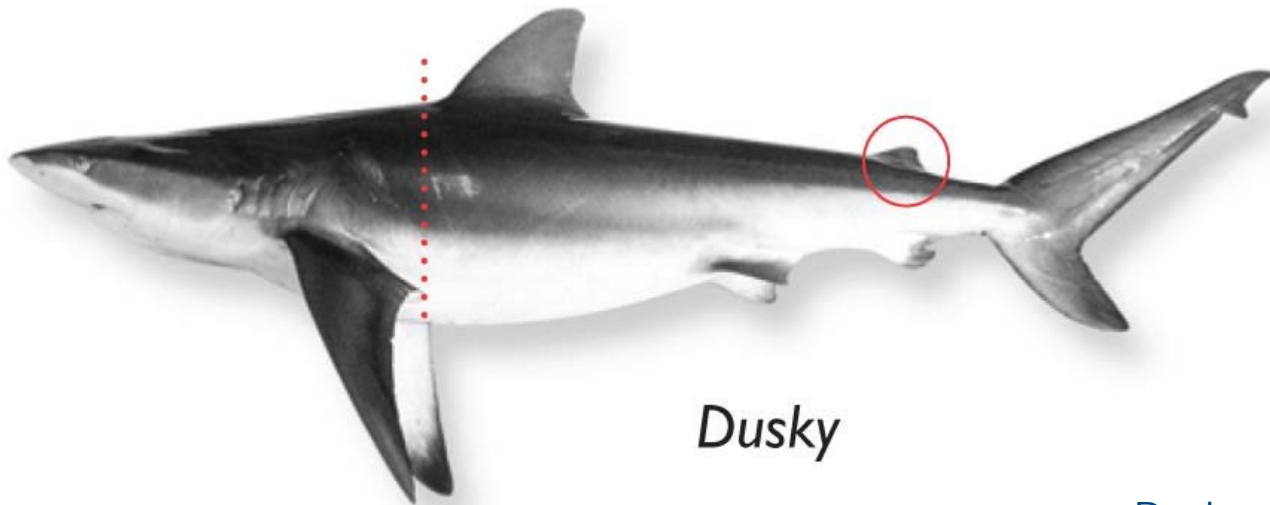




**NOAA**  
**FISHERIES**

# Atlantic Highly Migratory Species

Amendment 5b - Dusky Shark  
Management Measures:  
Proposed Rule



*Dusky*

Presented to  
Regional Fishery Management Councils  
and Marine Fisheries Commissions  
Oct. – Dec. 2016

# Outline

- Background
  - Management History
  - SEDAR 21 Update and Addendum
- Alternatives Considered
  - Recreational
  - Commercial
- ACLs and AMs for Prohibited Species
- Request for Comments

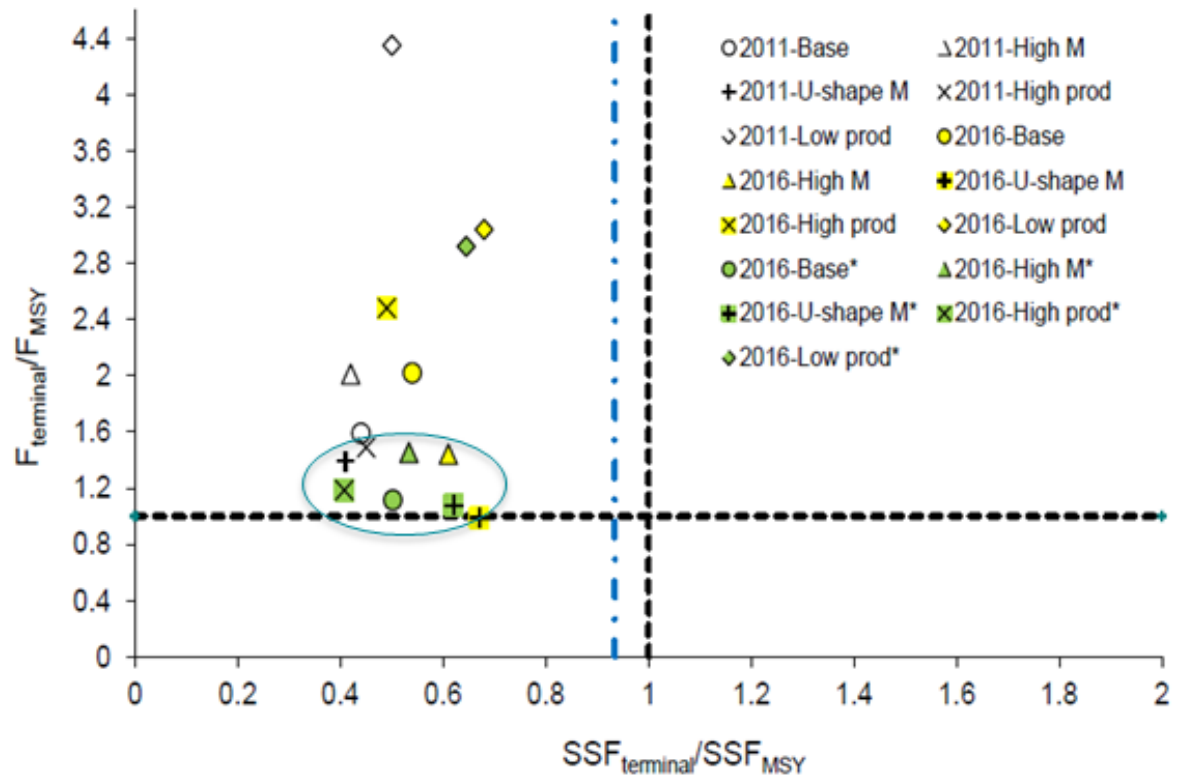


# Management History

- 2000: Dusky sharks become a prohibited species
- 2006: First dusky shark assessment – overfished/overfishing
- 2008: Amendment 2 – rebuilding plan established (rebuild by 2108)
- Aug. 2011: SEDAR 21 – still overfished/overfishing
- Nov. 2012: Draft Amendment 5 & Proposed rule - multiple shark species
- April 2013: Notice of Intent for Amendment 5b – dusky shark specific
- March 2014: Amendment 5b Predraft released for comment
- Oct. 2015: Oceana filed complaint regarding dusky shark management
- May 2016: Settlement agreement reached --
  - Submit proposed rule to the Federal Register by 10/14/2016
  - Submit final rule to the Federal Register by 3/31/2017
- Oct. 2016:
  - SEDAR Update and addendum results - still overfished/overfishing
  - Draft Amendment 5b and proposed rule released

# SEDAR 21 Update and Addendum

- Status determination published 10/5/2016 (81 FR 69043)
- Still overfished and experiencing overfishing
- Need to reduce fishing mortality by 35%
- Rebuild by 2107



# The Preferred Alternatives

- The preferred alternatives should:
  - End overfishing on dusky sharks by reducing fishing mortality levels by at least 35% relative to 2015 levels
  - Ensure that fishing mortality levels on dusky sharks are maintained at or below levels that would result in rebuilding by 2107

## Preferred Recreational Alternatives

### Alternative A2

Require HMS permit holders fishing for sharks recreationally to obtain a shark endorsement, which requires completion of an online shark identification and fishing regulation training course, plus additional recreational fisheries outreach.

