DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR PART 223

[I.D. 041706C]

RIN 0648–AU10

Sea Turtle Conservation; Public Hearing Notification

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

ACTION: Notice of public hearing.

SUMMARY: The National Marine Fisheries Service (NMFS) is announcing its intent to hold a public hearing to inform interested parties of the proposed modifications to Federal regulations affecting pound net leaders in the Virginia Chesapeake Bay and to accept public comments on this action.

DATES: NMFS will hold a public hearing at the Double Tree Hotel Virginia Beach, on Wednesday, April 26, 2006, at 7 p.m., eastern daylight time.

ADDRESSES: The Double Tree Hotel Virginia Beach is located at 1900 Pavilion Drive, Virginia Beach, VA 23451 (ph..757–422–8900).

Written comments on this action may be submitted on this proposed rule, identified by RIN 0648–AU10, by any one of the following methods:

(1) E-mail: *poundnetmodification@noaa.gov*. Please include the RIN 0648–AU10 in the subject line of the message.

(2) Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instruction on the website for submitting comments.

(3) NMFS/Northeast Region Website: *http://www.nero.noaa.gov/nero/regs/com.html*. Follow the instructions on the website for submitting comments.

(4) Mail: Mary Colligan, Assistant Regional Administrator for Protected Resources, NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930, ATTN: Sea Turtle Conservation Measures, Proposed Rule

(5) Facsimile (fax): 978–281–9394, ATTN: Sea Turtle Conservation Measures, Proposed Rule

FOR FURTHER INFORMATION CONTACT: Pasquale Scida (ph. 978–281–9208), NMFS, One Blackburn Drive, Gloucester, MA 01930.

SUPPLEMENTARY INFORMATION: A proposed rule was issued on April 17, 2006 (73 FR 19675), which proposes revisions to current regulations. The proposed rule would require any offshore pound net set in Pound Net Regulated Area I in the Virginia waters of the Chesapeake Bay to use a modified pound net leader from May 6 to July 15 each year. This action, taken under the Endangered Species Act of 1973 (ESA), responds to new information generated by gear research and aims to conserve sea turtles listed as threatened or endangered. Additional information on the justification for this action can be found in that proposed rule.

NMFS recognizes the need and importance to obtain public comment on the proposed action. In addition to the April 26 meeting announced in this document, NMFS is accepting written comments on the proposed action. Written comments on the proposed rule or requests for copies of the literature cited, the draft Environmental Assessment, or Regulatory Impact Review and Initial Regulatory Flexibility Analysis should be addressed to the Assistant Regional Administrator for Protected Resources, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments and requests for supporting documents may be sent via fax to 978–281–9394. Comments will be accepted via email at poundnetmodification@noaa.gov and via the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instruction on the website for submitting comments. The public comment period closes at 5 p.m., eastern daylight time, on May 1, 2006.

In preparing the final rule for this action, NMFS will fully consider the public comments received during the 15–day comment period (either in writing or verbally during the public hearing).

Special Accommodations

This meeting is accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Pasquale Scida, telephone 978–281–3928 x9208, fax 978–281–9394, at least five days before the scheduled meeting date.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: April 19, 2006.

James H. Lecky,

Director, Office Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–6106 Filed 4–21–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 060330090–6090–01, I.D. 021506B]

RIN 0648–AU19

List of Fisheries for 2006

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 2006, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2006 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 May 24, 2006.

ADDRESSES: Send comments to Chief, Marine Mammal Conservation Division, Attn: List of Fisheries, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via email to *2006LOF.comments@noaa.gov* or to the 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.

See **SUPPLEMENTARY INFORMATION** for a list of regional offices where registration information, materials, and marine mammal reporting forms may be obtained.

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; Lisa Van Atta, 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:

Regional Offices

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

NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Teletha Mincey;

NMFS, Southwest Region, Sustainable Fisheries Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Lyle Enriquez;

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.

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, consider 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. The 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. Southeast Regional fisheries for which a state or Federal permit is required. Southeast Regional fisheries include all North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, and Puerto Rico fisheries. Individuals fishing in fisheries for which no state or Federal permit is required, must register with NMFS by contacting the Southeast Regional Office (see **ADDRESSES**).
5. The Hawaii Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, Oceanic Sharks Longline/Set line Fishery.

How Do I Renew My Registration Under the MMPA?

Regional Offices, except for the Northeast and Southeast Regions, 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 2006 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 informs the 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 2006 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), the final SARs for 2003 (69 FR 54262, September 8, 2004), the final SARs for 2004 (70 FR 35397, June 20, 2005), and the draft SARs for 2005 (70 FR 37091, June 28, 2005).

