

# ***Cross Sound Ferry Services, Inc.***

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**An Affirmative Action/Equal Opportunity Employer**

**TO: National Oceanic and Atmospheric Administration**

**October 31, 2022**

**RE: Comments for North Atlantic Right Whale Vessel Strike Reduction Rule  
NOAA-NMFS-2022-0022**

Cross Sound Ferry Services, Inc. is providing these comments to the regulatory docket on the proposed 10-knot vessel speed limit rule to protect right whales.

Cross Sound Ferry Services, Inc. (CSF) is a vehicle and passenger ferry company that operates primarily between Orient Point, NY and New London, CT, which includes the Thames River, Long Island Sound, and Gardiner's Bay. Cross Sound Ferry Services, Inc. is a small entity as established by the U.S. Small business association. CSF carries approximately 500,000 cars and trucks and 1,500,000 passengers per year. CSF owns and operates 10 ferries that vary in length from 120 feet to 307 feet. Seven of our ferries carry vehicles, including cars, trucks, and tractor trailers.

<u>CSF Vessel</u>	<u>Length</u>	<u>Speed</u>	<u>Passenger Cap.</u>	<u>Vehicle Cap.</u>	<u># Crew</u>
CARIBBEAN FERRY	120ft	14kts	140 passengers	22 autos	5
CAPE HENLOPEN	307ft	14kts	660 passengers	80 autos	10
JENNIFER C.	207ft	14kts	315 passengers	50 autos	7
JOHN H.	230ft	14kts	739 passengers	100 autos	10
NEW LONDON	247ft	15kts	286 passengers	65 autos	7
MARY ELLEN	260ft	15kts	660 passengers	80 autos	10
SUSAN ANNE	237ft	15kts	585 passengers	80 autos	10
SEA JET	110ft	30kts	400 passengers	none	6
CECELIA ANN	123ft	30kts	588 passengers	none	6
JESSICA W	138ft	35kts	530 passengers	none	6

Cross Sound Ferry operates on a published ferry schedule with up to 56 departures per day. CSF operates year-round, but we are busiest from May – September and around holidays, especially Thanksgiving and Christmas. Our ferry schedule is very tight and does not allow for deviations in speed.

The speeds described above are necessary in order to maintain on-time departures and to accommodate demand. Any mandatory reduction in speed would require comparable adjustments to our schedule, which would reduce revenue, frustrate passengers, and inevitably push many customers to choose not to take the ferry, thus diminishing our business. Our service is based on fast, reliable marine transportation as an alternative to highway driving. Long Island can be reached by highway, but our customers chose to use the ferry because it is fast, reliable, and saves fuel cost and emissions. Pushing more drivers to use the already severely overcrowded highway system in our region will significantly increase vehicle emissions and harm the environment.

We estimate that a speed reduction to 10kts will result in a 30% reduction in our vehicle ferry schedule, in our vehicle capacity per day, and in our revenue per day. This 30% reduction will not apply to our labor costs because the crew will still be operating for the same length of day.

We are deeply concerned about the use of Mandatory Dynamic Speed zones because they can be implemented with little or no warning. Most of our customers book their reservations weeks in advance of their travel time. If a 10-day Mandatory Dynamic Speed Zone was implemented along our route, we would have to reduce our vehicle ferry schedule by 30% and refund 30% of our customers' reservations. The customers who did still travel would have to be notified of the adjusted and longer schedule and would not be able to travel at the times they intended. All of the frustration caused by those delays would have an extended negative impact on our business. Many customers would take to social media further damaging our reputation.

During a busy time of year, we estimate that a 10-day 30% reduction in revenue, would cost our company about \$700,000 (based on July 1-10, 2022). If the 10-day Mandatory Dynamic Speed Zone was extended, we would quickly be into millions of dollars of lost revenue. This loss of revenue would be devastating for a small business such as Cross Sound Ferry. Even more worrisome is the possibility of seasonal management zones being expanded into our area of operation. If that were to happen, the very viability of our ferry service would be at risk. Cross Sound Ferry employs over 350 people, and our employees' livelihoods would also be at risk.

