

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

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

August 6, 2024

Approved October 24, 2024

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1. **Approval of agenda** by consent (Page 1).
2. **Approval of Proceedings of May 2, 2024** by consent (Page 1).
3. **Move to initiate an addendum to maintain consistency between the spiny dogfish FMP and the recommended alternatives of Spiny Dogfish Framework Adjustment 6** (Page 4). Motion by Nichola Meserve; second by Emerson Hasbrouck. Motion carried unanimously (Page 4).
4. **Move to adjourn** by consent (Page 4).

ATTENDANCE

Board Members

Megan Ware, ME, proxy for Pat Keliher (AA)
Rep. Allison Hepler, ME (LA)
Steve Train, ME (GA)
Renee Zobel, NH, proxy for Cheri Patterson (AA)
Dennis Abbott, NH, proxy for Sen. David Watters (LA)
Doug Grout, NH (GA)
Nichola Meserve, MA, proxy for Dan McKiernan (AA)
Rep. Sarah Peake, MA (LA)
Ray Kane, MA (GA)
Jason McNamee, RI (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
David Borden, RI (GA)
Dr. Justin Davis, CT (AA)

Rep. Joseph Gresko (CT) (LA)
Bill Hyatt, CT (GA)
Jim Gilmore, NY, proxy for Assy. Fred Thiele (LA)
John Mansicalco, NY, proxy for Marty Gary (AA)
Joe Cimino, NJ (AA)
Jeff Kaelin, NJ (GA)
John Clark, DE (AA)
Roy Miller, DE (GA)
Michael Luisi, MD, proxy for Lynn Fegley (AA)
David Sikorski, MD, proxy for Del. Dana Stein (LA)
Pat Geer, VA, proxy for Jamie Green (AA)
Shanna Madsen, VA, proxy for Sen. Danny Diggs (LA)
Chris Batsavage, NC, proxy for Kathy Rawls (AA)
Allison Murphy, NMFS

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

Staff

Bob Beal
Toni Kerns
Tina Berger
Madeline Musante

Caitlin Starks
Jeff Kipp
Tracy Bauer
James Boyle

Katie Drew
Jainita Patel
Chelsea Tuohy

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; Tuesday, August 6, 2024, and was called to order at 11:40 a.m. by Chair Pat Geer.

CALL TO ORDER

CHAIR PAT GEER: Good morning and welcome to the Spiny Dogfish Management Board. My name is Pat Geer; I am the Administrative Proxy from the Commonwealth of Virginia., and I am joined by James Boyle as well.

APPROVAL OF AGENDA

CHAIR GEER: First order of business today is the Approval of the Agenda. Are there any changes, modifications, additions to the agenda?

Hearing none; the agenda is approved by consent.

APPROVAL OF PROCEEDINGS

CHAIR GEER: Next up is the Approval of the Proceedings from the May, 2024 meeting. Any edits, changes or modifications? Hearing none; the proceedings are approved.

PUBLIC COMMENT

CHAIR GEER: Now we'll go into the Public Comment. Do we have anybody in the audience or online who would like to speak on issues that are not on the agenda today?

Do we have anybody online, anybody in the audience? Okay, moving on.

REVIEW REPORT ON STATE IMPACTS OF NEW ENGLAND AND MID-ATLANTIC FISHERIES MANAGEMENT COUNCILS' ACTIONS TO REDUCE STURGEON BYCATCH

CHAIR GEER: Now we are going to have a Review from the Report from the State Impacts from the New England and Mid-Atlantic Fisheries Management Councils on Actions to Reduce Sturgeon Bycatch in the Spiny Dogfish Fishery. James.

MR. JAMES BOYLE IV: I'll start with a short recap of the recommendations from the Councils that were presented at the spring meeting, and then I'll discuss the different permitting structures in the relevant states, and how the Board might consider proceeding. As a quick reminder of why this action was taken.

There was a 2021 Biological Opinion and a subsequent 2022 Action Plan that required action to reduce sturgeon bycatch, specifically in the large mesh gillnet fisheries for monkfish and spiny dogfish. While the action was being developed, recent bycatch exceeded the sturgeon incidental take allowance, which triggered a new Biological Opinion, which is expected in January of 2025.

One objective of the Interstate Spiny Dogfish FMP is to strive for complementary management in federal and state waters. In April, the Mid-Atlantic and New England Fishery Management Council selected their preferred alternative, and a Final Rule is expected from NOAA Fisheries by the end of the year. Here is a short summary of the Council recommendations. The preferred alternative would establish a prohibition on overnight soaks, which is defined as 8:00 p.m. to 5:00 a.m. for federal spiny dogfish permit holders within the New Jersey and Delaware/Maryland/Virginia or DelMarVa polygons, as shown in the figures. Therefore, harvesters that only possess a state permit and fish in state waters are not captured by this action. In New Jersey, the prohibition would be for the months of May and November, and in DelMarVa it would last from November through March.

