



## New England Fishery Management Council

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Eric Reid, *Chair* | Cate O'Keefe, PhD, *Executive Director*

March 26, 2024

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

RE: Comments on Maine DMR 2024 On-Demand EFP (89 FR 18395)

Dear Mike:

On behalf of the New England Fishery Management Council, I have reviewed the March 13, 2024, Federal Registry notice for an exempted fishing permit (EFP) that would allow for testing of acoustic on-demand fishing gear, as well as gear geolocation technology to help minimize the risk of large whale entanglements in trap/pot gear and gillnet gear in the Gulf of Maine. 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 Northeast lobster and Jonah crab fisheries, along with gillnet and other trap/pot fisheries. However, on-demand gear testing efforts utilizing experimental trap/pot and gillnet gear may lead to increased interactions with other gear types, which warrants consideration in the review of pertinent EFPs such as this one.

The implementation of this EFP will impact Council managed fisheries that use gillnets and has the potential to affect other fisheries active in the Gulf of Maine that may spatially overlap with these on-demand gear testing efforts. As previously noted in Council comments on the Maine Department of Marine Resources' 2023 EFP application related to on-demand fishing gear testing (see [comment letter dated June 22, 2023](#)), we have concerns about potential interactions between on-demand gear and other gear types, including the mobile, fixed, and recreational fleets. To strategize for the possible widespread utilization of on-demand fishing gear, the Council has organized the On-Demand Fishing Gear Conflict Working Group (ODWG), which has been tasked with identifying strategies to reduce potential gear interactions between on-demand trap/pot and gillnet gears and mobile, fixed, and recreational fishing gear.

We appreciate the steps detailed in this EFP to address gear conflict, notably the inclusion of monthly gear loss and conflict reports to the NOAA Greater Atlantic Regional Fisheries Office, which may provide insight into gear interactions that could help inform gear conflict reduction strategies. This EFP could further reduce the potential for, and bolster research regarding, gear interactions by taking the following actions:

- Develop and implement a communications plan to ensure that fishermen in the area, including participants in both the commercial and recreational sectors, are aware of this EFP fishing activity. Communications could be achieved through several different methods, such as in-person meetings with fishermen in ports in advance of research activities, email or text contact with fishing vessels identified by the vessel monitoring system as fishing in the research area, or Coast Guard notices to mariners. Any requirements for vessels to avoid EFP trial areas should be clearly communicated to vessels that use this area. In addition, if appropriate, the communications plan should also provide resources to mariners regarding what to do if they encounter on-demand fishing gear. Clear communication regarding on-demand fishing gear use, particularly in areas with high fishing effort, will play a critical role in reducing gear interactions between on-demand and other types of fishing gear.
- The notice indicates that only vessels participating in the gear library component of the project will be participating in the geolocation component. It may be beneficial to include mobile and/or fixed-gear fishermen fishing in the project areas but not actively using the on-demand gear in testing geolocation technology. While this component of the project is focused on “testing the acoustic positioning systems to determine the extent of difference between acoustic geolocation and surface buoy or surface GPS geolocation”, which is an important aspect of on-demand fishing gear development, expanding the scope to include other fishermen would provide key insights as to how effective this technology can be for other impacted parties who may ultimately utilize geolocation technology to coexist with the gear. Expanding this portion of the project may help to inform one of the ODWG terms of reference: “suggesting what modifications would be required to replace a buoy: technologies that would mark where gear is on the bottom, and to enable vessels to visualize that gear.”
- As stated in the EFP application, law enforcement will be able to inspect the gear at any time since there will be one traditional surface marking present at all times. Will law enforcement also assess using geolocation and/or acoustic retrieval technologies to locate and/or retrieve gear for enforcement purposes? If so, a report from law enforcement on the process could provide helpful insights regarding enforceability of on-demand fishing gear.

The results of this project may offer important insights regarding the potential implications of adopting alternative gear types in the Gulf of Maine and could be a valuable source of information for the ODWG Periodic reports on EFP activity and progress should be provided to the Council along with the public.

Please contact me with any questions.

