

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

60-day public comment period

ACTION

NOAA Fisheries Service (NMFS) proposes a uniform mandatory vessel speed restriction of 10 knots (about 11 mph) or less in specific locations along the U.S. East Coast during times when whales are likely present to reduce the risk of collisions between ships and endangered North Atlantic right whales. In the rule, NMFS also seeks comment on a uniform mandatory speed restriction of 12 knots or less, and 14 knots or less.

REASONS FOR ACTION

North Atlantic right whales are among the most depleted of all large whales, worldwide. Only about 300 exist, and the population is not recovering. Collisions with ships are the greatest threat. An average of about 1-2 known ship strike deaths occur each year – likely more deaths go undetected or unreported. This represents a significant impact to the population.

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. NOAA Fisheries also seeks comments on speeds of 12 and 14 knots.
- Seasonally managed areas along the mid-Atlantic coast extended out to 30 nautical miles (the ANPR contemplated 20-30 miles)
- Some of the times in which the regulations would be in effect have been modified somewhat to better capture right whale distribution and migration patterns
- Economic analyses have been updated and completed and will be provided for public comment in early July, along with a Draft Environmental Impact Statement. Whereas the economic impacts are expected to be significant, the incurred costs will be a fraction of the overall value of the U.S. east coast maritime industry.

FEATURES OF THE PROPOSED RULE

VESSELS AFFECTED

Speed restrictions are proposed to 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. Vessels operated by federal agencies are exempt from the regulations; however, operation of these vessels will be subject to guidance provided through consultations under the Endangered Species Act. Most agencies already have protective measures in place on behalf of right whales.

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 vessels 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. See attached maps for specific areas.

Proposed Dynamic Management Areas

For all areas of the Atlantic, the agency proposes to establish temporary “dynamic management areas” when right whales occur outside the three subareas, or during such times both within as well as outside these areas when the seasonal management measures are not in effect. In the designated area, mariners will have the option to traverse at a speed no greater than 10 knots, or route around the area. The size of the area would depend on the number and distribution of animals sighted, and last for at least 15 days. It could be extended if the whale aggregation persists.

OTHER ELEMENTS OF THE MORE GENERAL NMFS SHIP STRIKE REDUCTION STRATEGY

(No regulatory action proposed in the current rule; that is, these actions are complimentary to, but not included in, the proposed rule)

1. Continue ongoing research and conservation activities
e.g., 500 yard vessel no-approach zone; Sighting Surveys; Mandatory Ship Reporting systems; Notices to Mariners; Implement Right Whale Recovery Plan
2. Expand mariner education and outreach programs
3. Conduct ESA Section 7 consultations with federal agencies
4. Initiate a bilateral Conservation Agreement with Canada to ensure consistent protection for right whales throughout their range.

Other Related Actions

Shifting the Boston Traffic Separation Scheme (TSS): The United States Government is proposing to reconfigure the Traffic Separation Scheme (TSS) servicing Boston, MA. Analysis by NOAA indicates that a slight shift in the northern leg of the TSS and narrowing the two traffic lanes by approximately ½ mile each would yield an estimated 58 percent reduction in the risk of ship strikes to right whales, while also reducing ship strike risk to other endangered large whale species by an estimated 81%. The action requires proposing the change to, and endorsement by, the International Maritime Organization (IMO). A proposal was submitted to the IMO by the United States in April 2006. If endorsed by the IMO, the US Government plans to implement the changes in 2007.

Recommended shipping routes, SEUS and NEUS: NOAA has proposed establishing recommended shipping routes for vessels entering or departing the ports of Jacksonville, FL, Fernandina, FL, and Brunswick, GA, and in Cape Cod Bay to reduce the risks of ship strikes. The US Coast Guard conducted a study of these recommendations that was submitted to Congress in May 2006. The USCG’s PARS

report determined that the proposed shipping routes are free of navigational and environmental hazards, and therefore, recommended routes in Cape Cod Bay and those southeastern U.S. ports are intended to be established.

Area to be Avoided: In addition to the above routing measures, the Strategy proposes the creation of an IMO- endorsed Area To Be Avoided (ATBA), for all ships 300 gross tons and greater, in the waters of the Great South Channel. Such a proposal would have to be submitted to, and adopted by, the IMO. A description and map of the ATBA can be found in NOAA's Advance Notice of Proposed Rulemaking (69 FR 30857; June 1, 2004). The US Government plans to submit the proposal to the IMO in April 2007.

