

September 22, 2014

Terry Stockwell  
Chairman, New England Fishery Management Council  
50 Water Street, Mill#2  
Newburyport, MA 01950

Richard Robins  
Chairman, Mid-Atlantic Fishery Management Council  
800 North State St  
Dover, DE 19901

John Bullard  
Regional Administrator, National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930

**Re: Oversight and Management of Gillnet Fisheries in the Northeast Region**

Chairmen Stockwell and Robins and Mr. Bullard:

Please accept this letter on behalf of Oceana urging the New England and Mid-Atlantic Fishery Management Councils to take action in conjunction with the National Marine Fisheries Service to amend the Multispecies, Skate and Monkfish Fishery Management Plans to reform the use of gillnets in the Northeast region. This action should be done in 2015 and ensure:

- gillnet soak time restrictions are effective and appropriate
- limits on gillnet length, height and quantity are appropriate
- monitoring of gillnet effort and catch is accurate and precise
- stock assessment and catch advice explicitly considers the effects of gillnet catch

Sink gillnets have been under-regulated in the NE region for decades. Managers have assumed that sink gillnets are a lower-impact alternative to the well-described habitat and bycatch problems with bottom trawls. However, gillnets have unique conservation and management issues of their own, which present serious problems for scientists and fisheries managers and must be addressed.

It is time for the region's fishery managers to address the shortcomings of gillnet management and take action to review, revise and reform the use of gillnets for the 21<sup>st</sup> century.

## BACKGROUND

In early 2014, the National Marine Fisheries Service published the first update of the National Bycatch Report (NBR),<sup>1</sup> representing the most comprehensive review of bycatch occurring in the nation's fisheries. This report showed, among other issues; that the northeast gillnet fisheries have ongoing bycatch problems that need management attention.

Following the publication of the NBR Update, Oceana explored the various regulations that control the use of gillnets in the northeast region. This research shows that the NE gillnet fisheries continue to have ineffective catch and bycatch management and continue to use outdated management techniques. These approaches may undermine the ability of the Councils and the agency to effectively manage the fisheries of the NE region and achieve goals and objectives of the Multispecies, Monkfish and Skate FMPs.

As the Councils begin the annual processes of setting the management priorities for 2015, Oceana requests that each council add an action to review, revise and reform gillnet fisheries as an "above the line" priority for 2015. Oceana suggests that the Councils complete this as a joint action under the FMPs that use sink gillnets to ensure that any changes to the FMPs are consistent and effective, without regulatory loopholes or exemptions.

This action is long overdue and made even more pressing and timely by the recent developments related to Gulf of Maine cod that show that this stock is not only severely depleted but mortality has not been effectively controlled and may be nearly 700 percent of  $F_{msy}$  in recent years.<sup>2</sup>

## PROPOSAL

Oceana highlights the following issues to be resolved related to gillnets but understands that more issues may be identified during the development of this action. At the very least a gillnet action should address:

**Excessive Soak times:** Gillnets are the only gear in use in the region that inevitably catch fish continuously throughout the "soak time"-from the time they are deployed to the time they are retrieved. Establishing effective limits on soak time is therefore a critical element of gillnet management to control catch, reduce bycatch, and ensure management goals are met.

---

<sup>1</sup> National Marine Fisheries Service. 2011. U.S. National Bycatch Report [W. A. Karp, L. L. Desfosse, S. G. Brooke, Editors ]. U.S. Dep. Commer., NOAA Tech. Memo. NMFS-F/SPO-117E, 508 p.

<sup>2</sup> Gulf of Maine Atlantic Cod 2014 Assessment Update Report, downloaded from:  
[http://www.nefsc.noaa.gov/saw/cod/pdfs/GoM\\_cod\\_2014\\_update\\_20140822.pdf](http://www.nefsc.noaa.gov/saw/cod/pdfs/GoM_cod_2014_update_20140822.pdf)

An exploration of the existing regulations for gillnet soak times<sup>3</sup> and personal communication with Greater Atlantic Regional Fisheries Office (GARFO) staff<sup>4</sup> show that there are very few restrictions currently in place. Moreover, it is an accepted practice to leave gillnets in place for extended periods of time instead of hauling the gear, a practice that is done to prevent other fishermen from fishing in a desired spot or to simplify fish as what is known as “wet storage” leaving untended gear in the water for weeks or months at a time

Although the Atlantic Large Whale Take Reduction Plan guidance advises that a prohibition on wet storage is a “universal requirement” for gillnets, the *most restrictive* regulations for the NE region require gear to be hauled only once every 30 days<sup>5</sup> - allowing for weeks of untended fishing.