### Alternative A6a

Require the use of circle hooks by all HMS permit holders fishing for sharks recreationally and when using natural baits and using wire or heavy (200 lb or greater test) monofilament or fluorocarbon leaders.

## Preferred Commercial Alternatives

### Alternative B3

Fishermen with an Atlantic shark limited access permit with pelagic longline gear onboard must release all sharks not being retained using a dehooker or cutting the gangion less than three feet from the hook.

### Alternative B5

Require completion of a shark identification and fishing regulation training course as a new part of all Safe Handling and Release Workshops for HMS pelagic longline, bottom longline, and shark gillnet vessel owners and operators.

### Alternative B6

Increase dusky shark outreach and awareness through development of additional outreach materials, and require HMS pelagic longline, bottom longline, and shark gillnet vessels to abide by a dusky shark fleet communication and relocation protocol.

### Alternative B9

Require the use of circle hooks by all HMS directed shark permit holders using bottom longline gear.



# Other Recreational Alternatives Considered

- **Alternative A1:** No action. Do not implement management measures to end overfishing and rebuild dusky sharks in the Atlantic recreational shark fishery
- **Alternative A3:** Require HMS permit holders fishing for sharks recreationally to have a NMFS – approved shark identification placard onboard when fishing for and/or retaining sharks
- **Alternative A4:** Prohibit retention of all ridgeback sharks, including oceanic whitetip, tiger, and smoothhound sharks, in the Atlantic recreational shark fishery
- **Alternative A5:** Increase the recreational minimum size to 89 inches fork length for all sharks
- **Alternative A6b:** Require the use of circle hooks by all HMS permit holders with a shark endorsement when fishing for sharks recreationally (when deploying natural bait while using a 5/0 or larger hook size)
- **Alternative A6c:** Require the use of circle hooks by all Atlantic HMS permit holders participating in fishing tournaments when targeting or retaining Atlantic sharks
- **Alternative A7:** Allow only catch and release of all Atlantic sharks by HMS permit holders. Anglers could fish for and target sharks but retention of all recreationally-caught sharks would be prohibited



# Other Commercial Alternatives Considered

- **Alternative B1:** No action. Do not implement additional management measures to end overfishing and rebuild dusky sharks in commercial HMS fisheries
- **Alternative B2:** Fishermen with an Atlantic shark limited access permit and pelagic longline gear onboard would be limited to 750 hooks per pelagic longline set and no more than 800 assembled gangions onboard at any time
- **Alternatives B4a-h:** Prohibit the use of pelagic longline gear in HMS fisheries in various hotspot closures – Charleston Bump, Hatteras Shelf, Mid-Atlantic Bight Canyons, Southern Georges Bank
- **Alternative B4i:** Allow conditional access to dusky shark hotspot closure areas for HMS vessels fishing with pelagic longline gear
- **Alternative B4j:** Implement dusky shark bycatch caps in the pelagic longline fishery
- **Alternative B7:** Request that certain states (NJ, DE, MD, VA) and the ASMFC extend the end of existing Mid-Atlantic shark time/area closure from July 15 to July 31
- **Alternative B8:** Close the Atlantic HMS Pelagic Longline Fishery
- **Alternative B10:** Implement Individual Dusky Shark Bycatch Quotas (IDQs) for the commercial pelagic and bottom longline fisheries

# Annual Catch Limits (ACLs) & Accountability Measures (AMs)

- Draft Amendment 5b clarifies ACLs and AMs for the 19 prohibited sharks

**ACL = 0**

Basking	Dusky	Sand Tiger	Sevengill	Bigeye Sand Tiger
Bigeye Thresher	Galapagos	Whale	Sixgill	Bigeye Sixgill
Bignose	Longfin Mako	White	Narrowtooth	Smalltail
Caribbean Reef	Night	Atlantic Angel	Caribbean Sharpnose	

- Small amounts of bycatch are permissible where the ACL is set to zero and the bycatch is small and does not lead to overfishing
- There is a small amount of bycatch and illegal landings of prohibited sharks; this bycatch is not causing overfishing for most species
- For dusky sharks, the small levels of bycatch are causing overfishing
- The measures proposed in Draft Amendment 5b are AMs
- Additional AMs are not needed for dusky sharks and other prohibited sharks



# Specific Request for Public Comments

- Mortality reduction and rebuilding objectives based upon SEDAR 21 update
- ACL and AM approach for prohibited sharks
- Alternative A2
  - How can NMFS effectively implement the shark endorsement?
    - Appropriate effective date
    - Implementation strategy
- Alternatives A6a and A6b
  - Will the circle hook approach ensure the measure applies to the shark fishery?
    - Should different indicators of the recreational shark fishery be adopted?
    - Are  $\geq 200$  lb test monofilament or fluorocarbon leaders good indicators?
    - Is 5/0 or greater size hook a good indicator?
- Paperwork Reduction Act collection of information necessity

# Request for Public Comments

Comment period closes on:  
**December 22, 2016**

Please submit comments to:

<http://www.regulations.gov>

Keyword - "NOAA-NMFS-2013-0070"

Comments can also be submitted via fax: 301-713-1917, Attn: Tobey Curtis

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

Please identify comments with NOAA-NMFS-2013-0070

For more information go to: <http://www.nmfs.noaa.gov/sfa/hms/> or contact Tobey Curtis [tobey.curtis@noaa.gov](mailto:tobey.curtis@noaa.gov) or Karyl Brewster-Geisz [karyl.brewster-geisz@noaa.gov](mailto:karyl.brewster-geisz@noaa.gov) at (301) 427-8503



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# Atlantic Highly Migratory Species Draft Amendment 10 Essential Fish Habitat

# HMS EFH... What Is It?

Magnuson-Stevens Act (MSA) identifies EFH as “those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity”

- Sustainable Fisheries Act of 1996
- Federally managed species only
- May or may not include state waters
- Must be periodically reviewed and revised
- Cannot be designated in international waters

# Timeline of HMS EFH Actions

- 1999:** EFH is first designated for Atlantic HMS
- 2003:** EFH updated for some species
- 2009:** Amendment 1 – 5-year review and update of EFH
- 2010:** Amendment 3 – Designated smoothhound EFH  
Interpretive rule – Recognized roundscale spearfish, added it to the management unit, designated EFH
- 2014:** Atlantic HMS EFH 5-Year Review - Initiated
- 2015:** Atlantic HMS EFH 5-Year Review – Finalized; Notice Of Intent to prepare Amendment 10
- Sept 2016:** Draft Amendment 10 released

