

Drawing No.	Revision
78051-61 head assembly—complete, dated May 20, 1978.	(T)
78051-90 neck assembly—complete, dated May 20, 1978.	(A)
78051-89 upper torso assembly—complete, dated May 20, 1978.	(K)
78051-70 lower torso assembly—complete, dated August 20, 1996, except for drawing No. 78051-55, "Instrumentation Assembly—Pelvic Accelerometer," dated August 2, 1979.	(E)
86-5001-001 leg assembly—complete (LH), dated March 26, 1996.	(A)
86-5001-002 leg assembly—complete (RH), dated March 26, 1996.	(A)
78051-123 arm assembly—complete (LH), dated May 20, 1978.	(D)
78051-124 arm assembly—complete (RH), dated May 20, 1978.	(D)

\* \* \* \* \*

3. Section 572.35 is amended by revising paragraphs (c)(1) and (c)(2)(v) to read as follows:

**§ 572.35 Limbs.**

\* \* \* \* \*

(c) *Hip joint-femur flexion.* (1) When each femur is rotated in the flexion direction in accordance with paragraph (c)(2) of this section, the femur torque at 30 deg. rotation from its initial horizontal orientation will not be more than 70 ft-lbf, and at 150 ft-lbf of torque will not be less than 40 deg. or more than 50 deg.

(2) \* \* \*

(v) Operating environment and temperature are the same as specified in paragraph (b)(2)(ii) of this section.

\* \* \* \* \*

Issued: January 29, 1998.

**Ricardo Martinez,**  
Administrator.

[FR Doc. 98-2645 Filed 2-3-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 229

[Docket No. 970515117-8020-02; I.D. 050797D]

RIN 0648-AJ85

#### Final List of Fisheries for 1998

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

**ACTION:** Final rule.

**SUMMARY:** In accordance with the Marine Mammal Protection Act of 1972, as amended (MMPA), NMFS publishes its final List of Fisheries (LOF) for 1998. The LOF classifies fisheries as Category I, II, or III, based on their levels of incidental mortalities and serious injuries of marine mammals. The LOF informs the public of the level of interactions with marine mammals in various U.S. commercial fisheries and of fisheries' requirements under certain MMPA provisions, to register for Authorization Certificates or carry fishery observers.

**DATES:** The changes to the List of Fisheries for 1998 are effective on February 4, 1998.

**ADDRESSES:** Information and registration materials for the region in which a fishery occurs and reporting forms may be obtained from the following addresses:

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930-2298, Attn: Sandra Arvilla; NMFS, Southeast Region, 9721 Executive Center Drive North, St. Petersburg, FL 33702, Attn: Joyce Mochrie;

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, Attn: Ursula Jorgensen.

Comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Chief, Marine Mammal Division, Office of Protected Resources, 1315 East-West Hwy, Silver Spring, MD 20910 and to the Office of Information and Regulatory Affairs, OMB, Attention: NOAA Desk Officer, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:**

Cathy Eisele, Office of Protected Resources, 301-713-2322; Kim Thounhurst, Northeast Region, 508-281-9138; Kathy Wang, Southeast Region, 813-570-5312; Irma Lagomarsino, Southwest Region, 562-980-4016; Brent Norberg, Northwest Region, 206-526-6733; Steven Zimmerman, Alaska Region, 907-586-7235.

**SUPPLEMENTARY INFORMATION:**

Publication of the LOF, which places all U.S. commercial fisheries into one of the three categories based on their levels of incidental mortality and serious injury of marine mammals, is required

by section 118 of the MMPA. The proposed LOF for 1998 was published on May 27, 1997 (62 FR 28657). The fishery classification criteria are specified in the implementing regulations for section 118 of the MMPA (50 CFR part 229, see also a discussion of these criteria at 60 FR 45086, August 30, 1995).

#### Registration Requirements for Vessels Participating in Category I and II Fisheries

Vessel or gear owners participating in Category I or II fisheries must register under the MMPA, as required by 50 CFR 229.4. Registration under the MMPA is administered by NMFS regional offices. Thus, the procedures and fees associated with registration differ between Regions. Under 50 CFR 229.4, the granting and administration of Marine Mammal Authorization Program (MMAP) certificates are to be integrated and coordinated with existing state and Federal fishery license, registration, or permit systems and related programs, whenever possible. Alternative registration programs have been implemented in the Alaska Region, Northwest Region, and Northeast Region. Special procedures and instructions for registration in these Regions are set forth below.

For fisheries in which the granting and administration of authorizations have not been integrated with state licensing, registration, or permitting systems, owners of vessels or gear must register with the NMFS Region in which their fishery operates. NMFS Regional Offices annually send renewal packets to participants in Category I or II fisheries that have previously registered with NMFS; however, it is the responsibility of fishers to ensure that registration or renewal forms are submitted to NMFS at least 30 days in advance of fishing. If fishers have not received a renewal packet by January 1, or are registering for the first time, requests for registration forms should be sent to the appropriate NMFS Regional Offices listed in this notice under **ADDRESSES.**

Registrants must return the registration form and a \$25 fee to the NMFS Regional Office in which their fishery operates. NMFS will send the vessel owner an Authorization Certificate, a program decal, and reporting forms within 30 days of receiving the registration or renewal form and application fee.

### Region-Specific Registration Requirements for Category I and II Fisheries

These registration procedures were outlined in the 1997 LOF (62 FR 33, January 2, 1997) and are clarified here to provide further guidance for registration in the Alaska, Northwest, and Northeast Regions.

#### *Alaska Region MMAP Registration for 1998*

The Alaska Region has integrated MMAP registration for Alaska Category II fisheries with the Alaska State system for registering commercial vessels and permitting commercial fishers. The information required for MMAP registration will be obtained by NMFS directly from the State of Alaska and will be automatically incorporated into the NMFS MMAP database. At the beginning of each calendar year, permitted vessel owners and set net operators will be sent an MMAP certificate for that year, an MMAP decal, the terms and conditions of the authorization, and marine mammal injury and mortality reporting forms. MMAP certificates will be valid only if presented with a valid fishing permit.

This integration process is in effect for all Category II Alaska fisheries. If a vessel owner plans to participate in one or more of the Category II fisheries and is licensed under the State of Alaska's Commercial Fisheries Entry Program, the vessel owner will be registered automatically in the MMAP and will not have to submit MMAP registration, or renewal materials, or a processing fee.

#### *Northwest Region MMAP Registration for 1998*

In the Northwest Region, the States of Washington and Oregon have agreed to continue issuing MMAP certificates for Category I and II fishers as part of the fishing license renewal process. MMAP certificates will be valid only if presented with a valid fishing permit. This integration process is in effect for all WA and OR Category II fisheries. If a vessel owner plans to participate in one or more of the Category II fisheries and has a license issued by the State of Oregon or Washington, the vessel owner will be registered automatically in the MMAP and will not have to submit MMAP registration, or renewal materials, or a processing fee.

#### *Northeast Region MMAP Registration for 1998*

The Northeast Region has integrated MMAP registration with Federal and/or state permit processes for the following fisheries: Gulf of Maine, U.S. mid-Atlantic lobster fishery; Atlantic squid,

mackerel, butterfish trawl fishery; and the New England multispecies sink gillnet fishery (including, but not limited to, species as defined in the Northeast Multispecies Fishery Management Plan, dogfish, and monkfish). The Category I sink gillnet fishery includes regulated and non-regulated fisheries. Participants in the federally regulated segment will be registered in the MMAP automatically through integration with the Federal permit process. Fishers who do not hold a Federal multispecies sink gillnet permit and who fish with sink gillnet in state waters and/or for non-regulated species (dogfish and monkfish) are required to submit an MMAP registration form and processing fee to NMFS.

