

Atlantic States Marine Fisheries Commission

Coastal Sharks Management Board

*May 5, 2016
10:15 – 11:00 a.m.
Alexandria, Virginia*

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

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|---|------------|
| 1. Welcome/Call to Order (<i>A. Nowalsky</i>) | 10:15 a.m. |
| 2. Board Consent | 10:15 a.m. |
| • Approval of Agenda | |
| • Approval of Proceedings from February 2016 | |
| 3. Public Comment | 10:20 a.m. |
| 4. Review and Consider Approval of Addendum IV for Public Comment
(<i>A. Harp</i>) Action | 10:30 a.m. |
| 5. Other Business/Adjourn | 11:00 a.m. |

The meeting will be held at The Westin Alexandria, 400 Courthouse Square, Alexandria, Virginia; 703.253.8600

Vision: Sustainably Managing Atlantic Coastal Fisheries

MEETING OVERVIEW

Coastal Sharks Management Board Meeting

May 5, 2016

10:15 – 11:00 a.m.

Alexandria, Virginia

Chair: Adam Nowalsky (NJ) Assumed Chairmanship: 10/14	Vice Chair: VACANT	Law Enforcement Committee Representative: Frampton
Coastal Shark Technical Committee Chair: Carolyn Belcher (GA)	Coastal Shark Advisory Panel Chair: Lewis Gillingham (VA)	Previous Board Meeting: February 3, 2016
Voting Members: ME, MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL, NMFS, USFWS (15 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from February 2016

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the Agenda. Individuals that wish to speak at this time must sign in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

3. Review and Consider Approval of Addendum IV for Public Comment
<p>Background</p> <ul style="list-style-type: none"> • In November 2015, final rule for Amendment 9 was published. The rule became effective on March 15, 2016. The smoothhound complex, which includes Atlantic smooth dogfish, is now managed by HMS in federal waters. • Amendment 9 established a federal catch composition requirement in order to remove smooth dogfish fins at sea. In response, the Board initiated Addendum IV to consider adopting the catch composition in state waters. • As allowed under current state regulations, commercial fishermen can land smooth dogfish carcasses with corresponding fins removed from the carcass. • Draft Addendum IV proposes to amend the Coastal Sharks FMP to allow smooth dogfish carcasses to be landed with corresponding fins removed from the carcass as

long as the total retained catch, by weight, is composed of at least 25 percent smooth dogfish at the time of landing. The alternative option in Addendum IV is consistent with federal stipulations.

- **Addendum IV for Public Comment is in Briefing Materials**

Board Actions for Consideration at this Meeting

- Review and consider approval of Addendum IV for public comment

4. Other Business/Adjourn

**DRAFT PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
COASTAL SHARKS MANAGEMENT BOARD**

The Westin Alexandria
Alexandria, Virginia
February 3, 2016

These minutes are draft and subject to approval by the Coastal Sharks Management Board.
The Board will review the minutes during its next meeting.

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1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of November 2015 by consent** (Page 1).
3. **Move to initiate an addendum to the coastal sharks FMP to address a disconnect of the processing at sea. Commercial fisherman can fully dress (remove head and fin and gut at sea) smooth dogfish if at least 25% of retained catch is smooth dogfish** (Page 3). Motion by Louis Daniel; second by Brandon Muffley. Motion carried (Page 6).
4. **Move to adopt the 2016 smoothhound (smooth dogfish) quota of 1201.7 metric tons (2.6 million lbs dw)** (Page 8). Motion by Pat Augustine; second by Louis Daniel. Roll Call Vote: In Favor - MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL, NMFS, USFWS). Motion carried unanimously (Page 10).
5. **Motion to adjourn** by consent (Page 10).

ATTENDANCE

Board Members

Jocelyn Cary, MA, proxy for Rep. Peake (LA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Dan McKiernan, MA, proxy for D. Pierce (AA)	Stewart Michels, DE, proxy for D. Saveikis (AA)
Bill Adler, MA (GA)	Roy Miller, DE (GA)
Jason McNamee, RI, proxy for J. Coit (AA)	Bill Goldsborough, MD (GA)
David Borden, RI (GA)	Mike Luisi, MD, proxy for D. Blazer (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Dave Simpson, CT (AA)	Louis Daniel, NC (AA)
Steve Heins, NY, proxy for J. Gilmore (AA)	Douglas Brady, NC (GA)
Emerson Hasbrouck, NY (GA)	Robert Boyles, Jr., SC (AA)
Pat Augustine, NY, proxy for Sen. Boyle (LA)	Malcolm Rhodes, SC (GA)
Brandon Muffley, NJ, proxy for D. Chanda (AA)	Pat Geer, GA, proxy for Rep. Nimmer (LA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	James Estes, FL, proxy for J. McCawley (AA)
Tom Fote, NJ (GA)	Wilson Laney, USFWS
	Margo Schultz-Haugen, NMFS

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

Staff

Robert Beal	Jeff Kipp
Toni Kerns	Ashton Harp

Guests

Dave Goshorn, MD DNR	Greg DiDomenico, GSSA
Steve Doctor, MD Fisheries Svc	Arnold Leo, E. Hampton, NY
Mike Millard, USFWS	

The Coastal Sharks Management Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, February 3, 2016, and was called to order at 1:40 o'clock p.m. by Chairman Adam Nowalsky.

CALL TO ORDER

CHAIRMAN ADAM NOWALSKY: I would like to welcome everybody to the Coastal Sharks Management Board. We'll go ahead and get the meeting started. My name is Adam Nowalsky, and I am joined by staff Ashton Harp to my right.

APPROVAL OF AGENDA

CHAIRMAN NOWALSKY: Our first order of business here today is to approve the agenda.

Is there any objection to the agenda as provided? Seeing none; we'll accept that.

APPROVAL OF PROCEEDINGS

CHAIRMAN NOWALSKY: Our second order of business is to approve the proceedings and minutes from the 2015 meeting. Is there any objection to accepting those as provided? Seeing none; they will be approved.

PUBLIC COMMENT

CHAIRMAN NOWALSKY: Our next order of business is any public comment for issues not on the agenda. We don't have anybody presently signed up, pretty thin.

Does anybody need to speak on an issue not on the agenda? Seeing none; we'll move right along.

DISCUSSION OF THE DIFFERENCES BETWEEN STATE AND FEDERAL SMOOTHHOUND CATCH COMPOSITION AND REGULATIONS FOR PROCESSING AT SEA

CHAIRMAN NOWALSKY: Our next two items, one of which will require an action, is to discuss the differences in the state and federal

smoothhound catch composition and regulations for processing at sea. Then that will lead into the 2016 quota. With that I will turn the floor over to Ashton for a presentation.