# Draft Amendment 10 (EFH)

- Purpose:
  - Update EFH with recent information
  - Minimize to the extent practicable the adverse effects of fishing and non-fishing activities on EFH
  - Identify other actions to encourage the conservation and enhancement of EFH
- Need:
  - 5 Year Review Process and Public Consultation → new information
  - Revision of EFH is consistent with MSA requirements and National Standard 2 Guidelines



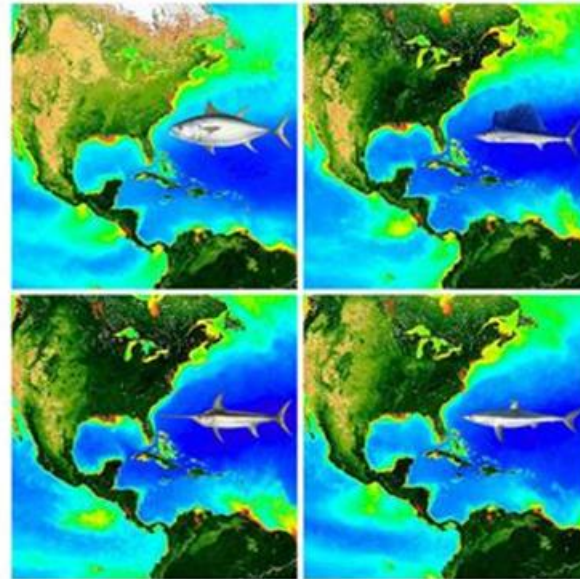
# Draft Amendment 10 Alternatives

DRAFT

Amendment 10 to the 2006 Consolidated  
Atlantic Highly Migratory Species Fishery  
Management Plan:

Essential Fish Habitat

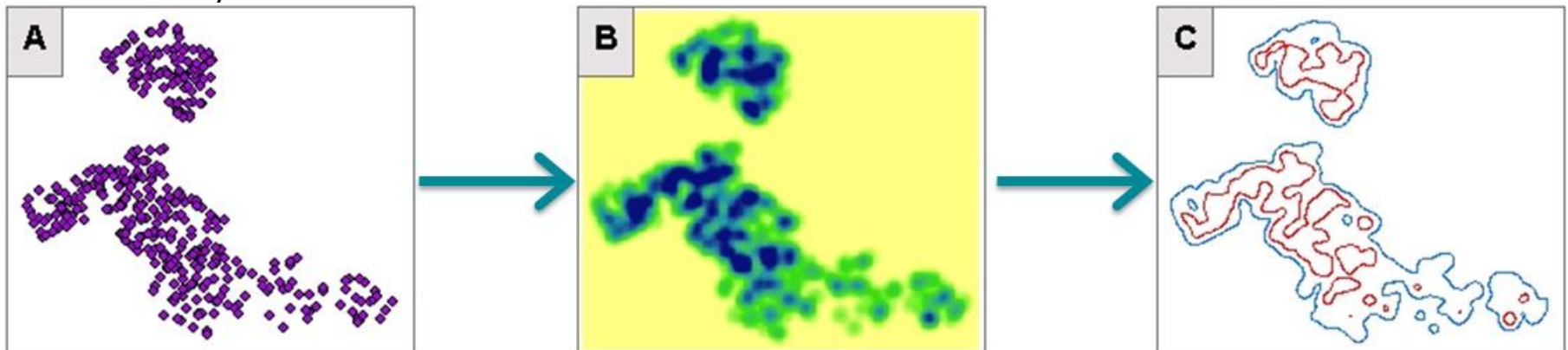
*and Environmental Assessment*



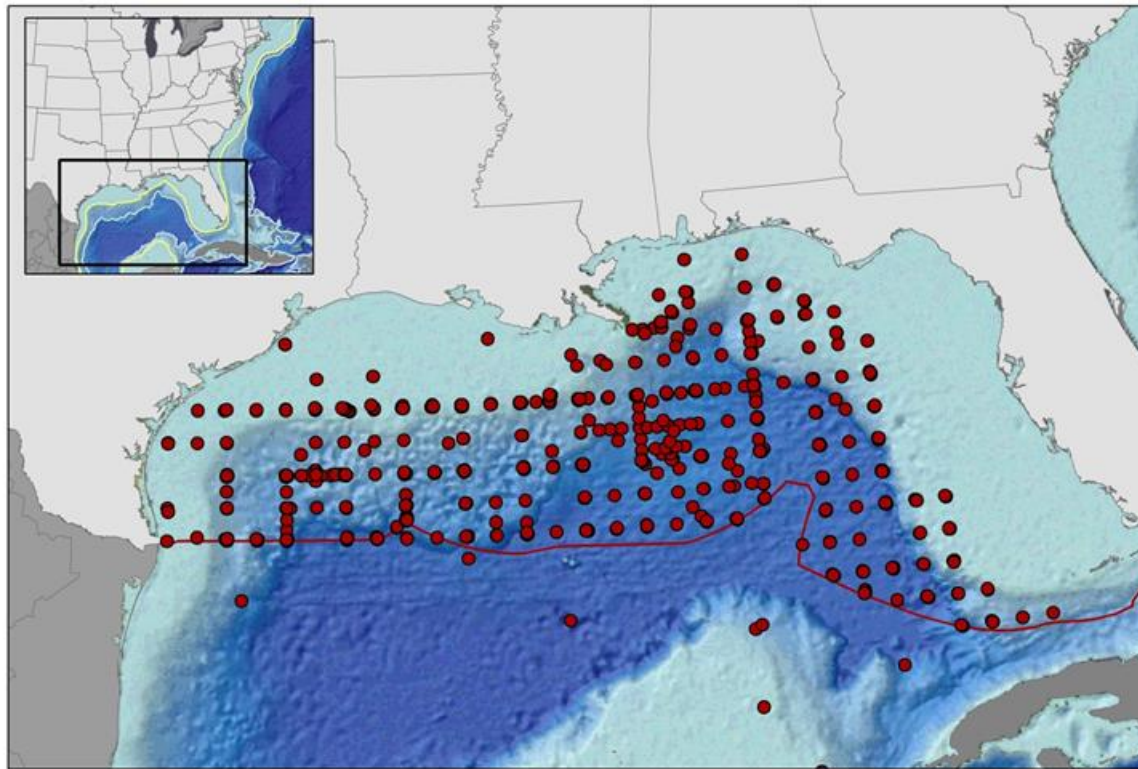
# Draft Amendment Alternatives: EFH Delineation

- Alternative 1: No Action. Retain current EFH designations
- Alternative 2 (*preferred*): Update Atlantic HMS EFH with new data collected since 2009, using the protocols established under Amendment 1 (maps in Appendix E).

