



September 2, 2015

Dorothy Lowman, Chair

Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 101

Portland, OR 97220

William Stelle, Regional Administrator

NOAA Fisheries, West Coast Region

760 Sand Point Way NE

Seattle, WA 98115

RE: Comments on Council Agenda Item G.1 urging support for NMFS' Foreign Fishery
MMPA Certification Rule.

Dear Council Members,

On behalf of Turtle Island Restoration Network and our 70,000 activists and members, I would like to urge the council to formally support NMFS' proposed Foreign Fishery Marine Mammal Protection Act certification rule (80 FR 48172, Agenda Item G.1, Attachment 7) and to call for strengthening of the rule to ensure that fish imports into the U.S. truly meet U.S. fishery standards. This rule would protect both marine mammals worldwide and also

protect U.S. fishermen from competition from dirty and destructive foreign fisheries. This rule is the result of a longer effort and litigation by Turtle Island Restoration Network, the Center for Biological Diversity and the Natural Resources Council as part of our ongoing efforts to protect the oceans globally.

This rule could provide real benefits to marine mammals and the U.S. fishing industry, while helping potentially to ease the management constraints the Council must contend with as depleted populations recover. This rule implements a critical component of the Marine Mammal Protection Act by using access to U.S. markets to pressure foreign governments to protect marine mammals globally. Since the bulk of the marine mammal take occurs in foreign fisheries, this rule could result in improvements in fisheries worldwide by banning the import of fish and fish products from the most destructive fisheries worldwide.

This rule also supports the mission of the Pacific Fisheries Management Council by helping protect the U.S. fishing industry from foreign fisheries seeking competitive advantage through the use of destructive gears. By requiring fish and fish products sold in the U.S. to meet substantively similar standards to those applicable to the U.S. fishing industry, this rule would help level the playing field in the market. Furthermore, by applying U.S. standards to all imports would highlight the standards to which the U.S. fishing industry is held. Thus, on balance, this rule would serve to support the PFMC's missions to support the U.S. fishing and to promote sustainability.

Turtle Island Restoration Network also urges the Council to urge NMFS to strengthen the rule further so that it will be truly effective. Section 101(a)(2) of the MMPA requires the Secretary to “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.”¹

However, in several instances, the rule would allow for certification of foreign fisheries that “provide for” measures on paper that would or might reduce marine mammal mortality and serious injury if implemented, without actually requiring such reductions. This structure could open a loophole, which would allow foreign nations to simply pass rules without

¹ 42 U.S.C. § 1371

doing the hard work of actually protecting marine mammals. If this language is retained, the rule runs the risk of failing to meet its objectives. Since protecting marine mammal stocks requires actual protections, we ask the PFMC to endorse tightening of the rule to allow certification for programs that effectively *achieves* comparable results as required by the statute, rather than merely “providing for” paper measures that may have no practical consequences on the water.

Overall, this rule will protect marine ecosystems and provide benefits for the U.S fishing industry as well. As we have noted in our prior comments, this rule also will leverage the work of the PFMC and other Fishery Management Councils by helping to set global standards for fisheries management. We respectfully urge the Council both to formally support the rule and call for a strengthening of the requirements foreign regulators must meet by demonstrating actual results in reducing the killing of marine mammals.

Most respectfully submitted,

A handwritten signature in black ink, appearing to read 'DK', with a long horizontal stroke extending to the right.

Doug Karpa

Legal Program Director

Turtle Island Restoration Network

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Olema, CA