

The Marine Mammal Protection Act
16 USC §§ 1371-1423h

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(Doing a Pretty Decent Job of)
Protecting (Most) Marine Mammals
since 1972



(future ALDF Director of Philanthropic Gifts)



(childhood was dangerous)



(not actually twins)



(cute)

As Nixon fell from grace ...



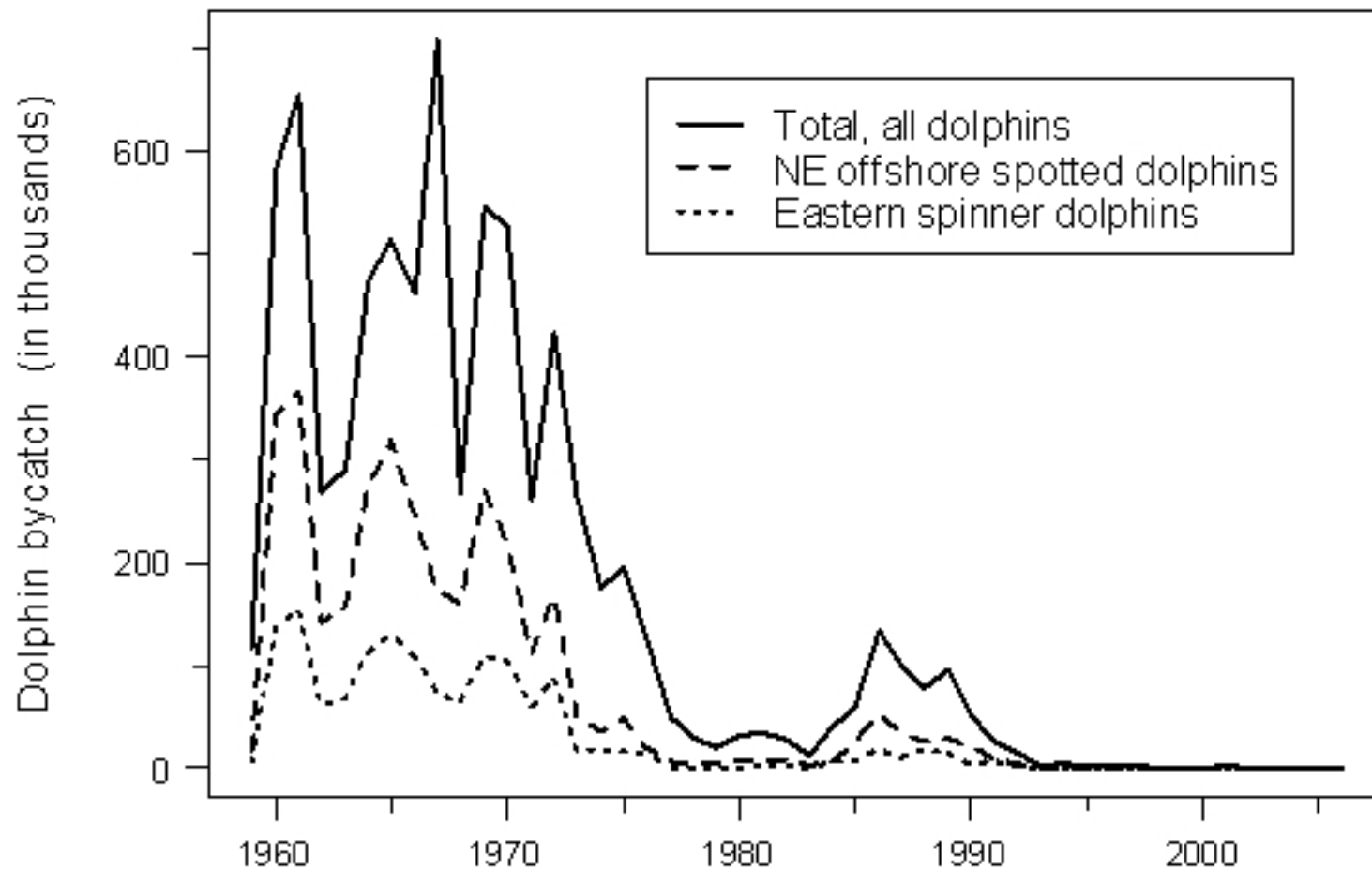
dolphins were dying in tuna nets ...



