

**DRAFT**

**Amendment 3  
to the  
Spiny Dogfish  
Fishery Management Plan**

Includes Environmental Assessment (EA)



Oct 1, 2012

Prepared by the

Mid-Atlantic Fishery Management Council

in cooperation with the

National Marine Fisheries Service



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## 1.0 EXECUTIVE SUMMARY

This amendment document was prepared by the Mid-Atlantic Fishery Management Council (Council) under consultation with the National Marine Fisheries Service (NMFS). The document presents a range of alternatives for amending the fishery management plan (FMP) for the U.S. Atlantic spiny dogfish fishery along with a characterization of the environmental impacts of each of those alternatives. The alternatives consist of modifications to the FMP that are needed to maintain consistency with the Magnuson-Stevens Fishery Management and Conservation Act (MSA) and Sustainable Fisheries Act (SFA) regarding essential fish habitat (EFH). Amendment 3 will also address other issues that relate to more efficiently achieving the established management goals of the FMP. This document was developed in accordance with a number of applicable laws and statutes that are described in Section 8.0 (see the Table of Contents to locate document sections).

A comparison of the action alternatives relative to “no action” is a requirement under the implementation of the National Environmental Policy Act (NEPA), however in terms of the review of EFH for spiny dogfish “no action” would be inconsistent with the MSA. Therefore, “no action” under EFH in this amendment is actually a status quo or baseline alternative that would maintain existing EFH definitions with the FMP.

**Potential Management Actions:** Four management actions are contemplated in this amendment (each of which includes a set of alternatives):

### 1 Research Set-Aside (RSA)

**Alternatives:** 1A: no action (no RSAs)  
1B: allow allocation of up to 3% of commercial quota as RSA  
1C: allow allocation of up to 5% of commercial quota as RSA

**Problem statement:** In 2001, all of the Council’s FMPs were adjusted to allow for the set-aside of annual quota to support research and data collection. At the time the adjustment was developed, the Spiny Dogfish FMP was in development and was left out of that process. Thus the existing FMP does not allow for the benefits associated with the RSA program.

**Council recommendation:** Pending

**Impact analysis:** The biological impacts of harvesting annual quotas are analyzed in the specification package submitted to NMFS each year. The set-aside will always be deducted from and not in addition to the Total Allowable Landings that is specified. Hence the biological and socio-economic impacts resulting from the harvest of set-aside quantities will always be fully accounted for. Moreover, if a research project requests an exemption from an existing fisheries regulation, an analysis must be prepared which analyzes the impact of that exemption.

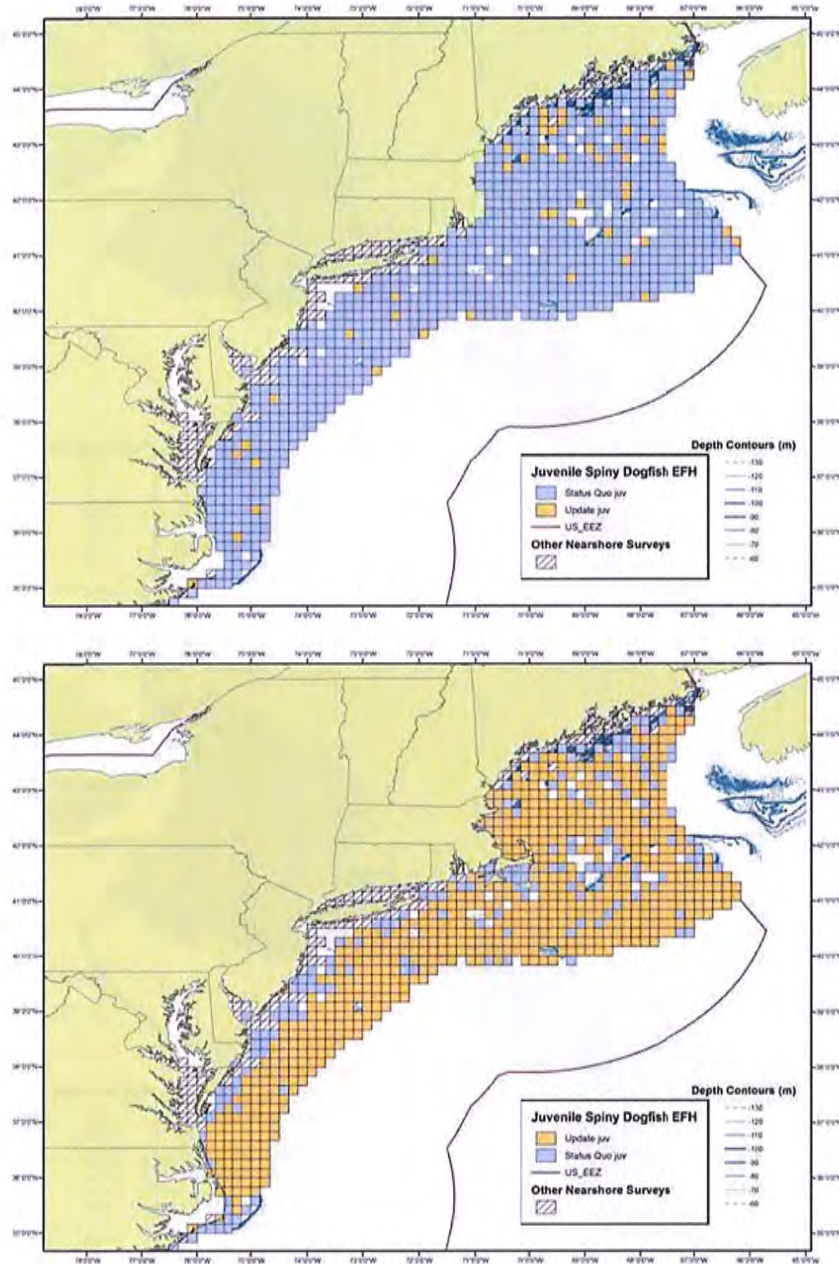
### 2 Essential Fish Habitat (EFH) Definitions for all Life Stages of Spiny Dogfish:

**Alternatives:** 2A: No action (Review but do not update EFH definitions)  
2B: Update EFH definitions as needed

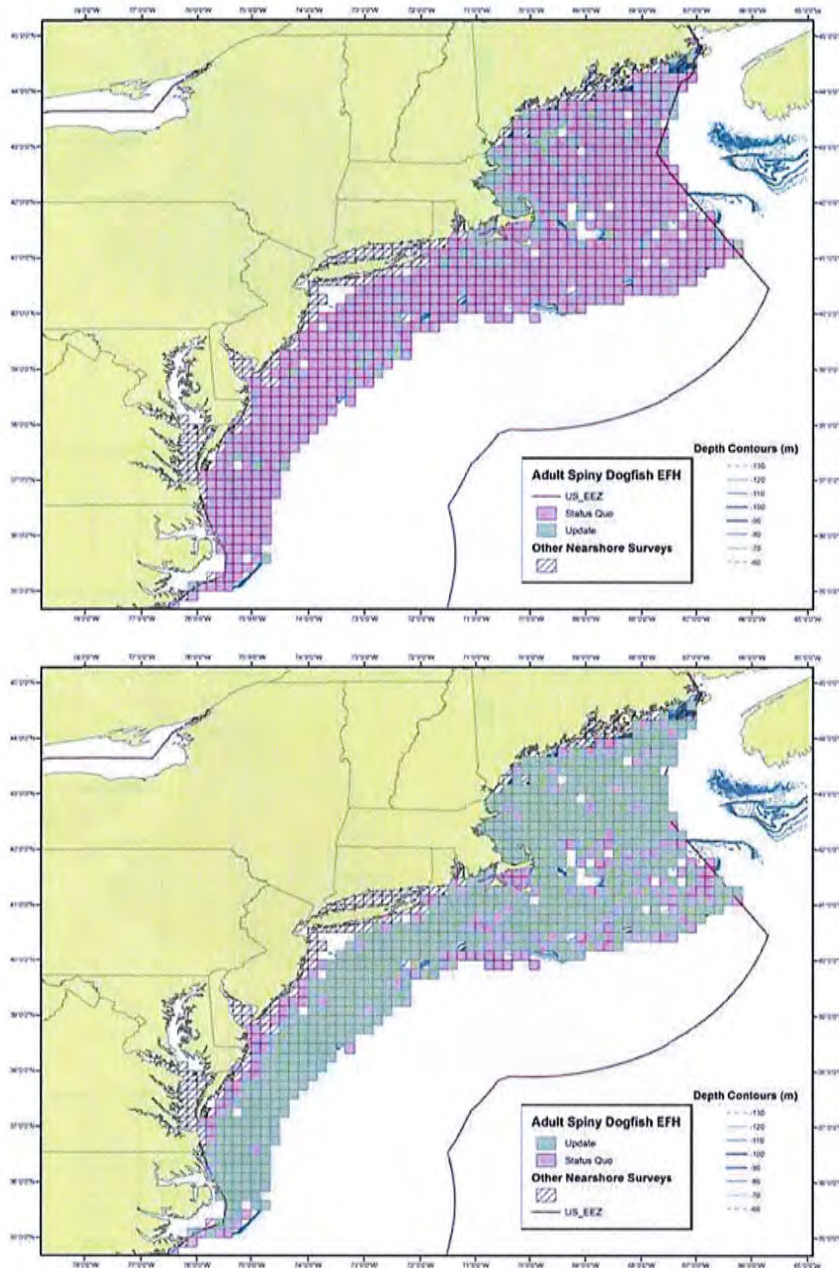
**Problem statement:** In order for the plan to be fully compliant with the MSA, the EFH definitions must be reviewed every five years, and if necessary, updated. A review of the EFH definitions will be included in this amendment to keep the FMP compliant with the MSA. An optional update to the EFH definitions (Alt 2B) would base those definitions on data from a more recent timeframe.

