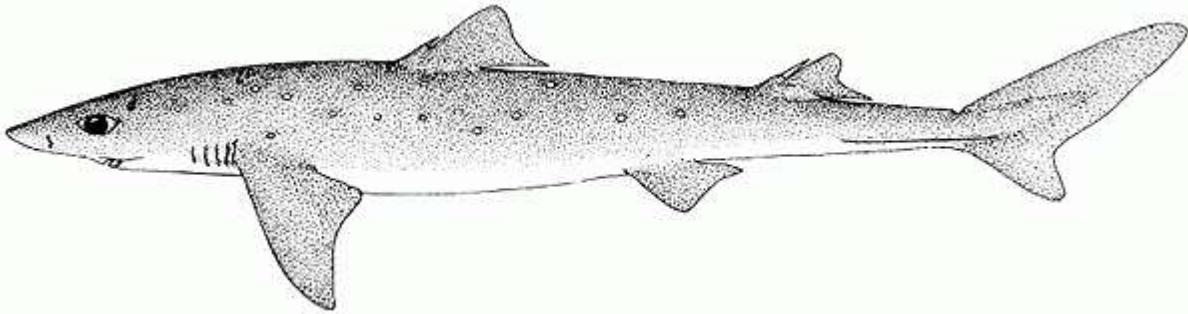


MSC CERTIFICATION
THE UNITED STATES ATLANTIC FISHERY FOR SPINY DOGFISH
(*Squalus acanthias*)



Certification Report on Extension of Scope
January 2013

David Kulka, Denis Rivard & Ian Scott

Client Group

Seatrade International Company Inc., Zeus Packing Inc. & Marder Trawling Inc.
& Eastern Fisheries, Inc.

Client Contact

John F. Whiteside, Jr., Mickelson Barnet, P.C., 30 Cornell Street New Bedford, MA 02740
Phone: (508)993-8800 Fax: (508)992-8031 email: jfw@mickelsonbarnet.com

Certification Body

Intertek Moody, 1801 Hollis Street, Suite 1220, Halifax, Nova Scotia, B3J 3N4, Canada

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1. EXECUTIVE SUMMARY

In August, 2012, the UNITED STATES ATLANTIC FISHERY FOR SPINY DOGFISH (*Squalus acanthias*) using trawl, gillnet and long line in both Federal and State waters was successful in gaining certification against MSC standards. The client wishes to extend the certification to cover five States that were not covered in the assessment: Connecticut, New York, Pennsylvania, Delaware and Maryland.

Following revision, the assessment team found that the addition of the five States would have no impact on the scoring outcome for Performance Indicators (PI's) and Scoring Guideposts (SG's) under Principle 1, Principle 2 and Principle 3. Consequently, there are no changes to the scores for each of the Principles. The conditions to certification remain the same.

The assessment team concluded that, once the five States have been added to the scope, all the units of certification still pass assessment against the MSC fishery standard.

2. REPORT OBJECTIVE

The client wishes to extend the scope of the MSC Certification of the United States Atlantic Fishery for Spiny Dogfish by adding the States of Connecticut, New York, Pennsylvania, Maryland and Delaware to the certificate. When the initial decision on the scope of the assessment was made the client group consisted of one company and the selection of States reflected its supply position. With the inclusion of three other companies in the client group, the range of supply has increased and one or more of the companies sources spiny dogfish in all the ASFMC States from North Carolina to the north.

The exclusion of the five States leads to increased work in separating certified from non-certified fish within the chain of custody up to the point of processing, while demand for certified fish is such that members of the client group wish to increase potential supplies.

Furthermore, the ASFMC represents all the States and has been a key driver in developing a sustainable fishery for the species in State waters; its ability to contribute to the on-going process and respond to the conditions to certification will be strengthened if all Member States with an interest in the commercial fishery for the species are part of the Unit of Certification.

Also to be considered is the potential for future shifts in the landings of the species by State and the need to be proactive in ensuring that it is possible to source certified material from the whole coast from the Canadian border to North Carolina.

This report examines whether the extending the scope would be consistent with the finding and recommendations of the main assessment.

3. AUTHORSHIP

This report has been prepared by the team that completed the main assessment.

- Lead Assessor & Expert Adviser P3: Ian Scott.
- Expert Adviser P1: David Kulka.
- Expert Adviser P2: Denis Rivard.

Details of their experience are given in Section 9.1 of the main assessment report (Intertek Moody 2012 http://www.msc.org/track-a-fishery/fisheries-in-the-program/certified/north-west-atlantic/us_atlantic_spiny_dogfish).

4. DESCRIPTION OF THE FISHERY

4.1 Current Unit of Certification

Initially, the full assessment covered 24 units of certification (UoC) comprising the fisheries for spiny dogfish in Federal waters and the States of Maine, New Hampshire, Massachusetts, Rhode Island, New Jersey, Virginia and North Carolina using trawl, long line and gill net. In the course of the assessment the number of UoCs was reduced to six, covering the combined fishery in the waters of the seven individual States, Federal waters and the three nominated gears. Accordingly, the fisheries for and landings of spiny dogfish in the five States which were not part of the initial scope of the assessment (Connecticut, New York, Pennsylvania, Maryland and Delaware) were not covered. There isn't a commercial fishery for spiny dogfish in the remaining three member States of the Atlantic State Marine Fisheries Commission (ASMFC) (South Carolina, Georgia and Florida).

A summary of the current UoCs is in Table 1.

