H.R. 6841, H.R. 7925, H.R. 8704, AND H.R. 8705

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON WATER, WILDLIFE AND FISHERIES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

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HOUSE COMMITTEE ON

NATURAL RESOURCES

CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Water, Wildlife and Fisheries Republican Members

From: Subcommittee on Water, Wildlife and Fisheries staff: Annick Miller, x58331 (annick.miller@mail.house.gov), Thomas Shipman (thomas.shipman@mail.house.gov), and Kirby Struhar (kirby.struhar@mail.house.gov)

Date: Thursday, June 27, 2024

Subject: Legislative Hearing on H.R. 6841, H.R. 7925, H.R. 8704, and H.R. 8705

The Subcommittee on Water, Wildlife and Fisheries will hold a legislative hearing on: H.R. 6841 (Rep. Levin), To amend the Coastal Zone Management Act of 1972; H.R. 7925 (Rep. D'Esposito), "*Modernizing Access to Our Public Oceans (MAPOceans) Act*"; H.R. 8704 (Rep. Carter), To require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and North Atlantic right whales and other large cetacean species; and H.R. 8705 (Rep. Graves of Louisiana), the "*Fisheries Data Modernization and Accuracy Act*" on **Thursday, June 27, 2024, at 9:30 a.m. in 1324 Longworth House Office Building**.

Member offices are requested to notify Lindsay Walton (lindsay.walton@mail.house.gov) by 4:30 p.m. on Wednesday, June 26, 2024, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- H.R. 8704 would prevent the National Oceanic and Atmospheric Administration (NOAA) from finalizing the expanded vessel speed restriction rule first proposed in 2022, keeping the existing restriction in place. It also would create a new grant program to encourage the development and deployment of technology to reduce vessel strikes of endangered species like the North Atlantic right whale.
- H.R. 6841 would reauthorize the Coastal and Estuarine Land Conservation Program and the National Estuarine Research Reserve System, which help manage coastal areas.
- H.R. 7925 would require NOAA to publish data related to federal waterways in one location, ensuring safety and improving the experience of ocean users.
- H.R. 8705 would reform NOAA's Marine Recreational Information Program (MRIP), encouraging NOAA to work more effectively with states and entities like the National Academies of Science, Engineering, and Medicine.

II. WITNESSES

Panel I

- **Members of Congress TBD**

Panel II

- **Dr. Evan Howell**, Director, National Marine Fisheries Service Office of Science and Technology, NOAA, U.S. Department of Commerce, Silver Spring, MD (All bills)
- **Ms. Martha Guyas**, Southeast Fisheries Policy Director, American Sportfishing Association, Tallahassee, FL (H.R. 8705)
- **Mr. James (Jamie) McCurry Jr.**, Chief Administrative Officer, Georgia Ports Authority, Savannah, GA (H.R. 8704)
- **Mr. Jeff Strong**, Chair of the Marine Retailers Association of the Americas Board of Directors, and President of Strong's Marine, Mattituck NY (H.R. 7925 and H.R. 8704)
- **Dr. Jessica Redfern**, Associate Vice President for Ocean Conservation Science, Anderson Cabot Center for Ocean Life, New England Aquarium, Boston, MA [Minority Witness] (H.R. 8704)

III. BACKGROUND

H.R. 6841 (Rep. Levin, D-CA), To amend the Coastal Zone Management Act of 1972 to allow the Secretary of Commerce to establish a Coastal and Estuarine Resilience and Restoration Program, and for other purposes.

The Coastal Zone Management Act of 1972 authorized three key programs to help NOAA protect coastal communities.[1] The National Coastal Zone Management Program is a voluntary partnership between NOAA and 34 coastal and Great Lakes states to design programs for effective coastal management.[2] The National Estuarine Research Reserve System (System) is a collection of 30 sites in coastal communities along the Pacific, Atlantic, and Gulf of Mexico coasts that allows NOAA to study estuarine systems.[3] The System encourages partnership between NOAA and states to assist research, training, and education efforts for stewardship of the System.[4] Past focus topics include habitat restoration efforts, increased resilience, and nonpoint source pollution.[5] Finally, the Coastal and Estuarine Land Conservation Program (CELCP) works with coastal programs to purchase and conserve coastal lands "that are ecologically important or possess other coastal conservation values, such as historic features, scenic views, or recreational opportunities."[6] It has "protected more than 110,000 acres through funds to state and local governments"[7] to help protect coastal and estuarine lands. Notably, the CELCP expired in fiscal year (FY) 2013, with funding running out in FY 2017.[8]

H.R. 6841 reauthorizes the CELCP, which the bill renames as the Coastal and Estuarine Resilience and Restoration Program, at $60 million annually through FY 2028.

H.R. 6841 also reauthorizes the National Estuarine Research Reserve System at $47 million annually through FY 2028. The legislation requires the Secretary of Commerce to designate five additional national estuarine reserves within five years of enactment. In reauthorizing this program, the Secretary is directed to establish research guidelines with estuarine systems and adds direction to establish methods to model the impact of sea level rise. The reauthorization also directs the Secretary to use the System's reserves as the "preferred placements for fellowship and research positions for the National Oceanic and Atmospheric Administration."[9]

H.R. 6841 has 9 Republican cosponsors and 8 Democrat cosponsors.

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[1] NOAA Office for Coastal Management. Coastal Zone Management Act. https://coast.noaa.gov/czm/act/.

[2] NOAA Office for Coastal Management. The National Coastal Zone Management Program. https://coast.noaa.gov/czm/.

[3] NOAA Office for Coastal Management. National Estuarine Research Reserves. https://coast.noaa.gov/nerrs/.

[4] NOAA Office for Coastal Management. National Estuarine Research Reserves Overview. https://coast.noaa.gov/nerrs/about/.

[5] *Id.*

[6] NOAA Office for Coastal Management. The Coastal and Estuarine Land Conservation Program. https://coast.noaa.gov/czm/landconservation/.

[7] *Id.*

[8] Congresswoman Jen Kiggans. Kiggans, Colleagues Introduce Bipartisan Bill to Protect Coastal Ecosystems. December 23, 2023. https://kiggans.house.gov/posts/kiggans-colleagues-introduce-bipartisan-bill-to-protect-coastal-ecosystems.

[9] H.R. 6841. https://www.congress.gov/118/bills/hr6841/BILLS-118hr6841ih.pdf.

H.R. 7925 (Rep. D'Esposito, R-NY), "*Modernizing Access to Our Public Oceans (MAPOceans) Act*"

The United States' waterways serve commercial and recreational industries critical to the domestic and global economy. Operating on the water safely and effectively requires a wide variety of data, including the types of vessels allowed to operate and other restrictions that may be in place. The restrictions and data can vary from region to region, which can often cause confusion.

The MAPOceans Act seeks to make this information readily accessible. Specifically, the legislation directs the Secretary of Commerce to work with stakeholders to develop standards to collect and disseminate information. Such information includes when federal waterways are open, no-wake zone areas or speed restrictions, the types of vessels allowed, or the boundaries of fishing restrictions. The Secretary would also be required to consult the public on the data used and its accessibility.

The Secretary would be required to make this data available within four years of enactment of this legislation, publishing it on a public website and ensuring that the data is organized in a user-friendly way. Additionally, the legislation requires the Secretary to update this data no less than twice a year.

Given the changing dynamics of our federal waterways—with restrictions and protocols varying from region to region—ensuring that this information is publicly available and updated regularly will give our ocean users the most up-to-date information. This will enhance the recreational experience, encourage compliance with applicable laws and regulations, and support industries that are vital to the American economy.

H.R. 7925 has 6 Republican cosponsors and 10 Democrat cosponsors.

H.R. 8704 (Rep. Carter, R-GA), To require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and North Atlantic right whales and other large cetacean species.

Several critical sectors of the American economy operate on America's waters, including along the Atlantic Coast. Whether it's fishing, tourism, or recreation, the vessels supporting these activities vary in size and operate at different speeds. America's waters, and the Atlantic coast, are also home to several endangered species like the North Atlantic right whale. The multiple uses of the United States' natural resources require effective strategies to protect endangered species that do not unnecessarily inhibit or burden ocean users.

Since 2008, NOAA has enforced a 10-knot speed limit on vessels 65 feet and longer to prevent them from striking the North Atlantic right whale.[10] While this restriction has made progress in preventing and reducing vessel strikes,[11] several stakeholders have advocated for using technologies that allow vessel operators to detect whales in real time.[12]

In August of 2022, NOAA proposed an update to the current vessel speed restriction rule, expanding it to include vessels from 35 to 65 feet.[13] Throughout the comment period, stakeholders and industries have told NOAA that this proposed expansion will dramatically limit outdoor recreation sectors. Outdoor recreation contributed more than $550 billion, or 2.2 percent, to the United States' gross domestic product (GDP) in 2022.[14] If implemented, the expanded restrictions that are

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[10] 50 C.F.R. § 224.105; National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), "Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule," 87 Federal Register 46921-46936, August 1, 2022. Hereinafter NOAA, NMFS, "Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule."

[11] National Marine Fisheries Service Office of Protected Resources. North Atlantic Right Whale (Eubalaena glacialis). Vessel Speed Rule Assessment. June 2020. https://media.fisheries.noaa.gov/2021-01/FINAL_NARW_Vessel_Speed_Rule_Report_Jun_2020.pdf?null.

[12] National Marine Manufacturers Association. Recreational Boating Industry Decries Advancement of Vessel Speed Rule. March 7, 2024. https://www.nmma.org/advocacy/news/24641#:~:text=Proposed%20by%20NOAA%2C%20the%20rule,up%20the%20recreational%20boating%20industry.

[13] 50 C.F.R. § 224.105; National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), "Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule," 87 Federal Register 46921-46936, August 1, 2022. Hereinafter NOAA, NMFS, "Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule."

[14] U.S. Bureau of Economic Analysis. Outdoor Recreation Satellite Account, U.S. and States, 2022. https://www.bea.gov/news/2023/outdoor-recreation-satellite-account-us-and-states-2022.

currently under review at the Office of Management and Budget's Office of Information and Regulatory Affairs [15] will have devastating consequences.

Last June, this Subcommittee held an oversight hearing on this issue. Witnesses representing marine manufacturers, marine pilots, and charter boats discussed how expanding the existing vessel speed restriction rule would increase safety concerns, threaten industries that depend on the maritime sector, and cause inefficiencies at ports along the East Coast. Information from that hearing, including testimony, can be found here, and the hearing memo can be found here.

H.R. 8704 prevents the devastating impacts of the proposed rule by requiring the existing rule that has been in place since 2008 to remain in place until December 31, 2030. Additionally, the legislation creates a new grant program administered by the National Fish and Wildlife Foundation (NFWF) to deploy innovative technologies and other best practices to limit vessel strikes and other harmful interactions between ocean users and species like the North Atlantic right whale. This legislation will provide regulatory certainty to stakeholders, encourage innovation, and ensure that endangered species like the North Atlantic right whale are protected.

H.R. 8704 has 2 Republican cosponsors and 1 Democrat cosponsor.

H.R. 8705 (Rep. Graves, R-LA), *"Fisheries Data Modernization and Accuracy Act"*

NOAA's data collection and broader fisheries management efforts, including their Marine Recreational Information Program (MRIP), have long been the subject of criticism and concern. Last year, the Center for Sportfishing Policy (CSP) released its "Modern Fish Act Implementation Report," which monitored and graded the federal government's implementation of the Modernizing Recreational Fisheries Management Act of 2018 (Modern Fish Act).[16] According to CSP, the Modern Fish Act "recognizes that recreational and commercial fishing are fundamentally different endeavors and should be managed accordingly." [17] While the report indicated that NMFS is improving on implementing this law, CSP indicated that the agency is "not yet meeting expectations" regarding the statute's section requiring the improvement of federal-state cooperative data collection or recreational data collection.[18]

In April of 2024, several members of the Committee on Natural Resources sent a letter to NOAA's Assistant Administrator for Fisheries, Janet Coit, expressing concern with NOAA's continued reliance on the MRIP, stating that utilizing the survey is "causing premature fishery closures across the country, limiting both economic and recreational opportunities." [19]

H.R. 8705 seeks to reform MRIP to ensure that the best available science and data are used by NOAA as it makes fisheries management decisions. The legislation directs NOAA to establish a standing committee with the National Academies of Science, Engineering, and Medicine (NAS). Through the standing committee, NOAA and the NAS are directed to meet regularly to work on recreational fisheries management and data collection issues. They are specifically directed to consider whether MRIP data is "appropriate and useful for management decisions" [20] and how the NAS' activities "can and should be applied in light of the particular context of the fishery being considered." [21]

To encourage better management decisions, the legislation would also require the Secretary to publish stock assessment plans in the Federal Register to ensure they're regularly updated. The legislation would also allow the Administrator of NOAA to partner with the private sector to incorporate additional abundance surveys.

Finally, the legislation also gives states the ability to develop their own recreational fishery data collection programs and would create a new grant program within six months of enactment to encourage those efforts.

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[15] RIN 0648-BI88. Received date: March 5, 2024. https://www.reginfo.gov/public/jsp/EO/eoDashboard.myjsp?agency_cd=0600&agency_nm=DOC&stage_cd=3&from_page=index.jsp&sub_index=0.

[16] 2023 Modern Fish Act Implementation Progress Report, Center for Sportfishing Policy. http://www.sportfishingpolicy.com/2019-modern-fish-act-implementation-progress-report/.

[17] *Id.*

[18] *Id.*

[19] Letter to Assistant Administrator Coit. April 18, 2024. https://garretgraves.house.gov/uploadedfiles/2024.04.18_bicameral_ltr_to_nmfs_re_fisheries_data.pdf.

[20] H.R. 8705. "Fisheries Data Modernization and Accuracy Act." https://www.congress.gov/bill/118th-congress/house-bill/8705?q=%7B%22search%22%3A%22hr+8705%22%7D&s=2&r=1.

[21] *Id.*

IV. MAJOR PROVISIONS & ANALYSIS

H.R. 6841 (Rep. Levin, D-CA), To amend the Coastal Zone Management Act of 1972 to allow the Secretary of Commerce to establish a Coastal and Estuarine Resilience and Restoration Program, and for other purposes.

- Amends the Coastal Zone Management Act of 1972 to reauthorize the Coastal and Estuarine Resilience and Restoration. This program expired in 2013 and would be funded at $60 million annually through 2028.
- This bill also reauthorizes the National Estuarine Research Reserve System Program and requires the Secretary to designate five new national estuarine reserves within five years. This program would be funded at $47 million per year through 2028. The bill directs the Secretary to consider the impact of sea rise on estuarine systems and requires the Secretary to develop system-wide programs to improve the management of the System.

H.R. 7925 (Rep. D'Esposito, R-NY), "*Modernizing Access to Our Public Oceans (MAPOceans) Act*"

- This bill directs the Secretary to create a publicly accessible website that includes information and data relating to recreational use of Federal waterways. This data includes restrictions on motorized propulsion, entry closures, fishing restrictions, permissibility of certain boats, and more. The bill directs the Secretary to make this data publicly available within four years.

H.R. 8704 (Rep. Carter, R-GA), To require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and North Atlantic right whales and other large cetacean species.

- Stipulates that the vessel speed restriction rule to protect the North Atlantic right whale that was finalized in 2008 shall remain in place until December 31, 2030.
- Authorizes a grant program from NOAA to be administered by the NFWF to reduce vessel strikes and other dangerous interactions between vessels and large cetacean species, including the North Atlantic right whale.

H.R. 8705 (Rep. Graves, R-LA), "*Fisheries Data Modernization and Accuracy Act*"

- Reforms the Marine Recreational Information Program (MRIP) within NOAA. The legislation directs the Administrator to enter into an agreement with the National Academies of Science, Engineering, and Medicine to collaborate on recreational fisheries management.
- The legislation also gives states the ability to create their own recreational fishery catch data collection program; if such a program is created, NOAA would be required to use the data that the state collected.
- Establishes a grant program for states to develop their own data collection programs or improve existing programs.

V. COST

The Congressional Budget Office has not provided cost estimates for these bills.

VI. EFFECT ON CURRENT LAW

H.R. 6841

H.R. 8705

LEGISLATIVE HEARING ON H.R. 6841, TO AMEND THE COASTAL ZONE MANAGEMENT ACT OF 1972 TO ALLOW THE SECRETARY OF COMMERCE TO ESTABLISH A COASTAL AND ESTUARINE RESILIENCE AND RESTORATION PROGRAM, AND FOR OTHER PURPOSES; H.R. 7925, TO PROVIDE FOR THE STANDARDIZATION, PUBLICATION, AND ACCESSIBILITY OF DATA RELATING TO PUBLIC OUTDOOR RECREATIONAL USE OF FEDERAL WATERWAYS, AND FOR OTHER PURPOSES, "MODERNIZING ACCESS TO OUR PUBLIC OCEANS ACT"; H.R. 8704, TO REQUIRE THE SECRETARY OF COMMERCE TO ESTABLISH A GRANT PROGRAM TO FOSTER ENHANCED COEXISTENCE BETWEEN OCEAN USERS AND NORTH ATLANTIC RIGHT WHALES AND OTHER LARGE CETACEAN SPECIES; AND H.R. 8705, TO REQUIRE THE ADMINISTRATOR OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION TO REFORM THE MARINE RECREATIONAL INFORMATION PROGRAM OF THE NATIONAL MARINE FISHERIES SERVICE, AND FOR OTHER PURPOSES, "FISHERIES DATA MODERNIZATION AND ACCURACY ACT OF 2024"

Thursday, June 27, 2024
U.S. House of Representatives
Subcommittee on Water, Wildlife and Fisheries
Committee on Natural Resources
Washington, DC

The Subcommittee met, pursuant to notice, at 9:31 a.m. in Room 1324, Longworth House Office Building, Hon. Cliff Bentz [Chairman of the Subcommittee] presiding.

Present: Representatives Bentz, Wittman, Graves, Radewagen, Carl, Hageman; Huffman, Levin, Hoyle, Magaziner, Porter, and Case.

Also present: Representatives Carter, D'Esposito, Fry; and Beyer.

Mr. BENTZ. The Subcommittee on Water, Wildlife and Fisheries will come to order.

Good morning, everyone. I want to welcome Members, witnesses, and our guests in the audience to today's hearing.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

Under Committee Rule 4(f), any oral statements at hearings are limited to the Chairman and the Ranking Member. I, therefore, ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted in accordance with the Committee Rule 3(o).

Without objection, so ordered.

I also ask unanimous consent that the Congressman from New York, Mr. D'Esposito; the Congressman from Georgia, Mr. Carter; and the Congressman from South Carolina, Mr. Fry, be allowed to participate in today's hearing.

Mr. HUFFMAN. No objection. May I request unanimous consent that Mr. Beyer from Virginia be allowed to similarly participate?

Mr. BENTZ. So ordered.

We are here today to consider four legislative measures: H.R. 6841, to amend the Coastal Zone Management Act of 1972 to allow the Secretary of Commerce to establish a coastal and estuarine resilience program, and for other purposes, sponsored by Representative Levin of California; H.R. 7925, the Modernizing Access to Our Public Oceans Act, sponsored by Representative D'Esposito of New York; H.R. 8704, to require the Secretary of Commerce to establish a grant program to foster enhanced co-existence between ocean users and North Atlantic right whales and other large, cetacean species, sponsored by Representative Carter of Georgia; and H.R. 8705, the Fisheries Data Modernization and Accuracy Act of 2024, sponsored by Representative Graves of Louisiana.

I now recognize myself for 5 minutes for an opening statement.

STATEMENT OF THE HON. CLIFF BENTZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. BENTZ. I want to thank the Members that are joining us today and their interest in the bills we are considering.

I also want to thank the witnesses that traveled to Washington to be here. We look forward to hearing from you.

Historically, the United States has managed our natural resources in a way that recognizes the benefits of their multiple uses. NOAA's work in doing so to protect America's coasts, marine mammals, and fisheries, among other things, requires the most up-to-date science, data, and research to make decisions. This morning, we are considering four bills that would address critical issues within the National Oceanic and Atmospheric Administration that relate to that objective.

Congressman D'Esposito's MAPOceans Act looks to make important data from NOAA easily accessible to the multiple users of our ocean resources. The recreational and commercial industries that operate on America's waters require an immense amount of data, including when waterways are open and closed, and other restrictions relating to vessel speed and fishing.

Congressman D'Esposito's legislation directs NOAA to work with stakeholders and the public to determine what data should be included, and publish it on a publicly available website, with an emphasis on user access. This effort builds on similar pieces of legislation that this Committee has advanced this Congress. I appreciate Congressman D'Esposito's championing this legislation which will enhance safety and improve the recreational experience for ocean users.

Congressman Levin's bill would reauthorize two programs created by the Coastal Zone Management Act of 1972. The bill reauthorizes the National Estuarine Research Reserve System. The program was created to provide the research, training, and education necessary to conserve and study estuarine systems. Today, it serves as a network of 30 coastal sites covering 1.4 million acres of study area, offering information on non-point source pollution, community resilience, habitat restoration, and invasive species.

The bill also reauthorizes the Coastal and Estuarine Land Conservation Program, which conserves coastal lands that hold ecological or historic importance.

We are also considering Congressman Garret Graves' Fisheries Data Modernization and Accuracy Act. This bill builds on this Subcommittee's efforts to ensure that NOAA uses the most accurate data in managing the United States' recreational fisheries.

In April this year, many members of this Subcommittee signed a bicameral letter to NOAA's Assistant Administrator for Fisheries, Janet Coit, expressing frustration with the continued failures of the Marine Recreational Information Program, or MRIP. Interestingly, since this program is not used on the West Coast, there are clearly better ways to manage the recreational fishing. Clearly, it is time to move away from MRIP.

Congressman Graves' bill would require NOAA to enter into an agreement with the National Academies of Science, Engineering, and Medicine to develop a standing committee made up of experts in recreational fishing data collection to improve the management process. It would also develop a process for states to gain NOAA's approval to establish their own recreational fishery data collection program.

Finally, there are few issues that have faced more criticism in this Congress than proposed changes to NOAA's vessel speed rules on the East Coast.

Let me start with the obvious. There is no member of this Committee that seeks to harm an endangered species like the North Atlantic right whale. However, in August 2022, NOAA proposed a dramatic expansion of this rule to vessels as small as 35 feet. We have repeatedly heard from stakeholders that this expansion would cause tremendous harm to the nation's sports recreational industries, and the manufacturing and retail industries that support outdoor recreation.

Congressman Carter's legislation would do two critical things. First, it would keep the existing 2008 speed restriction rule in place through the end of the decade, providing regulatory certainty to stakeholders. It would also establish a grant program administered by NOAA and the National Fish and Wildlife Foundation to develop new technologies to reduce vessel strikes and develop

additional mitigation measures. This bill represents the path forward that NOAA should have taken to address this issue from the beginning.

I want to once again thank the Members and the witnesses for their time and interest today. I look forward to a robust discussion.

With that, I recognize the Ranking Member for 5 minutes.

STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HUFFMAN. Thank you, Mr. Chairman. Good morning, everyone.

Welcome to the Water, Wildlife and Fisheries Subcommittee, a subcommittee that, by virtue of its authority and title, should be working to find solutions that recover fisheries and endangered species, that ensure marine ecosystems and coastal communities actually thrive. But too often, and in this case with two bills we are considering today, we are considering efforts that do the opposite of those objectives.

So, the two bills before us would undermine the best available science, make it harder for a Federal agency like NOAA to comply with the law. And worse, instead of helping boaters and fishermen, the stated objectives of this legislation, bills like H.R. 8704 and H.R. 8705 will probably backfire, resulting in more punitive restrictions on fishing in the end, and boating, precisely the opposite of what the sponsors are trying to achieve.

Look, one year ago this Subcommittee had a hearing on NOAA's proposed Vessel Speed Rule, which will help North Atlantic right whale mortality, help save this critically endangered species from extinction because of vessel strikes. And guess what? Since that hearing, the evidence for a stronger Vessel Speed Rule has only grown. At least four right whales have died from vessel strikes since January, though we can only afford to lose less than one per year if the population is to recover, according to scientists.

By law, NOAA is required to do more in this situation in order to limit right whale deaths from vessel strikes. Even the former administration, the one with the convicted felon from New York, recognized that additional measures were needed. They identified strategies such as vessel speed reductions for smaller vessels and mandatory seasonal slow zones for consideration.

H.R. 8704 blocks any updates to a 2008 Vessel Speed Rule until 2031, an arbitrary date. And this is what happens when Members of Congress mess with science and try to be wildlife biologists. The North Atlantic right whale could well be on the verge of functional extinction by that point.

And to make up for this essentially warm embrace of extinction, this legislation includes a token grant program with a one-time authorization of $10 million. Now, Congress enacted a similar grant program 2 years ago, and lest one confuse this grant program as a sign that my colleagues are interested in protecting right whales and developing technology to help ocean users and marine life co-exist, let me demystify this for you and explain why that little grant program is in the bill. It is tacked on in order to secure some jurisdiction before the Natural Resources Committee, because otherwise this is a bill that would go to the Transportation and

Infrastructure Committee, where it would probably not see the light of day.

Turning to H.R. 8705, the Fisheries Data Modernization and Accuracy Act of 2024, we have another example of sticking our heads deeper into the sand for the answer to improving the problem. And I will admit, we have a problem with the certainty of NOAA's recreational fishing data. But the answer should not be to arbitrarily replace it with, in many cases, data that is even worse.

I won't defend the current state of recreational fishing data collected by NOAA, the states, the fishery commissions through various surveys and methods. It needs to get better. The Marine Recreational Information Program, or MRIP, is then responsible for taking all this data and making sense of it, all these different lines of data, turning them into recreational catch estimates. And yes, there are known issues.

But the goal here should be recreational catch estimates with low uncertainty. Likely, if we do that, it would allow people to fish more while maintaining recoverable stocks. But using all the data, and strengthening the data sources is how we reduce that uncertainty. That is the smartest path forward. However, the legislation that is being proposed today says that if the data passes a certain specific threshold of uncertainty, there is an automatic stop on using Federal data, and that NOAA would only be allowed to use state data, even if it is worse than the Federal data. And while you are at it, NOAA would be disallowed from further work to calibrate the data.

So, this bill directs recreational fishing estimates to be made on a smaller subset of data and limits the math that NOAA can use to help the data make sense. That is not good policy.

You lose a lot when you do this, by the way. Baselines and long-term estimates are ignored, and there is no continuity across data collection methods. In short, you probably increase the uncertainty that you set out to improve at the beginning.

This bill doesn't solve the known problems with recreational data, and it doesn't improve the accuracy or the precision of the MRIP program. The best thing Congress can do right now is to step back and let NOAA, the states, and the commissions finish their research and collaborative efforts to make the data better.

With that, Mr. Chairman, we do have two bills that I am happy to support before us today. I look forward to the conversation.

I yield back.

Mr. BENTZ. I will now introduce our first panel. As is typical with legislative hearings, the bills' sponsors will be recognized for 5 minutes each to discuss their bills.

With us today is Congressman Graves, who is recognized for 5 minutes.

STATEMENT OF THE HON. GARRET GRAVES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. GRAVES. Thank you, Mr. Chairman. I appreciate all of you being here today, and look forward to your testimony.

I will note I am going to be bouncing back and forth between two committees today, so I may not be here for all of it. I want to

apologize on the front end, but thanks again for being here, and I look forward to engaging you in questions a little bit later.

We are excited today because one of the bills that is on the agenda is our legislation, and the legislation is H.R. 8705, that helps to improve the data collection that my friend from California was just speaking about. I want to put things in practical terms.

First of all, years ago, in regard to red snapper, the area where I represent and Congressman Carl represents, we were facing 3 to 9 days of fishing, 3 to 9 days. When I was a kid growing up, we could fish year round. This is part of our culture in South Louisiana. It is one of the recreational opportunities, and something that we often do with families growing up, and enjoying the bounty of the Gulf of Mexico. I want to be crystal clear. The last thing in the world I would ever do is push legislation or anything that would undermine or jeopardize the sustainability of fisheries. It is selfish, it is, quite frankly, in a word, just stupid. And I would never do that.

But what we were able to do, against the efforts of people, including my friend Mr. Huffman, is we were able to actually migrate to a state-based management system. And as a result of that, we were able to fish in recent years 250 days, yet doing it with improved data, and doing it in a way that actually left a cushion between what was projected to be sustainable fisheries and being over-fished. So, again, we left a cushion in there to ensure that we intentionally under-fished.

Now, the data that my friend from California is trying to protect is data that has been proven, and I want to thank Dr. Howell for coming out and acknowledging this as data that has shown that it had projected over 30 percent over-fishing, totally inaccurate, totally inaccurate. And that was the data that my friend from California is here defending.

Further, when independent academia was given the opportunity to come in, they were given the opportunity to come in and able to look in an independent assessment, not using state data, not using Federal data. They found that the data that was being used to manage fisheries by the Federal Government in the Gulf of Mexico had under-counted fish substantially. As a matter of fact, the great red snapper count found that the abundance of fish was three times the number of red snapper that were actually being managed under the Federal data.

So, said another way, if Federal data said there were 100 fish, this independent assessment by academia came in and said no, there are 300. So, this data that my friend from California is here trying to protect and calling sacrosanct could not be more wrong.

Now, I do want to thank Dr. Howell, who I think has been very constructive in coming in.

First of all, I want to thank you for acknowledging that there were errors in the Federal data, but also your efforts to try to take some of the more accurate data, proven, accurate data that is being collected by the states, including my home state of Louisiana under the LA Creole program, and trying to find ways to incorporate that or work on a calibration where the data collected by the various states, and I know that Ms. Guyas is going to be talking about that a little bit today, is data that is more accurate, more dynamic,

more live, and allows you to actually manage fisheries in a dynamic manner in season.

So, look, bottom line is that the way that we have written this bill is that it builds upon some of the lessons, and works to build better science to build fisheries dependent, which is the data that is being collected by the actual fishers, by the states, as well as independent fish data, which goes out there and just does independent stock assessments absent of the participation of the actual fisheries.

But I think it is really important that at the end of the day, we are using the best science available. And if we have calibration issues where there is less accurate data or different metrics of data, we have to make sure that we can incorporate those and make them be able to actually be utilized or speak to one another.

But one of my major concerns is that we are going to take the data that Ms. Guyas in Florida, the state of Louisiana, and others have done that is more accurate, and we are going to basically dumb it down to calibrate it to the Federal system versus going the other way around. If our data is more accurate, we need to use the data with more specificity, and that is exactly what our bill does.

So, again, Mr. Chairman, more accurate data, better management of the fisheries, more dynamic and, at the end of the day, ensuring sustainable fisheries while balancing with access for both recreational and commercial fishing.

I yield back.

Mr. BENTZ. I thank Congressman Graves for his testimony. I now recognize Congressman Levin for 5 minutes.

STATEMENT OF THE HON. MIKE LEVIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. LEVIN. Thank you so much, Mr. Chairman, and thank you for including my bill, H.R. 6841, the Resilient Coasts and Estuaries Act, in today's hearing.

This bipartisan bill, which I introduced alongside my colleagues, Representatives Brian Mast, Jen Kiggans, and Suzanne Bonamici, would provide crucial funding for state and local governments to preserve our nation's coastal habitats.

I have been heartened by our success in building a strong, bipartisan coalition to protect our nation's treasured natural resources, and I am similarly glad that H.R. 7925, the bipartisan MAPOceans Act, which I co-lead with Representative D'Esposito, is also included in today's hearing.

This bill will help coastal communities like my own access the information they need to enjoy our beautiful waterways and protect them for years to come. I am proud to represent California's 49th Congressional District, which is home to over 50 miles of pristine coastline, as well as many cherished lagoons and other estuaries that are important for our local ecosystem, recreation, and economy.

Our region is also home to the Tijuana River Research Reserve, which supports vital work to clean up the heavily-polluted Tijuana River Valley, and provides important resources to coastal communities in my district. That is why I introduced the Resilient Coasts and Estuaries Act, which would strengthen efforts to protect

coastal and estuarine habitats by reauthorizing and revitalizing the Coastal and Estuarine Land Conservation Program, also known as CELCP.

CELCP has protected over 110,000 acres of locally owned and managed coastal and estuary land. However, Congress stopped funding this program in 2013, and other Federal funding mechanisms ran out in 2017. My bill would reauthorize this essential program at previous funding levels to help communities protect estuaries like the San Mateo Creek, San Luis Rey River, Buena Vista Lagoon, Batiquitos Lagoon, Agua Hedionda Lagoon, San Elijo Lagoon, and so many more in my district. We have six lagoons in my district.

My bill would also direct NOAA to designate five new National Estuarine Research Reserves over the next 5 years, and expand research guidelines to include long-term data monitoring and modeling on the impacts of climate change. This will expand the capacity of the reserve system to research, monitor, and support local conservation and management efforts across the country.

I am proud that this bill has strong bipartisan support from coastal areas all across the country, and I would like to ask for unanimous consent to enter into the record these letters of support from 36 different hunting, fishing, and conservation organizations, as well as the Batiquitos Lagoon Foundation, which is doing great work in my district.

Mr. BENTZ. Without objection.

Mr. LEVIN. Thank you, Mr. Chairman.

I would now like to turn to my questions.

Dr. Howell, my district is constantly grappling, oh, just testimony.

Sorry, I got ahead of my skis. That is what happens, Mr. Chairman, when I get here and then have to speak 60 seconds later. Thank you.

Mr. BENTZ. We thank Congressman Levin for his testimony. I now recognize Congressman Carter for 5 minutes.

STATEMENT OF THE HON. EARL L. "BUDDY" CARTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. CARTER. Thank you, Mr. Chairman, for allowing me to waive on to your Committee today, and for considering my bill, H.R. 8704.

