

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

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

**May 2, 2024**

**Approved August 6, 2024**

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**Move to postpone until the next meeting of the Spiny Dogfish Board** (Page 10). Motion by John Clark; second by Justin Davis. Motion carries by consent (Page 12).
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**ATTENDANCE**

**Board Members**

Megan Ware, ME, proxy for P. Keliher (AA)	Emerson Hasbrouck, NY (GA)
Renee Zobel, NH, proxy for C. Patterson (AA)	Joe Cimino, NJ (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)
Justin Davis, CT (AA)	Pat Geer, VA, proxy for J. Green (AA)
William Hyatt, CT (GA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
Jesse Hornstein, NY, proxy for M. Gary (AA)	Allison Murphy, NOAA

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

**Ex-Officio Members**

Chris Baker, Law Enforcement Committee Rep.

**Staff**

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

**Guests**

Auva Amirmokri, Shark Advocates International	Sonja Fordhaun, Skark Advocates International	Tom Lilly, Menhaden Project
Russ Babb, NJ DEP	Anthony Friedrich, ASGA	John Maniscalco, NYS DEC
Alan Bianchi, NC DMF	Sarah Gaichas, NOAA	Anthony Mastitski, Marine Stewardship Council
Tom Bleifuss, USGS	Alexa Galvan, VMRC	Tara McClintock, Cornell University Cooperative Extension
Jason Boucher, NOAA	Keilin Gamboa-Salazar, SC DNR	Joshua McGilly, VMRC
Colleen Bouffard, CT DEEP	Marty Gary, NY (AA)	Daniel McKiernan, MA (AA)
Jennifer Couture, NEFMC	Matthew Gates	Kevin McMenamin, Annapolis Anglers Club
Jessica Daher, NJ DEP	Jennifer Goebel, NOAA	Meredith Mendelson, ME DMR
Laura Deighan, NOAA	Melanie Griffin, MA DMF	Alex Mercado, Cornell Cooperative Extension of Suffolk County
Jason Didden, MAFMC	Hannah Hart, MAFMC	Steve Meyers
Chris Dollar, CCA National	Heidi Henninger, NOAA	Brandon Muffley, MAFMC
Julie Evans, East Hampton Town Fisheries Advisory Cmte.	Jay Hermsen, NOAA	Ed Mullis, B&C Seafood Inc.
James Fletcher, United National Fisherman's Assn.	Todd Janeski, VCU	
	Robert LaCava, MD DNR	
	Lynn Lankshear, NOAA	
	Laura Lee, US FWS	

**Guests (Continued)**

Thomas Newman, North  
Carolina Fisheries Assn.  
Jay Odell, Monmouth University  
Urban Coast Institute  
Danielle Palmer, NOAA  
Cheri Patterson, NH (AA)  
Anna Quintrell, NOAA  
Jill Ramsey, VMRC  
Sefatia Romeo Theken, MA DFG

Daniel Salerno, NEFMC  
Zachary Schuller, NYS DEC  
Chris Scott, NYSDEC  
Tara Scott, NMFS  
McLean Seward, NC DEQ  
Amanda Small, MD DNR  
Somers Smott, VMRC  
Renee St. Amand, CT DEEP  
Elizabeth Stratton, NOAA

Kristen Thiebault, MA DMF  
Chad Thomas, NC Marine &  
Estuary Foundation  
Mike Waine, ASA  
John Whiteside  
Kelly Whitmore, MA DMF  
Angel Willey, MD DNR  
Travis Williams, NC DEQ  
Daniel Zapf, NC DEQ

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, May 2, 2024, and was called to order at 9:00 a.m. by Chair Pat Geer.

**CALL TO ORDER**

CHAIR PAT GEER: Good morning, everybody. My name is Pat Geer; I am the Virginia Administrative Proxy for the Commonwealth of Virginia. I am the Chairman of the Spiny Dogfish Board here today. To my left is Major Chris Baker from Massachusetts; he is on the Law Enforcement Committee. To my right is James Boyle, fisheries management coordinator, and online is Jenny Couture, who is with the New England Council. We have general things we have to do, the Board Consent.

**APPROVAL OF AGENDA**

CHAIR GEER: We have to first do the Approval of the Agenda. Does anybody have any changes to the agenda, modifications and additions? I have one; Major Baker has a few comments he wants to make after the two presentations today, so I would like to add that if there is no opposition to that. Hearing none; the agenda is approved with the changes we have.

**APPROVAL OF PROCEEDINGS**

CHAIR GEER: Moving on to the Proceedings. Any additions or changes to the proceedings from the last meeting? Hearing none; the proceedings are approved by consent.

