

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

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AUTHORITY: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

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

§ 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

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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).	<i>Lipotes vexillifer</i> ..	Entire species	54 FR 22906, May 30, 1989.	NA	NA.
Dolphin, Maui ..	<i>Cephalorhynchus hectori maui</i> .	Entire subspecies	82 FR 43701, September 19, 2017.	NA	NA
Dolphin, South Asian River (Indus River subspecies).	<i>Platanista gangetica minor</i> .	Entire subspecies	55 FR 50835, Dec. 11, 1990.	NA	NA.
Dolphin, Taiwanese humpback.	<i>Sousa chinensis taiwanensis</i> .	Entire subspecies	83 FR 21182, May 9, 2018.	NA	NA
Porpoise, Gulf of California harbor (aka vaquita or cochito).	<i>Phocoena sinus</i> ..	Entire species	50 FR 1056, Jan. 9, 1985.	NA	NA.
Sea lion, Steller (Western DPS).	<i>Eumetopias jubatus</i> .	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.	<i>Neomonachus schauinslandi</i> (= <i>Monachus schauinslandi</i>).	Entire Species	41 FR 51611, Nov. 23, 1976.	226.201	NA.
Seal, Mediterranean monk.	<i>Monachus monachus</i> .	Entire species	35 FR 8491, June 2, 1970.	NA	NA.
Seal, ringed (Ladoga subspecies).	<i>Phoca</i> (= <i>Pusa</i>) <i>hispida ladogensis</i> .	Entire subspecies	77 FR 76706; Dec. 28, 2012.	NA	NA.
Seal, ringed (Saimaa subspecies).	<i>Phoca</i> (= <i>Pusa</i>) <i>hispida saimensis</i> .	Entire subspecies	58 FR 26920, May 6, 1993.	NA	NA.
Whale, beluga (Cook Inlet DPS).	<i>Delphinapterus leucas</i> .	Beluga whales originating from Cook Inlet, Alaska.	73 FR 62919, Oct. 22, 2008.	226.220	NA.
Whale, blue	<i>Balaenoptera musculus</i> .	Entire species	35 FR 18319, Dec. 2, 1970.	NA	NA.
Whale, bowhead.	<i>Balaena mysticetus</i> .	Entire species	35 FR 18319, Dec. 2, 1970.	NA	NA.
Whale, false killer (Main Hawaiian Islands Insular DPS).	<i>Pseudorca crassidens</i> .	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, Nov. 28, 2012.	§ 226.226	NA.
Whale, fin or finback.	<i>Balaenoptera physalus</i> .	Entire species	35 FR 8491, June 2, 1970.	NA	NA.
Whale, gray (Western North Pacific DPS).	<i>Eschrichtius robustus</i> .	Western North Pacific (Korean) gray whales.	35 FR 8491, June 2, 1970; 59 FR 31094, June 16, 1994.	NA	NA.
Whale, humpback (Arabian Sea DPS).	<i>Megaptera novaeangliae</i> .	Humpback whales that breed and feed in the Arabian Sea.	81 FR 62260, Sept. 8, 2016.	NA	NA.

Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Whale, humpback (Cape Verde Islands/Northwest Africa DPS).	<i>Megaptera novaeangliae</i> .	Humpback whales that breed in waters surrounding the Cape Verde Islands in the Eastern North Atlantic Ocean, as well as those that breed in an undetermined breeding area in the eastern tropical Atlantic (possibly Canary Current) and feed along the Iceland Shelf and Sea and the Norwegian Sea.	81 FR 62260, Sept. 8, 2016.	NA	NA.
Whale, humpback (Central America DPS).	<i>Megaptera novaeangliae</i> .	Humpback whales that breed in waters off Central America in the North Pacific Ocean and feed along the West Coast of the United States and southern British Columbia.	81 FR 62260, Sept. 8, 2016.	226.227	
Whale, humpback (Western North Pacific DPS).	<i>Megaptera novaeangliae</i> .	Humpback whales that breed or winter in the area of Okinawa and the Philippines in the Kuroshio Current (as well as unknown breeding grounds in the Western North Pacific Ocean), transit the Ogasawara area, or feed in the North Pacific Ocean, primarily in the West Bering Sea and off the Russian coast and the Aleutian Islands.	81 FR 62260, Sept. 8, 2016.	226.227	
Whale, killer (Southern Resident DPS).	<i>Orcinus orca</i>	Killer whales from the J, K, and L pods.	80 FR 7380, Feb. 10, 2015.	226.206	224.103.
Whale, North Atlantic right.	<i>Eubalaena glacialis</i> .	Entire species	73 FR 12024, Mar. 6, 2008.	226.203	224.103, 224.105.
Whale, North Pacific right.	<i>Eubalaena japonica</i> .	Entire species	73 FR 12024, Mar. 6, 2008.	226.215	224.103.
Whale, Rice's ..	<i>Balaenoptera ricei</i>	Entire Species	84 FR 15446, April 15, 2019.	NA	NA.
Whale, sei	<i>Balaenoptera borealis</i> .	Entire species	35 FR 18319, Dec. 2, 1970.	NA	NA.
Whale, Southern right.	<i>Eubalaena australis</i> .	Entire species	35 FR 18319, Dec. 2, 1970.	NA	NA.
Whale, sperm ..	<i>Physeter macrocephalus</i> (= <i>catodon</i>).	Entire species	35 FR 18319, Dec. 2, 1970.	NA	NA.
Reptiles ²					
Sea snake, dusky.	<i>Aipysurus fuscus</i>	Entire species	80 FR 60560, Oct. 7, 2015.	NA	NA.
Sea turtle, green (Central South Pacific DPS).	<i>Chelonia mydas</i> ..	Green sea turtles originating from the Central South Pacific Ocean, bounded by the following coordinates: 9° N., 175° W. in the northwest; 9° N., 125° W. in the northeast; 40° S., 96° W. in the southeast; 40° S., 176° E. in the southwest; and 13° S., 171° E. in the west.	81 FR 20058, Apr. 6, 2016.	NA	224.104.

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Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Sea turtle, green (Central West Pacific DPS).	<i>Chelonia mydas</i> ..	Green sea turtles originating from the Central West Pacific Ocean, bounded by the following coordinates: 41° N., 146° E. in the northwest; 41° N., 169° E. in the northeast; 9° N., 175° W. in the east; 13° S., 171° E. in the southeast; along the northern coast of the island of New Guinea; and 4.5° N., 129° E. in the west.	81 FR 20058, Apr. 6, 2016.	NA	224.104.
Sea turtle, green (Mediterranean DPS).	<i>Chelonia mydas</i> ..	Green sea turtles originating from the Mediterranean Sea, bounded by 5.5° W. Long. in the west.	81 FR 20058, Apr. 6, 2016.	NA	224.104.
Sea turtle, hawksbill.	<i>Eretmochelys imbricata</i> .	Entire species	35 FR 8491, June 2, 1970.	226.209	224.104.
Sea turtle, Kemp's ridley.	<i>Lepidochelys kempi</i> .	Entire species	35 FR 18319, Dec. 2, 1970.	NA	224.104.
Sea turtle, leatherback.	<i>Dermochelys coriacea</i> .	Entire species	35 FR 8491, June 2, 1970.	226.207	224.104.
Sea turtle, loggerhead (Mediterranean Sea DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the Mediterranean Sea east of 5°36' W. Long.	76 FR 58868, Sept. 22, 2011.	NA	224.104.
Sea turtle, loggerhead (North Indian Ocean DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the North Indian Ocean north of the equator and south of 30° N. Lat.	76 FR 58868, Sept. 22, 2011.	NA	224.104.
Sea turtle, loggerhead (North Pacific Ocean DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the North Pacific north of the equator and south of 60° N. Lat.	76 FR 58868, Sept. 22, 2011.	NA	224.104.
Sea turtle, loggerhead (Northeast Atlantic Ocean DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the Northeast Atlantic Ocean north of the equator, south of 60° N. Lat., and 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, Sept. 22, 2011.	NA	224.104.
Sea turtle, loggerhead (South Pacific Ocean DPS).	<i>Caretta caretta</i>	Loggerhead sea turtles originating from the South Pacific south of the equator, north of 60° S. Lat., west of 67° W. Long., and east of 141° E. Long.	76 FR 58868, Sept. 22, 2011.	NA	224.104.
Sea turtle, olive ridley.	<i>Lepidochelys olivacea</i> .	Breeding colony populations on the Pacific coast of Mexico.	43 FR 32800, July 28, 1978.	NA	224.104.