Federally permitted participants in the squid, mackerel, butterfish trawl fishery will be registered in the MMAP automatically through integration with the Federal permit process. Fishers who do not hold a Federal squid, mackerel, butterfish trawl permit and who trawl for those species are required to submit an MMAP registration form and processing fee to NMFS.

State and federally permitted participants in the lobster trap/pot fishery will be registered in the MMAP automatically through integration with other permit processes.

For all participants in fisheries for which NMFS has integrated registration with permit processes, the vessel owner will be registered automatically in the MMAP and will not have to submit MMAP registration, or renewal materials, or a processing fee. At the beginning of each calendar year, these vessel owners will be sent an MMAP certificate for that year, the terms and conditions of the authorization, and marine mammal and injury reporting forms. MMAP certificates will be valid only if presented with a valid state or Federal fishing permit.

All fishers who plan to participate in any other Category I and II fisheries in the Northeast Region must register under the MMAP by submitting a registration or renewal form and the processing fee to NMFS.

#### *General Requirements*

Vessel owners or operators or fishers (in the case of non-vessel fisheries) in Category I, II, or III fisheries must comply with 50 CFR 229.6 and report all incidental mortality and injury of marine mammals during the course of commercial fishing operations to NMFS Headquarters. Instructions for submission of reports are found at 50 CFR 229.6.

Fishers participating in Category I and II fisheries may be required, upon request, to accommodate an observer aboard their vessels. Observer requirements may be found at 50 CFR 229.7.

#### *Responses to Comments*

NMFS received four letters of comment on the proposed LOF for 1998, which raised several points of concern. These issues and concerns are summarized and responded to as follows:

#### *General Comments*

*Comment 1:* How is a gillnet fishery down-listed? What specific levels of observer coverage for individual fisheries are considered enough?

*Response:* A fishery is down-listed when the annual mortality and serious injury estimate decreases to the level defined for the lower category. For example, a Category I fishery is defined as having an annual mortality and serious injury of any marine mammal stock that is greater than or equal to 50 percent of the Potential Biological Removal (PBR) level. Generally, a fishery is considered a Category II fishery if the annual mortality and serious injury of a stock in that fishery is greater than 1 percent and less than 50 percent of the PBR level. Thus, a Category I fishery will be down listed to Category II when the annual mortality and serious injury decreases to below 50 percent of the PBR level.

The level of observer coverage is indirectly related to the categorization of a particular fishery. Higher levels of observer coverage increase the confidence associated with mortality estimates. Lower levels of observer coverage may result in lower confidence levels and higher coefficients of variation (CVs) associated with mortality estimates. NMFS' guidelines for calculating PBR levels state that, if CVs are high, recovery factors can be adjusted downward for threatened and depleted stocks or stocks of unknown status (Wade and Angliss, 1997). Lower recovery factors may slightly decrease PBR values, which could affect the categorization of fisheries; however, the largest potential decrease in a recovery factor would be from 0.50 to 0.40, which would result in a relatively small decrease in the PBR level (approximately 20 percent). The likelihood that a small decrease in the PBR level would change the categorization of a fishery is remote.

The level of observer coverage is based on a desired CV that is needed for a particular estimate. For example, if the objective of sampling is to estimate total

harbor porpoise mortality, the quantity of sampling will be adjusted to attain a certain CV for the harbor porpoise mortality estimate. The CV of the bycatch estimate consists of two components: the CV of the harbor porpoise bycatch rate and the total fishing effort. These two components determine the CV of the total estimate and, therefore, are used in developing a sampling schedule.

#### **Comments on Fisheries in the Southwest Region**

##### *Comments on the California Squid Seine Fishery*

*Comment 2:* Technical changes that have occurred in the CA squid seine fishery since 1986 have greatly reduced the likelihood of incidental takes of marine mammals. Additionally, past mortalities of pilot whales and Risso's dolphins that have been attributed to this fishery are likely to have been incidences of intentional killing of marine mammals rather than of incidental takes. Before an observer program is considered for this recently recategorized Category II fishery, additional enforcement measures should be undertaken, in conjunction with fishery workshops, to ensure that fishers understand and comply with regulations regarding takings of marine mammals.

*Response:* In 1997, the California squid purse seine fishery was reclassified from Category III to Category II. This reclassification was based on the recent increase in squid purse seine fishing effort in California, the presence of pilot whales in the fishing areas, and historical evidence of serious injury and mortality of pilot whales in the fishery.

Under section 118 of the MMPA, NMFS has authority to place observers on any vessel participating in a Category I or II fishery. At this time, NMFS does not have the funding needed to support an observer program for the California squid purse seine fishery. However, due to the recent increase in fishing effort in the fishery, the California State Legislature recently established a new management and research program for the California squid purse seine fishery to regulate the fishery more efficiently and to collect information on the biology and status of market squid (*Loligo opalescens*). As part of this research program, observers may be placed on purse seine vessels to collect biological data. If the California Department of Fish and Game (CDFG) establishes an observer program for the fishery, NMFS will work with it to facilitate the collection of information on the fishery's interactions with marine

mammals, both incidental and intentional.

The Southwest Region, NMFS, Office of Law Enforcement currently implements public outreach programs to educate fishers about Federal laws, including the Magnuson-Stevenson Fishery Conservation and Management Act, and the MMPA. These efforts include providing fishers with public outreach materials and speaking to them at the docks. NMFS will continue to investigate reports of MMPA violations in the California squid purse seine fishery (e.g., illegal shootings) and, if necessary, to better enforce the MMPA. NMFS will explore the possibility of conducting fishers education workshops.

##### *Comments on the California/Oregon Shark/Swordfish Drift Gillnet Fishery*

*Comment 3:* The California/Oregon shark/swordfish drift gillnet fishery should be renamed the "Pacific pelagic drift net fishery" to better describe both the type of gear employed and the variety of species harvested in this fishery.

*Response:* The California/Oregon drift gillnet fishery originally targeted common thresher shark. Swordfish and shortfin mako shark later became commercially important components of the catch. Although swordfish, common thresher shark, and mako shark represent approximately 90 percent of the total catch by the fishery, other species that are commonly caught and landed include opah, big-eye thresher, louvar, barracuda, Pacific bonito, dolphinfish, mackerel, sardines, white seabass, and tunas (Hanan, et al., 1993). NMFS agrees that the nets deployed by the fishery do not capture the fish by the gills, rather fish are captured by entanglement in the nets. Nevertheless, the CDFG currently refers to the fishery as "California drift gill net fishery for thresher shark and swordfish" and the Oregon Department of Fish and Wildlife (ODFW) refers to the Oregon portion of the fishery as the "Oregon swordfish drift gill net fishery." Although NMFS recently issued a rule that requires new training, equipment, and gear modifications for operators and vessels participating in the fishery (62 FR 51805, October 3, 1997), the CDFG and the ODFW have the major responsibility for managing the fishery at this time. For this reason, NMFS will continue to defer to the CDFG's and the ODFW's designation of the fishery as the "California/Oregon drift gillnet fishery for thresher shark and swordfish."