Kernal Density Estimation / 95% Volume Contour



# Draft Amendment Alternatives: EFH Delineation

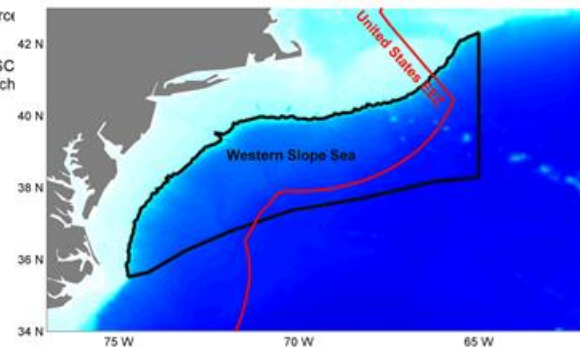


**Bluefin Tuna - Spawning,  
Eggs, Larvae**

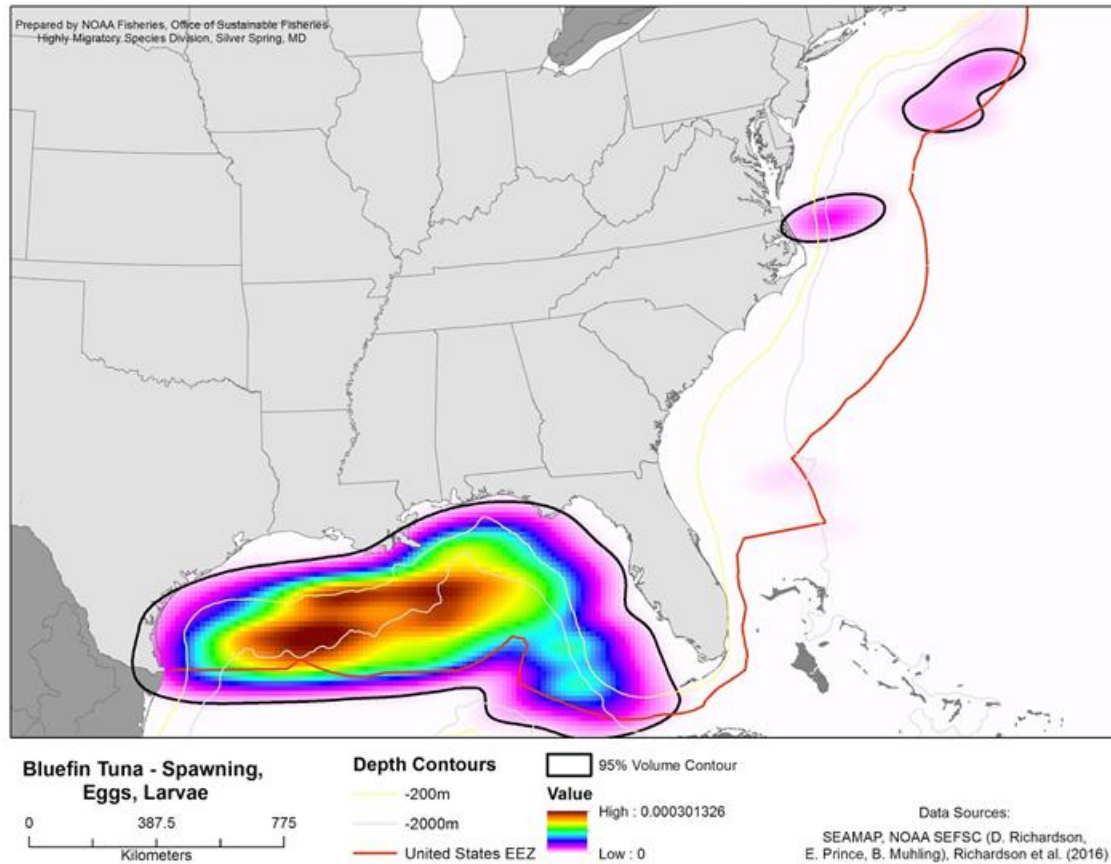
0 230 460  
Kilometers

— United States EEZ  
● BFT Data Points

Data Source  
SEAMAP, NOAA SEFSC  
E. Prince, B. Muhling), Rich

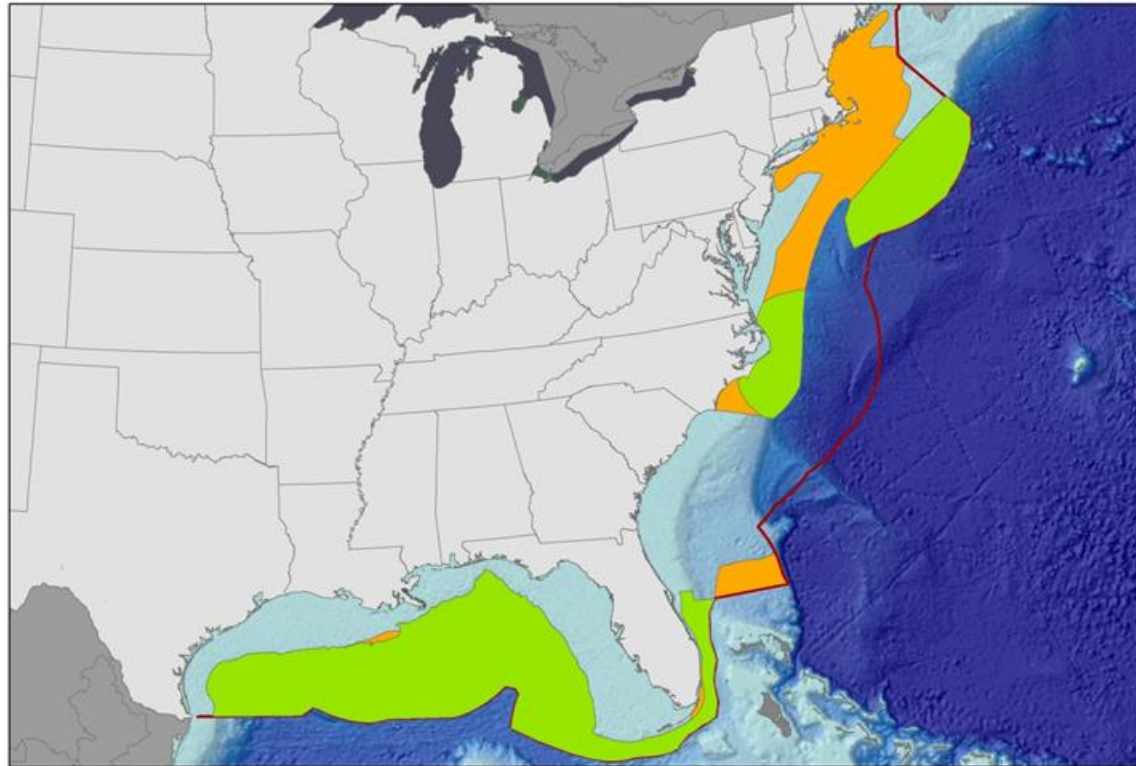


# Draft Amendment Alternatives: EFH Delineation





# Draft Amendment Alternatives: EFH Delineation



**Bluefin Tuna EFH -  
Adult (> 185 cm FL) and  
Spawning, Eggs, Larvae**

0 462.5 925  
Kilometers

-  Bluefin Tuna Spawning, Eggs, and Larval Updated EFH
-  United States EEZ
-  Bluefin Tuna ADU Updated EFH

