

F S T E D

Florida Seaport Transportation and
Economic Development Council

Seaport Environmental Management Committee

**Wednesday August 28, 2024
9:00 a.m.- 12:00 p.m.**

Pensacola Hilton Garden Inn

TAB 1
Call to Order, Welcome

F S T E D

Florida Seaport Transportation and
Economic Development Council

Seaport Environmental Management Committee AGENDA

Wednesday, August 28, 2024
9:00 a.m. – 12:00 p.m.
Aviation Ballroom
Pensacola Hilton Garden Inn

1. Call to Order, Welcome
2. Roll Call
3. Approval of the January 30, 2024, SEMC Meeting Minutes
4. Florida Ports Council Update
5. Agency Updates
 - a. Florida Department of Environmental Protection (FDEP)
 - b. Florida Department of Transportation (FDOT)
 - c. FloridaCommerce
 - d. U.S. Army Corps of Engineers - Civil Works and Regulatory Divisions
 - e. Florida Inland Navigation District (FIND)
 - f. Florida Fish & Wildlife Conservation Commission (FWC)
6. Partner Updates
 - a. AAPA
 - b. Florida Ocean Alliance
 - c. Florida Recycling Partnership
7. Legislative Update
8. Open Discussion
 - a. Rice's Whale and Right Whale Speed Rule Update
 - b. FDEP Clean Waterways Act Stormwater Rulemaking
 - c. Federal Updates (WOTUS, NEPA, etc.)
 - d. Other Issues
9. Adjourn

TAB 2
Roll Call

F S T E D

Florida Seaport Transportation and
Economic Development Council

Seaport Environmental Management Committee (SEMC)

Roll Call

Wednesday, August 28, 2024 | 9:00 a.m. – 12:00 p.m.

Representative	Organization	Designee
John Murray	Port Canaveral	Bob Musser
Joe Morris	Port Everglades	Erik Neugaard
Miriam Hill	Port Fernandina	
Joshua Revord (Chair)	Port of Fort Pierce	
Eric Green	JAXPORT	Nick Primrose
Steven McAlearney	Port of Key West	
Carlos Buqueras	SeaPort Manatee	Daniel Fitz-Patrick
Hydi Webb	PortMiami	Becky Hope
Michael Meekins	Port of Palm Beach	
Alex King	Port Panama City	
Clark Merritt	Port of Pensacola	
Sam Sullivan	Port Putnam	
David Wirth	Port St. Pete	
Guerry Magidson	Port of Port St. Joe	
Paul Anderson	Port Tampa Bay	Chris Cooley
Lainie Edwards Alex Reed Gregory Garis	Florida Department of Environmental Protection (FDEP)	
Lauren Rand Jerry Scott	Florida Department of Transportation (FDOT)	
TJ Villamil Ben Melnick James Stansbury	FloridaCommerce	
Shawn Zinszer Jason Spinning Angela Dunn Gretchen Ehlinger	U.S. Army Corps of Engineers	
Janet Zimmerman	Florida Inland Navigation District (FIND)	
Josh Cucinella	Florida Fish and Wildlife Conservation Commission (FWC)	
Jeff Littlejohn	Adams and Reese, LLP	

TAB 3
Approval of the January 30, 2024, SEMC
Meeting Minutes

F S T E D

Florida Seaport Transportation and
Economic Development Council

Seaport Environmental Management Committee

MEETING MINUTES

Tuesday, January 30, 2024

2:00 p.m. – 4:00 p.m.

Hotel Indigo, Tallahassee, FL

1. **Call to Order, Welcome:** The Seaport Environmental Management Committee (SEMC) meeting was called to order at approximately 2:00 p.m. by Chairman Joshua Revord, Port Director at the Port of Fort Pierce.
2. **Roll Call:** Emily Fisher called roll. Attending the meeting were the following members and guests:

