



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF MARINE RESOURCES  
21 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0021

PATRICK C. KELIHER  
COMMISSIONER

June 28, 2023

Laura Deighan  
NOAA Fisheries  
Greater Atlantic Regional Fisheries Office  
55 Great Republic Drive  
Gloucester, MA 01930

Dear Ms. Deighan

The Maine Department of Marine Resources (ME DMR) submits the following comments on the Exempted Fishing Permit (EFP) from the Northeast Fisheries Science Center (88 FR 39829). ME DMR recognizes that on-demand gear will likely be part of a future solution to reduce risk to NARWs and is generally supportive of the gear testing conducted by the Northeast Fisheries Science Center (NEFSC) and continuation of their EFP. In comparison to last year's Federal Register notice, ME DMR appreciates that this Federal Register notice outlines specific objectives and research questions which the NEFSC plans to address over the course of the next year. This provides greater clarity regarding the goals of the work and milestones to measures success in out-years. ME DMR's comments primarily relate to the breadth of technologies the NEFSC is testing, the continued limitations of cellular-based gear marking systems, and considerations for the testing of grappling as a low-cost alternative.

Based on the federal register notice and conversations with staff at the NEFSC, it appears the primary focus of on-demand gear testing through the NEFSC gear library is to gain access to Atlantic Large Whale Take Reduction Plan closed areas. In particular, the federal register notice for the EFP states that "[p]riority would be given to participants who are seasonally excluded from fishing in certain areas".<sup>1</sup> While gaining access to closed areas is a component of on-demand gear testing, ME DMR believes that this focus limits the breadth of technologies which the NEFSC could be exploring. Moreover, by focusing on access to closed areas, the NEFSC is limited to testing technologies which are equivalent to closed areas, or to zero risk to North Atlantic right whales (NARWs). Unfortunately, these technologies (e.g., acoustic on-demand systems) tend to be very expensive, presenting significant economic hurdles to implementation.

Much of Maine's coastline is characterized by diffuse risk to NARWs and a challenge in future rulemaking will be how to reduce this more dispersed risk. As a result, ME DMR recommends that the NEFSC expand their range of work conducted under the EFP to also consider technologies which significantly reduce risk to NARWs outside of an ALWTRP closed area. These technologies, such as timed-release systems, come at significantly lower costs to industry and may be important tools for reducing the amount of time a line is in the water column. Expanding the NEFSC's work to consider these types of innovative technologies also allows for testing outside of a ALWTRP closed area, diminishing concerns that ME DMR has expressed regarding inequitable access to the very lucrative LMA1 offshore closed area. ME DMR's concerns regarding the opportunity for some, but not all, to gain access to the LMA1 closed area and reap significant financial gains are outlined in our June 8, 2022 letter regarding the NEFSC on-demand EFP.<sup>2</sup>

---

<sup>1</sup> 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, 88 Fed. Reg. 39829 (June 20, 2023).

<sup>2</sup> June 8, 2022 letter from ME DMR to GARFO regarding the NEFSC on-demand EFP (87 FR 33132)

ME DMR remains concerned about the reliance on cellular based gear marking technologies, such as the Trap Tracker App, to mark fully ropeless trawls. ME DMR is supportive of efforts to test and improve gear marking technologies as this is a critical challenge to implementation of on-demand gear. However, the EFP continues to rely on the cellular-based Trap Tracker App in an ocean environment where cellular signal is often limited, and near impossible to find along Maine's coast. If a gear marking technology relies on cellular data access which is intermittent, it is not a practical solution for broad adoption. Of additional concern is the fact that only five mobile gear boats have downloaded the Trap Tracker App. This indicates that either the impacted mobile gear fleet finds limited utility in the App, or much greater outreach is needed. It may be illuminating to ask mobile gear fishermen why they are not downloading the Trap Tracker App as it could elucidate other implementation challenges.

