

117TH CONGRESS
2D SESSION

H. R. 6785

To assist in the conservation of the North Atlantic right whale by supporting and providing financial resources for North Atlantic right whale conservation programs and projects of persons with expertise required for the conservation of North Atlantic right whales, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 2022

Mr. MOULTON (for himself, Mr. HUFFMAN, and Ms. KUSTER) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To assist in the conservation of the North Atlantic right whale by supporting and providing financial resources for North Atlantic right whale conservation programs and projects of persons with expertise required for the conservation of North Atlantic right whales, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Right Whale Coexist-
5 ence Act of 2022”.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds that—

3 (1) North Atlantic right whales (*Eubalaena*
4 *glacialis*) are critically endangered, with fewer than
5 340 remaining at the time of the introduction of this
6 Act;

7 (2) historically, the North Atlantic right whale
8 population was decimated by the whaling industry,
9 although the whale population received protections
10 from such industry in the 1930s;

11 (3) despite a modest recovery prior to 2010, the
12 North Atlantic right whale is one of the most endan-
13 gered whales in the world and has experienced a sig-
14 nificant decline since 2010;

15 (4) the North Atlantic right whale has been
16 listed as an endangered species under the Endan-
17 gered Species Conservation Act of 1969 (Public Law
18 89–669; 80 Stat. 926) and its successor the Endan-
19 gered Species Act of 1973 (16 U.S.C. 1531 et seq.)
20 since 1970 and is designated as depleted under the
21 Marine Mammal Protection Act of 1972 (16 U.S.C.
22 1361 et seq.);

23 (5) because North Atlantic right whales are
24 long-lived and highly migratory, and at present rates
25 females give birth to a single calf only once every 5
26 to 10 years, they are highly vulnerable to the im-

1 pacts of human activity and habitat degradation,
2 with female whales and calves particularly vulnerable
3 to vessel strikes;

4 (6) North Atlantic right whales frequently cross
5 paths with high vessel traffic areas and fishing
6 grounds, leaving the whales particularly vulnerable
7 to vessel collisions and fishing gear entanglements,
8 the leading causes of injury and death to the species;

9 (7) even when North Atlantic right whales do
10 not die as a result of fishing gear entanglement or
11 vessel strike, those whales can still experience sig-
12 nificant sub-lethal effects such as chronic stress and
13 reproductive failure;

14 (8) this ongoing decline due to human impacts
15 resulted in a further 30 percent decline in the popu-
16 lation between 2019 and 2020 resulting in the low-
17 est population estimate in the past 2 decades;

18 (9) based on the current rate of mortality of
19 North Atlantic right whales, and because of the
20 small number of breeding females in the population
21 and low birth rates, recent analysis suggests the spe-
22 cies will lose its ability to recover in merely a few
23 decades if human-caused mortality is not reduced
24 immediately;

1 (10) under the Marine Mammal Protection Act
2 of 1972 (16 U.S.C. 1361 et seq.), United States
3 fishermen in certain locations have been required to
4 modify their fishing gear and behavior to minimize
5 the likelihood of entanglements, including by using
6 sinking groundlines, having weak links in buoy lines,
7 using multiple traps per buoy, appropriately mark-
8 ing fishing gear, and complying with seasonal area-
9 specific closures in North Atlantic right whale habi-
10 tats;

11 (11) vessels in United States waters that are 65
12 feet or more in length have been required to comply
13 with a seasonal 10-knot speed limit in certain loca-
14 tions to reduce the threat of vessel collisions; and

15 (12) ongoing mortalities, driven in part by
16 shifts in North Atlantic right whale distribution
17 caused by climate change, indicate that additional
18 actions are necessary to reverse this species' popu-
19 lation decline.

20 (b) SENSE OF CONGRESS.—It is the sense of Con-
21 gress that—

22 (1) the Governments of the United States and
23 Canada must work together to reduce lethal and
24 sub-lethal effects of human activities on North At-
25 lantic right whales; and

1 (2) effectively addressing the threats to the
2 long-term viability of the North Atlantic right
3 whales will require a joint commitment and effort
4 from government entities, local communities, marine
5 scientists and conservationists, fishermen, owners
6 and operators of commercial and recreational vessels
7 and others in the boating and shipping industries,
8 and other stakeholders.

9 **SEC. 3. PURPOSES.**

10 The purposes of this Act are the following:

11 (1) To rebuild healthy populations of the North
12 Atlantic right whale.