Joshua Revord, Chair – Port of Fort Pierce	Cory Strickland – FloridaCommerce
Chris Cooley – Port Tampa Bay	Maureen Smith – FloridaCommerce
Jeff Littlejohn – Adams & Reese	Gregory Garis – FDEP
Fred Wong – PortMiami	Alex Reed – FDEP
Becky Hope – PortMiami	Lainie Edwards – FDEP
Thomas Coggin – Port of Pensacola	Lenore Alpert – FOA
Michael Meekins – Port of Palm Beach	Jerry Scott – FDOT
Bob Musser – Port Canaveral	Lauren Rand – FDOT
Justin Ryan – JAXPORT	Keyna Cory – Florida Recycling Partnership
Erik Neugaard – Port Everglades	Emily Fisher – Florida Ports Council
David Anderon – Port Everglades	Mike Rubin – Florida Ports Council
Miriam Hoffman – Port Fernandina	Jason Hight – FWC
Rossana Hebron – Port of Fernandina	Dan Fitz-Patrick – SeaPort Manatee
Damien Bressler – Port Panama City	
3. **Approval of the August 2, 2023, SEMC Annual Meeting Minutes:** After welcoming the members and guests to the meeting, Chair Revord asked for any comments or revisions to the August 2, 2023, meeting minutes. Chair Revord requested a motion to approve the minutes as they stood. A motion was made by Bob Musser and seconded by Chris Cooley. The motion passed unanimously.
4. **Florida Ports Council Update:** Chair Revord recognized Mike Rubin, President and CEO of the Florida Ports Council to give a brief update. Rubin expressed his appreciation for the collaboration between ports and various agency partners on legislative and operational matters. Rubin mentioned the current legislative session and ongoing work to ensure that port-related environmental projects receive the necessary attention and funding.
5. **Agency Updates:**
 - a. **Florida Department of Environmental Protection (FDEP):** Gregory Garis, Program Administrator in the Office of Resilience & Coastal Protection, gave the update for DEP. Garis and his teammates, Alex Reed and Lainie Edwards gave brief updates on their agency projects going on at each seaport including beach

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nourishment, sediment management, maintenance dredging, and mitigation. They also discussed Senate Bill 608 and its potential implications for port activities. The team emphasized the importance of vulnerability assessments for ports to be eligible for resilience funding. Chairman Revord inquired about the possibility of securing DEP funding for a stormwater management project focused on sea level rise resilience. Reed suggested a partnership approach to combine water quality and flood mitigation funding streams.

- b. Florida Department of Transportation (FDOT):** Lauren Rand, Seaport Manager, gave the update for FDOT. Rand introduced the Efficient Transportation Decision Making (E-TDM) platform, which streamlines the project review process by coordinating approvals from various state and federal agencies. Rand continued that the platform allows for comprehensive project planning by submitting detailed applications that are automatically routed to the relevant agencies for feedback within a specified timeline. Questions were raised about the platform's applicability to seaport projects, with discussions on how to potentially implement a trial run to evaluate its effectiveness for ports. Rand suggested coordinating with the Florida Ports Council to assess the volume of potential projects that might benefit from the E-TDM system.
- c. FloridaCommerce:** Maureen Smith, Bureau Chief, gave the update for FloridaCommerce. Smith provided an overview of the Brownfield Redevelopment Tax Refund Program, which offers tax refunds to businesses that locate on brownfield sites and create at least 10 jobs with a \$2 million capital investment. Smith encouraged ports to consider this program when working with businesses to develop port areas, highlighting the financial incentives available.
- d. U.S. Army Corps of Engineers - Civil Works and Regulatory Divisions:** No update, as no attendees present.
- e. Florida Inland Navigation District (FIND):** No update, as no attendees present.
- f. Florida Fish & Wildlife Conservation Commission (FWC):** Jason Hight, Director of the Office of Conservation Planning Services, gave a brief update for FWC. Hight reported on the ongoing conservation efforts for manatees, particularly in response to cold stress events and seagrass depletion. Hight noted that while supplemental feeding programs were necessary in previous years, there is cautious optimism as some seagrass recovery has been observed. He updated on potential regulatory changes regarding critical habitat designations for species like the Right whale and Rice's whale, which could have implications for port operations. Hight discussion on the challenges posed by emerging regulatory requirements, particularly related to benthic invertebrates on artificial structures.

6. Partner Updates:

- a. AAPA:** Chris Cooley, Director of Environmental Affairs, at Port Tampa Bay gave an update on behalf of Ian Gansler, Manager of Energy, Resiliency, and Sustainability Policy with AAPA. Cooley provided a detailed recap of the recent AAPA Powers Conference, which focused on opportunities in energy resilience and sustainability, particularly in the context of the federal infrastructure bill. Cooley highlighted key discussions around carbon capture, zero-emission technologies, cybersecurity

