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[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).

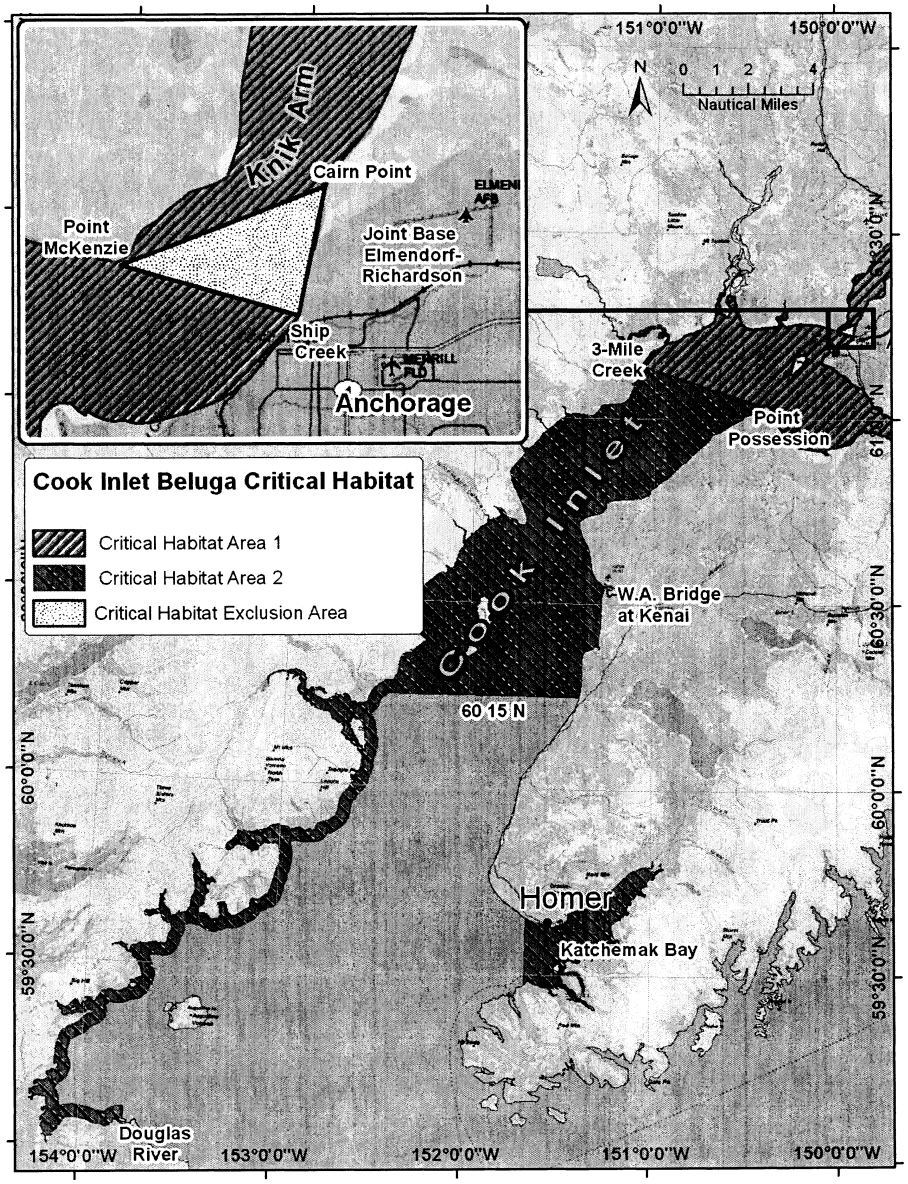

Figure 1. Cook Inlet beluga whale critical habitat.

(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