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Proposed Amendments to the North Atlantic Right Whale Vessel Speed Rule



September 2023

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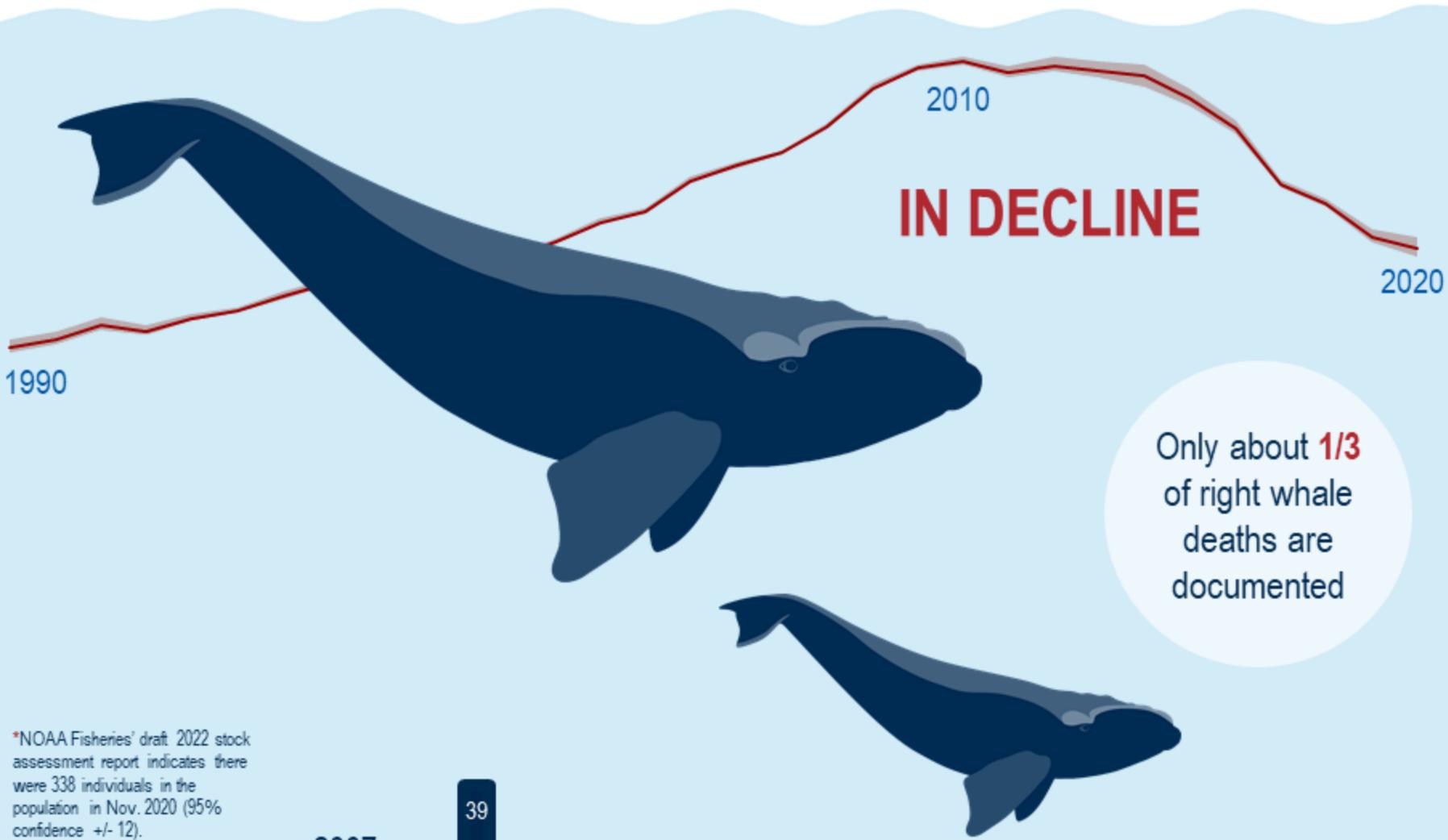
Marine Mammal and Sea Turtle Conservation Division

Office of Protected Resources

NOAA Fisheries, U.S. Department of Commerce

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ENDANGERED NORTH ATLANTIC RIGHT WHALE Fewer than 350* Individuals



Only about **1/3** of right whale deaths are documented

115 DOCUMENTED DEAD, SERIOUS, or SUBLETHAL INJURIES/ILLNESS**

UNUSUAL MORTALITY EVENT
2017 - Present

- 36** DEAD
 - 13 Unknown causes
 - 12 Vessel strikes
 - 9 Entanglements
 - 2 Perinatal deaths
- 34** SERIOUS INJURIES
 - 31 Entanglements
 - 2 Vessel strikes
 - 1 Dependent calf
- 45** SUBLETHAL INJURIES/ILLNESS
 - 36 Entanglements
 - 5 Poor body condition
 - 2 Injuries of unknown cause
 - 2 Vessel strikes

