



MEMORANDUM

DATE: September 13, 2023

TO: Joint Monkfish and Dogfish Committee

FROM: Karson Cisneros, Robin Frede, and Jenny Couture, co-chairs of the Sturgeon Bycatch Fishery Management Action Team/Plan Development Team (FMAT/PDT)

SUBJECT: **Considerations for the Range of Alternatives for the Sturgeon Framework Action**

The NEFMC and MAFMC are working on joint actions to reduce interactions with sturgeon by the monkfish and spiny dogfish gillnet fisheries. The attachment details development of the action, including recommendations by the FMAT/PDT and the NEFMC and MAFMC.

Committee Meeting Objectives

- 1) Review updated information presented by staff on enforcement considerations and FMAT/PDT recommendations.
- 2) Refine range of alternatives as appropriate.

MAFMC June Meeting Outcomes

The MAFMC planned to adopt a range of alternatives at its June meeting. During the June 6-8 MAFMC meeting, the NMFS Regional Administrator shared a previously unknown finding that the amount of sturgeon caught in the gillnet fishery in the most recent 5-year period had exceeded the allowed levels under the Endangered Species Act (ESA). This overage triggers a requirement to develop a new Biological Opinion (BiOp) that will address sturgeon bycatch in gillnet fisheries. The new BiOp will be developed alongside this action, however the outcomes and timeline are unknown, and the Councils are still held to the timeline of the previous 2021 BiOp.

The MAFMC discussed the range of alternatives and recommended that 1) dogfish remain in the framework action and 2) the dogfish and monkfish committee should further discuss alternatives related to soak time restrictions and 10-minute square areas with new information provided by enforcement.

NEFMC June Meeting Outcomes

At its June meeting, the NEFMC approved the range of alternatives for the monkfish fishery with the understanding that alternatives will be further refined by the Joint Monkfish and Dogfish Committee with input from Office of Law Enforcement and the Coast Guard. The NEFMC also recommended retaining spiny dogfish as part of this action (< 7" mesh size) per the MAFMC's recommendation.

Next Steps

Based on input from the Joint Committee with invited enforcement representatives, if the MAFMC approves the narrowed range of alternatives for the spiny dogfish and monkfish fisheries during its October meeting and the NEFMC approves the range of alternatives for the spiny dogfish fishery during its December meeting, then the full suite of alternatives for both fisheries can be approved by both Councils by December. Following this approval, the FMAT/PDT will analyze the alternatives and prepare a final action document. In March 2024, the joint Spiny Dogfish and Monkfish Advisory Panel and the joint Spiny Dogfish and Monkfish Committee will meet to recommend preferred alternatives for final action. The NEFMC and MAFMC are scheduled to take final action at their April meetings.

Enforcement Considerations

The FMAT/PDT used the Sturgeon Action Plan as a basis for developing a range of alternatives for the monkfish and dogfish fisheries to reduce sturgeon bycatch. Measures were also added by the joint Monkfish and Dogfish Committee at their May 2023 meeting. Staff reached out to enforcement representatives from the Coast Guard and Office of Law Enforcement before the June Council meetings for preliminary feedback based on concerns with soak time restrictions and how to draw small closure/restricted areas raised at the May Committee meeting. Some of these measures may not be able to be enforced, as described below. The Joint Committee is encouraged to weigh in on the following considerations as well.

- **Gillnet soak time restrictions** for dogfish and monkfish permit holders
 - For fisheries where VMS is not currently required, can soak time restrictions or maximum amount of time gear can be in the water be feasibly enforced?
 - How would sunrise and sunset soak time restrictions work?
 - What would be required to reasonably include soak time restrictions as part of the monkfish and dogfish range of alternatives?
 - Would data loggers or another technology (VMS, etc.) be required to enable enforceability of soak time restrictions?

Summary of enforcement concerns:

- Coast Guard: Soak times are not feasible without something like electronic monitoring.