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- threats, and the commercialization of carbon capture and storage. He also mentioned potential future developments, including a carbon capture hub in Tampa, which could become a new commodity for the port.
- b. Florida Ocean Alliance:** Lenore Alpert, Executive Director, of the Florida Ocean Alliance gave a brief update. Alpert announced the upcoming Oceans Day events scheduled for February 6-7, which will focus on the blue economy and feature exhibits and legislative discussions at the Capitol. Alpert encouraged participation in these events and highlighted the Alliance's public policy priorities, including economic growth, hazard preparedness, and water quality improvement.
 - c. Florida Recycling Partnership:** Keyna Cory, Executive Director, gave an update for the Florida Recycling Partnership. Cory stated that they just celebrated the 10th anniversary of the Florida Recycling Partnership Foundation, which now has 22 members. Cory highlighted various educational programs conducted over the past decade, including those at significant locations like Kennedy Space Center and Anheuser Busch. She discussed ongoing studies related to contamination rates and the economics of recycling in Florida, which aim to improve the state's recycling efficiency and infrastructure. Cory then presented the Recycling Champion Award to Jeff Littlejohn and Chris Cooley from the National Stormwater Trust for contributions to recycling and sustainability efforts at Port Tampa Bay.
- 7. Legislative Update:** Jeff Littlejohn, Senior Policy Advisor at Adams & Reese (A&R) provided an update on the current legislative session. Littlejohn provided an overview of several key bills that could impact ports, including environmental protection bills, strategic infrastructure investment plans, and beach restoration funding. Littlejohn discussed the implications of the ongoing legislative session, noting that while environmental issues are not the top priority, several bills are still relevant to port operations. Littlejohn highlighted HB 1506: focus on infrastructure investment with potential implications for ports, SB 163: exemptions for ports but includes requirements for third-party assessments for dredging activities related to beach nourishment, and HB 1638: allocation of funds from the Seminole compact for land conservation and water quality improvements, with a potential expansion to include port-related projects. Littlejohn provided an update on the stormwater rule ratification bill, which is progressing through the legislature with bipartisan support. He discussed the potential impacts on port projects, particularly in impaired watersheds, and the importance of preparing for the new standards set to take effect in July 2025.
- 8. Open Discussion:**
- a. Rice's Whale and Right Whale Speed Rule Update:** Mike Rubin provided an update on the pending rule changes for the Right whale, noting that NOAA has not yet implemented the revised speed limits but is expected to do so soon. He highlighted the potential safety concerns for pilots and the need for further discussions with NOAA to find a balanced approach. Rubin mentioned that the proposed critical habitat designation for the Rice's whale in the Gulf of Mexico remains under discussion, with ports and stakeholders seeking to mitigate the impact of these regulations.
 - b. FDEP Clean Waterways Act Stormwater Rulemaking:** Discussion on this topic took place during FDEP's updates.

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- c. **Federal Updates (WOTUS, NEPA, etc.):** Littlejohn mentioned brief references were made to federal funding opportunities under the Infrastructure Investment and Jobs Act (IIJA), particularly concerning energy resilience and zero-emission technologies that could impact port operations. The update included discussions around the allocation of federal funds for port infrastructure, emphasizing the importance of keeping track of federal grants and legislative changes that could benefit Florida's ports. The ratification of the EPA's updated stormwater rules was discussed, with a focus on how these new regulations will impact port projects, especially those in impaired watersheds. The federal update emphasized that ports should prepare for stricter standards beginning in July 2025, though the new rules are not effective until that time.
 - d. **Other Issues:** Bob Musser (Port Canaveral) provided an overview of Green Marine, a voluntary environmental certification program for ports, terminal operators, shipowners, and shipyards that helps participants exceed regulatory compliance in areas such as greenhouse gas emissions, stormwater management, spill prevention, and waste reduction. Established in 2007, the program now has over 450 members worldwide, with Port Everglades, Port Canaveral, and Port Pensacola among Florida's participants. Green Marine requires annual self-assessments and third-party verification every two years, ensuring transparency and continuous improvement. Musser encouraged other Florida ports, particularly Port Tampa Bay and Port Manatee, to consider joining, as many of their terminal operators are already part of the program. He highlighted benefits such as enhanced sustainability practices, public transparency, and industry collaboration. Eric Newgard (Port Everglades) shared how Green Marine has helped their port achieve top environmental rankings, making it a valuable tool for long-term sustainability planning. Ports interested in joining can request mentorship from current members and explore certification requirements to enhance community engagement and environmental stewardship.
9. **Adjourn:** Chair Revord asked for any other open discussion, hearing none, the meeting was adjourned at 2:00 p.m.

TAB 4
Florida Ports Council Update

TAB 5
Agency Updates

TAB 6
Partner Updates

On November 14, 2024, the Florida Ocean Alliance will host **Florida's 21st Century Coastal Transformation: A Focus on the Ocean Economy, Technology, and the Environment**. This Leadership Meeting of Alliance members and marine and coastal experts and advocates from around the state will be followed by a luncheon and silent auction at Coral Ridge Yacht Club hosted by the [Florida Ocean Alliance Board of Directors](#).

