



FISHERIES

Tab E, No. 4(a)

# Overview of Rice's Whale Status & Speed Limit Petition in the Gulf of Mexico


Gulf of Mexico Fishery  
Management Council Meeting  
June 5-8th, 2023

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NOAA Fisheries Southeast Region

# Agenda

- **Recap of 2019 Council Presentation**
- **Status Update**
  - Revised name
  - Distribution
  - State of the science
- **Petition to Establish Vessel Speed Restrictions & Other Vessel-Related Measures**
- **Conservation & Management Updates**
  - Recovery planning
  - Critical habitat designation
  - Ongoing conservation & recovery planning

**Rice's Whale**  
*Balaenoptera ricei*



**Protected Status**

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**ESA ENDANGERED**  
*Throughout Its Range*

**MMPA PROTECTED**  
*Throughout Its Range*

**MMPA DEPLETED**  
*Throughout Its Range*

**CITES APPENDIX I**  
*Throughout Its Range*

# Recap of 2019 Council Presentation

## Historical Distribution

- Broadly distributed throughout the GOMx: north-central, southern

## Presently (2019): Restricted Range

- Northeastern GOMx in the DeSoto Canyon area, along shelf break typically 100-400m
- Susceptible to environmental events

## GOMx Resident

- Only year-round resident baleen whale in the Gulf

## Abundance

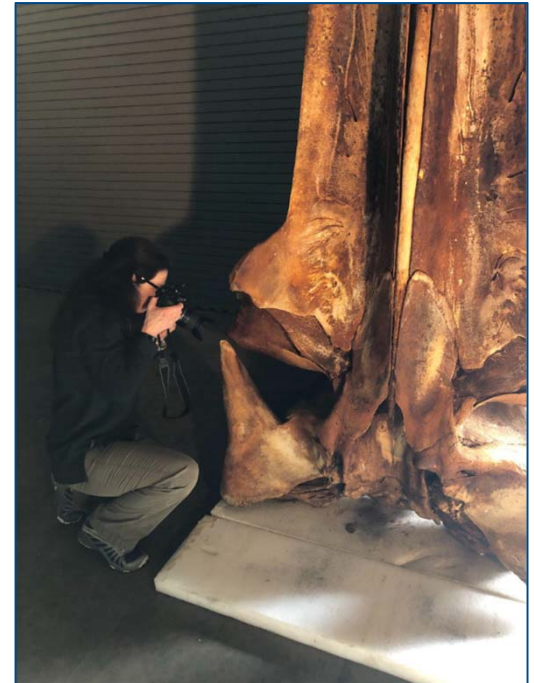
- Likely fewer than 100 individuals
- Fewer than 50 being mature
- Best estimate is 33 individuals

DATE	EVENT
Jul 31, 2014	Rosel PE, Wilcox LA (2014) Genetic evidence reveals a unique lineage of Bryde's whales in the northern Gulf of Mexico. <i>Endangered Species Research</i> 25:19-34
Sep 18, 2014	Petition to list the GOMx population of Bryde's whales as an endangered species
Apr 6, 2015	90-day finding that the petitioned action may be warranted (80 FR 18343)
Dec 8, 2016	12-Month Finding on the Petition; Proposed rule to List GOMx Bryde's whale (81 FR 88639)
Apr 9, 2019	Final Rule listing GOMx Bryde's whales as endangered under the ESA (84 FR 15446)

# Status Update

## Revised Name

- 2019 - NOAA Fisheries listed “Gulf of Mexico Bryde’s whales” as endangered under the ESA (84 FR 15446). Critical habitat was not determinable at the time of listing.
- 2020 - Scientists determined based on morphological and genetic data, that the previously known subspecies “Gulf of Mexico Bryde’s whale” represents a whole new species, the Rice’s whale.
- 2021- The ESA listing was revised to Rice’s whale to reflect the change in the scientifically accepted taxonomy and nomenclature of the species (86 FR 47022).

