



**New England  
Aquarium**

*Protecting the blue planet*

The Honorable Cliff Bentz  
Chair, House Natural Resources  
Subcommittee on Water, Wildlife, and Fisheries  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jared Huffman  
Ranking Member, House Natural Resources  
Subcommittee on Water, Wildlife, and Fisheries  
US House of Representatives  
Washington, DC 20515

September 19, 2024

**RE: Oppose H.R. 8704 (Rep. Earl Carter of GA)**

Dear Members of the Subcommittee on Water, Wildlife and Fisheries:

The New England Aquarium writes today in opposition to H.R. 8704 and with serious concern to the impact it would have on North Atlantic right whales (NARW). H.R. 8704 would halt necessary regulatory action to update the vessel speed rule through December 31, 2030.<sup>1</sup> Vessel strikes, along with gear entanglement, are the two leading causes of serious injury and mortality to NARW. The delays proposed by H.R. 8704 could lead to further decline of the NARW population and for this reason the committee should reject the bill.

The New England Aquarium is a catalyst for global change through innovative scientific research, commitment to marine animal conservation, public engagement and education, and effective advocacy for a vital and vibrant ocean. We conduct research that advances animal and ocean health, promotes responsible ocean use, and contributes to developing science-based solutions to ocean conservation challenges, including the protection of NARW.

The New England Aquarium has been studying NARW for more than 40 years. This includes extensive research and monitoring on human impacts to individual NARW. The New England Aquarium curates the photo-identification catalog for NARW and uses this catalog to monitor human impacts to individuals, including engagements and vessel strikes. As part of this work, we analyze and assess risk from vessel strikes; facilitate communication across the maritime industry to reduce vessel strikes; collaborate with the fishing community to reduce entanglements; collect the data and conduct analyses needed to understand and mitigate the potential impacts of offshore wind energy development; and work with lawmakers locally, nationally, and internationally to develop science-based protections for NARW.

We commend the National Oceanic and Atmospheric Administration (NOAA) for their review and revision of the 2008 North Atlantic Right Whale Vessel Strike Reduction Rule. NOAA's review of the 2008 rule required revision to fulfill NOAA's mandates under the Endangered Species Act and Marine Mammal Protection Act to protect the endangered NARW. The proposed rule, put forth in August of 2022, is necessary to further reduce the likelihood of serious injury and mortality to NARW from vessel strikes. Now, over two years later, NOAA's proposed revisions to the 2008 rule have yet to be promulgated.

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<sup>1</sup> Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule, 87 Fed. Reg. 46,921 at 46928 (August 1, 2022).



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NARW are among the most endangered large whale species in the world. Over the past decade, the number of NARW has steadily declined from a high in 2011 to under 356 individuals (+7/-10) in 2022.<sup>2</sup> This current population estimate is one of the lowest in the past 20 years.<sup>3</sup> The number of reproductive NARW females has similarly declined, with estimates as low as 70 alive in 2018.<sup>4</sup> NARW recovery has continued to be hindered by the effects of entanglements and vessel strikes.<sup>5</sup>

NOAA's proposed changes to the 2008 Rule for reducing the risk of vessel strikes to NARW are both necessary and based on the best available science. Implementation of a 10 knot speed restriction can lead to an approximate 28% reduction in NARW vessel strike risks.<sup>6</sup> A study from the Anderson Cabot Center for Ocean Life at the New England Aquarium conducted in collaboration with NOAA, academia, and other organizations in the peer-reviewed journal, *Biological Conservation*, supports this finding. A 10-knot speed restriction, rather than a 12- or 14-knot restriction, is ***necessary*** to reduce the risk of vessel strikes.<sup>7</sup> Based on the scientific research, the New England Aquarium supports the following three specific changes to the existing rule 1) expanding the extent of Seasonal Speed Zones, 2) expanding vehicles subject to the speed restriction to most vessels greater than or equal to 35 feet (10.7m) and less than 65 feet (19.8m), and 3) implementing mandatory speed restrictions in Dynamic Speed Zones.

While science supports the need to implement these proposed rule changes now, H.R. 8704 only serves to further delay NOAA's ability to implement its proposed protections of NARW from vessel strikes. The bill's attempt to provide additional resources to reduce vessel strikes is undermined by prohibiting the implementation of measures known to be effective protections of NARW including vessel speed restrictions. Establishing these protections and investing in development of additional approaches, including technology, to reduce vessel strike risk are not mutually exclusive. In fact, it is critical to protect NARW today, including by implementing the measures in the proposed rule that NOAA released over two years ago, to ensure the species survives long enough to benefit from the approaches delineated in H.R. 8704.

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<sup>2</sup> Linden, D.W. (2023). Population size estimation of North Atlantic right whales from 1990-2022. *NOAA Technical Memorandum, NOAA-TM-NMFS-NE-314, Woods Hole, Massachusetts*. doi: <https://doi.org/10.25923/3v2z-j845>;  
Pettis, H.M., and Hamilton, P.K. (2024). North Atlantic Right Whale Consortium 2023 Annual Report Card. Report to the North Atlantic Right Whale Consortium.

<sup>3</sup> Id.

<sup>4</sup> Reed, J., New, L., Corkeron, P., and Harcourt, R. (2022). Multi-event modeling of true reproductive states of individual female right whales provides new insights into their decline. *Frontiers in Marine Science* 9. doi: 10.3389/fmars.2022.994481.

<sup>5</sup> Corkeron, P., Hamilton, P., Bannister, J., Best, P., Charlton, C., Groch, K.R., et al. (2018). The recovery of North Atlantic right whales, *Eubalaena glacialis*, has been constrained by human-caused mortality. *Royal Society Open Science* 5(11), 180892. doi: 10.1098/rsos.180892.

<sup>6</sup> Garrison, L.P., Adams, J., Patterson, E.M., and Good, C.P. (2022). Assessing the risk of vessel strike mortality in North Atlantic right whales along the U.S East Coast. *NOAA Technical Memorandum NOAA NMFS-SEFSC-757: 42 p.*;  
Redfern, J.V., Hodge, B.C., Pendleton, D.E., Knowlton, A.R., Adams, J., Patterson, E.M., et al. (2024). Estimating reductions in the risk of vessels striking whales achieved by management strategies. *Biological Conservation* 290, 110427. doi: <https://doi.org/10.1016/j.biocon.2023.110427>.

<sup>7</sup> Redfern, J.V., Hodge, B.C., Pendleton, D.E., Knowlton, A.R., Adams, J., Patterson, E.M., et al. (2024). Estimating reductions in the risk of vessels striking whales achieved by management strategies. *Biological Conservation* 290, 110427. doi: <https://doi.org/10.1016/j.biocon.2023.110427>.



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A long history of research shows that the 2008 Rule is not sufficient to protect NARW. The deaths of three NARW that were caused by vessel strikes so far this year have increased the urgency of implementing the changes in the Proposed Rule to help curb the current trajectory towards the NARW species extinction. The implications for the survival of the NARW species are clear: action is needed now to reduce vessel strike risk through measures known to be effective, such as speed restrictions. For these reasons we ask the committee to reject HR 8704 and give NOAA the latitude necessary to publish a final rule.

Sincerely,

*Anthony J. Gesualdi Jr*

Anthony Gesualdi, esq.

Associate Vice President Conservation Policy