

**DRAFT PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SPINY DOGFISH MANAGEMENT BOARD**

**Beaufort Hotel
Beaufort, North Carolina
Hybrid Meeting**

October 18, 2023

Approved January 23, 2024

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1. **Approval of agenda** by consent (Page 1).
2. **Approval of Proceedings of August 3, 2023** by consent (Page 1).
3. **Move to approve the Fishery Management Plan Review, state compliance reports, and *de minimis* requests for DE and NY for the 2022-2023 fishing year** (Page 6). Motion by Raymond Kane; second by John Clark. Motion approved by unanimous consent (Page 6).
4. **Move to adjourn** by consent (Page 6).

ATTENDANCE

Board Members

Megan Ware, ME, proxy for P. Keliher (AA)	Emerson Hasbrouck, NY (GA)
Cheri Patterson, NH (AA)	Heather Corbett, NJ, proxy for J. Cimino (AA)
Doug Grout, NH (GA)	Jeff Kaelin, NJ (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)
Nicola Meserve, MA, proxy for D. McKiernan (AA)	John Clark, DE (AA)
Raymond Kane, MA (GA)	Roy Miller, DE (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Jason McNamee, RI (AA)	Michael Luisi, MD, proxy for L. Fegley (AA)
David Boredn, RI (GA)	Russell Dize, MD (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Pat Geer, VA, proxy for J. Green (AA)
Justin Davis, CT (AA)	Bryan Plumlee, VA (GA)
Craig Miner, CT, proxy for J. Gresko (LA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
Jesse Hornstein, NY, proxy for M. Gary (AA)	Chad Thomas, NC, proxy for Rep. Wray (LA)

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

Staff

Bob Beal	Tracy Bauer	Emilie Franke
Toni Kerns	James Boyle	Katie Drew
Tina Berger	Caitlin Starks	Jainita Patel
Madeline Musante	Chelsea Tuohy	Kristen Anstead

Guests

Max Appelman, NOAA	Will DiMento	Chip Lynch, NOAA
Mike Armstrong, MA DMF	Julie Evans	John Maniscalco, NYS DEC
Richard Balouskus, RI DEM	Catherine Fede	Daniel McKiernan, MA (AA)
William Barnhill, NMFS	Cynthia Ferrio, NOAA	Steve Meyers
Jessica Best, NYS DEC	Christine Ford, NOAA	Steve Minkinen, US FWS
Alan Bianchi, NC DMF	Robin Frede, NEFMC	Patrick Moran, MA
Jason Boucher, NOAA	Beth Govoni, NC DMF	Environmental Police
Jeffrey Brust, NJ DEP	Joe Gresko, CT (LA)	Robert Moss, Commercial
Michael Celestino, NJ DEP	Joseph Grist, VMRC	Striped Bass Assn.
Joseph Cimino, NJ (AA)	Jay Hermsen, NOAA	Brandon Muffley, MAFMC
Karson Cisneros, MAFMC	Amanda Higgs, NYS DEC	Allison Murphy, NOAA
Heather Corbett, NJ DEP	William Hoffman, MA DMF	Thomas Newman
Jennifer Couture, NEFMC	Pierre Juillard	Conor ODonnell, NH FGD
Caitlin Craig, NYS DEC	Ellen Keane, NOAA	Danielle Palmer, NOAA
Scott Curatolo-Wagemann,	Pat Keliher, MA DMF	Robert Pellegrino, Plum Island
Cornell Cooperative Extension of	Thomas Kosinski, Sandy Hook	Surfcasters
Suffolk County	Outfitters	Michael Pierdinock
Jason Didden, MAFMC	Brooke Lowman, VMRC	Janice Plante, NEFMC

Guests (continued)

Will Poston
Jill Ramsey, VMRC
Kathy Rawls, NC (AA)
Mike Ruccio, NOAA
Christopher Scott, NYS DEC
Somers Smott, VMRC

Mark Taylor
Taylor Vavra, Stripers Forever
Craig Weedon, MD DNR
Peter Whelan
John Whiteside
Alvin Williams

Brandon Wingate, Salt Tale
Charters
Chris Wright, NOAA
Phil Zalesak
Renee Zobel, NH FG

The Spiny Dogfish Management Board of the Atlantic States Marine Fisheries Commission convened in the Rachel Carson Ballroom via hybrid meeting, in-person and webinar; Wednesday, October 18, 2023, and was called to order at 1:20 p.m. by Chair Nichola Meserve.

