

(4) A summary of state actions to protect species' habitat;

(5) A summary of all state research activity on the species;

(6) Any significant changes in the information provided with the original request for transfer of management authority;

(7) A summary of enforcement activity;

(8) A summary of budget and staffing levels for the marine mammal activities in the categories of research, management and enforcement;

(9) Any other information which the Service may request, consistent with the Act as amended, or which the state deems necessary or advisable to facilitate review by the Service of state management of the species.

(c) Each state having an approved management program shall file a report, in a timely manner, not to exceed 45 days from the occurrence of any of the following:

(1) Any change in a relevant state law (amendments, repealers, or new legislation or regulations or judicial precedent) as submitted pursuant to paragraphs (b)(2) through (b)(5), and in the case of Alaska, paragraph (d), of § 403.03 of this part that may impair the State's ability to implement the program;

(2) Any significant natural or man-made occurrence or any new scientific information that may warrant reconsideration of the determinations made pursuant to § 403.04 of this part.

(d) All components of the state request for transfer of management authority, as well as annual reports submitted under paragraph (b) of this section and any reports submitted under paragraph (c) of this section, shall be available for inspection and copying at the Office of the Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, or, as appropriate, at the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, DC 20235, and at the appropriate Service's regional office.

#### § 403.07 Revocation and return of State management authority.

(a) *Revocation of management.* The Service shall have responsibility to review management of a species transferred to a state under this part and to determine whether or not the implementation of the state management program continues to comply with the requirements of the Act, this part and the state's approved management program.

(1) Upon receipt of any substantial factual information suggesting that the state management program is not being implemented or is being implemented in a manner inconsistent with the Act, this part, or the state's approved management program, the Service shall, as soon as practicable but not later than 30 days after receipt, determine whether or not the state continues to comply with the requirements of the Act, this part and the state's approved management program.

(2) Whenever pursuant to a review as specified in paragraph (a)(1) of this section, the Service determines that any substantial aspect of the state management program is not in compliance with the requirements of the Act, this part or the state's approved management program, it shall provide written notice to the state of its intent to revoke management authority, together with a statement, in detail, of those actions or failures to act upon which such intent to revoke is based. The Service shall publish notice of such intent to revoke in the FEDERAL REGISTER and invite public comment thereon, and shall conduct an informal public hearing on the matter if requested by the state or if the Service otherwise determines it to be necessary. The Service shall provide to the state an opportunity for consultation between the Service and the state concerning such actions or failures and necessary remedial actions to be taken by the state.

(3) If within 90 days after notice is provided under paragraph (a)(2) of this section, the state has not taken such remedial measures as are necessary, in the judgment of the Service, to bring the state management program into compliance with the provision of the Act, this part and the state's approved

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management program, the Service shall revoke the transfer of management authority by written notice to the state and publication in the FEDERAL REGISTER.

(b) *Voluntary return of management authority to the Service.* (1) If a state desires to return management of a species of marine mammals to the Service, it shall provide the Service notice of intent to return management. The Service shall accept the return of management, and such return shall become effective, upon publication of a notice in the FEDERAL REGISTER to this effect no sooner than 30 days (except in an emergency as determined by the Service) nor longer than 60 days after the state has provided notice of its intent to return management or unless otherwise agreed upon.

(2) If implementation of any aspect of the state management program is enjoined by court order, the state shall advise the Service of such injunction and its effect on the state management program. If the state determines that the effect of the injunction is to preclude effective conservation and management of the species under the terms of the state management program, it shall so notify the Service and such notification shall be treated as a notice of intent to return management as provided in paragraph (b)(1) of this section. If the state determines that the injunction does not preclude effective conservation and management of marine mammals under the terms of the state management program, it shall so notify the Service together with the basis for the state's determination and such notice shall be treated as a report submitted pursuant to the terms of § 403.06(c)(1) of this part. In either case, the state shall provide notice to the Service as soon as practicable but not more than 30 days after issuance of the injunction. Management authority returned to the Service pursuant to this paragraph may be re-transferred to the state, notwithstanding the requirements of § 403.03, when, in the judgment of the Service, the cause for return of management authority to the Service has been alleviated in such a way as to allow effective conservation and management of the species consistent with

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the requirements of the Act and this part.

(c) When revocation of a management authority pursuant to paragraph (a) of this section becomes final, or when a state returns management pursuant to paragraph (b) of this section, the Service shall resume such management authority and provide for the conservation of the species within the state in accordance with the provisions of the Act.

**§ 403.08 List of States to which management has been transferred.**

The following states have received management authority pursuant to this part for the species listed and, where appropriate, cooperative allocation agreements pursuant to § 403.05(c) are in force: [Reserved]

**PART 404—NORTHWESTERN HAWAIIAN ISLANDS MARINE NATIONAL MONUMENT**

- Sec.
- 404.1 Scope and purpose.
- 404.2 Boundary.
- 404.3 Definitions.
- 404.4 Access to the Monument.
- 404.5 Requirements for a vessel monitoring system.
- 404.6 Prohibited activities.
- 404.7 Regulated activities.
- 404.8 Emergencies and law enforcement activities.
- 404.9 Armed Forces actions.
- 404.10 Commercial fishing.
- 404.11 Permitting procedures and criteria.
- 404.12 International law.

APPENDIX A TO PART 404—MAP OF THE MONUMENT OUTER BOUNDARY AND ECOLOGICAL RESERVES, SPECIAL PRESERVATION AREAS, AND MIDWAY ATOLL SPECIAL MANAGEMENT AREA

APPENDIX B TO PART 404—APPROVED VESSEL MONITORING SYSTEMS

AUTHORITY: 16 U.S.C. 431 *et seq.*; 16 U.S.C. 460k-3; 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 742f, 16 U.S.C. 742l, and 16 U.S.C. 668dd-ee; 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 1531 *et seq.*, Pub. L. No. 106-513, §6(g) (2000).

SOURCE: 71 FR 51135, Aug. 29, 2006, unless otherwise noted.

**§ 404.1 Scope and purpose.**

The regulations in this part codify the provisions of Presidential Proclamation 8031, and govern the administration of the Northwestern Hawaiian