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June 6, 2024

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

**HIGH SPEED FERRY OPERATOR SEASTREAK, LLC
SUMMARY OF COMMENTS MADE ON JUNE 6, 2024
CONCERNING PROPOSED AMENDMENTS TO THE NORTH
ATLANTIC RIGHT WHALE VESSEL STRIKE REDUCTION RULE**

Dear Madam or Sir,

Thank you for allowing SeaStreak, LLC to present its positions with respect to the proposed amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule on June 6, 2024. As we addressed a number of concerns during our 30-minute call, we wanted to take this opportunity to summarize those concerns in writing for you.

SeaStreak together with its predecessor New England Fast Ferry has operated since 2004. The Company currently operates a fleet of ten high-speed catamaran vessels including sisterships - the Commodore (built in 2018) and the Courageous (built in 2021) – that are the largest high-speed ferries in the United States and can carry up to 600 passengers. The Company provides year-round high-speed ferry service connecting the northern Jersey Shore area with Manhattan carrying more than 1.2 million passengers annually. SeaStreak also provides year-round high-speed service connecting New Bedford to Martha's Vineyard, with a mix of working-class people traveling to work in Martha's Vineyard and tourists in the summer carrying approximately 100,000 people annually. The Company also provides seasonal high-speed service



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connecting New Bedford and Nantucket Island, carrying primarily tourists and island residents, but also some working on homes and businesses from mid-April through mid-October and carrying nearly 70,000 people annually. SeaStreak also provides seasonal high-speed service connecting Newport and Providence, RI from mid-June through October – taking cars off the roadways, primarily tourists visiting Newport. During certain summer weekends SeaStreak operates the longest high-speed ferry service in the United States, from Highlands, NJ to NYC and then to Martha’s Vineyard and Nantucket islands. SeaStreak also provides a variety of seasonal day experiences including lighthouse tours in partnership with the National Lighthouse Museum, brunch cruises and whale watching (partnering with the Littoral Society) from Manhattan.

SeaStreak strongly opposes changing the current Seasonal Management Areas (SMAs) protocols to the proposed Seasonal Speed Zones (SSZs) for the Atlantic region from November 1st to May 30th and strongly opposes the implementation of mandatory speed restrictions in the proposed DSZ including Vineyard Sound and Nantucket Sound that are triggered by the acoustical detection of right whales.

Extending the speed restriction zone into Nantucket and Vineyard Sound would cause a catastrophic impact to the local economy through job losses without any benefit to Right Whale conservation. Nantucket Sound is an area that very few Right Whales venture into, as demonstrated by NOAA’s own Right Whale Sighting WhaleMap website. WhaleMap is managed by NOAA and the website details the use of a variety of sources such as aerial surveys, shipboard surveys, whale watch vessels, commercial ships and the public for its data, which is updated almost daily. A search of that site at www.whalemap.org for Nantucket Sound reveals that in the last 10 years, there has never been a single Right Whale sighting in Nantucket or Vineyard Sound. Our experience confirms that. Since SeaStreak started operating in 2004, none of our captains or crews have ever seen a Right Whale. Steamship Authority General Manager Bob Davis also recently told the Nantucket Current local newspaper that during its 60 years plus of operating experience across Vineyard and Nantucket Sounds, including over 500,000 ferry trips over the past 22 years, never once have one of their captains had a right whale sighting, nor have they been notified of Right Whale sightings in Nantucket or Vineyard Sounds. Again, this is completely consistent with NOAA’s data which shows that Right Whales are not in Nantucket or Martha’s Vineyard Sound.

Extending the Right Whale Seasonal Speed Zones to include Nantucket and Martha’s Vineyard Sounds will immediately result in SeaStreak ceasing off-season commuter service, an island lifeline that provides deeply discounted ferry tickets to working-class commuters. This off-season commuter service operates two daily departures starting before 6am, catering to the schedules of construction workers, painters, plumbers, and other transmen and women who need to access Martha’s Vineyard. SeaStreak deeply discounts commuter tickets for individuals

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working in these trades, providing Martha's Vineyard businesses that are desperately in need of workers willing to commute to the island with a census of workers from the New Bedford area that would otherwise have no reasonable way to travel to the island. Those job opportunities would immediately disappear if the NOAA Speed Zones were changed to include Martha's Vineyard and Nantucket Sound. If SeaStreak stopped providing that off-season service, it would have no choice but to lay off its workforce from mid-October until May.

SeaStreak also strongly opposes the proposed Atlantic Seasonal Speed Zone, which would be in effect from November 1st until May 30th under the proposed rule change. In addition to the impact that this change would have on SeaStreak's off-season service as discussed above, this change would significantly impact a sizeable portion of SeaStreak's peak operating season, which has historically started in mid-April and lasted through the summer. Specifically, SeaStreak would not be able to operate for Memorial Day Weekend – which, when combined with revenues from April through Memorial Day Weekend, makes up 10% of SeaStreak total revenue for the entire season. This would have a devastating impact to SeaStreak and could cause SeaStreak to cease operations entirely for the Martha's Vineyard and Nantucket routes.

