

Nantucket and Martha's Vineyard Ferries
Hyannisport Harbor Cruises
Cape Cod Canal Cruises
Deep-Sea Fishing
Cape Cod Custom Tours
Nantucket Island Tours



A Service of Hyannis Harbor Tours, Inc.

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July 8, 2024

Executive Office of the President of the United States
Office of Management and Budget
Office of Information and Regulatory Affairs

Via: Electronic Submission – <https://www.reginfo.gov>

Re: Hy-Line Cruises' Testimony to NOAA's Proposed Changes to the North Atlantic Right Whale Vessel Strike Regulations

Good morning.

My name is Philip Scudder and I, along with my brother Murray, are the Managing Partners of Hy-Line Cruises.

Hy-Line Cruises is a privately owned, passenger only, ferry company located at 22 Channel Point Road in Hyannis, Massachusetts. We provide year-round, high-speed ferry service to the Island of Nantucket and seasonal, (May thru October), high-speed ferry service to Martha's Vineyard Island. We began our ferry operations in 1971 with traditional ferries operating seasonally. In 1996, we introduced high-speed technology to our Nantucket service and expanded to a year-round operation. We have continued that year-round service, uninterrupted, for the past 28 years. We transport the majority of passengers who travel to the Islands from Hyannis, carrying more than 900,000 passengers per year.

Hy-Line understands and supports the desire to protect the North Atlantic Right Whale population from ship strike, however, this must be accomplished through reasonable regulation, taking into consideration the wellbeing of the residents and businesses that will be impacted by these changes. In our area, those would be the communities on the islands of Nantucket and Martha's Vineyard. Consideration should also be given to the ferry operators who are mandated or licensed to transport passengers and goods to the Islands.

ADMINISTRATION
22 Channel Point Road, Hyannis, MA 02601
phone (508) 775-7185
fax (508) 778-5966
www.hylinecruises.com

MARKETING
phone (508) 790-7280

GROUP SALES
phone (508) 778-2688

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To that end, Hy-Line Cruises, respectfully, requests: **The exemption of Nantucket and Vineyard sounds from the expanded Right Whale Strike Regulations being proposed by the National Oceanic and Atmospheric Administration (NOAA).**

1. THE WATERS OF THE SOUNDS

The existing, and now proposed expanded regulations, exempt other specific bodies of water in this area. Those being Long Island Sound, Narraganset Bay, and Buzzards Bay. We believe the reasons that qualify these waters for an exemption should also apply to Nantucket and Vineyard sounds.

The Sounds are shallow, warm bodies of water when compared to the surrounding seaward waters south and east of the Islands and those in Cape Cod Bay. They do not provide the desired habitat for Right Whales to congregate and forage. This probably explains why a Right Whale sighting is extremely rare and a ship strike has never been documented in these waters.

Hy-Line makes over 4,600 crossings of Nantucket Sound each year, and in its more than 50 years of operating ferries in these waters and making over 100,000 crossings, there has never been a Right Whale strike by a Hy-Line ferry nor has there been even a report of a sighting of a Right Whale by a Hy-Line Captain or crew member. Additionally, to our knowledge, there has never been a Right Whale strike or sighting by any other ferry operating in Nantucket Sound during this same time.

It's also important to note that since the inception of the existing regulations, there has never been a temporary Dynamic Management Area (DMA) declared in Nantucket Sound even during the November thru May timeframe now being proposed for a Seasonal Mandatory Speed Zone, which would be the most probable time for this to occur. This again, points to the fact that Right Whales simply do not frequent Nantucket Sound.



2. PROPOSED NEW SPEED RESTRICTIONS WILL HAVE A DEVASTATING IMPACT

Hy-Line's introduction of year-round, high-speed ferry service to Nantucket in 1996 was the beginning of a steady transformation in the quality-of-life for families living on the Island. There is no bridge or tunnel connecting Nantucket to the mainland. For decades island residents had to arrange their travel around a 2–3-hour ferry ride, in each direction, to reach the mainland. Consequently, many didn't leave the Island unless it was absolutely necessary. Technology changed that. Because the trip to the mainland is now only 1 hour in each direction aboard high-speed ferries, islanders can travel off-island at their convenience. They have become part of the wider mainland community. School and youth athletic programs can compete more fully statewide. And other off-island programs for dance, music, gymnastics, and more, which had never been a practical option for islanders, are now available for island families to access. During the 7 months being proposed for the Seasonal Mandatory Speed Zone, (Nov. 1 - May 31), Hy-Line carries more than 20,000 school age athletes between Nantucket and Hyannis. Having a year-round, high-speed ferry service allows for convenient, timely, travel for medical appointments. And it is now possible for work crews to travel from the mainland to Nantucket daily to help meet the infrastructure and project demands of the public sector, utility companies, and community businesses on the Island.

