

Subcommittee on Water, Power and Oceans

Doug Lamborn, Chairman

Hearing Memorandum

April 13, 2018

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff, Subcommittee on Water, Power and Oceans (x58331)

Hearing: **Legislative hearing on H.R. 5248 (Rep. Daniel Webster, R-FL)**, To amend and enhance the High Seas Driftnet Fishing Moratorium Protection Act to improve the conservation of sharks.
Tuesday, April 17, 2018 at 2:00 PM; 1324 Longworth HOB

H.R. 5248 (Rep. Daniel Webster), “*Sustainable Shark Fisheries and Trade Act of 2018*”

Bill Summary

H.R. 5248 establishes an import certification program for shark, ray and skate products. Under this legislation, NOAA would be required to certify that fishery management regulations in nations seeking to import these seafood products into U.S. markets are consistent with U.S. domestic fishery management. This hearing will also include consideration of two other bills.

Cosponsors (in alphabetical order)

Representatives Gus M. Bilirakis (R-FL), Wm. Lacy Clay (D-MO), Walter B. Jones, Jr. (R-NC), Ted Lieu (D-CA), Thomas MacArthur (R-NJ), Bill Pascrell, Jr. (D-NJ), Bill Posey (R-FL), Darren Soto (D-FL), Don Young (R-AK).

Invited Witnesses (in alphabetical order)

Mr. Robert Heuter, Ph.D.
Director
Center for Shark Research, Mote Marine Laboratory
Sarasota, Florida

Mr. Christopher Oliver
Assistant Administrator
National Marine Fisheries Service
Silver Spring, Maryland

Mr. John Polston
Owner
King’s Seafood
Port Orange, Florida

Background

With the Highly Migratory Species shark fishery management plan in 1993, the National Oceanic and Atmospheric Administration (NOAA) required that the number of fins landed by commercial fishermen match the corresponding shark carcasses, effectively prohibiting the practice of shark finning.¹ Congress expressly prohibited shark finning in U.S. waters in 2000 with the passage of the *Shark Finning Prohibition Act* (Public Law 106-557) and strengthened these prohibitions with the passage of the *Shark Conservation Act of 2010* (Public Law 111-348). Shark finning is the brutal practice of removing a shark's fin(s) at sea and returning the carcass, dead or alive, to the ocean. NOAA, acting through the National Marine Fisheries Service (NMFS) enforces the prohibition on shark finning under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA, 16 U.S.C. 1801 et seq.).

According to information provided by NMFS to Rep. Walter Jones, since September 2012, NOAA brought charges in 22 cases involving shark finning violations.² Of these 22 cases, at least ten cases involved twelve or fewer total fins, and an additional five involved twelve or fewer total sharks.³ In only two cases was it apparent that criminals undertook a broad effort to conduct and conceal illegal shark finning which involved fins from 25 sharks in one instance and from 508 sharks in the other – the former case resulted in criminal prosecution.⁴ In all but three cases brought by NOAA, the result was criminal prosecution or fines.

In addition to effective enforcement of shark finning prohibitions, NMFS further regulates the sustainable harvest of sharks in U.S. waters with Fishery Management Plans (FMPs) consistent with MSA. NMFS manages sharks in federal waters under 11 FMPs and the vast majority of the stocks managed under these FMPs are neither overfished nor undergoing overfishing or their conservation statuses are unknown.⁵ These FMPs establish quotas for individual species and when the harvest reaches or is projected to reach 80% of its quota, NMFS closes the fishery for the year.⁶

Since shark finning was outlawed in U.S. waters, shark populations have increased dramatically. In 2015, NOAA conducted its Coastal Shark Survey that assesses shark populations along the East Coast where shark species congregate seasonally. NOAA conducts this survey every 2-3 years and tagged over 2,800 sharks in 2015, the most in its 29-year history. This is an increase from 1,831 in the 2012 survey. NOAA identified 13 unique shark species and tagged a bull shark in this survey for the first time since 2001.⁷

¹ [Federal Register: 58 Fed. Reg. 21889 \(1993\), at p. 21931.](#)

² Information provided to Representative Walter Jones by the National Marine Fisheries Service Regarding Shark Finning Violations, 26 September 2017.

³ Id.

⁴ Id.

