

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

**The Westin Crystal City
Arlington, Virginia
Hybrid Meeting**

August 3, 2023

Approved October 18, 2023

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1. **Approval of agenda** by consent (Page 1).
2. **Approval of Proceedings of February 1, 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 2021-2022 fishing year** (Page 4). Motion by John Clark; second by Raymond Kane. Motion approved by Board consent (Page 4).
4. **Move to adjourn** by consent (Page 4).

ATTENDANCE

Board Members

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

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

Ex-Officio Members

Staff

Bob Beal	James Boyle	Jainita Patel
Toni Kerns	Chris Jacobs	Kurt Blanchard
Madeline Musante	Caitlin Starks	Chelsea Tuohy
Tina Berger	Alexander Law	
Tracy Bauer	Katie Drew	

Guests

Michael Academia, CCB	Angela Giuliano, MD DNR	Jill Ramsey, VMRC
Pat Augustine	Melanie Griffin, MA DMF	McLean Seward, NC DMF
William Barnhill, NOAA	Jay Hermsen, NOAA	Ethan Simpson, VMRC
Alan Bianchi, NC DMF	Matthew Heyl, NJ DEP	Somers Smott, VMRC
Emily Bodell, NEFMC	Jesse Hornstein, NYS DEC	Kevin Sullivan, NH F&G
Jason Boucher, NOAA	Emily Keiley, NOAA	Mike Waine, ASA
Karson Cisneros, MAFMC	Chris McDonough, SC DNR	Craig Weedon, MD DNR
Haley Clinton, NC DEQ	Dan McKiernan, MA (AA)	Kelly Whitmore, MA DMF
Jennifer Couture, NEFMC	Brandon Muffley, MAFMC	Angel Willey, MD DNR
Steve Doctor, MD DNR	Allison Murphy, NOAA	Phil Zalesak, SMRFO
Jared Flowers, GA DNR	Thomas Newman	
Robin Frede, NEFMC	Danielle Palmer, NOAA	
Tony Friedrich, ASGA	Nicole Pitts, NOAA	

The Spiny Dogfish Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia, via hybrid meeting, in-person and webinar; Thursday, August 3, 2023, and was called to order at 8:30 a.m. by Chair Nichola Meserve.

CALL TO ORDER

CHAIR NICHOLA MESERVE: Good morning, welcome to the last day of the Summer Meeting. We're going to start off with the Spiny Dogfish Management Board meeting for August 3rd. My name is Nichola Meserve with Massachusetts, I'm joined up front by James Boyle, our Species Coordinator, and also virtually we have Cynthia Ferrio from NOAA, who will be helping us with one of our agenda items today.

APPROVAL OF AGENDA

CHAIR MESERVE: We have a quick meeting, so you have your agenda before you. Are there any changes to the agenda today? Any opposition to approving the agenda? If not, we'll consider that approved by consent.

APPROVAL OF PROCEEDINGS

CHAIR MESERVE: We have proceedings from our last meeting in February of 2023, are there any modifications to the proceedings? Seeing none; we'll also consider those approved by consent, and move on to public comment.

PUBLIC COMMENT

CHAIR MESERVE: This is an opportunity for members of the public to comment on items that are not on the agenda today. Are there any hands for public comment? None in the room and none online either, so we can move on to an update on the Council's joint action on the monkfish and dogfish fisheries, to reduce Atlantic sturgeon bycatch.

The Board is tracking this joint action with the understanding that the Dogfish Board may be

looking to make some complementary action, once the Councils have gotten further down the road in their development of this action. We'll look to Cynthia to provide that update.

REVIEW PROGRESS ON MID-ATLANTIC AND NEW ENGLAND FISHERY MANAGEMENT COUNCILS' JOINT ACTION ON MONKFISH AND DOGFISH FISHERIES TO REDUCE ATLANTIC STURGEON BYCATCH

MS. CYNTHIA FERRIO: Just a brief background on this action. First, both the New England and Mid-Atlantic Councils are cooperatively developing a joint framework to reduce Atlantic sturgeon bycatch in federal large mesh gillnet fisheries, and this is in response to the requirements of the 2021 biological opinion for sturgeon. These requirements in general laid out by the Bi-Op are to reduce or minimize the impacts of incidental take in large mesh gillnet fisheries, and large mesh in the Bi-Op is defined as mesh size greater than 7-inches.