ME DMR also notes that the EFP application indicates enforcement personnel should use the Trap Tracker App or equivalent technology to retrieve position details for fully ropeless gear. If this is the case, ME DMR strongly recommends NEFSC conduct more complete training for enforcement personnel. In speaking with Marine Patrol officers, it is very likely that many enforcement officers are not aware of this App or how to use it. ME DMR also highlights that while the Trap Tracker App specifies the location of the on-demand gear, it does not provide a mechanism for Marine Patrol to retrieve the gear for inspection. This remains a significant concern. Marine Patrol officers do have inspection authority whereby they can require a lobsterman to haul gear with Marine Patrol officers present, but this requires lobstermen to also be present and places a substantial burden on Marine Patrol officers to coordinate. It would be critical for NEFSC to determine if other states also have this authority. Most importantly, this question raises the need for greater involvement of enforcement personnel over the coming year.

Similar to last year, this EFP application looks to explore the potential use of grappling as a ropeless fishing method. ME DMR is not opposed to the investigation of grappling as it presents the most cost-effective technique to remove endlines. That said, gear marking and the ability for enforcement to retrieve gear remain challenges. ME DMR strongly recommends that any lobster vessel which participates in the testing of grappling, even those which only have a state permit, be required to have an electronic vessel tracking device on-board as per the Atlantic States Marine Fisheries Commission Lobster Addendum XXIX. Vessel tracking with a high ping rate is necessary given the storied history with grappling in the lobster fishery.

ME DMR appreciates the opportunity to comment on this EFP application. Continuing to explore the functionality and steps to implementation of on-demand gear is critical prior to future rulemaking in 2028. Over the last year ME DMR believes collaboration between the staff at NEFSC and ME DMR have improved, and we hope for continued efforts at collaboration between the two agencies.

Sincerely,



Patrick Keliher, Commissioner



## New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116  
Eric Reid, *Chair* | Thomas A. Nies, *Executive Director*

June 30, 2023

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

RE: Comments on NEFSC On-Demand Gear EFP (88 FR 39829)

Dear Mike:

On behalf of the New England Fishery Management Council, I have reviewed the June 20, 2023, notice for an exempted fishing permit (EFP) that would allow for the continuation and expansion 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 on an earlier NEFSC EFP application (see comments dated June 2, 2022), 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 current and future EFPs. The Council appreciates the efforts in this EFP to avoid gear conflicts, including increasing outreach to encourage use of the Trap Tracker app and other technologies by non-participant vessels, testing the effort required to mark sub-surface gear location in the Trap Tracker app (vs. surface location where gear is deployed), and testing the use of the EarthRanger platform.

To further reduce the potential for conflict between on-demand and other types of fishing gear used in the mobile, fixed, and recreational fleets, we suggest the following actions:

- Expand on the communications plan outlined in the June 1, 2022, NEFSC EFP application (87 FR 33132) to ensure that fishermen in the area are aware of this EFP fishing activity. 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. Given the potentially large geographic range of EFP activity—an expansion beyond NEFSC’s most recent EFP trial area—clear and consistent communication will be essential for reducing gear conflict. This information should also be provided to recreational fishermen, including charter/party boats.

- 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 and/or recreational 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.

The implementation of this EFP will impact Council managed fisheries that use gillnets and will potentially affect other active fisheries that spatially overlap the on-demand gear tests. To consider the anticipated widespread use of on-demand fishing gear, the Council has formed a working group to identify ways to minimize interactions between mobile, fixed, and recreational fishing gear with on-demand gear in the trap/pot and gillnet fisheries. 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,



