



MARITIME EXCHANGE

for the Delaware River and Bay

Leading the Way to Port Progress

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July 26, 2024

Ms. Kimberly Cole
Delaware Coastal Programs
100 W. Water Street, Suite 7B
Dover, DE 19904

Re: NMFS Whale Collision Speed Reduction (2024.0036)

Dear Ms. Cole:

The Maritime Exchange for the Delaware River and Bay appreciates the opportunity to comment on this important topic. As information, the Maritime Exchange is a nonprofit association representing the interests of nearly 300 individuals and port-related businesses in the tristate region. Our members are keenly concerned with port efficiency, safety, security, and environmental stewardship.

The Exchange supports all reasonable measures to protect the health of marine wildlife, including the North Atlantic Right Whale. However, NOAA's latest proposal to drastically revise the NARW Vessel Strike Reduction rule would impose severe limitations on the daily operations of port terminals and mariners throughout the Delaware River port complex and have negative effects resulting in costly and potentially hazardous outcomes.

Approximately 2,400 vessels arrive at Delaware River ports each year, hauling nearly 60 million tons of cargo, creating approximately \$50 billion of economic activity—including \$1.8 billion in state and local taxes—and supporting over 155,000 direct, indirect, induced, and related jobs in the region. Any disruption to efficient port operations therefore has dramatic economic ramifications for the region.

In the revised rule, NOAA proposes to "include most vessels greater than or equal to 35 ft (10.7 m) and less than 65 ft (19.8 m) in length in the size class subject to speed restriction." This change would affect many vessels in the region, including virtually all pilot boats. The new requirements, should the rule go into effect as drafted, would undermine essential pilotage and reduce navigational safety, thereby impeding maritime commerce and jeopardizing economic growth.

In addition, the proposed changes would greatly hamper port operations. Pilot boats frequently coordinate multiple calls during a single trip to deliver and retrieve pilots from vessels in the area. Speed restrictions will hinder or negate these pilot boat efficiencies, thus delaying vessel and cargo operations and contributing to ongoing supply chain challenges. The resulting port congestion can affect the larger supply chain, slowing trade not just on the Delaware River but along the East Coast and elsewhere.

Of primary concern is the cost to ships and terminals for transit delays if a ship misses its transit due to pilot boat constraints and must wait for a tide or berth availability. Daily vessel operating costs at a minimum are \$40,000; that number can increase dramatically based on size and type of the ship. Idling time adds unexpected and unnecessary costs to each voyage.

Labor and terminal operations are also at risk should a vessel miss its berth appointment. First, by the time the delay is known, labor is already ordered and must be paid whether the ship arrives on schedule or not, at a potential cost of about \$22,000 for a container ship for four hours.

Other costs can accrue to the terminal operators. As an example, at one local facility wharfage costs for a container ship are \$3.50 per net registered ton. For the largest ships calling the Delaware River, wharfage alone could cost almost \$225,000. Thus, a missed appointment can represent significant lost revenue for the terminal operator, especially if another ship is destined for the same berthing space and is thus

subsequently delayed. Yet the cost can be even more substantial for oil and gas ships. If a berth is not available for a newly arriving ship due to a delay with the ship currently at the dock, the terminal operator could be responsible for \$50,000-\$100,000 *per day* in demurrage charges to the now waiting second ship.

Exacerbating the situation is that truckers with appointments to deliver or retrieve cargo may already be en route. When a ship is delayed, these trucks must idle, missing one or more turns and costing the trucking companies and/or drivers revenue for the duration of the delay.

The point is, every ship arrival must be closely choreographed among the vessel, labor, the terminal, pilots, tug companies, ship supply companies, and a host of others who service the ship and cargo. Any event that disrupts that activity has multiple downstream effects.

Mariner safety is also a significant concern. For safety and logistical reasons, pilot boats must often move at high speeds to meet large commercial vessels and transfer personnel. Speed restrictions would worsen already dangerous transfers by forcing the pilot and commercial vessels to operate outside of ideal parameters. Further, opting to use vessels larger than 35 feet dramatically increases transit times, which can contribute to pilot and crew fatigue.

If enacted, the proposed regulations would force organizations to choose between smaller boats to maintain operational efficiency or larger boats to protect boarding pilots. Compromising on either front would negatively affect the safety and welfare of mariners.

NOAA also proposes to modify the navigation safety deviation clause of the speed restriction rule to accommodate situations where severe conditions could threaten human or navigational safety. The collection of information proposed, however, would add an unnecessary administrative burden for pilots and ships' masters during high-stakes situations where distractions are likely dangerous.

A final concern to note is the environmental impact of vessel delays. Ships waiting for a pilot, tide or berth must remain in operational readiness at all times. In addition to the emissions a ship releases while waiting, idling ships are more likely to attach various marine organisms and layers of dirt, risking hull biofouling. This results in increased vessel weight and other negative operational effects, which increases the amount of fuel the ships must burn. Currently, ocean shipping is estimated to cause approximately 3% of global greenhouse gas emissions. Idling ships unnecessarily exacerbate an already dire situation.

The maritime industry is committed to doing its part to protect the North Atlantic Right Whale. However, NOAA must balance its conservation goals with the safe and efficient movement of cargo and those responsible for it in order to uphold the welfare of mariners and maintain the U.S. supply chain. To that end, the Maritime Exchange supports the use of other measures, such as passive acoustic monitoring, visual surveys, and tagging.

Accordingly, the Maritime Exchange has recommended that NOAA keep the speed restriction application threshold at ≥ 65 feet in length, exempt pilot boats from the speed restriction, exclude federally maintained dredged channels and pilot boarding areas along the East Coast from the speed restriction areas, and refrain from making the proposed changes to the deviation provision. Implementing these suggestions would mitigate damaging effects for pilots, mariners, and the local maritime community while maintaining the safety of North Atlantic Right Whales.

Once again, thank you for the opportunity to submit comment and for considering our views.

Sincerely,



Lisa B. Himber
President