Additional information

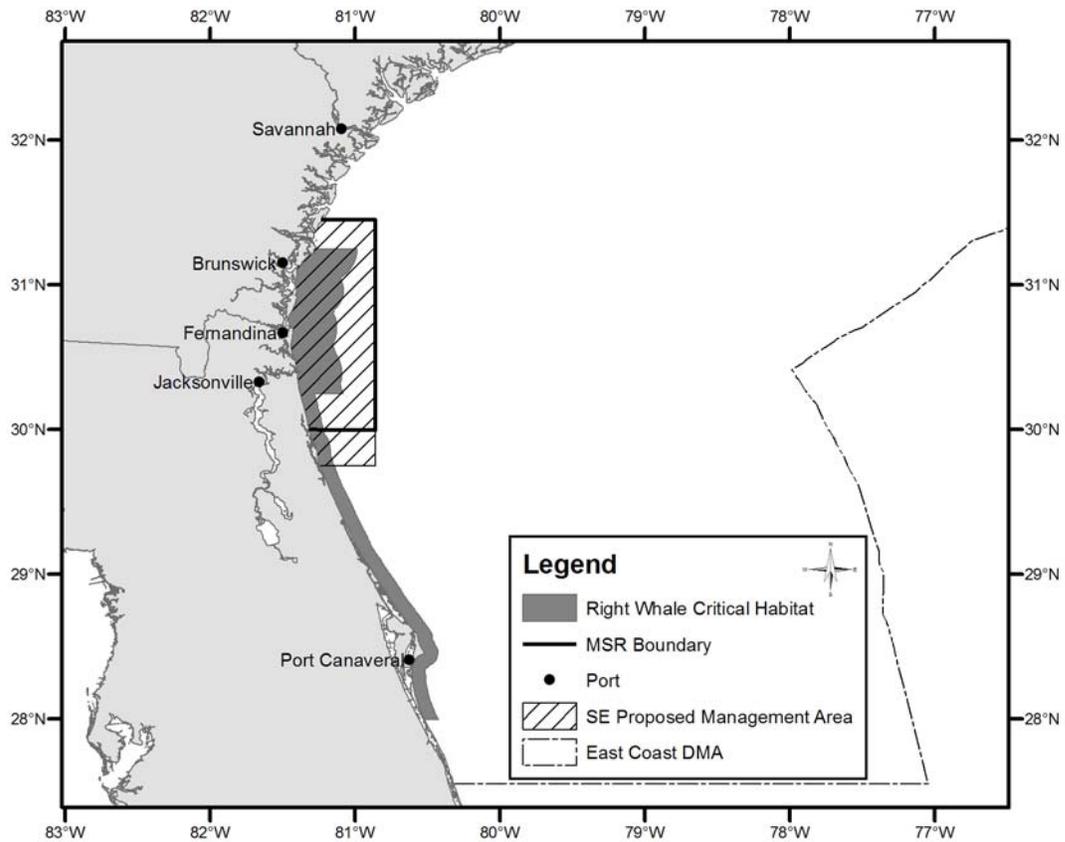
NOAA Fisheries has prepared, and will be providing for public comment, a Draft Environmental Impact Statement and accompanying Economic Analysis which assess the potential environmental and economic impacts of the proposed rule and its alternatives. In early July, the DEIS will be issued for a 60-day public comment period. Both will be posted at the website below.

Websites:

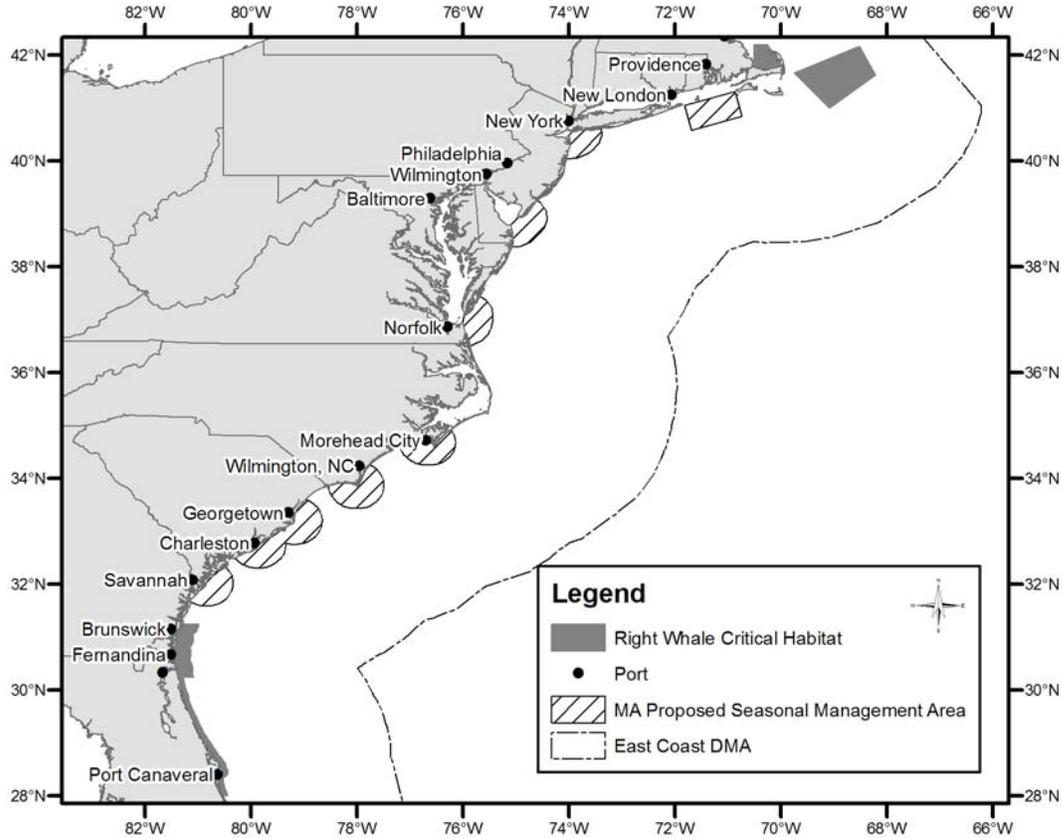
<http://www.nmfs.noaa.gov/pr/shipstrike/>

