May 22, 2024

Regional Administrator, Michael Pentony
National Marine Fisheries Service
National Oceanic and Atmospheric Administration Commerce
55 Great Republic Dr.
Gloucester, MA 01933

RE: Development and trials of on-demand fishing systems in fixed gear fisheries 2024

Dear Mr. Pentony,

On behalf of its 1800 members, the Massachusetts Lobstermen’s Association (MLA) respectfully submits this letter of great concern and unease on the Northeast Fisheries Science Center (NEFSC) request for Development and trials of on-demand fishing systems in fixed gear fisheries 2024 On-Demand Gear Exempted Fishing Permit (EFP) from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration to expand trials of on demand fishing gear that uses one or no surface buoys and to test the ability of gear marking systems to consistently locate gear.

The Massachusetts Lobstermen’s Association **DOES NOT SUPPORT** on demand fishing gear.

Established in 1963, the MLA is a member-driven organization that accepts and supports the interdependence of species conservation and the members’ collective economic interests. The membership is comprised of fishermen from Maryland to Canada and encompasses a wide variety of gear types from fixed gear and mobile gear alike. The MLA continues to work conscientiously through the management process with the Division of Marine Fisheries (DMF), Atlantic States Marine Fisheries, Atlantic Large Whale Take Reduction Team, and the New England Fisheries Management Council to ensure the continued sustainability and profitability of the resources in which our commercial fishermen are engaged in.

Currently, there is a great misperception on what can and cannot be done in the real-life scenario commercial fixed gear fisheries when it comes to the use of on demand fishing gear to reduce interactions with right whales here in the Northeast. The EFP does not reveal anything new to demonstrate how on demand gear will truly interact when placed in densely fished areas along with several mobile gear vessels fishing and should be denied.

The on-demand gear developers at a meeting held in late 2021 in Danvers by Homarus Strategies, stated they could not produce the volume of units needed to outfit the commercial fishing industry. There is nothing in the EFP that indicates purchasing any more units and the EFP is solely relying on the use of the current limited government gear cache. This EFP also lacks a
sustainability metric for the long-term scalability leaving the MLA greatly concerned about the risk to the entire commercial lobster industry.

The EFP expanded trials raise great concern given the time of year and the high density of right whales being present in the Massachusetts Bay Restricted Area here in the Commonwealth. Massachusetts is a leader in right whale conservation given the decades of conservation measures that have been implemented and yet, the right whale population is unstable. Why would the government encourage increasing risk to the entire commercial lobster industry given the sensitivity of timing of the EFP?

**Massachusetts Right Whale Conservation Timeline**

1997-MA requirement for “breakaway” features in gillnets and trap/pot buoy lines
Seasonal ban in Cape Cod Bay for gillnets and on use of floating rope between pots
1997-Dedicated aerial surveys begin in Cape Cod Bay
2000- Year-round gear marking is implemented
2004 – Year-round ban on floating rope between traps in Cape Cod Bay
2007 - Year-round ban on use of floating rope between traps statewide
2014- MA Restricted Area is created – A three-month closure Feb-April to 3,071 sq. miles
2015 - 3-month (Feb/Apr) closure to all pots/traps in the MA Restricted Area
2016 – 3-month (Feb/Apr) closure to all pots/traps in the MA Restricted Area
2017 – 3-month (Feb/Apr) closure to all pots/traps in the MA Restricted Area **PLUS** 4-day extension of the gear closure in Cape Cod Bay
2018 - 3-month (Feb/Apr) closure to all pots/traps in the MA Restricted Area **PLUS** a 15-day extension of the gear closure and speed restriction (10 mph) for small vessels in Cape Cod Bay
2019- 3-month (Feb/Apr) closure to all pots/traps in the MA Restricted Area
2020 - 3-month (Feb/Apr) closure to all pots/traps in the MA Restricted Area and North Shore LMA1, MLA members deploy 700 coils of whale safe 1700lb weak red rope.
2021 – MFAC implemented 90% risk reduction conservation measures
2022 – NEW closure of North Shore waters between state waters closure and MBRA (MA is now at an estimate 92% risk reduction)
2022 – MBRA closed until May 16th
2022 – Wedge Closure in April
2023- New Closure of Wedge February1st – April 30th
2024 MBRA closed until May 8th.

