



## New England Fishery Management Council

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

August 6, 2024

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

RE: Comments on Blue Planet Strategies 2024 On-Demand Gear EFP (89 FR 60879)

Dear Mike:

On behalf of the New England Fishery Management Council, I have reviewed the July 29, 2024, notice for an exempted fishing permit (EFP) for Blue Planet Strategies that would allow for the continuation and expansion of on-demand trap/pot and gillnet gear testing in Lobster Management Areas 1 and 3, Statistical Areas 521 and 538, and the Georges Bank Regulated Mesh Area. As stated in Council comments on EFPs granted to Blue Planet Strategies and the Northeast Fisheries Science Center (NEFSC) for on-demand gear testing (see [letters](#) dated July 6, 2021, June 2, 2022, April 1, 2023, June 30, 2023, and June 3, 2024), 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 continued geographical expansion of on-demand gear testing efforts may lead to increased interactions with other gear types. While gear conflicts currently occur between fixed and mobile gear fishermen, it is an undesirable outcome that should be avoided. We acknowledge that the EFP outlines strategies to reduce gear conflicts, and we offer the following suggestions to further reduce the potential for, and to bolster research regarding, gear interactions:

- In the near term, the Council is concerned about the readiness of mobile gear fleets to detect fully on-demand gear while fishing. 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 mobile gear fishing vessels do not have the satellite internet connection needed to use these tools in real-time. It is imperative that Blue Planet Strategies work closely with the fishing industry to share information about where and when experimental fishing is occurring.

- To further reduce the potential for conflict between on-demand and other types of fishing gear used in the mobile, fixed, and recreational fleets, Blue Planet Strategies 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.
- Publicly accessible maps and charts of on-demand fishing trial locations should be made available via a central website and should be included in all notices to mariners. 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 experimental gear testing, especially in Statistical Area 521 and the Great South Channel region. 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. Periodic reports on EFP activity and progress should 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



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

JANET T. MILLS  
GOVERNOR

PATRICK C. KELIHER  
COMMISSIONER

August 6, 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) application from Blue Planet Strategies (89 FR 60879). As proposed this EFP would allow up to 16 federally permitted trap/pot vessels and 4 federally permitted gillnet vessels to trial on-demand gear within the Gulf of Maine, primarily within Lobster Management Area 1 (LMA1), and to a lesser extent Lobster Management Area 3. Continued efforts to test on-demand gear are an important component of finding ways to reduce risk to vulnerable species such as the North Atlantic Right Whale, and ME DMR supports work being done to better understand the feasibility of this evolving technology. However, ME DMR's primary concerns continue to be issues of equity resulting from testing gear in restricted areas, and reliance on a singular cellular-based marking system.

If approved, this EFP would allow access to fishing within Atlantic Large Whale Take Reduction Plan (ALWTRP) restricted areas. Which restricted areas to be used for testing are not indicated within the application; however, ME DMR assumes this could include the LMA1 closure area. While ME DMR acknowledges that a state Special License would be needed for Maine permitted fishermen to fish fully ropeless gear in the LMA1 closure, the continued interest by EFPs to provide restricted area access to a limited number of individuals perpetuates industry concern regarding equity. This concern was specifically stated by Maine's Lobster Advisory Council which has not been supportive of allowing on-demand gear testing in restricted areas because of the inequity which results when a few individuals have access to lucrative fishing grounds, particularly with loaned gear. ME DMR was pleased to see the Northeast Fisheries Science Center's (NEFSC) EFP application mention issues of equity, and while the EFP application from Blue Planet Strategies indicates they will coordinate with the NEFSC on access to restricted areas, it is unclear what this coordination would look like, or how the applicants might balance concerns around equity.

