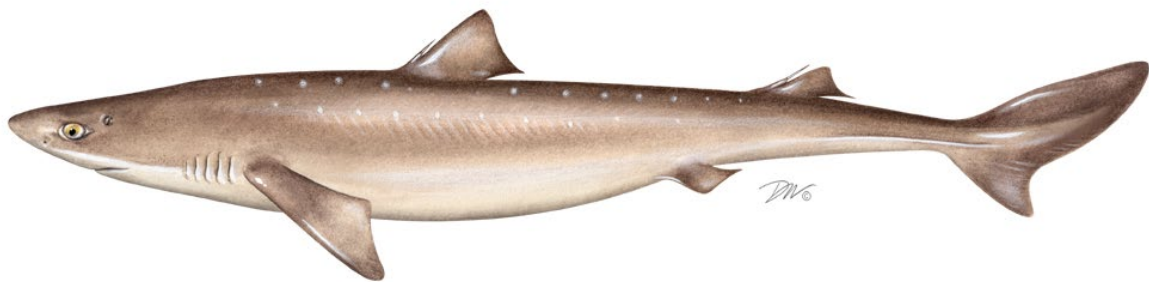


# ***Atlantic States Marine Fisheries Commission***

## **DRAFT ADDENDUM VII TO THE SPINY DOGFISH INTERSTATE FISHERY MANAGEMENT PLAN FOR BOARD REVIEW**

### ***Commercial Management: Atlantic Sturgeon Bycatch***



*This draft document was developed for Board review and discussion at the October 2024 meeting week. This document is not intended to solicit public comment as part of the Commission/State formal public input process. However, comments on this draft document may be given at the appropriate time on the agenda during the scheduled meeting. Also, if approved, a public comment period will be established to solicit input on the issues contained in the document.*

**October 2024**



*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

## Atlantic States Marine Fisheries Commission Seeks Your Input on Spiny Dogfish Management

The public is encouraged to submit comments regarding this document during the public comment period. Comments will be accepted until 5:00 p.m. EST on **DAY, MONTH 2024**. Regardless of when they were sent, comments received after that time will not be included in the official record.

You may submit public comment in one or more of the following ways:

1. Attend public hearings pertinent to your state or jurisdiction.
2. Refer comments to your state’s members on the [Spiny Dogfish Board](#) or [Spiny Dogfish Advisory Panel](#), if applicable.
3. Mail, fax, or email written comments to the following address:

James Boyle  
Fishery Management Plan Coordinator  
Atlantic States Marine Fisheries Commission  
1050 North Highland St., Suite 200 A-N  
Arlington, VA 22201  
Fax: (703) 842-0741  
[comments@asmfc.org](mailto:comments@asmfc.org) (subject line: Spiny Dogfish Draft Addendum VII)

If you have any questions, please contact James Boyle at [jbopyle@asmfc.org](mailto:jbopyle@asmfc.org) or 703.842.0740.

<b>Commission’s Process and Timeline</b>	
August 2024	Spiny Dogfish Board Tasks Staff to Develop Draft Addendum VII
August – October 2024	Staff Develops Draft Addendum VII for Board Review
<b>October 2024</b>	<b>Spiny Dogfish Board Reviews Draft Addendum VII and Considers Its Approval for Public Comment</b>
November 2024 – January 2025	Board Solicits Public Comment and States Conduct Public Hearings
February 2025	Board Reviews Public Comment, Selects Management Options and Considers Final Approval of Addendum VII
TBD	Provisions of Addendum VII are Implemented

## Draft Addendum VII for Board Review. Not for Public Comment

### 1. INTRODUCTION

The Atlantic States Marine Fisheries Commission (ASMFC) is responsible for managing spiny dogfish (*Squalus acanthias*) in state waters (0–3 miles from shore) under the authority of the Atlantic Coastal Fisheries Cooperative Management Act, and has done so through an interstate fishery management plan (FMP) since 2003. The states of Maine through North Carolina have a declared interest in the fishery and are responsible for implementing management measures consistent with the interstate FMP.