**PUBLIC COMMENT**

Moving on to Public Comment. Do we have anybody who wants to provide public comment for items not on the agenda today? Anybody in the audience? Anybody online? Nobody online. We'll move on.

**REVIEW ACTION BY THE MID-ATLANTIC AND NEW ENGLAND FISHERY MANAGEMENT COUNCILS (MAFMC AND NEFMC) TO REDUCE STURGEON BYCATCH AND CONSIDER COMPLEMENTARY ACTION**

CHAIR GEER: Our main item today is Item Number 4; which is a Review of the Action by the Mid-Atlantic and New England Fishery Management Council to Reduce Sturgeon Bycatch and Consider Complementary Action. There is a possible action with this, and we're going to have three presentations now. We'll have a presentation by Ms. Couture; she'll review the final actions, and then James will provide the Review of Consistency of Federal and State Management for Spiny Dogfish. I will turn it over to Jenny at this time.

**REVIEW MAFMC AND NEFMC FINAL ACTION**

MS. JENNIFER COUTURE: Hi, my name is Jenny Couture; I'm with the New England Fishery Management Council. Today as mentioned, I'm going to walk you through the joint action by both the New England and Mid-Atlantic Management Councils on the sturgeon action, meant to reduce bycatch in both the monkfish and spiny dogfish fisheries.

Just as a reminder, in case folks don't know. The purpose of this action is to show the 2021 Biological Opinion and its Sturgeon Action Plan, which required a reduction in sturgeon bycatch in large mesh gillnet fisheries. What I'm discussing with you today is specific for the monkfish and spiny dogfish fisheries. About halfway through this action last summer, the Regional Administrator shared with us, both Councils, that the incidental take statement for sturgeon had been exceeded by a large amount, and mortality rate had also been shown to increase.

I bring this up, because a new Biological Opinion was reinitiated last September, and is expected in early 2025. This new reinitiated Biological Opinion will account for this current Council's joint action, and also the stock assessment that is ongoing by the Commission. I bring this up, because as a result of this new Biological Opinion, there may be

additional measures required to further reduce sturgeon bycatch.

There is a hope that a jeopardy finding won't be found, but I guess time will tell. Just as a reminder, the Atlantic Sturgeon population, there are five distinct population segments, all listed as endangered except for the Gulf of Maine, which is just listed as threatened. The last assessment was done in 2017, and as I mentioned, there is an ongoing 2024 assessment that will be complete by later this summer, with information available from you all mid-July is what we heard.

Both the Councils put together a range of alternative packages, the first is of course no action, like all of our actions we have Alternative 1, no action. Alternative 2 through 4 range from high sturgeon impacts, high being the greatest number at time/area closures and gear restriction measures in place, and 4 being the most targeted approach, so the fewest time/area closures and the fewest gear restriction measures.

Then Alternative 5 is only gear restriction measures. The thought behind that was that the technical group wanted an option that didn't involve a time/area closure, given that would have a high impact to the fisheries, so looking at only gear restriction measures. For monkfish that would be the low-profile gillnet gear requirement, and then dogfish, which you're most interested in, is an overnight soak prohibition.

There were a couple of sub-alternative exemptions for the dogfish overnight soak prohibition, for vessels using smaller mesh, so less than five and a quarter inch mesh. You'll notice that figure on the right, all of those time/area closures and the gear restriction measures apply to those polygons on the right. The one I have highlighted, kind of the magenta one in the blue southern ones off of Delmarva, are specific for spiny dogfish.

That is where those measures would apply. You will also notice that I bring this up, because while these measures apply to federal vessels targeting spiny dogfish, for example, they are applicable in both federal and state waters. This just shows these a little bit more zoomed in measures. You can see the Lat and Long for those, and again, want to emphasize that these measures do apply for both federal and state waters, but only for vessels holding and using a federal permit targeting spiny dogfish.

Overall, for the impacts, we really relied heavily on our partners within NOAA to help out with some modeling work. I don't know how familiar you are with the Decision Support Tool. That tool was used, and I'll get into more in a couple slides on this, but used for more of the sturgeon impact analysis, and the impact on both of the fisheries, specifically on the time/area closures. The main finding was that the time/area closures were not as effective as initially anticipated. Sturgeon risk was found to be a little bit more diffused, and not really concentrated in any particular areas.

I do want to note that there are a few pieces of literature that suggest that sturgeon is more concentrated in estuaries during certain times of the year, and then move further offshore in fall and winter. That is some caveats to keep in mind with those results. The overall amount of gear removed or displaced from those time/area closures was again, relatively low.