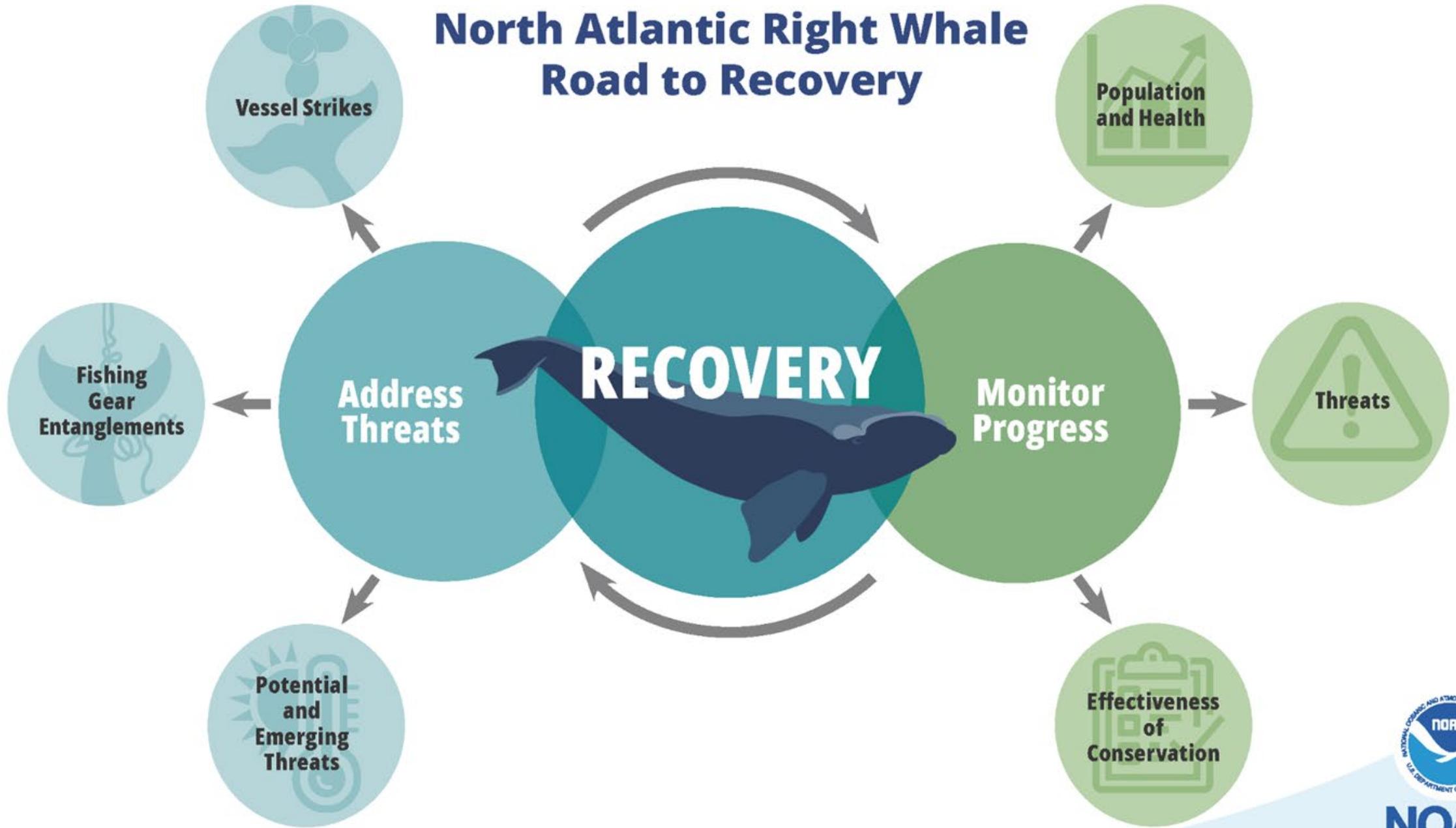


*NOAA Fisheries' draft 2022 stock assessment report indicates there were 338 individuals in the population in Nov. 2020 (95% confidence +/- 12).
The abundance graph is based on Pace et al., 2017 and NOAA Fisheries stock assessment reports.
**Additional information available on NOAA Fisheries [UME webpage](#).
Updated 7/20/2023

Calves born annually

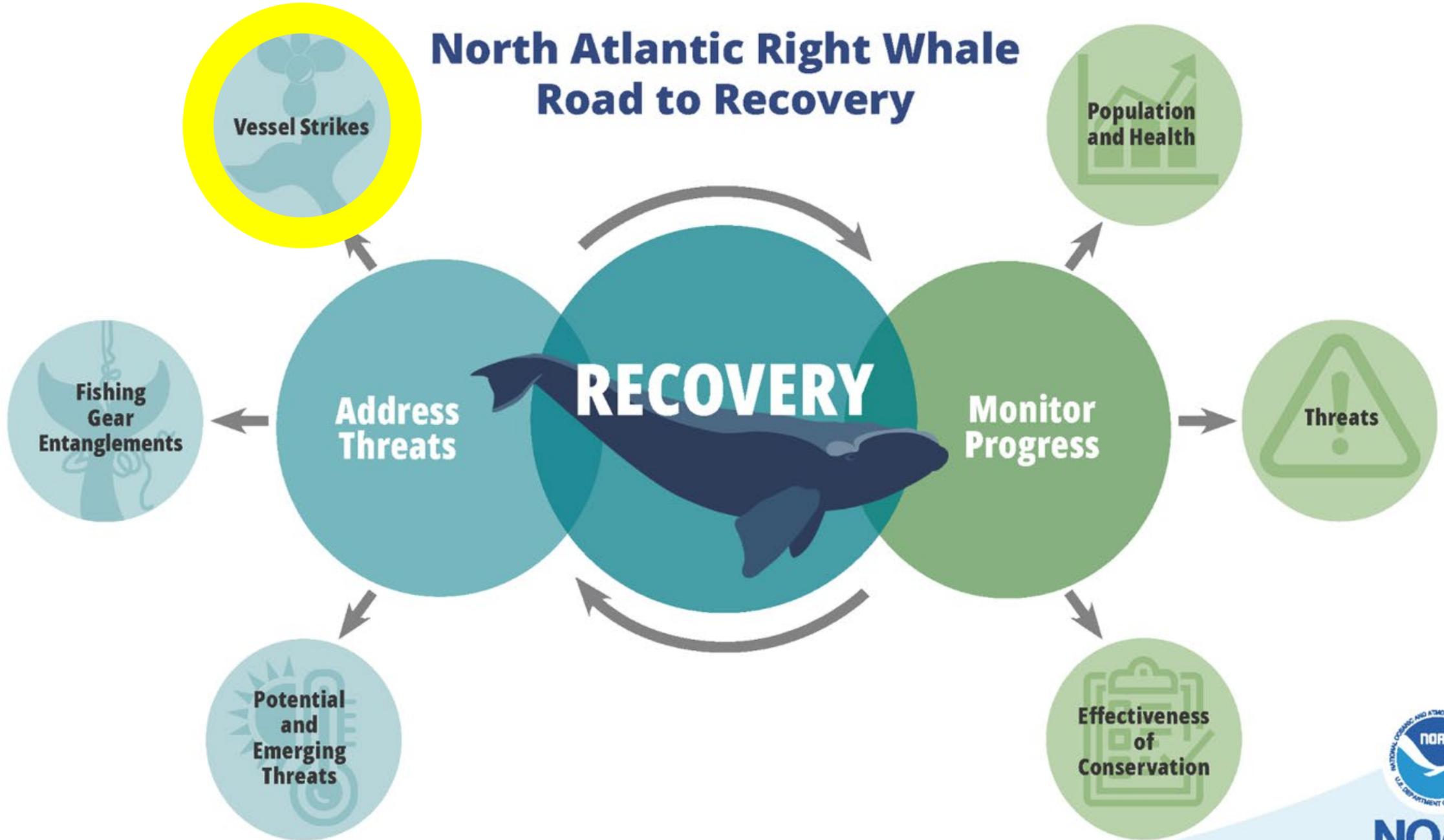


North Atlantic Right Whale Road to Recovery



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North Atlantic Right Whale Habitat in U.S. Waters