MS. ASHTON HARP: This presentation is actually going to go over a little bit more than the processing at sea changes. It is going to kind of outline the memo that was sent in December. That kind of explains the differences in federal and state management measures for smoothhound as a result of the Amendment 9 Final Rule that was released at the end of November.

As you can see on the board, now smoothhound is a federally managed species, which means it has a federal quota, which is 1,201.7 metric tons for the 2016 fishing year. I've gone ahead and allocated the coast wide quota for states, because in Addendum 2 of the coastal shark's fisheries management plan smoothhound had state shares.

We were just waiting to implement the state shares until we had a federal quota. You can see how the percentages and the breakdowns will be by state. Just as a background, the percentages are based on historical catch from 1998 through 2010, if you are kind of trying to think of how did we get to these percentages?

The federal and state quotas, so the final rule from Amendment 9 will become effective on March 15, 2016. Therefore, the state shares will then become effective at that time as well. One point to note in the differences, in federal waters when the landings are projected to reach or have reached 80 percent of the coast wide quota, HMS will close down the Atlantic shark fishery, which would include the smoothhound fishery. However, the state allocations that I showed on the previous slide allocate the full coast wide quota up to 100 percent. Fishermen with a state permit can continue to fish even after the federal fishery is closed.

I am just noting here in the blue that the board will take action to set the 2016 smoothhound quota at this meeting, because it was not part of the 2016 specifications for Atlantic sharks that was set in December. For recreational permits, I just want to note that Amendment 9 requires recreational anglers fishing in federal waters to have an HMS angling or HMS charter headboat recreational permit for retention of recreationally caught smoothhound sharks.

There are not changes between this and the coastal sharks FMP that we have. There are no specific management measures for recreationally caught smoothhound sharks in state waters. There is no minimum recreational size limits or possession limits at this time for smoothhound sharks. Commercial permits, this is just simply to note that in federal waters it is required to have a federal commercial smoothhound permit.

These will be required as of March 15 of 2016. This does not affect anyone who just has a state permit and would like to remain having a state only permit. The commercial possession limits, Amendment 9 did not set a commercial retention limit for smoothhounds. As you know with large coastal sharks we have possession limits that we set. For smoothhounds that is not the case.

As stated in Addendum 2 to the coastal sharks FMP, the board will not set possession limits for smoothhound sharks once the federal coast wide quota has been implemented, which it has. States can establish a specific management program to achieve but not exceed their state quota. Now moving on to processing at sea, so Amendment 9 allows commercial federal fishermen to remove the fins of smooth dogfish if it meets the following four criteria.

All four are required for federal fishermen and for state fishermen. The fishermen must have a federal commercial smoothhound permit and possess a state commercial fishing license. If you are only in state waters you only need the

state license. Number two is highlighted in blue, because it is a change.

Twenty-five percent of the retained catch on the vessel must be smooth dogfish to process at sea. This is now in the federal FMP. It is not in the coastal sharks FMP, so it is something for the board to consider. The vessel must be located between the shore and 50 nautical miles. We have this in our FMP now, and the fin to carcass ratio does not exceed 12 percent. We also have this in the coastal sharks FMP.

For dealer permits, Amendment 9 requires dealers to possess an Atlantic Shark dealer permit to purchase smoothhound sharks. Permits are available and dealers must report smoothhound shark purchases on a weekly basis. As stated in the coast sharks FMP a federal commercial shark dealer permit is required to buy and sell any sharks caught in state waters. We already have this in the FMP; no changes need to be made.

For gillnet gear, Amendment 9 requires smoothhound fishermen to limit soak time to 24 hours when using sink gillnet gear, and conduct a net check at least every two hours when using drift gillnet gear. This does present a change between the federal and state FMPs. The coastal sharks FMP does not define sink or drift gillnet, rather identifies small mesh versus large mesh gillnets. Addendum 1 of the coastal sharks FMP removed the two hour net check requirement for commercial fishermen using large mesh gillnets. The board could consider adding this back into the coastal sharks FMP if they wanted to.

This kind of just highlights the issues for consideration. If the board would like state waters regulations to be consistent with federal measures it would require an addendum to the coastal sharks FMP, specifically for the following. The processing at sea, we would need to include 25 percent to retain catch on the vessel is smoothhound, in order for our fishermen to process at sea. The gillnet gear is

another consideration as well that should be considered; questions?

CHAIRMAN NOWALSKY: Thank you for that presentation, we'll turn to the board for questions of Ashton on the presentation, and again in order for the measures at the present time to be complementary between state and federal waters there are the two issues that were highlighted in the presentation.

Processing at sea with the catch composition and then the issue of the gillnet gear, just to reiterate those items; questions for Ashton?

REVIEW AND SET THE 2016 SMOOTHHOUND QUOTA

CHAIRMAN NOWALSKY: All right seeing none; we can go ahead and entertain potential action on that disconnect, have discussion about that disconnect, or if there are no concerns from board members about it we would move into the 2016 quota.

DR. LOUIS B. DANIEL: Certainly support and appreciate the service doing the 25 percent to allow processing at sea. I would just ask from an enforcement standpoint, 24 hours is not that difficult to enforce, but every two hours? I don't know how we at least in state waters, how we would patrol that. I'm not sure about that part. But to get the ball rolling I would recommend that the Coast Shark Board consider adopting the 25 percent retained catch on the vessel for smoothhounds for processing at sea.

CHAIRMAN NOWALSKY: To go that route that would require a motion to initiate an addendum. Are you doing so?

DR. DANIEL: Yes, sir.

CHAIRMAN NOWALSKY: Do you wish for that motion to be just on that issue or do you want to combine it with the gillnet issue at all?

DR. DANIEL: I would prefer to have further discussion, and if someone would like to amend my motion to include the soak times that would be fine. But I certainly support the processing at sea issue. I just don't know enough about the gillnet gear and 1, how NMFS is going to enforce that and Number 2, how we would. That seems to be a very difficult onerous task to commit to.

CHAIRMAN NOWALSKY: Your motion then is to initiate an addendum to address the disconnect for the processing at sea between state and federal waters.

DR. DANIEL: Yes, sir.

CHAIRMAN NOWALSKY: Give us a moment to get that up on the board. I see Brandon Muffley's hand up as a second. We'll get that up. While we're getting that up can I see a show of hands for any discussion on that issue? Got one, okay let us get it up before we do. We'll give staff a moment to get that up. In the mean time I will turn to Eric for discussion on the motion.

MR. ERIC REID: I just have a couple of questions. Should it say at least 25 percent, and is that 25 percent round weight or dressed weight or what kind of weight are we talking about?

CHAIRMAN NOWALSKY: We'll get that up on the board and then we can address perfecting it, and I will have to turn to staff for the clarification on dressed, round or other.

