Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.1007 revise paragraph (a) to read as follows:

§ 117.1007 Elizabeth River—Eastern Branch.

(a) The draw of the Norfolk Southern Railroad Bridge (NS #V2.8), mile 2.7 at Norfolk, shall operate as follows:

(1) The draw shall remain in the open position for navigation. The draw shall only be closed for train crossings or periodic maintenance authorized in accordance with Subpart A of this part.

(2) The bridge shall be operated by the controller at the Norfolk Southern Railroad Bridge (NS #5), mile 1.1, over the Eastern Branch of the Elizabeth River in Norfolk, VA. The controller shall monitor vessel traffic with closed circuit cameras and infrared sensors covering the swing radius. Operational information will be provided 24 hours a day on marine channel 13 and via telephone (757) 446–5320.

(3) The bridge shall not be operated from the remote location in the following events: Failure or obstruction of the infrared sensors, closed-circuit cameras or marine-radio communications, or when controller visibility is less than ¾ of a mile. In these situations, a bridge tender must be called to operate the bridge on-site.

(4) Before the bridge closes for any reason, the remote operator will monitor waterway traffic in the area. The bridge shall only be closed if the off-site remote operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area. While the bridge is moving, the operator shall maintain constant surveillance of the navigation channel.

(5) Before closing the draw, the channel traffic lights will change from flashing green to flashing red, the horn will sound five short blasts, and an audio voice warning stating, ''Norfolk Southern's Railroad Bridge over the Eastern Branch of the Elizabeth River at milepost 2.7 will be closing to river traffic.'' Five short blasts of the horn will continue until the bridge is seated and locked down to vessels, the channel traffic lights will continue to flash red.

(6) When the rail traffic has cleared, the horn will automatically sound one prolonged blast followed by one short blast to indicate the draw is opening to vessel traffic. During the opening swing movement, the channel traffic lights will flash red until the bridge returns to the fully open position. In the full open position to vessels, the bridge channel lights will flash green followed by an announcement stating, ''Security, security, security, the Norfolk Southern Railroad Bridge at mile 2.7 is open for river traffic.''

* * * * *

Dated: November 22 2004.

Ben R. Thomason, III,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 04–26520 Filed 12–1–04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 041108310–4310–01; I.D. 100104H]

RIN 0648–AS78

List of Fisheries for 2005

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

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) is publishing the proposed List of Fisheries (LOF) for 2005, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2005 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must categorize each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of serious injury and mortality of marine mammals that occurs incidental to each fishery. The categorization of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

DATES: Comments must be received by January 3, 2005.

ADDRESSES: You may send comments by any of the following methods:

- Mail: Chief, Marine Mammal Conservation Division, Attn: List of Fisheries, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- E-mail: *2005LOF.comments@noaa.gov*.
- Federal eRulemaking portal: *http://www.regulations.gov* (follow instructions for submitting comments).

Comments regarding the burden-hour estimates, or any other aspect of the collection of information requirements contained in this proposed rule, should be submitted in writing to the Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and to David Rostker, OMB, by e-mail at *David_Rostker@omb.eop.gov* or by fax to 202–395–7285.

Registration information, materials, and marine mammal reporting forms may be obtained from the following regional offices:

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930–2298, Attn: Marcia Hobbs;

NMFS, Southeast Region, 9721 Executive Center Drive North, St. Petersburg, FL 33702, Attn: Teletha Griffin;

NMFS, Southwest Region, Protected Species Management Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Don Peterson;

NMFS, Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115, Attn: Permits Office;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802; or

NMFS, Pacific Islands Region, Protected Resources Division, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814–4700.

FOR FURTHER INFORMATION CONTACT: Kristy Long, Office of Protected Resources, 301–713–1401; David Gouveia, Northeast Region, 978–281–9328; Juan Levesque, Southeast Region, 727–570–5312; Cathy Campbell, Southwest Region, 562–980–4060; Brent Norberg, Northwest Region, 206–526–6733; Bridget Mansfield, Alaska Region, 907–586–7642; Tamra Faris, Pacific Islands Region, 808–973–2937. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

What is the List of Fisheries?

Section 118 of the MMPA requires that NMFS place all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals that occurs in each fishery (16 U.S.C. 1387 (c)(1)). The categorization of a fishery in the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. NMFS must reexamine the LOF annually, considering new information in the Stock Assessment Reports, other relevant sources, and the LOF, and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387 (c)(3)).

How Does NMFS Determine in which Category a Fishery is Placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized here.

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock, and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the Potential Biological Removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362 (20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. This definition can also be found in the implementing regulations for section 118 at 50 CFR 229.2.

Tier 1: If the total annual mortality and serious injury across all fisheries that interact with a stock is less than or equal to 10 percent of the PBR level of the stock, all fisheries interacting with the stock would be placed in Category III. Otherwise, these fisheries are subject to the next tier (Tier 2) of analysis to determine their classification.

Tier 2, Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level.

Tier 2, Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level.

Tier 2, Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level.

While Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock, Tier 2 considers fishery-specific mortality and serious injury for a particular stock. Additional details regarding how the categories were determined are provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995).

Since fisheries are categorized on a per-stock basis, a fishery may qualify as one Category for one marine mammal stock and another Category for a different marine mammal stock. A fishery is typically categorized on the LOF at its highest level of classification (e.g., a fishery that qualifies for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II).

Other Criteria That May Be Considered

In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental serious injury or mortality qualifies for Category II by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries (50 CFR 229.2).

How Do I Find Out if a Specific Fishery is in Category I, II, or III?

This proposed rule includes two tables that list all U.S. commercial fisheries by LOF Category. Table 1 lists all of the fisheries in the Pacific Ocean (including Alaska). Table 2 lists all of the fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

Am I Required to Register Under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain a marine mammal authorization from NMFS in order to lawfully incidentally take a marine mammal in a commercial fishery. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How Do I Register?

Fishers must register with the Marine Mammal Authorization Program (MMAP) by contacting the relevant NMFS Regional Office (see **ADDRESSES**) unless they participate in a fishery that has an integrated registration program (described below). Upon receipt of a completed registration, NMFS will issue vessel or gear owners physical evidence of a current and valid registration that must be displayed or in the possession of the master of each vessel while fishing in accordance with section 118 of the MMPA (16 U.S.C. 1387(c)(3)(A)).

What is the Process for Registering in an Integrated Fishery?

For some fisheries, NMFS has integrated the MMPA registration process with existing state and Federal fishery license, registration, or permit systems and related programs. Participants in these fisheries are automatically registered under the MMPA and are not required to submit registration or renewal materials or pay the $25 registration fee. Following is a list of integrated fisheries and a summary of the integration process for each Region. Fishers who operate in an integrated fishery and have not received registration materials should contact their NMFS Regional Office (see **ADDRESSES**).

Which Fisheries Have Integrated Registration Programs?

The following fisheries have integrated registration programs under the MMPA:

1. All Alaska Category II fisheries;
2. All Washington and Oregon Category II fisheries;
3. Northeast Regional fisheries for which a state or Federal permit is required. Individuals fishing in fisheries for which no state or Federal permit is required must register with NMFS by contacting the Northeast Regional Office (see **ADDRESSES**); and
4. All North Carolina, South Carolina, Georgia, and Florida Category I and II fisheries for which a state permit is required.
5. The Hawaii Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, Oceanic Sharks Longline/Set line Fishery (Hawaii longline fishery) was elevated to Category I in the 2004 LOF. The Pacific Islands Regional Office is integrating the MMPA registration process with the existing Hawaii longline fishery limited entry permit

process. Participants in this fishery will be automatically registered under the MMPA and will not be required to submit registration or pay the $25 registration fee.

How Do I Renew My Registration Under the MMPA?

Regional Offices, except for the Northeast Region, annually send renewal packets to participants in Category I or II fisheries that have previously registered; however, it is the responsibility of the fisher to ensure that registration or renewal forms are completed and submitted to NMFS at least 30 days in advance of fishing. Individuals who have not received a renewal packet by January 1 or are registering for the first time should request a registration form from the appropriate Regional Office (see ADDRESSES).

Am I Required to Submit Reports When I Injure or Kill a Marine Mammal During the Course of Commercial Fishing Operations?

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or fisher (in the case of non-vessel fisheries), participating in a Category I, II, or III fishery must report all incidental injuries or mortalities of marine mammals that occur during commercial fishing operations to NMFS. ''Injury'' is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the absence of any wound or other evidence of an injury, and must be reported. Instructions on how to submit reports can be found in 50 CFR 229.6.

