

**AMENDMENT TO RULES COMMITTEE PRINT 117-**

**13**

**OFFERED BY MR. LARSEN OF WASHINGTON**

Insert after title LIII the following new title:

1 **TITLE LIV—STRENGTHENING**  
2 **MARINE MAMMAL CONSERVA-**  
3 **TION**

4 **SEC. 5401. DEFINITION OF ADMINISTRATOR.**

5 In this title, the term “Administrator” means the  
6 Secretary of Commerce, acting through the Administrator  
7 of the National Oceanic and Atmospheric Administration.

8 **SEC. 5402. VESSEL SPEED RESTRICTIONS IN MARINE MAM-**  
9 **MAL HABITAT.**

10 (a) IN GENERAL.—The Marine Mammal Protection  
11 Act of 1974 (16 U.S.C. 1361 et seq.) is amended by in-  
12 serting after section 120 the following:

13 **“SEC. 121. VESSEL RESTRICTIONS IN MARINE MAMMAL**  
14 **HABITAT.**

15 “(a) IN GENERAL.—The Secretary shall, in coordina-  
16 tion with the Marine Mammal Commission and the Com-  
17 mandant of the Coast Guard and applying the best avail-  
18 able scientific information—

1           “(1) designate areas of importance for marine  
2 mammals known to experience vessel strikes and es-  
3 tablish for each such area seasonal or year-round  
4 mandatory vessel speed restrictions to reduce vessel  
5 strikes or other vessel-related impacts, as necessary,  
6 for vessels operating in such areas; and

7           “(2) implement for such species, as appropriate,  
8 dynamic management area programs incorporating  
9 mandatory vessel restrictions to protect marine  
10 mammals from vessel strikes or other vessel-related  
11 impacts occurring outside designated areas of impor-  
12 tance.

13           “(b) AREAS OF IMPORTANCE.—In designating areas  
14 under subsection (a), the Secretary—

15           “(1) shall consider including—

16           “(A) the important feeding, breeding,  
17 calving, rearing, or migratory habitat for pri-  
18 ority species of marine mammals, including all  
19 areas designated as critical habitat for such  
20 species under section 4 of the Endangered Spe-  
21 cies Act of 1973 (16 U.S.C. 1533) except any  
22 area the Secretary determines does not inter-  
23 sect with areas of vessel traffic such that an  
24 elevated risk of mortality or injury caused by  
25 vessel strikes exists; and

1           “(B) areas of high marine mammal mor-  
2           tality, injury, or harassment caused by vessel  
3           strikes; and

4           “(2) may consider including—

5           “(A) any area designated as a National  
6           Marine Sanctuary, Marine National Monument,  
7           National Park, or National Wildlife Refuge; and

8           “(B) areas of high marine mammal pri-  
9           mary productivity with year-round or seasonal  
10          aggregations of marine mammals to which this  
11          section applies.

12          “(c) DEADLINE FOR REGULATIONS.—Not later than  
13          two years after the date of the enactment of this section,  
14          the Secretary shall designate areas and vessel restrictions  
15          under subsection (a) and issue such regulations as are nec-  
16          essary to carry out this section, consistent with notice and  
17          comment requirements under chapter 5 of title 5, United  
18          States Code.

19          “(d) MODIFYING OR DESIGNATING NEW AREAS OF  
20          IMPORTANCE.—

21                 “(1) IN GENERAL.—The Secretary shall issue  
22                 regulations to modify or designate the areas of im-  
23                 portance and vessel restrictions under this section  
24                 within 180 days after the issuance of regulations to  
25                 establish or to modify critical habitat for marine

1 mammals pursuant to the Endangered Species Act  
2 of 1973 (16 U.S.C. 1531 et seq.).

3 “(2) REEXAMINATION.—The Secretary shall—

4 “(A) reexamine the areas of importance  
5 designated and vessel restrictions under this  
6 section every 5 years following the initial  
7 issuance of the regulations to determine if the  
8 best available scientific information warrants  
9 modification or designation of areas of impor-  
10 tance for vessel restrictions; and

11 “(B) publish any revisions under subpara-  
12 graph (A) in the Federal Register after notice  
13 and opportunity for public comment within 24  
14 months.