**Council recommendation:** Pending

**Impact analysis:** To the degree that EFH is vulnerable to damage by fishing and/or non-fishing activities, management oversight of these activities in areas designated as EFH for a given life stage of any managed resource will allow for direct and indirect benefits for that resource. Alternative 2B identifies EFH for all life stages of spiny dogfish based upon updated data from a range of fishery independent sampling programs. By updating the EFH definitions, future impacts to EFH for spiny dogfish can be identified and mitigated. The areas under consideration as EFH under the action alternative overlap with areas already designated as EFH for other species. Figures 1 and 2 below show the differences in spatial coverage from the updated vs status quo EFH definitions.



**Figure 1. Comparison of Status Quo (1963-1996 trawl survey data) and Alternative 2B update (1980-2011 trawl survey data) for spatial extent of juvenile spiny dogfish EFH. Squares measure ten geographical minutes on each side (ten minute squares). Top of Figure 1 shows status quo extent overlaid on updated extent, and bottom shows updated extent overlaid on status quo extent.**



**Figure 2. Comparison of Status Quo (1963-1996 trawl survey data) and Alternative 2B update (1980-2011 trawl survey data) for spatial extent of adult spiny dogfish EFH. Squares measure ten geographical minutes on each side (ten minute squares). Top of Figure 1 shows status quo extent overlaid on updated extent, and bottom shows updated extent overlaid on status quo extent.**

### **3 Delayed Implementation of Commercial Quota at Start of New Fishing Year**

**Alternatives:** 3A: No action  
3B: Maintain Previous Year Quota until Effective Date for New Quota

**Problem statement:** Under the current FMP, if the effective date for the final rule is delayed beyond the start of the new fishing year (May 1), the previous year's daily possession limit is maintained in the regulations; however, the fishery operates without a commercial quota. In order to correct this, the FMP can be changed to keep in place all of the previous fishing year's management measures, including the quota, until they are replaced via rulemaking.

**Council recommendation:** Pending

**Impact analysis:** This is a purely administrative action that is not associated with any biological or socio-economic impacts.

### **4 Commercial Quota Allocation Scheme**

**Alternatives:** 4A: No action (Maintain existing two-period seasonal allocation scheme)  
4B: Eliminate Allocation of Commercial Quota  
4C: Establish Geographic Allocation of the Commercial Quota Identical to that Currently In Place under the ASMFC Plan

**Problem statement:** There are numerous problems that exist in the absence of a Joint Council and Commission FMP for spiny dogfish. One of these is confusion and the potential for inadvertent possession violations that occurs when waters under the different jurisdictions are open / closed at different times. This is largely due to a mismatch in the way the annual quota is allocated. Under the Commission plan, the quota is geographically allocated, while under the federal plan, the quota is seasonally allocated. The federal FMP can be amended to minimize disruption of fishing operations that occur in both federal and state waters.

**Council recommendation:** Pending

**Impact analysis:** The impacts of the action alternatives under this issue are primarily socio-economic and positive in that eliminating the potential conflicts in the allocation schemes would benefit participants in the respective fisheries. Biological impacts are already accounted for in setting the annual quota and are not expected to change since any such change would likely be tied to a shift in the geographic distribution of fishing effort which is not expected. The action alternatives would achieve the same outcome except that if Alternative 4C is adopted and further modification to the Interstate FMP occurs, the plans would again be inconsistent.

**Table 1. Qualitative summary of the expected impacts of various alternatives considered for Amendment 3. A minus sign (-) signifies an expected negative impact, a plus sign (+) a positive impact, and zero indicates a null impact. Brackets are used to convey a minor effect, such as slight positive [+].**

Issue	Alternatives	Biological	EFH	Protected Resources	Economic	Social
<b>Research Set-Aside</b>	<b>Alt. 1a No Action</b>	0	0	0	0	0
	<b>Alt. 1b 3% RSA</b>	[+]	[+]	[+]	[+]	[+]
	<b>Alt. 1c 5% RSA</b>	[+]	[+]	[+]	[+]	[+]
<b>Essential Fish Habitat</b>	<b>Alt. 2a No Action</b>	[+]	+	0	0	0
	<b>Alt. 2b Update EFH</b>	[+]	+	0	0	0
<b>Delayed Implementation of Commercial Quota</b>	<b>Alt. 3a No Action</b>	0	0	0	0	0
	<b>Alt. 3b Maintain Previous Year Measures</b>	0	0	0	0	0
<b>Commercial Quota Allocation</b>	<b>Alt. 4a No Action</b>	0	0	0	[-]	-
	<b>Alt. 4b No Allocation</b>	0	0	0	0	[+]
	<b>Alt. 4c Match ISFMP</b>	0	0	0	0	[+]

### *Cumulative Impacts*

When the proposed actions are considered in conjunction with all the other pressures placed on fisheries by past, present, and reasonably foreseeable future actions, they are not expected to result in any *significant* impacts, positive or negative; therefore, there are no significant cumulative effects associated with the action proposed in this document (see section 7.5).

### *Conclusions*

A detailed discussion of the environmental impacts of the alternatives, as well as any cumulative impacts, considered in this specifications document are provided in section 7.0. The action alternatives are not associated with significant impacts to the biological, physical, social or economic, environment individually or in conjunction with other actions under NEPA; therefore, a “Finding of No Significant Impact” is determined.

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## 2.0 LIST OF ACRONYMS

<b>ABC</b>	Annual Biological Catch	<b>MAFMC</b>	Mid-Atlantic Fishery Management Council
<b>ACL</b>	Annual Catch Limit	<b>MMPA</b>	Marine Mammal Protection Act
<b>ALWTRP</b>	Atlantic Large Whale Take Reduction Plan	<b>MRFSS</b>	Marine Recreational Fisheries Statistical Survey
<b>AM</b>	Accountability Measure	<b>MSA</b>	Magnuson-Stevens Fishery Conservation and Management Act
<b>ASAP</b>	Age Structured Assessment Program	<b>MSY</b>	Maximum Sustainable Yield
<b>ASMFC</b>	Atlantic States Marine Fisheries Commission	<b>NAO</b>	NOAA Administrative Order
<b>CEA</b>	Cumulative Effects Assessment	<b>NEFSC</b>	Northeast Fisheries Science Center
<b>CEQ</b>	Council on Environmental Quality	<b>NEFOP</b>	Northeast Fisheries Observer Program
<b>CFR</b>	Code of Federal Regulations	<b>NEPA</b>	National Environmental Policy Act
<b>CV</b>	Coefficient of Variation	<b>NERO</b>	Northeast Regional Office
<b>CZMA</b>	Coastal Zone Management Act	<b>NMFS</b>	National Marine Fisheries Service
<b>DPS</b>	Distinct Population Segment	<b>NOAA</b>	National Oceanic and Atmospheric Administration
<b>DPSWG</b>	Data Poor Stocks Working Group	<b>OFL</b>	Overfishing Limit
<b>EA</b>	Environmental Assessment	<b>OY</b>	Optimal Yield
<b>EEZ</b>	Exclusive Economic Zone	<b>PRA</b>	Paperwork Reduction Act
<b>EFH</b>	Essential Fish Habitat	<b>RFA</b>	Regulatory Flexibility Act
<b>EFP</b>	Exempted Fishing Permit	<b>RIR</b>	Regulatory Impact Review
<b>EIS</b>	Environmental Impact Statement	<b>RSA</b>	Research Set-Aside
<b>EO</b>	Executive Order	<b>SARC</b>	Stock Assessment Review Committee
<b>ESA</b>	Endangered Species Act of 1973	<b>SAW</b>	Stock Assessment Workshop
<b>F</b>	Fishing Mortality Rate	<b>SFA</b>	Sustainable Fisheries Act
<b>FR</b>	Federal Register	<b>SBA</b>	Small Business Administration
<b>FMP</b>	Fishery Management Plan	<b>SSB</b>	Spawning Stock Biomass
<b>FONSI</b>	Finding of No Significant Impact	<b>SSC</b>	Scientific and Statistical Committee
<b>HPTRP</b>	Harbor Porpoise Take Reduction Plan	<b>TED</b>	Turtle Excluder Device
<b>IRFA</b>	Initial Regulatory Flexibility Analysis	<b>US</b>	United States
<b>LNG</b>	Liquefied Natural Gas	<b>VECs</b>	Valued Ecosystem Components
<b>LOF</b>	List of Fisheries	<b>VTR</b>	Vessel Trip Report
<b>LWTRP</b>	Large Whale Take Reduction Plan		

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## **4.0 INTRODUCTION AND BACKGROUND**

### **4.1 Purpose and Need for the Actions**

The purpose of this action is to consider alternatives for amending the fishery management plan (FMP) for the U.S. Atlantic spiny dogfish fishery. Specifically, the alternatives consist of modifications to the FMP that would allow for research set-aside (RSA), update essential fish habitat (EFH) definitions, consider options when the commercial quota implementation is delayed and options for commercial quota allocations. This action is needed to improve the efficiency with which the FMP achieves its established management goals and incorporate the best scientific information into the FMP. The overall management goal of the FMP is to conserve spiny dogfish in order to achieve optimum yield from the resource in the western Atlantic Ocean.

## **5.0 ALTERNATIVES**

There are four management issues, each with its own set of alternatives under consideration in this document. An analysis of “no action” (i.e., Alternatives 1a, 2a, 3a, and 4a) is a requirement under the implementation of NEPA. “No action”, with regard to a review of spiny dogfish EFH definitions (Alternative 2a) would be inconsistent with the MSA. Therefore, for the purposes of this document, “no action” under EFH is actually a status quo or baseline alternative that would extend the existing EFH definitions following the required EFH review.

### **5.1 ISSUE1. ALLOWANCE FOR RESEARCH SET-ASIDE (RSA)**

#### ***Alternative 1A: No Action. (No RSA)***

Under this alternative, the specification of management measures for spiny dogfish would continue without an option for the set-aside of commercial quota for research purposes.

