

The Honorable Jeanne Shaheen
Chair
Subcommittee on Commerce, Justice,
Science, and Related Agencies
U.S. Senate Committee on Appropriations
Washington, DC 20510

The Honorable Jerry Moran
Ranking Member
Subcommittee on Commerce, Justice,
Science, and Related Agencies
U.S. Senate Committee on Appropriations
Washington, DC 20510

The Honorable Hal Rogers
Chair
Subcommittee on Commerce, Justice,
Science, and Related Agencies
U.S. House Committee on Appropriations
Washington, DC 20515

The Honorable Matt Cartwright
Ranking Member
Subcommittee on Commerce, Justice,
Science, and Related Agencies
U.S. House Committee on Appropriations
Washington, DC 20515

April 30, 2024

Re: Critical FY25 Funding for North Atlantic Right Whale Conservation

Dear Chairs Shaheen and Rogers and Ranking Members Moran and Cartwright:

On behalf of our millions of members and supporters nationwide, we urge you to provide robust appropriations for Fiscal Year 2025 (FY25) necessary to sustain and build upon ongoing conservation efforts for the critically endangered North Atlantic right whale (NARW). We greatly appreciate your consistent and significant support for NARW conservation and management in past appropriations cycles. Additional funding and urgent action is critical to save this species from extinction.

Continued Congressional funding is essential to the survival of this species. Therefore, as you craft the FY25 Commerce, Justice, Science, and Related Agencies appropriations bill, we urge the Committees to include robust funding for NARW conservation. **Specifically, we request no less than \$40 million to support NOAA Fisheries' ongoing North Atlantic right whale conservation efforts. We also request that the Conservation and Mitigation Assistance Grant Program be funded at \$50 million**, the amount authorized in the FY23 Consolidated Appropriations Act. Lastly, we support \$14 million to facilitate compliance with existing conservation requirements and the ongoing transition of the Atlantic lobster and Jonah crab fishery. These priorities for funding are itemized in further detail below.

The future of the North Atlantic right whale is in jeopardy. Fewer than 360 NARWs remain, including fewer than 70 reproductive females, the lifeblood of the species. On March 30, 2024, a dead NARW, identified as 35-year-old female #1950, was discovered 50 miles off the coast of Virginia. Her death — later determined to have been [caused by a vessel strike](#) — marks the 40th mortality in the ongoing NARW Unusual Mortality Event (UME). Her dependent three-month old calf was the sixth calf she had produced during her life and is unfortunately also presumed dead, unable to survive without its mother. This mother and her calf mark the sixth and seventh presumed NARW deaths over the first three months of 2024, a total which includes other calves who haven't been spotted with their mothers. Without additional investments in NARW recovery, the best scientific information available indicates that the species is at real risk of extinction in the foreseeable future.

Importantly, we ask the Committees to reject all attempts to use the appropriations process to attack NARWs and undermine our bedrock environmental laws. Attempts to gut NARW protections were a significant part of the onslaught of extreme anti-environment policy provisions throughout the FY24 appropriations process. Attempting to gut bedrock environmental protection laws including the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA) has no place in the appropriations process. We thank the Committees for avoiding these in FY24, and respectfully ask that they continue working to ensure better outcomes for our oceans, climate, and wildlife.

Lastly, in addition to the below requests to directly fund ongoing conservation efforts of North Atlantic right whales, there are additional programs within NOAA that can also be better funded and utilized to the benefit of NARWs and other imperiled marine species. With this in mind, we strongly encourage the Committees to include substantial funding for the John H. Prescott Marine Mammal Rescue Assistance Program, the Marine Mammal Unusual Mortality Event Contingency Fund, and the Real-Time Monitoring and Mitigation for Large Whales Program.