13 (2) To assist in the conservation and protection
14 of North Atlantic right whales by supporting North
15 Atlantic right whale conservation programs that
16 minimize conflicts between North Atlantic right
17 whales and human activities.

18 **TITLE I—NORTH ATLANTIC**
19 **RIGHT WHALE CONSERVATION**

20 **SEC. 101. NORTH ATLANTIC RIGHT WHALE CONSERVATION**
21 **ASSISTANCE.**

22 (a) ASSISTANCE.—

23 (1) IN GENERAL.—Subject to the availability of
24 funds and in consultation with other Federal offi-
25 cials, the Secretary of Commerce (in this title re-

ferred to as the “Secretary”) shall provide competitive financial assistance, including multiyear grants, for projects designed to reduce the lethal and sublethal effects of human activities on North Atlantic right whales for which project proposals are approved by the Secretary in accordance with this section.

(2) USE OF EXISTING AUTHORITIES.—Assistance provided under this section shall be carried out in a manner consistent with authorities available to the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(b) PROJECT PROPOSALS.—

(1) ELIGIBLE APPLICANTS.—A project proposal may be submitted to the Secretary under this section by—

(A) relevant State and tribal agencies, research institutions, and nonprofit organizations with expertise required for the conservation of North Atlantic right whales; and

(B) any other individual or entity, as determined appropriate by the Secretary, with the

1 expertise required for the conservation of North
2 Atlantic right whales, including—

3 (i) large whale disentanglement teams
4 approved by the National Oceanic and At-
5 mospheric Administration and members in
6 good standing of the National Marine
7 Mammal Health and Stranding Response
8 Program;

9 (ii) an owner or operator of a vessel,
10 as defined under section 3 of title 1,
11 United States Code; and

12 (iii) participants within sectors of the
13 maritime industry, such as boating, ship-
14 ping, fishing, fishing gear and rope manu-
15 facturing, and other maritime activities.

16 (2) FEDERAL PARTNERSHIP OPPORTUNITIES.—

17 A Federal agency may not be a lead entity or receive
18 funding for a project under this section, but may be
19 included as a partner or collaborator on a project
20 that receives such funding.

21 (c) ANNUAL GRANT PROJECT PROPOSAL SOLICITA-
22 TION, REVIEW, AND APPROVAL.—

23 (1) IN GENERAL.—The Secretary shall annu-
24 ally—

1 (A) solicit project proposals for grants
2 under this section;

3 (B) provide to other Federal officials, as
4 appropriate, copies of each proposal submitted
5 in response to the solicitation; and

6 (C) review each such proposal on a
7 timeline that recognizes the urgency of the de-
8 clining North Atlantic right whale population to
9 determine whether the proposal meets the cri-
10 teria specified in subsection (d).

11 (2) CONSULTATION; APPROVAL OR DIS-
12 APPROVAL.—Subject to the availability of funds, the
13 Secretary shall, with respect to each project proposal
14 submitted under this section, and after consulting
15 with other Federal officials, as appropriate—

16 (A) consult, with respect to the proposal,
17 with the government of each State and foreign
18 country in which the project is to be conducted;

19 (B) take into consideration any comments
20 resulting from the consultation and input from
21 fishing and other stakeholders on the potential
22 impacts as a result of the proposal; and

23 (C) approve or disapprove the proposal in
24 accordance with subsections (d) and (e) and
25 provide written notification of the approval or

1 disapproval to the individual or entity that sub-
2 mitted the proposal, other Federal officials, and
3 each State and foreign country described in
4 subparagraph (A).

5 (d) CRITERIA FOR APPROVAL.—The Secretary may
6 approve a project proposal under this section that is likely
7 to aid in the recovery and sustainability of a viable popu-
8 lation of North Atlantic right whales in the wild. Such
9 projects shall—

10 (1) address the unintentional conflicts between
11 humans and North Atlantic right whales through de-
12 velopment, testing, and use of innovative technology
13 or other methods to reduce the lethal and sub-lethal
14 effects on North Atlantic right whales from fishing
15 gear entanglements and vessel collisions; and

16 (2)(A) promote cooperative projects on such
17 topics with foreign governments; or

18 (B) promote cooperative projects on such topics
19 with affected local communities, small businesses
20 such as fishermen, others in the maritime private
21 sector, or nongovernmental organizations.

