



**Comments of the  
World Shipping Council**

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**Submitted to the  
National Marine Fisheries Service**

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**In the matter of  
Amendments to the North Atlantic Right Whale  
Vessel Strike Reduction Rule**

**Docket Number:**

**220722-0162**

**RIN 0648-BI88**

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**31 October 2022**

The World Shipping Council (WSC) is a non-profit trade association that represents the liner shipping industry, which is comprised of operators of containerships and roll-on/roll-off (ro-ro) vessels (including vehicle carriers). Together, WSC's members operate approximately 90% of the world's liner vessel services including more than 5,000 ocean-going vessels of which approximately 1,500 vessels make more than 27,000 calls at ports in the United States each year.<sup>1</sup>

WSC supports revision of the North Atlantic Right Whale Vessel Strike Reduction Rule to respond to the changing activity patterns and geographic distribution of the North Atlantic Right Whale population and to help arrest the significant decline in the population seen over the last decade. We offer specific comments on selected aspects of the rule and offer suggestions to help improve implementation of the expanded rule provisions.

### **Creation of expanded Seasonal Speed Zones (SSZs)**

The proposed rulemaking sets forth expanded Seasonal Speed Zones (formerly referred to as Seasonal Management Areas (SMAs)) along a substantial portion of the Atlantic Coast of the United States. While the proposed SSZs significantly expand the geographic area subject to speed restrictions when compared to the SMAs established in 2008, we support the expansion in light of the significant decline in the North American Right Whale (NARW) population. We also recognize that activity patterns of the NARW population have changed and that expanding the geographic scope of the speed restrictions is appropriate.

### **Dynamic Speed Zones (DSZs)**

The proposed rulemaking proposes that mandatory Dynamic Speed Zones (DSZs) shall replace the previous voluntary Dynamic Management Areas (DMAs) used in the current rule. While WSC appreciates that DSZs provide a tool to address vessel strike risk in areas outside the designated SSZs, we note that DSZs present a much more challenging situation for crews to comply with due to the real-time designation of these zones and the challenges associated with this information being received by ships in a manner that enables compliance by ships already underway in the designated DSZ or nearby waters. We also note that the preamble states that the expanded SSZs would include 80.6 percent of the DMAs triggered in 2021 and that right whale activity is less predictable in the central Gulf of Maine where NARWs are engaged in foraging.

As noted in the previous paragraph, state-of-the-art real-time notification of DSZ designations that can be immediately accessed by ships underway is critical to implementation of DSZs. Recognizing the critical importance of this matter, the World Shipping Council

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<sup>1</sup> A full description of the Council and a list of its members are available at [www.worldshipping.org](http://www.worldshipping.org).

recommends that the NMFS should establish a Taskforce devoted to identifying the most appropriate, real-time technologies that are available and may be used to notify vessels underway of a new or existing DSZ designation as well as to improve implementation and compliance within SSZs. To this end we offer the following suggestions concerning development of the recommended Taskforce:

- 1) Within [xx] days of finalization of the amended rule, establish a taskforce composed of both government and non-governmental experts with relevant experience and knowledge of real-time notification technologies;
- 2) Identify appropriate technologies and develop a set of recommendations for implementation by NMFS as well as relevant Federal, state, and local partners;
- 3) The work of the Taskforce should be completed within a [12] month period;
- 4) The recommended Taskforce may also wish to consider what notification technologies are appropriate for large ships and what technologies are appropriate for smaller vessels, recognizing there may be significant differences in what solutions may be appropriate for smaller vessels;
- 5) Implementation of the recommendations should proceed as soon as possible, and
- 6) DSZs designated during this period and prior to implementation of the Taskforce recommendations, would remain voluntary. Upon implementation of the recommended actions, NMFS would establish a specific date where all future DSZ designations will be mandatory.

Recognizing the difficulty for planning and the challenges surrounding notifications of a newly created DSZ, WSC encourages NMFS to consider the above recommendation. The World Shipping Council and its Member companies are happy to offer expertise and experience to help with achieving the objectives assigned to the Taskforce. WSC also encourages NMFS to consider recommendations concerning real-time notifications identified on page 4 of this document and to consider whether DSZs should be limited to waters where NARW activity is most likely to occur.