Sincerely,



Cate O'Keefe  
Executive Director



1025 Connecticut Ave., NW Suite 200  
Washington, DC 20036

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[OCEANA.ORG](http://OCEANA.ORG)

March 28, 2024

Via email to [nmfs.gar.efp@noaa.gov](mailto:nmfs.gar.efp@noaa.gov)

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

**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 (March 13, 2024)**

Dear Mr. Pentony:

Oceana is the largest international advocacy organization dedicated solely to ocean conservation, with more than 1.2 million members and supporters in the United States, including over 340,000 members and supporters on the U.S. Atlantic seaboard. For more than twenty years, Oceana has campaigned to win strategic, directed campaigns that achieve measurable outcomes to help make our oceans more biodiverse and abundant.

Oceana has participated as a stakeholder in the management of U.S. fisheries and interactions with endangered species, with a particular interest in effective bycatch minimization and reduction, if not elimination, of fishing gear entanglement-related death, injury, and harm to protected species, including the North Atlantic right whale ("NARW"). In addition, Oceana is interested in seeing the reduction, if not elimination, of vessel strike-related death, injury, and harm to NARWs. For these reasons, in 2019, Oceana launched a binational campaign in the United States and Canada to urge the respective governments to effectively enforce environmental laws to protect this critically endangered species and Oceana is currently campaigning to protect these whales from their two biggest threats— entanglement in fishing gear and vessel strikes.

Oceana appreciates the opportunity to submit comments regarding the Exempted Fishing Permit ("EFP") application recently submitted by the Maine Department of Marine Resources ("MDMR"). This proposal would allow federally permitted vessels to test alternative gears, such as on-demand gear, to reduce entanglement risk to protected species, mainly the North Atlantic right whale, in trap/pot and sink gillnet fisheries.

For nearly twenty years, Oceana has advocated for improvements to reduce bycatch in the fisheries of the Northeast ("NE") region including the American lobster and Jonah Crab fisheries. 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 and Jonah Crab fisheries continue to struggle to meet their obligations to reduce takes under the Endangered Species Act and Marine Mammal Protection Act because of the ongoing threat of vertical lines from the fishing gear entangling North Atlantic right whales and other protected species.

The proposed project will advance the understanding and use of acoustic on-demand systems and gear geolocation technology 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 and other protected species. 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 on-demand gear in the 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 and other large whales, the Fisheries Service should approve the proposed EFP and advance on-demand system testing in the NE region.

### Status of North Atlantic Right Whales

NARWs are one of the most endangered large whales on the planet, with only an estimated 356 individuals alive today.<sup>1</sup> The NARW is a large baleen whale that is currently found between its calving grounds as far south as Florida and its feeding grounds in New England and Canada. In recent years, in pursuit of a shifting food source due to warming waters, these whales are expanding their range and being exposed to new areas, which increases their risk of being struck by a vessel or entangled in fishing gear.<sup>2</sup> Through acoustic, aerial, and visual detection methods, we know that NARWs are regularly in the Gulf of Maine and that whales are at risk anywhere ropes are present. In the most recent North Atlantic Right Whale Consortium Annual Report Card, a summary of 2021 right whale sightings by habitat region found that there were 49 sightings of NARWs in the Gulf of Maine detected by aerial surveys from February to November.<sup>3</sup> And in 2020 there were 224 NARW sightings in the Gulf of Maine between January-March and July-December.<sup>4</sup> Right Whales have been documented over many years in the central Gulf of Maine, frequently engaged in foraging. NARWs congregate in the Gulf of Maine due to the abundance of their food source, a lipid-rich copepod.<sup>5</sup> Because the copepods mature within months in temperate waters like the Gulf of Maine, the Gulf has historically provided suitable habitat for this key prey species of NARWs.<sup>6</sup>

In 2017, the Fisheries Service declared an unusual mortality event for the species.<sup>7</sup> As outlined by the Marine Mammal Protection Act (“MMPA”), an unusual mortality event is defined as a “stranding that is unexpected, involves a significant die-off of any marine mammal population, and demands immediate response.”<sup>8</sup> Since 2017, in the United States and Canada, there have been at least 39 deaths, 33 serious injuries, and 51 sublethal injuries and illnesses of NARWs.<sup>9</sup> The true number of North Atlantic right whales killed and injured by human causes is likely much higher, as researchers