North Atlantic Right Whale Conservation within NOAA Fisheries: \$40 million

Just since the enactment of the Consolidated Appropriations Act of 2023, there have been [11 confirmed NARW deaths and serious injuries](#). In 2023, four cases of sublethal injury from entanglement in fishing gear were confirmed. Additionally, one of the two confirmed deaths in 2023 was from a vessel strike. In just the first three months of 2024, there were four confirmed deaths—three from probable or suspected vessel strike, one from entanglement in fishing gear—and the presumed death of the dependent calf of NARW mother #1950, recently killed by a vessel strike. It's also important to bear in mind that these updates from NOAA Fisheries are minimum estimates as research indicates a large portion of deaths and injuries go unobserved.

In consideration of this, it is critical that NOAA Fisheries receive continued robust funding for NARW conservation efforts. We request that the Committees include no less than \$40 million under *Marine Mammals, Sea Turtles, and Other Species*, as well as \$300,000 to conduct a Continuous Plankton Survey under *Fisheries Data Collections, Surveys, and Assessments*. For the Committees' convenience we have developed as an annex to this letter a detailed spend plan for these lines of funding. We also highlight a few key areas for funding here:

Commercialization of On-Demand Fishing Technologies

Of particular need for NOAA Fisheries funding is the full commercialization of on-demand fishing technologies. There are several threshold areas of innovation, development, research, and testing that need to be addressed to achieve this goal. This includes resolving gear conflict among fixed-gear fishermen and between fixed-gear and mobile fishermen in high density fishing locations through the development and adoption of on-demand devices that rely on acoustic-based location marking to locate gear on the seafloor.

Additionally, NOAA Fisheries should ensure that on-demand gear is interoperable; that is, able to communicate with systems from different manufacturers. This would allow each fishing and enforcement vessel to be outfitted with one single transducer and receiver capable of detecting and reporting the location of every on-demand device on the seafloor, regardless of the manufacturer. Currently, manufacturers are developing proprietary systems that are designed to detect only their own on-demand systems.

NOAA Fisheries must also continue to invest in a universal cloud database that can store and disseminate real-time locations of deployed on-demand fishing gear to approaching and passing fishing vessels and for enforcement purposes. Finally, NOAA Fisheries must ramp up and increase the scale of on-demand fishing experiments. As with the resources provided through the Conservation and Mitigation Assistance Grant Program, NOAA Fisheries must prioritize the continued development of on-demand fishing technologies when allocating applicable North Atlantic right whale conservation funding.

Vessel Strike Assistance

Vessel strikes are one of two major threats to NARW recovery. The best scientific information available demonstrates that speeds of 10 knots or below reduces the risk of struck NARWs dying by approximately 80 to 90%, a legal necessity. Accordingly, NOAA Fisheries proposed updated vessel speed regulations in 2022 to minimize these lethal collisions. The Committees have prioritized the risk of vessel strikes to marine mammals in the past by urging NOAA Fisheries to continue to develop risk reduction measures in report language in the FY23 Consolidated Appropriations Act. Unfortunately, since then there have been multiple attempts in Congress to delay or completely prevent NOAA's rulemaking process. For FY25, we recommend the Committees ensure NOAA Fisheries has the resources to implement and enforce this pending rulemaking adequately and expeditiously. Reducing the risk of vessel strikes through a robust, science-based vessel speed rule is key for the survival of the species.

Conservation and Mitigation Assistance Grant Program: \$50 million

We request that the Conservation and Mitigation Assistance Grant Program (Grant Program) be fully funded at \$50 million in FY25.

The Consolidated Appropriations Act of 2023 authorized the Grant Program for Fiscal Years 2023 through 2032 to provide competitive financial assistance, on an annual basis, for projects designed to reduce the lethal and sub-lethal effects of human activities on NARWs. In authorizing the program, Congress advised that a large majority—\$40 million— of this authorized funding should go toward innovative gear deployment and technology related to on-demand gear. FY23 appropriations provided \$20 million for the Grant Program, \$30 million less than the authorized amount.

On-demand fishing technologies must be made commercially achievable in the New England lobster and Jonah crab fishery as soon as possible. We urge the Committees to appropriate funding for this grant program at levels consistent with the underlying authorization. We also strongly ask the Committees to continue to encourage that the majority of grant funding go toward the development of on-demand fishing technologies. Such appropriations should not be made to expire and should remain available to account for variations inherent in the research and development process of such technologies.