We have been in business for 47 years. During the past 47 years, our vessels have crossed Long Island Sound over 500,000 times at 14kts or faster. During that time, our vessels have never had an impact with a marine mammal of any species. Our captains and crew maintain a diligent watch during their crossings, and to our knowledge have never seen a right whale in Long Island Sound.

Cross Sound Ferry also operates 3 high-speed passenger-only ferries between New London, CT and Orient Point, NY. These 3 high-speed ferries also provide lighthouse cruises in Long Island Sound, Fishers Island Sound, Block Island Sound, and Gardiner's Bay. Our high-speed ferries operate at 30-35kts. A speed reduction to 10kts would make the high-speed service and Lighthouse Cruise business unviable. Those parts of our business would be closed, resulting in lost revenue in the millions of dollars. The reasonable sale of those vessels would be unlikely, since there would be no guarantee they would be legally allowed to operate at the speeds they were designed for. The 36+ crew members employed on those vessels would lose their jobs.

Cross Sound Ferry is deeply concerned about the financial impact of expanded speed restrictions. We do not believe that the Federal Government has adequately assessed the financial impact of these speed restrictions. Will the Federal Government reimburse small businesses for the lost revenue caused by these restrictions. Many small businesses will be closed as a result of this rulemaking. Will they be compensated?

Preserving right whales is a noble cause, but even the agency proposing this action admits in the proposed rulemaking that “it is not possible to establish a direct causal link between speed reduction efforts and the relative decline in observed right whale mortality and serious injury events following implementation of the speed rule.” Slowing our vehicle ferries from 14kts to 10kts and slowing our high-speed ferries from 30+kts to 10kts will definitely cost our small business and our employees millions of dollars, but there is no certainty that it will actually help save a whale.

How will the Federal Government ensure that a right whale sighting or sound is valid? Cross Sound Ferry is concerned that false sightings or false audio recordings could occur, where an observer mistakes another marine mammal for a right whale or intentionally calls in a false sighting. The severe economic impact of a Mandatory Dynamic Speed Zone could be erroneously applied by “mistake”. How would the Federal Government compensate small businesses for this?

Enforcement of the speed restrictions is also vague. We are concerned that a rule that applies to all vessels over 35 feet will be unfairly enforced against vessels that are required to carry AIS, while little to no enforcement will be made against vessels not carrying AIS. It would be very easy to sit in an office and issue violations and fines based on AIS information, and meanwhile large recreational vessels that are not required to carry AIS would encounter little or no enforcement.

A more practical approach to protect right whales would be to use marine information broadcasts over VHF radio to notify mariners of locations of right whale sightings with recommended actions, slow speed and diligent watches. This would be similar to the Coast Guard’s current broadcasts for hazards to navigation and mariners in distress.

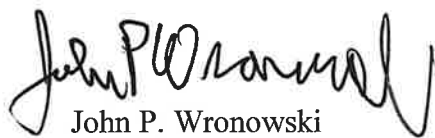
NOAA could also create a notification system with an email and text database that mariners could sign up for to receive messages about right whale sightings.

NOAA should invest heavily in public information campaigns in areas where right whales are frequently seen. Free training could be offered to mariners in identifying, spotting, and avoiding right whales.

Given that the expansion of speed restrictions described in this proposed rulemaking does not adequately address the cost impact to small businesses and mariners, and the fact that “it is not possible to establish a direct causal link between speed reduction efforts and the relative decline in observed right whale mortality and serious injury events following implementation of the speed rule”, this proposed rule should not be instated. Instead, a less expensive, more practical approach should be considered.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Wronowski". The signature is fluid and cursive, with the first name "John" being the most prominent.

John P. Wronowski  
President

Cross Sound Ferry Services, Inc.