15 “(3) FINDING.—Not later than 90 days after  
16 receiving the petition of an interested person under  
17 section 553(e) of title 5, United States Code, to des-  
18 ignate, modify, or add an area of importance or ves-  
19 sel restriction under this section, the Secretary shall  
20 make a finding as to whether the petition presents  
21 substantial scientific information indicating that the  
22 petitioned action may be warranted. The Secretary  
23 shall promptly publish such finding in the Federal  
24 Register for comment. Not later than one year after  
25 the close of comments, the Secretary shall publish in

1 the Federal Register a finding of whether the peti-  
2 tioned action is warranted and, if the Secretary de-  
3 termines that the petitioned action is warranted,  
4 shall publish draft regulations designating or modi-  
5 fying and vessel restrictions the area of importance.  
6 Not later than 12 months after publication of the  
7 draft regulations, the Secretary shall issue final reg-  
8 ulations designating or modifying the area of impor-  
9 tance and vessel restrictions.

10 “(e) EXCEPTIONS FOR SAFE MANEUVERING AND  
11 USING AUTHORIZED TECHNOLOGY.—

12 “(1) IN GENERAL.—The restriction established  
13 under subsection (a) shall not apply to a vessel oper-  
14 ating at a speed necessary to maintain safe maneu-  
15 vering speed if such speed is justified because the  
16 vessel is in an area where oceanographic, hydro-  
17 graphic, or meteorological conditions severely restrict  
18 the maneuverability of the vessel and the need to op-  
19 erate at such speed is confirmed by the pilot on  
20 board or, when a vessel is not carrying a pilot, the  
21 master of the vessel. If a deviation from the applica-  
22 ble speed limit is necessary pursuant to this sub-  
23 section, the reasons for the deviation, the speed at  
24 which the vessel is operated, the latitude and lon-  
25 gitude of the area, and the time and duration of

1 such deviation shall be entered into the logbook of  
2 the vessel. The master of the vessel shall attest to  
3 the accuracy of the logbook entry by signing and  
4 dating the entry.

5 “(2) AUTHORIZED TECHNOLOGY.—

6 “(A) IN GENERAL.—The vessel restrictions  
7 established under subsection (a) shall not apply  
8 to a vessel operating using technology author-  
9 ized by regulations issued by the Secretary  
10 under subparagraph (B).

11 “(B) REGULATIONS.—The Secretary may  
12 issue regulations authorizing a vessel to operate  
13 using technology specified by the Secretary  
14 under this subparagraph if the Secretary deter-  
15 mines that such operation is at least as effec-  
16 tive as the vessel restrictions authorized by reg-  
17 ulations under subsection (a) in reducing mor-  
18 tality and injury to marine mammals.

19 “(f) APPLICABILITY.—Any speed restriction estab-  
20 lished under subsection (a)—

21 “(1) shall apply to all vessels subject to the ju-  
22 risdiction of the United States, all other vessels en-  
23 tering or departing a port or place subject to the ju-  
24 risdiction of the United States, and all other vessels

1 within the Exclusive Economic Zone of the United  
2 States, regardless of flag; and

3 “(2) shall not apply to—

4 “(A) vessels owned, operated, or under  
5 contract by the Department of Defense or the  
6 Department of Homeland Security, or engaged  
7 with such vessels;

8 “(B) law enforcement vessels of the Fed-  
9 eral Government or of a State or political sub-  
10 division thereof, when such vessels are engaged  
11 in law enforcement or search and rescue duties;  
12 or

13 “(C) vessels with foreign sovereign immu-  
14 nity, as reflected under international law.

15 “(g) STATUTORY CONSTRUCTION.—

16 “(1) IN GENERAL.—Nothing in this section  
17 shall be interpreted or implemented in a manner  
18 that—

19 “(A) subject to paragraph (2), preempts or  
20 modifies any obligation of any person subject to  
21 the provisions of this title to act in accordance  
22 with applicable State laws, except to the extent  
23 that those laws are inconsistent with any provi-  
24 sion of this title, and then only to the extent of  
25 the inconsistency;

1           “(B) affects or modifies any obligation  
2           under Federal law; or

3           “(C) preempts or supersedes the final rule  
4           titled ‘To Implement Speed Restrictions to Re-  
5           duce the Threat of Ship Collisions With North  
6           Atlantic Right Whales’, codified at section  
7           224.105 of title 50, Code of Federal Regula-  
8           tions, except for actions that are more protec-  
9           tive than the Final Rule and further reduce the  
10          risk of take to North Atlantic right whales.