Am I Required to Take an Observer Aboard My Vessel?

Fishers participating in a Category I or II fishery are required to accommodate an observer aboard vessel(s) upon request. Observer requirements can be found in 50 CFR 229.7.

Am I Required to Comply With Any Take Reduction Plan Regulations?

Fishers participating in a Category I or II fishery are required to comply with any applicable take reduction plans.

Sources of Information Reviewed for the Proposed 2005 LOF

NMFS reviewed the marine mammal incidental serious injury and mortality information presented in the Stock Assessment Reports (SARs) for all observed fisheries to determine whether changes in fishery classification were warranted. NMFS' SARs are based on the best scientific information available at the time of preparation for the information presented in the SARs, including the level of serious injury and mortality of marine mammals that occurs incidental to commercial fisheries and the PBR levels of marine mammal stocks. NMFS also reviewed other sources of new information, including marine mammal stranding data, observer program data, fisher self-reports, and other information that is not included in the SARs.

The information contained in the SARs is reviewed by regional scientific review groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and Caribbean. The SRGs were created by the MMPA to review the science that goes into SARs, and to advise NMFS on population status and trends, stock structure, uncertainties in the science, research needs, and other issues.

The proposed LOF for 2005 was based, among other things, on information provided in the final SARs for 1996 (63 FR 60, January 2, 1998), the final SARs for 2001 (67 FR 10671, March 8, 2002), the final SARs for 2002 (68 FR 17920, April 14, 2003), and the final SARs for 2003 (69 FR 54262, September 8, 2004).

Summary of Changes to the Proposed LOF for 2005

The following summarizes changes in fishery classification including fisheries listed on the LOF, the number of participants in a particular fishery, and the species and/or stocks that are incidentally killed or seriously injured in a particular fishery that are proposed for the 2005 LOF. The placement and definitions of U.S. commercial fisheries proposed for 2005 are identical to those provided in the LOF for 2004 with the following exceptions.

Commercial Fisheries in the Pacific Ocean: Fishery Classification

Alaska Fisheries

The List of Fisheries from 1990 through 2003 included the Alaska groundfish fisheries as large combinations of fisheries. In the 2003 final LOF (68 FR 41725, July 15, 2003), NMFS indicated we would review the existing fishery delineations in the LOF for Federal and state fisheries in Alaska. The decision to review Alaska fisheries was based, in part, on NMFS' recognition that the large fishery groups previously included in the LOF are not a homogenous fishery, but rather a diverse group of fisheries that operate during different seasons and target different groundfish species over distinct geographic areas within the Bering Sea and Gulf of Alaska. Marine mammal interactions are known to vary among Alaska groundfish fisheries based on time and area of operations, method of gear deployment, and target groundfish species. Therefore, the identification of these fisheries on a finer scale will allow for improved resolution of factors affecting incidental mortality and serious injury of marine mammals in these fisheries.

NMFS reviewed the Bering Sea/Aleutian Islands (BSAI) groundfish trawl, Gulf of Alaska (GOA) Groundfish Trawl, Bering Sea and GOA Finfish Pot, AK Crustacean Pot, BSAI Groundfish Longline/Set Line (federally regulated waters, including miscellaneous finfish and sablefish), and GOA Groundfish Longline/Set Line (federally regulated waters, including miscellaneous finfish and sablefish) fisheries. Based on this review, the 2004 final LOF (69 FR 48407, August 10, 2004) delineated these fisheries by target species and gear type. An analysis to assign each of these newly delineated fisheries to the appropriate LOF category was deferred until the 2005 LOF and all newly designated fisheries were placed in Category III pending the results of the analysis.

NMFS has completed an analysis of past incidental mortality and serious injury for each of the Federal fisheries specified in the 2004 LOF in accordance with the fishery classification criteria set forth in the implementing regulations of section 118 of the MMPA (50 CFR part 229). Based on these analyses, NMFS proposes that five of the Federal fisheries newly delineated in the 2004 LOF be reclassified as Category II fisheries and the remainder of the fisheries newly delineated in the 2004 LOF remain as Category III fisheries.

AK Bering Sea Aleutian Islands Flatfish Trawl Fishery

NMFS proposes elevating the BSAI flatfish trawl fishery from Category III to Category II based on documented interactions between the fishery and the western U.S. stock of Steller sea lions and the eastern North Pacific resident and transient stocks of killer whales.

Tier 1 Evaluation: The total estimated annual mortality and serious injury across all fisheries is greater than 10% of the PBR levels for the following stocks: western U.S. stock of Steller sea lions, eastern North Pacific resident stock of killer whales, and eastern North Pacific transient stock of killer whales.

Therefore, the BSAI flatfish trawl fishery is subject to Tier 2 analysis for these stocks.

Tier 2 Evaluation: The average annual estimated mortality and serious injury of the western U.S. stock of the Steller sea lions in this fishery is 3.1 animals per year or 1.48% of the stock's PBR (209 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

The average annual estimated mortality and serious injury of eastern North Pacific resident stock of killer whales in this fishery is 0.5 animals per year or 6.94% of the stock's PBR (7.2 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

The average annual estimated mortality and serious injury of eastern North Pacific transient stock of killer whales by the BSAI flatfish trawl fishery is 0.5 animals per year or 17.86% of the stock's PBR (2.8 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

Since the annual estimated level of marine mammal mortality and serious injury incidental to this fishery is less than 50 percent and greater than 1 percent of the PBR level for all marine mammal stocks described in the Tier 2 analysis, NMFS proposes to reclassify this fishery as a Category II fishery.

AK Bering Sea Aleutian Islands Pollock Trawl Fishery

NMFS proposes elevating the BSAI pollock trawl fishery from Category III to Category II based on the following analysis of the takes of five stocks of marine mammals: western U.S. stock of Steller sea lions, eastern North Pacific resident and transient stocks of killer whales, and the central and western North Pacific stocks of humpback whales.

Tier 1 Evaluation: The total estimated annual mortality and serious injury across all fisheries is greater than 10% of the PBR levels for the following stocks: western U.S. stock of Steller sea lions, eastern North Pacific resident stock of killer whales, eastern North Pacific transient stock of killer whales, central North Pacific stock of humpback whales, and western North Pacific stock of humpback whales. Therefore, the BSAI pollock trawl fishery is subject to Tier 2 analysis for these stocks.

Tier 2 Evaluation: The average annual estimated mortality and serious injury of the western U.S. stock of the Steller sea lions in this fishery is 2.5 animals per year or 1.2% of the stock's PBR (209 animals). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

The average annual estimated mortality and serious injury of eastern North Pacific resident stock of killer whales in this fishery is 0.6 animals per year or 8.33% of the stock's PBR level (7.2 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

The average annual estimated mortality and serious injury of eastern North Pacific transient stock of killer whales in this fishery is 0.6 animals per year or 21.43% of the stock's PBR level (2.8 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

The average annual estimated mortality and serious injury of central North Pacific stock of humpback whales in this fishery is 0.3 animals per year or 4.05% of the stock's PBR level (7.4 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

The average annual estimated mortality and serious injury of western North Pacific stock of humpback whales in this fishery is 0.3 animals per year or 42.86% of the stock's PBR level (0.7 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of this stock's PBR level, this fishery qualifies for classification as a Category II fishery.

Since the annual estimated level of marine mammal mortality and serious injury incidental to this fishery is less than 50 percent and greater than 1 percent of the PBR level for all marine mammal stocks described in the Tier 2 analysis, NMFS proposes to reclassify this fishery as a Category II fishery.

AK Bering Sea Aleutian Islands Greenland Turbot Longline Fishery

NMFS proposes elevating the AK BSAI Greenland turbot longline fishery from Category III to Category II fishery based on the following analysis of takes of the eastern North Pacific resident and transient stocks of killer whales.

Tier 1 Evaluation: The total estimated annual mortality and serious injury across all fisheries is greater than 10% of the PBR levels for the eastern North Pacific resident and transient stocks of killer whales. Therefore, the AK BSAI Greenland turbot longline fishery is subject to Tier 2 analysis for these stocks.