Data Sources:  
CTS, CSTP, NEFSC observer program,  
NEFSC, SEFSC pelagic observer program,  
NMF EFP database

# HAPC Alternatives

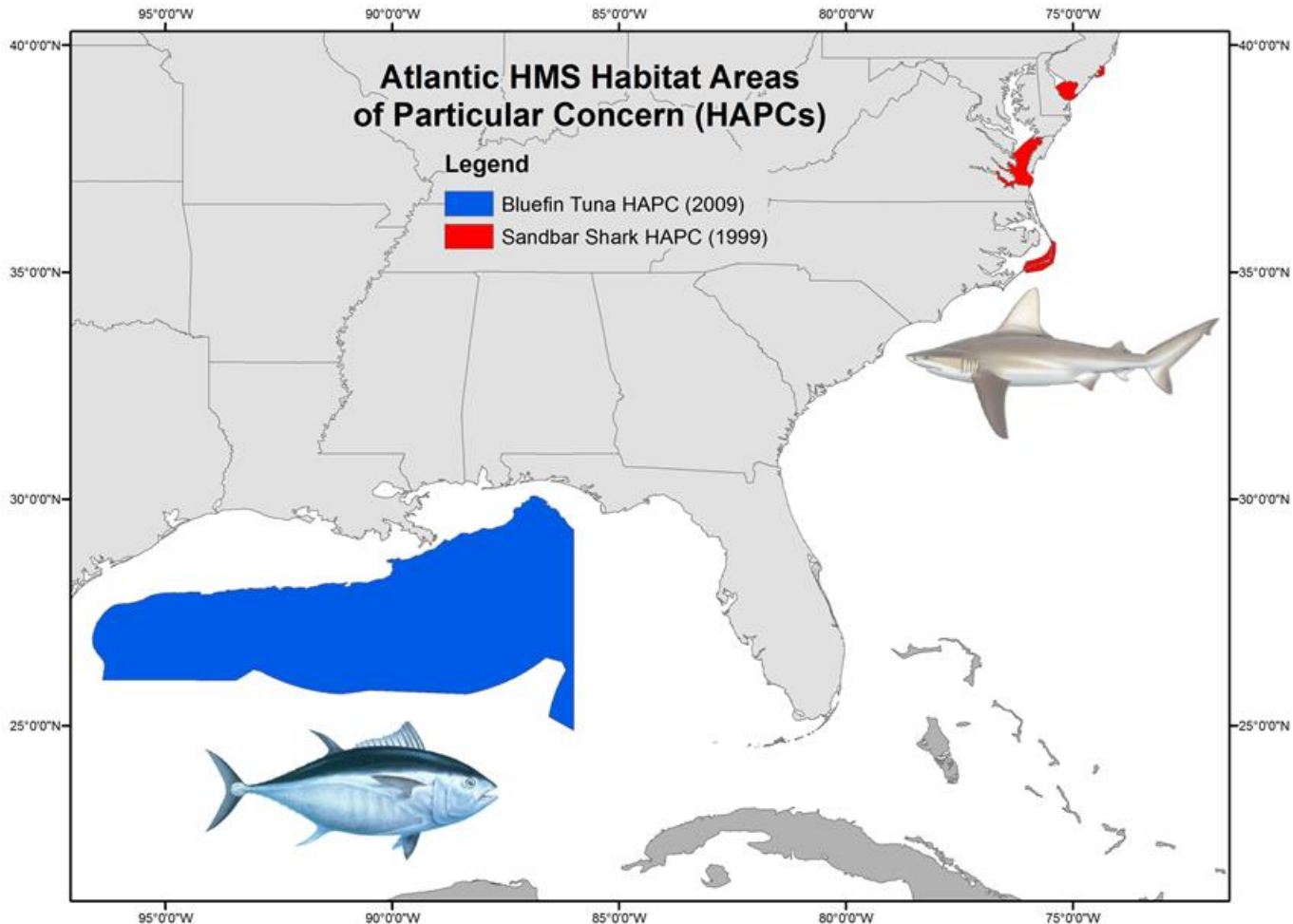
HAPCs are subsets of EFH that are evaluated and selected based on one or more of the following criteria:

- (i) The importance of the ecological function provided by the habitat.
- (ii) The extent to which the habitat is sensitive to human-induced environmental degradation.
- (iii) Whether, and to what extent, development activities are, or will be, stressing the habitat type.
- (iv) The rarity of the habitat type.