Spiny dogfish is managed in federal waters (3–200 miles from shore) through a joint FMP of the Mid-Atlantic Fishery Management Council (MAFMC) and the New England Fishery Management Council (NEFMC), with the MAFMC taking the lead for federal management. These two councils make recommendations on management to the National Oceanographic and Atmospheric Administration’s National Marine Fisheries Service (NOAA Fisheries), which is responsible for implementing management based on the input from the two councils and per the requirements of the Magnuson-Stevens Fishery Conservation and Management Act.

At its August 2024 meeting, ASMFC’s Spiny Dogfish Management Board approved the following motion:

*Move to initiate an addendum to maintain consistency between the Spiny Dogfish FMP and the recommended alternatives of Spiny Dogfish Framework Adjustment 6.*

As a result, the Addendum proposes options to establish equivalent overnight soak restrictions proposed in Spiny Dogfish Framework Adjustment 6 for harvesters that possess state spiny dogfish permits but do not possess a federal spiny dogfish permit.

### 2. OVERVIEW

#### 2.1 Statement of the Problem

In August 2024, NOAA Fisheries published a proposed rule (*Federal Register* notice [89 FR 65576; August 12, 2024](#)) to approve and implement Spiny Dogfish Framework Adjustment 6, as recommended by the MAFMC and NEFMC. If approved, the rule would implement area-based gear requirements in the spiny dogfish gillnet fishery to reduce bycatch of Atlantic sturgeon for harvesters that possess a federal spiny dogfish permit. However, harvesters that do not possess a federal spiny dogfish permit and only fish in states waters would not be captured by the action. Because the specific areas proposed for additional management span state and federal waters, action is needed to implement corresponding measures for state-only permit holders to maintain consistency between the federal and interstate FMPs.

## 2.2 Background

### 2.2.1 Spiny Dogfish Framework Adjustment 6

The coastwide Atlantic sturgeon population is made up of five distinct population segments, all of which are listed as threatened or endangered under the Endangered Species Act (ESA). Section 9 of the ESA prohibits the take, including incidental, of endangered species, which is defined as “to harass, harm, pursue, hunt, shoot, capture, or collect, or to attempt to engage in any such conduct.” However, exceptions may be granted to incidental take through an Incidental Take Statement (ITS) or an incidental take permit. An ITS provides the maximum permissible level of incidental take, reasonable and prudent measures to reduce takes, and other terms and conditions, all of which are required to maintain compliance with the ESA.

In response to a Biological Opinion from May 2021 that found potential adverse effects on Atlantic sturgeon through the authorization of several FMPs, including spiny dogfish, NOAA Fisheries developed an Action Plan with recommendations to reduce Atlantic sturgeon bycatch in federal large-mesh gillnet fisheries by 2024. The Councils used the Action Plan recommendations to develop Spiny Dogfish Framework Adjustment 6, which recommended prohibiting overnight gillnet soaks within certain spatial and temporal hotspots of sturgeon bycatch.

The hotspots were determined through observer bycatch data from 2017-2019 and 2021-2022, excluding 2020 due to low observer coverage. Three areas were identified to have the greatest incidence of interactions: one off of the coast of New Jersey (Figure 1) and two off the coasts of Delaware, Maryland and Virginia (Figure 2).