Additionally, only in DelMarVa polygons, mesh sizes less than 5 and 1/4 inches would be exempt from the prohibition. For additional review, Delaware state waters do not overlap with the polygons, and have been omitted from the permitting analysis. In the table you can see the breakdown of how each of the affected states permit for dogfish.

New Jersey issues licenses by gear, and has a gillnet permit for drift anchored in state gillnets. Maryland has a tiered system, with different permits allowed to harvest spiny dogfish at different trip limits. There is a general finfish license, which permits harvest of a thousand pounds if the harvester also has a striped bass permit in addition to their general finfish license, then they can take 2,500 pounds of spiny dogfish, and a spiny dogfish permit so you can harvest a maximum of 10,000 pounds.

Virginia issues permit by species, and has a spiny dogfish specific permit. There are two primary directions for the Board to consider for complementary action, which is whether to apply the overnight soak prohibition to spiny dogfish harvesters only, or to broaden it to other species that use gillnets of the same mesh size and in the same areas.

I'll start with explaining both avenues for New Jersey and Virginia, and then addressing the tiered system in Maryland. The first case where the Board applies the regulation only to spiny dogfish harvesters, New Jersey already requires those harvesters to have a federal spiny dogfish permit in order to sell or offer to sell spiny dogfish.

Since federal permit holders will already be covered by the federal action, New Jersey would not need to take any additional action. In Virginia, as I said there is a spiny dogfish specific permit, and therefore the language would be very similar to the federal action, where Virginia would simply need to implement the overnight soak prohibition for the DelMarVa

polygons for their 75 spiny dogfish permit holders.

If the Board wishes to broaden the scope to other species that utilizes gillnets of the same size inside the polygons, then New Jersey would need to implement the overnight soak prohibition for the New Jersey polygon for all of gillnet harvesters a five-to-ten-inch mesh. This action would affect an estimated 25 shark, large skate, smooth dogfish and bluefish harvesters.

Virginia would need to implement the DelMarVa soak prohibition for black drum and striped bass permittees, in addition to their spiny dogfish harvesters. Currently there are 63 black drum and 24 striped bass permit holders in Virginia. For Maryland, because of the tiered trip limit system, to apply an overnight soak prohibition to every potential spiny dogfish harvester would be equivalent to the broader gillnet action.

In that case, Maryland would need to implement the DelMarVa polygons for all finfish licensees, which includes the 52 striped bass and 25 spiny dogfish permit holders, and may affect some number of bluefish gillnet harvesters as well. If the Board wanted to limit the action to just those who primarily land dogfish, then similar to Virginia and the federal action, but Maryland would apply the soak limit to only spiny dogfish permit holders, and this would exempt striped bass and bluefish gillnet harvesters, even if they land spiny dogfish.

There could also be a third option that implements the restriction to spiny dogfish and striped bass permit holders, but would exempt bluefish harvesters if it is not applied to the full, general finfish license. Possible action for the Board to consider are to take no action, where only vessels with a federal permit would be affected, whether in state or federal waters.

Alternatively, the Board may initiate an addendum to maintain consistency between the spiny dogfish FMP and federal FMP with a distinction between whether the action affects just the dogfish fishery or otherwise, or the Board may devise some alternative action. If the Board wants to pursue any

of the options that affect other species, there are a couple of potential avenues for how that would work, and we can discuss that more in depth if needed. With that I am happy to take any questions.

CHAIR GEER: Thank you, James. Any questions for James? John Clark.

MR. JOHN CLARK: James, I just wanted to confirm. You said that Delaware was exempt from this. Was there a reason? I mean I'm fine with that, I'm just curious as to why we got the exemption.

MR. BOYLE: Yes, after looking more deeply at the polygon, it seems that the border of the northern DelMarVa polygon proposed to Delaware stops right on the border, so none of it actually overlaps into Delaware state waters.

CHAIR GEER: Nichola.

MS. NICHOLA MESERVE: In the information you provided, James, you indicated that focusing primarily on the dogfish fishery would not require any action in New Jersey, yet the documentation pointed out a potential loophole to the permitting structure there. I just wanted to ask that if that is the approach that we take, that that is still something that the PDT considers, to see if there is a way to clean that up. I don't think it's necessarily no action for New Jersey.

