

GUIDANCE

Clarification of the Phrase “Significantly Altered” as it Pertains to Items made from Sea Otter

1. The purpose of this guidance is to clarify the phrase “significantly altered” as applied to handicrafts and clothing made from sea otters. This guidance represents the U.S. Fish and Wildlife Service’s (Service) interpretation of the Marine Mammal Protection Act (MMPA) of 1972, as amended ([16 U.S.C. 1361–1423](#)) and the implementing regulations ([50 C.F.R Part 18](#)). This guidance does not change the existing regulations, but is merely a non-binding clarification of the term “significantly altered.”
2. The overall intent of the MMPA is the protection and conservation of marine mammals and their habitats, however Congress also provided an exception for Alaska Native peoples to take marine mammals for the purpose of subsistence or for creating and selling authentic Native articles of handicrafts and clothing.¹ Congress recognized that ongoing take of marine mammals by Alaska Native peoples is consistent with the overall intent of the MMPA if the take is not wasteful and if the harvested marine mammal species or stocks are not depleted [16 U.S.C. 1371(b)].
3. Since 1974, the Service has defined the phrase authentic native articles of handicrafts and clothing as items made by Alaska Native peoples that are composed wholly or in some significant respect of natural materials and are *significantly altered* from their natural form and are produced, decorated, or fashioned in the exercise of traditional native handicrafts.²
4. The requirement that items made from sea otter be significantly altered from their natural form applies only to items which are sold or transferred to non-native people. It does not apply to items sold or traded between Alaska Native peoples [50 C.F.R. 18.23 (b)]. The primary consideration in determining whether an article of clothing or a handicraft is significantly altered involves an evaluation of the extent and relative permanence of the physical alteration.

¹Congress created an exemption for the taking of any marine mammal by any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking —(1) is for subsistence purposes; or (2) is done for purposes of creating and selling authentic native articles of handicrafts and clothing....Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing, and painting; and (3) in each case, is not accomplished in a wasteful manner.

² Regulations at 50 C.F.R. Section 18.3 further state that “traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting...”

5. The following guidance is provided regarding how the phrase “**significantly altered**” from their natural form applies to handicrafts made from sea otter. The guidance is based upon input received during an October 2012 workshop³ jointly sponsored by the Indigenous Peoples Commission on Marine Mammals (IPCoMM) and the Service, as well as public input received on a draft document⁴ entitled *Request for Public Comments on Select Terms Under the Marine Mammals Protection Act in Regard to Sea Otters*. Examples of items discussed at the workshop that meet the intent of this guidance are shown in Appendix.

A sea otter will be considered “significantly altered” when it is no longer recognizable as a whole sea otter hide, and has been made into a handicraft or article of clothing as is identified below:

1. A tanned, dried, cured, or preserved sea otter hide, devoid of the head, feet, and tail (i.e., blocked) that is substantially changed by any of the following, but is not limited to: weaving, carving, stitching, sewing, lacing, beading, drawing, painting, other decorative fashions, or made into another material or medium; and cannot be easily converted back to an unaltered hide or piece of hide.
 2. Tanned, dried, cured, or preserved sea otter head, tail, or feet, or other parts devoid of the remainder of the hide which includes any of the following, but is not limited to: weaving, carving, stitching, sewing, lacing, beading, drawing, or painting, other decorative fashions, or made into another material or medium.
6. While it is the intent of this guidance to help people comply with the Service’s regulations, this document does not remove the ability of the Service to make a compliance determination based on specific facts.

/S/ Geoffrey L. Haskett

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³ Sea Otter Co-Management Workshop was held from Oct. 10-12, 2013, as per Cooperative Agreement No. F12 AC00909 between IPCoMM and the Service. Agenda and list of attendees available from IPCoMM.

⁴ Public input was sought on the draft document from March 1, 2013, through August 6, 2013.

APPENDIX

The following items were examined and discussed at the October 2012 workshop.

SIGNIFICANTLY ALTERED: The types of alterations below are generally considered to result in items that are significantly altered from their natural form.

Slippers with sea otter trim—made from a sea otter pelt that has been cut into small pieces and sewn.
SIGNIFICANTLY ALTERED



Photo: USFWS

Hat—made from a pelt that has been cut into small pieces and sewn. The hat brim is natural fur; the top part of hat is shaved fur.
SIGNIFICANTLY ALTERED



Photo: USFWS

Gloves—made from a sea otter pelt that has been cut into pieces and sewn.
SIGNIFICANTLY ALTERED



Photo: USFWS

APPENDIX (Continued)

Purse—made from a sea otter pelt that has been cut into small pieces and sewn.
SIGNIFICANTLY ALTERED



Photo: USFWS

Pillow—made from a sea otter pelt that has been cut and stitched on all edges.
SIGNIFICANTLY ALTERED



Photo: USFWS

Scarf—made from a sea otter pelt that has been cut, lined, and sewn on all edges.
SIGNIFICANTLY ALTERED



Photo: USFWS

APPENDIX (Continued)

Blanket —made from a sea otter hide that has been blocked, lined, and stitched on all edges.

SIGNIFICANTLY ALTERED



Photo: USFWS

APPENDIX (Continued)

NOT SIGNIFICANTLY ALTERED: The types of alterations below are generally considered to result in items that are not significantly altered from their natural form.

Scarf / neck roll—made from sea otter pelt that has been cut, but has not been stitched or lined.

NOT SIGNIFICANTLY ALTERED



Photo: USFWS

Drawing—made from a sea otter pelt that has not been blocked, and has not been stitched or lined.

NOT SIGNIFICANTLY ALTERED



Photo: USFWS

APPENDIX (Continued)

Cape—made from a sea otter pelt that has not been blocked, and has not been stitched or lined. Minimal alterations include a single button closure.
NOT SIGNIFICANTLY ALTERED



Photo: USFWS