Thomas A. Nies  
Executive Director



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

---

**NEFSC On-Demand Gear EFP**

1 message

**Bart Chadwick** <bart.chadwick@subseasonics.com>

Sun, Jul 2, 2023 at 10:17 PM

To: nmfs.gar.efp@noaa.gov

Cc: marco.flagg@desertstar.com, Bud Vincent &lt;bud@ropeless.us&gt;, David Capotosto &lt;davidcap@ropeless.us&gt;, Ross Arsenault &lt;ross.arsenault@ashored.ca&gt;, Mike Shegog &lt;mike.shegog@fiomarine.com&gt;, Cormac Hondros-McCarthy &lt;lobsterliftllc@gmail.com&gt;, Joel Sullivan &lt;joelsullivan@nova-robotics.ca&gt;, Dylan Diefendorf &lt;pugetbuoy@gmail.com&gt;, Bart Chadwick &lt;bart.chadwick@subseasonics.com&gt;, Kim R Sawicki &lt;ksawicki@umassd.edu&gt;, Russ Guardian &lt;russ@guardianropeless.com&gt;

We respectfully submit the following comments on the NEFSC On-Demand Gear EFP:

Comment 1: The draft Exempted Fishing Permit (EFP) refers to the Trap Tracker application as a specific method for marking the ropeless gear. Trap Tracker is just one of many commercial gear marking applications that exist for on-demand fishing gear. We believe it would be more beneficial to the outcome if the EFP were revised to refer more generally to these commercial gear marking applications rather than referencing a specific application as this implies endorsement of this single manufacturer rather than just the requirement for virtual gear marking. In addition, the required use of Trap Tracker with other manufacturers' gear could significantly impede the operational capabilities of the gear because many systems are integrated with their own gear marking applications to streamline functionality. Instead of specifying a specific manufacturer's gear marking system, the EFP should say what requirements the virtual gear marking system should satisfy and then allow for as broad a use of as many applications as possible to allow for diversity and innovation in this important area of development.

Comment 2: The draft EFP states "This EFP would also test the use of the EarthRanger platform that displays gear locations from various gear-marking technologies." As with the on-demand gear itself, there are multiple commercial interoperability systems being developed in the market and EarthRanger is just one such system. For example, the rmwHUB (<https://rmwhub.com>) is a widely accepted interoperability system that is endorsed by the leading on-demand gear manufacturers business association (the Ropeless Manufacturers Workgroup). We believe it would be more beneficial to the outcome if the EFP were revised to commit more generally to testing these commercial gear interoperability systems rather than referencing a specific system as this implies endorsement of this single manufacturer rather than support for a broader evaluation of systems in general. Because these systems will only be used in a testing mode under the EFP, it is not essential that they cover every type of on-demand gear that may be used under the EFP as there is no system yet that has this capability.

Comment 3: The draft EFP states that "In the first phase of participation, staff from the Center and the gear manufacturers would provide training to ensure the system is working as intended and all participants have sufficient experience with the gear prior to borrowing from the gear cache library." This implies that the only source of gear that can be used under the EFP would be gear that is in the NOAA NEFSC gear cache library. However, there are many other potential sources of gear including gear from other libraries, gear directly from manufacturers, and gear purchased by fishers themselves. We believe it would be more beneficial to the outcome if the EFP were language were broadened to include as wide a range of gear sources as possible.

Thanks very much for your consideration.

Sincerely,

## The Ropeless Manufacturers Workgroup

- Ashored Innovations
- Desert Star Systems
- FioMarine Industries
- Guardian Ropeless
- LiftLab
- Nova Robotics
- Puget Buoy
- Ropeless Systems
- Sub Sea Sonics

Bart Chadwick, PhD

Sub Sea Sonics

[4741 Orchard Ave.](#)

[San Diego, CA 92107](#)

Phone: 619-223-3921

Cell: 619-218-5882

Fax: 619-223-3921

Email: [bart.chadwick@subseasonics.com](mailto:bart.chadwick@subseasonics.com)

[www.subseasonics.com](http://www.subseasonics.com)



July 3, 2023

Jennifer M. Wallace  
Acting Director  
Office of Sustainable Fisheries  
National Marine Fisheries Service  
NMFS.GAR.EFP@noaa.gov