##### *Comments on the California Shark and Bonito Longline Fishery*

*Comment 4:* The commenter questioned the classification of the California shark and bonito longline fishery as Category III because longline gear is known to interact with marine mammals in other fisheries.

*Response:* The California shark/bonito longline fishery is a very small fishery, with less than 10 vessels currently operating. NMFS has found no evidence of serious injuries or mortalities of marine mammals associated with this fishery; thus, this fishery will remain in Category III. However, because this longline fishery primarily targets swordfish, and secondarily targets tunas and several other fish species, NMFS is renaming this fishery the "California offshore longline" fishery.

##### *Comments on Fisheries in the Northwest Region*

##### *Oregon Swordfish Floating Longline and Oregon Blue Shark Floating Longline Fisheries*

*Comment 5:* The commenter questioned the classification of the Oregon swordfish longline and blue shark longline fishery as Category III because longline gear is known to interact with marine mammals in other fisheries.

*Response:* The commenter is mistaken; the fisheries to which the commenter refers are currently placed in Category II. The Oregon swordfish/blue shark surface longline fishery, a Category II fishery, was divided in 1997 into two separate Category II fisheries to parallel more closely the State developmental fisheries licensing practices for these fisheries. These fisheries were placed in Category II and renamed the "OR swordfish floating longline fishery" and the "OR blue shark floating longline fishery." NMFS believes that the Oregon swordfish floating longline fishery and the Oregon blue shark floating longline fisheries should remain in Category II.

##### *Other Comments on Fisheries in the Northwest Region*

*Comment 6:* The commenter questioned the classification of the Washington, Oregon, North Pacific halibut longline fishery and the Washington, Oregon, California groundfish, bottomfish longline/set line fishery as Category III because longlines are known to interact with marine mammals in many areas.

*Response:* In recent years, there have been no marine mammal mortalities or serious injuries documented for the Washington, Oregon, North Pacific

halibut longline/set line fishery or for the Washington, Oregon, California groundfish, bottomfish longline/set line fishery. For this reason, these fisheries will remain Category III fisheries. If new information becomes available on incidental takes of marine mammals in this fishery, NMFS will examine the information and determine whether their current classifications are appropriate.

#### *Comments on Fisheries in the Alaska Region*

*Comment 7:* The commenter questioned the classification of the Alaska State waters sablefish longline/set line and the Alaska octopus/squid longline fisheries as Category III fisheries because longlines are known to interact with marine mammals in other areas.

*Response:* The Alaska State waters sablefish longline/set line fishery was reclassified from Category II to Category III in the 1996 LOF (60 FR 67085, December 28, 1995) based on the prohibition of intentional lethal takes of marine mammals. Based on Hill, *et al.* ("Alaska Marine Mammal Stock Assessments, 1996," Appendix 3, 1997) there were no reported mortalities or serious injuries of marine mammals in either of these fisheries between 1990 and 1994; however, these fisheries have never been observed. Additionally, there were no reported mortalities and serious injuries in these fisheries from logbook data collected between 1990 and 1993 or from stranding data between 1990 and 1994.

At a recent meeting of the AK Scientific Review Group (SRG), the SRG recommended that, in the absence of information, NMFS should not assume that fishers are likely to not report or under-report incidental mortalities of marine mammals in the course of commercial fishing operations. The current information supports the placement of these fisheries in Category III. NMFS will evaluate any new information that becomes available on the rate of serious injury and mortality incidental to these fisheries and will make changes to the LOF, as appropriate.

*Comment 8:* The commenter expressed concern about the lack of observer programs in Alaska and in other areas of the northwest and believes that many of the Category II and Category III gillnet fisheries are likely to have interactions that are greater than what is being documented. There are several fisheries in Alaska that are stated to have no documented interactions with marine mammals.

*Response:* NMFS agrees. A marine mammal observer program is needed in Alaska to provide the data needed to classify fisheries and to otherwise manage incidental takes of marine mammals. NMFS is in the process of implementing an observer program to monitor incidental takes of marine mammals by commercial fisheries in Alaskan nearshore waters. This multi-year program will focus on Category II Alaskan fisheries. Observers will be deployed in 8 of the 11 Category II fisheries in Alaska over the next 5 years. The observed fisheries will include: AK Cook Inlet salmon set gillnet, AK Cook Inlet drift gillnet, AK Yakutat salmon set gillnet, AK Bristol Bay set driftnet, AK Bristol Bay drift gillnet, AK Kodiak salmon set gillnet, Southeast AK salmon drift gillnet, and the AK Southeast salmon purse seine fishery. Funding limitations may delay the start date of this program until the summer of 1999.

#### **Comments on Fisheries in the Northeast and Southeast Regions**

##### *Comments on the U.S. Mid-Atlantic Coastal Gillnet Fishery*

*Comment 9:* The commenter questioned how NMFS can justify placing the mid-Atlantic gillnet fishery in Category II for bottlenose dolphin, when the PBR level for the coastal bottlenose dolphin stock is unknown. The commenter does not support the current calculated PBR level of 25 animals.

*Response:* The current PBR level for the Atlantic coastal bottlenose dolphin is based on the best available information. This PBR level was calculated based on survey results as described in the Atlantic Marine Mammal Stock Assessment Report and was peer-reviewed by the Atlantic Scientific Review Group, an external panel convened to advise NMFS on its Stock Assessment Reports (SARs). Although it is true that the exact stock structure for coastal bottlenose dolphins is unknown and, thus, the PBR level is necessarily uncertain, a significant body of knowledge regarding this stock structure is currently available and forms the basis for the current PBR level.

NMFS has allocated funding in 1998 to expand observer coverage in the mid-Atlantic coastal gillnet fishery and to support research aimed at defining the stock structure and at generating better population estimates for Atlantic coastal bottlenose dolphin. As new information becomes available on this fishery and on the rate of serious injury and mortality incidental to this fishery, NMFS will analyze this information to determine

whether it warrants reclassification of the fishery.

*Comment 10:* The mid-Atlantic coastal gillnet fishery should not be subdivided at this time. It would be difficult to divide this fishery using the target species as the criterion because, in many of these fisheries, the target species differs from the predominant catch. In addition, data on marine mammal bycatch are so few that no justification exists at the time for subdividing a fishery by whether certain components seem more or less likely to interact with marine mammals. These fisheries should remain combined until complete and accurate data are collected on marine mammal bycatch levels and on the individual fisheries in this region.

*Response:* NMFS agrees. The information currently available on the composition and distribution of the Mid-Atlantic coastal gillnet fishery and on its incidental take levels is insufficient to identify distinct sub-components of this fishery.

NMFS has allocated funding in 1998 to expand its observer coverage of this fishery and to obtain a better characterization of the individual sub-components that comprise it.

*Comment 11:* Regarding the U.S. mid-Atlantic coastal gillnet fishery, NMFS should, where feasible, separate the sink gillnet fisheries according to their target species.

*Response:* See response to Comment 10.

##### *Comments on the North Atlantic Bottom Trawl Fishery*

*Comment 12:* Information presented at the serious injury and mortality workshop regarding the North Atlantic bottom trawl fishery documents interactions with marine mammals. Given the limited observer coverage to date in this fishery and the inability of NMFS to put observers aboard Category III vessels, this information supports recategorizing this fishery from Category III to Category II, so that additional information on marine mammal bycatch may be gathered.

