

October 31, 2022  
Janet Coit, Assistant Administrator  
National Marine Fisheries Service  
1315 East-West Highway, 14th Floor  
Silver Spring, MD 20910

Kimberly Damon-Randall,  
NMFS Office of Protected Resources  
1315 East-West Highway, 13th Floor  
Silver Spring MD 20910

Dear Assistant Administrator Coit,

Our groups are writing to support recent proposed changes to the North Atlantic right whale vessel speed regulations. While we are in favor of these improvements from the previous rule and ask that you approve a final rule as quickly as possible, the National Marine Fisheries Service should also consider requiring vessels covered by this rule to carry and continuously transmit Automatic Identification System (AIS) devices for public vessel tracking, improving monitoring and enforcement of speed limits, designate Dynamic Speed Zones (DSZs) following the visual confirmation of a single North Atlantic right whale, and including an exemption for permitted disentanglement vessels who are actively engaged in a response.

As you know, collisions with vessels are a leading cause of injury and death for the North Atlantic right whale. The 2008 vessel speed rule was promulgated to establish speed limits for vessels 65 feet or greater in length in seasonal areas along the right whale's migration route. Although the 2008 rule helped decrease vessel strike mortalities<sup>1</sup>, it is insufficiently protective. The North Atlantic Right Whale Consortium has identified 32 vessel strikes in U.S. waters since 2006, five of which have occurred since the beginning of the current and ongoing Unusual Mortality Event in 2017. These known deaths likely represent about one-third of actual North Atlantic right whale deaths as the majority go unobserved or unreported.<sup>2</sup> Each human-caused North Atlantic right whale death exceeds the level NMFS has determined would allow this species to recover.<sup>3</sup>

In the proposed rulemaking, NMFS is updating the current 2008 rule in several crucial ways. The agency is proposing the expansion of seasonal slow zones and adjusting their timing to account

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<sup>1</sup> Nat'l Oceanic and Atmospheric Admin., Nat'l Marine Fisheries Service, Office of Protected Resources, North Atlantic Right Whale (*Eubalaena glacialis*) Vessel Speed Rule Assessment – June 2020.

<sup>2</sup> Pace, R.M., R. Williams, S.D. Kraus, A.R. Knowlton, and H.M. Pettis. 2021. Cryptic mortality of North Atlantic right whales. Conservation Science and Practice 3(2):e346; NOAA Fisheries, Stock Assessment Report for North Atlantic Right Whale (*Eubalaena glacialis*): Western Atlantic Stock (2021) available at [https://media.fisheries.noaa.gov/2022-08/N%20Atl%20Right%20Whale-West%20Atl%20Stock\\_SAR%202021.pdf](https://media.fisheries.noaa.gov/2022-08/N%20Atl%20Right%20Whale-West%20Atl%20Stock_SAR%202021.pdf)

<sup>3</sup> Pettis, H.M., Pace, R.M. III, Hamilton, P.K. 2022. North Atlantic Right Whale Consortium Annual Report Cards 2006-2021. Report to the North Atlantic Right Whale Consortium available at <https://www.narwc.org/report-cards.html>

for areas where these whales are found and the risk of being struck by a vessel is highest. As proposed, the revised regulations would also increase the number of vessels covered by speed limits. While the current rule covers vessels 65 feet or greater in length, the proposed revisions would apply to vessels 35 feet or greater. The agency based this analysis on known instances of vessels striking large whales and current scientific consensus on risk to whales from vessel strikes. Studies have found that slowing vessel speeds to 10 knots reduces a North Atlantic right whale's risk of death from vessel strikes by 80 to 90 percent.<sup>4</sup>

The agency is also proposing a new Dynamic Speed Zone framework that lays out mandatory vessel slow zones where whales are visually or acoustically detected. Previously, these dynamic slow zones were voluntary and vessels rarely complied with them. These updates are vital to further reducing the likelihood of mortalities and serious injuries to endangered right whales from vessel collisions in areas outside of Seasonal Speed Zones. This part of the proposed rule would be further strengthened if Dynamic Speed Zones were triggered by either an acoustic detection or a visual confirmation of a *single* right whale, rather than an aggregation of three or more right whales, in order to protect mothers with calves and pregnant females. Additionally the requirement of a 50% likelihood that whales will remain in the management area, with no area definition, and no minimum length of time for the area are potentially problematic. We urge the agency to take a precautionary approach with this framework.

This strong rule should also be improved by removing certain exemptions for government vessels, increasing accountability for vessels to comply with the rules, improving enforcement, and we further suggest the agency consider immediate closures when a mother and calf pair is detected. North Atlantic right whales need strong action from the U.S. government to protect them from vessel strikes. Incorporating these additional modifications into the final vessel speed regulations, approving the final rule quickly, and ensuring adequate resources for monitoring and enforcement are available to successfully implement the final rule, is vital to preventing additional deaths and protecting the species.

We look forward to your leadership on this important issue to support the recovery of this iconic species.

Sincerely,

Oceanic Preservation Society  
Marine Mammal Alliance Nantucket  
Ocean Conservation Research  
International Marine Mammal Project of Earth Island Institute  
Waterway Advocates  
Gotham Whale  
The International Fund for Animal Welfare

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<sup>4</sup> Laist, D.W., A.R. Knowlton, and D. Pendleton. 2014. Effectiveness of mandatory vessel speed limits for protecting North Atlantic right whales. *Endangered Species Research* 23(2):133– 147; North Atlantic Right Whale (*Eubalaena glacialis*) Vessel Speed Rule Assessment – June 2020.

The Humane Society of the United States  
Humane Society Legislative Fund  
Pacific Environment  
Ocean Defense Initiative  
Seattle Aquarium  
Healthy Ocean Coalition  
Oceana  
Endangered Species Coalition  
National Aquarium  
Mass Audubon  
Mystic Aquarium  
Animal Welfare Institute  
Ocean Alliance  
Environmental Investigation Agency  
World Wildlife Fund  
Inland Ocean Coalition  
Audubon Nature Institute  
Virginia Aquarium & Marine Science Center  
Born Free USA  
NY4WHALES  
Maine Coalition for North Atlantic Right Whales  
Earthjustice







cc: