

*Science, Service, Stewardship*



# Amendment 9 to the 2006 Consolidated HMS FMP

Highly Migratory Species  
Management Division  
NMFS/NOAA

Fall 2014

**NOAA  
FISHERIES  
SERVICE**



# Outline of Proposed Measures

- Establish effective date for previously-adopted smoothhound shark measures in Amendment 3 (2010) & HMS Trawl Rule (2011)
- Adjust smoothhound shark quota based on recent landings data
- Implement smooth dogfish-specific provision of the Shark Conservation Act of 2010
- 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)



# Smoothhound Sharks

- *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



# Amendment 9 Proposed Measures

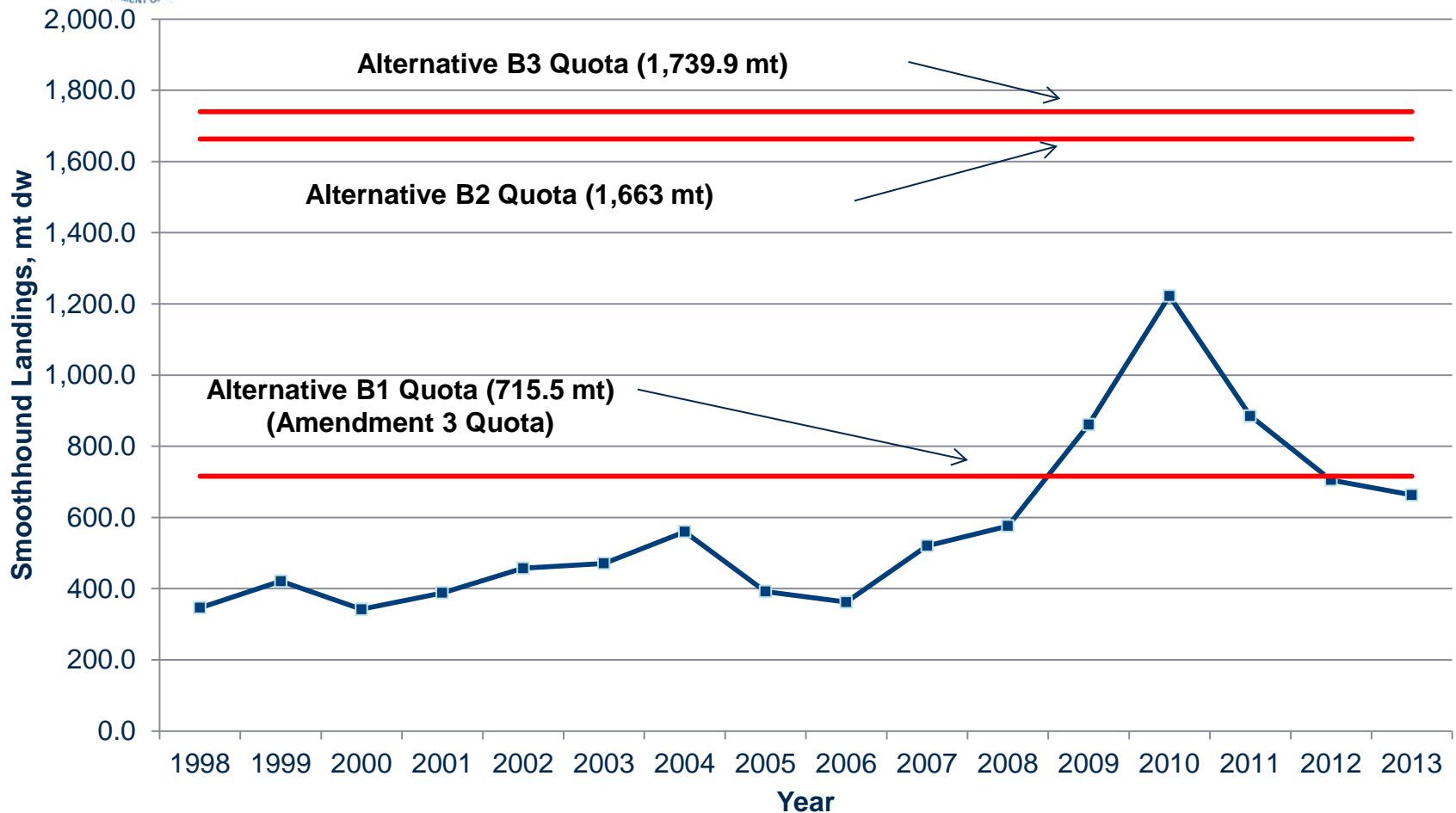


## Establish Effective Date of Previous-Adopted Smoothhound Shark Measures

- This action will establish an effective date for all previously adopted measures except for the commercial quota and fins-attached requirement in Amendment 3
  - Amendment 3 (final June 2010)
  - 2011 HMS Trawl rule (final August 2011)



# Smoothhound Quota Adjustment





# Shark Conservation Act: Smooth Dogfish

- Shark Conservation Act (SCA) of 2010: fins naturally attached to sharks landed in the United States
- 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”