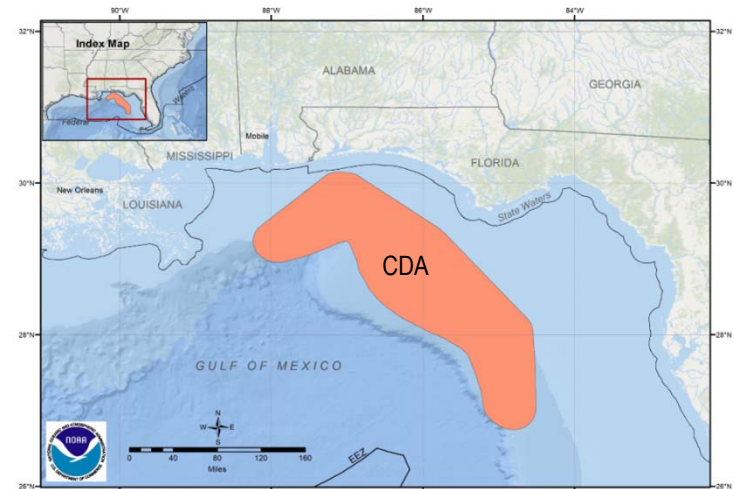


*P. Rosel (SEFSC) documenting morphological differences of the type specimen at the Smithsonian*

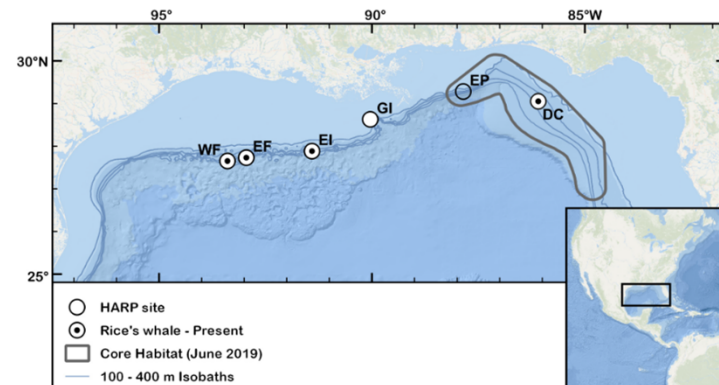
# Status Update

## Distribution

- In 2019 - using visual sightings and tag data, the “Core Distribution Area (CDA)” was identified in the northeastern Gulf of Mexico and published on NOAA’s website
- In 2022 - Soldevilla et al. published data showing that long-term passive acoustic monitoring detected Rice’s whale calls throughout the Gulf of Mexico including in the northwestern Gulf



Garrison, L. (2019) "Rice's Whale Core Distribution Area June 2019." NOAA Fisheries



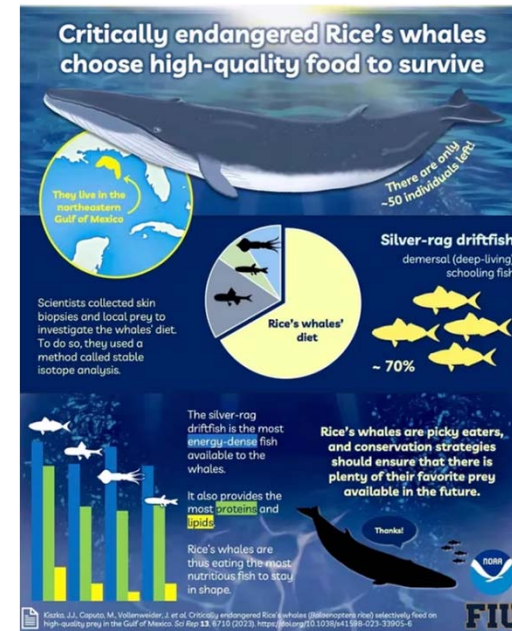
Soldevilla et al (2022). Rice's whales in the northwestern Gulf of Mexico: call variation and occurrence beyond the known core habitat. *Endangered Species Research*, 48:155-174.