Fishermen Assistance: \$14 million

We acknowledge the Committees' efforts to mitigate the real impacts facing the lobster and Jonah crab fishery on its path toward coexistence with NARWs. To date, much of this effort has been focused on implementation of and compliance with the final 2021 rule to modify the Atlantic Large Whale Take Reduction Plan (ALWTRP) (FR-210827-0171). Moving forward, we would encourage the Committees to broaden their focus to assisting the fishery with its transition to use of on-demand fishing systems, in anticipation of future regulatory structures and requirements that will move away from traditional fishing methods. Thoughtful investments in this space now will pay dividends for the future of this important fishery. With this in mind, we support \$14 million in additional funding to facilitate gear compliance and transition efforts as long as broad NARW conservation activities are still prioritized.

Conclusion

We appreciate the opportunity to share our views on this important and challenging issue and thank you for your consideration of this request. We hope the Committees will allow science and evidence-based conservation of the North Atlantic right whale to take its course. As part of this, robust and full funding of innovation and management needs to mitigate interactions between the North Atlantic right whale and related ocean activities. This is crucial to ensuring both NARWs and humans can coexist and thrive. We would be happy to answer any questions or provide any additional information and look forward to working with you to ensure the North Atlantic right whale's continued existence.

Sincerely,

- Groups

Annex: Proposed FY25 North Atlantic Right Whale Spend Plan

This annex was developed to demonstrate the breadth of efforts needed in order to stave off extinction of the North Atlantic right whale. Both the overall funding amount of \$40 million and the content of each line item are necessary for effective and immediate conservation action.

Within Marine Mammals, Sea Turtles, and Other Species

- \$14,000,000 for the continued development and implementation of new rules from NOAA aimed at reducing the mortality rate of North Atlantic right whales by vessel strikes, fishing gear entanglements, and other threats to their survival. This funding should also be used for continued monitoring of anthropogenic impacts to NARWs to evaluate the efficacy of existing and new regulations; regulatory and management support to reduce vessel-strike risk in high-traffic areas, and; fostering a transition to commercial fishing gear known to reduce entanglement risk with a strong focus on fishermen education and outreach.
- \$9,000,000 to go towards the commercialization of gear technologies designed to reduce North Atlantic right whale entanglements. This includes NOAA Fisheries increasing the number and scale of on-demand fishing experiments. Additionally, as determined by the agency's needs, some funding within this amount should be directed towards resolving gear conflict, gear interoperability, and the development of a database that can store and disseminate real-time locations of on-demand gear to approaching vessels and law enforcement.
- \$6,000,000 for enforcement activities of current and future vessel speed restrictions along the east coast and of offshore lobster fisheries in Massachusetts and Maine, related to personnel and vessel needs, monitoring, gear removal, and surveys.
- \$5,000,000 for a near-real time monitoring and mitigation program to protect North Atlantic right whales in areas not protected by other measures. These data could be used to inform distribution models to further the understanding of broad scale movements of right whales. In 2022, Congress enacted a new program designed to leverage technologies to detect North Atlantic right whales (and other imperiled species) in real-time, and to use those detections to inform sector-specific mitigation protocols that can save the species from harmful interactions, such as a vessel collision.
- \$3,000,000 for surveys and monitoring, including underwater acoustic gliders, of North Atlantic right whales in Atlantic coastal waters.
- \$2,700,000 for disentanglement, stranding response, and necropsy activities. Some funding within this amount should be directed toward support for North Atlantic right whale necropsy

readiness and the North Atlantic right whale necropsy database, including the expansion of capacity to include sample archive and tracking.

- 5% cap on the amount of funds NOAA can use internally.

Within Fisheries Data Collections, Surveys, and Assessments

- \$300,000 to continue conducting the continuous plankton recorder survey that will enhance our understanding of the distribution and movement of *Calanus* spp., the primary prey of the North Atlantic right whale.