CALL TO ORDER

CHAIR NICHOLA MESERVE: We'll call the Spiny Dogfish Board meeting to order. Apologies to those online that we ran a little late at lunch, but we have some vitamin D coursing through our bodies now, and ready to get back and do business.

APPROVAL OF AGENDA

CHAIR MESERVE: Looking at our agenda, I think we'll be able to make up the time, perhaps not as quick as Erika Burgess got through the Coastal Sharks meeting yesterday, but we'll do our best to not delay Striped Bass. Looking at the agenda, is there any opposition to approving the agenda as is? Seeing none; we'll consider the agenda approved, and move on.

APPROVAL OF PROCEEDINGS

CHAIR MESERVE: Proceedings from our last meeting in August of 2023. Are there any clarifications, edits, corrections to those proceedings? Seeing none; we will consider them approved by consent.

PUBLIC COMMENT

CHAIR MESERVE: We're going to move on to Item 3, Public Comment. This is an opportunity for members of the public to comment on items that are not on the agenda. I don't see any hands in the audience, anything online, James? None online.

REVIEW ATLANTIC STURGEON FISHERY MANAGEMENT ACTION TEAM/PLAN DEVELOPMENT TEAM ALTERNATIVES

CHAIR MESERVE: We can move on to Item 4, which is to Review the Atlantic Sturgeon Fishery

Management Action Team/Plan Development Team Alternatives.

We have Karson Cisneros from the Mid-Atlantic Council here to give us a presentation. The Commission is closely tracking this joint Council action, as there is an expectation that the Dogfish Board will be taking some complementary action, once that action gets a little bit further along. Without further ado, I'll go to Karson for her presentation.

MS. KARSON CISNEROS: Thank you, Madam Chair, hopefully everyone can hear me okay. I'll just give another minute to see if the slides pop up. But as noted, I'm going to give an overview of the Mid-Atlantic Council and New England Council's joint framework action to reduce sturgeon bycatch in the dogfish and monkfish fisheries. I'll basically be giving you all an update of the progress that has been made thus far.

There hasn't been any final action or anything. In terms of background on why this action was initiated. In 2021 there was a biological opinion issued by NOAA Fisheries as required by the Endangered Species Act, and this addressed several different FMPs. But one of the outcomes from that biological opinion, or BiOp was that Atlantic sturgeon bycatch must be reduced in several large mesh gillnet fisheries by 2024. To address the BiOp, NMFS formed the Atlantic Sturgeon Bycatch Working Group, and that group produced an action plan that recommended the Council process should be used to meet the needed reductions. Dogfish and monkfish were both identified as high contributors to the sturgeon bycatch, and they are both jointly managed by the New England and Mid-Atlantic Councils.

Then some of the potential measures to reduce sturgeon bycatch, that were recommended within that action plan were modifications to gear. Low profile gillnets have been tested in the monkfish fishery in New Jersey, and have been shown to reduce sturgeon bycatch. Then reductions in soak time, as well as focused time area measures, including closures in hotspot bycatch areas.

In response to this action plan conclusion, the councils each initiated a joint framework action earlier this year. In June, the councils did find out that the incidental take statement or ITS, was exceeded in gillnet fisheries, so there was an overage of sturgeon bycatch, and a new biological opinion has been reinitiated just last month.

This is kind of an evolving situation, but the previous 2021 BiOp is still active, and requires that bycatch reduction by 2024. But because of the timing, the new BiOp will likely use the current framework action as a baseline, instead of the current status quo condition. Currently, staff are working with GARFO through the FMAT/PDT that will sponsor this action, in order to share data and make sure that these processes are informing each other, and we're addressing the issue as needed.

This is just a quick overview of where the hotspot areas are for Atlantic sturgeon bycatch in gillnet fisheries. These were identified in the Action Plan and are based on observer data. The map on the left shows the Gulf of Maine and Southern New England, and then on the right the map shows New Jersey down through Virginia and Northern North Carolina.

The more pink and red area have the densest sturgeon and gillnet interaction. As you can see, there are some interactions in the Gulf of Maine and Southern New England, but the highest density hot spots are really off of New Jersey and the DelMarVa Peninsula on the right. In general, there are seasonable trends within these hotspots where there is a peak in interactions in the spring, closer inshore, and then a peak in the winter a little bit further offshore.

