



# MARINE MAMMAL COMMISSION

20 January 2022

Mr. Pete DeCola, Superintendent  
Stellwagen Bank National Marine Sanctuary  
175 Edward Foster Road  
Scituate, Massachusetts 02066

Attn: Management Plan Revision

Dear Mr. DeCola:

The National Ocean Service published a draft management plan and environmental assessment for the Stellwagen Bank National Marine Sanctuary (SBNMS) on 30 November 2021 (86 Fed. Reg. 67923). The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the draft management plan and environmental assessment and herein offers comments and recommendations pertaining to aspects of the plan that relate to marine mammals.

## Background

The Stellwagen Bank National Marine Sanctuary, which extends from Cape Ann to Cape Cod, Massachusetts, is one of the most biologically diverse and productive zones in the Gulf of Maine. The sanctuary supports over 575 marine species, including 22 species of marine mammals. The diversity of habitats and marine life is important to local and regional economies as it supports a variety of commercial, recreational, scientific, and educational activities.

The National Oceanic and Atmospheric Administration (NOAA) published a [report in 2020](#) that assessed the condition and trends of resources and activities in SBNMS. The report concluded that human activities and climate change are impacting sanctuary resources in various ways (Office of National Marine Sanctuaries 2020). The report was used to guide the development of the draft management plan that addresses several emerging threats to marine resources in the sanctuary. The draft management plan contains 15 action plans, several of which define objectives pertaining to marine mammals and the threats they face, including threats from vessel traffic, commercial and recreational fishing, whale watching, and climate change.

The Commission welcomes the development of an updated management plan to address continued and emerging threats to marine resources in the sanctuary and congratulates the sanctuary staff on the comprehensiveness of the draft plan, the excellent work being carried out to manage the sanctuary and protect its resources, and the strong collaborations that have been developed with partners throughout the region. The Commission recognizes that funding is limited, and hopes that future appropriated funding will reflect the need for elevated prioritization of some of the listed management strategies.

## Entanglement

The Commission is pleased to see that the Marine Mammal Protection Action Plan included in the draft management plan addresses monitoring, mitigating the risks of, and preventing marine mammal ship strikes, entanglement, and noise disturbance. The draft management plan is generally strong on addressing the impacts of vessel strikes and noise disturbance in the Marine Mammal Protection, Vessel Traffic, and Soundscape Action Plans. Although the draft management plan makes the participation of sanctuary staff on the Atlantic Large Whale and Harbor Porpoise Take Reduction Teams a high priority, the Commission believes that management actions that reduce the risk of entanglement of large whales in fishing gear should have the highest priority.

According to the SBNMS 2020 condition report, commercial fishing occurs extensively throughout the sanctuary (Office of National Marine Sanctuaries 2020). From 2007 to 2016, fixed gear comprised 62.9% of commercial fishing effort within the sanctuary. Although there was an 87% decrease in gillnet fishing due to cuts in the cod quota, there was a subsequent 56% increase in the lobster fishery as it expanded into areas previously fished with mobile gear. Smaller marine mammals experience a high risk of entanglement from gillnet fisheries. Gray seals, for example, are the most commonly bycaught marine mammal in the sanctuary, followed by harbor seals and harbor porpoises (Office of National Marine Sanctuaries 2020). Large whales are at high risk of entanglement in gillnets and the buoy lines associated with gillnet and trap/pot fishing that occurs in the sanctuary. Entanglements occur so frequently throughout the range of large cetaceans in the western North Atlantic that 83 percent of all endangered North Atlantic right whales, for example, have been entangled at least once, and it is estimated that each year, on average, 26 percent of the right whale population experiences an entangling event (Knowlton et al. 2012). Similarly, over 64% of humpback whales in the Gulf of Maine exhibit signs of previous entanglements (Robbins 2009).

Under the Marine Mammal Protection Action Plan, strategy MP-1 intends to continue projects to obtain data on vessel strike, entanglement, and marine mammal responses to noise, and the strategy is listed as a medium priority. However, none of the activities listed under this strategy explicitly mentions entanglement or fisheries, and strategy MP-2, which supports research into entanglement prevention, was assigned a low priority and currently has no funding. Given the seriousness of the problem of large whale entanglement, and the fact that entanglement represents an existential threat to the North Atlantic right whale, the Commission recommends that strategies MP-1 and MP-2 of the draft management plan's Marine Mammal Protection Action Plan be assigned high priority and allocated sufficient funding to ensure their implementation. Although the SBNMS does not regulate fishing within the sanctuary, mapping of fishing effort should be included as an activity under strategy MP-1, which already includes mapping ship traffic within the sanctuary. Not only could the mapping of fishing help improve efforts to monitor and mitigate entanglement and bycatch within the sanctuary, it could also contribute to the strategies of the Climate Change Action Plan that aim to detect climate change impacts on the sanctuary ecosystem.

Prioritizing research into entanglement prevention and supporting the associated activities would have additional benefits. Pursuing Activity MP 2.2 to collaborate with the National Marine Fisheries Service, the fishing industry, and non-governmental organizations to develop, test, and evaluate buoyless fixed gear, and to showcase examples of successful gear adaptation, would not only strengthen these key partnerships, but would directly support strategy CU-4 of the Compatible Uses Action Plan to promote the sanctuary as a testing ground for innovative methods and

technologies to manage multiple resource uses. Activities to reduce the amount of derelict gear and to remove marine debris from shipwrecks also would support strategies in the Maritime Heritage and Cultural Landscapes and Water Quality Monitoring Action Plans.