Summary of Changes to the Proposed LOF for 2006

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 2006 LOF. The placement and definitions of U.S. commercial fisheries proposed for 2006 are identical to those provided in the LOF for 2005 with the exceptions provided below.

Commercial Fisheries in the Pacific Ocean: Fishery Classification

NMFS proposes to reclassify the AK Bering Sea and Aleutian Islands Greenland turbot longline fishery from Category II to Category III. The 2005 LOF reclassified this fishery based on a mortality of a killer whale (stock unknown) that occurred in 1999. This observed mortality extrapolated to an estimated mortality level of 3 animals in 1999, and a 5–year average of 0.6 killer whales per year for 1999–2003. In 2004, there were no serious injuries or mortalities of this species in the Greenland turbot longline fishery. When possible, fishery classifications are based on the most recent 5 years of data for a commercial fishery. Thus for the years 2000–2004, the 5–year average level of serious injury and mortality of killer whales incidental to this fishery is zero. This fishery is regularly observed by the Alaska Fisheries Science Center North Pacific Groundfish Observer Program and NMFS expects that future serious injuries and mortalities of killer whales would be detected by the program. Therefore, NMFS proposes to reclassify this fishery from Category II to Category III.

NMFS proposes to reclassify the CA sardine purse seine fishery from Category III to Category II. This fishery includes all vessels using purse seine gear to target sardine off of the coast of California. Most fishing occurs off of southern California, and occurs year-round. Fishing within 3 nautical miles of shore is prohibited by state law. NMFS began placing observers onboard CA sardine purse seine vessels in 2004 to collect information regarding the fishery's potential to interact with marine mammals. Observers have

documented entanglements of California sea lions in this fishery. In addition, this fishery uses similar gear and fishing techniques to other Category II purse seine fisheries (e.g., CA anchovy) known to seriously injure or kill marine mammals. Therefore, NMFS is proposing to reclassify this fishery to Category II based on analogy as provided in 50 CFR 229.2.

Addition of Fisheries to the LOF

NMFS proposes to add the ''American Samoa longline fishery'' to the LOF as a Category III fishery. The fishery has 138 participants. There are no documented marine mammal injuries or mortalities incidental to this fishery. NMFS is initiating a fishery observer program in this fishery in early 2006 and will reevaluate this fishery's classification when new information becomes available.

NMFS proposes to add the ''Western Pacific squid jig fishery'' to the LOF as a Category III fishery. There are no documented marine mammal serious injuries or mortalities incidental to this fishery. The fishery has 6 participants. This fishery is a Japanese-style jig fishery that operates at night by attracting squid with a light source. In the U.S. Pacific squid jigging fishery, bycatch of marine mammals is purported to be extremely small; if marine mammals are hooked, they would break the relatively weak squid lines before being brought to the boat. A similar fishery operates in the waters near Southern Australia. A draft Bycatch Action Plan was prepared for this fishery by the Australian Fisheries Management Authority in 2003. The report states that a ''global assessment of bycatch and discards across world fisheries found that squid jigging is a highly selective fishing method''. Because of the high selectivity of this fishery and a lack of reliable information regarding marine mammal bycatch in this fishery, NMFS proposes to add this fishery to the LOF in Category III.

NMFS proposes to add the ''HI Kona crab loop net fishery'' with 42 participants to the LOF as a Category III fishery. The fishery is conducted using baited loop nets above sandy substrate and is constantly tended by fishers. No marine mammal injuries or mortalities in this fishery have been documented. Therefore, NMFS proposes to add this fishery as a Category III fishery.

NMFS proposes to add the ''HI offshore pen culture fishery'' to the LOF as a Category III fishery. The fishery has 2 participants. There have been no documented marine mammal serious injuries or mortalities incidental to this fishery.

NMFS proposes to add the ''CA marine shellfish aquaculture fishery'' to the LOF as a Category III fishery. This fishery includes a variety of target species and gear types including: clams (cultured either via ground or bag culture), oysters (cultured via bag, rack and bag, longline, stake, bottom culture, or suspended culture), scallops (cultured via offshore tray-based systems), and mussels (cultured via suspension from rafts or surface longlines in the subtidal zone). NMFS does not currently have any information regarding the number of participants in this fishery and there have been no documented marine mammal serious injuries or mortalities incidental to this fishery.