Tier 2 Evaluation: The average annual estimated mortality and serious injury of eastern North Pacific resident stock of killer whales in this fishery is 0.6 animals per year or 8.33% of the stock's PBR level (7.2 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

The average annual estimated mortality and serious injury of eastern North Pacific transient stock of killer whales in this fishery is 0.6 animals per year or 21.43% of the stock's PBR (2.8 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

Since the annual estimated level of marine mammal mortality and serious injury incidental to this fishery is less than 50 percent and greater than 1 percent of the PBR level for the marine mammal stocks described in the Tier 2 analysis, NMFS proposes to reclassify this fishery as a Category II fishery.

AK Bering Sea Aleutian Islands Pacific Cod Longline Fishery

NMFS proposes elevating the AK BSAI Pacific cod longline fishery from Category III to Category II based on the following analysis of interactions between the fishery and the eastern North Pacific resident and transient stocks of killer whales.

Tier 1 Evaluation: The total estimated annual mortality and serious injury across all fisheries is greater than 10% of the PBR levels for the eastern North Pacific resident and transient stocks of killer whales. Therefore, the AK BSAI Pacific cod longline fishery is subject to Tier 2 analysis for these stocks.

Tier 2 Evaluation: The average annual estimated mortality and serious injury of eastern North Pacific resident stock of killer whales in this fishery is 0.8 animals per year or 11.11% of the stock's PBR (7.2 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

The average annual estimated mortality and serious injury of eastern North Pacific transient stock of killer whales in this fishery is 0.8 animals per

year or 28.57% of the stock's PBR (2.8 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

Since the annual estimated level of marine mammal mortality and serious injury incidental to this fishery is less than 50 percent and greater than 1 percent of the PBR level for two of the marine mammal stocks described in the Tier 2 analysis, NMFS proposes to reclassify this fishery as a Category II fishery.

AK Bering Sea Sablefish Pot Fishery

NMFS proposes elevating the AK Bering Sea sablefish pot fishery from Category III to Category II based on the following analysis of interactions between this fishery and the central and western North Pacific stocks of humpback whales.

Tier 1 Evaluation: The total estimated annual mortality and serious injury across all fisheries is greater than 10% of the PBR levels for the central and western North Pacific stocks of humpback whales. Therefore, the AK Bering Sea sablefish pot fishery is subject to Tier 2 analysis for these stocks.

Tier 2 Evaluation: The average annual estimated mortality and serious injury of central North Pacific stock of humpback whales in this fishery is 0.2 animals per year or 2.7% of the stock's PBR (7.4 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

The average annual estimated mortality and serious injury of western North Pacific stock of humpback whales in this fishery is 0.2 animals per year or 28.57% of the stock's PBR (0.7 animals per year). Because this level of mortality and serious injury exceeds 1% but is less than 50% of the stock's PBR level, this fishery qualifies for classification as a Category II fishery.

Since the annual estimated level of marine mammal mortality and serious injury incidental to this fishery is less than 50 percent and greater than 1 percent of the PBR level for both marine mammal stocks described in the Tier 2 analysis, NMFS proposes to reclassify this fishery as a Category II fishery.

CA/OR Thresher Shark/Swordfish Drift Gillnet Fishery (≥14 in. mesh)

NMFS proposes to elevate the CA/OR thresher shark/swordfish drift gillnet fishery from Category II to Category I. The CA/OR thresher shark/swordfish drift gillnet fishery includes all vessels using drift gillnets of greater than or equal to 14 inch stretched mesh to target thresher shark and swordfish off of California and Oregon. This fishery primarily operates outside of state waters to about 150 miles offshore, ranging from the U.S.-Mexico border to northward of the Columbia River in Oregon. This fishery is the subject of the Pacific Offshore Cetacean Take Reduction Team (POCTRT), which was convened by NMFS in 1996 to reduce the take of marine mammals incidental to this fishery. The Pacific Offshore Cetacean Take Reduction Plan took effect in 1997 and has resulted in a significant reduction in the number of marine mammals taken in this fishery. As a result of this reduction in marine mammal mortality and serious injury, NMFS changed the classification of this fishery from Category I to Category II in the 2003 LOF (68 FR 41725, July 15, 2003).

Based on data collected during a fall 2002 research cruise, NMFS developed revised abundance estimates and PBR levels for several marine mammal stocks in the Pacific Ocean and incorporated these into the 2003 SARs. As a result of these changes, the PBR level for the CA/OR/WA stock of short-finned pilot whales was revised from 5.1 animals per year to 1.19 animals per year.

NMFS' analysis of the incidental marine mammal mortality and serious injury for this fishery is based on NMFS observer data from 1999 through 2003. Based on these observer data, the NMFS Southwest Fisheries Science Center produced annual reports providing estimates of marine mammal mortality and serious injury for this fishery. These reports were presented to the Pacific SRG and the POCTRT and are incorporated into the SARs as they are updated. The annual mortality reports for 1997–2003 are available on the internet at: *http://swfsc.nmfs.noaa.gov/PRD/PROGRAMS/CMMP/default.htm*.

Overall, the incidental take of marine mammal stocks in the CA/OR thresher shark/swordfish drift gillnet fishery has continued to decrease. However, based on the recent revised PBR level for short-finned pilot whales and the incidental take of one short-finned pilot whale by the fishery in 2003, NMFS is proposing to elevate this fishery to Category I. NMFS intends to continue placing observers on vessels participating in this fishery and to continue working with the POCTRT to address the entanglement of marine mammals in this fishery. In addition, NMFS will be conducting a research cruise in fall 2005 that will result in revised abundance estimates and PBR levels for several marine mammal stocks in the Pacific Ocean, including the CA/OR/WA stock of short-finned pilot whales.

Tier 1 Evaluation: NMFS observer data indicate that animals from the following marine mammal stocks were killed or seriously injured incidental to the CA/OR thresher shark/swordfish drift gillnet fishery from 1999–2003: California sea lion (U.S. stock), northern elephant seal (CA breeding stock), Dall's porpoise (CA/OR/WA stock), Pacific white-sided dolphin (CA/OR/WA Northern and Southern stocks), Risso's dolphin (CA/OR/WA stock), short-beaked common dolphin (CA/OR/WA stock), long-beaked common dolphin (CA/OR/WA stock), northern right whale dolphin (CA/OR/WA stock), short-finned pilot whale (CA/OR/WA stock), and gray whale (eastern North Pacific stock). According to the best available information, the estimated annual mortality and serious injury across all fisheries is greater than 10 percent of the PBR levels for the following stocks: California sea lion (U.S. stock), northern right whale dolphin (CA/OR/WA stock), short-finned pilot whale (CA/OR/WA stock), and fin whale (CA/OR/WA stock); therefore, this fishery is subject to Tier 2 analysis for these stocks.

Tier 2 Evaluation: NMFS analysis of the incidental marine mammal mortality and serious injury for this fishery is based on NMFS observer data from 1999 through 2003. The average annual estimated mortality and serious injury of California sea lions incidental to this fishery during this period was 36.6 animals per year, which represents 0.4 percent of the PBR level for California sea lions (8,333 animals). The average annual estimated mortality and serious injury of northern right whale dolphins incidental to this fishery is 21.2 animals per year, which represents 12.9 percent of the PBR level for this stock (164 animals). The average annual estimated mortality and serious injury of short-finned pilot whales incidental to this fishery during this period is 1 animal per year, which represents 84 percent of the PBR level for this stock (1.19 animals). The average annual estimated mortality and serious injury of fin whales incidental to this fishery is 0.9 animals per year, which represents 17.6 percent of the PBR level for this stock (5.1 animals).

Because the level of mortality and serious injury is greater than 50 percent of the PBR level for short-finned pilot whales, this fishery qualifies for reclassification as a Category I fishery.

Fishery Name and Organizational Changes and Clarifications

Bering Sea and Aleutian Islands Cod Longline Fishery

NMFS proposes to modify the name of the ''Bering Sea and Aleutian Islands cod longline fishery'' to the ''Bering Sea and Aleutian Islands Pacific cod longline fishery'' to correct an error in the final 2004 LOF (69 FR 48407, August 10, 2004) in which ''Pacific'' was mistakenly omitted.

Number of Vessels/Persons

The estimated number of participants in the ''OR Swordfish Floating Longline Fishery'' is updated to 0 based on 2004 permit data.

The estimated number of participants in the CA/OR thresher shark/swordfish drift gillnet fishery is updated to 85 based on recent permit data.