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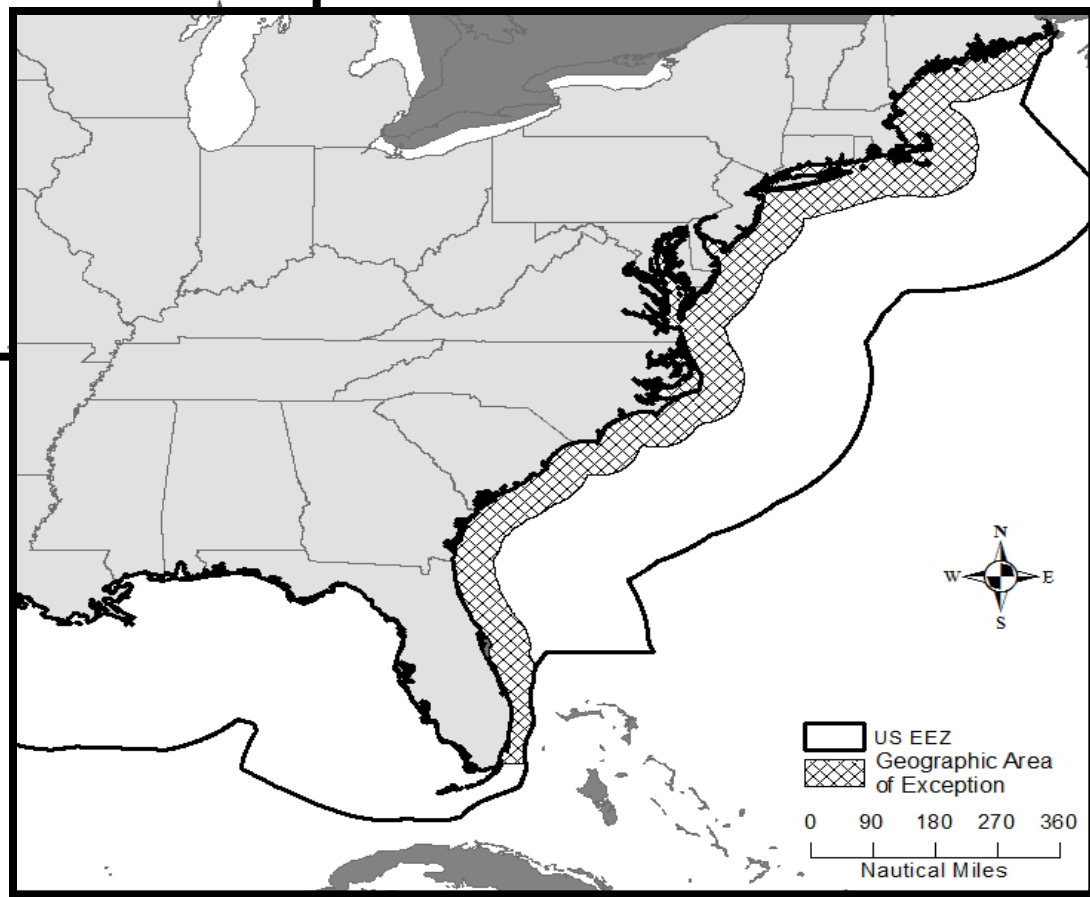
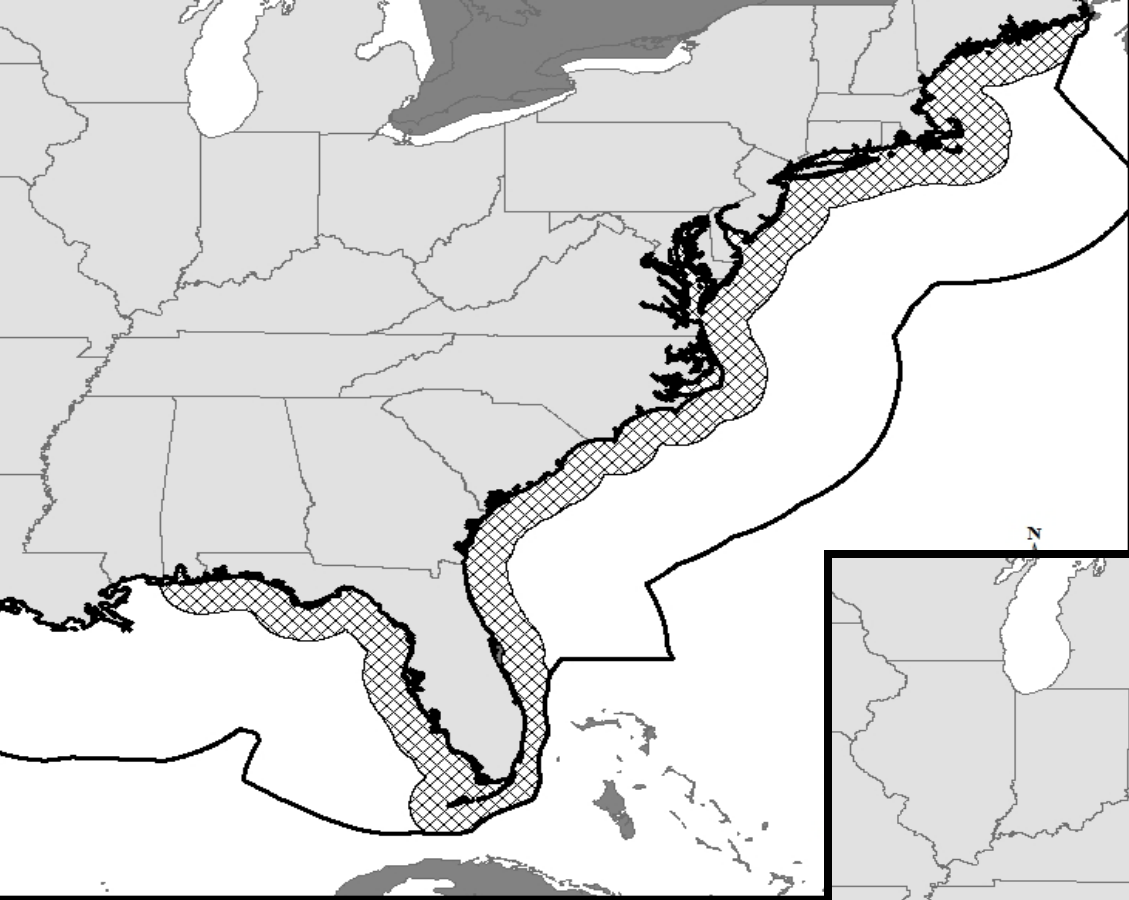
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# 2012 Shark Biological Opinion (BiOp)

- The only Term and Condition (TC) of the BiOp requiring regulatory action impacts the Atlantic shark gillnet fisheries, including the smoothhound shark fishery. The requirements are:
  - Net checks at least every 2 hours OR
  - 24 soak time limit
- Currently, Atlantic shark gillnet fishermen are required to check nets at least every 2 hours.
- Preferred Alternative:
  - 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



## 2012 Shark BiOp

- **Alternative C1:** No Action. Do not take further action to implement TC 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*



# Shark Gillnet VMS Requirements

- Current HMS regulations require 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.
  - Requirement pertains to Atlantic directed shark limited access permit holders with gillnet gear on board
- The current ALWTRP requirement applies only to the Southeast U.S. Monitoring Area.
- At time of implementation in 2003, NMFS determined that requiring all gillnet fishermen with a directed shark permit to use VMS regardless of geographic location would simplify compliance and outreach, particularly if these fishermen regularly fished different regions, including in the Southeast U.S. Monitoring Area.
- Since then it has become apparent that some shark gillnet fishermen do not fish in or near the Southeast U.S. Monitoring Area.









## Timeline

- Proposed Rule Published August 7<sup>th</sup>
- Comment Period Ends November 14<sup>th</sup>
- Final Rule expected in 2015
- Measures would become effective 30 days after Final Rule publication



# Request for Comments

Please submit comments to:

**<http://www.regulations.gov>**

Keyword - “0648-BB02”

Comment  
Period Closes  
November 14th

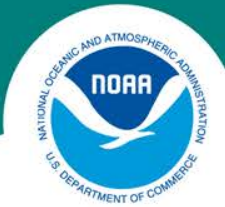
Direct Link: <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0100>

**Or Mail:**

NMFS SF1, 1315 East-West Highway, Silver Spring, MD 20910

**Please identify comments with 0648-BB02**

For more information go to: <http://www.nmfs.noaa.gov/sfa/hms/>



## Amendment 6 Background

- Future of the Shark Fishery ANPR – 9/20/10
  - Quota Stacking Structure, Permit Structure, and Catch Shares
- Notice of Intent to amend the 2006 Consolidated HMS FMP – 9/16/11
- The ANPR and NOI comments and the recent shark fishery changes have led NMFS to re-consider whether catch shares are the best management tool for the Atlantic shark fisheries at this time.
- NMFS believes short-term management measures may be a better fit for current problems facing this fishery and economically benefit the Atlantic shark fishery.



## Amendment 6

### Potential Management Topics:

- SCS TACs and Quotas
- Permit Stacking
- Commercial Shark Retention Limits
- Regional and Sub-Regional Quotas
  - Atlantic Quotas and Linkages
  - Gulf of Mexico Quotas and Linkages
- Retention limits in the Caribbean
- Modifying Upgrading Restrictions



## Other Shark Actions

- 2015 Atlantic Shark Specifications published September 11, 2014. Comment period ends on October 14, 2014.
  - Open the aggregated LCS and hammerhead shark management groups in the Atlantic region on June 1, 2015; all other management groups open on effective date for this action (i.e., on or about January 1, 2015).
  - Adjust the Gulf of Mexico blacktip shark quota based on underharvest in 2014 and the aggregated LCS based on overharvest from 2013 and 2014
  - Adjust the regional blacknose shark management group quotas over a five-year timeframe based on an overharvest in 2012 and reduce the blacknose shark quota in the Atlantic region based on 2014 overharvest
- Amendment 5b: Predraft Completed in 2014
  - Draft Environmental Impact Statement and Proposed Rule under development.



