

APPENDIX Q

PUBLIC COMMENTS TO 31 JULY 1996 DRAFT EIS

The USCG proposed action is to develop protective measures for protected living marine resources. The FEIS presents the Preferred Alternative which is designed to provide protective measures which were developed during the ESA and NEPA processes. The Preferred Alternative is based upon protective measures described and evaluated in the USCG Biological Assessment, NMFS' Biological Opinions, and the USCG EA and DEIS. This Final EIS includes all of the protective measures which NMFS, the resource protection agency with primary expertise and responsibility for marine mammals, sets out in its Reasonable and Prudent Alternative in the July 1996 Biological Opinion (see NMFS October 21, 1996 Comment Letter contained within this Appendix). During this most recent comment period on the DEIS, commenters provided additional proposed actions which have also been analyzed (e.g. see responses to comment 10.a. and 10.b.).

The DEIS was published for review and comment by the public, non-governmental organizations, state and Federal agencies, and other interested parties on July 31, 1996. The comment period closed on September 16, 1996. All comments received before the close of the comment period have been included in this Appendix and every effort has been made to include comments received after September 16, 1996. The comment process has been used by the USCG to assist in the overall review of the document and to develop and refine protective measures for inclusion in the FEIS. The Appendix consists of two sections, organized as follows.

Section 1: Comment Letters.

This section contains copies of the comment letters received for the DEIS. Each comment within the letters has been individually numbered. When a single agency or organization submitted multiple letters, the submissions have been distinguished by assigning each one a unique identification code. Table Q-1 lists all of the commenters, letters received, and identification codes.

Section 2: USCG Responses to Comments.

This section responds to each of the comments received. In order to address each of the comments more efficiently, they were organized into the following sixteen categories:

1. Structure and Content of DEIS
 - a. Focus of DEIS
 - b. Implementation of APLMR Initiative
 - c. Analysis of Alternatives
 - d. Quantification of Impacts of APLMR
 - e. Best Scientific Information Available
2. Inter-Agency Coordination and Cooperation
 - a. Coastal Zone Management Act (CZMA) Consistency and Review of Construction Projects
 - b. Working Relationships
3. Public Education and Outreach

4. USCG Training Programs

5. USCG Jurisdiction and Authority

- a. Territorial Sea
- b. Fisheries Law Enforcement
- c. Vessel Traffic Management
- d. Enforcement of MMPA/ESA
- e. Vessel Documentation Program

6. Permitting of Marine Events

7. Affected Environment

8. Assessment of Cumulative Impacts

9. Coast Guard Vessel Operating Procedures

- a. Speed
- b. Distance Rule
- c. Lookouts

10. Non-Coast Guard Vessel Operating Regulations/Enforcement

- a. Speed
- b. Distance Rule

11. Whales

- a. Whale Strikes
- b. Whale Tracking
- c. Population Viability Analysis
- d. Potential Biological Removal (PBR)
- e. Information Gathering and Reporting Procedures
- f. Sub-Lethal Effects of Vessel Traffic on Whales

12. Identification of Critical Areas/Maps

13. Vessel Collisions with Manatees

14. Economic Impacts of the Preferred Alternative

15. Other

- a. Use of Off-Road Vehicles
- b. No Comment

16. Support for the Preferred Alternative

This section summarizes the comments received in each category, lists the commenters and comment numbers, provides the USCG response, and, where appropriate, references the relevant section in the FEIS.

Table Q-1. List of Commenters

Agency, Organization, or Individual	Date of Letter	Abbreviation
	10/4/96	
Department of the Army, Jacksonville District Corps of Engineers		
Department of the Navy	10/4/96	USN
Marine Mammal Commission	9/11/96	MMC1
Marine Mammal Commission	9/16/96	MMC2
US Department of Commerce, National Marine Fisheries Service	10/21/96	NMFS
US Department of Interior, Fish and Wildlife Service, Florida	9/16/96	USFWS1
US Department of Interior, Fish and Wildlife Service, New Jersey	9/10/96	USFWS2
US Department of Interior, Fish and Wildlife Service, New Hampshire	9/18/96	USFWS3
US Environmental Protection Agency, Headquarters	9/16/96	EPA1
US Environmental Protection Agency, Region III	9/16/96	EPA2
State of Georgia, Office of Planning and Budget	9/11/96	
State of Georgia, Department of Natural Resources/Environmental Protection Division	9/6/96	
Maryland Office of Planning	8/9/96	
North Carolina Department of Environmental Health and Natural Resources, Legislative and Intergovernmental Affairs	9/17/96	
North Carolina Department of Environmental Health and Natural Resources, Division of Coastal Management	9/4/96	
North Carolina Wildlife Resources Commission	9/11/96	
South Carolina Office of the Governor	8/8/96	
South Carolina Office of the Adjutant General	8/27/96	
South Carolina Department of Parks, Recreation, and Tourism	8/19/96	
South Carolina Human Affairs Division	8/21/96	
South Carolina Office of Community Grant Program	8/25/96	
South Carolina Department of Agriculture	8/21/96	
South Carolina Forestry Commission	8/27/96	
South Carolina Division on Aging	8/19/96	
South Carolina State Ports Authority	8/19/96	
South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management	8/26/96	
South Carolina Department of Health and Environmental Control	8/20/96	
Berkeley-Charleston-Dorchester Council of Governments, South Carolina	8/21/96	
Commonwealth of Virginia, Department of Conservation and Recreation	8/30/96	CW1
Commonwealth of Virginia, Department of Environmental Quality	9/13/96	CW2
Hampton Roads Planning District Commission, Chesapeake, VA	8/20/96	
Foley, Hoag, & Eliot, LLP, Boston, MA	9/16/96	FHE
Mr. Richard Max Strahan, Boston, MA	9/16/96	Strahan



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019



REPLY TO
ATTENTION OF

CESAJ-PD-E (110-5-2-10a)

4 October 1996

MEMORANDUM FOR Commandant, ATTN: G-OPN-1U.S. Coast Guard
Headquarters, 2100 2nd Street, SW., Washington, DC
20593-0001

SUBJECT: Draft Environmental Impact Statement (DEIS), U.S. Coast
Guard, Atlantic Protected Living Marine Resources Initiative

The Jacksonville District, U.S. Army Corps of Engineers has
reviewed the Draft Environmental Impact Statement for the Coast
Guard titled "U.S. Coast Guard Atlantic Protected Living Marine
Resources Initiative." The Jacksonville District has no comments.

1

FOR THE COMMANDER:

George M. Strain
Acting Chief, Planning Division



DEPARTMENT OF THE NAVY

COMMANDER IN CHIEF
U.S. ATLANTIC FLEET
1400 MITCHELL AVENUE SUITE 204
NORFOLK, VA 23510-0007

5090

Ser N4651/ 000754

04 OCT 1998

From: Commander in Chief, U.S. Atlantic Fleet
To: Commandant, U.S. Coast Guard (G-OPN-1)

Subj: COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR
THE ATLANTIC PROTECTED LIVING MARINE RESOURCES INITIATIVE
(APLMI)

Ref: (a) Commandant, U.S. Coast Guard ltr G-OPN 16500 of
31 Jul 96

Encl: (1) CINCLANTFLT Comments on USCG APLMRI DEIS

1. Enclosure (1) provides our comments for consideration in developing a Final Environmental Impact Statement for your Atlantic Protected Living Marine Resources Initiative. The Atlantic Fleet is also in the process of developing Northern Right Whale avoidance procedures while a party to informal consultations with the National Marine Fisheries Service.

2. The principal concern with adoption of the proposed DEIS is that it could be considered as a basis for setting policy for all U.S.-flagged ships, including DOD assets. Navy mission requires continual training of our air, surface and subsurface crews. Compliance with various aspects of the Coast Guard proposal, e.g., speed standards, altitude restrictions and stand-off distances, would not be possible for Navy units during specific operations such as, ship transit within restricted channels, underway replenishment and the launch and recovery of aircraft, which dictate maintaining course and speed as a matter of safety. Therefore, recommend USCG consider limiting their vessel speed restrictions to "... during non-emergency operations within the critical habitat and high use areas of protected species when the animals may be present." (DEIS page xiii)

3. We appreciate the opportunity to comment on DEIS. Specific concerns with DEIS are contained in enclosure (1). Our point of contact on the proposal is Mr. C. H. Maguire at (757) 445-9121.

Gary L. Edwards

GARY L. EDWARDS
By direction

Post-It [®] brand fax transmittal memo 7871		# of pages: •
To: CAMOT COGARD	From: CINCLANT FLT	
Co: (G-OPN-1)	Co:	
Dept:	Phone #	
2823 267-4242	Fax #	

SINCLANTEL Comments on USCG APLMRI DEIS

a. Speed Regulation. The Navy concurs with the Coast Guard that guidance regarding speed must be developed consistently with the requirements and terminology of the Inland and International Rules. We also concur in the need to develop standards for "safe speed" rather than imposing a strict nautical mile-per-hour limit that would be impractical and, under some circumstances, unsafe.

2

b. PSSA. Request USCG include Department of Navy (DON), in developing recommendations for Particularly Sensitive Sea Areas (PSSAs) to be avoided under United Nations International Maritime Organization mandates.

3

c. Training. Recommend USCG provide appropriate Federal agencies with copies of their final approved lookout training curriculum.

4

d. Posting lookouts. Whether additional lookouts are proposed for transiting the entire area within twenty miles of shore, within the critical habitat only, or if the use of properly trained and certified look-outs is sufficient is unclear. Recommend this section be rewritten to clarify whether additional certified lookouts are required within the critical habitat and confirmed high-use areas.

5

e. Distance Separation. The requirement to maintain a 500 yard distance from all whales, until the species is determined, is not practicable for deep draft ships when confined to the channels of those ports within the critical habitat, nor will it always be possible for Navy ships when conducting special operations outside the whale critical habitat, e.g., underway replenishment or gunnery exercises, flight operations, etc.

6

f. Notification Procedures. As part of the Navy's effort to preserve the Northern Right Whale, we are providing Fleet Area Control and Surveillance Facility Jacksonville (FACSFAC JAX) with NAVTEX capability. FACSFAC JAX will coordinate with the Coast Guard to develop a protocol on use of the system.

7

g. Low Altitude Aircraft Operations. Navy aircraft are required to fly at low altitudes while engaged in training, e.g., P3 and S3 sub hunting and other aircrew training operations, including both fixed wing and helicopters. We presume Coast Guard ships with embarked helicopters also have similar requirements for low altitude training.

8

j. Navigation Charts. Recommend Coast Guard coordinate with Department of Commerce to ensure Right Whale and other critical habitat or ecological preserves be included on all navigation charts.

9

k. Ship size. The correlation implied between vessel size/speed and oil spills is not considered accurate for Navy ships.

10

l. Ship speed. Likewise, a correlation between ship speed and noise is not necessarily applicable to Navy ships.

11

m. Course and speed. The adoption of a standard requirement of altering course and speed when in the vicinity of a whale could cause confusion in meeting and crossing situation for ships operating under the International and Inland Rules.

12

n. Support. The Navy will maintain an active membership on various recovery and implementation teams. However, we are required to limit our "support" to other Federal agencies, as direct funding or other direct efforts to accomplish the mission of another agency may be contrary to the Anti-deficiency Act.

13

o. Ship Effects on whales. The observation that vessel activities can change whale behavior, disrupt feeding practices, disturb courtship and disperse food sources appears over-broad. Other than instances of ship strikes, limited data exists regarding the effect of vessels on whales and whether or not those effects are adverse or lingering.

14

p. Operations. The DEIS states a reduction in speed to that approximating the whales would not have any negative impact on the ability of the Coast Guard to effectively conduct operations. It would result only in an increase in time required to conduct non-emergent operations. To the contrary, there are significant factors that should be considered, such as increased costs of underway time, including fuel and maintenance, and other associated costs, as well as the cumulative effect of increased seatime on PERS/OP Tempo. A speed limit of 5 knots through the critical habitat would add a minimum of four hours underway for a ship departing and returning to the St. Johns River on a one-day transit. Increased time in the habitat may well equate to an increased chance of an encounter with a right whale that might be avoided with a more deliberate transit speed. The DEIS concludes that any increase in underway time is offset by the benefit to whales and other marine mammals. This conclusion is not supported unless the benefit can be quantified and compared with costs associated with obtaining the benefit. The reduced incidence of whale strikes from Coast Guard operations after adoption of the proposed action should be compared with the increased cost and the increased time within the habitat as the basis for any conclusion.

15

q. Separation Distance. Given the difficulty of spotting and identifying whales, the 500 yard standoff distance may be difficult to maintain. Recommend a standoff distance from all whales of 250 yards, if safe to do so.

16

Subj: COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR
THE ATLANTIC PROTECTED LIVING MARINE RESOURCES
INITIATIVE (APLMI)

Copy to:
COMNAVAIRLANT (N33)
COMSUBLANT (N8)
COMNAVSURFLANT (N33)
COMNAVBASE Jacksonville (N3)
FACSFAC Jacksonville
FACSFAC VACAPES

MARINE MAMMAL COMMISSION
1825 CONNECTICUT AVENUE, N.W. #512
WASHINGTON, DC 20009

11 September 1996

Admiral Robert E. Kramek
Commandant, U.S. Coast Guard
2100 2nd Street, S.W.
Washington, D.C. 20593

Dear Admiral Kramek:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors, is in the process of concluding its review of the Coast Guard's Draft Environmental Impact Statement (DEIS) concerning the development of an initiative to protect living marine resources along the U.S. Atlantic coast. The proposed initiative described in the DEIS consists of an internal program of actions Coast Guard personnel might take directly, and a conservation program of actions that might be taken in concert with other organizations and groups.

As discussed below, the Commission believes that there is an urgent need for Coast Guard assistance in protecting northern right whales and that the conservation program described in the DEIS should be expanded to consider actions for developing vessel management measures to prevent collisions between commercial vessels and right whales. Background and suggestions regarding this point are provided below. Upon completion of our review of the DEIS, we shall provide further comments.

The world's most endangered large whale and the most endangered marine mammal in U.S. waters is the northern right whale. The population numbers about 300 animals and occurs seasonally off the U.S. east coast. Studies over the past 15 years have detected no sign of recovery and human factors, particularly collisions with large ships, are a contributing, if not primary, cause for the species' lack of recovery. Since 1970 ship strikes have caused 34% of all confirmed right whale deaths (14 of 41 carcasses), and since 1991, when offshore sighting and reporting effort increased, 50% of all documented deaths (8 of 16 animals) have involved ship collisions. In light of this information, the Marine Mammal Commission believes the Coast Guard should further evaluate means of minimizing ship strikes by commercial vessel traffic.

To date the most intense efforts in this regard have been in coastal waters off Georgia and northeast Florida, which include the only known right whale calving grounds. Parts of the area are designated as critical habitat for right whales under the Endangered Species Act. During the winter calving season, cows and their calves often rest at the surface seemingly oblivious to passing ships. This makes them particularly vulnerable to being struck. Since 1991 at least six right whales have been hit by ships off Florida and Georgia -- three whose carcasses were recovered, and three others seen alive with fresh propeller wounds but whose fates are unknown.

As mentioned in the DEIS, this threat prompted Federal and State agencies, including the Coast Guard, to join with whale biologists to create a wintertime "early warning system" to protect right whales from vessel traffic off Florida and Georgia. This outstanding example of interagency cooperation is organized by the Southeast U.S. Right Whale Recovery Plan Implementation Team formed by the National Marine Fisheries Service and chaired by the Georgia Department of Natural Resources. Other team members include representatives from the Navy, the Army Corps of Engineers, the Florida Department of Environmental Protection, local ports, and the New England Aquarium.

In the past three years, enormous effort has gone into developing an early warning system capable of providing area vessel operators with real-time data on whale locations so that ships can take precautionary steps when near them. The survey area covers some 1500 sq. mi. extending from shore out 20-25 miles along a 70-mile stretch of coast. When weather permitted this past winter, daily aerial surveys were flown from December through March along east-west track lines spaced every three miles along the coast. Other flights were made to assess whale sighting efficiency during the aerial surveys and to monitor areas further offshore and further south. All whale sightings were promptly relayed to vessel operators through either a) the Coast Guard NAVTEX system, b) direct radio contact from survey planes to ships, and/or c) contacts in ports using St. Simons Sound, the St. Mary's River, the St. Johns River, and the Port Canaveral locks.

1 While these efforts have been constructive and fundamental in reducing the potential for ship strikes during the winter calving season, their overall adequacy for protecting right whales from ship traffic is questionable. This is not, but probably should be discussed more fully in the DEIS. For example, poor weather limits the number of days survey flights can be flown, sighting success varies greatly depending on the weather and sea state, and surveys can only be flown during daylight hours. Also, given available funding and personnel, areas are surveyed only once a day even though whales can move tens of miles in a single day. Thus, sighting data quickly

(i.e., within just a few hours) lose their relevance. Finally, there is concern about the extent to which commercial vessel operators use sighting data and follow voluntary whale avoidance advice developed by the regional right whale implementation team. Although there are clear indications that the data and advice are used by some vessels, the extent to which they are used by all vessels is uncertain.

Efforts are planned to address some of these problems. For example, this coming winter there are plans to fly replicate surveys on the same day over some areas and the Navy may begin testing some technological alternatives, primarily acoustic, to improve data on whale locations. Also, the regional implementation team, with help from the Seventh Coast Guard District, is taking further steps to refine its advice on whale avoidance precautions and to reach vessel operators through direct broadcasts and port shipping agents.

Given the precarious status of right whales, the objective of management should be to reduce the number of ship strikes to zero. Because of fundamental limitations with whale surveys and uncertain use of optional precautionary advice, a survey and warning system, by itself, seems unlikely to achieve this goal. Therefore, new ways of managing vessel traffic in the winter calving area must be explored. In particular, the Commission believes that there is a need to consider the possibility of a) establishing some form of vessel travel corridors to limit the potential area of interactions and to minimize travel time through high-use right whale areas, and b) strengthening the legal and institutional management structure for controlling area vessel traffic (e.g., for transferring data on whale locations to vessel operators and for ensuring vessel operators follow whale avoidance procedures). These needs should be discussed in the DEIS.

With regard to these points, the Navy recently took a number of constructive steps to manage its vessel traffic off Florida and Georgia. We believe its approach offers an excellent model for what might be done to address non-military shipping in the area. For example, last winter the Navy directed that its ships enter and leave area Navy bases on a course perpendicular to shore until through right whale critical habitat, thereby minimizing travel time through areas where right whale were most likely to occur. The Navy also a) prohibited its ships from travelling parallel to shore or conducting non-essential manoeuvres within the critical habitat in the whale season; b) directed its ships to use moderate speeds when crossing critical habitat and slower speeds when whales are sighted; c) ensured that early warning system sighting data were promptly relayed to vessel captains; and d) required ship lookouts to watch for whales when passing through or adjacent to the critical habitat.

Similarly, the Coast Guard deserves much credit for the steps it has taken to address vessel management needs in the area. In particular, the Commission commends the Coast Guard for making the NAVTEX system available to transmit early warning system sighting data and precautionary advice to area vessel captains. The proposed initiative would also direct its ships to limit speeds in high use right whale habitats such as the right whale calving grounds when not responding to emergencies and increase training for vessel lookouts on the identification and sighting of whales.

5 These measures should significantly reduce vessel-related threats to right whales from Coast Guard and Navy ships in this vital area, and the Marine Mammal Commission believes that similar steps, following the Coast Guard and Navy lead, are also needed to address commercial and private vessel traffic off Florida and Georgia during winter. The legal and institutional authorities -- both domestic and international -- to address commercial vessel management, however, have not been thoroughly examined.

6 For example, we understand that the International Maritime Organization recently adopted provisions for establishing vessel routing and vessel reporting systems for particularly important environmental areas. While these provisions appear designed more to prevent collisions between ships and vessel groundings that could cause harmful contaminant spills, it also seems possible that they may be helpful for preventing collisions with whales. Similarly, we understand that domestic authorities can be used to impose conditions on ships using U.S. ports, but it is not clear what those authorities are or how they might be used to ensure that commercial vessels follow appropriate measures, such as those adopted by the Navy. Also, we understand that the Coast Guard has authority to establish vessel traffic corridors, but again, their scope or potential applicability with regard to issues related to right whales is not clear.

7 To begin examining the applicability of such authorities to commercial shipping, the Coast Guard recently provided some preliminary information to the team on these authorities. In addition, the New England Aquarium is in the processing of planning a workshop to consider steps for managing commercial shipping in important right whale habitats and has been in contact with the Coast Guard to discuss relevant international authorities appropriate for consideration during the Workshop.

8 At present, there is probably no more urgent or difficult marine mammal conservation challenge in the United States than facilitating recovery of the northern right whale, and the single most important need in this regard is avoiding ship strikes. Therefore, as part of the Conservation Program proposed in the DEIS, the Marine Mammal Commission recommends that the Coast

Guard include plans for a thorough review of domestic and international authorities that might be used to ensure that measures such as those recently taken by the Navy are used to minimize commercial vessel-related injury and mortality of right whales in key habitats. Results of such a review could then be presented to regional right whale recovery plan implementation teams and to participants in the New England Aquarium's workshop.

9 Given the importance of protecting right whales on their only known calving ground (i.e., off Florida and Georgia), and taking into account the steps already taken to begin addressing vessel management in this area, the Marine Mammal Commission also recommends that the Coast Guard expand the DEIS to discuss the establishment of a separate conservation program element charged with developing an improved vessel management system for ports in the right whale calving grounds area with a view towards implementing strengthened measures by the winter of 1997-1998 if at all possible. Based on this experience, similar steps could then be considered for other areas in which right whales regularly occur and are at risk of being struck. It also may be appropriate to begin preparing an information paper for the International Maritime Organization's Safety and Navigation Committee and Marine Environmental Protection Committee to advise 10 them of the problem and actions which the U.S. is considering. If it would help, the Commission would be pleased to assist in drafting such a paper.