For the two action alternatives under this issue, the current procedure followed by the Council and NMFS Northeast Regional Office (NERO) for specifying RSA would be followed. The difference between the two alternatives lies only in the maximum set-aside percentages allowed. Under either of the action alternatives, the FMP would identify an upper limit (either 3% or 5% of the annual spiny dogfish commercial quota) on the total research set-aside amount allowed in a given fishing year. Specification of RSA would be incorporated into the Council's quota specification package submitted to NMFS and the current procedure for requesting research proposals and approval of proposals would be followed.

#### ***Alternative 1B: Allowance for Allocation of up to 3% of Commercial Quota as RSA.***

Under this alternative, the specification of management measures for spiny dogfish would include an option for the set-aside of up to 3% of the commercial quota for research purposes.

#### ***Alternative 1C: Allowance for Allocation of up to 5% of Commercial Quota as RSA***

Under this alternative, the specification of management measures for spiny dogfish would include an option for the set-aside of up to 5% of the commercial quota for research purposes.

## 5.2 ISSUE 2. ESSENTIAL FISH HABITAT (EFH) DEFINITIONS FOR ALL LIFE STAGES OF SPINY DOGFISH

The Spiny Dogfish FMP is overdue for a review of its EFH designations. Section 600.815(a)(9) of the final rule to revise the regulations implementing the EFH provisions of the MSA (the "EFH Final Rule") states that Councils should conduct such reviews as recommended by the Secretary, but at least once every five years. EFH designations are used by NMFS when consulting with other agencies on federal activities, and up-to-date designations lead to more effective consultation and therefore more effective protection of EFH. Given that spiny dogfish are not associated with any particular bottom habitat, fishing gear impacts are not a significant concern.

The alternative to "no action" under Issue 2 represents the option to update the textual descriptions and geographical identifications of EFH for all life stages of spiny dogfish with the latest information available.

The EFH Final Rule also requires: 1) identification of non-fishing related activities that may adversely affect EFH, 2) habitat conservation and enhancement recommendations, 3) revisions to the description of prey species and their habitats, and 4) a list of habitat-related research and information needs. This information is contained in Section 7.2 of this document.

### *Alternative 2A: No Action. (Do Not Update EFH Definitions for Spiny Dogfish)*

Under this alternative, a mandatory review of EFH definitions for spiny dogfish would not be followed by modifications to those definitions. The definitions would remain as established in the original FMP. Specifically, the definitions would be maintained as:

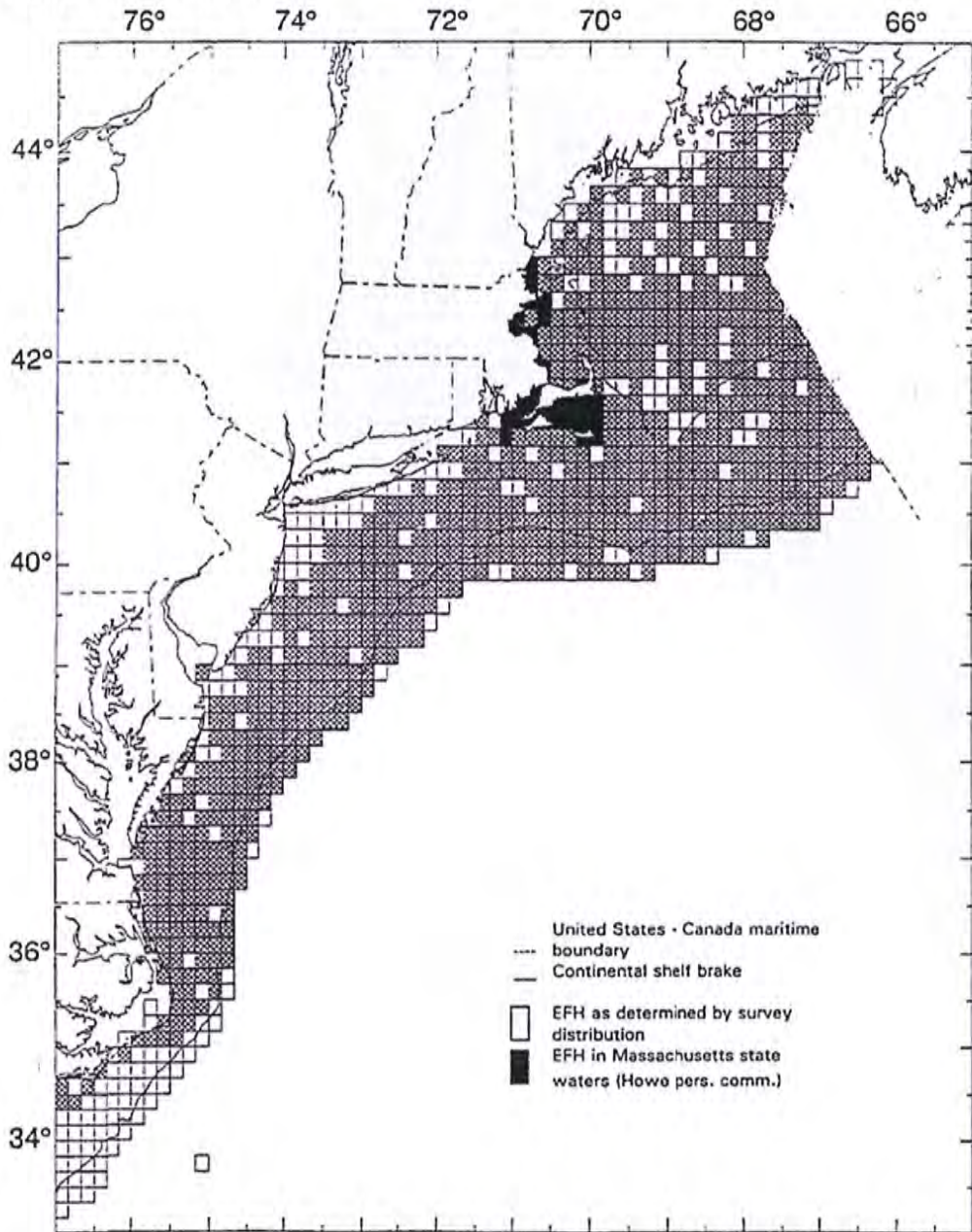
#### Juveniles:

1) North of Cape Hatteras, EFH is the waters of the Continental shelf from the Gulf of Maine through Cape Hatteras, North Carolina in areas that encompass the highest 90% of all ranked ten-minute squares for the area where juvenile dogfish were collected in the NEFSC trawl surveys. 2) South of Cape Hatteras, EFH is the waters over the Continental Shelf from Cape Hatteras, North Carolina through Cape Canaveral, Florida, to depths of 1280 ft. 3) Inshore, EFH is the "seawater" portions of the estuaries where dogfish are common or abundant on the Atlantic coast, from Passamaquoddy Bay, Maine to Cape Cod Bay, Massachusetts. Generally, juvenile dogfish are found at depths of 33 to 1,280 ft in water temperatures ranging between 37°F and 82°F.

#### Adults:

1) North of Cape Hatteras, EFH is the waters of the Continental shelf from the Gulf of Maine through Cape Hatteras, North Carolina in areas that encompass the highest 90% of all ranked ten-minute squares for the area where adult dogfish were collected in the NEFSC trawl surveys. 2) South of Cape Hatteras, EFH is the waters over the Continental Shelf from Cape Hatteras, North Carolina through Cape Canaveral, Florida, to depths of 1476 ft. 3) Inshore, EFH is the "seawater" portions of the estuaries where dogfish are common or abundant on the Atlantic coast, from Passamaquoddy Bay, Maine to Cape Cod Bay, Massachusetts. Generally, adult dogfish are found at depths of 33 to 1,476 ft in water temperatures ranging between 37°F and 82°F.