## Amendment 7

- Notice of Availability for Final Environmental Impact Statement (FEIS) published September 5, 2014 (79 FR 53061)

### Preferred Alternatives in the FEIS:

- BFT Quota reallocation (codified and annual)
  - Alternative A 2a - Reallocation to longline category based on historical ICCAT 68-mt dead discard allowance
  - Alternative A 3a - Annual reallocation of bluefin quota from purse seine category
- Gear restricted areas (NC)
  - Alternative B 1d – Modified Cape Hatteras pelagic longline gear restricted area with access based on performance



# Amendment 7

## Preferred alternatives in the FEIS:

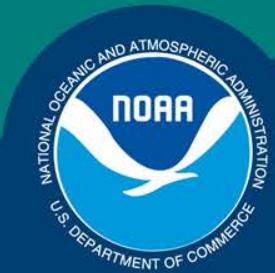
- Alternative C 2 – Individual Bluefin Quotas
- Alternative D 2b – Electronic Monitoring – Electronic monitoring of longline category
- Alternative D 1b – Vessel Monitoring System requirements for the purse seine and longline categories
- Other
  - Alternative E 1c - Provide additional flexibility for General Category quota adjustment
  - Alternative E 5b - Modify rules regarding permit category changes

**Questions?**



# **Full Public Hearing Presentation**

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## Background

- Amendment 9 largely focuses on smoothhound sharks
- At this time, the primary commercial fishery targets smooth dogfish in the Atlantic; there are catches in other commercial and recreational fisheries in other areas