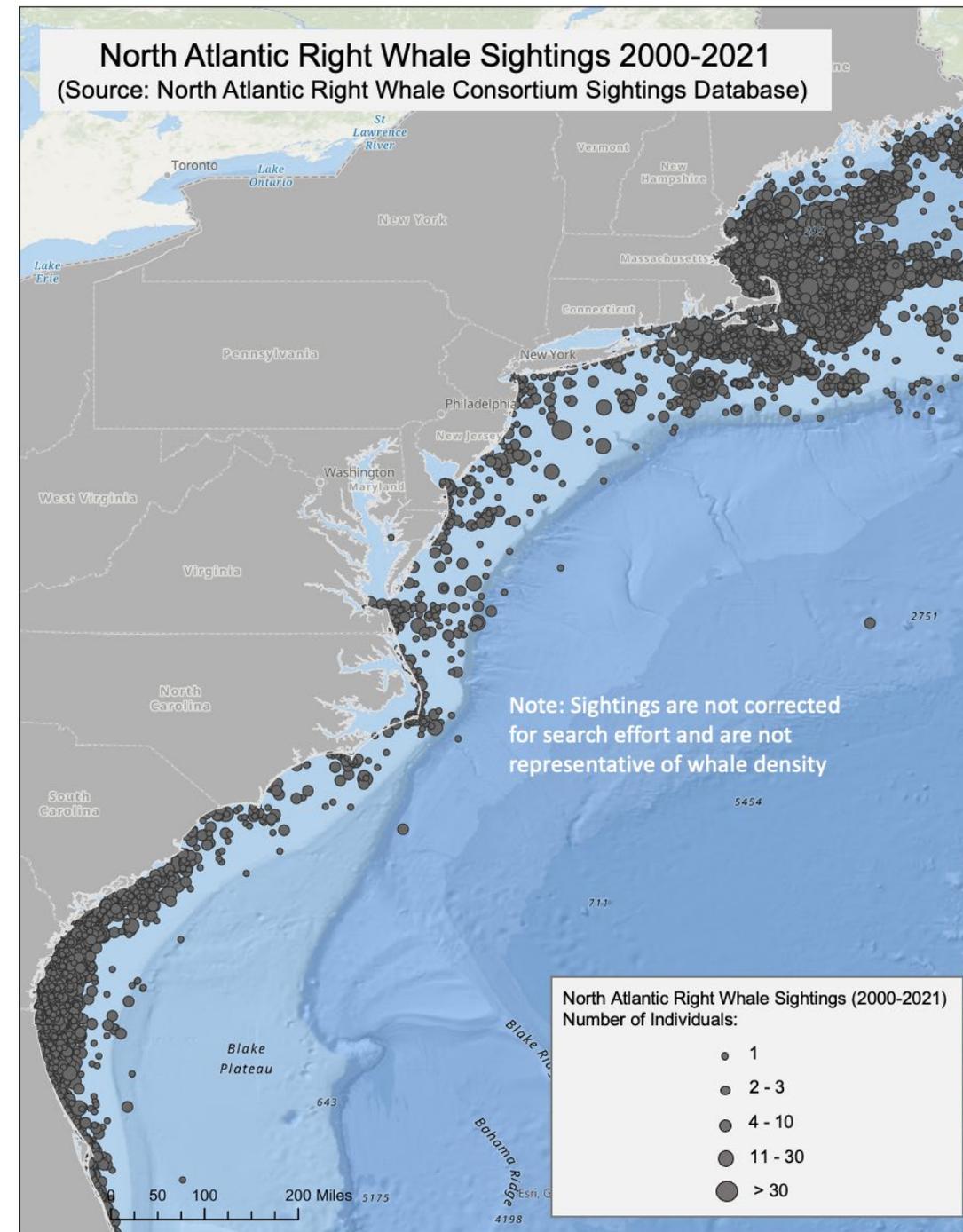
Right whales are present in U.S. waters year-round, with nearly the entire population found in the U.S. during late fall through early summer.

Habitat -

- Greater Gulf of Maine Region - foraging habitat
- Mid-Atlantic - migratory and foraging habitat
- Southeast - calving habitat

Right whales are highly vulnerable to vessel strikes -

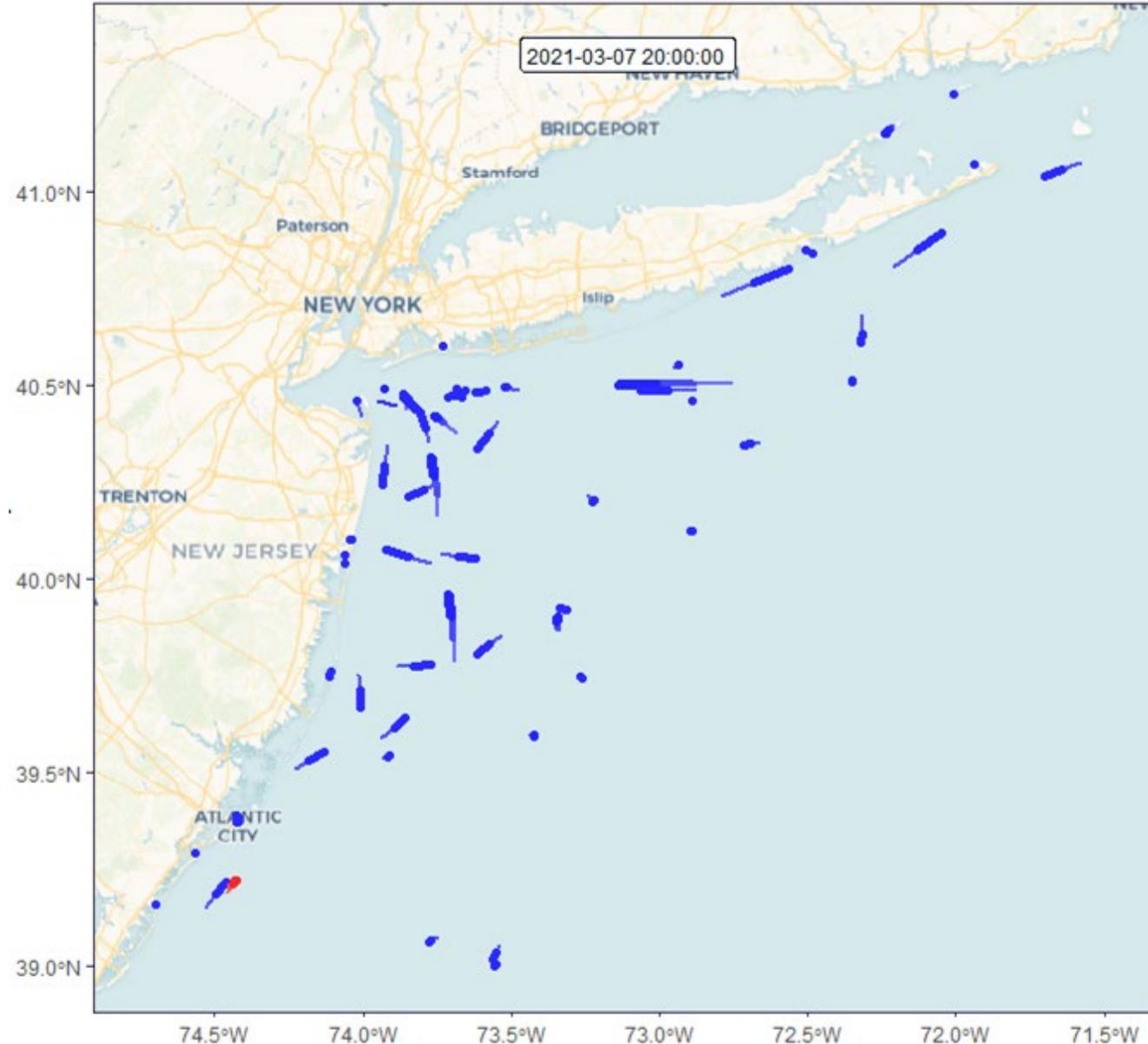
- coastal distribution
- frequency at near-surface depths (especially mother/calf pairs).