# Draft Amendment Alternatives: HAPCs

Current HMS HAPCs: Bluefin tuna and Sandbar shark



# Draft Amendment Alternatives: HAPCs

- Alternative 3b  
(preferred): Modify current HAPC for bluefin tuna

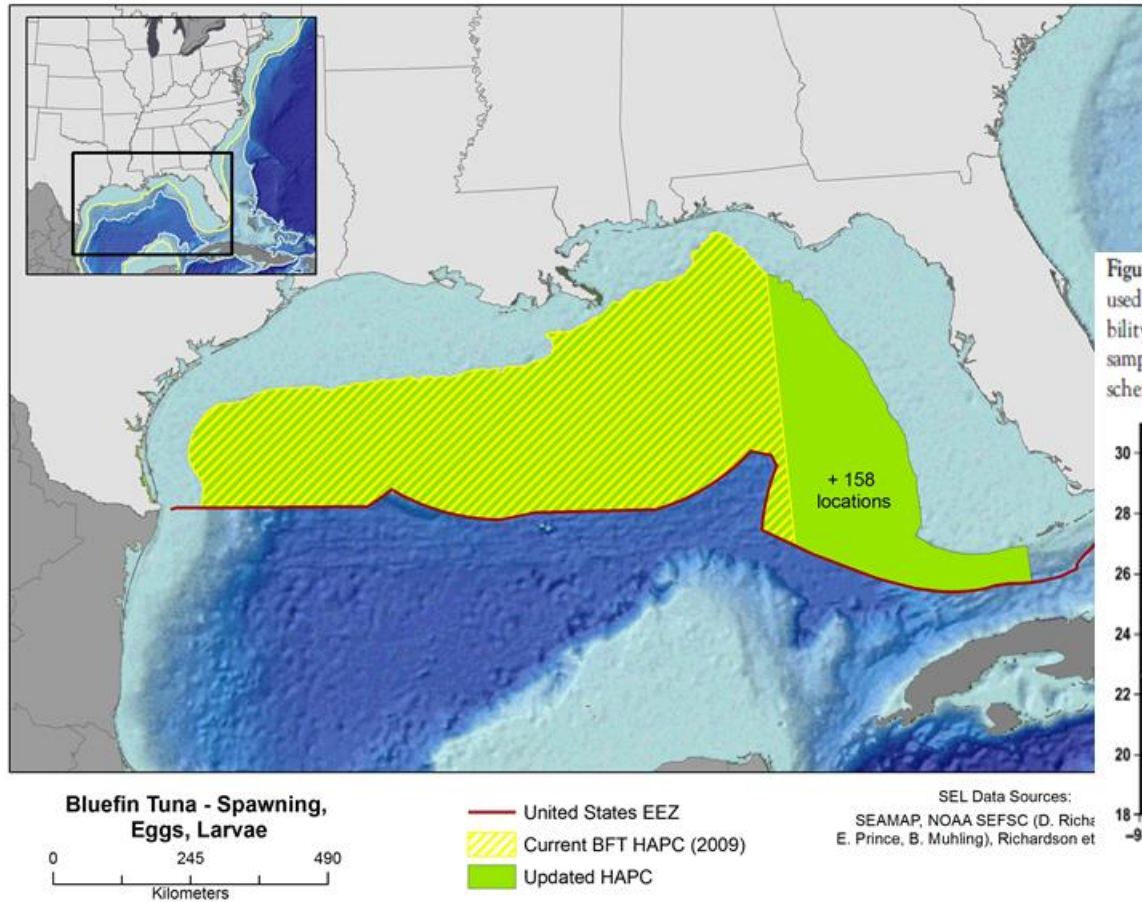
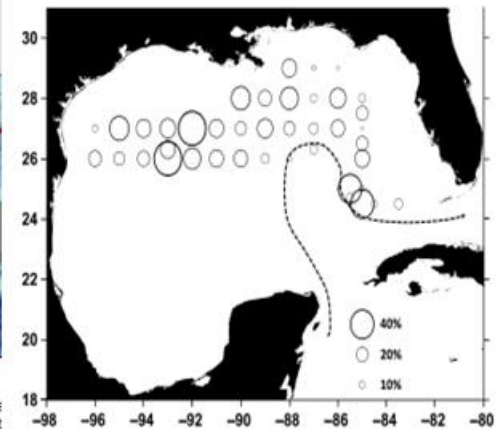


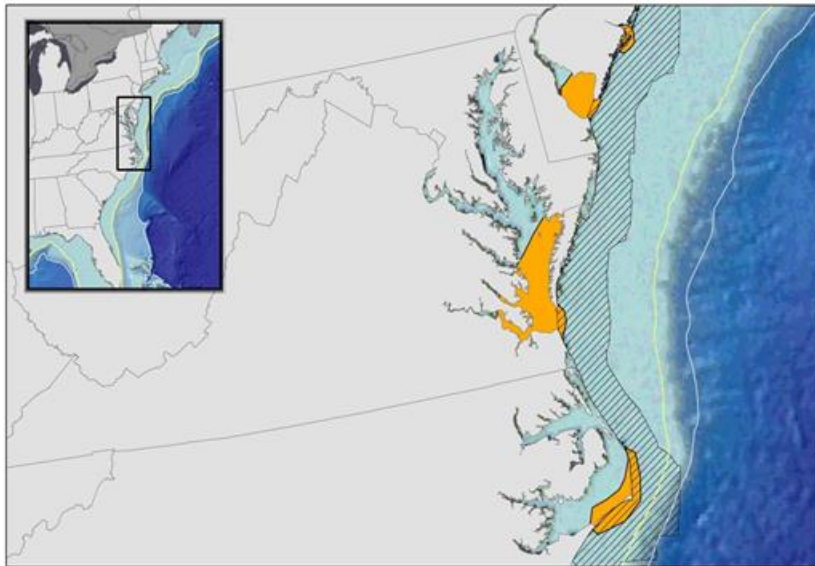
Figure 1. Locations of SEAMAP sampling stations for data used to construct the classification tree model. The probability of collecting at least one bluefin tuna larvae across all sampled years between 1982 and 2006 is shown, along with a schematic representation of the flow of the Loop Current.



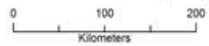
Muhling et al. 2010

# Draft Amendment Alternatives: HAPCs

- Alternative 4b  
(preferred): Modify current HAPC for sandbar shark



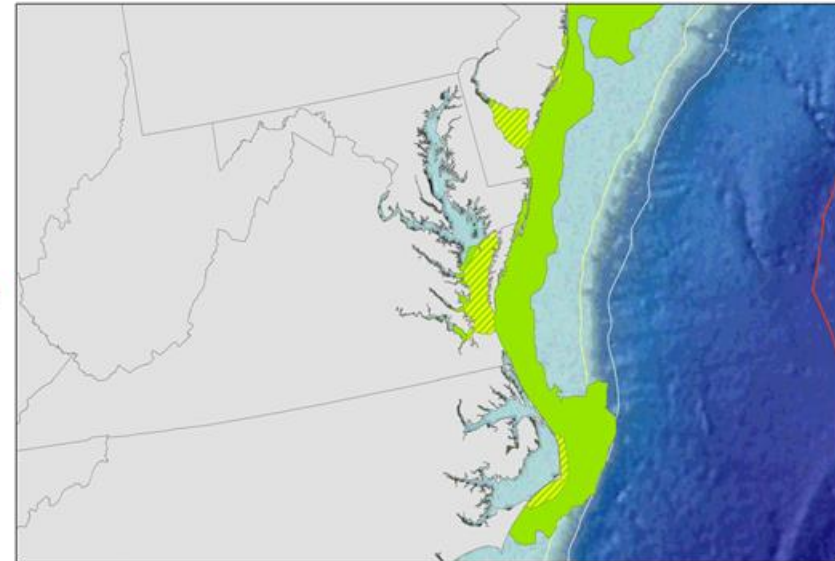
Sandbar Shark HAPC (1999) and Amendment 1 EFH (2009)



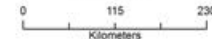
Depth Contours  
-200m  
-2000m  
United States EEZ

Current Essential Fish Habitat (2009)  
Current HAPC (1999)

\*Current\* = previously established EFH and HAPC boundaries for sandbar shark. These do not reflect the new analyses completed for this Draft Amendment.



