

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

**The Westin
Annapolis, Maryland
Hybrid Meeting**

October 24, 2024

Approved February 4, 2025

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2. **Approval of Proceedings of August 2024** by consent (Page 1).
3. **Move to approve Draft Addendum VII for Public Comment, as amended today** (Page 3). Motion Mike Luisi; second by John Clark. Motion accepted by unanimous consent (Page 3).
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5. **Move to adjourn** by consent (Page 7).

ATTENDANCE

Board Members

Megan Ware, ME, proxy for Pat Keliher (AA)	Joe Cimino, NJ (AA)
Cheri Patterson, NH (AA)	Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)
Doug Grout, NH (GA)	Jeff Kaelin, NJ (GA)
Nichola Meserve, MA, proxy for D. McKiernan (AA)	John Clark, DE (AA)
Sarah Ferrara, MA, proxy for Rep. Armini (LA)	Roy Miller, DE (GA)
Ray Kane, MA (GA)	Michael Luisi, MD, proxy for L. Fegley (AA)
Jason McNamee, RI (AA)	Russ Dize, MD (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Pat Geer, VA, proxy for Jamie Green (AA)
David Borden, RI (GA)	Sen. Danny Diggs, VA (LA)
Matt Gates, CT, proxy for Justin Davis (AA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
Bill Hyatt, CT (GA)	Chad Thomas, NC, proxy for Rep. Wray (LA)
Marty Gary, NY (AA)	Allison Murphy, NMFS
Emerson Hasbrouck, NY (GA)	

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

Ex-Officio Members

Chris Baker, Law Enforcement Committee Rep.

Staff

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

The Spiny Dogfish Management Board of the Atlantic States Marine Fisheries Commission convened in the Capitol Ballroom via hybrid meeting, in-person and webinar; Thursday, October 24, 2024, and was called to order at 9:00 a.m. by Chair Pat Geer.

CALL TO ORDER

CHAIR PATRICK GEER: Good morning, everybody, and welcome to the Spiny Dogfish Management Board. My name is Pat Geer, I am the Administrative Proxy for the Commonwealth of Virginia. To my left is Chris Baker, he is from Massachusetts, he is the Law Enforcement Committee representative, and to my right is James Boyle, who is our fisheries management Plan Development person.

APPROVAL OF AGENDA

CHAIR GEER: First order of business today is Approval of the Agenda. Are there any changes, modifications or additions to the agenda? Hearing none; the agenda is approved by consent.

APPROVAL OF PROCEEDINGS

CHAIR GEER: Approval of the proceedings from the August, 2024 meeting. Are there any changes to the minutes, proceedings? Additions, edits, anything? Hearing none; they are approved by consent.

PUBLIC COMMENT

CHAIR GEER: Next is Public Comment. Has anybody signed up for public comment for items that are not on the agenda today? Okay, we have one person online, Mr. Fletcher.

MR. JAMES FLETCHER: I would like to bring the Council or the Commission a problem of the machinery needed to cut small dogfish, and the lack of funding to do the research to do it. It was built by MIT in the eighties, and if there is anybody on the Commission that would have any thought process to help, either Rob Bits at MIT or Jason Didden with Mid-Atlantic Council

could use any help to do that. With the sturgeon situation wanting smaller fish, this equipment is definitely needed. Thank you for your time. James Fletcher, United National Fishermen's Association.

CONSIDER THE APPROVAL OF DRAFT ADDENDUM VII FOR PUBLIC COMMENT ON THE ATLANTIC STURGEON BYCATCH REDUCTION MEASURES

CHAIR GEER: Thank you, Mr. Fletcher, for your comments. Is there anybody else who wants to comment? Anybody else online? Not seeing anybody in the room, let's move on to Item Number 4. Consider the Approval of Draft Addendum VII for Public Comment on the Atlantic Sturgeon Bycatch Reduction Measures. This has already gone through the Mid-Atlantic Council and the New England Fisheries Management Council, and this is just coming up, developing equivalent overnight soak restrictions, so I'll turn it over to James at this time.

MR. JAMES BOYLE IV: Here is the process to this point. The Board initiated the development of Draft Addendum VII at the August meeting, and the goal for today is to approve the document for public comment. After a public comment period and hearing from November until January, the Board would then consider final approval at the winter meeting in February. As a quick reminder of the background. In August, NOAA Fisheries published a proposed rule that corresponds to recommendations from the Mid-Atlantic and New England Fishery Management Councils to implement overnight soak prohibitions for certain gillnet mesh sizes in specific times and areas to reduce sturgeon bycatch.