While we recognize that interactions between right whales and ships are extremely rare from the perspective of vessel operators, the frequency of impacts sustained by right whales appears to be sufficient to prevent the species' recovery and must be reduced. We therefore look forward to your guidance and help in this challenging management issue and trust that the Coast Guard's intent in this regard will be reflected in the Final Environmental Impact Statement. We shall send further comments on the DEIS as soon as our review is completed. If you or your staff have questions, please call.

Sincerely,



John R. Twiss, Jr.
Executive Director

cc Horst Greczmeil, Esq.
The Honorable Elsie L. Munsell
Captain T. J. Meyers, USCG
CDR Richard A. Rooth, USCG
The Honorable Rolland A. Schmitten

MARINE MAMMAL COMMISSION
1825 CONNECTICUT AVENUE, N.W. #512
WASHINGTON, DC 20009

16 September 1996

Captain T. J. Meyers, USCG
Chief, Office of Aids to Navigation
Commandant, G-OPN
U.S. Coast Guard Headquarters
2100 Second St., S.W.
Washington, D.C. 20593-0001

Dear Captain Meyers:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has completed its review of the 31 July 1996 Coast Guard document entitled "Draft Environmental Impact Statement for the U.S. Coast Guard Atlantic Protected Living Marine Resources Initiative" (DEIS). The following comments and recommendations supplement those which we sent to you last week.

General Comments

The DEIS proposes adoption by the Coast Guard of a protected living marine resource initiative to enhance protection of northern right whales and other endangered marine species along the east coast of the United States. The proposed initiative, to be undertaken by Coast Guard Districts along the Atlantic coast from Maine to Florida, would consist of an internal program and a conservation program. The former includes operational directives and procedures to be carried out by Coast Guard personnel to reduce vessel-related impacts, particularly as they relate to the death and injury of endangered species due to collisions with ships, and otherwise directly assist endangered species protection efforts. In areas where endangered species are likely to occur, the internal program would call upon the Coast Guard to a) assist with population and abundance surveys for endangered species, b) post trained lookouts on Coast Guard ships to locate and identify whales, c) reduce the speed of its vessels in non-emergency situations in areas where endangered whales might occur, and d) alert commercial vessel operators and the public of special endangered species conservation needs. The Conservation Program would include participation with other Federal and state agencies and the public in endangered species conservation programs.

1 The proposed initiative offers many constructive steps to further the conservation of endangered species. The measures are particularly important off the Atlantic coast because of the highly endangered status of northern right whales and the substantial proportion of right whale mortality caused by ship strikes. Accordingly, subject to modifications discussed in our previous letter and below, the Marine Mammal Commission recommends that the Coast Guard adopt and implement the proposed action as quickly as possible.

2 Regarding the further changes noted below, we are concerned that relying upon the discretion of vessel operators to determine what constitutes a safe speed for seeing and avoiding collisions with whales will be insufficient. Given the rarity of whale-vessel reports, many, if not most, of the vessel operators that have struck a whale may not realize they have done so, and the vast majority of vessel operators probably are unfamiliar with circumstances surrounding these events and with right whale ecology. Based on the number of animals with vessel related injuries, however, ship strikes are clearly not uncommon in whale populations such as the northern right whale. Therefore, the Marine Mammal Commission recommends that the Coast Guard expand the guidance in its operations procedures to further clarify what would constitute a safe vessel speed to reduce potential collisions between whales and ships.

Specific Comments

3 Pages 2-1 to 2-3, Purpose and Need: Among other things, this section provides a chronology of events prompting the proposed action. It notes that Coast Guard vessels are known to have struck whales on 6 July 1991, 5 January 1993, and 9 October 1995, but it does not provide any information on circumstances surrounding those incidents. Although vessel related injuries are not uncommon on whales, there are few cases in which vessel operators have reported the circumstances under which whales were struck. Such information would help in identifying and evaluating possible and proposed mitigation measures. Therefore, it would be useful if the document, either here or elsewhere, described the conditions and factors surrounding these events (e.g., distance from shore, vessel size, speed, heading, presence of lookouts, time of day, weather, sea state, sighting conditions, any observed whale behavior, etc.).

Pages 3-1 to 3-5, Internal Program: This section discusses operational directives and procedures that Coast Guard vessels would follow under the proposed action to help protect endangered species. To avoid vessel collisions with whales, it proposes guidance on posting and training vessel lookouts, making close approaches to whales, and limiting vessel speeds in areas where right whales are likely to occur. Regarding vessel speed in non-emergency situations, it notes that Coast Guard vessels crossing

high-use right whale areas or near whale concentrations would use extreme caution and proceed at a speed that would allow lookouts to see whales in time for such observations to be of use in avoiding collisions. If a right whale or unidentified large whale were seen near a ship, vessels would use a speed (e.g., 5 knots based on research experience) and course that would allow them to evade the whale. These precautions should be helpful and the Marine Mammal Commission supports their adoption. The discussion of directives and procedures related to vessel speed, however, should be expanded to clarify certain points.

For example, further guidance seems needed to explain what is meant by the statement in the first paragraph on page 3-3 that vessels on non-emergency operations crossing high-use right whale habitats would proceed at "a speed that allows the lookout to see whales...in a timely manner...". Similarly, the section notes that in determining a "safe speed", mariners consider "...the state of the wind, sea, current, and the proximity of hazards, (and...) that whales, just like other hazards, require course and speed adjustments." Since few mariners have struck whales or would be familiar with the speed needed to allow lookouts to see whales in a timely manner, relying on the judgment of vessel operators in this matter, without offering more specific advice and guidance seems of questionable value. In this regard, the Biological Opinion notes that a whale struck by the Coast Guard vessel Reliance on 9 October 1995 was traveling at 15 knots with a lookout posted. Given this experience, the Marine Mammal Commission recommends that the Coast Guard expand its guidance on this point to note that the "safe speed" for allowing lookouts to see whales in time to enable vessel operators to avoid hitting them would be less than 15 knots (e.g., 10 knots).

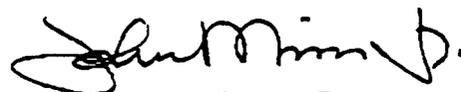
In addition, the National Marine Fisheries Service's Biological Opinion (Appendix F of the DEIS) notes that slow safe speeds should be used in non-emergency situations, in periods of low visibility, such as at night and in foggy weather, in critical habitats, in high-use areas, and in areas near recent right whale sightings. The directives and procedures for vessel speed during periods of poor visibility are not, but should be, clearly described in this section. Finally, given the seasonality of endangered species in different areas, it would be appropriate and reasonable to note that speed precautions to protect endangered species in critical habitats or high use areas would be needed only during the times and seasons when they are known or likely to be present. With respect to right whales off Florida and Georgia, for example, this would generally be limited to the period from 1 December to 31 March.

Page 3-8, First and Second Complete Paragraphs: These paragraphs note that the Department of State is the lead U.S. agency for International Maritime Organization initiatives and that the Coast Guard would work with other U.S. agencies on the

designation of critical habitat as Particularly Sensitive Sea Areas (PSSAs) and/or Areas to be Avoided (ATBAs) under the International Maritime Organization. As we understand it, the State Department has asked the Coast Guard to assume the lead role in representing the U.S. at meetings of the International Maritime Organization and that the Coast Guard routinely heads U.S. delegations to International Maritime Organization sessions. It would be helpful therefore to explain the Coast Guard's role in representing the U.S. and, because interactions with the International Maritime Organization relative to right whale protection may extend beyond developing proposals for PSSAs or ATBAs (e.g., perhaps developing vessel traffic systems), it would seem useful to revise this section to note that Coast Guard assistance with developing proposals for PSSAs and ATBAs is simply illustrative of the type of action that might be considered with respect to International Maritime Organization involvement.

I hope these comments and recommendations are helpful. If you or your staff have questions, please call.

Sincerely,



John R. Twiss, Jr.
Executive Director



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, Maryland 20910

Commander Richard Rooth
Office of Aids to Navigation
United States Coast Guard
G-OPN-1
2100 Second Street, N.W.
Washington, D.C. 20593-0001

001 21 1000

Dear Commander Rooth:

Thank you for forwarding the Draft Environmental Impact Statement (DEIS) for the U.S. Coast Guard, dated July 31, 1996, to my attention for review and comment. The preferred alternative in the DEIS includes an operational program for U.S. Coast Guard vessels and aircraft that would prevent, to the maximum extent possible, harmful interactions with protected species, and a conservation program consisting of measures to help conserve and recover those species listed as threatened or endangered under the Endangered Species Act, with emphasis on large baleen whales, especially the northern right whale.

The conservation measures outlined in the DEIS adequately address and incorporate the requirements set forth in the Biological Opinion issued by the National Marine Fisheries Service (NMFS) dated July 22, 1996. Therefore, NMFS does not have specific comments on conservation recommendations outlined in the DEIS. However, an issue that has been discussed between the U.S. Coast Guard and NMFS, and which was not addressed in the DEIS, is the extent to which the U.S. Coast Guard has authority to regulate or control commercial vessel traffic in U.S. territorial waters. It would be useful to have a brief discussion of the scope of authority that the U.S. Coast Guard has with respect to commercial shipping, and suggestions as to how to work with other agencies to address possible mortalities of large whales due to vessel-whale collisions in waters that may, or may not be, under the authority of the U.S. Coast Guard.

I appreciate the continued efforts of the U.S. Coast Guard to work with NMFS to protect endangered and threatened marine species. If you have any further questions, please contact Michael Payne, Marine Mammal Division, Office of Protected Resources, 301/713-2322.

Sincerely,

Stephen W. Wade

Patricia Montaniolo
Acting Director
Office of Protected Resources





United States Department of the Interior

FISH AND WILDLIFE SERVICE

6620 Southpoint Drive South

Suite 310

Jacksonville, Florida 32216-0912

SEP 16 1996

Commandant (G-OPN-1)
U. S. Coast Guard Headquarters
2100 2nd Street Southwest
Washington, DC 20593-0001

Attn: CDR R. Rooth

Dear CDR Rooth:

The U. S. Fish and Wildlife Service (Service) Manatee and Sea Turtle Recovery staff has reviewed the Draft Environmental Impact Statement (DEIS) for the Coast Guard's proposal to adopt and implement the "U. S. Coast Guard Atlantic Protected Living Marine Resources Initiative" (USCG Atlantic PLMR Initiative). The DEIS describes Coast Guard missions and how the adoption and implementation of the USCG Atlantic PLMR Initiative will assist the Coast Guard in its efforts to protect threatened and endangered species while fulfilling its missions. The statement also evaluates the impact adoption of the initiative will have on its missions versus the "No Action" alternative. We offer the following comments:

- 1) The DEIS states that because there are no documented reports of manatee collisions with U. S. Coast Guard (USCG) vessels, because the USCG observes manatee protection zones and maintains a lookout when vessels are underway, and "because the Coast Guard's marine event permitting program reviews applications for manatee collision hazards," the "No Action" alternative "does not pose a significant risk to manatees." The Service does not concur with this assessment. 1

As indicated on the enclosed mortality report, a Coast Guard vessel has collided with and killed a manatee on Florida's west coast on October 20, 1990. Clearly, the Coast Guard's current protocols could be improved to protect manatees from collisions of this nature. 1

The DEIS also indicates that the USCG will continue to review requests for marine event permits on "a case by case basis, with respect to potential danger of harm to protected species." The recent *Federal Register* Interim Rule and Notice of Availability of Environmental Assessment for the Department of Transportation, Coast Guard, Regattas and Marine Parades, Rulemaking CGD 95-054 (61 FR 33027-33033) proposes to modify the current permitting process. The proposed process will reduce the number of events reviewed for impacts to listed species and will reduce the Service's ability to provide 2

comments to the Coast Guard to minimize the impact of an event on threatened and endangered species. The Service prefers to continue reviewing requests for marine event permits on a "case by case basis."

- 2) Several of the internal and conservation program initiatives should benefit manatees and sea turtles. The Coast Guard's internal program operational directives providing guidance to staff on special manatee areas and sea turtle nesting beaches, enforcement procedures, stranding protocols, vessel operating procedures, marine mammal training, and ESA and MMPA enforcement will enhance existing manatee and sea turtle conservation efforts. The USCG has worked jointly with the Service in the manatee rescue and rehabilitation program. This working relationship should be maintained and protocols should be developed to provide guidance on needs, availability, etc.

The U. S. Coast Guard's conservation program will help to promote the conservation of protected living marine resources, including manatees and sea turtles. Training non-Coast Guard personnel about manatees and sea turtles through basic boat safety training programs, incorporating conservation information into the USCG Sea Partners program and including species fact sheets in *Sailing Direction* and *Coast Pilot* publications will target many marine interests who should be aware of these species and of efforts to protect them.

- 3) The DEIS assessment of the "Affected Environment - Sirenians" is outdated and requires some clarification. Specifically:
- a. A recent synoptic aerial survey documented the presence of 2,639 manatees throughout the winter range of the Florida manatee. This survey was conducted in February 1996 by the Florida Department of Environmental Protection.
 - b. The DEIS correctly states that there is a single species of manatee in North America. However, it should be pointed out that there are two subspecies, the Florida manatee (*Trichechus manatus latirostris*) and the Antillean manatee (*Trichechus manatus manatus*). The Florida manatee is found in the southeastern United States and the Antillean manatee is found in the Caribbean islands, the northern coast of South America, Central America and coastal Mexico. Separate recovery plans exist for both subspecies.
 - c. For a more recent discussion of manatee population biology, including manatee mortality, the following reference should be consulted:

Wright, S. D., B. B. Ackerman, R. K. Bonde, C. A. Beck, and D. J. Banowetz. 1995. Analysis of watercraft-related mortality of manatees in Florida, 1979-1991. Pages 259-268 in T. J. O'Shea, B. B. Ackerman, and H. F. Percival, editors. Population biology of the Florida manatee. National Biological Service Information Report 1.

- 4) The DEIS states on page 4-45 that the few studies performed to date on effects of beach nourishment on nesting success of loggerhead turtles have not demonstrated significant adverse effects. This statement appears to be based on one or two studies and is not accurate. Based on the results of numerous studies, it would be more appropriate to state that although beach nourishment may increase potential nesting area, significant negative impacts to sea turtles may result if protective measures are not incorporated during construction. The following sources could be quoted:

6

National Research Council. 1990. Decline of the Sea Turtles. Causes and Prevention. National Academy Press, Washington, D. C. 259 pp.

Crain, D. A., A. B. Bolten, and K. A. Bjorndal. 1995. Effects of beach nourishment on sea turtles: Review and research initiatives. Restoration Ecology 3(2): 95-104.

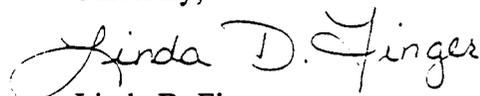
- 5) The DEIS Executive Summary, the Alternative Actions section, and Appendix I (Commandant Instruction 16475: Protected Living Marine Resources Program) indicate that facility lighting options at turtle nesting areas at beach-side USCG stations will be investigated. However, this commitment appears to be omitted from the Environmental Consequences section. The Service strongly supports this activity and is willing to assist in whatever way possible.

7

Adoption of the USCG Atlantic PLMR Initiative should substantially benefit living marine resources, including manatees and sea turtles. The Service has been involved in many of the issues described in this document and should be considered as a source of information to assist with this initiative.

If there are questions about these comments, please contact Jim Valade and Sandy MacPherson at the Jacksonville Field Office (904 232-2580). Thank you.

Sincerely,



Linda D. Finger
Acting Field Supervisor

Enclosure: Manatee mortality report

cc: Chief, Endangered Species Division, RO, Atlanta, GA
Field Supervisor, FWS Jacksonville FO, Jacksonville, FL
Supervisor, FWS South Florida Ecosystem Office, Vero Beach, FL
Field Supervisor, FWS Brunswick FO, Brunswick, GA
Field Supervisor, FWS Charleston FO, Charleston, SC
Field Supervisor, FWS Raleigh FO, Raleigh, NC
Field Supervisor, FWS Boqueron FO, Boqueron, PR
Mary Duncan, FDEP/BPSM, Tallahassee, FL
Ed Olson, USCG Miami

Report of a Dead West Indian Manatee

FIELDID : MNW9017

REPMONTH : 10.00

REPDAY : 20.00

REPYEAR : 90.00

STATE : FL COUNTY : Levy

WATERWAY : Withlacoochee Bay

LOCALITY : Yankeetown, mouth of the Withlacoochee
River between channel markers "31" and
"33".

SEX : M LENGTH : 335.00

AGE : 13.00 WEIGHT : 680.00

DTHCODE : 1 CONDCODE : 2

CAUSE : Impact, superficial propeller cuts dorsal, ribs 17-19
broken and luxated bilaterally indicating the animal
was crushed.

REMARKS : Animal was struck on 20 October by a 41 ft Coast
Guard vessel traveling approximately 22 mph.
Known boat strike.

FIELD ID NUMBER: MNW9017

Florida Dept. of Natural Resources
Manatee Recovery Program
100 8th Avenue S.E.
St. Petersburg, Fl. 33701-5095
(813) 896-8626 SunCom 523-1011

Report of Dead or Injured Manatee

DATE OF REPORT: 90 - OCT - 24
FILED BY: DNR NW Field Station

FIELD ID NUMBER: MNW9017

FMP Case #: 30671

FMP DISTRICT: 3

SEX: Male

LENGTH: 335 cm

WEIGHT: 680 kg

DATE REPORTED: 90 - OCT - 20

BY: FMP Officer Matt Fleming

DATE COLLECTED: 90 - OCT - 20

BY: DNR-SDW, JMS

DATE NECROPSIED: 90 - OCT - 20

BY: DNR-SDW, JMS

LOCATION: STATE -- Florida

LATITUDE: 28 - 59' 42" N

COUNTY -- Citrus

LONGITUDE: 82 - 46' 49" W

WATERWAY -- Withlacoochee Bay

LOCALITY : Yankeetown, mouth of the Withlacoochee River between channel markers "31" and "33".

CONDITION: Fresh

PROBABLE CAUSE OF DEATH: Human Related: Boat/Barge Collision

EXPLAIN: Impact, superficial propeller cuts dorsal, ribs 17-19 broken and luxated bilaterally indicating the animal was crushed.

PHOTOGRAPHS TAKEN: dorsal, ventral, scars, fluke, internal

MATERIALS COLLECTED: Skull, partial skeleton, blubber, muscle, liver, kidney, heart, eyes, blood, contents of stomach, contents of caecum, contents of large intestine, pericardial fluid, synovial fluid from rt. elbow, earbones, serum.

DISPOSITION OF MATERIALS: FMRI, carcass was buried at Homosassa Wildlife Park.

ADDITIONAL DATA AVAILABLE: partial measurements, scar measurements

REMARKS:



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
927 North Main Street (Bldg. D1)
Pleasantville, New Jersey 08232

IN REPLY REFER TO:

SP-96/59

Tel: 609-646-9310
FAX: 609-646-0352

September 10, 1996

Commandant (G-OPN-1)
U.S. Coast Guard Headquarters
2100 2nd Street, SW
Washington, D.C. 20593-0001
Attn: CDR R. Rooth

Dear Commander Rooth:

This responds to Captain T.J. Meyers July 31, 1996 letter to the U.S. Fish and Wildlife Service's (Service) New Jersey Field Office (NJFO) requesting review and comment on the July 31, 1996 Draft Environmental Impact Statement (DEIS) entitled, *U.S. Coast Guard Atlantic Protected Living Marine Resources Initiative*. The U.S. Coast Guard (USCG) proposes to adopt and implement a plan that will enable the USCG to protect and enhance endangered and threatened species while fulfilling its missions.

AUTHORITY

These comments provide technical assistance only and do not represent the review comments of the Department of the Interior on any forthcoming environmental statement pursuant to the National Environmental Policy Act of 1969 as amended (83 Stat. 852; 42 U.S.C. 4321 *et seq.*) or preclude separate review and comments by the Service as afforded by the Fish and Wildlife Coordination Act (48 Stat. 401; U.S.C. 661 *et seq.*). This response also provides Service comments for the protection of federally listed threatened and endangered species pursuant to the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) for species under the Service's jurisdiction occurring within New Jersey.

FEDERALLY LISTED SPECIES

The DEIS accurately describes information on federally listed endangered and threatened species under the Service's jurisdiction in New Jersey. Except for sea turtle nesting habitat, principal responsibility for threatened and endangered marine species is vested with the National Marine Fisheries Service (NMFS). As indicated in the DEIS, you have coordinated with the NMFS for their concerns regarding marine resources.

1
The Service anticipates that implementation of the proposed action is not likely to adversely affect federally listed or proposed threatened or endangered flora or fauna known to occur in New Jersey. However, in addition to the initiatives described within the DEIS, the Service encourages the USCG to incorporate information regarding important nesting habitat for beach nesting birds, such as the federally listed threatened piping plover (*Charadrius melodus*), into its internal training and public outreach programs. Of particular concern are USCG activities related to retrieval of aids to navigation that have washed ashore onto areas used for nesting by piping plovers or other beach nesting birds. Low-level aerial surveillance flights used by the USCG to locate lost aids to navigation and aerial retrieval of located navigational aids should be restricted during the piping plover nesting season (April 15 through August 15 in New Jersey). If postponement of retrieval of navigational aids is not feasible, informal consultation with the Service pursuant to Section 7 of the Endangered Species Act should be initiated to ensure the protection of federally listed species.

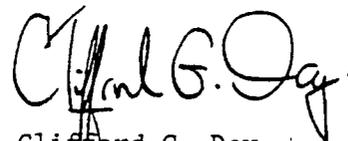
2
Of additional concern are USCG and recreational boating activities, particularly boat landing, at beach areas that are seasonally closed for the protection of beach nesting birds. To further reduce potential disturbance to federally listed species, the Service encourages the USCG to educate boaters regarding avoidance of bird nesting areas as part of the USCG's training and public outreach programs. Information on federally listed species in New Jersey is available from the NJFO.

