

OCT 02 2019



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

Ms. Patrice McCarron
Executive Director
Maine Lobstermen's Association, Inc.
2 Storer Street, Suite 203
Kennebunk, ME 04043

Dear Ms. McCarron:

We received your letter regarding Maine's lobster industry members of the Atlantic Large Whale Take Reduction Team withdrawing their support for the near-consensus agreement reached during the April 2019 Team meeting. We are disappointed in this development because we believe there are practical solutions to support conservation efforts for North Atlantic right whales. The National Marine Fisheries Service (NMFS) is tasked with supporting sustainable fisheries and recovering protected species, and the Take Reduction Team process provides us with a unique opportunity to work closely with industry and other stakeholders to develop innovative solutions to these complex fishery interaction issues. Through this process, we strive to provide the best available data for the Team's consideration. I appreciate your careful review of the data and the specific suggestions you provided. Attached are responses and clarifications to some of the specific points raised in your letter. Be assured that we appreciate your input and will thoroughly analyze the information provided in your letter as appropriate in the Draft Environmental Impact Statement currently under development.

Pursuant to the Marine Mammal Protection Act (MMPA), NMFS convenes Take Reduction Teams to recommend consensus take reduction measures to reduce incidental mortality and serious injury from U.S. commercial fisheries below a stock's potential biological removal (PBR) level and inform Take Reduction Planning. We consider and mitigate other human-caused mortality or serious injuries (e.g., ship strikes) through other provisions of both the MMPA and the Endangered Species Act (ESA). It is not within the Team's purview to recommend actions to reduce mortality or serious injury incidental to any activity other than commercial fishing.

At the request of the Team at the October 2018 meeting, NMFS developed a target for all fisheries, discussed further in the attachment, which meets the statutory requirements under the MMPA and included various elements appropriate to the Team's deliberations. There are various ways to approach setting a target, but we maintain that NMFS used the best available information to develop the target provided to the Team. We recognize that multiple U.S. fisheries continue to present entanglement risks to large whales, and under the MMPA each individual commercial fishery in U.S. waters must reduce mortality and serious injury of marine mammals to below a stock's PBR. Within the Draft Environmental Impact Statement, we will analyze your suggestion that we remove the interaction attributed to a mesh fishery from the annual average mortality rate used in the target estimate. We will also continue to consider



whether unattributed serious injuries and mortalities (mostly those with no gear present or retrieved) can be assigned to a particular U.S. or Canadian fishery by using alternative analytical approaches to compare unknown cases to known incidents. Additionally, as we indicated at the April Team meeting, we will address risks from other commercial fisheries at the next Team meeting.

The Take Reduction Team process is just one tool NMFS uses to support North Atlantic right whale recovery. While the Take Reduction Team process under the MMPA allows us to focus solely on commercial fisheries-related risks, we work to reduce risks from other human activities throughout the species' range by engaging in bilateral meetings with Canada, through recovery planning efforts associated with our Southeast and Northeast Implementation Teams, and through continued efforts to evaluate and consider recommendations for improvements to our ship strike reduction measures.

We appreciate your commitment to aid right whale recovery. The research and reporting measures you support will improve our ability to monitor right whales and the effectiveness of all recovery efforts, including the Plan. We were encouraged that at our Scoping Meetings you supported expansion of gear marks to Maine exemption areas. However, monitoring and research alone will not halt the population's decline. Given the disturbing decline over the past several years in the population trajectory and the implications for the North Atlantic right whale population's recovery, we must take additional action to reduce human-caused mortality.

As you know, under the MMPA, NMFS is required to act regardless of whether the Team provides consensus recommendations. Given that we have received input from the Team, the onus is now on NMFS to propose regulations that will meet the MMPA goal of reducing mortality and serious injury from U.S. commercial fisheries subject to the Plan to not exceed PBR for right whales. The federal rulemaking process requires various steps that take time. Please know that we are also diligently working with our Canadian counterparts to address both ship strikes and entanglements in Canadian waters. Our last bilateral meeting with Canada was in June and in early August NMFS leadership met with Fisheries and Oceans Canada and Transport Canada leadership to urge them to implement additional measures to protect right whales.

We look forward to continuing our work with you and the Maine lobster industry to reduce entanglement of large whales pursuant to the MMPA and ESA while ensuring the long-term sustainability of this economically and culturally important fishery.

Sincerely,



Chris Oliver
Assistant Administrator
for Fisheries

Attachment