

SAMPLE FORM LETTER #1
401 RECEIVED

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS, 1315 East-West Hwy,
Silver Spring, MD 20910

Dear Chief,

I was shocked to learn that North Atlantic right whales are still dying because of ship collisions, including mothers and their calves.

According to recent population assessments, there are only about 300 right whales left in the North Atlantic. This endangered species is under constant threat because of the shipping and cruise industries.

The National Marine Fisheries Service must protect the right whale by restricting the speed of ships that pass through waters known to contain right whales. I urge you not to let shipping and cruise line interests impede that protection.

The Endangered Species Act obligates the National Marine Fisheries Service to safeguard the North Atlantic right whale. Please take the necessary steps today to protect the few precious remaining right whales.

Sincerely,

SAMPLE FORM LETTER #2
7,243 RECEIVED

Dr. William T. Hogarth
1315 East-West Highway, Room 13357
Silver Spring, MD 20910

Dear Dr. Hogarth,

As a supporter of The Ocean Conservancy, I am writing to urge the National Marine Fisheries Service to immediately impose broad based speed restrictions on ocean-going vessels along the Atlantic seaboard in order to protect the critically endangered North Atlantic right whales.

Because there are only about 300 right whales left, the loss of even one animal contributes to the risk of extinction. In this year alone, one right whale is known to have died as a result of becoming entangled in fishing gear and two more have died after being struck by ships the most recent just this month, after NMFS issued its Proposed Rule. The species simply cannot afford further delay.

For these reasons, I urge NMFS to immediately take the following actions:

- Adopt the 10 knot speed limit they have proposed as the most protective option for this highly imperiled species.
- Ensure that that this speed limit applies broadly to all non-sovereign vessels greater than 65 feet in length.
- Ensure that this speed limit is applicable in the times and places the whales need them most by using the best available science on right whale distribution to determine the scope of seasonal measures, AND by developing a dynamic management system that will quickly trigger emergency speed restrictions if whales are found to be present when the seasonal management measures are not in effect.
- Act quickly to ensure that this speed limit is in place by November of this year to protect mothers and calves -- the most vulnerable and important members of the species -- in their winter calving grounds.

Sincerely,

SAMPLE FORM LETTER #3
1,995 RECEIVED

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

Dear NMFS,

I am writing to strongly urge you to require large ships to slow down to 10 knots (about 11 mph) while in Northern Right Whale Habitat as you propose. Setting strict speed limits on ships that transit right whale habitat is critical to preventing the further decline and extinction of these rare whales.

Please do not compromise this scientifically-based protection measure due to political pressure from the shipping industry. Ports and world-wide shipping continue to grow tremendously, with cargo from overseas expected to double or triple in coming years. The Northern Right Whale should not be allowed to slide into extinction just so more cars, computers, and other products make it to port a few minutes earlier.

We commend you for proposing a straight-forward and effective measure to protect Northern Right Whales from collisions with large ships. Please include my comments in the public record as being in support of the proposed rule for ship speed limits of 10 knots in right whale habitat. I oppose increasing the limit to 12 or 14 knots as researchers have documented that whales cannot avoid collisions with ships traveling faster than 10 knots.

Sincerely yours,

SAMPLE FORM LETTER #4
158 RECEIVED

NOAA Marine Mammal Conservation Division
Office of Protected Resources, NOAA Fisheries
1315 East West Highway
Silver Spring, MD 20910

Dear :

As shipping increases worldwide, this speed reduction during critical times for the whales is a last resort for protecting these animals in their feeding and mating grounds. Despite the fact that ship collisions are responsible for more whale deaths than any other single human impact, some in the shipping industry dispute the need for this safeguard. They contend that this measure will be harmful to the economic well-being of the industry. It has been proven that ship speed rules will simply be factored into vessel scheduling and as such won't be considered a delay, or incur any losses financially for the industry.

Slower vessel speeds will give the whales more time to detect, react, and avoid the ships, as well as exerting considerably less hydrodynamic forces on the animals, which otherwise would pull the whale into the path of the ship.

Please act without further delay to enact this speed rule so that the magnificent North Atlantic Right whale is not another animal added to the list of extinct species. The Right Whale population hovers between 300 and 350 whales. At these levels, each whale is considered vital to the continued existence to the species.

Sincerely,

The Biltmore
817 West Peachtree Street
Suite 200
Atlanta, GA 30308
tel: 404.876.2900
fax: 404.872.9229
mail: @gaconservancy.org
georgiaconservancy.org



October 5, 2006

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Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

VIA EMAIL: shipstrike.comments@noaa.gov

Re: Proposed Rule to Implement Speed Restrictions to Reduce the
Threat of Ship Collisions with North Atlantic Right Whales

Dear Madam or Sir:

The Georgia Conservancy is very concerned about the threat posed to the North Atlantic Right Whale (*Eubalaena glacialis*) by collision with commercial and recreational vessels. We commend the National Marine Fisheries Service (NMFS) for its efforts to protect the North Atlantic Right Whales from extinction, and we appreciate the opportunity to comment on the proposed rule.

North Atlantic Right Whales Off Georgia Coast

The North Atlantic ocean proximate to coastal Georgia is recognized as critical habitat for calving and nursing by North Atlantic Right Whales. Research by NMFS has documented that the leading cause of non-natural mortality among Right Whales is collision with vessels. From our observation of local land use development practices, as well as the Georgia Ports Authority, we see a future with more recreational and commercial vessels, which will pose an even greater risk to the critically small number of remaining Right Whales.

Primacy of Preservation

NMFS has documented a pessimistic forecast for the survival of the North Atlantic Right Whale. The NMFS 2003 Stock Assessment Report notes that the loss of even one of remaining population from non-natural causes could spell extinction. Nevertheless, since 2004, three whales (possibly four) have been identified as killed by vessel strikes. Worse, due to the inherent difficulty in tracking these animals, it seems likely that mortalities caused by vessel strikes are underestimated.

The Georgia Conservancy believes that the dire prognosis for the North Atlantic Right Whale justifies a variety of restrictions on both commercial and recreational vessel operations. While we appreciate that mandating slower speeds in certain areas (as proposed by the NMFS rule), may be perceived as a burden by commercial or recreational vessel operators, these concerns of added travel time and expense are trivial compared to the extinction of a species.

In short, we believe the scientific literature supports the correlation between vessel speed and collisions with whales, making mandated reductions in vessel speed in specified areas an essential measure that ought to be adopted without change and without delay.

Importance of Monitoring

The scientific and monitoring work by NMFS has been and will continue to be critical to the survival and recovery of the North Atlantic Right Whale. This work and the precarious state of the North Atlantic Right Whale population argue eloquently for the need to enhance monitoring. Indeed, monitoring by federal agencies responsible for the recovery of this species is as critical as compliance by vessel owners with NMFS' final rule. Based on our observations, we fear Right Whale habitat and migratory routes will face increasing risks from vessels smaller than 65 feet in length, the threshold for the proposed rule. We want NMFS to be able to monitor, document, and address this and other emerging threats to this species' survival.

For the reasons stated above, we urge approval of the proposed rule without change or delay, and we hope to see more work by NMFS to document the progress of the North Atlantic Right Whale population. We also stand ready to lend our support to state and federal resource management agencies for additional measures they believe may be required to ensure the survival of the North Atlantic Right Whale.

We thank you for your attention to these comments.

Sincerely,



Patricia McIntosh
Vice President, Coast



International Fund for Animal Welfare

July 24, 2006

Chief
Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910
Attn: Right Whale Ship Strike Strategy

RE: SHIPSTRIKE COMMENTS
DOCKET No. 040506143-6016-02

Dear Dr. Silber:

www.ifaw.org

INTERNATIONAL HEADQUARTERS
411 Main Street
Yarmouth Port, MA 02675-1843
USA
Tel: 508 744 2000
Fax: 508 744 2009

I am writing on behalf of the International Fund for Animal Welfare (IFAW) to provide comments on the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (Proposed Rule). IFAW is extremely supportive of the Proposed Rule and urges NMFS to implement it as soon as possible.

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As you are aware, the protection of right whales from ship strikes and entanglement in fishing gear has been one of IFAW's highest priorities because the North Atlantic right whale population is severely endangered. Because "the greatest known current cause of right whale mortality in the western North Atlantic is collision with ships"¹ we have been particularly engaged in developing a comprehensive ship strike reduction strategy. Almost a decade ago IFAW employed a special maritime advisor to assist us in our efforts to protect right whales from ship collision. This former Coast Guard officer also served as a co-chair of the Ship Strike Committee of the Northeast and Southwest Implementation Teams for the Recovery of the North Atlantic Right Whale. The Committee made recommendations to your agency back in August 2001 on operational measures that should be implemented to reduce collisions with ships. For more than five years we have called on NMFS to implement effective ship routing measures and speed restrictions to minimize potential ship strikes.

In June 1999 IFAW joined the Secretaries of Commerce and Transportation in kicking off the first Mandatory Ship Reporting System (MSR) in Boston. At that time IFAW

¹ Recovery Plan for the North Atlantic Right Whale, August 2004; Prepared by the National Marine Fisheries Service Department of Commerce; page 1G-1

contributed almost \$70,000 to the Coast Guard for the start up costs of the MSR. IFAW's representative was one of the primary authors of the MSR proposal to the International Maritime Organization (IMO) and served as a technical advisor to the US delegation to the IMO. IFAW has funded numerous projects aimed at finding ways to reduce ship strikes, including research into passive acoustic detection.

IFAW's position on ship strikes has remained clear and consistent. Based on our experience we know that any meaningful ship strike reduction strategy must include (1) a mandatory vessel routing system, (2) meaningful ship speed restrictions, and (3) comprehensive enforcement mechanisms.

With respect to vessel routing changes, IFAW is urging the Coast Guard to implement as soon as possible the recommendations of its Port Access Route Study published in the Federal Register last month. IFAW is deeply concerned about the lack of commitment on behalf of the Coast Guard to impose measures necessary to reduce ship strikes, particularly in view of the recommendation made in your agency's Recovery Plan for the North Atlantic Right Whale that, "Specific routing measures should be required in all areas along the eastern seaboard where such measures are determined to provide ship strike reduction".¹ We will continue to press the Coast Guard to implement this important piece of the ship strike reduction strategy.

The second key component of an effective ship strike reduction strategy--speed restrictions--IFAW strongly supports the NMFS recommendation to impose vessel speed restrictions of 10 knots or less. There are many good reasons why speed restrictions are absolutely critical to conserving right whales and the proper policy for the Government to impose on mariners.

Slower Speeds Reduce Likelihood of Lethal Injury

Jensen and Silber's analysis of ship strike data clearly demonstrates that the probability that a strike would result in lethal rather than non-lethal injury ranged from 20 percent at 9 knots, to 80 percent at 15 knots, to 100 percent at 21 knots or greater. In their characterization of ship traffic in right whale critical habitat L. Ward-Geiger et al found that the majority of ships (59%) traveled at speeds greater or equal to 14 knots, a reported speed at which large whales may be critically injured or killed.² Of the three speeds discussed in the Proposed Rule (10, 12 and 14 knots) the 10 knot restriction will be the most effective in reducing the likelihood of ship strike whale mortalities. Choosing a higher speed would be ineffective because it would essentially maintain the status quo.

¹ Recovery Plan for the North Atlantic Right Whale, August 2004; Prepared by the National Marine Fisheries Service Department of Commerce, page IVB-4

² Ward-Geiger L I., Silber, G.K, Baumstark, R.D. and Pulfer T.L Characterization of Ship Traffic in Right Whale Habitat. *Coastal Management*, 33:263-278, 2005

Increased Ship Traffic--Bigger Ships Increase Ship Strikes

Lethal ship strikes are occurring more frequently because of increased ship traffic and the continued increase in the size of commercial vessels. Mr. David Laist, a senior policy analyst at the US Marine Mammal Commission, has warned about the effects of these trends and the increase in ship strikes on right whales. While any size vessel is capable of colliding with a whale, the fact is that vessels have become larger and faster due to the tremendous increase in international trade. Historical records suggest that ship strikes fatal to whales remained infrequent until about 1950. After that period (post WWII) collisions between whales and ships increased rapidly as the number, speed and size of ships increased. During the 1950's- 1970's the average maximum sustained speed of ships along the U.S. Atlantic coast ranged from 15-24 knots. Over the past decade the average maximum speed has increased to 25-35 knots. Just last month the Korean shipbuilder Hyundai Heavy Industries launched the world's fastest container ship, a 1000 ft. vessel capable of cruising at 27 knots. This is terrible news for whales. After substantial studies of the available data Mr. Laist has concluded that, "most lethal and serious injuries to whales are caused by relatively large vessels (e.g. 80 m or longer)...and by vessels traveling at 14 kn. or faster".³ As commercial shipping lines continue to build bigger and faster ships collisions with right whales can be expected to increase unless immediate action is taken to reduce vessel speeds in important right whale habitat.

Voluntary Measures Ineffective

The Mandatory Ship Reporting System (MSRS) was designed to provide mariners with adequate information to avoid or minimize the likelihood of collisions with whales. In spite of the MSRS, NMFS ship speed advisories and NMFS advisories on measures mariners can take to reduce the chances of hitting right whales, the maritime community has not acted voluntarily to reduce strikes. As referenced in the Proposed Rule, a study of mariner compliance with NOAA issued speed advisories revealed that 95% of the ships tracked in the Great South Channel did not slow down or alter course. In light of this incredible level of non-compliance with voluntary measures, NMFS has no alternative but to mandate speed restrictions.

Dynamic Area Management Has Proven Successful

NMFS proposes to impose speed restrictions only in certain areas at certain times. The timing, duration and geographic extent of the speed restrictions have been tightly defined to minimize potential impacts on ship operations. This type of dynamic area management is currently used to regulate the fishing industry (DAM's), particularly the lobster and gillnet industries. IFAW supports this approach for the shipping industry because this flexible

³ Laist, D., Knowlton, A.R., Mead, J.G., Collet, A.S., Podesta, M. Collisions Between Ships and Whales. *Marine Mammal Science*, 17(1):35-75.

style of management will be an effective management tool in reducing the likelihood of ship strikes.

A Matter of Equity

The US commercial fishing industry has been subject to increased regulation to minimize the likelihood of whale entanglement with fishing gear. Lobstermen and other fixed gear fishermen have been forced to purchase new whale friendly fishing gear to minimize entanglement. These same fishermen have also been required to modify their fishing gear to include break-away knots or other devices designed to free entangled whales from the gear. Fishermen fishing in right whale critical habitat are routinely forced to remove fishing gear altogether from certain areas when right whales are present.

In contrast to the fishing industry, the shipping community has done little to minimize their impact on right whales. It simply isn't fair for the fishermen to shoulder the entire regulatory burden of protecting right whales. As a matter of equity and fairness, NMFS should implement an effective ship strike reduction strategy.

Public Vessel Loophole

IFAW strenuously objects to the blanket exclusion in the proposed rule for all vessels owned by or under contract to the Federal government, including the Navy and the Coast Guard. There is simply no justification for exempting this class of vessels. NOAA's own Large Whale Ship Strike Data Base reveals that, "Of the 134 cases of known vessel type, there are 23 reported incidents (17.1%) of Navy vessels hitting whales, 20 reports (14.9%) of ship strike for container/cargo vessels, 19 reports (14.2%) of ship strike for whale-watching vessels, and 17 reports (12.7%) for cruise ships. Nine cases of ship strike (6.7%) are reported from Coast Guard vessels."⁴

Combined the Navy and Coast Guard have accounted for approximately 24% of the reported strike cases with know vessel type. To ignore this source of mortality is unacceptable. We are aware that the Navy and Coast Guard have expressed opposition to speed restrictions because they contend it will interfere with their national security and safety at sea missions. IFAW agrees that speed restrictions on government vessels could at times interfere with operational missions. However, government vessels are not involved in defense or security missions 100% of the time.

Instead of a blanket exemption, IFAW proposes that government vessels be added to the list of vessels subject to this rule with a condition that allows Navy and Coast Guard vessels to ignore mandated speed restrictions if, in the judgment of the vessel captain, doing so would jeopardize or compromise national security or the safety of life at sea, but only in those narrow circumstances.

⁴ Jensen, A.S. and Silber, G.K.2003 NOAA Technical Memorandum NMFS-OPR-25, page 4.

Finally, the third and perhaps most important component of an effective ship strike reduction strategy is comprehensive enforcement. IFAW is deeply concerned that NMFS has not proposed an effective enforcement scheme and without adequate enforcement NMFS will not be able to determine whether or not the proposed measures are effective. NOAA does not have adequate vessels or aircraft to monitor ship speeds and we do not believe the Coast Guard is either capable or willing to do so. Consequently, IFAW recommends that NMFS develop and propose an effective enforcement and monitoring program to ensure success of the proposed speed measures. In addition, IFAW recommends that NMFS develop a schedule of penalties as a deterrent for non-compliance. Vessel operators that do not adhere to the speed reductions should face significant fines for not doing so.

On behalf of IFAW, I thank you for your consideration of our views and recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory S. Wetstone". The signature is written in a cursive style with a large, sweeping initial "G".

Gregory Wetstone
United States Director



LIBERTY HARBOR

Golden Isles, Georgia

Coast. In Style.

August 31, 2006

Dr. Silber
Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Dear Dr. Silber:

My name is Gary Waxman, and I am the principal developer of a project known as Liberty Harbor in Brunswick, Georgia. We are redeveloping a 110-acre site (that was formally a shipyard) for the construction of liberty ships during WW II. In addition to construction of over 1,400 housing units, a hotel, shops and other amenities, we plan to construct a 450-slip boat marina.

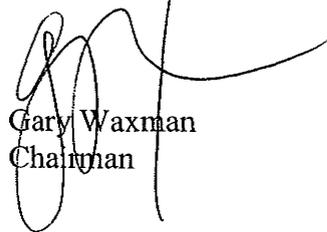
Myself and others associated with Liberty Harbor, including Duane Harris, retired Director of Coastal Resources Division of the Georgia Department of Natural Resources, have been working with Barb Zoodsma, Right Whale Implementation Team Co-chairs, and Georgia Department of Natural Resources' Non-game personnel, to develop a significant project to benefit right whales.

This is all introductory to my primary purpose of writing this letter. The real purpose is to say I support the proposed speed zones for right whales in our area but do not believe the proposed rule is as inclusive as it should be. While research may indicate vessels over 65-feet in length pose the greatest threat to right whales in our waters, smaller vessels can also strike and mortally wound right whales. I very strongly suggest NOAA implement the proposed rule but immediately begin the process of evaluating the need to include smaller vessels in a future amendment to this rule in our area.

Thank you for your consideration of this comment.

Sincerely,

LIBERTY HARBOR, LLC



Gary Waxman
Chairman

MARINE MAMMAL COMMISSION
4340 EAST-WEST HIGHWAY, ROOM 905
BETHESDA, MD 20814-4447

15 August 2006

Acting Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Sir or Madam:

On 26 June 2006 the National Marine Fisheries Service published a notice in the *Federal Register* requesting comments on a proposed rule to limit vessel speeds to 10 knots in certain areas to reduce collisions between ships and North Atlantic right whales. The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the proposed measures described in the rule and fully endorses them all. Mortality from ship collisions and entanglement in fishing gear is the primary reason that the North Atlantic right whale population has failed to show any significant signs of recovery over the past 30 years. In the Commission's view, the species' survival and recovery cannot be assured unless effective action is taken to reduce both of those sources of mortality. If adopted and enforced, we believe the proposed measures will substantially reduce ship/whale collisions.

The Marine Mammal Commission commends the Service for developing and proposing these measures. Based on its review, the Commission provides the following recommendations and comments.

RECOMMENDATIONS

The Marine Mammal Commission recommends that the National Marine Fisheries Service adopt the measures proposed in the *Federal Register* notice, including a 10-knot speed limit in areas where ship speeds are to be restricted, the boundaries identified for all of the proposed management areas, and the identified time frames for seasonal speed restrictions in management areas.

The Marine Mammal Commission also recommends that the type of vessels to be regulated be adopted as proposed for all areas except the proposed southeast management area off Florida and Georgia. For the southeast management area only, the Commission recommends that the Service modify its proposed rules to make them applicable to all motorized vessels 40 feet or longer.

Further, the Marine Mammal Commission recommends that designation of dynamic management areas be made effective immediately after a single observation of right whale densities satisfying the proposed criterion and immediately upon the first Coast Guard broadcast to mariners identifying the boundaries of the area.

RATIONALE

The Marine Mammal Commission offers the following rationale for the above recommendations.

Selected Speed Limit—In its *Federal Register* notice, the Service proposed a 10-knot speed limit but also solicited comments on implementing alternative speed limits of 12 or 14 knots. As discussed in the notice, the best available data on ship/whale collisions indicate that the probability of serious or lethal injuries to whales is very low when vessels travel at speeds of less than 10 knots. Risks increase rapidly at speeds between 10 and 13 knots. The data also indicate that the largest number of serious or lethal injuries occurs at speeds of 14 to 15 knots. Thus, a 14-knot limit appears to offer little, and possibly no, reduction in the risk of collision.

In establishing a speed limit, the Service also should consider human nature. When confronted with speed restrictions, many people travel at speeds slightly above the established limit. If a 12-knot limit is selected and vessel operators actually travel only a knot or two faster, they will be moving at speeds known to be dangerous to right whales. As a result, much of the potential conservation benefit of the speed restriction regulation would be lost. Accordingly, the Marine Mammal Commission recommends that the Service adopt a 10-knot speed limit as proposed.

Selected Areas for Speed Restrictions—The proposed speed restrictions would apply in areas within 30 nautical miles of major East Coast ports. The carcasses of most right whales killed by ships have first been observed near major port access routes. Available information also indicates that right whales migrating between the winter calving area and summer feeding areas travel within about 30 miles of the coastline. Thus, the boundaries of proposed management areas off East Coast ports appear appropriate and well justified. The proposed seasonal management areas along the southeast coast, in Cape Cod Bay, north and east of Cape Cod, and in the Great South Channel are where the largest seasonal concentrations of right whales have been documented. Thus, those areas are where transiting vessels are most likely to encounter right whales. Given this information, we believe that the proposed measures appropriately correspond to the areas where risks of collisions with right whales are greatest. Thus, the Marine Mammal Commission recommends that the boundaries for all of the identified management areas be adopted as proposed.

Selected Times for Speed Restrictions in Management Areas—The seasonal occurrence of right whales in key management areas is well documented. Based on our understanding of right whale movements and habitat-use patterns, the times during which seasonal speed restrictions would apply reflect the times when right whales are most likely to be present in those areas. For that reason, the Marine Mammal Commission recommends that the identified time frames for seasonal speed restrictions be adopted as proposed.

Type of Vessels to Be Regulated—The proposed rule states that the speed restrictions would apply to all vessels more than 65 feet in length. Information cited in the *Federal Register* notice indicates that collisions involving large vessels cause more than 75 percent of the serious or lethal

injuries to large whales of all species. The massive propeller wounds and blunt trauma injuries found on right whales killed by ships also suggest that large vessels cause most of the lethal collisions. Accordingly, the Commission believes that focusing the regulations on vessels more than 65 feet in length is appropriate in most cases. Therefore, the Marine Mammal Commission recommends that this standard be adopted as proposed for all areas except the southeast management area off Florida and Georgia.

With regard to the southeast management area—the species' only known calving grounds—we are aware of at least five right whales (two adult females, two calves, and a juvenile) that were first seen with fresh propeller wounds off Florida and Georgia since January 2001. These cases include an adult female with a newborn calf first seen with fresh propeller wounds on 29 January 2001, a calf first seen with six propeller slashes on 23 January 2003, a calf photographed south of the mouth of the St. Johns River with several evenly spaced cuts on its fluke on 19 April 2005, an adult female with a severed fluke hit by a 43-foot recreational vessel on 10 March 2005, and a juvenile first seen with fresh propeller wounds on 11 March 2006. Based on photographs of those wounds and other information, vessels less than 65 feet in length are either known to have caused those injuries or could have caused them. Given the importance of adult females and newborn calves to population recovery, and given information suggesting that calves and nursing or pregnant females are more vulnerable to collisions than are other whales, we believe that vessel speed regulations for the southeast calving grounds should apply to all motorized vessels known to be capable of inflicting serious injuries to right whales. Accordingly, the Marine Mammal Commission recommends that, for the proposed southeast management area only, the Service modify its proposed rules to make them applicable to all motorized vessels 40 feet or longer.

Dynamic Management Areas—Concentrations of right whales, including mothers with calves, also may be sighted outside the seasonal management areas. To protect those whales, the proposed rules provide for the Service to establish temporary dynamic management areas. Transiting vessels would have to either reduce speeds to 10 knots when traveling through the designated areas or divert around them. These areas would remain in effect for 15 days after the sighting unless extended or terminated by the Service. The boundaries of dynamic management areas would extend 15 nautical miles around a core area in which the density of right whales was observed to be at least four whales per 100 square nautical miles. [The whale sighting density, boundaries and duration are based on a review of past sighting data by Clapham and Pace (2001), which found that such sightings indicate groups of feeding right whales are likely to remain within 15 nautical miles of the initial sighting location for at least two weeks.] Upon receiving a reliable sighting report meeting these criteria, the Service would establish a dynamic management area by means of an announcement in the *Federal Register* and a Coast Guard broadcast notice (and other commonly used marine communications such as the NOAA weather radio) to advise mariners of the area's establishment, location, and effective period.

The same trigger mechanism has been used to establish temporary dynamic management areas for fisheries under the Large Whale Take Reduction Plan. Experience with that effort appears to have validated this trigger mechanism as an effective way to identify areas where right whales have established temporary residence. Therefore, the Marine Mammal Commission concurs with the

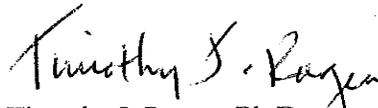
Acting Chief
15 August 2006
Page 4

Service's plan to use those criteria for determining when and where dynamic management areas should be established.

As implemented under the Large Whale Take Reduction Plan, however, the Service has adopted a policy of deferring the effective dates for dynamic management areas until a second sighting of whales has been made and a temporary rule has been developed and published in the *Federal Register*. That policy has typically delayed the effective dates for fishery-related dynamic management areas by approximately two weeks after the initial sighting. Those delays substantially undercut and in some cases eliminate the value of such temporary measures, as whales are not given protection for some or all of the time they are in the area. Therefore, the Marine Mammal Commission recommends that the Service develop rules to instigate dynamic management areas after a single observation of right whale densities that satisfies the above criterion and immediately upon the first Coast Guard broadcast to mariners identifying the boundaries of the area.

If you have any questions regarding the above comments or recommendations, please contact me.

Sincerely,



Timothy J. Ragen, Ph.D.
Acting Executive Director

Reference:

Clapham P., and R. Pace. 2001. Defining Triggers for Temporary Area Closures to Protect Right Whales from Entanglements: Issues and Options. NMFS, NEFSC Reference Document 01-06.

In response to **Federal Register** / Vol. 71, No. 122 / Monday, June 26, 2006 / Proposed Rules

I write from the perspective of a PhD Veterinarian who has undertaken a number of the recent right whale necropsies in the past 10 years and can attest that the forensic data generated there from amply support the data in the above proposed rules that suggest that sharp and blunt trauma from ship collisions are a major mortality factor for this species. One puzzling omission from the literature cited is a paper by myself and other in JCRM (2005) which is unique in the recent ship strike literature in that it attempts to assess the quality of the data upon which diagnoses of ship strike are made. Such quality assurance is perhaps critical to the debate here.

Specific comments.

To quote page 36302

elements of the Strategy follows.

Element 1. Continue ongoing research and conservation activities: NMFS intends to continue its existing right whale conservation activities related to ship strikes, and the Strategy is not intended to supplant those programs.

The statement that ongoing research is being continued does appear to be somewhat bizarre given the recent cancellation of all ongoing extramural right whale research program multi-year grants that were initiated in 2004. At least two of these were directly related to ship strike reduction: one by modeling the role of blunt trauma in fatal injury and the other generating accurate forensic analysis of ongoing mortalities. Thus if such research is indeed part of the ongoing strategy, then such research should continue to be funded.

Page 36302 - *Shifting the Boston Traffic Separation Scheme (TSS):* NOAA also intends to propose a reconfiguration of the TSS servicing Boston, MA.

This action would seem highly desirable.

Page 36303 - *Area to be Avoided:* In addition to the above routing measures, the Strategy proposes the creation of an IMO Area To Be Avoided (ATBA), for all ships 300 gross tons and greater, in the waters of the Great South Channel.

This action would seem highly desirable.

The timing of the speed restrictions proposed on pp 36305 and 36306 seem very reasonable and supportable.

Michael Moore Vet MB PhD
Biology Department
Woods Hole Oceanographic Institution
Woods hole, MA 02543

mmoore@whoi.edu



October 5, 2006

P. Michael Payne, Chief
Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Dear Sir,

Re: Comments on NMFS proposed regulations (50 CFR Part 224) to implement speed restrictions on vessels 65 ft (19.8m) or greater in overall length in certain locations and at certain times of the year along the east coast of the U.S. Atlantic seaboard to reduce the likelihood of deaths and serious injuries to endangered North Atlantic right whales that result from collisions with ships.

The National Environmental Trust appreciates the opportunity to comment on the proposed regulation to protect the Northern Right Whale. Enactment of these regulations is crucial to the survival of this most endangered whale.

BACKGROUND

With their numbers decimated by the whaling industry, the North Atlantic Right Whale has been a protected species since 1935. Even with protection measures in place for over seventy years, the population has been slow to recover and is today believed to stand in the area of three hundred individuals. The right whale was given its name by whalers since it is known as a slow swimmer with a tendency to spend a large amount of time at the surface thus making it the easiest whale to kill. Unfortunately, its migratory routes coincide with major shipping lanes along the East Coast of the United States accounting for an average of two reported deaths every year. At current population levels, that level of fatality cannot be sustained by the populations. The major threat to the right whale is collision with large, fast-moving commercial vessels.

SHIPPING LANES

In terms of the proposals regarding shipping lanes, we appreciate the intended flexibility of the seasonal lane restrictions and the concept of dynamic management areas. However, DMAs only work if there is vigilance and dedicated resources to monitoring the whales migration so that they can be employed when necessary. Having worked with longshoremen in the past, NET is also sensitive to the need for stability of expectations on arrival and departure times for commercial vessel traffic, have the east coast port



authorities given the department any feedback on which is better for the ports business, seasonal restrictions or year round. This not only applies to shipping lanes but to the speed restrictions as both issues would, by necessity, change scheduled arrival times. If that has not been explored, we would encourage the National Marine Fisheries Service to reach out to the Port Authorities on the Atlantic Coast to see if year round restrictions would be better for business in these ports. If so, it would also be easier to administer.

SPEED RESTRICTIONS

The National Environmental Trust is highly supportive of the proposed mandatory speed reductions for vessels 65 ft. and over. Though speed advisories have been in effect since the 1990's, a study of mariner compliance in one particular area suggested that a mere 5% of vessels actually observed these warnings (Ward-Geiger *et al.*, 2005). Data compiled over the last five years confirms that not only was (Laist *et al.*, 2001) speed a major factor in all of the reported collisions, the greater the speed, the more likely it was that the whale would die from the resulting injuries. NET suggests that a year-round implementation of this speed limit along migratory routes would be more easily achieved, if it can economically work for the ports, and enforced than a traveling area corresponding with seasonal movements of the whale. Canada, on the Atlantic coast, has already implemented a system of shipping lanes and similar speed restrictions to protect the Right whale. If however, the ports object, NET would support the seasonal restrictions as long as there is a commitment to vigorous enforcement, especially in establishment of Dynamic Management Areas when necessary.

NET acknowledges the extensive work completed by NMFS thus far and is highly appreciative of the strengthening measures proposed to protect this most endangered of marine mammals. It is strongly urged that President Bush recommend changes to the International Maritime Organization so that these new regulations would apply to foreign vessels while operating in the U.S. Exclusive Economic Zone on the Atlantic coast. It is only the mandatory compliance of all commercial vessels traversing US waters that grants future generations hope of knowing the North Atlantic Right Whale.

If you have any questions, please do not hesitate to contact either of us at the contact information listed below.

Sincerely,

Gerald Leape
Vice President, National Environmental Trust, Phone: 202-887-1346

Elizabeth Eden
Marine Intern, National Environmental Trust, Phone: 202-887-1851

September 21, 2006

Dr. William T. Hogarth, Assistant Administrator
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910



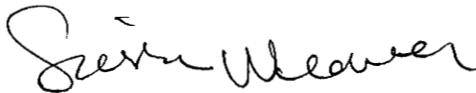
Dear Dr. Hogarth,

Please find enclosed 127 signed petitions urging you to take action to protect North Atlantic right whales from ship strikes and entanglement in fishing gear – the two leading causes of death for the species. These petitions are in addition to the 1,363 petitions we delivered to NMFS staff in Baltimore at the August 10, 2006 public hearing on the Draft Environmental Impact Statement for the right whale ship strike reduction proposed rule. All of these petitions are signed by members of The Ocean Conservancy who care deeply for the oceans and all life that inhabits them.

As we approach both the close of the comment period for the ship strike reduction rule and the beginning of the right whale winter calving season, The Ocean Conservancy wishes to remind the agency that there is no time to lose in implementing protections against both ship strikes and entanglement. In 2006, we have already lost another five of these imperiled species, the management and conservation of which NMFS is responsible. We can afford no further delay.

Thank you for your time and attention to this matter and please do not hesitate to let me know how The Ocean Conservancy and its members can be of assistance in speeding the implementation of these critically needed regulations.

Sincerely,

A handwritten signature in cursive script that reads "Sierra Weaver".

Sierra Weaver
Staff Attorney

Cc: David Cottingham, Chief, Marine Mammal Conservation Division
Greg Silber, Office of Protected Resources

The Ocean Conservancy strives to be the world's foremost advocate for the oceans. Through research, education and science-based advocacy, The Ocean Conservancy informs, inspires and empowers people to speak and act on behalf of the oceans.

Subject: Proposed Rule to Implement Speed Restrictions

From: "Pabst, D. Ann" <pabsta@uncw.edu>

Date: Sat, 15 Jul 2006 13:57:38 -0400

To: Shipstrike.Comments@noaa.gov

CC: "Pabst, D. Ann" <pabsta@uncw.edu>

15 July 2006

Dear Chief, Marine Mammal Conservation Division,

I am writing to state my strong support of NOAA's Proposed Rule to Implement Speed Restrictions to reduce the Threat of Ship Collisions with North Atlantic Right Whales.

I am specifically heartened by the:

(1) reduction of ship speed to 10 knots, rather than 12 or 14. I believe the best available data support the 10 knot speed restriction.

(2) inclusion of the mid-Atlantic migratory corridor, for the extended timeframe of November 1 through April 30.

(3) proactive changing of shipping lanes in critical right whale habitats.

As a scientist and a citizen I am pleased to be able to state my very strong support for these progressive changes.

Best wishes - Ann Pabst

D. Ann Pabst
Biology and Marine Biology
UNC Wilmington
601 S. College Rd.
Wilmington, NC 28403

Subject: Ship Strike Reduction Strategy

From: Karen Grainey <karengrainey@bellsouth.net>

Date: Thu, 05 Oct 2006 15:03:51 -0400

To: Shipstrike.Comments@noaa.gov

CC: Marcia Wilkins <marciawilkins@hotmail.com>, John Swingle <cybermerlyn@earthlink.net>, Elizabeth Walsh <ewalsh@utep.edu>

Mr. David Cottingham
Chief, Marine Mammal and Sea Turtle Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Re: Right Whale Ship Strike Reduction Strategy

Dear Mr. Cottingham,

The Sierra Club, Georgia Chapter recognizes that our state's coast is especially important to the survival of the estimated 300 remaining North Atlantic right whales. Pregnant females migrate to our warm, protected waters each winter to give birth and nurse their newborn calves; hence we recognize our particular responsibility to speak out for the protection of this critically endangered species. We commend and support the ship strike reduction strategy proposed by the National Marine Fisheries Service (NMFS) which calls for the adoption of speed restrictions on large vessels crossing areas where endangered right whales are seasonally present according to their annual migration pattern.

We are strongly in favor of requiring ships measuring 65 ft. in length or greater to reduce their speeds to 10 knots while passing through right whale habitat along the New England, Mid-Atlantic, and Southeastern coasts and tying these speed restrictions to the whale's annual migration. We are also in favor of the "dynamic management" of vessels when right whales appear in areas where seasonal restrictions are not in effect. We would prefer to see these rules extended to US government vessels and vessels under US contract, but if these vessels remain exempt, they should be required to have trained on-board marine mammal lookouts on duty at all times and to use either aerial spotters or passive sonar to detect whales. They should also be required to reduce their speeds at night and during inclement weather when whales are difficult to detect. We urge you to adopt alternative 5 instead of the preferred alternative 6 because it would provide a higher level of protection by expanding the time periods and areas in which speed restrictions apply. If alternative 6 is implemented we suggest adopting the use of telemetry devices to track individual whales which would allow for adequate advance notification of vessels approaching the area.

Our fear is that if these measures are not implemented, the North Atlantic right whale will disappear forever. Given that this specie's very existence is in peril, we think it is reasonable and necessary to require the shipping industry to take effective precautions against causing the deaths of any more whales - even if it ends up costing money. We will never succeed in becoming good stewards of the earth if we only take action to protect species when it costs nothing. Whales have flourished on our ocean planet for 50 million years. It would be a tragedy to witness the extinction of this species knowing that we were the cause and didn't do everything we could to stop it from happening - a terrible cost that cannot be measured in dollars.

Thank you for considering our views.

Sincerely,

Karen Grainey, Marine Conservation Leader

Endangered Species Committee
Georgia Sierra Club

e

Subject: Be Holistic For Whales

From: Laura Beth <maclaura@netzero.net>

Date: Sat, 24 Jun 2006 12:52:53 +0000 (GMT)

To: Shipstrike.Comments@noaa.gov

Dear NOAA,

Reducing ship speed is a great first start to help whales. Lobbying the government that uses my tax dollars for war to promote alternatives to the "fishing industry" is the best way to help ALL species we are invading if they compete with human industries. Everyone on your staff should read the book Ishmael, by Daniel Quinn, about the laws of nature verses the laws humans pass. To date, human law protects human predators, enabling them to rape, plunder, destroy, commodify and profit from the natural world.

It has become clear that although we delude ourselves that we are the highest intellect above all other species, the consequences of our diets, our supremacist, speciesist arrogant attitudes are causing global ecocide like no other species has, in shorter time sequence then ever.

It is human hubris and refusal to adopt the natural plant based diet that IS the main cause of earthly toxicity. Now that I have seen the extreme suffering, the holocaust we inflict upon birds, sea life, man-made "farmed" animals, and the human diseases from consuming our earthly neighbors, I understand that we either change our bloody, cruel, violent diets, or die as a species. The animals, the fish, the birds we enslave, would never treat their young like humans do. We poison the very off-spring that we claim to protect from the "food" they receive from the placenta, filled with toxins, chemicals, fat, further compromising their ability to fight disease because breast milk is impure. The future is bleak as the political system is as toxic as the food most people degrade their immunity with.

Whales, dolphin, seals, sharks, have an inherent right to eat fish far more than humans do. But still, today, humans slaughter them by the thousands, hundreds of thousands, as they do land mammals that compete for habitat taken over by ranching, another threat to health and the environment.

Our species is at it's final crossroads. Ten thousand years is long enough to be steeped in bloodshed, violence, war and dominionist patriarchal brutality. A plant based diet solves ALL the issues humankind has consumed itself to since gathering became herding, herding became farming, farming became agriculture, and agriculture became industrial and biotech agribusiness. The backwards and inverted pathology that calls animal rights and environmental groups, "terrorists" shows just how perverted our system has become.

I applaud any measures to protect the largest mammals and hope everything possible is done to STOP whaling, and overhaul horrible subsidies to spend tax dollars on promoting HEALTH, PEACE, and SUSTAINABILITY, instead of the most violent food systems that are violent to our organs as well as the animals and the planet.

Peace begins on our plates.

Thank You,
Laura Slitt
Bartlett, NH
603-374-1996

SAVE OUR SOUND

alliance to protect nantucket sound

October 5, 2006

David Cottingham
Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Via facsimile: 301-427-2522

Re: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales, 71 Fed. Reg. 36299 (June 26, 2006)

Dear Mr. Cottingham,

The Alliance to Protect Nantucket Sound, Inc. (Alliance) appreciates this opportunity to provide comments on the National Marine Fisheries Service's (NMFS) Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (hereafter "proposed rule") and on the Environmental Impact Statement to Implement the Operational Measures of the North Atlantic Right Whale Ship Strike Reduction Strategy, Draft Environmental Impact Statement (hereafter DEIS). We believe that addressing the threat of ship strikes is essential to the survival and recovery of this critically endangered species; consequently, we fully support a regulatory solution and applaud NMFS for this proposed rule.

For this reason, the Alliance supports the preferred alternative (Alternative 6) with additional elements that include: (1) *Expand the seasonal management area in the Southeast United States (SEUS) to include the southern boundary of critical habitat;* (2) *Modify the seasonal management area for the Ports of New York/New Jersey and Delaware Bay and include the month of October within the timeframe for restriction;* (3) *Modify the periods for vessel speed restriction in Cape Cod Bay, Off Race Point and Great South Channel;* (4) *Extend the northern boundary for the Off Race Point seasonal management area north to the Mandatory Ship Reporting boundary;* (5) *Designate the Great South Channel management area an area to be avoided from December 1 to July 31.* Our comments are organized as follows: (1) Speed Restrictions; (2) Vessels Subject to the Proposed Rule (3) Analysis of Alternatives; (4) Discussion of a modified preferred Alternative; (5) Enforcement.

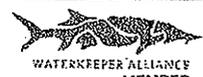
1.0 Speed Restrictions

The Alliance strongly endorses the proposed speed limit of 10 knots in the areas NMFS has identified for seasonal management. At the lower end of the 10-14 knot range for which NMFS is seeking comments, the 10 knot speed restriction is appropriately precautionary and warranted based on analyses of the impacts to whales of ship strikes at various speeds. According to Laist et al. (2001), 89% of collision accounts resulted in death or serious injury at 14 knots or higher,

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while no accounts of death or serious injury occurred at 10 knots or lower. Laist et al. (2001) also demonstrated that only ten percent of ship strike incidents occurred when the vessel was traveling slower than 10 knots. The Jensen and Silber database (2003) showed only 12.3% of ship strikes occurred when vessels were traveling at speeds of 10 knots or less, and more than three quarters of the ships strikes occur when the vessels are traveling at speeds of 13 knots or higher.

NMFS' own Ship Strike Committee (Russell 2001) recommended that 10 knots is the speed limit that should be used to reduce the risk of ship strikes. Pace and Silber (2005) concluded that there was strong evidence that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 percent to 75 percent as vessel speed increased from 10 to 14 knots, and exceeded 90 percent at 17 knots. Vanderlaan and Taggart (in review) analyzed all published historical data on vessels striking large whales and found that the probability that a strike would result in lethal rather than non-lethal injury ranged from 20 percent at 9 knots, to 80 percent at 15 knots, to 100 percent at 21 knots or greater. It is clear from this data that establishing 10 knots as the speed restriction will significantly reduce the risk of both collisions and death or serious injury.

Butterworth et al. (1982) tested the impact of vessel speed and whale detection during a Southern Hemisphere minke whale cruise. According to Buckland et al. (1993), the Butterworth study determined that the probability of detecting a whale was directly proportional to the speed of the survey vessel. Best (1982) summarized the Butterworth study stating, "The chances of all the animals on a survey track line being seen are therefore dependent on the speed of the surveying vehicle and the frequency with which the whales surface to breathe. Clearly, the faster the vehicle moves, and the more infrequently the whale surfaces, the greater the chances that not all of the animals on the track line will be detected." This finding justifies the premise that as mariners operate at slower speeds, they are more likely to see the whale and have more time to react to avoid collision with the whale. According to Laist et al. (2001), a whale's ability to avoid being struck through a "last-second flight response" may "depend in part on the swimming speed of the whales relative to the speed of approaching ships" and therefore depending on the response time "seconds or even fractions of seconds may determine whether or not some whales are hit." Finally, the probability that a whale will be struck by a vessel increases as the vessel speed increases, because of the hydrodynamic forces that draw the whale into the passing ship (Knowlton et al. 1995). Therefore, by establishing a slower speed, NMFS increases the probability that mariners will detect whales and provides mariners and the whales with more time to respond to avoid collisions.

In conclusion, the available data indicate that there is an inverse relationship between speed and the likelihood of severe harm, and that below 10 knots, the potential for harm is significantly reduced (Laist et al. 2001). A reduction in speed will likely reduce the risk of a strike, as well as the severity of the injury should a strike occur. The Alliance strongly supports the 10 knot speed restriction for all non-sovereign vessels of 65 feet or longer, within all of the Seasonal Management Areas (SMAs).

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2.0 Vessels Subject to Proposed Rule

The proposed regulations would not apply to vessels owned or operated by, or under contract to, Federal agencies. This exemption would also extend to foreign sovereign vessels engaging in joint exercises with the U.S. Department of Navy. NMFS claims that this "exemption would not relieve Federal agencies of their obligations under the Endangered Species Act (ESA), including Section 7." Further, NMFS indicates that it will be reviewing the federal actions involving vessel operations to determine where ESA Section 7 consultations would be appropriate. The Alliance believes that this review of Section 7 consultations is critical. Of ship strikes for which vessels type is known, Navy vessels account for 17.1%, more than any other single source (NOAA Fisheries). Coast Guard vessels account for another 6.7% of ship strikes. The military is continuing to solicit contracts for designs of high speed ships. West Pac Express has designed a vessel capable of transferring an entire Marine battalion (950 Marines and 550 tons of material) at 40 knots. They have also designed a commercial version that could cruise at 35-40 knots. To the extent that these activities have not undergone Section 7 consultation, they are operating in violation of the ESA and must be brought into compliance. We believe that full compliance with Section 7 and the other requirements of the ESA is the only justification for exempting sovereign immune vessels from the operational measures envisioned by the Ship Strike Reduction Strategy and must be made a top priority for NMFS and the other agencies involved.

3.0 Analysis of Alternatives

3.1 Alternative 1—No Action Alternative

Under Alternative 1, mariners would not be subject to new regulations to reduce right whale ship strikes. NMFS would continue to implement existing measures and programs to reduce the likelihood of right whale mortalities from ship strikes. Research would continue and existing technologies would be used to determine whale locations and pass this information on to mariners. NMFS would continue to use aerial surveys to notify mariners of right whale sighting locations and operate the Mandatory Ship Reporting System.

According to the DEIS, "sixty-six known right whale deaths have occurred from 1970 to (May) 2005; this number is a minimum as additional deaths are undetected." Kraus et al. (2005) reported 19 known ship strike deaths from 1986 to present. The incidence of deaths appears to be increasing as 17 of the 66 deaths (26 percent) have occurred since 2000. According to Kraus et al. (2005), in the 16-month period from January 2004 to May 2005, there have been eight confirmed right whale deaths--three (possibly four) of these eight deaths were caused by ship strikes. Ship strikes are responsible for over one-third of all "confirmed" right whale mortalities; however, this is likely an underestimate as less than a quarter (17 percent) of all ship strikes are actually detected (Kraus et al., 2005). Based on these statistics, a continued lack of recovery, and possible extinction, will occur if deaths from ship strikes are not reduced. Consequently, the Alliance concurs with NMFS analysis that "Alternative 1 is not a reasonable alternative because existing conservation measures have not sufficiently reduced the threat of ship strike or improved chances for recovery. Therefore, this alternative does not meet the requirements of the ESA and the Marine Mammal Protections Act (MMPA), and NMFS would not be able to fulfill

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its mandate to protect the endangered North Atlantic right whale as specified in these two statutes." DEIS at 2-11.

3.2 *Alternative 2 – Dynamic Management Areas*

Alternative 2 would incorporate the elements of Alternative 1 (i.e., continuing existing conservation measures) and add Dynamic Management Areas (DMAs) as a proposed operational measure. According to the DEIS, DMAs would be defined, as warranted by right whale sightings, in all areas within the Atlantic Ocean (U.S. Territorial waters and EEZ). DEIS at 2-11. DMAs are temporary and provide protection for a minimum of 15 days. This time period may be extended if whales are present after the initial designation. Alternative 2 does not propose any permanent measures to reduce the occurrence of ship strikes.

Under this alternative, NMFS would rely too heavily on the DMA without sufficient surveys to implement this type of action effectively. While SOS supports the use of DMAs to overlay additional protections where seasonal management is insufficient or impractical, as in the Gulf of Maine, we believe the agency should err in favor of consistency and clear expectations rather than a constantly changing regulatory regime. As seen in the context of its implementation through large whale entanglement reduction regulations, dynamic management can involve difficulties in triggering its effectiveness, notifying regulated parties of its implementation, and enforcing its changing requirements. For example, NMFS has taken, on average, two weeks to implement dynamic area management (DAM) (69 Fed. Reg. 51774, August 23, 2004) when it is triggered for fisheries closures and some of these DAM situations have merely requested voluntary compliance. While NMFS acknowledges that a ship strike reduction strategy cannot function with this type of delay, NMFS has not demonstrated that it has the technology, infrastructure, and resources necessary to provide real-time information with which to sustain a dynamic management system—making this dynamic management system of little value to real risk reduction.

Additionally, out of season/out of habitat sightings have largely been based on opportunistic reports. For instance, in August of 2004, more than 50 percent of the right whale sightings (19/36) reported by NMFS were opportunistic and were not the result of aerial survey effort (see: www2004b). In 2003, 63 sightings of right whales were reported by commercial whale watching vessels between April and October, with 24 sightings reported in July, a time when dedicated surveys are not conducted (see:www2004b). If vessels stop reporting because they are concerned that the implementation of restrictions on speed and routing may have negative impacts on them, this limits the means to activate the DAM and right whales will remain at risk unless NMFS greatly expands its dedicated surveys.

In our opinion, these difficulties have made dynamic management ineffective in the large whale entanglement reduction/fisheries management context and we do not want to see these same mistakes repeated. Any dynamic management should be activated in real time and not be delayed by awaiting publication in the Federal Register. For dynamic management to be successful, NMFS would have to maintain and greatly expand its aerial surveys and ensure that efforts are made to collect, record, and make available the specific sighting locations. Undoubtedly, it would require an even greater commitment to continuing aircraft surveillance

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coverage and significantly expanding that coverage in the mid-Atlantic. Hence, Alternative 2 would be more costly to NMFS as aerial surveys are time intensive and expensive. Furthermore, aerial surveys can also present human safety issues when there is inclement weather or low visibility. It is unlikely that given the current fiscal climate, that NMFS could secure from Congress the additional resources necessary to effectively implement this alternative. Finally, NMFS has very little means to strictly enforce any dynamic management measures.

In conclusion, the Alliance believes that DMAs are a management tool, but NMFS needs to recognize their limitations. DMAs should not be relied upon in lieu of broader seasonal management areas. Instead, DMAs should supplement seasonal management areas and provide additional protection when NMFS lacks the information to implement specific management measures. Therefore, we believe that Alternative 2 is not a reasonable alternative because DMAs alone would be difficult and costly to implement and enforce; moreover they would not sufficiently reduced the threat of ship strikes or improved chances for recovery. Therefore, this alternative does not meet the requirements of the ESA and the MMPA, and NMFS would not be able to fulfill its mandate to protect the endangered North Atlantic right whale as specified in these two statutes.

3.3 Alternative 3—Speed Restrictions in Designated Areas

Alternative 3 includes the elements of Alternative 1 plus certain speed restrictions in designated areas. Since speed restrictions would be the only measure implemented under Alternative 3, NMFS proposes slightly different areas and times for the application of these restrictions than in Alternative 5 or 6. Specifically, the designated areas considered under this alternative are both larger in size and would extend for a greater length of time, with the exception of those located in the SEUS, where speed restrictions would be in place for a shorter length of time. There are no routing measures and no DMAs proposed under Alternative 3.

The proposed restrictions would apply as follows:

- In the Northeast United States (NEUS) region, year-round restrictions within all waters in the Seasonal Area Management (SAM) zones designated in the ALWTRP. There are currently two SAM zones in the Northeast: SAM West, in effect from March 1 to April 30; and SAM East, in effect from May 1 to July 31. The boundary between SAM West and SAM East is 69°24'W longitude. These areas adjoin, although are exclusive of, Cape Cod Bay and the Great South Channel critical habitats (NMFS, 2005a).
- In the Mid-Atlantic United States (MAUS) region, restrictions from October 1 to April 30. The restricted area would include all waters 25 nm (46 km) out from the US coastline between Providence, RI/New London, CT (Block Island Sound), and Savannah, GA.
- In the Southeastern United States (SEUS) region, restrictions from December 1 to March 31. The restricted area would include all waters within the MSRS WHALESSOUTH reporting area and the presently designated right whale critical habitat.

As a stand-alone alternative, Alternative 3 has components that should be incorporated into the preferred alternative (Alternative 6). Specifically, the Alliance sees some merit in the requirement for year-round restrictions within all waters in the NEUS SAM.

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Since right whales in the Gulf of Maine are drawn to food resources and *Centropages typicus* (Copepoda: Calenoida), shifts in food supply will likely result in shifts in right whale habitat use temporally and spatially. These shifts in prey availability may increase what is now considered to be out of season and out of habitat sightings of right whales. For example, historically, in August, the majority of right whales are found in Canadian waters, particularly in the Bay of Fundy and Roseway Basin. However, this trend shifted in 2003 when 50% (5/10) of the 2003 reports indicated multiple right whales sighted in the southern Gulf of Maine in August and, in 2004, 100% (11/11) of the reports mentioned multiple right whales in the area, including a group of 8-15 that were reported repeatedly, in the Great South Channel, throughout the month (see: www2004b). Yet, in the proposed rule, the Seasonal Area Management for the Great South Channel ends on July 31. Additionally, in June of 2000, more than ten percent of the right whale population (n=36) was spotted during the NMFS/SAS aerial surveys of Cashes and Fippennies Ledges (see: www 2000), an area not previously considered to be of importance to right whales and not specifically included in the proposed rule or surveyed for right whales. Finally, aerial survey data from Cape Cod Bay indicates that right whales are present from December through May. These data all suggest that right whales are in the NEUS from December through August and that the times and areas delineated for this plan need to be broader in scope.

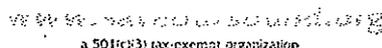
In the MAUS, the SAM would include all waters 25 nm (46 km) out from the US coastline between Providence, RI/New London, CT (Block Island Sound), and Savannah, GA from October 1 to April 30. In the MAUS, the operational measures would be in effect from October through April covering the majority of what is thought to be the migration of right whales. However, NMFS notes that half of the known strikes in the region (3/6) occurred during the summer months when surveys are not in effect. There is no means to reduce risk during this season unless opportunistic reports are received by NMFS and DMA is declared. Given the available data, the Alliance supports the temporal restrictions and believes that the spatial restrictions proposed under Alternative 6 are more appropriate until such time as surveys indicate otherwise. We recommend that NMFS expand its aerial survey effort off of the MAUS to gather more information on the habitat use of right whales in this area and in turn, further refine the duration and location of the proposed SAM zones.

In the SEUS, the Alliance opposes both the proposed temporal and spatial restrictions. The area is smaller than that in the preferred alternative and shorter in duration. The SEUS SAM in the preferred alternative is more aligned with right whale habitat use in the SEUS.

We believe that Alternative 3 is a somewhat reasonable alternative. It is likely the NEUS SAM and MAUS SAM restrictions are the most protective of all of the alternatives; however, the SEUS zones may be less protective than the preferred alternative. This alternative does not attempt to route ships away from high-density areas through identified shipping lanes. Furthermore, whales that are sighted outside of these areas are not protected under this alternative because it does not include dynamic management areas. Therefore, we recommend against this alternative, but urge NMFS to incorporate some modification of expanded temporal NEUS SAM restrictions into the preferred alternative.

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3.4 Alternative 4—Recommended Shipping Routes

Alternative 4 includes all the elements of Alternative 1, plus proposes several types of routing measures in the NEUS and the SEUS, the recommended shipping routes as components of the proposed operational measures, and an area to be avoided (ATBA) in the Great South Channel.

First, in the NEUS, recommended shipping routes are proposed for Cape Cod Bay to/from the Cape Cod Canal from January 1 to April 30. Recommended shipping routes would be established to minimize the travel distance through Cape Cod Bay critical habitat for ships entering and leaving the port of Provincetown from Cape Cod Canal or from the north, by routing ships along the edges of the critical habitat (NMFS, 2004).

Second, the Great South Channel management area would be designated an ATBA in Alternative 4. This ATBA would be proposed to the International Maritime Organization (IMO) for endorsement. If accepted by the IMO and when implemented, the ATBA would apply to all ships 300 gross registered tonnage (GRT) and above. These ships would be expected to avoid the area on a voluntary basis from April 1 to July 31. Vessels under 300 GRT, but 65 ft (19.8 m) long or more would be subject to uniform speed restrictions within the ATBA. DEIS at 2-12.

Third, as part of Alternative 4 in the NEUS, NOAA is proposing a shift in the Boston Traffic Separation Scheme (TSS) to avoid high density aggregations of whales at the northern end of Cape Cod Bay and Stellwagen Bank. A 12 degree (not in latitude and longitude) northern rotation of the east-west leg of the Boston TSS has been proposed. The proposed change would increase the length of the TSS by approximately 3.75 nm (6.9 km). The second component of the proposed amendment would narrow each lane of the TSS from two miles to one and a half miles in width; however, the separation zone between the two lanes would remain unchanged at its current one mile width. This proposal, submitted to the IMO in April of 2006, if endorsed by the IMO, would be implemented in 2007.

The Alliance strongly supports the proposed routing measures in the NEUS and the designation of an ATBA in the Great South Channel management area. Research shows that there is a significant overlap between the areas where right and other whales commonly occur in high densities and the existing TSS. We believe the proposed shift in the Boston Traffic Separation Scheme will help to protect and even prevent right whales from collisions with ships. This proposed amendment to the TSS would move the traffic lanes into an area with a substantially lower density of right and other whales, while maintaining or even increasing maritime safety and having a minimal impact on transiting ships. According to the United States proposal to amend the Boston traffic separation scheme, "biologists estimate that if ships follow the proposed TSS, there would potentially be a significant reduction in the risk of ship strikes of right whales of up to 58%. [and]...there would also be a potential decrease in the risk of ship strikes of other large whales of up to 81%." However, we disagree with NMFS proposal to make these changes voluntary and only operational from January 1 to April 30. For the same reason that NMFS made the voluntary ship reporting mandatory, these measures should also be mandatory to encourage compliance. Moreover, for the reasons already articulated in Alternative

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3, the routing measures should be operational year-round or at a minimum from December 1 through May 15.

Additionally, the Great South Channel experiences heavy commercial ship traffic; analysis of reports to the MSRS identified three high-use traffic corridors that extend across Great South Channel critical habitat (Ward-Geiger *et al.*, 2005). North Atlantic right whales intensively use the Great South Channel as a primary feeding ground. Identified ship corridors on both sides of the Great South Channel are in close proximity to the 100-m isobath, an area typically used by right whales during the late spring/early summer, as the oceanographic features at this contour seem to support dense patches of zooplankton upon which right whales feed (Brown & Winn, 1986; Beardsley *et al.*, 1996). Thus, vessel collisions with right whales are a serious risk in spring and early summer feeding season. Operational restrictions should apply to the Great South Channel area from December 1 to July 31, corresponding with the peak period of right whale presence. Implementing an ATBA throughout the Great South Channel management area would significantly reduce the co-occurrence of right whales and ships and the potential risk for ship strikes.

In the SEUS, routing measures are proposed for routes into and out of the ports of Jacksonville and Fernandina Beach, Florida; and Brunswick, Georgia from December 1 through March 31. Alternative 4 does not propose speed restrictions in these shipping lanes. This area experiences high levels of vessel traffic and currently there are no defined approaches to the three ports (DEIS at 2-3). The proposed routes submitted to the USCG for analysis were developed to consolidate the vessel traffic into specific lanes that would take vessels through waters with relatively lower right whale densities (Garrison, 2005). The Alliance supports the development of routing measures for the SEUS and urges NMFS to finalize expeditiously these measures and propose them to the IMO for adoption. We believe that such routing measures should be mandatory and operational from November 1 through April 30.

As an initial matter, the Alliance agrees that the ultimate objective of any ship strike reduction strategy should be to reduce the co-occurrence of whales and large vessels. Routing restrictions are a solution that can be tailored to avoid areas with large aggregations of whales during certain times of the year, where the benefits of such restrictions are easy for mariners to understand, easy for the Coast Guard and NOAA to enforce, and allow for better tracking of vessels when aggregations of whales are present. For these reasons, we support NMFS' plans to partner with the Coast Guard to conduct additional Port Access Route Studies, especially in the SEUS, to determine safe and effective shipping lanes that are more likely to avoid areas of aggregation, as well as its plans to seek through the IMO, the creation of an Area to Be Avoided in the Great South Channel.

Unfortunately, the creation of routing measures is not a panacea. First, areas of aggregation will not necessarily be avoidable in all cases. Second, regulatory action should not be delayed while the necessary studies for routing measures are being conducted. Given these circumstances, Alternative 4 will likely not sufficiently reduce the threat of ship strike or significantly improve chances for recovery. Therefore, this alternative does not meet the requirements of the ESA and the MMPA, and NMFS would not be able to fulfill its mandate to protect the endangered North Atlantic right whale as specified in these two statutes. In our opinion, routing measures must be

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coupled with reduction in vessel speeds in certain designated areas in order to reduce the risk and adverse consequences of strikes. With the ever-increasing number of vessels traveling along the Eastern seaboard, as well as the ever-increasing speed of those vessels, explicit speed restrictions, and not just the discretionary "slow, safe speed" standard used by COLREGS, have become an essential component of ensuring right whale survival and recovery.

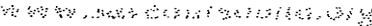
3.5 Alternative 5—Combination of Alternatives 1-4

Alternative 5 would include all elements of Alternatives 1 to 4 as previously described. It would implement all the operational measures described and additionally incorporate the modified speed restriction areas and dates that are part of Alternative 3, the Great South Channel ATBA, and the proposed change to the Boston TSS proposed under Alternative 4. Alternative 5 is similar to Alternative 6, although it includes speed restrictions in larger areas and for a greater length in time for the MAUS and NEUS respectively, and the additional routing requirements mentioned above in Alternative 4. As Alternative 5 includes all of the operational measures (regulatory and non-regulatory), it also provides the highest level of protection to the right whale population (DEIS at 2-12).

The Alliance agrees that this Alternative offers the highest level of protection for right whales, and as such, is a reasonable alternative that would reduce the threat of ship strike and improve chances for recovery. This alternative would likely meet the requirements of the ESA and the MMPA, and would allow NMFS to fulfill its mandate to protect the endangered North Atlantic right whale as specified in these two statutes. In particular, we support the year-round restrictions in the NEUS and the greater length of time for restrictions to be in place in the MAUS (October through April versus November through April). However, we do not currently believe that the available data support the larger restricted area (all waters 25nm out from the US coastline between Providence, RI/New London, CT (Block Island Sound), and Savannah, GA versus discrete SMAs around nine port areas) in Alternative 5. Finally, in the SEUS, the Alliance opposes both the proposed temporal and spatial restrictions. The area is smaller than that in the preferred alternative and shorter in duration. The SEUS SAM in the preferred alternative is more aligned with right whale habitat use in the SEUS.

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3.6 Alternative 6 (Preferred)—Right Whale Ship Strike Reduction Strategy

A summary of the proposed operational measures is provided in Table 2-4.

**Table 2-4
Summary of Proposed Operational Measures**

Region	Proposed Measures	Areas of Application	Period of Application
Southeast (SEUS)	Speed restrictions in the Southeast SMA and shipping lanes	Ports of Jacksonville, FL; Fernandina, FL; Brunswick, GA; and SE management area	November 15 to April 15
Mid-Atlantic (MAUS)	SMAs around nine port areas with speed restrictions	South & east of Block Island Sound (Montauk Point to western end of Martha's Vineyard)	November 1 to April 30
		Ports of New York & New Jersey	
		Delaware Bay (Ports of Philadelphia & Wilmington)	
		Entrance to Chesapeake Bay (Ports of Hampton Roads & Baltimore)	
		Ports of Morehead City & Beaufort, NC	
		Port of Wilmington, NC	
		Port of Georgetown, SC	
		Port of Charleston, SC	
Northeast (NEUS)	Speed restrictions in the CCB seasonal management area and shipping lanes	Cape Cod Bay	January 1 to May 15
	Speed restrictions in the ORP seasonal management area	Off Race Point	March 1 to April 30
	Speed restrictions in GSC seasonal management area	Great South Channel	April 1 to July 31
	DMAs	Gulf of Maine area	Year round
All Three Regions	DMAs	US territorial waters and EEZ	Year round

Taken from the DEIS at 2-10

3.6.1 SEUS Operational Measure:

NMFS proposes to restrict vessel speed to 10 knots or less from November 15 to April 15 each year in the area bounded by: the shoreline, 31°27'N. lat. (i.e., the northern edge of the Mandatory Ship Reporting System (MSRS) boundary) to the north, 29°45'N. lat. to the south, and 80°51.6'W. long. (i.e., the eastern edge of the MSRS boundary)

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Waters off the SEUS coast are a vital aggregation area for North Atlantic right whales, in particular mature females and their calves, the key reproductive components of the population that use these waters in winter. As was already established in our comments, the loss of one of these individuals represents a significant impact to the recovery of the population. In addition, behavior patterns of cow/calf pairs (e.g. relatively greater amounts of time at the surface due to limited diving ability and agility of the calf) make them particularly susceptible to ship collisions. The area also hosts substantial ship traffic. The Alliance concurs with the proposed time frame for the speed restrictions. We strongly urge NMFS to quickly complete the process to implement mandatory port access routes. However, we believe that the SEUS SMA is too small. The Alliance supports the northern boundary for the management area, but believes that the southern boundary should include all critical habitat and thus should extend to the southern boundary of critical habitat. At the time NMFS designated critical habitat, it stated that the "greatest number and highest densities of right whales have been observed in the Cape Canaveral region." (59 Fed. Reg. 28805). The southern boundary of critical habitat, in the vicinity of Port Canaveral, is frequently used by cruise ships and other commercial vessels and thus poses a risk to mother/calf pairs. For example, in 2003, Port Canaveral had over 2,000 cruise ship transits/stops. We urge NMFS to extend the southern boundary to include the southern boundary of critical habitat.

3.6.2 Mid-Atlantic Region of the U.S. (MAUS) Operational Measure

NMFS proposes to restrict vessel speed to 10 knots or less from November 1 through April 30 each year around each of the port or bay entrances identified below and the designated area around Block Island Sound. The areas are defined as the waters within a 30 nm area with an epicenter located at the midpoint of the COLREG demarcation line crossing the entry into the following designated ports or bays:

- (a) Ports of New York/New Jersey;
- (b) Delaware Bay (Ports of Philadelphia and Wilmington);
- (c) Entrance to the Chesapeake Bay (Ports of Hampton Roads and Baltimore);
- (d) Ports of Morehead City and Beaufort, NC;
- (e) Port of Wilmington, NC;
- (f) Port of Georgetown, SC;
- (g) Port of Charleston, SC; and
- (h) Port of Savannah, GA.

At Block Island Sound, the designated area is a box with a 30-nm width extending south and east of the mouth of the Sound (reference points: Montauk Point and the western end of Martha's Vineyard).

The MAUS is a critical migratory path for right whales migrating to and from calving/nursery areas in the SEUS and feeding grounds off the northeastern U.S. coast and Canada. Satellite tagging data, opportunistic sighting data, and historical records of right whale takes in the commercial whaling industry indicate that right whales often occur within 30 nm (56 km) of the coast and in waters less than 25 fathoms (71 Fed. Reg. 36305 (June 26, 2006)). Ship traffic entering ports in this area, or transiting through it, crosses the whales' north-south migratory path. Two right whale calves were found dead in the mid-Atlantic region in 2001 and a dead mature female right whale was observed floating off Virginia (subsequently stranded on the

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coast of North Carolina in 2004). All three almost certainly died as a result of a vessel collision (71 Fed. Reg. 36305 (June 26, 2006)).

The Alliance generally supports the proposed management areas, based on the observation that over 90 percent of right whale sightings are within 30 nautical miles of shore. However, there are some ports where sightings extend beyond 30 nm. For example, Knowlton et al. (2002) demonstrated that only 55 percent of the whales sighted near the Port of New York/New Jersey were inside the proposed management area; moreover, only 25 percent of the whales sighted near the Delaware Bay were found inside the management area. Given this data, we recommend that NMFS extend the boundaries for these ports to include 90 percent of the historical whale sightings.

Finally, satellite data indicate the need to lengthen the time when operational measures are required. For example, NMFS should require that operational measures be in place starting October 1, to provide risk reduction to whales that are migrating south to the SEUS. The dates should be adjusted to accommodate the likely movements of whales during their northward and southward migration.

3.6.3 Northeast United States. (NEUS) Operational Measure

3.6.3.1 Cape Cod Operational Measures

NMFS proposes to restrict vessel speed to 10 knots or less from January 1 - May 15 each year throughout all of Cape Cod Bay. The proposed area consists of all waters in Cape Cod Bay, extending to all shorelines of the Bay, with a northern boundary of 42°12' N. lat.

The Alliance believes the timeframe for the restrictions is not appropriate. Sighting data indicate that right whales can be found in Cape Cod Bay as early as December and can remain in the bay into May (Brown and Marx, 1998). Therefore to reduce the risk of ship strikes, we recommend that NMFS require the vessel speed restrictions from December 1 through May 15.

3.6.3.2 Off Race Point Operational Measures

NMFS proposes to restrict vessel speed to 10 knots or less from March 1 to April 30 each year in a box approximately 50 nm by 50 nm to the north and east of Cape Cod, MA

The Off Race Point management area is temporally and spatially inadequate. The purpose of this area is to provide risk reduction to right whales as they leave Cape Cod Bay in late spring. However, whales enter the bay in late fall/early winter. Right whales need protection as they both enter and leave Cape Cod Bay. It is only logical that they would enter the bay using the same routes as when they leave the bay. Also, NMFS should recognize that right whales use vast portions of Cape Cod Bay and often move in and out of the bay during forays to other feeding habitats. Therefore, to minimize the risk of collision, the Alliance recommends that the restriction period mirror that of Cape Cod Bay and begin on December 1, and extend through May 31, as opposed to the March 1 to April 30 period currently proposed.

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The Alliance also recommends that NMFS extend the northern border of the management area to the MSR boundary. Right whales have been seen on either Stellwagen Bank or in the deep waters between Stellwagen and Jeffreys Ledge. Sardi et al. (2005) demonstrated that right whales (including four cow/calf pairs) were present on and adjacent to Jeffreys Ledge throughout September to December. Additionally, in June of 2000, more than ten percent of the right whale population (n=36) was spotted during the NMFS/SAS aerial surveys off Cashes and Fippennies Ledges (see:www 2000), an area not previously considered to be of importance to right whales and not specifically included in the proposed rule or surveyed for right whales. These data substantiate the need to expand the area and the period of time over which protections are in place to more closely align with actual habitat use.

3.6.3.3 Great South Channel Operational Measures

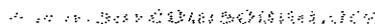
NMFS proposes to restrict vessel speed to 10 knots or less from April 1 to July 31 in the Great South Channel.

The Great South Channel (GSC) is a vital habitat for right whales. Right whales aggregate in the Channel in spring and early summer, feeding on dense prey patches. More than one-third to well over half of the North Atlantic right whale population feeds in, or at least passes through, this area during the course of the year. Some individually identified right whales observed in the Great South Channel are seen rarely or not at all in other areas, further indicating the importance of this area to the population. For much of the time in the Great South Channel, whale distribution overlaps with those of commercial ship traffic, exposing them to risk of collision (71 Fed. Reg. 36306 (June 26, 2006)).

The Alliance supports the proposed vessel speed restriction for the Great South Channel. However, we recommend that NMFS change the start date of the proposed speed restriction in the GSC from April 1 to December 1, to correspond with those of our suggested Cape Cod Bay and Off Race Point area speed restrictions. Right whales migrate from the Great South Channel into Cape Cod Bay in the winter, and then move out of the Bay in the spring back down to the Great South Channel area. The whales pass through the Off Race Point area, as they move in and out of Cape Cod Bay. Therefore, to ensure adequate protection for right whales in the NEUS, the Alliance recommends that all three areas have vessel speed restrictions that begin on December 1.

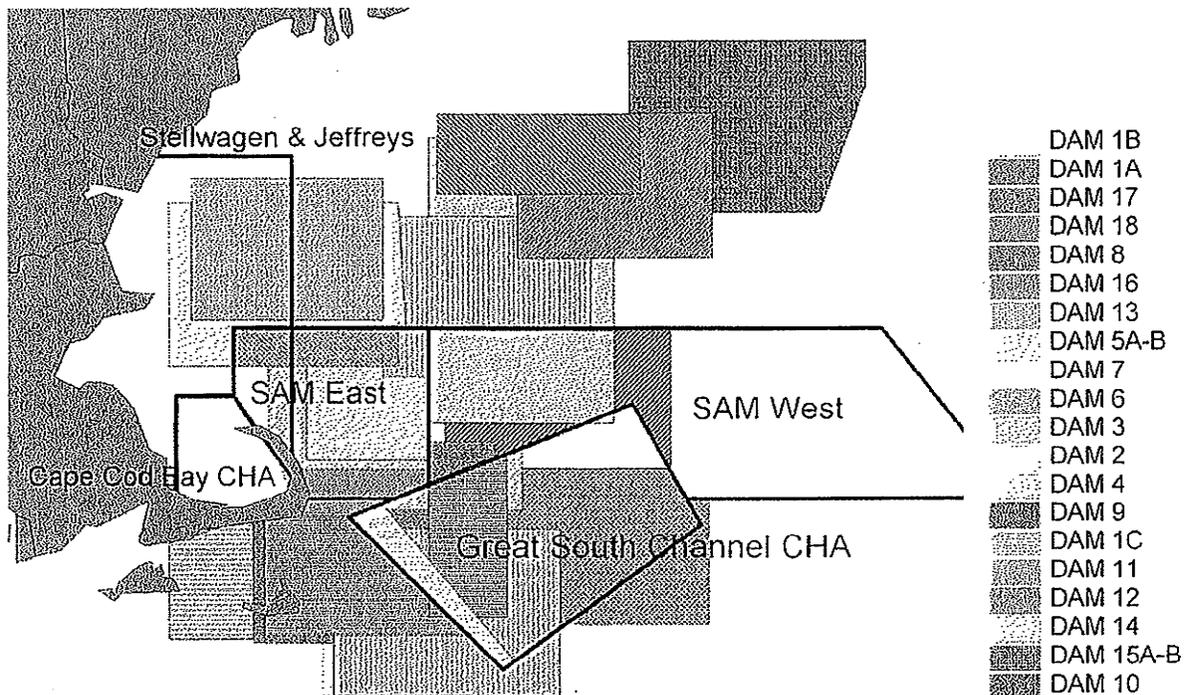
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This figure shows the location of Dynamic Area Management zones designated by NMFS between 2003 and May of 2005. It is important for NMFS to consider both the spatial and temporal components of these DAMs as it develops and proposes areas and time frames for vessel speed restrictions and vessel routing. For example, DAM 14 and 13 in the region of the Great South Channel were designated in August and September of 2004—outside of the proposed April to July 31 period for proposed vessel speed restrictions. Likewise, DAM 9 was designated in March 2004, and outside the proposed April to July timeframe for vessel speed or routing restrictions. The Alliance believes that this information further substantiates the need to expand the period over which restrictions are required in the Great South Channel from April 1 to July 31. At a minimum, NMFS should begin the restrictions on December 1 and consider extending the period beyond July 31 to perhaps include August and September.

The Alliance strongly supports the designation of the Great South Channel management area as an Area To Be Avoided (ATBA). This ATBA would be proposed to the IMO for endorsement. If accepted by the IMO and when implemented, the ATBA would apply to all ships 300 gross registered tonnage (GRT) and above. These ships would be expected to avoid the area on a voluntary basis from April 1 to July 31. Vessels under 300 GRT, but 65 ft (19.8 m) long or more, would be subject to uniform speed restrictions within the ATBA (DEIS at 2-12). The ATBA should be in effect from December 1 to July 31 to mirror the proposed vessel speed restriction dates we have suggested for the Great South Channel.

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4.0 Discussion of a Modified Preferred Alternative

We recommend that NMFS modify the proposed rule/preferred alternative to include the following elements:

4.1 Southeastern United States Operational Measure

- Mandatory port access routes for routes into and out of the ports of Jacksonville and Fernandina Beach, Florida; Port Canaveral, FL, and Brunswick Georgia.
- Vessel speed restrictions (10 knots or less) from November 15 to April 15 each year in the area bounded by: the shoreline, 31°27'N. lat. (i.e., the northern edge of the Mandatory Ship Reporting System (MSRS) boundary) to the north, latitude marking the southern edge of critical habitat to the south, and 80°51.6'W. long. (i.e., the eastern edge of the MSRS boundary)

4.2 Mid-Atlantic Region of the U.S. (MAUS) Operational Measure

- Vessel speed restrictions (10 knots or less) from October 1 through April 30 each year around each of the port or bay entrances identified below and the designated area around Block Island Sound.
- The areas are defined as the waters within a 30 nm area with an epicenter located at the midpoint of the COLREG demarcation line crossing the entry into the following designated ports or bays:
 - (c) Entrance to the Chesapeake Bay (Ports of Hampton Roads and Baltimore);
 - (d) Ports of Morehead City and Beaufort, NC;
 - (e) Port of Wilmington, NC;
 - (f) Port of Georgetown, SC;
 - (g) Port of Charleston, SC; and
 - (h) Port of Savannah, GA.At Block Island Sound, the designated area is a box with a 30-nm width extending south and east of the mouth of the Sound (reference points: Montauk Point and the western end of Martha's Vineyard).
- The areas are defined as the waters within a 40 nm area (or whatever distance will encompass 90 percent of the right whale sightings) with an epicenter located at the midpoint of the COLREG demarcation line crossing the entry into the following designated ports or bays:
 - (a) Ports of New York/New Jersey;
 - (b) Delaware Bay (Ports of Philadelphia and Wilmington);

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4.3 Northeast United States. (NEUS) Operational Measure

4.3.1 Cape Cod Operational Measures

- Vessel speed restrictions (10 knots or less) from December 1 to May 15 each year throughout all of Cape Cod Bay. The proposed area consists of all waters in Cape Cod Bay, extending to all shorelines of the Bay, with a northern boundary of 42°12' N. lat.
- Mandatory shipping routes would be established to minimize the travel distance through Cape Cod Bay critical habitat for ships entering and leaving the port of Provincetown from Cape Cod Canal or from the north, by routing ships along the edges of the critical habitat.

4.3.2 Off Race Point Operational Measures

- Vessel speed restrictions (10 knots or less) from December 1 to May 31 each year.
- Expand the northern boundary of the management area north to the Mandatory Ship Reporting Boundary.
- Reconfigure and shift the Boston Traffic Separation Scheme (approximate 12 degree shift in the axis of the northern leg of the TSS) and narrowing the two traffic lane by approximately ½ nautical mile.

4.3.3 Great South Channel Operational Measures

- Vessel speed restrictions (10 knots or less) from December 1 to July 31 in the Great South Channel management area.
- Establish the Great South Channel as an ATBA from December 1 to July 31.

5.0 Enforcement Considerations

Applicability and enforcement of the above measures should be made explicit in any proposed regulations. First, the Alliance supports the applicability of the routing and speed restrictions just discussed to all non-sovereign vessels of 65 feet or longer. As explained in the proposed rule and the DEIS, 65 feet is a common regulatory standard that encompasses those vessels that are unlikely to be able to detect and avoid collisions with whales and those that are likely to cause serious injury or death to whales if a strike occurs. This standard also sweeps in all vessel types, including recreational boats and other locally based vessels such as tugs and barges, an essential element of any comprehensive ship strike plan.

NMFS must address the issue of enforcement in the final rule. Enforcement for routing, speed restrictions, and dynamic management areas, as well as for the Mandatory Ship Reporting system, should be thoroughly explored by the agency, explained in detail, and presented for public comment. The Mandatory Ship Reporting system, established in 1999, has faced widespread non-compliance, especially in the Southeast, and raises concerns about the agency's ability and commitment to enforce other measures introduced through the proposed rule. NMFS

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must ensure adequate enforcement of the Mandatory Ship Reporting system and other new regulatory measures through detailed plans and cooperative agreements with the Coast Guard.

6.0 Conclusion

The Alliance strongly commends NMFS for going forward with a plan to reduce the risk of ship-strikes to right whales. We agree that much of the proposed rule is based on the best historical data currently available and demonstrates traditional right whale movements. While it is a good starting point, the proposed rule must account for potential habitat shifts or seasonal movements of right whales where survey data is lacking, as well as emerging information on right whale habitat use. NMFS must invest in increased survey effort, telemetry, and acoustical data to reveal the presence of whales in times and areas not previously determined and use this information to refine these provisions. We thank you for your consideration of our comments and look forward to your prompt action to address this crucial problem for right whales.

Sincerely,

Susan L. Nickerson
Executive Director
suenick1@saveoursound.org

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October 5, 2006

Via Electronic Mail: shipstrike.comments@noaa.gov

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Re: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of
Ship Collisions with North Atlantic Right Whales

Dear Chief of the Marine Mammal Conservation Division:

The Southern Environmental Law Center commends the efforts of the National Marine Fisheries Service to protect the North Atlantic Right Whale from extinction, and appreciates the opportunity to submit comments on the above-referenced proposed rule. These comments are submitted on behalf of the Southern Environmental Law Center, the South Carolina Coastal Conservation League, the Georgia River Network, the Altamaha Riverkeeper, the Ogeechee-Canoochee Riverkeeper, and the Center for a Sustainable Coast.

Through recent work on the U.S. Navy's proposal to site an Undersea Warfare Training Range off the coast of North Carolina, a proposal to develop a large commercial marina complex near Cumberland Island, Georgia, and several proposals to expand ports in North Carolina, South Carolina, and Georgia, we have become increasingly concerned that the continued development of marine resources in the mid-Atlantic will further

imperil the Right Whale, in addition to other important marine species. We welcome the opportunity to develop and submit the following analysis in support of the proposed rule for the agency's consideration.

OVERVIEW AND BACKGROUND

The very existence of the North Atlantic right whale, *Eubalaena glacialis*, is imperiled by a variety of threats from human activity, and scientists have warned that the likelihood of the species' extinction is imminent. Extreme caution and a variety of measures are urgently needed to ensure the species' survival.¹ As NMFS has stated, the loss of even one animal from the small existing population from non-natural causes could push the species over the brink of extinction.²

As NMFS has noted, the greatest known cause of right whale mortality in the western region of the North Atlantic is collision with shipping vessels. Of the 50 dead right whales reported since 1986, at least 19 were killed by vessel collisions.³ In the 16-month period between February 2004 and May 2005, there were eight recorded deaths of right whales, including six adult females, three of which were carrying near-term fetuses. Three of these eight whales were definitely killed by ships, a fourth was probably killed by a ship, a fifth whale was killed by fishing gear, two whales were offshore and could not be recovered for examination, and a young calf died on the beach in Florida. The negative trend for Right Whales continued during the 2006 calving season, in which five whales were recorded as killed or injured as a result of vessel collisions and

¹ Kraus, et al., North Atlantic Right Whales in Crisis, Science (July 22, 2005).

² NMFS Stock Assessment Report.

³ Kraus, Scott D., et. al, North Atlantic Right Whales in Crisis, July 22, 2005 at 561. Other threats to the species include fishing gear entanglements, habitat degradation, noise, contaminants, underwater bombing activities, climate and ecosystem change, and commercial exploitation.

entanglements with fishing gear. The loss of this number of whales, particularly this number of reproductively mature females, has been described as unprecedented in the 25 years that this species has been studied.

In addition to documented mortalities in this population, many right whales that survive the initial encounter with a vessel or entanglement in fishing gear suffer serious, chronic injuries that can lead to slow deterioration and eventually disappearance from the population (the carcasses of these chronically injured whales are typically not found as these animals become emaciated and sink when they die). Thus, estimates of mortalities caused by ship strikes are likely underestimated.

The current status of this species is so tenuous that NMFS has determined the annual PBR for North Atlantic right whale is *zero*. As NMFS states in its 2003 Stock Assessment Report, “[t]he total level of human-caused mortality and serious injury is unknown, but reported human-caused mortality and serious injury has been a minimum of 2.07 through 2001.” *Thus, human-caused harm to right whales since 1994 (when the PBR concept was developed) has consistently exceeded acceptable levels.*

NMFS’ efforts to develop and implement a strategy for reducing right whale mortality have concentrated primarily on education and outreach. Educating boaters to make them alert to the presence of right whales and the role that speed plays in ship strikes is laudable but insufficient to reduce the risks that vessels pose to the species. Additional efforts to reduce the risks associated with vessel collisions have included mandatory ship location reporting requirements and aerial survey efforts. Yet all these efforts have proven ineffective because they have not required meaningful changes in the manner in which vessels operate within right whale habitats and migratory corridors.

The proposed rule would mandate needed operational changes and, if implemented as proposed, should provide greater protection to right whales from collisions with large commercial vessels. The scientific literature suggests a strong correlation between ship speed and collisions with whales.⁴ Therefore, mandating a reduction in the speed of ships traveling within certain areas, especially the near shore, is an essential measure.⁵ Adoption of the regulatory proposal is imperative and urgent, and should proceed without change, and without additional delay.

CURRENT AND PROJECTED VESSEL TRAFFIC IN THE MID-ATLANTIC DEMONSTRATES THE NEED FOR THE MEASURES IN THE PROPOSED RULE

Throughout the mid-Atlantic region, proposals are underway to greatly expand the region's ports, deepening channels and increasing capacity to attract more, and larger, ocean-going commercial vessels. These proposals, when and if implemented, would greatly increase the ship traffic in the region, thereby heightening the risk of collision with right whales (and a myriad of other marine species, including other whales and sea turtles).

Port Expansions and Cruises

The amount of vessel⁶ traffic handled by ports in the mid-Atlantic⁷ grew 18% from 2003 to 2005, at a rate more than twice the national average of 7.5%. Combined,

⁴ Laist, et al., Collisions between ships and whales, 17 Marine Mammal Science 1, 35-75 (2001).

⁵ See Knowlton, A., et al., The Hydrodynamic effects of large vessels on right whales: Phase II, NMFS Contract No. 46EANF60004 (1998).

⁶ Vessels include oceangoing, self-propelled ships exceeding 10,000 DWT (deadweight ton).

⁷ Ports in the mid-Atlantic include Virginia ports on the Chesapeake, Morehead City, and Wilmington, NC, Charleston, Georgetown, and Port Royal, SC, Savannah, and Brunswick, GA, and Fernandina, and Jacksonville, FL. We can consider all Virginia ports as one because all ocean-going vessels must pass through Cape Charles into Chesapeake Bay to reach their intended port; for the purposes of these comments, it is of negligible importance where the ships go after entering the bay. It is further appropriate to consolidate them into one class because all vessels calling at these ports will adopt roughly the same near-coast navigation routes.

these entry-ways saw an increase in calls served from 7666 in 2003, to 9055 in 2005. Mid-Atlantic ports served roughly 15% of all calls nationwide in 2005, a 13.5% increase from 2003. Much of that increase has occurred in the Georgia ports, especially at the Brunswick port, which experienced an *eightfold* increase in traffic in 2005 (243 vessels) over 2003 (40 vessels), representing 7% of all South Atlantic port calls during the 2003-05 period.⁸ *It is significant to note that the Brunswick port is situated near critical habitat for the right whale.* In addition, the Virginia ports – which alone account for 25% of regional traffic – experienced the overall greatest increase, with vessel calls soaring by 65% (from 1539 to 2547) in that same time frame. These figures are illustrated in Map 1, attached.

In addition to commercial shipping vessels, cruise ships represent an important and growing category of large boats in the region with the potential to harm right whales and their habitat. Mid-Atlantic ports that report cruise departures saw a 22% increase in traffic between 2003 and 2005. Although most cruises in the region originate from ports farther south, Jacksonville, Florida and Norfolk, Virginia posted enormous increases in the number of cruises leaving port – increasing from 5 cruises each in 2003 to 83 and 31, respectively, in 2005.⁹

⁸ U.S. Department of Transportation Maritime Administration; Data and Statistics (2006). Available at <http://www.marad.dot.gov/MARAD_statistics/>. From *Lloyd's Maritime Intelligence Unit, Vessel Movement Data Files*. Accessed September 2006.

⁹ U.S. Department of Transportation Maritime Administration. 2006. Data and Statistics. Available at <http://www.marad.dot.gov/MARAD_statistics/>. From *US Customs and Border Patrol Vessel Entrance and Clearance Documents*. Accessed September 2006. Updated May 8, 2006.

Port Expansions¹⁰

During this same two-year period, the cargo capacity of the mid-Atlantic region increased by 23%, which represents an immediate opportunity for additional increases in vessel traffic *regardless* of the current proposals for further expansion in port capacity. Based on forecasted expansions in the global economy, the U.S. Army Corps of Engineers predicts the number of vessel calls to mid-Atlantic ports to double between 2000 and 2010.¹¹ The increase is forecasted to be greatest among the Virginia ports (17.5% of the regional growth), where annual calls would more than double by 2010. Nearly 10% of the region's growth would occur in the Charleston, SC port complex. According to the FEIS for the Charleston port, by 2011 the port will have expanded to encompass an additional 280 acres and enable the port to service a projected 4 million TEUs (twenty-foot equivalent units, a measure of containerized cargo), which represents a doubling of that port's capacity. For the Georgia and Jacksonville, Florida ports – those within the Right Whale's critical habitat – the projected *increase* in traffic is more than half of all current traffic in the entire region. *See* Map 1. Although the port at Savannah merely proposes to deepen its channel from 42 feet to 48 feet, this project will enable the port to accommodate much larger ships and increase vessel traffic.

Significantly, the Corps' economic forecasts exclude consideration of the planned and proposed port expansions in North Carolina (both Wilmington and South Port), South Carolina, and Georgia! The South Carolina Ports Authority has committed not

¹⁰ Because these projected totals are modeled according to a different set of ship criteria, the absolute values should not be compared to those above. Also note that these values do not reflect proposed all port expansions in the region.

¹¹ Hackett, Ben. 2003. National Dredging Needs Study of U.S. Ports and Harbors: Update 2000. USACE IWR Report 00-R-04.

only to expanding the Charleston Port, but also to building an entirely new port in Jasper County on the Savannah River. Thus, these forecasts substantially *underestimate* the likely increases in traffic, instead presenting a “best case scenario.” The actual numbers – and risks – are likely to be much greater.

WATERWAY TRANSPORTATION CORRIDORS AND RIGHT WHALE CRITICAL HABITAT

The proposed increases in port capacity are important for accurately assessing the magnitude of the threat the commercial shipping industry poses to the right whale. While there are likely to be some economic impacts to the shipping and cruise industries from the implementation and enforcement of the speed restrictions, it is valuable to place into perspective the relative costs and benefits of the proposed rule – i.e., the extent to which waterway transportation corridors penetrate designated Critical Habitat for the Right Whale compared with the relatively minimal impact the proposed rule would have on those corridors.

Currently, there are more than 120 nautical miles of designated maritime transportation corridors within Right Whale critical habitat. *See* Map 2, attached. At least 16% of all vessels calling at mid-Atlantic ports used these corridors as they passed through critical habitat to call at Brunswick, Jacksonville, and Fernandina ports in 2005. Within this area, four Atlantic deepwater access/spur corridors (totaling 87 nautical miles) pass through federally designated North Atlantic Right Whale critical habitat. In Florida alone, there are 26 nautical miles of shallow water access corridors that pass through critical habitat, and an additional 18 nautical miles of shore-parallel corridors, the

shallow water “spine,” within the critical habitat.¹² Between Cape Lookout and Cape Canaveral, there are 20 deep water access points crossing the inner shelf out to the shelf break and the shore parallel to the Atlantic Deep Water Spine.¹³ All of these transportation corridors pass through common migration routes for the North Atlantic right whale.

In sum, although a significant portion of the transportation corridors are located within designated critical habitat or along common migratory routes for the right whale, the proposed rule would affect a mere 10% of all corridors – and then only on a seasonal basis. In contrast, *90% of the corridors would remain entirely unaffected*. The proposed rule offers hope for the continued survival of the right whale while posing minimal disruption to the shipping industry.

SEASONAL RESTRICTIONS

There is precious little understood about right whales, even among scientists who have studied the whales’ migratory patterns, feeding and reproduction behaviors, and stranding events and who have tracked whales entangled in fishing gear. In fact, the Recovery Plan for the Right Whale states that the data on residence times for individual whales is “ambiguous” and “movement patterns of considerable length and duration” have been observed.¹⁴ Consequently, there is little, if any, scientific justification for the concepts of predictable seasonal presence or absence or migrational directionality of right

¹² These waterways are particularly significant given the rapid increases in traffic experienced and projected for the Brunswick, GA port, and because of the sheer magnitude of the Jacksonville/Fernandina, FL complex – the fourth largest in the South Atlantic.

¹³ US Army Corps of Engineers Navigation Data Center. National Waterway Network. *United States Waterway Data* (2005).

¹⁴ NOAA, NMFS, Office of Protected Resources, Recovery Plan for the North Atlantic Right Whale (revised 2004).

whales, especially along the mid-Atlantic coast.¹⁵ Juvenile whales in particular appear to sometimes travel long distances along the mid-Atlantic coast without an understood purpose or destination.

For example, news articles report recent observations of several maternal/calf pairs sighted in the shelf waters off of Cape Lookout, and fishermen reported that a right whale entangled in fishing line offshore North Carolina in December, 2005, swam near (and perhaps within) the area the Navy proposes to use for an Undersea Warfare Training Range (“USWTR”) off the North Carolina coast¹⁶ before losing its tracking buoy and disappearing. NOAA has documented right whales far off shore – including a whale in January, 2006, that was sighted 60nm *east* of Cape Lookout, and, in January, 2005, a whale that was sighted 70nm south of Cape Lookout, within the Navy’s OPAREA.¹⁷ In the winter of 2006, surveyors made 67 flights off the South Carolina coast near Charleston and made 85 sightings of right whales, “including at least 34 different animals and seven mother and calf pairs.”¹⁸

According to tracking data collected and plotted by a scientist with the Provincetown Center for Coastal Studies, the entangled right whale that was tracked off the North Carolina coast during December 2005 was determined to be traveling *north in December*; similarly, another right whale tracked in 2002 (whale #1427) was determined

¹⁵ This is especially true when one considers the extremely limited effort made over the past 30 years to track and study right whales off the coast of North Carolina. Maps 3B and 3C show that, for the period 1974-2002, there were only two “good” survey efforts made offshore North Carolina during the late spring/early summer, providing a stark contrast to the extensive survey efforts made along the north U.S. Atlantic coast. (This map was obtained from Amy Knowlton and accompanies her article posted at <http://www.nero.noaa.gov/shipstrike/>.)

¹⁶ Draft Overseas Environmental Impact Statement/Environmental Impact Statement for the Proposed Undersea Warfare Training Range (2005), available at <http://projects.earthtech.com/USWTR/>.

¹⁷ <http://rwhalesightings.nefsc.noaa.gov/yearly.html>.

¹⁸ “A Proposal to Protect Whales,” Charleston Post & Courier (July 10, 2006).

to be traveling *south in July* (it was tracked all the way to Georgia at the hottest time of the year).¹⁹ See Map 4. Additionally, right whales have been detected more than 40 miles offshore North Carolina (see Maps 3A-3C) and current research is underway to determine whether the range is even greater.²⁰

RECREATIONAL BOATS

Recreation boating is extremely popular in the mid-Atlantic region, and there are a remarkable number of new boats in the waters of these states.²¹ As of December 2003 (the most recent period for which statistics are available), Florida had the third largest number (>900,000) of registered recreational boats of any state (California and Michigan were first and second). Florida also ranked first nationally in new power boat sales in 2003, with 42,667 new power boats. North Carolina was second, with 14,038. South Carolina (9), North Carolina (11), Georgia (13), and Virginia (19) are all in the top 20 nationwide in terms of recreational boats registered.

Indeed, the popularity of recreational boating is increasing. Between 1996 and 2003, the mid-Atlantic region saw the greatest increase in recreational boating registrations, both in absolute and percentage terms in the entire country (248,800 and 10% respectively). The region also boasts more registered boats than any other region in the country (even though the region contains half as many miles of tidal waters and one quarter as many square miles of inland waters as the Pacific region, and half as many square miles of open water as the North Central/Upper Midwest region).

¹⁹ Personal communication with Bob Bowman, Provincetown Center for Coastal Studies, December 2005-January 2006.

²⁰ Personal communication with Amy Knowlton (January 2006).

²¹ National Marine Manufacturers Association. 2005. 2003 U.S. Recreational Boat Registration Statistics.

These numbers have an additional layer of significance: 99.95% of all registered recreational boats in Florida, Georgia, the Carolinas, and Virginia – 2.2 million in all – are smaller than 65 feet, and thus are not regulated by the new rule. Of these boats, 95.9% (more than 2.15 million) are power-driven.²² These numbers will only increase in the coming years as more and more marinas are being built along the coast from north Florida through the Carolinas. And with more power boats, the potential for dangerous and potentially fatal interactions with right whales will increase. In fact, recent history, including a strike involving a 43-foot recreational vessel and an 11-year old female (#2425) 16 miles off the coast of Cumberland Island, Georgia, demonstrates the clear threat posed by these vessels.

RECOMMENDATIONS

First, based on geographic analysis of port traffic, projected expansions and capacity increases, and the existing waterway transportation network, *we recommend expanding the Proposed Seasonal Management Areas (PSMAs) around Charleston, SC and Savannah, GA.* See Map 5. Combined, these ports constitute nearly 50% of all oceangoing transport in the region and are expected to more than double in usage by 2010. The PMSA around Charleston, SC should be expanded from 30nm to 50nm to include the two Atlantic Deepwater Access Corridors between Charleston and Beaufort, SC. The PMSA around Savannah, GA should be expanded from 30nm to 60nm to include (1) the junction of the Atlantic Deepwater Spine and the four Atlantic Deepwater Access Corridors; (2) the remainder of the shallow Georgia Bight; (3) the waters north of and adjacent to the Right Whale Critical Habitat. Finally, any port expansion at Wilmington, NC or Southport, NC should be contingent upon the concurrent extension of

²² *Ibid.*

the associated PSMA to 50nm offshore to mitigate for anticipated increase in vessel calls.

Expanding the PSMA around Charleston, Savannah, and Wilmington (to 50nm from 30nm) would place less than 1% of the remaining total transport network under regulation. See Map 5.

We also recommend extending the seasonal restrictions within the mid-Atlantic region to the end of May, to allow a longer period of time for the mother-calf pairs to travel to the feeding grounds in the north. As NMFS has recognized, the mid-Atlantic region is a vital corridor between feeding areas and calving grounds, especially for pregnant females and mother-calf pairs.²³ Considering the poor survival rate for breeding female North Atlantic right whales,²⁴ it is particularly important that this corridor be protected to the maximum extent possible.

Finally, we recommend that NMFS initiate a separate but similar rulemaking for recreational vessels as soon as possible. Considering the threat that smaller, recreational boats pose to the existence of the right whale, this rule for recreational vessels should commence immediately and be prepared for public comment no later than December 2007.

CONCLUSION

Despite the cautionary notes of scientists and the agency's own recognition of the importance of protecting the whale's migration corridor in addition to seasonal residence areas to avoid collisions, NMFS has proposed a rule that imposes speed restrictions on an extremely small percentage of the shipping industry's routes – and those restrictions would be imposed on only a seasonal basis. Extraordinary consideration has been given

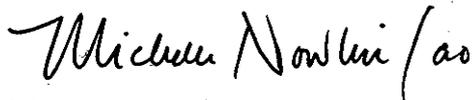
²³ Right Whale Recovery Plan (revised 2004).

²⁴ Knowlton, *supra* note 13.

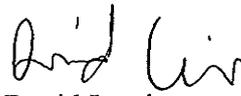
to the shipping industry's economic interests; some might conclude an overabundance of consideration and deference has been shown. Any disruption or economic loss suffered by the industry can be easily passed on to consumers, and is inconsequential when compared to the costs to society and the ocean's ecosystem that the loss of *Eubalaena glacialis* would represent. The proposed rule should be adopted as quickly as possible, and any changes should be in favor of greater protection to the right whale, not less.

Thank you for the opportunity to submit these comments.

Sincerely,



Michelle Nowlin
Senior Attorney



David Lewis
GIS Analyst

Nancy Vinson
South Carolina Coastal Conservation League

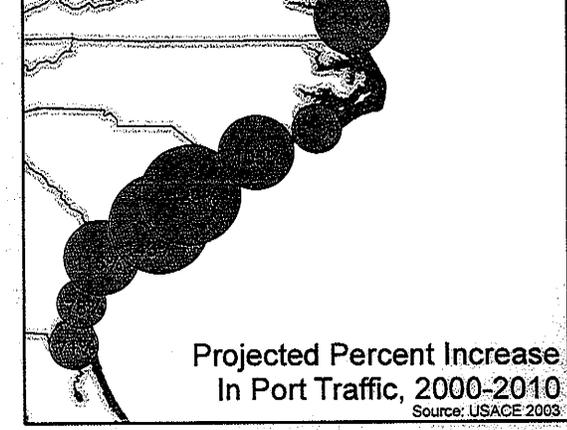
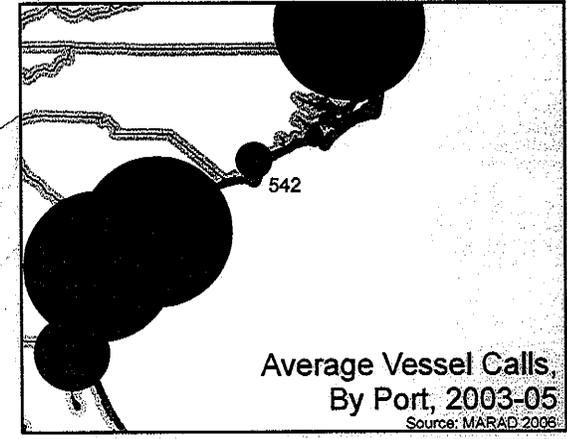
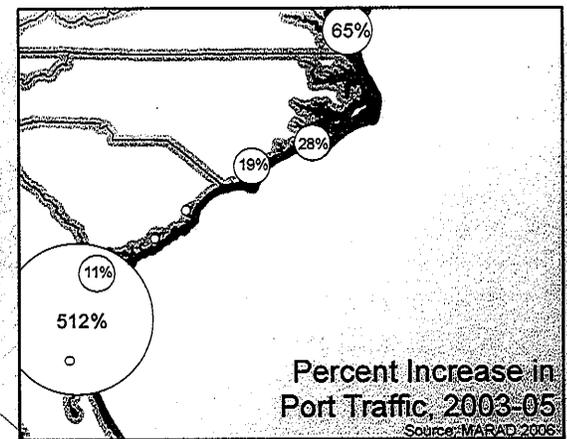
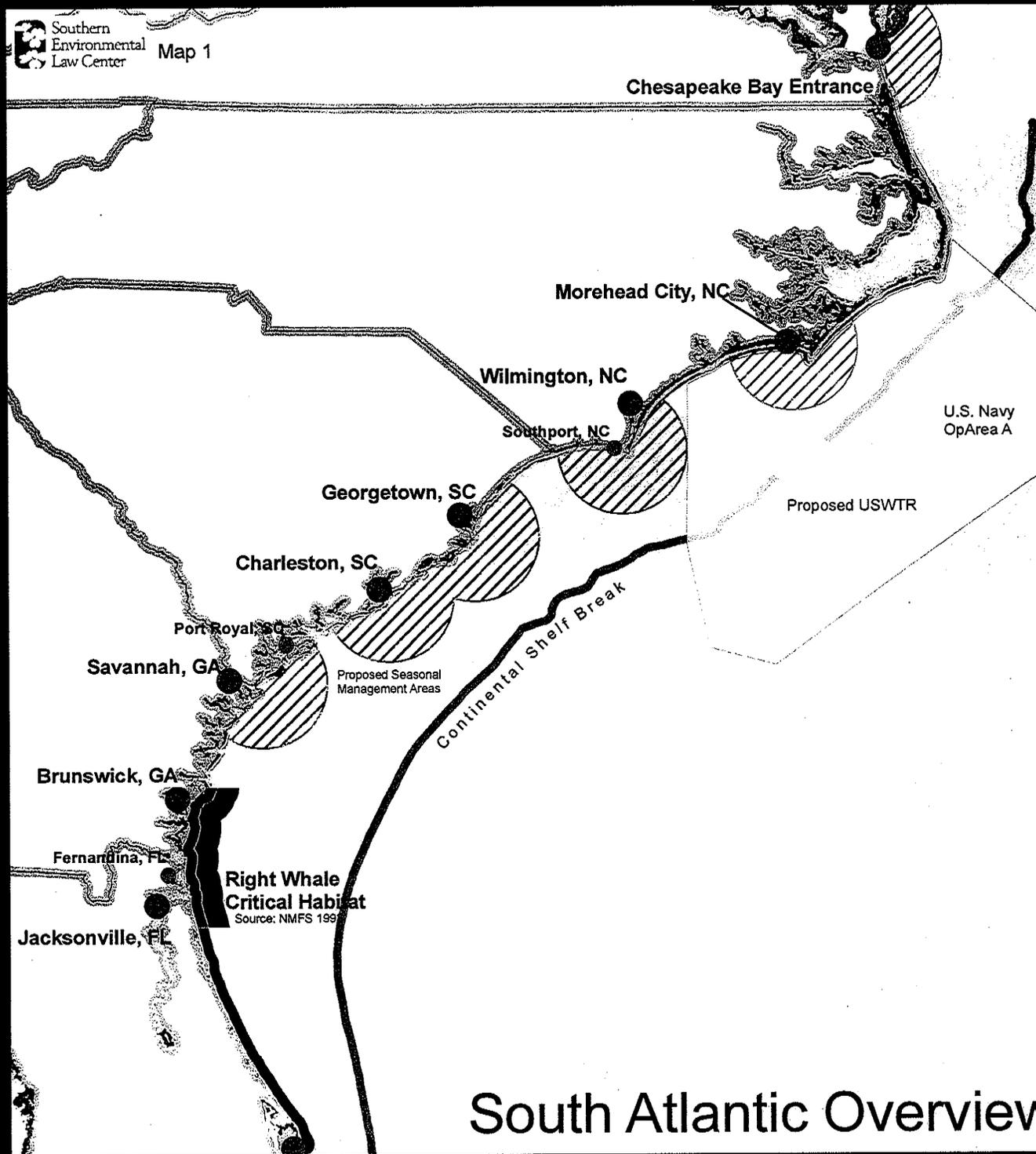
April Ingle
Georgia River Network

Deborah Sheppard
Altamaha Riverkeeper

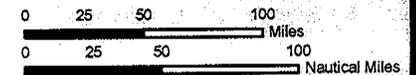
Chandra Brown
Ogeechee-Canoochee Riverkeeper

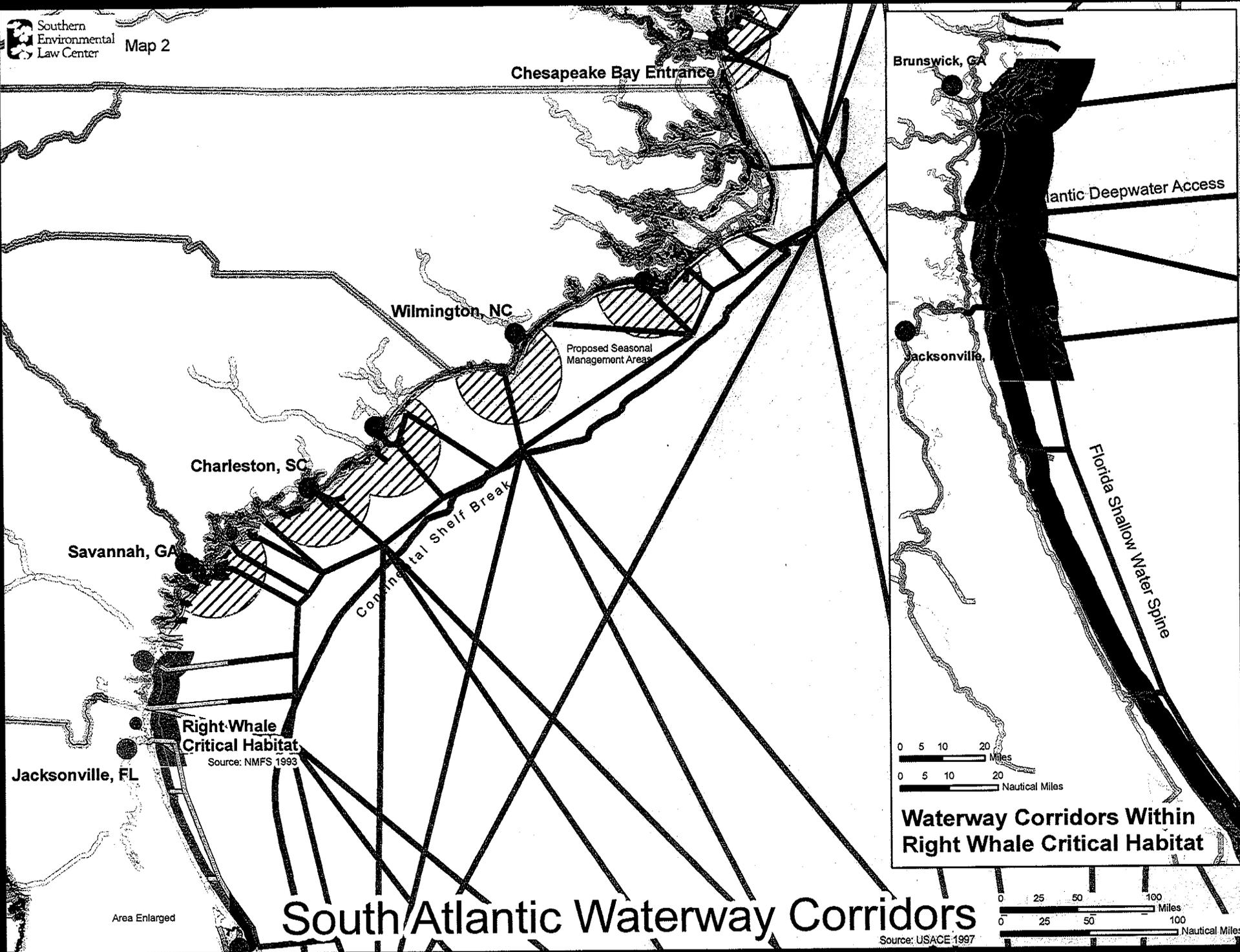
David Kyler
Center for a Sustainable Coast

cc: Sierra Weaver, The Ocean Conservancy
Amy Knowlton, New England Aquarium



South Atlantic Overview Map





Chesapeake Bay Entrance

Wilmington, NC

Proposed Seasonal Management Areas

Charleston, SC

Continental Shelf Break

Savannah, GA

Right Whale Critical Habitat
Source: NMFS 1993

Jacksonville, FL

Brunswick, GA

Atlantic Deepwater Access

Jacksonville, FL

Florida Shallow Water Spine

0 5 10 20 Miles
0 5 10 20 Nautical Miles

Waterway Corridors Within Right Whale Critical Habitat

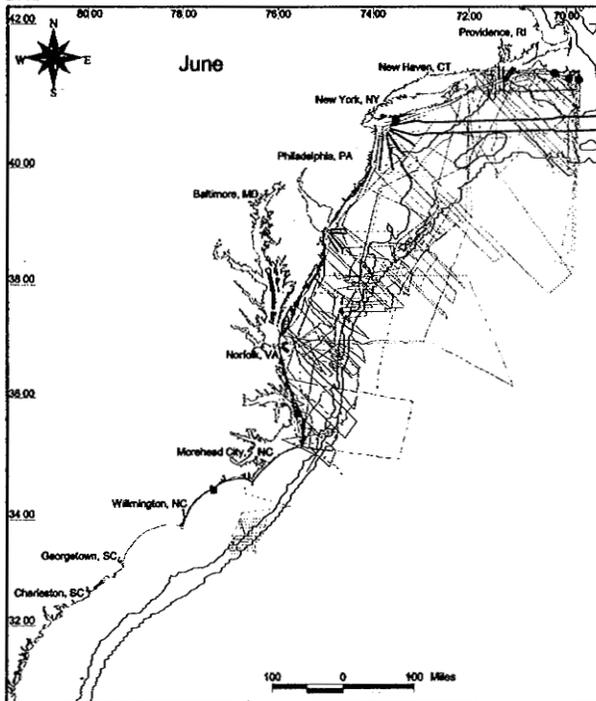
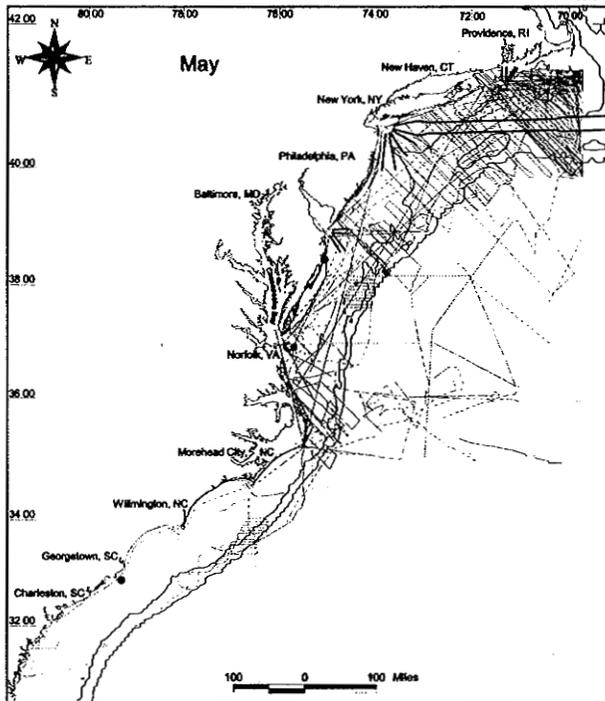
South Atlantic Waterway Corridors

0 25 50 100 Miles
0 25 50 100 Nautical Miles

Source: USACE 1997

Area Enlarged

Right Whale Sightings and Trackline
Data for the Mid-Atlantic by Month
1974 - 2002



Created by J. Beaudin Ring
July, 2002

Mercator projection (central meridian = 75.5).
Coastal coverage obtained from
<http://woodshole.or.usgs.gov>.
Bathymetric data based on ETOPOS
bathymetry.

- 1 right whale
- 2 - 5 right whales
- 6 - 8 right whales
- ⊙ Satellite tagged right whale
- Satellite tagged mother with calf
- Mother with calf
- Dead right whale calf
- ▲ Dead right whale adult

Survey Tracklines

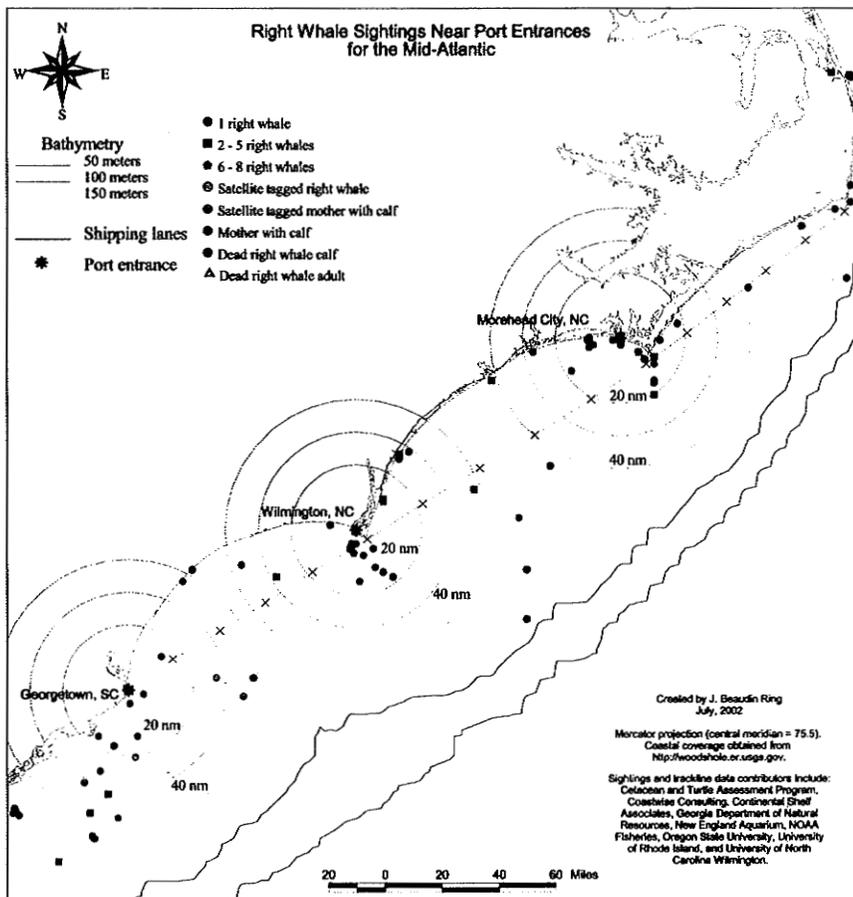
Tracklines surveyed with 'good' effort
Tracklines surveyed with 'bad' effort

Bathymetry

— 50 meters
— 100 meters
— 150 meters

— Shipping lanes

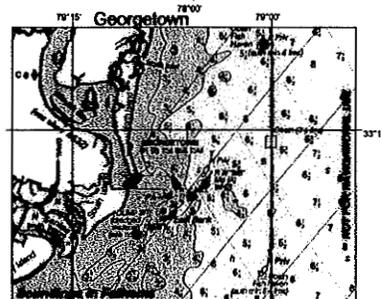
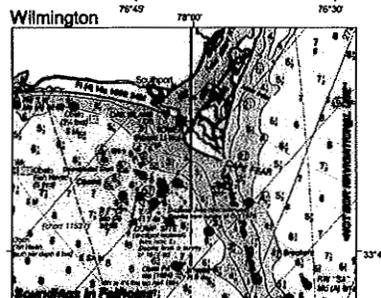
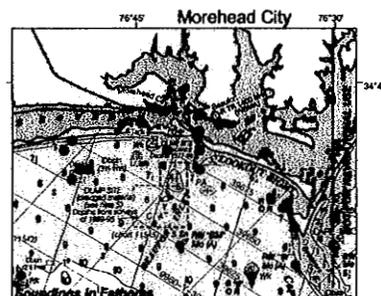
Sightings and trackline data contributors include:
Cetacean and Turtle Assessment Program,
Coastwise Consulting, Continental Shelf
Associates, Georgia Department of Natural
Resources, New England Aquarium, NOAA
Fisheries, Oregon State University, University
of Rhode Island, and University of North
Carolina Wilmington.



Created by J. Beaudin Ring
July, 2002

Mercator projection (central meridian = 75.5).
Coastal coverage obtained from
<http://woodshole.or.usgs.gov>.

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Resources, New England Aquarium, NOAA
Fisheries, Oregon State University, University
of Rhode Island, and University of North
Carolina Wilmington.



SUPPLEMENTAL INFORMATION
Consult U.S. Coast Pilot 4 for important supplemental information.

CAUTION
Dry weather conditions have been established for surface use. Limitations on the use of certain other radio signals are due to radio congestion and are found in the U.S. Coast Guide Light Lists and Oceanic Mapping Agency Publication 117.

Radio distress-finder signals to commercial broadcasting stations are subject to error and should be used with caution.

Other stations are shown that:

Operate on other frequencies

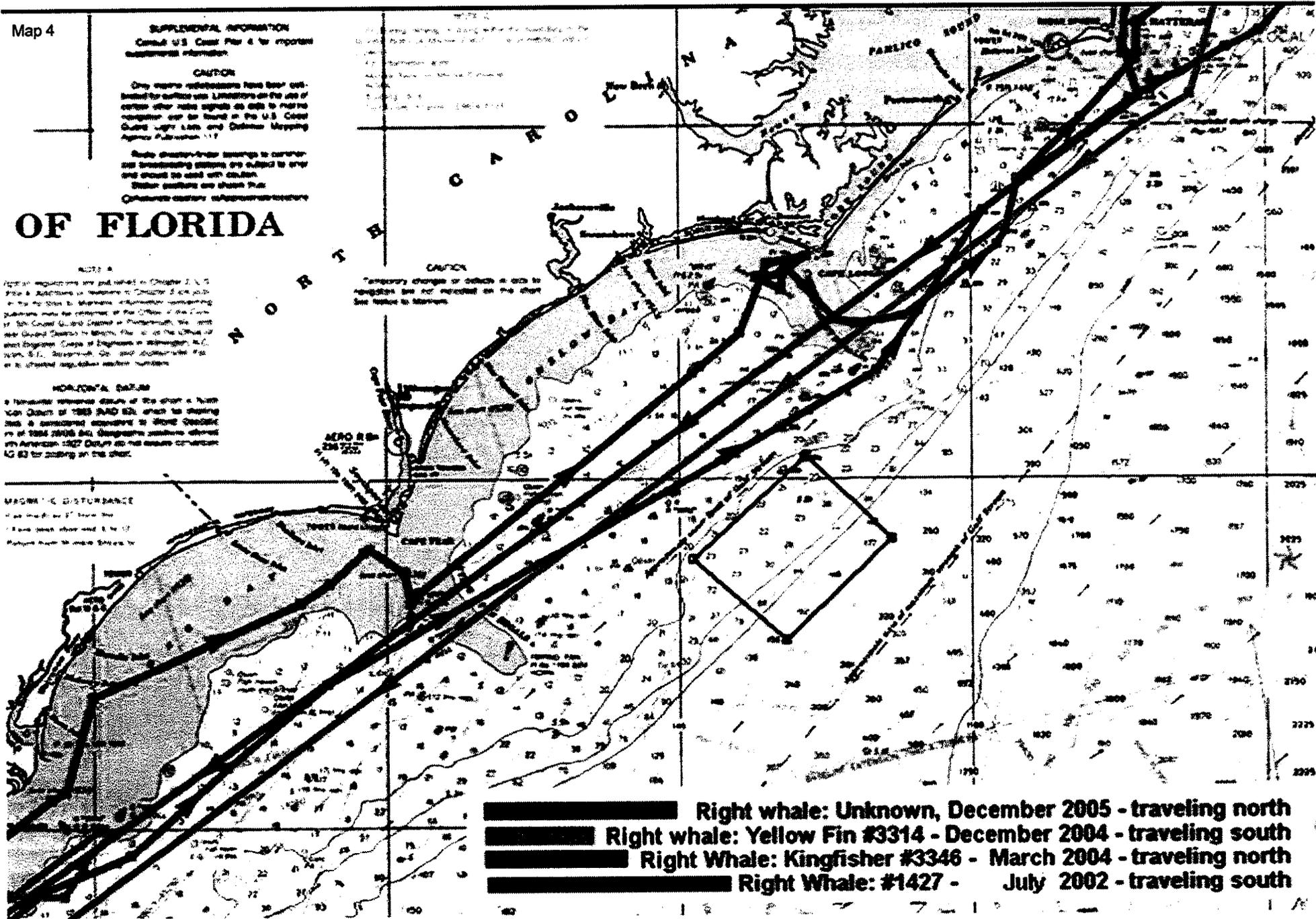
OF FLORIDA

NOTE A
Special regulations are published in Chapter 2, U.S. Code, and in the U.S. Coast Pilot 4 for each of the Florida Bays, Harbors, and Inlets. Supplementing publications may be obtained from the Office of the Chief of the U.S. Coast Guard, Station 10, Fort Belvoir, St. Petersburg, Fla. 33705, and the Office of the Chief of the U.S. Coast Guard, Station 10, Fort Belvoir, St. Petersburg, Fla. 33705. Supplemental information is published in the U.S. Coast Pilot 4.

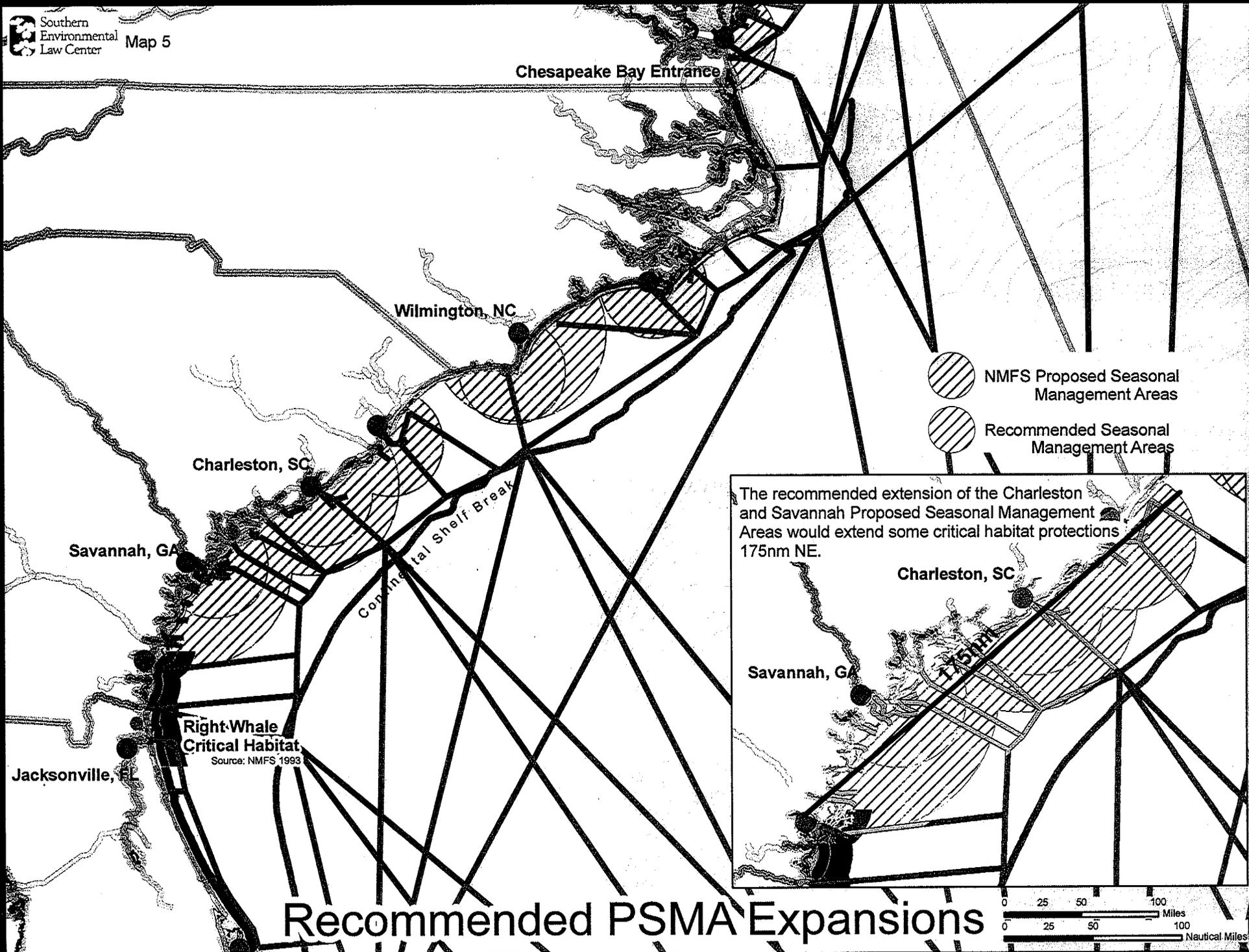
HORIZONTAL DATUM
A horizontal reference datum of the chart is North Carolina Datum of 1885 (NAD 83), which is defined as the mean spheroidal surface of the Earth. Geographic positions derived on American 1927 Datum do not require conversion to NAD 83 for plotting on this chart.

MAGNETIC DISTURBANCE
Magnetic declination 17° from true.
It varies about 1' for each 1' of longitude from the magnetic meridian.

CAUTION
Temporary change of depth is due to regression and is not indicated on this chart. See notes to Mariners.



- Right whale: Unknown, December 2005 - traveling north
- Right whale: Yellow Fin #3314 - December 2004 - traveling south
- Right Whale: Kingfisher #3346 - March 2004 - traveling north
- Right Whale: #1427 - July 2002 - traveling south



Recommended PSMA Expansions



VIRGINIA
AQUARIUM
& MARINE SCIENCE CENTER

October 5, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Public Comments

We have reviewed the "Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales" (Proposed Rule) and offer the following comments from the Virginia Aquarium Foundation's Research & Conservation Division. We manage the Aquarium's Stranding Response Program that responds to marine mammal and sea turtle strandings in Virginia. In the past five years, our organization has responded to 18 large whale strandings, including five right whales, eight humpback whales, and fin, sei and minke whales. Of the 12 whales where we could determine the circumstances of death, 11 (including four of five right whales) appeared to have died from injuries sustained because of human activities. Of these, eight showed signs consistent with death caused by ship strike. The ship strike victims included three critically endangered right whales, two of which were pregnant females. [The other three whales were entangled in fishing gear or showed signs of entanglement.]

Generally, the whales that showed signs of ship strike were apparently alive and healthy when the collisions occurred, and several had been actively feeding at the time of death. For a variety of reasons involving the conditions of the whale carcasses at the time of examinations, it is likely that these animals were struck by ships in the vicinity of the entrance to Chesapeake Bay. The Chesapeake Bay serves as the entry point for all shipping, both commercial and military, for the ports of Hampton Roads and Baltimore.