Table 1: The Certified Fishery: Actual Position

Species/Stock	Area	Gear	Management System
Spiny Dogfish	US Federal Waters	Gill Net	NMFS / MAFMC / NEFMC
		Long Line	
		Trawl	
Spiny Dogfish	State Waters: Maine, New Hampshire, Massachusetts, Rhode Island, New Jersey, Virginia, North Carolina	Gill Net	ASMFC
		Long Line	
		Trawl	

4.2 Overview of the Candidate Fisheries and their Eligibility

As reported in the main certification report:

- Atlantic spiny dogfish is widespread throughout boreal and temperate continental shelf seas of the North Atlantic.
- In the NE Atlantic it inhabits most of the shelf waters off Europe from the Barents and White Seas west to Iceland, and south to N. Africa and the Mediterranean Sea.
- In the NW Atlantic, it is distributed from south Greenland and the Labrador Shelf to Florida although there it is largely concentrated within a relatively small portion of the range, between Nova Scotia (western Scotian Shelf/Bay of Fundy) and NC.
- Off the Atlantic coasts of Canada and the US, tagging data supports the view that there are several non-independent spiny dogfish stock components. Some of these components remain largely separate and engage in seasonal onshore - offshore migrations in areas off Canada, in the southern Gulf of St Lawrence, around Newfoundland and on the eastern Scotian Shelf. The species in USA waters forms a single stock that is largely separate from that in Canadian waters. The fish harvested by vessels landing into the five States are from the same stock as those in the already certified area.
- Off the US, spiny dogfish undergoes a large scale N / S migration not observed in the other areas. During spring and autumn, the species concentrates in coastal waters between North Carolina and southern New England and show some degree of separation by sex. In summer, they migrate northward to the Gulf of Maine - Georges Bank region and return southward in

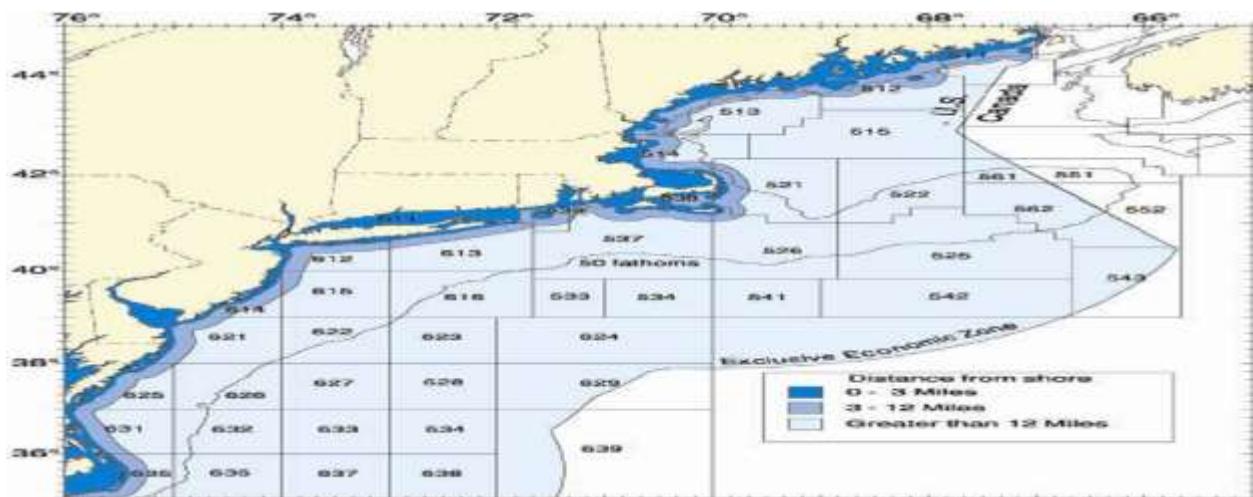
autumn and winter. Locations of tag returns in recent experiments confirm this northward migration from overwintering North Carolina waters during the spring, a summer period in New England, and a southward progression during the fall for overwintering off North Carolina.

- Spiny dogfish are found in a wide range of bottom water temperatures, between 0°C and 17°C. However, 6°C - 15°C appear to be the preferred temperature, while slightly warmer waters are found to the south. At the northern extent of the range, north of the Grand Banks, records are sporadic, probably due to year round temperatures being colder than the preferred range for spiny dogfish. It also appears that the migrations undertaken may be in response to temperature, with spiny dogfish avoiding colder conditions by moving offshore or south in the winter while also avoiding warm summer conditions off South Carolina in the south.
 - The species has been collected near shore to as deep as 730 m, although it is most commonly observed at depths of 50 m - 200 m; generally deeper in the winter. Also, it tolerates a wide range of salinities including estuarine waters.
 - Primarily epibenthic, and widely distributed, they are not known to associate with any particular bottom type or benthic habitat. They are also commonly observed throughout the water column, including being commonly observed at the surface.

From 1989-1993, when spiny dogfish catches peaked, a larger proportion of the species landings (88 % to 95 %) were harvested in Federal waters; this proportion reduced to between 50 % and 70% during the 1990s. From the mid-1990s, fishing effort increasingly shifted into State waters and this situation has been maintained and vessels with State permits fishing near shore are the main source of spiny dogfish catches.

Also, there has been a shift in the distribution of spiny dogfish catches along the coast. For example, in the 1990s, statistical areas 537 (off southern Massachusetts) and 621 (off Delaware) constituted most of the catch (Figure 1). In 2005, area 514 (off northern Massachusetts) (46 % share) was the most important area fished, followed by area 521 (23 %, mid-Massachusetts), area 513 (13 %, off Maine and New Hampshire) and area 611 (5 %, off New York and New Jersey). This emphasizes the potential for future shifts in distribution and related effort and landings.

