



**NOAA
FISHERIES**

Update on Draft Amendment 9 to the 2006 Consolidated HMS FMP

Presented to the Atlantic HMS Advisory Panel

March 2015

Outline of Proposed Measures

- Establish effective date for previously-adopted smoothhound shark measures in Amendment 3 (2010) & HMS Trawl Rule (2011)
- Implement smooth dogfish-specific provision of the Shark Conservation Act (SCA) of 2010
- Adjust smoothhound shark quota based on recent landings data
- Adjust 2012 Shark Biological Opinion (BiOp) sink and drift gillnet requirements
- Adjust shark gillnet Vessel Monitoring System (VMS) requirement consistent with Atlantic Large Whale Take Reduction Plan (ALWTRP)

Background

- Amendment 9 largely focuses on smoothhound sharks
- The primary commercial fishery targets smooth dogfish in the Atlantic, with catches in other commercial and recreational fisheries in other areas



Background

- *Mustelus* spp are very difficult to tell apart
 - Smooth dogfish, Florida smoothhound, Gulf smoothhound, other *Mustelus* spp. found in U.S. Atlantic waters
- Most proposed measures (e.g. quota) apply to all smoothhound sharks
 - Exception: smooth dogfish-specific provision of the Shark Conservation Act
- SEDAR 39 Smoothhound Shark Stock Assessment
 - Atlantic: smooth dogfish only
 - GOM: smooth dogfish, Florida smoothhound, Gulf smoothhound (i.e., smoothhound complex)

Background

- In 2010, Amendment 3 adopted a smoothhound shark quota of 715.5 mt dw
 - Calculated by taking highest annual landings between 1998 and 2007 and adding 2 standard deviations to account for underreporting
 - Set at a level to avoid prematurely closing the fishery while more information is gathered
- Implementation of this measure was delayed to provide time to -
 - Implement a permit requirement
 - To complete a BiOp
 - Allow fishermen to change business practices related to keeping fins attached through offloading
 - Approve data collection under the Paperwork Reduction Act

Comment Period for Draft Amendment 9

- NMFS published a proposed rule on August 7, 2014
- Received ~ 500 comments
- Comments can be viewed at <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0100>
- Comment period closed on November 14, 2014

Summary of Comments for Amendment 9 Proposed Measures



I. Shark Conservation Act: Smooth Dogfish

- Shark Conservation Act (SCA) of 2010: fins naturally attached to sharks landed in the U.S.
- Provides limited exception for smooth dogfish:

“The amendments made by subsection (a) do not apply to an **individual engaged in commercial fishing for smooth dogfish (Mustelus canis)** in that area of the waters of the United States located shoreward of a line drawn in such a manner that each point on it is 50 nautical miles from the baseline of a **State** from which the territorial sea is measured, **if the individual holds a valid State commercial fishing license**, unless the total weight of smooth dogfish fins landed or found on board a vessel to which this subsection applies exceeds 12 percent of the total weight of smooth dogfish carcasses landed or found on board”

Shark Conservation Act: Smooth Dogfish

- This action considers whether or not to implement smooth dogfish-specific provisions in the SCA
 - **Alternative A1:** Do not implement the smooth dogfish-specific measures in the SCA
 - **Alternative A2:** *Implement the smooth dogfish-specific measures in the SCA to establish an allowance for the removal of smooth dogfish fins while at sea - Preferred Alternative*

Public Comments on Implementing the SCA Exception

- Comments suggesting that NMFS not implement the smooth dogfish-exception (Alternative A1)
 - Allowing fin removal would jeopardize U.S. reputation at RFMO level
 - Allowing fin removal would undermine state bans
- Comments that had the misperception that Amendment 9 would legalize shark finning

Shark Conservation Act: Smooth Dogfish

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Shark Conservation Act: Smooth Dogfish

- Issue 1: Catch Composition
- “individual engaged in commercial fishing for smooth dogfish”
 - **Sub-Alternative A2-1a:** Smooth dogfish can make up any portion of the retained catch (no other sharks can be retained)
 - **Sub-Alternative A2-1b:** Smooth dogfish must make up at least 25% of the retained catch (no other sharks can be retained)
 - **Sub-Alternative A2-1c:** *Smooth dogfish must make up at least 75% of the retained catch (no other sharks can be retained) – Preferred Alternative*
 - **Sub-Alternative A2-1d:** Smooth dogfish must make up at 100% of the retained catch

Public Comments on Issue 1: Catch Composition

- Majority of comments received were in regard to this issue
- Comments against implementing catch composition requirements
 - Catch composition of fishery changes over the course of the year
 - Smoothhound fishery is a mixed fishery and requires more flexibility in the percentage of smoothhound required to process at sea
- Comments regarding the rationale behind “fishing for”
 - SCA does not explicitly address directed fishing
 - SCA does not provide the retention percentages provided in the rule and EA

Public Comments on Issue 1: Catch Composition (cont.)