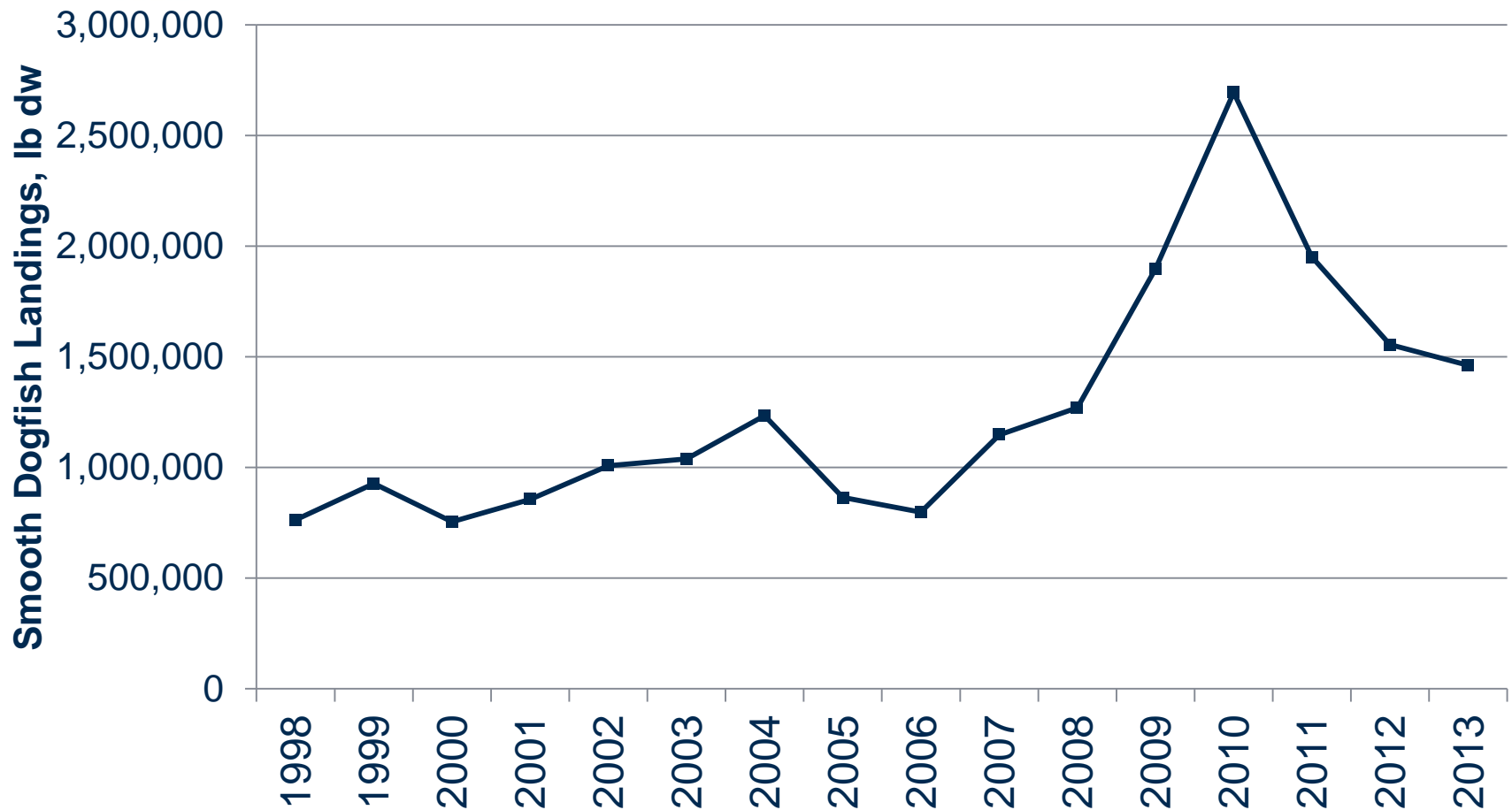


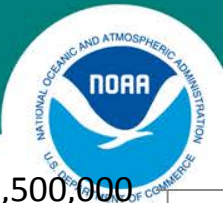
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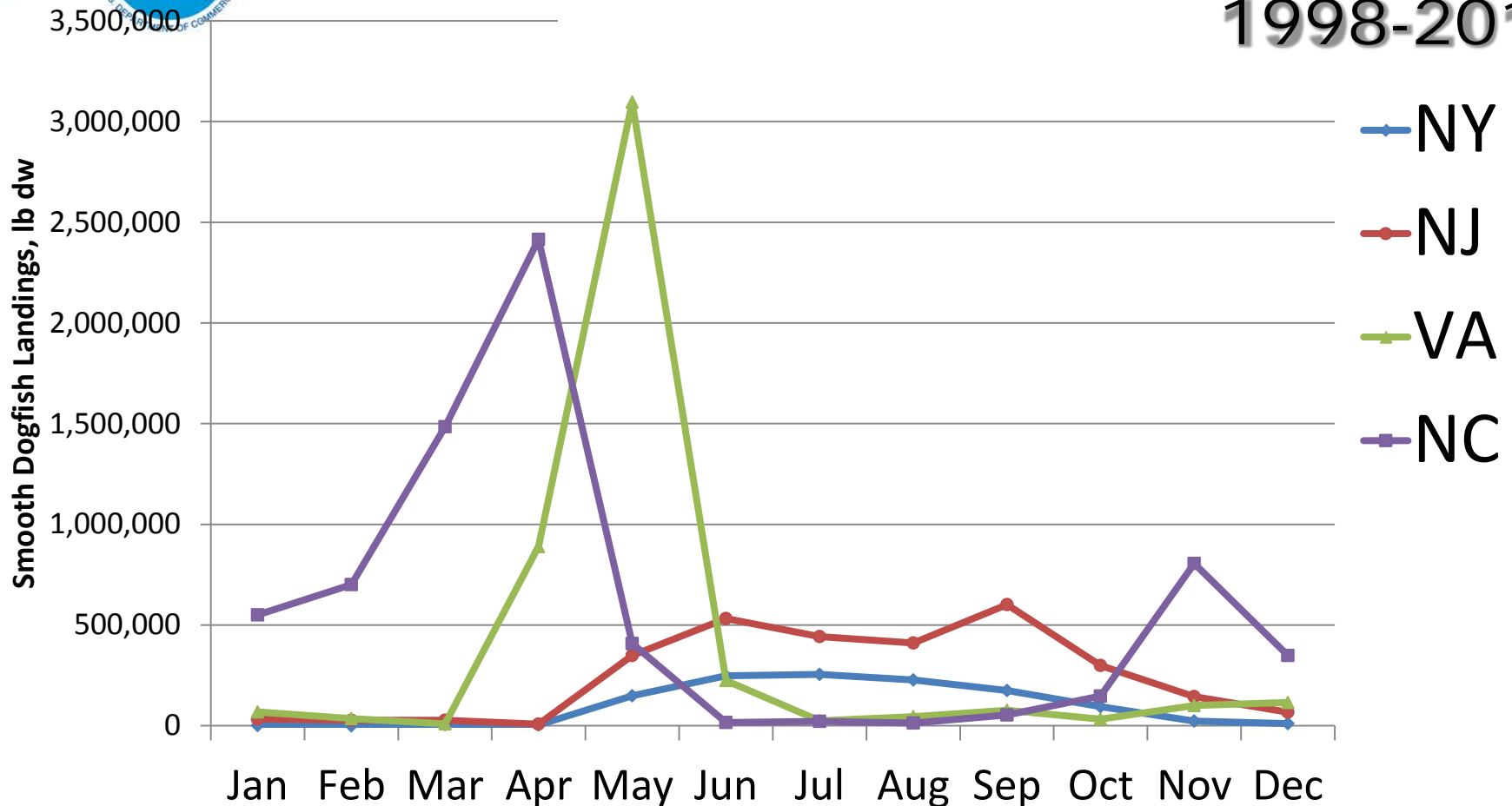


## Commercial smooth dogfish landings, 1998-2013



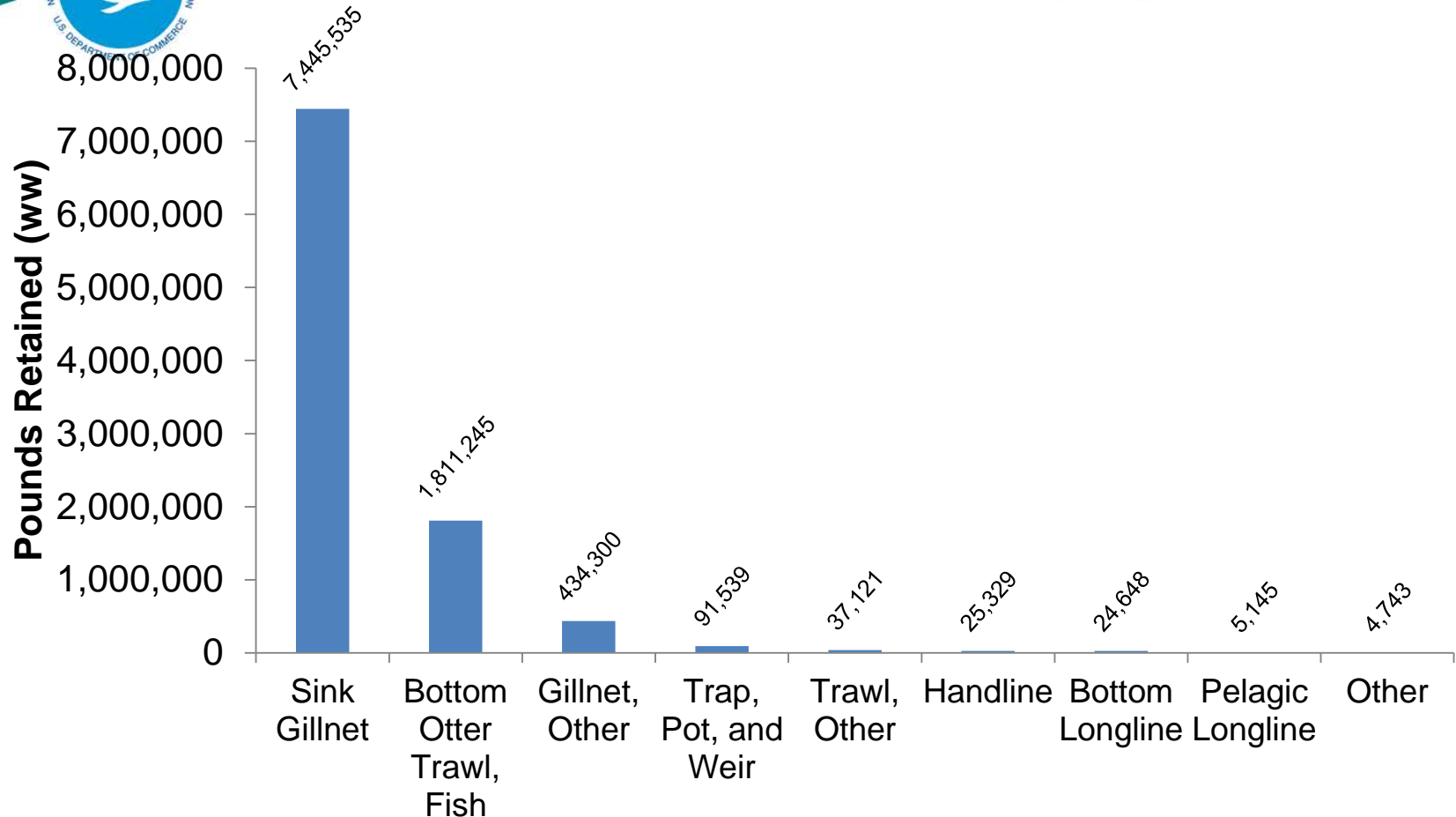


# Top 4 states for commercial smooth dogfish landings, 1998-2011





# Commercial catch by gear



Total Pounds of Smooth Dogfish Retained, by Gear Type (2003-2012). Source: VTR Data, 2003-2012.





