



Mid-Atlantic Fishery Management Council
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P. Weston Townsend, Chairman | Michael P. Luisi, Vice Chairman
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MEMORANDUM

Date: March 26, 2024
To: Council
From: Karson Cisneros and Jason Didden, MAFMC Staff; Jennifer Couture and Robin Frede, NEFMC Staff
Subject: Joint Sturgeon Bycatch Framework: Final Action

On Wednesday, April 10, the Council will take up the Spiny Dogfish and Monkfish Committees' motions for final action on the Sturgeon Bycatch Framework. Final action for the New England Fishery Management Council (NEFMC) is scheduled for April 16-18, 2024. Please see the following supporting materials:

- 1) Joint Monkfish and Spiny Dogfish Committee meeting summary from March 13, 2024 with Committees' motions for preferred alternatives.
- 2) Joint Monkfish and Spiny Dogfish Advisory Panel meeting summary and recommendations from March 5, 2024
- 3) Fishery Management Action Team/Plan Development Team (FMAT/PDT) meeting summary and recommendations from February 22, 2024 and staff supplemental memo dated March 12, 2024
- 4) [Draft Framework Environmental Assessment](#) dated March 26, 2024 which includes the alternatives under consideration, affected environment, and impacts analyses*

*This document is provided electronically via the above link due to its size



MEETING SUMMARY

Joint Monkfish and Dogfish Committee

Webinar

March 13, 2024, 9am – 3 pm

The Monkfish and Dogfish Committee (Committee) met jointly on March 13, 2024, via webinar to: 1) review the Sturgeon Framework alternatives, 2) review the preliminary impact analyses; 3) review the recommendations from the Fishery Management Action Team/Plan Development Team (FMAT/PDT) and Joint Monkfish and Dogfish Advisory Panel (AP); 4) make recommendations on any preferred alternatives for the Mid-Atlantic and New England Fishery Management Councils to consider during their April meetings; and 5) Other business.

MEETING ATTENDANCE:

Dogfish Committee: Sonny Gwin (Dogfish Chair), Chris Batsavage, Richard Wong, Dan Farnham, Skip Feller, Joseph Grist, Adam Nowalsky, Nichola Meserve (Dogfish Vice Chair), Mark Alexander, Rick Bellavance, Dan Salerno, Alan Tracy*, Toni Kerns (ASMFC), Jay Hermsen (GARFO).

Monkfish Committee: Matt Gates (Monkfish Chair), Eric Hansen, Kelly Whitmore, Jackie Odell, Scott Olszewski, John Pappalardo, Alan Tracy*, Pete Christopher (GARFO), Dan Farnham* (MAFMC), Robert Ruhle (MAFMC).

*Committee member is on both Committees

Council Staff: Jason Didden (MAFMC), Jenny Couture (NEFMC), Robin Frede (NEFMC), and Karson Cisneros (MAFMC)

Others in attendance: Sturgeon FMAT/PDT: James Boyle, Jason Boucher, Lynn Lankshear, Spencer Talmage; Additional Council staff: David McCarron and Emily Bodell; NEFMC and MAFMC: Eric Reid (NEFMC Chair), Wes Townsend (MAFMC Chair), Mike Luisi (MAFMC Vice Chair), Michelle Duval (MAFMC), Megan Ware (NEFMC); Mitch MacDonald (NOAA GC); GARFO: Allison Murphy; Monkfish and Dogfish Advisory Panel: James Dopkin, Chris Rainone, Patrick Duckworth, Ted Platz, Kevin Wark, Mark Sanford; Public: Albert Didden, Aubrey Church, Conor Davis, Emerson Hasbrouck, Francisco Perez-Gonzalez, Jesse Hornstein, Joe Cimino, Raymond Kane, Richard Tyler Guterres, Sefatia Romeo Theken, and Tara Dolan.

SUPPORTING DOCUMENTATION: Discussions were aided by the following documents and presentations: **(1)** Meeting overview memo; **(2)** Agenda; **(3)** Presentation, Council Staff; **(4)** Draft Framework Adjustment; **(5)** Sturgeon Bycatch Fishery Management Action Team/Plan Development Team DRAFT meeting summary, February 22, 2024; **(6)** Joint Monkfish and

Dogfish Advisory Panel Meeting Summary, 20240305 – DRAFT; (7) Sturgeon Risk Assessment (Closures) Final Report, February 20, 2024; (8) BREP proposal narrative for low-profile gear; (9) correspondence; and (10) FMAT/PDT supplemental memo, March 12, 2024. Meeting materials are available on the NEFMC website: <https://www.nefmc.org/calendar/mar-13-2023-joint-monkfish-and-dogfish-committee-webinar>

KEY RECOMMENDATIONS:

- Monkfish:
 - For Southern New England, the Monkfish Committee did not recommend any measures for the Councils to adopt.
 - For New Jersey, the Monkfish Committee recommended the Councils adopt a year-round low-profile gear requirement in the NJ bycatch hotspot polygon as the preferred alternative (Alternative 5).
- Spiny Dogfish:
 - For New Jersey, the Dogfish Committee recommended the Councils adopt an overnight soak prohibition (8pm until 5am) for vessels targeting spiny dogfish in the NJ bycatch hotspot polygon with an exemption for mesh < 5.25” year-round; vessels using mesh ≥ 5.25” could not do overnight soaks in May and November.
 - For DE/MD/VA, the Dogfish Committee recommended the Councils adopt an overnight soak prohibition (8pm until 5am) for vessels targeting spiny dogfish in DE/MD/VA bycatch hotspot polygons with an exemption for mesh < 5.25” year-round; vessels using mesh ≥ 5.25” could not do overnight soaks from November through March.
- Other:
 - The Joint Monkfish and Dogfish Committee recommend the New England and Mid-Atlantic Councils write a letter to the NEFSC observer program to develop and implement a carcass tagging program for dead sturgeon discards (similar to what is done for sea turtles and marine mammals) and a tagging program for live sturgeon discards. This would apply to any fishery where sturgeon are caught, regardless of gear type, area, etc.