- Commenters expressed concern that no other sharks could be retained while processing smoothhound sharks
 - SCA does not state “no other sharks retained”
 - Could result in increased regulatory discards and loss of income for fishermen
- Comments stated concern about Federal measures differing from those implemented by the Atlantic States Fishery Management Council (ASMFC)
 - NMFS should only implement the 12% fin-to-carcass ratio
 - Unsure how NMFS’ regulations would impact current state regulations

Public Comments on Issue 1: Catch Composition (cont.)

- Comments supported smoothhound sharks making up 25% of retained catch (Sub-Alternative A2-1b)
- Comments supported smoothhound sharks making up 75% of retained catch (Sub-Alternative A2-1c - Preferred)
- Comments questioned the impact of a catch composition measure on the fishery
 - Financial hardship on smoothhound fishermen
 - Additional workload created for crew once they return from fishing trips
 - Limited landings of smoothhound sharks could negatively impact the cutting houses
 - Backlog of boats at the docks dealing with unprocessed sharks

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Shark Conservation Act: Smooth Dogfish

- Issue 2: State Fishing Permit
- “if the individual holds a valid State commercial fishing license”
 - **Sub -Alternative A2-2a:** Require smooth dogfish-specific state commercial fishing permit in conjunction with the federal smoothhound permit
 - **Sub -Alternative A2-2b:** *Require any state commercial fishing permit that allows smooth dogfish retention in conjunction with the federal smoothhound permit – Preferred Alternative*

Public Comments on Issue 2: State Fishing Permit

- Few comments received on this issue
- Of the comments received, there was general support to require any state commercial fishing permit that allows smoothhound dog retention in conjunction with the federal smoothhound permit in order to process smoothhounds at sea (Sub -Alternative A2-2b)