North Atlantic Right Whale Habitat in U.S. Waters

The East Coast is a highly urbanized environment with:

- extremely dense vessel traffic
- busy commercial ports
- extensive commercial and recreational vessel traffic



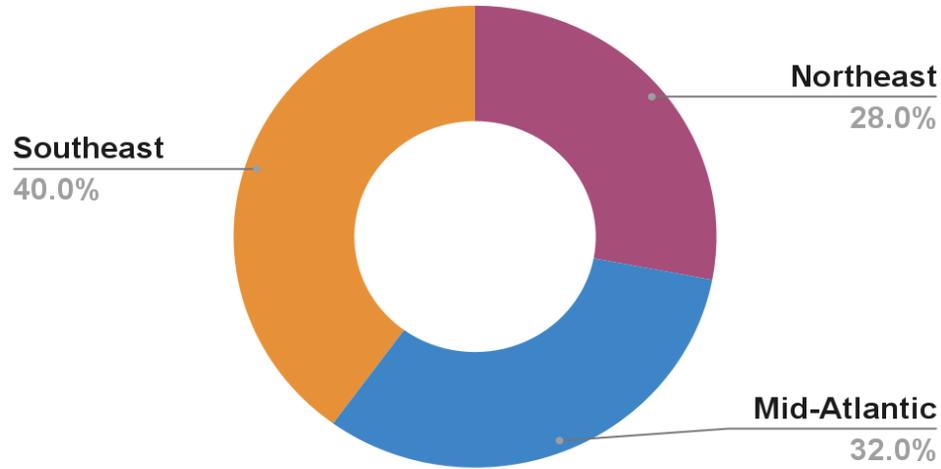
- Vessel traffic
- Right Whale (1-year old)



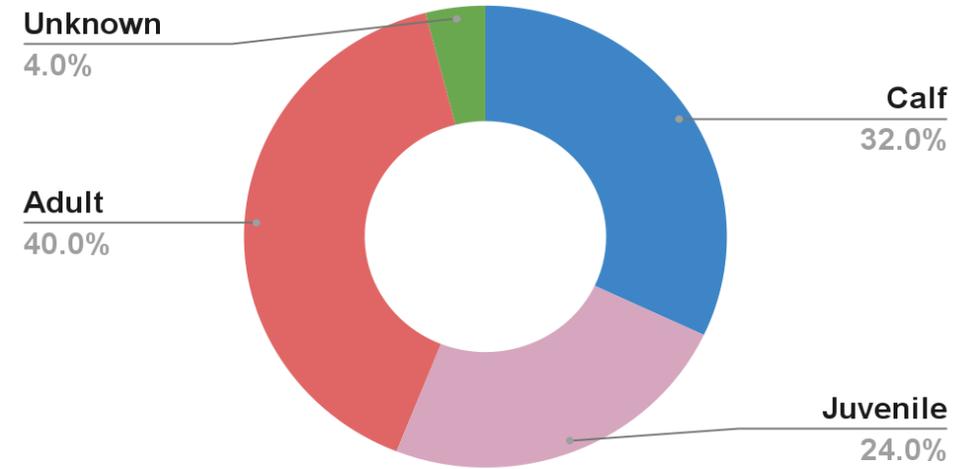
North Atlantic Right Whale Vessel Strike Events (U.S. Waters/First Seen U.S. Waters)

Between 1999-2022:
25 lethal NARW vessel strikes documented (U.S.)