GENERAL COMMENTS

The Service has reviewed the DEIS and concurs with the USCG determination that the proposed actions will enhance the preservation of endangered and threatened species while fulfilling its missions. The Service supports the *U.S. Coast Guard Atlantic Protected Living Marine Resources Initiative* and is available to provide technical assistance to the USCG regarding fish and wildlife matters.

Please contact Allen Jackson of my staff at (609) 485-4022 if you have any questions concerning these comments. For technical assistance regarding threatened or endangered species, contact Annette Scherer at the letterhead address.

Sincerely,



Clifford G. Day
Supervisor



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Field Office
22 Bridge Street, Unit #1
Concord, New Hampshire 03301-4986

September 18, 1996

Commander R. Rooth (G-OPN-1)
U.S. Coast Guard Hdqtrs.
2100 2nd Street SW
Washington, D.C. 20593-0001

Dear Commander Rooth:

This responds to a written request dated July 31, 1996, from Captain T. J. Meyers, Chief, Office of Aids to Navigation, for our review and comment on the Draft Environmental Impact Statement for the U.S. Coast Guard's Atlantic Protected Living Marine Resources Initiative.

The following comments are provided relative to the accuracy and completeness of the document as it pertains to Federally-designated threatened or endangered species under the jurisdiction and geographic area of the U.S. Fish and Wildlife Service, New England Field Office. The geographic area covered by this office includes the six New England states, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut. The species pertinent to the draft EIS for which this office has responsibility in New England include the threatened piping plover (*Charadrius melodus*) and bald eagle (*Haliaeetus leucocephalus*), and the endangered peregrine falcon (*Falco peregrinus*) and roseate tern (*Sterna dougallii*). The Service shares responsibility for protection and management of threatened and endangered sea turtles with the National Marine Fisheries Service (Service when turtles are on land, National Marine Fisheries Service when turtles are at sea). While there are no sea turtle nesting areas in New England, there are turtles inhabiting waters off of New England. Therefore, the NMFS is the agency with primary responsibility relative to sea turtles in this consultation. The agency and office with primary responsibility for the Florida manatee (*Trichechus manatus latirostris*) and wood stork (*Mycteria americana*) is the Service's Southeast Regional Office in Atlanta, Georgia. We note that the Atlanta office as well as Service field offices throughout the area affected by the subject Resources Initiative have been contacted directly.

Specific Comments:

On page x of the Executive Summary, it is stated that the main anthropogenic threats to the piping plover, roseate tern, bald eagle and peregrine falcon (and wood stork) are habitat alteration and destruction. This statement is not entirely accurate. For the piping plover,

human disturbance on the nesting grounds, and avian and mammalian predation of eggs and chicks are the primary threats in New England. For the roseate tern, competition for nesting sites and predation from herring and greater black-backed gulls are the biggest impediments to recovery. The major threats to the bald eagle and peregrine falcon are environmental contamination of their food chains, as well as habitat loss. The discussion of threats to these species on pages 4-78 and 79 is accurate.

2 On page 4-35 under Sirenians, the discussion of the occasional northward migration of individual manatees (last sentence of first paragraph) should be updated to include Connecticut and Rhode Island, based on the well documented travels of "Chessie" during the summer of 1995.

3 The Atlantic salmon (*Salmo salar*) is identified in Table 4-12 on page 4-68 as a fish species of commercial importance. It is unclear whether the document identifies that the Atlantic salmon in seven rivers in Maine (Sheepscot, Pleasant, Narraguagus, Ducktrap, Denny's, Machias and East Machias) has been proposed for listing as a threatened species in a joint finding by the Service and the NMFS published in the Federal Register on September 29, 1995.

4 There is a factual error on the top of page 4-79 relative to the delisting of the peregrine falcon. The July 12, 1995 Federal Register cited in the draft EIS is an "advance Notice of Intent" to delist the peregrine falcon. The purpose of the Notice in advance of a formal proposal is to give the public, agencies and others interested in this species early notice of our intention to measure the current status of the peregrine against its recovery criteria with a view toward delisting (or reclassification) sometime in the near future.

5 Under the heading Raptors, on page 4-80, please note that the peregrine falcon is listed as endangered and not threatened as indicated.

Environmental Consequences of Alternative 2 (the proposed action):

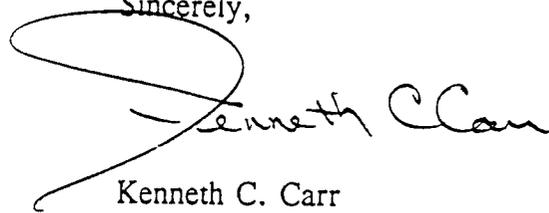
6 The singular action discussed in this document that has the potential for adversely affecting Federally-listed threatened or endangered bird species (primarily the bald eagle and roseate tern) is the operation of aircraft at low elevations (< 500 feet). Through collision with birds in flight or through abandonment of nests following disturbance, low level aircraft have the potential to cause direct mortality or affect nesting success. This potential effect can be minimized by limiting low level aircraft operation to the immediate area of emergency situations and maintaining higher altitude while traveling to and from emergency missions. It would also be useful to work closely with individual Service field offices to identify the locations of bald eagle nests and roseate tern breeding colonies so that low level aircraft flights over these areas can be avoided if at all possible.

In summary, we find that the proposed action is unlikely to result in adverse effects to listed species under the jurisdiction of the Service in New England. It is our understanding that

other activities of the U.S. Coast Guard, such as permitting of marine events, engineering projects, and oil spill contingency planning, are not addressed in this draft EIS and will be the subject of individual section 7 review.

Questions regarding this letter and additional information on the occurrence of threatened or endangered bird species in the New England area can be referred to Michael Amaral at 603/225-1411.

Sincerely,

A handwritten signature in black ink that reads "Kenneth Carr". The signature is written in a cursive style with a large, looping initial "K".

Kenneth C. Carr
Acting Supervisor
New England Field Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 16 1996

Captain T.J. Meyers (G-OPN-1)
U.S. Coast Guard Headquarters
2100 2nd St., S.W.
Washington, D.C.

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Dear Captain Meyers:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the Atlantic Protected Living Resources Initiative. Based on this review, EPA has assigned a rating of "LO" (Lack of Objections) and supports the selection of the preferred alternative. (A summary of our ratings is enclosed.)

Our evaluation supports implementation of the proposed action which will allow the U.S. Coast Guard to continue performing its missions while avoiding adverse effects on protected living marine resources. We encourage development of a Mid-Atlantic Implementation Team as referenced in the DEIS that will provide coverage for the East Coast. Additionally, maps and/or charts should be provided in the final EIS showing locations or approximate boundaries of critical habitats and high-use areas of protected species including Georges Bank, Great South Channel, Cape Cod Bay and Stellwagen Bank.

Thank you for providing EPA the opportunity to comment on this project. Should you have any further questions regarding our comments, please contact Arthur Totten of my staff at (202) 564-7164.

Sincerely,

Richard E. Sanderson
Director
Office of Federal Activities

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

SEP 16 1996

Commandant (G-OPN-1)
U.S. Coast Guard Headquarters
2100 2nd. Street S.W.
Washington, DC 20593-0001
ATTN: Commander R. Rooth

RE: USCG Draft EIS for the Atlantic Protected Living Resources Initiative

Dear Commander Rooth:

EPA Region III has reviewed the draft Environmental Impact Statement (EIS) for the above referenced project in accordance with the National Environmental Policy Act and Section 309 of the Clean Air Act. Based on this review, EPA III has assigned to this EIS a rating of LO (Lack of objections) and supports the selection of alternative 2 as the environmentally preferable alternative.

Our evaluation supports implementation of the proposed action which will allow the Coast Guard to continue performing its missions while avoiding adverse effects on protected living marine resources. We encourage development of a Mid-Atlantic Implementation team that will include our coastal area and provide complete coverage for the East Coast.

The Draft EIS is well-written and informative we have, however, comments that should be addressed in the final EIS.

Maps/Charts

- 1 Maps and/or charts should be provided showing locations/approximate boundaries of critical habitats and high use areas of protected species including Georges Bank, Great South Channel, Cape Cod Bay and Stillwagen Bank.

Socioeconomic Consequences

- 2 EPA recognizes the effort made by the Coast Guard to evaluate the consequences of the proposed action on the socioeconomic environment. Clarification is needed on the potential decrease in law enforcement efforts. Is this due to an actual decrease in patrol hours or decrease in area patrolled?

Thank you for providing EPA with the opportunity to comment on this project. If you have any questions regarding our comments please contact Marria O'Malley Walsh at 717-628-9685.

Sincerely,

A handwritten signature in black ink, appearing to read "John Forren", with a long horizontal flourish extending to the right.

John Forren
NEPA Review Coordinator



OFFICE OF PLANNING AND BUDGET

ZELL MILLER
GOVERNOR

TIM BURGESS
DIRECTOR

GEORGIA STATE CLEARINGHOUSE MEMORANDUM EXECUTIVE ORDER 12372 REVIEW PROCESS

TO: Commandant (G-OPN-1) U. S. Coast Guard
ATTN: CDR R. Booth
2100 2nd Street, S.W.
Washington, DC 20593-001

FROM: ^{TR}Tripp Reid, Administrator
Georgia State Clearinghouse

DATE: 9/11/96

SUBJECT: Executive Order 12372 Review

PROJECT: DEIS: Coast Guard ALMRI

STATE ID: GA960807012

CFDA#:

The State level review of the above referenced proposal has been completed. This proposal has been found to be consistent with those state or regional goals, policies, plans, fiscal resources, criteria for Developments of Regional Impact (DRI), environmental impacts, federal executive orders, acts and/or rules and regulations with which the state is concerned. This memorandum and its enclosures must be SENT TO THE FEDERAL FUNDING AGENCY. Thank you for your cooperation.

Additional Comments:

None.

TR/ac

ENCL: EPD/Director's Office, August 8, 1996

Form SC-4
January 1995

AN EQUAL OPPORTUNITY EMPLOYER

254 WASHINGTON ST., S.W. • ATLANTA, GEORGIA 30334-8500

GEORGIA STATE CLEARINGHOUSE MEMORANDUM
EXECUTIVE ORDER 12372 REVIEW PROCESS

TO: Tripp Reid, Administrator
Georgia State Clearinghouse

FROM: MR. BRUCE OSBORN
DNR/EPD/DIRECTOR'S OFFICE

SUBJECT: Executive Order 12372 Review

PROJECT: DEIS: Coast Guard ALMRI

STATE ID: GA960807012

DATE: 5/16/95

- This notice is considered to be consistent with those state or regional goals, policies, plans, fiscal resources, criteria for developments of regional impact, environmental impacts, federal executive orders, acts and/or rules and regulations with which this organization is concerned.

This notice is not consistent with:

- The goals, plans, policies, or fiscal resources with which this organization is concerned. (Line through inappropriate word or words and prepare a statement that explains the rationale for the inconsistency. Additional pages may be used for outlining the inconsistencies).
- The criteria for developments of regional impact, federal executive orders, acts and/or rules and regulations administered by your agency. Negative environmental impacts or provision for protection of the environment should be pointed out. (Additional pages may be used for outlining the inconsistencies).
- This notice does not impact upon the activities of the organization.

Form SC-3
January 1995

GEORGIA STATE CLEARINGHOUSE MEMORANDUM
EXECUTIVE ORDER 12372 REVIEW PROCESS

TO: Tripp Reid, Administrator
Georgia State Clearinghouse

FROM: MR. BRUCE OSBORN
DNR/EPD/DIRECTOR'S OFFICE

SUBJECT: Executive Order 12372 Review

PROJECT: DEIS: Coast Guard ALMRI

STATE ID: GA960807012

DATE: 5/16/95

RECEIVED
ENVIRONMENTAL PROTECTION DIV.
DIRECTOR'S OFFICE

This notice is considered to be consistent with those state or regional goals, policies, plans, fiscal resources, criteria for developments of regional impact, environmental impacts, federal executive orders, acts and/or rules and regulations with which this organization is concerned.

This notice is not consistent with:

- The goals, plans, policies, or fiscal resources with which this organization is concerned. (Line through inappropriate word or words and prepare a statement that explains the rationale for the inconsistency. Additional pages may be used for outlining the inconsistencies).
- The criteria for developments of regional impact, federal executive orders, acts and/or rules and regulations administered by your agency. Negative environmental impacts or provision for protection of the environment should be pointed out. (Additional pages may be used for outlining the inconsistencies).
- This notice does not impact upon the activities of the organization.

Form SC-3
January 1995



MARYLAND *Office of Planning*

Parris N. Glendening
Governor

Ronald M. Kreimer
Director

August 9, 1996

Commander R.A. Rooth
Commandant
United States Coast Guard Headquarters
2100 2nd St. SW
Washington, DC 20593-0001

STATE CLEARINGHOUSE REVIEW

State Application Identifier: MD960802-0689
Project Description: Draft Environmental Impact Statement: Atlantic Protected Living
Marine Resources Initiative
State Clearinghouse Contact: Bob Rosenbush

Dear Commander Rooth:

This is to acknowledge receipt of the referenced project. We are providing notice of the project to State and local public officials via *The Intergovernmental Monitor* for their information.

The applicant is requested to complete the enclosed form and return it to the State Clearinghouse upon receipt of notification that the project has been approved or not approved.

Please be assured that all intergovernmental review requirements have been met in accordance with the Maryland Intergovernmental Review and Coordination Process (COMAR 14.24.04).

Sincerely,

William G. Carroll
Manager, Plan and Project Review

WGC:BR:mds

Enclosure

(* indicates with attachments)



MARYLAND Office of Planning

Parris N. Glendening
Governor

Ronald M. Kreimer
Director

MEMORANDUM

Please complete this form and return it to the State Clearinghouse upon receipt of notification that the project has been approved or not approved by the approving authority.

TO: Maryland State Clearinghouse
Maryland Office of Planning
301 West Preston Street
Room 1104
Baltimore, MD 21201-2365

DATE: _____
(Please fill in the date form completed)

FROM: _____
(Name of person completing this form.)

PHONE: (____) _____
(Area Code & Phone number)

RE: State Application Identifier: MD960802-0689
Project Description: Draft Environmental Impact Statement: Atlantic Protected Living Marine Resources Initiative

PROJECT APPROVAL

This project/plan was:

Approved Approved with Modification Disapproved

Name of Approving Authority:

Date Approved:

FUNDING APPROVAL

The funding (if applicable) has been approved for the period of

_____, 199__ to _____, 199__ as follows:

Federal: \$ _____	Local: \$ _____	State: \$ _____	Other: \$ _____
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OTHER

Further comment or explanation is attached

James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
Richard E. Rogers, Jr., Acting Director



MEMORANDUM

TO: Chrys Baggett
State Clearinghouse

FROM: Melba McGee ✓
Environmental Review Coordinator

RE: ⁰¹³⁸ 97-~~0188~~ DEIS US Coast Guard Atlantic Protected Living Marine
Resources Initiative

DATE: September 17, 1996

The Department of Environment, Health, and Natural Resources has reviewed the proposed information. The attached comments are for the applicant's consideration.

Thank you for the opportunity to review.

attachments

RECEIVED

SEP 18 1996

N.C. STATE CLEARINGHOUSE

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Coastal Management

James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
Roger N. Schechter, Director



MEMORANDUM

TO: Melba McGee, DEHNR Policy and Development

FROM:  Steve Benton, Division of Coastal Management

DATE: September 4, 1996

REFERENCE: SCH97-⁰¹³⁸~~0188~~ DEIS U.S. Coast Guard Atlantic Protected Living Marine Resources
(APLMR) Initiative

The Division of has reviewed the referenced document submitted by the U.S. Coast Guard. The DEIS describes a detailed proposal developed to help conserve and enhance protected species while fulfilling the missions of the Coast Guard. The initiative will consist of an internal program, and a conservation program that involves interaction with other federal and state agencies. We are pleased that the Coast Guard's is taking this initiative to integrate conservation measures into its operations and procedures. If at any time development or new fisheries regulation associated with this initiative is expected to occur in or affect the waters or coastal resources of North Carolina, a consistency determination pursuant to 15 CFR 930 Subpart C, Consistency for Federal Activities, may be required. In addition, we strongly encourage the Coast Guard to work closely with our Division of Marine Fisheries regarding development and implementation of specific actions that would involve North Carolina fisheries resources. Thank you for the opportunity to review this proposal.

PS - we would appreciate a copy of the final document for our records

cc: Dennis Spitzbergen, NC Division of Marine Fisheries

P.O. Box 27687,
Raleigh, North Carolina 27611-7687
Voice 919-733-2293



FAX 919-733-1495
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☒ North Carolina Wildlife Resources Commission ☒

512 N. Salisbury Street, Raleigh, North Carolina 27604-1188, 919-733-3391
Charles R. Fullwood, Executive Director

MEMORANDUM

TO: Melba McGee
Office of Legislative and Governmental Affairs

FROM: Franklin T. McBride, Manager *FTM*
Habitat Conservation Program

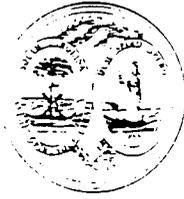
DATE: September 11, 1996

SUBJECT: Draft EIS for the U.S. Coast Guard Atlantic Protected Living Marine Resources (APLMR) Initiative

The Wildlife Resources Commission has reviewed the subject DEIS and professional biologists on our staff are familiar with the subject proposed activities. Our comments are provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Coastal Area Management Act (G.S. 113A-100 through 113A-128).

We concur with the evaluation of the two alternatives and we support the preferred alternative, which is to implement the initiative. The protective measures addressed in the initiative will greatly benefit marine organisms, especially those designated under the Endangered Species Act and the Marine Mammal Protection Act.

Thank you for the opportunity to review and comment on this proposed project. If we can provide further assistance, please call on us.



State of South Carolina
Office of the Governor

DAVID M. BEASLEY
GOVERNOR

OFFICE OF EXECUTIVE
POLICY AND PROGRAMS

August 8, 1996

Mr. T. J. Meyers
Captain, United States Coast Guard
Chief, Office of Aids to Navigation
U. S. Department of Transportation
2100 Second Street S.W.
Washington, DC 20593-0001

Project Name: Draft Environmental Impact Statement for the U. S. Coast Guard Atlantic Protected Living Marine Resources (APLMR) Initiative

Project Number: SC960811-143

Dear Mr. Meyers,

The Grant Services Unit, Office of the Governor, has conducted an intergovernmental review on the above referenced activity as provided by Presidential Executive Order 12372. All comments received as a result of the review are enclosed for your use.

The State Application Identifier number indicated above should be used in any future correspondence with this office. If you have any questions call me at (803) 734-0485.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodney P. Grizzle".

Rodney P. Grizzle
Grants Services Supervisor

Enclosures



Office of the Governor • Grant Services
South Carolina Project Notification and Review

1205 Pendleton Street
Room 477
Columbia, SC 29201

State Application Identifier SC960811-143
Suspense Date 9/2/96

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Stan M. McKinney
Office of the Adjutant General Emergency Preparedness Division
Office of the Adjutant General

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Should you have no comment, please return the form signed and dated

If you have any questions, call me at (803) 734-0495.

RECEIVED
Rodney Grizzle
SEP 03 1996

- Project is consistent with our goals and objectives
- Request a conference to discuss comments.
- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

GRANT SERVICES

Signature: <u><i>[Signature]</i></u>	Date: <u>8-27-96</u>
Title: <u>Asst. Dir.</u>	Phone: <u>4-8020</u>



Office of the Governor • Grant Services
 South Carolina Project Notification and Review
 1205 Pendleton Street
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Beth McClure
 S.C. Department of Parks, Recreation and Tourism

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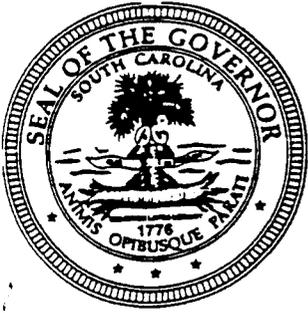
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 AUG 21 1996
 Rodney Grizzle
GRANT SERVICES

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- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

Signature: <u>Beth McClure</u>	Date: <u>8/19/96</u>
Title: <u>Director, EPA Office</u>	Phone: <u>4-0176</u>



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 Rodney Grizzle
 GRANT SERVICES

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Please discontinue sending projects with this CFDA# to our office for review.

Comments on proposed Application is as follows:

Signature: <u>Earl F. Brown, Jr.</u>	Date: <u>8-21-96</u>
Title: <u>Executive Assistant, External Affairs</u>	Phone: <u>253-6322</u>



Office of the Governor • Grant Services
 South Carolina Project Notification and Review
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Olney England
 Office Of Community Grant Program

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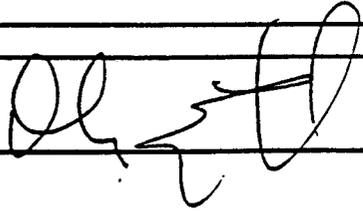
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Rodney Grizzle

SEP 24 1996

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 GRANT SERVICES

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- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

Signature: <u></u>	Date: <u>8/25/96</u>
Title: _____	Phone: _____



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 South Carolina Project Notification and Review
 1205 Pendleton Street
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 Columbia, SC 29201

State Application Identifier SC960811-143
Suspense Date 9/2/96

Ronald E. Mitchum
 Berkeley-Charleston-Dorchester Council of Governments

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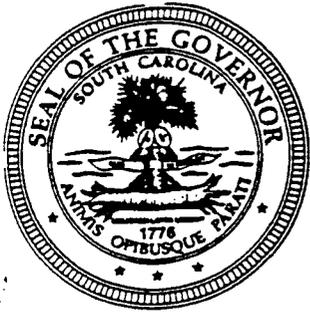
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If you have any questions, call me at (803) 734-0495.