**Comments on the Northeast Fishery Science Center (NEFSC) On-Demand Gear Exempted Fishing Permit (EFP) Application**

Dear Director Wallace,

We are writing on behalf of The Pew Charitable Trusts (Pew) to comment on and support the Northeast Fishery Science Center (NEFSC) On-Demand Gear Exempted Fishing Permit (EFP). The NEFSC EFP would provide an exemption from gear marking requirements and allow up to 200 federally permitted lobster vessels to replace one or both endlines with on-demand fishing units on up to ten of their existing trawls, including a controlled number of vessels fishing in federal areas closed to static vertical lines (Restricted Areas). This would also allow up to five gillnet fishing vessels the ability to fish up to eight gillnet strings with on-demand fishing units.

The National Marine Fisheries Service (NOAA Fisheries) should approve NEFSC's request for an EFP so that trials of on-demand technologies may continue to develop a long-term solution to reducing entanglements of protected species, specifically the critically endangered North Atlantic right whale in commercial fisheries. We support the NEFSC's goals to build upon their knowledge of on-demand fishing systems by addressing the challenges and data needs associated with on-demand fishing and testing subsurface gear location-marking systems. However, we caution the NEFSC to (1) carefully control all fishing in Restricted Areas and (2) communicate potential gear conflict in high density fishing locations.

1. On-demand Fishing in Restricted Areas

Since on-demand fishing is the only viable long-term solution to reducing entanglement risk to whales while allowing fishing to continue, it is essential for interested fishermen to have an opportunity to participate in trials. Allowing on-demand fishing in Restricted Areas foster an incentive for more fishermen to participate in these trials, thereby providing more feedback to manufacturers and growing a market for these technologies that can drive down their costs. Restricted Areas also offer a controlled environment in which to collect data. However, experimental fishing in closed areas, even under carefully controlled conditions, can add some risk to endangered species. Although we believe that the risks are mitigated under the conditions put



forward in the EFP application, with the addition of 100 vessels to the trials, we caution NEFSC to carefully manage activities in Restricted Areas through ensuring adequate enforcement and monitoring presence so fishing can continue with relative safety in the closures.

## 2. Gear Conflict in High Density Fishing Locations

NEFSC is making significant progress towards improving gear location marking and reducing gear conflict. According to the EFP application, there were only two instances of gear loss or gear conflict during fishing under the current EFP. While gear conflicts can be unavoidable where there is significant fishing effort, it is important for NEFSC to continue to educate participating fishermen on the realities, and limitations, of the on-demand systems in the gear cache library that rely on GPS to locate gear. While they are currently more affordable and available than acoustic-based systems, GPS-based systems cannot reflect where exactly gear is located on the seafloor. Therefore, without education and with an increase in fishing activity, there is a possibility that gear conflict may occur in high density areas, which could create the perception that on-demand fishing isn't viable. NEFSC should continue to play a leadership role in the development of acoustic-based gear location systems by adopting open standards and protocols for interoperable acoustics.

Although economic, cultural, and operational challenges with on-demand fishing exist, this EFP marks a critical step forward to addressing and eventually overcoming them. We support NEFSC's EFP and encourage NOAA Fisheries to approve it. NOAA Fisheries should view this application as an opportunity for the fishing industry to work with federal partners, and to advance solutions that allow fishing to continue without posing unreasonable risk to endangered species. Future trials would still need to go through a rigorous review process, and we appreciate the time needed for NOAA Fisheries to review and evaluate these proposals. Pew has invested a great deal of resources into advancing on-demand fishing in New England, including purchasing on-demand systems for the NEFSC gear cache library. We are eager to help these efforts and are available to discuss gear location marking and assist with data collection and management. We look forward to the approval of this EFP as soon as possible.