MS. KERNS: I would go to NOAA since it was their final rule, just to confirm on the dressed versus round.

CHAIRMAN NOWALSKY: Great, go ahead.

MS. MARGO SCHULZE-HAUGEN: I believe it was dressed weight.

CHAIRMAN NOWALSKY: I see your hand, Mike. Let's get the motion up completely so if we need to perfect it we can get that done first.

MS. KERNS: Adam, may I ask Margo a question?

CHAIRMAN NOWALSKY: Yes, go ahead.

MS. KERNS: In the rule is it at least 25 percent or is it 25 percent?

MS. SHULZE-HAUGEN: I think at least would cover it. It's got to be greater than 25 percent, so at least.

MS. KERNS: At least, okay thank you.

CHAIRMAN NOWALSKY: **Okay so the motion that we have up right now; Move to initiate an addendum to the coastal sharks FMP to address the disconnect of the processing at sea. Commercial fishermen can remove the fins of smooth dogfish if at least 25 percent of retained catch is smooth dogfish.** Is that satisfactory, Dr. Daniel? Getting a nod of the head, Brandon as well, okay so that is the motion we have before the board. I've got Mr. Luisi and then Mr. Augustine.

MR. MICHAEL LUISI: While I appreciate the need to have measures in federal and state waters that mirror one another in many cases. Maybe either staff or NOAA could just provide a little bit of the background as to why the 25 percent rather than having no percentage of the catch retained. What is the significance of having at least 25 percent of the retained catch be smooth dogfish?

CHAIRMAN NOWALSKY: Again that was through Amendment 9. I'll turn to NOAA for a clarification and for the reason in that in the final rule.

MS. SCHULZE-HAUGEN: This is to implement the shark conservation act of 2010, which included a number of provisions; which are what was outlined before about 50 nautical

miles from shore and the state permit. This particular provision was to implement the requirement that the individual be fishing for smooth dogfish. We had proposed in the draft several criteria, 25 percent, 50 percent, 75 percent.

We had preferred 75 percent to make sure that it was a real directed trip. During the public comment period we got a lot of input from folks that the fishery was much more mixed than what we had initially realized, and so upon further review of the data, looking at things a little bit differently; we ultimately concluded that 25 percent of the catch would meet that test of fishing for smooth dogfish. That was the reason.

MR. PATRICK AUGUSTINE: I would like to amend the motion to include the gillnet, and if you want to use the language that you had in your presentation I think it would be more clear than what I would write; if you want to put it up there. If I get a second on it I would like to speak to it, Mr. Chairman.

CHAIRMAN NOWALSKY: Okay so the issue at hand there was with regards to the definition of the sink versus the drift gillnet.

MR. AUGUSTINE: That is correct.

CHAIRMAN NOWALSKY: You would move to add to the addendum a definition of sink and drift gillnet.

MR. AUGUSTINE: That is correct.

CHAIRMAN NOWALSKY: Do I have a second to that amendment? Do I have a second to that amendment? Seeing none; the motion fails for lack of a second. We'll go back to comments on the original motion. I've got Dr. Daniel, Emerson, and then Rob O'Reilly.

DR. DANIEL: It was appropriately pointed out to me, and if Brandon will indulge me, when these guys come in they take the heads off as well. These fish when they come in they are cores.

They are headed, they are gutted and they're finned; and they have to retain all the fins. But I hope it would be just a perfection to remove the head and fins. I don't know if that raises a red flag for NMFS or not. But it doesn't seem like it does. If you're okay with that Brandon, I would like to friendly amend my motion to just say can remove the head and fins of smooth dogfish, please.

CHAIRMAN NOWALSKY: Having had discussion is there any objection from the board to that modification to the motion? I've got two hands went up, so we can't just go ahead and amend it. Let me turn to those comments. Let me go down the list that I had here of people who wanted to speak. I'll add those two and then we can come back to that. If we need to we can entertain a motion to amendment. Let me first go to Emerson Hasbrouck.

MR. EMERSON C. HASBROUCK: I've got a question here about terminology. The question was asked a couple minutes ago, 25 percent catch weight, and the NMFS response was that is dressed weight. It seems to me like we have to process dogfish here in order to get to the 25 percent to see if we can have processed dogfish onboard, unless there is a definition that gutting or heading and gutting is not processing these fish. I need some clarification on that, please.

CHAIRMAN NOWALSKY: I'll turn to NOAA for that clarification again.

MS. SCHULZE-HAUGEN: Right so by dressed we mean head, gutted, it's basically a log or a core that is coming back. The difference for sharks other than smooth dogfish is that they can still be dressed, but the fins have to remain attached. There are different ways of cutting so that you can still process but keep the fins attached.

The exception is for smooth dogfish. They can be fully dressed, headed, gutted and the fins removed at sea. For all the other sharks the fins can be removed dockside. Headed and finned

at sea that is consistent with what we're doing, so it is a full processing at sea is what this is allowing. Does that make sense?

CHAIRMAN NOWALSKY: Follow up to that?

MR. HASBROUCK: Can I address NMFS directly, is that okay? I understand what you're saying, but that doesn't make sense to me; unless the definition of processing is just removing the fins. Because if processing includes gutting and heading, you are not supposed to do that until you've got 25 percent onboard of dogfish, dressed weight. You have to start processing fish before you know if you've got 25 percent of fish to start processing, but you've already processed them.

MS. SCHULZE-HAUGEN: The regulation is phrased in a way that that 25 percent is determined at the point of landing. That enables fishermen to process as they are going; they just need to watch the percentages before they come back.

MR. ROB O'REILLY: My comment was about the headed that I thought was a friendly amendment to the motion.

CHAIRMAN NOWALSKY: I'll turn to the two people who raised their hand when I asked if there was any opposition for clarification on that matter. First I had Pat Augustine.

MR. AUGUSTINE: Margo clarified it for me and I could support that.

CHAIRMAN NOWALSKY: Okay so you no longer oppose that original maker of the motion's amendment. Eric Reid.

MR. REID: If the language was fully dressed I would have no problems. The fishermen can fully dress smooth dogfish.

CHAIRMAN NOWALSKY: I'll turn back to Dr. Daniel.

DR. DANIEL: I have no problem with that as long as it's clear that they can head them, fin them and gut them. If fully dressed accomplishes that without concern from enforcement or other members of the board, then I have no problem with that as a friendly amendment. It is up to Brandon.

CHAIRMAN NOWALSKY: I'll turn to staff and the Service for whether fully dressed would be the correct phrase to use here with relation to the intent of head, gut and fin.

MS. HARP: NOAA, did you have any comments on that?