Currently, the Massachusetts commercial lobster industry employs thousands of individuals who earn their living on the sea. In 2022, the 704 active Massachusetts commercial lobstermen harvested 15,583,693 lbs. with an ex-vessel value of $127,507,631.00 and an overall estimated economic impact to the local economy of 383 million dollars while only fishing approximately 595,035 lobster pots.

The commercial lobster industry has complied with all the management measures that the DMF has aggressively enacted for right whale conservation over the last several years allowing right whales the ability to come and safely feed in the waters of the Commonwealth. The risk to the entire commercial lobster industry is too high to approve the EPF to take place during the closure months (February, March, April) when there is a zero chance of an interaction between right whales and fixed gear, be it a trap/pot or a vessel.
In a letter dated March 6, 2020, sent to NOAA Fisheries Regional Administrator, Michael Pentony by then DMF, Acting Director, Daniel McKiernan, stating that the DMF is “committed to developing a comprehensive strategy to reduce the risk of entanglement and serious injury and mortality to North Atlantic right whales that maintains a safe, efficient, and profitable lobster fishery in Massachusetts.” McKiernan, D. (2020, 6 March). Daniel McKiernan to Michael Pentony, March 6, 2020 [Letter] The commercial lobster industry has worked closely with the DMF to develop and implement all the conservation measures that are in place today. The MLAs view is that this EFP will jeopardize not only the entire commercial lobster industry but also all the DMFs risk reduction efforts. The EFP gives NO assurances that there will be zero interactions with right whales and that is a risk the MLA cannot support.

The MLA is greatly concerned about the use of on demand gear during the time of year as storms come into the Northeast with violent winds and strong surges wreaking havoc on the ocean floor. The Nor’easter that came through in late 2021, caused a significant amount of gear to be lost and if any on demand gear is lost it could create an opportunity for gear failure (release of buoy and vertical line) and potential negative interactions with right whales.

Additionally, in the DMF letter to NOAA it clearly states that; “Approximately 65% of the known right whale population visits Cape Cod Bay each year. This is the largest known aggregation of North Atlantic Right whales in the world. In a single day in April 2017, a total of 179 right whales were observed in Cape Cod Bay. This represents a peak observed density of 10 right whales/cubic mile of water.” McKiernan, D. (2020, 6 March). Daniel McKiernan to Michael Pentony, March 6, 2020 [Letter] There does not appear to be enough evidence where the right whales never or could be visually documented to logically allow this Project to take place during the MBRA.

(Right Whales sighting data Jan.1, 2010 through May 22, 2024)

Given the historic high population density in the areas and seeing the historic sightings, data depicted above clearly shows that the right whales are unpredictable everywhere and the risk is too high to allow this EFP to take place during the MBRA closure. Adding more risk at a time when the commercial lobster industry is most vulnerable is inexcusable.
Furthermore, the commercial lobster industry is not the only fixed gear fishery on the water and the unintended consequences of gear conflicts between the fixed gear and mobile gear fisheries is of great concern to the MLA. While the EFP has expanded to some mobile gear vessels it is unclear if they will all be fishing in the same box. The fixed gear commercial fishing industry and mobile gear fishing industry do not fish in discreet boxes and these gear conflicts could be catastrophic.

The risk to the mobile gear fleet has not been well-thought-out, especially if there will be a no fishing zone for the mobile gear fleet. The mobile gear fleet MUST be part of the EFP and informed of where this unmarked gear is as well as being supplied with the necessary devices to see the on-demand gear on the bottom.

The Northeast Regional Ocean Portal data on the multispecies and scallop effort in the Projects proposed discreet areas in federal waters is high and this fleet needs to be included in the Project as the risk is high for a gear interaction between the two gear types.


In the Memorandum titled “Ropeless Fishing and the Opportunities and Challenges to Reduce Entanglement Risk” from Daniel McKiernan to the MA Marine Fisheries he clearly stated that; \textit{the current cost of the devices is prohibitive for fishermen. Even more challenging, however, is fishermen and law enforcement do not have the ability to detect the presence of the gear on the ocean floor with sufficient resolution in the absence of buoys at the surface.”} McKiernan, D. (2021, 22 January). Daniel McKiernan to Marine Fisheries Commission, January 22, 2021 [Memorandum] This EFP lacks robust reporting, metric, or assurances on law enforcement’s ability to check the gear to ensure it is compliant. Will there be an officer onboard during the hauls to ensure this gear is compliant?

