



## 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*

August 12, 2022

Mr. Michael Pentony  
Regional Administrator  
Greater Atlantic Regional Fisheries Office  
National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930

Dear Mike:

The Council appreciates the opportunity to comment on the draft Action Plan to Reduce Atlantic Sturgeon Bycatch in Federal Large Mesh Gillnet Fisheries, which was released on May 26, 2022, and presented to the Council at its June meeting. We offer the following questions for clarification and comments on the draft Action Plan.

To begin, the Action Plan should address several high-level issues:

- The Action Plan should clarify the status of the "Biological Opinion on 10 Fishery Management Plans" (BiOp). This Action Plan was written to fulfill a requirement of the BiOp. In a court decision that is not related to Atlantic sturgeon, this biological opinion was declared invalid. As a result, the status of the BiOp's reasonable and prudent measures related to Atlantic sturgeon is unclear.
- The interaction between the Action Plan and Phase 2 measures of the Atlantic Large Whale Take Reduction Team (TRT) should be discussed. Some of the gear modifications and potential closure areas included in the Action Plan are similar to those being considered for Phase 2 gillnet fisheries by the TRT and the Council understands that implementation of Phase 2 measures is anticipated for 2023. How will this timing impact Council action on sturgeon bycatch reduction measures? We recommend a coordinated approach between these two efforts. Also, the Council seeks clarification on how other measures that require gear modifications or closures to large mesh gillnets (such as requirements under the Harbor Porpoise Take Reduction Plan) were considered in the Action Plan.
- It will help development of management measures if the Action Plan provides additional detail on data used in the plan. At a minimum, the Action Plan should describe how the Councils can obtain the information used in its development. Several of the technical reports cited are not readily available to the Council or the public (for example, ASMFC 2007).

A consistent and clear definition of what is meant by "large mesh gillnets" is necessary to understand which mesh sizes and thus which gillnet fisheries are affected by the Action Plan. The draft Action Plan initially defines federal large mesh gillnets affected by the Action Plan as  $\geq 7$  inches (defined on page 4 and pages 11-13). This definition matches that in 50 CFR 229.2.

However, additional definitions of large mesh are used throughout the draft Action Plan – for example, reference to the Large Mesh Individual DAS permit category (on page 8) which has a minimum mesh size requirement of 7.5 inches diamond and 8.0 inches square in the Mid-Atlantic Regulated Mesh Area and 8.5 inches diamond and square in the Gulf of Maine, Georges Bank, and Southern New England Regulated Mesh Areas – and this may cause some confusion. Additionally, in the section “Actions to Reduce Atlantic Sturgeon Bycatch in Federal Large Mesh Gillnet Fisheries” the draft Action Plan says that gear modifications and soak duration limits should be applied to “federally permitted commercial fishing vessels using gillnet gear while on monkfish DAS, participating in a large-mesh exemption area with a 10-inch minimum mesh size requirement, or fishing under a Northeast Multispecies DAS in the Large-Mesh DAS Program<sup>1</sup>.” This appears to be a different definition of “large mesh gillnets.” We recommend defining “large mesh gillnets” in the Executive Summary section so that this is clearly stated up front. The Council also seeks clarification on whether the Action Plan is recommending the Council consider measures to reduce bycatch of sturgeon in gillnets using less than 7-inch mesh.

Several clarifications could improve interpreting the studies referenced in the draft Action Plan. For the Fox et al. (2019) study, an explanation of why the gear performed well for one fisherman and not the other should be included. We also suggest summarizing the gear characteristics of the gear modifications tested in the bycatch reduction studies in a table, to allow easier comparison between gear modifications tested and interpretation of results. It is not clear which, if any, of the studies have been peer reviewed. Many of the key referenced studies are technical grant reports and a rigorous peer review would be beneficial.

