



**NOAA  
FISHERIES**

# The Marine Mammal Protection Act and its provisions for managing gray seal-human interactions

Shannon Bettridge, Ph.D.

Acting Deputy Chief

Marine Mammal and Sea Turtle Conservation Division

Office of Protected Resources

April 6, 2017

# Marine Mammal Protection Act (MMPA)

- Protects all marine mammals, regardless of status
  - Unlike Endangered Species Act, which has “list” of endangered and threatened species
- Prohibits, with certain exceptions, “take” of marine mammals in U.S. waters and by U.S. citizens on high seas, and importation of marine mammals and marine mammal products into U.S.
- Major objective: species/stocks must not be permitted to fall below their optimum sustainable population level



# Context for MMPA enactment

Enacted on October 21, 1972

- Tuna/Dolphin fishery interactions in Eastern Tropical Pacific
  - >300,000 dolphin deaths per year
  - Intentional setting of fishing gear upon dolphins
- Over-exploitation of whales
- Hunts for fur and harp seals
- U.S. social values



## Section 2. Findings and Declaration of Policy 16 U.S.C. 1361

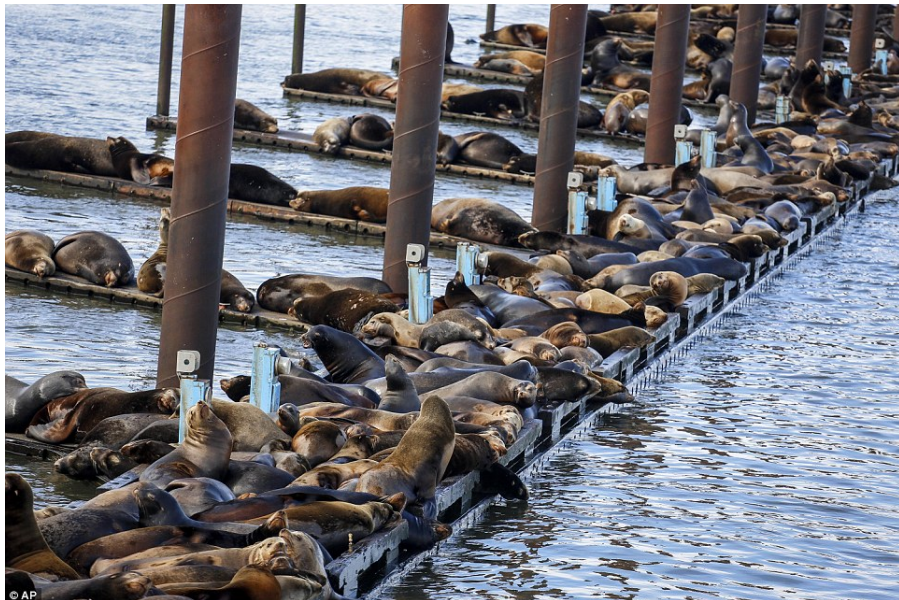
- Marine mammals are resources of “great international significance, esthetic and recreational as well as economic” and “should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management”
- Primary objective of their management = maintain health and stability of marine ecosystem
  - Species/stocks should not be permitted to diminish beyond point at which they cease to be **significant functioning element in the ecosystem**
  - Species/stocks should not be permitted to diminish below **optimum sustainable population**, keeping in mind the **carrying capacity of the habitat**

# Specific Exceptions to MMPA Take Prohibition

- Incidental Take
  - Commercial fishing
  - Non-fishing commercial activities (e.g., oil and gas exploration)
- Direct Take
  - Subsistence hunting/handicrafts by AK natives
  - Scientific research, public display, and photography
  - Non-lethal deterrence
  - Pinniped removal authority for specific pinnipeds preying upon ESA listed salmon



## Examples of marine mammal-human interactions



# How can NOAA Fisheries manage these interactions?

- Fishing regulations and gear modifications
- Ship strike prevention measures
  - Moving shipping lanes, mariner notifications, speed restrictions, etc.
- Approach guidelines and restrictions
- Dolphin feeding prohibitions
- Research and monitoring
- Education and outreach
- Deterrence guidelines



# Non-lethal deterrence

- MMPA generally prohibits harassment, hunting, capturing, or killing of marine mammals, or any attempt to engage in such activities
- Exceptions for authorizing certain people under certain circumstances to deter marine mammals from damaging private property as long as methods used do not result in death or serious injury of an animal



# Marine Mammal Deterrence

- Section 101(a)(4)(A) – exceptions to take prohibition for measures:
  - by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from **damaging the gear or catch**;
  - by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from **damaging private property**;
  - by any person, to deter a marine mammal **from endangering personal safety**; or
  - by a government employee, to deter a marine mammal from **damaging public property**,

*so long as such measures **do not result in the death or serious injury** of a marine mammal*

# Marine Mammal Deterrence

- NOAA is currently developing a rule for safely deterring marine mammals. The effort includes:
  - Guidelines for deterring non-ESA marine mammals
  - Specific measures for ESA-listed species (i.e., specific devices or methods)
  - Prohibitions on deterrents that would have a significant adverse effect on marine mammals
- *Proposed rule will be available for public notice and comment*
- Detering marine mammals in accordance with these guidelines/measures will not be a violation of the MMPA

# Conclusion

- MMPA is focused on attaining and maintaining healthy marine mammal stocks
- Healthy marine mammals stocks are expected to impact their environment -- MMPA's primary reason for protecting them
- MMPA is pragmatic and has a number of exceptions to the general take prohibition
- MMPA is not the ESA
- Deterrence guidelines will offer tangible, reasonable solutions
- Ecological vs. sociological carrying capacity