While the EFP application stated, \textit{“In some cases, a scientific observer may be on board, and/or GoPro Systems (or equivalent) may record gear retrievals. The NEFSC would provide standardized data collection sheets to all participants, but individually-identifiable data will only be made public with the express permission of the vessel owner.” } The MLA strongly recommends that all vessels should have either 100% observer coverage or some kind of Electronic Monitoring to ensure there is nothing left undocumented.

Also, there are Smart Tags, available through Rubee www.ru-bee.com/index.html, that can also be added to the traps to ensure there is an accurate account of the number of nets or traps being fished. There needs to be checks and balances for any projects as the data being collected can be easily skewed.

There also needs to be a mandatory haul out period for any fisherman participating in any on-demand gear testing two weeks prior to April 30th. These fishermen are afforded an unfair and unequitable advantage over the fishermen that have been out of the water for several months due to the closures.

Lastly, the sheer magnitude of the economic undertaking of on demand gear would be well over 150 million dollars to outfit the commercial lobster industry here in the Commonwealth the first year. The individual cost would be an estimated $200,000 per fisherman. While adding even more expenses to the commercial fleet with an average of 10% gear loss. If the fishermen had to buy the on-demand gear units what is the cost vs harvest ratio? An accurate economic analysis of on demand gear needs to be calculated.

In closing, the Massachusetts Lobstermen’s Association thanks you for the opportunity to comment and your thoughtful deliberation on our points of concern regarding this Experimental Fishing Permit application.

Sincerely,

Beth Casoni
MLA, Executive Director
June 3, 2024

Mr. Michael Pentony
Regional Administrator
NMFS, Northeast Regional Office
55 Great Republic Drive
Gloucester, MA 01930

RE: Comments on NEFSC On-Demand Gear EFP (89 FR 43380)

Dear Mike:

On behalf of the New England Fishery Management Council, I have reviewed the May 17, 2024, Federal Registry notice for an exempted fishing permit (EFP) that would allow for the continuation of Northeast Fisheries Science Center (NEFSC) efforts to trial on-demand fishing gear to reduce entanglement risk to protected species, mainly the North Atlantic right whale. As noted in Council comments for an earlier NEFSC EFP application (see comments dated June 30, 2023), we have concerns about potential interactions between on-demand gear and other gear types, including the mobile, fixed, and recreational fleets, as well as independent scallop resource surveys. Of particular concern is the shift of mobile gear effort into areas in and around the Great South Channel, including the Area I – Sliver that is anticipated to re-open to directed scallop fishing in April of 2025. The Council remains supportive of testing on-demand fishing gear to reduce interactions with North Atlantic right whales and recognizes that on-demand fishing gear will likely play a role in future rulemaking pertaining to the federal American lobster and Jonah crab fisheries, along with gillnet and other trap/pot fisheries.

While gear conflicts currently occur between fixed and mobile gear fishermen, it is an undesirable outcome that should be avoided. In the near term, the Council is concerned about the potential for expanding experimental fishing of fully on-demand trawls/strings in Restricted Areas, and the readiness of mobile gear fleets to detect fully on-demand gear while fishing. Of greatest concern is the likely creation of a scallop rotational access area in Area I – Sliver in FY2025, which overlaps with the Great South Channel Restricted Area (Map 1). Surveys of the Area I – Sliver detected high densities of commercial-sized scallops in 2023 (Map 2), and the Council anticipates upwards of 400 unique vessels fishing in the area beginning in April 2025. With on-demand gear being tested from April 1 through June 30, when scallop fishery effort is at its peak, the likelihood for gear conflict is high. While the Council appreciates the increased use of emerging tools to identify on-demand gear (e.g., Trap Tracker, EarthRanger) for non-participating vessels, many scallop fishing vessels do not have satellite internet connection needed to use these tools in real-time. It is imperative that the NEFSC work closely with the
fishing industry to share information about where and when experimental fishing is occurring, especially for areas where mobile gear fishing effort is high.

