



MAINE

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To: Joint Standing Committee on Marine Resources

From: Patrice McCarron, Executive Director

Re: Support of LD 2013, An Act to Authorize the Commissioner of Marine Resources to Adopt Emergency Rules to Protect Certain Marine Mammals in Exceptional Circumstances

February 12, 2026

Senator Tepler, Representative Hepler, and members of the Marine Resources Committee. My name is Patrice McCarron, and I am the Executive Director of the Maine Lobstermen's Association (MLA). I have served on the Atlantic Large Whale Take Reduction Team for more than two decades. The MLA is Maine's oldest fishing industry trade association which has advocated on behalf of Maine lobstermen and the long-term sustainability of our state's most iconic and valuable fishery for 72 years.

The MLA testifies in support of *LD 2013, An Act to Authorize the Commissioner of Marine Resources to Adopt Emergency Rules to Protect Certain Marine Mammals in Exceptional Circumstances*. This bill is important to Maine's lobster fishery as we seek flexible and creative ways to protect endangered North Atlantic right whales without imposing unnecessary harm or hardship on the industry -- and the families and small businesses that rely on it.

The Maine lobster industry faces two significant federal actions by the end of 2028: implementation of new whale protection regulations under the Marine Mammal Protection Act, and issuance of a new Biological Opinion and Incidental Take Statement under the Endangered Species Act. These laws are exceptionally strict and could require extreme changes to the lobster fishery that may force many lobstermen out of business.

Providing the State of Maine with the tools necessary to respond proactively and credibly when exceptional circumstances arise, such as large aggregations of North Atlantic right whales, will give the state far more control over how the fishery is managed as we work to comply with these federal mandates.

The MLA does not take the notion of expanding government authority lightly. This authority can only be effective under the leadership of a Marine Resources Commissioner who is trusted by the industry and committed to working collaboratively to develop flexible and constructive

management approaches. The MLA will offer amendments to ensure this authority is appropriately structured and accountable.

The events of January and February 2025 demonstrate why this authority is needed. During that period, an unusually large number of North Atlantic right whales were sighted offshore of southern Maine in Jeffreys Basin. Researchers identified 96 unique right whales in the area. This was clearly a high-risk situation, and no one—least of all Maine lobstermen—wanted to see a right whale harmed by lobster gear.

Lobstermen immediately looked at the Maine Department of Marine Resources (DMR) for guidance and action, only to learn that the state lacked the authority to respond in an emergency. The federal government, too, lacked the authority to take regulatory action on an emergency basis. In response, Maine lobstermen organized and took voluntary action to reduce risk by removing endlines from the area. DMR provided critical support by coordinating with New Hampshire and Massachusetts, whose fishermen were also active in the area, as well as with the National Marine Fisheries Service (NMFS), which had regulations in place that complicated the specific actions Maine lobstermen sought to take to protect these whales.

This response was an impressive achievement. It demonstrated the industry's deep commitment to stewardship and right whale conservation, while also showing that broad, permanent closures or costly ropeless fishing mandates are not the only tools available to protect whales. It proved that fishermen could work together to reduce risk in real time while minimizing impacts to the fishery, but state support and coordination were essential to that success.

LD 2013 would create the opportunity for Maine DMR to take the lead in responding to real-time aggregations of right whales in areas where Maine lobstermen are fishing. Unlike NMFS, which relies on modeling that generates unrealistic scenarios, the state understands how the Maine lobster fishery operates and can respond to real-world observations and actual conditions on the water. DMR can work directly with lobstermen and coordinate across jurisdictions when multiple states' fleets are operating in the same area to tailor responses to the specific circumstances. This flexible approach offers a meaningful alternative to rigid, one-size-fits-all federal management approaches.

The Commissioner understands the economic and social importance of the lobster fishery to the State of Maine and is far more accountable to Maine's lobster fishery than the federal government. A case in point is the near-final management measures advanced by the Take Reduction Team in 2022, when Maine was required to achieve a 90% risk reduction. Despite the rarity of observed right whales off the coast of Maine and no known interactions with right whales in Maine gear for nearly 20 years, the proposal mandated a seasonal closure of Zone A, expansion of the LMA 1 closure, a closure around Jeffreys Ledge, and statewide gear modifications including fully weak endlines and trap limits. Incredibly, Zone A was slated for closure because the federal model deemed it high risk based on habitat features rather than documented whale presence. Fortunately, Congress took action to implement a six-year pause and the lobster industry was spared the devastating impacts of this plan.

Granting emergency rulemaking authority to the Commissioner would provide a new path forward. It would not only add a critical tool to the toolbox; it would strengthen Maine's credibility to enact effective solutions as it engages in the next round of federal whale rulemaking. This authority would enable the state to demonstrate its ability to work with lobstermen to respond effectively when exceptional circumstances arise, rather than relying solely on permanent, sweeping measures. That credibility matters.

The MLA does not take lightly the prospect of granting additional authority to DMR that could significantly affect how lobstermen fish or potentially result in temporary closures. In conversations with DMR, the MLA has been assured that this authority would be exercised in consultation with affected lobstermen. The MLA has trust and confidence in the current Commissioner – trust that makes it possible for us to support expanding DMR's authority. Just as important, the bill includes an accountability provision requiring a report back to the Legislature by December 1, 2027.

The MLA offers three amendments to ensure this authority is not misused in future years. First, the bill should specify that the authority may only be exercised in consultation with the industry prior to decisions being finalized. Second, the emergency authority should be reviewed and reauthorized each time a new Commissioner is appointed. Third, the authority should be explicitly limited to addressing protection of the North Atlantic right whale, which is the clear intent of this proposal.

Right whales were present in large numbers in Jeffreys Basin in early 2025. Those familiar with federal whale management anticipate that NMFS may seek permanent seasonal closure of this area. Yet surveys of that same area this year have not detected right whales. The bottom line is this: if the state lacks the ability to act when right whales aggregate in areas where Maine lobstermen are fishing, NMFS will fill that void during the next round of federal rulemaking — likely with permanent measures that lack flexibility and threaten the survival of the lobster fishery. As one MLA board member stated, "We fear the feds more than we fear the Commissioner" meaning that state-level rulemaking allows for direct engagement, transparency, and problem-solving, while federal actions often arrive as inflexible mandates.

For these reasons, the Maine Lobstermen's Association respectfully urges this Committee to support LD 2013, with the amendments offered by MLA and provide Maine with the emergency authority it needs to manage real-world risk in real time.

Thank you for your consideration.