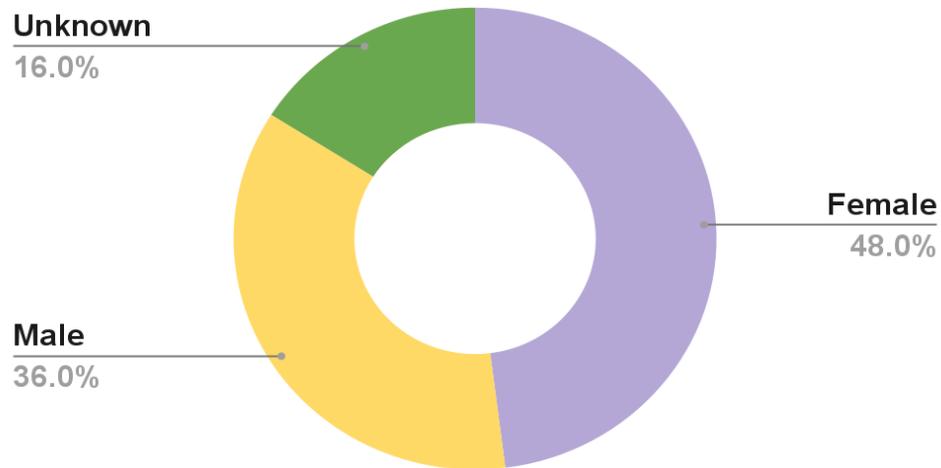
Region



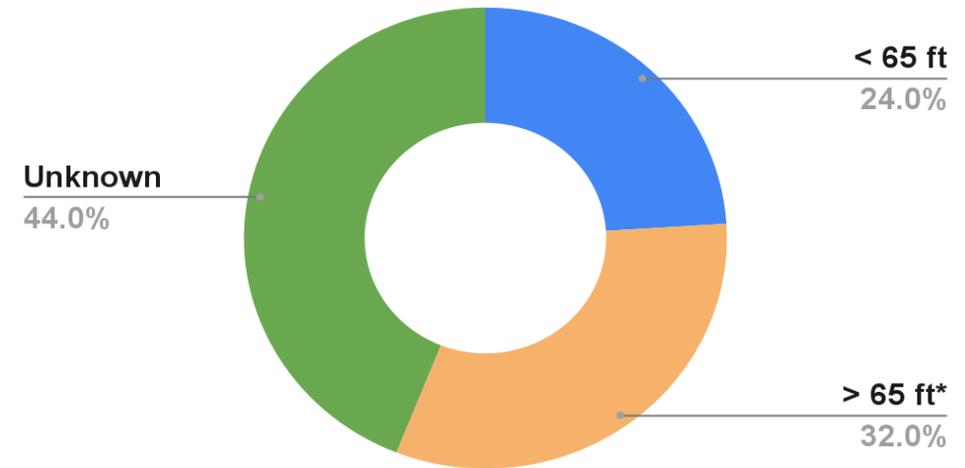
Age Group



Sex



Vessel Size



*reported or consistent with a vessel > 65 ft

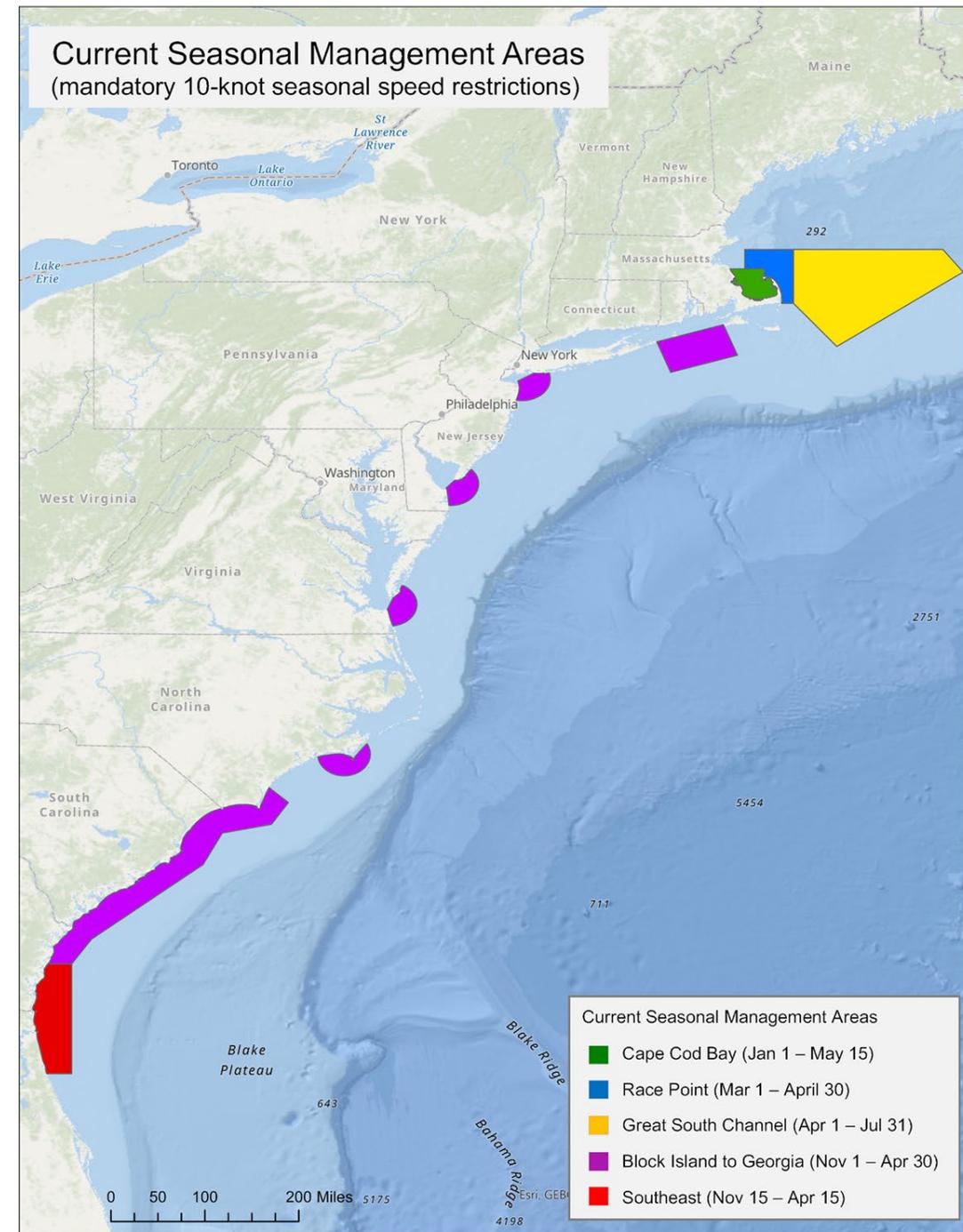
Current Vessel Speed Rule

Seasonal Management Areas (SMAs)

- Mandatory, 10-knot speed restrictions for most vessels ≥ 65 ft long in specified areas/times off the U.S. East Coast
- Certain vessel categories are exempt, including:
 - Military
 - Federally owned or operated
 - Search and rescue (actively engaged)
 - Enforcement (actively engaged)
- Safety deviation provision - may exceed 10 knots if a vessel encounters conditions that severely impact maneuverability;

Dynamic Management Areas (DMAs) and Slow Zones

- NOAA Fisheries requests that all vessel transits at speeds 10 knots or less; DMAs/Slow Zones declared when right whales are detected visually or acoustically - outside active SMAs
- Vessel cooperation remains poor



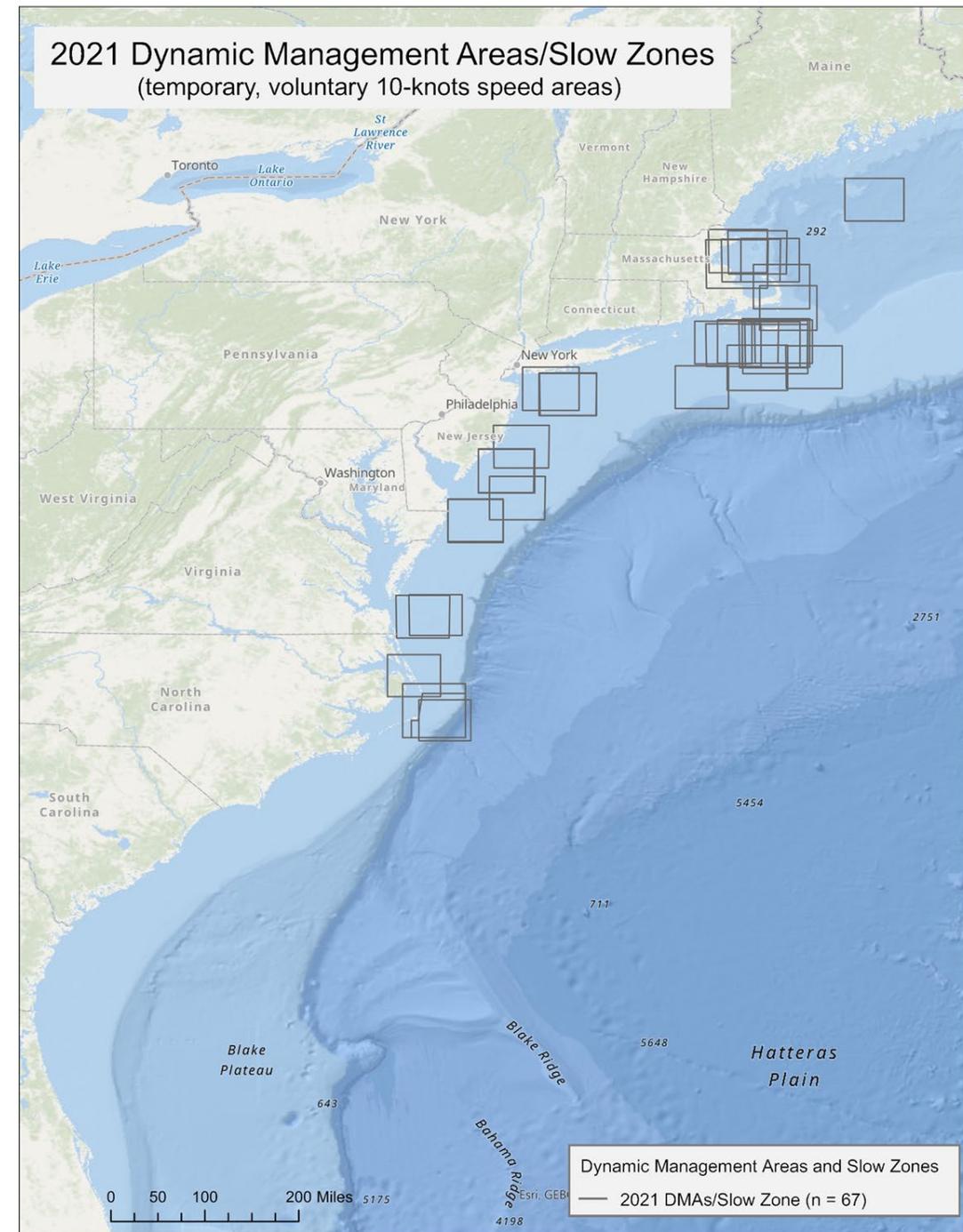
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Proposed Amendments to the North Atlantic Right Whale Vessel Speed Rule

NOAA Fisheries proposed four categories of amendments to provide a substantial reduction in lethal vessel strike risk to right whales:

- 1) Changes to spatial and temporal boundaries of Seasonal Management Areas (to be renamed Seasonal Speed Zones).
- 1) Addition of most vessels ≥ 35 ft and < 65 ft in length to the size class of vessel subject to regulation.
- 1) Creation of a mandatory Dynamic Speed Zone framework, to provide temporary speed restrictions in areas where right whales are detected outside Seasonal Speed Zones.
- 1) Updates to the safety deviation provision.