Figure 1: Map of statistical areas off the US eastern seaboard

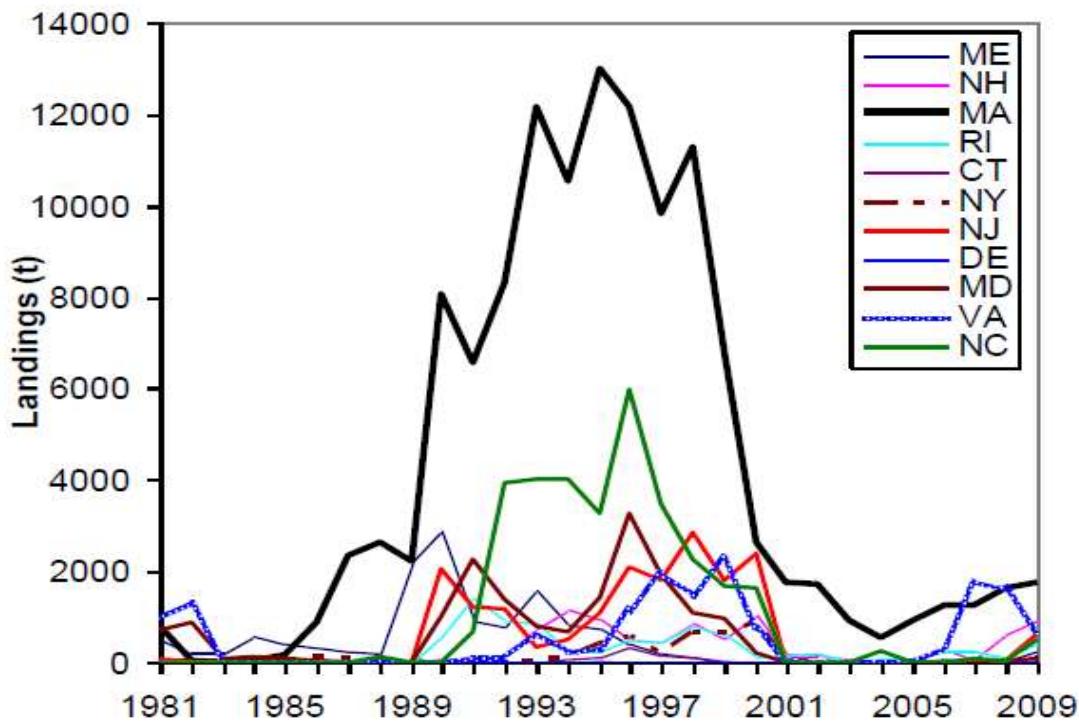


Source: NMFS

Since 1981, on average 90% of annual landings (> 94% in 2001) were made by the seven States currently covered by the certification, with the remainder made by the remaining four eastern seaboard States

reporting (Fig. 2) (i.e. excluding Pennsylvania). The ranking of landings by State in 2005 to 2009 was: Massachusetts, Virginia, New Hampshire, Rhode Island, North Carolina, New Jersey, Maine, Maryland, New York, Connecticut and Delaware. 97% of landings originated from the States currently certified. Of the States that have historically landed significant amounts of spiny dogfish, only Maryland is not considered as part of the State UoC

Figure 2: Landings by State



Source: ASFMC 2012¹

In the 2011 /12 fishing year, New York had a 2.71 % allocation of the total quota and landed 407,710 lbs; respective figures for Delaware and Maryland were 0.90 % & 30,670 lbs and 5.92 % & 1.26 million pounds. In the period from 1988, record annual landings in each of the three States were: New York 2.9 million pounds (2000); Delaware 62,900 lbs (1995); and Maryland 7.2 million pounds (1996).² In 2009 /10 landings in Connecticut were 91,860 lbs or 0.7% of total State landings (table 2).³

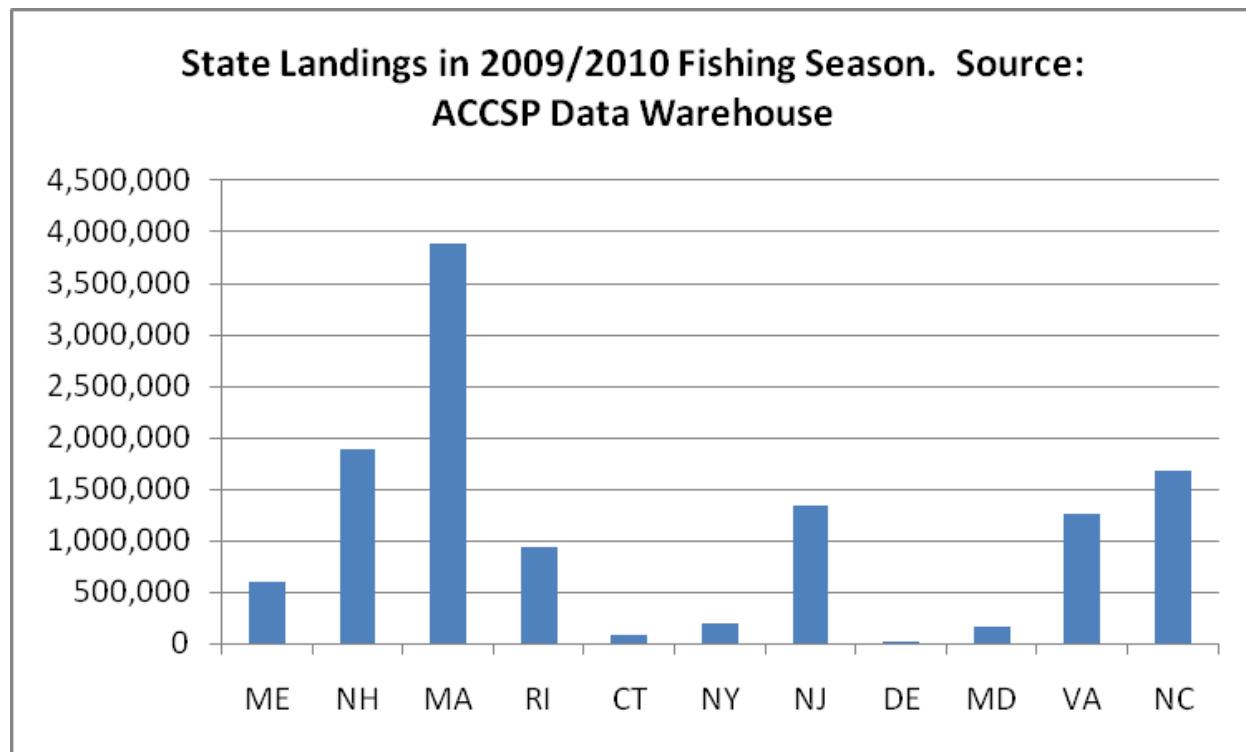
¹ Atlantic States Marine Fisheries Commission Addendum IV to the Interstate Fishery Management Plan for Spiny Dogfish August 2012

² Source: Atlantic States Marine Fisheries Commission Addendum III to the Interstate Fishery Management Plan for Spiny Dogfish. August 2011.