The bill would, first and foremost, stop NOAA from finalizing the expanded vessel speed restriction rule first proposed in 2022, keeping the current rules in place.

NOAA is proposing to broaden the Atlantic right whale strike reduction rule by requiring vessels 35 to 65 feet in length to maintain a speed of roughly 11.5 miles per hour when a water is inhabited by right whales. The proposed rule would cause grave safety issues for recreational vessels and pilot vessels alike, as it presents a safety concern for traversing the shipping channels and safety issues at sea. You can imagine trying to drive a boat in the sea at 11.5 miles per hour. I mean, it is just dangerous to think about it.

Second, it creates a new grant program to encourage the development and employment of technology to reduce vessel strikes of endangered species like the North Atlantic right whale. This is important because there are technological innovations available,

and I want to stress that. I am not just offering something to stop something, I am offering solutions to it.

We care about the right whales. We need to protect the right whales. But we have to balance that with public safety and the needs for our coastal shipping economy. For example, buoys with sensors to help detect these whales have already been placed off Georgia's coast. Technology can play a key role in balancing the safety of both the right whale and boaters, as well as our coastal economy. This bill will allow us to expand use of those solutions.

Unfortunately, if this rule goes into effect, boaters who use 35-foot or larger vessels will simply not take fishing trips, and the market will die for these kinds of vessels. That is why the rule threatens 27,000 direct and indirect jobs, in Georgia alone, related to recreational fishing and boating. I have significant concerns about how this will impact the state's recreational boating industry, which has an annual impact of $4.3 billion.

NOAA's calculations for determining projected economic impacts of their rule are just wrong. They are flat-out wrong. To start, it estimates that this rule would make an economic impact of only $47 million. Suffice it to say, we all know in this room that that is more like $47 billion. In fact, estimates say that nearly $84 billion in negative impacts and jeopardizing Americans' 340,000 jobs.

It does not consider the differences in hull design between recreational and commercial vessels. Using NOAA's own data, the chance that a recreational vessel will strike a right whale is less than one in a million, less than one in a million.

There is bipartisan agreement that we can protect the endangered right whales without harming our ports and coastal communities. And we want to protect the right whales. I don't know of any boater who wants to hit a right whale. We want to protect them.

Harbor pilots must be considered in the crafting of this rule. I am very concerned, very concerned for both their safety and the port's overall operations. That is why I am very pleased to have my good friend, a former staffer, here in Washington, Jamie McCurry from the Georgia Ports Authority here today to testify on the impact this rule can have on our nation's ports.

I represent the entire coast of Georgia, two major seaports, the Port of Savannah and the Port of Brunswick. The Port of Savannah is the single largest and fastest-growing container terminal in America, in addition to being the second largest port on the East Coast by volume. The Port of Brunswick, the No. 2 roll-on, roll-off port in the country, their success has translated into growth and prosperity throughout the region, and this rule directly jeopardizes that.

Communities like ours depend on the ocean for our livelihoods. There is bipartisan agreement that we can protect the endangered right whales without harming our ports and coastal communities.

I want to share a story with you, Mr. Chairman. I was in Canada last year, and we were hearing from Meta Canada, and they were telling me, they said, "We can identify species in the wild."

And I asked them, I said, "Wait a minute, can you identify right whales in the wild?"

And they said, "Sure, we can."

I said, "Do you have to tag them?"

They said, "No, we have the technology now, we can tell you where they are at."

We are not just saying we don't want to protect the right whales. We do want to protect the right whales, and that is what this bill does, because it offers solutions, solutions that won't destroy our recreational fishing, and solutions that won't have a negative economic impact on our ports.

Again, thank you, Mr. Chairman, for considering this bill.

Thank you for allowing me to waive on, and I yield back.

Mr. BENTZ. I thank Congressman Carter for his testimony. I will now recognize Congressman D'Esposito for 5 minutes.

STATEMENT OF THE HON. ANTHONY D'ESPOSITO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. D'ESPOSITO. Thank you very much. Good morning, everyone, and thank you, Chairman Bentz, for allowing me to waive on to the Subcommittee hearing to speak about legislation myself and Representative Levin introduced, H.R. 7925, Modernizing Access to Our Public Oceans Act, or MAPOceans Act.

Thank you to the witnesses for coming here today to speak about the important issues that we have in front of us. I am also glad to see a fellow Long Islander and community leader, Jeff Strong, is here with us, as well. Thank you for taking the trip, and thank the members of the Committee for showing an interest in the MAPOceans Act.

The MAPOceans Act would create a publicly accessible website for recreational boaters, anglers, and those who use our coastal waterways, displaying up-to-date information on a variety of Federal waterway regulations and fishing restrictions off the coast. Available information includes the types of vessels allowed, when Federal waterways are available to use, no-wake zones, speed restrictions, geographic fishing restrictions, and even the types of fishing equipment allowed.

Furthermore, MAPOceans would digitize Geographical Information System data, which includes navigation information, depth charts, and other critical information.

The Secretary of Commerce, through NOAA, must cooperate and coordinate with Federal agencies, state agencies, interstate marine fisheries commissions, regional ocean partnerships, experts, the private sector, and non-profits in carrying out the legislation in this bill.

Navigating the water and abiding by Federal fishing regulations is often complicated for boaters and anglers. It is critical that this information is publicly available and easily accessible. The MAPOceans Act would allow recreational boaters, anglers, and others to have access to consolidated, up-to-date information that will enable them to follow the rules of the water and disseminate information in a real time, and be effective.

Not only would this legislation help recreational boaters and anglers, but it would benefit their critical industries. Strategic partnerships between Federal agencies such as NOAA, experts, and

the private sector will allow for the technological innovation, accelerating business and economic output within these two industries.

Providing digital information on fishing regulation, as well as mapping tools will allow for responsible and sustainable fishing off America's coastal waterways. The website's mapping of data could be used to ensure compliance in the fishing sector. Recreational fishing generates a significant amount of money for conservation efforts, and I am confident that new technology will only further conservation and achievements.

Like many coastal districts around the nation, my district on Long Island benefits economically from the recreational boating and fishing industry. I am confident that this bipartisan legislation would tremendously benefit my neighbors back home, as well as coastal communities across this great nation.

I look forward to hearing from my colleagues and the witnesses today, and I am confident that this hearing will be a positive first step in advancing this important legislation. Once again, thank you to the panel.

Mr. Chairman, thank you, I yield back.

Mr. BENTZ. I thank Congressman D'Esposito for his testimony, and I thank the other Members for their testimony. I will now introduce our second panel.

Dr. Evan Howell, Director of the Office of Science and Technology with the National Oceanic and Atmospheric Administration in Washington, DC; Ms. Martha Guyas, Southeast Fisheries Policy Director of the American Sport Fishing Association of Alexandria, Virginia; Mr. Jeff Strong, Chair of the Marine Retailers Association of the Americas, and President of Strong Marines in Mattituck, New York; Dr. Jessica Redfern, Associate Vice President for Ocean Conservation Science of the Anderson Cabot Center for Ocean Life in Boston, Massachusetts; and Mr. Jamie McCurry, Jr, Chief Administrative Officer of the Georgia Ports Authority in Savannah, Georgia.

Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record.

To begin your testimony, please press the "on" button on the microphone.

We use timing lights. When you begin, the light will turn green. When you have 1 minute remaining, the light will turn yellow. And at the end of the 5 minutes, the light will turn red, and I will ask you to complete your statement.

I will also allow all witnesses to testify before Member questioning.

I now recognize Dr. Howell for 5 minutes.

STATEMENT OF EVAN HOWELL, DIRECTOR, NATIONAL MARINE FISHERIES SERVICE OFFICE OF SCIENCE AND TECHNOLOGY, NOAA, U.S. DEPARTMENT OF COMMERCE, SILVER SPRING, MARYLAND

Dr. HOWELL. Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, thank you for the opportunity to provide comments from NOAA on H.R. 6841, H.R. 7925, H.R. 8704, and H.R. 8705. My name is Evan Howell, and I am the Director

of the Office of Science Technology within NOAA Fisheries, providing comments on behalf of NOAA.

In regard to H.R. 8705, Fisheries Data Modernization and Accuracy Act, NOAA recognizes the challenges and limitations associated with the current recreational fishing data collection partnership, known as MRIP. Many of the bill's main tenets highlight issues about which we share concerns and are actively working to address.

Currently, NOAA has a cooperative effort to improve the Federal-State framework to collaboratively produce more accurate and precise catch and effort estimates, which are critical for resource management. I and my staff have personally attended numerous council and commission meetings in the Gulf and Atlantic to continue to build partnerships, listen to ideas and concerns, and identify actions for positive impact and change together.

We support the core concept that all recreational data collection systems should have clear and universal standards. This is why we established the National Recreational Data Standards with input from states, commissions, councils, and the broader fishing community, and why we have also initiated an independent peer review of these standards by the National Academies Committee on National Statistics.

We do note, however, that the bill's requirements have significant resource implications on the agency through enhanced consultation based on the percent standard error thresholds and development of the grant program for state data collection. We look forward to working with the Committee to improve our shared Federal-State recreational data program.

Next, regarding H.R. 8704, North Atlantic right whales. Endangered North Atlantic right whales are among the most imperiled species on the planet. Since 2011, we have lost over 200 individual whales, primarily as a result of vessel strikes and entanglements in fishing gear. Our mandates under the Endangered Species Act and Marine Mammal Protection Act require us to reduce the risk to the species immediately to prevent the loss of any additional North Atlantic right whales.

The grant program included in this bill dovetails with our current efforts to develop and expand the use of technology-based innovations to promote co-existence between large whales and ocean users. NOAA remains fully committed to minimizing the regulatory burden on ocean users by investing in and adopting technology-based tools to reduce vessel strike risk to North Atlantic right whales. However, as it stands, there is no proven technology that can be adopted rapidly enough to reduce lethal vessel strikes of North Atlantic right whales and ward off extinction.

In light of the necessity of the rulemaking that will modify the North Atlantic right whale vessel speed regulations, NOAA opposes H.R. 8704. The species cannot wait until 2030 to finalize the amendments to the Vessel Speed Rule. Over the past few months alone, we have documented four right whale mortalities in the U.S. waters, three of which were from vessel strikes.

Next, regarding H.R. 7925, the Modernizing Access to our Public Oceans, we agree that NOAA could be the authoritative source for delivering fisheries access mapping data to the public and the

developers of apps, GIS, and navigational chart-plotting software and devices. NOAA is supportive of the vision of this bill to provide clear answers to the question, where can I fish?

We also fully agree that collaboration with partners will be key to the success of this bill, especially learning from innovators and data scientists already serving the fishing communities. Interagency coordination will also be critical to ensuring that the published data is complete and easily accessible to the public.

However, we note that there are some provisions in the bill, particularly the timelines for updating the information, that would be difficult to implement, given existing resources. With this in mind, NOAA acknowledges Congress' intent in increasing access to Federal waters for fishing while engaging the fishing community and building sustainable commercial and recreational fisheries.

Lastly, regarding H.R. 6841, Coastal and Estuarine Resilience and Restoration Program, this bill would authorize restoration efforts and prioritize investments that increase resilience and equity, and mitigate the effects of climate change and sea level rise, while preserving critical resources.

This bill would authorize non-governmental organizations to apply for a grant under the section, providing flexibility in cases where state or local governments are limited in their ability to take ownership of additional properties.

This bill would codify existing system wide and place-based programmatic components of the National Estuarine Research Reserves, including the Margaret A. Davidson Fellowship.

Finally, H.R. 6841 would require the designation of five new National Estuarine Research Reserves within 5 years. We are concerned with this requirement. The designation process is state-driven and involves considerable time to ensure state, tribal, local government, and public input and engagement. The timing, therefore, may be partly beyond NOAA's control.

We appreciate the opportunity to comment on these bills, and look forward to working with bill sponsors and Committee staff on our shared areas of interest and efforts to improve resource management and climate resilience. Thank you.

[The prepared statement of Dr. Howell follows:]

PREPARED STATEMENT OF DR. EVAN HOWELL, DIRECTOR, NOAA FISHERIES' OFFICE OF SCIENCE AND TECHNOLOGY

ON H.R. 6841, H.R. 7925, H.R. 8704, AND H.R. 8705

Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, thank you for the opportunity for the National Oceanic and Atmospheric Administration (NOAA) to provide comments regarding H.R. 6841—To amend the Coastal Zone Management Act of 1972 to allow the Secretary of Commerce to establish a Coastal and Estuarine Resilience and Restoration Program, and for other purposes, H.R 7925—Modernizing Access To Our Public Oceans (Map Oceans) Act, H.R. 8704—To require the Secretary of Commerce to establish a Grant Program to Foster Enhanced Coexistence between Ocean Users and NARW and other large cetacean species, and H.R. 8705—Fisheries Data Modernization and Accuracy Act of 2024. I am the Director of the Office of Science and Technology within NOAA's National Marine Fisheries Service (NMFS) providing comments on behalf of NOAA.

H.R. 6841—To amend the Coastal Zone Management Act of 1972 to allow the Secretary of Commerce to establish a Coastal and Estuarine Resilience and Restoration Program, and for other purposes

Coastal communities are home to nearly half the American population, support 54.6 million jobs, and contribute approximately $9.5 trillion to the U.S. economy. Of those who live in coastal counties, approximately 40 percent of the population fall into an elevated coastal hazard risk category. These include at-risk populations, such as children, older adults, households where English is not the primary language, and people living below the poverty line. For over 50 years, the Coastal Zone Management Act has provided a framework for the Federal government to work in partnership with state and local leaders to address the complex challenges facing our coasts and to ensure they can benefit generations to come.

H.R. 6841 would amend the Coastal Zone Management Act to expand the authority and funding authorization for the Coastal and Estuarine Land Conservation Program and National Estuarine Research Reserve System (Sections 307A and 315, 16 U.S.C. 1456-1 and 1461, respectively). The bill would expand the Coastal and Estuarine Land Conservation Program to authorize restoration efforts and prioritize investments that increase resilience and equity, and mitigate the effects of climate change and sea level rise, in addition to preserving recreational, ecological, cultural, and other benefits. It would also authorize non-governmental organizations to apply for a grant under this section provided that the organization has documented support from the lead state agency, ensures public access, and identifies how the property will be managed or transitioned to an eligible entity in the event that the organization is no longer in operation. This will provide flexibility in cases where state, territorial, Tribal or local governments are limited in their ability to take ownership of additional properties.

H.R. 6841 seeks to protect and restore coastal and estuarine lands and to expand and codify components of the National Estuarine Research Reserve System (NERRS) that ensure it is best positioned to meet the current and future needs of coastal communities. H.R. 6841 would modify the authorization for the National Estuarine Research Reserve System to require the designation of five new reserves within five years and codify existing systemwide and place-based programmatic components, including the Margaret A. Davidson Fellowship.

NOAA appreciates the intent of H.R. 6841 and your support for NOAA activities pursuant to the Coastal Zone Management Act. NOAA supports the authorization for the Coastal and Estuarine Land Conservation Program. NOAA is also supportive of the intent to expand the National Estuarine Research Reserve System; however, NOAA is concerned that the requirement to designate no less than five new estuarine reserves within five years of the bill's enactment may be infeasible. The designation process is state-driven and involves considerable time to ensure state, Tribal, local government, and public input and engagement. The timing, therefore, may be partly beyond NOAA's control.

NOAA is currently managing three proposed new designations, which has been a multi-year effort.

NOAA currently does not have the resources to implement this program and if enacted, NOAA would have to weigh these program needs against other priorities.

H.R. 7925—Modernizing Access to Our Public Oceans (MAP Oceans) Act

Recreational saltwater fishing and boating are traditional American activities that are integral to the culture and economies of coastal communities across the nation. These time-honored activities allow millions of people access to America's great outdoors each year, while generating billions of dollars in economic value.

NOAA's National Saltwater Recreational Fisheries Policy has a goal to promote inclusive public access to sustainable and abundant recreational fishing opportunities, especially understanding and addressing barriers and constraints to participation in recreational fisheries and stewardship.

As envisioned in the MAP Oceans Act, NOAA could would deliver fishing access mapping data to the public and the developers of apps, GIS and navigational chart plotting software and devices. Through the America the Beautiful initiative, the Fishery Management Councils and NOAA have for the first time built a national database of fishery managed areas. This, coupled with NOAA's Marine Protected Areas Inventory, provides the most complete picture to date of Federal fishery management measures. This national managed area database is an important step in achieving the goals of this bill, but we would also need to augment the area data with detailed information on where, when and how fishing can occur.

Safe navigation is key to the public accessing available commercial and recreational fishing resources. As mandated under the Coast and Geodetic Survey Act,

NOAA is responsible for providing charts and related information for the safe navigation of marine commerce. Our customers include the recreational boating and fishing communities that rely on the data nautical charts provide. NOAA will continue to provide navigational charts and fundamental data to the public so vessel operators can reach fishing grounds and return to port safely.

NOAA is supportive of The Modernizing Access to Our Public Oceans Act, and its vision of providing clear answers to the question: "Where can I fish?" We also fully agree that collaboration with partners will be key to the success of the Act, especially learning from innovators and data scientists who are already serving the fishing communities. In addition, we note that other Federal agencies, such as the U.S. Fish and Wildlife Service (FWS), have sole or joint jurisdiction over public recreational access to many coastal and/or marine waters. Interagency coordination between NOAA, FWS, and other Federal agencies will be critical to ensuring that the published data is complete and easily accessible to the public.

However, we note that many of the Act's requirements have significant cost implications to the agency, in particular the timelines for updating information. Implementing the Act could also place a financial strain on other Federal agencies who would need to coordinate with NOAA to ensure compatibility among Federal databases and, potentially, collect new information. NOAA currently does not have the resources to implement this program and if enacted, NOAA would have to weigh these program needs against other priorities.

With this in mind, NOAA looks forward to implementing the vision laid out by the MAP Oceans Act and increasing access to Federal waters for fishing while engaging the fishing community in building sustainable commercial and recreational fisheries.

H.R. 8704—To require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and NARW and other large cetacean species

Endangered North Atlantic right whales are among the most imperiled species on the planet, with an estimated total population of about 360 whales and only about 70 reproductive females remaining. Vessel strikes are one of the two leading causes of death to North Atlantic right whales. Since 2011, we have lost over 200 individual whales, primarily as a result of vessel strikes and entanglements in fishing gear.

Our mandates under the Endangered Species Act and Marine Mammal Protection Act require us to reduce the risks to the species to prevent the loss of any additional North Atlantic right whales. In addition to working with industry and partners on non-regulatory or technological tools that could help prevent additional deaths, we have been engaged in a rulemaking process to update the existing North Atlantic right whale vessel speed regulation to reduce risk of serious injury and death and begin to recover this species. We have also taken into account the best available science on the distribution of right whales and the risks they face. Investing in technological tools is a key aspect of our road to recovery, and NOAA Fisheries is taking steps to support development of new technologies to detect and reduce risk to whales. But until the promise of technological and other advancements can be proven, a more effective vessel speed rule is needed to minimize risk.

The final rule to modify the existing North Atlantic right whale vessel speed regulations is now with the White House Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget, for review under Executive Order 12866. The rule package was submitted to OIRA following careful consideration of the nearly 90,000 comments received during the 90-day comment period, and appropriate incorporation of this input. Because the rulemaking process is ongoing, we are unable to comment on any changes made to the proposed rule.

In light of this rulemaking, the National Marine Fisheries Service opposes H.R. 8704. Section 1 would explicitly prevent (through 2030) finalization of amendments to the vessel speed rule that would update the safety deviation provision and enhance protections needed to reduce the risk of extinction of North Atlantic right whales. Vessel strikes are an ongoing, unsustainable threat that NMFS has the statutory authority and mandate to address under the Endangered Species Act and the Marine Mammal Protection Act. Over the past few months alone, we have documented four right whale mortalities in U.S. waters. Three of these were consistent with vessel strikes as the cause of death, including one involving a young calf that was struck and killed by a boat estimated to be 35–57 feet in length.

The grant program included in this bill dovetails with our current efforts to develop and expand the use of technology-based innovations to promote coexistence between large cetaceans and ocean users. It will take years to evaluate the effectiveness of these innovative tools and even longer to fully operationalize them. NMFS

remains fully committed to minimizing the regulatory burden on ocean users by investing in and adopting technology-based tools to reduce vessel strike risk to North Atlantic right whales. However, as it stands, there is no proven technology that can be adopted rapidly enough to reduce lethal vessel strikes of North Atlantic right whale and ward off extinction, and the species cannot wait for decisive action until 2030.

H.R. 8705—Fisheries Data Modernization and Accuracy Act of 2024

NOAA Fisheries recognizes the challenges and limitations associated with the current recreational fishing data collection partnership. We are pleased to discuss the legislation aimed at further improving the Marine Recreational Information Program (MRIP). Many of the bill's main tenets highlight issues about which we share concerns and are actively working to address.

We agree with the authors of this bill that our shared recreational data program must focus on increased precision and accuracy of estimates; more collaborative feedback mechanisms for regional data review; national standardization practices that drive consistency across survey programs, support for state surveys; and independent expert review. To help achieve this, we have initiated a cooperative transparent effort to strengthen our Federal-State data partnership, beginning an initial information-gathering phase in May 2024, with plans to host external visioning workshops in 2025. These activities will identify actions for shared Federal-State process and data improvements, with the intent to implement actions and opportunities for change as they are identified through this process. A primary objective of this strengthening process is to collaboratively produce more accurate and precise catch and effort estimates to better inform the stock assessments that underpin management decisions that support sustainable fisheries. Through these actions, we will achieve the goal of finalizing an improved program framework driven by regional and state partner input by early 2026.

Parallel to this effort, we are working closely with our fisheries information networks, including the Gulf of Mexico Fisheries Information Network (GulfFIN), and state partners to improve partner review of preliminary estimates, as we recognize the importance of incorporating regional knowledge of fishing activity.

While we are already executing improvements in many of these areas, we will continue to advocate for all data systems to undergo continual improvement, and welcome options to enhance our current and future Federal-State program partnership.

We support the core concept that any recreational data collection system should have clear and universal standards that provide national coherence and regional flexibility. This was the basis for why we established national recreational fishing and survey and data standards with input from states, interstate marine fisheries commissions, fishery management councils, and the broader fishing community, and why we have initiated an independent peer review of these standards by the National Academies' Committee on National Statistics.

We are committed to continuing our work to improve precision and accuracy of estimates from both Federal and state surveys to best inform decision-making. In order for the data from any data collection system to be usable in regional resource management, it must be consistent and comparable across a full management region. We emphasize here that any new system will need to be compared to an existing survey time series to scientifically compare and track trends in fishing, which is critical for stock assessments. We want to highlight that any prohibition on the ability to calibrate any new survey with Federal MRIP data could negatively impact the scientific rigor of our existing data time series used in our stock assessment enterprise.

NMFS also remains committed to using the objective regional frameworks in place for Best Scientific Information Available (BSIA) decision making, which currently considers all available data, including data derived from State surveys. A recent example is the utilization of the Florida State Reef Fish Survey to make NOAA Fisheries management decisions for gag grouper.

We do note that H.R. 8705's requirements have significant resource implications on the agency. We support in concept the formation of an independent standing committee to discuss recreational fisheries data collection and management issues, and for consultation purposes when Percent Standard Error (PSE) exceeds an established threshold. The requirement for consultation as written will require additional resources to support the development of this new committee, and to support the level of consultation that would be required using the 30% PSE threshold for seasonal fisheries contained in this bill. Additionally, the establishment of a new grant program for development of state data collection systems would require new resources to ensure existing Federal-state shared data collection efforts could con-

tinue at current levels. NOAA currently does not have the resources to implement this program and if enacted, NOAA would have to weigh these program needs against other priorities.

Overall, NMFS appreciates the opportunity to comment on this bill and looks forward to working with the committee and staff on our shared areas of interest. This includes improving our recreational data collection capabilities to support effective resource management and maintain recreational opportunities.

QUESTIONS SUBMITTED FOR THE RECORD TO DR. EVAN HOWELL, DIRECTOR, NOAA'S OFFICE OF SCIENCE AND TECHNOLOGY

Dr. Howell did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Bentz

Question 1. Dr. Howell, during our hearing one of the criticisms that we heard of NOAA's proposed amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule was that NOAA failed to fully incorporate feedback from impacted industries. More specifically, stakeholders believe NOAA failed to consider technological solutions to reduce vessel strikes and other interactions with species like the North Atlantic right whale. During the hearing, you mentioned the technology workshop that NOAA held back in March. However, as has been noted on many occasions, the proposed rule was transmitted to the Office of Information and Regulatory Affairs (OIRA) on the same day as the workshop.

1a) How would NOAA have been able to incorporate any feedback or lessons learned at the workshop if the proposed rule was already submitted to OIRA before the workshop concluded?

Question 2. When you were asked if there were technological devices that would allow for vessel operators to detect whales while on the water, you stated that NOAA was currently going through the technology review.

2a) Wouldn't it be more effective to conduct a thorough technology review prior to moving ahead with the proposed amendments?

Question 3. Dr. Howell, on June 26th in an offshore wind briefing hosted by NOAA, Ms. Jenni Wallace, Director of NOAA Fisheries Office of Policy, went into detail describing the compensation program for businesses impacted by offshore wind lease sales.

Questions Submitted by Representative González-Colón

Question 1. H.R. 8705 seeks to reform NOAA's Marine Recreational Information Program (MRIP), which develops statistics on recreational fishing catch and effort. I've previously expressed concerns with the limited or lack of recreational fishing data for Puerto Rico included within the program. I understand the latest available recreational statistics for Puerto Rico are from 2016, given data collection efforts on the Island were suspended in late 2017 following Hurricane Maria.

In response to questions I submitted last year, NOAA indicated that the Caribbean MRIP Regional Implementation Team was working on developing alternative survey designs for both Puerto Rico and the U.S. Virgin Islands that can generate reliable catch statistics. NOAA further indicated that it believed the team could complete this effort in 2023, and that once feasible and statistically sound designs were identified, it would work with regional partners to assemble the necessary resources and commence recreational effort and catch data collection in both territories.

Could you provide an update on the status of this initiative and discuss NOAA's efforts to support the resumption of recreational fishing data collection efforts in Puerto Rico?

Questions Submitted by Representative Carl

Question 1. Dr. Howell, during your tenure at NOAA, you have been actively engaged in efforts to reform the management of our recreational fisheries. In what ways do you think NOAA can most effectively incorporate independent, third-party surveys and the work of state agencies to help manage our nation's fisheries?

Questions Submitted by Representative Levin

Question 1. Dr. Howell, my district is constantly grappling with coastal issues, but we have seen firsthand how wetland and estuary habitats not only support vibrant and diverse ecosystems, but also provide economic benefits and help to protect against erosion. Can you speak to how the Coastal and Estuarine Land Conservation Program (CELCP) and the National Estuarine Research Reserve System support the resilience and economies of coastal communities across the country?

Mr. BENTZ. Thank you, Dr. Howell. I now recognize Ms. Guyas for 5 minutes.

STATEMENT OF MARTHA GUYAS, SOUTHEAST FISHERIES POLICY DIRECTOR, AMERICAN SPORTFISHING ASSOCIATION, TALLAHASSEE, FLORIDA

Ms. GUYAS. Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, thank you for inviting me to speak on behalf of the American Sportfishing Association regarding the Fisheries Data Modernization and Accuracy Act of 2024.

ASA's mission is to look out for the interests of the sportfishing industry and the entire recreational fishing community. Recreational fishing is a deeply American activity, with 57.7 million participants in 2023 supporting more than 945,000 jobs and contributing $148 billion to the economy.

In addition, fishing connects people to the outdoors and provides substantial funding for conservation. Fishing participation is dependent on access and healthy fisheries. Incredible data on catches and fishing effort, along with information about the biology and ecology of fish stocks, are critical to ensuring fishery stock assessments accurately characterize the status of stocks and, in turn, ensure that management decisions are informed by the best available science.

Too often, especially where I live in the Southeast, stock assessments that are used to inform management decisions have high levels of uncertainty due to unreliable or sparse fishery data. This uncertainty can have severe implications for fish stocks, anglers, businesses, communities, and the economy. ASA commends Congressman Graves for introducing the Fisheries Data Modernization and Accuracy Act to address these issues and improve confidence in the scientific information used for fisheries management.

The bill proposes reforms to the Marine Recreational Information Program, or MRIP, which is a NOAA program designed to provide big-picture information on recreational fishing trends. In Federal fisheries management, MRIP estimates are used to manage fisheries to exact poundage-based annual catch limits.

Fishermen, managers, states, and other stakeholders have expressed concerns that MRIP estimates have high levels of

uncertainty and are too imprecise, and this has led to unrealistic catch estimates, unnecessary fishery closures, and erosion of public trust in fisheries management. A 2023 pilot study conducted by NOAA found that MRIP Fishing Effort Survey may be causing over-estimation of recreational catch in effort by 30 to 40 percent seems to validate these concerns.

Oftentimes, MRIP data are all that are available, so are considered best science, even though estimates may not meet NOAA established standards for use in management. However, in some cases states have created their own recreational data collection programs to better align data collection with management needs. Many of these state surveys, such as those conducted by California and Louisiana, are routinely used for Federal fisheries assessments and management, and are certified by NOAA fisheries, meaning they have been found to be scientifically sound.

The Fisheries Data Modernization and Accuracy Act aims to address these issues and enhance recreational fishing data by doing two things: (1) encouraging improvement of MRIP by convening a National Academies panel of experts to consider options for how to improve MRIP estimates and management for seasonal fisheries in cases where no established data standards aren't being met, or where MRIP may not do a good job of estimating catching effort, such as for fisheries that are rarely sampled; and (2) building off the success of state-led data programs that are already out there, the bill would also facilitate states and NOAA working together to develop and enhance state-led data collection programs. Universal standards set by NOAA would ensure the programs are useful for management, while allowing flexibility to account for differences and recreational fishing activity among states.

Additionally, the Act would require coordinated stock assessment planning for priority species, which would help ensure the science used to manage important fisheries stays current.

The bill would also encourage improvement of fishery data by facilitating abundant surveys, similar to the Gulf of Mexico great red snapper count, and review lessons learned to provide insight on how to best apply results of similar studies in the future. Abundant surveys like this have a lot of potential to provide insights on stocks that can further improve management and assessment of fisheries.

Alongside H.R. 8705, ASA supports the three other bills being considered by the Subcommittee today. Those are the Resilient Coasts and Estuaries Act, which supports vital conservation programs for estuaries; the MAPOceans Act, which aims to digitize boating and fishing information for enhanced recreational opportunities; and H.R. 8704, which promotes the co-existence of ocean users and large cetaceans like the North Atlantic right whale through technological solutions, rather than overly restrictive regulations.

I appreciate the opportunity to provide the sport fishing industry's perspective on these important bills, and we are committed to working with the Committee to continue strengthening the management and conservation of our nation's natural resources. Thank you.

[The prepared statement of Ms. Guyas follows:]

PREPARED STATEMENT OF MARTHA GUYAS, SOUTHEAST FISHERIES POLICY DIRECTOR, AMERICAN SPORTFISHING ASSOCIATION

ON H.R. 8705

On behalf of the American Sportfishing Association, I am honored to have been asked to testify before the House Committee on Natural Resources Subcommittee on Water, Wildlife and Fisheries regarding legislation that affects marine resources and the recreational fishing industry.

The American Sportfishing Association (ASA) is the sportfishing industry's trade association committed to representing the interests of the sportfishing industry as well as the entire sportfishing community. We give the industry and anglers a unified voice when emerging laws and policies could significantly affect sportfishing business or sportfishing itself. ASA invests in long-term ventures to ensure the industry will remain strong and prosperous, as well as safeguard and promote the enduring economic, conservation and social values of sportfishing in America. Recreational fishing is truly an all-American activity. Our fisheries resources, which are held in the public trust and conserved through sound laws and policies, are envied the world over. In 2023, 57.7 million people went fishing in the U.S.[1] Recreational fishing supports 945,500 jobs and contributes $148 billion to the economy.[2] Fishing is the third most popular outdoor recreation activity, behind only running and hiking.[3]

All of this fishing activity supports the economy, connects people to the outdoors and provides substantial funding for conservation. Through fishing license purchases, excise taxes and direct donations, the recreational fishing community contributes approximately $1.7 billion toward aquatic resource conservation each year. I am confident in saying that no other user group contributes nearly as much toward ensuring our nation's waterways and fisheries are healthy and accessible to the public.

Fishing participation is dependent on two primary factors—access and healthy fisheries. Access can take several forms, including physical access to water (e.g., boat ramps, piers, public shorelines) and regulatory access (e.g., seasons, bag limits, size limits, closures). While simply being outdoors and wetting a line is a large part of the enjoyment of fishing, at some level, most people want to actually catch fish too. There are many more effective ways of catching fish than a rod, reel and hook, so for recreational fishermen to have a decent probability of encountering a fish, there have to be a lot of fish in the water.

In most cases, the foundation for fisheries management and conservation decisions is scientific information. Credible data on catches and fishing effort, along with information about the biology and ecology of fish stocks, are critical to ensuring fisheries stock assessments accurately characterize the status of stocks and in turn, ensure that management decisions are informed by the best science.

This is particularly the case with federal fisheries management, in which harvest is monitored relative to annual catch limits (ACLs), and accountability measures such as seasonal closures and ACL paybacks are used to constrain harvest. The federal government, via the National Oceanic and Atmospheric Administration (NOAA), manages fisheries in the exclusive economic zone (EEZ), which for the purpose of fisheries management is 3–200 miles off the South Atlantic coast and 9–200 miles in the Gulf of Mexico.