RECEIVED
 Rodney Grizzle
 AUG 23 1996
GRANT SERVICES

- Project is consistent with our goals and objectives.
- Request a conference to discuss comments.
- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

Signature: <u>Ronald E. Mitchum</u>	Date: <u>8/2/96</u>
Title: <u>Executive Director</u>	Phone: <u>803/529-0400</u>



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 1205 Pendleton Street
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State Application Identifier SC960811-143
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Mr. David Thompkins
 South Carolina Department of Agriculture

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RECEIVED

Redney Grizzle

AUG 23 1996

If you have any questions, call me at (803) 734-0495.

GRANT SERVICES

- Project is consistent with our goals and objectives.
- Request a conference to discuss comments.
- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

Signature: <u>David L. Long</u>	Date: <u>8-21-96</u>
Title: <u>Assistant Commissioner</u>	Phone: <u>734-2210</u>



Office of the Governor • Grant Services
 South Carolina Project Notification and Review
 1205 Pendleton Street
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James Hugh Ryan
 S. C. Forestry Commission

AUG 19 1996

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RECEIVED
 Rodney Grizzle
 AUG 28 1996
 GRANT SERVICES

Project is consistent with our goals and objectives.

Request a conference to discuss comments.

Please discontinue sending projects with this CFDA# to our office for review.

Comments on proposed Application is as follows:

Signature: <u>Joe M. Rucklidge</u>	Date: <u>8-27-96</u>
Title: <u>DIVISION DIRECTOR, ADMINISTRATION</u>	Phone: <u>896-8800</u>



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GOVERNOR'S OFFICE
DIVISION ON AGING

Rodney Jenkins
Division on Aging

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If you have any questions, call me at (803) 734-0495.

GRANT SERVICES
Rodney Jenkins

- Project is consistent with our goals and objectives.
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- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

Signature: <u>Rodney C. Jenkins</u>	Date: <u>8/19/96</u>
Title: <u>Coord. - Fiscal Operation</u>	Phone: <u>737-7484</u>



Office of the Governor • Grant Services

South Carolina Project Notification and Review

1205 Pendleton Street
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Larry Setzler
South Carolina State Ports Authority

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GRANT SERVICES

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- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

Signature: <u>Larry W. Setzler</u>	Date: <u>8-19-96</u>
Title: <u>ENGINEERING PROJECT MANAGER</u>	Phone: <u>803-856-7051</u>



Office of the Governor • Grant Services
 South Carolina Project Notification and Review
 1205 Pendleton Street
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State Application Identifier SC960811-143
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Steve Davis
 S.C. Department of Health and Environmental Control

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 AUG 22 1996
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- Request a conference to discuss comments.
- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

Signature: 	Date: <u>8/20/96</u>
Title: _____	Phone: _____



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Stan M. McKinney
 Office of the Adjutant General
 Emergency Preparedness Division
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Signature: <u>[Signature]</u>	Date: <u>8-27-96</u>
Title: <u>Asst. Dir.</u>	Phone: <u>4-8020</u>



Office of the Governor • Grant Services
South Carolina Project Notification and Review

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S.C. Department of Parks, Recreation and Tourism

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Comments on proposed Application is as follows:

Signature: <u>Beth McClure</u>	Date: <u>8/19/96</u>
Title: <u>Director, EOP Office</u>	Phone: <u>4-0176</u>



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 South Carolina Project Notification and Review
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Signature: Earl F. Brown, Jr.

Date: 8-21-96

Title: Executive Assistant, Internal Affairs

Phone: 253-6322



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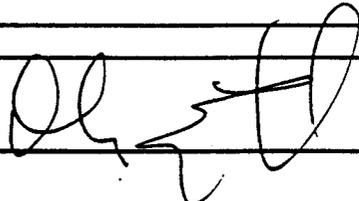
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Title: _____	Phone: _____

AUG 27 1996



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- Comments on proposed Application is as follows:

Signature: <u>David L. Long</u>	Date: <u>8-21-96</u>
Title: <u>Assistant Commissioner</u>	Phone: <u>734-2210</u>



Office of the Governor • Grant Services
South Carolina Project Notification and Review

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James Hugh Ryan
S. C. Forestry Commission

AUG 19 1996

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Rodney Grizzle
AUG 28 1996
GRANT SERVICES

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Please discontinue sending projects with this CFDA# to our office for review.

Comments on proposed Application is as follows:

Signature: _____

Joe M. Beckwith

Date: _____

8-27-96

Title: _____

DIVISION DIRECTOR, ADMINISTRATION

Phone: _____

896-8800



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South Carolina Project Notification and Review

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GOVERNOR'S OFFICE
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Rodney Jenkins
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Signature: <u>Rodney C. Jenkins</u>	Date: <u>8/19/96</u>
Title: <u>Coord. - Fiscal Operation</u>	Phone: <u>737-7484</u>



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Larry Setzler
 South Carolina State Ports Authority

The Grant Services Unit, Office of the Governor is authorized to operate the South Carolina Project Notification and Review System (SCPQRS). Through the system the appropriate state and local officials are given the opportunity to review, comment, and be involved in efforts to obtain and use federal assistance, and to assess the relationship of proposals to their plans and programs.

Please review the attached information, mindful of the impact it may have on your agency's goals and objectives. Document the results of your review in the space provided. Return your response to us by the suspense date indicated above. Your comments will be reviewed and utilized in making the official state recommendation concerning the project. The recommendation will be forwarded to the cognizant federal agency.

Should you have no comment, please return the form signed and dated.

If you have any questions, call me at (803) 734-0495.

RECEIVED
 Rodney Grizzle
 20 1996

- Project is consistent with our goals and objectives.
- Request a conference to discuss comments.
- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

GRANT SERVICES

Signature: <u>Larry W. Setzler</u>	Date: <u>8-19-96</u>
Title: <u>ENGINEERING PROJECT MANAGER</u>	Phone: <u>803-856-7051</u>



Department of Health and Environmental Control
1362 McMillan Avenue, Suite 400
Charleston, SC 29405
(803)744-5838 Fax (803)744-5847

Commissioner: Douglas E. Bryant

Board: John H. Burriss, Chairman
William M. Hull, Jr., MD, Vice Chairman
Roger Leaks, Jr., Secretary

Richard E. Jabbour, DDS
Cyndi C. Mosteller
Brian K. Smith
Rodney L. Grandy

Promoting Health, Protecting the Environment

Office of Ocean and Coastal Resource Management

H. Wayne Beam, Ph. D., Deputy Commissioner

Christopher L. Brooks, Assistant Deputy Commissioner

(803) 744-5838

(803) 744-5847 (fax)

August 26, 1996

Mr. T. J. Meyers
Captain, United States Coast Guard
U.S. Department of Transportation
U.S. Coast Guard
2100 Second Street, S.W.
Washington, DC 20593-0001

Re: U.S. Dept. Of Transportation
U.S. Coast Guard (DEIS)
Atlantic Protected Living
Marine Resources Initiative
Various Counties
Federal Consistency

Dear Mr. Meyers:

The staff of the Office of Ocean and Coastal Resource Management (OCRM) certifies that the above referenced project is consistent with the Coastal Zone Management Program.

Interested parties are provided ten days from receipt of this letter to appeal the action of the OCRM.

Sincerely,



Robert D. Mikell
Director of Planning and
Federal Certification

JHA
JHA:24588:C:js

cc: Dr. H. Wayne Beam
Mr. Christopher L. Brooks
Mr. H. Stephen Snyder



Office of the Governor • Grant Services
South Carolina Project Notification and Review

1205 Pendleton Street
Room 477
Columbia, SC 29201

State Application Identifier SC960811-143
Suspense Date 9/2/96

Steve Davis
S.C. Department of Health and Environmental Control

The Grant Services Unit, Office of the Governor is authorized to operate the South Carolina Project Notification and Review System (SCPQRS). Through the system the appropriate state and local officials are given the opportunity to review, comment, and be involved in efforts to obtain and use federal assistance, and to assess the relationship of proposals to their plans and programs.

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Should you have no comment, please return the form signed and dated.

If you have any questions, call me at (803) 734-0495.

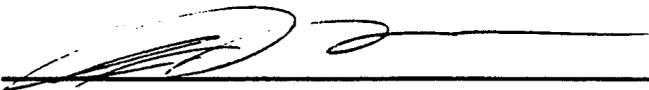
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Rodney Grizzle
JUG 22 1996
GRANT SERVICES

Project is consistent with our goals and objectives.

Request a conference to discuss comments.

Please discontinue sending projects with this CFDA# to our office for review.

Comments on proposed Application is as follows:

Signature: 	Date: <u>8/22/96</u>
Title: _____	Phone: _____



Office of the Governor • Grant Services
South Carolina Project Notification and Review

1205 Pendleton Street
Room 477
Columbia, SC 29201

State Application Identifier SC960811-143
Suspense Date 9/2/96

Ronald E. Mitchum
Berkeley-Charleston-Dorchester Council of Governments

The Grant Services Unit, Office of the Governor is authorized to operate the South Carolina Project Notification and Review System (SCPQRS). Through the system the appropriate state and local officials are given the opportunity to review, comment, and be involved in efforts to obtain and use federal assistance, and to assess the relationship of proposals to their plans and programs.

Please review the attached information, mindful of the impact it may have on your agency's goals and objectives. Document the results of your review in the space provided. Return your response to us by the suspense date indicated above. Your comments will be reviewed and utilized in making the official state recommendation concerning the project. The recommendation will be forwarded to the cognizant federal agency.

Should you have no comment, please return the form signed and dated

If you have any questions, call me at (803) 734-0495.

RECEIVED
Rodney Grizzle
AUG 23 1996
GRANT SERVICES

- Project is consistent with our goals and objectives
- Request a conference to discuss comments.
- Please discontinue sending projects with this CFDA# to our office for review.
- Comments on proposed Application is as follows:

Signature: <u>Ronald E. Mitchum</u>	Date: <u>8/2/96</u>
Title: <u>Executive Director</u>	Phone: <u>803/529-0400</u>



SEP 4 1996

Public & Inter-governmental Affairs

George Allen
Governor

Becky Norton Dunlop
Secretary of Natural
Resources

COMMONWEALTH of VIRGINIA

DEPARTMENT OF CONSERVATION AND RECREATION

203 Governor Street, Suite 326

TDD (804) 786-2121 Richmond, Virginia 23219-2010 (804) 786-2556 FAX: (804) 371-7899

MEMORANDUM

DATE: August 30, 1996

TO: Thomas M. Felvey, Department of Environmental Quality

FROM: *J.R. Davy, Jr.*
John R. Davy, Jr., Planning Bureau Manager

SUBJECT: DEQ#96-132F, DEIS Atlantic Protected Living Marine Resources (APLMR) Initiative

The Department of Conservation and Recreation (DCR) has reviewed the Draft Environmental Impact Statement (DEIS) for the Atlantic Protected Living Marine Resources (APLMR) Initiative. We commend the Coast Guard for your effort toward resource protection.

DCR maintains information on colonial water birds that utilize beaches for nesting. We also maintain information on other rare, threatened and endangered plant and animal species that utilize the beach habitat. DCR is concerned that the use of off-road vehicles on beaches may adversely affect critical habitat necessary for these plant and animal species. If an activity involves the use of off-road vehicles on beaches in Virginia, DCR recommends contacting the state and federal agencies responsible for maintaining information on these resources:

1

Virginia Department of Conservation and Recreation
 Division of Natural Heritage
 Attn: Lesa Berlinghoff
 1500 E. Main Street, Suite 312
 Main Street Station
 Richmond, VA 23219

Virginia Department of Game and Inland Fisheries
 Attn: Ray Fernald
 4010 W. Broad Street
 Richmond, VA 23230

Virginia Department of Agriculture and Consumer Services
 Attn: John Tate
 P.O. Box 1163
 Richmond, VA 23209

United States Fish and Wildlife Service
Attn: Karen Mayne
Mid-County Center
U.S. Route 17
P.O. Box 480
White Marsh, VA 23183

New and updated information is continually added to BCD. Please contact DCR for an update on this natural heritage information if a significant amount of time passes before it is utilized.

If you have any questions or concerns, feel free to contact me at 804-371-2708. Thank you for the opportunity to review the DEIS.

The proposed project is not anticipated to have any adverse impacts on existing or planned recreational facilities nor will it impact any streams on the National Park Service Nationwide Inventory, Final List of Rivers, potential Scenic Rivers or existing or potential State Scenic Byways.

Thank you for the opportunity to comment on this project.

/jeg

cc: Cindy Schulz, USFWS
Ray Fernald, VDGIF
Rebecca Wadja, VDGIF
John Tate, VDACS



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

George Allen
Governor

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 10009, Richmond, Virginia 23240

Fax (804) 698-4500 TDD (804) 698-4021

<http://www.deq.state.va.us>

September 13, 1996

Thomas L. Hopkins
Director

(804) 698-4000

1-800-592-5482

Becky Norton Dunlop
Secretary of Natural Resources

Commandant (G-OPN-1)
U.S. Coast Guard Headquarters
2100 Second Street S.W.
Washington, D.C. 20593-0001
Attention: CDR R. Rooth

RE: Draft Environmental Impact Statement Atlantic Protected
Living Marine Resources (APLMR) Initiative

Dear CDR Rooth:

The Commonwealth of Virginia Agencies have completed their review of the draft Environmental Impact Statement for the noted actions. The Department of Environmental Quality is responsible for coordinating Virginia's review of federal environmental documents and responding to the appropriate officials on behalf of the Commonwealth. The following planning district and agencies participated in this review:

Department of Environmental Quality;
Department of Conservation and Recreation; and
Hampton Roads Planning District Commission.

In addition, the Marine Resources Commission and the Virginia Institute of Marine Science participated in the Commonwealth's review of the Environmental Assessment dated 22 September 1995. The Department of Game and Inland Fisheries and the Accomac-Northampton Planning District Commission were also invited to comment through the Department of Environmental Quality.

The proposed action has been developed to improve efforts at conservation and recovery of populations of protected marine animals and sea turtles in U.S. waters of the Atlantic Ocean. The action would result in the U.S. Coast Guard adopting and implementing the Coast Guard Atlantic Protected Living Marine Resources Initiative. This is a two part initiative with internal guidelines for the U.S. Coast Guard to adhere to and a

conservation program with interactions with federal and state agencies and the public to promote conservation of protected species.

The Commonwealth offers the following comments and recommendations:

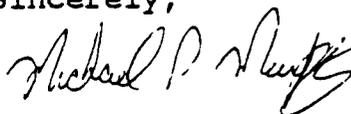
1. **Natural Heritage Resources.** The Department of Conservation and Recreation (DCR) would appreciate the opportunity to review any construction project proposals in the Commonwealth. While they do not maintain information on marine species such as marine mammals and turtles, they offer information on potential impacts to rare shoreline plant and animal species and significant communities. DCR would be happy to provide natural heritage information which may enhance the U. S. Coast Guard's ability to avoid and minimize harm to protected species. 1

Activities in the Commonwealth should be coordinated with the U. S. Fish and Wildlife Service, the Virginia Department of Game and Inland Fisheries, and the Virginia Department of Agriculture and Consumer Services, as these agencies have purview over threatened and endangered species in Virginia. 2

2. **Federal Consistency Certification.** Pursuant to the Coastal Zone Management Act of 1972, as amended, the proposed activities must be operated and constructed in a manner which is consistent with the Virginia Coastal Resources Management Program (VCRMP). In this regard, the U. S. Coast Guard must receive all applicable permits and approvals listed under the Enforceable Programs of the VCRMP (Attached). 3

Thank you for the opportunity to comment on the Environmental Assessment and proposed Finding of No Significant Impact for these activities. The comments of the reviewing agencies for this DEIS and the previous EA are attached for your review and consideration. The Commonwealth appreciates your continuing efforts to protect living marine resources over the entire length of the U.S. Atlantic coast from the Maine/Canada border to Key West, Florida.

Sincerely,



Michael P. Murphy
Director, Grants Management
and Intergovernmental Affairs

CDR R. Rooth
Page Three

Attachments

cc: Arthur L. Collins, Hampton Roads PDC
John Davy, Jr., DCR
Raymond Fernald, DGIF
Thomas A. Bernard, Jr., VIMS
Chris W. Frye, MRC
Roy Seward, VDACS
Traycie West, DEQ-TRO



Rec'd. by Dept. of
Environmental Quality
DR. ALAN P. KRASNOFF, CHAIRMAN • JOE S. FRANK, VICE CHAIRMAN • ROBERT M. MURPHY, TREASURER
ARTHUR L. COLLINS, EXECUTIVE DIRECTOR SECRETARY

AUG 21 1996

August 20, 1996

Public & Inter-
governmental Affairs

Mr. Thomas M. Felvey
Environmental Technical Services Administrator
Department of Environmental Quality
629 E. Main Street
Richmond, Virginia 23219

Re: USCG Marine Resources Initiative
EIS (ENV:GEN)

Dear Mr. Felvey:

Pursuant to your request of August 8, 1996, the staff of the Hampton Roads Planning District Commission has reviewed the NEPA Draft Environmental Impact Statement for the U.S. Coast Guard Atlantic Protected Living Marine Resources (APLMR) Initiative.

Based on this review, it appears that the proposed program will not have a significant adverse environmental impact within the Hampton Roads Region. The proposal does not appear to conflict with any local government plans.

We appreciate the opportunity to participate in this review. If you have questions, please do not hesitate to call.

Sincerely,

Arthur L. Collins
Executive Director/Secretary

JMC:fh

CHESAPEAKE

Clarence J. Cutler, *Interim City Manager*
Dr. Alan P. Krasnoff, *Council Member*
W. Joe Newman, *Council Member*

FRANKLIN

Robert E. Harrell, *Vice-Mayor*
Rowland L. Taylor, *City Manager*

GLOUCESTER COUNTY

Graham C. Blake, *Chairman*
William H. Whitley, *County Administrator*

HAMPTON

James L. Eason, *Mayor*
Robert J. O'Neill, Jr., *City Manager*
Joseph H. Spencer, II, *Council Member*

ISLE OF WIGHT COUNTY

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O. A. Spady, *County Supervisor*

JAMES CITY COUNTY

David L. Sisk, *County Supervisor*
Sanford B. Wanner, *Acting County Administrator*

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Joe S. Frank, *Council Member*
Edgar E. Maroney, *City Manager*

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Herbert M. Collins, Sr., *Council Member*
Paul D. Fraim, *Mayor*
James B. Oliver, Jr., *City Manager*
G. Conroy Phillips, *Council Member*

POQUOSON

L. Cornell Bucher, *Mayor*
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Myies E. Standish, *City Manager*

VIRGINIA BEACH

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Robert K. Dean, *Council Member*
W. W. Harrison, Jr., *Council Member*
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Meyera E. Oberndorf, *Mayor*
Nancy K. Parker, *Council Member*
James K. Spore, *City Manager*

WILLIAMSBURG

Jackson C. Tuttle, II, *City Manager*
Jeanne Zeidler, *Council Member*

YORK COUNTY

Sheila S. Noll, *County Supervisor*
Daniel M. Stuck, *County Administrator*

FOLEY, HOAG & ELIOT LLP

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BOSTON, MASSACHUSETTS 02109-2170

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IN WASHINGTON, D.C.

1818 L STREET, N.W.

SUITE 860

WASHINGTON, D.C. 20036

TELEPHONE: (202) 778-8808

September 16, 1996

BY HAND

Commandant (G-OPN-1)
U.S. Coast Guard Headquarters
2100 2nd Street SW
Washington, DC 20593-0001
Attention: Cdr. R. Rooth

Re: Comments on NEPA Draft Environmental Impact Statement for the U.S. Coast Guard Atlantic Protected Living Marine Resources (APLMR) Initiative dated July 31, 1996

Dear Cdr. Rooth:

On behalf of our clients, Richard Max Strahan and Greenworld, Inc., we appreciate the opportunity to comment on the above-referenced Draft Environmental Impact Statement ("DEIS"). In short, while the DEIS correctly recognizes that current situations with respect to the environmental impacts of the Coast Guard's operations in the Atlantic is unacceptable, the DEIS fails to consider numerous available alternatives to the proposed action in a way that allows a meaningful evaluation of the relative environmental impacts of changes from this status quo. We respectfully request that the Coast Guard revise the DEIS as required by 40 CFR 1502.9(a) to (a) analyze the environmental impacts of the Coast Guard's operations, not merely its conservation efforts, (b) consider other alternatives, including but not limited to regulation and control of non-Coast Guard vessels and all of the recommendations presented by the National Marine Fisheries Service ("NMFS") in its July 22, 1996 Biological Opinion ("BO"), and (c) assess rigorously the effects of the various alternatives on the survival of endangered whales and other marine mammals.

Our more specific comments follow:

- I. The DEIS should have focused on the impacts of Coast Guard operations and the operation of non-Coast Guard vessels, not the mitigation program described in the APLMR Initiative.

1
This NEPA process is a direct result of an Order issued by the Court on May 19, 1995 in Strahan v. Linnon, C.A. No. 94-11128-DPW (D.Mass) ("Order"). However, the DEIS does not fulfill either the Coast Guard's NEPA obligations or the requirements of

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U.S. Coast Guard Headquarters
September 16, 1996
Page 2

that Order. Accordingly, the DEIS should be revised.

In Strahan v. Linnon, the Court determined that NEPA applies to ongoing activities of federal entities such as the Coast Guard's activities off the East Coast of the United States. Order at 49. The Coast Guard itself indicated that it would examine under NEPA the "effects of its operations and the cumulative effects of operations of non-Coast Guard vessels in light of information and advice generated by the ESA consultation." See Coast Guard Memorandum Motion for Summary Judgment at 6. The Court then ordered the Coast Guard to prepare an Environmental Assessment ("EA") for "Coast Guard vessel operations." Order at 52.