Based on where, again I'll get into this in a couple of slides, but overall low based on the whole coast. But there are some really high regional impacts that would be affected from those time/area closures, and that is the cost to industry would also be pretty high for those. Then regarding the gear restriction measures, so low profile for monkfish, and then overnight soak prohibition for dogfish could be substantial, but relative to that time/area closure, the gear modifications at least enable fishermen to keep fishing.

On the slide is what both the Councils selected as their preferred alternative, and is moving forward

with submitting an environmental assessment document to the Agency. As I mentioned, Alternative 5, this is the monkfish low profile gear requirement, and that would be applicable for off New Jersey year-round.

But again, I know you're all interested in spiny dogfish, so I'm going to focus on that. As you can see on the table below, again these are federal vessels targeting spiny dogfish in both state and federal waters, thus there would be no measures applicable for state vessels fishing only in state waters, which I believe is what you all would be discussing shortly. Except for the Council action, so for New Jersey the overnight soak prohibition would be applicable to that magenta-colored bycatch polygon that I showed on the initial slide.

That would be applicable during the months of May and November. Then off of Delmarva, both of those blue polygons would be applicable from November 1 to the end of March. These are based on looking at observer data when sturgeon bycatch was seen as greatest in those months. There were a couple of sub-alternatives for the dogfish overnight soak prohibition added by the Mid-Atlantic Council a couple of months ago.

These would be applicable for vessels using smaller mesh, so those vessels would be exempt from the overnight soak probation. The first alternative was applicable to the New Jersey polygon, and the second was the Delmarva polygons, which you'll see later the Council selected an exemption for the Delmarva polygons.

The technical teams further evaluated the data that we had available to see if an exemption would make sense. Regarding the potential exemption off of New Jersey, there weren't enough observed trips with the smaller mesh to evaluate any real difference in encountering it. You'll see a list of gear on the right. November and May did have the highest encounter rates, which does correspond with the overnight

soaks. But the technical teams were a bit concerned with the low observer coverage to make any sort of recommendations. Then the trips targeting spiny dogfish in what would actually be the Delmarva area. You can see the figure on the left shows the sturgeon catch by different mesh sizes, and you can see that smaller mesh does have a lower sturgeon take, especially compared to the larger mesh. By month we see that December does have the greatest number of interactions with sturgeon, again based on the observer data that we had available.

Getting to recommendations, the Fishery Management Action Team, the Plan Development Team, those are just the technical teams that I've mentioned across both New England and Mid-Atlantic Councils, evaluated all of these data. With regard specifically to spiny dogfish, as I mentioned, there is a recommendation to have no exemptions for that smaller mesh, given the low observer data.

We brought this forward to the Dogfish Advisory Panel, who had mixed opinions with some stating that day soaks could be possible and reasonable, while others disagreed. We met with a joint Monkfish and Spiny Dogfish Committee shortly thereafter, and there was a recommendation from that joint Committee to essentially use the observer data from the Delmarva area as a proxy for New Jersey, and to exempt the overnight soak prohibition in the months of May and December for that smaller mesh.

Then moving on to the Delmarva region, so those are the two blue polygons in the southern area. Again, the technical teams discussed and recommended an exemption for that smaller mesh in all of the months except for the month of December, which had the highest observed sturgeon take per trip. The Dogfish also discussed this, and wanted an exemption for all months, and then noted that this measure would be equivalent to a closure if an exemption wasn't put in place.

The Joint Committee also recommended an exemption for all months for that smaller mesh, and really wanted to better understand the sturgeon



assessment and the new Biological Opinion, before putting in any additional measures that could be really detrimental, and also the need to balance between the economic impacts from any measures, and then other protected species impacts as well.

Then all of this information is brought forward to the Mid-Atlantic Council, which met in early April, and then followed by the New England Council meeting, which met, it feels like last week, but I think it was a couple weeks ago at this point. Recommended, again this is dogfish, only if you're interested, monkfish on the slide. Feel free to let me know and I can share information.

But for dogfish, move to adopt Alternative 5, so this would mean specifically off of New Jersey there would be no exemptions for the smaller mesh, which means there would be an overnight soak prohibition in the months of May and November. Then for Delmarva there would be an exemption for the smaller mesh, so that means that vessels using smaller mesh could do overnight soaks year-round

Then for mesh greater than or equal to five and a quarter inch could not do overnight soaks from November through March. Then I included this, just in case it was helpful information for you all. The Councils both agreed to write a joint letter to the Observer Program, essentially to develop and implement a carcass tagging program for both dead sturgeon discards, and also for a tagging program for live sturgeon discards for any fishery fishing at any area, using any gear type. This was brought up, because there is some concern that fishermen were catching the same sturgeon on multiple trips, and it was being counted, essentially double counting sturgeon take, so if there was interest in trying to address this concern.