While not considered critical habitat for right whales, the mid-Atlantic waters off Chesapeake Bay are transited by individual whales, especially pregnant females (in the fall and early winter) and females with newborn calves (in the late winter and spring). These whales are transiting between established feeding and calving areas. While individual right whales may not spend long periods of time in waters off the Chesapeake Bay, it is clearly a potentially dangerous place for them.

We support both the NOAA Proposed Rule and the need for current and future research on strategies to monitor and mitigate ship strike mortalities of right whales and other whale species in the U.S., and especially in mid-Atlantic waters near the entrance to Chesapeake Bay. We believe that speed reduction is currently the best mitigation

strategy available to NOAA, but encourage both NOAA and the shipping community to continue to search for and, when possible, test additional ship strike reduction strategies.

Thank you for the opportunity to comment on the Proposed Rule. If you have any questions or concerns, we have provided our contact information below.

Sincerely,



W. Mark Swingle, Director of Research & Conservation

Phone: 757-385-0326

E-Mail: MSwingle@VirginiaAquarium.com



Susan G. Barco, Research Scientist – Stranding Response Program Coordinator

Phone: 757-437-7765

E-Mail: SGBarco@VirginiaAquarium.com



The Whale Center
of New England

A non-profit organization emphasizing whale
research, conservation, and education.
P.O. Box 159, Gloucester MA 01930 USA

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East-West Highway
Silver Spring, MD 20910

August 11, 2006

To Whom It May Concern,

I am writing on behalf of the Whale Center of New England to submit comments on the Proposed Rule to regulations to implement speed restrictions on vessels 65 ft (19.8 m) or greater in overall length in certain locations and at certain times of the year along the east coast of the U.S. Atlantic seaboard (50 CFR Part 224, Docket No. 040506143-6016-02) as published in the Federal Register on June 26, 2006.

The Whale Center of New England has been conducting research on endangered whales and other cetaceans in New England waters since 1979. We have published over 25 peer-reviewed papers on a variety of topics, including the distribution and annual movements of North Atlantic right whales. Starting in 2003, we initiated a project to conduct boat-based surveys for right whales on Jeffreys Ledge during the fall and early winter. Our staff has served in a formal capacity on relevant policy committees and task forces including the Atlantic Large Whale Take Reduction Team, the Northeast Large Whale Recovery Plan Implementation Team, and the Stellwagen Bank Sanctuary Advisory Council. Specifically related to the Right Whale Ship Strike Reduction (RWSSR) strategy, we have played an active role on the Ship Strike sub-committee of the Implementation Team for many years, and were invited participants at the 2001 workshop which helped formulate the current strategy. In addition, I recently chaired a working group for the Stellwagen Bank Sanctuary's Management Plan Review that specifically dealt with issues surrounding ship collisions with all whales, including right whales. Hence, we have a great familiarity and years of experience with the issue, and feel we are in a strong position to comment on the Proposed Rule.

To start with, let me state our unequivocal support for the concept and, in most cases, the specifics of the proposed rule. Study after study has shown the influence on ship speed on fatal collisions of right whales, and the current trend of ship collisions must be reversed in the near future if we want to see the species survive. Slowing ship speeds to 10 knots at key times and in

key places certainly uses the best available science to guide policy decisions, and we compliment National Marine Fisheries Service (NMFS) for putting this into practice.

Given our general endorsement of the proposed rule, there are several specific comments we would like to see addressed prior to its implementation.

- 1) Dynamic management areas – We appreciate that there are many times and places where right whales can aggregate that are not addressed in the specified time-area restrictions that are listed in the proposed rule, and it is critical that such aggregations receive protection similar to that afforded the predictable ones in the Great South Channel, Cape Cod Bay, and Race Point area. However, we are concerned about the time it may take to implement such protections. As you know, similar actions, with similar triggers, have been used as a management strategy to reduce the risk of fishery gear entanglements for a number of years. Such actions have taken weeks to implement and, as often as not, by the time they have been put into effect, many of the whales have left the location where the measure had been introduced. Hence, fishermen have often been inconvenienced with little added protection for whales. While we understand that there may be great differences between the time needed to implement such dynamic measures between restrictions on ship speeds and restrictions on fishing gear, we would like to see the details of the mechanism by which such measures can be swiftly enacted. Without insuring the timeliness of such actions, we have concerns about the effectiveness of these actions for the protection of whales.
- 2) Year-round presence in the Gulf of Maine – While specific measures are proposed for Cape Cod Bay in winter and early spring, Great South Channel in the spring, and Race Point for the spring, recent data has confirmed the consistent presence of large right whale aggregations in the Gulf of Maine in the fall and winter. Our own survey work on Jeffreys Ledge, funded by NMFS, has shown consistent aggregations of whales from October through December, and NMFS aerial survey work has spotted similar aggregations of whales on Jeffreys Ledge and in the deeper waters to the east of the Ledge during two of the past three winters. These are unprotected in the current proposed rule. We acknowledge that they would be covered by the possibility of dynamic management, but that relies on the ability of researchers to be in the field to detect the aggregations. Winter weather is notoriously inhospitable for researchers, making coverage difficult. Further, the recent restrictions on research coverage by both NMFS and external researchers, necessitated by budget cuts, makes us wary of the ability to detect such aggregations when and where they occur. One way around this would be wider area restrictions for the Gulf of Maine from October through June; another would be a formal commitment, as part of the proposed rule, to insure the necessary area coverage despite the unpredictable and regular fluctuations to both agency-wide and line-item budgets.
- 3) Great South Channel and Race Point area timing – The proposed rule suggests restrictions to Cape Cod Bay from January through May, but the Great South Channel and the Race Point area restrictions are not instituted until March 1st (Race Point) and April 1st (Great South Channel). However, whales arriving into Cape Cod Bay must be passing through at least one of these two areas to enter into the Bay. Both tag and sighting data has shown these whales to have been seen in the Southeastern United States and in the Gulf of Maine prior to their Cape Cod Bay sightings. Further, aerial survey work in the Great South Channel in 2006 showed aggregations there well before April 1, and the lack of sightings prior to that in other years may be more related to a lack of

survey effort than a lack of whales. Hence, we suggest that protection for both of these areas be started on January 1st, to match that of Cape Cod Bay. This is also consistent with our suggestion above of more wide-spread regulations throughout the Gulf of Maine from October through June.

- 4) Timeliness and enforcement of the proposed rule – The proposed rule does not contain any information on either a timeline for implementation or a mechanism by which the rule will be enforced. Both are important issues. In the summer of 2005, 16 leading right whale scientists noted the importance of timely actions to prevent ship collisions, actually calling for emergency regulations because of the sensitivity and urgency of the issue (Kraus et al. 2005). It is critical that the final rule be implemented in a timely manner, and that timeline be contained in the rule itself. Further, the manner by which the rule will be enforced is also critical. Moller et al. (2005) showed the near-total disregard for voluntary compliance with suggested speed limitations, indicating the need for an enforcement plan to insure the measure's effectiveness. Given the increase in current technology and requirements of ships in U.S. waters (e.g. the AIS system) we can understand that enforcement is possible, but we would like to see a plan included in the final rule so that its effectiveness can be evaluated.

While we feel that all of these are important issues, that we feel need to be addressed to insure effective protection of the North Atlantic right whale, they should not overshadow the importance of introducing the speed restrictions for their protection. We commend NMFS on their proposed action, and wholeheartedly support its implementation.

Sincerely,



Mason Weinrich
Executive Director and Chief Scientist

Subject: Docket ID No. EPA-R07-OAR-2006-0365

From: D Beckmann <dbeckmann1@cox.net>

Date: Thu, 10 Aug 2006 23:00:41 -0400

To: Shipstrike.Comments@noaa.gov

I would like to voice my support for the proposed rule to help reduce right whale, and other large whale, ship strikes. This rule has some concrete provisions that seem to have a reasonable chance of reducing right whale ship strikes. Thank you for this large, comprehensive and hopefully effective piece of work.

One observation that may be of use concerning the economic analysis - The economic impact is given in terms of a percentage of the annual vessel revenue. For ships carrying consumer goods or raw materials, another way of looking at the economic impact is to presume that any increased shipping costs will eventually be passed on to the end consumer. If the consumer ultimately bears the increased shipping costs through higher prices for the end product, then the economic impact could be expressed in terms of the percent increase in the cost of the products being shipped. This of course will be a much smaller percentage than the percent of the shipping companies' revenues. For ferries and whale watch ships, the percent increase in consumer costs and the percent of annual vessel revenue are equivalent because the consumer cost is the same as the vessel revenue.

Respectfully,

Douglas Beckmann

Subject: Re: Delilah

From: Gaby Binette <gaby.binette@utoronto.ca>

Date: Thu, 29 Jun 2006 10:06:37 -0400

To: Shipstrike.Comments@noaa.gov

Dear Sir/Madam,

I am very perplexed about the news I read this morning in Grist Magazine titled:

**"Knot So Fast
Feds propose speed limit to protect right whales"**

I was in Grand Manan 5 years ago and went to a marvelous lecture hosted by the Saint John Museum. It was the sad story of Delilah the right whale who tragically died because the boats were going too fast. However the lecture ended on a great note announcing that Delilah had given birth to a calf, Calvin and that the speed in the Bay of Fundy had been reduced to accommodate the whales. We all clapped with joy believing Delilah's death meant something.

Please see below for the link that announces that reduction in speed.

<http://new-brunswick.net/new-brunswick/whales/updates56.html>

"The risk to right whales of being struck by a ship in the Bay of Fundy was reduced by more than 95 per cent when commercial shipping lanes were moved out of the whales' feeding area in 2003, Mr. LaCasse said."

So why is this article in the paper today?

"Ocean speed limit proposed to protect endangered whales
Many deaths due to ship strikes
By Phil McKenna, Globe Correspondent | June 24, 2006"

Why are those boats going too fast?

Please advise,
Gaby Binette



College of Marine and Earth Studies
Robinson Hall
Newark, DE 19716-3501
(302) 831-0228 and (302) 831-0768
(302) 831-6838 fax
jf@udel.edu and jcorbett@udel.edu

Chief, Marine Mammal and Sea Turtle Conservation Division
Attn: Right Whale Ship Strike Strategy and DEIS
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910
shipstrike.comments@noaa.gov
shipstrike.eis@noaa.gov

October 5, 2006

Re: Comments of Jeremy Firestone, James Corbett, and Shannon Lyons, College of Marine and Earth Studies, University of Delaware on:

- (1) Docket Number 040506143-6016-02: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales, 71 Fed. Reg. 36299 (June 26, 2006).
- (2) EIS No. 20060278, Draft DIS, NOA, 00, North Atlantic Ship Strike Reduction Strategy, to Implement Operational Measures to Reduce the Occurrence and Severity of Vessel Collisions with the Right Whale, Serious Injury and Deaths Resulting from Collisions with Vessels, 71 Fed. Reg. 38641 (July 7, 2006).

Dear Chief:

We respectfully submit the following comments on the Office of Protected Resources' Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales ("Proposed Rule"), 71 Fed. Reg. 36299 (June 26, 2006) and its associated Draft Environmental Impact Statement ("DEIS") EIS No. 20060278, Draft DIS, NOA, 00, North Atlantic Ship Strike Reduction Strategy, to Implement Operational Measures to Reduce the Occurrence and Severity of Vessel Collisions with the Right Whale, Serious Injury and Deaths Resulting from Collisions with Vessels, 71 Fed. Reg. 38641 (July 7, 2006). Our comments are based on our research regarding ship-right whale encounter probabilities, North Atlantic right whale

migration patterns, and predictions of lethal ship strikes based on force of impact analyses derived from ship speed and mass. We provide broad overview comments and explain in detail how our research findings contribute to these comments. Our analyses related to comments 1 and 2 are presently embodied in manuscripts undergoing peer review.

1. Ship Length/Mass and Area to be Avoided

Ship-whale collisions are both geospatial and bio-physical in nature; that is, it is important to consider both where interactions occur in time and space and what forces act on the whale body at the time of impact to understand the nature of the risk. According to the physics of the interaction between a ship and a whale, for ships larger than 500 tons, speed is more important than the size of a ship in determining a lethal injury to a whale. For ships less than 500 tons, both mass and speed may be important. Empirical analysis of the data indicates that impact forces approaching 25 metric tons have an 80% probability of causing a lethal injury while impact forces less than or equal to 12 metric tons have less than a 5% probability of causing a lethal injury. Reducing ship speed of large ships could reduce the ton-force significantly. In the major shipping lanes, the distribution of ton-force of ship traffic is rather uniform, and thus, the distribution of whales rather than ton-force determines the distribution of risk of potential severity of injury to whales.

The proposed rule applies generally to vessels greater than 65 foot in length. Presumably length is being used as a proxy for mass, as the force of a collision is in pertinent part a function of the mass and speed of the vessel. While NOAA's proposal to slow down large ships is supported by theoretical and empirical analyses, we recommend NOAA employ a ship mass criterion rather than a ship length criterion. We would note in that regard that NOAA is employing ship mass (300 gross tons) as the Area to be Avoided (ATBA) criterion.

As noted above, ship speed continues to play a significant role in the force equation for ships less than 500 metric tons. Thus, setting the standard at 300 gross tons is not inconsistent with our analysis. Moreover, as we stated in comments on the Coast Guards PARS (Firestone and Corbett, 2006) "There are three major aggregation areas for right whales in US waters: the southeast, the great south channel and Cape Cod Bay. Of the three areas, the Great South Channel from the perspective of numbers of vessels presents the greatest risk to right whales."

2. Mid-Atlantic

The proposed rule sets up two regimes for the mid-Atlantic – static and dynamic management. In pertinent part, the proposed rule provides that vessels shall travel 10 knots or less in the period November 1 to April 30 each year ... within a 30-nautical mile (nm) (55.6 km) radius” of “the center point of ... [major] port entrance[s].” We have used descriptive and regression analysis of historical Right Whale Consortium data (through 2004), including survey and opportunistic data, in SPUE and non-SPUE formats to examine the migration of right whales in the mid-Atlantic.

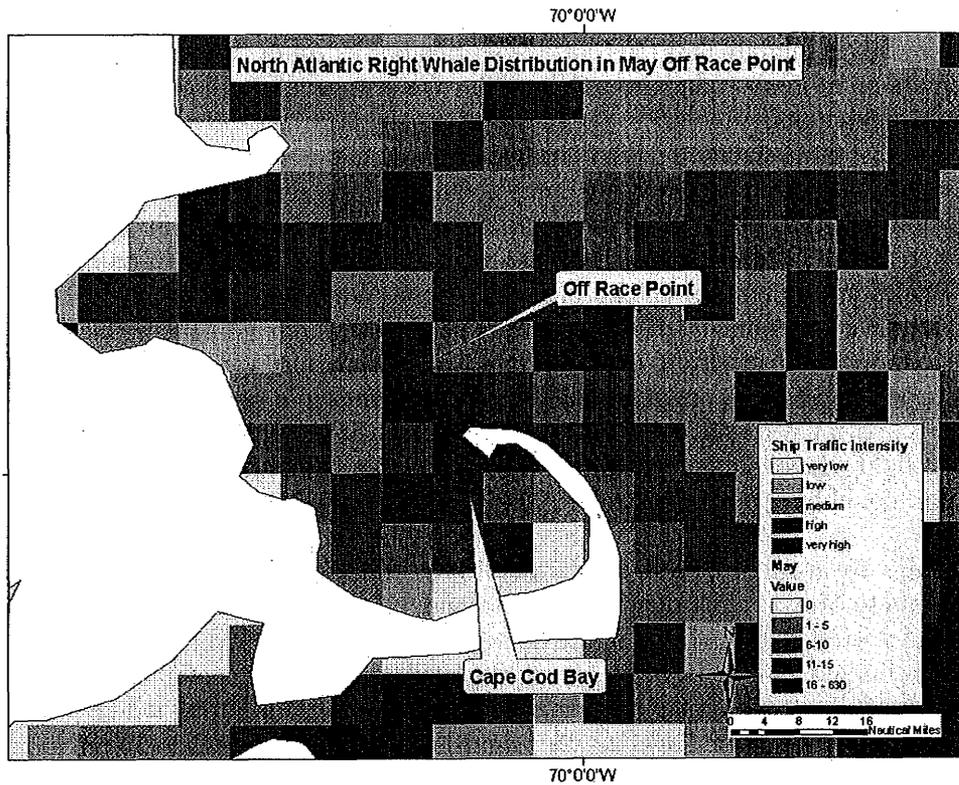
First, looking at northerly migration we determined that right whales in the presence of one or more calves migrate past the Florida-Georgia border *on average* around March 15 and reach the tip of Long Island around April 8. We also generated standard errors of the latitude predictions.

Using a range of three standard deviations, we can predict the mean latitude on any given day during this migration within ± 2 to 3 days. Our analysis also suggests that right whales without calves depart 3 to 6 days earlier, suggesting an overall mean departure date of approximately March 13 (as there are relatively similar numbers of observations of right whales in the presence and absence of calves). When we look at the data descriptively, we determined a modal departure period of March 7-11 (using the FL-GA border as our departure criterion) and that right whales departure varies from around March 2 to March 31. This suggests that the *actual variation* in right whale northerly migration is $\sim\pm 15$ days. In addition, given that right whales travel at approximately 3-4 km/hour, a right whale that is migrating from the south and that arrives at the entrance of a major port could have been more than 30nmiles from that port during the same day.

Several things are apparent. First, the period of protection for the northerly migration should extend to May 1 rather than April 1. Second, NOAA should use this information to direct and stratify survey efforts in the mid-Atlantic. Third, the 30nmile buffer's protection is limited. And thus, NOAA should consider employing spatial and temporal management windows within the mid-Atlantic migratory corridor during which speed restrictions would be imposed over a wider significantly wider swath than 30 nm around ports as presently contemplated. These temporal windows, however, would be much shorter than the approximate half year window proposed by NOAA, be tailored to individual ports rather than apply throughout the entire corridor, and be rolling. Because mean latitude predictions can be generated on a date-specific basis, and the migration for the most part can be pinpointed within ± 15 days, 30-day precautionary date-range specific speed reductions could be instituted for ships entering, leaving and traversing major mid-Atlantic port complexes. Similar analysis can be undertaken for the southern migration, although the data is much more sparse and the confidence intervals much wider.

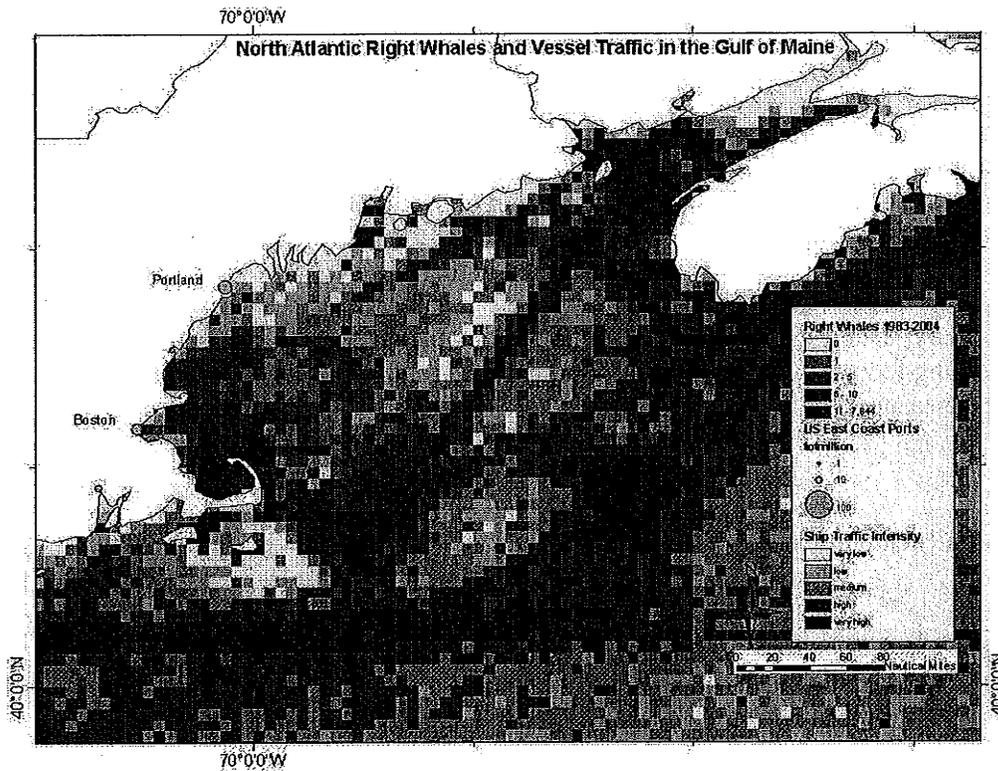
3. Extension of the SMA time period near Race Point

The current DEIS considers a Seasonal Management Area in the region known as Off Race Point for the period from March 1 – April 30. While we agree that this area is critical for right whales, our research indicates that the proposed management window may be too narrow for right whale safety. Opportunistic and survey data indicate that right whales are present in this area outside of the time period recommended in the DEIS. Specifically, these data suggest that right whales utilize this area in the month of May as revealed in the figure below depicting North Atlantic right whale distribution off Race Point during May.



4. Gulf of Maine

The current DEIS and Proposed Rule do not recommend any speed restrictions or re-routing measures for the Gulf of Maine. Opportunistic and survey sightings data from the Right Whale Consortium indicate that this region is utilized by North Atlantic right whales. Further, the Gulf of Maine hosts several of the areas busiest ports including Portland, whose shipping traffic intensity and annual gross tonnage parallels the port of Boston. Additionally, the Gulf of Maine is host to several smaller but active cargo ports including Searsport and Eastport. Therefore, right whales present in the Gulf of Maine are very likely to encounter large vessels transiting through this area. Subsequently, we recommend that the Agency consider similar speed restrictions in the Gulf of Maine as those in the Mid-Atlantic.



5. Consideration of other large whale species

The DEIS notes that North Atlantic right whales are not the only species of large whales affected by vessel collisions. Indeed, humpback, fin, and minke whales are among the large whale species also impacted by strikes along the Atlantic coast of North America.¹ While the DEIS acknowledges that other large whales may benefit from the proposed speed restrictions if their distributions overlap with right whale critical habitat, the DEIS does not consider that the proposed alternate routes may negatively impact other species if their distributions fall outside of right whale habitat. Opportunistic and survey data on other whales species is maintained by the Right Whale Consortium; and there may be other data sources as well. Therefore, we recommend that the DEIS analyze potential negative impacts on other species of large whales if the proposed speed restrictions are implemented and vessels transiting near these areas choose alternate routes.

6. Other Considerations

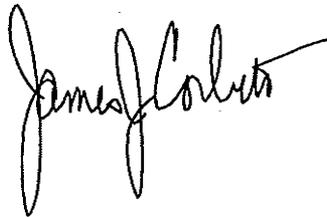
The DEIS does not consider the potential benefits of speed reductions in terms of fuel economy and reduced costs of operations. Although vessels transiting through management areas may realize some increase in time and/or cost, the economic benefits associated with reduced fuel use may partially offset longer voyage costs; this phenomenon is not fully explored or discussed in the current DEIS.

Additionally, the DEIS may benefit from a more holistic approach to marine vessel traffic by including federal vessels in the current proposed regulations as opposed to creating separate measures for this sector of the fleet.

| Respectfully Submitted,



Jeremy Firestone



James Corbett



Shannon Lyons

¹ Laist, D. W., Knowlton, Amy R., Mead, James G., Collet, Anne S. and Podesta, Michel (2001). Collisions between ships and whales." *Marine Mammal Science* 17(1): 35-75.

Georgia Department of Natural Resources

2 Martin Luther King, Jr. Drive, SE, Suite 1252 East, Atlanta, Georgia 30334-9000

Noel Holcomb, Commissioner

Phone: (404) 656-3500

Fax: (404) 656-0770

October 5, 2006

David Cunningham
Acting Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Cunningham:

The Georgia Department of Natural Resources (DNR) appreciates the opportunity to comment on the National Marine Fisheries Service's (NMFS) proposal to implement speed restrictions along the U.S. Atlantic coast in order to protect endangered North Atlantic right whales. Georgia's coastal waters lie at the heart of the North Atlantic right whale calving ground and DNR has been actively involved in right whale conservation for over two decades. As such, we applaud NMFS' efforts to employ scientifically and economically supportable measures to reduce ship strikes, a major cause of right whale mortality.

We conditionally support NMFS's recommended 10kt speed limit for non-sovereign vessels 65 feet and greater as outlined in the proposed amendment to 50 CFR part 224. Independent analyses of previously recorded whale/ship collisions by Pace and Silber (2005) and Vanderlaan and Taggart (2006) have predicted that probability of serious injury and mortality increases as ship speed increases: a whale hit by a ship traveling 10kts or slower may have approximately 50% of surviving unharmed, whereas probability of mortality approaches 100% as vessel speed exceeds 20kts. Given the precarious state of the right whale population, a 50% reduction in ship strike mortalities is biologically significant. Moreover, given the greater chance of whale injury and mortality at speeds greater than 10kts, we urge NMFS to reject the 12kt and 14kt options in favor of the 10kt option. That being said, we feel the following points need further consideration:

Safety Exemption

Given the precision required to safely navigate large vessels through narrow port entrances, especially during periods of inclement weather or heavy vessel traffic, we urge NMFS to consider an exemption to proposed speed measures for all vessels and at all ports when: 1) vessels are landward of the sea buoy, 2) vessels are under the control of a licensed pilot and 3) the pilot determines that increased speed is necessary for safe vessel passage. In such cases, pilots should be encouraged to proceed at the minimum speed required for safe vessel passage.

Management Area Boundaries

Right whales are routinely sighted throughout the winter months off the northern Georgia and southern South Carolina coast. As such, the boundaries of the Southeast U.S. (SEUS) Seasonal Management Area (SMA) should be expanded northward and seaward 30nm to include the ports of Savannah and Charleston in addition to Jacksonville, Fernandina and Brunswick. Moreover, the currently proposed November 15-April 15 regulatory window should apply to all five ports. An expanded SEUS SMA from Fernandina to Charleston would benefit right whales by: 1) protecting whales as they shift north and south throughout the calving grounds and throughout the calving season, 2) encouraging vessels to exit/enter SEUS ports along the shortest practical routes and 3) encouraging coastwise-transiting vessels (e.g. vessels making multiple stops at numerous ports) to transit further offshore, thereby limiting their exposure to right whales. Expanding the SEUS SMA would also reduce or eliminate the need to implement DMA's in the SEUS (see *Dynamic Management Areas* below).

The landward boundaries of the SEUS and Northeast U.S. (NEUS) SMA's are not defined in the proposed rule as currently written. Given that right whales seldom enter inshore waters, we propose that the landward boundary of the SEUS and NEUS management areas be delineated by the COLREG lines (i.e. ship speeds should not be regulated in inshore waters).

NMFS should implement a contiguous Mid-Atlantic U.S. (MAUS) SMA similar to that outlined in Alternative 3 of the Draft Environmental Impact Statement, effective October 1 to April 30 and located along the Atlantic coast between the SEUS and NEUS SMA's, seaward out to 30nm, and landward to the COLREG lines. The currently proposed system of eight disconnected MAUS SMA's around all major MAUS port entrances would provide protection for right whales in the immediate vicinity of ports, but would do little to protect right whales in near-shore waters between those ports. Given the heavy volume of coastwise traffic at many MAUS ports (e.g. Norfolk, VA) and the high rates of right whale mortalities in these areas (eight ship-related mortalities from NC to DE in the past 15 years), a contiguous MAUS SMA is justified.

Routing Measures

We support NMFS' intention to implement recommended, voluntary routing measures through non-regulatory means provided that NMFS: 1) implements voluntary routes in a timely manner, 2) implements routes for MAUS ports where routing would reduce risk of collisions, and 3) reconsiders mandatory routing measures if compliance rates are low.

Dynamic Management Areas

We have numerous concerns regarding NMFS' proposed use of DMA's to regulate ship speeds. Although such a system may be valuable in areas where whales congregate offshore for extended periods of time (e.g. Gulf of Maine), it will likely be ineffective, cumbersome and costly to implement in the SEUS and MAUS. Given the small area encompassed by a DMA and the propensity for whales to move great distances in short periods of time, we suspect that whales will have exited DMA areas in many cases before DMA notifications are published in the Federal Register. DMA's will also require considerable staff time and money to implement, they will be difficult to enforce and comply with, and they will encourage additional aerial survey effort, which is expensive and inherently dangerous. Furthermore, we suggest that DMA's would be largely unnecessary if contiguous SMA's were implemented coast wide. For example, DNR and Wildlife

Trust aerial surveys documented 55 right whale sightings off Georgia and South Carolina since 2000 that were: 1) north of NMFS' proposed SEUS SMA and 2) outside of the proposed Savannah and Charleston SMA's. Under NMFS' proposed DMA system, NMFS staff would have been required to examine each sighting in order to determine whether those sightings met the conditions necessary to trigger a DMA. Conversely, each of these sightings would have fallen within the boundaries of expanded SEUS and MAUS SMA's as discussed above, thereby requiring no additional staff time and money to implement.

Enforcement

NMFS should explain how it intends to enforce speed restrictions and what penalties will be levied for noncompliance. Joint Enforcement Agreements between NMFS and state law enforcement agencies will likely be insufficient mechanisms with which to enforce such measures. Rather, NMFS should coordinate with the U.S. Coast Guard (USCG) to obtain access to the USCG's coast-wide, shore-based vessel Automatic Identification System (AIS) network once it is operational. Such an arrangement would allow NMFS and/or USCG to monitor vessel compliance from shore. Ultimately, however, we suspect that compliance will likely be poor unless repeat violators are penalized in some manner.

Technological Solutions

Lastly, DNR encourages NMFS to redouble its support for technological solutions to this problem. We recognize that no practical technological solutions exist at the current time, and as such, speed restrictions and routing measures are the only viable short-term options. Conversely, speed limits and routing measures alone are not a long-term panacea: right whales will likely continue to be killed by ships, even at slower speeds (albeit hopefully in fewer numbers). Likewise, routing measures will have limited effectiveness in areas where whales are randomly and/or evenly distributed (e.g. seaward of the Brunswick, GA sea buoy). Additional funding, interagency collaboration and access to scientific research permits are sorely needed in order to develop practical, long-term, whale detection/avoidance technologies.

We appreciate the opportunity to comment on the proposed rule and look forward to continued collaboration with NMFS on this and other issues.

Sincerely



Noel Holcomb
Commissioner

cc: Dan Forster
Susan Shipman

Subject: Comments from Greater Boston Convention & Visitors Bureau on proposed DMA rule

From: Pat Moscaritolo <patm@bostonusa.com>

Date: Mon, 18 Sep 2006 15:07:04 -0400

To: Shipstrike.Comments@noaa.gov

CC: patm@bostonusa.com

The Greater Boston Convention & Visitors Bureau wishes to be recorded in favor of alternative 1 or alternative 4 in the draft economic impact statement report. The draft report understates the economic impact on our region's visitor industry that is so dependent on whale watch cruises during a very limited period of the year. If whale watch cruises are significantly restricted or for all intents and purposes eliminated, the region's overall visitor industry will suffer dramatically as those visitors coming to our region to take a whale watch cruise, decide to bypass us entirely. There is a huge substitution impact where visitors either cut short their visit by a day or days since whale watching would be severely limited and/or in the worse case scenario, chose not to visit Boston and the region entirely. In both cases the economic impact on our visitor industry and loss of visitor spending, tax revenue, visitor industry jobs, hotel nights generated and spinoff spending would be dramatic and devastating. Please consider a regulation that establishes different thresholds for vessels covered by the proposed regulation that would focus on the largest vessels and therefore significantly reduce the impact on whale watching and our visitor industry. Thank you. Patrick B. Moscaritolo, President & CEO Greater Boston Convention & Visitors Bureau 2 Copley Place suite 105 Boston, Ma 02116

M7 ✓

Subject: Comment on the Proposed Rule to Address ship strikes of endangered right whales
From: Angela Hammers <ahammers@minnehahacreek.org>
Date: Thu, 17 Aug 2006 12:28:02 -0500
To: Shipstrike.Comments@noaa.gov

Dear Sir or Madam,

Thank you for the opportunity to comment on the proposed rule addressing ship strikes of right whales.

It has been stated that biologists estimate only 300 right whales in the Atlantic population. That is a tragically low number. Based on the Endangered Species Act, it seems like this proposed rule is obvious.

I support the proposed rule. Some minor inconveniences by ships, like slowing down at certain times and places, seems a small cost when compared to the responsibility we have to protect the 300 right whales attempting to survive.

I wonder why the limit was set at 65 feet for the ship size to apply. It seems like a ship even 35 feet would inflict harm to a right whale. I encourage you to investigate the reasoning for the large ship size. If that number is based on scientific data, great. If it isn't, I would strongly encourage you to modify the rule to include smaller ships until enough scientific data can illustrate the size ratio to whale endangerment.

I would also encourage a strong education system to alert ships to the actual times and places these restrictions would be in place in addition to an enforcement system.

Again, thank you for allowing my comments. The whales have voices, but their format doesn't lend well to our political system.

Sincerely,
Angela Hammers
Concerned citizen of MN

3008 74th Ave N
Mnpls, MN 55444

M 8 ✓

**The Humane Society of the United States • The Ocean
Conservancy • Defenders of Wildlife**

October 5, 2006

VIA ELECTRONIC MAIL / FIRST CLASS MAIL

Dr. David Cottingham
Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Re: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales, 71 Fed. Reg. 36299 (June 26, 2006).

Dear Dr. Cottingham:

On behalf of the more than nine million members and constituents of The Humane Society of the United States, Defenders of Wildlife, and The Ocean Conservancy, we respectfully submit the following comments on the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whale, 71 Fed. Reg. 36299 (June 26, 2006) (Proposed Rule). We are pleased that the National Marine Fisheries Service (NMFS or the Agency) is moving forward with long overdue rules to protect this critically endangered species. We are, however, concerned that speed restrictions alone are not sufficient to protect the species, and the times and areas proposed do not always comport with data showing the times and areas of greatest risk to the species.

The measures in the NMFS's ship strike strategy, including limits on vessel speed, were originally proposed in 2001 in a report by Bruce Russell, co-chair of the NMFS Ship Strike Committee. Since the publication of this report, right whales have continued to die in unsustainable numbers. Since 2001, at least 17 right whales have died or been seriously injured; 8 of them as a result of known or suspected collisions with vessels in U.S. waters and 2 additional deaths from collisions in Canadian waters. As NMFS acknowledges in the preamble to the Proposed Rule, "deaths from human-related activities are believed to be the principal reason for a declining adult survival rate (Caswell et al., 1999) and the lack of recovery in the species" and "[o]ne of the greatest known causes of deaths of North Atlantic right whales from human activities is ship strikes." 71 Fed. Reg. at 36300. There is an urgent need to provide adequate protection for the 300 or fewer right whales against this threat.

Indeed, it is this urgent need for protection that caused our organizations to petition the agency for emergency speed restrictions for right whale protection in May 2005 after NMFS had failed to move forward with its 2004 Advance Notice of Proposed Rulemaking. When the agency denied our request on the grounds that final regulations were under development, we filed suit in federal court, challenging the petition denial as arbitrary and capricious agency decision-making that did not comport with the overwhelming evidence that protections against this critical threat were needed immediately. Defenders of Wildlife v. Gutierrez, Case No. 05-2191 (D.D.C., filed Nov. 9, 2005). The status of the species has not improved since that time – indeed, three additional whales have been killed by ship strikes since the agency denied our petition -- demonstrating that emergency measures are still needed. Therefore, while we submit these comments on the substance of the agency's Proposed Rule, we also reiterate our call for emergency regulations to be put in place immediately and remain in effect until NMFS finalizes this rulemaking process.

General Comments

Speed Restrictions of 10 Knots are Appropriate

We strongly support requiring vessels to travel at 10 knots or less in seasonal high use areas of the U.S. in the waters off the Northeastern U.S. (NEUS), the southeast (SEUS), and the mid-Atlantic migratory corridor (MAUS). Although, as discussed in detail below, some of the seasons or areas may be inappropriately truncated, we agree with NMFS that requiring reduced speeds of 10 knots or less is appropriate as the most risk averse alternative. As NMFS documents in this Notice and in the corresponding Draft Environmental Impact Statement to Implement Operational Measures of the North Atlantic Ship Strike Reduction Strategy (DEIS), there is ample evidence to show that ships can maintain steerage at this speed and that economic impacts are not overly burdensome. We oppose NMFS's request for comments on alternatives of 12 and 14 knots, as these speeds are insufficiently protective for the species. Risk is significantly increased as speeds increase, with risk of serious injury or death increasing from 45% to 75% with an increase in vessel speed from 10 knots to 14 knots. (DEIS at 4-6). A 45% chance of death or serious injury in the event of a strike appears to be the outer limit of what this species can bear.

Furthermore, it goes without saying that speed limits are necessary. Although it is important to continue ongoing existing actions (e.g., outreach to mariners, maintaining minimum approach distances, and maintaining or expanding sighting networks) they have proven inadequate to reduce risk sufficiently to aid in right whale recovery. In NMFS's own words, "existing measures have not been sufficient to reduce the threat of ship strikes or improve chances for recovery" and, therefore, "further action was required." 71 Fed. Reg. at 36301. As one example, NMFS cites that ninety-five percent of ships notified of right whale aggregations in the Great South Channel did not voluntarily slow or reroute. *Id.* In addition, the Mandatory Ship Reporting System, which merely requires vessels to call in basic information, such as speed and destination as they pass through Critical Habitat, initially had dismal compliance. In the SEUS only

53% of vessels complied with mandatory reporting requirements in the first year and only 59% in the second. (RWN 2002). Efforts to educate mariners have improved this compliance rate (a 63% average for the first quarter of 2004), but even with the threat of fines, the rate of compliance with this mandatory program provides unacceptably little protection for this critically endangered species. These facts underscore the need for NMFS to undertake expansive outreach efforts about its Ship Strike Reduction Strategy, and to work with the U.S. Coast Guard to ensure strict enforcement.

Applicability Should Be Expanded

We strongly support applying 10 knot speed restrictions to all vessels greater than 65 feet in length, with narrowly drawn exceptions for national security and human safety. NMFS proposes to exempt from these measures vessels owned by, or under contract to, federal agencies. This sweeping exemption encompasses a class of vessels known to be one of the largest contributors to mortality in right whales (Jensen and Silber 2003). NMFS justifies the proposed exemption on the basis that “the national security, navigational, and human safety missions of some agencies may be compromised by mandatory vessel speed restrictions.” 71 Fed. Reg. at 36305. However, the exemption is overly broad to meet this need. For example, the exemption appears to extend to government owned research vessels and privately owned vessels operated by those with a government research contract. These research vessels, and other vessels with no tie to national defense or lifesaving, should be subject to appropriate speed restrictions. Similarly, the Corps of Engineers regularly enters into contracts with private entities to perform dredging operations. Under the proposed exemption, these vessels also will be excluded from appropriate regulation.

The agency has claimed that any exempt federal vessels will be subject to the Section 7 Consultation Process. As the agency well knows, the Section 7 process can be considerably more time and resource intensive than the type of overarching regulations proposed here for non-sovereign vessels. The agency does not have time or resources to spare in this context. Furthermore, many required Section 7 consultations for federal vessels are currently out of date, or have never been undertaken in the first place. As just one example, our lawsuit against NMFS for its denial of our petition for emergency rulemaking also challenges the Coast Guard’s failure to undertake this required process for the shipping lanes it has designated on the East Coast in right whale habitat.

Further Measures are Necessary

In its DEIS, NMFS makes clear that, although implementing ship speed restrictions would result in “direct, long-term benefits to the right whale population” (DEIS at 4-6), this strategy may not provide sufficient protection to significantly reduce the risk of ship strikes (DEIS at 4-9 and 4-10). Despite this admission, the agency’s Proposed Rule would only address speed-related risks. NMFS proposes no regulatory action for other important aspects of its ship strike risk reduction strategy. We think this a gross oversight that must immediately be remedied. For example, shifting the Traffic Separation Scheme (TSS) across the Great South Channel is one of the key elements of protecting right

whales in their critical habitat. Although this reconfiguration has been proposed to the International Maritime Organization (IMO), it has not yet been fully approved by that organization or implemented here. Further, to ensure that ships use the lane in the Great South Channel, and thus avert risk to whales outside of the lane from ships not traveling into Boston or other nearby ports, NMFS has proposed to create an Area to Be Avoided (ATBA) – yet this measure has not even been submitted for consideration by the IMO. Thus, we would not expect to see substantive risk reduction in the Great South Channel for a minimum of two more years. For these reasons, while this proposed rulemaking is a step in the right direction, it is only a first step and an insufficiently protective one at that.

Finally, we believe that there is a need for NMFS to add another important aspect to this strategy. NMFS should incorporate what might be considered “disaster” or “fall-back” measures in the event a right whale is killed by a vessel in an area in which risk-reduction measures are already in place. NMFS should have a pre-planned response in the event of such a lamentable situation in order to prevent it from happening again.

Specific Comments

As noted above, while we endorse NMFS’s proposed speed limit of 10 knots, we do not believe the agency has proposed to apply this speed limit in the times and places needed to ensure sufficient protection for right whales. Below are our specific comments on changes needed to the times and places the 10 knot speed limit would apply in order to provide the most appropriate and comprehensive protections for the species. Differences in applicable times and places, as well as additional measures beyond speed restrictions, are the primary differences between the agency’s Proposed Rule and the rejected Alternative 5. The agency should use the best science available to merge the most appropriate elements of both of these alternatives and ensure that the species receives the protections it requires.

Seasonal Speed Restrictions in the SEUS

We support the timing of restrictions from November 15 to April 15 each year. The Notice reports two calf deaths in this area in 2001. Another calf died in 2006, providing further evidence of the need for protective measures. Although the boundaries of the area are generally appropriate (e.g., extending outside of the Mandatory Ship Reporting area), we remain concerned that restrictions do not extend throughout the Southeast Critical Habitat area, including the busy Port Canaveral area, where mothers and their calves have been sighted. Cruise ship traffic is heavy and densely aggregated in this area at a time when right whale mothers and calves are present.

Seasonal Speed Restrictions in the MAUS

NMFS has identified nine key areas in which it would impose speed restrictions between November 1 and April 30 of each year. We generally support this proposal. However, the box that defines the Block Island Sound area should be extended northward to the shoreline, rather than having its northern boundary drawn from the tip of Long Island to

Martha's Vineyard. NMFS itself cites data showing right whales generally migrate within 30 nautical miles from shore, 71 Fed. Reg at 36305, and, as such, it would seem logical to expand this boundary to cover that area. Right whales are known to travel in this area, with sightings in the Buzzards Bay area and even in the Cape Cod Canal (NOAA/NMFS 1997-2006).

Because NMFS is proposing to use nine individual areas spaced out up the East Coast, rather than a long continuous swath of protection extending from Florida through New England, it is important that NMFS have an emergency response planned in the event that a death or serious injury occurs in an unprotected area.

Seasonal Restrictions in the NEUS

Measures in the NEUS are largely confined to three main aggregation or transitory areas: Cape Cod Bay, off Race Point, and the Great South Channel. We are satisfied that the timing and area of protective measures in Cape Cod Bay (January 1 to May 15 each year) is appropriate at this time and is well supported by available data. The same cannot be said of the other two areas. While NMFS has predicated its speed restrictions on the notion that right whales should be protected while traveling seasonally between critical habitats, it has not taken the same precautionary approach to the waters off Race Point and in the Great South Channel.

In the NEUS, NMFS has ignored the fact that whales must move through the waters of the Great South Channel and off Race Point in order to enter (and leave) Cape Cod Bay. Instead, although the protective measures in Cape Cod Bay begin January 1 of each year, similar restrictions in the waters off Race Point do not start until March 1, and in the Great South Channel they do not start until April 1 of each year. This is inadequately protective.

Available data indicate that the protective measures for both these areas should be in place on January 1 when the measures begin in Cape Cod Bay. Without transiting the Cape Cod Canal, there is no way for right whales to enter Cape Cod Bay unless they transit the Off Race Point area. It would also be difficult to enter Cape Cod Bay without passing through the Great South Channel. As such, logic dictates that right whales require protective measures when they enter the area, not simply when the last of them leave Cape Cod Bay. The rationale underlying the proposed timing of protective measures appears to be predicated on the assumption that they enter Cape Cod Bay through some unknown route, remain for several months, and leave via the Off Race Point area only as their prey resources are diminished in the spring. See, e.g., 71 Fed. Reg. at 36305-6). Yet NMFS provides no information to support this assumption. In fact, there are ample data to indicate that this is not what happens at all.

Sightings data from aerial surveys in Massachusetts indicate that right whales are often in Cape Cod Bay as early as December, and they may not leave until May (Mayo et al 2001-2004). Even NMFS' own sightings advisory system has documented right whales entering and leaving Cape Cod Bay as early as December (e.g., NEFSC 2005). Right

whales are sometimes still sighted at the end of May as well (e.g., NEFSC 2006). A review of several years of data reveals that these are not anomalous reports (NOAA/NMFS 1997-2006, Nichols and Kite-Powell 2005). We know from mark-recapture data and satellite telemetry that, once a whale is in the Bay, it often wanders in and out, and not all whales enter or leave at the same time. As early as 1986, Scheville et al (1986) reported that individual right whales reside in Cape Cod waters for no more than a few days, and noted that a seven week residency was the longest time documented for observations between 1955 and 1981. These facts are noted by NMFS in its revision to the right whale recovery plan. See Recovery Plan for the North Atlantic Right Whale (Updated May 26, 2005) at IC-2. Clearly right whales, which range widely and unpredictably in the northeast, require protection that is broader rather than narrower in scope.

The southern portion of the Stellwagen Bank National Marine Sanctuary is contained in the Off Race Point Area. Data from recent years indicate that right whales are seen in the vicinity of Stellwagen Bank (off Race Point) through summer and early fall (Weinrich et al 2005). A more recent study by the Sanctuary found that right whales are present in the southern part of the Sanctuary during the late winter and early spring when right whales enter and leave Cape Cod Bay, but when NMFS proposes to have no protective measures in place. The Sanctuary study, which used passive acoustic technology, detected over 1,600 right whale calls in southwestern Stellwagen Bank (in the Off Race Point area) on 55 days between January and March of 2006 even though only 4 right whales sightings were reported in the area from Sightings Advisory System-related surveys. (Dickey, et al. 2006).

In light of this readily available information, we believe that NMFS must revise its proposal and expand the timing of the protective measures in the off Race Point Area and the Great South Channel so that the beginning dates for risk reduction measures coincide with those in Cape Cod Bay. If NMFS does not choose to provide protective measures during the time that data indicate they are warranted in the waters outside of Cape Cod Bay, then either the Proposed Rule or the DEIS should provide substantiation for choosing a considerably less protective measure; yet neither document provides a rationale for a truncated period of protection.

Dynamic Management Areas (DMA)

In concept, we support the use of dynamic management as a means of providing protection outside of the times and areas of seasonal measures. We are concerned, however, that this measure relies on “a heavy resource commitment (i.e., due to the need for extensive aircraft surveys, flights to verify sighting location, and infrastructure).” Given the trend in NMFS budget appropriations, we are concerned that these resources may not be available. Dynamic management is only useful if it is time sensitive, that is, measures go into effect at the time that the risk is perceived with minimal or no delay. This has not been the case with the use of dynamic management as a risk reduction tool under the Atlantic Large Whale Take Reduction Plan, where there is an average of ten day delay between the sighting that triggers the need for dynamic management and

imposition of risk reduction measures. This is unacceptable and NMFS, in conjunction with the U.S. Coast Guard, must determine the most efficient regulatory mechanism for instituting DMA under this rule. If the effective use of Dynamic Management Areas is not achievable with current and expected future resource constraints, NMFS must explore alternate risk reduction for these areas.

Other Alternatives Considered but not Proposed

NMFS delineates 5 other alternatives that it considered but is not proposing (page 36309). Clearly the No Action alternative is not a viable option. We agree that, as stand alone measures, use of DMA, seasonal speed restrictions and recommended shipping routes also are not sufficient. We are not convinced, however, that the “combination of alternatives,” which was designated Alternative 5 in the DEIS, was appropriately dismissed. NMFS acknowledges in the DEIS that Alternative 5 is the most risk averse option for right whales. See, e.g., DEIS at 2-13. The DEIS does not discuss why this alternative is not the preferred alternative. The proposed rule simply states that this option has greater economic impacts on small entities.

This is not a compelling argument for dismissing this alternative. The ESA mandates that the needs of listed species, and the protection of critical habitat, must take precedent over other factors normally considered by agencies when adopting regulations. See TVA v. Hill, 437 U.S. 153, 174 (1978) (concluding that it is “beyond doubt that Congress intended endangered species to be afforded the highest of priorities.”). While the economic costs and benefits of these regulations must be addressed through the NEPA process, these, and other similar considerations, must give way so that the right whale may receive the necessary protections to “halt and reverse the trend toward species extinction, whatever the cost.” Id. 437 U.S. at 184 (emphasis added). Indeed, economic considerations must not influence the NMFS' decision as to the level of protections established.¹ Thus, arguments for choosing a less protective alternative based on economic considerations are directly at odds with the underlying intent of the ESA, which was enacted to reverse the trend of species being driven to extinction as “the consequence of economic growth and development untempered by adequate concern and conservation.” 16 U.S.C. § 1531; see T.V.A., 437 U.S. at 184.

Even if economic considerations were appropriately considered, they must be put in the proper context – that in which we are evaluating the cost of losing an entire species, a cost which Congress has declared to be “incalculable.” T.V.A., 437 U.S. at 187-88. This is particularly true since NMFS' analysis shows such a minimal economic cost of its proposed actions on the shipping industry. Indeed, even the most protective options on the table would cost less than one half of one percent of annual shipping revenues. NMFS' preferred alternative would cost even less. Economically, this is a drop in the

¹ Conceivably, economic impacts could be considered by the agency when deciding between two courses of actions, where both would provide the requisite level of protection – i.e. both would provide for both the survival and recovery of the species – but there would be a difference in the economic cost.

bucket for the industry, with a potentially huge benefit for the species. Furthermore, NMFS has not analyzed the economic benefit of the survival of the species. The agency simply has not provided justification – legal, scientific, or economic – for putting in place less than sufficient protections for this species.

Comments on Omissions and Errors in Text and Citations

Page 36300 states that “Kraus et al reported 19 known right whale deaths from 1986 to present.” This is not correct, nor was it correct when this notice was published. It should instead cite Kraus’ work for the period from “1986 to early 2005,” which was the subject of that analysis, rather than to the present. Since Kraus’ analysis, at least three more right whales have died from ship collisions, including a calf in January 2006 off Florida and two adult females in Canada in the summer of 2006. As the agency has stated that the death of even one right whale brings the species appreciably closer to extinction, this is not an insignificant error and must be corrected.

Page 36301 asserts that there are two Right Whale Recovery Plan Implementation Teams. This statement is misleading at best. Although both teams have provided advice to NMFS on actions relating to ship strike related mortality, neither functions as a recovery team, nor does either address the suite of issues that should be addressed to appropriately advise the NMFS on recovery actions (e.g., habitat concerns, fishing entanglement, etc.). Although the Southeast Implementation Team meets once or twice annually, the Northeast Implementation Team was disbanded and reformulated by the Northeast Regional Office of NMFS in 2004. It has not met since early 2005, when it was specifically told that it was not being asked for advice or recommendations. It is not scheduled to meet again. NMFS owes it to this critically endangered species to convene a traditional and meaningful recovery team. As currently written, the text implies a degree of oversight that is not real.

Page 36303, as well as other cites, give the impression that this notice was written quite some time before it was published. Page 36303 states that, with regard to shifting the Traffic Separation Scheme (TSS) into Boston, “A proposal would have to be submitted [to the International Maritime Organization (IMO)] by the United States in April 2006.” This proposal was in fact submitted to IMO in April and has received preliminary endorsement. Furthermore, we believe that the U.S. Coast Guard has submitted its final PARS report which recommends specific routes, though it is not discussed in this notice, nor are we aware that it has been published elsewhere in the Federal Register.

Finally, the wording in the first paragraph under “Vessels Subject to Proposed Rule” on page 36305 is awkward and misleading. Also, because of the insertion of a clause in the middle of the sentence that exempts some vessels, the final part of the sentence implies that vessels over 65 feet in overall length entering or departing a port would be exempt from the rule. We believe that it should instead read: “These proposed regulations apply to all vessels greater than 65 ft (19.8 m.) in overall length and subject to the jurisdiction of the United States, and all other vessels 65 ft (19.8 m) and greater in overall length entering or departing a port or place under the jurisdiction of the United States, with the

exception of U.S. vessels owned or operated by, or under contract to, the Federal Government." This clarifies NMFS' intent to exempt only these latter vessels. Having said that, however, we reiterate our comment above that research vessels and other vessels not part of the national defense or lifesaving missions should not be exempt.

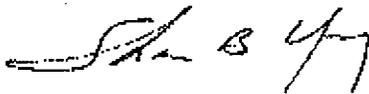
Conclusion

We appreciate the efforts of NMFS to undertake long-overdue rulemaking to reduce the unsustainable levels of ship strike related mortality and serious injury to right whales. However, restricting vessel speed in high use habitats is only one element of a more comprehensive program. The establishment of recommended lanes, areas to be avoided and other components of a comprehensive plan have not been included in this proposed rulemaking. The delay in implementing these other measures leaves right whales vulnerable to considerable risk. In addition, the Proposed Rule ignores data substantiating the need to extend protective measures to additional times and areas, including areas adjacent to critical habitat and along key migratory routes between critical habitats. We remain concerned that exempting sovereign vessels and vessels under contract to the federal government will unnecessarily exempt an unacceptably large number of high-risk vessels from mandatory risk reduction measures.

Right whales are the most endangered large whale in the United States. North Atlantic right whales are in danger of extinction as a result of entirely preventable anthropogenic mortality, which disproportionately affects females and their calves. NMFS must act expeditiously meet its legal obligation to put in place a comprehensive program of risk reduction that will avert additional needless deaths.

Thank you for the opportunity to comment.

Sincerely,



Sharon B. Young
Marine Issues Field Director
The Humane Society of the United States

Andrew Hawley
Staff Attorney
Defenders of Wildlife

Sierra B. Weaver
Staff Attorney
The Ocean Conservancy

Literature Cited:

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Subject: right whale speed restriction, Dolphin Fleet
From: Steven Milliken <sjmilliken@comcast.net>
Date: Wed, 23 Aug 2006 22:35:57 -0400
To: Shipstrike.Comments@noaa.gov

Please find comments attached to letter questions.

I have attached comments to the letter. I hope you find positives in what I attached. Dolphin Fleet tries to find balance for both commercial interests along with the well being of all the marine life not only on Stellwagen Bank but also the surrounding areas.

Please feel free to call me if you would like further input as well as volunteer work for groups or sub-groups relating to whales , whale watching or similar activities. I have been working with whales since 1975 as well as trying to promote positive whale watching activities and educating others on conservation and educational values in this field

Sincerely,

Steven Milliken

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Dear Shipping Interests and Other Interested Parties:

Today, the proposed rule for reducing right whale ship strikes filed with the Federal Register (FR). It will publish in the FR on Monday. For your convenience, highlights of the proposed rule are summarized below. For details, please see the complete FR notice. Comments on the proposed rule must be received by **23 August**.

A notice of availability for the Draft Environmental Impact Statement (DEIS) and associated economic analysis for the right whale ship strike reduction strategy is expected to publish in the FR on 7 July. The DEIS is being made available for a 60-day comment period. Additional details regarding the DEIS comment deadline and other opportunities for public participation such as public meetings and/or hearings will be announced at that time.

The proposed rule and other supporting documents are available at: <http://www.nmfs.noaa.gov/pr/shipstrike>. If you have difficulty with any of the links on this web site, please let me know and I will send you an attachment.

Regards,
Kristen

**ELEMENTS OF THE PROPOSED RULE THAT DIFFER FROM NMFS'S
ADVANCED NOTICE OF PROPOSED RULEMAKING (June 2004)**

• An emphasis on a speed restriction of 10 knots instead of 12 or 14 knots. Data indicate that speeds of 10 knots would have a greater conservation value than 12 or 14 knots.

I think that 12 knots is adequate and no change necessary. After the 2006 spring whale watch season we were at no time in any life threatening situation for the whales. The Dolphin Fleet also helped with sightings of many right whales within the Cape Cod Bay area as well as locations further offshore. Constant monitoring of the area as well as knowledge of whale locations with REAL TIME monitoring is in my opinion one of the most useful tools available for other vessels as well as ours, (research, recreational, commercial and shipping) as reported at one of the Sanctuary Advisory Committee (SAC) meetings the shipping industry commented saying that a reduction of speed for shipping 10 knots may restrict vessel maneuverability of larger vessels making it difficult to maneuver in a reasonably affective way.

I think constant updates of known whale locations and proper lookouts are the best procedure. I do not know what impact the whale watching industry had on right whale sighting locations but I would think this is a helpful tool for all working vessels of the areas affected with these rulings. Why?

and Cape Cod Bay (no drills or other factors were noted from this observation of over 45 minutes) area while known locations of Right whales were observed and reported. Whale watch boats were with whales while the vessel cruised by at great speeds. (we tell passengers why we were traveling slow and about right whale regulations.) not only did this look bad for the USCG but also the real threat of a strike with a smaller vessel. Real harm comes from ANY vessel regardless of size or authority. All vessels should act accordingly "unless vessels are in a life threatening or life saving situation" Any smaller vessel may not kill an animal but could definitely do serious harm to the critically endangered species of animal. Even a 40' sport fishing vessel can create wounds that once infected could slowly kill an animal.

TIMES AND AREAS AFFECTED

Proposed Management Subareas

The proposed rule divides the U.S. east coast into three large subareas: Southeast U.S., Mid-Atlantic U.S., and Northeast U.S. Within each, NMFS proposes seasonal rules restricting vessel speed to 10 knots (about 11 mph) or less. The areas, and the times in which they would be in effect, are as concisely and specifically defined as possible to reflect the known occurrence of right whales.

Proposed Northeastern U.S. Area

- Cape Cod Bay: January 1 - May 15
- Off Race Point: March 1 - April 30
- Great South Channel: April 1 - July 31

Proposed Mid-Atlantic U.S. Area: November 1 - April 30

Proposed Southeastern U.S. Area: November 15 - April 15

Proposed Dynamic Management Areas

On many occasions reports of 1 right whale can be viewed while in any time frame. This includes outside of proposed dates.

Observations of whale behavior should be noted.

A whale could be in linear travel resulting in movement into or out of an area while observations of feeding whale would give reasons for more caution within proposed area. Observations like this are needed to be done by experienced observers.

Speed restrictions should also be done from sightings reports because history has shown that these whales are not always where they are predicted to be at any given time.

I feel there should be some flexibility to specific times although a "watch for species" should be done at throughout the suggested dates and speed restrictions applied when needed.

Constant monitoring and when sightings of the species occur perhaps a "notice to mariners," of sighting time, speed and heading of animal or if feeding in the area have it

81°W

80°W

32°N

31°N

30°N

Right whale sightings per unit of effort with the following survey conditions: Beaufort sea-state <4; visibility at least 2 miles (3.2 km) altitude at or less than 1000 ft (305 m)*

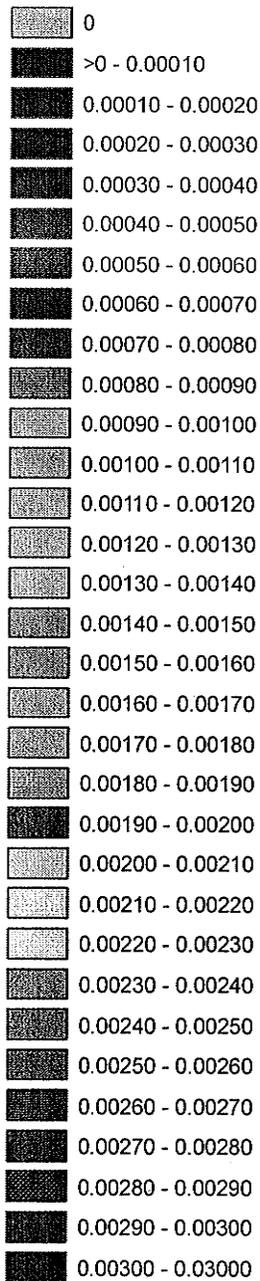
Data include NEA/EWS 12/1991- 3/2005; GDNR 1/1993- 3/2005 FWC/FWRI 1/1992- 3/2005 Offshore 2/1996-3/2002

*Note altitude <1200 ft accepted for post 2000- 2001 season data

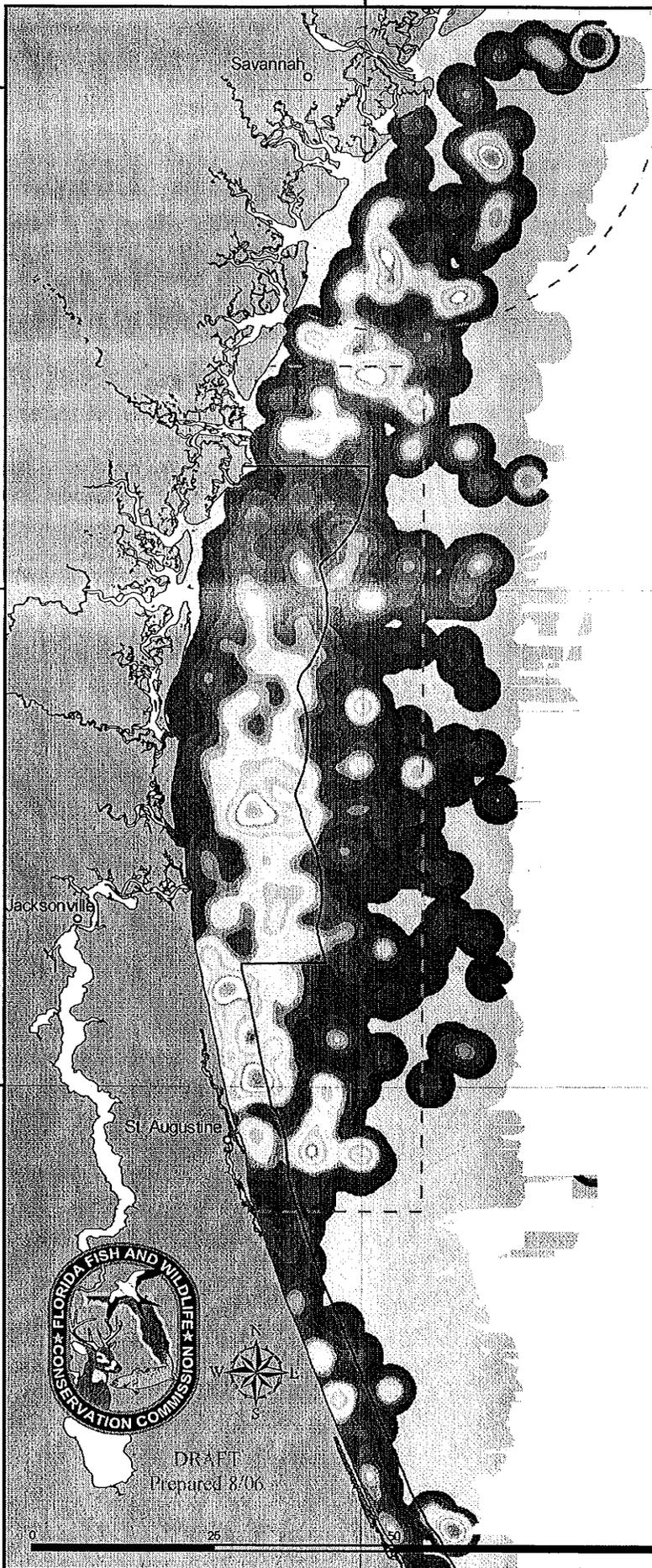
*Areas with 10 or less flights are masked

Whales/km²/flight

6km search radius



--- Proposed Management Area
— Critical Habitat



DRAFT
Prepared 8/06

100 Miles

80°W

Subject: 10 knot speed limit to protect right whales
From: imicalifornia <imicalifornia@sbcglobal.net>
Date: Mon, 26 Jun 2006 19:10:35 -0700
To: Shipstrike.Comments@noaa.gov

Why not propose that large ships be given an option of hiring a Zodiac-type inflatable craft to lead the ship towards port? The Zodiac could be fitted with sonar to detect whales, and possibly acoustic devices that would encourage the whales to move out of danger. The crew of the zodiac could be given the authority to require the ship to reduce speed, change course, or stop if necessary when whales are detected near the ships course.

The Zodiac crew could simultaneously collect information on sightings and ocean conditions, which could be useful in protecting the whales and their environment.

I would imagine that shipping companies would be willing to pay well for this service because the hourly operating costs of large ships is very expensive, thus their objection to the speed reduction.

Robert Neumann

NEW ENGLAND AQUARIUM

October 4, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East-West Highway
Silver Spring, MD 20910

RE: Comments on the Proposed Rule to Implement Speed Restriction to Reduce the Threat of Ship Collisions with North Atlantic Right Whales

We are writing to first commend the National Marine Fisheries Service for developing a strong and effective rule aimed at protecting right whales from ship strikes. This rule is likely to provide considerable benefit to this beleaguered population. We believe the evidence is clear that reducing vessel speeds to 10 knots or less will provide a greater amount of time for a right whale to successfully avoid an approaching vessel. We also can see that NMFS has taken a well-balanced approach to focus speed restrictions initially on areas and time frames where right whales are known to occur thereby minimizing the potential economic impact on affected industries.

We offer the following suggestions and comments on the proposed rule for consideration in developing the final rule:

- 1) The seasonal management area in the vicinity of Block Island Sound should be changed to provide appropriate and consistent protection to right whales transiting along that area of coastline. As it is now, the western side of the box extends from Montauk Point seaward to 30 miles and does not provide adequate protection along the outer Long Island coast if vessels are heading towards Long Island Sound from points south and west of the present Block Island Seasonal Management Area (SMA). The location of the corner at Montauk should be moved 30 nm further west along the Long Island coast and then 30 nm seaward. This 30 nm buffer would then be consistent with other seasonal management areas developed for other ports in the mid Atlantic. A drawing of the proposed change is provided below.
- 2) Consideration should be given to expanding the Off Race Point time frame from the existing time frame of March 1 through April 30 to a time frame of January 1 to May 15. This would cover the ingress of whales into Cape Cod Bay that occurs during the early winter months and would ensure the egress out of Cape Cod Bay is adequately covered as this egress can occur in late April with right whales crossing the shipping lanes in early May (see <http://marinegis.org> for detailed information on surveys and right whale sightings). We have sightings of right whales moving between Cape Cod Bay and the southeast US in the early winter months.

- 3) Consideration should be given to extending the springtime mid Atlantic timeframe until the middle or end of May. Since the Southeast U.S. time frame ends in mid April, an extension of the mid Atlantic timeframe to mid/end of May would ensure the mother/calf pairs departing late in the calving season would be protected during their transit up the coast.
- 4) We recognize that some of the smaller ports along the mid Atlantic coast did not have SMA buffers placed at their port entrances because the level of traffic was quite small. We would encourage NMFS to include language that ensures that any port that reaches a certain size in terms of number and types of vessels using it or any new port developed which reaches this similar size is automatically managed under this regulation.
- 5) Under dynamic management measures, we strongly encourage NMFS to implement dynamic management areas with immediate notification to ships (rather than delayed several days as it is for fisheries dynamic management). In addition to means of notification mentioned in the proposed rule, we suggest that notification also occur via Navtex and MSR messages as these means of communication are already used to relay right whale information. Immediate implementation of DMA's will greatly increase the effectiveness of dynamic management as some of these short-term, high-use right whale areas last only for a few days or a couple of weeks. We also encourage NMFS to consider outlining a strategy for how they might refocus their existing survey efforts for the most effective implementation of dynamic management measures.
- 6) Little mention is made about enforcement of this proposed rule. We strongly encourage NMFS to request assistance from the US Coast Guard in monitoring vessel speeds using AIS and to impose fines on vessels that do not abide by the speed restrictions. It should be noted that the Coast Guard has a draft programmatic EIS for a National AIS system. As the Coast Guard notes in an announcement in the Federal Register on June 30, 2006, "The purpose of the proposed action evaluated in the PEIS is to establish a nationwide network of receivers and transmitters to capture, display, exchange, and analyze AIS-generated information. The proposed action would satisfy the USCG's need to enhance homeland security, preserve maritime mobility, *protect the marine environment, enforce U.S. laws and international treaties*, and perform search and rescue (SAR) operations." [italics added]. NMFS and the Coast Guard should work carefully together to develop a strategy for using AIS as a tool to monitor compliance and enforce this regulation. A clear statement about which agency will be in charge of enforcement should be noted.
- 7) Although this proposed rule is to manage vessels 65 feet and greater, there is an emerging issue, especially in the southeast US calving ground, of vessels less than 65 feet in length causing serious and potentially fatal injuries to right whales. We believe this issue should be reviewed carefully and immediately by NMFS and vessel speed restrictions for vessels under 65 feet operating in the calving ground during the calving season should be considered. At this point in time, there is minimal educational information that gets out to vessels of this smaller size class, and there is increasing growth in the area that will likely lead to increased small vessel traffic in the area.

- 8) An important aspect of this rule will be to monitor the effectiveness of speed restrictions in reducing the number of right whales killed or seriously injured by vessels. It should be noted that the primary means available to monitor effectiveness will be in the continued response to identifying large whale carcasses, and retrieving and conducting necropsies of all right whale carcasses (as feasible). As awareness within other Federal agencies, the shipping industry and the general public has increased, the reporting of large whale carcasses has also increased. Responding to all reports in order to identify species is critical to ensuring all right whale deaths are documented and a full necropsy performed to determine cause of death. It is important to develop a strategy with Canada through the proposed Conservation Agreement for such a response as well since some right whale deaths occur in Canadian waters. A clearly stated request for vessels to report carcasses should continue. A speedy response strategy to identify carcasses should also be developed. And lastly, funding support for retrieval and necropsies (including associated analyses such as drift analyses, genetics, and histological analyses) must be maintained if monitoring of effectiveness of this rule is to occur.
- 9) Clearly stated criteria for evaluating the rule's effectiveness should be developed. These criteria should include an annual assessment of the numbers of mortalities and cause of death if determined, an annual assessment of injuries caused by vessel strikes, and an annual assessment of the number of presumed mortalities (ie animals not seen in six years). These criteria should include a review of when and where (using drift analysis techniques) a mortality occurred and how it relates to the seasonal and dynamic management timeframes. These criteria should also state at what point NMFS would consider changing the rule to expand areas or reduce speed further.
- 10) In the background section of the proposed rule, there is mention that the population size is at or below 300 individuals. While this may reflect the most recently published peer-reviewed papers on this topic, it seems important to more accurately reflect the population size based on annual reports by the New England Aquarium to NMFS on the right whale catalog. For example, the presumed living population at the end of 2005 was 335 animals. If the source of the population size is clearly stated, it seems more accurate to provide the most up-to-date information as possible. If this cannot be done, the figure of 300 individuals should have a reference and associated time frame to avoid confusion.
- 11) In a similar vein as above, the mortality figures are quoted in several different fashions making it very confusing to the reader as to what total mortality figures are. NMFS should be able to provide the most up-to-date mortality figures including cause of death categories. By relying only on peer-reviewed published information, NMFS is dismissing all on-going efforts that they are supporting to monitor population size and mortality numbers.
- 12) On page 36304, 1st paragraph, of the Federal Register document of this proposed rule, you state "In November 2004, a Federal vessel traveling 12 knots struck a large whale outside the mouth of the Chesapeake Bay. Although not linked definitively to the strike, a dead adult right whale washed ashore in North Carolina shortly thereafter with massive injuries." It is our understanding that this

- vessel, the Navy aircraft carrier Iwo Jima, was traveling at 21 knots, not at 12 knots. We suggest that this information be verified with the Navy and corrected.
- 13) On page 36304, 1st paragraph of the Federal Register, you note that one incident of a known strike with a right whale “occurred on July 6, 1991, when a right whale calf was killed east of the Delaware Bay by a ship traveling at 22 knots.” As far as we are aware, the species id of this struck animal was never confirmed and we have thus not tallied it in any of our papers on mortality.
 - 14) If possible, it would be useful to mention the strike of the right whale that occurred on March 10, 2005 off the coast of Georgia since the vessel size and speed were known. The vessel was a 43 foot power vessel traveling at around 22 knots. Further details are on file within NMFS.
 - 15) On page 36304, 2nd paragraph – this paragraph very briefly describes computer simulations and hydrodynamic studies. This paragraph should be expanded to reflect the independent studies by Knowlton and Clyne. We suggest the following changes: “In addition, computer simulation modeling studies (Knowlton et al. 1995, 1998) indicate that hydrodynamic forces created by ships moving through the water can, in certain instances, pull a whale into the ship. These forces increase with increasing speed and thus, a whales’ ability to escape these forces pulling it into the ship will be reduced with increasing vessel speed. Computer simulations conducted by Clyne (1999) found that the number of simulated strikes with passing ships was reduced with increasing vessel speeds, however the number of strikes that occurred in the bow region increased with increasing vessel speeds.” Also, please include the following reference: Knowlton, A. R., F.T. Korsmeyer, B. Hynes. 1998. The Hydrodynamic Effects of Large Vessels on Right Whales: Phase Two. NMFS Contract No. 46EANF60004.
 - 16) On page 36305, 3rd column, 1st paragraph, you note the death of a mature female off the coast of Virginia (near Chesapeake Bay) in 2004. There was actually a second mature female that died off the coast of Virginia (near Chesapeake Bay) in February 2004 (animal #1004, Stumpy). The first animal mentioned died in November 2004 (animal #1909) likely a result of a strike by the Navy aircraft carrier Iwo Jima. It should be noted that both of these females were carrying a fetus.
 - 17) On page 36306, 3rd column, 1st paragraph, you discuss the triggers for imposing dynamic management. Under trigger b) where you mention whales seen “within a mid Atlantic 30 nm port entrance” you should add “outside the defined seasonal management timeframe.”

We thank you for the opportunity to comment on this proposed rule.

Sincerely,

Amy R. Knowlton
Research Scientist

On behalf of the New England Aquarium’s right whale research team

Subject: public comment on federal register of 6/26/06 vol 71 #122 pg 36299

From: Bk1492@aol.com

Date: Mon, 26 Jun 2006 08:15:57 -0400 (EDT)

To: david.rostker@omb.eop.gov, Shipstrike.Comments@noaa.gov

CC: ny4whales@optonline.net

doc noaa 50 cfr part 224

dkt 040506143-6016-02

id 101205b

rin 0648 as36

ship strike killing of all whales

i think the ships should have to alter their course completely and stay out of any area a whale is in.

i think spending more money on research is wasteful. we know enough now and the problem continues. the whale killing goes on.

these ships all have very good sonar systems, apparently they are not bothering to watch them. i think any ship that strikes a whale should face a fine of \$5 million, jail time of 2 years for ship officers should take place, and the ship should be seized.

marine education does not work. high fines, jail time does.

no federal employee or ship evades this responsibility.

stop the building of these huge vessels. nothing can escape their path and live.

these regulations for maximum 10 knots should be in place all year long.

b. sachau

15 elm st

florham park nj 07932



COMMONWEALTH of VIRGINIA

Virginia Port Authority
600 World Trade Center
Norfolk, Virginia 23510-1679
Telephone (757) 683-8000
Fax (757) 683-8500

J. Robert Bray
Executive Director

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October 4, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East West Highway
Silver Spring, MD 20910

Re: RIN 0648-AS36, Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales

Dear Sir or Madam:

The Virginia Port Authority (VPA) respectfully submits the following comments in response to the above-referenced proposed rule published June 26, 2006.

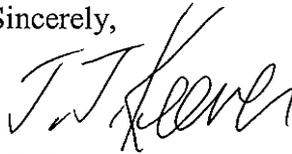
The VPA is supportive of NMFS efforts to reduce the potential for ship collisions with right whales. However, the measures proposed for the ports of Virginia and Baltimore appear to be based on limited sighting and ship strike data for the Chesapeake Bay region. A review of the NMFS sightings database from 2002 through June 2006 reports 17 right whales were sighted within 120 nautical miles of the entrance to the Chesapeake Bay. During this 4.5 year period, there were approximately 26,000 commercial vessel trips to and from the Port of Virginia. This number does not include the thousands of vessel trips to and from the Port of Baltimore or the hundreds of U.S. Navy vessels transit through or conduct exercises in the area. During this same period, three confirmed whale strikes occurred. One strike was reportedly a result of a collision with a U.S. Navy vessel. The cause of the remaining two strikes is unknown. Given the limited amount of data collection by the NMFS for this area and the unsupported assumption that the three whale mortalities were a result of collisions with commercial cargo vessels, the proposed seasonal restriction for the Chesapeake Bay region appears excessive.

The Draft Environmental Impact Statement (DEIS) for the proposed ship strike reduction strategies reports that the direct and indirect economic cost to the Port of Virginia of the seasonal speed restriction alternative is expected to exceed \$21 million annually. This cost to the Port is unwarranted given the lack of whale sighting data for the area. The data collected neither demonstrates that the three whale mortalities were a result of a collision with a commercial shipping vessel nor that the proposed seasonal restriction will reduce the likelihood of future mortalities the Chesapeake Bay region. Nonetheless, we understand the need to develop a strategy for reducing the threat of collisions with right whales.

We respectfully request that the NMFS consider imposing a dynamic management area strategy for the Chesapeake Bay region until additional whale sighting data justifying the need for more stringent measures is collected and evaluated. We support the dynamic management measures proposed in Alternative 2 of the DEIS and recommend imposing these measures for a period of ten years until additional data is collected and the effectiveness of alternative measures can be thoroughly evaluated.

Thank you for the opportunity to comment on the proposed regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "J.J. Keever". The signature is written in a cursive, somewhat stylized font.

J.J. Keever
Deputy Executive Director



WOODS HOLE OCEANOGRAPHIC INSTITUTION

October 5, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East-West Highway
Silver Spring, MD 20910

Comments on the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales

We wish to commend the National Marine Fisheries Service for developing a strong and effective rule aimed at protecting right whales from ship strikes. This rule will provide the best hope for this population's recovery. The evidence demonstrates that reducing vessel speeds to 10 knots or less will reduce the number of right whale kills per year. We applaud NMFS well-balanced approach of applying speed restrictions on areas and time frames where right whales are known to occur, minimizing the potential economic impact on maritime industries.

We offer the following suggestions and comments on the proposed rule for consideration in developing the final rule:

- 1) Some of the smaller ports along the mid Atlantic coast did not have SMA buffers placed at their port entrances because the level of traffic was quite small. We encourage NMFS to include language that ensures that any port that reaches a certain size in terms of number and types of vessels using it or any new port developed which reaches this similar size is automatically managed under this regulation.
- 2) Under dynamic management measures, we strongly encourage NMFS to implement dynamic management areas with **immediate** notification to ships (rather than delayed several days as it is for fisheries dynamic management). In addition to means of notification mentioned in the proposed rule, we suggest that notification also occur via Navtex and MSR messages as these means of communication are already used to relay right whale information. We also suggest that NMFS consider re-evaluating their existing survey efforts for the most effective implementation of dynamic management measures.
- 3) Enforcement of this rule will be essential, and we strongly encourage NMFS to request assistance from the US Coast Guard in monitoring vessel speeds using

AIS and to impose fines on vessels that do not abide by the speed restrictions. NMFS and the Coast Guard should work carefully together to develop a strategy for using AIS as a tool to monitor compliance and enforce this regulation. A clear statement about which agency will be in charge of enforcement should be noted.

- 4) We recommend that NMFS review an emerging issue of vessels less than 65 feet in length causing serious and potentially fatal injuries to right whales, particularly in the calving ground. Vessel speed restrictions for vessels under 65 feet operating in the calving ground during the calving season should be considered. There is increasing growth in the area that will likely lead to increased small vessel traffic in the area, and currently little or no education of local boaters about this danger.
- 5) Monitoring the effectiveness of this rule will be dependent upon the continued response to identifying large whale carcasses, and retrieving and conducting necropsies of all right whale carcasses. Enhancing the network (including Canada) for carcass reporting and identification should continue, and funding support for retrieval and necropsies (including associated analyses such as drift analyses, genetics, and histological analyses) must be maintained to monitor the effectiveness of this rule.
- 6) Science based criteria for evaluating the rule's effectiveness should be developed. These criteria should include an annual assessment of the numbers of mortalities and cause of death if determined, an annual assessment of injuries caused by vessel strikes, and an annual assessment of the number of presumed mortalities (ie animals not seen in six years). These criteria should include a review of when and where (using drift analysis techniques) a mortality occurred and how it relates to the seasonal and dynamic management timeframes. These criteria should be used to inform NMFS about any changes needed to the rule.

We thank you for the opportunity to comment on this proposed rule.

Sincerely,

Michael Moore	Woods Hole Oceanographic Institution (Chair)
Moe Brown	New England Aquarium (Vice Chair)
Bob Kenney	University Rhode Island
Philip Hamilton	New England Aquarium
Laurie Murison	Grand Manan Whale/Seabird
Bill McLellan	University of North Carolina
Doug Nowacek	Florida State University
Brad White	Trent University
Scott Kraus	New England Aquarium
Leslie Ward	Florida Marine Research Institute
Stormy Mayo	Center for Coastal Studies
Carolyn Angell	Woods Hole Oceanographic Institution

Members of the Right Whale Consortium Board
(Jamison Smith as a NOAA employee and Consortium Board Member abstained from consideration of this letter)

Subject: Proposed speed rules

From: don <dyeager@ec.rr.com>

Date: Sun, 03 Sep 2006 18:46:52 -0400

To: Shipstrike.Comments@noaa.gov

NOAA Fisheries,

Being a sixty year old lifelong resident of coastal NC and having had experience for over forty years in the waters off Beaufort Inlet, I respectfully request the proposed vessel speed rules be increased to a minimum of fifteen knots from the proposed ten mph. My data is from experience. Head boats will be forced out of business with this new rule as it stands. I only ask for a compromise so neither will suffer. Respectfully, William D. Yeager

440 McCabe Rd.

Newport, NC 28570

dyeager@ec.rr.com

Subject: Ship strikes

From: Adam Hardy <adam.hardy@cyberspaceroad.com>

Date: Wed, 04 Oct 2006 22:35:21 +0100

To: Shipstrike.Comments@noaa.gov

Dear Sir or Madam,

I support Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy.
(<http://www.nmfs.noaa.gov/pr/shipstrike/>)

I urge you to develop a Right Whale Conservation Agreement with Canada.

The time to act is now and further delays in implementing the plan will contribute to the extinction of this species.

Thanks and regards
Adam Hardy

Subject: Right Whale Endangered Species
From: Annie Howard <anncorinnehoward@yahoo.com>
Date: Sun, 24 Sep 2006 19:24:05 -0700 (PDT)
To: Shipstrike.Comments@noaa.gov

To Whom It May Concern:

I am a marine biology student and I support Alternative 5 of the North Atlantic Right Whale Ship Strike Reduction Strategy. It is important to act now on conserving this species whose survival is fragile and time here is dwindling.

-Annie Howard

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Subject: Right whales

From: Becky Skuse <becky.skuse@futurenet.co.uk>

Date: Thu, 05 Oct 2006 12:43:16 +0100

To: Shipstrike.Comments@noaa.gov

Dear Sir/Madam

I am writing regarding the terrible situation facing the Right Whale and its endangerment from ship strikes.

I support Alternative 5 of the North Atlantic Right Whale Ship Strike Reduction Strategy, and I urge you to develop a Right Whale Conservation Agreement with Canada.

I feel that the time to act is now and any further delays in implementing the plan will contribute to the extinction of this beautiful and historic species.

Please take action now before it is too late.

Many thanks
Rebecca Skuse

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From: Chlöe Burcham <chloecharlotte9@hotmail.com>

Date: Wed, 04 Oct 2006 15:21:06 +0000

To: Shipstrike.Comments@noaa.gov

MY NAME IS CHLOE BURCHAM AND I SUPPORT THE ALTERNATE FIVE, THE MOST PROTECTIVE OF THE PROPOSED MEASURES, OF THE NORTH ATLANTIC RIGHT WHALE SHIP STRIKE REDUCTION STRATEGY. I REALLY URGE YOU TO DEVELOP A RIGHT WHALE CONSERVATION AGREEMENT WITH CANADA.

The time to do this is now, delays in doing so will certainly result in the extinction of this lovely animal. Please do the right thing for the right whale. People don't have the right to kill others, and i'm almost certain you'd never dream of doing such a in-humane thing. So what gives you the right to kill a whole species of animal?

Thank you,

Chloe Burcham

age 15

Holmes Chapel, Cheshire. England

Subject: Atlantic Right Whale - action now!
From: Dom Belfield <architeuthis3@hotmail.com>
Date: Mon, 18 Sep 2006 14:34:06 +0000
To: Shipstrike.Comments@noaa.gov
CC: architeuthis3@hotmail.com

Dear NMFS, Sir / Madam

I am writing to add my comments and voice to the hundreds of thousands around the world who are extremely concerned that the world's most powerful nation appears unable, or unwilling, to act decisively to halt the entirely preventable decline into extinction of the North Atlantic Right Whale.

Please take immediate, remedial steps to protect the remaining population of Right Whales off the east coast of the USA by :

1. Adopting Alternative 5 - full protection.
2. Develop an effective Conservation Agreement with Canada along the N.E. coast.
3. For God's sake - act decisively, intelligently and immediately.

The world is watching, the number of ship strikes is mounting, the time to act is now!

Yours faithfully **Mr Dominic V. Belfield, Petersfield, Hampshire, UK.**

Subject: It is critical to take the utmost precautions to protect Right Whales

From: Eileen Kinley <kinley@comnet.ca>

Date: Mon, 18 Sep 2006 21:18:22 -0400

To: Shipstrike.Comments@noaa.gov

I fully support your efforts to reduce ship strikes to whales, particularly the Northern Right Whale. As you are aware, Canada took some measures in this regard over the past few years.

I would ask that you urgently implement Alternative 5 – the most protective measure. I would also ask that Canada and yourselves develop a coordinated Right Whale Conservation Agreement.

Regards,

Eileen Kinley
1844 9th Line Beckwith
RR#2
Carleton Place, Ontario
K7C 3P2

From: Gary Cole <keanesixteen@hotmail.com>

Date: Fri, 29 Sep 2006 21:43:08 +0000

To: Shipstrike.Comments@noaa.gov

Dear Sir or Madam,

I write to you for two reasons:

1: To express my support for Alternative 5 of the North Atlantic Right Whale Ship Strike Reduction Strategy (I believe this is the most beneficial to the whales and offers them the best chance of continued survival), and

2: To urge you to develop a Right Whale Conservation Agreement with Canada.

The time for these changes is now. We cannot stand by and allow yet another species to slide into the history books, not when we have it within our power to give these animals a fighting chance. Every day, every week that goes by is a step towards extinction for these magnificent creatures. I sincerely hope you will see this and take action.

Many thanks for your time,

Gary Cole

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Subject: Right whales

From: Gijs Koudijs <gj.koudijs@quicknet.nl>

Date: Mon, 02 Oct 2006 03:43:42 +0200

To: Shipstrike.Comments@noaa.gov

Dear Sir or Madam,

Fewer than 350 North Atlantic Right Whales roam the waters of the Eastern seaboard of North America. The population is dangerously close to extinction and the US government states that "Today, the right whale population is sufficiently fragile that the premature death of a single mature female could make recovery of this species untenable". They also acknowledge that the biggest threat to the survival of this species is ship strikes. However the National Marine Fisheries Service have yet to provide adequate protection for this critically endangered species and, while waiting, at least 17 right whales have been documented as dying or being killed since February of 2004. More than ½ of those deaths were attributed to vessel strikes and 10 of those killed are known to have been females, including 3 that were pregnant when they were killed.

In November of 2004, the NMFS acknowledged that action needed to be taken when a comment deadline was issued for a proposed rule to reduce ship strikes to right whales. However, since that time, at least 7 right whales died as a result of ship strike injuries and 2 additional animals were struck. This does not consider the animals that died and were not necropsied (scientifically studied) to determine a cause of death. Nor does it include the animals that have been struck and lost at sea.

NMFS currently states that "A continued lack of recovery, and possible extinction, will occur if deaths from ship strikes are not reduced". The NMFS has issued a proposal to control ship speed in the areas where right whales are known to occur throughout their feeding, breeding and migratory ranges. "Unfortunately, many people think that the whales are already saved which is simply not true" said Sue Fisher, US Policy Director for WDCS (North America). "Not only do they still need our help, but here is a chance to save, not just a whale, but an entire species found no where else in the world."

I support Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy.
(<http://www.nmfs.noaa.gov/pr/shipstrike/>)

Please also develop a Right Whale Conservation Agreement with Canada.

The time to act is now and further delays in implementing the plan will contribute to the extinction of this species. The right whales have been heavily hunted in the past, because they were so peaceful and didn't fight back. They were easy to kill. They could not stand up for themselves. Please fight for their continued existence on earth. This world will be so much more beautiful when we can share it with these gentle and peaceful beings, the right whales.

Sincerely,

Kalinke ten Hulzen, the Netherlands, gj.koudijs@quicknet.nl

Subject: Right Whales

From: Johnharriswhite@aol.com

Date: Wed, 04 Oct 2006 05:23:30 -0400 (EDT)

To: Shipstrike.Comments@noaa.gov

I support Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy. (<http://www.nmfs.noaa.gov/pr/shipstrike/>)

Subject: North Atlantic Right Whale Ship Strike Reduction Strategy

From: Jonathan Pinnick <jonathan.pinnick84@googlemail.com>

Date: Wed, 04 Oct 2006 15:34:29 +0100

To: Shipstrike.Comments@noaa.gov

To whom it may concern,

I am writing to give my full support for Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy.

I urge you to develop a Right Whale Conservation Agreement with Canada.

The time to act is now and further delays in implementing the plan will contribute to the extinction of this species.

Yours Sincerely,

Jonathan Pinnick
(Sheffield, United Kingdom)

Subject: Right Whales - Alternative 5

From: Julie Heathorn <Julie@newsletterpub.freemove.co.uk>

Date: Wed, 04 Oct 2006 10:28:05 +0100

To: Shipstrike.Comments@noaa.gov

Dear Sir / Madam,

As a keen WDCS and WWF supporter I am writing to note my support for Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy.

I believe it is also important to develop a Right Whale Conservation Agreement with Canada.

The time to act is now and further delays in implementing the plan will contribute to the extinction of this species.

Yours faithfully,

Julie Heathorn BA (Hons)
1 Orchard Field
The Street
Postling
Kent CT21 4EE

Subject: Right Whales

From: Kerstin Voigt <kerstin.voigt@onwight.net>

Date: Wed, 27 Sep 2006 21:39:42 +0100

To: Shipstrike.Comments@noaa.gov

Dear Sir or Madam,

I'm writing to you, because I'm very much concerned not just about the facts regarding ship strikes with already extremely endangered Right Whales, but to learn also how patient you are in your decision making, you as the governing body charged with protecting these whales . One doesn't need to be a certified marine biologist to understand, that the time to act in order to save this species is NOW. Therefore I urge you:

1. Implement Alternative 5 of the North Atlantic Right Whale Ship Strike Reduction Strategy, because this is the most protective one of the proposed measures.
2. Develop a Right Whale Conservation Agreement with Canada.
3. Act NOW, otherwise another species of marine mammals is lost for ever!

I wish you all the strength to get impatient right now and to save these creatures!

Yours faithfully, Kerstin Voigt

Subject: About critically endangered right whales

From: Kristy <nyncish@charter.net>

Date: Tue, 19 Sep 2006 00:02:47 -0700

To: Shipstrike.Comments@noaa.gov

I support Alternative 5 of the North Atlantic Right Whale Ship Strike Reduction Strategy.
(<http://www.nmfs.noaa.gov/pr/shipstrike/>)

I seriously urge the N.O.A.A. to develop an endangered Right Whale Conservation Agreement with Canada.

And the time to act is now. Further delays in implementing the plan will contribute to the extinction of this amazing species.

Subject: Right Whales
From: Lesley Cooke <manatee@giomail.co.uk>
Date: Thu, 05 Oct 2006 10:52:53 +0100
To: Shipstrike.Comments@noaa.gov

Dear Sir/Madam,

I am writing to confirm my support for Alternative 5, the most protective of the proposed measures of the North Atlantic Whale Ship Strike Reduction Strategy, to secure the future of the above.

Please develop a Right Whale Conservation Agreement with Canada asap, because delays will threaten the survival of this majestic animal and contribute to the extinction of the species.

Yours Lesley Cooke
16 Chipstead Close
Maidstone
Kent
UK

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	Content-Encoding: quoted-printable

Subject: Protecting Northern Right Whales

From: Margaret Dearman <margaret@dearman.go-plus.net>

Date: Wed, 04 Oct 2006 19:36:54 +0100

To: Shipstrike.Comments@noaa.gov

Hello,

I am writing to you with urgency in the hope that you will adopt Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy.

These magnificent animals are battling extinction and further delays will contribute to this. Please develop a Right Whale Conservation Agreement with Canada and help this fantastic species for the future.

Margaret Dearman

13 St peters Road
Duffus
Elgin
Scotland

Subject: Right Whales - Shipstrike
From: Margaret Hartley <m.j.h@btinternet.com>
Date: Thu, 05 Oct 2006 14:59:08 +0100
To: Shipstrike.Comments@noaa.gov

Sir/Madam,

Please note my concern over the precarious state of the right whale population and the impact of shipstrike on it. I am hoping that this, in conjunction with the concerns of others, will assist in promoting the following policies in your organisation:-

- I support Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy.
- I urge you to develop a Right Whale Conservation Agreement with Canada
- My view is that the time to act is now and further delays in implementing the plan will contribute to the extinction of this species.

Yours faithfully

Margaret Hartley

Subject: Right Whale ship strikes.

From: "Mark.Doughty" <Mark.Doughty@insolvency.gsi.gov.uk>

Date: Wed, 04 Oct 2006 11:01:36 +0100

To: "'shipstrike.comments@noaa.gov'" <Shipstrike.Comments@noaa.gov>

Dear Sir/Madam,

I am writing in connection with the NMFS's responsibility to endure that the endangered Right Whale isn't further imperilled by not being given adequate protection on North America's Eastern seaboard.

I support Alternative 5, the most protective of the proposed measures and I urge you to develop a Right Whale Conservation Agreement with Canada.

The time to act is now and further delays implementing the plan will contribute to the extinction of this species.

Yours Sincerely,

Mark Doughty.

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<http://www.insolvency.gov.uk>

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Subject: Protect the Right Whale

From: Pauline Gaberel <paulinegaberel@aol.com>

Date: Thu, 05 Oct 2006 08:15:16 +0100

To: Shipstrike.Comments@noaa.gov

Dear Sir or Madam,

I am writing to say I support Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy, and urge you to develop a Right Whale Conservation Agreement with Canada.

The time to act is now and further delays in implementing the plan will contribute to the extinction of this species.

Yours sincerely,

Pauline Gaberel,
Edinburgh, UK

Subject: In favor

From: Shannon N Stohr <snstohr@uga.edu>

Date: Thu, 05 Oct 2006 21:20:19 -0400 (EDT)

To: Shipstrike.Comments@noaa.gov

Mr. David Cottingham
Chief, Marine Mammal and Sea Turtle Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Cottingham,

I am writing to commend and support the regulation proposed by the National Marine Fishery Service to reduce speeds of vessels 65 ft. or greater in length to 10 knots while passing through right whale habitat along the New England, Mid-Atlantic, and Southeastern coasts. I am strongly in favor of alternative 5 instead of the alternative 6 because it would provide a higher level of protection by expanding the time periods and areas in which the speed restrictions would apply. If alternative 6 is implemented I hope the use of telemetry devices to track individual whales will be adopted. My fear is that if these measures are not implemented, the North Atlantic right whale will disappear forever all for the sake of profit. Please pass this legislation and renew the American peoples belief that there are limits to the influence that big business has on decisions that affect us all.

Sincerely,
Shannon N. Stohr, PhD
Department of Plant Pathology
University of Georgia-Griffin
1109 Experiment St.
Griffin, GA 30228
770-228-7302

Subject: Alternative 5

From: Tamara Ann Taugher <taughert@msu.edu>

Date: Mon, 02 Oct 2006 15:50:13 -0400

To: Shipstrike.Comments@noaa.gov

To whom it may concern:

I am e mailing to show my support for Alternative 5. Please develop a Right Whale Conservation agreement with Canada. The time to act is NOW, further delay will cause these whales to go extinct.

Thank you for your time,

Tamara Taugher

Subject: Right Whale
From: tarina.hill@shell.com
Date: Wed, 04 Oct 2006 15:36:36 +0100
To: Shipstrike.Comments@noaa.gov

I am sending this e-mail as I am in support of Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy.

I urge you to develop with Canada, a Right Whale Conservation Agreement. Action is required now, delays in making and implementing a plan will cost valuable lives and contribute to the Right Whales extinction.

Please act NOW.

Tarina Hill
ATLAS User Support
Shell Aviation Limited
Shell Centre, London SE1 7NA, United Kingdom

Tel: +44(0)20 7934 8275 **Fax:** +44 (0)20 7934 7862

Email:

Internet: <http://www.shell.com/aviation>

Subject: right whales - protection request

From: veronica carnell <veronicacarnell2@hotmail.com>

Date: Thu, 05 Oct 2006 20:25:15 +0000

To: Shipstrike.Comments@noaa.gov

I wish to tell you that I support Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy. Please try to develop a Right Whale Conservation Agreement with Canada.

I feel that the time to act is now and further delays in implementing the plan will contribute to the extinction of this species.

Yours sincerely,

Veronica Carnell

To: Chief, Marine Mammal and Sea Turtle Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway Silver Spring, MD 20910, USA

Date: 02-10-2006

Re: right whales

Dear Sir or Madam,

Fewer than 350 North Atlantic Right Whales roam the waters of the Eastern seaboard of North America. The population is dangerously close to extinction and the US government states that "Today, the right whale population is sufficiently fragile that the premature death of a single mature female could make recovery of this species untenable". They also acknowledge that the biggest threat to the survival of this species is ship strikes. However the National Marine Fisheries Service have yet to provide adequate protection for this critically endangered species and, while waiting, at least 17 right whales have been documented as dying or being killed since February of 2004. More than ½ of those deaths were attributed to vessel strikes and 10 of those killed are known to have been females, including 3 that were pregnant when they were killed.

In November of 2004, the NMFS acknowledged that action needed to be taken when a comment deadline was issued for a proposed rule to reduce ship strikes to right whales. However, since that time, at least 7 right whales died as a result of ship strike injuries and 2 additional animals were struck. This does not consider the animals that died and were not necropsied (scientifically studied) to determine a cause of death. Nor does it include the animals that have been struck and lost at sea.

NMFS currently states that "A continued lack of recovery, and possible extinction, will occur if deaths from ship strikes are not reduced". The NMFS has issued a proposal to control ship speed in the areas where right whales are known to occur throughout their feeding, breeding and migratory ranges. "Unfortunately, many people think that the whales are already saved which is simply not true" said Sue Fisher, US Policy Director for WDCS (North America). "Not only do they still need our help, but here is a chance to save, not just a whale, but an entire species found no where else in the world."

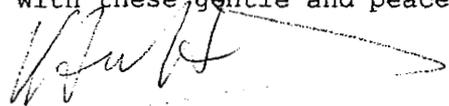
I support Alternative 5, the most protective of the proposed measures, of the North Atlantic Right Whale Ship Strike Reduction Strategy.

(<http://www.nmfs.noaa.gov/pr/shipstrike/>)

Please also develop a Right Whale Conservation Agreement with Canada. The time to act is now and further delays in implementing the plan will contribute to the extinction of this species.

The right whales have been heavily hunted in the past, because they were so peaceful and didn't fight back. They were easy to kill. They did not stand up for themselves. Please fight for their continued existence on earth. This world will be so much more beautiful when we can share it with these gentle and peaceful beings, the right whales.

Sincerely,



Kalinke ten Hulzen, Havenweg 3, 1771 RW Wieringerwerf, the Netherlands

KERSTIN VOIGT MPH

Kerstin Voigt • 21 Lushington Hill • Wootton Bridge • Isle of Wight • PO33 4NT • UK

To Chief, Marine Mammal and Sea Turtle Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway Silver Spring
MD, 20910, USA

Your reference:

Our reference:

Telephone:

Date:

+44 01983 – 884428

27/09/2006

Re: Save the Right Whales

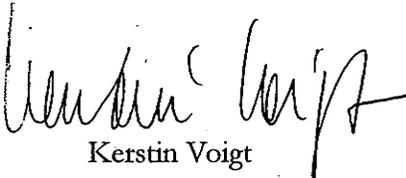
Dear Madam or Sir,

I'm writing to you, because I'm very much concerned not just about the facts regarding ship strikes with already extremely endangered Right Whales, but to learn also how patient you are in your decision making, you as the governing body charged with protecting these whales. One doesn't need to be a certified marine biologist to understand, that the time to act in order to save this species is NOW. Therefore I urge you:

1. Implement Alternative 5 of the North Atlantic Right Whale Ship Strike Reduction Strategy, because this is the most protective one of the proposed measures.
2. Develop a Right Whale Conservation Agreement with Canada.
3. Act NOW, otherwise another species of marine mammals is lost for ever!

I wish you all the strength to get impatient right now and to save these creatures!

Yours faithfully,


Kerstin Voigt

PHONE:
FAX:

+44 01983 – 884428
+44 01983 – 884438

To: Chief, Marine Mammal
Conservation Division

Re: News Article June 23, 2006
"Speed Limit Proposed to
Protect Whales"

August 7, 2006

Dear Sir:

It is my opinion that lowering the speed of all Seacraft is a Must, but this is just half the solution. If you are serious about protecting Sea Mammals, you should make it mandatory that all ships and pleasure boats use propeller guards, also.

Sincerely,


Ellen Alexander

Johanna E. Arnold
233 Parnell Road
Hubert, NC 28539

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East-West Highway
Silver Spring, MD 20910

24 July 2006

Subject: Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales

Dear Madam/Sir,

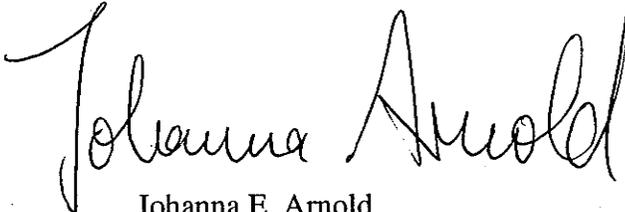
I would like to express my complete and whole-hearted support for the implementation of speed restrictions to reduce the threat of ship collisions with the North Atlantic Right Whales.

Speed restrictions are a small price to pay in order to ensure the survival of this species. Our children and the children of the boaters opposing this measure will thank us all for standing up for those beautiful creatures who cannot speak for themselves in our language.

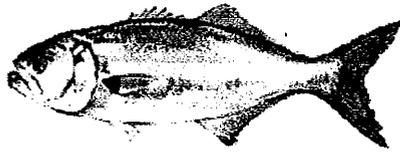
The boaters opposing the restrictions should - and do - understand the need for these measures. I am certain that they have either heard of or caused themselves a collision or near-collision with whales at high speeds. Adding two hours to a boat trip is such a minor factor considering the benefits for an endangered species. I believe that tourists, boaters and fishermen will gladly make those two hours available for such a noble cause. Enjoy the boat ride - that's why they came to the coast anyhow.

I believe that I am speaking for many North Carolinians who are - for many different reasons - unable to voice their opinion in this matter and in this context.

Thank you. Sincerely,

A handwritten signature in black ink that reads "Johanna Arnold". The signature is written in a cursive, flowing style.

Johanna E. Arnold



BAYSHORE REGIONAL WATERSHED COUNCIL

VOLUNTEERS DEDICATED TO THE RESTORATION AND CONSERVATION OF RARITAN & SANDY HOOK BAYS

*Township of Aberdeen, Borough of Atlantic Highlands, Township of Hazlet, Borough of Highlands, Township of Holmdel,
Borough of Keansburg, Borough of Keyport, Township of Marlboro, Borough of Matawan, Township of Middletown,
Township of Old Bridge, Borough of Sayreville, City of South Amboy, Borough of Union Beach*

September 20, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East-West Highway
Silver Spring, MD 20910

Dear Marine Mammal Conservation Division,

I am writing to declare the Bayshore Regional Watershed Council's (BRWC) support for NMFS proposed regulations to implement speed restrictions on vessels 65 feet or greater in overall length in certain locations and at certain times of the year along the east coast of the U.S. Atlantic seaboard to reduce the likelihood of deaths and serious injuries to the federally endangered North Atlantic Right Whale population that results from collisions with ships.

The BRWC believe strongly that it should impose the speed limit as soon as possible to protect the remaining whales in Atlantic coastal waters. Research has shown that vessels are much less likely to severely injure or kill whales when traveling at slower speeds around 10 knots or 11.5 miles per hour.

Preventing one or two deaths a year would allow the population to recover. Currently, there are an estimated 330 right whales in the wild and the greatest threat to their survival now is ship strikes.

The lackluster rate of recovery of the right whales demand extra measures be taken to protect those remaining. The situation has not improved and it's still on the brink of extinction. It is clear we cannot wait to impose these measures any longer.

According to the National Oceanic and Atmospheric Administration (NOAA), about 292 ship strikes on large whales were confirmed from 1975 to 2002. Thirty-eight of those strikes were on right whales. From 1991 to 2002 alone, 14 strikes have resulted in the deaths of right whales. A number of the deaths over time had been pregnant females.

Sincerely,

Joseph S. Reynolds

Joseph Reynolds

Co-Chair

Bayshore Regional Watershed Council

PO Box 541

Navesink, NJ 07752

(732) 872-2834

sosap2002@comcast.net

August 8, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

I am writing to urgently ask that large ships be required to slow down to ten knots (about 11 mph) while in Northern Right Whale Habitat, as you propose.

Setting strict speed limits on ships that transit right whale habitat is critical to preventing the further decline and extinction of these rare whales because collisions with ships are the number one cause of death among North Atlantic right whales.

Please do not compromise this scientifically-based protection measure due to political pressure from the shipping industry.

Ports and world-wide shipping continue to grow tremendously, with cargo from overseas expected to double or triple in coming years.

The Northern Right Whale should not be allowed to slide into extinction just so more cars, computers, and other products make it to port a few minutes earlier.

This summer, another rare right whale was run down and killed by a ship along the Eastern seaboard; in late July, a young whale was found floating in the Bay of Fundy north of the U.S.-Canadian border.

The whale was one of the 350 remaining North Atlantic right whales left in the world. The whales summer in New England and Canadian waters and return to Georgia and Florida to breed in winter.

Collisions can be prevented by slowing down cargo ships that crisscross whale feeding and breeding grounds along the East Coast. Researchers have discovered that right whales can avoid a collision if a ship is not going faster than ten knots (about 11 mph).

Finally, after years of delay, the National Marine Fisheries Service is proposing a new requirement that all ships over 65-foot long slow down to ten knots in right whale habitat.

I sincerely commend you for proposing a straight-forward and effective measure to protect Northern Right Whales from collisions with large ships. Collisions with ships are the number one cause of death among North Atlantic right whales.

I oppose increasing the limit to 12 or 14 knots as researchers have documented that whales cannot avoid collisions with ships traveling faster than ten knots.

Please include my comments in the public record as being in support of the proposed rule for ship speed limits of ten knots in right whale habitat.

Please help end the right whales slide toward extinction.

Thank you for your help on behalf of the whales and ensuring that the shipping industry does not squelch it with demands for faster movement of ships in and out of ports.

Respectfully, 

J. Capozzelli 315 West 90th Street New York, NY 10024

July 17 , 2006

Elizabeth Dyer
2161 Woodlawn Avenue
Virginia Beach, Va 23455

Chief
Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East-West Highway
Silver Spring, Md. 20910

Dear Chief of Marine Mammal Division:

I am writing to encourage your agency to place a speed limit on larger vessels to prevent collisions with endangered species of whales. This is a simple solution that will certainly ease the difficult life that a whale must live in the 21st Century!

It is more than reasonable that your agency is requesting this lowered speed limit from Nov. 1 to April 30, to include ports around the Chesapeake Bay and Hampton Roads.

I understand that shipping lines have complained about their tight schedules but this is a small sacrifice that the maritime industry is being asked to do to assist in securing the safety of one of the most magnificent animals on our earth. I support your efforts 100%.

Sincerely,


Elizabeth Dyer

RARChief —

I am writing to strongly urge you to require large ships to slow down to 10 knots (about 11 mph) while in Northern Right Whale Habitat as you propose. Setting strict speed limits on ships that transit right whale habitat is critical to preventing the further decline and extinction of these rare whales.

Please do not compromise this scientifically-based protection measure due to political pressure from the shipping industry. Ports and world-wide shipping continue to grow tremendously, with cargo from overseas expected to double or triple in coming years. The Northern Right Whale should not be allowed to slide into extinction just so more cars, computers, and other products make it to port a few minutes earlier.

We commend you for proposing a straightforward and effective measure to protect Northern Right Whales from collisions with large ships. Please include my comments in the public record as being in support of the proposed rule for ship speed limits of 10 knots in right whale habitat. I oppose increasing the limit to 12 or 14 knots as researchers have documented that whales cannot avoid collisions with ships traveling faster than 10 knots.

Please help protect marine life. Thank you. Sincerely, ^{Betsy} Klupp

Mr + Mrs. Mayo

4986 Field St
San Diego
Ca 92110

Dear Dr Cottingham -

~~The~~ "Right Whales
will not be with us much longer.
Please do all you can, they need
to be safe guarded A.S.A.P. and
you can help. We would be most
grateful and would appreciate
a kind reply.

Sincerely
S. H. [Signature]

Date/Time: 8/11/2006 1:52:39 PM

To: Right Whale Ship Strike Strategy

From: William McMullin

Fax #: 1301-427-2522

Address: P.O. Box 541
Clio, MI 48420

Pages: 1

Subject:

Chief, Marine Mammal Conservation Division
Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

To Whom It May Concern:

Protection of whales is an important issue. Please require all ships to slow down to 11 mph while in Northern Right Whale Habitat. The suffering whales go through when hit by a boat is saddening. Furthermore, endangered and threatened whale species do not need to die needlessly by boats.

Do not let the shipping industry tell you what to do on this. Instead, do what is right. The delivery of consumer goods to our ports is not as important as saving the lives of whales.

I am in full support of the proposed rule for ship speed limits of 10 knots in right whale habitat. Do not increase the limit to 12 or 14 knots.

Sincerely,

William McMullin

Chief Marine Mammal Conservation Division
Attn; Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

Re; Right Whale Ship Strike Strategy

October 4th, 2006

To Whom It May Concern:

North Atlantic Right Whales are dieing and they're on their way towards extinction. The number one cause of death is collisions with ships. The ships can't see the whales because they are over 65 feet tall.

We need to help end the right whales journey towards extinction before it is too late. The ships that are over 65 feet need to slow down, and travel at a speed less than 10 knots in the right whales' habitat, where they eat and breed. Urge the Chief of Marine Mammal Conservation Division at the National Marine Fisheries Service to support the proposal to slow speed limits for ships.

Respectfully,

Yara Elborolosy

Yara Elborolosy
25 12 Steinway Street
Astoria, NY, 11103

National Marine Fisheries Service
650 Capitol Mall, Suite 8-300
Sacramento, CA 95814-4708

The protection of the North Atlantic right whales

To Whom It May Concern:

I am aware that the North Atlantic right whales' collision with cargo ships are the number one causes of death among the North Atlantic right whales. Whales are one of our nature's greatest wonders. They're the world's largest mammals. Unfortunately, they are on the border line of becoming extinct. If we don't protect them, they will vanish from the face of the earth. We need to start protecting them from harmful human activities.

If no action is put into protecting the North Atlantic right whales, the collisions between cargo ships and the right whales will become just another everyday scene. The whales' population will decrease dramatically. What will the future be like without the right whales? The right whales will just become a myth, like the dodos. Without the right whales, one of the longest whales in the world, the nature will be out of balance. So, I am asking for a speed limit for the ships. With a speed limit, the ships will be more careful around the whales. This isn't just for the whales; this is also for the whole aquatic world and our nature.

Respectfully,


Margaret Wang

11-29 30Drive
Astoria N.Y.
11102

Chief Marine Mammal
Conservation Division
National Marine Fisheries Service
Office of Protected Resources
1315 East West Highway
Silver Spring MD 20910

RE: Right Whale Ship strike strategy

To Whom It May Concern,

It has recently come to my attention that the North Atlantic Right whales are growing closer to extinction. The cause is the cargo ships' speed. They are traveling too fast and colliding with whales.

What are you going to do about it?
I'll help you out, you can slow the speed limits for ships in whale's habitats.

Thanks for your time,
Arys Jimenez
AJ.

465 W 148 St apt. 3C
New York, NY 10031

Chief, Marine Mammal Conservation Division
National Marine Fisheries Services
Office of Protected Resources
1315 East West Highway
Silver Spring MD 20910

Re: Whales being killed

10/4/06

To Whom It May Concern:

I see that the whale population would be decreasing if the Whales continue to be killed. If it continues the Right Whales would soon disappear.

I hope that you can stop the death of whales. I think that if the death of whales continue they will soon be endangered.

We want you to be able to lower the speed of boats that move through the whale habitats. The boats are moving too fast and they are killing them.

Sincerely



Dave Chen
6619 17th ave
Brooklyn NY 11204

Chief Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

Re: Protecting the North Atlantic Right Whales

October 4, 2006

Dear Chief of Marine Mammal Conservation Division:

I am a ninth grade student, recently concerned about the safety of the North Atlantic Right Whales after reading a whale-related article in my Biology class. The article stated/indicated that these whales are being crushed by ships either traveling too fast or not being cautious enough. This shouldn't happen, and I want something done with your help. I don't wish these whales to be on the edge/verge of extinction so lets get down to business. There may be many solutions to this ongoing problem.

For example, if ships mainly cargo ships, traveled slower and more cautiously, less whales would be killed in the traveling process. Also, if cargo ships carried less loads or weight of cargo, that would be a beneficial factor. These changes could alter the fate of the North Atlantic Right Whales and provide a brighter future for these sea creatures. If you may tend to find or discover any more solutions to this problem, feel free to address it. Thank you for your time and cooperation.

Yours truly,

Kathleen Tian

Kathleen Tian
215 West 105th St. Apt. #1E
New York, NY 10025

National Marine Fishes Service
Office of Protected Resources
1315 east west high way
Silver spring MD 20910

Re: Protecting the North Atlantic right whale.

Dear Chief Marine Mammal Conservation Division,

I understand that cargo ships are crossing over whale feeding grounds and breeding places along the east coast. These whales are being interfered by the passing cargo ship. I want the National Marine Fisheries service to slow speed limits for ships over 65 feet crossing over Right Whale feeding and breeding grounds. I want the ships to slow down because they are interfering with the Right Whales' territory.

Your friend,
Allen Piyanan



39-30 52nd Street
Woodside N.Y 11377 apt 5C

Chief Marine Mammal Conservation Division

Right Whale Ship Strike Strategy

National Marine Fishers Service

Office of Protected Resources

1315 East -West Highway

Silver Spring MO 20910

October 4, 2006

To Whom It May Concern:

As you may know, the North Atlantic Right Whales are coming towards an extinction.

This is because of collisions between the whales and cargo ships that cross whale feeding and breeding grounds.

By Slowing down speed limits for ships over 65 feet to 10 knots while crossing Right Whale Habitat, we can begin to decrease their slide toward extinction. It would be ethically correct to do this because these are killings done by mistake that has already killed off thousands of these Right Whales. If we did something about this situation we can stop an unnecessary extinction from occurring.

Respectfully,



Zaineb Abdul-Nabi

3822 Cannon Place

Bronx, NY 10463

Chief Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

RE: Protecting the North Atlantic Right Whales

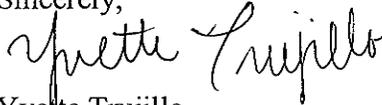
October 11, 2006

Dear Chief of Marine Mammal Conservation:

I was informed that ships colliding with the right whales is the number one reason for their deaths. If this keeps on happening, the right whales will be headed to extinction.

I would like for you to urge ships over 65 feet to reduce their speed to 10 knots. So that this way, they will be careful in the right whales' habitat.

Sincerely,

A handwritten signature in cursive script that reads "Yvette Trujillo".

Yvette Trujillo
86-04 Britton Ave. Apt B1
Elmhurst, NY, 11373

Chief Marine Mammal Conservation Division
Office of Protected Services
NOAA Fisheries
1315 East West Highway
Silver Springs, MD 20910

Re: Save the North Atlantic Right Whales

Dear Chief Marine Mammal Conservation Division:

The North Atlantic right whales are soon to be an endangered species. They are one of the world's most rare species of whale, as there are less than 350 of them left. This is all due to cargo ship collisions and entanglement in fishing gear. The whales can be saved, and not for a large price.

Researchers have discovered that right whales can avoid a collision if a ship is not going faster than 10 knots. It would be very helpful to the whales if you helped to enforce a requirement that all ships over 65-feet long slow down to 10 knots in right whale habitat. Wouldn't it be good ethics to save an entire species of whale if at all possible, especially if it wouldn't impede on prior plans that much. Please help to save the North Atlantic right whales.

Respectfully,



Kelsey Paul-Stubbs
65 West 119th street
New York, NY 10026

Chief, Marine Mammal Conservation Division
National Marine Fisheries Service
Office of Protected Resources
1315 East- West Highway
Silver Spring MD 20910

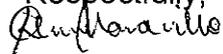
Re: Right Whale Ship Strike Strategy

October 10, 2006

Dear Chief:

It has reached my attention that collisions with ships causes the North Atlantic right whales death. The ships that are over 65 feet goes more than 10 knots. This would make it harder for whales to move out of the way of the coming ship.

I would like you to make the speed of the ships lower. The ships should slower their speed limits when they cross the breeding ground and whale feeding in the east coast. The speed limit of ships that are over 65 feet should only be 10 knots.

Respectfully,


Rodilyn Maravillo
39-31 56th street
Woodside, NY 11377

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

RE: Protecting the North Atlantic Right Whales

October 10, 2006

To Whom It May Concern:

I understand that the number one killer of North Atlantic whales is ships' collisions with them. These accidents are highly preventable, and illegal, being that they are an endangered species that would otherwise be able to populate beyond endangered and threatened levels.

All that needs to be done is to slow down cargo ships that collide with whale feeding and breeding grounds across the East Coast. Ships over 65-feet should slow down by 10 knots. It is hard enough for whales to survive as it is, avoidable mishaps would be an idiotic and illegal reason of the right whales' extinction. Thank you for your time.

Respectfully,


Christina Tecsny
715 W 170th St Apt #33
New York, NY 10032
komolykutya@gmail.com

Chief, Marine Mammal Conservation Division
National Marine Fisheries Service
Office of Protected Resources
1315 East- West highway
Silver Spring, MD 20910

Re: Protecting the North Atlantic Right Whales

October 9th 2006

Dear Honorable Chief of Marine Mammals,

As I understand the population of The North Atlantic Right Whales is rapidly decreasing. They are being killed off by large ships sailing through those waters.

I would be greatly appreciative if you could try to make rules, to lower the speeds of ships or anything that can be done to lower the deaths of these whales because the decreasing population could lead to an extinction which could disrupt the food chain.

Sincerely,

A handwritten signature in cursive script that reads "Emma Frederick".

Emma Frederick
375 South End Avenue 21P
NY, NY 10280

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

Re: Right Whales - Support speed limits

October 11, 2006

Dear Chief,

I understand that the right whales are getting closer to extinction and it is because of how we disturb their environment.

We have to urge ships that are longer than 65 feet to slow speed limits to at most 10 knots. Some whales, when they come up for air, are hit by these ships or their backs are grazed. These hurt the whales and they sometimes die.

Sincerely,

Sabrina Ahmad

Sabrina Ahmad
1480 Parkchester Road Apt. 5E
Bronx NY 10462

Chief, Marine Mammal Conservation Division
Attn. Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East - West Highway
Silver Spring MD 20910

Re: Right Whale Ship Collision Bill (support speed limits)

10/12/06

Dear Chief of the Mammal Conservation Division,

Collisions with ships are the number one killer of right whales.

To help stop this, push for an act restricting boats of over 65 feet in length to ten knots.

Respectfully



Stephen Barnard

528 west 111th street #36

New York, NY 10025

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office Of Protected Resources
1315 East Highway
Silver Spring MD 20910

Re: Reducing Whale-Ship Collisions

October 6, 2006

To whom it may concern,

I have read that the leading cause of the decreasing population of North Atlantic Whales are impacts with ships.

Please try to limit the speed of cargo ships that pass through waters along the East Coast that house whales, so as to prevent collisions. It is right to do this, because preventing collisions may ultimately prevent the extinction of Right Whales.

Respectfully,



Rahmina Begum
1071 Franklin Avenue
3B Bronx NY 10456

Chief, Marine Mammal Conservation Division
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

Regarding: Right whale ship strike strategy

October 11, 2006

Dear Chief,

According to my knowledge, the North Atlantic Right Whales are close to extinction. The number one cause of this is the collisions of ships with the whales. The ships travel too fast when they are near the whales' breeding and feeding ground along the East Coast, causing the collisions between the two. This information can be verified by checking the web page "Friends Of the Earth" at the link www.foe.org.

The speed of ships, which are over 65 feet long, should be slowed down to 10 knots per hour. If this is done, we will be able to rescue some of the remaining North Atlantic Whales.

Sincerely,

Anabelle Capois

Anabelle Capois
2757 Sedgwick avenue, Apt. 5F
Bronx, New York 10468

Chief of Marine Mammal Conservation Division
National Marine Fisheries Service
Office of Protected Resources
1315 East West highway
Silver Spring MD 20910

RE: Support the North Atlantic Right Whales

October 16, 2006,

Dear Mr. Chief,

As of now, the event of collisions between ships crashing into Atlantic Right Whales is clearly a problem. This is the number one cause of deaths for this specie of whales.

My suggestion to you, the Chief of the Marine Mammal Fisheries Service, is to advise the captain and crew aboard ships crossing North Atlantic Right Whale areas to slow down the process of sailing. I highly suggest you slow the speed limits of ships over 65 feet to 10 knots.

Sincerely,



41-79 Denman Street,
Elmhurst, NY 11373

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD-20910

RE: Right Whales

October 5, 2006

Dear Chief:

From what I know Right Whales are mainly dying from ship collision accidents.

I ask of you to slow down ships over 65 feet in length to 10 knots when entering Right Whale habitat. I would be happy knowing that the whales are safe from harm.

Sincerely,

A handwritten signature in cursive script that reads "Allison Eng". The signature is written in black ink and is positioned below the word "Sincerely,".

Allison Eng
219 W. 100th St. #3W
New York, N.Y. 10025

Chief, Marine Conservation Division

1315 East-West Highway

Silver Spring MD 20910

Re: Protecting the North Atlantic Right Whales

10/10/06

Dear Chief,

The whales of the North Atlantic are suffering due to speeding ships that cross their territory.

I would like you to sponsor a bill that would limit the speed of traveling ships to 60 mph. This would delay the transportation, but the whales would be safe and a life is more important.

Regards,

A handwritten signature in cursive script that reads "Richard Fenton". The signature is written in black ink and is positioned below the typed name.

Richard Fenton

4344 DeReimer Avenue

Bronx, NY 10466

Chief, Marine Mammal Conservation Division

Attn: Right Whale Ship Strike Strategy

National Marine Fisheries Service

Office of Protected Resources

1315 East- West Highway

Silver Spring MD 20910

Re: Protecting the North Atlantic Right Whales

October 5, 2006

Dear National Marine Fisheries Service,

The North Atlantic Right Whales are threatened because of fast moving cargo ships. These ships crisscross the whale feeding and breeding grounds and sometimes harm these whales.

To prevent this you can easily slow down the speed for ships over 65 feet to 10 knots in the Right Whale habitats.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Hernandez".

Catherine Hernandez
500 West 177 St Apt. 1J
New York, NY 10033

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

Re: Protecting the north Atlantic Right Whales

Dear Sir/madam:

I've known the collisions with the big ships had become the number one cause of the death of the Right Whales.

I would like you to do whatever you can do to help the Right Whales. I think to slow the speed limits for ships over 65-feet to 10 knots in Right Whale habitat is a good idea. Because the population of the Right Whales had become less and less each year, so please protect them. Ocean is the Right Whales' home, and we want to let them feel safe to stay at home.

Respectfully,

A handwritten signature in cursive script, appearing to read "Li Lin".

Li Lin
233-235 Henry ST 1a
New York, NY 10002

Chief Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources 1315 East-West Highway
Silver Spring, MD 20910

Re: North Atlantic Right Whale Ship Strike

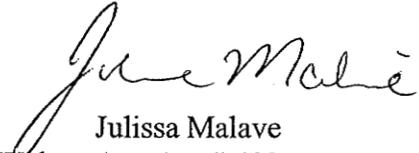
October 10, 2006

Dear Marine Mammal Conservation Division Chief,

It has come to my attention that the species of North Atlantic Whales are close to extinction. This is due to collisions with ships, mainly at the whales' feeding and breeding grounds.

I think that this matter should be improved because of the fact that the North Atlantic Right Whales are in danger of extinction. To improve the issue, I agree that ships over sixty five feet in length should slow down to about ten knots while in the Right Whale territory (ie: feeding and breeding grounds) so that the whales will not be injured even if they are hit with the boat.

Sincerely,

A handwritten signature in cursive script that reads "Julissa Malave". The signature is written in black ink and is positioned above the printed name and address.

Julissa Malave
2270 Walton Ave Apt # 402
Bronx, New York 10453

Chief Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources 1315 East- West Highway
Silver Spring, MD 20910

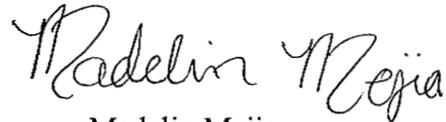
October 10, 2006
Regarding: Protecting the North Atlantic Right Whales

Dear Marine Mammal Conservation Division Chief,

It has come to my attention that the North Atlantic Right Whales have been dwindle in numbers. In the account of large ships navigating too fast in the waters, which then collides with the whales out at sea.

I think there ought to be speed limits for ships larger than 65 feet. Mainly because boats this size are the ones who usually hit the whales. Also, their engines don't make as much noise so when they passing by, the whales can't hear them coming.

Yours truly,

A handwritten signature in cursive script that reads "Madelin Mejia". The signature is written in dark ink and is positioned above the typed name and address.

Madelin Mejia
260W 131St Apt 13B
New York, NY 10027

Chief Marine Mammal Conservation Division
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

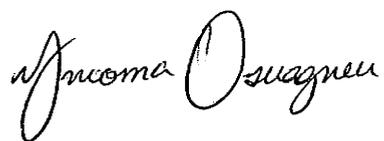
Re: Right Whale Ship Strike

Date: October 5th 2006

Dear Marine Mammal Conservation Division,

Whales die in the ocean due to the collision with cargo ships in the East Coast. However, it can be prevented by slowing down cargo ships that crisscross whale feeding and breeding grounds along the east coast by about 65 feet to 10 knots in the Right whale's habitat.

Thank you,

A handwritten signature in black ink, reading "Chiemen Osuagwu". The signature is written in a cursive style with a large, looped initial 'C'.

Chiemen Osuagwu

99-35 59 ave apt 5F
Corona, NY 11368

Chief, Marine Mammal Conservation Division
Attn: Right whale ship strike strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

Re: Lowering speed limit of ships in Right Whale habitat

10/05/06

Dear Chief of Marine Mammal Conservation Division,

I understand that the number one cause of death among North Atlantic right whales are collisions with ships. I also understand that by slowing down ships passing through whale feeding and breeding grounds it would help prevent collisions.

I would like for you to help promote speed limits for ships over 65-foot long crossing through whale habitat to 10 knots. Also this would slow down the right whales road to extinction.

Respectfully,
Willis Park


Willis Park
37-47 61st #3F
Woodside, NY 11377

Chief Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

Re: Ship Collision with North Atlantic Right Whales

October 5, 2006

Dear Marine Mammal Conservation Division:

North Atlantic right whales are close to extinction, it is proven that the major cause of deaths for these whales is collisions with ships.

If ship speed limits are lowered in areas known as feeding and breeding areas for North Atlantic right whales, may cause less collisions. Why should an animal suffer when something so little as lowering speed limits could be done?

From,

Jeremy Quail

Jeremy Quail

26-06 19th street apt. 11
Astoria, New York 1102

Chief Marine Mammal Conservation Division
Attn: Right Whale Ship Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

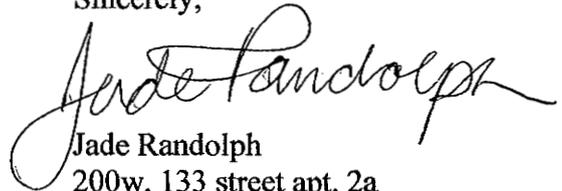
RE: Right Whale Ship Strategy -- Support speed ~~to~~ limits
October 12, 2006

Dear Marine Mammal Conservation Division,

I understand that collisions with ships are the number one cause of death of the North Atlantic Right Whales.

I am writing this letter to ask you to support the proposal for slower speed limits for ships over 65 feet to 10 knots when sailing in the Right Whale habitat.