- Office of Law Enforcement: soak times are most likely unenforceable, especially in fisheries with limited VMS use; could have soak time restriction for daylight hours only (e.g., sunrise to sunset only provision in specific location, time); problematic in the monkfish fishery given longer soak time use further from shore.

Data loggers as a tool for enforcement: Council and GARFO staff spoke with Carrie Upite and Ellen Keane (GARFO Protected Resources Division) on August 22nd and provided the following input:

- Technology has progressed since the 2015 Matzen, et al. paper, cited in the Sturgeon Action Plan
- NMFS had additional funding to develop this tool and effort is planned for implementation on trawl vessels for possible sea turtle measures.
- Theoretically, the technology should also apply to gillnet gear, however, no initial testing has occurred. For example, additional information needs to be researched on how to secure the data logger to the gillnet gear, the housing for the data logger, and how the data loggers handle longer soaks. Tradeoffs between data collection frequency with data quantity and storage issues need to be considered as well.
- It is not viable to implement a requirement to use data loggers as part of this sturgeon action given the action timeline (final action expected in April 2024).
- Council staff and the FMAT/PDT recommend use of data loggers in gillnet gear as a research recommendation.

- **Area based restrictions or closures** around hotspot sturgeon bycatch areas: statistical areas are large and seem overly restrictive. Two alternatives to spatially define area-based restrictions/closures include 1) 10-minute squares or 2) straight lines that approximate the shoreline (targeting a range out to 6 or 9 miles offshore). Some of the regions of interest are in Southern New England, New Jersey, and the Delaware/Maryland/Virginia area.
 - Between these two alternative approaches, is one more enforceable?
 - Is there a minimum area size for closures or restrictions preferred by enforcement?
 - Are there any comments that should be considered for an approach using statistical areas?

Summary of enforcement concerns:

- Coast Guard: If there are distinct areas, the Coast Guard can enforce those areas.
- Office of Law Enforcement: a single polygon with straight lines would be preferable to areas drawn by 10-minute squares. This would likely require multiple conjoined 10-minute squares and may create areas with more

than four sides which is harder to enforce than straight line approximating the shoreline.

Other enforcement concerns:

- If closures are implemented and there are only short periods to fish, this can lead to safety issues where vessels may go out in worse conditions.
- Need to be clear which mesh sizes restrictions should be applied to.

FMAT/PDT Recommendations

The FMAT/PDT met on September 7, 2023 to discuss the range of alternatives and provide further input for the Joint Committee to consider. The team discussed the need to refine the range of alternatives for analysis while maintaining several types of measures to address sturgeon bycatch. The FMAT/PDT ultimately recommended the following range of alternatives for the Committee and Councils' consideration (see meeting summary for detailed discussion and rationale):

Spiny Dogfish Action

Alternatives would be applied to mesh sizes of 5 inch and greater to accurately capture the dogfish fishery. The range of alternatives includes a variety of time/area restrictions or closures to address sturgeon bycatch hotspot areas.

Restriction options to be applied to selected time and area options (developed based on information provided in the Sturgeon Action Plan)

1. Soak time restrictions
 - a. No overnight soaks
2. Closures

Area options (developed based on the figures provided in the Sturgeon Action Plan)

1. Smaller areas than statistical areas using straight lines that approximate the shoreline to encompass NJ, DE, MD, and VA hotspots (estimating 6-9 miles offshore)

Time options (developed based on observer data on sturgeon takes on spiny dogfish targeted trips)

1. NJ hotspot
 - a. November 1 – December 31
 - b. April 1- 30
 - c. For closures: 1, 2, 3, or 4 week periods within timeframes in 1a and 1b
2. DE/MD/VA hotspots
 - a. December 1 – January 31
 - b. March 1-31
 - c. For closures: 1, 2, 3, or 4 week periods within timeframes in 2a and 2b

Monkfish Action

Alternatives would be applied to vessels using a Monkfish day-at-sea (DAS) using gillnet gear.