New Jersey Bycatch Hotspot Polygon - Monkfish Fishery and Spiny Dogfish Fishery

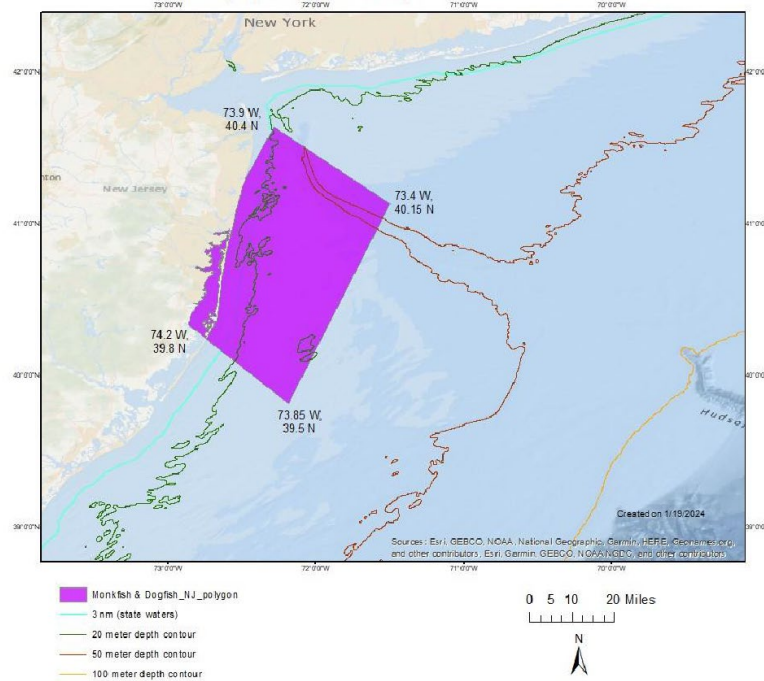


Figure 1. New Jersey Atlantic Sturgeon Bycatch Reduction Area from Spiny Dogfish Framework Adjustment 6.

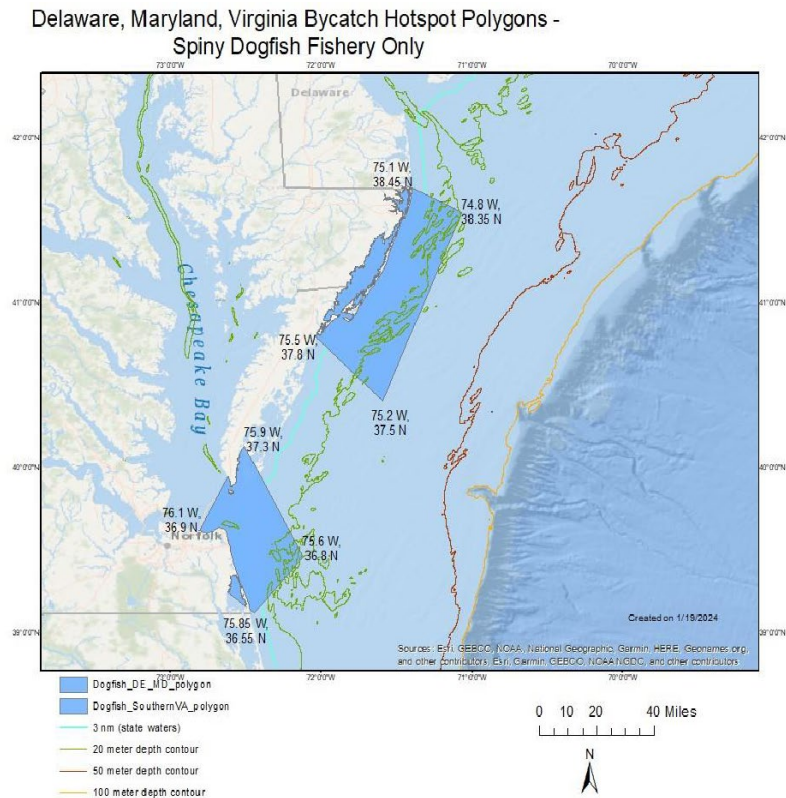


Figure 2. Delaware, Maryland, and Virginia Atlantic Sturgeon Bycatch Reduction Areas from Spiny Dogfish Framework Adjustment 6.

The New Jersey, Delaware and Maryland, and Virginia Atlantic Sturgeon Bycatch Reduction Areas would be delineated as all waters bounded by straight lines connecting the following coordinates in the order stated:

New Jersey Atlantic Sturgeon Bycatch Reduction Area	40°24'N, 73°54' W
	40°9'N, 73°24' W
	39°30'N, 73°51' W
	39°48'N, 74°12' W
	40°24'N, 73°54' W
Delaware and Maryland Atlantic Sturgeon Bycatch Reduction Area	38°27'N, 75°60' W
	38°21'N, 74°48' W
	37°30'N, 75°12' W
	37°48'N, 75°30' W
	38°27'N, 75°60' W
	37°18'N, 75°54' W
	36°48'N, 75°36' W

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Virginia Atlantic Sturgeon Bycatch Reduction Area	36°33'N, 75°51' W
	36°54'N, 76°6' W
	37°18'N, 75°54' W

Note that the Delaware and Maryland Atlantic Sturgeon Bycatch Reduction Area does not overlap with Delaware state waters.