The estimated number of participants in the CA anchovy, mackerel, tuna purse seine fishery is updated to 110 based on recent permit data.

The estimated number of participants in the California pelagic longline fishery is updated to 6 based on recent permit data.

The estimated number of participants in the California sardine purse seine fishery is updated to 110 based on recent permit data.

The estimated number of participants in the California swordfish harpoon fishery is updated to 30 based on recent permit data.

List of Species that are Incidentally Injured or Killed

NMFS proposes to add the Eastern North Pacific stock of gray whales to the list of marine mammal species and stocks incidentally injured or killed by the WA, OR, CA crab pot fishery. An interaction between this stock and the WA, OR, CA crab pot fishery was documented by the marine mammal health and stranding network and NOAA's Office of Law Enforcement.

NMFS proposes to add the CA/OR/WA stocks of long-beaked and short-beaked common dolphins, and California sea lions to the list of marine mammal species and stocks that interact with the CA yellowtail, barracuda, white seabass, and tuna drift gillnet fishery. An interaction between this stock and this fishery was documented by the NMFS observer program.

NMFS proposes to add the CA/OR/WA stock of Risso's dolphin to the list of marine mammal species and stocks that interact with the California pelagic longline fishery. An interaction between this stock and this fishery was documented by the NMFS observer program.

NMFS proposes to add the U.S. stock of California sea lions to the list of marine mammal species and stocks that interact with the California sardine purse seine fishery. An interaction between this stock and this fishery was documented by the NMFS observer program.

NMFS proposes to add the eastern North Pacific resident and transient stocks of killer whales to the list of marine mammal species and stocks that interact with the AK BSAI Pacific cod longline fishery. Interactions between these stocks and this fishery have been documented in recent SARs.

Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean: Fishery Classification

Mid-Atlantic Bottom Trawl Fishery

NMFS proposes elevating the ''Mid-Atlantic bottom trawl fishery'' (proposed name change from ''Mid-Atlantic mixed species trawl fishery,'' see Fishery Name and Organizational Changes and Clarifications section) from Category III to Category II based on documented interactions between the fishery and the Western North Atlantic stocks of common dolphins and pilot whales.

Tier 1 Evaluation: Total annual incidental mortality and serious injury across all fisheries is greater than or equal to 10 percent of PBR levels for the following stocks: Western North Atlantic stocks of common dolphins, long-finned and short-finned pilot whales. Therefore, this fishery is subject to Tier 2 analysis for these stocks.

Tier 2 Evaluation: Total fishery-related mortality and serious injury of pilot whales cannot be estimated separately for long-finned and short-finned pilot whales because fishery observers cannot reliably identify pilot whales to species as they are very similar in appearance. Therefore, the average annual estimated mortality and serious injury of these two species of pilot whales in the Western North Atlantic (*Globicephala spp.*) incidental to the Mid-Atlantic bottom trawl fishery during 1997–2001 was 46 animals per year, or 42.59 percent of the PBR level for pilot whales (108 animals per year). Because this level of mortality and serious injury exceeds 1 percent of the PBR level but is less than 50 percent of the PBR level, this fishery qualifies for reclassification as a Category II fishery.

The average annual estimated mortality and serious injury of the Western North Atlantic stock of common dolphins incidental to the Mid-Atlantic bottom trawl fishery during 1997–2001 was19 animals per year, or 8.37 percent of the PBR level for common dolphins (227 animals per year). Because this level of mortality and serious injury exceeds 1 percent of the PBR level but is less than 50 percent of the PBR level, this fishery qualifies for reclassification as a Category II fishery.

Since the annual estimated level of marine mammal mortality and serious injury incidental to this fishery is less than 50 percent and greater than 1 percent of the PBR levels of both marine mammal stocks described in the Tier 2 analysis, NMFS proposes to reclassify this fishery as Category II.

Northeast Bottom Trawl Fishery

NMFS proposes elevating the ''Northeast bottom trawl fishery,'' (proposed name change from ''North Atlantic bottom trawl fishery,'' see Fishery Name and Organizational Changes and Clarifications section) from Category III to Category II based on documented interactions between the fishery and the Western North Atlantic stock of Atlantic white-sided dolphins.

Tier 1 Evaluation: Total annual incidental mortality and serious injury across all fisheries is greater than or equal to 10 percent of PBR levels for the Western North Atlantic stock of Atlantic white-sided dolphins. Therefore, this fishery is subject to Tier 2 analysis for this stock.

Tier 2 Evaluation: The annual observed mortality and serious injury of the Western North Atlantic stock of Atlantic white-sided dolphins incidental to the Northeast bottom trawl fishery during 2003 was 12 animals, or 3.3 percent of the PBR level for white-sided dolphins (364 animals per year). Because this level of mortality and serious injury exceeds 1 percent of the PBR level but is less than 50 percent of the PBR level, this fishery qualifies for reclassification as a Category II fishery. Therefore, NMFS proposes to reclassify this fishery as Category II.

Addition of Fisheries to the LOF

Atlantic Shellfish Bottom Trawl Fishery

NMFS proposes to add the ''Atlantic shellfish bottom trawl fishery'' to the LOF to encompass the calico scallops trawl fishery, crab trawl fishery, Georgia/South Carolina/Maryland whelk trawl fishery, Gulf of Maine/Mid-Atlantic sea scallops trawl fishery, and Gulf of Maine northern shrimp trawl fishery. Additionally, NMFS proposes to list the Atlantic shellfish bottom trawl fishery as a Category III fishery because all fisheries proposed to be combined

are currently Category III fisheries and have no documented interactions with marine mammals.

Removal of Fisheries from the LOF

NMFS proposes to remove the ''U.S. Atlantic monkfish trawl fishery'' from the LOF. This fishery is currently a Category III fishery that operates throughout the Mid-Atlantic and Northeast regions. Both the North Atlantic bottom trawl fishery (proposed name change to Northeast bottom trawl fishery, see Fishery Name and Organizational Changes and Clarifications section) and Mid-Atlantic mixed species trawl fishery (proposed name change to Mid-Atlantic bottom trawl fishery, see Fishery Name and Organizational Changes and Clarifications section) descriptions include fishing gear managed under the monkfish fishery management plans as well as other groundfish fishery management plans. Therefore, NMFS proposes deleting this fishery and incorporating any trawl fisheries that target monkfish in the Atlantic under existing trawl fisheries on the LOF, e.g., the Northeast bottom trawl fishery or the Mid-Atlantic bottom trawl fishery.

NMFS proposes to delete the following trawl fisheries from the 2005 LOF: ''Calico Scallops Trawl Fishery,'' ''Crab Trawl Fishery,'' ''Georgia/South Carolina/Maryland Whelk Trawl Fishery,'' ''Gulf of Maine/Mid-Atlantic Sea Scallops Trawl Fishery,'' and ''Gulf of Maine Northern Shrimp Trawl Fishery.'' NMFS proposes to combine these fisheries under one listing in the LOF as the ''Atlantic shellfish bottom trawl fishery'' (see Addition of Fisheries section).

Fishery Name and Organizational Changes and Clarifications

Atlantic Herring Mid-Water Trawl Fishery (Including Pair Trawl)

NMFS proposes to modify the name of the ''Atlantic herring mid-water trawl fishery (including pair trawl)'' to the ''Northeast mid-water trawl fishery.'' This fishery primarily operates in the Gulf of Maine and George's Bank regions. There have been occasional interactions documented between this fishery and marine mammals and, thus, the fishery is currently classified as a Category II fishery. NMFS proposes to modify the name of this fishery in order to appropriately classify all similar mid-water trawl fisheries operating in the Northeast region, with home ports between Connecticut and Maine, that may be interacting with marine mammals.

Atlantic Squid, Mackerel, and Butterfish Trawl Fishery

NMFS proposes to modify the name of the ''Atlantic squid, mackerel, and butterfish trawl fishery'' to the ''Mid-Atlantic mid-water trawl fishery.'' Trawl fisheries targeting squid occur mainly in southern New England and Mid-Atlantic waters and typically use small-mesh otter trawls throughout the water column. Trawl fisheries targeting mackerel occur mainly in southern New England and Mid-Atlantic waters and generally operate in mid-water. Butterfish are predominately caught incidental to directed squid and mackerel trawls fisheries. There have been frequent interactions documented between this fishery and several species/stocks of marine mammals and, thus, the fishery is currently classified as a Category I fishery. NMFS proposes to modify the name of this fishery in order to appropriately classify all similar mid-water trawl fisheries operating in the Mid-Atlantic region, with home ports between New York and North Carolina, that may be interacting with marine mammals.