*Response:* NMFS is evaluating the levels of marine mammal mortality and serious injuries that occur incidentally to this fishery. This fishery is difficult to characterize because it is not a homogeneous fishery relative to target species, spatial/temporal fishing operations, vessel fishing power and net size, and other factors.

There is currently a very low level of observer coverage in this fishery (approximately 1 percent). Because the fishery is so diverse, NMFS cannot assume that the likelihood of

encountering a marine mammal is similar in all areas where bottom trawl fishing occurs (i.e., inshore vs. offshore; low relief vs. more complex bottom topography). As a result, NMFS believes that it may be inappropriate to extrapolate this limited observer data across the entire fishery.

At this time, there are no clear trends in the current observer data set that can be used to discern problem fishing areas and identify sub-components of this fishery.

NMFS plans to conduct a thorough evaluation of marine mammal bycatch and total effort in this fishery in order to determine whether this fishery should be proposed for reclassification in 1999.

#### **Comments on Category III Trap/Pot Fisheries in the Atlantic**

*Comment 13:* The lobster pot fishery is a Category I fishery partly because of its potential to entangle marine mammals in its buoy lines. By analogy, all Category III trap/pot fisheries in the Atlantic should be placed in Category I.

*Response:* NMFS considers classification by analogy, especially if there is other information, such as a significant overlap in the distribution of marine mammals and the geographic location of a fishery, that provide evidence of a high probability of interactions with marine mammals. In this case, the NMFS Southeast Regional Office examined various pot/trap fisheries in waters of the southeastern U.S. and found that the geographic distribution of these fisheries generally precluded them from interacting with right whales. NMFS is continuing to analyze various trap/pot gear and the locations where they are used to determine whether the current classification is appropriate. If new information becomes available on the potential for serious injury or mortality of marine mammals in Atlantic trap/pot fisheries, NMFS will evaluate this information and propose recategorization as appropriate.

#### **Justification for the Categorization of Commercial Fisheries**

The following are justifications for the final categorization of commercial fisheries into Category I, II, or III based on the classification scheme defined in the final rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995). Discussions are presented for those fisheries specifically addressed in the proposed LOF for 1998 (62 FR 28657, May 27, 1997) as well as one additional fishery.

#### *U.S. Mid-Atlantic Coastal Gillnet Fishery*

The U.S. mid-Atlantic coastal gillnet fishery was classified in Category II in the 1992 LOF (57 FR 20328, May 12, 1992), based on a level of incidental mortality and serious injury of several species of marine mammals, including mid-Atlantic coastal bottlenose dolphins, harbor porpoise, and humpback whales. Since then, new information has become available on the interactions of this fishery with harbor porpoise and coastal bottlenose dolphin. NMFS has two sources of data on the level of serious injury and mortality in this fishery: (1) Observed mortalities of harbor porpoise on vessels targeting monkfish and dogfish; and (2) evidence from bottlenose dolphin strandings that were likely caused by interactions with gillnet vessels.

The Northeast Fisheries Science Center presented preliminary data at a recent meeting of the Mid-Atlantic Take Reduction Team that estimated that 192 harbor porpoise are killed annually in the observed portion of the fishery (NMFS, unpublished data). Based on observer data, the estimated serious injury and mortality of harbor porpoise in this segment of the fishery is under 50 percent of the PBR level for harbor porpoise, which is currently 483 animals; thus, the retention of this fishery in Category II on the basis of harbor porpoise takes is justified at this time based on extrapolations from currently available observer data.

Between 1993 and early October 15, 1997, stranded bottlenose dolphins from New Jersey to North Carolina were necropsied and examined for signs of fishery interaction. Examination of these carcasses indicated that an average of 17.6 bottlenose dolphins (86 total animals) which stranded annually during this time period had identifiable evidence of fishing interactions (NMFS, unpublished data). Of these animals, net marks were found on an average of 12.51 animals per year. The current PBR level for coastal bottlenose dolphin is 25 animals. A conservative interpretation of the stranding data suggests a level of incidental mortality of almost exactly 50 percent of the PBR level. Because this take level places this fishery on the borderline between Category II and Category I and is based exclusively on stranding data, a recategorization of this fishery from Category III to Category II is not appropriate at this time. NMFS plans to conduct a closer analysis of stranding data in the mid-Atlantic region and will propose a recategorization of the mid-Atlantic

coastal gillnet fishery in 1999, if appropriate.

#### *U.S. Mid-Atlantic Tuna Gillnet Fishery*

In the proposed LOF for 1998, NMFS requested public comments on whether a new drift gillnet fishery was operating in the U.S. mid-Atlantic region, targeting primarily yellowfin and albacore tunas. NMFS did not receive any comments providing new information on this fishery. If a fishery is operating in the U.S. mid-Atlantic region targeting yellowfin and albacore tunas, as well as bonito and little tunny, NMFS believes that it is operating with similar mesh gear and in the same relatively shallow waters as the Mid-Atlantic coastal gillnet fishery. NMFS does not believe that this fishery operates in the same area or with the same gear as the "Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics drift gillnet" fishery. Accordingly, NMFS believes that this fishery should be considered part of the Mid-Atlantic coastal gillnet fishery. The Mid-Atlantic coastal gillnet fishery, as described in the 1997 LOF (62 FR 33, January 2, 1997), includes all gillnet fishing in coastal waters (inside the 100 fathom curve) from 72°30'W. long to the North Carolina-South Carolina border, except for gillnet fisheries in Category III that occur solely within bays, estuaries, and rivers. Subsequently, this fishery would be subject to any regulations that were developed for the Mid-Atlantic coastal gillnet fishery, including those specified in both the Large Whale Take Reduction Plan (62 FR 39157, July 22, 1997) and the Mid-Atlantic Take Reduction Plan (a proposed Mid-Atlantic Take Reduction Plan is expected to be published in February 1998).

NMFS will continue to collect information on the use of this gear and to characterize this component of the Mid-Atlantic coastal gillnet fishery with respect to geographic location, number of participants, target species, gear type, and fishing methods.

#### *Atlantic Pelagic Mid-water Herring Trawl Fishery*

The current LOF includes a classification for the Gulf of Maine, Southern North Atlantic, Gulf of Mexico coastal herring trawl fishery, a Category III fishery. Based on information provided in association with Framework Adjustment 18 to the Northeast Multispecies Fishery Management Plan (FMP), NMFS believes that a further-offshore Atlantic herring trawl fishery also exists. NMFS believes that this fishery is comprised of approximately 35 vessels operating in the Gulf of Maine/Northwest Atlantic. NMFS notes

that this pelagic mid-water trawl fishery utilizes different gear than the coastal fishery and may be operating at time and in locations where there is a high density of harbor porpoise.

This fishery utilizes gear that is similar to gear used in the Atlantic squid, mackerel, butterfish trawl fishery, a Category II fishery. Because of the similarities between these two fisheries, NMFS anticipates that several of the vessels that operate in the pelagic herring trawl fishery would be registered in the MMAP as participants in the Atlantic squid, mackerel, butterfish trawl fishery. In addition, NMFS believes that some herring trawl vessels may have permits to operate in the Northeast multispecies sink gillnet fishery.

