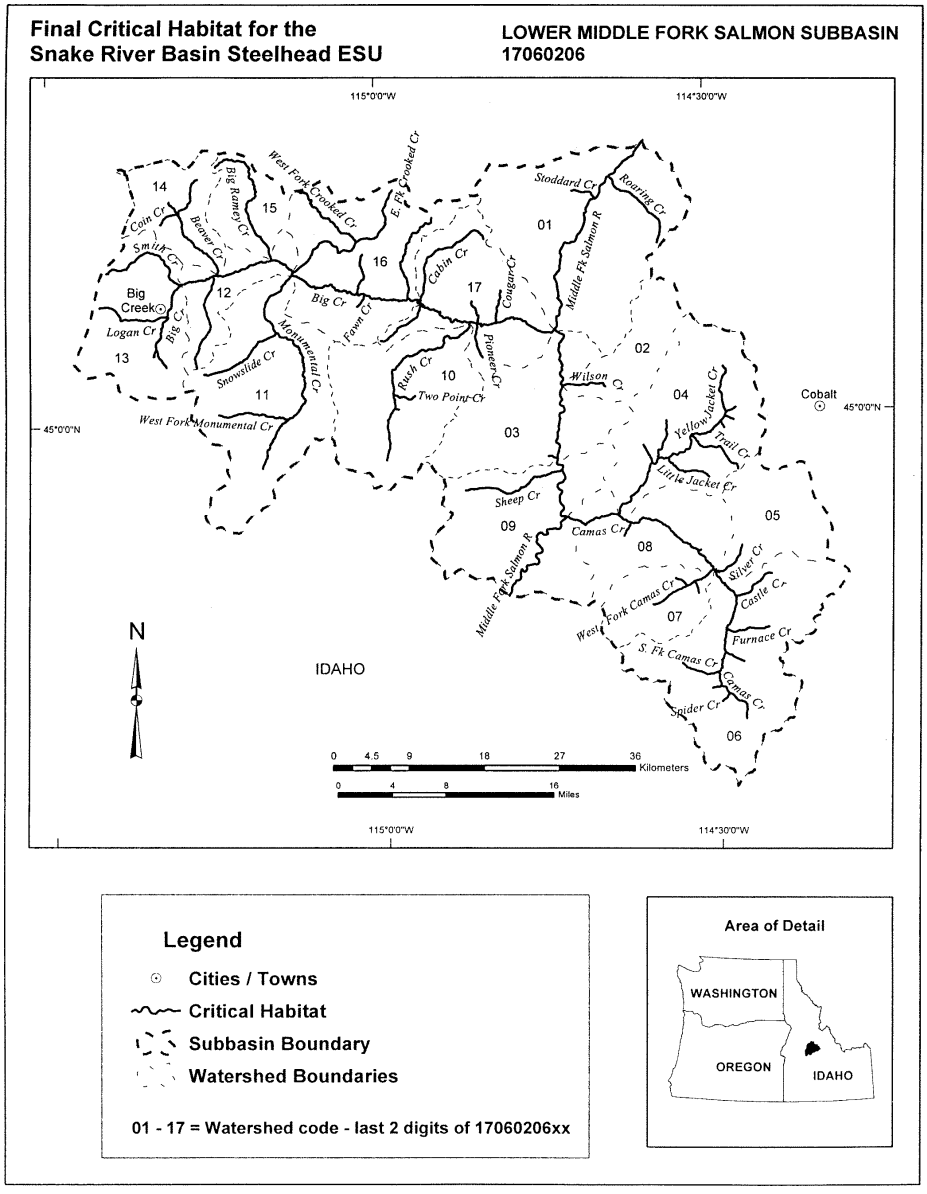

Final Critical Habitat for the
Snake River Basin Steelhead ESU
LEMHI SUBBASIN
17060204
114°0'0"W
113°30'0"W
113°0'0"W
45°0'0"N
44°30'0"N
N
01
02
03
04
05
06
07
08
09
10
11
12
13
14
Bohannon Cr
Lemhi R
Wimpey Cr
Baker
Withington Cr
Kenney Cr
Agency Cr
Lemhi
Bear Valley Cr
Hayden Cr
Lemhi R
Big Eight Mile Cr
Leadore
Eight Fork Hayden Cr
Purcell Cr
Texas Cr
Gilmore
MONTANA
IDAHO
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 14 = Watershed code - last 2 digits of 17060204xx
Area of Detail
WASHINGTON
OREGON
IDAHO

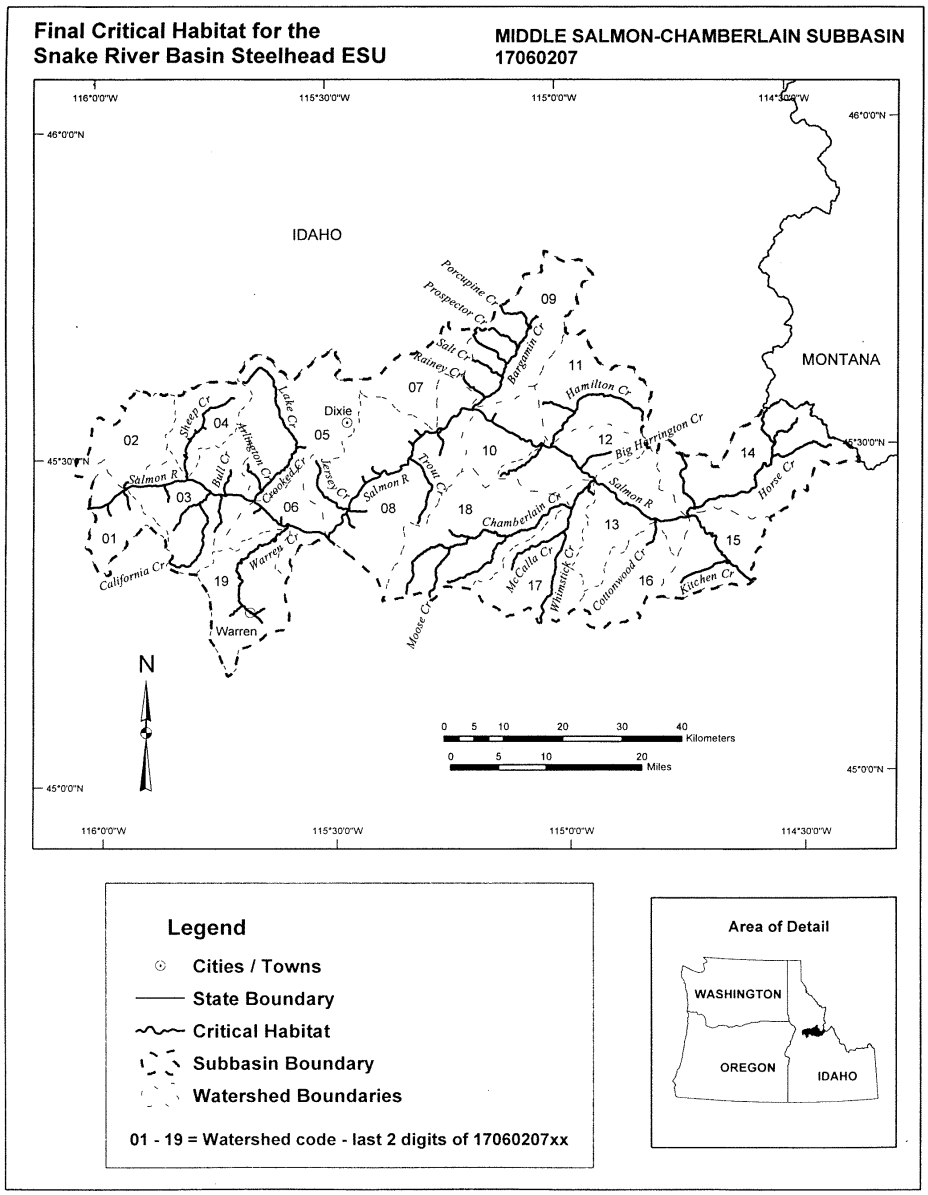


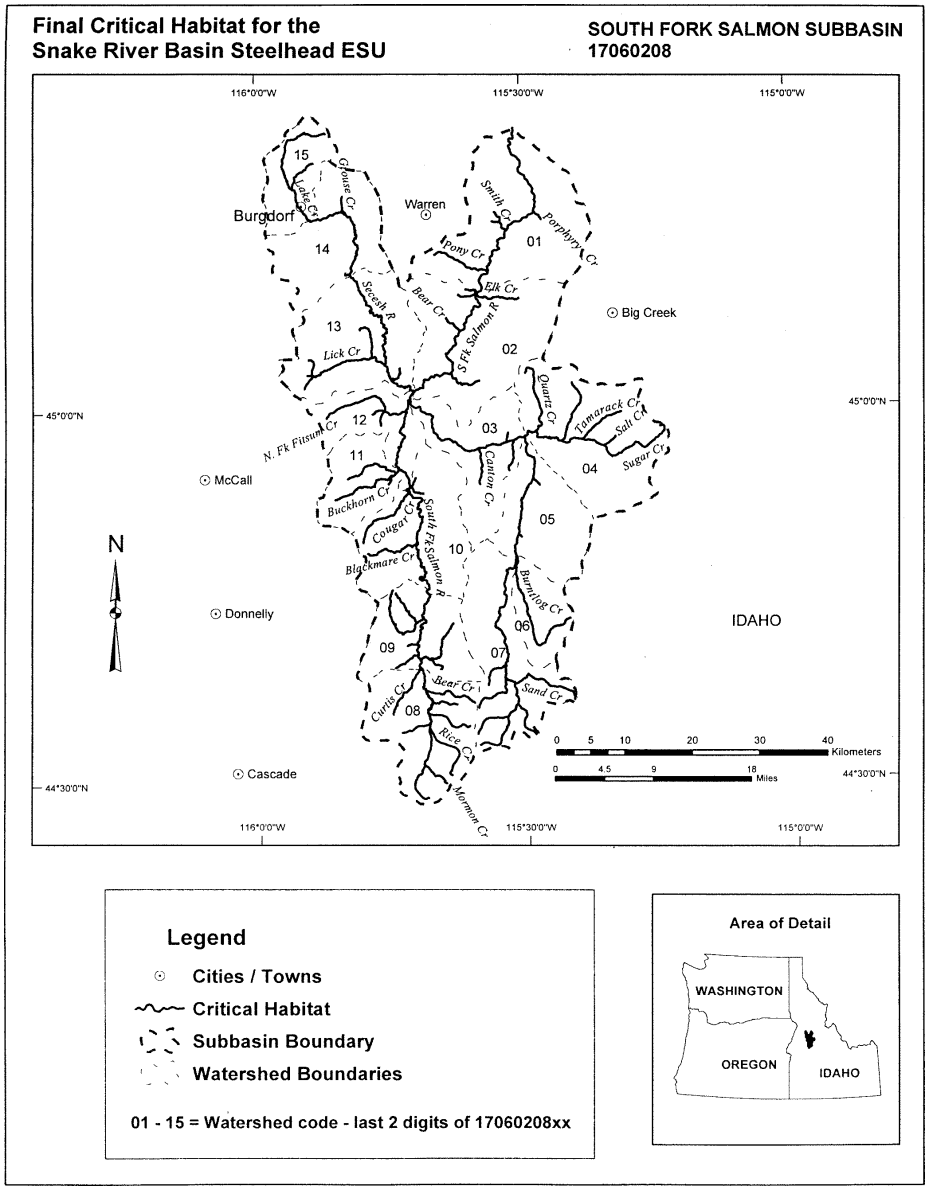
Legend

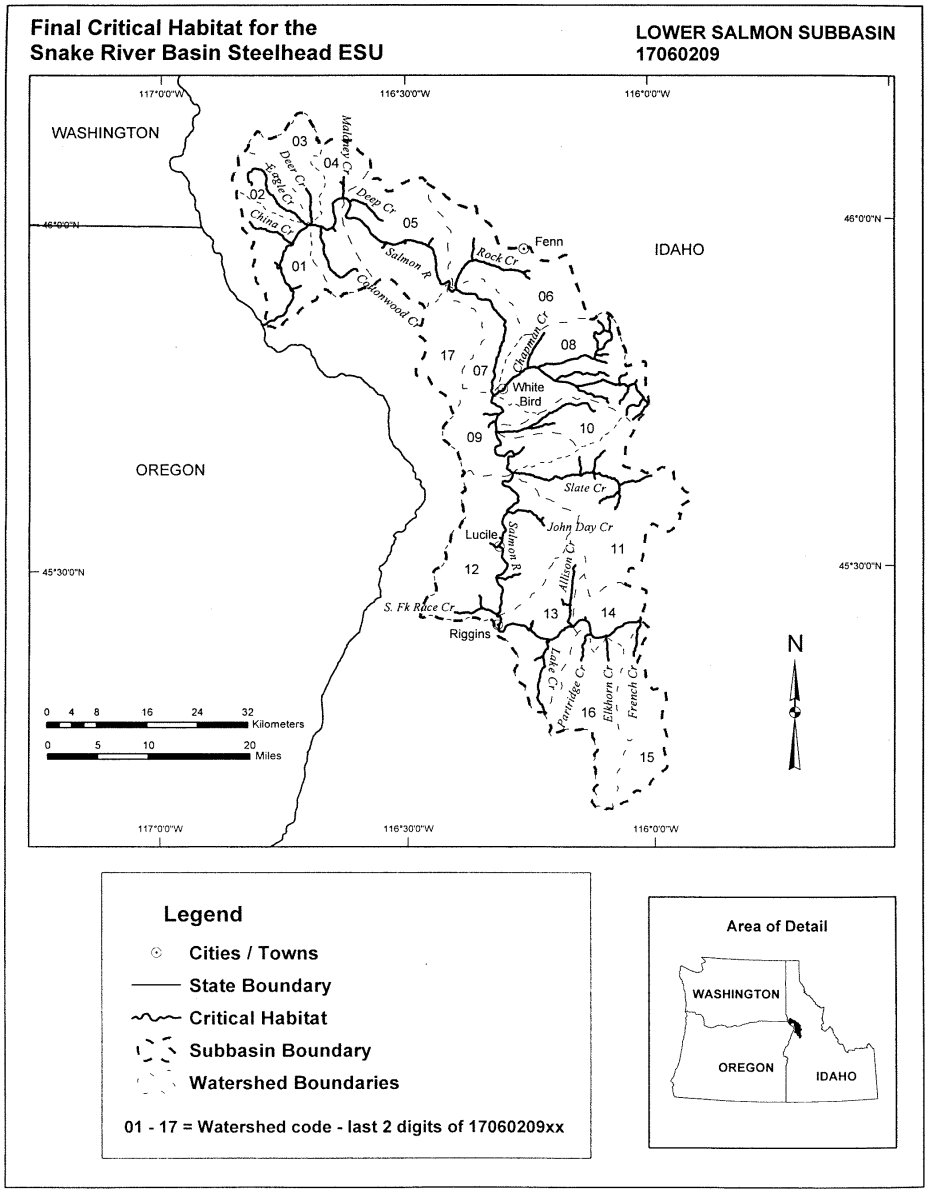
- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

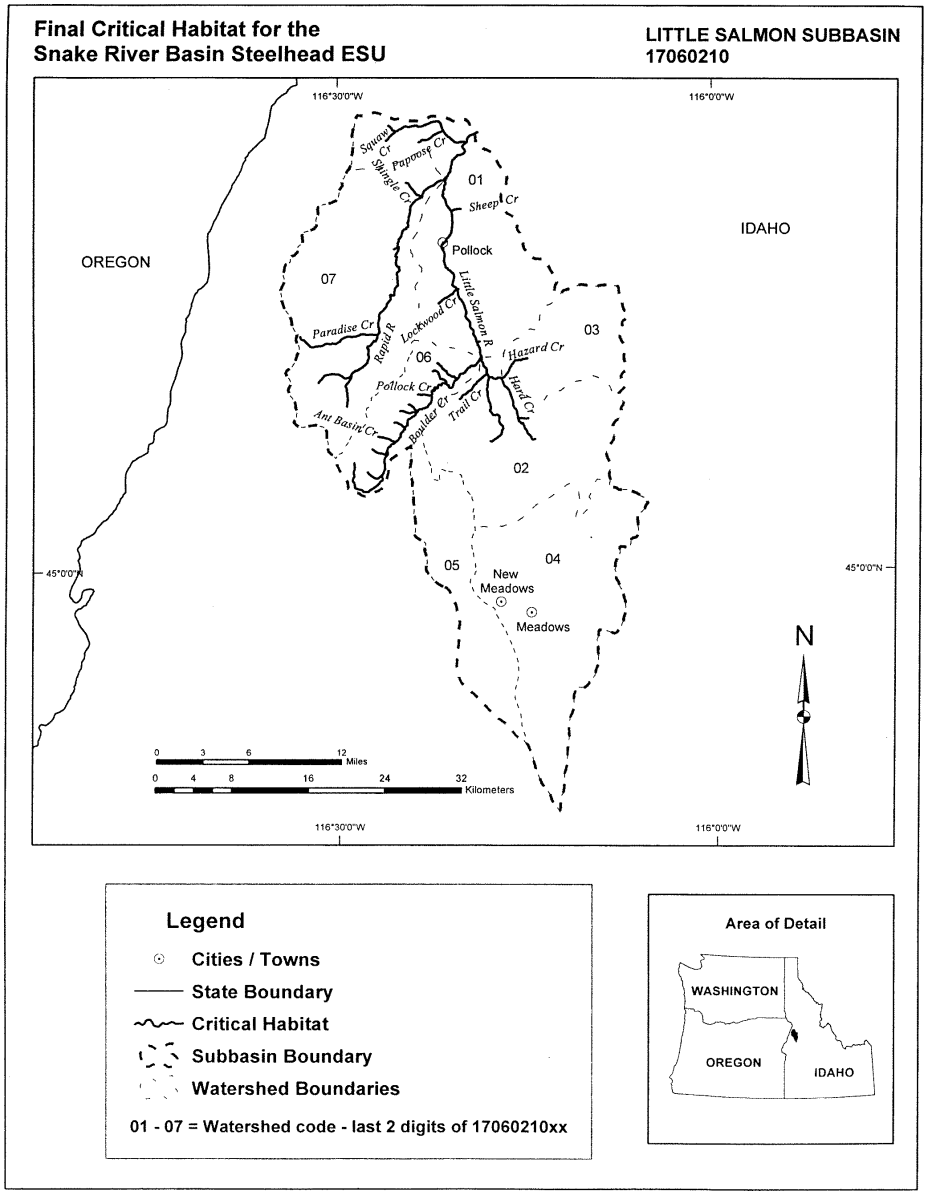
01 - 13 = Watershed code - last 2 digits of 17060205xx

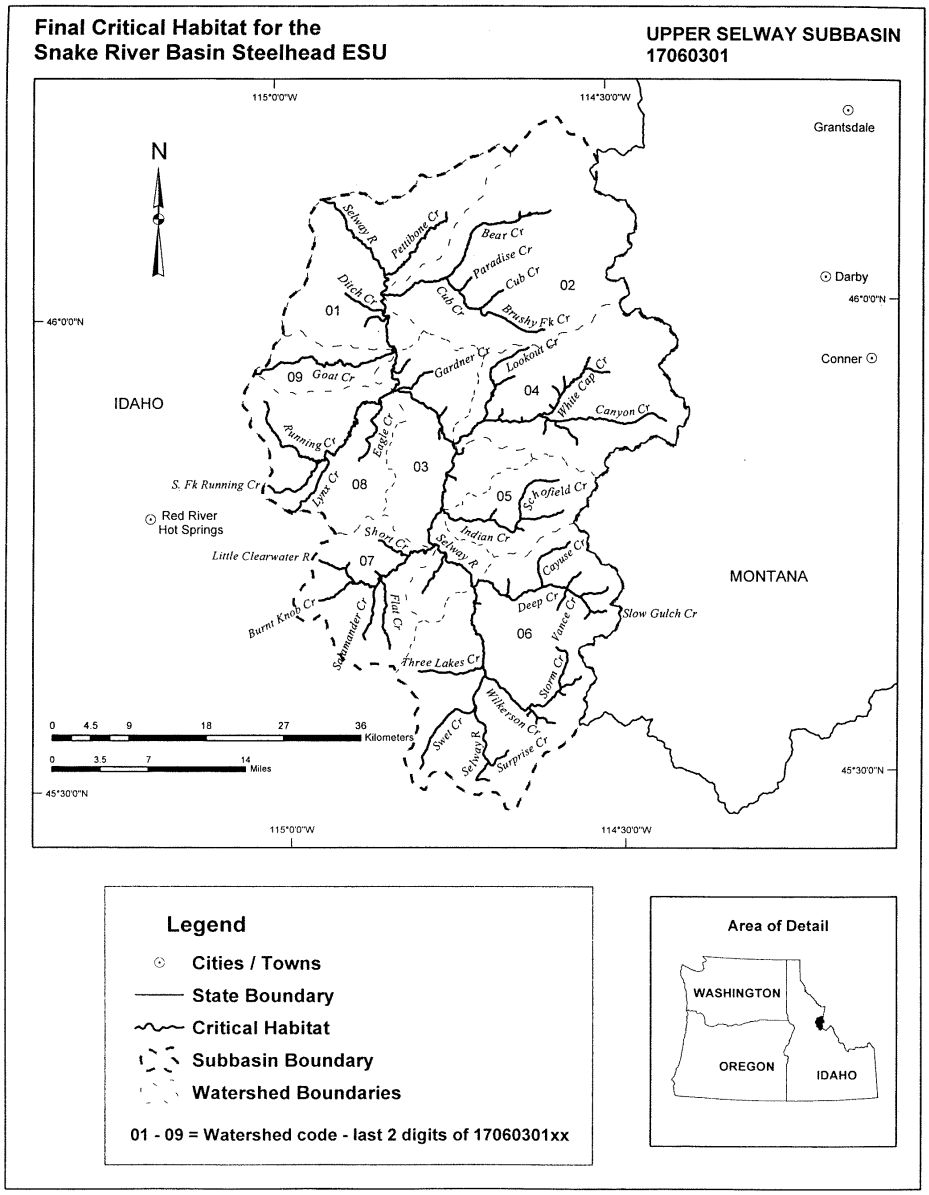

Final Critical Habitat for the
Snake River Basin Steelhead ESU
LOWER MIDDLE FORK SALMON SUBBASIN
17060206
115°0'0"W
114°30'0"W
45°0'0"N
Cobalt
Big Creek
IDAHO
N
0 4.5 9 18 27 36 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 17 = Watershed code - last 2 digits of 17060206xx
Area of Detail
WASHINGTON
OREGON
IDAHO

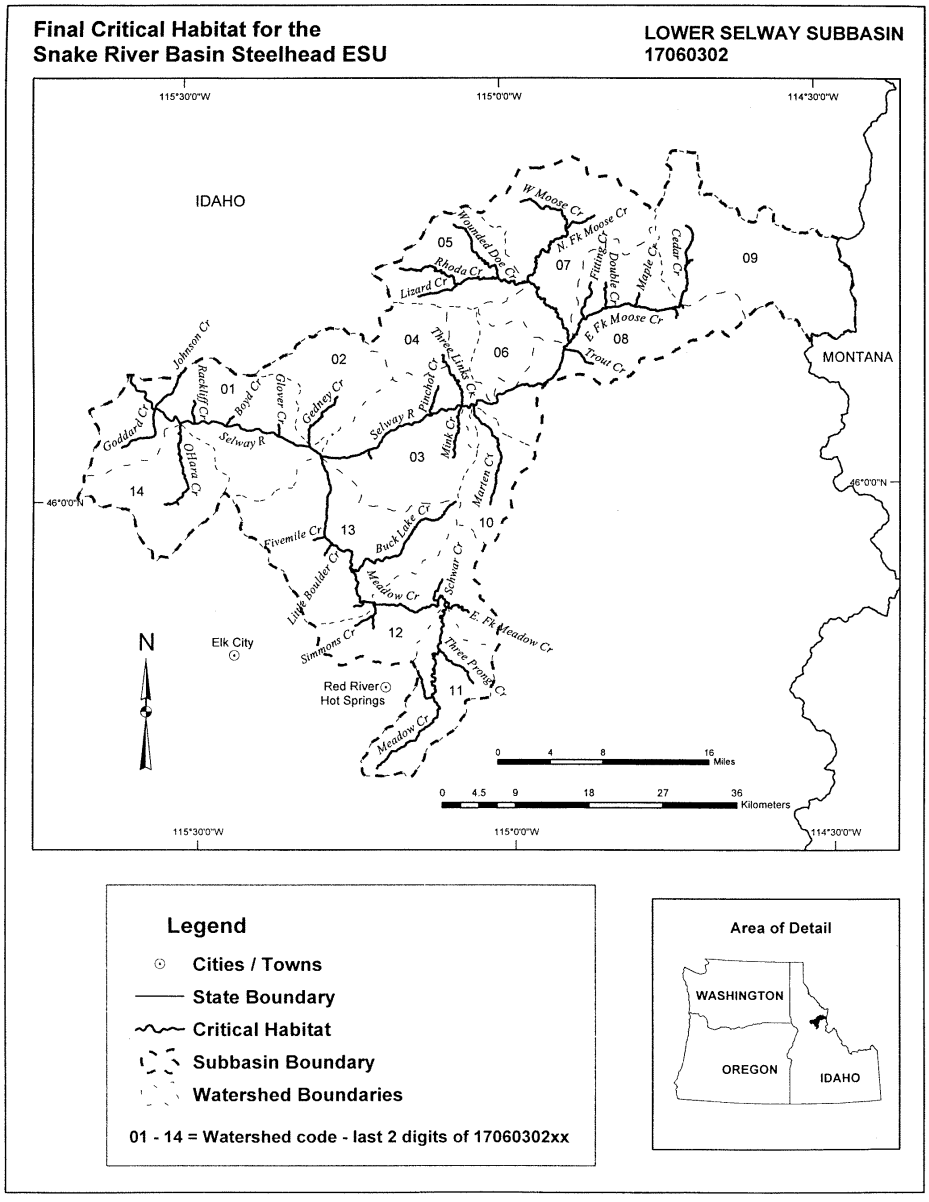

Final Critical Habitat for the
Snake River Basin Steelhead ESU
MIDDLE SALMON-CHAMBERLAIN SUBBASIN
17060207
IDAHO
MONTANA
Dixie
Warren
Porcupine Cr
Prospector Cr
Salt Cr
Rainey Cr
Burgomin Cr
Hamilton Cr
Big Harrington Cr
Horse Cr
Sheep Cr
Lake Cr
Harlowton Cr
Bull Cr
Crooked Cr
Jersey Cr
Trout Cr
Salmon R
Chamberlain Cr
McCalla Cr
Whitmarsh Cr
Cottonwood Cr
Kitchen Cr
California Cr
Warren Cr
Moose Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
15
16
17
18
19
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
116°0'0"W
115°30'0"W
115°0'0"W
114°30'0"W
46°0'0"N
45°30'0"N
45°0'0"N
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 19 = Watershed code - last 2 digits of 17060207xx
Area of Detail
WASHINGTON
OREGON
IDAHO

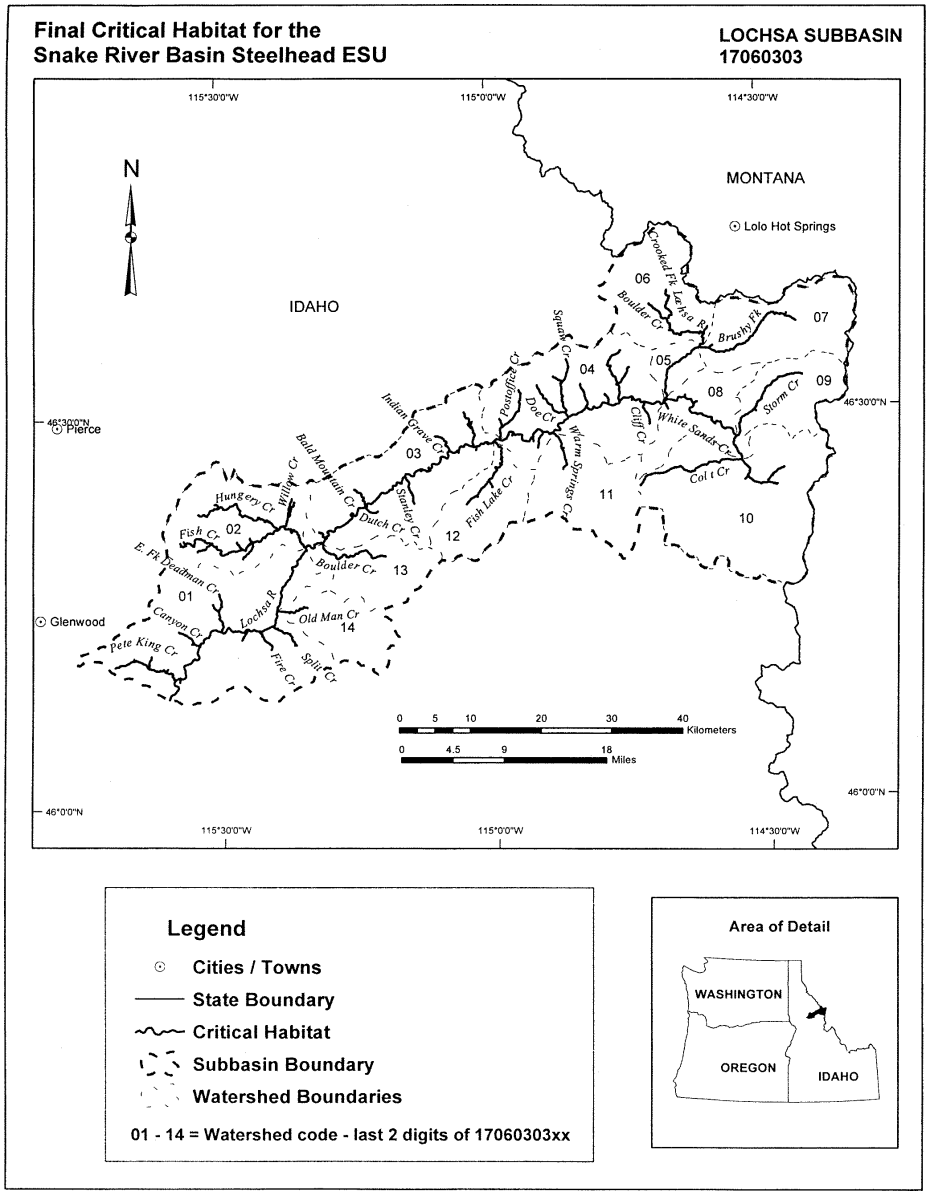

Final Critical Habitat for the
Snake River Basin Steelhead ESU
SOUTH FORK SALMON SUBBASIN
17060208
116°0'0"W
115°30'0"W
115°0'0"W
45°0'0"N
44°30'0"N
Burgdorf
Warren
Big Creek
McCall
Donnelly
Cascade
IDAHO
N
01
02
03
04
05
06
07
08
09
10
11
12
13
14
15
Grouse Cr
Lake Cr
Smith Cr
Porphyry Cr
Pony Cr
Elk Cr
Steelh R
Bear Cr
S Fk Salmon R
Lick Cr
Quartz Cr
Tamarack Cr
Salt Cr
Sugar Cr
N. Fk Fitsum Cr
Canon Cr
Buckhorn Cr
Cougar Cr
South Fk Salmon R
Blackmare Cr
Burntlog Cr
Curtis Cr
Bear Cr
Sand Cr
Rice Cr
Mormon Cr
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 15 = Watershed code - last 2 digits of 17060208xx
Area of Detail
WASHINGTON
OREGON
IDAHO

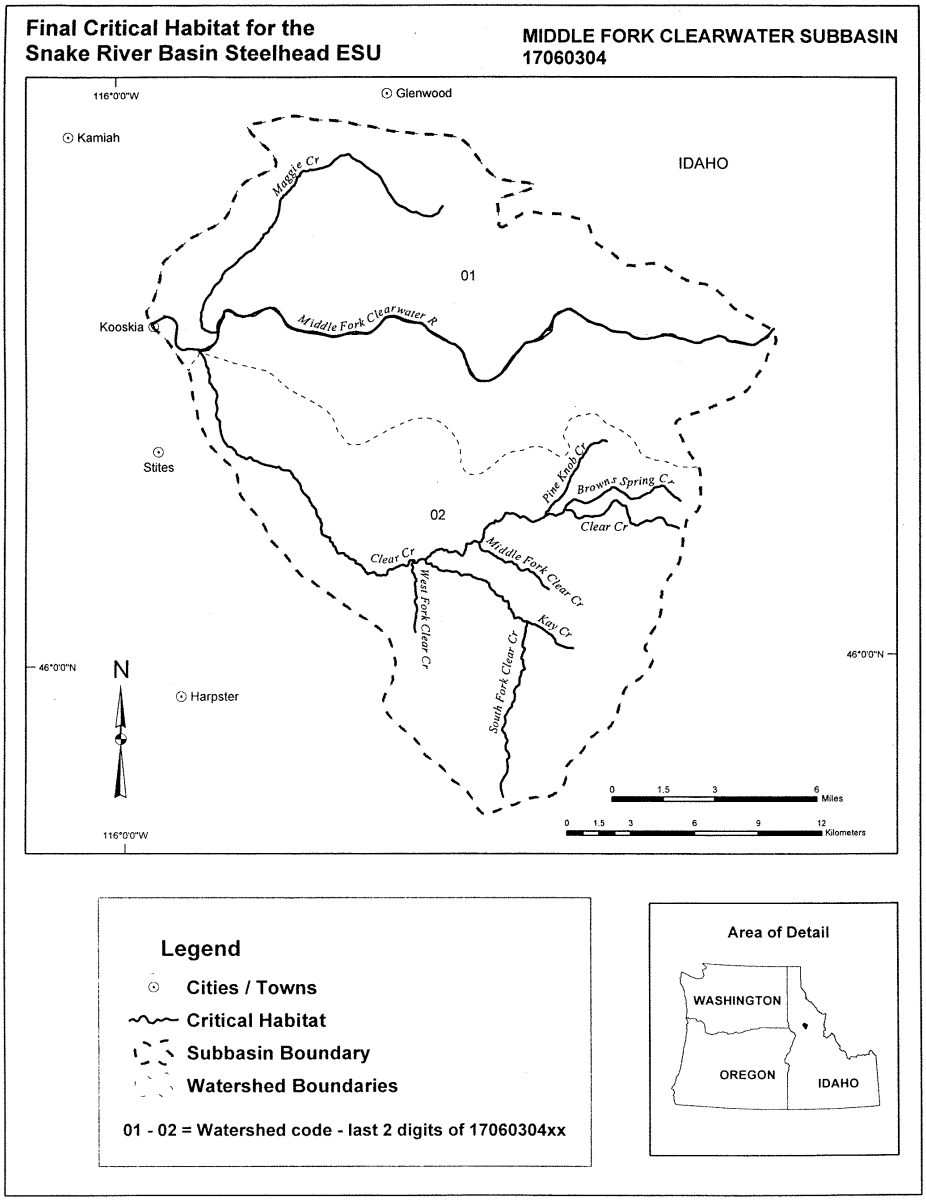

Final Critical Habitat for the
Snake River Basin Steelhead ESU
LOWER SALMON SUBBASIN
17060209
WASHINGTON
OREGON
IDAHO
Fenn
White Bird
Lucile
Riggins
Rock Cr
Salmon R
Cottonwood Cr
Chapman Cr
Slate Cr
John Day Cr
Johnson Cr
Allison Cr
S. Fk Race Cr
Lake Cr
Partridge Cr
Elkhorn Cr
French Cr
Maloney Cr
Deer Cr
Eagle Cr
China Cr
Deep Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
15
16
17
117°0'0"W
116°30'0"W
116°0'0"W
46°0'0"N
45°30'0"N
0 4 8 16 24 32 Kilometers
0 5 10 20 Miles
N
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 17 = Watershed code - last 2 digits of 17060209xx
Area of Detail
WASHINGTON
OREGON
IDAHO

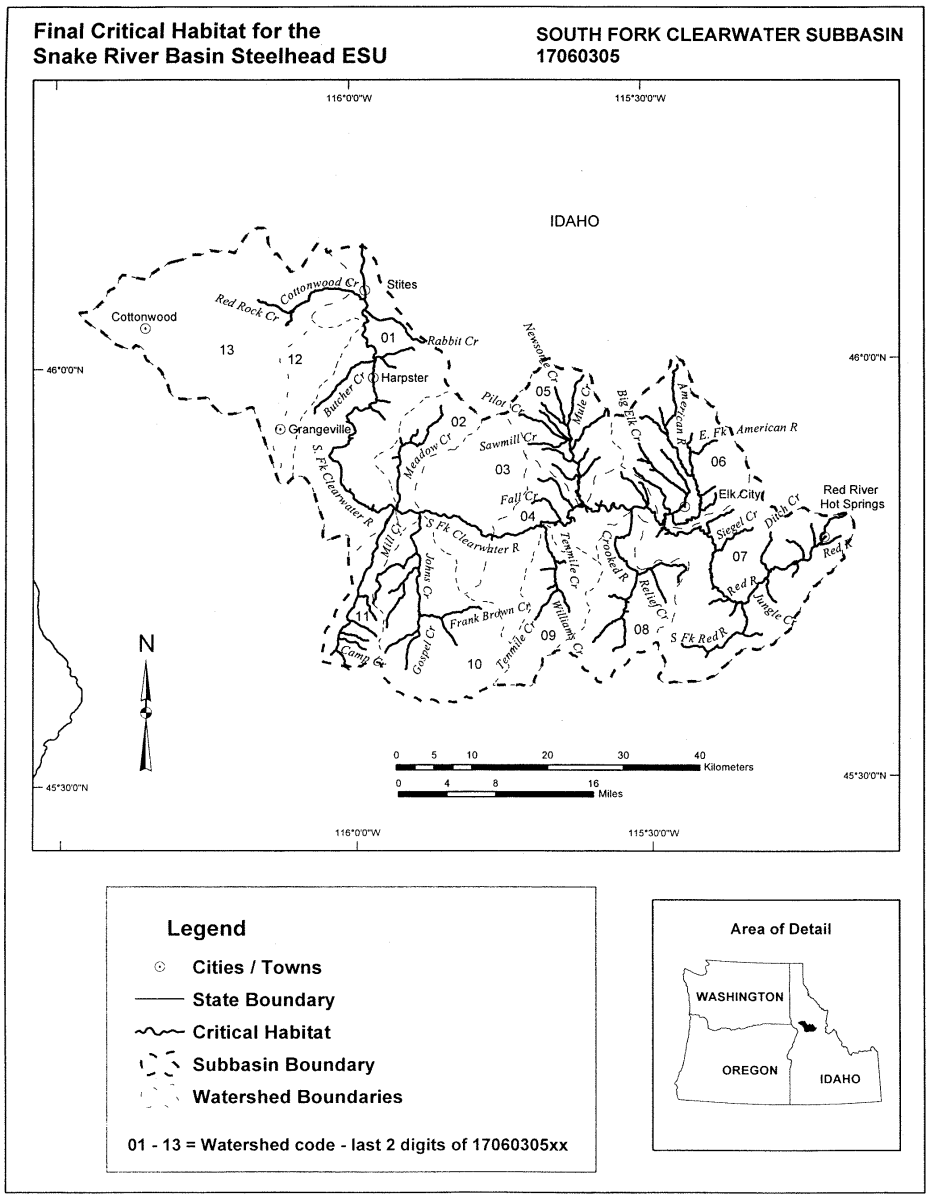

Final Critical Habitat for the
Snake River Basin Steelhead ESU
LITTLE SALMON SUBBASIN
17060210
116°30'0"W
116°0'0"W
45°0'0"N
OREGON
IDAHO
Squaw Cr
Papoose Cr
Shingle Cr
Sheep Cr
Pollock
Little Salmon R
Lockwood Cr
Paradise Cr
Rapid R
Hazard Cr
Pollock Cr
Boulder Cr
Trail Cr
Hard Cr
Ant Basin Cr
01
02
03
04
05
06
07
New Meadows
Meadows
N
0 3 6 12 Miles
0 4 8 16 24 32 Kilometers
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17060210xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
UPPER SELWAY SUBBASIN
17060301
115°0'0"W
114°30'0"W
N
Grantsdale
Darby
Conner
46°0'0"N
45°30'0"N
IDAHO
MONTANA
Red River
Hot Springs
Selway R
Petticone Cr
Bear Cr
Paradise Cr
Ditch Cr
Cub Cr
Brushy Fk Cr
Lookout Cr
Gardner Cr
Goat Cr
White Cap Cr
Canyon Cr
Running Cr
Eagle Cr
S. Fk Running Cr
Lynx Cr
Schofield Cr
Indian Cr
Short Cr
Little Clearwater R
Coyuse Cr
Deep Cr
Slow Gulch Cr
Vance Cr
Storm Cr
Burnt Knob Cr
Salamander Cr
Flat Cr
Three Lakes Cr
Wilkerson Cr
Swet Cr
Surprise Cr
01
02
03
04
05
06
07
08
09
0 4.5 9 18 27 36 Kilometers
0 3.5 7 14 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 09 = Watershed code - last 2 digits of 17060301xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
LOWER SELWAY SUBBASIN
17060302
115°30'0"W
115°0'0"W
114°30'0"W
IDAHO
MONTANA
46°0'0"N
W. Moose Cr
Wounded Doe Cr
N. Fk Moose Cr
Fitting Cr
Double Cr
Maple Cr
Camp Cr
Rhoda Cr
Lizard Cr
E. Fk Moose Cr
Trout Cr
Three Links Cr
Johnson Cr
Backcliff Cr
Boyd Cr
Glover Cr
Gedney Cr
Selway R
Pinchot Cr
Mink Cr
Marten Cr
Goddard Cr
Otter Cr
Fivemile Cr
Buck Lake Cr
Little Boulder Cr
Meadow Cr
Schwar Cr
E. Fk Meadow Cr
Simmons Cr
Three Prong Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
N
Elk City
Red River Hot Springs
0 4 8 16 Miles
0 4.5 9 18 27 36 Kilometers
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 14 = Watershed code - last 2 digits of 17060302xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
LOCHSA SUBBASIN
17060303
115°30'0"W
115°0'0"W
114°30'0"W
N
MONTANA
IDAHO
Lolo Hot Springs
Pierce
Glenwood
46°30'0"N
46°0'0"N
Crooked Fk
Lochsa R
Boulder Cr
Brushy Fk
Squaw Cr
Postoffice Cr
Indian Grove Cr
Doe Cr
Warm Springs Cr
Cliff Cr
White Sands Cr
Storm Cr
Colt Cr
Bald Mountain Cr
Willow Cr
Hungery Cr
Fish Cr
Stanley Cr
Dutch Cr
Fish Lake Cr
E. Fk Weadman Cr
Canyon Cr
Pete King Cr
Old Man Cr
Fire Cr
Split Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 14 = Watershed code - last 2 digits of 17060303xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
MIDDLE FORK CLEARWATER SUBBASIN
17060304
116°0'0"W
Glenwood
Kamiah
IDAHO
Maggie Cr
01
Middle Fork Clearwater R
Kooskia
Stites
Pine Knob Cr
Brown's Spring Cr
Clear Cr
02
Clear Cr
Middle Fork Clear Cr
West Fork Clear Cr
Kay Cr
South Fork Clear Cr
46°0'0"N
N
Harpster
0 1.5 3 6 Miles
0 1.5 3 6 9 12 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 02 = Watershed code - last 2 digits of 17060304xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
SOUTH FORK CLEARWATER SUBBASIN
17060305
116°0'0"W
115°30'0"W
46°0'0"N
45°30'0"N
IDAHO
Cottonwood
Stites
Grangeville
Harpster
Elk City
Red River Hot Springs
Cottonwood Cr
Red Rock Cr
Rabbit Cr
Butcher Cr
Pilot Cr
Newsome Cr
Mule Cr
Big Elk Cr
American R
E. Fk American R
Meadow Cr
Sawmill Cr
Fall Cr
S Fk Clearwater R
Mill Cr
Johnson Cr
Frank Brown Cr
Gospel Cr
Tennile Cr
Williams Cr
Teepee Cr
Crooked R
Relief Cr
Siegel Cr
Ditch Cr
Red R
Jungle Cr
S Fk Red R
Camp Cr
01
02
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06
07
08
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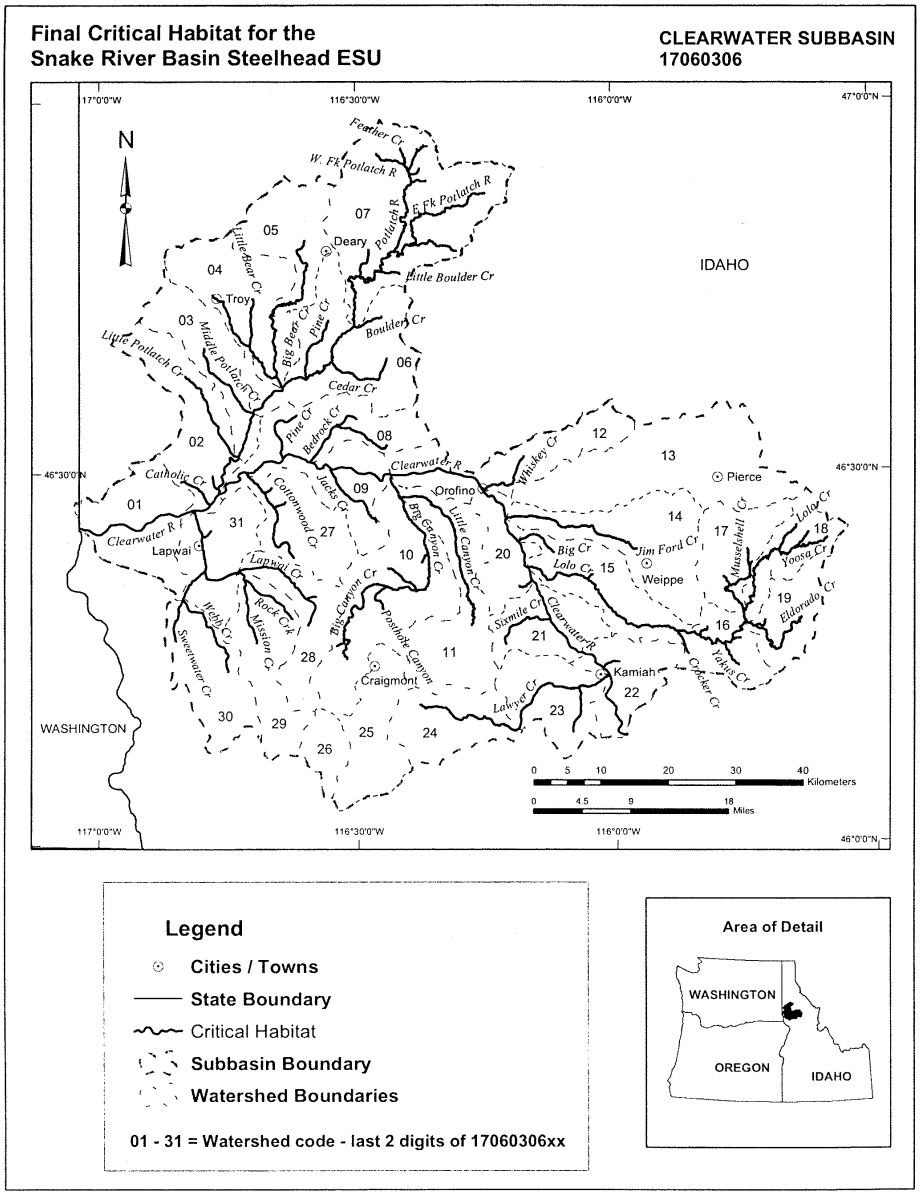
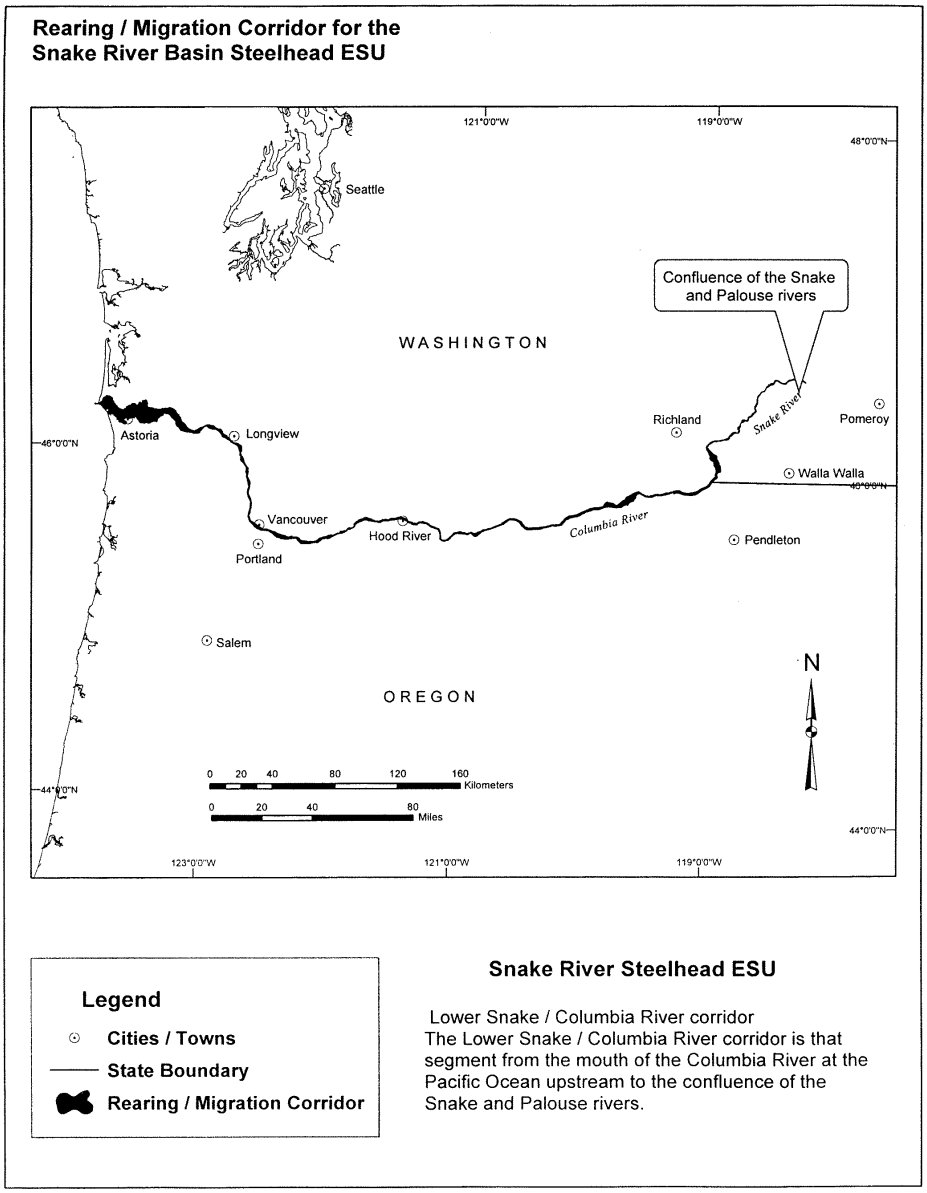
10
11
12
13
N
0 5 10 20 30 40 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 13 = Watershed code - last 2 digits of 17060305xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Snake River Basin Steelhead ESU
CLEARWATER SUBBASIN
17060306
N
IDAHO
WASHINGTON
Deary
Troy
Pierce
Orofino
Lapwai
Weippe
Kamiah
Craigmont
Feather Cr
W. Fk Potlatch R
E Fk Potlatch R
Potlatch R
Little Boulder Cr
Boulder Cr
Little Bear Cr
Big Bear Cr
Pine Cr
Middle Potlatch Cr
Little Potlatch Cr
Cedar Cr
Bedrock Cr
Clearwater R
Whiskey Cr
Catholic Cr
Jacks Cr
Cottonwood Cr
Big Canyon Cr
Little Canyon Cr
Big Cr
Jim Ford Cr
Lolo Cr
Musselshell Cr
Lolo Cr
Yoosa Cr
Eldorado Cr
Sixmile Cr
Clearwater R
Lapwai Cr
Webb Cr
Rock Cr
Mission Cr
Sweetwater Cr
Big Canyon Cr
Potlatch Canyon
Lower Cr
Yakes Cr
Cayuse Cr
01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
17°0'0"W
116°30'0"W
116°0'0"W
47°0'0"N
46°30'0"N
117°0'0"W
46°0'0"N
0 5 10 20 30 40 Kilometers
0 4.5 9 18 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 31 = Watershed code - last 2 digits of 17060306xx
Area of Detail
WASHINGTON
OREGON
IDAHO



(r) *Middle Columbia River Steelhead (Oncorhynchus mykiss).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Upper Yakima Subbasin 17030001—(i) *Upper Yakima River Watershed 1703000101.* Outlet(s) = Yakima River (Lat 47.1770, Long –120.9964) upstream to endpoint(s) in: Big Creek (47.1951, –121.1181); Cabin Creek (47.2140, –121.2400); Cle Elum River (47.2457, –121.0729); Kachess River (47.2645,

–121.2062); Little Creek (47.2002, –121.0842); Peterson Creek (47.1765, –121.0592); Tucker Creek (47.2202, –121.1639); Yakima River (47.3219, –121.3371).

(ii) *Teanaway River Watershed 1703000102*. Outlet(s) = Yakima River (Lat 47.1673, Long –120.8338) upstream to endpoint(s) in: Bear Creek (47.3684, –120.7902); DeRoux Creek (47.4202, –120.9477); Dickey Creek (47.2880, –120.8322); Indian Creek (47.3216, –120.8145); Jack Creek (47.3414, –120.8130); Jungle Creek (47.3453, –120.8951); Mason Creek (47.2528, –120.7889); Middle Creek (47.2973, –120.8204); Middle Fork Teanaway River (47.3750, –120.9800); Standup Creek (47.3764, –120.8362); Tillman Creek (47.1698, –120.9798); Unnamed (47.2809, –120.8995); West Fork Teanaway River (47.3040, –121.0179); Yakima River (47.1770, –120.9964).

(iii) *Middle Upper Yakima River Watershed 1703000103*. Outlet(s) = Yakima River (Lat 46.8987, Long –120.5035) upstream to endpoint(s) in: Badger Creek (46.9305, –120.4805); Coleman Creek (46.9636, –120.4764); Cooke Creek (46.9738, –120.4381); Dry Creek (47.0366, –120.6122); First Creek (47.2082, –120.6732); Iron Creek (47.3495, –120.7032); Manastash Creek (46.9657, –120.7347); Naneum Creek (46.9561, –120.4987); North Fork Taneum Creek (47.1224, –121.0396); Reecer Creek (47.0066, –120.5817); South Fork Taneum Creek (47.0962, –120.9713); Swauk Creek (47.3274, –120.6586); Unnamed (46.9799, –120.5407); Unnamed (47.0000, –120.5524); Unnamed (47.0193, –120.5676); Williams Creek (47.2638, –120.6513); Wilson Creek (46.9931, –120.5497); Yakima River (47.1673, –120.8338).

(iv) *Umtanum/Wenas Watershed 1703000104*. Outlet(s) = Yakima River (Lat 46.6309, Long –120.5130) upstream to endpoint(s) in: Burbank Creek (46.7663, –120.4238); Lmuma Creek (46.8224, –120.4510); Umtanum Creek (46.8928, –120.6130); Wenas Creek (46.7087, –120.5179); Yakima River (46.8987, –120.5035).

(2) Naches Subbasin 17030002—(i) *Little Naches River Watershed 1703000201*. Outlet(s) = Little Naches River (Lat 46.9854, Long –121.0915) upstream to endpoint(s) in: American River (46.9008, –121.4194); Barton Creek (46.8645, –121.2869); Bear Creek (47.0793, –121.2415); Blowout Creek (47.0946, –121.3046); Crow Creek (47.0147, –121.3241); Goat Creek (46.9193, –121.2269); Kettle Creek (46.9360, –121.3262); Mathew Creek (47.0829, –121.1944); Miner Creek (46.9542, –121.3074); Morse Creek (46.9053, –121.4131); North Fork Little Naches River (47.0958, –121.3141); Parker Creek (46.9589, –121.2900); Pinus Creek (46.9682, –121.2766); Quartz Creek (47.0382, –121.1128); Scab Creek (46.8969, –121.2459); South Fork Little Naches River (47.0574, –121.2760); Sunrise Creek (46.9041, –121.2448); Survey Creek (46.9435, –121.3296); Timber Creek (46.9113, –121.3822); Union Creek (46.9366, –121.3596); Unnamed (46.8705, –121.2809); Unnamed (46.8741, –121.2956); Unnamed (46.8872, –121.2811); Unnamed (46.8911, –121.2816); Unnamed (46.9033, –121.4162); Unnamed (46.9128, –121.2286); Unnamed (46.9132, –121.4058); Unnamed (46.9158, –121.3710); Unnamed (46.9224, –121.2200); Unnamed (46.9283, –121.3484); Unnamed (46.9302, –121.2103); Unnamed (46.9339, –121.1970); Unnamed (46.9360, –121.3482); Unnamed (46.9384, –121.3200); Unnamed (46.9390, –121.1898); Unnamed (46.9396, –121.3404); Unnamed (46.9431, –121.3088); Unnamed (46.9507, –121.2894); Unnamed (47.0774, –121.3092); Wash Creek (46.9639, –121.2810).

(ii) *Naches River/Rattlesnake Creek Watershed 1703000202*. Outlet(s) = Naches River (Lat 46.7467, Long –120.7858) upstream to endpoint(s) in: Glass Creek (46.8697, –121.0974); Gold Creek (46.9219, –121.0464); Hindoo Creek (46.7862, –121.1689); Little Rattlesnake Creek (46.7550, –121.0543); Lost Creek (46.9200, –121.0568); Naches River (46.9854, –121.0915); North Fork Rattlesnake Creek (46.8340, –121.1439); Rattlesnake Creek (46.7316, –121.2339); Rock Creek (46.8847, –120.9718).

(iii) *Naches River/Tieton River Watershed 1703000203*. Outlet(s) = Naches River (Lat 46.6309, Long –120.5130) upstream to endpoint(s) in: Naches River (46.7467, –120.7858); Oak Creek (46.7295, –120.9348); South Fork Cowiche Creek (46.6595, –120.7601); Tieton River (46.6567, –121.1287); Unnamed (46.6446, –120.5923); Wildcat Creek (46.6715, –121.1520).

(3) Lower Yakima Subbasin 17030003—(i) *Ahtanum Creek Watershed 1703000301*. Outlet(s) = Ahtanum Creek (Lat 46.5283, Long –120.4732) upstream to

endpoint(s) in: Foundation Creek (46.5349, –121.0134); Middle Fork Ahtanum Creek (46.5075, –121.0225); Nasty Creek (46.5718, –120.9721); North Fork Ahtanum Creek (46.5217, –121.0917); South Fork Ahtanum Creek (46.4917, –120.9590); Unnamed (46.5811, –120.6390).

(ii) *Upper Lower Yakima River Watershed 1703000302*. Outlet(s) = Yakima River (Lat 46.5283, Long –120.4732) upstream to endpoint(s) in: Unnamed (46.5460, –120.4383); Yakima River (46.6309, –120.5130).

(iii) *Upper Toppenish Creek Watershed 1703000303*. Outlet(s) = Toppenish Creek (Lat 46.3767, Long –120.6172) upstream to endpoint(s) in: Agency Creek (46.3619, –120.9646); Branch Creek (46.2958, –120.9969); North Fork Simcoe Creek (46.4548, –120.9307); North Fork Toppenish Creek (46.3217, –120.9985); Old Maid Canyon (46.4210, –120.9349); South Fork Toppenish Creek (46.2422, –121.0885); Toppenish Creek (46.3180, –121.1387); Unnamed (46.3758, –120.9336); Unnamed (46.4555, –120.8436); Wahtum Creek (46.3942, –120.9146); Willy Dick Canyon (46.2952, –120.9021).

(iv) *Lower Toppenish Creek Watershed 1703000304*. Outlet(s) = Yakima River (Lat 46.3246, Long –120.1671) upstream to endpoint(s) in: Toppenish Creek (46.3767, –120.6172); Unnamed (46.3224, –120.4464); Unnamed (46.3363, –120.5891); Unnamed (46.3364, –120.2288); Unnamed (46.3679, –120.2801); Unnamed (46.4107, –120.5582); Unnamed (46.4379, –120.4258); Yakima River (46.5283, –120.4732).

(v) *Satus Creek Watershed 1703000305*. Outlet(s) = Satus Creek (Lat 46.2893, Long –120.1972) upstream to endpoint(s) in: Bull Creek (46.0314, –120.5147); Kusshi Creek (46.0994, –120.6094); Logy Creek (46.1357, –120.6389); Mule Dry Creek (46.0959, –120.3186); North Fork Dry Creek (46.1779, –120.7669); Satus Creek (46.0185, –120.7268); Unnamed (46.0883, –120.5278); Wilson Charley Canyon (46.0419, –120.6479).

(vi) *Yakima River/Spring Creek Watershed 1703000306*. Outlet(s) = Yakima River (Lat 46.3361, Long –119.4817) upstream to endpoint(s) in: Corral Creek (46.2971, –119.5302); Satus Creek (46.2893, –120.1972); Snipes Creek (46.2419, –119.6802); Spring Creek (46.2359, –119.6952); Unnamed (46.2169, –120.0189); Unnamed (46.2426, –120.0993); Unnamed (46.2598, –120.1322); Unnamed (46.2514, –120.0190); Yakima River (46.3246, –120.1671).

(vii) *Yakima River/Cold Creek Watershed 1703000307*. Outlet(s) = Yakima River (Lat 46.2534, Long –119.2268) upstream to endpoint(s) in: Yakima River (46.3361, –119.4817).

(4) Middle Columbia/Lake Wallula Subbasin 17070101—(i) *Upper Lake Wallula Watershed 1707010101*. Outlet(s) = Columbia River (Lat 46.0594, Long –118.9445) upstream to endpoint(s) in: Columbia River (46.1776, –119.0183).

(ii) *Lower Lake Wallula Watershed 1707010102*. Outlet(s) = Columbia River (Lat 45.9376, Long –119.2969) upstream to endpoint(s) in: Columbia River (46.0594, –118.9445).

(iii) *Glade Creek Watershed 1707010105*. Outlet(s) = Glade Creek (Lat 45.8895, Long –119.6809) upstream to endpoint(s) in: Glade Creek (45.8978, –119.6962).

(iv) *Upper Lake Umatilla Watershed 1707010106*. Outlet(s) = Columbia River (Lat 45.8895, Long –119.6809) upstream to endpoint(s) in: Columbia River (45.9376, –119.2969).

(v) *Middle Lake Umatilla Watershed 1707010109*. Outlet(s) = Columbia River (Lat 45.8318, Long –119.9069) upstream to endpoint(s) in: Columbia River (45.8895, –119.6809).

(vi) *Alder Creek Watershed 1707010110*. Outlet(s) = Alder Creek (Lat 45.8298, Long –119.9277) upstream to endpoint(s) in: Alder Creek (45.8668, –119.9224).

(vii) *Pine Creek Watershed 1707010111*. Outlet(s) = Pine Creek (Lat 45.7843, Long –120.0823) upstream to endpoint(s) in: Pine Creek (45.8234, –120.1396).

(viii) *Wood Gulch Watershed 1707010112*. Outlet(s) = Wood Creek (Lat 45.7443, Long –120.1930) upstream to endpoint(s) in: Big Horn Canyon (45.8322, –120.2467); Wood Gulch (45.8386, –120.3006).

(ix) *Rock Creek Watershed 1707010113*. Outlet(s) = Rock Creek (Lat 45.6995, Long –120.4597) upstream to endpoint(s) in: Rock Creek (45.8835, –120.5557); Squaw Creek (45.8399, –120.4935).

(x) *Lower Lake Umatilla Watershed 1707010114*. Outlet(s) = Columbia River (Lat 45.7168, Long –120.6927) upstream to endpoint(s) in: Chapman Creek (45.7293, –120.3148); Columbia River (45.8318, –119.9069).

(5) Walla Walla Subbasin 17070102—(i) *Upper Walla Walla River Watershed 1707010201*. Outlet(s) = Walla Walla River (Lat 45.9104, Long –118.3696) upstream to endpoint(s) in: Bear Creek (45.8528, –118.0991); Big Meadow Canyon (45.900, –118.1116); Burnt Cabin Gulch (45.8056, –118.0593); Couse Creek (45.8035, –118.2032); Elbow Creek (45.7999, –118.1462); Kees Canyon (45.8262, –118.0927); Little Meadow Canyon (45.9094, –118.1333); North Fork Walla Walla River (45.9342, –118.0169); Reser Creek (45.8840, –117.9950); Rodgers Gulch (45.8513, –118.0839); Skiphorton Creek (45.8892, –118.0255); South Fork Walla Walla River (45.9512, –117.9647); Swede Canyon (45.8506, –118.0640); Table Creek (45.8540, –118.0546); Unnamed (45.8026, –118.1412); Unnamed (45.8547, –117.9915); Unnamed (45.8787–118.0387); Unnamed (45.8868, –117.9629); Unnamed (45.9095, –117.9621).

(ii) *Mill Creek Watershed 1707010202*. Outlet(s) = Mill Creek (Lat 46.0391, Long –118.4779) upstream to endpoint(s) in: Blue Creek (46.0188, –118.0519); Broken Creek (45.9745, –117.9899); Cold Creek (46.0540, –118.4097); Deadman Creek (46.0421, –117.9503); Doan Creek (46.0437, –118.4353); Green Fork (46.0298, –117.9389); Henry Canyon (45.9554, –118.1104); Low Creek (45.9649, –117.9980); Mill Creek (46.0112, –117.9406); North Fork Mill Creek (46.0322, –117.9937); Paradise Creek (46.0005, –117.9900); Tiger Creek (45.9588, –118.0253); Unnamed (46.0253, –117.9320); Unnamed (46.0383, –117.9463); Webb Creek (45.9800, –118.0875).

(iii) *Upper Touchet River Watershed 1707010203*. Outlet(s) = Touchet River (Lat 46.3196, Long –117.9841) upstream to endpoint(s) in: Burnt Fork (46.0838, –117.9311); Coates Creek (46.1585, –117.8431); Green Fork (46.0737, –117.9712); Griffin Fork (46.1100, –117.9336); Ireland Gulch (46.1894, –117.8070); Jim Creek (46.2156, –117.7959); Lewis Creek (46.1855, –117.7791); North Fork Touchet River (46.0938, –117.8460); North Patit Creek (46.3418, –117.7538); Robinson Fork (46.1200, –117.9006); Rodgers Gulch (46.2813, –117.8411); Spangler Creek (46.1156, –117.7934); Unnamed (46.1049, –117.9351); Unnamed (46.1061, –117.9544); Unnamed (46.1206, –117.9386); Unnamed (46.1334, –117.9512); Unnamed (46.1604, –117.9018); Unnamed (46.2900, –117.7339); Weidman Gulch (46.2359, –117.8067); West Patit Creek (46.2940, –117.7164); Whitney Creek (46.1348, –117.8491); Wolf Fork (46.1035, –117.8797).

(iv) *Middle Touchet River Watershed 1707010204*. Outlet(s) = Touchet River (Lat 46.2952, Long –118.3320) upstream to endpoint(s) in: North Fork Coppei Creek (46.1384, –118.0181); South Fork Coppei Creek (46.1302, –118.0608); Touchet River (46.3196, –117.9841); Whisky Creek (46.2438, –118.0785).

(v) *Lower Touchet River Watershed 1707010207*. Outlet(s) = Touchet River (Lat 46.0340, Long –118.6828) upstream to endpoint(s) in: Touchet River (46.2952, –118.3320).

(vi) *Cottonwood Creek Watershed 1707010208*. Outlet(s) = Walla Walla River (Lat 46.0391, Long –118.4779) upstream to endpoint(s) in: Birch Creek (45.9489, –118.2541); Caldwell Creek (46.0493, –118.3022); East Little Walla Walla River (46.0009, –118.4069); Garrison Creek (46.0753, –118.2726); Middle Fork Cottonwood Creek (45.9566, –118.1776); North Fork Cottonwood Creek (45.9738, –118.1533); Reser Creek (46.0370, –118.3085); Russell Creek (46.0424, –118.2488); South Fork Cottonwood Creek (45.9252, –118.1798); Stone Creek (46.0618, –118.3081); Unnamed (45.9525, –118.2513); Unnamed (46.0022, –118.4070); Walla Walla River (45.9104, –118.3696); Yellowhawk Creek (46.0753, –118.2726).

(vii) *Dry Creek Watershed 1707010210*. Outlet(s) = Dry Creek (Lat 46.0507, Long –118.5932) upstream to endpoint(s) in: Dry Creek (46.0725, –118.0268); Mud Creek (46.1414, –118.1313); South Fork Dry Creek (46.0751, –118.0514); Unnamed (46.1122, –118.1141).

(viii) *Lower Walla Walla River Watershed 1707010211*. Outlet(s) = Walla Walla River (Lat 46.0594, Long –118.9445) upstream to endpoint(s) in: Walla Walla River (46.0391, –118.4779).

(6) Umatilla Subbasin 17070103—(i) *Upper Umatilla River Watershed 1707010301*. Outlet(s) = Umatilla River (Lat 45.7024, Long –118.3593) upstream to endpoint(s) in: Bear Creek (45.7595, –118.1942); Bobsled Creek (45.7268, –118.2503); Buck Creek (45.7081, –118.1059); East Fork Coyote Creek (45.7553, –118.1263); Johnson Creek #4 (45.7239, –118.0797); Lake Creek #2 (45.7040, –118.1297); Lick Creek (45.7400, –118.1880); North Fork Umatilla River

(45.7193, –118.0244); Rock Creek (45.7629, –118.2377); Ryan Creek (45.6362, –118.2963); Shimmiehorn Creek (45.6184, –118.1908); South Fork Umatilla River (45.6292, –118.2424); Spring Creek #2 (45.6288, –118.1525); Swamp Creek (45.6978, –118.1356); Thomas Creek (45.6546, –118.1435); Unnamed (45.6548, –118.1371); Unnamed (45.6737, –118.1616); Unnamed (45.6938, –118.3036); Unnamed (45.7060, –118.2123); Unnamed (45.7200, –118.3092); Unnamed (45.7241, –118.3197); Unnamed (45.7281, –118.1604); Unnamed (45.7282, –118.3372); Unnamed (45.7419, –118.1586); West Fork Coyote Creek (45.7713, –118.1513); Woodward Creek (45.7484, –118.0760).

(ii) *Meacham Creek Watershed 1707010302*. Outlet(s) = Meacham Creek (Lat 45.7024, Long –118.3593) upstream to endpoint(s) in: Bear Creek #3 (45.4882, –118.1993); Beaver Creek (45.4940, –118.4411); Boston Canyon (45.6594, –118.3344); Butcher Creek (45.4558, –118.3737); Camp Creek (45.5895, –118.2800); Duncan Canyon (45.5674, –118.3244); East Meacham Creek (45.4570, –118.2212); Hoskins Creek (45.5188, –118.2059); Line Creek (45.6303, –118.3291); Meacham Creek (45.4364, –118.3963); North Fork Meacham Creek (45.5767, –118.1721); Owsley Creek (45.4349, –118.2434); Pot Creek (45.5036, –118.1438); Sheep Creek (45.5121, –118.3945); Twomile Creek (45.5085, –118.4579); Unnamed (45.4540, –118.2192); Unnamed (45.5585, –118.2064); Unnamed (45.6019, –118.2971); Unnamed (45.6774, –118.3415).

(iii) *Umatilla River/Mission Creek Watershed 1707010303*. Outlet(s) = Umatilla River (Lat 45.6559, Long –118.8804) upstream to endpoint(s) in: Bachelor Canyon (45.6368, –118.3890); Buckaroo Creek (45.6062, –118.5000); Coonskin Creek (45.6556, –118.5239); Cottonwood Creek (45.6122, –118.5704); Little Squaw Creek (45.5969, –118.4095); Mission Creek (45.6256, –118.6133); Moonshine Creek (45.6166, –118.5392); Patawa Creek (45.6424, –118.7125); Red Elk Canyon (45.6773, –118.4431); Saddle Hollow (45.7067, –118.3968); South Patawa Creek (45.6250, –118.6919); Squaw Creek (45.5584, –118.4389); Stage Gulch (45.6533, –118.4481); Thorn Hollow Creek (45.6957, –118.4530); Umatilla River (45.7024, –118.3593); Unnamed (45.5649, –118.4221); Unnamed (45.6092, –118.7603); Unnamed (45.6100, –118.4046); Unnamed (45.6571, –118.7473); Unnamed (45.6599, –118.4641); Unnamed (45.6599, –118.4711); Unnamed (45.6676, –118.6176); Unnamed (45.6688, –118.5575); Unnamed (45.6745, –118.5859).

(iv) *McKay Creek Watershed 1707010305*. Outlet(s) = McKay Creek (Lat 45.6685, Long –118.8400) upstream to endpoint(s) in: McKay Creek (45.6077, –118.7917).

(v) *Birch Creek Watershed 1707010306*. Outlet(s) = Birch Creek (Lat 45.6559, Long –118.8804) upstream to endpoint(s) in: Bear Creek (45.2730, –118.8939); Bridge Creek (45.3603, –118.9039); California Gulch (45.3950, –118.8149); Dark Canyon (45.3119, –118.7572); East Birch Creek (45.3676, –118.6085); Johnson Creek #2 (45.3931, –118.7518); Little Pearson Creek (45.3852, –118.7415); Merle Gulch (45.3450, –118.8136); Owings Creek (45.3864, –118.9600); Pearson Creek (45.2901, –118.7985); South Canyon #2 (45.3444, –118.6949); Unnamed (45.2703, –118.7624); Unnamed (45.3016, –118.7705); Unnamed (45.3232, –118.7264); Unnamed (45.3470, –118.7984); Unnamed (45.3476, –118.6703); Unnamed (45.3511, –118.6328); Unnamed (45.4628, –118.7491); West Birch Creek (45.2973, –118.8341); Willow Spring Canyon (45.3426, –118.9833).

(vi) *Umatilla River/Alkali Canyon Watershed 1707010307*. Outlet(s) = Umatilla River (Lat 45.7831, Long –119.2372) upstream to endpoint(s) in: Umatilla River (45.6559, –118.8804).

(vii) *Lower Umatilla River Watershed 1707010313*. Outlet(s) = Umatilla River (Lat 45.9247, Long –119.3575) upstream to endpoint(s) in: Umatilla River (45.7831, –119.2372); Unnamed (45.8202, –119.3305).

(7) Middle Columbia/Hood Subbasin 17070105—(i) *Upper Middle Columbia/Hood Watershed 1707010501*. Outlet(s) = Columbia River (Lat 45.6426, Long –120.9142) upstream to endpoint(s) in: Columbia River (45.7168, –120.6927); Frank Fulton Canyon (45.6244, –120.8258); Spanish Hollow Creek (45.6469, –120.8069); Unnamed (45.6404, –120.8654).

(ii) *Fifteenmile Creek Watershed 1707010502*. Outlet(s) = Fifteenmile Creek (Lat 45.6197, Long –121.1265) upstream to endpoint(s) in: Cedar Creek (45.3713, –121.4153); Dry Creek (45.4918, –121.0479); Fifteenmile Creek (45.3658, –121.4390); Ramsey Creek (45.3979, –121.4454); Unnamed (45.3768, –121.4410).

(iii) *Fivemile Creek Watershed 1707010503*. Outlet(s) = Eightmile Creek (Lat 45.6064, Long –121.0854) upstream to endpoint(s) in: Eightmile Creek (45.3944, –121.4983); Middle Fork Fivemile Creek (45.4502, –121.4324); South Fork Fivemile Creek (45.4622, –121.3641).

(iv) *Middle Columbia/Mill Creek Watershed 1707010504*. Outlet(s) = Columbia River (Lat 45.6920, Long –121.2937) upstream to endpoint(s) in: Brown Creek (45.5911, –121.2729); Chenoweth Creek (45.6119, –121.2658); Columbia River (45.6426, –120.9142); North Fork Mill Creek (45.4999, –121.4537); South Fork Mill Creek (45.5187, –121.3367); Threemile Creek (45.5598, –121.1747).

(v) *Mosier Creek Watershed 1707010505*. Outlet(s) = Mosier Creek (Lat 45.6950, Long –121.3996) upstream to endpoint(s) in: Mosier Creek (45.6826, –121.3896); Rock Creek (45.6649, –121.4352).

(vi) *White Salmon River Watershed 1707010509*. Outlet(s) = White Salmon River (Lat 45.7267, Long –121.5209) upstream to endpoint(s) in: Unnamed (45.7395, –121.5500); White Salmon River (45.7676, –121.5374).

(vii) *Middle Columbia/Grays Creek Watershed 1707010512*. Outlet(s) = Columbia River (Lat 45.7070, Long –121.7943) upstream to endpoint(s) in: Catherine Creek (45.7448, –121.4206); Columbia River (45.6920, –121.2937); Dog Creek (45.7200, –121.6804); East Fork Major Creek (45.8005, –121.3449); Hanson Creek (45.7472, –121.3143); Jewett Creek (45.7524, –121.4704); Rowena Creek (45.6940, –121.3122); Unnamed (45.7238, –121.7227); Unnamed (45.7248, –121.7322); Unnamed (45.7303, –121.3095); Unnamed (45.7316, –121.3094); Unnamed (45.7445, –121.3309); Unnamed (45.7486, –121.3203); Unnamed (45.7530, –121.4697); Unnamed (45.7632, –121.4795); Unnamed (45.7954, –121.3863); Unnamed (45.8003, –121.4062); West Fork Major Creek (45.8117, –121.3929).

(8) Klickitat Subbasin 17070106—(i) *Upper Klickitat River Watershed 1707010601*. Outlet(s) = Klickitat River (Lat 46.1263, Long –121.2881) upstream to endpoint(s) in: Cedar Creek (46.2122, –121.2042); Coyote Creek (46.4640, –121.1839); Cuitin Creek (46.4602, –121.1662); Diamond Fork (46.4794, –121.2284); Huckleberry Creek (46.4273, –121.3720); Klickitat River (46.4439, –121.3756); McCreedy Creek (46.3319, –121.2529); Piscoe Creek (46.3708, –121.1436); Surveyors Creek (46.2181, –121.1838); Unnamed (46.4476, –121.2575); Unnamed (46.4585, –121.2565); West Fork Klickitat River (46.2757, –121.3267).

(ii) *Middle Klickitat River Watershed 1707010602*. Outlet(s) = Klickitat River (Lat 45.9858, Long –121.1233) upstream to endpoint(s) in: Bear Creek (46.0770, –121.2262); Klickitat River (46.1263, –121.2881); Outlet Creek (46.0178, –121.1740); Summit Creek (46.0035, –121.0918); Trout Creek (46.1166, –121.1968); White Creek (46.1084, –121.0730).

(iii) *Little Klickitat River Watershed 1707010603*. Outlet(s) = Little Klickitat River (Lat 45.8452, Long –121.0625) upstream to endpoint(s) in: Blockhouse Creek (45.8188, –120.9813); Butler Creek (45.9287, –120.7005); Canyon Creek (45.8833, –121.0504); East Prong Little Klickitat River (45.9279, –120.6832); Mill Creek (45.8374, –121.0001); Unnamed (45.8162, –120.9288); West Prong Little Klickitat River (45.9251, –120.7202).

(iv) *Lower Klickitat River Watershed 1707010604*. Outlet(s) = Klickitat River (Lat 45.6920, Long –121.2937) upstream to endpoint(s) in: Dead Canyon (45.9473, –121.1734); Dillacort Canyon (45.7349, –121.1904); Klickitat River (45.9858, –121.1233); Logging Camp Canyon (45.7872, –121.2260); Snyder Canyon (45.8431, –121.2152); Swale Creek (45.7218, –121.0475); Wheeler Canyon (45.7946, –121.1615).

(9) Upper John Day Subbasin 17070201—(i) *Middle South Fork John Day Watershed 1707020103*. Outlet(s) = South Fork John Day River (Lat 44.1918, Long –119.5261) upstream to endpoint(s) in: Blue Creek (44.2183, –119.3679); Corral Creek (44.1688, –119.3573); North Fork Deer Creek (44.2034, –119.3009); South Fork Deer Creek (44.1550, –119.3457); South Fork John Day River (44.1822, –119.5243) Unnamed (44.1824, –119.4210); Vester Creek (44.1794, –1193872).

(ii) *Murderers Creek Watershed 1707020104*. Outlet(s) = Murderers Creek (Lat 44.3146, Long –119.5383) upstream to endpoint(s) in: Bark Cabin Creek (44.2481, –119.3967); Basin Creek (44.2700, –119.1711); Cabin Creek (44.3420, –119.4403); Charlie Mack Creek (44.2708, –119.2344); Crazy Creek (44.2421, –119.4282); Dans Creek (44.2500,

–119.2774); Duncan Creek (44.3219, –119.3555); Lemon Creek (44.2528, –119.2500); Miner Creek (44.3237, –119.2416); Orange Creek (44.2524, –119.2613); Oregon Mine Creek (44.2816, –119.2945); South Fork Murderers Creek (44.2318, –119.3221); Sugar Creek (44.2914, –119.2326); Tennessee Creek (44.3041, –119.3029); Thorn Creek (44.3113, –119.3157); Todd Creek (44.3291, –119.3976); Unnamed (44.3133, –119.3533); Unnamed (44.3250, –119.3476); White Creek (44.2747, –119.1866).

(iii) *Lower South Fork John Day Watershed 1707020105*. Outlet(s) = South Fork John Day River (Lat 44.4740, Long –119.5344) upstream to endpoint(s) in: Cougar Gulch (44.2279, –119.4898); Frazier Creek (44.2200, –119.5745); Jackass Creek (44.3564, –119.4958); North Fork Wind Creek (44.3019, –119.6632); Payten Creek (44.3692, –119.6185); Smoky Creek (44.3893, –119.4791); South Fork Black Canyon Creek (44.3789, –119.7293); South Fork John Day River (44.1918, –119.5261); South Fork Wind Creek (44.2169, –119.6192); South Prong Creek (44.3093, –119.6558); Squaw Creek (44.3000, –119.6143); Unnamed (44.2306, –119.6095); Unnamed (44.2358, –119.6013); Unnamed (44.3052, –119.6332); Wind Creek (44.2793, –119.6515).

(iv) *Upper John Day River Watershed 1707020106*. Outlet(s) = John Day River (Lat 44.4534, Long –118.6711) upstream to endpoint(s) in: Bogue Gulch (44.3697, –118.5200); Call Creek (44.2973, –118.5169); Crescent Creek (44.2721, –118.5473); Dads Creek (44.5140, –118.6463); Dans Creek (44.4989, –118.5920); Deardorff Creek (44.3665, –118.4596); Eureka Gulch (44.4801, –118.5912); Graham Creek (44.3611, –118.6084); Isham Creek (44.4649, –118.5626); Jeff Davis Creek (44.4813, –118.6370); John Day River (44.2503, –118.5256); Mossy Gulch (44.4641, –118.5211); North Reynolds Creek (44.4525, –118.4886); Rail Creek #2 (44.3413, –118.5017); Reynolds Creek (44.4185, –118.4507); Roberts Creek (44.3060, –118.5815); Thompson Creek (44.3581, –118.5395); Unnamed (44.2710, –118.5412).

(v) *Canyon Creek Watershed 1707020107*. Outlet(s) = Canyon Creek (Lat 44.4225, Long –118.9584) upstream to endpoint(s) in: Berry Creek (44.3084, –118.8791); Brookling Creek (44.3042, –118.8363); Canyon Creek (44.2368, –118.7775); Crazy Creek #2 (44.2165, –118.7751); East Brookling Creek (44.3029, –118.8082); East Fork Canyon Creek (44.2865, –118.7939); Middle Fork Canyon Creek (44.2885, –118.7500); Skin Shin Creek (44.3036, –118.8488); Tamarack Creek #2 (44.2965, –118.8611); Unnamed (44.2500, –118.8298); Unnamed (44.2717, –118.7500); Unnamed (44.2814, –118.7620); Vance Creek (44.2929, –118.9989); Wall Creek (44.2543, –118.8308).

(vi) *Strawberry Creek Watershed 1707020108*. Outlet(s) = John Day River (Lat 44.4225, Long –118.9584) upstream to endpoint(s) in: Bear Creek (44.5434, –118.7508); Dixie Creek (44.5814, –118.7257); Dog Creek (44.3635, –118.8890); Grub Creek (44.5189, –118.8050); Hall Creek (44.5479, –118.7894); Indian Creek #3 (44.3092, –118.7438); John Day River (44.4534, –118.6711); Little Pine Creek (44.3771, –118.9103); Onion Creek (44.3151, –118.6972); Overholt Creek (44.3385, –118.7196); Pine Creek (44.3468, –118.8345); Slide Creek (44.2988, –118.6583); Standard Creek (44.5648, –118.6468); Strawberry Creek (44.3128, –118.6772); West Fork Little Indian Creek (44.3632, –118.7918).

(vii) *Beech Creek Watershed 1707020109*. Outlet(s) = Beech Creek (Lat 44.4116, Long –119.1151) upstream to endpoint(s) in: Bear Creek (44.5268, –119.1002); Beech Creek (44.5682, –119.1170); Clear Creek (44.5522, –118.9942); Cottonwood Creek (44.5758, –119.0694); East Fork Beech Creek (44.5248, –118.9023); Ennis Creek (44.5409, –119.0207); Hog Creek (44.5484, –119.0379); Little Beech Creek (44.4676, –118.9733); McClellan Creek #2 (44.5570, –118.9490); Tinker Creek (44.5550, –118.8892); Unnamed (44.5349, –119.0827).

(viii) *Laycock Creek Watershed 1707020110*. Outlet(s) = John Day River (Lat 44.4155, Long –119.2230) upstream to endpoint(s) in: Birch Creek #2 (44.4353, –119.2148); East Fork Dry Creek (44.4896, –119.1817); Fall Creek #2 (44.3551, –119.0420); Hanscombe Creek (44.3040, –119.0513); Harper Creek (44.3485, –119.1259); Ingle Creek (44.3154, –119.1153); John Day River (44.4225, –118.9584); Laycock Creek (44.3118, –119.0842); McClellan Creek (44.3510, –119.2004); Moon Creek (44.3483, –119.2389); Riley Creek (44.3450, –119.1664).

(ix) *Fields Creek Watershed 1707020111*. Outlet(s) = John Day River (Lat 44.4740,

Long –119.5344) upstream to endpoint(s) in: Belshaw Creek (44.5460, –119.2025); Bridge Creek (44.4062, –119.4180); Buck Cabin Creek (44.3412, –119.3313); Cummings Creek (44.5043, –119.3250); Fields Creek (44.3260, –119.2828); Flat Creek (44.3930, –119.4386); John Day River (44.4155, –119.2230); Marks Creek (44.5162, –119.3886); Wickiup Creek (44.3713, –119.3239); Widows Creek (44.3752, –119.3819); Wiley Creek (44.4752, –119.3784).

(x) *Upper Middle John Day Watershed 1707020112*. Outlet(s) = John Day River (Lat 44.5289, Long –119.6320) upstream to endpoint(s) in: Back Creek (44.4164, –119.6858); Battle Creek (44.4658, –119.5863); Cottonwood Creek (44.3863, –119.7376); Cougar Creek (44.4031, –119.7056); East Fork Cottonwood Creek (44.3846, –119.6177); Ferris Creek (44.5446, –119.5250); Franks Creek (44.5067, –119.4903); John Day River (44.4740, –119.5344); Rattlesnake Creek (44.4673, –119.6953); Unnamed (44.3827, –119.6479); Unnamed (44.3961, –119.7403); Unnamed (44.4082, –119.6916).

(xi) *Mountain Creek Watershed 1707020113*. Outlet(s) = Mountain Creek (Lat 44.5214, Long –119.7138) upstream to endpoint(s) in: Badger Creek (44.4491, –120.1186); Fopiano Creek (44.5899, –119.9429); Fort Creek (44.4656, –119.9253); Fry Creek (44.4647, –119.9940); Keeton Creek (44.4632, –120.0195); Mac Creek (44.4739, –119.9359); Milk Creek (44.4649, –120.1526); Unnamed (44.4700, –119.9427); Unnamed (44.4703, –120.0328); Unnamed (44.4703, –120.0597); Unnamed (44.4827, –119.8970); Willow Creek (44.6027, –119.8746).

(xii) *Rock Creek Watershed 1707020114*. Outlet(s) = Rock Creek (Lat 44.5289, Long –119.6320) upstream to endpoint(s) in: Baldy Creek (44.3906, –119.7651); Bear Creek (44.3676, –119.8401); Fir Tree Creek (44.3902, –119.7893); First Creek (44.4086, –119.8120); Fred Creek (44.4602, –119.8549); Little Windy Creek (44.3751, –119.7595); Pine Hollow #2 (44.5007, –119.8559); Rock Creek (44.3509, –119.7636); Second Creek (44.3984, –119.8075); Unnamed (44.4000, –119.8501); Unnamed (44.4232, –119.7271); West Fork Birch Creek (44.4365, –119.7500).

(xiii) *John Day River/Johnson Creek Watershed 1707020115*. Outlet(s) = John Day River (Lat 44.7554, Long –119.6382) upstream to endpoint(s) in: Buckhorn Creek (44.6137, –119.7382); Burnt Corral Creek (44.6987, –119.5733); Frank Creek (44.6262, –119.7177); Indian Creek (44.5925, –119.7636); John Day River (44.5289, –119.6320); Johnny Creek (44.6126, –119.5534); Johnson Creek (44.6766, –119.7363).

(10) North Fork John Day Subbasin 17070202—(i) *Upper North Fork John Day River Watershed 1707020201*. Outlet(s) = North Fork John Day River (Lat 44.8661, Long –118.5605) upstream to endpoint(s) in: Baldy Creek (44.8687, –118.3172); Bear Gulch (44.8978, –118.5400); Bull Creek (44.8790, –118.2753); Crane Creek (44.8715, –118.3539); Crawfish Creek (44.9424, –118.2608); Cunningham Creek (44.9172, –118.2478); Davis Creek (44.9645, –118.4156); First Gulch (44.8831, –118.5588); Hoodoo Creek (44.9763, –118.3673); Long Meadow Creek (44.9490, –118.2932); McCarty Gulch (44.9131, –118.5114); Middle Trail Creek (44.9513, –118.3185); North Fork John Day River (44.8691, –118.2392); North Trail Creek (44.9675, –118.3219); South Trail Creek (44.9434, –118.2930); Trout Creek (44.9666, –118.4656); Unnamed (44.8576, –118.3169); Unnamed (44.8845, –118.3421); Unnamed (44.9221, –118.5000); Unnamed (44.9405, –118.4093); Unnamed (44.9471, –118.4797); Wagner Gulch (44.9390, –118.5148).

(ii) *Granite Creek Watershed 1707020202*. Outlet(s) = Granite Creek (Lat 44.8661, Long –118.5605) upstream to endpoint(s) in: Beaver Creek (44.7425, –118.3940); Boulder Creek (44.8368, –118.3631); Boundary Creek (44.8106, –118.3420); Bull Run Creek (44.7534, –118.3154); Corral Creek #2 (44.8186, –118.3565); Deep Creek #2 (44.8017, –118.3200); East Ten Cent Creek (44.8584, –118.4253); Granite Creek (44.8578, –118.3736); Lake Creek (44.7875, –118.5929); Lick Creek (44.8503, –118.5065); Lightning Creek (44.7256, –118.5011); Lost Creek (44.7620, –118.5822); North Fork Ruby Creek (44.7898, –118.5073); Olive Creek (44.7191, –118.4677); Rabbit Creek (44.7819, –118.5616); Ruby Creek (44.7797, –118.5237); South Fork Beaver Creek (44.7432, –118.4272); Squaw Creek #5 (44.8552, –118.4705); Unnamed (44.8427, –118.4233); West Fork Clear Creek (44.7490, –118.5440); West Ten Cent Creek (44.8709, –118.4377); Wolesy Creek (44.7687, –118.5540).

(iii) *North Fork John Day River/Big Creek Watershed 1707020203.* Outlet(s) = North Fork John Day River (Lat 44.9976, Long –118.9444) upstream to endpoint(s) in: Backout Creek (44.8560, –118.6289); Basin Creek (44.9081, –118.6671); Big Creek (45.0115, –118.6041); Bismark Creek (44.9548, –118.7020); Corral Creek (44.9592, –118.6368); Cougar Creek (44.9288, –118.6653); Meadow Creek (44.9856, –118.4664); North Fork John Day River (44.8661, –118.5605); Oregon Gulch (44.8694, –118.6119); Oriental Creek (45.0000, –118.7255); Otter Creek (44.9634, –118.7567); Paradise Creek (44.9168, –118.5850); Raspberry Creek (44.9638, –118.7356); Ryder Creek (44.9341, –118.5943); Silver Creek (44.9077, –118.5580); Simpson Creek (44.9383, –118.6794); South Fork Meadow Creek (44.9303, –118.5481); South Martin Creek (44.9479, –118.5281); Trough Creek (44.9960, –118.8499); Unnamed (44.8594, –118.6432); Unnamed (44.9073, –118.5690); Unnamed (45.0031, –118.7060); Unnamed (45.0267, –118.7635); Unnamed (45.0413, –118.8089); White Creek (45.0000, –118.5617); Winom Creek (44.9822, –118.6766).

(iv) *Desolation Creek Watershed 1707020204.* Outlet(s) = Desolation Creek (Lat 44.9977, Long –118.9352) upstream to endpoint(s) in: Battle Creek (44.8895, –118.7010); Beeman Creek (44.8230, –118.7498); Bruin Creek (44.8936, –118.7600); Howard Creek (44.8513, –118.7004); Junkens Creek (44.8482, –118.7994); Kelsay Creek (44.9203, –118.6899); Little Kelsay Creek (44.9127, –118.7124); North Fork Desolation Creek (44.7791, –118.6231); Park Creek (44.9109, –118.7839); Peep Creek (44.9488, –118.8069); South Fork Desolation Creek (44.7890, –118.6732); Sponge Creek (44.8577, –118.7165); Starveout Creek (44.8994, –118.8220); Unnamed (44.8709, –118.7130); Unnamed (44.9058, –118.7689); Unnamed (44.9163, –118.8384); Unnamed (44.9203, –118.8315); Unnamed (44.9521, –118.8141); Unnamed (44.9735, –118.8707).

(v) *Upper Camas Creek Watershed 1707020205.* Outlet(s) = Camas Creek (Lat 45.1576, Long –118.8411) upstream to endpoint(s) in: Bear Wallow Creek (45.2501, –118.7502); Bowman Creek (45.2281, –118.7028); Butcherknife Creek (45.1495, –118.6913); Camas Creek (45.1751, –118.5548); Dry Camas Creek (45.1582, –118.5846); Frazier Creek (45.1196, –118.6152); Hidaway Creek (45.0807, –118.5788); Lane Creek (45.2429, –118.7749); Line Creek (45.1067, –118.6562); North Fork Cable Creek (45.0535, –118.6569); Rancheria Creek (45.2144, –118.6552); Salsbury Creek (45.2022, –118.6206); South Fork Cable Creek (45.0077, –118.6942); Unnamed (45.0508, –118.6536); Unnamed (45.0579, –118.6705); Unnamed (45.0636, –118.6198); Unnamed (45.0638, –118.5908); Unnamed (45.0823, –118.6579); Unnamed (45.1369, –118.6771); Unnamed (45.1513, –118.5966); Unnamed (45.1854, –118.6842); Unnamed (45.1891, –118.6110); Unnamed (45.2429, –118.7575); Warm Spring Creek (45.1386, –118.6561).

(vi) *Lower Camas Creek Watershed 1707020206.* Outlet(s) = Camas Creek (Lat 45.0101, Long –118.9950) upstream to endpoint(s) in: Bridge Creek (45.0395, –118.8633); Camas Creek (45.1576, –118.8411); Cooper Creek (45.2133, –118.9881); Deerlick Creek (45.1489, –119.0229); Dry Fivemile Creek (45.1313, –119.0898); Fivemile Creek (45.1804, –119.2259); Middle Fork Wilkins Creek (45.1193, –119.0439); North Fork Owens Creek (45.1872, –118.9705); Owens Creek (45.2562, –118.8305); Silver Creek (45.1066, –119.1268); Snipe Creek (45.2502, –118.9707); South Fork Wilkins Creek (45.1078, –119.0312); Sugarbowl Creek (45.1986, –119.0999); Taylor Creek (45.1482, –119.1820); Tribble Creek (45.1713, –119.1617); Unnamed (45.0797, –118.7878); Unnamed (45.1198, –118.8514); Unnamed (45.1993, –118.9062); Unnamed (45.2000, –118.8236); Unnamed (45.2141, –118.8079); Unnamed (45.1773, –119.0753); Unnamed (45.2062, –119.0717); Wilkins Creek (45.1239, –119.0094).

(vii) *North Fork John Day River/Potamus Creek Watershed 1707020207.* Outlet(s) = North Fork John Day River (Lat 44.8832. Long –119.4090) upstream to endpoint(s) in: Buckaroo Creek (45.0245, –119.1187); Butcher Bill Creek (45.1290, –119.3197); Cabin Creek (44.9650, –119.3628); Deep Creek (45.0977, –119.2021); Deerhorn Creek (45.0513, –119.0542); Ditch Creek (45.1584, –119.3153); East Fork Meadow Brook Creek (44.9634, –118.9575); Ellis Creek (45.1197, –119.2167); Graves Creek (44.9927, –119.3171); Hinton Creek (44.9650, –119.0025); Hunter Creek (45.0114, –119.0896); Jericho Creek (45.0361, –119.0829); Little Potamus Creek (45.0462, –119.2579); Mallory Creek

(45.1030, –119.3112); Martin Creek (45.1217, –119.3538); Matlock Creek (45.0762, –119.1837); No Name Creek (45.0730, –119.1459); North Fork John Day River (44.9976, –118.9444); Pole Creek (45.1666, –119.2533); Rush Creek (45.0498, –119.1219); Skull Creek (44.9726, –119.2035); Smith Creek (44.9443, –118.9687); Stalder Creek (45.0655, –119.2844); Stony Creek (45.0424, –119.1489); West Fork Meadow Brook (44.9428, –119.0319); Wickiup Creek (45.0256, –119.2776); Wilson Creek (45.1372, –119.2673).

(viii) *Wall Creek Watershed 1707020208*. Outlet(s) = Big Wall Creek (Lat 44.8832, Long –119.4090) upstream to endpoint(s) in: Alder Creek (45.1049, –119.4170); Bacon Creek (45.0137, –119.4800); Bear Creek (45.0551, –119.4170); Big Wall Creek (44.9369, –119.6055); Bull Prairie Creek (44.9753, –119.6604); Colvin Creek (44.9835, –119.6911); East Fork Alder Creek (45.1028, –119.3929); East Fork Indian Creek (44.9009, –119.4918); Happy Jack Creek (44.8997, –119.5730); Hog Creek (45.0507, –119.4821); Indian Creek (44.8810, –119.5260); Johnson Creek (45.0097, –119.6282); Little Bear Creek (45.0433, –119.4084); Little Wall Creek (45.0271, –119.5235); Little Wilson Creek (44.8979, –119.5531); Lovlett Creek (44.9675, –119.5105); Skookum Creek (45.0894, –119.4725); South Fork Big Wall Creek (44.9315, –119.6167); Swale Creek (45.1162, –119.3836); Three Trough Creek (44.9927, –119.5318); Two Spring Creek (45.0251, –119.3938); Unnamed (44.9000, –119.6213); Unnamed (44.9830, –119.7364); Unnamed (44.9883, –119.7248); Unnamed (45.0922, –119.4374); Unnamed (45.1079, –119.4359); Willow Spring Creek (44.9467, –119.5921); Wilson Creek (44.9861, –119.6623).

(ix) *Cottonwood Creek Watershed 1707020209*. Outlet(s) = Cottonwood Creek (Lat 44.8141, Long –119.4183) upstream to endpoint(s) in: BecK Creek (44.5795, –119.2664); Board Creek (44.5841, –119.3763); Boulder Creek (44.5876, –119.3006); Camp Creek #3 (44.6606, –119.3283); Cougar Creek #2 (44.6230, –119.4133); Day Creek (44.5946, –119.0235); Donaldson Creek (44.5919, –119.3480); Dunning Creek (44.6416, –119.0628); Fox Creek (44.6163, –119.0078); Indian Creek #3 (44.6794, –119.2196); McHaley Creek (44.5845, –119.2234); Mill Creek (44.6080, –119.0878); Mine Creek (44.5938, –119.1756); Murphy Creek (44.6062, –119.1114); Smith Creek (44.6627, –119.0808); Squaw Creek #3 (44.5715, –119.4069); Unnamed (44.6176, –119.0806).

(x) *Lower North Fork John Day River Watershed 1707020210*. Outlet(s) = North Fork John Day River (Lat 44.7554, Long –119.6382) upstream to endpoint(s) in: East Fork Deer Creek (44.7033, –119.2753); Gilmore Creek (44.6744, –119.4875); North Fork John Day River (44.8832, –119.4090); Rudio Creek (44.6254, –119.5026); Straight Creek (44.6759, –119.4687); West Fork Deer Creek (44.6985, –119.3372).

(11) Middle Fork John Day Subbasin 17070203—(i) *Upper Middle Fork John Day River Watershed 1707020301*. Outlet(s) = Middle Fork John Day River (Lat 44.5946, Long –118.5163) upstream to endpoint(s) in: Bridge Creek (44.5326, –118.5746); Clear Creek (44.4692, –118.4615); Crawford Creek (44.6381, –118.3887); Dry Fork Clear Creek (44.5339, –118.4484); Fly Creek (44.6108, –118.3810); Idaho Creek (44.6113, –118.3856); Middle Fork John Day River (44.5847, –118.4286); Mill Creek (44.6106, –118.4809); North Fork Bridge Creek (44.5479, –118.5663); North Fork Summit Creek (44.5878, –118.3560); Squaw Creek (44.5303, –118.4089); Summit Creek (44.5831, –118.3585).

(ii) *Camp Creek Watershed 1707020302*. Outlet(s) = Middle Fork John Day River (Lat 44.6934, Long –118.7947) upstream to endpoint(s) in: Badger Creek (44.7102, –118.6738); Balance Creek (44.6756, –118.7661); Beaver Creek (44.6918, –118.6467); Bennett Creek (44.6095, –118.6432); Big Boulder Creek (44.7332, –118.6889); Blue Gulch (44.6952, –118.5220); Butte Creek (44.5913, –118.6481); Camp Creek (44.5692, –118.8041); Caribou Creek (44.6581, –118.5543); Charlie Creek (44.5829, –118.8277); Cottonwood Creek (44.6616, –118.8919); Cougar Creek (44.6014, –118.8261); Coxie Creek (44.5596, –118.8457); Coyote Creek (44.7040, –118.7436); Davis Creek (44.5720, –118.6026); Deerhorn Creek (44.5984, –118.5879); Dry Creek (44.6722, –118.6962); Eagle Creek (44.5715, –118.8269); Granite Boulder Creek (44.6860, –118.6039); Lemon Creek (44.6933, –118.6169); Lick Creek (44.6102, –118.7504); Little Boulder Creek (44.6661, –118.5807); Little Butte Creek (44.6093, –118.6188); Middle Fork

John Day River (44.5946, –118.5163); Myrtle Creek (44.7336, –118.7187); Placer Gulch (44.5670, –118.5593); Ragged Creek (44.6366, –118.7048); Ruby Creek (44.6050, –118.6897); Sulphur Creek (44.6119, –118.6672); Sunshine Creek (44.6424, –118.7437); Tincup Creek (44.6489, –118.6320); Trail Creek (44.6249, –118.8469); Unnamed (44.5535, –118.8139); Unnamed (44.5697, –118.5975); Unnamed (44.6041, –118.6051); Unnamed (44.6471, –118.6869); Unnamed (44.6559, –118.5777); Vincent Creek (44.6663, –118.5345); Vinegar Creek (44.6861, –118.5378); West Fork Lick Creek (44.6021, –118.7891); Whiskey Creek (44.6776, –118.8659); Windlass Creek (44.6653, –118.6030); Wray Creek (44.6978, –118.6588).

(iii) *Big Creek Watershed 1707020303*. Outlet(s) = Middle Fork John Day River (Lat 44.8363, Long –119.0306) upstream to endpoint(s) in: Barnes Creek (44.8911, –118.9974); Bear Creek (44.7068, –118.8742); Big Creek (44.7726, –118.6831); Deadwood Creek (44.7645, –118.7499); Deep Creek (44.7448, –118.7591); East Fork Big Creek (44.7923, –118.7783); Elk Creek (44.7167, –118.7721); Granite Creek (44.8893, –119.0103); Huckleberry Creek (44.8045, –118.8605); Indian Creek (44.8037, –118.7498); Lick Creek (44.8302, –118.9613); Little Indian Creek (44.8743, –118.8862); Lost Creek (44.7906, –118.7970); Middle Fork John Day River (44.6934, –118.7947); Mosquito Creek (44.7504, –118.8021); North Fork Elk Creek (44.7281, –118.7624); Onion Gulch (44.7622, –118.7846); Pizer Creek (44.7805, –118.8102); Slide Creek (44.6950, –118.9124); Swamp Gulch (44.7606, –118.7641); Unnamed (44.8249, –118.8718); Unnamed (44.8594, –118.9018).

(iv) *Long Creek Watershed 1707020304*. Outlet(s) = Long Creek (Lat 44.8878, Long –119.2338) upstream to endpoint(s) in: Basin Creek (44.7458, –119.2452); Everett Creek (44.7106, –119.1063); Jonas Creek (44.6307, –118.9118); Long Creek (44.6076, –118.9402); Pass Creek (44.7681, –119.0414); Paul Creek (44.7243, –119.1304); Pine Creek (44.8125, –119.0859); South Fork Long Creek (44.6360, –118.9756).

(v) *Lower Middle Fork John Day River Watershed 1707020305*. Outlet(s) = Middle Fork John Day River (Lat 44.9168, Long –119.3004) upstream to endpoint(s) in: Middle Fork John Day River (44.8363, –119.0306).

(12) Lower John Day Subbasin 17070204—(i) *Lower John Day River/Kahler Creek 1707020401*. Outlet(s) = John Day River (Lat 44.8080, Long –119.9585) upstream to endpoint(s) in: Alder Creek (44.9575, –119.8621); Camp Creek (44.9005, –119.9505); East Bologna Canyon (44.8484, –119.5842); Henry Creek (44.9609, –119.7683); Horseshoe Creek (44.7076, –119.9465); John Day River (44.7554, –119.6382); Kahler Creek (44.9109, –119.7030); Lake Creek (44.9012, –119.9806); Left Hand Creek (44.7693, –119.7613); Parrish Creek (44.7207, –119.8369); Tamarack Butte #2 (44.6867, –119.7898); Tamarack Creek (44.9107, –119.7026); Unnamed (44.9334, –119.9164); Unnamed (44.9385, –119.9088); Unnamed (44.9451, –119.8932); Unnamed (44.9491, –119.8696); Unnamed (44.9546, –119.8739); Unnamed (44.9557, –119.7561); West Bologna Canyon (44.8338, –119.6422); Wheeler Creek (44.9483, –119.8447); William Creek (44.7458, –119.9027).

(ii) *Lower John Day River/Service Creek Watershed 1707020402*. Outlet(s) = John Day River (Lat 44.7368, Long –120.3054) upstream to endpoint(s) in: Big Service Creek (44.9286, –120.0428); Girds Creek (44.6681, –120.1234); John Day River (44.8080, –119.9585); Rowe Creek (44.8043, –120.1751); Service Creek (44.8951, –120.0892); Shoofly Creek (44.6510, –120.0207).

(iii) *Bridge Creek Watershed 1707020403*. Outlet(s) = Bridge Creek (Lat 44.7368, Long –120.3054) upstream to endpoint(s) in: Bear Creek (44.5585, –120.4198); Bridge Creek (44.4721, –120.2009); Carroll Creek (44.5460, –120.3322); Dodds Creek (44.5329, –120.3867); Gable Creek (44.5186, –120.2384); Johnson Creek #2 (44.5193, –120.0949); Slide Creek (44.4956, –120.3023); Thompson Creek (44.5270, –120.2489); West Branch Bridge Creek (44.4911, –120.3098).

(iv) *Lower John Day River/Muddy Creek Watershed 1707020404*. Outlet(s) = John Day River (Lat 44.9062, Long –120.4460) upstream to endpoint(s) in: Cherry Creek (44.6344, –120.4543); Clubfoot Hollow (44.8865, –120.1929); Cove Creek (44.9299, –120.3791); Dry Creek (44.6771, –120.5367); John Day River (44.7368, –120.3054); Little Muddy Creek (44.7371, –120.5575); Muddy Creek (44.7491, –120.5071); Pine Creek (44.8931, –120.1797); Robinson Canyon (44.8807,

–120.2678); Steers Canyon (44.9247, –120.2013).

(v) *Lower John Day River/Clarno Watershed 1707020405*. Outlet(s) = John Day River (Lat 45.1626, Long –120.4681) upstream to endpoint(s) in: Pine Creek (44.9062, –120.4460); Sorefoot Creek (44.9428, –120.5481).

(vi) *Butte Creek Watershed 1707020406*. Outlet(s) = Butte Creek (Lat 45.0574, Long –120.4831) upstream to endpoint(s) in: Butte Creek (44.9266, –120.1142); Cottonwood Creek (44.9816, –120.2136); Deep Creek (45.0166, –120.4165); Hunt Canyon (45.1050, –120.2838); Straw Fork (44.9536, –120.1024); Unnamed (45.0952, –120.2928); West Fork Butte Creek (44.9883, –120.3332).

(vii) *Pine Hollow Watershed 1707020407*. Outlet(s) = Pine Hollow (Lat 45.1531, Long –120.4757) upstream to endpoint(s) in: Big Pine Hollow (44.9968, –120.7342); Brush Canyon (45.0255, –120.6329); Eakin Canyon (45.1608, –120.5863); Hannafin Canyon (45.1522, –120.6158); Long Hollow Creek (44.9922, –120.5565); West Little Pine Hollow (44.9921, –120.7324).

(viii) *Thirtymile Creek Watershed 1707020408*. Outlet(s) = Thirtymile Creek (Lat 45.1626, Long –120.4681) upstream to endpoint(s) in: Condon Canyon (45.1870, –120.1829); Dry Fork Thirtymile Creek (45.1858, –120.1338); East Fork Thirtymile Creek (45.1575, –120.0556); Lost Valley Creek (45.1062, –119.9916); Patill Canyon (45.1252, –120.1870); Thirtymile Creek (44.9852, –120.0375); Unnamed (44.9753, –120.0469); Wehrli Canyon (45.1539, –120.2137).

(ix) *Lower John Day River/Ferry Canyon Watershed 1707020409*. Outlet(s) = John Day River (Lat 45.3801, Long –120.5117) upstream to endpoint(s) in: Ferry Canyon (45.3424, –120.4388); Jackknife Creek (45.2490, –120.6106); John Day River (45.1626, –120.4681); Lamberson Canyon (45.3099, –120.4147); Little Ferry Canyon (45.3827, –120.5913).

(x) *Lower John Day River/Scott Canyon Watershed 1707020410*. Outlet(s) = John Day River (Lat 45.5769, Long –120.4041) upstream to endpoint(s) in: Cottonwood Canyon (45.4143, –120.4490); Cottonwood Canyon (45.4898, –120.5118); Dry Fork Hay Creek (45.3093, –120.1612); John Day River (45.3801, –120.5117); Scott Canyon (45.4124, –120.1957); Unnamed (45.3407, –120.2299).

(xi) *Upper Rock Creek Watershed 1707020411*. Outlet(s) = Rock Creek (Lat 45.2190, Long –119.9597) upstream to endpoint(s) in: Allen Canyon (45.1092, –119.5976); Allen Spring Canyon (45.0471, –119.6468); Board Creek (45.1120, –119.5390); Brown Creek (45.0365, –119.8296); Buckhorn Creek (45.0272, –119.9186); Chapin Creek (45.0538, –119.6727); Davidson Canyon (45.0515, –119.5952); Hahn Canyon (45.1491, –119.8320); Harris Canyon (45.0762, –119.5856); Hollywood Creek (45.0964, –119.5174); Indian Creek (45.0481, –119.6476); John Z Canyon (45.0829, –119.6058); Juniper Creek (45.0504, –119.7730); Middle Fork Rock Creek (45.0818, –119.7404); Rock Creek (45.0361, –119.5989); Stahl Canyon (45.0071, –119.8683); Tree Root Canyon (45.0626, –119.6314); Tupper Creek (45.0903, –119.4999); Unnamed (45.0293, –119.5907); Unnamed (45.0698, –119.5329); Unnamed (45.0714, –119.5227); West Fork Juniper Creek (45.0192, –119.7786).

(xii) *Lower Rock Creek Watershed 1707020412*. Outlet(s) = Rock Creek (Lat 45.5769, Long –120.4041) upstream to endpoint(s) in: Dry Creek (45.3238, –119.9709); Rock Creek (45.2190, –119.9597); Sixmile Canyon (45.2448, –120.0283); South Fork Rock Creek (45.2770, –120.1232).

(xiii) *Grass Valley Canyon Watershed 1707020413*. Outlet(s) = Grass Valley Canyon (Lat 45.5974, Long –120.4232) upstream to endpoint(s) in: Grass Valley Canyon (45.4071, –120.7226); Hay Canyon (45.5104, –120.6085); Rosebush Creek (45.3395, –120.7159).

(xiv) *Lower John Day River/McDonald Ferry Watershed 1707020414*. Outlet(s) = John Day River (Lat 45.7389, Long –120.6520) upstream to endpoint(s) in: John Day River (45.5769, –120.4041).

(13) Lower Deschutes Subbasin 17070306—(i) *Upper Deschutes River Watershed 1707030603*. Outlet(s) = Deschutes River (Lat 44.8579, Long –121.0668) upstream to endpoint(s) in: Deschutes River (44.7243, –121.2465); Shitike Creek (44.7655, –121.5835); Unnamed (44.7934, –121.3715).

(ii) *Mill Creek Watershed 1707030604*. Outlet(s) = Mill Creek (Lat 44.8792, Long –121.3711) upstream to endpoint(s) in: Boulder Creek (44.8261, –121.4924); Mill Creek (44.8343, –121.6737); Unnamed (44.8330, –121.6756).

(iii) *Beaver Creek Watershed 1707030605*. Outlet(s) = Beaver Creek (Lat 44.8730, Long –121.3405) upstream to endpoint(s) in: Beaver Butte Creek (45.0786, –121.5746); Beaver Creek (45.1306, –121.6468); Indian Creek (45.0835, –121.5113).

(iv) *Warm Springs River Watershed 1707030606*. Outlet(s) = Warm Springs River (Lat 44.8579, Long –121.0668) upstream to endpoint(s) in: Badger Creek #2 (44.9352, –121.5569); South Fork Warm Springs River (44.9268, –121.6995); Warm Springs River (44.9812, –121.7976).

(v) *Middle Deschutes River Watershed 1707030607*. Outlet(s) = Deschutes River (Lat 45.2642, Long –121.0232) upstream to endpoint(s) in: Cove Creek (44.9673, –121.0430); Deschutes River (44.8579, –121.0668); Eagle Creek (44.9999, –121.1688); Nena Creek (45.1030, –121.1653); Oak Creek (44.9336, –121.0981); Paquet Gulch (45.0676, –121.2911); Skookum Creek (44.9171, –121.1251); Stag Canyon (45.1249, –121.0563); Unnamed (45.0186, –121.0464); Unnamed (45.0930, –121.1511); Wapinitia Creek (45.1177, –121.3025).

(vi) *Bakeoven Creek Watershed 1707030608*. Outlet(s) = Bakeoven Creek (Lat 45.1748, Long –121.0728) upstream to endpoint(s) in: Bakeoven Creek (45.1261, –120.9398); Booten Creek (45.1434, –121.0131); Cottonwood Creek (45.0036, –120.8720); Deep Creek (44.9723, –120.9480); Robin Creek (45.1209, –120.9652); Trail Hollow Creek (45.1481, –121.0423).

(vii) *Buck Hollow Creek Watershed 1707030611*. Outlet(s) = Buck Hollow Creek (Lat 45.2642, Long –121.0232) upstream to endpoint(s) in: Buck Hollow Creek (45.0663, –120.7095); Finnegan Creek (45.2231, –120.8472); Macken Canyon (45.1093, –120.7011); Thorn Hollow (45.0450, –120.7386).

(viii) *Lower Deschutes River Watershed 1707030612*. Outlet(s) = Deschutes River (Lat 45.6426, Long –120.9142) upstream to endpoint(s) in: Bull Run Canyon (45.4480, –120.8655); Deschutes River (45.2642, –121.0232); Fall Canyon (45.5222, –120.8538); Ferry Canyon (45.3854, –120.9373); Jones Canyon (45.3011, –120.9404); Macks Canyon (45.3659, –120.8524); Oak Canyon (45.3460, –120.9960); Sixteen Canyon (45.4050, –120.8529).

(14) Trout Subbasin 17070307—(i) *Upper Trout Creek Watershed 1707030701*. Outlet(s) = Trout Creek (Lat 44.8229, Long –120.9193) upstream to endpoint(s) in: Amity Creek (44.6447, –120.5854); Auger Creek (44.5539, –120.5381); Beaver Creek (44.6390, –120.7034); Big Log Creek (44.5436, –120.6997); Big Whetstone Creek (44.6761, –120.7645); Board Hollow (44.6064, –120.7405); Cartwright Creek (44.5404, –120.6535); Clover Creek (44.6523, –120.7358); Dutchman Creek (44.5320, –120.6704); Foley Creek (44.5861, –120.6801); Little Trout Creek (44.7816, –120.7237); Opal Creek (44.5792, –120.5446); Potlid Creek (44.5366, –120.6207); Trout Creek (44.5286, –120.5805); Tub Springs Canyon (44.8155, –120.7888); Unnamed (44.5428, –120.5848); Unnamed (44.6043, –120.7403); Unnamed (44.6510, –120.7337).

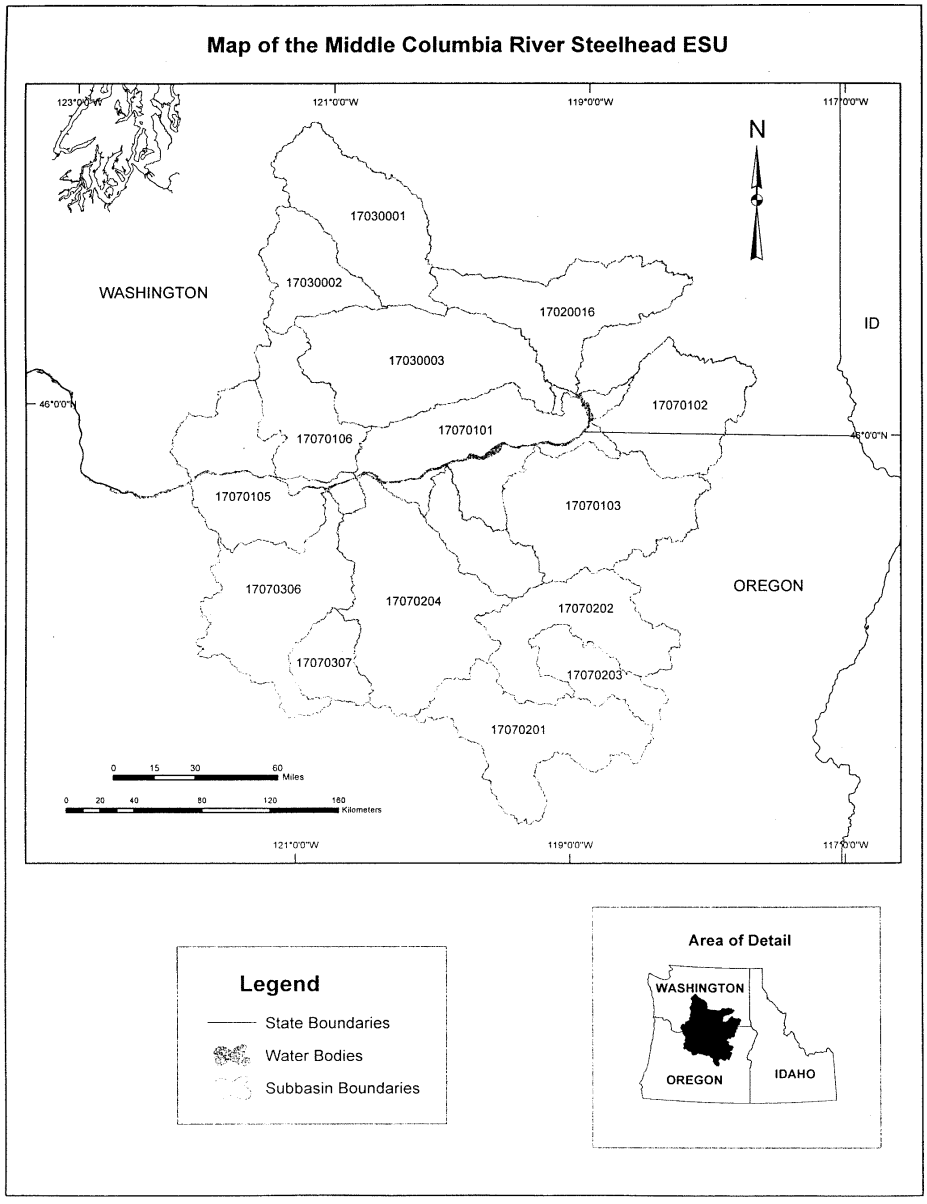
(ii) *Antelope Creek Watershed 1707030702*. Antelope Creek (Lat 44.8229, Long –120.9193) upstream to endpoint(s) in: Antelope Creek (44.8564, –120.8574); Boot Creek (44.9086, –120.8864); Pole Creek (44.9023, –120.9108); Ward Creek (44.9513, –120.8341).