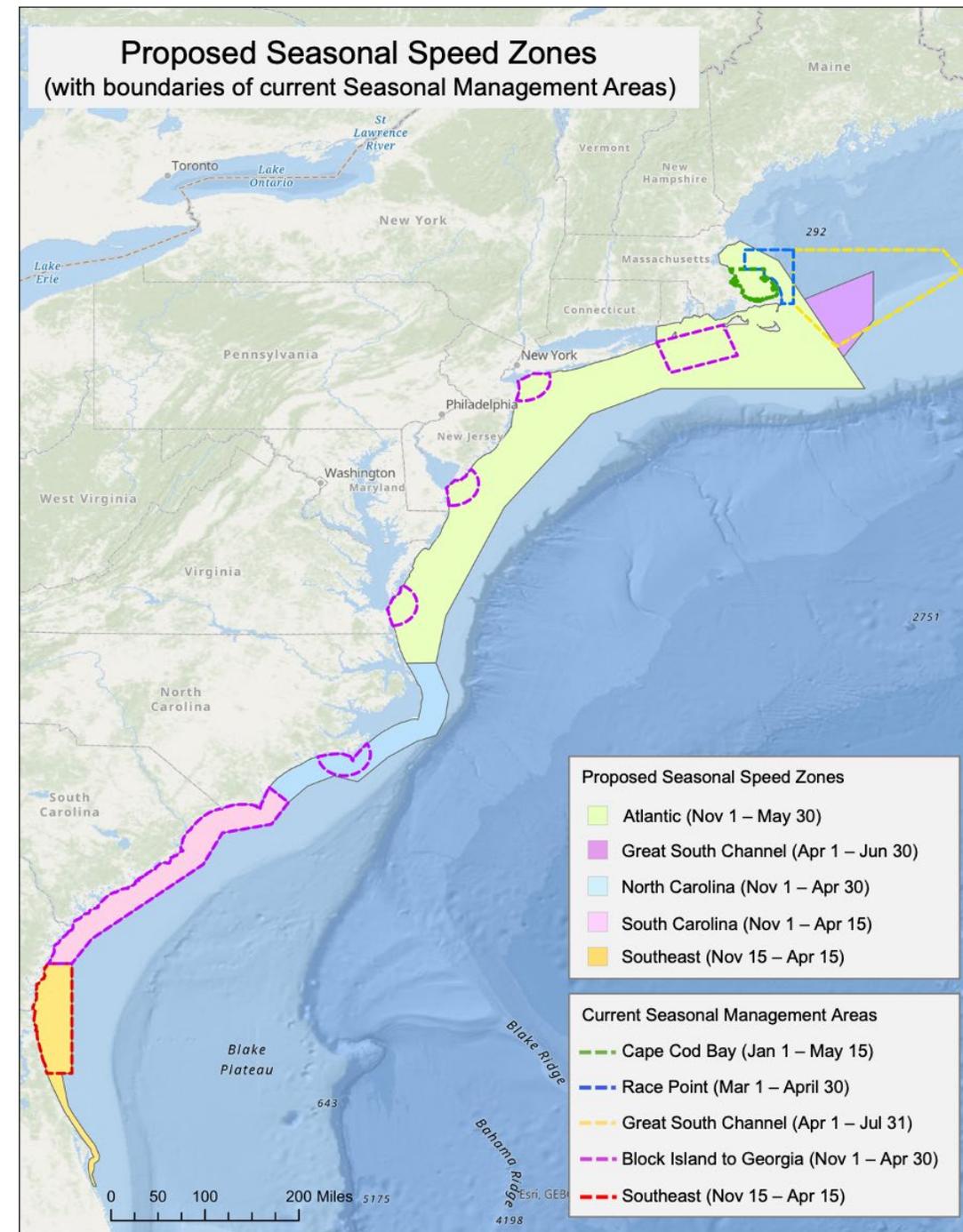


Two-year old North Atlantic right whale (#3508) with propeller cuts to the head. Photo credit: Florida Fish and Wildlife Conservation Commission; NOAA Permit #932-1489

Proposed Speed Rule Amendments: SSZs

Seasonal Speed Zones (SSZs)

- Modified distribution and habitat use since 2008 resulting in a misalignment between current protections and areas/times with elevated lethal strike risk
- Developed updated SSZ boundaries and timing informed by:
 - Coastwide vessel strike risk model using the latest data on right whale distribution and vessel traffic characteristics
 - NARW sightings and acoustic data
 - Limited data on vessel traffic 35-65 ft in length
- Also considered future wind energy development and possible US Coast Guard shipping safety fairways
- Proposed changes would approximately double the area under speed restriction along the coast with changes disproportionately impacting the Northeast/Mid-Atlantic, where substantial strike risk remains unaddressed.
- Majority of NMFS HMS registered fishing tournaments likely to occur outside of the proposed SSZ areas and times.



Proposed Speed Rule Amendments: Adding Vessels ≥ 35 ft to < 65 ft

Strike risk from vessels 35-65 ft in length remains an unregulated threat to right whales despite substantial evidence demonstrating the ongoing lethal risk. Vessels < 65 ft in length operating in U.S. waters have reported:

8 right whale strikes
(6 lethal; 2 non-serious injuries)

6 undetermined large whale strikes (5 lethal)
that may have involved right whales

In 7 of the 8 right whale strikes, vessel operators
did not see the whale prior to impact

In some cases vessels sustained significant
damage

Massachusetts already implements a 10-knot speed restriction for most vessels < 65 ft in Cape Cod Bay each March and April and Canada has a 10-knot speed limit in the Gulf of St. Lawrence for vessels 13m (42.6 ft) or longer.