# Amendment 9 Proposed Measures



# Establish Effective Date of Previous-Adopted Smoothhound Shark Measures

- Amendment 3; final June 2010
  - Research set-aside quota
  - Fishery closes when landings reach, or are expected to reach, 80%
  - Dealer, commercial, and recreational permit requirements
  - A requirement for dealers to report smoothhound shark purchases
  - Vessels fishing for smoothhound sharks must carry an observer, if selected
  - Must comply with applicable Take Reduction Plans pursuant to the Marine Mammal Protection Act
  - Commercial vessels must sell catch only to federally-permitted shark dealers
- 2011 HMS Trawl rule; final August 2011
  - Smoothhound sharks caught with trawl gear may be retained in an amount not to exceed 25 % of total catch

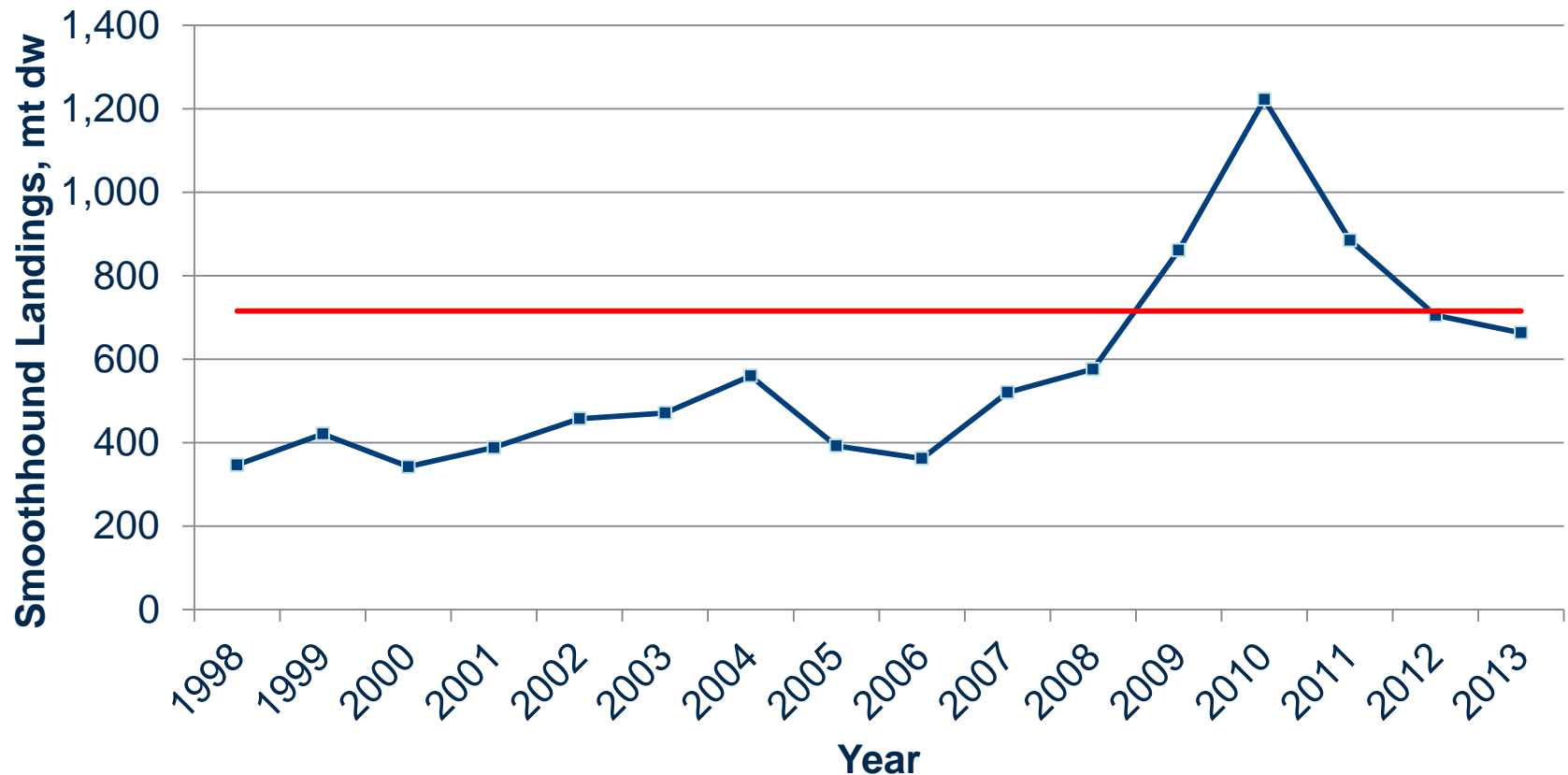


# Smoothhound Quota Adjustment

- 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



# Amendment 3 quota relative to landings





# 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

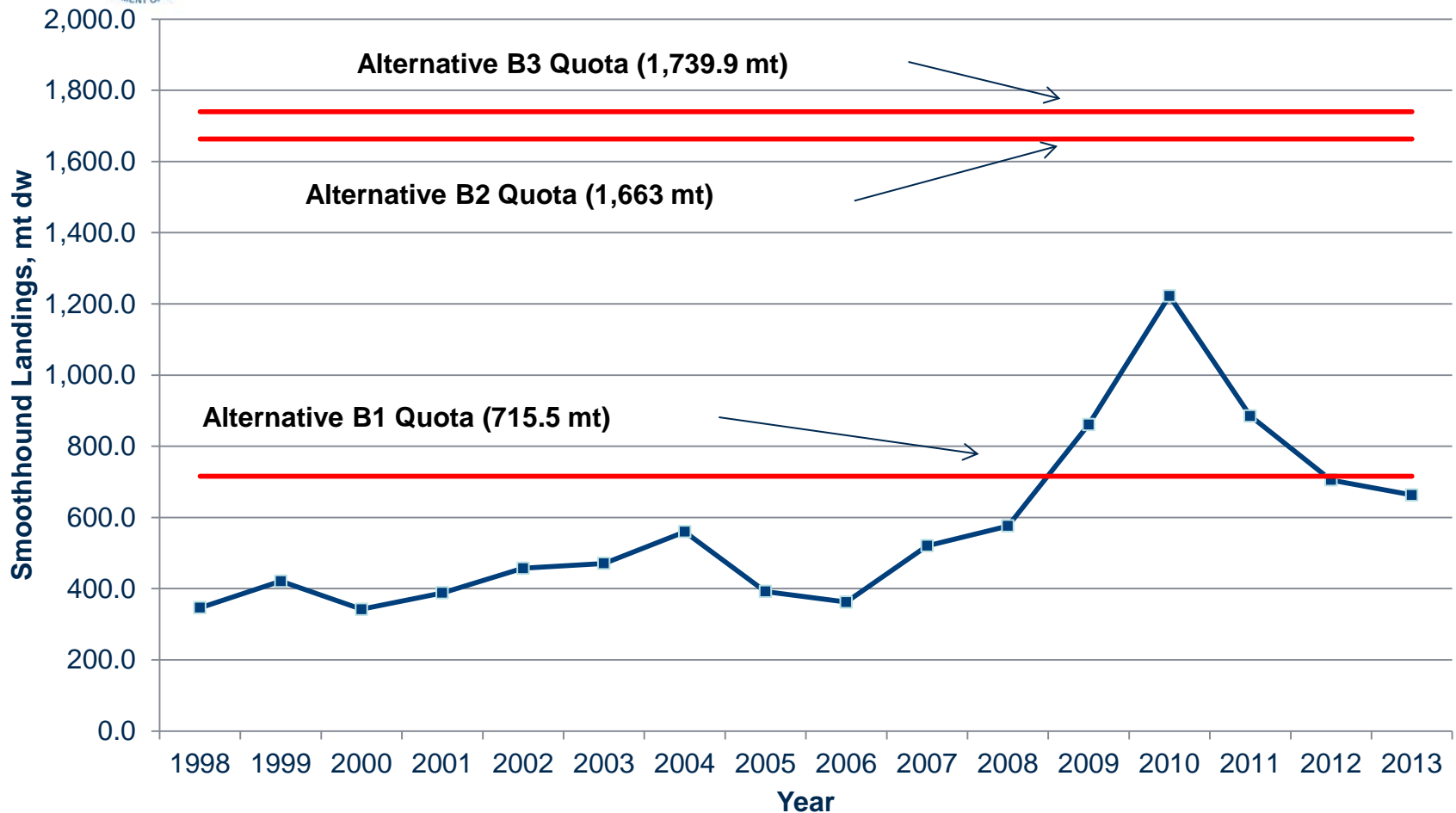


# Smoothhound Quota Adjustment

- Note on smoothhound shark stock status
  - The SEDAR 39 smoothhound shark assessment is underway, results will not be available until next year
  - A preliminary review of several Atlantic surveys found no indication that current harvest levels are unsustainable



