

## SUBCHAPTER D—WHALING

### PART 230—WHALING PROVISIONS

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AUTHORITY: 16 U.S.C. 916 *et seq.*

SOURCE: 61 FR 29631, June 11, 1996, unless otherwise noted.

#### § 230.1 Purpose and scope.

The purpose of the regulations in this part is to implement the Whaling Convention Act (16 U.S.C. 916 *et seq.*) by prohibiting whaling except for aboriginal subsistence whaling allowed by the International Whaling Commission. Provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) also pertain to human interactions with whales. Rules elsewhere in this chapter govern such topics as scientific research permits, and incidental take and harassment of marine mammals.

#### § 230.2 Definitions.

*Aboriginal subsistence whaling* means whaling authorized by paragraph 13 of the Schedule annexed to and constituting a part of the Convention.

*Assistant Administrator* means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

*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 of Commerce or the Commandant of the Coast Guard to enforce the provisions of the Whaling Convention Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

*Calf* means any whale less than 1 year old or having milk in its stomach.

*Commission* means the International Whaling Commission established by article III of the Convention.

*Convention* means the International Convention for the Regulation of Whaling signed at Washington on December 2, 1946.

*Cooperative agreement* means a written agreement between the National Oceanic and Atmospheric Administration and a Native American whaling organization for the cooperative management of aboriginal subsistence whaling operations.

*Landing* means bringing a whale or any parts thereof onto the ice or land in the course of whaling operations.

*Native American whaling organization* means an entity recognized by the National Oceanic and Atmospheric Administration as representing and governing Native American whalers for the purposes of cooperative management of aboriginal subsistence whaling.

*Regulations of the Commission* means the regulations in the Schedule annexed to and constituting a part of the Convention, as modified, revised, or amended by the Commission from time to time.

*Stinker* means a dead, unclaimed whale found upon a beach, stranded in shallow water, or floating at sea.

*Strike* means hitting a whale with a harpoon, lance, or explosive device.

*Wasteful manner* means a method of whaling that is not likely to result in the landing of a struck whale or that does not include all reasonable efforts to retrieve the whale.

*Whale products* means any unprocessed part of a whale and blubber, meat, bones, whale oil, sperm oil, spermaceti, meal, and baleen.

*Whaling* means the scouting for, hunting, striking, killing, flensing, or landing of a whale, and the processing of whales or whale products.

*Whaling captain or captain* means any Native American who is authorized by a Native American whaling organization to be in charge of a vessel and whaling crew.

*Whaling crew* means those Native Americans under the control of a captain.

*Whaling village* means any U.S. village recognized by the Commission as having a cultural and/or subsistence need for whaling.

### § 230.3 General prohibitions.

(a) No person shall engage in whaling in a manner that violates the Convention, any regulation of the Commission, or this part.

(b) No person shall engage in whaling without first having obtained a license or scientific research permit issued by the Assistant Administrator.

(c) No person shall ship, transport, purchase, sell, offer for sale, import, export, or possess any whale or whale products taken or processed in violation of the Convention, any regulation of the Commission, or this part, except as specified in § 230.4(f).

(d) No person shall fail to make, keep, submit, or furnish any record or report required of him/her by the Convention, any regulation of the Commission, or this part.

(e) No person shall refuse to permit any authorized officer to enforce the Convention, any regulation of the Commission, or this part.

### § 230.4 Aboriginal subsistence whaling.

(a) No person shall engage in aboriginal subsistence whaling, except a whaling captain licensed pursuant to § 230.5 or a member of a whaling crew under the control of a licensed captain.

(b) No whaling captain shall engage in whaling that is not in accordance with the regulations of the Commission, this part, and the relevant cooperative agreement.

(c) No whaling captain shall engage in whaling for any calf or any whale accompanied by a calf.

(d) No whaling captain shall engage in whaling without an adequate crew or without adequate supplies and equipment.