Sincerely,



Peter Baker  
Director, Conservation Canada  
The Pew Charitable Trusts



Leah Baumwell  
Principal Associate, U.S. and Atlantic Canada Oceans  
The Pew Charitable Trusts





July 5, 2023

Jennifer Wallace, Acting Director  
Office of Sustainable Fisheries  
National Marine Fisheries Service  
[NMFS.GAR.EFP@noaa.gov](mailto:NMFS.GAR.EFP@noaa.gov)

Re: Northeast Fishery Science Center On-Demand Gear Exempted Fishing Permit

Dear Director Wallace,

We are writing in support of the Exempted Fishing Permit (EFP) application from the Northeast Fishery Science Center (NEFSC). The EFP would exempt up to 200 federally permitted lobster vessels and up to five gillnet vessels from certain gear marking requirements in order to expand trials of on-demand fishing gear, grapples, and gear marking systems that use one or no surface buoys.

The research conducted by the NEFSC and fishermen under this project to test the efficacy of ropeless fishing gear and other alternatives to static buoy lines will be an important contribution to the body of work underway to test the operational, economic, and cultural viability of buoyless fixed gear fishing as a means to reduce the risk of entanglement to right whales, as well as other large whales, endangered sea turtles, and other wildlife, in vertical line fixed fishing gear. Restrictions (closures) to the use of vertical lines is the only viable long-term option for reducing entanglement risk to right and other large whales to the levels required by law, and the development of buoyless fishing gear provides the opportunity for the American lobster and gillnet fisheries to continue to operate and remain economically viable into the future.

The research will result in little added risk to right whale entanglement, including in Atlantic Large Whale Take Reduction Plan (ALWTRP) Restricted Areas. The NEFSC has been testing ropeless fishing technologies for over four years with no premature releases of gear and only two instances of either gear conflict or lost gear. Blue Planet Strategies has also been testing ropeless lobster and gillnet fishing gear off the Maine and Massachusetts coasts, and in three years have experienced no instances of premature gear surfacing, gear conflict, or gear loss. Conditions contained in the proposed EFP, as well as the ability of the NEFSC to set additional conditions and protocols for fishermen participating in the study, will reduce risk of entanglement and limit the potential for gear conflicts.

Allowing ropeless gear testing under carefully designed and monitored conditions could lead to long term reduced risk of right whale entanglements and the economic viability for fishermen



who would otherwise be excluded from fishing grounds. Allowing up to 200 fishermen to participate in the NEFSC EFP helps to ensure equitable opportunities to participate in ropeless gear research and may provide incentive for more fishermen to test ropeless systems thereby helping to advance investment and development of this emerging technology.

For these reasons, we support the NEFSC EFP application and urge its speedy approval.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger Fleming", is written over a horizontal line.

Roger Fleming, Policy Director and Attorney  
Blue Planet Strategies  
978-846-0612  
[Rflemingme7@gmail.com](mailto:Rflemingme7@gmail.com)  
[www.blueplanetstrategy.com](http://www.blueplanetstrategy.com)

cc Laura Deighan, Fishery Management Specialist, GARFO



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

---

**NEFSC On-Demand Gear EFP**

1 message

---

**Alice M. Keyes** <alice@onehundredmiles.org>  
To: "nmfs.gar.efp@noaa.gov" <nmfs.gar.efp@noaa.gov>

Wed, Jul 5, 2023 at 4:49 PM

Laura Deighan

Fisheries Management Specialist

NOAA North East Fisheries Science Center

*RE: Public Comments on NEFSC On-Demand Gear EFP*

Dear Ms. Deighan,

I am writing to support NOAA North East Fisheries Science Center's application for Exempted Fishing Permit (EFP).

One Hundred Miles is a non-governmental advocacy organization that works to preserve and protect Georgia's 100-mile coast through advocacy, education, and citizen engagement. This mission most definitely extends to include the North Atlantic right whales and waters of their birth. Although many of us will never see a North Atlantic right whale up close, their plight is our responsibility, and we must work to find a solution. For more than ten years, the North Atlantic right whales mortality rate has exceeded the birth rate. The Georgia state marine mammals are on the fast track to extinction.

