

APPENDIX K

U.S. Coast Guard First District Guidance dated 22 April 1996

U.S. Coast Guard First District Guidance dated 01 July 1996

U.S. Coast Guard Fifth District Guidance dated 03 July 1996

U.S. Coast Guard Seventh District Guidance dated 14 April 1996

The U.S. Coast Guard First District revised its guidance, initially published in Law Enforcement Bulletin 33-94 (dated November 30, 1994) on April 22, 1996 and on July 1, 1996. Copies of those revisions are attached.

U.S. Coast Guard First District Guidance dated 22 April 1996

50 CFR PART 216, REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

- Ref: (a) 15 CFR PART 922 - National Marine Sanctuary Program
(b) 50 CFR PART 226 - Designated Critical Habitat
(c) 50 CFR PART 227 - Threatened Fish and Wildlife
(d) 50 CFR PART 216 - Regulations Governing the Taking and Importing of Marine Mammals

216.1 PURPOSE.

1. INITIATIVE. This part outlines First Coast Guard District initiatives to further the federally mandated protection and recovery objectives for marine mammals and endangered marine species. Enclosures (1) through (4) have been updated and revised.

2. RESPONSIBILITY. The National Marine Fisheries Service (NMFS) is the primary federal agency responsible for the conservation and management of living marine resources. The Coast Guard has authority to perform law enforcement activity upon the high seas and waters subject to U.S. jurisdiction for the prevention, detection, and suppression of violations of U.S. law, as well as to provide support to NMFS to meet management goals for protected marine mammals. The Coast Guard and NMFS are equally responsible for enforcing violations of the Endangered Species Act (ESA).

216.2 SCOPE - AREAS OF SPECIAL INTEREST. The First District Marine Mammal and Endangered Species Protection Program applies to coastal and offshore waters. However, the following areas are of special importance.

1. STELLWAGEN BANK NATIONAL MARINE SANCTUARY (SBNMS). This sanctuary was designated by Congress on 4 November 1992 and encompasses an area of water over and surrounding Stellwagen Bank. Activities in this area are regulated to protect the recreational, ecological, historical, research, educational, and aesthetic resources and qualities of the SBNMS. Specific D1 Enforcement Guidance and patrol emphasis can be found under reference (a).

2. DESIGNATED CRITICAL HABITATS. Units should review reference (b) to become familiar with those habitats designated as critical to endangered and threatened species under section 7 of the Endangered Species Act (ESA) and to the northern right whale under 50 CFR 226. Within the First District, specific areas of concern include the Great South Channel and Cape Cod Bay, Massachusetts.

216.4 ENUMERATION OF THREATENED SPECIES - D1 WHALE SIGHTING PROGRAM.

The northern right whale is the most endangered large whale in the world. Only the western North Atlantic has a significant number of northern right whales (300-350), with the eastern North Atlantic population virtually extinct. The whale sighting program will provide NMFS experts with critical data. The highest sighting priority for D1 units involves right whales.

1. UNIT PREPARATIONS. Units under CCGDONE OPCON shall review the references listed above and follow the guidelines outlined in enclosure (1) in establishing an effective unit sighting program.

2. IDENTIFICATION GUIDE BOOKS. Units shall obtain and use marine mammal identification references. One good resource is "A Field Guide to Whales, Porpoises, and Seals from Cape Cod To Newfoundland." The latest edition of the book was published in 1993 by the Smithsonian Institute Press.

3. SIGHTING PRIORITIES. Whale sightings of specific interest are the northern right, humpback, fin, sei, and blue whales. The specific priorities of the D1 sighting program are:

- A. Entangled or injured right whales;
- B. "Floaters" - Dead right whales;
- C. Live sightings - Right whales;
- D. Live sightings - Pilot whales (only in the vicinity of Cape Cod);
- E. Entangled or dead whales of any other kind;
- F. "Floaters" - Dead whales of any other kind; and
- G. Large groups of whales.

4. PROBABLE LOCATIONS OF RIGHT WHALES. Historical sighting data from aerial and shipboard surveys indicates right whales are normally found in the vicinities of:

- A. BROWNS/BACCARO BANKS. Between these banks on the Nova Scotian shelf from July through November. This area appears to be significant to the whales socially; courtship activities at the surface are frequently observed.
- B. BAY OF FUNDY. Late July through mid-November, with a peak in population in September. This area appears to be the primary summer nursery.

C. CAPE COD BAY. March through early May. This is the traditional and historical habitat. It has also been designated a critical habitat. U.S. Coast Guard presence is needed to control certain whale watching problems. Units should work directly with the Massachusetts Environmental Police (MEP) to enforce both state and federal right whale protection regulations.

D. STELLWAGEN BANK NMS AND JEFFREYS LEDGE. July through September. This is the period of the greatest whale watch effort. U.S. Coast Guard presence should curtail reckless vessel operations, especially on weekends and major holidays.

E. GREAT SOUTH CHANNEL. Mid-April through July. This is the southern passage to and from the Gulf of Maine. The most important task is to know where concentrations of whales are located in order to inform mariners (especially large ships).

F. SOUTHEASTERN U.S. (CHARLESTON, SC TO MIAMI, FL). September through April. This primary calving ground is occupied by females before, during and after calving.

5. FORWARDING OF SIGHTING REPORTS. Whale sighting information shall be forwarded to NOAA's Northeast Fisheries Science Center per enclosure (2) using the standard format provided in enclosure (3) with supporting 35mm photographs and VHS video. Units may contact NOAA's Northeast Fisheries Science Center (see enclosure (2)) to discuss pre/post-deployment issues.

216.11 PROHIBITIONS AND ENFORCEMENT.

1. ENDANGERED SPECIES PROTECTION EFFORT.

A. DEDICATED SURFACE/AIR PATROLS.

(1) TASKING. CTU 44.1.1 and Groups Boston and Woods Hole will be routinely tasked to conduct enforcement boardings, disseminate information packets, and make broadcasts to mariners in the vicinity of the SBNMS and other areas of interest.

(2) AREA SURVEYS. Air Station Cape Cod and designated surface assets will periodically be directed to embark National Marine Sanctuary (NMS) and/or NMFS officials to conduct surveys to facilitate research of the SBNMS and other areas of interest.

(3) DOCUMENTING PATROL EFFORTS. Units shall document marine mammal protection efforts in their weekly Living Marine Resource Weekly Feeder or Daily SITREP Feeder. Units patrolling SBNMS shall document enforcement effort in their Abstract of Operations report.

B. SAFETY BROADCAST FOR RIGHT WHALES. Groups Boston and Woods Hole shall make the following safety broadcast on right whales twice a day from 1 March to 31 September and when right whales are reported in the Group's AOR:

"THE SEVERELY ENDANGERED RIGHT WHALE IS A REGULAR VISITOR TO MASSACHUSETTS COASTAL WATERS. IT IS A SLOW MOVING ANIMAL THAT IS PRONE TO BEING INVOLVED IN COLLISIONS WITH VESSELS. THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION HAS DESIGNATED CAPE COD BAY AND THE REGION EAST OF CAPE COD AS CRITICAL HABITAT FOR THIS SPECIES, AND HAS IDENTIFIED THE STELLWAGEN BANK NATIONAL MARINE SANCTUARY AS AN ADDITIONAL AREA OF IMPORTANCE TO THE RIGHT WHALE. VESSEL OPERATORS ARE REMINDED TO USE CAUTION AROUND RIGHT WHALES. INTENTIONAL CLOSE APPROACH TO RIGHT WHALES IS PROHIBITED AND MAY RESULT IN A VIOLATION OF FEDERAL OR STATE LAW."

C. CUTTER TRANSITS. During the course of normal, non-emergency operations, First District units transiting the SBNMS, northern right whale critical habitat areas, or other areas frequently used by right whales (see 50 CFR Part 227.2 and Part 227.4) shall use caution and be alert for whales, using appropriate speed to reduce the possibility of whale strikes. Between 1 March and 30 May, when right whales are concentrated in the vicinity of northern right whale critical habitat areas in the Great South Channel and Cape Cod Bay, a dedicated lookout must be posted on USCG vessels to watch for whales, and the OOD must take precautions to avoid whales during all vessel operations. This includes reducing the speed of all vessels transiting these areas during this period in response to all non-emergency operations.

D. SURFACE UNIT NAVIGATION. Units shall plot and maintain the coordinates of the SBNMS and northern right whale critical habitat areas (see 50 CFR 226) on all navigational and law enforcement working charts.

E. UNIT RESPONSIBILITIES.

(1) TRAINING. Develop unit training program for lookouts and bridge personnel on whale species identification, unit responsibilities, and avoidance procedures.

(2) SIGHTING. . If a First District unit sights a whale(s), that unit shall:

(a) ~~Give the whale(s)~~ a wide berth. Following a sighting of a large whale, vessels should maintain a minimum distance of 100 yards if practical, to reduce the possibility of whale strikes.

(b) Maintain a lookout to best avoid contact with the whales.

(c) Notify vessels in the vicinity about the locations of the whales via VHF radio, and direct those vessels to proceed through the area with caution.

(d) Inform OPCON immediately of any sightings of right whales or any other whale that is entangled, injured or dead after completing enclosure (4). Also notify OPCON of any sightings of pilot whales in the vicinity of Cape Cod.

(e) Secure the area to keep onlookers from interfering with personnel authorized to respond to an injured, dead, entangled or stranded protected species. "Authorized" personnel should possess a federal or state permit.

(f) Complete and forward the sighting report as per paragraph 5 under Section 216.4.

(3) UNIT COLLISION/SHIP STRIKE. If a First District unit strikes or comes in close contact with a whale, the unit shall complete enclosure (4) and:

(a) Document the location and time of any incident in which the vessel comes into physical contact with any whale in the unit or station log. The log shall detail all actions taken to identify the species of whale struck and the nature of injuries it sustained. A copy of the log shall be sent to Commandant (G-LEL) and First District (ole), as soon as possible.

(b) ~~Notify~~ OPCON via immediate SITREP, info D1 (ole) and Commandant (G-LEL).

(c) ~~Conduct a~~ Letter Incident Report (LIR) per the Administrative Investigations Manual (COMDTINST M5830.1 series) to arrive at First District (ole) within 14 days of the incident. The LIR shall at a minimum, contain:

- Reason for the transit, i.e. mission, destination, etc.
- Location (both lat/long and geographic reference). Include a statement as to the relative position of the incident from Right Whale Federal Critical Habitat Areas.

- Actions taken to comply with published guidance outlined in First District Instruction 16247.2 (series) under 50 CFR Part 216 (Regulations governing the protection of marine mammals) on this patrol and transit.
- Statements from witnesses and lookouts (as enclosures).
- Actions taken on first spotting the whale.
- How the witness/lookouts identified the animal as a whale, and which species. Include information on any species identification training in which the witness/lookout have participated.
- Observations of other whales, i.e. numbers and species, seen in the general area the day of the incident.
- Degree of confidence that it was any particular species.
- How hard the vessel hit the whale and any damage found to the vessel.
- Details on actions taken to identify injury to the whale.
- Include as enclosures, copies of all correspondence regarding the whale strike.

F. OPCON RESPONSIBILITIES.

(1) SAFETY VOICE BROADCAST. Upon receiving sighting reports of right whales or any other entangled or injured whale, OPCON shall initiate a Safety Voice Broadcast (update/reissue after each sighting) as appropriate. The broadcast should advise mariners to exercise caution when navigating the area by adjusting course and speed as necessary to minimize disturbing or striking a right whale. For purposes of Safety Voice Broadcasts, dead whales will be treated as hazards to navigation.

(2) WHALE STRIKES. OPCON shall immediately notify the First District Command Center if any vessel comes into contact with a whale. The First District is required to notify NMFS within 24 hours of the incident.

(3) ENTANGLEMENTS, BOAT COLLISIONS, AND STRANDINGS. For any reported whale entanglements, collisions, or strandings, complete enclosure (4). OPCON will notify appropriate authorities as outlined below:

(a) ENTANGLED WHALES. OPCON shall immediately notify the Center for Coastal Studies. (See enclosure (1)) Coast Guard units shall not attempt to remove debris from entangled whales. Only the Center for Coastal Studies is authorized by NMFS permit to have direct contact with the animals.

(b) STRANDED WHALES. OPCON will immediately notify the local stranding network to facilitate rescue of the stranded animal. (See enclosure (1)).

(c) STRANDED/ENTANGLED TURTLES. The Green, Loggerhead, Leatherback, and Kemp's Ridley sea turtles are presently listed as either threatened or endangered reptiles. Coast Guard personnel can cut nets or fishing gear to free entangled turtles only when immediate response may save the turtle(s) from further injury or death. OPCON shall immediately notify the Center for Coastal Studies which will provide advice or initiate action to rescue the animal(s).

(4) PILOT WHALES. Immediately relay any sightings of pilot whales in the vicinity of Cape Cod to the Center for Coastal Studies, as it may be an indication of mass stranding.

(5) LOGISTICAL SUPPORT. Units are authorized and may be tasked by OPCON to provide logistical support for NMFS-approved disentanglement and stranding teams and their equipment. Appendix (A) outlines First District policy regarding logistic support to the NMFS for disentanglement of endangered marine animals.

(6) SITREP. All cases involving protection of endangered species will be documented via immediate L/E SITREP.

(7) LETTER REPORT. Units which assist in the salvage, rescue or disposal of a marine mammal shall submit a letter report to the U.S. Fish and Wildlife Service, with an information copy to First District (ole) and Commandant (G-OLE):

U.S. Fish and Wildlife Service
Division of Law Enforcement
POB 19183
Washington D.C. 20036

G. DISPOSAL OF PROTECTED SPECIES. There is no specific U.S. Coast Guard responsibility for the salvage or disposal of dead whales. Only situations that pose a safety, health, or navigation hazard, or involve significant public affairs interest, should be pursued. Units shall not tow or attempt to sink dead marine mammals without OPCON concurrence. If there is no interest by appropriate organizations after having been notified about the location of a dead whale or other protected species, abandon the carcass and continue with normal operations.

2. ENFORCEMENT OF MMPA AND ESA VIOLATIONS.

A. PHILOSOPHY. Enforcement of Marine Mammal Protection Act (MMPA) and ESA regulations will target significant violators, i.e., those vessel operators that act in a manner that may result in injury or harassment of protected species. Education is recognized as being a fundamental part of enforcement efforts.

B. HARASSMENT DEFINITION. The term "harassment" is an element of "taking" under the MMPA and includes two levels:

- (1) LEVEL A. An act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild.
- (2) LEVEL B. An act of pursuit, torment, or annoyance that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding or sheltering.

C. EXAMPLES OF HARASSMENT.

- (1) HUMAN INTERACTIONS. Diving or swimming, throwing objects, human feeding (disrupts natural eating habits), high speed approaches by a vessel, and deliberately maneuvering a vessel close to a whale are clear examples of harassment.
- (2) MORE SUBTLE VIOLATIONS. Units should also be aware of more subtle violations. Persistent engagement of a vessel in a manner that results in a recognizable and articulable disturbance of the marine mammal or endangered marine species is also a violation. Detailed narratives, videotapes, and/or photographs are essential in thoroughly documenting these cases.

D. STANDARD FOR DOCUMENTING A VIOLATION. All of the following elements of a violation must be present to justify a violation of the MMPA or ESA.

- (1) Personal knowledge of guidelines (can be assumed of whale watching boat operators).
- (2) Refusal to observe guidelines once advised/reminded.
- (3) Documented behavior (observed, photographed, videotaped, etc.) fitting harassment definition above.
- (4) Distances between the violator and whale before, during, and after the incident. Massachusetts also has regulations to protect the right whale. The following management measures under 322 CMR 12.00 apply for boats in Massachusetts state waters:
 - (a) BUFFER ZONE. There is a buffer zone surrounding a right whale which consists of an area outward from the right whale a distance of 500 yards in all directions.

(b) DEPARTURES. Vessels are required to depart immediately from any buffer zone created by the surfacing of a right whale.

(c) APPROACHES. Vessels may not approach a right whale or turn in any manner to intercept a right whale within a buffer zone.

(d) INTERFERENCE. No vessel may disrupt the behavior of a right whale within a buffer zone.

(e) EXCEPTIONS. Any person issued a federal or state permit may conduct scientific research, observation or management of the right whale as authorized under the permit.

(f) COMMERCIAL FISHING. Commercial fishing vessels hauling back, towing gear or fishing at anchor within a buffer zone created by the surfacing of a right whale may complete the haul, tow or fishing operation, provided it does so with minimum disruption to the right whale, does so in a direction away from the right whale, and departs the buffer zone immediately after the haul, tow or fishing operation.

E. ISSUING A VIOLATION.

(1) STANDARDS PRESENT. If elements listed in paragraph 2.D. alone are observed, board the vessel (if weather/operations permit) and attempt to educate the boater, issuing a written warning for minor infractions.

(2) PERSISTENCE. If the master of the vessel persists in harassment, or the actions of the vessel are plainly dangerous or involve a significant act of harassment, issue a violation to the master.

(3) DOCUMENTATION. In documenting a violation, it is critical to identify distances as well as marine mammal behavior before, during, and after the incident. Submit the Enforcement Action Report (EAR) and standard MFCMA case package to CGDONE (ole). A list of all witnesses to the incident is also very important. Identify individuals or other vessels who are potential witnesses in your Offense Investigation Report (OIR) statements.