This lax soak time regulation has immeasurable negative impacts on the management of these fisheries and the species that interact with the gears. Council discussions have periodically considered “fall out mortality” (where fish are caught in a gillnet, die and fall out without ever being counted), depredation of catch left in nets, and most recently, the need to allow for discretionary discarding of fish once it has degraded and been rendered unmarketable.<sup>6</sup>

A well-managed gillnet fishery that is targeting stocks under rebuilding plans should not have these problems. Furthermore, considering the dire stock status of many species susceptible to gillnets such as Atlantic cod and the need to minimize interactions with protected species, these gillnet regulations must be amended.

Oceana suggests that as part of the suggested gillnet action, the Councils should develop soak time restrictions to more effectively control catch, bycatch, overfishing and impacts on stock assessments. Oceana encourages the Councils to develop a range of alternatives to regulate soak times and prohibit any “wet storage” of gillnets. This is not ‘storage’ but rather continuous fishing or a bold attempt to prevent others from fishing in a given area the expense of the ocean ecosystem. The Councils should also consider a requirement that gillnets be tended at all times, an approach that was considered for Massachusetts state waters in 2009.<sup>7</sup>

**Gear Limits:** Current regulations on gillnets allow for up to 150 gillnets to be used by vessels at one time to target monkfish and Multispecies.<sup>8</sup> When each gillnet is at the regulatory maximum 300 feet in length, these vessels are each allowed to use up to 8.5 miles of netting.

---

<sup>3</sup> See 50 CFR 648.2, 50 CFR 648.80, and Special Instructions for Gillnet Vessel Owners information sheet (attached)

<sup>4</sup> Doug Christel, GARFO Fishery Analyst Pers. Comm. August 14, 2014

<sup>5</sup> Atlantic Large Whale Take Reduction Plan:

[http://www.greateratlantic.fisheries.noaa.gov/protected/whaletrp/docs/northeast\\_gillnet\\_final.pdf](http://www.greateratlantic.fisheries.noaa.gov/protected/whaletrp/docs/northeast_gillnet_final.pdf)

<sup>6</sup> See 2011 Sector Operations Plans and Contracts, and Allocation of Northeast Multispecies Annual Catch Entitlements. (76 Federal Register 23076 April 25, 2011)

Cite to discretionary discard rule

<sup>7</sup> Fishermen ask state to keep untended gillnets in check. MetroWest Daily News. Jan 30, 2009.

<http://www.metrowestdailynews.com/x977239172/Fishermen-ask-state-to-keep-untended-gillnets-in-check>

<sup>8</sup> 50 CFR 648.92 (8)(B)

When multiplied by the number of vessels using gillnets, it represents incredible fishing power and source of fishing mortality in the region.

Additionally, it should be noted that apart from regulations for ‘flatfish nets,’<sup>9</sup> there is no limit on the vertical height of a gillnet. NMFS has advised that the best way to estimate effort of gillnets is soak time multiplied by length of the net. This ignores the flexibility allowed to make gillnets taller and increase the amount of the water column affected by the net.

In light of the management needs of the region’s fisheries, including the recent update to Gulf of Maine cod, this amount of netting may not be needed or appropriate. Furthermore, Oceana asserts that the environmental impacts of these gear restrictions have not been adequately assessed and should be reevaluated.

Oceana strongly recommends the Councils use a gillnet action to evaluate the efficacy of gillnet limits and modify these limits to ensure that this level of fishing is appropriate and warranted to meet the goals of the FMPs. Regulations should have appropriate limits on length, height and quantity of all nets.

**Gillnet Catch Monitoring:** During recent Council conversations about improvements to at-sea monitoring, various stakeholders have advised Oceana that the at-sea monitoring protocols for gillnets allow considerable discretion. Specifically, Oceana has been advised that when an observer is on board, it is common for captains to only haul a portion of their gear and cease hauling when catch (or bycatch) becomes too large, in an effort to conserve the vessel’s available quota.

This manipulation of the observer program is unique to fixed gears, and gillnets in particular. If this is occurring as described, this prevents observers from collecting information that reflects the true catch of that vessel. This, in turn, undermines the effectiveness and intent of catch and bycatch monitoring on each of these vessels and similar vessels that are subject to Assumed Discard Rates in the NE Multispecies Sector program.

Oceana has contacted the agency in an attempt to quantify the percentage of nets that are hauled on a typical gillnet trip but was unsuccessful. Oceana learned that this information is collected by ASM/observers and that this analysis would “be relatively straightforward<sup>10</sup>” if access to data was/were allowed , but has not been done to date.

The Councils should use their ability to access fishery-dependent data to fully explore the frequency of this phenomenon in these fisheries and consider management measures that will ensure that all data collected in gillnet fisheries is representative of the catch of that vessel and vessels like it across the fishery.

