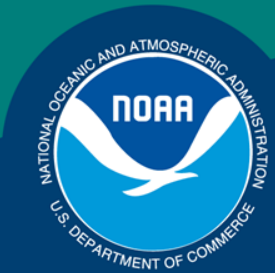


*Science, Service, Stewardship*



# **Proposed Rule to Implement Import Restrictions under the Marine Mammal Protection Act**

**Nina M. Young**

**October 2015**

**NOAA  
FISHERIES  
SERVICE**

NOAA



## Implementation of MMPA Sec. 101(a)(2)

MMPA Sec. 101(a)(2)—

The Secretary of the Treasury **shall ban the importation** of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental **kill or incidental serious injury of ocean mammals in excess of United States standards**. For purposes of applying the preceding sentence, the **Secretary [of Commerce]**—

**(A) shall insist on reasonable proof** from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States.



## Proposed Rule to Implement MMPA Sec. 101(a)(2)

5-yr Exemption Period during which--

- Classifies fisheries as export or exempt in a List of Foreign Fisheries
- Nations develop their regulatory program
- Nations provide progress report mid-way through the exemption period.
- Culminates in Comparability Finding





## List of Foreign Fisheries (LFF)

Within 1<sup>st</sup> year--

- NMFS solicits information on marine mammal bycatch from exporting nations;
- Uses nation-provided information, other information or classifies by analogy with other fisheries;
- Publishes draft (for comment) and final LFF in Federal Register;





## Categories of Fisheries

Fisheries classified as either export or exempt based on frequency of marine mammal bycatch

**Exempt Fisheries** have a remote likelihood of or no known marine mammal bycatch

- 10% or less of any marine mammal stock's bycatch limit
- No regulatory program requirement except--
- Must prohibit intentional killing of marine mammals

**Export Fisheries** have more than a remote likelihood of marine mammal bycatch

- If insufficient information fishery is classified as Export Fishery
- Develop a regulatory program comparable in effectiveness to U.S. regulatory program
- Including must prohibit intentional killing of marine mammals



## Consultations



### Early and Often--

- After the LFF to provide fishery classifications and regulatory requirements;
- Any time upon request;
- Preliminary comparability finding—if possibility of denial or revocation; and
- Upon denial or revocation of a comparability finding



## Comparability Finding

### Conditions within EEZ—

- Fishery registration
- Marine mammal stock and bycatch assessment
- Prohibition on killing marine mammals
- Reporting and monitoring requirements
- Calculation of bycatch limit
- Regulatory program to reduce bycatch below bycatch limit

***Or alternative measures comparable in effectiveness***





## Comparability Finding (cont.)

### Conditions in another coastal state—

- Marine mammal stock and bycatch assessment
- Prohibition on killing marine mammals
- Calculation of bycatch limit
- Regulatory program to reduce bycatch below bycatch limit
- TRT Requirements
- RFMO Requirements



***Or alternative measures comparable in effectiveness***





## Comparability Finding (cont.)



### Conditions on the high seas—

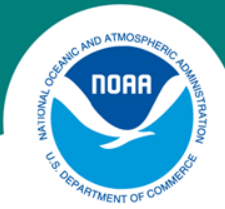
- RFMO or inter-governmental agreement conservation and management measures
- Applicable Take Reduction Team Requirements

***Or alternative measures comparable in effectiveness***



## Additional Considerations

1. U.S. implementation of its regulatory program for similar marine mammal stocks and similar fisheries;
2. The extent to which the nation has successfully implemented measures in the export fishery to reduce bycatch below the bycatch limit;
3. Whether the measures adopted by the nation for its export fishery have reduced or will likely reduce the bycatch below the bycatch limit, and the progress of the regulatory program toward achieving its objectives;



## Import Prohibitions

### Fail to receive or have comparability finding revoked

- Prohibit importation of fish and fish products from that fishery
- May require certification of admissibility from other fisheries of that nation with the same or similar fish products
- Nation can reapply at any time



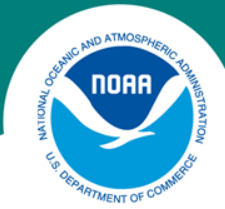


## Intermediary Nations

### Triggered by Import Prohibitions

- Applies to processing nations
- Must demonstrate that they do not import prohibited product
- Or have tracking and verification procedures to ensure that it prohibit product is not exported to the U.S.





## Touches Many Nations



- 122 Nations- export fish and fish products to the U.S
- 53 Nations export tuna and swordfish
- Import >67 marine species
- Top 3 exports =Tuna, shrimp, salmon

**Top exporting nations = Canada, Chile, China, Japan, Mexico, Taiwan, Thailand, South Korea, and Vietnam**

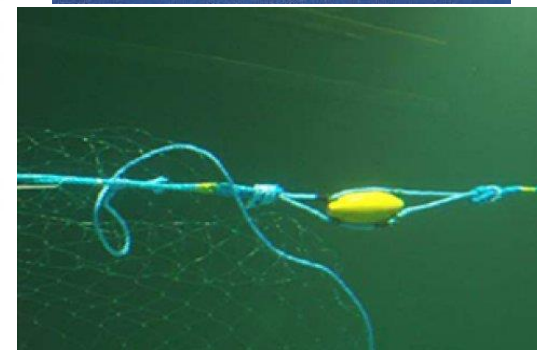
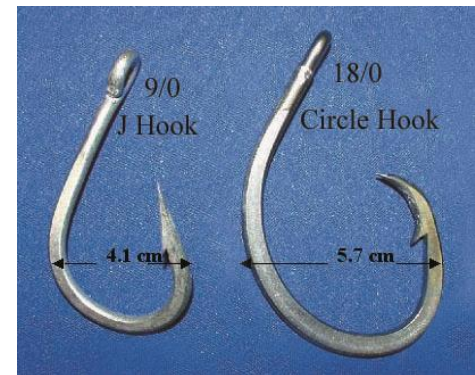
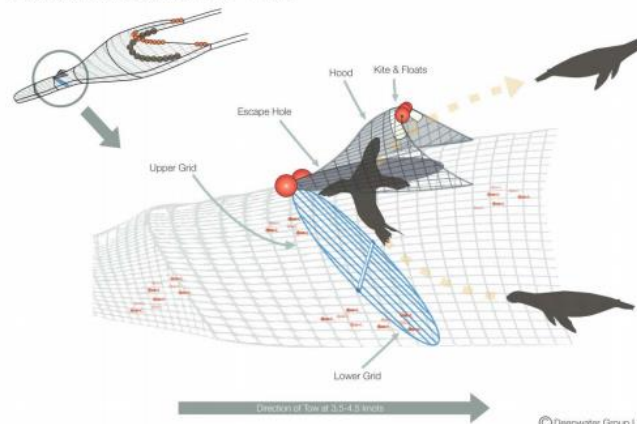


## Where We Are In the Process

Comment period on the proposed rule until November 9th

*Need information now from nations on fisheries and marine mammal bycatch.*

Sea Lion Exclusion Device - SLED



Questions????

[Nina.Young@noaa.gov](mailto:Nina.Young@noaa.gov)