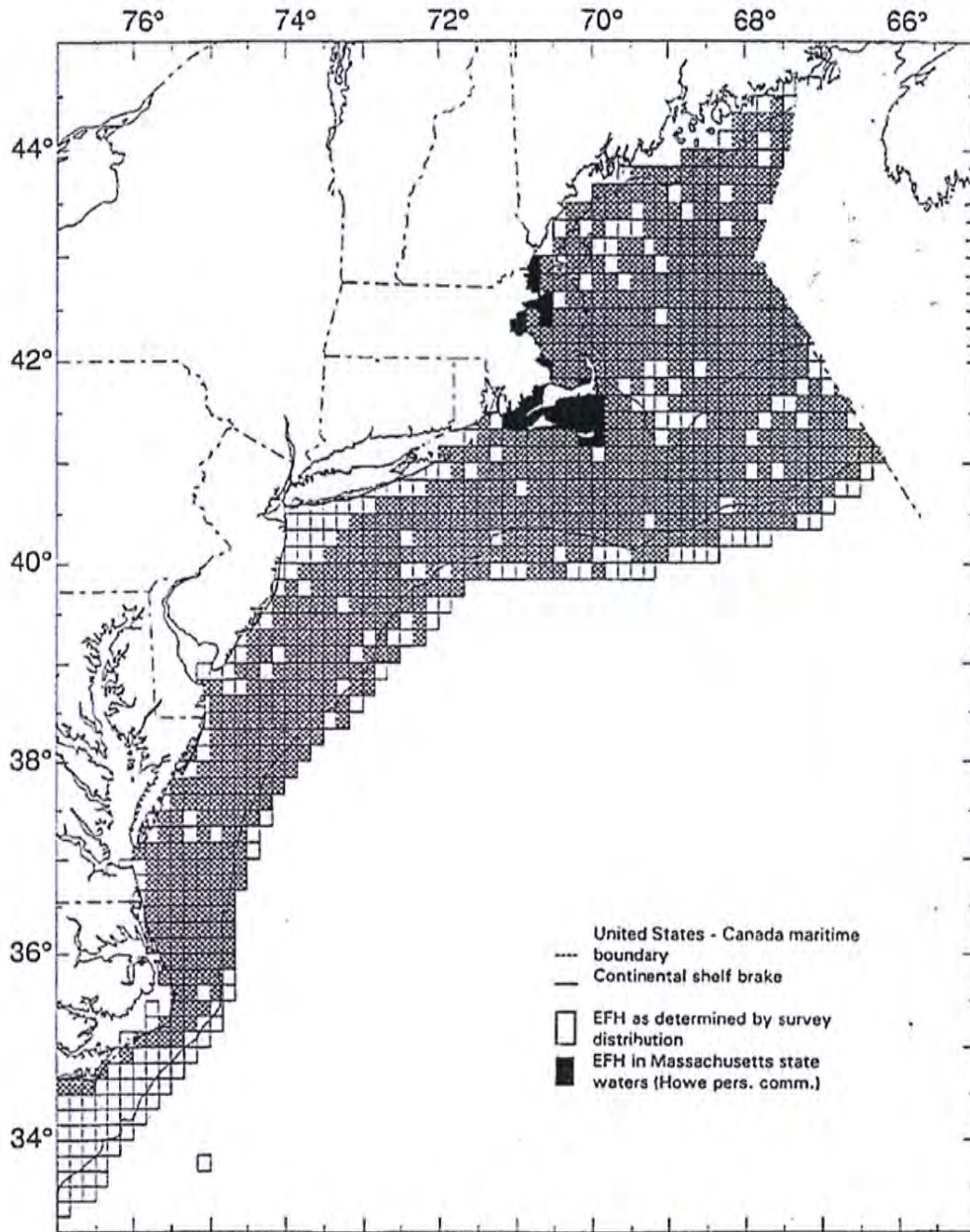
Status quo EFH for spiny dogfish juveniles and adults as they appear in the FMP are depicted in Figures 3 and 4 below.



Spiny Dogfish – Juveniles (Spring and Fall) – Area Using Mean Natural Log -- 90 Percent

**Figure 3. Status Quo EFH for juvenile spiny dogfish which comprises the top 90% of the ranked areas where female and male juvenile spiny dogfish were collected by the NEFSC trawl survey between 1963 and 1996. This depiction of EFH would be maintained under the No Action**





Spiny Dogfish -- Adults (Spring and Fall) -- Area Using Mean Natural Log -- 90 Percent

**Figure 4. Status Quo EFH for adult spiny dogfish which comprises the top 90% of the ranked areas where female and male adult spiny dogfish were collected by the NEFSC trawl survey between 1963 and 1996. This depiction of EFH would be maintained under the No Action Alternative**

***Alternative 2B: Update EFH Definitions using Latest Biological Survey data***

Under this alternative, the text and maps used to establish the EFH definitions for spiny dogfish would be updated to include federal and other biological survey data that have been collected in a more recent timeframe (through 2011). While collectively defining EFH for juveniles and adults as in the original EFH designations, maps associated with the update would break down the EFH definitions by sex to be consistent with differences in the distribution of male and female spiny dogfish by life stage. The definitions would continue to define EFH as 90% of the cumulative mean catch from the Northeast Fishery Science Center Trawl Catches, but would also include presence (>10% of samples) in state and other (NEAMAP, SEAMAP) survey catches. Maintaining the use of the 90<sup>th</sup> percentile in the spatial analysis is used to account for inter-year variability as well as large north-south and inshore-offshore movements undertaken by spiny dogfish in a given year, as well as the revised text descriptions of EFH (indicated in Table 2) together with the revised EFH maps would comprise the EFH designation for each of the life stages. “Preferred” depth, temperature, and salinity ranges would be updated based on the latest EFH Source document for spiny dogfish (NMFS 2007).

EFH maps based on Alternative 2B are provided in Figures 5 through 10 below.

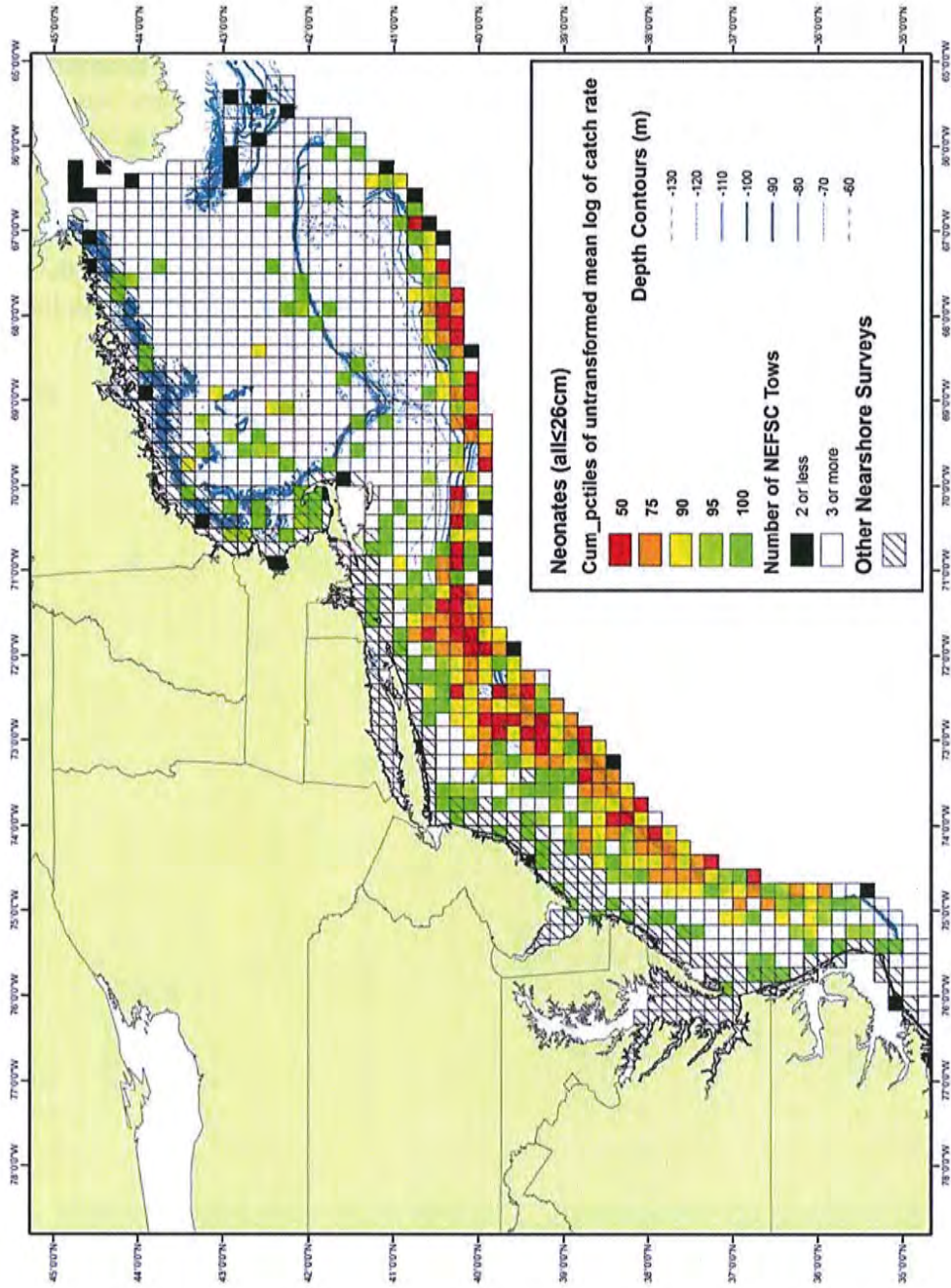


Figure 5.EFH for spiny dogfish neonates (length  $\leq 26$  cm) showing 50th to 100th percentiles of the ranked ten minute squares where neonate spiny dogfish were collected by the NEFSC trawl survey between 1981 and 2011. This depiction of EFH would apply under the Action Alternative (2B).