The ability to mark the location of gear is critical to the success of implementing on-demand gear. However, reliance on technology which requires a cellular signal to properly function and communicate current gear locations with other ocean users presents challenges in areas where cellular signal is limited, such as Maine's coast. At a recent meeting of the New England Fisheries Management Council's On-Demand Fishing Gear Conflict Working Group, NEFSC staff provided an update on their on-demand

testing efforts and included details about multiple gear marking technologies. In this presentation<sup>1</sup>, staff outlined several challenges recently encountered with gear marking and detection applications, such as Trap Tracker which is proposed for use in this EFP. NEFSC staff indicated it has been difficult to ensure conflicts with mobile gear are limited when the technology is not widely used and/or cell service is limited. As such, caution should be given to testing gear in areas where traditional trap/pot gear has been absent and the mobile fleet may be using, such as ALWTRP restricted areas. Because this technology on gear marking is rapidly evolving, and the functionality may be changing, ME DMR encourages those testing on-demand gear to consider trying multiple gear marking technology options, including both cellular and satellite-based, to find the best way to integrate this information so it is available to all who need it. It is possible there will need to be multiple solutions to allow for fully integrated gear marking systems and broad implementation of on-demand gear across Maine and elsewhere.

The EFP application also mentions using grappling as a means of retrieving gear. ME DMR does not oppose investigating the use of grappling as a low-cost way to remove endlines. However, grappling has been used to illegally fish for lobster in the past, and it is unclear what gear marking and enforcement capabilities would look like with this approach. As ME DMR has recommended in previous EFP comment letters, any vessels testing grappling as a means of gear retrieval should 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.

Finally, ME DMR has found it helpful to have a summary of how many fishermen have participated in previous EFP testing, and how many test trawls have been hauled. While this information was included in the proposed EFP for the NEFSC, ME DMR notes that this information is not provided in the federal register notice for this application. In addition, both ME DMR and the NEFSC operate on-demand gear lending programs and would encourage the applicants to coordinate closely with those programs so as not to duplicate efforts or compete for a limited number of interested gear testing participants. ME DMR appreciates the opportunity to comment on this EFP application. Testing the functionality of various on-demand gear options is critical prior to future rulemaking under the ALWTRP.

Sincerely,



Patrick Keliher,  
Commissioner

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<sup>1</sup> NEFSC July 17, 2024, Presentation to NEFMC On Demand Fishing Gear Conflict Working Group: On Demand Gear Testing. <https://d23h0vhsm26o6d.cloudfront.net/240717-NEFSC-Gear-Team-Update.pdf>



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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

13 August 2024

Re: Blue Planet Strategies 2024 On-Demand EFP, 89 FR 60879

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 Blue Planet Strategies 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.”<sup>1</sup>

Our organization welcomes the fact that Blue Planet Strategies is testing the efficacy of a variety of acoustic release devices and subsea acoustic marking systems, as a “one-size-fits-all” approach to on-demand gear is unlikely to meet the needs of individual fishers, especially given the different species targeted and gear types employed. AWI also supports testing the viability of different mechanisms to monitor for whale presence and changes in ocean conditions that may impact the functioning of on-demand gear.

With regard to best practice and risk avoidance guidance and requirements that will be placed upon those vessels testing this gear, we support a 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

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<sup>1</sup>IWC (2024) Report of the Scientific Committee (SC69B) Bled, Slovenia, 22 April – 3 May 2024 at page 26. Available at: <https://archive.iwc.int/pages/download.php?direct=1&noattach=true&ref=22181&ext=pdf&k=>

surfaces within 500 yards, as well as the requirement that gear retrieval be halted until such time as the whale or whales have left the area, to protect right whales from deadly vessel strikes. AWI supports a specific requirement to restrict both the setting and retrieval of gear to daylight hours.

While having on-board human scientific observers during the testing is optimal, the suggested use of a GoPro System (or equivalent or better) to record the testing is also acceptable.

In addition to the population-level risks posed by entanglement, AWI continues to emphasize 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.<sup>2</sup> Moreover, numerous studies indicate that even sub-lethal effects of entanglement are having catastrophic effects on female right whales and their reproductive potential.<sup>3</sup>

Given the number of entanglement incidents recorded in both the U.S. and Canada thus far in 2024,<sup>4</sup> it is clear that on-demand gear is needed now more than ever. 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 appreciative of the proactive efforts being made to address this critical conservation issue through the development and 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](mailto:koconnell@awionline.org).

