



**NOAA Right Whale Remarks
May 26, 2022**

Madam President, shortly the senator from Rhode Island, Senator Whitehouse, will come to the Senate floor and attempt to have a live unanimous consent request for a nominee to be the Assistant Secretary of Commerce for Oceans and Atmosphere. When he does so, Madam President, I intend to object to that request. And I want to explain why to my colleagues. Senator Whitehouse has been delayed in getting to the Senate floor, so I'm going to outline my objections prior to his making the request.

Madam President, in all of the time that I have served in the United States Senate, I don't ever recall coming to the Senate floor to object to a unanimous consent request. I say that because it demonstrates how unusual it is for me to be standing here objecting to one of my colleague's unanimous consent requests. Indeed, as I said, I don't believe I have ever done this in all of the time I have served in the Senate. So let me give the Presiding Officer and my colleagues some background.

On May 1, despite the objections of the entire Maine congressional delegation, and its Democratic governor, the National Oceanic and Atmospheric Administration, better known as NOAA, imposed onerous new regulations on Maine's lobster industry. Now Madam President, if I asked you what is the first thing you think of when I say the State of Maine, you probably would say "lobster," our iconic industry. We have more than 4,500 lobstermen and women, each of whom is self-employed. They have been good stewards, always, of the lobster resource. They have taken care over the decades to make sure that the lobsters are large enough, for example, to keep. They throw back egg bearing lobsters. There are all sorts of rules and regulations that the lobster industry has worked with the State of Maine over decades to preserve the precious resource, but now in comes NOAA.

NOAA is imposing onerous, possibly impossible, new regulations that do not reflect the reality in the Gulf of Maine with regard to the right whale. The final rule imposed on May 1 does not even come close to reflecting the reality of the Maine fishing and lobstering industry and the endangered right whale. NOAA's focus on the State of Maine's lobster industry is flawed and unfair. In fact, Madam President, the agency's own data showed that there has never—never—been a right whale entanglement death attributed to the Maine lobster fishery. NOAA denied an entirely reasonable request to at least delay the implementation of these onerous new regulations for just two months, until July 1. The entire delegation plus our governor asked for this delay, this two month delay, because our lobstermen cannot even find enough of the gear, the new gear that is being mandated by NOAA. Just a two-month delay would have helped to prevent huge losses to these small business owners.

Now this isn't the first request that NOAA has refused. We have worked over more than a year with NOAA to try to prevent these regulations from going into effect in the first place because they are not relevant to preserving the right whale. Nobody wants to see the population of right whales decimated, but if you look at the data, here's what's happening, Madam President: it is ship strikes that have been responsible for the death of right whales. They have occurred in the St. Lawrence Seaway in Canada, not even in the State of Maine. In addition, there is evidence that there is some gear that is used for the Canadian snow crab that has been found to entangle the right whale. That's different from our lobster gear. And as I said, there has never been a right whale entanglement death attributed to the Maine lobster fishery. So these regulations make no sense in the first place, but at least—at least—in response to a plea from the lobster industry, from the Maine Department of Marine Resources, from the Democratic governor of Maine, from the entire Maine delegation, at least NOAA could have answered our plea to delay these onerous regulations for two months—two months—during which time maybe this brand new, very expensive gear would have become more available. But no, once again, NOAA refused.

This really is outrageous and the industry is expected to lose out on \$7 million due to lost fishing time during these two months. Now, perhaps the senator from Rhode Island and others do not believe what the Maine delegation, the Democratic governor of Maine, the Maine Department of Marine Resources, and many experts are saying about the impact of these regulations and the lack of availability of this new gear and the fact that the data show that we are not the problem in the State of Maine. As I said, it's fish strikes and due to warming waters, which I know is of great concern to the senator from Rhode Island as it is to me, the right whales are actually moving and following their food supply into Canadian waters. In fact, I've talked to many lobstermen and women who've never seen a right whale—never—in all the time that they have been lobstering, but as I said, maybe you just think, maybe NOAA just thinks rather, that we're just automatic advocates for an iconic industry, despite the extraordinary record of stewardship by the lobster industry.

So let me give you another source. Denying this two month extension conflicted with the recommendations of the United States Small Business Administration's Office of Advocacy, an independent voice for small business within the federal government. The Office of Advocacy asserted that NOAA was putting lobstermen and women in "an impossible scenario," and went on to say, "if they are not granted a short delay of the compliance deadline, they may stand to lose significant amounts of revenue or in some instances, their entire business." This isn't just the Maine delegation. It isn't just our governor. It isn't just the Maine Department of Marine Resources. This is another government agency. It's the Small Business Administration's Office of Advocacy, which is saying this.

So Maine harvesters are justifiably worried about what they are going to do. And I don't know what more the Maine delegation can do. We have had countless meetings with the Department of Commerce, with NOAA. I met with the fisheries administrator in NOAA. I asked for his help. He promised to work with us. Instead, things have gotten only worse. And now our lobster industry worries that NOAA will continue to steadily whittle away at their livelihoods while ignoring not only their on-the-water expertise, the expertise of the State of Maine, but the impartial advice of the federal government's small business advocate as well.

Madam President, the entire agency, all of NOAA, needs to recognize that the practice of implementing management decisions based on incomplete, imprecise, inaccurate data., especially when those decisions have a harmful effect on a fishery that is known for its conservation methods and on the communities that this fishery has supported forever in the State of Maine cannot continue. So that's the situation in which we find ourselves, and that is why—I believe for the first time in all the years that I've served in the Senate—I have come to the floor to object when the unanimous consent request is made.