Then here we are today, so just presenting this information for you all to consider for any potential action you all are thinking about

taking for spiny dogfish, applicable for the state waters. More for your awareness, we are working on submitting the EA to the Agency, and all of those measures have to be in place by the end of 2024 to meet the 2021 Biological Opinion. Those measures should be in place by the end of this year. I think those are all of my slides. Yes, but I would be happy to take any questions.

CHAIR GEER: Okay, thank you very much, Jenny for that great presentation. Are there any questions for Jenny at this time? Not seeing any. No questions at all?

#### **REVIEW CONSISTENCY OF FEDERAL AND STATE MANAGEMENT OF SPINY DOGFISH**

CHAIR GEER: Okay, at this time we'll move on to James, who will give a Review Consistency of the Federal and State Management of Spiny Dogfish.

MR. JAMES BOYLE IV: This is a very brief presentation, as sort of a follow up to Jenny's. One objective of the spiny dogfish FMP is to strive for complementary management of spiny dogfish in both federal and state waters. As was just laid out, the Mid-Atlantic and New England Fisheries Management Councils have 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 changes that were just presented. The map may be a little tough to see, but they are the same you just saw, and also in the draft EA that is in the briefing materials, if you would like to get a closer look. The preferred alternative would establish a prohibition on overnight soaks, which is defined as 8:00 p.m. to 5:00 a.m. within the New Jersey and Delaware, Maryland, Virginia polygons shown in the figures for only federal spiny dogfish permit holders.

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 the Delmarva polygons mesh sizes less than five and a quarter inches would be exempt from the prohibition. Possible action for

the Board today is to either 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 the federal FMP or the Board may devise an alternative action as it sees fit. With that, I'm happy to also take any questions or pass it over to Chris for Law Enforcement comments.

CHAIR GEER: If anybody has any questions for James, before we turn it over to Chris. Seeing no questions, Major Baker is going to give a brief synopsis of what the Law Enforcement Committee talked about for spiny dogs in this issue. Go ahead.

MAJOR CHRIS BAKER: I think it will make everyone happy, I only have one comment. Based on the Law Enforcement Committee's enforceability guidelines, it is the LECs opinion that closed areas should be considered in combination with vessel monitoring systems when practical. That is all. Thank you, Sir.

CHAIR GEER: Thank you very much, Major Baker. Let's open it to the floor for any other questions or comments. Not hearing any. Yes, Craig.

MR. CRAIG PUGH: A little industry background. Dogfish are noted for swarming. They are either feast or famine when we catch them. In these swarms they become an apex predator, which industry recognizes, especially weakfish for their depletion. Careful as we go here, you may create a bigger problem than what you expect with restrictions.

Understand that there should be a dogfish fishery if you want to see other species exist and be tolerant. That would be my cautionary advice here. Not many people realize that. They have been noticed, I see in Virginia waters in gillnets, to strip fish, whether it be weakfish, or striped bass to push them to the bottom,

strip those fish while they exist in the net, and then become dead discards. They can be in large quantities a true adversity to our ecosystem. Careful as we go here.

CHAIR GEER: Are there any other comments? Can you put that last slide we had up there back up, so we can just see what our options are moving forward. Okay, Nichola.

MS. NICHOLA MESERVE: I would be prepared to make a motion in line with the potential action that is on the board here, if you're ready for it. I would **move to initiate an addendum to maintain consistency between a spiny dogfish FMP and the recommended alternatives of Spiny Dogfish Framework Adjustment 6.**

CHAIR GEER: All right, second by Emerson Hasbrouck. Do you want to respond to that?

MS. MESERVE: Sure, I think that motion largely speaks for itself. We've been tracking this joint council action with an eye towards taking habitable action at some point if needed. I think we're at that juncture now, where final action has been taken by the Councils, and we could move forward with an addendum to ensure that state-only harvesters are subject to the same gear restrictions as the federal permit holders. If I remember correctly, about 40 percent of the sturgeon interactions with large mesh gillnet were estimated to be in state waters, so we're not taking some compatible action here, you know it isn't a trivial thing. That's all I have.

CHAIR GEER: Emerson, do you want to add anything to that?

MR. HASBROUCK: No, I think it's advisable for us to be consistent with what was just recently approved by Mid-Atlantic Council and New England Council.

CHAIR GEER: Chris Batsavage.