MS. SCHULZE-HAUGEN: I think it might be clearer to maybe have a parenthetical, fully dressed i.e. remove heads, fins, and guts at sea. That might kind of meet both purposes and be clear.

CHAIRMAN NOWALSKY: Eric, are you comfortable with that? Dr. Daniel, are you okay with that? Mr. Muffley, you're okay? **Okay so the original maker has amended the motion to now read; Move to initiate an addendum to the coastal sharks FMP to address the disconnect of the processing at sea.**

Commercial fishermen can fully dress (remove head and fin and guts at sea) smooth dogfish if at least 25 percent of the retained catch is smooth dogfish. Is there any objection by the board to that modification to the motion? Seeing none; that is the current motion before the board. Further discussion on the motion, I turn to Mr. Hasbrouck again.

MR. HASBROUCK: Does that mean that somebody who has less than 25 percent of dogfish onboard has to land them whole? You know if you've got 200 pounds of dogfish, for instance, in a trip of something else. Do you have to land those dogfish round, whole?

MS. HARP: Based on Amendment 9, yes. I'll turn to NOAA for confirmation.

MS. SCHULZE-HAUGEN: They would have to keep the fins on through the point of landing, but would be able to dress the fish in another way; so remove the heads and the guts, but the fins would have to stay on through landing.

CHAIRMAN NOWALSKY: Further questions or need for clarification? Seeing none; I will give the board a moment to caucus. All right we'll go ahead. I'll ask all those in favor of the motion to raise your right hand, please. **All those opposed like sign; abstentions, null votes, motion carries 14 to 0 to 0.** That brings us back to whether the board would like to consider the gillnet question. Seeing the Service, go ahead.

MS. SCHULZE-HAUGEN: I would just offer the background on this that this is a requirement of our biological opinion, where net checks are required for drift gillnet to enable the live release of protected species, particularly turtles and the sink gillnet check for 24 hours was a new provision added to address sturgeon bycatch, and so to enable the live release of sturgeon in that gear type; just informational.

CHAIRMAN NOWALSKY: I'll ask what concerns if any would the service have if there was no action taken by the board here today on this?

MS. SCHULZE-HAUGEN: As I said, this is a requirement of our biological opinion for federal fisheries. The net checks requirement has been in place for a number of years and has not posed any particular difficulties for the fishermen or for enforcement. Obviously the gillnet provision is new, so I don't have background or experience in that. I think the concern, without complementary regulations would be potential increase mortality of protected species. But I think that would be the extent.

CHAIRMAN NOWALSKY: Okay well not seeing any hands raised on this issue, are you raising your hand? Okay I'll turn to Pat Augustine.

MR. AUGUSTINE: In view of the fact I did not, Mr. Chairman get a second on the motion the first time, could I bring it back on to try to get a second; so we would be consistent with the feds?

CHAIRMAN NOWALSKY: Based on the fact that the discussion earlier was that the desire was have them discussed separately, I will go ahead and allow you to make that motion as a separate issue versus amending the previous motion.

MR. AUGUSTINE: May I do that, sir?

CHAIRMAN NOWALSKY: You would like to initiate another addendum to treat it separately, or you want to add it to this addendum?

MR. AUGUSTINE: I would like to add it. It didn't pass when I tried to add it to that first motion, so if I could add it as another item within this addendum; Mr. Chairman, I think that would be appropriate. Treat it as a separate element by itself. If the board so desires not to approve it, it will drop dead of its own weight and if they do we can go forward with it as a single unit.

CHAIRMAN NOWALSKY: Okay I'm going to; even though it is very similar I will allow the motion based on the fact that we had the discussion about wanting to treat them separately. Your motion will be to include the gillnet provision from Amendment 9 in the addendum.

MR. AUGUSTINE: That is correct, Mr. Chairman.

CHAIRMAN NOWALSKY: Is there a second to that? Is there a second to that? Seeing none; the motion fails for lack of a second. We'll move on to the next agenda item, which is the 2016 smoothhound quota.

2016 SMOOTHHOUND QUOTA

MS. HARP: The 2016 quota, I just wanted to put on the record that there was an electronic vote in December. At the annual meeting there were the 2016 coastal shark specifications that we tabled. I just wanted to note that we did move to adopt the 2016 coastal shark specifications, specifically a start date of January 1, 2016 and a variable possession limit which will start at 36 large coastal sharks per vessel per trip, i.e. aggregated large coastal sharks and hammerhead shark management groups.

States will follow NMFS for in-season changes in the possession limit. That was passed in December. What we did not pass was the smoothhound quota, because that had not been released yet. Before you is a slide that I showed earlier, these are just the allocations. But what we're looking for today is just to set the commercial quota for the Atlantic region of 1,201.7 metric tons.

CHAIRMAN NOWALSKY: Any questions for Ashton on that? Question, or did you have a motion, Emerson? Go ahead with your question.

MR. HASBROUCK: I don't want to digress too much here, and seeing that I'm relatively new to the board. How did we end up with state-by-state allocation with smooth dogfish; the short version?

MS. HARP: I only have the short version, because I have just read up a little bit on it. This was initiated, the amendment passed in 2013. From what I gathered people felt that there should be a smoothhound state shares, although there wasn't a stock assessment that had been done on smoothhound at that time. The commission decided to proceed with the state allocations, but wait until the feds released the commercial quota.

CHAIRMAN NOWALSKY: We've had those in place, those shares, but they haven't actually

had poundage associated with them until this year.

MR. BRANDON MUFFLEY: Can you put in context what landings have been over the last couple years for smooth dogfish in relation to what the quota is for 2016?

CHAIRMAN NOWALSKY: Give us just a moment. We don't have that immediately available, but I'll see what we can do to pull that up for you. Turn to the board for additional discussion, questions, and motions. Margo?

MS. SCHULZE-HAUGEN: In our Amendment 9, landings in 2014 were 577.8, 2013 were 663, 2012 was 705, 2011 was 885, 2010 was 1,219 and 2009 was 861. In the last several years the quota that was implemented, which is based on the assessment of 1,201 would be considerably higher. The only year that really approached the quota was one year of 2010.

CHAIRMAN NOWALSKY: Thank you.

MS. TONI KERNS: If it is helpful to the board the shares I believe, if I'm remembering correctly, were based on both historical allocations as well as more current landings. I think we used a combination of the two pieces in order to allocate.

CHAIRMAN NOWALSKY: If the board does not take action on setting a quota here today, what are the potential implications?

MS. SCHULZE-HAUGEN: We will count all landings against the federal quota. Vessels will be required to sell to dealers and the dealers are required to report, so we'll get landings. We don't have a state shares component, so we'll be managing the Atlantic as a whole. But in terms of our monitoring and landings, it includes both the federal and state permitted vessels.

