



New England Fishery Management Council

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Eric Reid, *Chair* | Thomas A. Nies, *Executive Director*

June 22, 2023

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

RE: Comments on MDMR 2023 Alternative Gear Retrieval EFP (88 FR 37514)

Dear Mike:

On behalf of the New England Fishery Management Council, I have reviewed the June 8, 2023, notice for an exempted fishing permit (EFP) that would allow for testing of alternative gears to reduce entanglement risk to protected species, mainly the North Atlantic right whale, in the trap/pot and sink gillnet fisheries of the Gulf of Maine. As noted in Council comments on prior EFPs related to on-demand fishing gear testing (see comments dated July 6, 2021, June 2, 2022, and April 21, 2023), we have concerns about potential interactions between on-demand gear and other gear types, including the mobile, fixed, and recreational fleets.

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 fishery, along with gillnet and other trap/pot fisheries. However, the expansion of on-demand gear testing efforts may lead to increased interactions with other gear types, which should be considered in pertinent EFPs. Though this EFP outlines several project objectives that, if achieved, could provide helpful information to identify and reduce sources of gear conflict, the document does not include any specific strategies to address these possible conflicts.

We suggest the following actions both to reduce the potential for, and to bolster research regarding, gear interactions:

- Develop and implement a communications plan to ensure that fishermen in the area are aware of this EFP fishing activity. Fishing vessels operating in the EFP areas (Lobster Management Areas 1 and 3; Maine state waters; Statistical Areas 513, 514, and 515) should be notified of the timing and location of fishing efforts with alternative gears along with additional information regarding EFP operations as appropriate to minimize disruption to these fleets. The communications plan should also provide this information to recreational fishermen, including charter/party boats. 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.

- Clarify whether there is a regulatory or statutory requirement for fishermen using other gear types to avoid EFP trial areas, and, if so, identify the legal implications if vessels were to damage fishing gear. 16 USC 1857(1)(K) makes the negligent damage of another person's fishing gear illegal. The EFP does not state whether project participants will target areas that are not as heavily fished by mobile fleets to reduce the risk of gear conflicts. If vessels will be required to avoid EFP trial areas, this should be clearly communicated to any fishing vessels that use this area, including both the commercial and recreational sectors.
- Will vessels that are fishing non-experimental gear types (roped gear) be included in the project to test the efficacy of these gear marking systems for other users (i.e., utilizing technologies to visualize on-demand gear for avoidance purposes)? This data could contribute to objective #3 for the project ("identify fishing areas that may be best suited for these alternative retrieval systems").
- Develop a protocol for collecting data on gear interactions that may occur during the trial period to provide insight for reducing interactions in future iterations of on-demand gear use. The EFP notes that vessels will be required to provide weekly gear loss reports—a similar reporting methodology could be created to detail gear interactions.

The implementation of this EFP will impact Council managed fisheries that use gillnets and has the potential to affect several other fisheries active in the Gulf of Maine that may spatially overlap with these on-demand gear testing efforts. The results of the EFP will likely offer some insight as to the potential implications of widespread adoption of alternative gear types within the Gulf of Maine. In an effort to strategize for the possible widespread utilization of on-demand fishing gear, the Council has organized a working group tasked with identifying ways to minimize potential gear interactions between on-demand and mobile, fixed, and recreational fishing gear in both trap/pot and gillnet fisheries. The working group will also develop strategies to reduce these interactions. The work conducted through this EFP could be a valuable source of information for this group. Periodic reports on EFP activity and progress should be provided to the Council along with the public.

Please contact me with any questions.

Sincerely,



Thomas A. Nies
Executive Director



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

MDMR 2023 Alternative Gear Retrieval EFP

Julie Albert <julie.albert@bwri.org>
To: nmfs.gar.efp@noaa.gov

Fri, Jun 23, 2023 at 5:06 PM

Dear NOAA,

Having worked in the field of North Atlantic right whale conservation for 24 years and being familiar with multiple types of innovative fishing gear from various manufacturers, **I wholeheartedly support the approval of the requested EFP** by Maine Department of Marine Resources to conduct commercial fishing activities from 15 vessels with pot/trap gear and gillnets with a single surface marker/buoy from June 1, 2023 through September 30, 2024.

Time is something that North Atlantic right whales can't afford to lose and bringing fisheries closer to using alternative innovative gear is something that absolutely cannot wait. Best of luck to the MDMR with the research and training they will accomplish with this EFP if it is approved.

Thank you for the opportunity to comment.

Respectfully,
Julie Albert
Blue World Research Institute



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

MDMR 2023 Alternative Gear Retrieval EFP

Mary Angela Branch <txfinder@att.net>
Reply-To: Mary Angela Branch <txfinder@att.net>
To: "nmfs.gar.efp@noaa.gov" <nmfs.gar.efp@noaa.gov>

Tue, Jun 20, 2023 at 2:09 PM

I fully support the above referenced exemption for participating vessels from the current gear marking requirements of 50 DFR 697.21(b)(2). This is step in the right direction in experimenting with alternative methods to prevent entanglements and deaths of marine mammals. However, I would urge you to shorten the trial period. We cannot afford to have more Right whales die. If this is successful in a shorter time frame, with a large percentage of participating vessels, you must expedite this type of gear for all vessels. Thank you!

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