Sincerely,

A handwritten signature in cursive script that reads "Jade Randolph". The signature is written in black ink and is positioned above the printed name and address.

Jade Randolph
200w. 133 street apt. 2a
New York, NY. 10030

Chief, Marine Mammal Conservation
Division Attn: Right Whale Ship Strike
Strategy National Marine Fisheries Service
Office of Protected Resources 1315 East-West
Highway Silver Spring MD, 20910

Re: Protecting the North Atlantic
Right Whales

Dear National Marine Fisheries Service,

Right whales are being slaughtered
all too many times because man's reckless
actions. The right whales are dwelling
in their own habitat when boats or
ships interfere with breeding or feeding
of the whales. They often get caught in
between nets, and are killed.

I strongly suggest that you encourage
ship captains who own a ship 65 feet
and higher, to lower their speeds to
lower than 10 knots.

Respectfully,

clon Rivera

671 Westchester Ave.
Bronx N.Y. 10455

Chief Marine Mammal Conservation Division
ATTN: Right Whale ship strike tragedy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

RE: Protecting the North Atlantic Right Whale

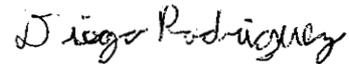
October 12, 2006

Dear Sir,

On the East Coast, the number one cause of death among North Atlantic Right Whales is collision with ships. Death rates for these whales can greatly decrease if this problem is resolved.

If 65 feet long ships can slow down while sailing through places where whales swim, it would give the whales time to react and evade the ship. Then not as many will be killed and their population can grow.

Respectfully,



Diego Rodriguez
2050 Seward Ave. Apt. 10J
Bronx, NY 10473

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

October 11, 2006

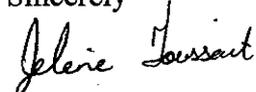
RE: Ships causing death of North Atlantic Right Whales

Dear Who ever it may Concern,

The speed of the boats are too fast and are coming in contact with Right Whales and killing many of the whales. Or are too big and cannot see the whales in time to stop in enough time to not hit them.

The speed limit of boats should be lover. If they went at speed 65 or lower it would give them enough time to slow down when a whale comes in view. That would definitely decrease the amount of accidents with Whales and boats. Please see what you can do.

Sincerely



Jeleine Toussaint
1350 5th Ave, apt 7G
NY, NY, 10026

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship strike strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

Re: North Atlantic Right Whales

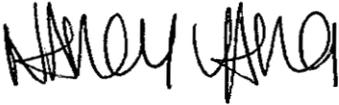
10/10/06

~~Dear Chief of Marine Mammal Conservation Division,~~
NATIONAL MARINE FISHERIES SERVICE.

North Atlantic Right Whales are in great danger of extinction. Most of the brutal killings are made from humans. The #1 cause of the deaths are due to ships that collide into them even accidentally.

With you taking action, we could at least slow down the cargo ships that interrupt the whales' personal lives. Therefore, more whales can peacefully breed or even eat with one another.

Respectfully,



Nancy Yang
42-15 81st Apt. 4-0
Queens, NY 11373

Chief, Marine Mammal Conservation Division
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

RE: Right Whale Ship Strike Strategy

10/11/06

Dear Chief of Marine Mammal Conservation Division:

From what I have gathered, collisions with cargo ships are the number one killer of the Right Whale.

Chief, I want you to support a proposal to make ships over 65 feet slow speeds to 10 knots while near the whales' breeding and feeding grounds.

Thank you for taking the time to read,

Rebecca Ahmad "Without Prejudice" UCC 1-207 +103

Rebecca Ahmad
1777 Grand Concourse
Bronx, NY 10453

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Natural Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring M.D. 20910

Re: Protecting the North Atlantic Right Whales

October 11, 2006

Dear Marine Mammal Conservation Division,

As I am informed, the number one cause of death among North Atlantic right whales is collision with ships.

The collisions of the ships can be prevented by slowing down cargos ships that crisscross whale feeding and breeding grounds along the East Coast.

Sincerely,



Jack Chen
32-27 60 street
Woodside, NY 11377

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

Re: Protecting the North Atlantic Right Whales

October 6, 2006

Dear Chief,

As I understand it, the right whale is endangered because the cargo ships hurt them.

I would like you to take action so that cargo ships pass more carefully through the habitat where the right whale lives.

Respectfully,

A handwritten signature in cursive script, appearing to read 'LM'.

Mo Lam

58-36 Penrod Street
Corona, NY 11368

National Marine Fisheries Service
Office of Protected Resources
1315 East- West Highway
Silver Spring, MD 20910

Re: Please reduce the ships speeds to protect North Atlantic Right Whales

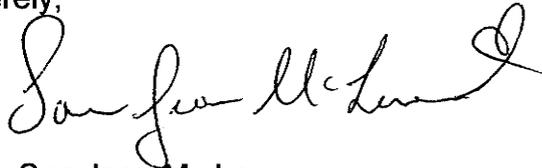
October 10, 2006

Dear National Marine Fisheries Service:

It is my understanding that Right Whales are on the verge of extinction, partly due to the fact that ships are colliding with them, making this to be the number one cause of death among the Right Whales.

It would not do any harm if the speed at which cargo ships travel across the whale feeding and breeding grounds be lowered to a minimum speed.

Sincerely,

A handwritten signature in cursive script that reads "San Jean Mc Laren". The signature is written in black ink and is positioned above the printed name.

San Jean Mc Laren

1033 East 232 st.
Bronx, N.Y. 10466

National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring MD 20910

Re: Right Whale Ship Strike Strategy

October 6, 2006

Dear Chief of Marine Mammal Conservation Division,

From the Friends of the Earth website at www.foe.org, I discovered that the main cause of deaths with the North Atlantic Right Whale species is ships colliding with them. Right whales are moving towards extinction, and we should stop this as soon as possible.

Because you are the chief of the Marine Mammal Conservation Division at the National Marine Fisheries Service, I am asking you to support the proposal of limiting speeds in right whale habitats. With your help, we can save the Right Whale species from extinction, and avoid harming their ecosystem. Thank you for your cooperation.

Sincerely



Sayed Niloy

43-44 Kissena Blvd Apt 7U
Flushing NY 11355

Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring Maryland 20910

Re: Protect the North Atlantic Right Whales

October 6, 2006

Dear Chief, Marine Mammal Conservation Division:

As I am sure that you are aware of,
fast cargo ships hit whales that are in their
breeding and feeding areas, killing them.

It would be truly great if you
would help support the law that slows the
speed of cargo ships when they are in whale
habitats.

Respectfully,

Santilyan Vukaj

Santilyan Vukaj

3429 Irwin Avenue 1701

Bronx, New York 10463

900 West 190 Street, Apt. 2F
New York, NY 10040
October 10, 2006

Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910
October 10, 2006

Dear Sir or Madam:

As you are aware, cargo ships have been disturbing Right Whales habitats. I am writing to support legislation aimed at protecting the environment of this species. I support the idea of making cargo ships travel at slower speed or avoid these areas in an effort to protect this species.

In the past, Right Whales were nearly hunted to extinction for their resources. Today, I know that many Right Whales have been injured or even killed by the passage of cargo ships through their habitat. We need to protect the remaining Right Whales from accidental destruction.

From a student,

Max Wang
Max Wang
900 West 190 Street, Apt. 2F

Chief Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

Re: North Atlantic Right Whales Protection

Dear Chief,

As I understand it, collisions with ships are the number one cause of death among North Atlantic right whales.

You can prevent these whales from becoming extinct by slowing down cargo ships that pass through the whales territories along the East Coast.

Janet O'Leary
Janet O'Leary

Respectfully,
Janet O'Leary
120-09 170th Street
St. Albans, NY 11434

National marine Fisheries Service
Office of protected Resources
1315 east-West Highway
Silver Spring MD 20910

RE: Right Whale ship collision

October 10, 2006

Collisions with ships are the main cause of death for the Atlantic Right whale. I do not believe the Right whale will go extinct because of this.

I don't even think by slowing the down the cargo ships by the east coast, the whales breeding ground will, help either. And how many whales can be killed out of a population of 400 each year 5 and think of all the money that will be lost there are other ways to make up for what you cant do such as help support financial needs for the researchers and conservationists.

Sincerely



Raza Hussain

160 west end avenue
Apt 1-D NY NY
10023

Subject: Right Whales

From: A T <audreyct66@hotmail.com>

Date: Tue, 11 Jul 2006 22:13:56 -0400

To: Shipstrike.Comments@noaa.gov

To Whom It May Concern,

I am writing to voice my support for the proposed rule to restrict ship speed in order to protect the North Atlantic Right Whale from ship strikes. Slowing these ships down will not only protect the right whale, but will also protect so many other species that are victims of ship strikes. Thank you for your time.

Sincerely,

Audrey Temelini

Express yourself instantly with MSN Messenger! Download today - it's FREE!
<http://messenger.msn.click-url.com/go/onm00200471ave/direct/01/>

Subject: Comments on Proposed Strategy to Reduce Ship Strikes to North Atlantic Right Whales
From: "Adam B. Smith" <adam@adamlilith.net>
Date: Thu, 29 Jun 2006 14:41:04 -0700
To: Shipstrike.Comments@noaa.gov

To NOAA:

I fully support limiting large ship speed in the North Atlantic when the north Atlantic right whale is present. This particular population has been so depleted by centuries of overharvest that we cannot even reliably estimate carrying capacity. Given expected increases in trans-Atlantic shipping over the next few decades, we can only expect whale-ship collisions to increase unless the proposed rules are adopted. With only ~300 individuals remaining, this whale stock should receive the beneficence deserved by its importance to early-modern Europe and colonial America.

Adam B. Smith, Ph.D. Student

Energy and Resources Group
University of California
Berkeley, California 94720-3050

Subject: Right whales

From: Adam Lee <adamwlee@hotmail.com>

Date: Thu, 05 Oct 2006 23:41:44 -0400

To: Shipstrike.Comments@noaa.gov

I absolutely and firmly support the 10 mile per hour boating speed limit when Right whales are off the Georgia coast in their calving area!!!!

Subject: Comment on Right Whale Protection
From: Aimee Barnes <aekbarnes@gmail.com>
Date: Wed, 28 Jun 2006 20:39:17 -0400
To: Shipstrike.Comments@noaa.gov

To whom it may concern,

I am writing in support of the proposed strategy to reduce ship strikes to North Atlantic Right Whales.

Thank you for your consideration.

Sincerely,
Aimee Barnes

(no subject)

Subject: (no subject)

From: Alisfay@aol.com

Date: Tue, 17 Oct 2006 11:11:52 -0400 (EDT)

To: Shipstrike.Comments@noaa.gov

hello! please protest or do what you can to help the dolphines and whales! iceland(the supermarket)are plannin to hunt them and use their blubber and meat please stop it and SHUT DOWN ICELAND! SAVE the dolphines AND whales please!!!!

From: Alison Wimmer <AWimmer@ybp.com>

Date: Sat, 24 Jun 2006 06:51:47 -0400

To: Shipstrike.Comments@noaa.gov

I think the NOAA deserves congratulations for doing the right thing regarding their proposed rule to limit ship speed during right whale migration along the Atlantic coast. The sacrifices humans make to protect the habitats and ecosystems of other species are essential for the long term protection of our own. Thank you!

Alison Wimmer

LTS Rule Writer
YBP Library Services
awimmer@ybp.com
(603)746-3102 X3327

Subject: North Atlantic Right Whales.

From: Allen Westerby <allenwesterby@hotmail.com>

Date: Tue, 19 Sep 2006 17:42:58 +0100

To: Shipstrike.Comments@noaa.gov

Dear Sir / Madam,

It is astounding that we allow these whales to be killed accidentally at such a high rate, when there are so few in the world.

This diminishes the genetic stock and makes them more susceptible to disease and genetic abnormalities.

I hope that the noaa takes the right decision to afford these mammals the maximum protection allowed under law.

I hope that the scientific work continues to benefit the whales and that they start to increase in numbers.

Looking at the Southern Right Whale, perhaps more could be done to create reserves for these animals and ensure that their migration routes are not crossed by shipping lanes.

Please keep me informed of the progress of this legislation to protect the whales.

A. Westerby
18 Jubilee Road
Poole
Dorset
United Kingdom
BH1 2 2NX

Subject: Speed Limits on Large Shipping Vessels

From: Allison McMurtrey <amcmurtrey@hotmail.com>

Date: Sat, 01 Jul 2006 02:29:00 +0000

To: Shipstrike.Comments@noaa.gov

I very strongly support speed limits on large shipping vessels. With so few whales left, it is our responsibility to salvage what we can and encourage the growth of a species that is important to the entire marine ecosystem.

Allison McMurtrey
Salt Lake City, UT

Subject: Right whales

From: alnmo@gorge.net

Date: Wed, 28 Jun 2006 20:15:58 -0700

To: Shipstrike.Comments@noaa.gov

To whom it may concern:

Please know that while I will likely never encounter a right whale in my life, I am certain that their existence is vital to a balanced, happy planet for our children and theirs.

Had a speed limit been in place over the last few decades, research shows, two-thirds of whale deaths by ship strike would have been prevented. There are only 300 of these creatures left. Surely if we can slow (not stop) delivery of containers we will survive and so might the right whales.

Please impose a speed limit of 10 knots in eastern shipping lanes to protect these great mute beasts.

Thank you,

Maureen Milton
Portland, OR 97239

Subject: Right Whale Regulation Change
From: Amanda Lang <innovator@comcast.net>
Date: Thu, 05 Oct 2006 17:59:32 -0400
To: Shipstrike.Comments@noaa.gov

I support the proposed regulation changes when right whales are off Georgia Coast. These changes need to include a slower speeds of 10 knots when ships pass through the calving area. The regulation changes do include re-routing ships when right whales are migrating up and back along the Atlantic Coast. The changed regulation would be a win-win for all concerned.

Amanda Lang, PhD
714 Stillwater Drive
Augusta, GA 30907
Phone: 706-955-1637

Subject: ship strikes of whales
From: Ambasswild@aol.com
Date: Sun, 25 Jun 2006 12:40:57 -0400 (EDT)
To: Shipstrike.Comments@noaa.gov

Please do everything you can to pass this rule. We just returned from a cruise to Bermuda, and I wondered about ship strikes of whales as we cruised so fast. I understand that ships need to reach their destinations, but at what cost? The bottom line can't always be money. I'll bet that if you polled cruise passengers, most of us would gladly reach our destinations a few hours later, if it meant saving an endangered species. Education is the key. Big business needs to listen, or there won't be any whales left for our grandchildren. Even corporate heads have children and grandchildren, and someday, great grandchildren. What kind of world do we want to leave them? This policy will also create good will, a necessary commodity for the shipping lines. I, for one, would surely book a cruise on a cruise line that "cared", as opposed to one that did not. There are a lot of people out there like me.

please impose a speed limit

Subject: please impose a speed limit

From: Amy Holt <amy@iiaw.com>

Date: Wed, 05 Jul 2006 14:36:03 -0500

To: Shipstrike.Comments@noaa.gov

I support a speed limit for ships in right whale zones. You can't put a price on saving a species.

Amy Holt
3352 Quincy Ave
Madison WI 53704

Subject: NMFS can save the endangered right whales
From: Ana Salinas <a.salinas@mail.utexas.edu>
Date: Thu, 03 Aug 2006 03:30:29 -0500 (CDT)
To: Shipstrike.Comments@noaa.gov

Aug 3, 2006

Dr. William T. Hogarth
1315 East-West Highway, Room 13357
Silver Spring, MD 20910

Dear Dr. Hogarth,

Time is of the essence for putting in place procedures to protect the North Atlantic right whales, as there are only 300 left!

The new National Marine Fisheries Service rules proposed to slow down ships is a great step towards saving the right whales. The details in implementing those rules are of utmost importance.

I urge the MNFS to establish designated shipping lanes that will ensure the least contact with whales, and to adopt the 10 knot speed limit that has been proposed. In addition, the shipping lanes and speed limits should be in place by November when mothers and calves are in their winter calving grounds.

Thank you.

Sincerely,

Ms. Ana Salinas
10309 Wildwood Hills Ln
Austin, TX 78737-9202

Subject: endorse speed limits for right whales
From: Anna Van Lenten <hopedare@earthlink.net>
Date: Wed, 28 Jun 2006 16:32:15 -0400
To: Shipstrike.Comments@noaa.gov

Please register this email as an impassioned endorsement of the speed limit proposal of 10 knots, designed to cut right whale deaths. Thank you,

Anna Van Lenten

Subject: Proposed Strategy to Reduce Ship Strikes to North Atlantic Right Whales

From: Ariele Foster <afoster@lawyerscommittee.org>

Date: Wed, 05 Jul 2006 10:34:38 -0400

To: Shipstrike.Comments@noaa.gov

To Whom It May Concern:

I support the proposed strategy to reduce ship strikes to North Atlantic Right Whales. Evidence demonstrates that two thirds of the right whale deaths of the last two decades could have been prevented had this rule been in effect in the 1980s. I support the rule, and especially its enforcement.

Best regards,
Ariele Foster
Washington, DC

Subject: Endangered whales/comments

From: Barbara LynnDavis <Barbara.LynnDavis@NEMoves.com>

Date: Sat, 24 Jun 2006 13:59:33 -0400

To: Shipstrike.Comments@noaa.gov

Thank you for inviting public comment on the proposed ocean speed limit to protect right whales. I support this commonsense measure, as well as the smart idea to shift geographically with seasonal whale movements. This population of whales does not appear to have recovered well since the ban on hunting in 1935, and 350 is such a small population that they may well not recover. This is a reasonable limit and a minor concession to make to protect one of the earth's most majestic and beloved sea creatures.

Barbara Lynn-Davis, Ph.D.
Concord, Massachusetts

Subject: speed limits during right whale migrations

From: barbara macdougall <bmacdoug@maine.rr.com>

Date: Fri, 23 Jun 2006 17:28:47 -0400

To: "shipstrike.comments@noaa.gov" <Shipstrike.Comments@noaa.gov>

The NOAA Fisheries rule on ship speeds during the right whale migrations along the Atlantic Coast is timely and should be put into effect as soon as possible. This is an endangered species and a reduction of speed in all likelihood would not interrupt the deliveries and other purposes of ships to a serious extent.

Thank you for considering this.

Barbara C. MacDougall

Subject: Support Speed Limit

From: Barbara Rosenkotter <skye@ucdavis-alumni.com>

Date: Sat, 01 Jul 2006 11:03:40 -0700

To: Shipstrike.Comments@noaa.gov

This is such an important and effective tool to help protect all whales and other marine species. I live along the Pacific Northwest Coast and there are regular deadly ship strikes for minke and fin whales in our area. I am confident that if ships slowed down this would dramatically help the whales be able to maneuver out of the way in time. I wish this were also being proposed for the Pacific Coast.

For shipping companies who do not support this, would they rather see all shipping along important migration routes be limited? I think slowing down a bit is a relatively small price to pay.

Hooray! I wholeheartedly support this approach.

Barbara Rosenkotter
201 Crest Drive; Box 136
Deer Harbor, WA 98243

Ships speeds etc.

Subject: Ships speeds etc.

From: Bill McGoldrick <bmcgoldrick@comcast.net>

Date: Sat, 24 Jun 2006 11:26:11 -0400

To: Shipstrike.Comments@noaa.gov

I agree that ships speeds should be reduced in obvious areas and seasonally adjusted areas where the likelihood of collision with these endanger species prevails.

William McGoldrick USCGR (Ret)

Subject: Protecting Right Whales
From: Bobbi Dykema <bobbi_jason@yahoo.com>
Date: Wed, 05 Jul 2006 16:53:44 -0700 (PDT)
To: Shipstrike.Comments@noaa.gov

Dear NOAA,

I am 100% in favor of the proposal to limit ship speeds in order to protect right whales and other marine wildlife. It is absolutely incomprehensible (and reprehensible) that no speed limit has been set to this date, leaving the world with a wild population of right whales numbering less than 500. Whales are an important, beautiful and even profitable part of the marine ecosystem, with whale-watching tourism reaping dollars around the globe. Whether it is for economic or (better) environmental reasons, I wholeheartedly approve of the proposed speed limit. Thank you.

Bobbi Dykema Katsanis
Coastal American citizen
Berkeley, California

"See, free nations are peaceful nations. Free nations don't attack each other. Free nations don't develop weapons of mass destruction."

—President George W. Bush, Milwaukee, Wis., Oct. 3, 2003

Do you Yahoo!?

Everyone is raving about the [all-new Yahoo! Mail Beta](#).

Subject: Support speed limit

From: Bobbie <lilyfishpond@yahoo.com>

Date: Sun, 02 Jul 2006 21:34:14 -0700 (PDT)

To: Shipstrike.Comments@noaa.gov

I support the speed limit to protect right whales, thank you.

How low will we go? Check out Yahoo! Messenger's low [PC-to-Phone call rates](#).

Subject: ship strike reduction

From: Bonnie Foote <bonnief@ucla.edu>

Date: Wed, 28 Jun 2006 15:35:48 -0700

To: Shipstrike.Comments@noaa.gov

This is a wonderful, on-target idea. It has my full support!

Bonnie Foote
7733 ½ Norton Ave
West Hollywood CA 90046

Subject: save whales

From: carlarizzo@alice.it

Date: Mon, 07 Aug 2006 23:08:15 +0200

To: Shipstrike.Comments@noaa.gov

Protect whales is a priority. The number of these beautiful giants is constantly falling and their life is harder and harder because of men's activities.

Shame on you especially to cruise and whalewatching boats: you should have to comprehend better than others, for example fishing boats, that we must try everything to save the beauty and entireness of sealife. To reduce speed is a little sacrifice compared to the stake.

We must respect every creature, every kind of life. We are not alone in the universe, but we seriously risk to remain.....

Carla Rizzo

Italy

Subject: save the whales

From: Carolyn McKibbin <carolyn_holliday@hotmail.com>

Date: Wed, 06 Sep 2006 15:30:00 +0000

To: Shipstrike.Comments@noaa.gov

Dear representative,

Please enact and enforce laws to save the Northern Right Whale. They are magnificent creatures and deserve a chance at survival.

Best,

Carolyn McKibbin

Cambridge, MA

Subject: Northern Right Whale Regulations
From: Carolyn Starrett <cstar10@cstar10.cnc.net>
Date: Wed, 06 Sep 2006 23:16:57 -0400
To: Shipstrike.Comments@noaa.gov

Dear Sir or Madam,

I am writing to urge you to implement your proposed policy of reducing the speed of vessels 65 feet or greater to 10 knots (or less) during the Right Whales' seasonal migration pattern, including federal agency vessels (with exceptions only under extreme circumstances).

The right whale population is in peril and we need to take serious steps to protect it.

Thank you for your consideration.
Sincerely,

Carolyn A. Starrett

Subject: Comment on New Rule
From: Catherine Stanford <cstanford3@verizon.net>
Date: Wed, 05 Jul 2006 11:36:01 -0400
To: Shipstrike.Comments@noaa.gov

Dear NOAA:

I think the proposed rule to slow down to 10 knots is a reasonable regulation to help prevent the death of right whales. These whales swim slowly and do not appear to take evasive action when a ship nears. If the longer ships (65 ft and above) slow down, a rather simple action will contribute to the long-term survival of this endangered species.

We humans must learn to adjust our actions to live in harmony with the natural world on which we depend for our lives.

Yours sincerely,

Catherine M. Stanford

212 3rd Street, Apt 2-G

Troy, NY 12180

518-256-0449 (cell)

Subject: reduced speed limit

From: Cathi Tschirhart <cat5@woh.rr.com>

Date: Tue, 11 Jul 2006 15:34:45 -0400

To: Shipstrike.Comments@noaa.gov

I support the proposal to lower the speed limit on large vessels.

Subject: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic

From: Cathy Muha <cmuha@med.umich.edu>

Date: Thu, 29 Jun 2006 08:30:51 -0400

To: Shipstrike.Comments@noaa.gov

Please strongly consider passing this rule (Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic right Whales) to save these endangered whales. Every one counts, as there are only 350 left. Often, those hit are pregnant females, which takes 2 whales away.

Cathy J. Muha
13177 Trinkle Rd.
Chelsea, MI 48118

Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues.

Subject: speed restrictions

From: Charles Hernick <charles.hernick@gmail.com>

Date: Mon, 07 Aug 2006 13:37:21 -0400

To: Shipstrike.Comments@noaa.gov

I support speed restrictions to protect the north Atlantic right whales.

For the most part, speed restrictions on vessels greater than 65ft will only impact commercial activity. Thought this may slow deliveries and increase transportation costs - it only means that prices paid by firms will more accurately reflect true transportation costs. In economic terms, this is a matter of internalizing an external social cost.

Thank you for taking comments.

Charles Hernick
240 Heath Street, Apt 210
Jamaica Plain, MA 02130

Subject: Right Whales

From: Chuck Niemeyer <Chuck_Niemeyer@dnr.state.ga.us>

Date: Fri, 06 Oct 2006 08:10:39 -0400

To: Shipstrike.Comments@noaa.gov

Right Whales are the most endangered whales in the world. Please restrict the speed of shipping to protect them.

Chuck Niemeyer

Subject: Comments on right whale protection regulations
From: Connie & Bob Fletcher <fletcher-b@mindspring.com>
Date: Fri, 06 Oct 2006 15:14:32 -0400
To: Shipstrike.Comments@noaa.gov

Dear Sir:

I am submitting these comments as a concerned citizen of Georgia and as someone who went to sea for over 20 years.

I support regulations that will support the vastly diminished right whale population during the periods when they are calving and are particularly vulnerable to being struck by ocean-going ships. Specifically, I support a speed limit of 10 knots for ships transiting known calving areas. Furthermore, I support rerouting of ocean-going vessels to avoid right whale migrations along the Atlantic Coast.

Most of my observations of whales between 1950 and 1970 occurred in the Pacific, particularly of gray whales and sperm whales. I vividly recall observing a number of sperm whales one day off of Trinidad Head in northern California. It was a memorable and inspiring sight.

Please take these reasonable measures to protect the seriously endangered right whale.

Sincerely yours,

Robert E. Fletcher
(770) 953-3550
fletcher-b@mindspring.com

Subject: Right whales

From: Craig Grube <CAGRUBE@portfoliorecovery.com>

Date: Mon, 14 Aug 2006 11:02:51 -0400

To: Shipstrike.Comments@noaa.gov

I applaud the efforts to reduce ship speeds within 30 miles of the mouth of the Chesapeake Bay. The right whales deserve the protection this measure should afford. The relatively minor economic impact on the shipping industry, \$17.4 million, is but a small price to pay in an effort to protect these endangered creatures. Please don't succumb to the pressure of the shipping industry, its time to take a stand and do what's right to save earth's precious resources.

Thanks for listening.

Craig Grube

Subject: SlowdownToSaveRtWhales

From: Cynthia Dobson <deejn3@peoplepc.com>

Date: Sun, 02 Jul 2006 18:57:29 -0400

To: Shipstrike.Comments@noaa.gov

CC: "Cynthia L. Dobson" <Stormphoenix14@hotmail.com>

As a person who is seriously concerned with the preservation of the seas, lands, and all creatures that inhabit our sadly abused and over used planet, I agree with the idea of slowing ships to give the Rt. whales a chance to survive. I think that it is only a beginning step, but at least one that is in the right direction.

Thank you for reading my comments.

Sincerely, Cynthia L. Dobson (7/1/06)

Subject: Speed restrictions
From: Dan Silver <dsilverla@earthlink.net>
Date: Tue, 25 Jul 2006 15:29:25 -0700
To: Shipstrike.Comments@noaa.gov

July 25, 2006

Chief, Marine Mammal Protection Division
ATTN: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East-West Highway
Silver Spring, MD 20910

RE: Speed restrictions

Gentlepersons:

The Endangered Habitats League strongly supports speed restrictions along the Atlantic seaboard. This reasonable measure is essential to reduce shipstrikes on the precarious population of right whales.

Sincerely,

Dan Silver
Executive Director
Endangered Habitats League
8424-A Santa Monica Blvd., #592
Los Angeles, CA 90069-4267

Tel 213-804-2750
Fax 323-654-1931
dsilverla@earthlink.net
www.ehleague.org

whale regulation changes

Subject: whale regulation changes
From: Dave Hilton <dhilton01@mindspring.com>
Date: Fri, 06 Oct 2006 11:16:18 -0400
To: Shipstrike.Comments@noaa.gov

I support the proposed regulation changes when right whales are off Georgia Coast.

Dave Hilton
4162 Cimarron Drive
Clarkston, GA 30021
404-218-0929

Subject: Right Whale

From: David James <jamesgang7@cox.net>

Date: Tue, 04 Jul 2006 22:07:54 -0400

To: Shipstrike.Comments@noaa.gov

Thank you so much for your consideration in proposing a reasonable speed limit for ships traversing right whale migration routes in the Atlantic . The wise and courageous advice sets you apart in the struggle to mantain a reasonable balance in respecting life.

David James
11 Carl St.
Meriden CT.

Subject: Right Whales

From: David LeMoine <ddesire@advantas.net>

Date: Wed, 28 Jun 2006 18:27:07 -0600

To: Shipstrike.Comments@noaa.gov

Please protect the Right Whale.

Sincerely,

David & Kandy LeMoine

1105 Delhi Terrace

Farmington, NM 87401-9114

Subject: In support of regulation

From: Deanna <bookends@bellsouth.net>

Date: Tue, 10 Oct 2006 07:37:52 -0400

To: Shipstrike.Comments@noaa.gov

Hi,

This is to let you know I support the proposed regulation changes when right whales are off the Georgia Coast. (These changes need to include a slower speed of 10 knots when ships pass through the calving area.)

Thank you, Deanna Metcalfe, Atlanta, GA

Subject: Proposed Strategy to Reduce Ship Strikes to North Atlantic Right Whales

From: Donita Robinson <donita@unc.edu>

Date: Wed, 05 Jul 2006 12:46:54 -0400

To: Shipstrike.Comments@noaa.gov

I write in support of the Proposed Strategy to Reduce Ship Strikes to North Atlantic Right Whales. As the population of right whales is significantly threatened and not recovering, devisive actions such as these are required to reduce further loss of the species.

~~~~~  
Donita Lynn Robinson, Ph.D.  
5007 Wineberry Dr.  
Durham, NC 27713

**Subject:** Whales

**From:** "Doris C. Baker" <bakdor9@earthlink.net>

**Date:** Fri, 23 Jun 2006 11:36:35 -0400

**To:** Shipstrike.Comments@noaa.gov

These wonderful big fish don't deserve to die because of our hurry to get someplace else! They were in the ocean before we were. Surely our big ships can slow down a little so they can survive. Their loss would be our loss. Each loss in our environment contributes to the eventual loss of our own habitat.

Doris C. Baker

**Subject:** Protect Northern Right Whale  
**From:** Doris Inslee <inslee@MIT.EDU>  
**Date:** Wed, 06 Sep 2006 13:36:19 -0400  
**To:** Shipstrike.Comments@noaa.gov

Please implement the proposed legislation of the NMFS to protect the Northern Right Whale.

Why is it that we cannot be respectful of all life as a human part of our existence on this planet so that future generations would have the chance to see and appreciate these magnificent creatures alive rather than in photographs? We should not be disturbing their natural order and living on the premise that our patterns of living our superior...just look at any news broadcast these days.

---

Doris L Inslee

Staff Administrator

LIDS/MIT - Room 32-D608

Cambridge, MA 02139

617-253-2141

*Quote of the Week:*

"I read the newspaper today,

oh boy!"

*The Beatles*

**Subject:** REDUCE SPEED LIMITS IN ATLANTIC OCEAN DURING MIGRATIONS OF  
ENDANGERED RIGHT WHALES

**From:** dorothy cinquemani <dorotea@earthlink.net>

**Date:** Sat, 24 Jun 2006 15:01:18 -0400

**To:** shipstrike.comments@noaa.gov?

THE HIGHLY ENDANGERED, SLOW-MOVING RIGHT WHALES GREATLY NEED THE PROTECTION  
OF REDUCED SPEED LIMITS DURING THEIR MIGRATIONS.

DR. D. K. & F. L. CINQUEMANI  
400 LAKE AVE NE  
LARGO, FL 33771

**Subject:** Limit speeds to 10 knots  
**From:** Duane <derway@hawaii.rr.com>  
**Date:** Thu, 24 Aug 2006 14:44:30 -1000  
**To:** Shipstrike.Comments@noaa.gov

While adult humpback whales have evolved to avoid each other at speeds up to 15 knots, can right whales have not. It is important to keep commercial ships speeds to 10 knots.

Forget forward looking Collision Avoidance sonar as a solution. If it were possible to use sonar technology to detect and avoid right whales from high speed ships, without noise harassment, the Navy surely would have done that by now. Forward looking Collision Avoidance sonar, like FarSounder, have too limited a range to be useful for fast ships. To obtain a useful range of 1,000 meters the Navy's High Frequency Marine Mammal Monitoring sonar required a source power to 220 dB. This results in received levels that exceed NMFS harassment limits.

Duane

**Subject:** Speed Limit

**From:** Dunoyer <dunoyer@rcn.com>

**Date:** Sat, 24 Jun 2006 11:27:41 -0400

**To:** Shipstrike.Comments@noaa.gov

I believe protecting Right Whales by imposing a ship speed limit is a great way to proceed. You have my support.

Jean Dunoyer  
17 Adams Ave  
Watertown, MA 02472

**Subject:** Ship strikes on Right Whales

**From:** eekasmouse@aim.com

**Date:** Sat, 24 Jun 2006 10:23:41 -0400

**To:** Shipstrike.Comments@noaa.gov

I entirely support a rule limiting ship speeds to 10 knots to help prevent ship strikes on the Right Whale. These beautiful, majestic creatures need our protection if they are to survive. I believe the measures that are being proposed will greatly reduce the incidence of fatal blows to these gentle giants, and am very happy that NOAA is taking such a stance to help protect them. I encourage your department not to back down due to pressure from shipping companies, cruise vessels, sport or commercial fisherman. I believe it is in our best interests, and our duty, to help protect these creatures from extinction.

Extinction is forever.

Please stand firm in your resolution, and pass the ruling to help prevent these whales from suffering fatal encounters with ship propellers.

In the late 90's, I worked as a graphic artist (contractor) supporting NOAA and the Marine Fisheries Office there at NOAA headquarters in Silver Spring, and learned so much about our oceans while there. I hope that you will continue to help protect our oceans and ocean wildlife to sustain populations so that we may not see the extinction of whales in our lifetime.

Sincerely,  
Carol Smouse  
11511 Aberstraw Way  
Germantown, MD 20876

---

**Check Out the new free AIM(R) Mail** -- 2 GB of storage and industry-leading spam and email virus protection.

**Subject:** Protect whales

**From:** "Eileen M. Stark" <estark@aldf.org>

**Date:** Wed, 28 Jun 2006 13:50:40 -0700

**To:** Shipstrike.Comments@noaa.gov

Dear NOAA:

It is vitally important to do everything we can to protect any whales, who are subjected to numerous dangers from our human-centric world. Right whales are one of the most endangered whale species and number only about 350, a far cry from what their numbers must have been prior to human intervention (past hunting, fishing nets, ships, etc.).

I strongly urge you to restrict shipping speeds and all transport in waters that right whales frequent.

Animals, no matter the species, must be protected not because they have commercial or scientific value, but because they have a right to exist without unnecessary suffering. We can do no less and still claim to have a shred of what we like to call humanity.

Thank you for the opportunity to comment.

Eileen Stark  
3820 NE Wistaria Drive  
Portland, OR 97212

**Subject:** Whales

**From:** eileen.lange@gmail.com

**Date:** Fri, 06 Oct 2006 11:44:32 -0400

**To:** Shipstrike.Comments@noaa.gov

I support the proposed regulations when right whales are off the coast of Georgia.

**Subject:** reduced speed

**From:** Eleanor MacLellan <elmac185@yahoo.com>

**Date:** Sat, 24 Jun 2006 13:36:19 -0700 (PDT)

**To:** Shipstrike.Comments@noaa.gov

I strongly support the proposal to reduce ship speed to 10m.p.h. or even slower during right whale migration. These beautiful creatures are almost extinct. Many have died as a result of collision with ships. We have the power to prevent that and we should exercise that power. Thankyou. Eleanor MacLellan, 104 Cushing St. Cambridge, MA. 02138

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<http://mail.yahoo.com>

**Subject:** comments on proposed rule

**From:** Elizabeth and Brian Merrick <ebm333@comcast.net>

**Date:** Sat, 24 Jun 2006 20:38:44 -0400

**To:** Shipstrike.Comments@noaa.gov

To whom it may concern,

We strongly support the proposed rule to reduce speeds in order to prevent ship strikes on right whales. The survival of these magnificent creatures is at stake here, and clearly additional measures need to be taken. The fact that some commercial shipping interests are against the steps proposed should not affect your decision. This is too serious a matter for special, vested interests to dominate in terms of outcome. Speed reduction is one of the numerous steps that should be taken, and an important one. This measure is, in fact, long overdue -- and more delay and inaction will simply doom the species further. The protection of endangered species is a gift to all of humanity who believe in responsible stewardship of the planet, and protects the birthright of all of us.

Sincerely,

Elizabeth and Brian Merrick  
Somerville, Massachusetts

**Subject:** Protect whales off Georgia Coast  
**From:** England/Clymore <engcly@mindspring.com>  
**Date:** Fri, 06 Oct 2006 15:57:04 -0400 (GMT-04:00)  
**To:** Shipstrike.Comments@noaa.gov

To Whom It May Concern:

I support the proposed regulation changes when right whales are off the Georgia Coast.

These changes need to include slower speeds of 10 knots when ships pass through the calving area.

Thank you.

Trisha Clymore

Trisha Clymore,  
Becky England

**Subject:** right whales

**From:** e-rgill2@juno.com

**Date:** Fri, 06 Oct 2006 10:13:32 -0400

**To:** Shipstrike.Comments@noaa.gov

We support the proposed regulation changes when right whales are off Georgia Coast. These changes need to include a slower speeds of 10 knots when ships pass through the calving area. The regulation changes do include re-routing ships when right whales are migrating up and back along the Atlantic Coast.

Everett and Rachel Gill  
132 Dogwood Drive  
Weaverville, NC 28787  
828-645-2475  
[e-rgill2@juno.com](mailto:e-rgill2@juno.com)

**Subject:** Support Right Whale Protection

**From:** fortkendall@tds.net

**Date:** Wed, 28 Jun 2006 15:11:51 -0500

**To:** Shipstrike.Comments@noaa.gov

Hello,

I am writing in support of the recent proposal to require lower (10 knot) speed limits for all vessels larger than 65 feet, when Right Whales are present.

I am confident that the small added cost that may accrue to ocean shippers will be a negligible cost to society overall to help protect these very rare marine mammals. Thank you.

Sincerely,

Jeffrey Schimpff  
2721 Kendall Avenue  
Madison, WI 53705

[fortkendall@tds.net](mailto:fortkendall@tds.net)

**Subject:** the right whales

**From:** Fran Sullivan-Fahs <sullyfahs@comcast.net>

**Date:** Sun, 25 Jun 2006 08:23:20 -0400

**To:** Shipstrike.Comments@noaa.gov

My 13 year old daughter and I have read about the Right Whales being struck by ships and we want you to know that you have a chance at this point in history to take a stand and do something. We can tell by the numbers that these whales will become extinct. If this kind of harm is being done to these whales by this ship commerce then other species are also being affected. THAT is the point of carefully watching these species. They are portraying an imbalancing that we humans are doing environmentally. Please do not ignore the demise of the canary in the mine. It portends some things that we had better pay attention to.

Fran Sullivan-Fahs

**Subject:** Right Whale Regulations  
**From:** Frank A Barnas <fbarnas@valdosta.edu>  
**Date:** Thu, 05 Oct 2006 17:44:39 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

Good evening -

I'd like to add my strong support to the proposed regulation changes when right whales are off the Georgia Coast. It is my understanding that this will include slower speed of ten knots when ships pass through the calving area, as well as re-routing ships when the right whales are migrating.

Thank you,

Frank Barnas  
Valdosta, GA

**Subject:** Right Whale Proposed Regulation Comment

**From:** Gail Bowers <bagal@bellsouth.net>

**Date:** Thu, 05 Oct 2006 23:41:22 -0400

**To:** Shipstrike.Comments@noaa.gov

**NOAA Right Whale Committee:**

**I fully support the proposed regulation changes regarding Right Whales off the Georgia coast that includes slower ship speeds of 10 knots when they pass through calving areas. My support also includes re-routing ships when Right Whales are migrating up and back along the Atlantic Coast.**

**I find it appalling that big business interest nearly always takes precedent over any environmental concerns. Too many species have gone extinct at the hands of man encroaching on their territory and still other marine species are endangered or suffering due to selfishness on the part of humans. When are we going to wake up and stop letting the almighty buck make all our decisions!!**

**Barbara Bowers  
Savannah, GA  
bagal@bellsouth.net**

**Subject:** Whale watch

**From:** Gail York <gailyork@adelphia.net>

**Date:** Fri, 23 Jun 2006 17:56:01 -0400

**To:** Shipstrike.Comments@noaa.gov

Good job on working towards the protection of right whales and our fisheries.  
Thank you!

Gail York  
Day's Real Estate  
262 Augusta Road  
PO Box 284  
Belgrade Lakes, ME 04918  
[gailyork@adelphia.net](mailto:gailyork@adelphia.net) - office  
[gyork@qwi.net](mailto:gyork@qwi.net) - home  
207-441-9047 - cell  
877-888-2152 - toll free  
207-495-3111 - front desk

Proposed ships' speed limits.

**Subject:** Proposed ships' speed limits.

**From:** georgene k jacobs <geokir2@whidbey.com>

**Date:** Sat, 01 Jul 2006 20:42:14 -0700

**To:** Shipstrike.Comments@noaa.gov

This is very important and I thank you for proposing it and will contact my representatives and senators urging them to vote for the proposal!

Thank you again!

Georgene Jacobs

Whidbey Island, Washington

**Subject:** Charleston Port Comment  
**From:** goss1005@bellsouth.net  
**Date:** Wed, 16 Aug 2006 17:06:56 -0400  
**To:** Shipstrike.Comments@noaa.gov

We support your effort to protect the right whales and urge you to stand firm as you look at the impacts the expanded port would have on these endangered creatures.

Hanna and David Goss  
1005 Delsey Street  
North Charleston, SC 29405  
(843) 566-9219

**Subject:** right whale protection

**From:** Gregory Louis Hostetler <glh25@cornell.edu>

**Date:** Thu, 06 Jul 2006 14:31:49 -0400 (EDT)

**To:** Shipstrike.Comments@noaa.gov

I fully support NOAA's new regulations restricting speeds of certain vessels as a way to protect right whales.

Greg Hostetler  
13 Freese Rd.  
Ithaca, NY 14850

**Subject:** supporting right whale protection regulations

**From:** Harry Rezzemini <hrezz@earthling.net>

**Date:** Fri, 06 Oct 2006 13:56:55 -0500

**To:** Shipstrike.Comments@noaa.gov

TO: [shipstrike.comments@noaa.gov](mailto:shipstrike.comments@noaa.gov)  
National Oceanic and Atmospheric Administration

FR: Harry L Rezzemini Jr  
319 Fayetteville Rd  
Decatur, GA, 30030-4804

RE: Proposed regulation changes to protect Right Whales

Dear NOAA,

Please register my support of proposed regulation changes to reduce cargo ship speeds when right whales are off Georgia Coast. These changes need to include slower speeds of 10 knots when ships pass through the calving area. I also support regulation changes for re-routing ships when right whales are migrating up and back along the Atlantic Coast.

Thank you,  
Harry Rezzemini.

**Subject:** Say Yes To A Speed limit

**From:** Heather Boylan <Heather.Boylan@wholefoods.com>

**Date:** Wed, 28 Jun 2006 15:30:19 -0500

**To:** Shipstrike.Comments@noaa.gov

I support the placement of an ocean speed limit of 10 knots during the time of year that whales are in the North Atlantic. Only 350 right whales remain in the wild in this part of the Northern Hemisphere and they are an essential part of our ecosystem. They must be protected.

Heather Boylan  
4031 Kirby Dr.  
Fort Worth Texas

**Subject:** support the proposed regulation changes for right whales

**From:** Holliday Dental <teeth@mindspring.com>

**Date:** Fri, 06 Oct 2006 12:29:44 -0400

**To:** Shipstrike.Comments@noaa.gov

**Dear Sirs:**

**I support the proposed regulation changes when right whales are off Georgia Coast.**

**Thank-you,**

**- Lindsay**

-----  
Lindsay D. Holliday, DMD  
(h) (478) **742-8699** 3091 Ridge Ave. 31204  
office **746-5695** 360 Spring Street Macon, GA 31201  
cell 361-9526 is usually off  
<http://www.hollidaydental.com>

**Subject:** Right Whale Ship Strike Reduction  
**From:** "James P. Bennett" <jb88cmt@cavtel.net>  
**Date:** Sat, 24 Jun 2006 08:36:21 -0400  
**To:** Shipstrike.Comments@noaa.gov

The proposed rule to limit speed on vessels larger than 65 feet is a long overdue measure that I support. Please implement this rule as soon as possible. It makes sense, especially considering the fact that right whales are listed as an endangered species and are under the protection of the Marine Mammals Act. We must act now and the proposed rule is a simple, enforceable solution.

Thanks for your attention to this matter.

Sincerely,

James P. Bennett  
23 East 33<sup>rd</sup> St.  
Richmond, VA  
23224-1801

**Subject:** Whale ship strike proposed rule

**From:** James Van Alstine <jamesvanalstine@yahoo.com>

**Date:** Sun, 25 Jun 2006 05:27:36 -0700 (PDT)

**To:** Shipstrike.Comments@noaa.gov

I support the proposed rule describing regulations to reduce the risk of collisions between North Atlantic right whales and ocean-going vessels and urge that it be enacted. Although the rule could be stronger, especially by including federal vessels, the rule will be an important step in providing essential protections for right whales.

-James Van Alstine  
Palenville NY

---

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**Subject:** Protect right whales.

**From:** Jean Nadeau <jnadeau@freedoniagroup.com>

**Date:** Thu, 29 Jun 2006 18:28:40 -0400

**To:** Shipstrike.Comments@noaa.gov

Yes, please make large vessels in the North Atlantic obey an ocean speed limit of 10 knots during the times of the year when whales are in the area.

Thank you.

Jean Nadeau

Cleveland OH 44121

[jkn@freedoniagroup.com](mailto:jkn@freedoniagroup.com)

**Subject:** Right Whales

**From:** Jeff Hogan <hoganfilms@sprynet.com>

**Date:** Wed, 28 Jun 2006 14:42:17 -0600

**To:** Shipstrike.Comments@noaa.gov

Please take this action to minimize the ship strikes with Northern Right Whales. I grew up on Cape Ann and spent much of my child hood on the water during the summer months. Whales were a rare sight in those days. Many fisherman friends that I know love to see a healthy ocean and all its life and would not be burdened by this valuable regulation to help out the Northern Right Whale.

Thank you!

Jeff Hogan

HoganFilms / FORSSIGHT FILMS

P.O. Box 10428

4412 Sage Meadows Dr

Jackson Wyoming 83002

307-733-8168

[hoganfilms@sprynet.com](mailto:hoganfilms@sprynet.com)

**Subject:** Endangered Right Whales  
**From:** Jenny Thevegan <govegan@abespage.net>  
**Date:** Sat, 05 Aug 2006 10:06:33 -0500 (CDT)  
**To:** Shipstrike.Comments@noaa.gov

Aug 5, 2006

Dr. William T. Hogarth  
1315 East-West Highway, Room 13357  
Silver Spring, MD 20910

Dear Dr. Hogarth,

I am writing to urge the National Marine Fisheries Service to immediately impose broad-based speed restrictions on ocean-going vessels along the Atlantic seaboard in order to protect the critically endangered North Atlantic right whales.

There are only about 300 right whales left. During this year alone, one right whale is known to have died as a result of becoming entangled in fishing gear and two more have died after being struck by ships. This species simply cannot afford further delay.

Thank you for your consideration and attention to this urgent matter.

Sincerely,

Jenny Thevegan  
916 Franklin St  
Carlsbad, NM 88220-5164

regulating speed of ships off Georgia coast

**Subject:** regulating speed of ships off Georgia coast

**From:** Jerry Gentry <jerry@gentry.com>

**Date:** Fri, 06 Oct 2006 19:35:03 -0400

**To:** Shipstrike.Comments@noaa.gov

I support the proposed regulation changes for the speed of ships when right whales are off the Georgia Coast. These changes need to include a slower speeds of 10 knots when ships pass through the calving area.

Thank you, Jerry

--

Jerry Gentry

25 Second Avenue NE

Atlanta GA 30317

404-371-9475

[www.geocities.com/gentryjerry](http://www.geocities.com/gentryjerry) (updated July 2006)

**Subject:** Right Whale Ship Strike Reduction Strategy: A step in the right direction

**From:** Jim Derzon <derzon@pire.org>

**Date:** Mon, 26 Jun 2006 10:08:33 -0400

**To:** Shipstrike.Comments@noaa.gov

I applaud the proposed policy limiting ship's speed to 10 knots during right whale migration along the Atlantic coast between Florida and New England. This is definitely a step in the right direction!

Jim Derzon  
3320 Grass Hill Terrace  
Falls Church, VA, 22044

703-916-0655

**Subject:** Policy

**From:** j-l-b <j-l-b@mindspring.com>

**Date:** Wed, 06 Sep 2006 11:37:16 -0400

**To:** Shipstrike.Comments@noaa.gov

Dear Government Official,

I am writing today to urge you to implement your proposed policy of reducing the speed of vessels 65 feet or greater to 10 knots (or less) during the Right Whales' seasonal migration pattern, including federal agency vessels (with exceptions only under extreme circumstances).

I have read comment about slow travel times for boats from Boston to Provincetown with possible loss of revenue and believe that the whales should have the respect that they deserve and their safety should come before any human activity or human profit.

Sincerely,

Lisa Anderson-Bisson

Dracut / Provincetown MA

**Subject:** comments

**From:** jmr77@comcast.net

**Date:** Sat, 24 Jun 2006 16:51:32 +0000

**To:** Shipstrike.Comments@noaa.gov

We are very much in favor of the proposed federal lowering of speed limits to protect whales from strikes. We are grateful to those who have created this proposal. Experience has shown that voluntary measures (such as by the shipping and fishing industries) are not enough.

Shirley Ramsay

James Ramsay

1 Ffrost Drive, Durham, NH 03824

**From:** joe\_reach@comcast.net

**Date:** Fri, 06 Oct 2006 20:16:56 +0000

**To:** Shipstrike.Comments@noaa.gov

I support the proposed regulation changes when right whales are off Georgia Coast. These changes need to include a slower speeds of 10 knots when ships pass through the calving area. The regulation changes do include re-routing ships when right whales are migrating up and back along the Atlantic Coast.

--

Have a great day!

Ben Moore and Joe Reach

**From:** "johauser41@juno.com" <johauser41@juno.com>

**Date:** Fri, 06 Oct 2006 14:33:03 +0000 (GMT)

**To:** Shipstrike.Comments@noaa.gov

Enact the law to slow the ships to protect the whales while they are calving.

jo hauser

33 dogwood knoll

asheville, nc.

28805

(no subject)

**Subject:** (no subject)

**From:** John Bromer <[jbromer@optonline.net](mailto:jbromer@optonline.net)>

**Date:** Sun, 09 Jul 2006 17:01:39 -0400

**To:** [Shipstrike.Comments@noaa.gov](mailto:Shipstrike.Comments@noaa.gov)

10 knots or less is the right speed. Do the right thing.  
John Bromer

**Subject:** Right Whale Regulation Changes  
**From:** John Graham <jopagr@comcast.net>  
**Date:** Thu, 05 Oct 2006 18:27:39 -0400  
**To:** Shipstrike.Comments@noaa.gov

To Whom It May Concern:

I am very much in favor of the regulation changes that (a) require reduction in speed (10 knots) in right whales calving areas and (b) ship rerouting while these animals are migrating.

John Graham  
885 Chase Road  
Evans, GA 30809  
(706) 868-0296  
[jopagr@comcast.net](mailto:jopagr@comcast.net)

**Subject:** helping whales survive human activity

**From:** joyce mullins <jmullins03@comcast.net>

**Date:** Fri, 23 Jun 2006 19:57:10 -0400

**To:** Shipstrike.Comments@noaa.gov

Please do what you can to help whales survive. There are too many species endangered by the careless activities of humans. We can do better to share the planet with other creatures. If support of legislation is needed, then please support it.

I don't like to think of a world diminished for my grandchildren and their progeny. I am sure most rational people feel the same way.

Thank you,

Joyce Mullins

**Subject:** Speed limit to protect whales

**From:** Julia Hebner <hebnerhousehold@verizon.net>

**Date:** Sun, 25 Jun 2006 20:57:39 -0400

**To:** "shipstrike.comments@noaa.gov" <Shipstrike.Comments@noaa.gov>

When considering the economic impact of environmental rules, please remember that without the earth and its seas and skies and waters -- we as humans cannot exist and there will be NO human economy. Whales, if they become extinct, are not something we can replace -- and so we are obligated to take all steps we can to avoid endangering whales. We cannot know the whole damage we do to the earth's systems when we kill off a species. A speed limit on ships during the migration of the whales in specific waters is an important rule to enforce. Such a rule will not be convenient to everyone, but it will be beneficial to all.

Thank you.  
Julia Hebner  
Richmond, Virginia

**Subject:** ship speed limit proposal  
**From:** Julie Dingus <jdingus@uga.edu>  
**Date:** Fri, 23 Jun 2006 16:23:42 -0400  
**To:** Shipstrike.Comments@noaa.gov

Hello,

I write to let you know that I support the proposed rule that would limit ship speeds to 10 knots or less during the migration of right whales along the Atlantic coast between Florida and New England.

Thank you!

--

*Julie Dingus*  
*Administrative Associate II*  
*Willson Center for Humanities and Arts*  
*164 Psychology Building, UGA*  
*Athens, Georgia 30602-3001*  
*706/542-3966 (voice)*  
*706/542-2828 (fax)*  
*[jdingus@uga.edu](mailto:jdingus@uga.edu)*

speed limits in shipping lanes to protect right whal;es

**Subject:** speed limits in shipping lanes to protect right whal;es

**From:** karen bernard <tnwms2@yahoo.com>

**Date:** Tue, 11 Jul 2006 08:18:40 -0700 (PDT)

**To:** Shipstrike.Comments@noaa.gov

I support speed limits in Atlantic shipping lanes in order to protect the Right Whales in the atlantic Ocean.

Karen B

---

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**Subject:** Ship strikes and right whales  
**From:** karen Foot <karen.foot@ntlworld.com>  
**Date:** Thu, 05 Oct 2006 10:20:58 +0100  
**To:** Shipstrike.Comments@noaa.gov

Dear Sir/Madam

I am writing to urge you to implement the proposed speed reduction measures as quickly and comprehensively as possible. I find it both sad and unbelievable that, despite all the advances in technology and our understanding of the dangers to many species from man's actions, we are still effectively hunting many of them to extinction. We have a duty to preserve all life forms on this earth where humanly possible. Do we really want our children to learn about many animals only from books and photographs? Please act now to protect the right whales from ship strikes - tomorrow may be too late.

Yours faithfully

Karen Foot (Mrs)

|                    |                                          |
|--------------------|------------------------------------------|
| <b>winmail.dat</b> | <b>Content-Type:</b> application/ms-tnef |
|                    | <b>Content-Encoding:</b> base64          |

help save the right whales

**Subject:** help save the right whales

**From:** Karenj311@aol.com

**Date:** Thu, 29 Jun 2006 17:52:26 -0400 (EDT)

**To:** Shipstrike.Comments@noaa.gov

With so few left, why the debate???? YES!!! close migration areas to ships!!! Duh!!

Karen Meade  
Ephrata, PA 17522

**Subject:** I support Proposed Strategy to Reduce Ship Strikes to North Atlantic Right Whales

**From:** Karl von Kries <kvk@technomad.com>

**Date:** Wed, 05 Jul 2006 10:28:30 -0700

**To:** Shipstrike.Comments@noaa.gov

I believe the proposed Strategy to Reduce Ship Strikes to North Atlantic Right Whales is a necessary step given the extremely perilous condition of the Right Whale population in the North Atlantic.

If need be, the policy could be relaxed or modified after an initial test or trial period (say, 5-10 years).

Sincerely,

Karl von Kries  
198 Fisher Ave  
Boston, MA 02120

**Subject:** regulation changes to protect right whales

**From:** Katelyn Murphy-McCarthy <katelynmcmurphy@comcast.net>

**Date:** Fri, 06 Oct 2006 17:30:29 -0400

**To:** Shipstrike.Comments@noaa.gov

Hi-

I've been asked to write regarding proposed regulation changes to protect right whales. I'm willing to do so because my 7-year-old and I learned about right whales and their unique situation off our very own Georgia coast. I add my voice to those supporting regulation changes. These changes need to include a slower speeds of 10 knots when ships pass through the calving area, and re-routing ships when right whales are migrating up and back along the Atlantic Coast.

Thank you for your consideration of my input.

Sincerely,

Katelyn Murphy-McCarthy

4296 Jones Bridge Circle

Norcross, GA 30092

**Subject:** Protect the last few right whales  
**From:** Katharine de Vall <katharinedevall@hotmail.com>  
**Date:** Sat, 05 Aug 2006 08:36:23 -0500 (CDT)  
**To:** Shipstrike.Comments@noaa.gov

Aug 5, 2006

Dr. William T. Hogarth  
1315 East-West Highway, Room 13357  
Silver Spring, MD 20910

Dear Dr. Hogarth,

I am writing to urge the National Marine Fisheries Service to immediately impose broad based speed restrictions on ocean-going vessels along the Atlantic seaboard, to protect the critically endangered North Atlantic right whales.

Because there are only about 300 right whales left, the loss of even one means they could soon become extinct.

I urge NMFS to adopt the 10 knot speed limit they have proposed as the best option to help preserve this endangered species.

And to make sure that that this speed limit applies to all non-sovereign vessels more than 65 feet long.

I also urge them to ensure that this speed limit is in place by November 2006, to protect mothers and calves in their winter calving grounds.

Sincerely,

Miss Katharine de Vall  
flat 22  
31 inverness terrace  
London, None W2 3JR

**Subject:** Speed limit to save whales

**From:** Kathyruopp@cs.com

**Date:** Wed, 05 Jul 2006 23:04:54 -0400 (EDT)

**To:** Shipstrike.Comments@noaa.gov

Anything that can be done to save the right whale from extinction should be done. Once they are gone, we can't get them back. Putting a speed limit on shipping traffic seems to be the least that can be done to preserve a species.

Kathy Ruopp  
9631 S Vanderpoel Ave  
Chicago, IL 60643  
kathyruopp@cs.com

**Subject:** Please protect the Right Whale

**From:** Katie Giddings <kat\_rg@yahoo.com>

**Date:** Fri, 08 Sep 2006 13:07:28 -0700 (PDT)

**To:** Shipstrike.Comments@noaa.gov

As someone who has lived on the New England coast my whole life, I am very concerned about the health of our oceans, including the endangered Right Whale.

I'm writing to ask you to implement the proposed policy of reducing vessel speed limits during the whales' migration season.

Thanks for your consideration,  
-Katie Giddings  
Salem, MA

---

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**From:** kgu02@etubfoselyk.com

**Date:** Wed, 06 Sep 2006 13:22:08 -0700

**To:** Shipstrike.Comments@noaa.gov

Please do implement your proposal to help protect the Northern Right Whale.

Sincerely,  
Kenneth Urquhart

**Subject:** public comments

**From:** kim bauer <gartrax@hotmail.com>

**Date:** Sat, 01 Jul 2006 21:47:29 -0700

**To:** Shipstrike.Comments@noaa.gov

it is about time that protection is given to whales in shipping lanes and elsewhere, a lot more could be done as well by providing collision protection to prevent any harm to whales and other large sea mammals. being reduced in numbers and should be afforded protection as an endangered species instead of aimlessly disregarded. thank you

---

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<http://search.msn.click-url.com/go/onm00200636ave/direct/01/>

**Subject:** Speed limits for shipping

**From:** Kori Neville <kori\_neville@hotmail.com>

**Date:** Fri, 06 Oct 2006 08:19:52 -0500

**To:** Shipstrike.Comments@noaa.gov

I support the proposed regulation changes when right whales are off Georgia Coast.

These changes need to include a slower speeds of 10 knots when ships pass through the calving area. The regulation changes do include re-routing ships when right whales are migrating up and back along the Atlantic Coast.

Kori Neville  
GA Resident

**Subject:** Proposed Strategy to Reduce Ship Strikes to North Atlantic Right Whales

**From:** l gols <evlkg@yahoo.com>

**Date:** Fri, 23 Jun 2006 13:29:44 -0700 (PDT)

**To:** Shipstrike.Comments@noaa.gov

Great job !

---

Yahoo! Messenger with Voice. Make PC-to-Phone Calls to the US (and 30+ countries) for 2¢/min or less.

**Subject:** Regulations to prevent extinction of Right Whales  
**From:** "L. B. Davenport" <lbdavenport@comcast.net>  
**Date:** Thu, 05 Oct 2006 18:19:05 -0400  
**To:** Shipstrike.Comments@noaa.gov  
**CC:** Sam Booher <SBOOHER@AOL.COM>

Please do implement the proposed changes in shipping regulations to prevent strikes on Right Whales.

It is absurd to allow commercial greed to cause the extinction this species.

L. B. Davenport  
726 Windsor Road  
Savannah, GA 31419-2401  
Tel.: 912-925-1876  
[lbdavenport@comcast.net](mailto:lbdavenport@comcast.net)

**Subject:** Right Whales

**From:** LAFFS1234@aol.com

**Date:** Fri, 06 Oct 2006 18:44:48 -0400 (EDT)

**To:** Shipstrike.Comments@noaa.gov

I support the proposed regulation changes when right whales are off the Georgia coast. Please do everything you can to help protect the whales!

Jane Culpepper

I support the ship strike reduction strategy proposal.

**Subject:** I support the ship strike reduction strategy proposal.

**From:** Lara Miranda <LMiranda@ChabotSpace.org>

**Date:** Fri, 30 Jun 2006 10:29:55 -0700

**To:** Shipstrike.Comments@noaa.gov

Hello,

I wish my comments to be noted in the record that I support mandating reductions in shipping speeds to mitigate deaths of right whales due to ship strikes. I would further support any enforcement activities proposed to ensure that shippers abide by the new rules.

Thank you,

Lara Miranda

1032 47th st. #1

Emeryville, CA 94608

**Subject:** National Oceanic and Atmospheric Administration's proposed rule

**From:** Laura McGowan <LMcGowan@corppress.com>

**Date:** Mon, 10 Jul 2006 12:22:34 -0400

**To:** Shipstrike.Comments@noaa.gov

I have thoroughly read the National Oceanic and Atmospheric Administration's proposed rule to implement speed restrictions to reduce the threat of ship collisions with North Atlantic right whales. Although I am neither a marine biologist nor a whale expert, I am an active member of numerous wildlife and environmental organizations. I devote much time to studying various issues and writing my congressmen/women, newspaper and magazine editors, and corporations regarding these issues.

Right whales are one of the most critically endangered large species of whale on the planet. We cannot afford to sacrifice any individual without detrimental impacts on their population. We are responsible for the majority of the deaths and the continued decline of this whale. It is time to stop the senseless loss of what could possibly be the last of its kind. If reducing the speed of large ships is what it takes to save them from extinction, then we must adhere to these rules. I cannot imagine a world without them. They have as much, if not more, right to be here.

I remain appalled by humankind's continued, blatant disregard for life. Mankind's greed is destroying this planet and all the creatures that live here. We MUST do all within our power to protect what remains of our lands and seas before it is too late.

I implore you to review this proposal seriously. I only have a voice, but you have the power to make a significant contribution to this planet. You can decide the fate of a wondrous, gentle species. Please choose life...

Sincerely,

Laura McGowan  
P.O. Box 118  
Lothian, MD 20711  
[eartheluvrlaura@aol.com](mailto:eartheluvrlaura@aol.com)  
410-741-0901

**Subject:** Right Whales  
**From:** Lauren Devine <lrdevine@yahoo.com>  
**Date:** Mon, 26 Jun 2006 05:40:24 -0700 (PDT)  
**To:** Shipstrike.Comments@noaa.gov

To whom it may concern:

I am writing to you today to express my support for your proposal of a rule that would limit ship speeds to 10 knots or less during the migration of right whales along the Atlantic coast between Florida and New England.

Right whales are an extremely endangered species whose slow-moving habits and coastal habitat make them especially vulnerable to ship strikes.

The NOAA deserves congratulations for doing the right thing in the face of resistance. Hopefully, your action will come in time to save our remaining population of right whales.

Please stand strong in against any opposition to your proposed rule.

Thank you for your time.

Sincerely,  
Lauren Devine  
1377 Walnut Terrace  
Boca Raton, FL 33486

---

Ring'em or ping'em. Make PC-to-phone calls as low as 1¢/min with Yahoo! Messenger with Voice.

**From:** Laveta Hilton <laveta@mindspring.com>

**Date:** Fri, 06 Oct 2006 14:47:02 -0400

**To:** Shipstrike.Comments@noaa.gov

I support the proposed regulation changes when right whales are off Georgia Coast.

These changes need to include a slower speeds of 10 knots when ships pass through the calving area. The regulation changes do include re-routing ships when right whales are migrating up and back along the Atlantic Coast.

Laveta Hilton  
4162 Cimarron Dr  
Clarkston, GA 30021-2823  
404-296-4995

|                 |                                    |
|-----------------|------------------------------------|
| <b>Part 1.1</b> | <b>Content-Type:</b> text/enriched |
|                 | <b>Content-Encoding:</b> 7bit      |

**Subject:** Ship Strikes on Whales  
**From:** Lbopp@aol.com  
**Date:** Thu, 05 Oct 2006 16:39:58 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

NOAA

I was told you are proposing changes to Shipping Regulations that will help save our American Whales.

I am supportive of any changes you are proposing if they will stop big and small ships from injuring our whales.

I look forward to hearing about these changes once implemented

Laurie

**Subject:** Northern Right Whales

**From:** Leah Bartell <leahbartell@yahoo.com>

**Date:** Wed, 06 Sep 2006 09:43:19 -0700 (PDT)

**To:** Shipstrike.Comments@noaa.gov

To Whom It May Concern:

I am writing to implore you to implement proposed regulations to reduce the top speed of vessels larger than 65 feet to 10 knots or less during the Northern Right Whales' seasonal migration. This magnificent species is fighting to come back from the brink of extinction, and ship strikes are a major threat.

Please do all you can to protect these whales.

Sincerely,  
Leah Bartell  
Cambridge, MA

---

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**Subject:** safety of right whales

**From:** leonluella@bellsouth.net

**Date:** Fri, 06 Oct 2006 09:53:06 -0400

**To:** Shipstrike.Comments@noaa.gov

Dear friends, please count me in as a supporter of any and all efforts to ensure the safety of Right Whales and their calves as they travel and feed off the coast of Georgia. This would include a reduction of speed to 10 knots for ships as they pass through these waters.

Respectfully,

Lou Clymore  
973 Walker Ave. SE  
Atlanta, Georgia 30316

**Subject:** Reducing ship speed to protect right whales  
**From:** Lfrank1999@aol.com  
**Date:** Wed, 05 Jul 2006 17:23:34 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

This proposal is long overdue and my family and I urge you to enact and enforce this policy. Too many right whales, already on the verge of extinction, have been killed by ship strikes and this policy will give them a reprieve. It is time for you to consider the wishes of the majority of American citizens, rather than just the shipping industry, and act immediately to protect these majestic creatures. We cannot afford to continue the "business as usual" practices of the past which have diminished our environment and diversity of life. Thank you,

Harriette Frank  
3603 Westover Road  
Durham, NC 27707

**Subject:** whales

**From:** lucinda <obluna1@comcast.net>

**Date:** Fri, 23 Jun 2006 20:19:59 -0400

**To:** Shipstrike.Comments@noaa.gov

Please implement regulations that require ships to slow down in order to protect whales; we share this planet.

Sincerely,

lucinda olasov

**Subject:** support for speed limits

**From:** Lynn <lynnjoanne@snail-mail.net>

**Date:** Thu, 29 Jun 2006 13:57:50 -0500

**To:** Shipstrike.Comments@noaa.gov

I feel passionately that all ships should have to slow down in migratory waters of the Right whale.

I absolutely support the speed limit, no matter what the economic cost.

Sincerely,

Lynn Atkins  
350 High Street  
Pembroke, MA 02359

More than 300,000 seals could be killed in Canada this year - most of them babies. Tell Canada's Prime Minister to stop the hunt now!  
<http://go.care2.com/stophunt>

<http://www.Care2.com> Free e-mail. 100MB storage. Helps nonprofits.

**From:** lynne mouchet <goosemoose5@msn.com>

**Date:** Fri, 06 Oct 2006 12:05:24 -0400

**To:** Shipstrike.Comments@noaa.gov

Please hear...I am in support of the regulation for ships when right whales are off the GA coast.

L. Mouchet

**Subject:** Ocean Speed Limit to Save Right Whales  
**From:** Lynne Royall <lwroyall@nc.rr.com>  
**Date:** Wed, 05 Jul 2006 19:32:47 -0400  
**To:** Shipstrike.Comments@noaa.gov

Please make large vessels in the North Atlantic obey an ocean speed limit of 10 knots -- about 11.5 mph -- during the times of the year when right whales are in the area. Thank you for your attention.

---

Lynne Royall  
6016 Bramblewood Drive  
Raleigh, NC 27612-2250  
919-848-9695

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|                 |                                    |
|-----------------|------------------------------------|
| <b>Part 1.1</b> | <b>Content-Type:</b> text/enriched |
|                 | <b>Content-Encoding:</b> 7bit      |

**Subject:** Right Whale Protection!

**From:** "Macdonald,Debra A" <DAMACDON@stpaultravelers.com>

**Date:** Tue, 15 Aug 2006 10:13:20 -0400

**To:** Shipstrike.Comments@noaa.gov

**CC:** "MacDonald, Lee R" <LMACDONA@stpaultravelers.com>

I have said it before and will say it again now. Human beings MUST LEARN to coexist with the animals on this earth or there will be none left. It is entirely our responsibility as we are the problem, not the whales. These poor whales are doing what comes naturally and humans are guests in their habitat. Whatever it takes to keep these animals safe should be implemented immediately including speed limits and longer ferry and whale watcher rides. My gosh, is it all about the almighty buck all the time every day? How this has become an issue is beyond me. The price to humans for coexistence with these magnificent creatures is a very small one to pay. I for one will be boycotting the whale watches and also the ferries unless they slow down !!

Debra MacDonald

St Paul Travelers

Industrial Hygiene Laboratory

90 Lambertson Road

Windsor, CT 06095

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=====  
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=====  
The St. Paul Travelers e-mail system made this annotation on 08/15/06, 10:13:23.  
=====

**Subject:** whales off Georgia coast  
**From:** Margaret <magcarswell@cox.net>  
**Date:** Thu, 05 Oct 2006 23:05:01 -0400  
**To:** Shipstrike.Comments@noaa.gov

Dear NOAA.,

I am much in favor of the slower speeds for ships when right whales are =  
off the Georgia Coast. Please ensure that ships are especially slow when =  
passing through the calving area and are re-routed when right whales are =  
migrating up and down the Atlantic Coast.

Thank you

Margaret Anne Carswell, member of Georgia Conservancy, Sierra Club and =  
National Wildlife Federation.  
[magcarswell@cox.net](mailto:magcarswell@cox.net)

**Subject:** ships hitting whales

**From:** Marjorie Generazzo <margegen@mac.com>

**Date:** Sat, 01 Jul 2006 11:53:01 -0400

**To:** Shipstrike.Comments@noaa.gov

Dear NOAA people,

I support an ocean speed limit to protect right whales. I cut this article in "The Boston Globe" and will pass it along to everyone I can think of to send you a message.

Whales, like children, cannot speak to help themselves, but they do need our help.

I was disgusted yesterday by a news announcement that the Navy will not need to follow the Marine Mammal Protection Law for six months and will be broadcasting sonic noise in the ocean.

I hope you get millions of comments like mine. Thank you very much.

Marjorie Generazzo  
Lynnfield, Massachusetts  
[margegen@mac.com](mailto:margegen@mac.com)

**Subject:** Right Whales

**From:** Marjorie Generazzo <margegen@mac.com>

**Date:** Sun, 30 Jul 2006 13:17:30 -0400

**To:** Shipstrike.Comments@noaa.gov

Dear NOAA PEOPLE:

Please do all you can to protect Right Whales in the shipping lanes by causing ships to slow down and using special technology to be aware of where whales are.

Also, we need to outlaw purse seine fishing nets.

Thank you very much. I have written many letters regarding this subject. If there is anything else I can do, please let me know.

Marjorie Generazzo

[margegen@mac.com](mailto:margegen@mac.com)

**Subject:** speed limits

**From:** Mark Vatousiou <mvpv88@comcast.net>

**Date:** Mon, 24 Jul 2006 13:39:48 -0400

**To:** Shipstrike.Comments@noaa.gov

I absolutely think it is a MUST to protect the whales. As a fisherman I often see these large cargo ships around whales near the shipping channels and they do NOT slow down with the presence of whales, right, humpback. Out of sight, out of mind as far as the enforcement and slowing for whales. We can see and know the whales are there. Many of these foriegn ships NEVER slow down or change course. IMPOSE spped limits ABSOLUTELY! Mark Vatousiou  
Feeding Hills, MA

yes to speed limit

**Subject:** yes to speed limit

**From:** Marla Davis <marlad521@davislonergan.com>

**Date:** Sat, 24 Jun 2006 08:57:13 -0400

**To:** Shipstrike.Comments@noaa.gov

Yes to speed limit.

**Subject:** Right Whale Ship Strike Reduction Strategy  
**From:** Maryann Kirchenbauer <mkirchenbauer@yahoo.com>  
**Date:** Sun, 16 Jul 2006 21:02:28 -0700 (PDT)  
**To:** Shipstrike.Comments@noaa.gov

Ladies and Gentlemen:

Thank you for proposing a rule to limit ship speeds to 10 knots or less during the migration of right whales along the Atlantic coast between Florida and New England.

This proposal should help to reduce fatal blows to right whales, an endangered species whose slow movements and coastal habitat make them vulnerable to ship strikes.

I support this proposal and hope that you will overcome any opposition to it and save the whales.

Thank you for your consideration.

Maryann Kirchenbauer  
17 Memorial Place  
Elmwood Park, NJ 07407  
[mkirchenbauer@yahoo.com](mailto:mkirchenbauer@yahoo.com)

---

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**Subject:** speed limit to protect whales  
**From:** Melissa McCoy <melissamccoy@yahoo.com>  
**Date:** Mon, 26 Jun 2006 17:24:00 -0700 (PDT)  
**To:** Shipstrike.Comments@noaa.gov

To whom it may concern:

I very strongly support your proposal to limit ship speeds to 10 knots or less during the migration of right whales along the Atlantic coast between Florida and New England.

Thank you for doing the right thing despite the opposition you face. The future depends on actions such as this.

Sincerely,  
Melissa McCoy  
Ph.D. Candidate  
Tufts University Sackler School  
136 Harrison Ave  
Boston, MA 02111

"We don't have to wait for some grand utopian future. The future is an infinite succession of presents, and to live now as we think human beings should live, in defiance of all that is bad around us, is itself a marvelous victory."

-- Howard Zinn, historian

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**Subject:** speed limit proposition to protect whales  
**From:** Melissa Youngberg <dewbert1@earthlink.net>  
**Date:** Sun, 02 Jul 2006 01:30:03 -0400  
**To:** Shipstrike.Comments@noaa.gov

Chief, Marine Mammal Conservation Division, Attn: Right Whale Ship Strike Reduction Strategy,  
Office of Protected Resources, NOAA Fisheries, 1315 East-West Highway, Silver Spring, MD.  
20910.

Dear Chief et al:

I am writing to voice my support for the speed limit proposal in order to protect endangered whale species, in particular, the rather lumbering and docile right whale that tend to stay nearer to shore to raise their young. I am a former active-duty coast guardsman, and am now teaching science and environment to my middle school students, so I am relatively educated on this topic. Surely we have enough of everything from brain power and technological advances to money and other resources, that we can use our wonderful abilities to be the stewards of our planet as opposed to the destroyers. What a wonderful legacy we could leave our children by showing them that it is more important to protect and respect all the creatures of this planet rather than to speed by blindly, literally wiping out this gentle giant in our wake. The opposition cites that slowing down will add a half hour to two hours to their trips, which "translates" into cutting into their profit margins or "military operations.". But there will be NO AMOUNT of money that will bring a species back once it has been wiped off the earth. PLEASE DO THE RIGHT THING FOR THE RIGHT WHALE BY PROTECTING THE OCEANS AND ITS ANIMALS FROM PEOPLE WHO SEEM UNABLE TO SEE ANYTHING PAST THEIR OWN "MISSION". Money and power will never secure integrity, but doing the right thing for the powerless and the voiceless will secure your integrity. You will be protecting not only these gentle giants but setting a precedent that will protect the future and bountiful beauty of the oceans for your children and their children. PLEASE DEFEND THESE ANIMALS BY ENACTING THE PROPOSED SPEED LIMIT ON SHIPS ALONG THE EASTERN SEABOARD. NOAA is ONE of the main protectors of our oceans and educate so many about how essential the oceans are to our very existence, while others view it as a dumping station or just as "water." You have to enact regulations on people and organizations that refuse to or are unable to understand the ramifications and harm their activities cause. Thank you for doing what is right against such rabid and powerful

opposition. 

With sincerest gratitude,

Melissa Youngberg



Thank you

**Subject:** Please help whales

**From:** Meredith <mdyer@soe.ucsc.edu>

**Date:** Tue, 18 Jul 2006 13:20:20 -0700

**To:** Shipstrike.Comments@noaa.gov

Please support the efforts to place a speed limit on larger vessels to prevent collisions with an endangered species of whale. Whale collisions with ships are a leading cause of accidental death of North American right whales. There may be only 300 left. Vessels would be restricted from Nov. 1-April 30 around several port and bay entrances. Vessels would be required to travel at 10 knots or less . Please support this effort for whales.

Sincerely,

Meredith Dyer

Meredith Dyer  
Assistant Department Manager  
SOE 3, 1156 High St.  
University of California  
Santa Cruz, CA 95064  
Phone: 831-459-1577  
Fax: 831-459-4482



support the proposal to limit boat speeds to protect whales

**Subject:** support the proposal to limit boat speeds to protect whales  
**From:** Michael Worsham <marylandmichael@yahoo.com>  
**Date:** Fri, 23 Jun 2006 23:48:26 -0700 (PDT)  
**To:** Shipstrike.Comments@noaa.gov

Chief, Marine Mammal Conservation Division  
Attn: Right Whale Ship Strike Reduction Strategy  
Office of Protected Resources  
NOAA Fisheries  
1315 East-West Highway  
Silver Spring, MD. 20910:

I support the proposal to limit boat speeds to protect whales.

Michael Worsham  
Forest Hill, MD 21050  
[marylandmichael@yahoo.com](mailto:marylandmichael@yahoo.com)

Michael C. Worsham  
1916 Cosner Road  
Forest Hill, MD 21050  
(410) 557-6192  
[marylandmichael@yahoo.com](mailto:marylandmichael@yahoo.com)

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Please impose speed limits``

**Subject:** Please impose speed limits``

**From:** Michael/Evelyn Polesny <polesny@verizon.net>

**Date:** Wed, 05 Jul 2006 20:27:54 -0400

**To:** Shipstrike.Comments@noaa.gov

I am writing to express my support for the speed limits proposed to protect North Atlantic Right Whales.

I need not detail the reasons why these limits are needed, or why it is so critical to protect these magnificent creatures and the biosphere of which they are so critical a part. The research is right there on your website!

I'll only say that it has been a long while since I saw government doing the right thing for any animal, humans included, and I was thrilled to see this proposal. It's high time human beings started making some tiny sacrifices for the sake of the planet and the other creatures with whom we share it. We are all at risk if biospheres collapse!

I wholeheartedly voice our family's support and hope that this speed restriction goes through.

- Evelyn Polesny, 12 Bank Street, New York City

**Subject:** ocean speed limit  
**From:** mimi harris <pursuejustice1@yahoo.com>  
**Date:** Mon, 14 Aug 2006 10:25:49 -0700 (PDT)  
**To:** Shipstrike.Comments@noaa.gov

By all means, lets set a speed limit that we know will help right whales whom are almost extinct because of our carelessness. Please represent citizens and the planet, if you will, instead of blindly following whatever industry wants

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**Subject:** Right Whale Proposition

**From:** Molly McEntee <MollyMcE@myrealbox.com>

**Date:** Fri, 25 Aug 2006 15:36:28 -0400

**To:** Shipstrike.Comments@noaa.gov

Dear National Oceanic and Atmospheric Administration,

This is a letter regarding the recent proposal by the National Oceanic and Atmospheric Administration to change the speed limit to 10 knots in areas frequented by right whales. I support this proposal whole heartedly. Though some people believe that there isn't sufficient evidence that this will prevent ship-strikes, there is no way to collect the evidence these people demand. The only way to collect that evidence would be to drive ships at whales at various speeds to see what happens. This obviously isn't going to happen. There is considerable anecdotal evidence to support the proposal though. Since research on right whales began not one whale has been killed by a boat going as slow ten knots.

There is also the obvious fact that if a boat were to collide with a whale at ten knots, the damage inflicted would be considerably less than if the boat was going twenty knots. The kinetic energy of a boat going twenty knots is four times as great as the kinetic energy of a boat going ten knots.

I believe this rule change would benefit whales greatly and send the right whale population far along the way to recovery.

Thank you for your time,

Sincerely,

Molly McEntee, age 13  
Member of the Calvin Project

**Subject:** Support for Right Whale Ship Strike Rule  
**From:** Monica Hennessy <monicahennessy@yahoo.com>  
**Date:** Thu, 29 Jun 2006 09:27:05 -0700 (PDT)  
**To:** Shipstrike.Comments@noaa.gov

I wholly support the proposed new rule to place a speed limit on large ships to protect the Right whale.

The great impact such a rule would have on the stressed whale population far outweighs the minimal additional time ships may have to travel. Moreover, the rule covers only that time of year in which the whales are active. Two-thirds of the whale strike kills can be prevented through this small inconvenience. I believe it is well worth the effort.

Thank you for drafting the rule.

Sincerely,

Monica Hennessy

**Subject:** Right Whales

**From:** Morgan Witman <morgan\_witman@yahoo.com>

**Date:** Tue, 27 Jun 2006 16:57:27 -0700 (PDT)

**To:** Shipstrike.Comments@noaa.gov

Your proposed speed limit to avoid collisions with Right Whales during their migrations seems to be prudent please continue to support.

Morgan Hardwick-Witman

Life is not measured by the number of breaths you take  
But by the moments that take your breath away  
-ramjee

email: [morgan\\_witman@yahoo.com](mailto:morgan_witman@yahoo.com)

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**Subject:** Right Whales and 10 mph  
**From:** MSWilborn@aol.com  
**Date:** Thu, 05 Oct 2006 23:07:46 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

Dear NOAA

I support the proposed regulation changes when right whales are off Georgia Coast. These changes need to include a slower speeds of 10 knots when ships pass through the calving area. The regulation changes include re-routing ships when right whales are migrating up and back along the Atlantic Coast.

Sincerely,

Maryan Wilborn Harrell  
629 E. 46th St.  
Savannah, Georgia 31405

**Subject:** Right whales

**From:** nanchappylady@talkamerica.net

**Date:** Thu, 05 Oct 2006 21:29:38 +0000

**To:** Shipstrike.Comments@noaa.gov

I support the proposed regulation changes when right whales are off the Georgia Coast. These changes need to include slower speeds of 10 knots when ships pass through the calving area. The regulation changes do include re-routing ships when right whales are migrating up and back along the Atlantic Coast.

Nancy E. Brideau  
1066 Country Court  
Lawrenceville, GA 30044

**From:** Nancy & Mindy <flipall@comcast.net>

**Date:** Fri, 06 Oct 2006 18:45:31 -0400

**To:** Shipstrike.Comments@noaa.gov

Dear Friends,

I am in favor of the changes in regulations for boat speeds when right whales are in waters off the Georgia Coast. Please act to help save these beautiful animals from further harm by humans who are not willing to slow down and respect other creatures in the ocean.

Thanks,

Mindy Allen

**Subject:** whale protection  
**From:** Nanzrose@aol.com  
**Date:** Wed, 05 Jul 2006 09:39:44 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

Please slow down and protect the whales. It seems absurd not to do it. Why would anyone oppose this law? It is the right thing to do.

Sincerely,  
Nancy Addison

**Subject:** Public Submission  
**From:** no-reply@erulemaking.net  
**Date:** Thu, 29 Jun 2006 15:23:49 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

Please Do Not Reply This Email.

Public Comments on Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales:=====

Title: Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales  
FR Document Number: 06-05669  
Legacy Document ID:  
RIN: 0648-AS36  
Publish Date: 06/26/2006 00:00:00  
Submitter Info:

First Name: Mary  
Last Name: Wadleigh  
Organization Name:

Comment Info: =====

General Comment: I strongly support the proposed regulatory changes that would reduce speed limits in shipping lanes through which the Northern Right Whale migrates and that would modify certain key shipping routes into Boston.

There is a record of progress made by formerly threatened whale species, when careful regulatory attention is paid by government agencies. This seems to be an instance where such needed change might help save this particular endangered whale species.

Please proceed with all due speed to make these changes!

Thank you.

**Subject:** Public Submission  
**From:** no-reply@erulemaking.net  
**Date:** Tue, 11 Jul 2006 22:08:05 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

Please Do Not Reply This Email.

Public Comments on Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales:=====

Title: Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales  
FR Document Number: 06-05669  
Legacy Document ID:  
RIN: 0648-AS36  
Publish Date: 06/26/2006 00:00:00  
Submitter Info:

First Name: Audrey  
Last Name: Temelini  
Organization Name:

Comment Info: =====

General Comment: To Whom It May Concern,

I am writing to voice my support for the proposed rule to implement speed restrictions to protect the North Atlantic Right Whales. Slowing these ships down will not only help protect the Right Whales, but so many other species that are also victims of ship strikes. Thank you for your time.

Sincerely,

Audrey Temelini

**Subject:** Public Submission  
**From:** no-reply@erulemaking.net  
**Date:** Tue, 18 Jul 2006 16:23:51 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

Please Do Not Reply This Email.

Public Comments on Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales:=====

Title: Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales  
FR Document Number: 06-05669  
Legacy Document ID:  
RIN: 0648-AS36  
Publish Date: 06/26/2006 00:00:00  
Submitter Info:

First Name: Meredith  
Last Name: Dyer  
Organization Name:

Comment Info: =====

General Comment: Please support the efforts to place a speed limit on larger vessels to prevent collisions with an endangered species of whale. Whale collisions with ships are a leading cause of accidental death of North American right whales. There may be only 300 left. Vessels would be restricted from Nov. 1-April 30 around several port and bay entrances. Vessels would be required to travel at 10 knots or less . Please support this effort for whales.

**Subject:** We support the proposed shipping speed reduction protecting whales

**From:** "Norma D. Floyd" <normafloyd@juno.com>

**Date:** Sun, 02 Jul 2006 14:47:19 -0400

**To:** Shipstrike.Comments@noaa.gov

Many times we have seen whales injured by ship propellers or recovered at great difficulty from net entanglements.

Whales are also presumed highly vulnerable to sonar injury.

We write in support of the proposed rules applying to habitats for whales off the entire East coast.

We accept a reduced rate of speed to avoid injury and death to these magnificent animals.

Whereas human ships can use reason to moderate our activities, whales depend on our actions.

We do not support shippers who will not obey such rules and will pay attention and boycott them.

Sincerely,

Mr. and Mrs. H. Christian Floyd  
16 Oxford St.  
Lexington, MA 02420  
(781)862-2841

**Subject:** Comment on Proposed Strategy to Reduce Ship Strikes to N. Atlantic Right Whales

**From:** Onelifefan@aol.com

**Date:** Thu, 06 Jul 2006 21:32:45 -0400 (EDT)

**To:** Shipstrike.Comments@noaa.gov

Kudos to the proposed plan to limit speed to 10 knots or less in times and places where the Right Whale is likely to occur. We need to protect our endangered species by all reasonable means, and this proposal is a big step in the right direction. I urge you to move forward with this plan with all deliberate speed.

Sincerely,

Melanie Baker McCain

[onelifefan@aol.com](mailto:onelifefan@aol.com)

Member, Sea Shepherd Conservation Society

Member, The Humane Society of the United States

Member, The American Society for the Prevention of Cruelty to Animals

please help

**Subject:** please help

**From:** Patsy Winkelman <Patsy.Winkelman@roughtraderrecords.com>

**Date:** Wed, 04 Oct 2006 10:30:04 +0100

**To:** Shipstrike.Comments@noaa.gov

Please help to support the life and freedom of whales.  
Patsy Winkelman

**Subject:** right whale ship strikes  
**From:** Patty Durand <pdurand@bellsouth.net>  
**Date:** Thu, 05 Oct 2006 21:14:12 -0400  
**To:** Shipstrike.Comments@noaa.gov

Dear NOAA:

I support the proposed regulation changes to include a slower speeds of 10 knots when ships pass through the calving area. The regulation changes include rerouting ships when right whales are migrating up and back along the Atlantic Coast and I support that. It is the least we can do for endangered species, and we ought to be doing much more. Please do this much at least.

Thank you,

Patty Durand  
770-640-4020

**Subject:** speed limits

**From:** paul brewer <pbrew@nettally.com>

**Date:** Sat, 24 Jun 2006 09:42:41 -0400

**To:** Shipstrike.Comments@noaa.gov

With the price of fuel and the safety of the whales, it would be wise to lower ship speed. Thankyou, Paul Brewer

**Subject:** North Atlantic Right Whale policy  
**From:** Philip Saunders Jr <phil@philipsaunders.com>  
**Date:** Wed, 06 Sep 2006 21:58:57 -0400  
**To:** Shipstrike.Comments@noaa.gov

National Marine Fisheries Service

Dear Sir or Madam:

I am writing to urge you to put in place and enforce your proposed policy of reducing the speed of ships of 65 feet or greater to a maximum of ten knots during the whale's seasonal migration pattern. This should include both private and Federal vessels.

I can remember attending meetings several years ago at which similar actions were discussed. Everything that seems to be known now about ships and whales was known then: right whales are killed by ships, whale migrations and feeding areas are frequently in shipping lanes, right whales do not apparently naturally stay out of the way of ships, right whales are hard to see from ships, and the greater the vessel speed the harder the whales are to detect and avoid.

It's appalling to me that we are still discussing this issue and apparently have done nothing.

Please implement the policy.

Very truly yours,

Philip Saunders, Jr.

---

**PHILIP SAUNDERS ASSOCIATES**  
*Economic and Financial Analysis*  
445 Glen Road, Weston, MA 02493  
Tel.: 781 239-0855  
[phil@philipsaunders.com](mailto:phil@philipsaunders.com)  
[www.philipsaunders.com](http://www.philipsaunders.com)

(no subject)

**Subject:** (no subject)

**From:** PierMG27@aol.com

**Date:** Thu, 21 Sep 2006 13:49:40 -0400 (EDT)

**To:** Shipstrike.Comments@noaa.gov

Please help save the right whales. They are close to the verge of extinction. Take action against this threat before it is too late. Also protect the whales from fishing nets, boat collisions and pollution. This is very important.

**Subject:** Enact and Enforce 10 Knot Speed limit

**From:** pmelfi@bellsouth.net

**Date:** Wed, 28 Jun 2006 22:32:10 -0400

**To:** Shipstrike.Comments@noaa.gov

Chief, Marine Mammal Conservation Division, Attn: Right Whale Ship Strike Strategy,  
Office of Protected Resources

I would like to offer my support for strong legislation and enforcement of a 10 knot maximum speed limit in areas where Atlantic Right Whales are known to concentrate. The population is teetering at the brink of extinction and the science shows us that the loss of a single whale could topple this species into oblivion. This unique marine mammal should be protected, even if it costs shipping companies and other boaters a bit more to comply with this.

Thank you.

Phil Melfi  
Raleigh, NC

**Subject:** Right whale speed limits

**From:** "Post, Rebecca" <REPO461@ECY.WA.GOV>

**Date:** Thu, 29 Jun 2006 09:22:31 -0700

**To:** Shipstrike.Comments@noaa.gov

If NOAA has determined that speed limits would help reduce ship strikes then I support speed limits in shipping lanes during seasons when whales are present.

Rebecca Post  
Pipeline Coordinator  
Washington Dept. of Ecology  
PO Box 47600  
300 Desmond Dr.  
Olympia, WA 98504

360-407-7114  
360-971-8595 (pager)  
repo461@ecy.wa.gov

**Subject:** Comments on Northern Right Whale Policy

**From:** Rebeka Hoffman <bekah@gis.net>

**Date:** Sun, 10 Sep 2006 17:13:27 -0400

**To:** Shipstrike.Comments@noaa.gov

To: National Marine Fisheries Service

I urge you to implement your proposed policy that would reduce the speed of vessels 65 feet or greater to 10 knots (or less) during the Right Whales' seasonal migration. Enforcement of this policy should include federal agency vessels (with exceptions only under extreme circumstances).

Thank you,  
Rebeka Hoffman  
12 Mt Auburn St  
Hopkintn, MA 01748

Boat speed limits a good idea!

**Subject:** Boat speed limits a good idea!  
**From:** "Reid, Natalie" <nreid@SDE.com>  
**Date:** Wed, 28 Jun 2006 15:37:45 -0400  
**To:** Shipstrike.Comments@noaa.gov

I'm all for any regulation that reduces marine life injuries and fatalities. Additionally, since I live on the East Coast and often pay big bucks to go whale watching, it would be nice to actually see some whales

*Natalie Reid*  
PO Box 96  
Troy, NH 03465

**Subject:** Please work to Protect Endangered Right Whales

**From:** Richard Artley <dartley@connectwireless.us>

**Date:** Wed, 09 Aug 2006 04:14:27 -0500 (CDT)

**To:** Shipstrike.Comments@noaa.gov

Aug 9, 2006

Dr. William T. Hogarth  
1315 East-West Highway, Room 13357  
Silver Spring, MD 20910

Dear Dr. Hogarth,

I ask you to urge the National Marine Fisheries Service (NMFS) to impose strict speed restrictions on ALL ships within 100 miles of the Atlantic coast to protect the T&E listed North Atlantic right whales.

There are less than 500 of these species of whales that exist.

In 2006, two Right Whales died after being struck by ships going so fast, they could not slow down fast enough after the whale was sighted.

In addition to the speed restriction, NMFS must develop an enforcement mechanism with very severe penalties for going too fast.

Sincerely,

Mr. Richard Artley  
415 NE 2nd St  
Grangeville, ID 83530-2257

**Subject:** It's Certainly Worth a Try  
**From:** Rita Hodge <rhfactor@mac.com>  
**Date:** Wed, 28 Jun 2006 16:23:01 -0500  
**To:** Shipstrike.Comments@noaa.gov

Please, let us set an example by showing simple courtesy and respect toward another species... It is a simple circulation conflict and can easily be eased. Let's slow down when appropriate and save as many of these noble creatures as we can. Thank you, rita hodge

**Subject:** Ship strikes on Right Whales

**From:** ROSEMARY WILLIAMS <rosemaryanne.williams@btopenworld.com>

**Date:** Fri, 06 Oct 2006 09:31:16 +0100 (BST)

**To:** Shipstrike.Comments@noaa.gov

It is so distressing to hear of continuing ship strikes on this most endangered of species. Please, please let action be taken to establish safe areas for these wonderful creatures, and to secure their future.

**Subject:** Right whale support  
**From:** Ruth <ruthmark\_10025@yahoo.com>  
**Date:** Wed, 06 Sep 2006 08:57:15 -0700 (PDT)  
**To:** Shipstrike.Comments@noaa.gov

I support efforts to save the northern right whale.

Ruth Markowitz  
151 Coolidge Ave #402  
Watertown, MA 02472

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**Subject:** 10 Knot Atlantic Speed Rule during Right Whales Migration

**From:** Salam Tims <salamtims@yahoo.com>

**Date:** Sat, 24 Jun 2006 08:02:58 -0700 (PDT)

**To:** Shipstrike.Comments@noaa.gov

The National Oceanic and Atmospheric Administration Fisheries proposed a rule that would limit ship speeds to 10 knots or less during the migration of right whales along the Atlantic coast between Florida and New England. This is the correct thing to do to preserve this extremely endangered species and this voter strongly endorses the proposal.

Regards,  
DF Tims,  
Gainesville FL

Right whales

**Subject:** Right whales

**From:** Sally Sommer <s\_sommer@sbcglobal.net>

**Date:** Tue, 11 Jul 2006 18:05:14 -0700

**To:** Shipstrike.Comments@noaa.gov

I support any legislation designed to preserve the dwindling population of right whales.

Sally Sommer

510-843-3651

510-517-3651

**Subject:** Right Whale Comment

**From:** Sam Collier <scollier@mindspring.com>

**Date:** Fri, 06 Oct 2006 07:06:48 -0700

**To:** Shipstrike.Comments@noaa.gov

I support the regulation changes that include slower speeds of 10 knots when ships pass through the calving area.

Re-routing ships when right whales are migrating up and back along the Atlantic Coast is the prudent thing to do to keep this species from extinction.

***Sam***

Sam Collier

Facilitator & Strategic Planning Consultant

scollier@mindspring.com

404-964-5795

**From:** Samantha B <samantha\_b@comcast.net>

**Date:** Wed, 05 Jul 2006 13:02:39 -0700

**To:** Shipstrike.Comments@noaa.gov

I am writing to voice my support for the proposed rule that would implement speed restrictions of ships to help reduce the threat of ship collisions with North Atlantic Right Whales. It is nice to see positive action being taken to help these Whales, I only hope this action is followed through and implemented. Thank you for your time and energy.

Sincerely,

Samantha B Honowitz  
Samantha\_b@comcast.net

**Subject:** Proposed rule to limit ship speeds  
**From:** Sarah Frenzel-Pinckney <frenzelp@tampabay.rr.com>  
**Date:** Fri, 23 Jun 2006 16:57:07 -0400  
**To:** Shipstrike.Comments@noaa.gov

NOAA:

My nine year old son and I are writing you today to urge you to rule to limit ship speeds during right whale migration.

Thanks,

Sarah frenzel-Pinckney

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**Subject:** speed limit proposal for right whale habitat

**From:** scottcayley <scottcayley@verizon.net>

**Date:** Wed, 05 Jul 2006 09:17:22 -0500

**To:** Shipstrike.Comments@noaa.gov

given the evidence I have seen, i urge you to back the proposed limitation of speed of large ships right whale habitat. there are only 350 of these animals known in the wild and one of the leading causes of their death is collisions with ships. reducing speed limits should dramatically improve the ability to avoid these collisions and thus help preserve an endangered species

thank you

scott  
cayley

**Subject:** support for regulations

**From:** Shannon McCormick <kpamom60@hotmail.com>

**Date:** Fri, 06 Oct 2006 18:52:24 -0400

**To:** Shipstrike.Comments@noaa.gov

I am a Georgia resident taxpayer and support the regulations for protection of the right whale when it is off the Georgia coast, including a reduction in ship speeds..

thank you. Shannon C. McCormick  
520 Ponce de Leon Pl  
Decatur, Ga 30030

**Subject:** Saving the right whales  
**From:** Sherley Redding <rust@widomaker.com>  
**Date:** Sat, 24 Jun 2006 18:48:58 -0400  
**To:** Shipstrike.Comments@noaa.gov

Thank you for your proposed rule for a speed limit for protection of the remaining right whales. I realize that you had some opposition to this and I am sincerely grateful that you persevered.

Sherley Redding  
20 Executive Drive  
Newport News, VA. 23606

**Subject:** Support regulation changes

**From:** sheryl thacker <sthacker@mindspring.com>

**Date:** Fri, 06 Oct 2006 17:50:23 -0400

**To:** Shipstrike.Comments@noaa.gov

I am writing to state that I support the regulation changes to slow ships when right whales are off the Georgia coast.

Sincerely,

Sheryl V Thacker, MD

**Subject:** reducing ship strikes  
**From:** Smattison@aol.com  
**Date:** Mon, 24 Jul 2006 17:54:06 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

Hello. As a concerned American who greatly values wildlife, I am writing in favor of the proposed speed restrictions designed to protect the remaining North Atlantic right whales from collisions with ships. This is a simple, effective and reasonable step to take to protect whales.

Thank you for your attention.

Priscilla J. Mattison  
351 Hidden River Road  
Narberth, PA 19072

**Subject:** Please support speed limit on boats  
**From:** Stefanie Sekich <sekich@email.wintu.edu>  
**Date:** Wed, 28 Jun 2006 16:27:43 -0700  
**To:** Shipstrike.Comments@noaa.gov

To whom it my concern,

Considering that there are only 350 right whales left in the northern hemisphere, then it behooves us humans to protect them--and one way to do that is to have boats slow down.

This is quite simple. I understand the economic costs, but I think we owe it to the whales before they are no longer here.

Thanks,

Stefanie Sekich  
Faculty  
Western International University  
[sekich@email.wintu.edu](mailto:sekich@email.wintu.edu)  
619-807-0551  
Pacific, Mountain and Eastern time zones.

**Subject:** Inshore cruising speeds

**From:** Steve <bucko27@earthlink.net>

**Date:** Thu, 28 Sep 2006 08:23:49 -0400

**To:** Shipstrike.Comments@noaa.gov

Hi! I am in favor of getting ships to slow down to avoid whale collisions. It will also save on fuel, won't it?

Steve young

**Subject:** Slowing ship speeds to protect right whales

**From:** Steve Branch <SteveB@enigma.com>

**Date:** Mon, 26 Jun 2006 11:02:47 -0400

**To:** "shipstrike.comments@noaa.gov" <Shipstrike.Comments@noaa.gov>

Dear Sir:

I strongly applaud the efforts by NOAA Fisheries to reduce ship speeds during the migration of right whales in the Atlantic. Given the drastic reduction in the number of individuals in this endangered species, I believe this is a crucial step that will help to protect them.

Thank you for your consideration,  
Steve Branch

88 Edgehill Rd  
Providence RI 02906

**Subject:** Regulation

**From:** Steve Gill <stgill10@hotmail.com>

**Date:** Fri, 06 Oct 2006 10:02:47 -0400

**To:** Shipstrike.Comments@noaa.gov

Just wanted to say that I support the regulation to slow down container ships when right whales are migrating and calving off the Georgia coast. It couldn't hurt business that much and the whales were there first. Just a concerned citizen.

Steve Gill  
Atlanta, Georgia

**Subject:** Right Whale Ship Strike Reduction Strategy  
**From:** Sunil Somalwar <SVSomalwar@SierraActivist.Org>  
**Date:** Mon, 26 Jun 2006 17:21:28 -0400  
**To:** Shipstrike.Comments@noaa.gov

Chief, Marine Mammal Conservation Division,  
Attn: Right Whale Ship Strike Reduction Strategy,  
Office of Protected Resources,  
NOAA Fisheries,  
1315 East-West Highway,  
Silver Spring, MD. 20910.

Dear Chief,

I am commenting in favor of the proposed NOAA rule to limit ship speeds to 10 knots or less during the migration of right whales along the Atlantic coast between Florida and New England. Given the extremely endangered status of the right whale, this rule is completely justified.

I do not believe that the decreased speed would materially impact the average number of port of calls thus leading to increased land freight operations. Even if the number of port calls per ship were to marginally go down, a better targeting of the freight to the ports of call should keep the overall goods delivery the same. If anything, the vessels will enjoy a modestly improved fuel efficiency.

Sincerely,  
Sunil Somalwar, PhD

**Subject:** right whales

**From:** T3W@webtv.net

**Date:** Fri, 30 Jun 2006 01:53:15 -0700

**To:** Shipstrike.Comments@noaa.gov

To whom it may concern,

Please support right of way for right whales by reducing the speed of ships in their area at appropriate times.. There are too few left; surely we can come to a respectful accomodation.

Sincerely, J. Schlacter

P.O.Box 10253

Eugene, Or. 97440

**Subject:** Public comment-- right whales

**From:** Tina Rhea <tinarhea@comcast.net>

**Date:** Wed, 28 Jun 2006 15:49:12 -0400

**To:** Shipstrike.Comments@noaa.gov

I support the Proposed Strategy to Reduce Ship Strikes to North Atlantic Right Whales. There are only a few hundred of these whales in the North Atlantic, evidence that the population has had a very hard time rebounding after they ceased being killed by commercial whalers. Since being hit by ships is one of their major causes of mortality, the reduction of ship speeds at times when the right whales are likely to be hit is a good step toward preventing their extinction.

Tina Rhea  
3-E Ridge Road  
Greenbelt MD

**Subject:** Dear Marine Mammal Conservation Division

**From:** Tollie Bohl <tollieb@hotmail.com>

**Date:** Thu, 06 Jul 2006 07:38:16 -0700

**To:** Shipstrike.Comments@noaa.gov

Dear Marine Mammal Conservation Division,

I'm writing in support of the proposed regulation to reduce risk of collisions between ships and endangered northern right whales.

Sincerely,  
Tollie Bohl  
Bellingham, WA  
360-733-6154

**Subject:** Protecting Whales from Ships

**From:** Toni Siegrist <toni\_siegrist@harvard.edu>

**Date:** Wed, 16 Aug 2006 12:28:07 -0400

**To:** Shipstrike.Comments@noaa.gov

Whales and their habitat must be protected and not interfered with by ships that cause injuries and death to these special animals. Also breeding grounds that they inhabit must be considered in keeping ships away. Whales travel many miles a day in the water and all this needs to be considered in making sure that ships migrate in the right direction. Ships need to be slowed down or avoid places where whales live. Ships also make a lot of noise and pollute the water and this issue needs to be addressed.

The water needs to be clean and safe for all whales and marine life to live in. Please make this happen. Thank you very much.

Sincerely,

Toni Siegrist  
17 Quincy St.  
Cambridge, MA 02138

**Subject:** Right Whale Ship Strike Reduction  
**From:** TPC1133@aol.com  
**Date:** Thu, 29 Jun 2006 00:06:00 -0400 (EDT)  
**To:** Shipstrike.Comments@noaa.gov

This proposal is necessary to stop the imminent extinction of a species. Of course, the shipping industry opposes it. Corporations oppose any kind of environmental regulation. For them, the buck is the bottom line. It is up to government and the public to contain this short-sighted and unethical corporate determination to destroy the planet. Common sense would dictate that they take measures to protect and conserve ocean species. However, common sense has not been the order of the day in corporate America nor in the Bush Administration. We need to restore some semblance of decency and compassion in our dealings with other creatures that share this earth. Please protect them. The CEO's and shareholders of the shipping industry can easily do with a bit less luxury.

Sincerely,  
Patricia Davis Chang

**Subject:** Right whales

**From:** Valerie Peck <VApeck@verizon.net>

**Date:** Thu, 07 Sep 2006 08:42:45 -0400

**To:** Shipstrike.Comments@noaa.gov

Gentlemen: I am urging you to support legislation that will slow down the speed of vessels over 65ft long, to give the Right whales opportunity to breed. These animals have a place on our planet and deserve the right to live as they are able.

~~~~~  
Valerie Peck
Plymouth, MA
VApeck@Verizon.net

thanks

Subject: thanks

From: Vickie Seeley <vickie_seley@yahoo.com>

Date: Sat, 24 Jun 2006 07:48:22 -0700 (PDT)

To: Shipstrike.Comments@noaa.gov

Thank you for advocating for the proposal of speed limits to protect right whales.

Ring'em or ping'em. Make PC-to-phone calls as low as 1¢/min with Yahoo! Messenger with Voice.

Subject: I FAVOR: Proposed rule to limit ship speeds
From: Virginia Brien <vabrien@mindspring.com>
Date: Sat, 24 Jun 2006 16:45:48 -0400
To: Shipstrike.Comments@noaa.gov

Thank you for proposing a rule that would limit ship speeds to 10 knots or less during the migration of right whales along the Atlantic coast between Florida and New England. I appreciate your efforts to balance a variety of interests while protecting the endangered species.

Virginia Brien, 704.535.8096

www.shaklee.net/vabrien

Plant the seeds of good health today!

Subject: North Atlantic Right Whale

From: William Cromwick <wcromwick@yahoo.com>

Date: Wed, 06 Sep 2006 10:23:39 -0700 (PDT)

To: Shipstrike.Comments@noaa.gov

I urge the National Marine Fisheries Service to implement their proposed policy of reducing the speed of vessels 65 feet or greater to 10 knots (or less) during the Right Whales' seasonal migration pattern, including federal agency vessels (with exceptions only under extreme circumstances).

Best Regards,
Bill Cromwick
Somerville, MA

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Subject: Save Right Whales

From: Wolpers4@aol.com

Date: Thu, 05 Oct 2006 23:15:04 -0400 (EDT)

To: Shipstrike.Comments@noaa.gov

The Right Whale is the state mammal of Georgia. I support the proposed regulation changes when right whales are off Georgia Coast.

These changes need to include a slower speed of 10 knots when ships pass through the calving area. Calving is a critical time in the life of the Right Whale. Whales do not birth every year, and every pregnant/birthing female which is killed or caused to abort due to injury from ship strikes brings these mammals closer to extinction.

The regulation changes must include re-routing ships when right whales are migrating up and back along the Atlantic Coast.

Theresa Jones

Subject: right whales
From: WordRot@aol.com
Date: Mon, 26 Jun 2006 08:28:17 -0400 (EDT)
To: Shipstrike.Comments@noaa.gov

noaa:

To whom it may concern:

i totally support the proposed regulation of speed to 10 knots p/h for vessels traveling during the migration of right whales . it is about time that we seriously begin to modify the behavior of our species in its impact on wildlife and the planet . congratulations on your forthrightness.

theresa carr
of 34 walnut st new haven ct 06511

Subject: Comments on Proposed Speed Restriction Rule

From: bmcweeny@adams.u93.k12.me.us

Date: Thu, 10 Aug 2006 21:25:15 +0000

To: Shipstrike.Comments@noaa.gov

Dear NOAA Protected Resource people,

I have pasted my comments below and attached the same as a document.

Thank you,

Bill McWeeny

August, 10th, 2006

Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway, 13th Floor
Silver Spring, MD 20910

Comments on the Proposed Speed Restriction Rule

To Whom It May Concern:

I support NOAA Fisheries Service proposal to implement a uniform mandatory vessel speed restriction of 10 knots or less along the U.S. East Coast. The National Marine Fisheries Service is proposing the speed restrictions in specific areas during times when right whales are present. I understand that the purpose is to reduce the risk of collisions between ships and the endangered North Atlantic right whales. Reducing the number of collisions of ships with right whales will reduce the number of right whales killed or severely injured. There is no evidence that the population of the endangered North Atlantic right whale is recovering yet, and even if it was, recovery of the species depends on the reproductive potential of every individual right whale being realized. I believe the Proposed Rule will better ensure the survival of each and every individual right whale for the near future.

I wholeheartedly applaud NMFS for proposing such a strong rule based on years of data collection, research and analysis. Just the fact that no known deaths of right whales have occurred at or below 10 knots is significant. It has been estimated that there is a 45% chance of a fatality at or below 10 knots, however, I personally believe that the whales have a much greater chance of avoiding vessels going 10 knots or slower simply because the whales swim no faster than 6-8 knots. It is just common sense that a whale, or any other animal for that matter, could better avoid an object coming toward it at close to the same speed that it, itself, can move. Consideration of comments arguing for speeds of 12 or 14 knots, which are double the speeds right whales can swim, should not be considered as alternatives to the proposed rule. The data and analysis indicates 10 knots as the most effective way to reduce the risk of collisions. This rule should not compromise, for any ?insignificant? economic (DEIS page ES7) or political reason, the best solution of minimizing collisions of ships with right whales by restricting speeds to 10 knots.

The National Marine Fisheries Service is proposing the speed restrictions in specific areas during times when right whales are present. In the Mid-Atlantic Region (MAUS) nine port entries are protected by a 30 nautical mile radius speed restriction. However, the alternative proposal to impose speed restrictions along the entire Mid-Atlantic U.S. out to 25 nautical miles from October 1st to April 30th should also be included in the proposed rule. Restricting speeds along the entire migratory corridor, not just in regions of concentrated shipping, would make the proposed rule much more effective and the whole point is to get the rule as effective as possible the first time! It is well known that right whales migrate

Subject: Public Comment on Ship Strikes and the Northern Right Whale
From: SBOOHER@aol.com
Date: Thu, 05 Oct 2006 09:52:41 -0400 (EDT)
To: Shipstrike.Comments@noaa.gov

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Projected Resources, National Marine Fisheries Service
1315 East-West Highway, Silver Spring, MD 20910

4 October, 2006

Subject: Public Comment of Ship Strikes and the Northern Right Whale

I am very pleased with the National Marine Fishery Service proposed regulations to enact speed restrictions on vessels in selected locations to protect the endangered Northern right whale that has its calving area off Georgia's Coast.

From reading the Georgia newspapers too often the public reads about another calf or breeding female whale killed by a ship strike. Knowing the Georgia right whale's numbers are already critical, NOAA needed to do something. Everyone knows the Northern right whale only exist along the east coast of North America, that they travel slowly, make shallow dives, and most often stay near the coast. Thus your shipping regulations changes will have very little if any impact of commercial shipping or the Navy.

My greatest concern is planned and increasing commercial shipping from Coastal Georgia waters. The Georgia Ports Authority every year greatly increases it volume of container shipping. Additionally a new Container Port is going to be built on the Savannah River in Jasper County, South Carolina. Also, the harbor in Brunswick, GA in being deepened and enlarged to handle more container shipping. Last, the Navy Base at St. Mary's is in the middle of Georgia's Right Whale calving area.

With 84% of all reported ship strikes resulting in serious injury or death, a reduction of ship strikes is the most immediate step that can be taken to protect the remaining few right whales. It is also the most necessary step, as ship strikes are one of the greatest known causes of injury and mortality for ships going greater than 10 knots.

I offer many ship strikes go undetected and unreported. So the public and NOAA probably do not know the actual number of collisions and deaths which are probably much higher number. Thus the full magnitude of ship strikes impact on the survival will not be known until these regulation changes are implemented.

I would like to thank the National Marine Fisheries Service for taking this vital step to protect Northern right whales with the proposed ship strike reduction strategy. I strongly support the lowest (10 knots) proposed speed restriction in order to provide the greatest protection to the whales.

The public feels strongly that if the ship speed reduction and other proposed measures are not implemented, the Northern right whale's existence is in jeopardy. This could easily be the right whale's last stand; the need to prevent ship strikes is critical.

I hope that these protective measures will be implemented as soon as possible, before the next calving season.

Thank you

Sam Booher
4387 Roswell Dr
Augusta, GA 30907

Subject: Comments on Proposed Speed Restriction Rule

From: bmcweeny@adams.u93.k12.me.us

Date: Thu, 10 Aug 2006 21:25:15 +0000

To: Shipstrike.Comments@noaa.gov

Dear NOAA Protected Resource people,

I have pasted my comments below and attached the same as a document.

Thank you,

Bill McWeeny

August, 10th, 2006

Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway, 13th Floor
Silver Spring, MD 20910

Comments on the Proposed Speed Restriction Rule

To Whom It May Concern:

I support NOAA Fisheries Service proposal to implement a uniform mandatory vessel speed restriction of 10 knots or less along the U.S. East Coast. The National Marine Fisheries Service is proposing the speed restrictions in specific areas during times when right whales are present. I understand that the purpose is to reduce the risk of collisions between ships and the endangered North Atlantic right whales. Reducing the number of collisions of ships with right whales will reduce the number of right whales killed or severely injured. There is no evidence that the population of the endangered North Atlantic right whale is recovering yet, and even if it was, recovery of the species depends on the reproductive potential of every individual right whale being realized. I believe the Proposed Rule will better ensure the survival of each and every individual right whale for the near future.

I wholeheartedly applaud NMFS for proposing such a strong rule based on years of data collection, research and analysis. Just the fact that no known deaths of right whales have occurred at or below 10 knots is significant. It has been estimated that there is a 45% chance of a fatality at or below 10 knots, however, I personally believe that the whales have a much greater chance of avoiding vessels going 10 knots or slower simply because the whales swim no faster than 6-8 knots. It is just common sense that a whale, or any other animal for that matter, could better avoid an object coming toward it at close to the same speed that it, itself, can move. Consideration of comments arguing for speeds of 12 or 14 knots, which are double the speeds right whales can swim, should not be considered as alternatives to the proposed rule. The data and analysis indicates 10 knots as the most effective way to reduce the risk of collisions. This rule should not compromise, for any ?insignificant? economic (DEIS page ES7) or political reason, the best solution of minimizing collisions of ships with right whales by restricting speeds to 10 knots.

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close to the coast all the way along the MAUS region. I believe any good size vessel wishing to voyage faster than 10 knots can afford to travel more than 25 nautical miles offshore.

Finally, I experienced the necropsy of a young right whale calf at Campobello Island on July 25th, 2006. The calf was probably born 8 months before. It was obvious that the whale suffered severe trauma from a vessel strike with 13 propeller slashes across its right flank. One rib was exposed with two cuts on it. It is possible that the vessel was smaller than 100 feet based on preliminary observations of the propeller cut dimensions. I strongly advise NMFS to stick to the 65-foot minimum length and to even consider lowering the length of the vessels required to slow down in designated areas to 40 or 50 feet. I understand this would have an economic impact on smaller vessels, but my opinion is that sport fishermen, whale watchers and consumers alike should all bear that cost for the sake of the whales and ultimately the ocean environment ecosystem along the East Coast of the United States.

In summary, I fully support the proposed rule change of speed restrictions of 10 knots and I encourage NMFS to include the entire MAUS coastal area for speed restrictions during the right whale migratory season.

Sincerely,

William T. McWeeny

Middle School Science Educator, Adams School, Castine, Maine
Right Whale Research Volunteer for 23 years, Lubec Field Station
Director of The CALVIN Project

14 Bears End Cove Road
Brooksville, Maine 04617

207 326 8488
bmcweeny@adams.u93.k12.me.us

SpeedRestrictionComments.doc	Content-Type: application/msword
	Content-Encoding: base64

1 ✓

Subject: comment on ship speed restrictions
From: Eugene D Abelow <eugene.d.abelow@ampf.com>
Date: Tue, 26 Sep 2006 18:05:47 -0400
To: Shipstrike.Comments@noaa.gov

Dear Sir or Madam:

I object to the proposed restrictions that are being considered to reduce ship speed of all vessels of 65' or longer. I am an avid recreational fisherman and I feel that this law would severely hamper the recreational fishing industry. It would make it impossible for the average fisherman who fishes on a head boat to access areas in the gulf stream. This law would unfairly favor the wealthy. Only the wealthy could afford to spend the time it takes to access these waters if speed restrictions were in place. The average man, could not afford to fish these waters.

Sincerely,

Eugene Abelow
4923 Leetown RD
Kearneysville, WV 25430

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2 ✓

Subject: Oct. 5 End of Comment Period
From: Don Acree <dacree@ec.rr.com>
Date: Mon, 02 Oct 2006 10:44:46 -0500
To: Shipstrike.Comments@noaa.gov

Dear Sirs,

The proposal being considered by NMFS for reducing North Atlantic Right Whale ship strikes is completely unsatisfactory in it's current form.

First, the need for any action is very much in question as there are an average of 1.2 ship strikes per year, and as many as 20 or more right whale calves being born each year.

There is no conclusive evidence to show that reducing speed of certain vessels will in turn reduce the mortality rate.

The areas being targeted are highly punitive to southern states as the vast majority of ship strikes occur off of Mid-Atlantic and Northeastern states.

The class of vessels encompassing boats of 65' or longer is a) without substantial scientific basis and b) will cause severe hardship and in many cases ruin to family businesses along the East Coast.

The bottom line is that the measures being proposed result in the "cure" being far worse to a specific mammal, human beings, in relation to the "problem" of the loss of 1.2 whales per year.

I respectfully request that any proposal should :

- 1) At least only target the areas in which most ship strikes have been occurring.
- 2) Any ship speed reduction be much less dramatic than the 10 knots being proposed.

- 3) The size of the vessels involved be a minimum of 80 meters.

It is very important to me that we all put forth our best effort to protect all species of life. But it is also important that we not weaken (and ruin) the livelihoods of thousands of humans by taking the drastic measures being proposed.

Thank you.

Sincerely,

Don Acree
P.O. Box 508
Atlantic Beach, NC 28512
252-247-6273

3 ✓

Subject: Right Whale Ship Strike Strategy
From: Clalmon@aol.com
Date: Wed, 27 Sep 2006 11:27:15 -0400 (EDT)
To: Shipstrike.Comments@noaa.gov

Dear Sirs:

As an avid fisherman and nature lover, I certainly understand and agree with the need to protect the Right Whale. However, I have to ask you to look at your decision again. What scientific evidence have you based your decision on? Making charter boats and fishing fleet boats slow down is not going to accomplish what you are looking for. Neither will enacting stronger restrictions or the closing of seasonal fishing grounds. The only thing you will be doing is devastating the local economies and placing businesses in very precarious positions. Please do not enact your current proposal or any proposal that is more stringent. I think you need to do some further research as it is very evident that the groups your current proposal targets are not the ships that are striking and killing Right Whales. If you do enact this proposal, you will not accomplish your goal, but you will put many people out of business and will restrict access to thousands of people who learn about nature by going out on fishing trips.

Cathy Almon

A ✓

Subject: Regulations

From: David & Julie Ahart <Dahart@cox.net>

Date: Tue, 26 Sep 2006 18:25:16 -0400

To: Shipstrike.Comments@noaa.gov

To whom it may concern,

We are a very avid fans of deep sea fishing. It is something that in Eastern North Carolina we enjoy doing as a family if the new rules are implemented it will affect all vessels head boats and charter fishing vessels up and down the East Coast that are 65 ft and longer. On a full day trip when we go fishing it takes around 5 hours traveling round trip to get to and from the fishing grounds. If the new laws go into effect it would require at least 8 -1/2 to 9 hours traveling leaving only 2 hours for fishing. People will not want to spend their time and money to go through this. **Would you?** The loss of revenue during the proposed time frames each year would have a detrimental impact deep sea fishing businesses and all other headboats. It would be very hard if not impossible to keep deep sea fishing business afloat. Many of which are family owned. We ask that you reconsider your proposal. I am all for saving wild life but you also need to consider who you are hurting the most. I have never seen a whale yet on a smaller vessel.

Thank You,

Julie L. Ahart

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 New Orleans, LA
MARK MCANDREWS
 Pascagoula, MS
DAVID McDONALD, PPLP
 Panama, FL
CHARLES W. PORTER
 Pensacola, FL
WAYNE STUBBS, PPLP
 Panama City, FL
URBAN TREUL
 Baton Rouge, LA
ROBERT H. VAN BOSSUM, PPLP
 Port Comfort, TX
GARY FALOR, PPLP
 Cleveland, OH
WILLIAM O. FINEDEAN
 Indianapolis, IN
DENNIS JOHNSON
 Thunder Bay, ON
ADOLF QUARDO
 Dulles, VA
SCOTT SMITH
 Hamilton, OH
ROSS GAUDREAU
 Dulles, PO
KAREN OLDFIELD
 Halifax, NS
DONALD TADCO, PPLP
 Montreal, PO
JERRY BRIDGES
 Oakland, CA
WILLIAM J. BUEHNER
 Port Humboldt, CA
MICHAEL GUAN
 Redwood City, CA
RICHARD STERNE
 Long Beach, CA
ANGEL GONZALEZ RUIZ A.
 Mexico City, Mexico
KURT ALLAHAR
 Point Lisas, Trinidad
PAUL KIRST
 St. Vincent, WI
PAUL W. HURLSTON
 Grand Cayman, Cayman Islands
BYRON LEVINS
 Kingston, Jamaica
LEONARD MORAN
 Bahía Blanca, Argentina
AGUSTIN IBAZ
 QUITO, ECUADOR
FRANCO
 QUITO, ECUADOR
ZALEE
 QUITO, ECUADOR
ARGENTINA
VALENTIN MORAN
 Bahía Blanca, Argentina
MAURICIO SUAREZ
 Santa Marta, Colombia
JORGE ESTRADE
 QUITO, ECUADOR
FRANCO
 QUITO, ECUADOR
CAPT. BELTRAN VASQUEZ
 QUITO, ECUADOR



American Association of Port Authorities
*Serving the Ports of Canada, the Caribbean,
 Latin America and the United States*

KURT J. NAGLE
 President

1010 Duke Street
 Alexandria, VA 22314-3589

Home Page: www.aapa-ports.org

July 16, 2004

Chief, Marine Mammal Conservation Division
 Attention: Right Whale Ship Strike Strategy
 Office of Protected Resources
 NOAA Fisheries
 1315 East West Highway
 Silver Springs, MD 20910

Dear Sir or Madam:

The American Association of Port Authorities (AAPA) recognizes the importance of the North Atlantic right whale and the need for its protection.

We also recognize the economic and operational impacts that the proposed restrictions on shipping will have on seaports, vessel safety, pollution prevention and security, given the levels of delays, diversions, and port bypasses that will result. We are also concerned that no comprehensive study of the socio-economic impacts on port communities has been undertaken, and that the potential impacts on vessel safety and the safety of coastlines has not been analyzed.

Moreover, there is no substantive study to show that the measures proposed in the ANPR will have the desired effect of reducing fatalities in the right whale population.

The American Association of Port Authorities recommends that such studies be undertaken and the results analyzed before the proposed rules are put into effect.

These issues are of particular importance to AAPA's North Atlantic and South Atlantic member ports. We hope that the National Marine Fisheries Service will work closely with the North Atlantic Ports Association, Inc., and the South Atlantic and Caribbean Ports Association to study the effects of the proposed rules on port communities and craft a rule that will protect the Atlantic right whale from vessels but will not adversely affect the shipping industry or port communities.

Sincerely,

Kurt J. Nagle



Alliance of the Ports of Canada, the Caribbean, Latin America and the United States

15
1010 Duke Street
Alexandria, VA 22314
Phone: (703) 684-5700
Fax: (703) 684-6321
www.aapa-ports.org

October 5, 2006

Chief, Marine Mammal Conservation Division
Attention: Right Whale Ship Strike Strategy
Office of Protected Resources
NOAA Fisheries
1315 East West Highway
Silver Spring, MD 20910

To Whom It May Concern:

On behalf of the U.S. member ports of the American Association of Port Authorities, I am writing to express serious concern about the detrimental impact on maritime commerce of the Notice of Proposed Rulemaking and the Draft Environmental Impact Statement regarding the National Marine Fisheries Service's North Atlantic Right Whale Ship Strike Reduction Strategy. Since this rulemaking would directly affect East Coast ports, AAPA fully endorses and supports the detailed comments filed by the North Atlantic Ports Association, the South Atlantic and Caribbean Ports Association and the individual ports in the region. However, we are concerned that imposing speed restrictions and seasonal management areas as part of the ship strike reduction strategy may set a precedent for endangered species preservation that could adversely affect the entire U.S. port industry.

The U.S. port industry is extremely concerned about the proposed speed restrictions. Pilots have expressed major concerns regarding the safety of navigation at the proposed speeds as they pertain to ship strikes. The port industry does not believe that the existing science makes a compelling case that speed restrictions will, in fact, reduce ship strikes. While the Draft Environmental Impact Statement concludes that a majority of ship strikes occurred at speeds of greater than 13 knots, the document does not list the distribution of ships traveling at given speeds. It is probable that the majority of ship strikes occurred at those speeds because those are the speeds most traveled, not necessarily because they are the most dangerous. Also, all conclusions about the effectiveness of speed restrictions are based on a universe of approximately 60 ship strikes in the past 30 years, whereas more than 300 ship strikes have occurred during that time. The Draft Environmental Impact Statement does not adequately address the issue of whether the 20 percent of ship strikes where ship speed is known is a representative sample of the total number of ship strikes and, thus, can be interpreted as statistically significant.

We are also extremely concerned that the economic impact analysis completed by National Marine Fisheries Service doesn't fully measure the effect these rules would have on commerce and international trade. While the economic analysis attempts to measure the impact of

individual vessels slowing down on their way into port and considers the additional cost to vessels operating on multi-ports strings, we are not convinced that it accurately calculates the cost associated with ship diversions, or ship dislocations. The port industry believes that ship diversions are likely, especially for those vessels that call on multiple ports on the East Coast. If speed restrictions are in effect for several ports on a vessel's schedule, the cumulative impact is likely to be significant enough to cause shipping lines to alter their routes. We are especially concerned about those vessels that transit the Panama Canal and must adhere to the Canal's strict schedule. Those vessels are likely to alter their schedules on the East Coast to accommodate Canal transit.

The port industry is also concerned that the National Marine Fisheries Service is not investing enough money in technology that could provide at least a partial solution to the problem. We believe that finding accurate and reliable ways to track whales and be aware of their whereabouts is critical to the success of any right whale ship strike reduction strategy.

These issues are of particular importance to AAPA's North Atlantic and South Atlantic member ports. We hope that the National Marine Fisheries Service will work closely with the North Atlantic Ports Association, Inc., and the South Atlantic and Caribbean Ports Association to determine an accurate effect of the proposed rules on port communities and craft a rule that will protect the Atlantic right whale from vessels but will not adversely affect the shipping industry, port communities and international commerce.

