

SPECIES		Historic Range	Family	Status	When listed	Critical habi- tat	Special rules
Scientific name	Common Name						
(inclusive of vars. <i>apricum</i> and <i>prostratum</i> ).							
*	*	*	*	*	*	*	*

Dated: April 16, 1999.

**Jamie Rappaport Clark,**

*Director, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### CFR Part 230

[I.D. 012099C]

#### Whaling Provisions: Aboriginal Subsistence Whaling Quotas

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notification of aboriginal subsistence whaling quotas.

**SUMMARY:** NMFS announces aboriginal subsistence whaling quotas and other limitations deriving from regulations adopted at the 1997 Annual Meeting of the International Whaling Commission (IWC). For 1999, the quotas are 75 bowhead whales struck, and 5 gray whales landed. These quotas and other limitations will govern the harvest of bowhead whales by members of the Alaska Eskimo Whaling Commission (AEWC) and the harvest of gray whales by members of the Makah Indian Tribe (Tribe).

**DATES:** Effective May 26, 1999.

**ADDRESSES:** International Fisheries Division, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Catherine Corson, (301) 713-2276.

**SUPPLEMENTARY INFORMATION:** Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act, (16 U.S.C. 916 *et seq.*) which requires the Secretary of Commerce (Secretary) to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the IWC.

At the 1997 Annual Meeting of the IWC, the Commission set quotas for

aboriginal subsistence use of bowhead whales from the Bering-Chukchi-Beaufort Seas stock, and gray whales from the Eastern stock in the North Pacific. The bowhead quota was based on a joint request by the United States and the Russian Federation, accompanied by documentation concerning the needs of 2 Native groups, Alaska Eskimos and Chukotka Natives in the Russian Far East. The gray whale quota was also based on a joint request by the Russian Federation and the United States, again with documentation of the needs of 2 Native groups, the Chukotka Natives and the Makah Indian Tribe in Washington State.

These actions by the IWC thus authorized aboriginal subsistence whaling by the AEWC for bowhead whales and by the Tribe for gray whales. The harvests will be conducted in accordance with cooperative agreements between NOAA and the AEWC, and between NOAA and the Makah Tribal Council (Council); these agreements are the means by which NOAA recognizes the AEWC and the Tribe as Native American whaling organizations under 50 CFR part 230.

#### Quotas

The IWC set a 5-year block quota of 280 bowhead whales landed. For each of the years 1998 through 2002, the number of bowhead whales struck may not exceed 67, except that any unused portion of a strike quota from any year, including 15 unused strikes from the 1995-1997 quota, may be carried forward. No more than 15 strikes may be added to the strike quota for any 1 year. At the end of the 1998 harvest, there were 15 unused strikes available for carry-forward, so the combined strike quota for 1999 is 82 (67 + 15).

The United States and the Russian Federation are concluding an arrangement to ensure that the total quota of bowhead whales landed and struck will not exceed the quotas set by the IWC. So that the 1999 quota of bowhead strikes is not exceeded, the Russian natives may use no more than 7 strikes, and the Alaska Eskimos may use no more than 75 strikes. Each side will ensure that the numbers specified

in this paragraph for its native group are not exceeded. The two sides plan to confer on monitoring of the 2000 quota, including any strikes that may be carried forward from 1999. The AEWC will allocate these strikes among the 10 villages whose cultural and subsistence needs have been documented in past requests for bowhead quotas from the IWC.

The IWC also set a 5-year block quota (1998 through 2002) of 620 gray whales, with an annual cap of 140 animals taken. The IWC regulation does not address the number of allowed strikes. The requested quota and accompanying documentation assumed an average annual harvest of 120 whales by the Chukotka people and an average annual harvest of 4 whales by the Makah Indian Tribe.

The United States and the Russian Federation are concluding an arrangement to ensure that the block quota and annual cap for gray whales are not exceeded. So that the 1999 quota of gray whales is not exceeded, the bilateral arrangements concluded that the Makah Indian Tribe may take no more than five gray whales, and the Russian natives may take no more than 135 gray whales. Each side will ensure that the numbers specified in this paragraph for its native group are not exceeded. The two sides plan to confer on monitoring of the 2000 quota.

Thus, in accordance with this bilateral arrangement and the agreement between NOAA and the Council, the Makah hunters will take no more than 5 gray whales in any 1 year. The Council will manage the harvest to use no more than 33 strikes over the 5-year period, and will take measures to ensure that the overall ratio of struck whales to landed whales does not exceed 2:1. Because the U.S. request for a gray whale quota was not based on the needs of separate whaling villages, but rather on the needs of the Tribe as a whole, the Council will allocate the quota among whaling captains to whom permits have been issued.

#### Other Limitations

The IWC regulations, as well as the NOAA rule at 50 CFR 230.4(c), forbid

the taking of calves or any whale accompanied by a calf.

NOAA rules (at 50 CFR 230.4) contain a number of other prohibitions relating to aboriginal subsistence whaling, some of which are summarized here. Only licensed whaling captains or crew under the control of those captains may engage in whaling. They must follow the provisions of the relevant cooperative agreement between NOAA and a Native

American whaling organization (the AEWC or the Council). The aboriginal hunters must have adequate crew, supplies, and equipment. They may not receive money for participating in the hunt. No person may sell or offer for sale whale products from whales taken in the hunt, except for authentic articles of Native handicrafts. Captains may not continue to whale after the relevant quota is taken, after the season has been

closed, or if their licenses have been suspended. They may not engage in whaling in a wasteful manner.

Dated: May 18, 1999.

**Andrew A. Rosenberg,**

*Deputy Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

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