## **Whale watching**

According to the draft environmental assessment, in 2018 alone, commercial whale-watching companies in New England scheduled 3,650 whale-watching trips, and over 80% of those trips visited the SBNMS (Schwarzmann & Shea, 2020). Additionally, based on average annual human population growth rates, average annual real per capita income in counties close to the sanctuary, and increasing boater registrations since 2015, an increasing number of recreational vessels are visiting the area to view whales (Office of National Marine Sanctuaries 2020). Vessels approaching whales too closely can alter the resting, feeding, and nursing behavior of whales, and high levels of vessel traffic near whales increases the risk of vessel strike. Consequently, the [Commission recommended in 2008](#)<sup>1</sup> that SBNMS's management plan include an activity to implement regulations, permit requirements, or other measures as necessary for managing commercial and privately owned whale-watching vessels in the sanctuary.

Strategy MP-5 of the Marine Mammal Protection Action Plan would expand the Boater Outreach for Whale Watching program to reach more private boaters. This program is designed to improve recreational boating etiquette around whales, and the sanctuary-supported "See a Spout...Watch Out!" program also educates recreational boaters on safe and responsible operation around whales. Reducing disturbance and promoting responsible viewing guidelines for commercial whale-watching vessels does not appear to be addressed in this plan. The Commission is pleased to note sanctuary involvement in developing regional whale-watching and wildlife-viewing guidelines and the Whale SENSE voluntary education and conservation program for commercial whale-watching companies. Although it is encouraging to see that many commercial whale-watching companies in the region are Whale SENSE certified, [the Commission recommends](#) that the Marine Mammal Protection Action Plan includes increasing outreach and promotion of the Whale SENSE program and responsible viewing guidelines to companies operating within the sanctuary that have not yet joined this program.

## **Vessel impacts**

The Commission appreciates the thoroughness with which impacts of vessel traffic have been considered and appear throughout the draft management plan and is pleased to see that risk of vessel strikes and exposure to anthropogenic sound are each considered in multiple action plans. When considering vessel-strike risk to large whales, the draft management plan notes that entanglements and vessel strikes are reducing the reproductive success of the critically endangered North Atlantic right whale (Moore et al. 2021), while 14.7% of individual humpback whales in and around SBNMS bear evidence of injuries consistent with one or more vessel strikes (Hill et al. 2017), suggesting that current efforts are inadequate to fully protect humpback whales from vessel strikes. Despite this, strategy VT-3 of the Vessel Traffic Action Plan, which would continue analyzing vessel strikes and modeling the relationship of vessel speed to lethality, is assigned a low priority in the draft management plan. The Commission also notes that the only performance indicators listed for

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<sup>1</sup> 14 August 2008 letter is available at [https://www.mmc.gov/wp-content/uploads/sb\\_mgmtplan.pdf](https://www.mmc.gov/wp-content/uploads/sb_mgmtplan.pdf)

the Vessel Traffic Action Plan are percentage of appropriated funding for the Whale Alert app and compliance of vessels 300 gross tons or greater with the Seasonal Management Areas.

Given the large volume of vessel traffic within the sanctuary and the consequent high vessel-strike risk to large whales, the Commission recommends that strategy VT-3 be given a high priority in the management plan. In addition to measuring large-vessel compliance with Seasonal Management Areas, the sanctuary should include vessels less than 65 feet in length in its analyses of vessel-strike risk, vessel speed, and lethality. Also, the sanctuary should consider the adoption of seasonal small-vessel speed restrictions, as required in Cape Cod Bay (322 CMR 12.05). The Commission appreciates the inclusion of references in the draft management plan to the Seasonal and Dynamic Management Areas that are situated in the sanctuary and is pleased to see that the sanctuary vessel R/V *Auk*, which is less than 65 feet in length, leads by example by complying with speed restrictions and abiding by voluntary whale watching guidelines.

Additionally, the Commission is impressed by the sanctuary's Right Whale Corporate Responsibility program and its success in increasing compliance with speed restrictions within the sanctuary and commends the sanctuary for its leading role in developing the program. The Commission would like to see strong outreach to other regions to highlight the successes of this program and encourage its expansion to other ports and regions.

#### **Additional comments**

The Commission concurs with the sanctuary's decision to give all Climate Change Action Plan strategies high priorities and is also pleased with the high prioritization of the majority of the Soundscape Action Plan strategies. The Commission noticed that the Research and Monitoring Action Plan strategies are mostly given a low priority and are unfunded by NOAA, and that they therefore have to rely on funding from external sources. Given that NOAA's assessment of the [SBNMS's science needs](#)<sup>2</sup> are each addressed in individual action plans, this low prioritization doesn't reflect the sanctuary's commitment to research and monitoring, as documented elsewhere throughout the draft management plan. Therefore, the Commission recommends that strategy RM-1 of the Research and Monitoring Action Plan, which supports science focused on priority sanctuary needs, be given a high priority. It appears the sanctuary relies heavily on external funding and only has sufficient funds to carry out 44 of its 76 proposed strategies. Therefore, a focus on increasing external funding opportunities, partnerships, and student engagement will be essential to the success of several individual action plans and the priority strategies within them.

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<sup>2</sup> SBNMS science needs are available at <https://sanctuaries.noaa.gov/science/assessment/sbnms.html>

Thank you for considering these comments and recommendations. Please let me know if you would like to discuss our comments or have any questions concerning them.

Sincerely,



Peter O. Thomas, Ph.D.,  
Executive Director

## References

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