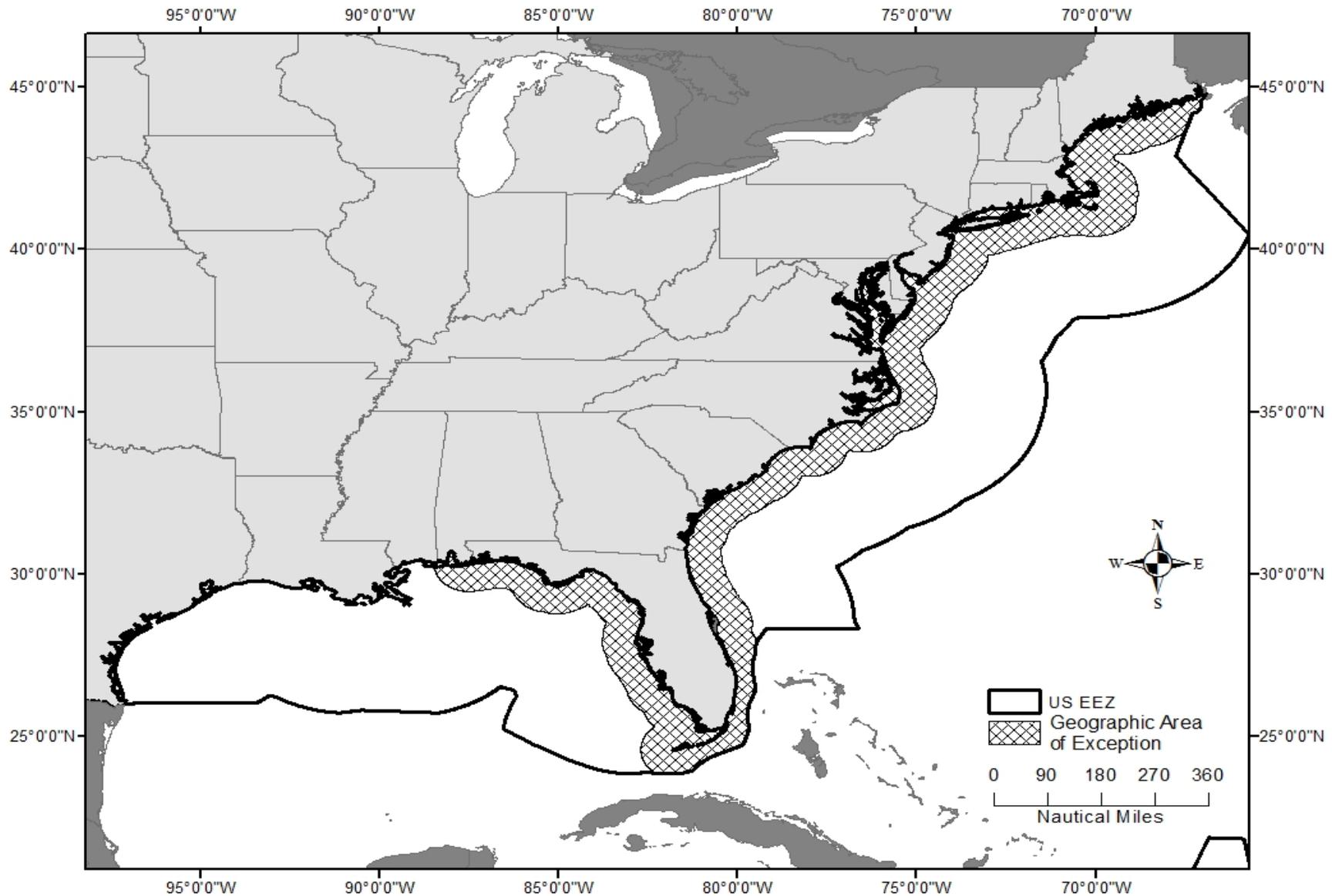
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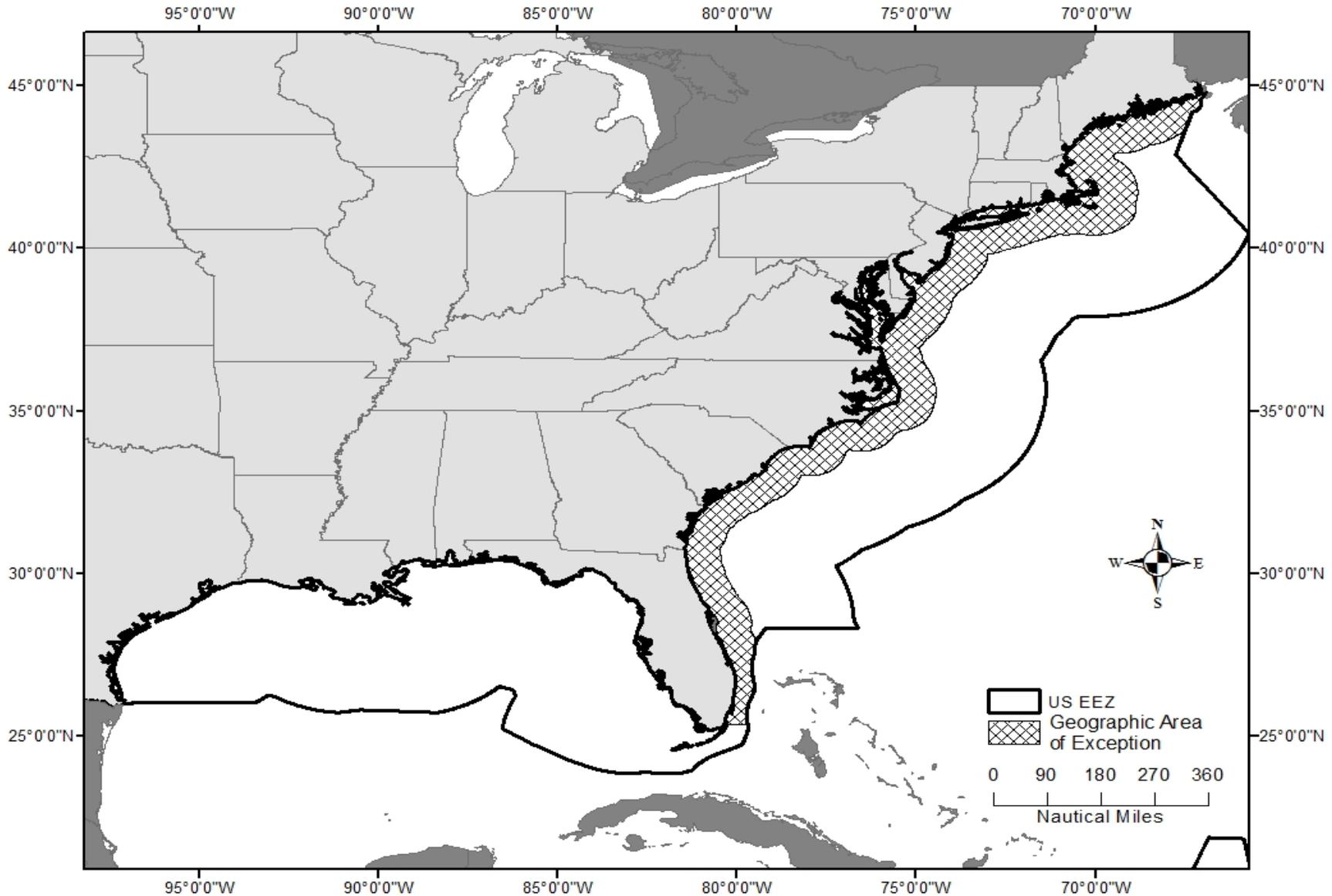
Shark Conservation Act: Smooth Dogfish

