

APPENDIX L

Northeast Regional Fisheries Training Team Course on Marine Mammal Protection Act of 1972

Instructor notes

Instructor Activity

Northeast Regional Fisheries Training Team (NRFTC)

TRAINING GROUP: NRFTC

TOPIC: Marine Mammal Protection Act of 1972

PQS ITEMS COVERED: 4-NE.2

PRESENTATION TIME: 2 hour. 00 min.

PRESENTATION METHOD: Participative Lecture/Overheads/Slide show/Video

CRITERION TEST: Written/Practical Exercise

REFERENCES: LEMAN CH 8
50 CFR 229
D1 LEB 33-94
D5 LEB 05-95

MATERIALS REQUIRED: Slides, Videos "Mottled Whale" and "Stellwagen Footage - Whale I.D.", marine mammal parts (display), authorization decal, log book, certification letter

SAFETY NOTICE: NONE

PRE-CLASS PREP: 24 copies: D1 LEB 33-94, D5 LEB 05-95, various handouts

SECURITY CLASS: NONE

DATE OF REVISION: 04 March 1996

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Fisheries Training Division Chief

APPROVED BY: R. E. More Jr., LT, USCG
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OPENING ACTIONS**Gaining Attention**

Value statement: Thirty-five species of marine mammals range the U.S. Atlantic and Gulf of Mexico waters (32 whales, dolphins, and porpoises, two seal species, and one manatee). Their status is poorly known, but some, like the Northern right whale, Atlantic coastal bottlenose dolphin, and the harbor porpoise, are under stresses that may affect their survival. Others like the harbor seal, are increasing in abundance.

Certain studies of marine mammal populations have focused on issues such as: 1) How fisheries interactions and other human-related activities directly harm marine mammals or adversely alter their environment; 2) Are the depleted and endangered marine mammals recovering and have steps been taken to speed their recovery? 3) What actions are necessary to minimize potential conflicts between the ESA, MMPA, MFCMA, and other Federal laws on marine resources and fisheries management.

Stating the Objectives

1. Be familiar with the:
 - a. Marine Mammal Protection Act of 1972 and understand the USCG's role in enforcement
 - b. NOAA Marine Mammal Authorization Program and its' required documentation
 - c. importance of the Northern right whale and understand its' priority on the whales of interest sighting program
 - d. Stellwagen Bank National Marine Sanctuary
 - e. levels of harassment which apply to the MMPA of 1972 and list examples
 - f. NMFS observer program

Recalling Prerequisites

NONE

INSTRUCTIONAL ACTIONS**Presenting the Information****1. DEFINITION:**

The Marine Mammal Protection Act of 1972 makes it unlawful for any person subject to the jurisdiction of the U.S. to: take, possess, transport, purchase, sell, offer to purchase or sell; any marine mammal, or marine mammal product. It shall be unlawful to import any marine mammal product taken in violation of the MMPA of 1972 or the laws of any other nation.

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2. PURPOSE:

To prevent the extinction of marine mammals by protecting them from harmful actions by man.

3. DEFINITION:

Marine Mammals: mammals which are specifically adapted to the marine environment and/or primarily inhabit the marine environment (i.e. whales, dolphins, polar bears).

4. EXEMPTIONS:

- a) Products of marine mammals taken prior to 21 OCT 1972.
- b) Alaskan natives (for subsistence and to sell handicrafts made from non-edible by-products).
- c) Any marine mammals taken pursuant to permits issued by the NMFS or U.S. Fish and Wildlife Service.
- d) Self-defense or to save the life of a person in immediate danger and such taking is reported to the Secretary of Commerce within 48 hours.
- e) Commercial Fisheries authorized under the Marine Mammal Authorization Program (MMAP).

5. NOAA MARINE MAMMAL AUTHORIZATION PROGRAM

– Allows commercial vessel owners/operators to lawfully take marine mammals, incidentally, in the course of their fishing operations

I) 2 TIER/3 CATEGORIES

Tier One: If the total annual mortality and serious injury across all fisheries that interact with a stock is less than or equal to 10 percent of the potential biological removal (PBR) levels then all fisheries interacting with this stock are placed in Category III.

Tier Two – Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the potential biological removal (PBR) level.

Tier Two – Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent but less than 50 percent of the potential biological removal (PBR) level.

Presenting the Information

Tier Two – Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the potential biological removal (PBR) level.

This system is new and went in effect on 1 March 1996. Under the old system fisheries were classified based on the number of incidental takes (including harassment) of marine mammals. Under the new system fisheries are classified based on the number of mortalities and serious injuries of marine mammals. Harassment or intentional lethal takes are no longer used to classify fisheries. Intentional lethal mortalities or serious injuries of marine mammals to save gear/catch are now PROHIBITED.