NOTE: To document violation of the Massachusetts 500 yard buffer regulation, the case is position-critical and requires additional evidence. These cases can be turned over to the Massachusetts Environmental Police (MEP) (if also on scene) for prosecution, with a copy to First District (ole).

F. SPECIAL CIRCUMSTANCES INVOLVING WHALE WATCHING BOATS. Do not board commercial whale watching boats. Warn and document suspected violators (obtain necessary information via radio) and forward completed case package (if appropriate) to First District (ole) for further review.

3. LIVE FIRING EXERCICES. Live firing exercises by deck guns and small arms (less pyrotechnics) are prohibited in the Right Whale Critical Habitat Areas and the Stellwagen Bank National Marine Sanctuary. Outside of these areas, Commanding Officers shall ensure assigned range safety personnel conduct a visual check for the presence of whales in the firing range impact area. Firing exercises shall be terminated and the location of the exercise moved whenever whales are detected in the firing area.

OPERATIONAL PLAN TO PROVIDE LOGISTICAL SUPPORT TO
THE NATIONAL MARINE FISHERIES SERVICE (NMFS) FOR THE
DISENTANGLEMENT OF ENDANGEREED MARINE ANIMALS

1. INITIATIVE. The Regional Director of the National Marine Fisheries Service, Northeast Region, the Regional-Director General, Department of Fisheries and Oceans (DFO), Maritimes Region, Canada, and the First Coast Guard District Commander recognize that proactive measures are needed to protect endangered marine animals, especially large whales, along the littoral waters of the Northeast United States and the Maritimes Region of Canada.

2. BACKGROUND. Scientific studies undertaken between 1975 and 1989 revealed that 428 marine mammal entanglements were recorded in the waters of the Gulf of Maine and New York Bight. Some animals, primarily large whales, can be disentangled and released before they drown or starve. Entanglement in fishing gear has been identified by NMFS as the largest source of human-related mortality for humpback whales. Further, analysis of New England Aquarium's photographic catalog of North Atlantic right whales indicate that 58% of the cataloged animals have scars or injuries indicative of entanglement in fishing gear. NMFS's recovery plans for right and humpback whales give high priority to developing solutions to the problem of mortality caused by entanglement in commercial fishing gear.

3. RESPONSIBILTIES. In 1984, the Center for Coastal Studies (CCS), a private marine research concern, located in Provincetown, Massachusetts developed a technique for disentangling free-swimming whales from life-threatening entanglements in fishing gear. Currently it is the only organization authorized by the NMFS to perform this service. The NMFS has awarded the CCS with a contract to develop a regional network of qualified experts to assist the CCS in its disentangling efforts. Inclusive in the development of this network, is the procurement of equipment which can be utilized by a Rapid Response Team (RRT) involving USCG units transporting NMFS and CCS staff to the scene of life threatening entanglements of endangered large whales throughout the First District AOR as well as Canada's Scotia-Fundy region. First District responsibilities within the RRT include, but are not limited to:

A. Transfer of equipment and personnel by HH-60 or cutter to and from offshore or remote sites where the disentangling efforts will be attempted.

B. Providing appropriate afloat units, i.e., WMEC/WPB, from which extended disentangling operations can be conducted.

C. Providing appropriate air units to search for entangled whales which have had VHF radio direction finding tags attached.

D. Coordinate with DFO to transport RRT personnel and equipment to disentanglement sites in Canada's Scotia-Fundy Maritime Region when entangled whales migrate across the United States and Canadian maritime boundary.

4. IMPLEMENTATION. The following protocol shall be followed when Coast Guard RRT assistance is requested by the NMFS or the DFO, Canada.

A. AWARENESS & COMMUNICATIONS - Occurs when information is received that an endangered whale is entangled in fishing gear. Receipt of the information can come from private citizens, other governmental agencies, Coast Guard units, or DFO/Canadian Coast Guard watchstanders.

(1) Coast Guard Group and/or Command Center watchstanders, CTU 44.1.1, or patrol units shall complete enclosure (4) when receiving whale entanglement information.

(2) Forward all information obtained to First District Command Center for further dissemination to the NMFS, the CCS, and/or DFO, Canada.

B. EVALUATION & PLANNING - Occurs after endangered whale entanglement information is received by NMFS, CCS, and/or DFO. Analysis of the information and formulation of plans to help save the entangled whale will be made in partnership with First District, NMFS, CCS, and DFO staffs. Official requests for Coast Guard logistical assistance to CCS staff for whale disentanglement will only be accepted from either NMFS or DFO representatives.

(1) NMFS, DFO, CCS staff (as appropriate), and First District Commander Center, and (ole) will study the circumstances surrounding the report of entanglement. Factors such as weather, the apparent health of the entangled animal, availability of personnel and assets will determine what action, if any, will be taken.

(2) Logistical support for disentanglement of endangered whales will be provided by either Coast Guard surface, i.e., cutter, or air, i.e., HH-60, units. Forward deployment of personnel and equipment for extended operations may be tasked using a WMEC, in-shore operations or those expected to be shorter in duration, e.g., affixing a satellite tracking tag vice disentanglement, will normally be conducted using a WPB.

(3) First District Command Center will contact watchstanders at DFO Command Center, Halifax to advise of planned operations in or near Candian waters. Coast Guard logistic of CCS personnel and equipment into Canada will be coordinated between First District and DFO Command Center watchstanders.

C. OPERATIONS - Occurs after either the NMFS or DFO requests Coast Guard logistical support to help the CCS in its disentanglement efforts. Coast Guard aircraft and/or cutters will be tasked to transport equipment and personnel to and from the scene of the disentanglement sight and provide a safety zone to keep on-lookers away from the scene of operations.

(1) Units tasked with logistic support will load equipment outlined in enclosure (x) and personnel (names, age, sex, SSN provided by the CCS) for transportation to cutters or distant staging areas. CCS staff will transport needed equipment to Provincetown airport for loading on to an HH-60 or to Station Provincetown for loading on a cutter.

(2) Inclusive of transportation support, Coast Guard units may be required to establish a 2 kilometer radius around the entangled animal keeping the animal free of boat traffic. Command Center watchstanders may also need to coordinate with the FAA to establish a 1000 meter ceiling over the area of operations. If needed, Broadcast Notice to Mariners will be issued advising mariners to transit the waters of operation with caution.

(3) Commanding Officers of cutters will evaluate on-scene conditions, e.g. weather, location, navigable waters, etc. with the CCS team leader to discuss on-scene protocol. Commanding Officers, Officers in Charge, and Pilots in Charge retain on-scene authority to commit or terminate Coast Guard support operations when safety factors dictate. Similarly, the CCS team leader can terminate the mission for safety reasons. Commanding Officers, Officers in Charge, and Pilots in Charge shall maintain an open dialogue with the CCS team leader to ensure intended actions and goals are understood prior to commencing whale disentanglement.

(4) Units tasked with supporting whale disentanglement efforts shall maintain a detailed record of events. Video documentation shall be taken for post-operation analysis and public affairs purposes.

D. POST-EVENT ANALYSIS - Begins after disentanglement operations have ceased. On-scene commander and CCS team leader reports will be provided and shared with the official agencies involved.

(1) Post-event operations may include assisting the NMFS monitor the movement of a whale which has had a tag with a VHF-FM transponder attached. The NMFS or the CCS will notify local stranding networks should disentanglement efforts cannot be conducted or fail to be completed.

(2) Subsequent operations involving Coast Guard support may be made pending renewal of the notification and evaluation process outlined in the above paragraphs.

RAPID RESPONSE TEAM EQUIPMENT PACKAGE

1. PERSONNEL.

> Three people (600 lbs)

2. BOAT, MOTOR, AND ACCESSORIES.

> 15 foot inflatable, soft bottom boat (140 lbs)
> Inflatable floor boards (97 lbs)
> Inflatable runners (5 lbs)
> Oars (6 lbs)
> 30 horsepower outboard motor (118 lbs)
> Fuel tank, fuel, fuel line (50 lbs)
> Boat lines, fenders, bridle (15 lbs)

3. SAFETY EQUIPMENT.

> Duffle bag with vests, exposure suits (20 lbs)
> Dry bag with VDS'S, horn, EPIRB, etc. (18 lbs)
> Case with NAV gear & VHF-FM radios (17 lbs)

4. DISENTANGLEMENT EQUIPMENT.

> Case with line, grapple, knives, etc. (45 lbs)
> Case with knives, clips, etc. (40 lbs)
> Duffle bag with four deflated buoys (38 lbs)
> Duffle bag with four deflated buoys (38 lbs)
> Poles (8 lbs)

5. TRACKING AND DOCUMENTATION EQUIPMENT.

> Pelican case with camera gear (18 lbs)
> Pelican case with video gear (12 lbs)
> Pelican case with telemetry gear (30 lbs)
> Tag/Buoy (15 lbs)

6. PERSONAL GEAR.

> Overnight luggage (three people) (45 lbs)
Total Weight (1,373 lbs)

3. Principle parties needing to know of large whale entanglements are:

- > C/C coordination of resources to support disentanglement effort will normally begin upon request for support by either NMFS or DFO. However, position analysis, i.e. where the entangled animal is located compared against the location of CG assets, needs to begin as soon as information is received.
- > Briefings (ole), (o), (dcs), (d), (dpa), (NMFS)
- > First Coast Guard District Command Center
 - Duty Officer 617-223-8555
 - Facsimile 617-223-8xxx
- > CCS Disentanglement Team
 - Dr. Charles Mayo 508-487-0495
 - Dr. David Mattila 508-487-4854
 - Mr. Edward Lyman 508-349-0561

 - Emergency Hotline 508-xxx-xxxx
 - Facsimile 508-xxx-xxxx
- > NMFS
- > CCS Disentanglement Team
- > C/C SITREP TO CAA (Aoo), COMDT (G-OLE, G-LEL)

NMFS APPROVED LOCAL STRANDING NETWORKS

I. ENTANGLEMENT REPORTS

(Contact the Center for Coastal Studies first,
then the local stranding network)

CENTER FOR COASTAL STUDIES

P.O. Box 1036
59 Commercial St.
Provincetown, MA 02657
(508) 487-3622
Fax: (508) 487-4495

Pager: (508) 522-9269
Mobile: (508) 246-3622

II. LOCAL STRANDING NETWORKS

NORTHERN (DOWN EAST) MAINE

Steve Katona, Tom Fernald
College of the Atlantic
Bar Harbor, ME 04609
(207) 288-5015
Fax: (207) 288-5395

SOUTHERN MAINE TO MASS

Greg Early
New England Aquarium
Central Wharf, Boston, MA
02110
(617) 973-5246/6551 (9-5)
Pager: (617) 973-5247

RHODE ISLAND AND CONNECTICUT

Neal Overstrom, Rob Nawojchik
Mystic Aquarium
55 Coogan Blvd.
Mystic, CT 06355-1997
(203) 536-9631, ext 107
Fax: (203) 572-5969

NEW YORK

Sam Sadove, Kim Durham,
Caren Carminatì
Okeanos Ocean Research Foundation
P.O. Box 776
278 E. Montauk Highway
Hampton Bays, NY 11946
(516) 728-4522/8105
Pager: (516) 436-8013
Fax: (516) 728-5557

NEW JERSEY

Bob Schoelkopf,
Edna Selzer
Marine Mammal Stranding
Center
P.O. Box 773
Brigantine, NJ 08203
(609) 266-0538
Fax: (609) 266-6300

UNIT CHECKLIST FOR D1 SIGHTING PROGRAM

1. COLLATERAL DUTY ASSIGNMENT. Identify person on board with primary responsibility for photographing, videotaping, and completing sighting forms of endangered marine mammals.
2. QUICK RESPONSE/REACTION. Train watchstanders in marine mammal identification and accurate completion of sighting form.
3. MATERIALS.
 - A. Field Guide. Recommend units purchase "A Field Guide to Whales, Porpoises, and Seals from Cape Cod to Newfoundland." The book was written by Steven K. Katona, Valerie Rough, and David T. Richardson and published in 1993 (or latest edition) by the Smithsonian Institution Press (available/can be purchased through local book stores).
 - B. Standard Sighting Forms
 - C. Camera(s): 35mm, 200-400mm lens, video camera(s)
 - D. Film, video tape
4. NOAA POC (MAILING ADDRESS FOR SIGHTING FORMS).

DR. JIM HAIN
C/O NOAA NORTHEAST FISHERIES SCIENCE CENTER
166 WATER STREET
WOODS HOLE, MA 02543
(508) 548-5123
FAX: (508) 548-5124
5. OBSERVATIONAL ABILITIES AND RECORD KEEPING.
 - A. Develop habits of observation, notation, and discussion of information with others.
 - B. Be alert for smaller scale oceanographic features...band slicks and "edges" represent areas of mixing...often productive for fish, birds, whales, etc.
 - C. Be alert for sighting cues...birds working...
 - D. Keep good notes and photographs/video. DO NOT SKIMP ON PHOTOGRAPHS.
 - E. When you have made a sighting...KEEP SPOT IN VIEW!

STANDARD SIGHTING FORM

Name of Reporter: _____

Vessel Name or Aircraft Number: _____

Date and Time of Sighting: _____

Position (Latitude & Longitude): _____

Species Observed: _____

Number Identified: _____

Distinguishing Characteristics:

[Key features - size, body shape, color, blow, natural markings (spots, blazes), dorsal fin and flippers (size and shape)]

Comments:

[calf present, injuries/wounds, behavior, other species present]

Photos Taken:

[roll & frame numbers, tape number]

ENTANGLEMENT AND BOAT COLLISION REPORTING FORM

I. REPORTING SOURCE

Time/Date: _____ Rptg source: _____
 Vsl name: _____ Doc/Reg #: _____
 Radio call: _____ Cell phone #: _____
 1st or 2nd hand report: _____ How long R/S can remain O/S? _____

II. DETAILS OF INCIDENT

Posit: _____ Geographic desc: _____
 O/S WX: Winds: ____T/__.kts, Swell: ____T/___ft, Seas: ____T/___ft, Vis: ____nm, Temp: ____F, Baro: ____.(R/F/S)
 Species: _____ No of animals: _____
 Dorsal fin: _____ Color: _____
 Size: _____ Dead/alive: _____
 Distinguishing marks: _____ Photo/video taken: _____
 Type of entanglement: _____ Nature of injury: _____
 Animal traveling or anchored by gear: _____ Cse/Spd: ____T ____kts
 Persons already notified: _____

ENTANGLEMENT

Desc (type) of gear & identifying features (buoy color, reg #, etc.): _____
 Type of line (dia, color, matl): _____
 Mesh visible? _____ Floats/other gear trailing? _____
 Part of body entangled? _____ #wraps around tail/body: _____
 Life threatening? Describe: _____

ENTANGLEMENT AND BOAT COLLISION REPORTING FORM
(continued)

ANIMAL'S APPEARANCE

First impression of condition: _____

Skin condition (peeling, color, whale lice present): _____

Obvious bleeding/wounds: _____

Are marks fresh or healing? _____

Weight (robust, emaciated, ribs or vertebrae showing?): _____

ANIMAL'S BEHAVIOR

General description: _____

Breathing (pattern, sound, smell?): _____

Lifting head/flukes above water? _____ Struggling to breathe? _____

Dive duration: _____

Effects on movement (flexibility, buoyancy, surfacing angle, ability to dive, appendage movement?)

COLLISION

Type of wound (prop wound, part cut off, etc?): _____

Location: _____ Severity: _____

Vessel involved: _____ Doc/Reg #: _____

Operator: _____ Homeport: _____

U.S. Coast Guard First District Guidance dated 01 July 1996

50 CFR PART 216, REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

- Ref: (a) 15 CFR PART 922 - National Marine Sanctuary Program
(b) 50 CFR PART 226 - Designated Critical Habitat
(c) 50 CFR PART 227 - Threatened Fish and Wildlife
(d) 50 CFR PART 216 - Regulations Governing the Taking and Importing of Marine Mammals

216.1 PURPOSE.

1. INITIATIVE. This part outlines First Coast Guard District initiatives to further the federally mandated protection and recovery objectives for marine mammals and endangered marine species. TAB A has been added and TABs B-E have been revised.
2. RESPONSIBILITY. The National Marine Fisheries Service (NMFS) is the primary federal agency responsible for the conservation and management of living marine resources. The Coast Guard has authority to perform law enforcement activity upon the high seas and waters subject to U.S. jurisdiction for the prevention, detection, and suppression of violations of U.S. law, as well as to provide support to NMFS to meet management goals for protected marine mammals. The Coast Guard and NMFS are equally responsible for enforcing violations of the Endangered Species Act (ESA).

216.2 SCOPE - AREAS OF SPECIAL INTEREST. The First District Marine Mammal and Endangered Species Protection Program applies to coastal and offshore waters. However, the following areas are of special importance.

1. STELLWAGEN BANK NATIONAL MARINE SANCTUARY (SBNMS). This sanctuary was designated by Congress on 4 November 1992 and encompasses an area of water over and surrounding Stellwagen Bank. Activities in this area are regulated to protect the recreational, ecological, historical, research, educational, and aesthetic resources and qualities of the SBNMS. See Jonathon's Publication outlining reference (a), and the accompanying District addendum for specific D1 Enforcement Guidance.
2. DESIGNATED CRITICAL HABITATS. Coast Guard units should review reference (b) to become familiar with those habitats designated as critical to endangered and threatened species under section 7 of the Endangered Species Act (ESA) and to the northern right whale under 50 CFR 226. Within the First District, specific areas of concern include the Great South Channel and Cape Cod Bay, Massachusetts.