NMFS proposes to add the ''CA white seabass enhancement net pen fishery'' to the LOF as a Category III fishery. The fishery consists of a total of 13 enhancement net pens from Santa Barbara to San Diego, CA that are used as grow-out facilities for juvenile white seabass before release. The pens consist of large, supported nets or fiberglass raceways. The raceways are large rectangular fiberglass structures with open ends covered by steel mesh and steel predator barriers. The pens vary in depth from 4–5 ft (1.22–1.52 m) and accommodate 2,000 to 5,000 fish. There have been two observed mortalities of the U.S. stock of California sea lions in this fishery. There are 13 participants in this fishery as each pen represents a participant.

Removal of Fisheries from the LOF

NMFS proposes to remove the ''HI net unclassified fishery'' from the LOF. Since implementation of new and revised reporting forms, fishers report specific net gear used. Therefore, this fishery as currently listed on the LOF is no longer appropriate.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to modify the name of the ''HI tuna fishery'' to the ''HI tuna handline fishery'' to better reflect the gear type used in this fishery.

NMFS proposes to modify the name of the ''HI deep sea bottomfish fishery'' to the ''HI Main Hawaiian Islands and Northwest Hawaiian Islands deep sea bottomfish fishery''.

NMFS proposes to modify the name of the ''HI coral diving fishery'' to the ''HI black coral diving fishery'' to represent the target species in this fishery.

NMFS proposes to modify the name of the ''HI other fishery'' to the ''HI charter vessel fishery''.

Number of Vessels/Persons

NMFS proposes to update the estimated number of participants in the Hawaii gillnet fishery from 115 to 35.

NMFS proposes to update the estimated number of participants in the Hawaii opelu/akule net fishery from 16 to 12.

NMFS proposes to update the estimated number of participants in the Hawaii purse seine fishery from 18 to 23.

NMFS proposes to update the estimated number of participants in the Hawaii fish pond fishery to N/A as the fishery is currently not operating. NMFS is retaining this fishery on the LOF as there may be participants in the near future.

NMFS proposes to update the estimated number of participants in the Hawaii throw net, cast net fishery from 47 to 14.

NMFS proposes to update the estimated number of participants in the Hawaii trolling, rod and reel fishery from 1,795 to 1,321.

NMFS proposes to update the estimated number of participants in the Hawaii lobster trap fishery to 0 as the fishery is currently inactive. However, 14 permits are available if this fishery reopened.

NMFS proposes to update the number of participants in the Hawaii aku boat, pole and line fishery from 54 to 4.

NMFS proposes to update the number of participants in the Hawaii inshore handline fishery from 650 to 307.

NMFS proposes to update the number of participants in the Hawaii tuna handline fishery (proposed name change from the ''Hawaii tuna'' fishery, see Fishery Name and Organizational Changes and Clarifications section) from 144 to 298.

NMFS proposes to update the number of participants in the HI main Hawaiian Islands and Northwest Hawaiian Islands deep sea bottomfish fishery (proposed name change from the ''HI deep sea bottomfish fishery'', see Fishery Name and Organizational Changes and Clarifications section) from 434 to 387.

NMFS proposes to update the number of participants in the HI black coral diving fishery (proposed name change from the ''HI coral diving fishery'', see Fishery Name and Organizational Changes and Clarifications section) from 2 to 1.

NMFS proposes to update the number of participants in the HI handpick fishery from 135 to 37.

NMFS proposes to update the number of participants in the HI lobster diving fishery from 6 to 19.

NMFS proposes to update the number of participants in the HI squiding, spear fishery from 267 to 91.

NMFS proposes to update the number of participants on the AK BSAI Greenland turbot longline fishery from 36 to 12.

List of Species That are Incidentally Injured or Killed

NMFS proposes to add common dolphins to the list of marine mammal species and stocks incidentally injured or killed by the California squid purse seine fishery. An observer documented a mortality of a common dolphin (stock unknown) in 2005.

NMFS proposes to add the Hawaiian stocks of Blaineville's beaked whales and Pantropical spotted dolphins to the list of marine mammal species and stocks incidentally injured or killed by the Hawaii swordfish, tuna, billfish, mahi mahi, wahoo, and oceanic sharks longline/set line fishery. Serious injuries and mortalities of these stocks incidental to this fishery were documented by fisheries observers.

NMFS proposes to delete the Hawaiian stock of bottlenose dolphins from the list of marine mammal species and stocks incidentally injured or killed by the Hawaii inshore handline fishery as no interactions have been documented between this stock and the fishery within the last 5 years.