Because this herring trawl fishery uses similar gear to the Atlantic squid, mackerel, butterfish trawl fishery (a Category II fishery), and because of its potential to interact with harbor porpoise, it should be considered a Category II fishery. However, in order to provide sufficient opportunity for public notice and comment, NMFS is not adding this fishery to the LOF at this time. NMFS plans to propose a categorization for this fishery in the proposed 1999 LOF and provide opportunity for public comment at that time.

Although this fishery is not being added to the LOF at this time, NMFS will continue to have the authority to place observers on pelagic herring trawl vessels under the Magnuson-Stevenson Fishery Conservation and Management Act. NMFS will continue to evaluate observer data and any new information that becomes available on the levels of serious injury and mortality of marine mammals that are occurring incidental to this fishery.

#### **Summary of Changes to the LOF for 1998**

With the following exceptions, the placement and definitions of U.S. commercial fisheries are identical to those provided in the LOF for 1997, and, thus, the majority of the LOF for 1997 remains valid in 1998. The

following summarizes the changes in fishery definitions, the number of participants in a particular fishery, the species that are designated as strategic stocks, and the species and/or stocks that are incidentally killed or seriously injured that are made final by this LOF for 1998:

**Fishery definition:** The "California shark/bonito longline" fishery is renamed the "California offshore longline" fishery.

#### **Changes Resulting From Final 1996 SARs**

The table in the LOF that lists all U.S. commercial fisheries, the number of participants in each fishery, and the marine mammal species and/or stocks incidentally killed or injured in each fishery was updated to include the following changes in the final SARs which were made available to the public on January 2, 1998 (63 FR 60):

The Western North Atlantic stock of offshore bottlenose dolphin was designated as non-strategic.

The stock formerly known as the Alaska harbor porpoise was divided into three stocks: the Southeast Alaska stock, the Gulf of Alaska stock, and the Bering Sea stock.

The Cook Inlet stock of beluga whales was designated as strategic.

#### **Other Changes to the LOF**

The number of participants in both the "North Carolina haul seine" fishery and the southeastern "U.S. Atlantic, Caribbean haul seine" fishery were updated in 1998 and changes are reflected in Tables 1 and 2 of this document.

The Western North Atlantic stock of coastal bottlenose dolphin are added to the list of species that incurs incidental injury or mortality incidental to the "Southeastern U.S. Atlantic, Gulf of Mexico, Caribbean spiny lobster trap/pot" fishery.

The Hawaiian stock of spinner dolphin and the Hawaiian stock of short-finned pilot whale were added to the list of species that incurs incidental injury or mortality incidental to the "Hawaii swordfish, tuna, billfish, mahi

mahi, wahoo, oceanic, sharks longline/set line" fishery.

The Southeast Alaska stock of harbor porpoise was added to the list of species that incurs incidental injury or mortality to the "Alaska crustacean pot" fishery.

In addition to these changes, there were several typographical errors that have been corrected since the publication of the tables in the 1998 proposed LOF. These corrections are reflected in Tables 1 and 2 of this final LOF.

#### **List of Fisheries**

The following two tables list the commercial fisheries of the United States according to their assigned categories under section 118 of the MMPA. The estimated number of vessels 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 1996 LOF is used. The information on which marine mammal species/stocks are involved in interactions with the fishery is based on observer data, logbook data, stranding reports, and fishers' reports. Only those species or stocks known to incur injury or mortality are listed. There are a few fisheries that are in Category II and have no recent documented interactions with marine mammals. Justifications for placement of these fisheries are found in the final LOF for 1996 (60 FR 45086, December 28, 1995).

#### **References**

- Wade Paul R. and Robyn P. Angliss, "Guidelines for Assessing Marine Mammal Stocks: Report of the GAAMS Workshop April 3-5, 1996," Seattle, Washington, U.S. Dep. Commer., NOAA Tech. Memo. NMFS-OPR-12,93p, 1997.
- Hanan, D.A., D.B. Holts, and A.L. Coan, Jr., "The California drift gill net fishery for sharks and swordfish, 1981-82 through 1990-91." California Department of Fish and Game. Fish Bulletin 175, 1993.

TABLE 1.—LIST OF FISHERIES  
[Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated No. of vessels/persons	Marine mammal species/stocks incidentally injured/killed
<b>Category I:</b>		
Gillnet fisheries: CA angel shark/halibut and other species large mesh (>3.5in) set gillnet fishery.	58	Harbor porpoise, central CA. Common dolphin, short-beaked, CA/OR/WA. Common dolphin, long-beaked CA. California sea lion, U.S. Harbor seal, CA.
CA/OR thresher shark/swordfish drift gillnet fishery .....	150	Northern elephant seal, CA breeding. Steller sea lion, Eastern U.S.*+ Sperm whale, CA to WA.*+ Dall's porpoise, CA/OR/WA. Pacific white sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Bottlenose dolphin, CA/OR/WA offshore. Common dolphin, short-beaked, CA/OR/WA. Common dolphin, long-beaked, CA. Northern right whale dolphin, CA/OR/WA. Short-finned pilot whale, CA/OR/WA.* Baird's beaked whale, CA/OR/WA. Mesoplodont beaked whales, CA to WA.* Cuvier's beaked whale, CA/OR/WA. Pygmy sperm whale, CA/OR/WA.* California sea lion, U.S. Harbor seal, CA. Northern elephant seal, CA breeding. Harbor porpoise, OR/WA coastal. Humpback whale, CA/OR/WA-Mexico. Minke whale, CA/OR/WA.*
<b>Category II:</b>		
Gillnet fisheries: AK Prince William Sound salmon drift gillnet .....	518	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific.* Harbor seal, GOA.* Pacific white-sided dolphin, central North Pacific. Harbor porpoise, GOA. Dall's porpoise, AK.
AK Peninsula/Aleutians salmon drift gillnet fishery .....	164	Northern fur seal, North Pacific. Harbor seal, GOA. Harbor seal, Bering Sea. Harbor porpoise, Bering Sea. Dall's porpoise, AK.
AK Peninsula/ Aleutian Island salmon set gillnet .....	109	Northern (Alaska) sea otter, Pacific. Steller sea lion, Western U.S.*+ Harbor porpoise, Bering Sea.
Southeast Alaska salmon drift gillnet fishery .....	452	Steller sea lion, Eastern U.S.*+ Harbor seal, Southeast AK. Pacific white-sided dolphin, central North Pacific. Harbor porpoise, Southeast Alaska. Dall's porpoise, AK.
AK Cook Inlet drift gillnet .....	577	Humpback whale, central North Pacific.*+ Steller sea lion, Western U.S.*+ Harbor seal, GOA.* Harbor porpoise, GOA. Dall's porpoise, AK.
AK Cook Inlet salmon set gillnet .....	625	Steller sea lion, Western U.S.*+ Harbor seal, GOA.* Harbor porpoise, GOA. Beluga, Cook Inlet.*
AK Yakutat salmon set gillnet .....	147	Harbor seal, Southeast AK.
AK Kodiak salmon set gillnet .....	173	Harbor seal, GOA.* Harbor porpoise, GOA.