For more than 25 years, the Florida Ocean Alliance has engaged the private sector, academia, and non-profits in Florida to work together on critical issues that impact Florida's coastal and ocean resources, and to advance policies that benefit our communities and the Blue Economy. Please help us continue to work toward building a sustainable future for our ocean and coasts by attending and sponsoring this important event on November 14.

Through your sponsorship, you will help to build and strengthen partnerships and initiatives that protect Florida's ocean and coastal resources, the foundations of our vital Blue Economy. You will be recognized as a key supporter before marine and coastal advocates around the state, receive tickets to the event, and gain access to Florida Ocean Alliance's statewide network of marine-focused leaders, businesses, and organizations.

For sponsorship information, contact: Laura Stayshich, Laura.Stayshich.foa@gmail.com

Sponsorship Level	Benefits	Commitment
Partner	<ul style="list-style-type: none"> • Recognition and participation in opening comments • Prominent display of banner or sign and exhibit at the event • Prominent logo and recognition on invitations, event emails & social media, and registration webpage • Ten tickets 	\$5,000
Advocate	<ul style="list-style-type: none"> • Recognition and banner or sign and exhibit at event • Prominent logo and recognition on event invitation, emails & social media, and registration webpage • Ten tickets 	\$2,500
Supporter	<ul style="list-style-type: none"> • Recognition and banner or sign and exhibit at event • Prominent logo on event invitation, emails & social media, and event registration webpage • Six tickets 	\$1,000
Friend	<ul style="list-style-type: none"> • Display a banner or sign or tabletop exhibit • Recognition at event and logo on event registration webpage • Four tickets 	\$750
Leader	<ul style="list-style-type: none"> • Four event tickets for Marine Science graduate students • Support the professional development of future marine science and industry leaders • Recognition at event and logo on event registration page 	\$750
Silent Auction Sponsor	<ul style="list-style-type: none"> • Exclusive recognition at Silent Auction • Display a banner or sign or tabletop exhibit • Recognition at event and logo on event registration webpage • Four tickets 	\$500
Table Sponsor	<ul style="list-style-type: none"> • Logo or name on a table at the reception • Recognition at event and logo on event registration webpage • Two tickets 	\$500
Individual Industry Ticket	<ul style="list-style-type: none"> • Access to contacts who have opted in to share their information from the event. • One ticket 	\$120



**Florida
Ocean
Alliance**

Leadership Meeting and Luncheon
Florida's 21st Century Coastal Transformation:
 A Focus on the Ocean Economy, Technology, and the Environment

Photo By: Miami Dade County

Thursday, November 14, 2024

12:00pm - 4:00pm

Coral Ridge Yacht Club - Fort Lauderdale

Registration: <https://www.floridoceanalliance.org/november-14-2024>

For more information, email laura.stayshich.foa@gmail.com



Key segments will be on marine industries and their work on corals, seagrass, aquaculture, and resilience
 Speakers include:



Glenn Wiltshire, FOA President
*Acting Deputy Director
 Port Everglades*



Jim Murley, FOA Founder
*Chief Resilience Officer
 Miami Dade County*



Chip LaMarca
*Representative
 Florida State House of
 Representatives District 100
 Broward County*



Kelly Skidmore
*Representative
 Florida State House of
 Representatives District 92
 Broward & Palm Beach Counties*



Sarah Fangman
*Superintendent
 Florida Keys National Marine
 Sanctuary & NOAA Office of
 National Marine Sanctuaries*



Sherry Larkin
*Director
 Florida Sea Grant Program
 University of Florida*



Becky Prado
*Coastal Resilience Lead
 Moffatt & Nichol*



Carter Henne
*President
 Sea & Shoreline*



Office of Ocean Economy
 Florida Atlantic University



Paul Hindsley, Ph.D.
*Chief Economist
 Everglades Foundation*

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SUPPORTING FLORIDA'S BLUE ECONOMY: BUILDING A SUSTAINABLE FUTURE™

TAB 7
Legislative Update

TAB 8
Open Discussion

TAB 8a
Rice's Whale and Right Whale Speed
Rule Update



June 18, 2024

RE: Coastal Zone Management Act Consistency Determination for the Proposed Rule to Amend the North Atlantic Right Whale Vessel Strike Reduction Rule

Dear State Coastal Management Program Managers,

The purpose of this document is to provide the National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS) Office of Protected Resources consistency determination for the [proposed amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule](#) ("speed rule") pursuant to the Coastal Zone Management Act (CZMA), 16 U.S.C. § 1451 *et seq.* and 15 CFR part 930, subpart C. This "regional" consistency determination was prepared in accordance with 15 CFR §§ 930.36(e) and 930.39, and is being provided to the federally-approved state CZMA programs for coastal states bordering the Atlantic Ocean, including Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida. NMFS sent an email on January 23, 2023 to the listed state CZMA programs requesting a copy of the relevant enforceable policies for your state prior to making this consistency determination.