As Georgians, we have a moral obligation to ensure these gentle giants do not become extinct on our watch. This endangered species utilizes Georgia's waters as their breeding grounds and we are working to establish ways to protect the 300 or so individuals left. But that is only a part of the reason for the decline.

We know the problem. Entanglement in fishing gear – specifically, the heavy ropes that attach surface buoys to lobster and crab pots in New England and Canadian fisheries – is a leading cause of right whale death. Scars from entanglement have been documented on 85% of right whales, and many have been entangled more than once. Scientists have even announced right whale deaths have likely been undercounted and that remaining individuals are smaller in size, no doubt due to the stress affecting the members of their populations. This puts them at even greater risk for deadly entanglement.

Absent a program that certifies lobster and crab that is "whale-safe," our organization initiated a campaign called EAT LOCAL, NOT LOBSTER- <https://onehundredmiles.org/right-whales> to encourage Georgians to AVOID Lobster from Canada and the US. However, we understand this is not a long-term solution and could have a lasting impact on the fishing families and local economies in New England and Canada. We MUST take immediate and drastic measures to save the magnificent species!

We support any effort to reduce vertical ropes in waters where the critically endangered North Atlantic Right exist. Even for only one year, we fully support expanding 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.

Thank you.

Alice M. Keyes

VP of Coastal Conservation

*One Hundred Miles*

912.230.6494 c

912.264.4111 o

[alice@onehundredmiles.org](mailto:alice@onehundredmiles.org)



*"Love is the motive, but justice is the instrument."*  
— Bryan Stevenson



*Submitted electronically via [nmfs.gar.efp@noaa.gov](mailto:nmfs.gar.efp@noaa.gov)*

July 5, 2023

Jerome Hermsen  
Acting Assistant Regional Administrator  
Sustainable Fisheries Division  
Greater Atlantic Regional Fisheries Office  
National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930

**RE: Comments on the Northeast Fisheries Science Center On-Demand Gear Exempted Fishing Permit**

Dear Mr. Hermsen,

The Natural Resources Defense Council (“NRDC”) is pleased to submit comments on the Northeast Fisheries Science Center (“NEFSC”) application for an Exempted Fishing Permit (“EFP”) that would allow commercial fishing vessels to fish outside fishery regulations in support of the research conducted by the applicant.<sup>1</sup>

NRDC writes in strong support of the issuance of the EFP. On-demand fishing systems are the most effective way to reduce the risk of entanglements of whales, sea turtles, and other marine life, while also enabling fishing to continue. On-demand fishing systems also help address gear loss,<sup>2</sup> which could reduce the incidence of entanglements in “ghost gear” and improve overall ecosystem health by lessening marine debris.

Entanglement in the vertical buoy lines associated with trap/pot and gillnet fisheries are a leading cause of mortality, injury, and morbidity of marine species off both the east and west coasts of the United States.<sup>3</sup> Off the east coast, North Atlantic right whales continue to decline rapidly

---

<sup>1</sup> 88 Fed. Reg. 39,823 (Jun. 20, 2023).

<sup>2</sup> See, e.g., Alkire, C. 2022. Decline in on-demand fishing gear costs with learning. *Frontiers in Marine Science*, 9, p.943552. <https://doi.org/10.3389/fmars.2022.943552>.

<sup>3</sup> NMFS [National Marine Fisheries Service]. 2022. National Report on Large Whale Entanglements Confirmed in the United States in 2020. Jun. 2022. <https://media.fisheries.noaa.gov/2022->

towards extinction. Scientists estimate that, without immediate relief from entanglements and vessel strikes—the two major causes of death and overall population decline,<sup>4</sup> the species may be functionally extinct by 2035.<sup>5</sup> Continuing to test and advance on-demand fishing systems is an essential step in authorizing and deploying these technologies at the scale necessary to protect this critically endangered species. In addition, data gathered, and lessons learned through the implementation of the EFP will be informative for advancing on-demand gear in other regions of the United States, including the southeast Atlantic and west coast, as well as internationally.