The expanded regulation being proposed to create a Seasonal Mandatory Speed Zone, (Nov. 1 – May 31), will totally eliminate Hy-Line's passenger ferry service for seven months. Our ferries were designed and built to operate at speeds between 25 – 35 knots. It is not economically feasible nor is it safe to operate these ferries at 10 knots in open waters.

Also, under the new regulations, during the remaining 5 months, (June 1 – Oct. 31), when high-speed travel would be allowed to resume, Dynamic Speed Zones can be created in Nantucket Sound, each lasting a minimum of 10 days, if implemented. This would have a



huge negative effect on the traveling public and the economic viability of Hy-Line Cruises because of the high volume of travel during this time of year. We carry 65% of our total passengers during these 5 months. More than half of those travel in July and August alone, when we make as many as 36 daily departures to, from, and between the islands and carry up to and above 5,000 passengers per day. Astonishingly, as currently proposed, a Right Whale sighting in Cape Cod Bay would impose the speed restriction in Nantucket Sound even though there is the land mass of Cape Cod separating those two bodies of water.

If you couple this with the proposed, new Seasonal Mandatory Speed Zone, not only will you very likely put our \$40+ million dollar company out of business, but you will put 350 people out of work. And beyond the impacts to Hy-Line Cruises, this will be devastating to the local economies as well as to the Commonwealth of Massachusetts' broader housing and economic development goals. To truly quantify the adverse effect on the economy, a full economic impact study should be undertaken before any of these proposed changes are adopted. It is not difficult to see that the negative economic impact would easily reach into the several hundreds of millions of dollars.

3. GENERAL INFORMATION ABOUT THE ISLAND FERRY SYSTEM

It should be understood that ferry service between the mainland of Cape Cod and the islands of Nantucket and Martha's Vineyard is mandated by Massachusetts state law through the Enabling Act which was created in 1960 and amended in 1974. The Act was further enhanced through licensing which has created a unique, public/private, ferry transportation system that ensures island residents access to the goods, services, and necessities of life required for the 21st century. And now, over 80% of all passengers traveling between Hyannis and Nantucket use the high-speed option.



This “unique in the country” public/private ferry transportation system is comprised of two ferry companies – the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority, a public entity, and the privately held, Hy-Line Cruises.

The Steamship Authority (SSA) is, by its enabling statute, “the lifeline” to both Nantucket and Martha’s Vineyard, carrying passengers, automobiles, trucks, and freight, year-round.

Hy-Line Cruises, as the year-round provider of high-speed passenger service to Nantucket, is now considered by many on that Island as, “the second lifeline”.

4. NEGATIVE IMPACT ON A FEDERAL HIGHWAY ADMINISTRATION PROGRAM

Hy-Line Cruises and the Steamship Authority are part of the Federal Highway Administration’s National Transit Database Program (NTD).

This program works through the Cape Cod Regional Transit Authority to provide important commuter travel data that is compiled to document intermodal connectivity along federal highways and across the maritime highway of Nantucket Sound. The program requires commuter connections between the mainland ports on Cape Cod with the islands of Nantucket and Martha’s Vineyard.

If the proposed NOAA regulations are implemented, the ferries will lose the ability to provide commuter connections to and from the islands on an uninterrupted basis which will result in the loss of millions of dollars in federal grant revenue being used to improve intermodal transportation on the mainland of Cape Cod and the Islands.



IN CONCLUSION:

For all the reasons stated above, Hy-Line believes that the waters of Nantucket Sound and Vineyard Sound should be exempt from NOAA's proposed Seasonal Mandatory Speed Zone (Nov.1 – May 31) and from any Dynamic Speed Zone (June 1 – Oct. 31).

Hy-Line Cruises will cooperate with NOAA to deploy and utilize any technology on our vessels that is currently available or may become available in the future, to assist in tracking the location of Right Whales and protecting the North Atlantic Right Whale species.

Thank you for your consideration.

Respectfully Submitted,

Two handwritten signatures in blue ink. The top signature is "Philip Scudder" and the bottom signature is "R. Murray Scudder".

Philip Scudder & R. Murray Scudder

Managing Partners

HY-LINE CRUISES