I. Proposed Action

NMFS proposed amendments to the existing North Atlantic right whale (*Eubalaena glacialis*) vessel speed rule to further reduce the likelihood of mortalities and serious injuries to endangered right whales from vessel strikes, which are a leading cause of the species' decline and a primary factor in an ongoing [Unusual Mortality Event](#).¹ The proposed rule would: (1) modify the boundaries and timing seasonal speed restrictions (renamed as Seasonal Speed Zones or SSZs) to better align with areas characterized by elevated collision-related mortality risk; (2) create a Dynamic Speed Zone (DSZ) program to implement temporary mandatory speed restrictions when whales are known to be present outside active SSZs; (3) extend the size threshold of regulated vessels to include most vessels 35 ft (10.7 m) or greater in length; and (4) update the speed rule's safety deviation provision. See [87 FR 46921](#) (August 1, 2022). Changes are needed to stabilize the ongoing North Atlantic right whale population decline and prevent the species' extinction. The proposed changes were designed to address the risk of ongoing lethal strikes in U.S. waters, including strike events that have occurred within state coastal waters. The amendments were informed by a coastwide collision mortality risk assessment, and updated information on North Atlantic right whale distribution, vessel traffic patterns, and vessel strike mortality and serious injury events.

The proposed SSZs include substantial spatial and temporal changes to the current speed zones in the Northeast and Mid-Atlantic regions, and more modest changes in the Southeast region.

¹Numerous studies have indicated that slowing the speed of vessels reduces the risk of lethal vessel strikes, particularly in areas where right whales are likely present and vessel traffic is common and traveling at high speeds.

The annual effective dates of the proposed SSZs are summarized as follows with geographic coordinates provided in the proposed regulatory text (see attached map):

- (1) Atlantic Zone (November 1 - May 30)
- (2) Great South Channel Zone (April 1 - June 30)
- (3) North Carolina Zone (November 1 - April 30)
- (4) South Carolina Zone (November 1 - April 15)
- (5) Southeast Zone (November 15 - April 15)

NMFS proposed no active SSZs between July and October, and only the Great South Channel Zone would be active during the month of June. This is consistent with data showing fewer North Atlantic right whales present in U.S. waters during summer and early fall period.

To address elevated vessel strike risk in areas outside SSZs, NMFS proposed to implement a new mandatory Dynamic Speed Zone (DSZ) program to replace ongoing voluntary Dynamic Management Area (DMA)/Slow Zone programs, which have shown poor cooperation from mariners. Under the proposed program protocol, a temporary DSZ would be declared within discrete areas outside active SSZs, within U.S. waters from Maine to Florida (excluding the Gulf of Mexico), if (1) a confirmed visual sighting of a North Atlantic right whale aggregation (three or more whales in close proximity) or a confirmed right whale acoustic detection occurs; and (2) NMFS makes a determination that the area to be designated as a DSZ has a greater than 50 percent likelihood of North Atlantic right whale presence during a minimum effective period of 10 days. Proposed SSZs were developed with the understanding that DSZs would be used to implement mandatory speed restrictions when appropriate outside of active SSZs.

Recent vessel strike events have highlighted the lethality of collisions involving vessels less than 65 ft (19.8 m) in length. Since 2020 alone, NMFS has documented four lethal North Atlantic right whale vessel strikes in U.S. waters involving vessels 35ft (10.7 m) to 65 ft (19.8 m) in length, including : (1) a calf killed off New Jersey in June 2020; (2) a calf killed off Florida in February 2021; and (3) its mother seriously injured in the same strike event and (4) a calf found dead in Georgia in March 2024. Since the existing speed rule (50 CFR § 224.105) does not mitigate risk from lethal collisions involving vessels less than 65 ft (19.8 m) in length, NMFS proposed to extend the size threshold for regulated vessels to include most vessels greater than or equal to 35 ft (10.7 m) in overall length.

The proposed rule also included modifications to the current safety deviation provision to enhance mariner safety, and enforcement monitoring. The proposed changes would expand the scope of the current safety deviation for vessel experiencing severe maneuverability constraints to include: (1) emergency situations that present a threat to the health, safety, or life of a person; and (2) allow vessels less than 65 ft (19.8 m) in length to transit at speeds greater than 10 knots (5.1 m/s) within areas where a National Weather Service Gale Warning, or other National Weather Service Warning (e.g., Storm Warning, Hurricane Warning) for wind speeds exceeding those that trigger a Gale Warning is in effect. The proposed amendments would also replace the current safety deviation logbook entry with a requirement for vessels employing certain safety deviations to submit an online report to NMFS within 48 hours of invoking the deviation.