I mentioned the FMAT/PDT earlier. I just wanted to introduce the group a little bit. This is kind of the merging of the New England process of PDTs and the Mid-Atlantic process of Fishery Management Action Teams. On this team we have monkfish and dogfish and

sturgeon expertise. We have representation from GARFO, including people from Sustainable Fisheries, Protected Resources, and NEPA.

Then we have Science Center expertise with the Observer Data, and sturgeon population dynamics, and then we have ASMFC staff, James Boyle represented on the team as well. This is the action timeline, and today's meeting is highlighted in green. At this point there have been several meetings, and these have been to really develop the early development of the range of alternatives. The FMAT and PDT formed and met in April, and then in May the dogfish and monkfish AP's and Committees met. Then in June the Councils met. During that first set of meetings, there were preliminary alternatives developed, and then the Councils decided in June that the Committee needed to meet again, to further refine the range of alternatives with more input from enforcement. Because of this, in September the FMAT and PDT and Committee met again to narrow the range of alternatives and refine them, and to keep with the action timeline and have a reasonable range of alternatives.

The New England Council approved the range of alternatives at their late September meeting, and then the Mid-Atlantic Council approved that same range at their meeting in early October, so just two weeks ago. Then since then staff and the FMAT/PDT are starting to analyze those alternatives and impacts, and starting development of that final framework document.

In late winter, so now we're on the other side of the green highlighted line of today's meeting. In late winter, likely February, there will be another set Advisory Panel for dogfish and monkfish, and Committee meetings to review the analysis and recommend those preferred alternatives. Then final action is scheduled for April of next year for both councils.

The requirement was to reduce sturgeon bycatch by 2024, so we anticipate rulemaking late in the year and implementation. Now we'll get into some of the types of measures that were developed for the

action. These were developed by the FMAT and PDT or by the Dogfish and Monkfish Committees.

The first one is gillnet soak time limits, and these would be in place within the hotspot areas during specific times of the year, where interactions are occurring. Different soak time options were considered, including no overnight soaks and maximums of 24-, 48- and 72-hour soak time. There were all these iterations that were originally considered, but there were concerns with soak times of 24 hours or greater, because those restrictions may not necessarily reduce the overall nets in the water, as the fishermen hauls back their net and then immediately resets it. It was discussed that the action requires that sturgeon bycatch overall needs to be reduced, so not just bycatch mortality, because the shorter soak times can reduce bycatch mortality. Then in addition to that concern, the 24-hour soak times or greater did raise a lot of concern from enforcement representatives.

Ultimately, the only soak time restriction option that was kept in this action was no overnight soaks, since that would reduce nets in the water, and was deemed more enforceable. Preferably with a discrete ending time, instead of something like sunset, so a discrete ending time of 8:00 p.m. was proposed, and daytime hours can vary seasonally.

This was only kept in the dogfish range of alternatives, because the monkfish fishery requires multi-day soaks in order to operate. Then these soak times, daytime-only soak times were discussed in general, as more feasible in the New Jersey hot spot area, whereas in the southern Mid-Atlantic areas, fishermen have said that they need to keep the nets in overnight, so they may need to consider other measures.

Another option for reducing sturgeon bycatch in hotspot areas is the use of low-profile gillnet gear, which was described in the Action Plan.

This would also be for specific times of year, when bycatch was high, and then those hot spot areas. This option has only really been researched in the Monkfish Fishery and in the New Jersey Region, where it has been shown to reduce sturgeon bycatch, while still maintaining monkfish catch. This type of net hasn't been tested for spiny dogfish or monkfish in the New England areas. Because of this, this is only included as an option for monkfish.

Lastly, small time-area closures are another option included in the range of alternatives to reduce bycatch, and these are included for both dogfish and monkfish. There were three different methods considered to capture those hotspot areas. These methods include drawing small polygons around the bycatch hotspots, using parallel lines to shore.

Another approach was using 10-minute squares to cover a hotspot area, and then a third approach was including the entire statistical area that contains the hotspot. There were pros and cons to each approach, but ultimately, the first option using parallel lines to draw the areas had the most flexibility, and was deemed more enforceable than the 10-minute square approach, which could create an area of more than four sides.

