



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF590]

Implementation of Fish and Fish Product Import Provisions of the Marine Mammal Protection Act—Notification of Comparability Findings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of comparability findings.

SUMMARY: Under the authority of the Marine Mammal Protection Act (MMPA),
the NMFS Assistant Administrator for Fisheries (Assistant Administrator) announces
comparability finding determinations for the Government of New Zealand's (GNZ)
North Island and South Island multi-species set net fisheries and North Island and
South Island multi-species trawl fisheries. NMFS bases the comparability findings on
documentary evidence submitted by the GNZ and other relevant, readily available
information.

DATES: These comparability findings are valid and in effect from **[INSERT DATE
OF PUBLICATION IN THE *FEDERAL REGISTER*]** through December 31,
2029, or for such other period as NMFS may specify.

FOR FURTHER INFORMATION CONTACT: Mi Ae Kim, Office of International
Affairs, Trade, and Commerce, NMFS, mmpa.loff@noaa.gov, or by phone at (301) 427-
8365.

SUPPLEMENTARY INFORMATION:

Background

The MMPA requires the United States to ban the importation of commercial
fish or fish products that have been caught with commercial fishing technology

which results in the incidental kill or incidental serious injury of ocean mammals in excess of U.S. standards (16 U.S.C. 1371(a)(2)). For the purposes of applying this import ban, the Secretary of Commerce 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 (16 U.S.C. 1371(a)(2)(A)).

In August 2016, NMFS published a final rule (81 FR 54390; August 15, 2016) (Final Rule) implementing the fish and fish product import provisions in section 1371(a)(2) of the MMPA. The Final Rule established a process to evaluate a harvesting nation's regulatory program concerning the incidental and intentional mortality and serious injury of marine mammals in fisheries operated by nations that export fish and fish products to the United States. Under the Final Rule, a valid comparability finding for a fishery must be in effect for the importation of fish and fish products into the United States.

The GNZ submitted its comparability finding application to NMFS, including information pertaining to the North Island and South Island multi-species set net and trawl fisheries. NMFS issued comparability findings for a select number of New Zealand's fisheries (*i.e.*, West Coast North Island multi-species set net and trawl fisheries) in November 2020. *See* 85 FR 71297 (November 9, 2020). Following the publication of the findings, two environmental organizations filed a lawsuit against NMFS claiming that its comparability findings violated the MMPA and Administrative Procedure Act (APA). *See Sea Shepherd New Zealand and Sea Shepherd Conservation v. United States, et al.*, Case No. 20-00112. A brief history of the litigation can be found at 89 FR 4595 (January 24, 2024). In response to the litigation, the GNZ submitted supplemental documentary evidence regarding its

regulatory program pertaining to the West Coast North Island multi-species set net and trawl fisheries. NMFS reconsidered its earlier comparability findings issued on November 9, 2020, based on the supplemental information provided and issued new comparability findings for these fisheries on January 24, 2024. *See* 89 FR 4595 (January 24, 2024).

A new lawsuit was initiated by a different environmental organization on December 4, 2024, challenging NMFS' January 24, 2024 comparability findings. *See Maui and Hector's Dolphin Defenders NZ Inc. v. National Marine Fisheries Service, et al.*, Case No. 1:24-cv-00218 (CIT) (*MHDD v. NMFS I*). Plaintiff asserted that NMFS' comparability findings and its failure to ban imports from New Zealand's West Coast North Island multi-species set net and trawl fisheries (specifically from Fishery IDs 1969 and 1977) violated the MMPA and APA. On August 26, 2025, the U.S. Court of International Trade ruled in favor of the plaintiff concluding that NMFS' 2024 decision was arbitrary and capricious because the agency's rationale was inconsistent with the MMPA and it failed to adequately explain its rationale and support its determinations with documentary evidence. The court vacated and remanded the 2024 Decision Memorandum supporting the comparability findings with instructions to NMFS to issue remand comparability findings for New Zealand's West Coast North Island multi-species set net and trawl fisheries no later than January 6, 2026. NMFS filed its remand comparability findings with the court on January 6, 2026.

In an unrelated action, on September 2, 2025, NMFS published a Notice in the **Federal Register** announcing NMFS' final comparability findings for the entire group of harvesting nations (135 nations covering approximately 2,500 fisheries) seeking to export fish and fish products to the United States under section 1371(a)(2) of the MMPA. *See* 90 Fed. Reg. 42395 (Sept. 2, 2025). The issuance of final

comparability findings for all harvesting nations was required because the regulations obligated NMFS to determine whether to issue comparability findings for Export and Exempt fisheries no later than November 30, 2025 (the year when the exemption period was set to expire) and because a court order in *Natural Resources Defense Council, et al. v. National Marine Fisheries Service, et al.*, 1:24-cv-00148 (CIT) directed that NMFS issue comparability findings for all harvesting nations and submit those findings to the **Federal Register** on or before September 1, 2025. Pursuant to the requirements of the Final Rule and the court's order, NMFS issued new comparability findings for all of New Zealand's commercial fisheries, which were published in the **Federal Register** on September 2, 2025.