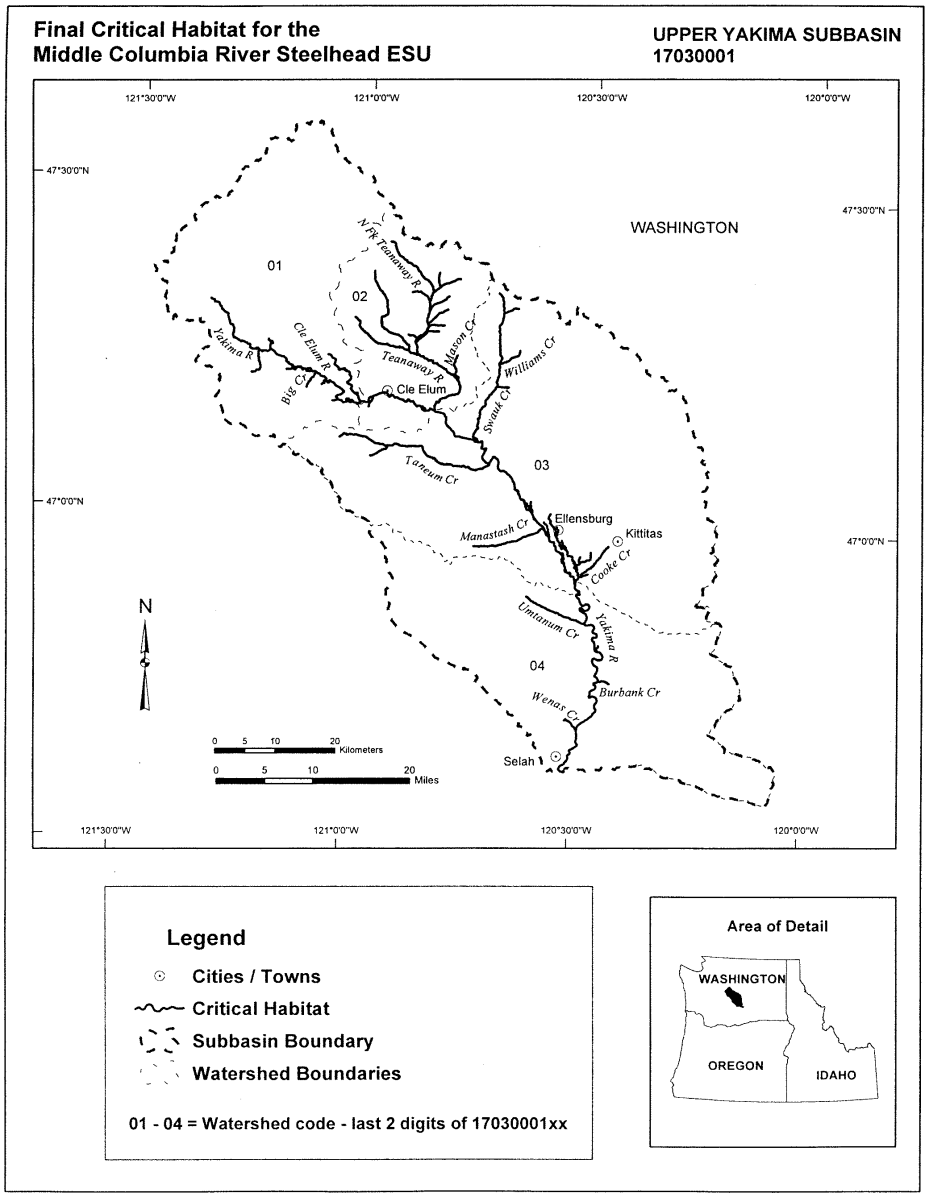
(iii) *Lower Trout Creek Watershed 1707030705*. Outlet(s) = Trout Creek (Lat 44.8214, Long –121.0876) upstream to endpoint(s) in: Brocher Creek (44.8357, –121.0330); Hay Creek (44.7824, –120.9652); Trout Creek (44.8229, –120.9193).

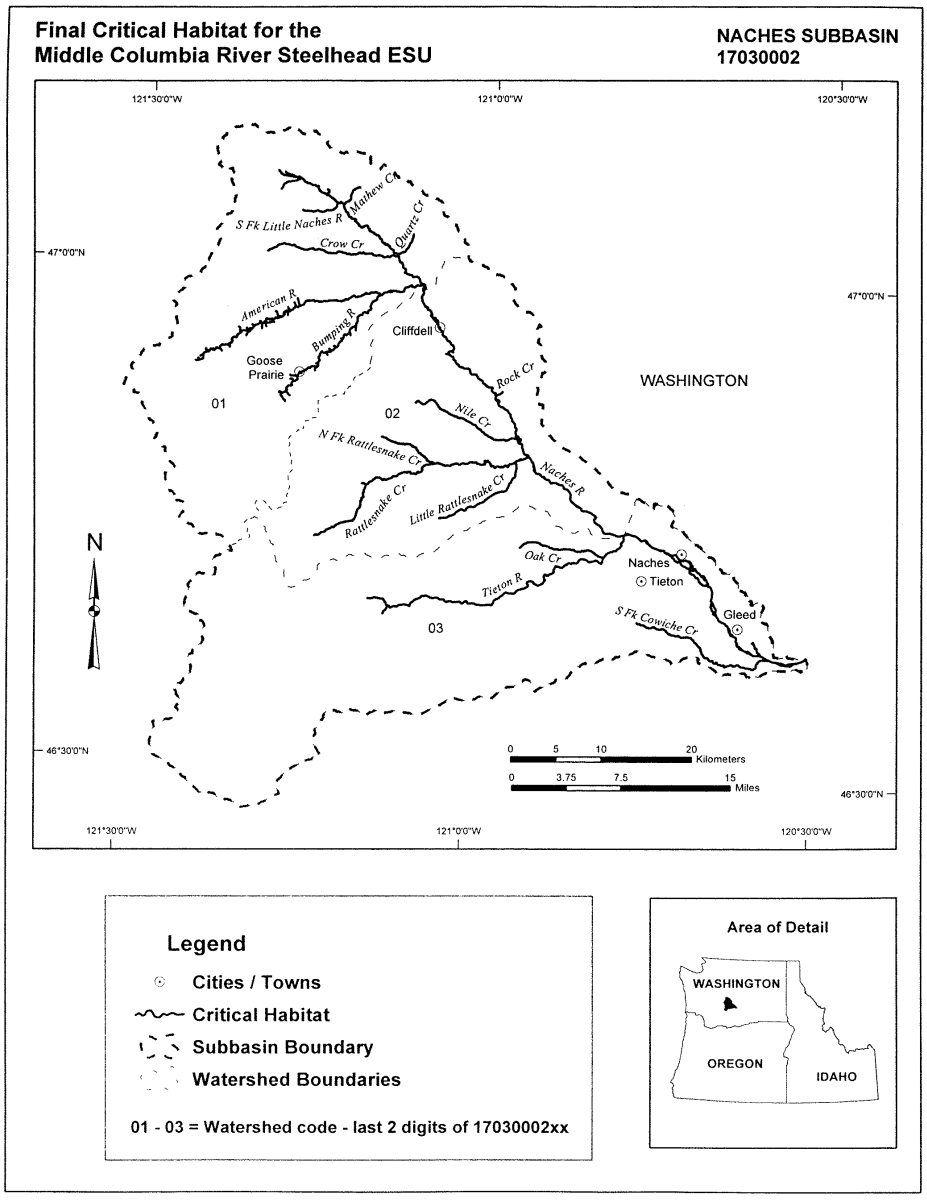
(15) Upper Columbia/Priest Rapids Subbasin 17020016—*Columbia River/Zintel Canyon Watershed 1702001606*. Outlet(s) = Columbia River (Lat 46.1776, Long –119.0183) upstream to endpoint(s) in: Columbia River (46.2534, –119.2268).

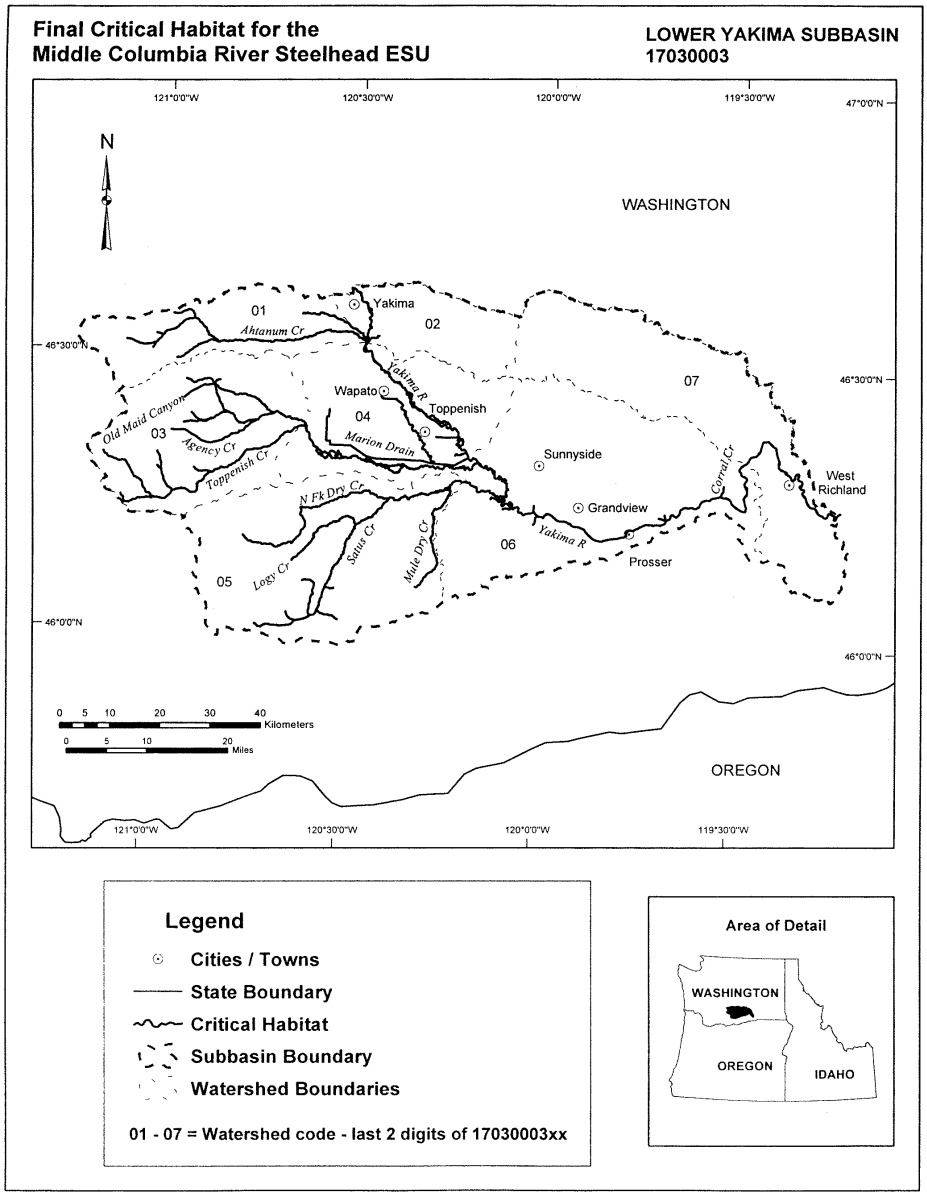
(16) Columbia River Corridor—*Columbia River Corridor* Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (45.7070, –121.7943).

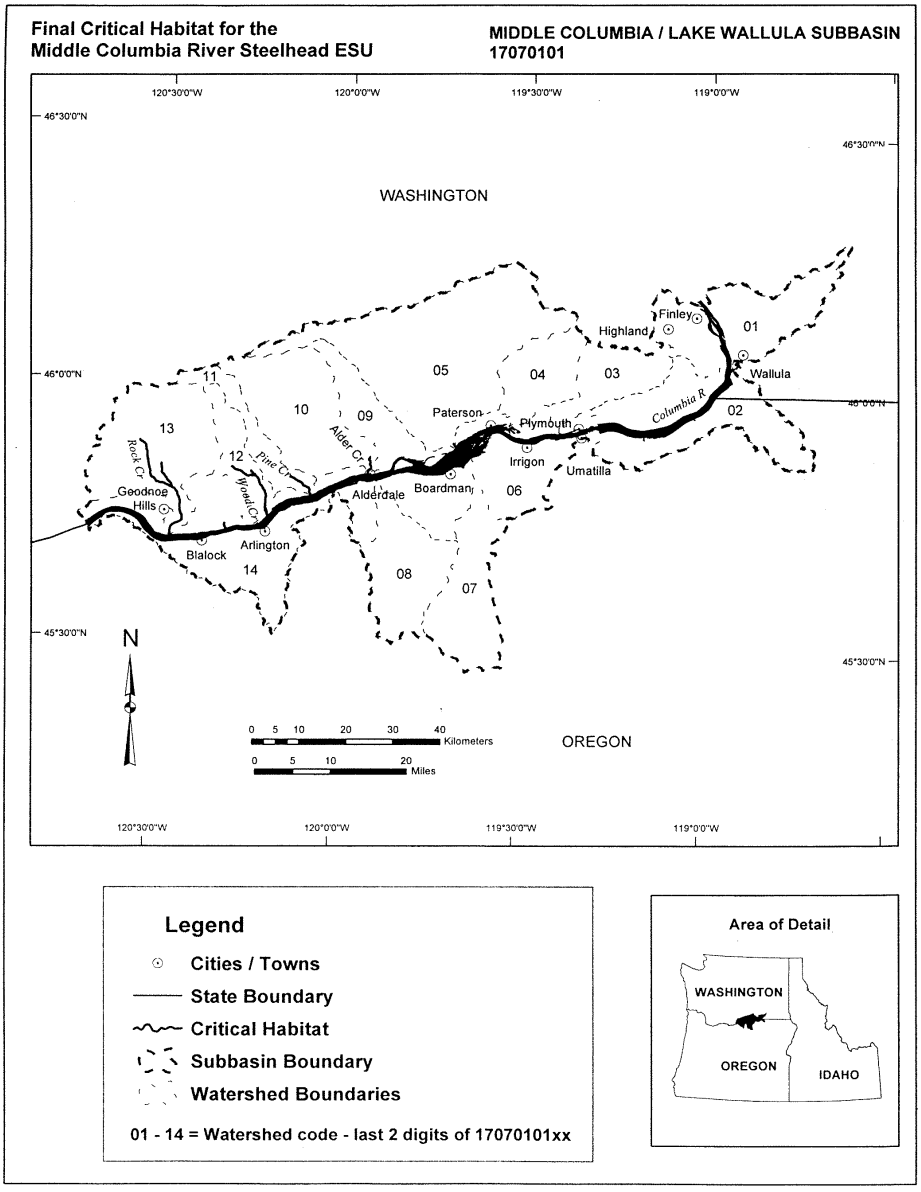
(17) Maps of critical habitat for the Middle Columbia River Steelhead ESU follow:

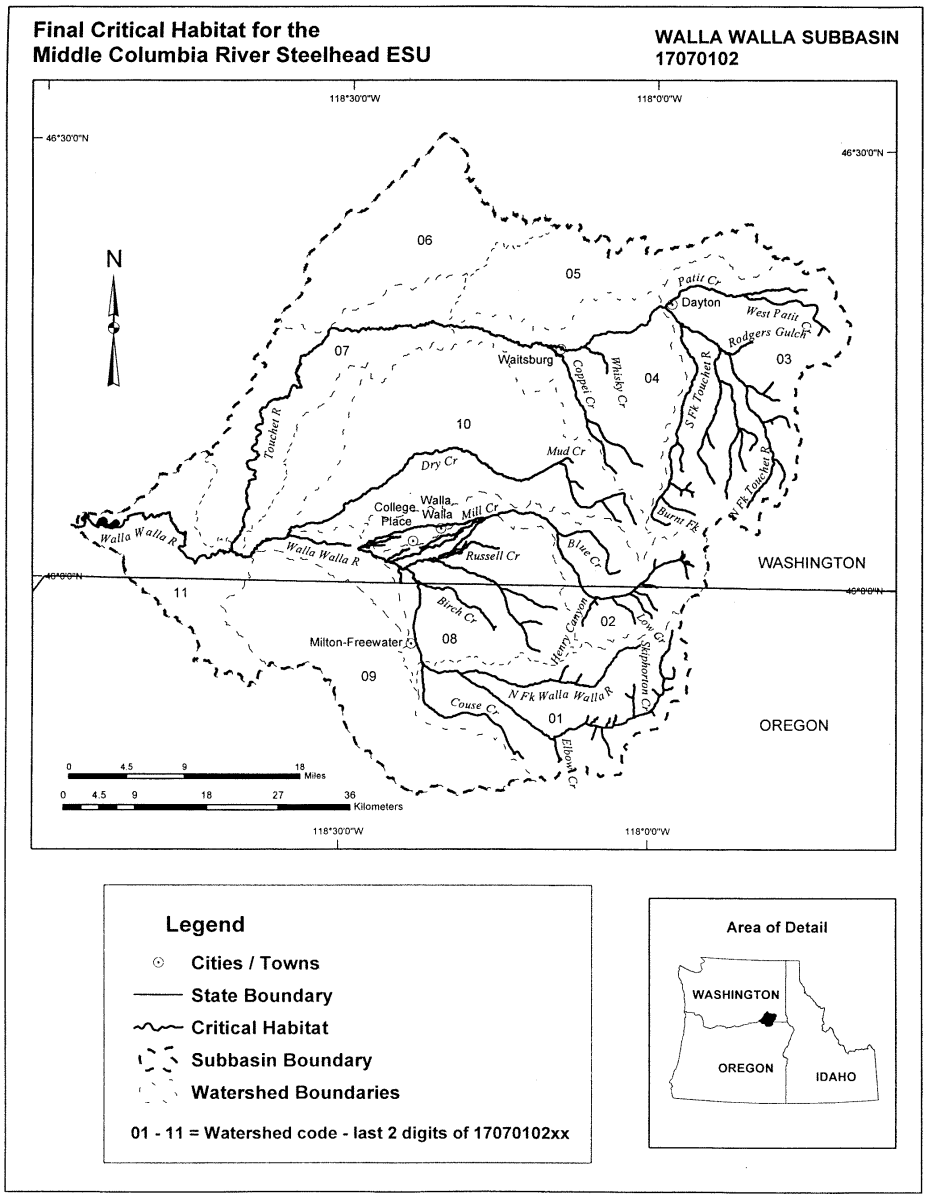

Map of the Middle Columbia River Steelhead ESU
123°0'0"W
121°0'0"W
119°0'0"W
117°0'0"W
N
WASHINGTON
ID
OREGON
46°0'0"N
17030001
17030002
17020016
17030003
17070102
17070101
17070106
17070105
17070103
17070306
17070204
17070202
17070307
17070203
17070201
0 15 30 60 Miles
0 20 40 80 120 160 Kilometers
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
Area of Detail
WASHINGTON
OREGON
IDAHO

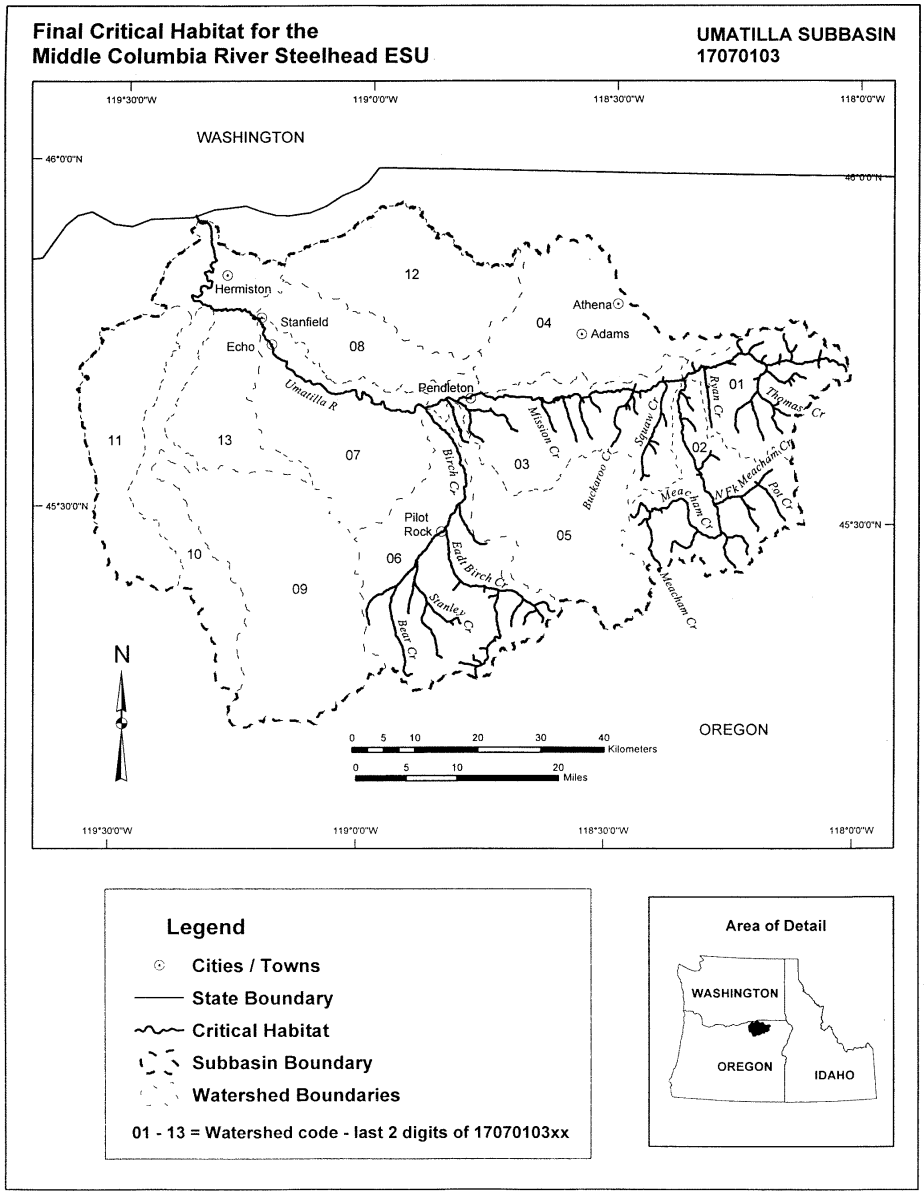

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
UPPER YAKIMA SUBBASIN
17030001
121°30'0"W
121°0'0"W
120°30'0"W
120°0'0"W
47°30'0"N
47°0'0"N
WASHINGTON
01
02
03
04
N Fk Teanaway R
Teanaway R
Jack Cr
Williams Cr
Swauk Cr
Cle Elum R
Yakima R
Big Cr
Cle Elum
Taneum Cr
Manastash Cr
Ellensburg
Kittitas
Cooke Cr
Umtanum Cr
Yakima R
Burbank Cr
Wenas Cr
Selah
N
0 5 10 20 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17030001xx
Area of Detail
WASHINGTON
OREGON
IDAHO

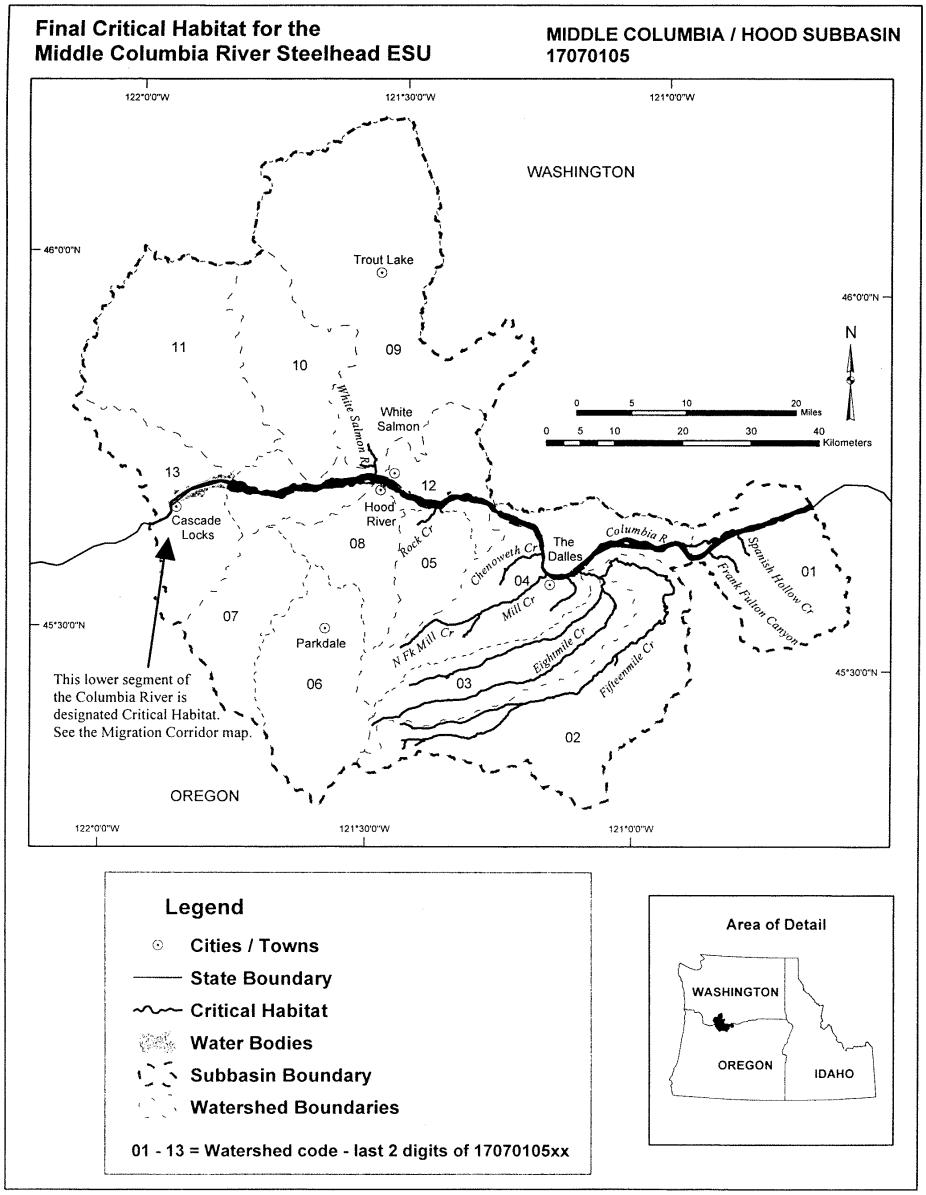

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
NACHES SUBBASIN
17030002
121°30'0"W
121°0'0"W
120°30'0"W
47°0'0"N
46°30'0"N
S Fk Little Naches R
Matthew Cr
Quartz Cr
Crow Cr
American R
Bumping R
Cliffdell
Goose Prairie
Rock Cr
WASHINGTON
01
02
03
Nile Cr
N Fk Rattlesnake Cr
Rattlesnake Cr
Little Rattlesnake Cr
Naches R
Oak Cr
Tieton R
Naches
Tieton
Gleed
S Fk Cowiche Cr
N
0 5 10 20 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17030002xx
Area of Detail
WASHINGTON
OREGON
IDAHO

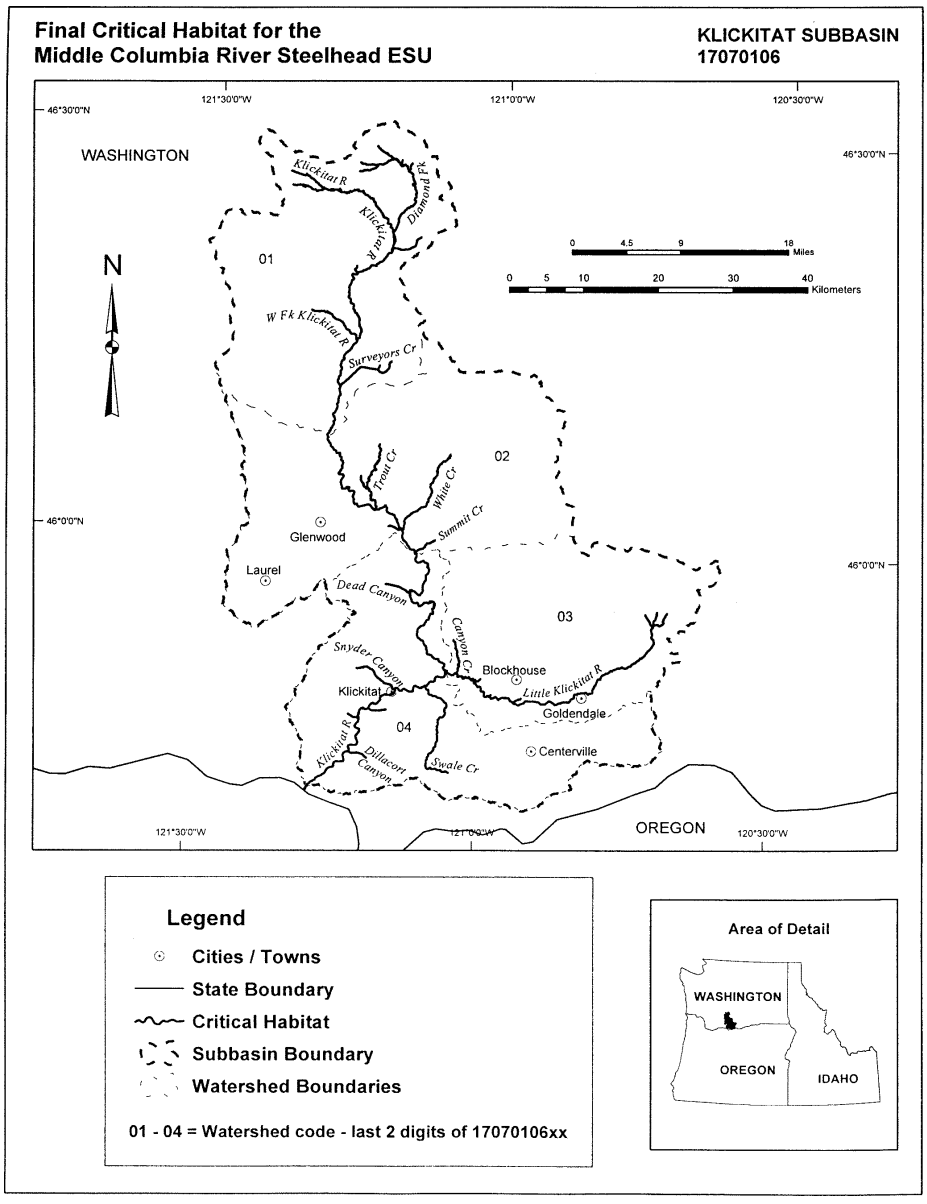

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
LOWER YAKIMA SUBBASIN
17030003
121°0'0"W
120°30'0"W
120°0'0"W
119°30'0"W
47°0'0"N
46°30'0"N
46°0'0"N
N
WASHINGTON
OREGON
01
02
03
04
05
06
07
Yakima
Wapato
Toppenish
Sunnyside
Grandview
Prosser
West Richland
Ahtanum Cr
Old Maid Canyon
Agency Cr
Toppenish Cr
N Fk Dry Cr
Marion Drain
Yakima R
Satus Cr
Logy Cr
Mule Dry Cr
Corral Cr
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17030003xx
Area of Detail
WASHINGTON
OREGON
IDAHO

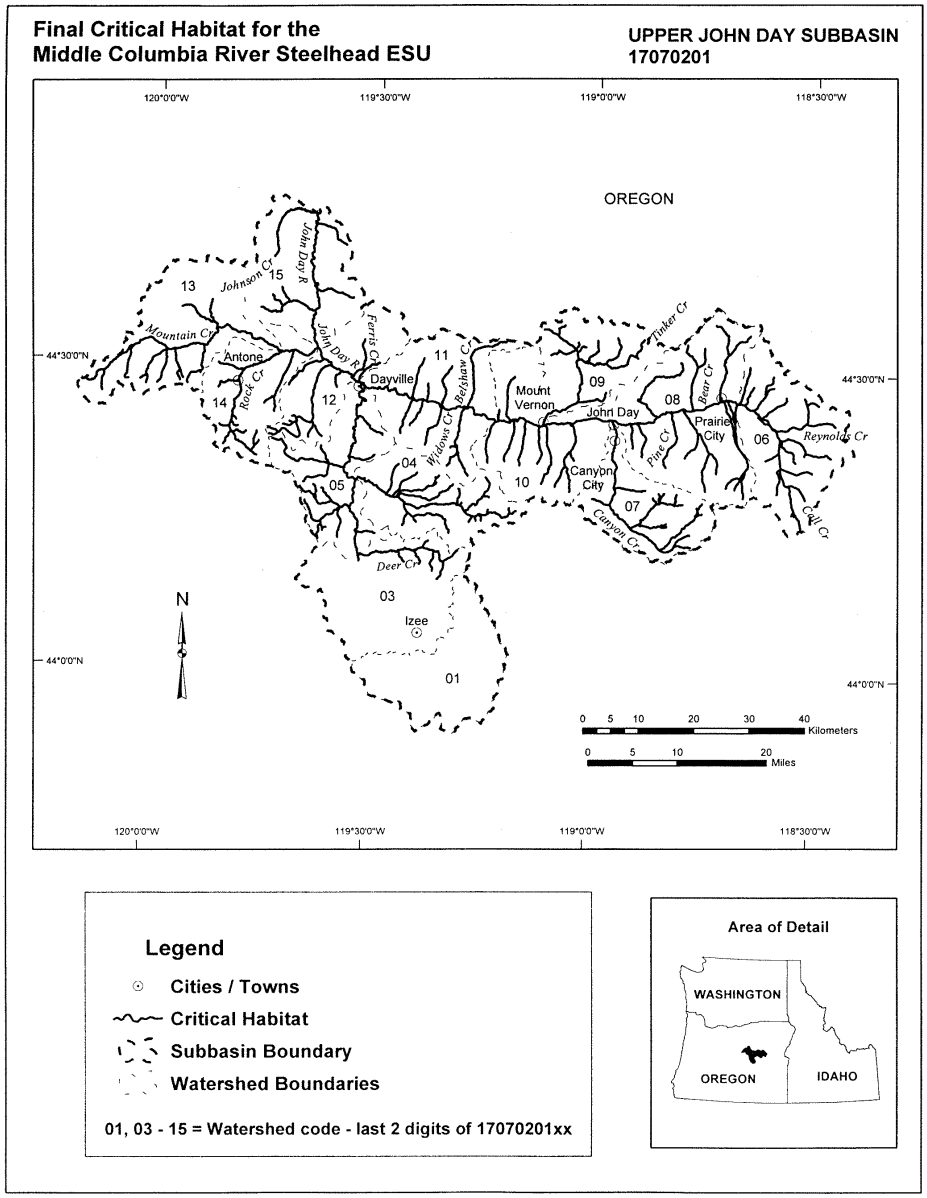

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
MIDDLE COLUMBIA / LAKE WALLULA SUBBASIN
17070101
120°30'0"W
120°0'0"W
119°30'0"W
119°0'0"W
46°30'0"N
46°0'0"N
45°30'0"N
WASHINGTON
OREGON
Finley
Highland
Wallula
Paterson
Plymouth
Irrigon
Umatilla
Boardman
Alderdale
Arlington
Blalock
Geodnoe Hills
Columbia R.
Alder Cr.
Pine Cr.
Rock Cr.
Wood Cr.
01
02
03
04
05
06
07
08
09
10
11
12
13
14
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 14 = Watershed code - last 2 digits of 17070101xx
Area of Detail
WASHINGTON
OREGON
IDAHO

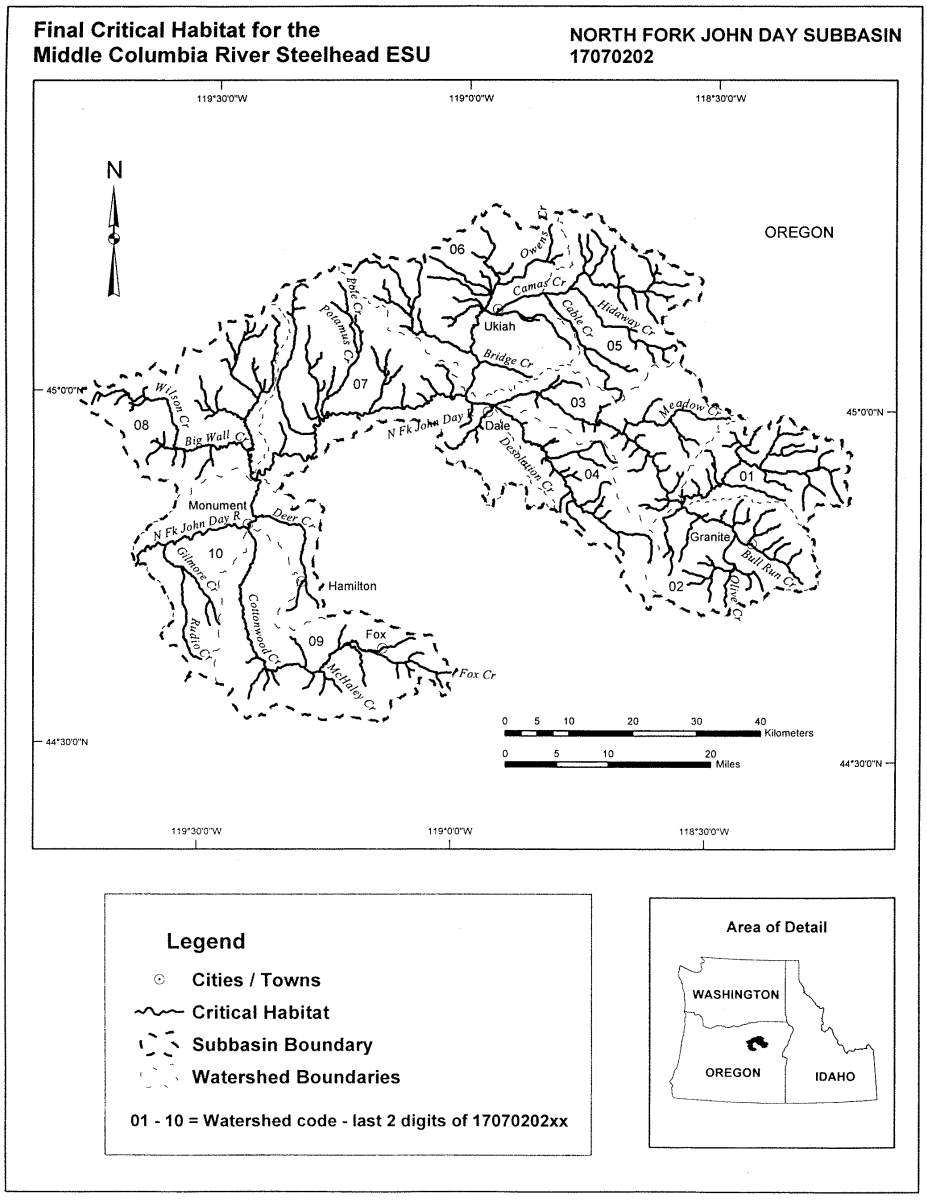

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
WALLA WALLA SUBBASIN
17070102
118°30'0"W
118°0'0"W
46°30'0"N
N
06
05
07
04
03
10
11
02
08
09
01
Patit Cr
Dayton
West Patit
Rodgers Gulch
Waitsburg
Coppei Cr
Whisky Cr
S Fk Touchet R
N Fk Touchet R
Touchet R
Dry Cr
Mud Cr
College Place
Walla Walla
Mill Cr
Burnt Fk
Walla Walla R
Russell Cr
Blue Cr
WASHINGTON
Birch Cr
Henry Canyon
Low Cr
Milton-Freewater
Stephorton Cr
N Fk Walla Walla R
Couse Cr
Elbow Cr
OREGON
0 4.5 9 18 Miles
0 4.5 9 18 27 36 Kilometers
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 11 = Watershed code - last 2 digits of 17070102xx
Area of Detail
WASHINGTON
OREGON
IDAHO

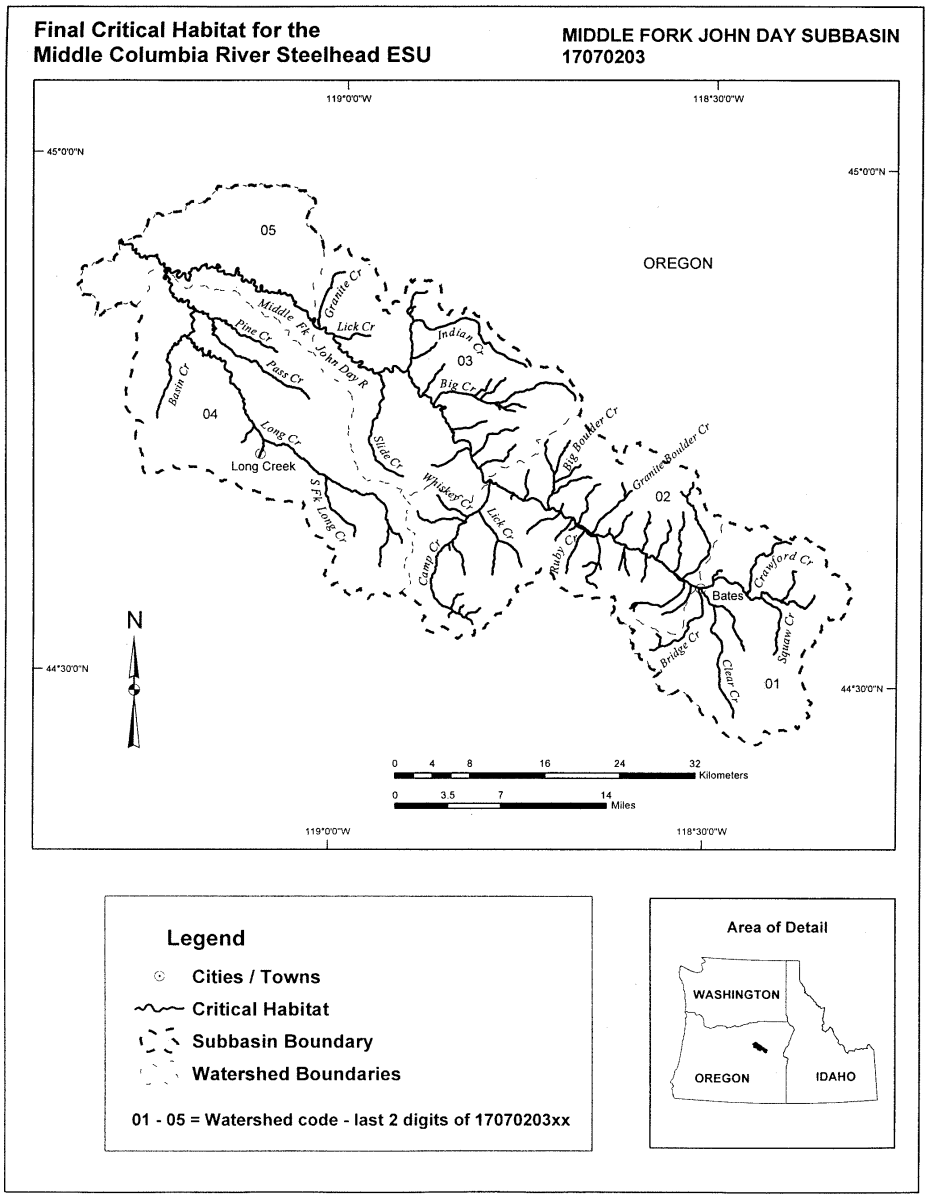

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
UMATILLA SUBBASIN
17070103
WASHINGTON
OREGON
Hermiston
Stanfield
Echo
Athena
Adams
Pendleton
Pilot Rock
Umatilla R
Mission Cr
Birch Cr
Buckaroo Cr
Squaw Cr
Ryan Cr
Thomas Cr
Meacham Cr
N Fk Meacham Cr
Pot Cr
East Birch Cr
Stanley Cr
Bear Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
119°30'0"W
119°0'0"W
118°30'0"W
118°0'0"W
46°0'0"N
45°30'0"N
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 13 = Watershed code - last 2 digits of 17070103xx
Area of Detail
WASHINGTON
OREGON
IDAHO

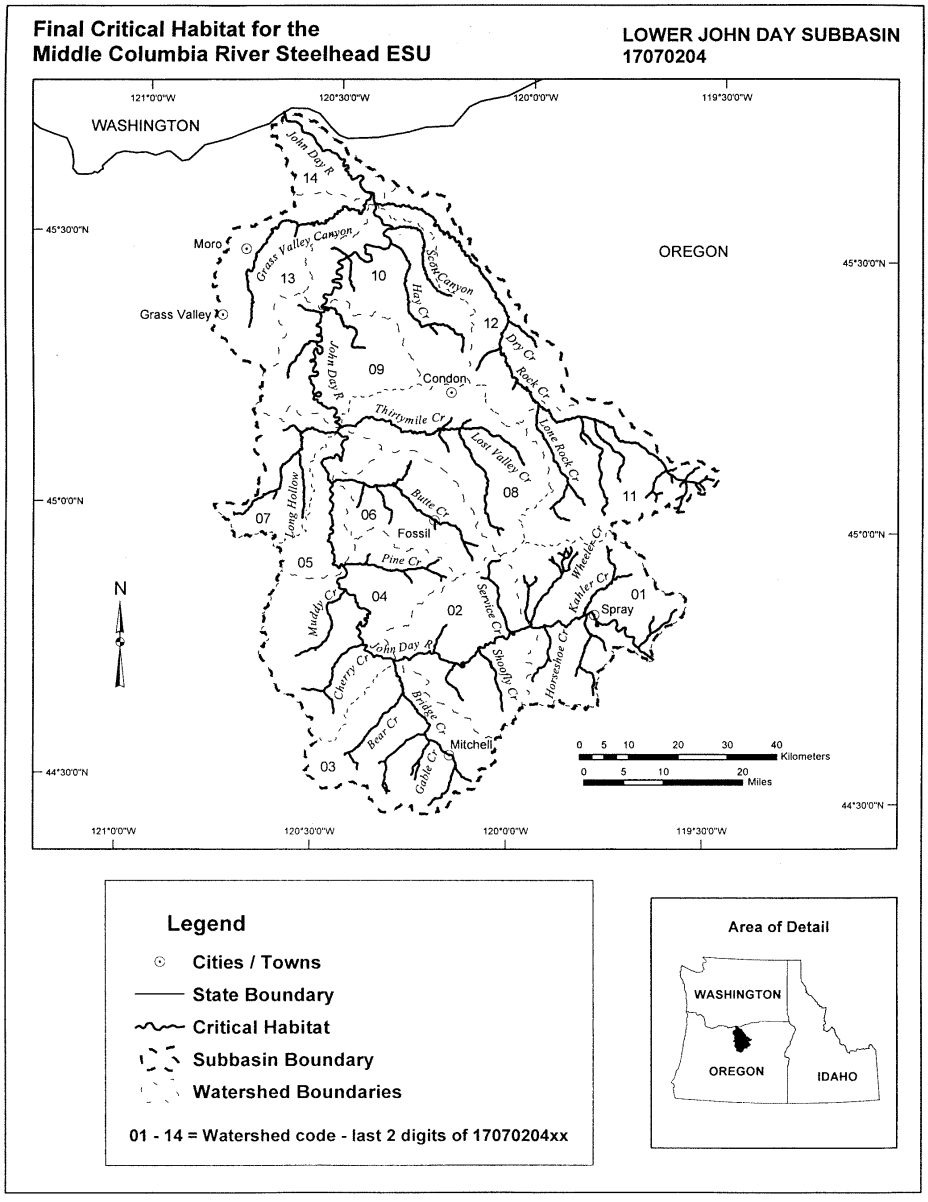

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
MIDDLE COLUMBIA / HOOD SUBBASIN
17070105
122°0'0"W
121°30'0"W
121°0'0"W
46°0'0"N
45°30'0"N
WASHINGTON
OREGON
Trout Lake
White Salmon
Hood River
Cascade Locks
Parkdale
The Dalles
White Salmon R.
Rock Cr
Chenoweth Cr
Columbia R
Mill Cr
N Fk Mill Cr
Eightmile Cr
Fifteenmile Cr
Spanish Hollow Cr
Frank Fulton Canyon
01
02
03
04
05
06
07
08
09
10
11
12
13
N
0 5 10 20 Miles
0 5 10 20 30 40 Kilometers
This lower segment of the Columbia River is designated Critical Habitat. See the Migration Corridor map.
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 13 = Watershed code - last 2 digits of 17070105xx
Area of Detail
WASHINGTON
OREGON
IDAHO

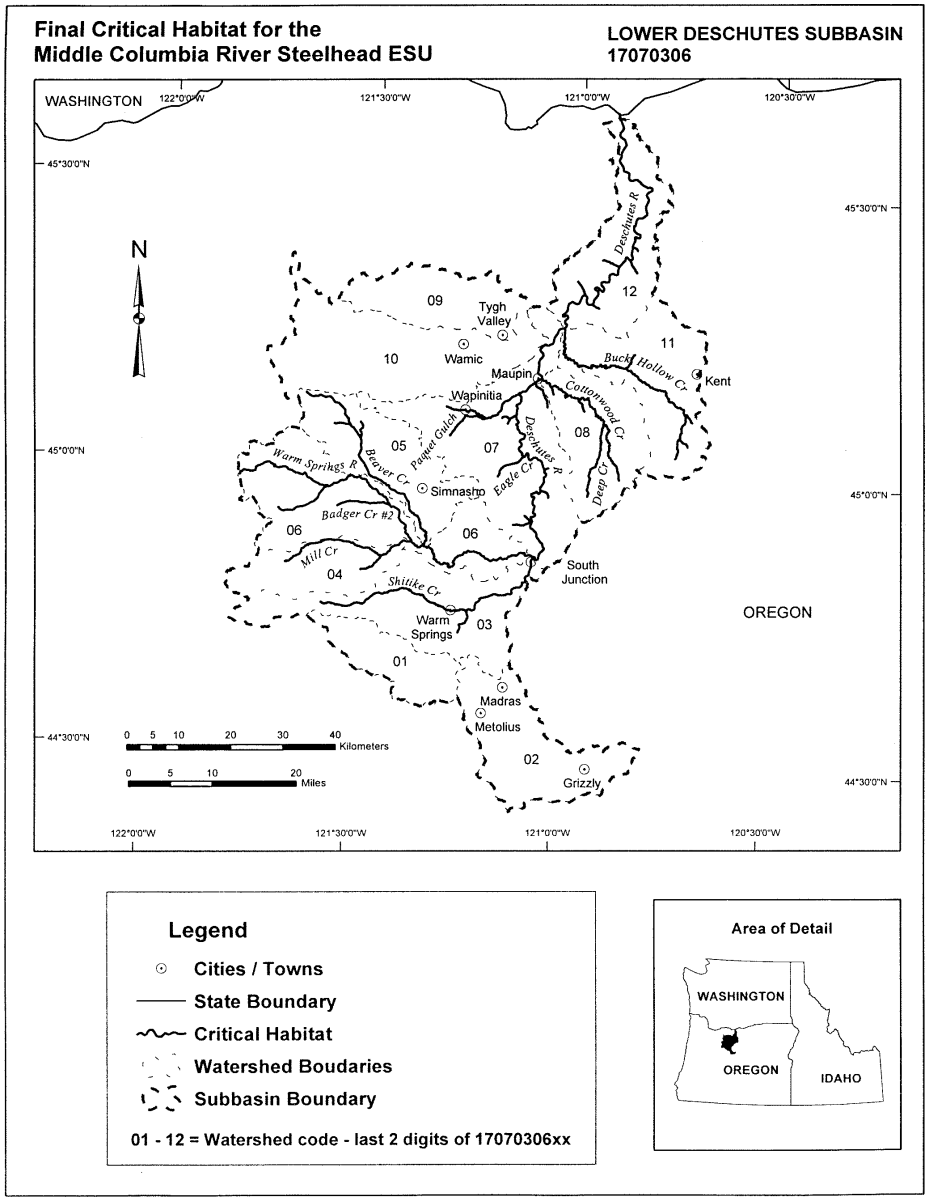

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
KLICKITAT SUBBASIN
17070106
WASHINGTON
OREGON
N
01
02
03
04
Klickitat R
Diamond Fk
Klickitat R
W Fk Klickitat R
Surveyors Cr
Trout Cr
White Cr
Summit Cr
Glenwood
Laurel
Dead Canyon
Snyder Canyon
Canyon Cr
Blockhouse
Little Klickitat R
Goldendale
Klickitat R
Dillacort Canyon
Swale Cr
Centerville
0 4.5 9 18 Miles
0 5 10 20 30 40 Kilometers
46°30'0"N
46°0'0"N
121°30'0"W
121°0'0"W
120°30'0"W
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17070106xx
Area of Detail
WASHINGTON
OREGON
IDAHO

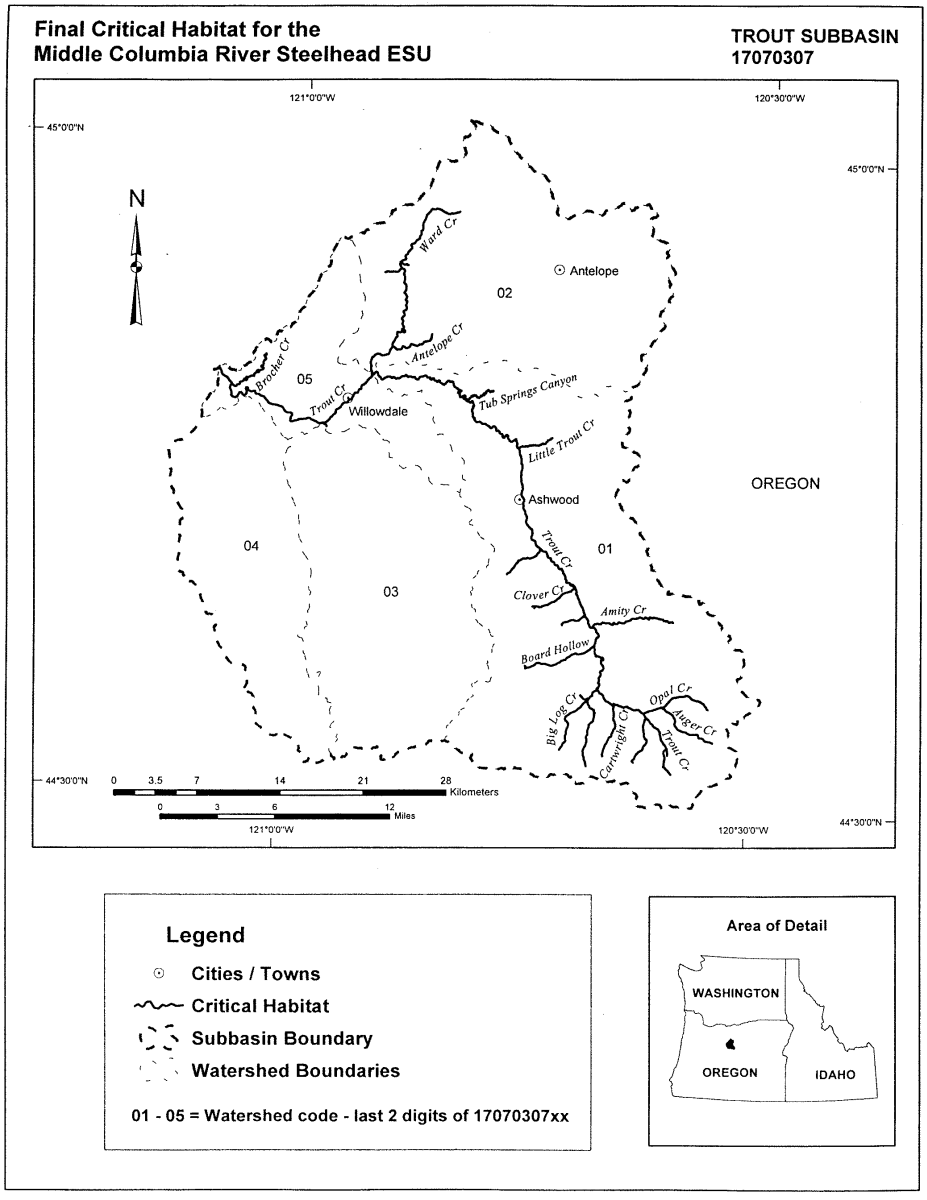

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
UPPER JOHN DAY SUBBASIN
17070201
120°0'0"W
119°30'0"W
119°0'0"W
118°30'0"W
OREGON
44°30'0"N
44°0'0"N
John Day R
Johnson Cr
Mountain Cr
Rock Cr
John Day R
Ferris Cr
Dayville
Beckshaw Cr
Widows Cr
Tinker Cr
Bear Cr
Mount Vernon
John Day
Prairie City
Pine Cr
Reynolds Cr
Canyon City
Canyon Cr
Crawl Cr
Deer Cr
Izee
13
15
14
12
11
09
08
06
04
05
10
07
03
01
N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01, 03 - 15 = Watershed code - last 2 digits of 17070201xx
Area of Detail
WASHINGTON
OREGON
IDAHO

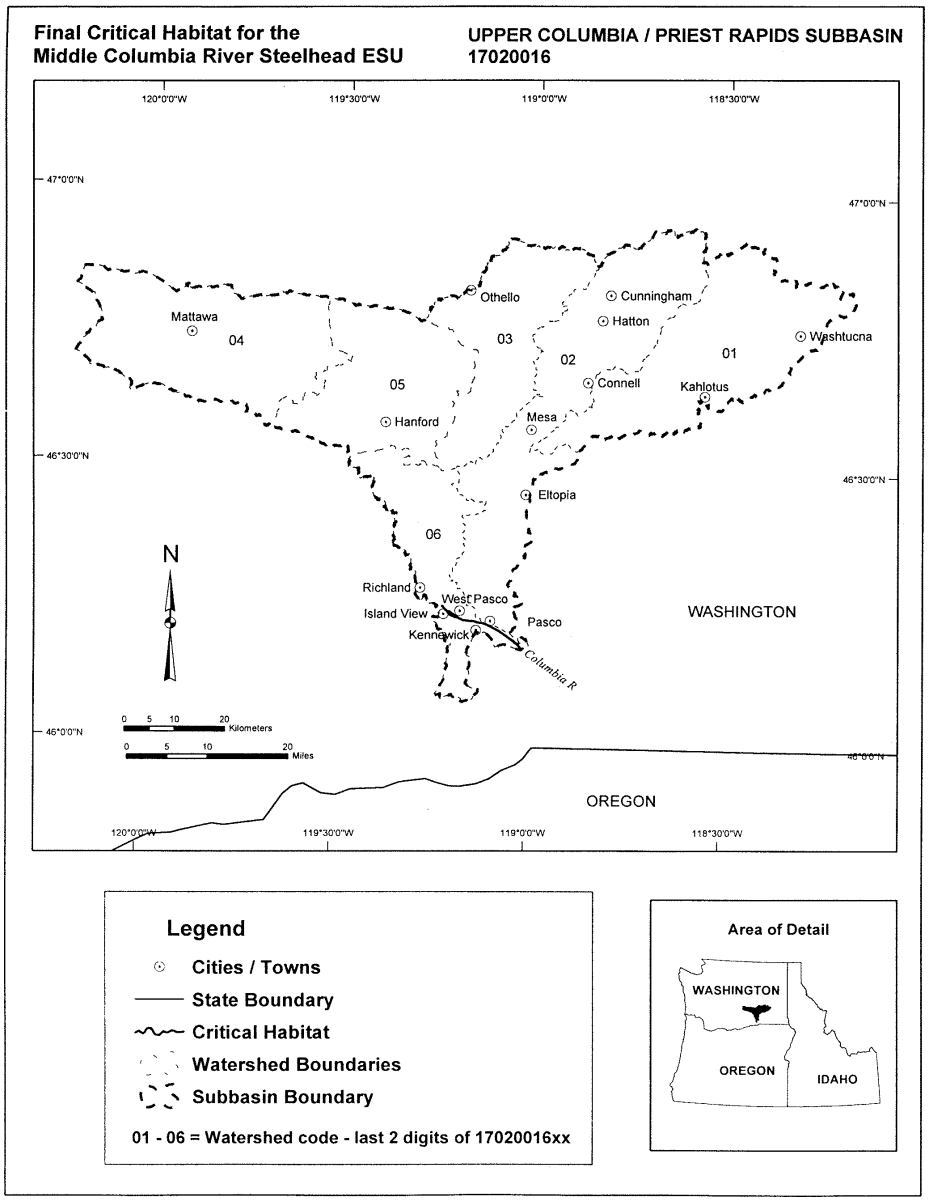

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
NORTH FORK JOHN DAY SUBBASIN
17070202
119°30'0"W
119°0'0"W
118°30'0"W
N
OREGON
06
07
08
05
03
04
01
02
09
10
Ukiah
Dale
Monument
Granite
Hamilton
Fox
Owens Cr
Camas Cr
Cable Cr
Hidaway Cr
Bridge Cr
Potamus Cr
Pole Cr
Wilson Cr
Big Wall Cr
N Fk John Day R
Meadow Cr
Desolation Cr
Deer Cr
Gilmore Cr
Rudio Cr
Cottonwood Cr
McHaley Cr
Fox Cr
Bull Run Cr
Olive Cr
45°0'0"N
44°30'0"N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 10 = Watershed code - last 2 digits of 17070202xx
Area of Detail
WASHINGTON
OREGON
IDAHO

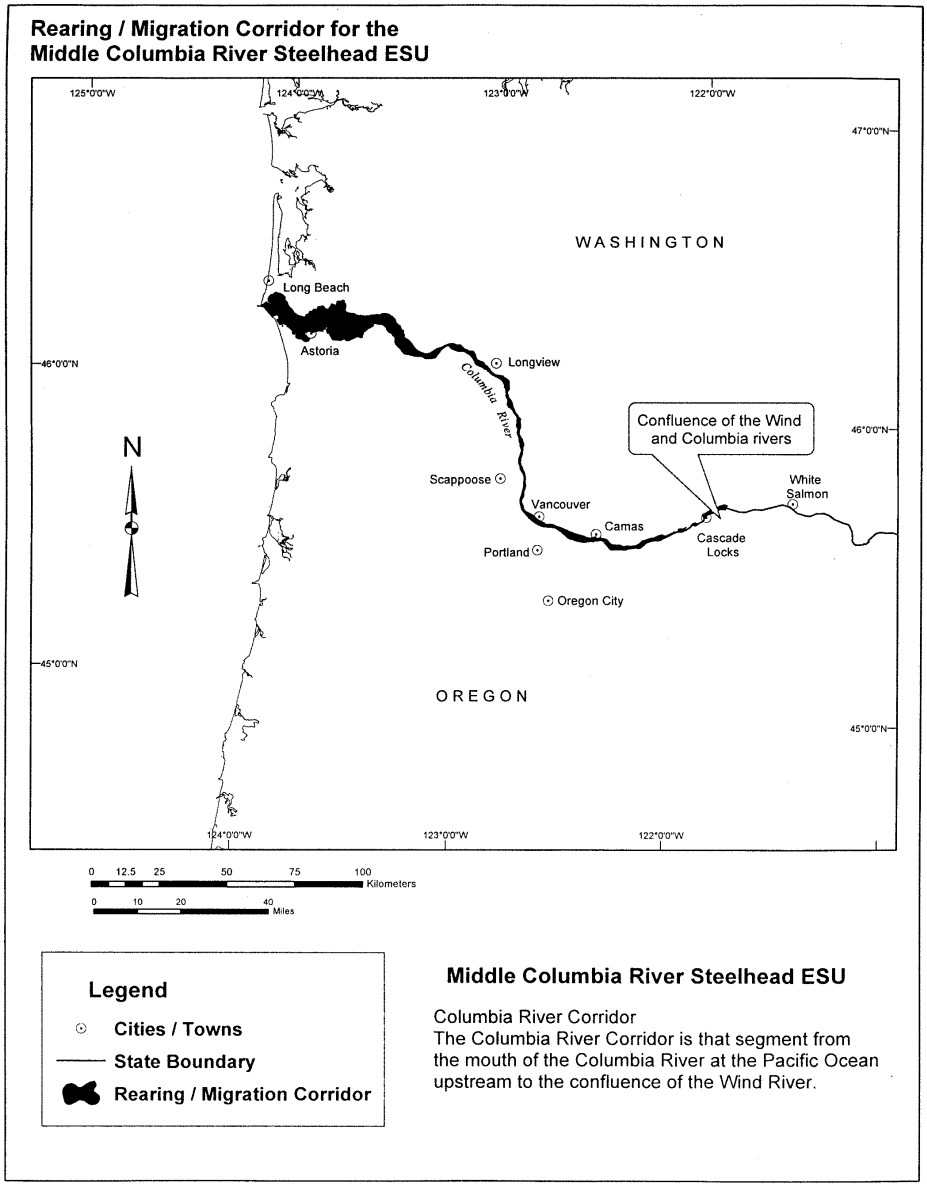

Final Critical Habitat for the
Middle Columbia River Steelhead ESU
MIDDLE FORK JOHN DAY SUBBASIN
17070203
119°0'0"W
118°30'0"W
45°0'0"N
44°30'0"N
OREGON
05
04
03
02
01
Granite Cr
Lick Cr
Middle Fk John Day R
Pine Cr
Pass Cr
Basin Cr
Indian Cr
Big Cr
Long Cr
Long Creek
Slide Cr
Whisker Cr
Lick Cr
Camp Cr
S Fk Long Cr
Big Boulder Cr
Granite Boulder Cr
Ruby Cr
Bates
Crawford Cr
Sguaw Cr
Bridge Cr
Clear Cr
N
0 4 8 16 24 32 Kilometers
0 3.5 7 14 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17070203xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
LOWER JOHN DAY SUBBASIN
17070204
WASHINGTON
OREGON
Moro
Grass Valley
Condon
Fossil
Spray
Mitchell
John Day R
Grass Valley Canyon
Bear Canyon
Hay Cr
Dry Cr
Rock Cr
Thirtymile Cr
Lone Rock Cr
Lost Valley Cr
Butte Cr
Long Hollow
Pine Cr
Muddy Cr
Service Cr
Wheeler Cr
Kahler Cr
Slough Cr
Horsethief Cr
Cherry Cr
Bridge Cr
Bear Cr
Gable Cr
01
02
03
04
05
06
07
08
09
10
11
12
13
14
N
121°0'0"W
120°30'0"W
120°0'0"W
119°30'0"W
45°30'0"N
45°0'0"N
44°30'0"N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 14 = Watershed code - last 2 digits of 17070204xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
LOWER DESCHUTES SUBBASIN
17070306
WASHINGTON
OREGON
N
09
10
11
12
05
06
07
08
04
03
01
02
Tygh Valley
Wamic
Maupin
Wapinitia
Kent
Simnasho
South Junction
Warm Springs
Madras
Metolius
Grizzly
Deschutes R
Buck Hollow Cr
Cottonwood Cr
Paquet Gulch
Beaver Cr
Warm Sprikgs R
Badger Cr #2
Mill Cr
Shitike Cr
Eagle Cr
Deep Cr
122°0'0"W
121°30'0"W
121°0'0"W
120°30'0"W
45°30'0"N
45°0'0"N
44°30'0"N
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Watershed Boudaries
Subbasin Boundary
01 - 12 = Watershed code - last 2 digits of 17070306xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
TROUT SUBBASIN
17070307
121°0'0"W
120°30'0"W
45°0'0"N
44°30'0"N
N
Ward Cr
Antelope
02
Antelope Cr
Brocher Cr
05
Trout Cr
Willowdale
Tub Springs Canyon
Little Trout Cr
OREGON
Ashwood
04
01
Trout Cr
03
Clover Cr
Amity Cr
Board Hollow
Big Log Cr
Opal Cr
Auger Cr
Carnwright Cr
Trout Cr
0 3.5 7 14 21 28 Kilometers
0 3 6 12 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17070307xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Middle Columbia River Steelhead ESU
UPPER COLUMBIA / PRIEST RAPIDS SUBBASIN
17020016
120°0'0"W
119°30'0"W
119°0'0"W
118°30'0"W
47°0'0"N
46°30'0"N
46°0'0"N
Othello
Cunningham
Hatton
Mattawa
Washtucna
Connell
Kahlotus
Hanford
Mesa
Eltopia
Richland
West Pasco
Island View
Pasco
Kennewick
Columbia R
01
02
03
04
05
06
N
0 5 10 20 Kilometers
0 5 10 20 Miles
WASHINGTON
OREGON
Legend
Cities / Towns
State Boundary
Critical Habitat
Watershed Boundaries
Subbasin Boundary
01 - 06 = Watershed code - last 2 digits of 17020016xx
Area of Detail
WASHINGTON
OREGON
IDAHO



(s) *Lower Columbia River Steelhead (Oncorhynchus mykiss).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Middle Columbia/Hood Subbasin 17070105—(i) *East Fork Hood River Watershed 1707010506.* Outlet(s) = Hood River (Lat 45.6050, Long –121.6323) upstream to endpoint(s) in: Baldwin Creek (45.5618, –121.5585); Bear Creek (45.4894, –121.6516); Cat Creek (45.4708, –121.5591); Clark Creek (45.3335, –121.6420); Coe Branch (45.4342, –121.6673); Cold Spring Creek (45.4020, –121.5873);Culvert Creek

(45.3770, –121.5660); Dog River (45.4404, –121.5623); East Fork Hood River (45.3172, –121.6390); Eliot Branch, Middle Fork Hood River (45.4534, –121.6362); Emil Creek (45.5223, –121.5886); Evans Creek (45.4872, –121.5894); Graham Creek (45.5463, –121.5639); Meadows Creek (45.3195, –121.6279); Newton Creek (45.3370, –121.6261); Pinnacle Creek (45.4595, –121.6568); Pocket Creek (45.3025, –121.5969); Polallie Creek (45.4132, –121.5826); Tony Creek (45.5254, –121.6584); Unnamed (45.3470, –121.5843); Unnamed (45.4661, –121.5627); Unnamed (45.5208, –121.6198); Unnamed (45.5445, –121.5738).

(ii) *West Fork Hood River Watershed 1707010507*. Outlet(s) = West Fork Hood River (Lat 45.6050, Long –121.6323) upstream to endpoint(s) in: Divers Creek (45.5457, –121.7447); Elk Creek (45.4294, –121.7884); Green Point Creek (45.5915, –121.6981); Indian Creek (45.5375, –121.7857); Jones Creek (45.4673, –121.8020); Lake Branch (45.5083, –121.8485); McGee Creek (45.4120, –121.7598); No Name Creek (45.5347, –121.7929); Red Hill Creek (45.4720, –121.7705); Unnamed (45.5502, –121.7014).

(iii) *Hood River Watershed 1707010508*. Outlet(s) = Hood River (Lat 45.7237, Long –121.5049) upstream to endpoint(s) in: Hood River (45.6050, –121.6323); Lenz Creek (45.6291, –121.5220); Neal Creek (45.5787, –121.4875); West Fork Neal Creek (45.5751, –121.5215); Whiskey Creek (45.6827, –121.5064).

(iv) *Wind River Watershed 1707010511*. Outlet(s) = Wind River (Lat 45.7067, Long –121.7929) upstream to endpoint(s) in: Bear Creek (45.7619, –121.8295); Big Hollow Creek (45.9408, –122.0075); Bourbon Creek (45.9246, –121.9982); Brush Creek (45.7720, –121.7528); Cedar Creek (45.8388, –121.7956); Compass Creek (45.8372, –122.0633); Crater Creek (45.8637, –122.0639); Dry Creek (45.9551, –121.9924); East Fork Trout Creek (45.8503, –122.0096); Eightmile Creek (45.8616, –121.8966); Falls Creek (45.9107, –121.9151); Hollis Creek (45.8524, –121.9304); Jimmy Creek (45.7886, –121.8409); Layout Creek (45.8096, –122.0475); Little Wind River (45.7763, –121.7222); Martha Creek (45.7846, –121.9482); Mouse Creek (45.8415, –121.8428); Ninemile Creek (45.8942, –121.9023); Oldman Creek (45.9856, –121.9369); Panther Creek (45.8605, –121.8422); Pass Creek (45.8555, –122.0133); Planting Creek (45.8071, –122.0010); Proverbial Creek (45.9816, –121.9654); Tenmile Creek (45.8760, –121.8694); Trapper Creek (45.9113, –122.0470); Trout Creek (45.8679, –122.0477); Unnamed (45.7862, –121.9097); Unnamed (45.8008, –121.9881); Unnamed (45.8025, –121.9678); Unnamed (45.8142, –122.0204); Unnamed (45.8149, –122.0532); Unnamed (45.8161, –121.8437); Unnamed (45.8206, –121.8111); Unnamed (45.8218, –121.9470); Unnamed (45.8242, –122.0295); Unnamed (45.8427, –121.9180); Unnamed (45.8509, –121.9190); Unnamed (45.8529, –122.0406); Unnamed (45.8551, –122.0638); Unnamed (45.8610, –121.9635); Unnamed (45.8637, –122.0625); Unnamed (45.8640, –121.9764); Unnamed (45.8682, –121.9714); Unnamed (45.8940, –122.0348); Unnamed (45.8965, –122.0035); Unnamed (45.9652, –121.9517); Unnamed (45.9798, –121.8873); Unnamed (45.9844, –121.9171); Wind River (45.9964, –121.9000).

(v) *Middle Columbia/Grays Creek Watershed 1707010512*. Outlet(s) = Columbia River (Lat 45.7070, Long –121.7943) upstream to endpoint(s) in: Columbia River (45.7237, –121.5049).

(vi) *Middle Columbia/Eagle Creek Watershed 1707010513*. Outlet(s) = Columbia River (Lat 45.6453, Long –121.9395) upstream to endpoint(s) in: Columbia River (45.7070, –121.7943).

(2) Lower Columbia/Sandy Subbasin 17080001—(i) *Salmon River Watershed 17080001*. Outlet(s) = Salmon River (Lat 45.3768, Long –122.0293) upstream to endpoint(s) in: Bighorn Creek (45.2582, –121.9204); Boulder Creek (45.3027, –122.0209); Cheeney Creek (45.2919, –121.9710); Copper Creek (45.2454, –121.9051); Mack Hall Creek (45.2391, –121.9508); Salmon River (45.2511, –121.9025); South Fork Salmon River (45.2500, –121.9770); Unnamed (45.2576, –121.9068); Unnamed (45.2600, –121.9093); Unnamed (45.2633, –121.9153); Unnamed (45.2646, –121.9175); Unnamed (45.2708, –121.9246); Unnamed (45.2946, –121.9388); Unnamed (45.3161, –121.9565); Unnamed (45.3225, –121.9609); Unnamed (45.3254, –121.9582); Unnamed (45.3277, –121.9635); Unnamed (45.3336, –121.9538); Unnamed (45.3383, –121.9768); Unnamed (45.3398, –121.9954).

(ii) *Zigzag River Watershed 1708000102*. Outlet(s) = Zigzag River (Lat 45.3489, Long –121.9442) upstream to endpoint(s)

in: Camp Creek (45.3070, –121.7921); Cool Creek (45.2867, –121.8849); Devil Canyon (45.3186, –121.8587); Henry Creek (45.3241, –121.8869); Lady Creek (45.3199, –121.8225); Little Zigzag Canyon (45.3138, –121.8035); Still Creek (45.3167, –121.7228); Unnamed (45.2647, –121.8342); Unnamed (45.2706, –121.8194); Unnamed (45.2793, –121.8529); Unnamed (45.2801, –121.8537); Wind Creek (45.2961, –121.8515); Zigzag River (45.3270, –121.7786).

(iii) *Upper Sandy River Watershed 1708000103*. Outlet(s) = Sandy River (Lat 45.3489, Long –121.9442) upstream to endpoint(s) in: Cast Creek (45.3794, –121.8538); Clear Creek (45.3998, –121.8936); Clear Fork (45.4256, –121.8006); Horseshoe Creek (45.3664, –121.8680); Little Clear Creek (45.3854, –121.9190); Lost Creek (45.3670, –121.8091); Muddy Fork (45.3920, –121.7577); Sandy River (45.3719, –121.7560); Unnamed (45.3813, –121.8954); Unnamed (45.3904, –121.7979); Unnamed (45.4090, –121.8056); Unnamed (45.4164, –121.8342).

(iv) *Middle Sandy River Watershed 1708000104*. Outlet(s) = Sandy River (Lat 45.4464, Long –122.2459) upstream to endpoint(s) in: Alder Creek (45.3459, –122.0875); Bear Creek #2 (45.3368, –121.9265); Cedar Creek (45.4046, –122.2513); Hackett Creek (45.3525, –121.9504); North Boulder Creek (45.3900, –122.0037); Sandy River (45.3489, –121.9442); Unnamed (45.3469, –122.0673); Unnamed (45.3699, –122.0764); Unnamed (45.3808, –122.0325); Unnamed (45.3864, –122.0355); Whisky Creek (45.3744, –122.1202).

(v) *Washougal River Watershed 1708000106*. Outlet(s) = Unnamed (Lat 45.5812, Long –122.4077); Washougal River (45.5795, –122.4023) upstream to endpoint(s) in: Bear Creek (45.7732, –122.1468); Bluebird Creek (45.7486, –122.1717); Cougar Creek (45.6514, –122.2677); Dougan Creek (45.7080, –122.1817); East Fork Little Washougal River (45.6722, –122.2827); Grouse Creek (45.7574, –122.1352); Hagen Creek (45.7154, –122.2518); Jackson Creek (45.6755, –122.2530); Jones Creek (45.6913, –122.2870); Lacamas Creek (45.5972, –122.3933); Little Washougal River (45.7006, –122.3212); Lookout Creek (45.7806, –122.1006); Meander Creek (45.7708, –122.0848); Prospector Creek (45.7590, –122.0890); Silver Creek (45.7343, –122.1694); Stebbins Creek (45.7285, –122.0683); Texas Creek (45.6946, –122.1873); Timber Creek (45.7236, –122.1001); Unnamed (45.5873, –122.4121); Unnamed (45.6002, –122.3312); Unnamed (45.6132, –122.3238); Unnamed (45.6177, –122.2425); Unnamed (45.6206, –122.3449); Unnamed (45.6213, –122.2807); Unnamed (45.6243, –122.2283); Unnamed (45.6251, –122.3419); Unnamed (45.6279, –122.2549); Unnamed (45.6297, –122.2463); Unnamed (45.6321, –122.2753); Unnamed (45.6328, –122.2574); Unnamed (45.6382, –122.2915); Unnamed (45.6477, –122.3665); Unnamed (45.6487, –122.3336); Unnamed (45.6507, –122.1562); Unnamed (45.6531, –122.2739); Unnamed (45.6594, –122.2062); Unnamed (45.6622, –122.3015); Unnamed (45.6625, –122.3446); Unnamed (45.6675, –122.3415); Unnamed (45.6694, –122.1553); Unnamed (45.6703, –122.3399); Unnamed (45.6721, –122.1725); Unnamed (45.6749, –122.3370); Unnamed (45.6798, –122.2905); Unnamed (45.6835, –122.3336); Unnamed (45.6836, –122.1146); Unnamed (45.6871, –122.2996); Unnamed (45.6934, –122.1063); Unnamed (45.6949, –122.3305); Unnamed (45.6959, –122.3149); Unnamed (45.6965, –122.0837); Unnamed (45.7074, –122.1566); Unnamed (45.7080, –122.2600); Unnamed (45.7092, –122.2510); Unnamed (45.7179, –122.0744); Unnamed (45.7201, –122.1360); Unnamed (45.7249, –122.1067); Unnamed (45.7285, –122.1965); Unnamed (45.7303, –122.1126); Unnamed (45.7458, –122.1328); Unnamed (45.7476, –122.0518); Unnamed (45.7482, –122.1594); Unnamed (45.7624, –122.1308); Unnamed (45.7841, –122.1211); Washougal River (45.7798, –122.1403); West Fork Washougal River (45.7382, –122.2173); Wildboy Creek (45.6712, –122.2172); Winkler Creek (45.6377, –122.2588).

(vi) *Columbia Gorge Tributaries Watershed 1708000107*. Outlet(s) = Columbia River (Lat 45.5710, Long –122.4021) upstream to endpoint(s) in: Columbia River (45.6453, –121.9395).

(vii) *Lower Sandy River Watershed 1708000108*. Outlet(s) = Sandy River (Lat 45.5679, Long –122.4023) upstream to endpoint(s) in: Beaver Creek (45.4959, –122.3643); Big Creek (45.5068, –122.2966); Buck Creek (45.4985, –122.2671); Gordon Creek (45.5021, –122.1805); Kelly Creek (45.5134, –122.3953); Sandy River (45.4464, –122.2459); Smith Creek (45.5136, –122.3339); Trout Creek (45.4819, –122.2769); Unnamed (45.4889, –122.3513);

Unnamed (45.5557, –122.3715); Unnamed (45.5600, –122.3650).

(3) Lewis Subbasin 17080002—(i) *East Fork Lewis River Watershed 1708000205*. Outlet(s) = Allen Creek (Lat 45.8641, Long –122.7499); East Fork Lewis River (45.8664, –122.7189); Gee Creek (45.8462, –122.7803) upstream to endpoint(s) in: Allen Creek (45.8279, –122.6968); Anaconda Creek (45.8208, –122.2652); Basket Creek (45.8327, –122.4579); Big Tree Creek (45.8572, –122.3728); Brezee Creek (45.8625, –122.6637); Cedar Creek (45.7226, –122.3290); Cold Creek (45.7493, –122.3252); Copper Creek (45.8177, –122.2637); Coyote Creek (45.7554, –122.2641); East Fork Lewis River (45.8380, –122.0948); Gee Creek (45.7920, –122.6679); Green Fork (45.8462, –122.1274); Grouse Creek (45.7214, –122.2709); King Creek (45.7802, –122.2552); Little Creek (45.8417, –122.1779); Lockwood Creek (45.8986, –122.5953); Mason Creek (45.8661, –122.5430); McCormick Creek (45.8521, –122.6907); McKinley Creek (45.8026, –122.1797); Niccolls Creek (45.8148, –122.3093); Poison Gulch (45.7898, –122.1617); Riley Creek (45.8936, –122.6175); Rock Creek (45.7375, –122.2571); Roger Creek (45.8183, –122.3426); Slide Creek (45.8477, –122.2090); Unnamed (45.7212, –122.3389); Unnamed (45.7623, –122.2727); Unnamed (45.7697, –122.3157); Unnamed (45.7726, –122.6651); Unnamed (45.7770, –122.3539); Unnamed (45.7802, –122.6068); Unnamed (45.7858, –122.3283); Unnamed (45.7916, –122.3780); Unnamed (45.7919, –122.2780); Unnamed (45.7961, –122.1312); Unnamed (45.7980, –122.5650); Unnamed (45.8033, –122.6667); Unnamed (45.8038, –122.3545); Unnamed (45.8075, –122.1120); Unnamed (45.8076, –122.6285); Unnamed (45.8079, –122.2942); Unnamed (45.8146, –122.4818); Unnamed (45.8147, –122.3144); Unnamed (45.8149, –122.5653); Unnamed (45.8172, –122.5742); Unnamed (45.8207, –122.4916); Unnamed (45.8230, –122.7069); Unnamed (45.8242, –122.6390); Unnamed (45.8292, –122.6040); Unnamed (45.8306, –122.3769); Unnamed (45.8353, –122.4842); Unnamed (45.8363, –122.1252); Unnamed (45.8368, –122.6498); Unnamed (45.8381, –122.4685); Unnamed (45.8427, –122.3708); Unnamed (45.8432, –122.1480); Unnamed (45.8434, –122.2292); Unnamed (45.8439, –122.6478); Unnamed (45.8471, –122.7486); Unnamed (45.8475, –122.6486); Unnamed (45.8484, –122.4401); Unnamed (45.8498, –122.7300); Unnamed (45.8502, –122.5228); Unnamed (45.8513, –122.1323); Unnamed (45.8537, –122.5973); Unnamed (45.8600, –122.6112); Unnamed (45.8604, –122.3831); Unnamed (45.8606, –122.3981); Unnamed (45.8662, –122.5772); Unnamed (45.8667, –122.5744); Unnamed (45.8689, –122.4227); Unnamed (45.8698, –122.6777); Unnamed (45.8756, –122.4795); Unnamed (45.8813, –122.4772); Unnamed (45.8899, –122.6256); Unnamed (45.8986, –122.5742); Unnamed (45.8988, –122.6123); Unnamed (45.9055, –122.5187); Yacolt Creek (45.8761, –122.4220).

(ii) *Lower Lewis River Watershed 1708000206*. Outlet(s) = Lewis River (Lat 45.8519, Long –122.7806) upstream to endpoint(s) in: Bitter Creek (45.9133, –122.4593); Brush Creek (45.9280, –122.4674); Cedar Creek (45.9019, –122.3655); Chelatchie Creek (45.9357, –122.3784); Colvin Creek (45.9400, –122.6081); Houghton Creek (45.9559, –122.6348); John Creek (45.9291, –122.4964); Johnson Creek (45.9536, –122.6183); Lewis River (45.9570, –122.5550); Pup Creek (45.9486, –122.5245); Robinson Creek (45.9362, –122.7243); Ross Creek (45.9536, –122.7043); Staples Creek (45.9423, –122.6665); Unnamed (45.8696, –122.7658); Unnamed (45.8878, –122.3688); Unnamed (45.8928, –122.4209); Unnamed (45.8940, –122.4371); Unnamed (45.9001, –122.7226); Unnamed (45.9136, –122.6836); Unnamed (45.9141, –122.5565); Unnamed (45.9172, –122.3591); Unnamed (45.9202, –122.5339); Unnamed (45.9203, –122.4557); Unnamed (45.9245, –122.3731); Unnamed (45.9258, –122.5964); Unnamed (45.9294, –122.6225); Unnamed (45.9396, –122.4097); Unnamed (45.9417, –122.7035); Unnamed (45.9436, –122.6417); Unnamed (45.9438, –122.6190); Unnamed (45.9446, –122.6437); Unnamed (45.9457, –122.3926); Unnamed (45.9474, –122.6695); Unnamed (45.9549, –122.6967).

(4) Lower Columbia/Clatskanie Subbasin 17080003—*Kalama River Watershed 1708000301*. Outlet(s) = Burris Creek (Lat 45.8926, Long –122.7892); Bybee Creek (45.9667, –122.8150); Kalama River (46.0340, –122.8695); Mill Creek (45.9579, –122.8030); Schoolhouse Creek (45.9785, –122.8282); Unnamed (46.0001, –122.8438); Unnamed (46.0075, –122.8455) upstream to endpoint(s) in: Arnold Creek (46.0206, –122.5638); Bear Creek (46.0951, –122.5772); Burris Creek (45.9506, –122.7428); Bush Creek (46.0828, –122.4611); Bybee Creek (45.9695,

–122.8135); Canyon Creek (45.9540, –122.7925); Cedar Creek (46.0333, –122.8110); Dee Creek (45.9953, –122.6525); Elk Creek (46.1154, –122.4796); Hatchery Creek (46.0673, –122.7548); Indian Creek (46.0516, –122.7502); Jacks Creek (46.0400, –122.5014); Kalama River (46.1109, –122.3579); Knowlton Creek (46.0245, –122.6454); Langdon Creek (46.1137, –122.4364); Little Kalama River (45.9745, –122.6604); Lost Creek (46.0692, –122.5292); Mill Creek (45.9741, –122.7756); North Fork Elk Creek (46.1086, –122.5284); North Fork Kalama River (46.1550, –122.4007); Schoolhouse Creek (45.9810, –122.8217); Spencer Creek (46.0253, –122.8285); Summers Creek (46.0357, –122.6529); Unnamed (45.9034, –122.7792); Unnamed (45.9423, –122.7761); Unnamed (45.9683, –122.7751); Unnamed (45.9772, –122.6534); Unnamed (45.9820, –122.7123); Unnamed (45.9830, –122.8249); Unnamed (45.9957, –122.6742); Unnamed (46.0023, –122.8001); Unnamed (46.0034, –122.8330); Unnamed (46.0059, –122.7350); Unnamed (46.0064, –122.7377); Unnamed (46.0238, –122.5834); Unnamed (46.0257, –122.5913); Unnamed (46.0389, –122.6305); Unnamed (46.0437, –122.5713); Unnamed (46.0440, –122.8548); Unnamed (46.0462, –122.5097); Unnamed (46.0473, –122.7668); Unnamed (46.0611, –122.5514); Unnamed (46.0618, –122.4290); Unnamed (46.0634, –122.5630); Unnamed (46.0645, –122.3953); Unnamed (46.0861, –122.6708); Unnamed (46.0882, –122.5729); Unnamed (46.0982, –122.4887); Unnamed (46.0986, –122.6384); Unnamed (46.0998, –122.6089); Unnamed (46.1031, –122.3851); Unnamed (46.1076, –122.5965); Unnamed (46.1086, –122.4399); Unnamed (46.1088, –122.3440); Unnamed (46.1124, –122.6411); Unnamed (46.1153, –122.5646); Unnamed (46.1159, –122.5728); Unnamed (46.1169, –122.3397); Unnamed (46.1242, –122.5932); Unnamed (46.1244, –122.4255); Unnamed (46.1355, –122.4413); Unnamed (46.1451, –122.4279); Unnamed (46.1543, –122.4131); Unnamed (46.1559, –122.4254); Wild Horse Creek (46.1018, –122.6755); Wolf Creek (46.0523, –122.4334).

(5) Upper Cowlitz Subbasin 17080004—(i) *Headwaters Cowlitz River Watershed 1708000401*. Outlet(s) = Cowlitz River (Lat 46.6580, Long –121.6032) upstream to endpoint(s) in: Clear Fork Cowlitz River (46.6846, –121.5668); Muddy Fork Cowlitz River (46.6973, –121.6177); Ohanapecosh River (46.6909, –121.5809); Purcell Creek (46.6722, –121.5877).

(ii) *Upper Cowlitz River Watershed 1708000402*. Outlet(s) = Cowlitz River (Lat 46.5742, Long –121.7059) upstream to endpoint(s) in: Butter Creek (46.6451, –121.6749); Coal Creek (46.6438, –121.6108); Cowlitz River (46.6580, –121.6032); Hall Creek (46.6044, –121.6609); Johnson Creek (46.5546, –121.6373); Lake Creek (46.6227, –121.6093); Skate Creek (46.6850, –121.8052); Unnamed (46.6930, –121.8024).

(iii) *Cowlitz Valley Frontal Watershed 1708000403*. Outlet(s) = Cowlitz River (Lat 46.4765, Long –122.0952) upstream to endpoint(s) in: Burton Creek (46.5423, –121.7505); Cowlitz River (46.5742, –121.7059); Davis Creek (46.5410, –121.8084); Kilborn Creek (46.5081, –121.8007); Oliver Creek (46.5450, –121.9928); Peters Creek (46.5386, –121.9830); Siler Creek (46.4931, –121.9085); Silver Creek (46.5909, –121.9253); Smith Creek (46.5620, –121.6923); Unnamed (46.4913, –122.0820); Unnamed (46.5657, –122.0489); Willame Creek (46.5805, –121.7319).

(iv) *Upper Cispus River Watershed 1708000404*. Outlet(s) = Cispus River (Lat 46.4449, Long –121.7954) upstream to endpoint(s) in: Cispus River (46.3450, –121.6833); East Canyon Creek (46.3472, –121.7028); North Fork Cispus River (46.4362, –121.6479); Timonium Creek (46.4318, –121.6548); Twin Creek (46.3748, –121.7297); Yozoo Creek (46.4363, –121.6637).

(v) *Lower Cispus River Watershed 1708000405*. Outlet(s) = Cispus River (Lat 46.4765, Long –122.0952) upstream to endpoint(s) in: Ames Creek (46.4654, –121.9233); Camp Creek (46.4513, –121.8301); Cispus River (46.4449, –121.7954); Covell Creek (46.4331, –121.8516); Crystal Creek (46.4454, –122.0234); Greenhorn Creek (46.4217, –121.9042); Iron Creek (46.3887, –121.9702); McCoy Creek (46.3891, –121.8190); Quartz Creek (46.4250, –122.0519); Unnamed (46.4633, –121.9548); Woods Creek (46.4741, –121.9473); Yellowjacket Creek (46.3869, –121.8342).

(6) Cowlitz Subbasin 17080005—(i) *Riffe Reservoir Watershed 1708000502*. Outlet(s) = Cowlitz River (Lat 46.5033, Long –122.5870) upstream to endpoint(s) in: Cowlitz River (46.4765, –122.0952).

(ii) *Jackson Prairie Watershed 1708000503*. Outlet(s) = Cowlitz River (Lat 46.3678, Long –122.9337) upstream to endpoint(s) in: Bear Creek (46.4538,

–122.9192); Blue Creek (46.4885, –122.7253); Brights Creek (46.5015, –122.6247); Cedar Creek (46.4110, –122.7316); Coon Creek (46.4371, –122.9065); Cougar Creek (46.3937, –122.7945); Cowlitz River (46.5033, –122.5870); Foster Creek (46.4073, –122.8897); Hopkey Creek (46.4587, –122.5533); Jones Creek (46.5125, –122.6825); Lacamas Creek (46.5246, –122.7923); Little Salmon Creek (46.4402, –122.7458); Mill Creek (46.5024, –122.8013); Mill Creek (46.5175, –122.6209); Otter Creek (46.4801, –122.7000); Pin Creek (46.4133, –122.8321); Rapid Creek (46.4320, –122.5465); Skook Creek (46.5031, –122.7561); Unnamed (46.3838, –122.7243); Unnamed (46.3841, –122.6789); Unnamed (46.3849, –122.7043); Unnamed (46.3857, –122.9224); Unnamed (46.3881, –122.6949); Unnamed (46.3900, –122.7368); Unnamed (46.3998, –122.8974); Unnamed (46.4001, –122.7437); Unnamed (46.4015, –122.7327); Unnamed (46.4097, –122.5887); Unnamed (46.4102, –122.6787); Unnamed (46.4106, –122.7075); Unnamed (46.4115, –122.9091); Unnamed (46.4117, –122.7554); Unnamed (46.4143, –122.7823); Unnamed (46.4174, –122.6365); Unnamed (46.4241, –122.8170); Unnamed (46.4269, –122.6124); Unnamed (46.4291, –122.6418); Unnamed (46.4293, –122.8354); Unnamed (46.4412, –122.5192); Unnamed (46.4454, –122.8662); Unnamed (46.4496, –122.5281); Unnamed (46.4514, –122.8699); Unnamed (46.4703, –122.7959); Unnamed (46.4708, –122.7713); Unnamed (46.4729, –122.6850); Unnamed (46.4886, –122.8067); Unnamed (46.5172, –122.6534); Unnamed (46.5312, –122.8196).

(iii) *North Fork Toutle River Watershed 1708000504*. Outlet(s) = North Fork Toutle River (Lat 46.3669, Long –122.5859) upstream to endpoint(s) in: Alder Creek (46.2813, –122.4964); Bear Creek (46.3085, –122.3504); Coldwater Creek (46.2884, –122.2675); Cow Creek (46.3287, –122.4616); Hoffstadt Creek (46.3211, –122.3324); Maratta Creek (46.2925, –122.2845); Unnamed (46.3050, –122.5416); Unnamed (46.3346, –122.5460); Unnamed (46.3394, –122.3314).

(iv) *Green River Watershed 1708000505*. Outlet(s) = Green River (Lat 46.3718, Long –122.5847) upstream to endpoint(s) in: Beaver Creek (46.4056, –122.5671); Cascade Creek (46.3924, –122.3529); Devils Creek (46.4017, –122.4089); Elk Creek (46.4178, –122.2477); Green River (46.3857, –122.1815); Jim Creek (46.3885, –122.5256); Miners Creek (46.3483, –122.1932); Shultz Creek (46.3684, –122.2848); Tradedollar Creek (46.3769, –122.2411); Unnamed (46.3271, –122.2978); Unnamed (46.3467, –122.2092); Unnamed (46.3602, –122.3257); Unnamed (46.3655, –122.4774); Unnamed (46.3683, –122.3454); Unnamed (46.3695, –122.4132); Unnamed (46.3697, –122.4705); Unnamed (46.3707, –122.5175); Unnamed (46.3734, –122.3883); Unnamed (46.3817, –122.2348); Unnamed (46.3844, –122.4335); Unnamed (46.3876, –122.4870); Unnamed (46.3931, –122.3726); Unnamed (46.4023, –122.5543); Unnamed (46.4060, –122.5415); Unnamed (46.4087, –122.5061); Unnamed (46.4106, –122.4300); Unnamed (46.4143, –122.4463); Unnamed (46.4173, –122.2910); Unnamed (46.4196, –122.2850); Unnamed (46.4226, –122.3029); Unnamed (46.4285, –122.2662).

(v) *South Fork Toutle River Watershed 1708000506*. Outlet(s) = South Fork Toutle River (Lat 46.3282, Long –122.7215) upstream to endpoint(s) in: Bear Creek (46.2219, –122.4620); Big Wolf Creek (46.2259, –122.5662); Disappointment Creek (46.2138, –122.3080); Eighteen Creek (46.2453, –122.5989); Harrington Creek (46.2508, –122.4126); Johnson Creek (46.3047, –122.5923); Sheep Canyon (46.2066, –122.2672); South Fork Toutle River (46.2137, –122.2347); Studebaker Creek (46.2825, –122.6805); Thirteen Creek (46.2374, –122.6230); Trouble Creek (46.1999, –122.3774); Twenty Creek (46.2508, –122.5738); Unnamed (46.1858, –122.2983); Unnamed (46.1953, –122.2881); Unnamed (46.2068, –122.3301); Unnamed (46.2075, –122.3267); Unnamed (46.2082, –122.2591); Unnamed (46.2107, –122.4301); Unnamed (46.2115, –122.2786); Unnamed (46.2117, –122.2378); Unnamed (46.2121, –122.5188); Unnamed (46.2157, –122.3467); Unnamed (46.2215, –122.5318); Unnamed (46.2234, –122.3265); Unnamed (46.2265, –122.3906); Unnamed (46.2271, –122.3367); Unnamed (46.2277, –122.3719); Unnamed (46.2309, –122.3828); Unnamed (46.2357, –122.4802); Unnamed (46.2365, –122.4402); Unnamed (46.2424, –122.4860); Unnamed (46.2444, –122.5427); Unnamed (46.2457, –122.6283); Unnamed (46.2523, –122.5147); Unnamed (46.2587, –122.5333); Unnamed (46.2591, –122.5240); Unnamed (46.2608, –122.5493); Unnamed (46.2618, –122.5705); Unnamed (46.2693, –122.5763); Unnamed (46.2707, –122.6094); Unnamed (46.2932, –122.5890); Unnamed (46.2969, –122.6718); Unnamed (46.2976, –122.6129); Unnamed (46.3035, –122.5952); Unnamed (46.3128,

–122.7032); Unnamed (46.3217, –122.6473); Whitten Creek (46.2328, –122.4944).

(vi) *East Willapa Watershed 1708000507*. Outlet(s) = Cowlitz River (Lat 46.2660, Long –122.9154) upstream to endpoint(s) in: Arkansas Creek (46.3345, –123.0567); Baxter Creek (46.3367, –122.9841); Brim Creek (46.4446, –123.0395); Campbell Creek (46.3436, –123.0700); Cline Creek (46.3397, –122.8550); Cowlitz River (46.3678, –122.9337); Delameter Creek (46.2705, –123.0143); Ferrier Creek (46.4646, –122.9374); Hemlock Creek (46.2586.–122.7270); Hill Creek (46.3861, –122.8864); King Creek (46.5304, –123.0203); McMurphy Creek (46.4113, –122.9469); Monahan Creek (46.3041, –123.0614); North Fork Brim Creek (46.4627, –123.0222); North Fork Toutle River (46.3669, –122.5859); Owens Creek (46.3994, –123.0457); Rock Creek (46.3479, –122.8144); Rock Creek (46.3531, –122.9368); Snow Creek (46.4486, –122.9805); Stankey Creek (46.3259, –122.8266); Stillwater Creek (46.3583, –123.1144); Sucker Creek (46.2600, –122.7684); Tucker Creek (46.2565, –123.0162); Unnamed (46.2413, –122.9887); Unnamed (46.2480, –123.0169); Unnamed (46.2480, –122.7759); Unnamed (46.2517, –123.0173); Unnamed (46.2606, –122.9549); Unnamed (46.2629, –123.0188); Unnamed (46.2663, –122.9804); Unnamed (46.2709, –122.7687); Unnamed (46.2711, –122.8159); Unnamed (46.2840, –122.8128); Unnamed (46.2878, –123.0286); Unnamed (46.2883, –122.9051); Unnamed (46.2892, –122.9625); Unnamed (46.2900, –122.8124); Unnamed (46.3030, –123.0645); Unnamed (46.3092, –122.9826); Unnamed (46.3160, –122.7783); Unnamed (46.3161, –123.0123); Unnamed (46.3173, –122.8950); Unnamed (46.3229, –122.8152); Unnamed (46.3245, –122.8609); Unnamed (46.3248, –123.0292); Unnamed (46.3252, –122.9238); Unnamed (46.3294, –122.9084); Unnamed (46.3309, –123.0046); Unnamed (46.3316, –122.8257); Unnamed (46.3346, –123.0167); Unnamed (46.3378, –122.9398); Unnamed (46.3393, –122.9402); Unnamed (46.3415, –122.9208); Unnamed (46.3456, –122.6405); Unnamed (46.3472, –122.9457); Unnamed (46.3488, –123.0519); Unnamed (46.3510, –123.0079); Unnamed (46.3511, –122.7678); Unnamed (46.3584, –122.7902); Unnamed (46.3585, –123.0369); Unnamed (46.3586, –122.7477); Unnamed (46.3599, –123.0992); Unnamed (46.3623, –122.6910); Unnamed (46.3665, –122.6334); Unnamed (46.3667, –122.8953); Unnamed (46.3683, –122.8930); Unnamed (46.3683, –122.7502); Unnamed (46.3718, –122.6202); Unnamed (46.3720, –123.0933); Unnamed (46.3748, –122.6167); Unnamed (46.3818, –122.8822); Unnamed (46.3824, –122.6090); Unnamed (46.3942, –122.9794); Unnamed (46.4015, –123.0272); Unnamed (46.4045, –123.0194); Unnamed (46.4177, –122.9611); Unnamed (46.4200, –123.0403); Unnamed (46.4286, –123.0467); Unnamed (46.4362, –123.0451); Unnamed (46.4379, –122.9985); Unnamed (46.4571, –122.9604); Unnamed (46.4606, –123.0166); Unnamed (46.4724, –122.9989); Unnamed (46.4907, –122.9352); Unnamed (46.5074, –122.8877); Unnamed (46.5089, –122.9291); Unnamed (46.5228, –122.8539); Unnamed (46.5336, –122.9793); Unnamed (46.5371, –122.8214); Unnamed (46.5439, –122.8538); Whittle Creek (46.3122, –122.9501); Wyant Creek (46.3381, –122.6117).

(vii) *Coweeman River Watershed 1708000508*. Outlet(s) = Cowlitz River (Lat 46.0977, Long –122.9141); Owl Creek (46.0771, –122.8676) upstream to endpoint(s) in: Baird Creek (46.1942, –122.5483); Coweeman River (46.1505, –122.5172); Cowlitz River (46.2660, –122.9154); Goble Creek (46.1103, –122.6789); Hill Creek (46.1784, –122.5990); Leckler Creek (46.2317, –122.9470); Little Baird Creek (46.1905, –122.5709); Martin Creek (46.1394, –122.5519); Mulholland Creek (46.2013, –122.6450); Nineteen Creek (46.1437, –122.6146); North Fork Goble Creek (46.1363, –122.6769); Nye Creek (46.1219, –122.8040); O'Neil Creek (46.1760, –122.5422); Ostrander Creek (46.2103, –122.7623); Owl Creek (46.0913, –122.8644); Salmon Creek (46.2547, –122.8839); Sandy Bend Creek (46.2319, –122.9140); Skipper Creek (46.1639, –122.5887); South Fork Ostrander Creek (46.1875, –122.8240); Turner Creek (46.1167, –122.8149); Unnamed (46.0719, –122.8607); Unnamed (46.0767, –122.8605); Unnamed (46.0824, –122.7200); Unnamed (46.0843, –122.7195); Unnamed (46.1185, –122.7253); Unnamed (46.1289, –122.8968); Unnamed (46.1390, –122.5709); Unnamed (46.1430, –122.8125); Unnamed (46.1433, –122.8084); Unnamed (46.1478, –122.8649); Unnamed (46.1546, –122.6376); Unnamed (46.1562, –122.7808); Unnamed (46.1579, –122.6476); Unnamed (46.1582, –122.5332); Unnamed (46.1605, –122.6681); Unnamed (46.1620, –122.5885); Unnamed (46.1671, –122.6284); Unnamed (46.1688, –122.9215); Unnamed (46.1724, –122.6118); Unnamed

(46.1735, –122.8282); Unnamed (46.1750, –122.8428); Unnamed (46.1750, –122.7557); Unnamed (46.1797, –122.7746); Unnamed (46.1803, –122.7801); Unnamed (46.1811, –122.7631); Unnamed (46.1814, –122.7656); Unnamed (46.1840, –122.8191); Unnamed (46.1955, –122.9082); Unnamed (46.1966, –122.5542); Unnamed (46.1971, –122.7118); Unnamed (46.2014, –122.8241); Unnamed (46.2021, –122.6941); Unnamed (46.2027, –122.5593); Unnamed (46.2172, –122.9516); Unnamed (46.2192, –122.6663); Unnamed (46.2199, –122.8375); Unnamed (46.2208, –122.8887); Unnamed (46.2231, –122.9509); Unnamed (46.2257, –122.7667); Unnamed (46.2261, –122.8023); Unnamed (46.2379, –122.8859); Unnamed (46.2430, –122.8842).

(7) Clackamas Subbasin 17090011—(i) *Collawash River Watershed 1709001101*. Outlet(s) = Collawash River (Lat 45.0321, Long –122.0600) upstream to endpoint(s) in: Blister Creek (44.9594, –122.1590); Dickey Creek (44.9335, –122.0469); East Fork Collawash River (44.8789, –121.9850); Elk Lake Creek (44.8886, –122.0128); Fan Creek (44.9926, –122.0735); Farm Creek (44.9620, –122.0604); Hot Springs Fork Collawash River (44.9005, –122.1616); Hugh Creek (44.9226, –122.1978); Pansy Creek (44.9463, –122.1420); Skin Creek (44.9477, –122.2015); Thunder Creek (44.9740, –122.1230).

(ii) *Upper Clackamas River Watershed 1709001102*. Outlet(s) = Clackamas River (Lat 45.0321, Long –122.0600) upstream to endpoint(s) in: Berry Creek (44.8291, –121.9176); Cabin Creek (45.0087, –121.8958); Clackamas River (44.8723, –121.8470); Cub Creek (44.8288, –121.8863); Fawn Creek (44.9089, –121.9226); Hunter Creek (44.8926, –121.9285); Kansas Creek (44.9820, –121.8999); Last Creek (44.9759, –121.8424); Lost Creek (45.0180, –121.9070); Lowe Creek (44.9636, –121.9457); Pinhead Creek (44.9421, –121.8359); Pot Creek (45.0201, –121.9014); Rhododendron Creek (44.9358, –121.9154); Sisi Creek (44.9110, –121.8875); Unnamed (44.8286, –121.9225); Unnamed (44.8343, –121.8778); Unnamed (44.8944, –121.9028); Unnamed (44.9355, –121.8735); Unnamed (44.9661, –121.8894); Unnamed (44.9687, –121.8920); Unnamed (45.0000, –121.8910).

(iii) *Oak Grove Fork Clackamas River Watershed 1709001103*. Outlet(s) = Oak Grove Fork Clackamas River (Lat 45.0746, Long –122.0520) upstream to endpoint(s) in: Oak Grove Fork Clackamas River (45.0823, –121.9861); Pint Creek (45.0834, –122.0355).

(iv) *Middle Clackamas River Watershed 1709001104*. Outlet(s) = Clackamas River (Lat 45.2440, Long –122.2798) upstream to endpoint(s) in: Big Creek (45.0694, –122.0848); Calico Creek (45.0682, –122.1627); Clackamas River (45.0321, –122.0600); Cripple Creek (45.1149, –122.0618); Fish Creek (45.0634, –122.1597); Mag Creek (45.0587, –122.0488); North Fork Clackamas River (45.2371, –122.2181); Pick Creek (45.0738, –122.1994); Pup Creek (45.1451, –122.1055); Roaring River (45.1773, –122.0650); Sandstone Creek (45.0862, –122.0845); Second Creek (45.1081, –122.1601); South Fork Clackamas River (45.1912, –122.2261); Tag Creek (45.0605, –122.0475); Tar Creek (45.0494, –122.0569); Third Creek (45.0977, –122.1649); Trout Creek (45.0379, –122.0720); Wash Creek (45.0473, –122.1893); Whale Creek (45.1102, –122.0849).

(v) *Eagle Creek Watershed 1709001105*. Outlet(s) = Eagle Creek (Lat 45.3535, Long –122.3823) upstream to endpoint(s) in: Bear Creek (45.3369, –122.2331); Currin Creek (45.3369, –122.3555); Delph Creek (45.2587, –122.2098); Eagle Creek (45.2766, –122.1998); Little Eagle Creek (45.3003, –122.1682); North Fork Eagle Creek (45.3142, –122.1135); Trout Creek (45.3305, –122.1187).

(vi) *Lower Clackamas River 1709001106*. Outlet(s) = Clackamas River (Lat 45.3719, Long –122.6071) upstream to endpoint(s) in: Bargfeld Creek (45.3195, –122.4398); Clackamas River (45.2440, –122.2798); Clear Creek (45.2022, –122.3121); Deep Creek (45.3421, –122.2799); Foster Creek (45.3512, –122.4082); Goose Creek (45.3621, –122.3549); Little Clear Creek (45.2803, –122.4055); Mosier Creek (45.2683, –122.4516); North Fork Deep Creek (45.4271, –122.3094); Richardson Creek (45.4097, –122.4484); Rock Creek (45.4157, –122.5013); Tickle Creek (45.3932, –122.2775); Unnamed (45.3502, –122.4861); Unnamed (45.3626, –122.2858); Unnamed (45.3816, –122.3721); Unnamed (45.4057, –122.3223); Unnamed (45.4102, –122.2987); Wade Creek (45.2922, –122.3237).

(8) Lower Willamette Subbasin 17090012—(i) *Johnson Creek Watershed 1709001201*. Outlet(s) = Willamette River (Lat 45.4423, Long –122.6453) upstream to endpoint(s) in: Crystal Springs

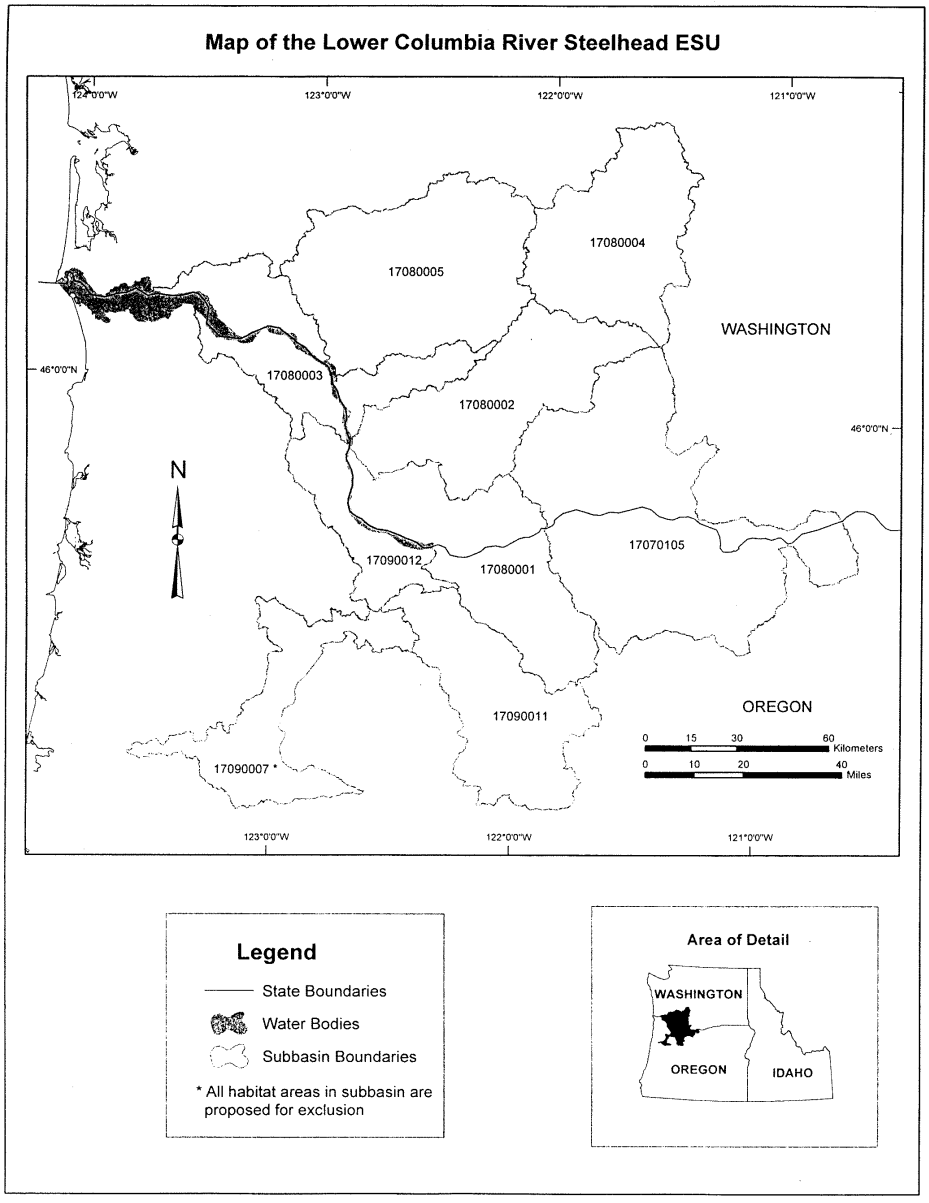
Creek (45.4811, –122.6381); Crystal Springs Lake (45.4799, –122.6361); Johnson Creek (45.4610, –122.3432); Kellogg Creek (45.4083, –122.5925); Kelly Creek (45.4661, –122.4655); Mount Scott Creek (45.4306, –122.5556); Oswego Creek (45.4105, –122.6666); Phillips Creek (45.4328, –122.5763); Tryon Creek (45.4472, –122.6863); Unnamed (45.4793, –122.4165); Willamette River (45.3719, –122.6071).

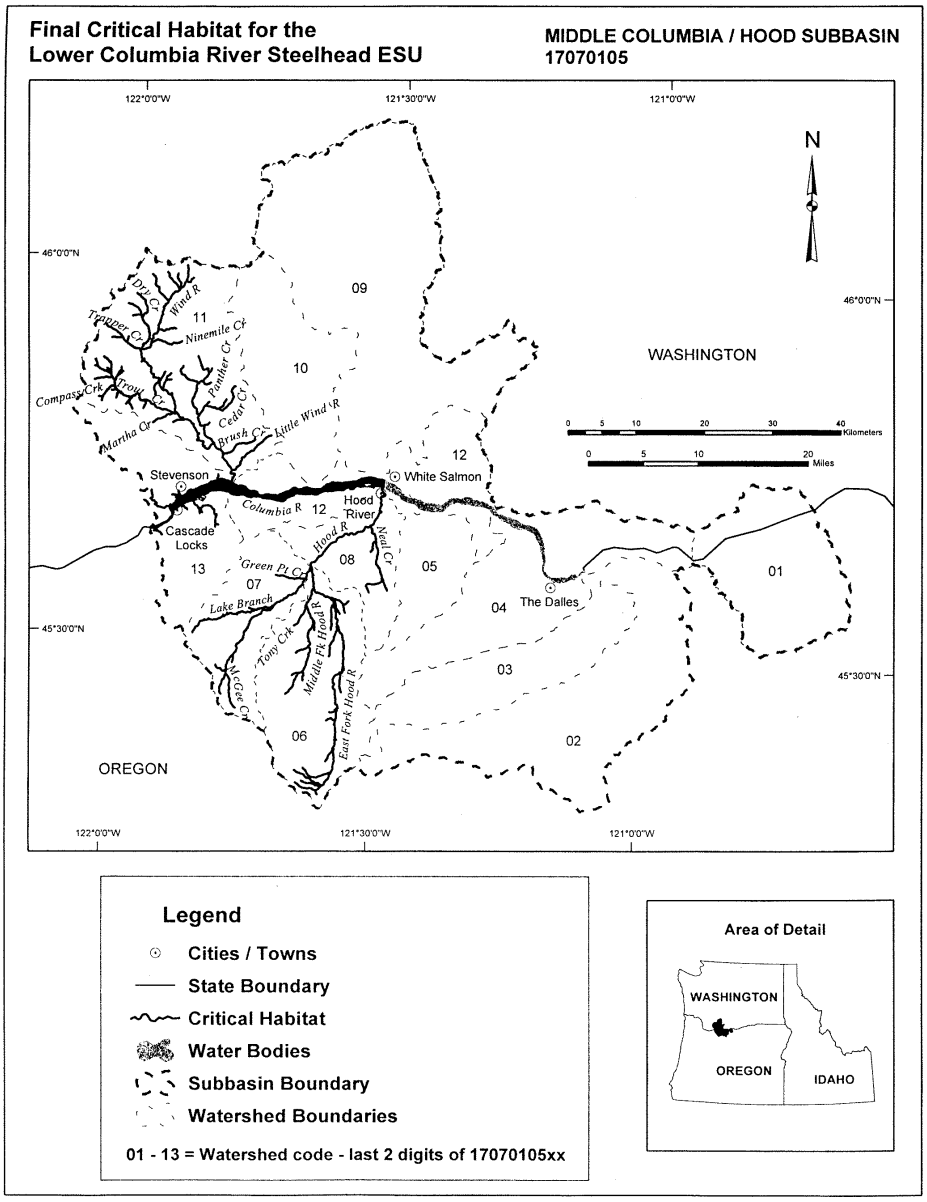
(ii) *Scappoose Creek Watershed 1709001202*. Outlet(s) = Multnomah Channel (Lat 45.8577, Long –122.7919) upstream to endpoint(s) in: Multnomah Channel (45.6188, –122.7921).

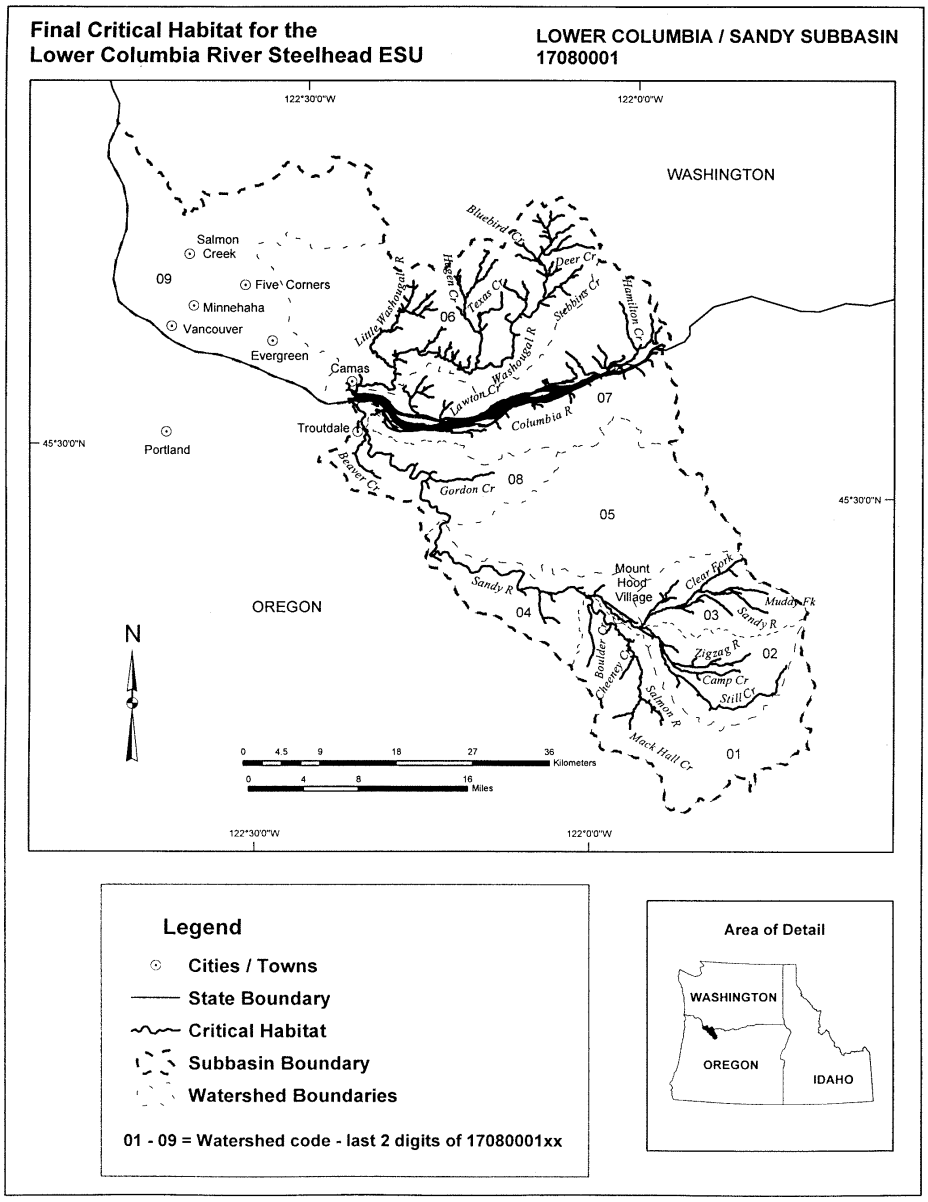
(iii) *Columbia Slough/Willamette River Watershed 1709001203*. Outlet(s) = Willamette River (Lat 45.6530, Long –122.7646) upstream to endpoint(s) in: Bybee Lake (45.6266, –122.7523); Bybee/Smith Lakes (45.6105, –122.7285); Columbia Slough #1 (45.6078, –122.7447); Swan Island Basin (45.5652, –122.7120); Unnamed (45.6253, –122.7568); Willamette River (45.4423, –122.6453).