Questions:

Committee members asked several questions about the staff presentation. More specifically, one member asked if and how offshore wind was being taken into account in evaluating the impact of time/area closures in Southern New England for the monkfish fishery. He mentioned this should be considered a de facto closure and that fishing practices and behavior are likely to change, which would inherently benefit sturgeon. Staff noted that the regulations do not prohibit fishing within wind farms so cannot be considered a closure; this type of impact will be addressed in the cumulative effects section of the environmental assessment.

Another member asked whether the Council action alternatives meet the necessary sturgeon bycatch target reduction levels. Council and GARFO staff noted that after many iterative discussions, there are no target reduction levels for this action. The Council action is designed to reduce sturgeon interactions in both the monkfish and spiny dogfish fisheries, which is the only

mandate from the 2021 Biological Opinion, where measures must be in place by 2024. There is a possibility that the new Biological Opinion (expected in early 2025) may require additional sturgeon reduction measures, though this is uncertain given the sturgeon stock assessment is not yet complete.

One Monkfish Committee member asked if the delayed implementation for low-profile gear would impact achieving sturgeon reduction by 2024. Council and GARFO staff noted that as long as regulations are in place by 2024, the delayed implementation should not matter with respect to meeting the 2021 Biological Opinion requirements. It is unclear how this impacts the baseline analysis of the new Biological Opinion, however.

Regarding the upcoming sturgeon stock assessment, there were a few questions on whether the individual sturgeon distinct population segments (DPS) would be evaluated and if the assessment would evaluate any potential change in status from endangered to threatened. Atlantic States Marine Fisheries Commission staff explained that the assessment is just an update with additional years of data, so very similar to what was included in the 2017 assessment. Another member later asked if a substantial change in stock status is anticipated from the assessment and if the Committees should include a contingency for this Council action. Staff reiterated that the Councils should take final action in April to reduce sturgeon interactions in both the monkfish and spiny dogfish fisheries in order to meet the 2021 Biological Opinion requirements. Thus, a contingency based on the stock assessment results is likely not feasible. We do not know what the updated trends for sturgeon will be – positive or negative or large or small.

Another Committee member asked about the monthly spiny dogfish observed takes in the Delmarva region and if the months with highest sturgeon interactions were due to higher fishing effort. Staff explained that the rate of sturgeon takes are from only observed trips, so not necessarily a reflection of overall fishing effort. The Committee member asked whether the next Incidental Take Statement (ITS) would be informed by the sturgeon assessment, meaning the allowed ITS could be higher if there is a positive trend in the upcoming assessment. Staff explained this is hard to predict but the next BiOp and ITS will be informed by all available information.

A Dogfish Committee member asked about the partial exemption for the overnight soak prohibition for vessels using mesh < 5.25” and the reason for the low observer coverage for New Jersey. Staff answered that the observer program does have binning rules in order to meet certain standards based on the standard bycatch reporting methodology, which allocates observer coverage among fleets. There has not been a substantial amount of 5” mesh gear being used off NJ for spiny dogfish recently (<10% of NJ gillnet spiny dogfish landings). Another member asked whether the observer data by mesh size in Delmarva could be used as a proxy for the lower observer coverage in NJ. Increasing observer coverage for smaller mesh gear would be helpful for future management. Staff commented that during the AP meeting on March 5, a member of the public who used larger mesh (5.75”) stated an overnight soak prohibition would be most problematic from May through September.

A couple of Committee members asked about the time/area closures and the need to balance the socioeconomic impacts to the fisheries with reducing sturgeon interactions. One member expressed concern about the results of the decision support tool analysis and needing to potentially consider closures in the future as needed once the new Biological Opinion is published.

Regarding the low-profile gear requirement and the twine size conflict with the Harbor Porpoise Take Reduction Team requirements, this is a lengthy process (around one year). The meetings (not yet scheduled) are just getting underway to evaluate a potential exemption for using low-profile gear.

Regarding the Atlantic Large Whale Take Reduction Team timing, the proposed rule for gillnet and other trap/pot fisheries is expected by 2025 and implementation by 2026, so the current sturgeon Council action will be implemented before then. Staff noted that NMFS has not determined whether the South Island Restricted Area will be included in the proposed rule.

Public Comment:

- **Chris Rainone, NJ monkfish fishermen, monkfish advisor:** Asked if Alternative 5 includes time/area closures in May and November and if the measures would only apply to the polygon areas. He wanted to address the latent permit issue in the monkfish fishery. Staff clarified that Alternative 5 only includes gear modifications and does not include any time/area closures.

There was a brief discussion on the voting protocols for motions, namely that only the Dogfish Committee can vote on Dogfish motions and likewise with monkfish. Only one member of GARFO and one member from the state of Massachusetts can vote given there are two members of each on the Joint Committee membership.

1. **Dogfish Motion (Grist/Gwin):** The Spiny Dogfish Committee recommends the Councils adopt Alternative 5 with an exemption for both NJ and DE/MD/VA bycatch polygons for the use of gill net mesh less than 5.25-inches (e.g., In Delmarva, mesh < 5.25” mesh could do overnight soaks year-round; mesh ≥ 5.25” could not do overnight soaks from November through March; In NJ, mesh < 5.25” mesh could do overnight soaks year-round; mesh ≥ 5.25” could not do overnight soaks in May and November).