Sincerely,

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

Kurt J. Nagle

kjn:mhm



61

AMERICAN PILOTS' ASSOCIATION

INCORPORATED

499 SOUTH CAPITOL STREET, S.W., SUITE 409

WASHINGTON, D.C. 20003

PHONE: 202-484-0700

FAX: 202-484-9320

www.americanpilots.org

CAPTAIN MICHAEL R. WATSON
PRESIDENT

CAPTAIN WHIT SMITH
SECRETARY-TREASURER

CAPTAIN GARY MADDOX
SENIOR VICE PRESIDENT
SOUTH ATLANTIC STATES

PAUL G. KIRCHNER
EXECUTIVE DIRECTOR-GENERAL COUNSEL

LISA P. KATES
EXECUTIVE ASSISTANT

COMMENTS OF AMERICAN PILOTS' ASSOCIATION ON NOTICE OF PROPOSED RULEMAKING TO IMPLEMENT SPEED RESTRICTIONS TO REDUCE THE THREAT OF RIGHT WHALE STRIKES [Docket No. 040506143-6016-02. I.D. 101205B]

October 5, 2006

The American Pilots' Association (APA) submits the following comments on the Notice in the June 26, 2006 *Federal Register* of regulations proposed by NOAA's National Marine Fisheries Service (NMFS) to impose speed limits on vessels in certain areas along the US East Coast at certain times of the year for the purpose of reducing the likelihood and severity of ship strikes of North Atlantic Right whales.

The APA cannot support the proposed rules. Those rules could have a severe negative impact on the operations of affected vessels and could seriously reduce navigation safety. In addition, there is inadequate scientific evidence that the speed restrictions would have the intended effect. Indeed, as the APA discussed in its November 15, 2004 comments on the ANPR in this rulemaking proceeding (copy attached), there is considerable scientific opinion that slower speeds may increase the incidence of ship strikes of large whales. Given the substantial adverse economic and safety impacts of the proposed speed restrictions, the equivocal and speculative nature of the research to date does not provide sufficient justification for the proposed rules.

The Notice indicates that the NMFS rightly recognized that an important issue raised by proposed speed limits is whether those limits would cause vessels to lose necessary maneuverability. According to the Notice, the NMFS believes that is not true. The examples and arguments offered by the NMFS in support of that belief that "ships operating under the proposed regulations will be able to maintain maneuverability," however, are not compelling. Examples of other speed restrictions or reduced-speed operations noted by NMFS are inapposite. Many of the cited speed restrictions are in sheltered waters. Others, such as the practice of vessels slowing down to board or disembark a state pilot, take place in open, deep waters where a temporary decrease in speed or maneuverability would not pose a significant risk. Some of the areas that would

CAPTAIN ERIC A. NIELSEN
REGIONAL VICE PRESIDENT
NORTH ATLANTIC STATES

CAPTAIN MICHAEL C. TORJUSEN
REGIONAL VICE PRESIDENT
GULF STATES

CAPTAIN MICHAEL R. LORINO
REGIONAL VICE PRESIDENT
GULF STATES

CAPTAIN STEVEN D. BROWN
REGIONAL VICE PRESIDENT
PACIFIC COAST STATES

CAPTAIN DANNY H. GALLAGHER
REGIONAL VICE PRESIDENT
GREAT LAKES

be subject to the proposed speed restrictions, whether in designated waters during specified times of the year or in ad hoc dynamically managed areas, however, are in waters with narrow channels, dangerous shoals, and frequent strong currents and high winds. Most of the speed restrictions would apply during winter months when strong northeast winds are common. These are conditions of relatively greater navigational challenge. Steerage way and maneuverability is particularly important in such conditions. These are not the times or the places to reduce the margins of navigation safety.

As experts in shiphandling and in understanding how ships maneuver and interact with the elements, pilots are uniquely qualified to assess the impact of the speed restrictions on vessel maneuverability and navigation safety. APA member pilots in many of the areas that would be affected by the proposed regulations report that the speed restrictions would pose an unacceptable risk of groundings and ship-to-ship collisions, with potentially devastating environmental damage (which could do more harm to the right whales than ship strikes). These pilots are submitting comments explaining the local conditions, typical vessel operations, prevalent navigation demands, and the need to maintain speeds greater than the proposed restrictions. The APA urges the NMFS to consider those comments and to consult with ship pilots and other professional mariners before proceeding with the proposed rules.

No group in the maritime community has been more active in assisting the NMFS in its efforts to protect the Northern right whale than the APA and its member pilots. We have recommended, however, that as protective measures are ratcheted up in the face of perceived lack of progress in this effort, NMFS should be careful that measures with significantly increasing economic and safety impacts are based on adequate study.

The stakes in this matter are indeed high – for navigation safety, for environmental protection, for the shipping industry, for the economic well-being of this country, and, indeed, for the whales themselves. Hasty and ill-considered action, no matter how well-meaning, could have far reaching negative consequences. As the APA said in its 2003 comments, we are concerned about a “rush to judgment” on this subject. Measures eventually adopted on the basis of better science, more reliable information, and true consultation with experts such as pilots will have a better chance of success.



The American Waterways Operators
www.americanwaterways.com

Atlantic Region
801 North Quincy Street
Suite 200
Arlington, VA 22203

Phone: (703) 841-9300
Fax: (703) 841-0389
E-mail: ccoakley@vesselalliance.com

7 ✓
Christopher A. Coakley
Vice President - Atlantic Region

VIA E-MAIL

October 5, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

RE: Endangered Fish and Wildlife; Proposed Rule to
Implement Speed Restrictions to Reduce the Threat of Ship
Collisions with North Atlantic Right Whales
(Docket No. 040506143-6016-02. I.D.101205B)

Dear Sir or Madam:

The American Waterways Operators is the national trade association representing the inland and coastal tugboat, towboat and barge industry. The industry is a vital segment of America's transportation system, safely and efficiently moving over 800 million tons of cargo each year, including most of New England's home heating oil and gasoline. The industry provides the nation with a safe, secure, low-cost, environmentally-friendly means of transportation for America's domestic commerce. Towing vessels and barges owned and operated by AWO members operate between U.S. ports all along the Atlantic coast, including the three regions identified by the National Marine Fisheries Service as areas in which right whales are active.

AWO members are dedicated to environmental stewardship and support a means of protecting North Atlantic right whales that does not unreasonably delay or adversely affect commercial vessel voyages. We offer the following three comments to NMFS as the agency considers the elements of its final rule on this matter:

- Speed restrictions must have a safety exemption;
- The evidence provided in the notice of proposed rulemaking (NPRM) supports a 12 knot speed restriction instead of 10 knots, and;
- Restrictive measures for vessel operation must be limited to the right whale critical habitat and dynamic management areas (DMA).

First, as already noted by AWO members who commented on this rule, there is no allowance for a vessel Master to deviate from the speed restrictions when necessary to secure the safety of his

vessel, crew and cargo due to local conditions including weather, current, hydrographic characteristics and traffic density. To correct this oversight, AWO supports an exemption from the proposed speed restriction that permits the Master or Mate of a tugboat to increase speed where conditions dictate for navigational safety.

Second, in the preamble to the rule, NMFS cites comprehensive reports and studies that provide evidence of right whale deaths by ship strikes at certain vessel speeds. These reports state that the highest probability of ship strikes and related whale deaths occur at vessel speeds of 13 knots and higher. Indeed, the sum of scientific evidence presented by NMFS indicates that 13 knots is the lethal speed for vessels in areas where right whales are present. Despite the evidence provided, NMFS has chosen to propose a 10 knot restriction in the rule without providing adequate explanation for that speed. While NMFS cites 10 knot speed restrictions for state pilots and national security reasons, both of those issues are unrelated to right whale ship strike deaths. AWO believes that a speed restriction of 12 knots would be sufficient to limit ship strikes and mortality of right whales while not unduly impeding the majority of tugboats transiting the proposed areas.

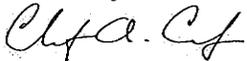
Third, AWO proposes that NMFS limit vessel restrictions to the boundaries of right whale's critical habitat and to dynamic management areas (DMA) to ensure that right whales are afforded accurate protections and coastwise vessels are provided limited impediments to navigation and speed. NMFS has established scientifically proven critical habitats, and supplemented these habitats with the use of dynamic management areas to account for variables in right whale movements. This should be the limit of the rulemaking. However, the rule expands operational restrictions beyond critical habitats and dynamic management areas to the MSR boundary, even when whales are not reported within the area. AWO believes that vessel restrictions should not be applied to the MSR boundary. If whales are reported within the MSR boundary, the application of a DMA would be sufficient to protect any whales in the area. Any further expansion of vessel restrictions is an unreasonable hindrance to vessel operations.

The proposed rule also expands operational restrictions within the seasonal management areas beyond the seasonal time limits when right whales are predicted nearby. The seasonal management area is in effect for 15 days beyond the period when right whales leave the management areas. Restrictive measures should not be applied beyond the time period when scientific evidence suggests that whales are present.

AWO is concerned that NMFS has not developed a proposed rule that minimizes the impacts on vessel operations in keeping with the biological data. The need for right whale protections must be balanced with the need for essential coastwise shipping lanes to remain safe and unimpeded when right whales are not present. AWO emphasizes that limited seasonal management areas and appropriate use of DMAs is sufficient to protect whales outside of their critical habitat without implementing arbitrary burdens on tugboats.

Thank you for the opportunity to comment on the notice of proposed rulemaking.

Sincerely,



Christopher A. Coakley

8 -

Subject: whales
From: "Tfcplaya20@mindspring.com" <Tfcplaya20@mindspring.com>
Date: Tue, 26 Sep 2006 20:05:28 -0400
To: Shipstrike.Comments@noaa.gov

What is this. Do you no that you could be putting hundreds of deep sea charters out of business with this. You should take this into deep consideration before you go through with this. This is a horrible proposition. U have a better chance of winning the lottery than encountering a whale. Think twice before you make any decision.
Josh Anderson

Tfcplaya20@mindspring.com
EarthLink Revolves Around You.

↑ ✓

Subject: Regarding Right Whale Ship Strike Strategy
From: Joyce Arcus <nightingale1960me@yahoo.com>
Date: Sat, 30 Sep 2006 10:42:45 -0700 (PDT)
To: Shipstrike.Comments@noaa.gov

Dear Sir or Madam:

I have just come from my annual Deep Sea Fishing adventure in the Atlantic Ocean to learn that there is a proposed ruling that will greatly affect family businesses like the one I use. I reviewed the websites provided by both the company and the government and I don't see scientific evidence for such a proposal to limit the speed at which the boats travel to and from the fishing waters.

In my 20 years of deep sea fishing, I have yet to see a whale off the coast of North Carolina, as much as I would like to see one. So I fail to see how the proposal to cut back the speed at which boats like the one I travel on are going to affect the Whales. I believe more research must be done before such a ruling is put into affect.

Thank you for reading my e-mail,
Sincerely,

Joyce A. Arcus
Durham, NC.

Get your own web address for just \$1.99/1st yr. We'll help. Yahoo! Small Business.

Subject: Right Whale Ship Strike Strategy
From: James Baber <jemesb@lynchburg.net>
Date: Thu, 28 Sep 2006 08:55:56 -0400
To: Shipstrike.Comments@noaa.gov

10 ✓

I am writing in reference to the Right Whale Ship Strike Strategy. I request that this does not pass. This strategy should be used on ships over 85 feet only. Most of the fishing charter boats up and down the coast are between 65 and 80 feet long. This would be detrimental to their livelihood as the time needed to get out in the Gulf Stream would increase to the point no one would charter one any more. The hulls on these boats are designed to push things away instead of draw them under the boat. Also the props are above the hull keel insuring things such as the Right Whale are not hit by the props.

Thanks,
James R. Baber

don't ruin our fishing

Subject: don't ruin our fishing

From: Bizz Baker <bizz@ec.rr.com>

Date: Fri, 29 Sep 2006 08:00:33 -0400

To: Shipstrike.Comments@noaa.gov

My grandfather, my father, me and now my sons have fished on the Captain Stacy. Don't ruin it for us!

12 ✓

BAR HARBOR WHALE WATCH CO.
Harbor Place, 1 West Street
Bar Harbor, Maine 04609
(207) 288-2386

Attn: "Right Whale Ship Strike Strategy"

October 5, 2006

Dr. William T. Hogarth, Assistant Administrator
NOAA Fisheries
1315 East West Highway
Silver Spring, MD 20910

Mr. Stewart Harris
Chief, Marine Mammal Conservation Division
Office of Protected Resources
NMFS 1315 East-West Highway
Silver Spring, MD 20910

Dear Dr. Hogarth,

It was a pleasure to meet with you in this spring in Washington to discuss concerns about the present state of the Atlantic Herring resource in the Gulf of Maine. Again thank you for all the incredible work you do on behalf of managing our precious marine resources. I share your passion for our great and beautiful marine and fishery resources. In that spirit, I have worked as a watch whale naturalist for Bar Harbor Whale Watch Company for sixteen years. During this time I have had the great opportunity and fortune to guide 3,300 whale watching trips and have taken over 500,000 people whale watching and out to experience the open ocean first hand.

Likewise I have had the privilege of working for the Right Whale and Endangered Species observer program off the Southeast seaboard for eight winter seasons between Morehead City, NC and Jacksonville, FL. I have made the initial identification and put the alert out for numerous Right whales sightings off North and South Carolina, Georgia, and Florida. I once spotted a Right Whale in the middle of the shipping channel off Savannah, GA while the dredging ship I

was stationed on was traveling full speed directly at it on an offshore run. Fortunately, the mate brought the ship to a halt and veered out of the channel to avoid a collision.

I am writing you to express my somber concerns regarding the proposed rules for the “Right Whale Ship Strike Strategy” and associated Draft EIS. The company I work for offers whale watching trips to the two to three million annual visitors to Acadia National Park and Mount Desert Island. Bar Harbor Whale Watch Company has grown as the whale watching industry in New England has burgeoned over the last two decades. Presently, we operate two high speed jet powered catamarans; the M/V Friendship V which is 112 feet in length and the M/V Atlantecat that is 130 feet in length. Both boats have a shallow draft (3 to 6 feet), no propellers, travel between 27 and 32 knots, and carry between 200 and 400 passengers on each trip.

During the peak of our season (July and August) we offer five whale watch trips daily. Normally our whale watching trips travel 20 to 25 miles offshore from Bar Harbor. However, three of five daily trips are combination whale watch and puffin viewing trips. These require us to travel 7 miles out of Frenchman’s Bay and 9 miles up the coast to Petit Manan Island where puffins nest, before heading offshore to search for whales (Figure 1).

As one of the nations leaders in marine mammal conservation and education, we annually have the opportunity to educate between 60,000 - 80,000 passengers about marine mammal and ocean conservation. We have worked diligently to develop a strong and mutually beneficial relationship with the marine mammal research group, “Allied Whale” that is based at College of the Atlantic. Allied Whale staff curate the North Atlantic Finback and Humpback whale catalogs. We pay to have research assistants from Allied Whale to go on every whale watch trip so that they may collect photos of all large whales we encounter and record their location, behavior and environmental information.

Bar Harbor Whale Watch Company contributes to the conservation of whales not just through education but also by reporting all entangled whales to the disentanglement network and all Right Whales to the Right Whale Sighting Network. This year our vessels located four

entangled whales, three of which were cut free of line including a young humpback whale that was unable to move. For years we have reported all Right Whale sightings to the Coast Guard and sighting network in an effort to be part of the early warning system that alerts ships to the presence of whales so they may take evasive action and alter their course. In some years we have had a hand full of sightings in other years we may have seen Right Whales on over forty trips. On July 3rd, 1991 we located a group of five Right Whales and in 1994 found a group of seven Right Whales 10 miles to the southeast of Mount Dessert Rock. This year we have had four sightings including a mother and calf pair. As your data reflect, more than half of all Right Whale sightings are "opportunistic" and most of those are reported by whale watching vessels.

My great concern centers on the proposed DMA closures. Under the current proposed rules, a very possible scenario could play out in which our whale watch vessels could encounter five Right Whales when arriving twenty miles offshore from Bar Harbor on some bright summer day. If we were to report the sighting to NMFS, the Maine DMR and the Coast Guard as we always have, a DMA closure would then be implemented. Subsequently, our whale watch boats would be forced to reduce vessel speed to 10 knots throughout a 22 mile radius from the sighting, extending all the way back to our dock in Bar Harbor. This would result in the length of time for our trips being increased from 3-3 ½ hours to 5-6 ½ hours each. We would very likely lose one or two whale watch trips each day. Given the lack of available resources NOAA has and the fickle Maine weather it is conceivable that we could be subject to this speed reduction for up to 15 days.

Tragically this would be force us and the New England whale watching industry into a corner that none of us want to be in. Under the given scenario, how could I convince the owners of the whale watch company that it would be in there best interest to allow me to report a Right Whale sighting? In reality one would create a situation in which it would be highly unlikely that whale watch vessels over 65 feet would report any Right Whales sightings. In fact it is not unbelievable to think that whale watching management would not allow any Right Whale sightings to be mentioned during trips if it meant slowing down to ten knots for fifteen days. Under this ill-conceived notion NMFS would be neutralizing the one of the best front lines of defense it has in the protection of Right Whales throughout the eastern seaboard.

I have always been incredibly proud of the fact that over the years our whale watching fleet has been responsible for the quick reporting of dozens of sightings to the Right Whale Network. I'd like to think maybe one ship changed its course in all these years and avoided a possible collision with a Right Whale because of this effort. Under the given scenario whale watch boats that didn't report sightings of up to five right whales would be subject to watch large ships (with the most likelihood of hitting and killing Right Whales) traverse through the area with the Right Whales with impunity. That would be incredibly tragic and completely misguided.

It is a great disappointment that whale watching vessels over 65 feet are being lumped together with the shipping industry in a rush to make up for rules that should have been proposed and implemented years ago. No commercial whale watching vessel has ever hit or harmed a Right Whale. Our whale watching vessels are over 65 feet long but they are also jet powered to reduce the risk of harming any marine mammals. A question that should be addressed by NMFS during their review of the proposed rules should be; "Have any whale watching vessels that have jets instead of propellers ever killed a whale?" If not, how could the service justify restricting jet powered vessels? It is important to evaluate and make a distinction between propeller vessels and jet powered vessels with regard to the analysis and discussion of vessel speed.

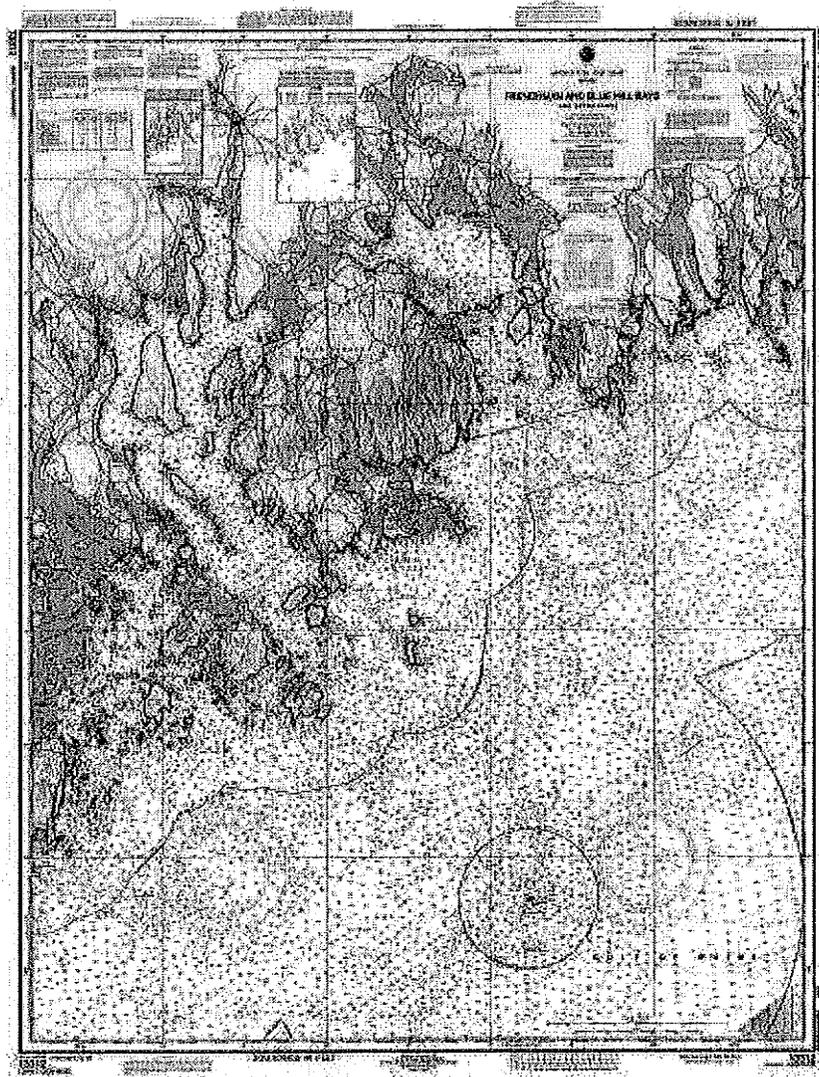
More importantly, why would whale watch vessels be put under the same restrictions as a 900 foot ship, with a forty foot draft and massive propellers? We request that you consider maintaining the DMA closure rules as they are written, but instead of restricting vessels over 65 feet, make the restriction of vessels over 100 tons. Then require all vessels under 100 tons and over 20 feet to slow down to a speed of 10 knots when within five miles of any Right Whale sightings. This would be advantageous for a number of reasons; 1) it would more realistically be enforceable by a coast guard vessel on station 2) it would not severely penalize progressive fishing, whale watching and ferry service captains and crews who choose to provide "opportunistic" Right Whale sightings and 3) it would more properly protect Right Whales from collisions by limiting all boats over twenty feet in length within five miles. As well, all vessels (including those under 100 tons and over 20 feet) and federal vessels of all types should be required to slow to 10 knots under the cover of darkness within the larger 20 mile DMA.

If you force the ten knot regulation on whale watching vessels over sixty five feet then you will have compromised a relationship that has worked successfully for years. And most tragically, I believe, you will have further jeopardized the chances of Right Whales to survive into the next century.

Sincerely,

R. Zackary Klyver, *Naturalist*

Figure 1: Map of Mount Desert Island and Mount Desert Rock





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at the World Trade Center
Boston, MA 02210
Phone: 617.748.1428
Fax: 617.748.1425
Web: baystatecruisecompany.com

September 18, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910
Attn: Right Whale Ship Strike Strategy

Dear Sirs/Madams,

Our company, Bay State Cruises, has operated the Boston to Provincetown ferry since 1973. We are the longest running ferry company of all those that have served the route throughout its 164 year old history. We operate a traditional 16 knot ferry and a high speed 30 knot ferry.

The Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Whales, as written, would bring an end to our ferry operation despite there *never having been a right whale ship strike in the region by either a whale watch or ferry vessel.*

Though within the Economic Impact portion of the proposed rule, NMFS "concludes that there would be disproportionate impacts from implementation of this proposed option between passenger ferries and high-speed whale watching vessels" and states that "reductions to revenues for small passenger ferries...would range...to 9.8%", the economic impact is still severely understated.

While it is roughly accurate that just one 15 day DMA would decrease our revenues by 10%, what the economic impact study failed to point out is that *our annual profits are far less than 10% of annual revenues.*

Would there to be just one DMA activated on our route, we would likely have sufficient cash flows to continue the remainder of the season, but, would be well short of the necessary cash flows to continue through the winter into the following season. **We would be out of business.**

More troubling is that there appears to be a strong likelihood that *multiple* DMAs could be activated within the region of our ferry route. By referring to confirmed 2006 right whale sighting data from NOAA's website and DMA trigger criteria referred to in the proposed rule and accredited to Clapman and Pace (2001)*, it would appear that several DMAs would have been enacted in this last season alone, as seen in the attached chart.

Multiple DMAs would do even more economic harm than to stop our company from being able to re-commence our ferry service the year following a season with a DMA. Multiple DMAs, such as those that would have gone into effect in 2006, would have forced the termination of service with no re-opening *within* the same operating season.

The number of confirmed right whale sightings plotted on our area's chart attached and the resultant 36 mile diameter DMAs**, make clear our plight.

Instead of fast ferry travel from Boston to Provincetown in 90 minutes, trip times would take as much as 4 hours. Our traditional ferry will make the trip in over five hours instead of the current trip time of 3 hours. Passengers will not tolerate an over water passage greater in duration than over road travel. Nor would there be an opportunity to perform more than one round trip per day. Flight connections could not be made, theatre and dinner reservations would be missed, overnight check-in and check-out times would be disrupted, business appointments and Boston medical appointments would be missed and the ferry would be abandoned as an adequate means of transportation.

Our ferry would have to cease operations, not to re-open , *within* the same season that the DMA occurred.

Using 2006 as a sample season, we would have lost over \$600,000 in revenues once the last DMA was lifted; a figure in excess of the combined profits of our past 18 years of operation. We would not have been able to continue operating due to lack of cash flows to make payroll, vessel payments, etc.

Our \$3,000,000 of annual vendor and payroll expenditures would cease. Over 50,000 passengers would not be taken to Provincetown where they spend an average of \$250 per day each.

The over 160 year tradition of a ferry from Boston to Provincetown would end and the Town of Provincetown would be economically stranded.

Although the criteria of DMA triggers may still receive some fine tuning, the confirmed number of right whale sightings make clear that in order for DMAs to take place, it is less an issue of sighting criteria than it is of the number of sighting *resources* that are available to re-confirm the sightings of right whales that are required to then trigger the DMA. The presence of the whales themselves is not in question.

A DMA would therefore occur as soon as there were enough vessel or aerial resources available to NMFS to confirm the whales' presence. The creation of DMAs in our region, therefore, is merely dependent on the amount of sighting resources; resources that will likely increase once conservation organizations have the DMA tool with which to control vessel movement.

Because of the economic damage that the DMAs would cause to my operation, I recommend the following:

1) Either Alternative 1 or Alternative 4 such that DMAs were not a part of the operational measures

Rationale:

The proposed rule states that “relying on this measure [DMAs] would only have a minor positive effect on right whale population size and may not reduce ship strikes sufficiently to promote population recovery. In addition, relying on this alternative would impose substantial costs on government resources in terms of the monitoring and assessment activities needed to implement the DMAs”.

Whales could still receive protection from SMAs. Ferry and whale watch operations, *which have never been involved in a right whale strike* could continue to operate.

or

2) Alter the 65' vessel length threshold for Vessels Subject to Proposed Rule to 262'.

Rationale:

The proposed rule cites “Precedents for Speed Restrictions”; specifically, “The National Park Service established a 13 knot speed limit for vessels 262' or greater, in Glacier Bay National Park on a year-round basis to reduce the likelihood of ship strikes”.

Our small vessels (90' – 200' in length) are fundamentally less at risk of striking a whale than other types of vessels. Unlike the small pleasure boater involved in socializing with his passengers, our vessels are run with vigilant and professional crews that have made their skills evident by the absolute absence of right whale strikes. Also, unlike the large ships which have pilot houses as far as 700 feet aft of the bow of the ship, a line of sight obscured by the deck of the bow to any object within 1/8th of a mile of the bow, operational hours in the evening hours, and of an overall size incapable of stopping within a 3 miles, our vessels' wheel houses are only a short distance aft of the bow (typically 20'-30') with unobstructed views, have the ability to stop within 150' or less, are operated 95% in the daylight, and have up to hundreds and hundreds of additional watch standers in the form of passengers looking attentively out to the water.

or

3) Reduce the DMA in size to 4 mile in diameter, 2 mile radius.

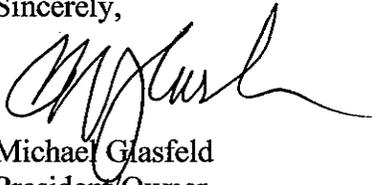
Rationale:

Our vessels could circumnavigate the DMA and remain in business.

Our vessels have been able to avoid right whales with a mere 500 yard approach restriction. It seems unreasonable that a DMA size should jump 64 times in size to an 18 mile radius.

Thank you for seriously considering my comments. My employees, their families, the Boston tourism economy, and the entire community of Provincetown, MA are counting on a regulation that will allow the ferries and whale watch vessels to survive.

Sincerely,



Michael Glasfeld
President/Owner
Bay State Cruise Company

* The April 2001 reference document Defining Triggers for Temporary Area Closures to Protect Right Whales for Entanglements: Issues and Options by Phillip J. Clapham and Richard M. Pace III, states that a closure trigger is set off by an "event" defined as "two or more right whale sightings separated by an interval of not more than 10 days." By using this definition and the confirmed number of right whale sightings less than 10 days apart, the attached chart plots were derived.

** Some confusion by parties, both pro and con this proposed rule, have indicated a need to clarify that the proposed rule states that, at a minimum, a DMA's "radius would be 2.8 nm for a single right whale...In addition, a larger circular zone will designated that will extend an additional 15nm beyond the core area...". The minimum diameter of a DMA is therefore 36 miles.

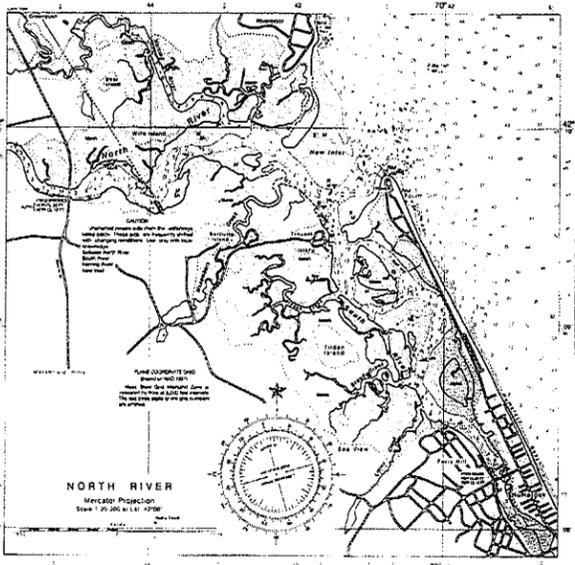
UNITED STATES - EAST COAST
MASSACHUSETTS
MASSACHUSETTS BAY

Metric Projection
Scale 1:50,000 at Lat. 42°00'
North American Datum of 1983
More Details System 1856
SOUNDINGS IN FEET
AT MEAN LOW WATER

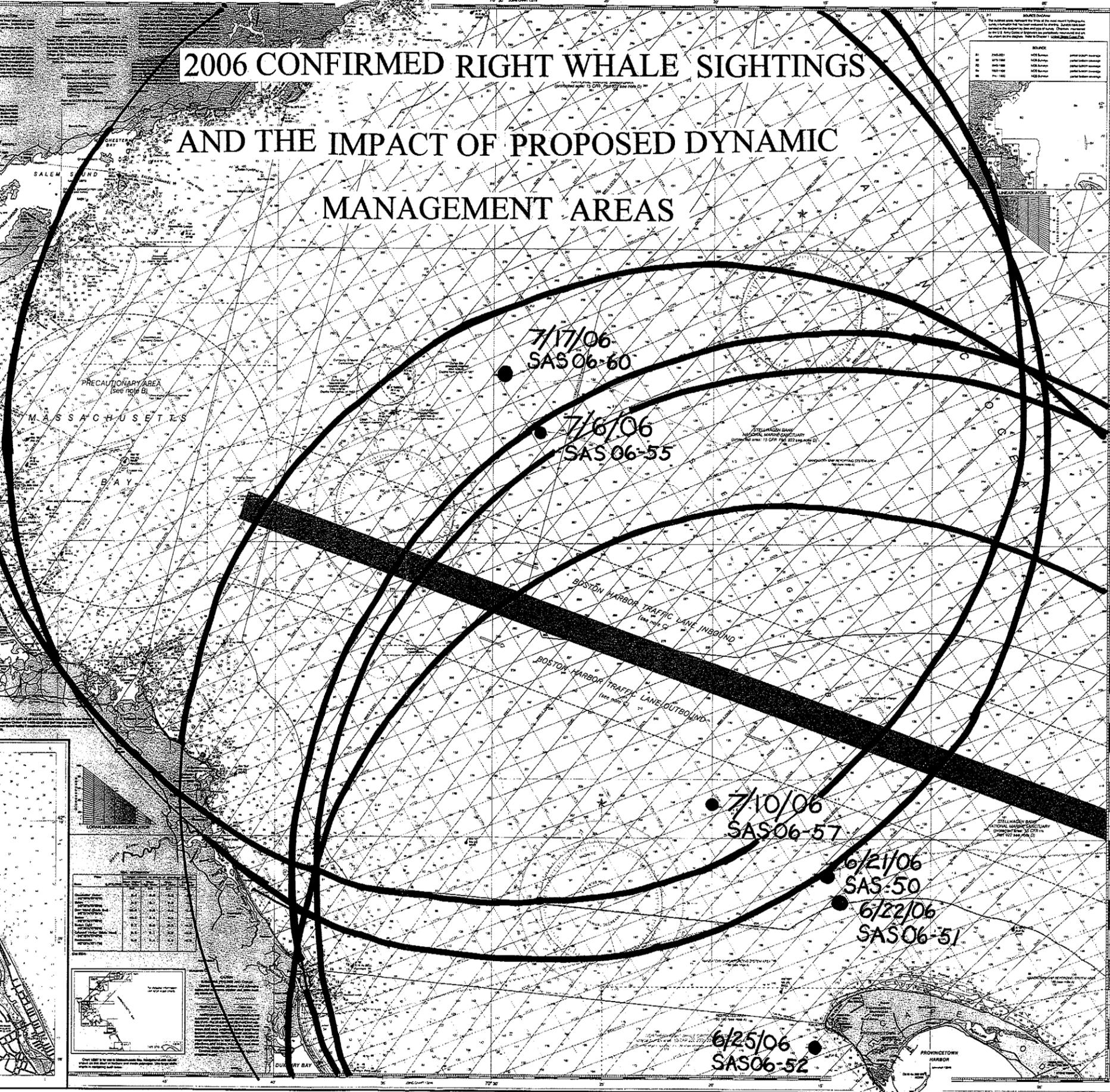
CAUTION
This chart is not to be used for navigation purposes.
It is intended for use as a reference only.
The information on this chart is not to be used for navigation purposes.
It is intended for use as a reference only.

LORAN-C
GENERAL EXPLANATION
LORAN-C is a hyperbolic navigation system.
It consists of two stations, one transmitting and one receiving.
The receiver measures the time difference between the signals received from the two stations.
This time difference is converted into a hyperbolic line of position.
The intersection of two such lines gives the position of the vessel.

RATES ON THIS CHART
999999 - 999999 - 999999
999999 - 999999 - 999999
999999 - 999999 - 999999



2006 CONFIRMED RIGHT WHALE SIGHTINGS AND THE IMPACT OF PROPOSED DYNAMIC MANAGEMENT AREAS



7/17/06
SAS06-60

7/6/06
SAS06-55

7/10/06
SAS06-57

6/21/06
SAS-50

6/22/06
SAS06-51

6/25/06
SAS06-52

14 ✓



October 06, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources Management, NMFS
1315 East-West Highway
Silver Springs, MD 20910
Attn: Right Whale Ship Strike Strategy

Dear Sirs/Madams,

Boston Harbor Cruises (BHC) has been operating passenger vessels on Boston Harbor and Massachusetts Bay since 1926. The company currently operates 18 passenger vessels in the Boston area and employs 127 full time employees. Our employee base grows to 290 full and part time employees during the peak operational season.

Among the vessels in our fleet, three are capable of service speeds in excess of thirty knots. These vessels were designed and constructed expressly for existing water transportation commuter services, whose success relies on the speed afforded by the latest design and engineering technologies factored into these vessels.

During the peak season between April and October, one of these vessels provides a critical mass transit link between Boston and Provincetown, Massachusetts. This service is patronized by over 70,000 riders annually and is considered to be an important commuting and economic link between Boston, Logan International Airport and Cape Cod.

Recognizing that Massachusetts and Cape Cod Bays are seasonal homes to many marine animals, BHC voluntarily contracted with the highly respected Whale Center of New England for the provision of a whale lookout to be posted aboard the Provincetown Fast Ferry. This lookout is stationed in the pilot house on every operational day of the season. The whale observer is intended to provide a specific set of eyes to the vessel's Master for the sole purpose of sighting and identifying marine mammals and wildlife along the vessel's route. Although it is very rare to have right whale sightings on this route, alterations to course and speed are routinely made based upon sightings of marine wildlife of all types, including basking sharks and ocean sunfish. To date, the Provincetown Fast Ferry has had no known close encounters with a right whale in over seven years of operation.

BHC's other two vessels capable of thirty knot service speed are for year round commuter service between Hingham and Boston. This service carries over 700,000 passengers per year and is considered to be one of the most important water transportation routes in the northeast. Between the peak season of April and October, BHC also uses these vessels to provide seasonal whale watching to hundreds of thousands of Massachusetts residents and visitors between the AM and PM peak commuting periods. Through a creative scheduling schematic allowing the vessels to be used in both services, BHC is able to provide both the Hingham commuter riders and our whale watching patrons with better value as it relates to the cost of services provided. These vessels also carry professional naturalists from the Whale Center of New England on every trip.

The proposed Rule to implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales, as written, could endanger the very existence of fast ferries on Massachusetts waters, and the significant whale watching industry in our State, despite the fact that *there has never been a right whale ship strike in the region by either a whale watch vessel or fast ferry*. More importantly, there is no scientific data to support the establishment of the speed limits. In fact, statistics that are available on large, deep draft ship strikes show that most incidents have occurred at between 10 and 12 knots.

The largest problem with the proposed rule is that the Dynamic Management Areas (DMAs) as proposed are excessive in size. The establishment of even a single DMA during our operating season on Massachusetts Bay would likely cause significant, or even irreparable financial harm to our company and employees. It could deprive hundreds of thousands of residents and visitors to Massachusetts of services which they not only desire, but have come to depend upon, based on an overly aggressive regulation which likely won't have any positive effect on marine mammals. The loss of whale watch revenues could also cost the state and its taxpayers hundreds of thousands of dollars in additional water transportation subsidies.

Commuters between Boston and Cape Cod finally have a reasonable mass transit alternative to the automobile and air. The establishment of a single DMA in Massachusetts, or Cape Cod Bay during the ferries operating season, would turn a ninety minute commute into a four to five hour ordeal, and would unquestionably drive commuters from our service. BHC and its competitor, Bay State Cruises take hundreds of thousands of vehicles off of Massachusetts highways each year, significantly reducing emissions exposure to residents along the overly congested Route 3 corridor. The potential impact created by these broad ranging DMAs on our fast ferry operations between Boston and Provincetown will likely shut us down permanently. This would have dramatic negative economic impact on Provincetown and the outer Cape, and will place the automobiles we currently pull off the road and their emission back into the densely populated Route 3 corridor. Clearly, NMFS has an obligation to consider regulations based on a comprehensive benefits/detriments analysis of all economic and environmental factors. It doesn't appear that it has.

As importantly, whale watching operators in Massachusetts are a very important component to the convention and tourism economy of this state. One of the state's most

important competitive advantages in attracting visitors from around the world, is our unique population of marine mammals on Stellwagan Bank. Whale watching operations attract hundreds of thousands of visitors each year to our state and generate millions of dollars in direct and indirect revenues for local businesses, hotels, restaurants, etc.. Also, whale watching operators in Boston and Massachusetts; contribute hundreds of thousands of dollars in tax revenue to the Commonwealth. For example, BHC whale watch patrons contribute significant annual support to the CCF tax which supports Boston's new Convention Center.

Additionally, each whale watch passenger is educated by our naturalists not only on observed behavior, but also on the importance of the preservation of the species and their habitat. In addition to discussions on humpback, finback and minke whales, our passengers learn about the right whale. These passengers often become active donors and volunteers to local and national cetacean programs.

BHC currently operates its vessels under NMFS existing whale watch guidelines, which we and others feel adequately addresses most of the concerning factors surrounding whale watching operations. However, we would be agreeable to a larger security zone around right whales, (perhaps as much as 2.8 nm) to afford a wider separation between our whale watch vessels and this species.

On behalf of the employees of Boston Harbor Cruises, our committed passengers and the tourism industries of Boston and Massachusetts, I would urge NMFS to give serious consideration to the potential consequences that this proposed rulemaking will have on the fast ferry and whale watch industries in Massachusetts should it become regulation.

There is no scientific evidence indicating that speed limits will reduce the potential danger of ship strikes on right whales. Yet there can be no doubt in anyone's mind that this regulation, if it includes DMAs as defined, will likely put the existing fast ferry operations in Massachusetts out of business and effectively stop the advancement of fast ferries in markets along the east coast of the United States.

Accordingly, I urge NMFS to give serious consideration to the following alternative: Through the Stellwagan Bank National Marine Sanctuary Headquarters in Situate, NMFS has the ability to provide 24/7/365 real time reporting information to the commercial and recreational marine commerce in New England of all known locations of marine mammals within a broad geographical boundary. By simply manning a communication center at the Sanctuary around the clock and calendar could do more to protect marine mammals than an overreaching DMA that may be based on two week old information. All mariners transiting Massachusetts and Cape Cod Bays would be required to report to the Center with real time sighting information, including location, type and number of whales. The Center would then broadcast this information at regular intervals, (perhaps every four to six hours) to all vessels transiting Massachusetts and Cape Cod Bays. The center at minimum would use telephone, VHF and AIS for receiving and broadcasting information. With this real time information, marinas would navigate to avoid the known location of animals. With regard to right whales in the area; DMAs of 2.8 nm but without the 15nm extension could be assigned to each animal, with real time tracking and

more frequent broadcasting. Should this prove successful, NMFS could move to open similar centers at strategic points along the east coast.

The North Atlantic Right Whale is an important species on this planet and there is no question that their numbers are not rebounding as well as other marine mammals in our region. However, there is no data to suggest that ship strikes or vessel speeds are affecting in their ability to recover from years of hunting in an earlier era. Many scientists believe that the right whale's problem may lie in the species genealogy or biology or competition from other species.

If indeed NMFS' mission through this proposed rule is to help this species recover, an alternative along the lines of what I have proposed above is the direction in which it should move. A direct commitment by NMFS to provide real time reporting would not only help to protect the North Atlantic Right Whale, and all other marine mammals in New England, it would also protect the livelihoods of our employees and their families, and would allow our fast ferries and whale watch vessels to co-exist with our marine friends.

I thank you in advance for your consideration of my comments.

Frederick L. Nolan

Managing Partner
Boston Harbor Cruises

17.1 ✓

Wednesday, October 04, 2006

Mr. Stewart Harris
Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
Room 13635
1315 East-West Highway
Silver Spring, MD 20910

Re: Docket No. 040506143-6016-02. I.D. 101205B

Dear Mr. Harris,

The Boston Harbor Pilots are a group of professional Mariners the majority of which hold the highest maritime credential, (Unlimited Master Ocean licenses) along with their pilotage credentials. We as a group bring hundreds of years of accumulated maritime experience. The Boston Harbor Pilots were formally recognized and commissioned by the Commonwealth of Massachusetts in 1783. We are charged in representing the public trust in moving vessels safely and efficiently within the state waters of District One Boston.

The Boston Pilots have participated in the NEIT and Ship Strike Committees, and Stellwagen Bank advisory council. We interact with mariners by passing on guidance on sightings and identification of Right Whales. We are instrumental in aiding in the compliance of the Mandatory Ship Reporting System (MSR). We strongly believe that educating mariners regarding Right Whales works. Mariners need the proper tools and knowledge to avoid contact with all whales without restricting the Master's (Captains) responsibility to navigate his/her vessel safely required by international law. How will NOAA address this? Does NOAA have the authority to Regulate Speed conflicting with Maritime Law? The citizens of the United States have spent millions of dollars on Right Whale research without the benefit of passing on whale behavior information to the mariner that could be used to avoid contact with whales. When will NOAA pass on information on how the mariner can best avoid contact with a whale when sighted? If the Tail flukes go up are they sounding? If this is the case would it not behoove the vessel to clear the area as soon as possible?

This NPR falls short in maintaining safety of navigation because it severely restricts the Master's authority and obligation to navigate safely. Under International Regulations for Avoiding Collisions at Sea (COLREGS) of which the United State is signatory requires:]

Rule 6

Safe Speed

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(i) The state of visibility;

(ii) The traffic density including concentrations of fishing vessels or any other vessels;

(iii) The manageability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(iv) At night the presence of background light such as from shore lights or from back scatter from her own lights;

(v) The state of wind, sea and current, and the proximity of navigational hazards;

(vi) The draft in relation to the available depth of water.

(b) Additionally, by vessels with operational radar:

(i) The characteristics, efficiency and limitations of the radar equipment;

(ii) Any constraints imposed by the radar range scale in use;

(iii) The effect on radar detection of the sea state, weather and other sources of interference;

(iv) The possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;

(v) The number location and movement of vessels detected by radar;

(vi) The more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

So what does this all mean to the professional mariner? We have never heard of a speed restriction imposed on a vessel's Master in open waters. This NPR if enacted will undermine the Master's authority in his ability to maneuver at a safe speed. There is sound reason that the COLREGS do not attach a number to safe speed. Safe speed does not equate to the same rate of speed for all vessels. As an example a 150,000 Ton, 993 ft in length, 135ft Beam, and a depth of 148ft Passenger ship restricted to a speed of 10kts under this NPR in a gale is severely restricted in its ability to maneuver safely as opposed to a 656 Ton, 144ft Length, 31 Ft beam, and 17ft depth ship. Although both vessels will face the challenges of operating safely in the wind and sea states created by the gale

winds, both will not maneuver the same in order to maintain a safe speed. The amount of force of a gale wind on the hull of the larger vessel equates to hundreds of tons of force on the ships hull. This NPR could equate to nothing short of an assisted regulated maritime casualty.

Ships have a design sea service speed according to its hull and power plant for the most safe and efficient maneuvering capabilities on open water. The Master intimately knows his/her ships maneuvering characteristics. Ships do not normally reduce from sea speed unless the surrounding conditions warrant it always maintaining a safe speed regardless. Ships will normally reduce speed when entering confined waters and or picking up a pilot. The pilot boat is maneuvered to safely transfer the pilot to the ship in open waters. Some pilot boats would fall under this NPR and boarding a pilot safely would be compromised. Pilot boats regularly have to maneuver in speeds in excess of 10kts to make a safe transfer. How can NOAA ensure the safety of life at sea by reducing maneuverability of vessels in open water?

Pilots are local knowledge experts. They have years of service in the area they operate. Conditions change regularly. Wind, Current, Tide, Depth of water, and channel configuration, and dredging projects are some of the influences on how a vessel will have to be maneuvered safely to port. Channel entrances are subjected to all these influences. Here in the Northeast our weather patterns bring strong low pressure areas with high wind and sea states. It is necessary in many instances where a speed in excess of 10 Kts is required to bring a ship safely across the bar. The fact is that during times of strong wind and sea conditions the NPR if enacted would greatly effect the movement of Petroleum products to the region supplying heat, electricity, and cooling for many business and homeowners in the Commonwealth of Massachusetts. How will NOAA ensure the citizens of the Commonwealth have an adequate supply of petroleum products? This NPR will compromise the continued safe efficient movement of commerce through the port of Boston. Boston services Product Carries, LNG, Auto, Container, Passenger, Cement, Refrigerated cargo, Bulk, and Scrap metal ships. Boston has a robust ferry, fishing, and yachting community.

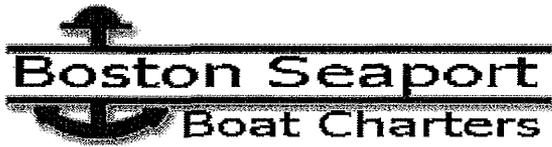
Moreover, we hope NMFS takes these comments seriously as the recent Port Access Route Study (PARS) conducted on the Traffic Separation Scheme (TSS) to Boston was filed in April 2006 at the International Maritime Organization (IMO) before notice of public comment was sent in the Federal Register in May of this year. The PARS study recommends to IMO a less than favorable route which narrows the approach to Boston making less sea room for safe maneuver and more congestion in the approaches to the Boston Precautionary area. Why is NOAA supporting the PARS recommendation sent to IMO before taking public comment in May?

In closing thank you for extending the comment period for this NPR. This was a massive document, and we still feel more time was needed. We have spent 100's of hours reviewing and compiling information. This was a large burden on our organization and our duty as pilots in Boston. We, however, can not support the enactment of these rules because of increased risk of a serious marine casualty, and its negative influence of the safe continued movement of commerce to the port of Boston. We urge NMFS to seek

other more effective solutions that will not compromise safety of navigation while continuing to work with maritime professionals to develop other means of protecting whales and our environment.

Sincerely,

Captain Gregg H. Farmer
President



15 ✓

290 Northern Avenue Boston, MA 02210
Mailing Address: PO Box 51445 Boston, MA 02205-1445

1-617-261-6633
1-800-422-8419
FAX 1-617-261-4747

RE: **[Docket No. 040506143-6016-02. I.D. 101205B]**
RIN 0648-AS36

October 5, 2006

We have been in business both whale watching and ferry service from Boston to Gloucester and return.

I can attest to the effect of a speed reduction to 10 knots on business. It is disastrous.

We operated for over 25 years in the above mentioned cruises and finally had to give up, due to the advent of the high-speed vessels. The public today does not want to spend all day on a boat on the ocean. Our Gloucester excursion was a seven-hour down and back and whale watching for us at 10 knots as seven to nine hours depending on the whales location. When the high-speed catamarans got into the business our passenger counts reduced to the point where we could not cover the cost of the fuel.

Now we only do private boat charters within Boston Harbor.

We are pleased to note that this is perhaps the first time that a government proposal has admitted to a substantial cost to small business entities. \$116, million to save perhaps one whale per year, a substantial sum for sure. That is a lot more than the value put on a human life. I do not think the estimates in the preamble are correct. At least in the area of ferries and whale watch vessels, you have listed a total of 65 vessels in this category for the entire east coast. Between Provincetown and Newburyport there are at least 40 vessels over 65' that operate on Cape Cod Bay and Massachusetts Bay that would be affected.

This is a bad proposal with dire results for a large group of small entities that operate on a very short season.

There is not a lot of historical data that shows that the small passenger vessel fleet that operates on the east coast has created or caused the problems that you are trying to prevent.

Small passenger vessels under 100 gross ton should be exempt from this proposal.

Sincerely,

Capt. Alan Circeo
Boston Seaport Boat Charters
Past President of the Passenger Vessel Association 1996

Subject: Whale proposal

From: Julie Bowling <juliebowling@nc.rr.com>

Date: Sun, 01 Oct 2006 10:26:18 -0400

To: Shipstrike.Comments@noaa.gov

Don't you think the government has hurt commercial fishermen enough! This proposal is ridiculous and our tax payer money does not support this proposal! I am sure offshore drilling is killing more marine wildlife than boats. Lets focus on really important issues rather than micromanaging and hurting those who really need our help.

16 ✓

Subject: Ship Strikes

From: "Bowling, Barry" <barry.bowling@cbre.com>

Date: Wed, 04 Oct 2006 10:51:42 -0400

To: Shipstrike.Comments@noaa.gov

Dear Sirs,

The proposal being considered by NMFS for reducing North Atlantic Right Whale ship strikes is completely unsatisfactory in it's current form.

-First, the need for any action is very much in question as there are an average of 1.2 ship strikes per year, and as many as 20 or more right whale calves being born each year.

-There is no conclusive evidence to show that reducing speed of certain vessels will in turn reduce the mortality rate.

-The areas being targeted are highly punitive to southern states as the vast majority of ship strikes occur off of Mid-Atlantic and Northeastern states.

-The class of vessels encompassing boats of 65' or longer is a) without substantial scientific basis and b) will cause severe hardship and in many cases ruin family businesses along the East Coast.

-The bottom line is that the measures being proposed result in the "cure" being far worse to a specific mammal, human beings, in relation to the "problem" of the loss of 1.2 whales per year.

I respectfully request that any proposal should :

- 1) At least only target the areas in which most ship strikes have been occurring.
- 2) Any ship speed reduction be much less dramatic than the 10 knots being proposed.
- 3) The size of the vessels involved be a minimum of 80 meters.

It is very important to me that we all put forth our best effort to protect all species of life. But it is also important that we not weaken (and ruin) the livelihoods of thousands of humans by taking the drastic measures being proposed.

Sincerely,

Barry J. Bowling
11801 Canonero Place
Raleigh, NC 27613

18 ✓

BRUNSWICK LANDING MARINA
2429 Newcastle Street
Brunswick, Ga. 31520
Phone: 912-262-9264 Fax: 912-262-9327
E-Mail: bwklandingmarina@compuserve.com

October 4, 2006

NOAA/National Marine Fisheries Services
One Blackburn Drive
Gloucester, MA 01930

E-Mail: Shipstrike.Comments@noaa.gov

RE: Shipstrike/Right Whales

Dear Sirs,

We certainly concur with your objective to protect the Right Whale, however, we are very concerned that the proposed rule is excessively restrictive.

Our information about Right Whales is based primarily on reports of their activity off the Georgia coast of Glynn County and the neighboring Georgia counties. Our observations as well as the reports from many other offshore boaters in this area all confirm that there have been no Right Whale sightings within three miles of the coast in this area.

Please do not restrict the speed of boats or ships within three miles of our coast. Please consider the following reports:

Captain Edwin Fendig, Sr. made the following statements for the local pilots:

1. To their knowledge, they have never hit a Right Whale.
2. He has never seen a Right Whale within three miles of the coast. None of the other pilots have ever reported seeing a Right Whale within three miles of the coast.
3. The pilots have observed Right Whales well off shore, but they have been sighted at a substantial distance and the boats have always been kept well away from the whales.
4. Right Whales are infrequently seen far off our Georgia coast but are frequently seen off Fernandina and the Florida coast.

Mr. Lewis Dyer, the President of Golden Isles Cruise Lines reports that their boat goes out beyond the three mile limit daily and their crews have never reported a Right Whale sighting off the local Georgia Coast.

Several sports fishermen were asked about Right Whale sightings. Offshore fishermen including Bob Torras, Jr., Jack Hardman, Alan Tucker and Ernie Knight, have never seen a Right Whale within three miles of the local Georgia coast. There are no

reports from any other fishermen or boaters of ever having sighted Right Whales within three miles of the local Georgia coast. One reported having sighted a Right Whale six miles off the coast.

The technical report done for the department of Defense and Navy by E. R. Gerstein says that, "Right Whales are vulnerable to ship collisions with DOD and large commercial vessels because their propellers are higher than the bottom of the ship creating a "quiet zone" directly ahead of the ships." This study would imply that ships with propellers lower than the bottom would not have a "quiet zone" and would not present the same threat. The report indicates that whales are able to avoid boats that do not have the "quiet zone" in front of the boat or ship. The reports that whales exposed to the Navy's mid-frequency sonar have repeatedly stranded and died on beaches around the world would indicate that some simple noise system broadcast ahead of boats might warn the whales away from the boat's path without damaging the whale or other marine life.

If speed is the principal threat to Right Whales, it is obvious that most smaller vessels including all sports fishing vessels would subsequently become a target to be placed under the 10 knot speed limitation. This would make all off shore fishing in Georgia impractical because of the time required to get to the fishing grounds.

Please do not place speed limitations on boats of any size within three miles of the local Georgia coast. Please do not make a rule that limits boats to 10 knots speed in areas where there are no Right Whales. Please do not place speed limitations on sports fishing and all other boats that have propellers that extend below the bottom of the boat. These boats do not have a "quiet zone" in front of the boat.

Thank you for your consideration.



Robert M. Torras, Sr.
President, Brunswick Landing Marina

Cc: Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office Of Protected Resources
NMFS
1315 East-West Highway
Silver Spring, Md. 20910

✓ 19

Subject: Comments**From:** "\"Candy\"" <candynkisses2000@yahoo.com>**Date:** Tue, 26 Sep 2006 08:38:58 -0700 (PDT)**To:** Shipstrike.Comments@noaa.gov

We take a deep sea fishing trip twice a year and that is our vacation. We attempt to catch whatever is seasonal at the time of the trip. It is great fun for us and we take the catch home and freeze for later meals. We would be greatly opposed to restrictions on the charters that we fish from. We do not wish for the marine life such as whales to die off, but we are not catching whales, nor are we making the attempt to. Please consider the people who enjoy deep sea fishing trips and what that would mean for the ones whose only vacation is to take a long needed peaceful fishing trip. Thank you for your time and consideration.

All-new Yahoo! Mail - Fire up a more powerful email and get things done faster.

October 5, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Springs, MD 20910

Dear Sirs/Madams

Capt. John Boats, Inc. of Plymouth, MA is a small family owned business which operates five passenger vessels between eighty and one hundred ten feet. All operations are seasonal in nature with one passenger ferry operating between Plymouth and Provincetown, two passenger fishing vessels and two whale watch vessels. All vessels operate in the waters of Cape Cod Bay and Massachusetts Bay with a substantial number of excursions operating in and around the waters of Stellwagen Bank National Marine Sanctuary.

In reviewing the proposed rules set forth, I am greatly concerned with the potential impact that these restrictions will have on individual whale watch, ferry and charter boat companies, the local and state economies, the safety of right whales, and navigational safety.

The proposed alternative for operational routes and speed restrictions for whale watching vessels within Cape Cod Bay and on Stellwagen Bank is overly restrictive and unnecessary in order to help to insure the protection of the right whale. An average whale watch from Plymouth consists of twenty five minutes transiting the harbor, a one hour transit, 20nm at 20kts, in search of whales and approximately sixty to seventy five minutes watching whales. Often times the entire trip will be completed within the boundaries of Cape Cod Bay. Assuming that a ten knot speed restriction is in place, an average four hour trip will become a six hour trip with two and one half hours travel time before even sighting a whale. It is clear to me that this scenario would prove unacceptable to approximately ninety percent of our passengers and devastating to the viability of our company. I would be pleased with the opportunity to take NMFS personnel on a whale watch not to exceed ten knots in order to illustrate my concerns. In addition, the size and structure of the proposed DMA accompanied with the problematic delays of implementing the restricted area after a sighting are impractical. Frequent real time position updates and smaller more manageable areas are a more sensible approach to DMAs.

I am greatly concerned that the DEIS fails to put forth an analysis on both the value of education and outreach provided by whale watch operators which is clearly an existing component of the current strategy and the value of out of season and out of habitat sightings of right whales provided to NMFS by whale watch operators. The education and outreach that the whale watching industry has undertaken on behalf of the right whale and all other whale species is immeasurable. I suspect that few other stakeholders

can say the same. In the months of April through October, from 2001 to 2004, no less than seventy-eight reports of right whale sightings were called into the Sighting Advisory System by whale watch vessels. Many of these opportunistic sightings would have gone unrecorded by NMFS if not for the presence of whale watch vessels and their concern for the protection of the right whale. Throughout this 2006 season, I personally am responsible for a total of twenty five right whale sighting reports submitted to NOAA via the Right Whale Sightings Network. It is clear that commercial whale watch vessels identify the majority of out of season and out of habitat sightings of right whales. Furthermore, it is unreasonable to suggest that, in the future, a company or individual should supply sightings information that will in turn significantly restrict their ability to achieve successful whale sightings of any species and potentially prevent a vessel from leaving the dock.

Within the DEIS, it is stated that whale watch vessels could re-route around an effected area in order to look at whales in a different area. Given the size of the proposed management areas, it is impossible for a vessel departing from Plymouth to re-route around Cape Cod Bay and Race Point. In addition, it is stated that vessels could potentially watch other whales within the management area since the vessel would be operating at less than ten knots while doing so. It is a rare occasion that right whales and other large whale species are feeding or aggregating in the same area as they target entirely different food sources. In the few recent circumstances where this has been the case, the presence of right whales actually prohibited the watching of humpbacks due to the five hundred yard regulation for right whale approach. In these cases, whale watch vessels are required to leave the area in search of other whales which may or may not be found. In light of the proposals being set forth, it would be appropriate and sensible to reduce the five hundred yard restriction for right whale approaches for whale watch vessels to a safe distance that would be acceptable for observation and data collection. This would serve both to allow for the collection of valuable photo ID, behavior and general condition data as well as accurate real time position data while still providing whale watch operators the ability to complete a successful trip. Clearly, there is an existing precedent for making an exception to speed restrictions and operational measures for sovereign vessels and therefore one could be made for whale watch vessels.

With regard to the Impacts on Whale Watching Vessels in the DEIS, the omission of whale watch companies outside of Massachusetts as part of the analysis is also of great concern. In Data Charts 4-41 and 4-42, only Massachusetts whale watch companies are analyzed and in Data Chart 4-42, no analysis of Alternatives 4 or 5 is included. Also, within the economic impact analysis connected with the whale watching industry, the impacts to cottage industries of surrounding communities does not appear to be addressed. As a result, impacts on the whale watching and related industries are grossly underestimated.

It must also be stated that the designation of twenty-meter vessels is arbitrary at best. All significant data identifies vessels of eighty meters and longer as being the category of

concern with regard to right whale collisions and fatalities. In fact, an existing precedent for a speed restriction to protect large whales is set in Glacier Bay, Alaska with the vessels regulated being two hundred sixty two feet and greater and the speed restriction being thirteen knots. Yet because of one data point, a Coast Guard vessel of twenty-five meters that struck a young right whale off the coast of Florida on January 5, 1993, it is suggested that all vessels greater than twenty meters must be regulated. Interestingly, it is my understanding that this same coast guard vessel would be exempt from such regulations falling into the category of sovereign and immune. Conversely, another single data point involving a forty three foot vessel that struck and seriously injured a female right whale off the coast of Georgia in March of 2005 is not highlighted.

Clearly, no other stakeholder industry has a comparable history of working towards the protection of right whales as the whale watch industry does. It is hard to imagine other industries being similarly held to the same standards of one hundred percent reporting and having equal expertise in identifying troubled and entangled animals. It is hard to imagine other industries consistently standing by and observing entangled whales until disentanglement teams can arrive on scene. The DEIS has also failed to factor in the value of entanglement reports and support by whale watch vessels.

For these reasons, it is our recommendation that speed restrictions are limited to sixteen knots and the diameter of DMAs is limited to four nautical miles with frequent monitoring and updating of whale positions. Closer monitoring of whales with more targeted restrictions, in our opinion, has a far greater chance of success than severe widespread restrictions.

Captain John Boats, Inc. believes that what is best for the whales is best for whale watching and commends NMFS for its efforts directed at the protection of such an endangered and important species as the right whale. We, in addition to the entire whale watch industry, wish to continue to assist with the protection and enjoyment of all whale species. However, we wish also not to be forced into overly aggressive restrictions and regulations that have the potential to put many of us out of business.

Sincerely,

David A. Slocum
Captain John Boats, Inc.
10 Town Wharf
Plymouth, MA 02360
daslocum@verizon.net

21 ✓

Capt. Stacy IV
416 Atlantic Beach Causeway
P.O. Box 3013
Atlantic Beach, NC 28512
800-533-9417
September 25, 2006

Chief Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East West Highway
Silver Spring, Md. 20910

Re: Comments on Right Whale Ship Strike Speed Limits

Dear Sirs,

My name is Leslie M. Davis Sr. I am the owner Capt. Stacy IV a head boat that carries passengers fishing off the North Carolina coast. The Capt. Stacy business has been in business for over 60 years. It is totally family owned & operated with a 4th generation now involved in the business. In the past 60 years my father before me, myself & my son have well over 7000 trips out to sea fishing 30 to 40 miles out of the Morehead Beaufort Inlet and off Cape Lookout. During all this time we have never come into physical contact with a whale and I don't know of any other captains in this area that have either. There are only a few that have even seen a whale, much less gotten close enough to put one in danger of being struck. Current research shows that 87% of all whale ship strikes involved vessels of over 260 feet or 80 meters. (Laist to *Et Al*: Ship Collisions) on top of that, Laist research for over 200 years of record keeping show there has never been a ship strike of any Right Whale off the North Carolina Coast. Even more, vessels 100 ft in length and under are much more capable of maneuvering to avoid a whale and any other object that may be in the water than are the tankers, freighters and Navy and Coast Guard ships that have been cited as the prime culprits in whale ship strikes. Our headboat like most headboats and charters boats are designed with planning hulls that do not draw objects to them. Also, our keel protects the engine props keeping them from hitting objects in the water. In fact, there is No scientific data to show that any HEADBOAT ANYWHERE HAS EVER BEEN IMPLICATED on a collision with ANY whale. The captains of headboats and charter fishing vessels are on constant lookout for objects, fish, & any thing else that may break the water as some may prove to be good fishing areas.

The proposed rules that are now being considered would have a *detrimental* impact on my business one that I will not be able to recover from. It will not be just my family and my business that will be affected, also my 20 to 25 employees & their families along with every headboat up & down the entire East Coast. Restaurants, hotels & retailers would also be affected as our customers spend money there also. In the Federal Register page 36308 vol. 71, No 122 dated Monday June 26, 2006/ Proposed Rules under

Economic Impacts it states that the economic impact for Headboat & Charter fishing Vessels would be approximate 7.9 to 9.8 percent. This percentage is much more than our typical bottom line. Our business, our family, our employees and the thousands of people who enjoy fishing on headboats should not be punished for something which they have absolutely no responsibility

Our business runs fishing trips year round and the proposed 10 knot speed limit for 30 miles from a certain major ports ours being (Morehead/ Beaufort North Carolina) would cut off at least 5 months of our business, and does not take into account that June, July, August, & Sept are prime months for hurricanes and tropical storms which can easily ruin our income for the year as things are now.

The 10 knot speed limit would mean that instead of it taking us around 2- 1/2 hrs to get to the fishing grounds 35 to 40 miles and around 2- 1/2 hrs to return for a total traveling time of around 5 hrs the new proposed rule would mean the traveling time would increase to around 8- 1/2 to 9 hours. Our full day trips are 11 hour trips with the proposed 10 knot speed rule it would mean that our customers would get only 2 hrs fishing. Most of our customers travel by car or bus from out of town spending anywhere from 2 to 8 hrs driving before they go out. After spending all that time they would not want to spend 8 to 9 more hrs riding only to have 2 hours fishing time out of which the boat has to spend time anchoring and pulling anchor. If you combine the extra traveling time and less fishing time and the fact that they can't catch as many fish as they used to due to all the new fishing restrictions our customers would not come. It would not be feasible to increase the length of the trips due to the fact that after 12 hrs we would have to have an extra captain & crew onboard. We would have to pay both captains and the crews more that would increase our expense. It would also not be feasible to increase the trip time because most customers can not handle more than 11 to 12 hours out to sea. If the 10 knot speed limit goes is passed our customers will not come during the months it is in effect. We would still have expenses insurance, & maintenance with no way to generate an income. Our employees would have to go on un-employment. The loss of income could not be made up.

I am not against protecting the North Atlantic Right Whale. Our family has worked to protect all species of both mammals and fish as this is how we have made our living for years. However, the 10 knot speed limit is excessively slow. Plus, over 30,000 trials by Dr. Edmund R. Gerstein indicate that slower speeds may actually draw more marine mammals to a ship (see link below for an article from American Scientist Magazine).

Therefore, I am requesting that any rules proposed do not apply to vessels that have a valid NMFS commercial or charter fisheries permit onboard. All headboats carry such a permit. I am also recommending that the ports of Morehead-Beaufort be exempt from the rule as there has never been a right whale ship strike within 30 miles of this port. Even more, according to the Marine Mammal Science Vol 17, No.1 page 42 Table 2 between 1975 & 1996 no Right Whale ship strikes have ever been documented off the North Carolina coast. This is very fair since Oregon Inlet and Hatteras Inlets are exempt. Why? They both have plenty of boats in excess of 65ft approaching and departing the harbors they service. Could it be because NMFS has been informed by their legislators that the real culprits, if any, are cargo ships which do not enter there inlets. Do the whales not swim past Hatteras? Also there are a great number of vessels under the 65ft threshold that can run in excess of 30knots why are they not included? How could a 64ft vessel

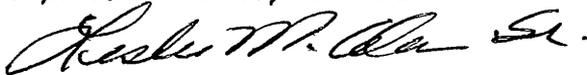
traveling 30 knots and higher have more maneuverability than an 83 ft headboat traveling 18 to 20 knots? As far as reducing speed, also please consider there is evidence to suggest that slowing the speed may actually cause more whale strikes (Gerstein). There is still no conclusive data to support that slowing speed reduces ship strikes.

Maybe a good compromise would be if a right whale has been sighted and is known to be in a certain area, at that time reduce speeds to a reasonable speed in those areas for a period of time that the whale is known to be in the area. Do not put speed restrictions on whole sections of the ocean for months even when there are no whales known to be in the area. This would allow the small businessman to make a living and still help protect the whale. Headboats & charter fishing vessels need a vessel speed of at least 15 to 18 knots to make it feasible to take customers fishing and get to the fishing grounds and not just take them for a boat ride. Closing down our business for 5 months because of the 10 knot speed limit even when there are no whales in the area would have a detrimental impact on my business and the other businesses like mine.

I would hate to think we have spent our lives working hard on the water with long hours day after day, generation after generation to have a speed limit rule be the end of our business.

Sincerely,

Capt. Leslie (Sonny) Davis Sr.



MANATEES, BIOACOUSTICS, AND SHIP STRIKES

scientists: Edward Gerstein and Joseph Blue

source: [//americanscientist.org/articles/02articles/Gerstein.html](http://americanscientist.org/articles/02articles/Gerstein.html)

Scientists Edward Gerstein and Joseph Blue presented their preliminary findings on a study of manatees, bioacoustics, and ship strikes at the recent North East Implementation Team meeting in Boston. Essentially, they discovered that the sound produced by the engines is blocked, to varying degrees, by the hull of the vessel, creating a "noiseless" environment directly aft of the bow. Also, the slower the vessel goes, the less likely the animals will be able to hear it approaching. This has opened all sorts of questions regarding ways to reduce boat strikes on manatees and other marine mammals. Their findings show that decreased speed may not reduce boat strikes, but just the opposite. Also, since animals can not hear the approaching vessels when they are off to one side or the other, by moving away from the sound and into a quieter environment, they could be putting themselves directly in the path of the oncoming vessel. A link is provided below.

Board of Commissioners

Douglas W. Harris, *Chairman*
Jonathan Robinson, *Vice-Chairman*
Lynda Clay
William Holt Faircloth
Pat McElraft
Raymond N. Muns
Thomas L. Steepy



County Manager

John Langdon
Tel: (252) 728-8450
Fax: (252) 728-2092
johnl@carteretcountygov.org
www.carteretcountygov.org

**RESOLUTION
OPPOSING THE NATIONAL MARINE FISHERIES SERVICE
RIGHT WHALE CONSERVATION SPEED ZONE RULES**

WHEREAS, the Carteret County Marine Fisheries Advisory Board and the Carteret County Board of Commissioners have reviewed the current proposed National Marine Fisheries Right Whale Conservation Rules; and

WHEREAS, we understand and appreciate the need to protect endangered Right Whales and also the need to protect the heritage of our local waterman; and

WHEREAS, there have been no recorded incidents of Right Whale strikes in North Carolina waters; and

WHEREAS, we oppose the federal exemption clause in the speed zone rules with the exception of a declared state of emergency; and

WHEREAS, due to the uncertainty of weather conditions and the dangerous shoals, we are concerned about the effects of the speed zone rules on local waterman; and

WHEREAS, proposed speed zone rules are unfair to the vessel owners, suppliers and maintenance yards and would cause an undue economic hardship in Carteret County.

NOW, THEREFORE BE IT RESOLVED, that the Carteret County Board of Commissioners does hereby strongly oppose the Right Whale Speed Zone Rules in its entirety, but if these rules should be enacted we encourage the National Marine Fisheries Commission to change the minimum vessel size affected from sixty-five feet (65') to apply only to more than 500 gross tons registered.

FURTHER BE IT RESOLVED that copies of this resolution be transmitted to the members of the General Assembly representing Carteret County, National Marine Fisheries Commission and the North Carolina Marine Fisheries Commission.

ADOPTED, this the 2nd day of October, 2006


Douglas W. Harris, Chairman

ATTEST:


Jeannette Deese, Clerk to the Board

CHAMBER OF SHIPPING OF AMERICA
1730 M Street, NW
Suite 407
Washington, DC 20036
202.775.4399

August 24, 2006

Via EMail: shipstrike.comments@noaa.gov

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Via Email: David.Rostker@omb.eop.gov

Mr. David Rostker
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

RE: Endangered Fish and Wildlife: Proposed Rulemaking to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (Docket No. 040506143-6016-02.I.D.101205B; RIN 0648-AS36; Federal Register, June 26, 2006, pages 36299 – 36313)

Dear Sirs:

The Chamber of Shipping of America (Chamber) appreciates the opportunity to comment on the proposed rule regarding the implementation of speed restrictions to reduce the threat of ship collisions with the north Atlantic Right Whale.

The Chamber represents 27 U.S. based companies that own, operate or charter oceangoing tankers, container ships, and other merchant vessels engaged in both the domestic and international trades. The Chamber also represents other entities that maintain a commercial interest in the operation of such oceangoing vessels.

We would refer you to our comments submitted on November 22, 2004 in response to the request for comments on the Advanced Notice of Proposed Rulemaking (ANPR) for Right Whale Ship Strike Reduction (RIN 0648-AS36; Federal Register, June 1, 2004, pages 30857 – 3864) since a number of the issues raised in that document are germane here as well, most specifically those relating to the impact of speed reductions (paragraph (2)). For ease in reference, a copy of those comments are attached at annex here. Specific comments we wish to offer on the proposed rule are as follows:

- (1) While we very much appreciate the recent extension of the initial comment period to October 5, 2006, we are still concerned that insufficient time for review is available, particularly relative to the significant amounts of information contained in the environmental impacts assessment and economic analysis. While, we commend the massive effort expended by NMFS/NOAA on this complex issue to provide what appear to be very comprehensive documents, these efforts have resulted in a complex and voluminous amount information which simply does not avail itself of a quick review for completeness and accuracy taking into account the short time period between release of the NPRM and the supporting documents (draft Environmental Impact Statement and the economic study). Extending the comment period at least an additional 30 days will provide the necessary time for all interested parties to review these documents and provide valuable input.

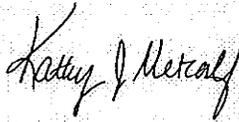
- (2) We support implementation of a 14 knot speed limit with higher speed exceptions based on unique local conditions in the covered areas during the seasonal periods outlined in the proposed rule. We can not support implementation of the suggested 10 knot speed restriction in any of the covered areas, although we do appreciate the proposition that slower speeds reduce the likelihood of a fatal ship strike. Unfortunately, the proposed rule as currently drafted provides no leeway for safety of navigation considerations which can and do arise due to local conditions including weather, current, local hydrographic characteristics and traffic density. For example, adverse weather conditions such as that encountered in the covered areas during the seasonal periods established in the proposed rule can create very strong cross currents at the mouth of breakwaters which can set the vessel off its intended route and into dangerous areas. Similarly, adverse weather conditions, particularly wind, can create an equally dangerous navigational safety issue for vessels with high sides which naturally have a large wind sail surface and are thus susceptible to being driven off its intended course from wind effects. Under either of these two conditions, vessels will need to proceed at the maximum safe speed to assure a safe and uneventful transit into and out of the port. We will do a disservice to the marine environment and living marine resources if mitigation strategies focusing on one issue (ship strikes) create greater overall negative impacts (potential for collisions, groundings due to decreased maneuverability) when they are implemented.

- (3) Following from the comments in (2) above, one possible way forward is to include in the final regulations a recommendation that vessels maintain 10 knots through the covered areas where conditions permit subject to an exception which permits the Master or Pilot to increase speed where conditions dictate for navigational safety. This provision could be further tightened up by limiting the maximum safe speed to 14 knots in the covered areas except in those situations close into the sea buoy and/or breakwater as described in (2) above which require maximum safe speed.
- (4) As evidenced by the economic analysis, disruption of the marine transportation system along the East Coast of the US would create extremely significant and negative economic impacts. It is this fact that drove a great deal of the work done by NMFS/NOAA to identify alternative strategies which would permit the uninterrupted flow of commerce while at the same time mitigate the potential for ship strikes. However, there is no mention in the rule of what would occur if a North Atlantic Right Whale is found in the midst of a shipping channel which is the only track in and out of a particular port area. Would the port area be closed indefinitely until the whale found its way to sea? Would NMFS/NOAA activate some response resources in an attempt to shepherd the whale out of the channel? We believe that a waiver provision must be inserted in the final rule which empowers the Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator of NOAA, to temporarily waive the provisions of this rule in a clearly defined local area, in order that maritime commerce may continue to operate without the attending legal liability which would be created by this rule absent any waiver provisions. This would enable a case by case analysis of a situation by the requisite technical experts in marine biology, safety of navigation and local area conditions and thus permit the design of a rational solution which would minimize the impacts both on the North Atlantic Right Whale and marine transportation.
- (5) We believe clarifying language is necessary when describing the areas of coverage for the Mid-Atlantic U.S. as found in Section 224.105(a)(2)(i). While the chartlets included in the proposed rule implicitly suggest that the covered area is within a 30 nautical mile radius **SEAWARD** of the Colregs delineation line and the center point of the port entrance, the text description in the regulation itself does not make that clear and thus as proposed, could be read to include internal waters inshore from the Colregs delineation line. Since we do not believe this was ever the intent of the rulemaking nor should it be, we recommend changing the text of the section referenced above to read "Within a 30-nautical mile (nm)(55.6 km) radius (as measured seaward from the Colregs delineated coast lines and the center point of the port entrance)...".

- (6) Finally, we respectfully reserve our right to provide further comments as we continue our review of the Draft Environmental Impact Statement and the economic analysis.

The Chamber of Shipping of America appreciates the opportunity to comment on this important issue and would be pleased to answer any questions relative to this submission. We look forward to continuing our work with the agencies and pledge our continued commitment to develop a reasonable and effective strategy to reduce ship strikes of the North Atlantic right whale.

Sincerely,

A handwritten signature in cursive script, reading "Kathy J. Metcalf". The signature is written in dark ink and is centered below the word "Sincerely,".

Kathy J. Metcalf
Director, Maritime Affairs

ANNEX

**CHAMBER OF SHIPPING OF AMERICA COMMENTS ON
PROPOSED RULE TO IMPLEMENT SPEED RESTRICTIONS TO
REDUCE THE THREAT OF SHIP COLLISIONS WITH NORTH
ATLANTIC RIGHT WHALES**

(Docket No. 040506143-6016-02.I.D.101205B; RIN 0648-AS36; Federal Register, June 26, 2006, pages 36299 – 36313)

**CHAMBER OF SHIPPING OF AMERICA
1730 M Street, NW
Suite 407
Washington, DC 20036
202.775.4399**

November 22, 2004

**Via Fax: Attn: Right Whale Ship Strike Strategy
301.427.2522**

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

RE: Endangered Fish and Wildlife: Advanced Notice of Proposed Rulemaking (ANPR) for Right Whale Ship Strike Reduction (RIN 0648-AS36; Federal Register, June 1, 2004, pages 30857 – 3864)

Dear Sir or Madam:

The Chamber of Shipping of America (Chamber) appreciates the opportunity to comment on the ANPRM regarding right whale ship strike reduction strategies. While we recognize these comments are being submitted after the comment deadline, we request their consideration in your deliberations on this most important issue.

The Chamber represents 23 U.S. based companies that own, operate or charter oceangoing tankers, container ships, and other merchant vessels engaged in both the domestic and international trades. The Chamber also represents other entities that maintain a commercial interest in the operation of such oceangoing vessels.

For decades, the Chamber has been actively involved in international and domestic discussions relating to the preservation of the marine environment and marine resources. As the industry advisor to the US delegation to the International Maritime Organization's (IMO) Marine Environment Protection Committee, we have participated in plenary and working group discussions on the development of particularly sensitive sea areas (PSSAs), appropriate measures to be imposed within the context of PSSAs and other vessel precautionary measures, that justify routing of vessels around precious environmental resources. Additionally, CSA is actively involved in international and domestic discussions focusing on the impacts of anthropogenic sound in the marine environment on marine mammals.

Based on the examples provided above, it is clear that CSA's member companies have taken a proactive approach to working with governmental agencies at all levels to preserve and protect the marine environment and its precious, but limited living resources. It is also CSA's position that issues which may impact the marine environment, its living resources and the safe navigation of vessels are best addressed by the federal agencies which best understand these components, namely the US Coast Guard and relevant agencies within the Department of Commerce (NMFS, NOAA). Although legally empowered by statutory language, we do not believe that the court system is an entity which possesses sufficient knowledge to reasonably and effectively impose requirements which may impact the safety of marine operations and address the needs of the marine environment and its living resources. It is with this perspective that we welcome the significant work done on this issue by the Department of Commerce and provide our specific comments relative to the ANPRM as follows:

- (1) CSA agrees that the North Atlantic Right Whale is a seriously endangered species as evidenced by its position on the Endangered Species List for decades. Since that time, studies have indicated that the population has continued to decline to what is now estimated to be in the vicinity of 300 individuals. Clearly, we believe there is no room for argument as to whether a problem exists and thus, future actions should focus on measures necessary to promote regeneration of the population while at the same time permitting the continued safe and environmentally responsible operation of the maritime industry which is so critical to the economy of the United States. However, CSA strongly recommends that NMFS and NOAA address issues recently identified that suggest a significant undercounting of the existing population based on data generated from recent DNA matching studies which indicate a potential undercount of 12 – 14 %. While such an undercount, if documented, certainly does not remove this species from its endangered status, it is critical to accurately document the population in order to determine the true population

trends, whether it be increasing or decreasing. In summary, while CSA will not oppose reasonable mitigation strategies to reduce the potential for ship strikes, these mitigation strategies must be based on scientifically valid data and conclusions which directly relate to the state of the population, as it exists today.

- (2) CSA is aware of information that suggests that vessel speed reduction strategies permit more time for whales to exhibit avoidance behaviors as well as reduce the potential for fatal injury should a ship strike occur. While we do not disagree that, in theory, a slower vessel may permit more time for a whale to take avoidance measures, we have also seen conflicting information as to the extent that right whales exhibit this behavior. Because of this conflict in opinions taken together with the fact that a slower vessel will take more time to move through a right whale habitat, we strongly urge further consideration as to the reasonableness and efficacy of imposing speed restrictions where such measures have not been proven effective in reducing ship strikes. The agencies are also urged to consider from a practical standpoint, the correlation between reduced speeds and level of injury to an animal that is, in fact, struck by a vessel. It is noted that a speed restriction range of 10 to 14 knots is included in the ANPR discussions but there is no data to support that a strike even at the lowest end of this range, would avert a fatal injury when the strike involved a large commercial vessel of tens of thousands of deadweight tons. Even taking into account the precautionary approach, the absolute lack of data of this type suggests that speed reduction measures cannot be justified without further scientific study to correlate vessel speed and its related impact forces with the severity and type of injury expected when a ship and whale collide. While such a study may result in a finding that even lower speeds than 10 knots are necessary to create a "safe" collision relative to the well being of the whale, reduction below this level will result in significant maneuverability issues for vessels and essentially create a situation where action addressing one environmental issue e.g. the regeneration of the population, creates a far more serious environmental issue associated with the potentially catastrophic impacts associated with large vessels which are unable to safely maneuver in close quarters and proximity to the coast. With regards to speed restrictions, CSA fully endorses the position and recommendations of the Massachusetts Port Authority as included in their comments submitted to this docket.
- (3) Regardless of the mitigation measures decided, it is absolutely necessary that these measures be related to the benefit of the population. Without some relationship of this sort, we simply are imposing arbitrary measures, hoping that they may provide some benefit when we should all be actively engaged in the search for reasonable measures that provide real benefit and protection to the animals. It is unacceptable to implement requirements that we think will benefit the animals only to find out later that other solutions existed which would make that benefit a reality.

- (4) CSA believes that the real answer to this issue rests with the development of technology which can provide real time information to all stakeholders relative to the location of the whales. While the unpredictability of dynamic management areas are of concern to the maritime industry, their application in conjunction with real time location data would well serve the dual goals of promoting the regeneration of the population through ship strike mitigation and permitting the continued efficient and environmentally responsible performance of the maritime industry. As an example, as discussed at the public meeting held in the Baltimore area, it was indicated that pop-up buoys now exist which can accurately determine the position of whales and through appropriate uplinks either through satellite or hard cabling, could provide real time information to all stakeholders, including vessel operators. With such a system, vessels could route around these locations and eliminate the potential for collision with the whales. Clearly focusing precious resources on such measures which do not require scientific study to determine their effectiveness (eliminating collisions will clearly eliminate the threat to whales) means that these resources will be focused on solving the problem rather than just studying it more.
- (5) CSA also believes that a full economic impact assessment is warranted prior to implementation of any of the proposed measures. Aside from the severe economic impacts which would flow from implementation of speed restrictions over a broad area, there are also some collateral environmental impacts which must be considered in determining appropriate mitigation strategies. For example, a number of shipping companies have determined that if speed restrictions were to be imposed along the Mid-Atlantic coast, additional vessels would need to be added to the service to meet the demands of customers thereby resulting in more vessels transiting these areas. As another example, in the likely event of cargo dislocation from one port to another due to imposition of seasonal measures as proposed, cargo will necessarily be placed on the nation's land-based transportation systems e.g. truck, rail with a resultant increase in air quality impacts and traffic congestion in areas which in most cases are not in compliance with existing air quality standards for a variety of pollutants.
- (6) Finally, with little scientific basis to assume that whales will exhibit sufficient avoidance behaviors to eliminate the risk of collisions with ships, CSA believes it is clear that the avoidance behavior must be implemented by the mariner, a presumption to which we believe all stakeholders subscribe. It appears that the only points of disagreement are what avoidance behaviors are appropriate. CSA believes that with continuation of the mariner outreach and education program combined with real time reporting of whale locations, the mariner will be provided with the necessary tools to minimize the risks of ship strikes in all critical habitats.

The Chamber of Shipping of America appreciates the opportunity to comment on this important issue and would be pleased to answer any questions relative to this

submission. We look forward to continuing our work with the agencies and pledge our continued commitment to develop a reasonable and effective strategy to reduce ship strikes of the North Atlantic right whale.

Sincerely,

A handwritten signature in cursive script that reads "Kathy J. Metcalf". The signature is written in black ink and is positioned above the printed name.

Kathy J. Metcalf
Director, Maritime Affairs

Subject: Head boat speed

From: pat coyle <patcoyle15@yahoo.com>

Date: Thu, 28 Sep 2006 12:12:13 -0700 (PDT)

To: Shipstrike.Comments@noaa.gov

Dear Ship Strike,

I spent a lot of money on fishing gear to fish on head boats. I fish on boats out of North and South Carolina. I have never seen a whale.

These boats are slow enough already. Please don't make them go any slower or they will be put out of business and I won't be able to use my equipment. Hook, line, and sinker.

Sincerely.

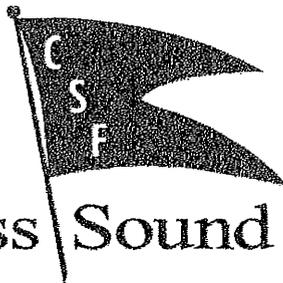
Patrick Coyle

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24 /



Cross Sound Ferry

**Linking Long Island and New England
Celebrating 30 Years of Service**

October 5, 2006

Chief, Marine Mammal Conservation Division
ATT: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East West Highway
Silver Spring, MD 20910

Dear Committee:

Cross Sound Ferry Services, Inc. operates the only high speed ferry service from Long Island to Connecticut. The Draft Environmental Impact for Right Whale Ship Strike Reduction, as proposed, would interrupt service completely should a Right Whale venture into our operating area.

The Sea Jet I is a unique vessel which offers year round high speed service with up to 6 roundtrips per day between New London, Connecticut, and Orient Point, Long Island, New York. The Sea Jet travels at 30 knots and transits the route in 40 minutes. This vessel promotes the park and ride alternative to travel between states. Large shore side ramps, parking areas and waiting facilities have been constructed to accommodate the walk on passengers for the high speed operation. Elderly and handicap persons find this the most convenient mode of transportation, as opposed to the large vehicle ferries with the stair towers and elevators. Last year over 150,000 persons traveled on the Sea Jet.

The Sea Jet one is equipped with two different types of radar both with the latest collision avoidance systems. The wheel house also operates a thermal night sight camera which can detect thermal anomalies in the water as far as 3 miles out. The superior ride on this vessel is the result of a computer controlled 6 fin Maritime Dynamics motion control system. The faster the vessel moves the better the motion control system works.

The implementation of a DMA in Long Island Sound in the Sea Jet operating area would cause the Sea Jet operation to cease. A 10 knot speed would cause a 1 hour and 45 minute transit time. At this lower speed the motion control system would be ineffective and thus the ride on the vessel would cause most people to experience motion sickness. Stopping this service would cause the 150,000 Sea Jet patrons to seek alternatives, as in using another service or driving around. At stake could be hundreds of thousands of dollars and loss of employment of 25 persons.

Cross Sound Ferry supports the protection of the Right Whales. We feel the decision by the National Marine Fishery Service to abandon the tagging program is a mistake. Similar to our night sight system, active detection is really the best means of preventing a strike. A less costly alternative would be the escort vessel because then all the detection equipment is concentrated on one vessel instead of having the devices on every vessel.

I conclude that a speed restriction of 10 knots for an imposed DMA in Long Island Sound would render the Sea Jet Service useless. The roving DMA 30 NM diameter and the 15 day implementation period also seem excessive given that once sightings occur in Long Island Sound, close monitoring by environmental groups in smaller boats would allow updating of the commercial operations in the area. Because of the close boundaries of the Sound, accurate monitoring could be accomplished.

Thank you for your consideration. I hope we can accomplish your goal without jeopardizing the Sea Jet business.

Sincerely,

Richard Sise
Operations Manager

10/05/2006 3:41PM

Cross Sound Ferry Services, Inc.

2 Ferry St.
P. O. Box 33
New London, CT 06320



Reservations (860) 443-5281
Fax (860) 443-0263
E-mail: info@longislandferry.com

SENT VIA FACSIMILE

October 5, 2006

Chief, Marine Mammal Conservation Division
ATT: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East West Highway
Silver Spring, MD 20910

Dear Committee:

Cross Sound Ferry Services, Inc. (CSF), a corporation with offices located in New London, CT, offers the following comments on the proposed rules and economic impact found in the draft EIS regarding the North Atlantic Right Whales. Specifically, we are very concerned with the impact of Dynamic Management Areas (DMA) being designated within our vehicle ferries' area of operations.

Cross Sound Ferry operates vehicle and passenger vessels, classified under 46 CFR, Subchapters T, K, and H, between New London, Connecticut and Long Island, New York. The ferry route between New London and Orient Point transits the Thames River, eastern Long Island Sound, and Gardiner's Bay. CSF is one of the largest privately owned ferry services in the Country, transporting over 1.4 million passengers and 500,000 vehicles annually. CSF employs over 300 people. CSF is committed to providing safe and reliable transportation services to the traveling public, and we welcome the opportunity to comment on the proposed rules.

Cross Sound Ferry's vessels operate year round and transit eastern Long Island Sound up to 46 times per day. CSF's seven vehicle ferries operate at speeds between 13-15kts. Our schedule is based on an operating speed of 13 kts over a 17nm route. The schedules are designed to maximize capacity while allowing adequate time for docking, loading, and unloading. Our schedules are printed and distributed 2-3 months in advance and most passengers make reservations, as space is limited.

As the proposed rule currently reads, establishment of a DMA within our operating area would result in our vessels having to reduce speed to 10kts. This reduction in speed would increase our transit time by 30% or half an hour each way. This increase in trip time would result in a reduction of the number of transits our vessels would be able to make on a given day from 46 trips to 36 trips. Our departure schedule would have to be changed. Our operating and overhead costs would remain constant while our potential revenue and carrying capacity would be reduced by 21%. This decrease in revenue would be unsustainable.

10/05/2006 3:51PM

In addition to loss of revenue attributed to the loss of carrying capacity, additional revenue would be lost as passengers become disenfranchised with our service. Our service competes directly with another ferry, which operates in an area of western Long Island Sound where DMA designation is less likely. Our passengers also have the alternative of using the highways, bridges, and tunnels to reach Long Island. The primary reasons passengers use our service is its convenience and reliability. If transit times are increased by 30 minutes, many passengers will find more convenience in driving around or using our competitor's ferry. If our published schedule becomes unreliable, people will choose not to use our service in the future. The lost revenue resulting from passenger disenfranchisement is difficult to estimate, but would certainly cause long-term harm to the viability of our business.

We would like to propose two potential alternatives to be considered for the rule. The first alternative would be to increase the speed limit for vessels less than 1600 Gross Tons to 14kts within a DMA. These smaller vessels are more maneuverable and have shorter stopping distances than larger vessels, which would allow for collision avoidance. The second alternative would be to only impose DMAs outside the Boundary Line (COLREGS Demarcation Line). Most ferry services operate on inland waters, rivers, bays, and sounds. Records indicate that passenger/vehicle ferries operating in inland waters or inside the COLREGS demarcation line have not struck any species of whale and we feel that it is unwarranted to have these regulations imposed in these areas without taking past performance and vessel operating standards into consideration. All of our vessels are outfitted with placards on how to identify right whales and what operational standards take place if a whale is spotted. Implementation of the above alternatives would dramatically reduce the potential negative impacts on small businesses, while still protecting the North Atlantic Right Whale.

We do not want to lose the North Atlantic Right Whale to extinction nor shut down our business and believe that with a combined unified effort involving all stakeholders that this can be accomplished. Thank you for accepting our comments on this critical issue and we hope you'll work with us in addressing our concerns.

Sincerely,



Christopher J. Anglin
Assistant Operations Manager

The Block Island high-speed ferry operation was started in 2004 and represents a 10 million dollar investment in the just the vessel itself. The market analysis for business plan was based on the potential market being attracted to fast, reliable service and a frequent number of daily trips. With the high speed, people in our market found they would arrive on Block Island sooner than if they used one of the alternative modes of transportation that serves Block Island such as the ferry that operates from Pt. Judith, RI.

Block Island Ferry Services' vessel operates at a speed of 37kts and the trip takes a little over one hour, there are five trips per day. If any portion of this vessel's route were subject to DMA 10kt speed restriction we would have to cease business. It is that simple. The public is not going to ride a vessel that will take 3 ½ hours to arrive at its destination when they can drive 1 hour north and take a 1-hour ferry from Pt. Judith, RI. If a DMA is implemented in prime season (June-September) the financial impact would have immediate dire consequences, the service would be shut down and its ability to service the debt load put in jeopardy. Passengers would now question the reliability of service since we can never say when or if a DMA is going into effect and for how long. People work long and hard to take a vacation whether it's one-day or one week, they want to know that the service they choose for transportation is reliable. We can no longer meet those criteria with the proposed DMA having the possibility of occurring at anytime. We do not have the option of moving passengers onto a slow speed vessel since the market will not support cost structure nor can we afford to purchase this type of vessel as a backup plan.

The impact on Cross Sound Ferry Services' high-speed ferry service from New London, CT to Orient Pt., Long Island, NY would suffer the same fate as the Block Island run and shut down. We would perhaps be able to recover limited revenue, as some people would ride the slower vehicle ferries. However, the slower vehicle ferries are less convenient to some passengers, and these passengers would simply choose not to utilize the service at all.

Also, the draft EIS contains no value on the shore-side facilities which support high-speed operations. If the high speed ferry service were to cease, the shore-side facilities would be rendered useless. This is a significant investment that is not transferable to slow speed mono-hull vessel operations.

As with the Block Island operation, passengers will also question the reliability of service, an intrinsic

value that we place tremendous effort to maintain. The draft EIS places no value or impact resulting from this.

The third service to be economically impacted by the proposed rules is Cross Sound Ferry Services' vehicle ferries running between New London, CT and Orient Pt., NY. These vessels operate year round and run 28-46 trips per day between the months of May – September (most likely time period of DMA implementation). The schedules are printed and distributed 2-3 months in advance and are based on a minimum vessel cruising speed of 13kts. For each knot below that speed the one-way vessel crossing time is increased by approximately 10 minutes. Therefore, DMA implementation along our route would result in an additional one-way trip time of almost 30 minutes per vessel at the proposed 10-knot speed restriction.

Attachment A compares normal schedule to schedule changes resulting from a 10-knot speed restriction.

The normal schedule for this ~~summer~~ day would consist of six vessels generating ~~46~~ one-way trips. Implementing the speed restriction would result in five vessels (the sixth vessel would not be able to operate because of schedule conflicts that arise from the slower crossing times) generating only ~~32~~ one-way trips. Our operating costs remain basically the same but our capacity to generate income over this day has been immediately reduced by ~~31~~% due to DMA 10 knot speed restriction. As with Block Island Ferry Services, there are multiple alternative modes of transportation to and from Long Island. Since there is a similar vehicle ferry operation located farther west on Long Island that is less likely to be affected by DMA, it is probable that we will lose a portion of our customer base to that operation. ~~We will also lose a percentage of our customer base to those people who will now choose not to take our ferry and instead utilize the highway bridges that link western Long Island to the mainland.~~ Impacts of the DMA on our Cross Sound Ferry Services' vehicle ferries would be a ~~31~~% reduction in carrying capacity and the associated income it would generate, partial loss of customer base to competitor not subject to DMA, partial loss of customer base due to increased transit time, and loss of customer confidence in our service due to schedule that could literally change overnight.

Cross Sound Ferry Services and Block Island Ferry Services are small businesses. Cross Sound Ferry

employ's between approximately 350 people and 25 of these persons are assigned to the high speed ferry (operating crew, food service, ticket agents and part time help). Block Island Ferry employ's 30-40 persons (operating crew, food service, ticket agents and part time help). Both of these vessels operate on a 16-hour day during peak season. Closure of these businesses would result in the loss of 60 jobs.

In reading through the draft EIS we feel it would be imprudent for NMFS (National Marine Fisheries Service) to dismiss from further consideration satellite tagging, acoustic detection and Right whale vessel escort for dynamic management areas (DMA). Since DMA's are most likely to be shoreward of the COLREGS demarcation line and the whale numbers low, one would assume that tracking of whales utilizing the above methods as they gain reliability would be preferable to forcing a company out of business. Real time information provided to vessels transiting a DMA should allow them to maintain speed and safe distance from whales. If NMFS outfitted commercial vessels with this equipment and maintained succinct communication during times DMA's were implemented it would clearly be the one solution that allowed vessels in a DMA to maintain speed and maintain a safe passing distance or CPA to whales.

It also might be feasible that with the guidance and oversight by the NMFS that the 20 environmental organizations shown in the distribution list of the draft EIS would consider pooling resources and purchase two whale escort vessels that could be put into service when a DMA occurred. Their function would be keep watch over the whales, report their position to commercial traffic and keep sightseers at a distance. Since it is normal to expect the whales to eventually head north or south to feeding or calving grounds this duty station by environmental consortium would be limited in time. With proper marketing vessels could be utilized in downtime for research or educational purposes of the environmental organizations.

The recommended roving DMA diameter of 35.6 – 37.8 NM seems excessive as well as the 15 day window. As an analogy, it would be like limiting the speed limit on Interstate 95 or the Washington Beltway and every other road in the area to 11 mph for a distance of 39 miles and 15 day time period

because an endanger species of land mammal was spotted in that vicinity. It's clear that this type of restriction would be unacceptably burdensome to land based transportation.

Records indicate that passenger/vehicle ferries operating in inland waters or inside the COLREGS demarcation line have not struck any species of whale and we feel that it is unwarranted to have these regulations automatically imposed on us without taking past performance and vessel operating standards into consideration. All of our vessels are outfitted with placards on how to identify right whales and what operational standards take place if whale is spotted.

We do not want to lose the North Atlantic right whale to extinction nor shut down our businesses; we believe that with a combined unified effort involving all stakeholders that this can be avoided.

Thank you for accepting our comments on this critical issue and we hope you'll work with us in addressing our concerns.

Sincerely,

Adam Wronowski
Owner, Block Island Ferry Services
Vice President, Cross Sound Ferry Services

ATTACHMENT A

**NORMAL TRIP SCHEDULE
VESSEL SPEED 13 KNOTS
46 TRIPS**

**NEW LONDON
DEPARTURE TIMES**

Fri 7
ME 7
NL 730
CF 930
ME 11
NL 1130
CF 130
ME 3
NL 130
CF 530
ME 7
NL 730

**ORIENT POINT
DEPARTURE TIMES**

Fri 7
SA 3
ME 9
NL 980
CF 1130
ME 1
NL 130
CF 330
CA 2
ME 5
NL 530
CF 730
SA 3
ME 845
NL 915

M/V MARY ELLEN COMPLETES 8 TRIPS
M/V JOHN P COMPLETES 8 TRIPS
M/V NEW LONDON COMPLETES 8 TRIPS
M/V JOAN ANN COMPLETES 8 TRIPS
M/V CARIBBEAN FERRY COMPLETES 6 TRIPS

M/V CARIBBEAN FERRY COMPLETES 6 TRIPS

ATTACHMENT A

**DMA IMPLEMENTED TRIP SCHEDULE
VESSEL SPEED 10 KNOTS
32 TRIPS**

**NEW LONDON
DEPARTURE TIMES**

Fri 7
ME 7
NL 7:30
CF 8
ME 9:30
CF
ME 12
NL 12:30
CF 1:30
ME 2:30
CF
ME 5
NL 5:30
CF 6:30
CF
ME 10:30
NL
CF
ME
NL
CF

**ORIENT POINT
DEPARTURE TIMES**

Fri 7
ME 9:30
NL 10:00
CF 10:30
ME 12:30
CF
ME 2:30
NL 3:00
CF 3:30
ME 5:30
CF
ME 7:30
NL 8:00
CF 8:30
ME 10:30
CF
ME
NL
CF

M/V MARY ELLEN COMPLETES 7 TRIPS
M/V JOHN H. COMPLETES 7 TRIPS
M/V NEW LONDON COMPLETES 6 TRIPS
M/V ELISABETH COMPLETES 8 TRIPS
M/V CARL HENRIKSEN COMPLETES 5 TRIPS

M/V CARIBBEAN FERRY COMPLETES 0 TRIPS

CARIBBEAN FERRY WOULD NOT RUN TRIPS SINCE TIMES WILL MATCH
SCHEDULE OF JOHN H.

CROWLEY®

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East West Highway
Silver Springs, Md. 20910

Re: Docket No. 040506143-6016-02.I.D. 101205B

To Whom It May Concern:

Crowley Liner Services, Inc. (Crowley) appreciates the opportunity to comment on the NPRM regarding the implementation of speed restrictions to reduce the threat of ship collisions with the North Atlantic Right Whales.

As a leader in the maritime community for over a century, Crowley is committed to environmentally sound practices. Crowley has been an enthusiastic participant in educating its crews and raising their awareness of the threat to the North Atlantic Right Whale. It holds all employees accountable for safety and protection of the environment. The result of which was an award from NOAA in 2003 to one of the vessels in it's fleet, STENA TIMER, for it's *voluntary* efforts in reducing ship-strikes.

Based on the examples cited above, it is clear that Crowley has taken a proactive approach to working with government agencies to preserve and protect the marine environment. It is also clear that issues that impact the marine environment, its living resources and the safe navigation of vessels be left to the agencies that best understand these components, namely the USCG, NOAA, NMFS and the commercial maritime industry and not the court system. It is with this perspective that Crowley would like to commend NOAA for its efforts in this matter and welcome the opportunity to contribute to a solution that benefits both the animal and industry.

Crowley agrees that the North Atlantic Right Whale is a seriously endangered species. However, as a matter of the human condition when faced with a situation where a specie is in serious decline, we tend to accentuate the negative to make our argument. As an example, Arguments and studies (Kraus et al 2005), (Kraus 1990), (Knowlton and Kraus 2001), (NMFS 2005,) (Laist et al 2001) (Waring et al 2004) and (NPRM 2006) make assumptions and statements without proof that the actual numbers of whale mortalities due to ship strikes are higher because some deaths go undetected or unreported. Crowley would tend to agree that the number may be higher but the combination of direct and indirect anthropogenic factors as well as natural inhibitors pose just as serious a threat to Right Whale recovery (Preliminary Environmental Assessment PEA 2005) as do ship strikes. To infer that ship-strikes alone are the most serious threat to the specie is mis-leading. Having said that, Crowley would like to suggest that any studies/data or necropsies be peer-reviewed by individuals not associated with NOAA/NMFS or receiving funding from said agencies in compliance with Section 515 of the Department of Commerce's Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Disseminated Information and NOAA's Information Quality Guidelines. The proposed restrictions will have serious implications for most ports. Industry would like and deserves solid reasons for these impediments.

The fact that these proposed restrictions (NPRM 2006) are much more expansive than what has been previously discussed in studies, notices and in meetings/conferences came as quite a surprise to industry. Discussions regarding ship's speed, speed restrictions and whale mortalities (ANPRM 2004) (Laist et al 2001) (Jensen and Silber 2003), (Knowlton and Kraus 2001) centered on speeds greater than 13 kts as being the highest probability for a lethal injury. The consensus speed of 12kts appears to be a reasonable

PUERTO RICO / CARIBBEAN SERVICES
9487 REGENCY SQUARE BLVD. • JACKSONVILLE • FLORIDA • 32225 • 904.727.2200

www.crowley.com

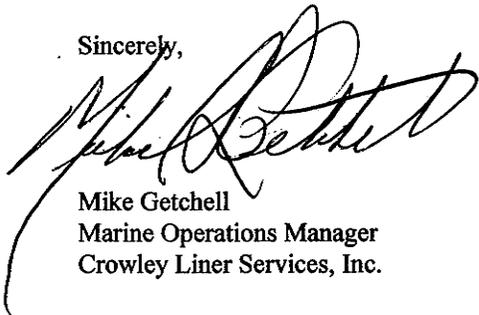
accommodation given the fact that there is already a precedent speed of 13 kts for humpback whales in Glacier Bay National Park (2003). Plus, the area for these restrictions increased considerably, to almost twice the size of the critical habitat (CH). Given the probability of a ship strike occurring outside the CH due to the concentration of animals near shore (Garrison 2005, 2002) as being remote, it is Crowley's opinion that expanding the speed restriction and traffic lane margin to the MSR boundary is unwarranted. If speed restrictions and traffic lanes are to be implemented, they should be limited to the Critical Habitat (CH). Crowley would also like a review of the proposed seasonal implementation of these measures. Recent aerial surveys will attest to the fact that the animals are not present in the CH before December and are gone by the end of March (PEA 2005). The two week buffer prior to and after the whale's stay in the CH is again unwarranted. As for comment on the implementation of Dynamic Management Areas, vessels speeds need to be 12 kts and the DMAs need to be "actively" managed. To impose a DMA for 15 days without federal agencies making efforts to ensure that there are indeed Right Whales within the area is unacceptable. Speed Restrictions, Mandatory traffic lanes, DMAs are all impediments to commerce. If industry is willing to make the effort than these Federal agencies should reciprocate in kind.

Any Economic Impact studies not completed within the last year will not have relevant data due to the meteoric rise in fuel prices. Any information conveyed in the NPRM regarding economic impact to the various operators, port entities and affected parties is flawed due to the fact that the studies were based on a 12 kt restriction and not the proposed 10 kt. Crowley suggests that before these proposed measures are implemented that a true picture of the impacts be obtained. If that means another Economic Impact Assessment has to be undertaken, so be it.

Lastly, how do we measure success? It has been determined that the specie cannot afford the loss of one animal for it to survive. Is this our measure? Zero deaths before instituting far more restrictive measures? This should be a goal and not the measure for success. The statement, *Therefore NMFS will monitor the effectiveness of the ship-strike reduction measures and consider implementing larger seasonally managed areas, further reducing ship speed or other measures if appropriate*, could be interpreted as a threat by industry. Any more restrictive measures than those already proposed may be the death knell for some marginal ports along the Atlantic seaboard. The economic impact of such seems inappropriate for a specie that sadly might see extinction due to causes other than ship strikes (PEA 2005).

In summation, as a Company that has been involved with this process for quite some time, we might understand the issues more than most. However for NMFS to take the tack of ever more proposed restrictive measures after earnest and sincere participation and input by industry might be considered dismissive and counter productive. Crowley is a company that has protection of the environment as one of its core values..... but this result (NPRM 2006) will certainly color our dealings with NOAA/NMFS in the future.

Sincerely,



Mike Getchell
Marine Operations Manager
Crowley Liner Services, Inc.

29 ✓
CUMBERLAND SOUND PILOTS ASSOCIATION

112 North Sixth Street

Fernandina Beach, Florida 32034

904 / 261-3158

Florida State
Pilots Association

American
Pilots Association

Serving
St. Marys Entrance
Port of Fernandina
Kings Bay
Cumberland Sound

Chief, Marine Mammal Conservation Division
Attention: Right Whale Ship Strike Strategy,
Office of Protected Resources,
NMFS, 1315 East-West Highway,
Silver Springs, MD 20910

September 27, 2006

Re: Right Whales 50 CFR 224
Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions
with North Atlantic Right Whales

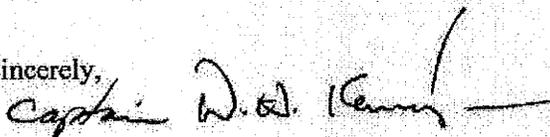
Dear Chief,

Please be advised that the proposed rule to implement speed restrictions for St. Mary's Entrance and the other Florida ports listed in the above proposed rule will jeopardize the safety of vessels transiting the waters of the State of Florida in restricted waters with a Florida State Pilot on board.

The Fernandina Pilots request that the following language be included in the above rule:

"At the discretion of a Florida State Pilot the proposed 10 knot speed limit can be exceeded to protect the safety of the vessel piloted and the waters of the State of Florida due to environmental conditions that pose navigational hazards to vessels, such as set and drift, tidal currents, wind and other factors."

Sincerely,



Captain William H. Kavanaugh
Fernandina Pilots

CUMBERLAND SOUND PILOTS ASSOCIATION

112 North Sixth Street

Fernandina Beach, Florida 32034

904 / 261-3158

Florida State
Pilots Association

American
Pilots Association

Serving
St. Marys Entrance
Port of Fernandina
Kings Bay
Cumberland Sound

Florida State Board of Pilot Commissioners
Department of Business and Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-0773

September 27, 2006

Re: Right Whales 50 CFR 224
Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions
with North Atlantic Right Whales

Dear Commissioners;

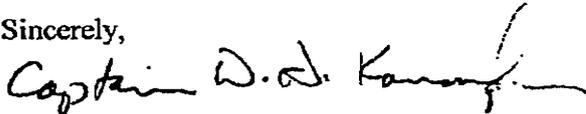
Please be advised that the proposed rule to implement speed restrictions for St. Mary's Entrance and the other Florida ports listed in the above proposed rule will jeopardize the safety of vessels transiting the waters of the State of Florida in restricted waters with a Florida State Pilot on board.

The Fernandina Pilots request that the Board of Pilot Commissioners submit the following language to: Chief, Marine Mammal Conservation Division, Atten: Right Whale Ship Strike Strategy, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Springs, MD 20910:

"At the discretion of a Florida State Pilot the proposed 10 knot speed limit can be exceeded to protect the safety of the vessel piloted and the waters of the State of Florida due to environmental conditions that pose navigational hazards to vessels, such as set and drift, tidal currents, wind and other factors."

The Board of Pilot Commissioners' comments to the NMFS will be greatly appreciated by the Fernandina Pilots.

Sincerely,



Captain William H., Kavanaugh
Fernandina Pilots

30 ✓

Subject: Proposed NOAA speed reduction rules to reduce right whale strikes.

From: "Cutler, Stephen" <SC@sagafc.com>

Date: Wed, 27 Sep 2006 18:18:20 +0200

To: Shipstrike.Comments@noaa.gov, ShipStrike.EIS@noaa.gov

CC: "Munro, Neil" <NM@sagafc.com>, tonops <tonops@sagafc.com>, secretary@savannahmaritime.com, sma_1@bellsouth.net

Dear Sirs.

The purpose of this communication is to register our objections to the proposed NOAA rules for mandatory speed reductions for vessels transiting certain seasonally managed maritime areas along the mid-Atlantic coast.

We do not claim any science-based knowledge of the effects of such a speed reduction on the right whale population, or on the propensity for whale strikes, but we do note that the proposed rules ignore valid scientific approaches to reducing right whale strikes that are listed on the DEIS "no action" options, such as surveillance and tracking.

It would appear that the sole justification behind these proposed rules is their apparent simplicity and ease of maintenance for NOAA.

We further take issue with the assertion in the DEIS that the cost to the shipping industry should be "relatively low", and with the failure to provide any cost-effective analysis in the impact statement.

We can assure you that the costs to individual shipping lines will not be insignificant, and when the present market value of ships is taken into account, such a restriction could easily add tens of thousands of dollars to a ship's coastwise transit.

Saga Forest Carriers will have some 48 coastwise vessel transits through the mid-Atlantic region in 2007, and even if could assume that the net effective loss to each vessel's schedule was just one day, the total cost to Saga will exceed \$1.5 million during the year. We do not consider this a "relatively low cost" as comfortably assumed in the DEIS.

We urge the NOAA to shelve the proposed rule until an appropriate scientific analysis is completed on both the efficacy of the proposed speed restriction and the alternatives that have been summarily consigned to the "no action" list.

Sincerely

Capt. Stephen J. Cutler
General Manager
Saga Forest Carriers Intl.
Savannah, Georgia.
Direct: (912) 790 0297
Cell: (912) 596 5578
sc@sagafc.com

Subject: headboat speed restrictions
From: Sheldon.Daury@wadhams.com
Date: Tue, 26 Sep 2006 12:52:41 -0400
To: Shipstrike.Comments@noaa.gov

Is there not a better way to protect these whales, without adversely restricting travel speeds. Can the boats be outfitted with a device that might emit a sound or sonar that cause the whale to evacuate the area. I am sure with a little thought another means of protecting these whales can be created.

Sheldon Daury
Wadhams Enterprises, Inc.
P.O. Box 93
Butner NC 27509
919-764-9792
Fax 866-372-2354
Sheldon.Daury@wadhams.com

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Subject: ship strike proposed rules
From: "capt. stacy fishing center" <info@captstacy.com>
Date: Thu, 05 Oct 2006 14:25:43 -0400
To: Shipstrike.Comments@noaa.gov

The proposed speed limit rule is not fair. The nmfs is already giving exemptions unfairly. Why is Charleston now being considered exempt (see article below) and not North Carolina Ports? If a rule is being considered for one port it should be considered for all! If it is considered for 65 foot boats why not 64 ft boats ? A 65 foot boat traveling at 18 knots will be able to avoid a whale more so than a 64 ft boat traveling 40 knots. A 65 foot can for sure avoid a whale alot more than a 200 plus vessel, Who along with the miliatry have been reported to have most ship strikes!

My family has been in the headboat charter boat business for over 4 generations this proposal would greatly hurt our business. It would cut out over 5 months of potential income of which we depend. It is not just my business my the people who work for us and their families, this area coastal carolina depends greatly on tourist. If the fishermen & women don't come here to go fish it will affect restruants, hotels & retailers in our area along with other coastal areas that depend on tourist. Our normal trip is 11 hrs with 4 to 5 hrs traveling with the proposed speed limit it would mean it would take over 8 hrs to get to fishing grounds to get only 2 hr of fishing . People would not come to spend that much time riding to only fish for a couple hrs. it would not be feasible to increase the time out past 11 hrs because after the federal coast guard regulations would require the boat to have a 2nd crew & captain and that would increase our cost significantly. Also 11 hrs is the most people can handle. It would completely cut out our half day trips which is very popular with families. If whales were common in this area we would run whale watching trips but! they are not!

You would have a better chance of winning the lottery than ever seeing a whale in North Carolina especially in the Morehead City area.

The 10 knot speed limit is excessifly slow . A more indepth study should be done to find different way to help the whale.

The ruling will have a great impact on the north carolina ports . Why would ships come into north carolina ports at a 10 knot speed when they can go to charleston at full speed ?

I guess just like anything else with government it all comes down to who has the money!

Loretta Davis

(daughter of a 4th generation fisherman)

It's one down, two to go for the State Ports Authority.

After weeks of treading water, SPA officials learned Tuesday that plans to build a new container terminal in North Charleston won't be swamped by an endangered mammal.

Last month, the SPA was told it might not be able to go ahead with the expansion because of concerns about the Northern right whale, which is protected under the Endangered Species Act.

But in a letter to the U.S. Army Corps of Engineers, which oversees the port permitting process, the National Marine Fisheries Service said it has determined that container ships steaming to and from the Cooper River terminal will not increase the risk of a collision with the whales.

Port officials said Wednesday that the decision eliminates an-other hurdle. "We're ticking them off one by one," said SPA spokesman Byron Miller. "Everybody wants port development, but they also want it done responsibly."

In its letter, the Marine Fisheries Service said the impact of the project will be "discountable or insignificant" to the right whale, a finding based on "avoidance measures" the ports authority will undertake.

Those measures include aerial surveys the SPA will conduct in an attempt to spot the whales at sea. The eye in the sky will then notify inbound vessels about any sightings to avoid any collisions. The flights will be launched as soon as the Corps of Engineers issues permits for the expansion project, Miller said.

The fisheries service estimates that about 300 Northern right whales remain in the North Atlantic after years of ship collisions, fishing gear entanglements and commercial whaling. They are the rarest of all large whale species and among the rarest of all marine mammals, according to the agency. Adults grow up to 50 feet long and can weigh up to 70 tons.

The whales feed in the summer off the Northeast coast and calve in the winter in waters from South Carolina to Florida, Marine Fisheries said. They travel back and forth a few miles from shore, sharing the waters with thousands of container ships and other vessels.

With the whale issue behind it, the SPA still must satisfy concerns from state regulators about potential water quality issues and the road traffic that the new terminal would generate. Those efforts continue, Miller said.

The SPA plans to build a three-berth, \$600 million terminal at the former Navy base in North Charleston capable of handling more than 1 million 20-foot-long containers a year.

The project has run into numerous hurdles since the permitting process began more than three years ago.

The ports authority had hoped to receive the green light in November. Regulators are expected to make a decision next April.

Reach **Peter Hull** at 937-5594 or phull@postandcourier.com.



T H E D E L A W A R E R I V E R A N D B A Y A U T H O R I T Y

Delaware Memorial Bridge
Post Office Box 71
New Castle, Delaware 19720
Tel.: (302) 571-6300
Fax.: (302) 571-6367

Cape May - Lewes Ferry
Post Office Box 827
North Cape May, New Jersey 08204
Tel.: (609) 889-7200
Fax: (609) 889-1021

25 August 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy,
Office of Protected Resources, NMFS
315 East-West Highway
Silver Spring, MD 20910

VIA: FACSIMILE

Re: Docket No. 040506143-6016-02. I.D. 101205B

Dear Sir or Madam:

On behalf of the Delaware River and Bay Authority (DRBA), please find our comments regarding the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales.

The DRBA operates the Cape May - Lewes Ferry (CMLF), which carries approximately one million passengers and 350,000 automobiles annually on the 14 n.m. route between Lewes, DE and Cape May, NJ at the mouth of the Delaware Bay. Our five vessels typically operate over this route at speeds of approximately 13 kts.

At the southern end of our route we briefly cross over the line of demarcation into the seasonal management area proposed by the rule. However, implementation of the proposed dynamic management area has a greater potential for significant disruptions to our service. At a radius of 15 n.m. around a whale sighting, this could encompass our entire route, which would increase the wait time between crossings by 30 min. (from 1 hr. 30 min.) If we considered measures to maintain the same number of crossings, we would need to extend our range of operations each day and our crew costs would increase up to \$8K per week in overtime to accommodate this change. (These costs do not account for costs of shore-side staff and utilities.)

Perhaps the most troubling to us, is that we are in the midst of master planning to replace our fleet, which averages 28 years per hull. Any future ferries would certainly hope to improve service to our customers (and increase demand) by decreasing the crossing time through an increase in speed. Your proposed rule has much greater implications to us in this light.

Delaware River & Bay Authority, 8/25/2006, Page 2 of 3

Our comments focus mostly on what is NOT discussed in the proposed rule. Many questions come to mind that are not answered:

1. What is the main cause of the decline in right whale population? If, as stated in the proposed rule, right whales are procreating at 20 per year, and an average of 2 per year die from ship strikes, doesn't the problem lie elsewhere?
2. Why start the restriction at 65 LOA vessels? How many ship strikes are due to large (700' - 1000') commercial ships? While the proposed rule rightly states that "hydrodynamic forces that pull whales toward the vessel hull increase with increased speed," is this not also true depending on the size of the vessels? A larger vessel would seem to pose more of a hazard to the whales than a smaller one. If the restrictions do not need to be placed on smaller vessels, the economic impact can be reduced.
3. How many ship strikes are due to military vessels? Military vessels typically operate at higher speeds. If we are placing a speed restriction on commercial vessels simply because we can, yet if more ship strikes occur with public vessels, then how much impact can the proposed restrictions really have?
4. Why 10 knots? The proposed rule claims that the proposed speed will reduce the severity of ship strikes, while not necessarily reducing the *number* of ship strikes. However most ships do not travel at 10 knots. As the study acknowledges, the "data suggest that vessels that struck whales were going faster than ships tend to travel in general." In fact, according to the proposed rule, the average vessel speed that resulted in serious injury or death due to ship strikes was 18.6 knots. Doesn't this also mean that we don't know what effect, if any, a 10-knot speed limit will really have? It would be a shame if, after implementing this rule, we continued to have an average of two right whale deaths per year due to ship strikes that occur at 10 knots or less. Furthermore, why is 13 knots OK for humpback whales at the Glacier Bay National Park in Alaska?

We also have questions regarding the economic estimates given in the proposal. If we assume, as the proposed rule does for ferries, that we would suffer a 7.9% decrease in annual revenues with a 10 knot speed restriction, this equates to over \$1M in revenues for the CMLF system alone. This seems to indicate that your total economic impact of \$116M may fall short of the mark. However, even if the \$116M estimate of economic impact is correct, at a total population of 300 right whales, this proposal costs the maritime industry almost \$4,000 per whale. At an average of two deaths to whales due to ship strikes (and fishery entanglements) per year, this represents almost \$600,000 per ship strike (and/or fishery entanglement). Despite the assertion that other measures to reduce deaths to whales due to ship strikes would impose "substantial costs on government resources," isn't this an awful steep price to pay for one industry alone?

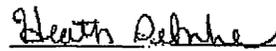
We would like to suggest some alternative solutions involving technology. With recent regulations requiring Automatic Identification Systems (AIS) aboard ships, could we not implement a system like this that could be attached to the whales so that ships could detect and avoid them with the ARPA (automatic radar plotting aid) systems that are already aboard ships? Alternatively and even more simply, could we fit ships with a device that emits a frequency that would annoy the whales and cause them to move from the vicinity - a sort of deer-whistle for whales if you will? At the public comment session in Baltimore on August 10th, the NMFS staff rejected these proposals outright because they thought these measures would "harass" the whales. Is it not better to unintentionally harass them rather than strike them and kill them?

Delaware River & Bay Authority, 8/25/2006, Page 3 of 3

The DRBA has every interest in preserving and protecting right whales. As an organization, we have a record of sponsoring and supporting many ecology-minded projects, including a project this year to revitalize the oyster bed populations in the Delaware Bay. We do our part to educate the public about our local natural environment by hosting onboard wildlife demonstrations by the Wetlands Institute of New Jersey. Finally, we benefit from whale sightings. Our customers are thrilled by whale sightings, and we do our best to notify them (as well as other vessels in the area) whenever whales are present. However, we wish any measures taken to protect the right whales be effective, cost conscious, and equitable to all those who enjoy these whales.

Please do not hesitate to contact me with any questions regarding our comments at 302-644-6001. Thank-you for the opportunity to provide feedback on this important issue.

Respectfully submitted,



Heath Gehrke

Acting Director of Operations

Cape May – Lewes Ferry

Delaware River & Bay Authority

Cc: Jim Johnson, DRBA Executive Director
Jim Walls, DRBA Chief Operations Officer
Brian McEwing, CMLF Port Captain

08/25/2006 5:01PM

134 ✓

Subject: whale protection

From: Connor Dempsey <connordempsey@hotmail.com>

Date: Thu, 28 Sep 2006 07:58:13 -0400

To: Shipstrike.Comments@noaa.gov

The proposed new speed limit on boats 65' and larger is an illconceived law that will do nothing to protect the Right whale. The law should be limited to ships, not fishing charter boats. All boats that plane on top of the water should be exempt. Military ships should not be exempt when on simple patrol unless there is an elevated level of alert.

The new proposal, as written, will bankrupt most of the charter boats 65' and longer and bring a devastating economic impact to all coastal communities.

35 ✓

Subject: Shipstrike Comments**From:** Bob Dixon <Robert.Dixon@noaa.gov>**Date:** Wed, 16 Aug 2006 13:45:58 -0400**To:** Shipstrike.Comments@noaa.gov**CC:** Aleta Hohn <Aleta.Hohn@noaa.gov>, Pete Parker <Pete.Parker@noaa.gov>, Kenneth Brennan <Kenneth.Brennan@noaa.gov>

Dear Colleagues,

I currently work at the Beaufort Laboratory, Southeast Fisheries Science Center, although I will be retiring on September 2, 2006. I worked in the Southeast Region Headboat Survey since 1972 and coordinated the Survey since 1974. Currently, the Survey is conducted from North Carolina to the Texas/Mexico border and covers the fishing activity of approximately 170 vessels. In the 34 years of working with this fishery, I have never even heard of a vessel (headboat) striking a whale. If a headboat hit a whale, passengers would be injured and the vessel would sustain damage. An imposed speed limit of ten knots would severely curtail the available fishing grounds and, most likely, put several of these vessels out of business. The speed limit may be necessary for ships, but in my opinion, it is not necessary for fishing vessels under 125 feet. Thank you for your considerations.

Robert Dixon

Research Fishery Biologist

36 ✓

Subject: Right whale strikes

From: clara donahoe <victam12@earthlink.net>

Date: Tue, 26 Sep 2006 20:18:45 -0400

To: Shipstrike.Comments@noaa.gov

As usual the government is picking on the little guy. I've fished on charter boats for 20 yrs on the coasts of NJ, FL, and NC. The only whale I've seen was a pilot whale and it was within 30 ft of shore. We weren't through the breakers yet!!! I think you people need to a whale of a lot of studying before you make a judgement call. The government loves spending mega bucks on studies, commitee meetings, hearings, etc. Before you put hundreds of "little guys" out of business and leave thousands of dads and their kids with no affordable way to spend some real quality time together I strongly urge you to find a reasonable solution to this problem.

Thank you for your time.

clara donahoe

victam12@earthlink.net

EarthLink Revolves Around You.

37'

From: Stephen Draughon <sdraughon@ec.rr.com>

Date: Tue, 26 Sep 2006 20:50:30 -0400

To: Shipstrike.Comments@noaa.gov

you guys are full of it. this has nothing to do with whales. it has everything to do with money and jobs. i call bullshit.

Subject: RE: SHIP STRIKE LAW.....
From: SUPNHEY@aol.com
Date: Tue, 26 Sep 2006 16:06:12 -0400 (EDT)
To: Shipstrike.Comments@noaa.gov

HI,

TO WHOM THIS MAY CONCERN.....PLEASE PUT COMMON SENSE BACK INTO GOVERNMENT, THIS NEW LAW IS NOTHING LESS THAN STUPID, THE DEVELOPERS HAVE ALREADY ALL BUT TAKEN EVERY PIER IN THE STATE OF NORTH CAROLINA, NOW THIS LAW THREATENS TO MAKE IS VIRTUALLY IMPOSSIBLE FOR A POOR MAN TO FISH THE OCEAN IN NORTH CAROLINA.....I AM NOT AGAINST WHALES OR ANY OTHER SEA CREATURE, BUT SLOWING DOWN THE BOATS TO 10 KNOTS!!!! THAT IS REDICULOUS!!!!!!!!!!!!!!!!!!!!!!

PLEASE USE COMMON SENSE WHEN MAKING SUCH DECISIONS, IF THE DEER POPULATION GETS TOO LOW, ARE YOU GOING TO SLOW DOWN THE SPEED LIMIT ON THE ROADS TO 10 MPH? I MEAN REALLY.....THERE IS ONLY SO MUCH THE PEOPLE OF THIS WORLD CAN TOLERATE, WE HAVE ENOUGH STUPID WORTHLESS LAWS WITHOUT THIS ONE.

PLEASE RECONSIDER YOUR PROPOSAL, BECAUSE I ASSURE YOU THERE WILL BE A LARGE NUMBER OF PEOPLE AGAINST THIS ONE.....

THANK YOU-DAVID DUKE

I have lived and worked in Eastern North CARolina all my life. Fished and traveled on all siz...

Subject: I have lived and worked in Eastern North CARolina all my life. Fished and traveled on all size vess

From: Mike Ervin <mervin@email.pittcc.edu>

Date: Wed, 27 Sep 2006 08:45:50 -0400

To: Shipstrike.Comments@noaa.gov

I have lived and worked in Eastern North CARolina all my life. Fished and traveled on all size vessels due to fishing, SCUBA diving and as a water rescue diver. Whale deaths are rarely due to small commerical vessels. If the rules apply to all vessels, fine. But if the federal or state government is exempt then there should be no rules that apply to anyone since their vessels create more damage than anyother.

39 ✓



40 ✓
A Whole New Vision Underwater

DEPARTMENT OF COMMERCE
National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA)

October 5, 2006

SUBJECT: 50 CFR Part 224; Proposed Rule to Implement Speed Restrictions to Reduce the
Threat of Ship Collisions with North Atlantic Right Whales

Dear Sir/Ma'am:

The proposed mandated speed restrictions in regards to the protection of North Atlantic Right Whales, although noble in intent, does not take into account the existence of advanced technologies that can be used to detect whales and warn operators in ample time to avoid any potential for shipstrike.