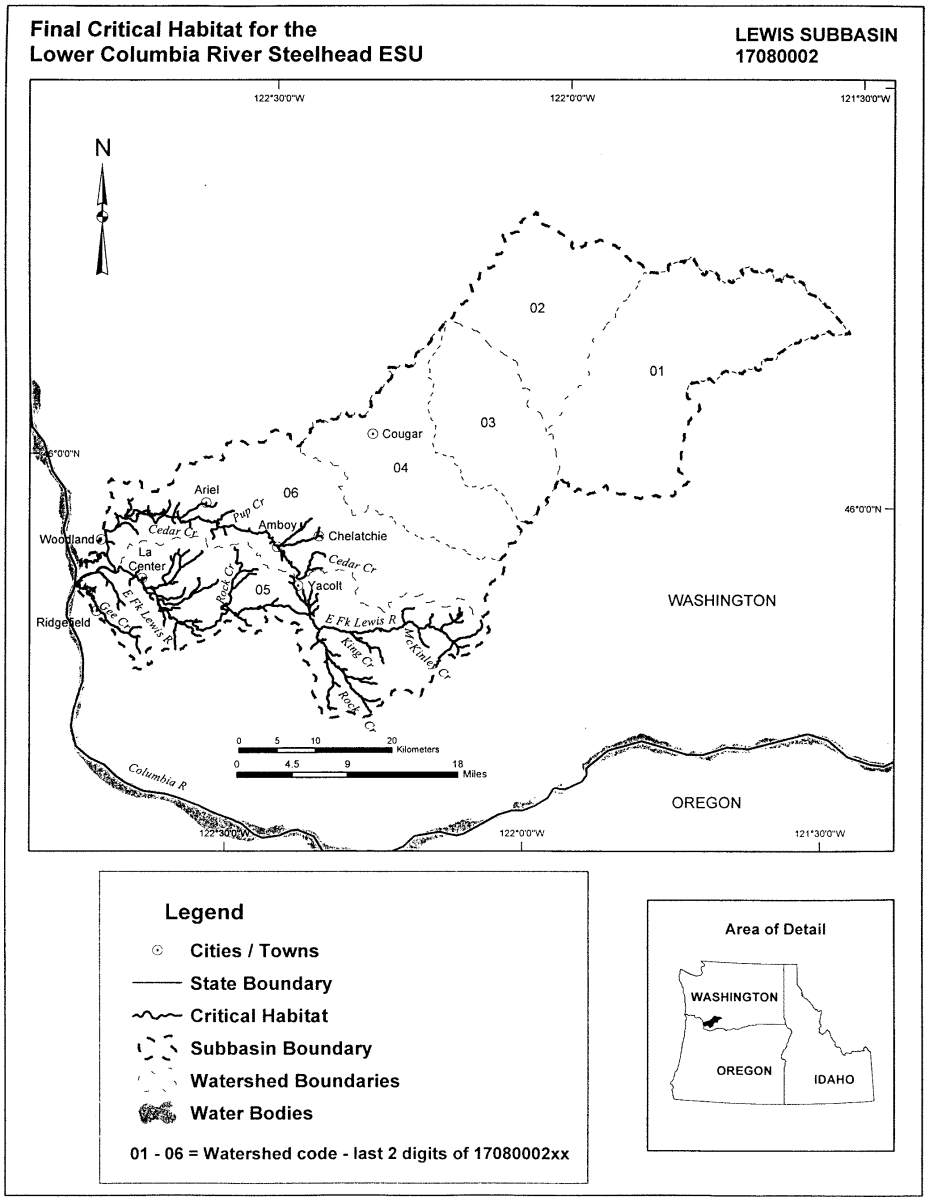
(9) Lower Columbia River Corridor—*Lower Columbia River Corridor* Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (45.5710, –122.4021).

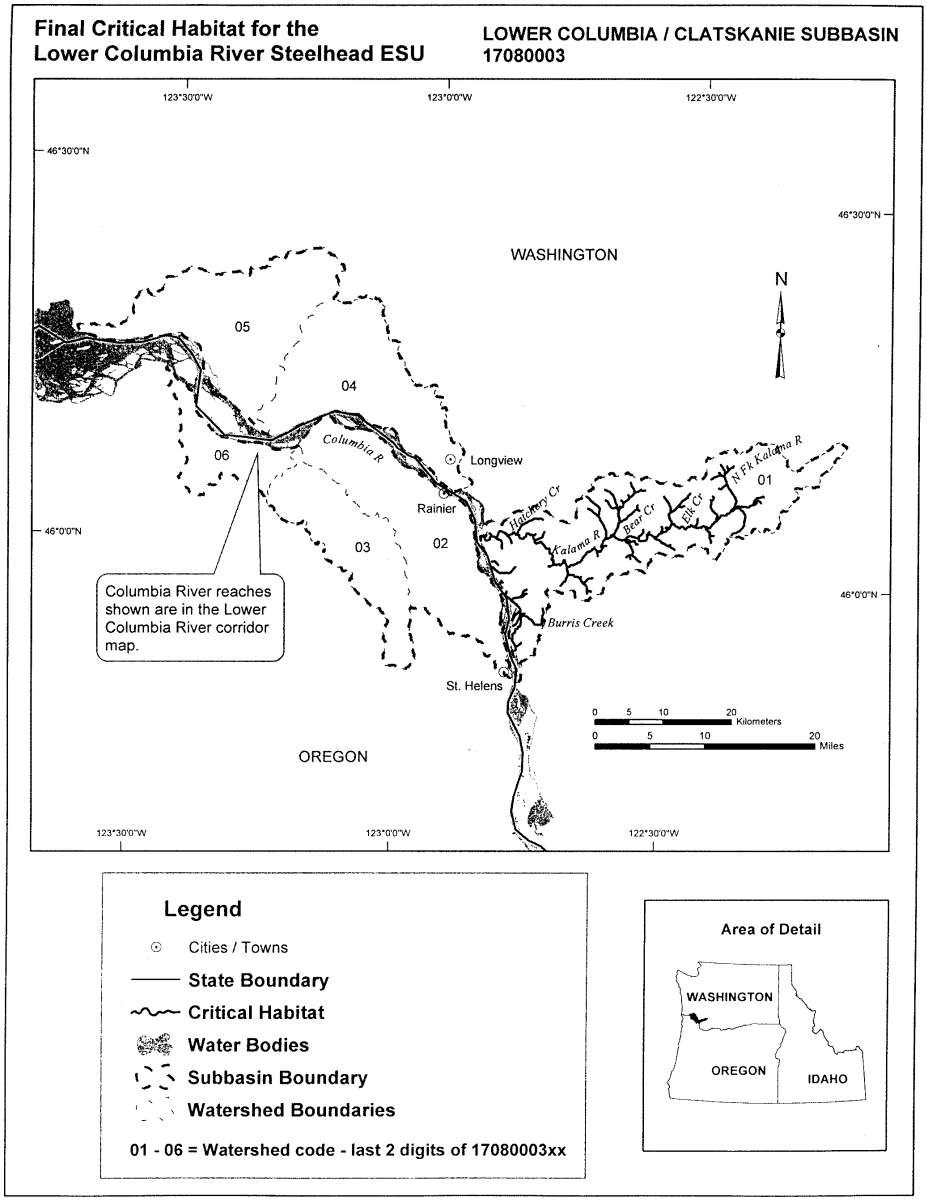
(10) Maps of critical habitat for the Lower Columbia River Steelhead ESU follow:

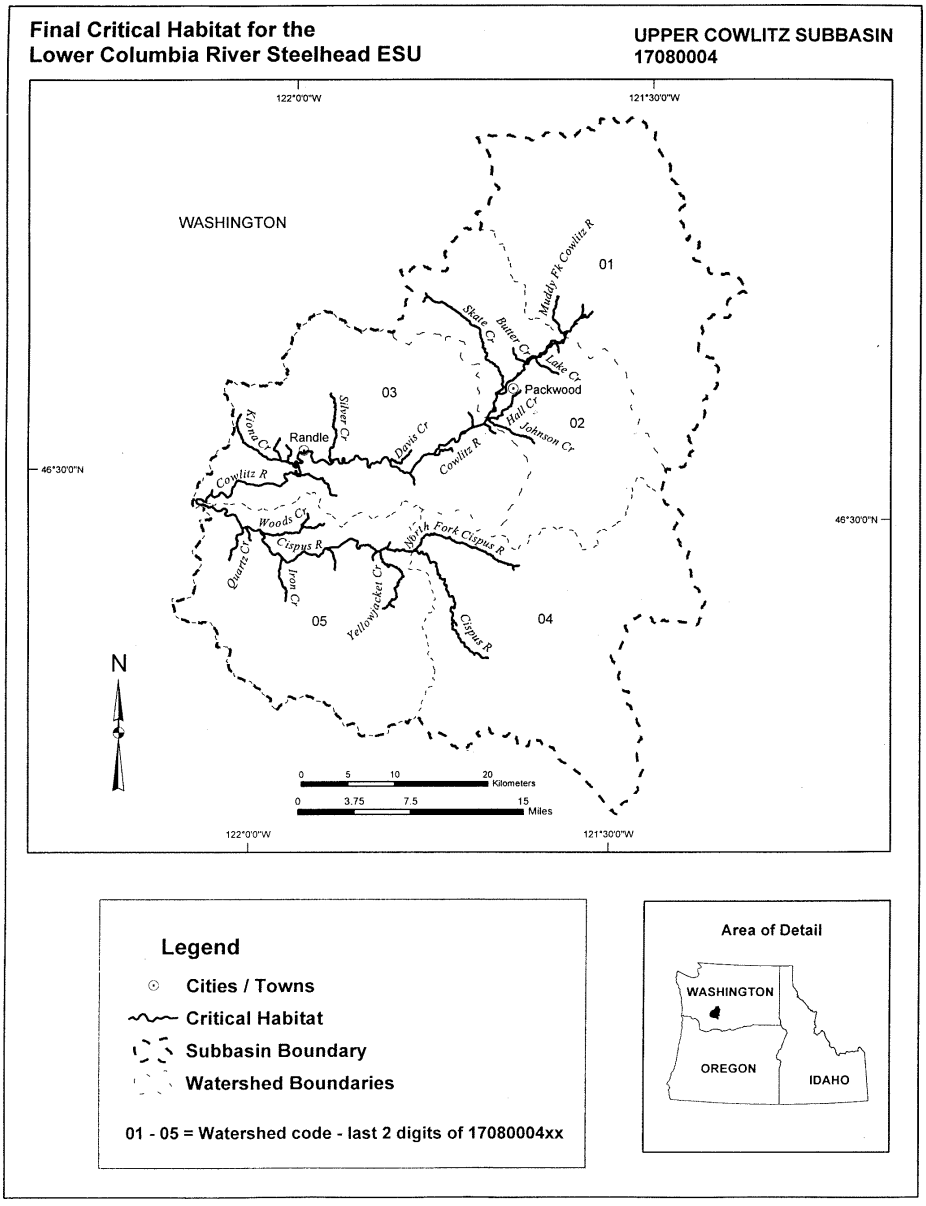

Map of the Lower Columbia River Steelhead ESU
122°0'0"W
123°0'0"W
122°0'0"W
121°0'0"W
17080004
17080005
WASHINGTON
46°0'0"N
17080003
17080002
46°0'0"N
N
17070105
17090012
17080001
OREGON
17090011
0 15 30 60 Kilometers
0 10 20 40 Miles
17090007 *
123°0'0"W
122°0'0"W
121°0'0"W
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
* All habitat areas in subbasin are proposed for exclusion
Area of Detail
WASHINGTON
OREGON
IDAHO

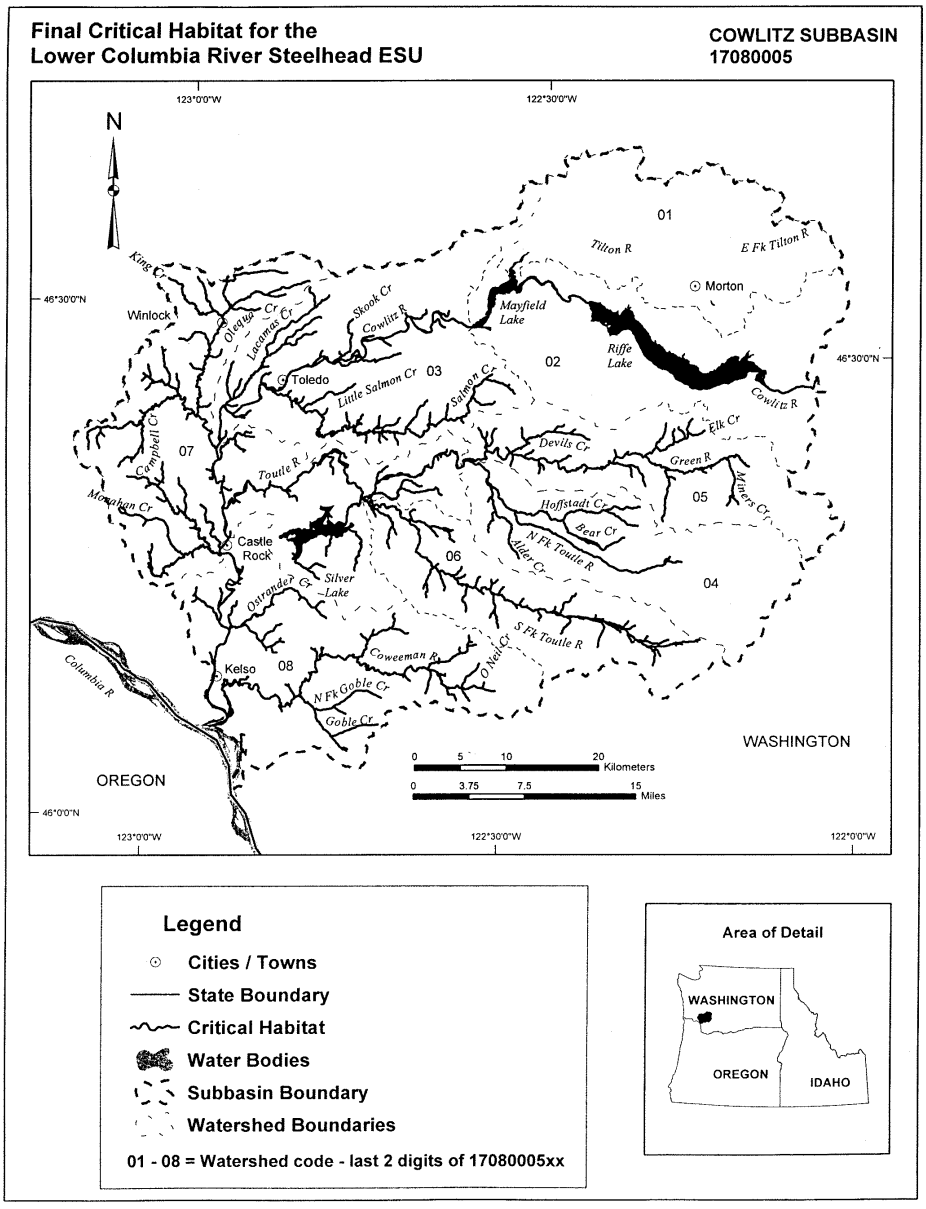

Final Critical Habitat for the
Lower Columbia River Steelhead ESU
MIDDLE COLUMBIA / HOOD SUBBASIN
17070105
122°0'0"W
121°30'0"W
121°0'0"W
46°0'0"N
45°30'0"N
N
WASHINGTON
OREGON
09
10
11
12
13
08
07
06
05
04
03
02
01
Stevenson
White Salmon
Hood River
Cascade Locks
The Dalles
Columbia R
Hood R
Little Wind R
Dry Cr
Wind R
Ninemile Cr
Panther Cr
Cedar Cr
Trapper Cr
Compass Crk
Martha Cr
Brush Cr
Green Pt Cr
Lake Branch
Tony Crk
Middle Fk Hood R
East Fork Hood R
Neal Cr
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 13 = Watershed code - last 2 digits of 17070105xx
Area of Detail
WASHINGTON
OREGON
IDAHO

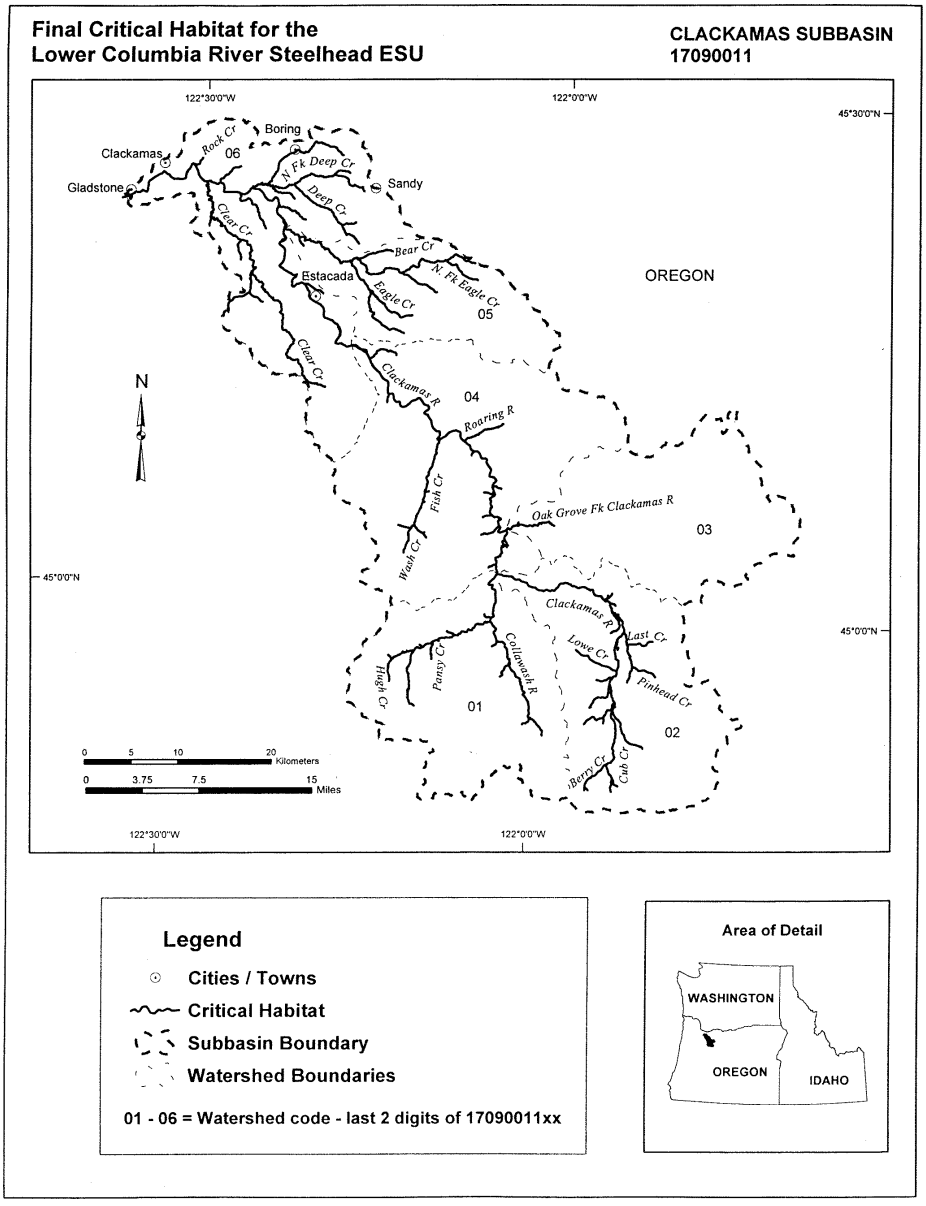

Final Critical Habitat for the
Lower Columbia River Steelhead ESU
LOWER COLUMBIA / SANDY SUBBASIN
17080001
122°30'0"W
122°0'0"W
WASHINGTON
OREGON
45°30'0"N
Salmon Creek
Five Corners
Minnehaha
Vancouver
Evergreen
Camas
Troutdale
Portland
09
06
07
08
05
04
03
02
01
Bluebird Cr
Deer Cr
Hixson Cr
Texas Cr
Stebbins Cr
Hamilton Cr
Little Washougal R
Lawton Cr
Washougal R
Columbia R
Beaver Cr
Gordon Cr
Sandy R
Mount Hood Village
Clear Fork
Muddy Fk
Zigzag R
Camp Cr
Still Cr
Salmon R
Boulder Cr
Cheeney Cr
Mack Hall Cr
N
0 4.5 9 18 27 36 Kilometers
0 4 8 16 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 09 = Watershed code - last 2 digits of 17080001xx
Area of Detail
WASHINGTON
OREGON
IDAHO

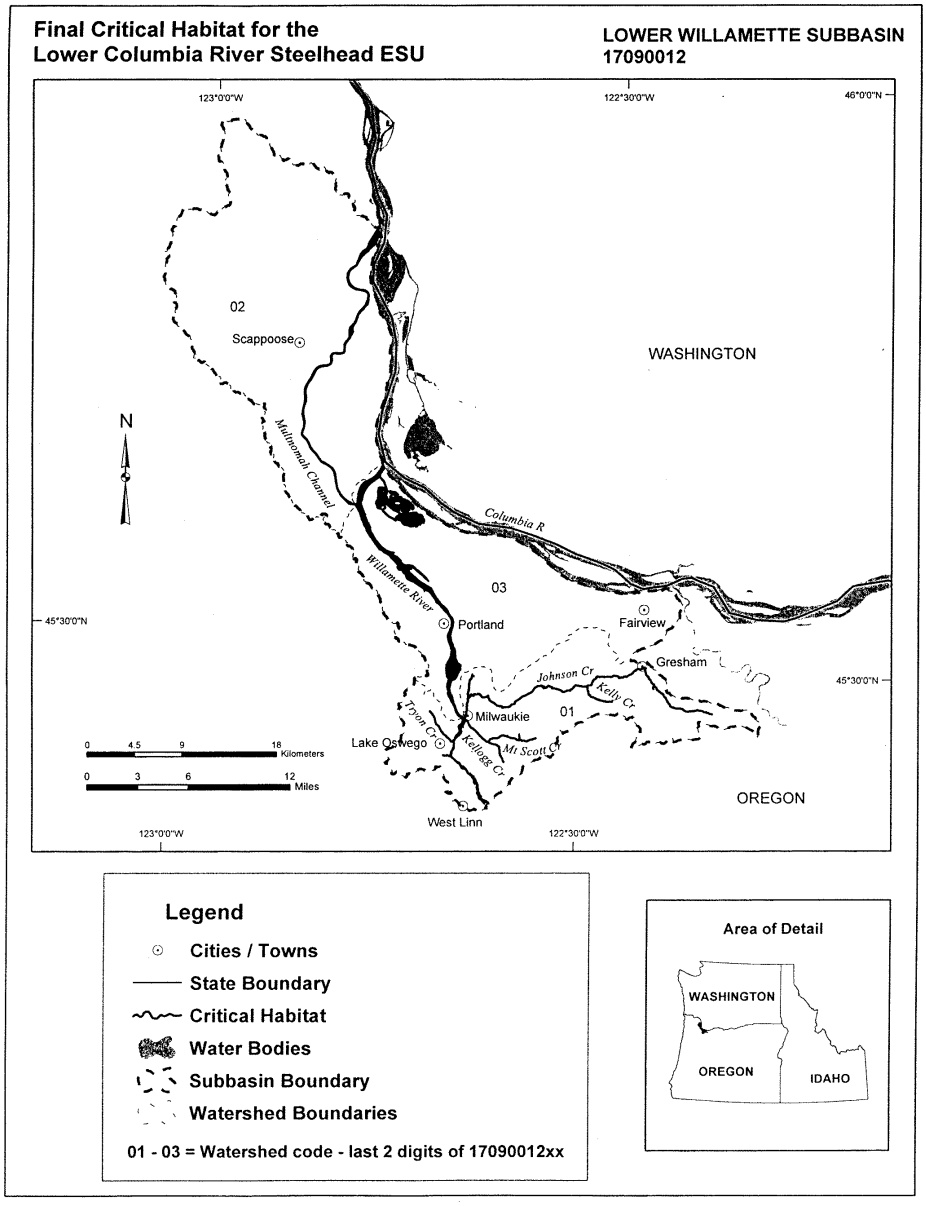

Final Critical Habitat for the
Lower Columbia River Steelhead ESU
LEWIS SUBBASIN
17080002
122°30'0"W
122°0'0"W
121°30'0"W
N
02
01
03
Cougar
04
06
Ariel
Pup Cr
Cedar Cr
Amboy
Chelatchie
Woodland
La Center
Cedar Cr
Yacolt
05
Bluff Cr
E Fk Lewis R
Gee Cr
Ridgefield
E Fk Lewis R
King Cr
McKenzie Cr
Rock Cr
WASHINGTON
0 5 10 20 Kilometers
0 4.5 9 18 Miles
Columbia R
OREGON
46°0'0"N
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
Water Bodies
01 - 06 = Watershed code - last 2 digits of 17080002xx
Area of Detail
WASHINGTON
OREGON
IDAHO

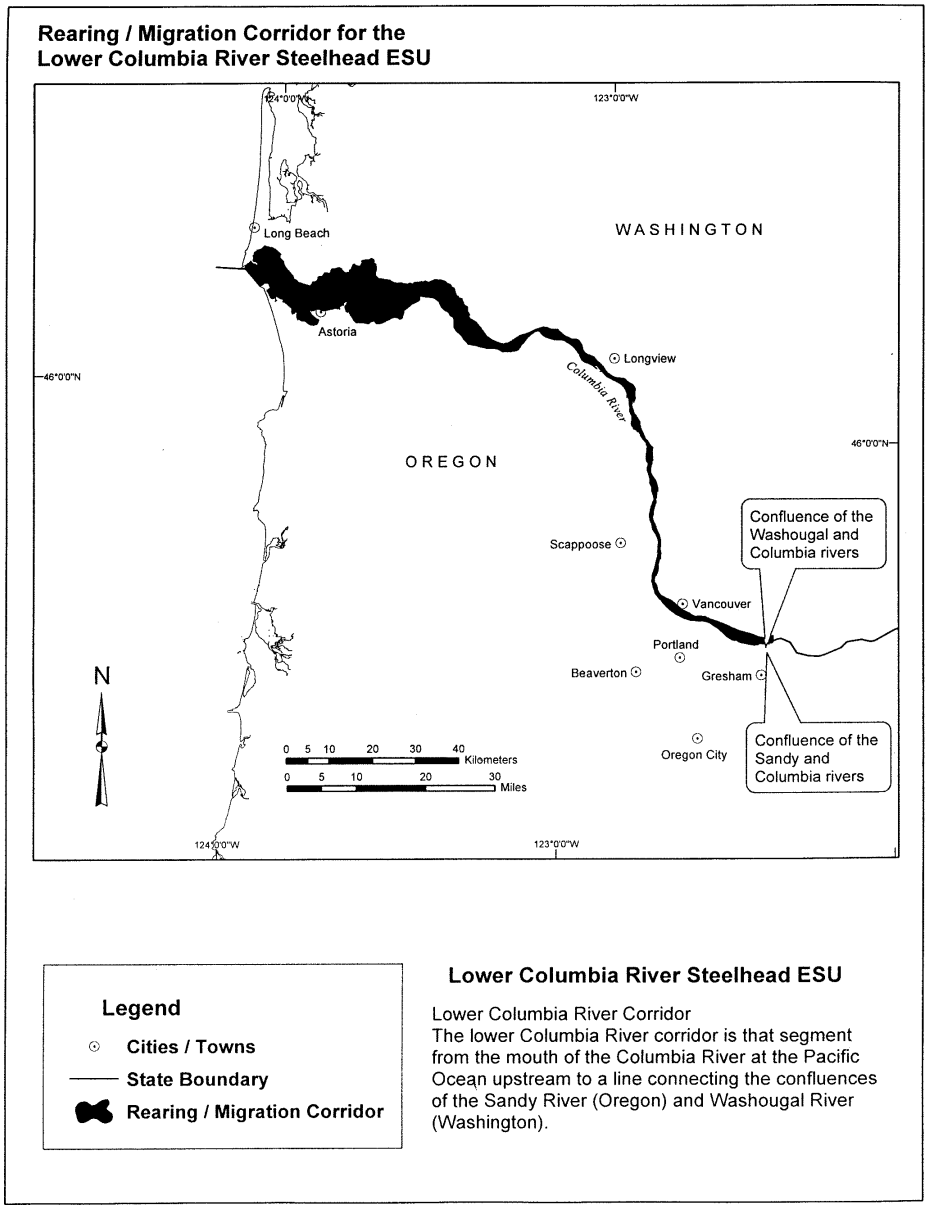

Final Critical Habitat for the
Lower Columbia River Steelhead ESU
LOWER COLUMBIA / CLATSKANIE SUBBASIN
17080003
123°30'0"W
123°0'0"W
122°30'0"W
46°30'0"N
46°0'0"N
WASHINGTON
OREGON
N
05
04
06
03
02
01
Columbia R
Longview
Rainier
St. Helens
Hamilton Cr
Kalama R
Bear Cr
Elk Cr
N Fk Kalama R
Burris Creek
Columbia River reaches shown are in the Lower Columbia River corridor map.
0 5 10 20 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17080003xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Steelhead ESU
UPPER COWLITZ SUBBASIN
17080004
122°0'0"W
121°30'0"W
WASHINGTON
01
02
03
04
05
Muddy Fk Cowlitz R
Skate Cr
Butter Cr
Lake Cr
Packwood
Hall Cr
Johnson Cr
Silver Cr
Randle
Davis Cr
Cowlitz R
Kiona Cr
Woods Cr
Cispus R
North Fork Cispus R
Quartz Cr
Iron Cr
Yellowjacket Cr
46°30'0"N
N
0 5 10 20 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17080004xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Steelhead ESU
COWLITZ SUBBASIN
17080005
123°0'0"W
122°30'0"W
N
46°30'0"N
46°0'0"N
122°0'0"W
01
02
03
04
05
06
07
08
Tilton R
E Fk Tilton R
Morton
Mayfield Lake
Riffe Lake
Cowlitz R
King Cr
Winlock
Olequa Cr
Lacamas Cr
Skook Cr
Toledo
Little Salmon Cr
Salmon Cr
Campbell Cr
Devils Cr
Elk Cr
Green R
Toutle R
Maners Cr
Hoffstadt Cr
Bear Cr
N Fk Toutle R
Ilder Cr
Castle Rock
Silver Lake
Ostrander Cr
S Fk Toutle R
O Neil Cr
Coweeman R
Kelso
N Fk Goble Cr
Goble Cr
Columbia R
OREGON
WASHINGTON
0 5 10 20 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17080005xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Steelhead ESU
CLACKAMAS SUBBASIN
17090011
122°30'0"W
122°0'0"W
45°30'0"N
45°0'0"N
Boring
Clackamas
Gladstone
Sandy
Estacada
Rock Cr
N Fk Deep Cr
Deep Cr
Clear Cr
Bear Cr
N. Fk Eagle Cr
Eagle Cr
Clear Cr
Clackamas R
Roaring R
Fish Cr
Wash Cr
Oak Grove Fk Clackamas R
Clackamas R
Last Cr
Lowe Cr
Pinhead Cr
Collawash R
Pansy Cr
High Cr
Berry Cr
Cub Cr
06
05
04
03
02
01
OREGON
N
0 5 10 20 Kilometers
0 3.75 7.5 15 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090011xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Lower Columbia River Steelhead ESU
LOWER WILLAMETTE SUBBASIN
17090012
123°0'0"W
122°30'0"W
46°0'0"N
45°30'0"N
02
Scappoose
WASHINGTON
N
Multnomah Channel
Columbia R
Willamette River
03
Portland
Fairview
Gresham
Johnson Cr
Kelly Cr
Milwaukie
01
Tryon Cr
Lake Oswego
Kellogg Cr
Mt Scott Cr
West Linn
OREGON
0 4.5 9 18 Kilometers
0 3 6 12 Miles
Legend
Cities / Towns
State Boundary
Critical Habitat
Water Bodies
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17090012xx
Area of Detail
WASHINGTON
OREGON
IDAHO



(t) *Upper Willamette River Steelhead (Oncorhynchus mykiss).* Critical habitat is designated to include the areas defined in the following subbasins:

(1) Upper Willamette Subbasin 17090003—(i) *Calapooia River Watershed 1709000303.* Outlet(s) = Calapooia River (Lat 44.5088, Long –123.1101) upstream to endpoint(s) in: Bigs Creek (44.2883, –122.6133); Butte Creek (44.4684, –123.0488); Calapooia River (44.2361, –122.3664); Hands Creek (44.2559,

–122.5127); King Creek (44.2458, –122.4452); McKinley Creek (44.2569, –122.5621); North Fork Calapooia River (44.2497, –122.4094); Potts Creek (44.2581, –122.4756); Spoon Creek (44.4379, –123.0877); United States Creek (44.2244, –122.3825).

(ii) *Oak Creek Watershed 1709000304*. Outlet(s) = Willamette River (Lat 44.7504, Long –123.1421) upstream to endpoint(s) in: Calapooia River (44.5088, –123.1101); Cox Creek (44.6417, –123.0680); Periwinkle Creek (44.6250, –123.0814); Truax Creek (44.6560, –123.0598).

(iii) *Luckiamute River Watershed 1709000306*. Outlet(s) = Luckiamute River (Lat 44.7561, Long –123.1468) upstream to endpoint(s) in: Bonner Creek (44.6735, –123.4849); Burgett Creek (44.6367, –123.4574); Clayton Creek (44.7749, –123.4870); Cooper Creek (44.8417, –123.3246); Grant Creek (44.8389, –123.4098); Little Luckiamute River (44.8673, –123.4375); Luckiamute River (44.7970, –123.5270); Maxfield Creek (44.6849, –123.3427); McTimmonds Creek (44.7622, –123.4125); North Fork Pedee Creek (44.7866, –123.4511); Plunkett Creek (44.6522, –123.4241); Price Creek (44.6677, –123.3732); Sheythe Creek (44.7683, –123.5027); Soap Creek (44.6943, –123.2488); South Fork Pedee Creek (44.7798, –123.4667); Teal Creek (44.8329, –123.4582); Unnamed (44.7562, –123.5293); Unnamed (44.7734, –123.2027); Unnamed (44.7902, –123.6211); Vincent Creek (44.6380, –123.4327); Waymire Creek (44.8725, –123.4128); Woods Creek (44.6564, –123.3905).

(2) North Santiam Subbasin 17090005—(i) *Middle North Santiam River Watershed 1709000504*. Outlet(s) = North Santiam River (Lat 44.7852, Long –122.6079) upstream to endpoint(s) in: Little Rock Creek (44.7330, –122.3927); Mad Creek (44.7373, –122.3735); North Santiam River (44.7512, –122.2825); Rock Creek (44.7011, –122.4080); Snake Creek (44.7365, –122.4870).

(ii) *Little North Santiam River Watershed 1709000505*. Outlet(s) = Little North Santiam River (Lat 44.7852, Long –122.6079) upstream to endpoint(s) in: Cedar Creek (44.8439, –122.2682); Elkhorn Creek (44.8139, –122.3451); Evans Creek (44.8412, –122.3601); Fish Creek (44.8282, –122.3915); Little North Santiam River (44.8534, –122.2887); Little Sinker Creek (44.8235, –122.4163); Sinker Creek (44.8211, –122.4210).

(iii) *Lower North Santiam River Watershed 1709000506*. Outlet(s) = Santiam River (Lat 44.7504, Long –123.1421) upstream to endpoint(s) in: Bear Branch (44.7602, –122.7942); Chehulpum Creek (44.7554, –122.9898); Cold Creek (44.7537, –122.8812); Morgan Creek (44.7495, –123.0443); North Santiam River (44.7852, –122.6079); Salem Ditch (44.8000, –122.8120); Santiam River (44.6869, –123.0052); Smallman Creek (44.7293, –122.9139); Stout Creek (44.8089, –122.5994); Trask Creek (44.7725, –122.6152); Unnamed (44.7972, –122.7328); Valentine Creek (44.7999, –122.7311).

(3) South Santiam Subbasin 17090006—(i) *Hamilton Creek/South Santiam River Watershed 1709000601*. Outlet(s) = South Santiam River (Lat 44.6869, Long –123.0052) upstream to endpoint(s) in: Albany—Santiam Canal (44.5512, –122.9032); Hamilton Creek (44.5392, –122.7018); Johnson Creek (44.4548, –122.7080); McDowell Creek (44.4640, –122.6803); Mill Creek (44.6628, –122.9575); Morgan Creek (44.4557, –122.7058); Noble Creek (44.4513, –122.7974); South Santiam River (44.4163, –122.6693).

(ii) *Crabtree Creek Watershed 1709000602*. Outlet(s) = Crabtree Creek (Lat 44.6756, Long –122.9557) upstream to endpoint(s) in: Bald Barney Creek (44.5469, –122.5959); Bald Peter Creek (44.5325, –122.6024); Beaver Creek (44.6337, –122.8537); Camp Creek (44.5628, –122.5768); Crabtree Creek (44.6208, –122.5055); Cruiser Creek (44.5543, –122.5831); Green Mountain Creek (44.5777, –122.6258); Roaring River (44.6281, –122.7148); Rock Creek (44.5883, –122.6000); South Fork Crabtree Creek (44.5648, –122.5441); White Rock Creek (44.6050, –122.5209).

(iii) *Thomas Creek Watershed 1709000603*. Outlet(s) = Thomas Creek (Lat 44.6778, Long –122.9654) upstream to endpoint(s) in: Criminal Creek (44.7122, –122.5709); Ella Creek (44.6815, –122.5228); Hortense Creek (44.6756, –122.5017); Jordan Creek (44.7527, –122.6519); Mill Creek (44.7060, –122.7849); Neal Creek (44.6923, –122.6484); South Fork Neal Creek (44.7016, –122.7049); Thomas Creek (44.6776, –122.4650); West Fork Ella Creek (44.6805, –122.5288).

(iv) *South Santiam River Watershed 1709000606*. Outlet(s) = South Santiam River (Lat 44.3977, Long –122.4473) upstream to endpoint(s) in: Canyon Creek (44.3074, –122.3300); Falls Creek (44.4007, –122.3828); Harter Creek (44.4166, –122.2605); Keith Creek (44.4093, –122.2847); Moose Creek (44.4388, –122.3671), Owl Creek (44.2999, –122.3686); Shuttle Camp Creek (44.4336, –122.2597); Soda Fork South Santiam River (44.4410, –122.2466); South Santiam River (44.3980, –122.2610); Trout Creek (44.3993, –122.3464); Two Girls Creek (44.3248, –122.3346).

(v) *South Santiam River/Foster Reservoir Watershed 1709000607*. Outlet(s) = South Santiam River (Lat 44.4163, Long –122.6693) upstream to endpoint(s) in: Lewis Creek (44.4387, –122.6223); Middle Santiam River (44.4498, –122.5479); South Santiam River (44.3977, –122.4473).

(vi) *Wiley Creek Watershed 1709000608*. Outlet(s) = Wiley Creek (Lat 44.4140, Long –122.6752) upstream to endpoint(s) in: Farmers Creek (44.3383, –122.5812); Jackson Creek (44.3669, –122.6344); Little Wiley Creek (44.3633, –122.5228); Unnamed (44.3001, –122.4579); Unnamed (44.3121, –122.5197); Unnamed (44.3455, –122.5934); Unnamed (44.3565, –122.6051); Wiley Creek (44.2981, –122.4318).

(4) Middle Willamette Subbasin 17090007—(i) *Mill Creek/Willamette River Watershed 1709000701*. Outlet(s) = Mill Creek (Lat 44.9520, Long –123.0381) upstream to endpoint(s) in: Mill Creek (44.8268, –122.8249).

(ii) *Rickreall Creek Watershed 1709000702*. Outlet(s) = Willamette River (Lat 44.9288, Long –123.1124) upstream to endpoint(s) in: Willamette River (44.7504, –123.1421).

(iii) *Willamette River/Chehalem Creek Watershed 1709000703*. Outlet(s) = Willamette River (Lat 45.2552, Long –122.8806) upstream to endpoint(s) in: Willamette River (44.9288, –123.1124).

(iv) *Abernethy Creek Watershed 1709000704*. Outlet(s) = Willamette River (Lat 45.3540, Long –122.6186) upstream to endpoint(s) in: Willamette River (45.2552, –122.8806).

(5) Yamhill Subbasin 17090008—(i) *Upper South Yamhill River Watershed 1709000801*. Outlet(s) = South Yamhill River (Lat 45.0784, Long –123.4753) upstream to endpoint(s) in: Agency Creek (45.1799, –123.6976); Cedar Creek (45.0892, –123.6969); Cockerham Creek (45.0584, –123.5077); Cosper Creek (45.1497, –123.6178); Cow Creek (45.0410, –123.6165); Crooked Creek (45.0964, –123.6611); Doane Creek (45.0449, –123.4929); Ead Creek (45.1214, –123.6969); Elmer Creek (45.0794, –123.6714); Gold Creek (45.0108, –123.5496); Jackass Creek (45.0589, –123.6495); Joe Creek (45.1216, –123.6216); Joe Day Creek (45.0285, –123.6660); Kitten Creek (45.1110, –123.7266); Klees Creek (45.0784, –123.5496); Lady Creek (45.0404, –123.5269); Little Rowell Creek (45.0235, –123.5792); Mule Tail Creek (45.0190, –123.5547); Pierce Creek (45.1152, –123.7203); Rock Creek (45.0130, –123.6344); Rogue River (45.0613, –123.6550); Rowell Creek (45.0187, –123.5699); Unnamed (45.0318, –123.5421); Unnamed (45.0390, –123.4620); Unnamed (45.0431, –123.5541); Unnamed (45.0438, –123.4721); Unnamed (45.0493, –123.6044); Unnamed (45.0599, –123.4661); Unnamed (45.0945, –123.6110); Unnamed (45.0994, –123.6276); Unnamed (45.1151, –123.6566); Unnamed (45.1164, –123.6717); Unnamed (45.1412, –123.6705); West Fork Agency Creek (45.1575, –123.7032); Wind River (45.1367, –123.6392); Yoncalla Creek (45.1345, –123.6614).

(ii) *Mill Creek/South Yamhill River Watershed 1709000803*. Outlet(s) = Mill Creek (Lat 45.0908, Long –123.4434) upstream to endpoint(s) in: Mill Creek (45.0048, –123.4184).

(iii) *Lower South Yamhill River Watershed 1709000804*. Outlet(s) = South Yamhill River (Lat 45.1616, Long –123.2190) upstream to endpoint(s) in: South Yamhill River (45.0784, –123.4753).

(iv) *Yamhill River Watershed 1709000807*. Outlet(s) = Yamhill River (Lat 45.2301, Long –122.9950) upstream to endpoint(s) in: South Yamhill River (45.1616, –123.2190).

(6) Molalla/Pudding Subbasin 17090009-(i) *Abiqua Creek/Pudding River Watershed 1709000901*. Outlet(s) = Pudding River (Lat 45.0740, Long –122.8525) upstream to endpoint(s) in : Abiqua Creek (44.9264, –122.5666); Little Abiqua Creek (44.9252, –122.6204); Little Pudding River (45.0435, –122.8965); Powers Creek (44.9552, –122.6796); Pudding (44.9998, –122.8412); Silver Creek (44.8981, –122.6799).

(ii) *Butte Creek/Pudding River Watershed 1709000902*. Outlet(s) = Pudding

River (Lat 45.1907, Long –122.7527) upstream to endpoint(s) in: Pudding River (45.0740, –122.8525).

(iii) *Rock Creek/Pudding River Watershed 1709000903*. Outlet(s) = Rock Creek (Lat 45.1907, Long –122.7527) upstream to endpoint(s) in: Rock Creek (45.0876, –122.5916).

(iv) *Senecal Creek/Mill Creek Watershed 1709000904*. Outlet(s) = Pudding River (Lat 45.2843, Long –122.7149) upstream to endpoint(s) in: Pudding River (45.1907, –122.7527).

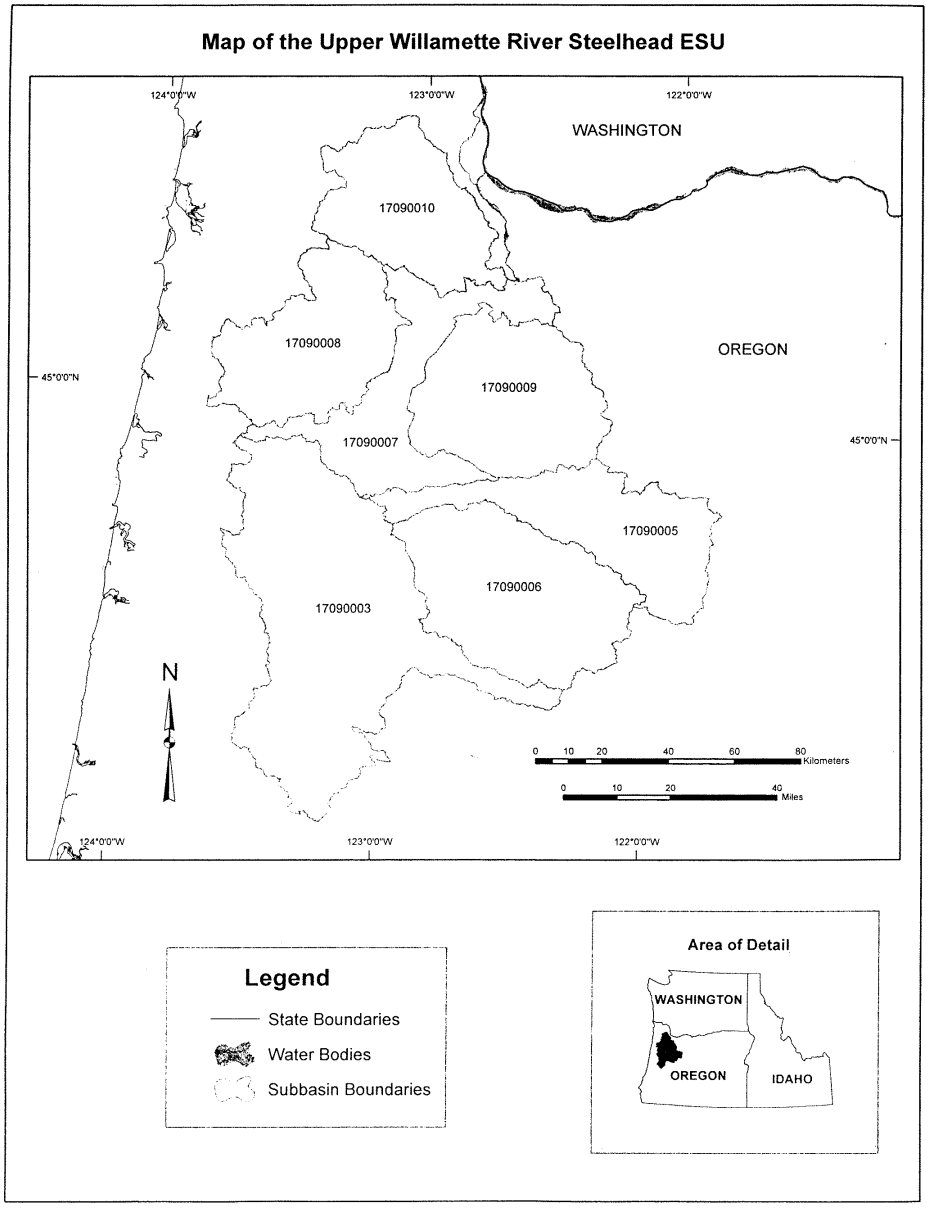
(v) *Upper Molalla River Watershed 1709000905*. Outlet(s) = Molalla River (Lat 45.1196, Long –122.5342) upstream to endpoint(s) in: Camp Creek (44.9630, –122.2928); Cedar Creek (45.0957, –122.5257); Copper Creek (44.8877, –122.3704); Cougar Creek (45.0421, –122.3145); Dead Horse Canyon Creek (45.0852, –122.3146); Gawley Creek (44.9320, –122.4304); Lost Creek (44.9913, –122.2444); Lukens Creek (45.0498, –122.2421); Molalla River (44.9124, –122.3228); North Fork Molalla River (45.0131, –122.2986); Pine Creek (45.0153, –122.4560); Table Rock Fork Molalla River (44.9731, –122.2629); Trout Creek (45.0577, –122.4657).

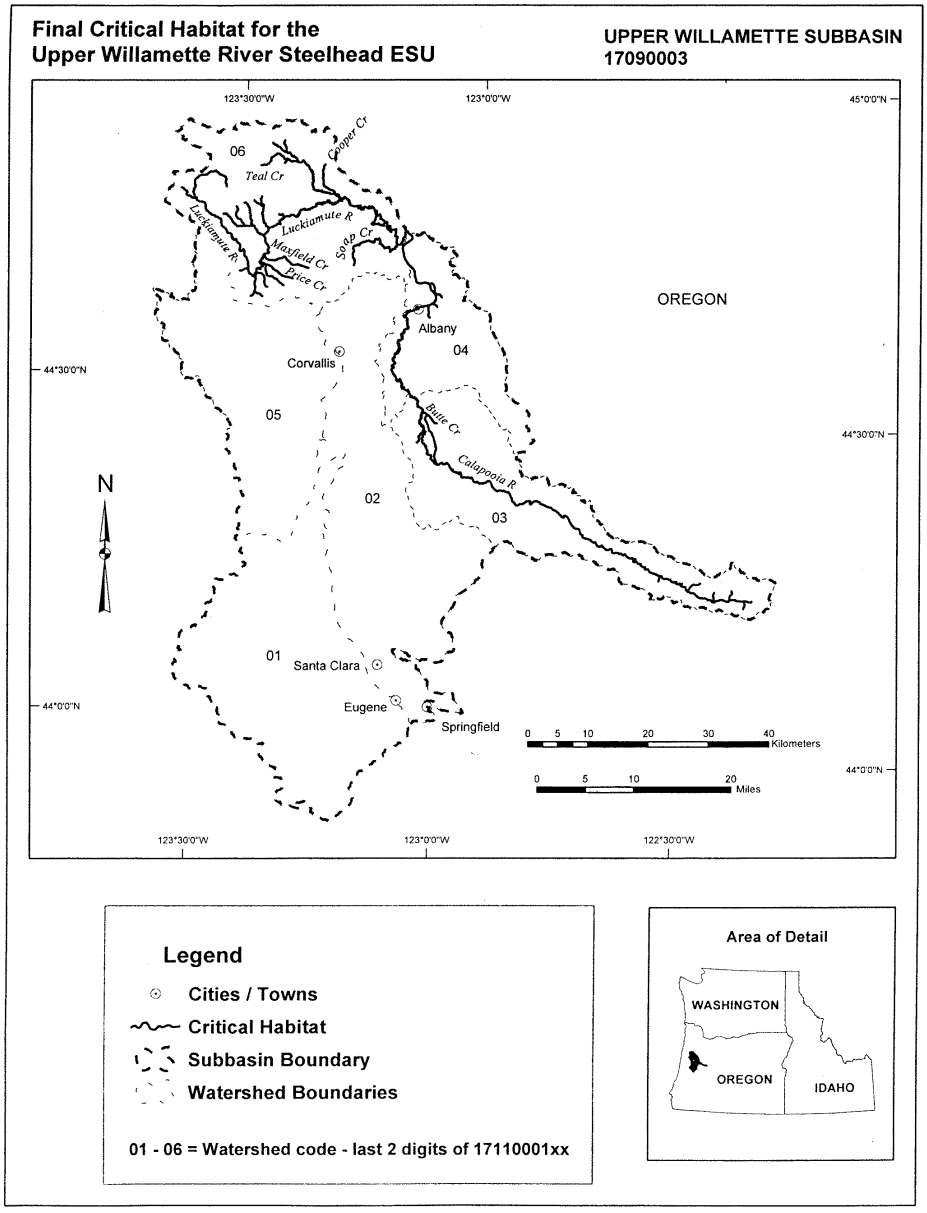
(vi) *Lower Molalla River Watershed 1709000906*. Outlet(s) = Molalla River (Lat 45.2979, Long –122.7141) upstream to endpoint(s) in: Buckner Creek (45.2382, –122.5399); Canyon Creek (45.1317, –122.3858); Cedar Creek (45.2037, –122.5327); Gribble Creek (45.2004, –122.6867); Jackson Creek (45.1822, –122.3898); Milk Creek (45.2036, –122.3761); Molalla River (45.1196, –122.5342); Woodcock Creek (45.1508, –122.5075).

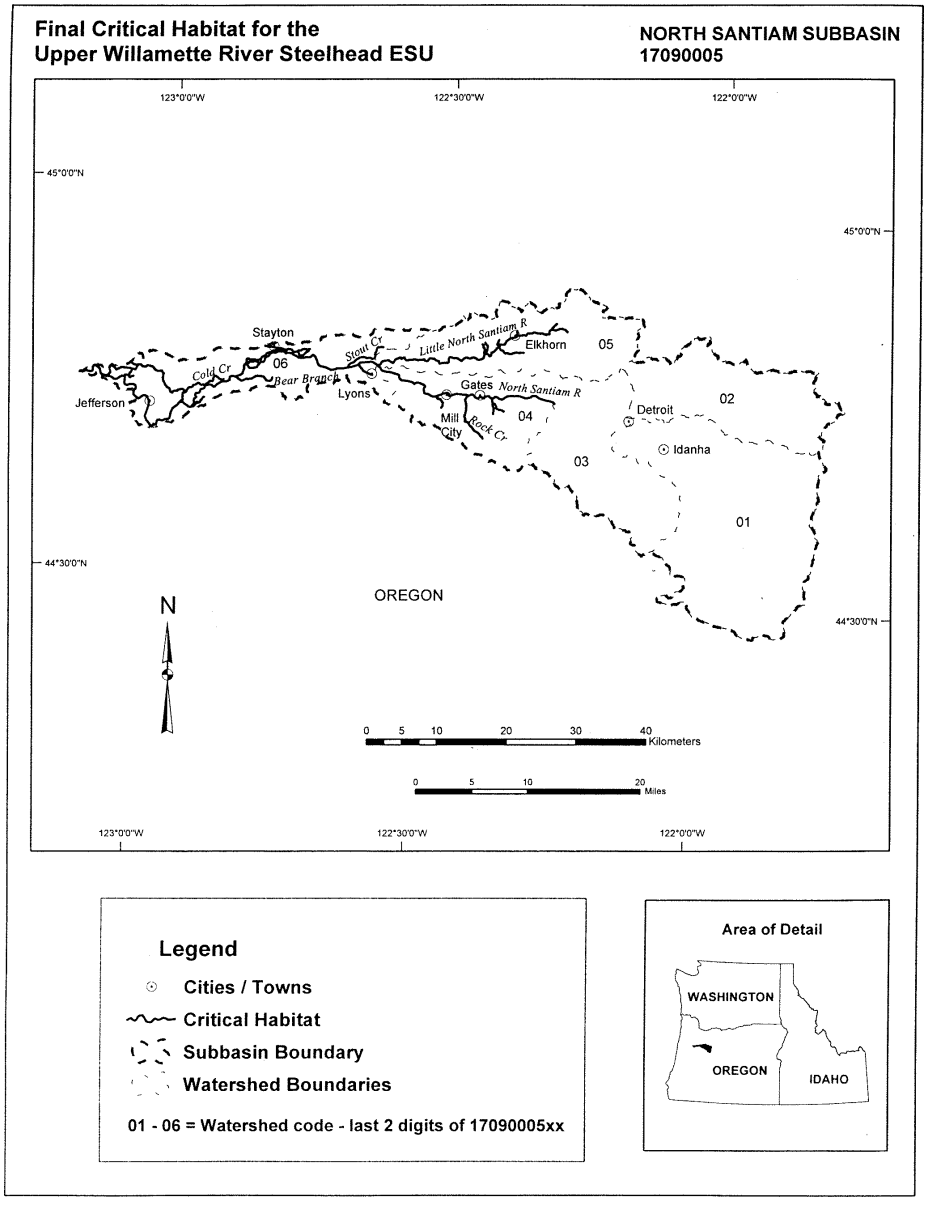
(7) Tualatin Subbasin 17090010—*Gales Creek Watershed 1709001002*. Outlet(s) = Tualatin River (Lat 45.5019, Long –122.9946) upstream to endpoint(s) in: Bateman Creek (45.6350, –123.2966); Beaver Creek (45.6902, –123.2889); Clear Creek (45.5705, –123.2567); Gales Creek (45.6428, –123.3576); Iler Creek (45.5900, –123.2582); North Fork Gales Creek (45.6680, –123.3394); Roaring Creek (45.5620, –123.2574); Roderick Creek (45.5382, –123.2013); South Fork Gales Creek (45.6059, –123.2978); Tualatin River (45.4917, –123.1012).

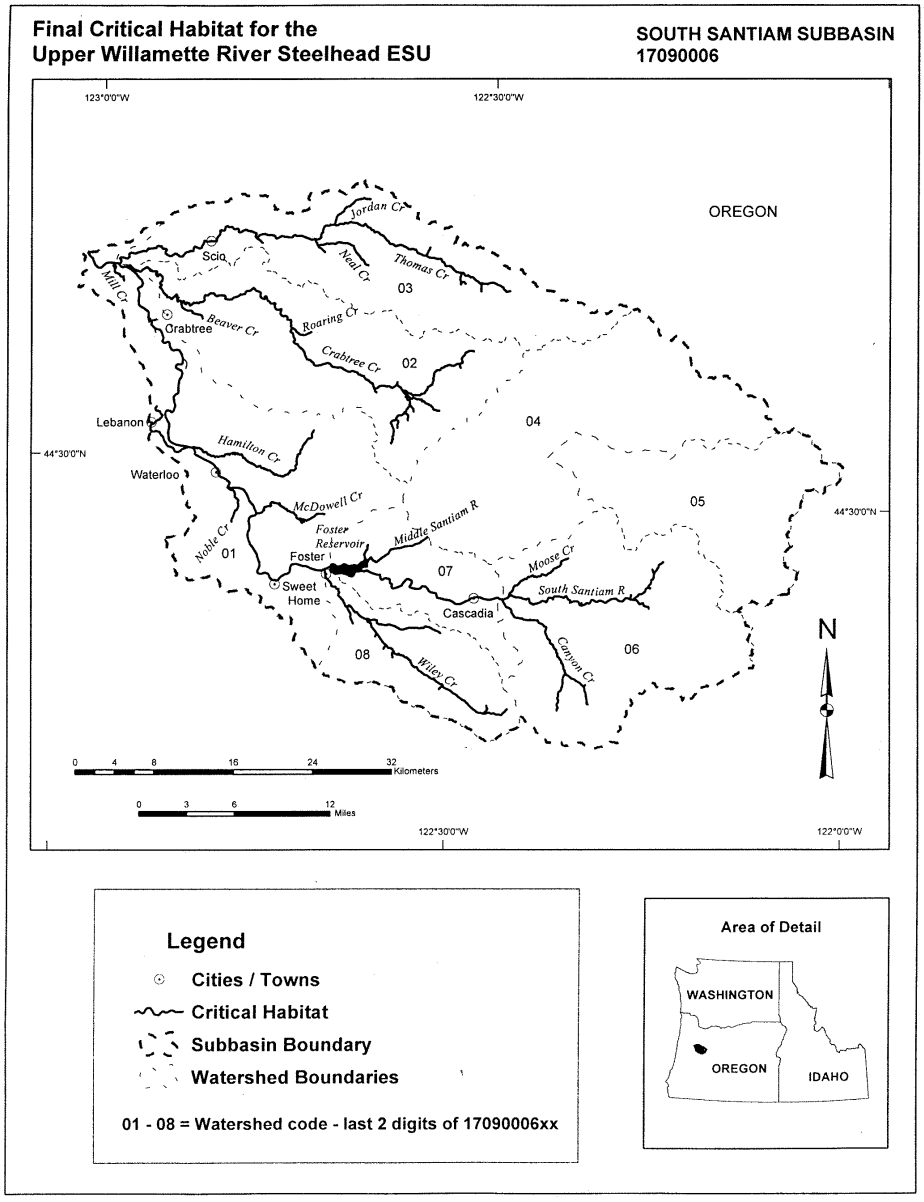
(8) Lower Willamette/Columbia River Corridor—*Lower Willamette/Columbia River Corridor*. Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Willamette River (45.3540, –122.6186).

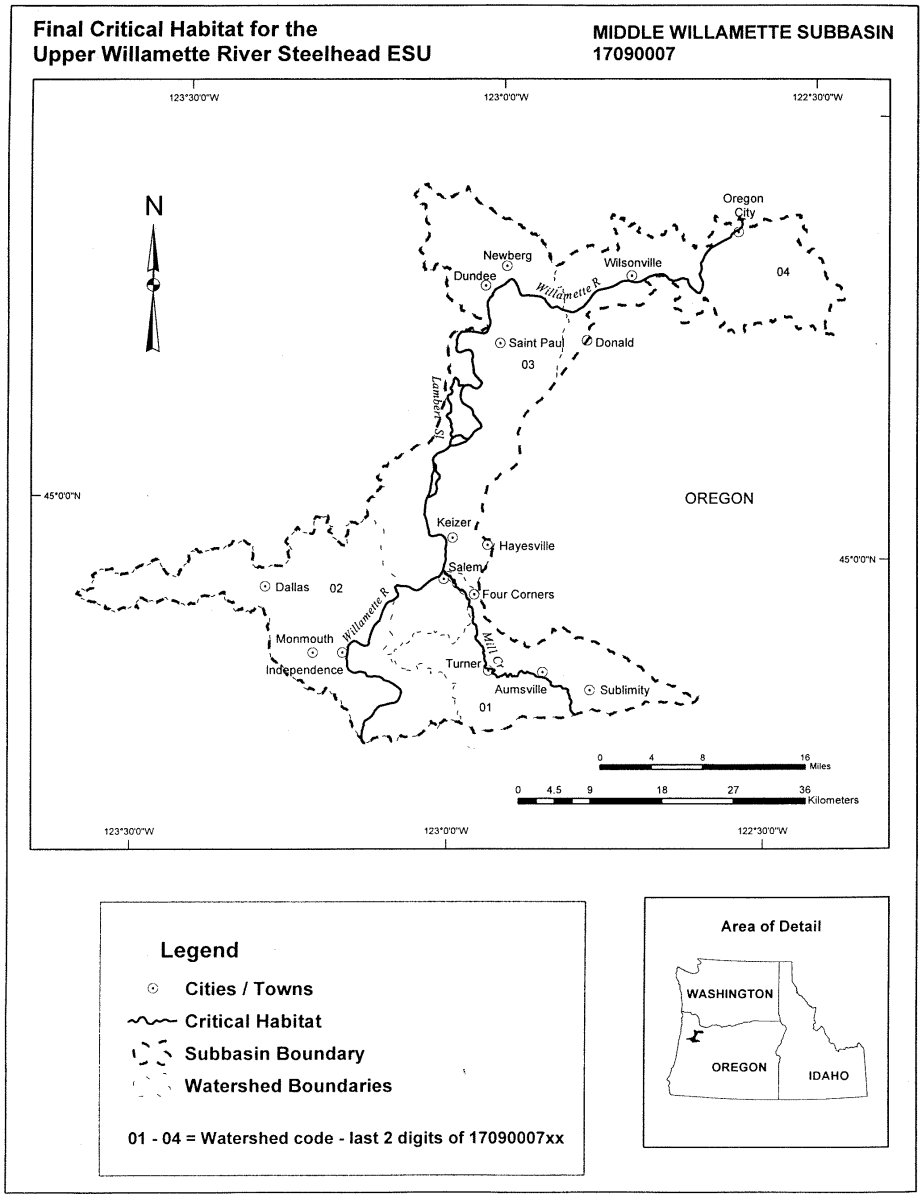
(9) Maps of critical habitat for the Upper Willamette River Steelhead ESU follow:

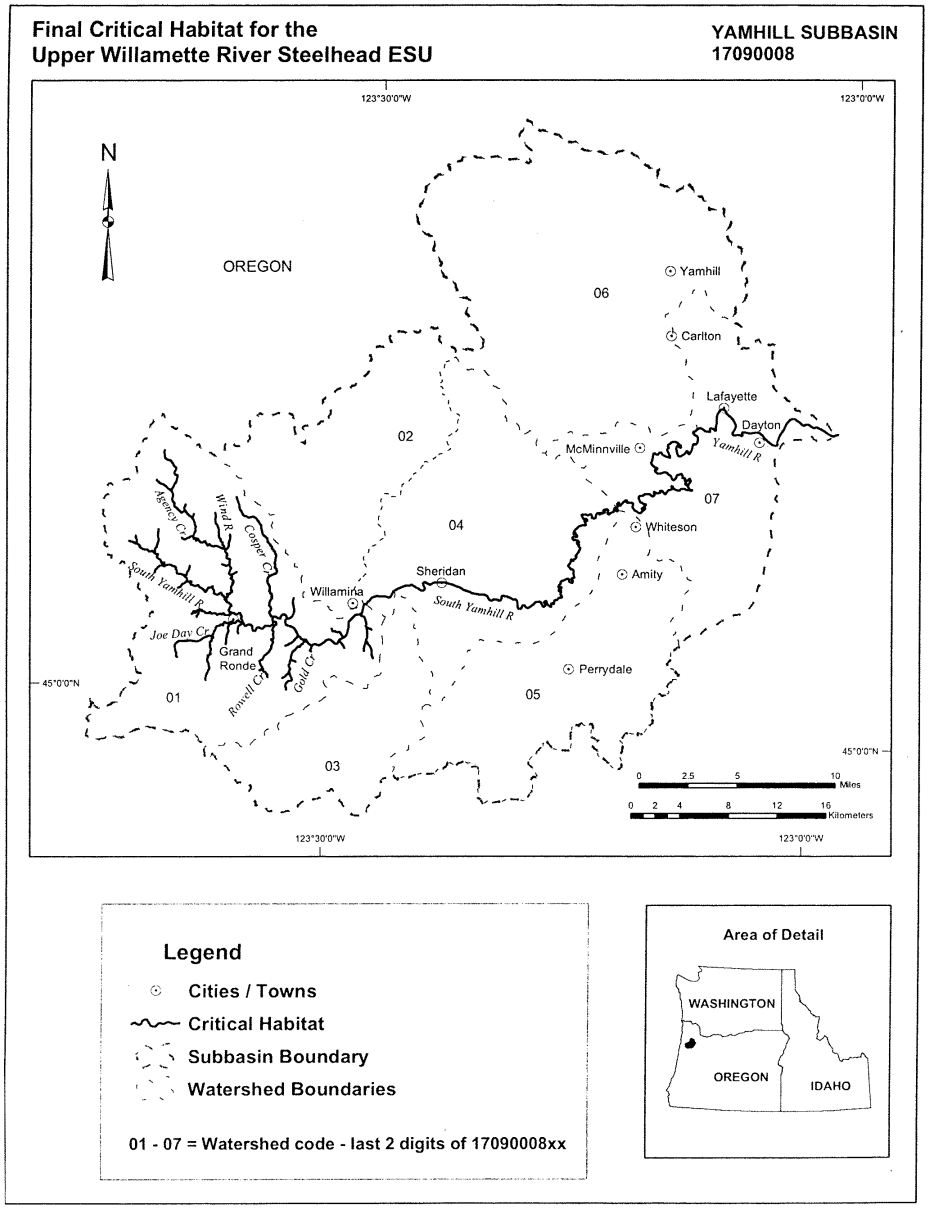

Map of the Upper Willamette River Steelhead ESU
124°0'0"W
123°0'0"W
122°0'0"W
WASHINGTON
17090010
17090008
OREGON
45°0'0"N
17090009
17090007
17090005
17090006
17090003
N
0 10 20 40 60 80 Kilometers
0 10 20 40 Miles
Legend
State Boundaries
Water Bodies
Subbasin Boundaries
Area of Detail
WASHINGTON
OREGON
IDAHO

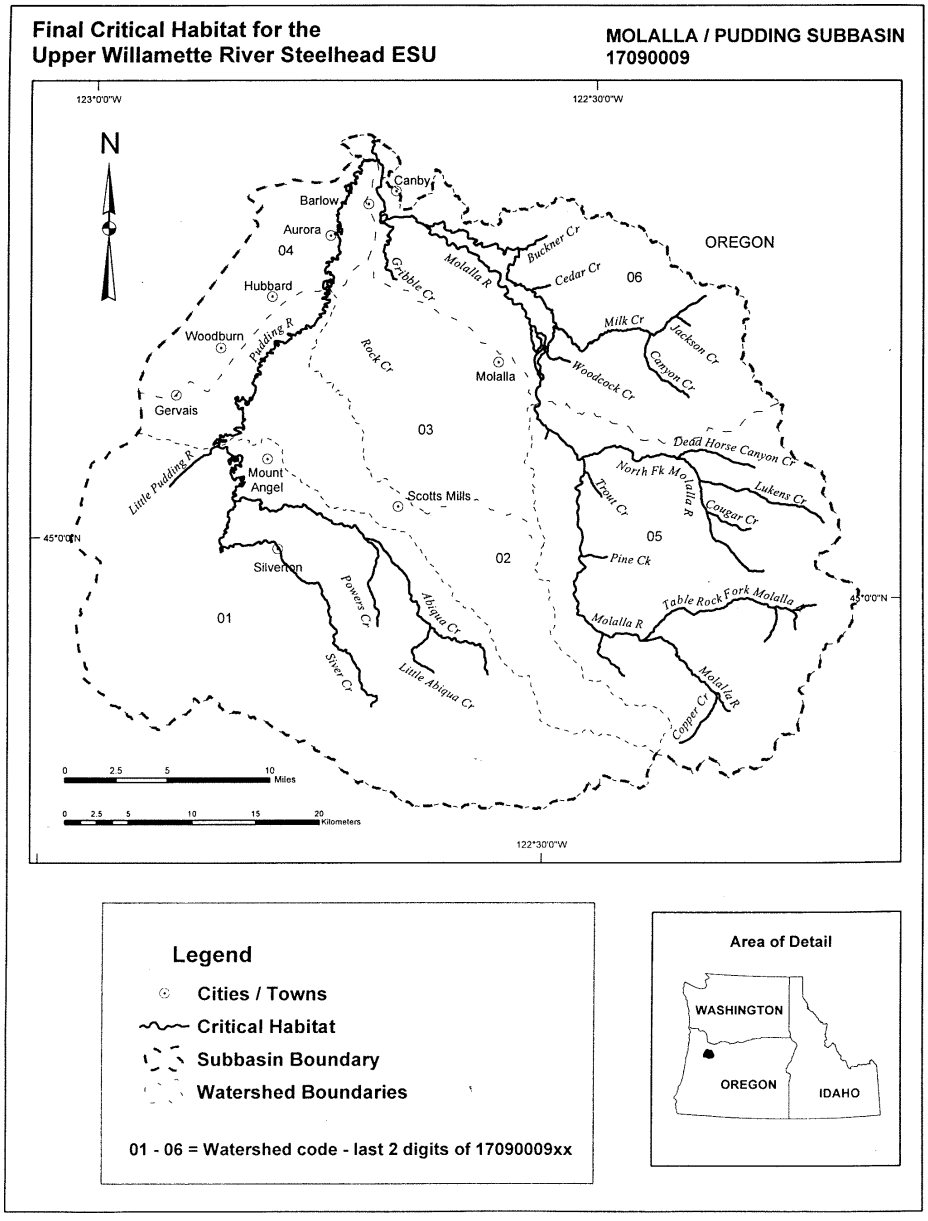

Final Critical Habitat for the
Upper Willamette River Steelhead ESU
UPPER WILLAMETTE SUBBASIN
17090003
123°30'0"W
123°0'0"W
45°0'0"N
44°30'0"N
44°0'0"N
122°30'0"W
06
Teal Cr
Cooper Cr
Luckiamute R
Soap Cr
Mayfield Cr
Price Cr
OREGON
Albany
04
Corvallis
05
Butte Cr
Calapooia R
02
03
N
01
Santa Clara
Eugene
Springfield
0 5 10 20 30 40 Kilometers
0 5 10 20 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17110001xx
Area of Detail
WASHINGTON
OREGON
IDAHO

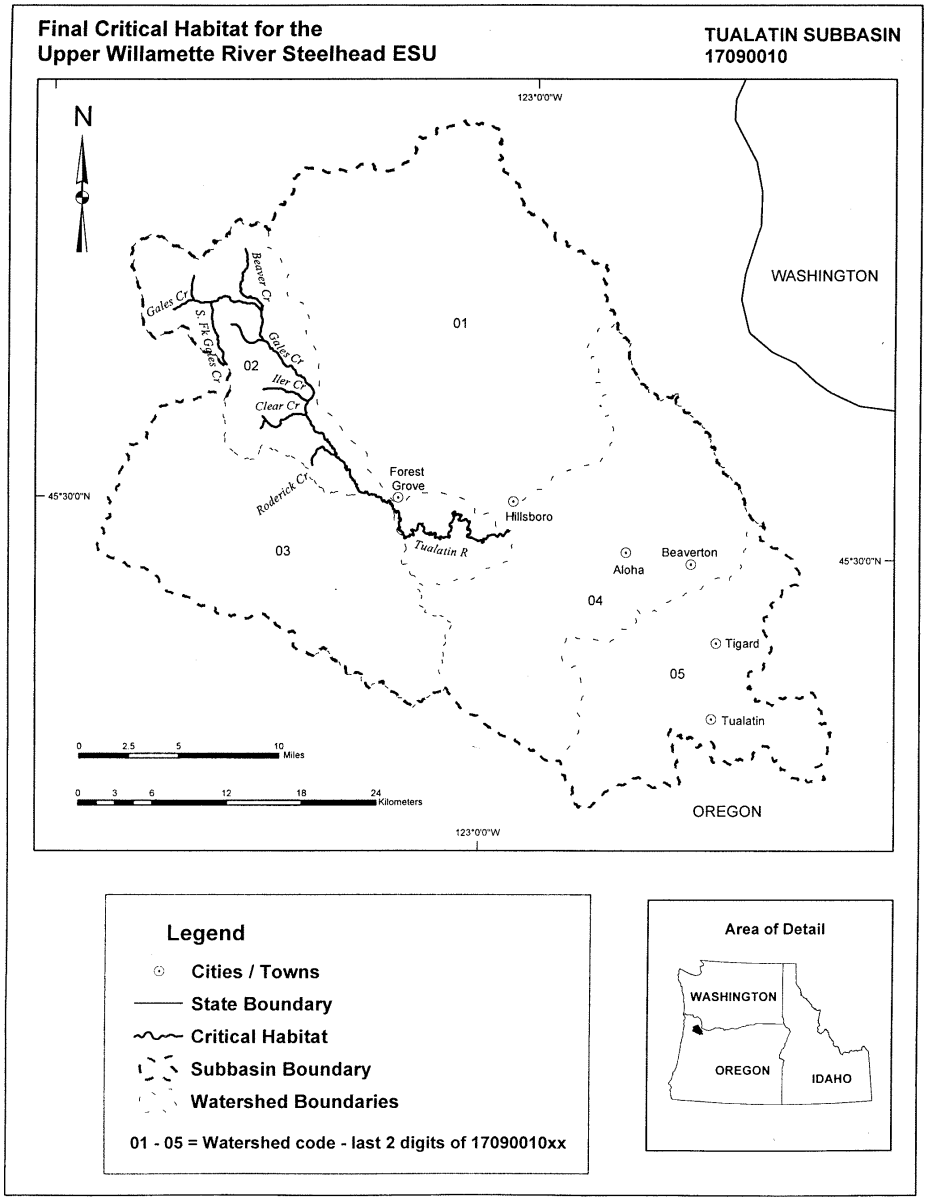

Final Critical Habitat for the
Upper Willamette River Steelhead ESU
NORTH SANTIAM SUBBASIN
17090005
123°0'0"W
122°30'0"W
122°0'0"W
45°0'0"N
44°30'0"N
Stayton
Stout Cr
Little North Santiam R
Elkhorn
05
06
Cold Cr
Bear Branch
Gates
North Santiam R
Jefferson
Lyons
Mill City
Rock Cr
04
Detroit
02
Idanha
03
01
OREGON
N
0 5 10 20 30 40
Kilometers
0 5 10 20
Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090005xx
Area of Detail
WASHINGTON
OREGON
IDAHO

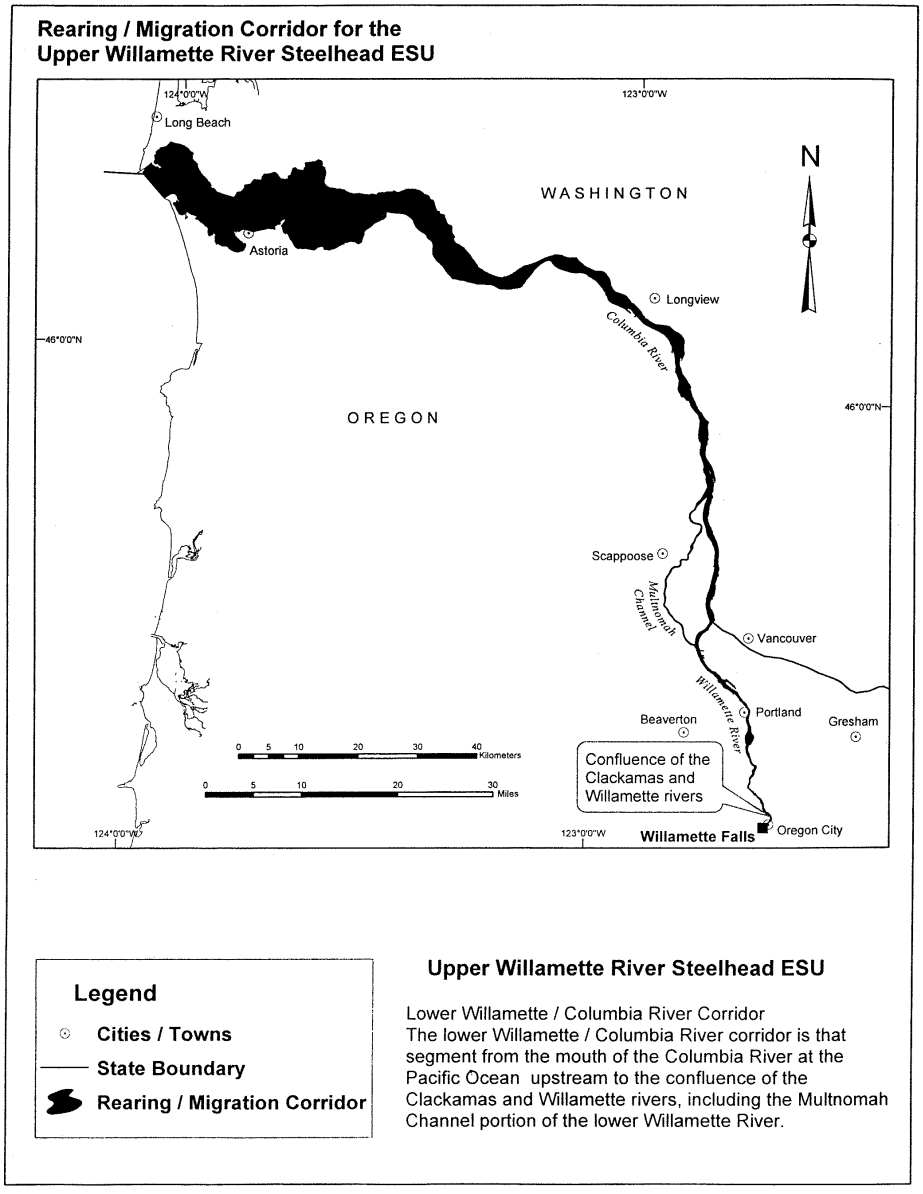

Final Critical Habitat for the
Upper Willamette River Steelhead ESU
SOUTH SANTIAM SUBBASIN
17090006
123°0'0"W
122°30'0"W
122°0'0"W
44°30'0"N
OREGON
Jordan Cr
Scio
Neal Cr
Thomas Cr
Mill Cr
03
Crabtree
Beaver Cr
Roaring Cr
Crabtree Cr
02
04
Lebanon
Hamilton Cr
Waterloo
McDowell Cr
Foster Reservoir
Middle Santiam R
05
Noble Cr
01
Foster
07
Moose Cr
South Santiam R
Sweet Home
Cascadia
08
06
Wiley Cr
Canyon Cr
N
0 4 8 16 24 32 Kilometers
0 3 6 12 Miles
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17090006xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Steelhead ESU
MIDDLE WILLAMETTE SUBBASIN
17090007
123°30'0"W
123°0'0"W
122°30'0"W
N
Oregon City
Newberg
Dundee
Wilsonville
Willamette R
04
Saint Paul
Donald
03
Lambert St
45°0'0"N
OREGON
Keizer
Hayesville
Salem
Four Corners
Dallas
02
Willamette R
Monmouth
Independence
Mill Cr
Turner
Aumsville
Sublimity
01
0 4 8 16 Miles
0 4.5 9 18 27 36 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17090007xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Steelhead ESU
YAMHILL SUBBASIN
17090008
123°30'0"W
123°0'0"W
N
OREGON
Yamhill
06
Carlton
Lafayette
Dayton
Yamhill R
McMinnville
02
07
04
Whiteson
Amity
Sheridan
Willamina
South Yamhill R
Agency Cr
Wind R
Copper Cr
Joe Day Cr
Grand Ronde
Rowell Cr
Gold Cr
Perrydale
01
05
03
45°0'0"N
0 2.5 5 10 Miles
0 2 4 8 12 16 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 07 = Watershed code - last 2 digits of 17090008xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Steelhead ESU
MOLALLA / PUDDING SUBBASIN
17090009
123°0'0"W
122°30'0"W
N
Canby
Barlow
Aurora
04
Hubbard
Woodburn
Gervais
Mount Angel
Silverton
Scotts Mills
Molalla
03
02
01
05
06
OREGON
Buckner Cr
Molalla R
Gribble Cr
Cedar Cr
Milk Cr
Jackson Cr
Canyon Cr
Woodcock Cr
Rock Cr
Pudding R
Little Pudding R
Dead Horse Canyon Cr
North Fk Molalla R
Lukens Cr
Trout Cr
Cougar Cr
Pine Ck
Table Rock Fork Molalla
Molalla R
Powers Cr
Abiqua Cr
Silver Cr
Little Abiqua Cr
Molalla R
Copper Cr
45°0'0"N
0 2.5 5 10 Miles
0 2.5 5 10 15 20 Kilometers
122°30'0"W
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090009xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Upper Willamette River Steelhead ESU
TUALATIN SUBBASIN
17090010
N
123°0'0"W
45°30'0"N
WASHINGTON
OREGON
01
02
03
04
05
Beaver Cr
Gales Cr
S. Fk Gales Cr
Gales Cr
Iler Cr
Clear Cr
Roderick Cr
Tualatin R
Forest Grove
Hillsboro
Aloha
Beaverton
Tigard
Tualatin
0 2.5 5 10 Miles
0 3 6 12 18 24 Kilometers
Legend
Cities / Towns
State Boundary
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17090010xx
Area of Detail
WASHINGTON
OREGON
IDAHO



(u) Oregon Coast Coho Salmon (*Oncorhynchus kisutch*). Critical habitat is designated to include the areas defined in the following subbasins:

(1) Necanicum Subbasin 17100201—*Necanicum River Watershed 1710020101.* Outlet(s) = Arch Cape Creek (Lat 45.8035, Long −123.9656); Asbury Creek (45.815, −123.9624); Ecola Creek (45.8959, −123.9649); Necanicum River (46.0113, −123.9264); Short Sand Creek (45.7595, −123.9641) upstream to endpoint(s) in: Arch Cape Creek (45.8044, −123.9404); Asbury Creek

(45.8150, −123.9584); Beerman Creek (45.9557, −123.8749); Bergsvik Creek (45.8704, −123.7650); Brandis Creek (45.8894, −123.8529); Charlie Creek (45.9164, −123.7606); Circle Creek (45.9248, −123.9436); Circle Creek Trib A (45.9335, −123.9457); North Fork Ecola Creek (45.8705, −123.9070); West Fork Ecola Creek (45.8565, −123.9424); Grindy Creek (45.9179, −123.7390); Hawley Creek (45.9259, −123.8864); Joe Creek (45.8747, −123.7503); Johnson Creek (45.8885, −123.8816); Klootchie Creek (45.9450, −123.8413); Klootchie Creek Trib A (45.9250, −123.8447); Lindsley Creek (45.9198, −123.8339); Little Humbug Creek (45.9235, −123.7653); Little Joe Creek (45.8781, −123.7852); Little Muddy Creek (45.9551, −123.9559); Mail Creek (45.8887, −123.8655); Meyer Creek (45.9279, −123.9135); Mill Creek (46.0245, −123.8905); Mill Creek Trib 1 (46.0142, −123.8967); Neacoxie Creek (46.0245, −123.9157); Neawanna Creek (45.9810, −123.8809); Necanicum River (45.9197, −123.7106); North Fork Necanicum River (45.9308, −123.7986); North Fork Necanicum River Trib A (45.9398, −123.8109); South Fork Necanicum River (45.8760, −123.8122); Shangrila Creek (45.9706, −123.8778); Short Sand Creek (45.7763, −123.9406); Thompson Creek (46.0108, −123.8951); Tolovana Creek (45.8581, −123.9370); Unnamed (45.8648, −123.9371); Unnamed (45.8821, −123.9318); Unnamed (45.8881, −123.7436); Unnamed (45.8883, −123.9366); Unnamed (45.8906, −123.7460); Unnamed (45.8912, −123.9433); Unnamed (45.8950, −123.8715); Unnamed (45.9026, −123.9540); Unnamed (45.9046, −123.9578); Unnamed (45.9050, −123.9585); Unnamed (45.9143, −123.8656); Unnamed (45.9161, −123.9000); Unnamed (45.9210, −123.8668); Unnamed (45.9273, −123.8499); Unnamed (45.9292, −123.8900); Unnamed (45.9443, −123.9038); Unnamed (45.9850, −123.8999); Unnamed (46.0018, −123.8998); Volmer Creek (45.9049, −123.9139); Warner Creek (45.8887, −123.7801); Williamson Creek (45.9522, −123.9060).

(2) Nehalem Subbasin 17100202—(i) *Upper Nehalem River Watershed 1710020201.* Outlet(s) = Nehalem River (Lat 45.9019, Long −123.1442) upstream to endpoint(s) in: Bear Creek (45.7781, −123.4252); Bear Creek (45.8556, −123.2205); Beaver Creek (45.7624, −123.2073); Beaver Creek Trib A (45.8071, −123.2143); Beaver Creek Trib B (45.7711, −123.2318); Carlson Creek (45.7173, −123.3425); Castor Creek (45.7103, −123.2698); Cedar Creek (45.8528, −123.2928); Clear Creek, Lower North Fork (45.8229, −123.3111); Clear Creek (45.8239, −123.3531); Coal Creek Trib B (45.8149, −123.1174); Coal Creek (45.7978, −123.1293); Coon Creek (45.8211, −123.1446); Dell Creek (45.7919, −123.1559); Derby Creek (45.7225, −123.3857); Dog Creek (45.8957, −123.0741); Elk Creek (45.8256, −123.1290); Fall Creek (45.8626, −123.3247); Ginger Creek (45.8520, −123.3511); Ivy Creek (45.8938, −123.3160); Jim George Creek (45.8009, −123.1041); Kenusky Creek (45.8859, −123.0422); Kist Creek (45.7826, −123.2507); Lousignont Creek (45.7424, −123.3722); Lousignont Creek, North Fork (45.7463, −123.3576); Martin Creek (45.8474, −123.4025); Maynard Creek (45.8556, −123.3038); Military Creek (45.8233, −123.4812); Nehalem River (45.7269, −123.4159); Nehalem River, East Fork (45.8324, −123.0502); Olson Creek (45.8129, −123.3853); Pebble Creek (45.7661, −123.1357); Pebble Creek, West Fork (45.7664, −123.1899); Robinson Creek (45.7363, −123.2512); Rock Creek (45.8135, −123.5201); Rock Creek, North Fork (45.8616, −123.4560); Rock Creek, South Fork (45.7598, −123.4249); Rock Creek Trib C (45.7957, −123.4882); South Fork Rock Creek Trib A (45.7753, −123.4586); South Fork Nehalem River (45.7073, −123.4017); Selder Creek (45.8975, −123.3806); South Fork Clear Creek (45.8141, −123.3484); South Prong Clear Creek (45.7832, −123.2975); Step Creek (45.6824, −123.3348); Swamp Creek (45.8217, −123.2004); Unnamed (45.7270, −123.3419); Unnamed (45.8095, −123.0908); Unnamed (45.7558, −123.2630); Unnamed (45.7938, −123.3847); Unnamed (45.7943, −123.4059); Unnamed (45.8197, −123.0679); Unnamed (45.8477, −123.0734); Unnamed (45.8817, −123.1266); Unnamed (45.8890, −123.3817); Unnamed (45.9019, −123.1346); Weed Creek (45.8707, −123.4049); Wolf Creek, South

Fork (45.7989, −123.4028); Wolf Creek (45.7768, −123.3556).

(ii) *Middle Nehalem River Watershed 1710020202.* Outlet(s) = Nehalem River (Lat 45.9838, Long −123.4214) upstream to endpoint(s) in: Adams Creek (46.0263, −123.2869); Archibald Creek (45.9218, −123.0829); Beaver Creek (46.0554, −123.2985); Boxler Creek (46.0486, −123.3521); Calvin Creek (45.9514, −123.2976); Cedar Creek (45.9752, −123.1143); Cook Creek (45.9212, −123.1087); Cow Creek (46.0500, −123.4326); Crooked Creek (45.9043, −123.2689); Deep Creek (45.9461, −123.3719); Deep Creek Trib A (45.9127, −123.3794); Deep Creek Trib B (45.9314, −123.3809); Deer Creek (45.9033, −123.3142); Eastman Creek (46.0100, −123.2262); Fall Creek (45.9438, −123.2012); Fishhawk Creek (46.0596, −123.3857); Fishhawk Creek, North Fork (46.0907, −123.3675); Fishhawk Creek, Trib C (46.0808, −123.3692); Ford Creek (46.0570, −123.2872); Gus Creek (45.9828, −123.1453); Johnson Creek (46.0021, −123.2133); Lane Creek (45.9448, −123.3253); Little Deer Creek (45.9378, −123.2780); Lousignont Creek (46.0342, −123.4186); Lundgren Creek (46.0240, −123.2092); McCoon Creek (46.0665, −123.3043); Messing Creek (46.0339, −123.2260); Nehalem River (45.9019, −123.1442); Northrup Creek (46.0672, −123.4377); Oak Ranch Creek (45.9085, −123.0834); Sager Creek (45.9388, −123.4020); Unnamed (45.9039, −123.2044); Unnamed (45.9067, −123.0595); Unnamed (45.9488, −123.2220); Unnamed (45.9629, −123.3845); Unnamed (45.9999, −123.1732); Unnamed (46.0088, −123.4508); Unnamed (46.0208, −123.4588); Unnamed (46.0236, −123.2381); Unnamed (46.0308, −123.3135); Unnamed (46.0325, −123.4650); Unnamed (46.0390, −123.3648); Unnamed (46.0776, −123.3274); Unnamed (46.0792, −123.3409); Unnamed (46.0345, −123.2956); Warner Creek (46.0312, −123.3817); Wrong Way Creek (46.0789, −123.3142).

(iii) *Lower Nehalem River Watershed 1710020203.* Outlet(s) = Nehalem River (Lat 45.7507, Long −123.6530) upstream to endpoint(s) in: Alder Creek (45.9069, −123.5907); Beaver Creek (45.8949, −123.6764); Big Creek (45.8655, −123.6476); Bull Heifer Creek (45.9908, −123.5322); Buster Creek (45.9306, −123.4165); Cedar Creek (45.8931, −123.6029); Cow Creek (45.8587, −123.5206); Crawford Creek (45.9699, −123.4725); Cronin Creek, Middle Fork (45.7719, −123.5747); Cronin Creek, North Fork (45.7795, −123.6064); Cronin Creek, South Fork (45.7456, −123.5596); Destruction Creek (45.8750, −123.6571); East Humbug Creek (45.9454, −123.6358); Fishhawk Creek (45.9666, −123.5895); Fishhawk Creek (46.0224, −123.5374); George Creek (45.8461, −123.6226); George Creek (45.9118, −123.5766); Gilmore Creek (45.9609, −123.5372); Hamilton Creek (46.0034, −123.5881); Klines Creek (45.8703, −123.4908); Larsen Creek (45.8757, −123.5847); Little Fishhawk Creek (45.9256, −123.5501); Little Rock Creek (45.8886, −123.4558); McClure Creek (45.8560, −123.6227); Moores Creek (45.8801, −123.5178); Nehalem River (45.9838, −123.4214); Quartz Creek (45.8414, −123.5184); Spruce Run Creek (45.8103, −123.6028); Squaw Creek (45.9814, −123.4529); Stanley Creek (45.8861, −123.4352); Strum Creek (45.9321, −123.4275); Trailover Creek (46.0129, −123.4976); Unnamed (45.8083, −123.6280); Unnamed (45.8682, −123.6168); Unnamed (45.9078, −123.6630); Unnamed (45.9207, −123.4534); Unnamed (45.9405, −123.6338); Unnamed (45.9725, −123.5544); West Humbug Creek (45.9402, −123.6726); Walker Creek (45.9266, −123.4423); Walker Creek (46.0391, −123.5142); West Brook (45.9757, −123.4638).

(iv) *Salmonberry River Watershed 1710020204.* Outlet(s) = Salmonberry River (Lat 45.7507, Long −123.6530) upstream to endpoint(s) in: Pennoyer Creek (45.7190, −123.4366); Salmonberry River (45.7248, −123.4436); Salmonberry River, North Fork (45.7181, −123.5204); Wolf Creek (45.6956, −123.4485).

(v) *North Fork of Nehalem River Watershed 1710020205.* Outlet(s) = Nehalem River, North Fork (Lat 45.7317, Long −123.8765) upstream to endpoint(s) in: Acey Creek (45.7823, −123.8292); Anderson Creek (45.7643, −123.9073); Big Rackheap Creek (45.7546, −123.8145); Boykin Creek (45.8030, −123.8595); Buchanan Creek (45.8270, −123.7901); Coal

Creek (45.7897, −123.8676); Coal Creek, West Fork (45.7753, −123.8871); Cougar Creek (45.8064, −123.8090); Fall Creek (45.7842, −123.8547); Fall Creek (45.8226, −123.7054); Gods Valley Creek (45.7689, −123.7793); Grassy Lake Creek (45.7988, −123.8193); Gravel Creek (45.7361, −123.8126); Henderson Creek (45.7932, −123.8548); Jack Horner Creek (45.8531, −123.7837); Lost Creek (45.7909, −123.7195); Nehalem River, Little North Fork (45.9101, −123.6972); Nehalem River, North Fork (45.8623, −123.7463); Nehalem River, North Fork, Trib R (45.8287, −123.6625); Nehalem River, North Fork, Trib T (45.8492, −123.6796); Rackheap Creek (45.7677, −123.8008); Sally Creek (45.8294, −123.7468); Soapstone Creek (45.8498, −123.7469); Soapstone Creek, Trib A (45.8591, −123.7616); Sweethome Creek (45.7699, −123.6616); Unnamed (45.7457, −123.8490); Unnamed (45.7716, −123.7691); Unnamed (45.7730, −123.7789); Unnamed (45.7736, −123.7607); Unnamed (45.7738, −123.7534); Unnamed (45.7780, −123.7434); Unnamed (45.7784, −123.7742); Unnamed (45.7794, −123.7315); Unnamed (45.7824, −123.7396); Unnamed (45.7833, −123.7680); Unnamed (45.7841, −123.7299); Unnamed (45.7858, −123.7660); Unnamed (45.7898, −123.7424); Unnamed (45.7946, −123.7365); Unnamed (45.7966, −123.7953); Unnamed (45.8008, −123.7349); Unnamed (45.8193, −123.7436); Unnamed (45.8322, −123.7789); Unnamed (45.8359, −123.7766); Unnamed (45.8569, −123.7235); Unnamed (45.8629, −123.7347); Unnamed (45.8662, −123.7444); Unnamed (45.8962, −123.7189).

(vi) *Lower Nehalem River/Cook Creek Watershed 1710020206*. Outlet(s) = Nehalem River (Lat 45.6577, Long −123.9355) upstream to endpoint(s) in: Alder Creek (45.7286, −123.9091); Anderson Creek (45.6711, −123.7470); Bastard Creek (45.7667, −123.6943); Bob's Creek (45.7444, −123.9038); Cook Creek (45.6939, −123.6146); Cook Creek, East Fork (45.6705, −123.6440); Daniels Creek (45.6716, −123.8606); Dry Creek (45.6449, −123.8507); Dry Creek (45.6985, −123.7422); East Foley Creek (45.6621, −123.8068); Fall Creek (45.7489, −123.7778); Foley Creek (45.6436, −123.8933); Gallagher Slough (45.7140, −123.8657); Hanson Creek (45.6611, −123.7179); Harliss Creek (45.6851, −123.7249); Helloff Creek (45.7545, −123.7603); Hoevett Creek (45.6894, −123.6276); Jetty Creek (45.6615, −123.9103); Lost Creek (45.7216, −123.7164); Neahkahnie Creek (45.7197, −123.9247); Nehalem River (45.7507, −123.6530); Peterson Creek (45.6975, −123.8098); Piatt Canyon (45.6844, −123.6983); Roy Creek (45.7174, −123.8038); Snark Creek (45.7559, −123.6713); Unnamed (45.6336, −123.8549); Unnamed (45.6454, −123.8663); Unnamed (45.6483, −123.8605); Unnamed (45.6814, −123.8786); Unnamed (45.7231, −123.9016).

(3) Wilson/Trask/Nestucca Subbasin 17100203—(i) *Little Nestucca River Watershed 1710020301*. Outlet(s) = Little Nestucca River (Lat 45.1827, Long −123.9543) upstream to endpoint(s) in: Austin Creek (45.1080, −123.8748); Austin Creek, West Fork (45.1074, −123.8894); Baxter Creek (45.1149, −123.7705); Bear Creek (45.1310, −123.8500); Bowers Creek (45.1393, −123.9198); Cedar Creek (45.0971, −123.8094); Fall Creek (45.1474, −123.8767); Hiack Creek (45.0759, −123.8042); Kautz Creek (45.0776, −123.8317); Kellow Creek (45.1271, −123.9072); Little Nestucca River (45.0730, −123.7825); Little Nestucca River, South Fork (45.0754, −123.8393); Louie Creek (45.1277, −123.7869); McKnight Creek (45.1124, −123.8363); Small Creek (45.1151, −123.8227); Sourgrass Creek (45.0917, −123.7623); Sourgrass Creek, Trib A (45.1109, −123.7664); Squaw Creek (45.1169, −123.8938); Stillwell Creek (45.0919, −123.8141); Unnamed (45.1169, −123.7974).

(ii) *Nestucca River Watershed 1710020302*. Outlet(s) = Nestucca Bay (Lat 45.1607, Long −123.9678) upstream to endpoint(s) in: Alder Creek (45.1436, −123.7998); Alder Creek (45.2436, −123.7364); Bays Creek (45.3197, −123.7240); Bear Creek (45.3188, −123.6022); Bear Creek (45.3345, −123.7898); Beulah Creek (45.2074, −123.6747); Bible Creek (45.2331, −123.5868); Boulder Creek (45.2530, −123.7525); Buck Creek (45.1455, −123.7734); Cedar Creek

(45.3288, −123.4531); Clarence Creek (45.2649, −123.6395); Clear Creek (45.1725, −123.8660); Crazy Creek (45.1636, −123.7595); Dahl Fork (45.2306, −123.7076); East Beaver Creek (45.3579, −123.6877); East Creek (45.3134, −123.6348); Elk Creek (45.3134, −123.5645); Elk Creek, Trib A (45.2926, −123.5381); Elk Creek, Trib B (45.2981, −123.5471); Fan Creek (45.2975, −123.4994); Farmer Creek (45.2593, −123.9074); Foland Creek (45.2508, −123.7890); Foland Creek, West Fork (45.2519, −123.8025); George Creek (45.2329, −123.8291); Ginger Creek (45.3283, −123.4680); Hartney Creek (45.2192, −123.8632); Horn Creek (45.2556, −123.9212); Lawrence Creek (45.1861, −123.7852); Limestone Creek (45.2472, −123.7169); Mina Creek (45.2444, −123.6197); Moon Creek (45.3293, −123.6762); North Beaver Creek (45.3497, −123.8961); Nestucca River (45.3093, −123.4077); Niagara Creek (45.1898, −123.6637); Pheasant Creek (45.2121, −123.6366); Pollard Creek (45.1951, −123.7958); Powder Creek (45.2305, −123.6974); Saling Creek (45.2691, −123.8474); Sanders Creek (45.2254, −123.8959); Slick Rock Creek (45.2683, −123.6106); Swab Creek (45.2889, −123.7656); Testament Creek (45.2513, −123.5488); Three Rivers (45.1785, −123.7557); Tiger Creek (45.3405, −123.8029); Tiger Creek, Trib A (45.3346, −123.8547); Tony Creek (45.2575, −123.7735); Turpy Creek (45.2537, −123.7620); Unnamed (45.1924, −123.8202); Unnamed (45.2290, −123.9398); Unnamed (45.3018, −123.4636); Unnamed (45.3102, −123.6628); Unnamed (45.3148, −123.6616); Unnamed (45.3158, −123.8679); Unnamed (45.3292, −123.8872); Walker Creek (45.2914, −123.4207); West Beaver Creek (45.3109, −123.8840); West Creek (45.2899, −123.8514); Wildcat Creek (45.3164, −123.8187); Wolfe Creek (45.3113, −123.7658); Woods Creek (45.1691, −123.8070).

(iii) *Tillamook River Watershed 1710020303.* Outlet(s) = Tillamook River (Lat 45.4682, Long −123.8802) upstream to endpoint(s) in: Bear Creek (45.4213, −123.8885); Beaver Creek (45.4032, −123.8861); Bewley Creek (45.3637, −123.8965); Esther Creek (45.4464, −123.9017); Fawcett Creek (45.3824, −123.7210); Joe Creek (45.3754, −123.8257); Killam Creek (45.4087, −123.7276); Mills Creek (45.3461, −123.7915); Munson Creek (45.3626, −123.7681); Simmons Creek (45.3605, −123.7364); Sutton Creek (45.4049, −123.8568); Tillamook River (45.3595, −123.9115); Tomlinson Creek (45.4587, −123.8868); Unnamed (45.3660, −123.8313); Unnamed (45.3602, −123.8466); Unnamed (45.3654, −123.9050); Unnamed (45.3987, −123.7105); Unnamed (45.4083, −123.8160); Unnamed (45.4478, −123.8670); Unnamed (45.3950, −123.7348).

(iv) *Trask River Watershed 1710020304.* Outlet(s) = Trask River (Lat 45.4682, Long −123.8802) upstream to endpoint(s) in: Bales Creek (45.3712, −123.5786); Bark Shanty Creek (45.4232, −123.5550); Bear Creek (45.4192, −123.7408); Bill Creek (45.3713, −123.6386); Blue Bus Creek (45.4148, −123.5949); Boundry Creek (45.3493, −123.5470); Clear Creek #1 (45.4638, −123.5571); Clear Creek #2 (45.5025, −123.4683); Cruiser Creek (45.4201, −123.4753); Dougherty Slough (45.4684, −123.7888); East Fork of South Fork Trask River (45.3563, −123.4752); Edwards Creek (45.3832, −123.6676); Elkhorn Creek, Trib C (45.4080, −123.4440); Elkhorn Creek (45.3928, −123.4709); Gold Creek (45.4326, −123.7218); Green Creek (45.4510, −123.7361); Hatchery Creek (45.4485, −123.6623); Headquarters Camp Creek (45.3317, −123.5072); Hoquarten Slough (45.4597, −123.8480); Joyce Creek (45.3881, −123.6386); Michael Creek (45.4799, −123.5119); Mill Creek (45.4100, −123.7450); Miller Creek (45.3582, −123.5666); Pigeon Creek (45.3910, −123.5656); Rawe Creek (45.4395, −123.6351); Rock Creek (45.3515, −123.5074); Samson Creek (45.4662, −123.6439); Scotch Creek (45.4015, −123.5873); Steampot Creek (45.3875, −123.5425); Stretch Creek (45.3483, −123.5382); Summit Creek (45.3481, −123.6054); Summit Creek, South Fork (45.3473, −123.6145); Trask River, North Fork, Middle Fork (45.4472, −123.3945); Trask River, North Fork, North Fork (45.5275, −123.4177); Trask River, South Fork (45.3538, −123.6445); Trib A (45.3766, −123.5191); Trib B (45.3776, −123.4988); Unnamed

(45.3639, −123.6054); Unnamed (45.4105, −123.7741); Unnamed (45.4201, −123.6320); Unnamed (45.4220, −123.7654).

(v) *Wilson River Watershed 1710020305*. Outlet(s) = Wilson River (Lat 45.4816, Long −123.8708) upstream to endpoint(s) in: Beaver Creek (45.4894, −123.7933); Ben Smith Creek (45.5772, −123.5072); Cedar Creek (45.5869, −123.6228); Cedar Creek, North Fork (45.6066, −123.6151); Deo Creek (45.6000, −123.3716); Drift Creek (45.6466, −123.3944); Elk Creek (45.6550, −123.4620); Elk Creek, West Fork (45.6208, −123.4717); Elliott Creek (45.5997, −123.3925); Fall Creek (45.4936, −123.5616); Fox Creek (45.5102, −123.5869); Hatchery Creek (45.4835, −123.7074); Hughey Creek (45.4540, −123.7526); Idiot Creek (45.6252, −123.4296); Jones Creek (45.6028, −123.5702); Jordan Creek (45.5610, −123.4557); Jordan Creek, South Fork (45.5099, −123.5279); Kansas Creek (45.4861, −123.6434); Morris Creek (45.6457, −123.5409); Tuffy Creek (45.5787, −123.4702); Unnamed (45.4809, −123.8362); Unnamed (45.5758, −123.5226); Unnamed (45.5942, −123.4259); Unnamed (45.6002, −123.5939); Unnamed (45.6151, −123.4385); White Creek (45.5181, −123.7223); Wilson River, Devil's Lake Fork (45.6008, −123.3301); Wilson River, North Fork (45.6679, −123.5138); Wilson River, North Fork, Little (45.5283, −123.6771); Wilson River, North Fork, West Fork (45.6330, −123.5879); Wilson River, North Fork, West Fork, North Fork (45.6495, −123.5779); Wilson River, South Fork (45.5567, −123.3965); Wolf Creek (45.5683, −123.6129).

(vi) *Kilchis River Watershed 1710020306*. Outlet(s) = Kilchis River (Lat 45.4927, Long −123.8615) upstream to endpoint(s) in: Clear Creek (45.5000, −123.7647); Coal Creek (45.5004, −123.8085); Company Creek (45.5892, −123.7370); French Creek (45.6318, −123.6926); Kilchis River, Little South Fork (45.5668, −123.7178); Kilchis River, North Fork (45.6044, −123.6504); Kilchis River, South Fork (45.5875, −123.6944); Mapes Creek (45.5229, −123.8382); Murphy Creek (45.5320, −123.8341); Myrtle Creek (45.5296, −123.8156); Sam Downs Creek (45.5533, −123.7144); Schroeder Creek (45.6469, −123.7064); Unnamed (45.5625, −123.7593).

(vii) *Miami River Watershed 1710020307*. Outlet(s) = Miami River (Lat 45.5597, Long −123.8904) upstream to endpoint(s) in: Diamond Creek (45.6158, −123.8184); Hobson Creek (45.5738, −123.8970); Illingsworth Creek (45.5547, −123.8693); Miami River (45.6362, −123.7533); Miami River, Trib S (45.6182, −123.8004); Miami River, Trib T (45.6546, −123.7463); Minich Creek (45.5869, −123.8936); Moss Creek (45.5628, −123.8319); Peterson Creek (45.6123, −123.8996); Prouty Creek (45.6304, −123.8435); Stuart Creek (45.6042, −123.8442); Unnamed (45.6317, −123.7906); Unnamed (45.6341, −123.7900); Waldron Creek (45.5856, −123.8483).

(viii) *Tillamook Bay Watershed 1710020308*. Outlet(s) = Tillamook Bay (Lat 45.5600, Long −123.9366) upstream to endpoint(s) in: Douthy Creek (45.5277, −123.8570); Electric Creek (45.5579, −123.8925); Hall Slough (45.4736, −123.8637); Jacoby Creek (45.5297, −123.8665); Kilchis River (45.4927, −123.8615); Larson Creek (45.5366, −123.8849); Miami River (45.5597, −123.8904); Patterson Creek (45.5359, −123.8732); Tillamook Bay (45.4682, −123.8802); Vaughn Creek (45.5170, −123.8516); Wilson River (45.4816, −123.8708).

(ix) *Spring Creek/Sand Lake/Neskowin Creek Frontal Watershed 1710020309*. Outlet(s) = Crescent Lake (45.6360, −123.9405); Neskowin Creek (45.1001, −123.9859); Netarts Bay (45.4339, −123.9512); Rover Creek (45.3290, −123.9670); Sand Creek (45.2748, −123.9589); Watesco Creek (45.5892, −123.9477) upstream to endpoint(s) in: Andy Creek (45.2905, −123.8744); Butte Creek (45.1159, −123.9360); Crescent Lake (45.6320, −123.9376); Davis Creek (45.3220, −123.9254); Fall Creek (45.0669, −123.9679); Hawk Creek (45.1104, −123.9436); Jackson Creek (45.3568, −123.9611); Jewel Creek (45.2865, −123.8905); Jim Creek (45.0896, −123.9224); Lewis Creek (45.0835, −123.8979); Meadow Creek (45.0823, −123.9824); Neskowin Creek (45.0574, −123.8812); Prospect Creek (45.0858, −123.9321); Reneke Creek

(45.2594, −123.9434); Rover Creek (45.3284, −123.9438); Sand Creek (45.3448, −123.9156); Sloan Creek (45.0718, −123.8998); Watesco Creek (45.5909, −123.9353); Whiskey Creek (45.3839, −123.9193).

(4) Siletz/Yaquina Subbasin 17100204–(i) *Upper Yaquina River Watershed 1710020401*. Outlet(s) = Yaquina River (Lat 44.6219, Long −123.8741) upstream to endpoint(s) in: Bales Creek (44.6893, −123.7503); Bales Creek, East Fork (44.6927, −123.7363); Bales Creek, East Fork, Trib A (44.6827, −123.7257); Bales Creek (44.6610, −123.8749); Bones Creek (44.6647, −123.6762); Bryant Creek (44.6746, −123.7139); Buckhorn Creek (44.6676, −123.6677); Buttermilk Creek (44.6338, −123.6827); Buttermilk Creek, Trib A (44.6518, −123.7173); Carlisle Creek (44.6451, −123.8847); Cline Creek (44.6084, −123.6844); Cook Creek (44.6909, −123.8583); Crystal Creek (44.6500, −123.8132); Davis Creek (44.6500, −123.6587); Eddy Creek (44.6388, −123.7951); Felton Creek (44.6626, −123.6502); Haxel Creek (44.6781, −123.8046); Hayes Creek (44.6749, −123.7749); Humphrey Creek (44.6697, −123.6329); Klamath Creek (44.6927, −123.8431); Little Elk Creek (44.6234, −123.6628); Little Elk Creek,Trib A (44.6196, −123.7583); Little Yaquina River (44.6822, −123.6123); Lytle Creek (44.6440, −123.5979); Miller Creek (44.6055, −123.7030); Oglesby Creek (44.6421, −123.7271); Oglesby Creek, Trib A (44.6368, −123.7100); Peterson Creek (44.6559, −123.7868); Randall Creek (44.6721, −123.6570); Salmon Creek (44.6087, −123.7379); Simpson Creek (44.6775, −123.8780); Sloop Creek (44.6654, −123.8595); Spilde Creek (44.6636, −123.5856); Stony Creek (44.6753, −123.7020); Thornton Creek (44.6923, −123.8208); Trapp Creek (44.6455, −123.8307); Twentythree Creek (44.6887, −123.8751); Unnamed (44.6074, −123.6738); Unnamed (44.6076, −123.7067); Unnamed (44.6077, −123.6633); Unnamed (44.6123, −123.6646); Unnamed (44.6188, −123.7237); Unnamed (44.6202, −123.7201); Unnamed (44.6367, −123.7444); Unnamed (44.6415, −123.6237); Unnamed (44.6472, −123.7793); Unnamed (44.6493, −123.6789); Unnamed (44.6707, −123.7908); Unnamed (44.6715, −123.6907); Unnamed (44.6881, −123.6089); Unnamed (44.6908, −123.7298); Wakefield Creek (44.6336, −123.6963); Yaquina River (44.6894, −123.5907); Young Creek (44.6372, −123.6027).

(ii) *Big Elk Creek Watershed 1710020402*. Outlet(s) = Elk Creek (Lat 44.6219, Long −123.8741) upstream to endpoint(s) in: Adams Creek (44.5206, −123.6349); Baker Creek (44.5230, −123.6346); Bear Creek (44.5966, −123.8299); Beaver Creek (44.6040, −123.7999); Beaverdam Creek (44.5083, −123.6337); Bevens Creek (44.5635, −123.7371); Bull Creek (44.5408, −123.8162); Bull Creek (44.5431, −123.8142); Bull Creek, Trib A (44.5359, −123.8276); Cougar Creek (44.5070, −123.6482); Cougar Creek (44.5861, −123.7563); Deer Creek (44.6020, −123.7667); Devils Well Creek (44.6324, −123.8438); Dixon Creek (44.6041, −123.8659); Elk Creek (44.5075, −123.6022); Feagles Creek (44.4880, −123.7180); Feagles Creek, Trib B (44.5079, −123.6909); Feagles Creek, West Fork (44.5083, −123.7117); Grant Creek (44.5010, −123.7363); Harve Creek (44.5725, −123.8025); Jackass Creek (44.5443, −123.7790); Johnson Creek (44.5466, −123.6336); Lake Creek (44.5587, −123.6826); Leverage Creek (44.5536, −123.6343); Little Creek (44.5548, −123.6980); Little Wolf Creek (44.5590, −123.7165); Peterson Creek (44.5576, −123.6450); Rail Creek (44.5135, −123.6639); Spout Creek (44.5824, −123.6561); Sugarbowl Creek (44.5301, −123.5995); Unnamed (44.5048, −123.7566); Unnamed (44.5085, −123.6309); Unnamed (44.5108, −123.6249); Unnamed (44.5144, −123.6554); Unnamed (44.5204, −123.6148); Unnamed (44.5231, −123.6714); Unnamed (44.5256, −123.6804); Unnamed (44.5325, −123.7244); Unnamed (44.5332, −123.7211); Unnamed (44.5361, −123.7139); Unnamed (44.5370, −123.7643); Unnamed (44.5376, −123.6176); Unnamed (44.5410, −123.8213); Unnamed (44.5504, −123.8290); Unnamed (44.5530, −123.8282); Unnamed (44.5618, −123.8431); Unnamed (44.5687, −123.8563); Unnamed (44.5718, −123.7256); Unnamed (44.5734, −123.6696); Unnamed (44.5737, −123.6566); Unnamed

(44.5771, −123.7027); Unnamed (44.5821, −123.8123); Unnamed (44.5840, −123.6678); Unnamed (44.5906, −123.7871); Unnamed (44.5990, −123.7808); Unnamed (44.5865, −123.8521); Wolf Creek (44.5873, −123.6939); Wolf Creek, Trib A (44.5862, −123.7188); Wolf Creek, Trib B (44.5847, −123.7062).

(iii) *Lower Yaquina River Watershed 1710020403*. Outlet(s) = Yaquina River (Lat 44.6098, Long −124.0818) upstream to endpoint(s) in: Abbey Creek (44.6330, −123.8881); Babcock Creek (44.5873, −123.9221); Beaver Creek (44.6717, −123.9799); Blue Creek (44.6141, −123.9936); Boone Slough, Trib A (44.6134, −123.9769); Depot Creek, Little (44.6935, −123.9482); Depot Creek, Trib A (44.6837, −123.9420); Drake Creek (44.6974, −123.9690); East Fork Mill Creek (44.5691, −123.8834); Flesher Slough (44.5668, −123.9803); King Slough (44.5944, −124.0323); Little Beaver Creek (44.6531, −123.9728); McCaffery Slough (44.5659, −124.0180); Mill Creek (44.5550, −123.9064); Mill Creek, Trib A (44.5828, −123.8750); Montgomery Creek (44.5796, −123.9286); Nute Slough (44.6075, −123.9660); Olalla Creek (44.6810, −123.8972); Olalla Creek, Trib A (44.6511, −123.9034); Parker Slough (44.5889, −124.0119); Unnamed (44.5471, −123.9557); Unnamed (44.5485, −123.9308); Unnamed (44.5520, −123.9433); Unnamed (44.5528, −123.9695); Unnamed (44.5552, −123.9294); Unnamed (44.5619, −123.9348); Unnamed (44.5662, −123.8905); Unnamed (44.5827, −123.9456); Unnamed (44.5877, −123.8850); Unnamed (44.6444, −123.9059); Unnamed (44.6457, −123.9996); Unnamed (44.6530, −123.9914); Unnamed (44.6581, −123.8947); Unnamed (44.6727 −123.8942); Unnamed (44.6831, −123.9940); West Olalla Creek (44.6812, −123.9299); West Olalla Creek, Trib A (44.6649, −123.9204); Wessel Creek (44.6988, −123.9863); Wright Creek (44.5506, −123.9250); Wright Creek, Trib A (44.5658, −123.9422); Yaquina River (44.6219, −123.8741).

(iv) *Middle Siletz River Watershed 1710020405*. Outlet(s) = Siletz River (Lat 44.7375, Long −123.7917) upstream to endpoint(s) in: Buck Creek, East Fork (44.8410, −123.7970); Buck Creek, South Fork (44.8233, −123.8095); Buck Creek, West Fork (44.8352, −123.8084); Cerine Creek (44.7478, −123.7198); Deer Creek (44.8245, −123.7268); Deer Creek, Trib A (44.8178, −123.7397); Elk Creek (44.8704, −123.7668); Fourth of July Creek (44.8203, −123.6810); Gunn Creek (44.7816, −123.7679); Holman River (44.8412, −123.7707); Mill Creek, North Fork (44.7769, −123.7361); Mill Creek, South Fork (44.7554, −123.7276); Palmer Creek (44.7936, −123.8344); Siletz River (44.8629, −123.7323); Sunshine Creek (44.7977, −123.6963); Unnamed (44.7691, −123.7851); Unnamed (44.7747, −123.7740); Unnamed (44.7749, −123.7662); Unnamed (44.8118, −123.6926); Unnamed (44.8188, −123.6995); Unnamed (44.8312, −123.6983); Unnamed (44.8583, −123.7573); Whiskey Creek (44.8123, −123.6937).

(v) *Rock Creek/Siletz River Watershed 1710020406*. Outlet(s) = Rock Creek (Lat 44.7375, Long −123.7917) upstream to endpoint(s) in: Beaver Creek (44.7288, −123.6773); Big Rock Creek (44.7636, −123.6969); Brush Creek (44.6829, −123.6582); Cedar Creek (44.7366, −123.6586); Fisher Creek (44.7149, −123.6359); Little Rock Creek (44.7164, −123.6155); Little Steere Creek (44.7219, −123.6368); Rock Creek, Trib A (44.7414, −123.7508); Steere Creek (44.7336, −123.6313); Unnamed (44.7175, −123.6496); William Creek (44.7391, −123.7277).

(vi) *Lower Siletz River Watershed 1710020407*. Outlet(s) = Siletz Bay (Lat 44.9269, Long −124.0218) upstream to endpoint(s) in: Anderson Creek (44.9311, −123.9508); Bear Creek (44.8682, −123.8891); Bentilla Creek (44.7745, −123.8555); Butterfield Creek (44.8587, −123.9993); Cedar Creek (44.8653, −123.8488); Cedar Creek, Trib D (44.8606, −123.8696); Coon Creek (44.7959, −123.8468); Dewey Creek (44.7255, −123.9724); Drift Creek (44.9385, −123.8211); Erickson Creek (44.9629, −123.9490); Euchre Creek (44.8023, −123.8687); Fowler Creek (44.9271, −123.8440); Gordey Creek (44.9114, −123.9724); Hough Creek (44.8052, −123.8991); Jaybird Creek (44.7640, −123.9733); Long Prairie Creek (44.6970, −123.7499); Long Tom Creek (44.7037, −123.8533); Mann Creek (44.6987, −123.8025); Mill Creek

(44.6949, −123.8967); Miller Creek (44.7487, −123.9733); North Creek (44.9279, −123.8908); North Roy Creek (44.7916, −123.9897); Ojalla Creek (44.7489, −123.9427); Quarry Creek (44.8989, −123.9360); Reed Creek (44.8020, −123.8835); Reed Creek (44.8475, −123.9267); Roots Creek (44.8300, −123.9351); South Roy Creek (44.7773, −123.9847); Sam Creek (44.7086, −123.7312); Sampson Creek (44.9089, −123.8173); Savage Creek (44.8021, −123.8608); Scare Creek (44.8246, −123.9954); Schooner Creek, North Fork (44.9661, −123.8793); Schooner Creek, South Fork (44.9401, −123.8689); Scott Creek (44.7414, −123.8268); Sijota Creek (44.8883, −124.0257); Siletz River (44.7375, −123.7917); Skunk Creek (44.8780, −123.9073); Smith Creek (44.9294, −123.8056); Stemple Creek (44.8405, −123.9492); Tangerman Creek (44.7278, −123.8944); Thayer Creek (44.7023, −123.8256); Thompson Creek (44.7520, −123.8893); Unnamed (44.7003, −123.7669); Unnamed (44.8904, −123.8034); Unnamed (44.8927, −123.8400); Unnamed (44.7034, −123.7754); Unnamed (44.7145, −123.8423); Unnamed (44.7410, −123.8800); Unnamed (44.7925, −123.9212); Unnamed (44.8396, −123.8896); Unnamed (44.9035, −123.8635); Unnamed (44.9240, −123.7913); West Fork Mill Creek (44.7119, −123.9703); Wildcat Creek (44.8915, −123.8842).