³ Source: ASFMC 2011. Review Of The Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Spiny Dogfish (*Squalus acanthias*) May 2009 – April 2010 Fishing Year. August 2011.

Table 2: Allocation of State Spiny Dogfish Landings & Allocation 2011 / 12

Region/State	Landings	% Allocation	2011/2012 Allocation (Pounds)	Over+/Under- (Pounds) Negative Value Indicates Overage
Northern Region	12,504,506	58%	11,145,453	-1,359,053
NY	407,710	2.71%	538,698	+26,935
NJ	1,622,678	7.64%	1,521,170	-101,508
DE	30,670	0.90%	178,306	+3,915
MD	1,264,978	5.92%	1,228,091	+13,113
VA	2,236,660	10.80%	2,148,224	-88,435
NC	2,717,708	14.04%	2,738,552	+20,844

Source: ASFMC 2012⁴**Figure 3: State Commercial Landings in 2009 / 10**Source: ASMFC 2011⁵⁴ *ibid*⁵ ASFMC 2011. Review Of The Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Spiny Dogfish (*Squalus acanthias*) May 2009 – April 2010 Fishing Year. August 2011.

The conclusion that at the current level of activity the five additional States would represent a limited increase in the total supply of certified catch is confirmed by Figure 3.

5. EVALUATION PROCEDURES

5.1 Harmonised Fishery Assessments

Currently, no other spiny dogfish fisheries in the Atlantic are being assessed against the MSC standard.

5.2 Previous Assessments

The US spiny dogfish fishery was certified as sustainable in August 2012 (http://www.msc.org/track-a-fishery/fisheries-in-the-program/certified/north-west-atlantic/us_atlantic_spiny_dogfish).

5.3 Methodology

Following the MSC certification requirements, the potential for the variation was assessed through desk research by the three members of the original assessment team. We reviewed the certified fishery to identify any areas of concern regarding the potential to extend the scope of the certification to the fisheries in five additional States. We emphasise that the purpose of this report is not to audit the original decision to certify the fishery.

6. IMPACT OF EXTENSION ON PRINCIPLE 1 PERFORMANCE INDICATORS

Principle 1 scored 84.4 for UoCs in the main assessment and no performance indicator scored less than 80; hence there were no conditions. In the initial process, stakeholders were concerned about stock status, particularly given the relatively recent recovery of the stock and issues related *inter alia* to the perceived skewed sex ratio, the potential for the stock to decline in the short to medium term due to weak year classes moving through the fishery, the age structure and the harvest strategy including differences between Federal and State fishery management. Each of these issues was reviewed in depth during the assessment, with the findings included in the Public Comment Draft Report confirmed in subsequent versions in response to detailed stakeholder comments. Given the low relative importance of the spiny dogfish catch associated with landings in the five States, it would seem plausible to conclude that they have a marginal impact on the overall status of the stock in US waters. The stock assessment already includes catches from all sources, including the five states.

The most recent findings on the stock⁶ noted:

- “US landings increased by 74% between 2010 and 2011 to 9,480 mt. Canadian landings declined from by 93% to 113 mt in 2009, dropped to only 6 mt in 2010 but returned to 124 mt in 2011. The recreational, Canadian and foreign fleets in 2011 collectively accounted for only 299 mt.
- Total discards in 2011 increased from 10,584 in 2010 to 12,264 in 2011. (+16%). Total dead discards increased from 4,081 to 4,787 mt (+17%). Total discards in US otter trawl fleet in 2011 accounted for most of the increase in total (+976 mt) and dead (488 mt) discards. Sink gill net discards of 2,831 mt increased slightly from 2010 values but represented a substantial decrease from the 2007 to 2009 average of 4,957 mt. The ratio of dead discards to landings in 2011 of 0.49 is the lowest value since the closure of the fishery in 2000. These data suggest a general improvement in the utilization of the spiny dogfish resource (i.e. landings/catch).

⁶ Update on the Status of Spiny Dogfish in 2012 and Initial Evaluation of Harvest at the Fmsy Proxy Paul Rago and Katherine Sosebee Northeast Fisheries Science Center National Marine Fisheries Service Mid Atlantic Fishery Management Council Science and Statistical Committee September 19, 2012 Last Update: September 19, 2012. http://www.mafmc.org/meeting_materials/SSC/2012-09/2012_Status_Report_and_Projections_draft.pdf

- Survey abundance for 2012 increased sharply. Point estimates among highest on record for all size ranges and by sex. The raw 3-yr average of Female SSB swept area biomass increased to 241,000 mt in 2012 from 174,200 mt in 2011. Pup Production was among the highest since 1968.
- All female spawning stock biomass estimates since 2009 have exceeded the biomass reference point. Therefore, the stock is not overfished and is rebuilt. Stochastic model estimates of median female spawning stock biomass in 2012 was 215,444 mt. The probability of stock size being below the SSB target is less than 13%. The sampling distribution of SSB in 2012 suggested that the probability of SSB being below the SSB threshold is near zero.
- Estimated fishing mortality rates in 2010 and 2011 were 0.093 and 0.114 respectively. Sampling distributions for both F estimates suggested almost no chance that the fishing mortality threshold rate was exceeded. In the mid 1990's F on fully recruited spiny dogfish was about 2 to 4 times greater than contemporary rates. Moreover, a greater fraction of the mature female population was vulnerable to fishing mortality in the earlier period. The reduced rate of fishing mortality and shift in selectivity led to major reductions in the overall force of mortality on the population. Fishing mortality rates on male dogfish are negligible (<0.01).
- Projections provide guidance on projected landings, probabilities of overfishing and probabilities of falling below SSB targets and thresholds. A common feature of this projection and earlier updates is the oscillation in future stock sizes induced by the stanza of low recruitment between 1997 and 2003. Higher rates of fishing mortality tend to induce greater declines in abundance and a greater chance that the population will fall to levels requiring rebuilding measures. These future oscillations have important implications for selection of contemporary harvest policies, especially with respect to variability of landings streams and the risk of introducing measures to reduce overfishing or rebuild the stock. Given the state of the resource in 2012, it appears that the likelihood of falling below the threshold biomass level is relatively low when fishing at F_{msy} . However, this conclusion assumes that selectivity patterns remain constant over time.
- The median of the Overfishing Limit (OFL) for 2013 is 31,063 mt, an increase of about 24% over the median OFL of 25,131 mt in 2012. The 90% confidence interval for the 2013 OFL is 22,058 to 40,079 mt. Assuming the same ratio of landings to total catch as in recent years, the corresponding confidence interval on landings would be 13,428 to 26,725 mt".

