



# MARINE MAMMAL COMMISSION

13 April 2016

U.S. Coast Guard  
Department of Homeland Security  
2703 Martin Luther King Jr. Avenue, SE  
Washington, DC 20593-7000

Re: Docket No. USCG-2011-0351

To Whom It May Concern:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the U.S. Coast Guard's (USCG) *Federal Register* notice (81. *Fed. Reg.* 13307) and accompanying Atlantic Coast Port Access Route Study (ACPARS), Final Report dated 8 July 2015 (ACPARS) and offers the following comments and recommendations.

## **Background**

The ACPARS report analyzes possible measures, including shipping routes, to avoid navigation safety hazards that could result from Bureau of Ocean Energy Management's (BOEM) plan to lease areas off the Atlantic Coast from Maine to Florida for purposes of developing wind farms and offshore oil and gas reserves. Such development would involve the construction of wind turbine towers and oil and gas platforms that could impede navigation. The ACPARS was produced by a Working Group with representatives from the USCG, BOEM, and the Army Corps of Engineers. Its members prepared and analyzed maps that overlay data from Automatic Information System (AIS) records of actual ship routes, currently designated shipping lanes, and proposed wind farm lease sale areas.

The Working Group identified several possible routes for new shipping lanes that would divert vessel traffic around wind farm lease areas to prevent ships from colliding with structures that might be built in those areas. As shown in Appendix VII of the ACPARS report, the proposed traffic lanes generally include both nearshore and offshore routes. The nearshore routes would run parallel to the coast approximately 5 to 20 nmi offshore between the coast and wind farm lease areas and consist of two one-way traffic lanes. These are intended to meet the needs of relatively slow-moving tug and tow traffic that travel relatively close to shore from port to port. Several offshore routes are also identified for faster-moving vessels such as tankers, cargo ships, and container ships moving either between Atlantic coast ports or to and from international destinations; these would also run roughly parallel to shore, but would be seaward of proposed wind farm leasing areas (i.e., generally more than 35 nmi from shore).

The study notes that these possible routes are preliminary suggestions and that further modeling and analysis is required to determine if these routes are warranted or other possible routes

should be considered. The notice requests comments on the routes identified and analyses conducted to date.

The Commission commends the agencies for beginning to address the problem of navigational interference from wind farm turbine towers and drilling platforms so early in the lease planning process. We note that the Working Group's analyses have not yet considered environmental issues and have instead focused solely on assessing navigational hazards. The next phase of analyses must consider environmental effects. In this regard, the Commission is concerned that the newly identified shipping lanes may redirect vessel traffic into areas where endangered North Atlantic right whales migrate and overwinter, and thereby lead to ship strikes that could kill or injure them. Accidental strikes of right whales, especially by large vessels (Laist et al. 2012), were the largest known source of human-related right whale mortality (Kraus and Knowlton 2001) until regulations were adopted by the National Marine Fisheries Service (NMFS) to restrict vessel speed in 2008.

### **North Atlantic right whale distribution**

Now numbering around 500 animals, the North Atlantic right whale is one of the world's most endangered species of large whales and therefore it requires special management attention. Several studies (Laist et al. 2001, Jensen and Silber 2004, and Vanderlaan and Taggart 2007) indicate that vessels traveling at speeds greater than 10 knots pose a significantly greater risk of lethal strikes of large whales than slower vessels. Therefore, in December 2008, NMFS adopted regulations to seasonally restrict the speed of vessels greater than 65 feet in length to 10 knots or less in 11 special management areas along the U.S. East Coast (see 73 *Fed. Reg.* 60273 and 80 *Fed. Reg.* 62008). Many of those areas include waters that extend out 20 nmi around major port entrances. Some management areas may overlap parts of the nearshore routes identified in the ACPARS for tugs and tows. The seasonal management areas adopted by NMFS appear to have been very effective in reducing ship strike deaths off the U.S. coast (Conn and Silber 2013, Laist et al. 2014). Since their adoption, no right whales known to have been killed by large vessels subject to the regulations have been found in or near any of the zones during periods when the speed restrictions are in effect.