Alternative 5: Vessels with a federal fishing permit targeting spiny dogfish in federal and/or state waters - Overnight soak time prohibition from 8pm until 5am in the New Jersey bycatch hotspot polygon during May 1 – May 31 and November 1 – November 30. - Overnight soak time prohibition from 8pm until 5am in the Delaware/Maryland/Virginia bycatch hotspot polygons during November 1 – March 31.

Sub-alternative 5a: Vessels using less than 5 ¼ inch gillnet mesh would be exempted from the New Jersey polygon overnight soak time prohibition.

Sub-alternative 5b: Vessels using less than 5 ¼ inch gillnet mesh would be exempted from the Delaware/Maryland/Virginia polygon overnight soak time prohibition.

Rationale: Based on observer data, input from AP and other industry members, appears that gillnet meshes <5.25” have fewer sturgeon interactions; a closure and lack of overnight soak which is necessary in Delmarva is problematic; economic impact should be balanced with

protected species impacts. Applicable to NJ as well because observer data from Delmarva can serve as a proxy for NJ.

Discussion on the motion: There was support for this motion, however, one Dogfish Committee member was concerned that no overnight soaks would not be workable in Delmarva area, though may be workable in NJ. He noted this seems to be very region-specific and he's concerned that further action may be needed in the next Biological Opinion. Another member expressed concern about a prohibition of overnight soaks for five months and that it will substantially negatively impact the dogfish fishery. One Committee member asked how this motion differs from the FMAT/PDT recommendation. Staff noted that the FMAT/PDT did not recommend an exemption for overnight soaks for the smaller mesh in NJ due to limited observer data in the area and Council staff (not yet vetted by the FMAT/PDT) recommend the Committee carefully consider no exemption for the Delmarva region for the smaller mesh in December, when sturgeon takes/observed trip was highest. Another Committee member appreciated the exemption for the smaller mesh and thought the benefit to sturgeon would likely extend beyond the polygon boundaries (since fishermen cannot switch gillnet gear mesh easily).

Public Comment:

- **Chris Rainone, NJ monkfish fishermen, monkfish advisor:** Expressed concern that fishermen are going to use smaller mesh as a result of this exemption in order to avoid the overnight soak prohibition. He also asked what happens if the measures from this Council action are not sufficient for the new Biological Opinion.

One Committee member commented that the smaller mesh does benefit sturgeon, however, there are still sturgeon interactions, including juveniles like what is observed in North Carolina. If additional bycatch reduction measures are needed then this could be done through the Councils again or via NMFS.

Motion passed 11/1/2.

Dogfish Committee	Yes	No	Abstain
Sonny Gwin (Chair)	x		
Chris Batsavage		x	
<i>Dan Farnham</i>	x		
Skip Feller	x		
Joseph Grist	x		
Richard Wong	x		
Adam Nowalsky	x		
Jay Hermsen			x
Toni Kerns			x
Nichola Meserve (Vice Chair)	x		
Mark Alexander	x		
Rick Bellavance	x		
Dan Salerno	x		
<i>Alan Tracy</i>	x		

2. Monkfish Motion (Odell/Farnham): Monkfish Committee recommends that the Councils adopt Alternative 5 (year-round low-profile gear requirement in NJ bycatch hotspot polygon) as the preferred alternative.

Rationale: This follows the recommendations of the FMAT/PDT and recommendations of the advisors. Need to think more about the time/area closures and economic impacts to the monkfish fishery and the impacts on sturgeon. Need additional information on the stock assessment and the new Biological Opinion before proceeding with additional measures. Based on the Decision Support Tool analysis and how time/area closures could shift effort into areas important for other protected species (e.g., North Atlantic Right Whales), do not recommend closures at this time.

Discussion on the motion: One member supported the motion as it struck a good balance between minimizing economic impacts to the monkfish fishery and reducing impacts to sturgeon and does not include time/area closures which may push effort into important North Atlantic right whale habitat. Regarding a follow-on action for the states (once the Council action is complete), the Commission representative clarified that any action the Commission undertakes will be for the spiny dogfish fishery and not the monkfish fishery, given monkfish is not a species managed by the Commission.

If a future action is needed based on the new Biological Opinion, the Councils or NOAA could work on this. One member wanted the Councils to be involved in this process should another action be needed and NOAA leads this effort. Once the next Biological Opinion is published, a final determination will be made on sturgeon status and the impact to fisheries. The Reasonable and Prudent Measures from any Biological Opinion are typically less rigid from a non-jeopardy finding compared to Reasonable and Prudent Alternatives.

There was a brief discussion on the terms and references for the upcoming stock assessment. Ms. Kerns sent Council staff the document with this information, after which staff send to the full Committee for their awareness.

Public Comment:

- Jamie Dopkin, NJ monkfish fishermen, monkfish advisor:** Expressed interest in conducting research on alternative gear types, namely different mesh sizes (12” vs 13”) and twine sizes, to understand how monkfish and skate catch change along with sturgeon interactions. He noted that skate possession limits recently increased and that fishing using low-profile gear may be counter-productive if he can’t catch enough skates. He commented that if sturgeon are able to break through the lighter twine size then it’s likely harbor porpoises can as well.

One Committee member asked about the research recommendations the Councils approved in fall 2023. These included additional low-profile gear research as potential management measures, including in Southern New England for the monkfish fishery and the Mid-Atlantic region in the spiny dogfish fishery. This is likely broad enough to encompass research on different mesh sizes.