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# Shark Conservation Act: Smooth Dogfish

- The smooth dogfish exception contains 5 provisions, 3 of which warranted rulemaking to clarify implementation and 2 of which were clear without further interpretation
- Under the proposed rule, only fishermen meeting the 5 requirements (which include the 3 sub-alternatives) could remove the fins of a smooth dogfish while at sea
- Fishermen who do not meet these requirements may still fish for smooth dogfish, but cannot remove the fins at sea



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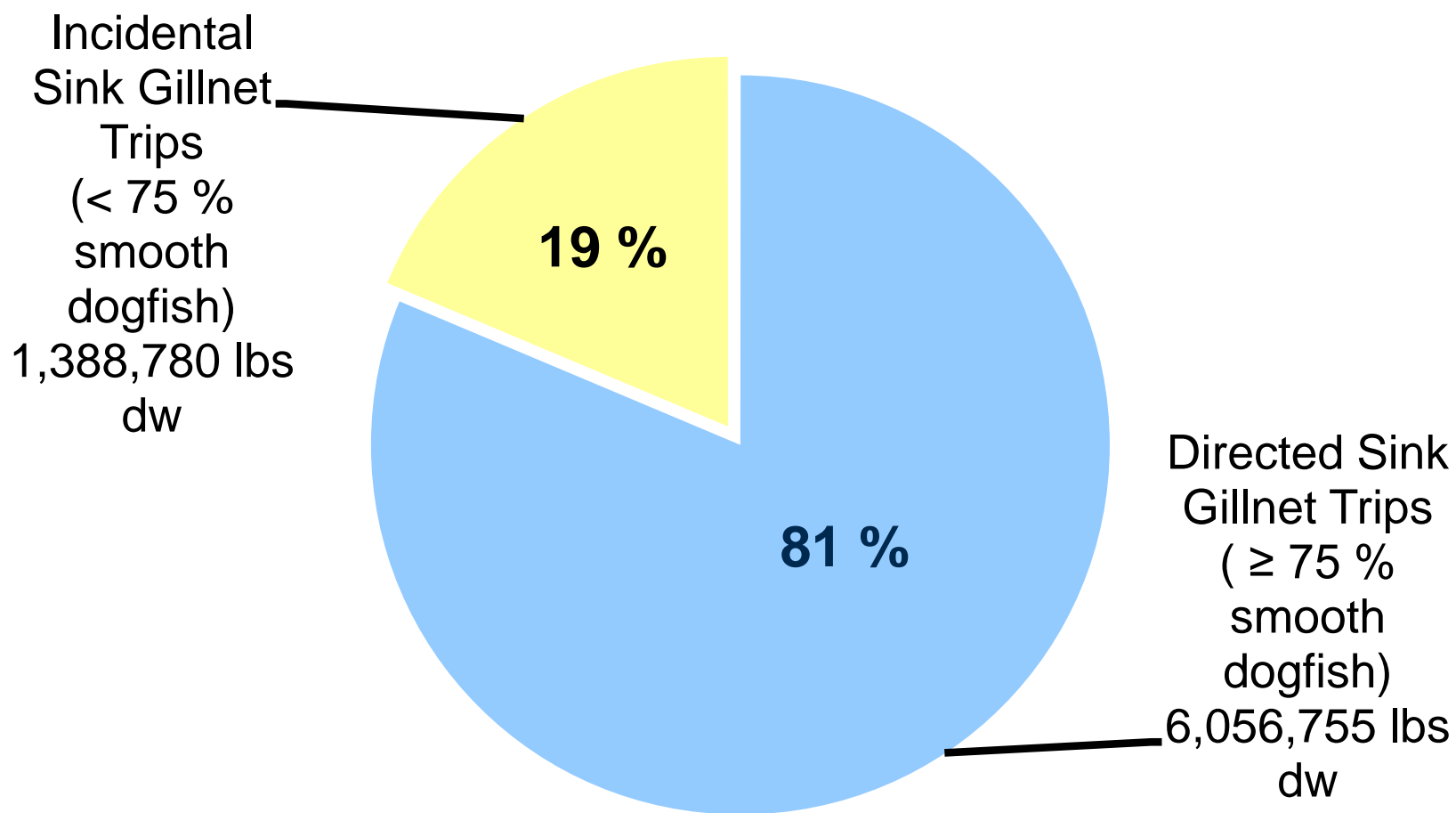


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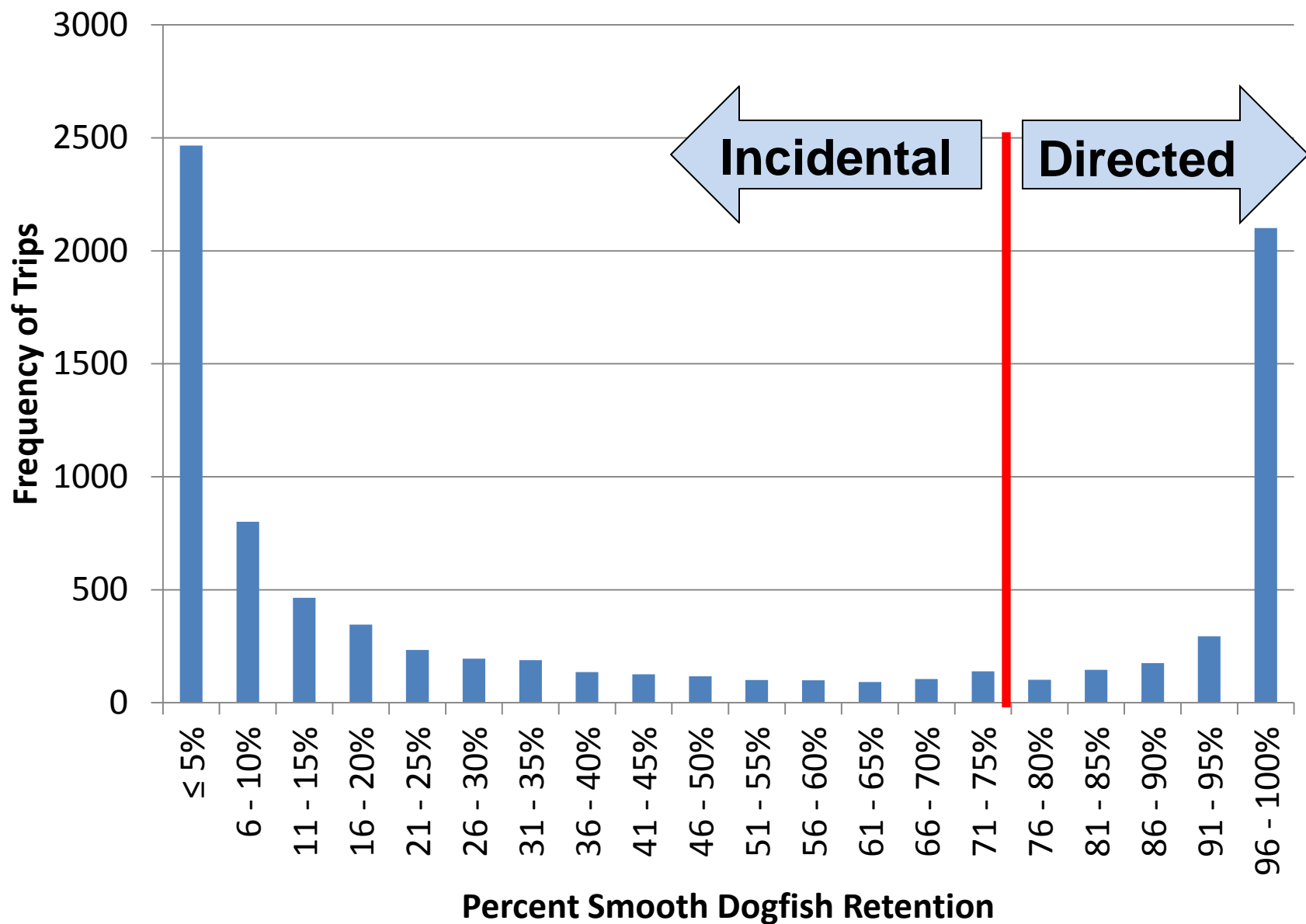
- Issue 1: Catch Composition