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<sup>1</sup> New England Aquarium. (2023). Scientists release annual population estimate for critically endangered North Atlantic right whale amid ongoing threats. <https://www.neaq.org/about-us/press-room/press-releases/2022-population-estimate-north-atlantic-right-whale/>

<sup>2</sup> Ganley, L. C., Brault, S., & Mayo, C. A. (2019). What we see is not what there is: Estimating North Atlantic right whale *Eubalaena glacialis* local abundance. *Endangered Species Research*, 38, 101–113. <https://doi.org/10.3354/esr00938>

<sup>3</sup> Pettis, H.M., Pace, R.M. III, Hamilton, P.K. 2023. North Atlantic Right Whale Consortium 2022 Annual Report Card. Report to the North Atlantic Right Whale Consortium. [www.narwc.org](http://www.narwc.org)

<sup>4</sup> Pettis, H.M., Pace, R.M. III, Hamilton, P.K. 2022. North Atlantic Right Whale Consortium 2021 Annual Report Card. Report to the North Atlantic Right Whale Consortium. [www.narwc.org](http://www.narwc.org)

<sup>5</sup> Camille H. Ross, et al., Projecting regions of North Atlantic right whale, *Eubalaena glacialis*, habitat suitability in the Gulf of Maine for the year 2050, 9 ELEM. SCI. ANTH., at 2 (April 28, 2021).

<sup>6</sup> *Id.*

<sup>7</sup> NOAA Fisheries. (2024). 2017–2024 North Atlantic right whale unusual mortality event | NOAA fisheries. <https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2024-north-atlantic-right-whale-unusual-mortality-event>

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

estimate that only about one-third of total North Atlantic right whale deaths are observed.<sup>10</sup> The ultimate goal of the MMPA is to achieve a mortality and serious injury rate that approaches zero, the Zero Mortality Rate Goal. Achievement of Potential Biological Removal (“PBR”) acts as an intermediate step towards recovery.<sup>11</sup> In the most recent stock assessment report for NARWs, PBR was calculated to be 0.7 mortalities or incidents of serious injury per year, a level that we are far above currently due to threats like entanglement and vessel strikes.<sup>12</sup>

Climate change is placing additional stress on the population, as copepods are moving to avoid warming waters.<sup>13</sup> NARWs already face an incredible number of stressors, and females with severe injuries, like entanglements, have the lowest birth rates.<sup>14</sup> NARWs are not reproducing quickly enough to counter the rate of deaths. As of 2018, there were only an estimated 70 breeding females in the population.<sup>15</sup> The Fisheries Service estimates that 20 calves being born would be a relatively productive year.<sup>16</sup> However, 50 or more calves are needed to stop the decline and allow the whales to recover.<sup>17</sup> Only 12 calves were seen in the 2022-2023 calving season, and unfortunately, not all 12 survived the season. So far in the 2023-2024 calving season, which runs November through April, 19 calves have been born, but 1 has been confirmed dead after a serious injury and 2 others are presumed dead.<sup>18</sup>

## Threats to North Atlantic Right Whales

### a. Entanglements

Entanglement is the greatest threat to NARWs. Since 2017, entanglements have caused at least 9 mortalities, 30 serious injuries likely to result in death, and 39 sublethal injuries or illnesses.<sup>19</sup> More than 86% of North Atlantic right whales have suffered at least one entanglement during their lifetime, with some individuals being entangled as many as eight times, with the severity of these events increasing over time.<sup>20</sup> Fishing gear lines have been seen wrapped around NARWs’ mouths, fins, tails and bodies, which slows them down, making it difficult to swim, reproduce and feed, and can kill them. The lines cut into the whales’ flesh, leading to life-threatening infections, and are so strong that they can sever

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<sup>10</sup> Pace, R. M., Williams, R., Kraus, S. D., Knowlton, A. R., & Pettis, H. M. (2021). Cryptic mortality of North Atlantic right whales. *Conservation Science and Practice*, 3(2), e346. <https://doi.org/10.1111/csp2.346>

<sup>11</sup> 16 U.S.C. § 1387(b).

<sup>12</sup> NOAA Fisheries. (2023). North Atlantic Right Whale (*Eubalaena glacialis*): Western Atlantic Stock. <https://www.fisheries.noaa.gov/s3/2023-08/North-Atlantic-Right-Whale-Western-Atlantic-2022.pdf>

<sup>13</sup> Meyer-Gutbrod, E. L., & Greene, C. H. (2018). Uncertain recovery of the North Atlantic right whale in a changing ocean. *Global change biology*, 24(1), 455-464.