SeaStreak also vehemently opposes the proposed changes to the Dynamic Management Areas – which, if enacted as proposed, would inhibit SeaStreak's ability to operate any ferry service to Nantucket or Martha's Vineyard. Currently, DMAs are voluntary zones triggered by whale sightings and consisting of 400 to 1,600 square nautical miles that last for two weeks, in which vessels voluntarily slow down to 10 knots. NOAA is proposing that these voluntary DMAs become mandatory – and in addition to triggering them by visual evidence of Right Whales, the proposed zones could be triggered by detection of acoustic signals. This is deeply concerning as one of NOAA's regular experts on Right Whales, Dr. Charif, explained that Right Whales are heard *every month* of the summer on Massachusetts Bay. That would essentially trigger mandatory DMAs for the entire region, including Nantucket and Martha's Vineyard Sound, for the entire summer. The 1,600 nautical mile zone would cover an area the size of Rhode Island and does not discriminate based on channels that are significantly less likely to have Right Whale sightings such as Martha's Vineyard and Nantucket Sound.

That would mean that a whale detected acoustically in an entirely different area would trigger mandatory slow-down DMAs in SeaStreak's operating area during peak-season. Furthermore, the proposed change to the DSZ rule does not consider the fact that large physical land masses such as the islands of Martha's Vineyard and Nantucket physically separate bodies of water that could fall into a common DMA. For example, under the proposed rule if whales were spotted south of Martha's Vineyard in the open ocean the DMA imposed to protect these whales would be imposed on vessels operating north of the island in Vineyard Sound, a body of water separated from the area where the whales were spotted by a large land mass. This creates an impractical, unreasonable, and unduly burdensome scenario for those operating in the Sound.

Mandatory DMAs would force SeaStreak to reduce vessel speeds from 28 knots to 10 knots, which would cause SeaStreak to cancel all ferry service during that time, whether the restriction is made by a 2-week Dynamic Management Area or a Seasonal Speed Zone. Cancellation would be necessary as trip times to Martha's Vineyard and Nantucket would more than double. SeaStreak's business model is built on providing high-speed service to the islands. At these slow speeds customers would not pay the rates necessary to support SeaStreak's investment in its assets, crew and maintenance and repair, and SeaStreak would have no choice but to abandon the New England market and deploy its assets elsewhere resulting in significant revenue loss and tax losses of approximately \$650,000 for the State of Massachusetts.

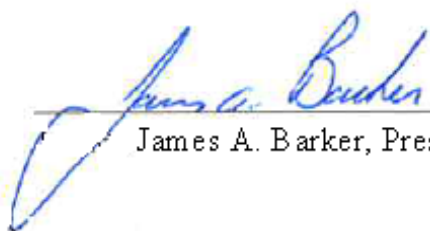
Under the current rules, NOAA has confirmed that there has never been a whale strike during a Dynamic Management Zone implementation. Therefore, the current rules are working and do not need to be changed.

In closing, SeaStreak cannot overstate how devastating these proposed regulations would be to the Company and to the local workforce that depends on high-speed ferry service to the islands for employment. The implementation of speed zones in Nantucket or Vineyard Sounds without sufficient scientific data would be an arbitrary decision. SeaStreak cares deeply about whale conservation and the preservation of marine mammals. Our Company is a member of Whale Sense, a NOAA-sponsored voluntary education and recognition program, and all SeaStreak captains are required to complete annual training related to marine mammal species identification, recent developments that impact the upcoming season, how to set an example on the water for other operators, how to operate vessels to reduce risk of unintended whaler injury, and how to notify appropriate networks if we encounter whales in distress. SeaStreak's Captains are trained in and implement the existing protocols set forth in 50 CFR § 224, and we believe that the current rules and regulations are accomplishing their intended purpose. We support the federal government's efforts to obtain more data on the impacts that its ferry operations might have upon Right Whale habitat. As mentioned in the Federal Register of August 1, 2022, the installation and use of avoidance technologies onboard vessels and the deployment of marine mammal observers in areas where Right Whales are known to congregate are better uses of resources that address vessel strikes. SeaStreak supports these types of measures rather than an across-the-board reduction on vessel speeds, which is simple in articulation, but it is impractical and negatively impactful to SeaStreak's operations and more importantly, to the islands' residents, which SeaStreak serves.

Thank you for your attention to our comments. Please do not hesitate to contact us should you have an questions.

Sincerely,

SEASTREAK, LLC



James A. Barker, President