Delaware Bay Inshore Gillnet Fishery

NMFS proposes to modify the name of the ''Delaware Bay inshore gillnet fishery'' to the ''Delaware River inshore gillnet fishery.'' The Delaware Bay inshore gillnet fishery is currently a Category III fishery. The Atlantic Large Whale Take Reduction Plan (ALWTRP) regulations apply to all waters inside Delaware Bay between the COLREGS and a line from the southern point of Nantuxent Cove, NJ to the southern end of Kelley Island, Port Mahon, DE. This proposed change would therefore place all gillnet fisheries operating in Delaware Bay outside of the line between the southern point of Nantuxent Cove, NJ to the southern end of Kelley Island, Port Mahon, DE in the Category I ''Mid-Atlantic gillnet fishery'' (proposed name change from Mid-Atlantic coastal gillnet fishery; see below) and, as such, would be regulated under the ALWTRP. Moreover, gillnet fisheries operating inland of the COLREGS would be placed in the ''Delaware River inshore gillnet fishery'' and would not be subject to ALWTRP regulations.

Gulf of Maine Tub Trawl Groundfish Bottom Longline/Hook-and-Line Fishery

NMFS proposes to modify the name of the ''Gulf of Maine tub trawl groundfish bottom longline/hook-and-line fishery'' to the ''Northeast/Mid-Atlantic bottom longline/hook-and-line fishery.'' The fishery is currently in Category III and predominately operates between Cape Cod, MA and George's Bank, in an area extending beyond the Gulf of Maine. Therefore, NMFS proposes to delete the reference to the ''Gulf of Maine'' in the fishery name. Additionally, NMFS solicits public comment regarding interactions between this fishery and marine mammals.

Mid-Atlantic Coastal Gillnet Fishery

NMFS proposes to modify the name of the ''Mid-Atlantic coastal gillnet fishery'' to the ''Mid-Atlantic gillnet fishery.'' Currently, the Mid-Atlantic coastal gillnet fishery is a Category I fishery that includes all fisheries using any type of gillnet gear, west of 72°30′ W and north of a line extending due east from the North Carolina/South Carolina border, except for inshore gillnet fisheries currently placed in Category III. This area includes both nearshore waters (under State jurisdiction) and offshore waters (under Federal jurisdiction). Therefore, NMFS proposes to remove the reference to ''coastal'' waters in the name of this fishery.

Mid-Atlantic Mixed Species Trawl Fishery

NMFS proposes to modify the name of the ''Mid-Atlantic mixed species trawl fishery'' to the ''Mid-Atlantic bottom trawl fishery'' to encompass similar bottom trawl fisheries operating in the region that potentially interact with marine mammals.

North Atlantic Bottom Trawl Fishery

NMFS proposes to modify the name of the ''North Atlantic bottom trawl fishery'' to the ''Northeast bottom trawl fishery'' to encompass similar bottom trawl fisheries operating in the region that potentially interact with marine mammals.

Number of Vessels/Persons

The estimated number of participants in the ''Atlantic shellfish bottom trawl fishery'' is 972.

List of Species that are Incidentally Injured or Killed

Atlantic Mixed Species Trap/Pot Fishery

NMFS proposes to remove the Canadian east coast stock of minke whales and the Gulf of Maine/Bay of Fundy stock of harbor porpoise from the list of marine mammal species and stocks incidentally injured or killed by the Atlantic mixed species trap/pot fishery. Interactions between each of these marine mammal stocks and this fishery have not been documented in recent years.

Atlantic Ocean, Caribbean, and Gulf of Mexico Large Pelagics Longline Fishery

NMFS proposes to remove the Western North Atlantic stock of striped dolphins, the Gulf of Maine/Bay of Fundy stock of harbor porpoise, the Western North Atlantic stock of humpback whales, and the Canadian East coast stock of minke whales from the list of marine mammal species and stocks incidentally injured or killed by the Atlantic Ocean, Caribbean, and Gulf of Mexico large pelagics longline fishery. Interactions between each of these marine mammal stocks and this fishery have not been documented in recent years.

NMFS proposes to add the Western North Atlantic stocks of mesoplodon beaked whales and Cuvier's beaked whales, and the Northern Gulf of Mexico stock of short-finned pilot whales to the list of marine mammal species and stocks incidentally injured or killed by the Atlantic Ocean, Caribbean, and Gulf of Mexico large pelagics longline fishery. Interactions between pilot whales and this fishery have been documented in recent SARs while interactions between beaked whales and a Balaenopterid whale and this fishery have been documented by the observer program.

Chesapeake Bay Inshore Gillnet Fishery

NMFS proposes to remove the Gulf of Maine/Bay of Fundy stock of harbor porpoise from the list of marine mammal species and stocks incidentally injured or killed by the Chesapeake Bay inshore gillnet fishery. Interactions between this marine mammal stock and this fishery have not been documented in recent years.

Delaware River Inshore Gillnet Fishery

NMFS proposes to remove the Gulf of Maine/Bay of Fundy stock of harbor porpoise, the Gulf of Maine stock of humpback whales, and the Western North Atlantic coastal stock of bottlenose dolphins from the list of marine mammal species and stocks incidentally injured or killed by the Delaware River inshore gillnet fishery (proposed name change from Delaware Bay inshore gillnet fishery, see Fishery Name and Organizational Changes and Clarifications section). Interactions between each of these marine mammal stocks and this fishery have not been documented in recent years.

Gulf of Maine Herring and Atlantic Mackerel Stop Seine/Weir Fishery

NMFS proposes to remove the Western North Atlantic stocks of humpback whales and North Atlantic right whales from the list of marine mammal species and stocks incidentally injured or killed by the Gulf of Maine herring and Atlantic mackerel stop seine/weir fishery. Interactions between each of these marine mammal stocks and this fishery have not been documented in recent years.

NMFS proposes to add the Western North Atlantic stock of Atlantic white-sided dolphins to the list of marine mammal species and stocks incidentally injured or killed by the Gulf of Maine herring and Atlantic mackerel stop seine/weir fishery. Interactions between this marine mammal stock and this fishery have been documented in recent years.

Gulf of Mexico Butterfish Trawl Fishery

NMFS proposes to remove the Eastern Gulf of Mexico stocks of Atlantic spotted dolphins and pantropical spotted dolphins from the list of marine mammal species and stocks incidentally injured or killed by the Gulf of Mexico butterfish trawl fishery. Interactions between these marine mammal stocks and this fishery have not been documented in recent years.

NMFS proposes to add the Northern Gulf of Mexico outer continental shelf stock and Northern Gulf of Mexico continental shelf edge and slope stock of bottlenose dolphins to the list of marine mammal species and stocks incidentally injured or killed by the Gulf of Mexico butterfish trawl fishery. Interactions between each of these marine mammal stocks/species and this fishery have been documented in recent SARs.

Gulf of Mexico Menhaden Purse Seine Fishery

NMFS proposes to add the Eastern Gulf of Mexico coastal stock of bottlenose dolphins and the Gulf of Mexico bay, sound and estuarine stock of bottlenose dolphins to the list of marine mammal species and stocks incidentally injured or killed by the Gulf of Mexico menhaden purse seine fishery. Interactions between these marine mammal stocks and this fishery have been documented in recent SARs.

Long Island Sound Inshore Gillnet Fishery

NMFS proposes to remove the Gulf of Maine/Bay of Fundy stock of harbor porpoise, the Gulf of Maine stock of humpback whales, and the Western North Atlantic coastal stock of bottlenose dolphins from the list of marine mammal species and stocks incidentally injured or killed by the Long Island Sound inshore gillnet fishery. Interactions between each of these marine mammal stocks and this fishery have not been documented in recent years.

Mid-Atlantic Bottom Trawl Fishery

NMFS proposes to add the Western North Atlantic stocks of long-finned pilot whales, short-finned pilot whales, and common dolphins to the list of marine mammal species and stocks incidentally injured or killed by the Mid-Atlantic bottom trawl fishery. Interactions between each of these marine mammal stocks and this fishery have been documented in recent SARs.