### **Navigational Safety Corridors and Off-Shore Wind Development**

The United States Bureau of Ocean Management (BOEM) is currently engaged in an extensive planning process for the development of offshore wind farms in the Gulf of Maine and other U.S. coastal waters.<sup>2</sup> Offshore wind development can be expected to impact large vessel traffic patterns in coastal waters along the Atlantic Coast with some traffic being channeled to safely navigate around a given wind farm. Wind farm development will inevitably concentrate more vessels into smaller operating areas. Consequently, WSC encourages NMFS to reach out to BOEM

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<sup>2</sup> See: State Activities / Bureau of Ocean Energy Management (boem.gov)

to jointly look at wind farm planning on the U.S. Atlantic Coast and to consider what changes in shipping patterns can be anticipated and to examine whether the NPRM should incorporate any unique measures in light of wind farm development.

### **Request for Real-time Compliance Information**

Enforcement of the current rule is largely based on the review of AIS information compiled over multiple months of data. While this is efficient in determining where and what vessels have exceeded the 10-knot speed limitation, it is not particularly effective in helping personnel on the bridge to adjust vessel speed on a real-time basis. This is particularly relevant for situations where over-the-ground speed will differ from speed through the water. Real-time messaging is also very useful to alert crews that they have entered a Seasonal Speed Zone or Dynamic Speed Zone, or that the ship is exceeding the 10-knot speed limit. To this end we offer two recommendations for consideration by NMFS and the appropriate federal, state, and local authorities that NMFS coordinates with to promote and ensure implementation of the North Atlantic Right Whale Speed Rule:

- 1) Coordinate with the relevant parties to program the relevant AIS stations (and AIS enabled aids to navigation to expand the range) to send automatized messages to a given vessel that it has entered a SSZ or DSZ, and when the vessel is exceeding the 10-knot speed limit. This mechanism does not require on-going personnel resources and should be easily achieved through modification of the relevant software;
- 2) Institute a coordinated program with Vessel Traffic Safety (VTS) systems along the US East Coast (where available) that would establish a protocol for VTS operators to inform a vessel within the scope of the VTS system if the vessel is exceeding the relevant 10-knot speed limit. We understand this practice has been used in selected VTS locations on the U.S. West Coast and WSC Member companies have explicitly noted the value of these messages in enabling the crew to immediately address the issue; and
- 3) Cooperate with Transport Canada's NARW programmes in Cabot Strait and the Gulf of St. Lawrence to promote a coordinated approach using real-time notification systems. Use of consistent, real-time notifications between U.S. and Canadian authorities would increase awareness and compliance in both US and Canadian waters.

Each of the above actions would inject valuable, real-time information for personnel on the bridge of a vessel and provide a mechanism for hundreds of vessels to adjust speed where they may have been unaware or inattentive to the speed limit in force. The VTS mechanism is

particularly relevant to port approaches where the crew is often occupied with a multitude of tasks and demands as the ship enters or departs port. Automated AIS messages would be an invaluable tool for compliance in SSZs and especially valuable for temporal DSZ designations that can occur with little or no advance notice.

### **Speed through the Water versus Speed over Ground**

Experience with the current rule demonstrate that vessel speeds through the water can be under the required 10 knot threshold while speed over the ground may be higher due to currents and other factors. This results in technical non-compliance episodes even though the ship's crew was proceeding in good-faith compliance with the 10-knot speed limit. To avoid inefficient use of limited enforcement resources and to focus attention on more significant non-compliance situations, WSC recommends that when reviewing speed over ground AIS data that NMFS use a threshold of 10.5 knots for speed over ground data (continuously maintained for at least 20 minutes) to avoid differences in speed over ground data and speed through the water which is the only practical point of reference for the person at the helm. The duration takes into account the time required to assess an overspeed situation and the time required for an adjustment to be effective for a large ship which requires considerable distance before the vessel fully slows due to the considerable mass and momentum of a large ship.