11          “(2) INCONSISTENCIES.—The Secretary may  
12          determine whether inconsistencies referred to in  
13          paragraph (1)(A) exist, but may not determine that  
14          any State law is inconsistent with any provision of  
15          this title if the Secretary determines that such law  
16          gives greater protection to covered marine species  
17          and their habitat.

18          “(h) PRIORITY SPECIES.—For the purposes of this  
19          section, the term ‘priority species’ means, at a minimum,  
20          all Mysticeti species and species within the genera  
21          Physeter and Trichechus.

22          “(i) AUTHORIZATION OF APPROPRIATIONS.—There is  
23          authorized to be appropriated—



1           “(1) to the Secretary to carry out this section,  
2           \$3,000,000 for each of fiscal years 2022 through  
3           2026; and

4           “(2) to the Commandant of the Coast Guard to  
5           carry out this section, \$3,000,000 for each of fiscal  
6           years 2024 through 2026.”.

7           (b) CLERICAL AMENDMENT.—The table of contents  
8           in the first section of such Act is further amended by in-  
9           serting after the item relating to section 120 the following:

          “Sec. 121. Vessel speed restrictions in marine mammal habitat.”.

10   **SEC. 5403. MONITORING OCEAN SOUNDSCAPES.**

11           (a) IN GENERAL.—The Administrator, and the Di-  
12           rector of the Fish and Wildlife Service shall maintain and  
13           expand an Ocean Noise Reference Station Network, uti-  
14           lizing and coordinating with the Integrated Ocean Observ-  
15           ing System, the Office of National Marine Sanctuaries,  
16           and the Department of Defense, to—

17           (1) provide grants to expand the deployment of  
18           Federal and non-Federal observing and data man-  
19           agement systems capable of collecting measurements  
20           of underwater sound in high-priority ocean and  
21           coastal locations for purposes of monitoring and  
22           analyzing baselines and trends in the underwater  
23           soundscape to protect and manage marine life;

24           (2) continue to develop and apply standardized  
25           forms of measurements to assess sounds produced

1 by marine animals, physical processes, and anthro-  
2 pogenic activities; and

3 (3) after coordinating with the Department of  
4 Defense, coordinate and make accessible to the pub-  
5 lic the datasets, modeling and analysis, and user-  
6 driven products and tools, resulting from observa-  
7 tions of underwater sound funded through grants  
8 authorized by this section.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
10 authorized to be appropriated to the Administrator, to  
11 support integrated ocean observations activities carried  
12 out under this section, \$1,500,000 for each of fiscal years  
13 2022 through 2026.

14 **SEC. 5404. GRANTS FOR SEAPORTS TO ESTABLISH PRO-**  
15 **GRAMS TO REDUCE THE IMPACTS OF VESSEL**  
16 **TRAFFIC AND PORT OPERATIONS ON MARINE**  
17 **MAMMALS.**

18 (a) IN GENERAL.—Not later than 180 days after the  
19 date of the enactment of this Act, the Administrator and  
20 the Director of the Fish and Wildlife Service, in coordina-  
21 tion with the Secretary of Defense, shall establish a grant  
22 program to provide assistance to up to ten seaports to de-  
23 velop and implement mitigation measures that will lead  
24 to a quantifiable reduction in threats to marine mammals  
25 from shipping activities and port operations.

1 (b) ELIGIBLE USES.—A grant under this section may  
2 be used to develop, assess, and carry out activities that  
3 quantifiably reduce threats and enhance the habitats of  
4 marine mammals by—

5 (1) reducing underwater stressors related to  
6 marine traffic;

7 (2) reducing vessel strike mortality and other  
8 physical disturbances;

9 (3) enhancing marine mammal habitat, includ-  
10 ing the habitat for prey of marine mammals; or

11 (4) monitoring sound, vessel interactions with  
12 marine mammals, or other types of monitoring that  
13 are consistent with reducing the threats to and en-  
14 hancing the habitats of marine mammals.