Mid-Atlantic Gillnet Fishery

NMFS proposes to add the Western North Atlantic stock of gray seals and the Western North Atlantic stock of fin whales to the list of marine mammal species and stocks incidentally injured or killed by the Mid-Atlantic gillnet fishery. Interactions between the Western North Atlantic stock of gray seals and this fishery have been documented in recent SARs and interactions between the Western North Atlantic stock of fin whales and this fishery have been documented by the NMFS Observer Program.

Mid-Atlantic Menhaden Purse Seine Fishery

NMFS proposes to remove the Western North Atlantic stock of humpback whales from the list of marine mammal species and stocks incidentally injured or killed by the Mid-Atlantic purse seine fishery. Interactions between each of these marine mammal stocks and this fishery have not been documented in recent years.

Mid-Atlantic Mid-water Trawl Fishery

NMFS proposes to add the Western North Atlantic offshore stock of bottlenose dolphins to the list of marine mammal species and stocks incidentally injured or killed by the Mid-Atlantic mid-water trawl fishery. Interactions between this marine mammal stock and this fishery have been documented in recent SARs.

Northeast Bottom Trawl Fishery

NMFS proposes to add the Western North Atlantic stock of harp seals and the Gulf of Maine/Bay of Fundy stock of harbor porpoise to the list of marine mammal species and stocks incidentally injured or killed by the Northeast bottom trawl fishery (proposed name change from North Atlantic bottom trawl fishery, see Fishery Name and Organizational Changes and Clarification section). Interactions between each of these marine mammal

stocks and this fishery have been documented in recent SARs.

Northeast/Mid-Atlantic Bottom Longline/Hook-and-Line Fishery

NMFS proposes to remove the Western North Atlantic stocks of harbor seals, gray seals, and humpback whales from the list of marine mammal species and stocks incidentally injured or killed by the Northeast/Mid-Atlantic bottom longline/hook-and-line fishery. Interactions between each of these marine mammal stocks and this fishery have not been documented in recent years.

Northeast Mid-water Trawl Fishery

NMFS proposes to add the Western North Atlantic stocks of long-finned pilot whales, short-finned pilot whales, and Atlantic white-sided dolphins to the list of marine mammal species and stocks incidentally injured or killed by the Northeast mid-water trawl fishery. Interactions between each of these marine mammal stocks and this fishery have been documented in recent SARs.

Northeast Sink Gillnet Fishery

NMFS proposes to remove the Western North Atlantic stocks of killer whales, spotted dolphins, and false killer whales from the list of marine mammal species and stocks incidentally injured or killed by the Northeast sink gillnet fishery. Interactions between each of these marine mammal stocks/species and this fishery have not been documented in recent years.

NMFS proposes to add the Western North Atlantic stocks of Risso's dolphins and hooded seals to the list of marine mammal species and stocks incidentally injured or killed by the Northeast sink gillnet fishery. Interactions between each of these marine mammal stocks/species and this fishery have been documented in recent SARs.

Rhode Island, Southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) Inshore Gillnet Fishery

NMFS proposes to remove the Gulf of Maine/Bay of Fundy stock of harbor porpoise, the Gulf of Maine stock of humpback whales, and the Western North Atlantic coastal stock of bottlenose dolphins from the list of marine mammal species and stocks incidentally injured or killed by the Rhode Island, Southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet fishery. Interactions between each of these marine mammal stocks and this fishery have not been documented in recent years.

Southeastern U.S. Atlantic and Gulf of Mexico Shrimp Trawl Fishery

NMFS proposes to add the Western Gulf of Mexico coastal stock of bottlenose dolphins, the Eastern Gulf of Mexico coastal stock of bottlenose dolphins, the Gulf of Mexico bay, sound, and estuarine stock of bottlenose dolphins, and the Florida stock of the West Indian manatee to the list of marine mammal species and stocks incidentally injured or killed by the Southeastern U.S. Atlantic and Gulf of Mexico shrimp trawl fishery. Interactions between each of these marine mammal stocks/species and this fishery have been documented in recent SARs.

U.S. Atlantic Tuna Purse Seine Fishery

NMFS proposes to add the Western North Atlantic stocks of long-finned and short-finned pilot whales to the list of marine mammal species and stocks incidentally injured or killed by the U.S. Atlantic tuna purse seine fishery. Interactions between each of these marine mammal stocks/species and this fishery have been documented in recent SARs.

List of Fisheries

The following two tables list U.S. commercial fisheries according to their assigned categories under section 118 of the MMPA. The estimated number of vessels/participants is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants in a fishery, the number from the most recent LOF is used.

The tables also list the marine mammal species and stocks that are incidentally killed or injured in each fishery based on observer data, logbook data, stranding reports, and fisher reports. This list includes all species or stocks known to experience injury or mortality in a given fishery, but also includes species or stocks for which there are anecdotal or historical, but not necessarily current, records of interaction. Additionally, species identified by logbook entries may not be verified. Not all species or stocks identified are the reason for a fishery's placement in a given category. There are a few fisheries that are in Category II that have no recently documented interactions with marine mammals. Justifications for placement of these fisheries are by analogy to other gear types that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995), and according to factors listed in the definition of ''Category II fishery'' in 50 CFR 229.2.

Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

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Table 1 - List of Fisheries Commercial Fisheries in the Pacific Ocean

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Category I		
GILLNET FISHERIES:		
CA angel shark/halibut and other species set gillnet (>3.5 in. mesh)	58	California sea lion, U.S. Common dolphin, long-beaked CA Common dolphin, short-beaked, CA/OR/WA Harbor seal, CA Harbor porpoise, Central CA Northern elephant seal, CA breeding Sea otter, CA
CA/OR thresher shark/swordfish drift gillnet (≥14 in. mesh)	85	Baird's beaked whale, CA/OR/WA Bottlenose dolphin, CA/OR/WA offshore California sea lion, U.S. Cuvier's beaked whale, CA/OR/WA Dall's porpoise, CA/OR/WA Fin whale, CA/OR/WA Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA-Mexico Killer whale, CA/OR/WA Pacific coast Long-beaked common dolphin, CA/OR/WA Mesoplodont beaked whale, CA/OR/WA Northern elephant seal, CA breeding Northern fur seal, San Miguel Island Northern Pacific white-sided dolphin, CA/OR/WA Northern right-whale dolphin, CA/OR/WA Pygmy sperm whale, CA/OR/WA Risso's dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA Short-finned pilot whale, CA/OR/WA Southern Pacific white-sided dolphin, CA/OR/WA Sperm whale, CA/OR/WA Steller sea lion, Eastern U.S. Striped dolphin, CA/OR/WA
LONGLINE/SET LINE FISHERIES:		
HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line	140	Bottlenose dolphin, HI False killer whales, HI Humpback whale, Central North Pacific Risso's dolphin, HI Short-finned pilot whale, HI Spinner dolphin, HI Sperm whale, HI
Category II		
GILLNET FISHERIES:		

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK Bristol Bay salmon drift gillnet	1,903	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Spotted seal, AK Steller sea lion, Western U.S.
AK Bristol Bay salmon set gillnet	1,014	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Spotted seal, AK
AK Cook Inlet salmon drift gillnet	576	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Steller sea lion, Western U.S.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA Harbor seal, GOA Sea otter, AK
AK Metlakatla/Annette Island salmon drift gillnet	60	None documented
AK Peninsula/Aleutian Islands salmon drift gillnet	164	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific
AK Peninsula/Aleutian Islands salmon set gillnet	116	Harbor porpoise, Bering Sea Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	541	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Sea Otter, AK Steller sea lion, Western U.S.
AK Southeast salmon drift gillnet	481	Dall's porpoise, AK Harbor porpoise, Southeast AK Harbor seal, Southeast AK Humpback whale, Central North Pacific Pacific white-sided dolphin, North Pacific Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet	170	Gray whale, Eastern North Pacific Harbor seal, Southeast AK
CA yellowtail, barracuda, white seabass, and tuna drift gillnet fishery (mesh size > 3.5 inches and < 14 inches)	24	California sea lion, U.S. Long-beaked common dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line–Treaty Indian fishing is excluded)	210	Dall's porpoise, CA/OR/WA Harbor porpoise, inland WA Harbor seal, WA inland
PURSE SEINE FISHERIES:		
AK Southeast salmon purse seine	416	Humpback whale, Central North Pacific
CA anchovy, mackerel, tuna purse seine	110	Bottlenose dolphin, CA/OR/WA offshore California sea lion, U.S. Harbor seal, CA
CA squid purse seine	65	Short-finned pilot whale, CA/OR/WA
TRAWL FISHERIES:		
AK miscellaneous finfish pair trawl	2	None documented
AK Bering Sea, Aleutian Islands flatfish trawl	26	Killer whale, Eastern North Pacific resident Killer whale, Eastern North Pacific transient Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands pollock trawl	120	Humpback whale, Central North Pacific Humpback whale, Western North Pacific Killer whale, Eastern North Pacific resident Killer whale, Eastern North Pacific transient Steller sea lion, Western U.S.
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Greenland turbot longline	36	Killer whale, Eastern North Pacific resident Killer whale, Eastern North Pacific transient
AK Bering Sea, Aleutian Islands Pacific cod longline	114	Killer whale, Eastern North Pacific resident Killer whale, Eastern North Pacific transient
CA pelagic longline	6	California sea lion, U.S. Risso's dolphin, CA/OR/WA
OR swordfish floating longline	0	None documented
OR blue shark floating longline	1	None documented
POT, RING NET, AND TRAP FISHERIES:		
AK Bering Sea sablefish pot	6	Humpback whale, Central North Pacific Humpback whale, Western North Pacific
Category III		
GILLNET FISHERIES:		
AK Cook Inlet salmon set gillnet	745	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Steller sea lion, Western U.S.