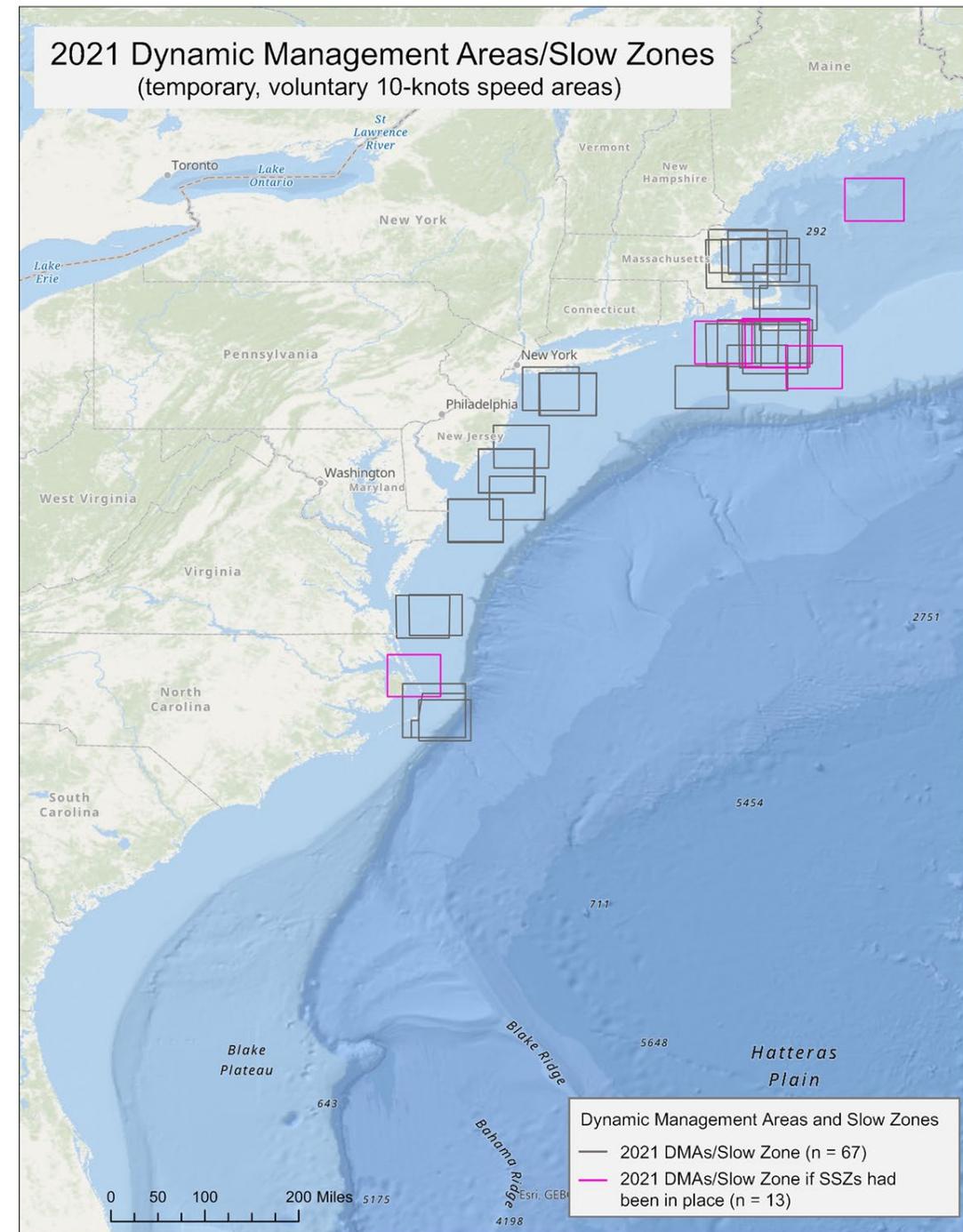


North Atlantic right whale calf killed by a vessel strike off St. Augustine, FL, February 2021. This was the first known calf of “Infinity” (#3230) who was also seriously injured in the same strike event. Photo Credit: FWC/Tucker Joenz; NMFS/NOAA permit 18786

Proposed Speed Rule Amendments: DSZs

Dynamic Speed Zones (DSZs)

- Mandatory DSZs are designed to protect right whales outside SSZs in discrete areas over a limited time period.
- DSZs would be triggered when NOAA Fisheries confirms visual or acoustic right whale detections outside active SSZs and determines there is a > 50% likelihood that the whales will remain within the zone.
- Once triggered, DSZs would be announced on the NOAA Fisheries website, USCG Broadcast Notices to Mariners, NWS Alerts, email lists and media/social media outlets.
- Most DSZs are expected to occur in the Mid-Atlantic and Northeast; fewer DSZs are expected to occur relative to current DMAs/Slow Zones
- DSZs would provide flexibility to address strike risk where needed without unduly burdening the regulated community.



Proposed Speed Rule Amendments: Safety Deviation Updates and Enforcement Considerations

Safety Deviation Provision

- 1) Expansion of the safety deviation provision to include emergency situations that present a threat to the health, safety, or life of a person;
- 1) Modification of the safety deviation reporting protocols to eliminate the vessel logbook entry in favor of a new requirement for vessels to submit an electronic report to NOAA Fisheries within 48 hours of employing the safety deviation detailing the circumstances and need for the deviation.
- 1) Inclusion of a new provision for vessels 35-65 ft allowing them to transit at speeds in excess of 10 knots within areas where a NWS Gale Warning, or other NWS Warning (e.g., Hurricane Warning) for wind speeds exceeding those that trigger a Gale Warning is in effect. No reporting of these speed deviations would be required; and

Enforcement

NOAA recognizes the need for enforcement planning in response to the proposed rule changes.

- Upgrading capabilities for tracking vessel speed at sea
- Initiating research of new vessel tracking technologies
- Investigating land based and aerial monitoring options

Started staff level discussions with US Coast Guard regarding possible modification of current AIS carriage requirements to include additional vessel types and sizes.

2022 Proposed Speed Rule Amendments: Economic Impacts

Estimated 15,899 vessels impacted

59% recreational/pleasure
22% ocean-going ships
19% commercial, industrial, other