<sup>14</sup> Knowlton, A. R., Clark, J. S., Hamilton, P. K., Kraus, S. D., Pettis, H. M., Rolland, R. M., & Schick, R. S. (2022). Fishing gear entanglement threatens recovery of critically endangered North Atlantic right whales. *Conservation Science and Practice*, 4(8), e12736.

<sup>15</sup> Reed, J., New, L., Corkeron, P., & Harcourt, R. (2022). Multi-event modeling of true reproductive states of individual female right whales provides new insights into their decline. *Frontiers in Marine Science*, 9.

<https://www.frontiersin.org/articles/10.3389/fmars.2022.994481>

<sup>16</sup> NOAA Fisheries. (2024). North Atlantic right whale calving season 2024 | NOAA fisheries.

<https://www.fisheries.noaa.gov/national/endangered-species-conservation/north-atlantic-right-whale-calving-season-2024>

<sup>17</sup> *Id.*

<sup>18</sup> New England Aquarium. (2024). 2023–2024 North Atlantic right whale mother and calf pairs. <https://www.neaq.org/2023-2024-right-whale-mother-and-calf-pairs/>

<sup>19</sup> NOAA Fisheries. (2024). 2017–2024 North Atlantic right whale unusual mortality event | NOAA fisheries.

<https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2024-north-atlantic-right-whale-unusual-mortality-event>

<sup>20</sup> New England Aquarium. (2022). North Atlantic right whale “Snow Cone” sighted entangled in new fishing gear and in extremely poor health. <https://www.neaq.org/about-us/press-room/press-releases/north-atlantic-right-whale-snow-cone-sighted-entangled-in-new-fishing-gear-and-in-extremely-poor-health/>

fins and tails and cut into bone. At the end of January of this year, a deceased female NARW stranded on Martha's Vineyard, MA. Preliminary necropsy results confirmed a chronic entanglement with rope deeply embedded in the tail and a thin body condition. The cause of death is still pending, but after analysis of the gear, NOAA Fisheries concluded that the rope is consistent with the rope used in Maine state water trap/pot buoy lines and a review of sightings data shows that this young whale was entangled for more than half of its life.<sup>21</sup>

#### **b. Trap/Pot and Sink Gillnet Fisheries**

Traditional trap/pot fishing gear includes vertical end lines and buoys which stay in the water column for hours while the gear is deployed, presenting an entanglement risk to cetaceans and other protected species. Target species range from crabs, lobsters, whelk, black sea bass, eels, and scup. Large whales, including NARWs, humpback whales, and fin whales are particularly susceptible to becoming entangled in trap or pot gear due to spatial overlap with fisheries and their feeding behavior.<sup>22</sup>

Sink gillnet gear is anchored gillnet (bottom-tending net) fished in the lower one-third of the water column. Mesh size and string length can vary by the primary targeted species. Some typical target species are Atlantic cod, haddock, winter flounder, and spiny dogfish, to name a few. Gillnets can entangle a wide variety of marine mammals, entangling around necks, mouths, or flippers. Marine mammals can drown when entangled in set gillnets, and some of the species commonly caught in gillnets include NARWs, fin whales, humpback whales, dolphins, and gray seals.<sup>23</sup>

#### **The Proposed EFP**

The Maine Department of Marine Resources submitted an application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict to test alternative gear retrieval systems that only use one traditional surface buoy. The EFP would exempt the participating vessels, up to 45 trap/pot vessels and up to 5 gillnet vessels, from the Federal regulations for gear marking requirements, which would permit less surface buoys in order to test on-demand gear. The project would begin upon EFP issuance and end one year later. The EFP would provide access, training, and support to fisheries in the Gulf of Maine to test on-demand fishing and gear geolocation technology and allow federally permitted vessels to test alternative gears by replacing one traditional surface marking with a "spring-tag" or "timed-release retrieval system," a buoy and stowed rope system, or a lift-bag system. A spring-tag retrieval system uses a low breaking strength (<1,700 pounds (lb) buoy line that releases a stowed retrieval line of greater breaking strength when subjected to tension (>75 lb). A timed-release retrieval system releases a stowed line after a programmed pre-set soak time. A buoy and stowed-rope system or a lift-bag system uses an acoustic trigger sent from the vessel to release the retrieval system, once the vessel is in close proximity to the gear.