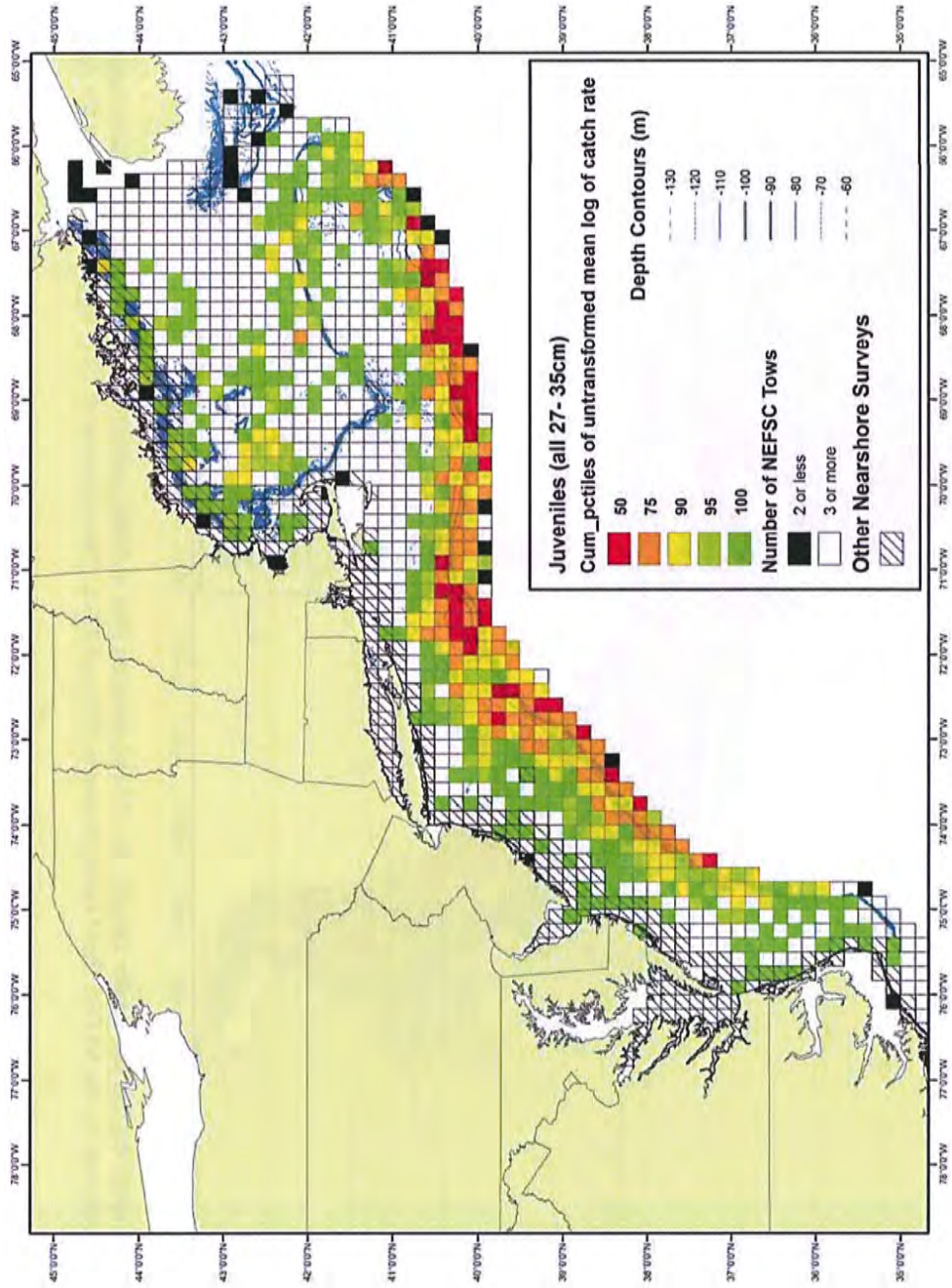


Figure 6. EFH for spiny dogfish juveniles (length 27 – 35 cm) showing 50th to 100th percentiles of the ranked ten minute squares where juvenile spiny dogfish were collected by the NEFSC trawl survey between 1981 and 2011. This depiction of EFH would apply under the Action Alternative (2B).

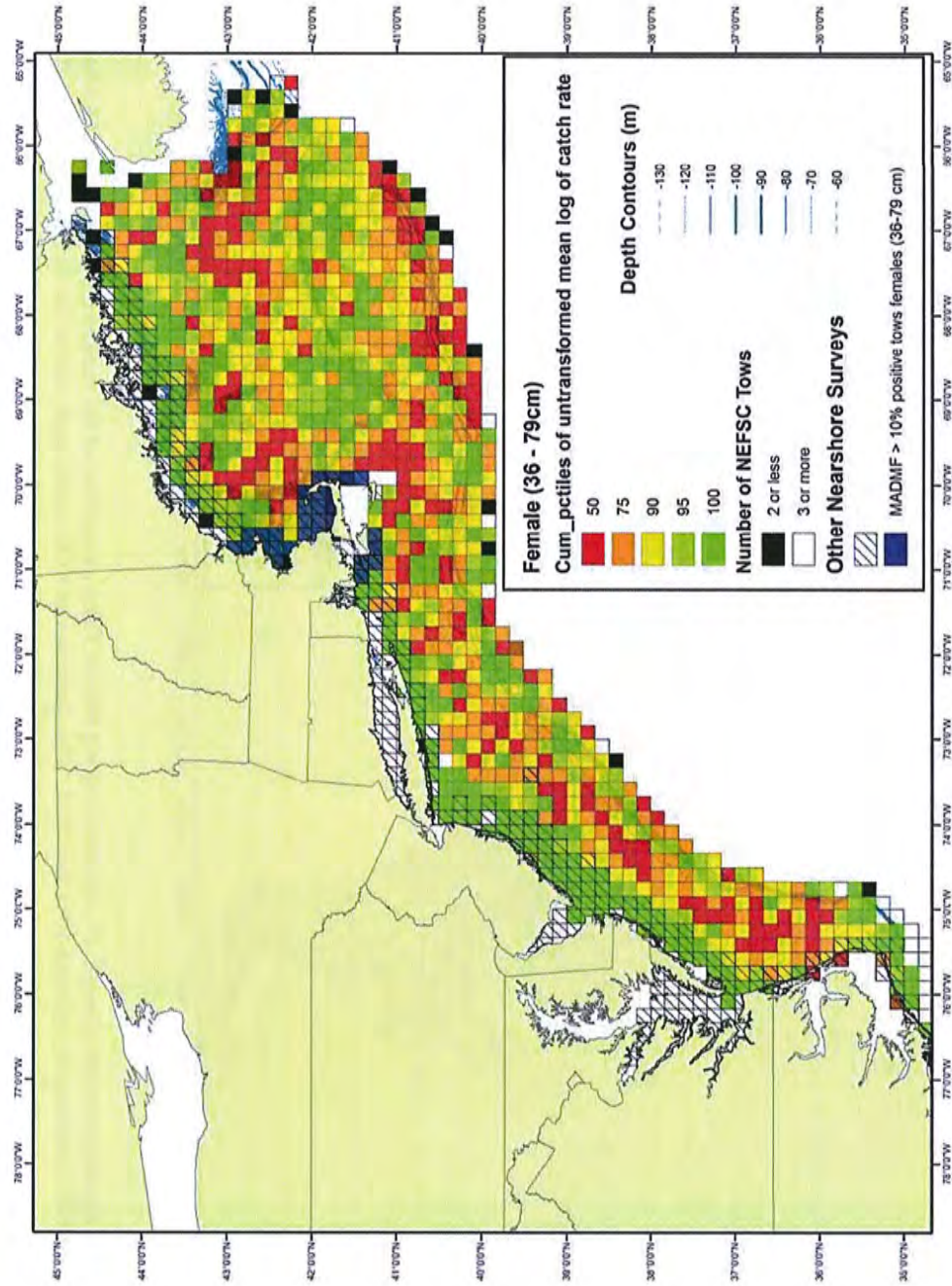


Figure 7. EFH for female spiny dogfish sub-adults (length 36 – 79 cm) showing 50th to 100th percentiles of the ranked ten minute squares where female sub-adult spiny dogfish were collected by the NEFSC trawl survey between 1981 and 2011. This depiction of EFH would apply under the Action Alternative (2B).

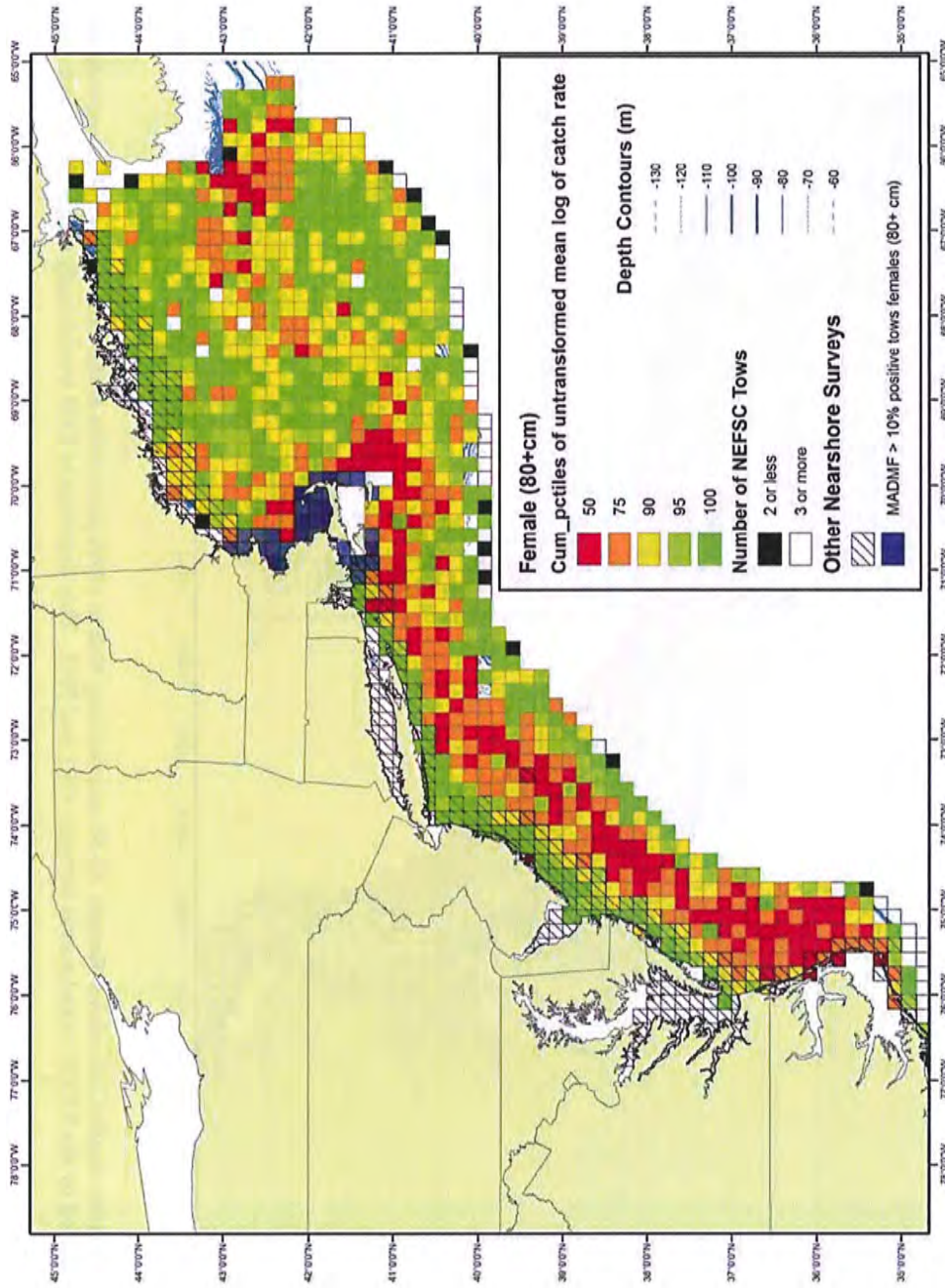


Figure 8. EFH for female spiny dogfish adults (length 80+ cm) showing 50th to 100th percentiles of the ranked ten minute squares where female adult spiny dogfish were collected by the NEFSC trawl survey between 1981 and 2011. This depiction of EFH would apply under the Action Alternative (2B).