“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



Proportion of total directed vs. incidental landings of smooth dogfish caught in sink gillnet gear; Source: VTR Data, 2003-2012



Frequency of sink gillnet trips retaining varying percentages smooth dogfish relative to total catch; Source: VTR Database 2003-2012





# 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*



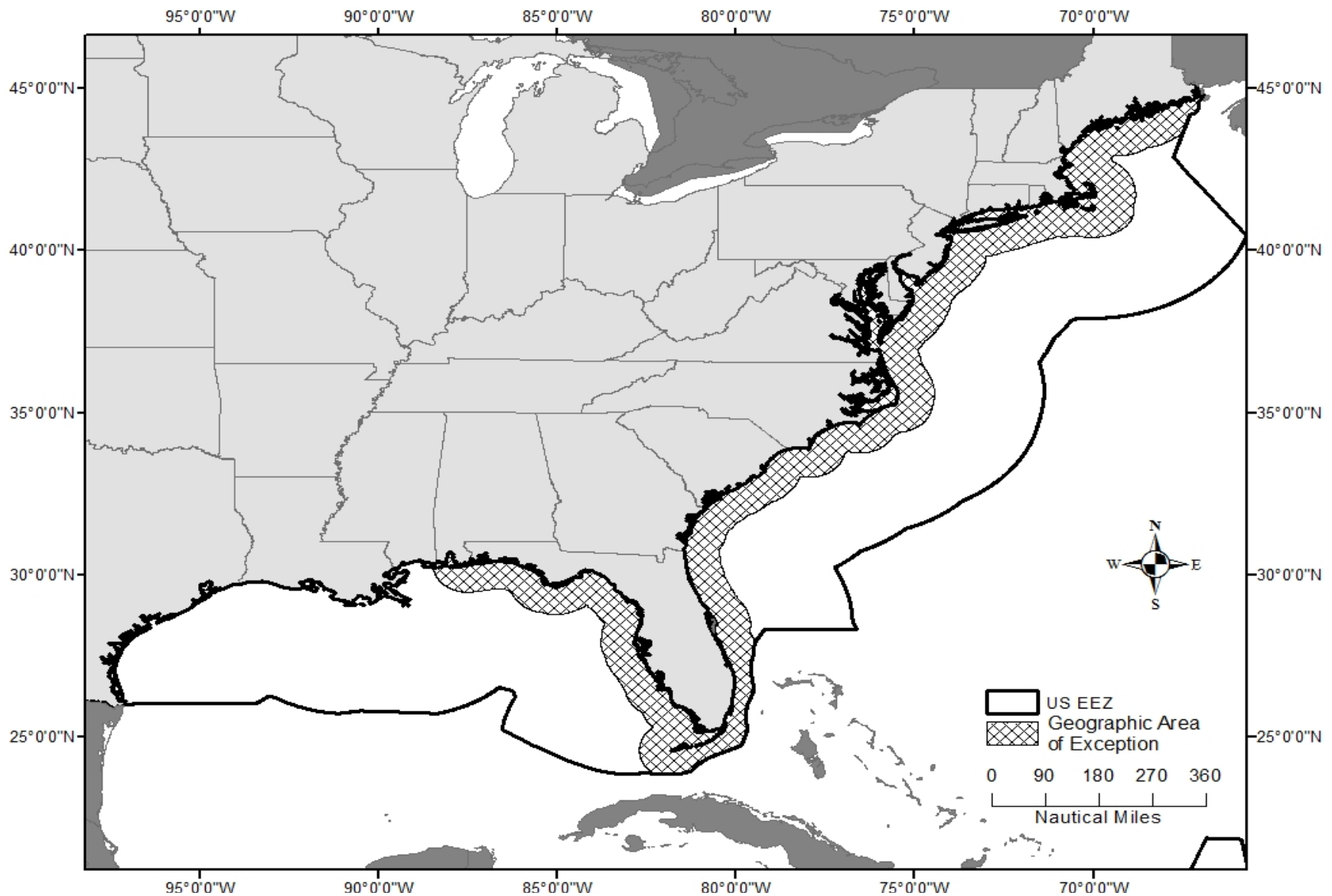
# Shark Conservation Act: Smooth Dogfish