The gear geolocation component of this project will include a subset (up to 10) of the trap/pot vessels participating in the gear library component. Vessels would use acoustic positioning systems from any of the five available manufacturers (Teledyne Benthos, Ropeless Systems, Ashored, Nova Robotics, and Advanced Navigation), and would modify up to three trawls by replacing one of the traditional vertical lines with either a buoy and stowed-rope system or a lift-bag system to communicate with the acoustic positioning systems.

#### **Comments on the Contents of the Proposed EFP**

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<sup>21</sup> NOAA Fisheries. (2024). North Atlantic Right Whale Updates. <https://www.fisheries.noaa.gov/national/endangered-species-conservation/north-atlantic-right-whale-updates>

<sup>22</sup> NOAA Fisheries (2019). Fishing Gear: Traps and Pots. <https://www.fisheries.noaa.gov/national/bycatch/fishing-gear-traps-and-pots>

<sup>23</sup> NOAA Fisheries (2021). Fishing Gear: Gillnets. <https://www.fisheries.noaa.gov/national/bycatch/fishing-gear-gillnets>



Oceana is excited to see an application from MDMR for an EFP to support the expanded use of on-demand gear and urges the Fisheries Service to approve some portions of the EFP while rejecting other portions that are not likely to reduce entanglement risk in the affected fisheries.

For the gear library component of this EFP, we support the testing of on-demand gear that includes buoy and stowed rope systems, and lift-bag systems. These gears would remove unattended vertical lines in the water and utilize acoustic triggers to ensure the vessel is nearby to attend to the gear when the retrieval system is released.

Oceana also supports the geolocation component of this project and the effort to determine the extent of difference between acoustic geolocation and surface buoys or surface GPS geolocation, as well as testing the performance of the different acoustic positioning systems in an environment where multiple acoustic signals are being transmitted simultaneously. Oceana also appreciates the focus on collecting this important data on deployments and retrievals of gear in the trap/pot and gillnet fisheries in the Gulf of Maine as well as the effort to provide support and training to fishers on on-demand technologies and increasing the familiarity within these fisheries with on-demand gear.

Oceana does not support the proposed use of spring-tag retrieval system in the EFP. This technology would not remove unattended vertical lines from the water column, and would still present a threat to NARWs, even with low breaking strength, or weak rope used as a buoy line. If a whale was entangled in the buoy line, tension of greater than 75 lbs. would release the stowed retrieval line, while failing to provide the necessary force to break weak rope. This could further entangle a whale. Since this technology does not reduce the risk of entanglement, Oceana encourages the Fisheries Service to reject the use of spring tag retrieval systems as an option within the gear library component.

### **Monitoring, Transparency, and Reporting**

An EFP is 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, the proposed project will collect data on deployments and retrievals of various acoustic on-demand fishing gears within the trap/pot and gillnet fisheries in the Gulf of Maine, provide support and training to fishers on on-demand technologies, assess fishing areas that might be best suited for adopting tested retrieval systems, increase familiarity within these fisheries with on-demand gear, provide feedback to on-demand gear manufacturers to increase performance for Maine fisheries in fixed gear fleets, trial gear geolocation and marking systems, and compare relative precisions of various gear geolocation technologies to improve understanding of how transitioning to acoustic technologies may impact fishing behavior. To maximize the value of the project, Oceana strongly requests that the Fisheries Service explicitly include clear conditions requiring monitoring, transparency, and public 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.

### **Conclusion**

Oceana appreciates the opportunity to provide input and thanks you for your time. Modernizing fisheries gear is vital to help protect critically endangered North Atlantic right whales and to keep fisheries open. Oceana offers its commitment to support this action and calls upon all fishery managers facing entanglement challenges to embrace on-demand gear.

March 28, 2024


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When used correctly, on-demand gear is a 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. Oceana applauds the steps that MDMR is taking towards wider utilization of on-demand fishing gear in areas where North Atlantic right whales are found and the Fisheries Service should approve MDMR's EFP, after removing spring-tag retrieval systems as an option within the gear library, to allow this project to proceed as soon as possible.