MR. CHRIS BATSAVAGE: Yes, I support the motion. Still trying to understand how this would functionally work in state waters, you know for consistency purposes. If this was in place, and you

couldn't fish gillnets five and a quarter inch and greater overnight. Enforcement really doesn't know what those nets are targeting.

I guess it could potentially impact some other fisheries using mesh sizes in that range, in order to effectively enforce this in state waters, if I'm understanding this correctly. I'm just looking for some clarification from staff and others around the table, just to get a full understanding of how this could differ, as far as impacts in state waters, versus what we have in federal waters, considering that there are certain state waters fisheries that occur that don't happen in federal waters.

CHAIR GEER: James.

MR. BOYLE: Yes, I'll defer to Major Baker, if he has any different points, but my understanding from talking to Law Enforcement Committee on Tuesday was that they want to use VMS. Obviously, it makes it easier to enforce on a broader scale. But like if they came across a net.

They could tell, not necessarily what they were targeting, obviously, but what they are permitted for. The measures only apply if they are permitted for dogfish, so if they are not targeting dogfish, then they are targeting something else, and they would be not subject to these regulations.

CHAIR GEER: Chris, follow up.

MR. BATSAVAGE: Thanks, but in state waters, a lot of states don't have a state dogfish permit, like North Carolina, and I know this doesn't apply there. You have a commercial fishing license that allows you to fish for a variety of species in state waters, using different gears. I'm not sure how that is going to work in the states north where these polygons are.

But it may not be as cut and dry for state managed fisheries, as it is for federal fisheries, where you do have federal dogfish permits and

bluefish permits and things like that. Again, I support this, but I think as long as we all fully understand how this is all going to work in state waters, I think is important. If nothing else, as we develop this addendum.

CHAIR GEER: Okay, I have Toni.

MS. TONI KERNS: To that question then, Chris. I have a question to Jenny, if she is still on, or if Carson is on, or even James. When the FMAT was discussing how these measures would extend into state waters, did you all discuss how these state permits that are not specific for dogfish, but allow for dogfish to be caught under a general category permit would be affected? Was it the PDTs intention for these gillnets to also be general category gillnets to apply?

MS. COUTURE: Hi, this is Jenny. That is a great question. I would say maybe James can elaborate more, but the PDT and FMAT didn't discuss specifically that question. I was just pulling up our environmental assessment document, and we do frame it as vessels with federal spiny dogfish permit using gillnet gear with mesh size of 5 to less than 10-inch mesh. We had a dedicated meeting about enforcement, how this would work. But we didn't go into the level of detail that you're asking. I think there was an anticipation that that would be discussed by you all. But again, maybe I'll see if James has anything else to add.

CHAIR GEER: Go ahead, Toni.

MS. KERNS: A follow up then. The EA would not include these state vessels, so we don't know the volume of vessels that would be impacted by these measures then.

MS. COUTURE: Right, we were only focused on vessels with a federal spiny dogfish permit, recognizing that we were not accounting for state-only vessels fishing in state waters. If that makes sense.

CHAIR GEER: Mike, did you have your hand raised?

MR. MICHAEL LOUISI: I did, thank you, Mr. Chairman. I just wanted to make sure it is safe for me to kind of look at this through the lens that the actions that are being considered by NOAA Fisheries as a result of the Mid-Atlantic and the New England Council's actions are an attempt to slow down, minimize the interactions with sturgeon. It's a solid attempt to do that.

But it is not a full and complete suite of actions that could be considered in the future, if sturgeon interactions continue at the rate that they currently are being seen. I know where Chris is going. We have some state water fisheries that use gillnets within that range that is going to be what sturgeon are susceptible to.

But instead of lumping that all together in one gigantic action, you know I see this as a first initial step to address the concerns from the Biological Opinion. When we can get new information, maybe we may have to go down the path of considering taking actions on other species through other boards, as a result of this.

I hesitate to say the word, but you know a striped bass fishery in state waters through gillnets is something that might need to be addressed down the road. But I don't think today is the day to start trying to figure all that out. I think to be complementary with the federal management requirements that are likely, as a result of the actions by the Councils, I think this is a good first step.

CHAIR GEER: Yes, I was thinking the same with our fishery in Virginia with the striped bass. Are there any other comments? Adam.

MR. ADAM NOWALSKY: What timeline are we looking at, given that we don't know the timeline of federal action on this? What would be the scope that would be included here, given that while unlikely to deviate from what as recommended jointly by the Mid and New England, we can't guarantee that those are the measures that will ultimately be implemented.

What timeline are we looking at, and would this framework have specific measures as put forward by the Mid and New England, or would it be some general statement that would just say, we intend to have consistency moving forward?