(vii) *Salmon River/Siletz/Yaquina Bay Watershed 1710020408*. Outlet(s) = Salmon River (Lat 45.0474, Long −124.0031) upstream to endpoint(s) in: Alder Brook (45.0318, −123.8428); Bear Creek (44.9785, −123.8580); Boulder Creek (45.0428, −123.7817); Calkins Creek (45.0508, −123.9615); Crowley Creek (45.0540, −123.9819); Curl Creek (45.0150, −123.9198); Deer Creek (45.0196, −123.8091); Frazer Creek (45.0096, −123.9576); Gardner Creek (45.0352, −123.9024); Indian Creek (45.0495, −123.8010); Little Salmon River (45.0546, −123.7473); McMullen Creek (44.9829, −123.8682); Panther Creek (45.0208, −123.8878); Panther Creek, North Fork (45.0305, −123.8910); Prairie Creek (45.0535, −123.8129); Rowdy Creek (45.0182, −123.9751); Salmon River (45.0269, −123.7224); Slick Rock Creek (44.9903, −123.8158); Sulphur Creek (45.0403, −123.8216); Telephone Creek (45.0467, −123.9348); Toketa Creek (45.0482, −123.9088); Trout Creek (44.9693, −123.8337); Unnamed (44.9912, −123.8789); Unnamed (45.0370, −123.7333); Unnamed (45.0433, −123.7650); Widow Creek (45.0373, −123.8530); Widow Creek, West Fork (45.0320, −123.8643); Willis Creek (45.0059, −123.9391).

(viii) *Devils Lake/Moolack Frontal Watershed 1710020409*. Outlet(s) = Big Creek (Lat 44.6590, Long −124.0571); Coal Creek (44.7074, −124.0615); D River (44.9684, −124.0172); Fogarty Creek (44.8395, −124.0520); Moolack Creek (44.7033, −124.0622); North Depoe Bay Creek (44.8098, −124.0617); Schoolhouse Creek (44.8734, −124.0401); Spencer Creek (44.7292, −124.0582); Wade Creek (44.7159, −124.0600) upstream to endpoint(s) in: Big Creek (44.6558, −124.0427); Coal Creek (44.7047, −124.0099); Devils Lake (44.9997, −123.9773); Fogarty Creek (44.8563, −124.0153); Jeffries Creek (44.6425, −124.0315); Moolack Creek (44.6931, −124.0150); North Depoe Bay Creek (44.8157, −124.0510); Rock Creek (44.9869, −123.9317); South Depoe Bay Creek (44.7939, −124.0126); Salmon Creek (44.8460, −124.0164); Schoolhouse Creek (44.8634, −124.0151); South Fork Spencer Creek (44.7323, −123.9974); Spencer Creek, North Fork (44.7453, −124.0276); Unnamed (44.8290, −124.0318); Unnamed (44.9544, −123.9867); Unnamed (44.9666, −123.9731); Unnamed (44.9774, −123.9706); Wade Creek (44.7166, −124.0057).

(5) Alsea Subbasin 17100205—(i) *Upper Alsea River Watershed 1710020501*. Outlet(s) = Alsea River, South Fork (Lat 44.3767, Long −123.6024) upstream to endpoint(s) in: Alder Creek (44.4573, −123.5188); Alsea River, South Fork (44.3261, −123.4891); Baker Creek (44.4329, −123.5522); Banton Creek (44.3317, −123.6020); Brown Creek (44.3151, −123.6250); Bummer Creek (44.3020, −123.5765); Cabin Creek (44.4431, −123.5328); Crooked Creek (44.4579, −123.5099); Dubuque Creek (44.3436, −123.5527); Ernest Creek (44.4234, −123.5275); Hayden Creek (44.4062, −123.5815); Honey Grove Creek (44.3874, −123.5078); North Fork Alsea River (44.4527, −123.6102); Parker Creek

(44.4702, −123.5978); Peak Creek (44.3358, −123.4933); Record Creek (44.3254, −123.6331); Seeley Creek (44.4051, −123.5177); Swamp Creek (44.3007, −123.6108); Tobe Creek (44.3273, −123.5719); Trout Creek (44.3684, −123.5163); Unnamed (44.3108, −123.6225); Unnamed (44.3698, −123.5670); Unnamed (44.4574, −123.5001); Unnamed (44.3708, −123.5740); Unnamed (44.3713, −123.5656); Unnamed (44.3788, −123.5528); Unnamed (44.4270, −123.5492); Unnamed (44.4518, −123.6236); Yew Creek (44.4581, −123.5373); Zahn Creek (44.4381, −123.5425).

(ii) *Five Rivers/Lobster Creek Watershed 1710020502.* Outlet(s) = Five Rivers (Lat 44.3584, Long −123.8279) upstream to endpoint(s) in: Alder Creek (44.2947, −123.8105); Bear Creek (44.2824, −123.9123); Bear Creek (44.3588, −123.7930); Bear Creek (44.2589, −123.6647); Briar Creek (44.3184, −123.6602); Buck Creek (44.2428, −123.8989); Camp Creek (44.2685, −123.7552); Cascade Creek (44.3193, −123.9073); Cascade Creek, North Fork (44.3299, −123.8932); Cedar Creek (44.2732, −123.7753); Cherry Creek (44.3061, −123.8140); Coal Creek (44.2881, −123.6484); Cook Creek (44.2777, −123.6445); Cougar Creek (44.2723, −123.8678); Crab Creek (44.2458, −123.8750); Crazy Creek (44.2955, −123.7927); Crooked Creek (44.3154, −123.7986); Elk Creek (44.3432, −123.7969); Fendall Creek (44.2764, −123.7890); Five Rivers (44.2080, −123.8025); Green River (44.2286, −123.8751); Green River, East Fork (44.2255, −123.8143); Jasper Creek (44.2777, −123.7326); Little Lobster Creek (44.2961, −123.6266); Lobster Creek, East Fork (44.2552, −123.5897); Lobster Creek, South Fork (44.2326, −123.6060); Lobster Creek (44.2237, −123.6195); Lord Creek (44.2411, −123.7631); Martha Creek (44.2822, −123.6781); Meadow Creek (44.2925, −123.6591); Phillips Creek (44.3398, −123.7613); Preacher Creek (44.2482, −123.7440); Prindel Creek (44.2346, −123.7849); Ryan Creek (44.2576, −123.7971); Summers Creek (44.2589, −123.7627); Swamp Creek (44.3274, −123.8407); Unnamed (44.2845, −123.7007); Unnamed (44.2129, −123.7919); Unnamed (44.2262, −123.7982); Unnamed (44.2290, −123.8559); Unnamed (44.2327, −123.8344); Unnamed (44.2356, −123.8178); Unnamed (44.2447, −123.6460); Unnamed (44.2500, −123.8074); Unnamed (44.2511, −123.9011); Unnamed (44.2551, −123.8733); Unnamed (44.2614, −123.8652); Unnamed (44.2625, −123.8635); Unnamed (44.2694, −123.8180); Unnamed (44.2695, −123.7429); Unnamed (44.2696, −123.8497); Unnamed (44.2752, −123.7616); Unnamed (44.2760, −123.7121); Unnamed (44.2775, −123.8895); Unnamed (44.2802, −123.7097); Unnamed (44.2802, −123.8608); Unnamed (44.2823, −123.7900); Unnamed (44.2853, −123.7537); Unnamed (44.2895, −123.9083); Unnamed (44.2940, −123.7358); Unnamed (44.2954, −123.7602); Unnamed (44.2995, −123.7760); Unnamed (44.3024, −123.9064); Unnamed (44.3066, −123.8838); Unnamed (44.3070, −123.8280); Unnamed (44.3129, −123.7763); Unnamed (44.3214, −123.8161); Unnamed (44.3237, −123.9020); Unnamed (44.3252, −123.7382); Unnamed (44.3289, −123.8354); Unnamed (44.3336, −123.7431); Unnamed (44.3346, −123.7721); Wilkinson Creek (44.3296, −123.7249); Wilson Creek (44.3085, −123.8990).

(iii) *Drift Creek Watershed 1710020503.* Outlet(s) = Drift Creek (Lat 44.4157, Long −124.0043) upstream to endpoint(s) in: Boulder Creek (44.4434, −123.8705); Bush Creek (44.5315, −123.8631); Cape Horn Creek (44.5153, −123.7844); Cedar Creek (44.4742, −123.9699); Cougar Creek (44.4405, −123.9144); Deer Creek (44.5514, −123.8778); Drift Creek (44.4688, −123.7859); Ellen Creek (44.4415, −123.9413); Flynn Creek (44.5498, −123.8520); Gold Creek (44.4778, −123.8802); Gopher Creek (44.5217, −123.7787); Horse Creek (44.5347, −123.9072); Lyndon Creek (44.4395, −123.9801); Needle Branch (44.5154, −123.8537); Nettle Creek (44.4940, −123.7845); Slickrock Creek (44.4757, −123.9007); Trout Creek (44.4965, −123.9113); Trout Creek, East Fork (44.4705, −123.9290); Unnamed (44.4995, −123.8488); Unnamed

(44.4386, −123.9200); Unnamed (44.4409, −123.8738); Unnamed (44.4832, −123.9570); Unnamed (44.4868, −123.9340); Unnamed (44.4872, −123.9518); Unnamed (44.4875, −123.9460); Unnamed (44.4911, −123.9227); Unnamed (44.5187, −123.7996); Unnamed (44.5260, −123.7848); Unnamed (44.5263, −123.8868); Unnamed (44.5326, −123.8453); Unnamed (44.5387, −123.8440); Unnamed (44.5488, −123.8694); Unnamed (44.4624, −123.8216).

(iv) *Lower Alsea River Watershed 1710020504*. Outlet(s) = Alsea River (Lat 44.4165, Long −124.0829) upstream to endpoint(s) in: Alsea River (44.3767, −123.6024); Arnold Creek (44.3922, −123.9503); Barclay Creek (44.4055, −123.8659); Bear Creek (44.3729, −123.9623); Bear Creek (44.3843, −123.7704); Beaty Creek (44.4044, −123.6043); Benner Creek (44.3543, −123.7447); Brush Creek (44.3826, −123.8537); Bull Run Creek (44.4745, −123.7439); Canal Creek (44.3322, −123.9460); Canal Creek, East Fork (44.3454, −123.9161); Carns Canyon (44.4027, −123.7550); Cedar Creek (44.3875, −123.7946); Cove Creek (44.4403, −123.7107); Cow Creek (44.3620, −123.7510); Darkey Creek (44.3910, −123.9927; Digger Creek (44.3906, −123.6890); Fall Creek (44.4527, −123.6864); Fall Creek (44.4661, −123.6933); George Creek (44.3556, −123.8603); Grass Creek (44.3577, −123.8798); Hatchery Creek (44.3952, −123.7269); Hatchery Creek (44.4121, −123.8734); Hoover Creek (44.3618, −123.8583); Lake Creek (44.3345, −123.8725); Lint Creek (44.3850, −124.0490); Maltby Creek (44.3833, −123.6770); Meadow Fork (44.3764, −123.8879); Mill Creek (44.4046, −123.6436); Minotti Creek (44.3750, −123.7718); Nye Creek (44.4326, −123.7648); Oxstable Creek (44.3912, −123.9603); Phillips Creek (44.3803, −123.7780); Red Creek (44.3722, −123.9162); Risley Creek (44.4097, −123.9380); Schoolhouse Creek (44.3897, −123.6545); Scott Creek, East Fork (44.4252, −123.7897); Scott Creek, West Fork (44.4212, −123.8225); Skinner Creek (44.3585, −123.9374); Skunk Creek (44.3998, −123.6912); Slide Creek (44.3986, −123.8419); Starr Creek (44.4477, −124.0130); Sudan Creek (44.3817, −123.9717); Sulmon Creek (44.3285, −123.7008); Sulmon Creek, North Fork (44.3421, −123.6374); Sulmon Creek, South Fork (44.3339, −123.6709); Swede Fork (44.3852, −124.0295); Unnamed (44.3319, −123.9318); Unnamed (44.3356, −123.9464); Unnamed (44.3393, −123.9360); Unnamed (44.3413, −123.9294); Unnamed (44.3490, −123.9058); Unnamed (44.3548, −123.6574); Unnamed (44.3592, −123.6363); Unnamed (44.3597, −123.9042); Unnamed (44.3598, −123.6563); Unnamed (44.3598, −123.6562); Unnamed (44.3600, −123.6514); Unnamed (44.3656, −123.9085); Unnamed (44.3680, −123.9629); Unnamed (44.3794, −123.8268); Unnamed (44.3800, −123.9134); Unnamed (44.3814, −123.7650); Unnamed (44.3822, −124.0555); Unnamed (44.3823, −124.0451); Unnamed (44.3989, −123.6050); Unnamed (44.4051, −124.0527); Unnamed (44.4166, −123.8149); Unnamed (44.4537, −123.7247); Walker Creek (44.4583, −124.0271); Weist Creek (44.3967, −124.0256); West Creek (44.3588, −123.9493).

(v) *Beaver Creek/Waldport Bay Watershed 1710020505*. Outlet(s) = Beaver Creek (Lat 44.5233, Long −124.0734); Deer Creek (44.5076, −124.0807); Thiel Creek (44.5646, −124.0709) upstream to endpoint(s) in: Beaver Creek, North Fork, Trib G (44.5369, −123.9195); Beaver Creek, South Fork (44.4816, −123.9853); Beaver Creek, South Fork, Trib A (44.4644, −124.0332); Bowers Creek (44.5312, −124.0117); Bunnel Creek (44.5178, −124.0265); Deer Creek (44.5057, −124.0721); Elkhorn Creek (44.5013, −123.9572); Elkhorn Creek (44.4976, −123.9685); Lewis Creek (44.5326, −123.9532); North Fork Beaver Creek (44.5149, −123.8988); Oliver Creek (44.4660, −124.0471); Peterson Creek (44.5419, −123.9738); Pumphouse Creek (44.5278, −124.0569); Simpson Creek (44.5255, −124.0390); Thiel Creek (44.5408, −124.0254); Tracy Creek (44.5411, −124.0500); Unnamed (44.4956, −123.9751); Unnamed (44.5189, −124.0638); Unnamed (44.5225, −123.9313); Unnamed (44.5256, −123.9399); Unnamed (44.5435, −124.0221); Unnamed

(44.5461, −124.0311); Unnamed (44.5472, −124.0591); Unnamed (44.5482, −124.0249); Unnamed (44.5519, −124.0279); Unnamed (44.5592, −124.0531); Worth Creek (44.5013, −124.0207).

(vi) *Yachats River Watershed 1710020506*. Outlet(s) = Yachats River (Lat 44.3081, Long −124.1070) upstream to endpoint(s) in: Axtell Creek (44.3084, −123.9915); Beamer Creek (44.3142, −124.0124); Bend Creek (44.2826, −124.0077); Carson Creek (44.3160, −124.0030); Dawson Creek (44.2892, −124.0133); Depew Creek (44.3395, −123.9631); Earley Creek (44.3510, −123.9885); Fish Creek (44.3259, −123.9592); Glines Creek (44.3436, −123.9756); Grass Creek (44.2673, −123.9109); Helms Creek (44.2777, −123.9954); Keller Creek (44.2601, −123.9485); Little Beamer Creek (44.2993, −124.0213); Reedy Creek (44.3083, −124.0460); South Beamer Creek (44.2852, −124.0325); Stump Creek (44.2566, −123.9624); Unnamed (44.2596, −123.9279); Unnamed (44.2657, −123.9585); Unnamed (44.2660, −123.9183); Unnamed (44.2684, −123.9711); Unnamed (44.2837, −123.9268); Unnamed (44.2956, −123.9316); Unnamed (44.3005, −123.9324); Unnamed (44.3163, −123.9428); Unnamed (44.3186, −123.9568); Unnamed (44.3259, −123.9578); Unnamed (44.3431, −123.9711); West Fork Williamson Creek (44.3230, −124.0008); Williamson Creek (44.3300, −124.0026); Yachats River (44.2468, −123.9329); Yachats River, North Fork (44.3467, −123.9972); Yachats River, School Fork (44.3145, −123.9341).

(vii) *Cummins Creek/Tenmile Creek/Mercer Lake Frontal Watershed 1710020507*. Outlet(s) = Berry Creek (Lat 44.0949, Long −124.1221); Big Creek (44.1767, −124.1148); Bob Creek (44.2448, −124.1118); Cape Creek (44.1336, −124.1211); Cummins Creek (44.2660, −124.1075); Rock Creek (44.1833, −124.1149); Sutton Creek (44.0605, −124.1269); Tenmile Creek (44.2245, −124.1083) upstream to endpoint(s) in: Bailey Creek (44.1037, −124.0530); Berry Creek (44.0998, −124.0885); Big Creek (44.1866, −123.9781); Big Creek, South Fork (44.1692, −123.9688); Big Creek, Trib A (44.1601, −124.0231); Bob Creek (44.2346, −124.0235); Cape Creek (44.1351, −124.0174); Cape Creek, North Fork (44.1458, −124.0489); Cummins Creek (44.2557, −124.0104); Fryingpan Creek (44.1723, −124.0401); Levage Creek (44.0745, −124.0588); Little Cummins Creek (44.2614, −124.0851); McKinney Creek (44.2187, −123.9985); Mercer Creek (44.0712, −124.0796); Mill Creek (44.2106, −124.0747); Quarry Creek (44.0881, −124.1124); Rath Creek (44.0747, −124.0901); Rock Creek (44.1882, −124.0310); Tenmile Creek (44.2143, −123.9351); Tenmile Creek, South Fork (44.2095, −123.9607); Unnamed (44.1771, −124.0908); Unnamed (44.0606, −124.0805); Unnamed (44.0624, −124.0552); Unnamed (44.0658, −124.0802); Unnamed (44.0690, −124.0490); Unnamed (44.0748, −124.0478); Unnamed (44.0814, −124.0464); Unnamed (44.0958, −124.0559); Unnamed (44.1283, −124.0242); Unnamed (44.1352, −124.0941); Unnamed (44.1712, −124.0558); Unnamed (44.1715, −124.0636); Unnamed (44.2011, −123.9634); Unnamed (44.2048, −123.9971); Unnamed (44.2146, −124.0358); Unnamed (44.2185, −124.0270); Unnamed (44.2209, −123.9368); Wapiti Creek (44.1216, −124.0448); Wildcat Creek (44.2339, −123.9632).

(viii) *Big Creek/Vingie Creek Watershed 1710020508*. Outlet(s) = Big Creek (Lat 44.3742, Long −124.0896) upstream to endpoint(s) in: Big Creek (44.3564, −124.0613); Dicks Fork Big Creek (44.3627, −124.0389); Reynolds Creek (44.3768, −124.0740); South Fork Big Creek (44.3388, −124.0597); Unnamed (44.3643, −124.0355); Unnamed (44.3662, −124.0573); Unnamed (44.3686, −124.0683).

(6) Siuslaw Subbasin 17100206—(i) *Upper Siuslaw River Watershed 1710020601*. Outlet(s) = Siuslaw River (Lat 44.0033, Long −123.6545) upstream to endpoint(s) in: Bear Creek (43.8482, −123.5172); Bear Creek, Trib A (43.8496, −123.5059); Bierce Creek (43.8750, −123.5559); Big Canyon Creek (43.9474, −123.6582); Bottle Creek (43.8791, −123.3871); Bounds Creek (43.9733, −123.7108); Buck Creek, Trib B (43.8198, −123.3913); Buck Creek, Trib E (43.8152, −123.4248); Burntwood Creek

(43.9230, −123.5342); Cabin Creek (43.8970, −123.6754); Camp Creek (43.9154, −123.4904); Canyon Creek (43.9780, −123.6096); Clay Creek (43.8766, −123.5721); Collins Creek (43.8913, −123.6047); Conger Creek (43.8968, −123.4524); Doe Creek (43.8957, −123.3558); Doe Hollow Creek (43.8487, −123.4603); Dogwood Creek (43.8958, −123.3811); Douglas Creek (43.8705, −123.2836); Edris Creek (43.9224, −123.5531); Esmond Creek (43.8618, −123.5772); Esmond Creek, Trib 1 (43.9303, −123.6518); Esmond Creek, Trib A (43.8815, −123.6646); Farman Creek (43.8761, −123.2562); Fawn Creek (43.8743, −123.2992); Fawn Creek (43.9436, −123.6088); Fryingpan Creek (43.8329, −123.4241); Fryingpan Creek (43.8422, −123.4318); Gardner Creek (43.8024, −123.2582); Haight Creek (43.8406, −123.4862); Haskins Creek (43.8785, −123.5851); Hawley Creek (43.8599, −123.1558); Hawley Creek, North Fork (43.8717, −123.1751); Holland Creek (43.8775, −123.4156); Jeans Creek (43.8616, −123.4714); Johnson Creek (43.8822, −123.5332); Kelly Creek (43.8338, −123.1739); Kline Creek (43.9034, −123.6635); Leopold Creek (43.9199, −123.6890); Leopold Creek, Trib A (43.9283, −123.6630); Letz Creek, Trib B (43.7900, −123.3248); Lick Creek (43.8366, −123.2695); Little Siuslaw Creek (43.8048, −123.3412); Lucas Creek (43.8202, −123.2233); Luyne Creek (43.9155, −123.5068); Luyne Creek, Trib A (43.9179, −123.5208); Michaels Creek (43.8624, −123.5417); Mill Creek (43.9028, −123.6228); Norris Creek (43.8434, −123.2006); North Creek (43.9223, −123.5752); North Fork Siuslaw River (43.8513, −123.2302); Oxbow Creek (43.8384, −123.5433); Oxbow Creek, Trib C (43.8492, −123.5465); Pheasant Creek (43.9120, −123.4247); Pheasant Creek, Trib 2 (43.9115, −123.4411); Pugh Creek (43.9480, −123.5940); Russell Creek (43.8813, −123.3425); Russell Creek, Trib A (43.8619, −123.3498); Sandy Creek (43.7684, −123.2441); Sandy Creek, Trib B (43.7826, −123.2538); Shaw Creek (43.8817, −123.3289); Siuslaw River, East Trib (43.8723, −123.5378); Siuslaw River, North Fork, Upper Trib (43.8483, −123.2275); Smith Creek (43.8045, −123.3665); South Fork Siuslaw River (43.7831, −123.1569); Trail Creek (43.9142, −123.6241); Tucker Creek (43.8159, −123.1604); Unnamed (43.7796, −123.2019); Unnamed (43.7810, −123.2818); Unnamed (43.8278, −123.2610); Unnamed (43.8519, −123.2773); Unnamed (43.8559, −123.5520); Unnamed (43.8670, −123.6022); Unnamed (43.8876, −123.5194); Unnamed (43.8902, −123.5609); Unnamed (43.8963, −123.4171); Unnamed (43.8968, −123.4731); Unnamed (43.8992, −123.4033); Unnamed (43.9006, −123.4637); Unnamed (43.9030, −123.6434); Unnamed (43.9492, −123.6924); Unnamed (43.9519, −123.6886); Unnamed (43.9784, −123.6815); Unnamed (43.9656, −123.7145); Whittaker Creek (43.9490, −123.7004); Whittaker Creek, Trib B (43.9545, −123.7121).

(ii) *Wolf Creek Watershed 1710020602*. Outlet(s) = Wolf Creek (Lat 43.9548, Long −123.6205) upstream to endpoint(s) in: Bill Lewis Creek (43.9357, −123.5708); Cabin Creek (43.9226, −123.4081); Eames Creek (43.9790, −123.4352); Eames Creek, Trib C (43.9506, −123.4371); Elkhorn Creek (43.9513, −123.3934); Fish Creek (43.9238, −123.3872); Gall Creek (43.9865, −123.5187); Gall Creek, Trib 1 (43.9850, −123.5285); Grenshaw Creek (43.9676, −123.4645); Lick Creek (43.9407, −123.5796); Oat Creek, Trib A (43.9566, −123.5052); Oat Creek, Trib C (43.9618, −123.4902); Oat Creek (43.9780, −123.4761); Panther Creek (43.9529, −123.3744); Pittenger Creek (43.9713, −123.5434); Saleratus Creek (43.9796, −123.5675); Saleratus Creek, Trib A (43.9776, −123.5797); Swamp Creek (43.9777, −123.4197); Swing Log Creek (43.9351, −123.3339); Unnamed (43.9035, −123.3358); Unnamed (43.9343, −123.3648); Unnamed (43.9617, −123.4507); Unnamed (43.9668, −123.6041); Unnamed (43.9693, −123.4846); Van Curen Creek (43.9364, −123.5520); Wolf Creek (43.9101, −123.3234).

(iii) *Wildcat Creek Watershed 1710020603*. Outlet(s) = Wildcat Creek (Lat 44.0033, Long −123.6545) upstream to endpoint(s) in: Bulmer Creek (44.0099, −123.5206); Cattle Creek (44.0099, −123.5475); Fish Creek (44.0470, −123.5383); Fowler Creek (43.9877, −123.5918); Haynes Creek (44.1000, −123.5578); Kirk Creek

(44.0282, −123.6270); Knapp Creek (44.1006, −123.5801); Miller Creek (44.0767, −123.6034); Pataha Creek (43.9914, −123.5361); Potato Patch Creek (43.9936, −123.5812); Salt Creek (44.0386, −123.5021); Shady Creek (44.0647, −123.5838); Shultz Creek (44.0220, −123.6320); Unnamed (43.9890, −123.5468); Unnamed (44.0210, −123.4805); Unnamed (44.0233, −123.4996); Unnamed (44.0242, −123.4796); Unnamed (44.0253, −123.4963); Unnamed (44.0283, −123.5311); Unnamed (44.0305, −123.5275); Unnamed (44.0479, −123.6199); Unnamed (44.0604, −123.5624); Unnamed (44.0674, −123.6075); Unnamed (44.0720, −123.5590); Unnamed (44.0839, −123.5777); Unnamed (44.0858, −123.5787); Unnamed (44.0860, −123.5741); Unnamed (44.0865, −123.5935); Unnamed (44.0945, −123.5838); Unnamed (44.0959, −123.5902); Walker Creek (44.0469, −123.6312); Walker Creek, Trib C (44.0418, −123.6048); Wildcat Creek (43.9892, −123.4308); Wildcat Creek, Trib ZH (43.9924, −123.4975); Wildcat Creek, Trib ZI (44.0055, −123.4681).

(iv) *Lake Creek Watershed 1710020604.* Outlet(s) = Lake Creek (Lat 44.0556, Long −123.7968) upstream to endpoint(s) in: Chappell Creek (44.1158, −123.6921); Conrad Creek (44.1883, −123.4918); Druggs Creek (44.1996, −123.5926); Fish Creek (44.1679, −123.5149); Green Creek (44.1389, −123.7930); Greenleaf Creek (44.1766, −123.6391); Hula Creek (44.1202, −123.7087); Johnson Creek (44.1037, −123.7327); Lake Creek (44.2618, −123.5148); Lamb Creek (44.1401, −123.5991); Leaver Creek (44.0754, −123.6285); Leibo Canyon (44.2439, −123.4648); Little Lake Creek (44.1655, −123.6004); McVey Creek (44.0889, −123.6875); Nelson Creek (44.1229, −123.5558); North Fork Fish Creek (44.1535, −123.5437); Pontius Creek (44.1911, −123.5909); Pope Creek (44.2118, −123.5319); Post Creek (44.1828, −123.5259); Stakely Canyon (44.2153, −123.4690); Steinhauer Creek (44.1276, −123.6594); Swamp Creek (44.2150, −123.5687); Swartz Creek (44.2304, −123.4461); Target Canyon (44.2318, −123.4557); Unnamed (44.1048, −123.6540); Unnamed (44.1176, −123.5846); Unnamed (44.1355, −123.5473); Unnamed (44.1355, −123.6125); Unnamed (44.1382, −123.5539); Unnamed (44.1464, −123.5843); Unnamed (44.1659, −123.5658); Unnamed (44.1725, −123.5981); Unnamed (44.1750, −123.5914); Unnamed (44.1770, −123.5697); Unnamed (44.1782, −123.5419); Unnamed (44.1798, −123.5834); Unnamed (44.1847, −123.5862); Unnamed (44.2042, −123.5700); Unnamed (44.2143, −123.5873); Unnamed (44.2258, −123.4493); Unnamed (44.2269, −123.5478); Unnamed (44.2328, −123.5285); Unnamed (44.2403, −123.5358); Unnamed (44.2431, −123.5105); Unnamed (44.2437, −123.5739); Unnamed (44.2461, −123.5180); Unnamed (44.2484, −123.5501); Unnamed (44.2500, −123.5691); Unnamed (44.2573, −123.4736); Unnamed (44.2670, −123.4840); Wheeler Creek (44.1232, −123.6778).

(v) *Deadwood Creek Watershed 1710020605.* Outlet(s) = Deadwood Creek (Lat 44.0949, Long −123.7594) upstream to endpoint(s) in: Alpha Creek (44.1679, −123.6951); Bear Creek (44.1685, −123.6627); Bear Creek, South Fork (44.1467, −123.6743); Buck Creek (44.2003, −123.6683); Deadwood Creek (44.2580, −123.6885); Deadwood Creek, West Fork (44.1946, −123.8023); Deer Creek (44.1655, −123.7229); Failor Creek (44.1597, −123.8003); Fawn Creek (44.2356, −123.7244); Karlstrom Creek (44.1776, −123.7133); Misery Creek (44.1758, −123.7950); North Fork Panther Creek (44.2346, −123.7362); Panther Creek (44.2273, −123.7558); Raleigh Creek (44.1354, −123.6926); Rock Creek (44.1812, −123.6683); Schwartz Creek (44.1306, −123.7258); Unnamed (44.2011, −123.7273); Unnamed (44.1806, −123.7693); Unnamed (44.1845, −123.6824); Unnamed (44.1918, −123.7521); Unnamed (44.1968, −123.7664); Unnamed (44.2094, −123.6674); Unnamed (44.2149, −123.7639); Unnamed (44.2451, −123.6705); Unnamed (44.2487, −123.7137); Unnamed (44.2500, −123.6933).

(vi) *Indian Creek/Lake Creek Watershed 1710020606.* Outlet(s) = Indian Creek (Lat 44.0808, Long −123.7891) upstream

to endpoint(s) in: Cremo Creek (44.1424, −123.8144); Elk Creek (44.1253, −123.8821); Gibson Creek (44.1548, −123.8132); Herman Creek (44.2089, −123.8220); Indian Creek (44.2086, −123.9171); Indian Creek, North Fork (44.2204, −123.9016); Indian Creek, West Fork (44.2014, −123.9075); Long Creek (44.1395, −123.8800); Maria Creek (44.1954, −123.9219); Pyle Creek (44.1792, −123.8623); Rogers Creek (44.1851, −123.9397); Smoot Creek (44.1562, −123.8449); Taylor Creek (44.1864, −123.8115); Unnamed (44.1643, −123.8993); Unnamed (44.1727, −123.8154); Unnamed (44.1795, −123.9180); Unnamed (44.1868, −123.9002); Unnamed (44.1905, −123.8633); Unnamed (44.1967, −123.8872); Unnamed (44.2088, −123.8381); Unnamed (44.2146, −123.8528); Unnamed (44.2176, −123.8462); Unnamed (44.2267, −123.8912); Velvet Creek (44.1295, −123.8087).

(vii) *North Fork Siuslaw River Watershed 1710020607*. Outlet(s) = North Fork Siuslaw River (Lat 43.9719, Long −124.0783) upstream to endpoint(s) in: Billie Creek (44.0971, −124.0362); Cataract Creek (44.0854, −123.9497); Cedar Creek (44.1534, −123.9045); Condon Creek (44.1138, −123.9984); Coon Creek (44.0864, −124.0318); Deer Creek (44.1297, −123.9475); Drew Creek (44.1239, −123.9801); Drew Creek (44.1113, −123.9854); Elma Creek (44.1803, −123.9434); Hanson Creek (44.0776, −123.9328); Haring Creek (44.0307, −124.0462); Lawrence Creek (44.1710, −123.9504); Lindsley Creek (44.0389, −124.0591); McLeod Creek (44.1050, −123.8805); Morris Creek (44.0711, −124.0308); Porter Creek (44.1490, −123.9641); Russell Creek (44.0680, −123.9848); Sam Creek (44.1751, −123.9527); Slover Creek (44.0213, −124.0531); South Russell Creek (44.0515, −123.9840); Taylor Creek (44.1279, −123.9052); Uncle Creek (44.1080, −124.0174); Unnamed (43.9900, −124.0784); Unnamed (43.9907, −124.0759); Unnamed (43.9953, −124.0514); Unnamed (43.9958, −124.0623); Unnamed (43.9999, −124.0694); Unnamed (44.0018, −124.0596); Unnamed (44.0050, −124.0556); Unnamed (44.0106, −124.0650); Unnamed (44.0135, −124.0609); Unnamed (44.0166, −124.0371); Unnamed (44.0194, −124.0631); Unnamed (44.0211, −124.0663); Unnamed (44.0258, −124.0594); Unnamed (44.0304, −124.0129); Unnamed (44.0327, −124.0670); Unnamed (44.0337, −124.0070); Unnamed (44.0342, −124.0056); Unnamed (44.0370, −124.0391); Unnamed (44.0419, −124.0013); Unnamed (44.0441, −124.0321); Unnamed (44.0579, −124.0077); Unnamed (44.0886, −124.0192); Unnamed (44.0892, −123.9925); Unnamed (44.0941, −123.9131); Unnamed (44.0976, −124.0033); Unnamed (44.1046, −123.9032); Unnamed (44.1476, −123.8959); Unnamed (44.1586, −123.9150); West Branch North Fork Siuslaw River (44.1616, −123.9616); Wilhelm Creek (44.1408, −123.9774).

(viii) *Lower Siuslaw River Watershed 1710020608*. Outlet(s) = Siuslaw River (Lat 44.0160, Long −124.1327) upstream to endpoint(s) in: Barber Creek (44.0294, −123.7598); Beech Creek (44.0588, −123.6980); Berkshire Creek (44.0508, −123.8890); Bernhardt Creek (43.9655, −123.9532); Brush Creek (44.0432, −123.7798); Brush Creek, East Fork (44.0414, −123.7782); Cedar Creek (43.9696, −123.9304); Cleveland Creek (44.0773, −123.8343); Demming Creek (43.9643, −124.0313); Dinner Creek (44.0108, −123.8069); Divide Creek (44.0516, −123.9421); Duncan Inlet (44.0081, −123.9921); Hadsall Creek (43.9846, −123.8221); Hadsall Creek, Trib D (43.9868, −123.8500); Hadsall Creek, Trib E (43.9812, −123.8359); Hanson Creek (44.0364, −123.9628); Hoffman Creek (43.9808, −123.9412); Hollenbeck Creek (44.0321, −123.8672); Hood Creek (43.9996, −123.7995); Karnowsky Creek (43.9847, −123.9658); Knowles Creek (43.9492, −123.7315); Knowles Creek, Trib L (43.9717, −123.7830); Lawson Creek, Trib B (43.9612, −123.9659); Meadow Creek (44.0311, −123.6490); Munsel Creek (44.0277, −124.0788); Old Man Creek (44.0543, −123.8022); Pat Creek (44.0659, −123.7245); Patterson Creek (43.9984, −124.0234); Rice Creek (44.0075, −123.8519); Rock Creek (44.0169, −123.6512); South Fork Waite Creek (43.9929, −123.7105); San Antone Creek (44.0564, −123.6515); Shoemaker Creek (44.0669, −123.8977); Shutte Creek

(43.9939, −124.0339); Siuslaw River (44.0033, −123.6545); Skunk Hollow (43.9830, −124.0626); Smith Creek (44.0393, −123.6674); Spencer Creek (44.0676, −123.8809); Sulphur Creek (43.9822, −123.8015); Sweet Creek (43.9463, −123.9016); Sweet Creek, Trib A (44.0047, −123.8907); Sweet Creek, Trib D (43.9860, −123.8811); Thompson Creek (44.0974, −123.8615); Turner Creek (44.0096, −123.7607); Unnamed (43.9301, −124.0434); Unnamed (43.9596, −124.0337); Unnamed (43.9303, −124.0487); Unnamed (43.9340, −124.0529); Unnamed (43.9367, −124.0632); Unnamed (43.9374, −124.0442); Unnamed (43.9481, −124.0530); Unnamed (43.9501, −124.0622); Unnamed (43.9507, −124.0533); Unnamed (43.9571, −124.0658); Unnamed (43.9576, −124.0491); Unnamed (43.9587, −124.0988); Unnamed (43.9601, −124.0927); Unnamed (43.9615, −124.0527); Unnamed (43.9618, −124.0875); Unnamed (43.9624, −123.7499); Unnamed (43.9662, −123.7639); Unnamed (43.9664, −123.9252); Unnamed (43.9718, −124.0389; Unnamed (43.9720, −124.0075); Unnamed (43.9751, −124.0090); Unnamed (43.9784, −124.0191); Unnamed (43.9796, −123.9150); Unnamed (43.9852, −123.9802); Unnamed (43.9878, −123.9845); Unnamed (43.9915, −123.9732); Unnamed (43.9938, −123.9930); Unnamed (43.9942, −123.8547); Unnamed (43.9943, −123.9891); Unnamed (43.9954, −124.1185); Unnamed (43.9956, −123.7074); Unnamed (43.9995, −123.9825); Unnamed (44.0023, −123.7317); Unnamed (44.0210, −123.7874); Unnamed (44.0240, −123.8989); Unnamed (44.0366, −123.7363); Unnamed (44.0506, −123.9068); Waite Creek (43.9886, −123.7220); Walker Creek (44.0566, −123.9129); Wilson Creek (44.0716, −123.8792).

(7) Siltcoos Subbasin 17100207—(i) *Waohink River/Siltcoos River/Tahkenitch Lake Frontal Watershed 1710020701*. Outlet(s) = Siltcoos River (Lat 43.8766, Long −124.1548); Tahkenitch Creek (43.8013, −124.1689) upstream to endpoint(s) in: Alder Creek (43.8967, −124.0114); Bear Creek (43.9198, −123.9293); Bear Creek Trib (43.9030, −123.9881); Bear Creek, South Fork (43.9017, −123.9555); Bell Creek (43.8541, −123.9718); Billy Moore Creek (43.8876, −123.9604); Carle Creek (43.9015, −124.0210); Carter Creek (43.9457, −124.0123); Dismal Swamp (43.8098, −124.0871); Elbow Lake Creek (43.7886, −124.1490); Fiddle Creek (43.9132, −123.9164); Fivemile Creek (43.8297, −123.9776); Grant Creek (43.9373, −124.0278); Harry Creek (43.8544, −124.0220); Henderson Canyon (43.8648, −123.9654); Henderson Creek (43.9427, −123.9704); John Sims Creek (43.8262, −124.0792); King Creek (43.8804, −124.0300); Lane Creek (43.8437, −124.0765); Leitel Creek (43.8181, −124.0200); Mallard Creek (43.7775, −124.0852); Maple Creek (43.9314, −123.9316); Maple Creek, North Prong (43.9483, −123.9510); Miles Canyon (43.8643, −124.0097); Miller Creek (43.9265, −124.0663); Mills Creek (43.8966, −124.0397); Morris Creek (43.8625, −123.9541); Perkins Creek (43.8257, −124.0448); Rider Creek (43.9210, −123.9700); Roache Creek (43.9087, −124.0049); Schrum Creek (43.9194, −124.0492); Schultz Creek (43.9245, −123.9371); Stokes Creek (43.9161, −123.9984); Tenmile Creek (43.9419, −123.9447); Unnamed (43.8928, −124.0461); Unnamed (43.7726, −124.1021); Unnamed (43.7741, −124.1313); Unnamed (43.7756, −124.1363); Unnamed (43.7824, −124.1342); Unnamed (43.7829, −124.0852); Unnamed (43.7837, −124.0812); Unnamed (43.7849, −124.0734); Unnamed (43.7862, −124.0711); Unnamed (43.7865, −124.1107); Unnamed (43.7892, −124.1163); Unnamed (43.7897, −124.0608); Unnamed (43.7946, −124.0477); Unnamed (43.7964, −124.0643); Unnamed (43.8015, −124.0450); Unnamed (43.8078, −124.0340); Unnamed (43.8095, −124.1362); Unnamed (43.8112, −124.0608); Unnamed (43.8152, −124.0981); Unnamed (43.8153, −124.1314); Unnamed (43.8172, −124.0752); Unnamed (43.8231, −124.0853); Unnamed (43.8321, −124.0128); Unnamed (43.8322, −124.0069); Unnamed (43.8323, −124.1016); Unnamed (43.8330, −124.0217); Unnamed

(43.8361, −124.1209); Unnamed (43.8400, −123.9802); Unnamed (43.8407, −124.1051); Unnamed (43.8489, −124.0634); Unnamed (43.8500, −123.9852); Unnamed (43.8504, −124.1248); Unnamed (43.8504, −124.0024); Unnamed (43.8507, −124.0511); Unnamed (43.8589, −124.1231); Unnamed (43.8596, −124.0438); Unnamed (43.8605, −124.1211); Unnamed (43.8669, −124.0717); Unnamed (43.8670, −124.0327); Unnamed (43.8707, −124.0689); Unnamed (43.8802, −124.0605); Unnamed (43.8862, −124.0570); Unnamed (43.8913, −123.9380); Unnamed (43.8919, −124.0771); Unnamed (43.8976, −124.0725); Unnamed (43.9032, −124.0651); Unnamed (43.9045, −124.0548); Unnamed (43.9057, −124.0606); Unnamed (43.9065, −124.0656); Unnamed (43.9105, −124.0453); Unnamed (43.9106, −124.0203); Unnamed (43.9202, −124.0786); Unnamed (43.9209, −124.0734); Unnamed (43.9237, −124.0155); Unnamed (43.9249, −124.0074); Unnamed (43.9274, −124.0759); Unnamed (43.9275, −124.0308); Unnamed (43.9360, −124.0892); Unnamed (43.9365, −124.0297); Unnamed (43.9424, −124.0981); Unnamed (43.9438, −124.0929); Unnamed (43.9453, −124.0752); Unnamed (43.9518, −123.9953).

(8) North Fork Umpqua Subbasin 17100301—(i) *Boulder Creek Watershed 1710030106*. Outlet(s) = Boulder Creek (Lat 43.3036, Long −122.5272) upstream to endpoint(s) in: Boulder Creek (Lat 43.3138, Long −122.5247)

(ii) *Middle North Umpqua Watershed 1710030107*. Outlet(s) = North Umpqua River (Lat 43.3322, Long −123.0025) upstream to endpoint(s) in: Calf Creek (43.2852, −122.6229); Copeland Creek (43.2853, −122.5325); Deception Creek (43.2766, −122.5850); Dry Creek (43.2967, −122.6016); Honey Creek (43.3181, −122.9414); Limpy Creek (43.3020, −122.6795); North Umpqua River (43.3027, −122.4938); Panther Creek (43.3019, −122.6801); Steamboat Creek (43.3491, −122.7281); Susan Creek (43.3044, −122.9058); Williams Creek (43.3431, −122.7724).

(iii) *Rock Creek/North Umpqua River Watershed 1710030110*. Outlet(s) = Rock Creek (Lat 43.3322, Long −123.0025) upstream to endpoint(s) in: Conley Creek (43.3594, −122.9663); Harrington Creek (43.4151, −122.9550); Kelly Creek (43.3592, −122.9912); McComas Creek (43.3536, −122.9923); Miller Creek (43.3864, −122.9371); Rock Creek (43.4247, −122.9055); Rock Creek, East Fork (43.3807, −122.8270); Rock Creek, East Fork, North Fork (43.4147, −122.8512); Shoup Creek (43.3882, −122.9674); Unnamed (43.3507, −122.9741); Woodstock Creek (43.3905, −122.9258).

(iv) *Little River Watershed 1710030111*. Outlet(s) = Little River (Lat 43.2978, Long −123.1012) upstream to endpoint(s) in: Buck Peak Creek (43.1762, −123.0479); Buckhorn Creek (43.2592, −123.1072); Cavitt Creek (43.1464, −122.9758); Copperhead Creek (43.1626, −123.0595); Emile Creek (43.2544, −122.8849); Evarts Creek (43.2087, −123.0133); Jim Creek (43.2257, −123.0592); Little River (43.2065, −122.8231); McKay Creek (43.2092, −123.0356); Tuttle Creek (43.1440, −122.9813); White Rock Creek (43.1540, −123.0379); Wolf Creek (43.2179, −122.9461).

(v) *Lower North Umpqua River Watershed 1710030112*. Outlet(s) = North Umpqua River (Lat 43.2682, Long −123.4448) upstream to endpoint(s) in: Bradley Creek (43.3350, −123.1025); Clover Creek (43.2490, −123.2604); Cooper Creek (43.3420, −123.1650); Cooper Creek (43.3797, −123.2807); Dixon Creek (43.2770, −123.2911); French Creek (43.3349, −123.0801); Huntley Creek (43.3363, −123.1340); North Umpqua River (43.3322, −123.0025); Oak Creek (43.2839, −123.2063); Short Creek (43.3204, −123.3315); Sutherlin Creek (43.3677, −123.2114); Unnamed (43.3285, −123.2016).

(9) South Fork Umpqua Subbasin 17100302—(i) *Jackson Creek Watershed 1710030202*. Outlet(s) = Jackson Creek (Lat 42.9695, Long −122.8795) upstream to endpoint(s) in: Beaver Creek (Lat 42.9084, Long −122.7924); Jackson Creek (Lat 42.9965, Long −122.6459); Ralph Creek (Lat 42.9744, Long −122.6976); Squaw Creek (Lat 42.9684, Long −122.6913);Tallow Creek (Lat 42.98814, Long −122.6965); Whiskey Creek (Lat

42.9593, Long −122.7262); Winters Creek (Lat 42.9380, Long −122.8271).

(ii) *Middle South Umpqua River Watershed 1710030203*. Outlet(s) = South Umpqua River (Lat 42.9272, Long −122.9504) upstream to endpoint(s) in: Boulder Creek (43.1056, −122.7379); Budd Creek (43.0506, −122.8185); Deadman Creek (43.0049, −122.8967); Dompier Creek (42.9553, −122.9166); Dumont Creek (43.0719, −122.8224); Francis Creek (43.0202, −122.8231); South Umpqua River (43.0481, −122.6998); Sam Creek (43.0037, −122.8412); Slick Creek (43.0986, −122.7867).

(iii) Elk Creek/South Umpqua Watershed 1710030204. Outlet(s) = Elk Creek (Lat 42.9272, Long −122.9504) upstream to endpoint(s) in: Brownie Creek (Lat 42.8304, Long −122.8746); Callahan Creek (Lat 42.8778, Long −122.9609); Camp Creek (Lat 42.8667, Long −122.8958); Dixon Creek (Lat 42.8931, Long −122.9152); Drew Creek (Lat 42.8682, Long −122.9358); Flat Creek (Lat 42.8294, Long −122.8250); Joe Hall Creek (Lat 42.8756, Long −122.8202); Tom Creek (Lat 42.8389, Long −122.8959).

(iv) *South Umpqua River Watershed 1710030205*. Outlet(s) = South Umpqua River (Lat 42.9476, Long −123.3368) upstream to endpoint(s) in: Alder Creek (42.9109, −123.2991); Canyon Creek (42.8798, −123.2410); Canyon Creek, West Fork (42.8757, −123.2734); Canyon Creek, West Fork, Trib A (42.8834, −123.2947); Coffee Creek (42.9416, −122.9993); Comer Brook (42.9082, −123.2908); Days Creek (43.0539, −123.0012); Days Creek, Trib 1 (43.0351, −123.0532); Doe Hollow (42.9805, −123.0812); Fate Creek (42.9943, −123.1028); Green Gulch (43.0040, −123.1276); Hatchet Creek (42.9251, −122.9757); Jordan Creek (42.9224, −123.3086); Lavadoure Creek (42.9545, −123.1049); Lick Creek (42.9213, −123.0261); May Creek (43.0153, −123.0725); Morgan Creek (42.9635, −123.2409); O'Shea Creek (42.9256, −123.2486); Perdue Creek (43.0038, −123.1192); Poole Creek (42.9321, −123.1106); Poole Creek, East Fork (42.9147, −123.0956); South Umpqua River (42.9272, −122.9504); Shively Creek (42.8888, −123.1635); Shively Creek, East Fork (42.8793, −123.1194); Small Creek (42.9631, −123.2519); St. John Creek (42.9598, −123.0514); Stinger Gulch Creek (42.9950, −123.1851); Stouts Creek, East Fork (42.9090, −123.0424); Stouts Creek, West Fork (42.8531, −123.0167); Sweat Creek (42.9293, −123.1899); Wood Creek (43.0048, −123.1486).

(v) *Middle Cow Creek Watershed 1710030207*. Outlet(s) = Cow Creek (Lat 42.8114, Long −123.5947) upstream to endpoint(s) in: Bear Creek (42.8045, −123.3635); Booth Gulch (42.7804, −123.2282); Bull Run Creek (42.7555, −123.2366); Clear Creek (42.8218, −123.2610); Cow Creek (42.8487, −123.1780); Dads Creek (42.7650, −123.5401); East Fork Whitehorse Creek (42.7925, −123.1448); Fortune Branch (42.8051, −123.2971); Hogum Creek (42.7574, −123.1853); Lawson Creek (42.7896, −123.3752); Little Bull Run Creek (42.7532, −123.2479); McCullough Creek (42.7951, −123.4421); Mynatt Creek (42.8034, −123.2828); Panther Creek (42.7409, −123.4990); Perkins Creek (42.7331, −123.4997); Quines Creek (42.7278, −123.2396); Rattlesnake Creek (42.7106, −123.4774); Riffle Creek (42.7575, −123.6260); Section Creek (42.7300, −123.4373); Skull Creek (42.7527, −123.5779); Starveout Creek (42.7541, −123.1953); Stevens Creek (42.7255, −123.4835); Susan Creek (42.8035, −123.5762); Swamp Creek (42.7616, −123.3518); Tennessee Gulch (42.7265, −123.2591); Totten Creek (42.7448, −123.4610); Unnamed (42.7964, −123.4200); Unnamed (42.8101, −123.3150); Whitehorse Creek (42.7772, −123.1532); Wildcat Creek (42.7738, −123.2378); Windy Creek (42.8221, −123.3296); Wood Creek (42.8141, −123.4111); Woodford Creek (42.7458, −123.3180).

(vi) *West Fork Cow Creek Watershed 1710030208*. Outlet(s) = West Fork Cow Creek (Lat 42.8118, Long −123.6006) upstream to endpoint(s) in: Bear Creek (42.7662, −123.6741); Bobby Creek (42.8199, −123.7196); Elk Valley Creek (42.8681, −123.7133); Elk Valley Creek, East Fork (42.8698, −123.6812); Goat Trail Creek (42.8002, −123.6828); Gold Mountain Creek (42.8639, −123.7787); No Sweat Creek (42.8024, −123.7081); Panther Creek (42.8596, −123.7506); Slaughter Pen Creek (42.8224, −123.6565); Sweat Creek (42.8018, −123.6995); Walker Creek (42.8228, −123.7614); Wallace Creek (42.8311, −123.7696); West Fork Cow Creek (42.8329, −123.7733).

(vii) *Lower Cow Creek Watershed 1710030209*. Outlet(s) = Cow Creek (Lat 42.9476, Long −123.3368) upstream to endpoint(s) in: Ash Creek (42.9052, −123.3385); Boulder Creek (42.8607, −123.5494); Brush Creek (42.8526, −123.4369); Buck Creek (42.8093, −123.4979); Buck Creek (42.9347, −123.5163); Cattle Creek (42.8751, −123.5374); Cedar Gulch (42.8457, −123.5038); Council Creek (42.8929, −123.4366); Cow Creek (42.8114, −123.5947); Darby Creek (42.8553, −123.6123); Doe Creek (42.9333, −123.5057); Gravel Creek (42.8596, −123.4598); Iron Mountain Creek (42.9035, −123.5175); Island Creek (42.8957, −123.4749); Jerry Creek (42.9517, −123.4009); Little Dads Creek (42.8902, −123.5655); Martin Creek (42.8080, −123.4763); Middle Creek, South Fork (42.8298, −123.3870); Panther Creek (42.8417, −123.4492); Peavine Creek (42.8275, −123.4610); Russell Creek (42.9094, −123.3797); Salt Creek (42.9462, −123.4830); Shoestring Creek (42.9221, −123.3613); Smith Creek (42.8489, −123.4765); Smith Creek (42.9236, −123.5482); Table Creek (42.9114, −123.5695); Union Creek (42.8769, −123.5853); Unnamed (42.8891, −123.4080).

(viii) *Middle South Umpqua River Watershed 1710030210*. Outlet(s) = South Umpqua River (Lat 43.1172, Long −123.4273) upstream to endpoint(s) in: Adams Creek (43.0724, −123.4776); Barrett Creek (43.0145, −123.4451); Clark Brook (43.0980, −123.2897); East Willis Creek (43.0151, −123.3845); Judd Creek (42.9852, −123.4060); Kent Creek (43.0490, −123.4792); Lane Creek (42.9704, −123.4001); Porter Creek (43.0444, −123.4597); Rice Creek (43.0181, −123.4779); Richardson Creek (43.0766, −123.2881); South Umpqua River (42.9476, −123.3368); Squaw Creek (43.0815, −123.4688); Van Dine Creek (43.0326, −123.3473); West Willis Creek (43.0172, −123.4355).

(ix) *Myrtle Creek Watershed 1710030211*. Outlet(s) = North Myrtle Creek (Lat 43.0231, Long −123.2951) upstream to endpoint(s) in: Ben Branch Creek (43.0544, −123.1618); Big Lick (43.0778, −123.2175); Bilger Creek (43.1118, −123.2372); Buck Fork Creek (43.1415, −123.0831); Cedar Hollow (43.0096, −123.2297); Frozen Creek (43.1089, −123.1929); Frozen Creek, Left Fork (43.1157, −123.2306); Harrison Young Brook (43.0610, −123.2850); Lally Creek (43.0890, −123.0597); Lee Creek (43.1333, −123.1477); Letitia Creek (43.0710, −123.0907); Little Lick (43.0492, −123.2234); Long Wiley Creek (43.0584, −123.1067); Louis Creek (43.1165, −123.0783); North Myrtle Creek (43.1486, −123.1219); Riser Creek (43.1276, −123.0703); Rock Creek (43.0729, −123.2620); South Myrtle Creek (43.0850, −123.0103); School Hollow (43.0563, −123.1753); Short Wiley Creek (43.0589, −123.1158); Slide Creek (43.1110, −123.1078); Unnamed (43.1138, −123.1721); Weaver Creek (43.1102, −123.0576).

(x) *Ollala Creek/Lookingglass Watershed 1710030212*. Outlet(s) = Lookingglass Creek (Lat 43.1172, Long −123.4273) upstream to endpoint(s) in: Archambeau Creek (43.2070, −123.5329); Bear Creek (43.1233, −123.6382); Berry Creek (43.0404, −123.5543); Bushnell Creek (43.0183, −123.5289); Byron Creek, East Fork (43.0192, −123.4939); Byron Creek, North Fork (43.0326, −123.4792); Coarse Gold Creek (43.0291, −123.5742); Flournoy Creek (43.2227, −123.5560); Little Muley Creek (43.0950, −123.6247); Lookingglass Creek (43.1597, −123.6015); McNabb Creek (43.0545, −123.4984); Muns Creek (43.0880, −123.6333); Olalla Creek (42.9695, −123.5914); Perron Creek (43.0960, −123.4904); Porter Creek (43.1381, −123.5569); Sheilds Creek (43.0640, −123.6189); Tenmile Creek (43.1482, −123.6537); Tenmile Creek, North Fork (43.1260, −123.6069); Thompson Creek (42.9860, −123.5140); Willingham Creek (42.9600, −123.5814).

(xi) *Lower South Umpqua River Watershed 1710030213*. Outlet(s) = South Umpqua River (Lat 43.2682, Long −123.4448) upstream to endpoint(s) in: Callahan Creek (43.2291, −123.5355); Damotta Brook (43.2030, −123.2987); Deer Creek, North Fork (43.2166, −123.1437); Deer Creek, South Fork (43.1875, −123.1722); Deer Creek, South Fork, Trib 1 (43.1576, −123.2393); Deer Creek, South Fork, Middle Fork (43.1625, −123.1413); Doerner Creek (43.2370, −123.5153); Elgarose Creek (43.2747, −123.5105); Marsters Creek (43.1584, −123.4489); Melton Creek (43.1294, −123.2173); Roberts Creek (43.1124, −123.2831); South Umpqua River (43.1172, −123.4273);

Stockel Creek (43.2205, −123.4392); Tucker Creek (43.1238, −123.2378); Unnamed (43.2184, −123.1709); Willow Creek (43.2543, −123.5143).

(10) Umpqua Subbasin 17100303(i) *Upper Umpqua River Watershed 1710030301*. Outlet(s) = Umpqua River (Lat 43.6329, Long −123.5662) upstream to endpoint(s) in: Bear Creek (43.3202, −123.6118); Bear Creek (43.5436, −123.4481); Bottle Creek (43.4060, −123.5043); Brads Creek (43.5852, −123.4651); Camp Creek (43.2969, −123.5361); Case Knife Creek (43.4288, −123.6665); Cedar Creek (43.5360, −123.5969); Cougar Creek (43.3524, −123.6166); Doe Creek (43.5311, −123.4259); Fitzpatrick Creek (43.5819, −123.6308); Galagher Canyon (43.4708, −123.4394); Heddin Creek (43.5909, −123.6466); Hubbard Creek (43.2526, −123.5544); Leonard Creek (43.4448, −123.5402); Little Canyon Creek (43.4554, −123.4560); Little Wolf Creek (43.4232, −123.6633); Little Wolf Creek, Trib D (43.4052, −123.6477); Lost Creek (43.4355, −123.4902); Martin Creek (43.5539, −123.4633); McGee Creek (43.5125, −123.5632); Mehl Creek (43.5491, −123.6541); Mill Creek (43.3178, −123.5095); Miner Creek (43.4518, −123.6764); Panther Canyon (43.5541, −123.3484); Porter Creek (43.4348, −123.5530); Rader Creek (43.5203, −123.6517); Rader Creek, Trib A (43.4912, −123.5726); Umpqua River (43.2682, −123.4448); Unnamed (43.5781, −123.6170); Unnamed (43.5630, −123.6080); Unnamed (43.4011, −123.6474); Unnamed (43.4119, −123.6172); Unnamed (43.4212, −123.6398); Unnamed (43.4640, −123.6734); Unnamed (43.4940, −123.6166); Unnamed (43.5765, −123.4710); Waggoner Creek (43.5282, −123.6072); Whiskey Camp Creek (43.4587, −123.6755); Williams Creek (43.5952, −123.5222); Wolf Creek (43.4707, −123.6655).

(ii) *Calapooya Creek Watershed 1710030302*. Outlet(s) = Calapooya Creek (Lat 43.3658, Long −123.4674) upstream to endpoint(s) in: Bachelor Creek (43.5480, −123.2062); Banks Creek (43.3631, −123.1755); Beaty Creek (43.4406, −123.0392); Boyd Creek (43.4957, −123.1573); Brome Creek (43.4016, −123.0490); Burke Creek (43.3987, −123.4463); Buzzard Roost Creek (43.4584, −123.0990); Cabin Creek (43.5421, −123.3294); Calapooya Creek, North Fork (43.4867, −123.0280); Coon Creek (43.4218, −123.4349); Coon Creek (43.5245, −123.0429); Dodge Canyon Creek (43.4362, −123.4420); Driver Valley Creek (43.4327, −123.1960); Field Creek (43.4043, −123.0917); Gassy Creek (43.3862, −123.1133); Gilbreath Creek (43.4218, −123.0931); Gossett Creek (43.4970, −123.1045); Haney Creek (43.4763, −123.1086); Hinkle Creek (43.4230, −123.0382); Hog Creek (43.4767, −123.2516); Jeffers Creek (43.4522, −123.1047); Long Valley Creek (43.4474, −123.1460); Middle Fork South Fork Calapooya Creek (43.4772, −122.9952); Markam Creek (43.3751, −123.1479); Marsh Creek (43.5223, −123.3348); Mill Creek (43.4927, −123.1315); Norton Creek (43.5046, −123.3736); Pine Tree Creek (43.4179, −123.0688); Pollock Creek (43.5326, −123.2685); Salt Creek (43.5161, −123.2504); Salt Lick Creek (43.4510, −123.1168); Slide Creek (43.3926, −123.0919); Timothy Creek (43.4862, −123.0896); Unnamed (43.4469, −123.4268); Unnamed (43.4481, −123.4283); Unnamed (43.4483, −123.4134); Unnamed (43.4658, −122.9899); Unnamed (43.4707, −122.9896); Unnamed (43.4908, −123.0703); Unnamed (43.5173, −123.0564); Wheeler Canyon (43.4840, −123.3631); White Creek (43.4637, −123.0451); Williams Creek (43.4703, −123.4096).

(iii) *Elk Creek Watershed 1710030303*. Outlet(s) = Elk Creek (Lat 43.6329, Long −123.5662) upstream to endpoint(s) in: Adams Creek (43.5860, −123.2202); Allen Creek (43.6375, −123.3731); Andrews Creek (43.5837, −123.3920); Asker Creek (43.6290, −123.2668); Bear Creek (43.6195, −123.3703); Bear Creek (43.7119, −123.1757); Bennet Creek (43.6158, −123.1558); Big Tom Folley Creek (43.7293, −123.4053); Big Tom Folley Creek, North Fork (43.7393, −123.4917); Big Tom Folley Creek, Trib A (43.7231, −123.4465); Billy Creek, East Fork (43.5880, −123.3263); Billy Creek, South Fork (43.5725, −123.3603); Blue Hole Creek (43.5677, −123.4405); Brush Creek (43.5662, −123.4140); Buck Creek (43.6981, −123.1818); Cowan Creek (43.5915, −123.2615); Cox Creek

(43.6356, −123.1794); Curtis Creek (43.6839, −123.1734); Dodge Canyon (43.6225, −123.2509); Elk Creek (43.5097, −123.1620); Ellenburg Creek (43.7378, −123.3296); Fitch Creek (43.6986, −123.3152); Five Point Canyon (43.5707, −123.3526); Flagler Creek (43.5729, −123.3382); Green Creek (43.6851, −123.4688); Green Ridge Creek (43.5920, −123.3958); Halo Creek (43.5990, −123.2658); Hancock Creek (43.6314, −123.5188); Hanlon Creek (43.6190, −123.2785); Hardscrabble Creek (43.7111, −123.3517); Huntington Creek (43.5882, −123.2808); Jack Creek (43.7071, −123.3819); Johnny Creek (43.7083, −123.3972); Johnson Creek (43.6830, −123.2715); Lancaster Creek (43.6442, −123.4361); Lane Creek (43.5483, −123.1221); Lees Creek (43.6610, −123.1888); Little Sand Creek (43.7655, −123.2778); Little Tom Folley Creek (43.6959, −123.5393); McClintock Creek (43.6664, −123.2703); Parker Creek (43.6823, −123.4178); Pass Creek (43.7527, −123.1528); Pheasant Creek (43.7758, −123.2099); Rock Creek (43.7759, −123.2730); Saddle Butte Creek (43.7214, −123.5219); Salt Creek (43.6796, −123.2213); Sand Creek (43.7709, −123.2912); Shingle Mill Creek (43.5314, −123.1308); Simpson Creek (43.6629, −123.2553); Smith Creek (43.6851, −123.3179); Squaw Creek (43.6010, −123.4284); Taylor Creek (43.7642, −123.2712); Thief Creek (43.6527, −123.1459); Thistleburn Creek (43.6313, −123.4332); Unnamed (43.5851, −123.3101); Walker Creek (43.5922, −123.1707); Ward Creek (43.7486, −123.2023); Wehmeyer Creek (43.6823, −123.2404); Wilson Creek (43.5699, −123.2681); Wise Creek (43.6679, −123.2772); Yoncalla Creek (43.5563, −123.2833).

(iv) *Middle Umpqua River Watershed 1710030304*. Outlet(s) = Umpqua River (Lat 43.6556, Long −123.8752) upstream to endpoint(s) in: Burchard Creek (43.6680, −123.7520); Butler Creek (43.6325, −123.6867); Cedar Creek (43.7027, −123.6451); House Creek (43.7107, −123.6378); Little Mill Creek (43.6729, −123.8252); Little Paradise Creek (43.6981, −123.5630); Paradise Creek (43.7301, −123.5738); Patterson Creek (43.7076, −123.6977); Purdy Creek (43.6895, −123.7712); Sawyer Creek (43.6027, −123.6717); Scott Creek (43.6885, −123.6966); Umpqua River (43.6329, −123.5662); Unnamed (43.6011, −123.7084); Unnamed (43.5998, −123.6803); Unnamed (43.6143, −123.6674); Unnamed (43.6453, −123.7619); Unnamed (43.6461, −123.8064); Unnamed (43.6923, −123.7534); Unnamed (43.7068, −123.6109); Unnamed (43.7084, −123.7156); Unnamed (43.7098, −123.6300); Unnamed (43.7274, −123.6026); Weatherly Creek (43.7205, −123.6680); Wells Creek (43.6859, −123.7946).

(v) *Upper Smith River Watershed 1710030306*. Outlet(s) = Smith River (Lat 43.7968, Long −123.7565) upstream to endpoint(s) in: Amberson Creek (43.7787, −123.4944); Argue Creek (43.7656, −123.6959); Beaver Creek (43.7865, −123.6949); Beaver Creek (43.8081, −123.4041); Big Creek (43.7372, −123.7112); Blackwell Creek (43.8145, −123.7460); Blind Creek (43.7518, −123.6551); Bum Creek (43.8044, −123.5802); Carpenter Creek (43.7947, −123.7258); Clabber Creek (43.7919, −123.5878); Clearwater Creek (43.8138, −123.7375); Cleghorn Creek (43.7508, −123.4997); Clevenger Creek (43.7826, −123.4087); Coldwater Creek (43.8316, −123.7232); Deer Creek (43.8109, −123.5362); Devils Club Creek (43.7916, −123.6148); Elk Creek (43.8004, −123.4347); Halfway Creek (43.7412, −123.5112); Hall Creek (43.7732, −123.3836); Haney Creek (43.8355, −123.5006); Hardenbrook Creek (43.7943, −123.5660); Hefty Creek (43.7881, −123.3954); Herb Creek (43.8661, −123.6782); Jeff Creek (43.8079, −123.6033); Marsh Creek (43.7831, −123.6185); Mosetown Creek (43.7326, −123.6613); Mosetown Creek, East Fork (43.7185, −123.6433); North Sister Creek (43.8492, −123.5771); Panther Creek (43.8295, −123.4464); Pearl Creek (43.8263, −123.5350); Peterson Creek (43.7575, −123.3947); Plank Creek (43.7635, −123.3980); Redford Creek (43.7878, −123.3520); Rock Creek (43.7733, −123.6222); Russell Creek (43.8538, −123.6971); South Sister Creek (43.8366, −123.5611); Salmonberry Creek (43.8085, −123.4482); Scare Creek (43.7631, −123.7260); Sleezer Creek (43.7535, −123.3711); Slideout Creek (43.7831, −123.5685); Smith River, Little South Fork (43.7392, −123.4583); Smith

River, South Fork (43.7345, −123.3843); Smith River (43.7529, −123.3310); Spring Creek (43.7570, −123.3276); Summit Creek (43.7985, −123.3487); Sweden Creek (43.8618, −123.6468); Tip Davis Creek (43.7739, −123.3301); Twin Sister Creek (43.8348, −123.7168); Unnamed (43.7234, −123.6308); Unnamed (43.7397, −123.6984); Unnamed (43.7433, −123.4673); Unnamed (43.7492, −123.6911); Unnamed (43.7495, −123.5832); Unnamed (43.7527, −123.5210); Unnamed (43.7533, −123.7046); Unnamed (43.7541, −123.4805); Unnamed (43.7708, −123.4819); Unnamed (43.7726, −123.5039); Unnamed (43.7748, −123.6044); Unnamed (43.7775, −123.6927); Unnamed (43.7830, −123.5900); Unnamed (43.7921, −123.6335); Unnamed (43.7955, −123.7013); Unnamed (43.7993, −123.6171); Unnamed (43.8020, −123.6739); Unnamed (43.8034, −123.6959); Unnamed (43.8133, −123.5893); Unnamed (43.8197, −123.4827); Unnamed (43.8263, −123.5810); Unnamed (43.8360, −123.6951); Unnamed (43.8519, −123.5910); Unnamed (43.8535, −123.6357); Unnamed (43.8541, −123.6155); Unnamed (43.8585, −123.6867); Upper Johnson Creek (43.7509, −123.5426); West Fork Halfway Creek (43.7421, −123.6119); Yellow Creek (43.8193, −123.5545).

(vi) *Lower Smith River Watershed 1710030307.* Outlet(s) = Smith River (Lat 43.7115, Long −124.0807) upstream to endpoint(s) in: Bear Creek (43.8087, −123.8202); Beaver Creek (43.8983, −123.7559); Black Creek (43.7544, −123.9967); Brainard Creek (43.7448, −124.0105); Buck Creek (43.7719, −123.7823); Cassady Creek (43.7578, −123.9744); Cedar Creek (43.8541, −123.8562); Chapman Creek (43.8181, −123.9380); Coon Creek (43.8495, −123.7857); Crane Creek (43.8592, −123.7739); Edmonds Creek (43.8257, −123.9000); Eslick Creek (43.8153, −123.9894); Eslick Creek, East Fork (43.8082, −123.9583); Franz Creek (43.7542, −124.1006); Frarey Creek (43.7683, −124.0615); Georgia Creek (43.8373, −123.8911); Gold Creek (43.9002, −123.7470); Harlan Creek (43.8635, −123.9319); Holden Creek (43.7901, −124.0178); Hudson Slough (43.7725, −124.0736); Johnson Creek (43.8291, −123.9582); Johnson Creek (43.8480, −123.8209); Joyce Creek (43.7892, −124.0356); Joyce Creek, West Fork (43.7708, −124.0457); Kentucky Creek (43.9313, −123.8153); Middle Fork of North Fork Smith River (43.8780, −123.7687); Moore Creek (43.8523, −123.8931); Moore Creek (43.8661, −123.7558); Murphy Creek (43.7449, −123.9527); Noel Creek (43.7989, −124.0109); Otter Creek (43.7216, −123.9626); Otter Creek, North Fork (43.7348, −123.9597); Paxton Creek (43.8847, −123.9004); Peach Creek (43.8963, −123.8599); Perkins Creek (43.7362, −123.9151); Railroad Creek (43.8086, −123.8998); Smith River, West Fork (43.9102, −123.7073); Smith River (43.7968, −123.7565); Spencer Creek (43.8429, −123.8321); Spencer Creek, West Fork (43.8321, −123.8685); Sulphur Creek (43.8512, −123.9422); Unnamed (43.7031, −123.7463); Unnamed (43.7106, −123.7666); Unnamed (43.7203, −123.7601); Unnamed (43.7267, −123.7396); Unnamed (43.7286, −123.7798); Unnamed (43.7322, −124.0585); Unnamed (43.7325, −123.7337); Unnamed (43.7470, −123.7416); Unnamed (43.7470, −123.7711); Unnamed (43.7569, −124.0844); Unnamed (43.7606, −124.0853); Unnamed (43.7623, −124.0753); Unnamed (43.7669, −124.0766); Unnamed (43.7734, −124.0674); Unnamed (43.7855, −124.0076); Unnamed (43.7877, −123.9936); Unnamed (43.8129, −123.9743); Unnamed (43.8212, −123.8777); Unnamed (43.8258, −123.8192); Unnamed (43.8375, −123.9631); Unnamed (43.8424, −123.7925); Unnamed (43.8437, −123.7989); Unnamed (43.8601, −123.7630); Unnamed (43.8603, −123.8155); Unnamed (43.8655, −123.8489); Unnamed (43.8661, −123.9136); Unnamed (43.8688, −123.7994); Unnamed (43.8831, −123.8534); Unnamed (43.8883, −123.7157); Unnamed (43.8906, −123.7759); Unnamed (43.8916, −123.8765); Unnamed (43.8922, −123.8144); Unnamed (43.8953, −123.8772); Unnamed (43.8980, −123.7865); Unnamed (43.8997, −123.7993); Unnamed (43.8998, −123.7197); Unnamed

(43.9015, −123.8386); Unnamed (43.9015, −123.8949); Unnamed (43.9023, −123.8241); Unnamed (43.9048, −123.8316); Unnamed (43.9075, −123.7208); Unnamed (43.9079, −123.8263); Vincent Creek (43.7035, −123.7882); Wassen Creek (43.7419, −123.8905); West Branch North Fork Smith River (43.9113, −123.8958).

(vii) *Lower Umpqua River Watershed 1710030308*. Outlet(s) = Umpqua River (Lat 43.6696, Long −124.2025) upstream to endpoint(s) in: Alder Creek (43.6310, −124.0483); Bear Creek (43.7053, −123.9529); Butler Creek (43.7157, −124.0059); Charlotte Creek (43.6320, −123.9307); Dean Creek (43.6214, −123.9740); Dry Creek (43.6369, −124.0595); Franklin Creek (43.6850, −123.8659); Hakki Creek (43.6711, −124.0161); Indian Charlie Creek (43.6611, −123.9404); Johnson Creek (43.6711, −123.9760); Koepke Slough (43.6909, −124.0294); Little Franklin Creek (43.6853, −123.8863); Luder Creek (43.6423, −123.9046); Miller Creek (43.6528, −124.0140); Oar Creek (43.6620, −124.0289); Providence Creek (43.7083, −124.1289); Scholfield Creek (43.6253, −124.0112); Umpqua River (43.6556, −123.8752); Unnamed (43.6359, −123.9572); Unnamed (43.6805, −124.1146); Unnamed (43.6904, −124.0506); Unnamed (43.6940, −124.0340); Unnamed (43.7069, −123.9824); Unnamed (43.7242, −123.9369); Winchester Creek (43.6657, −124.1247); Wind Creek, South Fork (43.6346, −124.0897).

(11) Coos Subbasin 17100304—(i) *South Fork Coos Watershed 1710030401*. Outlet(s) = South Fork Coos (Lat 43.3905, Long −123.9634) upstream to endpoint(s) in: Beaver Slide Creek (43.2728, −123.8472); Bottom Creek (43.3751, −123.7065); Bottom Creek, North Fork (43.3896, −123.7264); Buck Creek (43.2476, −123.8023); Burnt Creek (43.2567, −123.7834); Cedar Creek (43.3388, −123.6303); Cedar Creek, Trib E (43.3423, −123.6749); Cedar Creek, Trib F (43.3330, −123.6523); Coal Creek (43.3426, −123.8685); Eight River Creek (43.2638, −123.8568); Fall Creek (43.2535, −123.7106); Fall Creek (43.4106, −123.7512); Fivemile Creek (43.2341, −123.6307); Gods Thumb Creek (43.3440, −123.7013); Gooseberry Creek (43.2452, −123.7081); Hatcher Creek (43.3021, −123.8370); Hog Ranch Creek (43.2754, −123.8125); Lake Creek (43.2971, −123.6354); Little Cow Creek (43.1886, −123.6133); Lost Creek (43.2325, −123.5769); Lost Creek, Trib A (43.2224, −123.5961); Mink Creek (43.3068, −123.8515); Panther Creek (43.2593, −123.6401); Shotgun Creek (43.2920, −123.7623); Susan Creek (43.2720, −123.7654); Tioga Creek (43.2110, −123.7786); Unnamed (43.2209, −123.7789); Unnamed (43.2305, −123.8360); Unnamed (43.2364, −123.7818); Unnamed (43.2548, −123.8569); Unnamed (43.2713, −123.8320); Unnamed (43.2902, −123.6662); Unnamed (43.3168, −123.6491); Unnamed (43.3692, −123.8320); Unnamed (43.3698, −123.8321); Unnamed (43.3806, −123.8327); Unnamed (43.3846, −123.8058); Unnamed (43.3887, −123.7927); Unnamed (43.3651, −123.7073); Wilson Creek (43.2083, −123.6691).

(ii) *Millicoma River Watershed 1710030402*. Outlet(s) = West Fork Millicoma River (Lat 43.4242, Long −124.0288) upstream to endpoint(s) in: Bealah Creek (43.4271, −123.8445); Buck Creek (43.5659, −123.9765); Cougar Creek (43.5983, −123.8788); Crane Creek (43.5545, −123.9287); Dagget Creek (43.4862, −124.0557); Darius Creek (43.4741, −123.9407); Deer Creek (43.6207, −123.9616); Deer Creek, Trib A (43.6100, −123.9761); Deer Creek, Trib B (43.6191, −123.9482); Devils Elbow Creek (43.4439, −124.0608); East Fork Millicoma River (43.4204, −123.8330); Elk Creek (43.5441, −123.9175); Fish Creek (43.6015, −123.8968); Fox Creek (43.4189, −123.9459); Glenn Creek (43.4799, −123.9325); Hidden Creek (43.5646, −123.9235); Hodges Creek (43.4348, −123.9889); Joes Creek (43.5838, −123.9787); Kelly Creek (43.5948, −123.9036); Knife Creek (43.6163, −123.9310); Little Matson Creek (43.4375, −123.8890); Marlow Creek (43.4779, −123.9815); Matson Creek (43.4489, −123.9191); Otter Creek (43.5935, −123.9729); Panther Creek (43.5619, −123.9038); Rainy Creek (43.4293, −124.0400); Rodine Creek (43.4434, −123.9789); Schumacher Creek (43.4842, −124.0380); Totten Creek (43.4869, −124.0457); Trout Creek (43.5398, −123.9814); Unnamed

(43.4686, −124.0143); Unnamed (43.5156, −123.9366); Unnamed (43.5396, −123.9373); Unnamed (43.5450, −123.9305); West Fork Millicoma River (43.5617, −123.8788).

(iii) *Lakeside Frontal Watershed 1710030403.* Outlet(s) = Tenmile Creek (43.5618, −124.2308) upstream to endpoint(s) in: Adams Creek (43.5382, −124.1081); Alder Creek (43.6012, −124.0272); Alder Gulch (43.5892, −124.0665); Benson Creek (43.5813, −124.0086); Big Creek (43.6085, −124.0128); Blacks Creek (43.6365, −124.1188); Clear Creek (43.6040, −124.1871); Hatchery Creek (43.5275, −124.0761); Johnson Creek (43.5410, −124.0018); Murphy Creek (43.6243, −124.0534); Noble Creek (43.5897, −124.0347); Parker Creek (43.6471, −124.1246); Roberts Creek (43.5557, −124.0264); Saunders Creek (43.5417, −124.2136); Shutter Creek (43.5252, −124.1398); Swamp Creek (43.5550, −124.1948); Unnamed (43.5203, −124.0294); Unnamed (43.6302, −124.1460); Unnamed (43.6353, −124.1411); Unnamed (43.6369, −124.1515); Unnamed (43.6466, −124.1511); Unnamed (43.5081, −124.0382); Unnamed (43.6353, −124.16770; Wilkins Creek (43.6304, −124.0819); Winter Creek (43.6533, −124.1333).

(iv) *Coos Bay Watershed 1710030404.* Outlet(s) = Big Creek (Lat 43.3326, Long −124.3739); Coos Bay (43.3544, −124.3384) upstream to endpoint(s) in: Bear Creek (43.5048, −124.1059); Bessey Creek (43.3844, −124.0253); Big Creek (43.2834, −124.3374), Big Creek (43.3980, −123.9396); Big Creek, Trib A (43.2999, −124.3711); Big Creek, Trib B (43.2854, −124.3570); Blossom Gulch (43.3598, −124.2410); Boatman Gulch (43.3445, −124.2483); Boone Creek (43.2864, −124.1762); Cardwell Creek (43.2793, −124.1277); Catching Creek (43.2513, −124.1586); Coalbank Creek (43.3154, −124.2503); Coos Bay (43.3566, −124.1592); Daniels Creek (43.3038, −124.0725); Davis Creek (43.2610, −124.2633); Day Creek (43.3129, −124.2888); Deton Creek (43.4249, −124.0771); Echo Creek (43.3797, −124.1529); Elliot Creek (43.3037, −124.2670); Farley Creek (43.3146, −124.3415); Ferry Creek (43.2628, −124.1728); Goat Creek (43.2700, −124.2109); Haywood Creek (43.3067, −124.3419); Hendrickson Creek (43.3907, −124.0594); Isthmus Slough (43.2622, −124.2049); Joe Ney Slough (43.3382, −124.2958); John B Creek (43.2607, −124.2814); Johnson Creek (43.4043, −124.1389); Kentuck Creek (43.4556, −124.0894); Larson Creek (43.4930, −124.0764); Laxstrom Gulch (43.3372, −124.1350); Lillian Creek (43.3550, −124.1330); Mart Davis Creek (43.3911, −124.0927); Matson Creek (43.3011, −124.1161); McKnight Creek (43.3841, −123.9991); Mettman Creek (43.4574, −124.1293); Millicoma River (43.4242, −124.0288); Monkey Ranch Gulch (43.3392, −124.1458); Morgan Creek (43.3460, −124.0318); North Slough (43.5032, −124.1408); Noble Creek (43.2387, −124.1665); Packard Creek (43.4058, −124.0211); Palouse Creek (43.5123, −124.0667); Panther Creek (43.2733, −124.1222); Pony Slough (43.4078, −124.2307); Rogers Creek (43.3831, −124.0370); Ross Slough (43.3027, −124.1781); Salmon Creek (43.3618, −123.9816); Seaman Creek (43.3634, −124.0111); Seelander Creek (43.2872, −124.1176); Shinglehouse Slough (43.3154, −124.2225); Smith Creek (43.3579, −124.1051); Snedden Creek (43.3372, −124.2177); Southport Slough (43.2981, −124.2194); Stock Slough (43.3277, −124.1195); Storey Creek (43.3238, −124.2969); Sullivan Creek (43.4718, −124.0872); Talbott Creek (43.2839, −124.2954); Theodore Johnson Creek (43.2756, −124.3457); Unnamed (43.5200, −124.1812); Unnamed (43.2274, −124.3236); Unnamed (43.2607, −124.2984); Unnamed (43.2772, −124.3246); Unnamed (43.2776, −124.3148); Unnamed (43.2832, −124.1532); Unnamed (43.2888, −124.1962); Unnamed (43.2893, −124.3406); Unnamed (43.2894, −124.2034); Unnamed (43.2914, −124.2917); Unnamed (43.2942, −124.1027); Unnamed (43.2984, −124.2847); Unnamed (43.3001, −124.3022); Unnamed (43.3034, −124.2001); Unnamed (43.3051, −124.2031); Unnamed (43.3062, −124.2030); Unnamed (43.3066, −124.3674); Unnamed (43.3094, −124.1947); Unnamed (43.3129, −124.1208); Unnamed (43.3149, −124.1347); Unnamed (43.3149, −124.1358); Unnamed

(43.3149, −124.1358); Unnamed (43.3169, −124.0638); Unnamed (43.3224, −124.2390); Unnamed (43.3356, −124.1542); Unnamed (43.3356, −124.1526); Unnamed (43.3357, −124.1510); Unnamed (43.3357, −124.1534); Unnamed (43.3368, −124.1509); Unnamed (43.3430, −124.2352); Unnamed (43.3571, −124.2372); Unnamed (43.3643, −124.0474); Unnamed (43.3741, −124.0577); Unnamed (43.4126, −124.0599); Unnamed (43.4203, −123.9824); Unnamed (43.4314, −124.0998); Unnamed (43.4516, −124.1023); Unnamed (43.4521, −124.1110); Unnamed (43.5345, −124.1946); Vogel Creek (43.3511, −124.1206); Wasson Creek (43.2688, −124.3368); Willanch Creek (43.4233, −124.1061); Willanch Creek, Trib A (43.4032, −124.1169); Wilson Creek (43.2652, −124.1281); Winchester Creek (43.2145, −124.3116); Winchester Creek, Trib E (43.2463, −124.3067); Woodruff Creek (43.4206, −123.9746); Wren Smith Creek (43.3131, −124.0649).

(12) Coquille Subbasin 17100305—(i) *Middle Fork Coquille Watershed 1710030502*. Outlet(s) = Middle Fork Coquille River (Lat 43.0340, Long −124.1161) upstream to endpoint(s) in: Anderson Creek (43.0087, −123.9445); Axe Creek (43.0516, −123.9468); Bear Creek (43.0657, −123.9284); Belieu Creek (43.0293, −123.9470); Big Creek (43.0991, −123.8983); Brownson Creek (43.0879, −123.9583); Endicott Creek (43.0401, −124.0710); Fall Creek (43.0514, −123.9910); Indian Creek (43.0203, −124.0842); Little Rock Creek (42.9913, −123.8335); McMullen Creek (43.0220, −124.0366); Middle Fork Coquille River (42.9701, −123.7621); Myrtle Creek (42.9642, −124.0170); Rasler Creek (42.9518, −123.9643); Rock Creek (42.9200, −123.9073); Rock Creek (43.0029, −123.8440); Salmon Creek (43.0075, −124.0273); Sandy Creek (43.0796, −123.8517); Sandy Creek, Trib F (43.0526, −123.8736); Sheilds Creek (42.9184, −123.9219); Slater Creek (42.9358, −123.7958); Slide Creek (42.9957, −123.9040); Smith Creek (43.0566, −124.0337); Swamp Creek (43.0934, −123.9000); Unnamed (43.0016, −123.9550); Unnamed (43.0681, −123.9812); Unnamed (43.0810, −123.9892).

(ii) *Middle Main Coquille Watershed 1710030503*. Outlet(s) = South Fork Coquille River (Lat 43.0805, Long −124.1405) upstream to endpoint(s) in: Baker Creek (42.8913, −124.1297); Beaver Creek (42.9429, −124.0783); Catching Creek, Middle Fork (42.9913, −124.2331); Catching Creek, South Fork (42.9587, −124.2348); Coquille River, South Fork (42.8778, −124.0743); Cove Creek (43.0437, −124.2088); Dement Creek (42.9422, −124.2086); Gettys Creek (43.0028, −124.1988); Grants Creek (42.9730, −124.1041); Horse Hollow (43.0382, −124.1984); Knight Creek (43.0022, −124.2663); Koontz Creek (43.0111, −124.2505); Long Tom Creek (42.9342, −124.0992); Matheny Creek (43.0495, −124.1892); Mill Creek (42.9777, −124.1663); Rhoda Creek (43.0007, −124.1032); Roberts Creek (42.9748, −124.2385); Rowland Creek (42.9045, −124.1845); Russell Creek (42.9495, −124.1611); Unnamed (42.9684, −124.1033); Ward Creek (43.0429, −); 124.2358); Warner Creek (43.0196, −124.1187); Wildcat Creek (43.0277, −124.2225); Wolf Creek (43.0136, −124.2318); Woodward Creek (42.9023, −124.0658).

(iii) *East Fork Coquille Watershed 1710030504*. Outlet(s) = East Fork Coquille River (Lat 43.1065, Long −124.0761) upstream to endpoint(s) in: Bills Creek (43.1709, −123.9244); China Creek (43.1736, −123.9086); East Fork Coquille River (43.1476, −123.8936); Elk Creek (43.1312, −123.9621); Hantz Creek (43.1832, −123.9713); South Fork Elk Creek (43.1212, −123.9200); Steel Creek (43.1810, −123.9354); Unnamed (43.0908, −124.0361); Unnamed (43.0925, −124.0495); Unnamed (43.0976, −123.9705); Unnamed (43.1006, −124.0052); Unnamed (43.1071, −123.9163); Unnamed (43.1655, −123.9078); Unnamed (43.1725, −123.9881); Weekly Creek (43.0944, −124.0271); Yankee Run (43.1517, −124.0483); Yankee Run, Trib C (43.1626, −124.0162).

(iv) *North Fork Coquille Watershed 1710030505*. Outlet(s) = North Fork Coquille River (Lat 43.0805, Long −124.1405) upstream to endpoint(s) in: Alder Creek (43.2771, −123.9207); Blair Creek (43.1944, −124.1121); Cherry Creek, North Fork (43.2192, −123.9124); Cherry Creek, South Fork (43.2154, −123.9353);

Coak Creek (43.2270, −124.0324); Coquille River, Little North Fork (43.2988, −123.9410); Coquille River, North Fork (43.2974, −123.8791); Coquille River, North Fork, Trib E (43.1881, −124.0764); Coquille River, North Fork, Trib I (43.2932, −123.8920); Coquille River, North Fork, Trib Y (43.3428, −123.9678); Evans Creek (43.2868, −124.0561); Fruin Creek (43.3016, −123.9198); Garage Creek (43.1508, −124.1020); Giles Creek (43.3129, −124.0337); Honcho Creek (43.2628, −123.8954); Hudson Creek (43.2755, −123.9604); Jerusalem Creek (43.1844, −124.0539); Johns Creek (43.0760, −124.0498); Little Cherry Creek (43.2007, −123.9594); Llewellyn Creek (43.1034,124.1063); Llewellyn Creek, Trib A (43.0969, −124.0995); Lost Creek (43.1768, −124.1047); Lost Creek (43.2451, −123.9745); Mast Creek (43.2264, −124.0207); Middle Creek (43.2332, −123.8726); Moon Creek (43.2902, −123.9493); Moon Creek, Trib A (43.2976, −123.9837); Moon Creek, Trib A–1 (43.2944, −123.9753); Neely Creek (43.2960, −124.0380); Park Creek (43.2508, −123.8661); Park Creek, Trib B (43.2702, −123.8782); Schoolhouse Creek (43.1637, −124.0949); Steele Creek (43.2203, −124.1018); Steinnon Creek (43.2534, −124.1076); Unnamed (43.1305, −124.0759); Unnamed (43.2047, −124.0314); Unnamed (43.2127, −124.1101); Unnamed (43.2165, −123.9144); Unnamed (43.2439, −123.9275); Unnamed (43.2444, −124.0868); Unnamed (43.2530, −124.0848); Unnamed (43.2582, −124.0794); Unnamed (43.2584, −123.8846); Unnamed (43.2625, −124.0474); Unnamed (43.2655, −123.9269); Unnamed (43.2676, −124.0367); Vaughns Creek (43.2378, −123.9106); Whitley Creek (43.2899, −124.0115); Wimer Creek (43.1303, −124.0640); Wood Creek (43.1392, −124.1274); Wood Creek, North Fork (43.1454, −124.1211).

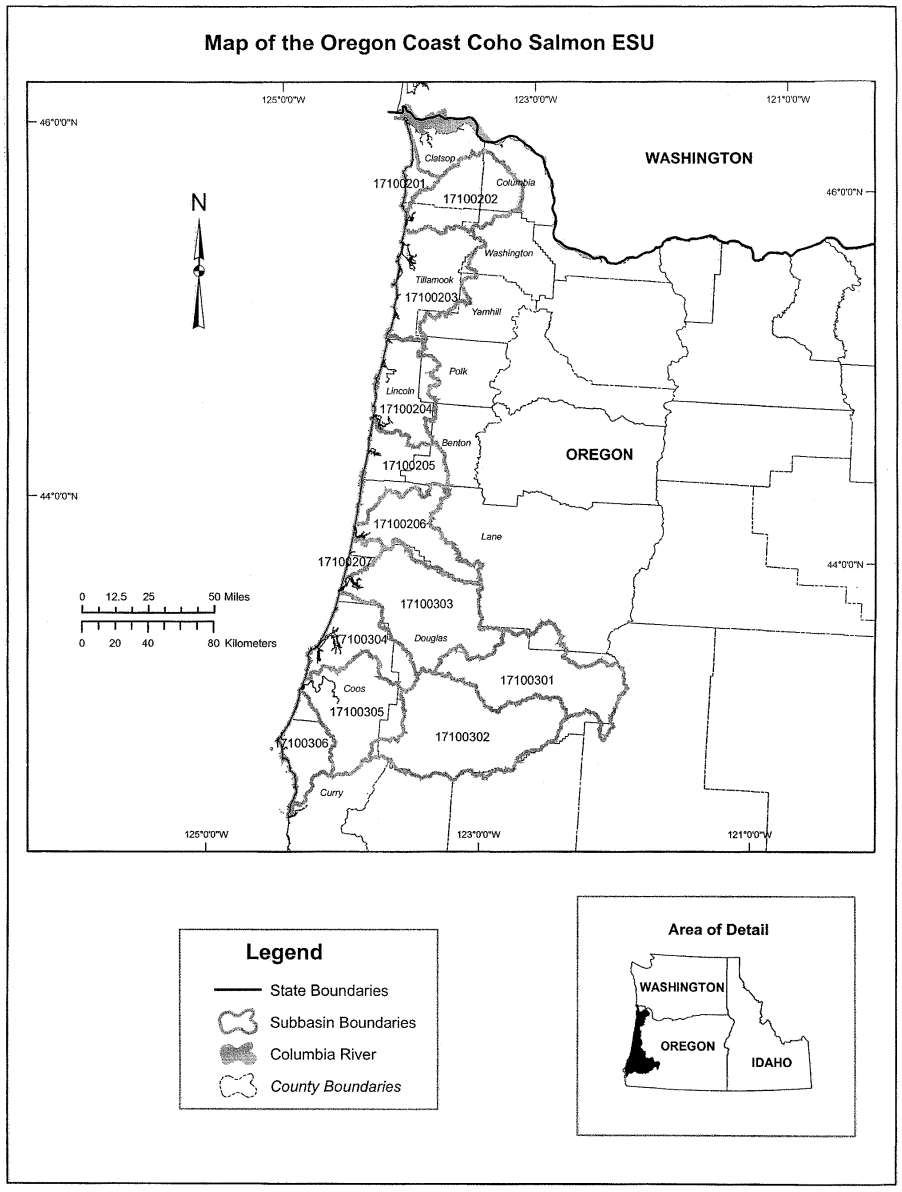
(v) *Lower Coquille Watershed 1710030506*. Outlet(s) = Coquille River (Lat 43.1237, Long −124.4261) upstream to endpoint(s) in: Alder Creek (43.1385, −124.2697); Bear Creek (43.0411, −124.2893); Beaver Creek (43.2249, −124.1923); Beaver Creek (43.2525, −124.2456); Beaver Slough, Trib A (43.2154, −124.2731); Bill Creek (43.0256, −124.3126); Budd Creek (43.2011, −124.1921); Calloway Creek (43.2060, −124.1684); Cawfield Creek (43.1839, −124.1372); China Creek (43.2170, −124.2076); Cold Creek (43.2038, −124.1419); Coquille River (43.0805, −124.1405); Coquille River, Trib A (43.2032, −124.2930); Cunningham Creek (43.2349, −124.1378); Dutch John Ravine (43.1744, −124.1781); Dye Creek (43.2274, −124.1569); Fahys Creek (43.1676, −124.3861); Fat Elk Creek (43.1373, −124.2560); Ferry Creek (43.1150, −124.3831); Fishtrap Creek (43.0841, −124.2544); Glen Aiken Creek (43.1482, −124.1497); Grady Creek (43.1032, −124.1381); Gray Creek (43.1222, −124.1286); Hall Creek (43.0583, −124.2516); Hall Creek, Trib A (43.0842, −124.1745); Harlin Creek (43.1326, −124.1633); Hatchet Slough, Trib A (43.1638, −124.3065); Hatchet Slough (43.1879, −124.3003); Lampa Creek (43.0531, −124.2665); Little Bear Creek (43.0407, −124.2783); Little Fishtrap Creek (43.1201, −124.2290); Lowe Creek (43.1401, −124.3232); Mack Creek (43.0604, −124.3306); Monroe Creek (43.0705, −124.2905); Offield Creek (43.1587, −124.3273); Pulaski Creek (43.1398, −124.2184); Randleman Creek (43.0818, −124.3039); Rich Creek (43.0576, −124.2067); Rink Creek (43.1764, −124.1369); Rock Robinson Creek (43.0860, −124.2306); Rollan Creek (43.1266, −124.2563); Sevenmile Creek (43.2157, −124.3350); Sevenmile Creek, Trib A (43.1853, −124.3187); Sevenmile Creek, Trib C (43.2081, −124.3340); Unnamed (43.1084, −124.2727); Unnamed 43.1731, −124.1852); Unnamed (43.1924, −124.1378); Unnamed (43.1997, −124.3346); Unnamed (43.2281, −124.2190); Unnamed (43.2424, −124.2737); Waddington Creek (43.1105, −124.2915).

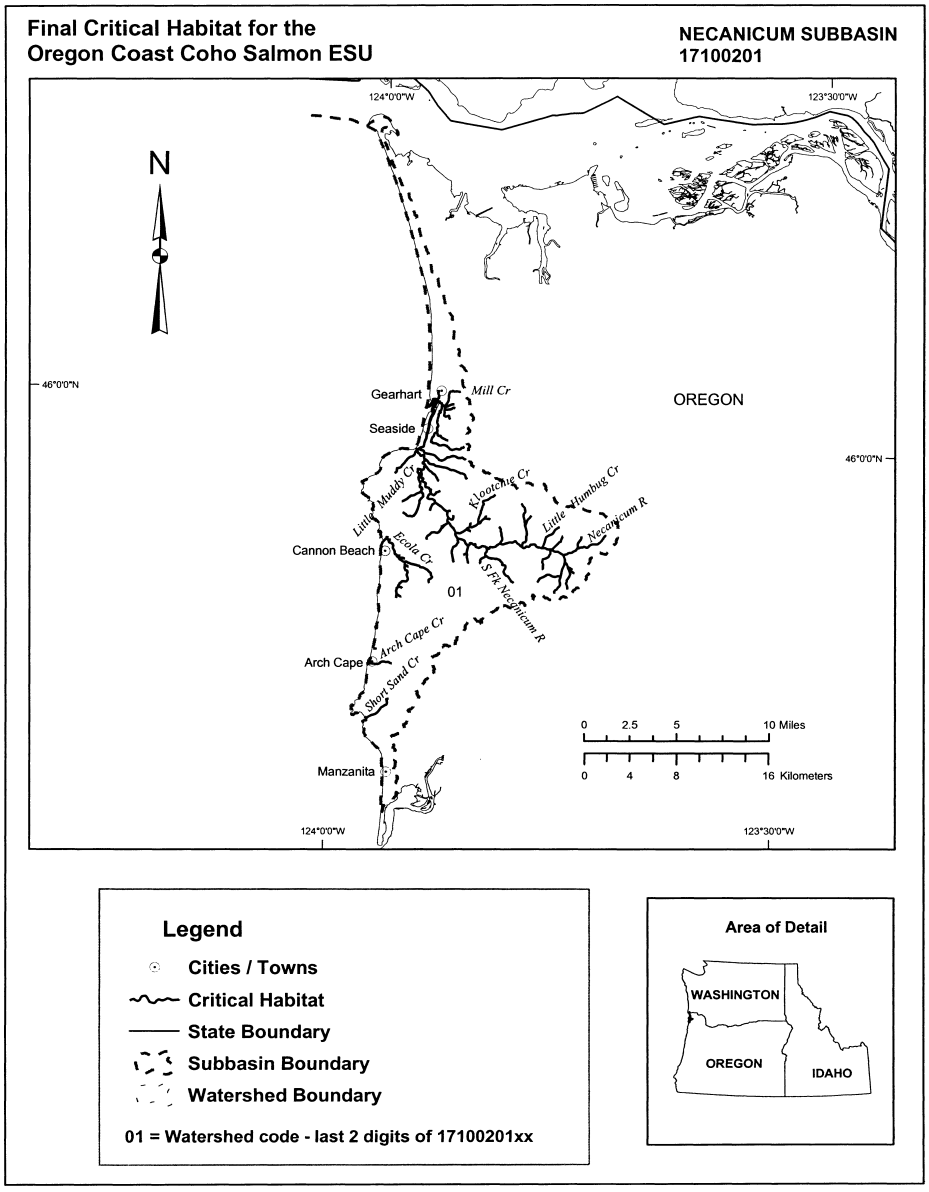
(13) Sixes Subbasin 17100306'(i) *Sixes River Watershed 1710030603*. Outlet(s) = Sixes River (Lat 42.8543, Long −124.5427) upstream to endpoint(s) in: Beaver Creek (42.7867, −124.4373); Carlton Creek (42.8594, −124.2382); Cold Creek (42.7824, −124.2070); Crystal Creek (42.8404, −124.4501); Dry Creek (42.7673, −124.3726); Edson Creek (42.8253, −124.3782); Hays Creek (42.8455, −124.1796); Little Dry Creek (42.8002, −124.3838); Murphy Canyon (42.8516, −124.1541); Sixes River

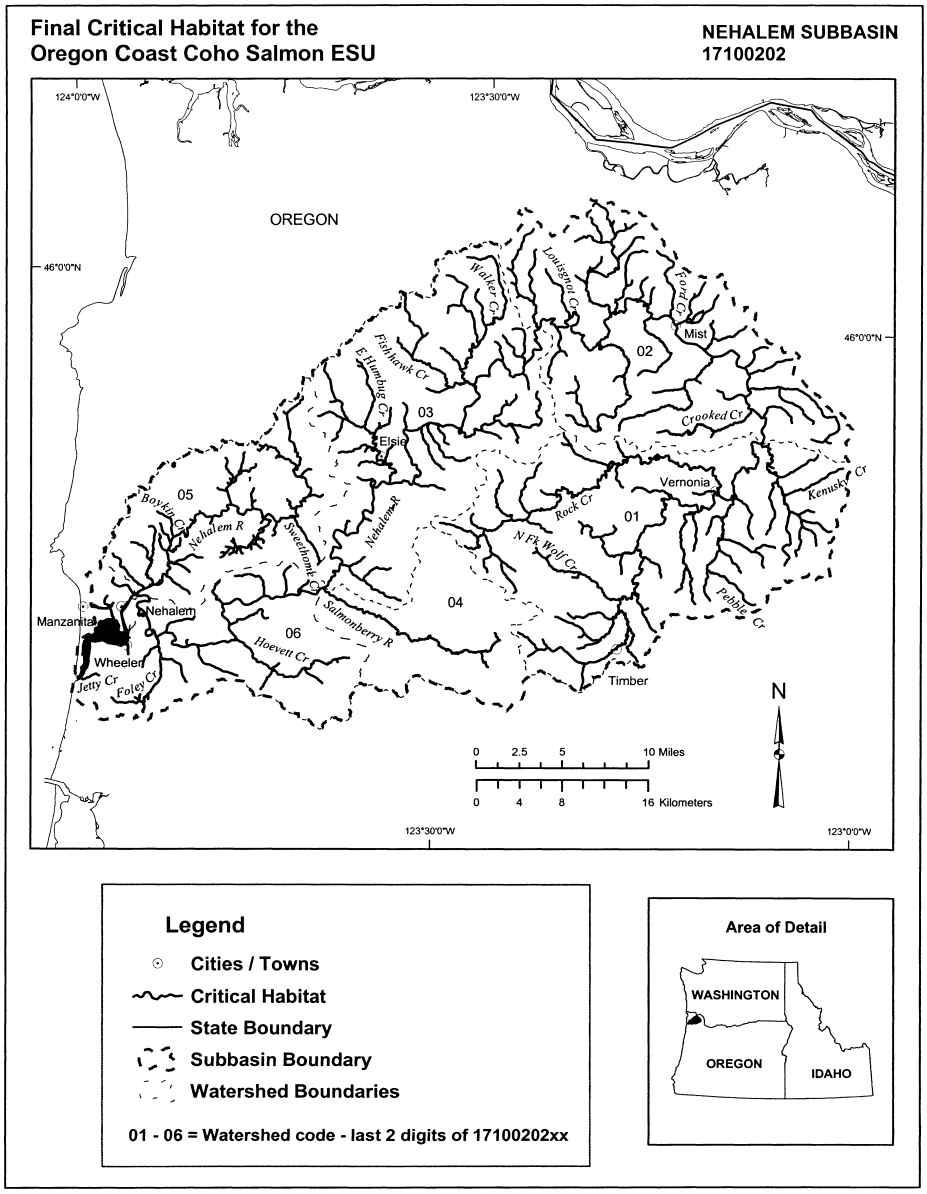
(42.8232, −124.1704); Sixes River, Middle Fork (42.7651, −124.1782); Sixes River, North Fork (42.8878, −124.2320); South Fork Sixes River (42.8028, −124.3022); Sugar Creek (42.8217, −124.2035); Unnamed (42.8189, −124.3567); Unnamed (42.7952, −124.3918); Unnamed (42.8276, −124.4629).

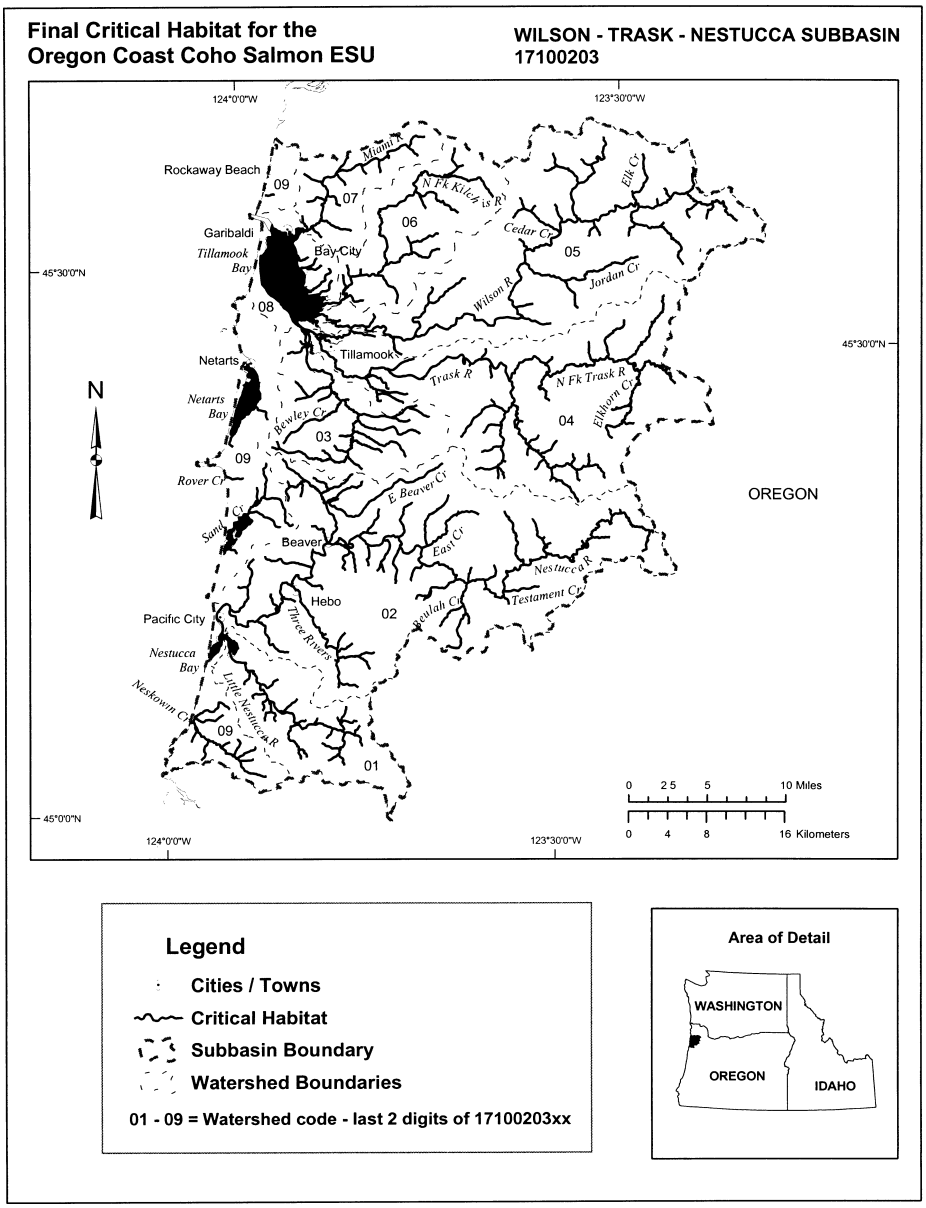
(ii) *New River Frontal Watershed 1710030604.* Outlet(s) = New River (Lat 43.0007, Long −124.4557); Twomile Creek (43.0440, −124.4415) upstream to endpoint(s) in: Bethel Creek (42.9519, −124.3954); Boulder Creek (42.8574, −124.5050); Butte Creek (42.9458, −124.4096); Conner Creek (42.9814, −124.4215); Davis Creek (42.9657, −124.3968); Floras Creek (42.9127, −124.3963); Fourmile Creek (42.9887, −124.3077); Fourmile Creek, South Fork (42.9642, −124.3734); Langlois Creek (42.9238, −124.4570); Little Creek (43.0030, −124.3562); Long Creek (42.9828, −124.3770); Lower Twomile Creek (43.0223, −124.4080); Morton Creek (42.9437, −124.4234); New River (42.8563, −124.4602); North Fourmile Creek (42.9900, −124.3176); Redibough Creek (43.0251, −124.3659); South Twomile Creek (43.0047, −124.3672); Spring Creek (43.0183, −124.4299); Twomile Creek (43.0100, −124.3291); Unnamed (43.0209, −124.3386); Unnamed (43.0350, −124.3506); Unnamed (43.0378, −124.3481); Unnamed (43.0409, −124.3544); Unnamed (42.8714, −124.4586); Unnamed (42.9029, −124.4222); Unnamed (42.9031, −124.4581); Unnamed (42.9294, −124.4421); Unnamed (42.9347, −124.4559); Unnamed (42.9737, −124.3363); Unnamed (42.9800, −124.3432); Unnamed (43.0058, −124.4066); Willow Creek (42.8880, −124.4505).