H.R. 8705 "Fisheries Data Modernization and Accuracy Act of 2024"

Too often, especially in the southeastern U.S. where I live, fisheries stock assessments have high levels of uncertainty (if assessments are even available) due to unreliable or sparse fishery data. The uncertainty caused by use of questionable fishery data to inform the status of fisheries and make management decisions can have severe implications for fish stocks, anglers, businesses, communities and the economy. ASA commends Congressman Graves for introducing the Fisheries Data

[1] Recreational Boating and Fishing Foundation. 2024 Special Report on Fishing. Available online at: https://www.takemefishing.org/getmedia/7d775bde-f3a1-4f97-b9bb-845dcb9e05ba/Special-Rport-2024-Infographic.pdf

[2] American Sportfishing Association. 2023 Economic Contributions of Recreational Fishing. Available online at: https://asafishing.org/economic-impacts-of-recreational-fishing/

[3] Outdoor Foundation. 2021 Participation Trends Report. Available online at: https://outdoorindustry.org/wp-content/uploads/2015/03/2021-Outdoor-Participation-Trends-Report.pdf

Modernization and Accuracy Act of 2024 to address these issues and improve confidence in the scientific information used for fisheries management.

The Marine Recreational Information Program (MRIP) is a NOAA program that provides estimates of recreational fishing catches and trips that occur from Maine to Mississippi and Hawaii. These data are used to assess and manage state and federal fisheries in the Atlantic, Gulf of Mexico and Hawaii. MRIP is the product of two different components:

1. Dockside interviews administered by state partners that gather information on angler catch rates (i.e., number, types and sizes of fish caught); and
2. A mail survey administered by NOAA known as the Fishing Effort Survey (FES), which is used to estimate fishing effort (i.e., the number of fishing trips that occur).

For years, MRIP catch estimates have been a source of contention for anglers, state agencies, and other fishery managers that depend on accurate and precise data for decision-making. MRIP was originally designed to provide broad (imprecise) information about recreational fishing catch and effort trends. However, MRIP is currently used to manage federal fisheries to exact, poundage-based ACLs, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In most cases, MRIP is the only information available on recreational catch and effort due to a lack of alternative data sources, and is considered best scientific information available (BSIA) by default. NOAA cautions use of MRIP estimates in fisheries management when percent standard error (PSE), which is a measure of precision or margin of error around an estimate, is greater than 30 and does not support use of MRIP estimates with PSEs above 50.[4] Unfortunately, MRIP estimates routinely have PSEs that are well above these thresholds but are nonetheless used by NOAA as the basis for fisheries management decisions. Using data that does not meet data quality standards to manage our fisheries results in lost access when fisheries are closed due to unrealistically high and highly uncertain catch estimates, is detrimental to conservation, and further erodes public trust in the fishery management process.

In response to longstanding concerns with MRIP or its precursor, the Marine Recreational Fisheries Statistical Survey (MRFSS), several states designed their own recreational data collection programs to supplement or replace MRIP to better align data collection with their management needs. The most recent state surveys are those developed and implemented over the past 10 years by the Gulf of Mexico states, such as Louisiana's LA Creel. There is a long history of state-run recreational fishery surveys being used to generate recreational fisheries data that are used for management our nation's fisheries. For example, California, Oregon, and Washington withdrew from MRFSS about 20 years ago to implement state surveys that better meet local needs. Many state surveys are certified by NOAA, meaning they have undergone a rigorous scientific peer review process and have been found to be scientifically sound and defensible.

Since FES was overhauled in 2018, replacing a survey design based on calls to coastal landlines to a mail-based survey, many anglers and state agencies have expressed concerns that MRIP effort estimates have been greatly inflated, often producing unrealistically or impossibly high estimates. Indeed, a 2023 pilot study[5] conducted by NOAA in response to these and other concerns about MRIP estimates found that the order of mail survey questions in FES may be causing overestimation of recreational catch and effort by 30–40%. While ASA appreciates that NOAA is conducting a follow-up study to further investigate this issue, it is clear that changes beyond adjusting MRIP based on pilot study findings are needed to meet the needs of anglers and fisheries managers. MRIP is in need of an overhaul, not tweaks around the margins.

A recent example of unrealistically high MRIP harvest estimates for Gulf of Mexico recreational gag grouper during September-October (MRIP Wave 5) last year was highlighted in a bicameral letter[6] to the NOAA Assistant Administrator that

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[4] NOAA Fisheries Service. An Introduction to Marine Recreational Information Program Data. Available online at: https://www.fisheries.noaa.gov/recreational-fishing-data/introduction-marine-recreational-information-program-data#data-use-considerations

[5] NOAA Fisheries Service, Office of Science and Technology. Evaluating Measurement Error in the MRIP Fishing Effort Survey. Available online at: https://apps-st.fisheries.noaa.gov/rpts/main/public_docs/Evaluating%20Measurement%20Error%20in%20the%20FES%20Consolidated%20Final%20w%20Review.pdf?method=PUB_MANUSCRIPT&id=32268

[6] April 18, 2024 Letter to NOAA Assistant Administrator Coit. Available online at: https://garretgraves.house.gov/uploadedfiles/2024.04.18_bicameral_ltr_to_nmfs_re_fisheries_data.pdf

included signatures from several members of the House Natural Resources Committee. Shortly after MRIP estimates for Wave 5 were released, Gulf recreational fishermen raised suspicions that the 1.6 million pounds of gag grouper estimated to be harvested by anglers during the September 1–October 18 open season was unrealistically high. Although the length of the open season was set based on when NOAA predicted the ACL would be met, MRIP estimates indicated that harvest during this time period was nearly four times greater than the ACL. The PSEs for the MRIP estimates were also above the 30% threshold set by NOAA (33–98%). In the Gulf of Mexico, gag grouper are caught almost exclusively off Florida. Thankfully, the State of Florida conducts a survey called the State Reef Fish Survey (SRFS) which is specifically designed to provide better recreational catch and effort data for gag grouper and 12 other reef fish species that could be used to compare with the unrealistically high MRIP estimate. SRFS estimated gag grouper harvest was only one-seventh of the MRIP estimate and prompted further review of the MRIP estimates, which were ultimately revised substantially. Without the SRFS estimates being available for contrast, it is unclear if the MRIP estimates would have been revised, and if there would be a recreational gag grouper season in the Gulf of Mexico this year due to the extreme overage estimated by MRIP. This would have been disastrous for the anglers, for-hire operations, tackle shops, marinas, and other fishing businesses in Florida that depend on gag grouper harvest opportunities. Florida SRFS estimates will be used to manage this fishery in the future based on direction from the Gulf of Mexico Fishery Management Council.

Highly uncertain and unrealistically high MRIP estimates of recreational discards (fish that are caught and released) can also cause problems for stock assessments and lead to significant management headaches. This has been the case for South Atlantic red snapper, which have rebounded so much in the past 15 years that scientists and fishermen both agree the stock is at record abundance and biomass, such that there are now more red snapper in the South Atlantic today than any living person has ever seen. Yet, highly uncertain and unvalidated MRIP estimates of recreational discards, which are used to estimate the proportion of fish that do not survive catch and release, are causing the fishery to be classified as undergoing overfishing. This overfishing designation has resulted in severe limitations on harvest despite the clear progress in stock rebuilding (this year's recreational harvest season will be just one day, July 12) and discussion of draconian measures such as large bottom fishing area closures for all 55 species of the snapper grouper complex to prevent red snapper from being caught and released by fishermen while they target other species.

Recognizing that significant changes are needed, the Fisheries Data Modernization and Accuracy Act would advance reform of recreational fishing data collection. First, the bill would convene a National Academies panel of experts to consider options for improving MRIP estimates and/or management of seasonal fisheries that have high PSEs (greater than the NOAA-established standard of 30%) or are identified as problematic by a state via petition. In cases where increasing the precision of estimates is not practicable, the committee would consider options for adjusting management while adhering to the management and conservation requirements of MSA. These options would be presented in a report for consideration by the relevant regional fishery management council and include recommendations from the NOAA Administrator. Critically, as part of this process, the panel and NOAA Administrator would consider whether MRIP is the most appropriate tool for use in management decisions for a given seasonal fishery. Options and recommendations from the panel would not override or interfere with scientific recommendations from a council's scientific and statistical committee (SSC), but would provide an objective bird's eye view that can help identify common issues and solutions across fisheries and regions for consideration by NOAA, the federal fishery management councils, and SSCs. Second, H.R. 8705 would help facilitate development and use of state-led data collection programs. Existing programs such as LA Creel, Florida's SRFS and the Pacific states' Recreational Fisheries Information Network have demonstrated the potential for superior accuracy and precision of harvest estimated produced by the states. The bill would create universal standards for such data collection programs to ensure capability and use for management, while allowing for flexibility to account for differences in recreational fishing activity among states. While the Gulf states' data collection programs have proven extremely valuable, the process for establishing each of them independently and ultimately ensuring the data is used for management has been challenging. Having a clear system for establishing such programs, with the support of NOAA, will provide a smoother and more efficient path for additional state-led programs to address state and regional management needs.

In addition to improving recreational data collection, the Fisheries Data Modernization and Accuracy Act would encourage coordinated planning of stock assessments for priority species and improvement of fishery independent data (scientific survey data rather than fishery dependent catch data) by facilitating third-party fishery-independent abundance surveys of federally managed fish stocks. Abundance surveys, such as the Great Red Snapper Count (GRSC), are designed to provide an estimate of how many fish are in a given stock. Numerous discussions at council and scientific and statistical committee meetings indicate that fishery-independent surveys like the GRSC that estimate absolute abundance of fish stocks can provide important insights for management and assessment of fisheries. Additional Congressionally funded independent studies similar to the GRSC are currently underway for greater amberjack and South Atlantic red snapper.

Results of the GRSC, which was funded with a $10 million appropriation from Congress to provide an independent estimate of abundance of Gulf of Mexico red snapper, indicate that there are more than 118 million red snapper in the Gulf (as of 2019). Abundance was previously estimated to be about 36 million fish. The wide disparity in estimates is explained by the GRSC finding a surprisingly large biomass of red snapper over uncharacterized bottom that was not considered in previous stock assessments. Although the GRSC improves our knowledge of red snapper in the Gulf of Mexico, the path to integrating this groundbreaking science into red snapper management and assessment has not been straightforward. Reviewing the path of the GRSC as proposed in this legislation would provide valuable lessons on how the results of other independent abundance surveys should best be incorporated into management and assessments in the future.

Lastly, this legislation would promote transparency and public understanding of SSC decision making by ensuring that recordings and transcripts of SSC meetings are readily available to the public. This is simply good governance and is already common practice by some federal fishery management councils.

Other Legislation Under Consideration

ASA is also grateful that the committee is considering in this hearing other legislation that will benefit conservation and public access to the ocean.

- H.R. 6841 (Rep. Levin), the Resilient Coasts and Estuaries Act: The nation's estuaries are critical fish nurseries, in addition to providing a wide range of other environmental benefits such as preventing soil erosion and protecting against storm surges. H.R. 6841 supports two important conservation programs established under the Coastal Zone Management Act: the Coastal and Estuarine Land Conservation Program (CELCP) and the National Estuarine Research Reserve System (NERRS). The CELCP bolsters state and locally led efforts to conserve ecologically important coastal lands. The NERRS currently contains 30 reserves—all owned and operated by state or local governments—that provide crucial stewardship, research, training, and education necessary to manage and conserve estuaries across the United States. The Resilient Coasts and Estuaries Act would reauthorize both programs at their most recent fund levels and make other modest but important policy improvements.
- H.R. 7925 (Rep. D'Esposito), the Modernizing Access to Our Public Oceans (MAPOceans) Act: The MAPOceans Act directs the standardization, consolidation, and digitization of boating and recreational fishing information for federally managed marine waters and federal fisheries administered by NOAA. This bill will enhance and expand recreation opportunities by investing in modern technology commonly found in smartphone applications to provide anglers, boaters, and other users with the information they need to safely and legally enjoy offshore waters and federal saltwater fisheries. The hundreds of thousands of offshore ocean miles and numerous saltwater fish species regulated by NOAA present enormous recreational opportunities where restrictions are difficult to access and constantly changing. MAPOceans directs the federal agency to compile those rules in digital form so they can be integrated into GPS units and smartphone applications that are popular with boaters and anglers, making that information available to the public in real time.
- H.R. 8704 (Rep. Carter), To require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and North Atlantic right whales and other large cetacean species: ASA understands the importance of protecting right whales and minimizing vessel strikes by small vessels, as rare as these occurrences are. Unfortunately,

NOAA's 2022 proposed amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule are misguided, excessively restrictive and a risk to human safety. Due to the large area covered and the unfeasibility of traveling offshore under 10 knot speed restrictions, this rule would effectively prohibit most offshore fishing trips for approximately half the year. In addition, forcing boaters to travel at slow speeds, even in dangerous conditions, puts human safety at risk. Technology to better identify right whale locations in real time and disseminating the information to mariners in a timely manner provides a much more effective and efficient strategy to minimize vessel strikes. H.R. 8704 would support the development and expansion of such technology, most of which is currently available, while pausing unnecessary and economically devastating regulatory changes from moving forward.

Conclusion

Thank you again for the opportunity to provide the sportfishing industry's perspective on these important bills. We are grateful for the ongoing work of the House Natural Resources Committee and Subcommittee on Water, Wildlife and Fisheries to advance legislation that will strengthen the management and conservation of the nation's public lands and waters. We look forward to working with the Committee on these and other important measures that impact the recreational fishing industry and America's 54.5 million anglers.

QUESTIONS SUBMITTED FOR THE RECORD TO MARTHA GUYAS, SOUTHEAST FISHERIES POLICY DIRECTOR, AMERICAN SPORTFISHING ASSOCIATION

Questions Submitted by Representative Carl

Question 1. I have been deeply involved with issues surrounding the Great Red Snapper Count and the calibration of fisheries data. It has become increasingly clear to me that the management of these processes should be left to the states. Mr. Graves' bill is a significant step forward in achieving this goal. It empowers states to create their own recreational fishery catch data collection programs, with NOAA being required to utilize the state-collected data. I have told NOAA that the state has done a fantastic job monitoring snapper season.

With this context, Ms. Guyas, in your testimony you emphasized the significance of the Great Red Snapper Count as a model for third-party abundance surveys that can inform management decisions, along with similar studies currently underway.

Could you expand on ways that you think NOAA could more effectively incorporate studies like the Great Red Snapper Count into management decisions?

Answer. Studies like the Great Red Snapper Count provide opportunities to assess and manage fisheries based on the absolute abundance of fish in a stock. Section 7 of H.R. 8705 would facilitate this by requiring that the National Academies, in consultation with Harte Research Institute, submit a publicly available report to the Committee on Natural Resources regarding use of Great Red Snapper Count results in fisheries management decisions, as well as recommendations for how to incorporate results of similar studies in management decisions made by the National Marine Fisheries Service.

Questions Submitted by Representative Levin

Question 1. I appreciate that in your testimony, you discuss how programs like the Coastal and Estuarine Land Conservation Program (CELCP) and the National Estuarine Research Reserve System help to manage and conserve estuaries across the country. Can you share more about how hunters and fishers benefit from these coastal conservation programs?

Answer. The Coastal Estuarine Land Conservation Program (CELCP) and National Estuarine Research Reserve System (NERRS) are vital programs to manage and conserve estuaries throughout the country. Estuaries are important spawning and nursery habitats for a wide range of sportfish species, so conserving and providing responsible public access to them provide significant benefits for recreational fishing. Since 2002, CELCP has conserved over 110,000 acres of coastal and estuarine land, in partnership with states providing an equivalent non-federal

funding match. The stewardship, monitoring, research, training and education that occurs throughout the NERRS provides social, economic, and environmental benefits—particularly toward outdoor recreation—that far exceed their cost of operation.

Question 2. Will the establishment of new research reserves limit hunting and fishing in coastal areas?

Answer. Section 2(j) of H.R. 6841 requires that fishing, hunting and cultural uses be allowed unless explicitly prohibited in a management plan. Currently 90% of research reserves allow recreational fishing and 75% allow hunting. Any restrictions would need to be based on sound, scientific reasoning.

Mr. BENTZ. Thank you, Ms. Guyas. I now recognize Mr. Strong for 5 minutes.

STATEMENT OF JEFF STRONG, CHAIR OF THE MARINE RETAILERS ASSOCIATION OF THE AMERICANS BOARD OF DIRECTORS, AND PRESIDENT OF STRONG'S MARINE, MATTITUCK, NEW YORK

Mr. STRONG. Good morning, Chairman Bentz, Ranking Member Huffman, Congressman D'Esposito, and esteemed members of the Committee. Thank you for providing me the opportunity to testify in support of the MAPOceans Act, or H.R. 7925. My name is Jeff Strong. I am President of our family business, Strong's Marine. We are a full-service marine dealership with six marina locations throughout Long Island. Our family has been in business since 1945. We employ 125 full-time, year-round employees. I also serve as Chairman of the Board of the Marine Retailers Association of the Americas, supporting 3,500 dealers.

I thank Congressman D'Esposito and Congressman Levin for their leadership on H.R. 7925, as this bipartisan bill is a significant step towards enhancing the accessibility, safety, and the enjoyment of our nation's Federal waterways.

In the United States, recreational boating is a major economic driver and a crucial part of our nation's $1.1 trillion outdoor recreation economy. Recreational boating alone annually contributes $230 billion to our economy, supports more than 800,000 jobs and 36,000 businesses. The industry is uniquely American, as 90 to 95 percent of all boats sold in the United States are American-made and sold at family-owned businesses just like Strong's Marine.

Throughout my 51 years in the industry, I have seen firsthand the value that our coastal regions provide, not just as critical habitat, but also as recreational spaces that support local economies. The MAPOceans Act will address the need for standardized and accessible data relating to the public use of our waterways. By digitizing information about these waterways like fishing restrictions and regulations, we are taking a step towards ensuring the safety and enjoyment of recreational boaters and anglers and the conservation of sportfish populations.

With Strong's Marine being a fourth-generation family business, I am no stranger to the advances in technology we have seen in the industry, from LORAN to GPS. I am confident that the provisions in MAPOceans will be crucial in helping to usher in a new innovation in our sector. MAPOceans will create an important platform that is ready to aggregate and disseminate crucial data to recreational mariners. Ultimately, it would be like Waze is for cars for

mariners, which would provide real-time alerts of what areas must be avoided or where a dynamic speed zone is established due to the presence of endangered species or at-risk creatures.

MAPOceans will allow boaters and customers of Strong's Marine to provide more safety, confidence, and in accordance with Federal fisheries regulations. It will also support innovation in the industry to relay this information to mariners in real time on displays right aboard their vessels. This will help keep boaters safe, but also ensure that we have more critical tools to protect our wildlife that we share the ocean ecosystem we all love so dearly.

As a marine retailer with six Atlantic Coast locations, we sell and service boats over 35 feet and have extensive dock space for these vessels, which is why I would also offer support for H.R. 8704, which balances conservation with protecting coastal businesses. The proposed North Atlantic Right Whale Vessel Strike Rule amendments would severely impact our business. Imagine owning a 45-foot vessel and desiring to fish off shore, typically 80 to 90 miles, and being restricted to a speed of 10 knots. Our clients will not do this. They will sell their boats and create significant job losses.

While the rule aims to protect right whales, NOAA failed to consider existing technology-based solutions that can protect the species. NOAA did host a technology workshop on March 5 of this year. It also transmitted the rule to the Office of Budget and Management during that workshop, ensuring the technologies presented would not even be considered in the rule.

Additionally, the economic impact analysis overlooks the significant negative effects on our businesses. This would result in an average loss of $4.1 million in business per dealer, over 500 dealers, resulting in $2 billion in loss along the East Coast. This is just one shortcoming with the proposed amendments, but is the one that hits closest to home for me as a marine dealer.

I believe H.R. 8704 will help protect and restore the North Atlantic right whale while protecting the coastal economy. My business and the entire industry believe keeping boaters safe on the water is the highest priority, and technology is the key to ensuring boaters are informed and able to protect themselves and endangered wildlife. Thank you.

[The prepared statement of Mr. Strong follows:]

PREPARED STATEMENT OF JEFF STRONG, PRESIDENT, STRONG'S MARINE ON H.R. 7925 AND H.R. 8704

Good morning, Chairman Bentz, Ranking Member Huffman, Congressman D'Esposito, and esteemed members of the Committee. Thank you for providing me with the opportunity to testify in support of the MAPOceans Act or H.R. 7925.

My name is Jeff Strong, and I am the President of Strongs Marine, a family owned full service marine dealership and marina with locations throughout Long Island, where we are dedicated to fulfilling dreams by creating life-enhancing recreational possibilities, one family at a time. I also serve as the Chairman of the Board for the Marine Retailers Association of the Americas, a 501(c)6 dedicated to fueling marine dealer success, so it is safe to say that recreational boating is in my blood and a pastime I care about deeply. I thank Congressman D'Esposito and Congressman Levin for their leadership on H.R. 7925, as this bipartisan bill is a significant step toward enhancing the accessibility, safety, and enjoyment of our nation's federal waterways.

In the United States, Recreational boating is a major economic driver and a crucial part of our nations $1.1 trillion outdoor recreation economy. According to statistics from the National Marine Manufacturers Association, recreational boating alone annually contributes $230.3 billion to our economy, supports more than 800,000 jobs and 36,000 businesses. Furthermore, the recreational boating industry is uniquely American, as 95% of all boats sold in the United States are American made and sold at family owned small businesses just like Strongs Marine.

Throughout my 51 years in the recreational marine industry, I have seen firsthand the immense value that our coastal regions provide, not just as critical habitat but also as recreational spaces that foster communities and support local economies. The MAPOceans Act will address a pressing need for standardized, published, and accessible data relating to the public recreational use of our federal waterways. By digitizing this important information about these waterways, and fishing restrictions and regulations we are taking a critical step toward ensuring the safety and enjoyment of recreational boaters and anglers and the conservation of various sportfish populations.

At Strong's Marine we not only have marina facilities where experienced and new boaters alike keep their vessels, we also sell new and pre-owned boats and get people on the water for the very first time. Time and time again both new and experienced boaters alike come to members of my staff, or even myself, with questions regarding navigation or need help finding and figuring out fisheries regulations and catch limits. While our staff and I are always pleased to work with our customers and teach them where to look to find this information, these constant needs by the boating public underscore the importance of the MAPOceans Act, as this important information will be made much more available and accessible, making it easier for the boating public to boat and fish safely, confidently, and in accordance with Federal fisheries regulations.

The Modernizing Access to Our Public Oceans Act is a vital piece of legislation that promises to enhance the safety, accessibility, and enjoyment of our nation's waterways. By providing standardized, up-to-date information, we are empowering recreational users to connect with nature responsibly and sustainably. I urge you to support this important initiative, which benefits our environment, our communities, and our economy.

In addition to the MAPOceans Act, I would like to offer my support of H.R. 8704, which would require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and North Atlantic right whales and other large cetacean species. In addition the reasons stated below, I believe this bill will also benefit from the MAPOceans Act's standardization and publication of accessible data on our federal waterways as a means to collect and disseminate near-real time information on the location of protected species such as the North Atlantic Right Whale so recreational boaters can avoid those areas and empower boaters who encounter a protected species to report their sighting to alert others in the area.

I would like to express my appreciation for the efforts of this Committee and the bill's sponsors, Mr. Carter of Georgia, and Mrs. Peltola of Alaska, in addressing the critical balance between whale conservation, human safety, and economic sustainability. Furthermore, I would like to reiterate something the entire recreational boating and fishing industry has worked to make clear and that is we all support the protection and restoration of this critically endangered animal. As an industry directly tied to the health of our nations oceans and freshwater resources, we understand better than most the importance of robust marine mammal populations for overall ocean ecosystem health, however, our community strives to find the means to provide for the recovery of this species while allowing for continued safe access to the waters off the Atlantic Coast. For that reason, I express my support for H.R. 8704 and again thank Representatives Carter and Peltola for their dedication to finding a balanced approach to the conservation of this key species.

As a marine retailer with 4 locations on the Atlantic Coast who sells and services boats above 35 feet and dock space for vessels of the same size category, I stand to be negatively impacted by the Proposed Amendments to the North Atlantic Right Whale Vessel Strike Rule and support the provisions laid out in H.R. 8704 as focusing on technological solutions strikes the right balance between conserving the endangered North Atlantic Right Whale and ensuring coastal communities and family run small businesses like Strongs Marine are not shuttered due the proposed expansions of the North Atlantic Right Whale Vessel Strike Reduction Rule.

In addition to failing to consider the potential of existing technologies to measurably reduce the risk of a vessel striking a North Atlantic Right Whale, NOAA also failed to complete a thorough and thoughtful economic impact analysis and completely missed the mark on how the proposed rule would impact the recreational

marine industry at large, and more specifically small marine retailers like me who stretch down the Atlantic Coast. The Initial Regulatory Flexibility Analysis done by the National Marine Fisheries Service found that the proposed rule would only have an economic impact of $46 million per year, and only evaluated the number of "delayed transit hours" for impacted vessels. NMFS essentially cherry picked the single and likely smallest facet of the vast economic impact of the proposed rule, completely ignoring the impact to businesses like mine, and many other industries that are integral to the fabric of coastal communities along the Atlantic Seaboard. It is also worth noting that these concerns have been echoed by a variety of stakeholders, including the Small Business Administration office of Advocacy who stated in a letter to NMFS that they should "Consider all potential impacts to small businesses from the proposed rule, and to update its IRFA to better account for these small business impacts." Despite these concerns being made during and after the public input period, no such work has been done to better understand the devastating impacts this rule stands to have on small-businesses and the recreational marine industry at large.

Furthermore, the Marine Retailers Association of the Americas recently surveyed 65 of their members to examine the negative impact the proposed rule would have on small businesses. Ultimately, the survey found that on average a marine retailer or broker typically sells just over 23 boats between the 35-and 65-feet range annually, and that the average revenue generated by boats in this size category is between $3.7 million per year. Respondents also indicated an estimated average loss in revenue of $3 million per business per year and a total loss of sales revenue of more than $153.2 million. Additionally, the proposed rule will not just impact marine retailers and brokers' ability to sell boats within and above the 35–65 size class, it will likely result in decreased revenues from servicing, provisioning, and the storage of these vessels. The survey also found that non-sales related losses would average $1.1 million per year. It is important to note that this was a survey of just 65 members, and with almost 500 marine retailers on the East Coast, the full impact is estimated at just over $2 billion.

While the aforementioned survey works to provide a clearer impact on marine retailers, I have been hearing first-hand from current and potential customers about the proposed rule, many feeling discouraged about buying a new vessel or upgrading to a larger size and concerned about the safety implications of traveling at only 10kts, or the speed of a bicycle. Furthermore, the recreational anglers in my marinas are also outraged by the proposed regulations, as they would simply make an offshore trip to the Canyons for tuna and other pelagic species impossible. It is not uncommon when traveling offshore for recreational angling to cover 200 miles or more, about the distance from New York to Washington D.C., now imagine having to cover that distance on a bicycle instead of in a car or train.

For my business and the entire recreational marine industry, nothing is more important than the safety of boaters on the water and technology is a key part of creating a safe and confident boater who can enjoy our shared waters while protecting endangered species like the North Atlantic Right Whale and the environment as a whole.

These foreseen and unintended impacts underscore the importance of H.R. 8704, as we need to work together on a solution that will better accomplish the goal of conserving the North Atlantic Right Whale, while simultaneously ensuring recreational boaters can continue to enjoy our nations oceans and be stewards on the high seas. Furthermore, H.R. 8704 is focused on developing technological solutions that can be applied to all large cetaceans, and this will ultimately ensure that we foster an overall safer recreational boating experience for users and wildlife alike.

Again, I would like to thank the Chairman Bentz, Ranking Member Huffman, Representatives D'Esposito, Levin, Carter, and Peltola for their work and focus on these important pieces of legislation. Together H.R. 7925 and H.R. 8704 will be crucial in furthering the ability of recreational anglers and boaters to be stewards of the Atlantic while ensuring the conservation sport fish populations, cetaceans.

QUESTIONS SUBMITTED FOR THE RECORD TO MR. JEFF STRONG, PRESIDENT OF STRONG'S MARINE AND CHAIR OF THE MARINE RETAILERS ASSOCIATION OF THE AMERICAS BOARD OF DIRECTORS

Questions Submitted by Representative Bentz

Question 1. Mr. Strong, one of the other witnesses at our hearing talked about technological approaches needing to be more thoroughly evaluated to "show whether these approaches can be used to replace, rather than supplement, vessel speed restrictions." However, it's important to note that the legislation we considered seeks to keep the existing rule in place, not remove it entirely.

1a) Can you talk about the importance of pursuing a more thoughtful approach that utilizes technologies and other forms of mitigation to prevent vessel strikes?

Answer. NOAA neglected to evaluate opportunities that would leverage existing technology to support risk reduction. Instead, it is simply relying on archaic speed limits—which will likely be much less effective than taking a 21st century approach. Sophisticated technology that could be implemented immediately exists today, including radio frequency transmission and whale collection data aggregation. There are also various technologies currently in development, including 3D sonar mapping, infrared imagery detection and innovative marine radar algorithms. The combination of these technologies enables mariners to detect and monitor whales more efficiently and take proactive measures to help prevent strikes. For example, the Massachusetts Division of Marine Fisheries partners with the Provincetown Center for Coastal Studies, Woods Hole Oceanographic Institution and the National Marine Fisheries Service to conduct a real and acoustic monitoring of Cape Cod Bay to inform targeted fishery closures and vessel speed restrictions.[1] Regular monitoring of these areas ensures that these fishery closures and vessel speed restrictions are *only* in place during times when right whales are *known* to be present. Not only did NOAA overlook examples of how technology is currently leveraged to conserve the NARW, they also did not meaningfully consult with the recreational marine industry to determine what technologies currently exist. In short, technology and other approaches must be considered not only to increase the likelihood of success for the NARW population, but to also minimize negative economic impact on stakeholders while maintaining access to our nation's ocean.

Question 2. When you discussed how to integrate technology to reduce vessel strikes and mitigate the impact to species like the North American right whale, one of our colleagues said that it might be beneficial to revisit the rule once those technologies were in place.

2a) Do you believe that NOAA should take more time to work with the sectors of the economy that stand to be hurt by these proposed amendments before moving forward? And do you agree that there are technologies that currently exist that help accomplish that objective?

Answer. These technologies are in place. For example, in February, the National Marine Manufacturers Association hosted Janet Coit, Assistant Administrator for NOAA Fisheries, at the Discover Boating Miami International Boat Show to show her and her team exactly what technologies exist today to detect marine mammals and reduce boat strikes.[2] In March, NOAA hosted a technology workshop to hear from key stakeholders and businesses that have the data and technologies today to help mitigate the risk of vessel strikes. In April, many of these same manufacturers briefed Congress and showcased the technology that exists today that can better reduce the risk of marine mammal vessel strikes. NOAA must not only work with impacted sectors of the economy before moving forward but should also work with scientists and technology developers to better understand what technology and tactics can be employed to conserve the NARW. Furthermore, more than 1.5 years after the rule was proposed. Lastly, to highlight currently existing technologies as well as develop and research other technology the marine industry has created the Whales and Vessel Speed (WAVS) Task Force. In October 2023, the Taskforce shared a white paper (found on the WAVS Taskforce site) with NOAA that provides an overview of the technology that's currently available for deployment today. The

[1] https://www.mass.gov/doc/042823-dmf-monitoring-presence-of-right-whales-in-coastal-waters/download

[2] https://www.nmma.org/press/article/24622

WAVS Taskforce is focused on five key areas, known as the Vessel Strike Risk Reduction Chain:

1. Detection: Using various technologies to detect the presence of whales and other marine mammals, including sonar, radar, camera & AI, crowd sourced observation, etc.
2. Aggregation: Collecting data for a central clearing house. Analyzing data to reduce noise, duplication, and other artifacts.
3. Dissemination: Sending the data out for stakeholder receipt in an efficient and timely manner.
4. Integration: Leveraging disseminated data to create an on-board experience aimed to influence operation and decision making.
5. Risk reduction: Boaters use the display data to make informed decisions and take appropriate action to reduce vessel strike risk.

Mr. BENTZ. Thank you. I now recognize Dr. Redfern for 5 minutes.

STATEMENT OF JESSICA REDFERN, ASSOCIATE VICE PRESIDENT FOR OCEAN CONSERVATION SCIENCE, ANDERSON CABOT CENTER FOR OCEAN LIFE, NEW ENGLAND AQUARIUM, BOSTON, MASSACHUSETTS

Dr. REDFERN. Thank you, Chair Bentz and Ranking Member Huffman, for the opportunity to testify today. I am the Associate Vice President for Ocean Conservation Science in the Anderson Cabot Center for Ocean Life at the New England Aquarium.

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.

I have used statistical models to address wildlife conservation challenges for more than 25 years, and have published scientific papers on a broad range of topics including species habitat modeling, vessel traffic patterns, and the risk of human activities to whales, including vessel strikes.

In the hearing today, I will address H.R. 8704. This bill would have devastating consequences for right whales because it delays NOAA's ability to implement its proposed protections from vessel strikes through December 2030. Right whales must survive long enough to benefit from the approaches for co-existence that would be funded in this bill, including technology.

There are less than 360 right whales, and less than 70 of these whales are reproductive females. Vessel strikes are a leading cause of the decline of this critically endangered species. A long history of research shows that NOAA's 2008 Vessel Strike Rule does not provide sufficient protections. I provided scientific evidence at a Subcommittee hearing in June 2023, just over a year ago, that shows the revisions in NOAA's proposed rule would contribute to right whale survival by reducing the risk of vessel strikes. Recent research shows that the revisions in the proposed rule will also protect humpback, fin, and sei whales from vessel strikes. It has been more than 22 months since NOAA proposed the revisions, and the final rule has yet to be released.