TABLE 1.—LIST OF FISHERIES—Continued  
 [Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated No. of vessels/persons	Marine mammal species/stocks incidentally injured/killed
AK Bristol Bay drift gillnet .....	1,882.	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific.* Harbor seal, Bering Sea. Beluga, Bristol Bay. Gray whale, Eastern North Pacific. Spotted seal, AK. Pacific white-sided dolphin, central North Pacific.
AK Bristol Bay set gillnet .....	967	Harbor seal, Bering Sea. Beluga, Bristol Bay. Gray whale, Eastern North Pacific. Northern fur seal, North Pacific.
AK Metlakatla/Annette Island salmon drift gillnet .....	60	None documented.
WA Puget Sound Region salmon drift gillnet fishery (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line—Treaty Indian fishing is excluded).	900	Harbor porpoise, inland WA. Dall's porpoise, CA/OR/WA. Harbor seal, WA inland.
Purse seine fisheries:		
CA anchovy, mackerel, tuna purse seine .....	150	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Harbor seal, CA.
CA squid purse seine .....	65	Pilot whales, short-finned, CA/OR/WA.
AK Southeast salmon purse seine .....	373	Humpback whale, central North Pacific.+
Trawl fisheries:		
AK pair trawl .....	2	None documented.
Longline fisheries:		
OR swordfish floating longline fishery .....	2	None documented.
OR blue shark floating longline fishery .....	1	None documented.
<b>Category III</b>		
Gillnet fisheries:		
AK Prince William Sound set gillnet .....	22	Steller sea lion, Western U.S.*+ Harbor seal, GOA.
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet.	1,690	None documented.
AK roe herring and food/bait herring gillnet .....	16	None documented.
WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet.	913	None documented.
WA Willapa Bay drift gillnet .....	82	Harbor seal, OR/WA coast. Northern elephant seal, CA breeding.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24	Harbor seal, OR/WA coast.
WA, OR lower Columbia River (includes tributaries) drift gillnet.	110	California sea lion, U.S. Harbor seal, OR/WA coast.
CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less.	341	None documented.
AK miscellaneous finfish set gillnet .....	9	Steller sea lion, Western U.S.+
Hawaii gillnet .....	115	Bottlenose dolphin, Hawaiian. Spinner dolphin, Hawaiian.
Purse seine, beach seine, round haul and throw net fisheries:		
AK salmon purse seine (except Southeast Alaska, which is in Category II).	763	Harbor seal, GOA.
AK salmon beach seine .....	8	None documented.
AK roe herring and food/bait herring purse seine .....	480	None documented.
AK roe herring and food/bait herring beach seine .....	7	None documented.
AK Metlakatla purse seine .....	10	None documented.
AK octopus/squid purse seine .....	6	None documented.
CA herring purse seine .....	100	California sea lion, U.S. Harbor seal, CA.
CA sardine purse seine .....	120	None documented.
AK miscellaneous finfish purse seine .....	7	None documented.
AK miscellaneous finfish beach seine .....	1	None documented.
WA salmon purse seine .....	440	None documented.
WA salmon reef net .....	53	None documented.
WA, OR herring, smelt, squid purse seine or lampara .....	130	None documented.
WA (all species) beach seine or drag seine .....	235	None documented.
HI purse seine .....	18	None documented.
HI opelu/akule net .....	16	None documented.
HI throw net, cast net .....	47	None documented.

TABLE 1.—LIST OF FISHERIES—Continued  
 [Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated No. of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Dip net fisheries:		
WA, OR smelt, herring dip net .....	119	None documented.
CA squid dip net .....	115	None documented.
Marine aquaculture fisheries:		
WA, OR salmon net pens .....	21	California sea lion, U.S.
CA salmon enhancement rearing pen .....	>1	None documented.
OR salmon ranch .....	1	None documented.
Troll fisheries:		
AK salmon troll .....	1,278	Steller sea lion, Eastern U.S.*+
CA/OR/WA salmon troll .....	4,300	None documented.
AK north Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll.	1,354	None documented.
HI trolling, rod and reel .....	1,795	None documented.
Guam tuna troll .....	50	None documented.
Commonwealth of the Northern Mariana Islands tuna troll ..	50	None documented.
American Samoa tuna troll .....	<50	None documented.
HI net unclassified .....	106	None documented.
Longline/set line fisheries:		
AK state waters sablefish long line/set line .....	240	None documented.
Miscellaneous finfish/groundfish longline/set line .....	1,220	Harbor seal, GOA.* Harbor seal, Bering Sea. Northern elephant seal, CA breeding. Dall's porpoise, AK. Steller sea lion, Western U.S. Harbor seal, Southeast AK.
HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line.	140	Hawaiian monk seal, HI.*+ Humpback whale, Central North Pacific.*+ Risso's dolphin, Hawaiian. Bottlenose dolphin, Hawaiian. Spinner dolphin, Hawaiian. Short-finned pilot whale, Hawaiian.
WA, OR North Pacific halibut longline/set line .....	350	None documented.
AK southern Bering Sea, Aleutian Islands, and Western Gulf of Alaska sablefish longline/set line (federally regulated waters).	226	Northern elephant seal, CA breeding. Killer whale, resident. Killer whale, transient. Steller sea lion, western U.S. Pacific white-sided dolphin, central North Pacific.
AK halibut longline/set line (state and Federal waters) .....	2,396	Steller sea lion, Western U.S.*+
WA, OR, CA groundfish, bottomfish longline/set line .....	367	None documented.
AK octopus/squid longline .....	2	None documented.
CA offshore longline .....	10	None documented.
Trawl fisheries:		
WA, OR, CA shrimp trawl .....	300	None documented.
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet).	48	None documented.
AK Gulf of Alaska groundfish trawl .....	209	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific* Harbor seal, GOA* Dall's porpoise, AK Northern elephant seal, CA breeding.
AK Bering Sea and Aleutian Islands groundfish trawl .....	186	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific*. Killer whale, resident. Killer whale, transient. Pacific white-sided dolphin, central North Pacific. Harbor porpoise, Bering Sea. Harbor seal, Bering Sea. Harbor seal, GOA*. Bearded seal, AK. Ringed seal, AK. Dall's porpoise, AK. Ribbon seal, AK. Northern elephant seal, CA breeding. Northern (Alaska) sea otter, Pacific. Walrus, Pacific.
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl.	8	None documented.

