

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]