

April 22, 2024

The President  
The White House  
Washington, DC 20500-0004

Re: Biden Administration Failure to Protect the North Atlantic Right Whale

Dear Mr. President:

After 50 million years, the North Atlantic right whale will be the first great whale to become extinct in modern times. The U.S. government has enabled the tragic slide toward extinction as your administration continues to sit on life-saving vessel strike regulations.

Furthermore, the National Oceanographic and Atmospheric Administration (NOAA), housed in the Department of Commerce, has twice denied emergency petitions to protect right whale mothers and calves in calving grounds off the coasts of Florida to South Carolina.

The species is so near annihilation it cannot spare a single death per year: as scientists warn of functional extinction by 2035, [five of the whales](#) have been found dead since December, 2023. The administration's response is perpetual delay.

In early February, a [chronically entangled female](#) right whale calf died in lobster trap-pot lines near Martha's Vineyard. Authorities said that she had suffered "for a prolonged period of time." Later in February, [another female](#) was found dead off the Georgia coast.

The chief causes of death for right whales are the usual suspects: [entanglement in fishing gear](#) and [vessel strikes](#). The whale's Atlantic Coast migratory route is an [obstacle course](#) of thousands of speeding recreational and commercial vessels, a situation, tantamount, for a person, to crossing the New Jersey Turnpike at rush hour.

Right whales are especially vulnerable to strikes because they are dark, with no dorsal fin, and swim close to the surface in shallower water. This is especially true for mothers with calves. Slower speeds will allow boaters to spot the whales in time to avoid them.

NOAA scientists prioritize heading off extinction as Commerce, the head agency, caters to sport fishing. The result: promised but never materialized protection drags on for years as avoidable entanglement and boat strikes decimate critically endangered whales.

Current NOAA regulations mandate 10-knot (11.5 mph) or lower speed limits for vessels 65-feet or larger in designated high- risk zones, or speed restriction areas, at certain times of the year.

The agency's pending vessel strike amendment would: (1) modify the boundaries of current speed restriction areas known as Seasonal Management Areas (SMAs), (2) include most vessels greater than or equal to 35 feet and less than 65 feet in length in the speed restriction, (3) create a Dynamic Speed Zone framework to implement mandatory speed restrictions when whales are known to be present outside active SMAs, and (4) update the speed rule's safety deviation provision.

The U.S. is inexcusably late in acting; jurisdictions already enforcing speed limits report no safety issues. In its "[Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule](#)," NOAA reports:

Other jurisdictions have instituted speed restrictions for vessels less than 65 ft (19.8 m) in length to mitigate vessel strike risk for North Atlantic right whales. Following a series of right whale vessel strike events, Canada expanded the length of vessels covered by dynamic mandatory 10-knot (5.1 m/s) speed restrictions in the Gulf of St. Lawrence in 2019 to include vessels 13 m (42.7 ft) or greater in length. Also in 2019, the state of Massachusetts introduced regulations restricting the speed of most vessels less than 65 ft (19.8 m) in length to 10 knots (5.1 m/s) or less when transiting through waters within, and to the north of, Cape Cod Bay during the months of March and April each year to provide protection for foraging right whales following vessel strike events in the Bay (322 CMR 12.05). Massachusetts has received no reports of strikes involving vessels less than 65 ft (19.8 m) in length, nor reports of safety concerns from mariners in this area since implementation of the regulation. The State has extended these vessel speed restrictions into the month of May during years when right whales remained in the Bay.

The proposed changes will occur during or at the cusp of the boating/sport fishing off-season in the Southeast and Mid-Atlantic.

Getting a handle on speed and enforcement is non-negotiable: [Oceana](#) studies show that in certain regions 90 percent of vessels exceed speed limits in place to protect whales and that reduced speed may cut fatalities by 80 to 90 percent. The higher the vessel speed, the greater the intensity of impact and risk of serious injury and mortality. ([NOAA](#).)

The other imperative is expanding the speed and zone limits to the smaller boats that are killing right whales. A cabin cruiser is just as deadly as a tanker: "In recent years, eight boats between

35 and 65 feet have reported collisions with North Atlantic right whales, and six large whale strikes may have involved North Atlantic right whales. In 2021, a sportfishing boat was returning to port in North Florida and struck a mother North Atlantic right whale named Infinity and her calf. Moving at 21 knots (24 MPH) the blades of the boat's propellers sliced the young calf's body. The calf had fresh propeller cuts on its back and head, broken ribs, and bruising. The calf was found dead on the shore the next morning." ([Oceana.](#))

The [Natural Resources Defense Council](#) points out: "Three of the four known vessel strike events that involved mothers and calves since 2020 involved vessels between 35 and 65 feet in length. These amendments are supported by science and necessary if the species is to avoid extinction."

Myrtle Beach charters offer "extra thrill" shark fishing excursions [at night](#). Ocean going vessels also travel at night, thus increasing the already high chances of hitting a dark, slow-moving whale. There is no respite, no quiet lane, for a right whale mother with her calf; there is only twenty-four seven risk.

Immediate, emergency adoption of the amended vessel strike rule is the priority. It is the single most important action we can take to save the right whale: "Reducing vessel speed is one of the most effective, feasible options available to reduce the likelihood of lethal outcomes from vessel collisions with right whales." ([NOAA.](#))

The vessel strike rule is separate from long-term development of technology that does not currently exist. This whale, at this stage of the extinction crisis, has no time left for years of research and development. As in emergency room triage, the right whale requires the direct intervention of enforced speed limits and anti-entanglement regulations –yesterday. NOAA cannot wait until technology that *does not exist* is "fully" deployed. The \$82 million package for research and technology (Congress had appropriated some \$20 million in 2022 that was not used) is not the panacea or the "out" Shimano or Bass Pro disingenuously claim for face-saving purposes.