NMFS proposes to delete the Hawaiian stocks of bottlenose dolphins and rough tooth dolphins from the list of marine mammal species and stocks incidentally injured or killed by the Hawaii tuna handline fishery (proposed name change from ''Hawaii tuna fishery'', see Fishery Name and Organizational Changes and Clarifications section) as no interactions have been documented between these stocks and this fishery within the last 5 years.

NMFS proposes to correct some errors in the list of marine mammal species and stocks incidentally injured or killed incidental to the CA/OR thresher shark/swordfish drift gillnet fishery. Specifically, NMFS proposes to change the CA/OR/WA Pacific coast stock to the Eastern North Pacific offshore stock of killer whales and the CA/OR/WA stock to the CA stock of long-beaked common dolphins. Additionally, NMFS proposes to combine the Northern and Southern species of Pacific white-sided dolphins to reflect how these species are currently characterized in the SARs.

NMFS proposes to correct some errors in the list of marine mammal species and stocks incidentally injured or killed incidental to the WA, OR, CA groundfish trawl fishery. Specifically, NMFS proposes to change the Central North Pacific stock to the CA/OR/WA stock of Pacific white-sided dolphins and the Western stock to the Eastern stock of Steller sea lions.

Alaska Fisheries

The 2004 LOF revised the Federally managed fisheries in Alaska into more discrete fisheries according to area, gear, and target species in order to more accurately reflect the fisheries as managed under Federal Fishery Management Plans. At that time, the marine mammal stocks associated with the newly delineated fisheries in the LOF were not revised accordingly. NMFS proposes to include the following marine mammal stocks that have had documented injuries or mortalities in the following Federal fisheries as listed in this proposed rule.

NMFS proposes to add the Eastern North Pacific stock of Northern fur seals, the Bering Sea stocks of harbor porpoise and harbor seals, and the Alaska stocks of bearded seals, spotted seals, and walruses to the list of marine mammal species and stocks injured or killed incidental to the AK BSAI flatfish trawl fishery.

NMFS proposes to add the Bering Sea stock of harbor seals and the Alaska stocks of Dall's porpoise, minke whales, ribbon seals, and spotted seals to the list of marine mammal species and stocks injured or killed incidental to the AK BSAI pollock trawl fishery.

NMFS proposes to add the Alaska stock of ribbon seals and the Western U.S. stock of Steller sea lions to the list of marine mammal species and stocks injured or killed incidental to the AK BSAI Pacific cod longline fishery.

NMFS proposes to add the Eastern U.S. stock of Steller sea lions and the North Pacific stock of sperm whales to the list of marine mammal species and stocks injured or killed incidental to the AK GOA sablefish longline fishery.

NMFS proposes to add the Western U.S. stock of Steller sea lions and the Bering Sea stock of harbor seals to the list of marine mammal species and stocks injured or killed incidental to the AK BSAI Pacific cod trawl fishery.

NMFS proposes to add the Western U.S. stock of Steller sea lions to the list of marine mammal species and stocks injured or killed incidental to the AK GOA Pacific cod trawl fishery.

NMFS proposes to add the Western U.S. stock of Steller sea lions, the Northeast Pacific stock of fin whales, and the North Pacific stock of Northern elephant seals to the list of marine mammal species and stocks injured or killed incidental to the AK GOA pollock trawl fishery.

NMFS proposes to add the GOA stock of harbor seals to the list of marine mammal species and stocks injured or killed incidental to the AK GOA Pacific cod pot fishery.

NMFS proposes to add the Eastern and Western U.S. stocks of Steller sea lions and an unknown stock of killer whales to the list of marine mammal species and stocks injured or killed incidental to the AK, WA, OR, CA commercial passenger fishing vessel fishery.

NMFS proposes to add the Central North Pacific (Southeast AK) stock of humpback whales to the list of marine mammal species and stocks injured or killed incidental to the AK Southeast Alaska crab pot fishery.

NMFS proposes to add the Central North Pacific (Southeast AK) stock of humpback whales to the list of marine mammal species and stocks injured or killed incidental to the AK Southeast Alaska shrimp pot fishery.

NMFS proposes to add the Central North Pacific (Southeast AK) stock of humpback whales to the list of marine mammal species and stocks injured or killed incidental to the AK Yakutat salmon set gillnet fishery.

NMFS proposes to add the Western U.S. stock of Steller sea lions to the list of marine mammal species and stocks injured or killed incidental to the AK Kodiak salmon set gillnet fishery.