- Ted Platz, southern area monkfish fishermen, monkfish adviser:** Agreed with Committee members on the need to balance the socioeconomic impacts to the monkfish fishery and the need to reduce sturgeon interactions. He expressed concern that the observer data are not by individual DPS and that this information is needed for future management decisions.

Motion passed 9/0/0.

Monkfish Committee	Yes	No	Abstain
Matt Gates (Chair)			
Eric Hansen	x		
Kelly Whitmore	x		
Jackie Odell	x		
Scott Olszewski	x		
John Pappalardo	x		
Alan Tracy	x		
Pete Christopher	x		
Peter Hughes (Vice-Chair)	absent		
Dan Farnham	x		
Robert Ruhle	x		
Paul Risi	absent		

Other business

One Committee member asked how to address the double counting of dead sturgeon discards by observers.

CONSENSUS STATEMENT

The joint Monkfish and Dogfish Committee recommends to both the New England and Mid-Atlantic Councils to write a letter to NOAA NEFSC observer program to develop and implement a carcass tagging program for dead sturgeon discards similar to sea turtles and marine mammals as well as include a tagging program for live sturgeon discards. This would apply to any fishery where sturgeon are caught regardless of gear type, area, etc.

Rationale: This type of program would help prevent the possibility of double-counting individual observed sturgeon takes.

Discussion on the Consensus Statement: For dead marine mammals and sea turtles, the carcass is usually tagged by observers so if the animal is observed again in the near future that the observer knows this take has already been accounted. Observers can scan for pit tags but cannot implant the tags. Staff noted that the 2021 Biological Opinion included a recommendation to this effect. There was a brief discussion on which fisheries the consensus statement would apply to, noting that the Councils may not necessarily have jurisdiction.

Public Comment:

- **Chris Rainone, NJ monkfish fishermen, monkfish advisor:** Suggested expanding to include both live and dead discard tagging to track the species more. For example, use of spaghetti tags for live sturgeon by observers.
- **Patrick Duckworth, monkfish fishermen, monkfish advisor:** Reiterated that he caught a dead sturgeon and then re-caught the same one a few days later and that this is an urgent issue that needs to be addressed.

Consensus statement with one abstention from NMFS.

The meeting adjourned at approximately 1pm.



MEETING SUMMARY

Joint Monkfish and Dogfish Advisory Panel

Webinar

March 5, 2024, 1 pm – 5 pm

The Monkfish and Dogfish Advisory Panel (AP) met jointly on March 5, 2024, via webinar to:

- 1) review the Sturgeon Framework alternatives, 2) review the preliminary impact analyses; 3) review the recommendations from the Fishery Management Action Team/Plan Development Team (FMAT/PDT; 4) make recommendations on any preferred alternatives for the Joint Committee to consider during their March 13th meeting; and 5) Other business

MEETING ATTENDANCE:

Dogfish Advisory Panel: James Fletcher, Jeremy Hancher, Scott MacDonald, Roger Rulifson, John Whiteside, Mark Sanford, Christopher Rainone*, Samuel Martin, Kevin Wark, Shah Amir

Monkfish Advisory Panel: Ted Platz, Terry Alexander, Bonnie Brady, James Dopkin, Patrick Duckworth, Timothy Froelich, Linda Hunt, Samuel Martin, Randall Hayes Morgan

*Advisor is on both APs

Council Staff: Jason Didden (MAFMC), Jenny Couture (NEFMC), Robin Frede (NEFMC), and Karson Cisneros (MAFMC)

Others in attendance: Lynn Lankshear, Chris Batsavage, Matt Gates, Scott Olszewski, Eric Reid, Tara McClintock, Conor Davis, Janice Plante, James Boyle, Jesse Hornstein, Sefatia Romeo Theken, Aubrey Church, Mark Alexander, Jackie Odell, Joe Grist, Kelly Whitmore, Nichola Meserve, Jason Boucher, Michelle Duval, Tyler Guteres, Wes Townsend, Emerson Hasbrouck, Robert Elsey, and two other members of the public on the phone.

SUPPORTING DOCUMENTATION: Discussions were aided by the following documents and presentations: **(1)** Meeting overview memo; **(2)** Agenda; **(3)** Presentation, Council Staff; **(4)** Draft Framework Adjustment; **(5)** Sturgeon Bycatch Fishery Management Action Team/Plan Development Team DRAFT meeting summary, February 22, 2024; **(6)** Sturgeon Risk Assessment (Closures) Final Report, February 20, 2024; **(7)** BREP proposal narrative for low-profile gear; and **(8)** correspondence. Meeting materials are available on the MAFMC website: <https://www.mafmc.org/council-events/2024/march-5/joint-dogfish-monkfish-ap>.

KEY RECOMMENDATIONS:

Note that the following advisor recommendations are not necessarily consensus statements.

MONKFISH

- For New Jersey, advisors supported Alternative 5 (year-round low-profile gear requirement) if action must be taken.
- For Southern New England, advisors did not support any closure alternatives and felt that there needed to be more options other than closures. If closures are deemed absolutely necessary to reduce sturgeon interactions, the same or better results would be achieved with fewer economic impacts to the monkfish fishery by avoiding the times of the year included in the range of alternatives, specifically April and May, and implementing a closure in November as the most preferable option followed by December (less preferable). It's worth noting that a closure in June would also be economically detrimental to the fishery. Restrictions in the region should be discussed only after low-profile gear is tested in the area.
- Managers should wait for sturgeon stock assessment results before making any other recommendations.
- More research needs to be done related to 1) sturgeon tagging (passive acoustic monitoring) to better reflect accurate number of sturgeon takes (vs. retakes of the same sturgeon) in order to inform the new Biological Opinion and 2) additional gear modifications such as different mesh sizes and lighter twine sizes to reduce sturgeon interactions.