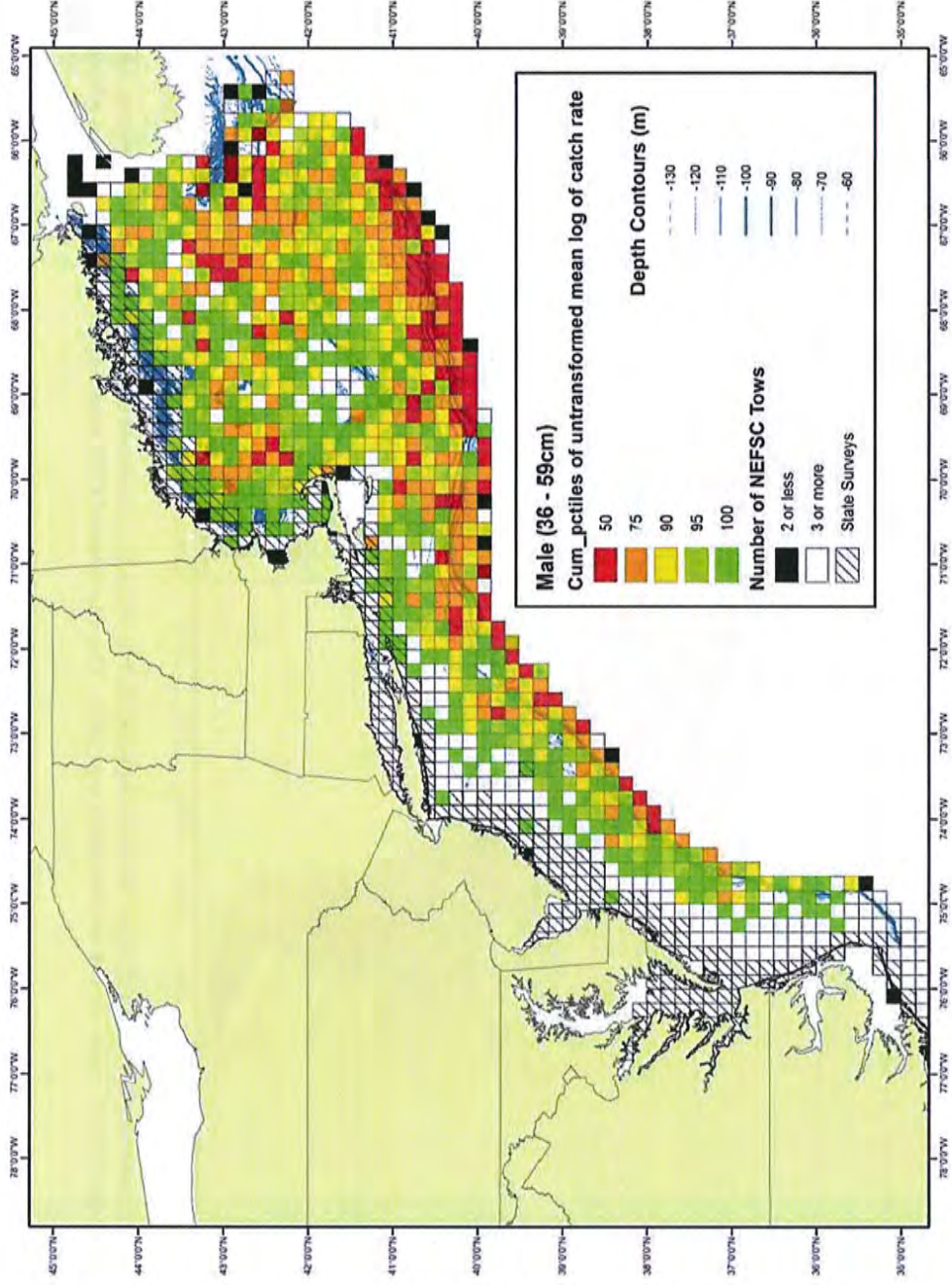


Figure 9. EFH for male spiny dogfish sub-adults (length 36-59 cm) showing 50th to 100th percentiles of the ranked ten minute squares where male sub-adult spiny dogfish were collected by the NEFSC trawl survey between 1981 and 2011. This depiction of EFH would apply under the Action Alternative (2B).

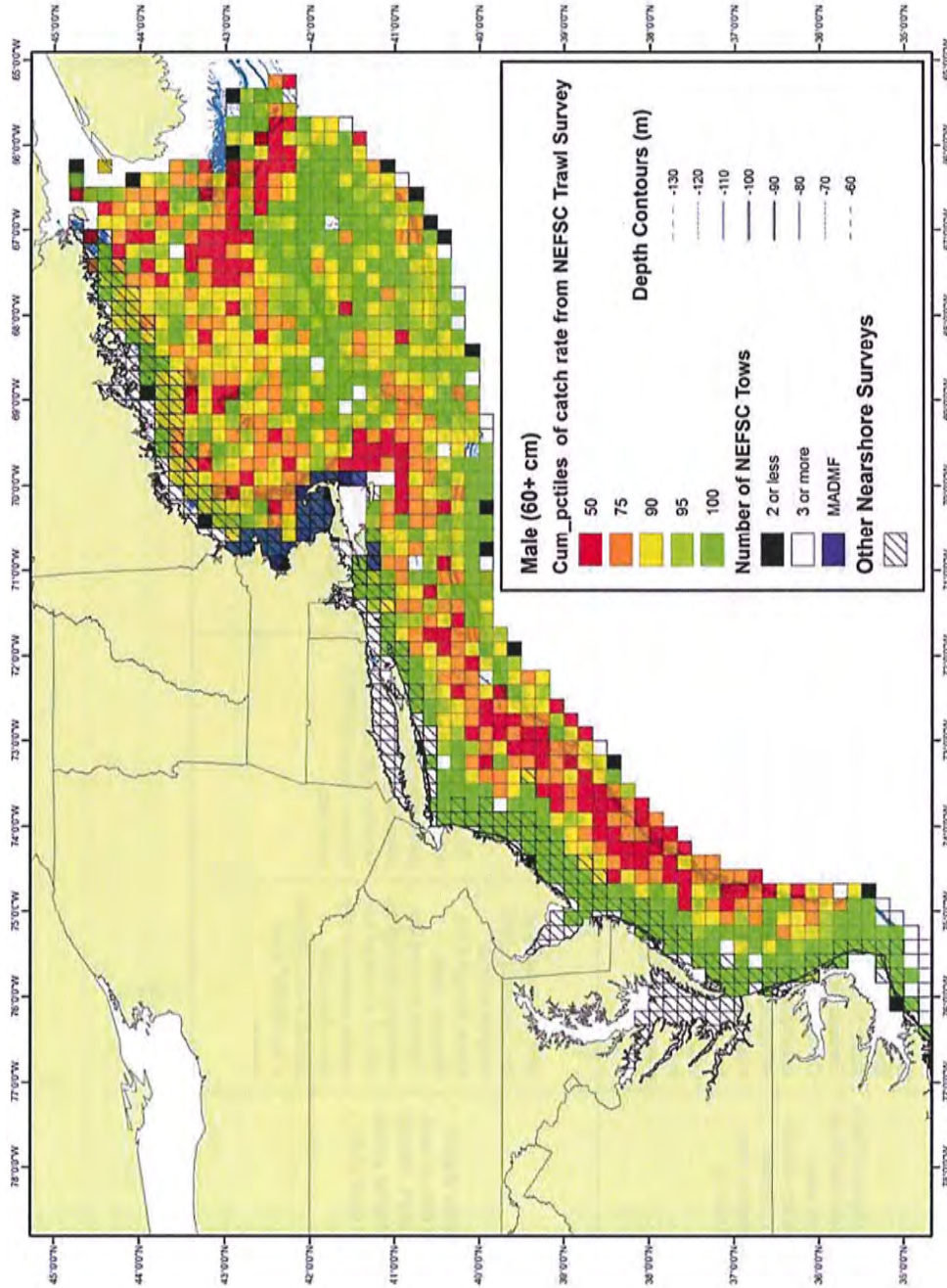


Figure 10. EFH for male spiny dogfish adults (length 60+ cm) showing 50th to 100th percentiles of the ranked ten minute squares where male adult spiny dogfish were collected by the NEFSC trawl survey between 1981 and 2011. This depiction of EFH would apply under the Action Alternative (2B).



Table 2. Comparison of the text definitions for EFH under the status quo (Alt 2A) and update (Alt 2B).

