dcjohnso@fcc.gov, Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document adopting, *inter alia,* rule sections 68.106 through 68.610, which privatize and streamline part 68 terminal equipment procedures, in the **Federal Register** of January 24, 2001, (66 FR 7579). In FR Doc. 01–1034, published January 24, 2001 (66 FR 7579), make the following correction:

Correction

1. On page 7579, in the third column, correct the **DATES** caption to read as follows:

DATES: Sections 68.106 through 68.610 contain information collection requirements that have not been approved by the Office of Management and Budget (''OMB''). The FCC will publish a document in the **Federal Register** announcing the effective date of these sections.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–20438 Filed 8–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 99–216, FCC 00–400]

2000 Biennial Regulatory Review of Adopting Technical Criteria and Approving Terminal Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of certain rules privatizing and streamlining part 68 of the Federal Communications Commission (Commission)'s rules. The Commission amended its rules governing the connection of terminal equipment to the public switched telephone network to streamline the standards development and approval processes. These rules contained information collection requirements that became effective on May 9, 2001.

DATE: The amendments to 47 CFR 68.106 through 68.610 became effective May 9, 2001.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, (202) 418–2320 (voice), smagnotti@fcc.gov, or Dennis Johnson, (202) 418–2320 (voice), dcjohnso@fcc.gov, of the Network Services Division, Common Carrier Bureau. The TTY number is (202) 418–0484.

SUPPLEMENTARY INFORMATION: On December 21, 2000, the Commission adopted the *Part 68 Streamlining Order* which amended the Commission's rules governing the connection of terminal equipment to the public switched telephone network in an effort to privatize and streamline the standards development and approval processes; a summary of the order was published in the **Federal Register**. 66 FR 7579 (January 24, 2001). Some of the regulations adopted in that order included information collection that required approval from the Office of Management and Budget. The order explained that ''[t]he collections of information contained within are contingent upon approval by the OMB. The Commission will publish a document at a later date establishing the effective date.'' OMB approved the amendments to 47 CFR 68.106–68.610 that establish those reporting requirements. See OMB No. 3060–0056. Accordingly, these regulations became effective upon publication of a document in the **Federal Register**. This document constitutes publication of the effective date of the regulations.

List of Subjects in 47 CFR Part 68

Communications common carriers, Terminal equipment, Technical criteria.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–20439 Filed 8–14–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 010103003-1199-02, I.D. 083000B]

RIN 0648–AN92

List of Fisheries for 2001

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

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) is publishing its final List of Fisheries (LOF) for 2001 as required by the Marine Mammal Protection Act (MMPA). The final LOF for 2001 reflects new information on interactions between commercial fisheries and marine mammals. Under the MMPA, NMFS must place a commercial fishery on the LOF under one of three categories, based upon the level of serious injury and mortality of marine mammals that occur incidental to that 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: This final rule is effective September 14, 2001. However, compliance with the requirement to register with NMFS and to obtain an authorization certificate is delayed until January 1, 2002, for fisheries added or elevated to Category II in this final rule. For fisheries affected by the delay, see **SUPPLEMENTARY INFORMATION**.

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

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930-2298, Attn: Sandra Arvilla.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Emily Hanson, Office of Protected Resources, 301–713–2322 ext. 101; Kim Thounhurst, Northeast Region, 978–281–9138; Diane Borggaard, Southeast Region, 727–570–5312; Tim Price, Southwest Region, 562–980–4029; Brent Norberg, Northwest Region, 206–526–6733; Amy Van Atten, Alaska Region, 907–586–7642. Individuals who use a telecommunications device for the deaf 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:

Delay In Compliance Date to Register Under the MMPA

Compliance with the requirement to register with NMFS and to obtain an authorization certificate is delayed until January 1, 2002, for fisheries added or

elevated to Category II in this final rule. The delay affects the following fisheries: Atlantic blue crab trap/pot; California longline; North Carolina inshore gillnet; North Carolina long haul seine; Northeast drift gillnet; Northeast trap/pot; Virginia Pound net; and, Southeast Atlantic gillnet. Except for the delayed registration requirement, the above mentioned fisheries are considered to be Category II fisheries on the date that the 2001 LOF becomes effective, and are required to comply with all other requirements of Category II fisheries (i.e., comply with applicable take reduction plan requirements and carry observers if requested).

What Is the List of Fisheries?

Under section 118 of the MMPA, NMFS must publish, at least annually, a LOF that places 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. 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.

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 part 229). In addition, these definitions are summarized in the preambles to the final rule implementing section 118 (60 FR 45086, August 30, 1995), the final LOF for 1996 (60 FR 67063, December 28, 1995), and the proposed LOF for 2001 (66 FR 6545, January 22, 2001).

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

This final 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 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?