TABLE 1.—LIST OF FISHERIES—Continued  
[Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated No. of vessels/persons	Marine mammal species/stocks incidentally injured/killed
AK miscellaneous finfish otter or beam trawl .....	391	None documented.
AK food/bait herring trawl .....	3	None documented.
WA, OR, CA groundfish trawl .....	585	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific*. Pacific white-sided dolphin, central. North Pacific. Dall's porpoise, CA/OR/WA. California sea lion, U.S. Harbor seal, OR/WA coast.
Pot, ring net, and trap fisheries:		
AK crustacean pot .....	1,511	Harbor porpoise, Southeast Alaska.
AK Bering Sea, Gulf of Alaska finfish pot .....	486	Harbor seal, GOA*. Harbor seal, Bering Sea. Northern (AK) sea otter, Pacific.
WA, OR, CA sablefish pot .....	176	None documented.
WA, OR, CA crab pot .....	1,478	None documented.
WA, OR shrimp pot & trap .....	254	None documented.
CA lobster, prawn, shrimp, rock crab, fish pot .....	608	None documented.
OR, CA hagfish pot or trap .....	25	None documented.
HI lobster trap .....	15	Hawaiian monk seal, HI.*+
HI crab trap .....	22	None documented.
HI fish trap .....	19	None documented.
HI shrimp trap .....	5	None documented.
Handline and jig fisheries:		
AK North Pacific halibut handline and mechanical jig .....	119	None documented.
AK other finfish handline and mechanical jig .....	598	None documented.
AK octopus/squid handline .....	2	None documented.
WA groundfish, bottomfish jig .....	679	None documented.
HI aku boat, pole and line .....	54	None documented.
HI inshore handline .....	650	Bottlenose dolphin, HI.
HI deep sea bottomfish .....	434	Hawaiian monk seal, HI.*+
HI tuna .....	144	Rough-toothed dolphin, HI. Bottlenose dolphin, HI Hawaiian monk seal, HI.*+
Guam bottomfish .....	<50	None documented.
Commonwealth of the Northern Mariana Islands bottomfish .....	<50	None documented.
American Samoa bottomfish .....	<50	None documented.
Harpoon fisheries:		
CA swordfish harpoon .....	228	None documented.
Pound net/weir fisheries:		
AK Southeast Alaska herring food/bait pound net .....	4	None documented.
WA herring brush weir .....	1	None documented.
Bait pens:		
WA/OR/CA bait pens .....	13	None documented.
Dredge fisheries:		
Coastwide scallop dredge .....	106	None documented.
Dive, hand/mechanical collection fisheries:		
AK abalone .....	44	None documented.
AK dungeness crab .....	2	None documented.
AK herring spawn-on-kelp .....	314	None documented.
AK urchin and other fish/shellfish .....	17	None documented.
AK clam hand shovel .....	53	None documented.
AK clam mechanical/hydraulic fishery .....	104	None documented.
WA herring spawn-on-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.
CA abalone .....	111	None documented.
CA sea urchin .....	583	None documented.
HI squidding, spear .....	267	None documented.
HI lobster diving .....	6	None documented.
HI coral diving .....	2	None documented.
HI handpick .....	135	None documented.
WA shellfish aquaculture .....	684	None documented.
WA, CA kelp .....	4	None documented.
HI fish pond .....	10	None documented.

TABLE 1.—LIST OF FISHERIES—Continued  
[Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated No. of ves-sels/per-sons	Marine mammal species/stocks incidentally injured/killed
Commercial passenger fishing vessel (charter boat) fisheries: AK, WA, OR, CA commercial passenger fishing vessel .....	>17,000 (16,276 AK only)	None documented.
AK octopus/squid "other" .....	19	None documented.
HI "other" .....	114	None documented.
Live finfish/shellfish fisheries: CA finfish and shellfish live trap/hook-and-line .....	93	None documented.

\* Marine mammal stock is strategic.  
+ Stock is listed as threatened or endangered under the ESA, or as depleted under the MMPA.  
List of Abbreviations Used in Table 1.  
AK—Alaska.  
CA—California.  
HI—Hawaii.  
OR—Oregon.  
GOA—Gulf of Alaska.  
WA—Washington.

TABLE 2.—LIST OF FISHERIES  
[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

Description of fishery	Estimated No. of ves-sels/per-sons	Marine mammal species/stocks incidentally injured/killed
<b>Category I</b>		
Gillnet fisheries: Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics drift gillnet.	15	North Atlantic right whale, WNA.*+ Humpback whale, WNA.*+ Sperm whale, WNA.*+ Dwarf sperm whale, WNA.* Pygmy sperm whale, WNA.* Cuvier's beaked whale, WNA.* True's beaked whale, WNA.* Gervais' beaked whale, WNA.* Blainville's beaked whale, WNA.* Risso's dolphin, WNA. Long-finned pilot whale, WNA.* Short-finned pilot whale, WNA.* White-sided dolphin, WNA. Common dolphin, WNA.* Atlantic spotted dolphin, WNA.* Pantropical spotted dolphin, WNA.* Striped dolphin, WNA. Spinner dolphin, WNA. Bottlenose dolphin, WNA offshore. Harbor porpoise, GME/BF.*
Northeast multispecies sink gillnet (including species as defined in the Multispecies Fisheries Management Plan and spiny dogfish and monkfish).	341	North Atlantic right whale, WNA.*+ Humpback whale, WNA.*+ Minke whale, Canadian east coast. Killer whale, WNA. White-sided dolphin, WNA. Striped dolphin, WNA. Bottlenose dolphin, WNA offshore. Harbor porpoise, GME/BF.* Harbor seal, WNA. Gray seal, Northwest North Atlantic. Common dolphin. Fin whale. Spotted dolphin. False killer whale. Harp seal.

TABLE 2.—LIST OF FISHERIES—Continued  
 [Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

Description of fishery	Estimated No. of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Longline fisheries: Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline.	361	Humpback whale, WNA.*+ Minke whale, Canadian east coast. Risso's dolphin, WNA. Long-finned pilot whale, WNA.* Short-finned pilot whale, WNA.* Common dolphin, WNA.* Atlantic spotted dolphin, WNA.* Pantropical spotted dolphin, WNA.* Striped dolphin, WNA. Bottlenose dolphin, WNA offshore. Bottlenose dolphin, GMX Outer. Continental Shelf. Bottlenose dolphin, GMX Continental Shelf Edge and Slope. Atlantic spotted dolphin, Northern GMX. Pantropical spotted dolphin, Northern GMX. Risso's dolphin, Northern GMX. Harbor porpoise, GME/BF.*
Trap/pot fisheries—lobster Gulf of Maine, U.S. mid-Atlantic lobster trap/pot .....	13,000	North Atlantic right whale, WNA.*+ Humpback whale, WNA.*+ Fin whale, WNA.* Minke whale, Canadian east coast. White-sided dolphin, WNA. Harbor seal, WNA.
<b>Category II</b>		
Gillnet fisheries: U.S. mid-Atlantic coastal gillnet fishery .....	>655	Humpback whale, WNA.*+ Minke whale, Canadian east coast. Bottlenose dolphin, WNA offshore. Bottlenose dolphin, WNA coastal.*+ Harbor porpoise, GME/BF.*
Gulf of Maine small pelagics surface gillnet .....	133	Humpback whale, WNA.*+ White-sided dolphin, WNA. Harbor seal, WNA.
Southeastern U.S. Atlantic shark gillnet fishery .....	10	Bottlenose dolphin, WNA coastal.* North Atlantic right whale, WNA.*+
Trawl fisheries: Atlantic squid, mackerel, butterfish trawl .....	620	Common dolphin, WNA.* Risso's dolphin, WNA.* Long-finned pilot whale, WNA.* Short-finned pilot whale, WNA.* White-sided dolphin, WNA.
Haul seine fisheries: North Carolina haul seine .....	25	Bottlenose dolphin, WNA coastal.* Harbor porpoise, GME/BF.*
Stop net fisheries: North Carolina roe mullet stop net .....	13	Bottlenose dolphin, WNA coastal.*
<b>Category III:</b>		
Gillnet fisheries: Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet.	32	Humpback whale, WNA.*+ Bottlenose dolphin, WNA coastal.*+ Harbor porpoise, GME/BF.*
Long Island Sound inshore gillnet .....	20	Humpback whale, WNA.*+ Bottlenose dolphin, WNA coastal.*+ Harbor porpoise, GME/BF.*
Delaware Bay inshore gillnet .....	60	Humpback whale, WNA.*+ Bottlenose dolphin, WNA coastal.*+ Harbor porpoise, GME/BF.*
Chesapeake Bay inshore gillnet .....	45	None documented.
North Carolina inshore gillnet .....	94	None documented.
Gulf of Mexico inshore gillnet (black drum, sheepshead, weakfish, mullet, spot, croaker.	(1)	None documented.