NMFS proposes to delete the Eastern North Pacific transient stock of killer whales from the list of marine mammals species and stocks injured or killed in the Alaska BSAI flatfish trawl fishery. Because NMFS did not have information regarding which stock was injured or killed incidental to this fishery, both the Eastern North Pacific transient and resident stocks of killer whales were listed in the 2005 LOF as interacting with this fishery. However, since publication of the 2005 LOF, NMFS has obtained the results of genetic analysis on the biopsy samples taken from killer whales seriously injured or killed in this fishery. The results indicate that the fishery interacted with the resident stock of Eastern North Pacific killer whales. Therefore, NMFS proposes to remove the stock (transient) that did not interact with this fishery.

NMFS proposes to delete the Eastern North Pacific resident stock of killer whales from the list of marine mammals species and stocks incidentally injured or killed in the Alaska BSAI pollock trawl fishery. Because NMFS did not have information regarding which stock

was injured or killed incidental to this fishery, both the Eastern North Pacific transient and resident stocks of killer whales were listed in the 2005 LOF as interacting with this fishery. However, since publication of the 2005 LOF, NMFS has obtained the results of genetic analysis on the biopsy samples taken from killer whales seriously injured or killed in this fishery. These results indicate that the fishery interacted with the transient stock of Eastern North Pacific killer whales. Therefore, NMFS proposes to remove the stock (resident) that did not interact with this fishery.

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

NMFS proposes to reclassify the Chesapeake Bay inshore gillnet fishery from Category III to Category II based on its potential to seriously injure or kill the Western North Atlantic stock of bottlenose dolphins. Bottlenose dolphins are known to use the entire Chesapeake Bay, including waters landward of the Chesapeake Bay Bridge-Tunnel. Since the Chesapeake Bay inshore gillnet fishery is currently a Category III fishery, observer coverage is not required; therefore, no marine mammal interactions with this fishery have been documented. However, serious injuries and mortalities of the Western North Atlantic stock of bottlenose dolphins have been documented in similar gillnet fisheries in the Mid-Atlantic, such as the Mid-Atlantic gillnet fishery and the North Carolina inshore gillnet fishery, both of which are currently Category II fisheries. Reclassifying the Chesapeake Bay inshore gillnet fishery to Category II will allow NMFS to characterize marine mammal interactions with this fishery through the observer program. Based on the potential overlap in distribution of the Western North Atlantic stock of bottlenose dolphins and this fishery, in addition to documented serious injuries and mortalities in similar gillnet gear, NMFS proposes to reclassify this fishery to Category II based on analogy as provided in 50 CFR 229.2.

NMFS proposes to reclassify the Mid-Atlantic menhaden purse seine fishery from Category III to Category II based on its potential to seriously injure or kill the Western North Atlantic stock of bottlenose dolphins. Since this fishery is currently a Category III fishery, observer coverage is not required; therefore, no marine mammal interactions with this fishery have been documented. However, according to the most recent stock assessment of the Western North Atlantic stock of bottlenose dolphins, menhaden purse seiners have reported annual interactions of one to five bottlenose dolphins. In addition, the Gulf of Mexico menhaden purse seine fishery is classified as a Category II fishery based on documented bycatch of several bottlenose dolphin stocks, including the Northern, Eastern, and Western Gulf of Mexico coastal stocks, and the Gulf of Mexico bay, sound, and estuarine stock. Elevating this fishery to Category II will allow NMFS to characterize marine mammal interactions with this fishery through the observer program. Based on documented bycatch of bottlenose dolphins in purse seine gear, NMFS proposes to reclassify this fishery in Category II.

Addition of Fisheries to the LOF

NMFS proposes to add the ''Southeast Atlantic inshore gillnet fishery'' to the LOF as a Category III fishery. This fishery typically targets shad and river herring in inshore rivers and bays (inside the COLREGS lines). Despite the lack of adequate observer coverage in this fishery, NMFS has no evidence to suggest that there is more than a remote likelihood of marine mammal serious injuries or mortalities incidental to this fishery. The number of participants in this fishery is unknown.

List of Species That are Incidentally Injured or Killed

NMFS proposes to remove the Western North Atlantic stock of fin whales from the list of marine mammal species and stocks incidentally injured or killed incidental to the Mid-Atlantic gillnet fishery. NMFS added this stock in the 2005 LOF and has since confirmed that the NMFS observer program does not have a documented interaction between this stock and this fishery.