SPINY DOGFISH

- For New Jersey, one advisor felt the overnight soak prohibition would be workable.
- For the Delmarva region, several advisors supported the overnight soak exemption for smaller mesh (<5.25"). In this region, no overnight soaks would end the fishery and any months with overnight soak prohibitions should be considered a closure.
- Overall, advisors were concerned with putting people out of business since there are so few participants left and several advisors did not support any of the alternatives.
- Generally, advisors did not support any closures. One advisor noted that if a closure was needed, it should be done in October or early November south of Long Island.
- Nothing should be done until the results of the 2024 sturgeon stock assessment are available.
- More research needs to be done with lighter twine sizes and ways to enforce longer soak times for spiny dogfish (for example a 23-hour maximum soak time requirement).
- A member of the public who uses 5.75" mesh communicated that October through April would be less problematic for an overnight soak ban in New Jersey related to his fishing including for smooth dogfish.

Questions:

Advisors asked several clarifying questions related to the analysis, process, and values presented in the meeting materials. One advisor asked how observed takes are extrapolated out to become total bycatch estimates to a specific fishery in the 2021 Biological Opinion. Staff provided a

general description of the model used to estimate takes and directed the advisor to the Sturgeon Biological Opinion and Sturgeon Action Plan for additional information and suggested talking offline about this as needed.

One advisor asked whether closing an area for spiny dogfish was considered eliminating the fishery in the southern regions because that is what the implications would be (the processor can not survive reductions in landings). Staff highlighted that the FMAT/PDT also discussed that the alternatives with time/area closures occur during the months that are the most critical for these fisheries and also only achieve a low reduction in sturgeon bycatch. Because of this, the FMAT/PDT recommended gear-only restriction measures for both fisheries (Alternative 5) instead of the time/area closures.

An advisor specifically asked why October and November were not considered for potential closures in the Southern New England (SNE) region. He felt that these months should be considered and that there may be less disruptive ways to achieve the same sturgeon bycatch reduction. The advisor would like to see the bycatch numbers for all months for the SNE region. Staff noted that the months identified for potential closures were generally the months with the highest observed sturgeon takes.

Another advisor asked whether data were reviewed on where male dogfish are located to focus the fishery there, instead of fishing for female dogfish, which he thought is where sturgeon interactions occur. Staff noted previous work on male/female spiny dogfish overlap times/areas could be used to consider measures in the future.

Discussion:

Overall, advisors commented on the need for improved evaluation of sturgeon abundance to understand the size of the sturgeon population. One advisor felt that the sturgeon population is a lot larger than is being reported by states or the surveys. A couple of advisors added that a specific survey targeting sturgeon needs to be conducted. Lastly, they felt that fishermen bear the brunt of the reductions when other threats to sturgeon such as vessel strikes and habitat degradation are contributing to their endangered status. Another advisor agreed that the trawl survey does not catch sturgeon well and did not feel it was a good tool for estimating sturgeon abundance. Staff did not know the sturgeon population estimate and individual survey results, however, provided the AP with a description of the surveys used in the most recent assessment and noted that the updated assessment will be completed summer 2024.

One advisor commented that the way observed takes are documented is problematic. He relayed an instance of catching a sturgeon that was dead, cutting its tail to mark it, then catching the same fish and had it count as taking two sturgeon by the observer. Staff noted that we can look at sturgeon condition and whether they were caught dead or alive, but otherwise are unsure how to address that potential issue. This advisor also raised concerns over the potential for shifting effort to where there are more right whales in the SNE region. This advisor supported no closures in SNE, however if closures must be implemented (given there are no gear modification options for SNE), the advisor would prefer consideration of October and November instead of December for closures. He added that there are very limited options in SNE and the time/area closure polygon is essentially where the fishery operates at any given time.

Multiple advisors recommended that there should be more tagging of sturgeon to generate more accurate population estimates and use the tagging data as validation for take estimates.

One advisor discussed that there are five distinct population segments (DPS) that have a wide range and movement within the range. He noted that observers collect genetic information and asked whether Council staff have this information available, further commenting that more work needs to be done in this area. Protected Resources Staff at GARFO responded that the preliminary genetic results are available from observer data collection, noting that fish from the Hudson River and Delaware River dominate the fish from the Mid-Atlantic Region, however there are fish from all of the DPSs.

One advisor stated that selecting no action is the best choice, especially given the results from the 2024 assessment are not yet available. He added that sturgeon need to be removed from the endangered species list and the stocks are healthy. However, given the legal requirement to reduce sturgeon interactions in the gillnet fisheries to meet the 2021 Biological Opinion requirements, Alternative 5 seems to be the only workable option. The advisor added that when fishermen lose access it is never given back.

Another advisor agreed that Alternative 5 (gear-only modifications) is the only alternative that provides a balance between a reduction in sturgeon bycatch and the successful operations of the monkfish and spiny dogfish fisheries per the Action Plan. For a low-profile gillnet, he added that there needs to be more emphasis on 12-inch mesh with finer twine (versus the 13-inch mesh size) because fishermen still need to catch monkfish/skate. The advisor added that further gear modifications such as a lighter twine size should be researched before any measures are implemented. Other advisors agreed with this recommendation. For soak time restrictions, he felt that a 24-hour maximum should be considered instead of no overnight soaks. Lastly, this advisor reiterated the importance of no closures. Staff noted a 24-hour soak restriction was not feasible for action at this time due to the current alternative range based on input from enforcement regarding enforceability of a 24-hour maximum soak time.