2 The EA, entitled "Environmental Assessment of Potential Impacts of U.S. Coast Guard Activities Along the U.S. Atlantic Coast" also purported to evaluate the effects of Coast Guard operations.¹ The EA concluded that the Coast Guard's activities posed no significant adverse impact and proposed a FONSI. However, the Coast Guard withdrew the FONSI opinion in recognition of the significant adverse impacts posed by the Coast Guard operations and related cumulative effects. It then prepared the DEIS. Thus, the DEIS should have evaluated at least the same issues covered by the EA and as ordered by the Court.

3 Similarly, the Notice of Intent to prepare a Draft EIS published in the April 2, 1996 Federal Register, 61 Fed. Reg. 14590-91, also states that "[t]he DEIS will consider the cumulative impacts of Coast Guard assets operating together and in conjunction with other vessels."

1 Despite the directive to study Coast Guard operations and cumulative effects, the DEIS was prepared "backwards": rather than looking at the effects of operations, it purports to examine the environmental impacts of a mitigation program of those operations. By doing so, the DEIS downplays the impact on endangered whales caused by the current Coast Guard operations and other human interactions with endangered whales, and fails to examine reasonable alternatives to the current operations.

In addition, the DEIS did not evaluate the impacts of all

¹ We previously filed comments on the EA, which are incorporated herein by reference.

Coast Guard operations² or cumulative effects of Coast Guard and non-Coast Guard vessels,³ but rather focused on the incremental effects of Coast Guard vessels. The focus on incremental effects, as evidenced by the lack of real evaluation of the impact of non-Coast Guard vessels, again falls short of the mark the DEIS was required to meet and provides an insufficient background against which to judge the true environmental impacts of the status quo and its alternatives.

II. The DEIS fails to consider viable and reasonable alternatives to the No Action and Preferred Alternatives

The DEIS, like the EA that preceded it, does not attempt to evaluate reasonable alternatives against which the "Preferred" alternative can be compared. Proposing such options as ceasing all activity in the U.S. Coastal Waters, DEIS at 3-9, does not further the NEPA process. Instead, the Coast Guard should prepare a detailed evaluation of other, more reasonable alternatives, such as are presented below. In particular, there are a host of alternatives involving regulation of non-Coast Guard vessels and the "cumulative" effects of non-Coast Guard vessels.

Even though non-Coast Guard vessels comprise the vast majority of boats in the Atlantic, the Coast Guard only gives fleeting consideration to regulating such vessels as an alternative in the DEIS, despite its broad authority to do so. See DEIS at 3-7 - 3-8. With respect to non-Coast Guard vessels, the DEIS focused on "regattas" and other "marine events", and to a lesser extent vaguely-drafted provisions relating to warnings and education, but improperly eliminated the more direct speed, distance and other regulations that have a greater chance of preventing additional deaths from the evaluation.

² Among the aspects of Coast Guard operations that could have been considered are the instances where the Coast Guard failed to act, including the failure to enact distance rules, establish a program to avoid entanglements with fishing and lobstering gear, and realign or regulate the shipping lanes or otherwise restrict vessel traffic in critical whale habitat.

³ "Cumulative effects" are those effects of future state or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal activity subject to consultation. 50 CFR 402.02.

1. The Distance Rule

6 The DEIS should have evaluated the environmental effects of distance rules -- and the concomitant enforcement -- imposed on non-Coast Guard vessels. The Coast Guard has the authority to promulgate and enforce distance rules. There is little doubt that such rules are critical to the survival of endangered whales. Failure to consider a rule's effects here is one of the biggest omissions in this DEIS.⁴

7 The DEIS incorrectly asserts that because NMFS has proposed a distance rule (61 Fed. Reg. 41116 (August 7, 1996)), the Coast Guard need not consider promulgating or enforcing such rules in the DEIS. DEIS at 3-8. First, because the Coast Guard has the authority to promulgate distance rules on its own, the DEIS should consider the direct effects of such promulgation and subsequent enforcement. See DEIS Apps. G-H. Second, given the recent proposal by NMFS (and the existing Massachusetts rule) to enact a distance rule, which would be enforced by the Coast Guard, the DEIS should have considered the environmental effects of various strategies for distance rule enforcement effort. Third, the NEPA regulations require the Coast Guard to consider the environmental effects of the distance rule, even if it is promulgated by a different federal agency. See 40 CFR 1502.14(c) (Agencies shall "include reasonable alternatives not within the jurisdiction of the lead agency.") Finally, given that NMFS has proposed and withdrawn distance rules in the past, the Coast Guard cannot have confidence that a final distance rule from NMFS will ultimately issue. 8

9 The distance rule and associated enforcement efforts have the potential to be extremely effective, given their wide geographical reach. The DEIS incorrectly states that even if it considered this alternative, the rule would be limited to 3 nm from shore, except for US Flagged Vessels. DEIS at 3-8. This interpretation is directly contrary to the interpretation of NMFS: since 1988, the "territorial seas" of the United States extend twelve miles, not three miles offshore. See 61 Fed. Reg. 41116, 41122 (August 7, 1996); Presidential Proclamation 5928, dated December 27, 1988. In addition, regulations protecting marine mammals under the MMPA, which the Coast Guard must enforce, apply throughout the United States Exclusive Economic Zone ("EEZ"), or 200 miles off shore. Moreover, certain other

⁴ Recognizing that the BO was issued shortly before the DEIS, we recommend that the Coast Guard take the time to analyze the BO fully and propose other alternatives and analysis in a revised DEIS in the spirit of the BO.

vessels, including U.S. flagged vessels, are subject to the distance rule even beyond 200 miles. Given the extensive potential reach of a distance rule, this omission is significant, and flaws this DEIS.

10 Finally, the Coast Guard should have examined as an alternative going beyond NMFS's proposed distance rule, which contains no protection for any marine mammal other than right whales. Id. The DEIS should have examined as an alternative limits of 500 yards for right whales and 100 yards for all other whales. The Coast Guard has been held to this standard by NMFS⁵; applying the same standards to other vessels makes perfect sense and is consistent with the Coast Guard's obligations to enforce the MMPA and the ESA. In fact, because the Coast Guard arguably employs the most careful and skillful vessel operators, one may infer that a 100 yard buffer zone around non-Right Whales is even more important for non-Coast Guard vessels than it is for Coast Guard vessels.

2. Speed limits

11 The DEIS improperly failed to consider the environmental effects of imposing -- and enforcing -- speed limits on non-Coast Guard vessels, particularly in critical habitat or when endangered whales have been spotted. Speed limits are a simple and practical way to reduce whale strikes, and are used in many other contexts to protect health, safety, and the environment. This is why NMFS imposed such restrictions upon the Coast Guard. See BO at 27-28, item 5. If the speed limits are effective to reduce whale mortalities on vessels such as Coast Guard cutters staffed by highly trained sailors, they should have an even greater effect on vessels with untrained staff who are less likely to otherwise avoid whales. Note that an evaluation of the effect of speed limits is only possible when a specific program and speed is evaluated, rather than general programs by which mariners should "reduce" speeds.

3. Shipping Lanes/Vessel Routing

12 The DEIS fails to consider the alternative of routing vessels out of areas, including critical habitats, when whales have been observed or when they are likely to be found. The Coast Guard influences to a great extent the location shipping lanes there, and could work to reroute vessels during certain times of the year to avoid interactions. The DEIS should have considered this alternative. See BO at 29 item 11, directing the

⁵ See BO at 28, item 7.

Coast Guard to work to establish traffic routes to avoid critical habitat and high use areas.

4. Other issues

13 The Coast Guard should consider the effects of a comprehensive whale tracking and habitat surveillance program so that vessels can be directed away from whales, particularly in critical habitat, so that the number of interactions decreases. See BO at 29, item 8. Mitigation and conservation methods will be effective only when the Coast Guard can accurately predict or determine where and when whales will be present.

14 The Coast Guard should consider broadening the definition of "marine events" which require a permit -- and therefore are subject to greater controls-- from the Coast Guard interim rule published on June 26, 1996 (61 Fed. Reg. 33027).⁶ The Coast Guard has been required to conduct an ESA §7 consultation with NMFS regarding the definition before a final rule is issued; the DEIS should have considered the environmental effects of broadening the definition as part of the §7 consultation process. See BO at 29, item 10.

15 The Coast Guard should further evaluate the potential effects of imposing conditions through the Vessel Documentation and Inspection Program. The Coast Guard briefly touches on its operator licensing program, DEIS at 3-6, but does not discuss the alternative of attaching affirmative obligations and specific conditions to vessel licenses prohibiting activities that constitute harassing or otherwise endangering whales.

16 The Coast Guard should perform a "population viability analysis" to better quantify the effect of small numbers of deaths on a dwindling population with an increasingly homogeneous gene pool. It is difficult to design a program without an understanding of the ramifications of low numbers of whale deaths on species survival.

17 The Coast Guard should evaluate the sublethal effects of vessel traffic on whales and their habitats, e.g., whether such vessel traffic disturbs the plankton layer or whale feeding habits.

⁶ Indeed the interim final rule narrows the scope of activities subject to direct Coast Guard permitting, and imposes no affirmative obligations on permittees beyond having them state that they will conduct their activities in compliance with ESA and MMPA. 61 Fed. Reg. at 33033.

Additional alternatives are included in the attached memorandum prepared by Mr. Strahan. Mr. Strahan hereby petitions, pursuant to the Administrative Procedures Act, that the Coast Guard promulgate the Conservation plan in his memorandum as a regulation to protect marine animals.

III. The Coast Guard has failed to examine the environmental effects of the alternatives that are presented

18 The NEPA regulations require more than the generalizations that pervade the analysis of the alternatives in this DEIS. See 40 CFR 1502.14(a) ("[Agencies shall] rigorously explore and objectively evaluate all reasonable alternatives..."). Although it is easy to assert that having a lookout or training is better than not having a lookout or training, the DEIS does not attempt to quantify the benefit, or even to determine whether this benefit will be sufficient to prevent the further killing of endangered whales. For this reason, the DEIS is insufficient.

A. The DEIS fails to meaningfully evaluate the effects of the no-action alternative

The DEIS understates the obvious when it concludes that

continuing activities that do not focus on minimizing potentially adverse interactions with right whales is unacceptable. When added to other adverse effects, such as habitat degradation, strikes from other vessels, and entanglement in fishing gear, the No Action Alternative may significantly impact right whales and adversely affect other listed species.

NMFS stated more bluntly that "continued vessel and aircraft operations of the Coast Guard are likely to jeopardize the continued existence of the [right whale]." Letter from Rennie S. Hold, NMFS to Captain Creech, USCG (appended as portion of the BO, and attached as Ex. F to the DEIS.); see also BO at 24 (presenting conclusions of "jeopardy" opinion).

19 However, despite the undeniable conclusions presented by the Coast Guard and NMFS, the DEIS does not evaluate in detail the environmental effects of the No Action Alternative. For example, the DEIS does not quantify how many of the whales struck by vessels in the previous years could have been saved if some measures had been invoked to protect them. It also fails to
20 quantify the cumulative impact of the maritime fleet and Coast Guard operations on endangered whales. It fails to calculate the 21

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U.S. Coast Guard Headquarters
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Page 8

21 number of whales (if any) that could be killed or injured by maritime operations without jeopardizing the survival of the species. See also the attached comments of Mr. Strahan. Therefore, the DEIS is insufficient and should be revised.

B. The DEIS fails to meaningfully evaluate the effects of the APLMR Initiative.

22 The "preferred alternative", the APLMR Initiative, is too vague to allow a rigorous analysis of the environmental impacts associated with it on endangered whales. Until the alternative is better defined, it will be impossible to evaluate its environmental effect, and until the environmental effect can be evaluated, the obligations in NEPA have not been met.

The Coast Guard has failed to model or examine quantitatively the environmental effect of Coast Guard activities in the Atlantic, or of the APLMR initiative. Instead, all the Coast Guard can state is that the APLMR "should be more effective in protecting listed species and should help to prevent takings of listed species in the Atlantic." DEIS at 1-2. Although virtually any action is likely to be "more effective" at preventing additional whale deaths than the status quo of inaction, the critical sensitivity of endangered whales to even low numbers of additional killings, as described in the BO, means that "more effective" is not enough. Because the DEIS does not provide enough information to determine whether these programs will prevent additional whale deaths, it does not provide information as to whether the program will avoid the extinction of its intended beneficiary. Indeed, the DEIS does not attempt to determine how many additional whale deaths can be tolerated by the individual species, making any determination of the ramifications of the program impossible. This renders any conclusions as to whether the APLMR is an appropriate action with acceptable environmental impacts suspect.

Examples of vagueness abound in the Coast Guard's description of the preferred alternative. Several examples are presented below:

- 23 *
- The Commandant Instruction on Protected Living Marine Resources (App I), a four page memo, supposedly will serve "as a basis" for actual operational directives in the relevant Coast Guard Districts. DEIS at 3-2. Many of the directives themselves are not considered in the DEIS, because they have not yet been written. Directives, not the Protected Living Marine Resources Program memorandum, are what have potential substantive

effects on the survival of the endangered whales. Therefore, it is impossible to assess the effect of this element of the plan on the marine environment. In addition, the elements of the Protected Living Marine Resources Program are themselves vague, e.g. "take appropriate action after coordination with appropriate environmental resource agencies to formally develop, implement and document a successful protected living marine resource program." Also, the Coast Guard cannot leave its job to the Districts without ensuring a consistency of approach (e.g., compare DEIS J-10, par 6(D) and J-20, par 8(e)(2)).

- 24 * The "field training program" has not yet been developed, so its effectiveness cannot be gauged. DEIS at 3-2.
- 25 * The specifics of the various speed standards discussed at page 3-3 have not yet been developed, so their effectiveness cannot be gauged. DEIS at 3-3.
- 26 * The "enforcement" of the MMPA and the ESA referred to at p. 3-3 is vague or even contrary to the provisions of the MMPA and ESA and appears to have no provisions relating to keeping non-Coast Guard vessels a reasonable and prudent distance from the whales. E.g., DEIS at J-20 (allowing non-CG vessels to approach or remain within 100 yards of a whale). As NMFS recognized when it ordered the 500/100 yard limit for Coast Guard vessels, distance rules are critical to prevent harmful interactions with whales. For the Coast Guard to sanction whale interactions, even controlled, at distance of 100 yards, belies any statement of intent to enforce in a meaningful way the ESA and MMPA. E.g., DEIS at J-10, J-20 (recognizing that ESA and MMPA can be violated unintentionally, yet establishing as an enforcement policy that only intentional and knowing violations will be prosecuted)⁷

⁷ In general, the enforcement policy reflects an intent to prosecute only the most wilful and intentional ESA violations that the Coast Guard happens to be present to observe. See pp. J-10-J-11 (violations documented only if alleged violator knows of the violation and

- 27 * Public "education" programs are not adequately defined. DEIS 3-3.
- 28 * The criteria for when NAVTEX reports will be issued and how they will be used have not yet been developed. DEIS 3-4.
- 29 * The "guidance and direction" to USGC vessels has not been completed. DEIS 3-4.
- 30 * Informing mariners to "proceed with caution" in the vicinity of endangered whales without concomittant programs to prevent such mariners from taking or harassing whales or to take enforcement action against violators is potentially of no benefit at all. DEIS at 3-4. This is essentially a commitment only to ask mariners to avoid whales.
- 31 * The scope of "marine events" requiring a permit is subject to revision by the end of 1997. See BO at 29. The environmental effect of requiring a permit cannot be evaluated until the class of activities subject to regulation has been identified. DEIS at 3-7.

33 In addition, there is no timetable for enactment or enforcement of many of these provisions, nor is there a mention of the source or amount of funds to pay for these programs. Without funding or a definite timetable for full implementation, even sound ideas will have no substantive effect. Because much of this program has recently been implemented, or has yet to be implemented, it is critical for the Coast Guard to initiate a comprehensive data analysis performance evaluation. The effects of the program then need to be quantified and modeled and compared to a model predicting the maximum acceptable impact to the whales. If the performance of the program cannot be demonstrated to ensure the whales will no longer be in jeopardy, then the program must be revised. At that point, it would be appropriate to prepare a Supplemental EIS to evaluate the effects of the revised program.

32

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* * *

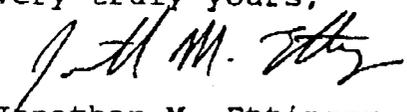
violator refused to stop activities after a direct warning, with special exemptions for whale watch boats).

Commandant (G-OPN-1)
U.S. Coast Guard Headquarters
September 16, 1996
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The Coast Guard's Atlantic Protected Living Marine Resources (APLMR) Initiative reflects the undeniable conclusion that continuation of the status quo is neither "practical" nor "reasonable." DEIS at 3-1. While it is gratifying to see the Coast Guard finally recognize that intensive action is required, APLMR represents only one alternative, and one which has not been demonstrated capable of preventing whale deaths from human interactions. Because other alternatives have not been considered and because the true environmental effects of the Initiative have not been measured, this DEIS fails to satisfy the requirements of NEPA. A revised draft should be issued considering other alternatives and presenting a more quantitative evaluation of the potential effects of the proposed action on the environment. In the interim, until an evaluation can be prepared that will demonstrate that not even a single additional right whale or other endangered whale will be taken, the Coast Guard should adopt more aggressive conservation measures in addition to the APLMR, including all recommendations in the BO. Any lesser activity places the survival of the endangered whales in question.

Thank you for the opportunity to comment on the DEIS. If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



Jonathan M. Ettlinger



Adam P. Kahn

Enclosure

cc: Richard Max Strahan

Richard Max Strahan

% Suite 223
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SUBJECT: Comments on Coast Guard dEIS

Obviously the dEIS is fatally flawed. Instead of being the required NEPA review of the impact of the Coast Guard's vessel related activities on the marine environment, and in particular on endangered marine wildlife, the dEIS is simply an offering and review of an already developed plan (or justification) by the Coast Guard of their largely already existing "living marine resources" program. This is not a NEPA review of Coast Guard vessel related activities. The dEIS calls for the de facto acceptance of this plan through no other analysis than "it is better to have any conservation plan than to have none at all" in its consideration of the current adverse impact of Coast Guard's activities on the marine environment. I guess the Coast Guard figures that by offering a review of a conservation program, based on an alluded to problem of vessels killing whales, they will be held to less of a rigorous standard of review (any conservation effort is good conservation effort) and avoid a critical assessment of their whale killing activities. 1

The dEIS wants to have the reader believe that "mitigation" of adverse activities to the environment is enough. The real issue is that modification of adverse activities to the environment must be "adequate" and, in this situation, to the point where no more Northern Right Whales are killed. 2

This dEIS simply fails and avoids any assessment of the adverse impact of Coast Guard vessel activities on marine wildlife and fails to propose any serious alternatives to those activities, that will adequately protect the Whale incorporating the Coast Guard's ESA, BA and BO in the attachments to the dEIS. It rarely references them and fails to use them for any substantive analysis of the impact of Coast Guard activities on the marine wildlife. 3 4

The dEIS refuses to assess the impact of the Coast Guard's Vessel Documentation and Inspection Program (neither does their BA) and the dEIS refuses to discuss the numbers and the cumulative impact of vessel and fishing gear activity off the U. S. coast. 5 6

A Supplemental EIS should be done in one year to evaluate all the "what ifs" on any conservation measures implemented by the Coast Guard. Because all the "recent" conservation efforts are still not implemented, untried and unproven, a record information gathering, reporting, 7 8

and assessing system should be implemented by the Coast Guard to evaluate the effectiveness of any conservation effort it adopts.

8

1. Preferred Alternative is devoid of appropriate analysis or any goal. What is the purpose of the alternative? Since the dEIS mistakenly focuses on a review of the impact on the environment of the Coast Guard's so called "conservation plans" instead of the Coast Guard's activities that are killing marine wildlife, it continues this lack of serious focus and analyses throughout the dEIS. This alternative does not quantitatively define what the threat is or what this alternative will achieve. This alternative has no merit except by comparison to the dEIS other alternatives, which purport to shut down all the activities of the Coast Guard. The only offered desirability of this alternative is that it will mitigate the impact of vessel operations, principally through good intentions and wishful thinking, and that it will not get in the way of the Coast Guard's "primary" and more serious duties.

9

This alternative —

a. fails to establish any goal, consistent with the requirements of the NMFS July 22 BO. to be achieved, including the obvious of preventing the Coast Guard, or its activities, from killing or injuring any more endangered marine wildlife, and especially the killing of even one more Northern Right Whale;

10

b. fails to adopt the goal, required by NMFS BO, that no more Northern Right Whales are to be killed by anyone, including the Coast Guard and it fails to assess whether the modification of Coast Guard activities will meet this goal, the BO requirement that no Coats Guard vessel strike any more great whales, not just Northern Right Whales.

11

c. fails to assess that the First District's current practice of encouraging and advising vessel operators to intentionally approach within 100 feet of any endangered whale, including Northern Right Whales, may actually harm endangered whales and is inconsistent with the requirements imposed on the Coast Guard's own vessel operations by NMFS July 22 BO;

12

d. fails to discuss the cost of the alternative or link available funding to any realistic performance of the alternative and fails to even raise the issue of what funding would be needed to achieve the ill defined point of the alternative;

13

e. fails at any quantitative assessment of the base line problem (how many whales are being killed) nor other related assessments (how many whales are nearly being struck) nor of the quantitative impact on this problem nor did they even attempt to inspect their own records on how many whales and turtles had historically been struck by Coast Guard vessels;

15

14

14
(CMT 10)

f. was not based on a consideration of the best scientific or commercial information available, the Coast Guard has no data base on whales nor any program to collect that data. What will be the impact of the preferred alternative.

17

g. offers limited and unsuccessful guidance at keeping whales and Coast Guard vessels apart, as the keeping of the Coast Guard from intentionally approaching within 500 yards of Northern Right Whales (and what about those other endangered whales) would have not stopped it from killing the three whales it has killed, the Coast Guard has never even admitted to intentionally approaching any whale;

18

h. fails to define a minimum speed standard of 5 kts when any endangered whale is seen at any time within a couple of miles from and thus maintains the status quo, vessel speed at the discretion of the vessel operator, which is required as part of the BO.