CHAIR GEER: Allison Murphy is in the room, or is she online? She is online, she might be able to answer that question from NMFS.

MS. ALLISON MURPHY: I had my hand up to speak in favor of the motion, and just generally support consistency between state and federal measures. I think during the slides, I believe staff's presentation indicated that NOAA Fisheries was working toward having our measures in place by the end of the calendar year.

We don't have the document yet from the Commission. Council staff's presentation indicated that they were still working on that as well, and so when we receive the document that will really kick off the schedule for our potential rulemaking. Perhaps Commission staff might be able to answer potential timelines on the Commission's end.

MS. KERNS: Adam, for timeline for the Commission, we would draft a document for this Board's review at the August meeting to be approved for public comment. We would go out for public comment between now and the annual meeting, and approve the document at the annual meeting.

A question to the states is, would that allow you all to get your measures in place for the start of the fishing year in January, if that is truly what NOAA will be achieving for this year. I think we can include some language in the document that allows for some flexibility, if the Regional Administrator does not approve the measures that are recommended by the two Councils.

I think what I'm hearing today is that this Board is asking for the PDT to draft measures that are for federal dogfish permit holders only at this time. I think that is the direction that I heard, but I want to make sure that that is what I am understanding. If it's not, that you're asking for measures that are for

federal dogfish permit holders. If it's not then we need to have an understanding to the PDT to how to deal with these gillnets that are in these catch-all licenses.

CHAIR GEER: I'm seeing a lot of faces shaking their head on that one. I'll go to Adam, and then I'll go to John.

MR. NOWALSKY: I'll let others jump in on that second part, but I'm just trying to work through the timeline in my mind here. The Service is hoping to have this final rule done by the end of the year. You are talking about having a document go out to public comment in August, and final action in October, which may be before a proposed rule is even published by the Service.

I understand there is an expectation of what it's going to be, but it just concerns me that what we're going to look at taking out to the public. We're not even going to be able to go back and reference a proposed rule yet for what these federal measures that we're trying to be complementary for are going to be. Maybe I'm on an island here, maybe I would like to be on an island right now, with regards to being the only one concerned about that. But it's a concern of mine that we're going to take something out about something that may happen in the future, but isn't actually even in proposed rulemaking yet. That is a concern to me.

CHAIR GEER: I think, Adam, we're all kind of concerned about that. The nuances we have to play with this. I have John, then I have Nichola.

MR. JOHN CLARK: Pardon my confusion here. But the comments from Chris and Mike, and what Toni was just saying. I'm just confused, for state waters this would only apply to those who have the federal permits, because if not, this is a huge problem, because we have larger mesh gillnet fisheries that have overnight soaks that would be in this closed period. As it is now, I'm just kind of confused about the whole thing and slightly freaked out.

CHAIR GEER: Nichola.

MS. MESERVE: In response to Adam's comments about the timeline. I think the Board can have that discretion at the August meeting whether we're ready to send it out for public comment. That may be more complicated, that we might now be ready anyways, and again at the annual meeting, you know whether or not we're prepared to take final action then can be a decision of the Board. I think an implementation deadline could also differ from what is proposed in federal rulemaking, if states need additional time.

But in response to what Toni just said earlier, I was under the impression that the federal action, the Council's action applies to federal permit holders, whether they are fishing in state or federal waters. The intent of our complementary actions here is to apply to state only permitted harvesters fishing just in state waters, and how we figure out which group of harvesters that is, may be something that our PDT needs to address, in how it comes up with the options that we're looking at, and address them.

CHAIR GEER: Joe Cimino.

MR. JOE CIMINO: Toni, do you want to go first?

MS. KERNS: I just would say, if the Board could provide the PDT some direction relative to that, Nichola, today, like some questions that you want them to be thinking about and some options you may want to see back from them. I think that would be very helpful for this PDT, in particular, I didn't realize that the federal EA did not analyze the number of state permit holders in their analysis. We'll have some work to do on our end that is more than I anticipated walking in there today.

CHAIR GEER: Joe Cimino.

MR. CIMINO: Yes, this is really now, being a Mid-Atlantic Council member, really stretching my understanding of gear. I was shocked to hear that NOAA had concerns that fishing observations in the Delaware/Maryland region wouldn't apply to observations in New Jersey waters, and we're

talking about a threatened species that we're hoping to avoid a jeopardy finding. Now suddenly, you have the same gear out in the water, but it's fishing for a different species, targeting a different species. Then sturgeon isn't still in jeopardy? My understanding was, I was going into this as an overnight soak for these times for gear, to protect an endangered species. I'm really confused at what this conversation is even about right now.