216.4 ENUMERATION OF THREATENED SPECIES - D1 WHALE SIGHTING

PROGRAM. The northern right whale is the most endangered large whale in the world. Only the western North Atlantic has a significant number of northern right whales (300-350), with the eastern North Atlantic population virtually extinct. The whale sighting program will provide NMFS experts with critical data. The highest sighting priority for D1 units involves right whales.

1. **UNIT PREPARATIONS.** Group/Activity Commanders, Cutter and Station Commanding Officers/Officers-in-Charge, and Air Station Commanding Officers under CCGDONE OPCODE shall review the references listed above and follow the guidelines outlined in TAB C in establishing an effective unit sighting program.

2. **IDENTIFICATION GUIDE BOOKS.** Units shall obtain and use marine mammal identification references. One good resource is "A Field Guide to Whales, Porpoises, and Seals from Cape Cod To Newfoundland." The latest edition of the book was published in 1993 by the Smithsonian Institute Press.

3. **SIGHTING PRIORITIES.** Whale sightings of specific interest are the northern right, humpback, fin, sei, and blue whales. The specific priorities of the D1 sighting program are:

- A. Entangled or injured right whales;
- B. "Floaters" - Dead right whales;
- C. Live sightings - Right whales;
- D. Live sightings - Pilot whales (only in the vicinity of Cape Cod);
- E. Entangled or dead whales of any other kind;
- F. "Floaters" - Dead whales of any other kind; and
- G. Large groups of whales.

4. **PROBABLE LOCATIONS OF RIGHT WHALES.** Historical sighting data from aerial and shipboard surveys indicates right whales are normally found in the vicinities of:

- A. **BROWNS/BACCARO BANKS.** Between these banks on the Nova Scotian shelf from July through November. This area appears to be significant to the whales socially; courtship activities at the surface are frequently observed.
- B. **BAY OF FUNDY.** Late July through mid-November, with a peak in population in September. This area appears to be the primary summer nursery.

C. CAPE COD BAY. March through early May. This is the traditional and historical habitat. It has also been designated a critical habitat. U.S. Coast Guard presence is needed to control certain whale watching problems. Units should work directly with the Massachusetts Environmental Police (MEP) to enforce both state and federal right whale protection regulations.

D. STELLWAGEN BANK NMS AND JEFFREYS LEDGE. July through September. This is the period of the greatest whale watch effort. U.S. Coast Guard presence should curtail reckless vessel operations, especially on weekends and major holidays.

E. GREAT SOUTH CHANNEL. Mid-April through July. This is the southern passage to and from the Gulf of Maine. The most important task is to know where concentrations of whales are located in order to inform mariners (especially large ships).

F. SOUTHEASTERN U.S. (CHARLESTON, SC TO MIAMI, FL). September through April. This primary calving ground is occupied by females before, during and after calving.

5. FORWARDING OF SIGHTING REPORTS. Whale sighting information shall be forwarded to NOAA's Northeast Fisheries Science Center per TAB C using the standard format provided in TAB D with supporting 35mm photographs and VHS video. Units may contact NOAA's Northeast Fisheries Science Center (refer to TAB C) to discuss pre/post-deployment issues.

216.11 PROHIBITIONS AND ENFORCEMENT.

1. ENDANGERED SPECIES PROTECTION EFFORT.

A. DEDICATED SURFACE/AIR PATROLS.

(1) TASKING. CTU 44.1.1 and Group Commanders Boston, Woods Hole, Portland, and Southwest Harbor will be routinely tasked to conduct enforcement boardings, disseminate information packets, and make broadcasts to mariners in the vicinity of the SBNMS and other areas of interest.

(2) AREA SURVEYS. Air Station Cape Cod and designated surface assets will periodically be directed to embark National Marine Sanctuary (NMS) and/or NMFS officials to conduct surveys to facilitate research of the SBNMS and other areas of interest.

(3) DOCUMENTING PATROL EFFORTS. Units shall document marine mammal protection efforts in their weekly Living Marine Resource Weekly Feeder or Daily SITREP Feeder. Units patrolling SBNMS shall document enforcement effort in their Abstract of Operations report.

B. SAFETY BROADCAST FOR RIGHT WHALES. Groups Boston and Woods Hole shall make the following safety broadcast on right whales twice a day from 1 March to 31 September and when right whales are reported in the Group's AOR:

"THE SEVERELY ENDANGERED RIGHT WHALE IS A REGULAR VISITOR TO MASSACHUSETTS COASTAL WATERS. IT IS A SLOW MOVING ANIMAL THAT IS PRONE TO BEING INVOLVED IN COLLISIONS WITH VESSELS. THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION HAS DESIGNATED CAPE COD BAY AND THE REGION EAST OF CAPE COD AS CRITICAL HABITAT FOR THIS SPECIES, AND HAS IDENTIFIED THE STELLWAGEN BANK NATIONAL MARINE SANCTUARY AS AN ADDITIONAL AREA OF IMPORTANCE TO THE RIGHT WHALE. VESSEL OPERATORS ARE REMINDED TO USE CAUTION AROUND RIGHT WHALES. INTENTIONAL CLOSE APPROACH TO RIGHT WHALES IS PROHIBITED AND MAY RESULT IN A VIOLATION OF FEDERAL OR STATE LAW."

C. CUTTER AND BOAT TRANSITS. During the course of operations, First District units transiting the SBNMS, northern right whale critical habitat areas, or other areas frequently used by right whales (see 50 CFR Part 227.2 and Part 227.4) shall use caution and be alert for whales, using appropriate speeds and courses to eliminate the possibility of whale strikes. If necessary, this includes bringing the vessel to all stop to avoid whales. Between 1 March and 15 June, when right whales are concentrated in the vicinity of northern right whale critical habitat areas in the Great South Channel and Cape Cod Bay, a dedicated lookout must be posted on USCG vessels during daylight hours to watch for whales.

D. SURFACE UNIT NAVIGATION. Units shall plot and maintain the coordinates of the SBNMS and northern right whale critical habitat areas (see 50 CFR 226) on all navigational and law enforcement working charts.

E. UNIT RESPONSIBILITIES.

(1) TRAINING. Develop unit training program for lookouts and bridge personnel on whale species identification, unit responsibilities, and avoidance procedures.

(2) SIGHTING. If a First District unit sights a whale(s), that unit shall:

(a) Give the whale(s) a wide berth. Following a sighting of a large whale, vessels should maintain a minimum distance of 100 yards if practical, to reduce the possibility of whale strikes.

(b) Maintain a lookout to best avoid contact with the whales.

(c) Notify vessels in the vicinity about the locations of the whales via VHF radio, and direct those vessels to proceed through the area with caution.

(d) Inform OPCON immediately of any sightings of right whales or any other whale that is entangled, injured or dead after completing TAB E. Also notify OPCON of any sightings of pilot whales in the vicinity of Cape Cod.

(e) Secure the area to keep onlookers from interfering with personnel authorized to respond to an injured, dead, entangled or stranded protected species. "Authorized" personnel should possess a federal or state permit.

(f) Complete and forward the sighting report as per paragraph 5 under Section 216.4.

(3) UNIT COLLISION/SHIP STRIKE. If a First District unit strikes or comes in close contact with a whale, the unit shall complete TAB E and:

(a) Document the location and time of any incident in which the vessel comes into physical contact with any whale in the unit or station log. The log shall detail all actions taken to identify the species of whale struck and the nature of injuries it sustained. A copy of the log shall be sent to Commandant (G-LEL) and First District (ole), as soon as possible.

(b) Notify OPCON via immediate SITREP, info D1 (ole) and Commandant (G-LEL).

(c) Conduct a Letter Incident Report (LIR) per the Administrative Investigations Manual (COMDTINST M5830.1 series) to arrive at First District (ole) within 14 days of the incident. The LIR shall at a minimum, contain:

- Reason for the transit, i.e. mission, destination, etc.
 - Location (both lat/long and geographic reference).
- Include a statement as to the relative position of the incident from Right Whale Federal Critical Habitat Areas.

- Actions taken to comply with published guidance outlined in First District Instruction 16247.2 (series) under 50 CFR Part 216 (Regulations governing the protection of marine mammals) on this patrol and transit.
- Statements from witnesses and lookouts (as enclosures).
- Actions taken on first spotting the whale.
- How the witness/lookouts identified the animal as a whale, and which species. Include information on any species identification training in which the witness/lookout have participated.
- Observations of other whales, i.e. numbers and species, seen in the general area the day of the incident.
- Degree of confidence that it was any particular species.
- How hard the vessel hit the whale and any damage found to the vessel.
- Details on actions taken to identify injury to the whale.
- Include as enclosures, copies of all correspondence regarding the whale strike.

F. OPCON RESPONSIBILITIES.

(1) SAFETY VOICE BROADCAST. Upon receiving sighting reports of right whales or any other entangled or injured whale, OPCON shall initiate a Safety Voice Broadcast (update/reissue after each sighting) as appropriate. The broadcast should advise mariners to exercise caution when navigating the area by adjusting course and speed as necessary to minimize disturbing or striking a right whale. For purposes of Safety Voice Broadcasts, dead whales will be treated as hazards to navigation.

(2) WHALE STRIKES. OPCON shall immediately notify the First District Command Center if any vessel comes into contact with a whale. The First District is required to notify NMFS within 24 hours of the incident.

(3) ENTANGLEMENTS, BOAT COLLISIONS, AND STRANDINGS. For any reported whale entanglements, collisions, or strandings, complete TAB E. OPCON will notify appropriate authorities as outlined below:

(a) ENTANGLED WHALES. Coast Guard units shall not attempt to remove debris from entangled whales. Refer to TAB A for guidance.

(b) STRANDED WHALES. OPCON will immediately notify the local stranding network to facilitate rescue of the stranded animal. (Refer to TAB B).

(c) STRANDED/ENTANGLED TURTLES. The Green, Loggerhead, Leatherback, and Kemp's Ridley sea turtles are presently listed as either threatened or endangered reptiles. Coast Guard personnel can cut nets or fishing gear to free entangled turtles only when immediate response may save the turtle(s) from further injury or death. OPGON shall immediately notify the Center for Coastal Studies which will provide advice or initiate action to rescue the animal(s).

(4) PILOT WHALES. Immediately relay any sightings of pilot whales in the vicinity of Cape Cod to the Center for Coastal Studies, as it may be an indication of mass stranding.

(5) LOGISTICAL SUPPORT. Units are authorized and may be tasked by OPGON to provide logistical support for NMFS-approved disentanglement and stranding teams and their equipment. Appendix (A) outlines First District policy regarding logistic support to the NMFS for disentanglement of endangered marine animals.

(6) SITREP. All cases involving protection of endangered species will be documented via immediate L/E SITREP.

(7) LETTER REPORT. Units which assist in the salvage, rescue or disposal of a marine mammal shall submit a letter report to the U.S. Fish and Wildlife Service, with an information copy to First District (ole) and Commandant (G-OLE):

U.S. Fish and Wildlife Service
Division of Law Enforcement
POB 19183
Washington D.C. 20036

G. DISPOSAL OF PROTECTED SPECIES. There is no specific U.S. Coast Guard responsibility for the salvage or disposal of dead whales. Only situations that pose a safety, health, or navigation hazard, or involve significant science or public affairs interest, should be pursued. Units shall not tow or attempt to sink dead marine mammals without OPGON concurrence. If there is no interest by appropriate organizations, i.e., NMFS, after having been notified about the location of a dead whale or other protected species, abandon the carcass and continue with normal operations.

2. ENFORCEMENT OF MMPA AND ESA VIOLATIONS.

A. PHILOSOPHY. Enforcement of Marine Mammal Protection Act (MMPA) and ESA regulations will target significant violators, i.e., those vessel operators that act in a manner that may result in injury or harassment of protected species. Education is recognized as being a fundamental part of enforcement

B. HARASSMENT DEFINITION. The term "harassment" is an element of "taking" under the MMPA and includes two levels:

- (1) LEVEL A. An act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild.
- (2) LEVEL B. An act of pursuit, torment, or annoyance that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding or sheltering.

C. EXAMPLES OF HARASSMENT.

- (1) HUMAN INTERACTIONS. Diving or swimming, throwing objects, human feeding (disrupts natural eating habits), high speed approaches by a vessel, and deliberately maneuvering a vessel close to a whale are clear examples of harassment.
- (2) MORE SUBTLE VIOLATIONS. Units should also be aware of more subtle violations. Persistent engagement of a vessel in a manner that results in a recognizable and articulable disturbance of the marine mammal or endangered marine species is also a violation. Detailed narratives, videotapes, and/or photographs are essential in thoroughly documenting these cases.

D. STANDARD FOR DOCUMENTING A VIOLATION. All of the following elements of a violation must be present to justify a violation of the MMPA or ESA.

- (1) Personal knowledge of guidelines (can be assumed of whale watching boat operators).
- (2) Refusal to observe guidelines once advised/reminded.
- (3) Documented behavior (observed, photographed, videotaped, etc.) fitting harassment definition above.
- (4) Distances between the violator and whale before, during, and after the incident. Massachusetts also has regulations to protect the right whale. The following management measures under 322 CMR 12.00 apply for boats in Massachusetts state waters:
 - (a) BUFFER ZONE. There is a buffer zone surrounding a right whale which consists of an area outward from the right whale a distance of 500 yards in all directions.

(b) DEPARTURES. Vessels are required to depart immediately from any buffer zone created by the surfacing of a right whale.

(c) APPROACHES. Vessels may not approach a right whale or turn in any manner to intercept a right whale within a buffer zone.

(d) INTERFERENCE. No vessel may disrupt the behavior of a right whale within a buffer zone.

(e) EXCEPTIONS. Any person issued a federal or state permit may conduct scientific research, observation or management of the right whale as authorized under the permit.

(f) COMMERCIAL FISHING. Commercial fishing vessels hauling back, towing gear or fishing at anchor within a buffer zone created by the surfacing of a right whale may complete the haul, tow or fishing operation, provided it does so with minimum disruption to the right whale, does so in a direction away from the right whale, and departs the buffer zone immediately after the haul, tow or fishing operation.

E. ISSUING A VIOLATION.

(1) STANDARDS PRESENT. If elements listed in paragraph 2.D. alone are observed, board the vessel (if weather/operations permit) and attempt to educate the boater, issuing a written warning for minor infractions.

(2) PERSISTENCE. If the master of the vessel persists in harassment, or the actions of the vessel are plainly dangerous or involve a significant act of harassment, issue a violation to the master.

(3) DOCUMENTATION. In documenting a violation, it is critical to identify distances as well as marine mammal behavior before, during, and after the incident. Submit the Enforcement Action Report (EAR) and standard MFCMA case package to CGDONE (ole). A list of all witnesses to the incident is also very important. Identify individuals or other vessels who are potential witnesses in your Offense Investigation Report (OIR) statements.

NOTE: To document violation of the Massachusetts 500 yard buffer regulation, the case is position-critical and requires additional evidence. These cases can be turned over to the Massachusetts Environmental Police (MEP) (if also on scene) for prosecution, with a copy to First District (ole).

- F. SPECIAL CIRCUMSTANCES INVOLVING WHALE WATCHING BOATS. Do not board commercial whale watching boats. Warn and document suspected violators (obtain necessary information via radio) and forward completed case package (if appropriate) to First District (ole) for further review.
3. LIVE FIRING EXERCICES. Live firing exercises by deck guns and small arms (less pyrotechnics) are prohibited in the Right Whale Critical Habitat Areas and the Stellwagen Bank National Marine Sanctuary. Outside of these areas, Commanding Officers shall ensure assigned range safety personnel conduct a visual check for the presence of whales in the firing range impact area. Firing exercises shall be terminated and the location of the exercise moved whenever whales are detected in the firing area.

OPERATIONAL PLAN TO PROVIDE LOGISTICAL SUPPORT TO
THE NATIONAL MARINE FISHERIES SERVICE (NMFS) FOR THE
DISENTANGLEMENT OF ENDANGERED MARINE ANIMALS

1. INITIATIVE. The Regional Director of the National Marine Fisheries Service, Northeast Region, the Regional-Director General, Department of Fisheries and Oceans (DFO), Maritimes Region, Canada, and the First Coast Guard District Commander recognize that proactive measures are needed to protect endangered marine animals, especially large whales, along the littoral waters of the Northeast United States and the Maritimes Region of Canada.
2. BACKGROUND. Scientific studies undertaken between 1975 and 1989 revealed that 428 marine mammal entanglements were recorded in the waters of the Gulf of Maine and New York Bight. Some animals, primarily large whales, can be disentangled and released before they drown or starve. Entanglement in fishing gear has been identified by NMFS as the largest source of human-related mortality for humpback whales. Further, analysis of New England Aquarium's photographic catalog of North Atlantic right whales indicate that 58% of the cataloged animals have scars or injuries indicative of entanglement in fishing gear. NMFS's recovery plans for right and humpback whales give high priority to developing solutions to the problem of mortality caused by entanglement in commercial fishing gear.
3. RESPONSIBILITIES. In 1984, the Center for Coastal Studies (CCS), a private marine research concern, located in Provincetown, Massachusetts developed a technique for disentangling free-swimming whales from life-threatening entanglements in fishing gear. Currently it is the only organization authorized by the NMFS to perform this service. The NMFS has awarded the CCS with a contract to develop a regional network of qualified experts to assist the CCS in its disentanglement efforts. Inclusive in the development of this network, is the procurement of equipment which can be utilized by a Rapid Response Team (RRT) involving USCG units transporting NMFS and CCS staff to the scene of life threatening entanglements of endangered large whales throughout the First District AOR as well as Canada's Scotia-Fundy region. First District responsibilities within the RRT include, but are not limited to:
 - A. Transfer of equipment and personnel by HH-60 or cutter to and from offshore or remote sites where the disentanglement efforts will be attempted.
 - B. Providing appropriate afloat units, i.e., WMEC/WPB, from which extended disentanglement operations can be conducted.
 - C. Providing appropriate air units to search for entangled whales which have had VHF radio direction finding tags attached.