NMFS proposes to add several bottlenose dolphin stocks to the list of marine mammal species and stocks incidentally injured or killed incidental to the Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel fishery based on anecdotal reports of dolphins interacting with hook and line gear in both the Atlantic and Gulf of Mexico. These bottlenose dolphin stocks include the Western North Atlantic coastal, Eastern Gulf of Mexico coastal, Northern Gulf of Mexico coastal, and Western Gulf of Mexico coastal.

NMFS proposes to remove the Western North Atlantic offshore stock of bottlenose dolphins and the Western North Atlantic stock of striped dolphins from the list of marine mammal species and stocks injured or killed incidental to the Northeast bottom trawl fishery because NMFS has not documented any serious injuries or mortalities of these stocks incidental to this fishery in the past 5 years.

Fishery Name and Organizational Changes and Clarifications

Southeast Atlantic Gillnet Fishery

NMFS proposes to expand the list of target species associated with the ''Southeast Atlantic gillnet fishery''. In the 2001 LOF (66 FR 42780, August 15, 2001), NMFS renamed all southeastern Atlantic gillnet fisheries (except the Southeastern U.S. Atlantic shark gillnet fishery) as the ''Southeast Atlantic gillnet fishery'', and elevated this fishery from Category III to Category II. This fishery designation included fisheries identified in previous LOFs as the ''Florida East Coast pelagics king and Spanish mackerel gillnet fishery'' and the ''Southeast U.S. Atlantic coastal shad, sturgeon gillnet fishery''. In 2006, NMFS received information from the Florida Fish and Wildlife Commission's trip ticket database that landings from 2002–2005 using gillnet gear on the east coast of Florida also include landings of whiting, bluefish, pompano, spot, croaker, little tunny, bonita, jack crevalle, and cobia, in addition to king and Spanish mackerel and shad. These species are targeted using both pelagic and demersal gillnet gear, each of which poses similar risks of entanglement to marine mammals. Therefore, NMFS proposes to expand the list of fish species associated with the ''Southeast Atlantic gillnet fishery'' to include the following target species: king mackerel, Spanish mackerel, whiting, bluefish, pompano, spot, croaker, little tunny, bonita, jack crevalle, and cobia. Atlantic sturgeon are listed as a species of concern under the Endangered Species Act and are also managed under a fishery management plan; a moratorium on possession and harvest of this species currently exists throughout the U.S. East Coast. Additionally, fishing for shad in ocean waters is prohibited by Southeast coastal states and is therefore no longer included as a target species of the Southeast Atlantic gillnet fishery.

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 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. NMFS has designated those stocks that are responsible for a current fishery's classification by a ''1''.

There are several fisheries classified 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 a ''Category II fishery'' in 50 CFR 229.2. NMFS has designated those fisheries originally listed by analogy in Tables 1 and 2 by a ''2'' after that fishery's name.

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.

BILLING CODE 3510–22–S

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. Harbor seal, CA Harbor porpoise, Central CA[1] Long-beaked common dolphin, CA Northern elephant seal, CA breeding Sea otter, CA Short-beaked common dolphin, CA/OR/WA
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, Eastern North Pacific offshore Long-beaked common dolphin, CA Mesoplodont beaked whale, CA/OR/WA Northern elephant seal, CA breeding Northern fur seal, San Miguel Island Northern right-whale dolphin, CA/OR/WA Pacific white-sided 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[1] 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	Blainville's beaked whale, HI Bottlenose dolphin, HI False killer whale, HI[1] Humpback whale, Central North Pacific Pantropical spotted dolphin, HI 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[2]	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.[1]
AK Bristol Bay salmon set gillnet[2]	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[1] Harbor seal, GOA Steller sea lion, Western U.S.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA[1] Harbor seal, GOA Sea otter, Southwest AK Steller sea lion, Western U.S.
AK Metlakatla/Annette Island salmon drift gillnet[2]	60	None documented
AK Peninsula/Aleutian Islands salmon drift gillnet[2]	164	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific
AK Peninsula/Aleutian Islands salmon set gillnet[2]	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[1] Harbor seal, GOA Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Sea Otter, South Central AK Steller sea lion, Western U.S.[1]
AK Southeast salmon drift gillnet	481	Dall's porpoise, AK Harbor porpoise, Southeast AK Harbor seal, Southeast AK Humpback whale, Central North Pacific[1] Pacific white-sided dolphin, North Pacific Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet[2]	170	Gray whale, Eastern North Pacific Harbor seal, Southeast AK Humpback whale, Central North Pacific (Southeast AK)

