

MEMORANDUM OF AGREEMENT

BETWEEN

COAST GUARD ATLANTIC AREA

AND

THE NATIONAL MARINE FISHERIES SERVICE

CONCERNING COOPERATIVE EFFORTS TO SAFEGUARD MARINE SPECIES PROTECTED UNDER THE ENDANGERED SPECIES ACT (ESA) AND THE MARINE MAMMAL PROTECTION ACT (MMPA) LOCATED WITHIN THE LITTORAL AND OFFSHORE WATERS OF THE FIFTH, SEVENTH AND EIGHTH COAST GUARD DISTRICTS THROUGH THE COORDINATION OF ENFORCEMENT ACTIVITIES, DATA COLLECTION, EDUCATION, AND LOGISTICAL SUPPORT.

THIS MEMORANDUM OF AGREEMENT IS NOT INTENDED TO LIMIT OR MODIFY COAST GUARD LAW ENFORCEMENT AUTHORITY UNDER TITLE 14, UNITED STATES CODE, OR NATIONAL MARINE FISHERIES SERVICE (NMFS) LAW ENFORCEMENT AUTHORITY UNDER TITLE 16, UNITED STATES CODE.

REFERENCES:

- (a) Endangered Species Act (16 U.S.C. 1531, et seq.)
- (b) Endangered Species Act Regulations (50 CFR Part 17)
- (c) Marine Mammal Protection Act (16 U.S.C. 1361, et seq.)
- (d) Marine Mammal Protection Act Regulations (50 CFR Part 18)
- (e) Coast Guard Cooperation with Other Agencies (14 U.S.C. 141)

I. Purpose and Background:

1. The purpose of this agreement is to outline the roles of the parties in meeting their program goals. This agreement does not create any financial obligations on the part of either party.
2. The littoral and offshore waters of the Fifth, Seventh and Eighth Coast Guard Districts and the National Marine Fisheries Service (NMFS) Southeast Region are inhabited by a variety of marine species protected under the ESA and MMPA, references (a) and (c). The close relationship of the Coast Guard Districts, NMFS, and the maritime community helps all concerned meet their ESA and MMPA responsibilities and supports NMFS efforts to recover protected species.
3. The United States Coast Guard (USCG) has authority to enforce the laws of the United States in waters under federal jurisdiction. To that end, Coast Guard boats, ships, aircraft and a variety of support facilities are located in the Fifth, Seventh and Eighth Coast Guard Districts. Many of these assets can enforce MMPA and ESA regulations and to support marine mammal and sea turtle recovery efforts.
4. The National Marine Fisheries Service is the primary federal trustee for living marine resources. The NMFS Office of Enforcement has the authority to enforce the laws of the United States related to living marine resources in waters under federal jurisdiction. The NMFS Office of Enforcement routinely draws upon USCG assets to enforce federal laws and regulations related to living marine resources and to investigate reports of violations. The NMFS Southeast Fisheries Science Center (SEFSC) offers a wide variety of scientific support to NMFS programs.
5. This agreement outlines efforts the United States Coast Guard can make to enforce regulations and support programs for the protection and recovery of marine mammals and sea turtles. It also outlines the coordination required of NMFS Southeast Region (SER) and NMFS SEFSC to assist the USCG in its efforts.

II. Parties:

The Parties to this agreement are: Commander, Coast Guard Atlantic Area, and the National Marine Fisheries Service. The Regional Administrator, NMFS Southeast Region, the Director, Southeast Fisheries Science Center, and the Special Agent in Charge, NMFS Office of Enforcement, Southeast Region, are agents of the principal NMFS party. The Commander, Fifth Coast Guard District, Commander, Seventh Coast Guard District and Commander, Eighth Coast Guard District are agents of the principal Coast Guard party. No third party beneficiaries are envisioned or intended.