TABLE 2.—LIST OF FISHERIES—Continued  
 [Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

Description of fishery	Estimated No. of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet (includes waters of North Carolina).	1,285	Minke whale, Canadian east coast Harbor porpoise, GME/BF.* Bottlenose dolphin, WNA coastal.*+
Gulf of Mexico coastal gillnet (includes mullet gillnet fishery in LA and MS).	(1)	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX Bay, Sound, & Estuarine.*
Florida east coast, Gulf of Mexico pelagics king and Spanish mackerel gillnet.	271	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX Bay, Sound, & Estuarine.*
Trawl fisheries:		
North Atlantic bottom trawl .....	1,052	Long-finned pilot whale, WNA.* Short-finned pilot whale, WNA.* White-sided dolphin, WNA. Striped dolphin, WNA. Bottlenose dolphin, WNA offshore. Bottlenose dolphin, WNA coastal.*+
Mid-Atlantic, Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl.	>18,000	Bottlenose dolphin, WNA coastal.*+
Gulf of Maine northern shrimp trawl .....	320	None documented.
Gulf of Maine, Mid-Atlantic sea scallop trawl .....	215	None documented.
Gulf of Maine, U.S. mid-Atlantic, coastal herring trawl .....	5	None documented.
Mid-Atlantic mixed species trawl .....	>1,000	None documented.
Gulf of Mexico butterfish trawl .....	2	Atlantic spotted dolphin, Eastern GMX. Pantropical spotted dolphin, Eastern GMX.
Georgia, South Carolina, Maryland whelk trawl .....	25	None documented.
Calico scallops trawl .....	200	None documented.
Bluefish, croaker, flounder trawl .....	550	None documented.
Crab trawl .....	400	None documented.
U.S. Atlantic monkfish trawl .....	(1)	Common dolphins, WNA.*
Marine aquaculture fisheries:		
Finfish aquaculture .....	48	Harbor seals, WNA.
Shellfish aquaculture .....	(1)	None documented.
Purse seine fisheries:		
Gulf of Maine Atlantic herring purse seine .....	30	Harbor porpoise, GME/BF.* Harbor seal, WNA. Gray seal, Northwest North Atlantic.
Mid-Atlantic menhaden purse seine .....	22	Bottlenose dolphin, WNA coastal.*+
Gulf of Maine menhaden purse seine .....	50	None documented.
Gulf of Mexico menhaden purse seine .....	50	Bottlenose dolphin, Northern GMX coastal.
Florida west coast sardine purse seine .....	10	Bottlenose dolphin, Eastern GMX coastal.
U.S. Atlantic tuna purse seine .....	(1)	None documented.
U.S. mid-Atlantic hand seine .....	>250	None documented.
Longline/hook-and-line fisheries:		
Gulf of Maine tub trawl groundfish bottom longline/hook-and-line.	46	Harbor seal, WNA. Gray seal, Northwest North Atlantic.
Southeastern U.S. Atlantic, Gulf of Mexico snapper-grouper and other reef fish bottom longline/hook-and-line.	3,800	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	124	None documented.
Gulf of Maine, U.S. mid-Atlantic tuna, shark swordfish hook-and-line/harpoon.	26,223	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico & U.S. mid-Atlantic pelagic hook-and-line/harpoon.	1,446	None documented.
Trap/pot fisheries—lobster, crab, and fish:		
Gulf of Maine, U.S. mid-Atlantic mixed species trap/pot .....	100	North Atlantic right whale, WNA.*+ Humpback whale, WNA.*+ Minke whale, Canadian east coast. Harbor porpoise, GME/BF.* Harbor seal, WNA. Gray seal, Northwest North Atlantic.
U.S. mid-Atlantic and Southeast U.S. Atlantic black sea bass trap/pot.	30	None documented.
U.S. mid-Atlantic eel trap/pot .....	>700	None documented.

TABLE 2.—LIST OF FISHERIES—Continued  
[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

Description of fishery	Estimated No. of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Atlantic Ocean, Gulf of Mexico blue crab trap/pot .....	20,500	Bottlenose dolphin, WNA coastal.* 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.*+
Southeastern U.S. Atlantic, Gulf of Mexico, Caribbean spiny lobster trap/pot.	750	West Indian manatee, FL.*+ Bottlenose dolphin, WNA coastal.*+
Stop seine/weir/pound fisheries: Gulf of Maine herring and Atlantic mackerel stop seine/weir	50	North Atlantic right whale, WNA.* Humpback whale, WNA.*+ Minke whale, Canadian east coast. Harbor porpoise, GME/BF.* Harbor seal, WNA. Gray seal, Northwest North Atlantic.
U.S. mid-Atlantic mixed species stop/seine/weir (except the North Carolina roe mullet stop net).	500	None documented.
U.S. mid-Atlantic crab stop seine/weir .....	2,600	None documented.
Dredge fisheries:		
Gulf of Maine, U.S. mid-Atlantic sea scallop dredge .....	233	None documented.
U.S. mid-Atlantic offshore surfclam and quahog dredge .....	100	None documented.
Gulf of Maine mussel .....	>50	None documented.
U.S. mid-Atlantic/Gulf of Mexico oyster .....	7,000	None documented.
Haul seine fisheries:		
Southeastern U.S. Atlantic, Caribbean haul seine .....	25	None documented.
Beach seine fisheries:		
Caribbean beach seine .....	15	West Indian manatee, FL.+
Dive, hand/mechanical collection fisheries:		
Gulf of Maine urchin dive, hand/mechanical collection .....	>50	None documented.
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented.
Commercial passenger fishing vessel (charter boat) fisheries: Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	None documented.

\* Marine mammal stock is strategic.  
+ Stock is listed as threatened or endangered under the ESA, or as depleted under the MMPA.  
† Unknown.  
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.

**Classification**

This rule does not alter the existing requirements for registration, the accommodation of observers, or other substantive requirements. In addition, this final rule does not change the classification of any commercial fisheries. Accordingly, this rule imposes no new burdens on the public. For these reasons, under 5 U.S.C 553(d)(3), the Assistant Administrator finds that it is unnecessary to provide for the normal 30-day delay in the effective date of this final rule. The changes to the List of Fisheries for 1998 are effective on the date of publication in the **Federal Register**.

This action has been determined to be not significant for the purposes of E.O. 12866.

When this LOF for 1998 was proposed, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration certified that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This action makes minor changes to the current List of Fisheries and reflects new information on commercial

fisheries, marine mammals, and interactions between commercial fisheries and marine mammals. This final LOF informs the public which U.S. commercial fisheries in 1998 are subject to the registration and reporting requirements specified under 50 CFR 229.4.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

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.

The collection of information required for reporting of marine mammal injuries or mortalities to NMFS and for registration of fishers under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control numbers 0648-0292 (0.15

hours per report) and 0648-0293 (0.25 hours per registration). Currently, there are 14,000 Category I and II fishers who are required to register under section 118 of the MMPA. This final rule does not make any changes to fishery classification and will not require the registration of additional fishers; therefore, this final rule is not expected to change the collection of information burdens significantly. Send comments

regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden to NMFS and OMB (see **ADDRESSES**).

Dated: January 29, 1998.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Services.*

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