

**Congress of the United States**  
**Washington, DC 20515**

April 11, 2018

The Honorable Wilbur Ross  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, DC 20320

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington DC, 20220

Dear Secretary Ross and Secretary Mnuchin:

We write to urge the U.S. Department of Commerce and the U.S. Department of the Treasury to take immediate action pursuant to Section 101(a)(2) of the Marine Mammal Protection Act (MMPA) of 1972 (16 U.S. Code §1371 (a)(2)) to require Canada to apply for and receive a comparability certificate for their commercial fisheries implicated in the incidental killing of North Atlantic right whales. If Canada cannot secure a comparability finding for those fisheries then the MMPA requires the National Marine Fisheries Service, in cooperation with the Department of Treasury and Department of Commerce, to impose a ban on the importation of commercial fish or products from fish harvested in those fisheries.

There are an estimated 450 North Atlantic right whales remaining in our world's oceans. These whales are long-lived and highly-migratory, with females birthing a single calf once every three to five years. The species is particularly vulnerable to commercial fishing activity and maritime trade. It is estimated that eighty percent of documented North Atlantic right whale deaths have been caused by humans.<sup>1</sup> The combination of physical trauma caused by collisions with vessels and entanglements with commercial fishing gear has been catastrophic for the remaining population of whales. Alarming, researchers have found no signs of newborn North Atlantic Right Whales this year, indicating that these interactions with ships and fishing gear are likely affecting the reproductive rates of the only 100 breeding females that remain.<sup>2</sup>

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<sup>1</sup> Cramer, Deborah. "North Atlantic Right Whales Are Near Extinction. We Can Avert It." *The New York Times*, The New York Times, 8 Mar. 2018, [www.nytimes.com/2018/03/07/opinion/north-atlantic-right-whales-extinct.html](http://www.nytimes.com/2018/03/07/opinion/north-atlantic-right-whales-extinct.html).

<sup>2</sup> Knowlton, Amy R., et al. "Monitoring North Atlantic Right Whale *Eubalaena Glacialis* Entanglement Rates: a 30 Yr Retrospective." *Marine Ecology Progress Series*, vol. 466, 15 Oct. 2012, pp. 293–302.

Last August, the National Marine Fisheries Service (NMFS) declared an Unusual Mortality Event (UME) for the North Atlantic right whale. In 2017 alone, seventeen whales were found dead along the Atlantic coast. These mortalities, twelve of which were recorded in the Gulf of St. Lawrence, represent roughly three percent of the total population of the species.<sup>3</sup> According to a December 2017 incident report released by the Canadian Wildlife Cooperative and Fisheries and Oceans Canada (DFO), gear entanglements and blunt force trauma were implicated as the leading cause of death, coinciding with high levels of commercial fisheries activity and maritime traffic in the Gulf of St. Lawrence.

Under the MMPA, United States fishermen have faced numerous changes and restrictions to avoid entanglements with whales including significant modifications to their fishing gear, adhering to seasonal, and emergency closures of fishing areas. Additionally, large vessels entering and departing ports along the northeast coast of the United States are required to adhere to speed restrictions to avoid traumatic collisions with these animals. Through the National Oceanic and Atmospheric Administration's (NOAA) establishment of the Atlantic Large Whale Take Reduction Team, the United States has and must continue to pursue meaningful conservation measures to reduce North Atlantic right whale mortalities.

In August 2016, NOAA published the MMPA import provisions rule, which establishes the criteria for evaluating a nation's regulatory program for reducing marine mammal bycatch in foreign fisheries. In order for countries to import fish into the United States, they must demonstrate that they are meeting the equivalent of our standards. On March 16, 2018 NMFS issued the final List of Foreign Fisheries, identifying exempted fisheries (those with no record of interacting with ocean mammals) and those which a comparability finding will be required. The data supplied by Canada indicated that there are thousands of licenses issued in fisheries that interact with the North Atlantic right whale, including 6,200 lobster, over 1,860 snow crab, and 165 whelk licenses. Other fisheries, such as the Newfoundland herring gillnet fishery and the northern cod fishery, could also be impacted.

On March 28, 2018, Canadian Fisheries Minister, Dominic LeBlanc, along with Minister of Transport, Marc Garneau, announced a series of new measures aimed at minimizing gear entanglements and avoiding collisions. These measures include reducing the number of traps and starting and ending the snow crab fishery earlier in one affected fishing area—Area 12—implementing temporary and fixed fishery management closures when right whales are present and requiring seasonal ship speed reductions. Unfortunately, while these measures are beneficial, they do not go far enough to either fully protect the critically endangered whales or be comparable to the restrictions and regulations U.S. fishermen face. For example, the new fishery restrictions only apply to the snow crab fishery, even though other fisheries, like lobster and whelk, have been shown to interact with right whales. Additionally, there are approximately ten snow crab fishing zones where whales are known to have interacted with gear, yet these new restrictions are only applicable to one. Lastly, none of the new measures implement any

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<sup>3</sup> National Oceanic and Atmospheric Administration. "2017-2018 North Atlantic Right Whale Unusual Mortality Event." *NOAA Fisheries*, [www.fisheries.noaa.gov/national/marine-life-distress/2017-2018-north-atlantic-right-whale-unusual-mortality-event](http://www.fisheries.noaa.gov/national/marine-life-distress/2017-2018-north-atlantic-right-whale-unusual-mortality-event).

significant gear modifications, like requiring the use of weak links, which NOAA requires U.S. fishermen to use.

Pursuant to the August 2016 final rule, we understand that by January 1, 2022 a harvesting nation must apply for and receive a comparability finding for each of its export and exempt fisheries on the list to continue to export fish and fish products from those fisheries to the United States. However, given that the need to protect North Atlantic right whales is so dire, we believe that NOAA should immediately require Canada to apply for and receive a comparability certificate for their commercial fisheries implicated in the incidental killing of North Atlantic right whales. If Canada cannot secure a comparability finding for those fisheries then a ban on the importation of commercial fish or products from fish harvested in those fisheries should be imposed.

We believe immediately requiring Canada to secure a comparability finding or face a ban on the importation of fish and fish products from Canadian fisheries implicated in the killing of North Atlantic right whales is an important step to protect this iconic species. Unless we take drastic action now, the North Atlantic right whale is on a path to extinction within twenty years.

Thank you for your attention to this important matter.

Sincerely,



SETH MOULTON  
Member of Congress



DON YOUNG  
Member of Congress



RAUL M. GRIJALVA  
Member of Congress



JARED HUFFMAN  
Member of Congress



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