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	1,922	Harbor porpoise, Bering Sea
AK miscellaneous finfish set gillnet	3	Steller sea lion, Western U.S.
AK Prince William Sound salmon set gillnet	30	Harbor seal, GOA Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	2,034	None documented
CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less	341	None documented
Hawaii gillnet	115	Bottlenose dolphin, HI Spinner dolphin, HI
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing)	24	Harbor seal, OR/WA coast
WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet	913	None documented
WA, OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S. Harbor seal, OR/WA coast
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
PURSE SEINE, BEACH SEINE, ROUND HAUL AND THROW NET FISHERIES:		
AK Metlakatla salmon purse seine	10	None documented
AK miscellaneous finfish beach seine	1	None documented
AK miscellaneous finfish purse seine	3	None documented
AK octopus/squid purse seine	2	None documented
AK roe herring and food/bait herring beach seine	8	None documented
AK roe herring and food/bait herring purse seine	624	None documented
AK salmon beach seine	34	None documented
AK salmon purse seine (except Southeast Alaska, which is in Category II)	953	Harbor seal, GOA
CA herring purse seine	100	California sea lion, U.S. Harbor seal, CA
CA sardine purse seine	110	California sea lion, U.S.
HI opelu/akule net	16	None documented
HI purse seine	18	None documented

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
HI throw net, cast net	47	None documented
WA (all species) beach seine or drag seine	235	None documented
WA, OR herring, smelt, squid purse seine or lampara	130	None documented
WA salmon purse seine	440	None documented
WA salmon reef net	53	None documented
DIP NET FISHERIES:		
CA squid dip net	115	None documented
WA, OR smelt, herring dip net	119	None documented
MARINE AQUACULTURE FISHERIES:		
CA salmon enhancement rearing pen	>1	None documented
OR salmon ranch	1	None documented
WA, OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
TROLL FISHERIES:		
AK North Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries	1,530 (330 AK)	None documented
AK salmon troll	2,335	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	<50	None documented
CA/OR/WA salmon troll	4,300	None documented
Commonwealth of the Northern Mariana Islands tuna troll	50	None documented
Guam tuna troll	50	None documented
HI net unclassified	106	None documented
HI trolling, rod and reel	1,795	None documented
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands rockfish longline	17	None documented
AK Bering Sea, Aleutian Islands sablefish longline	63	None documented
AK Gulf of Alaska halibut longline	1302	None documented
AK Gulf of Alaska Pacific cod longline	440	None documented

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK Gulf of Alaska rockfish longline	421	None documented
AK Gulf of Alaska sablefish longline	412	None documented
AK halibut longline/set line (State and Federal waters)	3,079	Steller sea lion, Western U.S.
AK octopus/squid longline	7	None documented
AK state-managed waters groundfish longline/setline (including sablefish, rockfish, and miscellaneous finfish)	731	None documented
WA, OR, CA groundfish, bottomfish longline/set line	367	None documented
WA, OR North Pacific halibut longline/set line	350	None documented
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	8	Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	87	None documented
AK Bering Sea, Aleutian Islands rockfish trawl	9	None documented
AK Gulf of Alaska flatfish trawl	52	None documented
AK Gulf of Alaska Pacific cod trawl	101	None documented
AK Gulf of Alaska pollock trawl	83	None documented
AK Gulf of Alaska rockfish trawl	45	None documented
AK food/bait herring trawl	3	None documented
AK miscellaneous finfish otter or beam trawl	6	None documented
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	58	None documented
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl	2	None documented
WA, OR, CA groundfish trawl	585	California sea lion, U.S. Dall's porpoise, CA/OR/WA Harbor seal, OR/WA coast Northern fur seal, Eastern Pacific Pacific white-sided dolphin, Central North Pacific Steller sea lion, Western U.S.
WA, OR, CA shrimp trawl	300	None documented
POT, RING NET, AND TRAP FISHERIES:		

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK Aleutian Islands sablefish pot	8	None documented
AK Bering Sea, Aleutian Islands Pacific cod pot	76	None documented
AK Bering Sea, Aleutian Islands crab pot	329	None documented
AK Gulf of Alaska crab pot	unknown	None documented
AK Gulf of Alaska Pacific cod pot	154	None documented
AK Southeast Alaska crab pot	unknown	None documented
AK Southeast Alaska shrimp pot	unknown	None documented
AK octopus/squid pot	72	None documented
AK snail pot	2	None documented
CA lobster, prawn, shrimp, rock crab, fish pot	608	Sea otter, CA
OR, CA hagfish pot or trap	25	None documented
WA, OR, CA crab pot	1,478	Gray whale, Eastern North Pacific
WA, OR, CA sablefish pot	176	None documented
WA, OR shrimp pot & trap	254	None documented
HI crab trap	22	None documented
HI fish trap	19	None documented
HI lobster trap	15	Hawaiian monk seal
HI shrimp trap	5	None documented
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline and mechanical jig	100	None documented
AK North Pacific halibut handline and mechanical jig	93	None documented
AK octopus/squid handline	2	None documented
American Samoa bottomfish	<50	None documented
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented
Guam bottomfish	<50	None documented
HI aku boat, pole and line	54	None documented
HI deep sea bottomfish	434	Hawaiian monk seal
HI inshore handline	650	Bottlenose dolphin, HI

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
HI tuna	144	Bottlenose dolphin, HI Hawaiian monk seal Rough-toothed dolphin, HI
WA groundfish, bottomfish jig	679	None documented
HARPOON FISHERIES:		
CA swordfish harpoon	30	None documented
POUND NET/WEIR FISHERIES:		
AK herring spawn on kelp pound net	452	None documented
AK Southeast herring roe/food/bait pound net	3	None documented
WA herring brush weir	1	None documented
BAIT PENS:		
WA/OR/CA bait pens	13	None documented
DREDGE FISHERIES:		
Coastwide scallop dredge	108 (12 AK)	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	1	None documented
AK clam	156	None documented
WA herring spawn on kelp	4	None documented
AK dungeness crab	3	None documented
AK herring spawn on kelp	363	None documented
AK urchin and other fish/shellfish	471	None documented
CA abalone	111	None documented
CA sea urchin	583	None documented
HI coral diving	2	None documented
HI fish pond	10	None documented
HI handpick	135	None documented
HI lobster diving	6	None documented
HI squiding, spear	267	None documented
WA, CA kelp	4	None documented

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection	637	None documented
WA shellfish aquaculture	684	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK, WA, OR, CA commercial passenger fishing vessel	>7,000 (1,107 AK)	None documented
HI "other"	114	None documented
LIVE FINFISH/SHELLFISH FISHERIES:		
CA finfish and shellfish live trap/hook-and-line	93	None documented

List of Abbreviations Used in Table 1: AK - Alaska; CA - California; GOA - Gulf of Alaska; HI - Hawaii; OR - Oregon; WA - Washington