As the National Marine Fisheries Service (“NMFS”) moves forward with finalizing the EFP, we offer a recommendation regarding how specific technologies are referred to in the final EFP. In several instances, the draft EFP preferentially refers to specific technologies, namely the Trap Tracker application as a specific method for virtually marking the location of on-demand fishing systems;<sup>6</sup> the EarthRanger platform for the interoperable display of on-demand fishing system locations;<sup>7</sup> and the NEFSC gear cache library as the source of on-demand systems to be tested.<sup>8</sup> However, Trap Tracker is just one example of many commercial gear marking applications that exist for on-demand fishing systems. Similarly, the rmwHUB<sup>9</sup> is a widely accepted interoperability system endorsed by the Ropeless Manufacturers Workgroup—the leading on-demand gear manufacturers business association. There are also many other sources of on-demand fishing systems beyond the NEFSC gear cache library, and members of the fishing industry may wish to purchase systems directly. In our view, offering greater choice in on-demand fishing systems and virtual gear marking solutions will support a broader evaluation of these technologies, promote innovation, and ultimately lead to greater adoption and buy-in from the industry.

We therefore recommend that the language of the final EFP be revised to i) state what requirements a virtual gear marking solution should satisfy to be eligible for use in the EFP, rather than specifying a system developed by a single manufacturer; ii) commit to testing any

---

06/National%20Report%20on%20Large%20Whale%20Entanglements%20Confirmed%20in%20the%20United%20States%20in%202020.pdf.

<sup>4</sup> NMFS [National Marine Fisheries Service]. 2023. 2017-2023 North Atlantic Right Whale Unusual Mortality Event.

<https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2023-north-atlantic-right-whale-unusual-mortality-event>.

<sup>5</sup> Moore, M. 2023. Testimony to the Natural Resources Committee in support of the RESCUE Whales Act. Apr. 18, 2023. *See* press coverage: Maine Public. 2023. Biologist warns that without new regulations right whales will be ‘functionally extinct’ by 2035. (Apr. 18, 2023. <https://www.mainepublic.org/environment-and-outdoors/2023-04-18/biologist-warns-that-without-new-regulations-right-whales-will-be-functionally-extinct-by-2035>).

<sup>6</sup> *E.g.*, “The Center has increased outreach to encourage use of the Trap Tracker app by non-participant vessels.” and “This EFP would support efforts to improve gear-marking and gear-conflict avoidance technologies, including testing the amount of effort to mark subsurface gear location in the Trap Tracker app (vs. surface location where the gear is deployed) and other sub-surface gear marking technologies.” *See, also*, 88 Fed. Reg. at 39,830. “For fully on-demand gear without traditional surface markings, participants would use the Trap Tracker or an equivalent technology for retrieval and set positioning details...” 88 Fed. Reg. at 39,831.

<sup>7</sup> “This EFP would also test the use of the EarthRanger platform that displays gear locations from various gear-marking technologies.” 88 Fed. Reg. at 39,830.

<sup>8</sup> “In the first phase of participation, staff from the Center and the gear manufacturers would provide training to ensure the system is working as intended and all participants have sufficient experience with the gear prior to borrowing from the gear cache library.” 88 Fed. Reg. at 39,830.

<sup>9</sup> <https://rmwhub.com/>.

interoperability system and data display platform that has sufficient functionality, rather than preferentially referencing a specific technology; and iii) include as wide a range of sources of on-demand fishing systems as possible.

Thank you for considering our comments. Please do not hesitate to contact us ([fkershaw@nrdc.org](mailto:fkershaw@nrdc.org)) if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Kershaw', written in a cursive style.

Francine Kershaw, Ph.D.  
Senior Scientist, Oceans Division  
Natural Resources Defense Council