D. Coordinate with DFO to transport RRT personnel and equipment to disentanglement sites in Canada's Scotia-Fundy Maritime Region when entangled whales migrate across the United States and Canadian maritime boundary.

4. IMPLEMENTATION. The following protocol shall be followed when Coast Guard RRT assistance is requested by the NMFS or the DFO, Canada.

A. AWARENESS & COMMUNICATIONS - Occurs when information is received that an endangered whale is entangled in fishing gear. Receipt of the information can come from private citizens, other governmental agencies, Coast Guard units, or DFO/Canadian Coast Guard watchstanders.

(1) Coast Guard Group and/or Command Center watchstanders, CTU 44.1.1, or patrol units shall complete TAB E when receiving whale entanglement information.

(2) Forward all information obtained to First District Command Center for further dissemination to the NMFS, the CCS, and/or DFO, Canada.

B. EVALUATION & PLANNING - Occurs after endangered whale entanglement information is received by NMFS, CCS, and/or DFO. Analysis of the information and formulation of plans to help save the entangled whale will be made in partnership with First District, NMFS, CCS, and DFO staffs. Official requests for Coast Guard logistical assistance to CCS staff for whale disentanglement will only be accepted from either NMFS or DFO representatives.

(1) NMFS, DFO, CCS (as appropriate), and First District Commander Center, and (ole) staffs will study the circumstances surrounding the report of entanglement. Factors such as weather, the apparent health of the entangled animal, availability of personnel and assets will determine what action, if any, will be taken.

(2) Logistical support for disentanglement of endangered whales will be provided by either Coast Guard surface, i.e., cutter, or air, i.e., HH-60, units. Forward deployment of personnel and equipment for extended operations may be tasked using a WMEC. In-shore operations or those expected to be shorter in duration, e.g., affixing a satellite tracking tag vice disentanglement, will normally be conducted using a WPB.

(3) First District Command Center will contact DFO Command Center, Halifax to advise of planned operations in or near Candian waters. If needed, Coast Guard logistic support of CCS personnel and equipment into Canada will be coordinated between First District and DFO Command Center watchstanders.

C. OPERATIONS - Occurs after either the NMFS or DFO requests Coast Guard logistical support to help the CCS in its disentanglement efforts. Coast Guard aircraft and/or cutters may be tasked to transport equipment and personnel to and from the scene of the disentanglement sight and provide a safety zone to keep on-lookers away from the scene of operations.

(1) Units tasked with logistic support will load equipment and personnel (names, age, sex, SSN provided by the CCS) for transportation to cutters or distant staging areas. CCS staff will transport needed equipment to Provincetown airport for loading on to an .MH-60 or to Station Provincetown for loading on a cutter.

(2) Inclusive of transportation support, Coast Guard units may be required to establish a 1000 yard radius around the entangled animal keeping the animal free of boat traffic. Command Center watchstanders may also need to coordinate with the FAA to establish a 2000 foot AWL (above water level) floor over the area of operations. If needed, Broadcast Notice to Mariners will be issued advising mariners to transit the waters of operation with caution.

(3) Commanding Officers of cutters will evaluate on-scene conditions, e.g. weather, location, navigable waters, etc. with the CCS team leader to discuss on-scene protocol. Commanding Officers, Officers in Charge, and Aircraft Commanders retain on-scene authority to commit or terminate Coast Guard support operations when safety or any other factors dictate. Similarly, the CCS team leader can terminate the mission for reasons of their own choosing. Commanding Officers, Officers in Charge, and Aircraft Commanders shall maintain an open dialogue with the CCS team leader to ensure intended actions and goals are understood prior to commencing whale disentanglement efforts. This includes ensuring CCS staff understand that termination of operations for any reason rests with the Commanding Officer/Officer-in-Charge/Aircraft Commander of the supporting unit.

(4) Units tasked with supporting whale disentanglement efforts shall maintain a detailed record of events. Video documentation (if available) shall be taken for post-operation analysis and public affairs purposes.

D. POST-EVENT ANALYSIS - Begins after disentanglement operations have ceased. On-scene commander and CCS team leader reports will be provided and shared with the official agencies involved.

(1) Post-event operations may include assisting the NMFS monitor the movement of a whale which has had a tag with a VHF-FM transponder attached. The NMFS or the CCS will notify local stranding networks should disentanglement efforts cannot be conducted or fail to be completed.

(2) Subsequent operations involving Coast Guard support may be made pending renewal of the notification and evaluation process outlined in the above paragraphs.

RAPID RESPONSE TEAM EQUIPMENT PACKAGE

1. PERSONNEL.

> Three people (600 lbs)

2. BOAT, MOTOR, AND ACCESSORIES.

> 15 foot inflatable, soft bottom boat (140 lbs)
 > Inflatable floor boards (97 lbs)
 > Inflatable runners (5 lbs)
 > Oars (6 lbs)
 > 30 horsepower outboard motor (118 lbs)
 > Fuel tank, fuel, fuel line (50 lbs)
 > Boat lines, fenders, bridle (15 lbs)

3. SAFETY EQUIPMENT.

> Duffle bag with vests, exposure suits (20 lbs)
 > Dry bag with VDS'S, horn, EPIRB, etc. (18 lbs)
 > Case with NAV gear & VHF-FM radios (17 lbs)

4. DISENTANGLEMENT EQUIPMENT.

> Case with line, grapple, knives, etc. (45 lbs)
 > Case with knives, clips, etc. (40 lbs)
 > Duffle bag with four deflated buoys (38 lbs)
 > Duffle bag with four deflated buoys (38 lbs)
 > Poles (8 lbs)

5. TRACKING AND DOCUMENTATION EQUIPMENT.

> Pelican case with camera gear (18 lbs)
 > Pelican case with video gear (12 lbs)
 > Pelican case with telemetry gear (30 lbs)
 > Tag/Buoy (15 lbs)

6. PERSONAL GEAR.

> Overnight luggage (three people) (45 lbs)
 Total Weight (1,373 lbs)

NMFS APPROVED LOCAL STRANDING NETWORKSI. ENTANGLEMENT REPORTS

(Contact the Center for Coastal Studies first,
then the local stranding network)

CENTER FOR COASTAL STUDIES

P.O. Box 1036
59 Commercial St.
Provincetown, MA 02657
(508) 487-3622
Fax: (508) 487-4495

Pager: (508) 522-9269
Mobile: (508) 246-3622

II. LOCAL STRANDING NETWORKSNORTHERN (DOWN EAST) MAINE

Steve Katona, Tom Fernald
College of the Atlantic
Bar Harbor, ME 04609
(207) 288-5015
Fax: (207) 288-5395

SOUTHERN MAINE TO MASS

Greg Early
New England Aquarium
Central Wharf, Boston, MA
02110
(617) 973-5246/6551 (9-5)
Pager: (617) 973-5247

RHODE ISLAND AND CONNECTICUT

Neal Overstrom, Rob Nawojchik
Mystic Aquarium
55 Coogan Blvd.
Mystic, CT 06355-1997
(203) 536-9631, ext 107
Fax: (203) 572-5969

NEW YORK

Sam Sadove, Kim Durham,
Caren Carminati
Okeanos Ocean Research Foundation
P.O. Box 776
278 E. Montauk Highway
Hampton Bays, NY 11946
(516) 728-4522/8105
Pager: (516) 436-8013
Fax: (516) 728-5557

NEW JERSEY

Bob Schoelkopf,
Edna Selzer
Marine Mammal Stranding
Center
P.O. Box 773
Brigantine, NJ 08203
(609) 266-0538
Fax: (609) 266-6300

UNIT CHECKLIST FOR D1 SIGHTING PROGRAM

1. COLLATERAL DUTY ASSIGNMENT. Identify person on board with primary responsibility for photographing, videotaping, and completing sighting forms of endangered marine mammals.
2. QUICK RESPONSE/REACTION. Train watchstanders in marine mammal identification and accurate completion of sighting form.
3. MATERIALS.
 - A. Field Guide. Recommend units purchase "A Field Guide to Whales, Porpoises, and Seals from Cape Cod to Newfoundland." The book was written by Steven K. Katona, Valerie Rough, and David T. Richardson and published in 1993 (or latest edition) by the Smithsonian Institute Press (available/can be purchased through local book stores).
 - B. Standard Sighting Forms
 - C. Camera(s): 35mm, 200-400mm lens, video camera(s)
 - D. Film, video tape
4. NOAA POC (MAILING ADDRESS FOR SIGHTING FORMS).

DR. JIM HAIN
C/O NOAA NORTHEAST FISHERIES SCIENCE CENTER
166 WATER STREET
WOODS HOLE, MA 02543
(508) 548-5123
FAX: (508) 548-5124
5. OBSERVATIONAL ABILITIES AND RECORD KEEPING.
 - A. Develop habits of observation, notation, and discussion of information with others.
 - B. Be alert for small scale oceanographic water disturbances, e.g., fish "oil" slicks or mixing of water currents, which are often productive areas for observing fish, whales, etc.
 - C. Be alert for sighting cues, e.g., birds "working" the water for food.
 - D. Keep good notes and photographs/video. DO NOT SKIMP ON PHOTOGRAPHS.
 - E. When you have made a sighting...KEEP SPOT IN VIEW!

STANDARD SIGHTING FORM

Name of Reporter: _____

Vessel Name or Aircraft Number: _____

Date and Time of Sighting: _____

Position (Latitude & Longitude): _____

Species Observed: _____

Number Identified: _____

Distinguishing Characteristics:

[Key features - size, body shape, color, blow, natural markings (spots, blazes), dorsal fin and flippers (size and shape)]

Comments:

[calf present, injuries/wounds, behavior, other species present]

Photos Taken:

[roll & frame numbers, tape number]

ENTANGLEMENT AND BOAT COLLISION REPORTING FORM

I. REPORTING SOURCE

Time/Date: _____ Rptg source: _____
 Vsl name: _____ Doc/Reg #: _____
 Radio call: _____ Cell phone #: _____
 1st or 2nd hand report: _____ How long R/S can remain O/S? _____

II. DETAILS OF INCIDENT

Posit: _____ Geographic desc: _____
 O/S WX: Winds: ____T/__.kts, Swell: ____T/__.ft, Seas: ____T/__.ft, Vis: ____nm, Temp: ____F, Baro: ____.(R/F/S)
 Species: _____ No of animals: _____
 Dorsal fin: _____ Color: _____
 Size: _____ Dead/alive: _____
 Distinguishing marks: _____ Photo/video taken: _____
 Type of entanglement: _____ Nature of injury: _____
 Animal traveling or anchored by gear: _____ Cse/Spd: ____T____kts
 Persons already notified: _____

ENTANGLEMENT

Desc (type) of gear & identifying features (buoy color, reg #, etc.): _____
 Type of line (dia, color, matl): _____
 Mesh visible? _____ Floats/other gear trailing? _____
 Part of body entangled? _____ #wraps around tail/body: _____
 Life threatening? Describe: _____

ENTANGLEMENT AND BOAT COLLISION REPORTING FORM
(continued)

ANIMAL'S APPEARANCE

First impression of condition: _____

Skin condition (peeling, color, whale lice present): _____

Obvious bleeding/wounds: _____

Are marks fresh or healing? _____

Weight (robust, emaciated, ribs or vertebrae showing?): _____

ANIMAL'S BEHAVIOR

General description: _____

Breathing (pattern, sound, smell?): _____

Lifting head/flukes above water? _____ Struggling to breathe? _____

Dive duration: _____

Effects on movement (flexibility, buoyancy, surfacing angle, ability to dive, appendage movement?)

COLLISION

Type of wound (prop wound, part cut off, etc?): _____

Location: _____ Severity: _____

Vessel involved: _____ Doc/Reg #: _____

Operator: _____ Homeport: _____

U.S. Coast Guard Fifth District Guidance dated 03 July 1996

MARINE MAMMAL AND ENDANGERED SPECIES PROTECTION PROGRAM

FIFTH COAST GUARD DISTRICT
LAW ENFORCEMENT BULLETIN (LEB)
20-96

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MARINE MAMMAL AND ENDANGERED SPECIES PROTECTION PROGRAM

- Ref: (a) 15 CFR PART 922 - National Marine Sanctuary Program
(b) 50 CFR PART 226 - Designated Critical Habitat
(c) 50 CFR PART 227 - Threatened Fish and Wildlife
(d) 50 CFR PART 216 - Regulations Governing the Taking and Importing of Marine Mammals
(e) COMDTINST M16247.1 (series) (Maritime Law Enforcement Manual)
(f) 16 USC 1361: 50 CFR 18, Marine Mammal Protection Act (MMPA)

A. OVERVIEW. The Fifth District Marine Mammal and Endangered Species Protection Program applies to coastal and offshore waters. However, the following areas are of special importance.

1. Marine Mammals: Reference (a) has designated areas in D1 and D7 as CRITICAL HABITAT for the severely endangered northern right whale. Right whales generally migrate south in the fall and north in the spring and transit D5 waters during their migration. Since little is known about specific migration patterns and areas, sightings are very rare but possible and very important. **DESIGNATED CRITICAL HABITATS.** Coast Guard units should review reference (b) to become familiar with those habitats designated as critical to endangered and threatened species under section 7 of the Endangered Species Act (ESA) and to the northern right whale under 50 CFR 226. The other species of whales present in D5 waters during late fall to early spring are the humpback, finback, sperm, and pilot whales with sightings occurring both inshore and offshore.

2. Turtles: Turtles may be encountered year round within the district; however most turtle strandings occur from the spring through the fall.

B. D5 WHALE SIGHTING PROGRAM. The northern right whale is the most endangered large whale in the world. Only the western North Atlantic has a significant number of northern right whales (300-350), with the eastern North Atlantic population virtually extinct. The whale sighting program will provide NMFS experts with critical data. The highest sighting priority for D5 units involves right whales.

1. UNIT PREPARATIONS. Group/Activity Commanders, Cutter and Station Commanding Officers/Officers-in-Charge, and Air Station Commanding Officers under CCGDFIVE OPCON shall review the references listed above and follow the guidelines outlined in enclosure (4) in establishing an effective unit sighting program.

2. IDENTIFICATION GUIDE BOOKS. Units shall obtain and use marine mammal identification references. One good resource is "A Field Guide to Whales, Porpoises, and Seals from Cape Cod To Newfoundland." The latest edition of the book was published in 1993 by the Smithsonian Institute Press.

3. SIGHTING PRIORITIES. Whale sightings of specific interest are the northern right, humpback, fin, sei, and blue whales. The specific priorities of the D5 sighting program are:

- A. Entangled or injured right whales;
- B. "Floaters" - Dead right whales;
- C. Live sightings - Right whales;
- D. Live sightings - Pilot whales;
- E. Entangled or dead whales of any other kind;
- F. "Floaters" - Dead whales of any other kind; and
- G. Large groups of whales.

4. PROBABLE LOCATIONS OF RIGHT WHALES. Historical sighting data from aerial and shipboard surveys indicates right whales are normally found in the vicinities of:

- A. BROWNS/BACCARO BANKS NEW ENGLAND: Between these banks on the Nova Scotian shelf from July through November. This area appears to be significant to the whales socially; courtship activities at the surface are frequently observed.
- B. BAY OF FUNDY. Late July through mid-November, with a peak in population in September. This area appears to be the primary summer nursery.
- C. CAPE COD BAY. March through early May. This is the traditional and historical habitat. It has also been designated a critical habitat. U.S. Coast Guard presence is needed to control certain whale watching problems. Units should work directly with the Massachusetts Environmental Police (MEP) to enforce both state and federal right whale protection regulations.
- D. STELLWAGEN BANK NMS AND JEFFREYS LEDGE. July through September. This is the period of the greatest whale watch effort. U.S. Coast Guard presence should curtail reckless vessel operations, especially on weekends and major holidays.
- E. GREAT SOUTH CHANNEL. Mid-April through July. This is the southern passage to and from the Gulf of Maine. The most important task is to know where concentrations of whales are located in order to inform mariners (especially large ships).
- F. SOUTHEASTERN U.S. (CHARLESTON, SC TO MIAMI, FL). September through April. This primary calving ground is occupied by females before, during and after calving.

5. FORWARDING OF SIGHTING REPORTS. Whale sighting information shall be forwarded to NOAA's Northeast Fisheries Science Center per enclosure (4) with supporting 35mm photographs and VHS video. Units may contact NOAA's Northeast Fisheries Science Center to discuss pre/post-deployment issues.