⁵ [NOAA Fisheries 2016 Shark Finning Report to Congress, p. 5, 9.](#)

⁶ [NOAA Fisheries Shark Landings Update through February 15, 2018.](#)

⁷ [NOAA Fisheries Press Release “2015 Coastal Shark Survey Reveals Shark Populations Improving off U.S. East Coast”, 8 September 2015.](#)

Due to the sustainable management of shark fisheries in U.S. waters, the United States ranks as one of the top ten shark fishing nations in the world by weight.⁸ According to a 2017 report, despite this volume, “of 16 global shark fisheries identified as biologically sustainable, 9 involve United States shark fishermen, *accounting for 76.4% of total landings from these 16 fisheries* (emphasis added).”⁹ Furthermore, several of the shark species with active fisheries in the United States are identified as sustainable by consumer seafood guides.¹⁰

The United States accounts for a relatively low percentage of the global shark fin trade, exporting approximately 1% of all shark fins traded globally.¹¹ Although this is a small number, commercial access to sustainable domestic shark fisheries is essential for fishing communities across the country. Furthermore, imports account for approximately 0.2% of the global shark fin trade and most come from countries with shark finning bans.¹² According to the New Zealand shark alliance, as of 2013, 102 countries had banned the practice of shark finning at a minimum.¹³ In 2016, the U.S. imported shark fins primarily from Canada, Netherlands, New Zealand and China.¹⁴ While China does not have a shark finning ban, the majority of imported shark fins originate in countries that do.¹⁵

While shark finning is almost universally banned, some countries still do not have or effectively enforce shark finning bans. In an effort to prevent unsustainably harvested shark fins from entering U.S. markets, Rep. Daniel Webster (R-FL) introduced H.R. 5248.¹⁶ H.R. 5248 is a bipartisan bill that establishes an import certification program for shark, ray and skate products. Modeled on the existing shrimp import certification program, this bill requires NOAA to assess nations’ fishery management regimes and certify countries seeking to export these products into the United States to manage their shark fisheries sustainably. The bill seeks to target the bad actors and promote domestic, sustainable fishing. H.R. 5248 was developed in consultation with NOAA officials, industry, and environmental groups.

This bill is supported by the Southeastern Fisheries Association, Sustainable Shark Alliance, Wildlife Conservation Society, Mote Marine Laboratory, Association of Zoos and Aquariums, International Fund for Animal Welfare, Louisiana Shrimp Association, North Carolina Fisheries Association, Garden State Seafood Association, the State of Florida, and more than 40 other organizations representing entertainment education and the scientific community.

⁸ [Review of the Implementation of the International Plan of Action for the Conservation of Sharks, Circular No. 1076, Food and Agriculture Organization of the United Nations, p. 64.](#)

⁹ [D.S. Shiffman, R.E. Hueter, A United States shark fin ban would undermine sustainable shark fisheries, Marine Policy, Volume 85, 2017, ISSN 0308-597X, p. 138.](#)

¹⁰ Id.

¹¹ Id., at p. 139.

¹² Id.

¹³ Summary of countries that have at a minimum banned shark finning, New Zealand Shark Alliance, updated as of October 2013.

¹⁴ Shark Imports Data, Fisheries Statistics and Economics Division, National Marine Fisheries Service, updated as of October 2017.

¹⁵ Id.

¹⁶ <https://www.congress.gov/bill/115th-congress/house-bill/5248/actions>.

Major Provisions/Analysis of H.R. 5248

Section 3 amends the High Seas Driftnet Fishing Moratorium Protection Act to establish a certification program for imported shark, ray and skate products. NOAA must certify that countries seeking to import these products into U.S. markets have and enforce similar regulations to the United States'. Certifications under this section must be renewed at least every three years.

Section 4 encourages the Secretary of State to enter into international fishing arrangements that encourage other countries to adopt sustainable shark management practices consistent with the International Plan of Action for Conservation and Management of Sharks.

Section 6 provides that this legislation would not preempt any federal or State laws providing for more stringent requirements than those provided in 16 U.S.C. 1826k as amended by H.R. 5248.

Cost

The Congressional budget office has yet to complete a cost estimate of this bill.

Administration Position

Unknown.

Effect on Current Law (Ramseyer)

See [here](#) for effect on current law.