III. Agreement:

1. The Fifth, Seventh and Eighth Coast Guard Districts, subject to the availability of resources, will:
 - a. Designate the Law Enforcement Branch Chief as the primary contact for marine mammal and endangered species enforcement programs.
 - b. Provide the commercial marine industry with information on USCG and NMFS regulatory and educational programs designed to protect and support the recovery of living marine resources protected by references (a) through (d).
 - c. Consistent with applicable endangered species recovery plans, identify commercial marine industries which operate in the designated northern right whale critical habitat and other mutually agreed upon areas and provide those industries with the educational materials described in paragraph (b) above.
 - d. Provide patrols dedicated to the enforcement of references (a) through (d), with particular emphasis on northern right whale critical habitat areas and the Shrimp Fishery Sea Turtle Conservation Areas (SFSTCAs). Similarly, provide patrols to enforce commercial fisheries regulations, e.g., gear restrictions implemented in habitats and designated conservation areas to protect the northern right whale, sea turtles, and other protected living marine resources.
 - e. Disseminate information packets supplied by NMFS to vessels boarded in or near waters inhabited by northern right whales, sea turtles, and other protected living marine resources.
 - f. When requested by the SER or SEFSC, provide limited, short-term vessel and aircraft support to facilitate research and monitoring of endangered and threatened marine animals, particularly within the designated northern right whale critical habitat, the SFSTCAs, and other mutually agreed upon areas.
 - g. At the request of NMFS, publish its submitted Notice to Mariners, identifying the designated right whale critical habitat areas and SFSTCAs. This notice will also identify other high use areas such as coastal North Carolina and southern Texas coastal waters, as areas where endangered species, particularly humpback whales and sea turtles, respectively, are likely to be encountered. The notice will advise mariners to transit the waters with caution to minimize disturbance of protected marine species and avoid ship strikes of whales.
 - h. When advised by the National Marine Fisheries Service or detected by United States Coast Guard assets, broadcast a Notice to Mariners when right whales or large aggregations of other protected marine species are known to be in a specific area. The

notice will advise mariners to transit the waters with caution to minimize disturbance of protected marine species and avoid ship strikes of whales.

- i. Subject to operations and in consideration of security issues, direct United States Coast Guard units to contact vessels approaching aggregations of northern right whales or other large whales, and to advise the approaching vessels of the animals' position.
 - j. Document encounters, and provide the Southeast Fisheries Science Center with sighting and photographic records, if available, of the following:
 - Entangled or injured marine mammals and sea turtles, particularly northern right whales
 - Dead floating large whales of any species, particularly northern right whales.
 - Large aggregations of whales of any species or other protected species.
 - k. Encourage the United States Coast Guard Auxiliary to distribute marine mammal viewing guidelines and other information on marine mammal and sea turtle protection when conducting safe boating courses and during other events in which the Auxiliary participates.
 - l. Develop and implement a protocol to advise the NMFS Southeast Regional Marine Mammal Stranding and Disentanglement Coordinator when United States Coast Guard units receive reports or become aware that a live protected species is stranded, entrapped or entangled in fishing gear. Coast Guard resources, as available, may be utilized to provide logistical support to the National Marine Fisheries Service and the Southeast Fisheries Science Center staff or other expert parties designated by the National Marine Fisheries Service, who are working to free stranded, entrapped or entangled living marine resources.
 - m. Recommend vessel-operating guidelines in waters where protected marine species are likely to be encountered.
 - n. Maintain close liaison with the National Marine Fisheries Service to keep informed of new initiatives and provide guidance on how the United States Coast Guard can support the biological recovery and protection of living marine resources in the Fifth, Seventh and Eighth Coast Guard Districts.
2. The National Marine Fisheries Service Southeast Regional Office, subject to the availability of resources, will:

- a. Provide personnel to instruct students at the Coast Guard Regional Fisheries Training Centers on marine mammal and sea turtle protection programs in the waters from North Carolina to Texas, and other mutually agreed upon topics.
 - b. Provide the Fifth, Seventh and Eighth Coast Guard Districts with information packets on the protection of endangered whales to be distributed to representatives of the commercial marine industry which operate within these Coast Guard Districts.
 - c. Provide the Fifth, Seventh, and Eighth Coast Guard District Directors of Auxiliary with information packets on the protection of endangered whales, marine mammal viewing guidelines, and other information on marine mammal and sea turtle protection. If available, provide observers when requested to assist Coast Guard units conducting survey flights, surface patrols, and other operations conducted in support of this agreement.
 - d. Provide the Fifth, Seventh and Eighth Coast Guard Districts with a list of appropriate organizations for responding to incidents of stranding or entanglement of large whales or other protected species, and other issues relevant to the marine mammal stranding and disentanglement program effort outlined in this agreement.
 - e. Provide the Fifth, Seventh and Eighth Coast Guard Districts with weekly and annual sea turtle stranding summaries.
 - f. Provide the United States Coast Guard units located in the Fifth, Seventh and Eighth Coast Guard Districts with information about whale identification, behaviors exhibited by whales, and details of the prohibitions found in references (b) and (d).
3. The National Marine Fisheries Service Office of Enforcement, subject to the availability of resources, will:
- a. Review violations of references (a) through (d) documented by United States Coast Guard units on Enforcement Action Reports and Offense Investigation Reports, and forward completed enforcement case documentation to the National Oceanic and Atmospheric Administration General Counsel for processing and adjudication. NOAA General Consul will contact the District or servicing legal office with requests for witnesses.
 - b. Advise the applicable District Law Enforcement Branch of action taken by the National Oceanic and Atmospheric Administration on all endangered and threatened species violations detected and properly documented by the Coast Guard.