CHAIRMAN NOWALSKY: Basically the fishery would just continue as it has been, and just subject to federal monitoring at that point.

MS. SCHULZE-HAUGEN: State permitted fishermen are not subject to federal rules. Federally permitted fishermen need to follow the federal rules regardless of where they're fishing; but again all the data will be coming into us and going into the quota monitoring.

CHAIRMAN NOWALSKY: Just to clarify with staff, there is nothing in the FMP that would require action. I'm giving staff a moment to delve into that. Did you have your hand up, Louis? Go ahead.

DR. DANIEL: I guess there is a specific quota, I haven't seen it yet; that would go up on the board, in terms of what we would be asked to approve. I would be concerned about not implementing that quota, because if we don't set this quota then we run the risk of jurisdictions being disadvantaged by geography if one group starts catching more fish than their allotted share. You could run the risk if states weren't managing their specific quota allocation that some states might be disadvantaged by having the fishery shut down before their fishery even begins.

CHAIRMAN NOWALSKY: The number is 1,201.7 metric tons. Again we heard from the service what landings have looked like; 2010 was the only year in the last six that that number was exceeded. That is the number that would need to be put forth in a motion if the board so desires.

MR. AUGUSTINE: Thank you for that information, Mr. Chairman. **I move that the board accept a 2016 smoothhound commercial quota for Atlantic region at 1.201.7 metric ton or dry weight of 2.6 million pounds for smoothhound.**

CHAIRMAN NOWALSKY: Do I have a second to that motion. Dr. Daniel. Move to adopt the 2016 smoothhound, smooth dogfish quota of 1,201.7 metric tons, 2.6 million pounds dry weight, motion by Mr. Augustine seconded by Dr. Daniel; discussion on the motion.

MR. WILLIAM A. ADLER: Now does that mean, I'm looking at the chart here on Page 2 of the handout and I see those numbers. Now is that without the percentages that are above there in that chart or including the percentages that are above that in that chart?

MS. HARP: Can you clarify that question? You're asking the chart that was previously shown. Can you just clarify the question again?

MR. ADLER: Well I see, yes there is the chart. I see the numbers that the motion made, the 1,201 and the 2, but does that include this chart that shows the percentages for each state? That is included in this motion?

MS. HARP: No, it is not included in the motion, because it is already specified in Addendum 2 that these percentages would apply whenever a coast wide quota became available.

MR. ADLER: Oh, okay so all we have to do is just approve those numbers, the totals.

MS. HARP: Yes just the total.

MR. LUISI: I want to make sure I understand the difference. If we approve this motion the quota will then be divided up by individual states and we'll be expected to manage those individual quotas as a state; with consequences that I would imagine would be some sort of payback provision to any harvest overage by state. However, if we choose not to approve this motion we would then all be at the mercy of one another, and a total quota would be monitored and as Dr. Daniel stated, some of us could be disadvantaged, depending on migratory patterns and when the fish are available to different states along the coast. Is that a correct interpretation of where we stand at this point?

CHAIRMAN NOWALSKY: I'll turn to staff for the provisions of Amendment 2, with regards to the state specific allocations.

MS. HARP: It is true that any amount, if a state goes over then the next year that state will then

have their quota reduced by that same amount. An unused quota may not be rolled over from one fishing year to the next.

CHAIRMAN NOWALSKY: In short, yes states would then be constrained to their percentage.

MS. HARP: One other thing is that two or more states under mutual agreement may transfer or combine their smoothhound shark quota after commission approval.

MR. LUISI: Just a quick follow up. It would be the state's responsibility then to manage their own quota and have a mechanism in place; as far as their regulations are concerned to open and close the fishery, rather than the federal government opening and closing the entire fishery altogether, correct?

CHAIRMAN NOWALSKY: I'll turn to Toni for a response.

MS. KERNS: That is correct, Mike, but do note that NOAA did indicate that they will close the fishery when 80 percent of the harvest has been reached. At 80 percent they close because due to history that is approximately when it is good in order to not exceed the quota. It may be that NOAA will close the quota earlier than your state has harvested your full state share, and then only your state permitted fishermen could fish on that; anybody with a federal permit would not be able to continue to fish, similar to the sea bass problem we have.

CHAIRMAN NOWALSKY: Okay before you follow up with that I have to deal with a minor procedural issue here; that being that the setting of the quota will be a final action, while the motion itself is valid. We have the issue that for this particular meeting the maker of the motion is a meeting specific proxy, who cannot make motions for final actions; is what staff is advising me.

MS. KERNS: I believe he can actually make motions, he just cannot vote on those motions. He can make them, talk about them, participate in the discussion; but he may not vote.

CHAIRMAN NOWALSKY: Okay. All right, great so glad we got that cleared up. Moving on, Rob O'Reilly was next.

MR. ROB O'REILLY: Bill Adler's comment makes me wonder about this motion. It was almost indicated that the share percentages are a part of the motion, but it doesn't say that. It just says that it will be a 2016 quota.

CHAIRMAN NOWALSKY: Again those percentages were put in place in Amendment 2, which said they would go into effect when a quota was put in place. By virtue of the motion whereby we are instituting a quota, those percentages would then go into effect. Okay any further discussion on the motion? Seeing none; as it is a final action this will require a roll call vote, and I will also again add the reminder that meeting specific proxies cannot vote on the final action.

We'll give states a moment to caucus. All right I'll turn to staff to go ahead. **Again the motion is move to adopt the 2016 smoothhound or smooth dogfish quota of 1,201.7 metric tons, 2.6 million pounds dry weight.** Motion by Mr. Augustine, seconded by Dr. Daniel, I'll turn to staff to call the roll.

MS. HARP: Maine, not present. Massachusetts.

MR. ADLER: Yes.

MS. HARP: Rhode Island.

MR. REID: Yes.

MS. HARP: Connecticut.

MR. DAVID G. SIMPSON: Yes.

MS. HARP: New York.

MR. HASBROUCK: Yes.

MS. HARP: New Jersey.

MR. MUFFLEY: Yes.

MS. HARP: Delaware.

MR. ROY MILLER: Yes.

MS. HARP: Maryland.

MR. LUISI: Yes.

MS. HARP: Virginia.

MR. O'REILLY: Yes.

MS. HARP: North Carolina.

DR. DANIEL: Yes.

MS. HARP: South Carolina.

DR. MALCOLM RHODES: Yes.

MS. HARP: Georgia.

MR. PAT GEER: Yes.

MS. HARP: Florida.

MR. JAMES ESTES: Yes.

MS. HARP: U.S. Fish and Wildlife Service.

DR. WILSON LANEY: Yes.

MS. HARP: HMS.

MS. SCHULZE-HAUGEN: Yes.

MS. HARP: And NMFS.