The areas include both federal and state waters, and one objective of the spiny dogfish FMP is to strive for complementary management, which led to the initiation of this addendum to implement corresponding measures for harvesters that do not have a federal permit and only fish in state waters. Based on the requirements of the 2021 Biological Opinion that began the federal process, the Final Rule and 30-day implementation period for federal action is expected before the end of 2024.

The Proposed Rule would establish a prohibition on overnight soaks, which is defined as, from 8:00 p.m. to 5:00 a.m. within three polygons, as shown in the figures on the slide. For federal spiny dogfish permit holders specifically. The New Jersey area is shown in purple, and the blue polygons from north to south are the Delaware and Maryland area, and the Virginia area, respectively.

The PDT in the Addendum maintain this naming convention for consistency, but wants to make a note that the Delaware and Maryland area is adjacent to, but does not overlap with Delaware state waters, so Delaware is not included in the discussion of the action. In the New Jersey area the prohibition would be for the months of May and November for mesh sizes between 5 and 10 inches, and in the Delaware and Maryland and the Virginia areas it would last from November through March, for mesh sizes between 5.25 and 10 inches.

Here is a breakdown of how each of the affected states permit for dogfish. New Jersey issues licenses by gear, and has a general gillnet permit for drift, anchored and state gillnets. Maryland has a tiered system, where different permits are allowed to harvest spiny dogfish at different trip limits, so a general finfish license for harvest of 1,000 pounds of spiny dogfish.

If the harvester also has a striped bass permit, then they can take 2,500 pounds of spiny dogfish, and a spiny dogfish specific permit holder can harvest a maximum of 10,000 pounds. Virginia issues permits-by-species and has a spiny dogfish specific limit. There are three options in the proposed management program of the Addendum.

There are three options in the proposed management program of the Addendum. Option 1 is the status quo, where spiny dogfish harvesters that do not have a federal permit and fish only in state waters may continue to soak gillnets at the specified mesh sizes overnight in the state waters portions of the

bycatch reduction areas. Option 2 would apply complementary overnight soaks to species-specific state spiny dogfish permit holders.

This option is consistent with the proposed rule from federal action, in that it applies the new measures to spiny dogfish specific permits. However, due to Maryland's tiered permit system, there are striped bass and finfish permit holders that do not also possess a spiny dogfish state permit, may continue to harvest spiny dogfish at reduced trip limits within the Maryland state waters portion of the Maryland and Delaware bycatch reduction area. In Jersey they would not have to take any action, because they do not issue species-specific permits for spiny dogfish. However, they do already require any person or vessel that possesses for sale or attempts to sell spiny dogfish, to possess a federal permit. If they have a federal permit they will be already captured by the federal action.

Option 3 would prohibit all spiny dogfish harvest via overnight soaks for the specified mesh sizes, times and areas, regardless of permit. This option is distinct from Option 2 in that it would not result in any allowances for spiny dogfish to be harvested in state waters portions of the bycatch reduction areas that is inconsistent with the federal rules, but presents some greater enforcement challenges in the language.

In conversations with the Law Enforcement Committee, I had yesterday, they recommended just one change to the document, to confirm that while Option 3 eliminates directed harvest that would otherwise be permitted under Option 2, it does present additional enforcement challenges. The Board action to consider today is to approve the Addendum for public comment as modified today, if the Board wishes to include the edit from the LEC or make any additional modifications. With that I am happy to take any questions.

CHAIR GEER: Thank you, James, are there any questions for James at this time? Megan.

MS. MEGAN WARE: I just had a question of the difference between Actions 2 and 3. It sounds like

in Option 2 no overnight soak for those specific spiny dogfish permit holders, so they are taking the nets out of the water. Option 3, it doesn't sound like those nets are coming out of the water, it's just no harvest from that that are still in the water. Is that correct?

MR. BOYLE: Yes, this is something that came up at Law Enforcement yesterday as well. It seems more of an incentive structure that because they cannot possess or harvest spiny dogfish, if they are spiny dogfish directed harvesters then theoretically, they wouldn't put the nets in the areas at the time, and see if they can keep that catch. If you are not a spiny dogfish directed harvester, then you could call that catch, for example.

