

January 27, 2014

Tom O'Connell
Director, Fisheries Service
Department of Natural Resources
State of Maryland
580 Taylor Avenue
Annapolis, MD 21401



Dear Mr. O'Connell:

Shark Advocates International, Wildlife Conservation Society, National Aquarium, and the Humane Society of the United States appreciate this opportunity to comment on proposed regulations for sharks.

Overview

As strong supporters of shark conservation, our organizations appreciate the steps that the State of Maryland has taken to ensure its shark fisheries are sustainable and that shark finning (slicing off a shark's fins and discarding the body at sea) is prevented. With respect to the current proposals, we support measures to align Maryland state shark regulations with those adopted by the National Marine Fisheries Service (NMFS) under the Highly Migratory Species (HMS) Fishery Management Plan (FMP), including:

- Using "smoothhound" rather than "smooth dogfish" in reference to *Mustelus canis*;
- Raising the minimum recreational size for hammerhead sharks; and
- Establishing minimum recreational size limits for blacknose and finetooth sharks.

We also strongly support the requirement that sharks be landed with their fins still attached that Maryland has in place for most shark species, as this method is widely recognized as the best practice for finning ban enforcement. We must therefore oppose the proposed exception to this policy for smoothhound sharks, the main species taken in Maryland shark fisheries. The associated fin-to-carcass weight limit creates room for fishermen to fin smoothhounds or other shark species without detection, and can hinder the ability to collect accurate, species-specific catch data. Moreover, at more than double previous U.S. regulations, a ratio of 12% is exceptionally lenient and could hamper our country's international shark conservation goals. Our specific concerns about the smoothhound exception are outlined below.

Preventing Shark Finning: Best Practice

Shark finning, driven by high Asian market demand for shark fins, is associated with unacceptably high levels of waste and mortality. Most conservationists and scientists worldwide recommend the "fins naturally attached" method as the most reliable means for enforcing finning bans. As detailed in a 2010 report¹ 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; and
- "High-grading" (mixing bodies and fins from different animals) is impossible.

¹ Fowler, S. and Séret, B. 2010. *Shark fins in Europe: Implications for reforming the EU finning ban*. European Elasmobranch Association and IUCN Shark Specialist Group.

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.*”

This topic has 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 legislation². Authors report that:

- Mean and median wet fin-to-body mass ratios were 3% and 2.2%, respectively;
- A 5% ratio is too high, meaning that “*current legislation provides an opportunity for fishers to harvest extra fins from more sharks without retaining all of the corresponding shark carcasses*”;
- The generalized 5% ratio used in existing regulations presents 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 ratios³ produced for the International Commission for the Conservation of Atlantic Tunas (ICCAT):

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

International context

This type of advice and the numerous practical advantages associated with the fins-attached method led to the adoption of this policy for *all* other U.S. managed shark species, and for all sharks landed in Central America, much of South America, Sri Lanka, United Arab Emirates, and the European Union.

The U.S. has been a leader in demonstrating the benefits of fins-naturally-attached policies and has proposed their adoption by other key shark fishing nations and Regional Fishery Management Organizations, including ICCAT. The proposed ratio increase would make the Maryland fin-to-carcass ratio among the world’s highest and therefore most lenient fin:body limits, and would exacerbate all the problems associated with ratios at a time when stronger finning bans are being adopted across the globe. Weak finning bans for state waters and/or some U.S. species jeopardize our nation’s reputation and goals as an international shark conservation champion.

² 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

³ 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.

Federal Agency Regulations & Concerns

While we appreciate the desire to achieve consistency with federal water regulations (and regret the associated exceptions allowed by the Atlantic States Marine Fisheries Commission), we stress that the language in the Shark Conservation Act savings clause that suggests a 12% ratio for smoothhounds is still being interpreted by NMFS; the resulting Atlantic regulations have not yet been proposed, and it is not clear how this confusing and problematic text will be implemented for federal waters.

In the 2008 federal Atlantic fins-attached rulemaking process, NMFS summarized the benefits of the strategy: *"This requirement will improve enforcement, species identification, data quality for future stock assessments, and further prevent the practice of shark finning."*

Practical, Regional Concerns

We stress that not only small coastal sharks, but also juvenile large coastal species, many of which are severely depleted and prohibited, are at great risk for finning from the opportunity and incentive to high-grade under a 12% smoothhound fin-to-carcass ratio.

The Final Environmental Impact Statement for the NMFS HMS FMP Amendment 3 states that requiring smooth dogfish fins to remain naturally attached to the carcass is necessary to maintain consistency with other domestic shark regulations, and to facilitate enforcement and species 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"*. (SCS=small coastal shark, LCS = large coastal shark).

Smoothhounds are regularly landed in East Coast ports with their fins still attached. There is also the option to make a partial cut and folding fins against the body.

Last, we remind you that smooth dogfish are increasingly targeted and yet catches are still unregulated. This species therefore should be the last choice for exceptions to safeguards.

Conclusion

Based on this information and for these reasons, we find the proposal for a 12% smoothhound fin-to-carcass ratio ill-advised and problematic for state finning ban enforcement and data collection, and believe it can also lead to more widespread negative impacts for sharks and shark conservation policies. We strongly urge Maryland to reject the proposed ratio, and to instead work to end similar exceptions – and establish basic catch limits for this species -- at the state, East Coast, and federal level.

We also urge the State to finalize proposed regulations to align Maryland fishing regulations with those of the NMFS HMS FMP, including new minimum sizes as well as revised species names and groupings.

We look forward to the next steps in this process. Thank you for considering our views.

Sincerely,



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Shark Advocates International



Eric Schwaab
Senior Vice President & Chief Conservation Officer
National Aquarium



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