The Marine Mammal Protection Act

- ★ Moratorium on taking and importing marine mammals and their parts. 16 USC § 1371(a).
- ★ Take: harass, hunt, capture, or kill. § 1362(13).
- ★ Special exception permits for scientific research, enhancing the survival of the species, educational or commercial photography, and public display. § 1371(a)(1).
- ★ Incidental take permits for regulated fisheries, aiming to reduce death and serious injury to insignificant levels approaching a zero mortality rate. § 1371(a)(2).

It worked pretty well ...



Dolphin Protection Consumer Information Act 16 USC § 1365



Bycatch is still a serious problem ...

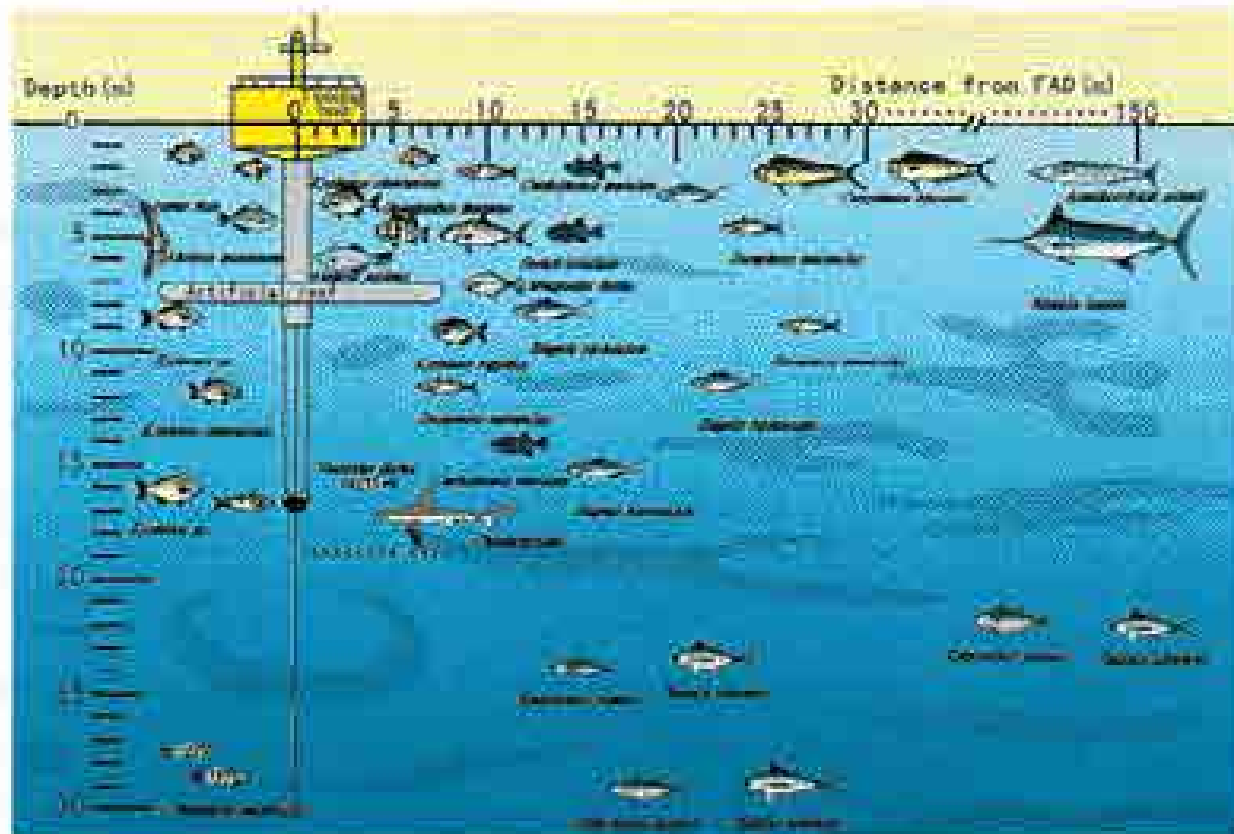


Fig. 2 Fishes aspect around large-scale FAD.