Sincerely,



Kate O'Connell  
Senior Policy Consultant  
Marine Wildlife Program  
Animal Welfare Institute

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<sup>2</sup> Moore, M.J. (2023) Policy enabling North Atlantic right whale reproductive health could save the species. *ICES Journal of Marine Science*. <https://doi.org/10.1093/icesjms/fsac239>; Moore, M. et al. (2021). Assessing North Atlantic right whale health: threats, and development of tools critical for conservation of the species. *Diseases of aquatic organisms*. 143, 205-226. 10.3354/dao03578; Dolman, S. and Brakes, P. (2018) Sustainable Fisheries Management and the Welfare of Bycaught and Entangled Cetaceans. *Frontiers in Veterinary Science* vol. 5 2018. Available at: [www.frontiersin.org/article/10.3389/fvets.2018.00287](http://www.frontiersin.org/article/10.3389/fvets.2018.00287)

<sup>3</sup> Frasier, T.R., Hamilton, P. and Pace III, R. (2023) How compromised is reproductive performance in the endangered North Atlantic right whale? A proposed method for quantification and monitoring. *bioRxiv*, pp.2023-11. <https://doi.org/10.1101/2023.11.21.568115>; Reed, J., New, L., Corkeron, P. and Harcourt, R. (2024) Disentangling the influence of entanglement on recruitment in North Atlantic right whales. *Proceedings of the Royal Society B*. 291. 10.1098/rspb.2024.0314.

<sup>4</sup> NOAA (2024) 2017–2024 North Atlantic Right Whale Unusual Mortality Event and North Atlantic Right Whale Updates. Last updated August 5, 2024.



August 13, 2024

Ms. Christine Ford  
Fishery Management Specialist

RE: Blue Planet Strategies 2024 On-Demand EFP. FR Doc. 2024-16569 (July 2024)

Dear Ms. Ford 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 Blue Planet Strategies that would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities.

Conventional 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.

Increasing participation and allowing federally-permitted vessels to continue to test on-demand fishing gear is a critical step to reducing entanglement risk to marine life. Triaing on-demand fishing systems and sub-surface gear marking technologies will provide harvesters, fisheries managers, and enforcement agents with data and experience that can inform the development of management and monitoring requirements that will allow for the authorization of pop-up gear.

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 NOAA, ASMFC, and state fisheries managers maintain a vested interest in the advancement of pop-up gear. Helping members of the fishing community access and test pop-up fishing gear rightfully prioritizes a whale-safe solution and minimizes barriers to adoption by commercial fishers.

Sincerely,

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

August 6, 2024,

Lindsay Fullenkamp  
Acting Director  
Office of Sustainable Fisheries  
National Marine Fisheries Service  
[nmfs.gar.efp@noaa.gov](mailto:nmfs.gar.efp@noaa.gov)

**Comments on Blue Planet Strategies 2024 On-Demand EFP, 89 FR 60879 (July 29, 2024)**

Dear Director Fullenkamp,

We write on behalf of The Pew Charitable Trusts (Pew) to comment on and support the Exempted Fishing Permit (EFP) application from Blue Planet Strategies (BPS). The BPS EFP would provide an exemption from federal lobster and gillnet gear marking requirements and allow up to 20 federally permitted lobster and gillnet vessels to test on-demand (or “ropeless”) gear in federal waters, including up to 12 trap/pot vessels fishing in federal areas closed to static vertical lines under the Atlantic Large Whale Take Reduction Plan (Restricted Areas).

The National Marine Fisheries Service (NOAA Fisheries) should approve BPS’s request for an EFP to continue their work testing the operational and cultural viability of on-demand technologies as a long-term solution to reducing entanglements of protected species, specifically the critically endangered North Atlantic right whale, while still allowing fishing.