An advisor said that twine size research should be explored for both the dogfish and monkfish fisheries and felt that the dogfish fishery in Virginia using smaller mesh ($\leq 5.5''$) have fewer interactions with sturgeon. He added that a prohibition of overnight sets in this area would end the fishery. He also agreed with previous comments that measures should be decided after the results of the sturgeon stock assessment are available.

One advisor reiterated that a 23-hour soak time restriction for New Jersey would be better than no overnight soaks and felt that this could be enforceable (nets would be out for an hour for enforcement checks, achieving a less than 24-hour soak time in practice). Another advisor said that no overnight soaks in New Jersey for dogfish would be doable for him.

An advisor spoke in favor of gear modifications in general because he is against closures. If closures are necessary, closing October and early November are preferred over closing December in Southern New England. He felt that if a closure is needed, the timing of the closure should be up to the people who fish because they know when the sturgeon interactions occur. The advisor added that when there was a sturgeon fishery, the season was in October or November which is when the sturgeon migrated further offshore.

One advisor commented that a lot of takes in the Virginia area occurred in state waters, specifically at the mouth of Chesapeake Bay, and asked what will be done in state waters to

reduce sturgeon bycatch. Staff responded that the Atlantic States Marine Fisheries Commission plans to consider complementary action following final action from the Councils. This advisor added that the sturgeon takes are from vessels fishing larger mesh sizes (≥ 6 inches) and that fishermen generally avoid areas where there are a lot of sturgeon. He agreed with other advisors that action should be taken only after the stock assessment results are available, and that closures are going to ruin the fishery.

One advisor recommended changing the exemption for smaller mesh sizes to ≤ 5.25 " for Virginia because there is variability in the manufacturing of the webbing which does not consistently measure 5". He added that he didn't want to see any restrictions and said that if the Virginia dogfish fishery closes, a lot of people will be out of work. Staff noted there did not seem to be much gear used at 5.25 inches, and 5.5 inches had more sturgeon catch than 5.0 inches, so the measure was set up as < 5.25 inches rather than less than or equal to 5.25 inches.

Lastly, an advisor stated that he represents the last dogfish processor, and the processor can't take a cut to the quota or a reduction in landings and added that this action is essentially a backdoor way of reducing the quota. The advisor also supported all of the concerns voiced by other advisors and felt that the minimum possible cuts is what should be accepted by the Councils.

Public Comment:

Robert Elsey who fishes for monkfish from Sandy Hook to Cape May commented that there are only about 8 boats left fishing for monkfish in NJ and how could so few boats be impacting the sturgeon population so much. He added that if fishermen move off the beach they will not catch as many sturgeon. From the few sturgeon that are caught, 90% are caught on the shoreline. He said there is a need to leave the nets overnight to catch enough target species and noted that he sleeps with his nets out and guards them in the summer months. His main income comes from sand sharks (e.g., smooth dogfish) in June, which requires a longer soak time (using a 5.75" mesh). Sturgeon migrate in the fall, so he can continue fishing and avoid sturgeon even if the nets are pulled off the beach.

The meeting adjourned at 5pm.



Joint¹ Sturgeon FMAT²/PDT³ Meeting Summary

February 22, 2024 Webinar

The joint Sturgeon FMAT/PDT met on February 22, 2024, via webinar. The purposes of this meeting were to 1) review the additional sub-alternatives added by the MAFMC, 2) review the draft impact analyses, and 3) develop FMAT/PDT recommendations for the Joint AP and Joint Committee to consider. The meeting was open to the public.

FMAT/PDT Attendees: Jason Didden (MAFMC), Jenny Couture (NEFMC), Robin Frede (NEFMC), Jason Boucher (NEFSC), Spencer Talmage (GARFO SFD), Bridget St Amand (NEFSC), Lynn Lankshear (GARFO PRD), Sharon Benjamin (GARFO NEPA), Ashleigh McCord (GARFO NEPA), and James Boyle (ASMFC).

Other Attendees: Invited member from GARFO APSD Daniel Hocking; NEFMC members Eric Reid, Scott Oszewski, Nichola Meserve and Kelly Whitmore; MAFMC member Joe Grist; NEFMC staff David McCarron; GARFO PRD staff Danielle Palmer; and about 10 members of the public.

1. **Gear sub-alternatives:**

The FMAT/PDT discussed the new sub-alternatives added by the MAFMC during their February meeting, which includes exemptions for vessels with a federal fishing permit targeting spiny dogfish in federal and/or state waters during the times of the year currently specified in the set of alternatives. More specifically:

Sub-alternative 5a: Vessels using less than 5 ¼ inch gillnet mesh would be exempted from the New Jersey polygon overnight soak time prohibition.

Sub-alternative 5b: Vessels using less than 5 ¼ inch gillnet mesh would be exempted from the Delaware/Maryland/Virginia (Delmarva) polygon overnight soak time prohibition.

FMAT/PDT members discussed the need for considering additional observer data analyses, but initial review suggests that there are fewer sturgeon interactions with the smaller mesh size (5" mesh) in the Delmarva area. For the New Jersey area, there may be too few small mesh trips with sturgeon takes to say anything meaningful regarding the effect of smaller mesh size on rates of sturgeon interaction. Council staff plan to further evaluate observer data on trips with and without sturgeon interactions by mesh size.

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Staff noted that the MAFMC also discussed adding a requirement to use low-profile gear in the Southern New England polygon, however, after much discussion, this was not added to the alternatives.

