

NOAA officially sorts right whales into three species

Rule designates critical habitat for Bristol Bay and area off Kodiak Island

Article published on Monday, March 17th, 2008

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It's taken eight years, but on March 6, the National Oceanic and Atmospheric Administration formally recognized three species of right whales.

"The status review indicates that separating the northern right whale into two different species is warranted in light of the compelling evidence provided by recent studies on whale taxonomy and classification," NOAA officials said in their ruling document. "Genetic data now provides unequivocal support to distinguish three right whale lineages (including the southern right whale) as separate phylogenetic species."

The new rule takes effect April 7.

The Center for Biological Diversity played a key role in the new rule, petitioning NOAA Aug. 16, 2005, because it didn't believe NOAA was moving fast enough.

"The legal protection for right whales has been running about a decade behind the science," said Brendan Cummings, oceans program director of the Center for Biological Diversity. "Several years back, scientists doing genetic work clearly proved what others had suspected for a long time."

The Center for Biological Diversity is a conservation group that works to secure a future for all species hovering on the brink of extinction.

"We do so through science, law and creative media; with a focus on protecting the lands, water and climate that species need to survive," the group says on its Web site.

NOAA fishery biologist Marta Nammack, who works in the endangered species division, said they have been looking at separating the northern right whale into two groups since 2003 because of scientific research done in 2000.

"We did try to do this back in April 2003," she said. "Unfortunately, we didn't follow the proposed rule and the public comment process and our attorneys told us, even for a change like that, we'd have to."

Because they didn't follow their own procedures, they ended up withdrawing the proposed new rule in January 2005. Nammack said NOAA planned to resubmit the proposed change, but before they could they received the petition from CBD.

"That put us in statutory deadline, so we had to deal with it on a quicker timeframe," Nammack said.

It wasn't quick enough for CBD, who ended up suing NOAA to force them to finish the new ruling.

"The North Pacific right whale, once ranging from California to Alaska and across the North Pacific to Russia and Japan, is now the most endangered large whale in the world," CBD said in a press release. "Perhaps fewer than 50 individuals remain in a population that visits the Bering Sea each summer to feed."

The ruling was important for CBD, not just because it forced NOAA to recognize all three species, but because it also forced NOAA to come up with a recovery plan specific to the North Pacific right whale.

"Right whales in the North Atlantic occur off Massachusetts, off New York and in the busiest shipping lanes on the Atlantic seaboard, right where everyone sees them," Cummings said. "They're highly imperiled, but they also receive a lot of attention."

He said, as a result of the attention they received, when the original right whale recovery plan was developed in the 1990s the Atlantic right whale received most of the benefit and the North Pacific right whale received barely a mention.

“(It was a) few hundred-page document all about Atlantic right whales with only a couple pages about the North Pacific one saying, ‘There might be a few of them left, we don’t really know too much about them,’” Cummings said.

The new rule also has another intended application. It makes drilling in Bristol Bay and a small area off Kodiak Island harder because those areas are designed by NOAA as North Pacific right whale critical habitats. But drilling it is still possible.

“If it’s a federal action that might affect a listed species they would have to get with our region and initiate consultation,” Nammack said. “They could say we don’t think this adversely affects the species and that’s an informal consultation. If the region agrees, it’s the end of the story.”

On the other hand, she said if it is determined that an action in the critical habitat could adversely affect the species then both parties would have to look at potential environmental impact.

“Hopefully the action wouldn’t jeopardize the endangered species because that would be the end of it,” Nammack said. “For a critical habitat, it can’t destroy or adversely modify the critical habitat or that would be the end of it.”

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