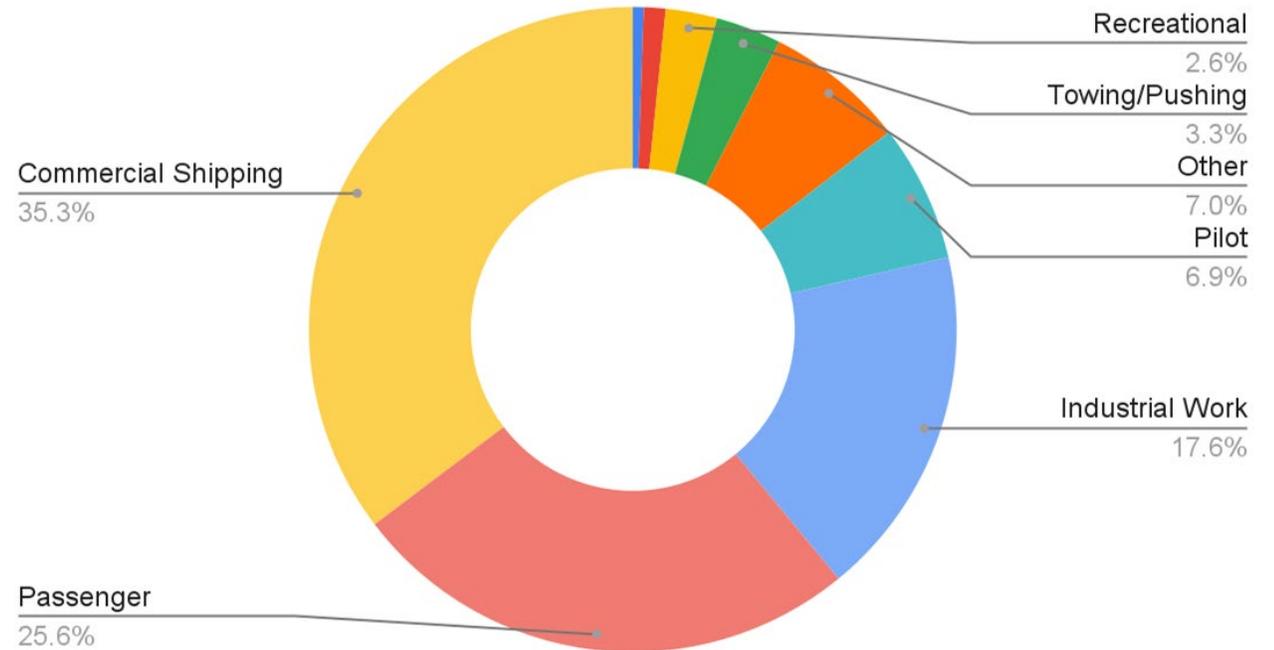
Estimated Cost

\$46 million/year

89% accrue to vessels in the NE/Mid-Atlantic (ME-NC)
11% of costs borne by SE (SC-FL)

- Number of affected vessels < 65 ft is likely substantially overestimated.
 - Many vessels < 65 ft in length do not carry AIS devices so we used USCG vessel registration data, and available AIS to estimate vessel activity
- Commercial ships would bear the majority of costs along with passenger/industrial work boats.
- NOAA Fisheries expects certain vessel types (i.e. commercial fishing and sailing vessels) would be less impacted because the majority transit at speeds less than 10 knots;

Total Estimated Yearly Costs by Vessel Type



2022 Proposed Speed Rule Amendments: Public Input

- 90-Day comment period closed on **October 31, 2022**
- We received **90,092** signatures within **21,323** individual comment submissions.
 - **Mid-Atlantic** and **South Atlantic Fishery Management Councils** submitted comments.
 - **Recreational** and **charter** fishing impacts were the first and second most referenced industries in general public comments, with **commercial** fishing being the third.
 - Approximately **16** local (i.e., Manasquan River Marlin & Tuna Club) and **10** national (e.g., Center for Sportfishing Policy) fishing-related organizations submitted comments.
 - At least **51** environmental/wildlife non-profit organizations



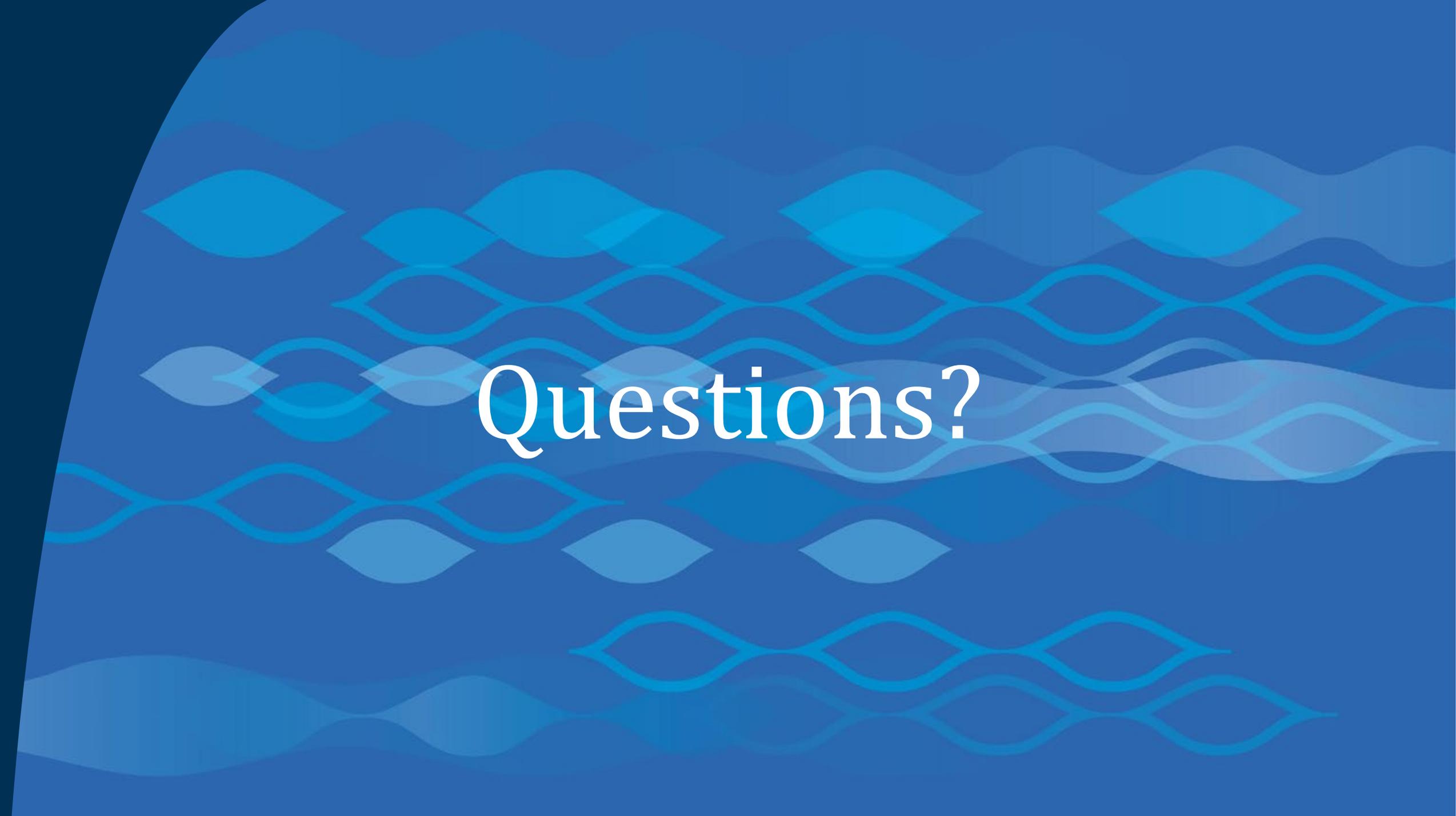
Right whale #4540 with fresh propeller cuts as a calf off Georgia, 2013. Photos by Clearwater Marine Aquarium Research Institute, taken under NOAA permit #15488.

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- We received **90,092** signatures within **21,323** individual comment submissions.
 - **20** pilot groups and **20** shipping- or port-related stakeholders
 - **Forty-three** Congressional members (signed 10 separate letters that were submitted during the open comment period)
 - **18** comments from state agencies
 - SC submitted more letters in opposition than any other state (i.e., five out of 18 state letters)
 - **12** from industrial/manufacturing or trade organizations
 - **11** from passenger/transport/ferry services
- Working to take final action by the end of 2023.



Right whale #4540 with fresh propeller cuts as a calf off Georgia, 2013. Photos by Clearwater Marine Aquarium Research Institute, taken under NOAA permit #15488.



Questions?