Each spring and fall many right whales migrate between winter calving grounds in the Southeast and summer feeding grounds in New England and northward. In addition, at least some right whales overwinter in U.S. mid-Atlantic coastal waters. Accordingly, the seasonal management areas established by NMFS are located off all major ports between Block Island Sound and Georgia, with seasonally effective dates from 1 November through 30 April. While those zones are intended to protect whales in high-use port entrances, right whales also move through or spend periods of time in nearshore areas between the ports where there are no vessel speed restrictions. Recent acoustic studies indicate that at least some right whales are also present in nearshore waters as far south as Georgia during summer months when no vessel speed regulations are in effect (Hodge et al. 2015).

The precise route and width of the migratory corridor used by right whales are not well understood, but evidence gathered to date suggests that most whales stay within 30 nmi of the coast (Kraus et al. 1986, Kenny et al. 2001, Knowlton et al. 2002, Schick et al. 2009, Van Parijs et al. 2009, Gowan and Ortega-Ortiz 2014, Anonymous 2015). Migrating whales are generally found closest to

shore off prominent capes such as Cape Hatteras, Cape Lookout, and Cape Fear, North Carolina and farther from shore as they pass the centers of coastal bights such as Onslow Bay and the New York Bight. Historical whaling records also indicate significant numbers of right whales once used, and may still use, nearshore waters off places such as Cape Lookout, Cape May, and southern New England between December and April (Reeves et al. 2007).

### **Comments and recommendations**

Given the distribution of right whales generally within 30 nmi of shore, the Commission is concerned that new nearshore routes could redirect increased vessel traffic into areas where they are more likely to encounter right whales. Tugs and tows generally travel at speeds of 9 to 12 knots, while tankers, cargo ships, and container ships travel at speeds of 12 to 25 knots or more. If nearshore routes were limited to tugs and tows, risks to right whales might remain relatively low, although those travelling slightly faster than 10 knots could still pose a threat. Greater concern, however, would arise if the identified nearshore routes were to be used by larger, faster vessels operating in excess of 12 knots when moving from port to port. Those vessels would pose a significant ship-strike threat to right whales if they were allowed to operate with no speed restrictions.

In view of the above points, the Commission recommends that, during the next phase of analyses of possible new shipping lanes along the Atlantic coast, the Working Group consider (1) the ship-strike risks to right whales that would be associated with any new lanes and (2) the adoption of a 10-knot speed limit for all vessels greater than 65 feet long (i.e., the same restriction now in place for special management areas designated by NMFS at major port entrances) traveling in lanes within 30 nmi of the coast. Given the evidence that speed-reduction measures in the entrances of major ports have been effective in reducing right whale deaths, the Commission believes that such measures would also reduce the ship-strike risks in nearshore routes that pass through areas that are most important for migrating and overwintering right whales. Given the typically slow speed of tug and tow traffic, such a measure should have little or no impact on travel times for these vessels. Moreover, it could improve safety by ensuring that all ships using the nearshore route are travelling at similar speeds. Finally, a speed restriction applied to the nearshore shipping lanes could serve as an incentive for vessels wishing to travel at faster speeds to use the offshore routes where there is a lower risk of striking right whales.

To help ensure that the risks to right whales (and other marine mammals) are considered and factored into the next round of route and navigational safety planning, the Commission recommends that the standing marine planning Working Group recommended in the ACPARS report include representatives of NMFS and the Commission. In addition, recognizing the potential threat to North Atlantic right whales, the Commission recommends that, as soon as the planning of proposed routes and navigational safety measures along the Atlantic coast is completed, the USCG initiate section 7 consultations with NMFS to assess the potential impacts on right whales and other endangered species under the agency's purview.

I hope these comments and recommendations are helpful. If you or your staff has questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent".