- c. Provide instruction to the training staffs at Regional Fisheries Training Centers on the specific enforcement requirements of references (a) through (d) and other mutually agreed upon topics.
 - d. In response to specifically identified needs for investigative assistance, provide support to USCG units which have encountered MMPA and/or ESA violations in the course of patrols or other operations.
4. The National Marine Fisheries Service, Southeast Fisheries Science Center, subject to availability of resources, will:
- a. Provide instruction at the Regional Fisheries Training Centers or appropriate field units on identification of protected species found in waters of the southeast United States.
 - b. If available, provide observers upon request to assist United States Coast Guard units conducting survey flights and surface patrols conducted in support of this agreement.
 - c. Provide the Regional Fisheries Training Centers with mutually agreed upon training material to support the recovery of protected marine species.
 - d. Provide instruction on programs and networks established to mitigate the hazards placed on endangered marine species by strandings, ship strikes, and entanglements.

IV. Primary Points of Contact

- 1. Fifth Coast Guard District (which for the purposes of this agreement encompasses the area from the Virginia/North Carolina state line to the North Carolina/South Carolina state line):
 - a. Fisheries Enforcement: telephone (757) 398-6266
 - b. Command Center: 24-hour telephone (757) 398-6231.
 - c. Marine Safety Compliance: telephone (757) 398-6619.
- 4. Seventh Coast Guard District (which encompasses the area from the North Carolina/South Carolina state line to St. Marks, Florida.):
 - a. Fisheries Enforcement: telephone (305) 536-5230.
 - b. Command Center: 24-hour telephone (305) 536-5611.

- c. Marine Safety Compliance: telephone (305) 536-6535.
4. Eighth Coast Guard District (which encompasses the area from St. Marks, Florida to the United States/Mexican Border.):
 - a. Fisheries Enforcement: telephone (504) 589-4990.
 - b. Command Center: 24-hour telephone (504) 589-6225.
 - c. Marine Safety Compliance: telephone (504) 589-3624.
4. National Marine Fisheries Service, Office of Enforcement, Southeast Region: telephone (727) 570-5344.
5. National Marine Fisheries Service, Protected Resources Division, Southeast Region: telephone (727) 570-5312.
6. National Marine Fisheries Service, Southeast Fisheries Science Center: telephone (305) 361-4586.
7. National Marine Fisheries Service, Marine Mammal Stranding and Disentanglement Coordinator, Southeast Fisheries Science Center: pager (305) 862-2850.

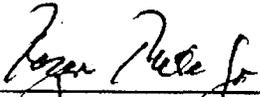
V. Other Provisions

1. Nothing herein is intended to conflict with current NOAA or USCG directives. If the terms of this agreement are inconsistent with existing directives of either of the parties entering into this agreement, then those portions of this agreement which are determined to be inconsistent shall be invalid; but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of the agreement, all necessary changes will be accomplished by either an amendment or by entering into a new agreement, whichever is deemed most expedient to the interest of both parties.
2. This MOA may be modified or amended upon written request of either party hereto and the subsequent written concurrence of both parties. Unless terminated under the terms of this paragraph, this MOA will remain in full force and in effect until October 31, 2003. This agreement may then be renewed for future years upon written consent of both participating agencies. This agreement is effective upon signature of the parties. Either party may withdraw from this agreement upon 30 days written notice to the other party.

3. The parties to this agreement shall meet from time to time, but not less than once per year, to discuss its implementation.

VI. Signature of Each Party:

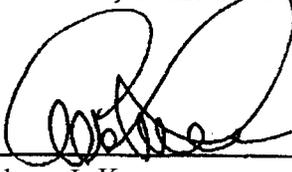
IN WITNESS WHEREOF, the parties hereto have executed this MOA as of the last written date below.



Roger T. Rufe, Jr.
Vice Admiral, U.S. Coast Guard
Commander, Coast Guard Atlantic Area

12/30/98

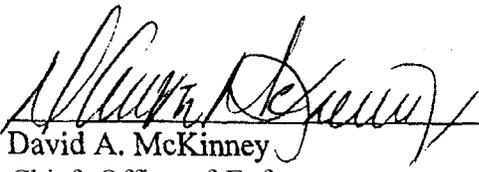
Date



Andrew J. Kemmerer
Regional Administrator
Southeast Region
National Marine Fisheries Service

Nov 12, 1998

Date



David A. McKinney
Chief, Office of Enforcement
National Marine Fisheries Service

12-4-98

Date