*New Jersey Atlantic Sturgeon Bycatch Reduction Area*

Within the New Jersey Atlantic Sturgeon Bycatch Reduction Area, the NOAA Fisheries' proposed rule would require federally permitted spiny dogfish vessels using roundfish gillnets (i.e., not tie-down gillnets) with a mesh size between 5 and 10 inches (12.7 to 25.4 cm) to remove nets from the water by 8:00 p.m. Eastern Time (ET) each day until 5:00 a.m. ET the following day from May 1 through May 31 and November 1 through November 30 of each year.

*Delaware, Maryland, and Virginia Atlantic Sturgeon Bycatch Reduction Areas*

Within the Delaware and Maryland and the Virginia Atlantic Sturgeon Bycatch Reduction Areas, the NOAA Fisheries' proposed rule would require federally permitted spiny dogfish vessels using roundfish gillnets (i.e., not tie-down gillnets) with a mesh size between 5.25 and 10 inches (13.34 to 25.4 cm) would need to remove nets from the water by 8:00 p.m. ET each day until 5:00 a.m. ET the following day from November 1 through March 31 each year.

The proposed rule notes that implementation will occur 30 days after publication of the Final Rule, and the 2021 Biological Opinion requires bycatch reduction measures to be implemented before 2025.

2.2.2 State Permitting Approaches for Spiny Dogfish

Unlike federal management, states each use different permitting structures and some do not issue species-specific permits for spiny dogfish. Table 1 provides a summary of the permitting structures for New Jersey, Maryland, and Virginia. While New Jersey does not issue permits for spiny dogfish, the state does require a person or vessel to possess a federal spiny dogfish permit to possess spiny dogfish for sale, sell, or attempt to sell spiny dogfish (N.J.A.C. 7:25-18.12(g)1).

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Table 1. Summary of permitting structure for affected states.

<b>State</b>	<b>Permits that May Land Spiny Dogfish</b>	<b>Number of Permittees that use Gillnets</b>	<b>Other Gillnet Species in Permit</b>
<b>NJ</b>	Gillnet	585	Shark, Large Skate, Smooth Dogfish, Bluefish
<b>MD</b>	Finfish (1,000 lb trip limit)	Unknown	Bluefish
	Striped Bass (2,500 lb trip limit)	52	Striped Bass
	Spiny Dogfish (10,000 lb trip limit)	25	N/A
<b>VA</b>	Spiny Dogfish	75	N/A

**3. PROPOSED MANAGEMENT PROGRAM**

**Consider Sturgeon Bycatch Reduction Measures**

**Option 1: Status Quo**

All gillnet harvesters of spiny dogfish that do not possess a federal spiny dogfish permit and only harvest in state waters may continue to soak nets overnight in the state waters portion of the bycatch reduction areas.

**Option 2: Prohibit Overnight Soaks for Specified Times and Areas for State Spiny Dogfish Permits**

Under this option, states would take action to apply complementary measures to holders of species-specific Spiny Dogfish Permits, where applicable. This option is consistent with Framework Adjustment 6 in that it applies new measures according to permit held; however, because of differences in how states permit their harvesters, there will be some allowances for spiny dogfish to be harvested in the state waters portion of the bycatch reduction areas that is inconsistent with the federal rules, as identified herein.

*New Jersey Atlantic Sturgeon Bycatch Reduction Area*

New Jersey would not have to take action because it does not have a species-specific permit for spiny dogfish. However, due to New Jersey’s permitting rules, any person or vessel selling spiny dogfish in the state would have to have a federal permit and follow the regulations in the bycatch reduction area, including state waters of the area.<sup>1</sup>

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<sup>1</sup> “A person or vessel shall not possess for sale any spiny dogfish nor shall a person sell or attempt to sell spiny dogfish without a valid annual vessel permit for spiny dogfish issued by the National Marine Fisheries Service” (N.J.A.C. 7:25-18.12(g)1.).