Rebecca R. Lent, Ph.D  
Executive Director

cc: Donna Wieting, National Marine Fisheries Service

#### References

Anonymous. 2015. Limpet tagging initiated in the SE U.S. Right Whale News 23(1):3-5.

Gowan, T.A. and J.G. Ortega-Ortiz. 2014. Winter habitat model for North Atlantic right whales (*Eubalaena glacialis*) in the Southeastern United States. PLoS ONE 9(4): e95126.  
doi:10.1371/journal.pone.0095126

Hodge, K.B., C.A. Muirhead, J.L. Morano, C.W. Clark and A.N. Rice. 2015. North Atlantic right whale occurrence near wind energy areas along the mid-Atlantic coast: implications for management. Endangered Species Research 28:225-234.

Knowlton A.R., Kraus S.D. 2001 Mortality and serious injury of northern right whales (*Eubalaena glacialis*) in the western North Atlantic Ocean. Journal of Cetacean Research and Management (Special Issue 2):193-208.

Knowlton, A.R., J.B. Ring, and B. Russell. 2002. Right whale sightings and survey effort in the mid-Atlantic Region: migratory corridor, time frame, and proximity to port entrances. Report submitted to the NMFS Ship Strike Subcommittee. New England Aquarium. Boston MA. 25p.

Kenny, R.D., C.A. Mayo, and H.E. Winn. 2001. Migration and foraging strategies at varying spatial scales in the western North Atlantic right whales: A review of hypotheses. Journal of Cetacean Research and Management (Special Issue 2):251-260.

Kraus, S.D., J.H. Prescott, A.R. Knowlton, and G.S. Stone. 1986. Migration and calving of right whales (*Eubalaena glacialis*) in the Western North Atlantic. Report of the International Whaling Commission. (Special Issue 10):139-144.

Conn, P.B. and G.K. Silber. 2013. Vessel speed restrictions reduce risk of collision-related mortality of North Atlantic right whales. Ecosphere 4(4):1-16.

Jensen A.S. and G.K. Silber. 2004. Large whale ship-strike data base. NOAA Technical Memorandum NMFS-OPR-25. Office of Protect Resources. National Marine Fisheries Service. Silver Spring, MD. 37 p.

Laist, D.W., A.R. Knowlton, J.G. Mead, A.S. Collet, and M. Podesta. 2001. Collisions between ships and whales. *Marine Mammal Science*. 17(1):35-75.

Laist, D.W., A.R. Knowlton, and D. Pendleton. 2014. Effectiveness of vessel speed limits for protecting North Atlantic right whales. *Endangered Species Research* 23:133-147.

Morano, J.L., A.N. Rice, J.T. Tielens, *et al.* 2012. Acoustically detected year-round residence of right whales in an urbanized migration corridor. *Conservation Biology* 26:698-707.

Reeves, R.R., T.D. Smith, and E.A. Josephson. 2007. Near-annihilation of a species: right whaling in the North Atlantic. pages 39-74 *in* S.D. Kraus and R.M. Rolland (eds). *The Urban Whale: North Atlantic Right Whales at the Crossroads*. Harvard University Press. Cambridge MA. 543 pages.

Schick, R.S., P.N. Halpin, A.J. Read, *et al.* 2009. Striking the right balance in right whale conservation. *Canadian Journal of Fish and Aquatic Sciences* 66:1399-1403.

Van Parijs, S.M., C.W. Clark, R.S. Sousa-Lima, S.E. Parks, S. Rankin, D. Risch, and I.C. Van Opzeeland. 2009. Management and research applications of real time and archival passive acoustic sensors over varying temporal and spatial scales. *Marine Ecological Progress Series* 395:21-36.

Vanderlaan, A.S.M., and C.T. Taggart. 2007. Vessel collisions with whales: the probability of lethal injury based on vessel speed. *Marine Mammal Science* 23(1):144-156.