<http://www.nero.noaa.gov/shipstrike/>

Proposed Southeastern U.S. Area
Mandatory Speed Restriction November 15th through April 15th
Calving and Nursery Grounds

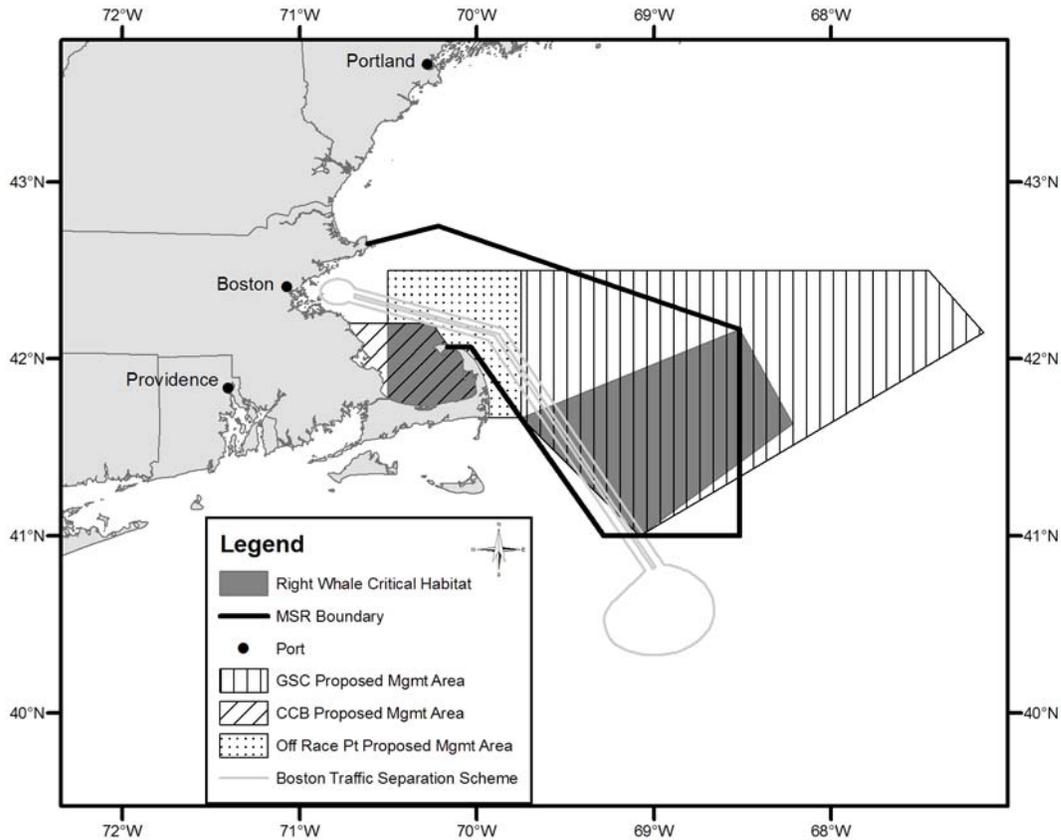


Proposed Mid-Atlantic U.S. Area
Mandatory Speed Restriction November 1 through April 30
Migratory Route



NMFS proposes to restrict vessel speed around each of the port or bay entrances identified and the designated area around Block Island Sound (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 30 nm area with an epicenter located at the midpoint of the COLREG demarcation line crossing the entry into the designated ports or bays.

Proposed Northeastern U.S Area
Mandatory Speed Restriction Times Vary
Feeding Areas



Right whales occupy and forage in four distinct areas in the NEUS from January through July: Cape Cod Bay; the area off Race Point at the northern end of Cape Cod; the Great South Channel; and the northern Gulf of Maine. Little is known about recurring whale presence or density, and vessel traffic patterns (besides Portland transits) are not consistent or predictable, in the northern Gulf of Maine. No speed restrictions are proposed for the northern Gulf of Maine. For the other three areas:

Cape Cod Bay
January 1st through May 15th

Off Race Point
March 1 through April 30

Great South Channel
April 1st through July 31st