Understanding representativeness of fishing practices in the Fox et al. (2019) study is needed to interpret potential application of low-profile nets to gillnet fishing across other fisheries and regions. The study area was off the coast of New Jersey and New York, however, it is unclear if monkfish fishing practices in this region are representative of monkfish fishing elsewhere. It is also unclear how this study is applicable to other large mesh gillnet fisheries and in other areas which may have different fishing practices. There does not appear to be any information in the Action Plan demonstrating that Northeast multispecies gillnet fisheries have been studied to determine what gear configurations might reduce sturgeon interactions.

Additional information on different types of mesh sizes and gear configurations used in Northeast Multispecies gillnet fisheries should be included. The Action Plan describes the typical mesh size and configuration used to target monkfish, which is helpful for considering how gear modifications, including low-profile nets, compare to standard fishing practices. Similar information on mesh sizes and gear configurations used to target various groundfish, skate, and dogfish species also would be useful. There is a statement in the Action Plan that stand-up gillnet gear is used to target flatfish and tie-down gear used for roundfish (on page 13). This is not correct and should be corrected to say the reverse. Additionally, the Action Plan refers to the “baiting effect” (on page 14) – presumably the idea that sturgeon are drawn to eat easy prey that are caught in the net. It would be useful if the Action Plan could include what is known about sturgeon diet, to understand the validity of a baiting effect when considering the relationship between soak time and sturgeon interactions.

Additional information on sturgeon bycatch in large mesh gillnets should be included in the Action Plan. If not available, it would be helpful if the Action Plan identified the current data gaps.

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<sup>1</sup> Presumably this reference is the to the Large Mesh Individual DAS (emphasis added) permit category defined in 50 CFR 648.82(b)(4). If this is not the case, this needs to be clarified.

- More quantitative information on sturgeon bycatch by season, location, and gear is needed. Good spatial and temporal data on sturgeon bycatch interactions will be important in considering time area closures.
- More quantitative information on soak times for different fisheries is needed. The draft Action Plan states that “ASMFC found a significant positive association between soak time to Atlantic sturgeon mortality when monkfish were targeted with tie-down nets, and when groundfish and striped bass were targeted with standup gillnets.” Quantitative information on soak time for fishing practices in these fisheries and others is required to understand what soak time restrictions might both reduce sturgeon bycatch and be feasible for these fisheries. The Council recognizes that the draft Action Plan does acknowledge the need for more work “to fully characterize current practices related to soak time in order to identify opportunities to reduce soak time in areas and at times during which doing so would provide the most conservation benefit.”
- A comparison between 12” and 13” mesh in the monkfish fishery is needed, because there might be significant differences in the catch of monkfish and bycatch of sturgeon by mesh of these sizes.
- Additional experiments are needed to provide more precision and accuracy in determining factors influencing sturgeon bycatch rates.
- The decline in gillnet effort, particularly in the Gulf of Maine, should be considered. It is unclear if the interaction data reflects this decline in effort since the years of the interaction data are not included.
- How offshore wind development may displace gillnet effort and therefore the rates of interaction with sturgeon should be considered.
- Consider examining the Canadian gillnet fishery for gear modification ideas. Canada manages shortnose sturgeon in the St. John River.

Finally, the draft Action Plan mischaracterizes the Council’s role in research. While the Council establishes research priorities for several reasons, including Research Set-Aside (RSA) programs, the Council is limited in its ability to fund original research. Also, the Council was informed at its June meeting that the Monkfish RSA request for proposals will not be issued for 2023-2024. Without the Monkfish RSA program in place, it is not clear how the Council can contribute to the research objectives of the action plan. The Council recognizes the rationale for not soliciting Monkfish RSA proposals this year given recent program performance, but this decision does remove one possible avenue for conducting research suggested by the Action Plan.

The Council again appreciates the opportunity to comment on the draft Action Plan and looks forward to working with the Agency to reduce the bycatch of Atlantic sturgeon in federal large-mesh gillnet fisheries.

Please contact me if you have questions.

Sincerely,



Thomas A. Nies  
Executive Director

cc: Dr. Chris Moore, MAFMC  
Mr. Bob Beal, ASMFC