MS. SCHULZE-HAUGEN: That's me.

MS. HARP: Oops, sorry, already on the list; done.

CHAIRMAN NOWALSKY: **Okay motion carries.** Is there any other business to come before the board?

ADJOURNMENT

Seeing none; I'll entertain a motion to adjourn; made by Mr. Adler, seconded by Mr. Augustine. Without objection the board is adjourned. Thank you everyone.

(Whereupon, the meeting was adjourned at 2:28 o'clock p.m., February 3, 2016.)

Atlantic States Marine Fisheries Commission

DRAFT ADDENDUM IV TO THE COASTAL SHARKS INTERSTATE FISHERY MANAGEMENT PLAN FOR PUBLIC COMMENT



This draft document was developed for Management Board review and discussion. This document is not intended to solicit public comment as part of the Commission/State formal public input process. Comments on this draft document may be given at the appropriate time on the agenda during the scheduled meeting. If approved, a public comment period will be established to solicit input on the issues contained in this document.



ASMFC Vision: Sustainably Managing Atlantic Coastal Fisheries

**The Atlantic States Marine Fisheries Commission
Seeks Your Input on Coastal Sharks Management**

The public is encouraged to submit comments regarding this document during the public comment period. Comments will be accepted until 5 p.m. on [INSERT DATE]. Regardless of when they were sent, comments received after that time will not be included in the official record.

You may submit public comment in one or more of the following ways:

1. Attend public hearings held in your state or jurisdiction.
2. Refer comments to your state’s members on the Coastal Sharks Management Board or Coastal Sharks Advisory Panel, if applicable.
3. Mail, fax, or email written comments to the following address:

Ashton Harp
1050 North Highland St., Suite 200 A-N
Arlington, VA 22201
Fax: (703) 842-0741
aharp@asmfc.org (subject line: Draft Addendum IV)

If you have any questions please call Ashton Harp at 703.842.0740.

Commission’s Process and Timeline

February 2016	Coastal Sharks Board Tasks PDT to Develop Draft Addendum IV
Feb-May 2016	PDT Develops Draft Addendum IV for Public Comment
May 2016	Coastal Sharks Board Reviews Draft Addendum IV and Considers Its Approval for Public Comment
May-Aug 2016	Board Solicits Public Comment and States Conduct Public Hearings
August 2016	Board Reviews Public Comment, Selects Management Options and Considers Final Approval of Addendum IV
TBD	Provisions of Addendum IV are Implemented

1. Introduction

Atlantic shark fisheries from Maine through the east coast of Florida are currently managed through complementary fishery management plans by the Atlantic States Marine Fisheries Commission (ASMFC) and NOAA Fisheries Highly Migratory Species (HMS) Management Division. ASMFC coordinates interstate management of Atlantic sharks in state waters (0-3 miles) via the 2008 Coastal Sharks Interstate Fishery Management Plan (FMP) and Addenda I-III. Management authority in the exclusive economic zone (3-200 miles from shore) lies with NOAA Fisheries via the 2006 Consolidated Atlantic HMS FMP and Amendments.

The smoothhound shark complex is one of several shark species groupings managed in state and federal waters; it includes three species: smooth dogfish (*Mustelus canis*), Florida smoothhound (*Mustelus norrisi*) and Gulf smoothhound (*Mustelus sinuomexicanus*). The latter two are not considered in this document; the focus of Draft Addendum IV is on smooth dogfish, specifically.

As allowed under current regulations, commercial fishermen can land smooth dogfish carcasses with corresponding fins removed from the carcass. Draft Addendum IV proposes to amend the Coastal Sharks FMP to allow smooth dogfish carcasses to be landed with corresponding fins removed from the carcass as long as the total retained catch, by weight, is composed of at least 25 percent smooth dogfish. If approved, fishermen could retain smooth dogfish in an amount less than 25 percent of the total catch provided the smooth dogfish fins remain naturally attached to the carcass. Additionally, fishermen could retain other sharks on board regardless of the percent catch composition of smooth dogfish, the fins of other shark species must remain naturally attached to the carcass through landing.

2. Statement of the Problem

The purpose of the Draft Addendum is to maintain consistency between federal and state FMPs, where possible, and to better incorporate the intent of the smooth dogfish exemption in the Shark Conservation Act of 2010 (SCA) into state regulations. In November 2015, NOAA Fisheries published the final rule for Amendment 9 to the 2006 Consolidated Atlantic HMS FMP which brought smoothhound sharks under federal management effective March 15, 2016. In addition to other management measures, Amendment 9 established a catch composition requirement in order to remove smooth dogfish fins at sea. In February 2016, the Coastal Sharks Management Board initiated a Draft Addendum to consider establishing the federal catch composition requirement in state waters for removal of smooth dogfish fins while at sea.

3. Background

3.1 Prior Federal and State Regulations

The Shark Finning Prohibition Act of 2000 prohibits shark finning—the removal of shark fins and disposal of shark carcasses at sea—within United States waters. Thus, shark fins and carcasses must be landed together. This requirement was included in the Coastal Sharks FMP, remains in effect, and is not the focus of this addendum.

The SCA requires all sharks in the United States to be landed with their fins naturally attached to the carcass but includes a limited exception for smooth dogfish. The exception allows fishermen engaged in commercial fishing for smooth dogfish to remove the fins of smooth dogfish if the following minimum requirements are met: possess a valid state commercial fishing license, are fishing within 50 nautical miles from the baseline of an Atlantic state (Maine through Florida), and the total weight of smooth dogfish fins landed cannot exceed 12 percent of the total dressed weight of smooth dogfish carcasses. To complement the federal FMP and the SCA, these provisions were included in the Coastal Sharks FMP via Addendum II in 2013.

3.2 Consideration of a Smooth Dogfish Catch Composition in State Waters

This addendum and NOAA Fisheries Amendment 9 provide an analysis of vessel trip report (VTR) data. The available VTR data captures gear and landings data on fishermen with a federal Northeast Region permit¹ from 2003-2014. Given commercial fishermen with only a state fishing license (i.e. non-federally permitted vessels) are not required to submit a vessel trip report it is not possible to separate smooth dogfish harvest in state versus federal waters. As a result, south Atlantic fishermen² or fishermen not holding a Northeast permit may not be captured in this VTR analysis.

NOAA Fisheries Amendment 9 brings smoothhound sharks under federal management and implements the smooth dogfish-specific provisions in the SCA. The SCA specifies the exception for smooth dogfish to have their fins removed at sea applies when “an individual is engaged in commercial fishing for smooth dogfish,” as opposed to fishing for other species or when fishing and incidentally catching smooth dogfish. In Amendment 9, NOAA Fisheries interprets the phrase “commercial fishing for smooth dogfish” to mean a trip where smooth dogfish comprise at least 25 percent of the total retained catch.

