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April 9, 2007

Mr. Steven D. Aitken, Director
Office of Information and Regulatory Affairs
Office of Management and Budget
1650 Pennsylvania Ave, NW
Washington, DC 20503

Dear Mr. Aitken:

I am writing concerning the National Oceanic and Atmospheric Administration's (NOAA) Proposed Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales now pending before the Office of Management and Budget (OMB).

Because my congressional district is surrounded by the ocean--extending from the tip of Cape Cod to the southern border of the City of Boston--the conservation and protection of whales is very important to me and my constituents. In southeastern Massachusetts we have an active whale watch fleet, several whale research organizations as well as a volunteer stranding network dedicated to saving marine mammals. Because of the appreciation and respect we have for whales, my office has worked hard to ensure that NOAA receives the resources necessary to protect these wonderful creatures and fund the necessary research. In June 1999, I stood at the Port of Boston with Senator Kennedy, the Secretaries of Commerce and Transportation, the President of the Boston Shipping Association and the Executive Director of the International Fund for Animal Welfare (IFAW) in launching the first Mandatory Ship Reporting System (MSR) designed to protect the endangered right whale from ship strikes. From that experience we know that the MSR would not have been possible without the cooperation and participation of the key affected groups.

I am aware that the pending rule is not without controversy and I have heard from a number of my constituent groups. If we are to be successful in saving the right whale, cooperation and compliance with whale protection measures is critical. That is why I recently convened a meeting of local representatives from the maritime and conservation communities to discuss their concerns and see if adjustments to the Proposed Rule could bring about a consensus in support of the proposal. I am pleased

to report that we reached agreement on a modification to the Proposed Rule that all could support (as described below) and I ask that you consider this approach.

The Proposed Rule contains three key measures to protect whales from ship strikes and they are (1) a new routing of the main shipping lane into Boston Harbor, (2) seasonal management areas in Cape Cod Bay where vessel speed can not exceed 10 knots, and (3) dynamic management areas (DMA's) through which vessels may not travel at speeds greater than 10 knots for a minimum period of 15 days. Among the group there was unanimous support for the first two measures, but the DMA's pose significant operational difficulties for providers of marine transportation. The designation of a DMA requires at a minimum a 36 mile radius restricted area lasting a minimum of 15 days. A DMA designation in Cape Cod Bay would significantly impact ferry operations originating from Boston Harbor all the way to Provincetown and could even impact ferry operations in Nantucket Sound.

My understanding of the DMA's is that a protective zone (circle) will be established around the whales, depending on the density of whales and that the size of these zones will depend on the number of observed whales. The stated goal is to maintain a density of 4 whales per 100 square nautical mile (nm). Mariners traveling in these zones must not exceed a speed of 10 knots. However, in addition to these protective zones, NOAA proposes to extend the DMA's an additional 15 nm beyond the core area. It is this 15 mile extension that causes the greatest potential impacts. On behalf of our working group I ask that you consider dropping this part of the DMA in the final rule so that the size of a DMA would generally range between 2.8 nm and 4.8 nm maintaining the desired density of 4 whales per 100 square nm.

In addition to reducing the potential size of a DMA, our group also recommends that NOAA establish a Stellwagen Bank Whale Information and Reporting Center (Center) at the Stellwagen Bank Marine Sanctuary office in Scituate, MA. The purpose of the Center would be to receive and broadcast real time information to mariners about the most current known location of whales in Massachusetts Bay and Sanctuary area. This real time reporting system would help mariners avoid areas where whales have been sighted, even in the absence of a formal DMA. The proposed Center would be equipped with a telephone, VHF and Single Side Band radios, electronic charts of the area and receiving equipment for the Automated Identification Systems (AIS). The AIS, which identifies a specific vessel, is required on all commercial domestic and foreign vessels over 65 feet in length operating in US waters. The Center would broadcast all of the real time information it received from the boating public regarding the most current known location of whales. Our operators are anxious to provide this type of information and I am sure that the entire boating public would support this type of information system to improve whale protection. In addition, my office is reaching out to commercial and non-profit entities to see if they would be willing to assist in paying for the initial start-up costs.

I believe the modifications to the Proposed Rule discussed above provide a reasonable approach to a very difficult situation. As you are aware, Massachusetts

fishermen have been carrying a disproportionate share of the burden in terms of protecting whales and are demanding that the rest of the maritime community do their part. I strongly encourage you to expeditiously finalize the Proposed Rule and consider these comments in the constructive spirit in which they are intended.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Delahunt". The signature is written in a cursive, slightly slanted style.

William D. Delahunt