My testimony last year showed that even one human-caused death of a right whale is not consistent with scientific evidence and U.S. laws. In the years since I testified, at least three right whales were killed by vessels. The details of these three lethal vessel strikes demonstrate the need for the changes in the proposed rule.

The first calf of the 2024 season was seen off South Carolina on January 6 with deep propeller cuts across its head. On March 3, the calf was found dead on the shores of Georgia. The expert that reviewed the images of the calf's propeller wounds estimated that the vessel that killed this calf was likely between 35 and 57 feet in length. The death of this calf highlights the need to make speed restrictions mandatory for vessels smaller than 65 feet.

The second mortality was documented on February 13, 2024. The carcass of a 1-year-old female was seen floating off Georgia and, when examined, showed evidence of blunt force trauma consistent with vessel strike. Her death shows the vulnerability of right whales during calving season, which occurs annually off the southeastern United States from November through April.

The third mortality was a female right whale that was at least 35 years old. She was found off Virginia on March 30, 2024. Her spine was dislocated, and all the vertebrae in her lower back were fractured. Months before this strike, she had given birth to her sixth calf. Although several aerial survey teams searched the area, her calf was not spotted. A nursing calf this young is not expected to survive without its mother. This calf is not included in the number of human-caused mortalities that I reported for this year, and it is a good reminder that documented mortalities represent a minimum number because not all mortalities are observed.

A female right whale can contribute at least 30 individuals to the population when her offspring and their subsequent offspring are considered, emphasizing the important effect that a single reproductive female can have on this endangered population. Human-caused mortality of reproductive females removes that individual and their future contributions to population growth.

The number of human-caused right whale deaths in the last year are more than three times the number of deaths estimated to be sustainable by the Marine Mammal Protection Act. These vessel strikes have increased the urgency of implementing the revisions in the proposed rule to help curb the current trajectory towards the extinction of this endangered species.

The implications for the survival of right whales are clear. Action is needed now to reduce vessel strikes. Protecting whales through measures known to be effective, such as speed restrictions and funding the development of other approaches to reduce vessel strikes, including technology, are not mutually exclusive. It is critical to ensure right whales survive long enough for the approaches in this bill to be developed, assessed, and carried out. Thank you.

[The prepared statement of Dr. Redfern follows:]

PREPARED STATEMENT OF DR. JESSICA REDFERN, ASSOCIATE VICE PRESIDENT, OCEAN CONSERVATION SCIENCE, ANDERSON CABOT CENTER FOR OCEAN LIFE, NEW ENGLAND AQUARIUM

ON H.R. 8704

Thank you Subcommittee Chairman Bentz, Subcommittee Vice Chair Kiggans, and Subcommittee Ranking Member Huffman for inviting me to testify at this hearing. I am the Associate Vice President for Ocean Conservation Science in the Anderson Cabot Center for Ocean Life at the New England Aquarium. 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.

I have been using statistical models to address such conservation challenges for more than 25 years. My research focuses primarily on developing cetacean-habitat models and using predictions from these models to reduce risk to cetaceans. I have published numerous scientific papers on a broad range of topics, including species habitat modeling, vessel traffic patterns, the risk of human activities to whales (i.e., vessel strikes, entanglements, and chronic noise), and estimating species diversity to guide designation of marine protected areas. I served as a guest editor for a research topic in Frontiers in Marine Science about the impacts of shipping on marine fauna. I also serve as an invited member on the International Council for the Exploration of the Sea's (ICES) Working Group on Shipping Impacts in the Marine Environment. Finally, I have been an invited expert at a workshop on the Identification of Important Marine Mammal Areas in the North West Atlantic Ocean Region hosted by the IUCN Marine Mammal Protected Areas Task Force and my research has been presented at a workshop on The Future of Shipping at the Biodiversity and Climate Nexus hosted by the World Maritime University.

The New England Aquarium has been extensively studying North Atlantic right whales (NARW; *Eubalaena glacialis*) for more than 40 years. We curate the photo-identification catalog for NARW and use the catalog to monitor human impacts to individuals, including entanglements and vessel strikes. We also conduct analyses to 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.

The New England Aquarium commends the National Oceanic and Atmospheric Administration (NOAA) for reviewing the 2008 North Atlantic Right Whale Vessel Strike Reduction Rule (hereafter, 2008 Rule; NOAA, 2020). This review found that 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. On August 1, 2022, NOAA proposed revisions to the 2008 Rule (hereafter, Proposed Rule; NOAA, 2022) that are necessary to further reduce the likelihood of mortalities and serious injuries to NARW from vessel strikes. It has been more than 22 months since NOAA proposed the revisions and the Final Rule has yet to be released.

On June 6, 2023, I testified on behalf of the New England Aquarium before this subcommittee at a hearing titled "*Examining the impacts of the National Oceanic and Atmospheric Administration's proposed changes to the North Atlantic Right Whale Vessel Strike Reduction Rule*." My testimony highlighted the scientific research that shows that the changes in the Proposed Rule are an essential component of preventing the extinction of the critically endangered NARW. In that hearing, I noted that the changes in the Proposed Rule were needed as immediately as possible because the species cannot afford to lose even one individual to human-caused mortality. The events of the intervening year have increased the urgency of implementing these changes. Specifically, at least three NARW were killed by vessels since the beginning of 2024. This number of deaths is more than four times the number estimated to be sustainable by the Marine Mammal Protection Act—a Potential Biological Removal of only 0.7—for an estimated population of 356 individuals. These deaths show that the 2008 Rule does not adequately protect NARW from vessel strikes. NOAA's proposed improvements to the 2008 Rule would help curb the current trajectory toward NARW species extinction.

In the hearing today, I will address H.R. 8704. The bill would have devastating consequences for NARW because it delays NOAA's ability to implement its proposed protections from vessel strikes through December 31, 2030. Protecting whales

through measures known to be effective, such as speed restrictions, and funding the development of other approaches, including technology, to reduce vessel strike risk are not mutually exclusive: it is critical to ensure NARW survive long enough for the approaches in H.R. 8704 to be developed, assessed, and carried out. Scientific evaluation of the changes in the Proposed Rule shows that these changes would contribute to NARW survival by reducing the risk of vessel strikes, especially during particularly vulnerable times, like calving season, which occurs annually from November through April. While the Proposed Rule focuses on NARW, my colleagues and I published a paper in the peer-reviewed journal, Biological Conservation (*Estimating reductions in the risk of vessels striking whales achieved by management strategies*, Redfern et al., 2024), that shows that the Seasonal Speed Zones in the Proposed Rule will protect humpback (*Megaptera novaeangliae*), fin (*Balaenoptera* physalus), and sei (*Balaenoptera borealis*) whales, in addition to protecting NARW, from vessel strikes.

New England Aquarium scientists and our other experts are committed to working on the development of technological and other approaches to reduce the risk of vessel strikes. For example, we participate in government-convened technology workshops as invited scientific experts and are starting to use our expertise to design studies that can rigorously evaluate proposed technological solutions (e.g., thermal imaging cameras). Evaluations of technological and other approaches are needed to quantify the risk reduction that they can achieve, particularly in comparison to the risk reduction realized through known methods, such as speed restrictions and vessel routing changes. These evaluations will show whether these approaches can be used to replace, rather than supplement, vessel speed restrictions.

Ongoing delay in releasing the critically important Proposed Rule would put NARW at continued risk of death and serious injury from vessel strikes. NARW must survive long enough to benefit from the approaches for coexistence that would be funded in H.R. 8704, including technology and enhanced awareness. While these approaches are developed, assessed, and carried out, we must implement measures known to reduce the risk of vessel strike, such as those included in the Proposed Rule that was released nearly two years ago.

To support this position, this testimony provides additional details on the following:

1. Implications for the survival of the NARW species if we do not take action to reduce vessel strikes;
2. NARW deaths caused by vessel strikes so far in 2024; and
3. The scientific evidence that supports the Proposed Rule.

Implications of vessel strikes for the survival of the NARW species

The NARW is one of the most endangered large whale species in the world. The NARW has been protected from hunting since 1935 and experienced a slow, but steady, recovery until 2011. In particular, the recent estimates of the number of NARW (i.e., the population size estimate) grew from 261 (+4/-2) in 1990 to a high of 481 individuals (+4/-3) in 2011. Over the last decade, the number of NARW steadily declined from the high in 2011 to 356 individuals (+7/-10) in 2022 (Linden, 2023; Pettis and Hamilton, 2024). The current population size estimate is one of the lowest in the past 20 years (Linden, 2023; Pettis and Hamilton, 2024). Additionally, the number of reproductive NARW females has declined and Reed et al. (2022) estimated that fewer than 70 were alive in 2018. The species recovery has been limited by lethal and sub-lethal effects of entanglements and vessel strikes (Corkeron et al., 2018; Sharp et al., 2019; Pirotta et al., 2023). However, population viability analysis shows that the current trajectory toward extinction for NARW can be reversed if the risk of entanglement and vessel strikes are reduced (Runge et al., 2023).

The "take" of a NARW is generally prohibited under both the U.S. Endangered Species Act (ESA) and the U.S. Marine Mammal Protection Act (16 U.S.C. 1532(19); 16 U.S.C. 1362(13)). The Marine Mammal Protection Act defines the Potential Biological Removal (PBR) from a marine mammal stock as the maximum number of animals, not including natural mortalities, that may be removed while allowing the stock to reach or maintain its optimum sustainable population. When I testified last year, I was asked about natural mortality in NARW. Sharp et al. (2019) reviewed 70 NARW mortalities documented between 2003 and 2018 from Florida, USA, to the Gulf of St. Lawrence, Canada. The cases included 30 adults, 14 juveniles, 10 calves, and 16 whales of unknown age. A cause of death was determined in 43 cases: 38 (88.4%) of these deaths were caused by humans, including 22 (57.9%) from entanglement and 16 (42.1%) from vessel strike. No natural mortalities were

observed in adult or juvenile NARW. Natural mortalities were only found in five calf deaths. The primary sources of natural mortality in calves are perinatal complications and malnutrition due to either presumed maternal abandonment or developmental abnormalities. There was one necropsy report that concluded that a calf death was caused by shark predation. This predation death is one of four shark predation case studies presented by Taylor et al. (2013) using necropsy and aerial survey data collected between 1994 and 2011. The other three cases presented by Taylor et al. (2013) represent documentation of shark bites on a living calf, a calf that died from an interaction between shark predation and entanglement, and a two-year-old whale that experienced shark predation while severely entangled. The research on NARW mortality that spans more than two decades shows that human-caused mortalities are driving NARW toward extinction.

The PBR for NARW defined by the Marine Mammal Protection Act is 0.7 (Hayes et al., 2022) and shows that the survival of every individual matters and that even one human-caused mortality puts the species at risk of extinction. There is a long history of NARW vessel strikes (see Figure 1 in the Supplement). The New England Aquarium collates information on NARW mortalities and injuries from vessel strikes as curators of the North Atlantic Right Whale Consortium's photo-identification catalog (https://rwcatalog.neaq.org/#). We provide this information in annual reports to NOAA (https://www.narwc.org/narw-catalog-reports.html) and in the annual report card of the North Atlantic Right Whale Consortium (https://darchive.mblwhoilibrary.org/browse/title?scope=3afd3800-5620-59b9-8b77-fc901b0c0fec). From 1972 through June 2024, a total of 124 cases with blunt trauma or external injuries (i.e., propeller cuts or gashes) from vessel strikes have been documented in U.S. and Canadian waters (Moore et al., 2004; Sharp et al., 2019; NOAA, 2020; NARWC, 2023; NOAA, 2023b). The evidence for these strikes include observed deaths (determined by the presence of deep propeller cuts that occurred pre-mortem and/or examining a carcass and finding evidence of pre-mortem blunt trauma) and sightings of living whales with cuts or gashes that are categorized as deep, shallow, or superficial. Pirotta et al. (2023) found that sub-lethal vessel strikes associated with deep and shallow wounds decreased a NARW's chance of survival. These vessel strikes are part of an Unusual Mortality Event (UME) for NARW. NOAA declared an UME because a particularly high number of deaths have been observed from Florida, U.S., to the Gulf of St. Lawrence, Canada, since 2017 (NOAA, 2023b).

The life history of every individual NARW that has been photographed is tracked in the North Atlantic Right Whale Catalog (https://rwcatalog.neaq.org/#). These life history data demonstrate the consequences of vessel strikes on the NARW population and show how the loss of each of these whales, particularly females, is compounded by the loss of their reproductive potential. Female NARW can give birth to at least nine calves in their lifetime (Hamilton and Knowlton, 2021). For example, one whale, Wart, has given birth to seven calves since 1982 and is responsible for at least 31 whales being added to the population so far. However, Wart's family has experienced 11 vessel strikes, including the death of the one-year-old calf that occurred this year (see details below). Wart's contribution to the NARW population emphasizes the important effect that a single reproductive female can have on this small population and the negative impacts of vessel strikes. Females and calves are particularly vulnerable to vessel strikes because they spend >70% of their time resting at or just below the surface (Cusano et al., 2019).

NARW deaths caused by vessel strikes so far in 2024

Three NARW deaths caused by vessel strikes have been documented this year, all during calving season. This number of deaths is more than four times the number of deaths estimated to be sustainable by the Marine Mammal Protection Act—a Potential Biological Removal of only 0.7—for this population. The number of actual strikes is likely higher, since documented vessel strikes represent the minimum number of strikes because not every death or injury is observed. Pace et al. (2021) showed that documented mortalities accounted for only 36% of all estimated NARW deaths between 1990 and 2017.

The details of these three deaths demonstrate the need for the changes in the Proposed Rule and what the loss of these individuals, particularly females, means to the population as a whole:

1. **February 2024, offshore of Georgia, one-year-old female calf of Catalog #4340 (Pilgrim):** On February 13, 2024, the carcass of this one-year-old female calf was seen floating offshore of Savannah, Georgia. The carcass was towed ashore for a necropsy. The multi-organization necropsy led by the University of North Carolina, Wilmington, showed evidence of blunt force trauma consistent with a vessel strike prior to death. Full necropsy details

are pending and this strike is considered an active NOAA Office of Law Enforcement investigation. This whale's family has experienced at least 10 other vessel strikes, including one that was killed and one that was seriously injured due to a strike by a 54-foot sport-fishing vessel. The seriously injured whale has not been sighted again as of submission of this testimony.

2. **January to March 2024, offshore of South Carolina and Georgia, calf of Catalog #1612 (Juno):** This calf was the first documented calf of the 2024 season and was seen off Edisto, South Carolina, with propeller cuts across its head (see Figure 2 in the Supplement) in early January 2024. NOAA Fisheries biologists reviewed the case and determined that it met the criteria of a serious injury, meaning the calf was likely to die as a result of the injuries. NOAA also noted that the injuries could impact this calf's ability to nurse successfully. The calf was closely monitored through January and February. On March 3, the calf was found dead on the shore of Cumberland Island, Georgia. The expert (Paul Kamen, a forensic naval architect) that reviewed the images of the calf's propeller wounds estimated that the vessel that struck and ultimately killed this calf was likely between 35–57 feet in length (see Figure 3 in the Supplement).
3. **March 2024, offshore of Virginia, adult female Catalog #1950:** This NARW was at least 35 years old and her carcass was found floating 50 miles offshore east of Back Bay National Wildlife Refuge, Virginia, on March 30, 2024 (see Figure 4 in the Supplement). Months before this strike, this whale had given birth to her sixth calf. Although several aerial survey teams searched the area, her calf was not spotted. A nursing calf this young is not expected to survive without its mother. Preliminary necropsy results of #1950, provided by the Virginia Aquarium and Marine Science Center and others, found catastrophic injuries consistent with blunt force trauma from a vessel strike, including dislocation of the spine and fractures to all vertebrae in her lower back. Before the strike, she had been seen healthy and with her calf on February 16, off the coast of Florida.

These three incidents underscore the need to make speed restrictions mandatory for vessels smaller than 65 feet in length; the particular vulnerabilities during calving season; and the ripple effects of losing female whales from the population. In addition, the lethal and sub-lethal effects of vessel strikes may be delayed, as in the case of Juno's calf (#2 above) and as has been previously documented in strikes to other whales (e.g., Glass et al., 2010). Vessel strikes can also directly harm calves that are dependent on their mother, as in the case of calf of Catalog #1950 (#3 above).

Scientific support for NOAA's Proposed Rule

In 2022, NOAA proposed changes to the 2008 Rule (NOAA, 2022) to further reduce the likelihood of mortalities and serious injuries to NARW from vessel strikes. The proposed changes for reducing the risk of vessel strikes to the statutorily protected NARW are necessary and based on the best available science. Specifically, Garrison et al. (2022) used the most up-to-date data available about NARW distributions and vessel traffic patterns to develop an encounter risk model for the U.S. East Coast. The methodology used by Garrison et al. (2022) has been used on the U.S. East and West Coasts (e.g., Martin et al., 2016; Rockwood et al., 2017; Crum et al., 2019; Rockwood et al., 2020). Mortality estimates from encounter risk models developed for fin, humpback, and blue whales have been included in NOAA's marine mammal stock assessment reports (Carretta et al., 2022). Garrison et al. (2022) used the encounter risk model to estimate the reduction in NARW mortalities that could be achieved by implementing speed restrictions in broad areas along the U.S. East Coast. Their broad areas were defined as the areas of highest risk to NARW. They found an approximately 28% reduction in NARW vessel strike risk when 10 knot speed restrictions were implemented in their broad areas.

In January 2024, I published a study (Redfern et al., 2024) with scientists from the Anderson Cabot Center for Ocean Life at the New England Aquarium, NOAA, academia, and other organizations in the peer-reviewed journal, Biological Conservation, that supports the findings of Garrison et al. (2022). We developed a metric for estimating the reduction in risk achieved by management strategies that is easy to use and understand. The metric estimates risk reduction using the relationship between vessel speed and the probability that a strike is lethal, the distance a vessel travels, and whale habitat use. This metric does not include estimates of the time species spend in the strike zone; consequently, no assumptions are made about the size of a vessel's draft. In our study, we used the metric to assess

potential vessel strike risk reductions for several species of large whales on the U.S. East Coast, including North Atlantic right, humpback, fin, and sei whales. We found that a 10-knot speed restriction, rather than a 12- or 14-knot speed restriction, was necessary for reducing risk. We also found that a 10-knot speed restriction applied in broad areas defined by core whale habitat reduces the risk of a lethal vessel strike for these species. The core whale habitat defined in our study was similar to the Seasonal Speed Zones in the Proposed Rule and supports the study by Garrison et al. (2022) that shows that a 10-knot speed restriction in the Seasonal Speed Zones reduces vessel strike risk for NARW. While the core whale habitat used in our study was primarily defined to protect NARW, our results suggest that these areas also protect humpback, fin, and sei whales.

Below we address three of the four specific changes in the Proposed Rule based on the New England Aquarium's longstanding expertise and study of the species:

1. Expanding the spatial and temporal extent of Seasonal Speed Zones;
2. Expanding the vessels subject to the speed restrictions to most vessels greater than or equal to 35 feet (10.7 m) and less than 65 feet (19.8 m); and
3. Implementing mandatory speed restrictions in Dynamic Speed Zones, which are established when whales are detected outside of Seasonal Speed Zones.

The fourth proposed change updates the safety deviation provisions in the 2008 Rule. We do not have expertise in this area; consequently, we do not address this change.

Expanding the Seasonal Speed Zones

The New England Aquarium reviewed the proposed Seasonal Speed Zones (SSZ) and associated best available science, which supports the expansion of the size of the SSZ and the length of time the SSZ are active. We support NOAA's approach to determining whether, where, and for how long speed restrictions should be in place, which recognizes responsible use of the ocean by establishing the smallest spatial and temporal footprint needed to protect the species, while allowing for vessel activity. Vessel speed restrictions have been used to mitigate vessel-strike risk because studies (Vanderlaan and Taggart, 2007; Conn and Silber, 2013) have shown that the probability of a lethal vessel strike increases at higher vessel speeds. The SSZ, which are larger and active longer than the Seasonal Management Areas established in the 2008 Rule, address the shortcomings identified in the 2008 Rule's Seasonal Management Areas.

Analyses of the proximity of NARW vessel strikes to Seasonal Management Areas (Laist et al., 2014) and analyses comparing the number of NARW struck before and after management measures were implemented (NOAA, 2020) suggest that the Seasonal Management Areas have helped to reduce vessel strikes of NARW. However, multiple studies and continued vessel strikes of NARW since 2008 demonstrate that these areas fall short of achieving the risk reduction necessary to prevent extinction of NARW. In particular, multiple studies have shown that these Seasonal Management Areas are insufficient in both space and time (Schick et al., 2009; Laist et al., 2014; van der Hoop et al., 2015). The size of the Seasonal Management Areas was likely insufficient when the 2008 Rule was implemented because nearly one-third of detected NARW vessel strike mortalities occurred outside of the managed space but within managed timeframes (van der Hoop et al., 2015).

U.S. East Coast waters represent year-round NARW habitat (Davis et al., 2017). The spatial and temporal expansion of the SSZ ensure that they are better aligned with NARW habitat, cover areas where previous vessel strike mortalities have been detected, and buffer against climate-driven changes in NARW habitat. Climate change has caused NARW distributions to shift to new areas and has changed the time periods over which NARW use different areas (Record et al., 2019; Pendleton et al., 2022). For example, NARW have returned to historically important areas, such as southern New England shelf waters. Southern New England shelf waters were formerly a whaling ground and these waters have reemerged as an important NARW habitat (O'Brien et al., 2022). Additionally, studies have shown that climate change has resulted in the peak usage of Cape Cod Bay by NARW occurring later in the season (Pendleton et al., 2022) and in a higher abundance of NARW in Cape Cod Bay (Ganley et al., 2022). The expanded SSZ help ensure that vessel strike risk is addressed in these areas with documented, climate-driven changes in NARW habitat use.

Additionally, the Proposed Rule will benefit other baleen whale species (Redfern et al., 2024). For example, NOAA declared an Unusual Mortality Event for humpback whales because of an elevated number of humpback whale mortalities along

the U.S. East Coast from Maine through Florida since 2016 (NOAA, 2023a). This Unusual Mortality Event remains active as of June 2024. A total of 224 humpback whale mortality cases through June 13, 2024 are included in the UME with 85% of these cases (205 cases) detected between Massachusetts and North Carolina. Determination of cause of death for recent cases is ongoing. However, of the 90 carcasses examined, 40% were attributed to vessel strikes or entanglements (NOAA, 2023a). The Proposed Rule establishes a SSZ in waters off these states, which would reduce the risk of a lethal vessel strike for humpback whales.

Expanding the vessels subject to the speed restriction

The New England Aquarium supports the Proposed Rule's expansion of the vessels subject to the speed restriction to most vessels greater than or equal to 35 feet (10.7 m) and less than 65 feet (19.8 m). The 2008 Rule focused on reducing risk in U.S. waters from vessels over 65 feet, which were the vessel sizes thought to be the main threat to NARW at that time. However, at least five vessel strikes in U.S. waters since 2008 (including three after 2020) that resulted in death or serious injury involved vessels smaller than 65 feet, which are not subject to the mandatory speed restrictions in the 2008 Rule. Specifically, a 46-foot vessel struck a NARW off Georgia in 2012, resulting in a serious injury (NOAA, 2020). Additionally, a 39-foot vessel struck a NARW off Massachusetts in 2014, resulting in propeller cuts and serious injury (NOAA, 2020). These individual NARW could not be identified because they were not photographed; consequently, the ultimate outcome of these strikes are not known. In 2021, a reproductive female NARW, Infinity, was seriously injured and her calf was killed when they were struck by a 54-foot vessel. Infinity was last sighted four days after the strike with deep propeller wounds to her side and has not been sighted again as of submission of this testimony (NOAA, 2023b). Finally, a months-old calf suffered significant propeller wounds to its head in January 2024 and died from those injuries in March. Forensic analyses indicate that the vessel responsible for the strike was between 35 and 57 feet in length. Additional details about this calf's death are provided above.

Mandatory speed restrictions in Dynamic Speed Zones

Static speed management is not sufficient as a sole strategy to reduce vessel strike risk because of variability in species distributions. Consequently, it is necessary to include Dynamic Speed Zones in the Proposed Rule and for speed restrictions in these Dynamic Speed Zones to be mandatory. Over a decade of research on the U.S. East and West Coasts shows low compliance with voluntary speed restrictions (e.g., McKenna et al., 2012; Silber et al., 2012; Freedman et al., 2017; Morten et al., 2022). Mandatory speed restrictions were found to achieve high compliance when they were implemented and enforced on the U.S. East Coast (Silber et al., 2014). This research suggests that implementing and enforcing mandatory speed restrictions in areas of high risk identified using the best available science will reduce the risk of lethal vessel strikes for NARW. To ensure that the Dynamic Speed Zones provide the protection needed to reduce vessel strike risk requires the continued use of both visual sightings and acoustic detections. Both monitoring methods require sufficient effort (e.g., surveillance flights and acoustic monitoring stations) to ensure that NARW are detected and Dynamic Speed Zones are established.

Conclusion

On behalf of the New England Aquarium, this testimony is grounded in the best available science, consistent with the U.S. statutory laws that protect North Atlantic right whales (NARW), and necessary given the extinction trajectory of the NARW species. H.R. 8704 would have devastating consequences for NARW because it delays NOAA's ability to implement its proposed protections from vessel strikes through December 31, 2030. NOAA's Proposed Rule (NOAA, 2022) is necessary to further reduce the likelihood of mortalities and serious injuries to NARW from vessel strikes. It has been more than 22 months since NOAA released the Proposed Rule on August 1, 2022, and the Final Rule has yet to be released. Further delay in releasing the important protections would put the critically endangered NARW at continued risk of death and serious injury from vessel strikes.

Scientific evaluation of the changes in the Proposed Rule show that these changes contribute to NARW survival by reducing the risk of vessel strikes. Specifically, expanding the Seasonal Speed Zones in space and time is necessary to ensure that these zones are better aligned with NARW habitat (e.g., Davis et al., 2017), cover areas where previous vessel strike mortalities have been detected (e.g., van der Hoop et al., 2015), and buffer against climate-driven changes in NARW habitat (e.g., O'Brien et al., 2022). Expanding the speed restriction to most vessels greater than

or equal to 35 feet (10.7 m) and less than 65 feet (19.8 m) is necessary because at least five documented vessel strikes in U.S. waters since 2008 (including three after 2020) that resulted in death or serious injury involved vessels smaller than 65 feet (NOAA, 2020; 2023b). Implementing mandatory Dynamic Speed Zones is necessary because of variability in species distributions and over a decade of research on the U.S. East and West Coasts shows low cooperation with voluntary speed restrictions (e.g., McKenna et al., 2012; Silber et al., 2012; Freedman et al., 2017; Morten et al., 2022).

Protecting whales through measures known to be effective, such as speed restrictions, and funding the development of other approaches, including technology, to reduce vessel strike risk are not mutually exclusive. However, NARW must survive long enough to benefit from the approaches for coexistence that would be funded in H.R. 8704, including technology and enhanced awareness. While these approaches are developed, assessed, and carried out, we must implement measures known to reduce the risk of vessel strike to NARW, such as those included in the Proposed Rule that was released nearly two years ago. Recent research shows that the Seasonal Speed Zones in the Proposed Rule will also protect humpback, fin, and sei whales from vessel strikes. A long history of research shows that the 2008 Rule is not sufficient to protect NARW. Research also shows that the changes in the Proposed Rule reduce the risk of vessel strikes for NARW, especially during particularly vulnerable times, like calving season, which occurs from November through April. 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 toward 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.

References

Carretta, J.V., Oleson, E.M., Forney, K.A., et al. (2022). U.S. Pacific marine mammal stock assessments: 2021. NOAA-TM-NMFS-SWFSC-663.

Conn, P.B., and Silber, G.K. (2013). Vessel speed restrictions reduce risk of collision-related mortality for North Atlantic right whales. *Ecosphere* 4(4), 1-16. doi: 10.1890/ES13-00004.1.

Corkeron, P., Hamilton, P., Bannister, J., 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.

Crum, N., Gowan, T., Krzystan, A., and Martin, J. (2019). Quantifying risk of whale-vessel collisions across space, time, and management policies. *Ecosphere* 10(4), e02713. doi: 10.1002/ecs2.2713.

Cusano, D.A., Conger, L.A., Van Parijs, S.M., and Parks, S.E. (2019). Implementing conservation measures for the North Atlantic right whale: considering the behavioral ontogeny of mother-calf pairs. *Animal Conservation* 22(3), 228-237. doi: https://doi.org/10.1111/acv.12457.

Davis, G.E., Baumgartner, M.F., Bonnell, J.M., et al. (2017). Long-term passive acoustic recordings track the changing distribution of North Atlantic right whales (*Eubalaena glacialis*) from 2004 to 2014. *Scientific Reports* 7(1), 13460. doi: 10.1038/s41598-017-13359-3.

Freedman, R., Herron, S., Byrd, et al. (2017). The effectiveness of incentivized and non-incentivized vessel speed reduction programs: case study in the Santa Barbara channel. *Ocean & Coastal Management* 148, 31-39. doi: https://doi.org/10.1016/j.ocecoaman.2017.07.013.

Ganley, L.C., Byrnes, J., Pendleton, D.E., et al. (2022). Effects of changing temperature phenology on the abundance of a critically endangered baleen whale. *Global Ecology and Conservation* 38, e02193. doi: https://doi.org/10.1016/j.gecco.2022.e02193.

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.*

Glass, A.H., Cole, T.V., and Garron, M. (2010). Mortality and serious injury determinations for baleen whale stocks along the United States and Canadian Eastern Seaboards, 2004-2008. *NOAA Technical Memorandum NOAA-TM-NMFS-NE-214, Woods Hole, Massachusetts*. doi: https://doi.org/10.25923/3v2z-j845.

Hamilton, P.K., and Knowlton, A.R. (2021). The power of knowing the individual-the North Atlantic Right Whale Catalogs. In Right Whales at Risk. Special issue of Whalewatcher. Corkeron. P. ed. 18-23. https://acs.memberclicks.net/assets/Whalewatchers/Whalewatcher-2021-final.pdf

Hayes, S.H., Josephson, E., Maze-Foley, K., et al. (2022). U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments 2021. NOAA Technical Memorandum NMFS-NE-288. doi: https://doi.org/10.25923/6tt7-kc16.

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.

Martin, J., Sabatier, Q., Gowan, T.A., et al. (2016). A quantitative framework for investigating risk of deadly collisions between marine wildlife and boats. *Methods in Ecology and Evolution* 7(1), 42-50. doi: 10.1111/2041-210X.12447.

McKenna, M.F., Katz, S.L., Condit, C., and Walbridge, S. (2012). Response of commercial ships to a voluntary speed reduction measure: are voluntary strategies adequate for mitigating ship-strike risk? *Coastal Management* 40(6), 634-650. doi: 10.1080/08920753.2012.727749.

Moore, M.J., Knowlton, A.R., Kraus, S.D., et al. (2004). Morphometry, gross morphology and available histopathology in North Atlantic right whale (*Eubalaena glacialis*) mortalities (1970-2002). *Journal of Cetacean Research and Management* 6, 199-214.

Morten, J., Freedman, R., Adams, J.D., et al. (2022). Evaluating adherence with voluntary slow speed initiatives to protect endangered whales. *Frontiers in Marine Science* 9. doi: 10.3389/fmars.2022.833206.

NARWC (2023). North Atlantic Right Whale Consortium Anthropogenic Events Database 06/01/2023, Anderson Cabot Center for Ocean Life at the New England Aquarium, Boston, MA, U.S.

NOAA (2020). North Atlantic right whale (*Eubalaena glacialis*) vessel speed rule assessment. Office of Protected Resources.

NOAA (2022). Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule. Federal Register. Document Citation 87 FR 46921. 50 CFR Part 224. Docket No. 220722-0162. RIN 0648-BI88.

NOAA (2023a). 2016-2023 Humpback Whale Unusual Mortality Event Along the Atlantic Coast. https://www.fisheries.noaa.gov/national/marine-life-distress/2016-2023-humpback-whale-unusual-mortality-event-along-atlantic-coast#causes-of-the-humpback-whale-ume.

NOAA (2023b). NOAA 2017-2023 North Atlantic Right Whale Unusual Mortality Event. https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2023-north-atlantic-right-whale-unusual-mortality-event.

O'Brien, O., Pendleton, D.E., Ganley, L.C., et al. (2022). Repatriation of a historical North Atlantic right whale habitat during an era of rapid climate change. *Nature Scientific Reports*.

Pace, R.M., Williams, R., Kraus, S.D., et al. (2021). Cryptic mortality of North Atlantic right whales. *Conservation Science and Practice* 3(2), e346. doi: https://doi.org/10.1111/csp2.346.

Pendleton, D.E., Tingley, M.W., Ganley, L.C., et al. (2022). Decadal-scale phenology and seasonal climate drivers of migratory baleen whales in a rapidly warming marine ecosystem. *Global Change Biology* 28(16), 4989-5005. doi: https://doi.org/10.1111/gcb.16225.

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.

Pirotta, E., Schick, R.S., Hamilton, P.K., et al. (2023). Estimating the effects of stressors on the health, survival and reproduction of a critically endangered, long-lived species. *Oikos* 2023(5), e09801. doi: https://doi.org/10.1111/oik.09801.

Record, N.R., Runge, J.A., Pendleton, D.E., et al. (2019). Rapid climate-driven circulation changes threaten conservation of endangered North Atlantic right whales. *Oceanography* 32(2), 162-169.