Then using entire statistical areas would include a large amount of area that was not considered a hotspot area, so that was considered too much of a burden on the fisheries, potentially without reducing more sturgeon bycatch. I won't go through all of these one by one, but this slide shows the final range of monkfish alternatives that were approved by both councils.

These alternatives include a low-profile net requirement or closures in the New Jersey hotspot area, and a closure option in the southern New England hotspot area. Then the southern New England closure has options in May and June, while the New Jersey timing of restriction or closure is December and May.

This is the range of dogfish alternatives that were approved by both councils. The types of restriction for dogfish are either no overnight soak or a time

area closure. There are options for these restrictions to be applied to hotspot areas in New Jersey, as well as hotspots off the coast of Delaware, Maryland and Virginia, and the timing of closures or restrictions for New Jersey is November, December and/or April.

For the southern Mid-Atlantic, the timing options are December, January and/or March. Some other considerations that have come up throughout the development of this action, are kind of listed on this slide. The Committee discussed the potential requirement of VMS in these fisheries, in order to increase enforceability of the different options, and potentially for some benefits of refining the hotspot areas in the future, or collecting further data.

Enforcement representatives did clarify that they would still be able to enforce the alternatives that were included in the final range, without a VMS requirement. The Councils ultimately felt it would be too large of a burden to the fisheries, so they didn't include a VMS requirement within the range of alternatives for either fishery.

Another consideration is that the sturgeon bycatch data needs to be updated for the hotspot analysis. Once that is done, hotspot area boundaries can be drawn more firmly. We're also planning to provide a state versus federal waters breakdown of the bycatch for these fisheries, because that has been requested by the Councils. Lastly, both Councils recommended future research on the use of data loggers as a tool to enforce gillnet soak time, and as well as the exploration of low-profile gillnet gear in the spiny dogfish fishery, and other regions beyond New Jersey for monkfish.

Further work in these areas can help enable the Councils to have more management tools in the future, if more sturgeon bycatch needs to be mitigated. Lastly, these are the next steps that I already touched on during the timeline slide.

The Council staff, New England and Mid-Atlantic Council staff are both working with the FMAT and PDT to analyze the data and alternatives, and develop the framework document.

We have just gotten started on that. Around February, the dogfish and monkfish AP's will meet, followed by the joint Dogfish and Monkfish Committee, in order to recommend those preferred alternatives to the Council. Then both Councils will take final action at their April meeting. That is all I have.

CHAIR MESERVE: Great, thank you, Karson for that overview, a lot of great information there for the Board. Are there any questions for Karson on her presentation? I think you covered it excellently, Karson, there are no questions right now from the Board. I think the one thing that James and I wanted to discuss with the Board though is next steps for us on the matter. There is a question, David Borden.

MR. DAVID V. BORDEN: Question, Nichola. Could we go back to, I think it's Slide 3, where you put up the number of interactions. Yes, that. I'm a little bit concerned about the ITS being based on 2011 and 2015 observer data. Just for everyone's edification, I have nothing to do with the gillnet fishery. But I have listened to a lot of monk/skate discussions on this issue.

It is quite apparent that the gillnet fishery over the past ten years is totally contracting, in terms of the amount of gear that is used, number of gillnets out, where they're set, and so forth. If you use a time period going back to 2011 to '15, I'm afraid it may bias the results. I think it would be better to try to integrate some of the more recent effort data and fishery location information in the future.

CHAIR MESERVE: Karson, do you have any response to that about the years being incorporated in the new biological opinion?

MS. CISNEROS: Yes, I'm not sure of the exact years that the new BiOp that was just reinitiated will use, but for our action we will use through 2022, so all of

the bycatch and the sturgeon interaction of recent years will be used to draw the sort of boundaries and look at the trends. The ITS, the Incidental Take Statement that was developed, is kind of a limit that shouldn't be exceeded. That was derived from 2011 to 2015.

Then a look at recent years, so 2015 to 2021, is where there was quite a bit of an increase in sturgeon takes in the gillnet fishery in recent years. That is kind of what has triggered this new biological opinion, and definitely it kind of further emphasized the need for action. I hope that helps.

CHAIR MESERVE: Thank you, Karson. Any other questions, now that you've had a moment to let it marinate? Okay, seeing none; as I was saying, James and I wanted to bring up the potential for the Board's next action. It seems it's early at this point. There is a lot more detail that is going to be developed for the options in the range of alternatives.