19

2 Coast Guard's Mission Protecting endangered marine mammals is a primary mission of the Coast Guard, equal to others, and when conflicting must be yielded to. 20

3. Status Assessment of Northern Right Whale The status assessment of Northern Right Whales is wrong. The BO establishes a new baseline that the population is probably declining. 21

4. Conservation Recommendations:

4.1 The Coast Guard should regulate its own vessel operations in the following manner —

a. Do not operate vessels within one nautical mile of sighted whales of any species; 22

b. If whales are observed within 3 miles of a Coast Guard vessel, that vessel must reduce its speed to 5 kts, unless engaged in emergency operations; 23

c. Do not operate vessels in any area designated as a listed critical habitat for a Northern Right Whale at speeds greater than 5 kts; 24

d. Coast Guard vessel operations should avoid any operation in any area designated as a listed critical habitat for a Northern Right Whale unless it is done in the interest of conservation of marine wildlife or a defined emergency operation; 25

4.2 The Coast Guard should gather and report information on whales sighted from Coast Guard vessel operations to insure compliance with the guidelines for its vessel operations proposed here and in NMFS' July 22 BO:

1. The Coast Guard should record, including mandatory video and still pictures, and weekly report the sightings of all whales from its vessels; including location, distance and direction from vessel, the day and time, and the speed of vessel. 26

2. The Coast Guard should record when (day and time) it is on an "emergency mission," how they exceeded the restrictions on their vessel's activity by the rules for the protection of whales, and the whales that they encountered in the course of the "emergency mission." 27

3. The Coast Guard personnel on its vessels should make daily reports, including mandatory video recordings and pictures, when their vessel operates, for any reason, within 500 yards of any species of whale, including species identification and behavioral information. 28

4. The Coast Guard must immediately report, and video record and photograph, all injured and entangled whales to NMFS, including a description of the injury, degree of entanglement, and type of fishing gear. 29

5. The Coast Guard should follow similar reporting procedures for any endangered marine wildlife that it observes from its vessels, including sea turtles. 30

6. The Coast Guard must maintain a data base on all information that it gathers and records on whales and other endangered marine wildlife, including sea turtles. 31

4.2 The Coast Guard should regulate the operation of other vessel activity in coastal waters under U. S. jurisdiction —

- a. Require that no vessel operate or remain within 500 yards of a Northern Right Whale and within 100 yards of any other species of whale; 32
- b. Establish a speed limit of 5 kts for vessels operating in any area designated as a listed critical habitat for a Northern Right Whale, especially at night; 33
- c. Require that any vessel operating within a mile of any endangered species of whale must operate at 5 kts or less. 34
- 4.3 The Coast Guard should monitor and protect the habitat of endangered whales:
1. The Coast Guard should monitor in any area designated as a listed critical habitat for a Northern Right Whale on a daily basis for the presence of Northern Right Whales. 35
 2. The Coast Guard should prohibit fixed fishing gear in any area designated as a listed critical habitat for a Northern Right Whale, unless NMFS has permitted the individual use of any such fishing gear in these area. 36
 3. If Northern Right Whales are found to be in any area designated as a listed critical habitat for a Northern Right Whale, then an area of 5 miles around those sight whales should be immediately temporarily closed to all vessel and fishing activity. 37
 4. If a Northern Right Whale is sighted in any area along the U. S. coast line then vessel activity within and area of 5 miles from the location of the whales should be restricted to 5 kts 38
- 4.4 The Coast Guard will research and implement a program for the "high tech" monitoring and protective interdiction for Northern Right Whales along the U. S. coast line on a daily basis. The only way to stop the "killing of the next Northern Right Whale" and to accurately assess the status of this species is for conservation efforts for these whales to be able to locate them and to interdict protective efforts for them on a daily basis to protect any Northern Right Whale from being killed from entanglement in fishing gear and from vessel strikes. 39

COMMENT CATEGORY:

1.a. Structure and Content of DEIS - Focus of the DEIS

COMMENT SUMMARY: The DEIS fails to focus on the adverse impacts of USCG operations and the operations of non-USCG vessels on marine wildlife and instead focuses on the APLMR Initiative. The DEIS should evaluate the same issues that were covered in the EA and ordered by the Court. The DEIS rarely references or uses the ESA, BA, or BO for any substantive analysis of the impacts of USCG activities on marine wildlife.

COMMENTERS: FHE #1, 2; Strahan #1, 3, 4, 9

USCG RESPONSE: This EIS does address the adverse impact of USCG operations and the operations of non-USCG vessels (see the No Action Alternative and the discussion of the consequences in Chapter 5). The FEIS builds on the DEIS which in turn built upon the Environmental Assessment (EA), Biological Opinion (BO), and Biological Assessment (BA) which are incorporated by reference and included in the Appendices. The EIS is therefore more comprehensive than the EA, which predated the reinitiated consultation, and fully complies with the court order.

The United States USCG published the Environmental Assessment (EA) and Proposed Finding of No Significant Impact (FONSI) in 1995 and extended the comment period on October 11, 1995. That extension resulted from additional information concerning an interaction between the USCGC *RELIANCE* and a suspected humpback whale. Subsequently, an investigation of that interaction determined that the whale involved was most likely a humpback - which is listed as an endangered species. That determination triggered the USCG reinitiation of consultation with the National Marine Fisheries Service (see Appendix E). Concurrently, reports of an increase in observed northern right whale mortalities during the 1995-1996 calving season were received.

The USCG determined that a FONSI could not be reached and that additional environmental analysis was necessary. It was determined that USCG Atlantic operations and activities - which include USCG vessel operations - were potentially significant because of (1) the taking of endangered whales by USCG vessel operations prior to implementing interim protective measures outlined in the various USCG District operating procedures (see Appendix J and K); (2) the taking by the USCGC *RELIANCE* after implementation of the protective measures addressing USCG vessel operations (see Appendix R - a copy of the completed Letter of Incident Report for the Oct 95 *RELIANCE* incident); (3) the observed increase in northern right whale mortalities which leads to a need - in order to substantiate a "no-jeopardy" conclusion to the reinitiated consultation - for additional protective measures to further decrease the risk that additional takings would occur, and (4) the comments received in response to the September EA (see Appendix E). This determination resulted in the USCG's decision to prepare an Environmental Impact Statement. It therefore published a Notice of Intent to prepare a draft environmental impact statement and a notice of scoping was published in the Federal Register on April 2, 1996 (see Appendix S - a copy of the FR notice published at 61 FR 14590).

The Draft Environmental Impact Statement was developed using a more focused approach. The USCG developed the Atlantic Protected Living Marine Resources Initiative which built upon the protective measures developed and analyzed in the EA (see Appendix D), NMFS September 1995 Biological Opinion (BO) (see Appendix C), and NMFS July 1996 BO (see Appendix F). The BO confirmed the decision to prepare an EIS and to expand the scope of protective measures being considered and analyzed. The protective measures, as developed and analyzed in the Draft EIS - which was published for public review and comment on July 31, 1996 - are grouped into two programs. The first program is the "Internal Program" which focuses primarily on the operation of USCG vessels and aircraft. The second, is the

“Conservation Program” which focuses on USCG activities that primarily influence non-USCG mariners who impact the western Atlantic and its resources. The Initiative consisting of these two programs would adopt all of NMFS’ recommendations in its July 1996 Biological Opinion and is intended to allow the USCG to continue its Atlantic operations and activities in a “no-jeopardy” status - thereby fulfilling the requirements of Section 7(a)(2) of the ESA (Section 1536(a)(2) of United States Code Title 16) as well as addressing USCG actions to implement conservation measures in accordance with Section 7(a)(1) of the ESA (Section 1536(a)(1) of United States Code Title 16).

The publication of this Final EIS, on October 31, 1996, will be followed by a public review period. At the conclusion of that review period, the USCG will publish a Record of Decision (ROD). The ROD will conclude the NEPA EIS process, formally announce the USCG’s decision regarding the implementation of protective measures, and provide the response to NMFS regarding acceptance of the Reasonable and Prudent Alternative (RPA) presented in the July BO. In the event the ROD states that the USCG cannot meet the RPA requirements, then the USCG will explain the basis for its determination that any of the components of the RPA are unacceptable, and seek renewed consultation with NMFS while exploring potential options for an exception or exemption regarding any unacceptable components of the RPA.

RELATED SECTION(S) IN FEIS: Section 1.4 FEIS Process

COMMENT CATEGORY:

1.b. Structure and Content of DEIS - Implementation of APLMR Initiative

COMMENT SUMMARY: The USCG should adopt and implement the proposed action as quickly as possible. Without funding or a definite timetable for full implementation, the program will not be effective.

COMMENTERS: MMC2 #1, FHE #32, 33

USCG RESPONSE: Implementation of the Preferred Alternative, if adopted, could begin after the Record of Decision is issued on 9 December 1996. As indicated throughout the FEIS, certain protective measures have been implemented on an interim basis (e.g. speed restrictions on USCG vessels, distance approach restrictions on USCG vessels, participation in recovery team surveys) and others will require continued efforts to obtain funding (e.g. obtain funds for Sea Partners).

RELATED SECTION(S) IN FEIS: Section 1.4 FEIS Process

COMMENT CATEGORY:

1.c. Structure and Content of DEIS - Analysis of Alternatives

COMMENT SUMMARY:

1. The DEIS failed to evaluate the impact of all Coast Guard operations, including the USCG's failure to act. The DEIS fails to consider viable and reasonable alternatives to the No Action and Preferred Alternatives.

2. The Preferred Alternative is too vague to allow a rigorous analysis of the environmental impacts associated with it on endangered whales. Many of the Commandant's Instruction directives are not yet written, and therefore not evaluated in the DEIS.

COMMENTERS: FHE #4, 22, 23

USCG RESPONSE:

1. We disagree that the USCG fails to consider viable and reasonable alternatives. Any one of the measures considered by the USCG for improving or increasing its protection or conservation of endangered, threatened, and protected species could have been isolated as a separate alternative. However, the USCG believed that the best solution for protecting and conserving wildlife resources and fulfilling the purpose and need would be an alternative that combined the reasonable measures into a program of protection and conservation and examined the additive effects of those measures.

As we explain in the Alternatives Section (Chapter 3) all the possible combinations or permutations of these measures could be infinite or unmanageably large, and would have many similar components and impacts. Therefore, the USCG combined the reasonable measures into one alternative for analysis in the DEIS. In addition, the FEIS continued to analyze the impacts of each measure in the program as well as the impact of the program as a whole. The USCG also analyzed other measures including several proposed by commenters.

The USCG's analysis of the No Action Alternative is in effect an analysis of what the commenter terms "the USCG's failure to act." The No Action Alternative discusses the impacts of our operations without additional USCG protective measures such as promulgation of distance rules, implementation of a USCG program to avoid entanglements with fishing and lobstering gear, and promulgation of USCG restrictions on non-USCG vessel traffic in critical whale habitat.

RELATED SECTION(S) IN FEIS: Section 3.3 Alternative Measures and Alternative Combinations of Measures; Section 3.4 Comparison of Alternatives

2. We recognize the ever changing body of knowledge regarding marine species and the impact of human activities on them. Therefore, the Initiative includes a monitoring program that will measure impacts and the USCG will provide annual progress reports to NMFS. On the basis of information gathered during the monitoring, the USCG would, if appropriate, conduct further ESA consultations and NEPA analysis. Most of the Instructions and Directives have been written. The Bulletins and Instructions issued as Interim Protective Measures (Appendices J and K - First, Fifth, and Seventh District Marine Mammal and Endangered Species Act Protection Program) and the instruction on the Protected Living Marine Resources Program (Appendix I) are provided.

RELATED SECTION(S) IN FEIS: Section 3.2.1 Internal Program, Mission Impacts of Operational Directives; Appendices I, J, and K

COMMENT CATEGORY:

1.d. Structure and Content of the DEIS - Quantification of Impacts of APLMR and Program Assessment

COMMENT SUMMARY:

1. The DEIS does not attempt to quantify the benefit of the alternatives. For example, the DEIS does not quantify how many of the whales struck by vessels in previous years could have been saved if measures had been invoked to protect them. The DEIS alternative does not quantitatively define what the threat to marine wildlife is or what the alternative will achieve. The effects of the program need to be quantified and modeled and compared to a model predicting the maximum acceptable impact to whales.

2. A Supplemental EIS should be completed in one year to evaluate the conservation measures implemented by the USCG. An information gathering, monitoring, and assessment system should be implemented by the USCG to evaluate the effectiveness of the APLMR.

COMMENTERS: FHE #18, 19, 32, 34; Strahan #7, 8, 9

USCG RESPONSE:

1. The EIS recognizes that currently available data precludes precise quantification. Consequently, the monitoring program which would address this by gathering data for quantification and review was included in the Preferred Alternative.

RELATED SECTION(S) IN FEIS: Section 3.2.1 Internal Program, Mission Impacts of Operational Directives

2. Under the Preferred Alternative, the USCG will gather, monitor and assess data and information in order to assist in evaluating the effectiveness of the Initiative. The appropriate level of environmental analysis (which could be a supplemental EA or EIS) will be determined when the data is reviewed. The development and implementation of the monitoring program is expected to take six months or less, the period to gather data and monitor the effects would be one year, and then the data and information that was gathered will be assessed.

RELATED SECTION(S) IN FEIS: Section 3.2.1 Internal Program, Mission Impacts of Operational Directives

COMMENT CATEGORY:

1.e. Structure and Content of the DEIS - Best Scientific Information Available

COMMENT SUMMARY: The DEIS alternative was not based on a consideration of the best scientific or commercial information available; the USCG has no data base on whales nor any program to collect that data.

COMMENTERS: Strahan #17

USCG RESPONSE: The most current scientific information available was used in preparing the EIS. The most current information on right whale population estimates and trends that is available from biologists including information from NMFS, the agency with primary expertise and responsibility for protecting marine mammals, is sometimes inconsistent. However, the best effort has been made to gather all information available and assess that information.

COMMENT CATEGORY:

2.a. Inter-Agency Coordination and Cooperation - Coastal Zone Management Act (CZMA) Consistency and Review of Construction Projects

COMMENT SUMMARY: The Department of Conservation and Recreation, Commonwealth of Virginia, would like the opportunity to review any construction proposals in the Commonwealth. The USCG must conduct its activities in compliance with all applicable Coastal Zone Management programs within its jurisdiction.

COMMENTERS: CW2 #2, 3

USCG RESPONSE: Under the CZMA program, the USCG would provide state agencies, when appropriate, the opportunity to review construction proposals. The USCG will comply with Coastal Zone Management Act and other statutes (e.g., NEPA) that require state review.

The USCG provided copies of the draft EIS to Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, and Puerto Rico. The USCG will pursue appropriate CZMA consistency process with each state and with Puerto Rico.

RELATED SECTION(S) IN FEIS: Section 5.0 Environmental Consequences of Preferred and No Action Alternatives

COMMENT CATEGORY:

2.b. Inter-Agency Coordination and Cooperation - Working Relationships

COMMENT SUMMARY:

1. The New England Aquarium is planning a workshop to consider steps for managing commercial shipping in right whale habitats and has been in contact with the USCG to discuss relevant international authorities.
2. The USEPA encourages development of a Mid-Atlantic Implementation Team as referenced in the DEIS.
3. The USCG has worked jointly with the USFWS in the manatee rescue and rehabilitation program. This working relationship should be maintained and further protocols developed.
4. The USFWS strongly supports and is willing to assist with a facility lighting program at turtle nesting areas at beach-side USCG stations mentioned in the DEIS.
5. It would be useful to work closely with individual USFWS field offices to identify the locations of bald eagle nests and roseate tern breeding colonies so that low level aircraft flights over these areas can be avoided if at all possible. Another aspect of the issue of low altitude flights is that they may be required for training aviators.
6. The Department of Conservation and Recreation, Commonwealth of Virginia, would be happy to provide natural heritage information on rare shoreline plant and animal species and significant communities that may enhance the USCG's ability to avoid and minimize harm to protected species.
7. The USCG should conduct a thorough review of domestic and international authorities to gather information on different agencies' approaches to avoiding ship strikes and share this information with regional right whale recovery plan implementation teams and at the New England Aquarium's workshop.
8. The North Carolina Department of Health and Natural Resources strongly encourages the Coast Guard to work closely with our Division of Marine Fisheries regarding any specific actions that would involve North Carolina Fisheries resources.
9. The USCG should coordinate with the Department of Commerce to ensure that right whale and other critical habitat or ecological preserves are included on all navigation charts.

COMMENTERS: MMC1 #7; EPA1 #1; USFWS1 #3, 7; USFWS3 #6; CW2 #2; MMC1 #8; USN #8, 9, 13

USCG RESPONSE:

1. The USCG will continue to assist and work with groups, including The New England Aquarium, that address protected species issues with all sectors of the maritime community. As noted in the U.S. Navy comment number 13, the USCG is also bound by the terms of the Anti-Deficiency Act. Workshops, such as the NEA workshop, do not raise this funding issue.

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program, Cooperation with Other Agencies and Recovery Teams

2. The USCG is part of the existing Recovery Implementation Teams that are considering expanding their coverage to include the Mid-Atlantic, or establishing a separate implementation team.

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program, Cooperation with Other Agencies and Recovery Teams

3. Working with other agencies includes ESA section 7 consultations, both formal and informal, as well as interagency cooperation as outlined in the Memorandum of Understanding on Implementation of the Endangered Species Act, 28 September 1994. The USCG would continue to work with other agencies to develop protocols such as those developed with the U.S. Fish and Wildlife Service (USFWS) and the Florida Department of Environmental Protection which address marine event permitting in manatee habitat areas.

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program, Cooperation with Other Agencies and Recovery Teams; Appendix A

4. In regard to lighting turtle nesting sites, lighting investigations will be conducted at facilities with known turtle nesting sites. The USCG is willing to follow through on this effort and will consult with the local FWS office to achieve accurate results. This commitment is part of the Preferred Alternative.

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program, Cooperation with Other Agencies and Recovery Teams

5. In response to working with the USFWS to identify bald eagle and roseate tern nesting sites that could be impacted by low level flights, we concur. Aviation activities in general do carry some risk of bird air strikes or disturbance of specific individuals. Because of safety considerations, even the No Action Alternative includes some risk of bird air strike. The Preferred Alternative reduces this risk and the risk of disturbance.

According to the FEIS, Chapter 2, Section 2.2.7, fixed-wing aircraft only fly below 500 ft when dropping rescue equipment or when necessary for surveillance or identification of vessels. These operations are generally done over water and not over nesting habitat of bald eagles or roseate terns.

For short- and medium-range recovery, USCG uses two types of helicopters; routine patrols to and from search areas are, weather permitting, normally above 500 ft. Flying low over water is sufficiently dangerous that it is normally avoided unless required by the mission being flown. Searches for persons in the water must be conducted below 500 ft to be effective. The recovery of persons in the water and dropping rescue equipment must be done while hovering below 500 ft.

USCG air stations use aviation charts which are approved by the Federal Aviation Administration. These charts include information regarding sensitive areas such as wildlife reserves. Each air station operations center also maintains a chart depicting the local flying area. Operations center personnel incorporate information from local agencies regarding wildlife areas.

The USCG organization allows the Civil Engineering Unit to act as a liaison for air stations needing to consult with FWS regarding bald eagle and roseate tern habitat. Currently, no USCG units contain known nesting habitat for either species, and the type of low-level emergency flights referred to in the comment would only occur over water or in extremely bad weather.

RELATED SECTION(S) IN FEIS: Section 2.2.7 Aviation; Section 3.2.1 Internal Program, Operating Procedures, Aircraft; Section 5.1.2 Consequences of No Action Alternative on the Biological Environment, Effects of USCG Aircraft Activities on the Biological Environment

6. Thank you. The USCG will continue to obtain this information for proposed projects in Virginia.

7. This type of inter-agency effort would be conducted through Recovery Implementation Teams or Large Whale Take Reduction Teams, and, under the terms of the Preferred Alternative, the USCG would continue to contribute to those efforts.

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program, Cooperation With Other Agencies and Recovery Teams

8. Thank you. The USCG agrees and will continue to develop that relationship.

9. Thank you. The USCG agrees (see Section 3.2.1).

COMMENT CATEGORY:**3. Public Education and Outreach**

COMMENT SUMMARY: The USCG should incorporate information regarding nesting habitat and the avoidance of bird nesting areas for beach nesting birds, such as the threatened piping plover, into its public outreach programs. The DEIS does not adequately define public education programs. Training non-Coast Guard personnel about manatees and sea turtles through basic boat safety training programs, incorporating conservation information into the USCG Sea Partners program and including species fact sheets in *Sailing Direction* and *Coast Pilot* publications will target many marine interests.

COMMENTERS: USFWS1 #4; USFWS2 #1, 2; FHE #27

USCG RESPONSE: As set out in the training/education of non-USCG personnel section of the Conservation Program discussion (Section 3.2.2), basic boating safety training and Sea Partners would provide public education and outreach to a broad audience and incorporating information on protected beach nesting birds would be included. Through the Sea Partners program, the USCG has been able to launch a public education and outreach program with the potential to make substantial contribution to protecting the marine environment, and at the same time, has broadened USCG Reserve training opportunities to enhance military readiness and ability to respond to contingencies. The program has been funded by the Department of Defense Civil-Military Program during fiscal years 1994-1996 due to its reserve training value. However, for Fiscal Year 1997, the funding for this program was dropped by the Department of Defense (DOD). The USCG will attempt to regain funding for this program because the service recognizes the merits of the program in educating the public on marine environmental issues. The USCG has included sea turtle conservation information in the Program outreach material and would incorporate whale conservation and beach nesting bird information in the program as well.