We conclude that the addition of the five states would have no impact on the findings of the main assessment.

7. IMPACT OF EXTENSION ON PRINCIPLE 2 PERFORMANCE INDICATORS

7.1 Overall Outcome

The P2 scores for each of the six UoC were - Federal: Trawl 81.3; Gill Net 81.0; & Long Line 81.3. State: Trawl 81.3; Gill Net 81.0; & Long Line 81.3

Both gill net UoC failed to achieve a score of 80 on three PI: 2.1.1 Retained Species Outcome; 2.1.3 Retained species Information; & 2.3.3 ETP Species Information

The two conditions relating to the remaining four UoC were the same as the two latter ones for gill nets.

7.2 Retained Species

There is no reason to consider that the data used to identify by-catch species (retained and discarded) (table 6 in the report) in the main assessment would differ in the five other States.

The main retained species in the gill net fishery were identified as winter skate, Atlantic cod and pollock. The condition on PI 2.1.1 for the gill net fishery responded to the status of Atlantic cod in the Gulf of Maine which stretches as far south as Cape Cod in Massachusetts. In Federal waters, of the five States

only Connecticut falls within the remit of the NEFMC (the others fall under MAFMC). It is considered safe to assume that vessels landing into the five States will have little to no impact on the stock in that fishing area.

The management strategy in each of the States is the same as that described in the main assessment where each of the UoC achieved a score of 80 or 85. Similarly, it can be concluded that the information for each is the same. The common issue in the scoring rational of the main assessment was the inability to differentiate between landings that were from catches in Federal waters as opposed to those in State waters and the need to construct data *a posteriori*. There is the same situation in the five States.

We conclude that the addition of the five states would have no impact on the findings of the main assessment.

7.3 By-catch Species

No main by catch (discarded) species were identified for the 6 certified UoC and it is highly unlikely that the situation will be any different in the five candidate States.

We conclude that the addition of the five states would have no impact on the findings of the main assessment.

7.4 ETP Species

In the main assessment, a broad range of ETP species were identified as being found within the range of the fishery: North Atlantic Right whale; Humpback whale; Fin and Sei whales; Loggerhead sea turtle; Leatherback sea turtle; Kemp's ridley sea turtle; Green sea turtle; Harbor porpoise; and Bottlenose dolphin.

No other species were identified when landings in the added States were considered. Thus the findings of PI2.3.1 may be considered as being the same; while the management of ETP species is across-the-board in all States.

For PI 2.3.3.(Information) for all UoCs, it was found that the three scoring issues of SG60 were met: the information is adequate to broadly understand the impact of the fishery on each and to support measures to manage the impacts; it is also sufficient to qualitatively estimate the fishery related mortality of each of the species. The information is also sufficient to determine whether the fishery may be a threat to protection and recovery of each of the species, to measure trends and to support a full strategy to manage impacts, as demonstrated by the numerous reports on ETP species and by the FMPs and measures in place. As such, the first scoring issue of SG 80 was met. Sufficient data are not available to allow fishery related mortality and the impact of fishing to be quantitatively estimated. As such, the second scoring issue of SG80 was not met. The issue was related to the difficulty in assigning interactions to a specific fishery or UoC. Given the nature of the information available, none of the scoring issues of SG100 were met. The overall score was thus 65.

Towards the end of the main certification, Atlantic Sturgeon (*Acipenser oxyrinchus oxyrinchus*) was classified as an endangered species by the National Oceanic and Atmospheric Administration Fisheries Service under the Endangered Species Act. One distinct population segments (Gulf of Maine) was classified as threatened while four (New York Bight, Chesapeake Bay, Carolina and South Atlantic) are considered endangered.

We responded to stakeholder concerns expressed in various comments to the PCDR; acknowledging the potential risks the population of Atlantic Sturgeon. On that basis we required an expedited first annual audit of the fishery, as provided for under MSC Certification Requirements.

As yet there is no recovery plan for the species (<http://www.nmfs.noaa.gov/pr/species/esa/fish.htm>) and there is no indication of when one may be available. Until there is, it is difficult to confirm the timing of any expedited audit, but as matters now stand we consider that June 2013 would be the most appropriate. The extension of the scope to the five States does not have any impact upon these findings.

We conclude that the addition of the five states would have no impact on the findings of the main assessment.

7.5 Habitat

In the main assessment no evidence was presented on the situation off individual States, rather a global view was taken of the region with analysis highlighting the approach to habitat protection by National and Regional authorities e.g. NMFS, NEFMC, MAFMC and AFMFC. If the five States had been included the analysis would not have been changed. The situation is the same for the three performance indicators.

WE conclude that the addition of the five states would have no impact on the findings of the main assessment.

7.6 Ecosystem

Similar to habitat, no evidence was presented on the situation off individual States; rather a global view was taken of the region. The main assessment reported: "*The general concept of ecosystem-based fishery management, the type of information available for the Northeast Continental Shelf and the factors to consider are described in "Ecology of the Northeast Continental Shelf – Toward an Ecosystem Approach to Fisheries Management" published by the NEFSC Fisheries Science Center and NOAA/NMFS (www.nefsc.noaa.gov/ecosys/Ecosystems.pdf).*

SD is known for its opportunistic feeding behaviour. SD feeds primarily on bony fish, also molluscs, crustaceans and other invertebrates. As reported by ASMFC 2002, "Bowman et al. (1984) provided an extensive examination of the SD diet, with samples collected from shelf waters of the NW Atlantic Ocean during the period 1969-1983. The area studied included continental shelf waters extending from Cape Hatteras, NC to Browns Bank, Nova Scotia. The stomach contents of 10,167 SD were examined during this period (about 50% of the stomachs were empty). Fish was the single most important prey item in the diet of SD. Herrings (several species), Atlantic mackerel, American sand lance, and codfishes, including species such as Atlantic cod, haddock, silver hake, red hake, white hake and spotted hake were some of most important prey items identified. Other important contributors to the diet of SD included Loligo and Ilex squid, ctenophores, crustaceans (Principally decapod shrimp and crabs) and bivalves (Principally scallop viscera)."