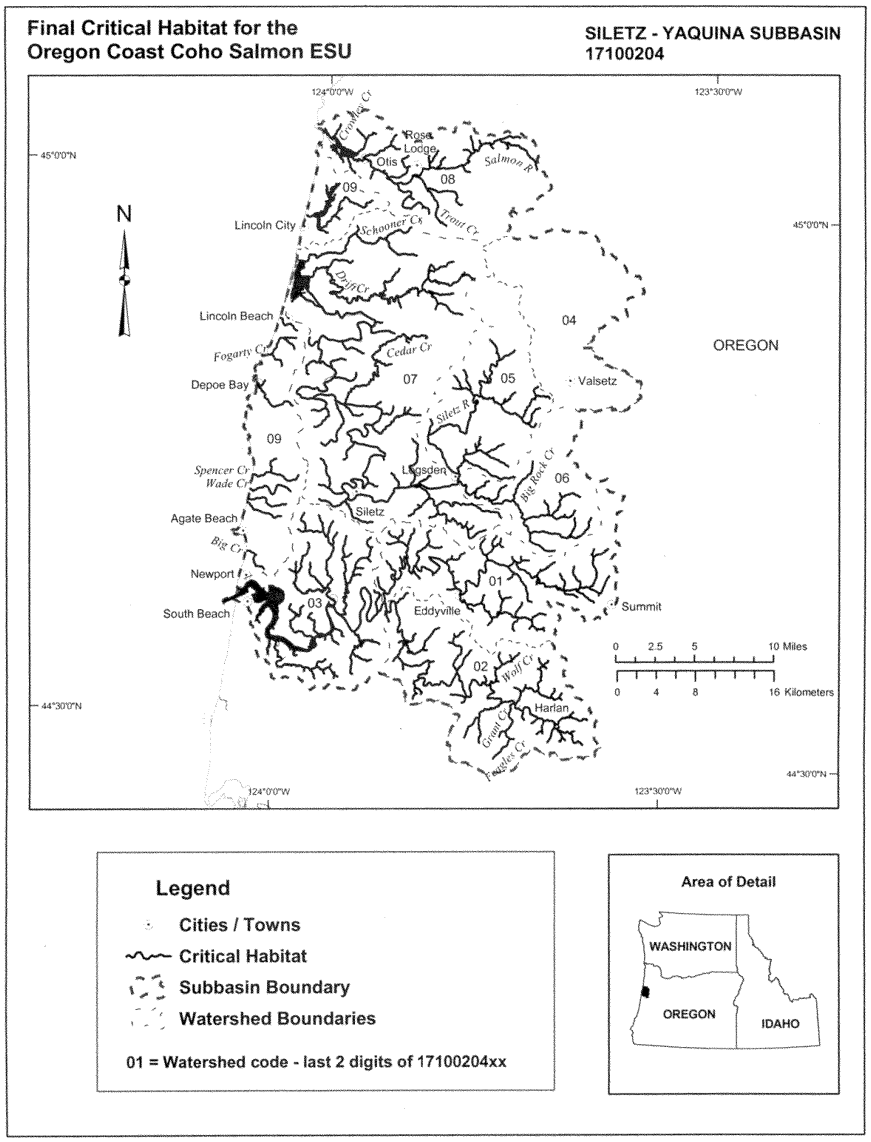
(14) Maps of critical habitat for the Oregon Coast coho salmon ESU follow:

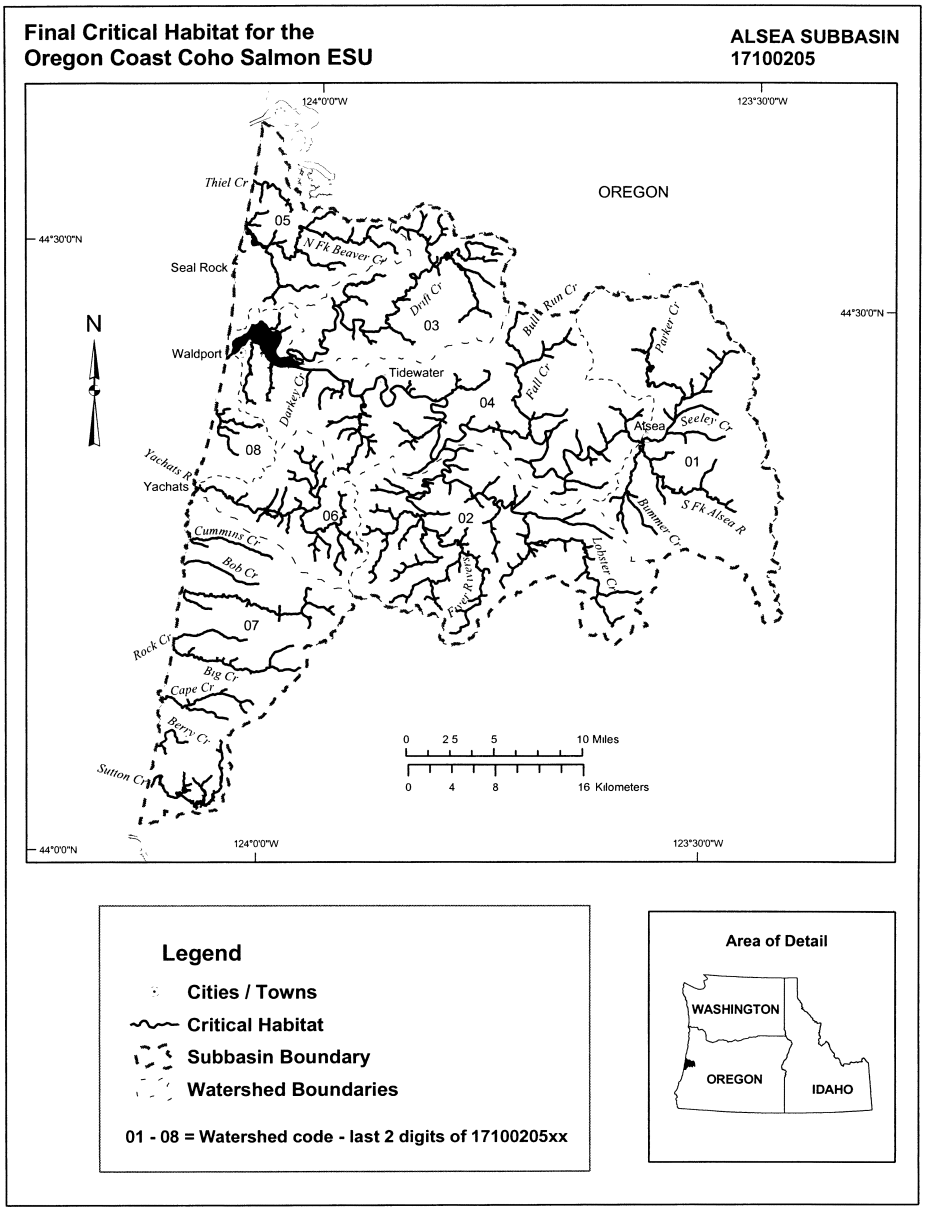

Map of the Oregon Coast Coho Salmon ESU
125°0'0"W
123°0'0"W
121°0'0"W
46°0'0"N
44°0'0"N
N
WASHINGTON
OREGON
Clatsop
Columbia
Tillamook
Washington
Yamhill
Polk
Lincoln
Benton
Lane
Douglas
Coos
Curry
17100201
17100202
17100203
17100204
17100205
17100206
17100207
17100303
17100304
17100301
17100305
17100302
17100306
0 12.5 25 50 Miles
0 20 40 80 Kilometers
Legend
State Boundaries
Subbasin Boundaries
Columbia River
County Boundaries
Area of Detail
WASHINGTON
OREGON
IDAHO

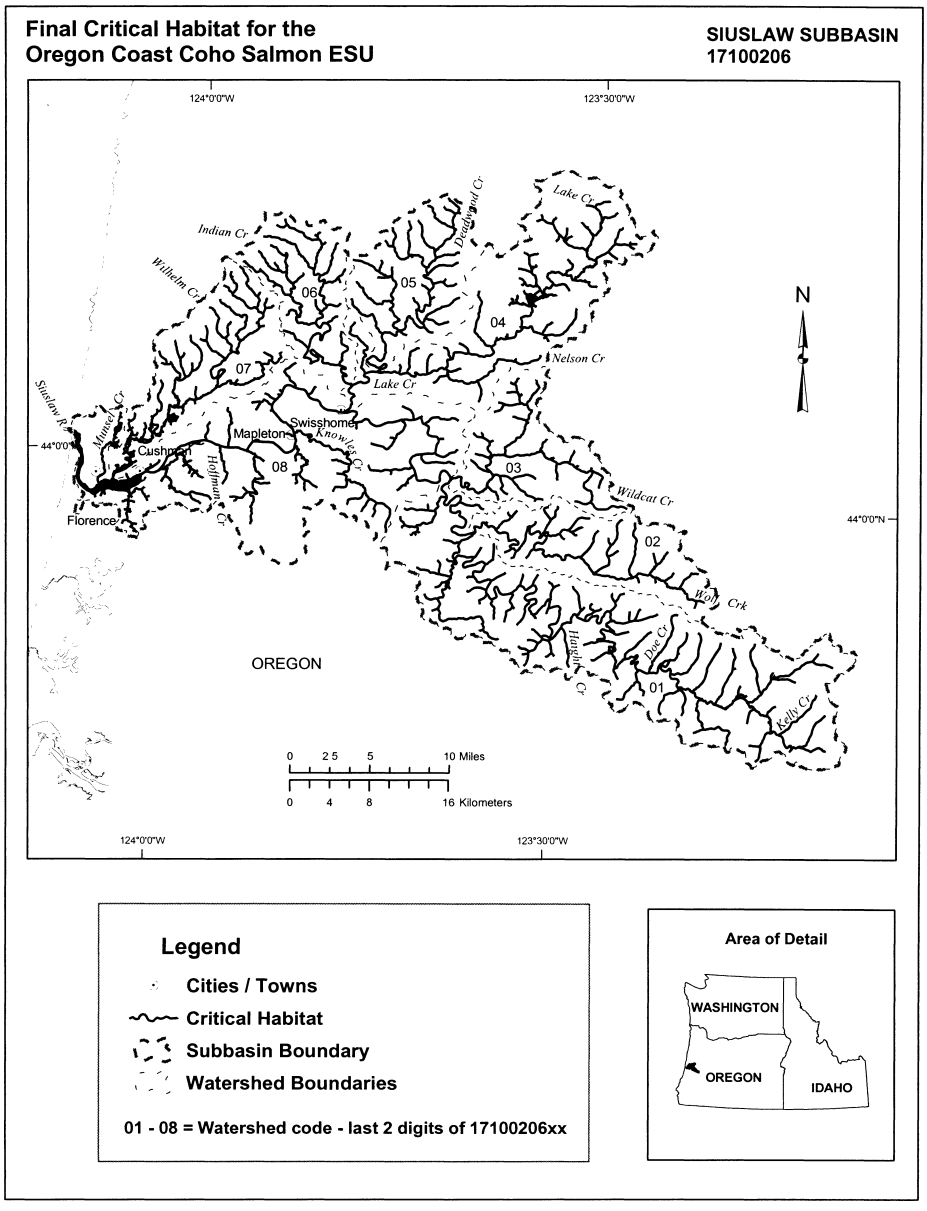

Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
NECANICUM SUBBASIN
17100201
124°0'0"W
123°30'0"W
N
46°0'0"N
Gearhart
Mill Cr
Seaside
OREGON
Little Muddy Cr
Klootchie Cr
Little Humbug Cr
Necanicum R
Cannon Beach
Ecola Cr
S Fk Necanicum R
01
Arch Cape Cr
Arch Cape
Short Sand Cr
Manzanita
0 2.5 5 10 Miles
0 4 8 16 Kilometers
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundary
01 = Watershed code - last 2 digits of 17100201xx
Area of Detail
WASHINGTON
OREGON
IDAHO

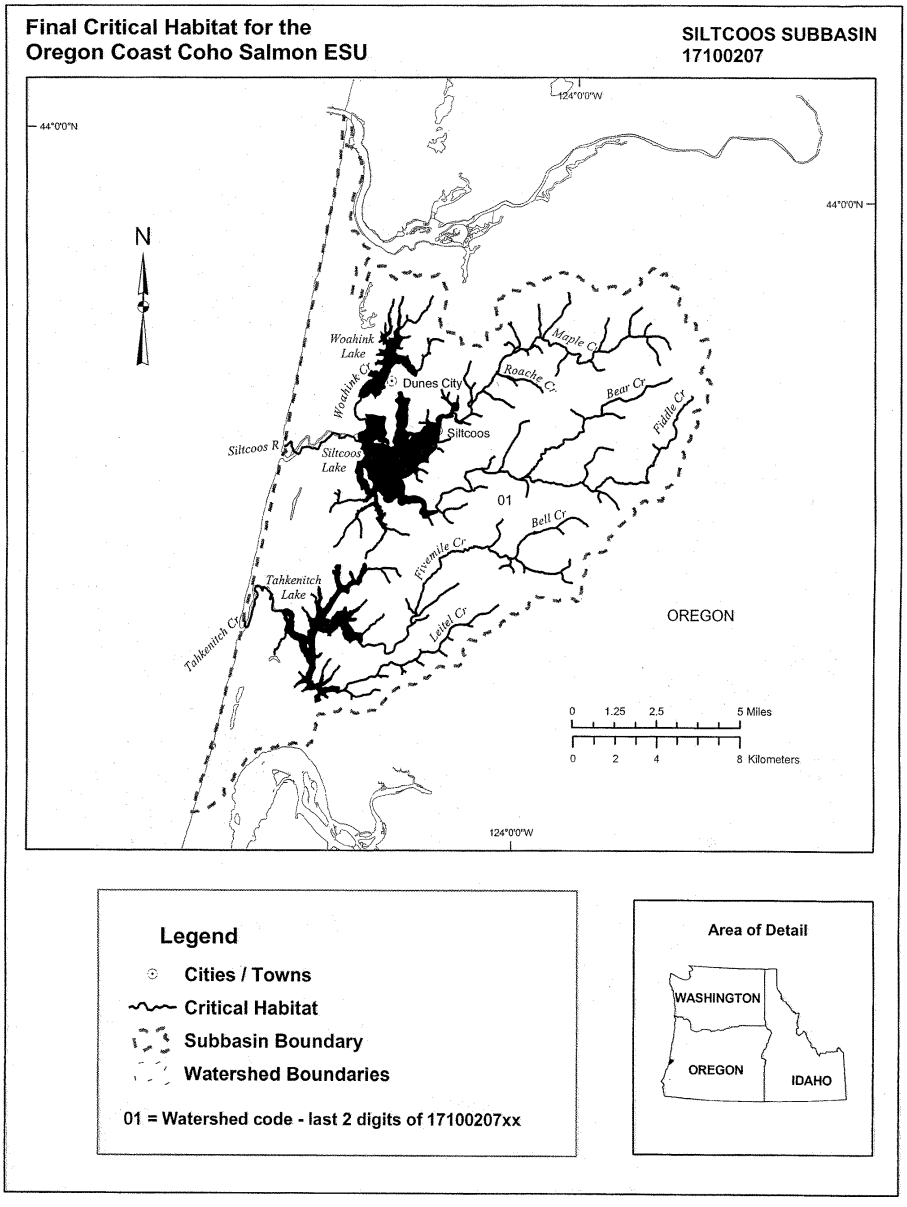

Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
NEHALEM SUBBASIN
17100202
124°0'0"W
123°30'0"W
OREGON
46°0'0"N
Walker Cr
Louisiana Cr
Ford Cr
Mist
Fishhawk Cr
E Humbug Cr
02
03
Crooked Cr
Elsie
Vernonia
Kenusky Cr
Rock Cr
01
N Fk Wolf Cr
Pebble Cr
Bay City
05
Nehalem R
Sweethome Cr
Nehalem R
04
Manzanita
Nehalem
Salmonberry R
06
Hoevett Cr
Wheeler
Jetty Cr
Foley Cr
Timber
N
0 2.5 5 10 Miles
0 4 8 16 Kilometers
123°30'0"W
123°0'0"W
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17100202xx
Area of Detail
WASHINGTON
OREGON
IDAHO

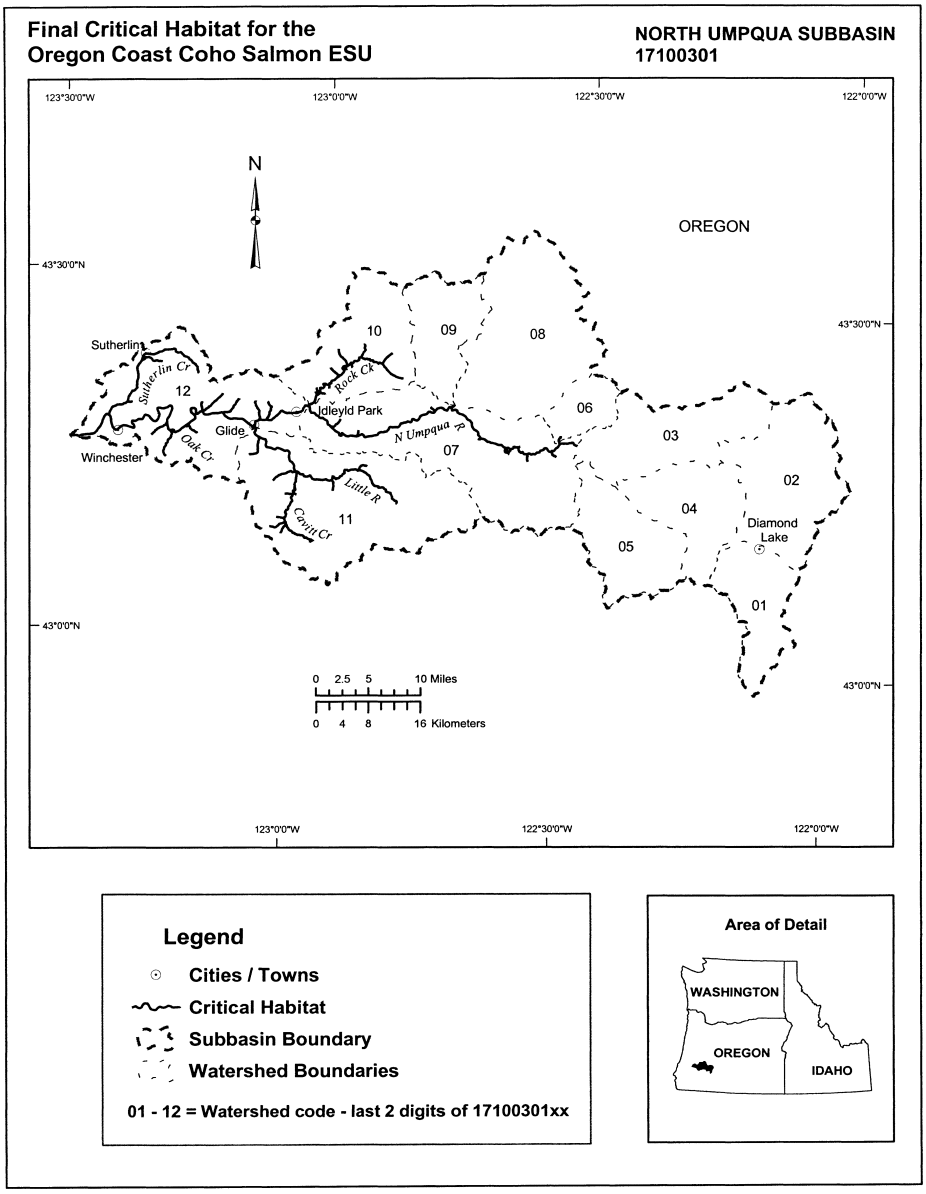

Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
WILSON - TRASK - NESTUCCA SUBBASIN
17100203
124°0'0"W
123°30'0"W
45°30'0"N
45°0'0"N
Rockaway Beach
Garibaldi
Bay City
Tillamook Bay
Tillamook
Netarts
Netarts Bay
Beaver
Hebo
Pacific City
Nestucca Bay
Neskowin Cr
Rover Cr
Sand Cr
Beulah Cr
Testament Cr
Three Rivers
Little Nestucca R
Nestucca R
East Cr
E Beaver Cr
Trask R
N Fk Trask R
Elkhorn Cr
Wilson R
Jordan Cr
Cedar Cr
N Fk Kilchis R
Elk Cr
Mount R
Beeley Cr
01
02
03
04
05
06
07
08
09
OREGON
N
0 2.5 5 10 Miles
0 4 8 16 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 09 = Watershed code - last 2 digits of 17100203xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
SILETZ - YAQUINA SUBBASIN
17100204
124°0'0"W
123°30'0"W
45°0'0"N
44°30'0"N
N
Rose Lodge
Otis
Salmon R
Lincoln City
Schooner Ck
Trout Cr
Devils Cr
Lincoln Beach
Fogarty Cr
Cedar Cr
Depoe Bay
Siletz R
Spencer Cr
Wade Cr
Logsden
Big Rock Cr
Agate Beach
Siletz
Big Cr
Newport
South Beach
Eddyville
Summit
Wolf Cr
Harlan
Grant Cr
Eagles Cr
Valsetz
OREGON
09
08
04
07
05
06
01
03
02
0 2.5 5 10 Miles
0 4 8 16 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 = Watershed code - last 2 digits of 17100204xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
ALSEA SUBBASIN
17100205
124°0'0"W
123°30'0"W
44°30'0"N
44°0'0"N
OREGON
Thiel Cr
Seal Rock
Waldport
Tidewater
Yachats
Cummins Cr
Bob Cr
Rock Cr
Big Cr
Cape Cr
Berry Cr
Sutton Cr
N Fk Beaver Cr
Drift Cr
Bull Run Cr
Parker Cr
Fall Cr
Alsea
Seeley Cr
Brummer Cr
S Fk Alsea R
Lobster Cr
Fogarty Creek
Yachats R
Darkey Cr
05
03
04
08
06
02
01
07
N
0 2.5 5 10 Miles
0 4 8 16 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17100205xx
Area of Detail
WASHINGTON
OREGON
IDAHO

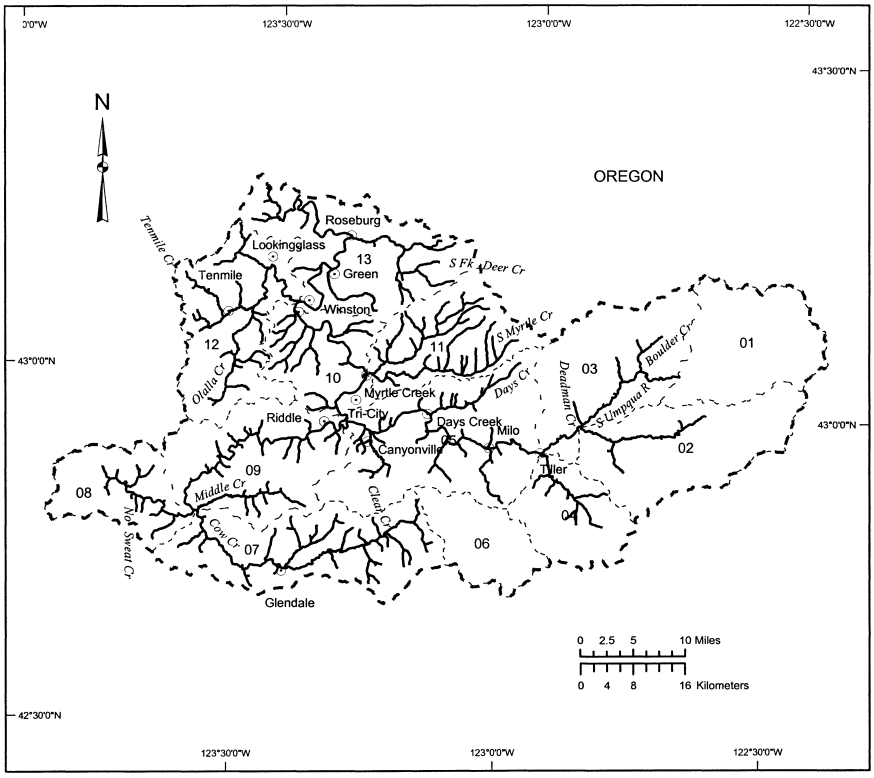

Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
SIUSLAW SUBBASIN
17100206
124°0'0"W
123°30'0"W
44°0'0"N
Lake Cr
Deadwood Cr
Indian Cr
Wilhelm Cr
05
06
04
N
07
Nelson Cr
Lake Cr
Siuslaw R
Munsel Cr
Swisshome
Mapleton
Knowles Cr
Cushman
Hoffman Cr
08
03
Wildcat Cr
Florence
02
Wolf Crk
Dog Cr
Haight Cr
OREGON
01
Kelly Cr
0 2.5 5 10 Miles
0 4 8 16 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17100206xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
SILTCOOS SUBBASIN
17100207
124°0'0"W
44°0'0"N
N
Woahink Lake
Woahink Cr
Dunes City
Siltcoos
Siltcoos R
Siltcoos Lake
Maple Cr
Roache Cr
Bear Cr
Fiddle Cr
01
Bell Cr
Fivemile Cr
Tahkenitch Lake
Tahkenitch Cr
Leitel Cr
OREGON
0 1.25 2.5 5 Miles
0 2 4 8 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 = Watershed code - last 2 digits of 17100207xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
NORTH UMPQUA SUBBASIN
17100301
123°30'0"W
123°0'0"W
122°30'0"W
122°0'0"W
N
OREGON
43°30'0"N
43°0'0"N
Sutherlin
Sutherlin Cr
Rock Ck
Idleyld Park
Glide
Winchester
Oak Cr
N Umpqua R
Little R
Cavitt Cr
10
09
08
12
06
03
07
02
04
11
Diamond
Lake
05
01
0 2.5 5 10 Miles
0 4 8 16 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 12 = Watershed code - last 2 digits of 17100301xx
Area of Detail
WASHINGTON
OREGON
IDAHO

Final Critical Habitat for the Oregon Coast Coho Salmon ESU

SOUTH UMPQUA SUBBASIN 17100302

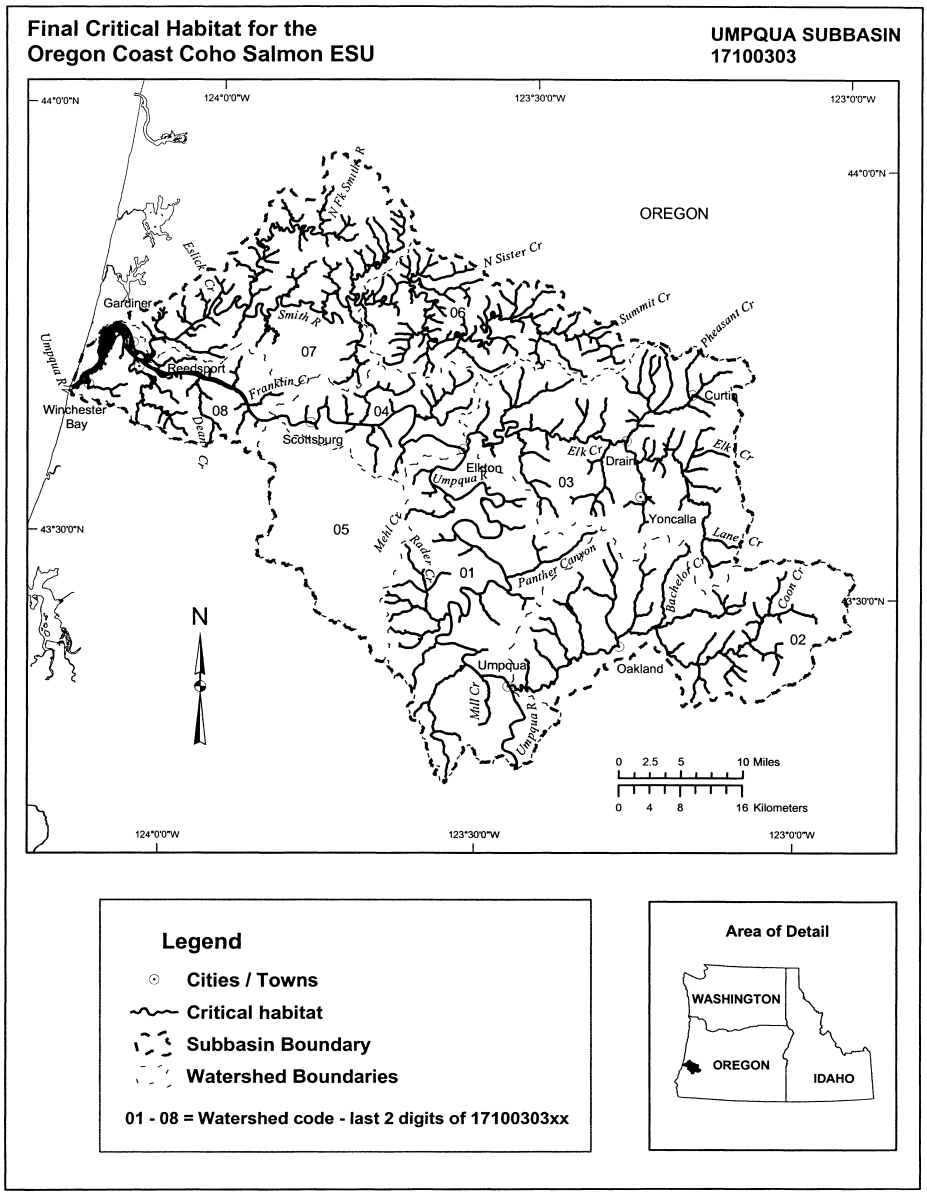


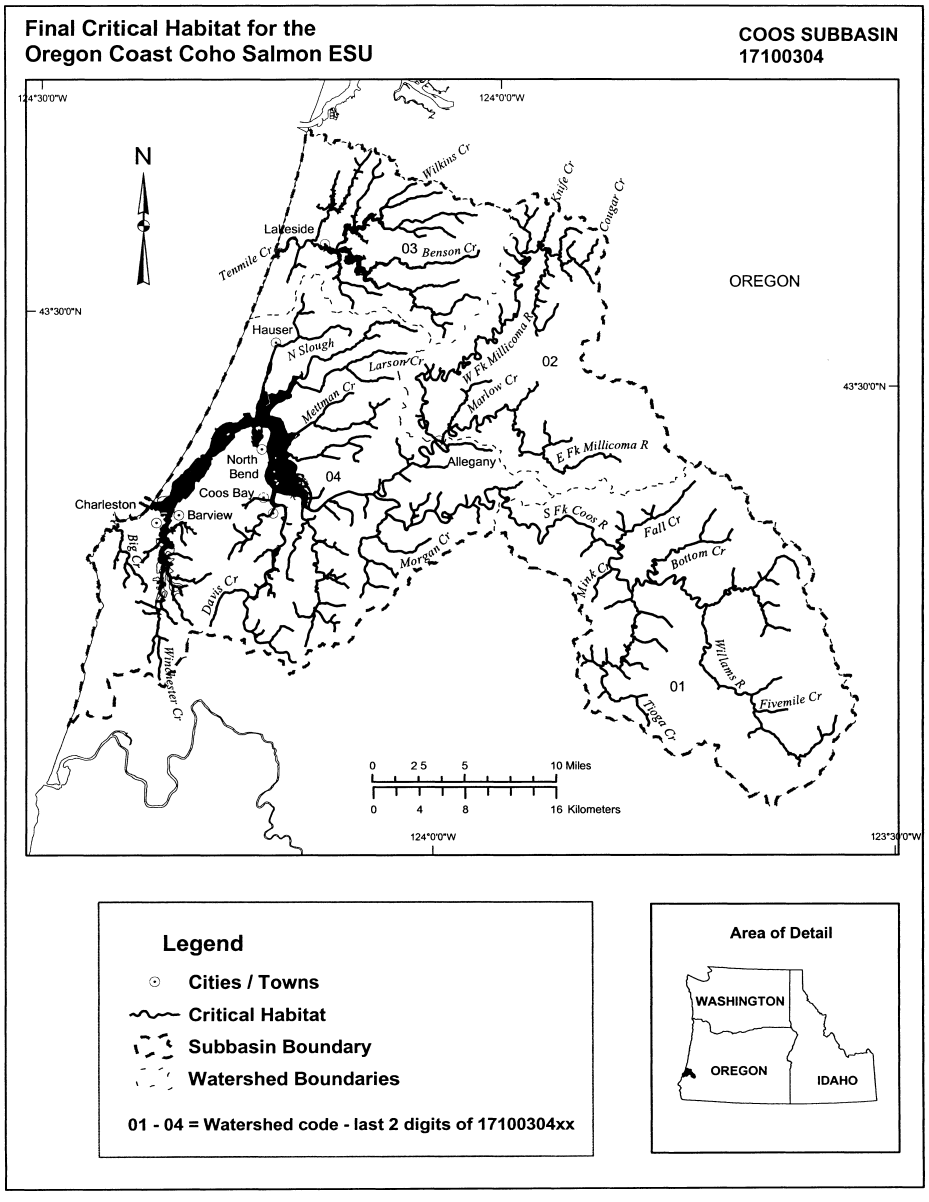
Legend

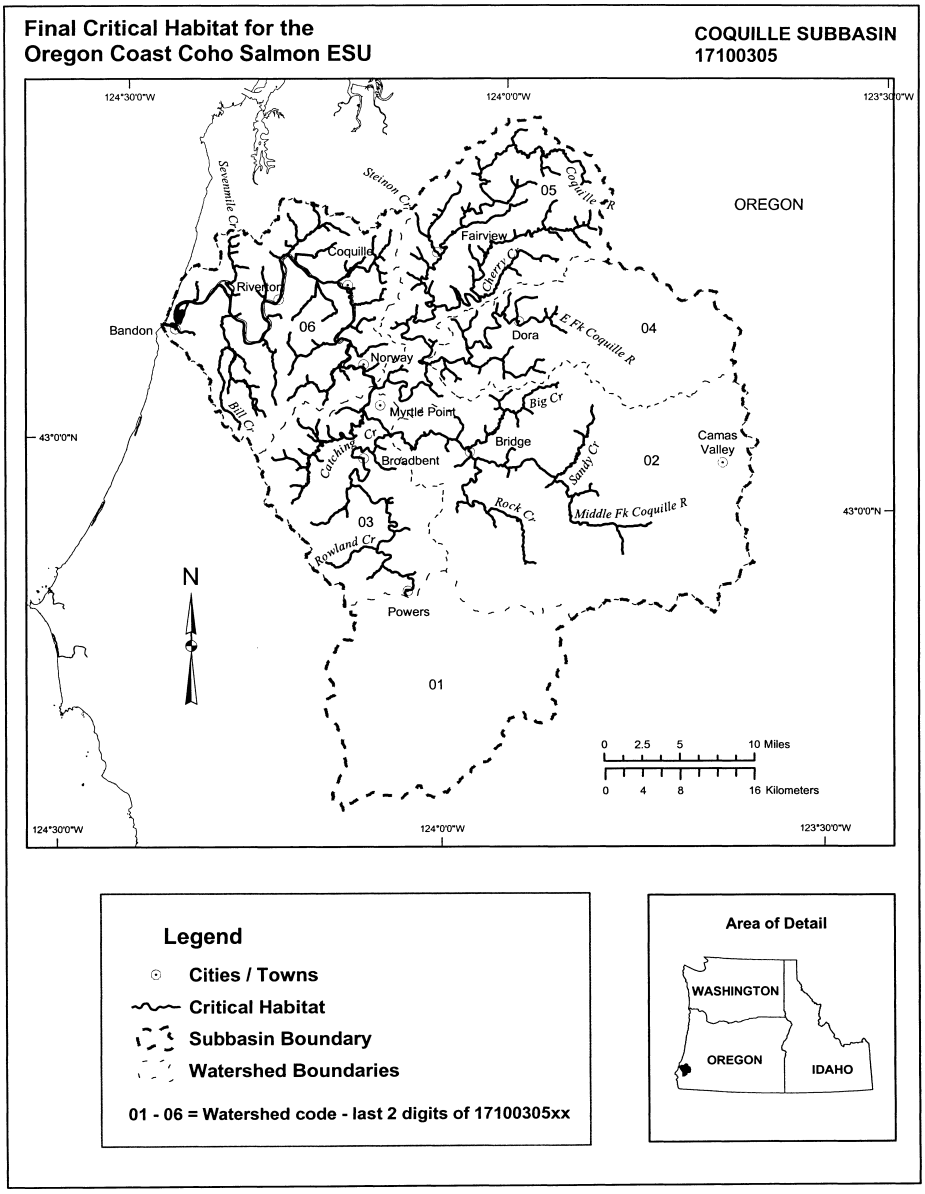
- Cities / Towns
- Critical Habitat
- Subbasin Boundary
- Watershed Boundaries

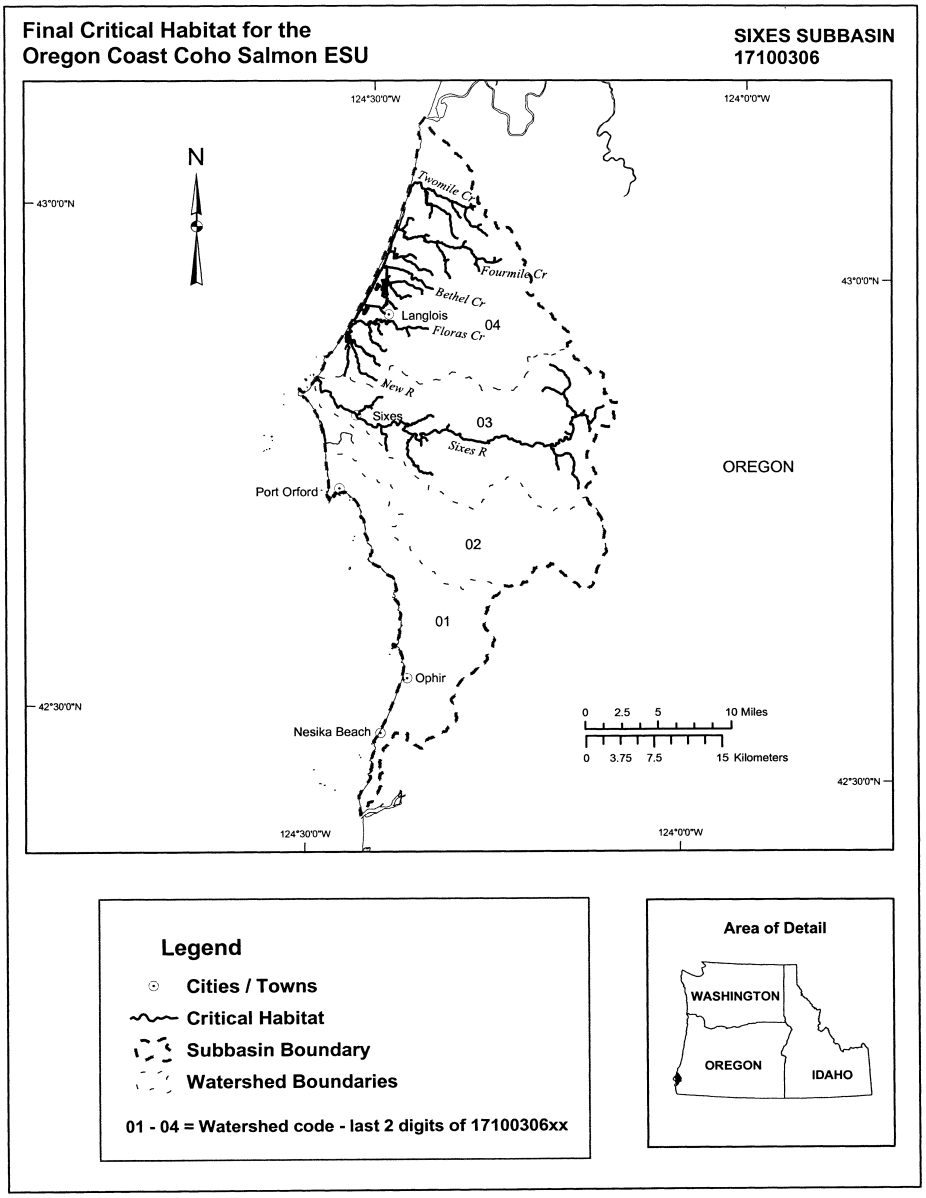
01 - 13 = Watershed code - last 2 digits of 17100302xx

Area of Detail


Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
UMPQUA SUBBASIN
17100303
44°0'0"N
124°0'0"W
123°30'0"W
123°0'0"W
43°30'0"N
OREGON
N Fk Smith R
Estuck Cr
Smith R
N Sister Cr
Summit Cr
Pheasant Cr
Gardiner
Umpqua R
Reedsport
Franklin Cr
Winchester Bay
Drain Cr
Scottsburg
Elk Cr
Drain
Curtin
Elkton
Umpqua R
Yoncalla
Lane Cr
Mehl Cr
Rader Cr
Panther Canyon
Bachelor Cr
Coon Cr
Umpqua
Oakland
Mill Cr
Umpqua R
01
02
03
04
05
06
07
08
N
0 2.5 5 10 Miles
0 4 8 16 Kilometers
Legend
Cities / Towns
Critical habitat
Subbasin Boundary
Watershed Boundaries
01 - 08 = Watershed code - last 2 digits of 17100303xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
COOS SUBBASIN
17100304
124°30'0"W
124°0'0"W
43°30'0"N
123°30'0"W
N
Wilkins Cr
Knife Cr
Cougar Cr
Lakeside
Tenmile Cr
03
Benson Cr
OREGON
Hauser
N Slough
Larson Cr
W Fk Millicoma R
02
Marlow Cr
Mettman Cr
E Fk Millicoma R
North Bend
Allegany
04
Coos Bay
Charleston
Barview
S Fk Coos R
Fall Cr
Bottom Cr
Morgan Cr
Big Cr
Davis Cr
Winchester Cr
Millicoma R
Williams R
Fivemile Cr
Tioga Cr
01
0 2.5 5 10 Miles
0 4 8 16 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17100304xx
Area of Detail
WASHINGTON
OREGON
IDAHO


Final Critical Habitat for the
Oregon Coast Coho Salmon ESU
COQUILLE SUBBASIN
17100305
124°30'0"W
124°0'0"W
123°30'0"W
43°0'0"N
OREGON
Sevenmile Cr
Steinhorn Cr
Coquille R
Fairview
Coquille
Cherry Cr
Riverton
Bandon
E Fk Coquille R
Dora
Norway
Myrtle Point
Big Cr
Bill Cr
Catching Cr
Broadbent
Bridge
Sandy Cr
Camas Valley
Rock Cr
Middle Fk Coquille R
Rowland Cr
Powers
01
02
03
04
05
06
N
0 2.5 5 10 Miles
0 4 8 16 Kilometers
Legend
Cities / Towns
Critical Habitat
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17100305xx
Area of Detail
WASHINGTON
OREGON
IDAHO



[70 FR 52684, Sept. 2, 2005, as amended at 73 FR 7844, Feb. 11, 2008]

§ 226.213 Critical habitat for Johnson's seagrass.

Critical habitat is designated to include substrate and water in the following ten portions of the Indian River Lagoon and Biscayne Bay within the current range of Johnson's seagrass.

(a) A portion of the Indian River, Florida, north of Sebastian Inlet Channel, defined by the following coordinates:

Northwest corner: 27°51′15.03″ N, 80°27′55.49″ W
Northeast corner: 27°51′16.57″ N, 80°27′53.05″ W
Southwest corner: 27°51′08.85″ N, 80°27′50.48″ W
Southeast corner: 27°51′11.58″ N, 80°27′47.35″ W

(b) A portion of the Indian River, Florida, south of the Sebastian Inlet Channel, defined by the following coordinates:

Northwest corner: 27°51′01.32″ N, 80°27′46.10″ W
Northeast corner: 27°51′02.69″ N, 80°27′45.27″ W
Southwest corner: 27°50′59.08″ N, 80°27′41.84″ W
Southeast corner: 27°51′01.07″ N, 80°27′40.50″ W

(c) A portion of the Indian River Lagoon in the vicinity of the Fort Pierce Inlet. This site is located on the north side of the entrance channel just west of a small mangrove vegetated island where the main entrance channel bifurcates to the north. The area is defined by the following coordinates:

Northwest corner: 27°28′06.00″ N, 80°18′48.89″ W
Northeast corner: 27°28′04.43″ N, 80°18′42.25″ W
Southwest corner: 27°28′02.86″ N, 80°18′49.06″ W
Southeast corner: 27°28′01.46″ N, 80°18′42.42″ W

(d) A portion of the Indian River Lagoon, Florida, north of the St. Lucie Inlet, from South Nettles Island to the Florida Oceanographic Institute, defined by the following coordinates and excluding the Federally-marked navigation channel of the Intracoastal Waterway (ICW):

Northwest corner: 27°16′44.04″ N, 80°14′00.00″ W
Northeast corner: 27°16′44.04″ N, 80°12′51.33″ W
Southwest corner: 27°12′49.70″ N, 80°11′46.80″ W
Southeast corner: 27°12′49.70″ N, 80°11′02.50″ W

(e) Hobe Sound beginning at State Road 708 (27°03′49.90″ N, 80°07′20.57″ W) and extending south to 27°00′00.00″ N, 80°05′32.54″ W and excluding the federally-marked navigation channel of the ICW.

(f) Jupiter Inlet at a site located just west of the entrance to Zeek's Marina on the south side of Jupiter Inlet and defined by the following coordinates (note a south central point was included to better define the shape of the southern boundary):

Northwest corner: 26°56′43.34″ N, 80°04′47.84″ W
Northeast corner: 26°56′40.93″ N, 80°04′42.61″ W
Southwest corner: 26°56′40.73″ N, 80°04′48.65″ W
South central point: 26°56′38.11″ N, 80°04′45.83″ W
Southeast corner: 26°56′38.31″ N, 80°04′42.41″ W

(g) A portion of Lake Worth, Florida, just north of Bingham Island defined by the following coordinates and excluding the Federally-marked navigation channel of the ICW:

Northwest corner: 26°40′44.00″ N, 80°02′39.00″ W
Northeast corner: 26°40′40.00″ N, 80°02′34.00″ W
Southwest corner: 26°40′32.00″ N, 80°02′44.00″ W
Southeast corner: 26°40′33.00″ N, 80°02′35.00″ W

(h) A portion of Lake Worth Lagoon, Florida, located just north of the Boynton Inlet, on the west side of the ICW, defined by the following coordinates and excluding the Federally-marked navigation channel of the ICW:

Northwest corner: 26°33′28.00″ N, 80°02′54.00″ W
Northeast corner: 26°33′30.00″ N, 80°03′04.00″ W
Southwest corner: 26°32′50.00″ N, 80°03′11.00″ W
Southeast corner: 26°32′50.00″ N, 80°02′58.00″ W

(i) A portion of northeast Lake Wyman, Boca Raton, Florida, defined by the following coordinates and excluding the Federally-marked navigation channel of the ICW:

Northwest corner: 26°22′27.00″ N, 80°04′23.00″ W
Northeast corner: 26°22′27.00″ N, 80°04′18.00″ W
Southwest corner: 26°22′05.00″ N, 80°04′16.00″ W
Southeast corner: 26°22′05.00″ N, 80°04′18.00″ W

(j) A portion of Northern Biscayne Bay, Florida, defined by the following: The northern boundary of Biscayne Bay Aquatic Preserve, NE 163rd Street, and including all parts of the Biscayne Bay Aquatics Preserve as defined in 18-18.002 of the Florida Administrative Code (F.A.C.) excluding the Oleta River, Miami River and Little River beyond their mouths, the federally-marked navigation channel of the ICW, and all existing federally authorized navigation channels, basins, and berths at the Port of Miami to the currently documented southernmost range of Johnson's seagrass, Central Key Biscayne (25°45′ N).

Figure 1

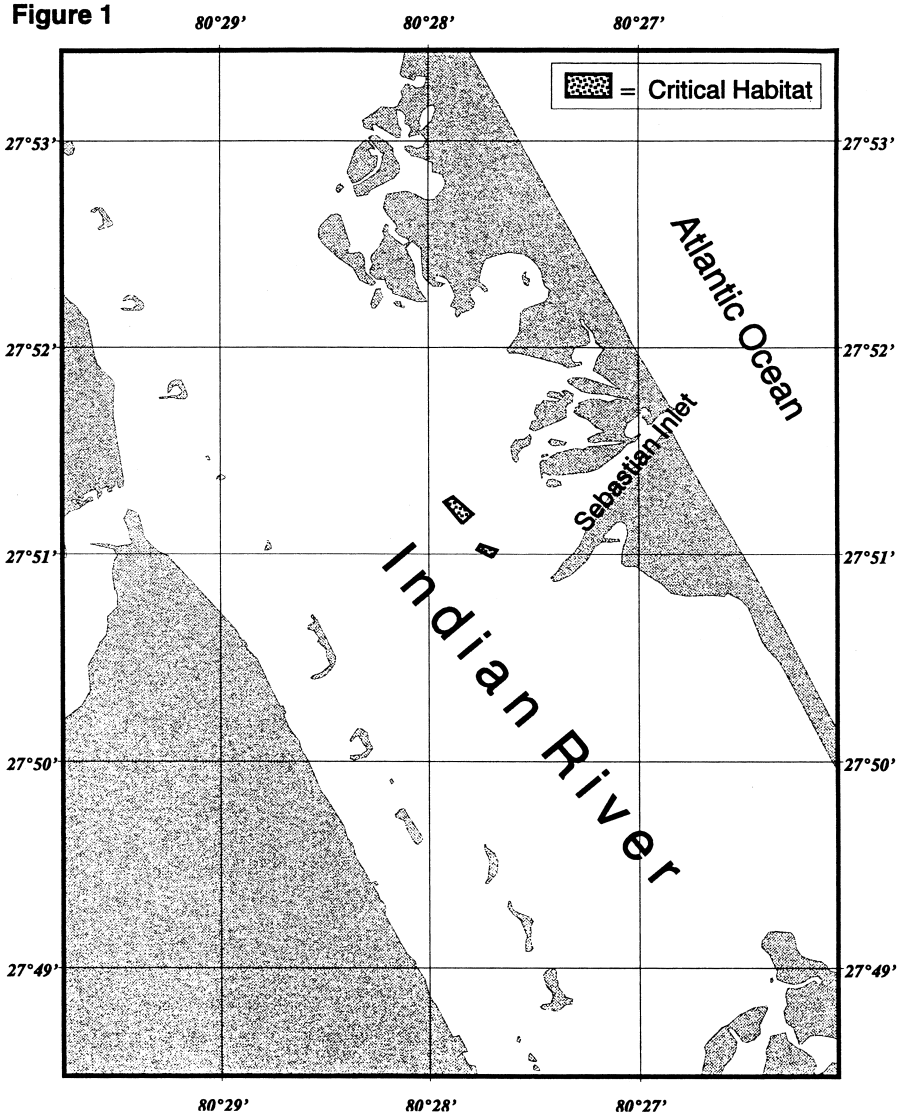

80°29'
80°28'
80°27'
= Critical Habitat
27°53'
27°52'
27°51'
27°50'
27°49'
Atlantic Ocean
Sebastian Inlet
Indian River

Figure 2

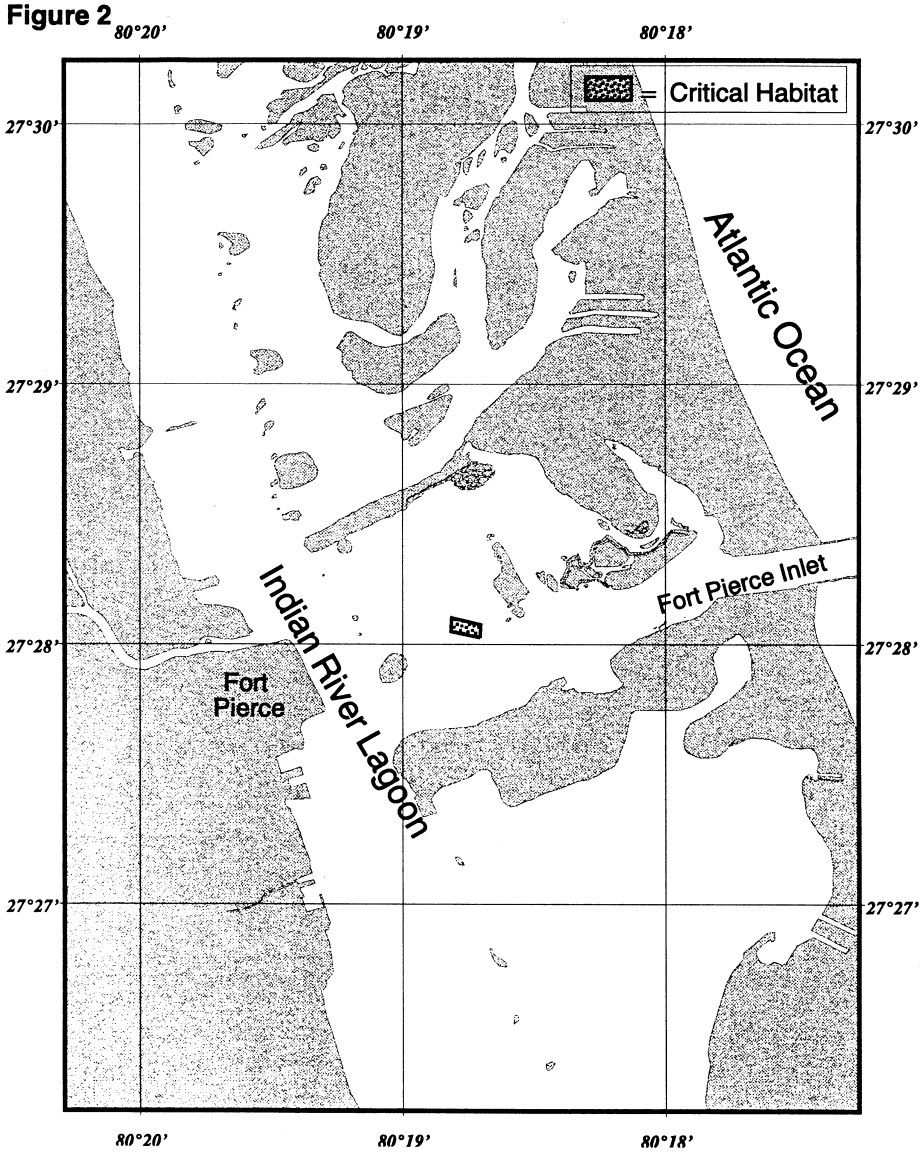

80°20'
80°19'
80°18'
= Critical Habitat
27°30'
27°29'
27°28'
27°27'
Atlantic Ocean
Fort Pierce Inlet
Indian River Lagoon
Fort Pierce

Figure 3

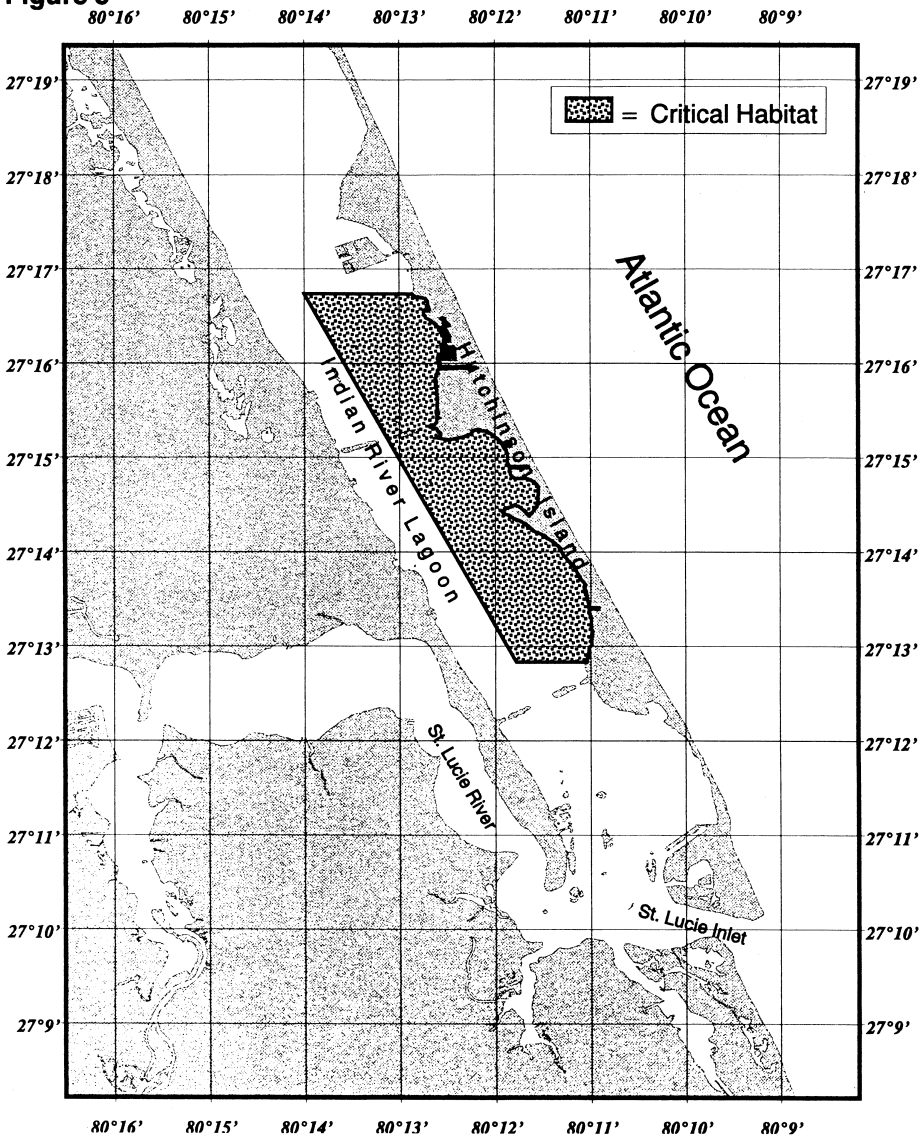

80°16'
80°15'
80°14'
80°13'
80°12'
80°11'
80°10'
80°9'
27°19'
27°18'
27°17'
27°16'
27°15'
27°14'
27°13'
27°12'
27°11'
27°10'
27°9'
= Critical Habitat
Atlantic Ocean
Hutchinson Island
Indian River Lagoon
St. Lucie River
St. Lucie Inlet

Figure 4

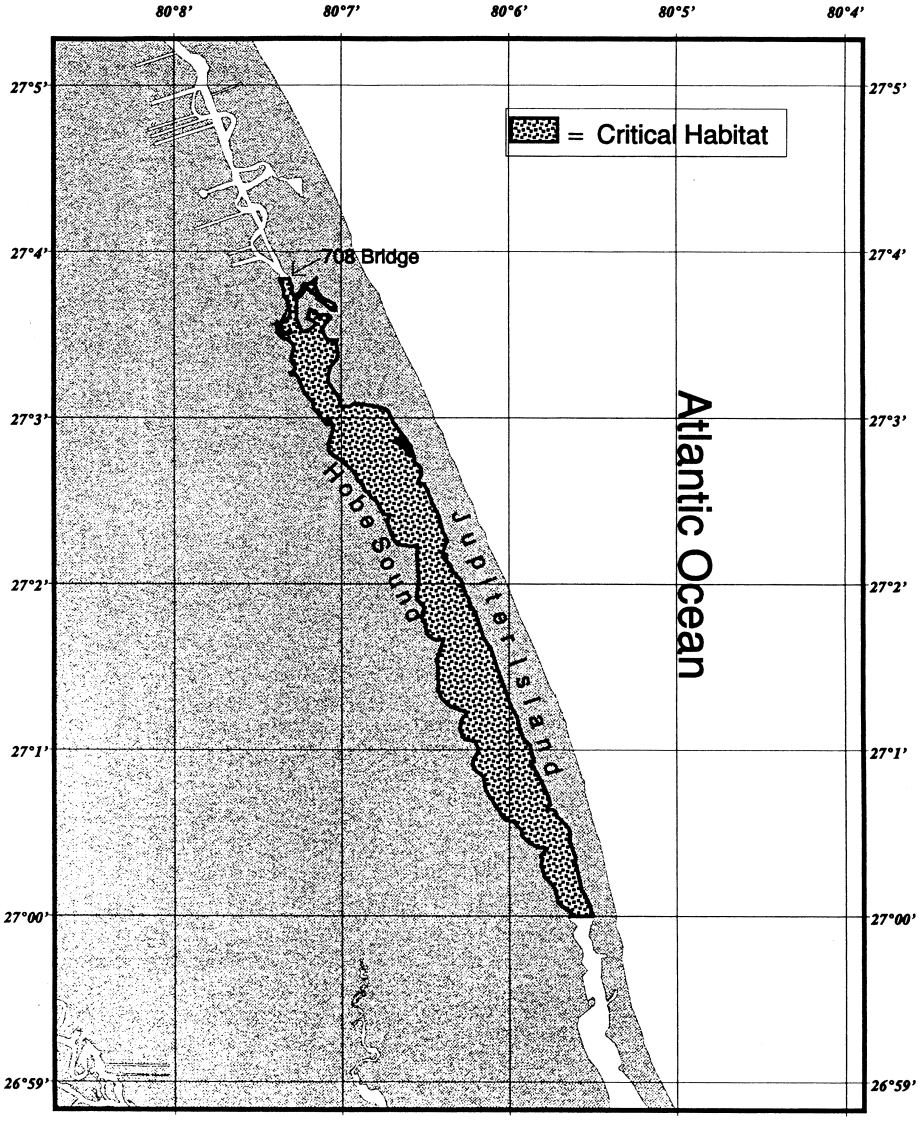

80°8'
80°7'
80°6'
80°5'
80°4'
27°5'
27°4'
27°3'
27°2'
27°1'
27°00'
26°59'
= Critical Habitat
708 Bridge
Hobe Sound
Jupiter Island
Atlantic Ocean

Figure 5

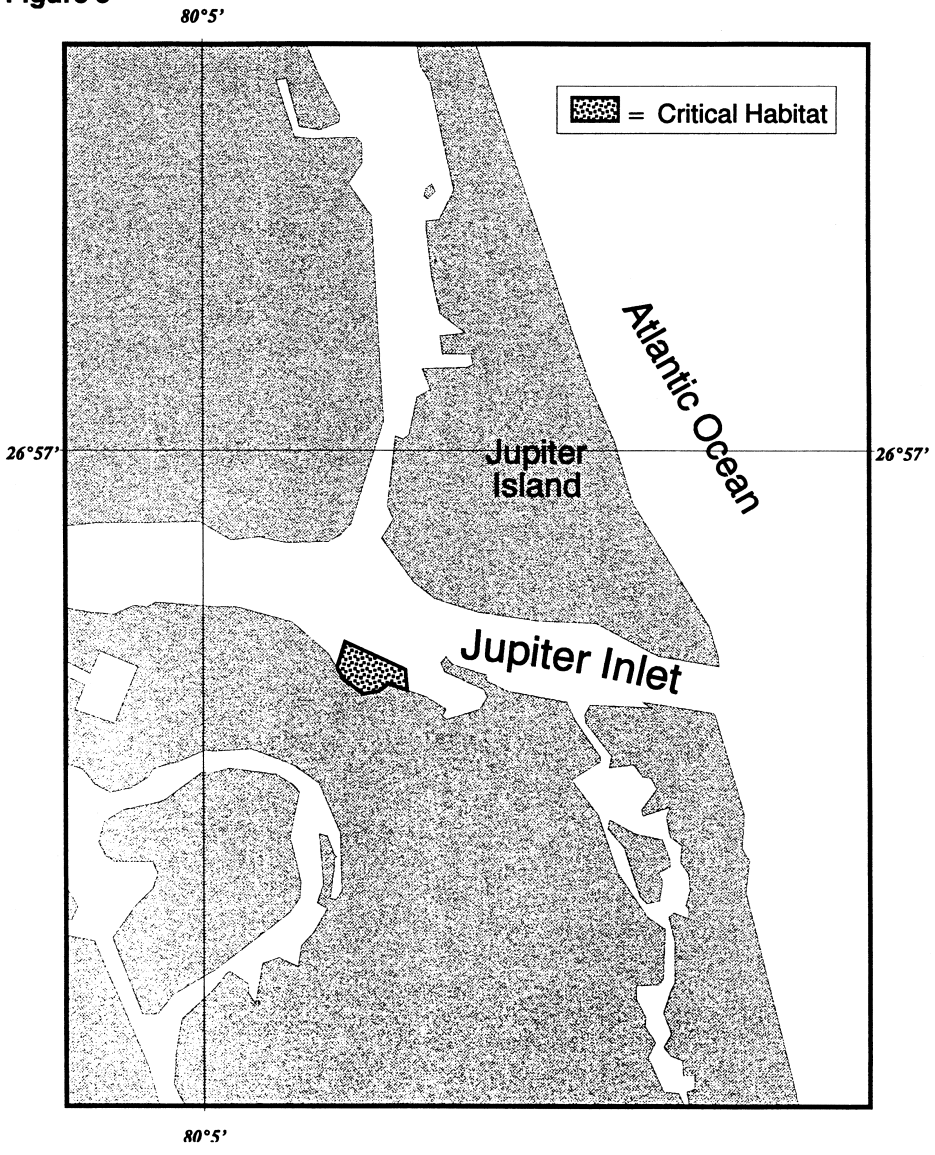

80°5'
= Critical Habitat
Atlantic Ocean
26°57'
Jupiter Island
26°57'
Jupiter Inlet
80°5'

Figure 6

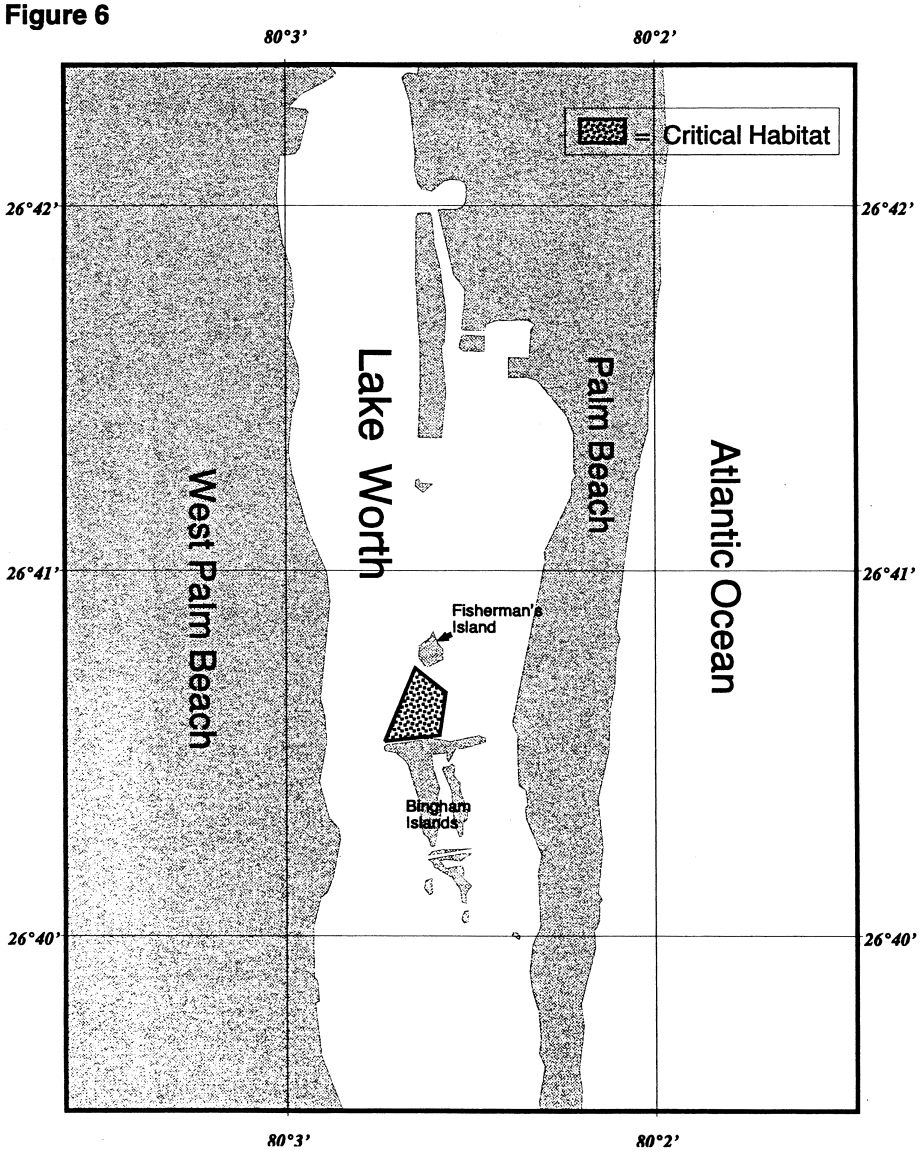

80°3'
80°2'
Critical Habitat
26°42'
26°41'
26°40'
Lake Worth
West Palm Beach
Palm Beach
Atlantic Ocean
Fisherman's Island
Bingham Islands

Figure 7

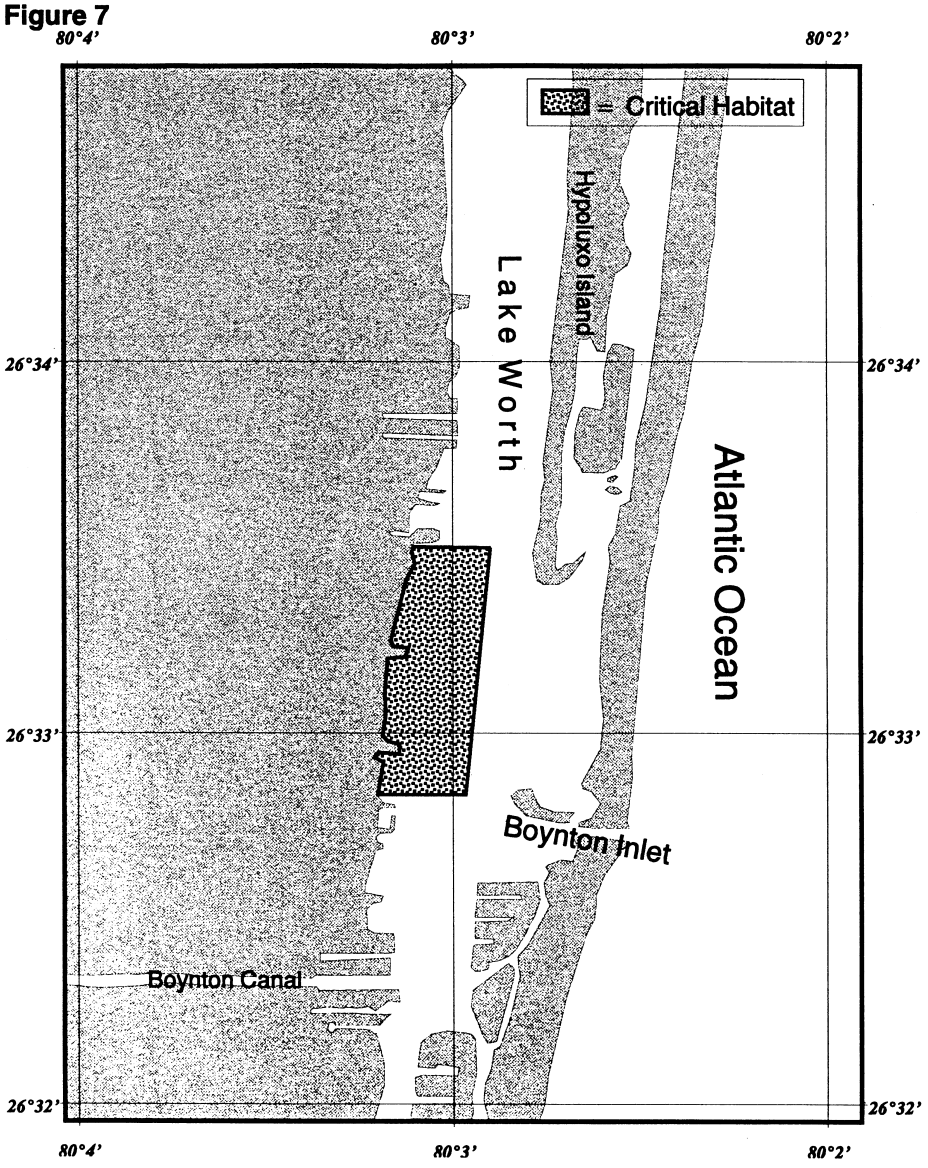

80°4'
80°3'
80°2'
= Critical Habitat
Hypoluxo Island
Lake Worth
Atlantic Ocean
26°34'
26°33'
26°32'
Boynton Inlet
Boynton Canal

Figure 8

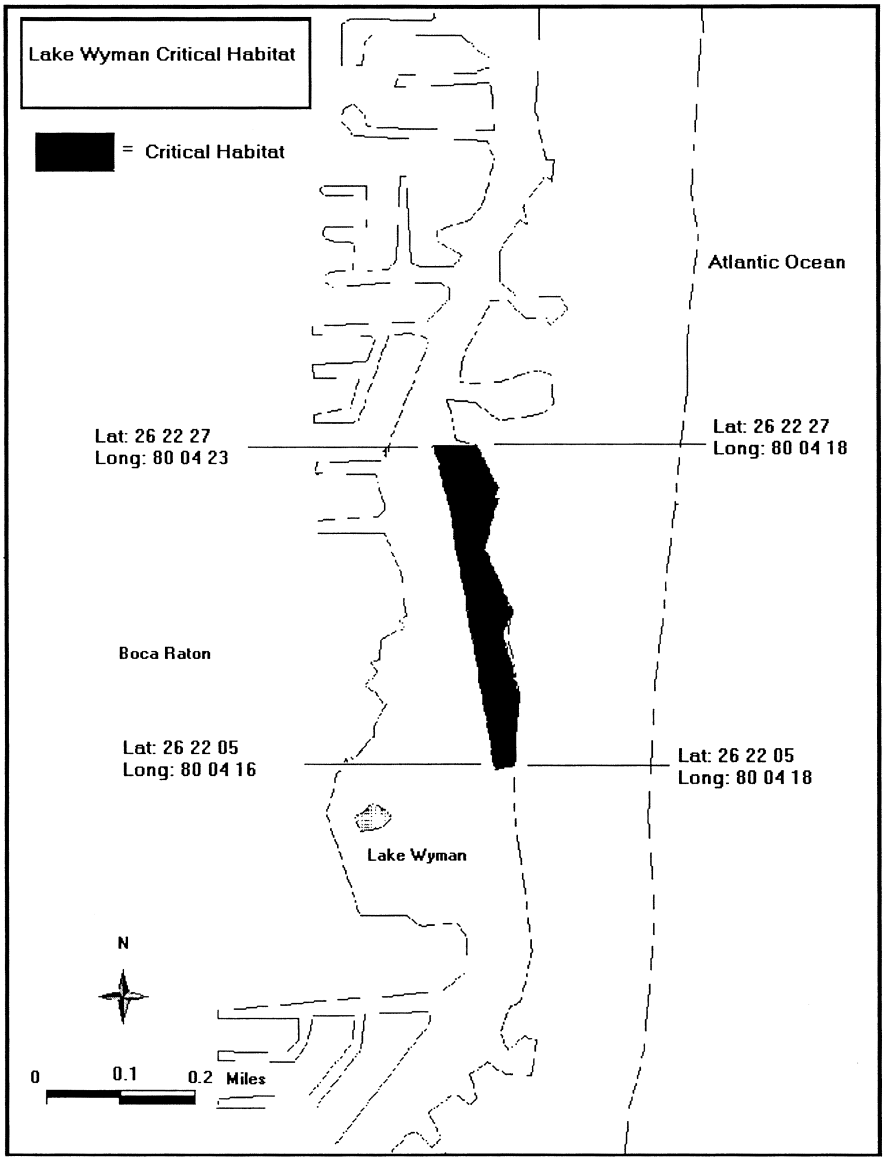
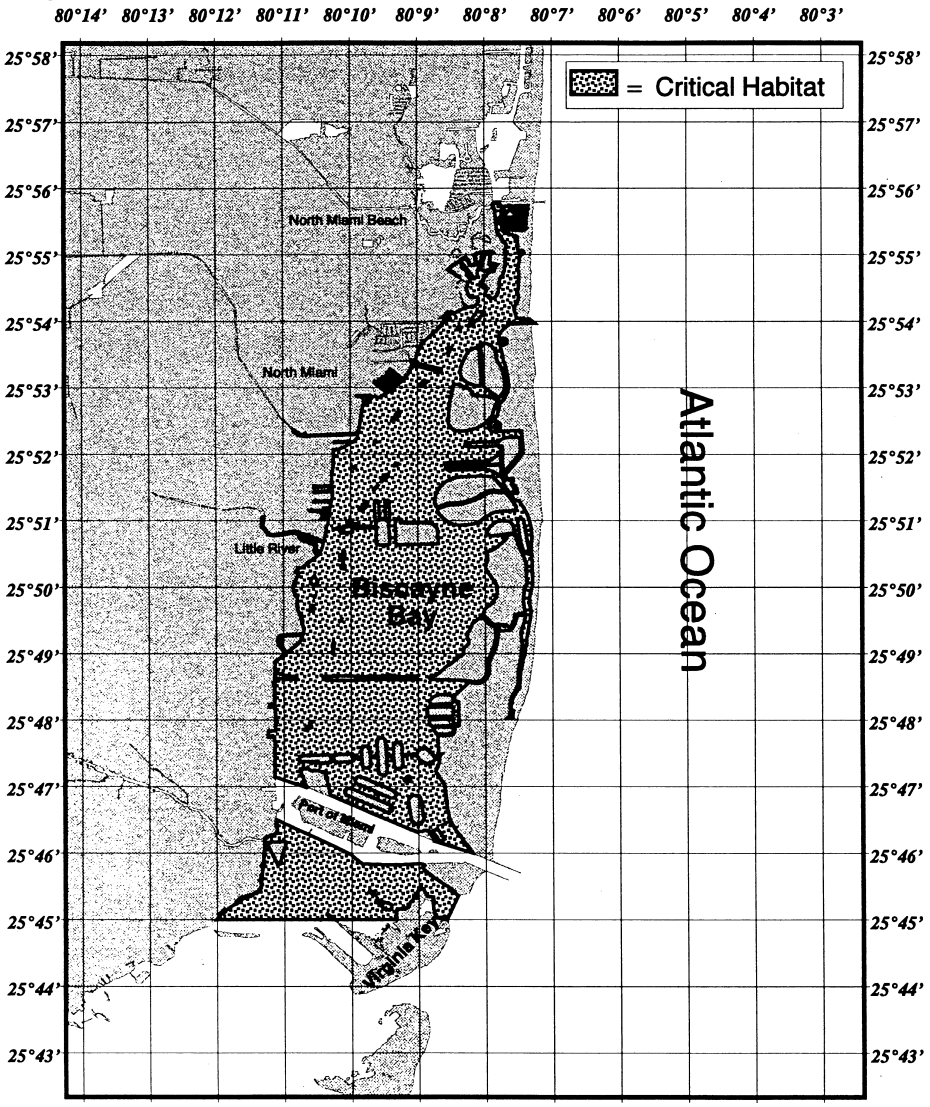

Lake Wyman Critical Habitat
= Critical Habitat
Atlantic Ocean
Lat: 26 22 27
Long: 80 04 23
Lat: 26 22 27
Long: 80 04 18
Boca Raton
Lat: 26 22 05
Long: 80 04 16
Lat: 26 22 05
Long: 80 04 18
Lake Wyman
N
0
0.1
0.2 Miles

Figure 9



[65 FR 17795, Apr. 5, 2000]

§ 226.214 Critical habitat for Gulf sturgeon.

Gulf sturgeon is under the joint jurisdiction of the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS). The FWS will maintain primary responsibility for recovery actions and NMFS will assist in and continue to fund recovery actions pertaining to estuarine and marine habitats. In riverine units, the FWS will be responsible for all consultations regarding Gulf sturgeon and critical habitat. In estuarine units, we

will divide responsibility based on the action agency involved. The FWS will consult with the Department of Transportation, the Environmental Protection Agency, the U.S. Coast Guard, and the Federal Emergency Management Agency. NMFS will consult with the Department of Defense, U.S. Army Corps of Engineers, Minerals Management Service and any other Federal agencies not mentioned here explicitly. In marine units, NMFS will be responsible for all consultations regarding Gulf sturgeon and critical habitat. Any Federal projects that extend into the jurisdiction of both the Services will be consulted on by the FWS with internal coordination with NMFS. Each agency will conduct its own intra-agency consultations as necessary.

The primary constituent elements essential for the conservation of Gulf sturgeon are those habitat components that support feeding, resting, and sheltering, reproduction, migration, and physical features necessary for maintaining the natural processes that support these habitat components. The primary constituent elements include: abundant prey items within riverine habitats for larval and juvenile life stages, and within estuarine and marine habitats and substrates for juvenile, subadult, and adult life stages; riverine spawning sites with substrates suitable for egg deposition and development, such as limestone outcrops and cut limestone banks, bedrock, large gravel or cobble beds, marl, soapstone or hard clay; riverine aggregation areas, also referred to as resting, holding, and staging areas, used by adult, subadult, and/or juveniles, generally, but not always, located in holes below normal riverbed depths, believed necessary for minimizing energy expenditures during fresh water residency and possibly for osmoregulatory functions; a flow regime (*i.e.,* the magnitude, frequency, duration, seasonality, and rate-of-change of fresh water discharge over time) necessary for normal behavior, growth, and survival of all life stages in the riverine environment, including migration, breeding site selection, courtship, egg fertilization, resting, and staging; and necessary for maintaining spawning sites in suitable condition for egg attachment, eggs sheltering, resting, and larvae staging; water quality, including temperature, salinity, pH, hardness, turbidity, oxygen content, and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages; sediment quality, including texture and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages; and safe and unobstructed migratory pathways necessary for passage within and between riverine, estuarine, and marine habitats (*e.g.* a river unobstructed by any permanent structure, or a dammed river that still allows for passage).

The river reaches within Units 1 to 7 as critical habitat lie within the ordinary high water line. As defined in 33 CFR 329.11, the ordinary high water line on non-tidal rivers is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

The downstream limit of the riverine units is the mouth of each river. The mouth is defined as rkm 0 (rmi 0). Although the interface of fresh and saltwater, referred to as the saltwater wedge, occurs within the lower-most reach of a river, for ease in delineating critical habitat units, we are defining the boundary between the riverine and estuarine units as rkm 0 (rmi 0).

Regulatory jurisdiction in coastal areas extends to the line on the shore reached by the plane of the mean (average) high water (MHW) (33 CFR 329.12(a)(2)). All bays and estuaries within Units 8 to 14, therefore, lie below the MHW lines. Where precise determination of the actual location becomes necessary, it must be established by survey with reference to the available tidal datum, preferably averaged over a period of 18.6 years. Less precise methods, such as observation of the ''apparent shoreline'' which is determined by reference to physical markings, lines of vegetation, may be used only where an estimate is needed

of the line reached by the mean high water.

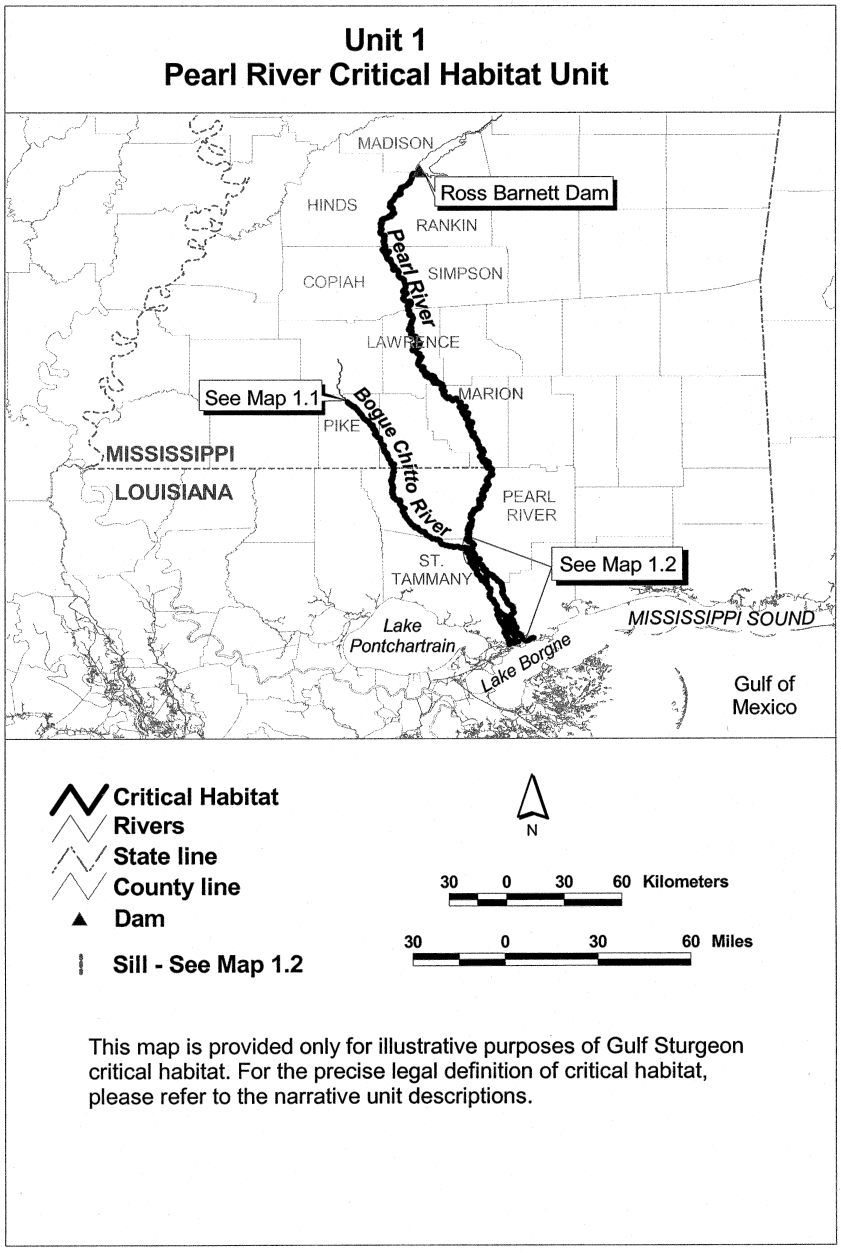
The term 72 COLREGS is defined as demarcation lines which delineate those waters upon which mariners shall comply with the International Regulations for Preventing Collisions at Sea, 1972 and those waters upon which mariners shall comply with the Inland Navigation Rules (33 CFR 80.01). The waters inside of these lines are Inland Rules waters and the waters outside the lines are COLREGS waters. These lines are defined in 33 CFR part 80, and have been used for identification purposes to delineate boundary lines of the estuarine and marine habitat Units 8, 9, 11, and 12.

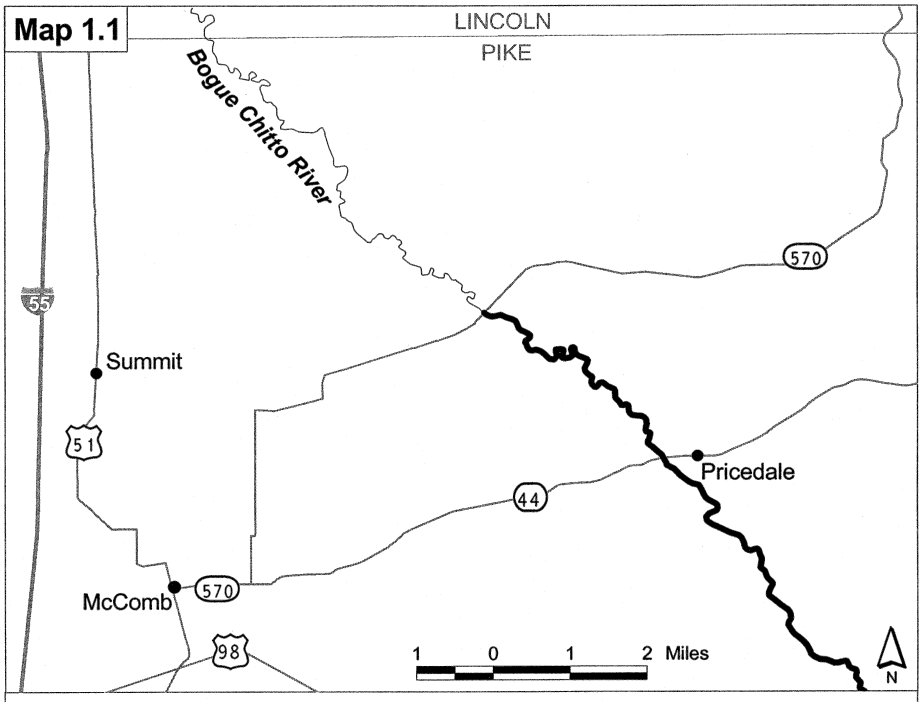
Critical habitat does not include existing developed sites such as dams, piers, marinas, bridges, boat ramps, exposed oil and gas pipelines, oil rigs, and similar structures or designated public swimming areas.

Critical habitat units are depicted for Louisiana, Mississippi, Alabama and Florida on the maps below. The textual unit descriptions below are definitive sources for determining the critical habitat boundaries. General location maps by unit are provided for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

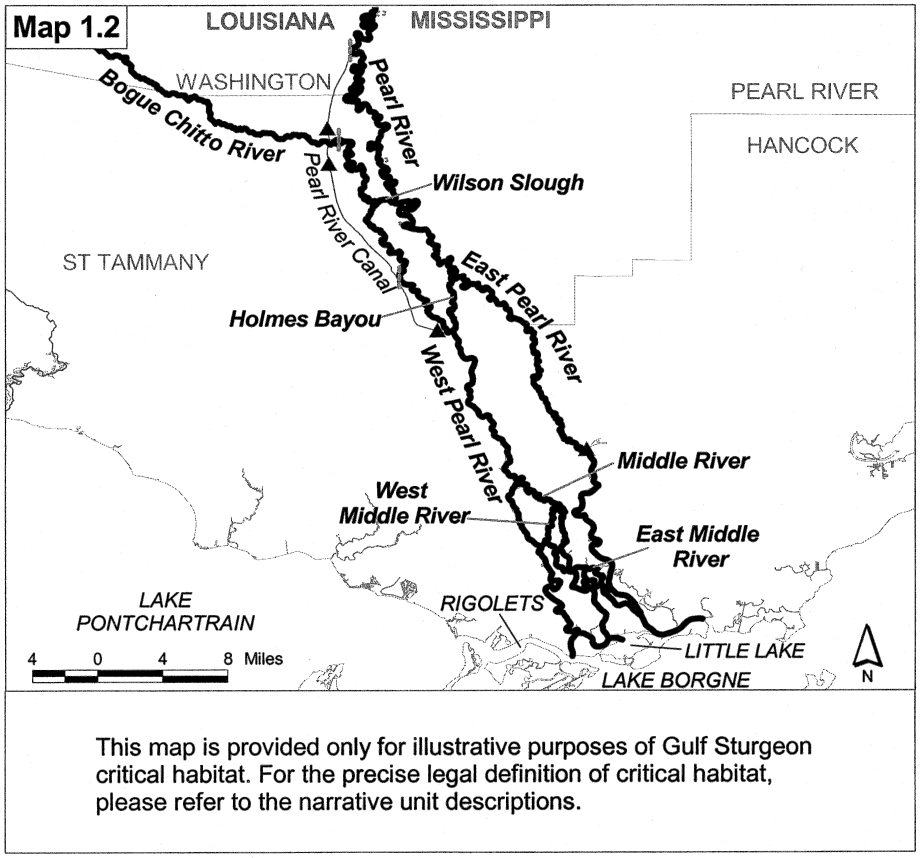
(a) *Unit 1: Pearl River System in St. Tammany and Washington Parishes in Louisiana and Walthall, Hancock, Pearl River, Marion, Lawrence, Simpson, Copiah, Hinds, Rankin, and Pike Counties in Mississippi.* (1) Unit 1 includes the Pearl River main stem from the spillway of the Ross Barnett Dam, Hinds and Rankin Counties, Mississippi, downstream to where the main stem river drainage discharges at its mouth joining Lake Borgne, Little Lake, or The Rigolets in Hancock County, Mississippi, and St. Tammany Parish, Louisiana. It includes the main stems of the East Pearl River, West Pearl River, West Middle River, Holmes Bayou, Wilson Slough, downstream to where these main stem river drainages discharge at the mouths of Lake Borgne, Little Lake, or The Rigolets. Unit 1 also includes the Bogue Chitto River main stem, a tributary of the Pearl River, from Mississippi State Highway 570, Pike County, Mississippi, downstream to its confluence with the West Pearl River, St. Tammany Parish, Louisiana. The lateral extent of Unit 1 is the ordinary high water line on each bank of the associated rivers and shorelines.

(2) Maps of Unit 1 follow:


Unit 1
Pearl River Critical Habitat Unit
MADISON
Ross Barnett Dam
HINDS
RANKIN
Pearl River
COPIAH
SIMPSON
LAWRENCE
See Map 1.1
Bogue Chitto River
MARION
PIKE
MISSISSIPPI
LOUISIANA
PEARL RIVER
ST. TAMMANY
See Map 1.2
MISSISSIPPI SOUND
Lake Pontchartrain
Lake Borgne
Gulf of Mexico
Critical Habitat
Rivers
State line
County line
Dam
Sill - See Map 1.2
N
30 0 30 60 Kilometers
30 0 30 60 Miles
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



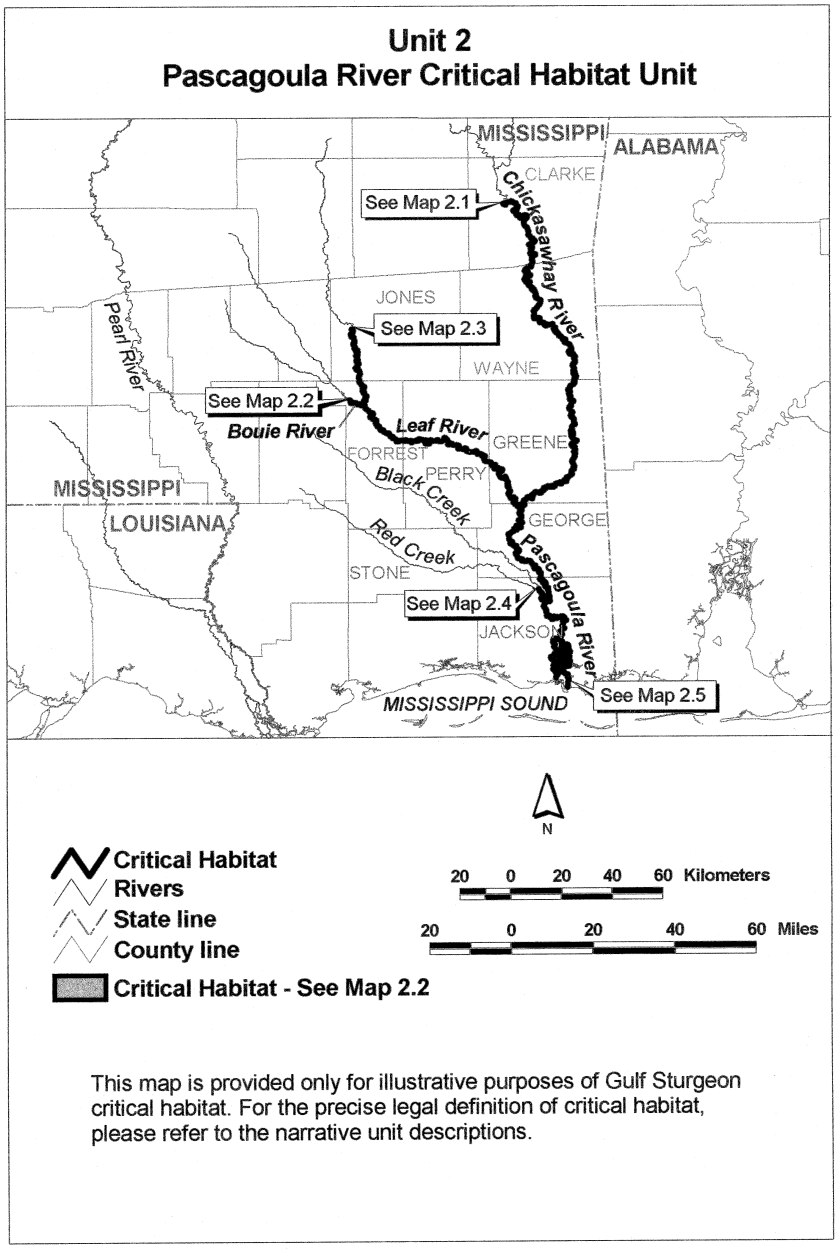
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.

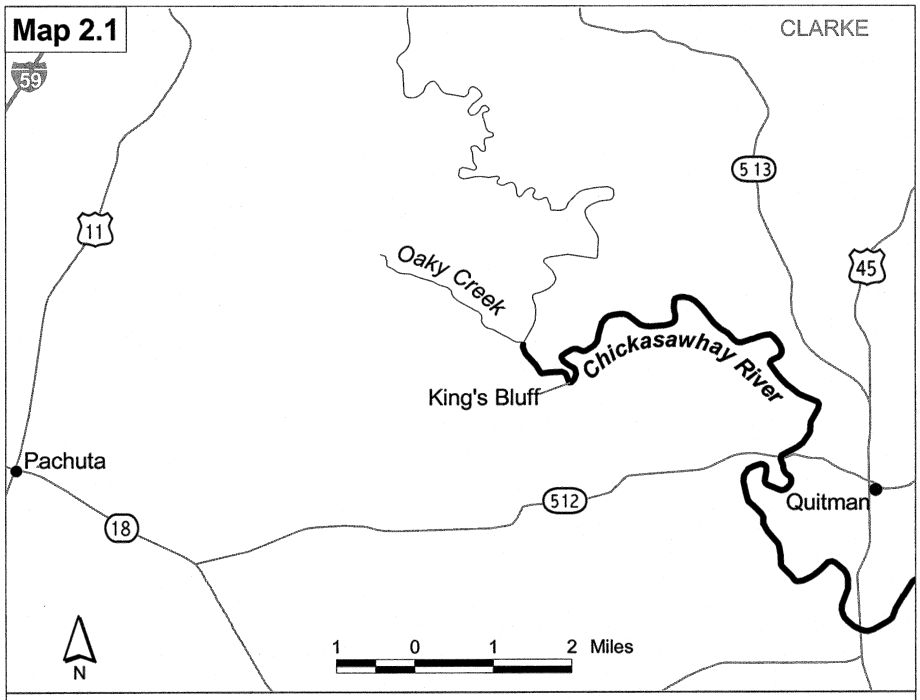


(b) *Unit 2: Pascagoula River System in Forrest, Perry, Greene, George, Jackson, Clarke, Jones, and Wayne Counties, Mississippi.* (1) Unit 2 includes all of the Pascagoula River main stem and its distributaries, portions of the Bouie, Leaf, and Chickasawhay tributaries, and all of the Big Black Creek tributary. It includes the Bouie River main stem beginning on the southern-most road crossing of Interstate 59, Forrest County, Mississippi, downstream to its confluence with the Leaf River, Forrest County, Mississippi. The Leaf River main stem beginning from Mississippi State Highway 588, Jones County, Mississippi, downstream to its confluence with the Chickasawhay River, George County, Mississippi is included. The main stem of the Chickasawhay River from the mouth of Oaky Creek, Clarke County, Mississippi, downstream to its confluence with the Leaf River, George County, Mississippi is included. Unit 2 also includes Big Black Creek main stem from its confluence with Black and Red Creeks, Jackson County, Mississippi, to its confluence with the Pascagoula River, Jackson County, Mississippi. All of the main stem of the Pascagoula River from its confluence with the Leaf and Chickasawhay Rivers, George County, Mississippi, to the discharge of the East and West Pascagoula Rivers into Pascagoula Bay, Jackson County, Mississippi, is included. The lateral extent of Unit 2 is the ordinary high water line on each bank of the associated rivers and shorelines.

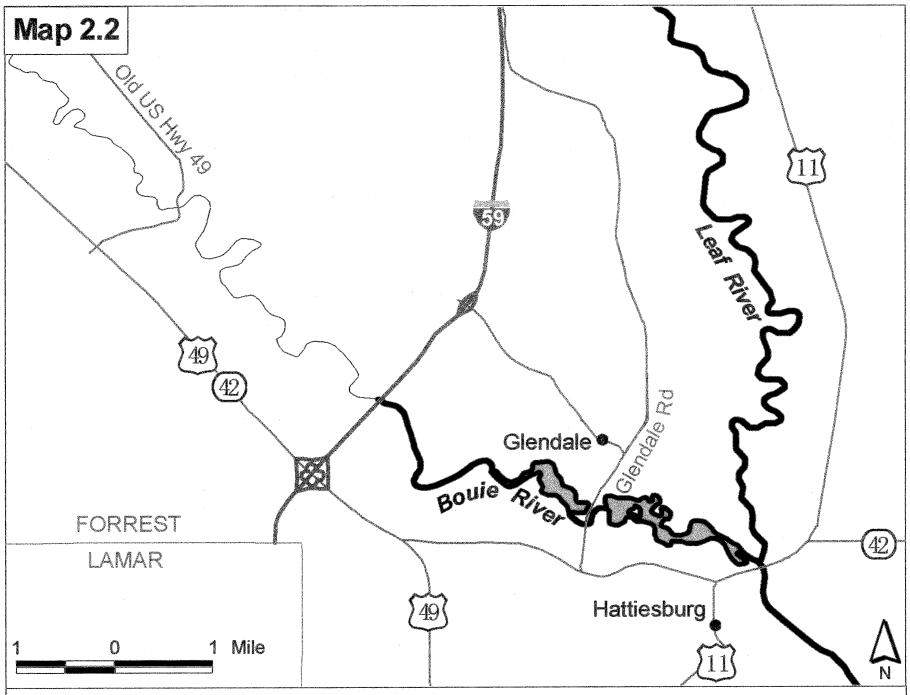
(2) Major shipping channels in this unit are excluded under section 4(b)(2) of the Act.

(3) Maps of Unit 2 follow:

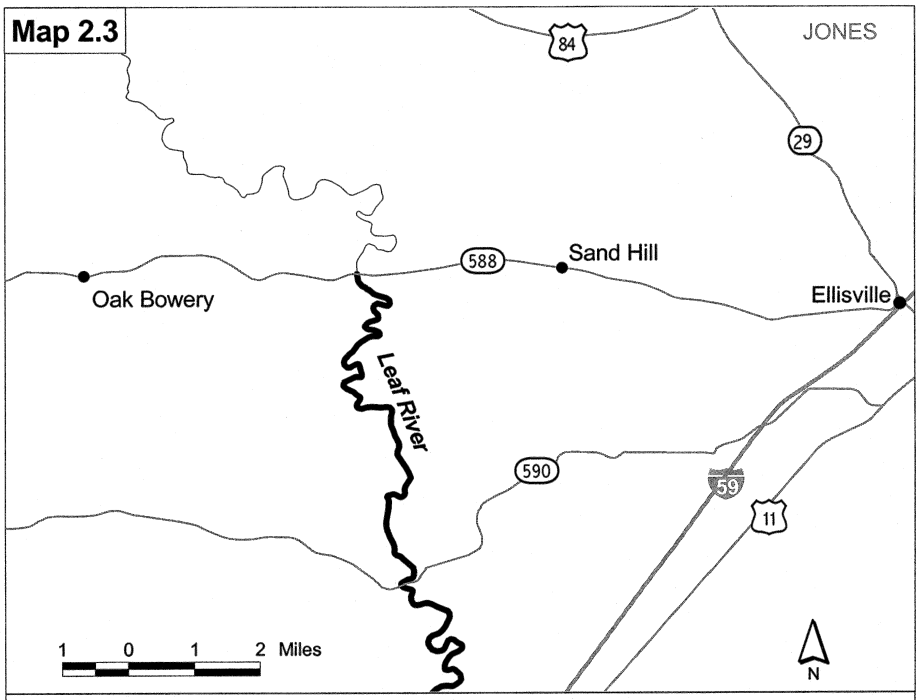




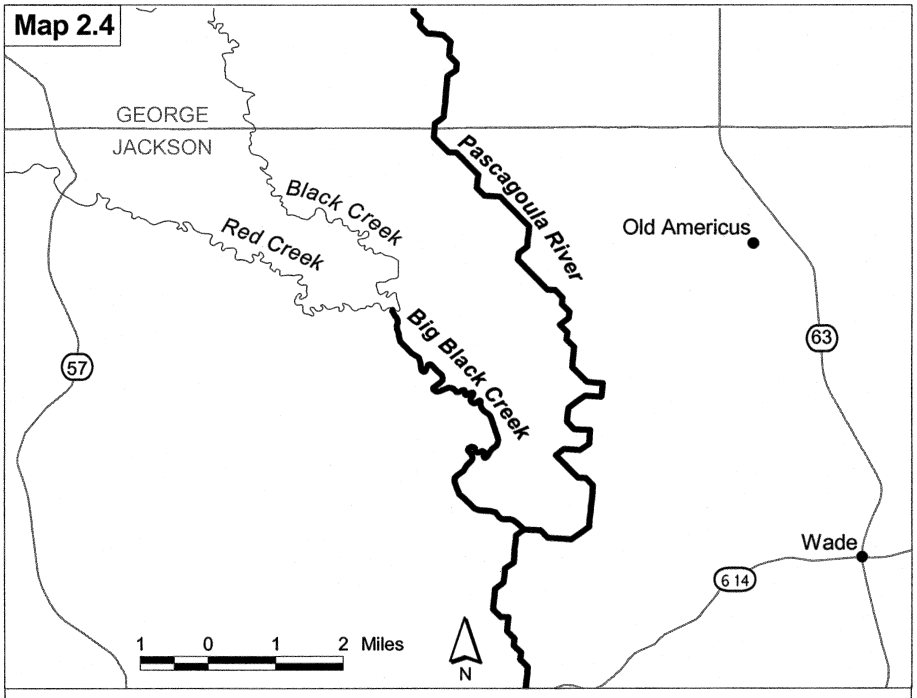
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



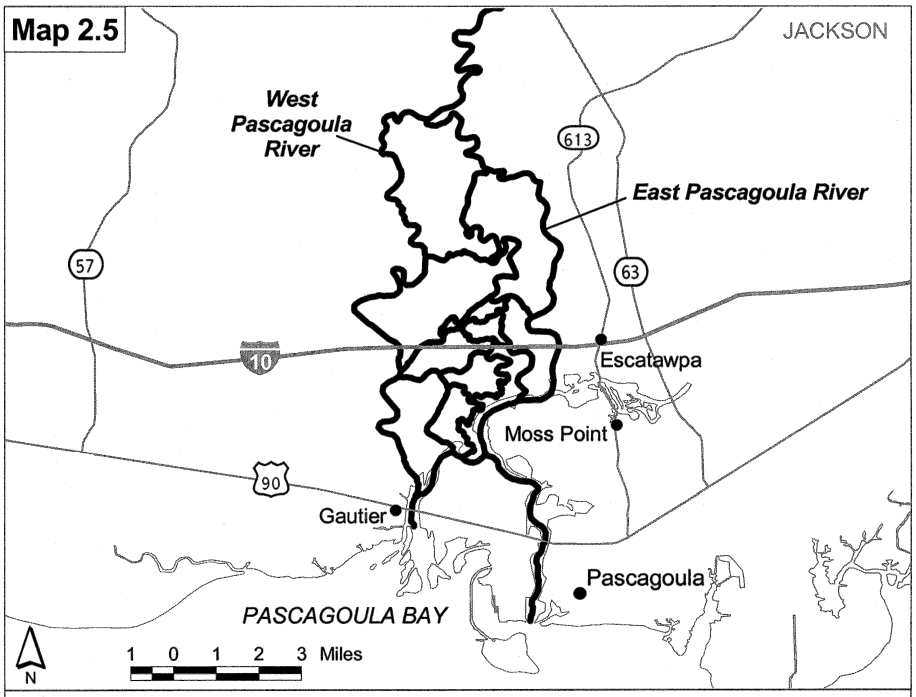
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



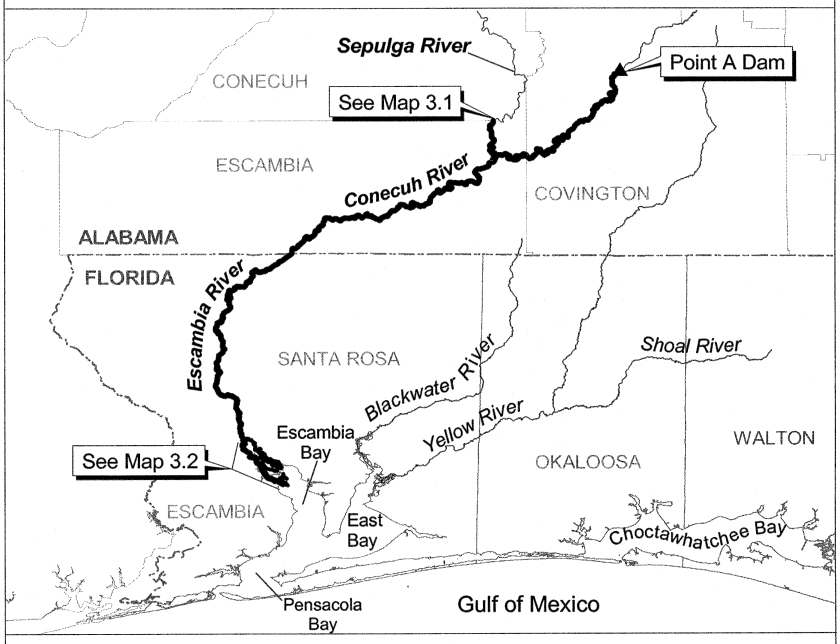
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



(c) *Unit 3: Escambia River System in Santa Rosa and Escambia Counties, Florida and Escambia, Conecuh, and Covington Counties, Alabama.* (1) Unit 3 includes the Conecuh River main stem beginning just downstream of the spillway of Point A Dam, Covington County, Alabama, downstream to the Florida State line, where its name changes to the Escambia River, Escambia County, Alabama, and Escambia and Santa Rosa Counties, Florida. It includes the entire main stem of the Escambia River downstream to its discharge into Escambia Bay and Macky Bay, Escambia and Santa Rosa Counties, Florida. All of the distributaries of the Escambia River including White River, Little White River, Simpson River, and Dead River, Santa Rosa County, Florida are included. The Sepulga River main stem from Alabama County Road 42, Conecuh and Escambia Counties, Alabama, downstream to its confluence with the Conecuh River, Escambia County, Alabama, is also included. The lateral extent of Unit 3 is the ordinary high water line on each bank of the associated lakes, rivers, and shorelines.

(2) Maps of Unit 3 follow:

Unit 3
Escambia River Critical Habitat Unit



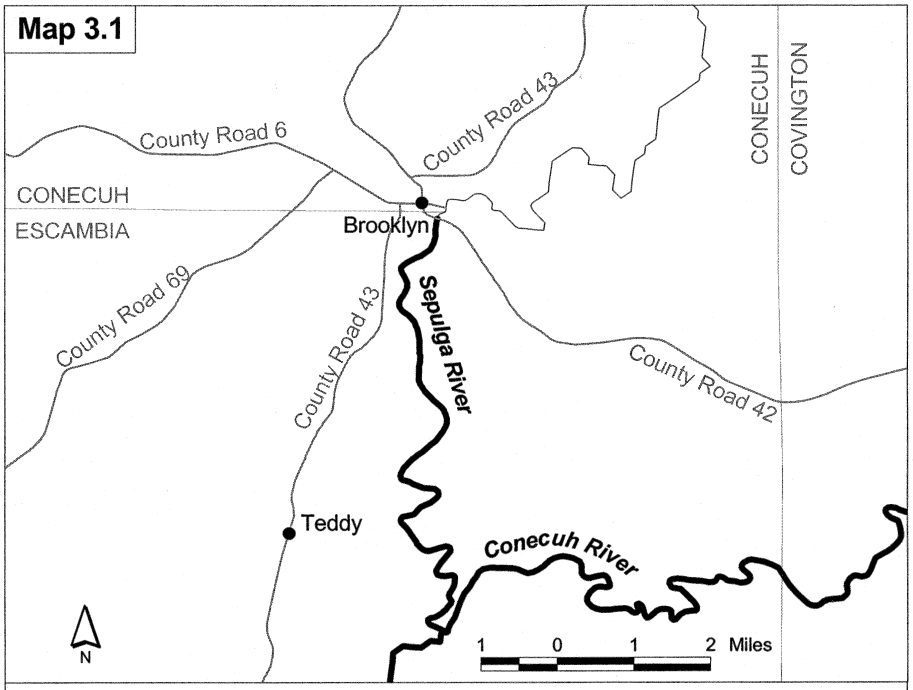
Critical Habitat
Rivers
State line
County line
Dam
Critical Habitat - See Map 3.2

N

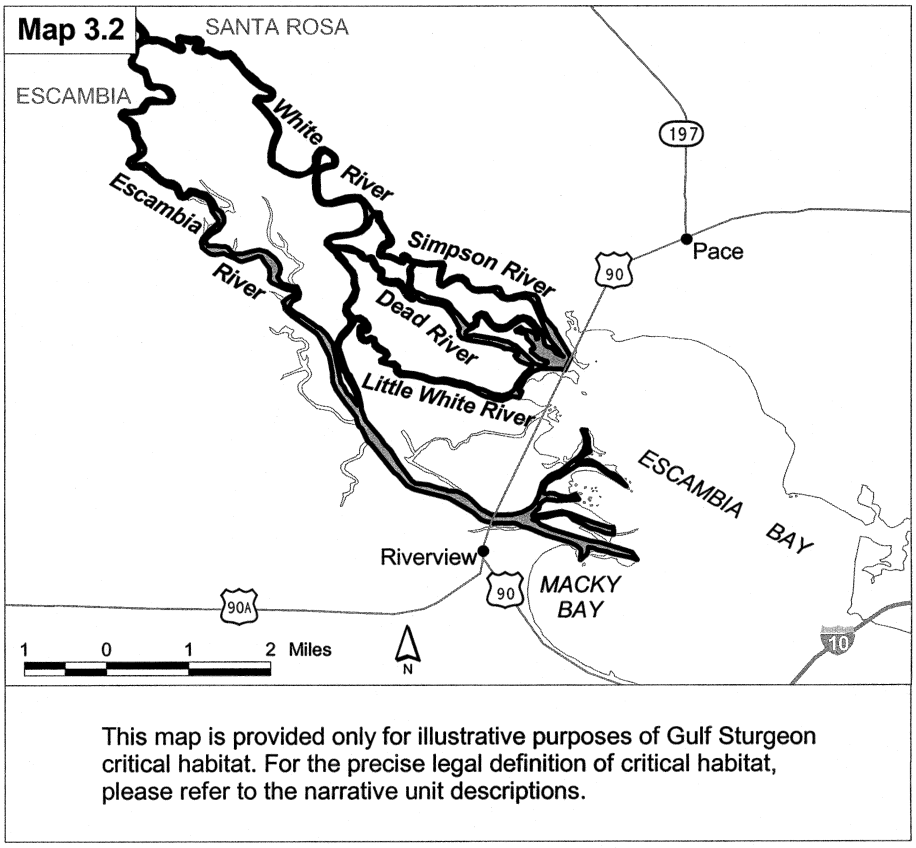
10 0 10 20 30 Kilometers

10 0 10 20 30 Miles

This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.

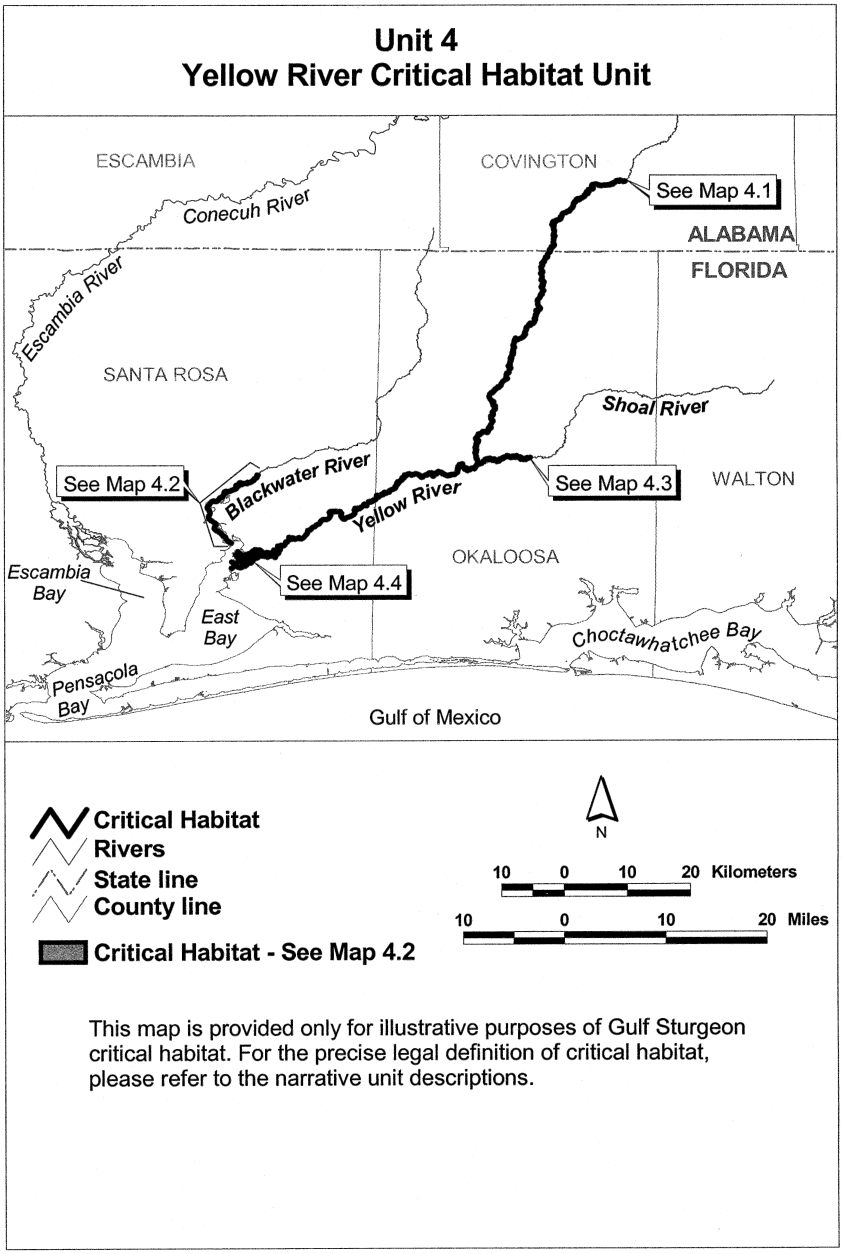


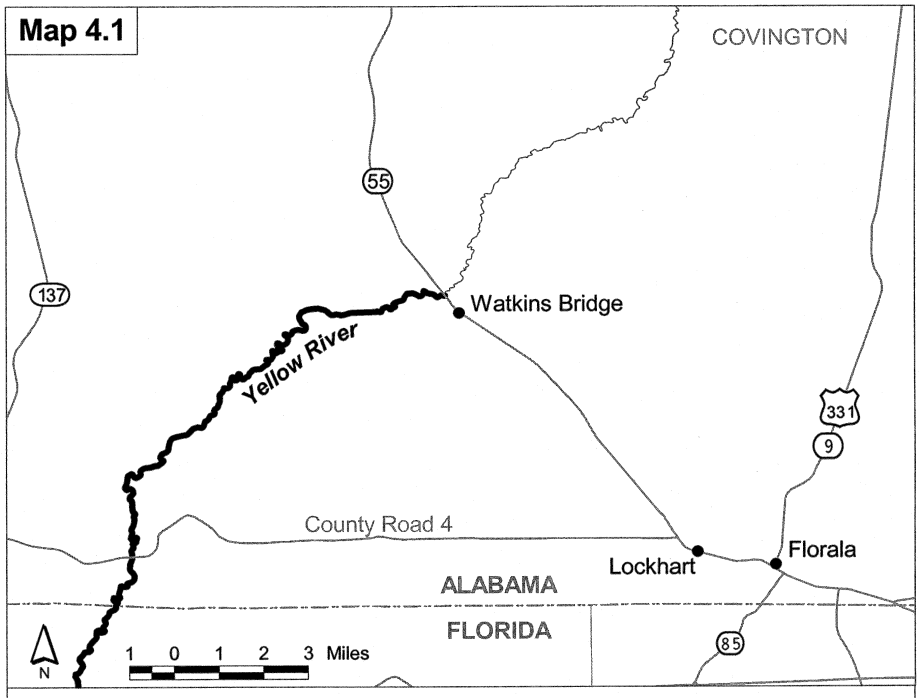
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



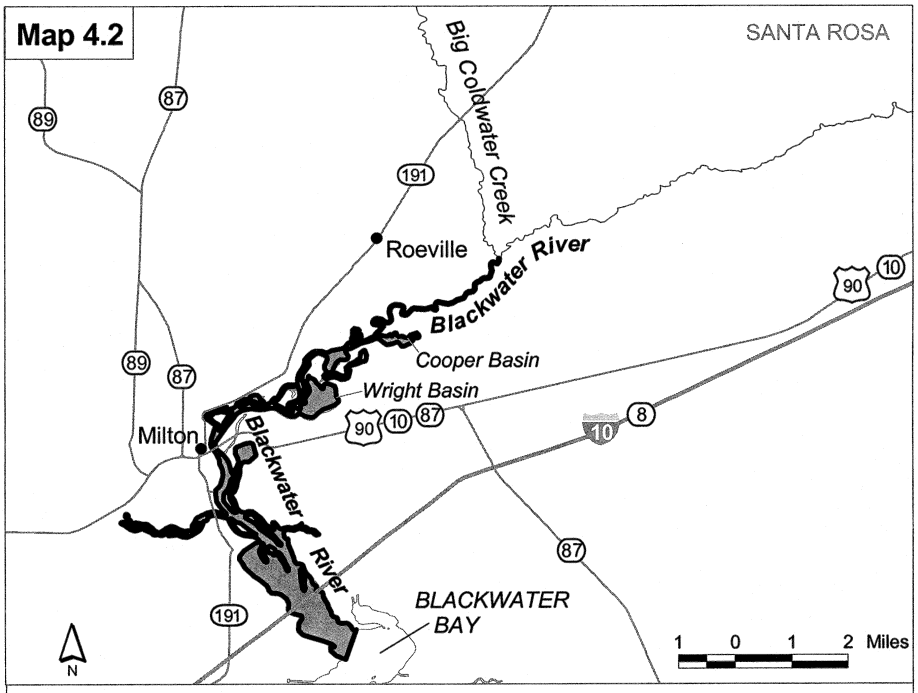
(d) *Unit 4: Yellow River System in Santa Rosa and Okaloosa Counties, Florida and Covington County, Alabama.* (1) Unit 4 includes the Yellow River main stem from Alabama State Highway 55, Covington County, Alabama, downstream to its discharge at Blackwater Bay, Santa Rosa County, Florida. All Yellow River distributaries (including Weaver River and Skim Lake) discharging into Blackwater Bay are included. The Shoal River main stem, a Yellow River tributary, from Florida Highway 85, Okaloosa County, Florida, to its confluence with the Yellow River, is included. The Blackwater River from its confluence with Big Coldwater Creek, Santa Rosa County, Florida, downstream to its discharge into Blackwater Bay is included. Wright Basin and Cooper Basin, Santa Rosa County, on the Blackwater River are included. The lateral extent of Unit 4 is the ordinary high water line on each bank of the associated lakes, rivers, and shorelines.

(2) Maps of Unit 4 follow:

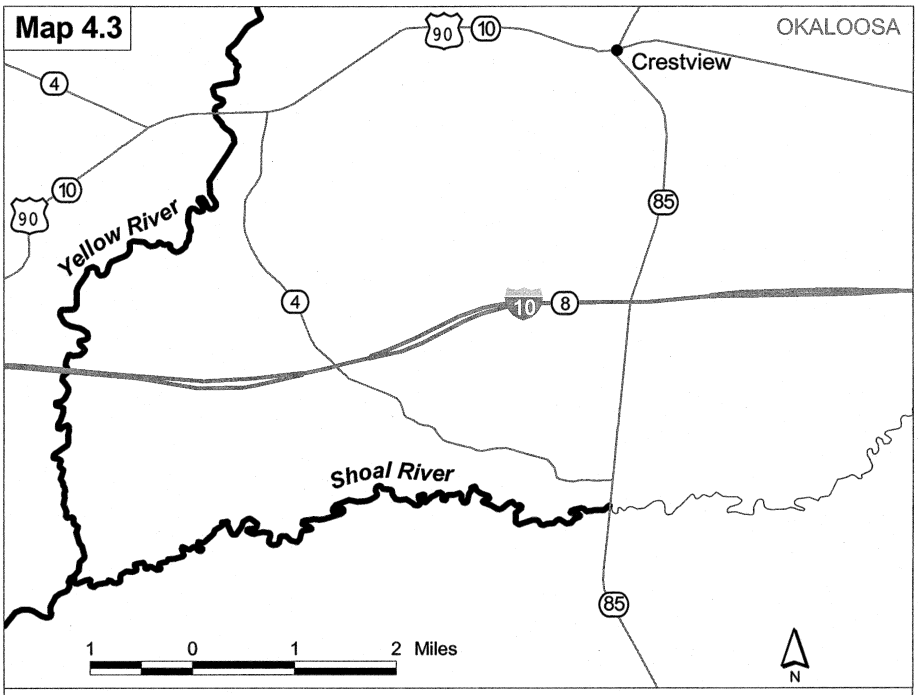

Unit 4
Yellow River Critical Habitat Unit
ESCAMBIA
COVINGTON
Conecuh River
See Map 4.1
ALABAMA
FLORIDA
Escambia River
SANTA ROSA
Shoal River
See Map 4.2
Blackwater River
Yellow River
See Map 4.3
WALTON
OKALOOSA
Escambia Bay
See Map 4.4
East Bay
Choctawhatchee Bay
Pensacola Bay
Gulf of Mexico
Critical Habitat
Rivers
State line
County line
Critical Habitat - See Map 4.2
N
10 0 10 20 Kilometers
10 0 10 20 Miles
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



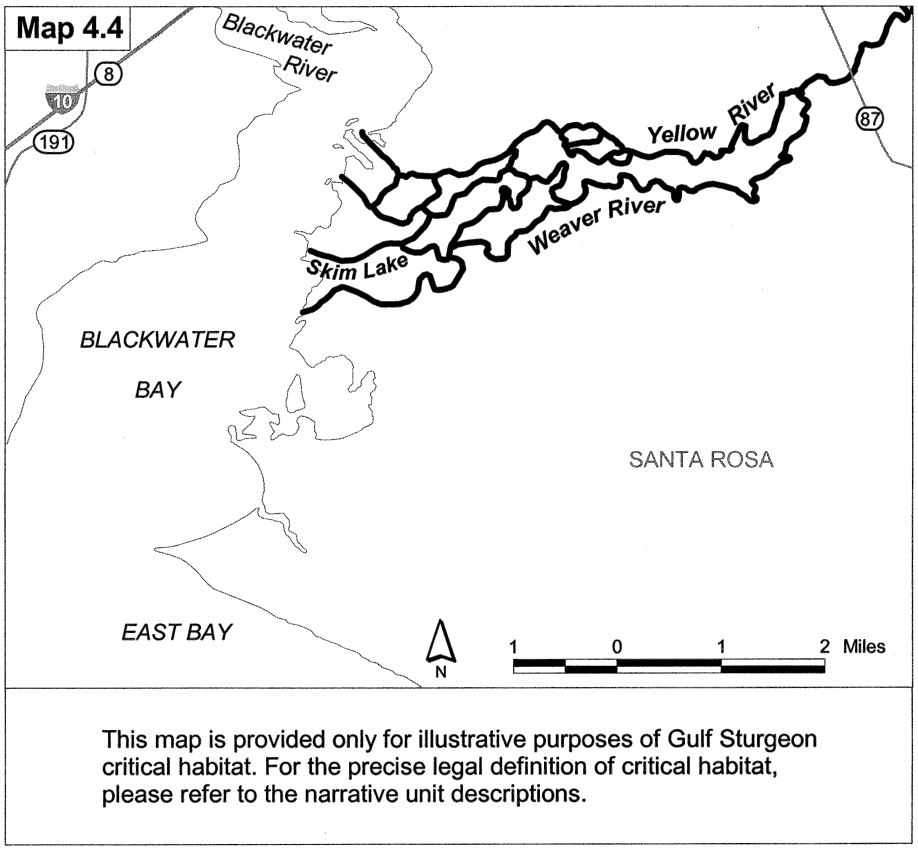
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.

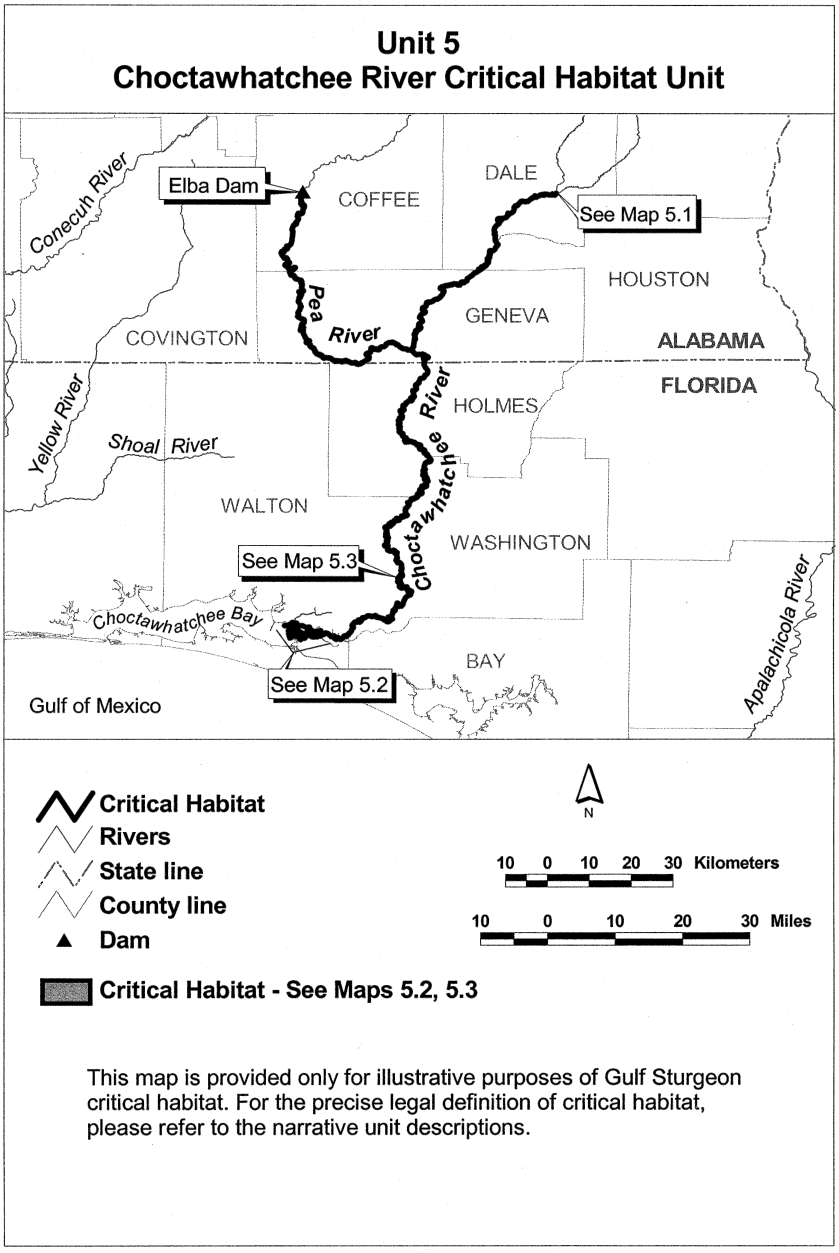


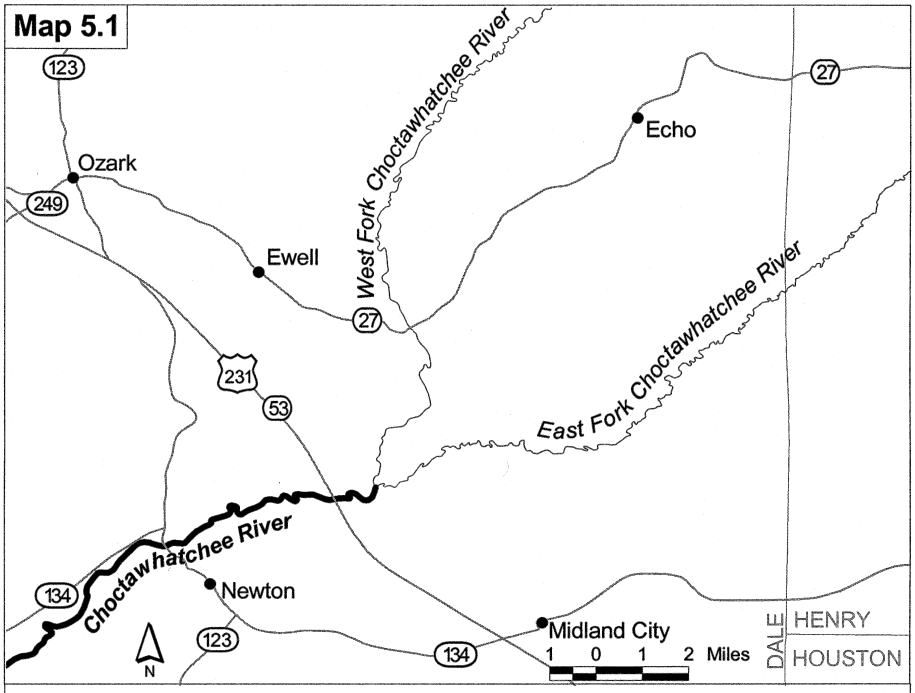
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



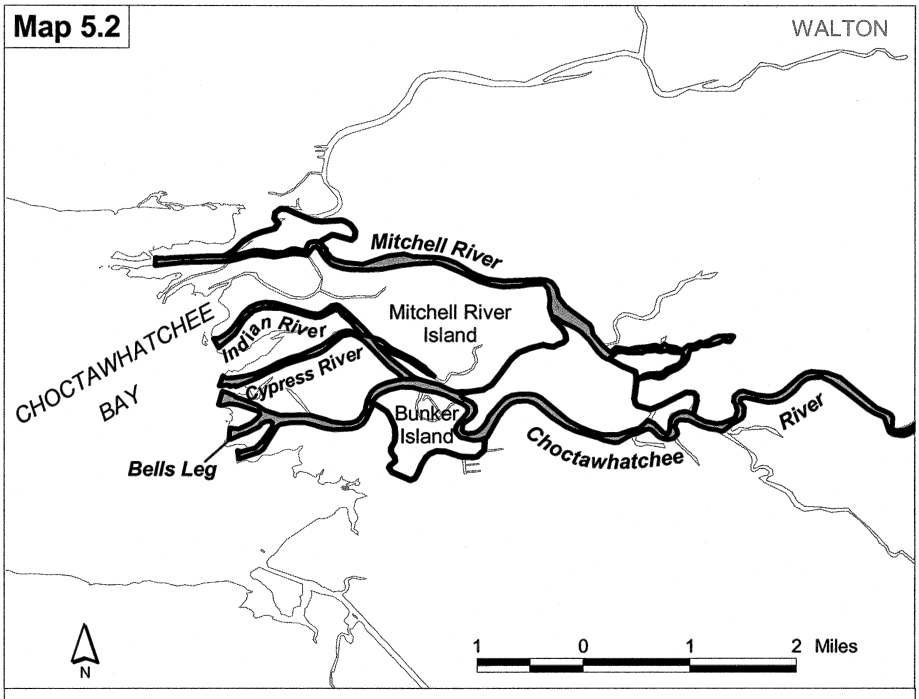
(e) *Unit 5: Choctawhatchee River System in Holmes, Washington, and Walton Counties, Florida and Dale, Coffee, Geneva, and Houston Counties, Alabama.* (1) Unit 5 includes the Choctawhatchee River main stem from its confluence with the west and east fork of the Choctawhatchee River, Dale County, Alabama, downstream to its discharge at Choctawhatchee Bay, Walton County, Florida. The distributaries discharging into Choctawhatchee Bay known as Mitchell River, Indian River, Cypress River, and Bells Leg are included. The Boynton Cutoff, Washington County, Florida, which joins the Choctawhatchee River main stem, and Holmes Creek, Washington County, Florida, are included. The section of Holmes Creek from Boynton Cutoff to the mouth of Holmes Creek, Washington County, Florida, is included. The Pea River main stem, a Choctawhatchee River tributary, from the Elba Dam, Coffee County, Alabama, to its confluence with the Choctawhatchee River, Geneva County, Alabama, is included. The lateral extent of Unit 5 is the ordinary high water line on each bank of the associated rivers and shorelines.