2. Review of Draft Impact Analyses

Council staff reviewed the Decision Support Tool (DST) analyses along with the sturgeon risk analysis which are being used to evaluate the impact of time/area closures on gear displacement and removal. Daniel Hocking provided an overview of the risk assessment for the FMAT/PDT noting that the model is spatially implicit and is based on observer data that is used to estimate unobserved VTR trips (by spatially interpolating individual VTR locations and smoothing between these points). This model is the same one used since 2011 to estimate sturgeon takes and Dr. Hocking noted that the model fits observer data fairly well. He also commented that there were observed sturgeon interactions in deeper water, though less common, which likely led to the unexpectedly diffuse sturgeon risk. Dr. Hocking's final report was recently made available and will be included as part of the Council framework and will also be distributed to the AP and Committee.

Public: Chris Rainone asked how the DST works and whether there were any differences in sturgeon takes inshore versus offshore. Dr. Hocking explained that the time/area closures were evaluated using a maximum distance that someone would be willing to move from the current fishing location to a new fishing location outside of the proposed closed area. 20 and 50 miles were used as two scenarios for which gear would be displaced; the DST group heard from a few industry members that 20 miles is likely more representative of the distance fishermen would be willing to travel to continue fishing outside of any closure. Regarding sturgeon interaction differences, Dr. Hocking explained that there were fewer takes offshore in deeper waters but that those interactions still occurred. Most of the reduction in sturgeon interactions is from gear being removed from the water versus being displaced outside a closure.

Staff also shared preliminary DST results for the gear modification alternatives. These results are still being finalized and will be shared with Dr. Hocking to be used in his sturgeon risk assessment analysis. These results are expected by the March Committee meeting.

A few FMAT/PDT members discussed whether these DST and sturgeon risk assessment analyses account for sturgeon seasonal movement where sturgeon are further offshore in the ocean environment in the winter, all within the 50 m contour line with most within the 20 m contour line. The fish then travel further south towards inshore waters and up the coast into estuaries in the spring and summer. There are several references noting these seasonal movements that should be used to help interpret the sturgeon risk assessment results. More specifically, any time/area closures off New Jersey and Delmarva regions that cause effort to move north or south are likely to have a similar level of risk of sturgeon interaction relative to the closed areas. However, if effort shifts in deeper waters during the spring, for example, then the literature would suggest there would be reduced risk of sturgeon interaction because the sturgeon are thought to be more nearshore during this season.

The team also briefly discussed the low-profile gear configuration which includes 0.81 mm twine size, which is at conflict with the Harbor Porpoise Plan Take Reduction Team's (TRT) requirement of 0.90 mm twine size. The TRT received the Councils' letter which requested an exemption of this lighter twine size. The process just began and the TRT will likely only raise this issue during their March meeting. In order for low-profile gear to be included as part of the

proposed rule (if the Councils select this as part of their final action package), the TRT must be far enough along in their process to signal that this lighter twine size would be acceptable. The low-profile gear requirement includes a delay in implementation to allow the TRT process to play out and to allow gear manufacturers to produce the gear.

The new Biological Opinion (BiOp) is expected to be published by January 2025 (absent any extensions), with preliminary versions available before then, though drafts may or may not be publicly available. The new BiOp will include the Council action as the baseline for the assessment and will include the results of the sturgeon stock assessment (expected to be completed summer 2024), and any other new information.

Public: Chris Rainone asked about the data included within the Human Communities Impacts analysis and whether the total number of permits are active permits or include latent permits as well. These are permits where a vessel landed > 0 lb of the target species in the relevant area, thus, active permits in that regard. The member of the public was concerned about the magnitude of latent fishing effort in the skate fisheries and its contribution to protected species issues and fishing regulations, etc.

3. FMAT/PDT Recommendations

Each FMAT/PDT member discussed their input on the range of alternatives and what he/she would recommend to the AP and Committee to consider during their deliberations of selecting a preferred alternative. The group was interested in striking a balance between achieving sufficient sturgeon interaction reduction without having too much of an impact on the fishing industry and other protected species (especially North Atlantic right whales). A few individual comments are detailed below:

- One person was interested in better understanding the smaller mesh exemption sub-alternatives and if there is one month with a higher ratio of sturgeon takes on observed trips; if so, he recommended against potentially allowing the smaller mesh to be exempt from overnight soak prohibition during this month and allowing the exemption in other months where the ratio of sturgeon takes was lower.
- Another member noted that she wanted to see as much sturgeon reduction as possible because if sufficient reduction is not achieved through this Council action, then that would likely be a gamble given the new BiOp will use the Council action as the baseline condition. She noted that the results of the sturgeon assessment are not yet known, however, it has been 12 years since sturgeon was listed under the ESA and large mesh fisheries are responsible for many sturgeon interactions.
- Several members were interested in gear modifications as the potential way forward, noting that there is some uncertainty in impacts on reducing sturgeon interactions. There is ongoing low-profile gear research funded by the Bycatch Reduction Engineering Program that will help inform use of this gear in other areas; the results will not be ready in time for this Council action but could inform future work.
- One member expressed concern over negatively impacting fishermen and the impact to the observer program given she has heard reports that fishermen do not want observers on board if that will lead to additional closures.
- Another member suggested the Councils recommend NEFSC evaluate the impacts on observer coverage of adding Atlantic sturgeon to the Standardized Bycatch Reporting

Methodology (SBRM) to help ensure there is sufficient observer coverage. The prior sturgeon stock assessment noted that there is a need for increased monitoring of this species, however, observer coverage has declined in recent years in some important areas/gears.