Redfern, J.V., Hodge, B.C., Pendleton, D.E., 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.

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.

Rockwood, R.C., Adams, J., Silber, G., and Jahncke, J. (2020). Estimating effectiveness of speed reduction measures for decreasing whale-strike mortality in a high-risk region. *Endangered Species Research* 43, 145-166.

Rockwood, R.C., Calambokidis, J., and Jahncke, J. (2017). High mortality of blue, humpback and fin whales from modeling of vessel collisions on the U.S. West Coast suggests population impacts and insufficient protection. *PLOS ONE* 12(8), e0183052. doi: 10.1371/journal.pone.0183052.

Runge, M.C., Linden, D.W., Hostetler, J.A., et al. (2023). A management-focused population viability analysis for North Atlantic right whales. *NOAA Technical Memorandum, NOAA-TM-NMFS-NE-307, Woods Hole, Massachusetts*. doi: https://doi.org/10.25923/3v2z-j845.

Sharp, S.M., McLellan, W.A., Rotstein, D.S., et al. (2019). Gross and histopathologic diagnoses from North Atlantic right whale *Eubalaena glacialis* mortalities between 2003 and 2018. *Diseases of Aquatic Organisms* 135(1), 1-31.

Silber, G.K., Adams, J.D., and Bettridge, S. (2012). Vessel operator response to a voluntary measure for reducing collisions with whales. *Endangered Species Research* 17(3), 245-254.

Silber, G.K., Adams, J.D., and Fonnesbeck, C.J. (2014). Compliance with vessel speed restrictions to protect North Atlantic right whales. *PeerJ* 2, e399. doi: 10.7717/peerj.399.

Taylor, J.K.D., Mandelman, J.W., McLellan, W.A., et al. (2013). Shark predation on North Atlantic right whales (*Eubalaena glacialis*) in the southeastern United States calving ground. *Marine Mammal Science* 29(1), 204-212. doi: https://doi.org/10.1111/j.1748-7692.2011.00542.x.

van der Hoop, J.M., Vanderlaan, A.S.M., Cole, T.V.N., et al. (2015). Vessel strikes to large whales before and after the 2008 ship strike rule. *Conservation Letters* 8(1), 24-32. doi: 10.1111/conl.12105.

Vanderlaan, A.S.M., and Taggart, C.T. (2007). Vessel collisions with whales: the probability of lethal injury based on vessel speed. *Marine Mammal Science* 23(1), 144-156. doi: 10.1111/j.1748-7692.2006.00098.x.

Supplement to Written Testimony

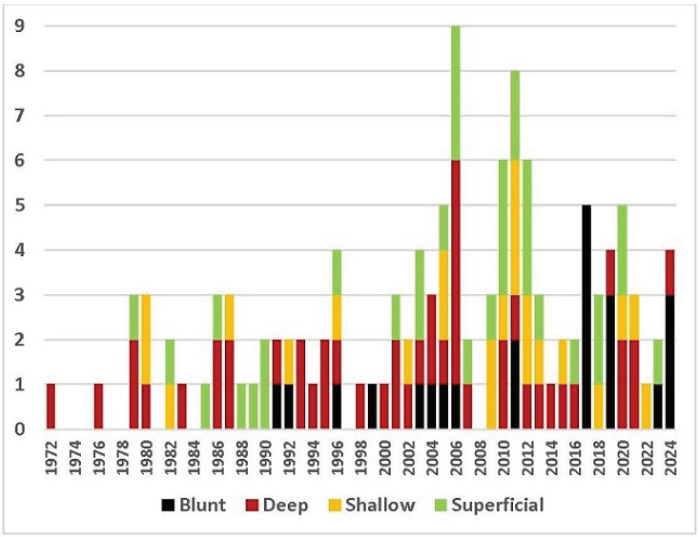

Figure 1. Vessel strikes of North Atlantic right whales since 1972, including both photographed and unphotographed cases as reported in Knowlton et al (2001), Moore et al. (2004), Sharp et al. (2019), NOAA (2020), recent North Atlantic Right Whale Consortium report cards, and the ongoing Unusual Mortality Event. The 124 cases represented in this graph include 46 dead whales and 5 whales that are presumed dead from their injuries. These cases also include two females who were pregnant at the time of the strike, one female that was struck as a calf and died when her injuries reopened during her first pregnancy 14 years later (Glass et al., 2010), and two females that had dependent calves when struck. The dependent calves were too young to survive without their mother and are included in this graph as blunt trauma mortalities. Studies have shown that whales that survive a strike, but experience deep or shallow injuries, suffer negative effects on health, reproduction, and survival (Pirotta et al. 2023). These effects are not captured in the graph, but provide further evidence of the necessity of protecting North Atlantic right whales from vessel strikes.

Figure 2. The 2024 calf of Juno seen with vessel strike injuries on January 3, 2024 off Edisto, SC. Credit: Forever Hooked Charters of South Carolina. See NOAA Updates page for details: https://www.fisheries.noaa.gov/national/endangered-species-conservation/north-atlantic-right-whale-updates#2024-calf-of-juno-(right-whale-1612.

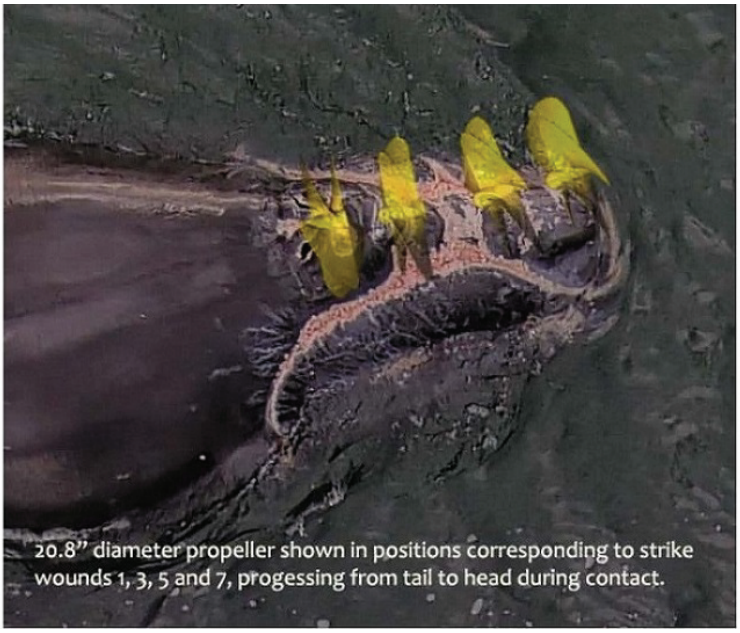

Figure 3. Illustration of the estimated propeller diameter that produced the cuts observed on the 2024 calf of Juno (Catalog #1612). An estimate of the propeller diameter was obtained using estimated measurements of calf's head length and the lengths and spacing of the cuts. The estimated propeller diameter suggests that the vessel size was between 35 and 57 feet. Credit: NOAA Fisheries, taken under NOAA permit #21371. Illustration created by forensic naval architect Paul Kamen. See NOAA Updates page for details: https://www.fisheries.noaa.gov/national/endangered-species-conservation/north-atlantic-right-whale-updates#2024-calf-of-juno-(right-whale-1612.

Figure 4. The carcass of Catalog #1950, a female North Atlantic right whale that was at least 35 years old, was found floating 50 miles offshore east of Back Bay National Wildlife Refuge, Virginia, on March 30, 2024. Credit: Clearwater Marine Aquarium Research Institute, taken under NOAA permit #24359. Aerial survey funded by United States Army Corps of Engineers. See NOAA Updates page for details: https://www.fisheries.noaa.gov/national/endangered-species-conservation/north-atlantic-right-whale-updates#2024-calf-of-juno-(right-whale-1612.

Mr. BENTZ. Thank you, Dr. Redfern. I now recognize Mr. McCurry for 5 minutes.

STATEMENT OF JAMES (JAMIE) MCCURRY, JR., CHIEF ADMINISTRATIVE OFFICER, GEORGIA PORTS AUTHORITY, SAVANNAH, GEORGIA

Mr. MCCURRY. Thank you, Mr. Chair, for inviting me to testify today as the Chief Administrative Officer of the Georgia Ports Authority. I have 22 years of experience in the maritime industry and have witnessed firsthand the critical role our ports play in both local and national economies. Today, I am here in support of H.R. 8704, a bill introduced by Congressman Buddy Carter which seeks to balance environmental protection with economic stability and operational safety.

The Georgia Ports Authority, a public entity of the state of Georgia, is dedicated to providing customers with the most efficient and productive port facilities in the nation, and to creating jobs and business opportunities for our nation's benefit. Our ports serve as magnets for international trade and investment, supporting critical sectors of our economy such as agriculture, manufacturing, and retail. We are committed to maintaining a competitive edge through the development of leading-edge technology, marketing, and operations to move cargo faster. The Authority is constantly working to identify what must be done today to sustain growth, performance, and security for tomorrow.

Georgia's deepwater ports in Savannah and Brunswick, together with our inland terminals in Chatsworth and Bainbridge, are

gateways for the world of American commerce. They are the critical conduits to which raw materials and finished products flow to and from destinations around the globe. As one of the state's largest public employers, the GPA directly employs approximately 1,800 trained logistics professionals. GPA operations, together with private sector port-related operations, account for more than 609,000 jobs in Georgia alone, including $171 billion in business revenue, and generate over $10 billion in Federal tax revenues annually, again, in Georgia alone.

The proposed amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule, while well intended, pose a significant threat to port operations on the East Coast. These changes will lead to extensive delays for piloted services, with Savannah experiencing delays of up to 28 days and Brunswick up to 9 days, resulting in substantial economic losses. Our third-party study indicates that potential job losses of up to 26,820 jobs, and a $1.85 billion reduction in GDP, again, in Georgia alone.

The repercussions would be felt nationwide, disrupting supply chains and increasing costs for customers. State license pilots face significant challenges due to these speed restrictions. Reduced speeds compromise their ability to navigate safely, particularly in adverse weather conditions. For instance, during high wind days, the slower speeds required by the rule would make it nearly impossible for pilots to safely guide ships, leading to increased risk of accidents and port closures. These operational challenges not only threaten safety, but also contribute to significant congestion and delays, further straining an already overburdened supply chain.

While the intention behind the rule is to protect the North Atlantic right whale, the unintended consequences stand to be a dramatic increase in greenhouse gas emissions. Ships idling at sea and rerouted cargo would contribute to emissions three times higher than those from the Ports of Los Angeles and Long Beach combined in 2020. This is an environmental cost that we cannot afford.

The financial burden on East Coast pilots and ports is substantial. Compliance costs, including the need for new pilot boats and additional crew, are estimated to exceed tens of millions of dollars annually. Furthermore, increased legal liabilities for pilots will lead to more conservative operations, exacerbating delays and congestion.

In conclusion, while we support the protection of the North Atlantic right whale, it is crucial to find a balanced approach that safeguards our economy and operational safety. H.R. 8704 offers a pathway to achieve this balance.

I urge the Committee to support this bill and work with all stakeholders to develop a solution that protects our environment and our economic interests, and the critically important maritime safety. By doing so, we can ensure the continued prosperity of the East Coast ports and the broader economy they support. Thank you for your time and consideration.

[The prepared statement of Mr. McCurry follows:]

PREPARED STATEMENT OF MR. JAMES C. MCCURRY, JR., CHIEF ADMINISTRATIVE OFFICER, GEORGIA PORTS AUTHORITY

ON H.R. 8704

Thank you, Chairman Westerman, Committee Ranking Member Grijalva, Subcommittee Chairman Bentz, Subcommittee Ranking Member Huffman for inviting me to testify at this hearing. To all of the committee members present, I also extend my gratitude for your time and interest in this important subject. I speak to you today in support of H.R. 8704 from my Congressman Buddy Carter, who represents the entire coast of Georgia, including the ports of Brunswick and Savannah.

As the Chief Administrative Officer of the Georgia Ports Authority, I am charged with overseeing Contracts, Properties & Planning; Purchasing; Grants Administration; Risk Management & Sustainability; Navigation Programs; Governmental Affairs and all legal matters for the Authority. I have 22 years of experience in the maritime industry and hold a Master of Science degree in Transportation Management from the University of Denver.

The Georgia Ports Authority, a state-owned entity, is dedicated to providing customers with the most efficient, productive port facilities in the nation, and to creating jobs and business opportunities to our nation's benefit. Our ports serve as magnets for international trade and investment, supporting critical sectors of our economy such as agriculture, manufacturing and retail. We are committed to maintaining a competitive edge through development of leading-edge technology, marketing and operations to move cargo faster. The Authority works hard to identify what must be done today to sustain growth, performance and security for tomorrow.

Georgia's deepwater ports in Savannah and Brunswick, together with inland terminals in Chatsworth and Bainbridge are gateways to the world for American commerce. They are the critical conduits through which raw materials and finished products flow to and from destinations around the globe.

As one of the state's largest public employers, the GPA directly employs almost 1,800 trained logistics professionals. The GPA, however, generates far more employment throughout the state. GPA operations, together with private sector, port-related operations, account for more than 609,000 jobs statewide, $171 billion dollars in revenue, and generates over $10 billion in federal revenues annually in Georgia alone.

The Port of Savannah, home to the largest single-terminal container facility of its kind in North America, is comprised of two modern, deepwater terminals: Garden City Terminal and Ocean Terminal. Together, these facilities exemplify the GPA's exacting standards of efficiency and productivity.

The Port of Brunswick is comprised of three GPA-owned deepwater terminals. The port's well-earned reputation for productivity and efficiency is heightened by its position as one of the fastest growing auto and heavy machinery ports in North America. Today, more than 12 major auto manufacturers, supported by three auto processors, utilize the Colonel's Island Terminal. The terminal is home to the United States' largest and fastest growing Ro-Ro operation.

The Georgia Ports Authority has joined other East Coast Port Authorities, Maritime Terminal Operators, Harbor Pilots and other maritime-focused interests in opposing NOAA's proposed "Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule" since it was released. NOAA did not take into account or properly weigh several critical factors when developing the proposed changes to the existing rule. The proposed rule raises considerable life and safety concerns and would cause further delays to an already strained supply chain. If implemented, this rule change will create significant congestion at our nation's ports—resulting in substantial detrimental effects on the nation's economy.

The GPA understands the need for reasonable regulations to protect the North Atlantic Right Whale and is committed to that effort. In fact, we have implemented several voluntary measures throughout the years to help protect the critically endangered species. Recently, CMA-CGM, in partnership with the GPA, launched an acoustic monitoring buoy off the coast of Savannah to increase North Atlantic right whale detection efforts.

Furthermore, we agree that it is important to monitor the effectiveness of vessel speed regulations to reduce vessel strikes. However, it is also critical to find balance between American economic priorities and conservation goals. The GPA believes that present regulations offer sufficient protection while a more thoroughly vetted solution, including modern technological monitoring is developed.

The GPA is concerned that NOAA's recently proposed changes to the existing vessel speed rule will negatively affect the safe transit of ocean-going vessels during the designated seasonal management window. State-licensed pilots are expected to act in the public interest, and to maintain a professional judgment that comports with the needs of maritime safety. In addition, state and federal licensing and regulatory authorities require compulsory pilots to take all reasonable actions to prevent ships under their navigational control from engaging in unsafe operations.

Local pilots must consider hydrological, meteorological and many other factors for safe navigation. These considerations greatly affect maneuverability and steering controls—particularly at slower speeds for larger vessels when transiting our nation's harbors.

The NOAA-proposed speed restriction requires slower speeds for pilot boats, which will lead to reduced service capacity and ship delays along virtually the entire Eastern seaboard. Without speed as an effective tool to overcome other navigational influences, ocean-going cargo vessels will be unable to safely traverse our nation's harbors under currently normal operating conditions—resulting in temporary port closures and significant congestion outside the affected harbors. When ship delays increase, shippers will reroute to other ports resulting in further congestion elsewhere.

It is highly unlikely that ships will wait at sea for weeks or months for a berth and will seek alternative ports not impacted by this rule—ports in South Florida, the Gulf Coast or the West Coast. These alternative sites do not have the ability to absorb 40% to 50% of the affected ports' volumes and would quickly back up as well—resulting in pandemic era or worse supply chain disruptions.

Freight moves based upon connectivity and cost. This rerouted cargo would have an increased impact on the environment compared to current operations—as it would be moving a greater distance over land at a greater cost to the shipper. The resultant cost increases would be passed along to the consumer and cause significant inflationary impacts to the American economy.

The potential increases of greenhouse gas emissions from the landside transportation of rerouted cargo are merely a fraction of what the emission impacts of vessels anchored at sea, waiting for weeks for a berth. As inbound vessels arrive and congestion sets in, cargo delays will also continue to increase. In Savannah and Brunswick, maximum peak days could see over 200 vessels per day waiting at anchorage. Over 1.8 million metric tons of GHG emissions may be emitted in Georgia alone as a result of these vessels—potentially 3 times higher than the 2020 vessel emissions for the Ports of Los Angeles and Long Beach combined.

NOAA's economic impact assessment for the newly proposed rule does not consider any additional negative impacts to ocean-going vessels because they are already regulated under the existing rule. The changes in deviation reporting and enforcement proposed under this rule, however, greatly alter the enforcement and oversight of necessary deviations, thereby greatly expanding the impacts on ocean-going vessels.

The negative economic impact of this proposed rule equates to the loss of up to an estimated 1,283 diverted cargo ships destined for Georgia port facilities. Amongst other cargoes, these diverted ships would include up to 3.1 million TEUs, equating to an estimated loss of $3.8 Billion in revenue for Georgia businesses, 26,820 Georgia jobs, $1.3 billion in personal income and $1.85 billion in GDP—far surpassing the total negative economic impacts assumed by the 2022 Draft Regulatory Impact Review and Initial Regulatory Flexibility Analysis of this proposed rule for the entire East Coast.

We have highly encouraged NOAA to consult with appropriate federal partners to assess the full scope of the impacts of their proposal. The United States Coast Guard is a key partner of the maritime sector in protecting the safe and efficient movement of cargo into and out of our nation's ports. The Environmental Protection Agency can thoroughly assess the significant negative air quality impacts that ships anchored off the Eastern seaboard would generate. Congress should also further consider their priorities regarding the massive economic disruptions created by NOAA's proposition.

Congressman Carter's legislation, if enacted, would pause NOAA's otherwise well-intentioned proposal until technology authorized by H.R. 8704 can implement safeguards for the North Atlantic Right Whale without the significantly negative commercial and life-safety issues created by it.

In support of our nation's agricultural, manufacturing and retail interests and the hundreds of millions of Americans who rely upon the efficient flow of commerce, the Georgia Ports Authority would highly encourage the members of this committee to support H.R. 8704.

QUESTIONS SUBMITTED FOR THE RECORD TO MR. JAMIE MCCURRY, CHIEF ADMINISTRATIVE OFFICER, GEORGIA PORTS AUTHORITY

Questions Submitted by Representative Bentz

Question 1. Mr. McCurry, one issue with NOAA's proposed amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule that the Georgia Ports Authority raised in its comments to NOAA was the proposed change to the rule's deviation clause.

1a) Could you expand on how the requirements included in NOAA's proposed rule would be burdensome to pilots and operators?

Question 2. Mr. McCurry, during the hearing there was a reference made to the Port of Los Angeles' Vessel Speed Reduction Program, a voluntary speed restriction program that has been in place for more than a decade. However, the Program's guidelines note that while there are incentives awarded for achieving certain compliance percentages, it is noted that this is a voluntary program.

2a) Could you talk about the difference between voluntary programs put in place at ports like Los Angeles versus the wide-ranging implications of NOAA's proposed amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule?

Response

On behalf of the Georgia Ports Authority, I would like to thank you for the opportunity to testify before your committee last week. I appreciated the discussion and certainly hope I was able to clarify any questions you may have had on how NOAA's proposed Vessel Speed Rule will negatively affect the port industry in America and all of the nation's economic sectors—like agriculture, manufacturing, and retail—that rely upon the efficient flow of commerce.

During the hearing, it became clear that some committee members have been misinformed about the proposed rules' changes to existing practices when it comes to deviating for the purposes of navigational safety. I appreciate the opportunity to extend my remarks and offer some clarity.

NOAA's Proposed Deviation Clause Criminalizes Real-time Navigational Decisions

Each pilotage assignment normally begins with a conference between the pilot and the master, often referred to as the Master-Pilot Exchange or MPX. The MPX is an opportunity not only to exchange information that the pilot and master each need, but also for the pilot and the master to establish an appropriate working relationship that will continue throughout the pilotage assignment. A mutually supportive and trusting relationship between the pilot and the ship's master/bridge crew is a critical component of navigation safety in pilotage waters.

NOAA's language describing the navigation safety deviation clause will, however, negatively impact the dynamics of the critical Master/Pilot Relationship. The language overtly criminalizes real-time decisions about safe navigation that vessel masters and pilots must make. Specifically, the proposed new regulatory language states, "it is unlawful for any person subject to the jurisdiction of the U.S. to commit, to attempt to commit, to solicit another to commit, or to cause to be committed any speed violation with a vessel subject to the restrictions." This pronounced emphasis on criminality will undoubtedly strain the relationship between the pilot, in charge of directing the ship's navigation and protecting the marine environment, and the master, responsible for the overall safety of the vessel and responsible to the shipping company.

If this relationship is damaged or compromised, there will be negative consequences. The proposed changes to the navigation safety deviation clause will cause masters and pilots, at a critical point when they are considering whether to increase speed for the safety of the ship—and its crew, passengers, and cargo—to be worrying about whether their decision could subject them to criminal penalties, including imprisonment.

Because the proposed regulation envisions the master and pilot agreeing upon the need to deviate from the speed limitation and concurring on all the details to be submitted in the Safety Deviation Report, a lack of understanding, hesitation, or unwillingness on the part of masters to invoke the deviation clause can create tension between the master and pilot. This would negatively impact what should be a mutually supportive and cooperative relationship.

The proposed "Safety Deviation Report" is Unworkable

NOAA wants to better monitor the use of the navigation safety deviation clause in its new proposed amendment. However, the proposed alternative is both dangerous and unworkable. The changes to the reporting requirements in the 2008 rule would jeopardize navigational safety by distracting pilots and masters—at precisely the wrong time—from focusing squarely on safely navigating large ocean-going vessels in the constricted waters of FNCs.

Additionally, the proposed amendments to the deviation clause are unworkable as drafted. Rather than create a new, unwieldy, and dangerous new regulatory scheme, NOAA should instead require the submission of relevant sections of the ship's log within 30 days of invoking the navigation safety deviation clause. This will not only allow NOAA to gather, in a timely manner, the information it requires, but it will also not unnecessarily distract professional mariners from the duties to navigate large merchant vessels safely.

Furthermore, the requirement for the vessel operator to submit a "Safety Deviation Report" to NMFS within 48 hours of using the deviation clause is impracticable, and the detailed reporting requirements are lengthy, detailed, and extremely cumbersome. The proposed recordkeeping and reporting requirements will require considerable time to gather the information (if it, in fact, is even available in some offshore waters), compile it, fill out the form, and transmit it to NMFS. Further, if the vessel is under pilotage, "the pilot must attest to the accuracy of the information contained in the report." Even though NMFS proposes to allow 48 hours for the Safety Deviation Report to be submitted, the only practical way to comply with the rule would be for the master to complete the Report in near real-time and the pilot to remain on the ship to review and "attest" to the information on the form.

It is unrealistic to expect that the pilot could depart the ship to service other ships, the ship would transit off to the next port of call, and then the pilot and master would correspond electronically over the next two days to complete, agree upon, and submit the form to NMFS. It is simply not realistic to expect such a process to be practical or workable.

Our industry strongly recommends NMFS reconsider its criminalization of the decision to use a safety speed deviation, especially for vessels operating in areas of restricted maneuverability like FNCs and pilot boarding areas. We also believe that NOAA should instead require that when a ship opts to exercise the navigation safety deviation clause and exceed 1O knots, the shipping interests must submit the relevant portions of the ship's log (e.g., the log entry information currently required by 50 CFR §224.105) to NMFS within 30 days. Requiring the prompt submission of relevant portions of the ship's log, which is an official document with significant legal standing both in the U.S. and internationally, will provide NMFS with timely access to information pertaining to the use of the navigation safety deviation clause by large ocean-going vessels.

Federally Required Speed Rules Preclude Safe Passage in Georgia Harbors

Every port in America is served by harbor pilots who are charged by their state with preventing vessel operations that might pose a danger to navigation or to the state's environment and economy. The official responsibility of these state-licensed pilots is to protect the marine environment as they ensure the safe and efficient movement of maritime commerce. To fulfill that mission, pilots are required to not only have detailed knowledge of local waters, but also expected to be world-class ship handlers, and to understand how ships and their pilot boats interact with each other and the elements. Pilots along the East Coast are intimately familiar with the oceanography, hydrographic, and meteorological conditions of Federal Navigation Channels FNCs) and waterways in which the speed restrictions would apply.

Unlike airline pilots who experience more uniform approaches to airport runways, seaport runways or Federal Navigation Channels are all unique. The diversity of our nation's FNCs dictates distinctive challenges to the safe and efficient operation of commercial vessels at every port. Since this rule affects the speed of vessels offshore, a review of the dimensions of the entrance channels at key ports is appropriate.

California and Georgia Port Entrance Channel Dimensions – A Comparison

PORT	WIDTH	DEPTH	LENGTH
SAVANNAH	570'	49'	18.5 miles
BRUNSWICK	500'	38'	10.7 miles
LOS ANGELES	1300'	80'	3 miles
LONG BEACH	1200'	76'	3 miles
SAN FRANCISCO	2000'	55'	3 miles

The data above shows the dimensions of the three California ports—San Francisco, Los Angeles and Long Beach have very wide and very short entrance channels with ample available depth. Georgia's port entrance channels are much narrower, longer, and shallower than their West Coast peers. Navigational challenges where speed becomes a critical consideration are more prevalent along the Georgia coast due primarily to FNC dimensions at these ports.

The maneuverability of large, deep-draft ocean vessels is already restricted by the depths and width in Georgia's much longer entrance channels. The vessels are limited in how far they might be able to turn or alter course based on their deep drafts and other tidal considerations. The NARW vessel strike rules compound the dangers of navigating these large vessels by limiting the ability of pilots to use the necessary speed to maintain safe navigation in these waters.

These entrance channels are perpendicular to the high winds and currents that are prevalent in the winter months. The perpendicular winds and currents often demand increased speed to keep these vessels on track. It is in these offshore, unsheltered, and restricted channels—with the challenging combination of strong currents, confused winds, heavy vessel traffic, and proximity to dangerous shoal waters—where Savannah and Brunswick's state-licensed pilots ply their trade. Due to the rapid growth in length, width, sail area, and draft of vessels calling at Georgia's ports, our concerns about the ability of pilots to safely navigate in narrow and challenging FNC waters have only increased since mandatory NARW speed restrictions began in 2008.

Furthermore, California's voluntary Vessel Speed Reduction Program (VSRP) was crafted to reduce diesel particulate matter, nitrous oxides, and other greenhouse gas emissions from ocean-going vessels, not to reduce impacts on sea life . This program was established in partnership with the Environmental Protection Agency and various California-based air quality regulatory agencies and offers financial incentives to encourage participants to comply.

Conversely, a federally required speed reduction rule will have the opposite effect in Georgia, where air quality is not subject to EPA-mandated remediation efforts. Requiring harbor pilots to delay ship movements due to safety considerations created by this proposed rule will cause ships to remain at anchor offshore and unnecessarily emit additional particulates into an otherwise pristine environment. Cargo that diverts to other ports will be required to travel further to or from inland destinations, creating additional emissions throughout the Southeast.

Thank you again for allowing us to testify before your committee and for including this additional information into the record.

Mr. BENTZ. Thank you, Mr. McCurry. I thank all the witnesses for their testimony, and we will now recognize Members for 5 minutes each for questions.

Congresswoman Hageman, you are recognized for 5 minutes.

Ms. HAGEMAN. Thank you very much, and thank the witnesses for being here today.

I am on the Judiciary Committee, and we recently had a hearing related to the anti-trust aspects of the ESG radical agenda. And it is a radical agenda. One of the things that became clear during the course of that particular hearing is that they are coming for our food. And this is yet another example of that. The areas that they have targeted the most are our energy industry, our airline

industry, and then they have also made clear that they want to go after the livestock and agriculture industry.

And again, I think that this is partly an extension of that when they adopt regulations that will destroy entire communities and entire industries that have done just an absolutely phenomenal job of taking care of our environment and protecting our various wildlife and fisheries species.

Mr. McCurry, the grant program established in H.R. 8704 is supposed to help deploy innovative technologies and best practices to limit vessel strikes with whales. And what are some of the best practices, and why is the funding provided through this grant program necessary to assist with that?

Mr. MCCURRY. Well, I can offer one example that we have employed at the Port of Savannah in partnership with CMA CGM. We have deployed a buoy that can help locate the North Atlantic right whales that are in the area of the navigation channel, so that ships will be aware of their presence and know to avoid them. It is that type of technology that is pinpointing the presence of a whale or any other species. I think the technology is available to do a lot of things that can, in the time of need, allow for pilots and the maritime crews on the vessels to perform in a safe manner while not, I guess, overdoing that on a constant basis during the season.

Ms. HAGEMAN. And you have demonstrated that you can operate in a safe manner and protect the species, as well. Isn't that true?

Mr. MCCURRY. That is correct. In fact, to our knowledge, there has never been a vessel strike by a pilot boat anywhere on the East Coast, and certainly not in Georgia. In fact, the pilot boats that are used in Georgia, and I think in most states, are actually jet propulsion vessels, so they do not contribute to the problem that this rule is seeking to avoid.

Ms. HAGEMAN. And what is interesting to me is that, when we are going after your industry, or this Administration is going after and attempting to destroy this industry, and as you say, disrupt and impact the supply chain, it will impact our ability to bring goods and materials into the country. And these are the same people who are advocating for massive wind farms off the coast that we know do have an impact upon the right whale and other species, including birds and other marine species. So, it is just so interesting to me that they want to destroy a very successful industry that has done a great job of protecting a variety of species, while also advocating for things that we know are destructive.

I am going to direct my questions to Mr. Strong.

Mr. Strong, in your opinion, why is the funding provided through the grant program established in this legislation necessary for implementing some of these best practices that we just talked about?

Mr. STRONG. Thank you. In our experience, the technology vastly does exist. It is unfortunate that NOAA has chosen not to include our industry during what was supposed to be collaboration. They didn't reach out. When they were finally forced to reach out, and they had a technology conference, that was after their submission for the rule. So, the findings and the information during that technology conference were never even included.

For the funding aspect of it, it is our industry's belief that the vast majority of technology does exist, but is not well integrated currently. So, the funding of this would help to advance the timeline of being able to integrate multiple technologies that do exist, again, as I testified earlier briefly, much like Waze is for cars. A similar type application could be applied for boats that would show right up on the vessel screen, along with other fishing regulations and things that would be helpful for boaters.

Ms. HAGEMAN. Dr. Howell, why didn't you reach out to the industry to address the technology that is available?

Dr. HOWELL. The team did hold the Advanced Technology Workshop, and they reached out to the people I think that they felt were there. I am not sure. I can get back to the team to understand how the list of participants was selected.

Ms. HAGEMAN. I would sure like to know why you would exclude the very industry that is involved in developing the technology and has the expertise. It is just so interesting to me that they would be excluded when you are talking about adopting a rule of this magnitude that would essentially destroy their industry. Don't you think you should have?

Dr. HOWELL. I would like to focus on two things. One is there are two separations, the Vessel Speed Rule itself and then the advanced technology incorporation, which we——

Ms. HAGEMAN. Well, my question is, don't you think you should have reached out to the industry to get their input from the beginning, so that you understand what kind of technology is available in the industry itself? It is a yes or no question.

Dr. HOWELL. Our intention was to include the people that are necessary for this.

Ms. HAGEMAN. But apparently you didn't reach out to the industry.

Dr. HOWELL. I won't say that I didn't reach out to industry——

Ms. HAGEMAN. Well, they are saying that you didn't.

Mr. BENTZ. The Congresswoman's time has expired.

Ms. HAGEMAN. Thank you. I yield back.

Mr. BENTZ. The Chair recognizes the Ranking Member for 5 minutes.

Mr. HUFFMAN. Yes, and just to clarify, because there has been so much hyperbole and performative stuff in the last 5 minutes, I heard the gentleman from NOAA say he did reach out to the industry, but apparently maybe not this specific technology, this specific company.

Dr. Howell, I am sure you would be happy to hear more about that. And if there is a wonderful fix here through technology, I am sure you would love to consider that in your rulemaking. Is that fair to say?

Dr. HOWELL. That is fair.

Mr. HUFFMAN. All right, thank you. Yes, hyperbole is getting a bad name in this Subcommittee. Apparently, there is some other world somewhere where a vast conspiracy of hyper-woke Democrats is trying to ruin entire industries. I don't know where that world is, but I want to bring us back to this world, where there has been a lot of misinformation about this vessel speed reduction issue.

So, I want to ask you, Dr. Redfern, what does the science tell us is the best tool that we currently have to save right whales from extinction?

Dr. REDFERN. There are two threats that right whales are facing: entanglements and vessel strikes. We are talking about vessel strikes today. The scientific evidence is clear that the revisions NOAA proposed to the 2008 Vessel Speed Rule will reduce the risk of vessel strikes for right whales, and that is critically important to curbing the trajectory towards extinction for this species.

Mr. HUFFMAN. And is there a percentage of death reduction that has been calculated from a Vessel Speed Rule?