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
CA yellowtail, barracuda, white seabass, and tuna drift gillnet fishery (mesh size > 3.5 inches and < 14 inches)[2]	24	California sea lion, U.S. Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA
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[1] Harbor seal, WA inland
PURSE SEINE FISHERIES:		
AK Southeast salmon purse seine	416	Humpback whale, Central North Pacific[1]
CA anchovy, mackerel, tuna purse seine	110	Bottlenose dolphin, CA/OR/WA offshore[1] California sea lion, U.S. Harbor seal, CA
CA sardine purse seine[2]	110	California sea lion, U.S.
CA squid purse seine	65	Common dolphin, unknown Short-finned pilot whale, CA/OR/WA[1]
TRAWL FISHERIES:		
AK miscellaneous finfish pair trawl	2	None documented
AK Bering Sea, Aleutian Islands flatfish trawl	26	Bearded seal, AK Harbor porpoise, Bering Sea Harbor seal, Bering Sea Killer whale, AK resident[1] Northern fur seal, Eastern North Pacific Spotted seal, AK Steller sea lion, Western U.S.[1] Walrus, AK
AK Bering Sea, Aleutian Islands pollock trawl	120	Dall's porpoise, AK Harbor seal, AK Humpback whale, Central North Pacific[1] Humpback whale, Western North Pacific[1] Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient[1] Minke whale, AK Ribbon seal, AK Spotted seal, AK Steller sea lion, Western U.S.[1]
LONGLINE/SET LINE FISHERIES:		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
AK Bering Sea, Aleutian Islands Pacific cod longline	114	Killer whale, AK resident[1] Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient[1] Ribbon seal, AK Steller sea lion, Western U.S.
CA pelagic longline[2]	6	California sea lion, U.S. Risso's dolphin, CA/OR/WA
OR swordfish floating longline[2]	0	None documented
OR blue shark floating longline[2]	1	None documented
POT, RING NET, AND TRAP FISHERIES:		
AK Bering Sea sablefish pot	6	Humpback whale, Central North Pacific[1] Humpback whale, Western North Pacific[1]
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.
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	35	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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
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
HI Kona crab loop net	42	None documented
HI opelu/akule net	12	None documented
HI purse seine	23	None documented
HI throw net, cast net	14	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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
WA, OR smelt, herring dip net	119	None documented
MARINE AQUACULTURE FISHERIES:		
CA marine shellfish aquaculture	unknown	None documented
CA salmon enhancement rearing pen	>1	None documented
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	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 trolling, rod and reel	1,321	None documented
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Greenland turbot longline	12	Killer whale, AK resident Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient
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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
AK Gulf of Alaska Pacific cod longline	440	None documented
AK Gulf of Alaska rockfish longline	421	None documented
AK Gulf of Alaska sablefish longline	412	Sperm whale, North Pacific Steller sea lion, Eastern U.S.
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
American Samoa longline	138	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	Harbor seal, Bering Sea Steller sea lion, Western U.S.
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	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	83	Fin whale, Northeast Pacific Northern elephant seal, North Pacific Steller sea lion, Western U.S.
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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
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, CA/OR/WA Steller sea lion, Eastern U.S.
WA, OR, CA shrimp trawl	300	None documented
POT, RING NET, AND TRAP FISHERIES:		
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	Harbor seal, GOA
AK Southeast Alaska crab pot	unknown	Humpback whale, Central North Pacific (Southeast AK)
AK Southeast Alaska shrimp pot	unknown	Humpback whale, Central North Pacific (Southeast AK)
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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
HI fish trap	19	None documented
HI lobster trap	0	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	4	None documented
HI Main Hawaiian Islands, Northwest Hawaiian Islands deep sea bottomfish	387	Hawaiian monk seal
HI inshore handline	307	None documented
HI tuna handline	298	Hawaiian monk seal
WA groundfish, bottomfish jig	679	None documented
Western Pacific squid jig	6	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	California sea lion, U.S.
DREDGE FISHERIES:		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
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 black coral diving	1	None documented
HI fish pond	N/A	None documented
HI handpick	37	None documented
HI lobster diving	19	None documented
HI squiding, spear	91	None documented
WA, CA kelp	4	None documented
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)	Killer whale, stock unknown Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
HI charter vessel	114	None documented
LIVE FINFISH/SHELLFISH FISHERIES:		
CA finfish and shellfish live trap/hook-and-line	93	None documented

List of Abbreviations and Symbols Used in Table 1: AK - Alaska; CA - California; GOA - Gulf of Alaska; HI - Hawaii; OR - Oregon; WA - Washington; [1] - Serious injuries and mortalities of this stock are greater than 1 percent, but less than 50 percent of the stock's PBR; therefore, bycatch of this stock determines this fishery's classification; [2] - Fishery classified by analogy.