To further reduce the potential for conflict between on-demand and other types of fishing gear used in the mobile, fixed, and recreational fleets, the NEFSC and GARFO should work to ensure that mariners in the area are aware of this EFP fishing activity. All fishing vessels operating in the EFP areas should be notified of the timing and location of fishing efforts with on-demand gear along with additional information regarding EFP operations as appropriate to minimize disruption to these fleets. If vessels are required to avoid EFP trial areas, this should be clearly communicated to all fishing vessels including both the commercial and recreational sectors, as well as scallop survey vessels. Given the large geographic range of EFP activity and spatial overlap with areas of anticipated scallop fishing effort in Area I and around the Great South Channel, clear and consistent communication will be essential for reducing gear conflict. Additionally, there are several independent, annual scallop surveys that are highly likely to overlap with EFP fishing activity that should be notified of where on-demand gear is likely to occur. This information should also be provided to recreational fishermen, including charter/party boats. Clear communication regarding on-demand fishing gear use, particularly in areas with high fishing effort, will help reduce gear interactions between on-demand and other types of fishing or survey gear.

The implementation of this EFP will likely impact Council managed fisheries that spatially overlap with the seasonal gear restricted areas, such as the scallop fishery in and around the Great South Channel. The Council’s On-Demand Gear Conflict Working Group, which is tasked with identifying ways to minimize interactions between mobile, fixed, and recreational fishing gear with on-demand gear in the trap/pot and gillnet fisheries, continues to be a venue to address ongoing concerns. The EFP notes that the Center will provide monthly updates on gear conflicts to GARFO’s Sustainable Fisheries Division, which might benefit the working group. Periodic reports on EFP activity and progress should also be provided to the Council and the working group along with the public.

Please contact me with any questions.

Sincerely,

Cate O’Keefe
Executive Director
Map 1. FY 2023 Scallop fishing effort relative to seasonal restricted areas where On-Demand gear testing will occur. The Area I – Sliver, north of the Area I Access Area, is anticipated to open to the scallop fishery in FY 2025.

Map 2. Mean scallop density at each station from the 2023 SMAST Drop Camera Survey on Georges Bank. High densities of scallops were found in the Area I – Sliver.
May 23, 2024

Christine Ford
NOAA Fisheries
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

Dear Ms. Ford:

The Maine Department of Marine Resources (ME DMR) submits the following comments on the Exempted Fishing Permit (EFP) from the Northeast Fisheries Science Center (89 FR 43380). Continuing to test the efficacy of fully on-demand gear is critical to finding a solution to reduce risk to North Atlantic Right Whales and ME DMR supports the work being done by the Northeast Fisheries Science Center (NEFSC). Notably, NEFSC’s application specifically references expanding fishing in restricted areas with a focus on safety and equity. ME DMR is pleased to see a focus on equity included within this year’s application, as this remains a primary concern for the Department and Maine’s Lobster Advisory Council regarding any potential future access to the LMA 1 closure. ME DMR’s comments focus primarily on limitations of cellular based marking systems, and considerations for the testing of grappling as a low-cost alternative.

ME DMR remains concerned about the continued reliance on cellular based gear marking technologies such as the Trap Tracker App (or equivalent) to retrieve position details for fully ropeless trawls. The ability to mark the location of gear is critical to implementing on-demand gear and ME DMR supports any efforts to test and improve these technologies. However, reliance on a cellular based technology, such as Trap Tracker, presents challenges in areas where cellular signal is limited, or near impossible to find, as is the case along much of Maine’s coast. Continued reliance on options that rely on cellular data access will not suit broad application across Maine, where cellular data access is intermittent.

The figure below, developed using cellular coverage details from the Particle TrackerOne systems that federal lobster vessels in Maine have installed, shows a sharp decline in signal strength with distance from shore. It is important to note that typical cellphone-based service would likely be much lower as the figure below shows LTE Category MI coverage, which is optimized for low speed and small sized data packets (like pings from tracker devices) and is different from the LTE bands used by most phones.
As in the current NEFSC EFP, the application seeks to explore the use of grappling as a means of ropeless fishing. ME DMR is not opposed to the investigation of grappling given it is a cost-effective option to remove endlines. However, ME DMR notes that grappling has been used to illegally fish for lobster in the past and therefore has concerns about gear marking and enforcement capabilities with this approach. We recommend that any vessels testing grappling as a means of on-demand fishing, be required to have an electronic vessel tracking device on board, as is required of federal vessels per the Atlantic States Marine Fisheries Commission Lobster Addendum XXIX.