---

<sup>9</sup> 50 CFR 648.2,

<sup>10</sup> Email from Chris Orphanides, Northeast Fisheries Science Center. April 30, 2014

Effectively controlling mortality is critical to sustainable fisheries management. It is assumed in most FMPs that mortality is well-understood. However, if data collected by observers are not reflective of the true catch of a vessel, these assumptions quickly unravel and introduce new uncertainty into the assessment and management of the affected fisheries.

The Councils should give serious consideration to requiring *all gear* to be hauled when an observer is aboard unless the trip is cancelled or terminated. This is consistent with Council action in other fisheries to maximize monitoring efficacy, such as limits on unobserved 'net slippage' in the herring and mackerel fisheries.

**Gillnet Effort Monitoring:** In recent reports and updates, the agency has advised that estimating gillnet effort is very difficult as the metrics used to estimate effort and the data associated with these metrics are not clear or straightforward. As an example, the agency reported at the 2013 gillnet workshop that current Vessel Trip Reports (VTR) are insufficient for the task. Instead, the agency recommends against reporting effort, a fundamental measure of any fishery, because calculating its preferred measure of effort (soak time\*total length) is not possible with current data.<sup>11</sup> This inability to calculate effort makes oversight of this gear impossible, yet the Council and the agency continue to authorize the use of gillnets.

To fix this and address suggestions made at the workshop cited above, the Councils and agency must eliminate this weakness with clear revisions to the FMPs that include measures to 1) include gillnet-specific data to improve VTR reporting of gillnet effort and 2) establish baselines of gillnet effort to be monitored over time.

Managers, scientist and all stakeholders must have access to a reliable description of the FMPs that use gillnets in the region. In fact, the MSA requires it.<sup>12</sup>

### **Changes to Assessment of stocks caught by gillnets-**

The use of gillnets as described and discussed above introduces unique uncertainty into the assessment and management of marine species including target, non-target and protected species. This uncertainty and difficulty quantifying gillnet behavior has been cited in work to address bycatch of ESA-listed species<sup>13</sup> as well as various stock assessments. However, it appears that this uncertainty has never been explicitly factored into any assessment, catch specification or management action.

---

<sup>11</sup> National Marine Fisheries Service and Atlantic States Marine Fisheries Commission. 2013. Workshop on Sea Turtle and Atlantic Sturgeon Bycatch Reduction in Gillnet Fisheries. Jan 22-23, 2013, Ocean City, MD. 48 pp.

<sup>12</sup> See Magnuson-Stevens Act, sec 303 (a)(2), Required Provisions.

<sup>13</sup> National Marine Fisheries Service and Atlantic States Marine Fisheries Commission. 2013. Workshop on Sea Turtle and Atlantic Sturgeon Bycatch Reduction in Gillnet Fisheries. Jan 22-23, 2013, Ocean City, MD. 48 pp.

As the Councils work to address and minimize management and scientific uncertainty in the northeast gillnet fisheries, the Councils and the agency must recognize the persistent uncertainty that is associated with gillnet catch data and take action to guard against this uncertainty in the management of each affected FMP.

Oceana recommends, at a minimum, that the Councils develop the following solutions:

**Assessments-** The Councils should request that all assessments explicitly consider “fallout mortality” and gillnet depredation, and work with the assessment teams for each species caught in gillnets to ensure that all catch, bycatch and associated mortality is appropriately considered in stock assessments.

**Catch Advice-** The Councils should consider policy that accounts for all forms of gillnet mortality in the calculation of Allowable Biological Catch (ABC), Annual Catch Limit and Annual Catch Entitlement (ACE) to account for both management and scientific uncertainty that is connected with this gear.

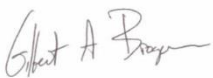
**Summary:**

Oceana is not calling for a prohibition on gillnets. We understand from conversations with agency staff and gillnet fishermen that fishing up to the regulatory limits for gear and soak time may not be the norm for many of the directed gillnet fishermen in the region. However, considering the effects that more than 130 declared gillnet vessels fishing full-time can have on mortality of fish and protected resources, it is time for the Councils and the agency to turn the best practices into the standard and required practice for the use of this gear.

These necessary changes are warranted and will improve the management of the directed FMPs, the FMPs whose target species are caught by gillnets, and the range of protected species that are vulnerable to gillnets.

Oceana looks forward to working with the Councils and the agency to help move this needed action forward in 2015 and thanks you for your consideration of this proposal.

Sincerely,



Gib Brogan  
Fisheries Campaign Manager  
Oceana  
Wayland, MA

Cc: Executive Committee Members, Executive Directors, New England and Mid-Atlantic Fishery Management Councils