



The Commonwealth of Massachusetts

Division of Marine Fisheries

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June 10, 2022

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

Dear Ms. Deighan,

The Massachusetts Division of Marine Fisheries (DMF) submits the following comments on the Northeast Fisheries Science Center's (NEFSC) application for an Exempted Fishing Permit (EFP) to expand trials of ropeless fishing gear (87 FR 33132). DMF has serious concerns regarding the lack of coordination with state agencies and other regional fisheries management organizations, lack of a detailed study design focused on resolving key challenges to ropeless fishing, challenges with equitable access to on-demand fishing gear for the fishing industry, and lack of a clear plan to mitigate for foreseeable gear conflict issues that will arise as a result of the proposed activity.

The waters of the EEZ off the coast of New England, and specifically within the priority areas identified within the federal register notice, host myriad fixed gear and mobile gear fisheries. These fisheries are managed collectively by NOAA Fisheries, multiple state agencies, the New England Fisheries Management Council, the Mid-Atlantic Fisheries Management Council, and the Atlantic State Marine Fisheries Commission. The challenges impeding the development of on-demand fishing are substantial and have been documented in a report for a DMF study looking at the feasibility of on-demand fishing in the New England lobster fishery (<https://www.mass.gov/doc/assessing-the-feasibility-of-on-demand-gear-in-new-england-lobster-fisheries/download>). The successful development and implementation of on-demand fishing will require close coordination, collaboration, and "buy-in" by all of these organizations. DMF urges NOAA Fisheries to proactively engage and collaborate with state fisheries agencies and regional fisheries management organizations to develop strategies to overcome challenges, and a comprehensive plan that identifies the scope of future on-demand fishing and the steps necessary to implement it. DMF feels this is a necessary predecessor to expanded on-demand fishing gear testing.

The proposed EFP has two stated goals;

“One of the goals of this project is to test the efficacy of on-demand fishing gear and other alternatives to static buoy lines under a variety of oceanographic conditions.”

“The second goal of this project is to trial gear marking systems (using GPS points or alternatively subsurface markings) to determine the ability to consistently relocate fishing gear and improve the ability to notify other fishermen, including those in the fixed and mobile fleet, that the gear is present.”

However, the proposal does not provide any details on how these goals would be achieved. The proposal lacks a detailed study design to systematically address questions about the efficacy of on-demand fishing under different oceanographic conditions, and how different gear marking systems will be used and tested to consistently relocate gear and notify fishermen of its presence. The proposal instead relies on voluntary participation *“in areas where fishermen are willing to participate and data collection will be useful”*. DMF is doubtful that the activity as proposed will achieve the stated goals or result in the collection of information useful to resolving the challenges to on-demand fishing.

DMF is concerned that the lack of access to on-demand fishing systems to a broad portion of the fixed-gear fleet creates substantial equity issues. It is our understanding that the NMFS gear library only has sufficient gear to allow roughly 30 vessels to fish 10 on-demand systems each. This represents only a small fraction of the fixed-gear fleet. Providing on-demand gear to fish in closed areas gives those selected access to very lucrative fishing opportunities and places those fishermen who cannot obtain on-demand gear at an economic disadvantage. DMF suggests that a more equitable way to achieve on-demand testing would be to compensate a small group of fishing vessels to participate in structured studies to test the efficacy of on-demand fishing with a requirement to release all catch. This would ensure that that inequitable access to public fisheries resources does not occur.

DMF is concerned that the proposed activity lacks a sufficient mitigation plan to minimize and prevent gear conflict. NEFSC offer the following as a primary means to address gear conflict;

“In addition, the following measures would be implemented to reduce potential gear conflicts:

- The Center will regularly provide the approximate location and intensity of fishing in restricted areas where trawls will not have any surface markers;*
- Industry members that are fishing in areas identified as having trap gear without surface markings are encouraged to contact the Center for additional information on gear location; and*
- Project participants and Center personnel will proactively communicate within local ports with mobile and fixed gear fleets on fishing effort and location under the EFP, with particular focus on restricted areas.”*

Gear conflict between unmarked on-demand fishing gear is foreseeable, if not likely. Providing the *“approximate location and fishing intensity”* is not sufficient detail for mobile gear fishers and other fixed gear fishers to actively avoid on-demand fishing gear. This creates serious safety, property damage, and liability concerns. DMF is skeptical that the NEFSC has the capacity to effectively communicate with

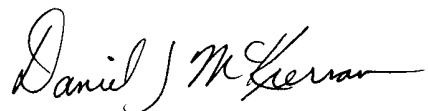
potentially affected mobile and fixed-gear fishing fleets on a scale necessary to mitigate for potential gear conflict. In the federal waters off Massachusetts, mobile gear vessels originating from numerous ports from Maine to North Carolina fish on the same grounds. We do not believe that “*proactively communicating within local ports*” will be an effective strategy to mitigate for gear conflict. Effective gear conflict mitigation would require a concerted effort among NOAA Fisheries, state agencies, and regional fisheries management organizations.

The challenges to adopting on-demand lobster buoy systems are well identified by the Oppenheim report. I urge NOAA fisheries to work proactively with the established sub-group of the Large Whale Take Reduction Team that is focused on “Ropeless Fishing” to consider their input when designing this and other programs.

DMF is concerned that grappling, as an alternative means of buoyless fishing, could lead to a proliferation of illegally set fishing gear. The lobster fishery is primarily managed with trap limits with required trap tags to limit effort. For this to be effective it requires that gear can be efficiently checked by law enforcement to ensure compliance with tagging requirements. Grappling is not a viable hauling method for law enforcement. We are also concerned that grappling would lead to a proliferation in the use of floating ground line which is banned under the ALWTRP. The effectiveness of grappling as a retrieval method varies considerably depending the type of ground line being used and sediment that the gear is sitting on. Floating ground line is much easier to grapple because of its higher profile in the water column. Finally, DMF does not support grappling as an alternative method of buoyless fishing, and as such does not support further testing of grappling by NOAA Fisheries. Grappling for a lobster trawl when endlines have gone missing is an inevitable activity for lobstermen. However, it is inherently dangerous for crew, especially in densely fished areas and in deeper waters. To promote such an activity suggests NOAA Fisheries is de-emphasizing fishermen’s safety.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, reading "Daniel J. McKiernan". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.

Daniel J. McKiernan, Director