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GOVERNOR

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AUGUSTA, MAINE  
04333-0001

September 24, 2021

Secretary Gina Raimondo  
U.S. Department of Commerce  
1401 Constitution Ave NW  
Washington, DC 20230

Dear Secretary Raimondo,

I write to urge you to take immediate action to reduce the economic harm that will result from certain measures included in the final rule implementing the Atlantic Large Whale Take Reduction Plan.

I strongly disagree with this rule and am deeply concerned about its impact on Maine fishermen. Maine fishermen have repeatedly made sacrifices by changing the way they fish and modifying gear to protect right whales, including implementing weak link mandates in 1997 and again in 2007. In nearly two decades, there has not been a single known right whale entanglement attributed to the Maine lobster fishery. It is entirely unfair that Maine lobstermen continue to be the primary target of burdensome regulations, despite the many effective mitigation measures they have taken and despite the data showing that ship strikes and Canadian fishing gear continue to pose the most significant risk to right whales.

For the better part of the past three years, my Administration has been working with stakeholders to insist that NOAA: 1) focus on the science, and 2) consider the impact of its rules on the safety Maine fishermen. Protecting the right whale population must be done through regulations that are fair, that don't put fishermen's lives at risk, and that accurately reflect the reality in the Gulf of Maine.

While NOAA has accepted much of Maine's proposal for conservation equivalent measures, NOAA has finalized a gear marking scheme that is alarmingly different than what was in the proposed rule. These changes – which disregard fishermen's time, money, and safety – are very troubling.

When Maine implemented state-specific gear marking ahead of the final rule, a green mark was used to distinguish between exempt and non-exempt waters in the Take Reduction Plan. Now, that green mark is being used to distinguish between state and federal waters. The green mark was intended to be a single 6" mark that would easily be removable because 1200 licensed Maine fishermen, who are also permitted to fish in federal waters, move gear between inshore and offshore areas. Under the requirements of the final rule, fishermen will instead have to place several longer marks throughout their line.



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Maine DMR consulted with industry and it is clear they will not be able to simply add or remove the green marks at sea. Instead fishermen will need to purchase a second set of endlines to use as they move their gear in and out of state waters. NOAA Fisheries has suggested Maine could simply waive the requirement to remove these marks in state waters to mitigate this cost. This suggestion negates the purpose of the gear marking — informing risk modeling for future management decisions. For these reasons, many Maine fishermen are expected to incur the expenses associated with a second set of endlines, the cumulative cost of which is estimated to be over \$9 million.

In addition, fishermen will lose significant revenue as a result of the implementation deadline for gear modifications and marking (May 1, 2022). Maine asked NOAA Fisheries to take the operational feasibility of the fishery into account before finalizing an implementation date. Fishermen who fish year-round usually do not begin to rotate their gear inshore until May. However, in order to meet the rule's new requirements, fishermen anticipate a month or more of gear work to become compliant. Due to the NOAA deadline, gear will need to be brought back to port in March or April, when the price of lobster is very high. The Maine Lobstermen's Association estimates this lost opportunity will impact the majority of federally-permitted fishermen, causing in an estimated revenue loss of \$15-25 million. NOAA Fisheries never consulted with the state about what would be operationally feasible and determined an implementation date unilaterally without considering the impacts to the fishery. This is unacceptable.

I understand that you inherited this rule in draft form from the previous administration, which advanced it over several years, but now it is now within your purview to mitigate it. I don't believe this rule, as written, should take effect, but, at the very least, I urge you to direct NOAA Fisheries to delay the rule's implementation of gear marking and gear modifications (including both trawling up and insertion of weak points) to July 1, 2022. Moving the implementation date to July 1 will align with the traditional movement of gear inshore, allowing fishermen to make alterations to gear when it is already closer to shore, greatly minimizing lost fishing opportunity and revenues. While Maine has identified numerous other concerns with the assumptions made about economic impacts from this rule, the complete lack of analysis on this issue is more than sufficient reason to take swift action to reduce the economic harm caused to Maine fishermen.

Thank you for your careful attention to this issue, please do not hesitate to contact me or my Commissioner of Marine Resources, Patrick Keliher, if you have questions regarding this request.

*Thank you!*

Sincerely,



Janet T. Mills



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