C. PROHIBITIONS AND ENFORCEMENT.

1. ENDANGERED SPECIES PROTECTION EFFORT.

A. DEDICATED SURFACE/AIR PATROLS.

(1) TASKING - CTU 44.5.1 and Groups Cape May, Eastern Shore, Hampton Roads, Cape Hatteras, and Fort Macon will be routinely tasked to conduct enforcement boardings, disseminate information packets, and make broadcasts to mariners during late fall to early spring when whales can be expected to be transiting through D5 waters.

(2) AREA SURVEYS - Air Stations Elizabeth City, Cape May and designated surface assets may be directed to provide other agencies with platforms to conduct surveys of areas where high concentrations of whales have been sighted or during stranding and recovery operations. Aircraft sighting high concentrations of whales or entangled marine mammals during normal operations or training flights will complete as much of the information as possible in enclosure (5) and notify OPCON via immediate sitrep and landline upon completion of the flight. Enclosure (5) is then mailed to the reporting address listed on the enclosure.

(3) DOCUMENTING PATROL EFFORTS. Units shall document marine mammal protection efforts in the after action reports of planned operations. If conducting independent operations submit a SITREP to OPCON w/info to CCGDFIVE//OLE// upon completion of patrol.

B. SCHEDULED MARINE INFORMATION BROADCAST FOR RIGHT WHALES. Groups Cape May, Eastern Shore, Hampton Roads, Cape Hatteras, and Fort Macon shall make the following scheduled marine information broadcast on right whales twice a day from 1 October to 01 May and when right whales are reported in the Group's AOR:

"DURING THIS TIME OF THE YEAR VARIOUS SPECIES OF WHALES, INCLUDING THE SEVERELY ENDANGERED RIGHT WHALE, MAY BE ENCOUNTERED IN THE LOCAL OFFSHORE AND INSHORE WATERS. IT IS A SLOW MOVING ANIMAL THAT IS PRONE TO BEING INVOLVED IN COLLISIONS WITH VESSELS. VESSEL OPERATORS ARE REMINDED TO USE CAUTION AROUND RIGHT WHALES. INTENTIONAL CLOSE APPROACH TO RIGHT WHALES IS PROHIBITED AND MAY RESULT IN A VIOLATION OF FEDERAL OR STATE LAW."

C. CUTTER AND BOAT TRANSITS. Whales can be expected to be encountered in inshore and offshore waters of D5 from late fall to early spring. During the course of normal operations, ALL Fifth District units transiting northern right whale critical habitat areas, or other areas frequently used by right whales shall use caution and be alert for whales, using appropriate speeds and courses to eliminate the possibility of whale strikes. If necessary, this includes bringing the vessel to all stop to avoid whales. Units will post dedicated lookouts when transiting through critical habitat areas and/or when encountering whales of any type until the possibility of a whale strike has passed.

D. SURFACE UNIT NAVIGATION. Units shall plot and maintain the coordinates of the northern right whale critical habitat areas (see 50 CFR 226) on all navigational and law enforcement working charts.

E. UNIT RESPONSIBILITIES.

(1) TRAINING. Develop unit training program for lookouts and bridge personnel on whale species identification, unit responsibilities, and avoidance procedures. Enclosure (4) contains a checklist to help units establish an effective training program.

(2) SIGHTING. If a Fifth District unit sights a whale(s), that unit shall:

(a) Give the whale(s) a wide berth. Following a sighting of a large whale, vessels should maintain a minimum distance of 100 yards if practical, to reduce the possibility of whale strikes.

(b) Maintain a lookout to best avoid contact with the whales.

(c) Notify vessels in the vicinity about the locations of the whales via VHF radio, and direct those vessels to proceed through the area with caution.

(d) Inform OPGON immediately of any sightings of right whales or any other whale that is entangled, injured or dead after completing enclosure (4).

(e) Secure the area to keep onlookers from interfering with personnel authorized to respond to an injured, dead, entangled or stranded protected species. "Authorized" personnel must possess a federal or state permit.

(f) Complete and forward the sighting report as per paragraph 5 under Section B of this LEB.

(3) UNIT COLLISION/SHIP STRIKE. If a Fifth District unit strikes or comes in close contact with a whale, the unit shall complete enclosure (2) and:

(a) Document the location and time of any incident in which the vessel comes into physical contact with any whale in the unit or station log. The log shall detail all actions taken to identify the species of whale struck and the nature of injuries it sustained. A copy of the log shall be sent to Commandant (G-LEL) and Fifth District (ole), as soon as possible.

(b) Notify OPCON via immediate SITREP, info D5 (ole) and Commandant (G-LEL).

(c) Conduct a Letter Incident Report (LIR) per the Administrative Investigations Manual (COMDTINST M5830.1 series) to arrive at Fifth District (ole) within 14 days of the incident. The LIR shall at a minimum, contain:

- Reason for the transit, i.e. mission, destination, etc.
- Location (both lat/long and geographic reference). Include a statement as to the relative position of the incident from Right Whale Federal Critical Habitat Areas.
- Statements from witnesses and lookouts (as enclosures).
- Actions taken on first spotting the whale.
- How the witness/lookouts identified the animal as a whale, and which species. Include information on any species identification training in which the witness/lookout have participated.
- Observations of other whales, i.e. numbers and species, seen in the general area the day of the incident.
- Degree of confidence that it was any particular species.
- How hard the vessel hit the whale and any damage found to the vessel.
- Details on actions taken to identify injury to the whale.
- Include as enclosures, copies of all correspondence regarding the whale strike.

F. OPCON RESPONSIBILITIES.

(1) SAFETY VOICE BROADCAST. Upon receiving sighting reports of right whales or any other entangled or injured whale, OPCON shall initiate a Safety Voice Broadcast (update/reissue after each sighting) as appropriate. The broadcast should advise mariners to exercise caution when navigating the area by adjusting course and speed as necessary to minimize disturbing or striking a right whale. For purposes of Safety Voice Broadcasts, dead whales will be treated as hazards to navigation. The following is a sample voice broadcast:

"A right whale/large pod of humpback whales/entangled whale has been sighted in approximate position XX-XXN XXX-XXW. Mariners should avoid close approach and transit this area with caution. Intentional close approach or harassment to whales is prohibited and may result in a violation of federal or state law."

(2) WHALE STRIKES. OPCON shall immediately notify the Fifth District Command Center if any vessel comes into contact with a whale. The First District is required to notify NMFS within 24 hours of the incident.

(3) ENTANGLEMENTS, BOAT COLLISIONS, AND STRANDINGS. For any reported whale entanglements, collisions, or strandings, complete enclosure (2). OPCON will notify appropriate authorities as outlined below:

(a) ENTANGLED WHALES. The Center for Coastal Studies (CCS) is currently the only organization in the Northeast with a Letter of Authorization from the National Marine Fisheries Service (NMFS) to respond to large whale entanglements. Coast Guard units shall not attempt to remove debris from entangled whales. Coast Guard aircraft and Cutters may be requested by the CCS to assist in transporting a team of personnel to the scene per Enclosure (6). Units are authorized and may be tasked by OPCON to provide logistical support for NMFS-approved disentanglement and stranding teams and their equipment.

(b) STRANDED WHALES. OPCON will immediately notify the local stranding network to facilitate rescue of the stranded animal. (See enclosure (3)).

(c) STRANDED/ENTANGLED TURTLES. The Green, Loggerhead, Leatherback, and Kemp's Ridley sea turtles are presently listed as either threatened or endangered reptiles. Coast Guard personnel can cut nets or fishing gear to free entangled turtles only when immediate response may save the turtle(s) from further injury or death. OPCON shall immediately notify the Center for Coastal Studies which will provide advice or initiate action to rescue the animal(s).

(4) SITREP. All cases involving protection of endangered species will be documented via IMMEDIATE L/E SITREP.

(5) LETTER REPORT. Units which assist in the salvage, rescue or disposal of a marine mammal shall submit a letter report to the U.S. Fish and Wildlife Service, with an information copy to Fifth District (ole) and Commandant (G-OPL):

U.S. Fish and Wildlife Service
Division of Law Enforcement
POB 19183
Washington D.C. 20036

G. DISPOSAL OF PROTECTED SPECIES. There is no specific U.S. Coast Guard responsibility for the salvage or disposal of dead whales. Only situations that pose a safety, health, or navigation hazard, or involve significant **science** or public affairs interest, should be pursued. Units shall not tow or attempt to sink dead marine mammals without OPGON concurrence. If there is no interest by appropriate organizations, **i.e., NMFS**, after having been notified about the location of a dead whale or other protected species, abandon the carcass and continue with normal operations.

2. ENFORCEMENT OF MMPA AND ESA VIOLATIONS.

A. PHILOSOPHY. Enforcement of Marine Mammal Protection Act (MMPA) and ESA regulations will target significant violators, **i.e.**, those vessel operators that act in a manner that may result in injury or harassment of protected species. Education is recognized as being a fundamental part of enforcement efforts.

B. HARASSMENT DEFINITION. The term "harassment" is an element of "taking" under the MMPA and includes two levels:

(1) LEVEL A. An act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild.

(2) LEVEL B. An act of pursuit, torment, or annoyance that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding or sheltering.

C. EXAMPLES OF HARASSMENT.

(1) HUMAN INTERACTIONS. Diving or swimming, throwing objects, human feeding (disrupts natural eating habits), high speed approaches by a vessel, and deliberately maneuvering a vessel close to a whale are clear examples of harassment.

(2) MORE SUBTLE VIOLATIONS. Units should also be aware of more subtle violations. Persistent engagement of a vessel in a manner that results in a recognizable and articulable disturbance of the marine mammal or endangered marine species is also a violation. Detailed narratives, videotapes, and/or photographs are essential in thoroughly documenting these cases.

D. STANDARD FOR DOCUMENTING A VIOLATION. All of the following elements of a violation must be present to justify a violation of the MMPA or ESA.

- (1) Personal knowledge of guidelines (can be assumed of whale watching boat operators).
- (2) Refusal to observe guidelines once advised/reminded.
- (3) Documented behavior (observed, photographed, videotaped, etc.) fitting harassment definition above.
- (4) Distances between the violator and whale before, during, and after the incident.

(a) BUFFER ZONE. There is a buffer zone surrounding a right whale which consists of an area outward from the right whale a distance of 500 yards in all directions.

(b) DEPARTURES. Vessels are required to depart immediately from any buffer zone created by the surfacing of a right whale.

(c) APPROACHES. Vessels may not approach a right whale or turn in any manner to intercept a right whale within a buffer zone.

(d) INTERFERENCE. No vessel may disrupt the behavior of a right whale within a buffer zone.

(e) EXCEPTIONS. Any person issued a federal or state permit may conduct scientific research, observation or management of the right whale as authorized under the permit.

(f) COMMERCIAL FISHING. Commercial fishing vessels hauling back, towing gear or fishing at anchor within a buffer zone created by the surfacing of a right whale may complete the haul, tow or fishing operation, provided it does so with minimum disruption to the right whale, does so in a direction away from the right whale, and departs the buffer zone immediately after the haul, tow or fishing operation.

E. ISSUING A VIOLATION.

(1) STANDARDS PRESENT. If elements listed in paragraph 2.D. alone are observed, board the vessel (if weather/operations permit) and attempt to educate the boater, issuing a written warning for minor infractions.

(2) PERSISTENCE. If the master of the vessel persists in harassment, or the actions of the vessel are plainly dangerous or involve a significant act of harassment, issue a violation to the master.

(3) DOCUMENTATION. In documenting a violation, it is critical to identify distances as well as marine mammal behavior before, during, and after the incident. Submit the Enforcement Action Report (EAR) and standard MFCMA case package to CGDFIVE(ole). A list of all witnesses to the incident is also very important. Identify individuals or other vessels who are potential witnesses in your Offense Investigation Report (OIR) statements.

F. SPECIAL CIRCUMSTANCES INVOLVING WHALE WATCHING BOATS. Do not board commercial whale watching boats. Warn and document suspected violators (obtain necessary information via radio) and forward completed case package (if appropriate) to Fifth District (ole) for further review.

3. LIVE FIRING EXERCICES. Live firing exercises by deck guns and small arms (less pyrotechnics) are prohibited in the Right Whale Critical Habitat Areas and the Stellwagen Bank National Marine Sanctuary. Outside of these areas, Commanding Officers shall ensure assigned range safety personnel conduct a visual check for the presence of whales in the firing range impact area. Firing exercises shall be terminated and the location of the exercise moved whenever whales are detected in the firing area.

ENTANGLEMENT AND BOAT COLLISION REPORTING FORM

I. REPORTING SOURCE

Time/Date: _____ Rptg source: _____
Vsl name: _____ Doc/Reg #: _____
Radio call: _____ Cell phone #: _____
1st or 2nd hand report: _____ How long R/S can remain O/S? _____

II. DETAILS OF INCIDENT

Posit: _____ Geographic desc: _____
O/S WX: Winds: ____T/__.kts, Swell: ____T/___ft, Seas: ____T/___ft, Vis: ____nm, Temp: ____F, Baro: _____.____(R/F/S)
Species: _____ No of animals: _____
Dorsal fin: _____ Color: _____
Size: _____ Dead/alive: _____
Distinguishing marks: _____ Photo/video taken: _____
Type of entanglement: _____ Nature of injury: _____
Animal traveling or anchored by gear: _____ Cse/Spd: _____ T kts
Persons already notified: _____

ENTANGLEMENT

Desc (type) of gear & identifying features (buoy color, reg #, etc.): _____
Type of line (dia, color, matl): _____
Mesh visible? _____ Floats/other gear trailing? _____
Part of body entangled? _____ #wraps around tail/body: _____
Life threatening? Describe: _____

ENTANGLEMENT AND BOAT COLLISION REPORTING FORM (CONT)

ANIMAL'S APPEARANCE

First impression of condition: _____

Skin condition (peeling, color, whale lice present): _____

Obvious bleeding/wounds: _____

Are marks fresh or healing? _____

Weight (robust, emaciated, ribs or vertebrae showing?): _____

ANIMAL'S BEHAVIOR

General description: _____

Breathing (pattern, sound, smell?): _____

Lifting head/flukes above water? _____ Struggling to breathe? _____

Dive duration: _____

Effects on movement (flexibility, buoyancy, surfacing angle, ability to dive, appendage movement?)

COLLISION

Type of wound (prop wound, part cut off, etc?): _____

Location: _____ Severity: _____

Vessel involved: _____ Doc/Reg #: _____

Operator: _____ Homeport: _____

NMFS APPROVED LOCAL STRANDING NETWORKS

NEW JERSEY THROUGH VIRGINIA

CENTER FOR COASTAL STUDIES

P.O. Box 1036
59 Commercial St.
Provincetown, MA 02657
(508) 487-3622
Fax (508) 487-4495

NEW JERSEY

Bob Schoelkopf,
Edna Selzer
Marine Mammal Stranding
Center
P.O. Box 773
Brigantine, NJ 08203
(609) 266-0538
FAX: (609) 266-6300

DELAWARE

Leon Spence/Elaine Logothetis
Delaware Division of Fish
and Wildlife
P.O. Box 1401
Dover, DE 19903
(302) 739-4782
FAX: (302) 653-3431

MARYLAND

Frances Cresswell
Maryland DNR
Oxford Cooperative Lab
904 S. Morris St
Oxford, MD 21654
(410) 226-0078
(800) 628-9944
FAX: (410) 226-5925

VIRGINIA

Jack Musick/John Keith
V.I.M.S. School of Marine Science
College of William and Mary
Gloucester Point, VA 23062
(757) 642-7313
FAX: (804) 642-7097

Mark Swingle
Virginia Marine Science Museum
717 General Booth Blvd
Virginia Beach, VA 23451
(757) 437-4949
FAX: (804) 437-4976

Dave Schofield
Christine Steinert
Dr Brent Whitaker
National Aquarium in
Baltimore
Pier 3 501 E Pratt St
Baltimore, MD 21202
(410) 576-3853
Beepers: (410) 450-3852
(410) 408-6633
(410) 408-4284
FAX: (410) 576-1080

WASHINGTON D.C. (and surrounding states)

Jim Mead/Charley Porter
Smithsonian Institute
Nat'l. Museum of Nat. History
Division of Mammals
Washington, D.C 20560
(202) 357-1923/786-2497
FAX: (202) 357-1896

NMFS APPROVED LOCAL STRANDING NETWORKS

NORTH CAROLINA

Vicki Thayer
NOAA, National Marine Fisheries Service
101 Pivers Island Road
Beaufort, NC 28516
(919) 728-8762
Pager: (919) 444 8064
Home: (919) 728-7464

Rhett B. White
Frank Huggins
NC Aquarium/Roanoke Island
P.O. Box 976
Manteo, NC 27954
(919) 473-3494

James T. Barnes/Director
Stuart May
Gayle Piner
NC Aquarium, Pine Knoll Shores
P.O. Box 580
Atlantic Beach, NC 28512
(919) 247-4004

Dr W. David Webster
University of NC/Wilmington
Dept of Biological Science
601 S. College Rd
Wilmington, NC 28402
(919) 395-3756

Dr Dwight Shumway, DVM
Outerbanks Animal Hospital
Outerbanks Mall
Nags Head, NC 27959
(919) 441-6066

Felix Revello
Dr Mike Rikker
Cape Lookout NSS
P.O. Box 593
Harkers Island, NC 28531
(919) 728-2250