Sandbar Shark- Neonate/YOY Updated Essential Fish Habitat < 66 cm FL



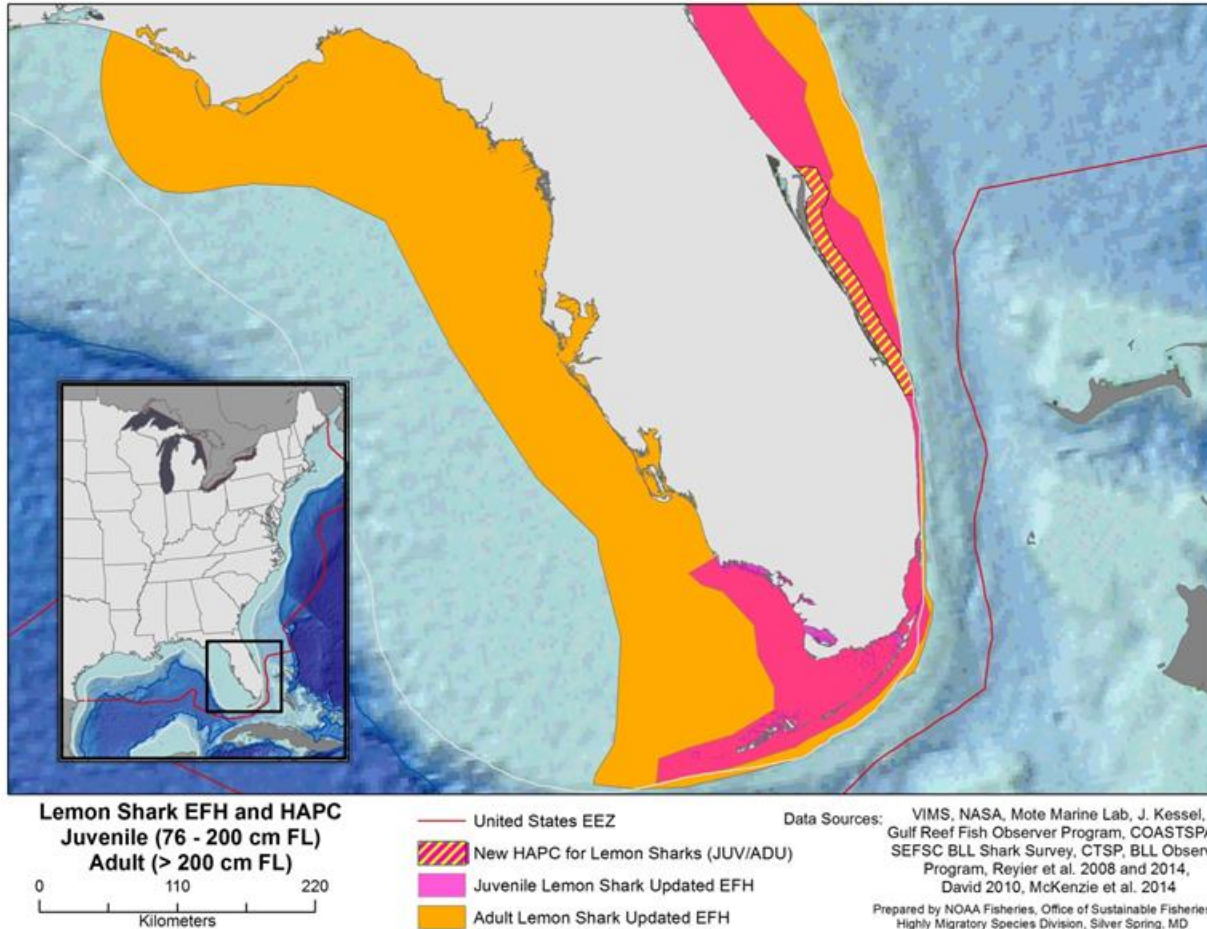
United States EEZ  
Updated Sandbar HAPC  
Sandbar Shark NEO/YOY Updated EFH

Data Sources: VIMS, CSTEP, NEAMAP, COASTSPAN, NMFS EFP Database, Gilnet Observer Program, NEFSC, Shark BLL Survey, BLL Observer Program, TXPWD, GULFSPAN, Mote Marine Lab  
Prepared by NOAA Fisheries, Office of Sustainable Fisheries High Migratory Species Division, Silver Spring, MD