There is a need to continue expanding our knowledge of on-demand fishing technologies and to receive useful feedback from fishermen, specifically regarding on-demand gillnet gear. To our knowledge, Blue Planet Strategies and their partners are the only groups testing on-demand gillnet gear. Currently, gillnet vessels have only tested lift-bag systems, and this EFP would provide an opportunity to expand testing to include buoy and stowed-rope systems. Furthermore, information collected through controlled environments that Restricted Areas provide, is ideal for testing and comparing technologies such as subsea acoustic marking systems. It also provides incentive for fishermen to trial on-demand systems in the future. We recognize that experimental fishing in closed areas, even under carefully controlled conditions, may add some risk to

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endangered species. However, we believe that the risks are highly mitigated under the conditions put forward in the EFP application and are ultimately outweighed by the benefits of future on-demand gear use in this fishery, which will allow fishing to continue with relative safety in closures.

For these reasons, we support the Blue Planet Strategies EFP application.

Sincerely,



Peter Baker  
Director  
Conservation Canada



Leah Baumwell  
Principal Associate  
U.S. and Atlantic Canada Oceans



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

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## Blue Planet Strategies 2024 On-Demand EFP

1 message

**sharla mandt** <sharlabuckle@yahoo.com>  
To: nmfs.gar.efp@noaa.gov

Thu, Aug 8, 2024 at 7:29 PM

I fully support the Blue Planet Strategy request for Exempted Fishing Permits to test on-demand fishing gear. Specifically, their EFP request allows up to 16 lobster vessels and up to 4 gillnet vessels to test on-demand alternatives to static vertical lines, including lobster trap vessels fishing up to 48 total trawls in Atlantic Large Whale Take Reduction Plan Restricted Areas with no static vertical lines.

Thank you,

Sharla Mandt  
Amelia Island Whale Ambassadors  
93386 Sandown Drive  
Fernandina Beach, FL 32034  
218-779-2674  
Sharlabuckle@yahoo.com



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

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## Blue Planet strategies 2024 on-demand EFP

1 message

**DEBRA STROBEL** <doodles760@msn.com>  
To: "nmfs.gar.efp@noaa.gov" <nmfs.gar.efp@noaa.gov>

Thu, Aug 8, 2024 at 1:39 PM

Dear North Atlantic right whale lover,

I fully support the Blue Planet Strategy request for Exempted Fishing Permits to test on-demand fishing gear. Specifically, their EFP request allows up to 16 lobster vessels and up to 4 gillnet vessels to test on-demand alternatives to static vertical lines, including lobster trap vessels fishing up to 48 total trawls in Atlantic Large Whale Take Reduction Plan Restricted Areas with no static vertical lines.

Thank you,

Debra Strobel  
Amelia Island Whale Ambassador  
752 Magnolia Bluff Way,  
Fernandina Beach, FL  
630-715-3142  
Doodles760@msn.com



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

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## Blue Planet Strategies 2024 On-Demand EFP

1 message

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**Richard Timm** <rtimm.ontheisland@gmail.com>  
To: nmfs.gar.efp@noaa.gov

Thu, Aug 8, 2024 at 12:31 PM

I fully support Blue Planet Strategies' request for Exempted Fishing Permits to test on-demand fishing gear. Specifically, it would allow up to 16 lobster vessels and up to 4 gillnet vessels to test on-demand alternatives to static vertical lines, including lobster trap vessels fishing up to 48 total trawls in Atlantic Large Whale Take Reduction Plan Restricted Areas with no static vertical lines.

Richard Timm  
Amelia Island Whale Ambassadors

2126 Shell Cove Circle  
Fernandina Beach, Florida 32034

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

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## On demand gear

1 message

**Pete Mason** <pmkestrel@gmail.com>

To: nmfs.gar.efp@noaa.gov

Mon, Jul 29, 2024 at 11:19 AM

I am 100% for on-demand gear exemptions for lobster traps. Personally, I feel gillnets should be outlawed in the state of Massachusetts. They're 100% destructive and catch everything. A lot of the gillnet fisherman don't take the time to pick out species that are caught in the net that they don't want or can't sell.

Sent from my iPhone



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

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## Blue Planet Strategies 2024 on-demand EFP

1 message

**Leigh O'Brien** <leigh.obrien@gmail.com>

To: nmfs.gar.efp@noaa.gov

Mon, Jul 29, 2024 at 4:45 PM

I support Blue Planet's testing of new strategies to minimize whale entanglement.

Leigh O'Brien  
Orchard Park, NY