II. Regional consistency determination with State Coastal Management Program's applicable enforceable policies

This is a regional consistency determination, in accordance with 15 CFR § 930.36(e), because the geographic extent of the proposed amendments covers the waters off the U.S. East Coast from Maine to Florida (excluding the Gulf of Mexico). The seasonal zones extend from Massachusetts to northern Florida; and dynamic zones may be declared between Maine and Florida, excluding interior waters (except in Massachusetts). The following paragraphs address the common coastal effects, management implications, enforceable policies common to some or all of the affected states, and unique state policies.

A. Coastal Effects and Management Implications

NMFS has determined that the proposed amendments to the vessel speed rule would affect water uses² (also referred to as coastal uses) in the 15 states along the U.S. East Coast, with respect to vessel traffic and operations. The proposed amendments would not affect navigational regulations such as traffic separation schemes, no wake zones, boating safety zones, pilotage requirements, or hazards to navigation. The proposed amendments would not have any physical impacts on the coastal zone's land component, including port facilities, beaches, wetlands, or other natural coastal resources.

The amended SSZs would overlap (seasonally) with state waters but not occur within most inland bays, estuaries and inlets with the exception of certain areas along the Massachusetts coast (i.e., Cape Cod Bay). DSZs may be declared within the same areas, but are expected to be more common in the Mid-Atlantic and Northeast regions. State coastal uses in both federal and state waters would be affected (seasonally) by SSZs and may be affected by DSZ declarations, as vessels would need to transit through any active zones while adhering to speed restrictions. While SSZs would be seasonal, and DSZs temporary and limited in extent, the speed restrictions would impact the transit times of vessels that otherwise would have traveled at speeds in excess of 10 knots, including commercial ships, cruise ships, tug and tow boats, work and industrial vessels, and recreational and commercial fishing vessels.

None of the proposed amendments are expected to impact water quality, as they would not affect strict federal and state clean water legislation that prohibits the discharge of vessel pollution in state or federal waters. NMFS anticipates that the amendments would have a positive effect on air quality and ocean noise because studies have shown that reducing the speed of large ships (in particular) reduces polluting emissions and ocean noise. Any impacts on other marine species, in addition to the North Atlantic right whale, are expected to be beneficial. There are no foreseeable impacts on cultural or historic resources.

NMFS expects the largest proportion of costs from implementation of the proposed amendments would be borne by the commercial shipping industry. Other vessel sectors are expected to incur cost burdens, particularly those characterized by higher speed operations such as passenger vessels (tour boats, charter fishing vessels, high-speed ferries), pilot boats, recreational boats, and some commercial fishing and industrial vessels. The seasonal nature of the proposed speed

² As defined in CZMA § 304(18) (16 U.S.C. § 1453(18)).

zones is expected to partially temper impacts of the proposed rule, as fewer or no speed zones will be in effect during the fairest weather months. We estimate that 89% of the cost burden of the proposed rule would accrue to vessels operating in the Mid-Atlantic and Northeast regions (between Maine and North Carolina) and 11% of costs would be borne by vessels operating in the Southeast (South Carolina to Florida). Public facilities and activities would be minimally affected. Therefore, the estimated economic impacts are not expected to compromise the economic value of coastal resources.

A more detailed evaluation of the impacts of the proposed amendments can be found in the [Draft Environmental Assessment](#) and [Draft Regulatory Impact Review and Initial Regulatory Flexibility Analysis](#).

B. Consistency with State CZMA Enforceable Policies

This section describes how the proposed amendments are consistent with the applicable enforceable policies³ contained in the potentially affected states' respective federally approved CZMA programs. Part 1 of this section addresses common policies across the potentially affected states, and Part 2 addresses policies that are unique to a particular state.

1. Enforceable Policies Common to Some or All of the Affected States

Endangered species conservation and management

The proposed amendments are consistent with state policies regarding endangered species because their objective is to reduce threats to, and help the recovery of, a critically endangered species, the North Atlantic right whale. Several other endangered species may also benefit from the proposed amendments.