Fishes

Angelshark, common.	<i>Squatina squatina</i>	Entire species	81 FR 50394, Aug. 1, 2016.	NA	NA.
Angelshark, Argentine.	<i>Squatina argentina</i> .	Entire species	82 FR 21722, May 10, 2017.	NA	NA.
Angelshark, sawback.	<i>Squatina aculeata</i>	Entire species	81 FR 50394, Aug. 1, 2016.	NA	NA.
Angelshark, smoothback.	<i>Squatina oculata</i>	Entire species	81 FR 50394, Aug. 1, 2016.	NA	NA.
Angelshark, spiny.	<i>Squatina guggenheim</i> .	Entire species	82 FR 21722, May 10, 2017.	NA	NA.

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Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Bocaccio (Puget Sound/Georgia Basin DPS).	<i>Sebastes paucispinis</i> .	Bocaccio residing within the Puget Sound/Georgia Basin to the Northern Boundary of the Northern Strait of Georgia along the southern contours of Quadra Island, Maurelle Island and Sonora Island, all of Bute Inlet The Western Boundary of the U.S. side in the Strait of Juan de Fuca is N 48 7'16", W123 17'15" in a straight line to the Canadian side at N 48 24'40", 123 17'38".	75 FR 22276, Apr. 28, 2010.	226.224	NA.
Grouper, gulf ...	<i>Mycteroperca jordani</i> .	Entire species	81 FR 72545, Oct. 20, 2016.	NA	NA.
Guitarfish, Brazilian.	<i>Rhinobatos horkelii</i> .	Entire species	82 FR 21722, May 10, 2017.	NA	NA
Salmon, Atlantic (Gulf of Maine DPS).	<i>Salmo salar</i>	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.
Salmon, Chinook (Sacramento River winter-run ESU).	<i>Oncorhynchus tshawytscha</i> .	Naturally spawned winter-run Chinook salmon originating from the Sacramento River and its tributaries. Also, winter-run Chinook salmon from the following artificial propagation programs: The Livingston Stone National Fish Hatchery (Supplementation and Captive Broodstock).	70 FR 37160, June 28, 2005.	226.204	NA
Salmon, Chinook (Upper Columbia River spring-run ESU).	<i>Oncorhynchus tshawytscha</i> .	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 the following artificial propagation programs: The Twisp River Program; Chief Joseph spring Chinook Hatchery Program (Okanogan release); Methow Program; Winthrop National Fish Hatchery Program; Chiwawa River Program; White River Program; and the Nason Creek Program.	70 FR 37160, June 28, 2005.	226.212	NA

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Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Salmon, coho (Central California Coast ESU).	<i>Oncorhynchus kisutch</i> .	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 the following 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).	<i>Oncorhynchus nerka</i> .	Naturally spawned anadromous and residual sockeye salmon originating from the Snake River basin. Also, sockeye salmon from the Redfish Lake Captive Broodstock Program and the Snake River Sockeye Salmon Hatchery Program.	70 FR 37160, June 28, 2005.	226.205	NA
Sawfish, dwarf	<i>Pristis clavata</i>	Entire species	79 FR 73978, Dec. 12, 2014.	NA	NA.
Sawfish, green	<i>Pristis zijsron</i>	Entire species	79 FR 73978, Dec. 12, 2014.	NA	NA.
Sawfish, largetooth.	<i>Pristis pristis</i> (formerly <i>Pristis perotteti</i> , <i>Pristis pristis</i> , and <i>Pristis microdon</i>).	Entire species	79 FR 73978, Dec. 12, 2014.	NA	NA.
Sawfish, narrow	<i>Anoxypristis cuspidata</i> .	Entire species	79 FR 73978, Dec. 12, 2014.	NA	NA.
Sawfish, smalltooth (United States DPS).	<i>Pristis pectinata</i> ..	Smalltooth sawfish originating from U.S. waters.	68 FR 15674, Apr. 1, 2003.	226.218	NA.
Sawfish, smalltooth (Non-U.S. DPS).	<i>Pristis pectinata</i> ..	Smalltooth sawfish originating from non-U.S. waters.	79 FR 73978, Dec. 12, 2014.	NA	NA.
Shark, daggenose.	<i>Isogomphodon oxyrinchus</i> .	Entire species	82 FR 21722, May 10, 2017.	NA	NA
Shark, scalloped hammerhead (Eastern Atlantic DPS).	<i>Sphyrna lewini</i>	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, July 3, 2014.	NA	NA.

Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Shark, scalloped hammerhead (Eastern Pacific DPS).	<i>Sphyrna lewini</i>	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, July 3, 2014.	NA	NA.
Shark, striped smoothhound.	<i>Mustelus fasciatus</i> .	Entire species	82 FR 21722, May 10, 2017.	NA	NA
Steelhead (Southern California DPS).	<i>Oncorhynchus mykiss</i> .	Naturally spawned anadromous <i>O. mykiss</i> (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.	<i>Acipenser naccarii</i> .	Entire species	79 FR 31222, June 2, 2014.	NA	NA.
Sturgeon, Atlantic (Atlantic subspecies; Carolina DPS).	<i>Acipenser oxyrinchus oxyrinchus</i> .	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).	<i>Acipenser oxyrinchus oxyrinchus</i> .	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).	<i>Acipenser oxyrinchus oxyrinchus</i> .	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.
Sturgeon, Atlantic (Atlantic subspecies; South Atlantic DPS).	<i>Acipenser oxyrinchus oxyrinchus</i> .	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.	<i>Acipenser sinensis</i> .	Entire species	79 FR 31222, June 2, 2014.	NA	NA.
Sturgeon, European.	<i>Acipenser sturio</i> ..	Entire species	79 FR 31222, June 2, 2014.	NA	NA.
Sturgeon, Kaluga.	<i>Huso dauricus</i>	Entire species	79 FR 31222, June 2, 2014.	NA	NA.
Sturgeon, Sakhalin.	<i>Acipenser mikadoi</i> .	Entire species	79 FR 31222, June 2, 2014.	NA	NA.

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Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Sturgeon, shortnose.	<i>Acipenser brevirostrum</i> .	Entire species	32 FR 4001, Mar. 11, 1967.	NA	NA.
Totoaba	<i>Cynoscion macdonaldi</i> .	Entire species	44 FR 29480, May 21, 1979.	NA	NA.
Molluscs					
Abalone, black	<i>Haliotis cracherodii</i> .	Entire species	74 FR 1937, Jan. 14, 2009.	226.221	NA.
Abalone, white	<i>Haliotis sorenseni</i>	Entire species	66 FR 29054, May 29, 2001.	NA	NA.
Corals					
Coral, [no common name].	<i>Cantharellus noumeae</i> .	Entire species	80 FR 60560, Oct. 7, 2015.	NA	NA.
Coral, [no common name].	<i>Tubastraea floreana</i> .	Entire species	80 FR 60560, Oct. 7, 2015.	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 68372, Nov. 17, 2014; 79 FR 74005, Dec. 12, 2014; 79 FR 78725, Dec. 31, 2014; 80 FR 7978, Feb. 13, 2015; 80 FR 7390, Feb. 10, 2015; 80 FR 60564, Oct. 7, 2015; 81 FR 20090, Apr. 6, 2016; 81 FR 50400, Aug. 1, 2016; 81 FR 62320, Sept. 8, 2016; 81 FR 72549, Oct. 20, 2016; 82 FR 7720, Jan. 23, 2017; 82 FR 21740, May 10, 2017; 82 FR 43710, Sept. 19, 2017; 83 FR 21186, May 9, 2018; 83 FR 35091, July 24, 2018; 84 FR 15487, Apr. 15, 2019; 85 FR 81836, Dec. 17, 2020; 86 FR 21152, Apr. 21, 2021; 86 FR 47024, Aug. 23, 2021; 86 FR 74380, Dec. 30, 2021]

§ 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) [Reserved]

(b) *Approaching endangered 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 sec-

tion with respect to endangered 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. 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.