Restriction options to be applied to selected time and area options (developed based on information provided in the Sturgeon Action Plan)

1. Gear restrictions: low profile gillnet as defined in draft alternatives document
 - a. Only applicable to NJ hotspot
2. Closures

Area options (developed based on the figures provided in the Sturgeon Action Plan)

1. Smaller areas than statistical areas, using straight lines that approximate the shoreline to encompass hotspots (estimating 6-9 miles offshore)

Time options (developed based on observer data on sturgeon takes on monkfish targeted trips)

1. Southern New England
 - a. May 1-31
 - b. June 1-30
 - c. For closures: 1, 2, 3, or 4 week periods within timeframes in 1a and 1b
2. NJ hotspot
 - a. December 1-31
 - b. May 1- 31
 - c. For closures: 1, 2, 3, or 4 week periods within timeframes in 2a and 2b
 - d. For low profile gear in NJ hotspot (e.g., not soak time restriction): year-round

Previous Outline of the Preliminary Range of Alternatives as Recommended by the Joint Dogfish and Monkfish Committee in May 2023

Spiny Dogfish Action

Alternatives would be applied to either 1) mesh size 7 inch or greater only or 2) apply to mesh 5 inch and greater (to the extent possible separating out by mesh size category).

The range of alternatives includes a variety of time/area restrictions or closures to address sturgeon bycatch hotspot areas.

Restriction options to be applied to selected time and area options

3. Soak time restrictions
 - a. No overnight soaks
 - b. Maximum of 24 hour soaks
 - c. Maximum of 48 hour soaks
 - d. Maximum of 72 hour soaks
4. Closures

Area options

2. Statistical area groups
 - a. NJ hotspot: 612, 614, and 615
 - b. DE/MD/VA hotspots: 621, 625, and 631
3. Smaller areas within statistical areas identified in 1a and 1b, using 10-minute squares to encompass NJ, DE, MD, and VA hotspots (estimating 6-9 miles offshore)
4. Smaller areas within statistical areas identified in 1a and 1b, using straight lines that approximate the shoreline to encompass NJ, DE, MD, and VA hotspots (estimating 6-9 miles offshore)

Time options

3. NJ hotspot
 - a. November 1 – December 31
 - b. April 1- 30
 - c. For closures: 1, 2, 3, or 4 week periods within timeframes in 1a and 1b
4. DE/MD/VA hotspots
 - a. December 1 – January 31
 - b. March 1-31
 - c. For closures: 1, 2, 3, or 4 week periods within timeframes in 2a and 2b

Monkfish Action

Alternatives would be applied to vessels using a Monkfish day-at-sea (DAS) using gillnet gear.

Restriction options to be applied to selected time and area options

3. Gear restrictions: low profile gillnet as defined in draft alternatives document

- a. Only applicable to NJ hotspot
- 4. Soak time restrictions
 - a. Maximum of 48 hour soaks
 - b. Maximum of 72 hour soaks
- 5. Closures

Area options

- 2. Statistical area groups
 - a. Southern New England: 539
 - b. NJ hotspot: 612, 614, and 615
- 3. Smaller areas within statistical areas identified in 1a and 1b, using 10-minute squares to encompass hotspots (estimating 6-9 miles offshore)
- 4. Smaller areas within statistical areas identified in 1a and 1b, using straight lines that approximate the shoreline to encompass hotspots (estimating 6-9 miles offshore)

Time options

- 3. Southern New England
 - a. May 1-31
 - b. June 1-30
 - c. For closures: 1, 2, 3, or 4 week periods within timeframes in 1a and 1b
- 4. NJ hotspot
 - a. December 1-31
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 - c. For closures: 1, 2, 3, or 4 week periods within timeframes in 2a and 2b
 - d. For low profile gear in NJ hotspot (e.g., not soak time restriction): year-round