Furthermore, each district and MSO now has a Fishing Vessel Coordinator for the Commercial Fishing Vessel Safety Program. Each district and field unit has an active outreach program with the commercial fishing industry in its Area of Operation (AOR). Through newsletters, regional and national fishing vessel conferences, information on actions and initiatives to help protect endangered species would, as part of the Initiative, be transmitted to the commercial fishing industry.

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program, Training/Education of Non-USCG Personnel

COMMENT CATEGORY:

4. USCG Training Programs

COMMENT SUMMARY: The USCG's internal Conservation Program initiatives providing guidance to staff on special manatee areas and sea turtle nesting beaches, marine mammal training, etc. will enhance conservation efforts. The USFWS encourages the USCG to include information regarding important nesting habitat for beach nesting birds, such as the piping plover, into its internal training and public outreach programs. The "field training program" has not yet been developed, so its effectiveness cannot be gauged. The Navy recommends that the USCG provide appropriate Federal agencies with copies of their final approved training curriculum.

COMMENTERS: USFWS1 #3; USFWS2 #1; FHE #24; USN #4

USCG RESPONSE: Improved USCG training is one of the protective measures included in the Preferred Alternative. Our internal program - training USCG personnel- would be revised to include beach nesting bird information and the monitoring program would consider the effectiveness of this training.

The USCG would, under the Preferred Alternative, continue working with the public and agencies in various forums. The USCG would also make copies of its training program available to interested agencies, such as the U.S. Navy.

RELATED SECTION(S) IN FEIS: Section 3.2.1 Internal Program

COMMENT CATEGORY:

5.a. USCG Jurisdiction and Authority - Territorial Sea

COMMENT SUMMARY: The DEIS incorrectly states that the USCG's jurisdiction is limited to vessels within 3 nautical miles (nmi) of shore. NMFS interprets the territorial seas of the US to extend 12 nmi from shore. In addition, under the MMPA, regulations protecting marine mammals that must be enforced by the USCG apply throughout the US Exclusive Economic Zone (EEZ), which extends 200 miles off shore.

COMMENTERS: FHE #9

USCG RESPONSE: Several comments recommended the USCG initiate programs to regulate and control the movement of non-USCG vessels. The DEIS is correct in stating USCG authority to control vessel movements does not extend beyond three miles from shore. The jurisdictional reach of various statutes that authorize USCG activities and operations is discussed in Appendix G. For example, the Port and Waterways Safety Act (33 U.S.C. 1221 et seq.) (PWSA), as amended by the Port and Tanker Safety Act, provides broad authority to control vessel movements. However, jurisdiction is limited to three miles from shore. Legislative proposals have been submitted to extend PWSA jurisdiction out to 12 miles, but, as of yet, they have not been acted upon by Congress. The comment's reference to the Presidential Proclamation 5928, dated December 27, 1988, as extending the "territorial sea" to 12 miles is incorrect because that proclamation declares that the U.S. Territorial Sea extended out to 12 nautical miles for international law purposes. This action was in part prompted by the 1982 United Nations Convention on the Law of the Sea (which the U.S. has signed but not yet ratified and therefore is not U.S. domestic law).

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program, Controlling Non-USCG Vessels

COMMENT CATEGORY:

5.b. USCG Jurisdiction and Authority - Fisheries Law Enforcement

COMMENT SUMMARY: The USCG should prohibit the use of fixed fishing gear in any area designated as a critical habitat for the northern right whale, unless that activity has been permitted by the NMFS; If northern right whales are found in a critical habitat area, all fishing and vessel activities within 5 miles of the sighted whales should be temporarily ceased.

COMMENTERS: Strahan, #36, 37

USCG RESPONSE: The USCG has the responsibility to enforce fisheries regulations and will continue to do so. NMFS is currently addressing the fishery classifications and additional restrictions or limitations on fishing and vessel activities in various forums (e.g. Large Whale Take Reduction Teams) that include the USCG. The USCG would enforce restrictions or limitations contained in regulations promulgated by NMFS.

RELATED SECTION(S) IN FEIS: Section 5.1.4 Cumulative Effects of No Action Alternative on the Physical, Biological, and Socioeconomic Environment

COMMENT CATEGORY:

5.c. USCG Jurisdiction and Authority - Vessel Traffic Management

COMMENT SUMMARY:

A number of comments were received regarding the possible role of the USCG in managing vessel traffic, particularly in critical habitat areas. The comments are summarized below and addressed individually in the USCG Response section.

1. The DEIS should discuss the establishment of a conservation program aimed at developing an improved vessel management system for ports in right whale calving grounds.
2. An information paper should be prepared for the International Maritime Organization regarding the problems and actions the USCG is facing regarding vessel traffic management.
3. The Coast Guard should use its authority to establish vessel traffic corridors to limit the potential area of interactions and minimize travel time through high use right whale areas and avoid critical habitat and should strengthen the legal and institutional management structure for controlling area vessel traffic. The broad role of the USCG in representing the US at meetings of the IMO and coordinating and developing proposals with the IMO should be more clearly stated; for example, this relationship may not be limited to developing proposals for PSSAs and ATBAs and may include developing vessel traffic systems. The Department of Navy would like to participate in the process of developing recommendations for PSSAs.
4. Use the Navy approach to vessel traffic management off Florida and Georgia as a model.
5. If possible, vessel management procedures should apply to commercial vessels as well as Coast Guard vessels.

COMMENTERS: MMC1 #3, 4, 5, 6, 9, 10; MMC2 #7; FHE #12; NMFS #2; USN #3

USCG RESPONSE:

1. The establishment of a vessel management system for ports in right whale calving grounds is one of many proposals being considered in forums such as the Large Whale Take Reduction Team and the regional Recovery Plan Implementation Teams. Under the Preferred Alternative, the USCG would continue to work with these groups to address the possibility and feasibility of such a system.

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program, Cooperation With Other Agencies and Recovery Teams

2. This proposal, put forth by the Marine Mammal Commission (MMC), to submit an information paper to the International Maritime Organization's Safety of Navigation Subcommittee and Marine Environmental Protection Committee outlining the problem and actions being contemplated by the U.S., has merit. Although the USCG is the lead agency at meetings of these Committees, we normally circulate drafts of all major U.S. papers among interested parties in order to ensure the views being expressed reflect the majority view. The USCG would invite the MMC to review, and submit, such a draft paper.

3. Under the Preferred Alternative, the USCG would work with other U.S. agencies (e.g., Department of State, Department of the Navy) to develop proposals to designate critical habitat and high use areas as Particularly Sensitive Sea Areas (PSSAs) and/or Areas To Be Avoided (ATBA) that protect species habitats through the United Nations International Maritime Organization.

In addition to PSSAs and ATBAs, there are also a number of other IMO adopted routing measures, for the most part traffic separation schemes (TSSs) with associated precautionary areas, which guide mariners in the approaches to many of our ports. They are intended to separate opposing streams of traffic and require vessels to operate with particular caution where they must converge. There is presently a TSS in the approach to Boston. Although there appears to be no way to completely avoid the whale habitat while entering the Port of Boston, under the Preferred Alternative, the Coast Guard would investigate whether any modification to the TSS would be beneficial. The Coast Guard would also conduct similar investigations in other areas of the coast considered high use areas or critical habitat and would, if warranted, initiate a PARS to determine whether an IMO adopted routing measure would aid in the protection of endangered marine life.

The USCG would follow the established procedures to create or change a routing measure. The Coast Guard is required by the Ports and Waterways Safety Act to consult with appropriate Federal agencies and states to ensure other uses of the area under consideration are taken into account. This is done by initiating a PARS, which also gathers information from any other interested party. PARS generally take about 18 months to complete. Once the information is gathered, a proposal is developed for submission to IMO. If the proposal is for a TSS, rulemaking is also required, but can be done in parallel with the IMO process. A proposal is submitted to the IMO Subcommittee on Safety of Navigation (NAV), which normally meets annually. If approved at NAV, it is then submitted to the subsequent session of the Maritime Safety Committee (MSC), which meets three times each biennium. The routing measure may enter into force six months after adoption by the MSC.

RELATED SECTION(S) IN FEIS: 3.2.2 Conservation Program, Cooperation with Other Agencies and Recovery Teams, Controlling Non-USCG Vessels

4. The US Navy's approach is a "model" that is well suited to the types of vessels they employ and the types of missions they conduct. The USCG has very different missions that require USCG vessel activity in areas the US Navy can avoid. The USCG also has different vessels and therefore any "models" or measures taken by either the USCG or the US Navy must be evaluated specifically for the particular agency in light of its vessels and missions. Consequently, the USCG must rely on an approach that provides vessel commanders with the discretion to perform their mission requirements while employing protective measures such as the speed restrictions.

5. The NMFS proposed distance approach regulation is one aspect of commercial vessel traffic management. The Recovery Implementation Teams and Large Whale Take Reduction Teams are also addressing other aspects (e.g. see responses to comments 2.b., 3, and 5.b.).

RELATED SECTION(S) IN FEIS: Section 3.1 No Action Alternative; 3.2.1 Internal Program, Operating Procedures; 3.2.2 Conservation Program, Controlling Non-USCG Vessels; 5.2.2 Consequences of the Preferred Alternative on the Biological Environment

COMMENT CATEGORY:

5.d. USCG Jurisdiction and Authority - MMPA and ESA

COMMENT SUMMARY: Protecting endangered species should receive priority over other missions; when a mission is in conflict with the protection of endangered species, it should not be completed; the use of a 500/100 yd distance rule for Coast Guard vessels is not in keeping with the enforcement of the ESA and MMPA; the failure to prevent mariners from approaching endangered whales and the failure to take enforcement action against violators is not in keeping with the ESA and is of no benefit; the enforcement of the MMPA and the ESA is vague and contains no vessel distance provisions in regard to whales.

COMMENTERS: Strahan #20, FHE #26, 30

USCG RESPONSE: USCG policy regarding ESA and MMPA enforcement is neither vague nor inconsistently applied. Appendices J and K contain clear, consistent guidelines for enforcing these statutes which have been implemented on an interim basis and would be formally adopted and implemented under the Preferred Alternative. Under the Preferred Alternative, the USCG has a dedicated program of USCG vessel and aircraft presence, sighting reporting, boarding, safety broadcasting, personnel training and public education. Nearly every operation provides the USCG the opportunity to enforce these statutes. This guidance is nearly identical throughout the districts and minor differences result from the unique characteristics of each district. Responsibility for enforcement in each case is appropriately placed on the on-scene operator. Placing this responsibility at the local level provides for best enforcement of each statute. Under the Preferred Alternative, the Commander, Atlantic Area, would promulgate guidance for its units that parallels and supplements the District guidance. The issue of vessel approach distance provisions would be reassessed once NMFS makes its final decision regarding the proposed approach distance regulation.

RELATED SECTION(S) IN FEIS: Appendices J and K; Section 3.2 Preferred Alternative: Adoption and Implementation of the USCG Atlantic Protected Living Marine Resources Initiative

COMMENT CATEGORY:

5.e. USCG Jurisdiction and Authority - Vessel Documentation Program

COMMENT SUMMARY: The USCG should further evaluate the potential effects of imposing additional conditions on vessel operators, such as prohibiting harassing or endangering whales, through its Vessel Documentation and Inspection Program or Operator Licensing Program. The DEIS fails to assess the impact of the USCG's Vessel Documentation and Inspection Program.

COMMENTERS: FHE #15, Strahan #5

USCG RESPONSE: In response to this comment which suggests an alternative action, a clear distinction must be drawn between the USCG's issuance of Certificates of Documentation or Inspection Certificates and the USCG's implementation of its operator licensing program.

With regard to Certificates of Documentation or Inspection, the Federal District Court for the District of Massachusetts (See Memorandum and Order, Strahan v. Linnon, slip opinion, No. 94-11128-DPW, as corrected May 19, 1995) determined that the USCG's issuance of either Certificates of Documentation or Inspection is not discretionary, but is mandated by statute once the statutorily specified criteria are met. Lacking Congressional action to expand the criteria, the USCG has sought other means to effect the purpose of this alternative to impose conditions or requirements on the certificates.

The proposal to modify the licensing of vessel operators, in conjunction with developing supplementary information for *Sailing Directions* and the *Coast Pilot*, as discussed in the FEIS in Section 3.2.2 and Section 5.2.2, is considered an effective means to educate and influence the conduct of non-USCG vessel operators.

Because the holders of certificates of documentation, certificates of inspection, and operator licenses must in any event comply with the Endangered Species Act and the Marine Mammal Protection Act, a specific condition requiring compliance is unnecessary. The USCG would continue to exercise its enforcement responsibility for the ESA (See section 1540(e) United States Code Title 16) and would, in accordance with the proposed modifications to its enforcement policies and practices effect the same result by focusing on enforcement of ESA and MMPA violations in conjunction with the education and outreach component of the Preferred Alternative.

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program; Section 5.2.2 Consequences of the Preferred Alternative on the Biological Environment, Effects of Changes to USCG Conservation Efforts on the Biological Environment

COMMENT CATEGORY:

6. Permitting of Marine Events

COMMENT SUMMARY:

1. The recent interim rule in the Federal Register proposes to modify the current marine event permitting process. The proposed modification will reduce the number of events reviewed for impacts and will reduce the USFWS's ability to provide comments to the USCG. Such events should continue to be reviewed on a case by case basis. The environmental effects of requiring marine event permits cannot be evaluated until the class of activities subject to regulation has been identified.
2. The USCG should consider broadening the definition of "marine events" which require a permit and should have considered the environmental effects of broadening the definition as part of the Sec. 7 consultation process.

COMMENTERS: FHE #14, 31; USFWS1 #2

USCG RESPONSE:

1. The USCG acknowledges the commenters' concerns with regard to the interim rule published in the Federal Register by the USCG (51 FR 33027; June 28, 1996) which would reduce the number of marine events currently permitted by our existing regatta and marine event permitting process. The APLMR FEIS does not evaluate the impacts of the proposed reduction in marine event permits because implementation of the pending revision to the marine event permitting procedures is being delayed to enable the USCG to consider the issues and concerns raised in comments received in response to the APLMR DEIS in addition to those received on the marine event procedures Interim Rule. A separate EA had been prepared for the pending marine event permit procedural changes which evaluated possible impacts and was circulated for comment to USFWS and other agencies and the public. We recognize that the USFWS and others are concerned about the possible impacts of the pending marine event permit procedural changes on endangered species. The ongoing NEPA process for the interim rule will address these concerns, and the USCG will complete ongoing Section 7 consultation with USFWS and the National Marine Fisheries Service before making a final decision on this proposal. Specifically, the consultation and environmental analysis would address USCG requests for environmental information from event sponsors, USCG placement of environmental conditions or other constraints on permits issued for regattas and marine events, and the denial of permits for events in critical whale habitat. The USCG will also consider the resulting increases in the information collection and reporting burden on additional event sponsors related to broadening the definition of when notice of an event or a permit application must be submitted to the USCG.

In consideration of all the comments received, the USCG is delaying a decision on the marine event permit procedural changes by postponing the effective date. The USCG will publish a Notice in the Federal Register to establish a new comment period which will allow the USCG to examine the comments (including expert comments on possible interactions with endangered species) and then the USCG will decide whether to finalize the pending rule, modify it, or withdraw it.

RELATED SECTION(S) IN FEIS: Section 3.2.2 Conservation Program, Controlling Non-USCG Vessels

2. The Coast Guard will consider whether to broaden the definition of "marine events" which require a permit as it is defined in the current interim rule, and the environmental effects of broadening that definition. The Coast Guard will use the ongoing consultation and environmental analysis of the pending changes to the Coast Guard marine event permit procedures discussed above.

COMMENT CATEGORY:

7. Affected Environment

COMMENT SUMMARY: There were a number of comments providing corrections or identifying a need for additional or updated information in the Affected Environment section of the DEIS, including comments on sirenians (manatees), beach nourishment impact, birds, salmon, peregrine falcons, and the right whale.

COMMENTERS: USFWS1 #5, 6; USFWS3 #1-5; Strahan #21

USCG RESPONSE: The USCG appreciates your input and will revise the text of the FEIS in accordance with your comments. Please refer to the appropriate sections of the FEIS, as indicated below.

RELATED SECTION(S) IN FEIS:

Section 4.4.1 Marine Mammals, Sirenians

Section 4.4.8 Coastal and Marine Birds

Section 4.4.2 Sea Turtles, Causes of Mortality of the Loggerhead Turtle (beach nourishment discussion)

Section 4.4.3 Fish

Section 4.4.1 Marine Mammals, Cetaceans: Endangered and Threatened Species, Northern Right Whale

COMMENT CATEGORY:

8. Assessment of Cumulative Impacts

COMMENT SUMMARY: The DEIS fails to consider or quantify the cumulative impacts of USCG vessels operating together and in conjunction with other vessels and aircraft operations, including the cumulative impact on whales and the cumulative impact of vessel and fishing gear activity and aircraft activity off the US Coast.

COMMENTERS: FHE #3, 5, 20; Strahan #6

USCG RESPONSE: The incremental impacts from USCG vessels, aircraft, and activities in relation to the cumulative impacts from all other vessel, aircraft, and activities were analyzed using the best information available, including information developed through consultation with NMFS and other resource agencies during the comment period. The Preferred Alternative includes a monitoring program that would continue to gather data and information on cumulative impacts. If appropriate, the USCG would conduct further ESA consultations and NEPA analyses.

RELATED SECTION(S) IN FEIS: Section 5.1.4 Cumulative Effects of No Action Alternative on the Physical, Biological, and Socioeconomic Environment; Section 5.2.4 Cumulative Effects of the Preferred Alternative on the Physical, Biological, and Socioeconomic Environment; Section 4.5 Socioeconomic Environment

COMMENT CATEGORY:

9.a. Coast Guard Vessel Operating Procedures - Speed

SUMMARY OF COMMENTS: The DEIS fails to define a vessel speed standard for non-emergency operations when within a few miles of a sighted whale or while operating in critical habitat areas; the guidance should be expanded to include a safe vessel speed to reduce potential collisions between whales and ships; the Navy concurs with the need to develop a safe speed standard rather than a nautical mile per hour standard; speed standards should be consistent with Inland and International rules - altering course and speed when in the vicinity of a whale could cause confusion in meeting and crossing situations for ships operating under these rules; the USCG should limit their vessel speed restrictions to apply only to non-emergency operations within critical habitat and high use areas of protected species when the animals may be present.

COMMENTERS: MMC2 #2,4,5,6; FHE #25, 29; Strahan #19,23,24; USN #1,2,12;

USCG RESPONSE: Guidance on safe vessel speed in critical habitat areas and within the vicinity of sighted whales was formulated in cooperation with the NMFS. Operational directives to USCG vessel commanding officers and coxswains have been revised to clearly state that, for non-emergency transits, a speed standard (as reflected in the EA and BO of September 15, 1995, and July 22, 1996, respectively, and approved in consultation with NMFS) would be followed. During non-emergency operations, vessels transiting critical habitats, high-use areas, and migratory routes would use a speed that allows the lookout to see whales and other endangered or threatened species in a timely manner to allow the vessel to vary courses and speeds to reduce the potential for a strike. If a whale is sighted, USCG vessels would avoid approaching the whale, and would utilize a speed and course necessary to permit the vessel to open the distance from the whale or to allow the whale to successfully evade the vessel. Observations by researchers have indicated that right whales can travel at speeds of 5 knots; thus, vessel speeds of 5 knots or less could allow a right whale to successfully evade a vessel. Unless another whale species is positively identified, any large whale sighted would be treated as a right whale.

The guidance will not include specific speed limits due to practical impediments to designing such a standard, such as the variation in the “clutch-in speed” of different vessels. For example, most 110-ft USCG patrol boats “clutch in” at 9 knots. For this reason, a safe speed standard, rather than a strict nautical-mile-per-hour standard, is appropriate. The USCG vessel speed guidance which was issued on August 15, 1996 is as follows:

To avoid a collision with a whale during the course of normal operations, USCG vessels transiting critical habitat, migratory routes and high-use areas shall use extreme caution, be alert, and reduce speeds as appropriate. Appropriate reduced speeds should be based on the factors identified in Rule 6 (Safe Speed) of the International/Inland Navigation Rules (COMDTINST M16672.2C). Additional reductions in speed should be considered when a whale is sighted or known to be in the immediate vicinity or within five nautical miles of the vessel. In these situations, vessels shall use those courses and speeds as appropriate, yet navigationally prudent, to avoid a collision with a whale, and, if necessary, reduce speed to the minimum at which the vessel can be kept on course or come to all stop.

During non-emergency operations, vessels transiting critical habitats, high-use areas, areas of known whale concentrations, and migratory routes would be directed to use extreme caution and be alert for marine animals. If a whale is sighted, vessels would give whales a wide berth, use the speed protocol developed in

consultation with NMFS per the 22 July BO to reduce the possibility of a whale strike, make all reasonable efforts to clear the area, and notify all vessels (USCG and non-USCG vessels) in the vicinity about the locations of whales via marine radio telephone (operating on VHF-FM frequency) and direct them to proceed through the area with caution. The USCG vessel speed component of the Preferred Alternative was designed to address USCG vessels and the USCG recognizes that different vessels will need to be considered in light of their specific capabilities; consequently the USCG is not setting a precedent for other vessels.

RELATED SECTION(S) IN FEIS: Section 3.2.1 Internal Program; Section 3.3.3 Operate at Slow Speed or High Altitude At All Times; Section 5.1.2 Consequences of No Action Alternative on the Biological Environment, Effects of USCG Vessel Activities on Biological Environment; Section 5.2.2 Consequences of the Preferred Alternative on the Biological Environment, Effect of Changes to USCG Vessel Activities on the Biological Environment; Appendices D and F.