NOAA Fisheries selected 25 percent in response to public comments during the rule-making process and landings data indicating the mixed nature of the fishery. Sink gillnet

¹ Prior to 2016, smooth dogfish were not managed in federal waters. Therefore a federal directed shark limited access permit was not required. As a result of NOAA Fisheries Amendment 9, a federal smoothhound commercial permit was developed and is now a requirement in order to harvest smooth dogfish in federal waters.

² North Carolina is separated by management areas north and south of Cape Hatteras, creating a split in the smooth dogfish fishery between the federal Northeast and Southeast regions.

gear, the predominant gear used in the directed smooth dogfish fishery (Figure 1), often catch other species such as bluefish, croaker and spiny dogfish (Figure 2). Therefore, it was determined that a retained catch composition of at least 25 percent smooth dogfish is an indication that effort was directed on the species.

The 25 percent catch composition requirement was implemented in federal waters (effective March 15, 2016) and is presented in this document as an option for state waters.

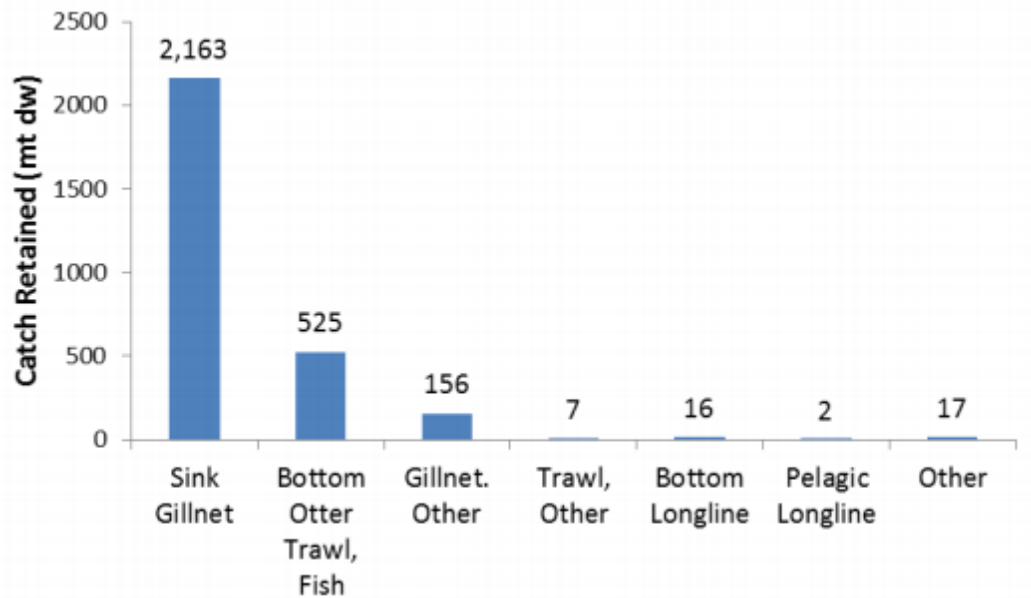


Figure 1. Smooth Dogfish Landings by Gear Type (2003-2014);
Source: Vessel Trip Report (VTR) data, 2003-2014 (NMFS 2015b)

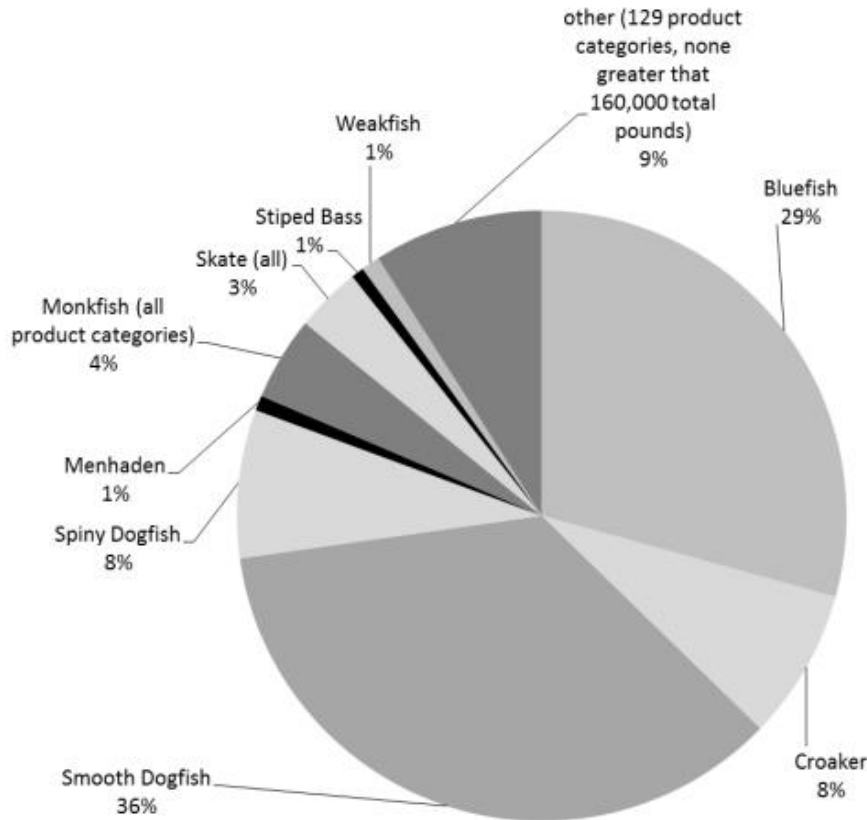


Figure 2. Species caught with smooth dogfish in sink gillnet gear, relative levels;
Source: VTR data, 2003-2014 (NMFS 2015b)

On average, almost half of the reported trips that landed smooth dogfish in sink gillnet gear between 2003 and 2014 would be considered a ‘directed’ smooth dogfish fishing trip, meaning the retained catch on these trips was comprised of at least 25 percent smooth dogfish (Table 1).

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Number of trips	590	633	548	677	626	550	878	1,184	1,207	1,237	1,282	1,295
Number of trips that landed ≥ 25 % smooth dogfish	315	364	229	202	264	256	447	710	647	629	606	582
Percentage of trips that landed ≥ 25 % smooth dogfish	53%	58%	42%	30%	42%	47%	51%	60%	54%	51%	47%	45%

Table 1. Number and percentage of trips landing smooth dogfish in sink gillnet gear, by year; Source: VTR data, 2003-2014 (NMFS 2015b)

When analyzing sink gillnet trips and landings together the data indicated the majority (81%) of smooth dogfish landings came from trips with a high catch composition (i.e. at least 75% smooth dogfish were retained, Figure 3).