CHAIR GEER: Any other comments? Well, we have a motion on the table. Mike.

MR. LUISI: I'm sorry, I had a thought, but I'll hold off. I think they're thinking maybe something like I was, but I'll let it go.

CHAIR GEER: Roy had his hand up too. Roy, did you have your hand up?

MR. ROY W. MILLER: I did, Mr. Chairman. I think we need more specificity in this motion, because it doesn't say it applies to federal permit holders only. It doesn't say whether it applies in state waters. How about state water fishermen who fish for other species, like striped bass has been mentioned, who don't have federal permits. Does it apply to them, and if so, then it's a really big deal, particularly for our jurisdiction.

CHAIR GEER: Do we want to make a modification to the amendment? Toni.

MS. KERNS: I think the PDT can come back to you and provide you with information. I just think if you all could give us, it doesn't have to be in the motion, but if you could just give us some guidance to say, provide options that are for just the federal dogfish permit holders, provide options that include dogfish directed permit holders, options that include a catch-all permit holder. Something, I just think the PDT needs some direction.

We're looking for, was everybody thinking about it like Joe was thinking about it? Were

people thinking about it like Chris was thinking about it? I just don't know from the conversation at the table, it was starting to become unclear to me what people were thinking they were going to get back in August. If you want us to provide options for all of the above that I just did, we can do that. The PDT could use a little direction.

CHAIR GEER: Go ahead.

DR. JUSTIN DAVIS: I just have a question about timing. What would be the downsides of postponing this motion for consideration at a later meeting, and spending some time working through some of these issues away from the table? It just seems like there were a lot of questions flying around. But I don't understand the potential need to get this addendum started today versus at a future meeting. I was just looking for some guidance on that.

CHAIR GEER: I would say the one downside, I mean I think it is a good idea. The one downside was it wouldn't be finished this year. But if the federal rule has flexibility of when we adopt this, you know we probably could still do it in the February meeting.

MS. KERNS: Yes, we would just be delayed one meeting cycle, so we would finish in February. I guess we could potentially hold a special board meeting if we felt it was necessary to do so in December, it would probably be late December, try to give us enough time to have those public hearings after the annual meeting. But you could definitely do that, we would just still run some questions or direction for staff to work with your state folks, to gather the information that would help us answer these questions.

CHAIR GEER: Emerson.

MR. EMERSON C. HASBROUCK: As Joe mentioned a couple of minutes ago, the basis for the action at the Mid and New England Councils for the determination by NMFS that "something has to be done, to reduce sturgeon interactions," because the takes were exceeded. As I recall in the discussion to

both Councils, NMFS did not provide any specific reductions, they just said that something needed to be done.

The results of NMFS looking into what can be done to reduce sturgeon interaction, what rose to the surface, if you will, was the monkfish and dogfish gillnet fisheries. That is what they determined needed to be addressed relative to sturgeon interaction, with the hopes that there isn't a jeopardy determination.

In my mind, seconding this motion, in order to maintain consistency with what was done at the Mid and New England Councils, was to look at, well we're not talking about the monkfish fishery here, we're talking about the spiny dogfish fishery. That was my intent was the spiny dogfish fishery. I understand that states don't have a dogfish endorsement on their commercial license. But my perspective on this, is that dogfish fishery, not gillnet fisheries for other species.

CHAIR GEER: Mike Luisi and then John Clark.

MR. LUISI: Yes, I would just like to say that I agree with Emerson. You know the dogfish fishery is where we should be focusing this, and how it relates to federal waters permit holders and state waters fisheries, whether a state like the state of Maryland, we have a spiny dogfish permit that is for state fisheries only. Not every state has something like that.

I think when we open this up, if we consider opening it up, I don't even know how functionally we would take on like a gear omnibus amendment or an addendum to all the species that we oversee, and all of the different gillnet gears that are used. That is an entirely different process, in my opinion, and one that I honestly prefer not to step into right now.

I could support a delay if we think we need to have further conversation, but I think if we focus on dogfish, and as Toni mentioned, have the PDT come back with a handful of different

ways to craft rulemaking in the states, as it is consistent with what the potential federal rule would be. I think that would give us enough to start, to have a more informed discussion at the next meeting. I'm supportive of this, but I also if others have concerns about where this is going to lead, I could see postponing it as well.

CHAIR GEER: John Clark.

MR. CLARK: Emerson brought up a point about the take being exceeded for these federal water fisheries. Speaking as a state that we have not yet had our state water fishery Section 10 permit go through the process yet. This is getting into a very sensitive area. I would like to follow up on what Justin said, and **move to postpone action on this current motion until the next meeting**, and in the meantime assign to the PDT to answer some of these questions that we've had come up.