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[1] Bottlenose dolphin, WNA offshore[1] Common dolphin, WNA Gray seal, WNA Harbor porpoise, GME/BF[1] Harbor seal, WNA Harp seal, WNA Humpback whale, Gulf of Maine[1] Long-finned pilot whale, WNA Minke whale, Canadian east coast[1] 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[1] Harbor seal, WNA Harp seal, WNA Hooded seal, WNA Humpback whale, WNA[1] Minke whale, Canadian east coast[1] North Atlantic right whale, WNA[1] 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[1] Mesoplodon beaked whale, WNA Pantropical spotted dolphin, Northern GMX Pantropical spotted dolphin, WNA Pygmy sperm whale, WNA[1] Risso's dolphin, Northern GMX Risso's dolphin, WNA Short-finned pilot whale, Northern GMX Short-finned pilot whale, WNA[1]

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	13,000	Fin whale, WNA Harbor seal, WNA Humpback whale, WNA[1] Minke whale, Canadian east coast[1] North Atlantic right whale, WNA[1]
TRAWL FISHERIES:		
Mid-Atlantic mid-water trawl (including pair trawl)	620	Bottlenose dolphin, WNA offshore Common dolphin, WNA[1] Long-finned pilot whale, WNA[1] Risso's dolphin, WNA Short-finned pilot whale, WNA[1] White-sided dolphin, WNA[1]
Category II		
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet[2]	45	None documented
Gulf of Mexico gillnet[2]	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[1]
Northeast anchored float gillnet[2]	133	Harbor seal, WNA Humpback whale, WNA White-sided dolphin, WNA
Northeast drift gillnet[2]	unknown	None documented
Southeast Atlantic gillnet[2]	779	Bottlenose dolphin, WNA coastal
Southeastern U.S. Atlantic shark gillnet	6	Atlantic spotted dolphin, WNA Bottlenose dolphin, WNA coastal[1] North Atlantic right whale, WNA
TRAWL FISHERIES:		
Mid-Atlantic bottom trawl	>1,000	Common dolphin, WNA[1] Long-finned pilot whale, WNA[1] Short-finned pilot whale, WNA[1]
Northeast mid-water trawl (including pair trawl)	17	Harbor seal, WNA Long-finned pilot whale, WNA[1] Short-finned pilot whale, WNA[1] White-sided dolphin, WNA

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
Northeast bottom trawl	1,052	Common dolphin, WNA Harbor porpoise, GME/BF Harp seal, WNA[1] Long-finned pilot whale, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA[1]
TRAP/POT FISHERIES:		
Atlantic blue crab trap/pot	>16,000	Bottlenose dolphin, WNA coastal[1] West Indian manatee, FL[1]
Atlantic mixed species trap/pot	unknown	Fin whale, WNA Humpback whale, Gulf of Maine[1]
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[1] Bottlenose dolphin, Western GMX coastal
Mid-Atlantic menhaden purse seine[2]	22	Bottlenose dolphin, WNA coastal
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	25	Bottlenose dolphin, WNA coastal[1] Harbor porpoise, GME/BF
North Carolina long haul seine	33	Bottlenose dolphin, WNA coastal[1]
STOP NET FISHERIES:		
North Carolina roe mullet stop net	13	Bottlenose dolphin, WNA coastal[1]
POUND NET FISHERIES:		
Virginia pound net	187	Bottlenose dolphin, WNA coastal[1]
Category III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA West Indian manatee, Antillean
Delaware River inshore gillnet	60	None documented
Long Island Sound inshore gillnet	20	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet	32	None documented
Southeast Atlantic inshore gillnet	unknown	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
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
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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
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
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:		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
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
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	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, WNA coastal

List of Abbreviations and Symbols 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; [1] - Serious injuries and mortalities of this stock are greater than 1 percent, but less than 50 percent of the stock's PBR; therefore, bycatch of this stock determines this fishery's classification; [2] - Fishery classified by analogy.

BILLING CODE 3510–22–C

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 41,730 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 500 fishers register directly with NMFS under the MMPA authorization program.

Though this proposed rule would affect approximately 500 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 (0.15 hours per report for new registrants and 0.09 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). NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 and 2005 EA concluded that implementation of MMPA section 118 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 2005 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 ESA section 7 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: April 18, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, national Marine Fisheries Service.

[FR Doc. 06–3838 Filed 4–21–06; 8:45 am]

BILLING CODE 3510–22–S