

2. Section 17.11(h) is amended by adding the following, in alphabetical order under AMPHIBIANS, to the List of

Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
AMPHIBIANS							
*	*	*	*	*	*		*
Frog, mountain yellow-legged.	<i>Rana muscosa</i>	U.S.A. (California, Nevada) including San Diego, Orange, Riverside, San Bernardino, and Los Angeles Counties.	U.S.A., southern California.	E	NA	NA
*	*	*	*	*	*		*

Dated: December 10, 1999.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 991210333-9333-01; I.D. 111099C]

RIN 0648-AN37

Dolphin-Safe Tuna Labeling; Official Mark

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement provisions of the International Dolphin Conservation Program Act (IDCPA) that pertain to the establishment of an official dolphin-safe mark. This rule proposes that mark. The Dolphin Protection Consumer Information Act (DPCIA), as amended by the IDCPA, requires the Secretary of Commerce to develop an official mark that may be used to label tuna products as "dolphin-safe." This rule will allow consumers to distinguish dolphin-safe tuna products using the official mark from non-dolphin-safe tuna products.

DATES: Comments on the proposed rule must be received on or before January 5, 2000.

ADDRESSES: Written comments should be sent to Christopher Fanning, NMFS, Southwest Region, Sustainable Fisheries Division, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Comments also may be sent via facsimile, to (562) 980-4047. NMFS will not accept comments sent by e-mail or via Internet. A full color version of the proposed official mark may be found at the NMFS Southwest Region website at <http://swr.ucsd.edu/>.

FOR FURTHER INFORMATION CONTACT: Christopher Fanning, NMFS, Southwest Region, Sustainable Fisheries Division, (562) 980-4030 or J. Allison Routt, NMFS, Southwest Region, Protected Resources Division, (562) 980-4020.

SUPPLEMENTARY INFORMATION:

Background

The DPCIA, 16 U.S.C. 1385, as amended by the IDCPA, requires the Secretary of Commerce to develop an official mark that can be used to label tuna products as "dolphin-safe." The IDCPA and the DPCIA became effective on March 3, 1999, when the Secretary of State certified to Congress that the Agreement on the International Dolphin Conservation Program had been adopted and was in force.

Official Mark

As discussed in the proposed rule to implement the IDCPA (64 FR 31806; June 14, 1999), the Secretary of Commerce considered the designation of a commonly used dolphin-safe logo as the official mark, but instead has decided to develop a unique logo as the official mark. This rule proposes a specific logo as the official mark.

The DPCIA establishes dolphin-safe standards applicable to tuna products

labeled with either the official mark or an alternative mark, (16 U.S.C. 1385(d)). The DPCIA does not mandate the use of the official mark nor does it prohibit the use of alternative marks. However, as set forth under paragraph (d)(3)(B) of the DPCIA, whenever a tuna product bears the official mark, it may not bear any other mark or label that refers to dolphins, porpoises, or marine mammals. The dolphin-safe labeling standards are set forth under 50 CFR 216.91 through 216.94. This proposed rule would codify the official mark at 50 CFR 216.96.

Public Comments Solicited

NMFS is soliciting comments on this proposed rule, including the proposed official mark (see **ADDRESSES**).

Classification

Executive Order 12866

This proposed rule has been determined to not be significant for purposes of E.O. 12866.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities since the IDCPA does not mandate the use of the official mark, and use of the official mark is discretionary. Thus there are no compliance costs associated with this proposed rule. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 216

Food Labeling, Marine mammals, Seafood.

Dated: December 15, 1999.

Andrew A. Rosenberg,

*Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 216 is proposed to be amended as follows:

**PART 216—REGULATIONS
GOVERNING THE TAKING AND
IMPORTING OF MARINE MAMMALS**

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Section 216.96 is added to read as follows:

§ 216.96 Official mark for “Dolphin-safe” tuna products.

(a) This is the “official mark” (see figure 1) designated by the United States Department of Commerce that may be used to label tuna products that meet the “dolphin-safe” standards set forth in the DPCIA, 16 U.S.C. 1385, and implementing regulations at 50 CFR 216.91 through 216.94:

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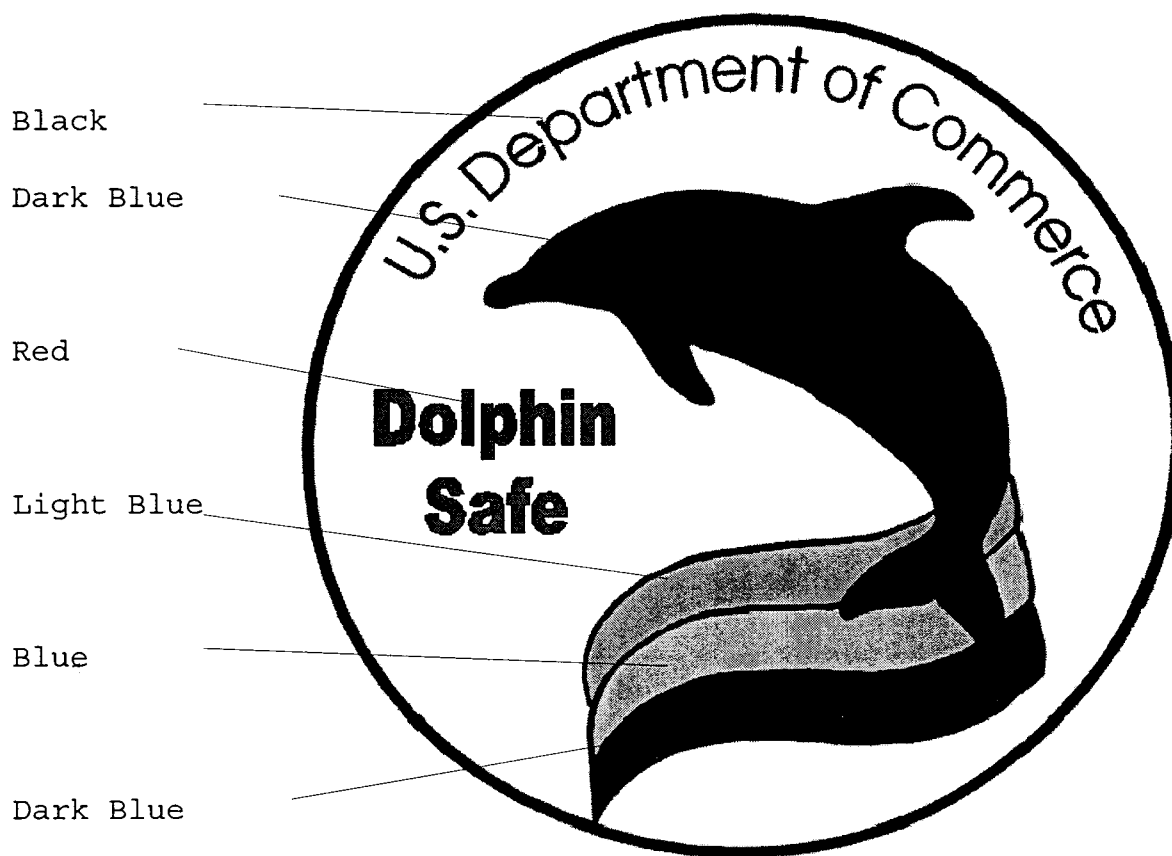


Figure 1.

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(b) *Location and size of the official mark.*

The official mark on labels must allow the consumer to identify the official

mark and be similar in design and scale to figure 1. A full color version of the

official mark may be found at <http://swr.ucsd.edu/>.

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