The ecological importance of SD is not known with any certainty, but if it is as abundant as is commonly assumed, the species may represent a significant component of the coastal marine ecosystem (Bundy A., 2003). As stated in ASFMC 2002: "SD are potential competitors with virtually every marine predator within the NW Atlantic Ocean ecosystem. Potential competitors include a wide variety of predatory fish, marine mammals and seabirds." The situation is the same for the three performance indicators.

We conclude that the addition of the five states would have no impact on the findings of the main assessment.

8. IMPACT OF EXTENSION ON PRINCIPLE 3 PERFORMANCE INDICATORS

The five states belong to the ASMFC that coordinates the conservation and management of the 15 member States shared near shore fishery resources for sustainable use, while the Federal fishery is

managed by NMFS, MAFMC and NEFMC. Management of the Federal fishery for spiny dogfish is led by MAMFC.

The ASMFC spiny dogfish specification for the fishing year 2012 / 13 is shown in the box below; note that the State and Federal specifications are consistent.

In the most recent addendum to the State FMP for spiny dogfish of August 2012⁷ three issues were covered:

- “Quota Rollover. The Board maintains the status quo: a maximum total quota rollover for any state or region may not exceed 5% of that state or regions final allocation (including transfers).
- *Fishing Mortality Threshold. The Board adopts the fishing mortality threshold to be consistent with the federal plan. The Fthreshold is defined as Fmsy (or a reasonable proxy thereof) and based upon the best available science. The maximum fishing mortality threshold (Fmsy) or a reasonable proxy may be defined as a function of (but not limited to): total stock biomass, SSB, total pup production, and may include males, females, both, or combinations and ratios thereof which provide the best measure of productive capacity for spiny dogfish. This definition is consistent with the federal Spiny Dogfish FMP. Currently Fmsy = 0.2439. Overfishing is defined as an F rate that exceeds the Fthreshold.*
- *Fishing Mortality Target. The Board retains the authority to set an Ftarget based on the TC's recommendations. While the federal plan does not specify an Ftarget and quotas are calculated based on Fmsy, specifying an Ftarget can provide a level of catch that accounts for management and scientific uncertainty to help prevent overfishing. The Board is not required to specify an Ftarget and if specified, an Ftarget would apply to one fishing season only. The TC will annually make an Ftarget recommendation when it develops quota. The Board is not required to implement the TC recommended Ftarget and can choose to not specify an Ftarget instead”*

Basic information for the five States is:

- **Connecticut.** The Connecticut Department of Energy and Environmental Protection (DEEP) is charged with conserving, improving and protecting the natural resources and the environment of the state of Connecticut. Of the sections, the Environmental Conservation Branch consists of two bureaus one of which is the Bureau of Natural Resources is charged with managing the state's natural resources (particularly fish, wildlife, and forests) through a program of regulation, management, research, and public education.⁸ Fisheries are covered in Chapter 490⁹ of the State Statutes. The Commissioner of Environmental Protection enforces all of the laws relating to fish and wildlife of the state.
- **New York.** The New York State Department of Environmental Conservation (DEC) covers all state programs designed to protect and enhance the environment and has a mission: “To conserve, improve and protect New York's natural resources and environment and to prevent, abate and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well-being. DEC's goal is to achieve this mission through the simultaneous pursuit of environmental quality, public health, economic prosperity and social well-being, including environmental justice and the

⁷ Atlantic States Marine Fisheries Commission ADDENDUM IV TO THE INTERSTATE FISHERY MANAGEMENT PLAN FOR SPINY DOGFISH <http://www.asmfc.org/>

⁸ http://www.ct.gov/dep/cwp/view.asp?a=2690&q=322476&depNav_GID=1511

⁹ http://search.cga.state.ct.us/dtsearch_pub_statutes.html

MEMORANDUM

May 23, 2012

TO: Spiny Dogfish and Coastal Sharks Management Board
FROM: Robert Beal, ISFMP Director *RBE*
SUBJECT: 2012/2013 Spiny Dogfish Specifications

During the Spring ASMFC Meeting Week, The Spiny Dogfish and Coastal Sharks Management Board (Board) increased the 2012/2013 spiny dogfish quota from 30 to 35.694 million pounds. The increase in quota is consistent with recommendations of the ASMFC Technical Committee and Mid-Atlantic Fishery Management Council Spiny Dogfish Monitoring Committee. The Board had previously set a maximum 3,000 pound possession limit for states in the Northern Region (Maine – Connecticut). States from New York – North Carolina may set limits to manage their state-shares as best meets their needs.

On May 22, 2012, NMFS published their final 2012/2013 commercial spiny dogfish specifications to establish a 35.694 million pound quota with 3,000 pound possession limits in federal waters. State and federal commercial spiny dogfish specifications are now consistent for the 2012/2013 fishing season.

Addendum III to the Spiny Dogfish FMP allocates the annual quota regionally, with 58% to states from Maine – Connecticut, 2.707% to NY, 7.644% to NJ, 0.896% to Delaware, 5.920% to Maryland, 10.795% to Virginia, and 14.036% to North Carolina; requires that overages are paid back the following fishing season by region or state; and allows for up to 5% of a region or state's quota to be rolled over into the subsequent fishing season.