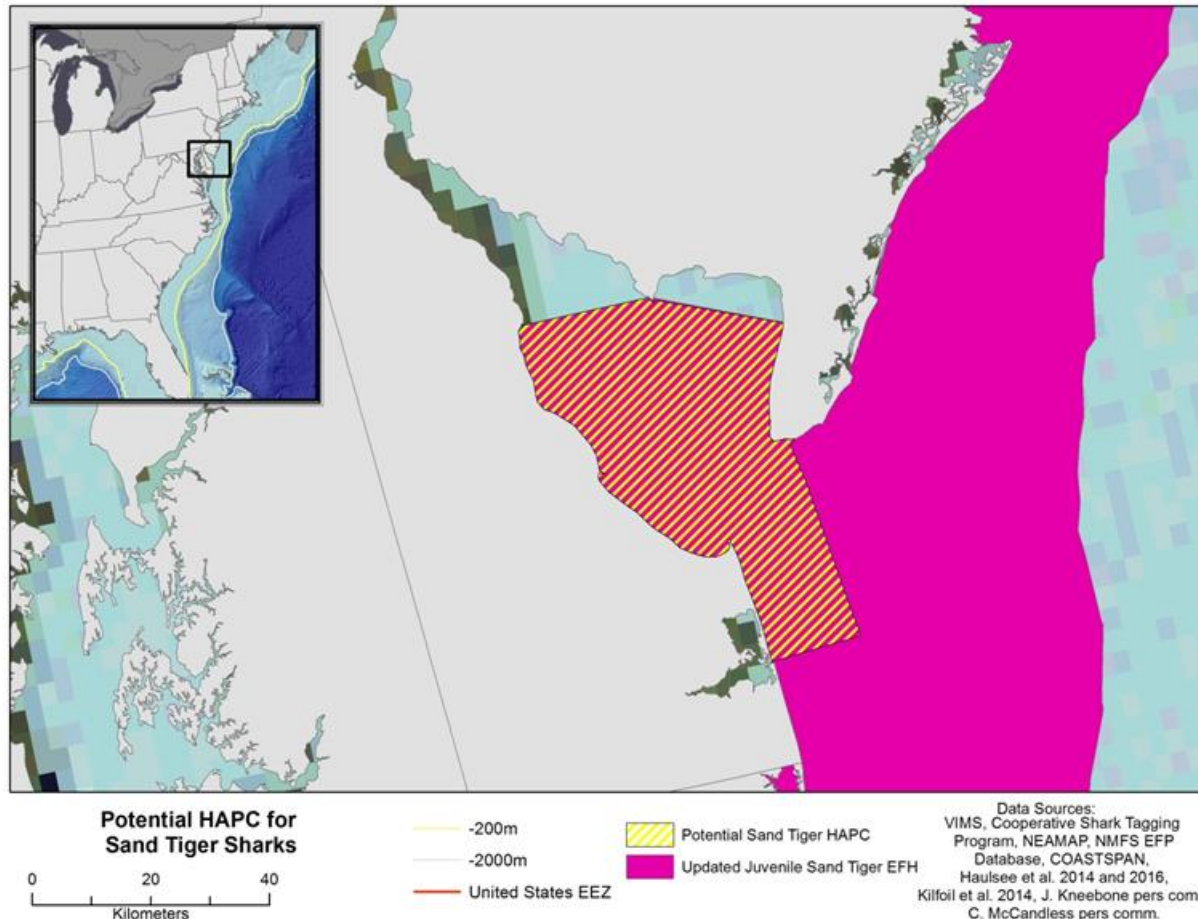
# Draft Amendment Alternatives: HAPCs

- Alternative 5b  
(preferred): Create a new HAPC for lemon sharks



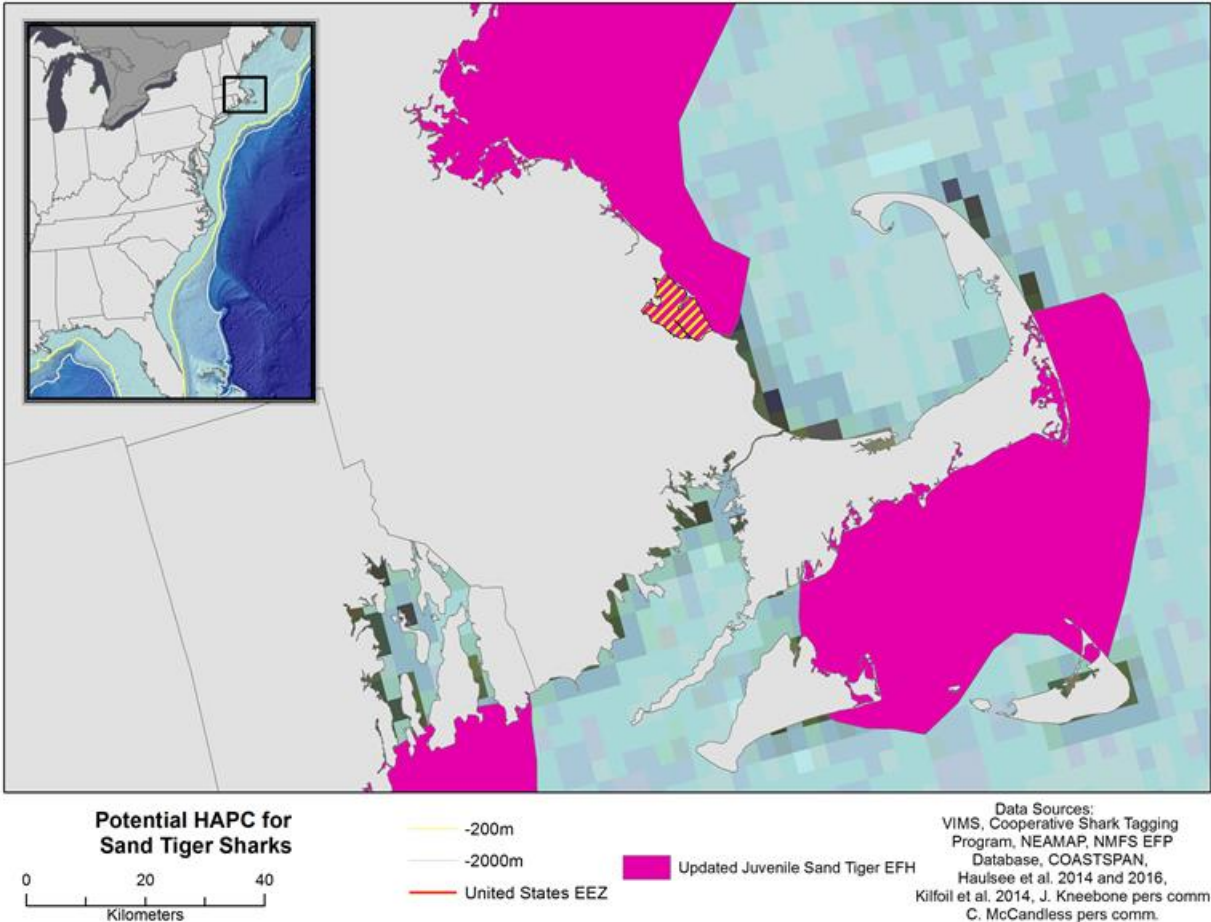
# Draft Amendment Alternatives: HAPCs

- Alternative 6b  
(*preferred*): Create new HAPCs for sand tiger shark



# Draft Amendment Alternatives: HAPCs

- Alternative 6b (Continued)  
*(preferred)*: Create new HAPCs for sand tiger shark





# Important to Note:

- EFH designations and Habitat Areas of Particular Concern (HAPCs) are NOT time/area closures
- Updating EFH boundaries in conjunction with implementing time/area closures would require notice and comment rulemaking and detailed ecological, economic, and social analyses.
- *There are no implementing regulations (i.e., restrictions on fishing and non-fishing activities) in the Draft Amendment.*
- EFH designations, when used as part of the habitat consultation process, enable NMFS to identify measures to avoid, minimize or mitigate for adverse impacts to EFH that may result from actions which are authorized, funded, or undertaken by federal agencies (including adjustments to FMPs).

# Request for Public Comments

Comment period closes on:  
**December 22, 2016**

Please submit comments to:

<http://www.regulations.gov>

Keyword - "NOAA-NMFS-2016-0117"

Comments can also be submitted via mail:

Attn: Jennifer Cudney

Highly Migratory Species, NMFS, 263 13<sup>th</sup> Ave South, Saint Petersburg FL 33701

**Please identify comments with NOAA-NMFS-2016-0117**

For more information go to:

<http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am10/index.html>

or contact Jennifer Cudney [jennifer.cudney@noaa.gov](mailto:jennifer.cudney@noaa.gov) or Randy Blankinship [randy.blankinship@noaa.gov](mailto:randy.blankinship@noaa.gov) at (727) 824-5399

# NMFS Requests Feedback from the Council:

*NMFS requests feedback on the proposed updated EFH boundaries and HAPCs (see our website for maps and shapefiles - <http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am10/index.html>).*

*Specifically:*

- Are the proposed EFH boundaries reflective of EFH for these species?*
- Are the proposed updates to HAPC boundaries, and boundaries of new HAPCs, appropriate?*
- Are there other species for which NMFS should consider a HAPC? If so, please provide supporting information.*
- Are there any additional fishing or non-fishing impacts that should be evaluated in this EA?*