(2) Maps of Unit 5 follow:

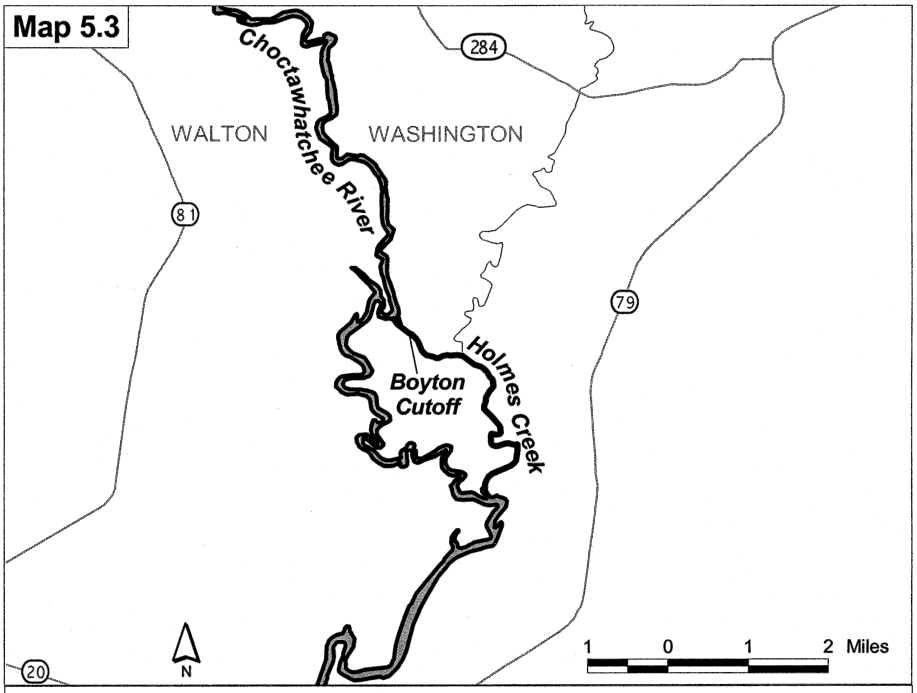

Unit 5
Choctawhatchee River Critical Habitat Unit
Conecuh River
Elba Dam
COFFEE
DALE
See Map 5.1
HOUSTON
Pea River
GENEVA
COVINGTON
ALABAMA
FLORIDA
Yellow River
Shoal River
HOLMES
Choctawhatchee River
WALTON
WASHINGTON
See Map 5.3
Choctawhatchee Bay
BAY
See Map 5.2
Gulf of Mexico
Apalachicola River
Critical Habitat
Rivers
State line
County line
Dam
N
10 0 10 20 30 Kilometers
10 0 10 20 30 Miles
Critical Habitat - See Maps 5.2, 5.3
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



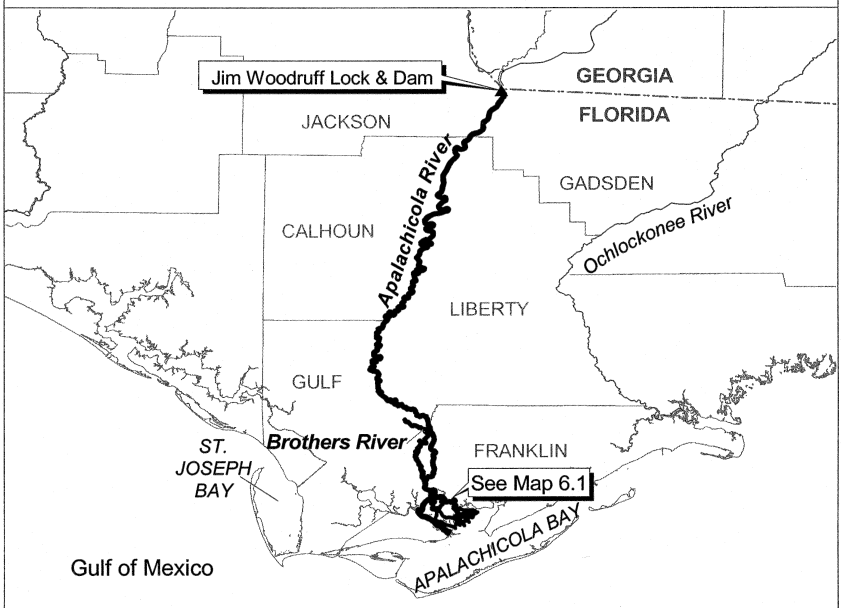
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



(f) *Unit 6: Apalachicola River System in Franklin, Gulf, Liberty, Calhoun, Jackson, and Gadsen Counties, Florida.* (1) Unit 6 includes the Apalachicola River mainstem, beginning from the Jim Woodruff Lock and Dam, Gadsden and Jackson Counties, Florida, downstream to its discharge at East Bay or Apalachicola Bay, Franklin County, Florida. All Apalachicola River distributaries, including the East River, Little St. Marks River, St. Marks River, Franklin County, Florida, to their discharge into East Bay and/or Apalachicola Bay are included. The entire main stem of the Brothers River, Franklin and Gulf Counties, Florida, a tributary of the Apalachicola River, is included. The lateral extent of Unit 6 is the ordinary high water line on each bank of the associated rivers and shorelines.

(2) Maps of Unit 6 follow:

Unit 6
Apalachicola River Critical Habitat Unit



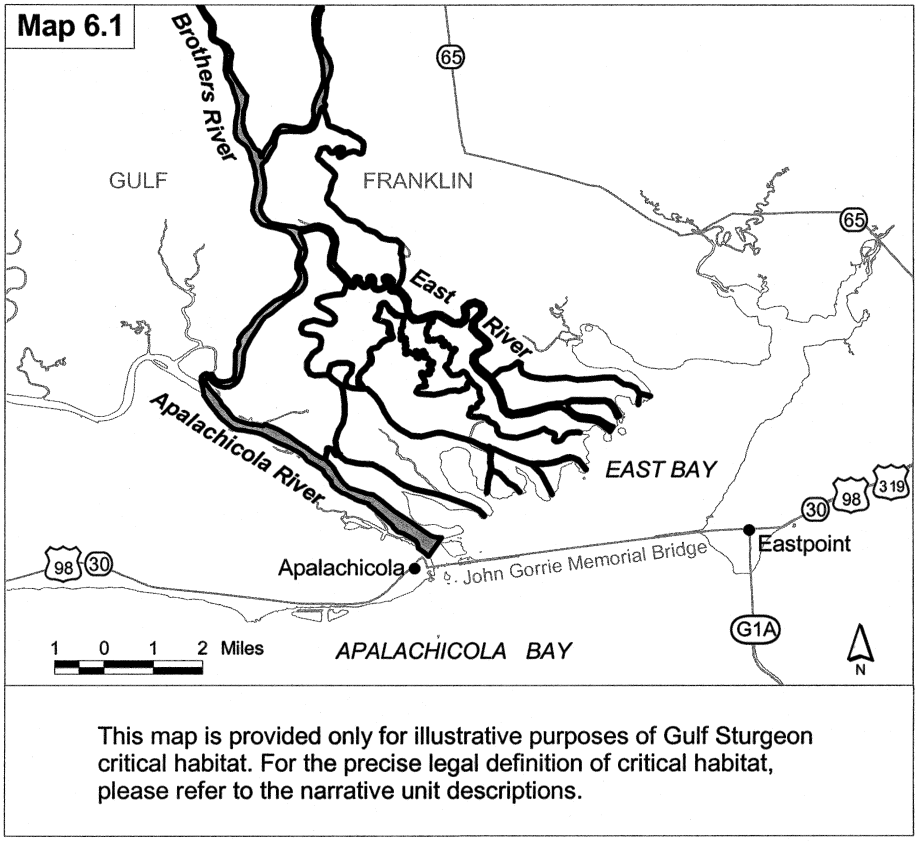
Critical Habitat
Rivers
State line
County line
Dam
Critical Habitat - See Map 6.1

N

10 0 10 20 30 Kilometers

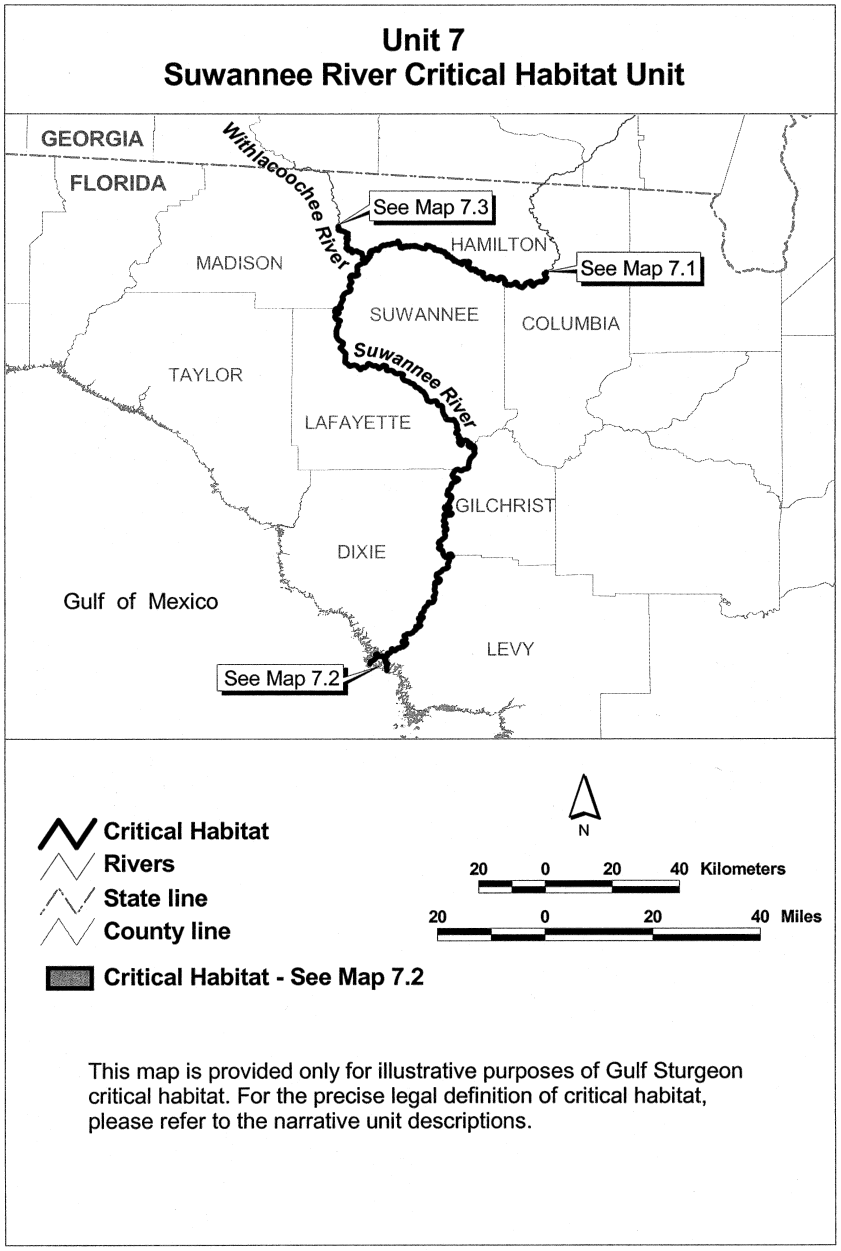
10 0 10 20 30 Miles

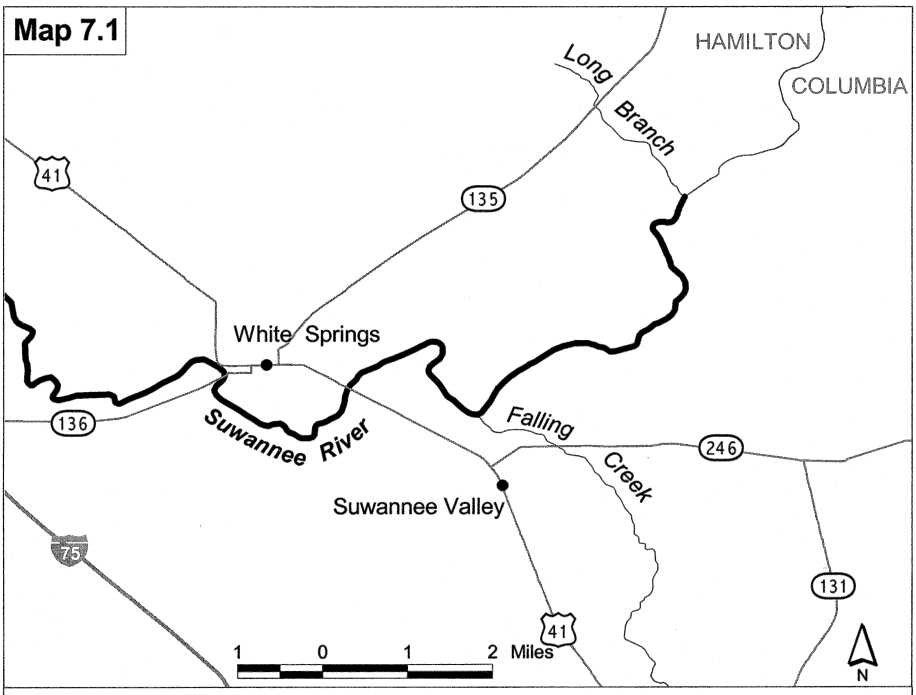
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



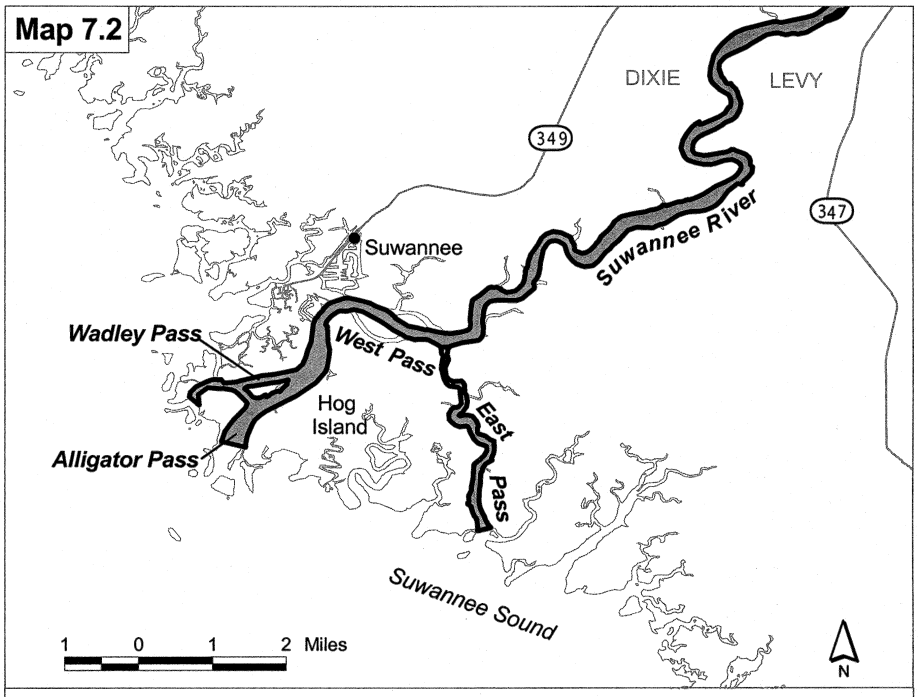
(g) *Unit 7: Suwannee River System in Hamilton, Suwannee, Madison, Lafayette, Gilchrist, Levy, Dixie, and Columbia Counties, Florida.* (1) Unit 7 includes the Suwannee River main stem, beginning from its confluence with Long Branch Creek, Hamilton County, Florida, downstream to the mouth of the Suwannee River. It includes all the Suwannee River distributaries, including the East Pass, West Pass, Wadley Pass, and Alligator Pass, Dixie and Levy Counties, Florida, to their discharge into the Suwannee Sound or the Gulf of Mexico. The Withlacoochee River main stem from Florida State Road 6, Madison and Hamilton Counties, Florida, to its confluence with the Suwannee River is included. The lateral extent of Unit 7 is the ordinary high water line on each bank of the associated rivers and shorelines.

(2) Maps of Unit 7 follow:

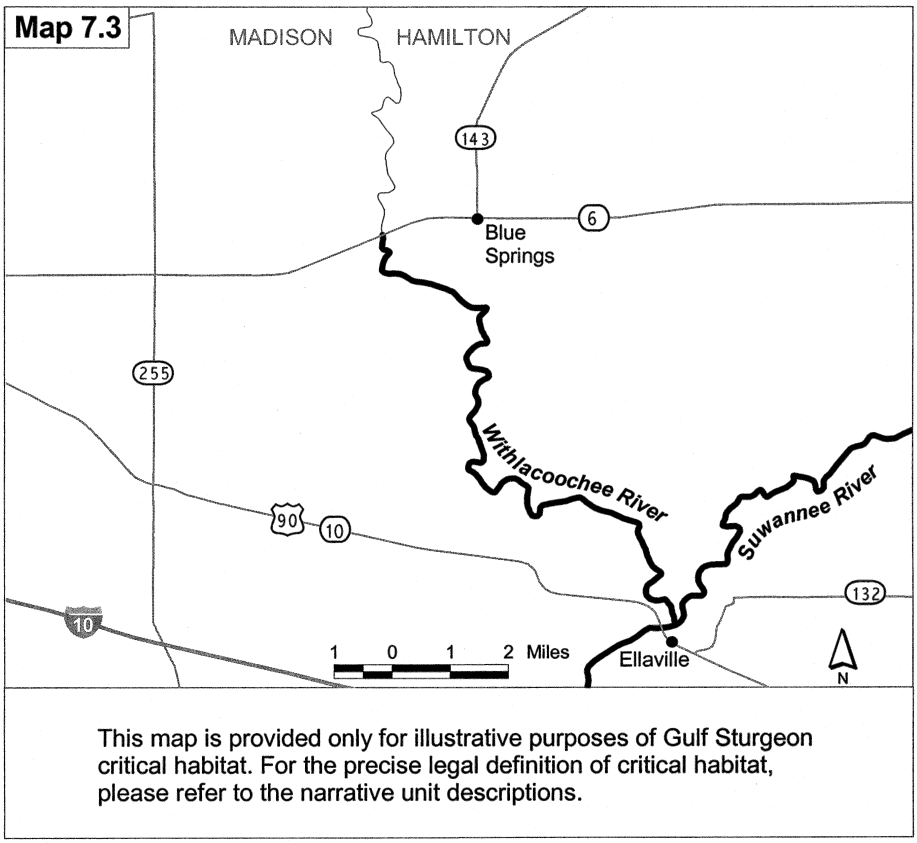

Unit 7
Suwannee River Critical Habitat Unit
GEORGIA
FLORIDA
Withlacoochee River
See Map 7.3
HAMILTON
See Map 7.1
MADISON
SUWANNEE
COLUMBIA
Suwannee River
TAYLOR
LAFAYETTE
GILCHRIST
DIXIE
Gulf of Mexico
LEVY
See Map 7.2
N
20 0 20 40 Kilometers
20 0 20 40 Miles
Critical Habitat
Rivers
State line
County line
Critical Habitat - See Map 7.2
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.

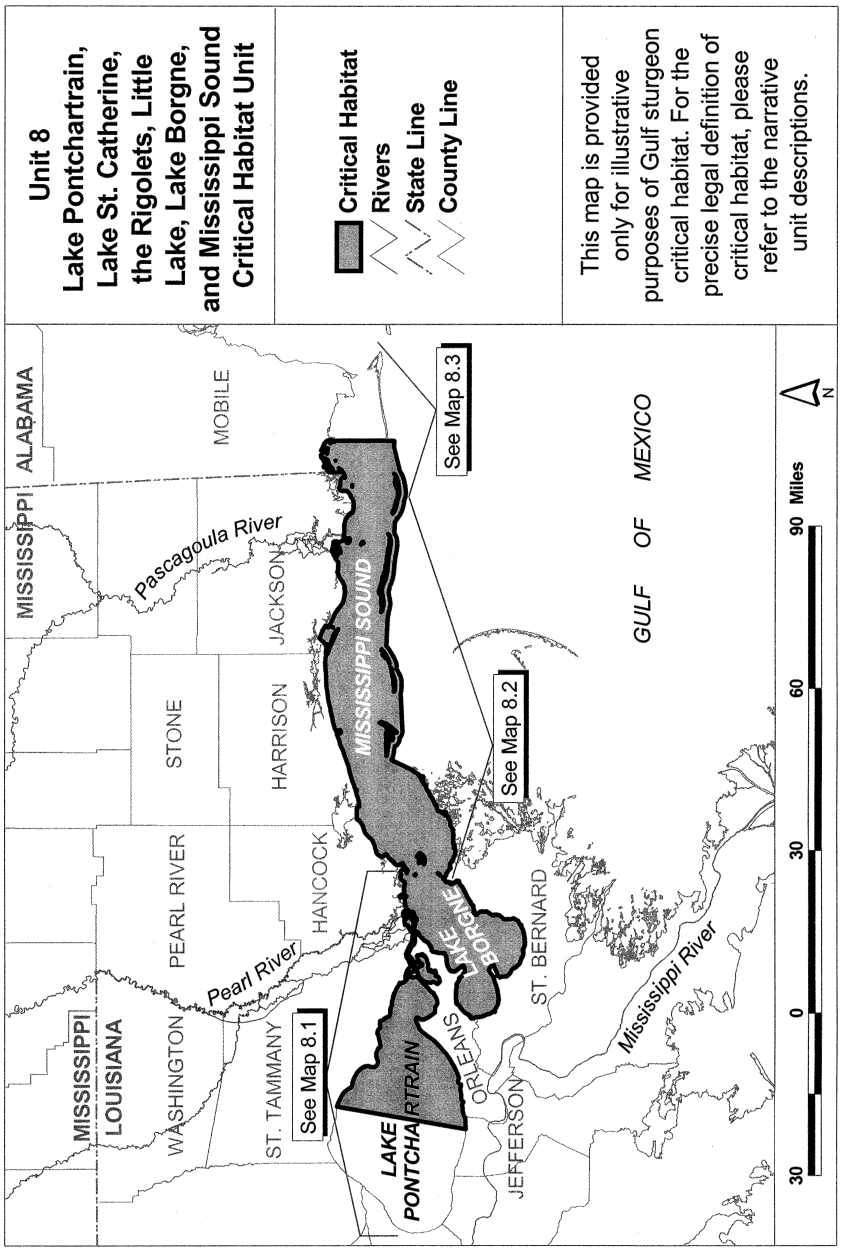


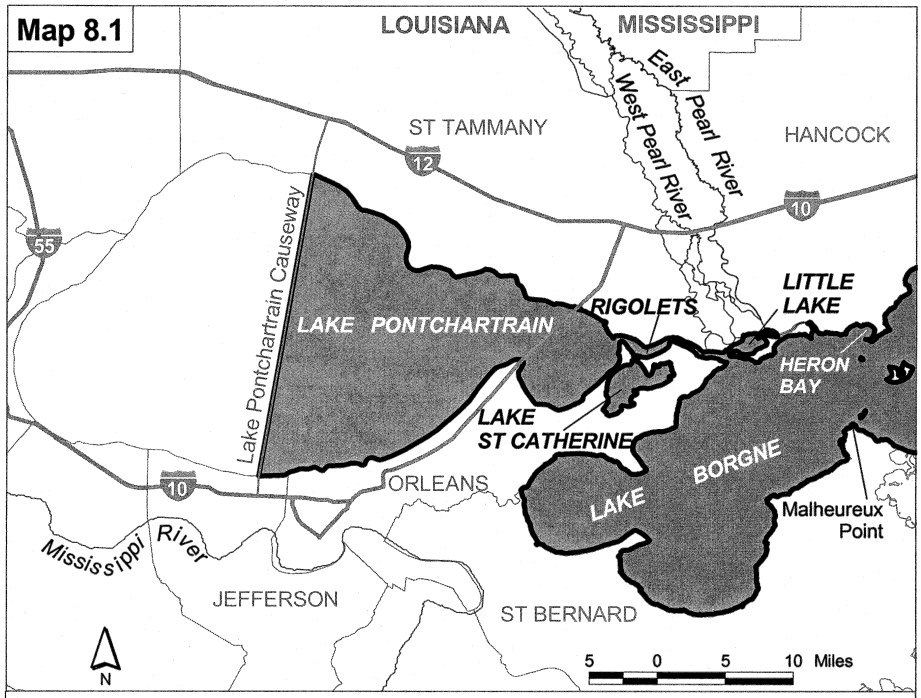
(h) *Unit 8: Lake Pontchartrain, Lake St. Catherine, The Rigolets, Little Lake, Lake Borgne, and Mississippi Sound in Jefferson, Orleans, St. Tammany, and St. Bernard Parish, Louisiana, Hancock, Jackson, and Harrison Counties in Mississippi, and in Mobile County, Alabama.* (1) Unit 8 encompasses Lake Pontchartrain east of the Lake Pontchartrain Causeway, all of Little Lake, The Rigolets, Lake St. Catherine, Lake Borgne, including Heron Bay, and the Mississippi Sound. Critical habitat follows the shorelines around the perimeters of each included lake. The Mississippi Sound includes adjacent open bays including Pascagoula Bay, Point aux Chenes Bay, Grand Bay, Sandy Bay, and barrier island passes, including Ship Island Pass, Dog Keys Pass, Horn Island Pass, and Petit Bois Pass. The northern boundary of the Mississippi Sound is the shorelines of the mainland between Heron Bay Point, MS and Point aux Pins, AL. Designated critical habitat excludes St. Louis Bay, north of the railroad bridge across its mouth; Biloxi Bay, north of the U.S. Highway 90 bridge; and Back Bay of Biloxi. The southern boundary follows along the broken shoreline of Lake Borgne created by low swampy islands from Malheureux Point to Isle au Pitre. From the northeast point of Isle au Pitre, the boundary continues in a straight north-northeast line to the point 1 nm (1.9 km) seaward of the western most extremity of Cat Island (30°13″ N, 89°10″ W). The southern

boundary continues 1 nm (1.9 km) offshore of the barrier islands and offshore of the 72 COLREGS lines at barrier island passes (defined at 33 CFR 80.815 (c)), (d) and (e) to the eastern boundary. Between Cat Island and Ship Island there is no 72 COLREGS line. We therefore, have defined that section of the southern boundary as 1 nm (1.9 km) offshore of a straight line drawn from the southern tip of Cat Island to the western tip of Ship Island. The eastern boundary is the line of longitude 88°18.8″ W from its intersection with the shore (Point aux Pins) to its intersection with the southern boundary. The lateral extent of Unit 8 is the MHW line on each shoreline of the included water bodies or the entrance to rivers, bayous, and creeks.

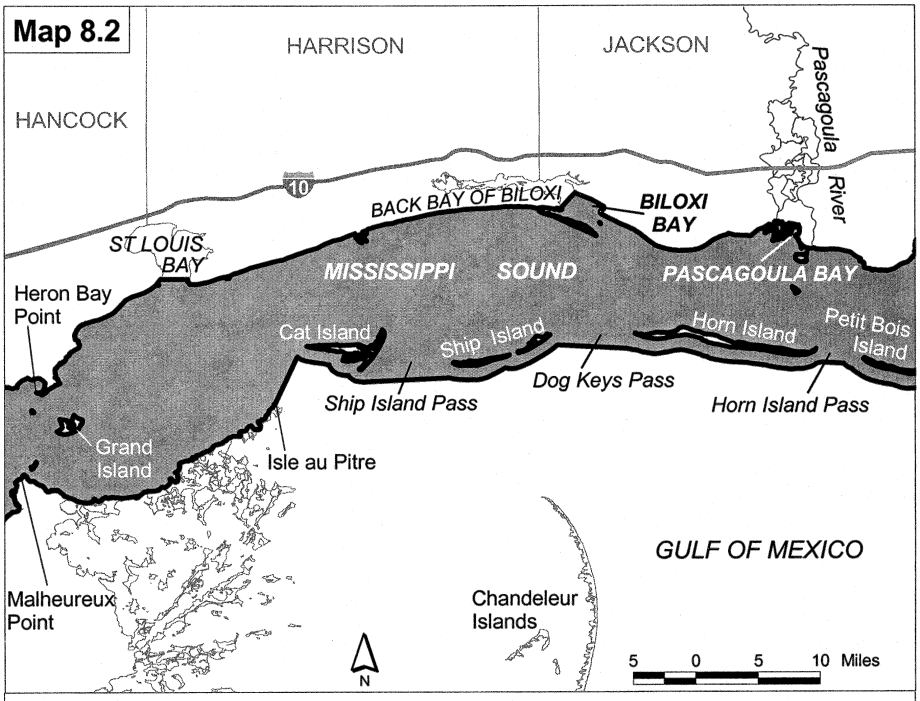
(2) Major shipping channels in this unit, as identified on standard navigation charts and marked by buoys, are excluded under section 4(b)(2) of the Act.

(3) Maps of Unit 8 follow:

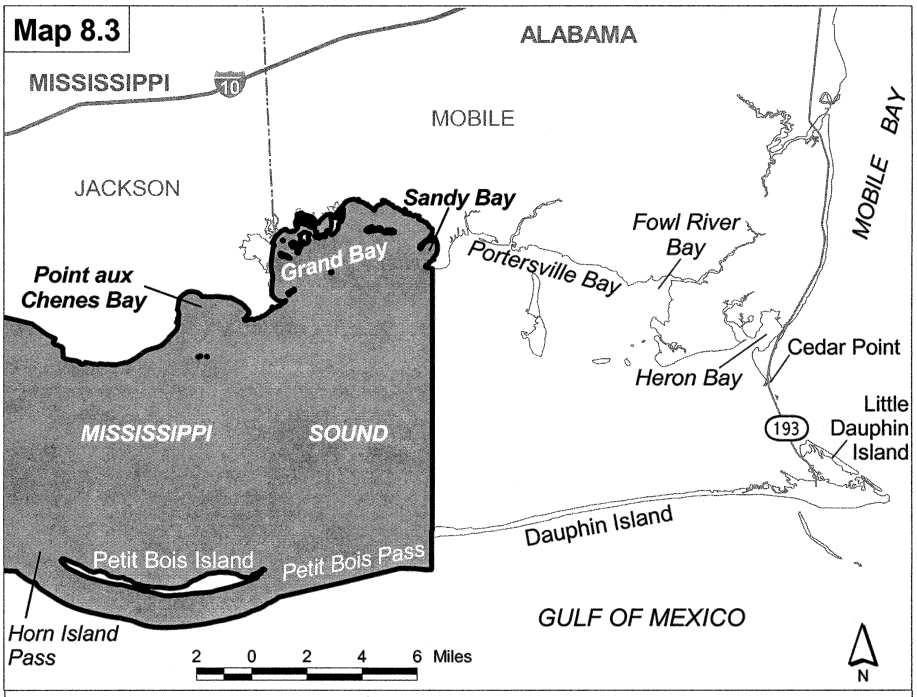

Unit 8
Lake Pontchartrain, Lake St. Catherine, the Rigolets, Little Lake, Lake Borgne, and Mississippi Sound Critical Habitat Unit
Critical Habitat
Rivers
State Line
County Line
This map is provided only for illustrative purposes of Gulf sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.
MISSISSIPPI
LOUISIANA
ALABAMA
WASHINGTON
PEARL RIVER
STONE
HARRISON
JACKSON
MOBILE
ST. TAMMANY
HANCOCK
ORLEANS
JEFFERSON
ST. BERNARD
Pascagoula River
Pearl River
Mississippi River
MISSISSIPPI SOUND
LAKE PONTCHARTRAIN
LAKE BORGNE
GULF OF MEXICO
See Map 8.1
See Map 8.2
See Map 8.3
30
0
30
60
90 Miles
N



This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



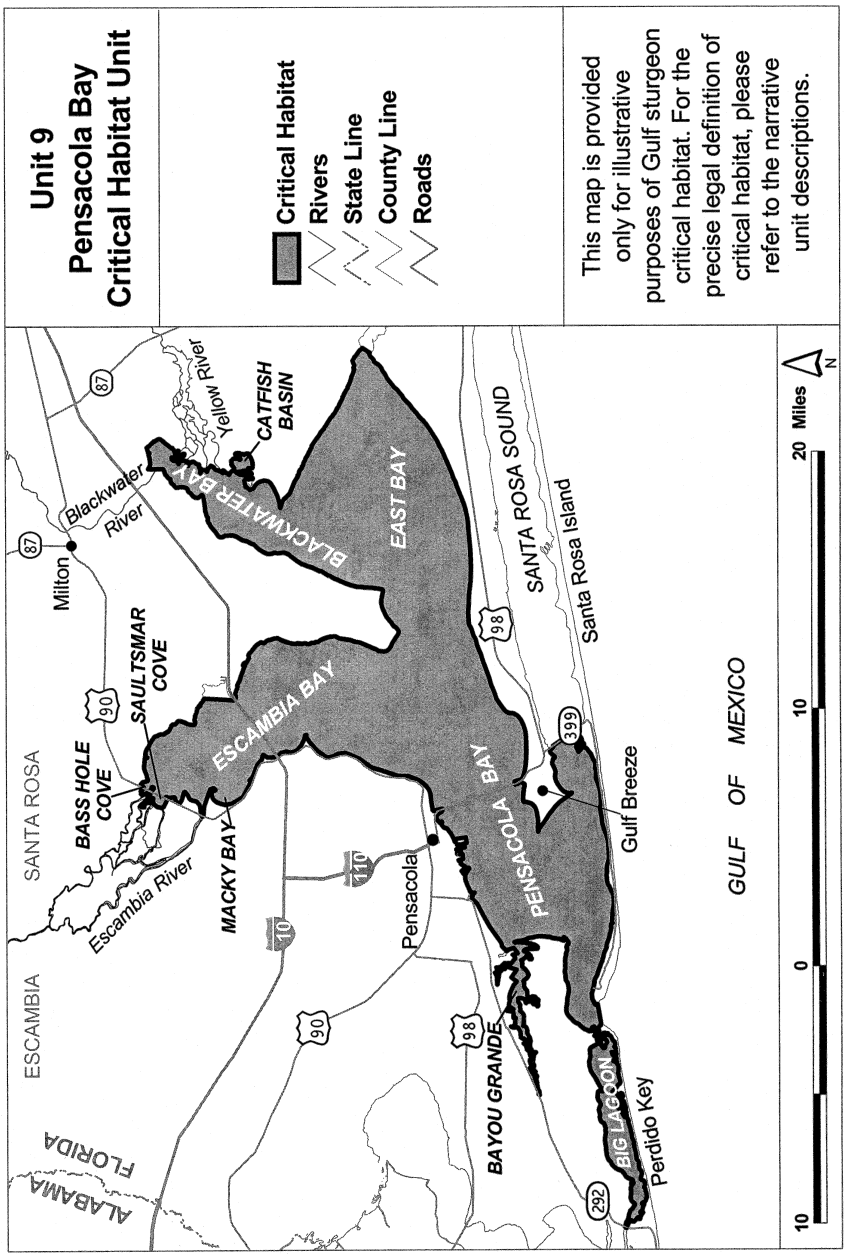
This map is provided only for illustrative purposes of Gulf Sturgeon critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



(i) *Unit 9: Pensacola Bay System in Escambia and Santa Rosa Counties, Florida.* (1) Unit 9 includes Pensacola Bay and its adjacent main bays and coves. These include Big Lagoon, Escambia Bay, East Bay, Blackwater Bay, Bayou Grande, Macky Bay, Saultsmar Cove, Bass Hole Cove, and Catfish Basin. All other bays, bayous, creeks, and rivers are excluded at their mouths. The western boundary is the Florida State Highway 292 Bridge crossing Big Lagoon to Perdido Key. The southern boundary is the 72 COLREGS line between Perdido Key and Santa Rosa Island (defined at 33 CFR 80.810(g)). The eastern boundary is the Florida State Highway 399 Bridge at Gulf Breeze, FL. The lateral extent of Unit 9 is the MHW line on each included bay's shoreline.

(2) Major shipping channels in this unit, as identified on standard navigation charts and marked by buoys, are excluded under section 4(b)(2) of the Act.

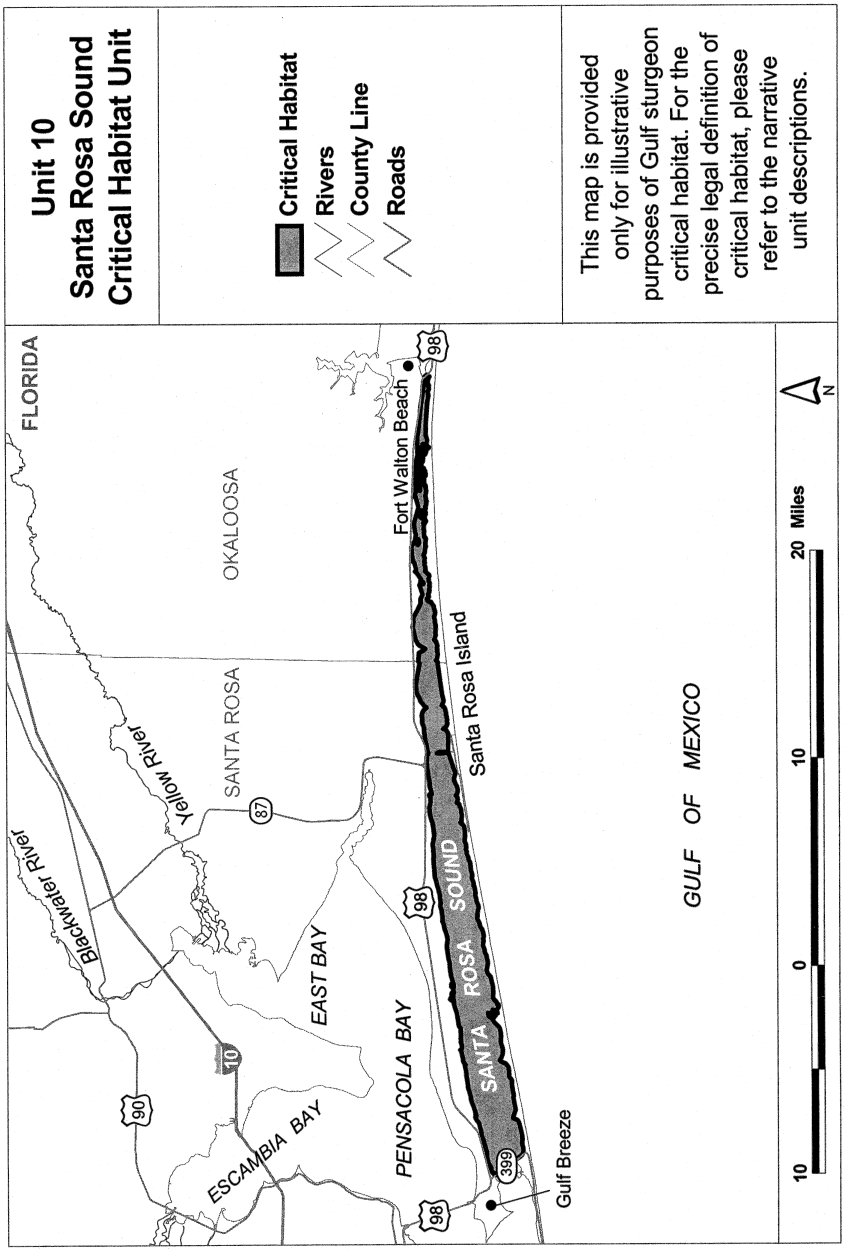
(3) A Map of Unit 9 follows:



(j) *Unit 10: Santa Rosa Sound in Escambia, Santa Rosa, and Okaloosa Counties, Florida.* (1) Unit 10 includes the Santa Rosa Sound, bounded on the west by the Florida State Highway 399 bridge in Gulf Breeze, FL. The eastern boundary is the U.S. Highway 98 bridge

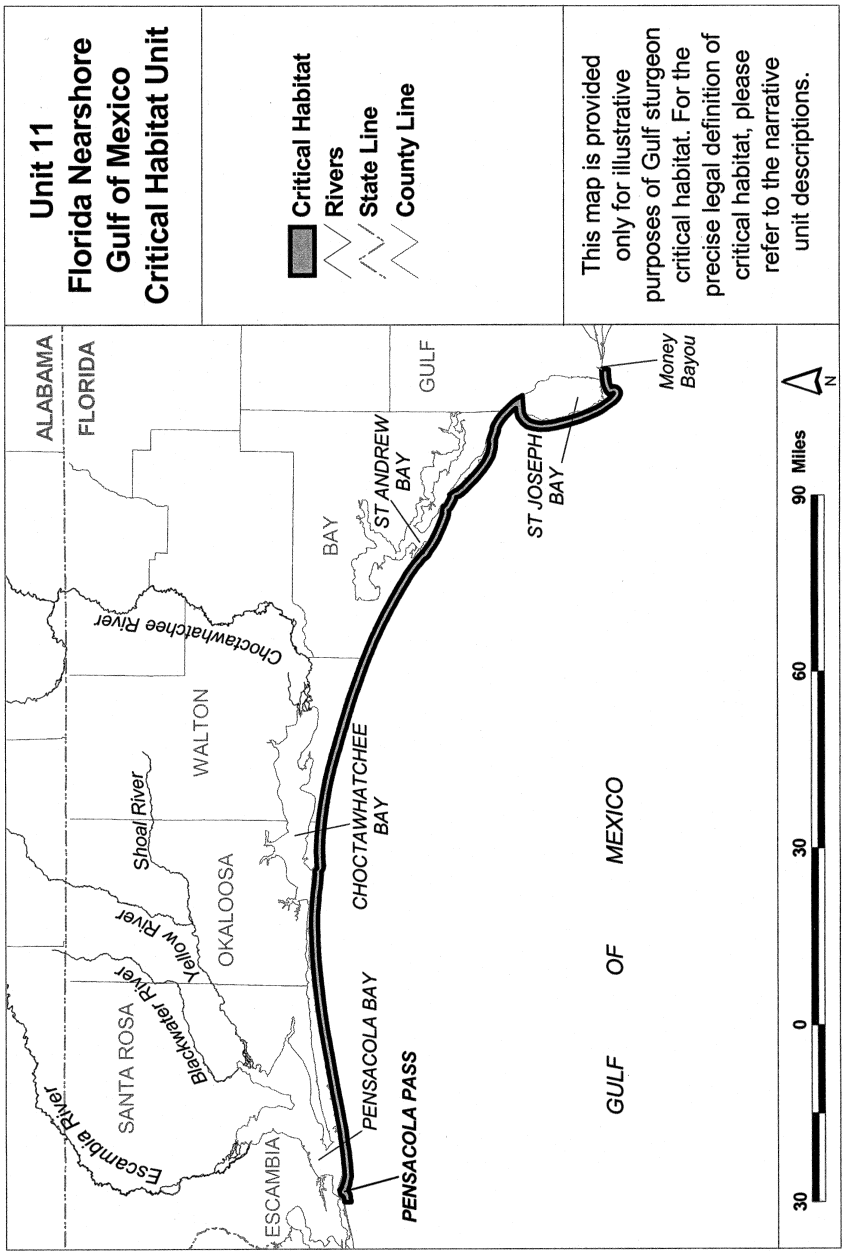
in Fort Walton Beach, FL. The northern and southern boundaries of Unit 10 are formed by the shorelines to the MHW line or by the entrance to rivers, bayous, and creeks.

(2) A Map of Unit 10 follows:



(k) *Unit 11: Florida Nearshore Gulf of Mexico Unit in Escambia, Santa Rosa, Okaloosa, Walton, Bay, and Gulf Counties, Florida.* (1) Unit 11 includes a portion of the Gulf of Mexico as defined by the following boundaries. The western boundary is the line of longitude 87°20.0′ W (approximately 1 nm (1.9 km) west of Pensacola Pass) from its intersection with the shore to its intersection with the southern boundary. The northern boundary is the MHW of the mainland shoreline and the 72 COLREGS lines at passes as defined at 30 CFR 80.810(a–g). The southern boundary is 1 nm (1.9 km) offshore of the northern boundary. The eastern boundary is the line of longitude 85°17.0′ W from its intersection with the shore (near Money Bayou between Cape San Blas and Indian Peninsula) to its intersection with the southern boundary.

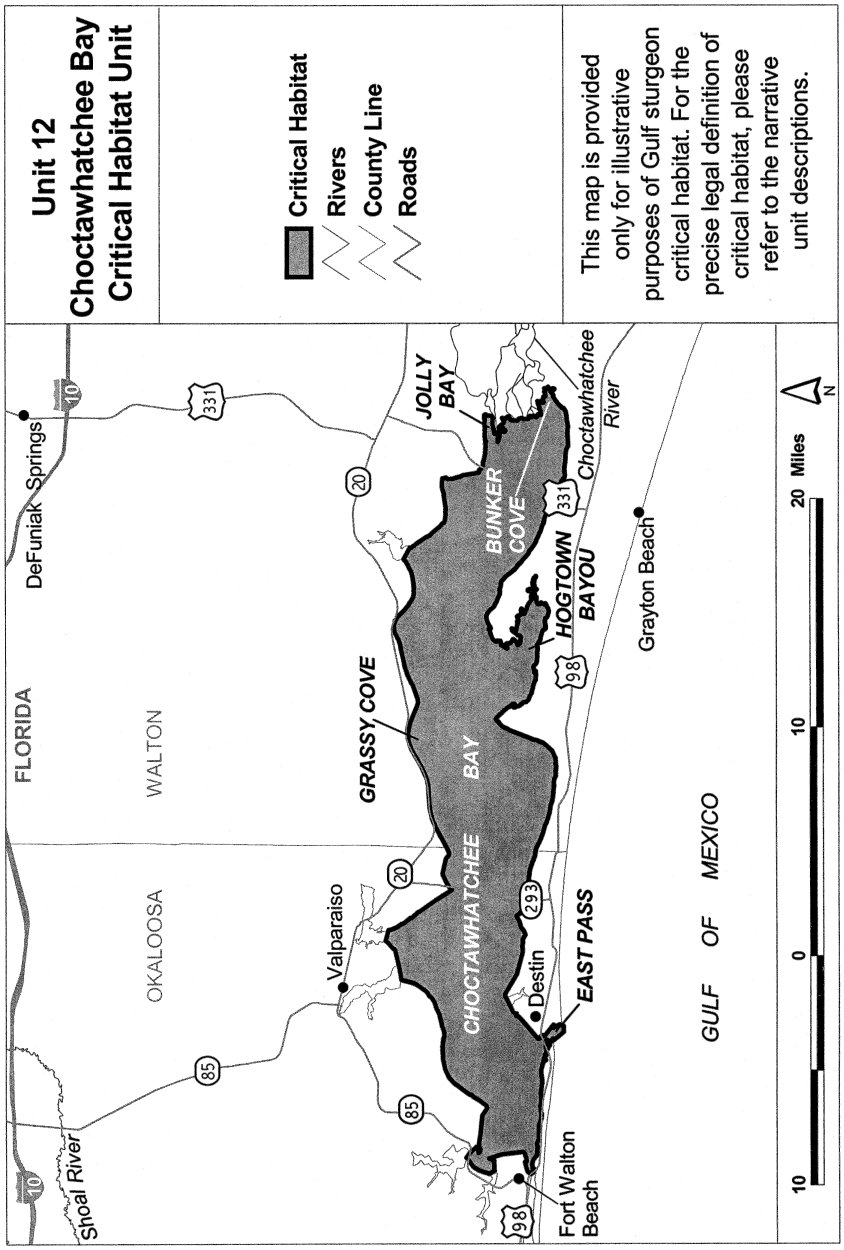
(2) A Map of Unit 11 follows:



(l) *Unit 12: Choctawhatchee Bay in Okaloosa and Walton Counties, Florida.* (1) Unit 12 includes the main body of Choctawhatchee Bay, Hogtown Bayou, Jolly Bay, Bunker Cove, and Grassy Cove. All other bayous, creeks, rivers are excluded at their mouths/entrances. The western boundary is the

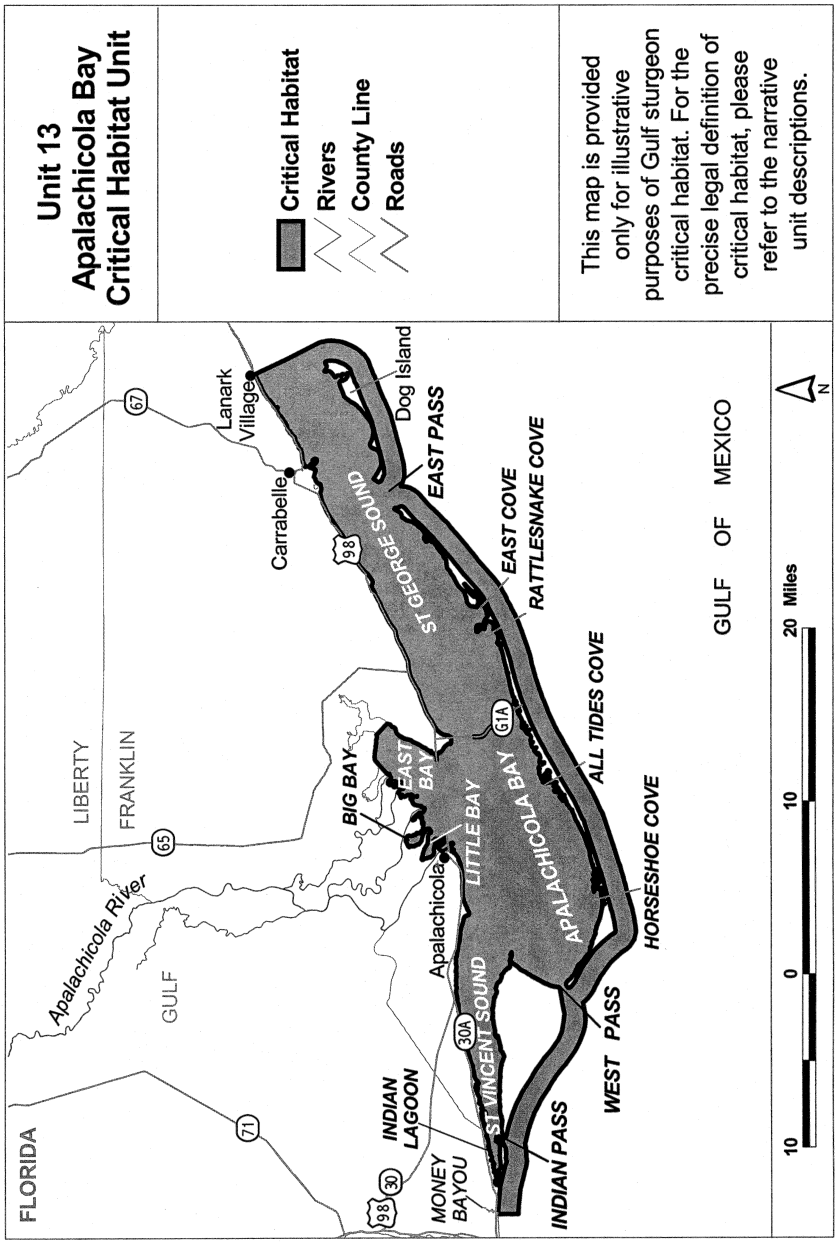
U.S. Highway 98 bridge at Fort Walton Beach, FL. The southern boundary is the 72 COLREGS line across East (Destin) Pass as defined at 33 CFR 80.810(f). The lateral extent of Unit 12 is the MHW line on each shoreline of the included water bodies.

(2) A Map of Unit 12 follows:



(m) *Unit 13: Apalachicola Bay in Gulf and Franklin County, Florida.* (1) Unit 13 includes the main body of Apalachicola Bay and its adjacent sounds, bays, and the nearshore waters of the Gulf of Mexico. These consist of St. Vincent Sound, including Indian Lagoon; Apalachicola Bay including Horseshoe Cove and All Tides Cove; East Bay including Little Bay and Big Bay; and St George Sound, including Rattlesnake Cove and East Cove. Barrier Island passes (Indian Pass, West Pass, and East Pass) are also included. Sike's cut is excluded from the lighted buoys on the Gulf of Mexico side to the day boards on the bay side. The southern boundary includes water extending into the Gulf of Mexico 1 nm (1.9 km) from the MHW line of the barrier islands and from 72 COLREGS lines between the barrier islands (defined at 33 CFR 80.805(e–h)). The western boundary is the line of longitude 85°17.0′ W from its intersection with the shore (near Money Bayou between Cape San Blas and Indian Peninsula) to its intersection with the southern boundary. The eastern boundary is formed by a straight line drawn from the shoreline of Lanark Village at 29°53.1′ N, 84°35.0′ W to a point that is 1 nm (1.9 km) offshore from the northeastern extremity of Dog Island at 29°49.6′ N, 84°33.2′ W. The lateral extent of Unit 13 is the MHW line on each shoreline of the included water bodies or the entrance of excluded rivers, bayous, and creeks.

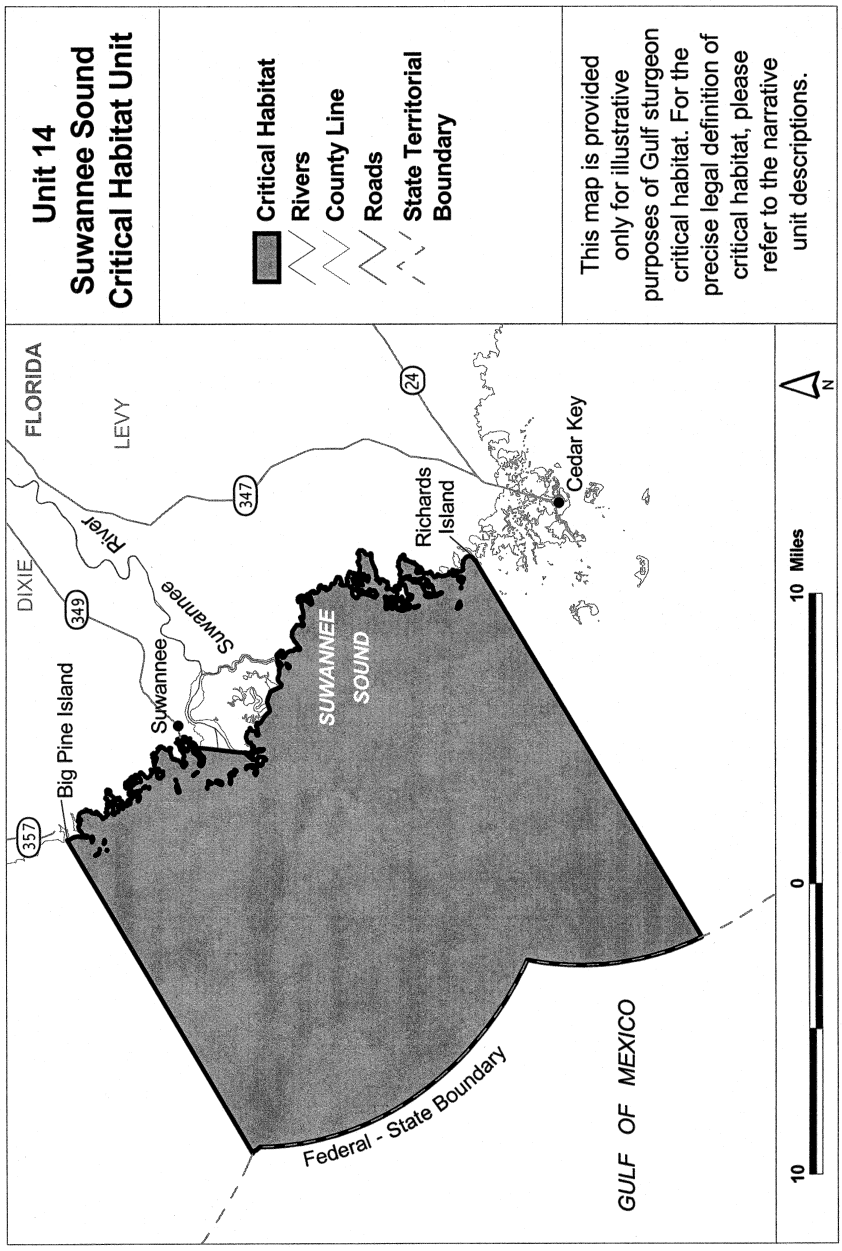
(2) A Map of Unit 13 follows:



(n) *Unit 14: Suwannee Sound in Dixie and Levy Counties, Florida.* (1) Unit 14 includes Suwannee Sound and a portion of adjacent Gulf of Mexico waters extending 9 nm from shore (16.7 km) out to the State territorial water boundary. Its northern boundary is formed by a straight line from the

northern tip of Big Pine Island (at approximately 29°23′ N, 83°12′ W) to the Federal-State boundary at 29°17′ N, 83°21′ W. The southern boundary is formed by a straight line from the southern tip of Richards Island (at approximately 83°04′ W, 29°11′ N) to the Federal-State boundary at 83°15′ W, 29°04′ N. The lateral extent of Unit 14 is the MHW line along the shorelines and the mouths of the Suwannee River (East and West Pass), its distributaries, and other rivers, creeks, or water bodies.

(2) A Map of Unit 14 follows:



[68 FR 13454, Mar. 19, 2003]

§ 226.215 Critical habitat for the North Pacific Right Whale (*Eubalaena japonica*).

(a) *Primary Constituent Elements*. The primary constituent elements of the North Pacific right whale are the copepods *Calanus marshallae*, *Neocalanus cristatus*, and *N. plumchris*, and the euphausiid *Thysanoessa raschii*, in areas of the North Pacific Ocean in which North Pacific right whales are known or believed to feed, as described in paragraphs (b) and (c) of this section.

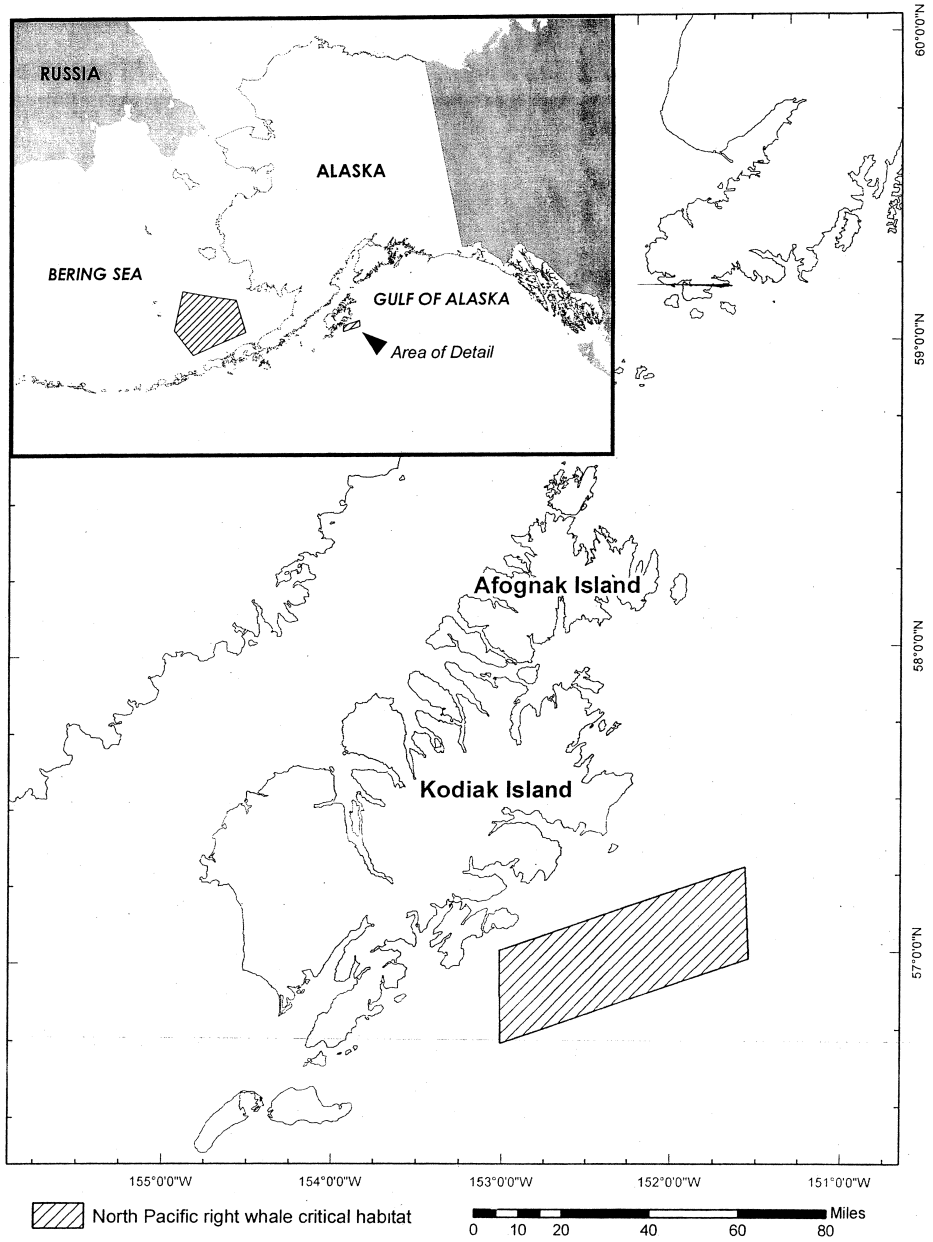
(b) *Bering Sea*. An area described by a series of straight lines connecting the following coordinates in the order listed:

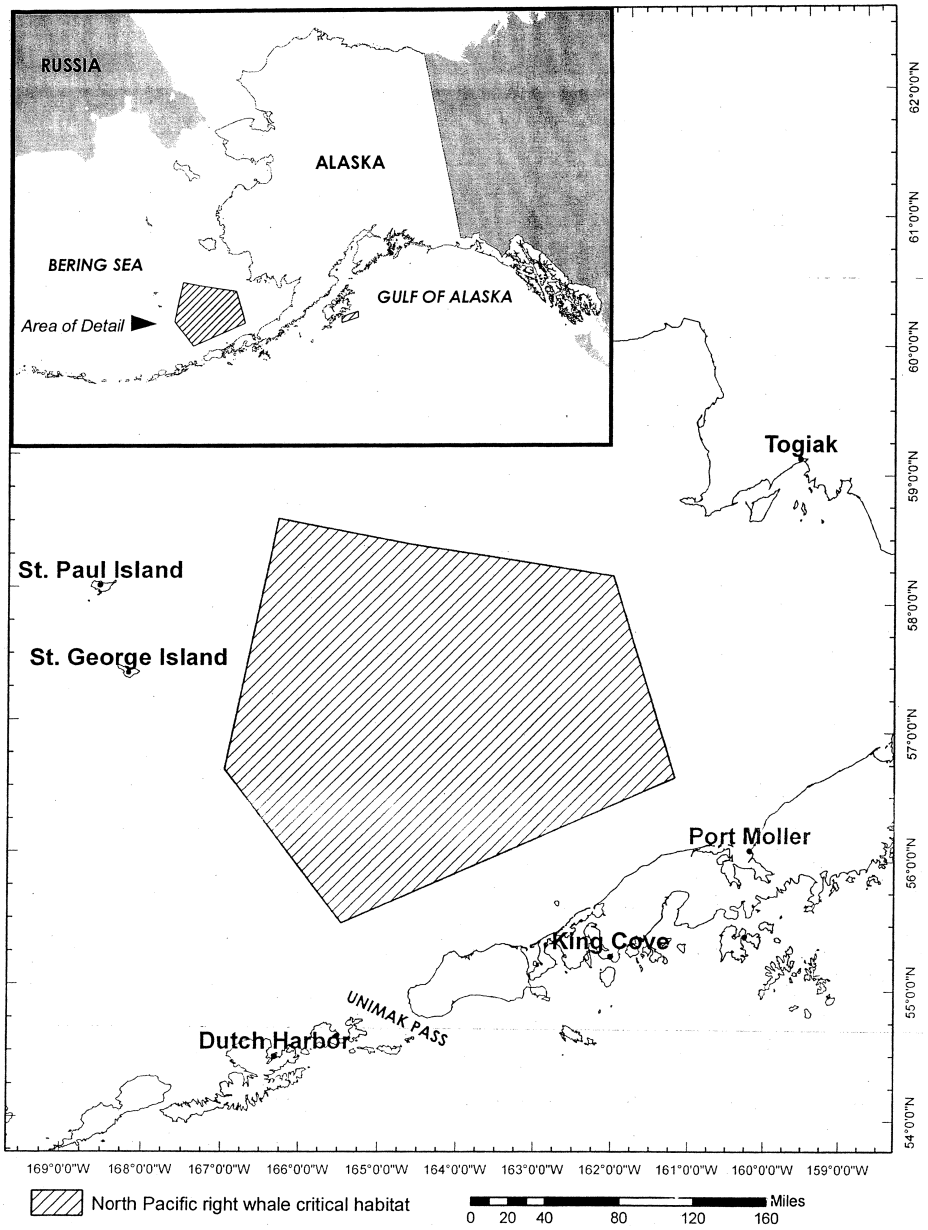
58°00′ N/168°00′ W
58°00′ N/163°00′ W
56°30′ N/161°45′ W
55°00′ N/166°00′ W
56°00′ N/168°00′ W
58 °00′ N/168°00′ W.

(c) Gulf of Alaska. An area described by a series of straight lines connecting the following coordinates in the order listed:

57°03′ N/153°00′ W
57°18′ N/151°30′ W
57°00′ N/ 151°30′ W
56°45′ N/153°00′ W
57°03′ N/153°00′ W.

(d) Maps of critical habitat for the North Pacific right whale follow:


RUSSIA
ALASKA
BERING SEA
GULF OF ALASKA
Area of Detail
Afognak Island
Kodiak Island
60°0'0"N
59°0'0"N
58°0'0"N
57°0'0"N
155°0'0"W
154°0'0"W
153°0'0"W
152°0'0"W
151°0'0"W
North Pacific right whale critical habitat
Miles
0 10 20 40 60 80



[73 FR 19011, Apr. 8, 2008]

§ 226.216 Critical habitat for elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals.

Critical habitat is designated for both elkhorn and staghorn corals as described in this section. The textual descriptions of critical habitat in paragraphs (b) and (c) of this section are the definitive source for determining the critical habitat boundaries. The overview maps in paragraph (d) of this section are provided for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

(a) *Physical Feature Essential to the Conservation of Threatened Corals.* The physical feature essential to the conservation of elkhorn and staghorn corals is: substrate of suitable quality and availability to support larval settlement and recruitment, and reattachment and recruitment of asexual fragments. ''Substrate of suitable quality and availability'' is defined as natural consolidated hard substrate or dead coral skeleton that is free from fleshy or turf macroalgae cover and sediment cover.

(b) *Critical Habitat Areas.* Critical habitat includes one specific area of the Atlantic Ocean offshore of Palm Beach, Broward, Miami-Dade, and Monroe counties, Florida, and three specific areas of the Atlantic Ocean and Caribbean Sea offshore of the U.S. Territories of Puerto Rico and the U.S. Virgin Islands. The boundaries of each specific critical habitat area are described below. Except as specified below, the seaward boundary is the 98-ft (30-m) depth contour and the shoreward boundary is the line of mean low water (MLW; 33 CFR 2.20). Within these boundaries, discrete areas of water deeper than 98 ft (30 m) are not included.

(1) *Florida Area:* The Florida area contains three sub-areas.

(i) The shoreward boundary for Florida sub-area A begins at the 6-ft (1.8 m) contour at the south side of Boynton Inlet, Palm Beach County at 26°32′42.5″ N; then runs due east to the point of intersection with the 98-ft (30 m) contour; then follows the 98-ft (30 m) contour to the point of intersection with latitude 25°45′55″ N, Government Cut, Miami-Dade County; then runs due west to the point of intersection with the 6-ft (1.8 m) contour, then follows the 6-ft (1.8 m) contour to the beginning point.

(ii) The shoreward boundary of Florida sub-area B begins at the MLW line at 25°45′55″ N, Government Cut, Miami-Dade County; then runs due east to the point of intersection with the 98-ft (30 m) contour; then follows the 98-ft (30 m) contour to the point of intersection with longitude 82° W; then runs due north to the point of intersection with the South Atlantic Fishery Management Council (SAFMC) boundary at 24°31′35.75″ N; then follows the SAFMC boundary to a point of intersection with the MLW line at Key West, Monroe County; then follows the MLW line, the SAFMC boundary (see 50 CFR 600.105(c)), and the COLREGS line (see 33 CFR 80.727. 730, 735, and 740) to the beginning point.

(iii) The seaward boundary of Florida sub-area C (the Dry Tortugas) begins at the northern intersection of the 98-ft (30 m) contour and longitude 82°45′ W; then follows the 98-ft (30 m) contour west around the Dry Tortugas, to the southern point of intersection with longitude 82°45′ W; then runs due north to the beginning point.

(2) *Puerto Rico Area:* All areas surrounding the islands of the Commonwealth of Puerto Rico, 98 ft (30 m) in depth and shallower, seaward of the COLREGS line (see 33 CFR 80.738).

(3) *St. Thomas/St. John Area:* All areas surrounding the islands of St. Thomas and St. John, U.S. Virgin Islands, and smaller surrounding islands, 98 ft (30 m) in depth and shallower.

(4) *St. Croix Area:* All areas surrounding the island of St. Croix, U.S. Virgin Islands, 98 ft (30 m) in depth and shallower.

(c) *Areas not included in critical habitat.* Critical habitat does not include the following particular areas where they overlap with the areas described in paragraph (b) of this section:

(1) Pursuant to ESA section 4(a)(3)(B), all areas subject to the 2008 Naval Air Station Key West Integrated Natural Resources Management Plan.

(2) Pursuant to ESA section 3(5)(A)(i), all areas containing existing (already constructed) federally authorized or permitted man-made structures

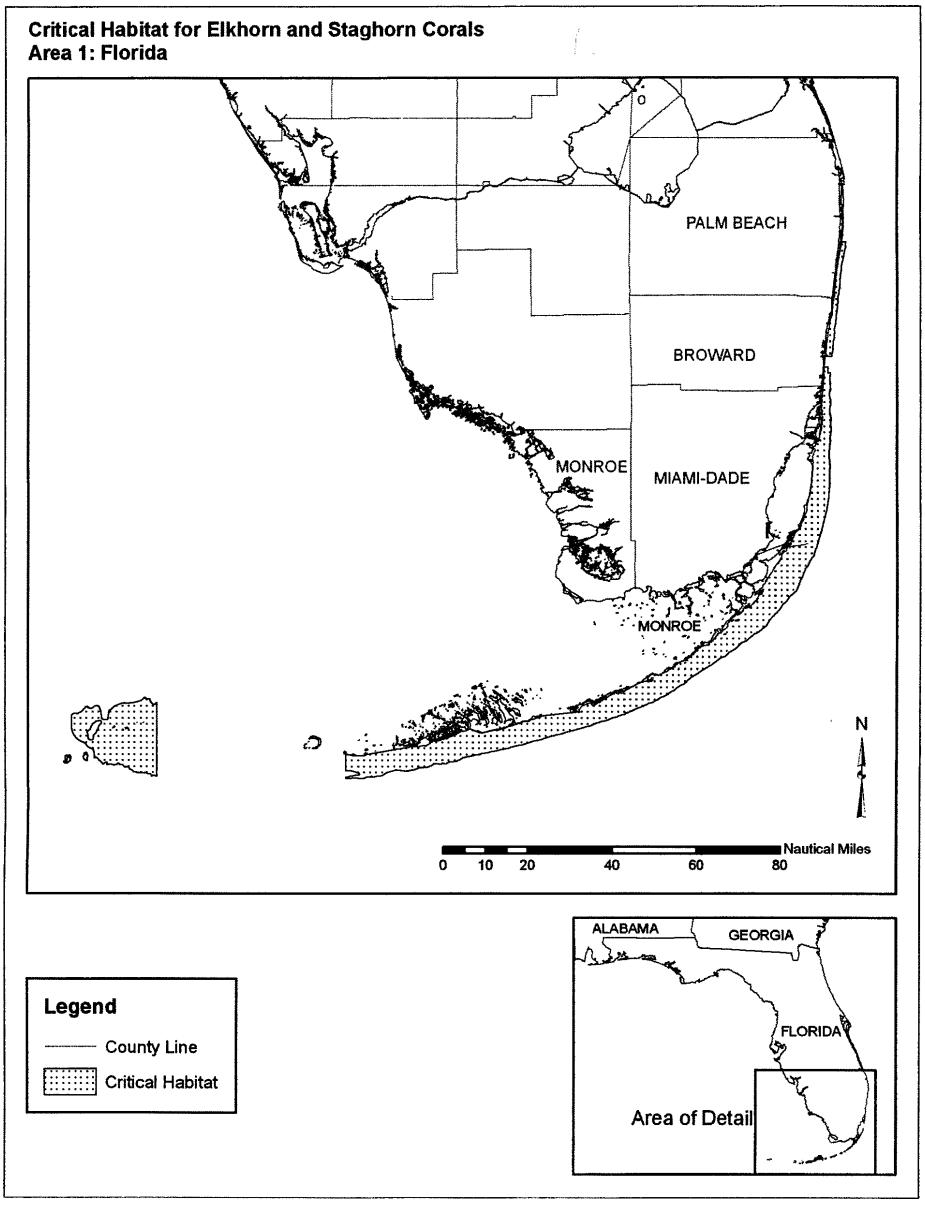
such as aids-to-navigation (ATONs), artificial reefs, boat ramps, docks, pilings, maintained channels, or marinas.

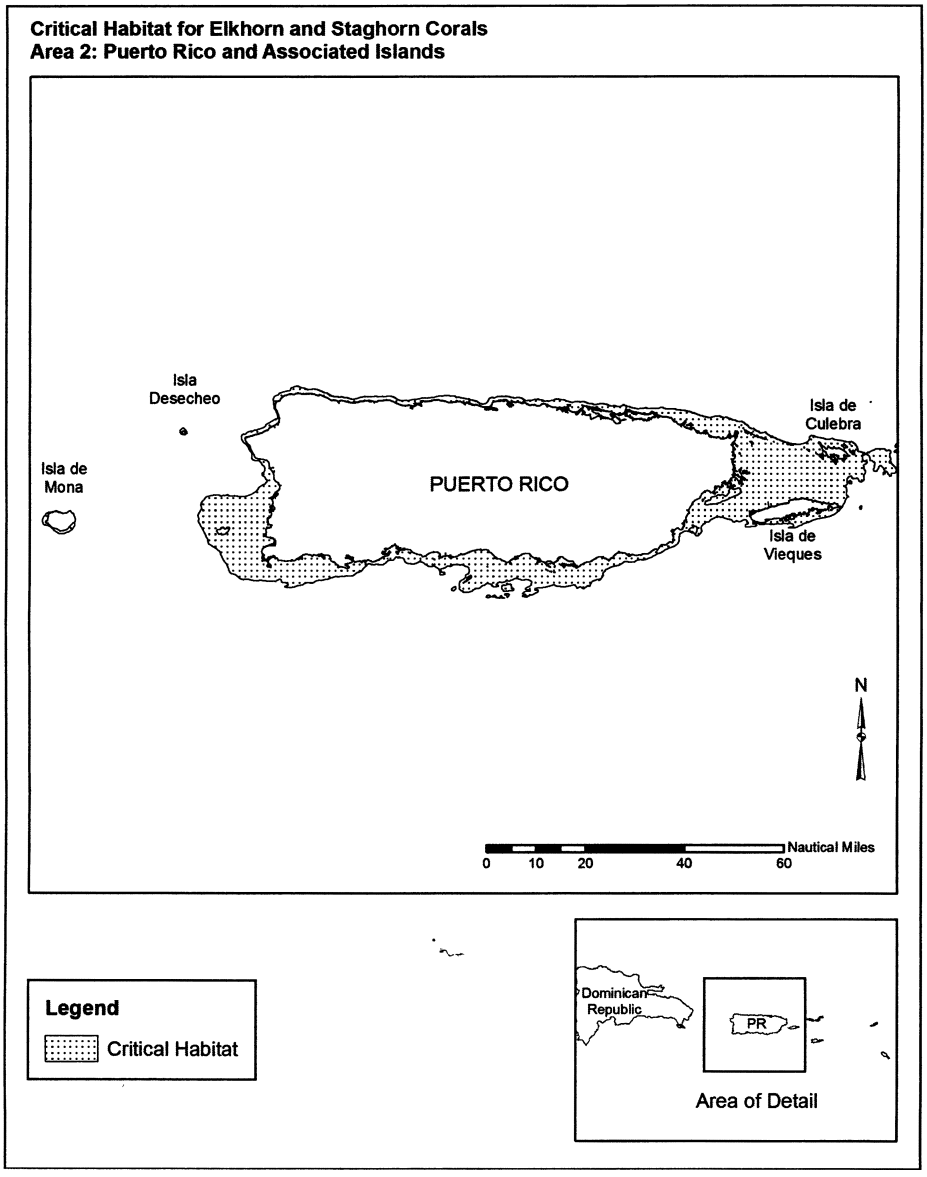
(3) Pursuant to ESA section 3(5)(A)(i), all waters identified as existing (already constructed) federally authorized channels and harbors as follows:

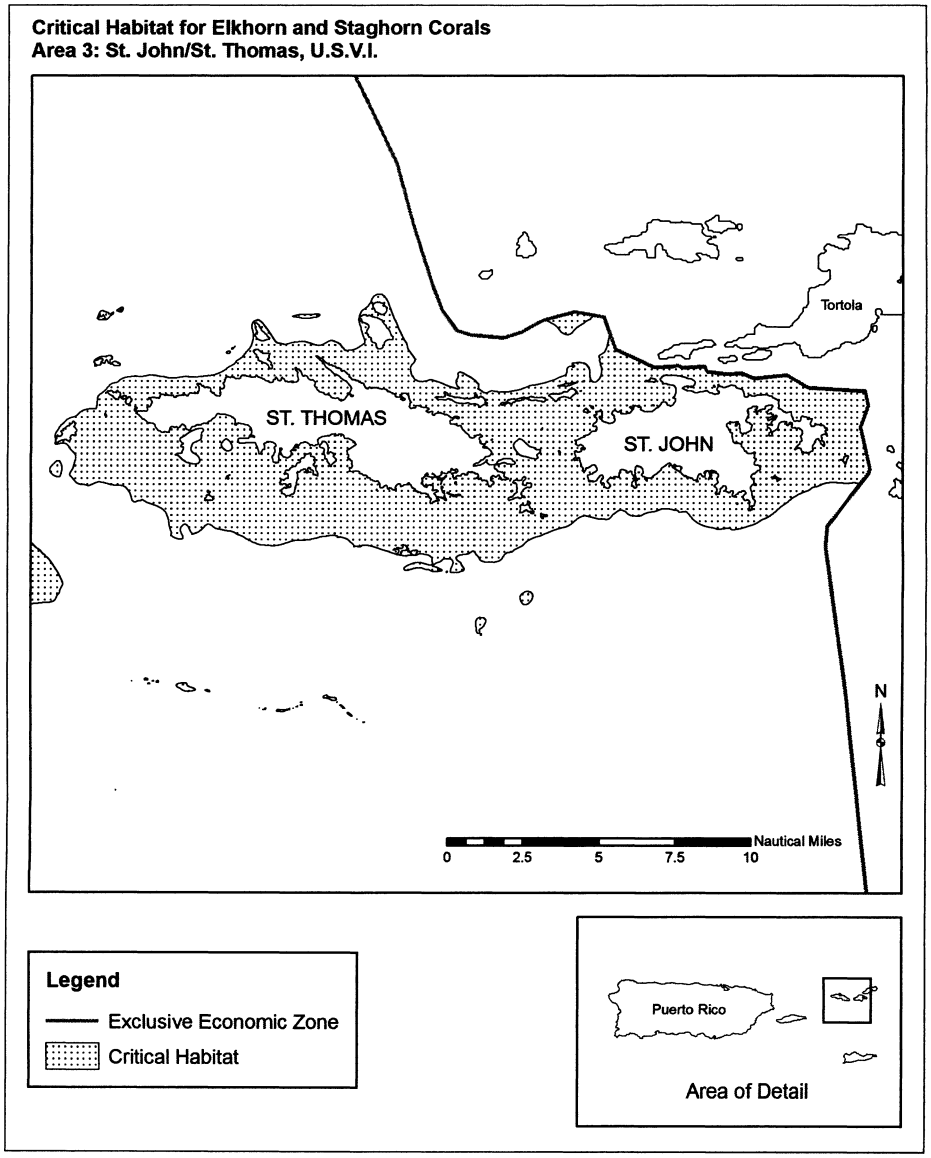
(i) Palm Beach Harbor.
(ii) Hillsboro Inlet.
(iii) Port Everglades.
(iv) Miami Harbor.
(v) Key West Harbor.
(vi) Arecibo Harbor.
(vii) San Juan Harbor.
(viii) Fajardo Harbor.
(ix) Ponce Harbor.
(x) Mayaguez Harbor.
(xi) St. Thomas Harbor.
(xii) Christiansted Harbor.

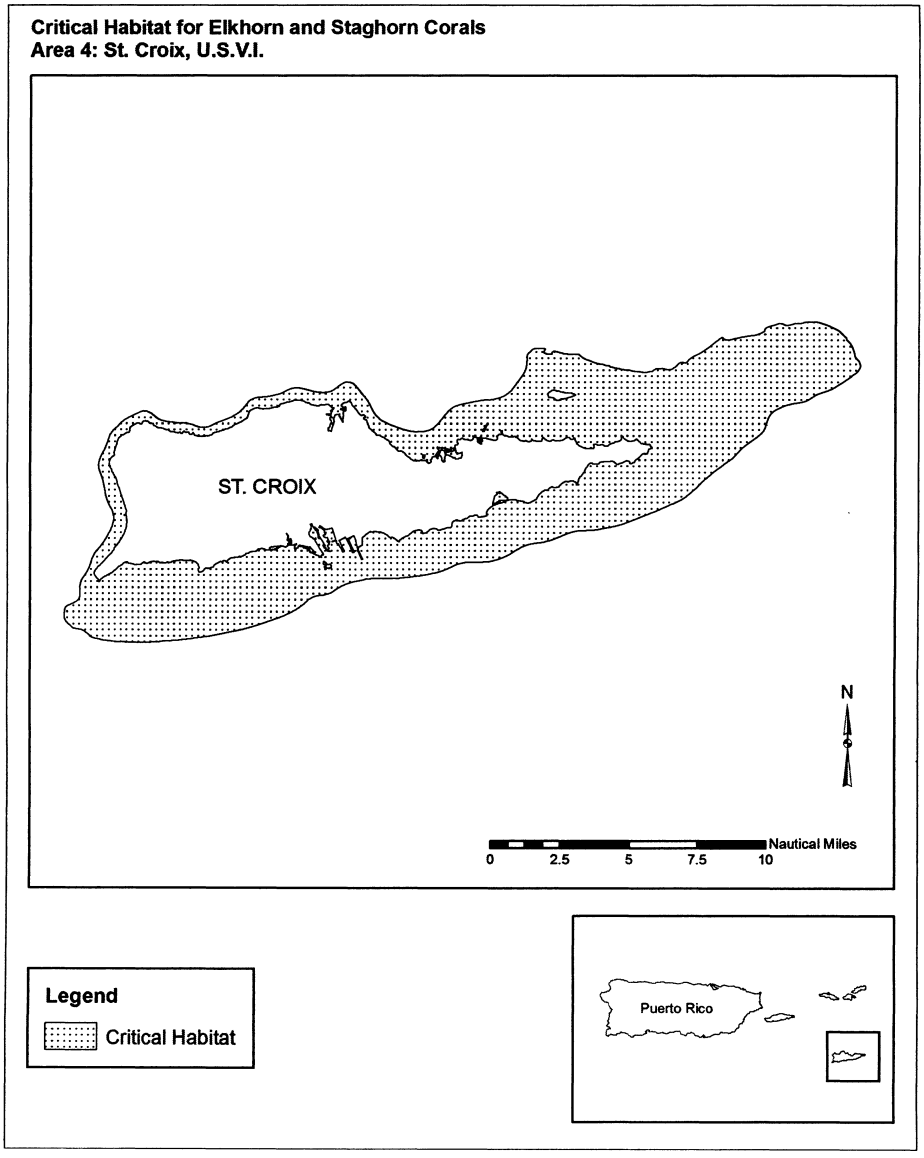
(d) Areas excluded from critical habitat. Pursuant to ESA Section 4(b)(2), all waters of the Restricted Anchorage Area as described at 33 CFR 334.580, beginning at a point located at 26°05′30″ N, 80 03′30″ W.; proceed west to 26°05′30″ N, 80°06′30″ W; thence, southerly to 26°03′00″ N, longitude 80°06′42″ W; thence, east to latitude 26°03′00″ N, 80°05′44″ W.; thence, south to 26°01′36″ N, 80°05′44″ W.; thence, east to 26°01′36″ N, 80°03′30″ W; thence, north to the point of beginning.

(e) Overview maps of designated critical habitat for elkhorn and staghorn corals follow.


Critical Habitat for Elkhorn and Staghorn Corals
Area 1: Florida
PALM BEACH
BROWARD
MONROE
MIAMI-DADE
MONROE
N
Nautical Miles
0 10 20 40 60 80
Legend
County Line
Critical Habitat
ALABAMA
GEORGIA
FLORIDA
Area of Detail


Critical Habitat for Elkhorn and Staghorn Corals
Area 2: Puerto Rico and Associated Islands
Isla Desecheo
Isla de Culebra
Isla de Mona
PUERTO RICO
Isla de Vieques
N
0 10 20 40 60
Nautical Miles
Legend
Critical Habitat
Dominican Republic
PR
Area of Detail


Critical Habitat for Elkhorn and Staghorn Corals
Area 3: St. John/St. Thomas, U.S.V.I.
Tortola
ST. THOMAS
ST. JOHN
N
Nautical Miles
0
2.5
5
7.5
10
Legend
Exclusive Economic Zone
Critical Habitat
Puerto Rico
Area of Detail



[73 FR 72236, Nov. 26, 2008]

§ 226.217 Critical habitat for the Gulf of Maine Distinct Population Segment of Atlantic Salmon (Salmo salar).

Critical habitat is designated to include all perennial rivers, streams, and estuaries and lakes connected to the marine environment within the range of the Gulf of Maine Distinct Population Segment of Atlantic Salmon (GOM DPS), except for those particular areas within the range which are specifically excluded. Within the GOM DPS, the primary constituent elements

(PCEs) for Atlantic salmon include sites for spawning and incubation, sites for juvenile rearing, and sites for migration. The essential physical and biological features of habitat are those features that allow Atlantic salmon to successfully use sites for spawning and rearing and sites for migration. These features include substrate of suitable size and quality; rivers and streams of adequate flow, depth, water temperature and water quality; rivers, streams, lakes and ponds with sufficient space and diverse, abundant food resources to support growth and survival; waterways that allow for free migration of both adult and juvenile Atlantic salmon; and diverse habitat and native fish communities in which salmon interact with while feeding, migrating, spawning, and resting.

(a) The GOM DPS is divided into three salmon habitat recovery units (SHRUs) within the range of the GOM DPS: These are the Downeast Coastal SHRU, the Penobscot Bay SHRU, and the Merrymeeting Bay SHRU. Critical habitat is being considered only in specific areas currently occupied by the species. Critical habitat specific areas are identified by hydrological unit codes (HUC) and counties within the States of Maine. Hydrological units are those defined by the Department of Interior (DOI), U.S. Geological Survey (USGS) publication, ''Hydrologic Unit Maps'' Water Supply Paper (Seaber *et al.*, 1994) and the following DOI, USGS 1:500,000 scale hydrologic unit map: State of Maine. These documents are incorporated by reference. The incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the USGS publication and the maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Protected Resources Division, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal__register/code__of__federal__regulations/ibr__locations.html.*

(b) Critical habitat is designated in the Maine counties and towns for the three SHRUs described in paragraphs (b)(1) and (2) of this section. The textual descriptions of critical habitat for each SHRU are included in paragraphs (b)(3) through (6) of this section, and these descriptions are the definitive source for determining the critical habitat boundaries. A general location map (Figure 1) is provided at the end of paragraph (b)(2) and is for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

(1) *Maine counties and towns affected.* Critical habitat is designated for the following SHRUs in the following counties and towns.

(i) Counties and towns partially or entirely within areas containing critical habitat in the Downeast Coastal SHRU:

Sub-basin	County	Town
Coastal Washington Hancock.	Penobscot	Clifton, Eddington, Grand Falls Twp, Greenfield Twp, Summit Twp.
	Hancock ...	Waltham, Bucksport, Dedham, Eastbrook, Ellsworth, Fletchers Landing Twp, Franklin, Great Pond, Hancock, Lamoine, Mariaville, Oqiton Twp, Orland, Osborn, Trenton Otis, Sullivan, Surry, T10 SD, T16 MD, T22 MD, T28 MD, T32 MD, T34 MD, T35 MD, T39 MD, T40 MD, T41 MD, T7 SD, T9 SD.
	Washington.	Addison, Alexander, Baileyville, Baring Plt, Beddington, Centerville Twp, Charlotte, Cherryfield, Columbia, Columbia Falls, Cooper, Crawford, Cutler, Deblois, Dennysville, Devereaux Twp, East Machias, Edmunds Twp, Harrington, Jonesboro, Jonesport, Lubec, Machias, Machiasport, Marion Twp, Marshfield, Meddybemps, Milbridge, No 14 Twp, No 21 Twp, Northfield, Princeton, Roque Bluffs, Sakom Twp, Steuben, Trescott Twp, Whiting, Whitneyville, Wesley T18 ED BPP, T18 MD BPP, T19 ED BPP, T19 MD BPP, T24 MD BPP, T25 MD BPP, T26 ED BPP, T27 ED BPP, T30 MD BPP, T31 MD BPP, T36 MD BPP, T37 MD BPP, T42 MD BPP, T43 MD BPP.

(ii) Counties and towns partially or entirely within areas containing critical habitat in the Penobscot Bay SHRU:

Sub-basin	County	Town
Piscataquis	Penobscot	T4 Indian Purchase Twp, Long A Twp, Seboeis Plt, Mattamiscontis Twp, Maxfield, Lagrange, Charleston, Howland, T3 R9 NWP, Edinburg, Hopkins Academy Grant Twp, Garland.
	Piscataquis	Shawtown Twp, TA R11 WELS, TA R10 WELS, TB R10 WELS, Greenville, T7 R9 NWP, Bowdoin College Grant West Twp, T4 R9 NWP, Ebeemee Twp, Moosehead Junction Twp, Lake View Plt, Brownville, Milo, Blanchard Twp, Sebec, Dover-Foxcroft, Abbot, Kingsbury Plt, Parkman, Wellington, Frenchtown Twp, Medford, Sangerville, TB R11 WELS, Katahdin Iron Works Twp, Elliottsville Twp, Shirley, Guilford, Atkinson, Beaver Cove, Williamsburg Twp, Bowdoin College Grant East Twp, Barnard Twp, Monson, Orneville Twp.
	Somerset	Squaretown Twp, Mayfield Twp, Brighton Plt, East Moxie Twp, Bald Mountain Twp T2 R3.
East Branch.	Aroostook	Moro Plt, T7 R5 WELS.
	Penobscot	Mount Chase, East Millinocket, Grindstone Twp, Herseytown Twp, Medway, Patten, Soldiertown Twp T2 R7 WELS, Stacyville, T1 R6 WELS, T2 R8 WELS, T3 R7 WELS, T3 R8 WELS, T4 R7 WELS, T4 R8 WELS, T5 R7 WELS, T5 R8 WELS, T6 R6 WELS, T6 R7 WELS, T6 R8 WELS, T7 R6 WELS, T7 R7 WELS, T7 R8 WELS, T8 R6 WELS, T8 R7 WELS, T8 R8 WELS.
	Piscataquis	Mount Katahdin Twp, Nesourdnahunk Twp, Trout Brook Twp, T3 R10 WELS, T4 R10 WELS, T4 R9 WELS, T5 R11 WELS, T5 R9 WELS, T6 R10 WELS, T6 R11 WELS, T7 R10 WELS, T7 R11 WELS, T7 R12 WELS, T7 R9 WELS.
Mattawamkeag.	Aroostook	Amity, Bancroft, Benedicta Twp, Crystal, Dudley Twp, Dyer Brook, Forkstown Twp, Moro Plt, North Yarmouth Academy Grant Twp, Oakfield, Orient, Reed Plt, Sherman, Silver Ridge Twp, Smyrna, Upper Molunkus Twp, Webbertown Twp, Weston, T1 R5 WELS, T2 R4 WELS, T3 R3 WELS, T3 R4 WELS, T4 R3 WELS, T7 R5 WELS, TA R2 WELS.
	Penobscot	Carroll Plt, Drew Plt, Herseytown Plt, Kingman Twp, Lee, Lincoln, Mattawamkeag, Mount Chase, Patten, Prentiss Twp T7 R3 NBPP, Springfield, Stacyville, Webster Plt, Winn, T1 R6 WELS, T4 R7 WELS, T6 R6 WELS.
	Washington.	T8 R3 NBPP, T8 R4 NBPP.
Penobscot	Aroostook	Benedicta TWP, Molunkus Twp, Sherman, T1 R5 WELS.
	Hancock ...	Amherst, Blue Hill, Bucksport, Castine, Dedham, Great Pond, Oqiton Twp, Orland, Penobscot, Surry, Verona Island, T3 ND, T32 MD, T34 MD, T35 MD, T39 MD, T40 MD, T41 MD.
	Penobscot	Alton, Argyle Twp, Bangor, Brewer, Burlington, Carmel, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Eddington, Edinburg, Enfield, Etna, Exeter, Garland, Glenburn, Grand Falls Twp, Hampden, Hermon, Herseytown Twp, Holden, Howland, Hudson, Indian Island, Kenduskeag, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell, Mattamiscontis Twp, Mattawamkeag, Maxfield, Medway, Milford, Newburgh, Newport, Old Town, Orono, Orrington, Passadumkeag, Plymouth, Seboeis Plt, Springfield, Stacyville, Stetson, Summit Twp, Veazie, Winn, Woodville T1 R6 WELS, T2 R8 NWP, T2 R9 NWP, T3 R1 NBPP, T3 R9 NWP, TA R7 WELS.
	Piscataquis	Medford.
	Waldo	Brooks, Frankfort, Jackson, Knox, Monroe, Montville, Prospect, Searsport, Stockton Springs, Swanville, Thorndike, Waldo, Winterport.
Penobscot Bay.	Waldo	Belfast, Belmont, Brooks, Frankfort, Knox, Lincolnville, Monroe, Montville, Morrill, Northport, Searsmont, Searsport, Swanville, Waldo.

(iii) Counties and towns partially or entirely within areas containing critical habitat in the Merrymeeting Bay SHRU:

Sub-basin	County	Town
Lower Androscoggin.	Androscoggin.	Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Sabattus, Wales.
	Cumberland.	Brunswick, Freeport.
	Kennebec	Litchfield, Monmouth
	Sagadahoc	Bath, Bowdoin, Bowdoinham, Richmond, Topsham.
Merrymeeting Bay.	Androscoggin.	Livermore Falls.
	Franklin	Avon, Carthage, Chesterville, Farmington, Freeman Twp, Industry, Jay, Madrid Twp, Mount Abram Twp, New Sharon, New Vineyard, Perkins TWP, Phillips, Redington Twp, Salem Twp, Sandy River Plt, Strong, Temple, Township 6 North of Weld, Township E, Washington Twp, Weld, Wilton.
	Kennebec	Augusta, Benton, Chelsea, China, Clinton, Farmingdale, Fayette, Gardiner, Hallowell, Manchester, Oakland, Pittston, Randolph, Rome, Sidney, Vassalboro, Vienna, Waterville, West Gardiner, Windsor, Winslow.
	Lincoln	Alna, Dresden, Whitefield, Wiscasset.
	Sagadahoc	Bowdoinham, Perkins Twp Swan Island, Richmond, Woolwich.
	Somerset	Anson, Athens, Bingham, Brighton Plt, Canaan, Cornville, Fairfield, Hartland, Madison, Mayfield Twp, Mercer, Norridgewock, Pittsfield, Skowhegan, Smithfield, Solon, Starks.
Coastal Drainages East of Small Point.	Cumberland.	Brunswick.
	Kennebec	Albion, Pittston, Windsor.
	Knox	Appleton, Camdem, Cushing, Friendship, Hope, Rockland, Rockport, Saint George, South Thomaston, Thomaston, Union, Warren, Washington.
	Lincoln	Alna, Boothbay, Boothbay Harbor, Bremen, Briston, Dresden, Edgecomb, Hibberts Gore, Jefferson, Newcastle, Nobleboro, Somerville, Southport, Waldoboro, Westport Island, Whitefield, Wiscasset.
	Sagadahoc	Arrowsic, Bath, Bowdoinham, Georgetown, Phippsburg, West Bath, Woolwich.
	Waldo	Belmont, Freedom, Liberty, Lincolnville, Montville, Morrill, Palermo, Searsmont.

(2) *Critical habitat boundaries.* Critical habitat includes the stream channels within the designated stream reaches, and includes a lateral extent as defined by the ordinary high-water line (33 CFR 329.11). In areas where the ordinary high-water line has not been defined, the lateral extent will be defined by the bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on an annual flood series. Critical habitat in estuaries is defined by the perimeter of the water body as displayed on standard 1:24,000 scale topographic maps or the elevation of extreme high water, whichever is greater.

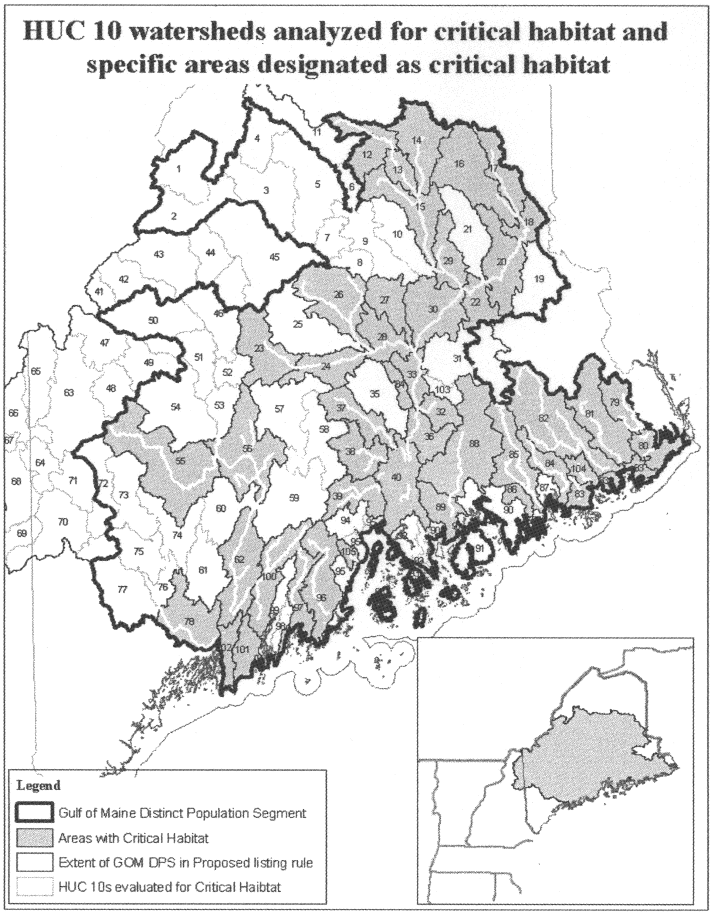


Figure 1

(i) HUC 10 watersheds in the Penobscot Bay SHRU analyzed for critical habitat, those that meet the criteria for critical habitat, and those excluded under ESA section 4(b)(2):

Penobscot Bay SHRU	HUC 10 Code	HUC 10 Name	Status	Economic (E), Military (M), or Tribal (T) exclusions
1	0102000101	North Branch Penobscot River		
2	0102000102	Seeboomook Lake		

Penobscot Bay SHRU	HUC 10 Code	HUC 10 Name	Status	Economic (E), Military (M), or Tribal (T) exclusions
3	0102000103	WEST Branch Penobscot River at Chesuncook Lake	.....	
4	0102000104	Caucomgomok Lake	.....	
5	0102000105	Chesuncook Lake	.....	
6	0102000106	Nesowadnehunk Stream	.....	
7	0102000107	Nahamakanta Stream	.....	
8	0102000108	Jo-Mary Lake	.....	
9	0102000109	West Branch Penobscot River (3)	.....	
10	0102000110	West Branch Penobscot River (4)	.....	
11	0102000201	Webster Brook	.....	
12	0102000202	Grand Lake Matagamon	Critical Habitat	T
13	0102000203	East Branch Penobscot River (2)	Critical Habitat	T
14	0102000204	Seboeis River	Critical Habitat	T
15	0102000205	East Branch Penobscot River (3)	Critical Habitat	T
16	0102000301	West Branch Mattawamkeag River	Critical Habitat	T
17	0102000302	East Branch Mattawamkeag River	Critical Habitat	
18	0102000303	Mattawamkeag River (1)	Critical Habitat	
19	0102000304	Baskahegan Stream	.....	
20	0102000305	Mattawamkeag River (2)	Critical Habitat	
21	0102000306	Molunkus Stream	Critical Habitat	E
22	0102000307	Mattawamkeag River (3	Critical Habitat	T
23	0102000401	Piscataquis River (1)	Critical Habitat	
24	0102000402	Piscataquis River (3)	Critical Habitat	
25	0102000403	Sebec River	.....	
26	0102000404	Pleasant River	Critical Habitat	T
27	0102000405	Seboeis Stream	Critical Habitat	T
28	0102000406	Piscataquis River (4)	Critical Habitat	“
29	0102000501	Penobscot River (1) at Mattawamkeag	Critical Habitat	T
30	0102000502	Penobscot River (2) at West Enfield	Critical Habitat	T
31	0102000503	Passadumkeag River	Critical Habitat	E
32	0102000505	Sunkhaze Stream	Critical Habitat	
33	0102000506	Penobscot River (3) at Orson Island	Critical Habitat	T
34	0102000507	Birch Stream	Critical Habitat	T
35	0102000508	Pushaw Stream	.....	
36	0102000509	Penobscot River (4) at Veazie Dam	Critical Habitat	
37	0102000510	Kenduskeag Stream	Critical Habitat	
38	0102000511	Souadabscook Stream	Critical Habitat	
39	0102000512	Marsh River	Critical Habitat	
40	0102000513	Penobscot River (6)	Critical Habitat	
92	0105000216	Bagaduce River	.....	
93	0105000217	Stonington Coastal	.....	
94	0105000218	Belfast Bay	Critical Habitat	E
105	0105000219	Ducktrap River	Critical Habitat	
103	0102000504	Olamon Stream	.....	
95	0105000220	West Penobscot Bay Coastal	.....	

(ii) HUC 10 watersheds in the Merrymeeting Bay SHRU analyzed for critical habitat, those that meet the criteria for critical habitat, and those excluded under ESA section 4(b)(2):

Merrymeeting Bay SHRU	HUC 10 code	HUC 10 name	Status	Military (M) exclusions
41	0103000101	South Branch Moose River.		
42	0103000102	Moose River (2) above Attean Pond.		
43	0103000103	Moose River (3) at Long Pond.		
44	0103000104	Brassua Lake.		
45	0103000105	Moosehead Lake.		
46	0103000106	Kennebec River (2) above The Forks.		
47	0103000201	North Branch Dead River.		
48	0103000202	South Branch Dead River.		
49	0103000203	Flagstaff Lake.		
50	0103000204	Dead River.		
51	0103000301	Kennebec River (4) at Wyman Dam.		
52	0103000302	Austin Stream.		
53	0103000303	Kennebec River (6).		
54	0103000304	Carrabassett River.		
55	0103000305	Sandy River	Critical Habitat	M
56	0103000306	Kennebec River at Waterville Dam	Critical Habitat.	

Merrymeeting Bay SHRU	HUC 10 code	HUC 10 name	Status	Military (M) exclusions
57	0103000307	Sebasticook River at Pittsfield.		
58	0103000308	Sebasticook River (3) at Burnham.		
59	0103000309	Sebasticook River (4) at Winslow.		
60	0103000310	Messalonskee Stream.		
61	0103000311	Cobbosseecontee Stream.		
62	0103000312	Kennebec River at Merrymeeting Bay	Critical Habitat.	
63	0104000101	Mooselookmeguntic Lake.		
64	0104000102	Umbagog Lake Drainage.		
65	0104000103	Aziscohos Lake Drainage.		
66	0104000104	Magalloway River.		
67	0104000105	Clear Stream.		
68	0104000106	Middle Androscoggin River.		
69	0104000201	Gorham-Shelburne Tributaries.		
70	0104000202	Androscoggin River (2) at Rumford Point.		
71	0104000203	Ellis River.		
72	0104000204	Ellis River.		
73	0104000205	Androscoggin River (3) above Webb River.		
74	0104000206	Androscoggin River (4) at Riley Dam.		
75	0104000207	Androscoggin River (5) at Nezinscot River.		
76	0104000208	Nezinscot River.		
77	0104000209	Androscoggin River (6) above Little Androscoggin River.		
78	0104000210	Little Androscoggin River	Critical Habitat	M
96	0105000301	St. George River	Critical Habitat.	
97	0105000302	Medomak River	Critical Habitat.	
98	0105000303	Johns Bay.		
99	0105000304	Damariscotta River.		
100	0105000305	Sheepscot River	Critical Habitat.	
101	0105000306	Sheepscot Bay	Critical Habitat.	
102	0105000307	Kennebec River Estuary	Critical Habitat	M

(iii) HUC 10 watersheds in the Downeast Coastal SHRU analyzed for critical habitat, and those that meet the criteria for critical habitat, and those excluded under ESA section 4(b)(2):

Downeast SHRU	HUC 10 code	HUC 10 name	Status	Tribal (T) exclusions
79	0105000201	Dennys River	Critical Habitat.	
80	0105000203	Grand Manan Channel	Critical Habitat.	
81	0105000204	East Machias River	Critical Habitat	T
82	0105000205	Machias River	Critical Habitat.	
83	0105000206	Roque Bluffs Coastal	Critical Habitat.	
84	0105000208	Pleasant River	Critical Habitat.	
85	0105000209	Narraguagus River	Critical Habitat.	
86	0105000210	Tunk Stream	Critical Habitat.	
87	0105000211	Bois Bubert Coasta.		
88	0105000212	Graham Lake	Critical Habitat.	
89	0105000213	Union River Bay	Critical Habitat.	
90	0105000214	Lamoine Coastal.		
91	0105000215	Mt. Desert Coastal.		
104	0105000207	Chandler River	Critical Habitat.	

(3) *Primary constituent elements.* Within the GOM DPS, the primary constituent elements (PCEs) for the conservation of Atlantic salmon include sites for spawning and incubation, sites for juvenile rearing, and sites for migration. The physical and biological features of the habitat that are essential to the conservation of Atlantic salmon are those features that allow Atlantic salmon to successfully use sites for spawning and rearing and sites for migration. These features include:

(i) Deep, oxygenated pools and cover (*e.g.*, boulders, woody debris, vegetation, etc.), near freshwater spawning sites, necessary to support adult migrants during the summer while they await spawning in the fall;

(ii) Freshwater spawning sites that contain clean, permeable gravel and cobble substrate with oxygenated water and cool water temperatures to

support spawning activity, egg incubation and larval development;

(iii) Freshwater spawning and rearing sites with clean gravel in the presence of cool, oxygenated water and diverse substrate to support emergence, territorial development, and feeding activities of Atlantic salmon fry;

(iv) Freshwater rearing sites with space to accommodate growth and survival of Atlantic salmon parr, and population densities needed to support sustainable populations;

(v) Freshwater rearing sites with a combination of river, stream, and lake habitats, that accommodate parr's ability to occupy many niches and to maximize parr production;

(vi) Freshwater rearing sites with cool, oxygenated water to support growth and survival of Atlantic salmon parr;

(vii) Freshwater rearing sites with diverse food resources to support growth and survival of Atlantic salmon parr;

(viii) Freshwater and estuary migratory sites free from physical and biological barriers that delay or prevent access to spawning grounds needed to support a recovered population;

(ix) Freshwater and estuary migration sites with abundant, diverse native fish communities to serve as a protective buffer against predation;

(x) Freshwater and estuary migration sites free from physical and biological barriers that delay or prevent emigration of smolts to the marine environment;

(xi) Freshwater and estuary migration sites with sufficiently cool water temperatures and water flows that coincide with diurnal cues to stimulate smolt migration;

(xii) Freshwater migration sites with water chemistry needed to support sea water adaptation of smolts; and

(xiii) Freshwater and marine sites with diverse, abundant assemblages of native fish communities to enhance survivorship as Atlantic salmon smolts emigrating through the estuary.

(4) Habitat that meets the definition of critical habitat in occupied habitat areas on Passamaquoddy Tribal Indian lands and Fee lands or lands held in Trust by the Penobscot Indian Reservation within the range of the GOM DPS are excluded from designation. Per request of the Penobscot Tribe, critical habitat does include occupied habitat that makes up the Penobscot Indian Reservation. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order 3206, including:

(i) Lands held in Trust by the United States for the benefit of any Indian Tribe;

(ii) Lands held in trust by the United States for the benefit of any Indian Tribe or individual subject to restrictions by the United States against alienation;

(iii) Fee lands, either within or outside the reservation boundaries, owned by the tribal government; and

(iv) Fee lands within the reservation boundaries owned by individual Indians.

The rivers, streams, lakes, and estuaries on approximately 9,500 acres (38.4 sq km) of lands held by the Passamaquoddy Tribe and approximately 60,500 acres (244.8 sq km) of Fee lands and land held in Trust for the Penobscot Tribe within the areas occupied by the GOM DPS are excluded from critical habitat designation based on the principles of the Secretarial Order discussed above. Per request of the Penobscot Nation, the rivers, lakes, and streams within the approximately 4,400–acre (17.8 sq km) Penobscot Reservation are included as critical habitat.

(5) *Areas that do not meet the definition of critical habitat under section 4(a)(3)(B)(i).* Critical habitat does not include the following areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a). These areas that are not included are:

(i) The 435 acres (1.8 sq km) of the Brunswick Naval Air Station in Brunswick Maine within the Little Androscoggin HUC 10 watershed in the Merrymeeting Bay SHRU; and

(ii) The 5,328 acres (21.5 sq km) of the Brunswick Naval Air Stations cold weather survival, evasion, resistance, and escape school within the Sandy River HUC 10 watershed in the Merrymeeting Bay SHRU.

(6) *Areas excluded under ESA Section 4(b)(2).* (i) The 396 acres (1.6 sq km) of the Great Pond Outdoor Adventure Center in the Graham Lake HUC 10 watershed in the Downeast Coastal SHRU;

(ii) The 3,000 acres (12.1 sq km) of the Naval Computer and Telecommunications Area Master Station Atlantic Detachment in the Roques Bluffs Coastal HUC 10 in the Downeast Coastal SHRU;

(iii) The Bath Iron Works ship building facility that provides the design, building, and support of complex Navy warships, including AEGIS Class Destroyers. The excluded area extends from U.S. Route 1 bridge over the Kennebec River down river to 50 feet below the south side of BIWs dry dock, but does not include any portion of Hanson Bay or the thoroughfare between Hanson Bay and the Kennebec River. The specific area excluded from designation lies within a box between four points with the following coordinates: Point 1: N43 54′39.8″, W069 48′43.5″; Point 2: N43 54′40″, W069 48′17.8″; Point 3: N43 54′0.0″, W069 48′47″; Point 4: N43 54′0.0″, W069 48′28″;

(iv) The Belfast Bay HUC 10 Watershed (HUC 105000218);

(v) The Passadumkeag River HUC 10 Watershed (HUC 102000503); and

(vi) The Molunkus Stream HUC 10 Watershed (HUC102000306).

(7) *Description of critical habitat.* Critical habitat is designated to include the areas defined in the following hydrological units in the three SHRUs with the exception of those particular areas specifically identified:

(i) Downeast Coastal SHRU. Critical habitat area (in sq km), areas excluded under ESA section 4(b)(2) (in sq km), and exclusion type, by HUC 10 watersheds:

Sub-basin	HUC 10 code	HUC 10 watershed name	Critical habitat		Excluded areas [type]*	
			River, stream and estuary (km)	Lake (sq. km)	River, stream and estuary (km)	Lake (sq. km)
Coastal Washington Hancock sub-basin.	0105000201	Dennys River	218	45		
	0105000203	Grand Manan Channel	641	15.5		
	0105000204	East Machias River	575	70	16 [T]	0.1 [T]
	0105000205	Machias River	991	58		
	0105000206	Roque Bluffs Coastal	321	.9	13(M)	.004(M)
	0105000207	Chandler River	154	0.1		
	0105000208	Pleasant River	325	6.5		
	0105000209	Narraguagus River	573	15.5		
	0105000210	Tunk Stream	117	14		
	0105000212	Graham Lake	974	121	2.3(M)	.2(M)
	0105000213	Union River Bay	303	18		
	0105000211	Bois Bubert Coastal.				
	0105000214	Lamoine Coastal.				
	0105000215	Mt. Desert Coastal.				

*Exclusion types: [E] = Economic, [M] = Military, and [T] = Tribal—considered unoccupied at the time of listing.

(ii) *Penobscot Bay SHRU. Critical habitat area (in sq km), areas excluded under ESA section 4(b)(2) (in sq km), and exclusion type, by HUC 10 watershed:*

Sub-basin	HUC 10 Code	HUC 10 Watershed Name	Critical Habitat		Excluded Areas[type]*	
			River, stream and estuary (km)	Lake (sq. km)	River, stream and estuary (km)	Lake (sq. km)
East Branch Penobscot sub-basin	0102000202	Grand Lake Matagamon	326	30	6[T]	0.5[T]
	0102000203	East Branch Penobscot River (2)	179	3	1[T]	
	0102000204	Seboeis River	418	31		
	0102000205	East Branch Penobscot River (3)	588	5	3[T]	
	0102000201	Webster Brook	---	---		
West Branch Penobscot sub-basin	0102000101	North Branch Penobscot River	---	---		
	0102000102	Seeboomook Lake	---	---		
	0102000103	W. Br. Penobscot R. at Chesuncook	---	---		
	0102000104	Caucomgomok Lake	---	---		
	0102000105	Chesuncook Lake	---	---		
	0102000106	Nesowadnehunk Stream	---	---		
	0102000107	Nahamakanta Stream	---	---		
	0102000108	Jo-Mary Lake	---	---		
	0102000109	West Branch Penobscot River (3)	---	---		
	0102000110	West Branch Penobscot River (4)	---	---		
Mattawamkeag River sub-basin	0102000301	West Branch Mattawamkeag River	657	22		
	0102000302	East Branch Mattawamkeag River	315	12		
	0102000303	Mattawamkeag River (1)	192	0.5		
	0102000305	Mattawamkeag River (2)	451	8		
	0102000307	Mattawamkeag River (3)	226	3		
	0102000306	Molunkus Stream	0	0	438 [E]	11 [E]
	0102000304	Baskahegan Stream	---	---		
Piscataquis River sub-	0102000401	Piscataquis River (1)	762	15		
	0102000402	Piscataquis River (3)	382	6		

basin	0102000404	Pleasant River	828	17	16[T]	
	0102000405	Seboeis Stream	312	36	12 [T]	5 [T]
	0102000406	Piscataquis River (4)	328	30		
	0102000403	Sebec River	---	---		
Penobscot River sub-basin	0102000501	Penobscot River (1) at Mattawamkeag	292	7	5[T]	2.5[T]
	0102000502	Penobscot River (2) at West Enfield	551	29	80[T]	5.5[T]
	0102000503	Passadumkeag River	0	0	583[E]	79 [E]
	0102000505	Sunkhaze Stream	177	0.5		
	0102000506	Penobscot River (3) at Orson Island	211	0.5	6[T]	
	0102000507	Birch Stream	120	1	15[T]	
	0102000509	Penobscot River (4) at Veazie Dam	225	10		
	0102000510	Kenduskeag Stream	420	1.5		
	0102000511	Souadabscook Stream	341	5.5		
	0102000512	Marsh River	319	3		
	0102000513	Penobscot River (6)	514	29		
	0102000504	Olamon Stream	---	---		
	0102000508	Pushaw Stream	---	---		
Penobscot Bay sub-basin	0105000218	Belfast Bay	---	---	177 [E]	9 [E]
	0105000219	Ducktrap River	76	4		
	0105000216	Bagaduce River	---	---		
	0105000217	Stonington Coastal	---	---		
	0105000220	West Penobscot Bay Coastal	---	---		

*Exclusion types: [E] = Economic, [M] = Military, and [T] = Tribal
--- considered unoccupied at the time of listing

(iii) Merrymeeting Bay SHRU. Critical habitat area (in sq km), areas excluded under ESA section 4(b)(2) (in sq km), and exclusion type, by HUC 10 watershed:

Sub basin	HUC 10 code	HUC 10 watershed name	Critical habitat		Excluded areas [type]*	
			River, stream and estuary (km)	Lake (sq. km)	River, stream and estuary (km)	Lake (sq. km)
Kennebec River above the Forks sub-basin.	0103000101	South Branch Moose River.				
	0103000102	Moose River (2) above Attean Pond.				
	0103000103	Moose River (3) at Long Pond.				
	0103000104	Brassua Lake.				
	0103000105	Moosehead Lake.				
	0103000106	Kennebec River (2) above The Forks.				
Dead River sub-basin.	0103000201	North Branch Dead River.				
	0103000202	South Branch Dead River.				
	0103000203	Flagstaff Lake.				
	0103000204	Dead River.				
Merrymeeting Bay sub-basin.	0103000305	Sandy River	1,215	15.8	12 [M]	0.2 [M]
	0103000306	Kennebec River at Waterville Dam.	794	14		

Sub basin	HUC 10 code	HUC 10 watershed name	Critical habitat		Excluded areas [type]*	
			River, stream and estuary (km)	Lake (sq. km)	River, stream and estuary (km)	Lake (sq. km)
	0103000312	Kennebec River at Merrymeeting Bay.	621	22		
	0103000310	Messalonskee Stream.				
	0103000301	Kennebec River (4) at Wyman Dam.				
	0103000302	Austin Stream.				
	0103000303	Kennebec River (6).				
	0103000304	Carrabassett River.				
	0103000307	Sebasticook River at Pittsfield.				
	0103000308	Sebasticook River (3) at Burnham.				
	0103000309	Sebasticook River (4) at Winslow.				
	0103000311	Cobbosseecontee Stream.				
Upper Androscoggin sub-basin.	0104000101	Mooselookmeguntic Lake.				
	0104000102	Umbagog Lake Drainage.				
	0104000103	Aziscohos Lake Drainage.				
	0104000104	Magalloway River.				
	0104000105	Clear Stream.				
	0104000106	Middle Androscoggin River.				
Lower Androscoggin sub-basin.	0104000210	Little Androscoggin River	549	10.5	1 [M]	
	0104000201	Gorham-Shelburne Tributaries.				
	0104000202	Androscoggin River at Rumford Point.				
	0104000203	Ellis River.				
	0104000204	Ellis River.				
	0104000205	Androscoggin River above Webb River.				
	0104000206	Androscoggin River at Riley Dam.				
	0104000207	Androscoggin River at Nezinscot River.				
	0104000208	Nezinscot River.				
	0104000209	Androscoggin R. above L. Andro. R.				
Coastal Drainages East of Small Point sub-basin.	0105000301	St. George River	624	32		
	0105000302	Medomak River	318	6		
	0105000305	Sheepscot River	553	19		
	0105000306	Sheepscot Bay	220	2		
	0105000307	Kennebec River Estuary	275	3.5	1 [M]	
	0105000303	Johns Bay.				
	0105000304	Damariscotta River.				