Oceana will continue to be engaged in the development and implementation of strong, effective regulations that will avoid, minimize, and mitigate fisheries gear entanglements with critically endangered North Atlantic right whales. 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.

On-demand gear will be a key component of these protections and Oceana looks forward to the Fisheries Service's leadership and stewardship of these important fisheries with approval of a modified EFP for Maine DMR that includes strong requirements for monitoring and transparency.

Sincerely,

A handwritten signature in black ink that reads "Alex Aines". The signature is written in a cursive, flowing style.

Alex Aines  
Marine Scientist  
Oceana





March 28, 2024

Ms. Moira Kelly  
55 Great Republic Drive  
NOAA Fisheries Service  
Gloucester, MA 01930

RE: MDMR 2024 On-demand EFP, 89 Fed. Reg. 18395 (Mar. 13, 2024)

Dear Ms. Kelly and members of the Sustainable Fisheries Division team,

The Center for Biological Diversity and our more than 1.7 million members and online activists dedicated to the protection of endangered species and wild places encourage NOAA Fisheries to approve the exempted fishing permit proposed by the Maine Department of Marine Resources (MDMR) that would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities.

Commercial fishing gear puts endangered whales, sea turtles, and other marine animals at risk of entanglement, injury, and mortality. These animals often become entangled by swimming into the rope, or vertical line, that runs from a trap set on the seafloor through the water column to a buoy at or near the surface. When they get entangled, heavy fishing rope—often still connected to even heavier traps—can wrap around the animal’s head, mouth, flippers, or tail, sometimes preventing the animal from resurfacing, resulting in drowning.

If entangled animals do not immediately drown, the remaining entangling line often impedes basic movement, feeding, and reproduction, and causes chronic infection and damage to bone and muscle. Entanglements not only cause these animals immense suffering but threaten the very existence of numerous imperiled species such as critically endangered North Atlantic right whales and leatherback sea turtles. Fishing gear is also a primary threat to humpback whales, fin whales, minke whales, and other marine animals that traverse U.S. waters. From 2016 to 2021, NOAA Fisheries reported 234 documented large whale entanglements. Confirmed entanglements represent only a fraction of the total number of entanglements occurring. Whether the gear is active, derelict, or lost, conventional commercial trap/pot and gillnet gear puts marine species at risk of entanglement.

“On-demand” or “pop-up buoy” gear eliminates or reduces the risk of entanglement by removing the unattended vertical line running through the water column. It is the only way to prevent entanglements while allowing fishing to continue.

Allowing federally-permitted vessels to test on-demand fishing gear is a critical step to reducing entanglement risk to marine life. These efforts will provide MDMR officers and staff with data and experience that can inform the Department in developing enforcement and monitoring

requirements that will allow for the authorization of pop-up gear as alternative gear. Additionally, we encourage the MDMR to consider modifying and expanding on-demand gear testing efforts to include trawls marked only with on-demand retrieval systems.

Given the historic number of entanglements of protected species in commercial trap/pot and gillnet gear and the recent confirmed entanglement of a North Atlantic right whale in rope used in Maine state water trap/pot buoy lines, it is critical that the Maine Department of Marine Resources and state officials maintain a vested interest in the advancement of pop-up gear. Helping members of the fishing community access and test pop-up fishing gear and staff rightfully prioritizes a whale-safe solution and minimizes barriers to adoption by commercial fishers.

Sincerely,

Ben Grundy  
Associate Oceans Campaigner  
Center for Biological Diversity  
[bgrundy@biologicaldiversity.org](mailto:bgrundy@biologicaldiversity.org)



NMFS EFP - NOAA Service Account <nmfs.gar.efp@noaa.gov>

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**exempted permit fpr on demand gear**

1 message

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**jim jollyrogersii.com** <jim@jollyrogersii.com>  
To: "nmfs.gar.efp@noaa.gov" <nmfs.gar.efp@noaa.gov>

Thu, Mar 21, 2024 at 9:33 AM

This is James Zurbrick a commercial fisher from Florida, I fully support an exempted permit to help develop on demand trap gear.