22 (e) PRIORITY.—In determining whether to fund
23 project proposals under this section, the Secretary shall
24 prioritize projects—

1 (1) with a substantial likelihood of reducing le-
2 thal and sub-lethal effects on North Atlantic right
3 whales from fishing gear entanglements or vessel
4 collisions;

5 (2) that include cooperation with private sector
6 stakeholders; and

7 (3) that demonstrate, or have the potential to
8 provide, economic benefits to small businesses based
9 in the United States.

10 (f) MATCHING REQUIREMENT.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (3), the non-Federal share of the costs of an
13 activity conducted with financial assistance under
14 this section shall be 25 percent of such costs.

15 (2) IN-KIND CONTRIBUTIONS.—The Secretary
16 may apply to the non-Federal share of an activity
17 conducted with financial assistance under this sec-
18 tion the amount of funds, and the fair market value
19 of property and services, provided by non-Federal
20 sources and used for the activity.

21 (3) WAIVER OF REQUIREMENTS.—The Sec-
22 retary may waive the application of paragraph (1) if
23 the Secretary finds that such waiver is necessary to
24 support a conservation project that the Secretary
25 has identified as of high priority.

1 (g) PROJECT REPORTING.—

2 (1) IN GENERAL.—Each individual or entity
3 that receives assistance under this section for a
4 project shall submit to the Secretary periodic reports
5 (at such intervals as the Secretary may require) that
6 include all information that the Secretary, after con-
7 sultation with other government officials, determines
8 is necessary to evaluate the progress and success of
9 the project for the purposes of ensuring positive re-
10 sults, assessing problems, and fostering improve-
11 ments.

12 (2) AVAILABILITY TO THE PUBLIC.—Reports
13 under paragraph (1), and any other documents re-
14 lating to projects for which financial assistance is
15 provided under this Act, shall be made available to
16 the public in a timely manner.

17 **SEC. 102. REPORT TO CONGRESS.**

18 Not later than 2 years after the date of enactment
19 of this Act, and every 5 years thereafter, the Secretary
20 shall submit to Congress a report on the results and effec-
21 tiveness of projects receiving assistance provided under
22 this title, including recommendations concerning how this
23 title might be improved and whether funding for this title
24 should be continued in the future.

1 **SEC. 103. FUNDING.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—

3 (1) AUTHORIZATION.—There is authorized to
4 be appropriated to the Secretary to carry out this
5 title \$15,000,000 for each of fiscal years 2022
6 through 2032.

7 (2) ADMINISTRATIVE EXPENSES.—Of the
8 amounts authorized to be appropriated under this
9 subsection for a fiscal year, the Secretary may ex-
10 pend not more than 5 percent, or up to \$80,000,
11 whichever is greater, to pay the administrative ex-
12 penses necessary to carry out this Act.

13 (3) SUPPLEMENT NOT SUPPLANT.—The
14 amount authorized to be appropriated by paragraph
15 (1) shall supplement and not supplant other
16 amounts available to the Secretary.

17 (b) ACCEPTANCE AND USE OF DONATIONS.—The
18 Secretary may accept, receive, solicit, hold, administer,
19 and use any gift, devise, or bequest to provide assistance
20 under section 101.

21 **TITLE II—CONTINUOUS**
22 **PLANKTON RECORDER**

23 **SEC. 201. SURVEY.**

24 (a) IN GENERAL.—Not later than 180 days after the
25 date of enactment of this Act, and on an ongoing basis

1 thereafter, the Secretary of Commerce shall conduct a
2 Continuous Plankton Recorder survey.

3 (b) REQUIRED ELEMENTS.—For the purpose of con-
4 ducting the survey required under subsection (a), the
5 Northeast Fisheries Science Center shall—

6 (1) to the extent possible, utilize the resources
7 of and partner with, on a volunteer basis, research
8 institutions, nonprofit organizations, commercial ves-
9 sels, and other Federal agencies;

10 (2) in as short a time as possible, ensure rel-
11 evant survey samples and results are analyzed,
12 stored, archived, and made publicly available;

13 (3) prioritize the collection of plankton samples
14 and data that inform the conservation of North At-
15 lantic right whales; and

16 (4) to the extent practicable, coordinate with
17 the Government of Canada to develop a transbound-
18 ary understanding of plankton abundance and dis-
19 tribution.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—To carry
21 out this section there is authorized to be appropriated to
22 the Secretary of Commerce \$300,000 for each of fiscal
23 years 2022 through 2032.

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