- Issue 3: Geographic Applicability
- “State”
 - **Sub-Alternative A2-3a:** Apply the exception for smooth dogfish along the Atlantic Coast and to Florida’s coast in the Gulf of Mexico
 - **Sub-Alternative A2-3b:** *Apply the exception for smooth dogfish along the Atlantic Coast but not to Florida’s coast in the Gulf of Mexico – Preferred Alternative*

* In the SCA, “State” has the meaning given that term in section 803 of Public Law 103–206 (16 U.S.C. 5102). P.L. 103-206 uses “State” to refer to “Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, or the Potomac River Fisheries Commission.”



Sub-Alternative A2-3a: Apply the exception for smooth dogfish along the Atlantic Coast and to Florida's coast in the Gulf of Mexico



Sub-Alternative A2-3b: *Apply the exception for smooth dogfish along the Atlantic Coast but not to Florida's coast in the Gulf of Mexico - Preferred Alternative*

Public Comments on Issue 3: Geographic Applicability

- Comments supported the application of the SCA exception along the Atlantic coast but not to Florida's coast in the Gulf of Mexico (Alternative A2-3b – Preferred Alternative)
- Comments supported applying the exception to Florida's coast in the Gulf of Mexico (Alternative A2-3a)
 - This would allow Florida to continue managing its resources using the boundary established between the Gulf of Mexico and South Atlantic Fishery Management Councils