*Exclusion types: [E] = Economic, [M] = Military, and [T] = Tribal—considered unoccupied at the time of listing.

[74 FR 29333, June 19, 2009, as amended at 74 FR 39904, Aug. 10, 2009]

§ 226.218 Critical habitat for the U.S. DPS of smalltooth sawfish (Pristis pectinata).

Critical habitat is designated for the U.S. DPS of smalltooth sawfish as described in this section. The textual descriptions in paragraph (b) of this section are the definitive source for determining the critical habitat boundaries. The maps of the critical habitat units provided in paragraph (d) of this section are for illustrative purposes only.

(a) *Physical and biological features essential to the conservation of the endangered U.S. DPS of smalltooth sawfish.* The physical and biological features essential to the conservation of the U.S. DPS of smalltooth sawfish, which provide nursery area functions are: red mangroves and shallow euryhaline habitats characterized by water depths between the Mean High Water line and 3 ft (0.9 m) measured at Mean Lower

Low Water (MLLW). These features are included in critical habitat within the boundaries of the specific areas in paragraph (b) of this section, except where the features were not physically accessible to sawfish at the time of this designation (September 2009); for example, areas where existing water control structures prevent sawfish passage to habitats beyond the structure.

(b) *Critical habitat boundaries.* Critical habitat includes two areas (units) located along the southwest coast of peninsular Florida. The northern unit is the Charlotte Harbor Estuary Unit and the southern unit is the Ten Thousand Islands/Everglades (TTI/E) Unit. The units encompass portions of Charlotte, Lee, Collier, Monroe, and Miami-Dade Counties.

(1) *Charlotte Harbor Estuary Unit.* The Charlotte Harbor Estuary Unit is located within Charlotte and Lee Counties. The unit includes Charlotte Harbor, Gasparilla Sound, Pine Island Sound, Matlacha Pass, San Carlos Bay, Estero Bay, and the Caloosahatchee River. The unit is defined by the following boundaries. It is bounded by the Peace River at the eastern extent at the mouth of Shell Creek at 81°59.467′ W, and the northern extent of the Charlotte Harbor Preserve State Park at 26°58.933′ N. At the Myakka River the unit is bounded by the SR–776 Bridge and in Gasparilla Sound by the SR–771 Bridge. The COLREGS–72 lines between Gasparilla Island, Lacosta Island, North Captiva Island, Captiva Island, Sanibel Island, and the northern point of Estero Island are used as the coastal boundary for the unit. The southern extent of the unit is the Estero Bay Aquatic Preserve, which is bounded on the south by the Lee/Collier County line. Inland waters are bounded by SR–867 (McGregor Boulevard) from Punta Rassa Road to SR–80 near Fort Myers, then by SR–80 (Palm Beach Boulevard) to Orange River Boulevard, then by Orange River Boulevard to Buckingham Road, then by Buckingham Road to SR–80, and then following SR–80 until it is due south of the Franklin Lock and Dam (S–79), which is the eastern boundary on the Caloosahatchee River and a structural barrier for sawfish access. Additional inland water boundaries north and west of the lock are bounded by North Franklin Lock Road to North River Road, then by North River Road to SR–31, then by SR–31 to SR–78 near Cape Coral, then by SR–78 to SR–765, then by SR–765 to US–41, then by US–41 to US–17 (Marion Avenue) in Punta Gorda, then by US–17 to Riverside Drive, and then by Riverside Drive to the eastern extent of the Peace River at 81°59.467′ W. From the northern extent of the Charlotte Harbor Preserve State Park at 26°58.933′ N, inland waters are bounded westward along that latitude to Harbor View Road, then by Harbor View Road to US–41, then by US–41 to SR–776, then by SR–776 to the Myakka River Bridge.

(2) *Ten Thousand Islands/Everglades Unit (TTI/E).* The TTI/E Unit is located within Collier, Monroe, and Miami-Dade Counties, Florida. The unit includes waters within Everglades National Park (ENP), including Florida Bay, in the vicinity of Everglades City, within the Cape Romano-Ten Thousand Islands Aquatic Preserve (AP), and within the portion of Rookery Bay AP south of SR–92. The boundaries match the portion of Rookery Bay AP south of SR–92, and the Cape Romano-Ten Thousand Islands Aquatic Preserve AP. The unit boundaries also closely match the ENP boundaries with the following two exceptions: the unit boundary connects points 55 and 57 as illustrated in the critical habitat map that follows, which extend beyond the ENP boundary; and the unit boundary is located inside the ENP boundary between points 77 and 2, omitting the northeast portion of the ENP. The boundary of the unit is comprised of the following connected points, listed by point number in the ID field, degrees North latitude, degrees West longitude, and brief description of the boundary.

TABLE 2—LIST OF LATITUDE AND LONGITUDE BOUNDARY POINTS

ID	Latitude	Longitude	Description
1	25.2527	−80.7988	Main Park Road (SR–9336) at Nine Mile Pond.
2	25.2874	−80.5736	Everglades National Park boundary.

TABLE 2—LIST OF LATITUDE AND LONGITUDE BOUNDARY POINTS—Continued

ID	Latitude	Longitude	Description
3	25.2872	−80.4448	Everglades National Park boundary at US–HWY 1.
4	25.2237	−80.4308	Everglades National Park boundary at US–HWY 1.
5	25.1979	−80.4173	Everglades National Park boundary at US–HWY 1.
6	25.1846	−80.3887	Everglades National Park boundary at US–HWY 1.
7	25.1797	−80.3905	Everglades National Park boundary at US–HWY 1.
8	25.1480	−80.4179	Everglades National Park boundary at Intercoastal Waterway (ICW).
9	25.1432	−80.4249	Everglades National Park boundary at ICW.
10	25.1352	−80.4253	Everglades National Park boundary at ICW.
11	25.1309	−80.4226	Everglades National Park boundary at ICW.
12	25.1282	−80.4230	Everglades National Park boundary at ICW.
13	25.1265	−80.4268	Everglades National Park boundary at ICW.
14	25.1282	−80.4432	Everglades National Park boundary at ICW.
15	25.0813	−80.4747	Everglades National Park boundary at ICW.
16	25.0676	−80.4998	Everglades National Park boundary at ICW.
17	25.0582	−80.5218	Everglades National Park boundary at ICW.
18	25.0373	−80.5178	Everglades National Park boundary at ICW.
19	25.0326	−80.5188	Everglades National Park boundary at ICW.
20	25.0168	−80.5487	Everglades National Park boundary at ICW.
21	25.0075	−80.5578	Everglades National Park boundary at ICW.
22	24.9990	−80.5609	Everglades National Park boundary at ICW near Plantation.
23	24.9962	−80.5648	Everglades National Park boundary at ICW.
24	24.9655	−80.6347	Everglades National Park boundary at ICW.
25	24.9430	−80.6585	Everglades National Park boundary at ICW.
26	24.9388	−80.6716	Everglades National Park boundary at ICW.
27	24.9124	−80.7255	Everglades National Park boundary at ICW.
28	24.9006	−80.7348	Everglades National Park boundary at ICW.
29	24.8515	−80.8326	Everglades National Park boundary at COLREG–72.
30	24.8730	−80.8875	Everglades National Park boundary at Arsenic Bank Light.
31	24.9142	−80.9372	Everglades National Park boundary at Sprigger Bank Light.
32	25.0004	−81.0221	Everglades National Park boundary.
33	25.0723	−81.0859	Everglades National Park boundary.
34	25.0868	−81.0858	Everglades National Park boundary.
35	25.1567	−81.1620	Everglades National Park boundary at Middle Cape Sable.
36	25.2262	−81.2044	Everglades National Park boundary.
37	25.3304	−81.1776	Everglades National Park boundary at Little Shark River.
38	25.4379	−81.1940	Everglades National Park boundary.
39	25.5682	−81.2581	Everglades National Park boundary.
40	25.7154	−81.3923	Everglades National Park boundary at Pavillion Key.
41	25.8181	−81.5205	Everglades National Park boundary.
42	25.8326	−81.5205	Everglades National Park boundary at Cape Romano—Ten Thousand Islands Aquatic Preserve.
43	25.8315	−81.7450	Rookery Bay Aquatic Preserve boundary (southwest corner).
44	25.9003	−81.7468	Rookery Bay Aquatic Preserve boundary.
45	25.9030	−81.6907	Rookery Bay Aquatic Preserve boundary.
46	25.9380	−81.6907	Rookery Bay Aquatic Preserve boundary at SR–92.
47	25.9378	−81.6834	Rookery Bay Aquatic Preserve boundary at SR–92.
48	25.9319	−81.6718	Rookery Bay Aquatic Preserve boundary at SR–92.
49	25.9330	−81.6508	Rookery Bay Aquatic Preserve boundary at SR–92.
50	25.9351	−81.6483	Rookery Bay Aquatic Preserve boundary at SR–92.
51	25.9464	−81.6433	Rookery Bay Aquatic Preserve boundary at SR–92.
52	25.9470	−81.6200	Cape Romano—Ten Thousand Islands Aquatic Preserve boundary.
53	25.9615	−81.6206	Cape Romano—Ten Thousand Islands Aquatic Preserve boundary.
54	25.9689	−81.6041	Cape Romano—Ten Thousand Islands Aquatic Preserve boundary.
55	25.9130	−81.4569	Cape Romano—Ten Thousand Islands Aquatic Preserve boundary.
56	25.8916	−81.4082	Everglades National Park boundary west of Everglades City.
57	25.8630	−81.3590	Everglades National Park boundary east of Everglades City.
58	25.8619	−81.2624	Everglades National Park boundary.
59	25.8040	−81.2602	Everglades National Park boundary.
60	25.8040	−81.2126	Everglades National Park boundary.
61	25.7892	−81.2128	Everglades National Park boundary.
62	25.7892	−81.1969	Everglades National Park boundary.
63	25.7743	−81.1966	Everglades National Park boundary.
64	25.7740	−81.1803	Everglades National Park boundary.
65	25.7591	−81.1803	Everglades National Park boundary.
66	25.7592	−81.1641	Everglades National Park boundary.
67	25.7295	−81.1638	Everglades National Park boundary.
68	25.7299	−81.1165	Everglades National Park boundary.
69	25.7153	−81.1164	Everglades National Park boundary.
70	25.7154	−81.1002	Everglades National Park boundary.
71	25.6859	−81.0997	Everglades National Park boundary.
72	25.6862	−81.0836	Everglades National Park boundary.
73	25.6715	−81.0835	Everglades National Park boundary.

TABLE 2—LIST OF LATITUDE AND LONGITUDE BOUNDARY POINTS—Continued

ID	Latitude	Longitude	Description
74	25.6718	−81.0671	Everglades National Park boundary.
75	25.6497	−81.0665	Everglades National Park boundary.
76	25.6501	−81.0507	Everglades National Park boundary.
77	25.6128	−81.0497	Everglades National Park boundary.

(c) *Areas not included in critical habitat*. Critical habitat does not include the following particular areas where they overlap with the areas described in paragraph (b) of this section:

(1) Pursuant to ESA section 3(5)(A)(i), all areas containing existing (already constructed) federally authorized or permitted man-made structures such as channels or canals maintained at depths greater than 3 ft. at MLLW, boat ramps, docks, and marinas deeper than 3 ft. at MLLW.

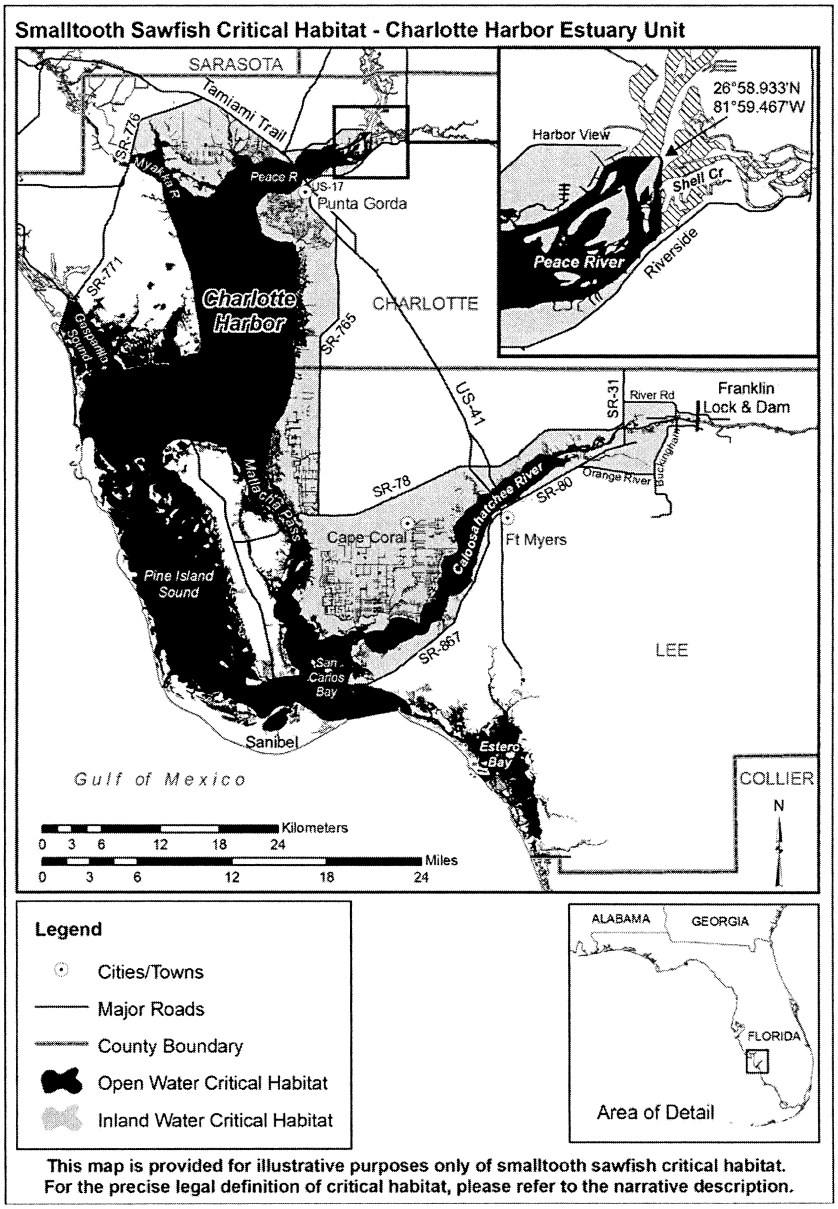
(2) Pursuant to ESA section 3(5)(A)(i), all waters identified as existing (already constructed) federally authorized channels as follows:

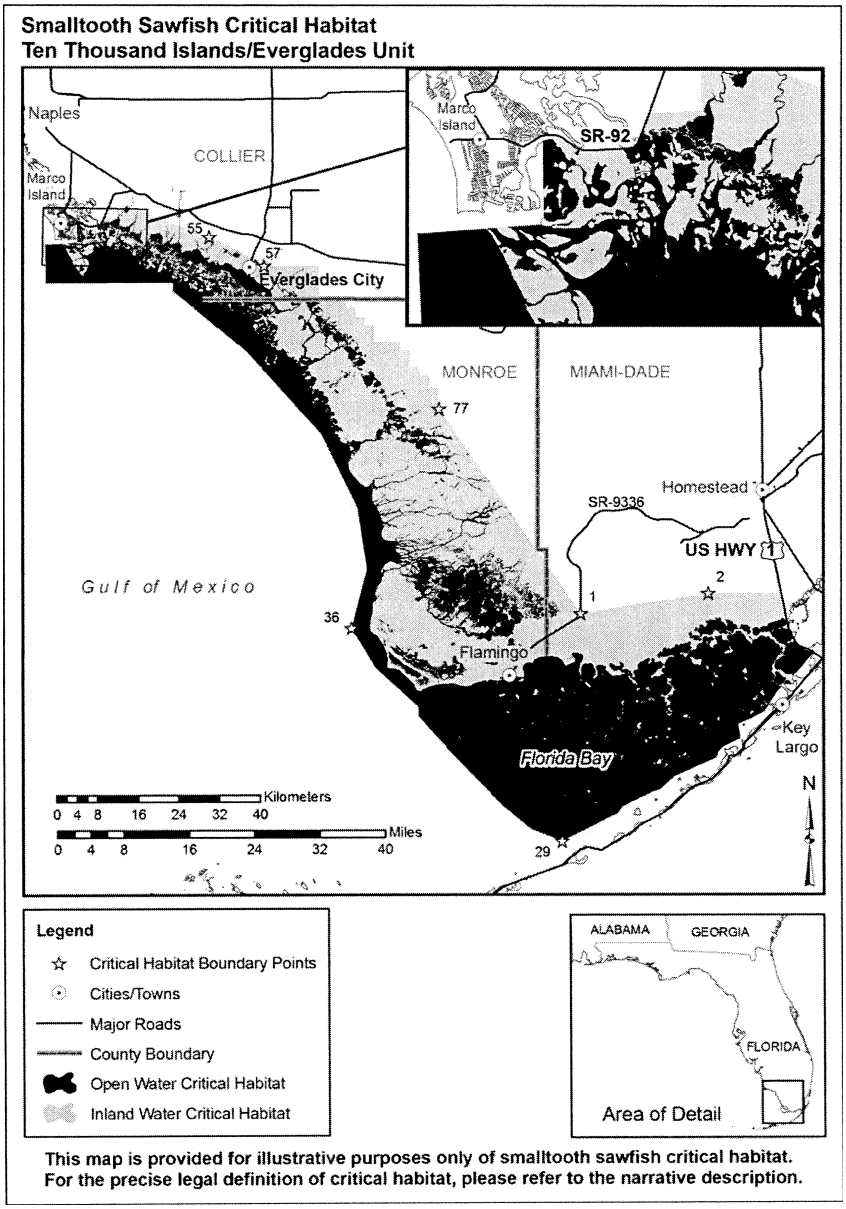
(i) Charlotte Harbor.

(ii) Ft. Myers Beach (Matanzas Pass).

(iii) Portions of the Gulf Intracoastal Waterway in the Caloosahatchee River.

(d) *Maps*. Overview maps of designated critical habitat for the U.S. DPS of smalltooth sawfish follow.


Smalltooth Sawfish Critical Habitat - Charlotte Harbor Estuary Unit
SARASOTA
Tamiami Trail
SR-776
Myakka R
Peace R
US-17
Punta Gorda
SR-771
Gasparilla Sound
Charlotte Harbor
CHARLOTTE
SR-765
US-41
SR-31
River Rd
Franklin Lock & Dam
Caloosahatchee River
SR-80
Orange River
Buckingham
SR-78
Cape Coral
Ft Myers
Matlacha Pass
Pine Island Sound
San Carlos Bay
SR-867
LEE
Sanibel
Estero Bay
Gulf of Mexico
COLLIER
N
Kilometers
0 3 6 12 18 24
Miles
0 3 6 12 18 24
26°58.933'N
81°59.467'W
Harbor View
Shell Cr
Peace River
Riverside
Legend
Cities/Towns
Major Roads
County Boundary
Open Water Critical Habitat
Inland Water Critical Habitat
ALABAMA
GEORGIA
FLORIDA
Area of Detail
This map is provided for illustrative purposes only of smalltooth sawfish critical habitat.
For the precise legal definition of critical habitat, please refer to the narrative description.



[74 FR 45373, Sept. 2, 2009]

§ 226.219 Critical habitat for the Southern Distinct Population Segment of North American Green Sturgeon (Acipenser medirostris).

Critical habitat is designated for the Southern Distinct Population Segment of North American green sturgeon (Southern DPS) as described in this section. The textual descriptions of critical habitat in this section are the definitive source for determining the critical habitat boundaries. The overview maps are provided for general guidance purposes only and not as a definitive source for determining critical habitat boundaries.

(a) *Critical habitat boundaries.* Critical habitat in freshwater riverine areas includes the stream channels and a lateral extent as defined by the ordinary high-water line (33 CFR 329.11). In areas for which the ordinary high-water line has not been defined pursuant to 33 CFR 329.11, the lateral extent will be defined by the bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series. Critical habitat in bays and estuaries includes tidally influenced areas as defined by the elevation of mean higher high water. The boundary between coastal marine areas and bays and estuaries are delineated by the COLREGS lines (33 CFR 80). Critical habitat in coastal marine areas is defined by the zone between the 60 fathom (fm) depth bathymetry line and the line on shore reached by mean lower low water (MLLW), or to the COLREGS lines.

(1) *Coastal marine areas:* All U.S. coastal marine waters out to the 60 fm depth bathymetry line (relative to MLLW) from Monterey Bay, California (36°38′12″ N./121°56′13″ W.) north and east to include waters in the Strait of Juan de Fuca, Washington. The Strait of Juan de Fuca includes all U.S. marine waters: in Clallam County east of a line connecting Cape Flattery (48°23′10″ N./124°43′32″ W.), Tatoosh Island (48°23′30″ N./124°44′12″ W.), and Bonilla Point, British Columbia (48°35′30″ N./124°43′00″ W.); in Jefferson and Island counties north and west of a line connecting Point Wilson (48°08′38″ N./122°45′07″ W.) and Partridge Point (48°13′29″ N./122°46′11″ W.); and in San Juan and Skagit counties south of lines connecting the U.S.-Canada border (48°27′27″ N./123°09′46″ W.) and Pile Point (48°28′56″ N./123°05′33″ W.), Cattle Point (48°27′1″ N./122°57′39″ W.) and Davis Point (48°27′21″ N./122°56′03″ W.), and Fidalgo Head (48°29′34″ N./122°42′07″ W.) and Lopez Island (48°28′43″ N./122°49′08″ W.).

(2) *Freshwater riverine habitats:* Critical habitat is designated to include the following freshwater riverine areas in California:

(i) Sacramento River, California. From the Sacramento I-Street Bridge (40°9′10″ N./122°12′9″ W.) upstream to Keswick Dam (40°36′39″ N./122°26′46″ W.), including the waters encompassed by the Yolo Bypass and the Sutter Bypass areas and the lower American River from the confluence with the mainstem Sacramento River upstream to 38°35′47″ N./121°28′36″ W. (State Route 160 bridge over the American River).

(ii) Lower Feather River, California. From the confluence with the mainstem Sacramento River upstream to Fish Barrier Dam (39°31′13″ N./121°32′51″ W.).

(iii) Lower Yuba River, California. From the confluence with the mainstem Feather River upstream to Daguerre Dam (39°12′32″ N./121°35′53″ W.).

(3) *Sacramento-San Joaquin Delta, California:* Critical habitat is designated to include the Sacramento-San Joaquin Delta including all waterways up to the elevation of mean higher high water within the area defined in California Water Code Section 12220, except for the following excluded areas: Clifton Court and California Aqueduct Intake Channel (all reaches upstream from the Clifton Court Radial Gates at 37°49′47″ N./121°33′25″ W.); Delta-Mendota Canal (upstream from 37°48′58″ N./121°33′30″ W.); Fivemile Slough (all reaches upstream from its confluence with Fourteenmile Slough at 38°00′50″ N./121°22′09″ W.); Indian Slough and Werner Cuts (all reaches between the entrance to Discovery Bay at 37°55′8″ N./121°35′12″ W. and the junction of Werner Cut and Rock Slough at 37°58′14″ N./121°35′41″ W.); Italian Slough (all reaches upstream from 37°51′39″ N./

121°34′53″ W.); Rock Slough (all reaches upstream from the junction with the Old River at 37°58′22″ N./121°34′40″ W.); Sand Mound Slough (all reaches upstream from 37°58′37″ N./121°37′19″ W.); Sacramento Deep Water Ship Channel (upstream from the confluence with Cache Slough at 38°14′13″ N./121°40′23″ W.); Sevenmile Slough (all reaches between Threemile Slough at 38°06′55″ N./121°40′55″ W. and Jackson Slough at 38°06′59″ N./121°37′44″ W.); Snodgrass Slough (all reaches upstream from Lambert Road at 38°18′33″ N./121°30′46″ W.); Tom Paine Slough (all reaches upstream from its confluence with Middle River at 37°47′25″ N./121°25′08″ W.); Trapper Slough (all reaches upstream from 37°53′36″ N./121°29′15″ W.); Unnamed oxbow loop (upstream from the confluence with the San Joaquin River at 37°43′9″ N./121°16′36″ W.); Unnamed oxbow loop (upstream from the confluence with the San Joaquin River at 37°46′9″ N./121°18′6″ W.).

(4) *Coastal bays and estuaries:* Critical habitat is designated to include the following coastal bays and estuaries in California, Oregon, and Washington:

(i) *San Francisco Bay, San Pablo Bay, and Suisun Bay in California.* All tidally influenced areas of San Francisco Bay, San Pablo Bay, and Suisun Bay up to the elevation of mean higher high water, including, but not limited to, areas upstream to the head of tide endpoint in: Adobe Creek (38°12′42″ N./122°36′6″ W.); Alameda Creek (37°36′47″ N./122°4′18″ W.); Arroyo Corte Madera del Presidio (37°53′43″ N./122°31′48″ W.); Black John Slough (38°8′12″ N./122°33′42″ W.); Black John Slough (38°7′59″ N./122°32′54″ W.); Carneros Creek (38°13′52″ N./122°18′49″ W.); Colma Creek (37°39′6″ N./122°25′9″ W.); Coyote Creek (37°52′45″ N./122°31′31″ W.); Coyote Creek (37°27′17″ N./121°55′36″ W.); Coyote Creek, unnamed waterway (37°27′56″ N./121°55′40″ W.); Coyote Creek, unnamed waterway (37°26′23″ N./121°57′29″ W.); Coyote Creek, unnamed waterway (37°27′15″ N./121°56′12″ W.); Coyote Hills Slough (37°34′26″ N./122°3′36″ W.); Deverton Creek (38°13′38″ N./121°53′47″ W.); Gallinas Creek (38°0′50″ N./122°32′24″ W.); Gallinas Creek, South Fork (38°0′4″ N./122°32′9″ W.); Green Valley Creek (38°12′49″ N./122°7′51″ W.); Hastings Slough (38°1′30″ N./122°3′35″ W.); Huichica Creek, unnamed tributary (38°12′36″ N./122°21′35″ W.); Mt Eden Creek (37°37′6″ N./122°7′23″ W.); Mud Slough, unnamed waterway (37°29′48″ N./121°57′14″ W.); Mud Slough, unnamed waterway (37°28′43″ N./121°57′3″ W.); Newark Slough (37°31′36″ N./122°3′24″ W.); Newark Slough, unnamed waterway (37°31′51″ N./122°4′7″ W.); Novato Creek (38°5′50″ N./122°33′52″ W.); Petaluma River (38°14′53″ N./122°38′17″ W.); Petaluma River, unnamed tributary (38°12′58″ N./122°34′23″ W.); Railroad Slough (38°13′30″ N./122°26′28″ W.); Richardson Bay, unnamed tributary (37°54′2″ N./122°31′36″ W.); San Antonio Creek, unnamed tributary (38°9′45″ N./122°34′1″ W.); San Clemente Creek (37°55′12″ N./122°30′25″ W.); San Francisco Bay shoreline (37°40′44″ N./122°10′18″ W.); San Francisquito Creek (37°27′10″ N./122°7′40″ W.); San Pablo Bay shoreline (38°2′44″ N./122°15′44″ W.); San Pablo Creek (37°58′6″ N./122°22′42″ W.); San Rafael Creek (37°58′5″ N./122°31′35″ W.); Seal Slough (37°34′9″ N./122°17′30″ W.); Suisun Marsh (38°2′28″ N./121°57′55″ W.); Suisun Marsh (38°2′50″ N./121°58′39″ W.); Suisun Marsh (38°2′42″ N./121°56′16″ W.); Suisun Marsh (38°2′30″ N./121°55′18″ W.); Suisun Marsh, Grizzly Bay shoreline (38°5′53″ N./122°0′35″ W.); Suisun Marsh, Grizzly Bay shoreline (38°6′49″ N./121°58′54″ W.); Suisun Marsh, Grizzly Bay shoreline (38°8′19″ N./121°59′31″ W.); Suisun Marsh, Grizzly Bay shoreline (38°8′6″ N./121°59′33″ W.); Tolay Creek (38°9′42″ N./122°26′49″ W.); Tolay Creek (38°9′6″ N./122°26′49″ W.); Walnut Creek (38°0′16″ N./122°3′41″ W.); Wildcat Creek (37°57′26″ N./122°22′45″ W.).

(ii) *Humboldt Bay, California.* All tidally influenced areas of Humboldt Bay up to the elevation of mean higher high water, including, but not limited to, areas upstream to the head of tide endpoint in: Elk River (40°43′45″ N./124°11′15″ W.); Elk River (40°45′9″ N./124°10′57″ W.); Elk River (40°45′7″ N./124°10′58″ W.); Eureka Slough (40°48′14″ N./124°7′15″ W.); Eureka Slough (40°48′18″ N./124°8′29″ W.); Eureka Slough (40°48′14″ N./124°8′22″ W.); Eureka Slough (40°48′9″ N./124°8′14″ W.); Freshwater Creek (40°46′43″ N./124°4′48″ W.); Freshwater Slough (40°47′18″ N./124°6′54″ W.); Freshwater Slough (40°47′10″ N./124°6′15″ W.); Freshwater Slough (40°48′3″ N./124°6′53″ W.); Gannon Slough (40°50′48″ N./

124°4′54″ W.); Gannon Slough (40°50′37″ N./124°4′53″ W.); Jacoby Creek (40°50′22″ N./124°4′16″ W.); Jacoby Creek (40°50′25″ N./124°4′56″ W.); Liscom Slough (40°52′35″ N./124°8′14″ W.); Mad River Slough (40°53′14″ N./124°8′9″ W.); Mad River Slough (40°53′59″ N./124°8′1″ W.); Mad River Slough (40°54′1″ N./124°8′9″ W.); McDaniel Slough (40°51′54″ N./124°8′52″ W.); McDaniel Slough (40°51′39″ N./124°6′2″ W.); Rocky Gulch/Washington Gulch (40°49′52″ N./124°4′58″ W.); Salmon Creek (40°41′12″ N./124°13′10″ W.); Unnamed tributary (40°42′36″ N./124°15′45″ W.); White Slough (40°41′56″ N./124°12′18″ W.).

(iii) *Coos Bay, Oregon.* All tidally influenced areas of Coos Bay up to the elevation of mean higher high water, including, but not limited to, areas upstream to the head of tide endpoint in: Boone Creek (43°16′31″ N./124°9′26″ W.); Catching Creek (43°16′31″ N./124°9′11″ W.); Coalbank Slough (43°21′10″ N./124°13′17″ W.); Coos River, South Fork (43°22′32″ N./123°59′34″ W.); Cox Canyon Creek (43°16′13″ N./124°18′52″ W.); Daniels Creek (43°21′10″ N./124°5′29″ W.); Davis Creek (43°17′29″ N./124°14′30″ W.); Day Creek (43°18′59″ N./124°18′24″ W.); Delmar Creek (43°15′24″ N./124°13′52″ W.); Deton Creek (43°24′15″ N./124°3′53″ W.); Elliot Creek (43°17′45″ N./124°17′45″ W.); Goat Creek (43°15′42″ N./124°12′58″ W.); Haynes Inlet (43°27′56″ N./124°11′22″ W.); Hayward Creek (43°19′7″ N./124°19′59″ W.); Joe Ney Slough (43°20′12″ N./124°17′39″ W.); John B Creek (43°16′59″ N./124°18′27″ W.); Kentuck Slough (43°25′19″ N./124°11′19″ W.); Larson Slough (43°27′43″ N./124°11′38″ W.); Lillian Creek (43°21′41″ N./124°8′41″ W.); Mart Davis Creek (43°22′58″ N./124°5′38″ W.); Matson Creek (43°18′27″ N./124°8′16″ W.); Millicoma River, East Fork (43°25′50″ N./124°1′2″ W.); Millicoma River, West Fork (43°25′48″ N./124°2′50″ W.); Noble Creek (43°15′16″ N./124°12′54″ W.); North Slough (43°29′26″ N./124°13′14″ W.); Pony Creek (43°24′6″ N./124°13′55″ W.); Seelander Creek (43°17′15″ N./124°8′41″ W.); Shinglehouse Slough (43°19′4″ N./124°13′14″ W.); Stock Slough (43°19′58″ N./124°8′22″ W.); Talbot Creek (43°17′1″ N./124°17′49″ W.); Theodore Johnson Creek (43°16′16″ N./124°19′22″ W.); Unnamed Creek (43°17′24″ N./124°17′56″ W.); Unnamed Creek (43°18′27″ N./124°7′55″ W.); Unnamed Creek (43°21′12″ N./124°9′17″ W.); Vogel Creek (43°22′10″ N./124°8′49″ W.); Wasson Creek (43°16′3″ N./124°19′23″ W.); Willanch Slough (43°24′5″ N./124°11′27″ W.); Wilson Creek (43°16′51″ N./124°9′2″ W.); Winchester Creek (43°15′49″ N./124°19′10″ W.).

(iv) *Winchester Bay, Oregon.* All tidally influenced areas of Winchester Bay up to the elevation of mean higher high water, including, but not limited to, areas upstream to the head of tide endpoint in: Brainard Creek (43°44′46″ N./124°1′39″ W.); Butler Creek (43°42′50″ N./124°3′0″ W.); Eslick Creek (43°47′46″ N./123°58′40″ W.); Frantz Creek (43°44′50″ N./124°5′25″ W.); Hudson Slough (43°44′56″ N./124°4′43″ W.); Joyce Creek (43°45′32″ N./124°1′49″ W.); Noel Creek (43°46′21″ N./124°0′6″ W.); Oar Creek (43°40′26″ N./124°3′41″ W.); Otter Creek (43°43′28″ N./124°0′4″ W.); Providence Creek (43°43′13″ N./124°7′44″ W.); Scholfield Creek (43°40′36″ N./124°5′38″ W.); Silver Creek (43°40′37″ N./124°9′21″ W.); Smith River (43°47′48″ N./123°53′3″ W.); Smith River, North Fork (43°48′17″ N./123°55′59″ W.); Umpqua River (43°40′3″ N./123°48′32″ W.); Unnamed Creek (43°40′6″ N./124°10′44″ W.); Unnamed Creek (43°40′14″ N./124°9′26″ W.); Winchester Creek (43°40′20″ N./124°8′49″ W.).

(v) *Yaquina Bay, Oregon.* All tidally influenced areas of Yaquina Bay up to the elevation of mean higher high water, including, but not limited to, areas upstream to the head of tide endpoint in: Babcock Creek (44°35′33″ N./123°55′42″ W.); Big Elk Creek (44°35′23″ N./123°50′43″ W.); Boone Slough (44°35′5″ N./123°57′50″ W.); Depot Creek (44°38′30″ N./123°56′54″ W.); Flesher Slough (44°34′0″ N./123°58′53″ W.); Johnson Slough (44°34′60″ N./123°59′10″ W.); King Slough (44°35′35″ N./124°1′55″ W.); McCaffery Slough (44°33′56″ N./124°1′10″ W.); Mill Creek (44°35′7″ N./123°53′57″ W.); Montgomery Creek (44°35′8″ N./123°56′18″ W.); Nute Slough (44°35′19″ N./123°57′30″ W.); Olalla Creek (44°36′48″ N./123°55′30″ W.); Parker Slough (44°35′21″ N./124°0′50″ W.); Poole Slough (44°33′27″ N./123°58′46″ W.); Yaquina River (44°39′4″ N./123°51′26″ W.).

(vi) *Nehalem Bay, Oregon.* All tidally influenced areas of Yaquina Bay up to the elevation of mean higher high water, including, but not limited to, areas upstream to the head of tide endpoint in: Alder Creek (45°42′52″ N./123°54′12″ W.); Anderson Creek (45°44′25″

N./123°52′26″ W.); Coal Creek (45°44′49″ N./123°51′57″ W.); Foley Creek (45°41′48″ N./123°50′53″ W.); Gallagher Slough (45°42′4″ N./123°52′50″ W.); Messhouse Creek (45°40′0″ N./123°55′32″ W.); Nehalem River (45°41′48″ N./123°49′31″ W.); Nehalem River, North Fork (45°47′11″ N./123°49′19″ W.); Unnamed Creek (45°44′35″ N./123°51′53″ W.); Unnamed Creek (45°44′53″ N./123°51′12″ W.); Unnamed Creek (45°45′6″ N./123°50′56″ W.); Unnamed Creek (45°44′11″ N./123°51′40″ W.); Unnamed Creek (45°44′7″ N./123°51′40″ W.); Unnamed Creek (45°43′44″ N./123°52′35″ W.).

(vii) *Lower Columbia River estuary, Washington and Oregon.* All tidally influenced areas of the lower Columbia River estuary from the mouth upstream to river kilometer 74, up to the elevation of mean higher high water, including, but not limited to, areas upstream to the head of tide endpoint in: Bear Creek (46°10′0″ N./123°40′6″ W.); Big Creek (46°10′33″ N./123°35′30″ W.); Blind Slough/Gnat Creek (46°10′47″ N./123°31′45″ W.); Chinook River (46°18′14″ N./123°58′1″ W.); Deep Creek (46°19′3″ N./123°42′23″ W.); Driscol Slough (46°8′35″ N./123°23′44″ W.); Ferris Creek (46°10′5″ N./123°39′8″ W.); Grays River (46°21′34″ N./123°35′5″ W.); Hunt Creek (46°11′46″ N./123°26′30″ W.); Jim Crow Creek (46°16′19″ N./123°33′26″ W.); John Day River (46°9′13″ N./123°43′16″ W.); John Day River (46°9′10″ N./123°43′27″ W.); Klaskanine River (46°5′33″ N./123°44′52″ W.); Lewis and Clark River (46°5′52″ N./123°51′4″ W.); Marys Creek (46°10′12″ N./123°40′17″ W.); Seal Slough (46°19′20″ N./123°40′15″ W.); Sisson Creek (46°18′25″ N./123°43′46″ W.); Skamokawa Creek (46°19′11″ N./123°27′20″ W.); Skipanon River (46°9′31″ N./123°55′34″ W.); Wallacut River (46°19′28″ N./123°59′11″ W.); Wallooskee River (46°7′7″ N./123°46′25″ W.); Westport Slough/Clatskanie River (46°8′4″ N./123°13′31″ W.); Youngs River (46°4′11″ N./123°47′9″ W.).

(viii) *Willapa Bay, Washington.* All tidally influenced areas of Willapa Bay up to the elevation of mean higher high water, including, but not limited to, areas upstream to the head of tide endpoint in: Bear River (46°20′5″ N./123°56′8″ W.); Bone River (46°39′29″ N./123°54′2″ W.); Cedar River (46°45′37″ N./124°0′3″ W.); Naselle River (46°22′32″ N./123°49′19″ W.); Middle Nemah River (46°28′42″ N./123°51′13″ W.); North Nemah River (46°30′56″ N./123°52′27″ W.); South Nemah River (46°28′37″ N./123°53′15″ W.); Niawiakum River (46°36′39″ N./123°53′34″ W.); North River (46°48′51″ N./123°50′54″ W.); Palix River, Middle Fork (46°35′46″ N./123°52′29″ W.); Palix River, North Fork (46°36′10″ N./123°52′26″ W.); Palix River, South Fork (46°34′30″ N./123°53′42″ W.); Stuart Slough (46°41′9″ N./123°52′16″ W.); Willapa River (46°38′50″ N./123°38′50″ W.).

(ix) *Grays Harbor, Washington.* All tidally influenced areas of Grays Harbor up to the elevation of mean higher high water, including, but not limited to, areas upstream to the head of tide endpoint in: Andrews Creek (46°49′23″ N./124°1′23″ W.); Beaver Creek (46°54′20″ N./123°58′53″ W.); Campbell Creek (46°56′9″ N./123°53′12″ W.); Campbell Slough (47°2′45″ N./124°3′40″ W.); Chapin Creek (46°56′18″ N./123°52′30″ W.); Charley Creek (46°56′55″ N./123°49′53″ W.); Chehalis River (46°58′16″ N./123°35′38″ W.); Chenois Creek (47°2′36″ N./124°0′54″ W.); Elk River (46°50′8″ N./123°59′8″ W.); Gillis Slough (47°2′34″ N./124°2′29″ W.); Grass Creek (47°1′41″ N./124°0′40″ W.); Hoquiam River (47°3′3″ N./123°55′34″ W.); Hoquiam River, East Fork (47°3′7″ N./123°51′25″ W.); Humptulips River (47°5′42″ N./124°3′34″ W.); Indian Creek (46°55′55″ N./123°53′47″ W.); Jessie Slough (47°3′23″ N./124°3′0″ W.); Johns River (46°52′28″ N./123°57′2″ W.); Newskah Creek (46°56′26″ N./123°50′58″ W.); O'Leary Creek (46°54′51″ N./123°57′24″ W.); Stafford Creek (46°55′51″ N./123°54′28″ W.); Wishkah River (47°2′39″ N./123°47′20″ W.); Wynoochee River (46°58′19″ N./123°36′57″ W.).

(b) *Primary constituent elements.* The primary constituent elements essential for the conservation of the Southern DPS of green sturgeon are:

(1) *For freshwater riverine systems:*

(i) *Food resources.* Abundant prey items for larval, juvenile, subadult, and adult life stages.

(ii) *Substrate type or size (i.e., structural features of substrates).* Substrates suitable for egg deposition and development (*e.g.*, bedrock sills and shelves, cobble and gravel, or hard clean sand, with interstices or irregular surfaces to ''collect'' eggs and provide protection from predators, and free of excessive

silt and debris that could smother eggs during incubation), larval development (*e.g.*, substrates with interstices or voids providing refuge from predators and from high flow conditions), and subadults and adults (*e.g.*, substrates for holding and spawning).

(iii) *Water flow*. A flow regime (*i.e.*, the magnitude, frequency, duration, seasonality, and rate-of-change of fresh water discharge over time) necessary for normal behavior, growth, and survival of all life stages.

(iv) *Water quality*. Water quality, including temperature, salinity, oxygen content, and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages.

(v) *Migratory corridor*. A migratory pathway necessary for the safe and timely passage of Southern DPS fish within riverine habitats and between riverine and estuarine habitats (*e.g.*, an unobstructed river or dammed river that still allows for safe and timely passage).

(vi) *Depth*. Deep (≥5 m) holding pools for both upstream and downstream holding of adult or subadult fish, with adequate water quality and flow to maintain the physiological needs of the holding adult or subadult fish.

(vii) *Sediment quality*. Sediment quality (*i.e.*, chemical characteristics) necessary for normal behavior, growth, and viability of all life stages.

(2) *For estuarine habitats:*

(i) *Food resources*. Abundant prey items within estuarine habitats and substrates for juvenile, subadult, and adult life stages.

(ii) *Water flow*. Within bays and estuaries adjacent to the Sacramento River (*i.e.*, the Sacramento-San Joaquin Delta and the Suisun, San Pablo, and San Francisco bays), sufficient flow into the bay and estuary to allow adults to successfully orient to the incoming flow and migrate upstream to spawning grounds.

(iii) *Water quality*. Water quality, including temperature, salinity, oxygen content, and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages.

(iv) *Migratory corridor*. A migratory pathway necessary for the safe and timely passage of Southern DPS fish within estuarine habitats and between estuarine and riverine or marine habitats.

(v) *Depth*. A diversity of depths necessary for shelter, foraging, and migration of juvenile, subadult, and adult life stages.

(vi) *Sediment quality*. Sediment quality (*i.e.*, chemical characteristics) necessary for normal behavior, growth, and viability of all life stages.

(3) *For nearshore coastal marine areas:*

(i) *Migratory corridor*. A migratory pathway necessary for the safe and timely passage of Southern DPS fish within marine and between estuarine and marine habitats.

(ii) *Water quality*. Nearshore marine waters with adequate dissolved oxygen levels and acceptably low levels of contaminants (*e.g.*, pesticides, organochlorines, elevated levels of heavy metals) that may disrupt the normal behavior, growth, and viability of subadult and adult green sturgeon.

(iii) *Food resources*. Abundant prey items for subadults and adults, which may include benthic invertebrates and fishes.

(c) *Sites owned or controlled by the Department of Defense*. Critical habitat does not include the following areas owned or controlled by the Department of Defense, or designated for its use, in the States of California, Oregon, and Washington:

(1) Mare Island U.S. Army Reserve Center, San Pablo Bay, CA;

(2) Strait of Juan de Fuca naval air-to-surface weapon range, restricted area, WA;

(3) Strait of Juan de Fuca and Whidbey Island naval restricted area, WA;

(4) Admiralty Inlet naval restricted area, Strait of Juan de Fuca, WA; and

(5) Navy 3 operating area, Strait of Juan de Fuca, WA.

(d) *Indian lands*. Critical habitat does not include any Indian lands of the following Federally-recognized Tribes in the States of California, Oregon, and Washington:

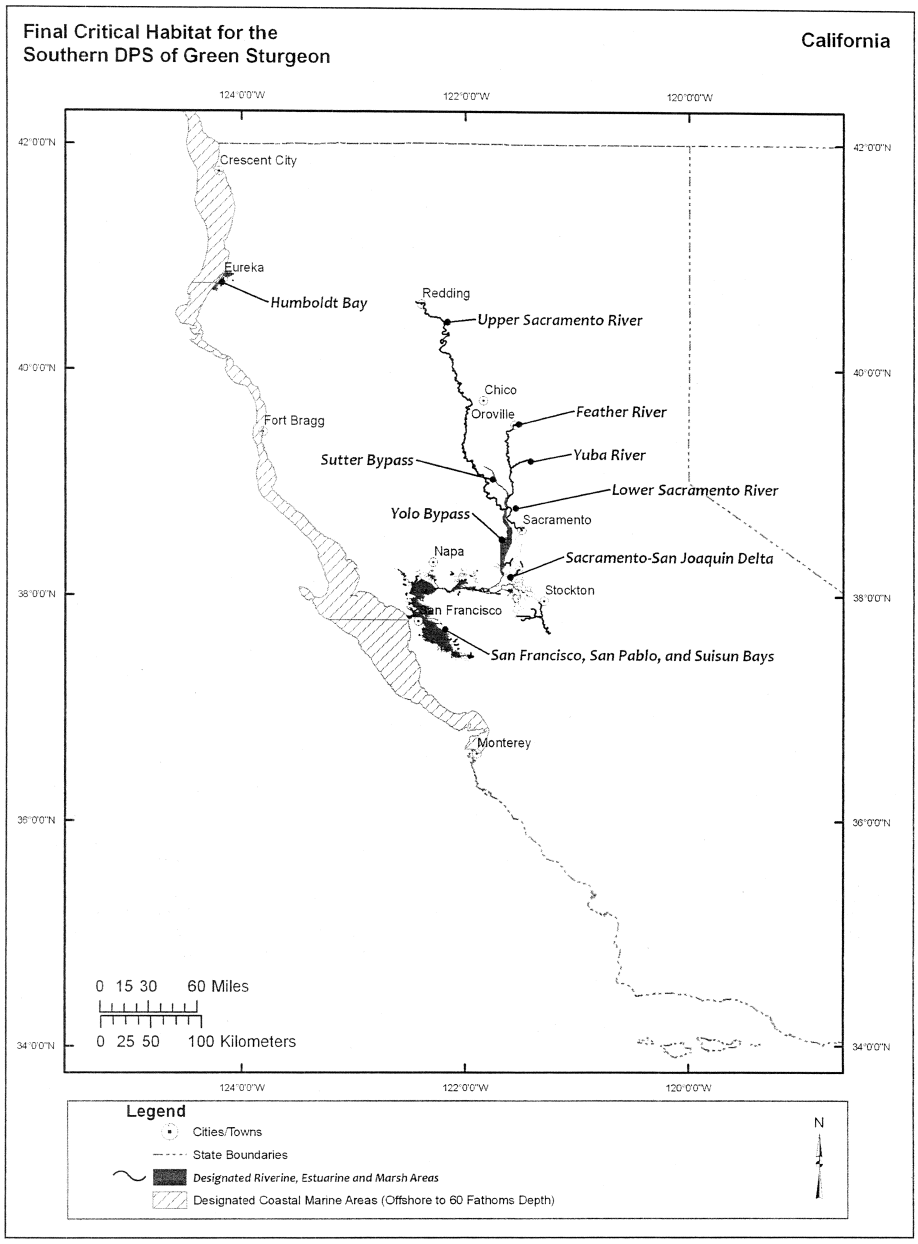
(1) Cachil DeHe Band of Wintun Indians of the Colusa Indian Community, California;

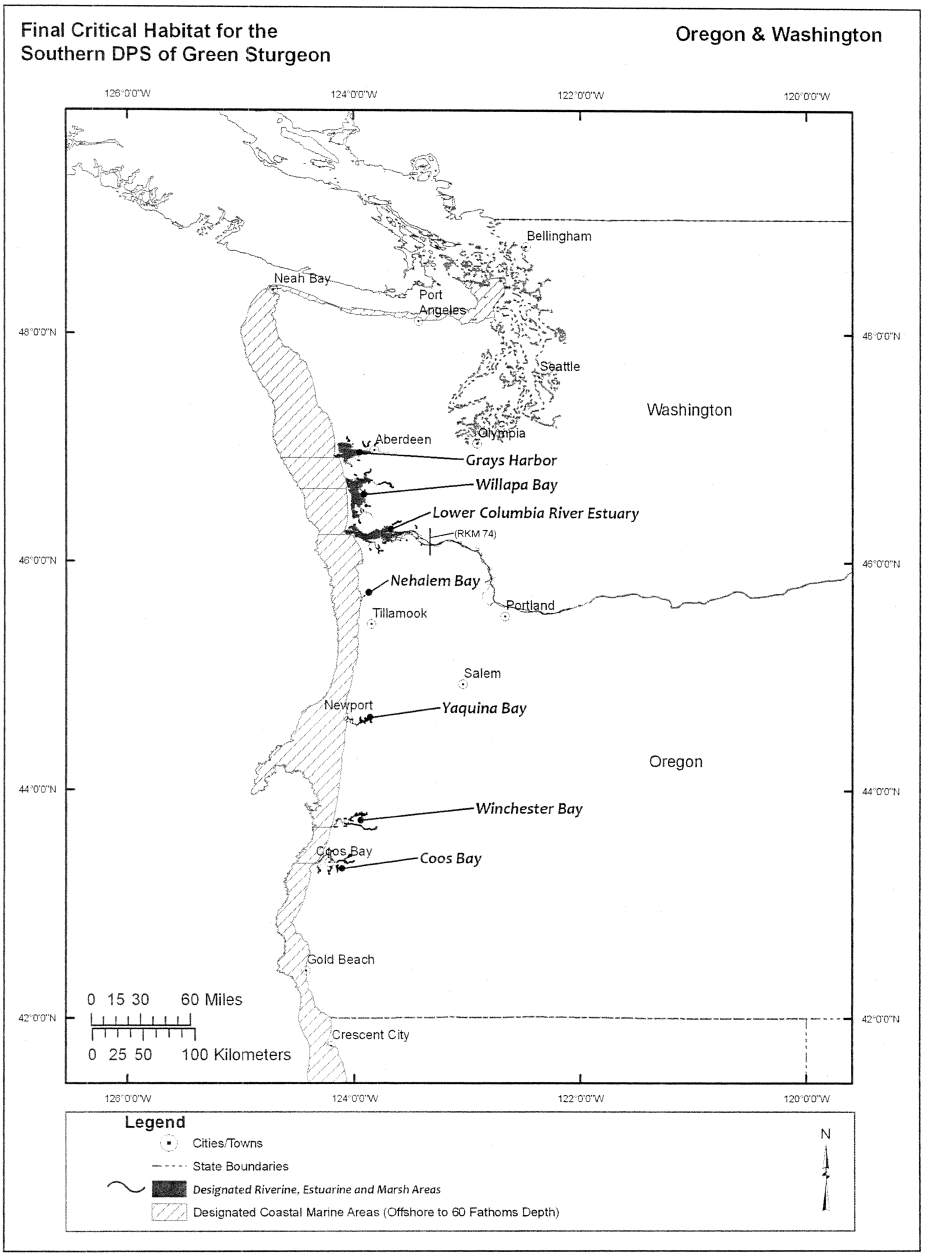
(2) Cher-Ae Heights Trinidad Rancheria, California;

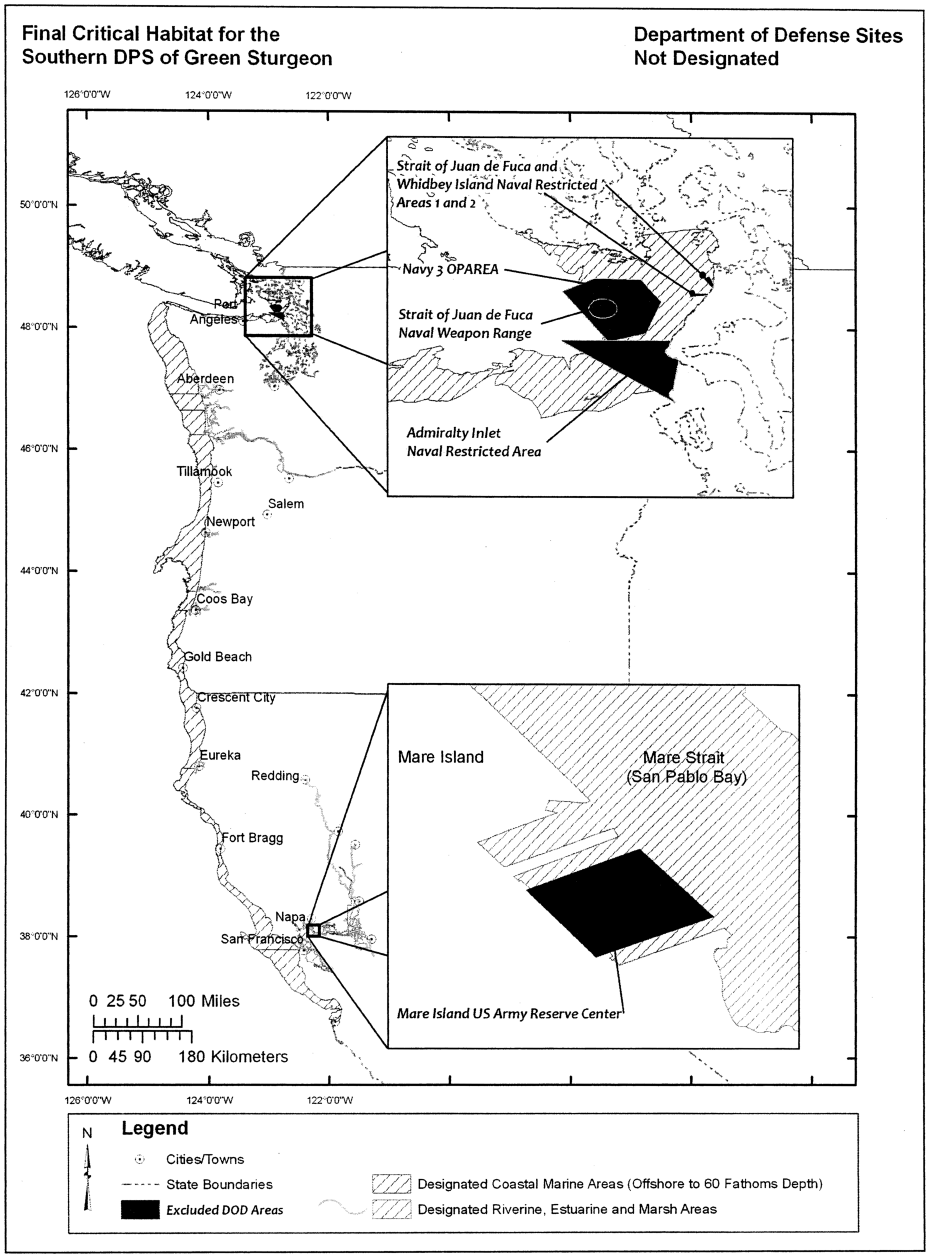
(3) Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, Oregon;

(4) Coquille Indian Tribe, Oregon;
(5) Hoh Tribe, Washington;
(6) Jamestown S'Klallam Tribe, Washington;
(7) Lower Elwha Tribe, Washington;
(8) Makah Tribe, Washington;
(9) Quileute Tribe, Washington;
(10) Quinault Tribe, Washington;
(11) Shoalwater Bay Tribe, Washington;
(12) Wiyot Tribe, California; and
(13) Yurok Tribe, California.

(e) Overview maps of final critical habitat for the Southern DPS of green sturgeon follow:


Final Critical Habitat for the
Southern DPS of Green Sturgeon
California
124°0'0"W
122°0'0"W
120°0'0"W
42°0'0"N
40°0'0"N
38°0'0"N
36°0'0"N
34°0'0"N
Crescent City
Eureka
Humboldt Bay
Redding
Upper Sacramento River
Chico
Oroville
Feather River
Fort Bragg
Sutter Bypass
Yuba River
Lower Sacramento River
Yolo Bypass
Sacramento
Napa
Sacramento-San Joaquin Delta
Stockton
San Francisco
San Francisco, San Pablo, and Suisun Bays
Monterey
0 15 30 60 Miles
0 25 50 100 Kilometers
Legend
Cities/Towns
State Boundaries
Designated Riverine, Estuarine and Marsh Areas
Designated Coastal Marine Areas (Offshore to 60 Fathoms Depth)
N


Final Critical Habitat for the
Southern DPS of Green Sturgeon
Oregon & Washington
126°0'0"W
124°0'0"W
122°0'0"W
120°0'0"W
48°0'0"N
46°0'0"N
44°0'0"N
42°0'0"N
Bellingham
Neah Bay
Port
Angeles
Seattle
Washington
Olympia
Aberdeen
Grays Harbor
Willapa Bay
Lower Columbia River Estuary
(RKM 74)
Nehalem Bay
Portland
Tillamook
Salem
Newport
Yaquina Bay
Oregon
Winchester Bay
Coos Bay
Coos Bay
Gold Beach
Crescent City
0 15 30 60 Miles
0 25 50 100 Kilometers
Legend
Cities/Towns
State Boundaries
Designated Riverine, Estuarine and Marsh Areas
Designated Coastal Marine Areas (Offshore to 60 Fathoms Depth)
N


Final Critical Habitat for the
Southern DPS of Green Sturgeon
Department of Defense Sites
Not Designated
126°0'0"W
124°0'0"W
122°0'0"W
50°0'0"N
48°0'0"N
46°0'0"N
44°0'0"N
42°0'0"N
40°0'0"N
38°0'0"N
36°0'0"N
Strait of Juan de Fuca and
Whidbey Island Naval Restricted
Areas 1 and 2
Navy 3 OPAREA
Strait of Juan de Fuca
Naval Weapon Range
Admiralty Inlet
Naval Restricted Area
Port
Angeles
Aberdeen
Tillamook
Salem
Newport
Coos Bay
Gold Beach
Crescent City
Eureka
Redding
Fort Bragg
Napa
San Francisco
Mare Island
Mare Strait
(San Pablo Bay)
Mare Island US Army Reserve Center
0 25 50 100 Miles
0 45 90 180 Kilometers
N
Legend
Cities/Towns
State Boundaries
Excluded DOD Areas
Designated Coastal Marine Areas (Offshore to 60 Fathoms Depth)
Designated Riverine, Estuarine and Marsh Areas

[74 FR 52345, Oct. 9, 2009]

§ 226.220 Critical habitat for the Cook Inlet beluga whale (Delphinapterus leucas).

Critical habitat is designated in Cook Inlet, Alaska, for the Cook Inlet beluga whale as described in paragraphs (a) and (b) of this section. The textual description of this critical habitat is the definitive source for determining the critical habitat boundaries. General location maps are provided for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries. Critical habitat does not include manmade structures and the land on which they rest within the designated boundaries described in paragraphs (a)(1) and (2) of this section that were in existence as of May 11, 2011.

(a) *Critical Habitat Boundaries.* Critical habitat includes two specific marine areas in Cook Inlet, Alaska. These areas are bounded on the upland by Mean High Water (MHW) datum, except for the lower reaches of four tributary rivers. Critical habitat shall not extend into the tidally-influenced channels of tributary waters of Cook Inlet, with the exceptions noted in the descriptions of each critical habitat area.

(1) *Area 1.* All marine waters of Cook Inlet north of a line from the mouth of Threemile Creek (61°08.5′ N., 151°04.4′ W.) connecting to Point Possession (61°02.1′ N., 150°24.3′ W.), including waters of the Susitna River south of 61°20.0′ N., the Little Susitna River south of 61°18.0′ N., and the Chickaloon River north of 60°53.0′ N.

(2) *Area 2.* All marine waters of Cook Inlet south of a line from the mouth of Threemile Creek (61°08.5′ N., 151°04.4′ W.) to Point Possession (61°02.1′ N., 150°24.3′ W.) and north of 60°15.0′ N., including waters within 2 nautical miles seaward of MHW along the western shoreline of Cook Inlet between 60°15.0′ N. and the mouth of the Douglas River (59°04.0′ N., 153°46.0′ W.); all waters of Kachemak Bay east of 151°40.0′ W.; and waters of the Kenai River below the Warren Ames bridge at Kenai, Alaska.

(b) A map of the designated critical habitat for Cook Inlet beluga whale follows (Figure 1).

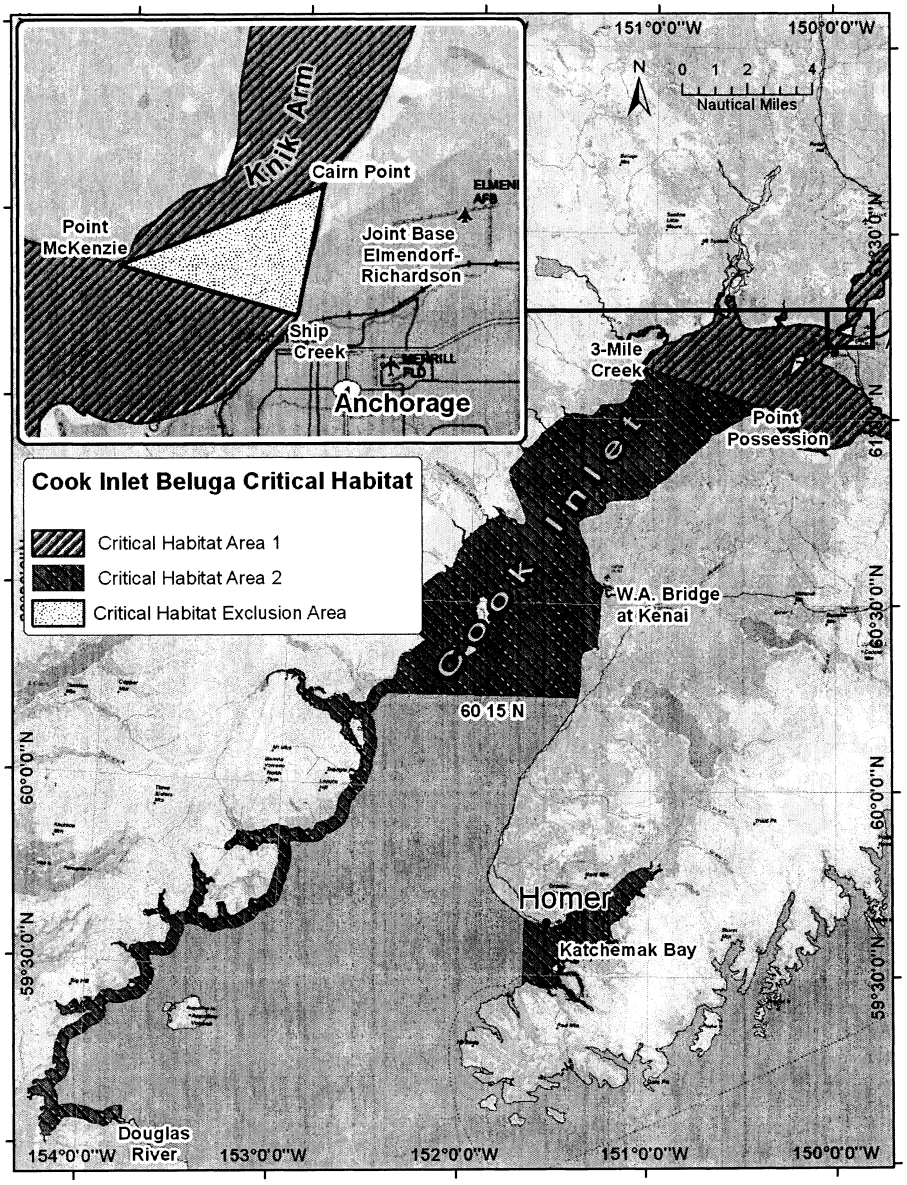


Figure 1. Cook Inlet beluga whale critical habitat.

(c) *Primary constituent elements.* The primary constituent elements essential to the conservation of the Cook Inlet beluga whale are:

(1) Intertidal and subtidal waters of Cook Inlet with depths <30 feet (MLLW) and within 5 miles of high and medium flow anadromous fish streams.

(2) Primary prey species consisting of four species of Pacific salmon (Chinook, sockeye, chum, and coho), Pacific eulachon, Pacific cod, walleye pollock, saffron cod, and yellowfin sole.

(3) Waters free of toxins or other agents of a type and amount harmful to Cook Inlet beluga whales.

(4) Unrestricted passage within or between the critical habitat areas.

(5) Waters with in-water noise below levels resulting in the abandonment of critical habitat areas by Cook Inlet beluga whales.

(d) *Sites owned or controlled by the Department of Defense, or of interest to national security.* Critical habitat does not include the following areas owned by the Department of Defense or for which the Secretary has determined to exclude for reasons of national security:

(1) All property and overlying waters of Joint Base Elmendorf-Richardson between Mean Higher High Water and Mean High Water; and

(2) All waters off the Port of Anchorage which are east of a line connecting Cairn Point (61°15.4′ N., 149°52.8′ W.) and Point MacKenzie (61°14.3′ N., 149°59.2′ W.) and north of a line connecting Point MacKenzie and the north bank of the mouth of Ship Creek (61°13.6′ N., 149°53.8′ W.).

[76 FR 20212, Apr. 11, 2011]

§ 226.221 Critical habitat for black abalone (Haliotis cracherodii).

Critical habitat is designated for black abalone as described in this section. The textual descriptions of critical habitat in this section are the definitive source for determining the critical habitat boundaries. The overview maps are provided for general guidance purposes only and not as a definitive source for determining critical habitat boundaries.

(a) *Critical habitat boundaries*—(1) *Coastal Marine Areas:* The critical habitat designation for black abalone within each coastal marine area below along the California coast is defined by four latitude and longitude coordinates that set the northern and southern boundaries, as well as by bathymetric specifications that set the shoreward and seaward boundaries. The northern boundary is the straight line between the northern coordinates and the southern boundary is the straight line between the southern coordinates, extending out as far as the seaward boundary, defined by the −6 m depth bathymetry line (relative to mean lower low water (MLLW)), and the shoreward boundary, defined by the line that marks mean higher high water (MHHW). Critical habitat only includes rocky intertidal and subtidal habitats within these areas from the MHHW line to a depth of −6 m relative to MLLW, as well as the marine waters above the rocky habitats.

(i) *Del Mar Landing Ecological Reserve in Sonoma County to Point Bonita in Marin County, California:* northern coordinates: 38°44′25.04″ N, 123°30′52.067″ W and 38°44′25.948″ N, 123°30′19.175″ W; southern coordinates: 37°49′3.404″ N, 122°31′56.339″ W and 37°49′3.082″ N, 122°31′50.549″ W.

(ii) *South of San Francisco Bay in San Francisco County to Natural Bridges State Beach in Santa Cruz County, California:* northern coordinates: 37°47′17.078″ N, 122°31′13.59″ W and 37°47′17.524″ N, 122°30′21.458″ W; southern coordinates: 36°57′11.547″ N, 121°58′36.276″ W and 36°57′15.208″ N, 121°58′31.424″ W.

(iii) *Pacific Grove in Monterey County to Cayucos in San Luis Obispo County, California:* northern coordinates: 36°36′41.16″ N, 121°53′30.453″ W and 36°36′41.616″ N, 121°53′47.763″ W; southern coordinates: 35°26′22.887″ N, 120°54′6.264″ W and 35°26′23.708″ N, 120°53′39.427″ W.

(iv) *Montaña de Oro State Park in San Luis Obispo County, California to just south of Government Point in Santa Barbara County, California:* northern coordinates: 35°17′15.72″ N, 120°53′30.537″ W and 35°17′15.965″ N, 120°52′59.583″ W; southern coordinates: 34°27′12.95″ N, 120°22′10.341″ W and 34°27′25.11″ N, 120°22′3.731″ W.

(v) *Palos Verdes Peninsula extending from the Palos Verdes/Torrance border to Los Angeles Harbor in southwestern Los Angeles County, California:* northern coordinates: 33°48′22.604″ N, 118°24′3.534″ W and 33°48′22.268″ N, 118°23′35.504″ W; southern coordinates: 33°42′10.303″ N, 118°16′50.17″ W and 33°42′25.816″ N, 118°16′41.059″ W.

(2) *Coastal Offshore Islands:* The black abalone critical habitat areas surrounding the coastal offshore islands listed below are defined by a seaward

boundary that extends offshore to the −6m depth bathymetry line (relative to MLLW), and a shoreward boundary that is the line marking MHHW. Critical habitat only includes rocky intertidal and subtidal habitats from MHHW to a depth of −6 m relative to MLLW, including the marine waters above the rocky substrate.

(i) *Farallon Islands, San Francisco County, California.*

(ii)*Año Nuevo Island, San Mateo County, California.*

(iii) *San Miguel Island, Santa Barbara County, California.*

(iv) *Santa Rosa Island, Santa Barbara County, California.*

(v) *Santa Cruz Island, Santa Barbara County, California.*

(vi) *Anacapa Island, Ventura County, California.*

(vii) *Santa Barbara Island, Santa Barbara County, California.*

(viii) *Santa Catalina Island, Los Angeles County, California.*

(b) *Primary constituent elements.* The primary constituent elements essential for the conservation of the black abalone are:

(1) *Rocky substrate.* Suitable rocky substrate includes rocky benches formed from consolidated rock of various geological origins (e.g., igneous, metamorphic, and sedimentary) that contain channels with macro- and micro-crevices or large boulders (greater than or equal to 1 m in diameter) and occur from MHHW to a depth of −6 m relative to MLLW. All types of relief (high, medium and low; 0.5 to greater than 2 m vertical relief) support black abalone.

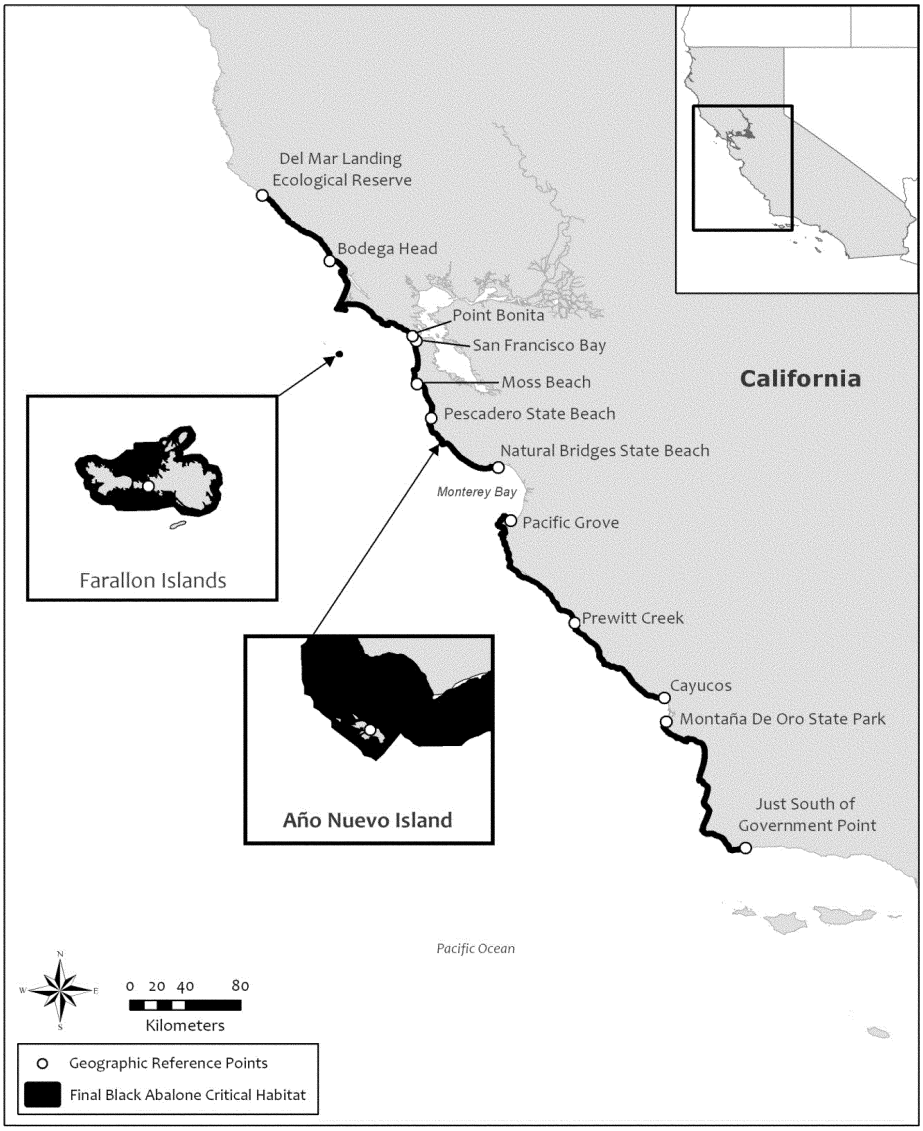
(2) *Food resources.* Abundant food resources including bacterial and diatom films, crustose coralline algae, and a source of detrital macroalgae, are required for growth and survival of all stages of black abalone. The primary macroalgae consumed by juvenile and adult black abalone are giant kelp (*Macrocystis pyrifera)* and feather boa kelp (*Egregia menziesii)* in southern California (*i.e.*, south of Point Conception) habitats, and bull kelp (*Nereocystis leutkeana)* in central and northern California habitats (*i.e.*, north of Santa Cruz), although *Macrocystis* and *Egregia* may be more prominent in the habitat and diet in areas south of Santa Cruz. Southern sea palm (*Eisenia arborea)*, elk kelp (*Pelagophycus porra)*, stalked kelp (*Pterygophora californica)*, and other brown kelps (*Laminaria sp.*) may also be consumed by black abalone.

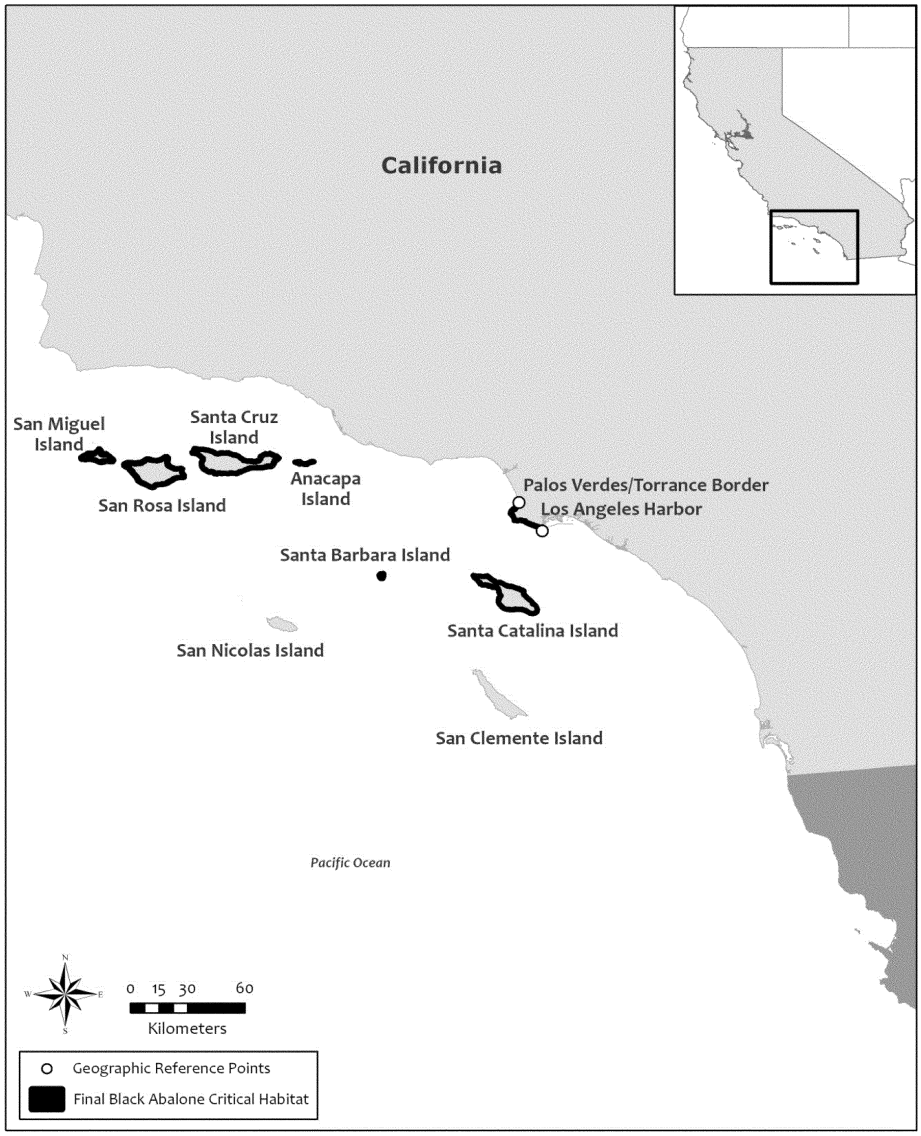
(3) *Juvenile settlement habitat.* Rocky intertidal and subtidal habitat containing crustose coralline algae and crevices or cryptic biogenic structures (e.g., urchins, mussels, chiton holes, conspecifics, anemones) is important for successful larval recruitment and juvenile growth and survival of black abalone less than approximately 25 mm shell length. Adult abalone may facilitate larval settlement and metamorphosis by grazing down algal competitors and thereby promoting the maintenance of substantial substratum cover by crustose coralline algae, outcompeting encrusting sessile invertebrates (e.g. tube worms and tube snails) for space and thereby promoting the maintenance of substantial substratum cover by crustose coralline algae as well as creating space for settling abalone, and emitting chemical cues that may induce settlement of abalone larvae.

(4) *Suitable water quality.* Suitable water quality includes temperature (*i.e.*, tolerance range: 12 to 25 °C; optimal range: 18 to 22 °C), salinity (*i.e.*, 30 to 35 ppt), pH (*i.e.*, 7.5 to 8.5), and other chemical characteristics necessary for normal settlement, growth, behavior, and viability of black abalone.

(5) *Suitable nearshore circulation patterns.* Suitable circulation patterns are those that retain eggs, sperm, fertilized eggs, and ready-to-settle larvae within 100 km from shore so that successful fertilization and settlement to shallow intertidal habitat can take place.

(c) Overview maps of black abalone critical habitat follow:


Del Mar Landing
Ecological Reserve
Bodega Head
Point Bonita
San Francisco Bay
Moss Beach
Pescadero State Beach
Natural Bridges State Beach
Monterey Bay
Pacific Grove
Prewitt Creek
Cayucos
Montaña De Oro State Park
Just South of
Government Point
California
Farallon Islands
Año Nuevo Island
Pacific Ocean
0 20 40 80
Kilometers
Geographic Reference Points
Final Black Abalone Critical Habitat



[76 FR 66841, Oct. 27, 2011]

§ 226.222 Critical habitat for the southern Distinct Population Segment of eulachon (Thaleichthys pacificus).

Critical habitat is designated for the southern Distinct Population Segment of eulachon (southern DPS) as described in this section. The textual descriptions of critical habitat in this section are the definitive source for determining the critical habitat boundaries. The overview maps are provided for general guidance only and not as a definitive source for determining critical habitat boundaries. In freshwater areas, critical habitat includes the stream channel and a lateral extent as

defined by the ordinary high-water line (33 CFR 329.11). In areas where the ordinary high-water line has not been defined, the lateral extent will be defined by the bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series. In estuarine areas, critical habitat includes tidally influenced areas as defined by the elevation of mean higher high water.

(a) *Critical habitat boundaries.* Critical habitat is designated to include the following areas in California, Oregon, and Washington:

(1) Mad River, California. From the mouth of the Mad River (40°57′37″ N./124°7′36″ W.) upstream to the confluence with the North Fork Mad River (40°52′32″ N./123°59′30″ W.).

(2) Redwood Creek, California. From the mouth of Redwood Creek (41°17′35″ N./124°5′30″ W.) upstream to the confluence with Tom McDonald Creek (41°12′25″ N./124°0′39″ W.).

(3) Klamath River, California. From the mouth of the Klamath River (41°32′52″ N./124°4′58″ W.) upstream to the confluence with Omogar Creek (41°29′13″ N./123°57′39″ W.)

(4) Umpqua River, Oregon. From the mouth of the Umpqua River (43°40′7″ N./124°13′6″ W.) upstream to the confluence with Mill Creek (43°39′20″ N./123°52′35″ W.).

(5) Tenmile Creek, Oregon. From the mouth of Tenmile Creek (44°13′34″ N./124°6′45″ W.) upstream to the Highway 101 bridge crossing (44°13′27″ N./124°6′35″ W.).

(6) Sandy River, Oregon. From the confluence with the Columbia River upstream to the confluence with Gordon Creek (45°29′45″ N./122°16′41″ W.).

(7) Columbia River, Oregon and Washington. From the mouth of the Columbia River (46°14′48″ N./124°4′33″ W.) upstream to Bonneville Dam (45°38′40″ N./121°56′28″ W.).

(8) Grays River, Washington. From the confluence with the Columbia River upstream to Covered Bridge Road (46°21′18″ N./123°34′52″ W.).

(9) Skamokawa Creek, Washington. From the confluence with the Columbia River upstream to Peterson Road Bridge (46°18′52″ N./123°27′10″ W.).

(10) Elochoman River, Washington. From the confluence with the Columbia River upstream to Monroe Road bridge crossing (46°13′33″ N./123°21′34″ W.).

(11) Cowlitz River, Washington. From the confluence with the Columbia River upstream to the Cowlitz Salmon Hatchery barrier dam (46°30′45″ N./122°38′0″ W.).

(12) Toutle River, Washington. From the confluence with the Cowlitz River upstream to Tower Road Bridge (46°20′4″ N./122°50′26″ W.).

(13) Kalama River, Washington. From the confluence with the Columbia River upstream to the confluence with Indian Creek (46°2′22″ N./122°46′7″ W.).

(14) Lewis River, Washington. Lewis River mainstem, from the confluence with the Columbia River upstream to Merwin Dam (45°57′24″ N./122°33′22″ W.); East Fork of the Lewis River, from the confluence with the mainstem of the Lewis River upstream to the confluence with Mason Creek (45°50′13″ N./122°38′37″ W.).

(15) Quinault River, Washington. From the mouth of the Quinault River (47°20′58″ N./124°18′2″ W.) upstream to 47°19′58″ N./124°15′1″ W.

(16) Elwha River, Washington. From the mouth of the Elwha River (48°8′51″ N./123°34′1″ W.) upstream to Elwha Dam (48°5′42″ N./123°33′22″ W.).

(b) Physical or biological features essential for conservation. The physical or biological features essential for conservation of the southern DPS of eulachon are:

(1) Freshwater spawning and incubation sites with water flow, quality and temperature conditions and substrate supporting spawning and incubation.

(2) Freshwater and estuarine migration corridors free of obstruction and with water flow, quality and temperature conditions supporting larval and adult mobility, and with abundant prey items supporting larval feeding after the yolk sac is depleted.

(3) Nearshore and offshore marine foraging habitat with water quality and available prey, supporting juveniles and adult survival.

(c) Indian lands. Critical habitat does not include any Indian lands of the following Federally-recognized Tribes in the States of California, Oregon, and Washington:

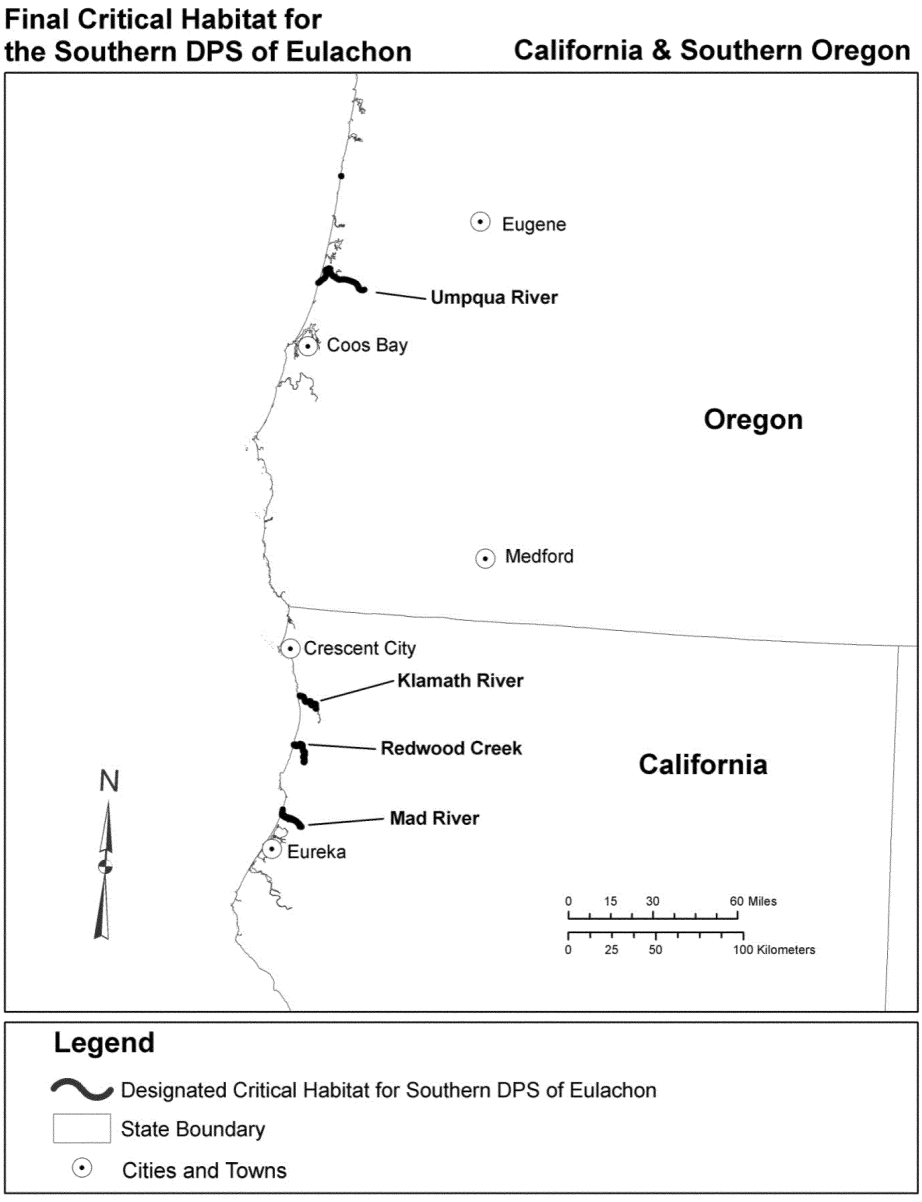
(1) Lower Elwha Tribe, Washington;

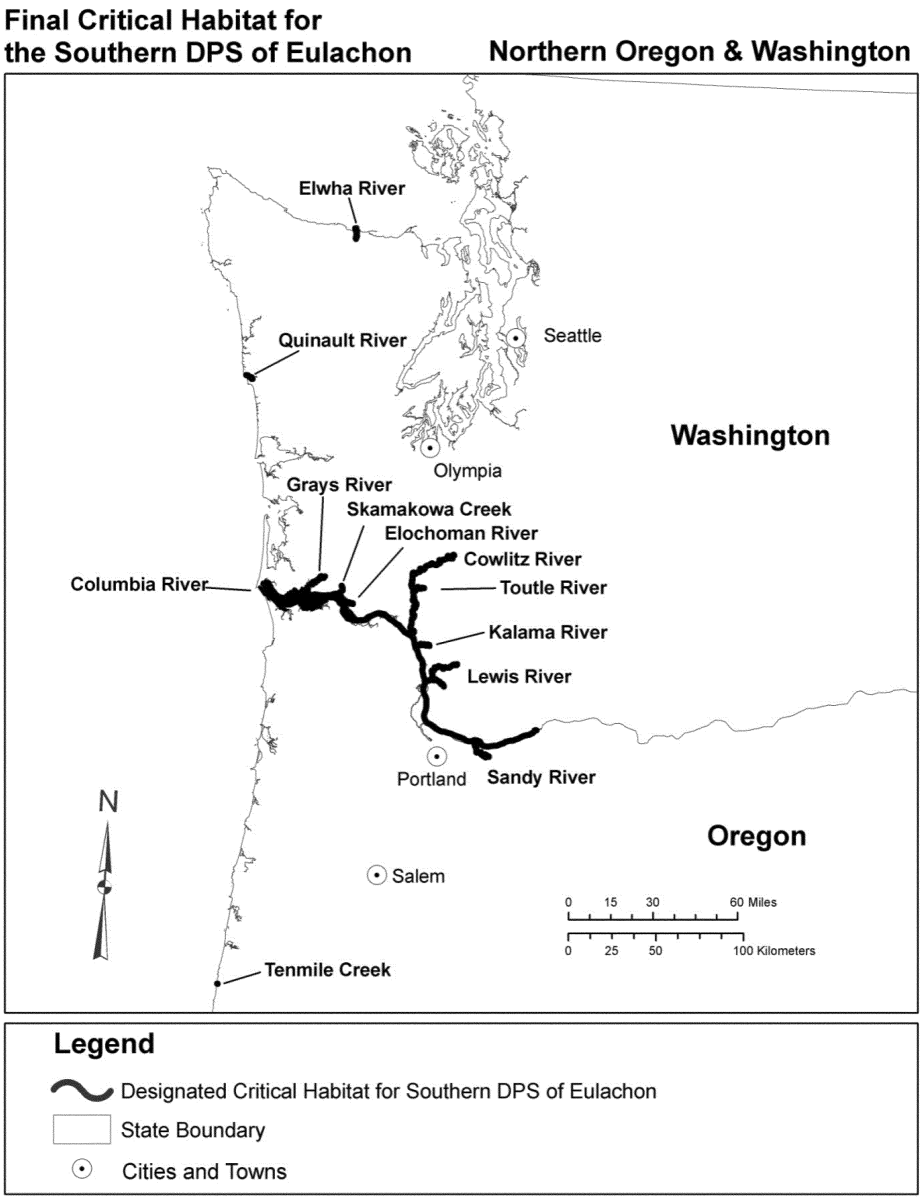
(2) Quinault Tribe, Washington;

(3) Yurok Tribe, California; and

(4) Resighini Rancheria, California.

(d) Maps of critical habitat for the southern DPS of eulachon follow:





[76 FR 65349, Oct. 20, 2011]

§ 226.223 Critical habitat for the Northwest Atlantic Ocean Distinct Population Segment of the loggerhead sea turtle (Caretta caretta).

Critical habitat is designated for the Northwest Atlantic Ocean Distinct

Population Segment of the loggerhead sea turtle (*Caretta caretta*) as described in this section. The textual descriptions of critical habitat in this section are the definitive source for determining the critical habitat boundaries. For nearshore reproductive areas, the areas extend directly from the mean high water (MHW) line datum at each end of the area seaward 1.6 km. Where beaches are within 1.6 km of each other, nearshore areas are connected, either along the shoreline (MHW line) or by delineating on GIS a straight line from the end of one beach to the beginning of another (either from island to island, or across an inlet or the mouth of an estuary). Although generally following these rules, the exact delineation of each area was determined individually because each was unique. The overview maps are provided for general guidance only and not as a definitive source for determining critical habitat boundaries.

(a) *Critical habitat boundaries.* Critical habitat is designated to include the following areas:

(1) *LOGG–N–1—North Carolina Constricted Migratory Corridor and Northern Portion of the North Carolina Winter Concentration Area.* This unit contains constricted migratory and winter habitat. The unit includes the North Carolina constricted migratory corridor and the overlapping northern half of the North Carolina winter concentration area. The constricted migratory corridor off North Carolina consists of waters between 36° N. lat. and Cape Lookout (approximately 34.58° N. lat.) from the edge of the Outer Banks, North Carolina, barrier islands to the 200 m (656 ft) depth contour (continental shelf). The constricted migratory corridor overlaps with the northern portion of winter concentration area off North Carolina. The western and eastern boundaries of winter habitat are the 20 m and 100 m (65.6 and 328 ft) depth contours, respectively. The northern boundary of winter habitat starts at Cape Hatteras (35°16′ N lat.) in a straight latitudinal line between 20 and 100 m (65.6–328 ft) depth contours and ends at Cape Lookout (approximately 34.58° N. lat.).

(2) *LOGG–N–2—Southern Portion of the North Carolina Winter Concentration Area.* This unit contains winter habitat only. The boundaries include waters between the 20 and 100 m (65.6 and 328 ft) depth contours between Cape Lookout to Cape Fear. The eastern and western boundaries of winter habitat are the 20 m and 100 m (65.6 and 328 ft) depth contours, respectively. The northern boundary is Cape Lookout (approximately 34.58° N). The southern boundary is a 37.5 km (23.25 mile) line that extends from the 20 m (65.6 ft) depth contour at approximately 33.47° N, 77.58° W (off Cape Fear) to the 100 m (328 ft) depth contour at approximately 33.2° N, 77.32° W.

(3) *LOGG–N–3—Bogue Banks and Bear Island, Carteret and Onslow Counties, North Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Beaufort Inlet to Bear Inlet (crossing Bogue Inlet) from the MHW line seaward 1.6 km.

(4) *LOGG–N–4—Topsail Island and Lea-Huttaf Island, Onslow and Pender Counties, North Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from New River Inlet to Rich Inlet (crossing New Topsail Inlet) from the MHW line seaward 1.6 km.

(5) *LOGG–N–5—Pleasure Island, Bald Head Island, Oak Island, and Holden Beach, New Hanover and Brunswick Counties, North Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Carolina Beach Inlet around Cape Fear to Shallotte Inlet (crossing the mouths of the Cape Fear River and Lockwoods Folly Inlet), from the MHW line seaward 1.6 km.

(6) *LOGG–N–6—North, Sand, South and Cedar Islands, Georgetown County, South Carolina; Murphy, Cape, Lighthouse Islands and Racoon Key, Charleston County, South Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from North Inlet to Five Fathom Creek Inlet (crossing Winyah Bay, North Santee Inlet, South Santee Inlet, Cape Romain Inlet, and Key Inlet) from the MHW line seaward 1.6 km.

(7) *LOGG–N–7—Folly, Kiawah, Seabrook, Botany Bay Islands, Botany Bay Plantation, Interlude Beach, and Edingsville Beach, Charleston County,*

South Carolina; Edisto Beach State Park, Edisto Beach, and Pine and Otter Islands, Colleton County, South Carolina. This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Lighthouse Inlet to Saint Helena Sound (crossing Folly River, Stono, Captain Sam's, North Edisto, Frampton, Jeremy, South Edisto and Fish Creek Inlets) from the MHW line seaward 1.6 km.

(8) *LOGG–N–8—Harbor Island, Beaufort County, South Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Harbor Inlet to Johnson Inlet from the MHW line seaward 1.6 km.

(9) *LOGG–N–9—Little Capers, St. Phillips, and Bay Point Islands, Beaufort County, South Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Pritchards Inlet to Port Royal Sound (crossing Trenchards Inlet and Morse Island Creek Inlet East) from the MHW line seaward 1.6 km.

(10) *LOGG–N–10—Little Tybee Island, Chatham County, Georgia:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are from Tybee Creek Inlet to Wassaw Sound from the MHW line seaward 1.6 km.

(11) *LOGG–N–11—Wassaw Island, Chatham County, Georgia:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are from Wassaw Sound to Ossabaw Sound from the MHW line seaward 1.6 km.

(12) *LOGG–N–12—Ossabaw Island, Chatham County, Georgia; St. Catherines Island, Liberty County, Georgia; Blackbeard and Sapelo Islands, McIntosh County, Georgia:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from the Ogeechee River to Deboy Sound (crossing St. Catherines Sound, McQueen Inlet, Sapelo Sound, and Cabretta Inlet), extending from the MHW line and seaward 1.6 km.

(13) *LOGG–N–13—Little Cumberland Island and Cumberland Island, Camden County, Georgia:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from St. Andrew Sound to the St. Marys River (crossing Christmas Creek) from the MHW line seaward 1.6 km.

(14) *LOGG–N–14—Southern Boundary of Kathryn Abbey Hanna Park to Mantanzas Inlet, Duval and St. Johns Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the south boundary of Kathryn Abbey Hanna Park to Matanzas Inlet (crossing St. Augustine Inlet) from the MHW line seaward 1.6 km.

(15) *LOGG–N–15—Northern Boundary of River to Sea Preserve at Marineland to Granada Blvd., Flagler and Volusia Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the north boundary of River to Sea Preserve at Marineland to Granada Boulevard in Ormond Beach from the MHW line seaward 1.6 km.

(16) *LOGG–N–16—Canaveral National Seashore to 28.70° N, 80.66° W near Titusville, Volusia and Brevard Counties, Florida:* This unit contains nearshore reproductive habitat only. Boundaries of the unit are nearshore areas from the north boundary of Canaveral National Seashore to 28.70° N, 80.66° W near Titusville (at the start of the Titusville—Floridana Beach concentrated breeding area) from the MHW line seaward 1.6 km.

(17) *LOGG–N–17—Titusville to Floridana Beach Concentrated Breeding Area, Northern Portion of the Florida Constricted Migratory Corridor, Nearshore Reproductive Habitat from 28.70° N, 80.66° W near Titusville to Cape Canaveral Air Force Station; and Nearshore Reproductive Habitat from Patrick Airforce Base and Central Brevard Beaches, Brevard County, Florida:* This unit includes overlapping areas of nearshore reproductive habitat, constricted migratory habitat, breeding habitat, and *Sargassum* habitat. The concentrated breeding habitat area is from the MHW line on shore at 28.70° N, 80.66° W near Titusville to depths less than 60 m and extending south to Floridana Beach. This overlaps with waters in the northern portion of the Florida constricted migratory corridor, which begins at the tip of Cape Canaveral Air Force Station (28.46° N. lat.) and ends at

Floridana beach, including waters from the MHW line on shore to the 30 m depth contour. Additionally, the above two habitat areas overlap with two nearshore reproductive habitat areas. The first begins near Titusville at 28.70° N, 80.66° W to the south boundary of the Cape Canaveral Air Force Station/Canaveral Barge Canal Inlet from the MHW line seaward 1.6 km. The second begins at Patrick Air Force Base, Brevard County, through the central Brevard Beaches to Floridana Beach from the MHW line seaward 1.6 km.

(18) *LOGG–N–18—Florida Constricted Migratory Corridor from Floridana Beach to Martin County/Palm Beach County Line; Nearshore Reproductive Habitat from Floridana Beach to the south end of Indian River Shores; Nearshore Reproductive Habitat from Fort Pierce inlet to Martin County/Palm Beach County Line, Brevard, Indian River and Martin Counties, Florida*—This unit contains nearshore reproductive habitat and constricted migratory habitat. The unit contains a portion of the Florida constricted migratory corridor, which is located in the nearshore waters from the MHW line to the 30 m depth contour off Floridana Beach to the Martin County/Palm Beach County line. This overlaps with two nearshore reproductive habitat areas. The first nearshore reproductive area includes nearshore areas from Floridana Beach to the south end of Indian River Shores (crossing Sebastian Inlet) from the MHW line seaward1.6 km. The second nearshore reproductive habitat area includes nearshore areas from Fort Pierce inlet to Martin County/Palm Beach County line (crossing St. Lucie Inlet) from the MHW line seaward 1.6 km.

(19) *LOGG–N–19—Southern Florida Constricted Migratory Corridor; Southern Florida Concentrated Breeding Area; and Six Nearshore Reproductive Areas: Martin County/Palm Beach County line to Hillsboro Inlet, Palm Beach and Broward Counties, Florida; Long Key, Bahia Honda Key, Woman Key, Boca Grande Key, and Marquesas Keys, Monroe County, Florida*—This unit contains nearshore reproductive habitat, constricted migratory habitat, and breeding habitat. The unit contains the southern Florida constricted migratory corridor habitat, overlapping southern Florida breeding habitat, and overlapping nearshore reproductive habitat. The southern portion of the Florida concentrated breeding area and the southern Florida constricted migratory corridor are both located in the nearshore waters starting at the Martin County/Palm Beach County line to the westernmost edge of the Marquesas Keys (82.17° W. long.), with the exception of the waters under the jurisdiction of NAS Key West. The seaward border then follows the 200 m depth contour to the westernmost edge at the Marquesas Keys. The overlapping nearshore reproductive habitat includes nearshore waters starting at the Martin County/Palm Beach County line to Hillsboro Inlet (crossing Jupiter, Lake Worth, Boyton, and Boca Raton Inlets) from the MHW line seaward 1.6 km; Long Key, which is bordered on the east by the Atlantic Ocean, on the west by Florida Bay, and on the north and south by natural channels between Keys (Fiesta Key to the north and Conch Key to the south), and has boundaries following the borders of the island from the MHW line seaward to 1.6 km; Bahia Honda Key, from the MHW line seaward 1.6 km; 4) Woman Key, from the MHW line and seaward to 1.6 km; 5) Boca Grande Key, from the MHW line seaward to 1.6 km; 6) the Marquesas Keys unit boundary, including nearshore areas from the MHW line seaward to 1.6 km from four islands where loggerhead sea turtle nesting has been documented within the Marquesas Keys: Marquesas Key, Unnamed Key 1, Unnamed Key 2, and Unnamed Key 3.

(20) *LOGG–N–20—Dry Tortugas, Monroe County, Florida:* This unit contains nearshore reproductive habitat only. The unit boundary includes nearshore areas from the MHW line and seaward to 1.6 km (1.0 mile) from six islands where loggerhead sea turtle nesting has been documented within the Dry Tortugas. From west to east, these six islands are: Loggerhead Key, Garden Key, Bush Key, Long Key, Hospital Key, and East Key.

(21) *LOGG–N–21—Cape Sable, Monroe County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the MHW line and

seaward to 1.6 km from the north boundary of Cape Sable at 25.25° N, 81.17° W to the south boundary of Cape Sable at 25.12° N, 81.07° W.

(22) *LOGG–N–22—Graveyard Creek to Shark Point, Monroe County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from Shark Point (25.39° N, 81.15° W) to Graveyard Creek Inlet from the MHW line seaward 1.6 km.

(23) *LOGG–N–23—Highland Beach, Monroe County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are from First Bay to Rogers River Inlet from the MHW line seaward 1.6 km.

(24) *LOGG–N–24—Ten Thousand Islands North, Collier County, Florida:* This unit contains nearshore reproductive habitat only. The unit boundary includes nearshore areas from the MHW line seaward 1.6 km of nine keys where loggerhead sea turtle nesting has been documented within the northern part of the Ten Thousand Islands in Collier County in both the Ten Thousand Islands NWR and the Rookery Bay NERR.

(25) *LOGG–N–25—Cape Romano, Collier County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Caxambas Pass to Gullivan Bay from the MHW line seaward 1.6 km.

(26) *LOGG–N–26—Keewaydin Island and Sea Oat Island, Collier County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Gordon Pass to Big Marco Pass from the MHW line seaward 1.6 km.

(27) *LOGG–N–27—Little Hickory Island to Doctors Pass, Lee and Collier Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Little Hickory Island to Doctors Pass (crossing Wiggins Pass and Clam Pass) from the MHW line seaward 1.6 km.

(28) *LOGG–N–28—Captiva Island and Sanibel Island West, Lee County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the north end of Captiva/Captiva Island Golf Club (starting at Redfish Pass and crossing Blind Pass) and along Sanibel Island West to Tarpon Bay Road, from the MHW line seaward 1.6 km.

(29) *LOGG–N–29—Siesta and Casey Keys, Sarasota County; Venice Beaches and Manasota Key, Sarasota and Charlotte Counties; Knight, Don Pedro, and Little Gasparilla Islands, Charlotte County; Gasparilla Island, Charlotte and Lee Counties; Cayo Costa, Lee County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from Big Sarasota Pass to Catliva Pass (crossing Venice Inlet, Stump Pass, Gasparilla Pass, and Boca Grande Pass), from the MHW line seaward 1.6 km.

(30) *LOGG–N–30—Longboat Key, Manatee and Sarasota Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are the north point of Longboat Key at Longboat Pass to New Pass, from the MHW line seaward 1.6 km.

(31) *LOGG–N–31—St. Joseph Peninsula, Cape San Blas, St. Vincent, St. George and Dog Islands, Gulf and Franklin Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are from St. Joseph Bay to St. George Sound (crossing Indian, West, and East Passes) from the MHW line seaward 1.6 km.

(32) *LOGG–N–32—Mexico Beach and St. Joe Beach, Bay and Gulf Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are from the eastern boundary of Tyndall Air Force Base to Gulf County Canal in St. Joseph Bay from the MHW line seaward 1.6 km.

(33) *LOGG–N–33—Gulf State Park to FL/AL state line, Baldwin County, Alabama; FL/AL state line to Pensacola Pass, Escambia County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the west boundary of Gulf State Park to the Pensacola Pass (crossing Perido Pass and the Alabama-Florida border) from the MHW line and seaward to 1.6 km.

(34) *LOGG–N–34—Mobile Bay — Little Lagoon Pass, Baldwin County, Alabama:* This unit contains nearshore reproductive habitat only. The boundaries of

the unit are nearshore areas from Mobile Bay Inlet to Little Lagoon Pass from the MHW line and seaward to 1.6 km.

(35) *LOGG–N–35—Petit Bois Island, Jackson County, Mississippi:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Horn Island Pass to Petit Bois Pass from the MHW line and seaward to 1.6 km.

(36) *LOGG–N–36—Horn Island, Jackson County, Mississippi:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Dog Keys Pass to the eastern most point of the ocean facing island shore from the MHW line and seaward to 1.6 km.

(37) *LOGG–S–1—Atlantic Ocean Sargassum:* This unit contains *Sargassum* habitat and overlaps with breeding habitat (LOGG–N–17). The western edge of the unit is the Gulf of Mexico-Atlantic border (83° W. long.) from 24.58° N. lat. to 23.82° N. lat. The outer boundary of the unit is the U.S. EEZ, starting at the Gulf of Mexico-Atlantic border (23.82° N. lat., 83° W. long.) and proceeding east and north until the EEZ coincides with the Gulf Stream at 37.84° N. lat., 70.59° W. long. The inner boundary of the unit starts at the Gulf of Mexico-Atlantic border (24.58° N. lat., 83° W. long.) to the outer edge of the breeding/migratory critical habitat (LOGG–N–19) at 24.34° N. lat., 82.16° W. long., along the outer edge of the corridor (following the 200 m depth contour) until it coincides with the breeding habitat off of Cape Canaveral (LOGG–N–17) at 27.97° N. lat., 80.14° W. long., and from there roughly following the velocity of 0.401–0.50 m/second (Ocean Conservancy 2012; PMEL 2012) until it coincides with the outer edge of the EEZ at 37.84° N. lat., 70.59° W. long.

(38) *LOGG–S–2—Gulf of Mexico Sargassum.* This unit contains *Sargassum* habitat only. The northern and western boundaries of the unit follow the 10 m depth contour starting at the mouth of South Pass of the Mississippi River proceeding west and south to the outer boundary of the U.S. EEZ. The southern boundary of the unit is the U.S. EEZ from the 10 m depth contour off of Texas to the Gulf of Mexico-Atlantic border (83° W. long.). The eastern boundary follows the 10 m depth contour from the mouth of South Pass of the Mississippi River at 28.97° N. lat., 89.15° W. long., in a straight line to the northernmost boundary of the Loop Current (28° N. lat., 89° W. long.) and along the eastern edge of the Loop Current roughly following the velocity of 0.101–0.20 m/second as depicted by Love *et al.* (2013) using the Gulf of Mexico summer mean sea surface currents from 1993–2011, to the Gulf of Mexico-Atlantic border (24.58° N. lat., 83° W. long.).

(b) Physical or biological features and primary constituent elements essential for conservation. The physical or biological features (PBFs) and primary constituent elements (PCEs) essential for conservation of the Northwest Atlantic Ocean DPS of the loggerhead sea turtle are identified by habitat type below.

(1) *Nearshore reproductive habitat.* The PBF of nearshore reproductive habitat as a portion of the nearshore waters adjacent to nesting beaches that are used by hatchlings to egress to the open-water environment as well as by nesting females to transit between beach and open water during the nesting season. The following PCEs support this habitat:

(i) Nearshore waters directly off the highest density nesting beaches and their adjacent beaches, as identified in 50 CFR 17.95(c), to 1.6 km offshore;

(ii) Waters sufficiently free of obstructions or artificial lighting to allow transit through the surf zone and outward toward open water; and

(iii) Waters with minimal manmade structures that could promote predators (*i.e.*, nearshore predator concentration caused by submerged and emergent offshore structures), disrupt wave patterns necessary for orientation, and/or create excessive longshore currents.

(2) *Winter habitat.* We describe the PBF of the winter habitat as warm water habitat south of Cape Hatteras near the western edge of the Gulf Stream used by a high concentration of juveniles and adults during the winter months. PCEs that support this habitat are the following:

(i) Water temperatures above 10 °C from November through April;

(ii) Continental shelf waters in proximity to the western boundary of the Gulf Stream; and

(iii) Water depths between 20 and 100 m.

(3) *Breeding habitat.* We describe the PBF of concentrated breeding habitat as those sites with high densities of both male and female adult individuals during the breeding season. PCEs that support this habitat are the following:

(i) High densities of reproductive male and female loggerheads;

(ii) Proximity to primary Florida migratory corridor; and

(iii) Proximity to Florida nesting grounds.

(4) *Constricted migratory habitat.* We describe the PBF of constricted migratory habitat as high use migratory corridors that are constricted (limited in width) by land on one side and the edge of the continental shelf and Gulf Stream on the other side. PCEs that support this habitat are the following:

(i) Constricted continental shelf area relative to nearby continental shelf waters that concentrate migratory pathways; and

(ii) Passage conditions to allow for migration to and from nesting, breeding, and/or foraging areas.

(5) *Sargassum habitat.* We describe the PBF of loggerhead *Sargassum* habitat as developmental and foraging habitat for young loggerheads where surface waters form accumulations of floating material, especially *Sargassum.* PCEs that support this habitat are the following:

(i) Convergence zones, surface-water downwelling areas, the margins of major boundary currents (Gulf Stream), and other locations where there are concentrated components of the *Sargassum* community in water temperatures suitable for the optimal growth of *Sargassum* and inhabitance of loggerheads;

(ii) *Sargassum* in concentrations that support adequate prey abundance and cover;

(iii) Available prey and other material associated with *Sargassum* habitat including, but not limited to, plants and cyanobacteria and animals native to the *Sargassum* community such as hydroids and copepods; and

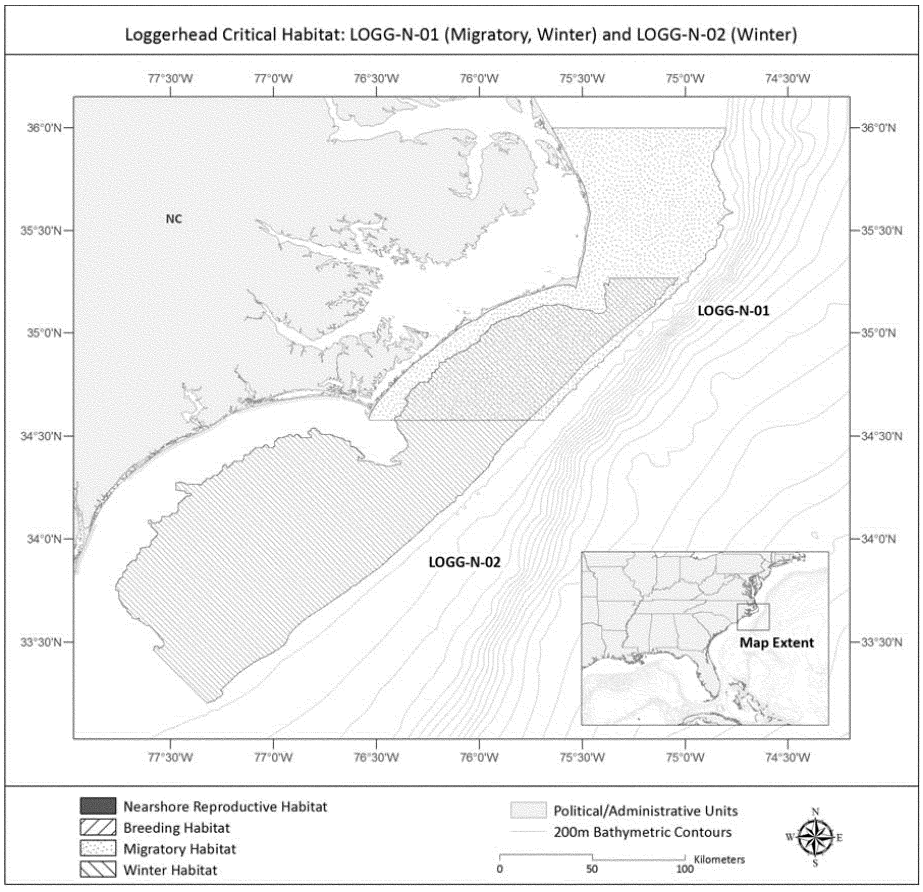
(iv) Sufficient water depth and proximity to available currents to ensure offshore transport (out of the surf zone), and foraging and cover requirements by *Sargassum* for post-hatchling loggerheads, i.e., >10 m depth.

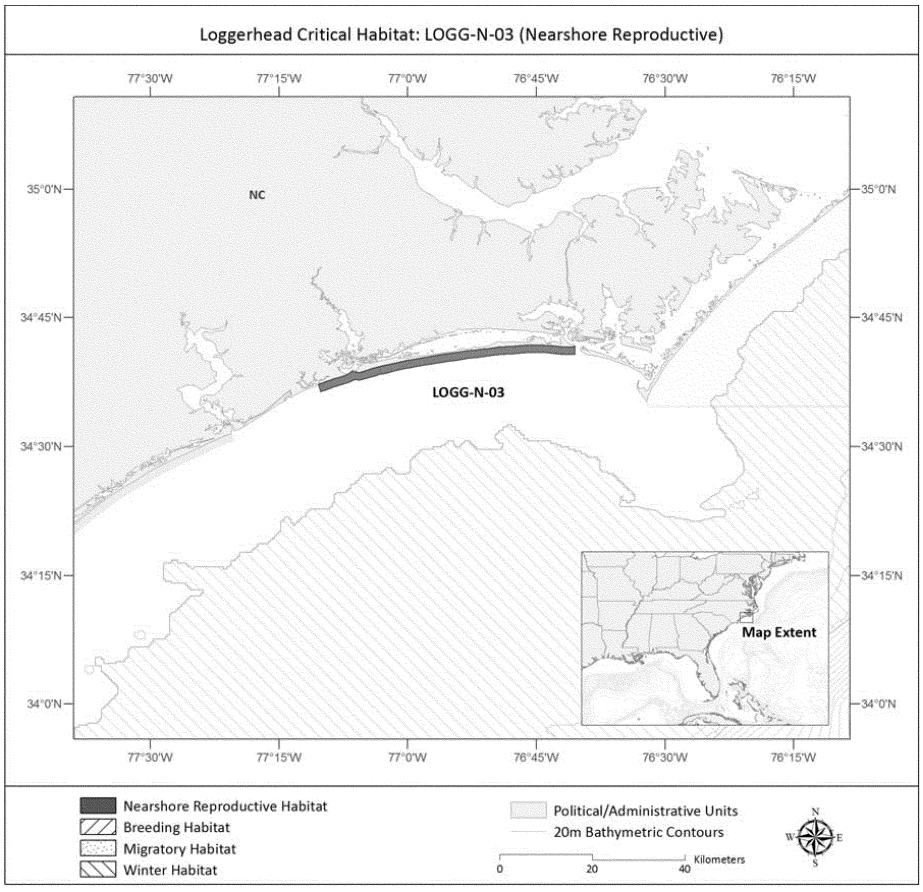
(c) Areas not included in critical habitat. Critical habitat does not include the following particular areas where they overlap with the areas described in paragraph (a) of this section:

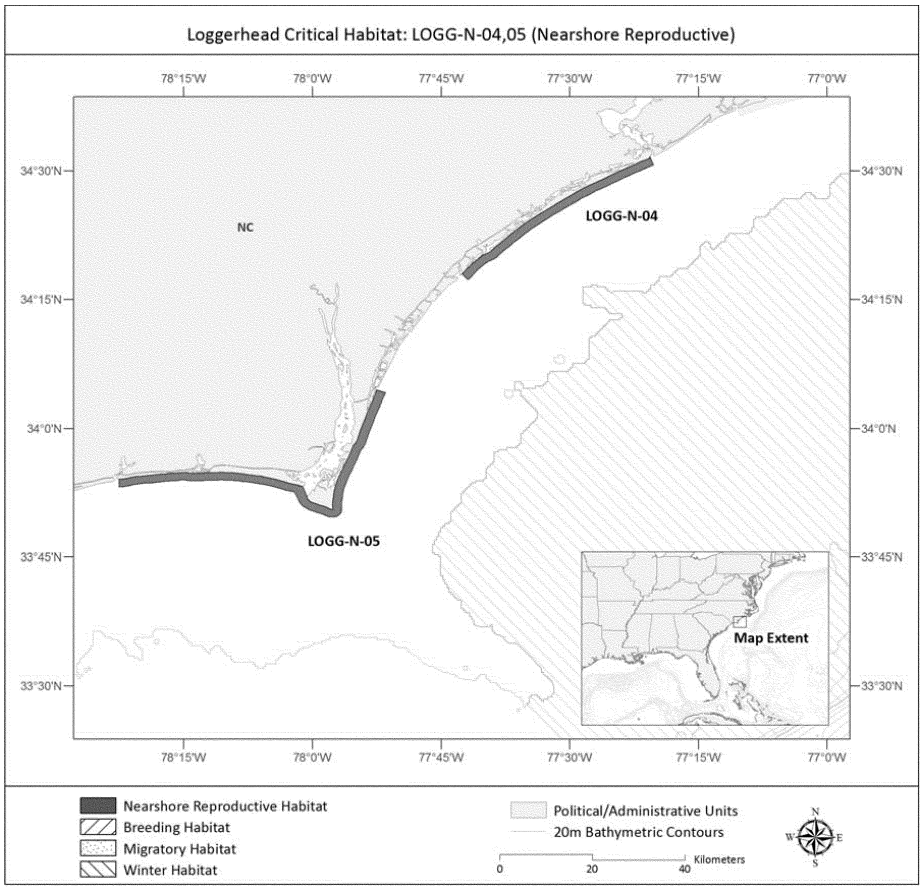
(1) Pursuant to ESA section 4(a)(3)(B), all areas subject to the Naval Air Station Key West Integrated Natural Resources Management Plan.

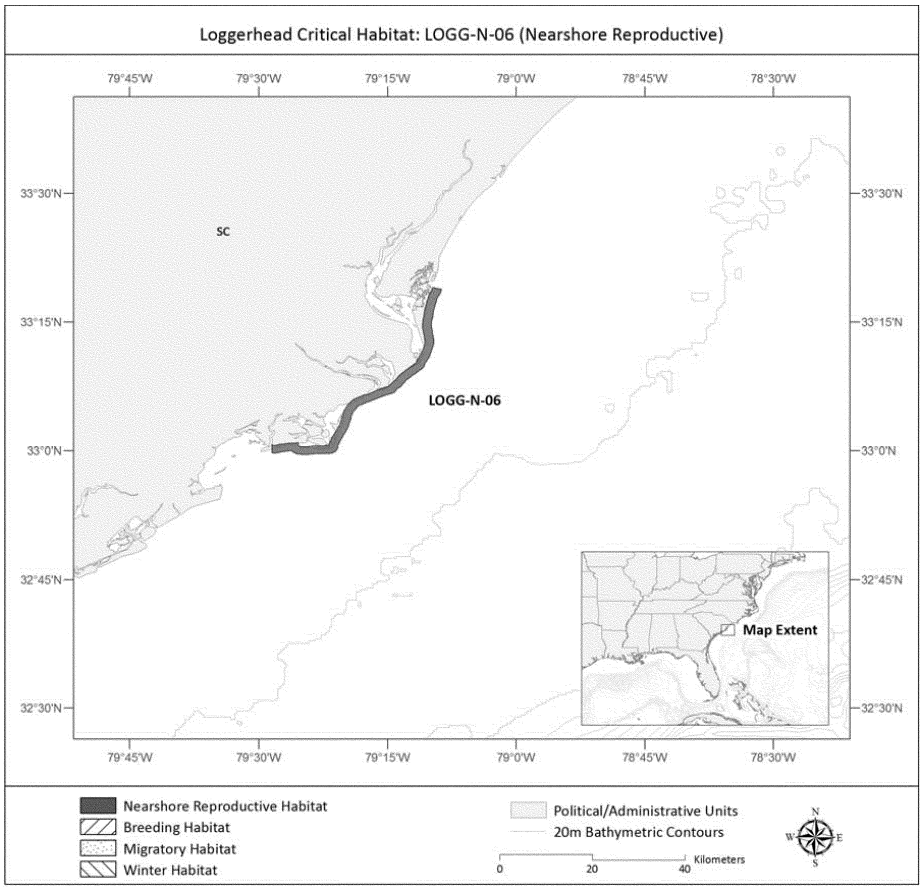
(2) Pursuant to ESA section 3(5)(A)(i), all federally authorized or permitted manmade structures such as aids-to-navigation, boat ramps, platforms, docks, and pilings existing within the legal boundaries on August 11, 2014.