### **Expansion of the Rule to Include Smaller Vessels**

WSC supports expansion of the rule to cover smaller vessels as it is widely recognized that many smaller vessels travel at fairly high speeds and that these vessels do present a real strike risk as described in the preamble to the proposed rule. Enforcement of the rule among smaller vessels will be very challenging, but this does not negate the fact that these vessels present a significant vector for ship strikes along the Eastern Seaboard.

### **Application of the Proposed Rulemaking to Pilot Boats**

The proposed expansion of the rule to cover small vessels would capture many pilot boats that provide invaluable, time-critical services for large ships entering and departing commercial ports. We strongly encourage the NMFS to exempt pilot boat operations from the proposed rulemaking. We articulate the principal reasons we believe such an exemption is appropriate in the following bullets:

- Pilot boats perform a highly time-sensitive service that is critical to safe navigation in the narrow approaches to ports along the Eastern Seaboard. Allowing pilot boats to proceed

at speeds in excess of ten knots is critical to providing efficient and safe piloting services to multiple ships entering or departing a given port in a short time period;

- Unlike many other small vessels, pilot boats do not have the luxury of operating when weather conditions are mild or otherwise favorable for small craft. Instead, pilot boats must operate in all weather conditions – including highly challenging sea conditions. This is especially relevant to the North Atlantic Right Whale Speed Rule as the SSZs are in effect throughout the late fall, winter, and early spring when weather conditions are most severe. These demanding conditions require pilot boats to employ speeds to navigate rough waters, and to employ a wide range of speeds to skillfully and safely navigate in the proximity of very large ships; and
- Pilot boarding areas and departure points are often many miles offshore. Operating a pilot boat at lower speeds over long distances subjects the crew to considerable pounding and fatigue in rough seas, and greatly exacerbates the already existing challenges for pilot boats to operate efficiently and safely as they perform this important maritime safety function.

## **Reporting Requirements**

The existing rule today requires vessel operators to make appropriate notations in the ship's log when a vessel operates in excess of the 10-knot speed limit in SMA waters. The preamble to the NPRM notes that NMFS has insufficient information to determine if a given safety deviation has been taken due to legitimate safety reasons and has proposed additional reporting requirements concerning prevailing wind speeds, currents, latitude and longitude coordinates, and other details to be reported within 48 hours and signed-off on by the Master and pilot in circumstances where a pilot is onboard.

This provision clearly seeks to provide information to help NMFS later determine if a given exceedance of a speed limit was made due to genuine safety and navigational concerns or whether a given pilot or master is employing the safety provision as a mechanism to avoid compliance regardless of the prevailing conditions. While we understand this concern, it is not clear that the proposed reporting requirement is an effective or efficient mechanism to address this specific matter.

We understand that most safety-based speed exceedances occur in narrow navigational channels used for entering and departing port. While we are unaware of the detailed distribution

of data outlining the frequency and locations where this clause is most frequently invoked, we expect that most or many of the safety-based speed exceedances are exercised in good faith judgments of the responsible pilot and master. These expanded reporting requirements create an additional reporting burden on bridge personnel during a time where the ship and its officers are responsible for attending to a wide range of considerations to ensure that the ship arrives safely in port and is safely tied up at its berth or anchorage. Consequently, the proposed reporting requirement is likely to impose another notable recordkeeping and administrative burden on crew during a period of intensive activity. This burden would in most cases be placed on ships that exercised the safety provision in good faith. An alternative mechanism, subject to consideration by a Taskforce of experts, could potentially be to use real time monitoring to better enable the master and/or the pilot (through VTS or other means) to detail the relevant navigation considerations and constraints. For these reasons, we would encourage NMFS and the US Coast Guard to explore what alternative mechanisms (including measures outlined on page 3 and 4 of these comments) may be available to address this important matter.

## **Conclusion**

WSC appreciates the opportunity to comment on the proposed amendments to the North Atlantic Right Speed Rule. We are happy to clarify or otherwise discuss any of the comments and related matters raised in this submittal. Please free to contact Bryan Wood-Thomas, Vice President, World Shipping Council at [bwoodthomas@worldshipping.org](mailto:bwoodthomas@worldshipping.org) or by phone at 1 202 589-1228.

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