



May 20, 2024

The Honorable Gina Raimondo
Secretary of Commerce
1401 Constitution Avenue, 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 rule making 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 year¹ based solely on NMFS’s estimate of the number of “delayed transit hours” for impacted vessels² 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

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.

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>

⁴ https://republicans-naturalresources.house.gov/UploadedFiles/Testimony_Gamboa.pdf

⁵ www.nmma.org/advocacy/economic-impact/recreational-boating

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.

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