The 2012/2013 preliminary ASMFC spiny dogfish quotas, adjusted for overages and rollovers from the 2011/2012 fishing season, are listed in the following table. States were allowed to open their fisheries on May 1, 2012, when the new fishing season began. Fishermen should consult their local jurisdictions for state and federal dogfish regulations, prior to catching dogfish.

empowerment of individuals to participate in environmental decisions that affect their lives".¹⁰

The body of law that established DEC and authorizes its programs is the Environmental Conservation Law. Compliance is the responsibility of Environmental Conservation Officers.

- **Pennsylvania.** The Pennsylvania Fish and Boat Commission is the responsible fisheries agency.¹¹
- **Delaware.** The Fisheries Section of the Division of Fish and Wildlife "works to enhance and protect Delaware's fish and aquatic resources and is responsible for conducting fisheries research, resource monitoring, and the collection of biological information on marine fisheries. The information collected is then analysed and used to determine the need for any changes to seasons, size limits or quotas". Title 7 of the Delaware Code covers Conservation and fisheries.

¹⁰ <http://www.dec.ny.gov/24.html>

¹¹ <http://www.fish.state.pa.us/>

There is a Division of Fish & Wildlife Enforcement Section. The 2011 Annual Report indicates that there were no enforcement issues in the spiny dogfish fishery.

- **Maryland.** The Department of Natural Resources is the responsible fisheries agency.¹² The Natural Resources Police are charged with enforcement; conducting administrative inspections of commercial fishing vessels, vehicles used to transport fish for commercial purposes, and fish businesses.

Since the time of the certification, the main issue determined at the Federal level was in early October, 2012¹³ when the Council's SSC reviewed the latest stock status update and staff memorandum on spiny dogfish and determined the overfishing limit and acceptable biological catch for the 2013-2015 fishing years (table 3). Details of their recommendation are in the SSC Report.¹⁴

Table 3: Federal Spiny Dogfish: OF and ABC FY 2013 - 15

Management Measure	Basis	Metric Tons	Millions lbs
OFL ₂₀₁₃	F _{m_{sy}} = 0.2439	30,652	67.576
ABC ₂₀₁₃	F = 0.19528	24,709	54.474
ABC ₂₀₁₄	F = 0.19528	25,154	55.455
ABC ₂₀₁₅	F = 0.19528	25,057	55.241

The Council's Spiny Dogfish Monitoring Committee received the update from the SSC and identified ACL, ACT and an upper limit on the commercial quota for 2013-2015 (table 4). The Monitoring Committee did not recommend a specific trip limit but recognized that any increase in the trip limit may result in fishery closure before the end of the fishing year. The MC meeting summary¹⁵ provides the basis for the quota recommendations.

Table 4: Federal Upper Limit of Commercial Quota 2013 -15

Year	Metric Tons	Millions lbs
2013	18,526	40.842
2014	18,953	41.784
2015	18,860	41.578

We have not identified any specific enforcement and compliance problems related to the spiny dogfish fishery in any of the five States.

The situation is the same for the nine performance indicators.

We conclude that the addition of the five states would have no impact on the findings of the main assessment.

¹² <http://www.dnr.state.md.us/>

¹³ <http://www.mafmc.org/fmp/dogfish/dogfish.htm>

¹⁴ http://www.mafmc.org/committees/SSC/Sept_2012_SSC_Meeting_Report.rev.pdf

¹⁵ http://www.mafmc.org/fmp/dogfish/MC_Summary-2012-10-04.pdf

9. STAKEHOLDER CONSULTATION

On 8 November, 2012 the following email was sent to all identified stakeholders. No responses were received.

From: Ian Scott Intertek
Sent: Thursday, November 08, 2012 11:16 AM
To: 'cvonderweidt@asmfc.org'; 'rbeal@asmfc.org'; 'info@asmfc.org'; 'scb@seatrade-international.com'; 'zeuspacking@verizon.net'; 'louis@marderbrands.com'; 'mark.alexander@ct.gov'; 'syoung@hsus.org'; 'sonjaviveka@gmail.com'; 'smcgee@environmentaldefense.org'; 'pldefur@igc.org'; 'mcamhi@audubon.org'; 'glen@midcoastfishermen.org'; 'david.pierce@state.ma.us'; 'jimfair@comcast.net'; 'ripc@comcast.net'; 'rodavila@comcast.net'; 'johnp@ccchfa.org'; 'george.darcy@noaa.gov'; 'jarmstrong@mafmc.org'; 'hjgbking@verizon.net'; 'mluisi@dnr.state.md.us'; 'mbtooley@roadrunner.com'; 'trawlers@maine.rr.com'; 'terry.stockwell@maine.gov'; 'red.munden@ncmail.net'; 'ppate@ec.rr.com'; 'jwheatly@hotmail.co m'; 'francesflt@aol.com'; 'cbat@comcast.net'; 'erlingberg99@yahoo.com'; 'peter.himchak@dep.state.nj.us'; 'Paul.Rago@noaa.gov'; 'swheins@gw.dec.state.ny.us'; 'paugustine3@verizon.net'; 'fishearlybird@cox.net'; 'mark.gibson@de m.ri.gov'; 'cbangley@gmail.com'; 'jack.travelstead@mrc.virginia.gov'; 'Clark.Gray@nccnrc.gov'; 'Catherine.Blum@nccnrc.gov'; 'Brian Marder'; 'fowler.sarah.123@gmail.com'; 's.thanheiser@t-online.de'; 'Dr.A.Keppeler@web.de'; 'Heike Finke'; 'Onnogross@aol.com'; John F. Whiteside (JFW@mickelsonbarnet.com); 'syoung@humane society.org'
Cc: 'Rivardd@gmail.com'; 'Kulka,Dave(Dave.Kulka@dfo-mpo.gc.ca)'; PaulKnapmanIntertek; 'Maylynn.Nunn@msc.org'; 'Jay Lugar (Jay.Lugar@msc.org)'; Megan Atcheson (megan.atcheson@msc.org)
Subject: Proposed extension of scope to the MSC certification of US Spiny Dogfish

Dear All

The United States Atlantic Fishery for Spiny Dogfish (*Squalus acanthias*) was certified in August 2012. Certification covers landings from Federal waters and seven of the twelve Atlantic states where there is commercial fishing activity for the species using trawl, gill net and long line. The certification has increased the awareness, understanding and interest of the commercial fishermen in the remaining five States and the client wishes to extend the list of fishing operators eligible to share the certificate.