Technology such as our advanced 3D forward looking sonar technology has the potential of mitigating the shipstrike problem while enabling vessels in the categories affected by these proposed restrictions to operate above 10 knots. Systems such as the FarSounder sonar systems operate at safe sound levels, frequencies and durations for marine mammals.

Arbitrarily restricting vessels' speeds without taking into account current and future technologies that could be safe, environmentally friendly and economically feasible alternate solutions is a short sighted approach to the problem. Please consider leaving the door open to new approaches.

Respectfully,

A handwritten signature in cursive script that reads "Cheryl M. Zimmerman".

Cheryl M. Zimmerman, CEO
FarSounder, Inc.
95 Hathaway Center Suite 5
Providence, RI 02907

Page 1



1700 Market Street, Suite 2720
Philadelphia, PA 19103
Direct: (215)606-6641
Main: (215)574-1770
Fax: (215)574-1775
kchambers@fastshipaia.com

Kathryn Riepe Chambers
Executive Vice President

October 5, 2006

VIA ELECTRONIC MAIL

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Re: Comments of FastShip, Inc. to Proposed Rulemaking to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (Docket No. 040506143-6016-02.I.D.101205B, 71 Fed. Reg. 36299 (June 26, 2006))

Dear Sir or Madam:

FastShip, Inc. ("FSI" or the "Company") is in the process of developing a trans-Atlantic high speed ocean freight service and continues to follow rulemaking related to Right Whale Ship Strike Reduction with great interest. We are concerned that the proposed regulations would have a serious negative impact on FSI's business, and the shipping industry in general. In particular, the Company's operations will bring substantial efficiencies and environmental benefits to the global movement of freight by employing a high speed vessel based on an innovative vessel design and developing a door-to-door logistics network in and out of the Port of Philadelphia utilizing the Delaware Bay that is based in large part on significantly reducing the amount of time it currently takes to transport commercial cargo by vessel across the Atlantic Ocean.

In short, it is critical that these vessels are allowed to cross the Atlantic Ocean at an average cruising speed of 36 knots which will reduce the transit time to approximately 100 hours in order to provide the necessary economic advantage to support this operation. A mandatory reduction in speed outside Delaware Bay and off the U.S. coast would have a severe adverse affect on FSI's operations.

In an effort to stay apprised of the National Marine Fisheries Service's ("NMFS") plans, FSI stakeholders attended the public meeting in Baltimore, Maryland on August 10, 2006 and were reassured by the comments made by those in the shipping industry regarding the debilitating effects that this proposal, in particular the speed restriction, will have on the shipping industry.

At the outset, we would like to refer to our comments submitted on November 15, 2004 in response to the request for comments on the Advanced Notice of Proposed Rulemaking for Right Whale Ship Strike Reduction, since a number of the issues raised in that document are still valid and of the Company's concern. For your convenience, we have attached a copy of those comments for your reference. In addition, we would like to submit the following additional comments:

NMFS's Authority to Regulate Vessel Speed Outside of the Territorial Sea is

Questionable: NMFS has failed to justifiably articulate its authority to establish speed zones outside the U.S. territorial sea. Unilaterally establishing such a standard would be unprecedented. While the Endangered Species Act and Marine Mammal Protection Act provide the Secretary of Commerce the authority to protect the right whale, coastal states are limited under customary international law as reflected by the United Nations Convention on the Law of the Sea with regard to establishing and enforcing laws in the Exclusive Economic Zone ("EEZ").

The establishment and enforcement of laws related to speed zones in the EEZ should be consistent with international rules and standards. We are not aware of any international rules or standards that would justify establishing speed zones in the EEZ. We understand that some of NMFS' efforts are being coordinated with the Coast Guard in the development of "traffic separation schemes" and "areas to be avoided" and that ultimately such changes will be submitted to the International Maritime Organization for review and approval before being adopted domestically. These efforts are on the right track. However, NMFS should closely review its authority to establish speed standards that are not established pursuant or consistent with these recognized methods in order to confirm its authority to do so.

In any event, it appears that NMFS may be basing its authority to establish speed zones in the EEZ on the authority of a coastal state to establish conditions on port entry. Specifically, proposed section 224.105 indicates that it would be unlawful for any vessel entering or departing a port or place under the jurisdiction of the United States to violate any speed restriction established pursuant to any rulemaking. Although it is generally accepted that states may establish conditions of entry under customary international law and various conventions, it is also well established that freedom of access to maritime ports by foreign vessels is based on the condition of reciprocity.

In other words, establishment of such speed zones off U.S. coasts could well result in other states establishing similar or more restrictive conditions applicable to U.S.-flag vessels making port calls on foreign ports. As reflected in the Convention on the Facilitation of International Maritime Traffic, 1965, states have an obligation to adopt appropriate measures to facilitate and expedite maritime traffic and to prevent unnecessary delays to ships.

Economic Impact is Enormously Understated: The economic analysis prepared by Nathan Associates, Inc. for the NMFS estimates that the direct and indirect annual impacts on commercial shipping will be approximately \$116 million for the preferred ten-knot speed restriction. This is a gross underestimation of the actual economic impact, which is likely to be in the many billions of

dollars. For example, if FastShip's proposed high-speed shipping business was made untenable or was forced to relocate from Philadelphia to a non-U.S. port, a billion dollar business and 7500 jobs would be lost from the Philadelphia region (our economic impact studies show that FSI's operations will create 7500 jobs in the Philadelphia region). This figure clearly does not include all of the direct and indirect costs on the shipping industry, which would experience reduced utilization of ships and may have to restructure their services and drop certain ports from their schedule. There is no estimate of the possible impact on U.S. ports (which are vital economic engines in their communities), workforce, ancillary business communities, or ship operators if ship owners drop ports or divert from U.S. to foreign ports such as Halifax or the proposed mega-port in the Bahamas. Reduced access to ports and restructuring of ship operator's port rotations would result in tremendous logistical inefficiencies for shippers as products would be offloaded hundreds, if not thousands, of miles from their ultimate destination; this would result in higher transportation costs, lost time and added burden on the already-saturated highway infrastructure. This is antithetical to the need for greater transportation efficiency by shippers who are trying to manage streamlined and resource-efficient supply chains to compete in the global economy. Moreover, the effect on commercial container terminals on the U.S. East Coast could be devastating. In addition, there is no estimate of the probable cost or method of policing or enforcing the rule; nor of any proposed penalties, nor of the cost of the necessary infrastructure, recommended outreach programs, etc., that would be necessary in successfully implementing the proposed rule.

During the August 10, 2006 public hearing in Baltimore, Maryland, however, Dr. Silber of the NMFS alluded to this economic impact by mentioning that the result of this rule may cause certain shipping lines to divert to non-US ports, explicitly mentioning Halifax as an alternative. These issues show that the total cost of all the above will surely amount to billions of dollars of public funding and commercial penalties, with only the possible benefit, on NOAA's own admission, of eliminating "about two known ship strikes [to right whales] per year with at least one resulting in death." This equates to approximately 0.057 percent of the estimated right whale population of the 350 animals presumably existing off of the U.S. East Coast. In summary, NMFS must ensure that it has adequately taken into account the full range of economic impacts before this rulemaking is finalized.

Various Causes of Right Whale Deaths: In the documents prepared by NMFS in support of this rulemaking, there was no attempt to relate the current decline in the right whale population to natural causes or the environmental impact of oil spills, pumped bilgewater, sulfur residue from vessels burning heavy fuel, pesticides, agricultural and community run-off and other sources of marine pollution. This fact begs the question, that if two right whales are still killed each year irrespective of the speed restriction, then how can the effectiveness of this regulation be measured?

Questionable Right Whale Statistics: The statistics given to support the preferred ten-knot rule are highly questionable. There were only two recorded instances of right whale ship strikes off the Delaware Bay between 1885 and 2002. Between 1975 and 2002, there were 38 recorded ship strikes on right whales worldwide. The statistics provided at the earlier public sessions sponsored by NOAA in Linthicum, Maryland on October 23, 2004 and November 27, 2004 related to "all large whales," not right whales, off the U.S. East Coast. The same statistics demonstrate that the United States Navy and United States Coast Guard vessels, both of which are

to be excluded from the preferred ten-knot rule as institutionally exempt, and whale-watching vessels, are the major culprits in recorded ship strikes of "all large whales."

Vessel Speed Verses Ship Strike: The NOAA statistics on vessel speed versus the number of whale strikes again applies to all species of whales and seem to reflect the speeds at which commercial and recreational powered vessels generally operate (*i.e.*, 10-30 knots, with most vessels operating in the 13-to-21 knot speed range, at which most strikes occurred). There is no attempt to break the figures down according to the type of whale struck or geographical areas. NOAA appears to largely rely on the possibility that many right whale strikes went unreported. This is a critical assumption. In view of the substantial economic shipping and other related costs that would result if this rulemaking were implemented, it would clearly be inappropriate for NOAA to move forward without more reliable data with regard to the actual whale strikes.

In addition, NOAA recognizes the fact that, initially, any vessel will tend to push a whale away with its bow wave. But it has accepted the significance of the suction created by different hull types at different sizes and speeds that could increase or decrease the possibility of a right whale being struck by a bulbous bow or sucked under the hull and downwards towards the propeller(s), stabilizer fins, rudder(s) or other appendages. NOAA also recognizes the significance of propeller and appendage trauma as the chief cause of right whale mortality.

NOAA's own notes of the meeting in Linthicum, Maryland on November 27, 2004 recorded that "Dr. Greg Silber recognizes the limitations of [previous hydrodynamic] studies and advised that it is his intention to pursue a more comprehensive hydrodynamics study that will examine the many ship types and configurations, propulsion, propeller types and configurations and water courses." On August 10, 2006, there was no mention of any such "more comprehensive hydrodynamics study" having ever taken place. FSI strongly suggests that NMFS should now conduct the critical and more expansive hydrodynamic studies as intended by Dr. Silber prior to moving forward with this rulemaking.

Moreover, we feel it is vital that such studies take into account different ship types. For example, FSI has conducted extensive hydrodynamic studies on our FastShip vessel. It is FSI's contention that its FastShip vessels do not pose that same risk to the right whale as compared to conventional cargo vessels due to significant differences in design. FSI's vessels have neither a bow-bulb, nor fins nor propellers and only have very small high-speed rudders, which will be much less likely to damage a whale than a normal cargo ship. Furthermore, the higher pressure from FastShip's hull is more likely to force any floating object away from the hull at speeds above twenty-knots. For FastShip, the statistical possibility of a strike on a right whale (maximum speed = eight-knots) could therefore be reduced with speed. It might be preferable to proceed faster, rather than slowing to ten-knots, at which speed both the suction of the hull and the statistical possibility of a strike will be greater. We also submit that it has been demonstrated in Classification studies that the deceleration time of FastShip - a critical consideration in whale avoidance - will be much less compared to normal vessels, due to the immediate application of the much greater reversing power of its water jets. FastShip's evasive maneuverability has also been demonstrated as generally superior to traditional cargo ships, at all speeds.

Higher Speed May Reduce Strikes and Collisions: The NOAA Notes of the November 27, 2004 Linthicum, Maryland meeting also recommended modeling the possibility of higher speeds

reducing the statistical probability of the course of a ship and whale coinciding. On August 10, 2006, there was no mention of any such study having taken place. For example, statistics in the Dover Straits, which has the greatest confluence of high and low-speed vessels on converging courses in the world, have shown that the higher-speed vessels have less random probability of collision than slower ones. No collisions to date have involved high-speed vessels, although there have been several involving large slow-moving vessels. NMFS needs to study this important aspect before finalizing this rulemaking.

Explore Alternative Technology: Consideration should be given to compulsory installation on commercial vessels in U.S. waters; similar to the sort of electronic aids increasingly used by commercial ships, in particular fast-ferris, for collision avoidance. As an example, these include forward-seeking active sonar, forward looking infra-red and light-intensifying technology which can detect thermal anomalies and objects at night, such as a right whale or small boat, in the water ahead of the ship.

Faster Ocean Shipping Could Reduce Greenhouse Gases: Studies by the World Wildlife Federation and the United Nations' Inter-Governmental Panel on Climate Change have suggested that faster ocean shipping is a way to reduce the huge growth in airfreight as a result of the increased global demand for transportation of high-value time-sensitive freight and other priority cargo. The increase in greenhouse gases resulting from the emission of SO_x and, particularly, NO_x at high altitudes by jet aircraft is recognized by these bodies as the fastest-growing type of atmospheric pollution by any transportation mode.

The impact of the growing number of runways and landing slots for airfreight in highly-populated areas is also of universal public concern. It is likely that faster non-traditional types of vessels will be introduced to take advantage of this opportunity to reduce dependence on air freight; and they should not be impacted by rules written solely in the light of the hydrodynamic behavior of existing vessel designs.

Short Sea Shipping: One of the primary goals of the Department of Transportation and the Maritime Administration is to implement a robust Short Sea Shipping System in the United States to aid in the reduction of growing freight congestion on our nation's rail and highway systems. The mission of this program is to encourage cargo and passenger movements on water to more effectively manage trade growth, bring new intermodal capacity to the nation's overall transportation system, mitigate air quality issues, and grow the economy, particularly to reduce the heavy north-south truck traffic on Interstate 95 on the east coast of the United States. The implementation of a speed limit offshore would likely severely hinder the development of this program. NMFS must take into account the potential adverse effects on speed limits to the implementation of the Short Sea Shipping System as a national priority.

Third-Party Review of Effectiveness: If the preferred ten-knot rule is adopted, there should be some procedure in place whereby its results are analyzed by independent third party sources after an introductory period. This would allow NMFS to ascertain whether or not such drastic measures are having any effect on the right whale population. If not, then any promulgated regulations should be held in abeyance as ineffective until further studies are conducted.

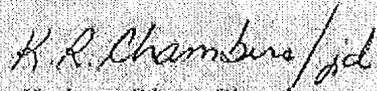
In conclusion, it is clear that NMFS must take the time to consider a multitude of issues before it can finalize this rulemaking due to its far-reaching implications, not only from an

economic standpoint, but how such measures will actually result in reduced ship strikes, which is reinforced by NOAA and MNFS's own admission that the preferred ten-knot rule will likely have a minimal effect on the prospects for the survival of the right whale. The impact of this proposed rule, however, could be devastating on many interests, including the U.S. maritime trade, ports and their dependent economies and surrounding communities, to name a few. Shipping is essential to the United States' key position in the global market and any proposed rulemaking that threatens to effect that position must be exhaustively scrutinized.

In addition, FSI recommends that other suggested measures, such as Alternative 2 concerning Dynamic Management Areas, and Alternative 4 which recommends Shipping Routes should be considered. But that consideration should only be given after completion of the hydrodynamic studies and statistical collision probability modeling previously recommended by NOAA as discussed above. Even if this rulemaking moves forward, in the alternative, FSI recommends that certain vessels, such as its own, should be exempted due to the minimal impact that their vessels will have on the right whale community due to the hydrodynamic impact of their hulls and other aspects of their design.

We appreciate the opportunity to comment on this important issue and would be pleased to provide any clarification on these comments or answer any additional questions you may have. Please keep us informed and do not hesitate to contact me at (215) 574-1770 or Krchambers@fastshipatlantic.com.

Sincerely,


Kathryn Riepe Chambers
Executive Vice President

Enclosure



1700 Market Street, Suite 2720
Philadelphia, PA 19103
Tel: (215)574-1770
Fax: (215)574-1775
krchambers@fastshipatlantic.com

Kathryn R. Chambers
Executive Vice President

November 15, 2004

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, Maryland 20910

Re: Comments of FastShip, Inc. to Advanced Notice of Proposed Rulemaking for Right Whale Ship Strike Reduction - 69 Fed. Reg. 30857 (June 1, 2004)

Dear Sir or Madam:

FastShip, Inc. ("FSI" or the "Company") is in the process of developing a trans-Atlantic high speed ocean freight service and is following with interest the Proposed Rulemaking for Right Whale Ship Strike Reduction. We are concerned that such regulations as proposed would have a serious negative impact on our business, which will bring substantial efficiencies and environmental benefits to the global movement of freight by employing an innovative vessel design. FSI representatives attended the stakeholder meetings on October 26 and 27, 2004 and listened to the various suggestions of the National Marine Fisheries Service ("NMFS") representatives and other interested parties. As a result of the issues discussed at those meetings, FSI submits the following comments to assist NMFS in further considering regulations to implement a strategy to reduce mortalities of North Atlantic right whales.

Background – FSI Business Description

FSI is currently developing an innovative door-to-door logistics network, combining three high-speed ships with a specialized loading system, dedicated terminals and inland transportation networks. The centerpiece of the network will be the ships, which utilize a patented hull form and gas turbine propulsion system that will permit the vessels to cross the Atlantic at almost 40 knots, even in rough seas. With these new vessels, FSI will provide a seven-day door-to-door, time-definite express freight service between the United States and Europe – service that is comparable to standard air freight, but at half the price. It is estimated that the project will create 7,500 new jobs, both directly and indirectly, in the Philadelphia

region. The Company will operate the vessels between Philadelphia and Cherbourg, France and expects to begin operations in 2009.

FSI expects the crossing between Philadelphia and Cherbourg to take approximately 100 hours at an average cruising speed of 36 knots. It is critical that the vessels are able to cross the Atlantic within the allotted time as the competitive nature of this enterprise and entire logistics network is keyed to the timely arrival and departure schedule of the vessels. To meet this schedule, the Company plans to operate the vessels at 36 knots once they are outside the Delaware Bay. Inside the Delaware Bay, the vessels will be constrained by shallow water effect and will be limited to approximately 27 knots. FSI's operations could be negatively impacted by the proposed restrictions off of the Delaware Bay.

Comments Relating Directly to FSI's Operations

Not all ships are the same – connection between vessel design and probability of a strike should be taken into account. We believe the recommendation of Dr. Greg Silber recorded at the October 27 meeting, concerning a more comprehensive hydrodynamics study of various hull forms, propellers, appendages etc., at different hull speeds - should be implemented. This would be of great assistance in clarifying the precise nature of the forces that might draw a whale towards the hull or propellers (or repel it) depending upon the design and speed of different types of vessels. For example, ships designed to operate at higher speeds have a very different pressure distribution over the hull than a low-speed vessel. In particular, at higher speeds, the FastShip vessels have either neutral or high pressure over most of the side of the hull. Therefore a whale, rather than being sucked into the ship's side, would tend to be pushed further away. Another aspect of the FastShip vessel design is that they are propelled by water jets which are within the hull and do not protrude beneath, like propellers. Since steering is achieved by altering the direction of the jet outlet nozzles and stabilization is by flaps extending behind the stern, there is no anticipated need for rudders, fins, or any other appendage below the hull.

Connection between vessel speed and probability of a strike should be taken into account. Additionally, the issue mentioned in paragraph D on page five of the October 27 minutes should be further investigated. A computer model should be constructed to estimate the chances of a strike occurring in a given area, depending upon the differing speeds of a whale (or whales) and a converging vessel. It is possible that there is a direct relationship between the time in area and the probability of a ship striking a whale. The decreased maneuverability of a vessel at lower speeds may also make avoidance measures ineffective.

Severity of the problem needs to be better understood. We also note that the NOAA Fisheries Database: 'Confirmed and Possible Ship Strikes to Large Whales' shows only two recorded ship strikes on North Atlantic right whales in the vicinity of intended FSI operations from the Delaware Bay, between 1895 and 2002. This represents only 8 percent of recorded strikes on right whales on the U.S. eastern seaboard over that period.

Other comments

FSI also believes that that the proposed regulations could have an adverse effect on another important shipping initiative. The Maritime Administration and several companies are studying the feasibility of starting short sea feeder services on the U.S. East Coast to relieve truck congestion on I-95 corridor under its Short Sea Shipping Initiative. However, because this

proposed rule would affect every major port on the East Coast, the proposed speed restrictions would also have a negative impact on the future of this project since speed will be an important element to the development of any successful feeder service.

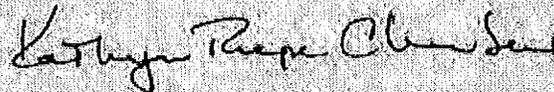
Furthermore, this proposal has far reaching potential international impact with regard to the regulation of vessel traffic in innocent passage in the territorial sea, which are not making U.S. port calls, and vessels beyond the territorial sea of the United States. The regulation of such vessel traffic must be in accordance with international standards. Specifically, Chapter V of the International Convention for the Safety of Life at Sea (SOLAS) establishes international standards relating to the safety of navigation. In particular, Regulation 10 of Chapter V requires contracting States to forward proposals for ship routing measures to the International Maritime Organization (IMO) for approval. In addition, Regulation 12 of Chapter V makes it clear that Vessel Traffic Services can only be made mandatory in sea areas within the territorial sea of a coastal State. In short, any NMFS proposal affecting vessel traffic beyond the territorial sea must comply with SOLAS requirements and be coordinated with IMO as appropriate.

Conclusion

Under the proposals set forth in the ANPRM, the proposed speed restrictions could have a significant adverse impact on the Company's operations six months out of the year. By requiring FSI to reduce its speed to 10-14 knots for a distance of 30 nautical miles outside the mouth of the Delaware Bay, the proposed restriction would add several hours to the voyage, which could endanger FSI's ability to meet its time-critical schedule. We believe it would be unnecessarily severe to restrict FSI operations on such a very low probability of a whale strike occurring with a FastShip vessel, unless hydrodynamic and statistical analyses demonstrate that there will be a much-reduced likelihood of whale mortality through speed restrictions.

Thank you for giving FSI the opportunity to submit these comments, and we look forward to continuing to work with NMFS on this matter. Please keep us informed, and do not hesitate to contact me at 215-574-1770 or krchambers@fastshipatlantic.com if you have any questions or need any additional information.

Sincerely,



Kathryn Riepe Chambers
Executive Vice President

22 September 2006

VIA: EMAIL & U.S. MAIL

10-05-06 10:29 IN

2006 OCT -4 AM 7:17

05 EXECUTIVE SECRETARIAT

NMFS

Chief Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
1315 East-West Highway
SILVER SPRINGS, MD 20910
www.shipstrike.comments@noaa.gov

RE: PROPOSED RULE TO IMPLEMENT SPEED RESTRICTIONS TO REDUCE THE THREAT OF
SHIP COLLISIONS WITH NORTH ATLANTIC RIGHT WHALES

Dear Ship Strike,

We would like to state that we are opposed to the rule making as currently written. We prepare this comment in haste due to the relatively short comment period and therefore reserve the right to amend our statement in the future. We believe that it would negatively affect the safety of vessels, the marine environment as well as having substantial economic costs to the general public and restrict international commerce of this Nation. In addition, we believe an alternate solution with better benefits and less costs to be available. We will outline our position below.

First, the "10 knot rule" will affect safety of vessels transiting the narrow entrance channel in the Port of Brunswick. This Port handles predominantly large, high-profile ocean-going vessels that require speed in order to maintain proper steerage. There is no evidence in the proposed rulemaking where expert shiphandlers in this Port were contacted about safe navigational speeds. Additionally, the calving season of the Right Whale is during the time of year when the prevailing winds are from the North East, this direction is nearly perpendicular to the true course to be navigated; therefore it causes the maximum amount of drift in the narrow entrance channel. The remedy to offset drift in a narrow fairway is speed, 10 knots is entirely too slow. The other line of business for the Port of Brunswick is deep-draft bulk vessels; these vessels are growing in size and also

require speed to maintain position within the entrance channel. In short, 10 knots in pilot waters will endanger vessel traffic, the marine environment and cause substantial economic harm to this State, region, and major U.S. Markets for certain products. For example, this Port serves a large number of States for the importation of many manufacturers of automobiles with some traveling by train as far as Ohio. Delays while waiting on a weather window for a 10-knot restriction will have a remarkable impact on the Nations transportation infrastructure on cargo moving through East Coast ports.

We also take to comment on false assumptions regarding steerage in the channel in the proposed rulemaking that State Pilots routinely have vessels slow down as they approach the pilot station. While it is true that ship's do reduce speed at the pilot boarding grounds, it is for the safety of the local pilot embarking or debarking a vessel and it is generally done well seaward of the shoal waters. The prudent Master will keep plenty of sea room when doing so because the large modern vessels of today have a tendency to exhibit poor handling characteristics at 10 knots or less in a seaway. The Master of the vessel is required by International Law to provide a safe environment for the pilot. Failure to make a "safe lee" for the pilot would violate long standing laws and could have criminal and or civil penalties for the person in charge of the vessel.

Because of the length of pilotage in Brunswick, deep-draft vessels require speed in order make the best use of tidal lift. Low speeds would require less draft, and therefore add excessive and unnecessary costs to the transportation of cargo through this and other ports. This alone is easily overlooked but very expensive component to the proposed rule.

Second, we question the validity that speed causes greater risk to the animal in the relatively narrow pilot waters. The hydrodynamic effects of vessels traversing pilotage waters are still somewhat an unknown and inexact science. The Pilots question what if any effect the proposed rule will have in saving any animals, but we are certain it could endanger the vessel as proposed. Additionally, it is our combined experience of a life time spent on this waterway that the Northern Right Whales seldom frequent the narrow, shallow and confining entrance channel that predominantly includes pilotage waters.

Third, we question the actual benefit to costs analysis of the Proposed Rulemaking. We don't believe a thorough analysis of the costs to society for one specie of animal has been thoroughly identified for impact on other species, including humans. For example, no parties have asked us how this rule will affect vessel traffic; further, no parties have asked our opinion as expert shiphandlers what modification to the channel might be required to keep the Port open to vessel traffic during periods of high wind conditions with these restrictions in place.

Finally, we believe that when the costs of the Proposed Rulemaking are thoroughly reviewed it will become apparent that perhaps better strategies or other technologies will be available to assist us in protecting the Northern Right Whale.

For vessel safety and efficient movement of commerce, the pilots' believe that the restriction should be removed when a State licensed pilot is aboard. This slight modification to the proposed rule should have minimal impact to the safety of the whales while keeping the ports open and commerce flowing.

Sincerely,


Edwin R. Fendig, Jr.

Senior Pilot

CC: Sen. Saxby Chambliss, GA
Sen. Johnny Isackson, GA
Sen. Jim Demint, SC
Sen. Olympia J. Snow, ME
Sen. John Sununu, NH
Rep. Jack Kingston, GA
Rep. Frank LoBiondo, NJ

Rep. Mario Diaz-Balart, FL
Rep. Connie Mack, FL
Rep. Don Young, AK
Rep. John L. Mica, FL
Rep. Lynn A. Westmoreland, GA
Gov. Sonny Perdue
Sen. Tommie Williams
Sen. Eric Johnson
Rep. Jerry Keen
ADM D.W. Kunkel, USCG, 7th District
CDR Dave Murk, COTP, MSU SAV
Doug Marchand, GPA
Noel Holcomb, Commissioner GA DNR
David Rostker, OMB
ADM Conrad C. Lautenbacher, NOAA Administrator
Carlos M. Gutierrez, Sec. U.S. Dept. of Commerce
Gregory Silber, PhD, Fishery Biologist (NMFS)
Bill Brown, Chairman Pilot Commission
Capt. Mike Watson, American Pilots' Assn.
Capt. Tommy Browne, Savannah Pilots' Assn.
Capt. John Atcheson, St. John's Bar Pilots' Assn.



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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

October 3, 2006

Florida's Future...
**Right Here.
Right Now.**

Jeb Bush
Governor

Simone Marsteller
Secretary

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Division of
Professions and Regulation

Board of Pilot
Commissioners

1940 North Monroe Street

Tallahassee, FL

32399-0773

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INTERNET

www.myflorida.com

Re: 50 CFR Part 224, Right Whale Ship Strike Reduction Regulations
(Proposed)

Dear Sir/Madame:

The Florida Board of Pilot Commissioners seeks to provide comment on proposed regulation 50 CFR Part 224 ss. 224.105(1), Southeast U.S.: Vessels shall travel at a speed of 10 knots or less during the period of November 15 to April 15 each year in the area bounded by: the shoreline, 31deg27' N lat., 29deg 45' N lat., and 80deg 51.6' W long.

By way of background, the Florida Board of Pilot Commissioners is made up of ten members appointed by the Governor of Florida. Five members are licensed State Pilots in the State of Florida (one pilot represents the ports of Fernandina, Jacksonville and Canaveral), one member is professionally involved in the maritime industry, one is a user of piloting services, and three members are not involved in the maritime industry.

Pertinent sections of Florida Statutes and Florida Administrative Code include:

Section 310.001, F.S. Purpose. - The Legislature recognizes that the waters, harbors and ports of the state are important resources, and it is deemed necessary in the interest of public health, safety, and welfare to provide laws regulating the piloting of vessels utilizing the navigable waters of the state in order that such resources, the environment, life, and property may be protected to the fullest extent possible. To that end it is the legislative intent to regulate pilots, piloting, and pilotage to the fullest extent of any congressional authority, except as limited in this chapter.

Section 310.002, F.S. Definitions. -

(2) "Pilot" means a licensed state pilot or certificated deputy pilot.

(5) "Pilotage waters of the state" means the navigable waters within the boundaries of the state.

(6) "Piloting" means the acts of pilots in conducting vessels through the pilotage waters of the state.

Section 310.101, F.S. Grounds for disciplinary action by the board. -

(1) Any act of misconduct, inattention to duty, negligence, or incompetence; any willful violation of any law or rule, including the rules of the road, applicable to a licensed state pilot or certificated deputy pilot; or any failure to exercise that care which a reasonable and prudent licensed state pilot or certificated deputy pilot would exercise under the same or similar circumstances may result in disciplinary action. Examples of acts by a licensed state pilot or certificated deputy pilot which constitute grounds for disciplinary action include, but are not limited to:

(a) Failure to make allowances for the foreseeable effects of wind, current, and tide.

(e) Excessive speed.

(k) Engaging in a practice which does not meet acceptable standards of safe piloting.

Rule 61G14-15.004, Florida Administrative Code: Boarding and Disembarking. -

(1) Except when subsection (2) applies, pilots shall board inbound vessels before or at the time the Territorial Sea Line of Demarcation and disembark from outbound vessels at or after the time that they cross such line; or, board and disembark vessels at the traditional pilot station, as approved by the Board and specifically listed below:

(a) Fernandina: Pilots board and disembark vessels drawing more than 36 feet off St. Mary's approach Lighted Whistle Buoy STM in the vicinity of 30-40.8N 81-11.8W. Vessels drawing 36 feet or less are boarded 1.3 miles east of the approach range front light off channel buoys 7 and 8 in the vicinity of 30-42.9N 81-16.6W.

(b) Jacksonville: Pilots board and disembark between the sea buoy and the outermost entrance channel buoys in the vicinity of 30-23.7N 81-20.7W.

(2) When conditions make boarding and disembarking a vessel unsafe at the location specified in subsection (1), the location, time and manner of boarding and disembarking shall be mutually agreed upon by the master and pilot involved, so as to provide an acceptable level of safety.

The months encompassed in your proposed regulation (50CFR Part 224), November to April, contain some of the most hazardous weather experienced by the affected ports of Fernandina and Jacksonville. The Board is concerned that the unintended consequence of the proposed regulation will result in conditions that create hazards to navigation and the surrounding environment.

The extreme conditions that can occur at the entrances to the St. Johns and St. Mary's Rivers frequently require that vessels be operated at speeds in excess of ten knots to safely remain in the navigation channel and not collide with the rock jetties. Pilots are

trained to be cautious and literal minded. The lack of exculpatory language for the safety of navigation in the proposed regulation, 50 CFR Part 224, could easily have the consequence of pilots proceeding at a speed that is not optimally safe or, more likely, not bringing vessels in for long periods of time while the weather improves.

An example of language currently in use in U.S. law is Rule 2, of what are commonly called the Navigation Rules.

Rule 2, Responsibility (Public Law 95-75) (Public Law 96-591, 94 Stat. 3415, 33 U.S.C. 2001-2038)

(a) Nothing in these Rules shall exonerate any vessel, or the owner, master, or crew thereof from the consequences of any neglect to comply with these Rules or the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitation of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

Rule 6, from the same part also has direct application, as follows:

Rule 6, Safe Speed. -

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(i) the state of visibility;

(ii) the traffic density including concentrations of fishing vessels or any other vessels;

(iii) the maneuverability of the vessel with special reference to the stopping distance and turning ability in the prevailing conditions;

(iv) at night the presence of background light such as from shore lights or from the backscatter of her own lights;

(v) the state of wind sea and current, and the proximity of navigational hazards;

(vi) the draft in relation to the available depth of water.

This Board would respectfully suggest an exemption for vessels under the direction and control of a licensed state pilot similar to the exemption granted to sovereign vessels. Mitigation measures could be developed. A failure to incorporate an exemption into proposed regulation 50 CFR Part 224, would necessitate wavering language for safety of navigation in high risk areas such as the entrances to the St. Johns and St. Mary's

Rivers. Many elements of the above stated rules could be incorporated into the language of the proposed regulation with the effect of making it workable and safe without significantly blunting its intended purpose. The Board of Pilot Commissioners would welcome the opportunity to cooperate with the National Marine Fisheries Service in the development of this language.

The Board is sympathetic to your purpose; however, we feel that the regulation (50 CFR Part 224), as currently drafted, does not measure up to the usual standard of caution employed by agencies and governments when regulating critical professions and practices. The regulation, if implemented as written, could have dire consequences for the environment of the State of Florida and all the species that inhabit it, including the North Atlantic Right Whale.

Respectfully Submitted,



Eric Bryson, Vice Chair
Florida Board of Pilot Commissioners

Attachments: Chapter 310, Florida Statutes
Rule Chapter 61G14, Florida Administrative Code

Cc: Robyn Barineau, Executive Director
Florida Board of Pilot Commissioners



FLORIDA STATE PILOTS

Serving the Ports of Florida since 1868



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CAPTAIN JORGE VISO
PRESIDENT
FLORIDA STATE PILOTS' ASSOCIATION
7898 PRESERVATION ROAD
TALLAHASSEE, FL 32312

October 5, 2006

VIA E-MAIL ADDRESSES: SHIPSTRIKE.COMMENTS@NOAA.GOV,
DAVID.ROSTKER@OMB.EOP.GOV;
TELEFACSIMILE NO. (202) 395-7285;
AND U.S. FIRST CLASS MAIL

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Re: 50 CFR Part 224, Right Whale Ship Strike Reduction Regulations (Proposed)

To Whom It May Concern:

This letter is in response to proposed amendments to 50 CFR Part 224 and your request for comments on the proposed amendments.

The Florida State Pilots' Association is a professional association comprised of licensed state harbor pilots in Florida. The purpose of the Association is to promote professionalism within the Association's membership, as well as to cooperate with federal, state and local authorities to the fullest extent possible in the preservation of life, the environment and property. As state licensed pilots, we are charged with directing the safe navigation of vessels on the waters, harbors and ports of the state of Florida.

The Association shares the concerns of the Florida Board of Pilot Commissioners, the licensing authority of state pilots in Florida, concerning the potential unintended and adverse impact the proposed amendments to Section 224.105 could have on the safe navigation of vessels in Florida waters. The State Association further supports the position of the Board of Pilot Commissioners that a broad exemption for vessels under the direction of a licensed state pilot be added to the other exemptions in Subsection (a) of Section 224.105. Specifically, the Association recommends that proposed Section 224.105(a) be amended to read as follows:

October 5, 2005

Page 2 of 2

§224.105 Speed restrictions to protect North Atlantic right whales.

(a) The following restrictions apply to: all vessels subject to the jurisdiction of the United States greater than or equal to 65 ft (19.8 m) in overall length, except those under the direction of a state licensed pilot or state licensed deputy pilot; owned or operated by, or under contract to, Federal agencies; and all other vessels greater than or equal to 65 ft (19.8 m) in overall length entering or departing a port or place under the jurisdiction of the United States. . . .

The addition of the exemption for vessels under the direction of a state licensed pilot is considered by the Association to be critical to the protection of the public health, safety and welfare of the citizens of Florida and Florida's environment. If you have any questions regarding our comments, we would be happy to discuss them with you further.

Respectfully submitted,

Florida State Pilots' Association

A handwritten signature in cursive script that reads "Jorge Viso".

Captain Jorge Viso
President

186076/076013-1

Subject: Right whale comments

From: hmoorer@gaports.com

Date: Fri, 06 Oct 2006 09:31:04 -0400

To: Shipstrike.Comments@noaa.gov, ShipStrike.EIS@noaa.gov

PLEASE USE THESE REVISED COMMENTS IF AT ALL POSSIBLE. THE PREVIOUS LETTER CONTAINED A MISTAKE/TYPO. THANKS.

Chief, Marine Mammal Conservation Division

Attn: Right Whale Ship Strike Strategy

Office of Protected Resources

National Marine Fisheries Service

1315 East-West Highway

Silver Spring, MD 20910

shipstrike.comments@noaa.gov

shipstrike.eis@noaa.gov

Subject: Docket No. 040506143 – 6016 – 02, I.D. 101205B

The Georgia Ports Authority (GPA) appreciates the opportunity to comment on the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (Federal Register / Vol. 71, No. 122 / Monday, June 26, 2006) and for the EIS No. 20020278, Draft DIS, NOA, 00, Draft Environmental Impact Statement to Implement the Operational Measures of the North Atlantic Right Whale Ship Strike Reduction Strategy (Federal Register / Vol. 71, No. 130, Friday, July 7, 2006 / Notices). Our organization operates deepwater terminals in the ports of Savannah and Brunswick, both which are included in the Proposed Rulemaking and Draft EIS.

The GPA believes that the endangered North Atlantic right whale must be protected and understands the difficulty facing the National Marine Fisheries Services (NMFS) and the National Oceanic and Atmospheric Administration (NOAA) in balancing the economic interests of the maritime industry with the agency's responsibility to protect the species. The GPA commends the decision of the NMFS to prepare an EIS to analyze the potential impacts of implementing the operational measures in NOAA's Right Whale Ship Strike Reduction Strategy. However, the GPA is opposed to the proposed rule that a speed restriction of 10 knots should be mandated for vessels transiting ports on the U.S. East Coast. **How can the NMFS and NOAA responsibly justify putting the entire economic burden for compliance with speed restrictions on 100% of the ocean going commercial fleet when, at best, it may be responsible for less than 50% of the collisions?** The GPA would also like to raise concerns regarding the Draft EIS, particularly with the economics and science used to make the determination for the speed restriction, and the lack of study associated with vessel safety under the proposed speed restriction.

The safety and steorage of ocean vessels should be considered a primary concern within the Draft EIS and a determining factor in setting the proposed speed restriction. While the EIS studies the impact of vessel strikes and the economic impact of limiting speeds to 10, 12 and 14 knots, it does not study the implication to vessel handling and operation at each of the proposed restrictions. Vessel speed has an effect on the maneuverability of large ships. Deep draft vessels often require more than 10 knots of speed to maintain their position due to the currents and high winds in the open waters of the Atlantic Ocean. The proposed restriction of 10 knots will impact the safety of vessels, and thereby, threaten not only human life, but the marine environment as well due to the increased potential of groundings and resulting oil spills from vessels. Weather is also an important factor in vessel maneuverability. The time of year for which these speed restrictions are proposed is when the prevailing

weather conditions usually require additional speed to maintain steerage of the vessel in the narrow entrance channels at Savannah and Brunswick. High wind conditions and a 10 knot speed restriction will ultimately result in port closings which is a factor that was not considered within the economics evaluation of the EIS. **Has NOAA considered a study of the maneuverability of vessels at each management area (each port) for each of the speed restrictions evaluated as part of the EIS (10, 12, and 14 knots)?**

The GPA does not agree that speed restrictions should be mandated without having substantially more scientific data on which to base such a decision. The GPA requests that additional scientific studies be conducted to determine the risks to human and vessel safety at each of the considered speed restrictions. **Will NOAA study the impacts to vessel maneuverability with hydrodynamic models of each of the ports included within the proposed SMAs?** Considering the vessel handling characteristics vary depending on such variables as the vessel design, weather, tides and configuration of the channel, the GPA would suggest "minimum safe speed" as language to be used in the proposed rule instead of a predetermined speed. **Has NOAA considered minimum safe speed as an alternative to naming a specific vessel speed restriction?**

Another issue with the speed restriction is enforcement. The Draft EIS does not propose which federal agency will be charged with the responsibility of enforcing the proposed speed restriction. Additionally, the EIS does not set forth provisions of how such enforcement will be funded or what penalties should be assigned for violations of the restriction. In consideration of the current federal budget climate, additional staff to enforce such restrictions would be unlikely. **If the U.S. Coast Guard is tasked with enforcement, how will this additional responsibility impact its other critical duties, such as homeland security? Will these issues be addressed in the EIS and will these issues be included in the economic impact study?**

If the speed restriction is imposed, the GPA also believes the proposed rule should include a provision by which to terminate the restrictions when a sustainable population level or annual population increase percentage is reached. No such provision is included in the EIS or proposed rule at this time. **Did NOAA consider a provision by which to terminate the speed restrictions?**

The GPA also questions the scientific data included in the Draft EIS and used for the determination of the 10 knot speed restriction. Based on the records of whale collisions where vessel speed was reported, mortality and injury to right whales by vessels 65 feet and larger at speeds of less than 14 knots is not indicated. Data in the cited studies is based on whale species other than the right whale. The cited studies include too much emphasis on the large whale speed database which contains only five percent right whale references, one citation that is highly suspicious, as it was a retroactive right whale categorization made 25 years after the collision incident. **Will NOAA consider additional research on the right whale prior to setting speed restrictions? Can NMFS support the claim that there are only 300 right whales surviving today?**

Consideration of vessel speed vs. whale collisions is not simple, but rather, involves a matrix of inter-related dimensions and probabilities. Not all factors from the cited studies point in the same direction, and indeed to some degree, may be offsetting. The research sets forth that vessels traveling at higher speeds may provide a lesser response time for whales exhibiting avoidance behavior; draw a whale into the vessel in the case of an appearing whale or at speeds of 20 knots or greater; and increase the extent of injury to the whale. On the other hand, research also provides that vessels traveling at higher speeds may provide an acoustic signature that allows for greater whale response time; push the whale away from the vessel, thus avoiding a possible collision; and reduce the exposure and risk of a vessel/whale interaction because the two are not in the same area for as long a period as when the vessel is traveling at slower speeds. **Won't slower speeds keep vessels and whales in restricted areas for longer periods of time; thus increasing the potential for collisions?** In several of the hydrodynamic simulations, whether a collision did or did not occur was independent of vessel speed or at least over a wide range of vessel speeds. **Can the NMFS and NOAA guarantee that slower vessel speeds will reduce collisions between whales and ships?**

The GPA believes that the economic analysis did not take into account several important factors and greatly undervalued the overall impact to the industry and to the nation. As stated above, the speed restriction and

weather conditions may result in port closure due to the loss of steerage of the vessel at lower speeds. An evaluation of the weather patterns at each of the impacted ports should be conducted and an estimation of the economic impacts due to port closure should be included. Also mentioned above is the need for enforcement of the speed restriction. Costs should be assigned to the variables associated with managing the proposed rule including the additional staffing required for enforcement. If an economic analysis is to be included, the analysis should be complete.

Although an estimation was made of the monetary impact to the ports of Savannah and Brunswick, the GPA believes these are underestimated. The analysis states that Brunswick would be one of the ports that is most impacted by the restriction, and the GPA thinks the impact will be even greater than estimated in the study.

According to a recent economic impact study of the deepwater ports in the state of Georgia conducted by the University of Georgia Terry College of Business, the statewide economic impact of Georgia's deepwater ports of Savannah and Brunswick in fiscal year 2003 includes:

- \$35.4 billion in sales (7% of Georgia's total sales);
- \$17.1 billion in gross state product (6% of Georgia's total GSP);
- \$10.8 billion in income (4% of Georgia's total personal income);
- 275,968 full and part time jobs (7% of Georgia's total employment);
- \$3.2 billion in federal taxes; and
- \$1.4 billion in state and local taxes.

Based on these significant economic contributions of the ports of Savannah and Brunswick, the GPA believes the impacts stated within the economic analysis for the draft EIS are understated.

Additional research is needed to understand the behavior of the right whales. The GPA firmly believes the industry and researchers can work together to avoid collisions. The GPA is working with the Florida Fish and Wildlife Conservation Commission to provide access to the AIS vessel tracking system to monitor vessel positions as the ships approach the ports. This information, combined with right whale position information determined from aerial whale surveys, can be used to hopefully avoid future collisions.

Our organization also believes that the Early Warning System that was instituted to alert vessels to the presence of a whale in an area has been a successful program, and the GPA contributes funding to support the paging network that is part of the early warning system. Since 1991, only three whales in the Southeast are known to have been hit by ships, the last in 1996. During that time period, more than 50,000 vessel transits have taken place in the Savannah area alone. Those numbers seem to indicate that the system is working. Your background papers state that we cannot be certain that whales were not killed by ships. We also cannot be certain that whales were killed by ships. The fact of the matter is that we don't have enough data to know. And until we have better science on whether or not a reduction in speed will help save the population, we do not agree that the proposed strategy is justified.

In conclusion, the GPA sees no proof that the proposed strategy will result in better protection or reduce collisions with ships, and until such a time that reduced speeds can be proved to reduce ship strikes, we do not support the strategy. We believe that the early warning system, the aerial surveys and the outreach and educational efforts by NMFS are working. GPA also supports additional research of technology to enable tracking of the right whales, as well as ongoing study to better understand the habits and numbers of the existing whales.

The GPA appreciates the efforts of NOAA and NMFS to educate and collaborate with the maritime and shipping industries and will continue cooperative efforts to better protect this endangered species.

Thank you for the opportunity to comment.

Respectfully submitted,

On behalf of the Georgia Ports Authority

Hope Moorer
Program Manager, Navigation Improvement Projects

cc: Governor Sonny Perdue
U.S. Senator Saxby Chambliss
U.S. Senator Johnny Isakson
U.S. Representative Jack Kingston
U.S. Representative John Barrow
David Rostker, OMB
Admiral Conrad C. Lautenbacher
Secretary Carlos M. Gutierrez, U.S. Department of Commerce
Gregory Silber, PhD, Fishery Biologist, NMFS

Hope Moorer
Program Manager, Navigation Improvement Projects
Georgia Ports Authority
P.O. Box 2406
Savannah, GA 31402
912-964-3883
912-965-2368 fax

Georgia Ports Authority comments.pdf

Content-Type: application/octet-stream
Content-Encoding: base64

46 ✓

Subject: Fw: right whale proposed rules
From: Edwin Jayroe <ejayroe@sccc.tv>
Date: Thu, 05 Oct 2006 08:53:28 -0400
To: Shipstrike.Comments@noaa.gov

----- Original Message -----

From: Edwin Jayroe
To: shipstrikecomments@noaa.gov
Sent: Wednesday, October 04, 2006 5:07 PM
Subject: right whale proposed rules

AS PILOTS FOR THE PORT OF GEORGETOWN S.C. OUR ORGANIZATION IS INTRUSTED WITH THE SAFE PASSAGE OF SHIPS IN AND OUT OF THE PORT OF GEORGETOWN. THE ENTRANCE CHANNEL FOR WINYAH BAY IS 600 FEET AND WE HANDLE SHIPS UP TO 700 FEET LOA AND 27 FEET DRAFT. WITH THE PROPOSED SPEED OF 10 KNOTS SAFE PASSAGE ACROSS THE BAR WOULD BE HAZZARDOUS ON MANY OCCASSIONS DUE TO WIND AND CURRENT. THANKS FOR THE OPPORTUNITY TO MAKE THESE COMMENTS.

CAPTAIN W. EDWIN JAYROE
GEORGETOWN PILOTS
203 BOLICK ST.
GEORGETOWN ,S.C. 29440
ejayroe@sccc.tv
ph. 843 527 4136
fax 843 5274177

Duclos Corporation

GLADDING-HEARN SHIPBUILDING

October 2, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Subject: Right Whale Ship Strike Strategy

Dear Sirs/Madams,

Our company Gladding-Hearn Shipbuilding, Duclos Corporation has built more than 350 small commercial vessels since our founding in 1955. The types of vessels we build include ferries(traditional and fast ferries), whale watchers, pilot boats, tugs, research vessels, police, patrol and fire boats to name a few.

The Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Whales, as written, would be devastating to our customers up and down the East Coast and indirectly to our business, despite there *never having been a right whale ship strike in the region by either a whale watch or ferry vessel.*

Though within the Economic Impact portion of the proposed rule, NMFS "concludes that there would be disproportionate impacts from implementation of this proposed option between passenger ferries and high-speed whale watching vessels" and states that "reductions to revenues for small passenger ferries...would range...to 9.8%", the economic impact is still grossly understated and does not address the impact on businesses supporting the ferry industries.

Speed is essential in all facets our lives and business, and is essential to the economic viability to many businesses. Doing more with less is simply a fact of life today and speed is often the way to achieve it. In the past five years approximately 80% of our annual revenue (about \$12,000,000) has come from the high speed ferry, whale watcher and pilot boat businesses operating in the near coastal waters of the East Coast. These industries rely upon speed to make them viable and without them there simply would be no need for builders of new faster vessels like us.

Because of the economic damage that the DMA's would cause to our customers' operation, I recommend the following:

1) Either Alternative 1 or Alternative 4 such that DMA's were not a part of the operational measures

Rationale:

The proposed rule states that "relying on this measure [DMA's] would only have a minor positive effect on right whale population size and may not reduce ship strikes sufficiently to promote population recovery. In addition, relying on this alternative would impose substantial costs on government resources in terms of the monitoring and assessment activities needed to implement the DMA's".

One Riverside Avenue • Box 300 • Somerset, MA 02726-0300, USA,(GMT-5) • Tel. (01) 508-676-8596

Fax.(01) 508-672-1873 Website: gladding-hearn.com Email: peterd@gladding-hearn.com

DESIGNERS • BUILDERS

Whales could still receive protection from SMA's. Ferry and whale watch operations, ***which have never been involved in a right whale strike*** could continue to operate.

or

2) Alter the 65' vessel length threshold for Vessels Subject to Proposed Rule to 262'.

Rationale:

The proposed rule cites "Precedents for Speed Restrictions", specifically "The National Park Service established a 13 knot speed limit for vessels 262' or greater, in Glacier Bay National Park on a year-round basis to reduce the likelihood of ship strikes".

Vessels (90' – 200' in length) are fundamentally less at risk of striking a whale than other types of vessels. Unlike the small pleasure boater involved in socializing with his passengers, pilot boat, ferry and whale watch vessels are run by vigilant and professional crews who have made their skills evident by the absolute absence of right whale strikes. Unlike large ships which have pilot houses as far as 700 feet aft of the bow of the ship, lines of sight obscured by the deck of the bow for any object within 1/8th of a mile of the bow, operational hours during the evening hours and at night, and are incapable of stopping within less than 3 miles, our vessels' wheel houses are only a short distance aft of the bow (typically 20'-30') with unobstructed views, are able to stop within 150' or less, are operated 95% during the daylight hours, and have up to hundreds and hundreds of additional watch standers in the form of passengers looking attentively out to the water.

or

3) Reduce the DMA in size to 4 mile in diameter, 2 mile radius.

Rationale:

Vessels could circumnavigate the DMA and remain in business. Pilot boats, whale watch and ferry vessels have been able to avoid right whales with a mere 500 yard approach restriction. It seems unreasonable that a DMA size should jump 64 times in size to an 18 mile radius.

On behalf of our company and our more than 800 active vendors, I ask that you please seriously consider our comments above as the proposed regulation will have a devastating and perhaps fatal effect on our industry.

Sincerely,



Peter J. Duclos
President
Director of Business Development

Subject: Right Whale

From: Gregory <Gariley@yadtel.net>

Date: Wed, 27 Sep 2006 20:17:08 -0400

To: Shipstrike.Comments@noaa.gov

What difference would 8 to 10 mile per hour make for the whales. What difference will it make for the commercial fisherman? Probably put them out of business!!!!!!!

Please consider these things concerning the law of 10 mph for all boats over 65 ft. And why 65 ft. Does the whale know the difference in a boat this size and just swim in to it on purpose.

Subject: Bad Science -Speed limits
From: Margaret Harker <mharker@ec.rr.com>
Date: Fri, 21 Jul 2006 12:50:44 -0400
To: Shipstrike.Comments@noaa.gov

Sirs, As wife of a headboat captain for 24 years and a physician and a scientific minded person who appreciates all wildlife, I must take you to task for proposing this rule. Where is the science that says the headboats are injuring anything around here? You cannot imagine the damage to the fishermen who run parties if this is instituted. I wish my husband were still alive so he could do a better job of objecting to this. He surely would, as he has in the past. If this passes and is implemented, I believe he will haunt you all.

*Margaret N. Harker
for Woo- Woo Harker
Carolina Princess
604 Evans St.
Morehead City, NC 28557*

49 ✓

Subject: comment letter attached
From: Chris Hamilton <chris@inthewildproductions.com>
Date: Wed, 04 Oct 2006 10:37:58 -0400
To: Shipstrike.Comments@noaa.gov

To Whom It May Concern:

Please find my comment letter attached as a MS Word document. I have also pasted the text below in case you have difficulty with the attachment.

Thank you,
Chris Hamilton

>< >< >< >< >< >< >< >< ><
Christopher P. Hamilton
In the Wild Productions
508-487-2887 (studio)
508-241-5990 (cell)
chris@inthewildproductions.com
www.inthewildproductions.com
>< >< >< >< >< >< >< ><

October 3, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

SUBJ: NOAA'S PROPOSED RULE TO IPMLEMENT SPEED RESTRICTIONS TO REDUCE THE THREAT OF SHIP COLLISIONS WITH NORTH ATLANTIC RIGHT WHALES

To Whom It May Concern:.,

I own and run a small video production company in Provincetown, MA that has been filming the whale watching trips for passengers of the Portuguese Princess Excursions Inc. vessels since 1999. I am writing to express my concern of how the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Whales could adversely affect my business and my community, and to suggest some alternate solutions.

If a 36 mile diameter Dynamic Management Area (DMA) were enforced during the summer months, the Portuguese Princess whale watching company would only be able to offer four trips per day on their two vessels, rather than six trips. The trips would be slower and take longer, therefore I would have to pay my videographers more money per trip. A single 15 day DMA, were it to have been enforced this past August 2006, would have resulted in nearly 50% lost revenue for my company over that time period, or about \$8000. Multiple DMAs, enforced during the whale watching months, could easily put me (and my six videographers) out of business in the middle of the summer season.

If the high speed ferries were to shut down their services during the summer months, which they claim would be likely in the event of multiple DMAs, there would be thousands fewer visitors and millions of dollars in lost revenues to the town of Provincetown. This would cripple, if not shut down, several local small businesses in this already precarious financial environment. I want to make sure that you are aware of the far reaching consequences of your decision, and that there is much more at stake than just the profits of the ferries, whale watches and shipping companies.

I teach marine biology at the University of Massachusetts Dartmouth, I give 10% of my business profits to whale research and conservation, and I strongly support of measures that will effectively help to protect the endangered North Atlantic right whale. However, I do not believe that slowing down the ferries and whale watching boats would reduce the number of ship strikes against right whales, mainly because *there has never been a right whale ship strike in these waters by either a whale watch or ferry vessel*. The captains of the whale watching vessels and the ferries are undoubtedly the best whale sighters on the water, they are well aware of the location, and usually the species, of cetaceans miles away. The whale watching crews and naturalists are also great stewards of marine mammals, and jeopardizing their mission will likely result in fewer right whales being spotted, and thus fewer being protected.

I recommend the following:

1) Either Alternative 1 or Alternative 4 such that DMAs were not a part of the operational measures

Rationale:

Your proposal states on p. 35309 that “relying on this measure [DMAs] would only have a minor positive effect on right whale population size and may not reduce ship strikes sufficiently to promote population recovery. In addition, relying on this alternative would impose substantial costs on government resources in terms of the monitoring and assessment activities needed to implement the DMAs”.

Whales could still receive protection from SMAs. Ferry and whale watch operations, *which have never been involved in a right whale strike* could continue to operate.

or

2) Alter the 65' vessel length threshold for Vessels Subject to Proposed Rule to 262'.

Rationale:

The proposed rule cites “Precedents for Speed Restrictions”, specifically “The National Park Service established a 13 knot speed limit for vessels 262' or greater, in Glacier Bay National Park on a year-round basis to reduce the likelihood of ship strikes”. Ferry and whale watch vessels (90' – 200' in length) are fundamentally less at risk of striking a whale than other types of vessels. Unlike large ships which have pilot houses as far as 700 feet aft of the bow of the ship, lines of sight obscured by the deck of the bow for any object within 1/8th of a mile of the bow, operational hours during the evening hours and at night, and are incapable of stopping within less than 3 miles, the whale watching and ferry vessels' wheel houses are only a short distance aft of the bow (typically 20'-30') with unobstructed views, are able to stop within 150' or less, are operated 95% during the daylight hours, and have up to hundreds and hundreds of additional watch standers in the form of passengers looking attentively out to the water.

or

3) **Provide DMA exemptions for whale watching vessels and ferries.**

Rationale:

The captains of whale watching vessels and ferries are experts at sighting whales, these vessels only travel during the day, these vessels are very maneuverable and can stop in a short distance, and there has never been an incidence of a whale watching vessel or a ferry striking a right whale in local waters. This option would alleviate much unnecessary financial burden to local communities and small business owners and still offer protection to the animals from their truest danger, which are large cargo vessels going in and out of major ports.

or

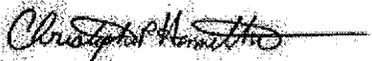
4) **Reduce the DMA in size to 4 mile in diameter, 2 mile radius.**

Rationale:

Whale Watch and ferry vessels could circumnavigate the DMA and remain in business.

I thank you for taking the time to consider my points and please feel free to contact me if you have any questions or concerns. I have put much thought into this, and I think that I have presented some ideas that would offer as much (if not more) protection for the right whales than Alternative 6, without affecting the economy of a community.

Sincerely,



Christopher P. Hamilton
Owner & Executive Director

right whale ship strike letter.doc	Content-Type: application/msword
	Content-Encoding: base64

Subject: North Atlantic Right Whale
From: Bill Fritz <billfritz@earthlink.net>
Date: Tue, 26 Sep 2006 11:09:08 -0400
To: Shipstrike.Comments@noaa.gov
CC: info@captstacy.com

Please eliminate this new requirement for reducing speed. Go with the facts and logic.

BACKGROUND: The North Atlantic Right Whale has been determined to be endangered by the NMFS/ NOAA, with somewhere over 300 of the species remaining. Please note, Captain Stacy, Inc is in favor of all reasonable efforts to protect this marine mammal.

From 1991 to 2001- 12 deaths of Northern Right Whales have been determined to have been caused by ship strikes. As a result the proposal before the NMFS / NOAA which would require all vessels of 65' or longer (which includes the Capt Stacy IV...83') to reduce their cruising speed to 10 knots for 30 nautical miles of travel both out to sea and back from November 1 to April 30 every year. This will affect every port from Florida to Miami. Our average cruising speed is 18 to 20 knots to the fishing grounds usually 40 miles or more off shore. At this writing that proposal appears to have the favor of top brass at the NMFS and NOAA in spite of the lack of scientific evidence. If you take into consideration the number of vessels (thousands) that left every port along the East Coast every day between 1991 & 2001 most of which have never ever seen a right whale or any kind of whale and only 12 deaths of right whales can be attributed to ship strikes. You would have a greater chance of winning the lottery than coming into contact with a whale.

To begin the few whale ship strike deaths which have occurred are attributed to vessels over 260 ft. (80 meters) in length such as cargo ships, Navy and Coast Guard ships. By the way, the Navy and Coast Guard (which are recorded as having a number of whale strikes) and any federally contracted vessel have already been exempted from this rule. Next, there is no significant evidence to conclude that slower speed will result in fewer collisions. This is only speculation. A study done by Laist (Laist to El. At. Ship Collisions) used over 200 years of records dating back to 1885 and in the findings of that study there were no definite ship strikes with Right Whales ever recorded for the waters off North Carolina.

The following is not speculation: If these rules are implemented it will affect all vessels headboats and charter fishing vessels up and down the East Coast that are 65 ft and longer. On a full day trip the Capt. Stacy IV now spends around 5 hours traveling round trip to get to and from the fishing grounds. If the new laws go into effect it would require at least 8 - 1/2 to 9 hours traveling leaving only 2 hours for fishing. People will not want to spend their time and money to go through this. Would you? The loss of revenue during the proposed time frames each year would have a detrimental impact on our business and all other headboats. It would be very hard if not impossible to keep the Capt. Stacy business afloat ending a four generation history of over 7,000 trips to sea and ending employment for 15 or more of our associates.

During these 7,000 trips (carrying 100's of thousands of passengers for a day of fun) our captains have never come in physical contact with a whale. If they were to spot a whale (which would be rare) federal law, and common sense, requires the Captain to take all steps to avoid the mammal. Headboats and charter fishing vessels are designed with planning hulls that do not draw objects to them. Also the keel of these type boats protects the engine props keeping them from hitting objects in the water. Unlike large freighters, tankers, Navy and Coast Guard ships, vessels like the Capt. Stacy are able to maneuver to avoid objects in the water.

If the proposed law passes there is no telling where it will stop. If the NMFS does not see the results they want they have said they will consider implementing larger seasonally managed areas, further reducing ship speed, or other measures if appropriate. Reference (On page 36307 of the Federal Register / Vol. 71, # 122/ Monday, June 26 2006/ Proposed Rules)

Bill Fritz
4312 Hartwood Court
Apex, NC 27539

919-362-4157

Subject: Whale Strikes - 10 knot limit for vessels offshore

From: Ralph Hatcher <Ralphbpoz@comcast.net>

Date: Sat, 30 Sep 2006 16:32:58 -0400

To: Shipstrike.Comments@noaa.gov

To Whom decides these things:

This is NOT a good idea. I have several friends that own charter boats. This is how they make their living, feed their family, make car and mortgage and boat payments. None of them have ever hit a whale. Not even close! Please, please do not take this frivolous action that would not help the whales you want to preserve. Do some more research and target the vessels that actually do the damage.....

Thank you for your time,

G.R. Hatcher

grhatcher@comcast.net

50 Parker Rd.

Long Valley, NJ 07853

973-271-9794

51



52 ✓

Subject: Right Whales

From: "Hayes, Bernie" <Bernie.Hayes@eon-us.com>

Date: Wed, 27 Sep 2006 14:58:02 -0400

To: Shipstrike.Comments@noaa.gov

The proposed regulation restricting any boat over 65 ft to 10 knots within 30 nautical miles of U.S. shores is misplaced. From my understanding, many of the 12 incidents where collisions occurs with the Right whales from 1991 - 2001 were with ships that will be exempt from the regulation (U.S. Naval ships and U.S. Coast Guard ships).

I believe this regulation would cause unnecessary harm to charter fishing outfitters, who use comparably small, navigable boat, unlike the large shipping and military vessels likely to cause harm to the whales.

I agree with the notion that these whales should be protected, but to over-react with useless, ridiculous regulations will not save the whales, just kill family businesses and family vacations.

Bernie Hayes

Control Systems Engineer

Western Kentucky Energy

D. B. Wilson Station

5663 Hwy. 85 West

Centertown, KY 42328

Phone: 270.844.5021

FAX: 270.844.5044

Cell: 270.993.1593

Subject: Fw: If you like deep sea fishing please read "Thank You"
From: Jimmy Hayes <jhayes27@cox.net>
Date: Mon, 02 Oct 2006 18:01:51 -0400 (Eastern Daylight Time)
To: Shipstrike.Comments@noaa.gov

I am 72 years old, and have fished on charter boats since I was a kid. I have also fished on all kinds of boats offshore all of my life. I have never seen one of these whales. If you pass this law, you will ruin the head boat fishing on the east coast.

Thanks

Jimmy Hayes
PO Box 5035
Kinston NC

-----Original Message-----

From: Capt. Stacy Fishing

Date: 9/26/2006 11:41:46 AM

To: jondevldog@yahoo.com; [Jon Potter](mailto:Jon.Potter); jomatty@gmail.com; jomae@cavtel.net; [Johnson, Tina](mailto:Johnson.Tina); johnlarsen316@yahoo.com; john_heironimus@hotmail.com; john.verderame@pgnmail.com; [John Thorne](mailto:John.Thorne); [John Laskowski](mailto:John.Laskowski); joeynatale@hotmail.com; joanderson460@aol.com; jo_hunt@goodyear.com; jnetherland@ec.rr.com; jneal13@earthlink.net; jnamick@yahoo.com; jmullins@langdoncpa.com; jmtadel@comcast.net; jmilitano2003@yahoo.com; JJLLevy@aol.com; jidrees@hotmail.com; JIMTARLING@HOTMAIL.COM; jimmy.leitao@l-3com.com; jim_lockley@hotmail.com; [Jim Leonard@Discovery.com](mailto:Jim.Leonard@Discovery.com); [Jim Crotts](mailto:Jim.Crotts); jillandbenny@aol.com; jhayes27@cox.net; jhatfield@egt.com; jgant@glenraven.com; jfgillette@yahoo.com; jerry196900@aol.com; [Jenny Lipomi](mailto:Jenny.Lipomi); jdmep3@gmail.com; jdeverhart@bellsouth.net; jdbslb@nfdc.net; jdawteach@earthlink.net; jd_deritter@hotmail.com; jcountryman@hvc.rr.com; jconoly@hcs.k12.nc.us; JCGROUPER@NETZERO.COM; jburns@aol.com; jbrinkman@myexcel.com; jbonvillain@obrienatkins.com; jayjahn@jahncorp.com; jasonpcsw@aol.com; jason.chipkin@usmc.mil; [Jane Boris](mailto:Jane.Boris); jandloakes@vzw.blackberry.net; james.vereen@tinker.af.mil; [James Baber](mailto:James.Baber); jakpterman@aol.com; jacodrum@earthlink.net; jack.m.clowney@delta.com; [J. Kellum](mailto:J.Kellum); irm.williams@mail.kaseit.com; iporter@adelphia.net; ij701@bellsouth.net; lcare4animals@peoplepc.com; hug7310@hotmail.com; hstork9850@msn.com; hpjones540@hotmail.com; [Horace Neal](mailto:Horace.Neal); honors_2004@yahoo.com; Hntrkitt@aol.com; hillsvilleengineer@earthlink.net; hawkeye2525@msn.com; harry@preddy.com; harrisonl88@yahoo.com; happyrwe01@earthlink.net; [Hanson, Elizabeth](mailto:Hanson,Elizabeth); HAMOS7777@NETSCAPE.COM; halfbreed23@cox.net; greg.w.moore@gsk.com; grc158@earthlink.net; GradyWhite244@aol.com; gquick56@yahoo.com; goosedacres@hotmail.com; going_to_fish@yahoo.com; godwinr@ecu.edu; gnoey@zoominternet.net; glennewinton@aol.com; glennon.f.warnecke@boeing.com; gjeff@msn.com; ginodidio@vistarva.com; [Giles MacMillan](mailto:Giles.MacMillan); ghackett@garngerconstco.com; geo965@yahoo.com; gatewoodfam@netscape.com; gariley@yadtel.net; garciaderek@hotmail.com; g_havenstein@yahoo.com

Subject: If you like deep sea fishing please read "Thank You"

**URGENT
IMMEDIATE ACTION**

**Please read this whole letter if you love deep sea fishing.
RESPONSE DEADLINE: OCTOBER 5, 2006**

Dear Friends and Valued Customers:

I am emailing to let you know the National Marine Fisheries Service (NMFS) and NOAA have proposed a ruling which will greatly affect fishing and have a **detrimental** economic affect on all headboats and charter boats 65ft & over and threatens to put them out of business. This would affect vessels up & down the east coast.

You have the opportunity to help us attempt to avoid this with a few keystrokes on your computer.

BACKGROUND: The North Atlantic Right Whale has been determined to be endangered by the NMFS/ NOAA, with somewhere over 300 of the species remaining. **Please note, Captain Stacy, Inc is in favor of all reasonable efforts to protect this marine mammal.** From 1991 to 2001- 12 deaths of Northern Right Whales have been determined to have been caused by ship strikes. As a result the proposal before the NMFS / NOAA which would require **all vessels of 65' or longer**(which includes the Capt Stacy IV....83') to reduce their cruising speed to **10 Knots for 30 nautical miles** of travel both out to sea and back from November 1 to April 30 every year. This will affect every port from Florida to Miane. Our average cruising speed is 18 to 20 knots to the fishing grounds usually 40 miles or more off shore. At this writing that proposal appears to have the favor of top brass at the NMFS and NOAA in spite of the lack of scientific evidence. If you take into consideration the number of vessels (thousands) that left every port along the East Coast every day between 1991 & 2001 most of which have never ever seen a right whale or any kind of whale and only 12 deaths of right whales can be attributed to ship strikes. You would have a greater chance of winning the lottery than coming into contact with a whale.

To begin the few whale ship strike deaths which have occurred are attributed to vessels over 260 ft. (80 meters) in length such as cargo ships, Navy and Coast Guard ships. By the way, the Navy and Coast Guard (which are recorded as having a number of whale strikes) and any federally contracted vessel have already been exempted from this rule. Next, there is no significant evidence to conclude that slower speed will result in fewer collisions. This is only speculation. A study done by Laist (Laist to *El. At.* Ship Collisions) used over 200 years of records dating back to 1885 and in the findings of that study there were no definite ship strikes with Right Whales ever recorded for the waters off North Carolina.

The following is not speculation: If these rules are implemented it will affect all vessels headboats and charter fishing vessels up and down the East Coast that are 65 ft and longer. On a full day trip the Capt. Stacy IV now spends around 5 hours traveling round trip to get to and from the fishing grounds. If the new laws go into effect it would require at least 8 -1/2 to 9 hours traveling leaving only 2 hours for fishing. People will not want to spend their time and money to go through this. **Would you?** The loss of revenue during the proposed time frames each year would have a detrimental impact on our business and all other headboats. It would be very hard if not impossible to keep the Capt. Stacy business afloat ending a four generation history of over 7,000 trips to sea and ending employment for 15 or more of our associates.

54 ✓

Subject: Shipstrikes

From: "HEDGEPEETH, DAVID" <dhedgepeth@ci.henderson.nc.us>

Date: Wed, 27 Sep 2006 10:16:54 -0400

To: Shipstrike.Comments@noaa.gov

I am sending this email to notify you that I am against this regulation. There is not enough documented information to prove that ocean going vessels of this size cause any significant harm to these mammals. Thanks in advance for your consideration.

David Hedgepeth

Henderson,N.C.

Subject: Reduceing crusing speed of vessels 65ft. or longer

From: George Hemingway <gmhem@cox.net>

Date: Wed, 27 Sep 2006 21:43:20 -0400

To: Shipstrike.Comments@noaa.gov

Please reconsider the law requiring Headboats and Charter Boats 65ft and longer to reduce there crusing speed to 10 knots for 30 nautical miles out to sea and back, because it would eliminate their business. Thank you.

I really don't think these vessels are any danger to these animals.

Subject: Right Whale legislation

From: Jim Hewitt <sylvan-johnston@mindspring.com>

Date: Tue, 26 Sep 2006 18:55:07 -0400

To: Shipstrike.Comments@noaa.gov

I would like to add my comments to the proposed legislation regarding the cruising speeds of vessels 65 ft. and over. This is overkill! This is a situation where a very rare event is going to affect thousands and thousands of trips for commercial vessels. While I am for the protection of whales, it seems to me that this is unreasonable. As long as there are ships in the sea along with the whales, there will be occasional collisions. Just like when there are sharks and swimmers, there will be occasional attacks. For these reasons, I am opposed to the proposed legislation. Thank you.

Jim Hewitt

108 Lema Drive

Garner, NC 27529

919-772-7956

file

Subject: NMFS / NOAA Proposal

From: mhip <mhip@cox.net>

Date: Fri, 29 Sep 2006 16:38:46 -0400

To: Shipstrike.Comments@noaa.gov

CC: info@captstacy.com, mbrugge@cox.net

Sirs,

The proposal before the NMFS / NOAA which would require all vessels of 65' or longer to reduce their cruising speed to 10 Knots for 30 nautical miles of travel both out to sea and back from November 1 to April 30 every year is based on the erroneous assumption that whale strikes will be reduced.

The fact that whale ship strike deaths which have occurred are attributed to vessels over 260 ft. (80 meters) in length such as cargo ships, Navy and Coast Guard ships. The Navy and Coast Guard (which are recorded as having a number of whale strikes) and any federally contracted vessel which have been exempted from this rule should be the exact vessels regulated by this proposal. These vessels are the problem, not the smaller ones. If the larger vessels are not regulated, the problem will persist. Perhaps slower speed regulation "except in emergency" or "when justified" could be implemented on the larger vessels.

Regulation of smaller vessels will do little if anything to remedy the problem and If these rules are implemented it will have a detrimental affect (and probably put many out of business) on all vessels headboats and charter fishing vessels up and down the East Coast that are 65 ft and longer.

Mike Hipschen

Email: mhip@cox.net

Home: 207 Chateau Drive

New Bern, NC 28560

571

Subject: 10 knot speed limit

From: "M. C. Holley" <mcholley2810@msn.com>

Date: Fri, 29 Sep 2006 00:03:12 -0400

To: Shipstrike.Comments@noaa.gov

CC: info@captstacy.com

SS ✓

Hi! This is outrageous! Where are the pages and pages of documentation to support this bill/proposed bill. I have never heard of the right whale being harmed by headboats, let alone any boats/ships. To impose this 10knot speed limit will definately put many headboats out of business. This should not be allowed. Just policing the ports will be a taxing/arduous job at the taxpayers expense. I'm posotive the DNR and the local authorities have better things to do than police all ports for a 10 knot speed limit. Please think about what your about to do. You will be putting people out of honest paying jobs.



OCEAN TRANSPORTATION SERVICES

October 5, 2006

To: Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910
Via EMail: shipstrike.comments@noaa.gov

Mr. David Rostker
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503
Via Email: David.Rostker@omb.eop.gov

RE: Endangered Fish and Wildlife: Proposed Rulemaking to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (Docket No. 040506143-6016-02.I.D.101205B; RIN 0648-AS36; Federal Register, June 26, 2006, pages 36299 – 36313)

Dear Sirs:

Horizon Lines LLC appreciates the opportunity to comment on the proposed rule regarding the implementation of speed restrictions to reduce the threat of ship collisions with the North Atlantic Right Whale.

Horizon Lines is a container ship operator. We have a fleet of 16 vessels and we are the largest U.S. Flag containership operator.

Horizon Lines very much appreciates the recent extension of the initial comment period to October 5, 2006 but we are still concerned that insufficient time for review is available, particularly relative to the significant amounts of information contained in the environmental impact assessment and economic analysis. We recognize the massive effort expended by NMFS/NOAA on this complex issue to provide what appear to be very comprehensive documents; these documents present complex and voluminous amounts of information and simply do not allow for a comprehensive review in the short time period between release of the NPRM and the supporting documents (draft Environmental Impact Statement and the economic study). In addition it appears that at least some of the economic impact studies are based on the originally proposed 12 kt. speed restriction, not the 10 kt. restriction now set forth in the NPRM, and on outdated information with regard to fuel prices. (Fuel prices have risen dramatically over the past 2 years with IFO380 going from \$183 to \$349 per MT and MGO going from \$464 to \$658 per MT.) The impact of each of these could be significant and may suggest that some or

all of the studies need to be redone. Extending the comment period at least an additional 30 days will provide the necessary time for all interested parties to review these documents and provide valuable input in this regard.

Horizon Lines notes that some of the arguments and studies (Kraus et al 2005; Kraus 1990; Knowlton and Kraus 2001; NMFS 2005; Laist, et al 2001; Waring, et al 2004; and, NPRM 2006) make unsupported statements that the actual number of whale mortalities due to ship strikes is higher because some deaths go undetected or unreported. The number may be higher but the combination of direct and indirect anthropogenic factors and natural inhibitors pose just as serious a threat to Right Whale recovery (Preliminary Environmental Assessment PEA 2005) as do ship strikes. To infer that ship-strikes alone are the most serious threat to the specie is misleading and may well be incorrect. Horizon Lines recommends that the studies/data or necropsies be peer-reviewed by individuals not associated with NOAA/NMFS or receiving funding from these agencies, so as to ensure compliance with Section 515 of the Department of Commerce's Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Disseminated Information and NOAA's Information Quality Guidelines. In addition, exempted government and/or navy vessels and those ships less than 65' in length to which the rule would not apply could be problematic, leading to confusion and inaccuracies in reporting and in the monitoring of strike incidents.

Horizon Lines supports implementation of a 14 knot speed limit with higher speed exceptions based on unique local conditions in the covered areas during the seasonal periods outlined in the proposed rule. From the perspectives of both safety and overall protection of the environment we can not support implementation of the suggested 10 knot speed restriction in any of the covered areas, although we do appreciate the proposition that slower speeds may reduce the likelihood of a fatal ship strike. Unfortunately, the proposed rule as currently drafted provides no leeway for safety of navigation considerations which can and do arise due to local conditions such as weather, current, local hydrographic characteristics and traffic density. For example, adverse weather conditions such as those encountered in the covered areas during the seasonal periods established in the proposed rule can create very strong cross currents at the mouth of breakwaters which can set a vessel off its intended route and into dangerous areas. Similarly, adverse wind conditions can create an equally dangerous navigational safety issue for vessels with high sides (such as containerships and car carriers) which naturally have a large wind sail surface and are thus susceptible to being driven off their intended course by wind effects. Under either of these two conditions, vessels will need to proceed at the maximum safe speed to assure a safe and uneventful transit into and out of the port. We will do a disservice to the marine environment and living marine resources if mitigation strategies focusing on one issue (ship strikes) create greater overall negative impacts (potential for collisions, groundings due to decreased maneuverability, etc.) when they are implemented.

Following from the comments above, one possible way forward is to include in the final regulations a recommendation that vessels maintain 12 knots through the covered areas where conditions permit subject to an exception which permits the Master or Pilot to

increase speed when conditions dictate for navigational safety. This provision could be further tightened up by limiting the maximum speed to 14 knots in the covered areas except in those situations close into the sea buoy and/or breakwater, as described above, which require maximum safe speed.

NMFS/NOAA has shown a willingness to identify alternative strategies which would permit the uninterrupted flow of commerce while at the same time mitigate the potential for ship strikes. However, there is no mention in the rule of what would occur if a North Atlantic Right Whale is found in the midst of a shipping channel which is the only track in and out of a particular port area. We believe that a waiver provision must be inserted in the final rule which empowers the Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator of NOAA, to temporarily waive the provisions of this rule in a clearly defined local area, in order that maritime commerce may continue to operate without the attending legal liability which would be created by this rule absent any waiver provisions. This would enable a case by case analysis of situations by the requisite technical experts in marine biology, safety of navigation and local area conditions and thus permit the design of a rational solution which would minimize the impacts both on the North Atlantic Right Whale and the marine transportation system.

We believe clarifying language is necessary when describing the areas of coverage for the Mid-Atlantic U.S. as found in Section 224.105(a)(2)(i). While the chartlets included in the proposed rule implicitly suggest that the covered area is within a 30 nautical mile radius SEAWARD of the Colregs delineation line and the center point of the port entrance, the text description in the regulation itself does not make that clear and thus as proposed, could be read to include internal waters inshore from the Colregs delineation line. Since we do not believe this was ever the intent of the rulemaking, nor should it be, we recommend changing the text of the section referenced above to read "Within a 30-nautical mile (nm)(55.6 km) radius (as measured seaward from the Colregs delineated coast lines and the center point of the port entrance)...".

Finally, we respectfully reserve our right to provide further comments as we continue our review of the Draft Environmental Impact Statement and the economic analysis.

Sincerely,

HORIZON LINES LLC



Michael T. Bohlman
Director, Marine Services



Chief, Marine Mammal Conservation Division
Page 2

October 5, 2006

In the event it became necessary to set up a DMA anywhere in Nantucket Sound, it would probably encompass all of our ferry routes in their entirety. The 10 knot speed requirement would eliminate our high-speed ferry service and all but put us out of business for the period of time it were in place. During the months of June, July and August these vessels combined gross between \$50,000 to \$80,000 each day. A loss of two weeks would result in well over \$1,000,000 in gross revenues for our company. We could not recover from such a blow. It would also render conventional ferry travel impractical with round-trip travel times of approximately 6 hours.

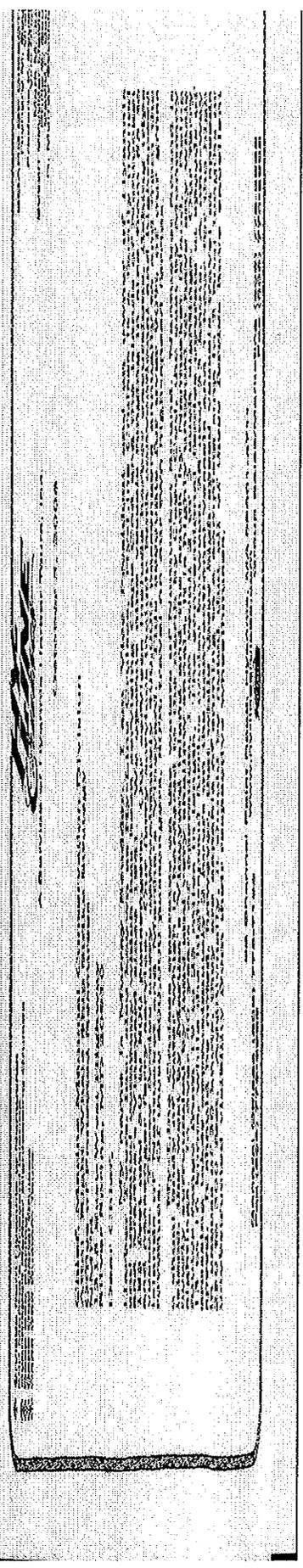
Although few whales have been spotted in Nantucket Sound, the same devastating situation would occur if a right whale(s) was spotted just south of Nantucket island. The DMA would extend over the island and the surrounding shoals once again eliminating a good portion of our ferry routes. It seems illogical and unfair for a DMA to extend over land and shallow shoals into a distinctly separate body of water.

The initiation of a DMA or SMA in Nantucket Sound would not only be devastating to all ferry operations but to the economies of the Cape and islands as well. Many of our passengers, particularly during the summer months, are tourists visiting the region. To eliminate or greatly reduce ferry travel to the islands would have grave ramifications. We ask that you please revisit your proposed regulations to protect right whales.

Very truly yours,

R. Murray Scudder, Jr.
Vice President
Operations

RMS.Jr.:jbp



Chief, Marine Mammal Conservation Division
Page 2

October 5, 2006

In the event it became necessary to set up a DMA anywhere in Nantucket Sound, it would be to eliminate all of our ferry routes in their entirety. The 10 knot speed requirement would eliminate our high speed ferries and all but put us out of business for the period of time it were in place. During the summer months, July and August these vessels combined gross \$50,000 to \$80,000 per day. A two week period would result in well over \$1,000,000 in gross revenues for our company. We could not recover from such a blow. It would also render conventional ferry travel impractical with round-trip travel times of approximately 6 hours.

Although few whales have been spotted in Nantucket Sound, the same devastating situation could occur if a right whale(s) was spotted just south of Nantucket Island. The DMA would eliminate all of our ferry routes. It would also render conventional ferry travel impractical with round-trip travel times of approximately 6 hours.

The initiation of a DMA or SMA in Nantucket Sound would not only be devastating to all ferry operations but to the economies of the Cape and islands as well. Many of our passengers, particularly during the summer months, are tourists visiting the region. To eliminate or greatly reduce ferry travel to the islands would have grave ramifications. We ask that you please revisit your proposed regulations to protect right whales.

Very truly yours,

R. Murray Scudder, Jr.
Vice President
Operations

RMS, Jr.:jbp

- ⚓ Cruises from Hyannis to Nantucket and Martha's Vineyard Islands
- ⚓ Hyannisport Harbor Sightseeing Cruises
- ⚓ Deep Sea Fishing
- ⚓ Cape Cod Canal Cruises
- ⚓ Cape Cod Custom Tours



A Service of Hyannis Harbor Tours, Inc.

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 R. Murray Scudder

October 5, 2006

Chief, Marine Mammal Conservation Division
 Attn: Right Whale Ship Strike Strategy
 Office of Protected Resources
 NMFS
 1315 East-West Highway
 Silver Spring, MD 20910

Dear Chief,

My name is Murray Scudder. I am Vice President and an owner of Hyannis Harbor Tours, Inc. also known as Hy-Line Cruises. Hy-Line Cruises is a family owned and operated company which has been servicing Cape Cod and the islands of Nantucket and Martha's Vineyard since 1961. We operate nine vessels ranging in size from 55 to 185 feet and 50 to 800 passengers. Our services include harbor excursions, fishing trips and passenger ferry service. Our ferry services include both conventional and high-speed vessels. These ferries carry approximately 400,000 passengers annually to and from the islands of Nantucket and Martha's Vineyard. This accounts for over 90% of our gross revenues. Of these 400,000 passengers, 80% travel on our two high-speed ferries.

Hy-Line Cruises operates on the waters of Nantucket Sound. Nantucket Sound is a shoal body of water which is bordered to the north by Cape Cod, the east by Monomoy island, the west by Martha's Vineyard island and the south by Nantucket island. Being nearly surrounded by land and very shallow shoals, it is highly unusual to have any whale sightings. In over 40 years of operation, I can recall 2 or 3 such sightings. Our ferry routes range from 19 to 25 miles in length. The conventional ferries operate at speeds of 13 to 16 knots, while the high-speed ferries cruise between 28 and 33 knots. A one-way crossing takes approximately 2 hours on the conventional vessels and 1 hour for the high speed. It should be noted, however, that while these high-speed vessels travel at speeds in excess of 30 knots, they are capable of coming to a complete stop in 2 boat lengths or 250 to 300 feet. Additionally, it should be noted that all of these ferries have excellent unobstructed visibility from their respective wheelhouses.

22 Channel Point Road, Hyannis, MA 02601-4711
 www.hy-linecruises.com

General Offices (508) 775-7185
 Fax (508) 778-5966



Group Sales/Marketing (508) 778-2688
 Fax (508) 775-2662

Subject: Proposed Rule Comments
From: Jayne <Jaynep@hylinecruises.com>
Date: Thu, 05 Oct 2006 11:29:39 -0400
To: Shipstrike.Comments@noaa.gov

Attached please find comments for the regulatory docket from R. Murray Scudder, Jr. of Hy-Line Cruises, Hyannis, Mass.

- ⚓ Cruises from Hyannis to Nantucket and Martha's Vineyard Islands
- ⚓ Hyannisport Harbor Sighting Cruises
- ⚓ Deep Sea Fishing
- ⚓ Cape Cod Canal Cruises
- ⚓ Cape Cod Custom Tours



A Service of Hyannis Harbor Tours, Inc.

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David F. Scudder
R. Murray Scudder

October 5, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
NMFS
1315 East-West Highway
Silver Spring, MD 20910

Dear Chief,

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www.hy-linecruises.com

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Group Sales/Marketing (508) 778-2688
Fax (508) 775-2682

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Response to Right Whale Restrictions
From: Hyannis Whale Watch Cruises
10/4/06

We here at the Hyannis Whale Watcher in Barnstable Ma are very concerned with the proposed new right whale restrictions. This rule was initiated for ships, vessels that take miles to change their course or come to a stop. How it would now apply to vessels as small as 65 Ft escapes us .Passenger vessels 65 to 200 Ft. currently have the ability to change course instantly and stop within a couple hundred feet. Why, are we not excluded? The Whale watching industry has done more for the awareness of these beautiful creatures than any federal program ever has. Therefore, we feel strongly that Whale watching vessels should be exempt from this rule.

Just by the nature of our business from the moment we leave our dock we are constantly looking for whales as well as any other form of marine life. We have at least two and as many as four trained personnel with years of experience on the water scouting for marine life, not to mention the up to 390 passengers with cameras and cell phones. Under the proposed rule, all Whale watching vessels would have to travel at a reduced speed of 10 kts when traveling through a DMA, meanwhile our passengers can take pictures of a 70Ft. recreational vessel passing us at 30 kts, with no regard to marine life. This makes no sense.

Whale watching vessels operate primarily during daylight hours. Therefore we are constantly visually looking for whales.

For years the whale watch industry without, any federal regulations have consistently worked together to share information on sightings and locations of right whales. This information is shared on an ongoing basis throughout the day to insure that all vessels stay well clear. The same can not be said for recreational vessels, a problem we as operators and our thousands of passengers witness on a daily basis and so far NMFS has done nothing to address.

Whale watch vessels have always worked with other agencies when it comes to protecting whales. Injuries and entanglements are reported more from our vessels than from anyone. Our vessels are asked to find and stay with entangled whales, sometimes for hours until other agencies can arrive. This often requires several vessels from different companies all working together. All this is done on our own initiative and expense. We are a small business, employing between 10 and 40 full and part time people running out of Barnstable Harbor to Stellwagen Bank or environs once a day in June and twice a day in July and August from Memorial Day up to Columbus Day. Our average trip is about 4 hours. Obviously any change in vessel speed will effect our schedule and cause us great financial harm. Let's face it, a year with a lot of right whales would put almost all operators out of business if these rules are adopted!

To my knowledge, no whale watch vessel has ever struck a right whale. As a matter of fact, along with our 2 naturalists, everyone on the boat is looking for whales... Not like a 300' cargo ship on automatic pilot. We work hand-in-hand with the folks at IFAW (International Fund for Animal Welfare) both on the water and on land educating folks on all aspects of whale conservation. Other operators work with other groups with the same conservation aim.

We carry about 30,000 people each summer. They all drive here, eat here, overnight here and spend money here. Economically there will be significant effect on the local merchants.

We all want to protect the whales, all of them. Just seems that this proposed method needs redirection.

I shutter when looking at the map of right whale sightings for July and August. This is the most busy time of the year for ww operators when we can least afford schedule interruptions and delays. If we are truly interested in protecting and saving this species let's work together rather than indiscriminately putting the one business that most educates the public on these magnificent creatures out of business.

The question is, how did we go from the current 500 yd zone to a minimum of an 18 mile radius DMA for 15 days?

My suggestion would be to reduce the size of the DMA, to an

area that does not shut down complete bodies of water and harbors. A DMA with a radius 2 ½ miles would allow vessels to navigate around these areas.

Real time data could be gathered in working jointly with Whalewatching and Ferry Companies. Allowing a whale watch vessel to verify, photograph and report the findings, and with vessels reporting accurate data through out the day would truly make for a dynamic management area moving with the animals. This would help in eliminating the need for an arbitrary 15 day period.

If necessary an additional qualified professional could be added to the watch.

Make no mistake, if these regs are adopted, you just might lose one of the best methods of right whale protection, by putting the whale watch boats out of business. Thanks for your attention in this matter.

**Captain George Blanchard
Hyannis Whale Watch Cruises
PO Box 322
Barnstable Ma 02630**

61.1 ✓

International Chamber of Shipping

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Fax +44 20 7417 8877

ics@marisec.org www.marisec.org www.shippingfacts.com



31 August 2006

Via Email: shipstrike.comments@noaa.gov

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Via Email: [David Rostker@omb.eop.gov](mailto:David.Rostker@omb.eop.gov)

Mr. David Rostker
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

RE: Endangered Fish and Wildlife: Proposed Rulemaking to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (Docket No. 040506143-6016-02.I.D.101205B; RIN 0648-AS36; Federal Register, June 26, 2006, pages 36299 – 36313)

The International Chamber of Shipping (ICS) is grateful for the opportunity to comment on proposed rulemaking regarding the implementation of speed restrictions to reduce the threat of collisions with the North Atlantic Right Whale.

ICS is an association of 36 national shipowner organisations from around the world and therefore represents a large proportion of the world's merchant fleet tonnage engaged in international trade. The main role of the organisation is to represent the views of its international constituents at the International Maritime Organization (IMO) and in other international fora.

ICS has traditionally supported measures tabled at the IMO to protect the marine environment and marine mammals in particular. Such measures have included the establishment and periodic changes to routing measures designed to provide geographic separation between ships and the feeding and breeding grounds of marine mammals. ICS has been pleased to provide advice on the practicality and appropriateness of such measures from the perspective of international shipping.

It is coherent with that tradition that ICS should now offer general support to the proposals under consideration in the National Marine Fisheries Service. However some

concerns need to be highlighted and it is hoped that these will be taken into account in your deliberations before adopting any new legislation.

1. In general ICS believes that measures to provide geographic separation between shipping routes and whale populations (IMO routing measures) are preferable to exercising operational control on the conduct of individual ships.
2. In all measures to protect the environment and wildlife it is important to strike a balance and to ensure that a new proposal to address one vulnerability will not put at risk another one. In this case it is important to ensure that imposed speed limits do not cause a ship to be put at risk because the speed limit is too low to permit safe ship-handling. It is difficult to be prescriptive since the handling characteristics of a ship are immediately influenced by the prevailing conditions, primarily currents and wind, and other factors such as shipping and fishing vessel density and the proximity of navigational hazards must be taken into account. As a rule, the slower the speed the harder the ship is to control and speed is used to optimise control when the situation dictates. A ship must not be put at risk of collision or grounding through the application of the speed limit.
3. The selection of 10 knots as the proposed limit needs further explanation. It is not clear what evidence there is that makes 10 knots significant as opposed to 12 knots for example. As indicated above, many ships are more manoeuvrable at speeds of 12 to 14 knots.
4. It should be clarified that whatever limit may eventually be decided, ships need to be permitted to exceed the limit if the prevailing circumstances dictate that a greater speed is required to avoid a hazardous situation.
5. Further clarification is also required in the event that a ship despite being fully in compliance with all measures, nevertheless unfortunately strikes a whale. What measures will be applied in this case?
6. Local navigational and traffic requirements may make it appropriate for the United States Coast Guard to be empowered to lift the speed restriction in specified areas for predetermined periods of time.

ICS once again wishes to express its gratitude for being permitted to comment on the proposed rulemaking and is available in the event that further advice is appropriate.

Yours sincerely

P B Hinchliffe
General Manager (Marine)

62✓

M. Fernandes
Independent Container Line Ltd.
4801 Audubon Drive
Richmond, VA 23231
Tel: 1-804-222-2220
Email: u.s.marineoperations@icl-ltd.com
October 5, 2006

Chief, Marine Mammal Conservation Division,
Attn: Right Whale Ship Strike Strategy,
Office of Protected Resources,
NMFS, 1315 East-West Highway,
Silver Spring, MD 20910.

Comments re: Effects on Small Businesses. Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales; 50 CFR Part 224 [Docket No. 040506143-6016-02.I.D.101205B] RIN 0648-AS36.

Independent Container Line Ltd., (ICL or we) submits these comments in response to the proposed rule published in the Federal register Vol. no. 122, Jun 26, 2006, page 36299 and the extension for comment period Federal Register Aug 14, 2006, Vol. 71, No 156, page 46440. By that notice the National Marine Fisheries Service (NMFS) solicited comments on proposed regulations to implement speed restrictions as a strategy to reduce injuries and deaths to the North Atlantic Right Whales (N.A.R. Whales) due to ship collisions.

In 2004 ICL had submitted comments to the Advance Notice of Proposed Rulemaking (ANPR) for Right Whale Ship Strike Reduction; I.D. 040704A.

We understand and support the efforts to protect the endangered North Atlantic Right Whales and help its recovery by developing a strategy that addresses issues that are affecting the survival of the North Atlantic Right Whales. We commend the National Marine Fisheries Service (NMFS) for their efforts. ICL respectfully submits our comments below with a goal of protecting the North Atlantic Right Whales species. ICL's has a policy of protecting the environment and we are committed to helping the NMFS to the maximum possible to help recover the NAR Whales' species.

Some comments summarized:

- There is no exemption for increasing speed in case of a storm approaching, a fire on board or another life threatening emergency to save life, the environment and cargo.
- There seems to be insufficient scientific data to justify speed reductions for 181 days of the year in both the Delaware Bay and the Chesapeake Bay entrances. There are no sustained sightings in these areas for the entire period. Low volume of sightings does not justify these extreme measures.

- The economic effects on **small businesses** and upriver ports may not have been fully explored.
- The increase in voyage time will lead to an increase in inventory carrying cost that does not seem to be fully explored
- ICL's schedule will be affected by 60.5% of the port calls during the time period with speed restrictions at an average cost of \$8611.84 per port call.
- Seemingly unfair and insufficient grounds to exclude Federal vessels and vessels smaller than 65 feet in length.
- There should be exemptions granted to vessels during daylight with schedule concerns and when there are no N.A.R. Whales sighted.
- There should be radio tagging done on all whales to monitor their movement along the coast. This will be most effective to prevent collisions.
- Dynamic Measures: The whale can move out of the proposed zone within 4 hours but the restrictions would be in place for 15 days. This is a safety concern if it occurs close to the coast with vessels steaming around that area. We think there is insufficient scientific data for this measure.
- Establish safe sanctuaries for the North Atlantic Right Whales stocked with their preferred food away from traffic areas along regular intervals along the coast so the Whales can rest – similar to rest areas along road interstate highways.
- End date: The rules should have performance measures to measure the progress regularly or monthly and should expire if there is no progress after one year.

Description of our company:

ICL, a Small Business, is a 21 year old World-Class steamship line. We provide international container transportation between Northern Europe and the East Coast of the United States. Through a network of affiliated companies that offer specialized transportation solutions, the ICL Group is able to provide complete supply chain services from origin to destination. ICL is a customer-focused organization with an incomparable reputation for providing on-time transportation services. Established in 1985, ICL has consistently been recognized as a service leader in ocean transportation. Since inception, we have received many awards for our exceptional service and our customer driven approach. Our customers include many of the biggest companies in the US. In 1995, we were awarded the U.S. Senate Productivity award for continuing excellence. We are ISO 9001:2000 certified.

This approach has contributed to ICL's successful growth into the foremost independent carrier dedicated solely to the North Atlantic trade. ICL owns all four vessels that are operated in our weekly service. These vessels have helped ICL establish the benchmark for schedule reliability on the North Atlantic trade lane. It is this schedule reliability that is one of the key attractions of our service to our customers. ICL's commitment to one trade lane has allowed us to become a market leader. Our company is committed to safety and environmental management. ICL is committed to the US trade and has new vessels under construction, to replace our existing vessels, to give our customers the best possible service. These v/l's cost over \$200 million and are designed to take into account Richmond Size Limitations. The first of these vessels entered ICL's service January 2006. ICL's calls at ports in Richmond, VA and Chester, PA where both the terminal operators are **Small Businesses**.

In 2005 ICL was given an award by Lloyd's of London for 10 years of Consistent High Level of Service – Niche Carrier". ICL won schedule reliability awards from Lloyds of London for 2004, 2001, 2000, 1999, 1998, 1996 and 1995. Schedule reliability is a very important factor for liner shipping companies.

ICL's vessel's voyage begins at Antwerp, Belgium to Liverpool, UK to Chester, PA, to Richmond, VA and then back to Chester, Antwerp and Liverpool. This is a 28 days cycle with four vessels providing a weekly port service. In the container liner trade customers depend on a fixed day service e.g. vessels departing Chester on Sat and arriving Antwerp on Monday. The port of Richmond, VA presents the greatest complexity in planning due to the vessel physical size limitations (100 miles inland along the James River), daylight transit limitations, tidal restrictions and the draft limitations. Vessels can only dock 2 hours after sunrise and must sail 2.5 hours before sunset. If a vessel misses the window the consequential effects are a delay of 24 hrs (12 hrs inbound delay and then missing the daylight for the outbound hence 12 hrs outbound delay). Sometimes the high water sailing is not available on some days during daylight hours.

I have sailed on Merchant marine vessels of unlimited tonnage for 13 years including 2 years as Master of vessels.

Comments on the proposed rule:

The proposed speed restrictions at the entrance to the Delaware Bay and Chesapeake bays (DBCB) occur mainly during the winter months when the weather in the North Atlantic deteriorates and vessels get behind schedule. These restrictions would make our vessels miss the daylight transit to Richmond. In winter once a vessel misses the 28-day cycle it is very difficult to catch the cycle back again. All late arrivals are deemed to be out of schedule and hence the industry requirements would not be met. Schedule integrity is of foremost importance to customers of container liner services and if we cannot maintain schedule integrity it could be possible that we would lose customers.

During the comments posted to the proposed rule in 2004, using data from 2002 to 2004, during the months when those proposed speed restrictions would be in place, ICL would miss the daylight transit on 35 voyages out of 69 voyages or 50.72% of the time. The new proposed rules impose a greater burden on ICL. From 2004 to 2006 out of 38 voyages (excluding a vessel that is no longer in our service), 23 voyages would be affected by the speed limitations, 60.5% of the port calls. ICL would lose an average of 12.16 hrs at a cost of \$8611.84 per port call during the speed limitations. Hence during the 6 months of speed restrictions this cost could be \$223,907.84. Due to the speed restrictions ICL will need to conduct cargo operations during over time hours to maintain our daylight sailing windows which will cost ICL an additional \$46,800.00.

Slowing down vessels in the Delaware port entrance area and in the Chesapeake for 181 days is not based on actually migratory data. Whales may only move and pass by the Chesapeake bay area on day 20 and pass the Delaware bay area on day 40 (if they use that longer route to transit to the North instead of the shorter direct route away from the coast) and similarly on a southbound voyage. The migratory corridor in the Delaware/Chesapeake area is not proven and the NAR Whales' presences for all the proposed days are not proven. The proposed speed restrictions do not seem to be reasonable and does not seem to be based on the best

available science. MAUS is not a critical habitat or even a proven migratory habitat hence restrictions in this area are not justified. Allowance should be made for times when the weather is clear, all the whales have migrated on a certain day or there are no whales in sight, then vessels should be able to steam at their normal speeds.

At the Norfolk, VA public meeting, held on October 4, 2004, we heard that the industry in general has concerns about the proposed speed limitations. There was mention about the potential for economic hardship that would be caused that was not accounted for in the economic analysis studies. We also saw that the economic feasibility studies did not fully include the data for the Port of Richmond, did not take into account the consequential indirect associated costs resulting from the delays, did not take into account the current Charter Hire rates for vessels and did not take into account the economic effects of job losses due to closure of services.

It is a fact that the low count of whales is due to commercial whaling activities and not due to ship strikes. Commercial whaling is still carried out in some countries e.g. Japan and Iceland. http://www.lancasteronline.com/pages/news/ap/4/australia_japan_whaling. The whereabouts of the whales are unknown in winter and it is likely that they transit to a country that permits commercial whaling and hence all our efforts would be in vain. The NMFS must refocus on stopping commercial whaling altogether first to save the NAR whale from extinction. In June 2006 pro-whaling nations almost overturned a ban on commercial whaling. We think the NMFS should work on education those pro-whaling nations to conserve the species.

On Sept 10, 2005, it was reported that the propeller of a 43 foot yacht has seriously injured a NAR whale. <http://www.capecodtoday.com/news229.htm>. Hence excluding vessels less than 65 feet in length may not address part of the problem.

We are limiting our comments to the Mid-Atlantic Region of the United States (MAUS), and then further to the Delaware Bay and Chesapeake Bay areas. The MAUS is not designated a critical habitat.

It is proposed to limit vessel speeds to 10 kts for a distance of 30 nm at the entrance to the Delaware Bay and the Entrance to the Chesapeake bays, each for a period of 181 days. The studies do not show the presence of whales transiting these waters for 181 days x 24 hrs a day and for areas upto 30 miles. There are random sightings but there is not sufficient studies done on this issue. We think that the speed restrictions are prematurely being imposed on industry without sufficient science but the effects of the restrictions poses tremendous economic costs for industry that provides jobs for many people. We think that the entire population of whales should be radio tagged to monitor their migrations through MAUS. We think that similar to Locan C or Decca there should be whales radio signals so that ships can monitor their presence and take preventive action when the safety of life, environment and cargo permits. There is no data to show that the collisions only occurred at the proposed speed restrictions areas to ports in the MAUS area where the speed restrictions are being proposed.

Maintaining speed restrictions for 181 days is too long when a whale may only transit a certain port area's traffic lanes for possibly 3 hours in 181 days. We suggest that more studies are done about the actual migratory time period of these whales. We think radio transmitters should be attached to a statistical sample of the whale population and specific speed restrictions are imposed based on specific knowledge of locations, speed of travel etc. Based

on the information provided we think that there is insufficient data to impose such a broad speed restriction over many ports.

Impact on small business: This information may not have been sufficiently studied. ICL is a Small Business, our port operators are Small Businesses, and many of the trucking companies are Small Businesses. It has been said that port calls could be cancelled. Such cancellation results in loss of wages to the longshoremen, pilots, agents and truck drivers. We have not come across studies on these issues.

The few sightings are not proof of sustained presence over 181 days of the year over 30 miles from the entrances to the Delaware port and the Chesapeake ports.

Comments based on the Right Whale Sightings report for the Mid-atlantic region¹

Navigation is the science of moving from one point to another by the shortest and safest methods. Migratory animals that travel great distances would in all probability follow this fundamental principle. If one draws a course line between the Southeastern U.S (SEUS) calving areas and the Northeastern U.S. (NEUS) feeding areas, it will be seen that this course line approaches Cape Hatteras but then moves way offshore away from the Delaware and Chesapeake areas. It is also likely that the whales use the warmer waters of the Gulf Stream to make the transit easier, quicker or more comfortable. This must be true due to the large number of NAR Whale sightings off Cape Hatteras and the low negligible amount of sightings in the 34 15 – 39 15 latitude area (DBCB area).

It is also possible that the 13 sightings from 1970 to 2002 are a few stray animals rather than the general mass migratory population of the whales. These sightings work out to a total percentage of 0.067708% of the total expected transits (300 animals X 2 transits N or S a year x 32 years). The figures show that not much is known about the transits. The paper states on page 1 that the whale movements in the MAUS are not well understood and that the survey effort in the MAUS is not extensive. In figure 3 of pg 13, the few sightings in the Chesapeake/Delaware area are within 0-5 miles hence a speed restriction over 30 miles does not sound justified. Defining the corridor on the basis of such limited sightings can lead to wrong conclusions. The report on pg 24 states that the information is based on limited data for certain ports including New York, Delaware and Chesapeake Bays.

The Economic Aspects of Right Whale Ship Strike Management Measuresⁱⁱ only studied the effects of the restrictions over 25 nm for 60 days not 30 nm over 181 days as being proposed. The study states the direct cost for Hampton Roads is \$353/ship call. ICL will incur an average cost of about \$8,611.84 per port call during the restrictions. The study allows for a 12 hour delay time for missed tides. This figure will be 24 hours for upriver tidal and daylight restricted ports because of the related missed departure tide as well. The ports in the Delaware and Chesapeake Bay areas have a lot of vessel visits. Reducing the approach speeds will lead to port congestion. Port congestion can lead to delays in docking and pilot boarding. This port congestion time has not been studied or accounted for. The issue of companies being put of business due to the regulation with the loss of jobs, effects on the local economies and communities and closure of ports has not been accounted for in the many studies. Inventory carrying cost of delays per year need to be calculated. The effects on the US economy with these limitations imposed versus European or Asian economies without these limitations. We

think that the studies have not taken into account upriver ports, the effects of the delays on port labor costs and recent higher charter hire costs.

Writer's bias: We are not sure if writer's bias exists in many of the papers quoted for this rule. Were the papers written as independent non-partial studies? If the papers were submitted and paid for by interested parties the results could be subjective.

The Revised Recovery plan for the NAR Whaleⁱⁱⁱ states that directed hunting and commercial whaling in the past is the reason for the current dismal status of the Right Whales. This hunting is already being curtailed and monitored and hence additional measures such as those proposed for the MAUS may not be necessary. The plan states that the MAUS is not a high use area pg IC-2. Whale response to ship noise is still being studied. The plan states that the whereabouts of much of the population during winter remains unknown. The migratory corridor is proposed for the fall/winter/early spring period, during which time the whales could be near the Azores or elsewhere. The plan states that risk reduction assessment studies of slowing down ships measures are needed.

The ship strike incidents^{iv} reduce at higher speed. It is only at speeds of between 13-15 kts that resulted in the highest incidents. If the speed was slower or faster would it have resulted in a different outcome? Were the animals sick that made them come in the way of the vessels? Why can't there be a NMFS vessel positioned with sonar at the port entrances on the U.S. East coast instead of the speed restrictions are being proposed so that that vessel can use sonar to check for the presence of the NAR Whales within the 30 mile location and alert vessel traffic. That will be the best method to prevent collisions even at night.

From the numerous academic papers written on this topic, the speed reduction measures at Chesapeake and Delaware port entrances do not seem to be supported by data or strong scientific research. It is possible that due to the slower speed there will be more vessels in the transit zone and hence less space for the whales to move to in safety. It is possible that the reduced speed will actually harm or increase the ship strikes on the NAR Whales due to the higher density of vessels in that area that limits the areas that the whales can move to for safety. At slower speeds vessels are less maneuverable and this can lead to accidents with oil pollution that harms the whales more. The proposed slow speed affects the commercial shipping industry without a proper scientific basis. The papers on this issue state that the data is not sufficient for the MAUS region and specifically the DBCB area.

I did not see research on the behavior of NAR whale when in the vicinity of vessels. Do they like to come towards vessels to rub off their barnacles? I think research should be conducted on this aspect. If a vessel is moving at a slower speed as proposed it would give the NAR whale more time to come in the way of the vessel rather than if the vessel was moving at higher speeds, the vessel would move ahead and well clear of the whale.

The rule does not account for the possibility that if a whale stubbornly does not move out of the way of a vessel in a shipping lane that then the NMFS would expeditiously obtain a tug to help move the whale away to safety.

Due to the increased costs incurred by industry we think NMFS should ask Congress to add a tax on all taxpayers or get reimbursements from the funds given by congress to save the whale to help pay the industry for the cost incurred to save the whales. Due to the support this issue gets the costs incurred should be equally shared by all concerned.

The recovery plan does not address the possibility that these ship strikes could have occurred in the night or during periods of restricted visibility. This omission thus avoids 50%+ of the problem and it is possible that prudent mariners have always taken avoidance measures in daylight but run into whales at night.

We think that the definition of MAUS area should be changed to encompass areas where there are a large number of sightings and not include areas where the sightings are negligible.

Dynamic Management Areas: We are concerned that the NMFS does not have sufficient resources to manage the proposed DMA's e.g. If a group of whales are obstructing the entrances to a port, then to hire a tug boat immediately or other means to clear the entrance expeditiously. The proposed dynamic measures must be clearly defined so as to not allow unreasonable measures to be implemented. We think this measure does not have sufficient scientific data and needs more study with commercial input.

Whales move at 5 miles per hour. If a whale is sighted it can be out of the 20 mile DMA within 4 hours. We do not think there is sufficient evidence or studies to justify a 15 days x 24 hrs speed reduction rule. We think that due to the value of maintaining the NAR whale species, that if a whale is sighted then an aircraft or other craft be dispatched to that area to monitor their movement to keep them safe.

ICL is concerned that the speed restrictions will drive our almost 20 year company out of business. The NMFS must research other ways to save the whales and not cause economic difficulties for companies. The US believes that smaller businesses are essential to the health of the economy and produces jobs.

Some of the losses ICL would face are:

Lost normal labor working time: \$46,800.00

Lost time due to the speed restrictions: 285.7 hours/year at a cost of \$202,378.29/year.

NMFS should grant exemptions to vessels that when whales are not visually sighted in the area that the vessels can steam at higher speeds if economically necessary. Such exemption to be granted immediately upon request.

We have confidence in the process that all decisions will be taken on the basis of strong scientific and economic analysis. A company is possibly as rare as a whale. For every successful viable company, there are many companies that fail. A company supports a lot of families economically. Hence the rules need to be based on strong scientific evidence.

The NMFS should operate speed boats in the shipping lanes to major ports to keep the NAR Whales away from the traffic lanes and thus allow vessels to operate at their normal speed.

Despite the economic burden being imposed on industry there are no immediate plans to have regular aircraft surveys planned to monitor the NAR Whales in the MAUS and specifically the Delaware/Chesapeake areas and to warn vessels away. It is also not planned to station NMFS whale coordinators in the affected ports.

I think that the NMFS must research better tags and tag the N.A. right whale population to actually monitor, track and save the whales. Help can be obtained from other agencies like the WWF (that has done work with tigers, etc.).

I think it is reasonable that when a tagged NAR whale is in the vicinity of a port entrance an alert is sent out and vessels navigate with caution at such times based on fact. I also suggest a more focused and directed whale saving strategy where avoidance action is taken on the basis of an actual whale movement.

Science: Has the NMFS explored artificial reproduction to increase species numbers in captivity and then release them into the wild.

We would like to encourage the NMFS to explore establishing wild life reserves in certain areas to help the recovery of the species along with artificial reproduction.

Burden hour estimates: There are a lot of papers quoted in the proposed rule. Reading all of them will take a very long time. The time burden to review some relevant information has been 4 days x 8 hrs = 32 hrs. The papers quoted are cumbersome and time consuming for ordinary industry people. Reading some fellow industry letters I sensed that similarly they were also not able to review each and every paper quotes in the rules.

Reviewing comments: It is expected that there will be a large volume of comments. We sincerely hope that our comments will be reviewed with close attention.

We are grateful for the opportunity to provide our comments on these important issues and we hope you will find them helpful. ICL would welcome the opportunity to participate with the NMFS in formulating reasonable measures to save the NAR Whales. Please do not hesitate to contact us for clarification or additional information on these comments.

Respectfully submitted

M. Fernandes
Independent Container Line Ltd.

ⁱ Right Whale Sightings and Survey Effort in the Mid-atlantic Region: Migratory Corridor, Time Frame and Proximity to Port Entrances, 2002, Knowlton, Ring and Russell.

ⁱⁱ Economic Aspects of Right Whale Ship Strike Management Measures, 2002, Kite-Powell, Hoagland.

ⁱⁱⁱ Recovery Plan for the North Atlantic Right Whale, Revised by NOAA fisheries, 1991, 2004, NOAA Fisheries.

^{iv} Large Whale Ship Strike Database, NOAA Technical Memorandum, NMFS-OPR Jan 2004 .



October 5, 2006

Docket No. 040506143-6016-02

ID 101205B

National Oceanic and Atmospheric Administration
National Marine Fisheries Service (NMFS)

Endangered Fish and Wildlife: Proposed Rule to Implement Speed
Restrictions to Reduce the Threat of Ship Collisions with North
Atlantic Right whales

Comments by

International Council of Cruise Lines

The International Council of Cruise Lines (ICCL) is a non-profit trade association that represents the interests of 16¹ of the largest cruise lines operating in the North American cruise market and over 95 Associate Member companies that are cruise industry business partners and suppliers. ICCL member cruise lines serve major ports in the United States and call on more than 400 ports around the world. Last year, ICCL's member lines carried more than 11 million passengers on over 100 vessels

These comments are submitted in response to the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship collisions with North Atlantic Right Whales; by the National Marine Fisheries Service (NMFS) published in the Federal Register on June 26, 2006. NMFS proposed regulations to implement speed restrictions on vessels 65 ft (19.8 m) or greater in overall length in certain locations and at certain times of the year along the east coast of the U.S. Atlantic seaboard to reduce the likelihood of deaths and serious injuries to endangered North Atlantic right whales that result from collisions with ships.

¹ ICCL member lines include: Carnival Cruise Lines, Celebrity Cruises, Costa Cruise Lines N.V., Crystal Cruises, Cunard Line., Disney Cruise Line, Holland America Line, NCL America, Norwegian Cruise Line, Princess Cruises, Radisson Seven Seas Cruises, Royal Caribbean International., Seabourn Cruise Line, Silversea Cruises, SeaDream Yacht Club, and Windstar Cruises.

ICCL supports NMFS efforts to enhance right whale recovery by developing a strategy to address, among other things, the issue of ship strikes to North Atlantic right whales and appreciates the opportunity to provide comments to NMFS.

ICCL member cruise ship operators currently serve, or are scheduled to serve, primarily US customers sailing among others, from and to the ports of Jacksonville, Charleston, New York and Boston on a variety of itineraries to several different destinations in Canada, the Caribbean and Bermuda. These itineraries are normally offered during the months of November through July of each year. Additionally, a number of ICCL members' ships operate out of or call upon many of these ports on a year round basis.

ICCL has previously commented to the working group that speed restrictions may have an adverse impact on safety as a result of maneuvering large vessels at a low speed. Additionally, it is not clear that speed restrictions which result in a ship being within the whale habitat area for a longer time will actually reduce ship strike incidents or whale mortality from ship strikes as we suppose that a ship strike from a 70,000+ Gross-ton ship is just as likely to result in a whales death as being struck by the ship traveling at a higher rate of speed. We also noted that rules of this nature may disrupt itineraries to the extent that certain ports of call or "home" ports will have to be dropped.

We are particularly concerned with the moving management area proposal as this presents a large uncertainty to ship operations. We are also concerned with how the moving management area will be itself managed. If a whale is sighted and a moving management area is implemented, and then there is another sighting, how will it be determined that this is not the same whale and how will industry be assured that multiple management areas are not set up for the same animal thus restricting navigation beyond what may be necessary? Industry should be assured that their interests are also being looked after in this regard.

One ICCL member specifically reports:

Implementation of these rules would typically result in an increased fuel consumption of 260 Metric Tons (MT)- 310 MT based on current 2006 itineraries and 800 MT – 850 MT based on the 2007 itineraries respectively, for a direct impact of \$91,000 - \$109,000, and \$280,000 - \$300,000 respectively. These increases are caused by the increase in the vessels' speed to meet the schedules of the ships and our passengers.

Despite the increase in speed the proposed rules will also result in delays at the ports of Charleston, New York, Boston, Port Canaveral, Key West, St. Thomas U.S.V.I and several foreign ports in the Caribbean and Bermuda typically averaging from 360 minutes to 900 minutes per week. These delays will directly impact other

transportation modes (bus, taxi, shuttles, airlines, etc) and port infrastructure (piers, warehouses, stevedores, tugs, slip availability, bunker services, waste disposal services, security services, etc) in a manner that can not be readily quantified at this time. We urge that this impact be investigated, quantified, and addressed. On a cumulative basis, delays to passengers will amount to 6 to 15 hours per week.

There are specific circumstances where delays caused by the proposed rules would result in vessels having to reduce or eliminate services to the above US and foreign ports in order to try to meet the travel arrangements of our customers. The economic impact to these ports, in these cases, would be substantial, and we respectfully recommend that they be contacted for the details and that the data be considered.

ICCL is concerned that the proposed rule regarding speed restrictions will have direct impact in the safety of navigation the protection of the environment, life and property. Transit of certain areas during specific times of the year with regulated speed restrictions could be a potentially hazardous situation for a large passenger vessel or other large vessel, particularly as it approaches the shoreline where sea waves and cross currents could be especially intense. In these cases, a minimum safe speed is required which may be greater than the speed envisioned by the proposed regulation.

ICCL requests that the above comments be considered in evaluating the costs and benefits of the proposed rules.

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Jacksonville Marine
Transportation Exchange, Inc.
Post Office Box 350162
Jacksonville, Florida 32235-0162
(904) 634-1599

October 3, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East West Highway
Silver Springs, Md. 20910

Re: Docket No. 040506143-6016-02.I.D. 101205B

To whom it may concern;

The Jacksonville Marine Transportation Exchange is Northeast Florida's commercial maritime trade organization representing more than 65 companies and organizations in the ports of Jacksonville and Fernandina. On behalf of the Jacksonville Maritime Transportation Exchange we would like to present the following comments regarding the above docket which proposes speed restrictions on vessels moving along the East Coast of the United States. The impact of the proposed speed requirements in our area will be dramatic in many ways:

- Approximately 70% of the cargo arriving in Puerto Rico is loaded through the Port of Jacksonville. The proposed speed restriction will seriously disadvantage Jacksonville carriers in the Puerto Rican trade lanes with higher fuel consumption and increased sailing time. These carriers compete with other Jacksonville carriers who will not be impacted by the proposed speed restrictions disadvantaging those who have to slow for speed restrictions.
- Vessels will have to consume higher volumes of fuel to offset the slower speeds for longer distances in the proposed speed reduction area. Again, this places Jacksonville and Fernandina into a competitive disadvantage to south Florida ports that won't be impacted by the speed restrictions.
- Frequent adverse environmental conditions of wind and current at the entrances to the ports makes a 10 knot approach manifestly unsafe. The trade-off of what could be a minute reduction in risk of a whale ship strike for a substantial increase risk of catastrophic oil spill from a collision with another ship or grounding on the entrance jetties is irresponsible. To complete the quote used in the docket, according to the State Pilots, after vessels slow for boarding they must again bring the vessel back to a safe navigational speed above the ten knots used for safe boarding. Those speeds vary depending on vessel size, draft, sail area, current state, traffic conditions, wind, etc.
- Vessels that regularly transit between Jacksonville/Brunswick and Jacksonville/Fernandina will be further restricted by having to transit entirely at slower speeds between neighboring ports. The cost of additional time would encourage operators to skip these ports. Again, creating a competitive disadvantage for these N.E. Florida and S.E. Georgia ports.

Making Jacksonville the Port of Choice.

10/16/2006 2:51PM

- By placing speed restrictions to the MSR area boundary, which is far beyond where the whales are known to congregate defies preservation research-results and defies economic and environmental logic. We want our mariners to be very alert for the time they are in the Critical Habitat. Increasing that area will most certainly dull their attention.
- There are penalties for failure but no reward for measured success. With no verified commercial ship strike to Northern Right Whales in this area, the high success of our voluntary whale preservation measures should result in a logical "NO Speed Restriction" course of action.

For this process to work there must be trust. Trust that the information provided is accurate, technical information given at the local meetings is not misquoted and that the Information Quality Standards outlined by NOAA are observed. Allowing attorneys to guide the NMFS to set excessive restrictions with the intention of negotiating concessions later is not the way this process should work. When there is no known cause of death to a whale, the report should read "no known cause of death". Reporting that a whale "almost certainly died as a result of a vessel collision" is inaccurate and irresponsible.

Funding for over flights should be redirected to monitor the areas where the whales are exposed to these alleged dangers. This would give further aid to the vessels that are already posting look outs, buying night vision gear, training crews in whale preservation and are most impacted by this proposal.

The member companies of the JMTX have a strong record of implementation of voluntary right whale protection measures. This declaration of "the regulatory solution" for right whale protection will undoubtedly adversely affect that spirit of voluntary actions on the part of ship operators. Our goals are the same, save the Northern Right Whale. Our stakeholders have a proven track record of active, open and honest participation in the process. This process has caused us to have concerns about the integrity of the process and we would like to get the process back on the right track.

We appreciate the opportunity to comment on this process and hope that good sense and seamanship will prevail.

Regards,



Thomas W. Craighead
Vice President

63.2 ✓

From: Dew Forbes <forbesd@jarrettbay.com>

Date: Thu, 24 Aug 2006 10:44:38 -0400

To: Shipstrike.Comments@noaa.gov, 'David' <Rostker@omb.eop.gov>, Rostker@omb.eop.gov

Sirs

I think your regulation regarding the right whale could use some adjustments. I can not argue with your statistics as I have no back ground or experience with the whales. What I do have an extensive back ground and familiarity with is vessels in the 40 to 80 ft range that travel in the 20 to 30 kt range. It is my experience that the captains on these boats would make every effort possible not to run over a 55 ft whale as they would be likely to sustain as much damage to their vessel as the whale would.

I am in the boat building business and while fishing and pleasure boats continue to get bigger and faster they are also much more manuevable and sensitive to the conditions around them.

I can not speak for the shipping industry but if your intent is to restrict shipping incidents then restrict ships not vessels under at least 125 ft.

Dew Forbes

Jarrett Bay Boatworks

Subject: Public Submission
From: no-reply@erulemaking.net
Date: Mon, 28 Aug 2006 09:41:17 -0400 (EDT)
To: Shipstrike.Comments@noaa.gov

Please Do Not Reply This Email.

Public Comments on Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales:=====

Title: Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales
FR Document Number: 06-05669
Legacy Document ID:
RIN: 0648-AS36
Publish Date: 06/26/2006 00:00:00
Submitter Info:

First Name: Daniel
Last Name: Reitz
Organization Name: Jarrett Bay Yacht Sales

Comment Info: =====

General Comment: I am opposed to the implementation of the proposed speed limits on specified ships along the Atlantic coast. While I agree that we need to reduce the number of ship strikes with Right Whales, I think the proposal covers too broad a group of boats and should be applied to a much more limited group.

As a resident of Carteret County, North Carolina, and an active participant in the sportfishing industry, I know that hundreds or even thousands of sportfishing boats with sizes of 65 - 100 feet regularly fish off the Atlantic coast. Unlike larger ships, those boats can easily maneuver around obstructions such as right whales. In addition, their hull configurations do not draw whales to them like other, extremely long vessels.

If the regulations were implemented as proposed, they would have a devastating effect on the coastal economies of the states along the East Coast. Most of the best offshore fishing grounds are a 2-3 hour run at the reasonably fast speeds that boats currently travel (25-35 knots). That's 4-6 hours round trip. To limit those speeds to 10 knots would double or triple those travel times, and people are simply not going to travel 12 or more hours in a day to go fishing for a couple hours, which is all that would be left in the day. I am less familiar with commercial fishing issues, but I'm confident that the proposed rules would significantly harm commercial fishermen, too.

In my opinion, if they are implemented at all, the proposed regulations should only be applied to boats larger than 100 feet in length. Those boats are less maneuverable and more attractive to whales. In addition, an application of the proposed regulations to boats over 100 feet would have a significantly smaller economic impact than if the rules were applied to smaller boats.

agist the new ruling

Subject: agist the new ruling

From: Randy Jones <gccca@carolina.rr.com>

Date: Tue, 26 Sep 2006 16:46:51 -0400

To: Shipstrike.Comments@noaa.gov

Dear Sir,

The new ruling because of an endangered species is unfair and unsupported by any data to prove that a certain size vessel has caused the unfortunate death of these wonderful creatures. A number of boats could have caused this as well as a number of our own government vessels, which as we all know are exempt from any ruling of any sort. So please if there is a ruling to be made as to this matter, please think of all the implications and all that will be affected.

Thank you for your time,
Randy Jones

64

Subject: Slowing travel of 65 foot or greater vessels in open ocean to 10 knots, I disagree with this proposed change due to limiting my ability to go Deep sea fishing

From: "Joyce, Steve" <Steve.Joyce@shawgrp.com>

Date: Tue, 26 Sep 2006 20:58:29 -0500

To: Shipstrike.Comments@noaa.gov

Slowing travel of 65 foot or greater vessels in open ocean to 10 knots, I disagree with this proposed change due to limiting my ability to go Deep sea fishing.

Steve F Joyce
Mgr Relay Field Operations
Shaw Energy Delivery Services Inc.
5550A Wilkinson Blvd.
Charlotte, NC
336-403-0493 Cell Shaw
336-710-0008 Cell Personal
steve.joyce@shawgrp.com

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65

From: "Dr. Frank Lesinski" <DrFrank120@cox.net>

6le ✓

Date: Wed, 27 Sep 2006 05:38:53 -0400

To: Shipstrike.Comments@noaa.gov

CC: "Dr. Frank Lesinski" <DrFrank120@cox.net>

Dear Sirs,

This new law is preposterous. Laws are generally made to protect and defend. But when you implement a law that merely restricts and confines (with prejudice) in the hopes that "IT MIGHT" help the whales from swimming into vessels--You MIGHT want to reconsider and do more studies. As fishermen we are absolutely opposed to your ignorant and ridiculous proposal.

Dr. Francis Lesinski

Subject: Your Proposed Legislation
From: Derrin Lipa <dlipa@expensegmt.com>
Date: Sat, 30 Sep 2006 20:34:21 -0400
To: Shipstrike.Comments@noaa.gov

67 ✓

To Whom it May Concern:

Your proposed a ruling which will greatly affect fishing and have a detrimental economic affect on all headboats and charter boats 65ft & over. On page 36307 of the Federal Register / Vol. 71, # 122/ Monday, June 26 2006/ Proposed Rules...I am in disagreement with your philosophies. I believe in protecting whales, but this legislation is absurd. Another way for working man to be harmed....you will put good people out of business, take away jobs and deprive others of great fishing trips.

Do not pass this legislation!!

Thank You
Derrin Lipa

68 ✓

Subject: i am against this new law
From: arthur malone <artmalsr@msn.com>
Date: Tue, 26 Sep 2006 13:13:14 -0400
To: Shipstrike.Comments@noaa.gov

as a register voter,

i am against this law. And i will support the head boats in any effort they propose to stop any law that will hurt them. as a recreatoinal fisherman, i know that some laws are needed to protect the fish, but i also know that most of the laws now only restrict recreational fisherman,NOT COMMERCIAL FISHERMAN...

some one needs to come up with a better idea on how to protect these whales other than killing an entire industry

sincerely yours

arthur g. malone Sr.

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Subject: fishing

From: George Maravelas <gmaravelas@cox.net>

Date: Thu, 28 Sep 2006 18:32:08 -0400

To: Shipstrike.Comments@noaa.gov

People;

I retired to North Carolina in 1999, I came down here because of the weather and the fishing. I have been fishing since I was 10, and have fished all around the United States. The first head boat I went on was the Capt. Stacey, the captain and the mates are first class, and the cook makes a mean hamburger. I still fish on the Stacey, although I will every once in awhile go out on the Carolina Princess. My point is this, never have I seen or even heard of the Stacey or the Princess put any mammal or fish in peril. I was on board when the captain of the Stacey went out of his way to avoid a large hammerhead shark that was swimming on the surface. With the cost of fuel rising and fewer people using head boats these captains do not need any more headaches than they already have, they obey the law and follow legal limits of fish they catch. As a member of the Fairfield Harbour fishing club, and an ardent fisherman, I will protest most stringently any more hardships thrust upon them by any self serving environmental group.