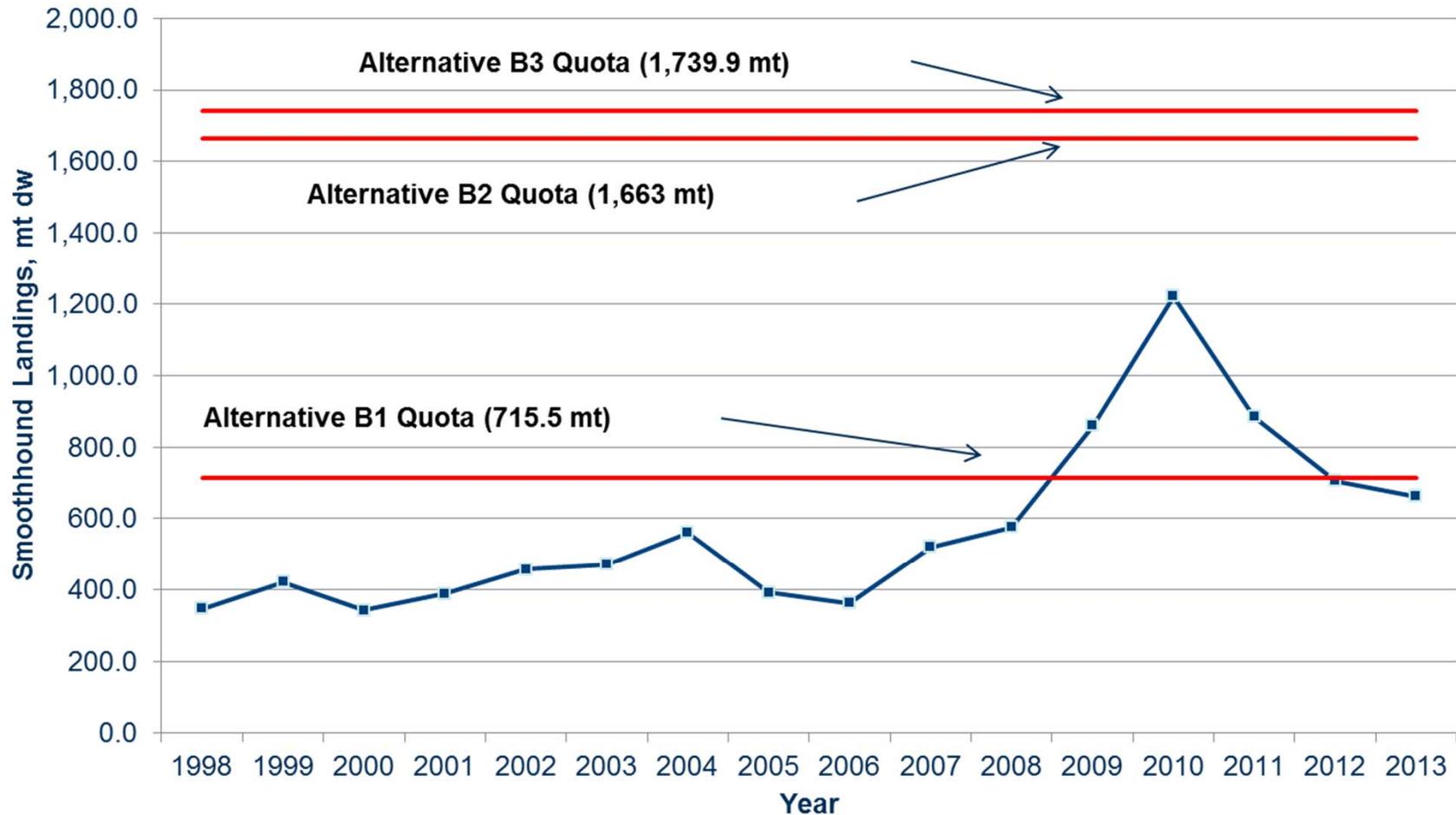
II. Smoothhound Quota Adjustment

- In 2010, Amendment 3 adopted a smoothhound shark quota of 715.5 mt dw
 - Calculated by taking highest annual landings between 1998 and 2007 and adding 2 standard deviations to account for underreporting
 - Set at a level to avoid prematurely closing the fishery while more information is gathered

Smoothhound Quota Adjustment

- This action considers adjusting the quota
 - **Alternative B1:** Amendment 3 quota of 715.5 mt dw
 - **Alternative B2:** “Rolling quota” based upon the previous five years of available data: maximum annual landings plus two standard deviations (2015 quota would be 1,663 mt dw based on 2009-2013 data)
 - **Alternative B3:** *Maximum annual landings from 2004-2013 plus two standard deviations = 1,739.9 mt dw (Amendment 3 methodology with updated data)– Preferred Alternative*
 - **Alternative B4:** Set quota based on result of the 2014 smoothhound shark stock assessment

Smoothhound Quota Adjustment



* Alternative B4 quota option not shown because stock assessment is not yet complete

Smoothhound Quota Adjustment

- The Peer Review workshop occurred February 10-12, 2015
- The final SEDAR 39 smoothhound shark assessment report should be available later this month
- **Preliminary** results from the assessment found Atlantic smooth dogfish and the Gulf of Mexico smoothhound complex are not overfished and no overfishing is occurring
- An update on SEDAR 39 will be provided by our stock assessment scientists

Public Comments on Commercial Quota Adjustment

- Majority of comments supported Alternative B4
 - Implement a science-based quota
 - Delay the rulemaking until after the stock assessment is completed
- Comments stated concerns about the current preferred alternative (Alternative B3)
 - The quota seems contrary a risk adverse approach
 - Increasing the quota may contribute to continued overfishing of sharks

III. 2012 Shark BiOp

- Bringing a new fishery under federal management requires consideration of the impacts on ESA-listed species
- Consultation with NOAA Fisheries Protected Resources Division on the Atlantic shark fisheries (including smoothhound sharks) resulted in the 2012 Shark BiOp
- The 2012 Shark BiOp found that the continued operation of those fisheries is not likely to jeopardize the continued existence of ESA-listed species
 - Including Atlantic sturgeon, smalltooth sawfish, and any sea turtles or marine mammals
- In October 2014, NMFS reinitiated consultation for the shark fishery given the listing of scalloped hammerhead and coral species