NMFS EFP - NOAA Service Account &lt;nmfs.gar.efp@noaa.gov&gt;

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**MDMR 2024 On-demand EFP**

1 message

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**Travis Fifield** <travis@fifieldfisheries.com>  
To: nmfs.gar.efp@noaa.gov

Fri, Mar 15, 2024 at 10:26 AM

To whom it may concern,

While the testing of this gear can be unpopular, it is critical that the Maine lobster industry participate to be able to truly assess this emerging technology's efficacy in real-world usage. Testing will allow for much needed feedback to manufacturers and government agencies alike to allow for smarter implementation if the technology is mandated in the near future. We have very little time remaining in the reprieve granted by Congress, and I commend the Maine Department of Marine Resources for taking on this challenging task.

Travis Fifield  
Fifield Lobster Co.  
Stonington, Maine



NMFS EFP - NOAA Service Account &lt;nmfs.gar.efp@noaa.gov&gt;

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**MDMR 2024 On-demand EFP**

1 message

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**Brian Walsh** <brwalsh17@gmail.com>  
To: nmfs.gar.efp@noaa.gov

Fri, Mar 15, 2024 at 12:01 PM

My public comments:

There have already been several studies and feasibility trials undertaken over the past few years that have proven the reliability of on-demand/ropeless fishing gear. The existential threat to the survival of the NARW means there's no time to wait for the perfect, off-the-shelf solution. As with any technology, there will be improvements over time and the market will force vendors to enhance cross-compatibility and interoperability. The existing solutions have proven themselves rugged and with no higher risk of loss of gear than existing vertical line systems. Vertical line fishermen should be offered incentives to move to on-demand gear, including exclusive access to closed-to-vertical-line fishing areas, equipment grants, low interest loans, etc. Please move on to implementation of mandatory rules after this study concludes successfully, as it will likely do so.

Brian Walsh  
Duxbury, MA



NMFS EFP - NOAA Service Account &lt;nmfs.gar.efp@noaa.gov&gt;

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**MDMR 2024 On-demand EFP**

1 message

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**Matt Fish** <aggrinc@hotmail.com>

Tue, Mar 19, 2024 at 9:26 AM

To: "nmfs.gar.efp@noaa.gov" &lt;nmfs.gar.efp@noaa.gov&gt;

NMFS seems to be continually ignoring the 800 lb gorilla in the room, or, more aptly, the 225,000 ton dwt gorillas of the shipping industry, the high powered sonar used by the modern Navies of the world, and ESPECIALLY the wind farm industry. All of the whale interactions in the history of the commercial fixed gear fisheries are but a drop in a very large bucket compared to the damage done to marine mammals by these entities. Lobstering during the 1980s and 90s we had areas where you could have literally walked from buoy to buoy and not gotten your feet wet. Never once during that time did I ever see or hear of a whale entanglement. Start doing ear exams on these entangled whales and no doubt you would find that their inner ear has been destroyed by high powered sonar. Who is using high powered sonar? Not any lobster or gillnet boat that I know of. I have been fixed gear fishing since 1981 or earlier, so have seen the evolution of the fisheries over time. Go after the wind farms if you want to save whales. The evidence points to them as being the worst enemy that the whale has ever had. At least the whalers of old utilized the whales that they killed. Not so with the wind farms. There is my two cents worth.

Sent from [Mail](#) for Windows





NMFS EFP - NOAA Service Account &lt;nmfs.gar.efp@noaa.gov&gt;

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## MDMR 2024 On-demand EFP

1 message

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**michaelmoros@comcast.net** <michaelmoros@comcast.net>

Mon, Mar 25, 2024 at 3:52 PM

To: nmfs.gar.efp@noaa.gov

I am for eliminating entanglements as a hazard experienced by North Atlantic Right Whales. I believe the solution is simply to remove all lobster traps from the water. Then, remove them from the coast and recycle them as scrap metal.

Even with lobster harvests of around 100 million lbs. in 2022 and 2023, per person in the United States, it worked out – on average – to less than 10 oz. of lobster meat per person per year. Certainly, there are other sources of protein, such as legumes. It is only the lobstermen who will suffer economic loss. The role of the federal government would be to provide retraining and financial assistance in the same way that they sometimes pay farmers not to grow certain crops. Although in this case, it would be to prevent the extinction of an endangered species, rather than to keep commodity prices artificially high.