15 (c) PRIORITY.—The Administrator and the Director  
16 of the Fish and Wildlife Service shall prioritize assistance  
17 under this section for projects that—

18 (1) assist ports with higher relative threat levels  
19 to vulnerable marine mammals from vessel traffic;

20 (2) reduce disturbance from vessel presence or  
21 mortality risk from vessel strikes, and are in close  
22 proximity to National Marine Sanctuaries, Marine  
23 National Monuments, National Parks, National  
24 Wildlife Refuges, and other federal, state, and local  
25 marine protected areas; and

1           (3) allow eligible entities to conduct risk assess-  
2           ments, and track progress toward threat reduction  
3           and habitat enhancement; including protecting coral  
4           reefs from encroachment by commerce and shipping  
5           lanes.

6           (d) **OUTREACH.**—The Administrator and the Direc-  
7           tor of the Fish and Wildlife Service shall conduct outreach  
8           to seaports to provide information on how to apply for as-  
9           sistance under this section, the benefits of the program  
10          under this section, and facilitation of best practices and  
11          lessons learned.

12          (e) **ELIGIBLE ENTITIES.**—A person shall be eligible  
13          for assistance under this section if the person—

14               (1) is—

15                   (A) a port authority for a seaport;

16                   (B) a State, regional, local, or Tribal agen-  
17                   cy that has jurisdiction over a maritime port  
18                   authority or a seaport; or

19                   (C) a private entity or government entity,  
20                   applying for a grant awarded under this section  
21                   in collaboration with another entity described in  
22                   subparagraph (A) or (B), that owns or operates  
23                   a maritime terminal; and

24               (2) is cleared by the Department of Defense.

1 (f) REPORT.—The Administrator and the Director of  
2 the Fish and Wildlife Service shall submit annually to the  
3 Committee on Natural Resources of the House of Rep-  
4 resentatives, and the Committee on Commerce, Science,  
5 and Transportation of the Senate, a report that includes  
6 the following:

7 (1) The name and location of each entity receiv-  
8 ing a grant.

9 (2) Amount of each grant.

10 (3) The name and location of the seaport in  
11 which the activities took place.

12 (4) A description of the activities carried out  
13 with the grant funds.

14 (5) An estimate of the impact of the project to  
15 reduce threats or enhance habitat of marine mam-  
16 mals.

17 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
18 authorized to be appropriated to the Administrator, for  
19 carrying out this section, \$5,000,000 for each of fiscal  
20 years 2022 through 2026, to remain available until ex-  
21 pended.

22 **SEC. 5405. NEAR REAL-TIME MONITORING AND MITIGATION**  
23 **PROGRAM FOR LARGE WHALES.**

24 (a) ESTABLISHMENT OF THE PROGRAM.—The Ad-  
25 ministrator, in coordination with the Secretary of Defense

1 and the heads of other relevant Federal departments and  
2 agencies, shall design and deploy a Near Real-Time Large  
3 Whale Monitoring and Mitigation Program in order to  
4 curtail the risk to large whales of vessel collisions, entan-  
5 glement in commercial fishing gear, and to minimize other  
6 impacts, including but not limited to underwater noise  
7 from development activities. Such program shall be capa-  
8 ble of detecting and alerting ocean users and enforcement  
9 agencies of the location of large whales on a near real-  
10 time basis, informing sector-specific mitigation protocols  
11 that can effectively reduce take of large whales, and con-  
12 tinually integrating improved technology. The program  
13 shall be informed by the technologies, monitoring methods,  
14 and mitigation protocols developed pursuant to the pilot  
15 program required in subsection (b).

16 (b) PILOT PROJECT.—In carrying out subsection (a),  
17 the Administrator shall first establish a pilot monitoring  
18 and mitigation project for North Atlantic right whales for  
19 the purposes of informing a cost-effective, efficient and re-  
20 sults-oriented near real-time monitoring and mitigation  
21 program for large whales.