COMMENT CATEGORY:

9.b. Coast Guard Vessel Operating Procedures - Distance Rule

COMMENT SUMMARY: Need expanded guidance and stricter rules on keeping Coast Guard vessels and whales separated; vessels should not be operated within one nmi of a sighted whale and should avoid operating in designated critical habitat areas, unless such operations are in the interest of conservation or due to an emergency; the Navy recommends a standoff distance from all whales of 250 yards, if it is safe to do so, not a standoff distance of 500 yards.

COMMENTERS: Strahan #18, 22, 25; USN # 16

USCG RESPONSE: Until such time as NMFS can establish a detailed protocol regarding approaches to whales, operational directives would specify that USCG vessels would maintain a safe minimum distance of 500 yards from right whales. In addition, unless another whale species is positively identified, any large whale should be considered and treated as a right whale. The minimum safe distance for other whale species is 100 yards. Adjustments to these distances would be made if the USCG is assisting in the rescue of an endangered whale, including right whales, or performing its duties to enforce the ESA and MMPA. In response to the Reasonable and Prudent Alternative provided in the 22 July 1996 BO, the USCG - as an interim protective measure - issued the approach guideline to all USCG vessels (Appendix ?). Because of the high number of whales sighted in some areas, adopting a minimum operating distance of one nautical mile, as suggested by the commenter, would be impractical and unfeasible.

USCG vessels will maintain a safe minimum distance of 500 yards from right whales. In addition, unless another whale species is positively identified, any large whale will be considered and treated as a right whale. The minimum safe distance for other whale species is 100 yards. Adjustments to these distances would be made if the USCG is assisting in the rescue of an endangered whale, including right whales, or performing its duties to enforce the ESA and MMPA. Once NMFS makes a decision on the proposed approach distance rule, the USCG guidance would be reassessed and, if necessary, adjusted according to any new provisions in the adopted rule.

RELATED SECTION(S) IN FEIS: Section 3.2.1 Internal Program; Appendix F; Section 5.1.2 Consequences of No Action Alternative on the Biological Environment, Effects of USCG Vessel Activities on Biological Environment; Section 5.2.2 Consequences of the Preferred Alternative on the Biological Environment, Effect of Changes to USCG Vessel Activities on the Biological Environment.

COMMENT CATEGORY:

9.c. Coast Guard Vessel Operating Procedures - Lookouts

COMMENT SUMMARY: Clarification is needed as to whether additional certified lookouts are required within the critical habitat and confirmed high use areas

COMMENTERS: USN #5

USCG RESPONSE: USCG vessels would, under the Preferred Alternative, use trained lookouts within 20 nautical miles of shore. They would also be posted during transits through critical habitats, seasonal high-use areas, and areas of known whale concentration. This requirement is based on NMFS' September 1995 and July 1996 BO.

RELATED SECTION(S) IN FEIS: Section 3.2.1 Internal Program, Operational Directives; Section 3.2.1 Internal Program, Operating Procedures; Section 5.2 Environmental Consequences of the Preferred Alternative; Section 5.2.4 Cumulative Effects of the Preferred Alternative on the Physical, Biological, and Socioeconomic Environment

COMMENT CATEGORY:

10.a. Non-Coast Guard Vessel Operating Procedures - Speed

COMMENT SUMMARY: The DEIS failed to consider the impact of imposing and enforcing speed limits on non-Coast Guard vessels; the USCG should establish a speed limit of 5 knots for all non-Coast Guard vessels operating in northern right whale critical habitat areas, operating within one mile of any endangered species, or within 5 miles of a northern right whale. The correlation between ship speed and noise implied in the DEIS is not necessarily applicable to Navy ships. The correlation between vessel size/speed and oil spills is not considered accurate for Navy ships. There is limited data available regarding the effect of vessels on whale behavior, feeding practices, and food sources. The observations in the DEIS regarding these effects appears over broad.

COMMENTERS: FHE #11; Strahan #33, 34, 38; USN #10,11, 14

USCG RESPONSE: This comment suggests that the USCG institute a speed limit for non-USCG vessels. The FEIS treats this suggestion (a stand alone speed-limit for non-USCG vessels) as an alternative action. There are two reasons why this alternative action is not feasible.

First, the USCG's authority to control vessel movements does not extend beyond three miles from shore. (For discussion of this issue, see the USCG response to comment 5.a. and Appendix G.)

Second, it is the USCG's position that NMFS, not the USCG, is the agency charged under the ESA with promulgating protective regulations that would apply to vessels other than USCG vessels. Under the ESA, the USCG has the authority to enforce, but not promulgate, such regulations. Thus, if NMFS requires that all vessels comply with a designated speed limit in critical habitat areas, the USCG will exercise its authority to enforce the speed limit.

Analyses of vessel impacts on species involves consideration of vessel speed in conjunction with approach distances and avoiding habitat and other areas where species are present. These considerations and their analyses generally apply to USCG and non-USCG vessels (see the analyses in Chapter 5, Sections 5.1.2, 5.1.4, and 5.2.2) except that commercial vessels are generally not as maneuverable as USCG vessels.

As a practical matter, the imposition of speed limits for non-USCG vessels might not be an effective conservation measure due to the limitations that many commercial vessels face. Many commercial vessels face both limited maneuverability and manning limitations. In addition, it may take larger commercial vessels many miles to slow down. Finally, many vessels have clutch speeds that would be inconsistent with low speed limits (e.g. clutch speeds greater than five knots) and vessel control problems would arise. Thus, imposing speed limitations on commercial vessels might be both unfeasible and difficult to enforce. If a whale were to "suddenly appear" or surface in front of a large commercial vessel, the vessel's crew may be unlikely to see it, let alone maneuver clear. The issue of speed limits is currently being considered in various forms (including the Recovery Implementation Teams and the Whale Take Reduction Teams). The USCG has participated in these forums in the past and, under the Preferred Alternative, would continue to do so.

In addition to collisions, the disruptions, noise, and oil spills associated with vessel traffic and speeds are facts to consider; however, the correlation between these factors and the species and their environment remains an open issue. The analysis used the best scientific and biological information available and issues such as the correlation of vessel speed to noise would continue to be addressed in various inter-agency forums and the Recovery Plan Implementation Teams.

Awareness regarding appropriate speeds in the vicinity of whales and endangered species can be achieved through outreach programs. Each district and MSO now has a Fishing Vessel Coordinator for the Commercial Fishing Vessel Safety Program. Each district and field unit has an active outreach program with the commercial fishing industry in its AOR. Through newsletters, regional and national fishing vessel conferences, information on actions and initiatives to help protect endangered species would, under the Preferred Alternative, be transmitted to the commercial fishing industry.

RELATED SECTION(S) IN FEIS: Appendix G; Section 3.2.2 Conservation Program; Section 5.1.2 Consequences of No Action Alternative on the Biological Environment; Section 5.1.4 Cumulative Effects of No Action Alternative on the Physical, Biological, and Socioeconomic Environment; Section 5.2.2 Consequences of the Preferred Alternative on the Biological Environment

COMMENT CATEGORY:

10.b. Non-Coast Guard Vessel Operating Procedures - Distance Rules

COMMENT SUMMARY: The DEIS fails to consider the impact of promulgating and enforcing distance rules on non-Coast Guard vessels. The DEIS should consider these impacts because the USCG has the authority to promulgate such rules on its own, independently of NMFS; The DEIS failed to consider the environmental effects of various strategies for distance rule enforcement; the impacts of a distance rule should be evaluated, even if the rule is promulgated by a different authority; the DEIS should have considered limits of 500 yards for right whales and 100 yards for all other whales as an alternative; the DEIS fails to assess the practice of encouraging and advising vessel operators to intentionally approach within 100 feet of any endangered whales; the USCG should require that no vessel operate or remain within 500 yards of a northern right whale or 100 yards of any other species of whale. Maintaining a 500 yard distance from all whales until the species is determined is not practicable for deep draft ships in port channels; the Navy can not always meet these requirements when conducting special operations outside the whale critical habitat.

COMMENTERS: FHE #6, 7, 8, 9, 10; Strahan #12, 32; USN #6

USCG RESPONSE: This comment suggests that the USCG institute a speed limit for non-USCG vessels. The FEIS treats this suggestion (a stand alone speed-limit for non-USCG vessels) as an alternative action. There are two reasons why this alternative action is not feasible.

First, the USCG's authority to control vessel movements does not extend beyond three miles from shore. (For discussion of this issue, see the USCG response to comment 5.a. and Appendix G.)

Second, it is the USCG's position that NMFS, not the USCG, is the agency charged under the ESA with promulgating protective regulations that would apply to vessels other than USCG vessels. Under the ESA, the USCG has the authority to enforce, but not promulgate, such regulations. Thus, if NMFS requires that all vessels comply with a designated speed limit in critical habitat areas, the USCG will exercise its authority to enforce the speed limit.

Practical considerations may color any promulgated rules on non-USCG vessel approach distances. For example, the time that it takes larger commercial vessels to slow down or change course may limit their ability to comply with mandated approach distances. Furthermore, it would not be practicable for deep draft ships in channels of those ports within critical habitat, or vessels engaged in some activities, such as lightening or vessel replenishment, to maneuver away from whales that appear unexpectedly. The approach distance alternative action is further addressed in the discussion of the NMFS proposed regulation and the accompanying analysis of approach distance as a conservation measure in Chapter 5.

RELATED SECTION(S) IN FEIS: Appendix G; Section 3.2.2 Conservation Program; Section 5.1.2 Consequences of No Action Alternative on the Biological Environment; Section 5.1.4 Cumulative Effects of No Action Alternative on the Physical, Biological, and Socioeconomic Environment; Section 5.2.2 Consequences of the Preferred Alternative on the Biological Environment

COMMENT CATEGORY:

11.a. Whales - Whale Strikes

COMMENT SUMMARY: The Preferred Alternative fails to quantitatively assess how many whales are being killed or nearly struck, or how many whales and turtles have historically been struck by USCG vessels. The DEIS does not provide information on the circumstances of the whale strikes of 6 July 1991, 5 January 1993, and 9 October 1995, such as distance from shore, vessel size, speed, heading, etc.

COMMENTERS: Strahan #14, 15, 16; MMC2 #3

USCG RESPONSE: Both the September 1995 BO (Appendix C) and the July 1996 BO (Appendix F) contain information relating to the circumstances surrounding the three USCG whale interactions.

Information on earlier strikes is not available because there was no formal reporting prior to implementing the District Law Enforcement Bulletin and Instructions as interim protective measures (see Appendices J and K). In addition to the information in the BO issued by NMFS (Appendix C) Appendix R contains the complete report on the October 1995 bump of the humpback. The USCG analysis used the best information available; recognizing that quantitative analysis requires additional data, the Preferred Alternative would implement a monitoring program calling for additional data collection and subsequent analysis.

RELATED SECTION(S) IN FEIS: Section 4.4.1 Marine Mammals, Cetaceans: Endangered and Threatened Species; Section 5.1.2 Consequences of No Action Alternative on the Biological Environment, Collisions of USCG Vessels with Wildlife; Appendices C, F, J, and K

COMMENT CATEGORY:

11.b. Whales - Whale Tracking

COMMENT SUMMARY: The USCG should consider the effects of a comprehensive whale tracking and habitat surveillance program; The criteria for when NAVTEX reports will be issued and how they will be used have not yet been developed; The DEIS should expand on the overall adequacy of using aerial surveys to reduce the potential for whale strikes and should examine the extent to which commercial vessel operators use this data.

COMMENTERS: FHE #13, 28; MMC1 #1, 2

USCG RESPONSE: The USCG would, under the Preferred Alternative, continue supporting and participating in the survey program developed in conjunction with NMFS and other resource agencies. This comment highlights the need and rationale for implementing the monitoring program as part of the Preferred Alternative.

Whale sightings made during normal operations from USCG vessels may be impeded by the 500 yard approach distance limitation. The subsequent lack of data may result in less information for dissemination by NAVTEX. The USCG Proposed Alternative emphasizes using NAVTEX and marine radio telephone to notify all mariners of the potential for whale activity and potential interactions by providing real time information to vessel operators. Under the Preferred Alternative, the USCG will continue to participate in the forums addressing these issues.

RELATED SECTION(S) IN FEIS: Section 3.1 No Action Alternative; Section 3.2.1 Internal Program, Operational Directives; 3.2.1 Internal Program, Mission Impacts of Operational Directives; Section 5.2.2 Consequences of the Preferred Alternative on the Biological Environment, Effects of Changes to USCG Conservation Efforts on the Biological Environment

COMMENT CATEGORY:

11.c. Whales - Population Viability Analysis

COMMENT SUMMARY: The USCG should perform a population viability analysis to better quantify the effect of small numbers of deaths on a dwindling population.

COMMENTERS: FHE #16

USCG RESPONSE: The USCG used the best scientific and biological information available including that provided by NMFS, the agency with primary expertise and responsibility for protecting marine mammals. The USCG Biological Assessment and the Biological Opinion prepared by NMFS provided sufficient biological data and information to support the proposal to implement protective measures and the development of the Preferred Alternative.

RELATED SECTION(S) IN FEIS: Appendices C and F

COMMENT CATEGORY:

11.d. Whales - Potential Biological Removal (PBR)

COMMENT SUMMARY: The DEIS fails to calculate the number of whales that could be killed or injured by maritime operations without jeopardizing the survival of the species; the DEIS does not clearly state or adopt a goal that zero taking of endangered marine wildlife, particularly the northern right whale, is the only acceptable mitigation of adverse impacts; The DEIS does not assess whether the modification of USCG activities will result in zero taking.

COMMENTERS: FHE #21; Strahan #2, 3, 10, 11

USCG RESPONSE: In accordance with the ESA, the USCG goal is zero taking of any endangered marine species. NMFS, through its denial of the USCG's MMPA Small Take Permit Application for the northern right whale and its zero incidental taking provision in its Biological Opinion, has denied the USCG the option of taking any endangered or threatened whales. Due to the severe depletion of the right whale population, even one taking of a right whale is unacceptable. Under the No Action Alternative, USCG operations have the potential to take a right whale. Therefore, adoption of the No Action Alternative would pose the threat of a significant adverse impact on protected whale species. If the Preferred Alternative were to be adopted such that the USCG began operating under the Initiative, and then the USCG were to take a right whale, the Initiative would be reassessed under a reinitiated consultation with NMFS.

RELATED SECTION(S) IN FEIS: For PBR information, see Section 4.4 Biological Environment and Section 5.1.4 Cumulative Effects of No Action Alternative on the Physical, Biological, and Socioeconomic Environment

COMMENT CATEGORY:

11.e. Whales - Information Gathering and Reporting Procedures

COMMENT SUMMARY:

1. The USCG should gather and report information on whales sighted from USCG vessel operations to ensure compliance with the guidelines for vessel operations proposed in the DEIS. This information should include video and still pictures as well as data regarding vessel position, distance from whale, and speed of vessel for every whale sighting, encounter within 500 yards, encounter with an injured whale, or encounter during emergency missions. This information should be used to create an information database.
2. The USCG should monitor in any area designated as a listed critical habitat for a northern right whale on a daily basis for the presence of those whales. The USCG should research and implement a program for the “high tech” monitoring and protective interdiction for northern right whales on a daily basis.
3. The US Navy is expanding use of NAVTEX.

COMMENTERS: Strahan #28-31, 35, 39; USN #7

USCG RESPONSE:

1. Under the Preferred Alternative, USCG vessels would, while transiting through critical habitat at safe speed, document any observations of protected species as outlined in the comment. However, video and still photos would only be attempted if conditions permit (preliminary reports indicate that photos or video at 500 yards or more are of little, if any, value). The USCG would under the Preferred Alternative continue to provide this information to NMFS for inclusion in their database.
2. The suggestion that the USCG should monitor whales in the critical habitat directly contradicts the suggestion that the USCG should avoid operating vessels in critical habitats and keep aircraft at an altitude of 2000 feet. The Preferred Alternative was specifically designed to avoid increasing USCG vessel traffic and aircraft activity in critical habitat areas. Under the Preferred Alternative, the USCG would continue to explore “high tech” solutions for monitoring by working with other agencies in forums such as the Large Whale Take Reduction Team and the Recovery Plan Implementation Teams.
3. The USCG appreciates the continued cooperation of the U.S. Navy in expanding use of NAVTEX.

RELATED SECTION(S) IN FEIS: Section 3.2.1 Internal Program, Mission Impacts of Operational Directives; Section 5.2.2 Consequences of the Preferred Alternative on the Biological Environment

COMMENT CATEGORY:

11.f. Whales - Sub-Lethal Effects of Vessel Traffic on Whales

COMMENT SUMMARY: The USCG should evaluate the sublethal effects of vessel traffic on whales and their habitats, e.g., whether such vessel traffic disturbs the plankton layer or whale feeding habits.

COMMENTERS: FHE #17

USCG RESPONSE: The known effects whales and their habitats is presented in the FEIS analysis of the biological environment.

RELATED SECTION(S) IN FEIS: Section 4.4.1 Marine Mammals

COMMENT CATEGORY:

12. Identification of Critical Areas/Maps

COMMENT SUMMARY: Maps or charts should be provided in the FEIS showing locations or approximate boundaries of critical habitats and high use areas of protected species.

COMMENTERS: EPA1 #2; EPA2 #1

USCG RESPONSE: The maps have been included.

RELATED SECTION(S) IN FEIS: See Figure 4-3. Locations of Critical Habitat and USCG Stations (USCG Districts 1, 5, and 7) Along the East Coast of the United States

COMMENT CATEGORY:

13. Vessel Collisions with Manatees

COMMENT SUMMARY: The DEIS incorrectly states that there are no documented reports of manatee collisions with USCG vessels. The USFWS disagrees with the DEIS statement that the No Action alternative does not pose a significant risk to manatees.

COMMENTERS: USFWS1 #1

USCG RESPONSE: The collision referred to by the commenter occurred outside of the area under consideration in this EIS. The USCG agrees that without marine mammal protection measures there are significant risks to manatees (see analysis in Chapter 5). Under the Preferred Alternative, the USCG would continue to pursue cooperative efforts such as those discussed in the response to comment 2.b.3. to protect manatees.

RELATED SECTION(S) IN FEIS: Section 5.1.2 Consequences of No Action Alternative on the Biological Environment, Effects of USCG Vessel Activities on the Biological Environment

COMMENT CATEGORY:

14. Economic Impacts of the Preferred Alternative

COMMENT SUMMARY:

The DEIS fails to evaluate the costs associated with implementing the Preferred Alternative and fails to consider what additional funding would be needed. There are significant cost factors that should be considered, including increased costs of underway time, including fuel and maintenance. Increased time in the habitat may equate to an increased chance of an encounter with a right whale. The conclusion in the DEIS that any increase in underway time is offset by the benefit to marine mammals can no be supported unless the benefit can be quantified and compared with costs associated with obtaining the benefit. Clarification is needed on the economic impacts of the proposed action on the potential decrease in law enforcement efforts and other USCG operations. Will such a decrease be due to a decrease in patrol hours or a decrease in areas patrolled?

COMMENTERS: Strahan, #13, EPA2 #2; USN #15

USCG RESPONSE: The cost impacts of the Preferred Alternative on cutter operations and aircraft operations are based on various assumptions and the proposed monitoring program provides the opportunity to validate or modify those assumptions as well as providing hard data for future review and analyses. Aircraft altitude requirements, minimum vessel approach distance, vessel safe speed protocol, and posting lookouts could have a significant impact on law enforcement operations. For example, the need to alter course or avoid unidentified large whales will lower average transit speeds and hinder boardings in areas where whales are common (e.g. from October to March Atlantic Area predicts that transit times will increase 5% resulting in a loss of 21 cutter days resulting in costs of approximately \$155K). During a recent USCG cutter patrol of approximately 8 months duration, on 36 occasions the cutter stopped or slowed for a period of 5 to 10 minutes after sighting whales. Such delays increase the time the cutter could spend on fisheries enforcement, other missions, or transiting between missions. The decrease would result in fewer areas being patrolled.

RELATED SECTION(S) IN FEIS: Appendix W; Chapter 3.2.1 Internal Program, Mission Impacts of Operational Directives

COMMENT CATEGORY:

15. Other - Use of Off-Road Vehicles

COMMENT SUMMARY: The Virginia Department of Conservation and Recreation is concerned that the use of off-road vehicles on beaches may adversely affect critical habitat necessary for rare, threatened, and endangered plant and animal species.

COMMENTERS: CW1 #1

USCG RESPONSE: The USCG will comply with the requirements to consult and coordinate with the state when it is determined that its actions (such as the off-road vehicles) may adversely affect critical habitat.

RELATED SECTION(S) IN FEIS: Table 3-2. Comparison of Alternatives: Impacts to the Biological Environment; Section 5.1.2 Consequences of No Action Alternative on the Biological Environment, Effects of USCG-Associated Human Presence and Activities on the Biological Environment

COMMENT CATEGORY:

16. Support for the Preferred Alternative

SUMMARY OF COMMENTS: We concur with the evaluation of the two alternatives and support the Preferred Alternative. The DEIS is consistent with state programs. No Comment.

COMMENTERS:

State of Georgia Office of Planning and Budget

State of Georgia Department of Natural Resources, Environmental Protection Division

Maryland Office of Planning;

North Carolina Wildlife Resources Commission

North Carolina Department of Environment, Health and Natural Resources

South Carolina Office of the Governor

South Carolina Office of The Adjutant General

South Carolina Department of Parks, Recreation, and Tourism

South Carolina Human Affairs Division

South Carolina Office of Community Grant Program

South Carolina Department of Agriculture

South Carolina Forestry Commission

South Carolina Division on Aging

South Carolina State Ports Authority

South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management

South Carolina Department of Health and Environmental Control

Berkeley-Charleston-Dorchester Council of Governments, South Carolina

Hampton Roads Planning District Commission, Chesapeake, VA

US Department of Commerce, National Marine Fisheries Service, Comment #1

Department of the Army, Jacksonville District Corps of Engineers

USCG RESPONSE: The USCG thanks you for your comments on the DEIS.