# Status Update

## State of the Science

In 2022 and 2023, with funding from the NOAA RESTORE Science Program, findings were published on:

- Characterization of call types (Soldevilla et al. 2022)
- Characterization of preferred prey (Kiszka et al. 2023)
- Habitat modeling (publication pending)



Credit: Scientific Reports (2023). DOI: 10.1038/s41598-023-33905-6



Credit: NOAA Fisheries (Permit # NMFS MMPA/ESA 14450 and 21938) and under approved NOAA Fisheries IACUC protocols.



# Petition to Establish Vessel Speed Restrictions & Other Vessel-Related Measures

## Overview

- In 2021 - NOAA Fisheries received a petition pursuant to the Administrative Procedure Act from the Natural Resources Defense Council, Healthy Gulf, Center for Biological Diversity, Defenders of Wildlife, Earthjustice, and New England Aquarium.
  - The petitioners requested that NOAA Fisheries utilize authorities under the ESA and MMPA to establish a “Vessel Slowdown Zone” to protect Rice's whales from collisions with vessels and noise pollution.
- On April 7, 2023 - NOAA Fisheries published a notice of receipt of the 2021 petition in the Federal Register and requested public comments on the petition by July 6, 2023.
- On May 9, 2023 - A Fisheries Bulletin was distributed on the petition and frequently asked questions



Credit: NOAA Fisheries (Permit # NMFS MMPA/ESA #14450-05 and 21938)

# Petition to Establish Vessel Speed Restrictions & Other Vessel-Related Measures

## Details of the Petitioned Action

- Petitioners requested a year-round 10-knot vessel speed restriction within waters between 100-400 m deep from approximately Pensacola, FL, to just south of Tampa, FL (i.e., from 87.5° W longitude to 27.5° N latitude)
  - plus an additional 10 km around that area (referred to in the petition as the “Vessel Slowdown Zone”)
- Petitioners requested additional restrictions within the “Vessel Slowdown Zone”:
  - no vessel transits at night;
  - vessels transiting through the zone must report their plans to NMFS, utilize visual observers, and maintain a separation distance of 500 m from Rice's whales;
  - use and operate AIS, or notify NMFS of transits through the zone;
  - report deviations from these requirements to NMFS



Credit: NOAA Fisheries (Permit # NMFS MMPA/ESA 14450 and 21938)



# Petition to Establish Vessel Speed Restrictions & Other Vessel-Related Measures

## Why is NOAA Fisheries Requesting Comments?

- Rice's whale population size is extremely small (estimated 51 individuals)
- As a result of the DWH oil spill, NOAA Fisheries estimates that their population decreased by 22%
- Vessel strikes have been identified as a known threat to Rice's whales and injury and mortality of the species from vessel collisions have been documented in the Gulf of Mexico.
  - In 2009 - a lactating Rice's whale was killed by a presumptive vessel strike
  - In 2019 - a Rice's whale with a deep scar consistent with a propeller injury was documented on the animal's back
- Actions to reduce the threat of vessel strikes have been considered in part through the
  - 2020 Biological Opinion on Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico
  - Development of a species' recovery plan
  - These efforts may not fully address all vessel risk to the recovery of Rice's whales



# Petition to Establish Vessel Speed Restrictions & Other Vessel-Related Measures

## Details of the comments requested

- NOAA Fisheries is requesting information from the public, governmental agencies, tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the petitioned action.
- NOAA Fisheries is seeking information and comments on the following topics:
  - advisability of and need for regulations to establish a “Vessel Slowdown Zone;”
  - the geographic scope of any such regulations;
  - alternative management options for regulating vessel interactions with Rice's whales, including but not limited to the options in the petition;
  - scientific and commercial information regarding the effects of vessels on Rice's whales, or other similar species, and their habitat;
  - information regarding potential economic effects of regulating vessel interactions;
  - any additional, relevant information that NMFS should consider



