

November 14, 2014

Margo Schulze-Haugen  
Highly Migratory Species Division  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910



Dear Ms. Schulze-Haugen:

Shark Advocates International, Humane Society of the United States, Project AWARE, and Wildlife Conservation Society appreciate this opportunity to comment on the National Marine Fisheries Service (NMFS) proposed rule on Draft Amendment 9 to the Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) to implement provisions of the Shark Conservation Act (SCA) with respect to smoothhound sharks (*Mustelus* spp.), and to establish fishing limits and other management measures for this heavily fished species.

### Overview

We have long been concerned about the lack of basic safeguards in place to prevent finning and overfishing of smoothhound sharks, especially given that this species ranks second by volume in U.S. shark landings. We strongly support prompt action to establish smoothhound management measures, including requirements for:

- closing the fishery when landings reach, or are expected to reach, 80 percent of the quota;
- dealer permits in order to purchase smoothhound sharks;
- dealers to report smoothhound shark purchases;
- commercial and recreational permits for smoothhound fishing and retention;
- selected vessels fishing for smoothhound sharks to carry an observer;
- vessels fishing for smoothhound sharks to comply with applicable Take Reduction Plans pursuant to the Marine Mammal Protection Act;
- commercial vessels to sell catch only to federally-permitted shark dealers; and
- minimizing mortality of sea turtles, marine mammals, and/or smalltooth sawfish through a 24 hour soak time limit for sink gillnet gear, and a two-hour net check requirement for drift gillnet gear used in the Atlantic shark and smoothhound shark fisheries.

We strongly object to proposals that would substantially raise the original smoothhound quota set forth in Amendment 3, as well as any measures that would allow smoothhound fins to be removed at sea. Our concerns about these two topics are detailed below.

## Limiting Catches

Our organizations support Alternative B4 that would establish a commercial smoothhound shark quota consistent with the population assessment, if that advice is available in time for implementation. If the assessment is not complete by that time, we support Alternative B1 that would set the quota at 715 mt, as planned in Amendment 3 to serve as a cap on landings. We oppose the preferred Alternative B3, which would allow an additional 1,000 mt of smoothhound landings (recent maximum annual landings plus two standard deviations or 1,740 mt). While we are pleased that the smoothhound population assessment is well underway, we feel strongly that its preliminary positive signals do not justify a risk-prone quota in the meantime.

## Preventing Shark Finning

With respect to measures aimed at preventing the wasteful practice of shark finning (slicing off a shark's fins and discarding the body at sea), we stress the need to minimize the potential for loopholes, and therefore strongly support Alternative A1: require smoothhounds be landed with fins naturally attached.

As detailed in a 2010 report<sup>1</sup> from the European Elasmobranch Association (EEA) and the International Union for Conservation of Nature (IUCN) Shark Specialist Group, under such a policy:

- Enforcement burden is greatly reduced;
- Information on species and quantities of sharks landed is vastly improved;
- "High-grading" (mixing bodies and fins from different animals) is impossible; and
- Value of the finished product can be increased.

The study concluded that:

- Prohibiting the removal of fins on-board vessels is the *"only fail-safe, most reliable, least expensive means to prevent finning and measure compliance."*

A 2007 expert study<sup>2</sup> on enforcing finning bans concluded that a fin-to-carass ratio is a complicated and inadequate tool for preventing finning because of differences in cutting techniques and variability among species' fin sizes and values.

Furthermore, the 12% fin-to-carass ratio established in the SCA is more than twice the limit used previously in U.S. fisheries and has little scientific basis. A comprehensive 2005 study of such fin-to-carass ratios for 14 shark species conducted by NMFS, the University of Florida, and the Florida Fish & Wildlife Research Institute calculated the smooth dogfish fin-to-dressed-carass ratio at 3.51%<sup>3</sup>. The higher the ratio, the greater the room for undetected finning.

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<sup>1</sup> Fowler, S. and Séret, B. 2010. *Shark fins in Europe: Implications for reforming the EU finning ban*. European Elasmobranch Association and

<sup>2</sup> Hareide, N. R., Carlson J., Clarke, M., Clarke, S., Ellis, J., Fordham, S., Fowler, S., Pinho, M., Raymakers, C., Serena, F., Seret, B. and Polti, S. (2007). *European Shark Fisheries: a preliminary investigation into fisheries, conversion factors, trade products, markets and management measures*. European Elasmobranch Association.

<sup>3</sup> Baremore I.E., B. Winner, N. Kohler, and J. Mello. 2005. Differences in the ratios of fin to carcass weight among fourteen species of sharks. Joint Meeting of Ichthyologists and Herpetologists, 21st annual meeting of the American Elasmobranch Society, Tampa, Florida, USA, 6-11 July 2005 (abstract and presentation).

