

# ***Block Island Ferry Services LLC***

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**October 21, 2022**

**TO: National Oceanic and Atmospheric Administration**

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

Block Island Ferry Services, LLC (dba Block Island Express) is providing these comments to the regulatory docket on the proposed 10-knot vessel speed limit rule to protect right whales. The proposed rule would have a profound impact on our operations and could put us out of business.

Block Island Express is a high-speed passenger ferry company that operates primarily between Block Island, RI and New London, CT, which includes the Thames River, Long Island Sound, Fisher's Island Sound, Rhode Island Sound, and Block Island Sound. Block Island Express (BIE) is a small entity as established by the U.S. Small business association. BIE carries approximately 130,000 passengers per year. BIE operates 3 high-speed catamaran ferries (listed below) that vary in length from 110 feet to 138 feet.

<b><u>BIFS Vessel</u></b>	<b><u>Length</u></b>	<b><u>Speed</u></b>	<b><u>Passenger Cap.</u></b>	<b><u># Crew</u></b>
SEA JET	110ft	30kts	400 passengers	6
CECELIA ANN	123ft	30kts	588 passengers	6
JESSICA W	138ft	35kts	530 passengers	6

Block Island Express operates on a published ferry schedule with up to 16 departures per day. BIE currently operates seasonally from May – October and we are in operation for about 100 days during those months. Our ferry schedule is very tight and does not allow for reductions in speed. Most of our passengers are taking a day trip, going to Block Island in the morning, spending the day at the beach or exploring the island, and returning in the evening. The distance from New London, CT to Block Island, RI is about 36 nm, and our high-speed ferries operating at 30+kts take a little over an hour to make a one-way trip.

Block Island Express has deep concerns about the expansion of the Seasonal 10-knot Speed Zones described in the proposed rulemaking. The proposed Seasonal Mandatory Speed Zone in Block Island Sound would cover about 20 nm of our ferry route and make our transit to Block Island over two and a half hours long (twice the normal time). This would make our service unviable during the Block Island Sound Seasonal Mandatory Speed Zone. Passengers will not

want to spend 5+ hours on a ferry for a 5-hour day on Block Island. Losing the May revenue, over \$100,000 over Memorial Day Weekend, could put our operation out of business.

We are also very concerned about the use of Mandatory Dynamic Speed Zones because they can be implemented with little or no warning. A 10-day Mandatory Dynamic Speed Zone along our ferry route would shut down our service for 10 days, which represents 10% of our season and could cost the company well over \$500,000 depending on the timing. The frustration caused by the last-minute cancellations would have an extended negative impact on our business.

Block Island Express employs about 50 people, and provides reliable, fast, marine transportation to over 130,000 passengers per year. Any expansion of speed restrictions that may impact Block Island Sound, Fisher's Island Sound, or Long Island Sound could effectively shut down our high-speed ferry business. The whole premise of a high-speed ferry is the speed, and without that, the competitive advantage is lost.

The expansion of speed restrictions would also diminish the value of high-speed ferries. Recouping the value of these assets would be unlikely, since there would be no guarantee that a buyer would be legally allowed to operate the high-speed vessels at the speeds they were designed for.

Block Island Express is very concerned about the financial impact of the proposed 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, including ours, may be closed as a result of this rulemaking. Will those businesses 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 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. Block Island Express has been in service for 18 years and made thousands of crossings between New London and Block Island. During that time our vessels have never had a collision or impact with a marine mammal of any kind.

How will the Federal Government ensure that a right whale sighting or acoustic sound is valid? Block Island Express 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 recreational vessels that are not required to carry AIS would encounter little or no enforcement.

A more practical approach to protecting 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 stated 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,



Adam Wronowski  
Managing Member  
Block Island Ferry Services, LLC