We think that we'll be looking at the February of May meeting would be the time that the Board has some more information, and may start to think about initiating some type of complementary action for in-state waters for dogfish. As Karson said, we may have some more specific information about the bycatch proportion between state and federal waters to inform what this Board wants to do. That concludes this topic, and we can move on to the FMP review and State Compliance reports. We'll turn to James for that.

APPROVAL OF FISHERY MANAGEMENT PLAN REVIEW AND STATE COMPLIANCE FOR THE 2022-2023 FISHING YEAR

MR. JAMES BOYLE IV: I'm going to jump right in. I think I can go over this pretty quickly, so we can stay relatively on schedule. Good afternoon, everyone. I'll just jump right in. Here is just a very quick overview of the presentation. I'll start with a reminder of the

status of the stock, which is still based on the 2018 stock assessment update.

Then I'll discuss the fishery in 2022-2023, and wrap up with the State Compliance, de minimis requests and PRT recommendations. The latest stock status information for management use still comes from the 2018 stock assessment update. Female spawning stock biomass is estimated to be 106,753 metric tons in 2018, which was above the threshold of 79,644 metric tons.

In 2017, fishing mortality on exploitable females was estimated to be 0.202, and has remained below the threshold level of 0.244 since 2005. A management track assessment was recently peer reviewed, and will be reviewed by the Mid-Atlantic Council's Science and Statistical Committee on October 30, and is scheduled to be presented to the Mid-Atlantic and New England Councils in December and January respectively.

In terms of the commercial quota and landings, the fishing year ran from May 1, 2022 to April 30, 2023. The quota was 29.56 million pounds and the trip limit was 7,500 pounds for the northern region states and commercial landings in total were approximately 12.6 million pounds, which is about a 28 percent increase from fishing year 2021 and 2022.

Recreational harvest was approximately 211,608 pounds in the fishing year 2022, which is about a 41 percent decrease in the previous fishing year. The dead discards were estimated to be about 2.5 million pounds, which is an 8 percent increase from 2021-2022 fishing season. All regions and state harvested within their quota, and all states implemented regulations consistent with the requirements of the FMP.

Under the spiny dogfish FMP, a state may be granted de minimis status upon request if landings are less than 1 percent of the coastwide landings. Both New York and Delaware requested and qualified for de minimis status. There are just a few PRT recommendations and comments. First thing, Connecticut did not meet the compliance report

deadline. Additionally, while every state satisfied the weekly reporting requirements through either SAFIS or NOAA Fisheries, a couple of states still did not provide the reporting regulations that show the requirement, and the PRT requests those going forward just for clarity. New York noted in their report that their finning regulations only apply to coastal sharks, but they are working to amend those to include spiny dogfish going forward.

Furthermore, the PRT maintained the note that the FMP gives a fairly broad definition of biomedical supplies for exempted fishing permits, and the states are reporting harvest under a variety of research and education purposes. While the reported harvest under these permits is well below the 1,000 fish limit, the PRT may require Board input on what type of harvest can count towards its limit in the future, should any state start to be near that 1,000 fish limit.

Finally, the PRT continues to recommend the Board consider the purpose of the current de minimis provision, given that all states must satisfy the only monitoring requirement, which is to report annual landings, regardless of de minimis status. With that, the Board action to consider today is the approval of the FMP Review and State Compliance Reports for the 2022-2023 fishing year, as well as the de minimis requests from New York and Delaware. With that I'm happy to take any questions.

CHAIR MESERVE: Are there any questions from the Board about the FMP Review? Seeing none; is there anyone that would like to make a motion? Ray Kane. Could you read it into the record please, Ray?

MR. RAYMOND W. KANE: Yes, **move to approve the Fishery Management Plan Review, State Compliance reports and De Minimis requests for Delaware and New York for the 2022-2023 fishing year.**

CHAIR MESERVE: Motion by Ray Kane, is there a second? John Clark, thank you. **Is there any opposition to the motion? Seeing none; we'll consider that approved.**

ADJOURNMENT

CHAIR MESERVE: Is there any further business to come before the Board today? Seeing none; I will consider us adjourned, and I'll look to Toni for any announcement about the next Board meeting.

(Whereupon the meeting adjourned at 1:45 p.m. on October 18, 2023)