Park Superintendent
Hammocks Beach State Park
Rt. 2, Box 295
Swansboro, NC 28584
(919) 326-4881

Dr James Lanier/Director
Paul Barrington
Andy Wood
Richard Roberts
NC Aquarium, Ft Fisher
P.O. Box 130
Kure Beach, NC 28449
(919) 458-8258

Reis Collier
Cape Hatteras NSS
Rt. 1, Box 675
Manteo, NC 27954
(919) 473-2111

Keith Rittmaster
c/o NC Maritime Museum
Beaufort, NC 28516
(919) 728-7317

Dr Claire Hoenwarter, DVM
11 Barnard Dr
Wilmington, NC 28405
(919) 251-0081 791-1446
HOME: (919) 762-0338

Dr Joseph Bonaventura
Gail Cannon
Duke University
Marine Laboratory
Marine Biomedical Center
Beaufort, NC 28516
(919) 728-2111

Park Superintendent
Fort Macon State Park
P.O. Box 127
Atlantic Beach, NC 28512
(919) 726-3775

NMFS APPROVED LOCAL STRANDING NETWORKS

NORTH CAROLINA (cont)

Dr Stephen C. Jaffe, DVM
102 South Branch Road
Wilmington, NC 28405
(919) 458-9088

George Roundtree
138 S. Colony Circle
Wilmington, NC 28405
(919) 799-8154

Dr James Smallwood
Dr Michael K. Stroskopf
Dr Mark Cline
William (Bill) Wise
NC State Univ.
College of Veterinary Medicine
Raleigh, NC 27606
(919) 829-4200

NC State Office of Marine Affairs
417 N Blount St
Raleigh, NC 27601
(919) 733-2290

NC Museum of Natural Sciences
102 N Salisbury St
Attn: David Lee
Raleigh, NC 27601
(919) 733-7450

Dr R. Guy Jaconis, DVM
1210 W. Beaufort Road
Beaufort, NC 28516
(919) 728-7600

Dr Suzanne Botts, DVM
Experimental Pathology
Laboratories, Inc.
P.O. Box 12766
Research Triangle Park,
NC 27709
(919) 544-8061

Environmental Mgmt Dept
MCB, Bldg 1103
Attn: Charles Peterson
Camp Lejeune, NC 28542
(919) 451-2195

North Carolina Marine
Fisheries
341 Arendell St
Morehead City, NC 28557
(919) 726-7021

UNIT CHECKLIST FOR D5 SIGHTING PROGRAM

1. COLLATERAL DUTY ASSIGNMENT. Identify person on board with primary responsibility for photographing, videotaping, and completing sighting forms of endangered marine mammals.
2. QUICK RESPONSE/REACTION. Train watchstanders in marine mammal identification and accurate completion of sighting form.
3. MATERIALS.
 - A. Field Guide. Recommend units purchase "A Field Guide to Whales, Porpoises, and Seals from Cape Cod to Newfoundland." The book was written by Steven K. Katona, Valerie Rough, and David T. Richardson and published in 1993 (or latest edition) by the Smithsonian Institute Press (available/can be purchased through local book stores).
 - B. Standard Sighting Forms (enclosure 5).
 - C. Camera(s): 35mm, 200-400mm lens, video camera(s)
 - D. Film, video tape
4. PRE-PATROL AND POST-PATROL CONTACT/SIGHTING REPORT ADDRESS.
 - A. New Jersey through Virginia
DR. JIM HAIN
C/O NOAA NORTHEAST FISHERIES SCIENCE CENTER
166 WATER STREET
WOODS HOLE, MA 02543
(508) 548-5123
FAX: (508) 548-5124

ALTERNATE:
Mason Weinrich
Cetacean Research Unit
33 Bass Avenue
Gloucester, MA 01930
(508) 281-6351
 - B. North Carolina
VICKI THAYER
NOAA, NATIONAL MARINE FISHERIES SERVICE
101 PIVERS ROAD
BEAUFORT, NC 28516
(919) 728-8762
5. OBSERVATION ABILITIES AND RECORD KEEPING.
 - A. Develop habits of observation, notation, and discussion of information with others.
 - B. Be alert for smaller scale oceanographic features...band slicks and "edges" represent areas of mixing...often productive for fish, birds, whales, etc.
 - C. Be alert for sighting cues...birds working...
 - D. Keep good notes and photographs/video. DO NOT SKIMP ON PHOTOGRAPHS.
 - E. When you have made a sighting...KEEP SPOT IN VIEW!

STANDARD SIGHTING FORM

Name of Reporter: _____

Vessel Name or Aircraft Number: _____

Date and Time of Sighting: _____

Position (Latitude & Longitude): _____

Species Observed: _____

Number Identified: _____

Distinguishing Characteristics:

[Key features - size, body shape, color, blow, natural markings (spots, blazes), dorsal fin and flippers (size and shape)]

Comments:

[calf present, injuries/wounds, behavior, other species present]

Photos Taken:

[roll & frame numbers, tape number]

AFTER COMPLETING FORM, MAIL TO:

NEW JERSEY THROUGH VIRGINIA

DR. JIM HAIN

C/O NOAA NORTHEAST FISHERIES
SCIENCE CENTER

166 WATER STREET

WOODS HOLE, MA 02543

(508) ~~548-5123~~ 495-2210/2000

FAX: (508) ~~548-5124~~
495-2258

NORTH CAROLINA

VICKI THAYER

NOAA, NATIONAL MARINE
FISHERIES SERVICE

101 PIVERS ROAD

BEAUFORT, NC 28516

(919) 728-8762

ALTERNATE (NJ THROUGH VA)

Mason Weinrich

Cetacean Research Unit

33 Bass Avenue

Gloucester, MA 01930

(508) 281-6351

Enclosure (5)



Review of Procedures for Disentanglement

Prepared by Stormy Mayo and David Mattila, Center for Coastal Studies (CCS)

1. Preparation and Reporting:

The period preceding the actual disentanglement of a large whale is probably the most important part of the effort. During this time, from the first sighting of the entangled whale to the time when the disentanglement team is on site, we depend on the careful assistance of our colleagues in order to maximize the chances for success. In particular we would note the following:

A. It is essential to the success of the disentanglement that we undertake the effort only when we have very good information on the characteristics of the entanglement.

Center for Coastal Studies Hotline Numbers:

(800) 900-3622 or (508) 487-3622

or

24 hour pager

(508) 522-9269

The Center has an entanglement and boat collision form that it fills out for each incident reported. Photos and/or video of an entanglement can greatly assist our assessment.

We cannot properly prepare for a disentanglement if the information we obtain is not accurate. We need very precise information on the species involved, nature of the entanglement, the kind of gear, whether the whale is anchored, and the condition of the animal. This last determination is critical to our preparations, because we will not mount disentanglement effort if the entanglement is not potentially lethal. Very often the first reports of an entanglement, even from trained observers, are filled with alarm and little fact. We understand the concern and the passion which an entanglement engenders; however, it does not serve the whale's interest if the threat is misrepresented. It should be made clear to all observers that whales which are entangled and able to swim to the surface are usually not in immediate threat of drowning unless they are emaciated.

The question is whether the entangling gear can be thrown by the whale or not. If an entanglement involves large amounts of gear and/or anchors tightly wrapped around part of the body, or if there is a cinch in the mouth, the entanglement could be lethal and intervention may be needed. On the other hand, a loop of line over the tail, or a single wrap of net around the tail stock will likely not immediately threaten the whale and probably would not be considered for immediate disentanglement. We weigh the potential threat to the whale from the entanglement against the risk and the damage which might occur during the disentanglement effort. Obviously, the correct decision cannot be made if the observers do not accurately describe the entanglement.

B. Once an entanglement has been reported there is usually tremendous pressure on CCS to mount a rescue effort regardless of conditions (e.g. late in the day, bad weather) because of the perception of imminent threat to the whale. We have found that, except under the most extreme circumstances, recently entangled whales are not in immediate threat of drowning and we have time (many hours to many days) during which all elements of the effort can be put together. A humpback whale named Ibis was entangled for two months before being successfully disentangled. There is little question in our minds that the chances for a successful disentangling are greatly increased (and any danger to the whale or to the disentangling team decreased) when the effort is undertaken: (1) early in the day, 2) in good weather, and 3) with all of our equipment, vessels, and personnel in place. Disentangling efforts will commence when we judge that the effort can be accomplished under the best logistic and weather conditions.

II. Disentangling Operations:

During the period before our effort to disentangle a whale it is essential that well-meaning individuals, collaborators, or the public not attempt to disentangle the whale. Any intervention without a clear directive from CCS may compromise our effort. CCS is currently the only organization to hold a letter of authorization from the NMFS to disentangle large, free-swimming whales off the eastern United States

A. In particular, whales which are anchored should not be set free unless they cannot breathe. Whales which are immobilized are relatively easily freed of gear while those which are swimming are much more difficult to deal with. The most difficult circumstance which we confront is that which involves a life-threatening disentangling (e.g. mouth cinch) in which the whale is swimming free and there is no trailing gear. Therefore, it does not help the whale to simply cut an anchor line or shorten the trailing gear -- such intervention may compromise our rescue efforts by only partially freeing the whale and making the task of disentangling the whale completely more difficult or impossible.

B. We can occasionally use assistance in the form of support vessels. Support from the rescue team usually comes from CCS vessels, however, from time to time we may enlist the assistance of outside collaborators. Those collaborators must follow closely the directions which we give them (and they usually do). We have had occasions where both the whale and inflatables are moving erratically and at high speed. We would, therefore, request of the general public that a moving exclusion zone be placed around areas where we are disentangling a whale. If CCS does not establish the boundaries, assume a zone of two kilometer radius from the whale. We would also ask that aircraft not fly below 2500 ft. unless we permit. **At sea, CCS operates on Channels 16 and 80.**

A final note: We have available several floating VHF radio buoys which we could deploy on a tether by grappling the entangling gear. These buoys should significantly improve our chances for success, by allowing us to locate an entangled whale later and disentangle it under favorable conditions



CENTER FOR COASTAL STUDIES

A Private Non-Profit Organization for Research, Education and Conservation in the Coastal & Marine Environment

59 Commercial Street • P. O. Box 1036 • Provincetown, Massachusetts 02657 • Telephone: (508) 487-3622

June 7, 1996

Dear Disentanglement Network participant:

On behalf of the Center for Coastal Studies' rescue team, I would like to thank you for your valued support of our disentanglement efforts. Since our last packet of information, several changes and additions have been made to the Center's responsibilities for conducting disentanglements of whales in the New England area and beyond. We have enclosed an updated "Entanglement and Boat Collision Reporting Form" and some information concerning new disentanglement procedures and the role that you can play in assisting these efforts. The following highlights the most important additions.

- With increased reports of entangled whales along the coast of Maine and Nova Scotia, we are expanding our ability to respond by training teams of experienced whale researchers, in key locations throughout the region.
- We are also increasing our offshore response capability by establishing a **Rapid Response Effort** in collaboration with the US Coast Guard to disentangle critically endangered whales, such as the North Atlantic right whale.
- We have established a disentanglement Hotline: (800) 900-3622 with a dedicated answering system and a 24 hour paging service (508) 522-9269 (see report form for specific instructions).

We would like to stress once again that the Center, and the newly trained teams of the expanding network, will not be able to respond on site to each and every report. The level of response will depend on a variety of factors assessed by a decision tree developed in consultation with the National Marine Fisheries Service. Some of the key factors include: the severity of the entanglement and level of immediate danger, the endangered status of the species involved, the accessibility of the site, the time of day and the weather, and the availability of support vessels. In addition, we do have a limited number of VHF radio tags on buoys that can be attached to the gear trailing behind a whale. When possible network members will attempt to respond to reports of severely entangled whales by attaching these tags as quickly as possible. This will allow a rescue to be attempted as soon as a team is in place and conditions are favorable.

Once again, we thank you for your support. If you have any questions about this material, please do not hesitate to contact Ed Lyman or David Mattila at (508) 487-3622 during regular business hours.

Sincerely,

Peter R. Borrelli
Executive Director



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Backaborn Drive
Coastal, MA 01930

JUN - 4 1996

Dear Vessel Operator:

In recent years, an increasing number of large whale entanglements have been reported in New England and Mid-Atlantic waters. In order to maximize the chances that these entanglements will not result in mortality, the agency would like to take this opportunity to direct you to the appropriate contacts for emergency reporting and monitoring of large whale entanglements. In addition, we would like to introduce the Center for Coastal Studies (CCS), an institution in Provincetown, Massachusetts, which has been contracted by the agency to conduct disentanglements. The CCS has been performing whale rescue since 1984 in New England.

One of the most critical ways in which you can assist the CCS disentanglement team is in your role as a reliable observer out on the water. Whale watch vessels, commercial fishing vessels, private boaters, and the U.S. Coast Guard all provide critical input to disentanglement efforts.

The CCS is currently the only organization in the Northeast with a Letter of Authorization from the National Marine Fisheries Service (NMFS) to respond to large whale entanglements. Authorization is required to respond to an entanglement if a "take" of the whale is necessary. Disentanglement usually involves harassment, and injury or more serious consequences are possible. Human lives can also be endangered during attempts to free a whale. The rationale used in determining whether to attempt a disentanglement is outlined in a decision tree which the Center for Coastal Studies has developed in consultation with the NMFS. A description of this approach is provided in the enclosed literature.

In order for the CCS team to plan a successful disentanglement effort, indirect assistance with reporting and monitoring provided by vessel operators on the scene is crucial. This information enables CCS to prepare for an efficient and prudent response. The enclosed reporting form includes the basic information needed to make a clear assessment of the entanglement to plan the appropriate response action. We encourage you to keep a copy of this form on your vessel.

Sightings entangled whales should be reported to CCS at the following number(s):

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or

24-Hour Pager
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If you are out on the water and do not have a telephone on board, you can radio the U.S. Coast Guard (USCG) and ask them to relay the message to the CCS. We are also interested in receiving reports of dead floating whales, and the USCG can relay these reports to the appropriate contacts.

Please contact Kim Thounhurst of my staff at (508) 281-9138 with any questions you may have concerning NMFS policy on disentanglement. Thank you for your assistance with increasing the success of disentanglement efforts in the Northeast Region.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Rosenberg", written in a cursive style.

Dr. Andrew A. Rosenberg
Regional Director

Enclosures



Memorandum

Subject: DISENTANGLEMENT OF MARINE MAMMALS

Date: 20 June 1996
16214

From: CCGDFIVE (ole)

Reply to: ole
Attn. of: LCDR/BRYANT
(804) 398-6266

To: Distribution

1. I have enclosed copies of a package from the Center For Coastal Studies regarding disentanglement of marine mammals. Included in this package are points of contact for the Center as well as a reporting form. Please maintain a copy of this package along with D5 LEB 05-95 for guidance on these types of situations. If you have any questions, please contact myself at (804) 398-6266 or BM1 Perry at (804) 398-6282.


R.E. BRYANT
Acting

Distribution: D5 (cc), GRU Cape May, GRU Eastern Shore, GRU Hampton Roads, GRU Cape Hatteras, GRU Ft Macon, Sta Shark River, Sta Manasquan, Sta Beach Haven, Sta Atlantic City, Sta Great Egg, Sta Cape May, Sta Indian River, Sta Ocean City, Sta Chincoteague, Sta Parramore, Sta Little Creek, Sta Cape Charles, Sta Oregon Inlet, Sta Hatteras Inlet, Sta Ocracoke, Sta Ft Macon, Sta Swansboro, Sta Wrightsville Beach, Sta Oak Island, CGC MATINICUS, CGC AQUIDNECK, CGC BLOCK ISLAND, CGC STATEN ISLAND, CGC PT BATAN, CGC PT FRANKLIN, CGC PT HIGHLAND, CGC PT BONITA, CGC PT HURON, CGC PT WARDE



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National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930

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ENTANGLEMENT AND BOAT COLLISION REPORTING FORM

Completing the following form for large whale entanglements and collisions would expedite any rescue efforts. If for any reason the form cannot be completed, we request that at least those entries in bold print be obtained. This will provide basic information regarding the incident and allow us to contact the observer directly. Please contact the Center for Coastal Studies as soon as possible regarding the information on this form at (800) 900-3622 or (508) 487-3622 during business hours, or at (508) 522-9269 during non-business hours and weekends, which will activate our 24 hour paging system. When calling the pager you must dial a 1 and the area code if you are outside of the 508 area code and please remember to leave your number, complete with your area code, after the series of beeps. We will get back to you as soon as possible.