Dr. REDFERN. Yes, and that has been calculated in two different ways, and I find that really important because when we use different methods that show the same thing, I have confidence in those results. They are robust, any of the assumptions going into them. And both of them are showing on the order of 20 to 30 percent risk reductions.

Mr. HUFFMAN. All right, thank you. Under the Endangered Species Act, if a boater injures or kills a North Atlantic right whale, they are liable, correct?

Dr. REDFERN. I would like to pass that to Dr. Howell.

Mr. HUFFMAN. All right, Dr. Howell, am I correct?

Dr. HOWELL. I don't have the direct answer for that.

Mr. HUFFMAN. That is a take.

Dr. HOWELL. Yes.

Mr. HUFFMAN. I can answer it. How is that?

Dr. HOWELL. Yes.

[Laughter.]

Mr. HUFFMAN. So, I am just wondering how an individual boater can reduce their risk of striking and killing a right whale if they are operating in a seasonal North Atlantic right whale migratory zone. If there is a better way for them to avoid that individual liability, I would love to hear about it. Maybe the technology Mr. Strong talked about can help them in that regard, but it seems like vessel speed rules would also be of great benefit to avoiding that individual liability.

Dr. Redfern, is there technology currently available and employed that can save right whales in the absence of a speed rule?

Dr. REDFERN. The technology is not yet ready or available.

One of the things that is critical about technology and other approaches to reducing vessel strike is that they need to be rigorously evaluated so that we can understand exactly the risk reduction that they provide, and compare that to measures we know are effective, such as rerouting vessels or slowing vessels down.

And I just want to point out the history that there is a lot of research that shows that slowing vessels down reduces the risk of a lethal strike to whales. It also gives whales and the boaters more time to react if a whale is detected in front of them so they can take the actions they need to avoid the strike.

Mr. HUFFMAN. And you talked about the impact of losing a reproductively mature female right whale. Mothers and calves are particularly important to protect for this population, right?

Dr. REDFERN. Yes.

Mr. HUFFMAN. And where do mothers and calves spend most of their time?

Dr. REDFERN. I looked into this before the hearing. A study shows that they are spending 70 percent of their time at or near the surface.

Another point I want to make, because it is really relevant to the technology discussion, mothers and calves are not calling, and that is why buoys to detect calling whales are not going to be as successful for mothers and calves down in the southeast, where they are not calling. So, that is something else that we need to be thinking about and working on. And the Aquarium is committed to working with our partners to find technological solutions, we just have to make sure right whales survive long enough to benefit from those technologies.

Mr. HUFFMAN. Thank you. And you also gave important testimony to show that we are not just hypothesizing that smaller vessels between 35 and 65 feet can kill right whales. You have hard data showing that that has happened, right?

Dr. REDFERN. Yes.

Mr. HUFFMAN. And we know that those are just the examples you have been able to confirm. So, there are surely others.

Dr. REDFERN. That is exactly right. There have been five since the 2008 Vessel Speed Rule, and three of them since 2021.

Mr. HUFFMAN. Thank you, Dr. Redfern.

Just to close, look, I don't want to arbitrarily do anything that harms boaters. I like boats, I like recreating on them. I have probably done more of that than most members of this Committee, Mr. Graves has probably spent more time than me on the water, but not many others do. So, I would not be supporting this commonsense approach NOAA has taken if I didn't think it was absolutely necessary to save the North Atlantic right whale.

And I also know, in response to some of the doom and gloom we have heard about vessel speed reductions, that it happens all the time. In the West Coast, we have voluntary speed reductions. I am sure the Port of Georgia is very important. So, is the Port of Los Angeles, and Long Beach, and Oakland, where we have had voluntary speed reductions from big-time shippers just because they want to do the right thing. And the world didn't come to an end.

With that, I yield back.

Mr. BENTZ. Mr. Graves, you are recognized for 5 minutes.

Mr. GRAVES. Thank you.

Mr. McCurry, why don't we have a 5 mile-per-hour speed limit on the interstates?

Mr. MCCURRY. Well, I suppose that has to do with safety.

Mr. GRAVES. So, if we put a 5 mile-per-hour speed limit on interstates, it would probably be safer, but it would take approximately forever for people to get places, right?

Mr. MCCURRY. I would argue that it would be less safe to have that kind of speed on the interstate, but yes, it would take forever to get anywhere.

Mr. GRAVES. Yes, all right. I am just curious. So, there are probably other considerations and a balance in the overall kind of thinking through.

Mr. MCCURRY. Absolutely.

Mr. GRAVES. Yes, all right. Just curious.

Ms. Guyas, in your testimony, you talk about how MRIP is used. I think you said East Coast, Gulf, and then you said Hawaii. You said over to Hawaii. And I am not a geography major, but I just noted that you didn't make reference to the West Coast. Can you talk a little bit about that background, and perhaps why that wasn't explicitly included?

Ms. GUYAS. Yes, thanks for that question. The West Coast states used to participate in a data collection system that was federally run prior to MRIP. That was called, the acronym is MRFSS, and at the time, about 20 years ago, some of the states over there were running their own surveys on top of that, and they decided that they would, 20 years ago, stop with the Federal program. And each state, California, Oregon, and Washington, has their own survey that they have been doing for 20 years that is used for management.

Mr. GRAVES. Could you say that again? I just wanted to make sure I heard you. For Oregon, Washington, and California, they what?

Ms. GUYAS. They all have their own state surveys that they use instead of MRIP.

Mr. GRAVES. Wow, that is fascinating.

[Laughter.]

Mr. GRAVES. Fascinating, fascinating. I am sorry. Thank you.

Mr. HUFFMAN. If the gentleman wants to yield, I can demystify it for him, but maybe you would prefer to preserve the mystery.

Mr. GRAVES. No, I have to tell you, I feel like I have heard enough out of you for a lifetime, a lifetime.

Mr. HUFFMAN. Let the mystery——

Mr. GRAVES. No. For those of you who don't know, Mr. Huffman is a friend of mine. He really is. We violently disagree on things, and only one of us is rational, but he is a friend of mine.

Ms. Guyas, can you talk about some of the issues we have had with calibration in the Gulf?

And I made comments earlier in my opening statement about translating, converting, calibrating, and talked about going State to Federal versus Federal to State, and just how you effectively dilute accuracy. Could you talk about that a bit?

Ms. GUYAS. Yes, thanks for that question, too.

As you know, each of the Gulf states has their own survey for red snapper, and maybe other species too. In the case of Louisiana, their survey covers everything, right?

So, one of the ongoing struggles that has been going on in the Gulf of Mexico with red snapper is how to calibrate or, in other words, convert from MRIP, which used to be used to monitor that fishery, to now these state data programs because you do need to be able to compare what has happened in the past and what was caught with MRIP versus what is being monitored and caught now under the state programs.

And we have had situations with some of the states. I will use the example of Mississippi, because I think it is an easy one to follow. So, Mississippi, when they were using MRIP to track red snapper landings, they would have years where MRIP was telling them no red snapper were landed, which they knew was not true.

And then it was kind of scattershot otherwise, where they would have really high landings or really low. So, the program that they have developed is called Tails and Scales. They are able to get much more refined information from the anglers that are out there fishing for red snapper. It is a lot more reliable.

And one of the struggles with calibration has been with Mississippi. How do we calibrate this program that was very inconsistent and we know does not paint a good picture of what has happened, really, in the past with this program that seems to be a lot more reliable? And the approach has been to calibrate all of the state surveys back to MRIP, which is not being used anymore for red snapper, and has some issues.

So, there have been a lot of conversations about the best way to do that. I feel like it is still an ongoing conversation. Does that help answer your question?

Mr. GRAVES. Yes, it was very helpful. I do want to push back on one thing you said in regard to not catching any fish in Mississippi in one year. I have seen them fish there before, and I wouldn't be shocked at all if that were the case.

[Laughter.]

Mr. GRAVES. Just kidding.

Dr. Howell, I would like to ask you, in regard to your testimony about a bill, I noticed that you talked about sections related to improving recreational fishing data collection. However, we did try to incorporate some of the lessons learned from the great red snapper count into that. Is it reasonable that more consistent surveys of that type, the independent type like the great red snapper count, would help to improve or fill in the gaps on some of the stock assessments?

Dr. HOWELL. The great red snapper count represented one of the biggest studies that was ever done on red snapper at one point in time. Using the technology that was in there is definitely a way that we could look to try to get more towards absolute or a better abundance estimate than we use just from the survey.

So, we have been investing IRA money. We have about $10 million that is going into a workshop, $2 million of this for just the optical system. So, look at a mini-great red snapper count, more every year.

Mr. GRAVES. Great. Thank you. I yield back.

Mr. BENTZ. We are going to go into recess now until after votes. They were called, so we will see you in an hour-and-a-half or so.

[Recess.]

Mr. BENTZ. The hearing will come to order. The Chair recognizes Congressman Carter for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman, and again, thank you for allowing me to waive on.

Mr. McCurry, thank you again for being here. As I said in my opening statement, Georgia's ports have seen tremendous growth over the past few years, and a few decades, to be quite honest with you, and they have seen significant investments into the infrastructure required for our ports. And I didn't say, but I want to say the Georgia ports are the economic engine of the Southeast. And when I say Southeast, I don't mean southeast Georgia, I mean the

Southeast. The impact of the Georgia ports are felt all the way up to the Ohio Valley, as you know, and as I hope everybody knows.

Mr. McCurry, could you expand on the potential impacts this rule could have on port operations?

Mr. MCCURRY. Yes, sir. Thank you, Mr. Carter.

I think that, first and foremost, none of us, I believe I speak for everybody here, want to see any right whales injured, much less killed for one reason or another. But when you look at the practical impacts that the proposed rule would have on operations at the Port of Savannah, the Port of Brunswick, any port along the East Coast, most of the ports on the East Coast are in the zone affected, you run into two things. With the size of the pilot vessels having to be restricted, or the speed restricted in lieu of a size change, the lives and the safety of the pilots are perversely at danger.

And when considerations offshore, which is, obviously, prevalent all the time, particularly during the winter season and into the early spring, what would happen if the pilots cannot go out and access the vessels for transit on schedule, then they will just have to wait. Particularly with the element of criminalization of the decision to adjust the speeds of the vessels that are necessary for safely transiting the channels, you are looking at, in all likelihood, supply chain delays that probably exceed those that we saw during the pandemic because of the delay of vessels being able to safely transit channels.

In terms of the ships themselves, the speed of the vessel must constantly be adjusted to maintain safe transit. I think that we have seen an unfortunate accident—now, granted, it was because of the loss of power and, therefore, steerage of a vessel very near here, in Baltimore. But if you can't constantly adjust the speed of the vessel in and out of a port, then you obviously are at risk of a grounding or a collision, vessels colliding with one another, or potentially even a vessel colliding with buildings along a channel, such as what you see in Savannah and other places.

So, it is not about a preference of rule or no rule. It is about smart rulemaking, and providing for the safety above all else of the maritime traffic.

Mr. CARTER. If you had a backlog, like could potentially happen because the ships couldn't get into port in a timely fashion, how would that impact the competitiveness of the ports on the East Coast?

Mr. MCCURRY. Well, I think that, practically speaking, those delays become such that the ships have to find other ports to go to. So, there is an economic impact to the ports along the East Coast by virtue of vessels departing to go to other places.

There is also, as I stated earlier in my testimony, the environmental impacts of vessels having to steam longer or simply sit at anchor with their engines running. That creates additional greenhouse gas emissions that we don't want to see, either.

So, there are economic consequences to not just, selfishly, the ports that want the business, but to the cost of moving goods on the East Coast and the businesses that are in place along the East Coast that will be affected by that. And then there is an environmental impact by the longer transit and longer steaming times at anchor.

Mr. CARTER. Right. Well, as you know, we have the largest single economic development project ever in the state of Georgia close to the Savannah port in the 1st District that I have the honor and privilege of representing, a $5.5 billion investment by Hyundai that is going to create 8,100 jobs. We are having enormous growth in our area. If this rule were to go into effect, what kind of impact would it have on the future of the Savannah port, as well as the Brunswick port?

Mr. MCCURRY. I think, at a minimum, you are talking about a significant increase in the cost of moving goods, so the good movement often finds the path of least resistance, both financially and in terms of the time to get to and from markets. So, it could have a significant economic impact on the ports in your district.

But honestly, the same applies up and down the East Coast, the ports that are also going to be impacted by this.

Mr. CARTER. Great. Again, thank you for being here today.

Mr. Chairman, again, thank you for allowing me to waive on.

Mr. BENTZ. The Chair recognizes Congresswoman Hoyle for 5 minutes.

Ms. HOYLE. Thank you, Mr. Chair. I would like to yield my time to Mr. Huffman.

Mr. HUFFMAN. Through the Chair, I would like to thank the gentlelady from Oregon.

Director Howell, I want to ask you some questions about this data MRIP issue.

And my colleague from Louisiana, Mr. Graves, is right. We are friends. But as I said off mic, sometimes that is not easy, because my friend, Mr. Graves, did a little something that you hear in congressional debates quite often. I think those who were here for my opening remarks heard me say quite plainly that the data we use on the Federal side for recreational fishing is not great. It is flawed. It needs to get better, and we are in the process of trying to make it better. I have worked with Mr. Graves, in fact, to push NOAA to work with states in order to make that data set much better and much less uncertain.

So, what my friend from Louisiana did in his time was to say that I regard the Federal data as sacred, that I am trying to protect it, I consider it sacrosanct. And then, once you have set up that straw man, you attack it. And that is how we debate things here in Congress. But I hope folks who are following along know that that little sleight of hand is not exactly accurate or fair. Our data is not great, Dr. Howell, I don't think you would disagree with that when it comes to recreational fishing. And I want to talk to you a little bit about that.

But first of all, before I get there, let's circle back to the North Atlantic right whale for just one moment, because some concerns were raised about human safety and the fact that these vessel speed reductions, if there is a storm, if there is an emergency, that boaters could really be put at risk by an arbitrary 10 knot vessel speed reduction. Tell me a little more about the flexibility that you anticipate building into your rulemaking.

Dr. HOWELL. I appreciate that question.

For the rulemaking, I will need to get back with the regulatory folks to understand what flexibilities are built in. I understand that it was built in mind with having ideas like safety available.

Mr. HUFFMAN. My understanding is the proposed rule includes an expansion of the safety deviation provision to include emergency situations, any emergency situation that presents a threat to health, safety, or the life of a person. So, if I am wrong about that, please correct me. Please get back to us.

Dr. HOWELL. I will not correct you, sir.

Mr. HUFFMAN. But honestly, to suggest that people are going to be put in harm's way because of this is simply inaccurate. It is at odds with the actual rule as it currently stands.

Let me go back to MRIP and the data. You are currently reviewing and updating the MRIP program, correct?

Dr. HOWELL. Correct.

Mr. HUFFMAN. And does this bill allow for managers at NOAA to objectively assess all data sources?

I mean, the best data, the most reliable data actually takes in everything we have. And I just want to know if this bill would allow you to do that.

I am talking about Mr. Graves' legislation.

Dr. HOWELL. Absolutely, yes. Thank you for that question.

Right now, we currently have a system that does allow us to use all data that is available. We have state-led systems, we have Federal-led surveys, as you have mentioned.

There are concerns with the bill that we would be forced to decide between one, either a state-led system or a Federal-led system, depending on what was proposed. There may be consequences where we would not be able to use all of the data that is available, or we would be forced to choose in building one system over the other.

Mr. HUFFMAN. Yes. Now, there are ways that you can improve the percent standard error, I believe. Is it PSE or PES——

Dr. HOWELL. PSE.

Mr. HUFFMAN [continuing]. That is referred to in the current data models that you are running. Tell us about those ways that you are trying to improve it.

Dr. HOWELL. Thank you again for the opportunity to talk about this. There are ways that we can improve the PSEs, the Percent Standard Errors, by doing additional sampling. There are also ways that we can look at taking the Federal survey, which really tries to cover the 50 million anglers in the United States, with the state surveys that are very specialized towards what they are looking for in that particular region. We can take those data fields together to improve our ability to collect information in a collaborative way, and not a competitive way.

Mr. HUFFMAN. Thank you. How can we be certain that state data, I mean, let's say the triggers under this bill are met, and you are forced to default to state data instead of your data. How can we be sure that it would result in a reduction in PSE?

In other words, that it would increase certainty.

Dr. HOWELL. The best thing that we could do is create a rulemaking or a standards and best practices framework. And we have this in the regions which says that all of the data that is used has

to undergo the same rigorous scientific review, transparency documentation. That allows us to see that the survey itself is being done, and it is also the way that the survey is being done in a representative way. Then we can review that data, take it in, and the ability for us to use more data should account for our ability to lower the PSEs.

Mr. HUFFMAN. And Mr. Graves' bill would prevent you from doing that, as I understand it.

I am out of time, but I am going to circle back to this subject if I can get a friendly Member to yield me time later.

Thank you, I yield back.

Dr. HOWELL. Thank you.

Mr. BENTZ. The Chair recognizes Congressman Fry for 5 minutes.

Mr. FRY. Thank you, Mr. Chairman, and thank you for the opportunity to waive on to this hearing today. This proposed rule is incredibly impactful to my district in South Carolina.

COVID brought back outside recreation. People were golfing, people were going out, they were kayaking. They were also going out on boats. They were going fishing. And in my region of South Carolina, we saw tremendous growth in this industry. It has always been the lifeblood of our economy, tourism. People travel from all over the country to come to Myrtle Beach, South Carolina every single year. And one of the things that they do is they go fishing.

The Gulf Coast is 75 to 100 miles off the coast of South Carolina. And this proposed rule, sir, instead of taking 3 hours to get to the to the Gulf Stream, it would take 5 to 6. There is an article that was in Savannah, Georgia, in Buddy Carter's district, and somebody says, "We go out up to 100 miles off the Gulf Stream. It takes us 3 hours. They do this, and it will take 5 to 6 to get out there. Ninety-nine percent of people will just say 'we would rather not go fishing'."

There are going to be tremendous impacts because of this. And I fear that we are taking an axe to where we need a scalpel. Everyone wants to protect this endangered species, but I don't think that the data backs up what we are actually doing.

In my district of South Carolina, Mickey Thompson, the owner of Sportsman's Choice Marine in Long, South Carolina, said this: "It would be devastating to my business. One of my best selling boats is a 39-foot boat, and we sell boats up to 44 feet in length. We would lose close to $8 million, just with my dealership alone. My fear is not losing new customers, but previous customers' boat values would also drop dramatically. This rule would not only kill my business, but other businesses in the 7th Congressional District of South Carolina, from charter captains, commercial seafood folks, and the tourism business that accommodate many around here."

Mr. Chairman, I request unanimous consent to enter into the record an op-ed in the *Charleston Post and Courier*, "NOAA's proposed vessel-speed rule would devastate South Carolina's coastal economy."

Mr. BENTZ. Without objection.

[The information follows:]

Commentary: NOAA's proposed vessel-speed rule would devastate SC's coastal economy

The Post and Courier, June 6, 2024 by Tommy Hancock

https://www.postandcourier.com/opinion/commentary/noaa-vessel-speed-rules-whales-sc-coastal-economy/article_9129f58c-233b-11ef-8361-2f22c232917e.html

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In my 54 years of boating and fishing along South Carolina's coast, I've not yet had the privilege of seeing a North Atlantic right whale. Since I was 8, I've spent more than 500 days fishing these waters, yet this elusive creature remains a rarity to be seen.

Now, the National Oceanic and Atmospheric Administration has proposed expanding a rule that would cripple our coastal economy in the name of protecting these endangered whales. As someone who loves the sea, I support protecting our endangered marine mammals, but not in a way that puts boaters in danger and destroys livelihoods across our state.

South Carolina's coastal recreation economy is a powerhouse. A study by University of South Carolina economist Joey Von Nessen says boating and fishing in our state have a $6.5 billion economic impact, supporting 29,000 jobs annually, with $1.6 billion in labor income that would not exist without it. Our coastal communities thrive on recreational boating and fishing, but NOAA's reckless proposal threatens to dismantle this vital sector.

NOAA's proposed rule to limit all boats 35 feet and over to a speed of 10 knots—equivalent to a mere 11 mph—is illogical and dangerous. This antiquated measure grossly ignores the realities of boating safety and practical navigation. Imposing a 10-knot speed limit in open seas is not just impractical; it endangers the lives of boaters.

Small recreational boats are not designed to cut through the choppy waters of the Atlantic at such low speeds, which increase the likelihood of capsizing or swamping. Further, limiting boats to 10 knots restricts their visibility and ability to maneuver effectively, particularly in deteriorating weather conditions. Speed is a vital safety asset during sudden weather changes, and boaters need the capability to return to port quickly when storms approach. The proposed speed restriction would hinder this ability, potentially trapping boaters in dangerous situations.

Not only does the rule impose significant safety concerns, but it also reeks of enforcement issues and blatant government overreach. Just last year, a Charleston-based boat over 65 feet was hit with a $15,000 fine from NOAA based on Automatic Identification System data from two years prior. The penalty for speeding in a whale zone surpasses that for speeding in a school zone and can be issued through the mail nearly two years later. To put this in perspective, this would be as if you were driving your vehicle down Interstate 26 and the government sent you a ticket for speeding based on your GPS data two years later.

The facts simply do not support NOAA's heavy-handed approach. In more than 50 years, there has been just one serious whale strike off South Carolina's coast, and never by a vessel between 35 and 65 feet. This rule is not only baseless but also misguided in its failure to distinguish between small boats and enormous ocean-going vessels. Most fatal whale strikes come from vessels over 260 feet, not recreational boats. NOAA's blanket rule ignores these critical differences, endangering South Carolina's boaters while failing to make a meaningful impact on whale conservation

The fallout from this misguided rule would be catastrophic. It threatens not only recreational boating and fishing but also jobs and entire business sectors dependent on our Atlantic access, from fisheries to coastal tourism and aquaculture. South Carolina's economy cannot afford this ill-conceived intervention. My company, Sportsman Boats, employs more than 450 people, a small fraction of the jobs statewide that could be affected.

As a dedicated boating and fishing enthusiast, I understand the irreplaceable value of our time, safety and commitment to conservation on the water. This dedication led our industry to establish the South Carolina Boating and Fishing Alliance nearly four years ago, aiming to protect and enhance these experiences for future generations while leading industry-driven conservation initiatives.

NOAA's one-size-fits-all rule not backed by science is a blunt instrument that will do more harm than good, disregarding effective, technology-driven solutions.

Protecting wildlife and the Atlantic Ocean's ecosystem will always be a priority. But NOAA's proposed rule isn't the right approach. The industry urges NOAA to rethink this rule by working with the recreational boating and fishing industries to use the best technology available to protect the North Atlantic right whale. The next 54 years of South Carolina's coastal communities and economies depend on it.

Mr. FRY. Thank you.

Ms. Guyas, in your testimony, you provide the figure that recreational fishing contributes $148 billion to the U.S. economy annually. Many boaters in my district participate in the South Carolina Wahoo series annually that runs from February to April every year, which stands to be heavily impacted by this proposed rule. If this rule were enacted regarding the vessel strikes, is it feasible for this tournament to continue in its current form?

Ms. GUYAS. I don't think it would. I mean, folks that are out Wahoo fishing, they have to run quite a ways out, similar to the gentleman that you quoted in the article.

Mr. FRY. How much money do you think local tackle shops, hotels, charter captains, and restaurants would stand to lose if this rule was implemented?

Ms. GUYAS. It is a lot. I would put it in the millions of dollars, for sure.

Mr. FRY. Mr. Strong, I would like to ask you about the initial regulatory flexibility analysis completed by NMFS that found that the proposed rule would only have a $46 million annual impact. In your testimony, you note that that would actually be closer to $2 billion.

Similarly, the South Carolina Boating and Fishing Alliance estimated that it would have a $77 million impact just in our state alone in boat sale losses in their members' current inventory. Can you explain some of the disparities between these two findings?

Mr. STRONG. I will do my best. How they arrived at the $46 million number, quite frankly, I don't know. I do know that, again——

Mr. FRY. That might be like one city, right?

Mr. STRONG. Yes. Our industry, the marine recreational industry, was not involved in collaborative conversations. So, our determination was from sampling our dealers along the East Coast who would be directly impacted by this if it were to go through, and we kind of came up with a number that seemed like a conservative number of a $4 million revenue loss per dealer, $4 million, I think it was $4.1 something, but rounded, $4 million times 500 dealers, $2 billion, we believe, is a conservative loss number. And that is how we arrived at our data.

And that is annual, that is not cumulative. That is annual. Our fear is that it would actually become a lot worse than that because, as Ms. Guyas said earlier, tournaments, things that people invest a lot of money in to purchase a boat, because that is part of what they really enjoy doing. They are going to just get out. They are not going to do it because the time is one aspect, but the safety is another.

Some people referenced they were avid boaters before. Anybody who is an avid boater, if you know you are 80 miles offshore and you are restricted to traveling 10 knots, and all of a sudden the wind in the afternoon picks up to 25 knots, it is totally dangerous and unsafe to travel in 10 knots 80 miles off shore in a 25-knot wind.

Mr. FRY. Thank you for that.

Mr. Chairman, I yield back.

Mr. BENTZ. The Chair recognizes Congresswoman Porter for 5 minutes.

Ms. PORTER. I yield my time to Mr. Huffman.

Mr. HUFFMAN. I thank the gentlelady.

And the point about putting boaters in danger is exactly why the draft language of NOAA's rule has an exception for any situation that would risk the health or lives or property of people. So, I hope we can kind of dispel that particular straw man.

I want to come back to MRIP, though, and talk about state data under Mr. Graves' bill, H.R. 8705. Dr. Howell, if the triggers under this bill are met, and NOAA is forced to default to state data, is there anything to ensure that that state data, and the trigger would be if Federal data is more than 30 percent uncertain, right?

So, is there anything in the bill to ensure that the state data that you are forced to default to using exclusively is actually more certain than the Federal data that you have been required under this bill to stop using?

Dr. HOWELL. Thank you for the question there.

There is nothing that would allow us, outside of the current framework that we have. And in the regional teams, we create frameworks that have the documentation and the scientific process for how that data is collected. The states aren't always in those, and are in varying forms of how well they can do that. The Federal side, we have strived to be as transparent as possible in our framework there. So, being forced to use it, we would have to have the same documentation and the same framework analysis that was done to ensure that we had the PSEs, that 30 percent, and were done in the way that was commensurate with what MRIP as a partnership——

Mr. HUFFMAN. Thank you. And is there anything in the bill to make sure that, if you are forced to default to state data, that that state data is at least as certain, hopefully, more certain, than the Federal data?

Dr. HOWELL. Not that I can see.

Mr. HUFFMAN. And it is my understanding that Louisiana certainly has very good state data. A few other states likely have very good state data. My understanding is not every state does, and that it is very foreseeable that under this bill, you may be forced to use less certain data than the Federal data you are being required to ignore. Is that fair to say?

Dr. HOWELL. I think it is fair to say. And to the fairness to the states, they are all working hard for the continual improvement that we strive for in the Federal side. There are in varying degrees of where they are in that state. So, for us to have to turn a switch and be able to use that data right away, we can't guarantee of what state that would be in.

Mr. HUFFMAN. Thank you.

Dr. Howell, are you familiar with the Pacific Recreational Fisheries Information Network and MRIP Regional Implementation Plan for the West Coast Recreational Fishery? It was referenced earlier by Mr. Graves.

Dr. HOWELL. Yes.

Mr. HUFFMAN. And he sort of left the mystery hanging. I had tried to demystify it for him, but he had left the mystery hanging that these West Coast states are using state data for Federal fisheries management decisions. And I want to just spend some time on that with you, if I could.

My understanding is that this is a cooperative system developed by MRIP, by you guys, over many years with the states that includes collaborations, historic baselines, MRIP survey certification, and standards. Is that all correct?

Dr. HOWELL. Correct.

Mr. HUFFMAN. And that when you switched over to the state data, you also continued calibrating the Federal system and running the Federal system side-by-side for over a decade to continue calibrating. Is that fair?

Dr. HOWELL. That is fair.

Mr. HUFFMAN. And that MRIP still reviews the data and surveys it periodically.

Dr. HOWELL. That is correct.

Mr. HUFFMAN. So, that is a high standard of collaboration, of data integrity, of best practices, all leading to an outcome where these states were allowed to use their data for Federal fishery management decisions. It is a great model for Louisiana and every other state to potentially follow, but they have instead decided to do an end run around that rigorous process and come to Congress and ask for an Act of Congress.

This outcome for the West Coast did not require an Act of Congress at all, right? You did it all under your existing authority, right?

Dr. HOWELL. Correct, and that is the spirit of our Federal-State re-envisioning that we are going through right now, is to try to look by region to emulate where things are working, and to get to a Federal-State collective, where we are capturing the information we need for the species of interest, and also to get to the higher resolution data with lower PSEs.

Mr. HUFFMAN. Well, you have done excellent work on the West Coast. I am so glad that Mr. Graves brought it up, because I think it shows us the right way forward on recreational fishing data, and also makes a very strong case that this bill is the wrong way forward.

I yield back.

Mr. BENTZ. The Chair recognizes Congressman Beyer for 5 minutes.

Mr. BEYER. Mr. Chairman, thank you. And Ranking Member Huffman, thank you for allowing me to waive on. It is fun to be back.

I keep hearing from my Republican friends that everyone wants to protect the North Atlantic right whale. It came up in virtually every one of the conversations, and just with Mr. Fry a minute ago.

I am trying to reconcile everyone wanting to save the American North Atlantic right whale with the fact that there are fewer than 340 that exist, that 3 have been killed in the last year, that the potential biological removal number is 0.7, and anything more than 0.7 per year is going to lead to the extinction by 2037. And at 3 per year, that probably means extinction by 2031. And the only thing we have figured out how to do right now so far is slow the speeds down.

First, from the scientific perspective, Dr. Howell, how confident are you as a scientist that if we don't do this, that we are looking at a real extinction event some time in the next 15 years, if not the next 10 years?

Dr. HOWELL. Thank you for the opportunity to speak to that. We are very confident. There were over 60 scientific studies that were referenced in making this speed rule and the determination for why we came up with the parameters for that speed rule.

Mr. BEYER. Also, I have read in the literature that they figure only one in three actual strikes is ever recorded. So, the 3 that we know about is probably 9. It could be 7, could be 10.

Dr. HOWELL. That is correct. We estimate that we understand about 36 percent of the mortalities from what we can see.

Mr. BEYER. I don't want to throw a hard existential question at the industry people, because I have had a small business for five decades. But do you feel there is some other way to avoid the extinction?

Or how will you feel, personally, when you save your industry and you made a whole species go extinct?

Mr. Strong?

Mr. STRONG. Well, just a few facts to add to that. Right now, it is my understanding the way the rule is currently proposed is they are factoring that the draft of a 35- to 65-foot boat is the same draft as that of a 300-foot vessel, and that is just not factually accurate. The average draft range on a 35- to 65-foot vessel is between 2 and 4 feet, and they actually, when they are going slower, they actually draw more water when they are going slower than when they are able to be on plain, let's say, at a 20 knot speed, they are up on top of the water. So, there are some assumptions there in the rule, the way it is proposed, that are not factually accurate.

Going back to the earlier testimony on the technology side of things, and our industry typically is about 20 years behind the automotive industry in almost all aspects, and the auto industry is way out ahead of us on the technology side of things. A lot of the technology does exist, but it is not well integrated, which is what some of the bills speak to.

So, with the grant monies that are proposed to help foster the integration of that technology so it can get on the dashboards of people's boats on real-time live data, there can be warning areas, there can be some limited speed reduction areas, much again, like Waze on a car.

Mr. BEYER. Yes, which sounds like it might be a good thing to revisit the rule when that technology is actually in place and working.

Dr. Redfern, one of the things Ms. Hageman talked about was why do we do wind farms? Can you talk about North Atlantic right whales and wind farms?

Dr. REDFERN. I can. There is no evidence that links whale deaths, and not just right whales, but humpback whale deaths, to wind farm and the activities that are being done to develop wind. There is no link there. What we do know is that vessel strikes are killing whales.

You asked about the studies, and the studies that are showing right whales headed towards extinction. I want to make one point about those, because those studies also show that, if we can eliminate human-caused mortality, the species can recover. So, those studies give us hope. If we will remove direct, human-caused mortalities, this species can come back.

And one of the ways we can do that is by slowing ships down. And the New England Aquarium stands ready to partner on technology, but your point is absolutely right. We have to make sure the whales survive long enough to be able to benefit from these new technologies. And you do that through the speed rule, which is scientifically backed.

Mr. BEYER. Yes. We want to point out that we don't want this to be a zero-sum game. We would love to have the industry survive and thrive, but we also don't want to cause the extinction of one of our charismatic species, and a fellow mammal, too.

With that, I yield back.

Mr. BENTZ. The Chair recognizes Congressman Magaziner for 5 minutes.

Mr. MAGAZINER. Thank you, Chairman. A number of very important bills to Rhode Island are all being discussed today, and it is hard to get them all in in the 5 minutes that we each have allotted. So, let me just, as a high level, say that when it comes to managing fisheries and protecting coastal communities and waterways, we should be grounding our policy decisions in independent, scientifically sound data, and I am glad that many of the bills that are being discussed today do just that.

The Resilient Coasts and Estuaries Act will help the Narragansett Bay National Estuary. We have the MAPOceans Act, which will also help Rhode Island fishermen access the information that they need to fish responsibly. I just want to call out and thank the sponsors of those bills for advancing legislation that I think will be very helpful to Rhode Island.

There is one that I have concerns with in particular, though, and I will just say too often, I think, Congress undermines the independence of data collection in order to try to achieve certain political results. And we have seen lots of examples of that.