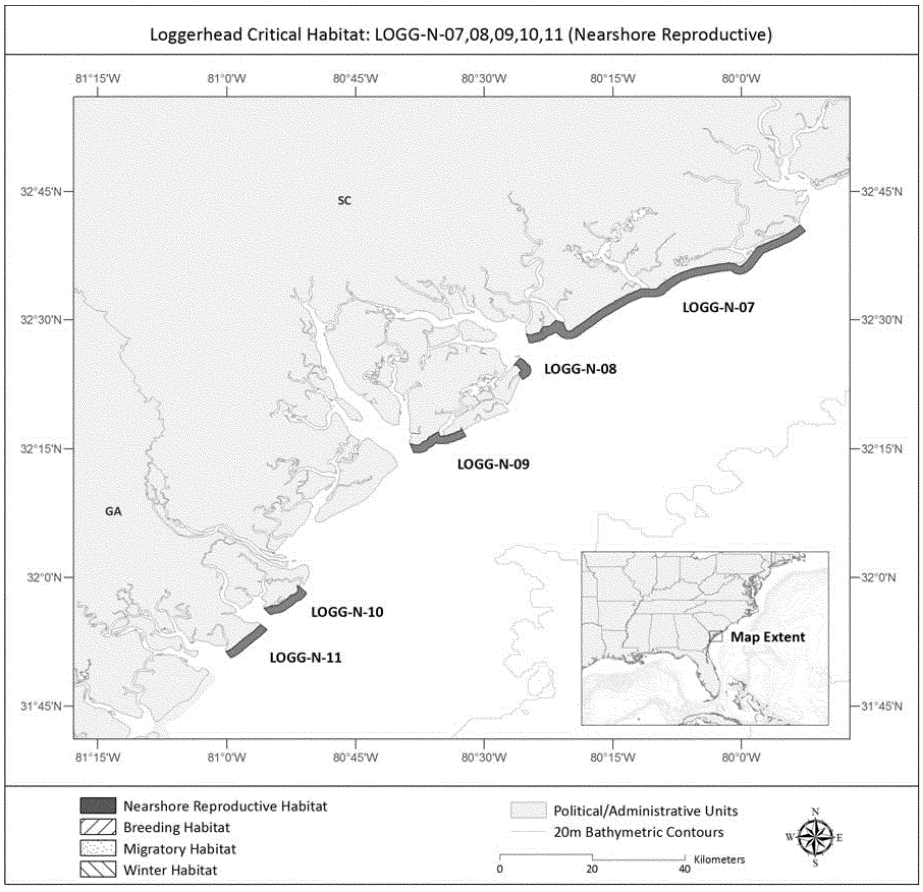
(d) Maps of loggerhead critical habitat follow:

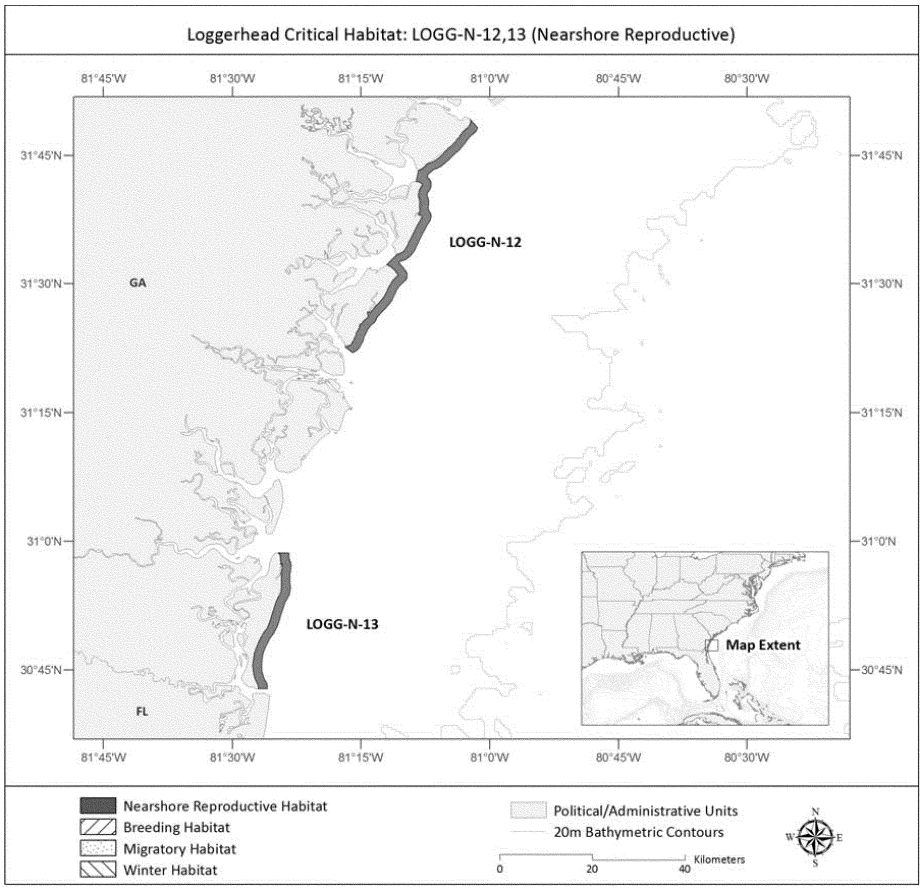

Loggerhead Critical Habitat: LOGG-N-01 (Migratory, Winter) and LOGG-N-02 (Winter)
77°30'W
77°0'W
76°30'W
76°0'W
75°30'W
75°0'W
74°30'W
36°0'N
35°30'N
35°0'N
34°30'N
34°0'N
33°30'N
NC
LOGG-N-01
LOGG-N-02
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
200m Bathymetric Contours
0
50
100
Kilometers
N
W
E
S

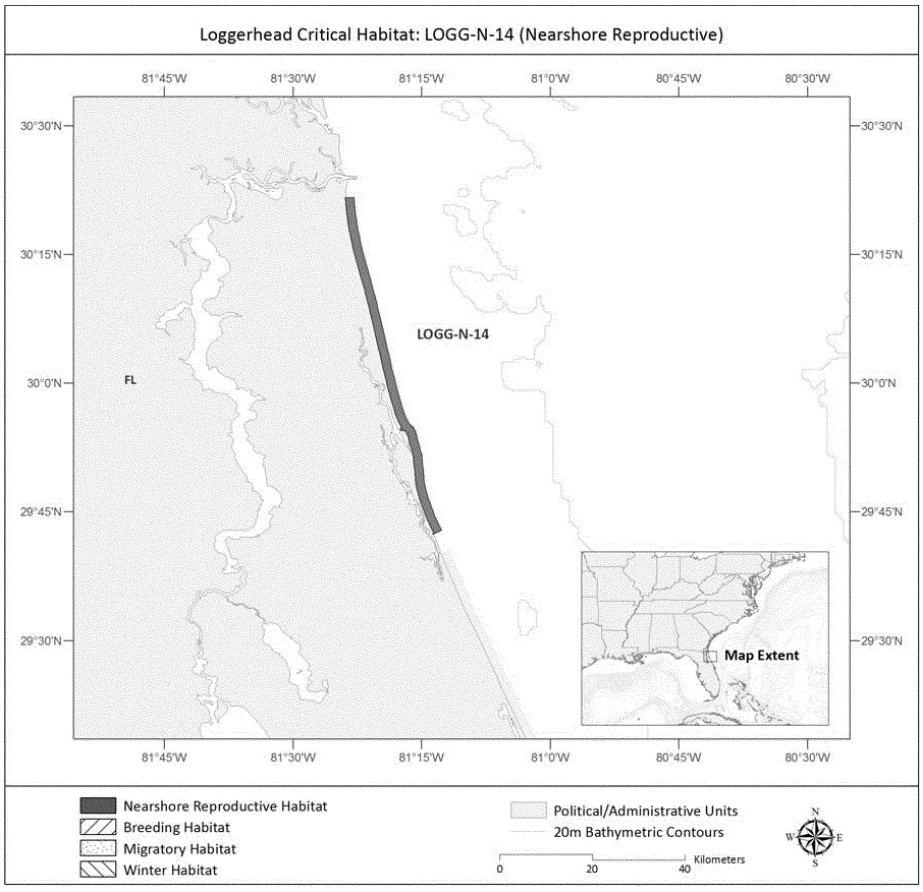

Loggerhead Critical Habitat: LOGG-N-03 (Nearshore Reproductive)
77°30'W
77°15'W
77°0'W
76°45'W
76°30'W
76°15'W
35°0'N
34°45'N
34°30'N
34°15'N
34°0'N
NC
LOGG-N-03
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

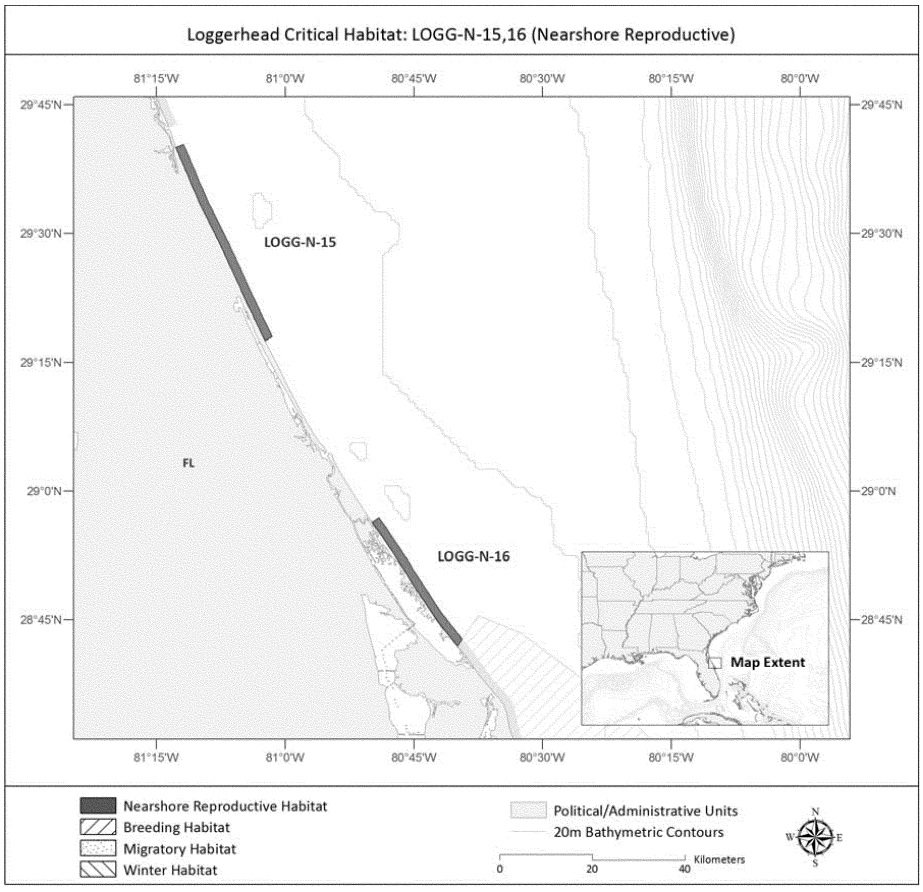

Loggerhead Critical Habitat: LOGG-N-04,05 (Nearshore Reproductive)
78°15'W
78°0'W
77°45'W
77°30'W
77°15'W
77°0'W
34°30'N
34°15'N
34°0'N
33°45'N
33°30'N
NC
LOGG-N-04
LOGG-N-05
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

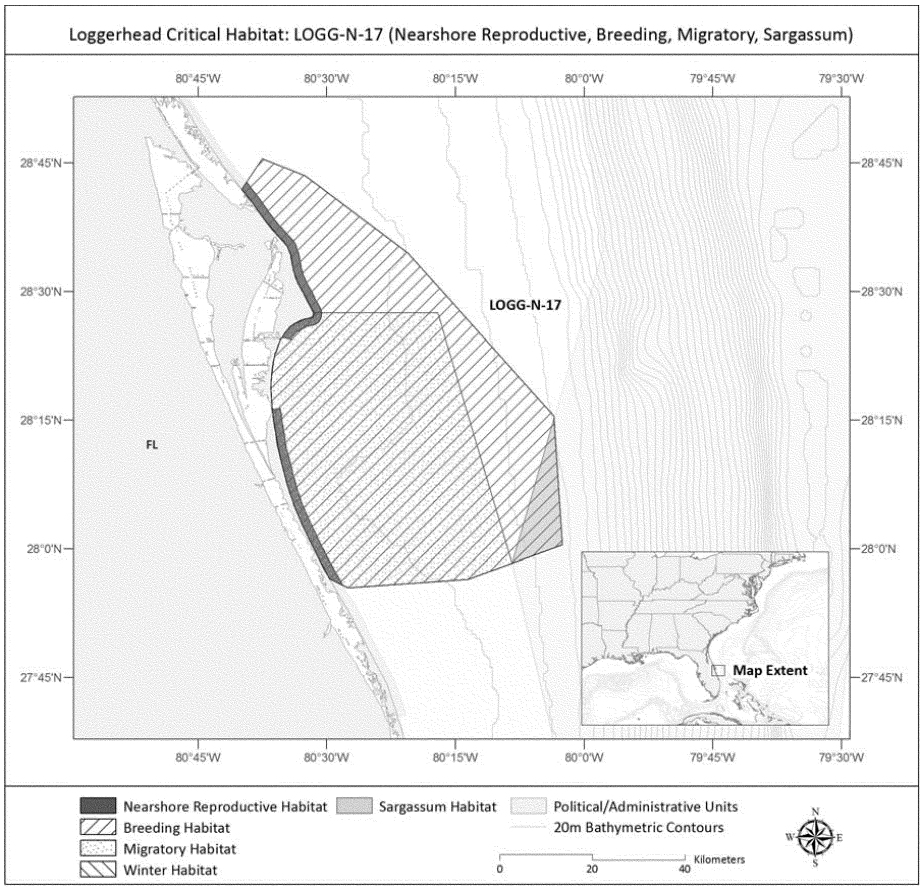

Loggerhead Critical Habitat: LOGG-N-06 (Nearshore Reproductive)
79°45'W
79°30'W
79°15'W
79°0'W
78°45'W
78°30'W
33°30'N
33°15'N
33°0'N
32°45'N
32°30'N
SC
LOGG-N-06
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

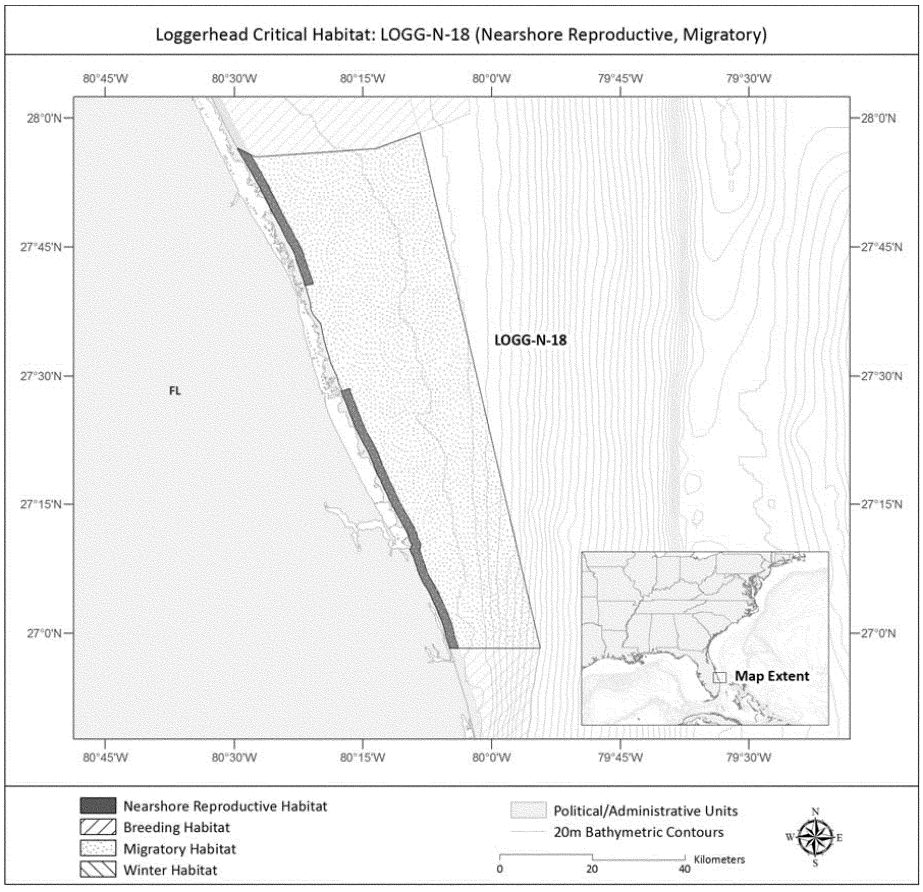

Loggerhead Critical Habitat: LOGG-N-07,08,09,10,11 (Nearshore Reproductive)
81°15'W
81°0'W
80°45'W
80°30'W
80°15'W
80°0'W
32°45'N
32°30'N
32°15'N
32°0'N
31°45'N
SC
GA
LOGG-N-07
LOGG-N-08
LOGG-N-09
LOGG-N-10
LOGG-N-11
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

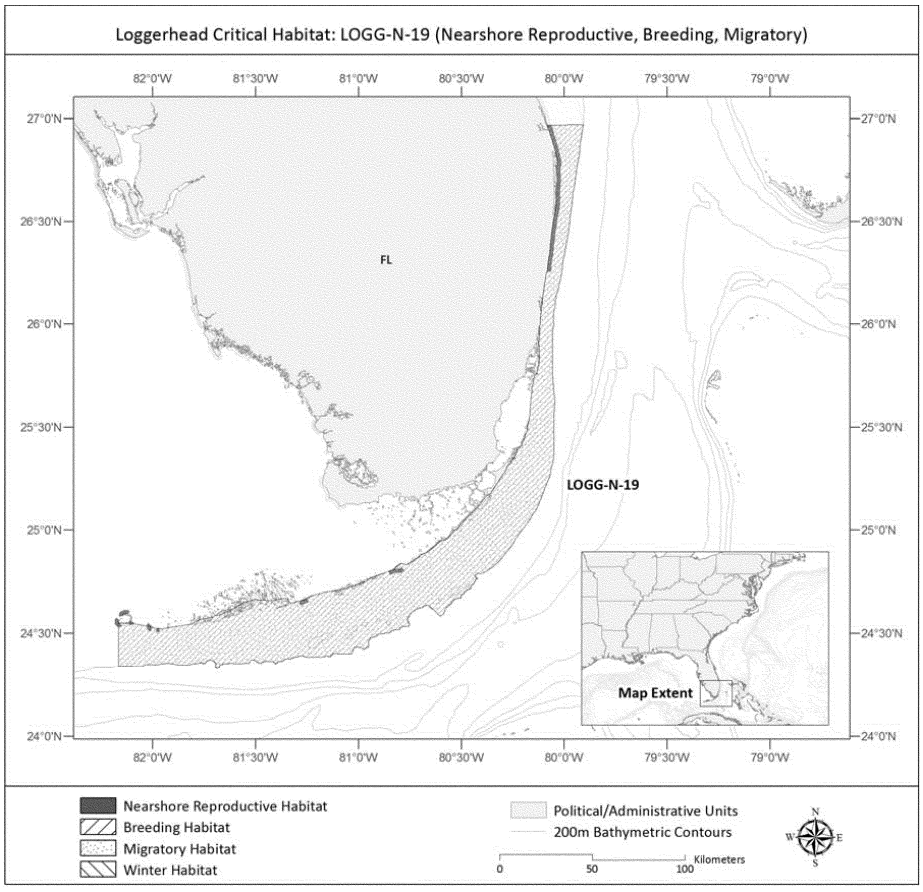

Loggerhead Critical Habitat: LOGG-N-12,13 (Nearshore Reproductive)
81°45'W
81°30'W
81°15'W
81°0'W
80°45'W
80°30'W
31°45'N
31°30'N
31°15'N
31°0'N
30°45'N
LOGG-N-12
LOGG-N-13
GA
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

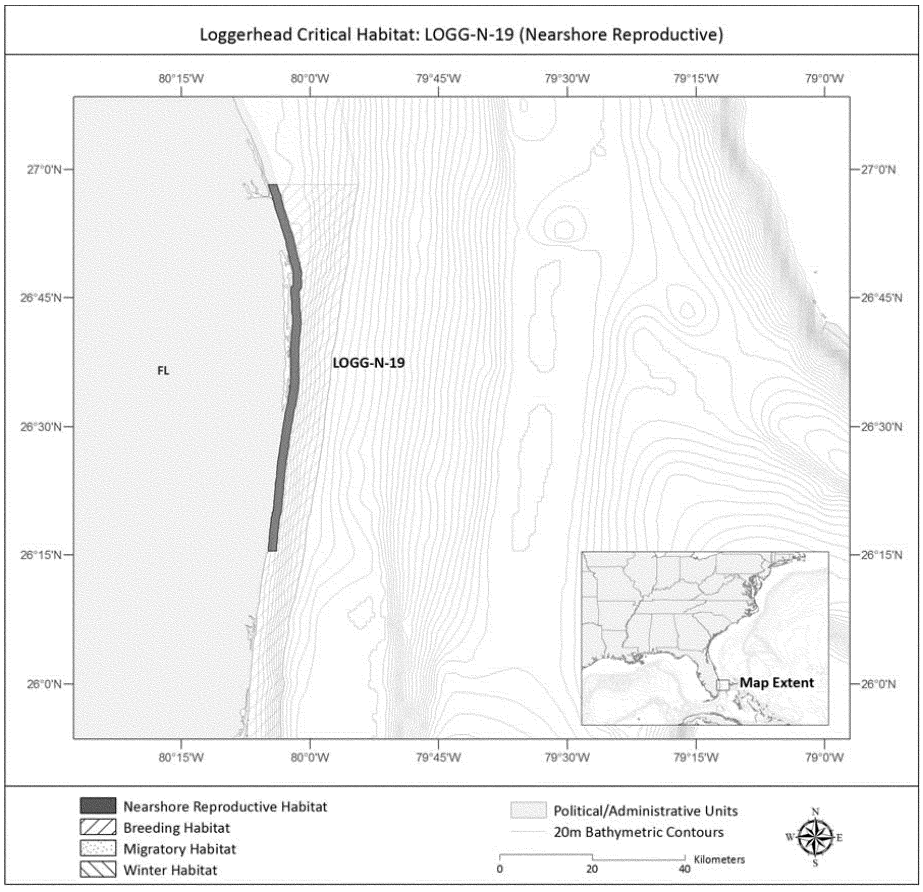

Loggerhead Critical Habitat: LOGG-N-14 (Nearshore Reproductive)
81°45'W
81°30'W
81°15'W
81°0'W
80°45'W
80°30'W
30°30'N
30°15'N
30°0'N
29°45'N
29°30'N
LOGG-N-14
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

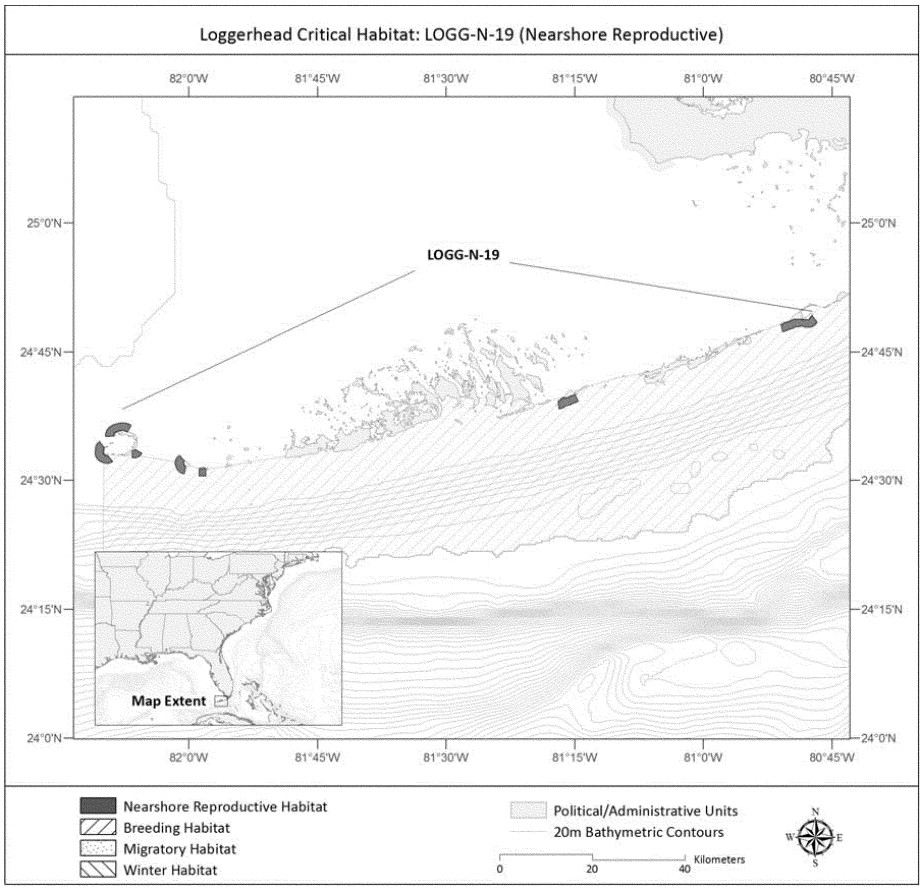

Loggerhead Critical Habitat: LOGG-N-15,16 (Nearshore Reproductive)
81°15'W
81°0'W
80°45'W
80°30'W
80°15'W
80°0'W
29°45'N
29°30'N
29°15'N
29°0'N
28°45'N
LOGG-N-15
LOGG-N-16
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

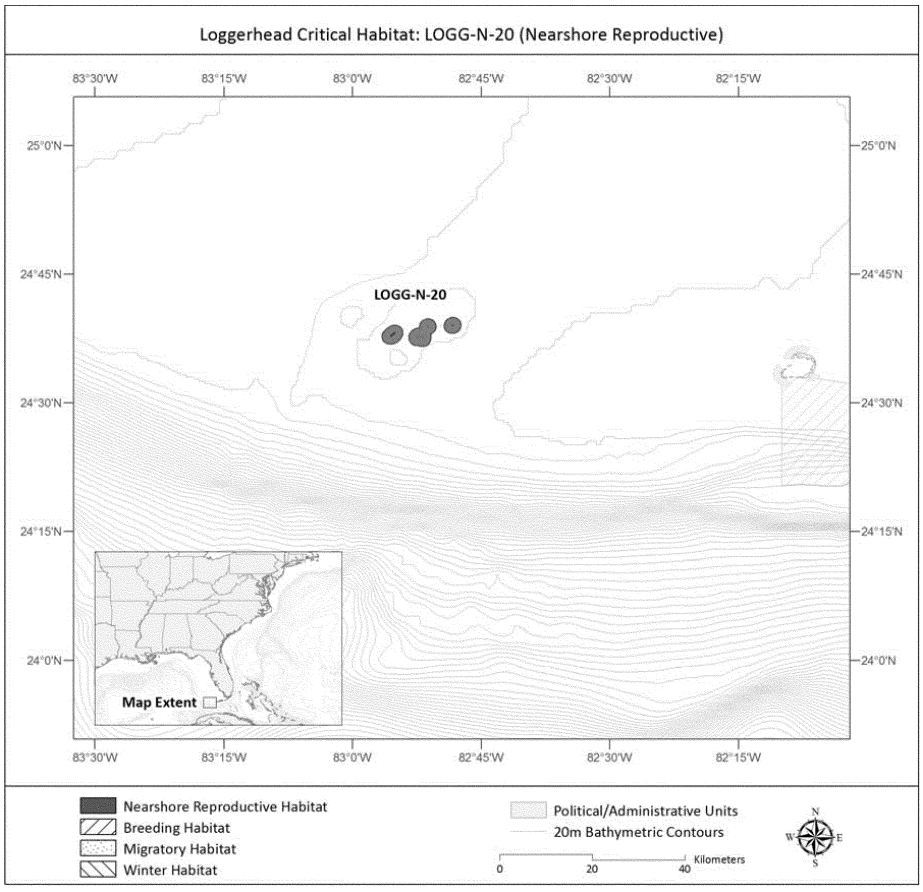

Loggerhead Critical Habitat: LOGG-N-17 (Nearshore Reproductive, Breeding, Migratory, Sargassum)
80°45'W
80°30'W
80°15'W
80°0'W
79°45'W
79°30'W
28°45'N
28°30'N
28°15'N
28°0'N
27°45'N
LOGG-N-17
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Sargassum Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

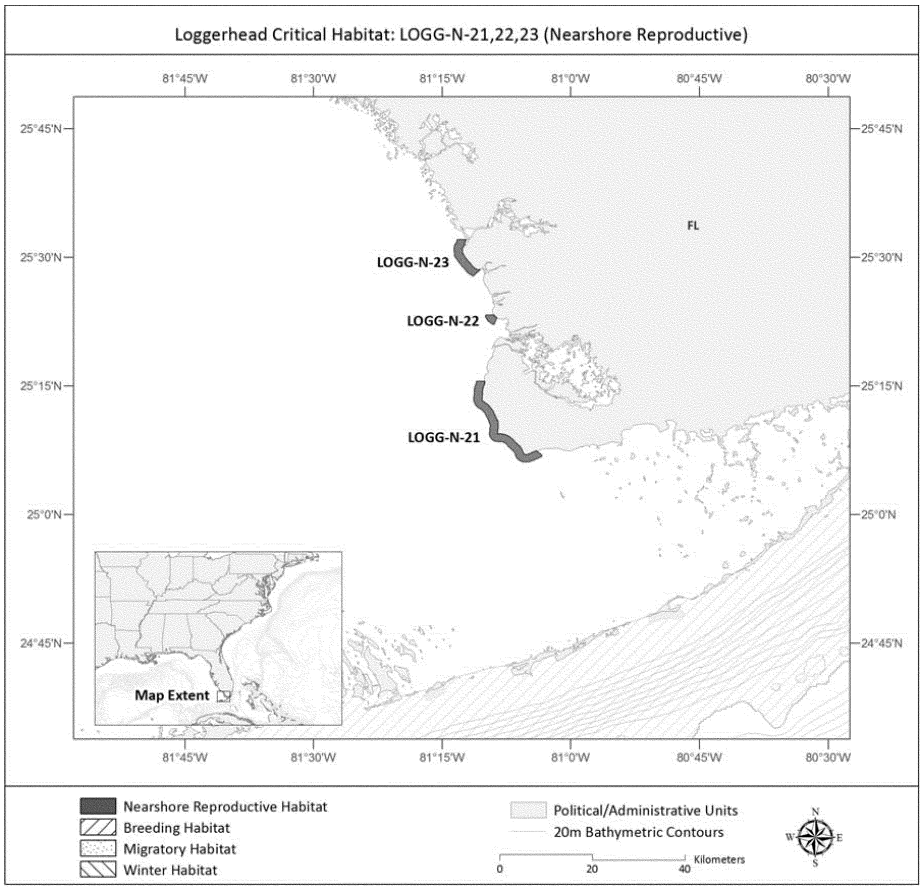

Loggerhead Critical Habitat: LOGG-N-18 (Nearshore Reproductive, Migratory)
80°45'W
80°30'W
80°15'W
80°0'W
79°45'W
79°30'W
28°0'N
27°45'N
27°30'N
27°15'N
27°0'N
LOGG-N-18
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

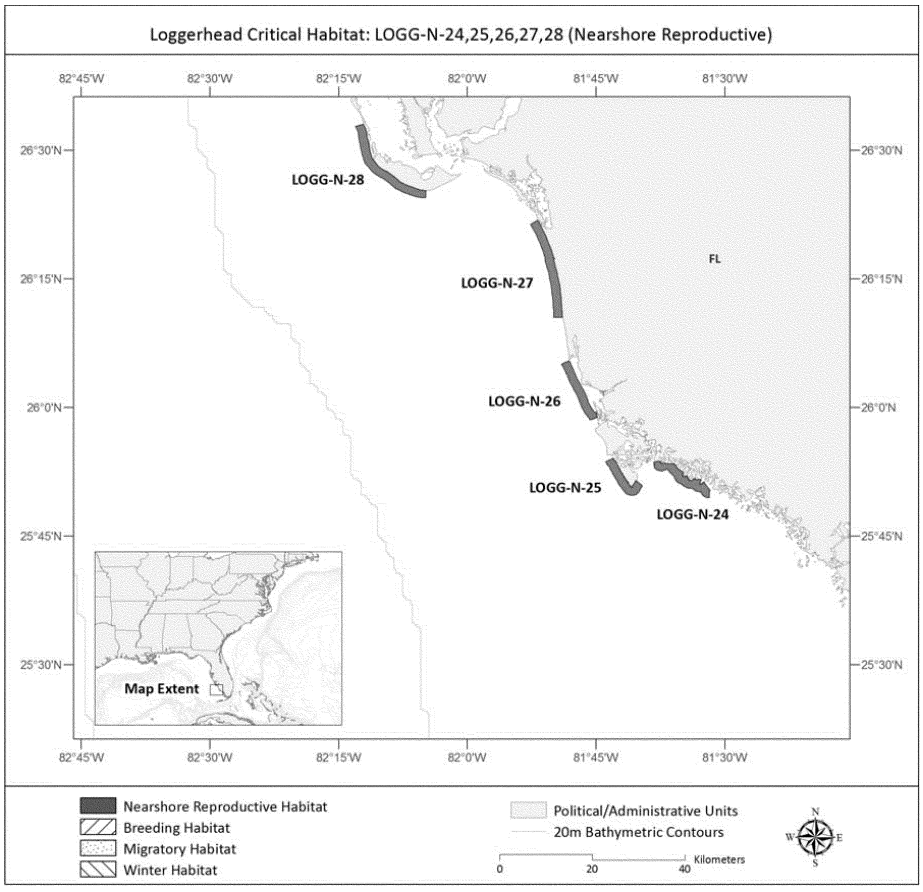

Loggerhead Critical Habitat: LOGG-N-19 (Nearshore Reproductive, Breeding, Migratory)
82°0'W
81°30'W
81°0'W
80°30'W
80°0'W
79°30'W
79°0'W
27°0'N
26°30'N
26°0'N
25°30'N
25°0'N
24°30'N
24°0'N
FL
LOGG-N-19
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
200m Bathymetric Contours
0
50
100
Kilometers
N
W
E
S

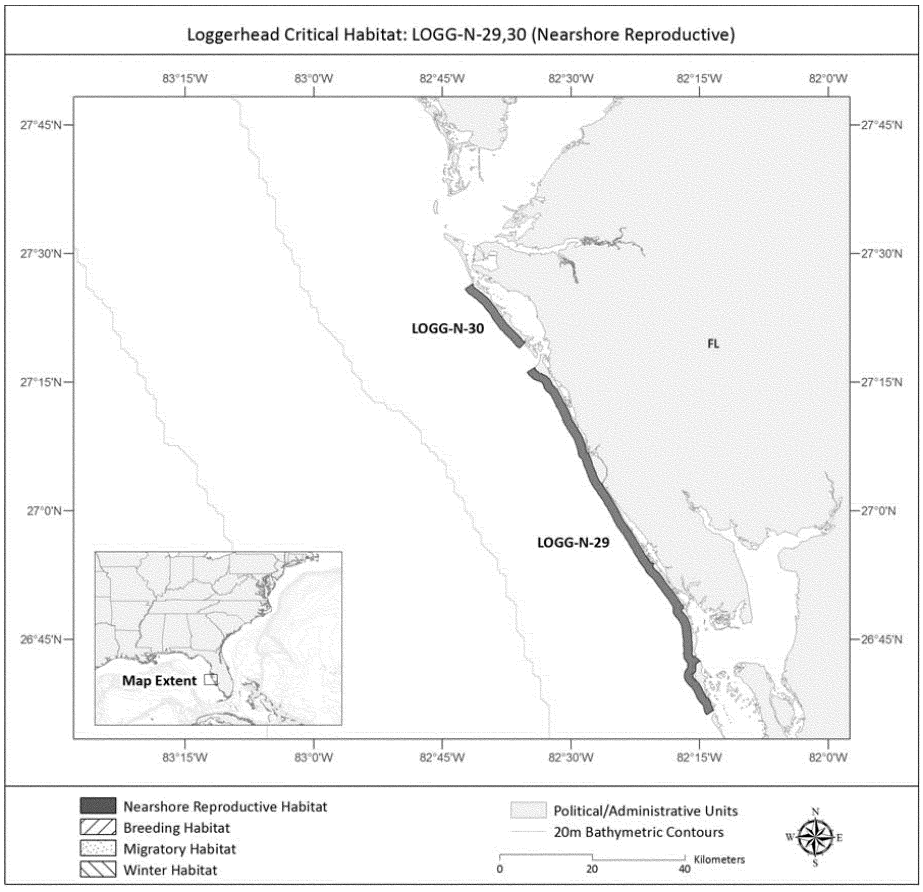

Loggerhead Critical Habitat: LOGG-N-19 (Nearshore Reproductive)
80°15'W
80°0'W
79°45'W
79°30'W
79°15'W
79°0'W
27°0'N
26°45'N
26°30'N
26°15'N
26°0'N
FL
LOGG-N-19
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

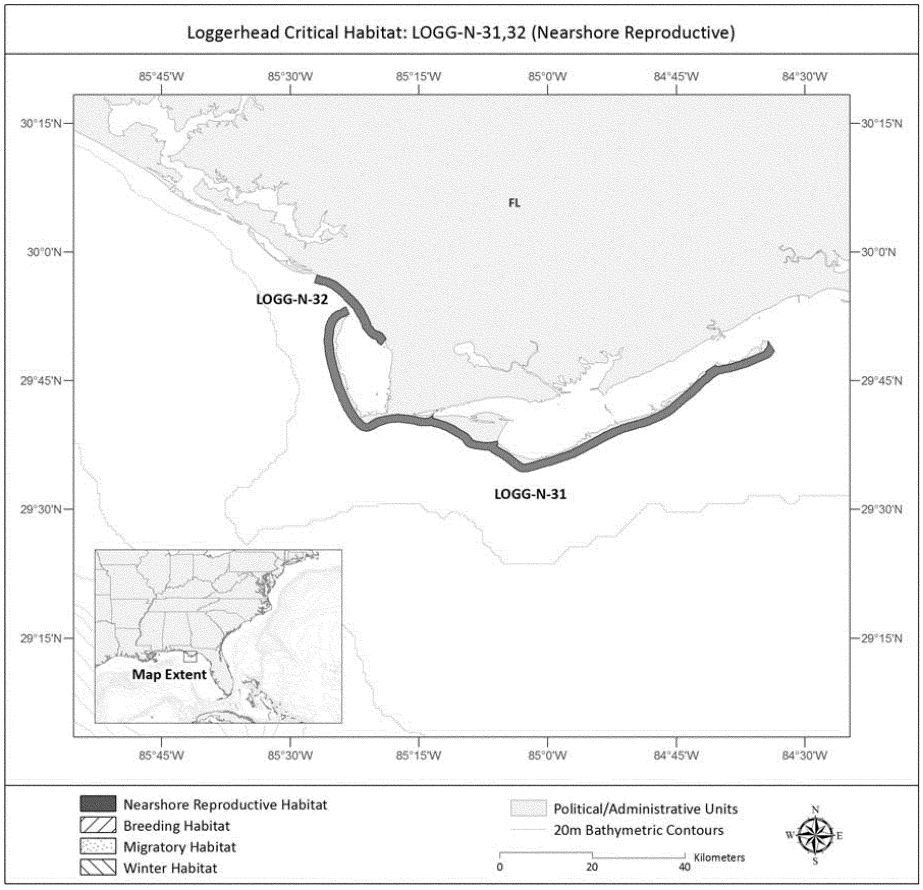

Loggerhead Critical Habitat: LOGG-N-19 (Nearshore Reproductive)
82°0'W
81°45'W
81°30'W
81°15'W
81°0'W
80°45'W
25°0'N
24°45'N
24°30'N
24°15'N
24°0'N
LOGG-N-19
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

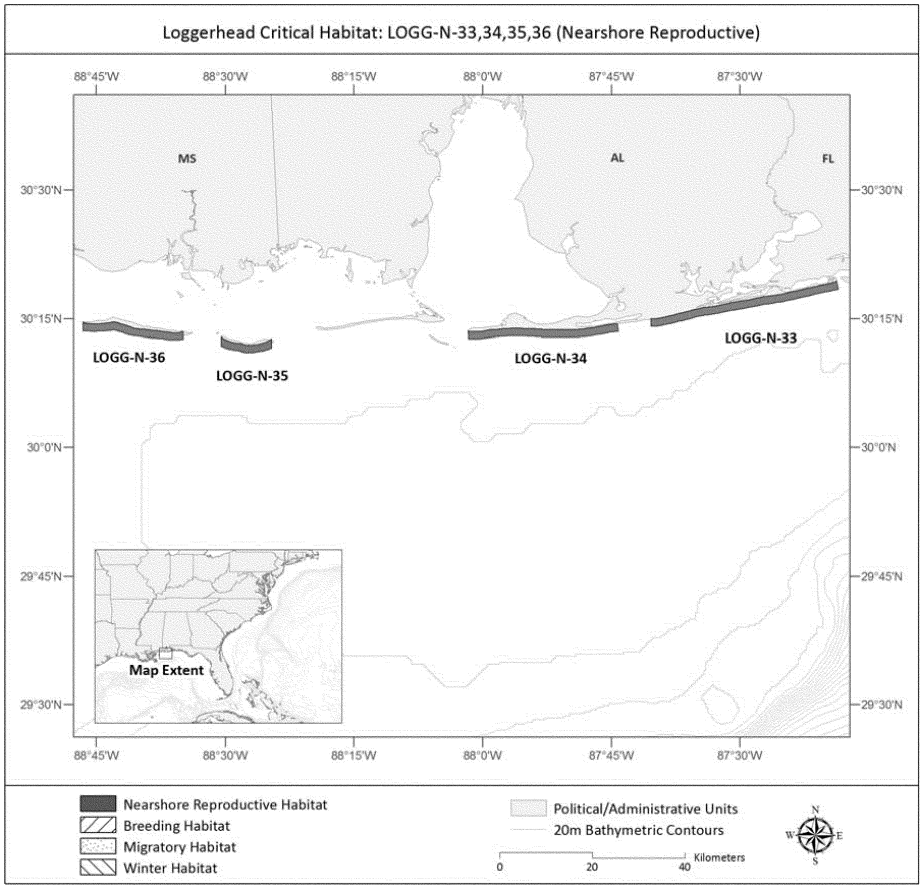

Loggerhead Critical Habitat: LOGG-N-20 (Nearshore Reproductive)
83°30'W
83°15'W
83°0'W
82°45'W
82°30'W
82°15'W
25°0'N
24°45'N
24°30'N
24°15'N
24°0'N
LOGG-N-20
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S

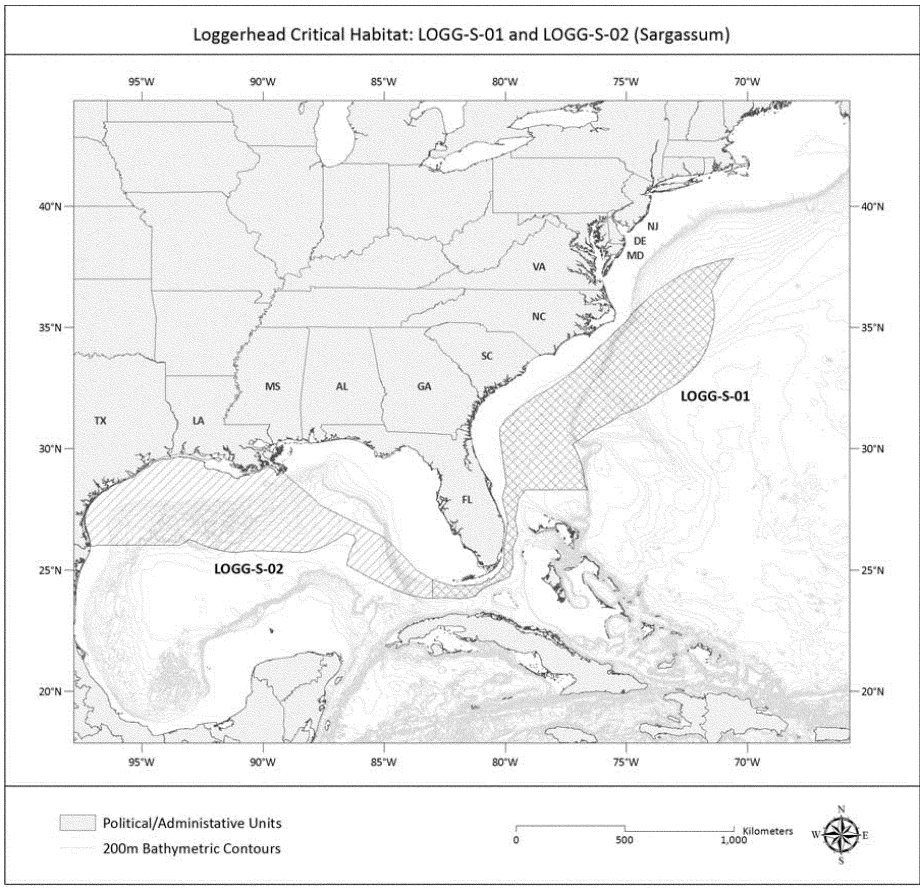

Loggerhead Critical Habitat: LOGG-N-21,22,23 (Nearshore Reproductive)
81°45'W
81°30'W
81°15'W
81°0'W
80°45'W
80°30'W
25°45'N
25°30'N
25°15'N
25°0'N
24°45'N
FL
LOGG-N-23
LOGG-N-22
LOGG-N-21
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S


Loggerhead Critical Habitat: LOGG-N-24,25,26,27,28 (Nearshore Reproductive)
82°45'W
82°30'W
82°15'W
82°0'W
81°45'W
81°30'W
26°30'N
26°15'N
26°0'N
25°45'N
25°30'N
LOGG-N-28
LOGG-N-27
LOGG-N-26
LOGG-N-25
LOGG-N-24
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S


Loggerhead Critical Habitat: LOGG-N-29,30 (Nearshore Reproductive)
83°15'W
83°0'W
82°45'W
82°30'W
82°15'W
82°0'W
27°45'N
27°30'N
27°15'N
27°0'N
26°45'N
LOGG-N-30
LOGG-N-29
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S


Loggerhead Critical Habitat: LOGG-N-31,32 (Nearshore Reproductive)
85°45'W
85°30'W
85°15'W
85°0'W
84°45'W
84°30'W
30°15'N
30°0'N
29°45'N
29°30'N
29°15'N
FL
LOGG-N-32
LOGG-N-31
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S


Loggerhead Critical Habitat: LOGG-N-33,34,35,36 (Nearshore Reproductive)
88°45'W
88°30'W
88°15'W
88°0'W
87°45'W
87°30'W
30°30'N
30°15'N
30°0'N
29°45'N
29°30'N
MS
AL
FL
LOGG-N-36
LOGG-N-35
LOGG-N-34
LOGG-N-33
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S



[79 FR 39889, July 10, 2014]

§ 226.224 Critical habitat for the Puget Sound/Georgia Basin DPS of yelloweye rockfish (*Sebastes ruberrimus*), canary rockfish (*S. pinniger*), and bocaccio (*S. paucispinus*).

Critical habitat is designated in the following states and counties for the following DPSs as depicted in the maps below and described in paragraphs (a) through (d) of this section. The maps can be viewed or obtained with greater resolution (*http://www.wcr.noaa.gov/*) to enable a more precise inspection of critical habitat for yelloweye rockfish, canary rockfish and bocaccio.

(a) Critical habitat is designated for the following DPSs in the following state and counties:

DPS	State-counties
Yelloweye rockfish	Wa—San Juan, Whatcom, Skagit, Island, Clallam, Jefferson Snohomish, King, Pierce, Kitsap, Thurston, Mason.
Canary rockfish	Wa—San Juan, Whatcom, Skagit, Island, Clallam, Jefferson Snohomish, King, Pierce, Kitsap, Thurston, Mason.
Bocaccio	Wa—San Juan, Whatcom, Skagit, Island, Clallam, Jefferson Snohomish, King, Pierce, Kitsap, Thurston, Mason.

(b) *Critical habitat boundaries.* In delineating nearshore (shallower than 30 m (98 ft)) areas in Puget Sound, we define critical habitat for canary rockfish and bocaccio, as depicted in the maps below, as occurring from the shoreline from extreme high water out to a depth no greater than 30 m (98 ft) relative to mean lower low water. Deepwater critical habitat for yelloweye rockfish, canary rockfish and bocaccio occurs in some areas, as depicted in the maps below, from depths greater than 30 m (98 ft). The critical habitat designation includes the marine waters above (the entire water column) the nearshore and deepwater areas depicted in the maps below.

(c)(1) *Essential features for juvenile canary rockfish and bocaccio.* Juvenile settlement habitats located in the nearshore with substrates such as sand, rock and/or cobble compositions that also support kelp are essential for conservation because these features enable forage opportunities and refuge from predators and enable behavioral and physiological changes needed for juveniles to occupy deeper adult habitats. Several attributes of these sites determine the quality of the area and are useful in considering the conservation value of the associated feature and in determining whether the feature may require special management considerations or protection. These features also are relevant to evaluating the effects of an action in an ESA section 7 consultation if the specific area containing the site is designated as critical habitat. These attributes include:

(i) Quantity, quality, and availability of prey species to support individual growth, survival, reproduction, and feeding opportunities; and

(ii) Water quality and sufficient levels of dissolved oxygen to support growth, survival, reproduction, and feeding opportunities.

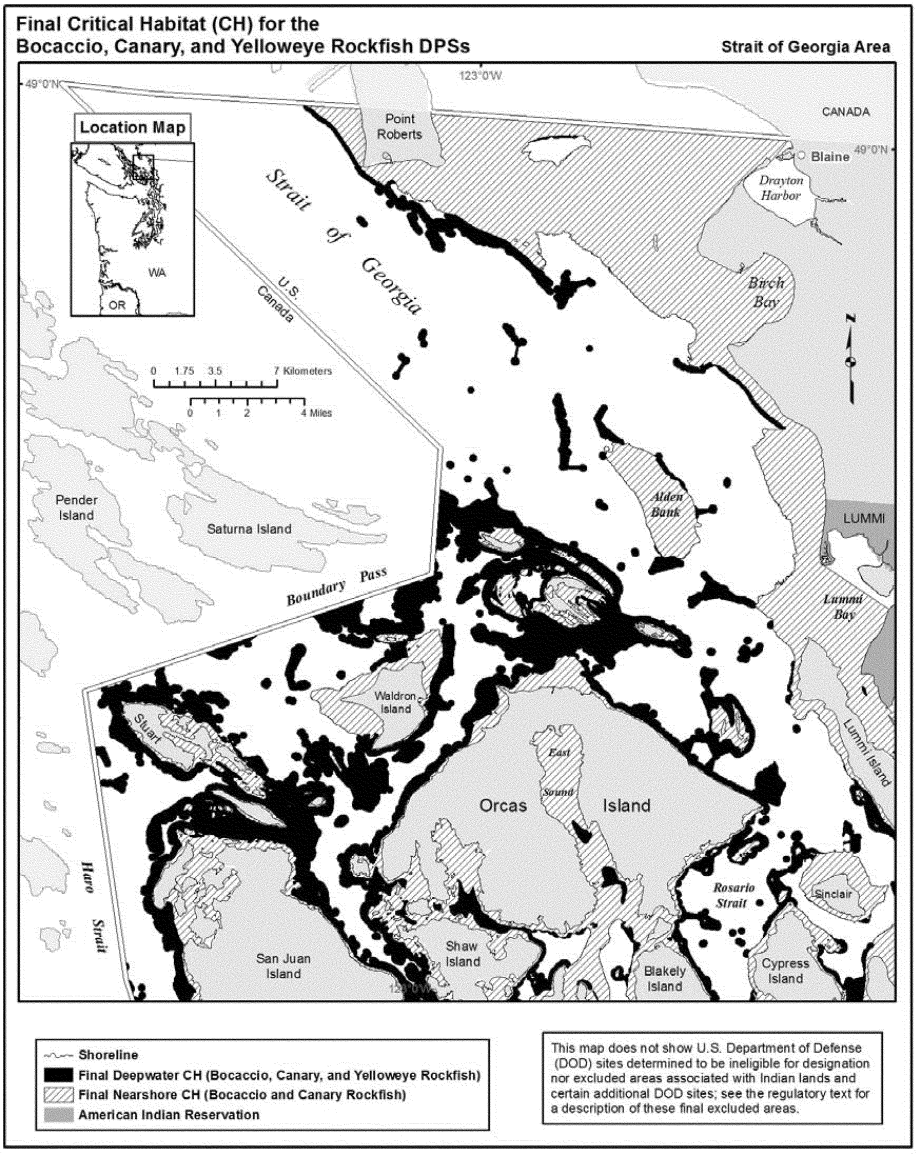
(2) Nearshore areas are contiguous with the shoreline from the line of extreme high water out to a depth no greater than 30 meters (98 ft) relative to mean lower low water.

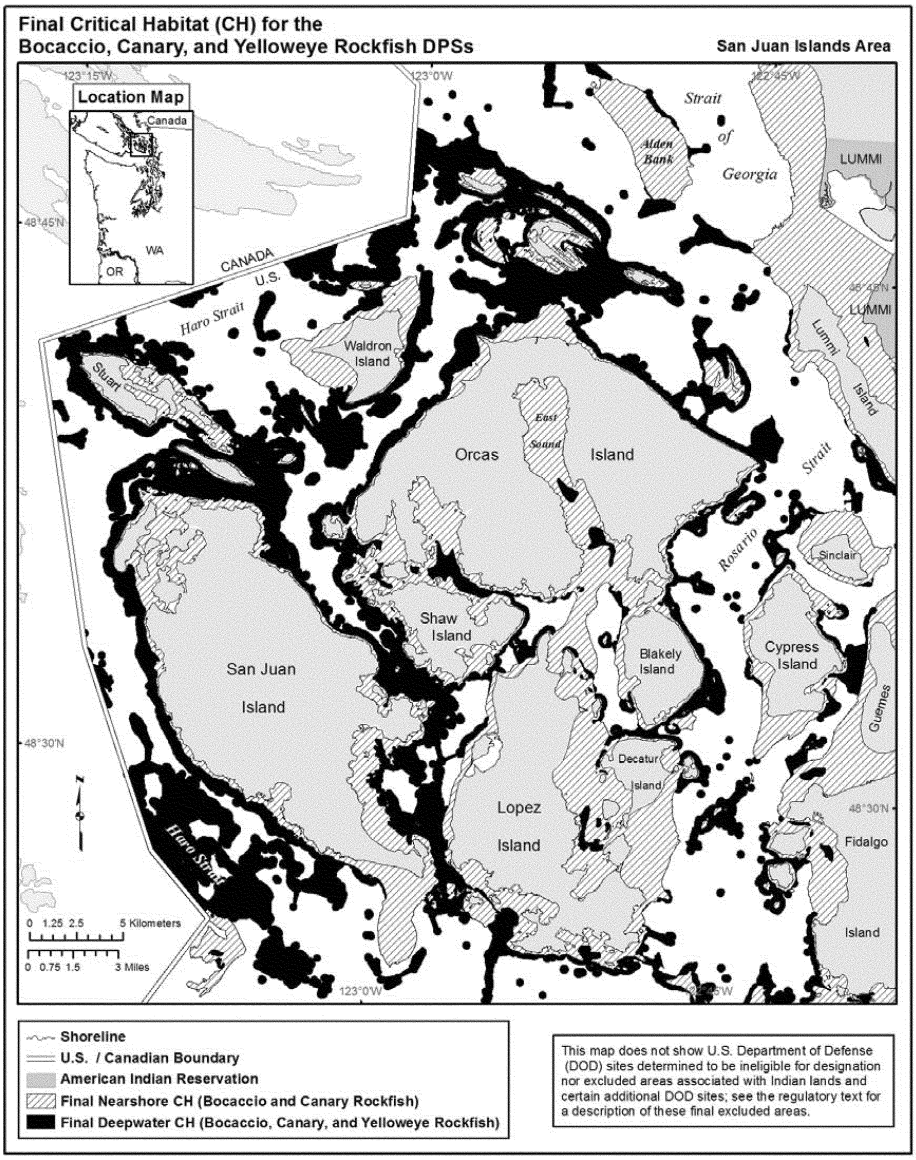
(d) *Essential features for adult canary rockfish and bocaccio, and adult and juvenile yelloweye rockfish.* Benthic habitats and sites deeper than 30 m (98 ft) that possess or are adjacent to areas of complex bathymetry consisting of rock and or highly rugose habitat are essential to conservation because these features support growth, survival, reproduction, and feeding opportunities by providing the structure for rockfish to avoid predation, seek food and persist for decades. Several attributes of these sites determine the quality of the habitat and are useful in considering the conservation value of the associated feature, and whether the feature may require special management considerations or protection. These attributes are also relevant in the evaluation of the effects of a proposed action in an ESA section 7 consultation if the specific area containing the site is designated as critical habitat. These attributes include:

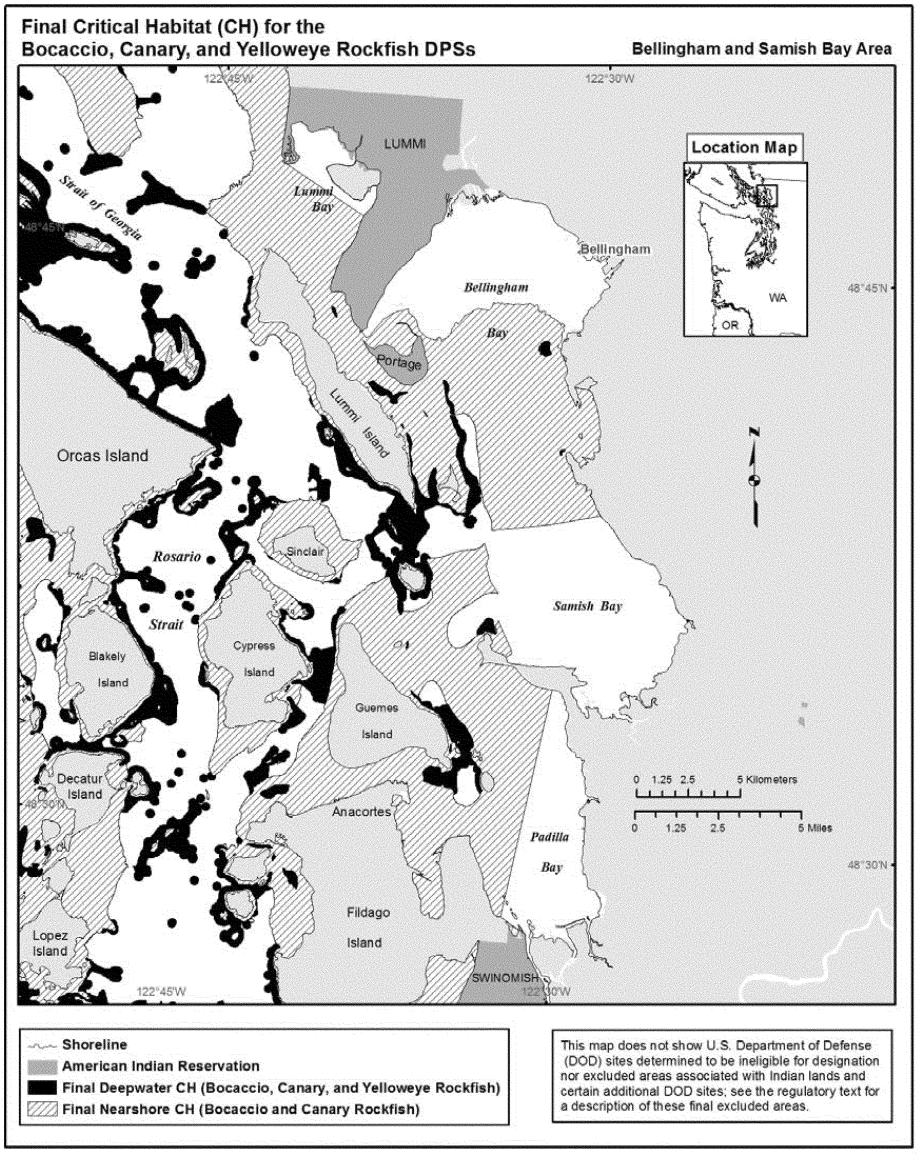
(1) Quantity, quality, and availability of prey species to support individual growth, survival, reproduction, and feeding opportunities;

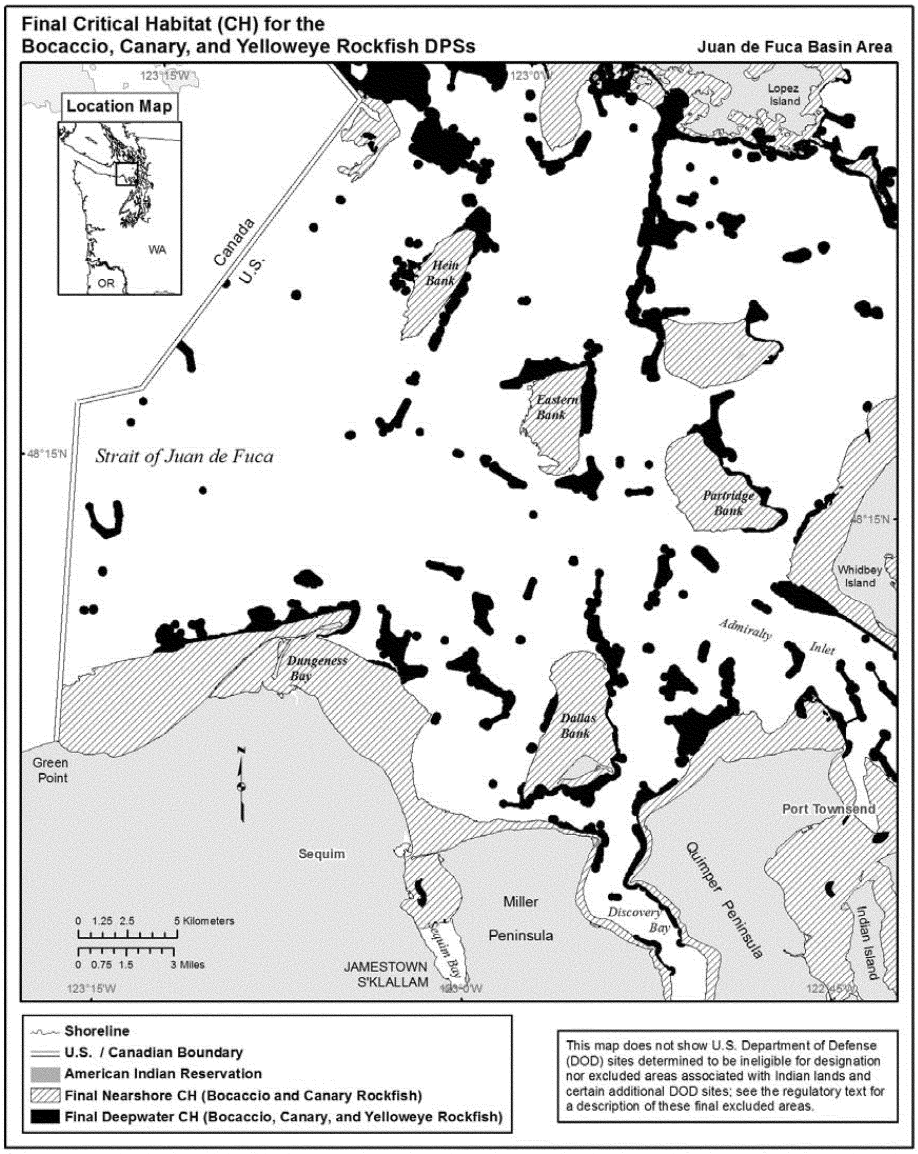
(2) Water quality and sufficient levels of dissolved oxygen to support growth, survival, reproduction, and feeding opportunities; and

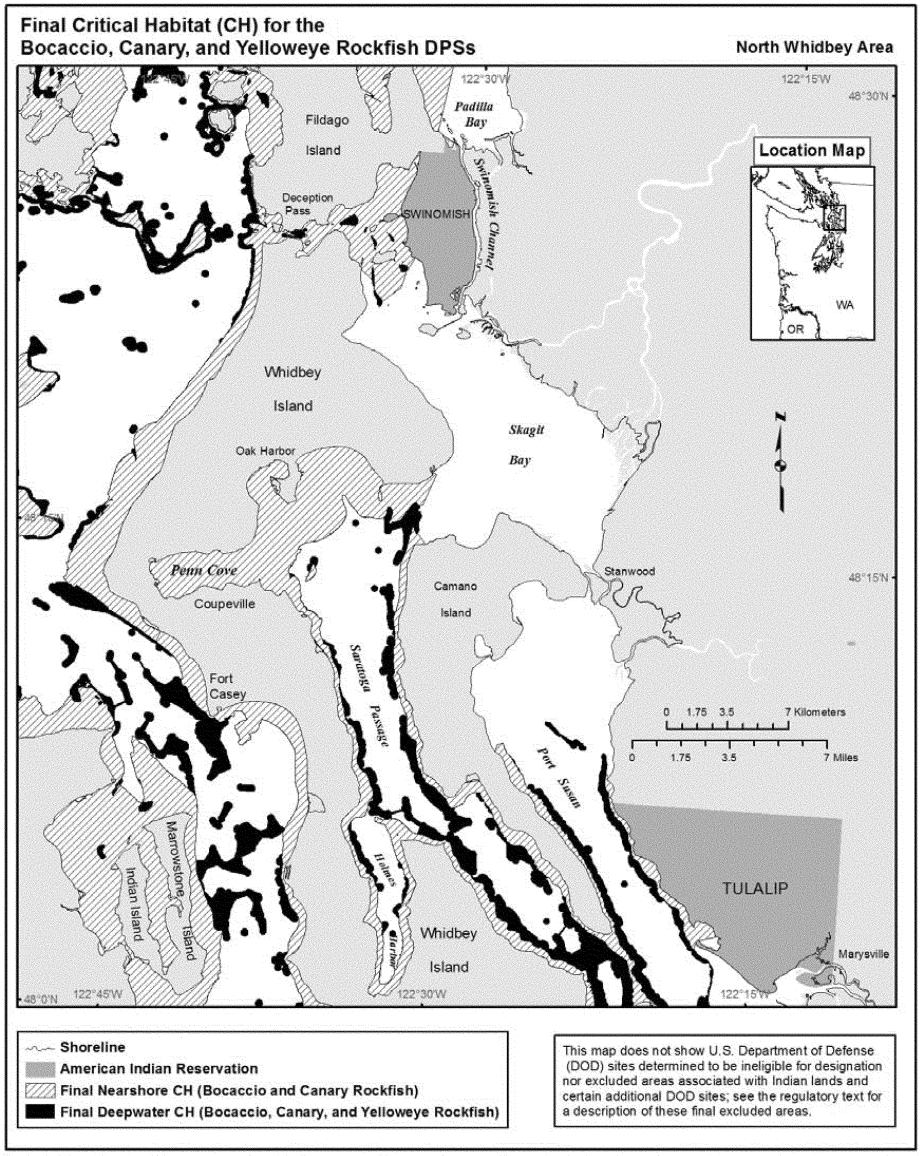
(3) The type and amount of structure and rugosity that supports feeding opportunities and predator avoidance.

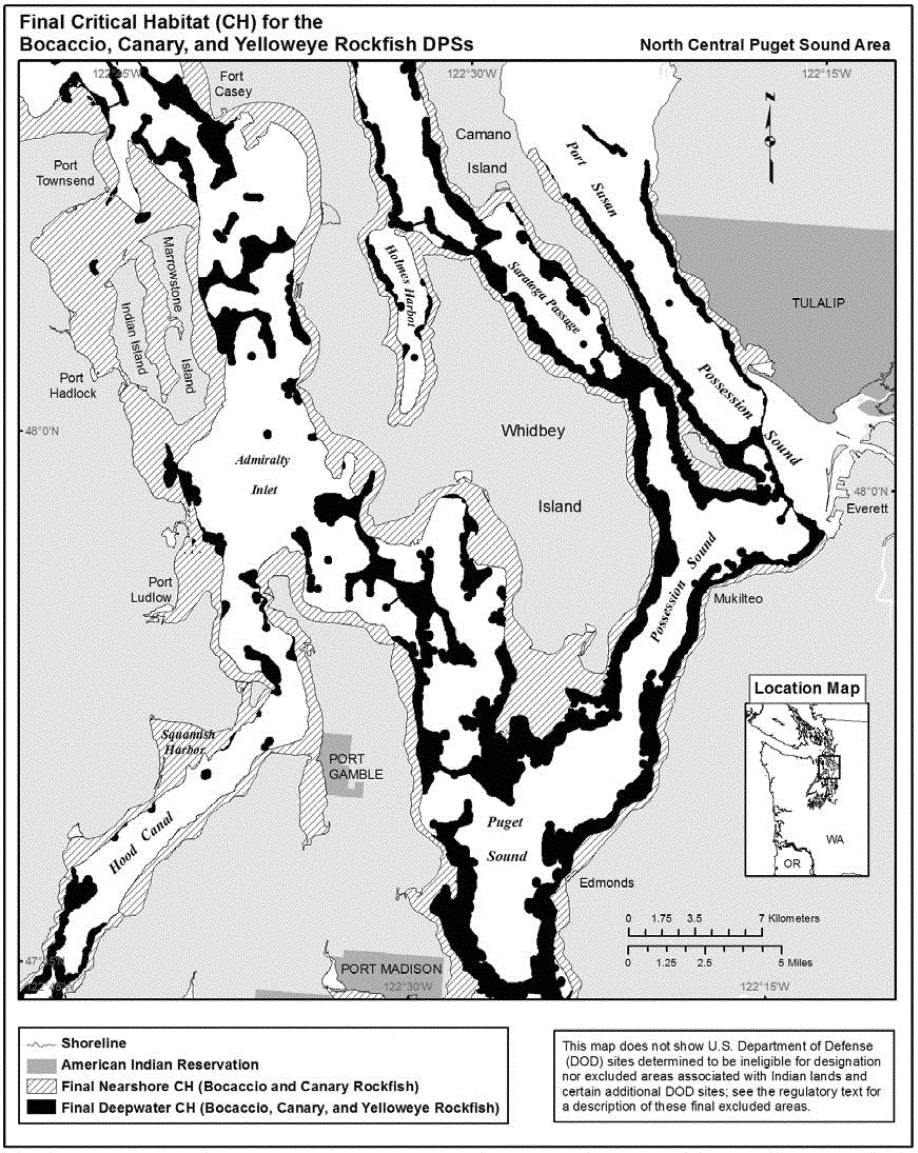

Final Critical Habitat (CH) for the
Bocaccio, Canary, and Yelloweye Rockfish DPSs
Strait of Georgia Area
49°0'N
123°0'W
Location Map
WA
OR
Point Roberts
CANADA
Blaine
49°0'N
Drayton Harbor
Birch Bay
Strait of Georgia
U.S.
Canada
0 1.75 3.5 7 Kilometers
0 1 2 4 Miles
Pender Island
Saturna Island
Boundary Pass
Alden Bank
LUMMI
Lummi Bay
Waldron Island
Stuart
East Sound
Orcas Island
Lummi Island
Haro Strait
Rosario Strait
Sinclair
San Juan Island
Shaw Island
Blakely Island
Cypress Island
Shoreline
Final Deepwater CH (Bocaccio, Canary, and Yelloweye Rockfish)
Final Nearshore CH (Bocaccio and Canary Rockfish)
American Indian Reservation
This map does not show U.S. Department of Defense (DOD) sites determined to be ineligible for designation nor excluded areas associated with Indian lands and certain additional DOD sites; see the regulatory text for a description of these final excluded areas.

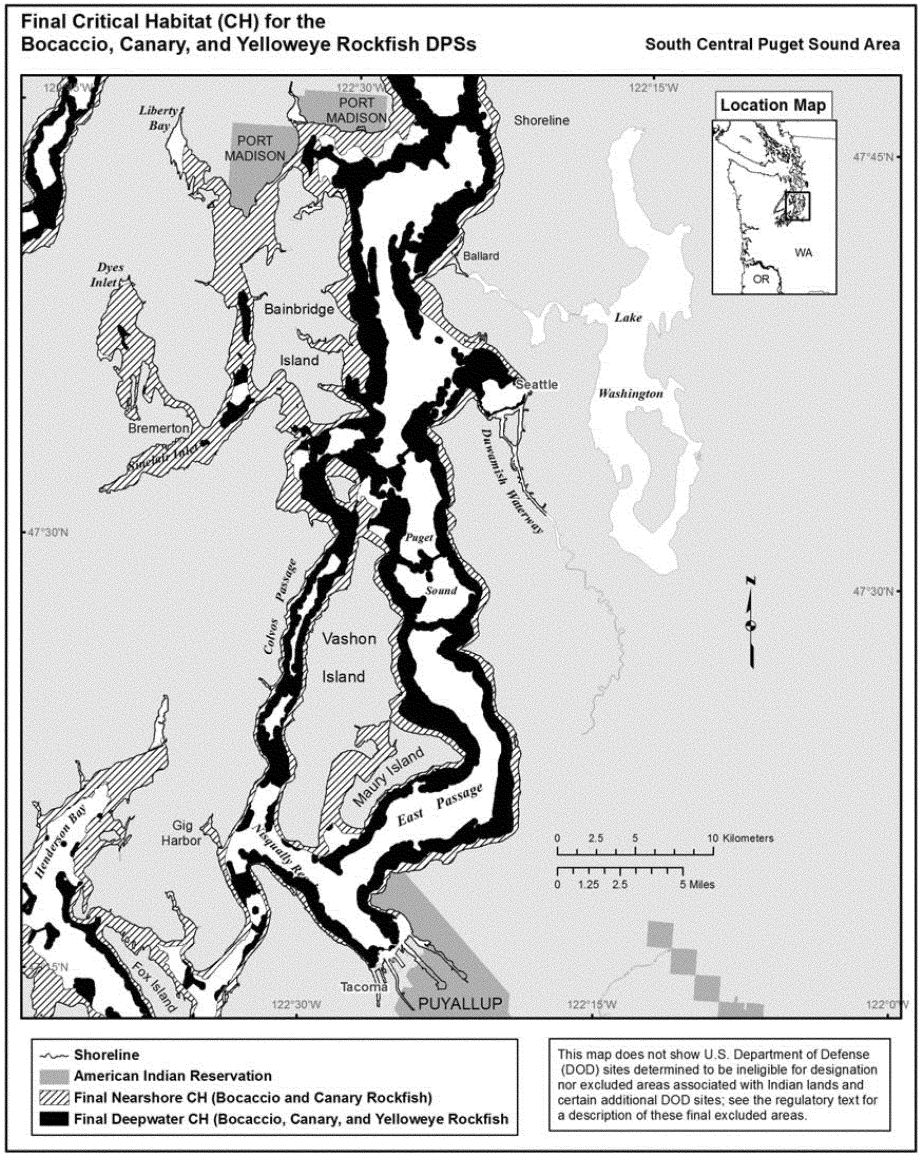

Final Critical Habitat (CH) for the
Bocaccio, Canary, and Yelloweye Rockfish DPSs
San Juan Islands Area
Location Map
Canada
WA
OR
CANADA
U.S.
Haro Strait
Waldron Island
Stuart Island
Orcas Island
East Sound
Strait of Georgia
Alden Bank
LUMMI
Lummi Island
Rosario Strait
Sinclair
Shaw Island
San Juan Island
Blakely Island
Cypress Island
Guemes
Decatur Island
Lopez Island
Fidalgo Island
123°15'W
123°0'W
122°45'W
48°45'N
48°30'N
0 1.25 2.5 5 Kilometers
0 0.75 1.5 3 Miles
Shoreline
U.S. / Canadian Boundary
American Indian Reservation
Final Nearshore CH (Bocaccio and Canary Rockfish)
Final Deepwater CH (Bocaccio, Canary, and Yelloweye Rockfish)
This map does not show U.S. Department of Defense (DOD) sites determined to be ineligible for designation nor excluded areas associated with Indian lands and certain additional DOD sites; see the regulatory text for a description of these final excluded areas.

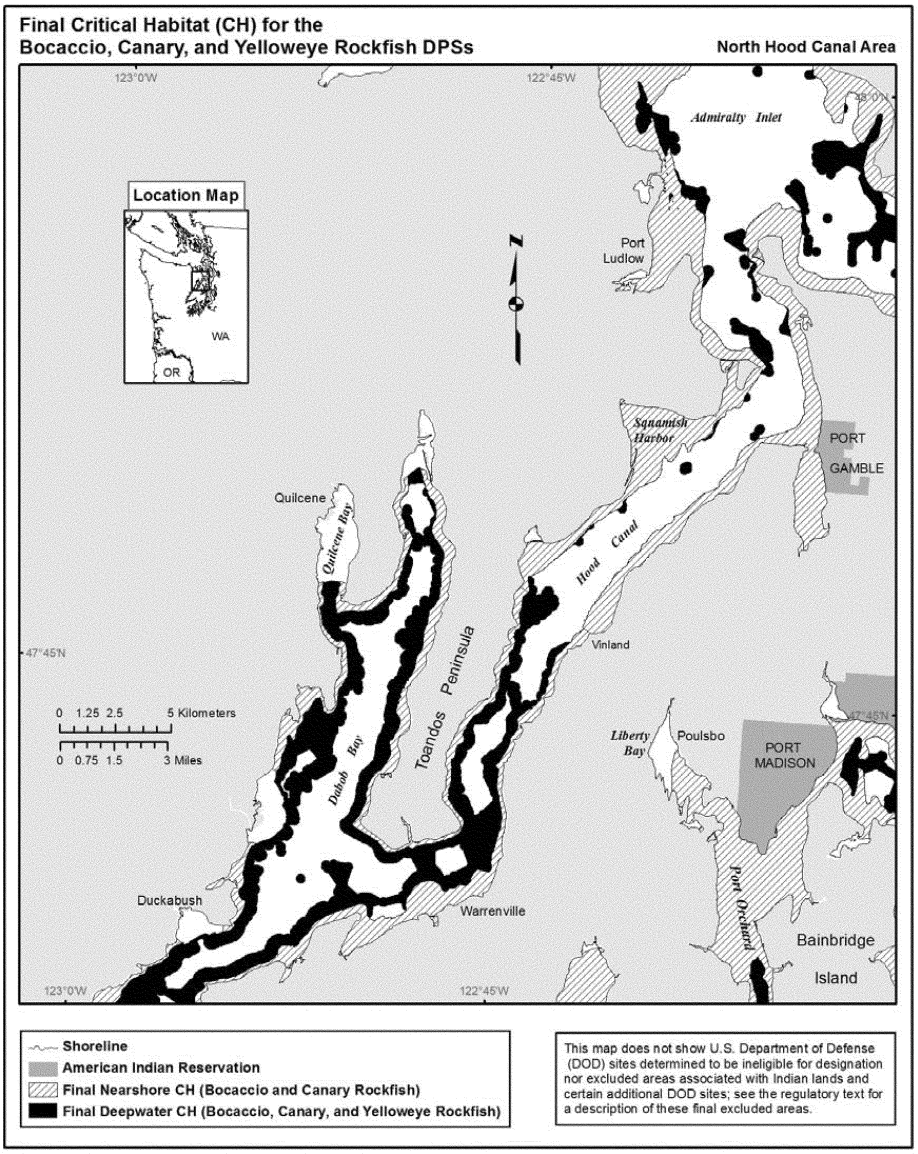

Final Critical Habitat (CH) for the
Bocaccio, Canary, and Yelloweye Rockfish DPSs
Bellingham and Samish Bay Area
122°45'W
122°30'W
48°45'N
48°30'N
LUMMI
Lummi Bay
Strait of Georgia
Bellingham
Bellingham Bay
Portage
Lummi Island
Orcas Island
Rosario Strait
Sinclair
Samish Bay
Blakely Island
Cypress Island
Guemes Island
Decatur Island
Anacortes
Padilla Bay
Fidalgo Island
Lopez Island
SWINOMISH
Location Map
WA
OR
0 1.25 2.5 5 Kilometers
0 1.25 2.5 5 Miles
Shoreline
American Indian Reservation
Final Deepwater CH (Bocaccio, Canary, and Yelloweye Rockfish)
Final Nearshore CH (Bocaccio and Canary Rockfish)
This map does not show U.S. Department of Defense (DOD) sites determined to be ineligible for designation nor excluded areas associated with Indian lands and certain additional DOD sites; see the regulatory text for a description of these final excluded areas.

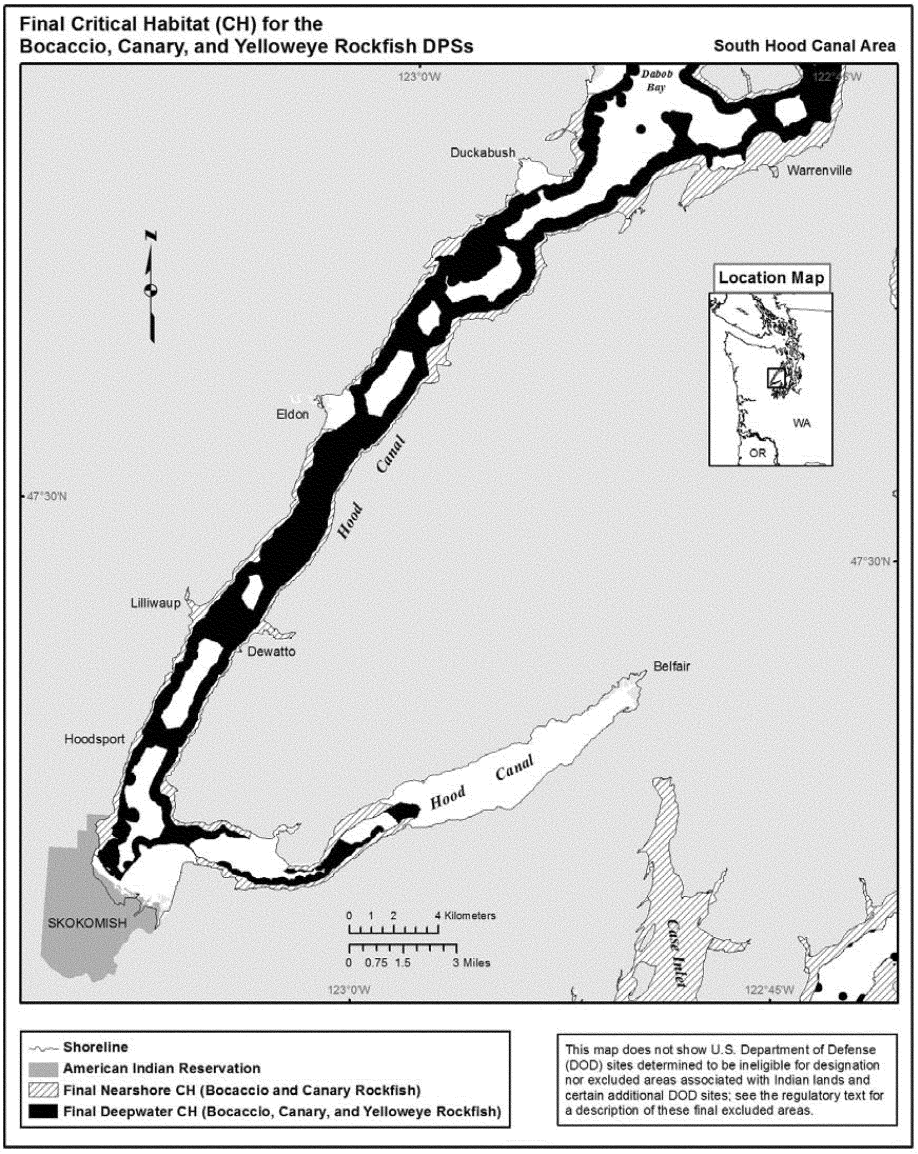

Final Critical Habitat (CH) for the
Bocaccio, Canary, and Yelloweye Rockfish DPSs
Juan de Fuca Basin Area
Location Map
WA
OR
Canada
U.S.
Hein Bank
Eastern Bank
Strait of Juan de Fuca
Partridge Bank
Whidbey Island
Admiralty Inlet
Dungeness Bay
Dallas Bank
Green Point
Sequim
Port Townsend
Quimper Peninsula
Miller Peninsula
Discovery Bay
Indian Island
Lopez Island
JAMESTOWN S'KLALLAM
Scuttle Bay
0 1.25 2.5 5 Kilometers
0 0.75 1.5 3 Miles
123°15'W
48°15'N
Shoreline
U.S. / Canadian Boundary
American Indian Reservation
Final Nearshore CH (Bocaccio and Canary Rockfish)
Final Deepwater CH (Bocaccio, Canary, and Yelloweye Rockfish)
This map does not show U.S. Department of Defense (DOD) sites determined to be ineligible for designation nor excluded areas associated with Indian lands and certain additional DOD sites; see the regulatory text for a description of these final excluded areas.

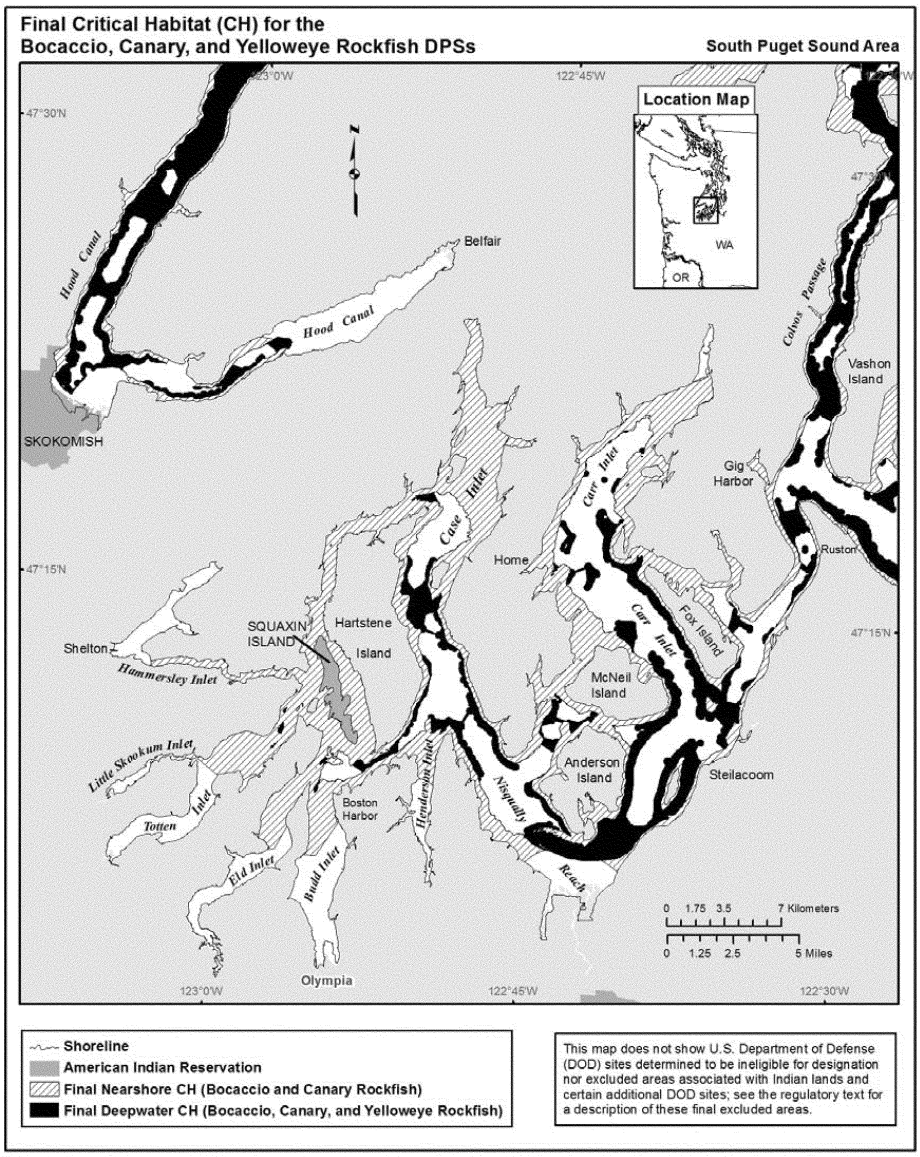

Final Critical Habitat (CH) for the
Bocaccio, Canary, and Yelloweye Rockfish DPSs
North Whidbey Area
122°30'W
122°15'W
48°30'N
48°15'N
48°0'N
122°45'W
Padilla Bay
Fildago Island
Deception Pass
SWINOMISH
Swinomish Channel
Location Map
WA
OR
Whidbey Island
Skagit Bay
Oak Harbor
Penn Cove
Coupeville
Camano Island
Stanwood
Fort Casey
Saratoga Passage
Port Susan
0 1.75 3.5 7 Kilometers
0 1.75 3.5 7 Miles
TULALIP
Marysville
Marrowstone Island
Indian Island
Useless Harbor
Whidbey Island
Shoreline
American Indian Reservation
Final Nearshore CH (Bocaccio and Canary Rockfish)
Final Deepwater CH (Bocaccio, Canary, and Yelloweye Rockfish)
This map does not show U.S. Department of Defense (DOD) sites determined to be ineligible for designation nor excluded areas associated with Indian lands and certain additional DOD sites; see the regulatory text for a description of these final excluded areas.


Final Critical Habitat (CH) for the
Bocaccio, Canary, and Yelloweye Rockfish DPSs
North Central Puget Sound Area
122°30'W
122°15'W
Fort Casey
Camano Island
Port Townsend
Port Susan
Marrowstone Island
Indian Island
Holmes Harbor
Saratoga Passage
TULALIP
Port Hadlock
Possession Sound
48°0'N
Whidbey Island
Admiralty Inlet
Everett
Port Ludlow
Mukilteo
Location Map
Squamish Harbor
PORT GAMBLE
Hood Canal
Puget Sound
WA
OR
Edmonds
0 1.75 3.5 7 Kilometers
0 1.25 2.5 5 Miles
PORT MADISON
Shoreline
American Indian Reservation
Final Nearshore CH (Bocaccio and Canary Rockfish)
Final Deepwater CH (Bocaccio, Canary, and Yelloweye Rockfish)
This map does not show U.S. Department of Defense (DOD) sites determined to be ineligible for designation nor excluded areas associated with Indian lands and certain additional DOD sites; see the regulatory text for a description of these final excluded areas.


Final Critical Habitat (CH) for the
Bocaccio, Canary, and Yelloweye Rockfish DPSs
South Central Puget Sound Area
Location Map
WA
OR
PORT MADISON
Liberty Bay
Shoreline
Ballard
Dyes Inlet
Bainbridge Island
Lake Washington
Seattle
Bremerton
Sinclair Inlet
Duwamish Waterway
Puget Sound
Colvos Passage
Vashon Island
Maury Island
East Passage
Gig Harbor
Henderson Bay
Wollochet Bay
Fox Island
Tacoma
PUYALLUP
47°45'N
47°30'N
122°30'W
122°15'W
122°0'W
0 2.5 5 10 Kilometers
0 1.25 2.5 5 Miles
Shoreline
American Indian Reservation
Final Nearshore CH (Bocaccio and Canary Rockfish)
Final Deepwater CH (Bocaccio, Canary, and Yelloweye Rockfish
This map does not show U.S. Department of Defense (DOD) sites determined to be ineligible for designation nor excluded areas associated with Indian lands and certain additional DOD sites; see the regulatory text for a description of these final excluded areas.


Final Critical Habitat (CH) for the
Bocaccio, Canary, and Yelloweye Rockfish DPSs
North Hood Canal Area
123°0'W
122°45'W
48°0'N
47°45'N
Admiralty Inlet
Location Map
WA
OR
N
Port Ludlow
Squamish Harbor
PORT GAMBLE
Quilcene
Quilcene Bay
Hood Canal
Toandos Peninsula
Vinland
Dabob Bay
Liberty Bay
Poulsbo
PORT MADISON
Port Orchard
Bainbridge Island
Duckabush
Warrenville
0 1.25 2.5 5 Kilometers
0 0.75 1.5 3 Miles
Shoreline
American Indian Reservation
Final Nearshore CH (Bocaccio and Canary Rockfish)
Final Deepwater CH (Bocaccio, Canary, and Yelloweye Rockfish)
This map does not show U.S. Department of Defense (DOD) sites determined to be ineligible for designation nor excluded areas associated with Indian lands and certain additional DOD sites; see the regulatory text for a description of these final excluded areas.


Final Critical Habitat (CH) for the
Bocaccio, Canary, and Yelloweye Rockfish DPSs
South Hood Canal Area
123°0'W
122°45'W
Dabob Bay
Duckabush
Warrenville
Location Map
WA
OR
Eldon
Hood Canal
47°30'N
Lilliwaup
Dewatto
Belfair
Hoodsport
Hood Canal
SKOKOMISH
0 1 2 4 Kilometers
0 0.75 1.5 3 Miles
Case Inlet
Shoreline
American Indian Reservation
Final Nearshore CH (Bocaccio and Canary Rockfish)
Final Deepwater CH (Bocaccio, Canary, and Yelloweye Rockfish)
This map does not show U.S. Department of Defense (DOD) sites determined to be ineligible for designation nor excluded areas associated with Indian lands and certain additional DOD sites; see the regulatory text for a description of these final excluded areas.



[79 FR 68075, Nov. 13, 2014]

TABLE 1 TO PART 226—MAJOR STELLER SEA LION ROOKERY SITES

Major Steller sea lion rookery sites are identified in the following table. Where two sets of coordinates are given, the baseline extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

State/region/site	Boundaries to—			
	Latitude	Longitude	Latitude	Longitude
Alaska:				
Western Aleutians:				
Agattu I.:				
Cape Sabak [1]	52 23.5N	173 43.5E	52 22.0N	173 41.0E
Gillon Point [1]	52 24.0N	173 21.5E.		
Attu I. [1]	52 54.5N	172 28.5E	52 57.5N	172 31.5E
Buldir I. [1]	52 20.5N	175 57.0E	52 23.5N	172 51.0E
Central Aleutians:				
Adak I. [1]	51 36.5N	176 59.0W	51 38.0N	176 59.5W
Agligadak I. [1]	52 06.5N	172 54.0W.		
Amchitka I.: [1]				
Column Rock [1]	51 32.5N	178 49.5E.		
East Cape [1]	51 22.5N	179 28.0E	51 21.5N	179 25.0E
Ayugadak I. [1]	51 45.5N	178 24.5E.		
Gramp Rock [1]	51 29.0N	178 20.5W.		
Kasatochi I. [1]	52 10.0N	175 31.5W	52 10.5N	175 29.0W
Kiska I.:				
Lief Cove [1]	51 57.5N	177 21.0E	51 56.5N	177 20.0E
Cape St. Stephen [1].	51 52.5N	177 13.0E	51 53.5N	177 12.0E
Seguam I./Saddleridge [1]	52 21.0N	172 35.0W	52 21.0N	172 33.0W
Semisopochnoi I.:				
Pochnoi Pt [1]	51 58.5N	179 45.5E	51 57.0N	179 46.0E
Petrel Pt [1]	52 01.5N	179 37.5E	52 01.5E	179 39.0E
Tag I. [1]	51 33.5N	178 34.5W.		
Ulak I. [1]	51 20.0N	178 57.0W	51 18.5N	178 59.5W
Yunaska I. [1]	52 42.0N	170 38.5W	52 41.0N	170 34.5W
Eastern Aleutian:				
Adugak I. [1]	52 55.0N	169 10.5W.		
Akun I./Billings Head [1]	54 18.0N	165 32.5W	54 18.0N	165 31.5W
Akutan I./Cape Morgan [1]	54 03.5N	166 00.0W	54 05.5N	166 05.0W
Bogoslof I. [1 2]	53 56.0N	168 02.0W.		
Ogchul I. [1]	53 00.0N	168 24.0W.		
Sea Lion Rocks. (Amak) [1].	55 28.0N	163 12.0W.		
Ugamak I. [1]	54 14.0N	164 48.0W	54 13.0N	164 48.0W
Bering Sea:				
Walrus I. [1]	57 11.0N	169 56.0W.		
Western Gulf of Alaska:				
Atkins I. [1]	55 03.5N	159 18.5W.		
Chernabura I. [1]	54 47.5N	159 31.0W	54 45.5N	159 33.5W
Clubbing Rocks (N) [1]	54 43.0N	162 26.5W.		
Clubbing Rocks (S) [1]	54 42.0N	162 26.5W.		
Pinnacle Rock [1]	54 46.0N	161 46.0W.		
Central Gulf of Alaska:				
Chirikof I. [1]	55 46.5N	155 39.5W	55 46.5N	155 43.0W
Chowiet I. [1]	56 00.5N	156 41.5W	56 00.5N	156 42.0W
Marmot I. [1]	58 14.5N	151 47.5W	58 10.0N	151 51.0W
Outer I. [1]	59 20.5N	150 23.0W	59 21.0N	150 24.5W
Sugarloaf I. [1]	58 53.0N	152 02.0W.		
Eastern Gulf of Alaska:				
Seal Rocks [1]	60 10.0N	146 50.0W.		
Fish I. [1]	59 53.0N	147 20.5W.		
Southeast Alaska:				
Forrester I.	54 51.0N	133 32.0W	54 52.5N	133 35.5W
Hazy I	55 52.0N	134 34.0W	55 51.5N	134 35.0W
White Sisters	57 38.0N	136 15.5W.		
Oregon:				
Rogue Reef: Pyramid Rock	42 26.4N	124 28.1W.		
Orford Reef:				
Long Brown Rock	42 47.3N	124 36.2W.		
Seal Rock	42 47.1N	124 35.4W.		
California:				
Ano Nuevo I.	37 06.3N	122 20.3W.		
Southeast Farallon I.	37 41.3N	123 00.1W.		
Sugarloaf I. & Cape Mendocino	40 26.0N	124 24.0W.		

[1] Includes an associated 20 NM aquatic zone.
[2] Associated 20 NM aquatic zone lies entirely within one of the three special foraging areas.

[58 FR 45278, Aug. 27, 1993]

TABLE 2 TO PART 226—MAJOR STELLER SEA LION HAULOUT SITES IN ALASKA

Major Steller sea lion haulout sites in Alaska are identified in the following table. Where two sets of coordinates are given, the baseline extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the basepoint.

State/region/site	Boundaries to—			
	Latitude	Longitude	Latitude	Longitude
Alaska:				
Western Aleutians:				
Alaid I.[1]	52 45.0N	173 56.5E	52 46.5N	173 51.5E
Attu/Chirikof Pt.[1]	52 30.0N	173 26.7E.		
Shemya I.[1]	52 44.0N	174 09.0E.		
Central Aleutians:				
Amatignak I.[1]	51 13.0N	179 08.0E.		
Amlia I:				
East[1]	52 05.0N	172 58.5W	52 06.0N	172 57.0W
Sviech. Harbor[1].	52 02.0N	173 23.0W.		
Amukta I. & Rocks[1]	52 31.5N	171 16.5W	52 26.5N	171 16.5W
Anagaksik I.[1]	51 51.0N	175 53.5W.		
Atka I.[1]	52 23.5N	174 17.0W	52 24.5N	174 07.5W
Bobrof I.[1]	51 54.0N	177 27.0W.		
Chagulak I.[1]	52 34.0N	171 10.5W.		
Chuginadak I.[1]	52 46.5N	169 44.5W	52 46.5N	169 42.0W
Great Sitkin I.[1]	52 06.0N	176 10.5W	52 07.0N	176 08.5W
Kagamil I.[1]	53 02.5N	169 41.0W.		
Kanaga I:				
North Cape[1]	51 56.5N	177 09.0W.		
Ship Rock[1]	51 47.0N	177 22.5W.		
Kavalga I.[1]	51 34.5N	178 51.5W	51 34.5N	178 49.5W
Kiska I./Sirius Pt.[1]	52 08.5N	177 36.5E.		
Kiska I./Sobaka & Vega[1].	51 50.0N	177 20.0E	51 48.5N	177 20.5E
Little Sitkin I.[1]	51 59.5N	178 30.0E.		
Little Tanaga I.[1]	51 50.5N	176 13.0W	51 49.0N	176 13.0W
Sagigik I.[1]	52 00.5N	173 08.0W.		
Seguam I:				
South[1]	52 19.5N	172 18.0W	52 15.0N	172 37.0W
Finch Pt.[1]	52 23.5N	172 25.5W	52 23.5N	172 24.0W
Segula I.[1]	52 00.0N	178 06.5E	52 03.5N	178 09.0E
Tanaga I.[1]	51 55.0N	177 58.5W	51 55.0N	177 57.0W
Tanadak I. (Amlia)[1]	52 04.5N	172 57.0W.		
Tanadak I. (Kiska)[1]	51 57.0N	177 47.0E.		
Ugidak I.[1]	51 35.0N	178 30.5W.		
Uliaga I.[1]	53 04.0N	169 47.0W	53 05.0N	169 46.0W
Unalga & Dinkum Rocks[1].	51 34.0N	179 04.0W	51 34.5N	179 03.0W
Eastern Aleutians:				
Akutan I./Reef-Lava[1]	54 10.5N	166 04.5W	54 07.5N	166 06.5W
Amak I.[1]	55 24.0N	163 07.0W	55 26.0N	163 10.0W
Cape Sedanka & Island[1].	53 50.5N	166 05.0W.		
Emerald I.[1]	53 17.5N	167 51.5W.		
Old Man Rocks[1]	53 52.0N	166 05.0W.		
Polivnoi Rock[1]	53 16.0N	167 58.0W.		
Tanginak I.[1]	54 13.0N	165 19.5W.		
Tigalda I.[1]	54 08.5N	164 58.5W.		
Umnak I./Cape Aslik[1]	53 25.0N	168 24.5W.		
Bering Sea:				
Cape Newenham[1]	58 39.0N	162 10.5W.		
Hall I.[1]	60 37.0N	173 00.0W.		
Round I.[1]	58 36.0N	159 58.0W.		
St. Paul I:				
Northeast Point[1].	57 15.0N	170 06.5W.		
Sea Lion Rock[1]	57 06.0N	170 17.5W.		
St. George I:				
S Rookery[1]	56 33.5N	169 40.0W.		
Dalnoi Point[1]	56 36.0N	169 46.0W.		

State/region/site	Boundaries to—			
	Latitude	Longitude	Latitude	Longitude
St. Lawrence I:				
S Punuk I.[1]	64 04.0N	168 51.0W.		
SW Cape[1]	63 18.0N	171 26.0W.		
Western Gulf of Alaska:				
Bird I.[1]	54 40.5N	163 18.0W.		
Castle Rock[1]	55 17.0N	159 30.0W.		
Caton I.[1]	54 23.5N	162 25.5W.		
Jude I.[1]	55 16.0N	161 06.0W.		
Lighthouse Rocks[1]	55 47.5N	157 24.0W.		
Nagai I.[1]	54 52.5N	160 14.0W	54 56.0N	160 15.0W
Nagai Rocks[1]	55 50.0N	155 46.0W.		
Sea Lion Rocks (Unga)[1]	55 04.5N	160 31.0W.		
South Rock[1]	54 18.0N	162 43.5W.		
Spitz I.[1]	55 47.0N	158 54.0W.		
The Whaleback[1]	55 16.5N	160 06.0W.		
Central Gulf of Alaska:				
Cape Barnabas[1]	57 10.0N	152 55.0W	57 07.5N	152 55.0W
Cape Chiniak[1]	57 35.0N	152 09.0W	57 37.5N	152 09.0W
Cape Gull[1 2]	58 13.5N	154 09.5W	58 12.5N	154 10.5W
Cape Ikolik[1 2]	57 17.0N	154 47.5W.		
Cape Kuliak[1 2]	58 08.0N	154 12.5W.		
Cape Sitkinak[1]	56 32.0N	153 52.0W.		
Cape Ugat[1 2]	57 52.0N	153 51.0W.		
Gore Point[1]	59 12.0N	150 58.0W.		
Gull Point[1]	57 21.5N	152 36.5W	57 24.5N	152 39.0W
Latax Rocks[1]	58 42.0N	152 28.5W	58 40.5N	152 30.0W
Long I.[1]	57 45.5N	152 16.0W.		
Nagahut Rocks[1]	59 06.0N	151 46.0W.		
Puale Bay[1 2]	57 41.0N	155 23.0W.		
Sea Lion Rocks (Marmot)[1].	58 21.0N	151 48.5W.		
Sea Otter I.[1]	58 31.5N	152 13.0W.		
Shakun Rock[1 2]	58 33.0N	153 41.5W.		
Sud I.[1]	58 54.0N	152 12.5W.		
Sutwik I.[1]	56 32.0N	157 14.0W	56 32.0N	157 20.0W
Takli I.[1 2]	58 03.0N	154 27.5W	58 03.0N	154 30.0W
Two-headed I.[1]	56 54.5N	153 33.0W	56 53.5N	153 35.5W
Ugak I.[1]	57 23.0N	152 15.5W	57 22.0N	152 19.0W
Ushagat I.[1]	58 55.0N	152 22.0W.		
Eastern Gulf of Alaska:				
Cape Fairweather	58 47.5N	137 56.3W.		
Cape St. Elias[1]	59 48.0N	144 36.0W.		
Chiswell Islands[1]	59 36.0N	149 34.0W.		
Graves Rock	58 14.5N	136 45.5W.		
Hook Point[1]	60 20.0N	146 15.5W.		
Middleton I.[1]	59 26.5N	146 20.0W.		
Perry I.[1]	60 39.5N	147 56.0W.		
Point Eleanor[1]	60 35.0N	147 34.0W.		
Point Elrington[1]	59 56.0N	148 13.5W.		
Seal Rocks[1]	60 10.0N	146 50.0W.		
The Needle[1]	60 07.0N	147 37.0W.		
Southeast Alaska:				
Benjamin I.	58 33.5N	134 54.5W.		
Biali Rock	56 43.0N	135 20.5W.		
Biorka I.	56 50.0N	135 34.0W.		
Cape Addington	55 26.5N	133 49.5W.		
Cape Cross	57 55.0N	136 34.0W.		
Cape Ommaney	56 10.5N	134 42.5W.		
Coronation I.	55 56.0N	134 17.0W.		
Gran Point	59 08.0N	135 14.5W.		
Lull Point	57 18.5N	134 48.5W.		
Sunset I.	57 30.5N	133 35.0W.		
Timbered I.	55 42.0N	133 48.0W.		

[1] Includes an associated 20 NM aquatic zone.
[2] Associated 20 nm aquatic zone lies entirely within one of the three special foraging areas.

[58 FR 45279, Aug. 27, 1993, as amended at 59 FR 30716, June 15, 1994]

TABLE 3 TO PART 226—HYDROLOGIC UNITS CONTAINING CRITICAL HABITAT FOR SNAKE RIVER SOCKEYE SALMON AND SNAKE RIVER SPRING/SUMMER AND FALL CHINOOK SALMON

Hydrologic unit name	Hydrologic unit number		
	Sockeye salmon	Spring/summer chinook salmon	Fall chinook salmon
Hells Canyon	.....	17060101	17060101
Imnaha	.....	17060102	17060102
Lower Snake—Asotin	17060103	17060103	17060103
Upper Grande Ronde	.....	17060104	
Wallowa	.....	17060105	
Lower Grande Ronde	.....	17060106	17060106
Lower Snake—Tucannon	17060107	17060107	17060107
Palouse	.....	.....	17060108
Lower Snake	17060110	17060110	17060110
Upper Salmon	17060201	17060201	
Pahsimeroi	.....	17060202	
Middle Salmon—Panther	17060203	17060203	
Lemhi	.....	17060204	
Upper Middle Fork Salmon	.....	17060205	
Lower Middle Fork Salmon	.....	17060206	
Middle Salmon—Chamberlain	17060207	17060207	
South Fork Salmon	.....	17060208	
Lower Salmon	17060209	17060209	17060209
Little Salmon	.....	17060210	
Clearwater	.....	.....	17060306
Lower North Fork Clearwater	.....	.....	17060308

[1] Hydrologic units and names taken from DOI, USGS 1:500,000 scale hydrologic unit maps (available from USGS); State of Oregon, 1974; State of Washington, 1974; State of Idaho, 1974.

[58 FR 68552, Dec. 28, 1993]

TABLE 4 TO PART 226 [RESERVED]

TABLE 5 TO PART 226—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR CENTRAL CALIFORNIA COAST COHO SALMON, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS/RESERVOIRS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within the range of ESU[1 2]	Dams (reservoirs)
San Lorenzo-Soquel ..	18060001	Santa Cruz (CA), San Mateo (CA)	Newell Dam (Loch Lomond).
San Francisco Coastal South.	18050006	San Mateo (CA).	
San Pablo Bay	18050002	Marin (CA), Napa (CA)	Phoenix Dam (Phoenix Lake).
Tomales-Drake Bays ..	18050005	Marin (CA), Sonoma (CA)	Peters Dam (Kent Lake); Seeger Dam (Nicasio Reservoir).
Bodega Bay	18010111	Marin (CA), Sonoma (CA).	
Russian	18010110	Sonoma (CA), Mendocino (CA)—*Cloverdale Rancheria; Coyote Valley Rancheria; Dry Creek Rancheria; Guidiville Rancheria; Hopland Rancheria; Lytton Rancheria; Pinoleville Rancheria; Stewarts Point Rancheria.*	Warm Springs Dam (Lake Sonoma); Coyote Dam (Lake Mendocino).
Gualala-Salmon	18010109	Sonoma (CA), Mendocino (CA).	
Big-Navarro-Garcia	18010108	Mendocino (CA)—*Manchester/Point Arena Rancheria;*.	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Tribal lands are specifically excluded from critical habitat for this ESU.

[64 FR 24061, May 5, 1999]

TABLE 6 TO PART 226—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR SOUTHERN OREGON/NORTHERN CALIFORNIA COASTS COHO SALMON, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS/RESERVOIRS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within the range of ESU[1 2]	Dams (reservoirs)
Mattole	18010107	Humboldt (CA), Mendocino (CA).	
South Fork Eel	18010106	Mendocino (CA), Humboldt (CA)—*Laytonville Rancheria; Sherwood Valley Rancheria.*	
Lower Eel	18010105	Mendocino (CA), Humboldt (CA), Trinity (CA).	
Middle Fork Eel	18010104	Mendocino (CA), Trinity (CA), Glenn (CA), Lake (CA)—*Round Valley Reservation.*	
Upper Eel	18010103	Mendocino (CA), Glenn (CA), Lake (CA)	Scott Dam (Lake Pillsbury).
Mad-Redwood	18010102	Humboldt (CA), Trinity (CA)—*Big Lagoon Rancheria; Blue Lake Rancheria.*	
Smith	18010101	Del Norte (CA), Curry (OR)—*Elk Valley Rancheria; Smith River Rancheria.*	
South Fork Trinity	18010212	Humboldt (CA), Trinity (CA).	
Trinity	18010211	Humboldt (CA), Trinity (CA)—*Hoopa Valley Reservation.*	Lewiston Dam (Lewiston Reservoir).
Salmon	18010210	Siskiyou (CA).	
Lower Klamath	18010209	Del Norte (CA), Humboldt (CA), Siskiyou (CA)—*Karuk Reservation; Resighini Rancheria; Yurok Reservation.*	
Scott	18010208	Siskiyou (CA)—*Quartz Valley Reservation.*	
Shasta	18010207	Siskiyou (CA)	Dwinnell Dam (Dwinnell Reservoir).
Upper Klamath	18010206	Siskiyou (CA), Jackson (OR)	Irongate Dam (Irongate Reservoir).
Chetco	17100312	Curry (OR), Del Norte (CA).	
Illinois	17100311	Curry (OR), Josephine (OR), Del Norte (CA).	Selmac Lake Dam (Lake Selmac).
Lower Rogue	17100310	Curry (OR), Josephine (OR), Jackson (OR).	
Applegate	17100309	Josephine (OR), Jackson (OR), Siskiyou (CA).	Applegate Dam (Applegate Reservoir).
Middle Rogue	17100308	Josephine (OR), Jackson (OR)	Emigrant Lake Dam (Emigrant Lake).
Upper Rogue	17100307	Jackson (OR), Klamath (OR), Douglas (OR).	Agate Lake Dam (Agate Lake); Fish Lake Dam (Fish Lake); Willow Lake Dam (Willow Lake); Lost Creek Dam (Lost Creek Reservoir).
Sixes	17100306	Curry (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Tribal lands are specifically excluded from critical habitat for this ESU.

[64 FR 24061, May 5, 1999]

PART 227 [RESERVED]

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

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All changes in this volume of the Code of Federal Regulations (CFR) that were made by documents published in the FEDERAL REGISTER since January 1, 2010, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to FEDERAL REGISTER pages. The user should consult the entries for chapters, parts and subparts as well as sections for revisions.

For changes to this volume of the CFR prior to this listing, consult the annual edition of the monthly List of CFR Sections Affected (LSA). The LSA is available at *www.fdsys.gov*. For changes to this volume of the CFR prior to 2001, see the ''List of CFR Sections Affected, 1949–1963, 1964–1972, 1973–1985, and 1986–2000'' published in 11 separate volumes. The ''List of CFR Sections Affected 1986–2000'' is available at *www.fdsys.gov*.

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218.100—218.109 (Subpart L) Added; eff. 8–3–10 through 8–3–15 45547
218.110—218.119 (Subpart M) Added; eff. 11–9–10 through 11–9–15 69319
218.180—218.188 (Subpart S) Added; eff. through 1–21–15 3410
222 Determination 27649
223.102 (c)(28) added 13024
(c)(26) and (27) added 22289
Table amended 65248
223.206 (d)(9) introductory text revised 2205
(d) introductory text revised; (d)(12) removed 21519
223.210 Added 30728
223.211 Added 65248
224.101 (a) table amended 22290
229 Fisheries list 68468
229.2 Amended 7396
229.3 (m) through (p) revised; (q) and (r) removed 7396
229.33 Revised 7396
Regulation at 75 FR 7396 eff. date delayed in part 12698
229.34 Revised 7399
253 Revised 78623

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216.170 (c) introductory text, (1) introductory text and (2) introductory text revised; (c)(1)(vii), (2)(ii)(H) and (d) added; interim 6701
216.171 (a) revised; interim 6701
216.240 (c) introductory text revised; (d) added; interim 6701
216.241 (a) revised; interim 6701
216.270 (c) introductory text, (1) introductory text and (2) introductory text revised; (d) added; interim 6701
216.271 (a) revised; interim 6701
217.70—217.78 (Subpart H) Added; eff. 3–22–11 through 3–22–16 16318
217.170—217.179 (Subpart R) Added; eff. 7–11–11 through 8–10–16 34172
Eff. date at 76 FR 34172 corrected to 7-11-11 through 7-10-16 35996
217.171 Correctly revised 35996
218 Technical correction 27915
218.1 (c) introductory text, (1) introductory text, (i)(D), (ii) introductory text and (d) revised; (e) added; interim 30554
218.10 (c) introductory text, (1) introductory text and (d) revised; (e) added; interim 30554
218.13 (a)(4)(i)(A) revised; interim 30554

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218.30—218.38 (Subpart D) Added; eff. 2–17–11 through 2–17–16 9260
218.120—218.129 (Subpart N) Added; eff. 5–4–11 through 5–4–16 25505
218.170—218.178 (Subpart R) Added; eff. 4–11–11 through 4–11–16 20274
223.102 Table amended 35771
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223.203 (a) and (b) introductory text revised 12293
224.101 (b) correctly amended 14300
(a) table amended 40835
(c) revised; eff. 10–24–11 58951
224.103 (e) added 20890
226.220 Added 20212
226.221 Added 66841
226.222 Added 65349
229 Fisheries list 73912

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216 Harvest estimates 6682
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216.121 Revised 4921
216.170 (c) introductory text, (1) introductory text, (vii), (2) introductory text, (ii)(H) and (d) revised 4921
216.171 (a) revised 4921
216.177 (a) revised 4921
216.178 (a) introductory text, (1) and (3) revised 4921
216.240 (c) introductory text and (d) revised 4921
216.241 (a) revised 4922
216.247 (a) revised 4922
216.248 (a) introductory text, (1) and (3) revised 4922
216.270 (c) introductory text, (1), (2) and (d) revised 4922
216.271 (a) revised 4922
216.277 (a) revised 4922
216.278 (a) introductory text, (1) and (3) revised 4922
217.11—217.18 (Subpart B) Added; eff. 6-28-12 through 6-28-17 31544
217.80—217.89 (Subpart I) Added; eff. 4-23-12 through 4-24-17 16736
218.1 (c) introductory text, (1), (i)(D), (ii) introductory text, (d) and (e) revised 4922
218.7 (a) revised 4922

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218.8 (a) introductory text, (1) and (3) revised 4923
218.10 (c) introductory text, (1), (d) and (e) revised 4923
218.13 (a)(4)(i)(A) revised 4923
218.16 (a) revised 4923
218.17 (a) introductory text, (1) and (3) revised 4923
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218.26 (a) revised 4923
218.27 (a) introductory text, (1) and (3) revised 4923
218.30 (c) introductory text, (1) introductory text and (d) revised; (e) added 4924
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218.37 (a) introductory text, (1) and (3) revised 4924
218.100 (c) introductory text, (1) introductory text and (2) introductory text revised 4924
218.101 Revised 4924
218.107 (a) revised 4924
218.108 (a) introductory text, (1) and (3) revised 4924
218.110 (c) introductory text, (1) introductory text and (2) introductory text revised 4924
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218.170 (c) introductory text and (d) revised; (e) added 4925
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218.177 (a) introductory text, (1) and (3) revised 4925
218.180 (c) introductory text, (1) introductory text, (2) introductory text, (3) introductory text, (4) introductory text, (5) introductory text and (d) revised; (e) added 4925
218.186 (a) revised 4926
218.187 (a) introductory text, (1) and (3) revised 4926

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218.230—218.241 (Subpart X) Added; eff. 8-15-12 through 8-15-17 50316
223.102 (c)(29) added 5911
(a)(4), (5) and (6) added 76738
(a)(7) and (8) added 76767
223.207 (a)(1)(i) introductory text, (C), (c)(1)(iv)(B), (d)(3) introductory text and (iii) revised; (a)(1)(i)(D), (7)(ii)(D), (E), (b)(3), (4), (d)(3)(iv), (8) and (9) added 29907
(d)(9) correctly revised 48106
223 Figure 11 added 29910
Figure 17 added 29911
Figures 18a, 18b, 18c, 19a and 19b added 29912
224.101 (a) table amended 5912, 5981, 19562
(b) amended 70939, 76738
226 Policy statement 32909
226.101 Revised 25622
226.207 Revised 4200

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Chapter II
216.91 (a)(2)(ii) and (4) revised; (a)(2)(iii) and (5) added 41002
216.93 Revised 41002
216.170—216.179 (Subpart P) Removed 78151
216.240—216.249 (Subpart V) Removed 73064
216.270—216.279 (Subpart X) Removed 78151
217.140—217.150 (Subpart O) Added; eff. 1-13-14 through 1-14-19 75507
217.151—217.158 (Subpart P) Added 20816
217.220—217.227 (Subpart W) Added; eff. 10-21-13 through 10-21-18 63402
218.1—218.9 (Subpart A) Removed 73064
218.10—218.18 (Subpart B) Removed 73065
218.20—218.28 (Subpart C) Removed 73065
218.30—218.38 (Subpart D) Removed 73065
218.70—218.78 (Subpart H) Added; eff. 12-24-13 through 12-24-18 78152

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218.80—218.88 (Subpart I) Added 73065
218.180—218.188 (Subpart S) Removed 73065
223.102 (a)(2) table removed 66169
(c)(30) Added 79631
223.202 Removed 66169
223.211 Removed 2907
Added 69315
223.301 Added 2907
(b) added 79632
224.103 (d) revised 66169
224.105 (d) revised 73736

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Policy statement 37578
216 Technical correction 26188
Harvest estimates 45728
216.72 Heading, (d), (e) and (f) revised; (c) removed; (g) added 65337
216.74 Revised 65338
216 Figure 1 added 65338
217.50—217.58 (Subpart F) Added; eff. 6-3-14 through 6-3-19 32684
217.60—217.67 (Subpart G) Added 10026
217.110—217.118 (Subpart L) Added 13588
218 Technical correction 26188
223.101 (a) revised 20806
223.102 Revised 20806
(e) table amended 38240, 40015
(e) table amended; eff. 10-10-14 54122
(e) table correctly amended 78724
223.201 (b)(1) revised 20812
223.203 (a), (b) introductory text, (1), (2) introductory text, (3) introductory text, (4) introductory text, (5) introductory text, (6) introductory text, (7) introductory text, (8) introductory text, (9) introductory text, (10) introductory text, (11) introductory text, (12) introductory text and (13) introductory text revised; (b)(4)(v) removed; (c) amended 20812
223.208 (a)(1) revised 20813

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223.210 Heading, (a) introductory text, (b) introductory text, (1) introductory text, (2), (3) introductory text, (4) introductory text, (c) introductory text, (1) introductory text, (2) introductory text, (3) introductory text, (d) and (e) revised 20813
223.212 Added 20814
223.301 (c) added 40015
224.101 Revised 20814
(h) amended 31227
(h) table amended 38241, 68372, 74005
(h) table correctly amended 78725
224.105 Correctly republished 34245
226.223 Added 39889
226.201 Amended 68373
226.224 Added 68076

2015

(Regulations published from January 1, 2015, through October 1, 2015)

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218.10—218.18 (Subpart B) Added; eff. 6-2-15 through 6-2-20 31321
218.40—218.48 (Subpart E) Added; eff. 3-13-15 through 3-12-20 13284
218.90—218.98 (Subpart J) Added; eff. 8-3-15 through 8-3-20 46163
219 Added; eff. 10-30-15 through 10-30-20 59004
221 Revised; interim 17207
222 Policy statement 14319
222.102 Amended 6928
223.102 (e) table correctly amended 7978
223.205 (b)(17) through (20) revised 6928
223.206 (d)(10)(vii) revised 6929
(d)(11) revised 22127
224.101 (h) table amended 7390
(h) table correctly amended 7978
226.201 Revised 50974