	Lifestage Definition		EFH North of Cape Hatteras		South of Cape Hatteras		Inshore	
	Status Quo (Alt 2A)	Update (Alt 2B)	Status Quo (Alt 2A)	Update (Alt 2B)	Status Quo (Alt 2A)	Update (Alt 2B)	Status Quo (Alt 2A)	Update (Alt 2B)
<b>Juveniles</b>	Not provided	Spiny dogfish of both sexes less than 36 cm FL, Male spiny dogfish less than 60 cm FL, Female spiny dogfish less than 80 cm FL	EFH is the waters of the Continental shelf from the Gulf of Maine through Cape Hatteras, North Carolina in areas that encompass the highest 90% of all ranked ten-minute squares for the area where juvenile dogfish were collected in the NEFSC trawl surveys	The area associated with 90% of the cumulative geometric mean catches of juvenile spiny dogfish based on Northeast Fishery Science Center (NEFSC) trawl data.	the waters over the Continental Shelf from Cape Hatteras, North Carolina through Cape Canaveral, Florida, to depths of 1280 ft	the waters over the Continental Shelf from Cape Hatteras, North Carolina through Cape Canaveral, Florida, to depths of 1280 ft	“seawater” portions of the estuaries where [juvenile] dogfish are common or abundant on the Atlantic coast, from Passamaquoddy Bay, Maine to Cape Cod Bay, Massachusetts	The areas where state and other (NEAMAP, SEAMAP) research surveys indicate ≥ 10% frequency of occurrence.
<b>Adults</b>	Not provided	Male spiny dogfish greater than or equal to 60 cm FL, Female spiny dogfish greater than or equal to 80 cm FL	EFH is the waters of the Continental shelf from the Gulf of Maine through Cape Hatteras, North Carolina in areas that encompass the highest 90% of all ranked ten-minute squares for the area where adult dogfish were collected in the NEFSC trawl surveys	The area associated with 90% of the cumulative geometric mean catches of juvenile spiny dogfish based on Northeast Fishery Science Center (NEFSC) trawl data.	the waters over the Continental Shelf from Cape Hatteras, North Carolina through Cape Canaveral, Florida, to depths of 1476 ft	the waters over the Continental Shelf from Cape Hatteras, North Carolina through Cape Canaveral, Florida, to depths of 1476 ft	“seawater” portions of the estuaries where [adult] dogfish are common or abundant on the Atlantic coast, from Passamaquoddy Bay, Maine to Cape Cod Bay, Massachusetts	The areas where state and other (NEAMAP, SEAMAP) research surveys indicate ≥ 10% frequency of occurrence

### 5.3 ISSUE 3. DELAYED IMPLEMENTATION OF COMMERCIAL QUOTA

#### *Alternative 3A: No action. (No Commercial Quota Until Final Rule Effective)*

Under this alternative, the fishery would continue to potentially open the start of the fishing year (May 1) without a commercial quota and continue to operate until the effective date for the final rule for the commercial quota for that fishing year. The daily possession limit from the previous year, however, would be maintained until replaced by the possession limit specified for the new fishing year.

#### *Alternative 3B: Maintain Existing Quota until Effective Date for New Quota*

Under this alternative, if the effective date for the commercial quota in a given fishing year falls after May 1, then the commercial quota from the previous year would remain in effect until the effective date for the quota specified for the new fishing year.

### 5.4 ISSUE 4. COMMERCIAL QUOTA ALLOCATION

The action alternatives under this issue are envisioned as alleviating conflicts that currently exist as a result of the different federal and interstate allocation schemes for the coastwide commercial quota. The seasonal allocation scheme in the federal FMP was originally put in place to serve as a proxy for geographic allocation. The roughly 58% / 42% split between Period 1 (May 1 – Oct 31) and Period 2 (Nov 1 – Apr 30), respectively was reflective of the proportional landings of the managed resource among northern and southern states during the fishery of the 1990s. In 2008, the Commission implemented Addendum II (ASMFC 2008) which explicitly allocated the coastwide quota such that 58% went to the “northern region” (ME-CT), and 42% went to the “southern region” (NY - NC). In 2011, the Commission further modified their plan through Addendum III (ASMFC 2011) such that the southern region was dissolved and its 42% was divided state-by-state according to Table 3 below.

**Table 3. Percent allocation of the coastwide annual quota (from Addendum III to the ISFMP).**

Northern Region (ME-CT)	Southern Region					
	NY	NJ	DE	MD	VA	NC
58%	2.707%	7.644%	0.896%	5.920%	10.795%	14.036%

It is always possible that the Commission could further refine their geographic allocation scheme in subsequent addenda. For example, state-by-state allocation of the northern region share has been discussed, but no action is currently pending.

***Alternative 4A: No Action. (Maintain Seasonal Allocation of the Commercial Quota)***

Under this alternative, the existing scheme, which allocates 51.9% of the annual commercial quota to Period 1 (May 1 – Oct 31) and 42.1% to Period 2 (Nov 1 – Apr 30), would be maintained.

***Alternative 4B: Eliminate Allocation of the Commercial Quota.***

Under this alternative, a commercial quota would be specified for a given fishing year, but that quota would not be allocated either periodically or geographically.

***Alternative 4C: Match the Geographic Allocation of the Commercial Quota under the Commission's Interstate Fishery Management Plan.***

Under this alternative, minimizing conflicts resulting from the two allocation schemes would be accomplished by matching the Commission's geographic allocation of the quota in the federal FMP, specifically by dividing the coastwide quota according to the percentages in Table 3.

## **6.0 DESCRIPTION OF THE AFFECTED ENVIRONMENT AND FISHERIES**

### **6.1 Description of the Managed Resource**

#### **6.1.1 Spiny Dogfish Biology and Ecological Relationships**

The spiny dogfish, *Squalus acanthias*, is a small coastal shark with a circumboreal distribution. In addition to being the most abundant shark in the western North Atlantic, it is also one of the most highly migratory species of the Atlantic coast (Bigelow and Schroeder 1953). Rago et al. (1994) report that their general distribution in the Northwest Atlantic is between Labrador and Florida but are most abundant from Nova Scotia to Cape Hatteras, North Carolina. Seasonal inshore-offshore movements and coastal migrations are thermally induced (Bigelow and Schroeder 1953, Jensen 1965). Generally, spiny dogfish spend summers in inshore waters and overwinter in deeper offshore waters. They are usually epibenthic, but occur throughout the water column and are found in a depth range from nearshore shallows to offshore shelf waters approaching 3,000 ft (Collette and MacPhee 2002).

Length and age at 50% maturity of spiny dogfish in the Northwest Atlantic is estimated to be 23.4 in and 6 years for males and 30.6 in and 12 years for females (Nammack et al. 1985). Litter size ranges from 2 to 15 pups (average of 6) with fecundity increasing with length (Soldat 1979). Nammack et al. (1985) reported maximum ages of in the Northwest Atlantic for males and females to be 35 and 40 years, respectively. Maximum length is estimated to be 49 inches for females and less than 36 inches for males. An estimate of  $M$  is 0.092, which was the value assumed for spiny dogfish greater than 12 in the NEFSC 1994, 1998 and 2003 assessments.

Bowman et al. (1984) observed a high degree of variability in the diet of spiny dogfish across seasons, areas and years. They considered this to be a reflection of the species omnivorous nature and the high degree of temporal and spatial variability of both dogfish and their prey. Their diet appears broadly related to abundance trends in some of their major prey items (e.g., herrings, Atlantic mackerel, codfishes, hakes, and squid). Spiny dogfish are potential competitors with virtually every marine predator within the Northwest Atlantic Ocean ecosystem. These include a wide variety of predatory fish, marine mammals and seabirds.



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116  
C. M. "Rip" Cunningham, Jr., *Chairman* | Paul J. Howard, *Executive Director*

September 28, 2012

Mr. Rick Robins  
Chairman  
Mid-Atlantic Fishery Management Council  
800 N. State Street, Suite 201  
Dover, DE 19901

Dear Rick:

On September 25, 2012, the New England Fishery Management Council approved the following motion regarding final measures for Amendment 3 to the Spiny Dogfish FMP:

*To adopt the following alternatives for Amendment 3 to the Spiny Dogfish FMP:*

- *RSA - Alternative 1b "allow allocation of up to 3% of commercial quota as research set-aside"*
- *EFH - Alternative 2b "update essential fish habitat definitions for spiny dogfish"*
- *Delayed rulemaking - Alternative 3b "maintain all of the previous fishing year's management measures, including the quota, until they are replaced via rulemaking"*
- *Quota allocation - Alternative 4b "eliminate seasonal allocation of the commercial quota"*

The motion passed on a show of hands (12-0-3).

Sincerely,

Paul J. Howard  
Executive Director



## Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201  
703.842.0740 • 703.842.0741 (fax) • www.asmf.org

Paul J. Diodati, (MA), Chair    Dr. Louis B. Daniel, III, (NC), Vice-Chair    Robert E. Beal, Acting Executive Director

*Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015*

Christopher M. Moore, Ph.D.  
Executive Director, Mid-Atlantic Fishery Management Council  
Suite 201, 800 North State Street  
Dover, Delaware 19901

September 24, 2012

Dear Dr. Moore,

I am writing on behalf of our Commission to offer comment on Draft Amendment 3 to the Spiny Dogfish Fishery Management Plan (FMP). As you know, the states adopted the Interstate Fishery Management Plan for Spiny Dogfish to complement the federal FMP and ensure comprehensive management throughout the range of the species.

On Issue 4 in the Draft Amendment, Commercial Allocation, the Commission prefers Alternative 4B, removal of commercial quota allocation from the federal fishery management plan. This option allows the states flexibility in allocating the commercial quota along the coast and among their fisheries. This option protects the stock from overfishing, as the federal process for setting the coastwide quota, based upon review by the Scientific and Statistical Committee, is maintained. Any overages would be paid back through the federal accountability measures and through the Commission's overage provisions ensuring a sustained stock. This arrangement, whereby commercial quotas are distributed according to allocations contained only within a Commission FMP, has supported other sustainable fisheries managed in consultation with NOAA Fisheries and the Mid-Atlantic Fishery Management Council, such as scup and black sea bass.