Continuing to increase the functionality and utility of on-demand gear is critical prior to future rulemaking under the Atlantic Large Whale Take Reduction Plan. Our agencies have worked closely on this topic over the previous year, and even more so as ME DMR has established our own on-demand gear library. ME DMR is committed to continued efforts at collaboration between the two agencies as this important work continues.

Sincerely,

Patrick Keliher, Commissioner
Ms. Christine Ford  
Fishery Management Specialist  
Greater Atlantic Regional Fisheries Office  
Sustainable Fisheries Division  
Cooperative Research Permitting Branch  
55 Great Republic Drive  
NOAA Fisheries Service  
Gloucester MA 01930

3 June 2024

Re: Magnuson-Stevens Fishery Conservation and Management Act Provisions; Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (Docket ID 2024-10850)

Submitted via email to nmfs.gar.efp@noaa.gov

Dear Ms. Ford:

On behalf of the Animal Welfare Institute (AWI), I submit the following comments in support of the NOAA Northeast Fisheries Science Center application for an Exempted Fishing Permit (EFP) that will allow it to conduct trials of on-demand (also known as “ropeless”) fishing gear systems that use far less vertical line or rope in the water than traditional gear designs. As AWI and others have noted in numerous comments to NMFS, we contend that ropeless/on-demand gear provides the best long-term solution to eliminating the risk of North Atlantic right whale entanglement in vertical lines.

At its most recent meeting in May 2024, the International Whaling Commission’s Scientific Committee strongly reiterated its serious concern over the status of North Atlantic right whales given its “concerning population demographics and decline” and the urgent need for the United States and Canada to eliminate human-caused North Atlantic right whale mortality. The Scientific Committee also “strongly recommended accelerated efforts to develop, test and adopt methods of fishing that reduce the potential to entangle right whales.”

Our organization supports the proposal to allow up to 180 lobster trap vessels to replace up to 10 of their existing trawls (up to 1,800 trawls total) with modified trawls, including in Atlantic Large Whale Take Reduction Plan (ALWTRP) Restricted Areas, as well as the proposal to exempt participating vessels from the gear marking requirements at 50 C.F.R. § 697.21(b)(2). AWI is pleased that this current EFP proposes to expand trials of on-demand gear to fisheries beyond lobster trawls, and we support allowing up to 20 total gillnet, red crab trap, and black sea bass pot vessels to replace up to 10 of their existing strings/trawls

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(up to 200 strings/trawls) with modified strings/trawls. As with the gear marking exemption for the lobster trawl fishery, we support the exemptions for gillnet gear (50 CFR648.84(b)) and for red crab pot/trap gear (50 CFR648.264(a)).

With regard to best practice and risk avoidance guidance and requirements that will be placed upon those vessels testing this gear, we support the stipulation that gear will neither be set nor retrieved in the presence of right whales. AWI also supports the conditions that participating vessels will be restricted to a 10-knot speed limit, and that they will be required to withdraw to a safe distance in the event that a right whale surfaces within 500 yards, as well as the requirement that lobster gear retrieval be halted until such time as the whale or whales have left the area. While having on-board human scientific observers during the testing is optimal, the use of a GoPro System (or equivalent or better) to record the testing is also acceptable. AWI would support an added requirement to restrict both the setting and retrieval of gear to daylight hours.

In addition to the population-level risks posed by entanglement, AWI emphasizes that the entanglement of North Atlantic right whales is a serious animal welfare issue. Right whales are sentient and social animals, and the fact that individual whales of all ages are being exposed to potential entanglement warrants significant concern. Entanglement not only interferes with swimming and feeding, but it can also lead to chronic infections, damage to blubber, muscle and bone, and starvation. Suffering can be prolonged, and whales have been known to die weeks or even months after the initial entanglement event. Moreover, numerous studies indicate that even sub-lethal effects of entanglement are having catastrophic effects on female right whales and their reproductive potential.

It is clear that the North Atlantic right whale population cannot sustain any deaths or serious injuries if the survival and ultimate recovery of the species is to be ensured. AWI is therefore appreciative of the proactive efforts being made by NOAA and the Northeast Fisheries Science Center to address this critical conservation issue through the testing of on-demand gear.