But then without major disruption to the operations of these fisheries, and for this action monkfish and spiny dogfish were identified as the two primary fisheries of focus, primarily because they are managed by both Councils, and they had the highest number of sturgeon interactions with gillnet gear in the recent, I think five to ten years. Although throughout this development process there has been some discussion with respect to dogfish, about whether or not to include measures to also reduce interactions with smaller mesh sizes, such as 5 to 7 inches, because that is where most of the dogfish gillnet fishery is prosecuted with less than 7 inches, and also where many of the interactions have taken place with sturgeon.

In May this year, a joint committee of the monkfish and dogfish committees for both Councils recommended potential alternative measures to reduce sturgeon bycatch in both fisheries, and I'll speak primarily for the dogfish, because this is the Dogfish Board. These measures were really with seasonal restricted gear areas, to focus on the hot spot interactions with sturgeon, and limited soak

times ranging from 24 to 72 hours, but mostly 48 to 72 hours.

The Committee also did recommend including alternatives for those smaller mesh sizes, so not just greater than 7-inch mesh sizes. Then in their respective June meetings, both Councils, Mid-Atlantic and New England reviewed these alternatives presented by the committees. Both Councils did note that before approving any alternatives, they wanted to meet with law enforcement.

The Law Enforcement Committees, to discuss the enforceability of these possible alternatives, and the feasibility, the realistic possibility of things such as soak time restrictions, if that would be possible or worth pursuing. We actually do have a meeting scheduled for early September to develop this further.

In terms of the two Council meetings, the Mid-Atlantic recommended continued development of these alternatives, both the restricted gear areas and soak trends, and did recommend looking at both 5 to 7 inches and greater than 7 inches, but not final approval, just continued development pending the discussion with law enforcement.

The New England Council approved the full range of monkfish alternatives, but held off on making any firm decisions for spiny dogfish until, again, after the meeting with law enforcement. We're holding off on any final decisions. We also announced in June that new bycatch estimates for Atlantic sturgeon in the gillnet fishery for the recent 5-year period has been exceeded or has exceeded the allowed levels under the Endangered Species Act, which will likely trigger the re-initiation of the 2021 Biological Opinion, which has initiated this action.

That said, the timelines are still being worked out, and re-initiation has not happened yet, so we are still held to those requirements of the original 2021 Biological Opinion, so we still need

to follow through with this framework action and everything is still proceeding as planned. The only change in the timeline here would be that the Council's have decided that rather than taking final action on this in December, as originally planned.

We're going to maybe extend that and push final action to Spring 2024, maybe April, to better align with any new information coming from the re-initiation process, and help guide in the development of any measures to help restrict, and see what comes out of the re-initiation for the Bi-Op. Just a final note as we're going through this, everything I'm talking about with this framework is for federal waters, it's a Council action. But with dogfish specifically, a majority of the interactions with sturgeon have occurred in state waters. I think it's really important. There have been folks, obviously from the states at these meetings, at the Committees, but if the Commission were to take a complementary cooperative action in federal waters with this, it might be really beneficial, just because it only does so much if we're doing federal waters versus state waters. I think it would be worth the Board and Commission to evaluate and look and see if we want to take a cooperative action, specifically for dogfish. That is pretty much my update, I can take questions.

CHAIR MESERVE: Thank you, Cynthia, are there any questions for Cynthia about this joint action? Yes, John Clark.

MR. JOHN CLARK: I might have missed it, but what was the Bi-Op allowance of sturgeon catch, and how many were caught in the dogfish fishery?

CHAIR MESERVE: Can you provide those details for us, Cynthia?

MS. FERRIO: I don't have hard numbers. I can look it up. Yes, I can get back to you. I don't have the hard numbers in front of me. I know that dogfish was second highest in volume, but I don't have the numbers, or what the ITS was specifically.

CHAIR MESERVE: We can follow up with specific numbers, all right, John? Are there any other

questions? It sounds to me as though the Board will be discussing in May, in our spring meeting, the potential for complementary action, if the final action does occur at the Council's April meeting. More to come.

**CONSIDER APPROVAL OF FISHERY
MANAGEMENT PLAN REVIEW AND STATE
COMPLIANCE FOR 2021-2022 FISHING SEASON**

CHAIR MESERVE: We will move on next to the FMP Review and State Compliance for the 2021-2022 Fishing Year, and James is going to give us that presentation.

MR. JAMES BOYLE IV: Good morning, everyone. I will briefly go through the Spiny Dogfish FMP Review and State Compliance for the 2021 to 2022 fishing year. Just a quick overview. I'll start with a reminder of the status of the stock, based on the 2018 stock assessment update. Then I'll discuss the fishery, and wrap up with the state compliance, de minimis request and PRT recommendations.