22 (1) PILOT PROJECT REQUIREMENTS.—In de-  
23 signing and deploying the monitoring system, the  
24 Administrator, in coordination with the heads of  
25 other relevant Federal departments and agencies,

1 shall, using best available scientific information,  
2 identify and ensure coverage of—

3 (A) core foraging habitats of North Atlan-  
4 tic right whales, including but not limited to—

5 (i) the “South of the Islands” core  
6 foraging habitat;

7 (ii) the “Cape Cod Bay Area” core  
8 foraging habitat;

9 (iii) the “Great South Channel” core  
10 foraging habitat; and

11 (iv) the Gulf of Maine; and

12 (B) important feeding, breeding, calving,  
13 rearing, or migratory habitats of North Atlantic  
14 right whales that co-occur with areas of high  
15 risk of mortality, injury, or harassment of such  
16 whales from vessel strikes, disturbance from de-  
17 velopment activities, and entanglement in com-  
18 mercial fishing gear.

19 (2) PILOT PROJECT MONITORING COMPO-  
20 NENTS.—

21 (A) IN GENERAL.—Within 3 years after  
22 the date of the enactment of this Act, the Ad-  
23 ministrator, in consultation with relevant Fed-  
24 eral agencies, Tribal governments, and with  
25 input from affected stakeholders, shall design

1 and deploy a real-time monitoring system for  
2 North Atlantic right whales that includes near  
3 real-time monitoring methods, technologies, and  
4 protocols that—

5 (i) comprise sufficient detection  
6 power, spatial coverage and survey effort  
7 to detect and localize North Atlantic right  
8 whales within core foraging habitats;

9 (ii) are capable of detecting North At-  
10 lantic right whales visually, including dur-  
11 ing periods of poor visibility and darkness,  
12 and acoustically;

13 (iii) take advantage of dynamic habi-  
14 tat suitability models that help to discern  
15 the likelihood of North Atlantic right whale  
16 occurrence in core foraging habitat at any  
17 given time;

18 (iv) coordinate with the Integrated  
19 Ocean Observing System to leverage moni-  
20 toring assets;

21 (v) integrate new near real-time moni-  
22 toring methods and technologies as they  
23 become available;

24 (vi) accurately verify and rapidly com-  
25 municate detection data; and



1 (vii) allow for ocean users to con-  
2 tribute data that is verified to be collected  
3 using comparable near real-time moni-  
4 toring methods and technologies.

5 (B) NATIONAL SECURITY CONSIDER-  
6 ATIONS.—All monitoring methods, technologies,  
7 and protocols under subparagraph (A) shall be  
8 consistent with national security considerations  
9 and interests.

10 (3) PILOT PROGRAM MITIGATION PROTOCOLS.—

11 The Secretary shall, in consultation with the Sec-  
12 retary of Homeland Security, Secretary of Defense,  
13 Secretary of Transportation, and Secretary of the  
14 Interior, and with input from affected stakeholders,  
15 develop and deploy mitigation protocols that make  
16 use of the near real-time monitoring system to direct  
17 sector-specific mitigation measures that avoid and  
18 significantly reduce risk of injury and mortality to  
19 North Atlantic right whales.

20 (4) PILOT PROGRAM ACCESS TO DATA.—The  
21 Administrator shall provide access to data generated  
22 by the monitoring system for purposes of scientific  
23 research and evaluation, and public awareness and  
24 education, through the NOAA Right Whale Sighting  
25 Advisory System and WhaleMap or other successive

1 public web portals, subject to review for national se-  
2 curity considerations.

3 (5) PILOT PROGRAM REPORTING.—

4 (A) INTERIM REPORT.—Not later than two  
5 years after the date of the enactment of this  
6 Act, the Administrator shall submit to the Com-  
7 mittee on Natural Resources of the House of  
8 Representatives, and the Committee on Com-  
9 merce, Science and Transportation of the Sen-  
10 ate, and make available to the public, an in-  
11 terim report that assesses the benefits and effi-  
12 cacy of the North Atlantic right whale near  
13 real-time monitoring and mitigation pilot pro-  
14 gram. The report shall include—

15 (i) a description of the monitoring  
16 methods and technology in use or planned  
17 for deployment;

18 (ii) analyses of the efficacy of the  
19 methods and technology in use or planned  
20 for deployment in detecting North Atlantic  
21 right whales both individually and in com-  
22 bination;

23 (iii) how the monitoring system is di-  
24 rectly informing and improving species  
25 management and mitigation in near real-

1 time across ocean sectors whose activities  
2 pose a risk to North Atlantic right whales;  
3 (iv) a prioritized identification of gaps  
4 in technology or methods requiring future  
5 research and development.