II) REGISTRATION

a) The owner or authorized representative of a fishing vessel which participates in a Category I or II fishery **MUST** register for and obtain a valid authorization certificate.

b) Fee: a \$25 payment must accompany the registration or renewal.

c) Authorization decal must be attached to the vessels port side on the cabin or, in the absence of a cabin, on the port side forward hull and must be free of obstruction and in good condition.

d) The certificate of authorization letter or a valid copy must be on board while the vessel is operating in a Category I or Category II fishery. In the case of a non-vessel fishery (operation that uses fixed or other gear without the use of a vessel), the certificate must be in possession of the person in charge.

III) REPORTS

a) Fishing vessels incidentally taking marine mammals will be required to fill out MMAP form and send it within 48 hours of landing. The marine mammal must be returned to the sea.

6. WHALE SIGHTING PROGRAM

a) 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 the NMFS experts with critical data. The highest priority for area units involves right whales.

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b) Areas of Special Interest

– Stellwagen Bank NMS – Activities in this area are regulated to protect the recreational, ecological, historical, research, educational, and aesthetic resources and qualities of SBNMS. Mr. Brad Barr will explain more about the Bank.

– Designated Critical Habitats – Established under the ESA as areas of importance to the survival of Endangered Animals (Right Whales for all D1/D5 Critical Habitats)

Great South Channel

Cape Cod Bay

c) Endangered Species Protection Efforts

– Dedicated marine mammal surface/air Patrols

– Safety broadcast for right whales – specific language can be found on D1 enforcement guidance to 50 CFR part 216

– Cutter Transits – Cutters transiting critical habitats or other areas frequently used by northern right whales; Between 1 March and 30 May a dedicated lookout must be posted to watch for whales, and the OOD must take precautions to avoid whales. This includes reducing speed of all vessels transiting these areas during this period in response to all non-emergency operations.

– Surface Unit Navigation – Units shall plot and maintain the coordinates of the SBNMS and northern right whale habitats on all navigational and law enforcement working charts.

– Unit Responsibilities – Unit whale identification training, give whales a wide berth, maintain lookout, notify other vessels in the vicinity of location of whales and direct those vessels to proceed with caution, inform OPCODE of any sightings of right whales or dead or entangled whales of any type, complete sighting report. Procedures for whale strikes can be found in D1 enforcement guidance to 50 CFR part 216.

d) Disposal of Protected Species – There is no specific responsibility for salvage/disposal of dead whales. Units shall not tow or attempt to sink dead whales without OPCODE concurrence.

e) D1 Whale Sighting Program

– Identification Guide Books – Units shall obtain a copy of "A Field Guide to Whales, Porpoises, and seals from Cape Cod to Newfoundland"

– Sightings of Interest/Priorities – Can be found in D1 enforcement guidance to 50 CFR part 216

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- f) Enforcement of MMPA and ESA Violations
 - Philosophy – Target significant violators, those vessel operators that act in a manner that may result in injury or harassment of protected species
 - Harassment Definition
 - 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.
 - 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."
 - Examples of Harassment – Diving or swimming, throwing objects, high speed approaches etc. **Massachusetts has established a buffer zone of 500 yards surrounding all right whales**. Vessels are required to depart from any buffer zone created by the surfacing of a right whale. Vessels may not approach or turn in a manner to intercept a right whale within a buffer zone. Persons issued permits for scientific research are authorized within the buffer zone as authorized on the permit. Commercial fishing vessels may continue activity within the buffer zone provided it does so with minimum disruption to the right whale and the vessel departs immediately upon completion of activity.
 - Standard for Documenting Violations –
 - Personal knowledge of guidelines (assumed on whale watching boats).
 - Refusal to observe guidelines.
 - Document behavior fitting harassment.
 - Issuing a Violation.
 - Whale Watching Boats.
- g) Entanglement and Boat Collision Reporting Form – Forms can be found in D1 enforcement guidance to 50 CFR part 216
- h) List of Stranding Networks – Can be found in D1 enforcement guidance to 50 CFR part 216
- i) Unit Checklist – Collateral Duty Whale Officer – Can be found in D1 enforcement guidance to 50 CFR part 216
- j) Sighting Report Form – can be found in D1 enforcement guidance to 50 CFR part 216. Forms are forwarded to NOAA's Northeast Fisheries Science Center.

Presenting the Information

7. NMFS OBSERVER PROGRAM (50 CFR 229.6-2)

HAS ANYONE EVER ENCOUNTERED A NMFS OBSERVER DURING THE COURSE OF A COMMERCIAL F/V BOARDING?

a) If requested by the NMFS, a certificate holder engaged in a Category I fishery must take on board an observer to accompany the vessel on any or all fishing trips in a fishing season.

b) The certificate holder, master, and crew must cooperate with the observer in the performance of the observers' duties including:

- Providing adequate accommodations
- Allowing the observer access to all areas of the vessel necessary to conduct observer duties
- Providing true vessel locations by latitude and longitude or loran coordinates upon request
- Providing marine mammal specimens, as requested
- Notifying the observer when commercial fishing operations are to begin and end
- Comply with all other guidelines

- Commence slide presentation

Slide 1) The number one priority is on the North Atlantic right whale. The entire western North Atlantic population numbers about 350, and is the most endangered large whale in the world. Probable location of right whales are:

Browns/Baccaro Banks – July through November (courtship activities)

Bay of Fundy – Late July through Mid–November (summer nursery)

Cape Cod Bay – March through early May

SBNMS/Jefferys Ledge – July through September

Great South Channel – Mid April through July

Southeast US – September through April (calving grounds)

Slide 2) Right whale sightings are not easy because the whale typically lies low in the water. Adult length is about 45 feet and the key identification characteristics are the callosities on the "forehead" and "chin", the lack of a dorsal fin, and the general rotund appearance.