Public access for recreation

The proposed amendments are consistent with state policies regarding public access for recreation because they would not impede access to federal waters for public recreation. Economic impacts are unlikely to affect the economic value of coastal areas. While transit speeds would be affected, only vessels 35 ft (10.7 m) and longer would be required to abide by the vessel speed restriction measures during the seasonal implementation periods or when there is an active DSZ. Also, the proposed amendments would only apply from the U.S. East Coast shoreline out to the extent of the Atlantic Exclusive

³ Pursuant to 15 CFR § 930.34(d) ("Upon request by the Federal agency, the State agency shall identify any enforceable policies applicable to the proposed activity based upon the information provided to the State agency at the time of the request."), NMFS sent an email dated January 23, 2022, to the 15 affected states requesting states to provide any reasonably foreseeable effects on the uses or resources of their state's coastal zones, which also included requesting states to identify the enforceable policies that pertain to those effects for NMFS' consideration. Eight states (Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, and Virginia) responded to our letter but only five of those states identified enforceable policies (Georgia, Maryland, New Hampshire, New York, and Virginia). NMFS determined that the following enforceable policies provided by the five states are not applicable or only tangentially applicable to the effects arising from the proposed rule: New Hampshire Enforceable Policies #3, #4, #8, #9, #12, #14, and #15; New York Enforceable Coastal Policy #29. All other applicable enforceable policies are included in Part 1 or Part 2 of this section. Any comments provided by states on the proposed action in response to NMFS' request for enforceable policies are not addressed in this consistency determination letter.

Economic Zone; therefore, most inland waters, rivers, and bays would not be covered by speed restrictions. Finally, the proposed amendments consist primarily of speed restrictions and, therefore, would allow for public access anywhere in state waters.

Fisheries and coastal resource conservation and management

The proposed amendments are consistent with state policies regarding coastal uses related to recreational and commercial fishing and coastal resource management because they would not affect fish or their habitat, interfere with any fisheries resources or coastal resource regulations, or have any physical impact on natural coastal resources. However, there may be seasonal economic impacts to the fishing industry by increasing transit times and longer trips to fishing areas in federal waters, for vessels that otherwise would transit in excess of 10 knots.

Ports, harbors, piers, and related facilities

The proposed amendments are consistent with state policies regarding ports, harbors, piers, and related facilities, because they do not affect the activities or traditional uses of these facilities within the regulated waters. The proposed amendments do not affect the enhancement, development, or infrastructure of these facilities.

Waterways, navigable waters, and right of passage

The proposed amendments are consistent with state policies regarding the right of use of all navigable waterways because they would not restrict access to navigable waters; rather, they would limit vessel speed in certain state waters during seasons when North Atlantic right whales are present in these waters.

Air quality

The proposed amendments are consistent with state policies regarding air quality because, as mentioned above, may improve air quality in coastal areas; it has been shown that reducing vessel speed reduces pollutant emissions.

2. Unique State Policies

The New Hampshire and Georgia CZMA programs contain the following enforceable policies, which NMFS believes to be unique⁴ to their states, and therefore, are not included in the above analysis.

New Hampshire's Coastal Program Enforceable Policy #16

New Hampshire's Coastal Program Enforceable Policy #16 states that marine and estuarine research and education will be promoted and supported to benefit coastal resource management. The proposed amendments are consistent with this state policy because they will not impede research and education activities from occurring; rather, they would only require regulated vessels to reduce speed if a research or education activity is taking place on the waters within an active SSZ or DSZ.

⁴ While these policies may not in fact be unique to a specific state, NMFS is only addressing the enforceable policies provided by the states that responded to our email dated January 23, 2022, which requested affected states to provide a copy of their enforceable policies.

Georgia's Boat Safety Act, O.C.G.A., 52-7-1, et seq.

Georgia's Boat Safety Act establishes boating safety zones for a distance of 1,000 feet from the high-water mark of several islands. All motorized craft are prohibited from these waters, except at certain pier and marina access points. The proposed amendments are consistent with this boat safety policy because they would not alter accessibility to the access points; only the speed at which regulated vessels could approach the access points would be seasonally or temporarily affected.

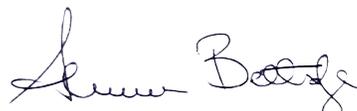
III. Conclusion and Consistency Determination

Based on the above information, NMFS has determined that the proposed amendments to the North Atlantic right whale vessel speed rule are consistent to the maximum extent practicable with the enforceable policies of the potentially affected states' CZMA programs. Please submit your state agency's concurrence or objection with our determination within 60 days from the receipt of this letter (15 CFR § 930.41) to Caroline Good at caroline.good@noaa.gov.

NMFS will assume concurrence if a state agency does not reply within 60 days from receipt of this consistency determination and supporting information, as required by 15 CFR § 930.39(a), and there has not been an extension of the 60-day review period.

Please contact Caroline Good, at caroline.good@noaa.gov if you have any questions about this consistency determination.

