



A Robinson+Cole Legal Update

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New Federal Speed Regulations for Coastal Waters

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On August 1, 2022, the U.S. Department of Commerce National Marine Fisheries Service (NMFS) published proposed amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule ([50 CFR 224.105](#)) to further protect endangered right whales from vessel collisions. If adopted, most vessels greater than 35 feet in length would become subject to the mandatory speed restrictions of 10 knots or less in designated areas of the ocean. The amendments would expand the boundaries of the seasonal speed restriction areas of the East Coast and extend the timeframe in which they are in effect each year. Given that the areas subject to the speed restrictions include waters off the coast of Massachusetts from Cape Ann to Buzzards Bay, and south of Rhode Island and Long Island, most vessels operating in those waters, including ferries, cargo ships, fishing vessels, passenger ships, and vessels servicing the new offshore wind industry, would have to comply. The main proposed changes are briefly described below, and can be found on the [Federal Register webpage](#).

(1) The Addition of Speed Restrictions to Vessels Greater than 35 ft. and Less than 65 ft. in Length
Current speed restrictions only apply to vessels that are greater than 65 ft. in length. Under the proposed rule, most vessels greater than or equal to 35 ft. in length would now be subject to the speed restrictions.

(2) Changes to the Boundaries and Timing of Current Speed Restriction Areas referred to as Seasonal Management Areas (SMAs). NMFS would expand the current boundaries of the areas subject to the speed restriction along the East Coast. It would also extend the seasonal timeframe during which the speed restriction is in effect each year. For the mid-Atlantic coast, from North Carolina to Cape Ann in Massachusetts, the restrictions would apply from November 1 through May 30.

(3) The Establishment of a Dynamic Speed Zone (DSZ) Framework to Mandate Speed Restrictions when Whales Are Known to be Present, even outside SMAs. The proposed rule would replace the current Voluntary Dynamic Management Area (DMA)/Slow Zone Program, which encourages voluntary speed reductions when a group of right whales is seen in an area, with a mandatory program that requires speed restrictions when whales are known to be present, even outside the SMAs. A DSZ would have a minimum effective period of 10 days and would not exceed 2,500 square nautical miles for DSZs triggered by a confirmed visual sighting of three or more right whales, or 400 square nautical miles for a DSZ triggered by a confirmed acoustic detection of a right whale.

(4) Updates to the Speed Rule's Safety Deviation Provision. NMFS proposes to retain the current safety deviation provision, which allows a vessel to operate at a safe maneuvering speed instead of the required 10 knots, under certain meteorological and other conditions that present safety concerns when operating at the restricted speed. The revised regulations would replace the existing vessel-logbook-entry requirement with a requirement that vessels submit an online report to NMFS within 48 hours of employing a safety deviation, detailing the circumstances and need for the deviation.

Comments on the proposed rule changes may be submitted to NMFS on or before October 31, 2022, by electronic submission via the Federal eRulemaking Portal. To file comments, go to <https://www.regulations.gov> and enter NOAA-NMFS-2022-0022 in the Search box. Click the "Comment" icon, complete the required fields and enter or attach your comments.

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FOR MORE INFORMATION

Contact any of the Robinson+Cole lawyers listed below with questions regarding how this proposed rule could impact you.

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