Fin-to-carcass ratios have been addressed in a number of peer-reviewed technical studies in recent years. Notably, in April 2012, the *Journal of Fish Biology* published a special issue on “The Current Status of Elasmobranchs: Biology, Fisheries and Conservation” that includes a University of British Columbia Fisheries Centre global review of species-specific fin to body weight ratios and relevant legislation<sup>4</sup>. Authors report that:

- Mean and median wet fin to body mass ratios were 3% and 2.2%, respectively;
- A 5% ratio is too high and provides “*an opportunity for fishers to harvest extra fins from more sharks without retaining all of the corresponding shark carcasses*”;
- Generalized fin-to-carcass ratios present a “*dangerous loophole*”;
- Species and/or fleet-specific ratios are not a practical solution due to difficulties associated with high-grading and accurate species identification;
- Requiring all sharks be landed with fins attached is the best way to close finning loopholes, and makes it is “*easier for trained observers at landing sites to record the number, mass and species of sharks landed, making data collection and monitoring more straightforward and accurate.*”

The above-mentioned analyses back up the ultimate conclusion of a 2006 assessment of fin-to-carcass ratios<sup>5</sup> produced by NMFS scientists for the International Commission for the Conservation of Atlantic Tunas:

- “*The only guaranteed method to avoid shark finning is to land sharks with all fins attached.*”

As you well know, because of these advantages, NMFS prohibited at-sea shark fin removal in the Atlantic in 2008, long before SCA adoption, and in the accompanying rulemaking process summarized associated benefits: “*This requirement will improve enforcement, species identification, data quality for future stock assessments, and further prevent the practice of shark finning.*”

It is important to note that smooth dogfish fins, although not highly valued for shark fin soup, are exported to Asia in substantial amounts. In fact, studies of Hong Kong fin trade auctions found that 39% of fins by weight were from small, undifferentiated sharks, including dogfish<sup>6</sup>. Smooth dogfish fins in particular have been shown to retail for \$160/kg in Singapore markets<sup>7</sup>.

The possibility for undetected finning under an excessive ratio limit is not restricted to smooth dogfish. In the Final Environmental Impact Statement for Amendment 3 to the Atlantic Highly Migratory Species Fishery Management Plan, NMFS stated that requiring smooth dogfish fins to remain naturally attached to the carcass was necessary to facilitate enforcement and species

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<sup>4</sup> Biery, L. and Pauly, D. (2012). A global review of species-specific shark fin to body weight ratios and relevant legislation. *Journal of Fish Biology*. DOI: 10.1111/j.1095-8649.2011.03215.x

<sup>5</sup> Cortes, E. and Neer, J. A. (2006). Preliminary reassessment of the validity of the 5% fin to carcass weight ratio for sharks. *ICCAT Collective Volume of Scientific Papers* 59, 1025–1036.

<sup>6</sup> Clarke, S., unpublished data.

<sup>7</sup> Clarke, S. 2005. Trade in Shark Products in Singapore, Malaysia & Thailand. Southeast Asian Development Center and ASEAN, Singapore.

identification, *“as the dressed carcass and detached fins of a smooth dogfish could be misidentified as a dressed carcass or detached fins of a SCS, juvenile LCS, or spiny dogfish.”* We stress that juvenile large coastal species, many of which are severely depleted and prohibited (e.g. dusky and sandbar sharks), are at great risk for finning from the opportunity and incentive to high-grade under a 12% smoothhound fin-to-carcass ratio.

Smoothhounds are regularly landed in east coast ports with their fins still attached. The technique of making a partial cut and folding fins against the shark’s carcass, perfected by U.S. Atlantic shark fishermen, is also an option for addressing industry concerns about safety and efficient storage.

We are also troubled by the strong possibility that making an exception to a national fins-attached requirement, particularly through the most lenient fin-to-carcass ratio in the world, will undermine U.S. efforts to promote best practices for shark conservation on a global scale. We greatly appreciate U.S. leadership in demonstrating the benefits of fins-naturally-attached policies and proposing their adoption by other key shark fishing nations and Regional Fishery Management Organizations (RFMOs). We trust you can appreciate our serious concern that exceptions to U.S. bans on at-sea shark fin removal jeopardize our nation’s reputation as a shark conservation champion, hurt our arguments for RFMO adoption of fins-attached requirements, and play into opposing efforts to weaken finning regulations in other nations.

Based on this information and for these reasons, we believe a smoothhound fin-to-carcass ratio would significantly harm finning ban enforcement, data collection, and shark conservation in this country and beyond. While recognizing that NMFS did not craft or support the SCA Savings Clause on smoothhounds, we urge the agency to make every effort to avoid such a scenario.

## Conclusion

We are pleased that – at long last – the age of unregulated fishing on the un-assessed U.S. Atlantic smoothhound shark population is coming to an end. We are eager, however, to ensure that initial management measures are strong enough to prevent both overfishing and finning. We look forward to the next steps in this process.

Thank you for considering our views.

Sincerely,



Sonja Fordham  
President  
Shark Advocates International



Merry Camhi, Ph. D.  
Director, New York Seascape Program  
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