My colleagues across the aisle will often demand exhaustive environmental impact studies to slow clean energy development, but dismiss those same types of studies for assessing the ecological harms of offshore oil and gas, for example. They have pushed legislation to weaken the Endangered Species Act to accelerate mining projects that have questionable environmental impacts and economic validity. And, of course, while the SEC is trying to better enhance climate disclosure so that investors can make sound decisions for how to invest their money, there are those who are trying

to restrict the ability of investors to get the information that they need to make informed decisions.

And in that same vein, the so-called Fisheries Data Modernization and Accuracy Act appears to be another attempt to manipulate data to achieve a specific outcome. Now, the existing MRIP process for collecting and disseminating data on fishing stocks is flawed, and we all recognize that. But the approach should be to try to fix it, not to replace it with a patchwork, state-by-state model of different standards and different methods of data collection that may vary in their accuracy and their standardization.

There are some states that are running very good state recreational catch and data collection programs, but other states that seem to be running programs with methodological biases that make it impossible for the data to be comparative. So, we need a consistent approach, not a patchwork approach.

This is a view that is, I think, widely held in the recreational fishing community in Rhode Island, which I represent. Dave Monte, a fisherman, charter captain, from Rhode Island, recently had an op-ed in the *Westerly Sun* in which he stated that bills like this one that were being considered today enabled over-fishing of the Atlantic cod to occur year after year, to the point that the stock was decimated.

So, Dr. Howell, can you tell us a little bit more about how NOAA is working with fishermen and with others on the ground to improve the existing MRIP process in sort of a fix-it, as opposed to replace-it approach?

Dr. HOWELL. Thank you very much, Representative Magaziner, for the time to talk.

I spoke a little bit about our current Federal-State re-envisioning process, which is us going out. We have held four listening sessions so far with representatives from the industry, councils, and recreational fishers to explain what our intentions were to really try to continually improve the data streams that we have. We believe it is important for us to have the Federal and state data together, if available. The more data we have, the better we can get our percent standard error down to resolution to really understand what these 50 million anglers are doing in the country.

One of the main things that we are doing, as well, is we know that we have our access point surveys that reach the docks, talk to people. Those collect the information on what they caught and where they caught it. And we also have our Federal Effort Survey, which is a mail order survey that goes to hundreds of thousands of people. That is the result where we found that, if we did changes to that system, you could have a 30 to 40 percent reduction in the effort estimates. We reported that last August.

This is what we have invested this year, 2024, a full year of testing to ensure that that preliminary result is accurate. When we find the results from that, then we will be able to employ that back in, and that will allow us to improve the framework.

Mr. MAGAZINER. Thank you. I am already just about out of time, but I will just say we have 57,000 licensed saltwater anglers in Rhode Island. It is an important part of our economy and our quality of life, and we want to make sure that that industry can continue for generations to come. So, the importance of sound data and

having policy decisions that focus on the long term, and not just the short term is really felt in my district. So, I thank you and your colleagues for your work.

And I will yield back.

Mr. BENTZ. The Chair recognizes Congressman D'Esposito for 5 minutes.

Mr. D'ESPOSITO. Thank you, Mr. Chairman, and thank you all again for being here. My first question is for Mr. Strong.

I know that we are here today, we discussed the MAPOceans Act. In your opinion, what are the biggest challenges that new boaters and experienced boaters face?

Mr. STRONG. When we sell a boat to somebody, first, you have experienced boaters, you have novice boaters, and you have people in between. Our concern and our industry's concern is to make sure that they learn how to operate the boat safely. So, safety is a big component.

The integration of any safe information that could be on their screens, more so than it is today, would be a big benefit for our industry and for our clients. And then you could take that from safety information to potentially fishing information, weather information. Integration, though.

Mr. D'ESPOSITO. Obviously, I think that we would agree that having access to the standardized information in digital form that would be provided through this MAPOceans Act is critically important to, really, all boaters.

Mr. STRONG. It would be extremely helpful, for sure.

Mr. D'ESPOSITO. And as a fellow Long Islander, we know that, as was mentioned in my statement earlier, that recreational boating and fishing supports our local economies. And it is really just part of our culture. It is part of why people love Long Island. It is why people generation after generation, even though it is expensive to live there, they find a way to stay because they love it so much.

And in your testimony, you mentioned that recreational boating alone contributes a little over $230 billion into the economy, supports more than 800,000 jobs, 36,000 businesses, and that 95 percent of all boats sold in the United States are American-made and family-owned. Do you see this bill, the MAPOceans Act, as something that is pro-business?

And secondly, in what ways do companies like your company benefit from legislation like this?

Mr. STRONG. Thank you. We would construe it as pro-business because it kind of supports our goals of having clients be safer and more confident on the water.

And how the business part comes up, generally, if people feel safer and they feel more confident with their investment, they are going to use it more often, hopefully refer more people, and continue to expand the sport. So, this would be very supportive of that.

Mr. D'ESPOSITO. OK. And recreational boating, recreational fishing, and, of course, commercial fishing have an obligation to be stewards to conservation efforts and protect marine habitats. This bill, as we discussed earlier, will provide information to users to disseminate information of the marine life around them. For example, knowing where certain marine species are, which I think is one

of probably the biggest challenges that we face not only on Long Island, but all over, like you mentioned, novice and new boaters. I think we probably saw the biggest change during COVID, when so many people went out and decided that they were going to become boaters for the first time.

Regardless of where you stand on the North Atlantic right whale vessel strike reduction rule, do you believe that this platform with the MAPOceans Act will provide people the ability to mitigate the risk of vessel strikes to whales and other marine life?

Mr. STRONG. We do, and I would add that boaters are in full support of the science and data. It is not like we are on the opposite side of that. We are on the same side of that. We just maybe would like to see a higher priority put on utilizing that data. And part of both bills that you are referencing speak to that.

So, we believe that, as conservationists, as people on the water, yes, we are business people, but if we don't have clean, safe water that people can use and recreate, we don't have a business. So, it is totally in alignment, and that would be supportive. Thank you.

Mr. D'ESPOSITO. Thank you.

And Mr. Chairman, again, thank you for allowing me to waive on. And I am thankful to see this bipartisan piece of legislation.

Mr. GRAVES. Can I have your time?

Mr. D'ESPOSITO. Oh, sure, I will yield my time to Mr. Graves.

Mr. GRAVES. Thank you, Mr. D'Esposito, thank you for being here and doing your legislation. I appreciate it. I want to follow up on a couple of things real quick.

First of all, I wish Mr. Magaziner were still here, because he mentioned how legislation like our bill is what led to over-fishing of the Atlantic cod, which I would love to know what bill he is talking about because Congress has never done anything like this. And uninformed statements like that are really unfortunate, and lead to, I think, outcomes that don't make sense because people are confused by what they are talking about in terms of causation.

But otherwise, Mr. Chairman, I would like to ask unanimous consent to include in the record a letter from last year that expresses concern about an over-fishing designation of a species, and requests that National Marine Fisheries Service work with a specific state to actually get better data because the National Marine Fisheries Service data is not good, and they need to work with the state to get better data that is then peer-reviewed to make sure that the over-fishing designation doesn't cause economic harm on some of the coastal communities, which is virtually identical to the situation we are facing in Louisiana that my friends across the aisle are criticizing. Let me see if I can read that name on there, Jared Huffman, yes. Jared Huffman.

If I could get that into the record, please. Thank you.

Mr. BENTZ. Without objection.

[The information follows:]

CONGRESS OF THE UNITED STATES
Washington, DC

November 20, 2023

Dr. Richard Spinrad, Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue NW, Room 5128
Washington, DC 20230

Dear Dr. Spinrad:

I am writing to ask for your urgent assistance regarding a stock assessment for the Northern California coast that prompted the closure of a vital fishery and cause significant harm to coastal communities for years to come. Following the November 2023 Pacific Fisheries Management Council (PFMC) meeting, I would ask that the National Marine Fisheries Service (NMFS) postpone issuing an "overfished" determination for quillback rockfish, the species at the heart of the closure, until the assessment can be reviewed.

NMFS' 2021 assessment of quillback rockfish was used to conclude that the species is overfished and a rebuilding plan should be adopted. That conclusion prompted the mid-season closure of the nearshore rockfish fishery in Northern California in 2023, which has had devastating consequences. The assessment is considered "data moderate," which in this case means that there was no direct information from the fishery used to draw the conclusion. Instead, data was borrowed from other fisheries and extrapolated. The California coastline in my congressional district is remote and contains vast areas of quillback rockfish habitat that is never fished, but the assessment nonetheless suggested that this stock is overfished.

Understandably, the PFMC and many stakeholders expressed concern that the assessment would be used to adopt an overfished designation for quillback rockfish with no independent review. Two experts the PFMC called to review the assessment raised significant questions about the assessment and its use to develop fisheries regulations. The council asked its Science and Statistical Committee (SSC)—including NMFS' Science Center—to review the assessment for consideration at the PFMC's March meeting. NMFS, however, has indicated that it will continue to complete its overfished stock determination, which would force the PFMC to adopt a rebuilding plan that would trigger severe restrictions to the nearshore rockfish fishery for years.

My request is twofold:

1. Pause the development of the overfished determination until the SCC and NMFS can reevaluate its assessment of quillback rockfish and the PFMC can hear the results of that review in March. No harm can be done to the species in the meantime, as the season for the fishery does not start until later in Spring.
2. Immediately begin developing plans to assist the state of California in collecting data from the fishery being impacted. This should include hook-and-line surveys in rocky nearshore habitat where quillback are most abundant, and where rockfish associated with the stock are caught by sport, charter, and commercial fishers. Rigorous data is critical to understanding when and how regulations are written to protect fish stocks from over-exploitation, and in allowing sustainable, economically beneficial use of fisheries as called for in the Magnuson-Stevens Act.

I ask that you consider this request urgently to allow the PFMC to make an informed decision on the potential for adoption of a rebuilding analysis for quillback rockfish. It is critical to consider all available information and analysis when the stakes are so high for coastal communities. Please contact my Senior District Representative John Driscoll with any questions.

Sincerely,

JARED HUFFMAN,
Member of Congress

Mr. BENTZ. All right. So, I think there is——

Mr. HUFFMAN. In the gentleman's remaining time, would he yield?

Mr. BENTZ. You have no remaining time.

Mr. HUFFMAN. Because I would write the same letter for Louisiana or any other state.

Mr. BENTZ. Moving on, the Chair recognizes himself for 5 minutes.

There have been some remarks about the language in the rule concerning the ability of someone with a ship or boat less than I think it is 65 feet in length, having the ability to protect itself in the event of weather. But the way the rule is written, it talks about gale force winds, which are defined as 39 knots. So, the hypothetical that was presented earlier suggested something far less than 39 knots. So, I am just wondering why the rules are written in such a fashion as to put people in danger for fear of violating these rules.

Dr. HOWELL. Thank you, Chairman, and I appreciate the opportunity to speak to that.

I am on the science and technology side of the aisle, and it is probably a question that is better raised with my regulatory partners. What I can say today is that I will talk with them and get more details about that. I don't think that anything in that bill has the intention of affecting safety, and that fisheries in NOAA does have a statutory requirement to protect the endangered species right now.

Mr. BENTZ. Well, of course they do, but not at the risk of harming all kinds of people out on the water. This needs attention.

I understand this is not the most recent draft. It is the one that we have, but apparently there is another one. Please check and make sure that folks aren't stuck out there on the water, unable to speed up over 10 knots, waiting for the wind to break over 39. That makes no sense. So, please check on that.

Dr. HOWELL. I fully recognize that. Thank you. I will take that back.

Mr. BENTZ. Secondly, Dr. Howell, sticking with you for a second, is there technology available today that people can afford which will allow them to recognize where these whales are?

And before you answer, how many of these whales are there?

Dr. HOWELL. The population is estimated at 340 whales at this time.

Mr. BENTZ. OK, great, 340 whales over what space?

Dr. HOWELL. The space of the Atlantic Ocean.

Mr. BENTZ. Well, reaching from what point off what state to what point off what state?

Dr. HOWELL. So, roughly off the coast of Maine down to the bottom of Florida.

Mr. BENTZ. OK, so how many miles is that ocean?

Dr. HOWELL. I don't have that at my fingertips.

Mr. BENTZ. Give me a guess.

Dr. HOWELL. A thousand miles.

Mr. BENTZ. OK, so 1,000 miles. So, we have 340 whales over a 1,000-mile space. Is that correct?

Dr. HOWELL. Correct.

Mr. BENTZ. So, what you have done is defaulted, I suppose, to affect ships within that 1,000-mile space, in the hope that we will somehow save these 340 creatures.

And by the way, it is difficult for me, when I hear remarks, Dr. Redfern, where you say, we can save these whales if we would just do something like get all the boats off the ocean. And that would be true for almost any endangered species. Just get rid of people. We would probably have no problems at all. Well, that kind of a standard is, unfortunately, not available. Or better put, fortunately, not available.

Going back to you, Doctor, tell me. Is there a technological device that will allow people to see some of these 340 whales within that 1,000-mile space?

Dr. HOWELL. We are currently going through the technology that is available. That is part of what we put the $20 million from our Inflation Reduction Act funding into, to doing that through a NFWF grant that they will fund 18 projects. The technology workshop that was mentioned earlier, as well as this investment is really to understand what technologies——

Mr. BENTZ. Do we have something that works?

Dr. HOWELL. Not operational at this point.

Mr. BENTZ. How close are we?

Dr. HOWELL. That I can't tell you right now.

Mr. BENTZ. How much would it cost to get there?

Dr. HOWELL. That is another great question, and that is what the investment in IRA is going to get us.

Mr. BENTZ. And when will we have an answer?

Dr. HOWELL. That is another great question. I would bring that back to the team.

Mr. BENTZ. So, bring it back to the team and get us something that shows us.

Let's shift to Mr. Strong.

Mr. Strong, do you have an answer of when this technology might be available that people could afford to put on their boats to see where one of these whales, whatever they are, might be?

Mr. STRONG. I can't speak from a scientific perspective, but I can speak from a boater and a marinas perspective, and the technology that we do see that is there right now. And I wouldn't suggest that it is perfect or that they are going to be able to pinpoint every one of the 340 whales that are out there. But there are trends.

And, again, going back to the Waze application in cars, we believe that technology does exist, and could be put, or not even put, the machines wouldn't have to be changed, they could just be updated through software to be able to have that be applicable.

Mr. BENTZ. I bet someone is working on this.

Well, I want to thank all of you for your testimony, a very, very interesting hearing, a very important one.

The members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to these in writing. Under Committee Rule 3, members of the Committee must submit questions to the Subcommittee Clerk by 5 p.m. Eastern Time on Tuesday, July 2. The hearing record will be held open for 10 business days for these responses.

I also ask unanimous consent to enter into the record a letter from the Georgia Ports Authority; a letter from the National Marine Manufacturers Association; and a letter from the Congressional Sports Foundation submitted to NOAA on their proposed Vessel Speed Restriction Rule.

Without objection, so ordered.

[The information follows:]

GEORGIA PORTS AUTHORITY
Savannah, GA

September 29, 2022

The Honorable Gina M. Raimondo
Secretary of Commerce
1401Constitution Ave NW
Washington, DC 20230

Dear Secretary Raimondo:

On behalf of the Georgia Ports Authority (GPA), I would like to express our concern with NOAA's proposed "Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule." We believe that NOAA is overlooking several critical factors as it seeks to implement harmful changes to the existing rule. The proposed rule raises considerable life and safety concerns and would cause further interruptions to an already strained supply chain. If implemented in its current form, this rule will exacerbate congestion at American ports—resulting in detrimental effects on the nation's economy.

It is our hope that NOAA Fisheries will work closely with the affected ports and other maritime industry stakeholders to determine an accurate effect of any rule changes on port communities. We would request that NOAA consider an adjustment of the proposed rule—excluding Federal Navigation Channels and pilot boarding areas as well as exempting pilot vessels from these speed restriction zones. This modest alteration removes less than 1% of the total area covered by NOAA's proposed rule while protecting the safe, efficient movement of imports and exports through East coast ports.

The GPA appreciates the need for reasonable regulation to protect the North Atlantic Right Whale and is committed to that effort. We have implemented several voluntary measures throughout the years to help protect the critically endangered species. In fact, CMA-CGM, in partnership with the GPA, recently launched an acoustic monitoring buoy off the coast of Savannah to increase North Atlantic right whale detection efforts.

Furthermore, we agree that it is important to monitor the effectiveness of vessel speed regulations to reduce vessel strikes. However, it is also critical to find balance between our shared conservation goals and ensuring America's economic vitality. The GPA believes that present regulations are more than sufficient.

NOAA's recently proposed changes to the existing vessel speed rule will negatively affect the safe transit of ocean-going vessels during the designated seasonal management window. State-licensed pilots are expected to act in the public interest, and to maintain a professional judgment that comports with the needs of maritime safety. In addition, state and federal licensing and regulatory authorities require compulsory pilots to take all reasonable actions to prevent ships under their navigational control from engaging in unsafe operations.

Local pilots must consider hydrological, meteorological and many other factors for safe navigation. These considerations greatly affect maneuverability and steering controls—particularly at slower speeds for larger vessels when transiting our nation's harbors.

The NOAA-proposed speed restriction will lead to reduced service capacity and ship delays along the entire Eastern seaboard. Without speed as an effective tool to overcome navigational influences, ocean-going cargo vessels will be unable to safely traverse our nation's harbors. This will likely result in temporary port closures and significant congestion outside the affected harbors.

NOAA's proposed changes to the deviation clause will place an enormous burden on the ship's master and the pilot. The new rule would require a vessel operator to complete and electronically submit a deviation report to NOAA within 48 hours

of deviating from the rule. This reporting requirement would be burdensome and distracting during a time when focus on safely navigating the vessel is most critical. Many questions remain over the enforceability, potential criminality, and due process for cases where there is disagreement in a deviation's justification. These are not adequately addressed in the proposed rule change.

Requiring the slower speeds of pilot boats will also lead to additional delays in the movement of goods and increase port congestion along the entire East Coast. East Coast pilot boarding areas can be as far as 20 miles or more offshore. If implemented, the new speed rule could double or even triple the amount of time it takes for a pilot boat to reach a vessel. The economic impacts of these added delays and the reduced efficiency on port operations were not factored into NOAA's economic analysis.

It is highly unlikely that ships will wait at sea for weeks or months for a berth and will seek alternative ports not impacted by this rule, perhaps ports in South Florida, the Gulf Coast, or the West Coast. These alternate gateways do not have the capacity to absorb 40% to 50% of the affected ports' volumes and would quickly back up. In short, the nation will again experience pandemic era supply chain disruptions.

NOAA's economic impact assessment for the newly proposed rule does not consider any additional negative impacts to ocean-going vessels because they are already regulated under the existing rule. The changes in deviation reporting and enforcement proposed under this rule, however, greatly alter the enforcement and oversight of necessary deviations, thereby greatly expanding the impacts on ocean-going vessels.

The negative economic impact of this proposed rule equates to the loss of up to an estimated 1,283 diverted cargo ships destined for Georgia port facilities. Amongst the other cargoes, these diverted ships would include up to 3.1 million TEUs, equating to an estimated $3.8 Billion in revenue for Georgia businesses, 26,820 Georgia jobs, $1.3 billion in personal income and $1.85 billion in GDP—far surpassing the total negative economic impacts assumed by the 2022 Draft Regulatory Impact Review and Initial Regulatory Flexibility Analysis of this proposed rule for the entire East Coast.

Normally, freight moves based upon connectivity and cost. NOAA's proposed amendment, however, would require freight to move a greater distance over land at a greater cost to the shipper. The resultant cost increases would then be passed along to the consumer and cause significant inflationary impacts to the American economy. This rerouted cargo would also have an increased impact on the environment compared to current operations.

The potential increases of greenhouse gas emissions from the landside transportation of rerouted cargo are merely a fraction of what the emission impacts of vessels anchored at sea, waiting for weeks for a berth. As inbound vessels arrive and congestion sets in, cargo delays will also continue to increase. In Savannah and Brunswick, maximum peak days could see over 200 vessels per day waiting at anchorage. Over 1.8 million metric tons of GHG emissions may be emitted in Georgia alone as a result of these vessels—3 times higher than the 2020 vessel emissions totals for the Ports of Los Angeles and Long Beach combined.

The GPA requests that NOAA consult with appropriate federal partners to assess the full scope of the safety, environmental and economic impacts of their proposal. The United States Coast Guard is a key partner of the maritime sector in protecting the safe and efficient movement of cargo into and out of our nation's ports. The Environmental Protection Agency can thoroughly assess the significant negative air quality impacts that this rule amendment would generate. The President's Supply Chain Disruptions Task Force can further consider the administration's priorities regarding the massive economic disruptions created by NOAA's proposition.

Once again, we would highly encourage NOAA to consider adjusting their proposed rule to exclude Federal Navigation Channels as well as the exemption of pilot vessels from these speed restriction zones. This modest alteration removes less than 1% of the total area covered by NOAA's proposed rule and would significantly reduce the negative safety of life, environmental and economic disruptions described above. Thank you in advance for your consideration of our request.

Sincerely,

GRIFF LYNCH,
Executive Director

NATIONAL MARINE MANUFACTURER'S ASSOCIATION (NMMA)
Washington, DC

June 26, 2024

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Committee on Natural Resources
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Bentz and Ranking Member Huffman:

On behalf of the National Marine Manufacturer's Association ("NMMA"), I write today to express our industry's strong support for H.R. 8704, *To require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and North Atlantic right whales and other large cetacean species*, introduced by Representatives Buddy Carter (R-GA) and Mary Peltola (D-AK). This bill would prevent the finalization of the National Marine Fisheries Service's ("NMFS") proposed amendments to the North Atlantic right whale ("NARW") vessel speed regulations at 50 C.F.R. Part 224 (the "Vessel Speed Rule" or "Rulemaking") and would establish a grant program to encourage development and deployment of emerging technologies that would significantly reduce the threat of vessel strikes to large cetaceans such as the North Atlantic right whale.

As you know, the final Vessel Speed Rule is currently under review at the Office of Management and Budget ("OMB").The purpose of this letter is to reiterate certain technical and procedural shortcomings of the Rulemaking, highlight information about technological solutions that have emerged during the pendency of the Rulemaking, and to underscore the benefit that the grant program established by H.R. 8704 would have on the continued recovery of the North Atlantic right whale.

As explained further below, the proposed Vessel Speed Rule failed to consider currently available technology as a potential alternative approach to reducing the risk of vessel strikes on the NARW. The NMMA and other stakeholders raised this concern in comments on the proposed Vessel Speed Rule and, since the close of the comment period, NMFS has solicited and collected information on technological options. Yet, to our knowledge, NMFS is not considering this information as part of its Rulemaking process, even though the information would significantly impact the agency's analysis of options to address risks from vessel strike on the NARW. In fact, NOAA is obligated under the Administrative Procedures Act to reopen the rulemaking process to consider new information that significantly affects the Rulemaking. On May 15, 2024, NMMA made a request to NMFS to reopen the docket for additional public comment on technological options to achieve a performance-based vessel strike reduction rule that can reduce whale strike risk without significant safety, economic, and privacy consequences. This request will be submitted in today's hearing record and is supplementary to the public's responses to the August 1, 2022 Rulemaking, including comments from NMMA that highlight the many technical and procedural flaws of the proposal. In particular, the NMMA explained that NMFS had failed to consider technology-based alternatives that would achieve the same (or superior) results with regard to protecting the NARW, without the drastic adverse economic and safety impacts.[1]

Since the close of the 2022 comment period, the NMMA and other stakeholders have been actively involved in educating policymakers within NMFS and the National Oceanic and Atmospheric Administration ("NOAA") regarding the benefits of leveraging marine technology solutions to safeguard marine life and boater safety as an alternative to NMFS's current approach. NMFS has welcomed this engagement and hosted a NARW Vessel Strike Risk Reduction Technology Workshop on March 5–6, 2024 (the "Technology Workshop").[2] In addition, the Whale and Vessel Safety ("WAVS") Task Force, a coalition of marine industry stakeholders and

[1] *See* Comments of NMMA on the Vessel Speed Rule at 11-12, available at https://www.regulations.gov/comment/NOAA-NMFS-2022-0022-20629.

[2] *See* generally NOAA Fisheries, North Atlantic Right Whale Vessel Strike Risk Reduction Technology Workshop, available at https://web.cvent.com/event/7467a542-8d8d-4020-82d8-7cef9482a3d2/websitePage:b2fe19ef-3416-4fa1-a7a6-1df5a28b9242. In addition to the presentations and materials included on the Technology Workshop website, all presentations and information developed and/or received in connection with the Technology Workshop should be part of the docket for, and considered as part of, the Rulemaking.

experts in various disciplines, sent a white paper to NMFS in advance of the Technology Workshop which set the stage to discuss many available and developing technologies ("WAVS White Paper").[3] The Technology Workshop made clear to all stakeholders that NMFS is now well aware of the technologies currently available that can be utilized alone or on a layered basis to reduce NARW vessel strike risk.[4]

Unfortunately, NMFS reverse engineered its Rulemaking process by issuing a proposal without seeking or soliciting input from any recreational boating or fishing interests or the marine industry at-large. In fact, the Vessel Speed Rule is based on an archaic premise that recreational boating, fishing, and marine industry are not technology- or innovation-driven. The WAVS Task Force effort proves otherwise and was developed based off a greater need to demonstrate innovation leadership in this sector, especially as it relates to advancing conservation and marine mammal management.

As discussed below, there are several technological alternatives available today that, if deployed properly, would likely be more effective at reducing NARW strike risk than expansive speed and routing restrictions and avoid the severe negative impacts that would be caused by the Vessel Speed Rule. NMFS is aware of these technological solutions—it has actively solicited this information from stakeholders. The agency cannot simply turn a blind eye to this information as it undertakes this Rulemaking. Further, the agency is well-suited to create a collaborative structure with all stakeholders, including the marine industry, to implement technology solutions that can successfully reduce risks of NARW vessel strikes. As contemplated throughout the public comments submitted, recreational boating, fishing, and marine industries support the protection of endangered species but find serious fault with the data used to justify the Rulemaking and the unrealistic approaches that would be required to achieve compliance with the Vessel Speed Rule.

The Members of this Subcommittee, holding a significant representation of the coastal districts that would be impacted by this Rule, if it advances to a final stage as proposed, understand the significant threat of this proposal. The recreational boating industry is responsible for a $230 billion annual contribution to the United States economy, and the outdoor recreation industry as a singular entity contributes 2.2% of the country's annual gross domestic product.[5] There are jobs, livelihoods, homes, and communities at stake if this Rule is allowed to continue forward toward finalization.

Technology holds significant advantages over other forms of risk reduction tools such as speed reduction and re-routing. And because collision avoidance (with any objects in the water, including marine mammals) has been a priority for recreational boat and supply manufacturers for decades, this technology is well-developed as the private sector is incentivized to constantly improve and innovate. Each of the technology alternatives discussed below—either alone or layered together—provide a better alternative for reducing risks to NARW from vessel strikes that NMFS must and should have considered as part of the ongoing Rulemaking. These types of technologies are what can be become immediately available for deployment with the funding provided by the grant program that this bill establishes.

1. Detection Technologies

A variety of detection technologies are readily available and can be utilized, alone or in combination with other methods, to reduce NARW strikes. These technologies include acoustic detection, visual detection, satellite and drone imagery, infrared cameras, forward-looking sonar, and heat signature technology. These instruments generally can connect to the on-board Multi-Function Display ("MFD") to provide real-time information regarding the boat's surroundings and thereby reduce the risk of NARW strikes. One readily available example already used for species protection is vessel-mounted navigational radar that utilizes S and X band radar for vessel avoidance and navigations. X-band radars are used for a sharper image and better resolution, while S-band radar is used during rain or fog and for identification.

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[3] Letter from WAVS Taskforce to Mary Colligan, NOAA Fisheries, dated October 30, 2023

[4] For example, NMFS created a table to consolidate the categories of various technologies that can be utilized to reduce the risk of NARW strikes. See https://custom.cvent.com/8D2B15A58CD6472E897351F27F2DF309/files/5cdb90075da041c894d0a21b32eed916.pdf.

[5] U.S. Bureau of Economic Analysis. Outdoor Recreation Satellite Account, U.S. and States, 2022. *See* https://www.bea.gov/news/2023/outdoor-recreation-satellite-account-us-and-states-2022.

Other countries recognize the importance of these technologies to address NARW strikes. For example, the Tethys Research Institute conducted a study in the Mediterranean Cetacean Sanctuary (located along the Italian and French coast) that analyzed how best to deal with threatened whale populations and high levels of maritime traffic and nautical activities. Their approach includes, among other things, drones and other detection devices that notify vessels that they are likely to encounter a cetacean on their route.[6]

2. Automatic Identification System ("AIS") and On-Board Electronics

As detailed at the recent Technology Workshop, AIS is already in use by the Coast Guard for security and coastal management purposes. This same technology is widely utilized among recreational boaters as it is commercially available and included on many new boats as standard equipment for safety purposes. AIS technology is a viable alternative for distributing real-time (or near real-time) monitoring information to boaters regarding factors that are relevant to NARW strike risk.

For example, utilizing existing technology, NOAA could issue an acutely focused dynamic management area and a vessel's on-board cartography would be updated in near real-time to reflect that new zone.

"Dynamic regulatory polygons could be broadcast using AIS and chartplotters on vessels of all sizes, and can be taught to receive, display, and alarm based on those dynamic polygons." [7]

In addition, existing on-board technology allows users to share their own data points in real time. Crowdsource infrastructure and communities such as ActiveCaptain, Community, and Navionics Community Edits allow a user's point-based data to be distributed in real-time and loaded to a chartplotter through a mobile application. As a result, NARW positions "reported by real-time monitoring programs and technology . . . can be distributed to on-board marine electronics and displayed and alarmed on screen in near real-time." [8] Input of such data would also enable NOAA and other research entities to augment the volume of the agency's monitoring data.

3. Technology for Aggregating & Disseminating Information

As boaters collect data through detection devices or other instruments, technology exists to aggregate this information and share it in near real-time with NOAA and other boaters. For example, the WhaleReport Alert System ("WRAS") aggregates whale detection data from multiple sources and sends out alerts. In fact, the U.S. Coast Guard recently launched a Cetacean Desk in the Puget Sound region that utilizes WRAS to aggregate data and disseminate notices to mariners.[9]

The Coast Guard's pilot project is just one example of how technology is being used to aggregate relevant information and provide it to mariners to improve situational awareness. This pilot program should serve as a national model to create publicly accessible repositories of data points that can be shared with the marine community in real time.

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[6] As discussed in the WAVS White Paper, visual and infrared images can be analyzed by artificial intelligence ("AI") to detect and classify objects in the water such as NARWs:

The benefit of AI is that it allows for immediate analysis of information even in adverse conditions more effectively than can be done by human observers, thereby allowing vessel operators to have better situational awareness and to make better informed decisions for the vessel and the whale. Whale Seeker, Space Whale, Awarion, Sea AI, Sea Machines, and Avikus are but a few examples of companies that have developed AI tools to scan images for the presence of whales. These products are currently being trained with the intent of deployment for field verification in the coming months.

[7] *Id*. at 5.

[8] *Id.*

[9] U.S. Coast Guard News, "Press Release: U.S. Coast Guard introduces cetacean desk, enhancing cetacean safety in Salish Sea," available at https://www.news.uscg.mil/Press-Releases/Article/3681963/us-coast-guard-introducescetacean-desk-enhancing-cetacean-safety-in-salish-sea.

4. Modeling/Predicting/Forecasting Whales

> Data aggregation enables existing programs to create predictive models that can be utilized for avoidance purposes. One example is Risk Terrain Modeling ("RTM") which is a tool used to "diagnose environmental conditions that connect with spatial patterns of whale-vessel strikes. RTM can help us identify and prioritize the areas where these collisions are significantly most likely to happen at the micro-level" so that boaters can take steps to prevent such strikes.[10]
>
> Similar predictive modeling was recently highlighted by Fathom Science at a recent presentation to the bipartisan Congressional Boating Caucus.[11]

There is already work being done in this space to advance these technology solutions. Adopting a similar model to the program that would be authorized by H.R. 8704, the White House announced on May 22, 2024 that $6 million in Inflation Reduction Act ("IRA") funding would be made available to the National Fish and Wildlife Foundation ("NFWF") to support grants for projects that develop technologies such as the approaches detailed above.[12] Using this approach as a pilot model, there will be critical evidence available to NMFS that the recreational boating industry has the capability to advance and deploy these new technologies.

This new grant program, entitled the "Vessel Strike Avoidance Fund", has been established as "a catalyst to foster promising detection and communication technologies from development to implementation."[13] The funding of this program and the notice of request for proposal in conjunction with NOAA demonstrates that there is a understanding of the tangential benefit that deployment of technology solutions can bring to the effort of NARW recovery. This model, and the framework that would be established by H.R. 8704, will bring the vision of these technologies to reality.

The approaches employed by H.R. 8704 are a steadfast way to ensure that there is a real effort made to recover the depleted population of NARWs present in the Nation's ocean access points, while protecting and sustaining the way of life for mariners in communities up and down the Eastern seaboard. The NMMA fully supports H.R. 8704, *To require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and North Atlantic right whales and other large cetacean species* and urges a swift passage through the House Committee on Natural Resources with bipartisan support. The NMMA believes that all stakeholders with an interest in this rule should fully embrace a modern, outcomes-oriented strategy to protect the NARW, human lives, and our nation's economy—a strategy that embraces current technology, quality data, and collaboration with public and private-sector partners. This reasonable approach is far more likely to be effective at reducing strike risk than the expansive, unenforceable, and ill-conceived Vessel Speed Rule.