Table 2 - List of Fisheries Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Category I		
GILLNET FISHERIES:		
Mid-Atlantic gillnet	>655	Bottlenose dolphin, WNA coastal Bottlenose dolphin, WNA offshore Common dolphin, WNA Fin whale, WNA Gray seal, WNA Harbor porpoise, GME/BF Harbor seal, WNA Harp seal, WNA Humpback whale, Gulf of Maine Long-finned pilot whale, WNA Minke whale, Canadian east coast Short-finned pilot whale, WNA White-sided dolphin, WNA
Northeast sink gillnet	341	Bottlenose dolphin, WNA offshore Common dolphin, WNA Fin whale, WNA Gray seal, WNA Harbor porpoise, GME/BF Harbor seal, WNA Harp seal, WNA Hooded seal, WNA Humpback whale, WNA Minke whale, Canadian east coast North Atlantic right whale, WNA Risso's dolphin, WNA White-sided dolphin, WNA
LONGLINE FISHERIES:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline	<200	Atlantic spotted dolphin, Northern GMX Atlantic spotted dolphin, WNA Bottlenose dolphin, GMX outer continental shelf Bottlenose dolphin, GMX continental shelf edge and slope Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA Long-finned pilot whale, WNA Mesoplodon beaked whale, WNA Pantropical spotted dolphin, Northern GMX Pantropical spotted dolphin, WNA Pygmy sperm whale, WNA Risso's dolphin, Northern GMX Risso's dolphin, WNA Short-finned pilot whale, Northern GMX Short-finned pilot whale, WNA
TRAP/POT FISHERIES:		

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Northeast/Mid-Atlantic American lobster trap/pot	13,000	Fin whale, WNA Harbor seal, WNA Humpback whale, WNA Minke whale, Canadian east coast North Atlantic right whale, WNA
TRAWL FISHERIES:		
Mid-Atlantic mid-water trawl	620	Bottlenose dolphin, WNA offshore Common dolphin, WNA Long-finned pilot whale, WNA Risso's dolphin, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA
Category II		
GILLNET FISHERIES:		
Gulf of Mexico gillnet	724	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, and estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal
North Carolina inshore gillnet	94	Bottlenose dolphin, WNA coastal
Northeast anchored float gillnet	133	Harbor seal, WNA Humpback whale, WNA White-sided dolphin, WNA
Northeast drift gillnet	unknown	None documented
Southeast Atlantic gillnet	779	Bottlenose dolphin, WNA coastal
Southeastern U.S. Atlantic shark gillnet	6	Atlantic spotted dolphin, WNA Bottlenose dolphin, WNA coastal North Atlantic right whale, WNA
TRAWL FISHERIES:		
Mid-Atlantic bottom trawl	>1,000	Common dolphin, WNA Long-finned pilot whale, WNA Short-finned pilot whale, WNA
Northeast mid-water trawl (including pair trawl)	17	Harbor seal, WNA Long-finned pilot whale, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA
Northeast bottom trawl	1,052	Bottlenose dolphin, WNA offshore Common dolphin, WNA Harbor porpoise, GME/BF Harp seal, WNA Long-finned pilot whale, WNA Short-finned pilot whale, WNA Striped dolphin, WNA White-sided dolphin, WNA
TRAP/POT FISHERIES:		

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Atlantic blue crab trap/pot	>16,000	Bottlenose dolphin, WNA coastal West Indian manatee, FL
Atlantic mixed species trap/pot	unknown	Fin whale, WNA Humpback whale, Gulf of Maine
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	50	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	25	Bottlenose dolphin, WNA coastal Harbor porpoise, GME/BF
North Carolina long haul seine	33	Bottlenose dolphin, WNA coastal
STOP NET FISHERIES:		
North Carolina roe mullet stop net	13	Bottlenose dolphin, WNA coastal
POUND NET FISHERIES:		
Virginia pound net	187	Bottlenose dolphin, WNA coastal
Category III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA West Indian manatee, Antillean
Chesapeake Bay inshore gillnet	45	None documented
Delaware River inshore gillnet	60	None documented
Long Island Sound inshore gillnet	20	None documented
Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet	32	None documented
TRAWL FISHERIES:		
Atlantic shellfish bottom trawl	972	None documented
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX outer continental shelf Bottlenose dolphin, Northern GMX continental shelf edge and slope
Gulf of Mexico mixed species trawl	20	None documented

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	>18,000	Bottlenose dolphin, WNA coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine West Indian Manatee, FL
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	30	Harbor porpoise, GME/BF Harbor seal, WNA Gray seal, WNA
Gulf of Maine menhaden purse seine	50	None documented
Florida west coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
Mid-Atlantic menhaden purse seine	22	Bottlenose dolphin, WNA coastal
U.S. Atlantic tuna purse seine	5	Long-finned pilot whale, WNA Short-finned pilot whale, WNA
U.S. Mid-Atlantic hand seine	>250	None documented
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	46	None documented
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon	26,223	Humpback whale, WNA
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line	>5,000	None documented
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line	<125	None documented
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon	1,446	None documented
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented
Caribbean spiny lobster trap/pot	>197	None documented
Florida spiny lobster trap/pot	2,145	Bottlenose dolphin, Eastern GMX coastal

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX Bay, Sound, & Estuarine West Indian manatee, FL
Gulf of Mexico mixed species trap/pot	unknown	None documented
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot	4,453	None documented
U.S. Mid-Atlantic eel trap/pot	>700	None documented
STOP SEINE/WEIR/POUND NET FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	50	Gray seal, Northwest North Atlantic Harbor porpoise, GME/BF Harbor seal, WNA Minke whale, Canadian east coast White-sided dolphin, WNA
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the North Carolina roe mullet stop net)	751	None documented
DREDGE FISHERIES:		
Gulf of Maine mussel	>50	None documented
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	233	None documented
U.S. Mid-Atlantic/Gulf of Mexico oyster	7,000	None documented
U.S. Mid-Atlantic offshore surf clam and quahog dredge	100	None documented
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	West Indian manatee, Antillean
Gulf of Mexico haul/beach seine	unknown	None documented
Southeastern U.S. Atlantic, haul/beach seine	25	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection	20,000	None documented
Gulf of Maine urchin dive, hand/mechanical collection	>50	None documented

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net	unknown	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel	4,000	None documented

List of Abbreviations Used in Table 2: FL - Florida; GA - Georgia; GME/BF - Gulf of Maine/Bay of Fundy; GMX - Gulf of Mexico; NC - North Carolina; SC - South Carolina; TX - Texas; WNA - Western North Atlantic

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Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule would not have a significant economic impact on a substantial number of small entities. For convenience, the factual basis leading to the certification is repeated below.

Under existing regulations, all fishers participating in Category I or II fisheries must register under the MMPA, obtain an Authorization Certificate, and pay a fee of $25. Additionally, fishers may be subject to a take reduction plan and requested to carry an observer. The Authorization Certificate authorizes the taking of marine mammals incidental to commercial fishing operations. NMFS has estimated that approximately 41,600 fishing vessels, most of which are small entities, operate in Category I or II fisheries, and therefore, are required to register. However, registration has been integrated with existing state or Federal registration programs for the majority of these fisheries so that the majority of fishers do not need to register separately under the MMPA. Currently, approximately 5,800 fishers register directly with NMFS under the MMPA authorization program.

Though this proposed rule would affect a number of small entities, the $25 registration fee, with respect to anticipated revenues, is not considered a significant economic impact. If a vessel is requested to carry an observer, fishers will not incur any economic costs associated with carrying that observer. As a result of this certification, an initial regulatory flexibility analysis was not prepared. In the event that reclassification of a fishery to Category I or II results in a take reduction plan, economic analyses of the effects of that plan will be summarized in subsequent rulemaking actions. Further, if a vessel is requested to carry an observer, fishers will not incur any economic costs associated with carrying that observer.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of fishers under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0293 (0.25 hours per report for new registrants and 0.15 hours per report for renewals). The requirement for reporting marine mammal injuries or moralities has been approved by OMB under OMB control number 0648–0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA (1995 EA). The 1995 EA concluded that implementation of those regulations would not have a significant impact on the human environment. This proposed rule would not make any significant change in the management of reclassified fisheries, and therefore, this proposed rule is not expected to change the analysis or conclusion of the 1995 EA. If NMFS takes a management action, for example, through the development of a Take Reduction Plan (TRP), NMFS will first prepare an environmental document as required under NEPA specific to that action.

This proposed rule would not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this proposed rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under section 7 of the ESA for that action.

This proposed rule would have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs or take reduction teams.

This proposed rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

Dated: November 26, 2004.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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