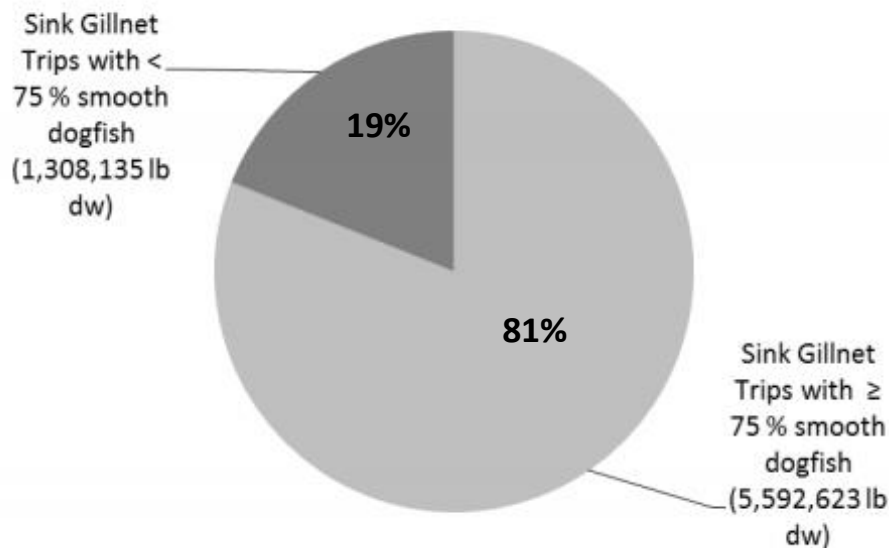


Figure 3. Proportion of smooth dogfish landings from trips using sink gillnets where the percent of the catch retained was greater than or less than 75 percent smooth dogfish; Source: VTR Data, 2003-2014 (NMFS 2015b)

Fishery Considerations

Based on the VTR analysis, the majority of landings were caught on trips that retained at least 75 percent smooth dogfish (Figure 3). In addition, almost half of the trips that landed smooth dogfish in sink gillnet gear would be considered a ‘directed’ smooth dogfish trip (Table 1). Therefore, a 25 percent catch composition is unlikely to change fishing effort to a great extent. As such, landings would likely remain near pre-SCA levels.

Enforcement Considerations

Allowing the removal of smooth dogfish fins at sea should not raise enforcement concerns or impact the conservation of non-smooth dogfish sharks because smooth dogfish carcasses can be easily identified from other shark carcasses by the presence of a pre-dorsal ridge, and by the lack of fin spines and dorsal spots. While other “ridgeback sharks” have an interdorsal ridge, smooth dogfish are the only shark species in the Atlantic that have a pre-dorsal ridge (Figure 4).

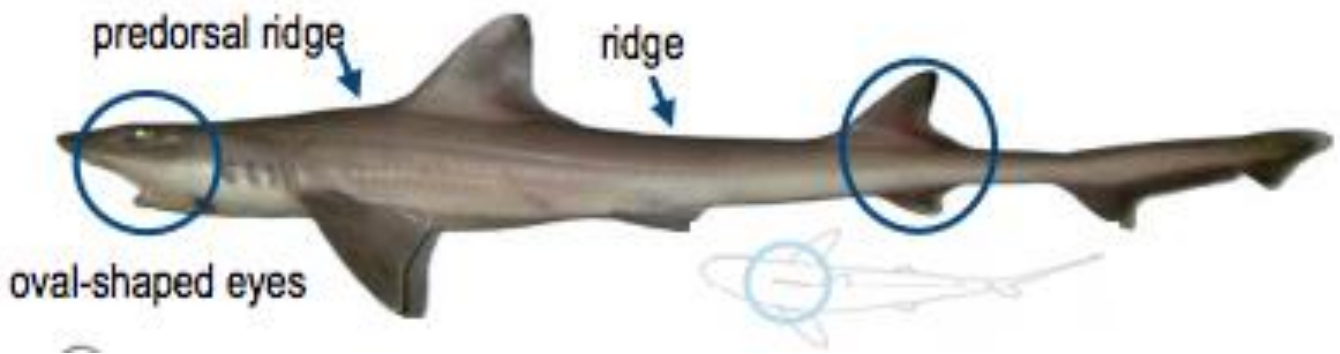


Figure 4. Distinctive Characteristics on a Smooth Dogfish Shark

4. Management Program Options

The Coastal Sharks Management Board is considering two catch composition options to amend the FMP. Option A would retain the current language used to manage the smooth dogfish fishery (*i.e.*, no catch composition requirement); in this case the state and federal FMPs would not be consistent on this issue. Option B would implement the catch composition requirement in state waters to complement the requirement in the federal FMP.

The SCA exemption is specific to smooth dogfish, therefore all smoothhound processing at sea references in Addendum II will be replaced with smooth dogfish.

Option A: Status Quo

Fishermen in state waters and in possession of a valid state commercial fishing license can eviscerate and remove the head and fins of smooth dogfish while at sea in accordance with *Section 3.5* of Addendum II to the Coastal Sharks Interstate FMP, which stipulates “commercial fishermen may remove all smoothhound shark fins year round.”

Option B: Establish a Catch Composition Requirement for Commercial Processing of Smooth Dogfish at Sea

The following text will be added to Addendum II, Section 3.5 Smooth Dogfish Shark Commercial Processing at Sea

Fishermen in state waters and in possession of a valid state commercial fishing license can eviscerate and remove the head and all shark fins of smooth dogfish (*Mustelus canis*) while at sea provided smooth dogfish make up at least 25 percent, by weight, of total catch on board at the time of landing. Fishermen may retain other sharks on board provided the fins of other shark species remain naturally attached to the carcass through offloading, as described in *Section 4.3.11* of the Coastal Sharks FMP.

5. Compliance

States must implement Addendum IV according to the following schedule to be in compliance with the Coastal Sharks FMP: TBD

6. Literature Cited

NMFS. 2015a. Final Rule implementing Amendment 9 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan. NOAA, NMFS, Highly Migratory Species Management Division, Silver Spring, MD. Available at: <https://www.federalregister.gov/articles/2015/11/24/2015-29516/atlantic-highly-migratory-species-smoothhound-shark-and-atlantic-shark-management-measures>

NMFS. 2015b. Final Environmental Assessment for Amendment 9 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan. NOAA, NMFS, Highly Migratory Species Management Division, Silver Spring, MD. Available at: http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am9/a9_final_ea.pdf

Shark Conservation Act of 2010, Pub. L. No. 111-348, 124 Stat. 3668. 2010. Retrieved from <https://www.congress.gov/111/plaws/publ348/PLAW-111publ348.pdf>