

The Facts about Ships and Whales

The shipping industry, particularly the containership industry, has recently been criticized for its position on a Proposed Rule from the National Marine Fisheries Service (NMFS) to impose strict speed limits on ships entering U.S. East Coast ports in order to protect North Atlantic right whales.¹

While the rule is still under review and has not yet been implemented, inaccurate statements and mischaracterizations, which have appeared in the press and in recent letters criticizing the industry's position, warrant correction.

1. The industry is not opposing all regulation, only those parts of the proposed regulation where the scientific justification is lacking.

The containership industry has 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, as well as the implementation of Dynamic Management Areas (DMAs) which set up precautionary areas around sighted right whales so that mariners can navigate around them.

The industry's objection is that there is 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 entire mid-Atlantic range from New York to Savannah, Georgia. This is the coastal range where the science is the weakest and the economic impact is the greatest.

2. Large commercial ships are not a primary cause of unnatural mortality of Atlantic right whales.

Fact: According to the U.S. Department of Commerce's Large Whale Ship Strike Database, there were 17 ship strikes in U.S. waters leading to the death of a North Atlantic right whale from 1972-2001. Of those, only one "possible" strike was identified as involving a large commercial ship -- a containership of a design that is no longer in commercial service, in 1972.

Fact: From 2002- 2006 there were seven confirmed right whale mortalities along the U.S. East Coast attributed to ship strikes. None was attributed to a large commercial ship. A number of whales suffered from propeller cuts, which indicates contact not with

¹ The World Shipping Council submitted comments in October 2006 opposing the proposed regulation as being unnecessarily burdensome, expensive and ineffective in protecting the whales. See http://www.worldshipping.org/nmfs_comments.pdf.

large commercial containerships, but with smaller vessels. Ironically, the NMFS proposed rule exempts vessels less than 65 feet from coverage.

Fact: In 2007 and 2008, there were no confirmed reports of death or serious injury to a North Atlantic right whale from a shipstrike. This can be attributed to improved aerial surveys and accurate whale location reports to mariners by the U.S. government; strict compliance by mariners with the Mandatory Ship Reporting System for vessels entering right whale critical habitats and migration routes; and successful NMFS education and outreach programs to commercial mariners and recreational boaters to improve right whale awareness.

3. The proposed rule's speed limit will not protect North Atlantic right whales from fatal ship strikes.

Fact: There is no evidence that slowing ships to 10 knots or less will protect whales. In a 2007 Naval Surface Warfare Center simulation exercise, 50 separate simulations of actual direct collisions between a moving ship hull and an instrumented whale model at hull speeds ranging from 5 to 25 knots all resulted in a "severe" collision likely to result in whale mortality, meaning that in a direct strike, vessel speed is unlikely to affect whether a whale survives. In all near-collision (offset) simulations, the hull's hydrodynamic forces kept the whale clear of the working propeller.

Fact: Slowing ships to 10 knots or less within 30 nautical miles of a port will keep ships in that zone for more than twice the time – which could in fact increase the likelihood of a fatal ship strike.

Fact: The government's own ship strike database shows that the primary culprits in confirmed ship strikes with large whales are not large commercial ships, but government vessels (e.g., Navy and Coast Guard vessels), which the Proposed Rule completely exempts from regulation. The rule also, as mentioned above, exempts vessels under 65 feet in length – another category of vessels which statistics indicate is far more likely to hit a right whale than large commercial ships.

4. The shipping industry is concerned about the threat of ship strikes to endangered right whales and is working to reduce that threat.

Fact: The shipping industry is working with government agencies to assure understanding of and compliance with voluntary vessel routing measures in the northeast and southeast right whale critical habitat areas. The industry has also dramatically improved compliance with the Mandatory Ship Reporting System since its inception.

Fact: The shipping industry is working with NMFS on education and outreach programs to help improve mariner training and awareness of right whale ship strike protection programs.

Fact: The shipping industry is working with NMFS to investigate and promote the development of new technologies to locate and track the whales so as to reduce the incidence of ship/whale encounters. The industry has always maintained that if it knows where the whales are, it will keep the ships away.

5. The shipping industry has recommended that NMFS consider a regulatory approach that better reflects the science and the facts.

Although there is inadequate science to support any speed restrictions of large commercial vessels, the Council proposed in its comments to the government that, in the event that NMFS were to adopt speed restrictions, the outer boundary of the restricted areas in the mid-Atlantic extend 20 nm, not 30 nm, from each port (because that is the area where the scientific data says the whales are more likely to be), 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 to protect right whales, indications in the government's cited studies indicate that any possible benefits that there might be would be realized by a 14-15 knot/20 nautical mile rule.