- Issue 3: Geographic Applicability

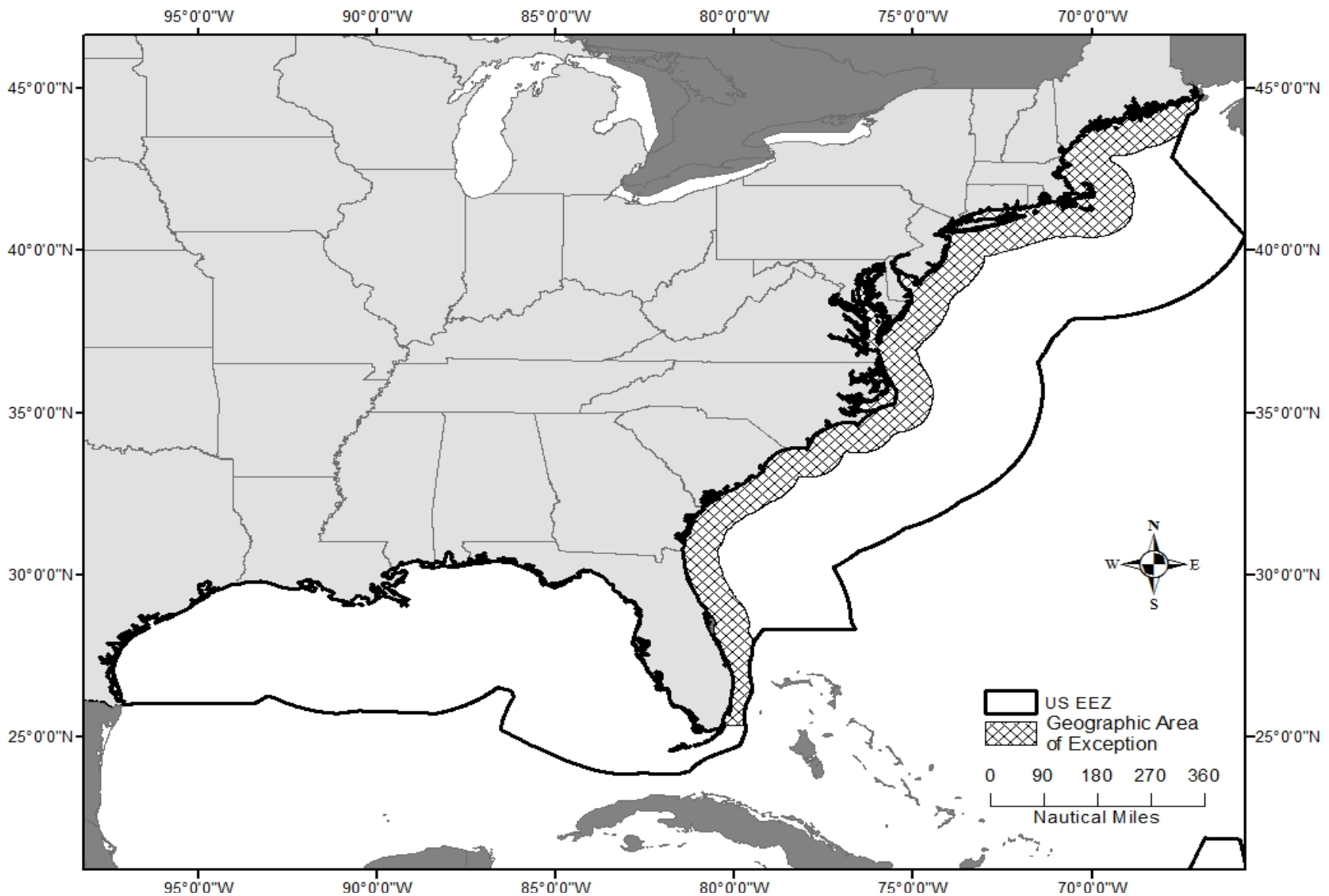
## “State”

- **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



## 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



## 2012 Shark BiOp

- One Term and Condition (TC) of the BiOp requires either net checks or soak time restrictions in the Atlantic shark gillnet fisheries, including the smoothhound shark fishery
  - Net checks at least every 2 hours OR
  - 24 soak time limit
- Currently, Atlantic shark gillnet fishermen are required to check nets at least every 2 hours.



## 2012 Shark BiOp

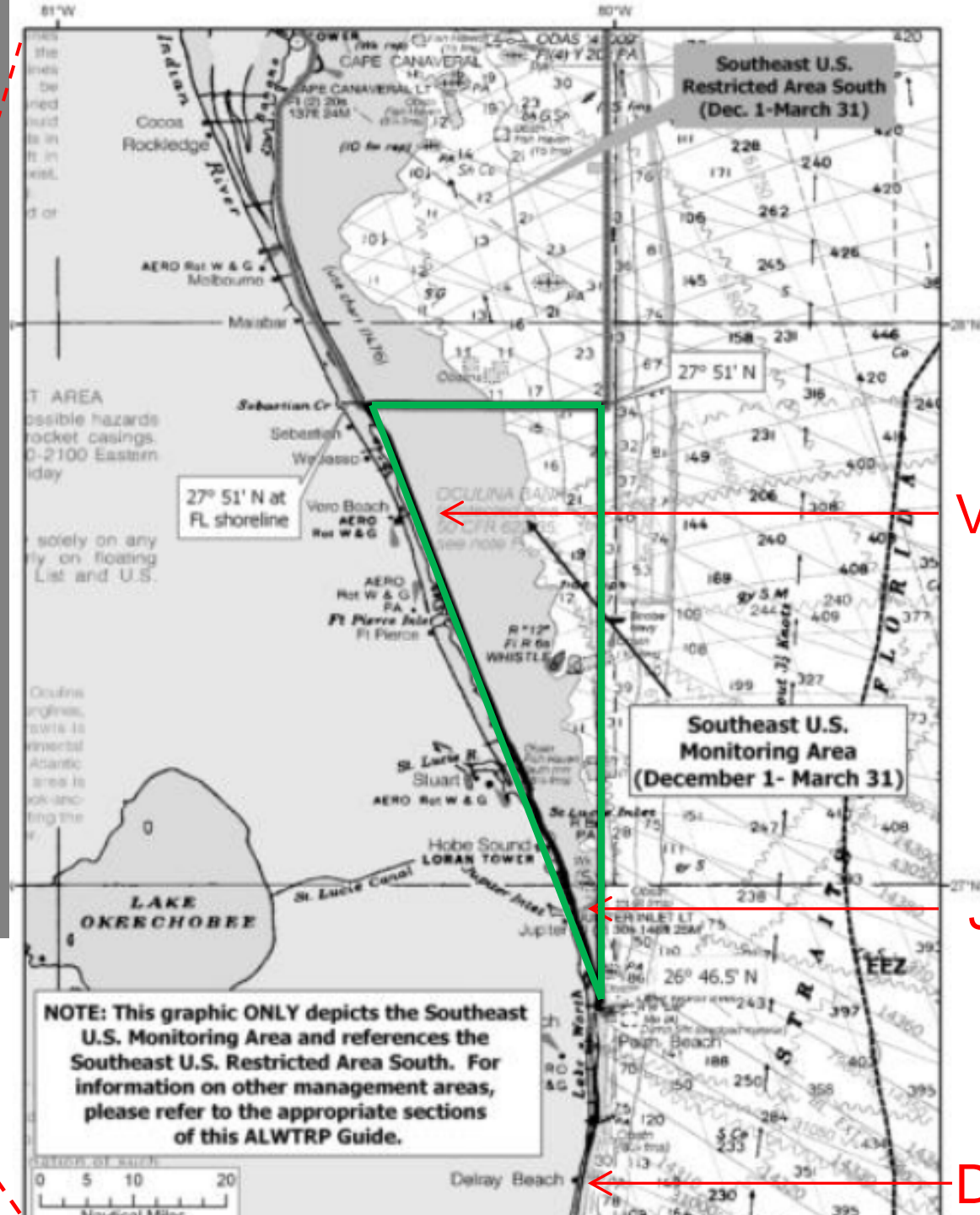
- **Alternative C1:** No Action. Do not take further action to implement TC 4 in the smoothhound shark fishery
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# Shark Gillnet VMS Requirements

- 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
  - Requirement pertains to Atlantic directed shark limited access permit holders with gillnet gear on board
- The ALWTRP requirement applies on to the Southeast U.S. Monitoring Area.
- At time of implementation in 2003, NMFS determined that requiring all gillnet fishermen with a directed shark permit to use VMS regardless of geographic location would simplify compliance and outreach, particularly if these fishermen regularly fished different regions, including in the Southeast U.S. Monitoring Area.
- Since then it has become apparent that some shark gillnet fishermen do not fish in or even near the Southeast U.S. Monitoring Area.





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.*



## Timeline

- Proposed Rule Published August 7<sup>th</sup>
- Comment Period Ends November 14<sup>th</sup>
- Final Rule expected in 2015
- Measures would become effective 30 days after Final Rule publication

# Public Hearings

- We are currently scheduling public hearings
- Dates and times will be announced via an FR notice and listserv notice
- We have also requested time at Council and Commission meetings. See their agendas for more information.

# Request for Comments

Please submit comments to:

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Keyword - “0648-BB02”

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