

Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).

Weak link means a breakable component of gear that will part when subject to a certain tension load.

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§ 229.3 Prohibitions.

(a) It is prohibited to take any marine mammal incidental to commercial fishing operations except as otherwise provided in part 216 of this chapter or in this part 229.

(b) It is prohibited to assault, harm, harass (including sexually harass), oppose, impede, intimidate, impair, or in any way influence or interfere with an observer, or attempt the same. This prohibition includes, but is not limited to, any action that interferes with an observer's responsibilities, or that creates an intimidating, hostile, or offensive environment.

(c) It is prohibited to provide false information when registering for an Authorization Certificate, applying for renewal of the Authorization Certificate, reporting the injury or mortality of any marine mammal, or providing information to any observer.

(d) It is prohibited to tamper with or destroy observer equipment in any way.

(e) It is prohibited to retain any marine mammal incidentally taken in commercial fishing operations unless authorized by NMFS personnel, by designated contractors or an official observer, or by a scientific research permit that is in the possession of the vessel operator.

(f) It is prohibited to intentionally lethally take any marine mammal in the course of commercial fishing operations unless imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported in accordance with the requirements of § 229.6.

(g) It is prohibited to violate any regulation in this part or any provision of section 118 of the Act.

(h) It is prohibited to fish with or possess trap/pot gear in the areas and during the times specified in § 229.32(c)(2) through (c)(9) unless the trap/pot gear complies with the marking requirements, closures, modifications, and restrictions specified in § 229.32(b)(2)(ii), (b)(2)(iii), and (c)(1) through (c)(9), or unless the gear is stowed as specified in § 229.2.

(i) It is prohibited to fish with or possess anchored gillnet gear in the areas and during the times specified in § 229.32(d)(2) through (d)(7) unless that gillnet gear complies with the marking requirements, closures, modifications, and restrictions specified in § 229.32(b)(2)(ii), (b)(2)(iii), and (d)(1) through (d)(7), or unless the gear is stowed as specified in § 229.2.

(j) It is prohibited to fish with or possess drift gillnet gear in the areas and during the times specified in § 229.32(e)(1) through (e)(6) unless the drift gillnet gear complies with the marking requirements, closures, modifications, and restrictions specified in § 229.32(b)(2)(ii), (b)(2)(iii), and (e)(1) through (e)(6), or unless the gear is stowed as specified in § 229.2.

(k) It is prohibited to fish with or possess gillnet gear in the areas and during the times specified in § 229.32(f)(1) and (g)(1) unless the gillnet gear complies with the marking requirements, closures, modifications, and restrictions specified in § 229.32(b)(2)(ii), (b)(2)(iii), (f)(2)(ii), (f)(2)(iv), (f)(2)(v), and (g)(3), or for (g)(3) unless the gear is stowed as specified in § 229.2.

(l) It is prohibited to fish with or possess shark gillnet gear (i.e. gillnet gear for shark with webbing of 5 inches (12.7 cm) or greater stretched mesh) in the areas and during the times specified in § 229.32(f)(1), (g)(1) and (h)(1) unless the gear complies with the marking requirements, closures, modifications, and restrictions specified in § 229.32(b)(2)(i), (b)(2)(iii), (f)(2)(ii), (f)(2)(iii), (f)(2)(v), (g)(2), and (h)(2), or for the gear marking requirements for (h)(2) unless the gear is stowed as specified in § 229.2.

(m) It is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet

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gear or gillnet gear capable of catching multispecies from the areas and for the times specified in § 229.33(a)(1), (a)(3), (a)(6), and (a)(8). This prohibition also applies to areas where pingers are required, unless the vessel owner or operator complies with the pinger provisions specified in § 229.33 (a)(2) through (a)(5) and (a)(7). This prohibition does not apply to vessels fishing with a single pelagic gillnet (as described and used as set forth in § 648.81(f)(2)(ii) of this title).

(n) It is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove gillnet gear from the areas and for the times as specified in § 229.34 (b)(1)(i), (b)(2)(i), (b)(3)(i), or (b)(4)(i).

(o) It is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any large mesh or small mesh gillnet gear from the areas and for the times specified in § 229.34(b) unless the gear complies with the specified gear restrictions set forth in the provisions of paragraphs (b)(1)(ii) or (iii), (b)(2)(ii) or (iii), (b)(3)(ii) or (iii), or (b)(4)(ii) or (iii) of § 229.34.

(p) It is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies in areas where pingers are required, as specified under § 229.33 (a)(2) through (a)(5) and (a)(7), unless the operator on board the vessel during fishing operations possesses and retains on board the vessel a valid pinger training authorization issued by NMFS as specified under § 229.33(c).

(q)—(r) [Reserved]

(s) It is prohibited to fish with, or possess on board a vessel unless stowed, or fail to remove, any gillnet gear from the areas specified in § 229.35(c) unless the gear complies with the specified restrictions set forth in § 229.35(d).

(t) It is prohibited to deploy or fish with pelagic longline gear in the Mid-Atlantic Bight unless the vessel:

(1) Complies with the placard posting requirement specified in § 229.36(c); and

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(2) Complies with the gear restrictions specified in § 229.36(e).

(u) It is prohibited to deploy or fish with pelagic longline gear in the Cape Hatteras Special Research Area unless the vessel is in compliance with the observer and research requirements specified in § 229.36(d).

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§ 229.4 Requirements for Category I and II fisheries.

(a) *General.* (1) For a vessel owner or crew members to lawfully incidentally take marine mammals in the course of a commercial fishing operation in a Category I or II fishery, the owner or authorized representative of a fishing vessel or nonvessel fishing gear must have in possession a valid Certificate of Authorization. The owner of a fishing vessel or nonvessel fishing gear is responsible for obtaining a Certificate of Authorization.

(2) The granting and administration of Authorization Certificates under this part will be integrated and coordinated with existing fishery license, registration, or permit systems and related programs wherever possible. These programs may include, but are not limited to, state or interjurisdictional fisheries programs. If the administration of Authorization Certificates is integrated into a program, NMFS will publish a notice in the FEDERAL REGISTER announcing the integrated program and summarizing how an owner or authorized representative of a fishing vessel or non-fishing gear may register under that program or how registration will be achieved if no action is required on the part of the affected fisher. NMFS will make additional efforts to contact participants in the affected fishery via other appropriate means of notification.

(b) *Registration.* (1) The owner of a vessel, or for nonvessel gear fisheries, the owner of gear, who participates in a Category I or II fishery is required to be registered for a Certificate of Authorization.