The latest stock status information for management use still comes from the 2018 stock assessment update. The female spawning stock biomass was estimated to be over 106,000 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 research track assessment was recently completed at the end of 2022, and a management track assessment is scheduled to be peer reviewed in September of this year. In terms of the commercial quota and landings, the fishing year ran from May 1, 2021 to April 30 of 2022. The quota was 29.56 million pounds. The trip limit was 6,000 pounds for the northern region states, and commercial landings in total were approximately 9.87 million pounds.

This is about a 23 percent decrease from the fishing year 2020 to 2021. Recreational harvest and dead discards, which were reported by calendar year rather than fishing year, both increased harvest with approximately 471,864 pounds in 2021, which is about a 79 percent increase from 2020. The dead discards were estimated to be about 2.6 million pounds, which is a 52 percent increase from 2020. All regions and states harvested within their quota, and all states implemented regulations consistent with the requirements of the FMP, with one minor note that I'll get into in the PRT recommendations.

Under the spiny dogfish FMP, a state qualifies for de minimis status on request if its landings are less than 1 percent of the coastwide landings. New York and Delaware have both requested de minimis status, and Delaware qualified by harvesting less than 1 percent, whereas New York harvested just over with 1.14 percent of the total landings.

There are a few PRT recommendations. The first is that while every state did satisfy the weekly reporting requirement through either SAFIS or NOAA Fisheries, some states did not provide their reporting regulations that show their requirement, and the PRT just requests those going forward. The PRT also noted a concern that Connecticut's regulations are not consistent with the finning prohibition required under Addendum V.

Specifically, Addendum V states that "Removing any fin of spiny dogfish at sea is prohibited, including the tail," and all spiny dogfish must be landed with fins naturally attached to the corresponding carcass. However, Connecticut's wording is, the possession of spiny dogfish fins in the absence of the fish from which removed is prohibited.

The PRT believes that this language is inconsistent, and allows the fins to be detached at sea, as long as the body of the fish is also maintained in possession. I have spoken with Connecticut about this issue, and they are planning on amending their regulations accordingly in the fall, to be implemented during the current fishing year.

Furthermore, the PRT notes that the FMP gives a fairly loosely defined definition of biomedical supply 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 types of harvest count toward this limit in the future, should any state start to near that limit.

Finally, the PRT recommends the Board consider the purpose of the de minimis provisions as they are currently written, given that all states must satisfy the only monitoring requirement 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 for the 2021/2022 Fishing Year, as well as the de minimis requests for both New York and Delaware. With that I'll be happy to take any questions.

CHAIR MESERVE: Are there questions? I guess I have one that I would start with. New York's landings in a single year are not within the de minimis percentage, but if you looked at the three-year average would they fall? The Board may remember that there are new guidelines on de minimis that are expected to be adopted into FMPs in the future that establish using a three-year average as the basis.

MR. BOYLE: Yes, if we were going by a three-year average, as stated by the Commission's de minimis policy, they would qualify.

CHAIR MESERVE: I think that is something we could consider in New York's request for de minimis. Are there any questions? Sounds like Connecticut is aware of the issue with the finning, and can take care of that in a timely manner.

DR. JUSTIN DAVIS: Yes, thank you, Madam Chair, yes that was just an oversight in our regulation language, and thankfully we have

declaration authority to do anything that is an FMP mandate, so that is a really simple process and we'll correct it pretty quick.

CHAIR MESERVE: Great, thank you for that, Justin. Any questions? Mike Luisi.

MR. MICHAEL LUISI: No questions, I can make a motion if you prefer, I don't know if staff prepared one.

CHAIR MESERVE: Yes, just one moment to get that up. Go ahead, please.

MR. LUISI: Okay, the motion, **move to approve the Fishery Management Plan Review, State Compliance Reports and de minimis requests for Delaware and New York for the 2021-2022 Fishing Year.**

CHAIR MESERVE: Is there a second to that? Ray Kane. **Any Board discussion on this motion? Seeing none; is there any opposition to the motion? Seeing none; we will consider that approved unanimously.**

ADJOURNMENT

CHAIR MESERVE: That brings us to any other business. Is there any other business to come before the Board today? No, if not you've done a lovely job staying on track here, and we will take a motion to adjourn. So moved, all right, thank you.

(Whereupon the meeting adjourned at 9:00 a.m. on Thursday, August 3, 2023)