(e) No person may receive money for participation in aboriginal subsistence whaling.

(f) No person may sell or offer for sale whale products from whales taken in an aboriginal subsistence hunt, except that authentic articles of Native handicrafts may be sold or offered for sale.

(g) No whaling captain shall continue to whale after:

(1) The quota set for his/her village by the relevant Native American whaling organization is reached;

(2) The license under which he/she is whaling is suspended as provided in § 230.5(b); or

(3) The whaling season for that species has been closed pursuant to § 230.6.

(h) No whaling captain shall claim domicile in more than one whaling village.

(i) No person may salvage a stinker without complying with the provisions of § 230.7.

(j) No whaling captain shall engage in whaling with a harpoon, lance, or explosive dart that does not bear a permanent distinctive mark identifying the captain as the owner thereof.

(k) No whaling captain shall engage in whaling in a wasteful manner.

### § 230.5 Licenses for aboriginal subsistence whaling.

(a) A license is hereby issued to whaling captains identified by the relevant Native American whaling organization.

(b) The Assistant Administrator may suspend the license of any whaling captain who fails to comply with the regulations in this part.

### § 230.6 Quotas and other restrictions.

(a) Quotas for aboriginal subsistence whaling shall be set in accordance with the regulations of the Commission. Quotas shall be allocated to each whaling village or captain by the appropriate Native American whaling organization. The Assistant Administrator shall publish in the FEDERAL REGISTER, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the Commission. These quotas and restrictions shall also be incorporated in the relevant cooperative agreements.

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(b) The relevant Native American whaling organization shall monitor the whale hunt and keep tally of the number of whales landed and struck. When a quota is reached, the organization shall declare the whaling season closed, and there shall be no further whaling under that quota during the calendar year. If the organization fails to close the whaling season after the quota has been reached, the Assistant Administrator may close it by filing notification in the FEDERAL REGISTER.

**§ 230.7 Salvage of stinkers.**

(a) Any person salvaging a stinker shall submit to the Assistant Administrator or his/her representative an oral or written report describing the circumstances of the salvage within 12 hours of such salvage. He/she shall provide promptly to the Assistant Administrator or his/her representative each harpoon, lance, or explosive dart found in or attached to the stinker. The device shall be returned to the owner thereof promptly, unless it is retained as evidence of a possible violation.

(b) There shall be a rebuttable presumption that a stinker has been struck by the captain whose mark appears on the harpoon, lance, or explosive dart found in or attached thereto, and, if no strike has been reported by such captain, such strike shall be deemed to have occurred at the time of recovery of the device.

**§ 230.8 Reporting by whaling captains.**

(a) The relevant Native American whaling organization shall require each whaling captain licensed pursuant to

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§ 230.5 to provide a written statement of his/her name and village of domicile and a description of the distinctive marking to be placed on each harpoon, lance, and explosive dart.

(b) Each whaling captain shall provide to the relevant Native American whaling organization an oral or written report of whaling activities including but not limited to the striking, attempted striking, or landing of a whale and, where possible, specimens from landed whales. The Assistant Administrator is authorized to provide technological assistance to facilitate prompt reporting and collection of specimens from landed whales, including but not limited to ovaries, ear plugs, and baleen plates. The report shall include at least the following information:

(1) The number, dates, and locations of each strike, attempted strike, or landing.

(2) The length (taken as the straight-line measurement from the tip of the upper jaw to the notch between the tail flukes) and the sex of the whales landed.

(3) The length and sex of a fetus, if present in a landed whale.

(4) An explanation of circumstances associated with the striking or attempted striking of any whale not landed.

(c) If the relevant Native American whaling organization fails to provide the National Marine Fisheries Service the required reports, the Assistant Administrator may require the reports to be submitted by the whaling captains directly to the National Marine Fisheries Service.

**SUBCHAPTER E—TRANSPORTATION AND LABELING OF FISH OR WILDLIFE [RESERVED]**