6 (B) FINAL REPORT.—Not later than three  
7 years after the date of the enactment of this  
8 Act, the Administrator, in coordination with the  
9 Secretary of Defense and the heads of other rel-  
10 evant Federal departments and agencies, shall  
11 submit to the Committee on Natural Resources  
12 of the House of Representatives, and the Com-  
13 mittee on Commerce, Science and Transpor-  
14 tation of the Senate, and make available to the  
15 public, a final report, addressing the compo-  
16 nents in subparagraph (A) for the subsequent  
17 one year following the publication of the interim  
18 report, and including the following—

19 (i) a strategic plan to expand the pilot  
20 program to provide near real-time moni-  
21 toring and mitigation measures to addi-  
22 tional large whale species, including a  
23 prioritized plan for acquisition, deploy-  
24 ment, and maintenance of monitoring tech-

1 nologies, and the locations or species for  
2 which the plan would apply; and

3 (ii) a budget and description of appro-  
4 priations necessary to carry out the stra-  
5 tegic plan pursuant to the requirements of  
6 clause (i).

7 (c) **ADDITIONAL AUTHORITY.**—In carrying out this  
8 section, including, the Administrator may enter into and  
9 perform such contracts, leases, grants, or cooperative  
10 agreements as may be necessary to carry out the purposes  
11 of this section on such terms as the Administrator con-  
12 siders appropriate, consistent with Federal acquisition  
13 regulations.

14 (d) **REPORTING.**—Not later than one year after the  
15 deployment of the program described in subsection (b)  
16 (and after completion of the reporting requirements pur-  
17 suant to paragraph (5) of such subsection), and annually  
18 thereafter through 2029, the Administrator shall submit  
19 to the Committee on Natural Resources of the House of  
20 Representatives, and the Committee on Commerce,  
21 Science and Transportation of the Senate, and make avail-  
22 able to the public, a report that assess the benefits and  
23 efficacy of the near real-time monitoring and mitigation  
24 program.

25 (e) **DEFINITIONS.**—In this section:



1 heads of other appropriate Federal departments and agen-  
2 cies, to provide assistance for the development and imple-  
3 mentation of new or improved technologies that quantifi-  
4 ably reduce underwater noise from marine vessels.

5 (b) ELIGIBLE USES.—Grants provided under this  
6 section may be used to develop, assess and implement new  
7 or improved technologies that materially reduce under-  
8 water noise from marine vessels.

9 (c) OUTREACH.—The Administrator of the Maritime  
10 Administration shall conduct outreach to eligible persons  
11 to provide information on how to apply for assistance  
12 under this section, the benefits of the program under this  
13 section, and facilitation of best practices and lessons  
14 learned.

15 (d) ELIGIBLE ENTITIES.—A person shall be eligible  
16 for assistance under this section if the person—

17 (1) is—

18 (A) a corporation established under the  
19 laws of the United States;

20 (B) an individual, partnership, association,  
21 organization or any other combination of indi-  
22 viduals, provided, however, that each such indi-  
23 vidual shall be a citizen of the United States or  
24 lawful permanent resident of the United States  
25 or a protected individual as such term is de-



1           (2) an evaluation of the effectiveness and feasi-  
2           bility of incorporating such technologies in the de-  
3           sign, procurement, and construction of non-military  
4           vessels of the United States Government.

5           (b) APPROPRIATE COMMITTEES OF CONGRESS.—In  
6           this section, the term “appropriate committees of Con-  
7           gress” means—

8           (1) the Committee on Armed Services, the  
9           Committee on Commerce, Science, and Transpor-  
10          tation, the Committee on Environment and Public  
11          Works, and the Committee on Homeland Security  
12          and Governmental Affairs of the Senate; and

13          (2) the Committee on Armed Services, the  
14          Committee on Energy and Commerce, the Com-  
15          mittee on Homeland Security, the Committee on  
16          Natural Resources; and the Committee on Transpor-  
17          tation and Infrastructure of the House of Represent-  
18          atives.

