UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

THE DIRECTOR

FEB - 3 2014

Mr. Frank Dawson
Deputy Secretary
Maryland Department of Natural Resources
580 Taylor Avenue
Annapolis, MD 21401

Dear Mr. Dawson:

Thank you for your September 27, 2013, letter regarding your assessment of the impacts to federal shark harvesters of the recently passed legislation in Maryland prohibiting the possession of detached shark fins under certain circumstances.

Based on the current facts regarding the scale and nature of the shark fishery in Maryland as described in your letter, we agree with your conclusion that Maryland's state shark fin law will have minimal impact on federally licensed and permitted shark harvesters, does not unlawfully burden their efforts to obtain "optimum yield" from the commercial shark fishery, and is therefore consistent with and not preempted by the Magnuson-Stevens Fishery Conservation and Management Act, including the Shark Conservation Act of 2010.

We request that you contact us if there are significant changes to the facts described in your letter, as those changes may affect our conclusions. We appreciate your willingness to work with us on this important matter.

Sincerely,

Eileen Sobeck
Assistant Administrator
for Fisheries

cc: Julia Solomon
Assistant Attorney General, Maryland
Office of the Attorney General

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MARYLAND
DEPARTMENT OF
NATURAL RESOURCES

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*
Joseph P. Gill, *Secretary*
Frank W. Dawson III, *Deputy Secretary*

September 27, 2013

Samuel D. Rauch, III
Acting Assistant Administrator for Fisheries
National Oceanic and Atmospheric Administration
1315 East-West Highway
Silver Spring, Maryland 20910

Dear Mr. Rauch,

I am writing in follow-up to a telephone conversation between our respective legal counsel on September 6, 2013 regarding recently passed legislation in Maryland prohibiting the possession of detached shark fins under certain circumstances. For the following reasons, the Maryland Department of Natural Resources believes that the new law will have a minimal impact on federally licensed and permitted shark harvesters in the State of Maryland.

Chapter 297 of the 2013 Laws of Maryland, as enacted, adds a new § 4-747 to the Natural Resources Article prohibiting a person from possessing, selling, offering for sale, trading, or distributing a shark fin. "Shark" in the bill is defined as "any species of the subclass Elasmobranchii," excluding "smooth-hounds, spiny dogfish, or species in the superorder Batoidea." "Shark fin" is defined as "the raw, dried, or otherwise processed detached fin or tail of a shark." Under the new law, a person with a state or federal license or permit authorizing the taking or landing of a shark for recreational or commercial purposes is expressly exempt from the possession restriction, and may possess a shark fin from any shark that the person took or landed in a manner consistent with the person's license. The law takes effect October 1, 2013.

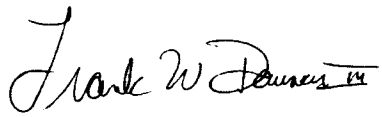
Maryland's shark fishery is relatively small in comparison to that of some other states. Over the past six years, an average of 15 commercial fishing licensees harvested shark annually in Maryland. Confidential federal dealer landing data provided to the Department through the Atlantic Coastal Cooperative Statistics Program data warehouse indicates that from 2008 – 2012, a mean of 14,417 pounds of sharks, not including Smoothhounds and Spiny Dogfish, were landed in Maryland. In 2011, for example, Maryland licensees reported harvesting 14,293 pounds of Atlantic Sharpnose, Blacktip, Shortfin Mako, Spinner, and Thresher sharks combined, for a total dockside value of $24,095. In the same year, Maryland licensees harvested 1,494,077 pounds of Smoothhounds and Spiny Dogfish, for a total dockside value of $690,020. These numbers reflect that Smoothhounds and Spiny Dogfish make up approximately 90% of the commercial shark catch in Maryland, and sales of other shark species account for less than 5% of the shark licensees' income from the shark fishery. The landings data for sharks other than Smoothhounds and Spiny

Dogfish have remained stable since at least 2008, and the Department expects this trend to continue after the new legislation takes effect.

Under the new law, state or federally permitted commercial shark fishermen may continue to catch, land, and, after landing, remove the fins of all species of shark in accordance with already existing and applicable laws and regulations. The new legislation has no impact on the harvest, possession, or sale of fins and carcasses from lawfully caught Smoothhounds and Spiny Dogfish. Sharks of other species, caught less frequently in Maryland, may still be fished, landed, and finned after landing in accordance with existing laws and regulations. The carcasses of those sharks may be sold to any eligible dealer or processor, and the commercial licensee may keep any detached fins. The new law prohibits fins from those shark species from being sold, offered for sale, traded, or distributed in the State of Maryland, but nothing prohibits the commercial licensee from selling lawfully taken fins outside the State.

For these reasons, we believe that the new prohibition on shark fin possession in Maryland will have a minimal impact on federally licensed and permitted shark harvesters, and does not unlawfully burden their efforts to obtain "optimum yield" from the commercial shark fishery. We hope that this letter serves to address some of your concerns. Please feel free to contact me at (410)260-8102, if you have questions about this.

Sincerely,



Frank W. Dawson III
Deputy Secretary

Cc: Julia Solomon, Assistant Attorney General, Maryland Office of the Attorney General
Lois Schiffer, General Counsel, National Oceanic and Atmospheric Administration