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PATRICK C. KELHER  
COMMISSIONER

September 13, 2022

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

Dear Secretary Raimondo:

I am writing to express my great concerns and frustration regarding several actions related to right whales this past week. Together, these actions call into question the National Oceanic and Atmospheric Administration's (NOAA) commitment to sincerely collect public comment and the agency's willingness to provide the time and tools necessary to achieve the identified objectives of the current action. While the science has shown that the right whale population is in trouble, there is also no doubt that the effects of meeting these risk reduction targets will be devastating to the coastal economy and our communities here in Maine. Given the magnitude of changes which are being considered, the value of the impacted fisheries (ex-vessel revenue in Maine's lobster fishery alone was valued at over \$730 million in 2021), and the number of impacted stakeholders, NOAA simply must do better in terms of providing timely information and opportunities for coordination with state partners and impacted stakeholders.

On September 8<sup>th</sup>, NOAA announced a scoping period to consider additional measures which achieve a 90% risk reduction in Atlantic coast fixed gear fisheries, including the lobster fishery. Both the timing of NOAA's scoping period and the opportunities for public comment are completely insufficient given the potential for extraordinary impacts that are likely to be felt by fishermen and communities up and down the eastern seaboard, and especially here in Maine. As a part of the scoping period, NOAA has scheduled only one public hearing, by webinar, to collect comments from stakeholders. For comparison, when scoping meetings were held in 2019, NOAA held four meetings in Maine alone.

It is unconscionable for NOAA to only hold a single public hearing, and a virtual meeting at that. As NOAA well knows, effectively reaching an audience of fishermen with challenging schedules absolutely requires in-person meetings and opportunities for comment. In fact, NOAA seems to acknowledge the need for in-person outreach, based on an email sent on September 8<sup>th</sup>, in which NOAA encouraged states to host their own scoping meetings to provide additional opportunities to collect stakeholders' comments. This suggestion is blind to the dynamics at play. It is not Maine's responsibility to pick up the pieces of a federal action.



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The suggestion that states should be responsible for collecting public comment ignores the need, and quite frankly the responsibility, for NOAA to directly engage with fishermen in Maine. It is important that NOAA staff personally interact with impacted individuals, and equally important for stakeholders to know that they are being heard. The timing of the scoping period also calls into question the impact that these comments will have on upcoming ALWTRT discussions. The month-long scoping period is exceptionally short and overlaps with a critical ALWTRT meeting the week of September 19<sup>th</sup> where packages of measures for the fixed gear fisheries, including the lobster fishery, will be developed. As a result, it is unclear how feedback or comments from the scoping period will, or can, be integrated into the ALWTRT deliberations on potential measures and inform understanding of their impacts on commercial fisheries.

My concerns also extend to the upcoming ALWTRT meeting the week of September 19<sup>th</sup>. On a September 8<sup>th</sup> webinar, NOAA staff presented a voluminous amount of information regarding the risk reduction associated with various management measures. After presenting work which took months to compile, NOAA staff outlined that ALWTRT members have until September 12<sup>th</sup> to caucus and submit packages of measures for consideration. This is only two business days. It is unclear how NOAA could possibly believe that such a highly deficient process will lead to a constructive and well-informed outcome.

NOAA has also withdrawn ALWTRT members' access to the Decision Support Tool (DST), a key tool used in determining risk reduction associated with management measures, until it is peer reviewed. The lack of distribution of the DST also impacts Maine's ability to interact with industry. As is often the case, the development of management measures, particularly ones which are as controversial as these, is an iterative process. For Phase I, Maine held over 60 meetings to develop effective management measures. Without access to this tool, there is no way for Maine to provide example measures to industry to gather their feedback in this round. As a result, team members will simply not be able to come prepared to the next ALWTRT meeting, roughly a week from now, with a thoughtfully developed package of management measures to propose. NOAA has asked the state for support and collaboration, but precluding access to the DST runs counter to this stated goal.

In conclusion, the scoping plan outlined by NOAA is insufficient at best, and the disregard for people's time and desire to prepare for the ALWTRT meeting is disturbing. NOAA is asking hardworking men and women to make unimaginable sacrifices, particularly in fisheries like the Maine lobster fishery which do not have a documented right whale serious injury or mortality. I strongly urge you to ensure that the scoping period is extended and in-person public hearings, hosted by NOAA, are held in Maine. In addition, I ask that access to the DST be provided to ALWTRT members immediately. And perhaps most importantly, I ask that greater time be provided to ALWTRT members who are faced with a daunting task of a 90% risk reduction. The consequences of this action are simply too great to proceed at this breakneck pace absent the necessary information.

Sincerely,



Janet T. Mills  
Governor



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