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NMFS

- ✧ Seals
- ✧ Sea lions
- ✧ Dolphins
- ✧ Whales

USFWS

- ✧ Otters
- ✧ Manatees
- ✧ Walruses
- ✧ Polar Bears

1988 Amendments – public display

New public display requirements § 1374(c)(2):

- ✧ “A permit may be issued for public display purposes only to an applicant which offers a program for education or conservation purposes that, based on professionally recognized standards of the public display community, **is acceptable to the Secretary**”
- ✧ Open to the public on a regular basis, admission fee okay

NMFS proposed rulemaking

- ✧ Programs should “effectively convey **accurate**, [current, and understandable] information about marine mammals and **their role in the marine ecosystem.**”
- ✧ And the “basic messages and purposes of the [education or conservation] program” should be “**consistent with the policies and objectives of the MMPA**, [and] . . . include **accurate** information about the **life history, behavior, sensory capabilities, conservation** or other aspects of marine mammals, such as **their role in the marine ecosystem.**”

Additional proposed rulemaking

- ✧ Create “a comprehensive regulatory foundation”
- ✧ Resolve pre-Act progeny confusion
- ✧ Define “take” to include holding a marine mammal captive
- ✧ Captive maintenance requirements
- ✧ Regulation of SWTD programs

Congressional response

- ✦ Regulatory regime “streamlined”
- ✦ Defined “harassment” in terms of the wild
- ✦ “Educational” now entirely up to the industry
- ✦ Stripped NMFS of jurisdiction over captive marine mammals

1994 Amendments – public display

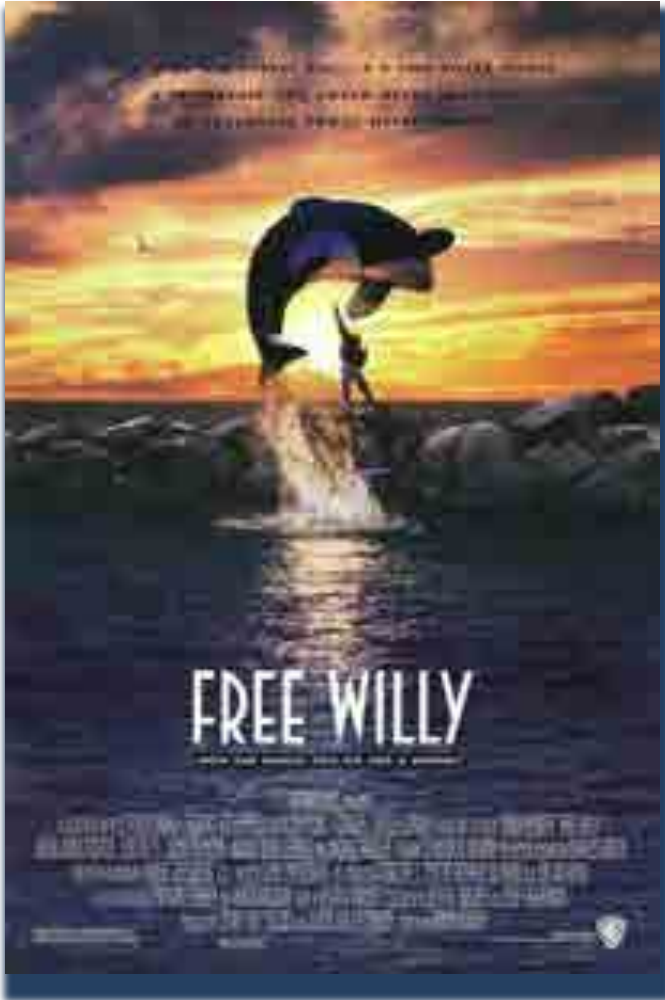
Public display requirements § 1374(c)(2):

- ✧ The Secretary must **determine** that the applicant “offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community, ~~is acceptable to the Secretary~~”
- ✧ **is registered or holds an AWA license**
- ✧ open to the public on a regular basis, restricting access only with an admission fee

But wait, there's more ...

New public display requirements § 1374(c)(2)(B):

- ✧ A permit . . . grant[s] . . . the right, **without obtaining any additional permit** or authorization . . . to:
- ✧ (i) **take, import, purchase**, offer to purchase, possess, or **transport** the marine mammal . . . ;
and
- ✧ (ii) **sell, export**, or otherwise **transfer possession** of the marine mammal, . . .



1993



2013

Blue World Permit California Coastal Commission, 2015



Georgia Aquarium v. NMFS (N.D. Georgia 2015)



NRDC v. NMFS (D. Hawaii 2015)



HSUS v. NOAA (9th Circuit 2013)



Casa Beach Harbor Seal Rookery 2009









National Park Service
U.S. Department of the Interior

Because of the
Federal Government SHUTDOWN,
**All National Parks
Are CLOSED.**

Questions?