Māui and Hector's Dolphin Defenders NZ Inc. filed another lawsuit on January 5, 2026, alleging that NMFS' September 2, 2025, comparability findings for New Zealand's fisheries involving commercial set net and trawl gear violated the MMPA and APA. See *Maui and Hector's Dolphin Defenders NZ Inc. v. National Marine Fisheries Service, et al.*, Case No. 1:26-00060 (CIT) (*MHDD v. NMFS II*). *MHDD v. NMFS II* challenged NMFS' findings for the following 15 North Island and South Island set net and trawl fisheries - Fishery IDs 1883, 1968, 1969, 1977, 1978, 2041, 2046, 2047, 2051, 2052, 2053, 2054, 2064, 2067, and 2077. The primary difference between *MHDD v. NMFS I* and *MHDD v. NMFS II* relates to scope, namely that in *MHDD v. NMFS II* the Plaintiffs claimed that NMFS did not adequately address the effects of the South Island set net and trawl fisheries on Hector's dolphins and other potentially affected marine mammals.

NMFS' Comparability Findings for New Zealand's North Island and South Island Multi-species Set Net and Trawl Fisheries

NMFS has conducted a discretionary review pursuant to 50 CFR 216.24(h)(8)(vii) of the findings it made on September 2, 2025, pertaining to New

Zealand's North Island and South Island multi-species set net and trawl fisheries solely to consider whether the information obtained by NMFS during the remand period in *MHDD v. NMFS I*, and other readily available information from public sources and the GNZ, continued to support comparability findings for the additional 13 fisheries that were not included in the remand. Having concluded that this additional information does not support altering the previous results, NMFS issues the following comparability findings.

A comparability finding means that each of the harvesting nation's Export and/or Exempt fisheries covered by the finding meet the applicable conditions specified in the Final Rule and becomes valid upon publication in the **Federal Register**. See 50 CFR 216.24(h)(8)(i) and (iv). NMFS has evaluated the documentary evidence provided by the GNZ and other relevant, readily available information, addressed the concerns identified in the court's August 26, 2025, Opinion and Order, and the applicable regulatory conditions at 50 CFR 216.24(h)(6) and (h)(7), and has determined that the GNZ's regulatory program for its North Island and South Island multi-species set net and trawl fisheries is comparable in effectiveness to the United States' regulatory program under the MMPA. The comparability findings announced in this Notice incorporate the remand comparability findings for Fishery IDs 1969 and 1977 that were filed with the court on January 6, 2026, and new comparability findings for New Zealand's North Island and South Island multi-species set net and trawl fisheries that are the subject of *MHDD v. NMFS II* (Fishery IDs: 1883, 1968, 1969, 1977, 1978, 2041, 2046, 2047, 2051, 2052, 2053, 2054, 2064, 2067, and 2077) and the new findings supersede NMFS' previously published comparability findings for the same fisheries (*i.e.*, Fishery IDs: 1883, 1968, 1969, 1977, 1978, 2041, 2046, 2047, 2051, 2052, 2053, 2054, 2064, 2067, and 2077) referenced in NMFS's Notice of Comparability Findings and Implementation and Continuation of Trade Restrictions for Certain Fish and Fish Products dated September 2,

2025. See 90 FR 42395 (Sept. 2, 2025). All of the other comparability findings for New Zealand's Export and/or Exempt fisheries (*i.e.*, purse seine (ID 1881), trolling lines (ID 1971), surface longline (ID 1972 and 1975), bottom trawl (ID 2074, 2083, 2084, 2085, 2093, 2099), bottom trawl/midwater trawl (ID 10581), bottom longline (ID 1882, 2075, and 2095), fish pots/fish traps (ID 2043 and 12480), pots/traps (ID 2050), lobster traps (ID 2089), and aquaculture (ID 2090)) identified in the September 2, 2025, **Federal Register** Notice and accompanying report for these New Zealand fisheries are unaffected by this Notice and remain valid.

As a result of these findings, NMFS announces the issuance of comparability findings that will allow the continued importation into the United States of fish and fish products harvested by New Zealand's set net and trawl fisheries (Fishery IDs: 1883, 1968, 1969, 1977, 1978, 2041, 2046, 2047, 2051, 2052, 2053, 2054, 2064, 2067, and 2077) operating off the North Island and South Island. A more detailed analysis of NMFS' comparability findings for the GNZ's North Island and South Island multi-species set net and trawl fisheries (Fishery IDs: 1883, 1968, 1969, 1977, 1978, 2041, 2046, 2047, 2051, 2052, 2053, 2054, 2064, 2067, and 2077) is contained in NMFS's Decision Memorandum dated March 2, 2026, and can be found at:

<https://www.fisheries.noaa.gov/international-affairs/2025-marine-mammal-protection-act-comparability-finding-determinations>

Dated: March 6, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

[FR Doc. 2026-04747 Filed: 3/10/2026 8:45 am; Publication Date: 3/11/2026]