MR. BOYLE: Yes, we'll have to take that note for the PDT, but just to clarify what that loophole was. The regulation in New Jersey is that if they sell or offer to sell spiny dogfish within the state then they must have a federal permit. From discussions with Law Enforcement, every spiny dogfish harvester in New Jersey sells to one of two co-ops in the state, who then ship it to the processing plant in Massachusetts.

They would all fall under that prohibition. To get around that, theoretically a harvester would

have to transit the dogfish out of state and then sell it or opt to sell it. From their understanding from law enforcement's point of view there is no real incentive for that, and it isn't likely to happen. But that is the possibility, yes.

CHAIR GEER: Are there any other questions for James? Let's open this up for discussion. Nichola.

MS. MESERVE: I'll take a first crack at the motion that has come back. I would just say that, you know my interest in maintaining consistency with the federal action here would be to take that more narrow path of focusing primarily on, well focusing on those permitted in their state to harvest dogfish, not those permitted to set a gillnet for a variety of species.

That would be my interest, and the intent of the motion on the board. I make that, because I think it is, or that is my intention, because it is consistent with the federal action. We also know that there is additional biological opinion pending, that the states are considering their measures. While I understand that the sturgeon bycatch action plan did identify other fisheries with bycatch, I think at this time we can focus on the dogfish fishery.

CHAIR GEER: Shanna Madsen.

MS. SHANNA MADSEN: I just want to echo what Ms. Meserve just put on the table. Virginia is also in support of kind of walking that narrow path, just to make sure that we are maintaining consistency. Reason being is, I'm sure as some of you have read in the meeting materials, there are several of our fisheries that would be impacted by not allowing the overnight soak.

We have some fisheries up on our eastern shores that fish black drum, as well as striped bass in March, so this would be a pretty big hit for them. Virginia also would like the Board to know that they are in the process of pursuing an incidental take permit for Atlantic sturgeon, so we would prefer to work with our NOAA partners to look at very specific ways of mitigating sturgeon bycatch in

those specific fisheries. We would like to also just stay with the consistent measures for spiny dogfish.

CHAIR GEER: Next I have Mike Luisi.

MR. MICHEL LUISI: I agree with what both speakers so far have stated, and I think that if we were to move forward as clarified by Ms. Meserve, focusing on the spiny dogfish fishery, we can certainly support that. Initially, I had concerns about the impacts of the overreach into the state fisheries like striped bass and bluefish and other fisheries that are being prosecuted in state waters.

But upon further investigation into landings and practices from the commercial fisheries that I just mentioned, striped bass and bluefish, what we've been able to determine is that there is probably going to be very little overlap between when the other fisheries are prosecuted outside of the spiny dogfish fishery, so this time/area closure issue will likely be, no matter how we do our regulations, it will impact the spiny dogfish fishery.

It's not going to impact those other fisheries. However, a question to you, Mr. Chairman, or maybe to James. If in the state of Maryland, we decide to do a gear rule, and just change all of our gillnet regulations for that period of time, to make it so that anyone in Maryland waters, using the gear during that time/area closure has to follow that rule, no matter what they are fishing for. The way I understand it, if we did that, that would be a more restrictive measure, and therefore there would be no compliance issue with that. If the intent is the more focused approach, and we apply a less focused approach, we would still be in compliance. I want to confirm that before I decide how to vote on this.

CHAIR GEER: We're both nodding our heads yes. Any other comments from anybody? Joe Cimino.

MR. JOE CIMINO: Yes, sorry, MR. Chair, I'll jump in. I support the motion, although I personally think it doesn't go far enough. But I really want to recognize the amount of hard work that went into getting this done at the Council levels, to deal with the federal issue at hand. As Shanna mentioned, several of the states will be working on incidental take permits, and I think it is important for fishermen to know that there is going to be more to come.

We're going to be talking sturgeon soon. It's a species that needs protection. We're hopefully seeing some positive signs, and with that we're talking increased interactions in our state waters. I think the best thing for this Board is to move forward with this motion, and then continue to deal with the protections for sturgeon at a later time. Thanks.

CHAIR GEER: Thank you, Joe, anybody else? Not hearing anything, nobody. I will read the motion in. **Move to initiate an addendum to maintain consistency between the spiny dogfish FMP and the recommended alternatives of Spiny Dogfish Framework Adjustment 6. Motion by Ms. Meserve, and seconded by Mr. Hasbrouck.**

Can we have a show of hands who is in approval of this, who supports this. Does anybody oppose? Put your hands down, is there anybody opposed. Okay, I think **the motion carried unanimously.**

ADJOURNMENT

CHAIR GEER: Is there any other business to come before this Board today? Not hearing any; motion to adjourn, so moved.

(Whereupon the meeting adjourned at 11:53 a.m. on Tuesday, August 6, 2024)