Thank you for your consideration of these comments. If you have any questions or need additional information, please contact me at koconnell@awionline.org

Sincerely,

Kate O'Connell
Senior Policy Consultant
AWI Marine Wildlife Program

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June 3, 2024

Via email to nmfs.gar.efp@noaa.gov

Michael Pentony
Regional Administrator
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930


Dear Mr. Pentony:

Oceana, the largest international ocean conservation organization solely focused on protecting the world’s oceans, appreciates the opportunity to submit comments regarding the Exempted Fishing Permit (“EFP”) application recently submitted by NOAA Northeast Fisheries Science Center (“the Center”). This proposal would allow the Center to conduct commercial fishing activities that the regulations would otherwise restrict to expand trials of on-demand (“ropeless”) fishing gear in the U.S. Atlantic American lobster fishery. For nearly twenty years, Oceana has advocated for improvements to reduce bycatch in the fisheries of the Northeast region including the American lobster fishery. Despite decades of work by the Atlantic Large Whale Take Reduction Team (“ALWTRT”) and the National Marine Fisheries Service (“Fisheries Service”), the U.S. lobster fishery continues to struggle to meet its obligations to reduce takes under the Endangered Species Act and Marine Mammal Protection Act because of the ongoing threat of North Atlantic right whales (“NARWs”) being entangled in vertical fishing lines.

The proposed project will advance the understanding and use of both acoustic and low-cost ropeless gear while simultaneously building support among industry participants to use this gear as an alternative to traditional vertical line configurations that pose a threat to NARWs. This is an admirable goal that is shared by your agency, conservation groups, and a growing segment of the fishing industry.

Considering the need to expand the use of ropeless gear in the Northeast (NE) region and because the proposed activity is clearly within the scope of an EFP to advance this new gear type with clear, measurable conservation benefits for NARW, the Fisheries Service should approve the proposed EFP and advance ropeless testing in the NE region with the limited conditions discussed below.
Monitoring, Transparency and Reporting

An EFP is properly seen as an exchange between the participants and the agency. In exchange for an exemption from existing regulations, the participants provide something of value to improve the fishery, whether it is research, product development or public display. EFPs should also advance the understanding of the subject being explored and should include a robust plan to share and report the findings of the project with the broad range of stakeholders, decision makers and interested parties.

In this instance, it appears that the proposed project will advance the understanding and efficacy of both acoustic and low-cost ropeless technology, trial gear marking systems, and provide both training and data collection tools to trial participants. To maximize the value of the project, Oceana strongly requests the Fisheries Service explicitly include clear conditions requiring monitoring, transparency, and reporting of the results and findings for consideration by the ALWTRT, stakeholders including the conservation community and other concerned parties following completion of the project.

Oceana appreciates the opportunity to provide input and thanks you for your time. Oceana continues to be a proponent of strong, effective regulations that will avoid, minimize and mitigate fisheries gear entanglements with critically endangered NARWs. Central to this advocacy is the need to minimize or in some cases eliminate vertical lines in times and areas where NARWs are sighted, detected, or expected. When used correctly, on-demand and ropeless gear is a potentially powerful tool for modern fisheries management and protection of NARWs that eliminates entanglement risk while allowing fishing to continue in areas and times when marine mammals may be present. The Fisheries Service should approve the Center’s EFP to allow this project to proceed as soon as possible.

Oceana will continue to be engaged in the development and implementation of ropeless and on-demand gear and looks forward to the agency’s leadership and stewardship of this important fishery.

Sincerely,

Gib Brogan
Campaign Director
Oceana
The EFP would be strengthened if there was a clearer and devoted section on how the different fishery user groups participated in the development of the suggested proposals.

Dr Ilene M Kaplan
Union College/WHOI
Via Electronic Mail

June 3, 2024

National Oceanic and Atmospheric Administration (NOAA)
National Marine Fisheries Service
Greater Atlantic Region Permit Office
nmfs.gar.efp@noaa.gov.

Comment on NEFSC On-Demand Gear EFP

On behalf of the undersigned organizations and their millions of members, we ask that the Greater Atlantic Regional Fisheries Office (GARFO, Regional Office) approve the permit application submitted by the NOAA Northeast Fisheries Science Center (NOAA NESFC) to allow federally permitted commercial fishing vessels to fish outside fishery regulations to continue trials of on-demand fishing gear. On-demand fishing gear is a critically important gear alternative in eliminating entanglement risk in commercial fisheries.