Our secondary choice for Issue 4 would be Alternative 4C, alignment of the commercial allocations with the current allocations in the Commission plan. Although this alternative would provide for consistency at this present time, it would require a change in the Federal FMP if the states modify the existing allocation. Our Commission has discussed splitting the Northern Region quota into state-by-state quotas, as was done for the Southern Region in 2011. Our member states have recognized the need for flexibility to modify allocation schemes, and this option could result in inconsistencies between the federal and state allocations.

In closing, the Commission does not support status quo, whereby the federal plan divides the quota temporally between two seasons. This arrangement has proven ineffective and confusing in recent years, as state and federal waters have been inconsistent in the timing of closing. Please let me know if I can provide you further information.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. E. Beal".

Robert E. Beal

cc: Spiny Dogfish and Coastal Sharks  
Management Board



212 West State Street Trenton, New Jersey 08608  
Executive Director, Gregory DiDomenico

(609) 898-1100 / [gregdi@voicenet.com](mailto:gregdi@voicenet.com)

<http://www.gardenstateseafood.org/>

September 24, 2012

Dr. Christopher Moore

Executive Director

Mid-Atlantic Fishery Management Council

Suite 201, 800 N. State Street

Dover, DE 19901

By email: [info1@mafmc.org](mailto:info1@mafmc.org)

Dear Dr. Moore:

On behalf of the Garden State Seafood Association I thank you for the opportunity to comment on Draft Amendment 3 to the Spiny Dogfish Fishery Management Plan. It is our understanding that four management actions are contemplated in this amendment. Our comments follow the order of issues as they are addressed in the public hearing document.

### **Research Set-Aside**

We support Option 1B, which would establish an allocation of up to 3% of the commercial quota as a research set-aside, to support research and data collection.

### **Essential Fish Habitat Definitions for all Life Stages of Spiny Dogfish**

It is our understanding that the MSA requires a review of EFH definitions every five years and that the areas under consideration as EFH under this action alternative overlap with areas already designated as EFH for other species. With this understanding, we support Option 2B, updating EFH definitions as needed.

### **Delayed Implementation of Commercial Quota at Start of New Fishing Year**

We support Option 3B, which will maintain the previous year's quota until the effective date for a revised quota. This would allow all of the previous fishing year's management measures to remain in place so that the fishery can continue.

At the same time, we want to emphasize the importance of the Council ensuring that new specifications are in place prior to the beginning of the new fishing year.

### **Commercial Quota Allocation Scheme**

We support Option 4B, which would have the MAFMC adopt a singly coast-wide quota, and allow the ASMFC regional and state-by-state allocations to remain in place.

Finally, we are disappointed that Amendment 3 does not attempt to put a limited entry program into place for the Spiny Dogfish Fishery, as was anticipated by spiny dogfish fishermen at the beginning of the amendment process.

Thank you for the opportunity to comment on the draft amendment. We appreciate your attention to and your consideration of our views.

Sincerely,

*Gregory P. DiDomenico*

Gregory P. DiDomenico

Executive Director

Garden State Seafood Association



September 24, 2012



Mid-Atlantic Fishery Management Council  
800 N. State Street  
Suite 201  
Dover, DE 19901  
Re: Amendment 3

1566 Main Street  
Charham, MA 02633

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To whom it may concern;

We appreciate the opportunity to comment on Draft Amendment 3 to the Spiny Dogfish Fishery Management Plan. We applaud the successful efforts to rebuild this stock by both the New England and Mid-Atlantic Fishery Management Councils (Councils), and Atlantic States Marine Fisheries Commission (Commission). Due to these efforts, the Spiny Dogfish stock is now robust; the stock is not overfished and overfishing is not occurring. This fishery provides a crucial source of income to the members of New England's fishing fleet, many of whom are struggling as a result of chronic problems with the groundfish resource and the policies intended to rebuild it.

The importance of the dogfish fishery to New England's commercial fishermen's livelihoods underscores the need for a consistent fishery management plan between the Councils and the Commission, as a lack of consistency creates potential for confusion, inconsistencies and management complications.

Therefore, we support Alternative 4C to the commercial quota allocation issue raised in Draft Amendment 3. We believe that matching the federal commercial quota allocation plan to the existing geographical allocation plan used by the Commission will minimize conflict and alleviate longstanding confusion associated with the mismatched management plans, thereby maximizing the benefits to the fishing community as a whole. Now, more than ever, it is essential that we provide the industry with management stability and fishing opportunities whenever possible.

Thank you for your attention to this important issue.

Sincerely,

John Pappalardo  
CEO

**Protecting a resource, a tradition, and a way of life.**



## Maine Coast Fishermen's Association

PO BOX 112 Topsham ME 04086

Phone: 207.619.1755 Fax: 866.876.3564

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**Executive Director:**

Ben Martens

To: Richard B. Robbins, Jr., Chairman  
Mid-Atlantic Fishery Management Council  
800 N. State St. Suite 201  
Dover, DE 19901

September 24, 2012

### RE: Amendment 3 to the Spiny Dogfish FMP

Dear Chairman Robbins,

The Maine Coast Fishermen's Association is an industry based non-profit which identifies and fosters ways to restore the fisheries of the Gulf of Maine and sustain Maine's historic fishing communities. Established and run by Maine community-based fishermen, MCFA works to enhance the ecological and financial sustainability of the fishery through balancing the needs of the current generation of fishermen with the long term environmental restoration of the Gulf of Maine. With members living in Maine communities from Kittery to Mount Desert Island, our diverse fishermen have come together to form a cohesive voice to weigh in on important management issues facing the groundfish fleet of Maine.

As stewards of the Gulf of Maine, ensuring a healthy and vibrant ecosystem is the foundation of maintaining successful businesses and successful coastal communities. The groundfish industry has taken important steps in rebuilding the species that they rely on, by not fishing in important habitat areas, adhering to mortality closures, using highly selective gear, and moving to allocation system with a hard total allowable catch. Despite these sacrifices, the groundfish in the Gulf of Maine are still declining, according to the most recent stock assessments. However, Spiny Dogfish are being seen on the water in large numbers. These abundant predators are taking a significant toll on the groundfish. For example, when Spiny Dogfish are present, a gillnet frequently surfaces with just racks, or the head, tail and skeleton, of what used to be harvestable groundfish.

With the groundfish allocation projected to decline for the 2013 fishing year, the management of Spiny Dogfish becomes highly important, as it impacts the groundfish populations ecologically and also provides an opportunity to expand an alternative fishery in the Gulf of Maine. As such, below are our recommendations on the four specific management options proposed in the current draft of Amendment 3:

For management action 1, MCFA supports alternative 1B to allow allocation of up to 3% of the commercial allocation for a research set-aside. This research set-aside would minimally affect the small inshore fleet of Maine, and additional research is necessary to determine, with greater scientific understanding, the biomass of Spiny Dogfish in the Gulf of Maine.

For management action 4, MCFA supports Alternative 4C: Match the Geographic Allocation of the Commercial Quota under the Commission's Interstate Fishery Management Plan. Aligning the management plans by geography will facilitate management, and also allows for greater flexibility in the timing of catching Spiny Dogfish within the Northern Region.

MCFA also strongly encourages the New England Fisheries Management Council and the Mid-Atlantic Fisheries Management Council to consider increased trip limits. The industry has not landed the allocation for the current fishing year despite the huge catch of dogfish that has taken out on the water. Discards are high and an increased landing limit makes sense as the stock is already being caught and discarded. Additionally, as the groundfish stocks are in decline, the increased landings for the dogfish fishery would help fishermen make it through some difficult times ahead.

Fishermen of the Maine Coast Fishermen's Association would like to see a landings increase from 3,000lbs to 6,000lbs for the northern region. It is our understanding that the current options are for 3,000lbs or 4,000lbs as proposed by the New England and Mid-Atlantic Fisheries Management Councils but we would ask that you reexamine those numbers considering the current landings.

It is true that this higher trip limit may shorten the season and cause closures earlier, but it would allow fishermen greater flexibility and revenue in the summer and fall months when the Spiny Dogfish are present in the Gulf of Maine. Two other management alternatives proposed by the fishermen we work with are, one, a seasonal increase in trip limits during June and July and then a corresponding decrease in trip limits for the remaining months, and two, daily limits rather than trip limits to allow for multi-day trips to land their full potential.

Thank you for the opportunity to provide comments on Amendment 3 to the Spiny Dogfish Fishery Management Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Martens", with a long horizontal flourish extending to the right.

Ben Martens  
Executive Director  
Maine Coast Fishermen's Association

**Mid-Atlantic Fishery Management Council  
Public Hearing Summaries for Spiny Dogfish Amendment 3**

**SUMMARY**

Spiny Dogfish Amendment 3 Public Hearing  
Magnuson Hotel, Virginia Beach, VA  
**September 4, 2012**

**Hearing Chair:** Rob O'Reilly  
**Staff:** Jim Armstrong  
**Public Attendance:** 0

**SUMMARY**

Spiny Dogfish Amendment 3 Public Hearing  
Holiday Inn, Manahawkin, NJ  
**September 5, 2012**

**Hearing Chair:** Erling Berg  
**Staff:** Jim Armstrong  
**Public Attendance:** 9

The meeting started at approximately 7:15 PM.

A presentation of the issues and alternatives was provided that lasted about 30 minutes.

Comments were made after the presentation. All commenters were New Jersey commercial fishermen.

The first commenter stated that he supported alternatives 1B, 2A, 3B, and 4B. He also stated that limited access should be addressed at some point to protect the investment of fishermen who have been in the dogfish fishery for a long time. The second commenter said that he agreed with all the points made by the first commenter. This continued for the next three commenters.

A sixth commenter stated that he would submit written comments.

The meeting ended at approximately 8:00 PM.

**SUMMARY**

Spiny Dogfish Amendment 3 Public Hearing  
Magnuson Hotel, Virginia Beach, VA  
**September 4, 2012**

**Hearing Chair:** Mark Gibson  
**Staff:** Jim Armstrong  
**Public Attendance:** 0