Comments concerning an Exempted Fishing Permit for trials of so-called “ropeless lobster traps”

“The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration.” Yet, the cause is unjust to the North Atlantic Right Whale. And the permit should be rejected outright.

Furthermore, beyond simply rejecting this application, immediate government action is needed to halt the sorts of fishing and lobstering practices that have gone on in recent decades. All lobster traps should be banned (with very limited exceptions) until the North Atlantic Right Whale population reaches a minimum of one thousand (1,000) individuals, which assuming an ideal growth rate of 6 or 7 per cent per year – and no deaths – will take about a decade (until around 2035).

With very limited exceptions, the only allowable method of catching lobster should be by S.C.U.B.A. diving (which is inherently dangerous). Vertical-line lobster traps should only be allowed in the water when there is no chance of a North Atlantic Right Whale being in these waters, which mostly is for a short period during the winter in the northern parts of the Gulf of Maine (as well as off the Canadian Maritime Provinces, which is likely outside the jurisdiction of this application). Except as described above, the ban should encompass the entire East Coast of North America down to northern Florida and out to 6 nautical miles beyond the

edge of the Continental Shelf. These restrictions I propose are so all-encompassing that, in most cases, it will no longer make sense for lobstermen to maintain a collection of such traps, and the best solution will be to sell them for their value as scrap metal.

The North Atlantic Right Whale is a Critically Endangered species. Since the deaths of two calves of the 2024 calving season (at least one by a vessel strike) and the death by entanglement of a juvenile female (found washed up on a beach on Martha's Vineyard at the end of January 2024) there remain only around 353 individuals (assuming that there were around 356 before these 3 deaths). Furthermore, there are believed to be only around 70 breeding age females.

They cannot afford any more deaths by human causes. Entanglements are a leading cause of death.

Instead of being harassed with a maze of vertical-lines, North Atlantic Right Whales, and the females especially, must be nurtured – by removing all environmental hindrances – so that they return to normal, healthy breeding: producing a calf every three years. In recent decades, this has not been the case because the females have been overstressed, especially by entanglements and vessel strikes. The result of chronic entanglements has been reduced reproductive success at a time when this species must produce as many offspring as possible, so that they can avoid extinction.

Lobstermen have pointed out that the death of the calf that washed up on Joseph Sylvia State Beach in Massachusetts was the first by entanglement that was traced back to a Maine lobsterman in about two decades. However, that is only because such identifying markings on the ropes, which were found incised deeply in the flesh just below the dead whale's flukes, had only been in use for less than two years. This juvenile whale had probably lived the last year of its short life in excruciating pain, entangled, each forward movement causing drag which further incised the rope.

The proposed technology solution – so-called “ropeless lobster traps” – obfuscates the real issue which is that mankind must do everything in its power to help this species. This would entail the removal of all vertical line lobster traps from North Atlantic Right Whale habitat, be they traditional vertical-line lobster traps, so-called “ropeless traps,” or traps with weakened rope. Weakened rope can still cause an entanglement. Any rope can cause drag and then gradually become incised, while the whale is powerless to remove it. So-called “ropeless traps” do have a rope: it is coiled up waiting to be released by some sort of signal. The potential for further entanglements by malfunctioned and abandoned such traps is obvious. And what of the harm caused by electromagnetic radiation?

While – as stated above – I do not condone any sort of lobster traps in North Atlantic Right Whale habitat (with the limited exceptions, also described above), there should be no exemption from rope markings, be they for lobster traps or gillnets. If, tragically, any further entanglements occur, authorities must be able to trace the lines back to the source, which distinctive rope markings will enable.

Concurrent with a ban on lobster traps, speed restrictions of 10 knots for all vessels greater than 18-feet (and even smaller) must continue to be implemented wherever these whales are.

3/26/24, 8:07 AM

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Also, offshore wind turbine construction must be halted off the East Coast of North America. The noise of underwater pile driving in their habitat is certainly frightening to whales and interferes with their hearing, which is very important to them. Furthermore, wind turbines rob wind energy that would otherwise go toward mixing and oxygenation of ocean water locally, which is necessary for krill, baleen whales' main source of nourishment.

Respectfully,

Michael Moros

Medford, Massachusetts