Sincerely,

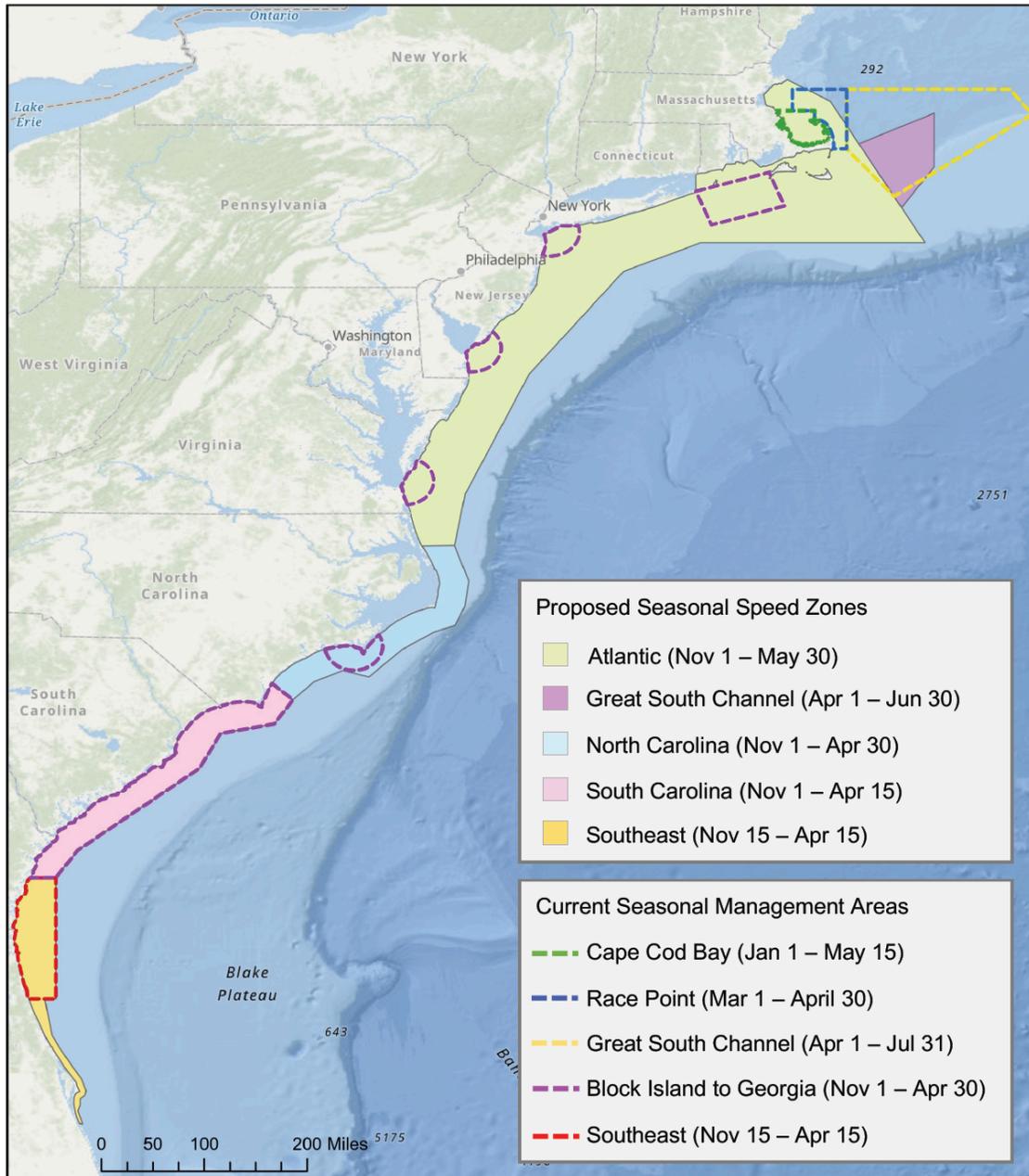


Shannon Bettridge
Division Chief
Marine Mammal and Sea Turtle Conservation Division
NOAA Fisheries Office of Protected Resources



NOAA
FISHERIES

Proposed North Atlantic Right Whale Seasonal Speed Zones (Most Vessels 35 Feet or Longer)



NOAA Fisheries is proposing to modify the boundaries and timing of current vessel speed restrictions (Seasonal Management Areas) along the U.S. East Coast and create proposed Seasonal Speed Zones to reduce the risk of lethal collisions with endangered North Atlantic right whales. Most vessels 35 feet or longer would be required to transit at 10 knots or less within active proposed Seasonal Speed Zones.

TAB 8b
FDEP Clean Waterways Act Stormwater
Rulemaking

TAB 8c
Federal Updates (WOTUS, NEPA, etc.)

TAB 8d
Other Issues

TAB 9
Adjourn