In a cynical move, the sport fishing/boating lobby is trying to substitute long-term research for immediate protection ---- in the closing days of an emergency extinction crisis: Don't bother with rules that may inconvenience the relatively few winter, off-season boaters and charter

captains. After years of inexcusable delay, hold off until the non-existent technology is “fully” deployed. For a whale on life support, that’s a death sentence and they know it.

The late \$82 million package, with conditions and bureaucratic snags, to be directed toward research and development is no substitute for the emergency vessel strike rule. Funds for enforcement should be released immediately.

The sport fishing business is the stick in the spoke, the reason for NOAA’s perpetual vessel strike delay. The Capitol climate is so depraved, so out of touch, that the Congressional Sportsmen’s Caucus takes *credit* for exercising its muscle against a dying species. In its news release, the trade association for firearms, bows, trap and fishing tackle manufacturers writes of “taking action against” the vessel strike rule. Their [news release](#) gives props to Bass Pro Shops, Shimano, National Marine Manufacturers Association and Pure Fishing. In more pandering to this outfit, NOAA recently denied protection to the gravely endangered Rice whale.

Seasonal whale safety speed limits for endangered whales will no more impact sales of motorboats than school safety speed limits deflate automobile sales – or any other commerce. Even the inference is ridiculous.

Your own administration belies the claim: because of their seasonal nature, reports NOAA, the regulations will not significantly impact recreationists.<sup>1</sup> A glance at the calendar makes that clear: the proposed vessel strike rule applies to seasonal speed limits and high-risk areas mainly from mid-November to mid-April. The impact on off-season, off-shore fishing is marginal: [South Carolina charters](#) advertise an “active season” from mid-March through October. [Northeast](#) sport fishing publications outline a similar calendar: “There is a somewhat predictable progression to the Northeast’s near offshore and canyon fishing season, with September and October typically signaling the final stages of a multipart action game.” (Emphasis ours.) Online “[New Jersey Fishing Seasons](#)” states that saltwater fishing “peaks in fall” and begins in April – outside the right whale Seasonal zones – and that the fresh water season peaks in spring and fall.

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<sup>1</sup> NMFS anticipates that the seasonal nature of most speed restrictions will minimize the impacts of the proposed rule on recreational activities. In the Southeast and Mid-Atlantic, the proposed restrictions will be in effect during seasons with less recreational angler activity. In the greater New England area, most seasonal speed restrictions occur during periods of colder weather, when recreational activity is low, although this region is most likely to see Dynamic Speed Zones triggered during seasons of higher recreational activity based on right whale distribution data, NOAA anticipates that the seasonal aspects will minimize impacts on recreationists.

Anyone who spends time boating or on the beaches on the Atlantic Coast knows that cabin cruisers, Boston whalers and other 35-ft and above boats often speed close-in to swimming beaches or cut across sailboat tacks. Cigarette or “go fast” boats range from 28 to 48 feet. Some newer recreationists treat motorboats like cars – turn on the ignition and go – fast. Charters promising day trips to deeper depths speed to and from their destination.

The emphasis on wind farms, concerns may have validity as does concern about the negative impacts of other seabed industries, has overshadowed the right whale emergency, often deliberately. Sportsmen’s Caucus member Jeff Van Drew (R-2) so frequently in New Jersey papers about whales and wind, sides with the forces *against* saving the right whale.

New Jersey Representatives Frank Pallone (D-6), Donald Payne (D-10), Andy Kim (D-3) and Bonnie Watson Coleman (D-12) are co-sponsors of the Rescue Whales Act, H.R. 1213, to repeal Congress’s disgraceful ban on new NOAA rules. But House Republicans won’t move the bill. New Jersey and Connecticut Senators Cory Booker (D) and Richard Blumenthal (D), respectively, are pushing back, but they need administrative action, or we’re going to lose this whale.

There is hope in the courts. A coalition of national organizations [has sued](#) your administration to implement the vital vessel strike rule.

In 2022, Susan Collins (R-ME) led the Maine delegation in amending the FY 2023 omnibus budget bill to block NOAA from issuing improved rules to prevent entanglement until 2028, withholding protection for six years from a whale that will be extinct in eleven.

Congress denied entanglement protection as scientists warned that current U.S. and Canadian policies allow at least *five times* the rate of entanglement the right whale can survive. Earning the sobriquet, “[Extinction Democrat](#),” Senate leader Chuck Schumer (D-NY) inserted the language. In 2024, the Senate leader must not only refuse to abet anti-whale measures but leverage his and your power to obtain immediate implementation of the vessel strike and entanglement rules. The latter entails repealing the disgraceful Collins amendment.

In 1973, a quite different Congress enacted the Endangered Species Act “to halt and reverse the trend toward species extinction, *whatever the cost.*”

The right whale has suffered enough at the hands of humans. The craven withholding of protection from an ancient, persecuted whale in an extinction crisis is a moral catastrophe. We ask you to post-haste remove all obstacles to immediate approval and enforcement of vessel strike and entanglement regulations.

Respectfully,

Susan Russell; Wildlife Policy Director, Animal Protection League of New Jersey

Priscilla Feral, President, Friends of Animals