CHAIR GEER: That would be a substitute motion, correct?

MR. CLARK: Well, it's just a motion to postpone.

CHAIR GEER: Is someone else in favor of that? I see Justin's hand go up. Do we need to take a vote on that? Okay, does anybody? Jeff, you have a comment?

MR. JEFF KAELIN: Yes, I would like to raise another issue while we're kind of stumbling around here right now. I'm getting texts from industry people that there is some confusion, I guess, that some of these guys think they can use five and a quarter for the overnight soak, but I'm reading the memo, and that the Councils decided, no you can't.

There is some confusion around that. I'm not sure if the staff can help me out on that. I mean, I don't see us making that change here today, but there is just some general confusion about that. The memo seems pretty clear that you can't use it. I just wanted to put that on the record today as a question.

MR. BOYLE: Yes, just to clarify, Jeff. The exemption only, as it was passed by the Councils, would exist in the Delmarva polygons, so New Jersey, the five inches and up, if any, just would count as being regulated under these provisions.

CHAIR GEER: Are there any other comments about tabling this motion until the next meeting? **Is anyone opposed to tabling this motion until the next meeting?** Point of order, I'm sorry.

MR. LUISI: I would just say for the record to postpone instead of a tabling has different consequences, in August.

CHAIR GEER: Postpone, okay, is anyone opposed to postponing this motion? Hearing none. Jenny has her hand up, wait one second.

MS. COUTURE: Sorry, I didn't mean to interrupt, but I just wanted to clarify a few things that have been said so far. To confirm, the Council, the joint Council action, those measures apply to federal spiny dogfish permit holders fishing in either federal and state waters. The missing piece, if you wanted to take complementary action would be to apply those measures to state boats fishing in only state waters.

That is why, from the Council perspective, we kind of thought that that level of work would be done by you all, because those are the state boats fishing in state waters. That is why that analysis is not included in the Council action. Then also to clarify, so the federal measures have to be in place by the end of 2024, and that is to meet the 2021 Biological Option. We're expecting, I guess based on ten-line questions, I'm waiting for our Executive Directors to review the report that the draft document that comes with SES has sent them. But we should be submitting that draft EA to the Service, probably within the next week, would be my guess. A proposed rule, I don't want to speak on behalf for the Agency, but I know the

proposed rule is being drafted right now as well, so hopefully you'll have more information soon on the timing on that. But again, I don't want to speak for the Agency. I know Alli Murphy is online here. Then yes, I think those are a couple of corrections that I just wanted to make. Sorry to interrupt.

CHAIR GEER: Thank you, Jenny. **Hearing no opposition to postponing this, everyone is nodding their head yes.** Okay, Megan.

MS. MEGAN WARE: I just had a comment or request for things that I think would help us at our next meeting if you're ready for that.

CHAIR GEER: That's what I, do we want to have the TC or the PDT provide us some information, and if so, can we give them some guidance. Megan.

MS. WARE: Something that I would find really helpful is for the Mid-Atlantic states that are potentially impacted by this, just understanding what permit you're using for spiny dogfish, how many species it applies to, how many people have had permits. That can be in a table format by the states, so just getting an understanding of how your permitting structure works would be really helpful. If you could send that to James, that would be great.

CHAIR GEER: I have Toni.

MS. KERNS: This is for Alli, I guess. That NOAA indicates to us whether it was your expectation, because a lot of the states do not specifically have a dogfish permit, was it your expectation that these catch all permits were to be included, or were you only looking for those fisheries that have a directed dogfish permit to be included?

CHAIR GEER: Is there anything else we want to request we look at the next meeting? Mike.

MR. LUISI: I think it would be, well it would be helpful for me, if James could put together what the request is, and we could respond, so that we're all sending the same information. Rather than us trying to figure out what each of us are thinking and



sending that into James in all different formats and things. I think it would just simplify it, if that is okay.

CHAIR GEER: James is feverishly typing over here, so I'm sure he's taking down everything we said. Anything else we want to try to bring up for the next meeting? **All right, do we have enough to go on? I can see problem thumbs up.** That was our last major thing of business today.

#### **ADJOURNMENT**

CHAIR GEER: Is there any other business to come up before this Board? Hearing none; I thought this would be a short meeting. I have a real scratchy throat, so I apologize. I've been on the road the last three weeks. My voice is almost gone. With that; thank you very much for your patience, and this meeting is adjourned.

(Whereupon the meeting adjourned at 9:54 a.m. on Thursday, May 2, 2024)