

June 6, 2023

Chair Cliff Bentz  
House Committee on Natural Resources  
Subcommittee on Water, Wildlife and  
Fisheries  
1331 LHOB, Washington, DC 20515

Ranking Member Jared Huffman  
House Committee on Natural Resources  
Subcommittee on Water, Wildlife and  
Fisheries  
1332 LHOB, Washington, DC 20515

Dear Chair Bentz and Ranking Member Huffman,

Our groups are writing to you and members of the Subcommittee to voice our support for the much-needed 2022 proposed changes to the North Atlantic right whale (“right whale”) vessel speed regulations issued back in 2008. We are strongly in favor of these improvements from the previous rule and ask that you support these common sense changes that are the best tool for reducing death and injury to right whales from being struck by vessels.<sup>1</sup>

The species has been in nonstop decline for over a decade, with only about 340 right whales remaining.<sup>2</sup> Collisions with vessels are one of the two leading causes 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>3</sup> it is insufficiently protective based on updated information on where right whales are found and where threats are greatest. The agency’s data on vessel activity and right whale distribution has been updated with essential changes that informed the 2022 rule. The expansions of the seasonal zones now more closely overlap with the location of right whales.

The National Oceanic and Atmospheric Administration (NOAA) has found 16 likely vessel strikes just since 2017, the beginning of the current and ongoing Unusual Mortality Event in 2017.<sup>4</sup> Additionally, known right whale deaths likely only represent about one-third of actual

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<sup>1</sup> 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.

<sup>2</sup> North Atlantic right whales’ downward trend continues as updates population numbers released (October 24, 2022) *New England Aquarium*.  
<https://www.neaq.org/about-us/news-media/press-kit/press-releases/north-atlantic-right-whales-downward-trend-continues-as-updated-population-numbers-released/> (Last accessed June 6, 2023).

<sup>3</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>4</sup> Nat’l Oceanic and Atmospheric Admin., Nat’l Marine Fisheries Service, “2017–2023 North Atlantic Right Whale Unusual Mortality Event” available at <https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2023-north-atlantic-right-whale-unusual-mortality-event> (Last accessed June 6, 2023).

right whale deaths because the majority go unobserved or unreported.<sup>5</sup> Each human-caused North Atlantic right whale death exceeds the level that federal government scientists have determined would allow this species to recover.<sup>6</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 for areas where these whales are found and the risk of being struck by a vessel is highest. As they stand, 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>7</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.

Based on sound, informed decision making, the agency has said that these proposed changes “are essential to stabilize the ongoing right whale population decline and prevent the species’ extinction.”<sup>8</sup> 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 allocating adequate resources for monitoring and enforcement will be vital to preventing additional deaths and protecting the species.

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<sup>5</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>6</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.rightwhalec.org/report-cards.html>

<sup>7</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.

<sup>8</sup> “Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule,” Nat’l Oceanic and Atmospheric Admin., Nat’l Marine Fisheries Service available at <https://www.fisheries.noaa.gov/action/amendments-north-atlantic-right-whale-vessel-strike-reduction-rule> (Last accessed June 6, 2023).

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

Sincerely,

Animal Welfare Institute  
Animal Wellness Action  
Association of Zoos and Aquariums  
Azul  
California Environmental Voters  
Center for a Humane Economy  
Christian Council of Delmarva  
Coastal Plains Institute  
Conservation Law Foundation  
Endangered Habitats League  
Endangered Species Coalition  
Great Old Broads for Wilderness PNW WIT  
Healthy Ocean Coalition  
Heartwood  
Humane Action Pennsylvania  
Humane Action Pittsburgh  
Inland Ocean Coalition  
International Fund for Animal Welfare  
Kettle Range Conservation Group  
National Wolfwatcher Coalition  
Natural Resources Defense Council  
New Hampshire Audubon  
NH Audubon  
NY4WHALES  
NYC Plover Project  
Ocean Alliance  
Ocean Defense Initiative  
Predator Defense  
Resource Renewal Institute  
Sierra Club  
Virginia Aquarium & Marine Science Center  
Washington Wildlife First  
Wildlife Conservation Society  
Wolf Conservation Center  
World Wildlife Fund