MS. WARE: Okay, I would be curious if that meets what the objectives were in the BiOp. I understand it was just for federal permit holders, but I guess I have some questions about that, but that's okay. Thank you.

CHAIR GEER: Any other questions for James? Toni.

MS. TONI KERNS: Pat, I think just to Megan's question. I think the intention is for the state to then implement regulations that would force that that we're not telling you all in the document how to write those regulations.

CHAIR GEER: Thank you for that clarification. Any other questions? Not seeing any; any other comments or discussion? I'm not hearing any of that, so I guess we're looking for a motion. Mr. Luisi.

MR. MICHAEL LUISI: **I move to approve Draft Addendum VII for Public Comment as amended today.**

CHAIR GEER: We have a second by John Clark. Is there any discussion on the motion? Okay, I'll read the motion in. **Move to approve Draft Addendum VII for Public Comment as amended today, motion by Mr. Luisi, seconded**

by Mr. Clark. Is there any objection to this motion? Seeing none; **the motion is accepted.** That was quick.

CONSIDER REVISING 2024/2025 FISHING YEAR QUOTA

CHAIR GEER: Moving on to Item Number 5 is to Consider Revising 2024/2025 fishing year quota. We might have to take a possible action on this, and we received a letter, and James, I think it was on October 7, describing what the concerns are with bycatch overages from last year, and so James has a quick presentation on that as well.

MR. BOYLE: Yes, we can jump right into this one as well. In response to an Emergency Rule by NOAA Fisheries. As you all recall, the Board approved a state quota for the current 2024/2025 fishing year of 11,331,747 pounds. After the Emergency Rule was published, NOAA Fisheries finalized the 2023 and 2024 catch data, including landings and discards.

This data revealed estimated discards were higher than what was anticipated, and resulted in an overage of 1,082,487 pounds of the ACL. In September, NOAA Fisheries extended the Emergency Rule for the remainder of the fishing year, and through that rule applied the payback of the overage by deducting the overage amount from the current 2024/2025 quota.

This action resulted in a new federal quota of 10,249,260 pounds. Please note, this is slightly different than the preliminary estimate provided in the memo in the meeting materials, but this is the final number from the Final Rule. From preliminary landings estimates, every state and jurisdiction are able to utilize the maximum of the 5 percent rollover provision.

Only New York and New Jersey did not express interest in rolling over quota from last year. If the other states and jurisdictions still choose to utilize the rollover provision, there is an additional 538,467 pounds added to the state coastwide quota. If the Board does not adjust the quota to

match the federal quota, then including that rollover, the difference between the state quota and the federal quota is potentially 1,620,954 pounds.

If the Board does adjust to the federal quota but still use the rollover provision, then the difference between the federal and state quotas will be the amount of the rollover, that 538,000 pounds. The possible implications of this, if the state coastwide quota is greater than the federal quota there is the possibility that if landings are projected to exceed the federal quota, then federal waters will be closed, and current federal permit holders will not be able to land dogfish, while harvesters with only state permits in state waters may continue to harvest.

Additionally, this would create an incentive for harvesters to drop their federal permits once federal waters were closed for the remainder of the fishing year, and reacquire them at the beginning of the following fishing year. In that case, any overage of the federal ACL would be deducted from a future fishing year. The Board action for consideration today is to revise the 2024/2025 coastwide quota to 10,249,260 pounds to match the federal quota. Since this action would be revising a final action that the Board took, it would require two-thirds majority of the Board, and with that I am happy to take any questions.

CHAIR GEER: Any question for James? Eric Reid.

MR. ERIC REID: You said that the overage would be deducted from a future year, is it the next year or is it to be any year?

MR. BOYLE: I believe the language, if Alli has any additional thoughts, but I believe the language is that it is as soon as possible, or something to that affect, so it's not definitive if it's the next year or following year.

CHAIR GEER: I had that same question, Eric. Mike Luisi.

MR. LUISI: James, on the slide that you presented, the implication slide. I think what you're referencing in that implication slide is what we have talked about for years, which is when there is a difference between the federal and state quotas and the state quotas are higher than the federal quotas, that we could find ourselves in a constant loop of overharvesting based on federal rules that continually just whittle away at whatever that federal quota is.

