

# Congress of the United States

Washington, DC 20515

December 11, 2023

The Honorable Janet Coit  
Assistant Administrator for Fisheries  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, Maryland 20910

Dear Assistant Administrator Coit:

We request NOAA Fisheries suspend further action on proposed changes to the North Atlantic right whale (NARW) vessel speed rule published July 29, 2022. The proposed rule is significantly flawed because the technical analysis makes assumptions known to be inaccurate, which may derive from NOAA Fisheries' decision to proceed without input from impacted stakeholders. This also calls into question the extent to which the proposed rule would even provide NARWs with the protection needed. Undoubtedly, however, the proposed rule will cause deep, lasting economic harm up and down the East Coast and beyond as public access to the ocean is effectively eliminated for months at a time, making it critical that NOAA analyze the issues correctly and pursue technology solutions quickly.

Information provided by affected stakeholders and from testimony at hearings casts serious doubt about a wide range of assumptions in NOAA's assessment—from the scale of boaters impacted (63,000 vessels, not 9,300), to the depth of vessels (2 meters, not 10 meters), to the cost to the U.S. economy along an entire seaboard (billions, not \$46 million).

Most crucially, the proposed rule assumes new protections for whales for which NOAA Fisheries does not provide evidence of a significant threat. Your agency references five documented NARW strikes in the last 15 years by vessels under 65 feet, one of which was apparently outside of the speed zones that already exist for larger vessels. The speed zones NOAA Fisheries created in 2008 have either yielded moderate or low compliance, which merits its own review, so it is hard to understand why NOAA would massively expand by area and seasonality new zones without any explanation about how to enforce them.

These are just a handful of many troubling problems we see in the rule NOAA Fisheries is contemplating. Instead of finalizing the rule, we encourage your agency to take steps that should have been taken before putting out a rule that has such significant implications for these endangered whales and for millions of Americans who earn livings and recreate along the Atlantic from Massachusetts to Florida. We are pleased to see NOAA Fisheries providing \$82 million in Inflation Reduction Act funding for NARW which includes the development of vessel strike reduction technology. It is also promising to learn that in March 2024, NOAA Fisheries will host a multi-day Vessel Strike Risk Reduction Technology Workshop. That being acknowledged, these are precisely the sort of steps that should have been taken before proposing this rule – again, without any attempt to incorporate input from affected stakeholders.

With these actions underway, NOAA Fisheries can and should set aside the flawed proposed rule and instead carry out the full and vigorous exploration of technological solutions that can achieve the conservation goals while still allowing reasonable access to public resources. Working collaboratively with subject matter experts who specialize in whale monitoring and detection, as well as communications systems that can get information to vessel operators where and when they need it most must remain the top priority for NOAA Fisheries. Not all of us represent Districts sitting on the East Coast, but we share concerns regarding the economic ripple effects

of these restrictions and the implications for how NOAA Fisheries would conduct marine mammal protection management elsewhere in the United States.

Thank you for your consideration of our request to put aside this proposed rule in favor of a more logical and effective sequence of actions that will better achieve our shared desire to protect NARW, America's economy and public access to public marine resources.

Sincerely,



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Mary Sattler Peltola  
Member of Congress



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Vicente Gonzalez  
Member of Congress



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Henry Cuellar  
Member of Congress



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Brendan F. Boyle  
Member of Congress