I. Notification of incident

Date of report: _____ **Time of report:** _____

Vessel's name: _____

Vessel's radio call sign: _____ **Vessel's cell. phone #:** _____

Observer's name: _____

Observer's address and phone number: _____

First hand or second hand report? _____

How long could you stay with the whale if asked to? _____

II. Details of incident

Date and time of incident: _____

Nature of incident: entanglement _____; or collision _____

Number and species involved: _____

Location (LORAN TDs, Lat/ Long., and description relative to landmarks): _____

Is the whale traveling or anchored by gear? _____

If traveling, what was its last heading: _____

Description of whale (If species not known), incl. dorsal fin, color, distinguishing marks: _____

Estimated size: _____ **How estimated?** _____

Individual ID (if known, name or catalogue #): _____

Was there photo or video taken? _____

III. Entanglement

General description of entanglement: _____

Type of gear: _____

Type of line (diameter, color, material): _____

Is mesh visible? _____ **Are floats or other gear trailing?** _____

Part of body entangled: _____

IV. Whale's appearance/ gestalt

First impression of condition: _____
Skin condition (peeling?, color?, whale lice?): _____
Obvious bleeding/ wounds: _____
Are marks fresh or healing? _____
Weight (robust?, Emaciated?, ribs or vertebrae showing?) : _____

V. Whale's behavior

General description: _____
Breathing (pattern?, sound?, smell?): _____
Dive duration: _____ Does whale struggle to breathe? _____
Does whale lift flukes/ head above water? _____
Affects on movements (flexibility, buoyancy, surfacing angle, ability to dive, appendage movement?): _____

VI. Collision

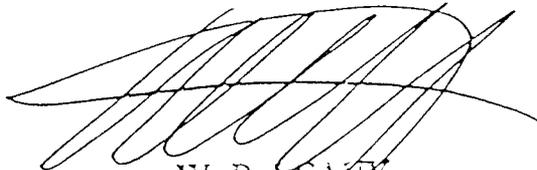
Type of wound (Prop wound, part cut off, etc.?) and location: _____
Severity of wound: _____ Vessel involved : _____

VII. Comments

U.S. Coast Guard Seventh District Guidance dated 14 April 1996

CGD SEVENINST 16214

4. (cont.) The Coast Guard and NMFS are equally responsible for enforcing violations of the Endangered Species Act (ESA).

A handwritten signature in black ink, consisting of several overlapping, sweeping strokes that form a cursive, somewhat abstract shape.

W. P. LEACHY

Encl: (1) Marine Mammal & Endangered Species Protection Program
(2) Selected extracts from reference (d)

MARINE MAMMAL AND ENDANGERED SPECIES PROTECTION PROGRAM

1. AREAS OF SPECIAL INTEREST. The Seventh District Marine Mammal and Endangered Species Protection Program applies to littoral and offshore waters. However, the following areas are of special importance:

A. DESIGNATED CRITICAL HABITATS. Units should review reference (a) to become familiar with those habitats designated as critical to endangered and threatened species under section 7 of the Endangered Species Act (ESA). Within the Seventh District, specific areas of concern include the waters adjacent to Sandy Point, St. Croix, U.S. Virgin Islands (for Leatherback Sea Turtles); and the coastal waters between 31-15N and 30-15N from the coast out to 15 NM and the coastal waters between 30-15N and 28-00N from the coast out to 5 NM (for Northern Right Whales).

B. HABITAT AREAS OF PARTICULAR CONCERN. Units should review reference (c) to become familiar with those habitats designated as Habitat Areas of Particular Concern (HAPC). Within the Seventh District, specific areas of concern include the Oculina Bank which is bounded on the north by 27-53N, on the south by 27-30N, on the east by 79-56W and on the west by 80-00W. Within the HAPC, fishing with bottom longlines, traps, pots, dredges, or bottom trawls is prohibited. Although technically located within Eighth District waters, the Florida Middle Grounds are routinely patrolled by Group St. Petersburg assets. Reference (c) contains the specific coordinates of the Middle Grounds in which fishing with bottom longlines, traps, pots, dredges or bottom trawls is prohibited. Additional prohibitions concerning possession of coral and allowable octocorals also apply.

2. ENDANGERED SPECIES PROTECTION EFFORT.

A. DEDICATED SURFACE/AIR PATROLS.

(1) TASKING - GANTSEC, CTU 44.7.7 and Groups Miami, Mayport and Charleston will be routinely tasked to conduct enforcement boardings, disseminate information packets, and make broadcasts to mariners in the vicinity of these areas of interest.

(2) AREA SURVEYS - Air Stations Miami & Clearwater and designated surface assets will periodically be directed to embark National Marine Sanctuary (NMS) and/or NMFS officials to conduct surveys to facilitate research of the areas of interest.

Encl: (1) to CGD SEVENINST 16214.XX

(3) DOCUMENTING PATROL EFFORTS - Units shall document marine mammal protection efforts in their weekly MIPRs or Daily Situation Report (SITREP) Feeder. Additionally, units patrolling either the Florida Keys or Grays Reef Marine Sanctuaries shall document their activities in Abstract of Operations reports in addition to the MIPRs/SITREPS.

B. SAFETY BROADCAST FOR RIGHT WHALES. Groups Charleston and Mayport shall make the following safety broadcast on right whales twice a day from 1 December to 1 April and when right whales are reported in the Group's AOR:

"The severely endangered Northern Right Whale is a regular visitor to North Florida/South Georgia coastal waters. The National Oceanic and Atmospheric Administration has designated the coastal waters between 31-15N and 30-15N from the coast to 15 NM offshore, and the coastal waters between 30-15N and 28-00N from the coast to 5 NM offshore, as critical habitat for this species. Vessel operators are reminded to use caution around and remain clear of right whales. Intentional close approach to right whales is prohibited and may result in a violation of Federal or state law."

C. CUTTER TRANSITS. During the course of normal, non-emergency operations, Seventh District units transiting the Northern Right Whale critical habitat areas shall use caution and be alert for whales, using speed proportional to the mission to reduce the possibility of whale strikes.

D. SURFACE UNIT NAVIGATION. Units should plot and maintain the coordinates of the Northern Right Whale critical habitat areas on navigational and law enforcement working charts.

E. UNIT RESPONSIBILITIES. If a Seventh District unit sights a whale(s), that unit should:

(1) Floating units should give whales a wide berth, using speed proportional to the mission to reduce the possibility of whale strikes, and maintain a diligent lookout in the area to best avoid contact with that whale or other whales in the area.

(2) Notify vessels in the vicinity about the locations of the whales via VHF radio, and advise those vessels to proceed through the area with caution.

(3) Inform OPCON immediately of any sightings of right whales or any other whale that is entangled, injured or dead.

(4) When authorized personnel are responding to an injured, dead, entangled or stranded protected species, Coast

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2. E. (4) Guard units in the vicinity should assist as operations permit by securing the area to keep onlookers from interfering. "Authorized" personnel should possess a federal or state permit.

(5) Complete and forward the sighting report per paragraph 5.E. below.

3. OPCON RESPONSIBILITIES.

A. NOTIFICATIONS.

(1) SAFETY VOICE BROADCAST - Upon receiving sighting reports of right whales or any other entangled or injured whale, OPCON should initiate a Safety Voice Broadcast (update/reissue after each sighting) as appropriate. The broadcast should advise mariners to exercise caution when navigating the area by adjusting course and speed as necessary to minimize disturbing or striking a right whale. For purposes of Safety Voice Broadcasts, dead whales will be treated as hazards to navigation.

(2) ENTANGLEMENTS, BOAT COLLISIONS, AND STRANDINGS - Units shall complete the Entanglement & Boat Collision Reporting Form and relay the information to OPCON. OPCON shall notify appropriate authorities as outlined below:

(a) Entangled whales. OPCON shall immediately notify the agencies listed on page 10 of this instruction. Coast Guard units should not attempt to remove debris from entangled whales. Only the Center for Coastal Studies is authorized to have direct contact with the animals.

(b) Stranded whales. OPCON will immediately notify the local stranding network to facilitate rescue of the stranded animal.

(c) Stranded/entangled turtles. The Green, Loggerhead, Leatherback, and Kemp's Ridley sea turtles are presently listed as either threatened or endangered reptiles. Coast Guard personnel can cut nets or fishing gear to free entangled turtles only when immediate response may save the turtle(s) from further injury or death. OPCON should immediately notify the Center for Coastal Studies which will provide advice or initiate action to rescue the animal(s).

B. LOGISTICAL SUPPORT. Units are authorized and may be tasked by OPCON to provide logistical support for NMFS-approved disentanglement and stranding teams and their equipment.

C. SITREP. All cases involving protection of endangered

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D. LETTER REPORT. Units which assist in the salvage, rescue or disposal of a marine mammal shall submit a letter report to the U. S. Fish and Wildlife Service in accordance with chapter 8 of the Maritime Law Enforcement Manual, with an information copy to CCGD7 (ole).

4. DISPOSAL OF PROTECTED SPECIES. There is no specific U. S. Coast Guard responsibility for the salvage or disposal of dead whales. Only situations that pose a safety, health, or navigation hazard, or involve significant public affairs interest, should be pursued. Units shall not tow or attempt to sink dead marine mammals without OPCON concurrence. If there is no interest by appropriate organizations after having been notified about the location of a dead whale or other protected species, abandon the carcass and continue with normal operations.

5. D7 WHALE SIGHTING PROGRAM. Per reference (d), the Northern Right Whale is the most endangered large whale in the world. Only the western North Atlantic has a significant number of northern right whales (300-350), with the eastern North Atlantic population virtually extinct. The whale sighting program will provide NMFS experts with critical data. The highest sighting priority for D7 units involves right whales.

A. UNIT PREPARATIONS. CCGD7 units should review references (a) through (d), and follow guidelines outlined in this instruction in establishing an effective unit sighting program.

B. IDENTIFICATION GUIDE BOOKS. Units should ensure that appropriate personnel are able to identify Right Whales and other protected species. The Sierra Club Handbook on Marine Mammals is available from the Sierra Club for \$15.00. Marine Mammals Ashore - A Field Guide for Strandings is available for \$25.00 from Texas A&M University. This publication has waxed pages which are water resistant in ~~a~~ spiral bound format. "A Field Guide to Whales, Porpoises, and Seals from Cape Cod to Newfoundland" was written by Steven K. Katona, Valerie Rough, and David T. Richardson and published in 1993 by the Smithsonian Institute Press.

C. SIGHTING PRIORITIES. The specific priorities of the D7 sighting program are:

- (1) Entangled or injured right whales;
- (2) "Floaters" - Dead right whales;
- (3) Live sightings - Right whales;

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- (4) Entangled or dead whales of any other kind;
- (5) "Floaters" - Dead whales of any other kind; and
- (6) Large groups of whales.

5. D. PROBABLE LOCATIONS OF RIGHT WHALES. Historical sighting data from aerial and shipboard surveys indicates right whales are normally found in the vicinities of:

(1) BROWNS/BACCARO BANKS - Between these banks on the Nova Scotian shelf from July through November. This area appears to be significant to the whales socially; courtship activities at the surface are frequently observed.

(2) BAY OF FUNDY - Late July through mid-November, with a peak in population in September. This area appears to be the primary summer nursery.

(3) CAPE COD BAY - March through early May. This is the traditional and historical habitat. It has also been designated a critical habitat. U. S. Coast Guard presence is needed to control certain whale watching problems. Units should work directly with the Massachusetts Environmental Police (MEP) to enforce both state and federal right whale protection regulations.

(4) STELLWAGEN BANK NMS AND JEFFREYS LEDGE - July through September. This is the period of the greatest whale watch effort. U. S. Coast Guard presence would curtail reckless vessel operations, especially on weekends and major holidays.

(5) GREAT SOUTH CHANNEL - Mid-April through July. This is the southern passage to and from the Gulf of Maine. The most important task is to know where concentrations of whales are located in order to inform mariners (especially large ships).

(6) SOUTHEASTERN U. S. (CHARLESTON, SC TO MIAMI, FL) - September through April. This primary calving ground is occupied by females before, during and after calving.

E. FORWARDING OF SIGHTING REPORTS. Whale sighting information shall be forwarded to the SEUS Team for Recovery of the Right Whale (see p.10). The use of 35mm photographs and VHS video to supplement the reports is encouraged. Direct liaison with the NOAA (as outlined on p. 12) to discuss pre/post-deployment issues is also encouraged.

6. ENFORCEMENT OF MMPA AND ESA VIOLATIONS.

A. PHILOSOPHY. Enforcement of Marine Mammal Protection Act (MMPA) and ESA regulations will target significant violators, i.e., those vessel operators that act in a manner that may result in injury or harassment of protected species. Education is recognized as being a fundamental part of enforcement efforts.

B. HARASSMENT DEFINITION. The term "harassment" is an element of "taking" under the MMPA and includes two levels:

6. B. (1) LEVEL A - An act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild.

(2) LEVEL B - An act of pursuit, torment, or annoyance that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding or sheltering.

C. EXAMPLES OF HARASSMENT.

(1) HUMAN INTERACTIONS - Diving or swimming, throwing objects, human feeding (disrupts natural eating habits), high speed approaches by a vessel, and deliberately maneuvering a vessel close to a whale are clear examples of harassment.

(2) MORE SUBTLE VIOLATIONS - Units should also be aware of more subtle violations. Persistent engagement of a vessel in a manner that results in a recognizable and articulable disturbance of the marine mammal or endangered marine species is also a violation. Detailed narratives, videotapes, and/or photographs are essential in thoroughly documenting these cases.

D. STANDARD FOR DOCUMENTING VIOLATIONS. Evidence of the following elements of a violation should be obtained to establish a violation of the MMPA or ESA.

(1) Personal knowledge of guidelines in references (a) through (c) (can be assumed of whale watching boat operators).

(2) Refusal to observe guidelines in references (a) through (c) once advised/reminded.

(3) Documented behavior (observed, photographed, videotaped, etc.) fitting harassment definition above.

(4) Distances between the violator and whale before, during, and after the incident.

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(a) Buffer Zone. There is a buffer zone surrounding a right whale which consists of an area outward from the right whale a distance of 500 yards in all directions.

(b) Departures. Vessels are required to depart immediately from any buffer zone created by the surfacing of a right whale.

(c) Approaches. Vessels may not approach a right whale or turn in any manner to intercept a right whale within a buffer zone.

6. D. (4) (d) Interference. No vessel may disrupt the behavior of a right whale within a buffer zone.

(e) Exceptions. Any person issued a federal or state permit may conduct scientific research, observation or management of the right whale as authorized under the permit.

(f) Commercial Fishing. Commercial fishing vessels hauling back, towing gear or fishing at anchor within a buffer zone created by the surfacing of a right whale may complete the haul, tow or fishing operation, provided it does so with minimum disruption to the right whale, does so in a direction away from the right whale, and departs the buffer zone immediately after the haul, tow or fishing operation.

E. ISSUING A VIOLATION.

(1) STANDARDS PRESENT - If "harassment" as discussed in paragraph 6.C. is observed, board the vessel (if weather/operations permit) and attempt to educate the vessel operator. Issuing a written warning for minor infractions is authorized at the boarding officer's discretion if it is deemed that the mariner's actions were unintended or due to ignorance of the law, and will be corrected.

(2) PERSISTENCE - If the master of the vessel persists in harassment, or the actions of the vessel are plainly dangerous or involve a significant act of harassment, issue a violation to the master.

(3) DOCUMENTATION - In documenting a violation, it is critical to identify distances as well as marine mammal behavior before, during, and after the incident. Submit the Enforcement Action Report (EAR) and documentation in the same manner as MFCMA violations to the local NMFS agent. A list of all witnesses to the incident with phone numbers and/or addresses is also very important. Identify individuals or other vessels who are potential witnesses in your Offense Investigation Report (OIR) statements.

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F. SPECIAL CIRCUMSTANCES INVOLVING WHALE WATCHING BOATS.

Commercial whale watching boats need not be boarded for all perceived violations. If apparent violations are observed, warn and document suspected violators (obtain necessary information via radio) and forward completed case package (if appropriate) to NMFS for further review.

ENTANGLEMENT AND BOAT COLLISION REPORTING FORM

I. REPORTING SOURCE

Time/Date: _____ Rptg Source: _____
Vsl Name: _____ Doc/Reg #: _____
Radio Call: _____ Cell Phone: _____
1st or 2nd hand report: _____ How long R/S can remain O/S? _____

II. DETAILS OF INCIDENT

Posit: _____ Geographic Desc: _____
O/S Wx: Winds ____ T/____ KTS, Swell ____ T/____ FT
Seas ____ T/____ FT, Vis ____ NM, Temp ____ F, Baro ____ . ____ (R/F/S)
Specie: _____ # of Animals: _____
Dorsal Fin: _____ Color: _____
Size: _____ Deal/Alive: _____
Distinguishing Marks: _____ Photo/Video Taken: _____
Type of Entanglement: _____ Nature of Injury: _____
Animal traveling or Anchored by Gear: _____ Cse/Spd: _____

III. ENTANGLEMENT

Desc (type) of gear & identifying Features (buoy color, reg #, etc) _____
Type of Line (dia, color, matl): _____
Mesh Visible? _____ Floats/other gear trailing? _____

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ENTANGLEMENT AND BOAT COLLISION REPORTING FORM (Page 2)

Part of Body # Wraps around
Entangled? _____ tail/body: _____

Life Threatening? Describe: _____

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I. NMFS APPROVED LOCAL STRANDING NETWORKS
(Report to in the order listed)

MR. MIKE HARRIS
SOUTHEASTERN U.S. IMPLEMENTATION TEAM FOR RECOVERY OF THE
NORTHERN RIGHT WHALE
1-800-272-8363ext 229
(912) 262-3336

NMFS ENFORCEMENT, SOUTHEAST REGION
ENDANGERED SPECIES BRANCH
(813) 570-5344

FLORIDA DEPARTMENT OF ENVIRONMENTAL RESOURCE MANAGEMENT (DERM)
1-800-342-5367

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UNIT CHECKLIST FOR D7 SIGHTING PROGRAM

1. COLLATERAL DUTY ASSIGNMENT. Identify positions on board with primary responsibility for photographing, videotaping, and completing sighting forms for endangered marine mammals.
2. QUICK RESPONSE/REACTION. Train watchstanders in marine mammal identification and accurate completion of sighting form.
3. MATERIALS.
 - A. Field Guide. It is recommended that units have a field guide to aid in the identification of endangered marine mammals. A list of books that have been found useful for this purpose is on p.4 of this Instruction.
 - B. Standard Sighting Forms
 - C. Camera(s): 35mm, 200-400mm lens, video camera(s)
 - D. Film, video tape
4. PRE-PATROL AND POST-PATROL CONTACT.