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### *Delaware, Maryland, and Virginia Atlantic Sturgeon Bycatch Reduction Areas*

Harvesters that possess a Maryland Spiny Dogfish Permit or Virginia Spiny Dogfish Permit using roundfish gillnets (i.e., not tie-down gillnets) with a mesh size between 5.25 and 10 inches (13.34 to 25.4 cm) would be required to remove nets from the water by 8:00 p.m. ET each day until 5:00 a.m. ET the following day from November 1 through March 31 each year within the state waters portion of the Delaware and Maryland and the Virginia Sturgeon Bycatch Reduction Areas. No action would be required by Delaware because the bycatch reduction area does not overlap with its state waters. Note that Maryland allows the commercial harvest of spiny dogfish with reduced trip limits by holders of their Striped Bass Permit and Finfish Permit. Under this option, those permit holders would not be subject to the provisions of the bycatch reduction areas without also possessing a Spiny Dogfish Permit.

### **Option 3: Prohibit Spiny Dogfish Harvest via Overnight Soaks for Specified Times and Areas**

Note: This option was not reviewed by the full Spiny Dogfish Plan Development Team.

Under this option, states would take action to apply complementary measures to all spiny dogfish harvested from the bycatch reduction times/areas by the specified gillnet mesh sizes, regardless of the permit possessed by the harvester. This option is distinct from Option 2 in that it would not result in any allowances for spiny dogfish to be harvested in the state waters portion of the bycatch reduction areas that is inconsistent with the federal rules. However, enforcement may be more challenging under this option due to the need to identify when and where individual spiny dogfish were caught.

### *New Jersey Atlantic Sturgeon Bycatch Reduction Area*

It would be prohibited to harvest or possess spiny dogfish caught using roundfish gillnets (i.e., not tie-down gillnets) with a mesh size between 5 and 10 inches (12.7 to 25.4 cm) that were left in the water for any portion of the time period between 8:00 p.m. ET each day and 5:00 a.m. ET the following day from May 1 through May 31 and November 1 through November 30 of each year within the New Jersey Atlantic Sturgeon Bycatch Reduction Area.

### *Delaware, Maryland, and Virginia Atlantic Sturgeon Bycatch Reduction Areas*

It would be prohibited to harvest or possess spiny dogfish caught using roundfish gillnets (i.e., not tie-down gillnets) with a mesh size between 5.25 and 10 inches (13.34 to 25.4 cm) that were left in the water for any portion of the time period between 8:00 p.m. ET each day and 5:00 a.m. ET the following day from November 1 through March 31 each year within the Delaware and Maryland and the Virginia Atlantic Sturgeon Bycatch Reduction Areas. No action would be required by Delaware because the bycatch reduction area does not overlap with its state waters.

## **4. COMPLIANCE SCHEDULE**

The Spiny Dogfish Management Board would need to determine a compliance schedule when considering approval of the draft Addendum.



**5. LITERATURE CITED**

Atlantic States Marine Fisheries Commission (ASMFC). 2002. Interstate Fishery Management Plan for Spiny Dogfish. 107p.

Fisheries of the Northeastern United States; Framework Adjustment 15 to the Monkfish Fishery Management Plan; Framework Adjustment 6 to the Spiny Dogfish Fishery Management Plan, 89 FR 65576 (August 12, 2024).

Mid-Atlantic Fishery Management Council (MAFMC) and New England Fishery Management Council (NEFMC). 2024. Joint Framework Action to Reduce Sturgeon Bycatch in Monkfish and Spiny Dogfish Fisheries. 209 pp.

Mid-Atlantic Fishery Management Council (MAFMC) and New England Fishery Management Council (NEFMC). 1999. Spiny Dogfish Fishery Management Plan. NOAA Award No. NA57 FC0002. 292 pp.