Respectfully

George Maravelas
6314 Cardinal Drive
New Bern, NC



August 24, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East West Highway
Silver Springs, MD 20910

Proposed Rules 50 CFR 224.105
Docket No. 040506143-6016-02.I.D. 101205B

Dear Sir or Madam:

The Maritime Association of the Port of Charleston is an industry trade association representing companies engaged in the international maritime trade with the mission of promoting safe, secure and efficient port operations and expanding international trade.

As an association, we are concerned about the proposed rule's negative impacts on safety. We share the concern over the future of this endangered species and many of our members voluntarily participate in various programs to report the presence of marine mammals, including the Right Whale. Right Whales are not common in our waters, only being present when they migrate from their northern grounds to their southern ones and vice versa. To our knowledge, there have been no ship-whale strikes in the approaches to the Port of Charleston.

Although we agree with the goal of protecting these endangered species, there is no evidence that the proposed rule will accomplish that. **We have seen no evidence that the whales are less endangered by a ship moving at ten knots or less than by one moving at a faster speed.** We cannot agree to a restriction of ten knots over the thirty-mile approach to the Port of Charleston when there is no evidence to support such a restriction.

Such a restriction presents a problem for safety. Large vessels need sufficient movement of water over their rudder surfaces to maintain adequate steering control. Ten knots would be marginally effective for some vessels under calm conditions but when on the ocean, with the ever-present sea and wind conditions, vessels must make more speed to offset these effects. If they

were forced to travel at ten knots, it would be difficult or impossible to steer a good course, and they would be unable to make course changes to avoid other vessels, or whales, which might cross their path. There are a number of technical papers which address the issue of vessel controllability as it relates to wind and vessel speeds. This is a serious matter when dealing with vessels that have a high wind profile such as large cargo and passenger vessels.

Such a restriction presents efficiency concerns. Ten knots is not an economical or efficient speed for the operation of cargo vessels. With vessel operating costs measured in terms of thousands of dollars per hour or minute, added time in transit means more costs, costs that are passed on to the consumer. Further, vessels are designed to operate more efficiently at higher speeds. Forcing vessels to slow down increases the amount of fuel burned by vessels, a fact that is not a small concern in today's environment.

The proposed regulation has a security impact. A large, slow vessel is an easy target for a group wishing to conduct an act of terrorism. Slow speeds mandated over thirty miles of the ocean approach to a port not only puts passenger ships at risk, but also petro-chemical vessels. A ten-knot limit means that such vessels would be vulnerable to terrorist attacks for a duration of three hours, which is sufficient time to enable small, fast craft to depart coastal estuaries and effect their attacks at sea, before targeted vessels can arrive within the relative safety of protected waters.

Enforcement of this rule is also a concern. Does the United States have any authority to enforce a speed limit in international waters? Which agency will be tasked with policing the speed of vessels? The U. S. Coast Guard does not have the assets or the manning to accomplish such a mission without compromising.

The proposed rule appears to have its basis in emotion, rather than in any evidence that it will provide protection for the Right Whale. **We strongly urge you to reconsider this proposed rule.**

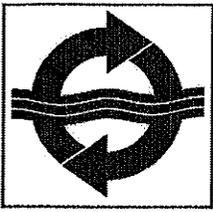
Sincerely,

The Maritime Association of the Port of Charleston



John F. Hassell, III
President

JFH/jcp



MARITIME EXCHANGE

for the Delaware River and Bay
Leading the Way to Port Progress

Richard E. DeGennaro, Chairman
John T. Reynolds, Vice Chairman
Dennis Rochford, President
Lisa B. Himber, Vice President
A. Robert Degen, Esq., Secretary, Solicitor
James F. Young, Esq., Assistant Secretary
Dorothy Mather lx, Treasurer

October 4, 2006

Chief, Marine Mammal Conservation Division
Attention: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East West Highway
Silver Springs, MD 20910

RE: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales; 50 CFR Part 224 [Docket No. 040506143-6016-02.I.D. 101205B]

Dear Sir or Madam:

The Maritime Exchange for the Delaware River and Bay is a non-profit trade association representing the interests of more than 280 port and related businesses from the tri state region of Pennsylvania, New Jersey, and Delaware. Since its establishment in 1875, the Maritime Exchange has served as the primary port advocate on behalf of these businesses, working closely with federal, state and local governmental agencies and its regional federal Congressional delegation to promote commerce along the Delaware River and Bay. In addition, the Exchange operates a comprehensive port automation network that provides its members with 24-hour a day, 365-day a year electronic ship and cargo information.

On behalf of our membership, we offer the following comments and concerns on the proposed rule to implement speed restrictions to reduce the threat of ship collisions with North Atlantic right whales:

- NMFS has produced studies indicating that if a ship strike occurs, a strike at a higher speed may be more likely to cause death or serious injury than a strike at a lower speed. However, when seeking to reduce the probability of a strike in the first place, speed restrictions are not a scientifically supported solution. Consequently, we question the validity of the studies calling for the use of blanket speed restrictions as a means of protecting the right whale population.
- We are concerned that identification of who will be responsible for enforcement of the proposed speed restrictions has not been made entirely clear. If indeed U.S. Coast Guard is the responsible agency, what resources will they use to oversee this program? Further, what will the total cost of enforcement be, and has the funding source yet been determined?
- We find the proposed regulations contrary to national policy and to demonstrate a lack of identification and coordination with other priorities within the same agency, NOAA. Speed restrictions are contrary to two elements of the President's U.S. Ocean Action Plan.
- Should the speed restrictions prove ineffective, we question that no language is in place to terminate this proposed regulation.

Please contact me at 215.925.2615 (dennis.rochford@maritimedelriv.com) or Beverly Ford (bford@maritimedelriv.com) of my staff at 215.925.2615 should you have questions or comments.

Sincerely,

Dennis Rochford
President



Two Harbour Place
302 Knights Run Avenue • Suite 1200
Tampa, FL 33602
813-209-0600
800-922-4596

71.1 ✓
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(813) 209-0667

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(813) 221-2648

E-MAIL ADDRESS
svolkle@maritrans.com

August 25, 2006

Via EMail: shipstrike.comments@noaa.gov

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

RE: Endangered Fish and Wildlife: Proposed Rulemaking to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (Docket No. 040506143-6016-02.I.D.101205B; RIN 0648-AS36; Federal Register, June 26, 2006, pages 36299 – 36313)

These comments are being submitted on behalf of Maritrans Operating Company L.P. Maritrans owns and operates a fleet of petroleum tankers, tugs and barges, as well as ships engaged in the grain trade. Our vessels operate regularly along the Atlantic Coast and in U.S. East Coast ports, and would be impacted by this proposed rule.

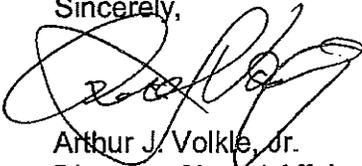
First, we believe clarifying language is necessary when describing the areas of coverage for the Mid-Atlantic U.S. as found in Section 224.105(a)(2)(i). While the chartlets included in the proposed rule implicitly suggest that the covered area is within a 30 nautical mile radius SEAWARD of the Colregs delineation line and the center point of the port entrance, the text description in the regulation itself does not make that clear and thus as proposed, could be read to include internal waters inshore from the Colregs delineation line. Thus, for example, the wording would permit the interpretation that the speed restrictions would apply throughout the Delaware Bay and River, or throughout New York Harbor. We do not believe this was ever the intent of the rulemaking nor should it be; no justification was provided for extending the speed restrictions shoreward of the Colreg demarcation line, and such an extension would substantially increase the adverse economic impact of this proposal. We therefore recommend changing the text of the section referenced above to read

"Within a 30-nautical mile (nm)(55.6 km) radius (as measured seaward from the Colregs delineated coast lines and the center point of the port entrance)....".

Second, we note that the proposed rule as currently drafted provides no leeway for safety of navigation considerations which can and do arise due to local conditions including weather, current, local hydrographic characteristics and traffic density. We recommend that the regulation have an exception to the 10 knot limitation which permits the Master or Pilot to increase speed where conditions dictate for navigational safety.

Thank you for the opportunity to comment on these proposed regulations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arthur J. Volkle, Jr.', written over a circular scribble.

Arthur J. Volkle, Jr.
Director of Legal Affairs
Maritrans Operating Company L.P.

October 3, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Attn: Right Whale Ship Strike Strategy

To Whom It May Concern,

Massachusetts Bay Lines has been in the ferry/sightseeing boat business in the Boston area for over 45 years operating seven vessels out of Rowes Wharf on Boston Harbor.

The Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Whales, as written, would be catastrophic to our whale watching business as well as our ferry business, despite there *never having been a right whale ship strike in the region by either a whale watch or ferry vessel*.

Though within the Economic Impact portion of the proposed rule, NMFS "concludes that there would be disproportionate impacts from implementation of this proposed option between passenger ferries and high-speed whale watching vessels" and states that "reductions to revenues for small passenger ferries...would range...to 9.8%", the economic impact is still severely understated.

Because of the economic damage that the DMAs would cause to my operation, I recommend the following:

1) Either Alternative 1 or Alternative 4 such that DMAs were not a part of the operational measures

Rationale:

The proposed rule states that "relying on this measure [DMAs] would only have a minor positive effect on right whale population size and may not reduce ship strikes sufficiently to promote population recovery. In addition, relying on this alternative would impose substantial costs on government resources in terms of the monitoring and assessment activities needed to implement the DMAs".

Whales could still receive protection from SMAs. Ferry and whale watch operations, *which have never been involved in a right whale strike* could continue to operate.

or

2) Alter the 65' vessel length threshold for Vessels Subject to Proposed Rule to 262'.

Rationale:

The proposed rule cites "Precedents for Speed Restrictions", specifically "The National Park Service established a 13 knot speed limit for vessels 262' or greater, in Glacier Bay National Park on a year-round basis to reduce the likelihood of ship strikes".

Ferry and whale watch vessels (90' – 200' in length) are fundamentally less at risk of striking a whale than other types of vessels. Unlike the small pleasure boater involved in socializing with his passengers, ferry and whale watch vessels are run by vigilant and professional crews who have made their skills evident by the absolute absence of right whale strikes. Unlike large ships which have pilot houses as far as 700 feet aft of the bow of the ship, lines of sight obscured by the deck of the bow for any object within 1/8th of a mile of the bow, operational hours during the evening hours and at night, and are incapable of stopping within less than 3 miles, our vessels' wheel houses are only a short distance aft of the bow (typically 20'-30') with unobstructed views, are able to stop within 150' or less, are operated 95% during the daylight hours, and have up to hundreds and hundreds of additional watch standers in the form of passengers looking attentively out to the water.

or

3) Reduce the DMA in size to 4 mile in diameter, 2-mile radius.

Rationale:

Whale Watch and ferry vessels could circumnavigate the DMA and remain in business.

Whale watch and ferry vessels have been able to avoid right whales with a mere 500 yard approach restriction. It seems unreasonable that a DMA size should jump 64 times in size to an 18-mile radius.

Thank you for your consideration.

Sincerely,

Jay W. Spence, General Manager
Massachusetts Bay Lines, Inc.



Paul J. Diodati
Director

73
Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street • Suite 400

Boston, Massachusetts 02114

(617) 626-1520

fax (617) 626-1509



October 3, 2006

Michael Payne, Chief
Marine Mammal Conservation Division
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910.

Attn: Comments on the Right Whale Ship Strike Reduction Strategy

Dear Mr. Payne:

The Massachusetts Division of Marine Fisheries (*Marine Fisheries*) offers the following comments on the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales. For the past eight years, *Marine Fisheries* and the Center for Coastal Studies (CCS) have conducted the Right Whale Surveillance and Management Program in Cape Cod Bay. This program is funded by NOAA Fisheries. Together with CCS, we monitor the distribution and abundance patterns of right whales in Cape Cod Bay from January through May, using aerial, vessel, and acoustic surveillance techniques.

Our aerial surveillance data does not support the proposed timing of speed restrictions for the Off Race Point area. Under Alternative 6, seasonal speed restrictions for Cape Cod Bay would be in effect until May 15, while those for the Off Race Point area would run until April 30. Right whales traditionally leave Cape Cod Bay by late April, passing through Race Point as they migrate to the Great South Channel. However for the past three years our aerial team has sighted right whales inside Cape Cod Bay and Off Race Point during the early part of May. Any right whales still inside Cape Cod Bay during May will likely be passing through the Off Race Point area. Based on these field observations, we recommend that the timeline for speed restrictions Off Race Point match the end date of May 15 for speed restrictions in Cape Cod Bay. This will provide consistent coverage across the entire migratory path during a time when right whales have been sighted in that area.

Sincerely,

Paul J. Diodati
Director



74 ✓

Maritime Division
Massachusetts Port Authority
One Harborside Drive, Suite 200S
East Boston MA 02128-2909
TEL (617) 946-4413 FAX (617) 946-4422 (617) 946-4466
www.massport.com

October 5, 2006

Chief, Marine Mammal and Conservation Division
Attn: Right Whale Ship Strike Strategy
NMFS Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

Re: Proposed Rule to Implement Speed Restrictions
Docket No. 040506143-6016-02. I.D. 101205B
and
Right Whale Ship Strike Reduction DEIS
Docket No. 040506143-6016-02. I.D. 101205B

To Whom It May Concern:

I am writing on behalf of the Massachusetts Port Authority (Massport) to provide comments on the *Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales* and the *July 2006 Draft Environmental Impacts Statement to Implement the Operational Measures of the North Atlantic Right Whale Ship Strike Reduction Strategy (DEIS)*. Specifically, the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) proposed regulations to implement a 10-knot speed restriction on non-military vessels 65 feet or greater in length in certain locations and at certain times of the year along the eastern coast of the U.S. Atlantic seaboard. With respect to Boston, the proposed regulations would restrict vessel speed from January 1 through May 15 throughout all of Cape Cod Bay, from March 1 to April 30, in a 50 nautical mile (nm) by 50 nm box north and east of Cape Cod ("Off Race Point") and from April 1 through July 31 in the Great South Channel. In addition, temporary dynamic management areas (DMAs) would be established based on observed concentrations of whales, with the extent and duration of the DMA varying based on the number of whales observed and the proximity to shipping lanes. The DEIS evaluates a broader range of speed restrictions (i.e., 10, 12 or 14 knots, potentially in a broader area or longer timeframes than in the proposed rule) as well as vessel routing measures.

Massport owns or operates various marine terminals in the Port of Boston, and we actively promote and advocate regarding issues that affect the Port of Boston. Massport has actively participated in various groups and processes focused on protection of the right whale, including representation on the Northeast Implementation Team and the related ship strike subcommittee since their inception. We have consistently advocated for development of measures to minimize ship strikes that: 1) are based on sound science; and 2) minimize the economic impact on the Port of Boston, which generates more than

34,000 jobs and an annual economic impact of \$2.4 billion¹. Based on the data that is available, we do not believe that the proposed speed restrictions will reduce the frequency of vessel strikes of right whales, and in fact some evidence indicates that reducing vessel speeds could increase the likelihood of vessel strikes. Despite the significant degree of uncertainty regarding the potential effectiveness, NMFS has proposed regulations that will have a significant economic impact on the maritime industry in general and the Port of Boston in particular. We believe the economic impacts to the Port of Boston will be far greater than those predicted in the Economic Impact Analysis produced by Nathan Associates, to the point that significant job loss and erosion of the \$2.4 billion annual economic impact associated with the Port of Boston could result. The proposed speed limits and vessel routing measures also raise significant safety and environmental concerns that have not been adequately addressed. Additional detail regarding these and our other comments and concerns is provided below.

1. *The available scientific data does not support NMFS' contention that reducing vessel speeds will decrease the likelihood or severity of ship strikes of the North Atlantic Right Whale, or that the data supports a 10-knot versus 12- or 14-knot speed restriction.* The data set used to support NMFS' recommendation is extremely limited, particularly at 10- to 14-knot and slower speeds, and each of the studies cited in the Proposed Rule to support the speed restriction clearly acknowledges the short comings of the data². We recognize that the Endangered Species Act provides for the use of the "best available data" in making decisions regarding how best to protect endangered species, however it appears that in this case the data is so inconclusive regarding whether or not reducing vessel speed will minimize the likelihood or severity of vessel strikes, and the economic impact of the proposed regulations so great, that the proposed speed restrictions are premature, scientifically unsubstantiated, and could do more harm than good.

Massport and several other maritime industry organizations commissioned a white paper to evaluate the data supporting the proposed speed restrictions entitled "*A Review of the NOAA/NMFS Proposed Rule (PR) to Implement Speed Restrictions, 26 June 2006, and the Corresponding Draft Environmental Impact Statement (DEIS) to Implement the Operational Measures of the North Atlantic Right Whale Ship Strike Reduction Strategy, July 2006*" (S. Testaverde and J. Hain, 29 September 2006), which has been submitted by

¹ Based on "Economic Impact of the Port of Boston" study by Martin Associates, February 2006

² Pace and Silber (2005) states "the data we examined contained no information about the probability of a ship strike occurring, and this aspect of risk needs further attention" and "the collision data set is relatively small and therefore considerable uncertainty accompanies the empirical distribution function that we provided." Laist et. al. (2001) notes in their conclusions that "anecdotal records provide the only information for evaluating vessel operating factors related to ship strikes. Although such records have significant weaknesses, they merit consideration absent other data." Vanderlaan and Taggart (in press) acknowledge that "the data are admittedly limited and do not incorporate all variables ... relevant to vessel-whale collisions. They are, however, the only published data that include vessel-speed observations. Consequently, the confidence intervals are large, particularly at low vessel speeds (< 10 knots) where there are few observations."

the authors to the official public comment docket in relation to the DEIS and Proposed Rule public comment periods. They found the following:

- The primary publications used to support the proposed speed restrictions are based on data sets that are not statistically significant. The data is based on non-random, "convenience sampling" that is not representative of the actual impact that vessels have on whale populations and is therefore not predictive of future likelihood or severity of whale collisions.
- The data does not support a speed restriction below 14 knots to minimize the likelihood or severity of whale strikes by vessels longer than 65 feet, and there is no evidence to evaluate or discriminate possible effects of speeds between 10 and 13 knots.
- Consideration of vessel speed versus whale collisions involves a complex matrix of inter-related dimensions and probabilities. Although some studies point to possible benefits to whales from vessels traveling at lower speeds, other studies concluded that vessels traveling at higher speeds may: 1) provide an acoustic signature that allows for greater whale response time; 2) push the whale away from the vessel, thus avoiding a possible collision, and 3) reduce the exposure time and associated risk of a vessel/whale interaction. One author (Gerstein et al., 2005) actually cautioned that reducing vessel speeds without compensating for the acoustical consequences may actually increase the risk of collisions, and may be counter-productive to the protection of whales. Because of the complexity and contradictory nature of the available information, Massport strongly recommends the NNMF conduct additional acoustic and hydrodynamic studies on a wide range of vessels currently in operation prior to enacting regulations to ensure that the regulations will help and not harm the whales.
- The data set only includes three records of vessel strikes of right whales for which vessel speed was known. None of these vessels would be subject to the proposed regulations (one was less than 65 feet long and two were government vessels). In fact, ***more than half of the reported large whale collisions involved vessels that would be exempt from the proposed regulations*** (20.5% by vessels less than 65 feet long, 31% by government vessels and several others in Canadian waters).

Based on the later finding, Massport asks that NMFS explain further its decision to exempt more than 50% of the vessels types that have been involved in historical strikes of large whales from set speed limits. This seems to seriously undermine NMFS' conclusion that a 10 knot speed limit is the best approach to protect the right whale. If this is the case, why not apply the rule to all categories of vessels that have been documented to strike right whales? Federal rules for vessels in routine, non-emergency operations should be identical for commercial and military vessels. There is no federal interest in routine government vessel operations that is greater than a commercial vessel

operator's interest in providing marine transportation services in our free market economy.

Further, NMFS uses the average speed at which vessel strikes occurred to support the proposed speed restrictions. However, it is important to note that the average speed at which vessel strikes occur coincides with the speeds that vessels typically travel. Laist et al. (2001) states that "most lethal or severe injuries involves ships traveling 14 kn or faster." The Proposed Rule states: "The authors [i.e., Laist et al. (2001)] concluded that most deaths occurred when a vessel was traveling in excess of 13 knots" and that "when the 58 ship strike cases identified by Jensen and Silber (2003) in which vessel speed was known were grouped by speed, the greatest number of vessels were traveling in the ranges of 13-15 knots, followed by 16-18 knots and 22-24 knots." According to Table 4-3 of the Economic Analysis for the Environmental Impact Statement of the North Atlantic Right Whale Ship Strike Reduction Strategy (Nathan Associates, 2006), average vessel operating speeds by vessel types based on various available data sources are as follows:

Bulk carriers	11.6-14.1 knots
Combination carriers	11.6-14.1 knots
Containerships	13-24.6 knots
Freight barges	12-19.2 knots
General cargo vessels	12-18.8 knots
Passenger vessels	16-24 knots
Refrigerated cargo vessels	13-22.7 knots
Ro-Ro cargo vessels	13-24.1 knots
Tank barges	13.2-14.5 knots
Tankers	13.2-15 knots

Based on this data, we would conclude that vessels that struck whales were in fact traveling at typical vessel speeds. There have been few whale strikes at speeds less than 10 knots because vessels do not typically travel at this speed (other than as they enter ports, where whales are typically not present). The data does not provide any indication that vessels moving faster are more likely to strike whales. In fact, the Jensen and Silber data could indicate that ship strikes decreased as vessel speed increased.

We note that the Proposed Rule states, based on Pace and Silber (2005), that "vessels that struck whales were going faster than ships tend to travel in general." However, it is important to note that: 1) Pace and Silber only used the mandatory ship reporting system (MSRS) data, rather than a more extensive data set such as that used by Nathan Associates; and 2) the MSRS data does not include military vessels, recreational vessels or commercial vessels less than 300 gross tons. Since more than half of the vessels involved in ship strikes with known speed were military vessels or vessels <300 gross tons, (including all of the vessels that hit whales in excess of 30 knots, further skewing the average "Collision Speeds" shown on Pace and Silber's Figure 4), one cannot draw any reasonable conclusion by comparing the two data sets.

2. *Massport supports the Dynamic Management Area (DMA) concept as long as DMAs are triggered and remain in effect based on reliable, real time information on whale locations.* The recommendation to leave a DMA in place for a minimum of 15 days is too long and could result in vessels routing around an area that the whales have long since left – potentially diverting ships to the area that the whales have moved to! Once a DMA has been designated, NMFS and others should monitor the area closely to track the movement and real time location of the whales. The DMA should expire after 3 days unless subsequent surveys indicate that right whales remain. Lifting of the DMA should be accomplished by marine broadcast and other means of actual notice in addition to or rather than Federal Register publication to ensure prompt communication of changed conditions.

3. *To the extent that reducing vessel speeds can minimize the impact on right whale mortality, NMFS should propose regulations for non-military vessels consistent with the vessel operating restrictions imposed on U.S. Coast Guard and Navy vessels through the Section 7 consultation process, which are based on the “slow, safe speed standard.”* Massport maintains that any regulations promulgated should require vessels to travel at a slow, safe speed rather than a set speed limit. This allows the vessel operator, who knows the characteristics and limitations of the vessel being operated, to make real time decisions based on weather conditions and other location-specific circumstances as to a safe transit speed. This is also consistent with the U.S. Coast Guard’s statement in the May 24, 2006 Port Access Route Study of Potential Routing Measures to Reduce Vessel Strikes of North Atlantic Right Whales (PARS) that:

“The Coast Guard has found that a key factor in vessel safety is to maintain the ability and responsibility of the ship’s master to operate (navigate) a vessel based on surrounding circumstances. Vessel operators must account for a multitude of variables and risks posed by continuously changing elements such as sea state, weather, visibility, vessel condition, and other vessel traffic. Constraining a vessel operator’s discretion to act appropriate to circumstances can pose serious risks of collision, grounding, or other casualties with implications for both safety and the greater marine environment.”

For over a decade, NMFS has examined the impact of vessel speed on Right Whale mortality with respect to Coast Guard and Navy vessels through the Section 7 consultation process of the Endangered Species Act. Based on information received under the Freedom of Information Act and information provided in Appendix A to the DEIS, vessel operating restrictions for Coast Guard and Navy vessels do not now, nor have they ever, included speed limits or dynamic management area restrictions similar those in the proposed rule. NMFS should utilize its experience in establishing requirements for military vessels in its effort to develop rules for merchant vessels.

The NMFS Biological Opinions issued in 1995, 1996, and 1998 by the Office of Protected Resources examined the potential impacts of Coast Guard vessel operations.

October 5, 2006

Right Whale DEIS and Proposed Rule Comments

Page 6

The 1996 Biological Opinion examined speed as a component of Coast Guard vessel operations and specifically declined to establish a speed limit for non-emergency operations. As an alternative to speed limits, the 1996 Biological Opinion provided the Coast Guard with reasonable and prudent alternatives “which if implemented fully and in a timely manner, significantly reduces the Coast Guard’s potential to cause injury or mortality to right whale, and therefore, avoid the likelihood of jeopardizing the continued existence of right whales.” NMFS required the Coast Guard to use the “slow safe speed” standard.

Existing Coast Guard vessel operating requirements are contained in Law Enforcement Bulletins issued by the Coast Guard. Law Enforcement Bulletin (D1 LEB 05-041) dated April 27, 2005, addresses speed restrictions as follows:

“Speed Guidance for Non-Emergency Operations: To avoid a collision with a whale, seal or sea turtle during the course of normal operations, Coast Guard units transiting critical habitat, migratory routes, and high use areas as listed above 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 reference (c) <the International/Inland Navigation Rules (Commandant Instruction M16672.2d)>. 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 a stop.”

The requirements for the non-emergency operation of Coast Guard vessels are different than the proposed rule for commercial vessels in that (a) the Coast Guard rules do not address the specific geographic locations addressed in the proposed rule, (b) the Coast Guard rules do not utilize the overly complicated Dynamic Management Area approach, (c) the Coast Guard rules do not impose mandatory speed limits, (d) the Coast Guard rules allow vessel Captains to utilize a speed which is navigationally prudent and considers the safety of the vessel, and (e) the Coast Guard rules contain lookout requirements not contained in the proposed rule. The 1998 Biological Opinion again concluded that Coast Guard vessel activities along the Atlantic Coast are not likely to jeopardize the continued existence of the right whale and other species. It is important to note that these Biological Opinions are not issued in a vacuum of the specific context under consideration, but consider the entirety of activities in the habitat of the right whale. The environmental baseline for the Biological Opinion includes “the past and present impacts of all state, Federal, or private actions and other human activities in the action area...”

The DEIS states that the 1997 Biological Opinion from NMFS concluded that the Navy's operations were not likely to jeopardize the continued existence of any endangered or threatened species under NMFS jurisdiction. The DEIS also discusses a message from Commander, Fleet Forces Command dated December 17, 2004 which provides direction to all fleet units. Navy vessels are required to use extreme caution and operate at a "slow, safe speed that is consistent with mission and safety" within a 20 nautical mile area of designated ports in designated months. These non-emergency restrictions for Navy vessels are far different than the proposed mandatory speed rules for merchant vessels.

On page 36305 of the proposed rule, NMFS explains why federal vessels are exempt from the proposed rule as follows: "NMFS believes that the national security, navigational and human safety missions of some agencies may be compromised by mandatory speed restrictions." No explanation is provided how non-emergency agency operations such as routine transits would be compromised. More importantly, NMFS provides no explanation as to why mandatory speed limits are proposed for merchant vessels when the requirements in place for the non-emergency operation of military vessels have been repeatedly determined by the agency to adequately protect the right whale. The effectiveness of the rules for military vessels should cause the agency to advocate their use for merchant vessels. In regulating commerce, federal agencies should first consider less costly and intrusive measures, particularly when those measures are likely to be equally effective in accomplishing the desired goal.

Neither the preamble to the proposed rule nor the DEIS discuss or analyze the significant differences between the burdensome and costly proposed rules for merchant vessels and the rules which apply to military vessels. Chapter 2 of the DEIS does not address the Navy and Coast Guard vessel operating rules as an alternative. Without an analysis of whether the existing rules for military vessels would be effective for merchant vessels operating in the same waters, the proposed speed restrictions are arbitrary and capricious in that the agency has failed to consider an alternative being used to address a large category of vessels that have historically been involved in whale strikes. There does not appear to be any scientific basis for using a different approach to protect whales from government versus commercial vessels.

4. *Vessel safety at speeds of 10, 12 or 14 knots cannot be consistently assured for all vessels and, if imposed, at a minimum must contain a provision for vessel operators to exceed the limit if necessary to ensure safe navigation.* In response to Massport's comment on the DEIS scope expressing concern about the safe navigation of vessels at these speeds, NMFS replied: "The USCG has implemented speed restrictions of 10 knots or less; these speeds apparently do not affect maneuverability in most circumstances." If NMFS continues to pursue set speed limits, to which we are opposed, we request that they provide a list in the FEIS (or prior to issuing the proposed regulations through a separate public notice, whichever comes first) of locations where the Coast Guard has proposed 10 knot or less speed restrictions in open ocean areas similar to the areas for which the regulations would apply. We also request that the FEIS provide documentation that the Coast Guard agrees that whatever vessel speed restriction is promulgated will not

affect maneuverability in the areas affected by the proposed speed restrictions even: 1) under various weather conditions (particularly since the SMAs and DMAs are largely in place in the winter and spring months in which high winds and other adverse weather conditions are a common occurrence); and 2) for the range of vessels to which the regulations will apply.

If set speed restrictions are imposed, it is *imperative* that they contain a provision that allows the vessel operator to maintain a higher speed if necessary to ensure safe navigation.

5. *The earnest pursuit of a technological solution must be a key component of any strategy to reduce ship strikes.* The Proposed Rule summarizes NOAA's strategy to reduce the threat of ship strikes. Unfortunately, the pursuit of technological solutions to minimize ship strikes is not even on the list. NOAA continues to dismiss technological solutions on the basis that no proven technology is currently available. Industry representatives have repeatedly indicated that they can avoid a whale if they know its location, yet neither the recommended strategy nor NOAA's and other available resources focus on research and development of potential technological solutions. The foundations of a technological solution are available, and perhaps if funding and research over the past decade had focused on developing technology to reduce the likelihood and severity of ship strikes, we would already see results.

6. *We strongly support rerouting of vessels around areas of documented whale concentrations as long as a safe traffic separation scheme (TSS) is proposed.* The DEIS and the Proposed Rule discuss the Port Access Route Study (PARS) conducted by the U.S. Coast Guard to analyze various TSSs for Boston. Based on the information provided in the PARS, we strongly support implementation of Option No. 1 because it provides for a significant potential reduction in the likelihood of a vessel/whale interaction while maximizing vessel traffic safety. The PARS recommended Option No. 4, which, according to the PARS report, would provide only a 4.8 percent greater reduction in the likelihood of a vessel/whale interaction compared with Option No. 1, yet it would result in a significant decline in vessel transit safety. In studies of this nature, a 4.8 percent difference is typically within the margin of error of the report findings. Specifically, Option No. 4 reduces the existing TSS by one nautical mile in a highly congested area, which would create a dangerous situation that unacceptably compromises vessel safety and ultimately the environment. Massport and the Boston Pilots raised this concern in a June 5, 2006 comment letter in response to the May 24, 2004 Federal Register notice requesting comments on the PARS. Unfortunately, we later learned that the PARS had been submitted to the International Maritime Organization (IMO) five weeks before it was released for public comment. Neither Massport nor the Boston Pilots have received any response or acknowledgement of the significant public safety and environmental protection concerns that we raised in our June 5, 2006 comment letter and in subsequent correspondence to Coast Guard Headquarters and the IMO, which is inexplicable.

7. ***The economic impact assessment significantly underestimates the likely impact of the proposed regulations.*** Although the 2006 Nathan Associates *Economic Analysis for the Environmental Impact Statement of the North Atlantic Right Whale Ship Strike Reduction Strategy* provides a detailed analysis, it has many shortcomings that result in underestimation of the true economic impact of the proposed regulations as well as being difficult for commentors to comprehend the likely impact. For example:

- p. 6 of the Nathan Associates report indicates that “the Area to be Avoided (ATBA) for the Great South Channel and Boston TSS are no longer included in this alternative” (i.e., Alternative 6, the preferred alternative). At the time the Proposed Rule and DEIS were published, the federal government had already submitted the Boston TSS to the IMO for implementation. Accordingly, this is clearly part of the alternative being pursued and the impacts of the ATBA and Boston TSS should be included in the economic impact analysis for the Preferred Alternative.
- The proposed seasonal speed restrictions shown on Figure 4-12 of the Nathan Associates report (Figure 4-8 of the DEIS) and used in the economic impact analysis are far less extensive than those proposed in the Proposed Rule, which was issued prior to the DEIS and should have been consistent. Specifically, the Great South Channel restrictions from April 1st through July 31st appear to be omitted from the analysis, resulting in severe underestimation of the economic impacts.
- Despite the fact that the proposed 10-knot speed restriction regulations were released prior to the DEIS, the economic analysis in the DEIS focuses on a 12-knot speed restriction, which is associated with significantly less economic impact than the 10-knot limit. We note that Exhibit F focuses on Alternative 6 with the 10-knot limit, but in far less detail than the analysis for the 12-knot limit.
- We appreciate the attempt to quantify likely indirect economic impacts, but in many cases believe that the true impacts are still not quantified, in part due to faulty underlying assumptions that are applied equally to all ports. For example, the indirect economic impact analysis considers diversion of traffic to other ports. This analysis is based on the assumption that “a good portion of a port’s traffic is often considered captive to that port.” This may be true for certain types of port traffic in certain ports, especially for larger ports such as New York, but it certainly is not true for container and cruise traffic in the Port of Boston. If the economics do not work, these vessels will not call on Boston. The proposed speed restrictions will likely tip the economic scale making it less viable for at least some of the container and cruise lines to call Boston, causing them to divert to other ports. The Nathan study estimates that 15 percent of vessels may divert from Northeast ports during the period that the speed restrictions are in place. However, a container shipping line will not divert from Boston for the 4 to 5 months that a speed restriction is in place; rather they would drop Boston from

their call rotation altogether, as lines would not receive market support for partial-year services. The Port of Boston currently receives two trans-Atlantic services from the Mediterranean Shipping Company (MSC). Boston is the first port inbound from North Europe on one service and the last port outbound on the Mediterranean service. Both vessels call New York, Baltimore and Norfolk and if the regulation is enacted will have to slow down as they approach and depart each port during the periods that seasonal speed restrictions and DMAs are in place. This will result in significant vessel delays, coupled with any tidal, labor or weather delays that these large vessels already encounter, such that MSC may decide to permanently drop Boston from its port rotation for at least one of these services. The situation may be worst for the Asian services that use the Panama Canal to reach east coast ports. These services are far more prevalent as importers and exporters try to diversify their supply chain to reach their east coast customer base and regional distribution centers. These vessels will encounter multiple delays as they transit along the east coast, potentially causing them to miss their scheduled Panama Canal slot. This puts Boston at a significant competitive disadvantage in relation to the southern ports and could result in the loss of the Cosco service that currently serves the Port of Boston. Based on the April 2005 study by Hauke Kite-Powell entitled "Economic Implications of Possible Reductions in Boston Port Calls due to Ship Strike Management Measures," the loss of the Cosco service and just one of the two MSC services currently in Boston would result in a \$49 million loss in gross state product and approximately 1,000 jobs from the region.

- The environmental impact analysis needs to quantify and evaluate the additional truck traffic and air emissions associated with cargo diversions that may result from the proposed regulations. For example, loss of one of the MSC services and the Cosco service from the Port of Boston, which as described above is a possible ramification of the proposed regulations, would result in an additional tens of thousands of truck trips and resultant emissions along the highly congested I-95 corridor between Boston and New York. This impact, and similar impacts at other east coast ports from which cargo is diverted, needs to be addressed in the FEIS.

The economic and environmental impact analyses should be revised and reissued for public comment to address all of these comments.

The existing analysis indicates that the economic impact on the vessels using the Port of Boston will be 410 percent greater for a 10-knot speed restriction as compared with a 14-knot speed restriction. For this reason, coupled with the fact that the scientific evidence simply does not support a 10-knot limit, if NMFS moves forward with a set speed limit at all we urge the use of a speed limit not less than 14 knots.

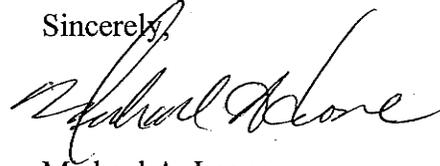
In conclusion, Massport's position is as follows:

1. Based on the available data, it is premature for NMFS to impose vessel speed restrictions in an attempt to minimize the likelihood and severity of vessel strikes of the North Atlantic Right Whale. The data is inconclusive, and the proposed regulations could well do more harm than good. NMFS should withdraw from consideration the proposed regulations and immediately, and in close coordination with representatives from the maritime industry, pursue the hydrodynamic, acoustic, technological and other studies necessary to develop and implement solutions that will truly help to minimize the likelihood and severity of ship strikes. Once this is accomplished, a revised proposed rule should be issued.
2. If NMFS decides to proceed with vessel speed restrictions, over industry objections, we advocate for a "slow, safe speed" standard, consistent with the approach NMFS took in its Section 7 consultations with the Coast Guard and Navy vessels, rather than a set speed limit.
3. If NMFS does proceed with a set speed limit, we advocate for no less than the 14-knot speed limit as this is better supported by the scientific data and addresses industry concerns about economic impacts and vessel safety at slow speeds.
4. Massport supports the Dynamic Management Area (DMA) concept as long as DMAs are triggered and remain in effect based on reliable, real time information on whale locations. We recommend that each DMA expire after 3 days unless subsequent surveys indicate that right whales remain in the area to minimize the likelihood that vessels divert around the DMA into an area that the whale(s) moved to.
5. Any proposed regulations should apply to all vessels, including government vessels and vessels less than 65 feet long which together represent more than 50 percent of documented large whale ship strikes.
6. If any set speed limit is imposed, the rule must contain a provision for the vessel operator to exceed the limit if necessary to ensure safe operation of the vessel.
7. TSS Option No. 1, which provides for a significant reduction in the likelihood of whale/vessel interactions while maximizing vessel traffic safety, should be implemented through the International Maritime Organization rather than Option No. 4.
8. The environmental and economic impact analyses should be revised and reissued for public comment to address the deficiencies identified herein and in other comment letters from the maritime industry.

October 5, 2006
Right Whale DEIS and Proposed Rule Comments
Page 12

We appreciate this opportunity to comment. Please feel free to contact me or Deb Hadden at (617) 946-4413 if you would like to discuss any of our comments further.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Leone". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Leone".

Michael A. Leone
Port Director

cc: Rodney Weiher, NOAA Office of Program Planning and Integration

75 ✓

Subject: Proposed speed limits
From: "Dale E. McCoig" <mccoig@cox.net>
Date: Tue, 18 Jul 2006 12:46:20 -0400
To: Shipstrike.Comments@noaa.gov

Sirs/Mmes:

I object to the proposed speed limits being considered because of presumed dangers to the whales migrating in the areas offshore from Wilmington and Morehead City, NC for the following reasons;

a. There is an unreasonable concern about the adaptability of wild life. All wildlife has obviously managed to adapt to dangerous conditions over eons. What logic is there in the presumption that migrating whales will not sense any dangers presented to them and alter their habits? It is well established that whales demonstrate a good deal of intelligence. (In this case, I suspect they may be demonstrating more intelligence than the overly-alarmed originators of this speed limit proposal

b. What evidence is there which indicates boats of a certain length or displacement, moving at a any given speed, constitute a greeter danger to whales than a boat of shorter LOA moving at the same - or perhaps greater - speed? Potential injury would logically be affected by many factors beside speed and size of boat, e.g. angle of impact, draft of the boat, hull configuration, hull projections; travel direction and speed and depth of the whale - and on and on.

c. I suggest more consideration be given to humanity and the impact of regulations on us and our welfare, and less to wild life which has proven by its very existence and flexibility and mutation over centuries how smart and adaptable it really is.

d. I simply do not believe that trying to regulate the speed of certain sized vessels in the limited area under consideration can have any material impact on the vulnerability of the particular species of sea mammals with which this proposed regulation addresses.
What substantive evidence is there that it will ?

I am convinced that in our present times there are many human beings who have too few really meaningful and demanding tasks to occupy their own time in putting food on the table and clothes on the backs of their families, with the result that they find time to think up schemes - sensible or not - that will affect the lives of someone else and conclude that the consequence will be "good". As the lyrics go: " It ain't necessarily so, it ain't necessarily so - - -" !

Dale E. McCoig,
2301 Harbourside Drive,
New Bern, NC 28560

Subject: Comments

From: Herb McGrail <mcgrailh@whitlock.com>

Date: Tue, 26 Sep 2006 12:41:56 -0400

To: Shipstrike.Comments@noaa.gov

Now I see what our tax dollars are paying for:

You are doing studies to put Charter Fishing boat companies out of business. I have had the privilege to go out on a few charters with no whale sightings. I have on the other hand pulled out of Morehead City with Marine Expeditionary Force on Navy vessels and have seen a few. I do not know if we hit any back in the 80's, but if we where on a collision course, we would of hit it. On the other hand, the Charter Vessels (83') would have been able to maneuver around the mammal.

Why don't you go after the small boat owners in Florida and take away there boats due to the Manatee's that swim freely. I lived in Jacksonville and saw many of the mammals swimming.

The Federal Government and its departments do what they can to put business out of business. Not a free economy with this recommendation on the table!

If you have nothing else to go after, I have a few more ideas on ways to spend the money that you have spent on this program: education and literacy, drug education in schools, road improvements, trash clean-up on our rivers and streams,

Herb McGrail
Greenville, NC

Subject: Reducing speed to 10 knots
From: Mike Meacham <mmeach@yadtel.net>
Date: Tue, 26 Sep 2006 13:55:09 -0400
To: Shipstrike.Comments@noaa.gov

I am firmly against this legislation. It will absolutely ruin an age old tradition of offshore fishing for thousands of families. With todays trechnologt one has to think there can be better , and more effective ways of protecting the whale. I, as much as anyone do not wish this magnificent creature to pass into extinction, but with much larger ships exempt from this measure, and the rarity of fishing charters colliding with whales this measure proposed will only ruin an idustry and tradition for thousands of families without even saving any additional whales. Why not have ships deploy some sort of sound producing device underwater that will alert the whales to their approach or sare them away before the boat gets close enought to colide. We care in the 21st century olks and must have a better plan than this as with this plan everyone will lose....the wahles, the fishing charters, and the thousands who love this experience of going offshore to fish, (not to mention the kids who will never get to experience this. Two houres of fishing, with five hours of riding to get there, will ruin this industry.

Mike Meacham
159 Ashburton Road
Advance, NC 27006

**URGENT
IMMEDIATE ACTION**

***Please read this whole letter if you love deep sea fishing.
RESPONSE DEADLINE: OCTOBER 5, 2006***

Dear Friends and Valued Customers:

*I am emailing to let you know the National Marine Fisheries Service (NMFS) and NOAA have proposed a ruling which will greatly affect fishing and have a **detrimental** economic affect on all headboats and charter boats 65ft & over and threatens to put them out of business. This would affect vessels up & down the east coast.*

You have the opportunity to help us attempt to avoid this with a few keystrokes on your computer.

*BACKGROUND: The North Atlantic Right Whale has been determined to be endangered by the NMFS/ NOAA, with somewhere over 300 of the species remaining. **Please note, Captain Stacy, Inc is in favor of all reasonable efforts to protect this marine mammal.** From 1991 to 2001- 12 deaths of Northern Right Whales have been determined to have been caused by ship strikes. As a result the proposal before the NMFS / NOAA which would require **all vessels of 65'or longer**(which includes the Capt Stacy IV....83') to reduce their cruising speed to **10 Knots for 30 nautical miles** of travel both out to sea and back from November 1 to April 30 every year. This will affect*

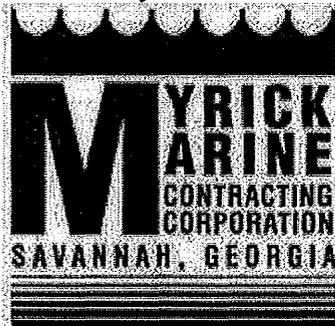
12 ✓

Subject: vessel speed Savannah River Entrance
From: Bob Myrick <bob@myrickmarine.com>
Date: Tue, 26 Sep 2006 09:44:18 -0400
To: Shipstrike.Comments@noaa.gov

I am very much opposed to the proposed reduction in vessel speed and feel that such a rule would likely cause more collisions because of the reduction in noise that whales depend on to prevent accidental collisions with vessels. Swim speed of the whales is sufficient to allow avoidance, but only if the noise of the approaching vessel is loud enough to be detected soon enough to allow time for evasion. A slow and quiet vessel is setting the whale up for certain impact by "sneaking up" on the unsuspecting mammal. More studies need to be done to make the right (no pun) choices. Kindly delay your decision on this until the whole truth is known.

Regards

Bob Myrick
President
Myrick Marine Contracting Corp.
P O Box 60697
Savannah, GA 31420
Main Office (912) 964-0711
Direct Office (912) 964-0712 ext. 103
Fax (912) 964-0771
Cell (912) 313-3346
Email: bob@myrickmarine.com
Website: myrickmarine.com



BEFORE THE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND
NATIONAL MARINE FISHERIES SERVICE

RIN 0648-AS36

PROPOSED RULE TO IMPLEMENT SPEED RESTRICTIONS
TO REDUCE THE THREAT OF SHIP COLLISIONS
WITH NORTH ATLANTIC RIGHT WHALES

Comments

submitted by

THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

THE NATIONAL INDUSTRIAL TRANSPORTATION
LEAGUE
1700 North Moore Street
Suite 1900
Arlington, VA 22209

By Its Attorneys

Nicholas J. DiMichael
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(202) 331-8800

Dated: October 5, 2006

BEFORE THE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND
NATIONAL MARINE FISHERIES SERVICE

RIN 0648-AS36

PROPOSED RULE TO IMPLEMENT SPEED RESTRICTIONS
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Comments

submitted by

THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

The National Industrial Transportation League (“League”) appreciates the opportunity to submit these comments in response to the Notice of Proposed Rulemaking (“NPRM”) published by the National Marine Fisheries Service (“NMFS”) and the National Oceanic and Atmospheric Administration (“NOAA”) on June 26, 2006. 71 Fed. Reg. 36,299 (June 26, 2006). Established in 1907, the League is the nation's oldest and largest association representing shippers and receivers of goods that are transported in U.S. domestic and foreign commerce using all modes of carriage. In recent years, the League has broadened its membership to include carriers and transportation intermediaries and its 600-plus members range from some of the largest companies in the nation to much smaller enterprises. Many of its members ship and/or receive goods via ocean vessels exiting and entering U.S. ports on the East Coast. Thus, any regulation affecting both the economics and operations of vessel operators will have a direct impact on League members.

NMFS has proposed a rule that would restrict the speed of vessels that are 65 feet in length or longer to 10 knots at various locations along the eastern U.S. Atlantic seaboard during certain months of the year. The purpose of the proposed rule is to reduce the potential for ship collisions with the endangered right whale species. The League supports NMFS's goal to revive and protect the right whale population. We strongly support existing right whale protection measures, including many of the non-regulatory elements of NMFS's strategy for reducing the threat of ship strikes. One non-regulatory element alone, the shifting of the Boston Traffic Separation Scheme, is estimated by NMFS to reduce the likelihood of ship strikes to right whales by 58 percent. *NPRM*, 71 Fed. Reg. at 36303. The League believes that NMFS's and NOAA's efforts should focus on like measures that have a quantified and substantial likelihood of success, rather than on measures like the proposed rule, where the benefits and effectiveness of the rule are questionable and the resultant costs to industry are substantial.

The League questions whether the stated purpose of the rulemaking, to reduce the likelihood of death and serious injury to North Atlantic right whales from collision with ships, will be achieved if the proposed rule is adopted. Specifically, the scientific evidence cited in support of the rule is far from conclusive. Moreover, the League understands that if the rule is adopted, ocean carriers may be forced to alter their shipping schedules, including eliminating one or more calls at certain east coast ports to minimize the economic impact of the proposed rule. If this happens, we are deeply concerned that the rule will have a significant negative impact on shippers utilizing ocean vessels, which impact has not been accounted for in the *NPRM*. We are also troubled that the adverse economic impact on vessel operators may have been substantially understated. Accordingly, before the rule is adopted, the agency should undertake a more

thorough analysis of the economic impacts of the proposed rule, including any negative downstream ripple effects on shippers and the economy as a whole.

The League supports the comments submitted by the World Shipping Council (“WSC”) and stands ready to assist NMFS and NOAA in identifying and quantifying the economic impacts on shippers utilizing vessels who service east coast ports of call.

I. REDUCED SPEEDS MAY NOT REDUCE SHIP STRIKES

While the League supports NMFS’s efforts to protect the right whale population, the evidence cited in the NPRM fails to establish any link between the speed of vessels and the likelihood of ship strikes. Such lack of evidence does not favor the adoption of a very costly and disruptive regulation of the shipping industry.

The studies relied upon to support the proposed rule for reduced vessel speeds are based on very little data. The study most frequently cited by NMFS to establish the necessity for reduced speed, Jensen and Silber 2003, is based on data from only 58 cases of ship strikes worldwide over a nearly 30 year period, where vessel speed was known. *Id.* The League questions whether this study effectively established a causal connection between ship speed and frequency of ship strikes, as NMFS suggests. Equally important, however, is the very limited data relied upon by this and other studies. NMFS concedes that there have been only two definitive strikes to right whales where vessel speed is known. The League submits that such a limited data set provides, at best, questionable scientific results.

II. NPRM FAILS TO ADEQUATELY ACCOUNT FOR INDIRECT ECONOMIC IMPACTS

The Draft Environmental Impact Statement (“DEIS”) cited in the NPRM estimates the direct and indirect economic impacts to be \$116 million. 71 Fed. Reg. 36308. The direct economic impacts in the analysis were focused on the increased costs to vessel operators, while

the only indirect economic impact cited in the analysis is the cost to ports of diverted ship traffic. NMFS acknowledges that the analysis does not include the indirect costs to passengers for the additional time spent in transit. While the League suggests that the cost to passengers should also be taken into consideration to develop a meaningful economic impact analysis, the League is puzzled as to why the analysis did not consider, nor even mention, the significant economic impact the proposed rule will likely have on shippers utilizing vessel transportation for the movement of cargo.

Based on WSC's Comments, the League understands that vessels will lose approximately 2.5 to 3 hours per port call. As previously noted, this increased time in transit may force some vessels to bypass a port on its itinerary and off-load cargo destined to the bypassed port at an alternative port.

The DEIS recognized and attempted to quantify the indirect economic impact of port bypasses, but this analysis only focused on the increased cost to ports as a result of diverted traffic. *Id.*, at 36,308. The analysis failed to consider, however, the increased costs to shippers or consignees when a vessel is forced to divert to a different port due to time lost complying with new speed restrictions. For movements where the shipper or the consignee is responsible for inland transportation that occurs subsequent to the off-loading of cargo at a port, the cost of a port diversion is substantial, in that the shipper or consignee would be responsible for paying for what can be expected to be a longer or additional inland movement. For door-to-door movements, where the carrier is responsible for arranging inland transportation to the consignee, the increased cost borne by the carrier is likely to be passed onto the shipper in the form of higher rates.

Furthermore, increased transit times due to vessel speed restrictions or caused by port diversions will have a negative impact on the supply chains of many companies who rely upon "just-in-time" deliveries. For these shippers, timely deliveries are critical for maintaining their manufacturing production schedules or meeting their sales obligations with their customers. Accordingly, the effect of the rule is that shippers will likely be forced to absorb or pass along to consumers increased inventory carrying costs and inefficiencies that result from delayed or diverted deliveries of cargo.

Equally important yet not quantified is the impact on the operational integrity of the surface transportation infrastructure. If longer transit times caused by vessel speed restrictions result in port diversions, it is likely that port diversions will result in an increased demand for surface transportation. An increased demand for surface transportation will contribute to traffic congestion on U.S. highways and impose additional burdens on the already constrained capacity of the U.S. rail system. The resulting increased traffic congestion and constraints on rail capacity will compound the negative economic impact of the rule by causing even more delayed cargo deliveries. It will also lead to the adverse environmental impact of increased air pollution from truck and locomotive emissions.

Accordingly, the League strongly submits that a more thorough economic impact statement should be performed on the rule which takes into account the significant indirect costs and effects on cargo shippers and receivers who use vessel transportation.

III. NMFS SHOULD IMPLEMENT NON-REGULATORY OPERATIONAL MEASURES TO PROTECT RIGHT WHALES

The League urges NMFS and NOAA to modify its approach of adopting speed restrictions for vessels in order to protect right whales until further study of the benefits and impact of the rule is completed. The League endorses implementation of the non-regulatory

elements that comprise NMFS's Right Whale Ship Strike Reduction Strategy identified in the NPRM, and measures such as development of shipping routes that avoid critical habitats of right whales, as well as "Areas to be Avoided" and "Dynamic Management Area" controls. The League believes that NMFS and NOAA should consult, to the extent practical, with all stakeholders who would be most directly affected by these non-regulatory measures prior to their implementation.

IV. CONCLUSION

The League fully supports NMFS and NOAA's goal of enhancing the recovery of the right whale population. The League is concerned, however, that the economic impact of the proposed rule has been seriously underestimated, in particular, because of its failure to account for adverse economic impacts on the shippers and receivers whose cargo is loaded or delivered at ports on the eastern seaboard. Furthermore, the data does not provide convincing evidence of the necessity to reduce the speed of vessels in order to achieve the stated goal of the NPRM. Accordingly, NMFS and NOAA should not adopt the proposed rule until further evaluation of its impacts is conducted.

Respectfully submitted,

THE NATIONAL INDUSTRIAL TRANSPORTATION
LEAGUE
1700 North Moore Street, Suite 1900
Arlington, VA 22209

By Its Attorneys

Nicholas J. DiMichael
Karyn A. Booth
Laurence W. Prange
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1920 N Street N.W, Suite 800
Washington, D.C. 20036
(202) 331-8800

Dated: October 5, 2006



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(INSTALLATIONS AND ENVIRONMENT)
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

October 5, 2007

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Sir or Madam:

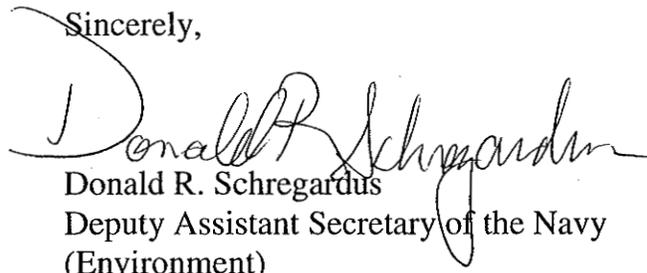
This responds to your agency's proposed rule and request for comments to implement speed restrictions to reduce the threat of ship collisions with North Atlantic right whales. The Department of the Navy has been involved with you throughout the development of this strategy, and we are pleased to see that many of our previous concerns have been addressed in this proposal.

The Enclosure details some specific concerns regarding the potential for unintended impacts to Navy operations and safety should the proposed rule be implemented as written. In summary, we are concerned that the Traffic Separation Scheme may lead to restrictions on Navy operations and that there is not substantial scientific evidence that links vessel speed with the likelihood of collision. Additionally, we propose some specific language which will clarify the applicability of the proposed rule to foreign vessels entitled to sovereign immunity under international law. We also propose language changes to clarify Federal agency responsibilities under Section 7 of the Endangered Species Act.

The Department of the Navy remains supportive of your efforts to reduce the threat of vessel collision to this species. As such, we have implemented specific actions to reduce the potential for collision between a Naval vessel and the North Atlantic right whale. These specific measures were briefed to your staff, and were subsequently included in a recently completed Section 7 consultation, preserving our operational flexibility while reducing the potential for collision.

As always, I look forward to continuing our combined efforts to improve the scientific understanding and conservation of this critically endangered species.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald R. Schregardus". The signature is written in a cursive style with a large initial "D".

Donald R. Schregardus
Deputy Assistant Secretary of the Navy
(Environment)

Enclosure

DEPARTMENT OF NAVY COMMENTS ON THE NATIONAL MARINE FISHERIES
SERVICE PROPOSED RULE TO IMPLEMENT SPEED RESTRICTIONS TO REDUCE THE
THREAT OF SHIP COLLISIONS WITH NORTH ATLANTIC RIGHT WHALES
(PROPOSED RULE)

Requirements and Applicability

Vessels Subject to Proposed Rule

A. Foreign Sovereign Vessels

Comment: The Proposed Rule states that, “[t]his exemption [for vessels owned or operated by, or under contract to, the Federal government] would also extend to foreign sovereign vessels when they are engaging in joint exercises with the U.S. Department of the Navy.” The exemption for foreign vessels entitled to sovereign immunity under international law is too narrow. Foreign sovereign immune vessels, whether or not engaging in joint exercises with the U.S. military, typically enter U.S. ports pursuant to diplomatic clearance from the Department of State. Such vessels can be informed of speed requirements and requested to comply with domestic law when en route to U.S. ports, but should not be denied port entry. Denying entry to such vessels potentially impacts the foreign relations of the U.S. and invites reciprocal actions against U.S. warships attempting to enter international ports. Resolution of issues involving the conduct of foreign sovereign immune vessels in U.S. waters is an area best left to diplomatic avenues.

Recommendation: In the paragraph under the Exemption of Federal Vessels Section, delete the sentence that says, “This exemption would also extend to foreign sovereign vessels when they are engaging in joint exercises with the U.S. Department of the Navy,” and insert the following sentence: “This exemption would also extend to foreign vessels entitled to sovereign immunity under international law.”

B. Endangered Species Act Section 7 Consultations

Comment: The Proposed Rule states, “NMFS will be reviewing Federal actions involving vessel operations to determine where ESA section 7 consultations would be appropriate.”

The decision to initiate Section 7 consultation under the ESA is a decision made by the action agency. Federal agencies are charged, by law, with both the authority and responsibility to determine if their activities “may affect” a federally protected species or its designated critical habitat.

Recommendation: The above sentence should be deleted. Suggested replacement sentence: “Federal Agencies are responsible for reviewing their actions as to whether those actions may affect listed species or designated critical habitat. Federal agencies



OCT 17 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Dear Dr. Silber:

Thank you for the opportunity to forward comments from our field units on the National Marine Fisheries Service proposed rule to implement speed restrictions to reduce the threat of ship collisions with North Atlantic right whales (71 Fed. Reg. 36,299, June 26, 2006).

The attachments include letters from our Sector offices in Charleston, SC, and Savannah, GA, and a summary of an e-mail from our Sector office in Atlantic Beach, NC. The comments note local conditions that raise concerns with the impact that an across-the-board maximum speed restriction, such as that proposed, could have on a vessel's ability to maintain course and safe maneuverability if it encountered those local conditions and the catastrophic consequences that might result from a loss of maneuverability. The comments note the implications for protection of the overall environment from the risk of a serious spill and for safety of life should a grounding or collision occur as a result of compromised vessel control. Weather, sea state, vessel characteristics and other variables are important factors for a vessel master to consider in determining a "safe speed". We appreciate your careful consideration of these comments and addressing these concerns in the final rule text.

We are available to discuss these comments further. Please contact Mr. George Detweiler at the phone number or email address provided above.

Sincerely,

A handwritten signature in blue ink that reads "W. A. Muilenburg".

W. A. MUILENBURG
Captain, U. S. Coast Guard
Acting Director of Waterways Management

Enclosures: (1) Commander, Sector Charleston memorandum dtd 5 Oct 2006
(2) Commander, MSU Savannah memorandum dtd 3 Oct 2006
(3) Commander, Sector North Carolina e-mail (excerpt) dtd 5 Oct 2006

Copy: G-LMI
CG LANTAREA (Ap, Ar)
CCGD Five (p); CCGD Seven (p)

U.S. Department of
Homeland Security

United States
Coast Guard

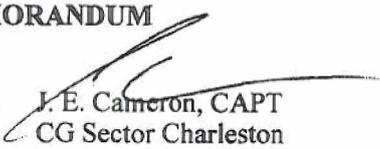


Commander
United States Coast Guard
Sector Charleston

196 Tradd Street
Charleston, C 29401-1800
Staff Symbol:
Phone:
Fax:
Email:

16000
5 Oct 2006

MEMORANDUM

From:  J. E. Cameron, CAPT
CG Sector Charleston

Reply to
Attn of:

To: CMDT (G-RPL)

Subj: PROPOSED RULE TO IMPLEMENT SPEED RESTRICTIONS TO REDUCE THE THREAT
OF SHIP COLLISIONS WITH NORTH ATLANTIC RIGHT WHALES

Ref: (a) National Marine Fisheries Proposed Rule – Docket # 040506143-6016-02 I.D. 101205B

1. As Captain of the Port for Charleston and Georgetown, I am charged to apply my regulatory authority to prevent damage or injury to the waters within my jurisdiction. My experience leads me to conclude that imposing a maximum speed of 10kts for large vessels in the entrance channels to these ports will expose the coastline of South Carolina to a greater risk of oil spills and environmental harm than if this regulation were not imposed. I understand the grave state of the Right Whale species, and I am concerned that exposing these animals to a higher incidence of oil spills may be more threatening than ship strikes in this region.

2. The entrance channels to these ports are dredged out a considerable distance to sea, in Charleston 16 miles. The prevailing winds cross the channels, as do the long shore currents. Approximately 95% of our commercial traffic are high profile, deep draft vessels that are significantly impacted by both current and wind. Because of the size of these vessels and the narrowness of our channel, "safe speed" is dynamic and can change on any given day due to winds and currents. Often beam winds and currents require commercial vessels to "crab" significantly as they transit the channel. When a vessel crabs, it is using rudder to one side (the windward side) to maintain a straight course, and the effect is that the vessel's centerline is skewed from its course over the ground, much like on an airplane, the aisle slopes uphill even though the plane is flying level. This requires substantial flow over the rudder to maintain the precarious balance against the forces of wind and current transverse to the desired course. Adequate flow over the rudder to maintain a straight course and safe maneuverability can only be produced by ample speed.

3. An example of the increased risks to vessels experiencing cross winds while entering Charleston, the M/V BAHAMA SPIRIT (615' dry bulk cargo ship) went aground while transiting the Charleston channel in September, 2004. The M/V BAHAMA SPIRIT was transiting at 10kts and was crabbing significantly to overcome the effects of the weather (8-10ft seas, 35-45kts winds) when their stern grounded. We were very fortunate that this vessel was able to be lightered quickly, and we were able to jettison cargo and refloat the vessel before the pounding seas breached the hull. The environmental impact was limited to several tons of rock cargo jettisoned overboard. Had this been a container vessel or tanker, the environmental damage could have been much more severe.

ENCLOSURE(1)

Subj: PROPOSED RULE TO IMPLEMENT SPEED
RESTRICTIONS TO REDUCE THE THREAT OF SHIP
COLLISIONS WITH NORTH ATLANTIC RIGHT WHALES

16000

5 Oct 2006

4. There are several other aspects of safe navigation potentially compromised by extreme speed restrictions, including arranging for passing in a narrow channel, avoiding other vessels and obstacles, and limiting exposure to external security threats. Ocean going vessels here typically maintain speeds substantially greater than 10 kts to maintain safe navigation.

5. The very real example of the BAHAMA SPIRIT exemplifies the risk of inadequate ship maneuverability at slow speed, and it causes me great concern regarding these proposed regulations. I strongly recommend that before any such regulations be imposed on the Ports of Charleston and Georgetown, that dedicated simulation testing be done to determine a safe speed for the various ship types commonly calling here, to establish appropriate parameters improving the safety of all of South Carolina's natural resources, including the Right Whale.

#



16670
October 3, 2006

MEMORANDUM

From: ~~D. W. Murk, CDR~~
CG MSU Savannah

To: DISTRIBUTION

Subj: PROPOSED RULE TO IMPLEMENT SPEED RESTRICTIONS TO REDUCE THE THREAT
OF SHIP COLLISIONS WITH NORTH ATLANTIC RIGHT WHALES

Ref: (a) National Marine Fisheries Proposed Rule - Docket # 040506143-6016-02 I.D. 101205B

1. As the Captain of the Port for the Ports of Savannah and Brunswick, I wanted to express some concerns that I have with the 10 knot or less speed restriction proposed for deep draft vessels in reference (a). Currently, both ports predominantly handle high profile deep draft vessels, i.e. LNG, LPG, chemical and oil tank vessels. With narrow entrance channels and prevailing winds often perpendicular to the true course of navigating vessels, these deep draft vessels are often required to operate at a specific speed in order to maintain steerageway. Additionally, both ports are in the process of deepening their main ship channels to accommodate larger ships for future growth which will further highlight the need for greater speeds to maintain steerageway. That said, as presently proposed, I feel the 10 knots or less restriction could endanger vessels and poses a risk to the marine environment from potential marine casualties such as groundings or collisions. I would recommend that NMFS consider additional modeling or simulations of deep draft operations based on prevailing waterway and atmospheric conditions for each of the impacted ports in the proposed regulations. Through this modeling, a greater appreciation of potential risk factors not previously considered may be recognized as well as recommendations outside of speed restrictions considered to ensure safe navigation within the port.

2. I share the goals of NFMS to conserve and rehabilitate the North Atlantic Right Whale including potential threat from ship strikes. However, in doing so I want to make sure it is not at the risk of potential greater harm to other aspects of the marine environment. Putting restrictions on safe navigation of the deep draft vessels, with high profile cargos may create a larger problem in the end. It is critical that we strike the right balance between the protection of endangered species such as the right whale and safety of navigation.

3. If you have any questions or comments, please feel free to contact me at the above number.

#

Dist: COMDT (G-RPL)
COMDT (G-PWM)

Copy: G-LMI
CG LANTAREA (Ap, Ar)
CCGD Seven (p)
CG Sector Charleston
National Marine Fisheries Service, SE Regional Office

ENCLOSURE(2)

COMMANDER, SECTOR NORTH CAROLINA E-MAIL (EXCERPT) DTD 5 OCT 2006

Capt John Cameron at Group Charleston (Sector Charleston) makes a good point that such speed restrictions will impede maneuverability of larger vessels trying to enter port, thus increasing the risk of mishaps/groundings, potentially causing major spills. I agree with him.

Charter vessels are highly maneuverable, and would likely be able to spot surface marine mammal activity.



New England Fast Ferry Company, LLC
49 State Pier
New Bedford MA 02740
866.453.6800 fax 508.994.3725
info@nefastferry.com

October 3, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910
Attn: Right Whale Ship Strike Strategy

Dear Sirs,

Our company, New England Fast Ferry, operates the New Bedford to Martha's Vineyard fast ferry. We sail year round with two fast ferries providing island residents with an easy way to get to requisite mainland visits; medical appointments, business travel, and entertainment.

The Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Whales, as written, would bring an end to our ferry operation despite there *never having been a right whale ship strike in the region by either a whale watch or ferry vessel.*

The Economic Impact study incorrectly claims that ferries such as ours would not be impacted due to how far inland we are. In 2006 there was a confirmed right whale sighting in an area around which a DMA would have forced our slow down and resultant loss in revenues.

Though within the Economic Impact portion of the proposed rule, NMFS "concludes that there would be disproportionate impacts from implementation of this proposed option between passenger ferries and high-speed whale watching vessels" and states that "reductions to revenues for small passenger ferries...would range...to 9.8%", the economic impact is still severely understated.

While it is roughly accurate that just one 15 day DMA would decrease our revenues by 10%, what the economic impact study failed to point out is that *our annual profits are far less than 10% of annual revenues.*

Would there to be just one DMA activated on our route, we would likely have sufficient cash flows to continue the remainder of the season, but, would be well short of the

necessary cash flows to continue through the winter into the following season. **We would be out of business.**

Although the criteria of DMA triggers may still receive some fine tuning, the confirmed number of right whale sightings make clear that in order for DMAs to take place, it is less an issue of sighting criteria than it is of the number of sighting *resources* that are available to re-confirm the sightings of right whales that are required to then trigger the DMA. The presence of the whales themselves is not in question.

A DMA would therefore occur as soon as there were enough vessel or aerial resources available to NMFS to confirm the whales' presence. The creation of DMAs in our region, therefore, is merely dependent on the amount of sighting resources; resources that will likely increase once conservation organizations have the DMA tool with which to control vessel movement.

Because of the economic damage that the DMAs would cause to my operation, I recommend the following:

1) Either Alternative 1 or Alternative 4 such that DMAs were not a part of the operational measures

Rationale:

The proposed rule states that "relying on this measure [DMAs] would only have a minor positive effect on right whale population size and may not reduce ship strikes sufficiently to promote population recovery. In addition, relying on this alternative would impose substantial costs on government resources in terms of the monitoring and assessment activities needed to implement the DMAs".

Whales could still receive protection from SMAs. Ferry and whale watch operations, *which have never been involved in a right whale strike* could continue to operate.

or

2) Alter the 65' vessel length threshold for Vessels Subject to Proposed Rule to 262'.

Rationale:

The proposed rule cites "Precedents for Speed Restrictions"; specifically, "The National Park Service established a 13 knot speed limit for vessels 262' or greater, in Glacier Bay National Park on a year-round basis to reduce the likelihood of ship strikes".

Our small vessels (90' – 200' in length) are fundamentally less at risk of striking a whale than other types of vessels. Unlike the small pleasure boater involved in socializing with his passengers, our vessels are run with vigilant and professional crews that have made their skills evident by the absolute absence of right whale strikes. Also, unlike the large ships which have pilot

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Endangered Wildlife;)	
Proposed Rule to Implement Speed)	
Restrictions to Reduce the Threat of)	[040506143-6016-02. I.D. 101205B]
Ship Collisions with North Atlantic)	
Right Whales)	

COMMENTS OF
NEW YORK SHIPPING ASSOCIATION, INC.

PRELIMINARY STATEMENT

The New York Shipping Association, Inc. (NYSA), an organization of ocean carriers, stevedores, and terminal operators operating in the Port of New York and New Jersey, submits these comments¹ to the docket in response to the National Oceanic and Atmospheric Administration's (NOAA's) notice in the Federal Register, Vol. 71, No. 122, June 26, 2006, requesting comments on the agency's proposed rule imposing vessel speed restrictions in certain locations at certain times in implementing the Agency's strategy to reduce mortalities to North Atlantic right whales (right whales). Fed. Reg. 36299. In addition, these comments also address the Draft Environmental Impact Statement (DEIS) noticed in the Federal Register, Vol. 71, No. 130, July 7, 2006. Fed. Reg. 38641. NYSA has long been active in important issues that impact port commerce

¹ NYSA has previously submitted comments to federal agency dockets with regard to the habitat of the Northern American right whale. Those comments can be found at Docket Numbers 021108270-2270-01; 040506143-4143-01; I.D. 052504C; and USCG-2005-20380. NYSA members have a significant interest in this issue and will be directly affected by the outcome of the agency action. In addition, representatives of NYSA have participated in NOAA-sponsored public listening sessions and stakeholders' meetings. NYSA members have been ready and are willing to work with the agency to reach a reasonable solution to the matter.

and the port environment. NYSA's vision statement includes a commitment "to be the premier professional service organization in the maritime industry, supporting a secure, growing port with a professional and economic labor force, efficiently moving cargo in a deep, sustainable harbor located in an estuary flourishing with natural resources."

Balancing economic assets with the environmental resources of the PONYNJ has been a major initiative for NYSA and its members who have made significant efforts and investments in business practices that reduce strain on environmental resources. NYSA also partners with the Port Authority of New York and New Jersey on the Environmental Management System that when fully implemented will reduce the environmental impact of port operations, conserve natural resources, and reduce waste. NYSA understands that there are often conflicting views on sensitive environmental issues and has always striven to be a responsible advocate for the port industry as well as the environment.

However, at this juncture, it appears that the forces of reason and compromise have been abandoned in favor of unilateral action seeking to impose draconian and ill-conceived restrictions on vessels in an effort to prevent right whale mortalities that are more likely not to be the result of regulated vessel strikes.² While NYSA supports NOAA's and the National Marine Fisheries Service's (NMFS's) (hereinafter referred to as "the Agencies") first four elements of NOAA's Right Whale Ship Strike Reduction Strategy, it does not support or endorse the fifth element of the strategy that requires

² NYSA notes with consternation that the proposed vessel restrictions will apply only to commercial or recreational vessels subject to the jurisdiction of the United States that are 65 feet or greater in length. U.S. vessels owned or operated by, or under contract to, the Federal Government as well as foreign sovereign vessels when they are engaged in joint exercises with the U.S. Navy are exempt. NMFS states that to include these vessels in the contemplated mandatory restrictions would compromise "national security, navigational, and human safety missions." Fed. Reg. 36305. Inasmuch, as an inordinate percentage of confirmed vessel strikes have been with either government-owned or operated vessels or vessels under 65 feet, NYSA believes the Agencies are, in fact, regulating the wrong vessels and impermissibly targeting commercial vessels for regulation.

operational measures for commercial and recreational mariners, which are the subject of the Notice of Proposed Rulemaking (NPRM). NYSA is particularly disturbed that despite the submissions to the docket from maritime industry stakeholders exposing serious flaws in the Agencies' scientific data, which seriously underestimates the relevant population of right whales as well as misattributes mortalities to vessel strikes, the Agencies chose the most restrictive vessel speed limits and widest geographic area of regulation that was previously being considered for publication as a proposed rule. Moreover, the Agencies have failed to address the numerous questions raised by maritime industry stakeholders concerning methodology in collecting and analyzing data as well as the operational impact on these stakeholders. Accordingly, NYSA joins with other maritime industry stakeholders in its steadfast belief that the proposed restrictions are an inappropriate exercise of agency authority and should not be implemented as drafted.³

As drafted, the proposed rules impose an unreasonable compliance burden on NYSA members without the requisite showing of scientific evidence that links the right whale mortalities to commercial vessel strikes, and, that the proposed restrictions will have an impact in reducing potential mortalities. The proposed rule is legally deficient on its face and the Agencies have overstepped their statutory authority. NYSA strongly urges the Agencies to refrain from implementing a final rule until, as maritime industry stakeholders have been advocating for; an appropriate scientific study can be conducted to ascertain the precise threat to the right whale population and to establish appropriate measures that will effectively mitigate the scientifically-identified potential threat.

³ NYSA has reviewed the comments submitted by the World Shipping Council and the Virginia Maritime Association, and endorses the positions taken therein.

I. INTRODUCTION

NYSA appreciates the responsibility that NOAA and NMFS have in fulfilling their mission of balancing concerns for the preservation of marine species with the economic and operational concerns raised by maritime industry stakeholders that utilize the same waters. In considering environmental and wildlife concerns it is also imperative that the Agencies do not impede the free flow of international commerce, national security, and recreational opportunities. NYSA members certainly support the effort to prevent right whale vessel strikes to ensure the continuation of the species but those efforts must be based on scientific evidence educed through accepted scientific methodology and focused on potentially effective solutions.

While the Agencies may be well-intentioned, we do not believe that the proposed measures will achieve the Agencies' policy goal of preserving the species as no legitimate scientific proof has been proffered that unequivocally demonstrates that commercial ship strikes are in fact the cause of enhanced right whale mortalities. The agency has not met its burden of coming forward with sufficient evidence, let alone "the best scientific evidence available," to support its assertion that the proposed habitat enhancement with its attendant regulations concerning vessel speed and seasonal restrictions will result in the desired protection for right whales. To the contrary, the evidence presented still suggests that much more work is necessary to quantify the problem and identify viable and effective solutions. Implementing regulations which are likely to be ineffective actually enhances the risk of harm to the right whale population because it ignores the possibility of potentially effective solutions.

Moreover, the Agency has been myopically focused on the water in assessing the societal and economic impact of these proposed restrictions. The DEIS simply ignores the impact that such restrictions will have on the inland beneficiaries of the Nation's marine transportation system. These beneficiaries are the American people who rely on the goods for the necessities of life being imported into the country and on the economic engine being driven by international commerce. The proposed restrictions put the carefully choreographed and environmentally-friendly international system of the carriage of goods by water at risk. While vessels and whales are mobile, port facilities, rail connectors, distribution centers, and factories are not. A questionable nautical fix that has the potential to create significant economic disruption on land is certainly not in the best interests of all parties concerned.

For the reasons discussed herein, NYSA suggests the following:

- The Agencies should not implement the proposed rules as drafted. Delayed or modified rules will have a greater chance of achieving the Agencies' goals than the proposed rules.
- The Agencies should reevaluate the severity of the proposed speed restrictions and geographic scope of the Seasonal Management Areas (SMAs). Ten knots and 30 nautical miles, the most drastic of the restrictions considered by Agency, are without scientific support.
- Conduct an accurate scientifically-supported study of the population of the right whale utilizing objective scientific method and neutral experts. This study must be adequately funded and based on an appropriate and relevant random statistical sample.
- Undertake an accurate and not speculative analysis of the migratory patterns of right whales and the actual causes of right whale mortalities utilizing objective scientific method and neutral experts.
- Perform an appropriate economic analysis that does not stop at the water, as the unintended impact of these proposed restrictions will be on inland beneficiaries of the nation's marine transportation system, which include

domestic manufacturing concerns, large retailers, and other businesses that support this Nation's economy.

- Assess the impact to national security and safety that the proposed speed restrictions will create. NOAA has not addressed this matter.
- Work with stakeholders to formulate narrowly-tailored solutions that have a reasonable likelihood of success in mitigating harm to right whales.
- Reject blanket speed restrictions. Since these speed restrictions are in force for six months and in some areas longer, it is a misnomer to call them seasonal speed restrictions. Utilize alternate measures such as the Dynamic Management Area (DMA) approach that imposes speed and area restrictions when whales are sighted or reasonably believed to be in an area.
- Promulgate interim final rules which recognize operational and commercial realities that will assist mariners in avoiding interactions with right whales in areas where right whales are or are likely to be found and that encourage mariners to become part of the conservation effort.
- Engage in ongoing stakeholder outreach to ensure that mariners are aware of Areas to be Avoided (ATBAs) and appropriate navigation in precautionary areas.

II. THE AGENCY HAS MISSTATED THE POPULATION OF NORTH AMERICAN RIGHT WHALES

At the onset, the proposed rules are flawed inasmuch as they are based on an incorrect assumption regarding the actual population of North American right whales and ignore evidence that a larger population exists. The Agency estimates the population to be at or less than 300. Fed. Reg. 36300. This number was based on a 1998 report of the Workshop on the Comprehensive Assessment of Right Whales. However, the scientific community now believes that estimate to be inaccurate and outdated. Significantly, the S.D. Kraus, *et al.*, 2005 paper cited in the NPRM indicates the current population to be 350. That estimate is even believed to be low. Genetic analysis indicates an unaccounted

genetic line that suggests that at least 10% of both male and female whales have not been included in the population figures. As noted by Testaverde and Hain in their 2006 paper⁴,

[I]t is almost certain that the right whale population is larger than 300 individuals, and it is not unreasonable to believe that the number could be approaching 400. Likewise, rather than a species with a declining population and imminent extinction, based on a combination of photographically identified individuals, recent calf production, and genetic analysis, it is not unreasonable to believe that the population growth rate of 2.5% estimated by Knowlton et al. (1994) may continue to be valid. Therefore, population size, recovery status, and population growth may be different from what has been depicted in the PR. An incorrect assessment of these population attributes may lead to inappropriate or ill-advised actions, while an accurate assessment is more likely to yield appropriate action.

Id. at 7.

NOAA must respond to stakeholder questions such as: How can it take this proposed dramatic action to protect this population, when in fact it does not know the extent of the threat to the species or if there is even a threat at all? Since the initial premise that the Agencies are relying on as the rationale for the proposed vessel restrictions is false, the Agencies are at great risk of taking overly drastic and ineffective action in response to an improperly quantified problem. While NYSA agrees that certain conservation measures are warranted, there is a significant difference between a reported population of 300 and 400 right whales. The proposed vessel restrictions are an overly-exaggerated response that is not likely to yield success but will create significant operational and navigational disruptions.

⁴ S. Testaverde and J. Hain, *A Review of the NOAA/NMFS Proposed Rule (PR) to Implement Speed Restrictions, 26 June 2006, and the Corresponding Draft Environmental Impact Statement (DEIS) to Implement the Operational Measures of the North Atlantic Right Whale Ship Strike Reduction Strategy, July 2006*. NYSA notes that this paper will be submitted to the docket and will cite to it hereafter as “Testaverde at _____”.

III. THE DATA THE AGENCY RELIES ON IS LEGALLY INSUFFICIENT TO SUPPORT THE PROPOSED ACTION

To compile meaningful data, surveys must be designed to provide a reasonably representative sample from which statistically significant inferences can be made. The scientific reports that NOAA relies on to justify the proposed restrictions are based on non-random samples of the right whale population. Such convenience sampling cannot produce a true representative sample of the population because the whales studied were only targeted for study because they were accessible. It is undisputed that these animals are not easily accessible for study, thus, appropriate qualifications are required in assessing the validity of any study based on a non-random sample. NOAA does not provide such qualification and has inappropriately utilized these suspect studies as the basis for drastic regulatory action that will negatively impact the carriage of goods to ports on the Atlantic coast of the United States. As stated by Testaverde and Hain, the studies relied on by NOAA “lack randomness and are, therefore, merely anecdotal. They are not representative of the true impact vessels have on whale populations, and they are not predictive of future impacts.” *Testaverde* at 4.

How does NOAA explain the inconsistencies within the data it relies on in promulgating the proposed rules? NYSA seriously questions the integrity of data that the Agencies rely on to impose these restrictions and refers the Agencies to the Testaverde paper for a detailed analysis of the integrity of the data utilized. In summary, Testaverde indicates that:

- The Knowlton and Kraus (2001) paper is flawed because it reclassified two unknown whale deaths as vessel interactions without evidentiary support for this change. This reclassification on such a statistically limited sample increased vessel interactions by 8% for the period of 1970-1991.

- The Laist, et al., (2001) study looked at 407 whale deaths representing seven large whale species. Of 58 records that could have potentially been attributed to vessel strikes, only 2 right whale records were listed with one classification as a vessel strike being questionable because the classification was made 25 years later.

As Testaverde correctly points out, when analyzing such limited statistical samples, the improper attribution of even a single mortality can skew the results. The Agencies should not proceed with these drastic measures until appropriate information regarding the cause of right whale mortalities can be generated. In addition, before publishing final rules, NOAA must also answer questions about its own efforts in addressing this problem in particular, namely, what is the status of its ongoing research in this area and what resources are the Agencies dedicating to this issue in terms of funds and personnel?

IV. SPEED AND SCOPE OF GEOGRAPHIC AREA RESTRICTIONS ARE ARBITRARY

As stated, the proposed rule would institute the most drastic speed and scope of the geographic area of restrictions contemplated during this rulemaking process. These measures are simply not supported by the evidence in the record as a whole and are not likely to withstand legal challenge. The Agencies are bound by their statutory authority and cannot regulate in this area, if their actions are without factual basis. NYSA believes that the blanket speed restrictions are inappropriate, overly burdensome, and simply unsupported by the scientific evidence.

a. Speed

The proposed rule and DEIS put forth the central argument that vessel strikes with right whales are related to vessel speed and as vessel speed increases serious injury to

right whales increases. This argument is flawed in that right whales generally inhabit the areas where vessels travel at normal transit speeds. They do not inhabit the areas where vessels generally slow down in preparation for entering a port. The data sample is composed of records of vessels traveling at higher speeds and none or few from vessels traveling at lower speeds. The results are self-selecting and do not provide a basis for the correlation claimed by the Agencies. Most importantly, they cannot predict the potential for impact or the severity of impact at speeds that were not observed.

With respect to other information regarding speed that the Agencies rely on to support the proposed rule's drastic speed restrictions, the record reveals inconsistent data and inconsistent records of whale strikes. Some of these studies do not indicate at what speeds the whales may have been struck and most of the strikes noted do not involve right whales. Testaverde notes that there is a paucity of verifiable information and certainly no sufficient information with regard to speed that would justify the proposed restrictions. He addresses this and other discrepancies in the data at length at pages 9-12.

Testaverde notes that when using data available in the Jensen and Silber (2003)⁵ study, he was able to extrapolate from 58 records of vessel strikes, 49 where the speed and the length of vessel were recorded, and 29 where the speed, length, and fate of the animal were recorded. Testaverde compiled records of mortality and injury of these 29 whales compared to 1 knot speed intervals. Of this subset of 29 whales, only two verifiable records of mortality or injury could be confirmed at vessel speeds of less than 14 knots and the two whales struck were not right whales. *Testaverde* at 9. As Testaverde notes, in general, mortalities and injuries, if they occur at all, occur at vessel speeds in

⁵ This study covered a time period of approximately 118 years and a worldwide population of whales, including 11 different species. The right whale component of this study is very small.

excess of 14 knots. *Id.* In addition, Testaverde further notes that “the only three records of vessels colliding with right whales for which speed was known in the dataset are all for exempted vessels (one 43-ft vessel and two government vessels). *Id.* (internal citations omitted).

Why did NOAA decide to implement the 10 knot speed restriction when the small amount of evidence available indicates that the few verifiable reported right whale strikes were at vessel speeds significantly in excess of 10 knots? What is clear from these inconsistent and conflicting studies is that the Agencies have not made the requisite showing that would justify restricting vessel speeds to 10 knots in seasonal area management areas.

b. Scope of Seasonal Management Areas

Under the proposed rules, vessels will be restricted to a travel speed of 10 knots or less in the period from November 1 to April 30 each year within a 30-nautical mile radius from the center point of the entrance to the PONYNJ. Fed. Reg. 36310. This is referred to as a Seasonal Management Area (SMA). However, that time period is exactly one-half of the year and the speed restrictions will be in place regardless of whether or not there are right whales in the area. The SMA for the PONYNJ includes the approach to many of the Nation’s most productive cargo handling facilities. The Agencies have presented no real evidence that justifies the broad geographic scope of this restricted area and, thus, the geographic designation is simply arbitrary. In fact, the scant evidence provided on verifiable mortalities caused by vessel strikes—8 in 35 years in the mid-Atlantic migration path—reveals that none were attributed to large commercial vessels and all were likely struck close to the coastline. Furthermore, the NMFS Data Base of right

whale sightings for 2002-2006 indicates only three right whale sightings within 30 nautical miles of the PONYNJ.

The Knowlton Study of 2002 on which the Agencies rely to support such broad geographic restrictions admits that the recorded Mid-Atlantic right whale sightings on which it based its analysis is “sparse” and notes that the “survey effort in the mid-Atlantic has not been extensive.” The Knowlton study further indicated that the majority of sightings at distances in excess of 30 nautical miles occurred north of the mid-Atlantic range covered by the proposed rulemaking. Why would NOAA impose a SMA that is likely to have a significant negative impact on vessel operators and an entire port region when few, if any, right whales have been verified as present in the proposed SMA? Accordingly, NYSA sees no evidentiary justification for the imposition of this SMA on the PONYNJ.

V. ECONOMIC IMPACT IS UNDERSTATED

While we agree with the Agencies that the loss of a right whale due to accidental causes is an incalculable loss to the delicate balance of oceanographic ecosystems, the costs of compliance with the proposed regulations to the liner shipping industry and the U.S. economy can be reasonably estimated. However, this was not done in the DEIS and, as such, the proposed regulations should fail as a matter of law.

a. Economic Impact on Vessel Operators

The proposed vessel restrictions will have a profound impact on the liner shipping industry resulting in enhanced vessel costs, fuel costs, lost port calls and other operational considerations. NYSA refers the Agencies to the comments submitted by the World Shipping Council for a realistic analysis of the economic impact of the proposed

regulations on the liner shipping industry. As demonstrated by the World Shipping Council, the Agencies have grossly miscalculated the economic impact of the proposed rule on vessel operators. Moreover, the DEIS makes no mention of the enhanced shore labor costs that will result from delayed vessels or missed port calls. Shore labor must be hired in advance of a vessel's arrival in a port. If a vessel fails to arrive on time or ultimately does not arrive at all, the full costs for that labor, including benefits, must be borne by maritime industry stakeholders.

b. Economic Impact on the U.S. Economy and Population

NYSA is critical of the DEIS because its analysis stops at the water and yet the real impact of these proposed vessel restrictions reach deep into the heartland. The DEIS ignores the fact that a likely result of the proposed vessel restrictions will be missed port calls and thus the true impact of the restrictions will be felt on land. While vessels and right whales are transitory, cargo is not. The shippers of cargo have very specific business needs and reasons for choosing a port of entry for their cargo. Large importers of finished goods or components manufactured overseas are reliant on just-in-time deliveries in conducting their business. Cargo diversions and uncertainty in cargo delivery can cost a company millions of dollars in lost opportunity costs and delays. Numerous large importers have invested billions of dollars in massive distribution networks throughout the Nation. Many of these distribution centers are located in close proximity to the major port facilities on the Atlantic coast of the United States. These distribution centers supply retail stores and manufacturing concerns throughout the Nation and have a significant direct and indirect impact on the local economies of the region in which they are located.

The various ports, including the PONYNJ have made considerable efforts in attracting international cargoes, particularly cargo from the Far East. For example, the PONYNJ is an economic engine that provides almost \$6 billion in annual federal, state and local tax revenues for the region.⁶ The ability to efficiently handle the cargo that comes through the PONYNJ allows the maritime cargo transportation industry to make this monumental economic contribution that benefits all Americans. The proposed regulations threaten the PONYNJ's ability to carry this economic load.

Ports like the PONYNJ are attractive because they offer cost-effective and reliable service and proximity to distribution centers and inland transportation. If vital connections are missed, even a day's delay in receiving anticipated cargo can result in empty store shelves or furloughed factory workers. These are not speculative damages. The ripple effect of cargo delays have been well documented as a result of the West Coast lockout in 2002⁷ and the West Coast port congestion slowdowns experienced during the summer of 2004.

VI. NATIONAL SECURITY AND NAVIGATIONAL SAFETY

As previously indicated, vessels operated or under contract to the Federal Government will be exempted from the proposed rules. NOAA states that the contemplated mandatory restrictions would compromise "national security, navigational

⁶ *Economic Impacts of the Port of New York/New Jersey Port Industry*, Michael L. Lahr, Rutgers Economic Advisory Service and A. Strauss-Wieder Inc., August 2005 at p. 3. The 25 million inhabitants of the Greater New York Metropolitan Area depend upon the PONYNJ for the products they consume, process, and sell. The PONYNJ is the source of over 122,550 direct jobs in the region and supports 232,900 full-time equivalent jobs in the 26-county metropolitan area. The PONYNJ is an invaluable resource that is the lifeblood of the economies of the States of New Jersey and New York.

⁷ Economists estimate that the ultimate cost of the 11-day shutdown was in excess of one billion dollars a day.

and human safety missions.” Fed. Reg. 36305. NYSA can think of no reason why commercial vessels present any less concern about national security or navigational safety. Why hasn’t NOAA responded to previous arguments made concerning the enhanced security risks to vessels presented by the proposed rules?

a. Security

The DEIS does not address the issue of enhanced security risks to slower moving vessels. Since September 11, the maritime community has been made increasingly aware of the vulnerability of cargo vessels and domestic ports. Vessel operators and port facilities throughout the country have implemented enhanced security procedures as mandated by Coast Guard regulations. NYSA would also assert that commercial vessels are at a greater risk for national security concerns, since vessels controlled by the Federal Government are more likely to have personnel equipped and trained in counter-terrorism measures. In addition, vessel delays caused by speed restrictions and re-routing will create greater security management burdens not only on the industry but also on the government agencies entrusted with ensuring a secure maritime environment.

Vessels delayed by speed restrictions in SMAs could cause a large backlog of vessels idling in New York Harbor or other Atlantic Coast harbors awaiting controlled entry. The port entry of large cargo vessels are controlled by limited tidal windows. This would be a tempting target for terrorist activity under any one of many potential terror threat scenarios that the Department of Homeland Security has been concerned about.

Additionally, the Department of Defense relies on commercial ships in common carrier service to carry most of the dry cargo exports necessary to support our Nation’s armed forces currently in harm’s way. The military operations in Iraq are dependent on a

reliable commercial transportation industry. It was noted that the West coast port shutdown of 2002 threatened military readiness and the department's ability to prosecute the Global War on Terrorism.

Furthermore, NYSA members have great concern for their vessels and crew members at sea. Requiring a 10 knot speed in habitat zones will make these vessels attractive targets for terrorist activity, *e.g.*, international piracy reports note that vessels are more vulnerable at slower speeds. It is imperative from a national security standpoint that potential regulations that affect vessels at sea and port facilities be vetted before the United States Coast Guard as well as other appropriate national security agencies—a process that has not been followed in connection with the proposed regulations at issue in this proceeding.

NYSA suggests that certain vessel security tools, such as vessel tracking systems and global positioning technology, may be utilized along with the Notice to Mariners component of the Mandatory Ship Reporting program to provide a method to assist mariners in evading ship strikes.

Protecting the right whale is an important national policy but so is assuring that the American people living on the Atlantic coast of the United States have the necessary goods for survival and are free from potential terror vulnerabilities. These national policy goals do not necessarily have to be mutually exclusive. The agency can promulgate reasonable regulations to accommodate these national policies. However, current regulations as written do not do this and put our port communities at risk. NOAA must answer stakeholders' questions and concerns about the enhanced security threat to vessels and ports attendant with the proposed regulations.

b. Safety

Mariners are keenly aware that reduced vessel speeds for large vessels result in reduced maneuverability. The proposed speed restrictions will present mariners with problems in safely traversing the narrow traffic separation schemes presented at Atlantic coast ports and narrow breakwaters at port entry. Weather conditions, currents, and prevailing winds can make navigating through certain port entries hazardous. Ten knots is generally the lower end of a safe maneuvering speed for large cargo ships. Thus, to impose a speed restriction on these cargo vessels, which is at the lower end of their ability to safely maneuver, puts these vessels, their crews and cargoes at risk. Any final rule promulgated must take this into consideration.

The NPRM glosses over this significant issue by stating that “NMFS believes that most ocean going vessels maintain steerage at speeds of 10 knots and greater.” This generalization fails for two main reasons. First, we are discussing the safety issue attendant with narrow shipping lanes, difficult traffic separation schemes, and prolonged difficult weather conditions present in Atlantic coast ports from November to April. Second, NMFS mentions speeds of 10 knots or greater while the proposed rules will require speed no greater than 10 knots. This reaction to this very significant safety issue is evidence that the Agencies are determined to impose draconian regulations without regard to the operational expertise of maritime industry stakeholders.

VII. CONCLUSION

For the reasons stated herein, NYSA urges the Agencies to refrain from publishing the proposed rules as final rules in their current form. NYSA strongly encourages the Agencies to obtain accurate and verifiable information regarding the

population of right whales, their migratory behavior, and causes of mortality before it promulgates a final rule. In the interim, blanket vessel speed restrictions, even the seasonal speed restrictions indicated in the NPRM, should be rejected in favor of the approach that regulates vessel speed and navigation through Dynamic Management Areas that are identified when the need arises. The Agencies should work with maritime industry stakeholders in alerting mariners to whale sightings and in seeking technologies that will reduce the potential for vessel and whale interactions. NYSA is poised to assist the Agencies in this effort.

October 5, 2006

Respectfully submitted,

/S/ Frank M. McDonough
Frank M. McDonough, Esq.
President
New York Shipping Association, Inc.
100 Wood Avenue South— Suite 304
Iselin, NJ 08830-2716
732-452-7800

Subject: Comments on Proposed Rule for Right Whale Ship Strike Strategy

From: Red Munden <red.munden@ncmail.net>

Date: Thu, 05 Oct 2006 14:13:53 -0400

To: Shipstrike.Comments@noaa.gov

CC: Preston Pate <Preston.Pate@ncmail.net>, Mike Marshall <Mike.Marshall@ncmail.net>, Nancy Fish <Nancy.Fish@ncmail.net>, Mike Street <Mike.Street@ncmail.net>, Stephen Rynas <Stephen.Rynas@ncmail.net>

October 5, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources
NMFS
Silver Spring, MD

Attn: Right Whale Ship Strike Strategy

The North Carolina Division of Marine Fisheries (NCDMF) provides comments as follows on the Proposed Rule (71 FR 36299) dated June 26, 2006 to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales.

The proposed November 1 through April 30 speed restriction of 10 knots or less for vessels 65 feet and greater in length overall (LOA) within a 30 nautical mile (nm) radius of the entrance of the North Carolina ports of Morehead City/Beaufort and Wilmington will have a devastating impact on eight headboats that fish from these ports. NCDMF data indicate that three head boats greater than 65 feet LOA would be negatively impacted by the Morehead City/Beaufort speed restriction and five such vessels would be negatively impacted by the Wilmington speed restriction. Owner/operators of these vessels report that their trips are normally eleven hours duration which allows for two hours running time (at 15 knots) to reach the fishing grounds, six to seven hours for fishing and two hours for return to port. The proposed speed restriction would increase running time by two to three hours, thereby increasing the trip length to 13 to 14 hours. Longer trips would result in increased operating expense because US Coast Guard regulations require a vessel that carries paying customers to have a second licensed mate on board if it stays at sea for 12 hours or more. Headboat owner/operators indicated that they were subject to lose many customers if forced to reduce the fishing time by two to three hours to compensate for the additional steaming time. The headboat owner/operators also stated that they need to be able to operate at a minimum speed of 15 knots to fish successfully from Morehead City/Beaufort or Wilmington.

The headboat owner/operators indicated that the design and operating characteristics of their vessels made them less of a threat to right whales than larger, displacement hull vessels. North Carolina headboats typically are planning hull vessels with a single external keel that provides little protection for dual propellers and rudders. Therefore, hull construction and design necessitate constant and close observation of the waters ahead to avoid collisions even with relatively small objects that can easily disable these vessels. This problem is compounded by the fact that these vessels operate with reduced draft while on plane allowing floating debris to readily pass under the hull. As a result of these vessel characteristics and operational practices, headboat operators and crew members are much more likely to observe, and avoid, whales at or near the surface than operators and crew members of displacement hull vessels. The headboat representatives stated that they had no knowledge of observed or reported

whale strikes by headboats operating from North Carolina ports.

As a result of the negative impact that the proposed speed restrictions will have on the North Carolina headboat industry, the NCDMF recommends the following options for North Carolina vessels instead of the proposed 10 knot speed restriction:

1.) Vessels 100 feet or less LOA be authorized to operate at a maximum speed of 15 knots within a 30 nm radius of the entrance of the ports of Morehead City/Beaufort, NC and Wilmington, NC.

2.) All USCG For-Hire licensed headboats, party and charter boats home ported in North Carolina be exempt from speed restrictions for North Carolina port entrances.

3.) Headboat, party or charter boats issued a North Carolina For-Hire Blanket Coastal Recreational Fishing License under NC General Statute 113-174.3 be exempt from speed restrictions for North Carolina port entrances.

Thank you for the opportunity to comment on the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with Northern Atlantic Right Whales.

Comments submitted by Fentress H. Munden
for
Preston P. Pate, Jr., Fisheries Director

Subject: Economic Impact-NC Headboats

From: Rom Whitaker <release1@mindspring.com>

Date: Wed, 23 Aug 2006 12:44:29 -0400

To: Shipstrike.Comments@noaa.gov

Dr. Hogarth,

After speaking with several NC Headboat captains whose experience amounts to over 150 years of running headboats at least 150 trips per year I have yet to find one that has every had any kind of incident with a whale much less a strike that would have hurt the whale or damaged the boat. Why is NMFS wanting to put a restriction on these vessels over 65 ft. that will negatively affect their ability to operate profitably. To require them to reduce speed to 10 knots for 30 miles each way will increase their running time by 2 to 3 hours each day. Their customers only get approximately 6 hours to fish so this would greatly reduce or cut in half their fishing time. They Will Lose Customers because of this. Do you have any documentation of vessels less than 100 ft. have any whale strikes? This is a law that possibly will be the end to Headboat fishing in NC but yet there are no public comment meetings within 300 miles. If ships are the root of the problem then slow them down, but do not include smaller boats that have never had a problem to start with just because it looks politically correct..

I continue to be amazed that NMFS seems to be driven by environmental groups with special interests rather than listening to the fishermen and working through a problem rather than causing more, and putting hard working people out of business for no reasons. Please understand the fishermen are all about protecting the whales and other mammals, why would we want to do something to our boats that will cost us lost days and expensive repairs. It is not a problem with the Headboat Industry and I hope you do not make it one.

Rom Whitaker
President-NC Watermans

United

24

right whale

Subject: right whale

From: dnovia <dnovia@bellsouth.net>

Date: Thu, 28 Sep 2006 18:42:28 -0400

To: Shipstrike.Comments@noaa.gov

85 ✓

Dear sir/maam,

Please have respect for these boat operators and don't force them to follow rules that have no scientific evidence.

Sincerely,

Dennis E. Novia

85.1 ✓

Ocean Fleet, Inc.
PO Box 1311
Murrells Inlet, SC 29576
(843) 357-1673

TO: NOAA Fisheries- Via E-mail

FROM: Tom Swatzel- President

DATE: August 23, 2006

SUBJECT: Concerns Regarding the Economic Impacts of Proposed Right Whale Ship Strike Reduction Strategy

As the operator of two party or head boats that are over 65 feet in length, I am very concerned about the negative economic impacts on our business by the proposed Seasonal Management Areas (SMA) contained within the recently published proposed right whale ship strike reduction strategy.

Our vessels sail out of Murrells Inlet, South Carolina and would be impacted by the SMAs proposed for both the ports of Georgetown and Wilmington. Beyond our vessels there are a number of head boats that are over 65 feet in length located within the Carolinas (Morehead City, NC, Carolina Beach, NC, Calabash, NC, Little River, SC and Charleston, SC) that would also be negatively impacted by the SMAs.

All of these vessels are highly maneuverable, have good pilot house visibility, and are relatively shallow draft. In my 30 years in the business, I am unaware of any head boats within the Carolinas that have been involved with a right whale strike. In fact in my years in the business I have never personally seen a right whale off of South Carolina.

Our vessels carry fishermen 50 to 60 miles offshore to bottom fish primarily for snapper and grouper. These vessels must maintain a speed of about 20 knots in order to keep the duration of the trip offshore about 2½ to 3 hours one-way. The vessels are on the fishing grounds about 5 hours. The total trip duration is between 11 and 12 hours.

It is important to focus on a fishing trip that does not exceed 12 hours in duration because the US Coast Guard requires inspected passenger vessels such as ours to carry a second captain and deck crew on any trip that exceeds 12 hours in a 24 hour period. Because nearly all of our fishing trips would have to substantially transit an SMA at a required 10 knot speed limit (one-half of our normal speed), our fishing trips will exceed 12 hours in duration by several hours, invoking the requirement for a second captain and crew.

The costs of a second captain and crew are substantial, because they will have to be paid for the entire duration of the trip, not just for the few hours that exceed 12 hours of operation. It is my estimate that a second captain and deck crew will add between \$350 and \$400 to the operational cost of a fishing trip, which is extremely burdensome.

We cannot recoup this cost from customers by charging higher fares because the customers are not going to receive any extra value from a fishing trip that is longer. Because of the existing snapper-grouper fishery regulations, customers can only have one daily bag limit on a fishing trip that does not exceed 24 hours in duration, so there would not be anticipation on the part of customers of any possible additional catch. On the other hand under the SMA scenario, we would not dare reduce the time on the fishing grounds in order to keep a trip within the 12 hour rule because most customers would simply not buy tickets for a fishing trip that had in effect been devalued.

I understand the need to protect the right whale population and support NOAA efforts to reasonably do so. However I ask that the following changes be considered to NOAA's proposed right whale ship strike reduction strategy:

1. Exempt all vessels from the SMA speed limits that have a valid NMFS commercial or charter fisheries permit onboard. All head boats carry such a permit. According to the NOAA Large Whale Ship Strike Data Base- 2004, fishing vessels were responsible for only 4 recorded whale strikes during the 27 year period of 1975 through 2002, which represented only 3% of the total recorded strikes during that period.
2. Include measures to reduce right whale strikes by Navy and Coast Guard vessels. According to the Large Whale Ship Strike Data Base, Navy and Coast Guard vessels were responsible for a disproportionate percentage (24%) of whale strikes, yet the proposed strike reduction strategy exempts those vessels from all proposed rules.

These recommended changes are reasonable and focus more on vessels that seem to present more of a problem for right whales than those that do not. I ask that serious consideration be given to my concerns and these recommended rule changes.

Subject: Stop the law concerning ship size speed reduction

From: Ann O'Neal <aoneal@nc.rr.com>

Date: Wed, 04 Oct 2006 07:13:11 -0400

To: Shipstrike.Comments@noaa.gov

**The vast majority of ship strikes (with whales) occur from Virginia and northward, increasing in number with each stretch of water northward.

**Almost all ship strikes involve boats of 80 meters (280') or longer.

**Smaller vessels have much more maneuverability than cargo ships.

**There is no conclusive scientific evidence that slower speeds prevent ship strikes. In fact there is evidence(also not conclusive) that slower speeds may cause MORE marine mammal ship strikes.

** Conclusion: If there are to be new regulations they should first be tested a.) where there are the most ship strikes occurring. b) at reduced speed limits of no less than 16 mph. c.) on SHIPS over 80 meters instead of BOATS of 16 meters (65') and greater.

Thank you.



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Facsimile +1 617 439 7797
Email corporate@poportsna.com
Website www.poportsna.com

October 2, 2006

Chief, Marine Mammal and Conservation Division
Attn: Right Whale Ship Strike Strategy
NMFS Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

Re: Proposed Rule to Implement Speed Restrictions
Docket No. 040506143-6016-02. I.D. 101205B and
Right Whale Ship Strike Reduction DEIS
Docket No. 040506143-6016-02. I.D. 101205B

To whom it may concern;

Please be advised that P&O Ports New England is an employer in the Ports of Portland, ME; Boston, MA; Providence, RI; and Davisville, RI. As a Stevedore and Terminal Operator we employ in excess of 700 unionized longshoremen on either a full time or part time basis. In addition we employ nine full time administration and supervisory staff.

The Proposed Rules will have a negative impact on our ability to service the maritime industry in New England. Many of our customer's vessels are on tight schedules. Delays caused by the proposed speed restrictions may cause the vessel operators to divert their vessels from the New England region. This reduction in vessel calls would result in the loss of livelihood for our employees.

The studies we have read indicate that speed has little or no consequence on the possibility of collisions occurring between vessels and whales. Further scientific studies are needed to determine more effective and practical solutions for the preservation of the Right Whale Species.

The Proposed Rules, as presented, should not be adopted.

Very Truly Yours,
P&O Ports New England

A handwritten signature in black ink, appearing to read "E. Walter Egee".

E. Walter Egee, Vice President

right whales

Subject: right whales

From: Ron Padget <padget@us.ibm.com>

Date: Tue, 26 Sep 2006 12:34:18 -0400

To: Shipstrike.Comments@noaa.gov

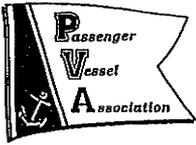
The following seems an excessive "cure" to me.

require **all vessels of 65' or longer** to reduce their cruising speed to **10 Knots** for **30 nautical miles** of travel both out to sea and back from November 1 to April 30

Ron Padget
Apex, NC

From: george parson <geo965@yahoo.com>
Date: Tue, 26 Sep 2006 17:44:25 -0700 (PDT)
To: Shipstrike.Comments@noaa.gov

Dear Sirs. Do think that you should do something about larger boats than smaller ones. Use some common sense's a smaller boat will do what ever it takes from hitting a whale. No one wants to trash there boat hitting one. Your bill will put a lot of people out of work that are out their that supports whales.
Thank you George Parson



**Passenger Vessel
Association**

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Alexandria, VA 22314

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Fax (703) 518-5151
Toll Free 1-800-807-8360

pvainfo@passengervessel.com
www.passengervessel.com

October 5, 2006

Chief
Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Ladies and Gentlemen:

The Passenger Vessel Association (PVA), the national trade association for U.S.-flagged passenger vessels of all types, is pleased to submit these comments on the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales, as published in the *Federal Register* of June 26, 2006.

PVA represents the interests of owners and operators of dinner cruise vessels, sightseeing and excursion vessels, passenger and vehicular ferries (including high-speed ferries), private charter vessels, whalewatching operators, windjammers, gaming vessels, amphibious vessels, and overnight cruise ships. PVA has been in operation for 35 years. We currently have nearly 600 vessel and associate members. Our vessel-operating members range from small family businesses with a single boat to companies with several large vessels in different locations to governmental agencies operating ferries.

With regard to the proposed rule, PVA has potentially affected vessel members located from Florida to Maine, particularly ferries, whalewatching vessels, and coastal overnight cruise ships.

Economic Impact on U.S. Passenger Vessel Operators Could Be Devastating

PVA acknowledges that the National Marine Fisheries Service (NMFS) has attempted to learn about those operators of passenger vessels potentially affected by the proposed rule. When the agency first began its consideration of vessel restrictions for right whale protection, it considered the impact to fall principally on large deep-sea cargo vessels and it gave little thought to impacts on smaller vessels, including passenger vessels. That has changed, due in part to efforts by PVA and its members to provide NMFS with industry about this important industry segment. PVA appreciates NMFS' contractor Nathan Associates for reaching out to the association and its members to obtain data.

Despite the agency's efforts, its understanding of the potential economic consequences of vessel speed limits on U.S. small passenger vessel operators is flawed.

The notice of proposed rulemaking suggests that a 10-knot vessel speed limit for high-speed passenger ferries will reduce annual revenues by 9.8 percent. Revenues for regular-speed ferries are projected to drop 7.9 percent. Revenues for high-speed whale watching vessels are predicted to be down 8.3 percent and revenues for regular-speed whalewatching vessels will go down 3.8 percent. NMFS then concludes that these entities will suffer “disproportionate impacts” from the proposed speed limit.

The agency surely downplays the seriousness of these “disproportionate impacts.” As will be made clear by comments from individual vessel operators, annual revenue drops of this magnitude will certainly deprive some companies of their total annual profits. If more than one Dynamic Management Area (DMA) is declared affecting an operator’s route, the revenue drops will be even steeper.

NMFS has a legal obligation to devise regulations that will not put small businesses out of operation. The likelihood of such a result from the proposed regulation is high, while the need for the proposed regulation for small passenger vessels is low. Under such an equation, the agency must devise a new approach for this segment of the industry.

NMFS can not escape this obligation by claiming that the economic impact on the East Coast maritime industry as a whole is minimal or manageable. The impact on certain U.S.-flagged small passenger vessels will be devastating if one or more DMAs with a 10-knot speed limit is imposed on their operating area during seasons of peak revenues.

U.S. Passenger Vessels Have Not Been Implicated in Right Whale Strikes

Elsewhere in this comment and in comments submitted separately by several PVA operators, information is provided showing that aspects of the proposed regulation (especially Dynamic Management Areas, as currently proposed) could put some passenger vessel operators out of business. If a DMA of the size and duration called-for in the proposed rule were overlaid on the traditional route of a ferry or whalewatching operator during the busiest part of the year, the resulting loss of customers and revenues would likely result in the total suspension of service. Since most revenue is generated in only a couple of months of the year, the economic harm could be fatal to the operator.

The proposed rule poses this risk to passenger vessel operators even though nothing in the regulatory record demonstrates that a U.S. passenger vessel in commercial service has ever struck a right whale or even been suspected of hitting a right whale. Of the vessels documented to have collided with a right whale, none was a passenger vessel. Of the dead right whales classified as being struck by an unidentified ship, nearly all were in locations far removed from areas of operations of U.S. passenger vessels. NMFS has not made the case, nor does the regulatory record support, that U.S. passenger vessels have been implicated in right whale strikes.

PVA acknowledges that there have been instances in which collisions have occurred between passenger vessels and other species of whales. Although such instances are rare, they show that there is a possibility, however small, that a passenger vessel and a right whale could collide. However, NMFS can devise effective regulations to address this possibility that do not jeopardize the economic existence of U.S. passenger vessel operators.

PVA's comments of November 15, 2005, in response to the Advance Notice of Proposed Rulemaking on this subject, include a more comprehensive analysis of your data of vessel-whale strikes with respect to passenger vessels. Please refer to that submission.

Characteristics of Smaller Passenger Vessels Justify Less Extreme Regulatory Measures

In its proposed rule, NMFS wants to impose the suggested 10-knot speed limit on all vessels of 65 feet in length or more, regardless of any other characteristics. This is an overly sweeping approach, one that fails to acknowledge several distinctive characteristics of smaller U.S. passenger vessels that have important implications for right whale protection.

First, most operations of U.S. passenger vessels occur during daylight hours. This is certainly the case for whalewatching vessels (after all, the customers want to see the whales) and for most ferry voyages. This means that passenger vessel operators can usually see their surrounding waters.

Also, U.S. passenger vessels are highly maneuverable. Occasionally, one will read a reference to the extensive distance and length of time that is required to stop or turn a fully loaded tank vessel. Nothing could be further from the truth for a smaller passenger vessel, including one with high-speed characteristics. Such a vessel has an amazing ability to turn quickly to avoid objects in the water or to stop in only a few seconds.

Finally, U.S. passenger vessels have sizes that are orders of magnitude smaller than that of oceangoing cargo ships. Consequentially, they have much less mass. Since mass is a critical part of the equation in determining the energy of a collision, a smaller vessel will strike an object with much less force than a bigger ship.

These characteristics of U.S. passenger vessels call for rules specially tailored for them. A one-size-fits-all rule, as proposed by NMFS, can not be justified, especially when the proposed rule could put affected small passenger vessel operators out of business.

Accordingly, the Passenger Vessel Association urges the National Marine Fisheries Service to make changes to the proposed rule, as follows:

- **Clarify the Geographic Scope of the Mid-Atlantic Seasonal Management Areas and Reduce the Period of Time They Are in Effect**

During the public hearing in Boston this summer, speakers for PVA pointed out that the wording of the proposed regulation needs more clarity as to the Mid-Atlantic waters which may be covered by a Seasonal Management Area (SMA). NMFS officials have stated that such SMAs will extend only seaward of the COLREGS delineated coast lines and that waters on the shoreward side of the boundary line will not be embraced within the Mid-Atlantic SMAs. This is an important question; several significant ferry operators (Cape May-Lewes Ferry between New Jersey and Delaware; Seastreak America between New Jersey and Manhattan; Staten Island Ferry in New York Bay) ply routes that could be affected by the SMAs if they were to cover waters within the boundary line. To ensure that this is absolutely clear in the final regulation, proposed section 224.105(a)(2)(i) should be worded to read as follows: “2) Mid-Atlantic U.S.: Vessels *operating seaward of the COLREG delineated coast lines* shall travel 10 knots or less in the in the period November 1 to April 30 each year. (i) Within a 30-nautical mile (NM) 55.6 km radius (as measured from COLREG delineated coast lines and the center point of the port entrance)....”

Also, the six-month period during which the Mid-Atlantic SMAs are in effect is too extensive. It should be reduced. As a general matter, most PVA members will not be affected by the Mid-Atlantic SMAs. However, there are whalewatching operators in Cape May, New Jersey, who could see their businesses severely curtailed if they must travel into the ocean waters at only 10 knots from spring until fall.

- **Clarify the Geographic Scope of the Dynamic Management Areas.**

A similar question arises as to the intended geographic scope for the designation of a Dynamic Management Area. The comments to the regulatory docket submitted by Hy-Line Cruises of Massachusetts illustrate the need for precision in language; because of the presence of right whales in ocean waters south of Nantucket Island, a DMA might be declared that would sweep across the island's land mass to include waters of Nantucket Sound, even though use of sound waters by right whales has not been documented. To ensure clarity, Section 224.105(4) should be amended to read as follows: “(4) Atlantic Ocean: At all times of the year and in all waters *seaward of the COLREG delineated coast lines* along the Atlantic seaboard....”

- **Exempt Small Passenger Vessels From Speed Limits; In the Alternative, Set Higher Speed Limits for Small Passenger Vessels**

Given the fact that smaller passenger vessels have not been implicated in strikes of right whales, these vessels should not be subject to the proposed speed limits. Section 2101(35) of Title 46, *United States Code*, defines a “small passenger vessel” as one of

less than 100 gross tons carrying more than 6 passengers, including at least one passenger for hire. NMFS should use this established definition as the basis for an exemption from vessel speed limits. These vessels will continue to be subject to the prohibition of approaching a right whale closer than 500 yards. NMFS and the industry can devise methods of notifying operators when right whales are spotted so that precautionary navigation techniques can be observed by masters. Also, perhaps such vessels could be required to assign watch personnel dedicated for the purpose of looking for right whales.

In the alternative, rather than a 10-knot speed limit for any vessel of 65-feet or more (as the proposed rule suggests), there should be a higher speed limit for ferries, whalewatching vessels, and other small passenger vessels. It should be no less than 20 knots. A higher speed limit can be justified because such vessels operate in good visibility, enjoy high maneuverability, and have lesser mass. These vessels will continue to be subject to the prohibition of approaching a right whale closer than 500 yards. NMFS and the industry can devise methods of notifying operators when right whales are spotted so that precautionary navigation techniques can be observed by masters. Perhaps a higher speed limit could be supplemented by a requirement to establish watch personnel dedicated for the purpose of looking for right whales.

- **Reduce the Size of a DMA**

PVA has searched the regulatory record in vain for any explanation as to how the agency arrived at a minimum size of a DMA at 35.6 nautical miles. Given the potential economically devastating impact of a DMA imposed on a traditional ferry route, the DMA should be shrunk in size to a more compact area. By reducing the time a vessel must travel at the slower speed, the economic impact of the restriction is lessened.

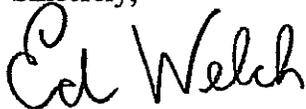
- **Limit the Duration of a DMA**

The proposed rule calls for a DMA to remain in existence for 15 days, unless the agency acts affirmatively to suspend it sooner. However, the record fails to explain the factual basis for keeping the DMA in place for this period of time. By compressing the duration of the DMA to no more than necessary, the agency can reduce the potential economic harm imposed on ferry companies and whalewatching operators. The DMA should exist for a period of no more than five days, and the agency should have the ability to extend it, assuming the requisite concentration of whales remains in place.

The Passenger Vessel Association and its members are anxious to work with federal regulators to devise workable solutions to protect right whales from ship strikes by our members' vessels, even though there is no indication in the regulatory record that its vessels pose much of a threat to the animals. After all, many of its members are engaged in whalewatching, an activity that promotes and relies on healthy stocks of these magnificent animals. However, PVA insists that federal officials devise solutions that will not harm its operators (even to the point of putting them out of business) while protecting the endangered whales. Surely, alternative methods of effective protection can be devised, but the one-size-fits-all 10-knot speed limit is not one of them. PVA has

suggested several alternatives in this document, and we stand ready to work with the National Marine Fisheries Service, the Coast Guard, environmental organizations, and the public to protect the well being of both right whales and the U.S. small passenger vessel industry.

Sincerely,

A handwritten signature in black ink that reads "Ed Welch". The signature is written in a cursive style with a large, looped initial "E".

Edmund B. Welch
Legislative Director

WHALE STRIKES.

Subject: WHALE STRIKES.

From: Kathy Peden <Kpeden@ec.rr.com>

Date: Tue, 26 Sep 2006 16:35:20 -0400

To: Shipstrike.Comments@noaa.gov

I HAVE WORKED 30 YEARS AS A MATE ABOARD DIFFERENT BOATS. THESE BOAT RANGE FROM 39 TO 90 FT. I HAVE SEEN A FEW WHALES BUT NEVER CAME CLOSE TO THEM. TOM

Dont

Subject: Dont

From: pilot2b@comcast.net

Date: Sat, 30 Sep 2006 21:40:38 +0000

To: Shipstrike.Comments@noaa.gov

Please do not limit the speed of the headboats. This is a crazy rule that could possibly have many more ill effects than positive ones. Yes it may kill 1 more whale, but it may leave hundreds of HUMANS jobless.

Thanks for reading

92 /

92.1

Subject: whale strikes speed rules
From: Michael Polisson <1geo@verizon.net>
Date: Mon, 28 Aug 2006 21:08:16 -0400
To: Shipstrike.Comments@noaa.gov

this new proposal is all well and good but if anyone can be exempt it should be rewritten.....it is well documented that the navy and other govt high speed vessels incur severe damage on the whale population and should definitely not be exempt from these rules.....in time of war or national emergency maybe.....but at all other times they should follow all the rules like anyone else.....just think of all the taxpayers dollars that will be saved on fuel by slowing down.....

92.2 ✓

Subject: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales and Draft EIS
From: "Nurthen, William" <wnurthen@panynj.gov>
Date: Thu, 05 Oct 2006 13:18:18 -0400
To: Shipstrike.Comments@noaa.gov, ShipStrike.EIS@noaa.gov
CC: David_Rostker@omb.eop.gov

October 5, 2006

Chief, Marine Mammal Conservation Division
Attention: Right Whale Ship Strike Strategy
And
Chief, Marine Mammal and Sea Turtle Conservation Division
Attn: Right Whale Ship Strike Reduction DEIS
Office of Protected Resources
NMFS
1315 East West Highway
Silver Springs, MD 20910

Subjects: (1) Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales - 2006 Federal Register 36299 Vol. 71, No. 122

(2) EIS No. 20060278, Draft EIS, NOA, 00, North Atlantic Right Whale Ship Strike Reduction Strategy, To Implement the Operational Measures to Reduce the Occurrence and Severity of Vessel Collisions with the Right Whale, Serious Injury and Deaths Resulting from Collisions with Vessels - 2006 Federal Register 38641 Vol. 71, No. 130

Dear Sir or Madam:

On behalf of the Port Commerce Department of the Port Authority of New York and New Jersey, I would like to thank you for the opportunity to comment on the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales and the Draft EIS No. 20060278.

The Port Commerce Department of the Port Authority of New York and New Jersey has consistently supported efforts to develop measures to protect the North Atlantic Right Whale. The Port Authority participated in the Right Whale Ship Strike Workshop held in New London, CT on April 10, 2001. We compiled shipping industry data and provided it to Ship Strike staffers in June 2001 and sponsored a Regional Right Whale Presentation in July 2001 at our headquarters, so that NMFS and the Ship Strike Committee could brief the regional maritime community on preservation efforts. On October 25, 2004, we participated in a NMFS-sponsored Industry Stakeholder Meeting, and have provided comments to NMFS in November 2004 on the Advanced Notice of Proposed Rulemaking as well as the joint NMFS/Massport report entitled "Economic Implications of Possible Reductions in Boston Port Calls due to Ship Strike Management Measures" in May 2005 and, the Scope of the EIS in July 2005.

The Port Commerce Department of the Port Authority of New York and New Jersey continues to support the National Marine Fisheries Service in its efforts to preserve and enhance the North Atlantic Right Whale population and will continue to coordinate with the shipping industry to promote measures to protect this invaluable species. We recommend implementation of Dynamic Management Areas, Alternative 2, as the most effective measure to protect the North Atlantic Right Whale, and suggest that the DEIS provide a more complete assessment of the socio-economic impact of the proposed alternatives. We have provided specific suggestions for making a more thorough assessment of the socio-economic impacts in the attached document.

Sincerely,
R M. Larrabee
Port Commerce Department
Port Authority of New York and New Jersey

cc: David Rostker, OMB (David_Rostker@omb.eop.gov)

ATTACHMENT

Suggestions For Making A More Thorough Assessment Of The Socio-economic Impacts Of The Proposed Alternatives

A. Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales -

Alternative 2 would appear much more effective than measures contained in Alternative 6, which would establish Seasonal Management Areas (SMA) only within 30 NM of the harbor for six months of the year, regardless of whether Right Whales are actually present. In this regard it is instructive to note that the NMFS Data Base of Right Whale sightings for 2002-2006 shows only three Right Whale sightings within 30 NM of the Port of NY/NJ for the 5-year period, only two of which were within the six month time period identified in Alternative 6.

The existing science does not make a compelling case that speed restrictions will, in fact, reduce ship strikes. The Proposed Rule concludes that a majority of ship strikes occurred at speeds of greater than 13 knots, but does not list the distribution of ships traveling at given speeds. It is probable that the majority of ship strikes occurred at those speeds, because those are the speeds most traveled, and not necessarily because they are the most dangerous. Also, conclusions about the effectiveness of speed restrictions appear based on a universe of approximately 60 ship strikes in the past 30 years, whereas more than 300 ship strikes have occurred during that time. The Proposed Rule does not appear to adequately address the issue of whether the 20 percent of ship strikes for which ship speed is known is a representative sample of the total number of ship strikes and, thus, can be interpreted as statistically significant.

B. Draft EIS - 2006 Federal Register 38641 Vol. 71, No. 13 - Socio Economic Impact of the Proposed Action

The DEIS notes the following direct and indirect economic impact on the Port of NY/NJ for Alternative 6 with a 10 kts speed restriction:

- \$11.2 million/year (2004) in direct economic impact, with an additional direct economic impact of \$1.2 million/year for vessels in multi-port strings based on 12 kts speed restriction
- \$21.2 million/year (2004) in indirect economic impact as a result of vessels diverted from our port

These direct and indirect economic impacts, while significant in dollar value and more severe for the Port of NY/NJ than any other port, make no assessment of the jobs, wages and tax revenues lost or Gross Regional Product not realized, even though the MARAD Port Economic Impact Kit that the DEIS uses is capable of producing such results. Using a model developed for the Port of NY/NJ by the Center for Urban Policy Research at Rutgers University, we calculate that for the 1.5% diversion cited in the DEIS the direct and indirect annual economic impact would result in a total for 2004 of 171 jobs lost, \$10.2 million in wages lost, \$3.8 million in lost tax revenues and \$16.9 million in GRP not realized.

The DEIS does not assess the indirect economic impact resulting from lost ship calls due to cumulative delays of vessels engaged in multi-port strings. In addition, there is no clear methodology for the indirect economic impact to the ports (as opposed to the direct economic to carriers) due to the effect of multiple delays to multiple East Coast port calls. The DEIS provides no explanation how the average delay of 30 minutes per port for carriers with multi-port itineraries was determined.

The Port of NY/NJ handles the most container ships on the East Coast, and as a result is more affected by inherent time delays that occur as the result of multi-port strings. The report notes on page 120, "While some of the ranking (between ports participating in multi-port strings) change slightly, it is interesting to note that the port areas of New York/New Jersey or Hampton Roads are part of each of the top ten multi-port strings in 2003 and 2004." These additional costs are recognized for the carriers and they are substantial. Container lines and vehicle carriers calling at the Port of NY/NJ face the largest impact from multi-port delays to East Coast carrier strings -- \$1.5 million in 2004, which is nearly a third higher than the area with next largest cost impacts from multi-port scheduling delays (Hampton Roads at \$1.2 million).

This is significant to the Port of NY/NJ because meeting tidal windows is critical. The report notes the loss of potential port calls as the result of scheduling problems on all-water container services via the Panama Canal. For the Port of NY/NJ, All Water Services (AWS) have grown from 7 strings in 2002 to 25 strings in 2005 and 19 of these strings transit the Panama Canal. Because of its location at the end of these strings traveling through the Panama Canal, the Port of NY/NJ is especially subject to diversions at various South and North Atlantic ports on the route up the entire length of the East Coast.

Any impediment that would keep the ships from making a given daily tidal window increases the unreliability of this all-water service. The DEIS does not assess the potential trade-offs between all water services via the Panama Canal and overland rail service to the East Coast from West Coast ports. In recent years shipping lines have introduced AWS because shippers frustrated by the delays and unreliability of delivery from the West Coast, have opened East Coast distribution centers and have encouraged ocean carriers to provide AWS to them. In the period from 2002 to 2005, cargo from Asia has increased 47.4% from 8.7 million to 12.8 million tons. It is clear that most of this cargo moves to NY/NJ through the Panama Canal. However, because of scheduling difficulties making tidal windows, a shipping line could elect to drop all port calls on its Panama service in favor of a mini-land bridge by rail, which would affect the competitive balance between East and West Coast ports. This same problem also affects AWS through the Suez Canal, but not to same extent.

The DEIS assessment of indirect economic impact resulting from port diversions uses a .5 % diversion of ship calls for a 12 kts speed restriction and 1.5 % for a 10 kts speed restriction, but does not explain how these diversion percentages were determined.

Our July 2005 comments on the EIS Scope noted that there were no calculations of the impact of these strategies on marine terminal operations and the total logistics costs. To a certain extent in the DEIS these increased terminal operating costs are included as part of the indirect economic impact, and logistics costs are somewhat considered in the analysis in Table 4-41, which examines increases in ocean freight costs as a result the adoption of these various strategies compared to value of cargo handled at the East Coast ports. However, there still is no analysis of the changes in logistics costs as a result of port diversion, which creates the necessity of shipping these goods to their ultimate destinations by inland modes over longer distances rather by the existing water routing. This same analysis needs to be extended to the environmental impacts resulting from transportation modes shifts, such as air emissions from increased truck usage, where port diversion occurs.

The DEIS does not provide rationale to support its assumption that the average value of the indirect ship calls diverted from the Port of Boston, at \$900,000, would apply to all other large East Coast ports or that a value of \$500,000 would apply per vessel call diverted from smaller ports. In addition, the DEIS assumes, without providing justification, that for Mid Atlantic ports all these vessel calls will be diverted to Canada. As discussed above, vessels transiting the Panama Canal could be just as easily diverted to a South Florida port, such as Miami, which is not included in the proposed rule, or even Southeastern ports.