Mr. Bill Brooks
C/O NOAA NORTHEAST FISHERIES SCIENCE CENTER
JACKSONVILLE, FLORIDA
(904) 448-4300
5. OBSERVATIONAL ABILITIES AND RECORD KEEPING.
 - A. Develop habits of observation, notation, and discussion of information with others.
 - B. Be alert for smaller scale oceanographic features...band slicks and "edges" represent areas of mixing...often productive for fish, birds, whales, etc.
 - C. Be alert for sighting cues...birds working..
 - D. Keep good notes and photographs/video. DO NOT SKIMP ON PHOTOGRAPHS.
 - E. When you have made a sighting...KEEP SPOT IN VIEW!

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STANDARD SIGHTING FORM

Name of Reporter: _____

Vessel Name or Aircraft Number: _____

Date/Time of Sighting: _____

Position (LAT/LON): _____

Specie(s) Observed: _____

Number Identified: _____

Distinguishing Characteristics:

[Key features - size, body shape, color, blow, natural markings (spots, blazes), dorsal fin and flippers (size & shape)]

Comments:

[calf present, injuries/wounds, behavior, other specie(s) present]

Photos Taken:

[roll & frame #, tape #]

RECOVERY PLAN

for the

NORTHERN RIGHT WHALE

(Eubalaena glacialis)

Prepared by the

RIGHT WHALE RECOVERY TEAM

for the

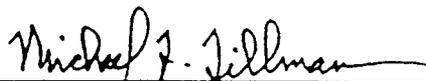
**OFFICE OF PROTECTED RESOURCES
NATIONAL MARINE FISHERIES SERVICE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
SILVER SPRING, MARYLAND**

December 1991



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Approved:



Michael F. Tillman

Deputy Assistant Administrator for Fisheries

EXECUTIVE SUMMARY

The northern right whale, *Eubalaena glacialis*, is the world's most endangered large whale. Current estimates place the total number of remaining animals at no more than 600. About 350 occupy the waters of the western North Atlantic and between 100 and 300 occur in the North Pacific Ocean. The northern right whale was initially placed in this precarious position because of hunting, which started over 800 years ago and continued until the 1930's. While protected by international agreement for over 50 years, there is no evidence that the number of northern right whales has increased substantially although other large whale species, similarly protected, have shown various population increases. Both natural and human-induced factors have been suggested as responsible for this absence of measurable recovery.

This recovery plan identifies known and potential factors affecting the northern right whale and recommends actions to reduce or eliminate impacts to the northern right whale. The impacts and recommended recovery actions are presented separately for the North Atlantic and North Pacific populations.

The major threats to the North Atlantic population were identified as collisions with ships, entrapment or entanglement in fishing gear, habitat degradation and disturbance by vessels. Risks to the North Pacific population(s) are poorly known, but are presumed to be similar to those in the North Atlantic. Hunting, while not presently a problem, could reemerge as a significant problem should international prohibitions become ineffective.

While certain measures designed to assist the northern right whale are already in place, additional actions, as discussed in detail in the plan, need to be accomplished. Recovery will not be quick. It is estimated that even under the best of conditions, it will take more than 100 years for the northern right whale population to reach pre-exploitation levels in both oceans.

The plan presents an action strategy to guide a coordinated effort to allow the northern right whale the best chance of recovery based on the present state of knowledge and information. Recommended recovery actions include, but are not limited to: (1) an aggressive program of education and enforcement to reduce the risks of ship collisions and entanglement in fishing gear that entrap northern right whales, (2) the consideration of designation of three areas in the waters of the United States as "critical habitat" which are deemed to be necessary to the survival of the species, and (3) the restriction of recreational whale watching activities directed at the northern right whale. In addition to cooperation with Canadian authorities to ensure the fullest protection possible for this highly migratory species, research on many aspects of northern right whale ecology and vulnerability is needed.

Many of the recommended actions require funds; this plan recommends that priority in the allocation of these funds be given to the Western North Atlantic population. As more information is learned about the North Pacific population, a separate recovery effort is recommended for those animals. In addition, steps should be taken to coordinate and, as appropriate, combine efforts benefitting the northern right whale with other species, especially the humpback whale.

II. THE NORTHERN RIGHT WHALE

A. Species Description and Taxonomy

The northern right whale, *Eubalaena glacialis* (Müller, 1776), is a robust, medium-sized baleen whale. Adults generally range in length between 45 and 55 feet and can weigh up to 70 tons. Females grow larger than males. The northern right whale's distinctive features include the absence of a dorsal fin, a large head (more than 1/4 of the body length), a narrow upper jaw and strongly bowed lower jaw. Tough cornified skin patches on the head, called callosities, are used with other marks to identify individuals. Two rows of dark baleen plates descend from the upper jaw. The plates are long (up to nine or more feet) and numerous, with about 225 on each side. The animals are generally black in color although individuals often exhibit variable white patches on the throat and belly. The tail is broad, deeply notched, and all black with a smooth trailing edge. Because of the two widely separated blowholes, its spout or blow forms a distinctive V-shape when seen from the front or back. The animals' blow is a useful field characteristic for identifying a right whale from a distance. (Kraus *et al.*, 1988).

In this plan, the recommendations of Schevill (1986) will be followed and all northern right whales in both the North Atlantic and North Pacific oceans will be considered as one species, *Eubalaena glacialis* (Müller, 1776). There is a question as to whether the Atlantic and Pacific populations deserve separate recognition at the subspecific level. If such a separation is demonstrated as valid, the North Atlantic population could be referred to as *Eubalaena glacialis glacialis* (Müller, 1776) and the North Pacific population could be *Eubalaena glacialis japonica* (Gray, 1864).

The southern right whale is currently considered to be a separate but closely related species, *Eubalaena australis* (Desmoulins, 1822). The justification for keeping the two species taxonomically separate rests on skeletal data (Müller, 1954) and recently completed genetics studies (Schaeff *et al.*, 1991). However, even if they are combined, right whales of the genus *Eubalaena* will, with the possible exception of the blue whale, still be the rarest of the world's large whales and will still require a committed effort to assist their recovery.

B. Zoogeography

The pre-exploitation distribution of the northern right whale probably included the temperate and subarctic, coastal and/or continental shelf waters of the North Pacific and North Atlantic Oceans. Post-exploitation distribution--that is, since 1935--is more limited in both oceans. In general terms, the waters between Nova Scotia and Florida in the Western North Atlantic and the waters in the Gulf of Alaska (50°-58°N, 140°-152°W) appear to be the primary areas inhabited by the present northern right whale populations. The recent distribution of both North Atlantic and North Pacific populations is described briefly in Sections III.A.2 and IV.A.2. Further detail is provided in Brownell *et al.* (1986).

Because of the disjunct geographic distribution of northern right whales in the North Atlantic and North Pacific Oceans and their ocean-specific recovery needs, the plan will address the two populations separately.

C. Protective Legislation

Right whales have been protected from commercial whaling by the International Whaling Commission and its implementing legislation since 1949. In U.S. waters, northern right whales are protected by the Marine Mammal Protection Act (MMPA) and ESA. Right whales are also listed as 'endangered' (Appendix I) under the Convention on International

Trade in Endangered Species of Wild Fauna and Flora (also known as CITES), and by the Committee on the Status of Endangered Wildlife in Canada under the Cetacean Protection Regulations of Canada (Gaskin, 1987). Except for one known incident of directed take (Sergeant, 1966), international protection for this species has been followed.

Under the ESA it is a violation to 'take' (defined as; to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt any of the above) endangered species of fish or wildlife. In addition, endangered species or their parts or products may not be exported from, or imported into the United States, except for "scientific purposes or to enhance the propagation or survival of the affected endangered species." The ESA also authorizes Cooperative Agreements between states and the Federal Government for increased endangered species management, research, and law enforcement. In addition, the ESA requires all Federal agencies to consult with The National Marine Fisheries Service (NMFS) to ensure that any action taken, permitted or funded will not jeopardize the continued existence of listed species under the jurisdiction of NMFS. This requirement is a very important regulatory tool for protecting the northern right whale and its habitat because many activities that may affect the northern right whale or its habitat will be conducted, permitted, or funded by a Federal agency.

The MMPA established a national policy to protect marine mammals so that they can reach and maintain optimum sustainable population levels consistent with the maintenance of the health and stability of the ecosystem of which they are a part. The MMPA prohibits the 'take' of any marine mammal, with certain specific exceptions, in a manner similar to the ESA.

III. NORTH ATLANTIC POPULATION

A. Natural History

1. Stocks

Historical data and recent sightings suggest that the North Atlantic was inhabited by two stocks, one on each side of the ocean. However, there is no current evidence to suggest that a viable population in the eastern North Atlantic still exists, although very small numbers may remain (Brown, 1986).

2. Distribution and habitat use

Although 20th century sightings of northern right whales have been recorded from areas such as Greenland, Bermuda and Texas, observations of the western North Atlantic population are concentrated in five known 'high-use' areas: (1) coastal Florida and Georgia, (2) the Great South Channel east of Cape Cod, Massachusetts, (3) Cape Cod Bay and Massachusetts Bay, (4) the Bay of Fundy, and (5) Browns and Baccaro Banks south of Nova Scotia. Sightings also occur in waters between these five areas. Additional 'high-use' areas may exist, since recently collected photographic and genetic data indicates a segment of the population that is not often seen in the known habitats frequently (Kraus, pers. comm.).

The population appears to migrate seasonally. Generally, most of the whales spend the spring and early summer off the coast of New England, then in the latter part of the summer and fall, move to the waters off southern Canada. Some whales may remain in these northern waters throughout the winter, but most leave. A small portion of the population, consisting almost entirely of pregnant females and juveniles, migrates south in the winter to the only known calving ground for the species, the coastal waters of Georgia and northeast Florida. Winn *et al.* (1986) characterized this distribution pattern as occurring in distinct seasonal phases, although a certain amount of variability is to be expected as whales respond to changing environmental conditions including the availability of prey. Because many recommended recovery actions are both seasonally and geographically specific, these phases are described in more detail below.

Phase 1. Winter calving.

The coastal waters of the southeastern United States, and especially the shallow waters from Savannah, Georgia, south to Cape Canaveral, Florida, are a wintering ground for a small but significant part of the population. Although a few juveniles and males have been sighted in the region, most of the records of the last decade involve adult females, many of whom are accompanied by very young calves (Kraus *et al.*, 1988). The fact that at least six newborn calves have washed ashore on the southeast coast in the last 10 years adds to the evidence that these waters are an important calving ground. In addition, adult females are occasionally observed unaccompanied early in the season and later with a calf. The winter calving season appears to begin as early as September and can end as late as April. However, sporadic sightings of newborn calves have occurred in May, July and September. Peak abundance and calving appears to be from December through March. Sighting effort has not been uniform throughout the entire period, however, and further work is needed to determine more accurately when whales are present and the frequency of their occurrence. The whales seen in the southeast represent only a small portion (approximately 5-10 percent) of the total known population (Kraus, 1985). The wintering ground(s) for the remainder of the population remains unknown. It is believed that remote telemetry research will be essential in locating the wintering ground(s) for the rest of the population.

traditional/historical northern right whale habitat. One northern right whale was killed by a ship in this area in 1986. Shipping frequency needs to be assessed.

1114. Great South Channel.

Northern right whales are present in the area from mid-April through June, although distribution varies from year to year. The Great South Channel is the southern passage to and from the Gulf Of Maine for shipping between Boston, Portland, and points south. Since the shipping lanes are bounded on the east by Georges Bank and on the west by Cape Cod and Nantucket Shoals, it would be difficult to shift them. The frequency of shipping through the channel needs to be assessed.

1115. Southeastern United States (Charleston, South Carolina, to Miami, Florida).

This region is the known primary calving ground for North Atlantic right whales, and is occupied by females before, during and after calving from September through April. Significant shipping ports include Charleston, South Carolina, Savannah and Brunswick, Georgia; and Fernandina Beach, Jacksonville, and Port Canaveral, Florida. There are also military installations with significant ship traffic at Kings Bay, Georgia, and Mayport and Canaveral, Florida. Because of the sand bottom and coastal currents, all of these ports and military installations require extensive maintenance dredging. An assessment of vessel traffic around Kings Bay was done by the Navy for the winters of 1988, 1989, and 1990. Vessel traffic frequency for the rest of the area is unknown.

1116. Migratory routes between the high-use areas discussed above.

Northern right whales move between the high-use areas off New England and Canada to and from the southeastern U.S. waters. The specific routes are poorly known. Northern right whales are vulnerable to ship strikes in these migratory routes but the level of vulnerability is unknown.

112. Analyze known kills and scarring patterns on living northern right whales to identify vessel activities that put whales at risk of collision.

Studies of scars or injuries on whales can provide information about how collisions with ships occurred. Estimates of vessel sizes, types, and travel speeds are needed to identify ships posing a high risk to northern right whales. Such information should be used in conjunction with assessments of vessel types found in each known habitat to identify high risk seasons and regions to target for management actions.

All known ship collision mortalities have involved juveniles less than 4 years old. An assessment of age or sex related behaviors is needed to identify areas and/or seasons where such activities put juvenile northern right whales at risk of ship collisions. Existing data should be examined in more detail to determine how ship strikes may be occurring. Research is needed on the responses of northern right whales engaged in different activities to the approach of large vessels.

OBJECTIVE 3. Identify and protect habitats essential to the survival and recovery of the northern right whale.

By virtue of particular biological, physical, and/or chemical conditions, certain geographic areas appear to be essential for meeting the biological requirements of northern right whales. Human activities may either diminish the capacity of these areas to meet these requirements, or act to displace whales to less suitable habitats. For example, oil spills or discharges of toxic chemicals in preferred feeding areas may contaminate or reduce the abundance of prey. Similarly, if pregnant females are displaced from preferred calving areas, other sites may not be suitable for successful calving and nursing. Restoration and maintenance of a population can only succeed if essential habitats are maintained in an optimum condition over an extended period of time because the recovery of the northern right whale will probably not occur in our lifetime.

The marine ecosystem is a complex and dynamic environment. No single component or habitat exists in isolation from the system as a whole. Physical boundaries between regions or ecosystem components are usually variable and migratory species shift from one region or food web to another. As in all ecosystems, impacts on one component of the ecosystem usually affect the other components in some way. Long-term protection of any individual species or habitat must eventually include reduction of adverse anthropogenic impacts on the entire marine ecosystem.

Natural events or environmental conditions, such as changes in weather or climate, or shifts in the prey distribution, may affect the location and condition of essential habitats. Although such changes cannot be predicted at the present time, it is important that the recovery program be flexible to respond when changes are detected.

To date, five essential habitat areas have been identified in the coastal waters of the United States and Canada. Four of these areas are used seasonally as feeding, mating, and/or nursing areas. They are the Great South Channel, Cape Cod and Massachusetts Bays, the lower Bay of Fundy, and the southern Nova Scotian shelf. The fifth area, which is used during winter by females as a calving and nursing ground, includes nearshore waters off Georgia and northeast Florida. Habitats used by other age and sex classes of northern right whales during the winter have not yet been located, and other feeding or calving grounds might exist.

The survival and eventual recovery of the North Atlantic right whale population is dependent upon protective measures both for the species and its habitat. Existing Federal, state, provincial and local laws and regulations must be rigorously enforced in regard to northern right whale habitat. If existing conservation statutes or programs are found to be inadequate to protect northern right whale habitat, then additional statutes should be promulgated as necessary, and programs developed to improve protection of essential habitat.

Under the ESA, special emphasis should be placed on protection of essential northern right whale habitat in Section 7 consultations carried out by all Federal agencies. Other applicable Federal and state statutes should be strictly applied in situations involving known northern right whale habitat.

Existing protective mechanisms may or may not be adequate to detect problems affecting northern right whale habitat. In addition, restrictions put in place to mitigate known adverse effects to essential northern right whale habitats may not be properly carried out due to inadequate follow-up monitoring. An evaluation of the adequacy of existing statutes to protect each known habitat is necessary.

TABLE 3

Unpublished list of Pacific northern right whale sightings north of 50° N contained in the Platforms of Opportunity Program data base, NMFS National Marine Mammal Laboratory, Seattle, WA. Numbers contained in parentheses are tentative sightings. Current listings taken June 10, 1987.

Date	Latitude	Longitude	Number of Individuals	Comments
07/07/77	56°27.5'N	135°38.4'W	1	
03/27/79	59°35.8'N	139°55.8'W	4	Seen at 25 yards
10/16/80	58°48.1'N	145°00.3'W	(1)	
06/21/83	51°29.0'N	173°38.5'E	1	Gillnet Retrieval
09/01/85	54°29.5'N	133°45.0'W	(1)	
09/08/85	56°54.1'N	163°55.6'W	1	