The FMAT/PDT made the following recommendation for the AP and Committee to consider during their upcoming March meetings:

Of the options available, Alternative 5, the gear-only package appears to be the most reasonable. A partial exemption from the Delmarva overnight soak prohibition for gear less than 5.25” seems preliminarily supported by observer data. There were insufficient trips available to evaluate any potential exemptions for New Jersey, thus, the FMAT/PDT does not recommend any exemptions for this smaller mesh in this area. The FMAT/PDT is evaluating the monthly ratio of takes to observed trips in the Delmarva area to further inform a potential exemption for the Delmarva overnight soak prohibition for gear less than 5.25”. Most likely this could entail an exemption for months where sturgeon take rates are lower and a recommendation to not exempt the month with the highest rate of sturgeon takes per observed trip in the Delmarva area. Generally, more research needs to be done to understand sturgeon bycatch and how to reduce sturgeon interactions – it is uncertain if the next Biological Opinion will trigger the need for additional measures regardless of the current action. The group also recognized the need to avoid shifting fishing effort from any time/area closures to important North Atlantic Right Whale habitat. The FMAT/PDT discussed potentially revisiting their recommendation following AP input.

Public:

- Chris Rainone appreciated the work of the FMAT/PDT and agreed that Alternative 5 gear-only package is a good first step in reducing sturgeon interaction. He recommended addressing the latent fishing effort issue in the skate fishery.
- James Fletcher asked whether this Council action is focused on reducing sturgeon interactions or mortality and he noted that large sturgeon have the most eggs and are most likely going to survive in the gillnet nets. Council staff answered that the current Council action is focused on reducing sturgeon interactions but have heard that reducing mortality is also important and will likely be included in the new BiOp.

The Councils will hold a joint meeting of their Spiny Dogfish and Monkfish Advisory Panels on March 5, 2024, and will hold a Joint Spiny Dogfish and Monkfish Committee meeting on March 13, 2024, to develop recommendations for the Councils. Final action by both Councils is scheduled for April 2024.

If additional information is needed before the March Advisory Panel (March 5th) and Committee (March 13th) meetings and before the April MAFMC and NEFMC meetings, please call Jason Didden of MAFMC staff (302-526-5254), Jenny Couture of NEFMC staff (978-465-0492 x111), or Robin Frede of NEFMC staff (978-465-0492 x124). The briefing documents for the Council meetings will be available at their websites, <https://www.mafmc.org/>, and <https://www.nefmc.org/>.

The meeting ended at 4pm.

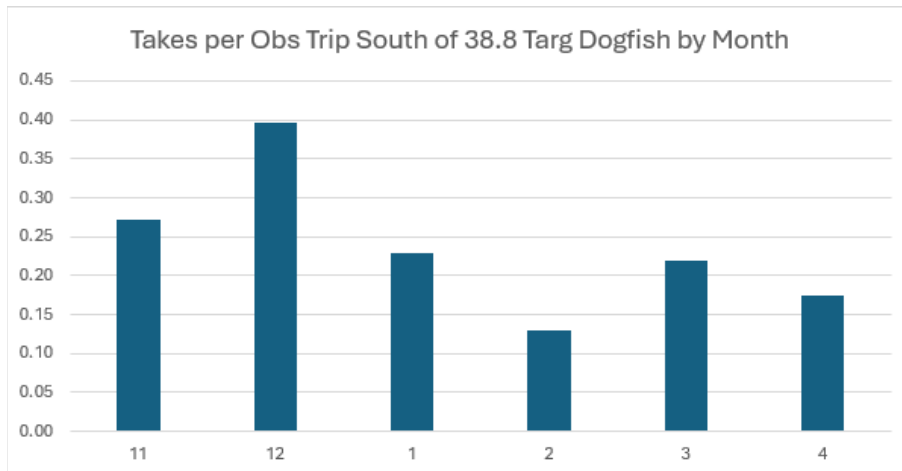


March 12, 2024 Staff Supplement to Joint¹ Sturgeon FMAT²/PDT³ Recommendation

In February 2024, the FMAT/PDT made the following recommendation for the AP and Committee to consider during their March meetings (underline added for this memo):

“Of the options available, Alternative 5, the gear-only package appears to be the most reasonable. A partial exemption from the Delmarva overnight soak prohibition for gear less than 5.25” seems preliminarily supported by observer data. There were insufficient trips available to evaluate any potential exemptions for New Jersey, thus, the FMAT/PDT does not recommend any exemptions for this smaller mesh in this area. The FMAT/PDT is evaluating the monthly ratio of takes to observed trips in the Delmarva area to further inform a potential exemption for the Delmarva overnight soak prohibition for gear less than 5.25”. Most likely this could entail an exemption for months where sturgeon take rates are lower and a recommendation to not exempt the month with the highest rate of sturgeon takes per observed trip in the Delmarva area...”

Subsequent analyses of observer data indicate that December has recently had the most Atlantic sturgeon takes per observed trip when considering trips targeting spiny dogfish south of 38.8 N latitude (i.e. south of Delaware Bay). As will be presented to the Committee, during 2020-2022, December spiny dogfish revenues into MD and VA averaged about \$276,000 (2nd most with January higher) and about 57% of those December revenues came from the Delmarva polygon hotspots. Staff recommend that the Committee carefully consider not exempting December from the Delmarva polygon overnight soak prohibition even if gear less than 5.25” is used (the overnight soak prohibition would not apply in other months if using less than 5.25” gillnet mesh). There was not time to fully confirm FMAT/PDT consensus on this recommendation with the updated data, but it is generally consistent with the initial FMAT/PDT recommendation.



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