PORT OF RICHMOND

5000 DEEPWATER TERMINAL ROAD * RICHMOND, VIRGINIA 23234-2281 * TEL: (804) 646-2020 * FAX: (804) 271-1524
www.portofrichmond.com

October 5, 2006

Chief, Marine Mammal Conservation Division
Attention: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Dear Sir:

This is in response to the Notice of Proposed Rulemaking (NPR) for Right Whale Ship Strike Protection. While we all can recognize the endangered condition of the population of the North Atlantic Right Whale and the need for its protection, I don't agree with the proposed establishment of vessels speed restriction zones in the Mid-Atlantic Region of the United States (MAUS) as an effective measure to reduce alleged ship strikes.

After reviewing the NPR and summaries of the three major studies completed, I don't believe that the case for vessel speed reduction has been made. While it may reduce the probability of a ship strike, there has been no substantive study made that shows that it will reduce fatalities in the right whale population in the Mid-Atlantic Region of the United States.

Furthermore, I am concerned that the significant economic impact of the proposed vessel speed reductions has not gone beyond the calculation of vessel costs and hasn't considered the additional costs to the ports, labor, the port communities and the long range impact on the cost to the consumer for the export and import cargo carried by these vessels.

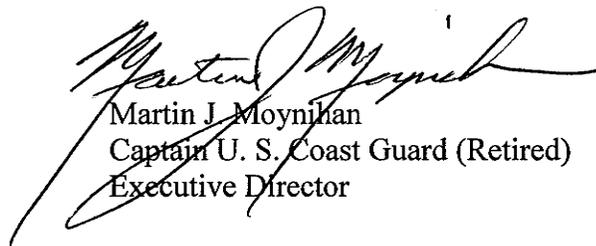
Let me summarize a typical case for my port. The Port of Richmond is a City-owned multi-modal general cargo terminal located at the head of navigation on the James River, 100 miles from Cape Henry, Virginia. Our principal customer, a trans-Atlantic container carrier transits from Chester, Pennsylvania, to Richmond, Virginia, and back, each week as part of its itinerary. Each week their vessels will have to transit the Delaware Bay and Chesapeake Bay Entrance seasonal management areas several times at the cost of approximately six hours additional steaming time (one hour for each 30 mile area transmitted at a speed reduced from 17.5 knots to 11.1 knots). But that's only the initial cost.

Page 2
Chief, Marine Mammal Conservation Division
October 5, 2006

Vessels transitting the James River to the Port of Richmond and other terminals on the Upper James River must be moored by sunset and sail at least 2 ½ hours prior to sunset. Fully loaded vessels must have a favorable tide upbound and sail two hours before high water downbound. These existing restrictions due to the navigation restraints of the James River already present challenging vessel and cargo management problems, particularly during the winter month days with less than twelve hours of daylight. In case a vessel is delayed and misses its daylight transit, it has to wait until the next day with a charter cost of approximately \$18,000 per day, overtime labor costs of up to \$600.00/hr. and weekend stevedoring rates of \$5,000 per occurrence. These are just some of the more obvious costs to the vessel and the shippers, not counting the disruption in services to today's just-in-time cargo delivery schedule. Additional costs and lost time result in cargo diversion to other ports and redistribution of economic benefits to affected communities, all based on the probability it may save the life of a right whale.

I believe it's premature to restrict vessel speed in the affected areas of the Mid-Atlantic Region of the United States until a more definitive study can show that it will have the desired effect of reducing right whale ship strikes in this area. I strongly support the educational and reporting initiatives that are recommended and believe that responsible mariners, who have a strong respect for the sea and its environment, will continue to take all whale avoidance measures possible.

Sincerely,



Martin J. Moynihan
Captain U. S. Coast Guard (Retired)
Executive Director

MJM/ngb

94 ✓

Portuguese Princess Excursions, Inc.
Business Office
54 Merrimac Street
Newburyport, MA 01950

October 2, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910
Attn: Right Whale Ship Strike Strategy

Dear Sirs/Madams,

Our company Portuguese Princess Excursions inc. has been operating whale watch boats from Provincetown harbor since 1985. We take our commitment to the conservation and preservation of these great mammals very seriously, as they are the reason that we are in business. We believe that there are measures that could be taken to ensure the safety of all whales in the waters in which we operate, just not how the proposed regulations are written.

The Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Whales, as written, would unduly restrict and in some instances shut our business down, despite there *never having been a right whale ship strike in the region by either a whale watch or ferry vessel.*

Though within the Economic Impact portion of the proposed rule, NMFS “concludes that there would be disproportionate impacts from implementation of this proposed option between passenger ferries and high-speed whale watching vessels” and states that “reductions to revenues for small passenger ferries...would range...to 9.8%”, the economic impact is still severely understated.

Since we operate within such a short season the impact to our business would be devastating. We would have layoffs of all staff for an undetermined amount of time, and would realistically end up losing people in key positions due to the economic impact on these individuals. Trying to replace there employees when we are allowed to resume operations would be next to impossible given the shortage of qualified workers on the Cape during the summer months.

Because of the economic damage that the DMAs would cause to my operation, I recommend the following:

1) Either Alternative 1 or Alternative 4 such that DMAs were not a part of the operational measures

Rationale:

The proposed rule states that “relying on this measure [DMAs] would only have a minor positive effect on right whale population size and may not reduce ship strikes sufficiently to promote population recovery. In addition, relying on this alternative would impose substantial costs on government

resources in terms of the monitoring and assessment activities needed to implement the DMAs”.

Whales could still receive protection from SMAs. Ferry and whale watch operations, *which have never been involved in a right whale strike*, could continue to operate.

Or

2) Alter the 65' vessel length threshold for Vessels Subject to Proposed Rule to 262'.

Rationale:

The proposed rule cites “Precedents for Speed Restrictions”, specifically “The National Park Service established a 13 knot speed limit for vessels 262’ or greater, in Glacier Bay National Park on a year-round basis to reduce the likelihood of ship strikes”.

Ferry and whale watch vessels (90’ – 200’ in length) are fundamentally less at risk of striking a whale than other types of vessels. Unlike the small pleasure boater involved in socializing with his passengers, ferry and whale watch vessels are run by vigilant and professional crews who have made their skills evident by the absolute absence of right whale strikes. Unlike large ships which have pilot houses as far as 700 feet aft of the bow of the ship, lines of sight obscured by the deck of the bow for any object within 1/8th of a mile of the bow, operational hours during the evening hours and at night, and are incapable of stopping within less than 3 miles, our vessels’ wheel houses are only a short distance aft of the bow (typically 20’-30’) with unobstructed views, are able to stop within 150’ or less, are operated 95% during the daylight hours, and have up to hundreds and hundreds of additional watch standers in the form of passengers looking attentively out to the water.

Or

3) Reduce the DMA in size to 4 mile in diameter, 2 mile radius.

Rationale:

Whale Watch and ferry vessels could circumnavigate the DMA and remain in business.

Whale watch and ferry vessels have been able to avoid right whales with a mere 500 yard approach restriction. It seems unreasonable that a DMA size should jump 64 times in size to an 18 mile radius.

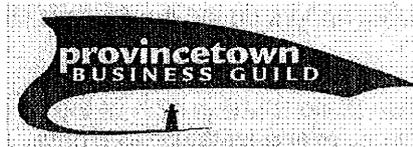
**Portuguese Princess Excursions, Inc.
Business Office
54 Merrimac Street
Newburyport, MA 01950**

I thank you in advance for your consideration of our strong opposition to the proposal as written and hope you will consider the above points. Again, the protection of these wonderful mammals is not in question; we agree that they need our help so that future generations will have the privilege to live among them as we have. Please feel free to contact me if I can provide any further input into this very serious matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "George Hilton", with a long horizontal line extending to the right.

George Hilton
Owner
Portuguese Princess Excursions, Inc.
54 Merrimac Street
Newburyport, MA 01950



3 Freeman Street – Unit 2
P.O. Box 421
Provincetown, MA 02657
508-487-2313
info@ptown.org

October 3, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Attn: Right Whale Ship Strike Strategy

Dear Sirs/Madams:

We are writing on behalf of the Provincetown Business Guild (PBG), a 501 C (6) marketing and event organization representing nearly 300 businesses in Provincetown, Massachusetts. Provincetown's economy is based almost exclusively on tourism. The PBG has been in operation since 1979.

The Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Whales, as written, would have a devastating effect on our town's economy. While we understand and appreciate the need to protect the North Atlantic Right Whales to allow them to propagate, there needs to be a balanced decision in order to protect our economy at the same time. To date, there has never been a right whale strike in the region by either a whale watch or ferry vessel.

Provincetown is located at "land's end" – the tip of Cape Cod. In order to reach us, visitors and residents have few options; bus, car, plane, or ferry. In the height of season, the population of our town swells from 3,900 to well over 50,000 people. The Center for Policy Analysis at the University of Massachusetts, Dartmouth, has been conducting surveys for the town. In 2005, it concluded that 7.5% of our visitors came by ferry and 19% of visitors went on a whale watch. There were six (6) confirmed North Atlantic right whale sightings Massachusetts and Cape Cod Bays from June 21, 2006 through July 17, 2006. If the proposed Dynamic Management Area (DMA) went into effect, it would have resulted in a loss of ferry service between Provincetown and Boston, as well as whale watch cruises for 51 days, resulting in a substantial loss of revenue for the ferries, whale watches, and all of the businesses in Provincetown. These losses would result in loss of jobs, as well as, state and local taxes. Tourism provides more jobs in Provincetown than any other sector of the local economy.

There are two ferry companies that operate high-speed vessels between Boston and Provincetown: Bay State Cruises and Boston Harbor Cruises. These two companies have a combined daily capacity of 2,550 passengers per day. Conservatively speaking, if the ferries ran at 50% capacity, this would be a direct loss of 1,275 visitors to Provincetown for every day that the ferries can not operated due to 36-mile DMAs being in effect. Again, conservatively speaking,

Provincetown would have lost 65,025 visitors during the 51 days DMAs would have been in effect in June and July 2006.

According to the 2005 Provincetown Visitor Survey, 47% of the respondents indicate that they stay overnight in Provincetown with an average stay of 13.5 days. Of this 47% staying overnight, 41% are staying in a hotel, motel, or bed and breakfast. If we apply these percentages to the loss of visitors from the ferries during the 51 days they would not have been able to operate ($65,025 \times 47\% = 30,562$ and $30,562 \times 41\% = 12,530$), Provincetown would have potentially lost 12,530 people staying in one of our accommodations, resulting in hundreds of thousands of dollars in lost revenue to local business owners, as well as, state and local taxes. In the 2005 Annual Report of Provincetown it clearly states, "...if the town room tax and parking revenues continue to decline, we [Provincetown] will face a shortfall in 2007."

Within the Economic Impact portion of the proposed rule, NMFS "concludes that there would be disproportionate impacts from implementation of this proposed option between passenger ferries and high-speed whale watching vessels" and states that "reductions to revenues for small passenger ferries... would range... to 9.8%", the economic impact is still severely understated. The passenger ferries and whale watch companies would not be able to sustain viable bottom lines in order for them to continue operating, resulting in a loss of service for visitors and residents alike.

Because of the negativd economic impact that the DMAs would cause to the operations of the ferry and whale watch companies, the Provincetown Business Guild recommends the following:

1) Either Alternative 1 or Alternative 4 such that DMAs were not a part of the operational measures

Rationale:

The proposed rule states that "relying on this measure [DMAs] would only have a minor positive effect on right whale population size and may not reduce ship strikes sufficiently to promote population recovery. In addition, relying on this alternative would impose substantial costs on government resources in terms of the monitoring and assessment activities needed to implement the DMAs".

Whales could still receive protection from SMAs. Ferry and whale watch operations, ***which have never been involved in a right whale strike*** could continue to operate.

or

2) Alter the 65' vessel length threshold for Vessels Subject to Proposed Rule to 262'.

Rationale:

The proposed rule cites "Precedents for Speed Restrictions", specifically "The National Park Service established a 13 knot speed limit for vessels 262' or greater, in Glacier Bay National Park on a year-round basis to reduce the likelihood of ship strikes."

Ferry and whale watch vessels (90' – 200' in length) are fundamentally less at risk of striking a whale than other types of vessels. Unlike the small pleasure boater involved in socializing with his passengers, ferry and whale watch vessels are run by vigilant and professional crews who have made their skills evident by the absolute absence of right whale strikes. Unlike large ships which have pilot houses as far as 700 feet aft of the bow of the ship, lines of sight obscured by the deck of the bow for any object within 1/8th of a mile of the bow, operational hours during the evening hours and at night, and are incapable of stopping within less than 3 miles, our vessels' wheel houses are only a short distance aft of the bow (typically 20'-30') with unobstructed views, are able to stop within 150' or less, are operated 95% during the

daylight hours, and have up to hundreds and hundreds of additional watch standers in the form of passengers looking attentively out to the water.

or

3) Reduce the DMA in size to 4 mile in diameter, 2 mile radius.

Rationale:

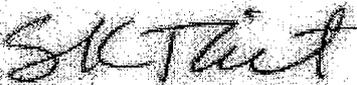
Whale Watch and ferry vessels could circumnavigate the DMA and remain in business.

Whale watch and ferry vessels have been able to avoid right whales with a mere 500 yard approach restriction. It seems unreasonable that a DMA size should jump 64 times in size to an 18 mile radius.

In this letter, we focused on the negative impact to the ferries, whale watch companies, accommodations and state and local taxes. We did not discuss the restaurants, shops, art galleries, and cultural attractions, etc. that would not be able to survive with the tremendous loss of visitors the proposed DMAs would create.

On behalf of the nearly 300 members of the Provincetown Business Guild, we appreciate you considering our recommendations. Please do not hesitate to contact either of us should you have any questions, or require more information. Thank you.

Sincerely,



Steve Tait
President



Don Knuuttila
Executive Director



THE PROVINCETOWN
CHAMBER OF COMMERCE, INC.

P.O. Box 1017 ~ 307 Commercial Street ~ Provincetown, MA 02657

508-487-3424 Fax: 508-487-8966

e-mail: info@ptownchamber.com www.ptownchamber.com

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

SUBJ: NOAA'S PROPOSED RULE TO IMPLEMENT SPEED RESTRICTIONS TO REDUCE
THE THREAT OF SHIP COLLISIONS WITH NORTH ATLANTIC RIGHT WHALES

October 1st, 2006

To whom it may concern:

The Board of Directors of the Provincetown Chamber of Commerce (Provincetown, MA 02657) hereby submits these comments on NOAA's Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales

The relationship between Provincetown and the sea which surrounds it on three sides has always been a partnership, and a vital one.

Our small port can claim to be the birthplace of whale watching on the East Coast, a 30-year partnership that has raised awareness of countless Americans and citizens of other countries to the importance of our marine environment.

The birth of the whale watching industry in Provincetown in the 1970's was an unprecedented collaboration between the marine scientists who founded the Provincetown Center for Coastal Studies and traditional deep sea fishing boats working in an expanding tourism industry. Right from the start there was a clear recognition that whale conservation was good business for Provincetown and that is still true today as we consider regulations to provide increased protection to right whales.

It is the firm belief of the Provincetown Chamber of Commerce that any federal regulations protecting right whales must be undertaken in the same spirit of cooperation and mutual benefit which created whale watching tourism in the first place. This sentiment is equally true in relation to the effects these regulations will have on our scheduled ferry services critical not only to our tourism industry but our year-round residents as well.

We understand and acknowledge the necessity of instituting federal regulations which seek to reduce significantly the chance of accidental collisions between larger motor vessels/ships and whales. Whales do not observe state boundaries and they need uniform protection as they migrate up and down the Atlantic Coast if they are to survive and rebound.

We also know that any regulations which, in effect, turn the entire Cape Cod Bay into a DMA for a fixed, extended time period will have an equally devastating effect by shutting down major sectors of our tourism industry for a significant time during our already short season.

Measures to restrict movement of vessels through vast and long lasting DMA's would also undermine the spirit of cooperation and mutual benefit which currently exists between whale conservationists and large vessel operators in Cape Cod Bay. The Chamber believes that DMA's would be most effective as 'tools' when used *cooperatively* to prevent collisions where and when the likelihood is real and observable.

So while we support the implementation of compulsory regulations which offer a greater level of protection to right whales we also would insist that the implementation of these restrictions be designed to be flexible, truly dynamic and dependent upon the best efforts of everyone involved.

We support the position taken by the Provincetown Board of Selectmen for mandatory regulations which would enforce much smaller DMA's (2-3 mile radius) for only that period of time when right whales are observed to be in harm's way. Obviously, as the Selectmen point out, this approach will require heightened levels of surveillance by the federal government but these expenditure would be justified as protecting not only the right whales but the businesses which support the fragile local economies on the Cape.

Additionally, smaller DMA's would not only be more manageable for commercial shipping and scheduled ferry services but would also be more manageable for the governmental agencies attempting to implement them and would certainly produce a far greater level of cooperation and support from those at sea level.

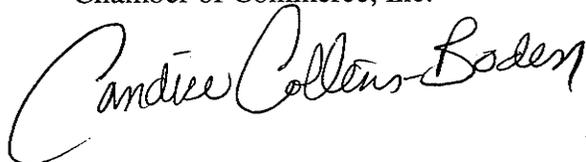
The Provincetown Chamber believes this approach will offer in the short and long term the highest level of protection of our great marine mammals while enlisting the support and cooperation of those businesses dependent on their well being and preservation.

Sincerely,

Patrick Patrick, President
Board of Directors
Provincetown
Chamber of Commerce, Inc.



Candice Collins-Boden
Executive Director
Provincetown
Chamber of Commerce, Inc.



336 Commercial Street unit #8
Provincetown, MA 02657
508.487.7733
miked@provincetowndesign.com



3 October, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910
Attn: Right Whale Ship Strike Strategy

Dear Sirs/Madams,

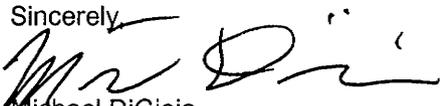
Our company, the Provincetown Design Group, provides graphic design services to the Bay State Cruise Company, as well as dozens of other local businesses. We also sell advertising to Boston Harbor Cruises and the Whale Watch companies in a variety of outlets.

The Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Whales, as written, would bring a considerable decline in revenue to our company. We have read over the Bay State Cruise Company's assessment of how they could be affected by the ruling and agree with them. We believe they are offering options that seem more viable to all concerned, and we would hope that the NMFS and the NOAA will rule in such a way as to protect the Provincetown business community as well as the Right Whales.

Besides the tangible loss of an important client (the Bay State Cruise Company is one of our most valued clients), and important advertisement revenue, there are intangible effects that we cannot know at this time. The dozens of other companies that we provide design services to rely on the business generated from the Ferry companies. The decline in Provincetown foot traffic has already had a marked effect on the businesses we work with, and the removal of the Ferry services would only add more hardship.

Since a Provincetown Ferry and the Provincetown Whale Watch companies have never been involved in a Right Whale strike, it seems the alternatives that will keep them operational are viable at this time. Having worked with these companies we also feel they have a deep respect and understanding of these waters and it's wild life.

I would like to thank MMCD and the NOAA for allowing us to voice our opinion on such an important matter. I would hope that you would take into account the livelihood of Provincetown businesses when making your decision. We at the Provincetown Design Group believe strongly that a decline in revenue from the Ferry companies would not only hurt our company, but would also have a ripple effect across our other clients that would force them to scale back on advertising and design services. Working with our clients, many of whom own restaurants, Inns, Stores and Galleries, we have the unique position to hear their concerns about their own economic viability. The loss of visitors generated by the ferries will surely affect their businesses, and in turn ours.

Sincerely,

Michael DiGioia
Creative Director



PROVINCETOWN PUBLIC PIER CORPORATION

OFFICE OF THE HARBORMASTER

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East West Highway
Silver Spring, MD 20910
Attn: Right Whale Ship Strike Strategy

September 19, 2006

The Provincetown Public Pier Corporation, Provincetown's board charged with operating MacMillan Pier and the Harbormasters Office has reviewed the Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales. We have several concerns with regard to the proposed rule. We are cognizant of the environmental concerns the Proposed Rule is trying to address, but we expect them to be addressed in such a manner as to be less intrusive to this town's economic lifeblood. It is clear that Provincetown would be inordinately affected if these more stringent rules were instituted. We request that the minimum size of vessels under the rule be raised or high-speed ferries and Whale Watch vessels be exempt.

Transportation Concerns

Provincetown is located at the tip of Cape Cod. Two fast ferry companies running three trips per day in season serve tourism and regional transportation for the town. These ferries are responsible for over 100,000 passengers per year visiting Provincetown. Provincetown and the Cape Cod Commission have identified fast ferries as the best alternative for car free visits, easing traffic congestion and pollution on the Cape. The area these ferries transit is largely within the CCB and Off Race Point Proposed Management Areas.

The high-speed ferries have not been responsible for any whale ship strike mortalities. In fact, the ferries are highly maneuverable and operate in daytime conditions. With a whale sighting, the captain makes a course correction to avoid them without a need to reduce speed.

Ferry service to Provincetown is not subsidized like commuter services are in other areas. If these proposed rules are instituted to include fast ferries, we could lose both boats. The additional time required for the transit would make boat trip longer than driving to the cape. This is a step backward in regional planning. The proposed DMA's compound the problem by the uncertainty of service when visitors plan their trips making the ferry business unsustainable.

Excursion Concerns

The Whale Watching business was created in Provincetown in the 1970's. Our economy

and the ambiance of the town is highly dependent on this business sector. Whale Watch boats should be exempt from the Proposed Rule as they are specifically transiting the area to view whales operating only in visibility conditions. The Whale Watch boats only transit above 10 knots if there are no whales in the area; otherwise, they stop to enjoy the show. To restrict their movements with a 15-day DMA when whales can be more transient than that is unrealistic.

Economic Concerns

Instituting the more stringent of the Proposed Rule would inordinately affect our public facility and the entire town. The ferries and Whale Watch businesses are worth over \$100,000 per year in direct rents. The loss of this income from ferries and whale watches would have a substantial effect on our commercial fishing fleet as the rents help pay for maintenance and staffing costs.

To calculate the direct loss of revenue for the ferry companies based on a conservative 50% of passenger capacity results in a \$351,000 loss from a single 15-day DMA closure. It is pointless to calculate multiple closures, as they will be out of business.

Provincetown Business Guild has determined that one passenger from the fast ferries is worth \$250 per day to the economic health of Provincetown. The Town of Provincetown could lose \$2 million per 15-day DMA closure from ferry passengers. Multiple closures would be catastrophic for our town.

Cited Economic Impacts

NMFS cites economic impacts in the Federal Register Report as though the losses would be sustainable. Our high-speed ferry services would go under with a "9.8 percent" loss so that loss would actually be 100%. The description of Affected Small Entities states that 5 regular speed whale watch boats would be affected. Clearly, Provincetown would be more affected than all other ports, as our fleet is five Whale Watch boats. We have concerns with the implementation of the DMA's if an area were not re-opened as soon as whales have left the area.

Clearly, more work needs to be done with this Proposed Rule before it can be instituted. There will be no fixing the economic damage suffered by Provincetown if this rule is not modified to allow small vessels to efficiently operate in daylight conditions.

Sincerely,



Leonard Clingham, Chair
Provincetown Public Pier Corporation

To: Chief, Marine Mammal Conservation Division

Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

From: Mark Gibson, Deputy Chief RI Division of Fish and Wildlife

Subject: Comments on Proposed Rule: Right Whale Ship Strike Strategy

The Rhode Island Division of Fish & Wildlife would like to offer the following comments on the proposed rule, "Endangered Fish & Wildlife: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales". A RIDFW Marine Biologist has served on the Atlantic Large Whale Take Reduction Team (ALWTRT) since its inception and is also on the Northeast Implementation Team. Hence, we are familiar with the critical issues involving right whales and ship strikes.

We recognize the agency is facing a difficult challenge in the effort to protect this endangered species in balancing anthropogenic impacts from both ship strikes and commercial fishing interactions. Our comments on this EIS are based upon our knowledge of right whale sightings and seasonal distribution as well as the impact we believe the proposed alternatives will have on the State of Rhode Island and local communities.

The shipping channel of RI Sound leads to the ports of Point Judith, Newport, Quonset Point, Providence/East Providence. Providence is New England's third largest city and the Northeast's premiere deep water multimodal port facility for international and domestic trade. The Port of Providence is the principal offloader for commodities as cement, chemicals, coal, heavy machinery, liquid petroleum products, lumber, and steel products. Quonset Point, in North Kingstown has developed into a very large car carrier port, while the port of Newport RI is home to the US Navy, heavy seasonal cruise ships and seasonal yachts and ferries. Point Judith is home to one of the largest commercial fishing fleets in New England, and also houses a large charter boat fleet, ferries and one whale watch vessel.

With the exception of Alternative 1 (no action), the proposed alternatives include sweeping measures that will have a large impact on the port industries. Dynamic Management Areas (DMAs) were designed by the ALTRT in consultation with NMFS to respond to unusual aggregations of right whales outside of normal known seasonal

distributions. They are problematic with the fishing industry, and we expect the same issues (short notification, monitoring difficulties) to continue. The agency has acknowledged, "DMAs can be a logistical challenge and may involve a heavy resource commitment", which given current budgetary constraints, may make monitoring of these large areas nearly impossible.

If DMA's are implemented, ships may elect to re-route to other ports, which may be costly for the shipping industry with costs eventually passed on to the consumer and local infrastructure. For example, the Port of Providence no longer stores as much fuel as in the past as it is more cost effective to avoid inventory that is taxable. Any interruption in shipping schedules could have deleterious effects in the form of shortages during prime heating season.

Based upon known sightings data, we believe the Seasonal Management Areas (SMA's) alternatives which include the Mid-Atlantic area (MAUS) are unwarranted. While right whales have been known to occur in this area, the occurrence is neither regular nor periodic. Alternatives 3, 5 & 6 include this area, and if implemented, pose the same problems as DMAs mentioned above. Specifically, the area delineated from Providence, RI south out to 25 nautical miles (nm) in Alternative 3 and the 30 nm block south and East of Block Island, from Montauk Point to Martha's Vineyard in Alternative 6 are not known high use right whale habitat.

We note the Gulf of Maine, where there have been regular sightings of right whales is excluded from any management except DMA's. We agree the Southeast US (SEUS) and Northeast US (NEUS) regions are well defined based upon known right whale distribution and are suited for speed restrictions. However, based upon our communication with commercial interests, we believe the 10-knot proposed restriction is too low. We defer any recommendation for the other speed restrictions to the shipping interests, as that is not our area of expertise. We recognize that other known areas of high right whale use are not included in this EIS such as the Bay of Fundy of the Scotian Shelf. They fall under Canadian jurisdiction however the corridor of annual right whale migration includes these areas with heavy shipping traffic and we urge the agency to work with the appropriate Canadian parties to include these areas.

RIDFW has worked with the Northeast Pilot's Association since the inception of the ALWTRT and included pilots in marine mammal identification seminars. We recognize NMFS had dedicated many resources to the Sightings and Surveillance System and provides regular Notices to Mariners on right whale sightings. We urge the agency to continue this proactive approach and focus effort to reduce speed or re-route shipping routes to the known high use areas of Cape Cod Bay, Great South Channel and the approaches in the Southeast US as described in Alternative 4. Imposing restrictive measures on the MAUS is unnecessary and will result in a high economic burden while providing little protection for right whales.

Thank you for the opportunity to comment.

Subject: Right Whale vs Citizen Rights
From: DRitter3@aol.com
Date: Tue, 03 Oct 2006 21:03:22 -0400 (EDT)
To: Shipstrike.Comments@noaa.gov

The North Atlantic Right Whale has been determined to be endangered by the NMFS/ NOAA, with somewhere over 300 of the species remaining. **Please note, Captain Stacy, Inc and I are in favor of all reasonable efforts to protect this marine mammal.**

From 1991 to 2001- 12 deaths of Northern Right Whales have been determined to have been caused by ship strikes. As a result the proposal before the NMFS / NOAA which would require **all vessels of 65' or longer** (which includes the Capt Stacy IV....83') to reduce their cruising speed to **10 Knots for 30 nautical miles** of travel both out to sea and back from November 1 to April 30 every year. This will affect every port from Florida to Miane. Our average cruising speed is 18 to 20 knots to the fishing grounds usually 40 miles or more off shore. At this writing that proposal appears to have the favor of top brass at the NMFS and NOAA in spite of the lack of scientific evidence. If you take into consideration the number of vessels (thousands) that left every port along the East Coast every day between 1991 & 2001 most of which have never ever seen a right whale or any kind of whale and only 12 deaths of right whales can be attributed to ship strikes. You would have a greater chance of winning the lottery than coming into contact with a whale.

To begin the few whale ship strike deaths which have occurred are attributed to vessels over 260 ft. (80 meters) in length such as cargo ships, Navy and Coast Guard ships. By the way, the Navy and Coast Guard (which are recorded as having a number of whale strikes) and any federally contracted vessel have already been exempted from this rule. Next, there is no significant evidence to conclude that slower speed will result in fewer collisions. This is only speculation. A study done by Laist (Laist to *El. At.* Ship Collisions) used over 200 years of records dating back to 1885 and in the findings of that study there were no definite ship strikes with Right Whales ever recorded for the waters off North Carolina.

The following is not speculation: If these rules are implemented it will affect all vessels headboats and charter fishing vessels up and down the East Coast that are 65 ft and longer. On a full day trip the Capt. Stacy IV now spends around 5 hours traveling round trip to get to and from the fishing grounds. If the new laws go into effect it would require at least 8 -1/2 to 9 hours traveling leaving only 2 hours for fishing. People will not want to spend their time and money to go through this. **Would you?** The loss of revenue during the proposed time frames each year would have a detrimental impact on our business and all other headboats. It would be very hard if not impossible to keep the Capt. Stacy business afloat ending a four generation history of over 7,000 trips to sea and ending employment for 15 or more of our associates.

During these 7,000 trips (carrying 100's of thousands of passengers for a day of fun) our captains have never come in physical contact with a whale. If they were to spot a whale (which would be rare) federal law, and common sense, requires the Captain to take all steps to avoid the mammal. Headboats and charter fishing vessels are designed with planning hulls that do not draw objects to them. Also the keel of these type boats protects the engine props keeping them from hitting objects in the water.

Unlike large freighters, tankers, Navy and Coast Guard ships, vessels like the Capt. Stacy are able to maneuver to avoid objects in the water.

If the proposed law passes there is no telling where it will stop. If the NMFS does not see the results they want they have said they will consider implementing larger seasonally managed areas, further

reducing ship speed, or other measures if appropriate. Reference(On page 36307 of the Federal Register / Vol. 71, # 122/ Monday, June 26 2006/ Proposed Rules)

Dave Ritter

Subject: Right Whales

From: Loren Roberts <lprobert@unity.ncsu.edu>

Date: Tue, 26 Sep 2006 13:16:29 -0400

To: Shipstrike.Comments@noaa.gov

This proposed rule is ridiculous. Twelve deaths of whales attributed to ships is a very low number compared to all of the ships in the water each day. Please, do not enact this rule.

Sincerely,
Loren Roberts

197

Bruce A. Russell
JS&A Environmental Services
7107 Oakridge Ave.
Chevy Chase, MD 20815
 Tel: 301 656 1751 FAX 301 656 0436

9 August 2006

Chief Marine Mammal Conservation Division
 Right Whale Ship Strike Reduction Strategy
 Office of Protected Resources
 National Marine Fisheries Service
 1315 East-West Highway
 Silver Spring, MD 20910

Re: Comments on Proposed Rule Docket No. 040506143-6016-02 I.D. 101205B, (Right Whale Ship Strike Reduction)

I write in general support of the proposed rule and offer the following comments to improve the effectiveness of the rule and its implementation.

Dynamic Management Areas (DMA)

NMFS is seeking comments on well aware of the concerns raised about the need for timely imposition of dynamic management areas for shipping. I believe for a variety of reasons discussed below that it is imperative that the effective date and time of the initial designation be the same or several hours after (to allow for ships to clear the area or slow to 10 knots) as the actual notice of mariners through the Coast Guard's demonstrably effective broadcast notice to mariners system. NMFS should model the initial designation and rulemaking process after the Coast Guard's proven emergency *Limited Access Areas* (LAA) designation process used for safety, security and environmental protection. The Coast Guard can impose essentially impose a LAA immediately.

- The scientific rationale for a DMA is based on a study by NMS scientists that found that the detection of 3 or more whales in an area is an indicator that right whales will remain in that general area for 15 or more days from the date of the detection. Delaying the effective date of the DMA, and therefore extending the DMA beyond the time that the whales are expected to be in the area would limit this measures effectiveness and pose an undue burden on the industry and vessels over 65 feet.
- Unlike fisherman who need time to clear their gear, vessel captains do not require several days to clear an area (or reduce speed). Vessel captains regularly monitor USCG Broadcast notice to mariners and can change course to clear an area or reduce speed in a matter of hours not days.
- The prudent mariner also understands that notification of a danger requires that they take action. Thus the prudent mariner will as a matter of practice take the notice from the Coast Guard as direction to immediately steer clear of an area or slow to 10 knots...I expect some will take action while others will assume the "risk."

Therefore, to delay the effective date of the DMA for several days but leave the DMA in place for the full 15-day period from the effective date of the DMA rule, would endanger the right whales during the unnecessary administrative process at the front end and pose undue burden on the shipping industry on the back end.

Block Island Sound Seasonal Management Area

The seasonal management area (SMA) proposed for the approaches to Block Island Sound by NMFS in their strategy will not be effective for vessels en-route New Haven, Bridgeport and New London, Connecticut from points west and southwest. These vessels leave the NY-Ambrose Traffic Separation Scheme on an oblique heading (east by northeast) to cut the corner. As proposed in the NPRM, vessels on easterly and northeasterly courses from point's west would transit through the right whale migratory corridor outside the SMA with the exception of the last 4 or 5 nautical miles.

As proposed in the NPRM, the western boundary of the proposed SMA is a line drawn 30nm south and east from Montauk Point.

I therefore recommend that the western boundary of the proposed SMA be revised to a line drawn (generally) southwest from Montauk Point to intersect with an extended (to the west) southern boundary of the proposed SMA.

Enforcement

In the DEIS, section 1.12 : Enforcement will not be included in the EIS as it is outside the scope...NMFS will address enforceability in the final rule. I would like to make several points in this regard.

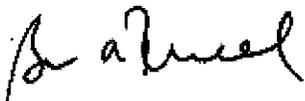
Enforcement and enforceability of the proposed rules are two different issues and should not be confused. I would agree that the enforceability of the proposed rules is outside the scope and should be addressed in the final rule.

However enforcement should be within the scope of the EIS and should be addressed in the Final Rule as it has a direct impact on and is part of the operational measures under consideration. Enforcement is a continuum of measures, some operational, which involve the mariner, *to ensure compliance* and involves both the enforcement agencies and the regulated parties. The continuum of measures range from outreach and education, planning, safety and environmental management systems, self-auditing systems, flag state and port state inspections and examinations to sanctions (penalties, remedial action orders, criminal violations). An important learning form the implementation of the Mandatory Ship Reporting System was that without assertive enforcement the operational effectiveness of the MSRs was severely limited.

The operational measures that must be considered and are not explicitly included in the NPRM and the DEIS are the: 1) the voyage planning requirements required by SOLAS Chapter V Regulation 34 to address protection of the marine environment; 2) requirements of the International Safety Management Code to address protection of the marine environment; and 3) company-wide ISO 14001 environmental management systems. These three operational measures are all part of the enforcement continuum, have little to do with enforceability, but would have an impact on the regulated community and are essential to the effective implementation of NMFS' strategy. If these measures are not part of the NMFS strategy, then the strategy is fatally flawed.

Use of AIS (Automatic Information System) information for compliance assurance (enforcement) could greatly enhance the effectiveness of NMFS strategy. The Swedish Coast Guard for example, is using AIS to help track down vessels whose crew illegal discharges oil. The EIS and the Final Rule should examine the use, impacts of the usefulness of this important tool.

Respectfully submitted,



Bruce Russell
Director

Subject: Speed change proposals

From: rryden@ec.rr.com

Date: Tue, 26 Sep 2006 13:58:47 -0400

To: Shipstrike.Comments@noaa.gov

Gentlemen,

As I am understanding this proposal. You wish to reduce the traveling speeds of vessels of the 65' or larger to a speed of 30 MPH along the coastal waters of the Eastern U.S.. The reasons stated was to protect the Wright whales from collision injuries.

Their safety is a reasonable concern, however, comma, I have not been able to find any records stating where any of these collisions invovled any private fishing vessels. The only recorded strikes were from military and large commercial vessels.

As this propoasal is written it would affect the charter and private fishing industry to such a great deal that they will not be able to continue. The added transit times will only reduce the fishing times and also increase the fuel consumption all of which will push many if all such businesses off the market. That will affect many families depending on these paychecks.

I ask that you reconsider your proposal at least until there has been a more thorough investigation into the true effects and causes. Thank you.

Robert K. Ryden
USN RET

103 ✓

August 18, 2006

Chief Marine Mammal
Conservation Division
ATT Right Whale Ship Strike Strategy Office
of Protected Resources, NMFS
1315 East West Highway
Silver Spring, MD 20910

To Whom It May Concern:

This letter is written in response to the fax dated June 23, 2006, regarding the Notice of Proposed Rulemaking for Right Whale ship strike reduction.

The Savannah Pilots Association feel the speed restriction of 10 knots in a 600 foot channel for vessels transiting the outer bar channel would be **unsafe**. Deep draft vessels often require more than 10 knots of speed to maintain their position due to the currents and high winds in the open waters of the Atlantic Ocean. Furthermore, the risks to the environment would be much greater due to possibilities of groundings, oil spills, etc.

The 10 knot restriction could definitely lead to delays in starting vessels in the channel and at times result in port closings due to high winds. We strongly recommend that this restriction not apply to the ship channel.

We operate three pilot boats; the M/V SAVANNAH is 57 feet, the M/V CAPT. BILL BROWN is 77 feet and the M/V GEORGIA is 78 feet. The M/V GEORGIA was put into service two years ago. This vessel represents a three million dollar investment for Savannah Pilots Association. The vessel's speed and length has added another degree of safety for pilots and crew in heavy weather. Speed restrictions to vessels greater than 65 feet would greatly hinder our service and operations for the Port of Savannah.

Page -2-
August 18, 2006

The Savannah Pilots Association has always been mindful for and supported the efforts to protect the right whale. When sightings have occurred, we immediately report them to the USCG, notify other pilots in the river as well as all vessels approaching from sea. We have positioned our pilot boats to monitor them until they leave the area of the ship channel.

We hope that this letter defines the importance of vessels being allowed to maintain a speed that would insure the safety of all concerned. It is our opinion that an alternative solution should be considered.

Sincerely,

W. Thomas Browne, Jr.
Master Pilot

cc: NOAA
Commander David Murk, U.S .Coast Guard
Congressman Jack Kingston
Senator Chambliss
Senator Isakson
Congressman Barrow

SEABRIDGE

U S A

Turning America's Coastal Oceans into Sea Bridges

October 5, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Re: NOAA Docket No. 040506143-6016-02. I.D. 101205B – Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (RIN 0648-AS36) – Notice of Proposed Rulemaking; Request for Comments

Dear Sir or Madam:

These comments are being filed on behalf of SeaBridge USA, Inc., a new company which intends to operate large, high-speed passenger and freight ferries in scheduled service along the East Coast of the United States. Some of the views expressed in these comments may also represent those of others which, like SeaBridge, intend to add new capacity to the national transportation system through creation of "short sea" services.

SeaBridge agrees with the objective of the proposed rule, namely, to reduce ship strikes of the endangered North Atlantic right whale. However, we believe the rule must provide mechanisms by which vessel operators — whether they are government agencies or civilian transportation companies — can be exempted from the proposed speed restrictions (whatever level is finally adopted) if they employ efficient and effective anti-collision technologies and practices. Even though the notice invites comments on the speed alternatives presented in the DEIS, I want to make the point that other operational adjustments and technological solutions offer alternatives that may be preferable and more effective than the proposed speed limits.

SeaBridge is at an advanced stage of developing its freight and passenger network. We have selected a vessel design and are now engaged in the process of pre-build engineering. Based on our exhaustive examination of the market requirements for freight and passenger ferry services, we know that one critical element of success is schedule and frequency.

A blanket limitation on ship speed — whether 10 knots, 12 knots or slightly higher as indicated by the notice — applied at the major port areas described in the notice, even if the restrictions are not in effect year-round, would be a significant obstacle to our intended services which are described in the brochure enclosed with the mailed copy of these comments. The limits are likely to impose equally critical obstacles to others who are planning to start up other types of short sea shipping services.

Blanket speed restrictions could be fatal, especially to scheduled services such as we propose. Our proposed schedules are predicated on a maximum maneuvering time into and



2009 North 14th St, Suite 600
Arlington, Virginia USA 22201-2514
Phone. 703.525.5110 Fax. 703.525.5122
www.seabridgeusa.com

out of ports affected by the proposed restrictions. A 10 knot speed restriction in a 30 nautical mile arc around the major ports in New York and Northern New Jersey would mean a minimum of three hours in each transit to/from port – six hours in total. Our schedules can only tolerate half that amount of time. Adding such a penalty to each port call would require us to increase our speed outside those limits beyond what we can sustain economically.

The objective of the proposed rule is to reduce ship collisions with right whales. We share that objective. Indeed, SeaBridge intends to use state-of-the-art technologies and best marine operating practices to avoid all collisions because any collision with an object as large as a right whale could be potentially devastating to our vessels. In other words, SeaBridge has self-interested reasons for ensuring that its ships do not collide with right whales. We assert that business reasons require us to adopt systems and practices of the highest reliability to avoid the consequences of any collision.

While the DEIS considers the potential impact of the proposed rule on commercial shipping, cruise ships, and fast ferries, it does not contemplate a vessel of the type that SeaBridge will operate. SeaBridge will operate like a commercial shipping company carrying freight on scheduled services, but at speeds up to twice those of even the fastest container ships. It will also carry passengers, but at speeds more than double those of most cruise ships.

High speed operation is not discretionary. It is central to our business plan, which in many respects offers a response to the growing problem of congestion on our nation's highways. It is this condition that prompted former Secretary of Transportation Norman Mineta to cite the contribution that coastwise transportation — also sometime referred to as short sea shipping — will make to the national economy by absorbing "some of the freight transportation demand from our existing landside infrastructure." He said in May of 2001,

As trade and the economy grow, our transportation system must grow to meet the increased demands of cargo and passenger movements... We cannot afford to ignore any mode of our transportation network because the level of interconnection and interdependency is higher now than ever before. Consider these facts...Existing rail and highway infrastructure cannot handle all of this projected growth. There are obvious limits to how much we can increase the capacity of interstates and rail lines. The waterborne option, in contrast, has under-utilized capacity. As vessel and cargo transfer technologies improve, and new vessels such as fast freight ferries come into service, waterborne transportation will provide increasingly competitive service.

SeaBridge will offer trucking companies and motorists a network of convenient routes between ports near major East Coast metropolitan areas with daily service in each direction. For example, motorists traveling from Boston to Atlanta will be able to board a SeaBridge ship in New London, Connecticut and disembark in Charleston, South Carolina for the short trip to Atlanta, saving the motorist time and money.

Truckers will be able to plan business operations around a reliable timetable that saves transit time and increases productivity. Vessel service is designed to meet the demands of the country's freight system. To attract trucking companies as regular customers ships —



whether SeaBridge vessels or those of other companies — will have to arrive at destination ports in timeframes that are comparable to or faster than those of long haul trucking.

As to ports of call, SeaBridge is likely to operate in or near most of the Atlantic ports whose entrances will be under speed restrictions. They include ports in Connecticut, New Jersey, Virginia, South Carolina, Georgia and Florida. Having to reduce speed – even to 14 knots over a distance of 30 nautical miles will add as many as five hours to each port call and will likely make the difference between our being able to offer a schedule that a trucking company will use as a “sea bridge” instead of using the interstate system.

The proposed rule, as your analysis appears to appreciate, will have a comparatively more negative impact on coastwise shipping. A venture such as SeaBridge will be forced to operate at sub-optimum levels for significant distances near virtually all ports of call and in some instances operate farther from shore, both of which requirements could be fatal to its proposed services on some important routes.

As stated earlier, operators such as SeaBridge have a vested self-interest in avoiding all collisions with large objects and animals at sea and will invest considerable capital in technology and practices for that purpose. We have reviewed the white paper developed by NOAA, *Technological Alternatives to the Problem of North Atlantic Right Whale Ship Strikes*, which we believe covers many of the available technologies, but overlooks others. For example, enclosed are some print outs from the website of one vendor of collision avoidance technology. The website reference is on the printouts for your further guidance. There are other providers of such systems which are employed on vessels precisely because the owners NEED to avoid collisions in the interest of their business.

We strongly urge the NMFS to develop practical, effective speed limit exemption criteria and a procedure to allow operators to demonstrate that they have equipped their vessels with effective technology and adopted marine operating practices to meet those criteria. Successful applicants should be granted an exemption from whatever speed limits are imposed.

Thank you for this opportunity to comment on the action being contemplated by the National Marine Fisheries Service.

Yours truly,



Stephen Flott
Chairman
Enclosures (2)





Comment regarding Speed Restrictions
And
Comments regarding the Environmental Impact Study

50 CFR Part 224 [Federal Register/Vol. 71, No. 122/Monday

June 26, 2006/Proposed Rules

Introduction:

Sea Star Line, LLC (SSL) appreciates the opportunity to comment on the proposed rules regarding the implementation of speed restrictions and the environmental impact statement. SSL is a privately held company providing integrated transportation services between the United States, Puerto Rico and the U.S. Virgin Islands. With high-speed combination roll-on/roll-off and container vessels, Sea Star is proud to play a key role in providing ocean transportation services for this vital commerce channel. Among a full range of cargoes, these ships carry fresh produce, chilled meat, live dairy cattle, groceries and pharmaceutical products, which are all time-sensitive and essential for the people of Puerto Rico. An average speed of 20.5 Kts. for the voyage to Puerto Rico is required to maintain schedule. These ships travel through the SEUS seasonal management area (in and out of Jacksonville, FL) about 300 times per year. (Our comments relate primarily to the SEUS area, where SSL has direct operating experience.)

Our company, our employees, the officers on our ships, all want to help save the endangered North Atlantic Right Whales. We want to assist with any effective and sensible conservation measures that will help further this cause. In twenty (20) years of Sea Star Line and Sea Barge operations from Jacksonville, **we have never hit a whale**, or even came close!

Two years ago, Sea Star Line voluntarily instituted an additional, special "Bow Watch" to improve our ability to sight whales while transiting within 20 miles of the Jacksonville Pilot Station, during the November 15th to April 15th whale season. In all these hundreds of transits **over the last two years, we only saw one whale!** It was observed about half a mile off, swimming away from the ship, and no diversionary actions were required by the ship, (although the ship would have had plenty of time to turn or slow down further if it had been necessary.)

Sea Star Line agrees that some of the steps proposed by the National Marine Fisheries Service (NMFS/NOAA) are very likely to reduce the likelihood of ship strikes by vessels, and should be implemented. However, we concluded that the proposed 10 Kt. speed restrictions, during the entire 5 month whale season in the SEUS area would **not** significantly reduce the likelihood of ship strikes or whale deaths, and may, in fact, create the opposite result of **increased danger to whales!**

Mandatory Speed Restrictions: (Seasonal Management Areas.)

We have carefully read the documentation provided by NMFS/NOAA and did not find a convincing argument that slowing vessels to 10 Kts. will actually reduce the likelihood of ship strikes. NMFS/NOAA presented the opinion that *“an examination of all known strikes indicates vessel speed is a principal factor. . . . The authors concluded that most deaths occurred when a vessel was traveling in excess of 13 knots.”* Not considered in the findings is that most vessels travel in excess of 13 knots in normal operations, and as a result there can be little or no data substantiating vessel activity at speeds less than 13 knots compared to vessels traveling at 18 knots! The data noted in the 50 CFR Part 224 basically reiterates that the percentages of vessels operating at specific speed ranges is about the same percentage as ship strikes upon whales. Further study should be made to verify the quantity of vessels in the three specific speed ranges with the percentages of vessel strikes. **We think that this data actually suggests that speed is not very relevant!** The proximity of vessels and whales is probably the most pertinent factor to be considered. Reevaluation of the study is needed to confirm validity of information and the suppositions for the rule-making, and to help insure a logical conclusion.

An NMFS/NOAA analysis of five speed-reduction studies (Knowlton and Russel – A Review of Vessel Speed and How it Relates to Vessel/Whale Collisions.) indicated the following: *“No definitive answer can be given as to what speed would most likely reduce the chance of a strike with a Right Whale.”* While none of these studies indicated that speed reduction measures conclusively reduce the risk of Right Whale ship strikes and/or whale mortality, the **Clyne study suggested that there might be a positive correlation between increased vessel speed and a reduced risk of whale strikes.”**

Another aspect of the proposed SMA speed restrictions that is of particular concern relates to the safe transit of ships through harbor breakwaters. The Jacksonville Pilots' comment included the following:

“Especially large, high-sided vessels such as large containerships or car carriers, as well as deeply loaded tankers or bulk vessels will require speeds, well in excess of the proposed 10 knot restriction in order to pass through the breakwater safely.”

We agree with the Pilots' statement that *“faced with the prospect of choosing between the safety of the ship or being fined, we would obviously chose the safety of the ship.”* It's clear to us that if any speed restrictions are adopted, a “waiver” would have to be included to allow the pilots to perform their duty, particularly during periods of strong cross-winds and currents, or even a sudden squall line. Certainly, no rule-making should be contemplated that would put the pilots, ships, and sailors at risk, and could even cause the loss of human life. Furthermore, any potential grounding of a cargo ship (or tanker) on the rocks of the Jacksonville jetties due to (overly) reduced speed, could conceivably cause a disastrous oil spill with the potential of widespread destruction of the marine environment, marine life and food sources, as well as the Right Whales which we all want to protect!

The proposed restrictions did not seem to sufficiently differentiate between the three distinct coastal areas. The presented data for our area, only showed **one (1) unconfirmed ship strike whale mortality in the Jacksonville transit area, during the last 10 years!** In the entire SEUS area including the Georgia coast, there were three possible whale strikes in the last 10 years. The data ([50 CFR Part 224 [Federal Register/Vol. 71, No. 122/Monday, June 26, 2006/Proposed Rules (IRFA para. 2)] *“NMFS recognizes that there may be disproportionate impacts between or among vessels servicing different areas or ports.”* We concluded that the presented data does not actually substantiate any speed restrictions in Florida waters. In fact, **slowing ships down to 10 Kts. may cause greater dangers to Right Whales, as well as the ships.** There is no doubt that slowing down the ships will cause ships to spend about twice as much time traveling through the coastal SEUS areas where the whales may be passing. An effective rule-making should be more “tailored” to fit the particular circumstances in each different zone or area of the East Coast.

Although some of the suggested solutions (traffic lanes, DMA's, detection and tracking technologies) offer some encouraging promises of success with very reasonable costs, the 10 knot speed restrictions (SMA's) would offer the least potential success and the largest economic impact to commercial vessels. At least \$116 million per year, (or \$272 million per year,) as shown in the Economic Analysis for the Environmental Impact Statement – draft EIS report May 23, 2006.

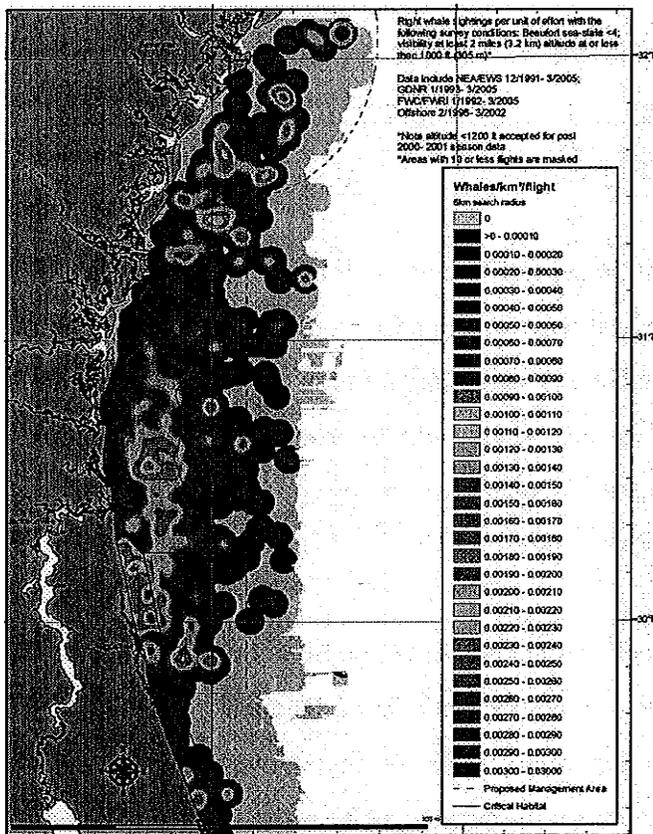
We noticed that the annual total cost for all “containerships” at Jacksonville FL is shown as \$765,600 per year in this Economic Analysis (2004). This seems to be incorrect, since our own calculations of the direct economic impact, just to Sea Star Line, would total \$575,000 per year, and we only operate three ships. There are many more containerships coming in and out of Jacksonville, so there may be an error in the methodology of the study. (It should be noted that over \$500,000 of our cost would simply be the cost of additional fuel burned to try to make-up the lost time – a waste of this scarce resource, and an increase in emissions.)

If the methodology used for the whole analysis was consistent, it is likely that the economic impact to shipping (on the entire coast) may be underestimated by a significant multiple of costs, and the actual economic impact could be much larger!

It should also be noted that these speed restrictions would create a large obstacle to the **Short Sea Shipping Initiative**, which is supported by MARAD/DOT as the solution to take cargo trailers off the East coast highways, as well as reducing fuel use and air pollution.

In any case, any expenditure and use of resources of this magnitude should not be undertaken for an unclear result that could even cause more harm than good to the Right Whales!

The present Southeast Seasonal WHALESOUTH Mandatory Ship Reporting (MSR) area is the proposed management area (speed restriction zone) and does not coincide with the known critical habitat of right whales. Even though SSL believes that speed restrictions in Florida waters don't really promise improvement, and will not really impact the reduction of right whale deaths in the MSR area, the consideration of implementing any speed restrictions should be limited to the critical habitat area, only.



The NMFS chart above identifies whale sightings and the probability of whales, the critical habitat area, and the proposed management area. The extension of the management area beyond the critical habitat area would substantially enlarge the management/speed restriction zone well beyond the known concentration of whale congregation areas.

Routing Measures: (Recommended Traffic Lanes)

Sea Star Line enthusiastically supports the establishment of the recommended traffic lanes through the SEUS coastal area. It is entirely logical that concentrating ship traffic into the designated lanes will insure a large undisturbed “Whale Habitat Area” encompassing at least 90% of the proposed management area!

Furthermore, we compliment NMFS/NOAA because the proposed traffic lanes for entering and departing Jacksonville FL coincide well with the avoidance of the known Right Whale congregation areas (as noted in the NMFS Spatial Distribution map). In fact, the **implementation of these recommended traffic lanes will concentrate vessel traffic in the less whale-inhabited areas!**

The limitation of ship traffic into the designated traffic lanes will also radically reduce the required “whale surveillance” area. The best way for ships to avoid whales is for them to know where they are! The reduced “watch area” will make it much easier to concentrate all the available resources to sight and track any whales, and to promptly notify the ships. The combination of routing and targeted surveillance offers a very good likelihood of success, through efficient use of available resources.

From personal experience sailing as a Deck Officer on containerhips, I noticed that whales, seem to have a general tendency to avoid ships at a great distance. The navigation bridge of a large ocean vessel is normally over 100 feet above the water and offers a great viewing platform to see whales on the surface, or near the surface. We saw them, yet I never had to alter course because the whales were clearly aware and moved away from the ship’s direction. (We once sighted an old floating mine, dead-ahead in Mid-Atlantic, and were able to turn to avoid it while traveling at 23 Kts. This demonstrates a ship’s ability to see even a 3 foot partially submerged object, and to turn quickly to avoid collision.)

We agree that the combination of increased vigilance by the ship's crew in the traffic lanes, as well as concentrated aerial and surface whale monitoring efforts in this greatly reduced "watch area", will surely decrease the likelihood of ship strikes!

Dynamic Management Areas (DMA's):

Sea Star Line also fully supports temporary speed restrictions (DMA's) in direct response to the presence of whales, immediately upon sighting, and for as long as the whales remain near a vessel traffic area. This fits well with concentrated surveillance in the recommended traffic lanes, and should be "dynamic" enough to allow immediate and sufficient communication with the nearby ships to help them to take prompt and appropriate avoidance actions in response to any whales passing through the designated ship lanes. Once any whales have been sighted, in or near the traffic lanes, a concerted tracking effort should be maintained until the whales are clear of the area. The speed restrictions should be lifted as soon as the traffic lanes are clear of whales, rather than an arbitrary time period, such as the suggested 15 day duration, which would serve no purpose after the whales have moved out of the shipping channel.

Technological Solutions:

Even though commercial shipping activities only cause a small percentage of whale deaths, Sea Star Line believes that **implementation of new technology for whale avoidance measures can improve the detection of whales.** Scientists are introducing promising, environmentally-sound methods of whale detection which can enhance the present efforts of NOAA/NMFS. Combining methods of detection to achieve optimum results, with the continued development and application of whale detection methods may help reduce whale/vessel interaction.

Pop up buoys are a promising methods of detection. NMFS indicated that pop up buoys are being considered in the whale strike strategy. In the NOAA/IFAW website Patricia Gerrior and Bruce A Russell recommend the "continuation of **whale tagging research**, and addressing gaps" as part of the pop-up buoy improvement process.

Passive Acoustic Detection has improved and should be considered for implementation in the SEUS area. In the NOAA/IFAW website Patricia Gerrior and Bruce A Russell recommend continued whale detection research and real time passive acoustic opportunities. Other efforts are identified by the Woods Hole Oceanographic Institution including: "Acoustic Detection of Right Whales" by Doug Gillespie, IFAW, and Christopher Clark, Cornell University which study Acoustic systems—*"towed subsurface or placed on the seafloor—offer the potential to detect whales and avert ship strikes."* "Reducing the Risk of Ship Collision" by Peter Tyack, Woods Hole Oceanographic Institution presents experiment data on acoustics and whale behavior to test the efficacy of strategies.

Transmitter Tagging and Surveillance. Even though NMFS indicated that beacon/transmitter tagging was problematic because whales shed the transmitters shortly after implanting the units, Sea Star Line encourages research to develop a permanent GPS or similar attachment to the whales. The development of the units will prove cost effective over the long term if they result in the reduction of the more traditional aerial and water surveillance methods.

Additional Whale Sighting Notification Enhancements. Automated Identification System (AIS) with VHF radio communication and mandatory Ship Reporting (MSR) should be considered for the link for real time, whale strike avoidance. The effort will require the combined efforts of NOAA/NMFS, (USCG), and commercial shipping interests. NOAA/NMFS can spot whales in or near traffic lanes, and with AIS and VHF radios on board search planes, vessels can be cautioned when there is a whale present. The MSR in concert with USCG vessel arrival notification will present a vessel list for notices to mariners in the area. Commercial shipping and government vessels will need to monitor, and, then take measures to avoid collisions.

NOAA/NMFS, USCG, and commercial interests can create and improve a notification system including, but not limited to, the above detection measures. Sea Star Line encourages these individual research efforts as well as combining/sharing new technological solutions to develop and improve whale detection and surveillance.

Causes of Whale Deaths:

We all understand that NAMFS/NOAA's purpose and objective is to try to protect the Right whales. We retrieved the following statement on November 13, 2005, from the NOAA/Fisheries Office of Protected Resources web site:
(http://www.nmfs.noaa.gov/prot_res/species/Cetaceans/rightwhalefacts.html):

"About two-thirds of the known deaths are likely owing to natural causes. Of the one-third caused by human activities, the most significant contributing factors are ship strikes and entanglement in fishing gear... more than half of the adult population carries scars likely related to entanglements. In some cases, these are direct causes; in other cases, they contribute to deterioration of the individual's health and eventual death, or weaken an animal suffering from illness or other injuries and contribute to its failure to recover. (para.12)."

Therefore, since two-thirds of known deaths are due to "natural causes", the greatest number of whales can probably be saved by researching what factors are really killing most of them, and addressing the primary causes. On April 29, 2006, we read (in *Northern Right Whales in Florida*, Winter Issue) "*Food supply, climate and birth rate are also believed to have an effect on Right whale population:*" Since "natural causes" is the largest cause of whale deaths, the greatest benefit could be achieved by helping to prevent their diseases, by protecting or enhancing their food supply, or reducing critical sources of pollution that harm them. Even a ten percent reduction of right whale mortality due to "natural causes", the largest cause of whale deaths, might be enough to save the species!

Of the remaining one-third caused by direct human activities, we understand that about half (47%) is related to fishing, and particularly fishing gear. David Able's (Globe Staff) report January 13, 2005 included the following:

"About 72 percent of whales show scars from entanglements in fishing lines, a rise of about 8 percentage points from the mid-1990s, scientists say. Observers believe that about 13 right whales are now dragging entangled fishing lines, a problem that can lead to infection or death. . . ."

Since fishing, (and fishing gear) is a very significant factor (47% of $33\% = \underline{15.5\%}$) in the cause of all whale deaths, there is another great opportunity to reduce whale mortality by addressing this specific cause. Since so many Right Whales show scars from gear entanglement, there should be some improvements in the location, placement or technology of fishing equipment that could have very significant impact on Right Whale survival rates.

The remaining ($53\% \times 33\% = \underline{17.5\%}$) of whale deaths are attributed to all the categories of ship strikes. The World Shipping Council comments noted that 24% of Right whale ship strikes involved Navy and Coast Guard vessels (Large Whale Ship Strike Database, (Jensen and Silber) NAMFS, January, 2004.) Since this portion seems to be nearly half of all ship strikes ($33\% \times 24\% = \underline{7.9\%}$ of all deaths), we were very encouraged to hear that, although they would be exempted, U.S. Government vessels will also be making very concerted efforts to avoid the Right Whales.

Of the remaining categories of ship strikes (Large Whale Ship Strike Database,) whale-watching boats were shown to account for ($33\% \times 14\% = \underline{4.6\%}$ of all deaths.) about as many Right whale deaths as all other commercial ships. Certainly, there must be a way to devise specific rules and safeguards that can help reduce the possibility of whale strikes by to this small group of whale-watching boats that have little other purpose than providing human pleasure from proximity to whales!

In fact, some whale-watching boats may be entirely exempted, with all other vessels under 65 feet, and these should also be strongly urged to protect the whales they purposely approach. The entire category of exempted vessels under 65 feet includes some very high-speed pleasure craft which should be included in this overall environmental effort. I learned at the Baltimore public hearing on August 10, 2006. That one recent whale death was apparently caused by a fast pleasure boat. (This one boating incident alone, equals the one reported ship strike by a vessel in the Jacksonville area, during the last ten years!)

The final category in the Large Whale Ship Strike Database is containerships and freighters which have had about the same impact as whale-watching boats (33% x 14.9% = 4.9% of all deaths). How can this one minimal threat to the Right whales (4.9%), be the only category of human impact that is being addressed as the focus of this proposed rule making? So many more significant steps can be taken to fully address 95% of the causes, that a broader, more effective, overall plan must be considered to achieve the desired results!

Furthermore, since the proposed 10 Kt. Speed restriction doesn't even show convincing promise of reducing the threat, and could actually increase the danger to the Right whales, this part of the proposed rulemaking is not even likely to yield actual improvement for the 4.9% portion of the problem that it does address. We believe that the proposed seasonal speed restrictions would impose an inordinate waste of resources (at least \$116 million per year (or more) cost to commercial shipping) without a good enough reason! This would certainly not be the best way of "minimizing the economic effect on the shipping industry and marine commerce", or most effectively furthering the stated purpose of "contributing to the recovery and sustainability of the species."

Conclusions:

We sincerely believe that there are numerous initiatives that must be urgently undertaken, and which indicate a great likelihood of helping the endangered Right Whales:

- The establishment of the proposed traffic lanes in concert with a concentrated "Watch" and "Whale Tracking" efforts during the season will clearly help ships to know where whales are, and to avoid them.
- A reasonable program of dynamic and immediate speed restrictions (DMA's) in response to the sighting of whales in the shipping lanes will clearly help ships to avoid whales, and could therefore save some Right Whales.

- The development of new searching devices, identification methods, or sensor systems to detect and track the whales should be among the top priorities in trying to save the whales. Anything that will help to warn vessels before they are near a whale could have the greatest impact in aiding successful avoidance by vessels.
- A comprehensive program to address all the causes of harm or death to Right Whales must be pursued by NAMF/NOAH involving all interested parties.
- Any solution for improving the food supply, avoiding disease, reducing debris, pollution, and toxins in coastal waters could reduce the 66% of whale deaths that don't involve any type of vessels.
- Creative solutions to reduce the impact of fishing activities and trapping gear could reduce a portion of the 17% of Right Whale deaths related to fishing.
- The renewed efforts of Coast Guard and Naval Vessels to avoid whales should provide a significant improvement in this 8% category.
- Certainly, whale watching boats should be a priority to try to eliminate this 5% category entirely.
- The general pleasure boat public and all boats under 65 feet must also be made aware and participate in this effort to help the Right Whales.

All these efforts are reasonable and will all help to further the main purpose as stated, much more than the proposed seasonal speed restrictions!

There is also some good news that NMFS/NOAA should be proud of: We are encouraged with David Abel's (Globe Staff) report January 13, 2005. The Globe indicates that there is an increase of the Right Whale population. We hope that other studies will validate the Globe report indicating:

"Many of the estimated 325 to 350 Right Whales believed to exist are known to feed off the New England coast....An estimated 13 calves have been born this breeding season, giving marine scientists hope that the whales will rebound. Though about 25 percent of calves typically die within the first year, the population has grown by as many as 50 Right Whales since 2000...."

In Florida, the U.S. Navy's Fleet Area Control and Surveillance Facility in Jacksonville sends an automated message to ships in the area with current information about Right Whale locations and how to avoid hitting the whales. Jamie Smith, a marine research associate in the Florida Fish and Wildlife Conservation Commission's Florida Marine Research Institute (FMRI), says the system has been successful (Para 10, 15, 16).

The current "de facto" traffic lanes in Jacksonville have been used for decades at current vessel speeds, and the whale population has responded by staying clear. The one ship strike in 10 years very much supports this, when considering how many whales congregate here over the winter. To a great extent, the routes, speed, and vessel generated sound waves appear to play an important part in defining our marine environment. Changing vessel speed alters the sound of the vessel and in essence changes an environment familiar to generations of whales. It is the one place on the East Coast where these animals actually thrive (more leave than arrive). A "broad brush" policy change could tip this delicate balance with disastrous results!

Sea Star Line, the maritime industry at large, and the consumers who rely upon the safe and efficient transport of goods along these trade routes will ultimately bear the hundreds of millions of dollars in additional costs if speed restrictions are imposed. However, the greater tragedy lies with the likelihood that such a measure will not only fail to save the whales from their plight, but may very well accelerate their demise. Sea Star Line is committed to do all that we can to assist in the revitalization of these magnificent animals, through continued research and education as well as the adoption of sensible and effective policy. We will continue to participate actively with the NMFS/NOAA, in any way we can, to help the Right Whales.

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RE: Endangered Fish and Wildlife: Proposed Rulemaking to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (Docket No. 040506143-6016-02.I.D.101205B; RIN 0648-AS36; Federal Register, June 26, 2006, pages 36299 – 36313)

Dear Sirs:

The Ship Operators Cooperative Program (SOCP) appreciates the opportunity to comment on the proposed rule regarding the implementation of speed restrictions to reduce the threat of ship collisions with the North Atlantic Right Whale.

The SOCP is an industry - government cooperative whose purpose is to address and promote commercial operations through the identification, development, and application of new methods, procedures, and technologies. SOCP's overall objective is to improve the competitiveness, productivity, efficiency, safety, and environmental responsiveness of U.S. vessel operations. The SOCP currently has as members 19 US vessel operators, 15 maritime training centers/schools, 2 classification societies, 2 industry affiliated companies, 5 maritime unions and 6 governmental agencies.

SOCP very much appreciates the recent extension of the initial comment period to October 5, 2006 but we are still concerned that insufficient time for review is available, particularly relative to the significant amounts of information contained in the environmental impact assessment and economic analysis. We recognize the massive effort expended by NMFS/NOAA on this complex issue to provide what appear to be very comprehensive documents; these documents present complex and voluminous amounts of information and simply do not allow for a comprehensive review in the short time period between release of the NPRM and the supporting documents (draft Environmental Impact Statement and the economic study). In addition it appears that at least some of the economic impact studies are based on the originally proposed 12 kt. speed restriction, not the 10 kt. restriction now set forth in the NPRM, and on outdated information with regard to fuel prices. (Fuel prices have risen dramatically over the past 2 years with IFO380 going from \$183 to \$349 per MT and MGO going from \$464 to \$658 per MT.) The impact of each of these could be significant and may suggest that some or all of the studies need to be redone. Extending the comment period at least an additional

30 days will provide the necessary time for all interested parties to review these documents and provide valuable input in this regard.

The SOCP notes that some of the arguments and studies (Kraus et al 2005; Kraus 1990; Knowlton and Kraus 2001; NMFS 2005; Laist, et al 2001; Waring, et al 2004; and, NPRM 2006) make unsupported statements that the actual number of whale mortalities due to ship strikes is higher because some deaths go undetected or unreported. The number may be higher but the combination of direct and indirect anthropogenic factors and natural inhibitors pose just as serious a threat to Right Whale recovery (Preliminary Environmental Assessment PEA 2005) as do ship strikes. To infer that ship-strikes alone are the most serious threat to the specie is misleading and may well be incorrect. The SOCP recommends that the studies/data or necropsies be peer-reviewed by individuals not associated with NOAA/NMFS or receiving funding from these agencies, so as to ensure compliance with Section 515 of the Department of Commerce's Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Disseminated Information and NOAA's Information Quality Guidelines. In addition, exempted government and/or navy vessels and those ships less than 65' in length to which the rule would not apply could be problematic, leading to confusion and inaccuracies in reporting and in the monitoring of strike incidents.

The SOCP supports implementation of a 14 knot speed limit with higher speed exceptions based on unique local conditions in the covered areas during the seasonal periods outlined in the proposed rule. From the perspectives of both safety and overall protection of the environment we can not support implementation of the suggested 10 knot speed restriction in any of the covered areas, although we do appreciate the proposition that slower speeds may reduce the likelihood of a fatal ship strike. Unfortunately, the proposed rule as currently drafted provides no leeway for safety of navigation considerations which can and do arise due to local conditions such as weather, current, local hydrographic characteristics and traffic density. For example, adverse weather conditions such as those encountered in the covered areas during the seasonal periods established in the proposed rule can create very strong cross currents at the mouth of breakwaters which can set a vessel off its intended route and into dangerous areas. Similarly, adverse wind conditions can create an equally dangerous navigational safety issue for vessels with high sides (such as containerships and car carriers) which naturally have a large wind sail surface and are thus susceptible to being driven off their intended course by wind effects. Under either of these two conditions, vessels will need to proceed at the maximum safe speed to assure a safe and uneventful transit into and out of the port. We will do a disservice to the marine environment and living marine resources if mitigation strategies focusing on one issue (ship strikes) create greater overall negative impacts (potential for collisions, groundings due to decreased maneuverability, etc.) when they are implemented.

Following from the comments above, one possible way forward is to include in the final regulations a recommendation that vessels maintain 12 knots through the covered areas where conditions permit subject to an exception which permits the Master or Pilot to increase speed when conditions dictate for navigational safety. This provision could be

further tightened up by limiting the maximum speed to 14 knots in the covered areas except in those situations close into the sea buoy and/or breakwater, as described above, which require maximum safe speed.

NMFS/NOAA has shown a willingness to identify alternative strategies which would permit the uninterrupted flow of commerce while at the same time mitigate the potential for ship strikes. However, there is no mention in the rule of what would occur if a North Atlantic Right Whale is found in the midst of a shipping channel which is the only track in and out of a particular port area. We believe that a waiver provision must be inserted in the final rule which empowers the Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator of NOAA, to temporarily waive the provisions of this rule in a clearly defined local area, in order that maritime commerce may continue to operate without the attending legal liability which would be created by this rule absent any waiver provisions. This would enable a case by case analysis of situations by the requisite technical experts in marine biology, safety of navigation and local area conditions and thus permit the design of a rational solution which would minimize the impacts both on the North Atlantic Right Whale and the marine transportation system.

We believe clarifying language is necessary when describing the areas of coverage for the Mid-Atlantic U.S. as found in Section 224.105(a)(2)(i). While the chartlets included in the proposed rule implicitly suggest that the covered area is within a 30 nautical mile radius SEAWARD of the Colregs delineation line and the center point of the port entrance, the text description in the regulation itself does not make that clear and thus as proposed, could be read to include internal waters inshore from the Colregs delineation line. Since we do not believe this was ever the intent of the rulemaking, nor should it be, we recommend changing the text of the section referenced above to read "Within a 30-nautical mile (nm)(55.6 km) radius (as measured **seaward** from the Colregs delineated coast lines and the center point of the port entrance)...".

Finally, we respectfully reserve our right to provide further comments as we continue our review of the Draft Environmental Impact Statement and the economic analysis.

Subject: Speed Limit proposal

From: Jeff Skinner <jskinner8@ec.rr.com>

Date: Tue, 18 Jul 2006 21:35:20 -0400

To: Shipstrike.Comments@noaa.gov

I live and fish on the coast of NC, utilizing the inlet at Beaufort / Morehead City to gain access to the open ocean. I've been fishing this area for at least 25 years, both operating my own boats or fishing with others on their boats. I can count on one hand the number of whales I've seen in all these years. This is not to say that the Right Whale doesn't traverse these waters, but I do believe the incidences involving vessels such as charter boats and head boats operating in this area are minimal, if basically non-existent. Imposing a speed limit on "for hire" charter boats would be detrimental to the industry. The recreational fishing industry, as well as dive boat charters running out of the ports in Morehead City and Wilmington, depend upon tourism to keep afloat. The fishing and diving areas accessed from these ports requires a 2 to 2 1/2 hour one way ride to get the customers to the fish. Decreasing the speeds at which these boats operate not only will decrease the time paying customers have for recreation, but will, in some cases require the boat owners to add an additional captain on the boat in order to abide by the 12 hour limit on boat operators before they have to switch off to another captain on duty. This can be quite expensive, further cutting into the profits of these owners.

Also, the time period the proposed speed limit will be imposed is suspect. The boats don't operate on a daily basis during this period due to weather factors, so the potetial exposure of the whales to accidental strikings is rare. Most boats operate on weekends during this time due to available customers, who otherwise work during the week.

No one wants to see defenseless sea creatures killed or mangled, but imposing speed limits on our charter fleets doesn't make good sense. I respectfully request these limits be shelved, or at least up the minimum length to boats (ships) that are more likely to accidently engage a whale in the open ocean, i.e boats over 125 feet with displacement type hulls.

Respectfully,

Jeff Skinner

Indian Beach,NC

South Atlantic and Caribbean Ports Association
545 Misthaven Court
Suwanee, Georgia 30024

Phone (770) 831-9031
Fax (770) 831-9031

United in the interest and advancement in the South Atlantic and Caribbean

Via Fax (301) 427-2520 and US Mail

October 5, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910
shipstrike.comments@noaa.gov

Subject: Docket No. 040506143-6016-02.I.D. 101205B

The South Atlantic & Caribbean Ports Association (SACPA) submits these comments in response to 50 CFR Part 224 [Docket No. 040506143-6016-02. I.D.101205B] RIN 064-AS36. By that notice, the National Marine Fisheries Service (NMFS) requested comments on the Proposed Rule that was published in the Federal Register on June 26, 2006 (Vol. 71, No. 122, pages 36299-36313) and on August 14, 2006 (Vol. 71, No. 156, page 46440).

The membership of the SACPA is comprised of Port Authorities conducting operations from the State of Virginia to Miami, Florida. Combined these Ports provide significant facilities and investments in facilities for cargo movements. These Port facilities stimulate trade by providing thousands of jobs handling millions of containers and general cargo.

On behalf of these Ports, we welcome the opportunity to provide comments on the development of an effective plan for reducing North Atlantic right whale ship strikes. These Ports appreciate the concern of NMFS for protecting the right whales. We respectfully request the NMFS re-evaluate the economic impact of the rule and explore new technologies that would provide the shipping industry for tracking the species and protecting their whereabouts.

These Port members have expressed their individual concerns regarding safe operations of vessels that ply the waters of the Atlantic. Significant reasons have been expressed why it is unsafe for vessels to travel through water at slower speed. The relative handfuls of whale sightings over the past few years do not indicate any measurable gain.

Page 2
Right Whale
October 5, 2006

It is estimated that the proposed rules would impact South Atlantic Ports by an increase in ship transit time by up to 50%. This would result in substantial increased cost to the users of these Ports. This would surely have a negative impact on the economy of the South East and ultimately it would be felt nation wide.

We encourage the evaluation of an expansion of technology that would provide a more effective method of spotting whales in our coastal waters and then advise the shipping interest in the area.

In conclusion, the SACPA opposes speed restrictions as ineffective and not supported by evidence. We also request that NMFS extend the comment period to engage in productive discussions with the maritime industry on effective and acceptable solutions to their concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "L. David Schronce". The signature is written in a cursive, flowing style.

L. David Schronce
President

Subject: SAMTSO Comments - North Atlantic Right Whale Proposed Rulemaking
From: David White <david@portofhamptonroads.com>
Date: Thu, 05 Oct 2006 13:22:40 -0400
To: Shipstrike.Comments@noaa.gov

South Atlantic Marine Transportation System Organization

P.O. Box 3487
Norfolk, Virginia 23514
757-622-2639
FAX 757-622-6302
hrma@portofhamptonroads.com
www.portofhamptonroads.com

October 5, 2006

Chief, Marine Mammal Conservation Division
Attention: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East West Highway
Silver Springs, MD 20910

RE: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales; 50 CFR Part 224 [Docket No. 040506143-6016-02.I.D. 101205B]

Dear Sir or Madam:

The South Atlantic Marine Transportation System Organization (SAMTSO) is a regional organization dealing with marine transportation related issues affecting the Southeastern United States and provides regional representation to the Marine Transportation System National Advisory Council (MTSNAC). SAMTSO is comprised of port authorities, maritime associations, and other stakeholder groups from the South Atlantic ports of the United States as well as government agencies involved with the Maritime Industry. As part of SAMTSO's mission it is our responsibility to articulate the importance of the regional MTS to the economy of the nation and the South Atlantic; to foster a common vision for the future of the region's MTS; and to energize continued efforts to protect and advance the interests of the region's MTS. In fulfilling those responsibilities we offer the following comments on the proposed rule to implement speed restrictions to reduce the threat of ship collisions with North Atlantic right whales.

We wish to clearly state that SAMTSO members have been and will continue to be a partner with NOAA in efforts to protect and restore the right whale population. However, we must oppose the implementation of blanket speed restrictions on vessels as a measure to reduce ship strikes. We oppose speed restrictions for several reasons. First, it must be recognized that in many instances ships become less maneuverable at the proposed reduced speeds. By reducing the control over a ship the risks are increased for incidents that could result in the loss of human life or environmental damage. Stuningly, section 4.6.6.2 of the DEIS wrongly concludes maritime safety will be improved. We are aware that numerous examples of navigational safety concerns have been provided during the comment period. It is clear the National Marine Fisheries Service (NMFS) has not adequately accounted for the very real navigational safety concerns.

We also oppose blanket speed restrictions based on the certain negative impacts on the nation's

and the South Atlantic's Marine Transportation System (MTS) and economies when weighed against the uncertainty of any positive impacts on the right whale population. Citing economic impact figures from the DEIS, which we believe grossly underestimate the true economic impacts, the costs of NMFS' preferred measures (Alternative 6) to the nation's maritime industry will be \$116 million annually.

Recognizing that 95% of imports arrive by ship and the time sensitive schedules of our MTS, we believe these figures grossly underestimate the impacts and costs to our nations supply chain.

We find no convincing evidence that ship strikes are less likely to occur at slower speeds.

NMFS has produced studies indicating that if a ship strike occurs, a strike at a higher speed may be more likely to cause death or serious injury than a strike at a lower speed. However, if seeking to reduce the probability of a strike in the first place, speed restrictions are not a scientifically supported solution. For this and other reasons, we question the validity of the studies calling for the use of blanket speed restrictions as a means of improving the right whale population.

We are concerned that there has been little or no accounting for enforcement of blanket speed restrictions. To whom will enforcement of these regulations fall? What will be the costs of enforcement and where is the funding? If enforcement responsibilities are foisted upon the U.S. Coast Guard, what resources will be used and how will it compromise the Coast Guard's national security and maritime safety responsibilities?

We find the proposed regulations contrary to national policy and to demonstrate a lack of identification and coordination with other priorities within the same agency, NOAA. Speed restrictions are contrary to two elements of the President's U.S. Ocean Action Plan. One of the Plan's priorities is improving the MTS. Clearly, blanket speed restrictions are a detriment to the MTS. Another of the Plan's priorities is advancing knowledge of the oceans through improved technologies and Integrated Ocean Observing Systems (IOOS). NOAA's National Ocean Service (NOS) is putting significant energy and funding into developing IOOS and improving technological capabilities. There seems to be little coordination, or desire for coordination, between NMFS and NOS to seek technological and observational solutions to improving the right whale population. We recommend better coordination of the objectives of NMFS with NOS and the pursuit of technological and observing solutions with higher probabilities of improving the right whale population.

We note there are no provisions for terminating speed restrictions. Should speed restrictions be implemented we recommend including provisions for the sun-setting of the regulations when they are determined to be ineffective, or if the right whale population reaches 400 or experiences sustained growth of say 4% over five years. The maritime industry does not accept that speed restrictions will be necessary in perpetuity.

SAMTSO maintains that the human and environmental navigational safety risks and the certain negative impacts on the economy and the nation's supply chain far outweigh the very uncertain positive impacts of blanket speed restrictions. We encourage NMFS to focus its resources instead on finding technological and observation based solutions with a higher probability of achieving the goal of improving the right whale population. Please contact me at (757) 622-2639 should you desire additional information or have any questions.

Very truly yours,

David White
Chairman

CC: Mr. John Gaughan, Chairman, Marine Transportation System National Advisory Council
Ms. Helen Brohl, Executive Director, Committee on the Marine Transportation System

Sincerely,

David White
Administrator
Virginia Maritime Association
757-622-2639
david@portofhamptonroads.com

South Carolina State **PORTS AUTHORITY**

BERNARD S. GROSECLOSE, JR.
President and Chief Executive Officer

P.O. Box 22287
CHARLESTON, S.C. 29413-2287 USA
(843) 577-8600
FAX: (843) 577-8626

October 4, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910
shipstrike.comments@noaa.gov

Subject: Docket No. 040506143-6016-02. I.D. 101205B

The South Carolina State Ports Authority (SCSPA) submits these comments in response to 50 CFR Part 224 [Docket No. 040506143-6016-02. I.D. 101205B] RIN 064-AS36. By that notice, the National Marine Fisheries Service (NMFS) requested comments on the Proposed Rule that was published in the *Federal Register* on June 26, 2006 (Vol. 71, No. 122, pages 36299-36313) and on August 14, 2006 (Vol. 71, No. 156, page 46440).

The SCSPA operates port facilities in Charleston, Georgetown and Port Royal. In Charleston, we operate one of the nation's largest container port complexes, stimulating more than 281,000 jobs statewide and handling nearly two million TEUs annually.

The SCSPA welcomes the opportunity to provide comments on the development of an effective strategy for reducing North Atlantic right whale ship strikes. While we appreciate NMFS' concern for the right whale, the SCSPA is opposed to the proposed rule due to (1) safety concerns, (2) economic concerns and (3) scientific justification and efficacy. We ask that NMFS re-evaluate the economic impacts of the rule and explore new technologies and methods for tracking and protecting the species.

With regard to safety, we share the navigational safety concerns expressed by the Charleston Branch Pilots Association and other navigational experts. They have stated scientific and practical reasons why it is unsafe for vessels to travel through the water under slower speeds. The issue of terrorism vulnerability also arises with ships moving slower and, therefore, for longer periods of time in close proximity to the coast. NMFS has not adequately accounted for the navigational safety concerns expressed by the professional mariner.

We are also very concerned with the negative economic impact of the rules and contend that NMFS has grossly understated the economic impact. In Table 4-29, NMFS states that the direct economic impact on the shipping industry in Charleston alone (under the preferred Alternative 6 at 10 knots) would be more than \$5.2 million. Under this analysis, Charleston would bear more than 10% of the total negative economic impact of the rule. While this impact is significant, we believe it is understated.

October 4, 2006

Page 2

The Port of Charleston's primary advantages are its geographic location, proximity to the open ocean and productivity – these factors combine to position Charleston as a prime location for making up time in a vessel's rotation either before or after it transits the Panama Canal. The proposed rules would increase transit times in Charleston by about 50%. Given the increasing congestion in the Panama Canal, the restrictions could all but destroy our port's competitive advantage. We believe the impacts on Charleston, as well as the nation's economy, are understated.

Additionally, it is important to note there have been no ship strikes in the approaches to the Port of Charleston and just a handful of whale sightings over the past few years. Therefore, our port and her users are being asked to bear a burden even though there is no immediately measurable or even apparent gain.

To the issue of scientific justification, a key component with any strategy should be efficacy. Therefore, it is bothersome that there is insufficient evidence to prove that the probability of ship strikes is reduced with slower speeds. In fact, at slower speeds ships will be present in the waters longer, which could in fact contribute to an increase in strikes or at least an increase in the probability of strikes. NMFS has not indicated how many smaller craft, such as scientific vessels or whale watching boats, have struck whales while traveling less than 10 knots.

To reduce the probability of ship strikes, we would suggest that NMFS revisit the concept of dynamic management areas (DMAs). While unfortunately NMFS says DMAs alone are insufficient, some version of this concept would seem to merit further review, analysis, discussion and study as an effective solution to the concerns that NMFS has raised. Today, if a right whale is spotted near Charleston, mariners are to be advised and communications are to be sent to all ships in the area. DMAs seem like they could be an effective concept, yet the Georgia Environmental Policy Institute reports that NMFS only spends about a third of its relatively small budget on aerial surveys to actually spot the whales. While the current spotting technology is limited to visual surveys by aircraft, we encourage the further evaluation of technological advances in whale spotting near our coastal waters and in communication with mariners.

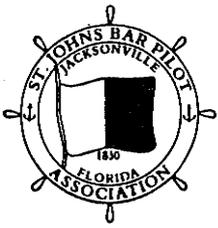
In conclusion, the SCSPA opposes speed restrictions as ineffective and not supported by evidence. We also request that NMFS extend the comment period to engage in productive discussions with the maritime industry on effective and acceptable solutions to their concerns.

Sincerely,



Bernard S. Groseclose, Jr.

BSG/bdm



St. Johns Bar Pilot Association

PORT OF JACKSONVILLE
FLORIDA

4910 OCEAN STREET
MAYPORT, FLORIDA 32233
Telephone - 904-249-5631
FAX - 904/249-7523

October 3, 2006

Mr. Stuart Harris, Chief
Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, MNFS
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Harris,

This is the response of the St Johns Bar Pilot Association to the *Proposed Rules to Implement Speed Restrictions to Reduce the Threat of Ship Collision with North Atlantic Right Whales (Federal Register / Vol. 71, No. 122 / Monday, June 26, 2006)*. We handle all of the large commercial vessel traffic into and out of the Port of Jacksonville, FL.

This proposed rule will place a number of hardships upon ships calling at Jacksonville and shippers that utilize the Port of Jacksonville:

- the additional time it will take to cross the regulated areas at reduced speed
- the increased occurrence of tide restricted inbound vessels missing their start in window
- not having the option to use increased speed to avoid close quarters situations with other vessels in the congested pilot boarding area

However, there is another concern that may prove to have the most dramatic affects on ship movements in our port.

As pilots our primary job is the safety of the vessel during the inbound or outbound transit in pilotage waters. The aspect of the proposed speed restriction that is of most concern to us is on the critical stretch of water from the pilot boarding area near the sea buoy to the shoreline. The weather during the months that these restrictions would be in affect is the some of the most hazardous that we face. Often, the prevailing north or northeast winds blow in excess of 20 to 25 knots for days at a time. These winds almost always cause a very strong cross current at the mouth of the breakwaters. Bringing vessels in or out through these breakwaters can be extremely hazardous during these conditions. It is normal after pilot boarding to bring these ships up to the maximum safe speed possible with short notice to transit this area in order to prevent wind and current from setting the vessel onto the jetty rocks. Some vessels, especially large, high sided vessels such as large container ships or car carriers as well as deeply loaded tankers or bulk vessels require speeds well in excess of the proposed 10 knot restriction in order to pass through the breakwaters safely. Should speed restrictions become law, our ability to provide "all weather, 24 hour service" will be severely diminished. Commerce in Jacksonville and other east coast ports similarly affected will be drastically impacted whenever adverse weather occurs.

WE ARE THE "JACKSONVILLE PILOTS"

October 3, 2006

Page 2

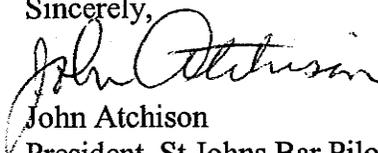
There may be other more effective means of reducing ship strike than these speculative measures that have not been well supported by scientific evidence. At least within the portion of the Northern Right Whale habitat described herein- the approach to/from the St Johns River breakwaters, the speed restriction without a waiver for safety of navigation could pose a greater risk to the Northern Right Whale as well as the entire marine environment in the vicinity. A vessel grounding on the jetty rocks, a likely outcome of complying with a 10 knot speed restriction while transiting the entrance to the breakwaters during adverse weather conditions would cause a dramatic and far reaching impact on the marine environment as well as the Northern Right Whale habitat.

Fines for violating these rules have not been defined but surely they will be at some future date. Faced with the prospect of choosing between the safety of the ship or being fined we would obviously choose the safety of the ship. However, if we are subjected to fines in order to safely pilot ships through this critical stretch of water, eventually we would have to comply. That would mean holding these ships outside or at their berth until conditions improve. There is no waiver included in these rules for safety of navigation and there should be in order to allow the free transit of all ship traffic during adverse weather conditions.

For these reasons it is the position of the St Johns Bar Pilot Association that the proposed rules should be modified to include a **waiver for safety of navigation** while transiting the critical area between the pilot boarding area and the shoreline and visa versa.

Thank you for the opportunity to address this critical issue.

Sincerely,



John Atchison

President, St Johns Bar Pilot Association

Cc:

Rep. Corrine Brown, FL

Rep. Connie Mack, FL

Rep. Mario Diaz Balart,

Governor Jeb Bush,

Admiral D. W. Kunkel, USCG 7th District

Captain Paul Thomas USCG, COTP, Sector Jacksonville

Carlos M. Gutierrez, Secretary of the U.S. Department of Commerce

Navy Vice Admiral Conrad C. Lautenbacher, NOAA Administrator

David Rostker, OMB

Gregory Silber, Ph.D., Fishery Biologist (NMFS)

Captain Mike Watson, APA

Captain George Viso, FSPA

Captain Cheryl Phipps, BOPC

Mr. Rick Ferrin, JPA

Subject: Public Submission

From: no-reply@erulemaking.net

Date: Tue, 03 Oct 2006 13:08:02 -0400 (EDT)

To: Shipstrike.Comments@noaa.gov

Please Do Not Reply This Email.

Public Comments on Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales; Extension of Public Comment Period:=====

Title: Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales; Extension of Public Comment Period

FR Document Number: E6-13323

Legacy Document ID:

RIN: 0648-AS36

Publish Date: 08/14/2006 00:00:00

Submitter Info:

First Name: John

Last Name: Atchison

Organization Name: St Johns Bar Pilot Association, Jacksonville, FL

Comment Info: =====

General Comment: This is the response of the St Johns Bar Pilot Association to the Proposed Rules to Implement Speed Restrictions to Reduce the Threat of Ship Collision with North Atlantic Right Whales (Federal Register / Vol. 71, No. 122 / Monday, June 26, 2006). We handle all of the large commercial vessel traffic into and out of the Port of Jacksonville, FL.

This proposed rule will place a number of hardships upon ships calling at Jacksonville and shippers that utilize the Port of Jacksonville:

- the additional time it will take to cross the regulated areas at reduced speed
- the increased occurrence of tide restricted inbound vessels missing their start in window
- not having the option to use increased speed to avoid close quarters situations with other vessels in the congested pilot boarding area

However, there is another concern that may prove to have the most dramatic affects on ship movements in our port.

As pilots our primary job is the safety of the vessel during the inbound or outbound transit in pilotage waters. The aspect of the proposed speed restriction that is of most concern to us is on the critical stretch of water from the pilot boarding area near the sea buoy to the shoreline. The weather during the months that these restrictions would be in affect is the some of the

most hazardous that we face. Often, the prevailing north or northeast winds blow in excess of 20 to 25 knots for days at a time. These winds almost always cause a very strong cross current at the mouth of the breakwaters. Bringing vessels in or out through these breakwaters can be extremely hazardous during these conditions. It is normal after pilot boarding to bring these ships up to the maximum safe speed possible with short notice to transit this area in order to prevent wind and current from setting the vessel onto the jetty rocks. Some vessels, especially large, high sided vessels such as large container ships or car carriers as well as deeply loaded tankers or bulk vessels will require speeds well in excess of the proposed 10 knot restriction in order to pass through the breakwaters safely. Should speed restrictions become law, our ability to provide ?all weather, 24 hour service? will be severely diminished. Commerce in Jacksonville and other east coast ports similarly affected will be drastically impacted whenever adverse weather occurs.

There may be other more effective means of reducing ship strike than these speculative measures that have not been well supported by scientific evidence. At least within the portion of the Northern Right Whale habitat described herein- the approach to/from the St Johns River breakwaters, the speed restriction without a waiver for safety of navigation could pose a greater risk to the Northern Right Whale as well as the entire marine environment in the vicinity. A vessel grounding on the jetty rocks, a likely outcome of complying with a 10 knot speed restriction while transiting the entrance to the breakwaters during adverse weather conditions would cause a dramatic and far reaching impact on the marine environment as well as the Northern Right Whale habitat.

Fines for violating these rules have not been defined but surely they will be at some future date. Faced with the prospect of choosing between the safety of the ship or being fined we would obviously choose the safety of the ship. However, if we are subjected to fines in order to safely pilot ships through this critical stretch of water, eventually we would have to comply. That would mean holding these ships outside or at their berth until conditions improve. There is no waiver included in these rules for safety of navigation and there should be in order to allow the free transit of all ship traffic in the event of adverse weather conditions.

For these reasons it is the position of the St Johns Bar Pilot Association that the proposed rules should be modified to include a waiver for Safety of Navigation while transiting the critical area between the pilot boarding area and the shoreline and visa versa.

Thank you for the opportunity to address this critical issue.

John Atchison
President, St Johns Bar Pilot Association



STAR SHIPPING

August 21, 2006

Chief, Marine Mammal Conservation Division
National Marine Fisheries Service
Right Whale Ship Strike Strategy
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910

Re: Proposed Speed Restrictions on vessels of 65 ft or more along the U.S. Atlantic East Coast

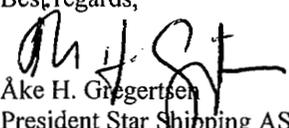
Gentlemen,

As a break bulk steamship line, Star Shipping has serviced East Coast ports of the U.S for over forty years with both import and export calls from Canada north to Florida south. Most of our ships are between 30,000 and 50,000 dwt. Our budget for 2006 called for 324 port calls in this area. The structure of our trade lanes takes our vessels to multiple port calls per voyage on the East Coast. As with any steamship line, time is always of the essence during our voyage. Vessels are very costly to operate and every minute equates to dollars spent. Therefore, our goal is to minimize time transiting and length of time in ports. With that in mind, we have spent hundreds of millions of dollars building vessels equipped with cranes capable of loading/unloading cargo with greater speed and vessel engines capable of running at faster speeds. Especially with fuel costs being a major operating expense, optimization of speed is a must. Further, we have to meet time requirement deadlines in ports that can at times mean thousands of lost dollars if we do not stay on schedule.

Our company is a concerned citizen of the environment and we go to great lengths to follow all current guidelines established. We have recently studied the new revised "North Atlantic Right Whale Recovery Plan" on your website where there is a proposal to reduce ship speeds to 10 knots in the "restricted areas" during the Right Whale season. While there is a valuable amount of data in the report, we can't seem to find any specific scientific data that supports the theory that reducing the speed to 10 knots will in fact have a "real" impact on the benefits to the Right Whales. However, the economic impact to the steamship industry will be enormous according to your study. Also, we note that information used for the report was from 2003/2004 figures. With inflation and current oil prices, we believe that the economic impact needs to be revised even further.

The study should also consider that modern ships' engines are not designed to run for any length of time at less than ideal rpms. Doing so may shorten the life of the engines. Alternatively the ships will have to switch from heavy fuel to more expensive diesel oil to meet the proposed limitations.

Star Shipping certainly understands the importance of this project. However, due to the huge economic impact of this project to the steamship industry and ultimately consumers as a whole, we would like to see further conclusive study on the subject before such a drastic change is implemented.

Best regards,

Ake H. Gregertsen
President Star Shipping AS

October 4, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Re: **Notice of Proposed Rulemaking (NPRM); Docket No. 040506143-6016-02. I. D. 101205B**

Dear Sir or Madam:

SUEZ LNG NA LLC (SUEZ) would like to thank the National Marine Fisheries Service (NMFS) for this opportunity to comment on the above referenced NPRM. As we have commented previously and as reflected below, SUEZ strongly supports NMFS in its efforts to reduce ship strikes involving the Northern Right Whale.

SUEZ transports liquefied natural gas (LNG) to ports on the east coast of the United States including Elba Island, Georgia, Cove Point, Maryland and Boston, Massachusetts, all of which will be affected by NMFS's proposed regulations. SUEZ supplies approximately twenty percent of the LNG to the New England market, as well as, LNG for heating homes and businesses and for the generation of power throughout the east coast. SUEZ has approximately 100 vessel arrivals per year on the east coast of the United States with approximately 65 arrivals per year in the Port of Boston, Massachusetts.

As stated, SUEZ strongly supports NOAA in its efforts to protect the North Atlantic Right Whale. We consistently provide our vessels with Right Whale alerts and remind our vessel Masters of their responsibilities under the mandatory ship reporting system. We do, however, have serious concerns with the proposed rule in its present form.

Of greatest concern to SUEZ is the speed restriction of 10 knots in the Great South Channel and in the proposed dynamic management areas. The safe navigation of our vessels and the safety of our crews are paramount. Large deep draft vessels require the ability to travel at speeds in excess of 10 knots in order to maintain full steerage. The proposed 10-knot speed restriction could result in unintended consequences for the vessel by taking away the master's ability to safely navigate his or her vessel. This speed restriction, along with the Port Access Route Study (PARS) that was sent to the International Maritime Organization (IMO) for acceptance, narrows the Traffic Separation Scheme by approximately ½ nautical mile and further increases the need for

the Master to have the ability to safely navigate his or her vessel. SUEZ however, supports a speed reduction to 14 knots in the seasonal and dynamic management areas identified in the NPRM. The final rule should contain a clause that allows the vessel Master to exercise his or her judgment in providing for the safe navigation of the vessel in accordance with existing laws, regulations and navigation rules.

NOAA also states that the U. S. Coast Guard (USCG) establishes speed restrictions in many areas. It should be noted however that the USCG establishes these speed restrictions in protected near coastal waters, harbors or rivers where the vessel is assisted by tug boats. The USCG does not normally place speed restrictions on vessels operating on exposed waters such as the Great South Channel.

In addition, the proposed regulation exempts federal vessels, including foreign sovereign vessels when they are engaging in joint exercises with the U. S. Department of the Navy. We urge NOAA to reevaluate this exemption, as there are several documented cases of these vessels being involved in whale strikes. So long as it does not compromise the mission at hand, they too should have to comply with the final version of these regulations. An exemption, by regulation, should be granted when vessels are on missions relating to the preservation of life, property or national security. To grant an exemption in these proposed areas for the purpose of conducting training exercises appears to be counterproductive to what the NMFS is attempting to accomplish with these proposed regulations.

Thank you again for the opportunity to provide these comments. Please contact me if you would like further information concerning this matter.

Sincerely,

Joseph E. McKechnie
Vice President, Shipping
SUEZ LNG, NA LLC

cc: Mr. David Rostker, Office of Management and Budget (OMB) (via e-mail)

Vice Admiral Conrad C. Lautenbacher, U. S. Navy, NOAA Administrator (via e-mail)

Carlos M. Gutierrez, Secretary of the U. S. Department of Commerce, Office of the Secretary

Gregory Silber, Ph.D., Office of Protected Resources, National Marine Fishery Service

Subject: What Whale Strikes?

From: Bob Freeman <Sunrise@coastalnet.com>

Date: Thu, 28 Sep 2006 17:00:12 -0400 (Eastern Standard Time)

To: Shipstrike.Comments@noaa.gov

I operate Sunrise Charters out of Atlantic Beach, N.C. and have covered over 200,000 miles of ocean travel in this area over the last 34 years. I have only seen one whale during all that time. The one I saw was in late December, ten miles east of Cape Lookout while blue-fin tuna fishing. I have never heard of anyone even coming close to hitting a whale around this area.

The proposed 10 Knot limit does not effect me "yet" as I run a 37' boat; but this is a foolish proposal for an area that seldom sees any whales. It will be a significant impact for the shipping and head boats that operate out of Beaufort Inlet. The proposal would add at least three hours of travel time for the head boats meaning that they would only be able to fish less than three hours on an eleven hour full day trip. They would have to discontinue their half day trips, which are popular with families on vacation, because at 10 knots the boats couldn't reach any fishing areas that they currently go to.

Commercial shipping would be adding about four hours of travel time to get to Beaufort Inlet at great cost to the ship owners and their customers.

Suspecting that whales are not repopulating because of ship strikes is ludicrous for this area and no imposing legislation will change that situation.

Spend your time, effort and money to stop whaling by foreign countries and you might improve population but I am not optimistic

Captain Robert D Freeman

Sunrise Charters.

252 726 9814

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Subject: Right whale - vs1 speed restrictions
From: Charlie Sutlive <sma_1@bellsouth.net>
Date: Wed, 04 Oct 2006 16:06:13 -0400
To: Shipstrike.Comments@noaa.gov
CC: ShipStrike.EIS@noaa.gov

Gentlemen:

We refer to previous exchanges in connection with the NOAA proposal for seasonal speed restrictions at several East Coast Ports. These restrictions, if enacted, are intended to afford additional protection for right whales against ship strikes. There is insufficient data to support this theory.

We support NOAA in its historic efforts to minimize harm to right whales. However, requiring vessels over 65 feet in length to reduce speeds to 10 knots would, in our opinion, cause considerable financial harm to the maritime community. NOAA is fully conversant with these problems via correspondence and public hearings.

The Savannah Maritime Association would like to propose two alternative measures in the effort to protect right whales:

A) utilize electronic tracking devices. this method has worked in tracking Polar bears, seals and other animals. Local maritime authorities would be alerted when whales are in shipping lanes or nearby.

B) Utilize local air Coast guard units to patrol our ship channels. Again local maritime authorities would be alerted when whales are spotted nearby. This additional responsibility would be in lieu of having to enforce speed restrictions or levying fines.

Thank you for your consideration of the above.

Charles E. Sutlive
Executive Director
Savannah Maritime Association

SYNERGISTIC DYNAMICS, INC.

◀ S D I ▶

John C. Snedeker, Chairman & CEO
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912-897-4764 Fax: 912-897-1784 1-888-897-4764

11 SEPTEMBER 2006

Chief, Marine Mammal Conservation Division
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring MD 20910

Attention:

Right Whale Ship Strike Strategy
Office of Protected Resources

Subject:

NPRM, Docket No. 040506143-616-02 I.D. 101205B
RIN 0648-AS36

Dear Colleagues:

In 2003, the U.S. Maritime Administration (MARAD) created the Short Sea Shipping Cooperative Program (SCOOP), a public-private collaborative, to support and encourage the development of coastal shipping as an alternative mode of moving domestic freight along the three coasts of the United States. Synergistic Dynamics, Inc. was a founding member of SCOOP; I serve on the Legislation and Finance sub-committee.

Coastal shipping, also called short sea shipping, can relieve traffic congestion on the coastal Inter-State highways (I-5, I-10 and I-95) by offering trucking companies a water-borne mode. In addition, once such a system is in place, it will benefit the environment by significantly reducing air pollution and will reduce the amount of fuel required to transport a unit of freight by a factor of at least 30 to 1 compared to trucks. Relieving traffic congestion will further enhance the environment and reduce fuel consumption by passenger vehicles.

MARAD and the Journal of Commerce have sponsored a series of conferences that have produced a consensus that coastal shipping can become a viable mode of domestic freight transportation provided the system is reliable, consistent, cost competitive and comparable in transit time with highway and rail. In order to achieve acceptable transit times, the speed of vessels serving relatively long offshore routes, such as New London-Port Canaveral and Wilmington DE-Savannah, must be at least 25 knots.

The proposed speed restrictions will have a serious, perhaps fatal, impact on the emerging coastal shipping system because vessels in the domestic trades will be operating in the

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speed-restricted zones for a substantial part of their voyages. The impact on vessels in international trades will be minimal because they will be subject to the speed restrictions only when approaching or leaving an east coast port.

NMFS estimates that the annual economic impacts will be \$116 million for its preferred 10 knot speed restriction, but this estimate does not take into account the projected increase in coastal shipping.

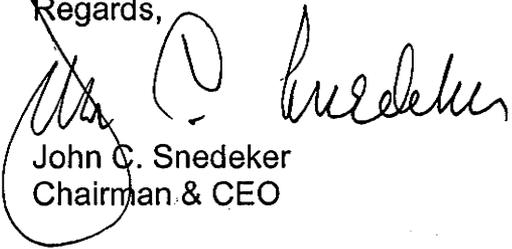
We believe that other means to protect the endangered right whales from vessel strikes should be thoroughly explored before imposing drastic speed limits that would not only adversely affect shipping in general, but could drive whale watchers completely out of business, according to an article in the September 2006 issue of *Work Boat* magazine. This would be unfortunate and detrimental to the NMFS's interests in protecting the right whales because passengers on whale watcher boats provide most of the civilian support base for the effort.

NOAA, which has recently added new vessels to its fisheries research fleet, should be assigned the primary responsibility for patrolling areas where right whales are expected to be present. It should augment the surface fleet with fixed wing aircraft chartered from private sector operators during the periods of highest vulnerability.

Transponders should be implanted in as many adult whales as possible. Since the NMFS states that there are only about 300 right whales in the entire world, this should not be cost-prohibitive, particularly if the transponder program is limited to the most vulnerable areas along the east coast of the United States.

Another option, pending full implementation of the transponder program, would be to require vessels in the US coastal trades to employ professional marine mammal observers during periods of vulnerability, at least until the transponder program is fully operational. This is standard practice in the offshore energy industry, particularly on seismic survey vessels. The cost of such observers should be borne by the federal government, not by the vessel operator, since the program is for the greater good.

Regards,



John C. Snedeker
Chairman & CEO



Banknorth

Massachusetts

Commercial Lending

40 Main Street

P.O. Box 67

Orleans, MA 02653

T: 508 255-0339 F: 508 255-4157

TDBanknorth.com

September 25, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

ATTN: Right Whale Ship Strike Strategy

I am a commercial lending officer at a major bank located on Cape Cod. Our market includes Provincetown, MA. The proposed rules including speed restrictions to reduce ship strikes on Right Whales would bring considerable economic harm to the town of Provincetown and some of its maritime businesses.

Ferry operations from Boston bring a tremendous number of tourists to the community each summer season. Whale Watch boats operating out of Provincetown (and Barnstable) also draw many visitors to the area seasonally. Enactment of the rules as proposed would greatly restrict, and could ultimately prevent (due to economic impact) certain vessels from operating. The role that ferry and whale watch operators play in bringing people to the community means that impact to those operations will also have a negative "ripple effect" on other businesses in the community. It is not overstating the case to say that in such a highly seasonal economy, this negative effect could be felt in the form of business closure and job losses.

Protection of whales is very important as both a conservation measure and an economic objective. However, the proposed rules for protection, while well intentioned, appear to be excessive.

In crafting protective rules, please consider the excellent record of ferry and whale watch operators in this area, who have never been involved in a right whale strike. Consider that their professional, trained, and experienced crews are aware of the presence of whales and operate their vessels in a vigilant and responsible way. And consider that the size, relative maneuverability, and stopping distance of their vessels should be considered so these operators are not treated the same as much larger freight and cargo vessels.

I hope in forming the rules you will balance the important need to protect whales with the equally important need to not harm businesses that are economically vital to our community.

Sincerely,


Peter S. Rice
Senior Vice President

Subject: Whale strikes

From: James Taylor <hillsvilleengineer@earthlink.net>

Date: Tue, 26 Sep 2006 15:18:56 -0400

To: Shipstrike.Comments@noaa.gov

NOAA and NMFS,

I am a veteran of the United States Coast Guard and I am writing in response to the Endangered North Atlantic Right Whales. The proposed regulation for sixty five foot vessels and above to reduce speed would be detrimental to the fishing head boats and fishing charter boats. I believe that the NMFS and NOAA could make sound adjustments to this proposal. Please propose that the fishing charter boats and head boats are exempt from this ruling or allowed to maintain 18-20 knots. I believe that these hard working **AMERICAN OWNED** fishing businesses deserve better. It would be detrimental to the businesses, local economies, and history of deep sea fishing. I enjoy fishing and would like to pass it on to my kids. I believe most unreported whale strikes have been cause by foreign owned cargo and oil vessels. These vessels would have a hard time slowing at the proposed speed of ten knots and would not change course, mostly due to no one standing whale watch. Fishing Boats are always on the watch due to the number of people on board. I believe that we should enforce this on large ships coming with in thirty miles. I believe we only have the jurisdiction of 12 miles only, after this it is international waters. This would allow the USCG to board vessels to check for compliance. I have spent many days and nights on the ocean and have only come in contact with a whale once. It was about 2 nautical miles off the stern near the Chesapeake Bay Bridge Tunnel. I really hope that this doesn't affect our American owned coastal businesses. These companies, some four generation old will become endangered like the Right Whale with a recorded 12 deaths due to vessels strikes in the pass ten years. I know of one business that will become endangered due to your decisions. Please review your proposal and get some consultation on the new problem that this will create on fishing charter and head boats. Thank you for your time.

Sincerely,

James Taylor

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" A Review of the NOAA/NMFS Proposed Rule (PR) to Implement Speed Restrictions, 26 June 2006, and the Corresponding Draft Environmental Impact Statement (DEIS) to Implement the Operational Measures of the North Atlantic Right Whale Ship Strike Reduction Strategy, July 2006 "

S. Testaverde and J. Hain

4 October 2006

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Note: This paper was partially funded by a coalition of maritime and port interests.

Key Points in this Document

- From 1970 through 2005, about 25 right whale mortalities have been attributed to vessel collisions (Marine Mammal Commission, 2005); this is approximately 0.7 per year.
- The proposed rule and the Draft Environmental Impact Statement are flawed in:
 - 1) presentation and interpretation of facts and 2) failure to meet generally accepted standards of data handling and statistical analyses.
- Based on records of whale collisions where vessel speed was reported, mortality and injury by vessels 65 ft and larger at speeds of less than 14 kts is not indicated. Additionally, there is no evidence in these records to provide for evaluating or discriminating possible effect of speeds between 10 and 13 kts.
- Consideration of vessel speed vs. whale collisions is not simple, but rather, involves a matrix of inter-related dimensions and probabilities. Not all factors point in the same direction, and indeed, to some degree at least, may be offsetting. Vessels traveling at higher speeds may: 1) provide a lesser response time for whales exhibiting avoidance behavior, 2) draw a whale into the vessel in the case of an “appearing whale” or at speeds of 20 kts or greater, and 3) increase level-of-injury IF a collision occurs. On the other hand, vessels traveling at faster speeds may: 1) provide an acoustic signature that allows for greater whale response time, 2) push the whale away from the vessel, thus avoiding a possible collision, and 3) reduce exposure and risk of a vessel/whale interaction. A third alternative in the matrix is the situation where speed is not a factor. In several of the hydrodynamic simulations, whether a collision did or did not occur was independent of vessel speed or at least over a wide range of vessel speeds.
- Of the 58 reported collisions, where speed of vessels is known, more than half were by vessels exempt by the proposed rule (PR): 20.5% were by vessels under 65 feet in length, 31.0% were by military vessels and several others occurred in Canadian waters.
- The cited studies’ over emphasize the large whale speed database (a compilation of anecdotal records), which contains only 5% (3 of 58) right whale records, one citation of which is highly questionable, as it was a retroactive right whale categorization made 25 years after the collision incident.

1.0 Introduction

On June 26, 2006, as part of their Ship Strike Reduction Strategy, the National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (now called NOAA Fisheries) proposed rules intended to reduce the threat of ship collisions with North Atlantic right whales (right whales) (*Eubalaena glacialis*) along the Atlantic seaboard (Federal Register, Vol. 71, No. 122, June 26, 2006 - pages 36299-36313). To achieve this goal, the Proposed Rules (PR) would implement speed restrictions for vessels with an overall length of sixty-five feet or greater, with specific speed management areas around major ports during certain periods of the year. These speed restriction periods will occur based on expected concentrations of right whales.

A review of both the PR and the Draft Environmental Impact Statement (DEIS) to Implement the Operational Measures of the North Atlantic Right Whale Ship Strike Reduction Strategy, July 2006, was investigated to determine the merits of these significant operational speed restrictions and related components.

2.0 General Discussion of Statistics

Prior to discussing the documents, we would like to make an overall statement regarding the use of statistics. The purpose of statistics is to infer conclusions about an overall population by sampling individuals from that population. Sampling is particularly necessary in the ever-changing oceanic environment since it is generally impossible to locate all members of a desired population. Therefore, in order to compile meaningful data, researchers and statisticians work together to design surveys that will provide a reasonably representative sample from which statistically significant inferences can be made (the larger the sample, the more statistically significant the results). Additionally, it is generally accepted that statistically significant inferences should be based not only on reasonably representative, but also on randomly generated samples of a population. This practice, commonly known as random sampling, insures the statistician against criticisms of having a biased sample, since all members of the population at large are equally likely to be selected into the sample set.

All three of the publications cited within the proposed rules are based on non-random samples. This type of sampling can be referred to as "convenience sampling" since the "...sampling does not produce a representative sample of the population because people or items are only selected for a sample if they can be accessed easily and conveniently" (www.abs.gov.au). In conclusion, all of the cited studies lack randomness and are, therefore, merely anecdotal. They are not representative of the true impact vessels have on whale populations, and they are not predictive of future impacts.

3.0 Critical Review of Research

The PR is primarily based on the data provided by three studies: Knowlton and Kraus (2001), Laist et al. (2001), and Jensen and Silber (2003). However, neither the method of data collection, nor the standard by which the data were analyzed, nor the intended conclusion of these three studies, is consistent.

Since the accuracy of scientific data is contingent upon accurate sampling, it stands to reason that our critique of these documents must correspondingly begin with an analysis of the sampling methods.

Review of Studies. Knowlton and Kraus (2001) sought to create a database of all vessel-right whale interactions occurring between 1970 and 1999 in North American waters (from the Gulf of Mexico to Canada), as well as to create a working definition for ship-strike injuries. Alternatively, Laist et al. (2001) gathered data for all known collisions between motorized vessels and great whales (defined in the study as baleen and sperm whales), throughout the world from 1885 to 2000 from a variety of cetacean species stranding records. Jensen and Silber (2003) built upon the work of their predecessors by updating the existing databases to include formerly classified data collected by NOAA's Office of Enforcement, as well as known right whale ship strikes, which occurred after the 2001 publications. These data were not collected, compiled, or presented with a common purpose.

Lastly, in addition to the three principal documents, we reviewed a number of more recent updated studies concerning vessel interaction events with comparisons among all the studies (**Table 1**). In addition, **Table 2** shows the differences in the number of right whales among each study by year. Note the wide-range of numbers within the three principal studies cited in the PR. **Table 3** also indicates the differences in the number of criteria used to define injury or serious injury by each study. The presence of these differences caused confusion, especially when making comparisons among the studies. **Table 4** reviewed the official NOAA Fisheries Northeast Fisheries Science Center's (NEFSC) database, started after an amendment in 1994 to the Marine Mammal Protection Act, and compared the number of vessel-right whale interactions with that of the Jensen and Silber database. Again, note the differences between the official NOAA maintained number of vessel interactions database to that of the Jensen and Silber study. **Figure 1** highlights these differences with a bar graph.

3.1 Data Integrity Within the Studies

Knowlton and Kraus (2001). Knowlton and Kraus initially reported only 45 confirmed right whale mortalities along the western North Atlantic Ocean (stranded or observed floaters). Sixteen were attributed to vessel strikes, three to entanglement, 13 to unknown causes, and 13 to natural causes. We note, however, that two additional unknown deaths, according to the first recovery plan - Right Whale Recovery Plan (2001) - where changes to vessel interactions were made for the purposes of this study. This change increased vessel interaction for the period of 1970-1991 by eight percent. This may be considered a small change, however, cumulatively and when dealing with a small Potential Biological Removal¹ level for right whales (PBR = 0.1 but set at zero, Waring, et al., 2005), each whale number is considered important.

Laist, et al., 2001. The data used by these authors also including a compilation of anecdotal records. Using the Smithsonian database that was collected from along the U.S. Atlantic coast (Maine to Dade County FL), Laist, et al. found that it contained the largest number of animals of all the databases reviewed: 407 whales representing seven large whale species. Overall, this east coast database revealed that 14% (58 of the 407, including 11 right whales) of collisions were, in fact, known vessel-whale collisions. Considering the proposed regulations are solely to be implemented on the east Atlantic coastal ports of the United States, it stands to reason that a small percentage such as this (14%) should have been noted by the framers of the proposed rule. In addition, the other standing dead whale databases each provided percentage of known vessel-whale mortality interactions to their total stranded dead animals listed: Gulf of Mexico – 3.2% of 31 whales, Italy – 12% of 113 whales, France – 13% of 127 whales and South Africa – 20% of 55 whales. All the attributed vessel strikes from these databases are 20% or less.

The major thrust of the Laist, et al. study was to collect vessel collisions that contained any combination of the following information: whale species (if known), type of vessel, speed of vessel at the time of collision, and length of vessel. Upon examining the database records, the authors found 58 collisions that had two or more of the characteristics necessary to evaluate them accurately, and 41 records were found in which information regarding the type of vessel and speed were both provided. Laist et al. graphically presented these parameters within their Figure 1 (number and fate of whales struck by different vessels) and their Figure 2 (severity of injuries to whales struck by vessels traveling at known speeds). Of the 58 records, only two North Atlantic right whale records were listed, with one such identification which is highly questionable, since it was categorized more than 25 years later.

Jensen and Silber, 2003. This study, built upon the two former studies, states “North Atlantic right whales ... ship strikes are a primary culprit in the slowed recovery of a highly depleted population.” The study’s database “... contains a total of 292 records of confirmed or possible ship strikes to large whales (Table 1).” This number, however, represents eleven whale species. Unlike Laist, et al., this study appears to have a greater geographical distribution of vessel interactions throughout the world, especially the United States, since many records came from

¹ The maximum number of animals, not including natural mortality that may be removed but still allows the species stock to reach or maintain optimum sustainable population.

NOAA Regional Offices around the country as well as from the Office of Law Enforcement (OLE).

3.2 Whale Population and Status

According to the PR, "The North Atlantic right whale ... has not recovered. The population is believed to be at or less than 300 individuals ...". To corroborate this data, the NMFS Right Whale Recovery Plan, based on the 1998 IWC Workshop report also states, "... the best estimate of current population size is only 300 animals."

We believe these estimates to be conservative and outdated.

More recently, Kraus et al. (2005) describe, "... recent population estimates of 350 right whales." Additionally, recent genetics analysis describes that a portion of the male population is unaccounted for and that there may exist 10% more males than originally suggested, based on the photo-identification catalog. Correspondingly, there may be 10% more females (T.R. Frasier, Trent University). This, combined with the calf production of recent years, gives cause to suggest that the current population may be on the order of 385 - 28% larger than the population referenced throughout the PR.

As for recovery and growth rate, the PR is ultimately inconsistent on the topic. It clearly states, "The North Atlantic right whale ... has not recovered," and "... the lack of recovery." However, later, the PR goes on to describe [a] "... slowed recovery."

Based on the above-cited work, it is almost certain that the right whale population is larger than 300 individuals, and it is not unreasonable to believe that the number could be approaching 400. Likewise, rather than a species with a declining population and imminent extinction, based on a combination of photographically identified individuals, recent calf production, and genetic analysis, it is not unreasonable to believe that the population growth rate of 2.5% estimated by Knowlton et al. (1994) may continue to be valid. Therefore, population size, recovery status, and population growth may be different from what has been depicted in the PR. An incorrect assessment of these population attributes may lead to inappropriate or ill-advised actions, while an accurate assessment is more likely to yield appropriate action.

3.3 Whale Collisions

A central argument put forward in the PR and the DEIS is that vessel collisions with right whales are related to vessel speed, i.e., mortality and serious injury increase as vessel speed increases. This argument, however, is flawed in that, generally, vessels are traveling at normal transit speeds through areas inhabited by right whales. In areas where vessels slow (e.g., entering a port), there are few or no right whales. Therefore, the data "sample" primarily includes records from vessels traveling at higher speeds and none or few from vessels traveling at lower speeds. If, for example, all vessels transit through these areas at 15 kts, then any and all collisions that occur will be at 15 knots. The resulting data are self-selecting, rather than randomly generated. Therefore, the sample does not provide an adequate basis for the correlation claimed, and are not predictive of outcomes at speeds that were not observed in the data sampled.

3.4 Relationship of Vessel Speed to Mortality and Serious Injury of Right Whales

A central component of the PR is vessel speed reduction in designated areas and time periods. Several documents address this topic, including Laist et al. (2001), Jensen and Silber (2003), Vanderlaan and Taggart (in press), Pace and Silber (2005), as well as the DEIS. There is some inconsistency in approach and data drawn upon (Pace and Silber use 64 records, Vanderlaan and Taggart use 47 records, and the DEIS uses 58 records). To bring some clarity, we assembled the records where vessel speed and impact on the whale was reported, and re-analyzed the data. *In addition, we provided a discussion of the speed-length data found within the Jensen and Silber's document, including a number of figures of speed-length and types of vessels (Appendix II).*

We used the authors' total of 58 records (Jensen and Silber, 2003), of which 29 were for vessels equal to or greater than 65 ft in length. The 29 records were found by eliminating vessels less than 65 ft, data in which whale fate was unknown and the unreliable 1885 pilot vessel cited. Addressing specifically the 29 resulting records (a divergence from the afore mentioned authors, but more directly focused on the PR), we compiled records of mortality and injury vs. 1-knot intervals between 10 and 20 knots. We also used categories < 10 and > 20 knots (**Figure 2**). Only two reasonable records at speeds less than 14 knots exist: one, a whale-watch vessel that injured a humpback at 12 kts and another, a fishing vessel, which injured an unknown whale species at 9 kts. Another record, collected in 1885, was not used.

All other records were at 14 kts or greater. By inspection, mortality and serious injury to whales resulting from collisions with vessels 65 ft and greater in length occur at 14 kts and above. Excepting the two outliers, mortality and serious injury by vessels 65 ft and larger at speeds of less than 14 kts is not indicated. Additionally, there is no evidence in these records to provide for evaluating or discriminating possible effects of speeds between 10 and 13 kts (i.e. only two records, neither of which are right whales, only one of which was on the U.S. east coast, and in more than 40 years, does not allow for distinguishing effect or jeopardy of the individual speeds in the range of 10 to 13 kts).

We also note that the only three records of vessels colliding with right whales for which speed was known in the dataset are all for exempted vessels (one 43-ft vessel (Wood, 2005) and two government vessels).

Predominant in these records (13 of 33, or 39 %) are those for vessel collisions with whales at vessel speeds of 20 kts or greater. The modeling of Vanderlaan and Taggart (in press) infer increased jeopardy at higher speeds, with the probability of lethal injury approaching 1.0 at vessel speeds > 20 kts. Likewise, in several simulations, Korsmeyer and Hynes (1997) found that a whale offset from the centerline would collide with a vessel at 20 kts but not at vessels traveling at slower speeds.

There are a number of cautions in interpretation of these data. Pace and Silber (2005) point out that: a) their analyses did not include information on the probability of a vessel strike occurring, b) the collision data set is small and considerable uncertainty accompanies the results, and c) there appears to be a strong bias in reporting the rates of vessel/whale collisions among vessel types with fast ships, e.g., the U.S. military has much higher reporting rates than other vessels.

Likewise, Vanderlaan and Taggart (in press) point out that: a) the data are limited and do not incorporate all variables, and b) the uncertainty is large, particularly at low vessel speeds where there are few or no observations.

Predicting the outcome of a vessel/whale interaction will therefore depend on considering several probabilities:

A. **IF** a vessel strike occurs, what is the probability of a mortality or serious injury?

This area is addressed above.

B. **WHAT** is the probability of a vessel strike occurring?

This area has been partially addressed by Gerstein et al. 2005; Korsmeyer and Hynes, 1997; Knowlton et al. 1995, 1998; and Nowacek, 2003), and further detail is provided below. Several of the considerations contributing to this probability are:

1. Passive whale

a. IF a whale is passive and on the centerline of the vessel track?

b. IF a whale is passive and offset from the centerline of the vessel track?

2. Active or responding whale

a. IF a whale is on or near the centerline and takes effective avoidance behavior?

b. IF a whale is on or near the centerline and takes ineffective avoidance behavior?

c. IF a whale “appears” after the initial bow wave has passed and takes effective avoidance behavior?

d. IF a whale “appears” after the initial bow wave has passed and takes ineffective avoidance behavior?

The above probability considerations will be influenced by vessel characteristics, water depth, and other factors.

A consideration of vessel speed vs. whale collisions is therefore not simple, but rather involves many dimensions. Not all factors point in the same direction, and indeed, to some degree at least, may be offsetting.

3.5 Whale Collisions and Vessel Speed—Further considerations

As described, the probability of a serious injury or mortality increases with vessel speed – If a whale is struck, the effect is likely to be more serious (Vanderlaan and Taggart, in press). However, we note that Vanderlaan and Taggart based this conclusion on a dataset that included all vessels, and not only those of 65 ft or greater in length. It has also been stated that a slower vessel speed will likely provide for more time for a whale to react and avoid (Knowlton et al. 1998). Yet, as it stands, the examination is incomplete, and as discussed below, a study of acoustic effects indicates that vessels moving at higher speeds may in fact provide longer reaction times. The interaction of whales and vessels, rather than being a simple and straightforward consideration, in fact, involves a matrix of factors.

Hydrodynamic Effects. Knowlton et al. (1995; 1998) performed studies of the forces created by pressure fields as water moves around a vessel's hull, extended to include the motion of a whale due to hydrodynamic influences. Some computer simulations resulted in a projected danger of collision, others resulted in a no-collision effect.

In the case of a passive whale below the surface, in front of the vessel, and at some distance within the beam of the vessel, the bow wave pushed the whale away from the ship before drawing it back in, and the whale did not collide with the ship. However, in a simulation where the whale surfaced or “appeared” in proximity to a passing ship and was not exposed to the initial positive bow wave effect, the whale did get drawn into the ship. In other scenarios with various water depths, whales were pushed down, and sometimes away from the centerline. At shallower water depths, the whale is driven into the bottom. Often the whale is pulled back toward the hull, but was not pulled close enough to make contact with the propeller. For all of the passive and appearing whale simulations, the effect of the passing ship on the whale is independent of ship speed. However, if the whale tries to avoid or escape, this has some bearing on whether the whale will collide with the vessel. For a whale moving perpendicularly to the ship at a speed of five knots, the whale at the starting point of the vessel's centerline collides with the vessel for vessel velocities of 10, 15, and 20 knots. For the moving whale positioned at 12.5 m from the centerline, a collision occurred for a vessel speed of 20 knots only. The collision occurred at the forward quarter of the hull. In all other cases, the moving whale avoided collision.

As described, varieties of outcomes are possible. In some instances, a whale is pushed away from the ship's hull. In other situations (e.g., a whale appears near the ship after a dive, and the forces could draw the whale into the ship, and perhaps through the propeller. A shallow-water situation may result in a whale getting pushed into the sea floor. How this affects the whale is not known.

Acoustic Effects. Another element in the matrix of consideration is acoustic effects. Gerstein et al. (2005) describe several factors that affect a whale's ability to hear and localize an approaching vessel. While the proposed regulations intuitively focus on reducing vessel speeds, these authors describe that marine mammals can detect fast vessels at farther distances and longer times than identical slower vessels. They show that the same vessel going twice the speed allows a whale eight times the “time to collision” as it has at the slower speed. Furthermore, due

to a combination of factors, there is less noise in front of the vessel and whales may actually seek refuge in the acoustical shadow directly ahead of the ship — a situation where the combination of acoustic effects and whale behavior may increase jeopardy. These authors caution that reducing vessel speeds without compensating for the acoustical consequences may actually increase the risk of collisions, and may be counter-productive to the protection of whales.