Credit: NOAA Fisheries (Permit # NMFS MMPA/ESA #14450-05 and 21038)

# Petition to Establish Vessel Speed Restrictions & Other Vessel-Related Measures

## Next Steps

- July 6, 2023 - Public comment period closes on petition
- NOAA Fisheries will consider all comments and available information when determining whether to accept the petition and proceed with rulemaking.
- If NOAA Fisheries decides to **initiate rulemaking**:
  - we will notify the petitioners and publish a notice of our decision in the Federal Register
  - all procedural requirements for rulemaking, including notice and the opportunity to comment, would apply
- If NOAA Fisheries decides **not to proceed** with the petitioned action:
  - we will notify the petitioners and provide a brief statement of the grounds for the decision

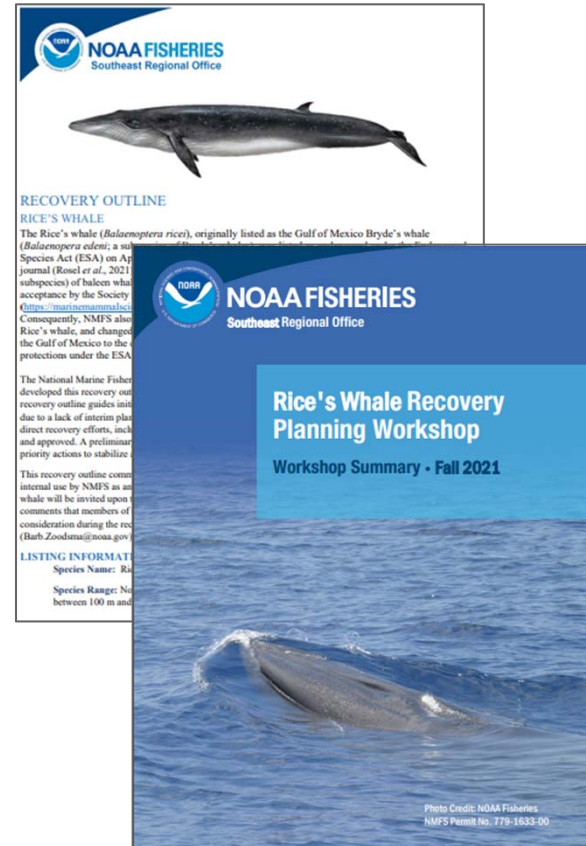


Credit: NOAA Fisheries

# Conservation & Management Updates

## Recovery Planning

- In 2020 - the Recovery Outline was published to serve as an interim guidance document to direct recovery efforts
  - Recommends high priority actions to stabilize and recover the species
- In 2021 - Recovery workshops were hosted to seek input from experts and stakeholders
  - [Rice's Whale Recovery Planning Workshop Summary](#) is publicly available



# Conservation & Management Updates

## Critical Habitat Designation

- In 2020 - a complaint was filed seeking an order to compel NOAA Fisheries to designate critical habitat for the whale, which is subject to statutory timelines under the ESA.
- On October 26, 2022 - the U.S. District Court for the District of Columbia approved a modified settlement agreement which requires NMFS to complete determinations regarding Rice's whale critical habitat.



Credit: NOAA Fisheries (Permit # NMFS MMPA/ESA 14450 and 21938)

# Conservation & Management Updates

## Critical Habitat Designation

- NOAA Fisheries has drafted a proposed rule to designate critical habitat for Rice's whale.
- Under consideration for designation as critical habitat:
  - One continuous marine area within the Gulf of Mexico from the Texas-Mexico border in the west to the Florida Keys in the east between the 100-400m isobaths has been identified as containing a feature essential to the conservation of the Rice's whale.
- The draft proposed rule is currently undergoing interagency review and NOAA Fisheries expects to submit the proposed rule to the Federal Register by July 15, 2023.



Credit: NOAA Fisheries (Permit # NMFS MMPA/ESA #14450-05 and 21938)



# Conservation & Management Updates

## Ongoing Conservation & Recovery Planning