The MSC certification requirements' (CR) para. C27.4.2 notes "The CAB shall confirm the proposed unit of certification for the assessment to include: 27.4.2.1 The target stock (s); 27.4.2.2 The fishing method or gear; and 27.4.2.3 Practice (including vessels) pursuing that stock".

Further, in para C27.4.3 "The CAB shall note that once defined, the unit of certification cannot be changed during the assessment without approval from the MSC, using the variation process".

Since the potential extension of the fishing operators covered by the certificate applies to the same species, fishing areas and fishing gears that were assessed and certified, this extension would: consolidate the fish catching group with regard to implementation of MSC certification requirements; support the integrity of the fishery assessment; allow the marketable amount of MSC certified product from this fishery to be maximized; reduce the potential for mixing of certified with non-certified product; and reduce the cost of certification per unit of landed product.

Following a request from the client and consultation with the MSC Intertek Moody proposes to analyze the implications of extending the units of certification to the five states, with a report that assesses the situation in the context of the three Principles. The output of the analysis would either; (i) confirm with appropriate justification that the widening of scope will not impact or alter the scoring of the fishery; or (ii) identify where the widening of the scope would lead to a change in the scoring of the individual PIs with the setting of new conditions (with related client action plan) as required.

The assessment team's report will be posted on the MSC web site to provide stakeholders with the formal opportunity to respond to the findings. At this stage, we invite stakeholders to provide us with their opinion on the proposed widening of the scope. We would anticipate posting the completed report by the end of November, 2012.

Sincerely
Ian

10. TRACEABILITY

10.1 Eligibility Date

Following consultation with the client the Target Eligibility Date for products from the added States (if and when added to the scope of the certificate) to carry the MSC logo, has been reviewed. The original eligibility date for the certified fishery was 11 June 2012. We concluded that the most logical date for the extended fisheries would be August 8 – i.e. 6 months prior to the extension of scope of the certificate. The Actual Eligibility Date is therefore 8 August 2012.

10.2 Chain of Custody

For fish landed in the added States, the requirements regarding Chain of Custody will be the same as those pertaining to the current UoCs.

"Any landings by vessels licensed to fish spiny dogfish using any of the gears covered and landing into the certified States are eligible to enter the chain of custody. The names of vessels licensed are too numerous to be included in an annex (see annex 5) but may be cross checked against official records – see <http://www.nero.noaa.gov/permits/data/>. Chain of Custody will commence following landing of the fish by an eligible vessel. The list of landing places is also numerous and must be defined as any landing place in the States covered by the certificate that are approved for landing by Federal and State Authorities. The list of permitted dealers found at <http://www.nero.noaa.gov/permits/data/> shows the base port.

Products landed by any of the vessels listed and landed in the certified States are eligible to enter further chain of custody. The sale of certified spiny dogfish is limited to members of the client group.

Where a member of the client group purchases spiny dogfish directly from a licensed fishing vessel in the States covered by the certification, the chain of custody begins with the client company that shall establish the procedures necessary to ensure separation of certified product with non-certified product that may be transported on the same truck. In the case that a member of the client group buys fish through an intermediary then the intermediary must be certified according to the MSC chain of custody standard. This includes off-loaders that take ownership of the product i.e. they invoice the member of the client group for the product including the off-loading service. Where the off-loader only invoices the member of the client group for the service, the off loader will be covered if listed as sub-contractor in the processing company's chain of custody certificate. This is the same case as with the transport company (see MSC CR 17.1.2.4, 17.1.2.5 and 27.12.2.1).

Where fish is trans-shipped at sea the receiving vessel must be certified according to the MSC chain of custody with records to show the origin of the trans-shipped fish and proof that it was harvested by a certified vessel. In the event that the receiving vessel does not have chain of custody certification then that vessel will not be able to land any certified product".

11. CONFIRMATION OF SCORING TABLES

With the inclusion of the five States, the scores for each Principle would remain the same as in the main certification (Table 5).

Table 5: Overall weighted Principle-level scores

US Federal Waters: Gill Net	
Principle 1 - Target species	84.4
Principle 2 - Ecosystem	81.0
Principle 3 – Management	91.3

US Federal Waters: Long Line	
Principle 1 - Target species	84.4
Principle 2 - Ecosystem	81.3
Principle 3 – Management	92.8
US Federal Waters: Trawl	
Principle 1 - Target species	84.4
Principle 2 - Ecosystem	81.3
Principle 3 – Management	92.8
US State Waters: Gill Net	
Principle 1 - Target species	84.4
Principle 2 - Ecosystem	81.0
Principle 3 – Management	91.8
US State Waters: Long Line	
Principle 1 - Target species	84.4
Principle 2 - Ecosystem	81.3
Principle 3 – Management	92.3
US State Waters: Trawl	
Principle 1 - Target species	84.4
Principle 2 - Ecosystem	81.3
Principle 3 – Management	92.3

12. CERTIFICATION RECOMMENDATIONS

The requested extension of MSC certification to cover landings into the five States of Connecticut, New York, Pennsylvania, Delaware and Maryland does not affect the scores of the three Principles that were the output of the main assessment process. The conditions identified in the Public Certification Report remain the same. It is therefore recommended that the scope of the certification of THE UNITED STATES ATLANTIC FISHERY FOR SPINY DOGFISH (*Squalus acanthias*) be extended to cover the State and Federal Fisheries in the five States using trawl, gill net and long line. This would lead to the certified fishery as shown in Table 6.

Table 6: The Certified Fishery: Recommended Position

Species/Stock	Area	Gear	Management
Spiny Dogfish	US Federal Waters	Gill Net	NMFS/ MAFMC/ NEFMC
		Long Line	
		Trawl	
	State Waters: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina	Gill Net	ASMFC
		Long Line	
		Trawl	