Whale behavior. Whale behavior is a factor in the outcome of a potential whale/vessel interaction. This behavior, while important, is largely unknown (Gerstein et al. 2005, Korsmeyer and Hynes, 1997; Vanderlaan and Taggart, in press). While, intuitively, we can imagine that whales will avoid vessels, this may not always be the case. As described, Gerstein et al. (2005) list at least one scenario where the whale's behavior may increase jeopardy. Likewise, a whale may respond to an acoustic cue by becoming immobile at a depth and position that will also increase jeopardy (Nowacek et al. 2001, Nowacek et al. 2003).

Exposure. A factor commonly used in risk assessment is “exposure.” In the case of vessel/whale interactions, how long will the vessel and the whale occupy the same area? As a simplifying assumption, consider that the right whale is a fixed point or that its behavior will increase jeopardy. A quickly moving vessel will pass through the area quickly, and exposure will be small. A slowly moving vessel will take longer to pass through the area, exposure will be greater, and the whale will have longer to surface or move in a way that increases jeopardy.

4.0 Conclusions

The findings of this review are:

- From 1970 through 2005, about 25 right whale mortalities have been attributed to vessel collisions (Marine Mammal Commission, 2005); this is approximately 0.7 per year.
- The PR and the DEIS are flawed in: 1) presentation and interpretation of facts, and 2) failing to meet generally accepted standards of data handling and statistical analyses.
- Based on records of whale collisions where vessel speed was reported, mortality and injury by vessels 65 ft and larger at speeds of less than 14 kts is not indicated. Additionally, there is no reliable evidence in these records to provide for evaluating or discriminating possible effect of speeds between 10 and 13 kts.
- Consideration of vessel speed vs. whale collisions is not simple, but rather involves a matrix of inter-related dimensions and probabilities. Not all factors point in the same direction, and indeed, to some degree at least, may be offsetting. Vessels traveling at higher speeds may: 1) provide a lesser response time for whales exhibiting avoidance behavior, 2) draw a whale into the vessel in the case of an "appearing whale" or at speeds of 20 kts or greater, and 3) increase level-of-injury IF a collision occurs. On the other hand, vessels traveling at faster speeds may: 1) provide an acoustic signature that allows for greater whale response time, 2) push the whale away from the vessel, thus avoiding a possible collision, and 3) reduce exposure and risk of a vessel/whale interaction. A third alternative in the matrix is the situation where speed is not a factor. In several of the hydrodynamic simulations, whether a collision did or did not occur was independent of vessel speed or at least over a wide range of vessel speeds.
- Of the 58 reported collisions where speed of the vessels is known, more than half were by vessels exempt by the proposed rule (PR): 20.5% were by vessels under 65 feet in length, 31.0% were by military vessels and several others occurred in Canadian waters.

Tables and Figures

Table 1. Large Whale Publications Containing Databases of Vessel Strikes and/or Possible Events Referred to in the Proposed Rule

Document/ Database	Period Years	Number of Species (No. NARw)	Total Number of Records	Study Area	Comments
Knowlton and Kraus, 2001 ^a	1970-1999	1 (45)	45	Gulf of Mexico to Canada	Mortalities only
Knowlton and Kraus, 2001 ^b	1970-1999	1	56	Gulf of Mexico to Canada	Mortalities and non-fatalities re- assigned by newly created criteria
Laist, et al.	1885-2000	10	702 ^c	worldwide ^d	six different databases, worldwide
U.S. Stranding Database, Table 2	1975-1996	7 (10)	407	ME to FL	largest of databases examined
Anecdotal Database, Appendix 2	1885-2000	10 (2)	58	worldwide	Records sufficient parameters to construct Figures 1 and 2 (only 2 NARw was used in these figures)
Jensen and Silber, 2003	1975-2002	11 (38)	292	worldwide	All known vessel strikes or possible vessel strikes
Cole, et al. (2005, 2006)	1999-2005	7 (10)	484	Gulf of Mexico to Canada	Confirmed vessel strike effects
Northeast Fisheries Science Center ^e	1991-2005	many (1-2 per year)		Gulf of Mexico to Canada	Official NOAA NARw data

^a. Database I, Table 1.

^b. Database II, Table 3

Larger number of records than Jensen and Silber study, since Laist, et al. study database

^c contains stranded whales.

^d. States, Canada, France, Italy and South Africa, in addition to one historical database of

^e. 1999, 2000, 2001, 2002, 2003, 2005

TABLE 2. Summarized publications depicting North Atlantic Right Whale vessel interactions, either mortality and/or serious injury events, from along the Gulf of Mexico coast, U.S. East coast, and adjacent Canadian Maritimes, 1970 – 2004.

Year	Right Whale Recovery Plan, 1991	Knowlton & Kraus, 2001		Laist et al., 2001	Jensen & Silber, 2003	Cole et al., 2005, 2006	Waring et al., 1996, 1998- 2003, 2005
		A	B*				
1970	0	0	0	0	1		
1971	0	0	0	0	0		
1972	1	1	1	0	1		
1973	0	0	0	0	0		
1974	0	0	0	0	0		
1975	0	0	0	0	0		
1976	0	2	2	2	2		
1977	0	0	0	0	0		
1978	0	0	0	0	0		
1979	1	1	1	1	1		
1980	0	0	2	0	2		
1981	0	0	0	0	0		
1982	0	0	0	0	0		
1983	1	1	1	1	1		
1984	0	0	1	0	1		
1985	0	0	0	0	0		
1986	1	1	2	1	2		
1987	1	1	3	0	3		
1988	0	0	0	0	0		
1989	0	0	0	0	0		
1990	0	0	0	0	0		
1991	1	1	2	1	3		2
1992		1	1	1	1		0
1993		2	2	2	4		2
1994		0	0	0	2		0
1995		1	2	0	3		2
1996		2	2	2	3		2
1997		1	1	0	1		1
1998		0	1	0	2		0
1999		1	1	0	2	1	1

2000					2	0	0
2001					1	2	2
2002						1	1
2003						1	1
2004						2	
2005							

n =	6	16	25	11	38	7	14
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* Reflects adjustments made to previously collected data using the authors' criteria and definition for seriously injured whales; similarly, this is true for recent studies applying different criteria, thereby causing confusion among study results.

Table 3. Arbitrary Categories Used in Each of the Publications to Define Injuries to Large Whales on Present and Previously Collected Information, 1970-2005.

Publications	Number of Categories	Categories listed
Knowlton and Kraus, 2001	3	Fatal (Observed Dead), possibly fatal and non-fatal for NARw only.
Laist, et al., 2001	5	Killed (or observed dead), severe injury, minor injury, no apparent effect or unknown. Many large whale species considered.
Jensen and Silber, 2003*	2	Fatal (or Observed Dead) and injury, defined as "...evidence of injury or mortality is defined as blood noted in water; animal seen with cuts, propeller gashes or severed tailstock; animal observed sinking after strike indicating dead; fractured skull, jaw, vertebrae; hemorrhaging, massive bruising or other injuries noted during necropsy of animal.". Many large whale species considered.
NE Fisheries Science Center	2	Mortality and Seriously Injured. "Seriously injury" is defined in 50 CFR part 229.2 as an injury that was likely to lead to mortality." (MMPA)**. This rule applies to commercial fishing activities and not to vessel injury. NARw only
Pace and Silber, 2005	2	The authors created a database consisting of two categories - mortality/serious injury and no serious injury - in relationship solely to the speed parameter. However, since this is a poster, there is no stand-alone database to examine the sample database, N=64, other than the Jensen and Silber document; new data may have been added, but the reference is incomplete. Many large whale species considered.

* Jensen and Silber (2003) defined only the term "injury."

** Marine Mammal Protection Act of 1972

Table 4. Confirmed vessel strike mortalities and serious injury records of NA right whales, 1991 – 2003, NOAA Northeast Fisheries Science Center (NEFSC), Woods Hole, MA reported in annual publications (Stock Assessment Reports, Waring et. at.). Each year's publication verifies that no new information was learned to adjust the number of right whale events/records. Note the differences between the NOAA NEFSC confirmed data with the Jensen and Silber (2003) adjusted data; a significant difference for the period 1991-2001, N=25 or 13 more over the official mandated database (N= 12) using the Marine Mammal Protection Act definition.

Publication Year:	Total Number Attributed per Year									
	Waring, et al. (see publication year column)								NOAA	Jensen and Silber
	1996	1998	1999	2000	2001	2002	2003	2005	total	2003
1991	2	2							2	3
1992	0	0							0	1
1993	2	2	2						2	4
1994	0	0	1S*						0	2
1995	2	2	1	2	2				2	3
1996	2	1	<u>2</u>	2	2	2			2	3
1997				1	1	1	1		1	1
1998					0	0	0		0	2
1999					1	1	1	1	1	2
2000						0	0	0	0	2
2001							1	2	2	2
2002								1	1	
2003								1	1	

*S = Secondary Cause, not counted

Underline = indicates change with new information

Bold = indicates differences from confirmed NOAA data to Jensen and Silber's adjusted data.

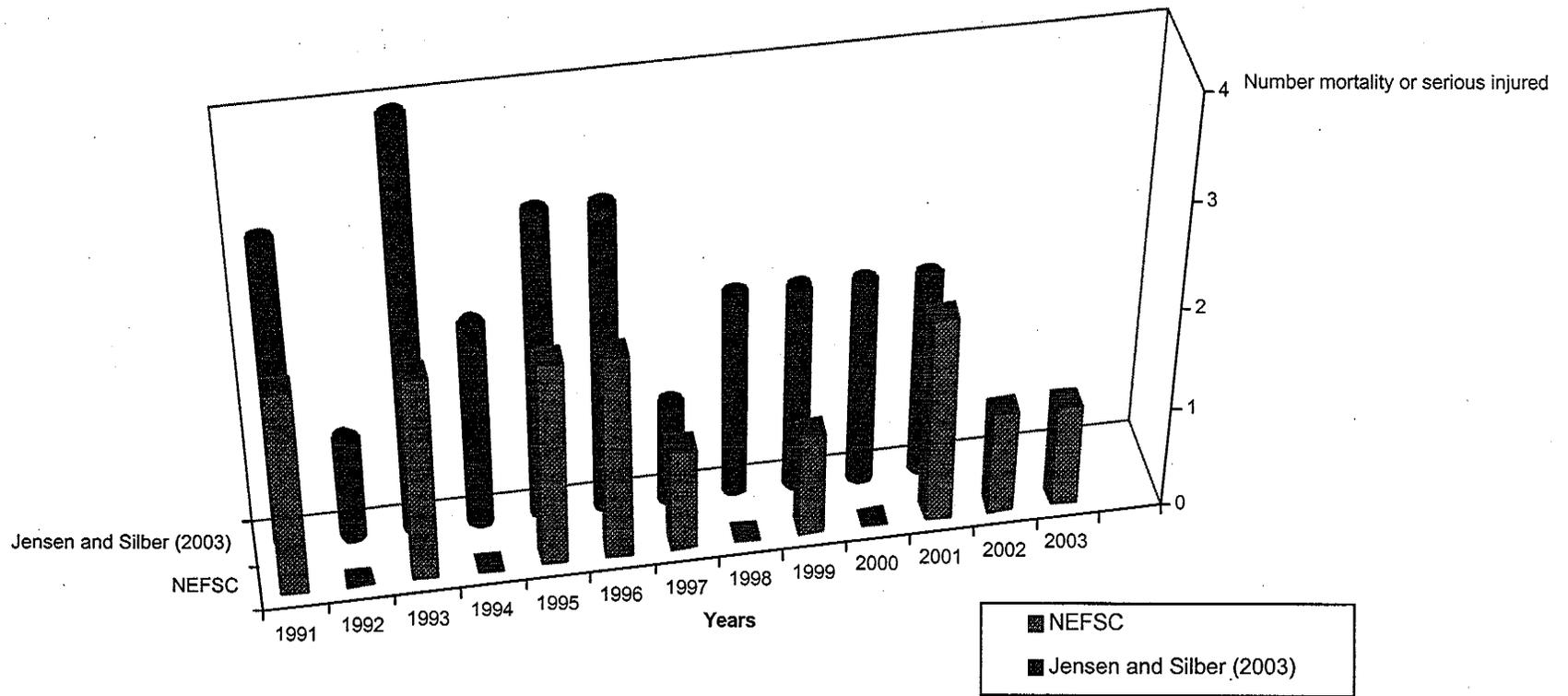


Figure 1. Comparison of NEFSC data (Stock Assessment Reports, Waring et al.) versus Jensen and Silber (2003) data for right whale and serious injury data, 1991-2003.

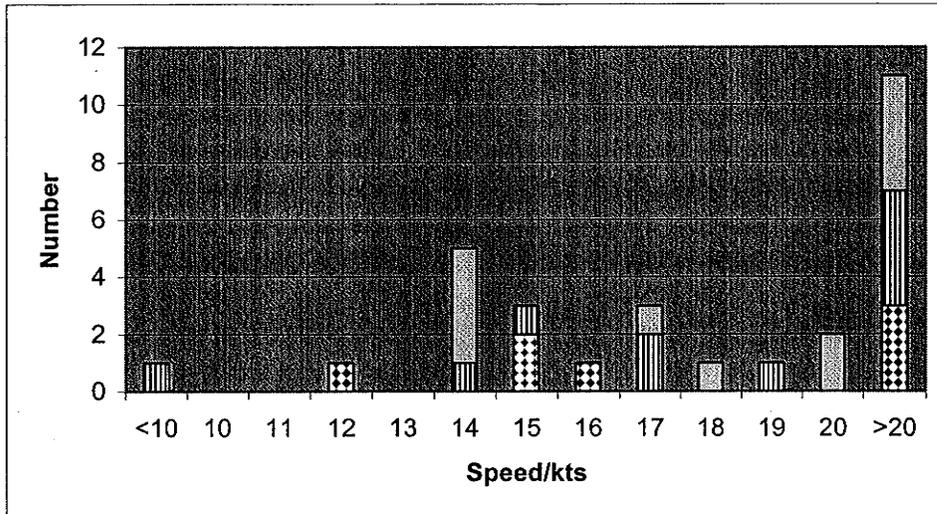


Figure 2. Vessel speed and number of combined mortalities and injuries for all species of large whales, where vessels are equal to or greater than 65 ft in length and where vessel speed was reported. Total N = 29. Key: Red diamond-U.S. east coast and Canada; Blue striped-U.S. west coast, Canada, and Hawaii; White clear-Worldwide, excluding two previous categories.

Appendices

**Appendix I. Estimated Whale Populations in Comparison to Jensen and Silber (2003)
Sample Size.**

Jensen and Silber (2003) stated their “database contains a total of 292 records of confirmed or possible ship strikes to large whales. They provide a geographical distribution stating that, “Ship strikes to large whales occur world-wide.” Continuing, the authors found that, “eleven species were confirmed victims of ship strikes: blue, Bryde’s, finback, gray, humpback, killer, minke, North Atlantic right, sei, southern right and sperm whales.” Since this is a worldwide database collected from all sources that the authors found, one must consider what the 292 records represent to the estimated world populations of these representative large whale species. A number of sources provided rough estimates of world populations of large whales represented in the Jensen and Silber report (IWC; 1994, Oceanus, 1989, http://assets.panda.org/downloads/current_status.pdf).

World Estimates of Large Whales:

	IWC; 1994, Oceanus, 1989,	http://assets.panda.org/downloads/current_status.pdf
Blue Whale	14000	5000
Fin Whale	120000	70000
NA Fin	78020	70000
Sei Whale	54000	50000
Bowhead Whale	7500	8500
Sperm Whale	1950000	1,500,000
North Atlantic Rw	1000	325
Shemisphere Rw	3000	7000
Humpback	10000	28000
Gray Whale	21000	27000
Bryde's Whale	90000	60000
Minke Whale	941240	153000
Killer whale ^a	76000	76000
Total	3365760	2054825

a. Source: <http://ourworld.compuserve.com/homepages/jaap/orcinus.htm>

An average whale number from all the sources provided an average estimated population of 2,710,793 large whales, all species represented and discussed in the Jensen and Silber document. Therefore, the 292 whales sample represents 0.00011 of one percent of the estimated worldwide population. The fact that this enormously diminutive sample is considered for proposed vessel speed regulations should be taken into serious consideration.

Appendix II – A Comparison of the Speed-Length Database to Proposed Regulated Vessels.

The Jensen and Silber (2003) information provided 58 records of speed-whale-vessel events with 49 of the 58 possessing both speed and length data. Since no figures were presented within the author's document, we provided indications of the types of vessels and/or trends, patterns or potential clusters of these events.

Method

We noted that 58 speed records had various missing types of information per record. For example, not every record had both vessel speed and vessel length information. However, we did extract a subset of 49 speed-length sets. In addition, some of these records cited speed ranges, or a less-than or greater-than speed amount; those, we changed to a single speed amount. In the case of speed range information, the mid-point of that range was determined. In the cases of less-than or greater-than speed data, we decreased or increased the speed by one, to make a viable value. No tonnage information was used since it is too difficult to accurately translate tonnage to a length, especially since the data included many historical vessels.

Figure 3 presents the 49 records of speed-length information graphically. As discussed previously, but worth repeating, only two right whales were confirmed within the Jensen and Silber's 58 data sets, both of which were killed by military vessels. A third right whale that was included in their report was not included since it is highly unlikely that it was identified correctly.

Results

Initially, when examining **Figure 3**, one can detect two (2) irregular cluster formations: a lower, less than 50-meter vessel-length cluster, which extended from a vessel speed doing less than 5 knots out to a speed of 45 knots. The second cluster, albeit a somewhat irregular grouping, formed in and about the region of the 150-meter vessel-length, centered approximately at 20 knots.

The lower and longer cluster, suggesting whale interactions with smaller vessels less than ~40 meters, extended the entire speed axis. This appears to support the belief by some researchers that vessel size is not the sole factor in causing injury or mortality to large whales. Indeed, if one examines the smaller vessels represented, one finds that the majority are whale-watching and recreational vessels. If there is a correlation, this observation is the first indication of "vessel behavior" causing numerous vessel strikes. This correlation makes sense, as these vessels are frequenting areas of whale concentrations (i.e. whale watching), thereby increasing the probability of vessel strikes, in addition to the greater number of vessels conducting a particular activity.

The larger grouping suggested that larger vessels, including numerous military vessels, ranging from 80 to 200-meters in length, interacted with large whales at speeds ranging from about 15 or 16 knots to about 26 knots

Figure 4 provides a view of the speed-length data minus the less-than 65-foot vessels and military vessels, all of which are exempted by the proposed rule. This figure represents mostly whale watch, ferries, cargo and passenger vessels, as well as one research and one fishing vessel. Again, we see a number of vessels above 20-meters but less than 40-meters in length, at speeds extending from 2 to 45 knots. Between 40-meters and 100-meters, we find one research vessel and one ferry. The elongated cluster at 120-meters to greater-than 240-meters in length represented 11 cargo and passenger vessels.

Figure 3. Total Known Vessel Speed-Length Database, Jensen and Silber (2003), N=49.

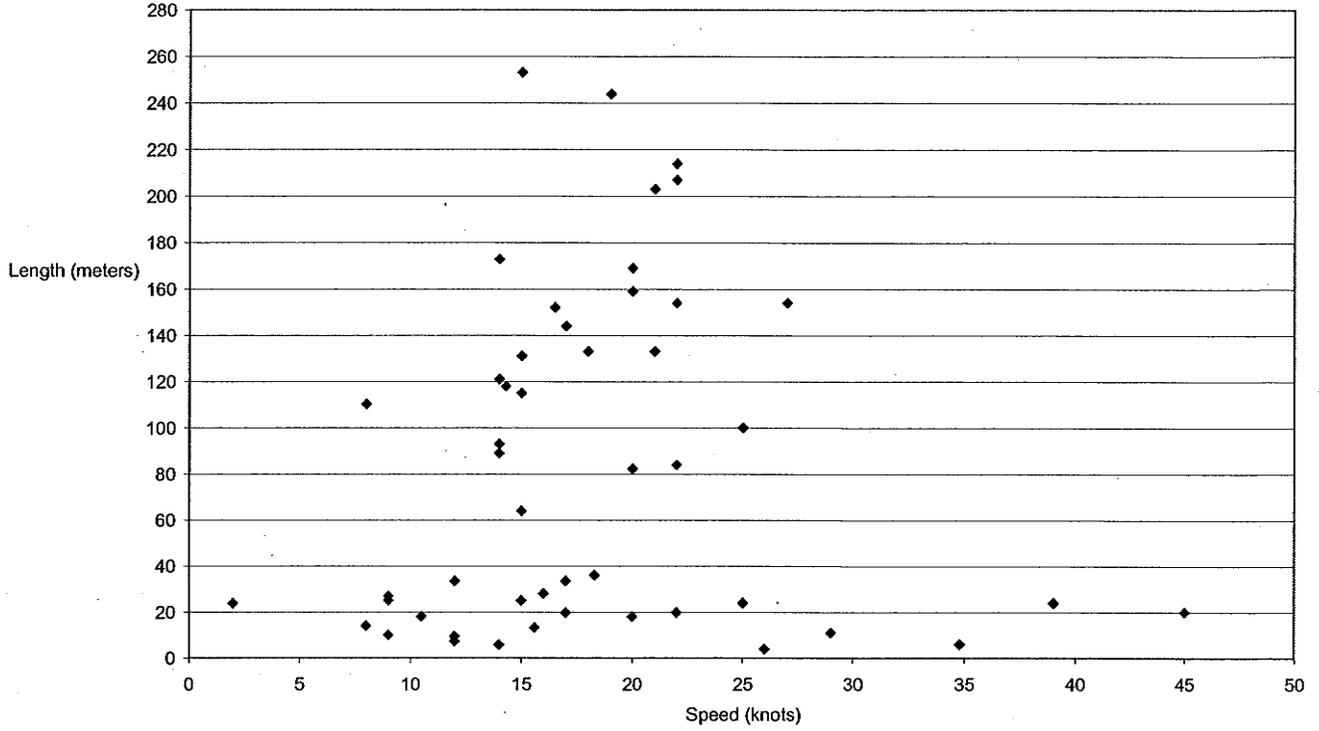
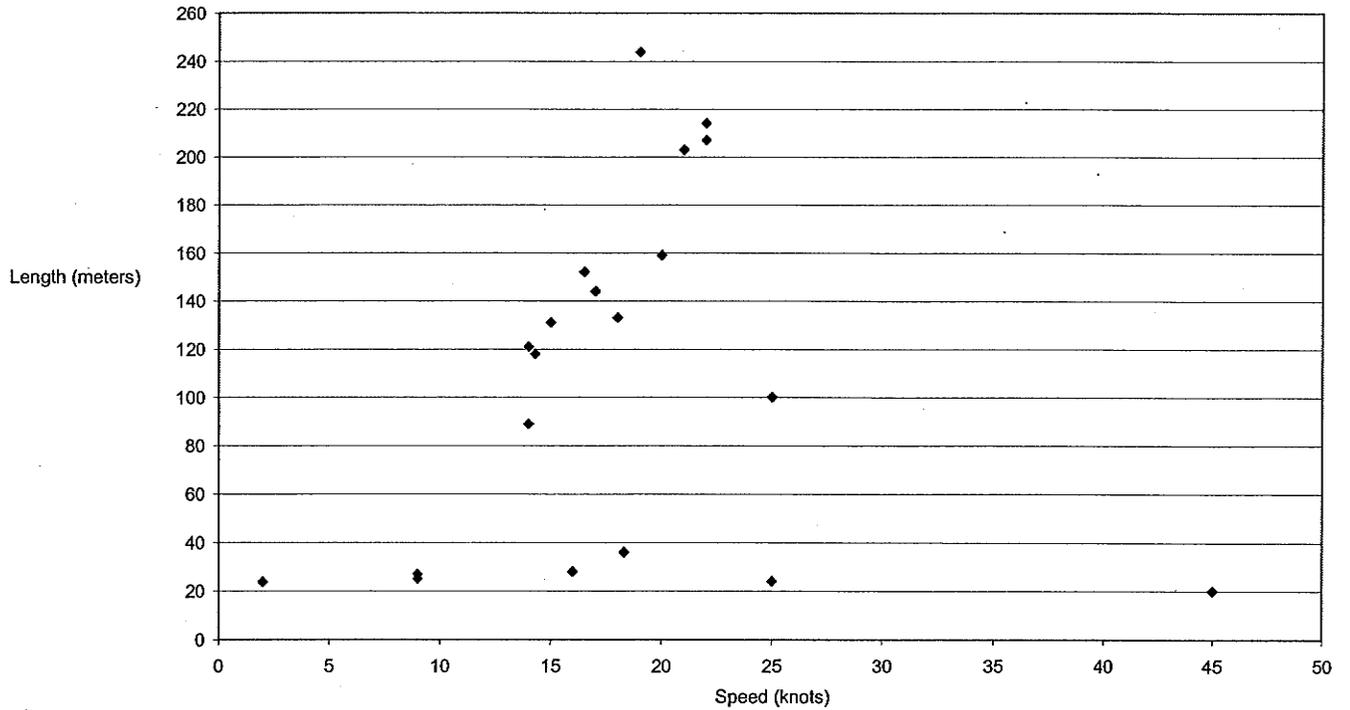


Figure 4. Known Speed-Length Data for Vessels Equal to or Greater Than 65 ft Vessel, Minus the Exempted Governme and the Less Than 65 ft Vessels, N=20. These data include all interaction events, including unknown and no effects.



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From: Apache <c6h12o6he4@earthlink.net>

Date: Tue, 26 Sep 2006 13:23:35 -0400

To: Shipstrike.Comments@noaa.gov

Your proposal is utter madness. I am a scientist/physician and the method of logic implemented in making the unskilled assumptions you have arrived at are miserable science at best. I believe in conservation but if this is the idea of how you stomp out the metaphorical ant with a sledge hammer, then we have greater problems than twelve right whales dying by SHIP strike. Let the recreational vessels of under 100 feet do their thing as they can easily maneuver around obstacles and present NO threat to such species. Surely if one had hit a right whale, there would have been a report and TV coverage of the damage done to such a small vessel, notwithstanding the stranded fisherman who would more than likely be ticked off at the captain for not steering around such a huge creature. Not wise to effect a conscientious group with such madness. Pick on the culprits, ie. large vessels that cannot maneuver around such obstacles.

Richard J Thomas M.D.
Clermont, Florida

Town of Provincetown



Town Hall, 260 Commercial Street
Provincetown, Massachusetts 02657
Facsimile (508) 487-9560
Telephone (508) 487-7000

September 27, 2006

BY E-MAIL [Shipstrike.Comments@noaa.gov]

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD20910.

SUBJ: NOAA'S PROPOSED RULE TO IMPLEMENT SPEED RESTRICTIONS TO REDUCE THE THREAT OF SHIP COLLISIONS WITH NORTH ATLANTIC RIGHT WHALES

To Whom It May Concern:

The Board of Selectmen of the Town of Provincetown, Massachusetts hereby submits these comments on NOAA's Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales.

Located at the tip of Cape Cod, Provincetown is committed to the protection of North Atlantic Right Whales. Provincetown urges a truly dynamic management plan that would only involve a two- to three-mile radius based on near-real-time data from where the whale actually was, and not a blanket radius of 15 miles or more which needlessly threatens the economic viability of ferry service between Provincetown and Boston. We recognize that such a management plan would require significant resources, and we urge the federal government to spare no expense in committing those needed resources. To do otherwise would needlessly cripple Provincetown's tourism-based economy.

We are mindful of the concerns of our ferry operators, and we join the Provincetown Center for Coastal Studies in urging that NOAA base its ship strike reduction plan on new methods for locating, verifying, and predicting the occurrence of whales. The plan should acknowledge the need to evolve, to incorporate new management and implementation methods as information becomes available, and to more realistically define right whale distribution and movement.

Thank you for your consideration of our comments.

Sincerely,

Dr. Cheryl L. Andrews, Chairman
Board of Selectmen

Distribution List:

cc: Provincetown Board of Selectmen
Provincetown Public Pier Corporation
Town Manager Keith A. Bergman
Senator Edward M. Kennedy
Senator John F. Kerry
Congressman William Delahunt
Governor Mitt Romney and Lt. Governor Kerry Healey
State Senator Robert O'Leary
State Representative Shirley Gomes
Provincetown Center for Coastal Studies c/o Peter Borrelli
Bay State Cruise Company c/o Michael Glasfeld

Subject: NA right whale

From: Richard Tucker <rlt@jlc.nccoxmail.com>

Date: Thu, 28 Sep 2006 08:47:57 -0400

To: Shipstrike.Comments@noaa.gov

Hey folks, this proposal just doesn't seem to have any common sense! These guys just do not come in contact with whales often enough for that regulation to help.

I personally have 1400 days (in small boats primarily) on the water off North Carolina in the last 35 years and I have only caught a fleeting glimpse of SOME kind of whale, in the distance, 2 times in all those trips!!

Thank you, Captain Richard L. Tucker

Richard L. Tucker

Project Manager and Estimator

James L. Cayton Utilities, Inc.

(252) 637-9389, ext. 34

rlt@jlc.nccoxmail.com

Subject: Right Whale Ship Strike Strategy
From: Matt Tynes <mtynes@envinstr.com>
Date: Wed, 27 Sep 2006 12:15:32 -0400
To: Shipstrike.Comments@noaa.gov

Attn: Chief Marine Mammal Conservation Division,

I have received information that your division is working on laws that would require a major reduction of speed of all sea going vessels greater than 65' in length to 10 knots. While I understand your concern for whale conservation I don't think anyone has thought this through completely. Also this will only affect the private and commercial industries that make a living on the ocean and exempt all US Navy, Coast Guard and any vessel under federal contract from this regulation. This will increase our travel time to and from the Gulf Stream from around 4.5-5 hours to as much as 9 hours. You will single handedly KILL the charter fishing industry and greatly impact many others. As a recreational fisherman we travel to the Gulf Stream often. I strongly support the conservation of our oceans and all of its life but to shut down an entire industry is for the satisfaction of a few is ridiculous.

I sincerely hope that your department and staff will seriously consider all affected parties to save the lives of a few whales. I do support and am in favor all reasonable means to preserve and protect all marine life. I do want there to be a place for my children and one day grandchildren to fish and enjoy all the pleasure and excitement I have while fishing the ocean.

Just for the record I am a former Navy man having spent over 5 years on the sea.

Matt Tynes
President
Environmental Instrument Specialists, LLC
427 E Main Street
Clayton, NC 27520
919-550-3866
800-730-1193
919-550-3966, Fax
919-795-4448, Cell

UNITED NEW YORK SANDY HOOK PILOT'S BENEVOLENT ASSOCIATION
AND
UNITED NEW JERSEY SANDY HOOK PILOT'S BENEVOLENT ASSOCIATION

201 EDGEWATER STREET
STATEN ISLAND, N. Y. 10305

CABLE ADDRESS:
"HOOKPILOTS" - NEW YORK
TEL. (718) 448-3900
FAX. (718) 447-1582

October 5, 2006

Mr. Stewart Harris, Chief
Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources,
NMFS
1315 East-West Highway
Silver Springs, MD 20910

RE: Docket # 040506243-6016-02.
I.D. 101205B

Dear Mr. Harris:

The New York and New Jersey Sandy Hook Pilots Associations provides pilotage services to vessels entering and leaving the ports of New York and New Jersey via Ambrose Channel, Sandy Hook Channel and Execution Rocks. The mission of our organizations is to protect the safety, environment and economy of these ports.

The measures proposed by NOAA and NMFS to protect the North Atlantic Right Whale, while well intentioned will not "save" the species. The agency has not met its burden of coming forward with sufficient evidence, let alone "the best scientific evidence available", to support its assertion that the proposed habitat enhancement with its management areas would result in the desired protection for Northern right whales. To the contrary, the evidence presented by the agency suggests that much more work is necessary to quantify the problem and identify viable and effective solutions.

The South Atlantic Right Whale is doing well, why not the North Atlantic? Issues not mentioned are food supply, genetics, habitat change, etc. more study needs to be done involving these issues. All the regulation in the world cannot save a species if the cause for their decline is not addressed in the regulation.

The proposed rules on their own are not based on valid scientific or statistical evidence. First, it is clear that many Northern Right Whales mortalities have been inaccurately tallied as ship strikes. Second, the agency is seeking to promulgate broad and all-encompassing regulations based on a narrow set of assumptions about the behavior of these animals. Third, statistically relevant information is just not available

that would permit the agency to extrapolate assumptions about ship strikes. The Data Quality legislation part of the FY 2001 Consolidated Appropriations Act (Public Law 106-554 section 515) requires the Office of Budget and Management ("OMB") to develop government-wide standards for the quality of information used and disseminated by the federal government. The information that NOAA and NMFS has relied on in promulgating the Northern right whales ship strike regulations is incomplete, misleading, self-serving, flawed, and devoid of scientific basis. This data does not meet the standards of quality, objectivity, utility, and integrity required for federal agency action.

Just as many Federal and State agencies are trying to promote the concept of "short sea shipping" (based on the transport of goods and people along the coast, bays and rivers via a water route) that would effectively be much more environmentally friendly than other modes of transportation but also greatly increase the quality of life of those living along the "95 corridor" by removing many of the trucks from the roads. NOAA and NMFS proposed rulemaking would result in just the opposite effect between missed port calls and the "Killing" of short sea shipping due to the potential 10-knot speed restriction along the coast. The cargo will have to get to its original destination even if dropped in another port resulting in more trucks on the roads thus more air pollution and congestion.

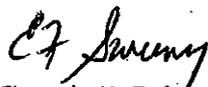
The environmental impact of this proposed rulemaking needs to take into account the entire environment not just one portion of it.

Economic issues implicated by the proposed regulations cannot be ignored. The economic report NOAA relies on is simply inadequate. It ignores whole populations of impacted stakeholders, such as passenger vessel operators, and it stops at the water's edge in assessing anticipated costs. Such an important rulemaking cannot be undertaken without an appropriate Economic Impact Assessment performed by an independent economist. The economic report upon which NOAA relies is self-serving, since it was prepared by the Marine Policy Center of the Woods Hole Oceanographic Institution, which is hardly unbiased and does not have the competency to capture appropriate commercial operating costs. Moreover, the report absolutely fails to consider the ripple impact of economic loss that is a necessary by-product of port delays or the actual bypassing of some ports.

In conclusion, the New York and New Jersey Sandy Hook Pilots Associations understand that the right whale is a highly endangered species and the loss of a single whale is a significant event. However, the agency has not met its legal obligations in coming forward with substantial scientific information to support the vessel management measures they desire. Given the importance of the matter and significant environmental

and economic impacts of the proposed regulations, it is imperative that the NOAA perform the necessary Environmental Impact Study, full Economic Impact Assessment, and other studies mentioned above related to the viability of the species.

Very truly yours,



Captain E.F. Sweeney,
President
U.N.J.S.H.P.B.A.



Captain D.M. Wheeler,
President
U.N.Y.S.H.P.B.A.

Cc: American Pilots Association
Captain Greg Farmer, President
Boston Pilots

Vineyard Fast Ferry

Owned & Operated by Rhode Island Fast Ferry, Inc.
1347 Roger Williams Way, North Kingstown, RI 02852 (401) 295-4040

October 5, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910
Attn: Right Whale Ship Strike Strategy

Dear Sirs/Madams,

Our company, Rhode Island Fast Ferry, is a small business that operates a seasonal high speed ferry service between Rhode Island and Martha's Vineyard. We operate a single 121 ft. catamaran ferry, the *Millennium*, with a service speed of 33 knots along this route. May through October, we provide service along a 51 mile, 90 minute route between Quonset Point, RI and Oak Bluffs, Martha's Vineyard, MA. During our off-season, the *Millennium* is sent on charter and our service is suspended. Over 80% of our company's revenue is generated between May and October, with peaks in passenger volume during July and August. Seasonally, we employ approximately 55 employees as vessel crew and landside personnel, with less than 10 employees serving full-time, year-round.

The Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Whales, as written, would seriously threaten to close our business despite there *never having been a right whale ship strike in the region by either a whale watch or ferry vessel.*

As stated, typical transit time across our 51 mile route is 90 minutes. Should a 36 mile diameter DMA be placed in either Block Island Sound, Rhode Island Sound, or Vineyard Sound, over 70% of our route has the potential to be under a 10 knot speed limit.

Instead of a 90 minute crossing, trip times would increase to over 4 hours. We would be unable to keep to our posted schedule. There would only be sufficient time for a single round trip per day; passengers would miss flight and train connections, appointments would be missed, hotel check-in/out times disrupted, etc. Our service is marketed on the premise that passengers can avoid driving time to ferries on Cape Cod by riding with us. We also market convenient connections to Providence Airport and Amtrak services. Passengers are willing to pay a premium for this convenience. However, passengers will not tolerate our transit time being longer than the drive to the Cape and the ferry ride from the Cape combined. **Our ferry service would be abandoned as an adequate and convenient form of transportation.**

For each DMA that occurs in waters abutting our ferry route, we would be forced to suspend ferry service.

Though within the Economic Impact portion of the proposed rule, NMFS "concludes that there would be disproportionate impacts from implementation of this proposed option between passenger ferries and high-speed whale watching vessels" and states that "reductions to revenues for small passenger ferries... would range... to 9.8%", the economic impact is still severely understated.

Should a DMA be imposed during our peak season in the months of July or August, **nearly 20% of seasonal revenues would be lost for a single 15 day DMA.** Should multiple DMAs occur during a single season, our company would be dangerously close to ceasing operations for the remainder of the season due to lack of sufficient cash flows to make vendor payments, vessel maintenance and finance payments and payroll.

Because of the economic damage that the DMAs would cause to my operation, I recommend the following:

1) Either Alternative 1 or Alternative 4 such that DMAs were not a part of the operational measures

Rationale:

The proposed rule states that "relying on this measure [DMAs] would only have a minor positive effect on right whale population size and may not reduce ship strikes sufficiently to promote population recovery. In addition, relying on this alternative would impose substantial costs on government resources in terms of the monitoring and assessment activities needed to implement the DMAs".

Whales could still receive protection from SMAs. Ferry and whale watch operations, **which have never been involved in a right whale strike** could continue to operate.

or

2) Alter the 65' vessel length threshold for Vessels Subject to Proposed Rule to 262'.

Rationale:

The proposed rule cites "Precedents for Speed Restrictions", specifically "The National Park Service established a 13 knot speed limit for vessels 262' or greater, in Glacier Bay National Park on a year-round basis to reduce the likelihood of ship strikes".

Ferry and whale watch vessels (90' – 200' in length) are fundamentally less at risk of striking a whale than other types of vessels. Unlike the small pleasure boater involved in socializing with his passengers, ferry and whale watch vessels are run by vigilant and professional crews who have made their skills evident by the absolute absence of right whale strikes. Unlike large ships which have pilot houses as far as 700 feet aft of the bow of the ship, lines of sight obscured by the deck of the bow for any object within 1/8th of a mile of the bow, operational hours during the evening hours and at night, and are incapable of stopping within less than 3 miles, our vessels' wheel houses are only a short distance aft of the bow (typically 20'-30') with unobstructed views, are able to stop within 150' or less (our high-speed

catamaran can come to a complete stop from full speed in less than 1.5 boat lengths), are operated 95% during the daylight hours, and have up to hundreds and hundreds of additional watch standers in the form of passengers looking attentively out to the water.

or

3) Reduce the DMA in size to 4 mile in diameter, 2 mile radius.

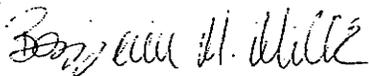
Rationale:

Whale Watch and ferry vessels could circumnavigate the DMA and remain in business.

Whale watch and ferry vessels have been able to avoid right whales with a mere 500 yard approach restriction. It seems unreasonable that a DMA size should jump 64 times in size to an 18 mile radius.

Thank you for the opportunity to comment on this proposed rule and for considering my comments. I urge you to think of our region's small businesses, our employees and their families and consider making amendments to this proposed regulation. We are counting on a legislation that will allow ferries and whale watch vessels to survive.

Sincerely,



Benjamin Miller
Operations Manager
Rhode Island Fast Ferry

Subject: Virginia Maritime Association - North Atlantic Right Whale Comments
From: David White <david@portofhamptonroads.com>
Date: Mon, 02 Oct 2006 10:42:36 -0400
To: Shipstrike.Comments@noaa.gov

VIRGINIA MARITIME ASSOCIATION

P.O. Box 3487
Norfolk, Virginia 23514
757-622-2639
FAX 757-622-6302
hrma@portofhamptonroads.com
www.portofhamptonroads.com

October 2, 2006

Chief, Marine Mammal Conservation Division
Attention: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Service
1315 East West Highway
Silver Springs, MD 20910

RE: Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales; 50 CFR Part 224 [Docket No. 040506143-6016-02.I.D. 101205B]

Dear Sir or Madam:

The Virginia Maritime Association (VMA) is the trade association representing over 400 businesses, employing over 70,000 people, directly and indirectly engaged in the flow of international commerce through the Port of Virginia. As the "Voice of the Port", representing these interested parties, we write to express our opposition to ship speed restrictions for the protection of right whales and encourage the pursuit of alternative measures more closely aligned with national interests.

We wish to clearly state that the VMA has been and will continue to be a partner to NOAA in efforts to protect and restore the right whale population. However, we must oppose the implementation of blanket speed restrictions on vessels as a measure to reduce ship strikes. We oppose speed restrictions for several reasons. First, it must be recognized that in many instances ships become less maneuverable at the proposed reduced speeds. By reducing the control over a ship the risks are increased for incidents that could result in the loss of human life or environmental damage. Stunningly, and demonstrating the preparer's lack of understanding of navigational factors, section 4.6.6.2 of the DEIS wrongly concludes maritime safety will be improved. We are aware that numerous examples of navigational safety concerns have been provided during the comment period. It is clear the National Marine Fisheries Service (NMFS) has not adequately accounted for the very real navigational safety concerns.

We also oppose blanket speed restrictions based on the certain negative impacts on the nation's Marine Transportation System (MTS) and economy when weighed against the uncertainty of any positive impacts on the right whale population. Citing economic impact figures from the DEIS, which we believe grossly underestimate the true economic impacts, the costs of NMFS' preferred measures (Alternative 6) to the shipping industry in the Port of Hampton Roads will be in excess of \$21 million annually and the costs to the nation's maritime industry will be \$116 million annually. Recognizing that 95% of imports arrive by ship and the time sensitive schedules of our MTS, we believe these figures grossly underestimate the impacts and costs to our nations supply chain.

We find no convincing evidence that ship strikes are less likely to occur at slower speeds.

NMFS has produced studies indicating that if a ship strike occurs, a strike at a higher speed may be more likely to cause death or serious injury than a strike at a lower speed. However, if seeking to reduce the probability of a strike in the first place, speed restrictions are not a scientifically supported solution. For this and other reasons, we question the validity of the studies calling for the use of blanket speed restrictions as a means of improving the right whale population.

We are concerned that there has been little or no accounting for enforcement of blanket speed restrictions. To whom will enforcement of these regulations fall? What will be the costs of enforcement and where is the funding? If enforcement responsibilities are foisted upon the U.S. Coast Guard, what resources will be used and how will it compromise the Coast Guard's national security and maritime safety responsibilities?

We find the proposed regulations contrary to national policy and to demonstrate a bewildering lack of identification and coordination with other priorities within the same agency, NOAA. Speed restrictions are contrary to two elements of the President's U.S. Ocean Action Plan. One of the Plan's priorities is improving the MTS. Clearly, blanket speed restrictions are a detriment to the MTS. Another of the Plan's priorities is advancing knowledge of the oceans through improved technologies and Integrated Ocean Observing Systems (IOOS). NOAA's National Ocean Service (NOS) is putting significant energy and funding into developing IOOS and improving technological capabilities. There seems to be little coordination, or desire for coordination, between NMFS and NOS to seek technological and observational solutions to improving the right whale population. We recommend better coordination of the objectives of NMFS with NOS and the pursuit of technological and observing solutions with higher probabilities of improving the right whale population.

If speed restrictions are implemented, we suggest it would be inappropriate to implement the same blanket speed restrictions along all three implementation regions (northeastern, mid-Atlantic, and southeastern). Right whale encounters in the mid-Atlantic region are rare. The DEIS states there is less than one right whale sighting per year in each of the mid-Atlantic ports and concludes Dynamic Management Areas (DMA's) would likely be required only once each year in mid-Atlantic ports. With the rarity of right whale encounters in the mid-Atlantic, instead of blanket speed restrictions, we recommend utilizing alternative measures without the severe risks and impacts of speed restrictions. There are numerous alternatives that have not been attempted in mid-Atlantic ports, such as utilizing DMA's only, requiring ships to post spotters, and whale reconnaissance flights.

We note there are no provisions for terminating speed restrictions. Should speed restrictions be implemented we recommend including provisions for the sun-setting of the regulations when they are determined to be ineffective, or if the right whale population reaches 400 or experiences sustained growth of say 4% over five years. The maritime industry does not accept that speed restrictions will be necessary in perpetuity.

The VMA maintains that the human and environmental navigational safety risks and the certain negative impacts on the economy and the nation's supply chain far outweigh the very uncertain positive impacts of blanket speed restrictions. We encourage NMFS to focus its resources instead on finding technological and observation based solutions with a higher probability of achieving the goal of improving the right whale population. Please contact me at (757) 622-2639 should you desire additional information or have any questions.

Very truly yours,

Arthur W. Moyer, Jr.
Executive Vice President

Cc: Mr. Meade Stone, Jr., President, Virginia Maritime Association
Mr. Edward Barham, III, Chairman, Navigation Rules Committee
Mr. Raymond Newlon, Chairman, Steamship Trade Committee



Virginia Pilot Association

TELEPHONE: 757-498-0995
FACSIMILE: 757-498-9324
email: dispatch@vapilotassn.com
3329 SHORE DRIVE
VIRGINIA BEACH, VA 23451

August 31, 2006

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources,
NMFS
1315 EastWest Highway
Silver Spring, MD 20910

To: Chief, Marine Mammal Conservation Division

Re: Right Whale Ship Strike Strategy
Response to proposed rule making

The National Marine Fisheries Service is proposing to limit vessels over 65 feet to speeds of 10 knots within a 30 nautical mile radius of the entrance to the Chesapeake Bay from November 1 to April 30 of each year. The purpose is to reduce the likelihood of death to endangered North Atlantic right whales. We all want to maximize the protection of whales, therefore this proposal is receiving consideration despite major adverse consequences should this regulation go into effect.

The licensed ship pilots of the Commonwealth of Virginia move over 7000 ships in and out of the waters of the Commonwealth. The primary job of the Virginia pilot is to ensure the safety of the vessel during the inbound or outbound transit in the confined pilotage waters. Much of the proposed reduced speed area is outside the pilotage waters. Although pilots are not directly impacted by this proposed ruling, the aspect of the rule that is particularly concerning to us is the speed restriction on the critical stretch of confined water approaching the pilot boarding area.

Our pilot tower monitors every ship entering and leaving Virginia waters, 24 hours a day, 7 days a week. We closely track each foreign vessel, each navy ship, commercial tug and tows and larger recreational vessels. We are intimately familiar with the problems associated with transiting the sea-lanes and the approaches to the sea-lanes up to 30 miles offshore. The mouth of the Chesapeake Bay is one of the busiest areas in the

United States with commerce bound for Baltimore and the ports of Virginia as well as serving as the entrance to the largest Naval Base on the east coast. These ships include LNG, LPG, colliers, container, grain, oil, bulk ships of all capacities, cruise, auto carriers, naval, tug and tow, and recreational vessels. Every imaginable cargo is carried in and out of the entrance to the Chesapeake.

The sea-lanes approaching the pilotage area are narrow with dangerous shoals existing north and south of the lanes. The weather during the months that these restrictions are in effect is some of the most hazardous that we face during the year. Often, the prevailing northeast winds blow in excess of 20 to 25 knots for days at a time. These winds usually cause very strong cross-currents with corresponding sized waves. Vessels transiting the sea-lanes are already subjected to hazards during these conditions. It is normal for these ships to traverse these waters at maximum safe speed possible in order to prevent wind and current from setting the vessel onto the shoals or to merely keep them on track. Some vessels, especially large, high sided vessels such as car carriers or bulk vessels without cargo, will require speeds well in excess of the proposed 10 knot restriction in order to hold track and pass through the sea lanes safely.

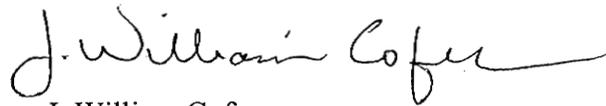
Because the ports of the Chesapeake support such a vast variety of ships, at any one time, ships in the sea lanes will have the need to run at different speeds to overtake slower vessels to safely enter the port. Stacking ships one behind the other in a slow parade is neither prudent for commerce or safe for navigation. Instead of using various speeds to help separate ships from one another, the effect of this radical proposal is to narrow the distance between the vessels as they attempt to transit Virginia's near offshore waters.

This slow parade effect will heighten the chance for groundings by subjecting ships, whose length is often as long as the Empire State building is high, to maneuver in elements that make safe navigation difficult. For example, a 30 knot wind on the side of a 900' RORO vessel, whose beam is only 106', will create a "crabbing" effect, whereas the leeway made on the ship is nearly 10 degrees off the baseline course, giving the ship an equivalent of a 230' width beam in a 1350' channel. To compound this problem, once the ships have been forced together, consider the additional effect of the wind on the wave height and having to navigate in restricted visibility caused by nighttime, rain, snow, sleet, haze, and fog. One must recognize that this is exceedingly dangerous for navigation, especially considering the volume of ships moving in and out in such a confined sea-lane.

Should these rules pass, the safe access to the ports of Virginia and Maryland will be severely diminished. Commerce in Virginia will be drastically affected whenever adverse weather occurs. Most importantly, the unfortunate outcome of these regulations will significantly increase the potential for ship grounding, environmental incidents including major oil spills and potentially bring commerce to a standstill.

On behalf of the members of the Virginia Pilot Association, I strongly oppose the proposed regulations for speed restrictions on ships and encourage the National Fisheries to seek other, more effective, safe ways of protecting the right whale.

Very truly yours,

A handwritten signature in cursive script that reads "J. William Cofer". The signature is written in dark ink and has a long, sweeping horizontal line extending to the right.

J. William Cofer
President

Subject: [Docket No: 040506143-6016-02. I.D. 101205B];[FR Doc: E6-13323];[Page 46440]; Ma

From: Denwade@aol.com

Date: Thu, 14 Sep 2006 08:42:00 -0400 (EDT)

To: David_Rostker@omb.eop.gov

CC: Shipstrike.Comments@noaa.gov, WarrenMayes@wildblue.net, jeffbittner@hotmail.com, chasredm@yahoo.com, g.dare@soundingspub.com, jackson29464@yahoo.com, kdickie@ec.rr.com, mojawipes@mindspring.com, PARKSATHOME@aol.com, lauraprice35@hotmail.com, rusty.gray@noaa.gov, SeaLubber7@aol.com, c.buydos@soundingspub.com

Ref: Ability to enforce: Proposed speed limit on 65+ foot vessels

Will the USCG and NMFS have resources to enforce this proposal equitably? Are USCG, NMFS and other enforcers ready to police foreign flag and commercial vessels? Will the same rule apply to US Navy vessels in proposed offshore NC sonar training area, George Bush Sr's 70ft Fountain sportfishing boat(seen running at excessive speed on Intracoastal Waterway), Good-Old -Boys from inland, offshore "Snowbirds" and Corporate heads in 80ft+ yachts, drug runners and drunks, USMC/USN vessels on exercise at Onslow Beach, NC, and Navy attack submarines? Will marine agencies policing Homeland Security be stretched with added duties?

As a private citizen, registered voter, recreational boater and fisherman, and volunteer on Nc/Va/Md State Historic ships, I do not understand the logic of this proposal. At an August 2004 meeting in Carteret county, NC, charter and head boat captains told NMFS officials they rarely encounter whales. They also tried to explain that the small vessels have differently designed hulls--which combined with a good visual watch and increased maneuverability--and do not draw and hit whales as do the hulls of longer vessels. Small vessels DO have a person on watch, as compared to many merchant vessels which run on autopilot. Per a Moran Towing crewman(Seaman AB in training for Mate), who is a personal friend, bridge visibility on some merchant vessels precludes seeing any object or sealife under the bow, regardless of speed.

Not a Sierra Club or Greenpeace activist, I do wish that the USA/NMFS enact reasonable regs necessary to protect endangered species. Using the same logic federal authorities use to justify proposals to drill offshore, why enact laws that restrict those attempting to engage in legal, profitable commerce???. Dennis Wade,Raleigh, NC

WATER TRANSPORTATION ALTERNATIVES INC.

703 WASHINGTON ST.
QUINCY, MA 02169
617-222-6999

October 5, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Attention: Right Whale ship Strike Strategy

Dear Sirs / Madams,

Water Transportation Alternatives, Inc. (WTA) is writing the letter on behalf of The Salem Ferry, a ferry service operated by WTA for the City of Salem, Massachusetts.

WTA operates The Salem Ferry between the ports of Salem and downtown Boston. The vessel utilized in the operation, The Nathaniel Bowditch, is a catamaran vessel able to operate at 30 knots. The vessel's route follows the coastline between Salem and Boston. The vessel is operated in strict conformance with all existing regulations.

There have been NO right whale sightings recorded anywhere along the route of the ferry, and in fact the closest recorded sighting is a lone sighting near Nantasket Roads, more than 5 miles from the ferry route. WTA has serious concerns regarding the Dynamic Management Areas (DMA) as described in the proposed new regulations. In the regulation, as proposed, a sighting of a right whale up to 32 miles from the vessel route will effect the ferry operation. The effect will be to take the current 1 hour transit and make it a 3 hour trip. This would put the service **OUT OF BUSINESS**, even if it only occurred 1 time. Additionally, DMAs have proven to be ineffective and unworkable in the fishing industry and there is no reason that they would work here.

Our constructive suggestion on DMAs is to reduce the diameter of the DMA to 4 nautical miles and the duration to 48 hours. This would offer protection to the whales triggering the DMA without impacting vessel movements 30+ miles away. This smaller DMA can be continually updated and centered upon the whales movements thus providing a more, dynamic and effective DMA.

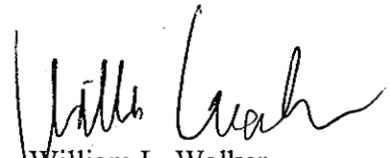
Thank you for your hard work and commitment to the marine environment and the marine mammals that live in it. Note that WTA is also submitting a separate letter regarding the DMA

portion of the proposed regulations on behalf of our whale watch operation, the New England Aquarium Whale Watch.

Regards,



Michael G. McGurl
Principal



William L. Walker
Principal

CC:;

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WATER TRANSPORTATION ALTERNATIVES INC.

703 WASHINGTON ST.
QUINCY, MA 02169
617-222-6999

October 1, 2006

Chief, Marine Mammal Conservation Division
Office of Protected Resources, NMFS
1315 East-West Highway
Silver Spring, MD 20910

Attention: Right Whale ship Strike Strategy

Dear Sirs / Madams,

This letter is submitted by Water Transportation Alternatives, Inc. (WTA) operator of the New England Aquarium (NEAQ) Whale Watch for the purpose offering comments and suggestions regarding The Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales. Note however, that the comments provided here are the opinions of WTA and do not reflect the position of the New England Aquarium. WTA supports measures that will truly improve safety and survivability for the endangered North Atlantic Right Whales. WTA recognizes that ship strikes pose a significant hazard to these animals and applauds efforts to create regulations to ensure the long term survivability of the North American Right Whale.

Company Background:

WTA is a group of associated operating units involved in marine transportation of passengers within Boston Harbor and Massachusetts Bay, including Stellwagen Bank National Marine Sanctuary. WTA was founded by its current principals in 1996 and has operated passenger vessels in the areas described above continuously since that time. At present, WTAI and its sister company, Harbor Islands, LLC operate 6 vessels with combined capacity for 1200 passengers. WTA employs a staff of over 125 during the summer and approximately 50 during the winter. This year's combined revenue for all operations will be approximately \$6.5 - 7.0 million.

All of WTA's operations are closely associated with environmental issues which are of significant interest to the company. One of the company's most important operations is the New England Aquarium Whale Watch, utilizing the vessel Voyager III. In 2003, WTA purchased the vessel from the NEAQ and entered into a long term operations and marketing agreement to support the NEAQ's core mission to "Present, Promote and Protect the World of Water". The NEAQ Whale Watch operation, in conjunction with WTA, has a 20 year history of operating vessels and the program in concert with the NEAQ mission. Extraordinary steps were taken in the design and construction of the newest whale watch vessel the Voyager III to make it

inherently safe for the marine mammals with which it was designed to work in harmony. Some of the specific features of the vessel that make it inherently safe include:

- Water jet propulsion system with inlet protection grates to provide a shallow draft allowing the vessel to pass over submerged whales without striking them. Additionally, with no exposed propeller or rudder, the risk of injury to any submerged mammal is further reduced.
- Maneuverability and stopping capabilities of the water jet system in conjunction with the high performance light weight catamaran hull design results in a vessel that can come to a complete stop from 29 knots in less than 1-1/2 times the length of the vessel or about 150 feet. This is compared to a heavy displacement ships that can take over ¼ miles to stop from as little as 15 knots.
- Visibility from the navigation bridge is exceptional as it extends for the full width of the super structure and is located high and forward on the vessel, thus allowing a 270 degree arc of visibility at a vantage point allowing the captains and crew to look down in to the water.
- Although not directly related to avoiding whale strikes, noise emissions studies were undertaken to verify the machinery noise emitted by the vessel would not be detrimental to the whales.

The design and construction of the vessel complements the operational set up of the vessel. The vessel is operated by a Captain, naturalist and trained crew. We currently have two full time naturalists on staff to provide complete shift coverage. Our naturalists have degrees in Marine Biology and have been with the NEAQ Whale Watch program for 5 years. Along with maintaining a proper look out when the vessel is underway, the captain, naturalist and at least one deck hand scour the horizon searching for whales and the telltale indications of whale activity. The captain stays in constant communication with all of the other whale watch vessels, commercial operators, research vessels and other sources of information to track where the whale activity is at any time. The captain and crew track sightings of Right Whales through these information sources and steer the vessel around the proximity of the most recent sightings while keeping a vigilant watch. Important note, ALL of the passengers on the whale watch trips are engaged in spotting whales as well and while not relied upon for the safe operation of the vessel, they do provide useful detection assistance.

The net result of the vessel features and operating profile of the vessel has been a 100% success rate in spotting and avoiding Right Whales and respecting the current requirements as outlined in “Whale Watching Guidelines: Northeast Region Including Stellwagen Bank National Marine Sanctuary”, in particular the requirement to maintain a 500 yard safety / exclusion zone around the Right Whales living in and transiting through Massachusetts Bay.

Areas of Concern Regarding the Proposed New Rules:

The careful designation of specific geographical areas, proven to have significant, seasonal populations of Right Whales and the imposition of vessel operating restrictions in those areas and at specific times, seems like a reasonable approach. WTA does, however; have serious concerns regarding the Dynamic Management Area section of the proposed regulations. DMA's have proven to be ineffective and problematic in the fishing industry and we see problems with the concept, as currently written, for Right Whale protection. WTA's concerns are based on the

premise that speed restrictions placed on our whale watch operation and its vessel Voyager III would not measurably enhance the precautions already taken by the company, its vessels and its crews. Additionally, the proposed speed restrictions within the DMAs as currently defined would absolutely ruin the financial solvency of the company by tripling the trip times for each of the whale watch trips effected. The Voyager III relies on speed to transport passengers safely and conveniently to the areas where the whales can be observed. Reducing the speed to 10 knots during the activation of DMAs would cost the operation thousands of dollars per day. This is an unacceptable financial situation as whale watch vessels operate on very slim profit margins during the very short season. The far reaching effects of destroying this important industry should not be underestimated as thousands of environmentally minded people will not have a means to visit and view the whales; jobs will be lost; tourists, students and educators will go elsewhere, perhaps to an amusement park or other similar non educational venue; subcontractors and associated industries such as hotels and restaurants will also suffer. It is ironic that the whale watching industry, that has inspired tens of thousands of passengers to become interested in preserving the environment and has spurred them on to become involved, is now in danger of not being able to fulfill that important environmental role.

Protection of the Right Whales as well as all marine life is central to WTA's and the NEAQ's missions. Based upon our many years of commercial and recreational marine experience, our degrees in Marine Transportation, Marine Engineering and Marine Biology, and our United States Coast Guard licenses, we believe there are many more steps that can be taken besides a speed restriction for vessels greater than 65 feet within a DMA that will be more effective in saving the North Atlantic Right Whales. WTA believes that the speed restrictions within proposed DMAs are a "knee jerk" reaction that will ruin whale watching while not contributing to the safety of the mammals it is deigned to protect. Specifically, WTA believes that recreational vessels less than 65' pose as much danger as vessels over 65'. The smaller vessels tend to be operated by untrained and unlicensed personnel who are not necessarily watching or even aware of the whales' potential presence. Also, with the low angle of sight, sometimes combined with impaired arcs of visibility and poor clarity of plastic windows it is not as easy for the smaller vessels to see the whales. Even sailboats, some of which now travel in excess of 30 knots on a regular basis with deep draft keels and rudders pose a significant hazard to the right whales swimming on the surface. Note, in the September 2006 of issue Soundings Magazine there is one report of a whale strike by world renowned sailor, Sir Robin Knox Johnson and another article reporting a rudder being shattered by a "submerged object" on a high speed sailing vessel. The proposed rule changes do not address how these types of documented strikes will be alleviated while imposing restrictions on vessels with proven safety records.

WTA also questions the effectiveness of the Aerial spotting process. Looking at the way the USCG conducts a search and rescue operation, it will take phenomenal resources to accurately track the right whales with the likely result being under reporting at times and over reporting at other times. This ineffective approach will ultimately mean that the Dynamic Management Areas will be more random than scientific.

Because of the extreme adverse effects of a DMA being declared, there will be a significant disincentive for any vessels, private or commercial, to report sightings of Right Whales.

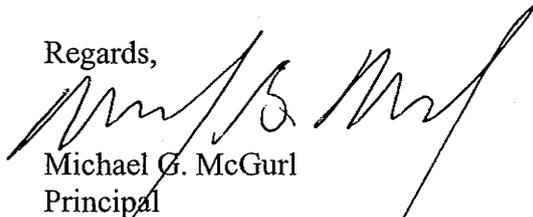
WTA offers the following suggestions/modifications to the proposed rules, and specifically the DMA issue, to be considered in protecting the right whales, all of which would add dramatically to the safety and long term survivability of the whales:

- Reduce the size of the DMA to 4 miles in diameter and the duration to 48 hours: This will minimize the impact of the DMA activation and provide equal protection because a Right whale is capable of traveling almost anywhere within Massachusetts Bay in a 24 hour period.
- Engage in an awareness campaign with all operators of vessels within Massachusetts Bay. This should include both private and commercial operators. Increased awareness of characteristics of right whales, their swimming and feeding habits and how to avoid close contact with right whales will have a positive result on whale safety. Although an effort in this area is being made at this time, WTA's experience is that there is a lack of understanding within the recreational marine community.
- Enlist the aid of qualified commercial operators in sighting and documenting the locations of right whales. Due to the large numbers of operators, a more comprehensive chronology of whale locations can be generated. Right whale sightings could be reported in "real time", and all operators will know the area of concern. This will only work with the smaller DMAs of shorter duration described above. Because the impact on operations will be minimal, the operators will be encouraged to "do the right thing" by participating in sighting the whales. Note that WTA was instrumental in reporting, tracking and monitoring an entangled Humpback whale this last summer. The Voyager III stood by the entangled whale until the properly trained and equipped experts took over. WTA is proud of the actions of the Voyager III crew in this incident and point out here that with the new rules, Voyager III would not be operating; therefore this entangled whale would have likely perished.
- Work with vessel operators for greater understanding and implementation of procedures for reporting and assisting whales that become entangled in fishing gear or appear to be injured.
- Investigate the tagging of Right Whales with radio beacons that could be used to more accurately predict the location of the whales and perhaps develop a moving security area that would follow the true location of the whales and offer true protection.

WTA and its employees, vendors, passengers and associated industries request that the proposed rules about DMA's be reconsidered to allow the proven safe operation of Whale Watch operations with their critical educational and environmental role to continue unimpeded by considering the suggestions above. WTA offers to work with interested parties and regulatory agencies to determine and implement a viable protection plan for the North American Right Whales.

Thank you for your hard work and commitment to the marine environment and the marine mammals that live in it. Note that WTA is also submitting a separate letter regarding the DMA portion of the proposed regulations on behalf of the City of Salem and the Salem to Boston Ferry operated by WTA.

Regards,



Michael G. McGurl
Principal



William L. Walker
Principal

CC; Bud Ris President New England Aquarium
Dr. Scott Kraus Vice President Research New England Aquarium



Dr. David Cottingham
Chief, Marine Mammal Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

01 October 2006

Attn: Right Whale Ship Strike Strategy

Dear Dr. Cottingham:

On behalf of the 370,000 members and constituents of the Whale and Dolphin Conservation Society (WDCS) and Oceana, we offer the following comments regarding the National Marine Fisheries Service's (NMFS) Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales (PR) [71 FR 36299].

First of all, we appreciate the efforts by the NMFS to pursue the enhanced protection of critically endangered North Atlantic (NA) right whales. As stated in the Background of the Proposed Rule, "For the North Atlantic right whale population to recover, death and injury from human activities, in particular those resulting from interactions with vessels because this is the greatest source of known deaths, must be reduced." As such, we feel implementing a strategy to reduce the threat of ship strikes is long overdue.

We agree with NMFS that the current measures are inadequate and applaud NMFS for taking steps to enact regulatory measures to enhance the protection of this critically endangered species, but we are concerned that the measures proposed in this ship strike reduction strategy may themselves be inadequately protective. Additionally, it appears that this FR notice was written some time ago and has not been appropriately updated. For instance, we ask NMFS to clarify their use of the Kraus et al. (2005) citation on page 36300 in the rule as the number of deaths reported does not reflect what is reported in Kraus et al (2005). Since the publication of that document, at least two additional right whales have been killed by ship strikes. The PR states that the Port Access Route Study (PARS) report "is expected in February 2006". Yet, it is our understanding that the report has been completed and sent to Congress but this is not mentioned in the PR. Similarly, we question how current the information is regarding the proposed Traffic Separation Scheme (TSS) shift in Massachusetts Bay. The PR says the TSS proposal would "Have to be submitted by April 2006". This proposal was, in fact, submitted and is in review. We assume these are oversights by NMFS, but the lack of updated detail regarding such an important issue is of concern to us.

We believe that NMFS is obligated under both the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA) to mandate actions that will prohibit “takes”, including the threat of ship strikes. As such, we ask NMFS to consider the following comments regarding the Proposed Rule.

Proposed Speed

- We support the proposed speed of 10kts.

Track line survey methodology indicates that sighting whales is directly correlated to vessel speed, as stated in Best (1982) “the faster the vehicle moves, and the more infrequently the whale surfaces, the greater the chances that not all of the animals on the track line will be detected.” The DEIS states that the probability of “death increased from 45 percent to 75 percent as vessel speed increased from 10 to 14kts”. As NMFS acknowledges the death of a single right whale each year, due to anthropogenic factors, may lead to the extinction of this species (SAR 2003), we believe the most precautionary speed must be enacted.

Vessel Size

- We believe that the rule should be applicable to all vessels and not restricted to vessels over 20m.

It is also important to note that, while this rule would apply only to vessels $\geq 20m$, any vessel is capable of striking a whale fatally, since the force of the strike is equivalent to the product of vessel mass and speed. We applaud NMFS for considering a single data point when determining it should include vessels $> 20m$ ¹. We request NMFS use that same precautionary approach and consider the March 05, 2005 strike of a female right whale that resulted in a serious injury and likely mortality. This vessel was 43’ (13m) in length (NOAA 2005a, Cape Cod Today 2005). Therefore, we believe that this rule should apply to all vessels.

Area and Time of Speed Regulations

- We believe that the proposed times and areas are insufficient and NMFS must increase the scope of these measures.

Northeast US (NEUS)- while we support speed regulations in the NEUS, and do not dispute that some of these measures may be in effect seasonally, we do not believe the proposed rule provides adequate protection and request NMFS extend the proposed time of coverage. Specifically, we believe the Off Race Point (ORP) area should be extended to protect the ingress of whales into Cape Cod Bay and should be in effect beginning on



December 1st. Additionally, as the Cape Cod Bay protection is in effect through May 15th, we believe the ORP protection must be extended to protect the egress of whales

from the bay and should be in effect until, at least, May 31st. For the same reason of protecting the ingress of whales into the Cape Cod Bay area, we believe the Great South Channel (GSC) restriction should be in place beginning on December 1st, not April 1st, as is proposed. We do not feel that Dynamic Managed Areas (DMAs) provide sufficient protection prior to April 1st as they are sighting/survey dependent and NMFS has acknowledged that it is difficult to survey areas of the NEUS during the winter.

Mid-Atlantic US (MAUS)- we support the restriction out to 30nm, but feel it must be coast-wide, not only around port entrances, and be in effect from September 1st through April 30th (not November 1st as proposed). NMFS has acknowledged this area is not well surveyed and right whales may transit this area earlier than previously considered. This is demonstrated by a recent sighting of a right whale, on September 26, 2006, off the coast of Maryland (NOAA 2006). It is unclear as to whether a DMA would be effective in this area, as outlined in these comments. Therefore, we believe the mid-Atlantic regulations must be strengthened.

Southeast US (SEUS)- we support the proposed timing of the regulatory frame work from November 15-April 15, but believe the area covered needs to be larger. As proposed, Critical Habitat (CH) would not be covered in its entirety. Section 4.1 of the DEIS-Biological Impacts on the North Atlantic right whale-states "the operational measures proposed for the SEUS region, the sole calving ground for right whale mothers and calves, in particular, would play an essential role in reducing the number of female (and juvenile) deaths, a key component to the recovery of the population" and "given the right whale's low fecundity, implementation of the operational measures in the critical habitat for calving is crucial to the survival of the species." Additionally, sightings have occurred south of Critical Habitat and into the Gulf of Mexico (RWVN 2004). While we acknowledge that these sightings may not occur regularly, they are, nonetheless, significant, especially given that the January 2006 transit of a mother and calf into the Gulf of Mexico appears to have resulted in the calf being struck by a vessel (RWN 2006). Sightings of mothers and calves in critical habitat, as far south as busy Port Canaveral, are not uncommon, yet no protective measures are proposed for this area. Therefore, we strongly believe that the coverage area should include all of CH and extend out to 30nm.

Dynamic Managed Areas (DMAs)

- NMFS should extend the boundaries of the rule, both temporally and spatially, to reduce the reliance on DMAs, which may not be as significant as a risk reduction measure as is suggested in the proposed rule.

We question the trigger for the MAUS. According to the Proposed Rule, a DMA could be triggered by “a whale within a mid-Atlantic 30nm port entrance zone and the whales show no evidence of continued coast wise transiting (e.g. they appear to be non-

migratory of feeding).” However, it is unclear how one determines whether the animal is non-migratory or migratory. We do not believe that a moving whale necessarily implies it is “migratory”, as is evidenced by the movement of whales throughout their feeding range. Additionally, we are not clear as to how NMFS has determined a reduced risk to a whale that is potentially feeding versus one that is mobile. We believe that risk increases when many whales are in an area regardless of the number of vessels, or when many vessels are in an area regardless of the number of whales. The Right Whale Ship Strike Reduction Draft Environmental Impact Statement (DEIS) [71 FR 38640] indicated that “the mid-Atlantic region has the heaviest vessel traffic of the three regions on the East Coast”. Therefore, risk is significant to any whale in the area, even one in transit. This is of additional concern, as the DEIS acknowledges that surveys, which are needed to trigger a DMA, occur less frequently in the MAUS region. Given the critical status of this species, we feel the DEIS should have examined these criteria, which may point to greater potential risk to non-feeding whales than is acknowledged in the DEIS.

We are concerned that this strategy has taken an average of two weeks to implement when it is triggered for fisheries closures and some of these DAM situations have merely requested voluntary compliance. If DMAs are to have value as a risk reduction tool, the implementation must be immediate and compliance must be mandatory. Furthermore, out of season/out of habitat sightings are typically based on opportunistic reports. For example, in August of 2004, more than half of the right whale sightings (19/36) reported by NMFS were opportunistic (NOAA 2005b). This is of further concern if NMFS intends to rely on opportunistic sightings to trigger DMAs. For example, in 2003, 63 sightings of right whales were reported by commercial whale watching vessels between April and October, with 24 sightings reported in July, a time when dedicated surveys are not conducted (ibid.).

If vessels stop reporting because they are concerned that restrictions on speed and routing that are implemented may have negative impacts on them, there is no means to activate the DMA and right whales will remain at risk unless NMFS institutes dedicated surveys of their own. If DMAs are to be successful, dedicated surveys of the entire east coast would need to be conducted year round.

It is also unclear as to whether the triggers for DMAs are exclusively visual, or could include acoustical documentation of whales in an area. This must be clarified as research indicates that whales may be seen, and not heard, in an area or visa versa (Cornell 1995). Passive acoustic recordings of right whales within the Stellwagen Bank National Marine Sanctuary demonstrated that more whales were documented in the area than were reported by the aerial Sightings Advisory System (Dickey et al. 2006).

Our concerns are further intensified by proposed cuts in funding for aerial surveys when considering the value of DMAs. According to the DEIS, “the probability of whales being sighted is contingent on the available resources at the time, including being available to fly aerial surveys (which are weather limited), funding, and the timing of the publication of the location of the DMA in the Federal Register. Therefore, any limitations in these resources could prevent or slow the sighting of whales that need protection.” The current Administration has proposed a 25% (\$2 million) reduction in the right whale budget for FY2007 which will likely result in reduced effort for aerial surveys and necropsy effort (RWN 2006).

The DEIS goes on to say that “the effectiveness of DMAs in protecting right whales in the NEUS is limited by an inability to locate them by aerial surveys when rough seas and extreme weather conditions prevail” and “aerial surveys are expensive, logistically difficult and cannot assure 100 percent coverage of all areas at all times”.

WDCS appreciates the concept of DMAs and believe they can, if utilized correctly, play a crucial role in the survival of the right whale species and can be an important management tool. And, while we support the use of DMAs, we are concerned that their value, as a risk reduction tool, are limited and, therefore, believe that proposed seasonal speed restrictions need to be extended both temporally and spatially.

Sovereign Vessel Exemption

- All sovereign vessels should be obligated to abide by the PR under normal operating conditions.

While we do not dispute that, for certain missions of security, or human safety, sovereign vessels should not be obligated to abide by the proposed actions, we do not believe these exemptions should be extended to all government-funded research vessels or military vessels in routine operations. We do not believe that voluntary compliance is sufficient. In fact, the PR says that “in 2005, NMFS contacted all relevant Federal Agencies and asked that vessels proceed at 12kts or less when in right whale habitat. Most have voluntarily complied when vital missions are not compromised.” Clearly, not all vessels are operating in compliance.

Under normal operation (non-emergency), we believe that sovereign vessels should be mandated to follow the proposed measures when their missions are not compromised. This is of substantial concern given the fact that almost one-quarter (31/134) of reported strikes, where vessel type was known, were attributed to sovereign vessels (Jensen and Silber 2004). This includes the fatal strike of a right whale by an 82foot USCG vessel, which is the data point NMFS has used to determine the vessel classes included in this rule. We do not dispute that a reporting bias likely exists, as sovereign vessels are obligated to report collisions, but this does not diminish the fact that these vessels are

involved in fatal strikes of large whales particularly when apparent mortality, or serious injury, were the result for more than half (18/31) of these reported collisions (ibid).

It is also unclear why the designated measures for military vessels do not coincide with those proposed in the DEIS. For example, in Appendix One, the DEIS states that the Navy annual message occurs prior to calving season (December 1-March 30), but extends an additional day for the USCG (Dec 1-March 31). Yet, neither of these times, coincide with the measures proposed in the preferred Alternative (6), which would be in place from November 15 through April 15. Similarly, the USCG transiting the GSC is alerted from March 1 through May 30, but the NMFS preferred Alternative (6) proposes measures for this area from April 1-July 31. And, protective measures regarding military vessels do not match temporally, or spatially, in the MAUS with the preferred Alternative. Appendix One states that precautionary measures for military vessels include only the area between Cape Henry to Cape Hatteras between Jan 1- March 31 out to 20nm. Yet, Alternative 6 proposed measures in the MAUS (NY to SC) from November 1 through April 30 out to 30nm.

Lastly, we could find no justification as to why NMFS recommends only a 100-yard standoff distance, when in sight of a right whale, for the USCG during normal operation, when the designated regulation is to standoff 500 yards.

Additional Measures

- Funding these measures must be a priority for NMFS.

According to the PR, there are five elements to the plan, but “elements 1-4 are non-regulatory, and are not addressed by this proposed rule making.” We support these additional measures, particularly the development of a conservation agreement with Canada and proposed routing measures. We support the notion of rerouting ships away from right whale aggregations and believe that, in addition to speed reduction, this is a necessary measure to reduce risk to right whales. However, we are concerned that the proposed reduction in NOAA’s budget is not sufficiently considered for any of these measures. The current Administration has proposed a 25% (\$2 million) reduction in the right whale budget for FY2007, which will likely result in reduced effort for aerial surveys and necropsy effort (RWN 2006). Both of these critical measures underpin current right whale research and conservation work and are assumed to continue as part of the PR. However, it does not appear that the PR addresses how potential cuts in funding will impact these measures (including ongoing research, conservation, education, etc), which NMFS’s acknowledges, are already insufficient as sole protection measures. Additionally, there is no timeline given as to when these things will take effect and that is of tremendous concern as the rule has been delayed for two years, as it is.

Enforcement

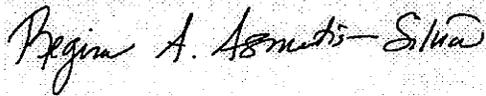
- Adequate enforcement and funding must be a significant part of the PR.

We believe that enforcement must be considered as a major component of this PR. Research shows that voluntary measures are insufficient and have low compliance. For example, 95% of ships transiting the GSC did not slow down, or reroute around areas of known right whale sightings (Moller et al. 2005). Even regulatory measures show low compliance, when not enforced which can be demonstrated by looking at the Mandatory Ship Reporting System (MSRS) compliance data for the SEUS, where only 53% of vessels complied with mandatory reporting requirements in the first year and only 59% in the second (RWN 2002). Adequate enforcement can aid in the compliance of these measures and, ultimately, in the recovery of this endangered species. Such has been the case with manatees, where Laist and Shaw (2005) found manatee deaths significantly lower in areas of greatest enforcement effort.

Conclusion

We believe that the proposed rule provides the minimal threshold of protection for North Atlantic right whales. While we strongly commend the NMFS for going forward with a plan to reduce the risk of ship-strikes to right whales, we know that increased survey effort and telemetry and acoustical data continue to reveal the presence of whales in times and areas previously believed to be of minimal use. We are concerned that the Dynamic Management portion of the plan relies heavily on opportunistic sightings, and therefore, will not reduce risk unless dedicated surveys are conducted on a broader scale. As funding cuts may prevent adequate survey coverage, we request that NMFS expand the regulatory areas spatially and temporally. We also believe that a strong enforcement component must be part of these measures.

Sincerely,



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Sr. Biologist
Whale and Dolphin Conservation Society
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508.830.1977
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Elizabeth Griffin
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¹ According to the Proposed Rule [71 FR 36299], “the smallest vessel involved in a fatal collision with a right whale was an 82 ft (25 m) vessel (NMFS, 2004i). On this basis, NMFS determined that a length of 80 ft (24 m) would serve as the upper limit on the minimum vessel size to be included in the operational measures (NMFS, 2004i). After reviewing various regulatory requirements for vessels, NMFS found that the class of vessels that posed the highest risk of seriously injuring or killing a right whale was ships 65 ft (19.8 m) and longer (NMFS, 2004i). The 65 ft (19.8 m) threshold also corresponds to a well established criterion used in many USCG regulations, and one understood by mariners.

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Subject: 10knt Rule

From: "CHW (Chris Wilkins)" <chw@nne.dk>

Date: Tue, 26 Sep 2006 14:45:44 -0400

To: Shipstrike.Comments@noaa.gov

132 ✓

Please dont make the rule for vessels of 65ft and longer to have to slow to 10knts. This will hurt the fishermen who use this vessel to go offshore and catch fish.

If you take the speed down, then people cant fish for long hours. The boat will take 8-9 hours just to reach a good fishing spot, then fish for an hour. Therefore decreasing the number of tourist to the beaches. I would hate to see towns like Atlantic Beach, start to decrease the number of tourist just because of the 10knt rule.

Please stop the speed limit for the ocean. It will hurt more people than one thinks.

Thanks.
Chris

Chris Wilkins / Inhouse consultant
Project Management

NNE US Inc.
3612 Powhatan Road
US-Clayton, NC 27520

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Subject: Speed Reduction - Whales

From: "Jerry J. Williams" <jwilliams764@comcast.net>

Date: Fri, 29 Sep 2006 19:04:37 -0400

To: Shipstrike.Comments@noaa.gov

Has anybody there done a study on the number of whales hit by boats whose length is less than 110' ft in length.,? I have been deep sea fishing Most of the east coast, I have missed a few states but not many and I have yet to see a whale up close. From what I gather you are definitely trying to kill recreational fishing for the average fisherman. I would figure that if a boat of less than 120 ft hit a whale or anything else of any size you would definitely hear about it. At 10 knots (11.5 mph) you could barely leave the dock before you would have to return. Our government or should I say our paid for government officials at work. Shut down the average man until you need to bail out one of your employers, then we are all in this together.

During these 7,000 trips (carrying 100's of thousands of passengers for a day of fun) our captains have never come in physical contact with a whale. If they were to spot a whale (which would be rare) federal law, and common sense, requires the Captain to take all steps to avoid the mammal. Headboats and charter fishing vessels are designed with planning hulls that do not draw objects to them. Also the keel of these type boats protects the engine props keeping them from hitting objects in the water. Unlike large freighters, tankers, Navy and Coast Guard ships, vessels like the Capt. Stacy are able to maneuver to avoid objects in the water.

If the proposed law passes there is no telling where it will stop. If the NMFS does not see the results they want they have said they will consider implementing larger seasonally managed areas, further reducing ship speed, or other measures if appropriate. Reference(On page 36307 of the Federal Register / Vol. 71, # 122/ Monday, June 26 2006/ Proposed Rules)

WHAT CAN YOU DO? Until 5 pm October 5, the NMFS is accepting comments from the public at EMAIL:
shipstrike.comments@noaa.gov

Written Comments should be sent to the following address. Please remember it must arrive in their office by **October 5th, 5 pm :**
Chief Marine Mammal Conservation Division,
Attn: Right Whale Ship Strike Strategy,
Office of Protected Resources, NMFS
1315 East West Highway
Silver Spring, MD 20910

YOUR INPUT COUNTS. Again, we support efforts to protect all species, but not at the severe expense to humans.

We are asking NMFS / NOAA, other public officials, and news services to consider the impact on our business and others verses only the NMFS / NOAA prediction.

Below is the site from the Federal Register about the proposed regulation:

<http://www.nmfs.noaa.gov/pr/pdfs/fr/fr71-36299.pdf>

Thank you in advance for anything you can do to help us and all of the other people whose businesses would be ruined by this proposal.

Best Regards,

The Family & Staff of

Capt. Stacy Inc

Capt. Stacy Fishing Center & Capt. Stacy VII

Subject: The Whales

From: Carol and/or Jim <jcgrouper@netzero.com>

Date: Fri, 29 Sep 2006 15:46:34 -0400

To: Shipstrike.Comments@noaa.gov

CC: Carol Williamson <carol@taylorsnursery.com>

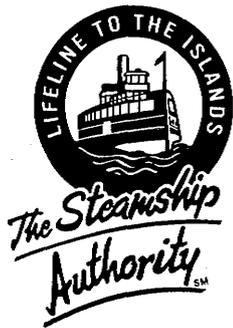
In all the time that I have been on the oceans of the world! I have been riding the oceans for about 30 yrs. I have only seen whales once and then it was from a distance. I have this believe that fishing vessels are no way harming the whales any more than navel vessels have in the past or in the future. We the people who love to go fishing a couple of times a year may never see a whale in our life time. I don't understand why the navy or other ships don't have to follow these regs. The fishing boats that are under 100 feet are able to avoid whales and other marine life easily. I think that you need to talk with people who are on the ocean to make there living not just people who only concern is their own interest. We the fisherman of the country also love the oceans and what lives in them. I am ex-navy, a fisherman, a lover of freedom and a father with children and grandchildren. YOU NEED TO RETHINK THIS ISSUE!!

James Williamson

Subject: Do Not Change Policies
From: BIGBOOMER66@aol.com
Date: Tue, 26 Sep 2006 11:54:01 -0400 (EDT)
To: Shipstrike.Comments@noaa.gov
CC: info@captstacy.com

I support efforts to protect all species, but not at the severe expense to humans.
We are asking NMFS / NOAA, other public officials, and news services to consider the impact on our business and others verses only the NMFS / NOAA prediction.

Oliver Williamson
PO Box 525
Jackson SC
29831



Woods Hole, Martha's Vineyard and Nantucket Steamship Authority

AUTHORITY MEMBERS

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Falmouth Member, Chairman
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New Bedford Member, Vice Chairman
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Barnstable Member
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WAYNE C. LAMSON
General Manager

ROBERT B. DAVIS
Treasurer/Comptroller

STEVEN M. SAYERS
General Counsel

Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries
1315 East-West Highway
Silver Spring, MD 20910

Re: Proposed Rule - Implementation of Speed Reduction for certain vessels.

The proposed rule for vessels greater than 65' in length to reduce their speed of advance to ten knots when a Dynamic Management Area (DMA) is implemented threatens the passenger, freight and high speed service for the Northeast region of this country.

The Steamship Authority provides essential service to the islands of Martha's Vineyard and Nantucket, carrying goods and services for the residents of those islands. The normal operating speed of our nine vessels ranges from 11.5kts to 35kts on our high speed ferry. A reduction to the speed of our vessels will impede the timely deliveries of merchandise; jeopardize the livelihood of many residents that commute on a daily basis to the mainland for bus, rail and airline connections and at the same time create additional costs to our operation.

According to the data collected by NMFS, it does not appear that any ferries were involved in an actual or suspected strike or death of a whale either in U.S. or Canadian waters. Further to this, during the history of the Steamship Authority there has not been a Right Whale sighting or ship strike of any large marine mammal recorded. Therefore, it is unreasonable for this carrier to be forced to comply with the proposed regulations where there is no evidence to support NMFS speed reduction request.

All Steamship Authority vessels are U.S. Coast Guard inspected, documented and manned by licensed professional mariners. All Steamship Authority vessels are less than 1600GRT and operate under Lakes, Bays and Sounds as indicate on their respective Certificates of Inspection. Operating in close proximity to land, in narrow channels, currents and other vessel traffic, the vessels are more maneuverable than larger, ocean going ships and as a result have the capability to avoid any obstruction that may pose a threat to the vessel.

There are questions surrounding the placement and administration of the DMA's from our perspective. The following questions need to be addressed:

1. Who or what will determine the presence of a Right Whale?
2. The automatic duration of the DMA is to be 15 days, unless NMFS releases the area in question. However, the duration could be longer. Who and how will it be determined whether to suspend or extend the period?
3. Communications: How will word be passed to the maritime community when the DMA's are activated/cancelled?

Re: Proposed Rule - Implementation of Speed Reduction for certain vessels.

4. The DMA's will be, at a minimum of 36 nautical miles in diameter or possibly more. Based on the enclosed chartlet, indicating Right Whale sightings, or thought to be, the entire operating area of Steamship Authority vessels will be impacted. That is, if the whales remain stationary. The area(s) affected are hundreds of square miles used by several industries that make their living on the water. What is the basis for the 36 nautical mile area?
5. The DMA's are unquestionably going to be dynamic as the whales are continuously in motion as pointed out in prior testimony stating that aircraft and aerial surveys are somewhat ineffective. How can NMFS detect and determine the location(s) of the whale(s) and effectively monitor their whereabouts without crippling commerce?
6. During testimony and with regard to notification and establishing the DMA's: there must be an immediate response by vessels and the enforcement of the required reductions in speed and if not adhered to, a system of fines are to be employed to help pay for the administration of the DMA's. NMFS is not only reducing our vessel's speed and cripple commerce, but wants industry to pay for the management of Right Whales?

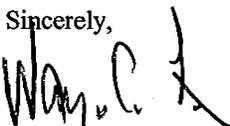
It is our understanding that NMFS has suggested that operators cease operations for the two week period while the DMA is in effect. The Steamship Authority is mandated by the law of the Commonwealth of Massachusetts to provide an essential governmental function, namely to provide passenger and freight service to the Islands of Martha's Vineyard and Nantucket. We cannot simply "shut down". Therefore, operational costs will increase due to the extended period of service time the vessels will have to operate and comply with the suggested speed of 10 knots. The infrastructure that supports vessel operations such as terminals, buses and the employees will also incur added costs. These additional expenses will add thousands of dollars daily to the operating budget of the Steamship Authority. Revenue is produced through passenger and freight carriage. As a result of the increased operating times the income needed to cover the additional expenses will have to come from an increase in passenger, automobile and freight rates.

Operations may in fact not be able to continue past certain times of the day (such as between midnight and 6:00AM) due to the number of residential properties in close proximity to our ferry terminals. Hence, the additional trips needed to fulfill the requirements of commerce to the Islands will not be possible without acquiring and operating more vessels.

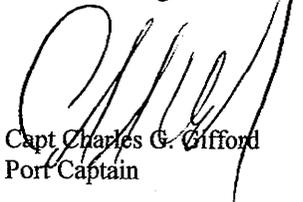
The Steamship Authority would like to go on record as opposed to the implementation of speed reductions for vessels greater than 65' and the Dynamic Management Areas as proposed.

If there is additional information required, do not hesitate to contact my office at the address listed.

Sincerely,



Wayne C. Lamson
General Manager



Capt Charles G. Clifford
Port Captain



WORLD SHIPPING COUNCIL
PARTNERS IN TRADE

**Comments of the
World Shipping Council**

**Before the
National Marine Fisheries Service**

**In the matter of
Proposed Rule to Implement Speed Restrictions to
Reduce the Threat of Ship Collisions with North
Atlantic Right Whales**

RIN 0648-AS36

October 5, 2006

I. Introduction

The World Shipping Council (“the Council”, “WSC” or “we”) submits these comments in response to the Notice of Proposed Rulemaking (NPRM) published by the National Marine Fisheries Service (NMFS) in the Federal Register on June 26, 2006 and the Draft Environmental Impact Statement (DEIS) made available by the Environmental Protection Agency on July 7, 2006.

The Council appreciates the opportunity to provide comments to NMFS on the proposed measures to implement seasonal speed restrictions on vessels in certain areas along the East Coast of the United States. The stated purpose of these measures is to reduce the likelihood of death and serious injury to endangered North Atlantic right whales from collisions with ships. The Council, a non-profit association of more than thirty international ocean carriers, was established to address public policy issues of importance to the international ocean liner shipping industry. The Council’s members are primarily operators of containerships and roll-on/roll-off vessels that serve America’s international commerce. (A list of WSC member companies is attached.) They provide regular, scheduled services connecting U.S. importers and exporters with virtually every country in the world. They serve all of the East Coast ports covered by the Proposed Rule and the nature of their services makes them, as acknowledged in the DEIS, subject to the most severe economic impact from the Rule.

II. General Comments

WSC supports NMFS’s efforts to enhance right whale recovery. We and our member lines have participated in a number of the non-regulatory programs described in the NPRM as well as in the Mandatory Ship Reporting System (MSRS). We do not, however, believe that the science and statistics cited as the basis for the speed reduction measures detailed in the Proposed Rule reasonably support a conclusion that these measures will be effective in achieving the agency’s objective and the proposal might, in fact, expose right whales to additional risk of ship strikes. The measures

will have a direct negative economic impact on the shipping industry and its customers and may do nothing to protect the species.

As WSC stated in its comments on the 2004 Advance Notice of Proposed Rulemaking (ANPR), we have supported the Port Access Route Studies (PARS) conducted in the northeast and southeast regions where right whales are known to congregate at certain times of the year. We supported, and continue to support, the designation of Areas to be Avoided (ATBAs) in areas where research has shown that right whales are likely to congregate during certain months. And we support the implementation of Dynamic Management Areas (DMAs) which set up precautionary areas around sighted right whales so that mariners can navigate around them. In short, we support measures which science and common sense tell us will be effective in reducing ship strikes on right whales.

We, however, see no scientific basis in the record of this rulemaking for imposing a 10-knot speed restriction within 30 nautical miles (nm) of East Coast ports in the mid-Atlantic range (New York to Savannah, GA). This is the coastal range where the science is the weakest and the economic impact is the greatest. It is the range through which the right whales migrate and in which considerably more research and scientific analysis needs to be done before such costly and disruptive measures are imposed.

The liner shipping industry understands the need to take steps to protect right whales from ship strikes. Regulations, however, must be reasonably supported and expected to have the desired effect of protecting the whales. The backdrop against which the NPRM emerged suggests at least the possibility, despite the good faith of all involved, that the proposed regulations may be more effective in showing action than in reducing whale injury and mortality. Unfortunately, the treatment of the scientific studies offered in support of the rulemaking reinforces that perception. The perception is further enhanced by the complete exclusion from coverage of the regulatory restrictions of government vessels – the category of vessels documented as being the single most destructive to right whales. If the species is indeed at a tipping point, where the death of a single animal is significant and the regulatory restriction would in fact achieve the desired results, then political distinctions should have no place in the equation. Such distinctions would plainly be lost on the whales. If the objective is a serious and necessary one, which we believe it is, then the scientific analysis and the effectiveness of the management actions selected to achieve that objective

must reflect the same seriousness. The Council respectfully submits that more work is necessary before the scientific rigor will match the importance of the results sought.

For reasons set forth in detail below, we urge NMFS to change its approach and adopt an Interim Final Rule implementing measures which help mariners avoid areas where right whales are, or are likely to be, at certain times. We ask NMFS to include sovereign vessels and vessels under 65 feet in these regulations, as together they account for more than 50 percent of large whale strikes when vessel speed is known. And we ask NMFS to undertake serious scientific research during the effective period of the Interim Final Rule to better understand the migration of right whales in the mid-Atlantic region and to better assess the potential effect of vessel speed on the frequency and severity of ship strikes. It is essential that this research be carried out before costly, disruptive and potentially ineffective measures are imposed.

III. The Speed Issue

Although the Proposed Rule is not specific on this point, there are two speed-related issues in the documents referred to in the NPRM. The first is the relationship between speed and the likelihood of a ship/whale collision. The second involves the relationship between speed and the severity of injury to the whale when a strike occurs.

Speed as it relates to the likelihood of ship strikes: In reviewing the various lengthy and complex documents and studies cited by NMFS in the Proposed Rule, we find no compelling evidence that speed is a determining factor in the incidence of ship strikes to large whales. In fact, we find no evidence that the speed of liner ships (container and roll-on/roll-off vessels) has ever been a causal factor in a ship strike mortality of a North Atlantic right whale. Further, we cannot find a single, confirmed incident in all of the cited studies where a liner vessel (in excess of 180m in length) has been involved in a confirmed fatal right whale ship strike along the U.S. East Coast.

Ships do, on occasion, hit large whales. Based on the most frequently cited study, *Jensen and Silber (2003)*, 58 cases of ship strikes to large whales were reported worldwide from 1975 – 2002 where vessel speed was known. The study reports that “the greatest numbers of vessels were

traveling in the range of 13-15 knots, followed by speed ranges of 16-18 knots and 22-24 knots respectively.” The study goes on to report that the average speed of the 39 strikes that resulted in serious injury or death was 18.6 knots and that 20 of those strikes resulted in death.

We submit that the speed ranges presented in *Jensen and Silber* closely track the speed ranges of large vessels at sea and that these records indicate that ship strikes, in fact, decreased as vessel speed increased. We submit that this is so because there are more ships traveling in the slower speed ranges. Simply put, if all ships traveled at 16-18 knots, all whale strikes would take place in that range. The data here describes how fast ships usually travel but indicates nothing about whether there is a causal connection between ship speed and ship strikes.

In a more recent study, *Vanderlaan and Taggart (2006)*, the authors, using the same databases as the NMFS, looked at the issues of probability of lethal injury based on vessel speed and the consequence of increased whale exposure to vessels navigating at slow speed. We will look at the first issue later in these comments. As for the second, the study concluded that “...the encounter probability [between ship and whale] increases slowly as speed decreases from 24 knots or greater and then begins to increase more rapidly as vessel speed continues to decrease toward zero.” (at page 5)

Vanderlaan and Taggart also arrive at the following conclusions:

- “Slow-moving vessels may provide opportunity for whales to avoid a collision or for vessel operators to avoid whales. However, we are unaware of any compelling evidence for either.” (at page 5)
- “Large vessels navigating at low speed may not be able to maneuver successfully where success is partially dependent on the operator’s ability to predict the movement of the whale once detected.” (at page 6)
- “We can suggest that the paucity of low-speed collision reports is related to a paucity of vessels operating at slow speed.” (at page 6)

These observations indicate that the proposed speed reduction measures are, at best, arbitrary and might actually increase the likelihood of ship strikes because the ship is in the whale habitat for a longer time. This is

in direct contradiction to the NMFS objective of reducing these strikes. Again, this study is based on the same worldwide large whale ship strike database used by NMFS in defending its Proposed Rule. These alternative results have not been addressed by NMFS in the formulation of its proposed measures.

Additionally, NMFS concedes in the NPRM that “there are only two definitive strikes to right whales where associated vessel speed is known with absolute certainty.” The NMFS states that one was in 1991 when a right whale calf was killed by a ship traveling at 22 knots and the second, a right whale juvenile, killed by a vessel operating at 15 knots. What NMFS fails to include in their description of these ship strikes is that, according to *Jensen and Silber(2003)*, both were U.S. Coast Guard vessels which are exempted from this Proposed Rule.

NMFS candidly admits that the scientific data available is essentially anecdotal, and we believe that such data therefore has little predictive value under any recognized system of statistical analysis. Because this is the best data available, however, and because the agency feels compelled to take some action, NMFS has assumed, for the purposes of the Proposed Rule, that this anecdotal data in fact does have some predictive value. Any other assumption would necessarily require abandonment of speed restrictions as a management measure until statistically meaningful data has been obtained.

WSC respectfully submits that this lack of statistically significant data in fact requires NMFS to modify its approach, and we set forth below the form we believe that approach should take. For the purposes of the present discussion, however, we note simply that if NMFS is going to assume that anecdotal data has predictive value, that assumption must be applied consistently across all available data.

In order to explore what predictions would result if the data set relied upon by NMFS in support of the Proposed Rule was analyzed with respect to vessel size and speed, *Testaverde and Hain (2006)* graphically plotted the same 58 large whale interactions in which vessel speed and size are known as were used in *Jensen and Silber (2003)*. That graph is included as Figure 3. With respect to vessels of a size comparable to the containerships that regularly call the United States East Coast (i.e., vessels in excess of 180 meters), Figure 3 indicates that only five interactions occurred with respect to vessels of that size. One of those vessels was a naval vessel, two were

cruise ships, one was a tanker, and one was a containership. The containership incident occurred in 1972, and the vessel was therefore necessarily of a hull configuration not employed today. In addition to the fact that less than 9% of the plotted incidents involved vessels within the size range and type that would be most impacted by the proposed rule, all of those interactions occurred at speeds in excess of 15 knots, with four of the five falling between 19 and 22 knots. Under the logic employed in support of the Proposed Rule – i.e., that anecdotal observations have predictive value – this data, which forms the backbone of NMFS’s analysis, indicates that the lowest speed limit that should be under consideration for large vessels is 15 knots.

The data also shows that if maximum conservation impact is the goal of the rule, then vessels less than 20 meters in length are of far greater concern than are large containerships. There are 13 of these vessels in the data set, more than twice as many as fall within the range that would be primarily affected by the proposed rule. WSC respectfully -- but specifically and emphatically -- requests that NMFS explain in any final rule that it may issue, whether and how it differentiated between the predictive conclusions that it chose to acknowledge, discuss and include in the rule, and those predictive outcomes – based on applying the same methods to the same science – that it chose to ignore.

Taken together, the data relied upon by the Proposed Rule does not demonstrate any causal relationship between increased speed and increased frequency of collisions. If anything, studies indicate an inverse relationship. That is, the chance of collision may increase as speed decreases.

Speed as it relates to mortality or severity of injury: Given that the data relied upon in the NPRM essentially shows no predictive correlation between vessel speed and the likelihood of a collision, the only remaining basis on which speed restrictions could be justified would be if there were a demonstrable correlation between increased speed and increased mortality. The NPRM provides virtually no discussion of the extent to which the proposed speed restrictions may be based on an attempt to lessen the severity (as opposed to the frequency, addressed above) of whale/vessel collisions. Accordingly, it is impossible to comment meaningfully on the validity of any scientific analysis that might have been employed in formulating the proposed rule. Therefore, to the extent that any final rule

attempts to rely on a correlation between speed and mortality, such a rule would be unsupported by adequate data or explanation, and for that reason would be invalid.

That said, the NPRM does make reference to *Vanderlaan and Taggart (2006)*, which we understand has been accepted for publication after the date of the NPRM. According to the NPRM, that study states a range of probable mortality at three different speeds: 9 knots, 15 knots, and 21 knots. None of those speeds, however, is a speed that has been proposed as a maximum speed for covered areas. Moreover, that study ends with the observation that: "In summary, and acknowledging the uncertainties, our analyses provide compelling evidence that as vessel speed falls below 15 knots there is a substantial decrease in the probability that a vessel striking a large whale will prove lethal." *Vanderlaan and Taggart* (at page 6). Accordingly, to the extent that NMFS decides to adopt a speed restriction, this report would seem to indicate that 15 knots would be a more defensible figure.

A figure at the upper end of the range of proposed speeds is also indicated by *Laist (2001)*, upon which the NPRM principally relies. That study states that: "Most severe and lethal injuries caused by ship strikes appear to be caused by vessels traveling at 14kn or faster." (at page 56) After having analyzed various factors that could affect the observation regarding the very low numbers of fatal collisions at speeds below 14 knots, the author concludes that those factors do not undermine the legitimacy of the conclusion: "The scarcity of collision accounts below 14 knots could be an artifact of the small sample size of collision records found in this study; however, the absence of accounts involving severe or lethal whale injuries at speeds below 10 knots, and the low number of such collisions below 14 knots, seems significant." The DEIS adopts this finding, stating (at page1-5) that *Laist* "reported that of 28 recorded collisions causing lethal or severe injuries, 89 percent involved vessels traveling at 14 knots or faster and the remaining 11 percent involved vessels traveling at 10-14 knots." In addition, as noted above (see *Testaverde and Hain* at Figure 3), all five vessel strikes for which vessel size and speed are known for the class of vessels in excess of 180 meters are at 15 knots or above, and only one of those was a containership, in 1972.

This record provides no justification for imposing a 10-knot speed restriction on liner vessels – the class of vessels most severely impacted by the Proposed Rule.

In addition to the fact that the studies relied upon by NMFS indicate that, if any conclusions can be drawn about speed, 14 or 15 knots may be an inflection point at which possible speed-related benefits might be realized, there are additional reasons to use the 14-15 knot figure.

First, the Council would urge NMFS to guard against the unsupported assumption that if some speed reduction is good, a greater speed reduction must be better. As discussed above, the data does not support that.

Second, as the admitted need for additional hydrodynamic testing indicates, it is entirely possible that the optimum speed for avoiding whale injury is not necessarily the slowest navigationally feasible speed. Just as vessels passing one another in opposite directions in close quarters rely on and compensate for bow waves that push the vessels apart, so it may be that whales within a certain quadrant in front of an oncoming vessel could be pushed away from a vessel at one speed, but drawn toward it at a lower speed.

The point is simply that we do not have these answers yet, and it must be recognized that when one guesses, one is as likely to guess wrong as to guess right. Guessing low is not the same as being more conservative or providing more protection to whales. The more draconian choice is not necessarily the better choice. Instead, implementing measures where we have a reasonable expectation that such measures are appropriate, and waiting to adopt other measures when there is significant support for them would give effect both to the underlying statutory mandates and to the tenets of sound science and conservation management.

Finally, it is worth noting that moving from no controls to the most severe controls precludes any possibility of collecting additional data at speeds between today's 18-22 knot average and the most severe proposed restriction of 10 knots. Particularly in light of the evidence that most if not all of any available benefit in terms of reduced mortality would be obtained at 14 or 15 knots, there is no justification in the currently available data for going below that number.

IV. The Distance Issue

The NPRM has proposed a 10-knot speed restriction inside a 30 nautical mile zone around the entrance of all major East Coast ports (from New York to Savannah, GA) from November 1 until April 30 of each year. This 30 nm zone is arbitrary with no adequate scientific evidence that the measure will provide added protection for right whales.

NMFS points out that the mid-Atlantic region is used by right whales for migration between the calving area in the southeast and the feeding grounds in the northeast U.S. and Canada. The NPRM states: "Satellite tagging data, opportunistic sighting data and historical records of right whale takes in the commercial whaling industry indicate that right whales often occur within 30nm of the coast and in waters less than 25 fathoms."

The only NMFS study we find dealing with this issue is "Right Whale Sightings and Survey Effort in the Mid Atlantic Region: Migratory Corridor, Time Frame and Proximity to Port Entrances" (*Knowlton, Ring and Russell, 2002*). This study provides some revealing facts about the rarity of right whale strikes in the mid-Atlantic, and observations about the lack of scientific knowledge regarding right whale migration through the mid-Atlantic region.

The study notes that there have been only five right whale mortalities in mid-Atlantic waters recorded in the 32-year period between 1970 and 2002. However, in checking *Knowlton and Kraus (2001)*, we found only three strikes in what is now defined as the mid-Atlantic in the NPRM – one in 1979, one in 1983 and one in 1993 (listed as a probable ship strike). No vessel type or speed was known for any of these. Of these three, two were discovered on the beach and one at the mouth of Chesapeake Bay. In checking the NOAA database through 2003 (*Waring, et.al., 2005*), we discovered three additional recorded strikes in the mid-Atlantic since 1999. Again, vessel type and speed were unknown or unpublished. All three of these whales were also found well inshore and two had propeller cuts which we believe to be inconsistent with a large vessel strike. A generous conclusion is that there were six right whale ship strike mortalities in 33 years or one every 5.5 years in the mid-Atlantic migration path. (There was one additional reported mid-Atlantic strike in 2005 by a naval vessel). A more realistic assessment is that of these six, none was attributed to a large

ship and all were likely killed near the coastline. There is absolutely no basis here for regulating large commercial vessels within 30 nm of the mid-Atlantic coast.

The *Knowlton 2002* study calls the recorded mid-Atlantic right whale sightings on which it bases its analysis to be “sparse” and goes on to say that “unlike the feeding grounds in the Gulf of Maine and the calving ground off the southeast U.S., survey effort in the mid-Atlantic has not been extensive.”

Nevertheless, the study does attempt to analyze the existing sighting and tagged-animal data and arrives at the following conclusion in Table 1:

63.8% of sightings occurred from 0-10 nm of shore
76.9% of sightings occurred from 0-15 nm of shore
87.1% of sightings occurred from 0-20 nm of shore
92.2% of sightings occurred from 0-25 nm of shore
94.1% of sightings occurred from 0-30 nm of shore

The NMFS 2004 Advance Notice of Proposed Rulemaking considered speed restrictions on vessels in a range of 20-30 nm from port areas. Based on the “sparse” sighting data, NMFS has decided on 30 nm in the Proposed Rule even though the extra 10 nm picks up only an additional 7 percent of right whale sightings, while increasing the distance burden on ships by 50 percent. Even using the cost methodology for carriers from the DEIS (cost per hour of sea time lost), the extra cost burden on liner shipping would be reduced by half if NMFS imposes a speed restriction within 20 nm instead of 30 nm. Given the evidence that most, if not all, strikes in the mid-Atlantic occur near shore by smaller vessels, such an action would likely pose little, if any, additional risk to the whales. Even using the low cost data provided in the DEIS, to be discussed later, a 20-mile zone would reduce the cost burden of the Proposed Rule on the liner shipping industry by tens of millions of dollars.

The *Knowlton 2002* study also concludes that the sighting data “suggests that the majority of sightings at distances greater than 30nm from the coast occur at the northern end of the range” (not included on the NPRM mid-Atlantic range). “For the remainder of the range,” [NPRM mid-Atlantic range] “the overwhelming majority of the sightings are within 15-20 nm of shore.” This conclusion reinforces the point that the 30 nm zone proposed

for mid-Atlantic ports is arbitrary at best. It is also costly to the industry, and there is no basis to conclude that it provides increased security for the whales.

If any Seasonal Management Area speed restrictions are adopted, the range should reflect the likely location of the whales. What little science there is indicates that 20 nm is a far more logical limit. NMFS must address this data and its impact on the analysis underlying the Proposed Rule. It cannot ignore information that is directly counter to one of the central bases of the NPRM.

To the extent that the agency has based its analysis regarding an appropriate speed zone on Table 3 in *Knowlton 2002*, entitled "Total number of sightings within 40 miles of port and % within each buffer," that table likewise does not support the proposed 30 nm buffer. Although the Table 3 data varies by port, it could be argued that the data in that table demonstrates that there is a higher percentage of sightings in the 20-30 nm band in the vicinity of ports than in a range of 20-30 nm of the shoreline as a whole. It is impossible to evaluate that possibility, however, because Table 1 and Table 3 use different methods for measuring distance. Table 1 measures a zone that is parallel to the shoreline. Table 3, in contrast, measures concentric bands with a fixed center point at the port. That means, for example, with respect to Table 3 data, that a sighting could be 30 miles from the port but only one mile from shore. Especially since the data in Table 3 appears to be a subset of the data in Table 1, it seems more likely that the Table 3 data reflects near-shore sightings that are at considerable distance from the port than that it reflects port-vicinity sightings that are further offshore. If the agency were in fact to issue a final rule with a 30 nm speed restriction zone around each mid-Atlantic port, it would need to explain the relationship of the data presented in Tables 1 and 3 of *Knowlton (2002)* and affirmatively demonstrate that whales are found further offshore around port areas than in other areas. WSC does not believe that the underlying data would support such a conclusion.

Finally with respect to the 30 nm proposal, the consultation between NMFS and the United States Navy under Section 7 of the Endangered Species Act has resulted in a finding that speed restrictions for Navy vessels (in non-emergency operations), which are exempt from the NPRM, are appropriate within a 20 nm – not a 30 nm – radius of a port. An unclassified Navy advisory from December 2004 entitled "Right Whale Protective

Measures for Mid-Atlantic Fleet,” which was obtained from NOAA through a Freedom of Information Act request, states as follows:

“National Marine Fisheries Service (NMFS) has proposed specific mid-Atlantic ports where vessel transit during right whale migration is of highest concern. During the months indicated below and within a 20nm arc of the specified reference points for each of these ports (except as noted), Navy vessels shall use extreme caution and operate at a slow, safe speed that is consistent with mission and safety.”

Inasmuch as Section 7 of the Endangered Species Act requires either a finding that the actions of a federal agency will not jeopardize the continued existence of an endangered species or that a waiver of such requirement be issued, and we are not aware of any such waiver, the only legally permissible conclusion available is that NOAA has made a determination that speed restrictions for Navy vessels (which have the highest ship strike rate of any class of vessels) are necessary only within 20 nm of ports. In light of that determination, if NMFS were to issue a final rule with a 30 nm geographic scope, it would have to explain why 20 nm is adequate for Navy vessels, but 30 nm is necessary for commercial vessels. Failure to provide a reasoned explanation for these inconsistent positions would render any rule incorporating a 30 nm limit arbitrary and capricious

V. The Safety Issue

Reduced vessel speed for large ships results in reduced maneuverability. This is particularly true for high-profile vessels such as containerships and roll-on/roll-off vessels. Ten knots is at the borderline of safe, maneuverable speed and, in certain conditions, is unsafe. Many East Coast ports have narrow traffic separation schemes (TSS) in their approaches and some have narrow breakwaters at their entrances. Often strong currents and winds make port entry and departure hazardous, particularly during winter months which are included in the NPRM seasonal management areas. Slow speed adds to those hazards. Safe navigation of a vessel will always remain the responsibility of the master. Any speed measure imposed by NMFS under the Rule must contain a safety exception that permits a captain to conform his vessel’s speed to the conditions he faces, i.e., weather, tides, or vessel traffic at any time. Not to include such

an exception would be reckless and increase the likelihood of vessel collisions, groundings or serious environmental incidents.

VI. Economic Impact of the NPRM on the Liner Shipping Industry

The NPRM and DEIS make an attempt to estimate the cost to the liner shipping industry (container and roll-on/roll-off ships) of the 10 knot/30 nm Proposed Rule. We believe that:

1. The per hour cost estimate for a vessel at sea used in the estimate is 2.5-4 times too low;
2. The estimate of hours lost per port call is 2.5-3 times too low;
3. There is no estimate of the cost of extra fuel required to make up lost time on a multi-port string – a major added cost;
4. The cost to the shipping and port industries and its customers if vessels are forced to bypass a port to maintain schedule is high but difficult to calculate or predict; and
5. There are a number of other costs and operational considerations associated with speed restrictions that are not dealt with in the DEIS.

We will discuss each of these issues below.

The shipping industry has never attempted to put an acceptable or unacceptable price on the life of a right whale. We have said from the beginning of the rulemaking process that we share NMFS's objective of implementing measures that will reduce ship strikes. However, it is critical that all affected parties have confidence that the cost and service disruption caused by a regulation is contributing to the safety of the whales and the recovery of the species.

The imposition of Dynamic Management Areas, for example, would help keep ships and whales apart, and we support the program – even though they may be more costly and disruptive to liner shipping services than seasonal management. The DEIS estimates the annual cost of DMAs to the shipping industry, with a 10-knot restriction, at \$17 million. Because of our cost calculations below, we believe that figure will be considerably higher. The NPRM gives carriers the choice of slowing down through a DMA or

avoiding it. We anticipate, because of our view on the ineffectiveness of speed measures, that liner ships will choose to avoid the whales rather than proceed more slowly through areas where they are known to be. This is a measure that we believe will be meaningful and effective.

As to the issues raised above:

1. The DEIS estimates, based on Army Corps of Engineers confidential data, that the cost of operating a containership at sea is approximately \$1100 per hour (including capital costs, crew, fuel and other operating costs). The actual estimates received from our member lines vary from \$2400 to \$4000 per hour depending on the size and speed of the vessel. For our calculations, therefore, we are using \$3200, which we believe to represent the average liner vessel serving the East Coast at average speed.
2. The DEIS estimate for hours lost per port call by speed reduction in the mid-Atlantic is approximately one hour. Based on the distance from port at which 20-22 knot ships must begin to slow to comply with the Proposed Rule (estimated at 45 nautical miles) and the time required to resume sea speed outbound, we conservatively estimate 2.5 – 3 hours of lost time per port call.
3. A major cost for carriers will be extra fuel burned at higher than service speed to make up lost time to maintain schedules. This will far exceed any minimal fuel savings at reduced speed in the 30-mile zone. One member line with four East Coast port calls per week estimated an increased fuel cost of \$20,000 per week or \$520,000 for the 26 week seasonal management period in the mid-Atlantic.
4. The cost to ports and the shipping industry when vessels are forced to bypass a port on its itinerary in order to maintain schedule are difficult to calculate, but substantial. The DEIS makes an attempt to quantify this by estimating the positive economic impact of a vessel call at two northeast ports with the implication that there is a direct correlation to potential loss if a scheduled vessel bypasses those ports. This ignores the potential costs to the shipping line, which will be faced with increased labor and berthing costs at the next port-of-call, and increased intermodal transportation costs to move cargo over land which was due to be off-loaded at the bypassed port.

Importers and exporters will be faced with longer transit times, increased transportation costs, and delays to delivery of their cargo. Again, the impact of this is vastly underestimated in the DEIS.

5. There are a number of other operational implications not associated with the issues discussed above. These include:

- The DEIS recognizes the added cost to coastwise shipping in the cabotage trades based on additional miles traveled southbound along the coast to stay outside of the 30 nm zone. We would point out that liner vessels in international trade would face the same situation and added cost.
- Ships' engines will require additional maintenance as a result of continuous variation of speed and poor combustion and engine fouling from slow steaming. Blower motors will be required to operate for longer periods and will require more frequent maintenance.
- The NPRM restrictions are primarily during the winter months when speed and schedules are already adversely affected by the weather.
- Modern containership engines are designed to operate at high RPM and are shown to have an increased production of NOx emissions when operated at lower RPM for a longer time.

As a result of the issues stated above and the shortcomings of the DEIS, it is difficult to provide a meaningful picture of the economic impact of this Proposed Rule on the liner shipping industry. The DEIS calculates the overall impact on the entire shipping industry of the Proposed Rule, if it had been in force in 2004, at \$49.4 million dollars. This includes containerships, roll-on/roll-off ships, tankers, bulk carriers, combination vessels, general cargo ships, passenger ships, barges, etc. Containerships and roll-on/roll-off ships (liner vessels) account for just over \$21 million of that estimate. Some simple calculations based on the operating costs and hours-lost-per-port figures in 1 and 2 above for liner ships will show how low that estimate really is.

According to the U.S. Maritime Administration, in 2004 liner vessels made 12,263 calls at east coast ports. If we subtract calls at ports south of Jacksonville (not included in the NPRM) we arrive at approximately 10,500 port calls for the year and approximately 5,000 calls for the seasonal management periods (more than 90 percent of these calls are in the mid-Atlantic region). If we very conservatively say that vessel calls have not increased since 2004 (which they have by about 5 percent) and we use the average current liner vessel hourly operating cost (\$3200) and the average lost time per port call (2.75 hours), we arrive at an estimated cost to the liner sector of \$44 million dollars (\$40 million in the mid-Atlantic) for lost hours alone. While it is impossible to calculate all of the additional costs discussed above, we can safely say that the DEIS is low in its cost estimates by at least a factor of two and more likely three. It is not unreasonable then to put the range of economic impact on the shipping industry at \$100 - \$150 million rather than the \$49.4 million estimate in the DEIS.

The DEIS concedes that the \$49.4 million (more likely \$100+ million) cost burden for the shipping industry at the 10-knot limit would be reduced to \$18.35 million if that speed were set at 14 knots. This would be a 63 percent decrease in the cost burden to the shipping industry. The DEIS further concedes that the total estimated impact of the 10 knot limit on all entities of \$107.4 million would be reduced to \$30.2 million if the speed were set at 14 knots – a 72 percent reduction.

Clearly, everyone would realize a substantial reduction in cost burden with a 14-knot limit – with no discernable increased risk of a fatal right whale ship strike and possible reduced risk of any ship strike as discussed above. As noted above, reduction of the 30 nm zone in the mid-Atlantic to 20 nm would provide further substantial relief without increased risk.

VII. Further Study Is Needed

WSC believes that there is little, if any, sound science to justify the speed and distance restrictions in the NPRM, particularly for liner vessels which are the most severely impacted economically. It is also clear that the science is weakest in the region which imposes the most severe economic burden – the mid-Atlantic. We submit that before these measures are implemented in the mid-Atlantic, more research is required. Having reviewed the various supplementary documents to the Proposed Rule, we believe that further work is needed in three primary areas – hydrodynamics, acoustics and survey data.

Hydrodynamics – WSC is aware of two documents dealing with related hydrodynamic studies performed under contract with NMFS. These are “The Hydrodynamic Effects of Large Vessels on Right Whales” (*Knowlton et.al. 1995 and 1998*). Both are based on computer models which factor the forces created as water moves around a vessel’s hull. The 1998 study claims to have introduced new, more sophisticated factors into its modeling by including additional forces, vessel types and speeds and whale behavior scenarios. Nevertheless, the results are inconclusive. In some scenarios, whales are pushed away from ships and in others they collide. This study, however, suffers from shortcomings that render any conclusions meaningless as they relate to liner vessels. Three hull types are studied – a VLCC tanker, a navy destroyer and an SL-7 containership built in 1972. None of these hull types resembles, in any way, modern liner vessels serving the U.S. East Coast. The SL-7 had a long, tapered hull, with narrow beam and twin propellers which was built for speed (33 knots) and has no relationship to today’s wider, deeper, slower, single-propeller containerships. Additionally, the water depth used in the simulations was 20 meters – an extremely shallow depth which dramatically alters the hydrodynamic forces exerted and in no way reflects water depth where real ship/whale encounters might occur.

WSC has offered to provide more realistic hull characteristics to NMFS for further computer simulation research but, to our knowledge, no further work has been done. Additionally, we have asked that more realistic hydrodynamic tank testing be conducted, but again we do not believe that any such tests have been conducted to date.

WSC urges NMFS to undertake additional computer simulation testing and initiate a tank testing program which includes the hull characteristics of today’s liner vessels before imposing any speed restrictions on the shipping industry. Existing studies, even with incorrect input, suggest that vessel speed is not a factor in vessel/whale collisions in many scenarios and that ships moving at higher speeds may, in fact, repel whales. Further work must be done in this area.

Acoustics – Two acoustics issues should be considered regarding avoiding right whale ship strikes – the effect of ship noise on whale behavior and the potential of passive acoustic technology in locating migrating whales along the mid-Atlantic coastline.

In *Gerstein et al. (2005)*, as discussed in *Testeverde and Hain*, the authors studied the effect of acoustics on whale behavior and concluded that whales can detect faster vessels at greater distances and thus have considerably more time to react and avoid a collision. They argue that slowing ships will actually increase the risk of a ship strike. This requires further study before speed restriction are implemented.

Additionally, the Office of Naval Research (ONR) is developing both active and passive acoustic technology for locating and identifying whales. They have developed Passive Aquatic Listeners (PALs) which could be used locate migrating whales around port areas in the mid-Atlantic and provide a warning system for mariners when whales are in their path. This technology could well provide a more effective alternative to the costly and disruptive seasonal management measures in the Proposed Rule.

Survey Data – As acknowledged in *Knowlton et. al. (2002)*, the data on right whale migration through the mid-Atlantic region is “sparse”. NMFS should fund additional survey flights in this region during the upcoming migration season and attempt to better understand the migration pattern of the right whales before implementing burdensome regulations in the region which may make no positive contribution toward protecting the whales.

VIII. Conclusion

The Council supports the purpose of the proposed rule – prevention of ship strikes to right whales and reduction of the severity of strikes that do occur. The science presented in support of those rules, however, provides no basis to conclude that the proposed speed restrictions will help to prevent ship/whale collisions or lessen their severity.

Accordingly, the Council urges NMFS to modify its approach and instead to implement, through an Interim Final Rule, Areas to be Avoided and Dynamic Management Area controls while it continues research on possible additional protective measures. To do otherwise would be to impose substantial costs to the shipping industry, and operational disruptions to U.S. commerce, without any reasonable expectation of increased

protection for the whales. Such an outcome is not consistent with good science, good conservation, or the law.

Finally, although we do not believe that there is adequate science to support speed restrictions, we recognize that NMFS might consider that course in any case. In the event that NMFS were to adopt speed restrictions, the Council urges, in the alternative, that the outer boundary of the restricted areas in the mid-Atlantic extend 20 nm, not 30 nm, from each port, and that the maximum speed be set at 14 or 15 knots, not 10 knots, in restricted areas. To the extent that there is any scientific basis for speed restrictions, indications in the cited studies are that virtually all speed-related benefits that there may be would be realized by a 20 nautical mile/14-15 knot rule.

Member Companies of the World Shipping Council

APL

A.P. Møller-Maersk (including Maersk Line and Safmarine)

Atlantic Container Line (ACL)

China Ocean Shipping Company (COSCO)

China Shipping Group

CMA-CGM Group

Compania Sud-Americana de Vapores (CSAV)

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Hatsu Marine)

Great White Fleet

Hamburg Sud (including Alianca)

Hanjin Shipping Company

Hapag-Lloyd Container Line (including CP Ships)

Höegh Autoliners, Inc. (formerly HUAL North America, Inc.)

Hyundai Merchant Marine Company

Kawasaki Kisen Kaisha Ltd. (K Line)

Malaysia International Shipping Corporation (MISC)

Mediterranean Shipping Company (MSC)

Mitsui O.S.K. Lines

NYK Line

Orient Overseas Container Line, Ltd. (OOCL)

United Arab Shipping Company

Wan Hai Lines Ltd.

Wallenius Wilhelmsen Logistics

Yangming Marine Transport Corporation

Zim Integrated Shipping Services, Ltd

Subject: Right Whale proposed regulations

From: Tom Wright <thomaswwright@gmail.com>

Date: Sat, 29 Jul 2006 11:38:37 -0400

To: Shipstrike.Comments@noaa.gov

It appears that NOAA has not seriously considered the public comments about proposed regulations to avoid Right Whale shipstrikes.

The technology to detect and track right whales is being implemented in various port security/force protection projects. Ship strikes are not and will not be a major threat to right whales in areas where surveillance is available. Local organizations always respond to the presence of whales in a very positive and effective way.

Arbitrarily slowing ships for blanket periods is a dumb and ineffective way to address the problem. Ships smaller than 65 ft can be a threat and larger vessels are not necessarily a threat.

NOAA is promoting a program that fits into existing regulatory authority rather than looking for solutions that protect right whales.

--

Tom Wright

Work/Cell 912-429-3350

Home/Fax 912-897-1582

138 ✓

Subject: proposed speed regulations for large boats

From: dokkerwray <dokkerwray@ec.rr.com>

Date: Wed, 30 Aug 2006 07:16:42 -0400

To: Shipstrike.Comments@noaa.gov

139 ✓

Rule making body
NMFS

Dear Sirs.

In my opinion, no problem exists for the right whale in the NC coastal waters. Your proposed speed limit for boats exceeding 65ft is poorly conceived, unreasonable and would have negative consequences that far outweigh any imagined benefits. Please do not pass such ridiculous regulation.

Thank you

Richard H Wray III

Subject: Public Submission

From: no-reply@erulemaking.net

Date: Wed, 30 Aug 2006 07:23:30 -0400 (EDT)

To: Shipstrike.Comments@noaa.gov

Please Do Not Reply This Email.

Public Comments on Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales; Extension of Public Comment Period:=====

Title: Endangered Fish and Wildlife; Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales; Extension of Public Comment Period

FR Document Number: E6-13323

Legacy Document ID:

RIN: 0648-AS36

Publish Date: 08/14/2006 00:00:00

Submitter Info:

First Name: Richard

Last Name: Wray

Organization Name: coastal citizen

Comment Info: =====

General Comment: This is a poorly conceived regulation with many negative consequences. There will be considerable economic damage to the charter fishing industry and no benefit to the right whale population. Do not pass this regulation.



Yankee Whale Watch • Deep Sea Fishing • Cruises

Dry Tortugas National Park Ferry

Mr. Stewart Harris
Chief, Marine Mammal Conservation Division
Attn: Right Whale Ship Strike Strategy
Office of Protected Resources
National Marine Fisheries Services
13154 East West Highway
Silver Spring, MD 20910

Dear Mr. Harris:

Please record our protest of the proposed 10 knot speed limit on all boats, as well as ships, in waters off the coast of Massachusetts. We protest on the grounds that as documented by proponents, the problem is with ships, not boats, and as follows:

- 1) Ships are very un-maneuverable.
- 2) Ships have their helms aft, making avoidance maneuvers almost impossible in a timely manner.

Contrarily:

- 1) Boats are highly maneuverable.
- 2) Boats have their helms forward, making avoidance a practical and accomplishable maneuver, if ever called for.

In 12,040 trips since 1993, all at speeds in excess of 10 knots we have never hit a whale, 3,476 of these were devoted to finding as many whales as possible for our passengers, and scientists, to observe.

With such a track record available, see attached, we request no unreasonable limitation on "boat" speed will be considered. We and others like us with boats, not ships, are not a threat.

Further, any such limit would effectively destroy public access to the fishing and whale watching experiences they have historically enjoyed.

Thank you for considering boats to not have unreasonable speed restrictions.

Sincerely,

Alan G Hill

Yankee Whale Watch and Deep Sea Fishing
Cc Senator Kennedy
Senator Kerry
Congressman John Tierney

Yankee Fleet Trips from Gloucester

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Total
	1,048	979	889	796	887	910	863	867	899	878	857	822	805	646	12,146
All Day	378	330	296	263	282	297	285	323	400	398	384	375	355	279	4,645
Half Day	181	193	168	165	170	189	176	173	187	159	175	167	173	161	2,437
Blue Fishing	61	60	62	46	60	37	24	19	3		1		1	1	375
Whale Watch	333	344	319	263	286	290	258	238	219	224	207	182	193	147	3,503
Cruise	25			13	27	30	29	32	23	36	28	39	36	26	344
Nantucket W/W	8			4	10	9	16	13							60
Nant. Transit	5			4	8	9	17	13							56
Marathon	7	12	15	1	1	4	4	4	7	10	9	11	7	6	98
1 Day Overnite	25	15	15	14	19	21	23	25	28	14	30	26	24	16	295
2 Day Overnite	19	14	8	10	10	8	12	8	18	20	10	13	12	10	172
3 Day Overnite	2	5	6	1	1	1	1	1	1	1					20
Tuna	4	4		12	12	13	15	16	10	13	10	7	4		120
Nature		2			1	2	3	2	3	3	3	2			21

note: 2006 trips as of 09/01/2006