Significant investments have been made to advance on-demand (or “pop-up”) fishing systems to address entanglement risk in commercial fisheries. Yet, entanglements in fixed gear fisheries continue to harm and kill protected marine species in fisheries across the country. The clearest way to eliminate entanglement risk is to remove persistent vertical lines and surface gear from the water. Approving this EFP is an important step towards transitioning fixed gear fisheries to more whale-safe fishing gear. With changing oceanographic conditions and ongoing entanglement risk, NOAA must prioritize the widespread testing, authorization, and use of pop-up fishing gear.

Increased participation from members of the fishing community in pop-up gear testing efforts is critical to removing barriers to adoption caused by negative perceptions of the gear and misinformation. The efforts of EFP participants to elevate this as a viable solution to entanglements must be supported by the agency. Thus, approving this EFP and increasing the number of participants and fisheries involved will provide NOAA NEFSC and the agency with the necessary information to address concerns around gear conflict, gear loss, enforcement, and scalability. It is important that the agency continues to play an active role in the advancement of pop-up fishing gear to ensure the longevity of both healthy marine wildlife populations and commercial fishing.

Sincerely,

Ben Grundy  
bgrundy@biologicaldiversity.org  
Center for Biological Diversity  
Uko Gorter  
uko@ukogorter.com  
American Cetacean Society
Kelly Denit  
Director, Office of Sustainable Fisheries  
National Marine Fisheries Service

May 31, 2024

RE: NEFSC On-Demand Gear EFP

Dear Director Denit,

Environment America is a nationwide advocacy organization working to protect the places that Americans love and promote core environmental values, such as clean air to breathe, clean water to drink, and clean energy to power our lives.

We write today to comment in support of the Northeast Fishery Science Center (NEFSC) On-Demand Gear Exempted Fishing Permit (EFP). The NEFSC EFP would provide an exemption from federal lobster, red crab, and gillnet gear marking requirements and allow up to 180 federally permitted lobster vessels and up to 20 total gillnet, red crab, and black sea bass vessels to test on-demand (or “ropeless”) gear.

North Atlantic right whales are a maternal and majestic species that make their home off our coast. The species is critically endangered and is experiencing unsustainable levels of human-caused mortalities. This year alone, NOAA Fisheries has recorded 4 mortalities of this critically endangered species, one of which was the result of a chronic entanglement in fishing gear consistent with the gear used by the Maine lobster industry.¹

At a time when the species can stand to lose fewer than one whale to non-natural causes per year, we need to advance solutions to entanglement as quickly as possible.² NOAA, acting on behalf of the American people, has a legal duty to implement rules that will reduce the whales’ risk of death and injury from entanglement from fishing gear down to below the species Potential Biological Removal (PBR). It’s clear that the development and wide-scale deployment of on-demand or “ropeless” fishing gear is one of the most critical long-term solutions to achieve this legal and moral imperative.

At a time when entanglements in conventional fishing gear are pushing North Atlantic right whales to the brink, we need regulators and fishers to work together to develop technology that will give hope of a brighter future for these whales. Ropeless gear offers this hope, and it is essential that it be more extensively tested, and eventually utilized, in our national waters.

¹ NOAA Fisheries, “North Atlantic Right Whale Updates,” retrieved on May 31, 2024  
thttps://www.fisheries.noaa.gov/national/endangered-species-conservation/north-atlantic-right-whale-updates

We support the NEFSC’s EFP and encourage NOAA Fisheries to approve it and continue efforts to develop and implement this right-whale-saving technology.

Best,

Kelsey Lamp
Protect our Oceans Campaign Director
Environment America
We must move with more haste to reduce the level of injury and mortality of all whales, especially the critically endangered North Atlantic Right Whales, caused by vertical entanglement in ropes used in commercial pot fisheries.

The only way for the industry at large to endorse and implement on-demand, ropeless fishing for lobster and crab is to 1.) see success with the technology and solutions at a larger scale, and 2.) recognize the economic opportunity in fishing in otherwise exempted fishing areas at normally inaccessible time periods. Please approve this trial program which will help toward these 2 objectives.

Thank you!

Brian Walsh
8 Rachael's Ln
Duxbury, MA 02332