Because if we continue to harvest more than the federal limits then the federal quota eventually just over time disappears, it just goes away, because of the overharvest. That is a situation that I know we have had discussions around this table, not just for spiny dogfish, but for other species that we really, our intention is to try to maintain consistency between the states and the federal waters.

Does your final, the slide you presented at the end, where the possible action that we need to take today. My question directly is, if we were to consider revising to the 10,249,260 number, that puts us back in line with the federal quota, so that are we pulling ourselves out of that loop that we are right now in? Does it assist with that tightening the difference between the two quotas? I know that is a long way of asking a simple question, but I'm still catching up from a late-night last night.

MR. BOYLE: It does make the difference smaller if the states use the rollover provision. If no state chooses to rollover, then changing it to this number would make it exactly the same. If the Board changed it to this number and the states rollover, then the difference is either that 538,000 number, or if New York/New Jersey changed their minds it would be that 600,000 number that was on the previous slide.

MR. LUISI: Okay, with that, I don't know, Mr. Chairman, you said there were motions prepared. I would be willing to make that motion to close the gap to the degree that we can today. Whenever

you're ready for that, I know that others might have questions.

CHAIR GEER: Well, I saw a couple other hands. I saw John's hand go up.

MR. JOHN CLARK: I was just curious again, because if I recall this issue kind of developed because the only processor of dogfish that needs a certain minimum amount of product to make it worthwhile. Would this new quota meet the minimums required?

CHAIR GEER: I'm not sure what that minimum is right now, but Ray Kane.

MR. RAYMOND W. KANE: I believe you're talking about Sea Trade, John, and they are requiring 10 million pounds. They say they can't operate with less than that.

CHAIR GEER: In a sense even doing the federal amount would meet that. Are there any other? Adam Nowalsky.

MR. ADAM NOWALSKY: Thanks, I apologize if I missed this, but we're proposing 10,249,360 today, which is a different number than what was in the memo. What was the reason for that change today?

MR. BOYLE: There was just a couple, there is less than 2,000-pound difference in the Excel sheet I was working off of, and the Final Ruling came out in the Federal Register. That was just the difference. There was a 10,251 in the memo, and this 10,249 and change in the final number.

CHAIR GEER: Are there any other questions?

MR. DAVID V. BORDEN: I was just wondering, the discards that were referenced are taking place in which fisheries at which time of year, and is anything being done to reduce those? It's two questions.

MR. BOYLE: From some data I've seen, it is in the primarily the big jumps in the estimate came from the Gulf of Maine and Southern New England large mesh trawl.

CHAIR GEER: To your second part, does anybody know if any actions are being taken? Does anybody know? No. Okay. David.

MR. BORDEN: I mean the four slots makes a little apprehensive. We've got a problem; we're not addressing the problem. If the problem continues, then as Mike Luisi said, we're going to be in the cycle of constantly reducing the targeted fishery, and not really addressing the problem. At some point I think we should have a discussion, not today, but at a subsequent meeting perhaps with the Councils on what is being done to address it. That's all, maybe some common-sense alternatives that we could use, so that we don't close down the directed fishery.

CHAIR GEER: Agreed. Chris Batsavage.

MR. CHRIS BATSAVAGE: Yes, the Mid-Atlantic Dogfish Committee, joint committee with New England talked about the discard estimate and how to account for that in future years, and it was pointed out that with the quotas for fisheries that are targeted with large mesh trawls, are less now than when we got the discard estimates before. Presumably, there will be less effort, which could reduce the discards in that manner. But that is an indirect way of maybe predicting what could happen. But it doesn't get to your concern about directly addressing the discard problem.

CHAIR GEER: Thank you, Chris. Are there any other comments or questions? Seeing none; does anybody have a motion? Mr. Luisi.

MR. LUISI: Yes, I'm happy to make this motion. I think as long as those numbers are the same, are those the right numbers, James?

CHAIR GEER: That's what we need to check on.

MR. LUISI: Okay, it looks different. I don't know why.

MR. BOYLE: Yes, that is the same as the federal quota, but if the states choose to rollover, then the state quota would in effect be higher than that. That is the federal quota right now. I guess the question is to clarify, for me also as we keep track of the landings. Do the states who expressed interest in rolling over still want to do that, just to confirm for me.

CHAIR GEER: Emerson.

MR. EMERSON C. HASBROUCK: Maybe we could change the wording of that to say the base commercial quota. I don't know if that helps to address the problem if states decide that they want to roll it over that is on top of the base commercial quota, isn't it?

CHAIR GEER: Toni.

MS. KERNS: Just to explain. In the FMP the rollover is automatic. We cannot force states to not rollover, but states can voluntarily choose to not rollover. We would just adjust the individual states quota if they so choose to rollover, and we would bump that up. It's still the coastwide quota, but if you want to write base that is also fine.

CHAIR GEER: We do not have to include that amount in the motion, okay. I see your point if the maker of the motion wants to change this to the new federal quota or something along those lines. You thinking? Mr. Luisi.

MR. LUISI: Yes, I mean I haven't made the motion yet, I'm just trying to make sure that we get this right. We've got one chance to make it right. In thinking about, so if I had to weigh whether or now. If states were all over the quota, we go over by half a million pounds. There is a difference now of half a million pounds, and the state would have a higher quota than the federal quota by half a million pounds.

That's the situation that I think we're all trying not to have happen. For me and the state of Maryland, to maintain the federal quota at the state level, to keep us equal and even means that we can't rollover some small amount of spiny dogfish from a previous year. I would be inclined to say for our state that we would opt out of the rollover, to get it to be close. But if all the other states decide they're going to do the rollover anyway, then I'm going to jump onboard with that too. I think it's almost like we have to have that conversation first, to determine how impactful not rolling over the quota is to the other states, before we decide on what that total number is, so maybe we can have that conversation first before I throw myself on this motion.

CHAIR GEER: Nichola.

MS. NICHOLA MESERVE: I think that given the current landings in the northern region, which is 58 percent of the quota, and we're projecting to be very well below that. Like I'm not concerned about the disparity that exists from the rollover. When we talk about in the northern region.

Rolling over that quota would maybe just allow us to transfer a little bit more to southern states earlier on, without worrying about bumping up against our quota if there were some late season landings. I think based on current quota utilization, the fear of the disparity from rollover doesn't really exist.

CHAIR GEER: Eric.

MR. REID: I'll be brief. I agree with them and Ms. Meserve. It's really about the fisheries performance. We are under performing now, so I think the risk is not all that great, to be honest with you.

CHAIR GEER: New Jersey and New York, since you did not state that you were going to rollover, is that still your stand, New York? That was New Jersey and New York. What other states? I think Virginia was probably going to potentially consider it. A thumbs up, Marty, does not constitute a yes.

MR. MARTIN GARY: Yes.

CHAIR GEER: Thank you, Marty. Any other states, Connecticut?

MR. HYATT: We're in the region with the northern states, go along with them.

CHAIR GEER: Some of the states are definitely considering it, Mike.

MR. LUISI: That's great, there is no reason to make this a big issue. If we're going to make a motion here, I want to make sure that I'm getting the advice from you, Mr. Chairman and staff that the number is the number. Whatever number needs to be up there to account for the rollover. I can't do any math or anything in my head right now, and I've given my staff the last ten minutes to let me know if I'm going down a really bad path, and that hasn't happened.

CHAIR GEER: I'm doing the same thing.

MR. LUISI: I'm inclined to keep things moving forward, but is this the right number that we need to do here for today.

MR. BOYLE: This is the federal quota.

MR. LUISI: Okay, then I would **move to amend the spiny dogfish commercial quota to 10,249,260 pounds for the 2024/2025 fishing year.**

CHAIR GEER: Do I have a second to the motion? Let's go with Nichola. Is there any discussion on this motion? Any other questions? This takes a two-thirds vote, correct? Let me read the motion in. **Move to amend the spiny dogfish commercial quota to 10,249,260 pounds for the 2024/2025 fishing year.** Motion by Mr. Luisi, seconded by Ms. Meserve.

This requires a two-thirds vote. Is there anyone in opposition to this motion? Hearing none; **the motion is accepted.**

ADJOURNMENT

CHAIR GEER: Is there anything else on the agenda? Anything else anybody wants to bring up? I'm not hearing anything, do we have a motion, anything else? Doug.

MR. DOUGLAS E. GROUT: Motion to adjourn.

CHAIR GEER: Motion to adjourn.

(Whereupon the meeting adjourned at 9:30 a.m. on October 24, 2024)