2012 Shark BiOp

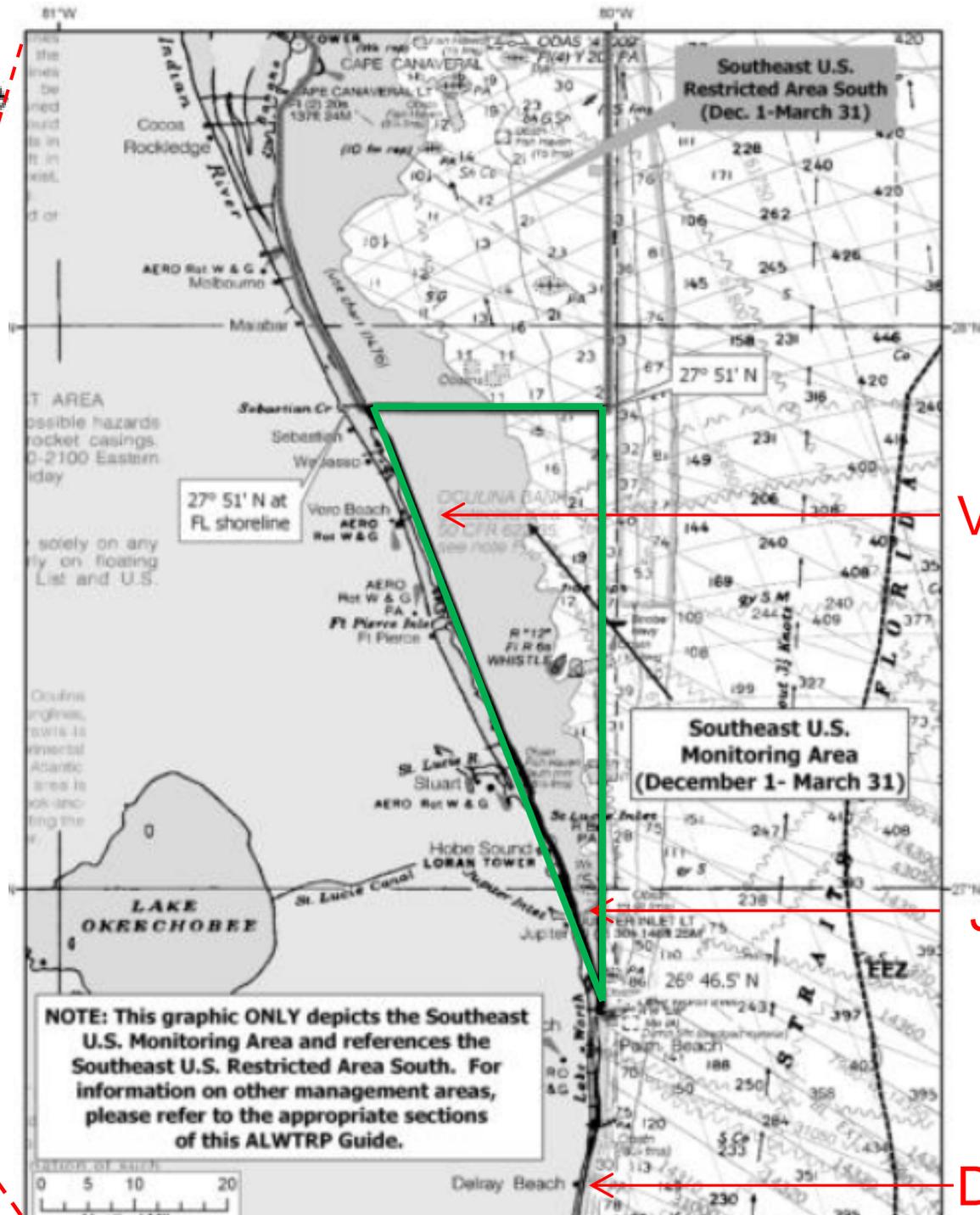
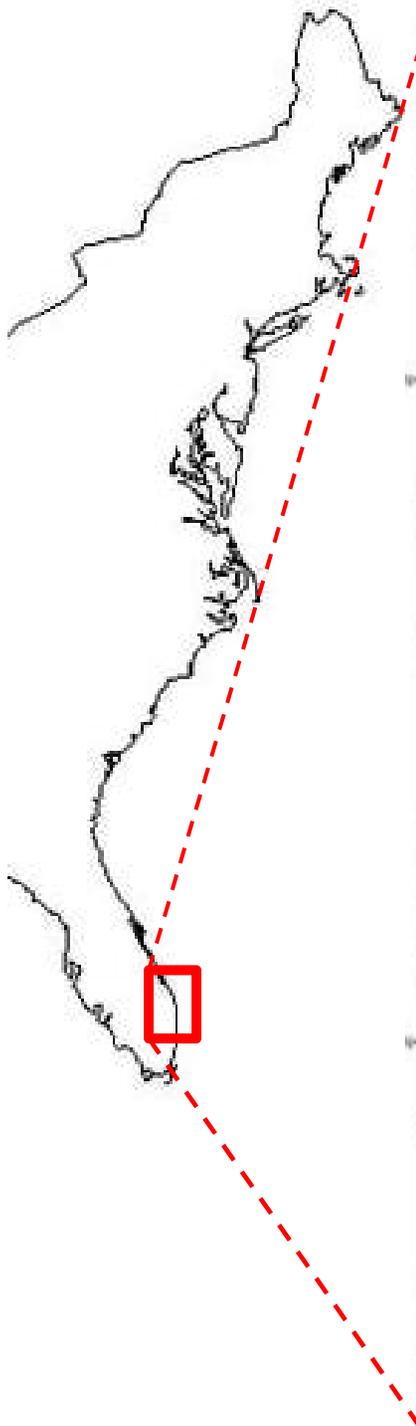
- **Alternative C1:** No Action. Do not take further action to implement Term and Condition 4 in the smoothhound shark fishery
- **Alternative C2:** Require smoothhound shark gillnet fishermen to conduct net checks at least every 2 hours to look for and remove any sea turtles, marine mammals, smalltooth sawfish, or Atlantic sturgeon found in the net
- **Alternative C3:** Establish a gillnet soak time limit of 24 hours for smoothhound shark permit holders; fishermen holding both a directed Atlantic shark limited access permit and a smoothhound shark permit must abide by both soak time restrictions and net check requirements
- **Alternative C4:** *Establish a soak time limit of 24 hours for sink gillnet gear and a 2 hour net check requirement for drift gillnet gear in the Atlantic shark and smoothhound shark fisheries – Preferred Alternative*