Slide 3) Point out the I.D. characteristics again.

Slide 4) The V-shaped blow is another characteristic.

Slide 5) A juvenile right whale clearly showing callosities.

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Slide 6) Mother/calf pair showing callosities. Calf length is typically 16–18 ft.

Slide 7) The white belly of a juvenile. Another key characteristic of right whales (when seen belly up) is the lack of throat grooves which are common to many other large whale species.

Slide 8) There is increasing concern about human impacts on right whales. Here a 2 year old juvenile has come ashore on a Florida beach after being hit by a ship.

Slide 9) Close-up view of the same animal.

Slide 10) A newly born calf, hit by a ship, showing propeller slashes.

Slide 11) A calf in Florida in 1991, again, showing propeller slashes.

Slide 12) A juvenile photographed from the air with a propeller slash on the flukes.

Slide 13) A "floater" northeast of Norfolk, Virginia., Dec. 1993.

Slide 14) A typical view a fin whale (seen at a distance, only dorsal fin showing). The fin whale is the most common large whale in New England waters.

Slide 15) Fin whale, average length 55 feet, slender and elongate, note chevron patterns on back and "white on the right" colorations.

Slide 16) Fin whale

Slide 17) "Floater" fin whale

Slide 18) Pair of humpback whales, note elongate (up to 10 feet), white flippers, the key characteristic; white "wings".

Slide 19) Underside of humpback flukes, used in identifying individuals.

Slide 20) A humpback "floater", Bay of Fundy, August 1979.

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Slide 21) Minke whale, note flipper patches, average length 20–25 feet, fast moving and sleek in appearance.

Slide 22) Minke whale dorsal fin.

Slide 23) View of a sperm whale blow, characteristic slanted forward, whale lies low in the water.

Slide 24) Sperm whale, square head and small lower jaw. Deep divers of cetacean family, usually found in deep waters rarely seen in Georges Bank/Gulf of Maine.

Slide 25) Sperm whale mother/calf pair and other adult south of Georges Bank, August 1991.

Slide 26) Sperm whale "floater".

Slide 27) Like the large whales, the dolphins are widely distributed throughout the shelf waters of the northeastern U.S.

Slide 28) The striped dolphin, an example of the offshore dolphin, occurs in sometimes large groups (or pods) in offshore areas.

Slide 29) Human impacts are also effecting the small whales/dolphins, primarily because they are sometimes "by-catch" in commercial fisheries. Here a striped dolphin on deck.

Slide 30) A spotted dolphin with Observer program tag. Sometimes animals are by-caught, measured, recorded, tagged, and thrown back over. You may see this from time to time.

Slide 31) A basking shark (background) and harbor porpoise (foreground). The harbor porpoise, average length 3 to 4 feet, is a commonly by-catch animal in gillnet and other fisheries.

Slide 32) Basking shark. Length can be in the 18–20 feet range. In your marine mammal sightings and reports, make sure you are not misled by "false alarms" such as basking sharks and ocean sunfish, which are both common at times.

Presenting the Information

Slide 33) Healthy Manatee. The West Indian manatee is a large, gray–brown aquatic mammal with a body that tapers to a flat, paddle–shaped tail. It has two flippers with three to four nails on each. It's head and face are wrinkled with whiskers on the snout. Average adult manatee is 10 feet long and weighs about 1000 pounds. They range from Florida to the Carolinas (mostly in Florida in the Summer). There are about 2600 hundred West Indian Manatees left in the United States.

Slide 34) Pair of adult manatees.

Slide 35) Manatee with prop wound.

Slide 36) Manatee with prop wound. The manatee has no natural enemies. Most human related mortalities occur as a result of collisions with watercraft.

Slide 37) Manatee entangled in monofilament line. Other causes of human related mortalities include ingestion of fish hooks, litter and monofilament line; entanglement in crab trap lines and vandalism.

Slide 38) Manatee rescue.

Slide 33) Right whale. (REPEAT– the top priority of this program is the right whale)

Slides 34–38) USCGC Reliance "floater" sighting. Probably a fin whale.

PROVIDING FEEDBACK

1. Feedback will be provided at the end of each practical exercise.

ENHANCING RETENTION AND TRANSFER (SUMMARY)

1. D1 LEB 33–94 and D5 LEB 05–95 outline enforcement guidance as a whole, what to look for and standards to use when issuing warnings or violations.

CLOSING ACTIONS

ASSESSING PERFORMANCE (TESTING)

1. Students are evaluated with a written exam in which they must correctly answer a determined percentage of questions correctly.