Sincerely,

FRANK HUGELMEYER,
President and CEO

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[10] WAVS White Paper at 5.
[11] WAVS Taskforce presentation to Congressional Boating Caucus (April 11, 2024)
[12] National Fish and Wildlife Foundation Media Center, "Press Release: NFWF and NOAA announce Vessel Strike Avoidance Fund 2024 requests for proposals", available at https://www.nfwf.org/media-center/press-releases/nfwf-and-noaa-announce-vessel-strike-avoidance-fund-2024-request.
[13] *Id.*

Marine Retailers Association of the Americas (MRAA)

and

Association of Marina Industries (AMI)

May 20, 2024

The Honorable Gina M. Raimondo
Secretary of Commerce
1401Constitution Ave NW
Washington, DC 20230

Re: Proposed Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule (Docket ID No. NOAA-NMFS-2022-0022)

Dear Secretary Raimondo:

On behalf of the Marine Retailers Association of the Americas (MRAA) and the Association of Marina Industries (AMI), we are writing to request that the National Marine Fisheries Service (NMFS) withdraw the rule and instead reopen the docket for additional public comment on other means of mitigating the risk of vessel strikes. In particular, technological options that can achieve a performance-based vessel strike reduction rule that lower whale strike risk without the extremely detrimental impact on boater safety and the coastal economy that would be assured with the rule as proposed. We urge that the current rule be reconsidered so more reasonable and more effective protections for the North Atlantic Right Whale (NARW) can be crafted with meaningful input and engagement from the impacted recreational boating and fishing community.

The MRAA is the leading trade association of North American small businesses that sell and service new and pre-owned recreational boats and operate marinas, boatyards, and accessory stores. MRAA represents more than 1,300 individual member retail locations and conducts advocacy efforts on their behalf.

The Association of Marina Industries represents a diverse membership of over 1000 marinas, boatyards, marine dealers, yacht clubs, and public/private moorage basins across the United States and around the world. These companies provide slip space for over 240,000 recreational watercraft and employ over 13,000 marine tradesmen and women. Over 1 million boaters access the water through AMI member marinas. AMI marina association member companies range from small family-owned and -operated companies to large corporations. In addition to facility operators and equipment manufacturers, membership represents academic and government agency interests, consultants, insurance and engineering firms, and many marine trade associations.

Our associations are adamantly opposed to the rule as drafted. The rule as drafted does not represent a proven means of protecting the critically endangered North Atlantic Right Whale (NARW) and NMFS has consistently failed to take the consequences of this proposed rule into consideration during the rulemaking process. Nor has NMFS considered technology-based alternatives that may provide better protection for the NARW while minimizing the impact on boater safety and the coastal economy. Most critical for the membership of our associations, many of which are defined as "Small Businesses" according to the definitions set forth by the U.S. Small Businesses Administration, has been the severe underestimation of the economic impact of the proposed rule. NMFS's estimate that this rule would result in an economic impact of only $46 million per year[1] based solely on NMFS's estimate of the number of "delayed transit hours" for impacted vessels[2] is an estimate of only a single and likely smallest facet of the vast economic impact of the proposed rule. Numerous comments on the proposed rule, including our own, made this underestimation abundantly clear to the agency, however we have seen little effort to grapple with the true impact of the proposed rule that will absolutely exceed an annual impact of $100 million many times over. Lastly, the deficiency of the IRFA is echoed by the United States Small Business Administration office of Advocacy, who urged "NMFS to consider all potential impacts to small businesses from the proposed rule, and to update its IRFA to better account for these small business impacts."[3]

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[1] https://www.regulations.gov/document/NOAA-NMFS-2022-0022-0005
[2] https://www.regulations.gov/document/NOAA-NMFS-2022-0022-0001
[3] https://advocacy.sba.gov/wp-content/uploads/2022/11/Advocacy-Vessel-Strike-Rule-Comment-Letter-2022.pdf

To be clear, given the safety impact of the proposed 10 knot speed restriction, many recreational boaters, as well as commercial charter captains, will not put the safety of their vessel, themselves or their passengers at risk and will simply chose not to make the voyage at all. From the perspective of our members who sell, service, and store these impacted vessels, this proposed rule will have the real-world impact of a seasonal closure of the designated areas, making their products and services effectively useless for significant portions of the year. Furthermore, aside from the many potential safety considerations and concerns of traveling at only 10kts, the imposed 10kt speed limit will also make a majority of offshore and long-distance trips simply untenable due to the increased cost and time it will take to transit operating only at 10kts. For example, Charter Captain Freddy Gamboa, Owner, and Operator of Andreas' Toy Charters, an offshore fishing charter located in Point Pleasant New Jersey highlighted in his June 6th, 2023, testimony to the House Natural Resources Committee, Subcommittee on Water, Wildlife, and Fisheries, that "in a typical offshore charter, my primary objective is to cover a substantial distance . . . [and] the imposition of a 10kts vessel speed limit would render these trips impossible to conduct."[4] Not only does this apply to charter captains, but will indeed the ability of recreational boaters as well, ultimately having negative impacts on MRAA and AMI members as well as the broader coastal economy. To clarify what impact our members are expecting to face if the rule is finalized as proposed, we surveyed 65 of our members, both marine dealers and brokers, to craft an estimated impact on their businesses.

For background and to put our survey results and estimates in context, we are including statistics on the overall impact of the recreational marine industry on the American economy from the National Marine Manufacturers Association's 2023 Economic Impact Study.[5] The study indicates an overall annual economic impact for the recreational marine industry of $230.3 billion based on direct, indirect and induced spending, $56.7 billion in annual sales of boats, marine products and services. All of which supports over 800,000 jobs and more than 36,000 businesses of which, more than 90% are small businesses.

With this in mind, our survey results indicate that the average dealer or broker typically sells just over 12 boats between 35 and 65 feet annually with the total amongst respondents representing 739 total sales per year. The average revenue generated from sales of boats in this size category is $3.7 million per year per dealer or broker with the total reported annual revenue being $224,275,000. We then asked respondents to estimate the number of sales they expect to lose if the proposed rule is finalized as proposed as well as the corresponding loss in revenue from those sales. Our respondents indicated an estimated average loss in revenue of $3 million per business per year and a total loss of sales revenue of more than $153.2 million.

In addition to the sale of a boat, many of our members support their businesses by servicing, provisioning, and providing dock space for boats between 35 and 65 feet, and.65 feet and above. Survey respondents were asked to estimate their lost revenue if the proposed rule is finalized as proposed and on average, they estimated a loss of $1.1 million per year with a total loss of non-sales related revenue of $15 million. The total lost sales revenue and lost revenue on service, dock space, and provisioning together are estimated by respondents to be worth more than $168.3 million per year.

This impact is only from a sample of 65 MRAA and AMI members, we note that there are 496 marine dealers and brokers on the Atlantic coast who face the same impact of the proposed rule. In order to capture the entire impact of the proposed rule for marine dealers and brokers on the Atlantic coast, we have used our survey results to extrapolate the full impact of the rule on these nearly 500 businesses on the Atlantic coast. Based on an estimated average loss of sales revenue of $303,484 per boat per year in the 35-to-65-foot category and an estimated average loss of 10.1 boat sales per year, the estimated impact of the proposed rule on these 496 businesses is over $1.5 billion in lost sales revenue with an additional estimated loss in non-sales revenue of more than $566 million for a full estimate of the impact of the proposed rule of over $2 billion per year.

[4] https://republicans-naturalresources.house.gov/UploadedFiles/Testimony_Gamboa.pdf
[5] www.nmma.org/advocacy/economic-impact/recreational-boating

While these are estimates of the survey respondents, we later followed up with respondents to ask for current inventories of boats in the 35-to-65-foot category and those who responded to this follow up indicated that on average dealers and brokers currently have 18.7 units in stock worth an average of over $11 million. A table of our results is included below.

	How many boats between 35-65 feet do you sell per year?	What would you estimate your total annual revenue is from the sale of boats between 35-65 feet?	If the proposed rule goes into effect, how many boat sales do you estimate you will lose per year?
Average among survey respondents	12.3	$ 3,737,916.83	10.1
Total among survey respondents	739	$ 224,275,010.00	505
Average from survey multiplied by total number of Atlantic coast dealers and brokers (496)	6109.1	$ 1,854,006,749.33	5009.6
	How much in service revenue do you estimate you will lose if this rule goes into effect?	How much revenue do you suppose you will lose if boats between 35–65 feet do not dock at your facilities during the impacted months?	How much revenue do you estimate you will lose from provisioning vessels in the impacted range, due to the lack of dockage during the impacted months?
Average among survey respondents	$ 600,625.00	$ 301,727.27	$ 238,888.89
Total among survey respondents	$ 9,610,000.00	$ 3,319,000.00	$ 2,150,000.00
Average from survey multiplied by total number of Atlantic coast dealers and brokers (496)	$ 297,910,000.00	$ 149,656,727.27	$ 118,488,888.89
	How many boats between 35 and 65 feet do you currently have in stock?	What is the estimated value of the boats currently in stock between 35 and 65 feet?	
Average among survey respondents	18.7	$ 11,071,000.00	
Total among survey respondents	168	$ 55,355,000.00	
Average from survey multiplied by total number of Atlantic coast dealers and brokers (496)	9258.7	$ 5,491,216,000.00	

Table 1: Summary statistics of MRAA and AMI Atlantic coast members estimated impact of NARW Vessel Speed Restriction on marine dealers and brokers.

In addition to our survey, we utilized data available through Marinas.com to estimate the impact on marinas and boatyards. There are over 4500 marinas along the East Coast, of which 1230 provide dockage rental for vessels in the size range. This accounts for 2.6 million available marina dock space rental nights per year. Like hotels, you can think of renting marina dock spaces as booking a hotel room per night. These "room nights" are rented primarily by vessels traveling along the coast. Restrictions on the ability to navigate, like a 10-knot speed restriction, would impact the total number of bookings and rentals. The total revenue of this activity is roughly $169 million, accounting for a total economic impact of approximately $600 million, according to AMI's Economic Impact Calculator (developed by the University of Florida). Even a small decrease in the total annual bookings for these larger marinas would result in close to the $46 million per year total estimate by NMFS.

We will note that our estimates presented here are only for those businesses that sell, service, store, and provide dock space for the impacted class of vessels. This does not consider the impact on those businesses that manufacture the vessels or the businesses that manufacture and sell accessories, fishing equipment, and other related goods, many of which are located far from the Atlantic coast, spreading the impact far inland. Nor does it take into consideration the further economic impact on the coastal communities that rely on recreational boating to support their economies through accommodations, restaurants, and other businesses that rely on recreational boaters for tourism dollars.

Clearly, the economic impact of this proposed rule is orders of magnitude more than NMFS has estimated and will have devastating consequences for businesses across the United States. The vast underestimation of the economic impact of the proposed rule should be enough on its own to reconsider the rule, yet the proposed rule's negative impact on boating safety as well as the availability of technology-based alternatives makes a clear case for withdrawing the rule and reopening the docket for additional public comment to address alternatives that are free of the devastating impacts of the rule as proposed. We urge that the current rule be reconsidered so more reasonable and more effective protections for the North Atlantic Right Whale can be crafted with more meaningful and substantive input from the impacted recreational boating and fishing community.

Thank you for the opportunity to provide input on this important process. We would be happy to discuss this issue with the agency or provide additional information upon request.

Sincerely,

Michael Sayre,
Director of Government Relations
Marine Retailers Association of the Americas

Eric Kretsch,
Legislative and Clean Marina Program Manager
Association of Marina Industries

Mr. BENTZ. And without objection, the Subcommittee stands adjourned.

[Whereupon, at 1:01 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Bentz

VIKING MARINE GROUP
New Gretna, NJ

July 2, 2024

Hon. Cliff Bentz, Chairman
House Committee on Natural Resources
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Re: Comments on Legislative Hearing—June 27, 2024

Dear Chairman Bentz:

Please accept the following comments from the Viking Marine Group regarding the legislative hearing in the Subcommittee on Water, Wildlife, and Fisheries held on June 27, 2024. The hearing included discussions on several important pieces of legislation, with our focus on H.R. 8704.

We appreciate the opportunity to provide comments on this important topic. As articulated by all the witnesses during the hearing, there is a strong commitment to supporting the recovery of the endangered North Atlantic Right Whale (NARW). Collaboration with the marine industry and leveraging private sector innovation is expected to provide the greatest opportunities for the species to recover.

Our comments relative to the legislative hearing are threefold: first, to correct inaccurate statements regarding the lack of technology that can detect NARWs to provide examples of risk reduction tools currently in use, and to raise awareness of risk reduction tools that were omitted from the hearing discussion.

Inaccurate Statements

It appears that the NOAA representative and the minority witness failed to consider current literature on the topic of technology that can mitigate the risk of vessel strikes to NARWs and other whale species. A casual literature review indicates that there is ample technology available today and installed on boats that can detect objects in the water, including NARWs and other marine mammals. It is critical to recognize that any technology that can detect objects in the water improves situational awareness and allows the operator to take necessary action to avoid a collision. Thus, having systems and equipment on a boat that detects objects in the water also provides a measurable reduction in the likelihood of hitting a NARW.

During the hearing, Dr. Evan Howell stated, "However, as it stands, there is no proven technology that can be adopted rapidly enough to reduce lethal vessel strikes of North Atlantic right whales." Not only is this statement incorrect but stokes a sense of concern noting that the Director of the Science and Technology in the federal agency charged with managing the NARW as not abreast of all ways of reducing risk. It has been recognized that technology is expected to play a role in preventing vessel strikes. As stated above, we urge Dr. Howell to investigate the array of equipment that is commonly installed on boats 35 feet and larger that can detect objects in the water, including NARWs.

When asked about technology currently available and employed that can save right whales Dr. Jessica Redfern stated, "The technology is not yet ready or available." This statement was also inconsistent with scientific literature.

It is important to note that there is strong scientific evidence supporting the existing and use of technologies to mitigate strike risk. Recent research from researchers at the Woods Hole Oceanographic Institution found, "We also conclude that surface-based whale detection may be very effective for whale-strike mitigation, and a large-scale deployment on suitable vessels in high-risk areas could effectively reduce whale strikes." [1] This highlights the effectiveness of surface-based detection systems, many of which are already in use and installed on a broad range of vessels.

[1] Baille, L.M.R. and Daniel P. Zitter Bart, Effectiveness of surface-based detection methods for vessel strike mitigation of North Atlantic right whales. Endangered Species Research Vol. 49:

Another 2024 peer-reviewed paper found that computer vision systems are viable for widespread vessel-based application and at various near-shore locations with high risks of physical disturbance to threatened and endangered whales: "Due to the relatively low acquisition cost (<$20k USD) of land-based TI (thermal imaging) systems, they are a viable option for widespread application at various near-shore locations with high risks of physical disturbance of threatened and endangered whales." Note that the equipment evaluated in this study is commonly installed on vessels.

Risk Reduction Technology Available and Currently in Use

Aside from scientific papers, the marine industry is constantly developing tools that allow boats to reduce at-sea collisions with objects in the water, including NARWs. Below are examples of equipment commonly installed on boats today with visual, thermal and infrared capabilities that can detect NARWs.

- FLIR M364C-364C LR: Capable of detecting a 30-foot vessel up to 3,700 meters and a human-sized target up to 1,030 meters.
- Sionyx Nightwave: Capable of detecting a man-sized object at 150m and a marine vessel-sized target at 450 meters.
- Sentry Camera by SEA.AI: Capable of detecting a buoy at 700 meters and a dingy at 3000 meters.
- AI-Ris Computer Vision Sensor by Sea Machines Robotics: Provides advanced detection and classification capabilities for small objects out 500 meters.

Noting that NARW and other whale species spend time both at the surface and at depth, it is critical to recognize that there is below-surface detection technology available that is also in use today. Below are a few products that can detect objects far smaller than a NARW in the water.

- Argos 350 by FarSounder: 3D forward-looking sonar providing real-time images of the seabed and objects in the water column up to 35 meters ahead of the vessel.
- Wavefront Systems: The system will detect moderate-sized icebergs, submerged transport containers and whales across the whole 1,500 meter range.

For reference, an average size NARW is 52 feet long and weighs roughly 120,000 pounds.

A more mundane technology but one that is extensively in use by both commercial vessel and pleasure craft fleets is marine radar. Marine radar is an accepted and proven technology to improve navigational safety and detect large marine mammals. Radar has been used in biological research to monitor wildlife, such as detecting and tracking fin whales and smaller mammals up to 5.5km or more at lower sea states.[2] This demonstrates radar's is a fully capability and available tool widely employed by all manner and sized vessels for detecting marine mammals. This also counters the statements of some witnesses that technology is not available to detect NARWs.

Omission of SAT Tagging as a Risk Reduction Tool

The hearing witnesses failed to include any discussion the use of Satellite Tagging (SAT), a proven tool to track NARWs and mitigate strike risk. SAT tagging provides real-time positional information on tagged individuals, allowing vessels to avoid whales on an extremely fine scale when integrated into marine electronics. The Australian and New Zealand government have had great success deploying SAT tags on Southern Atlantic right whales, with some tags staying on for upwards of a year and a half with no detrimental impacts to the individuals.[3] In addition, a SAT tagging program carried out by the conservation community in the South Atlantic is able to track Southern Right Whales as they move across shipping lanes and oil/gas fields during their annual migration.

It was announced in 2023 that NOAA allocated $3.5 million from the Inflation Reduction Act to deploy satellite tags on NARWs, demonstrating its efficacy as a proven method used in southern right whale management. Yet, no tags have been deployed as far as we have been made aware. Satellite tagging can provide real-time

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57-69, 2022 Effectiveness of surface-based detection methods for vessel strike mitigation of North Atlantic whales (int-res.com)

[2] DeProspo, Douglas F., J, Mobley, W. Hom, and M. Carron "Radar-Based Detection, Tracking and Speciation of Marine Mammals from Ships," Award Number: N00014-04-1-0729 2005.

[3] Tag retention, wound healing, and subsequent reproductive history of southern right whale following satellite&#x2010 (up.ac.za)

tracks of whale movements, offering a highly effective tool in reducing risk. In simplest terms, if vessel operators know where NARWS are real time, they will avoid them. Noting the urgency expressed by the witnesses in taking action to reduce risk, it is unfortunate that this highly effective technology tool is not being utilized.

Conclusion

The long-term conservation strategy for the NARW and its subsequent management plan need to be firmly planted in a science and solutions-based approach. There is no place for driven agendas given the seriousness of the conservation challenge at hand with NARW. Any successful approach includes acknowledgment that meaningful conservation will only be achieved with through a multi-pronged approach that considers all tools to reduce risk of vessel strikes. Technology, in various forms and as supported by the facts, can and must play a role in those efforts. Technology will have varying degrees of effectiveness depending on a multitude of factors, including factors attributed to the vessel. Again, referring to the scientific literature, it has been found that "when vessels have a high maneuverability and the ability to change velocity quickly (e.g. certain fishing vessels and ferries), vessel-based detection systems would be very effective,"[4] The science clearly supports the adoption of a comprehensive and nuanced approach that matches risk reduction measures to the risk profile of the vessel. This type of approach is expected to meet the conservation needs of the resource and balance the operation needs of the industry.

As noted during the hearing, a minimum of a 20% reduction of risk is likely to be achieved through a vessel speed rule. We believe that level of reduction can be achieved through other approaches. We hope members of the Subcommittee and NOAA understand that it is not expected that this level of risk reduction shall be achieved through a single piece of equipment or system but through a multimodal approach that utilizes all technology. Recognizing that not all vessels possess a suite of instruments that can achieve the desired level of reduction of risk, basic communication systems allow detection information to be share with other vessels when geographically relevant.

It is vital to acknowledge that there are multiple tools available today to reduce the risk of vessel strikes to NARWs. A recent paper authored by NOAA scientist, states that "Consideration should be given to multiple data sources, models, perspectives, sources of expertise, and possible solutions, rather than to a single model output or approach to mitigation."[5] We urge NOAA to recognize the role of these technologies alongside vessel speed regulations in mitigating risk. Moreover, we hope HR8704 advances in the House of Representatives, enabling the necessary resources to support the private sector in carrying out the evaluation and implementation of these tools.

Dr. Evan Howell stated that NOAA remains fully committed to minimizing the regulatory burden on ocean users by investing in and adopting technology-based solutions. We hope that commitment includes acknowledging the technology available today that allows boats to detect whales while underway and take action to reduce the risk of vessel strikes.

We are eager to work with the Subcommittee members, NOAA, and other partners to advance the important work of quantifying risk reduction that is taking place today. We also hope that HR8704 is advanced in the House of Representatives so the necessary resources can be distributed to the sector most capable of evaluating existing tools and bringing new risk reduction tools to market.

Sincerely,

JOHN DEPERSENAIRE
Director of Government Affairs and Sustainability

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[4] Baille, L.M.R. and Daniel P. Zitter Bart, Effectiveness of surface-based detection methods for vessel strike mitigation of North Atlantic right whales. Endangered Species Research Vol. 49: 57-69, 2022 Effectiveness of surface-based detection methods for vessel strike mitigation of North Atlantic whales (int-res.com)

[5] Roberts et al. North Atlantic right whale density model, Marine Ecology Progressive Series, Vol. 732: 167-192, 2024

Submissions for the Record by Rep. Huffman

June 27, 2024

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Committee on Natural Resources
Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building
Washington, DC 20515

Re: Legislative Hearing on H.R. 8704 (Rep. Carter of GA), "To require the Secretary of Commerce to establish a grant program to foster enhanced coexistence between ocean users and North Atlantic right whales and other large cetacean species and other bills"

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

We write to you with serious concerns about H.R. 8704 and the impact it would have on North Atlantic right whales by blocking agency action on vessel speed rules for multiple years. Ship strikes and fishing gear entanglement are the two leading causes for the ongoing rapid collapse of the North Atlantic right whale population.[1] Over the past eight years, a documented 23 North Atlantic right whales have fallen victim to ship strikes that led either to death, serious injuries, or sublethal injuries; these strikes occurred in both U.S. and Canadian waters and were caused by boats of all sizes.[2]

With respect to H.R. 8704, this bill would stop the National Oceanic and Atmospheric Administration (NOAA) from being able to amend, modify, update, or replace the current vessel speed rule regardless of the best available science and harm caused to the species. This bill would undermine the federal rulemaking process as well as the scientific basis on which the agency operates. Further, this bill would keep the agency from complying with species-saving statutes like the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), among other relevant authorities. Additionally, the grant program this bill would create already exists and was passed into law at the end of the 117th congress. Creating a separate fund would be both redundant and potentially harmful for previously enacted legislation, including section 201 of division JJ of the Consolidated Appropriations Act 2023 (16 U.S.C. 1393) and section 11303 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (16 U.S.C. 1391). We oppose H.R. 8704 for these reasons and encourage you to do the same.

The below provides background on NOAA's proposed rule and emphasizes the dire threat ship strikes pose to North Atlantic right whales. The 2022 proposed rule is based on the best available science and evidence, as well as the agency's Congressionally-mandated authority to protect species under its jurisdiction from injury, death, and potentially extinction. When finalized, the rule will give this species a fighting chance for survival.

The species has been in decline for over a decade, with only about 356 individual right whales remaining today.[3] Collisions with vessels are one of the two leading causes of injury and death for right whales. Because they do not have a dorsal fin, and they spend much of their time at shallow depths, right whales (especially mothers and calves) are particularly susceptible to collisions with vessels. And the true impact of ship strikes on right whales may be much higher, as scientists estimate that observed deaths only represent around one third of total right whale mortalities. With so few whales left, every ship strike is detrimental to the potential recovery of this species. In fact, NMFS has determined that less than one right

[1] Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule, 87 Fed. Reg. 46,921 at 46928 (August 1,2022); S.M. Sharp et al., *Gross and Histopathologic Diagnoses From North Atlantic Right Whale Eubalaena glacialis Mortalities Between 2003 and 2018*, 135 Diseases of Aquatic Organisms 1, at 1. 16 U.S.C. § 1531(c)(1); 16 U.S.C. § 1361(6)

[2] 2017–2024 North Atlantic Right Whale Unusual Mortality Event, Detailed Tables on Mortality, Serious Injury and Morbidity Cases available at https://www.fisheries.noaa.gov/s3/2024-05/North-Atlantic-Right-Whale-Causes-of-Death-for-Confirmed-Carcasses-SI-and-Morbidity-Tables-Combined-02May2024-1-.pdf (Last accessed June 27, 2024).

[3] With a slight stabilization, the overall North Atlantic right whales' downward trend is still troubling as updated population numbers released (October 23, 2023), New England Aquarium.

whale can die from anthropogenic causes per year for the species to reach its optimum sustainable population.[4]

Slowing vessels down in key areas and times is currently the most effective management tool for reducing ship strikes. At high speeds, vessels cannot safely maneuver to avoid right whales, leaving insufficient time for vessel operators and whales to avoid a collision. Should a collision occur, studies have found that slowing vessel speeds to 10 knots reduces their risk of death from ship strikes by 80% to 90%. NMFS recognizes that mariner safety is extremely important and has included safety deviation provisions since the initial rule in 2008. Overall, the proposed regulatory changes continue to emphasize mariner safety as well as preventing right whale injury and mortality.

It is absolutely vital to slow down vessels when mothers and calves are nursing in the Southeast and migrating through the Mid-Atlantic during calving season, and when the whales are aggregating in New England during the foraging season. And many of these seasonal slow zones fall outside of the heart of boating and recreational fishing seasons.

In January of this year, a calf experienced severe propeller cuts to the head and mouth after a ship strike, eventually succumbing to a slow, painful death two months later. The vessel in question was determined to likely be between 35–57 feet in length and thus not subject to the current speed limits. In February 2021, another right whale calf died from propeller wounds, broken ribs, and a fractured skull, and the mother was seriously injured, after a collision with a 54-foot recreational fishing vessel. Although these captains were not operating illegally, these collisions caused the tragic loss of a mother and calf, which are vital to the future of the population. Further, the 2021 collision resulted in the sinking of the $1.2 million vessel, endangering all passengers on board.

Saving this species from extinction will take a collective effort from the fishing, boating, and shipping industries to effectively reduce the risk of deadly collisions. The federal government has an obligation to protect these whales from this clear threat by implementing stronger regulations and enforcement procedures. H.R. 8704 would hamstring the federal government's ability and responsibility to protect the North Atlantic right whale and we ask you to oppose this latest attempt to gut bedrock environmental laws.

Sincerely,

Animal Legal Defense Fund	NRDC (Natural Resources Defense Council)
Animal Welfare Institute (AWI)	NY4WHALES
Center for Biological Diversity	Ocean Conservancy
Cetacean Society International	Ocean Conservation Research
Conservation Law Foundation	Ocean Defense Initiative
Defenders of Wildlife	Oceana
Earthjustice	One Hundred Miles
Endangered Habitats League	Predator Defense
Endangered Species Coalition	Resource Renewal Institute
Environment America	Sanctuary Education Advisory Specialists SEAS

[4] National Marine Fisheries Service (NMFS) 2024. Draft U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessment, available at https://www.federalregister.gov/documents/2024/01/29/2024-01653/draft-2023-marine-mammal-stock-assessment-reports#:~:text=updated%20abundance%20estimates.-,North%20Atlantic%20Right%20Whale%2C%20Western%20North%20Atlantic,individuals%20as%20of%20December%202021 (Last accessed June 27, 2024).

Environment Massachusetts

Environmental Investigation Agency (EIA)

Georgia Interfaith Power and Light

Great Old Broads for Wilderness

Healthy Ocean Coalition

International Fund for Animal Welfare (IFAW)

International Marine Mammal Project of Earth Island Institute

Kettle Range Conservation Group

League of Conservation Voters

Mystic Aquarium

Nevada Wildlife Federation Inc.

Save Animals Facing Extinction

Save the Manatee Club

Seattle Aquarium

Shedd Aquarium

Sierra Club

Southern Environmental Law Center

The Maritime Aquarium at Norwalk

Whale and Dolphin Conservation

Wildlife Conservation Society

World Wildlife Fund

Zoo New England: Franklin Park Zoo & Stone Zoo

Submissions for the Record by Rep. Levin

PORT GAMBLE S'KLALLAM TRIBE
Kingston, WA

July 10, 2024

Hon. Bruce Westerman, Chair
Hon. Raúl Grijalva, Ranking Member
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Hon. Cliff Bentz, Chair
Hon. Jared Huffman, Ranking Member
Committee on Natural Resources
Subcommittee on Water, Wildlife and Fisheries
1332 Longworth House Office Building
Washington, DC 20515

Re: H.R. 6841, A bill to establish a Coastal and Estuarine Resilience and Restoration Program

Dear Chair Westerman. Ranking Member Grijalva, Chair Bentz, and Ranking Member Huffman:

On behalf of the Port Gamble S'Klallam Tribe, I am writing to express our support for the bipartisan Resilient Coasts and Estuaries Act, H.R. 6841. However, we ask that the bill be amended to include Tribal governments in the list of governments that can participate in the Coastal and Estuarine Resilience and Restoration Program. There has been too little attention to the growing needs of our nation's coastal tribal communities in recent years. This is particularly true for the Pacific Northwest, where coastlines are eroding at an alarming rate, and essential salmon and shellfish species are steeply declining. The Resilient Coasts and Estuaries Act revitalizes key federal programs that aim to combat these challenges. ***In recognition of the urgency of coastal decline, we urge you to amend the bill to include Tribal governments in the Coastal and Estuarine Resilience and Restoration Program and pass the Resilient Coasts and Estuaries Act out of Committee, and we ask that Congress approve this bill during the 118th Congress.***

The Port Gamble S'Klallam Tribe is a sovereign nation of over 1,342 citizens located on the tip of the Kitsap Peninsula of Puget Sound in Northwest Washington State. In our language, "S'Klallam" means "the Strong People," and despite having been displaced from our ancestral homelands and faced with challenges that threatened our way of life, our Tribe has survived, and thrived, because of the strength, determination, and wisdom of our ancestors. In 1855, our ancestors negotiated the Treaty of Point No Point, which, among other things, reserved our hunting, fishing, and gathering rights. We rely on those Treaty rights to this day for subsistence, commerce, and the continuation of our traditions and culture. Yet, in recent decades, we have seen a sharp decline in important fish and shell fish species, particularly our salmon, due to environmental impacts such as habitat degradation, pollution, and shifting ecosystems. Our people feel these impacts every day as they eat away at our Treaty rights. Even as we seek to implement restoration plans, we are hampered by a lack of available funding and inadequate partnerships from federal agencies. This is entirely inconsistent with the United States' obligations under the 1855 Treaty of Point No Point and its other trust and treaty obligations to protect our lands and resources and provide for the health and well-being of our citizens. Respect for Tribal sovereignty, like respect for the rule of law itself, requires more than mere acknowledgment. It requires federal agencies to act in accordance with our right to make decisions affecting our lands, resources, and citizens. This includes our responsibility to govern on issues affecting our environmental health, safety, and wellness.

The Resilient Coasts and Estuaries Act is essential to bringing the federal government more in line with its trust and treaty obligation to our Tribe. It would revitalize and improve two programs that are essential to protecting and promoting the environmental resiliency of Puget Sound. First, this bill reauthorizes the Coastal and Estuarine Land Conservation Program (CELCP), which has been without

funding since 2017. CELCP provides funds to state, regional, and other units of governments to protect coastal and estuarine areas of ecological and historic value. Funding from this program is needed to support essential conservation activities. Coastal restoration projects in Port Gamble Bay, Quilcene Bay, and other coastal embayments throughout our usual and accustomed area will provide important nearshore habitat for salmon, Pacific herring, and other species. Life stages of salmon are tied to the shallow estuaries and nearshore habitats for refuge from predation, abundant food sources, and an osmoregulatory transition during juvenile migration. Impairments from shoreline armoring, fill, and overwater structures inhibit the growth of aquatic vegetation and degrade nearshore habitats. Funding for projects like the Port Gamble shoreline restoration and the Quilcene Bay restoration will go a long way to improve coastal processes and restore nearshore habitat for salmon, herring, and shellfish that are critical for Tribal subsistence and commercial harvesting.

Second, the Resilient and Coastal Estuaries Act directs the National Oceanic and Atmospheric Agency to designate five new National Estuarine Research Reserves in the next five years. The National Estuarine Research Reserve System is a network of thirty coastal sites designated to protect and study estuarine systems in collaboration with and service to surrounding communities, including Tribal communities. Tribal Nations are the original conservationists and stewards of the land but are often excluded from federal-state conservation partnerships. This program includes Tribal Nations, and as such, PGST would welcome its expansion as an opportunity to work with the state of Washington to designate and protect local estuaries near our lands.

We urge you to amend the Resilient and Coastal Estuaries Act to include Tribal governments in the Coastal and Estuarine Resilience and Restoration Program and secure its enactment in this Congress.

H.R. 6814, the Resilient and Coastal Estuaries Act, is a good bill that will provide many benefits as set forth above. This bill, however, underscores the need for Congress to enact the Tribal Coastal Resiliency legislation, which has been introduced in several congressional sessions. This legislation (H.R. 3976), would allow the Department of Commerce to award competitive grants to Tribal Nations to achieve tribal coastal zone objectives, including protecting, restoring, or preserving areas in the zone that hold important ecological, cultural, or sacred significance. The bill would not only ensure Tribal governments are directly included in Coastal Zone Management Act programs, it would also honor tribal sovereignty and the Federal-Tribal government-to-government relationship and the Federal government's trust and treaty obligations. We look to you to uphold Congress' trust and treaty obligations by furthering long-term conservation efforts and fortifying our efforts to protect and preserve our people, our homelands, and our traditions.

Sincerely,

AMBER CALDERA,
Chair

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