Public Comments on 2012 Shark BiOp

- Comments from fishermen and industry in support of the current preferred alternative (Alternative C4), with frequency of gear checks variable by gear type
- Comments requesting we require both net checks AND soak time restrictions
- Comments about feasibility of two hour net checks
 - Two hour drift gillnet checks seen as unenforceable and unrealistic
- Comments requesting clarification of the definitions used for drift and sink gillnet before implementing 2012 BiOp requirements –
 - Would like 3 definitions – floating gillnet, unanchored sink gillnet, anchored sink gillnet

IV. Shark Gillnet VMS Requirements

- Current HMS regulations require directed shark gillnet fishermen to install and use VMS to comply with the Atlantic Large Whale Take Reduction Plan (ALWTRP) regardless of where they are fishing
- Since implementation, it has become apparent that some shark gillnet fishermen do not fish in or even near the Southeast U.S. Monitoring Area
- We proposed to limit the requirement to the Southeast U.S. Monitoring Area, consistent with ALWTRP



Vero Beach

Jupiter

Delray Beach

Shark Gillnet VMS Requirements

- **Alternative D1:** No Action. Do not change VMS requirements for federal directed shark permit holders with gillnet gear on board.
- **Alternative D2:** *Require federal directed shark permit holders with gillnet gear on board to use VMS only in the Southeast U.S. Monitoring Area, pursuant to Atlantic Large Whale Take Reduction Plan requirements – Preferred Alternative*

Public Comments on Shark Gillnet VMS Requirements

- Comments that VMS requirements should be kept at status quo (Alternative D1)
- Comments in support of only requiring VMS for shark directed permit holders with gillnet onboard when in the Southeast U.S. Monitoring Area (Alternative D2)

Timeline

- Final SEDAR 39 Stock Assessment Report available in March 2015
- Final Rule expected in Fall 2015
- Measures would become effective 30 days after Final Rule publication

Questions?

