

# The US may expand speed rules for boaters to protect whales, sparking industry protests

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A federal effort to expand safety measures to protect endangered right whales from boat collisions in the Atlantic Ocean is receiving a big thumbs down from the maritime industry.

Marine organizations including yacht brokers, manufacturers and fishing advocates took time out from the Fort Lauderdale International Boat

Show on Friday to voice their opposition to the proposed new speed restrictions.

The National Oceanic and Atmospheric Administration wants to expand a current 10-knot [11.5 mph] speed limit to include boats 35 feet and longer; the current threshold includes boats 65 feet and longer. It would also expand existing "slow zones" in the Atlantic to as far as 100 miles off shore.

The public comment period on the proposed rules, which were first published by NOAA in the Federal Register on Aug. 1, expires on Monday.

The boating industry isn't holding back.

"NOAA's proposed rule severely underestimates the financial impacts on the recreational fishing and boating industry, the largest contributing sector to America's \$689 billion outdoor recreation economy," said Frank Hugelmeyer, president of the National Marine Manufacturers Association in Chicago.

"NOAA must pause implementation of its rule and incorporate key stakeholder feedback and data," he added. "Without serious revisions, the economic health of coastal communities, small marine business—and those businesses who rely on a robust fishing and boating economy—as well as thousands of jobs along the East Coast are at risk."

The Viking Yacht Company of New Gretna, New Jersey, hosted a Fort Lauderdale press event and is one of the most vocal critics of the proposed rules. The company says its effort is for good reason: it makes sport fishing and center console vessels in the 37- to 92-foot range, and its officials see the expanded speed zones as highly restrictive for current and future boat owners.

"From Viking's standpoint we have 30 different models of boats, all of them except for one are over 35 feet," said John DePersenaire, director of government affairs for Viking. "If they're in an area where they are allowed to go only ten knots we anticipate that boat having less value. It's going to drive buying decisions and decisions on where you keep your boat. It's going to have a lot of consequences, absolutely."

## **A declining species**

Right whales live in North Atlantic coastal waters on the [continental shelf](#) but are known to travel well offshore, according to the NOAA Fisheries website. The agency says they got their name from whalers who declared them to be "the 'right' whales to hunt because they floated when they were killed."

The whales have been listed as endangered under the Endangered Species Act since 1970, with their population declining steadily for nearly a decade

They migrate seasonally and in the spring, summer, and early fall are found off New England and Canadian waters, where they feed and mate, according to NOAA Fisheries.

When the fall arrives, some travel more than 1,000 miles to the [coastal waters](#) of their calving grounds off South Carolina, Georgia, and northeast Florida.

As a result, the agency designated the New England coast and southeast U.S. coast from Cape Fear, North Carolina, to below Cape Canaveral as "critical habitats" for the [right whales](#). The mammals rarely appear in South Florida waters, although there have been occasional sightings.

But as they move up and down the coast, whales have collided with

ocean-going vessels of various sizes. NOAA says it has documented events resulting in whale deaths and serious injuries in U.S. waters over the last two and a half years.

The agency argues that right whales "are approaching extinction with fewer than 350 individuals and fewer than 100 reproductively active females remaining."

It says it has documented 54 serious injuries and deaths of right whales in U.S. and Canadian waters since 2017.

## **Deadly collision off St. Augustine**

In February of last year, a 54-foot yacht struck a baby right whale and its mother at nightfall off the St. Augustine Inlet.

Published accounts reported that neither the captain nor anyone else aboard saw the collision coming.

The younger whale was found dead on a beach at Anastasia State Park; the adult was later seen in the water bearing fresh cuts on its side, according to an account by the Georgia Department of Natural Resources.

Federal and state authorities determined there were no legal violations committed by the captain or crew. But the yacht was a total loss.

NOAA insists the right whale population can't absorb more collisions.

"Collisions with vessels continue to impede North Atlantic right whale recovery," said Janet Coit, assistant administrator for NOAA Fisheries, in a statement earlier this year.

"This proposed action is necessary to stabilize the ongoing right whale population decline, in combination with other efforts to address right whale entanglement and vessel strikes in the U.S. and Canada," she said.

The agency declined to provide any officials for interviews because the public comment period is still open.

## **A bid for better compliance**

The original speed rule dates back to 2008. In 2020, NOAA Fisheries started a review to determine its effectiveness, according to the agency's website.

"While it is not possible to determine a direct causal link, the number of documented vessel strike mortalities and serious injuries decreased from 12 during the 10 years prior to the rule's implementation to 8 in the 10 years since implementation," the agency says in background notes posted on its website. "This overall decline demonstrates progress but also indicates additional action is warranted to further reduce the threat of vessel collisions."

The agency said it found overall vessel compliance rose to 81%, its highest level, during 2018-2019.

In most areas of the ocean under seasonal management "more than 85% of vessels subject to the rule maintained speeds under 10 knots, but in some portions of SMAs mariner compliance is low, with rates below 25% for the largest commercial vessels outside four ports in the southeast," the agency said,

The agency estimated the slowdown rules cost the industry between \$28.3 to \$39.4 million annually, with the majority of the cost—58%-70%—borne by container ship operators.

NOAA Fisheries says its proposed changes address two problems that impede the recovery of the whale population.

The first is a "misalignment" between areas and times of high vessel strike risk and the seasonal management areas now in place.

The second factor is the lack of a mandatory speed restriction on vessels between 35 and 65 feet in length.

## **A misdirected rule?**

But DePersenaire of Viking argues that the captains and crews of smaller boats have a better chance at averting collisions than those aboard bigger vessels.

"Even if you're talking about a 600-foot tanker at 10 knots, it can't do much to avoid a right whale even if it sees one," he said.

"I think we have more ability to see whales," he said. "We clearly have the ability to maneuver if we see a whale at the last minute where, with a tanker, we do not."

It is currently unknown what NOAA intends to do after it reviews the public comments, which DePersenaire says exceed 30,000.

There is "really strong opposition," he said, from people and organizations associated with ports, most of which have their own seasonal speed limits at inlets and other entry points.

"We don't exactly know how this is going to play out at this point," he said.

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