



Commonwealth of the Northern Mariana Islands
Department of Lands and Natural Resources

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December 4, 2014

Eileen Sobeck
Assistant Administrator for Fisheries
National Oceanic and Atmosphere Administration
1315 East-West Highway
Silver Spring, Maryland 20910

Dear Ms. Sobeck:

This correspondence shall memorialize the previous meetings and series of conversations between the CNMI Government and various officials from the National Marine Fisheries Service and National Oceanic and Atmosphere Administration (Office of General Counsel). The reason these meetings were held was to address the possibility of federal preemption of Commonwealth of the Northern Mariana Islands Public Law No. 17-27 (*An Act to Prohibit Any Person From Possessing, Selling, Offering For Sale, Trading Or Distributing Shark Fins In The CNMI*) by the Magnuson Stevens Fishery Conservation and Management Act (as amended by the Shark Conservation Act of 2010).

As a result our meetings and the on-going discussions, the CNMI believes Public Law No. 17-27 is consistent with the Magnuson Stevens Fishery Conservation and Management Act and through this exchange of letters wishes to confirm that there is no basis for preemption of our anti-shark finning law.

The Magnuson–Stevens Act is the controlling law governing marine fisheries management in United States federal waters and as amended by the Shark Conservation Act seeks to improve the conservation of sharks. CNMI Public Law No. 17-27 provides in relevant part that it shall be unlawful for any person to possess, sell, offer for sale, trade, or distribute shark fins in the CNMI. There are express exceptions for any person with a valid license or permit for research and for subsistence (non-commercial) purposes. Together these laws share the goal of conservation and putting an end to the practice of shark finning.

As an initial matter, local creel surveys reveal that commercial shark fishing activities do not occur and that in fact no federal shark fisheries exist as permitted under the Magnuson-Stevens Fishery Conservation and Management Act in or near CNMI waters. As a pragmatic matter, CNMI Public Law No. 17-27 will have therefore no or only minimal impact on the ability of commercial fishermen to harvest, possess or land sharks in federally managed fisheries.

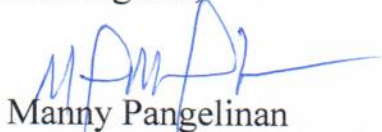
In addition, after further consultation with the appropriate government officials, the Commonwealth of the Northern Mariana confirms that our legal interpretation of the Public Law No. 17-27 would not prohibit the possession, import, and/or landing of sharks with fins that are naturally attached to the shark carcass which are harvested in federally-managed commercial fisheries. Instead, the purpose of Public Law No. 17-27 is to regulate the commercial activities associated with shark finning on shore (for example, selling shark fins in stores or local restaurants) and to make such an activity illegal in the CNMI.

Accordingly, the CNMI does not construe Public Law No. 17-27 as to prohibit the landing of intact shark carcasses by federally-managed fisheries, or to prohibit the removal and/or disposal of shark fins (or, the possession, sale or the distribution of the shark carcass). The prohibitions under Public Law No. 17-27 are with respect to the possession, sale, trade, or distribution of shark fins that have been removed from the shark carcass for commercial purposes on shore.

Consequently, for all the above noted reasons, Public Law No. 17-27 will have no or possibly only a minimal impact on federally managed fisheries in the CNMI and will not diminish income to CNMI fishermen from these fisheries.

We hope this letter addresses any concerns you might have and please contact this office if you have any questions or require information.

Best regards,



Manny Pangelinan
Acting Secretary

Department of Land and Natural Resources

cc: Eloy Inos, Governor, Northern Mariana Islands
Gilbert Birnbrich, Attorney General, Northern Mariana Islands
Manny M. Pangelinan, Director, Division of Fish and Wildlife
File



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

Mr. Manny Pangelinan
Acting Secretary
Department of Land and Natural Resources
Commonwealth of the Northern Mariana Islands
Lower Base, P.O. Box 10007
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Dear Mr. Pangelinan:

Thank you for your letter regarding the Commonwealth of the Northern Mariana Islands (CNMI) Public Law No. 17-27, which prohibits any person from possessing, selling, offering for sale, trading, or distributing shark fins in CNMI.

Based on the information about the CNMI law set forth in your letter and the current facts regarding the scale and nature of the shark fishery in CNMI, we agree with your conclusion that the CNMI shark law will have minimal impact on federally managed fishermen in CNMI. As noted in your letter, local creel surveys have indicated that shark fishing activities do not occur in CNMI and currently no directed federal shark fisheries exist as permitted under the Magnuson-Stevens Fishery Conservation and Management Act in or around CNMI waters.

We also understand that CNMI Law 17-27 would not prohibit the possession, import, and/or landing of sharks with fins that are naturally attached to the shark carcass that are harvested in federally managed commercial fisheries. The prohibitions under CNMI Law 17-27 are with respect to the possession, sale, trade, or distribution of shark fins that have been removed from the shark carcass for commercial purposes on shore. Based on this, we understand that fishermen would be able to sell, trade, and distribute shark carcasses.

Based on these facts, we agree with your conclusion that CNMI's law will have minimal impact on federally managed fishermen in CNMI and does not unlawfully burden their ability to achieve the benefits from federal fisheries and is therefore consistent with and not preempted by the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Shark Conservation Act of 2010.

Please contact us if there are any 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