You must register through NMFS' Regional Offices (see **ADDRESSES**) unless you participate in a fishery that has an integrated registration program. Upon receipt of a completed registration, NMFS will issue vessel or gear owners a decal or other physical evidence of a current and valid registration that must be displayed or that must be in the possession of the master of each vessel while fishing (MMPA Section 118(3)(A)).

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 pay the $25 registration fee.

Which Fisheries Have Integrated Registration Programs?

The following fisheries have integrated registration programs under the MMPA: all Alaska Category II fisheries; all Washington and Oregon Category II fisheries; the Gulf of Maine/U.S. Mid-Atlantic lobster trap/pot fishery; the Federal portion of the Northeast sink gillnet fishery; and, the Federal portion of the Atlantic squid, mackerel, butterfish trawl fishery. Special procedures and instructions for registration in these integrated fisheries are described in the preamble to the final LOF for 1998 (63 FR 5748, February 4, 1998).

How Do I Renew My Registration Under the MMPA?

The Regional Offices annually send renewal packets to participants in Category I or II fisheries that have previously registered; however, it is your responsibility to ensure that registration or renewal forms are submitted to NMFS at least 30 days in advance of fishing. If you have not received a renewal packet by January 1 or are registering for the first time, 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?

Any vessel owner or operator, or fisher (in the case of non-vessel fisheries), participating in a Category I, II, or III fishery must comply with 50 CFR 229.6 and 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 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 your 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. NMFS may develop and implement take reduction plans for any Category I or II fishery that interacts with a strategic stock.

Sources of Information Reviewed for the 2001 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 also reviewed other sources of new information, including marine mammal strandings data, observer program data, fisher self-reports, and other information that is not included in the SARs.

NMFS' SARs provide the best available information on both the level of serious injury and mortality of marine mammals that occurs incidental to commercial fisheries and the Potential Biological Removal (PBR) levels for marine mammal stocks. PBR is defined by the MMPA as, ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing the stock to reach or maintain its optimum sustainable population.''

The information contained in the SARs is reviewed by regional scientific review groups (SRGs) representing Alaska, the Pacific coast (including Hawaii), and the Atlantic coast (including the Gulf of Mexico). The SRGs were created by the MMPA to review the science that goes into the stock assessment reports and to advise NMFS on population status and trends,

uncertainties in the science, research needs, and other issues.

The LOF for 2001 was based on information provided in the final SARs for 1996 (63 FR 60, January 2, 1998), the final SARs for 1999 (65 FR 12514, March 9, 2000), and the final SARs for 2000 (66 FR 15081, March 15, 2001). The final SARs for 1999 and 2000 provide new estimates of total serious injury and mortality of marine mammals that occur incidental to some U.S. commercial fisheries and provide new estimates of PBR levels for some marine mammal stocks.

Comments and Responses

NMFS received 13 comment letters on the proposed 2001 LOF (66 FR 6545). Issues outside the scope of the LOF were not responded to in this final rule. Typographic errors noted by commenters were corrected where appropriate.

Comments on Registration Requirements

Comment 1: Three commenters stated that the registration requirement is unnecessary, the fee unjustified, and that the proposed rule does not explain how the marine mammal resource will benefit from registration.

Response: The MMPA requires that owners of a vessel engaged in a Category I or II fishery register and obtain an authorization for each vessel used in a Category I or II fishery and ensure that a decal or other physical evidence of a current and valid registration is displayed or in the possession of the master of each vessel (MMPA Section 118(3)(A)). The purpose of the registration requirement is to provide information that can be used to assess fishery efforts and their impacts on marine mammals (S Rep. No.220, 103rd Cong., 2d Sess. 6 (1994)). Section 118(5)(C) of the MMPA authorizes NMFS to charge a fee for the granting of an authorization. However, the level of fees charged may not exceed the administrative costs incurred in granting an authorization. Registration also serves to authorize the take of marine mammals incidental to commercial fishing operations.

NMFS recognizes that the registration requirement, although small, places a burden and expense on the participants in the fishery. To address this problem, NMFS has integrated the MMPA registration process with existing State and Federal fishery license, registration, or permit systems, when practicable, and will continue to work to integrate fisheries that have not yet been integrated. Participants in integrated fisheries are automatically registered under the MMPA and are not required to pay the registration fee. Refer to the section titled ''Which Fisheries Have Integrated Registration Programs?'' for additional information.

Comment 2: One commenter stated that registering and authorizing fishermen in the Atlantic blue crab trap/pot fishery would be very difficult and would place an unnecessary burden and expense on the participants of the fishery.

Response: NMFS recognizes that there are a large number of participants in the Atlantic blue crab trap/pot fishery, and that registering and authorizing those fishers will place a burden on both fishery participants and NMFS. As a result, NMFS is in the process of working to integrate the MMPA registration process for those fishers with existing State and Federal fishery license, registration, or permit systems. Because this fishery is primarily prosecuted in State waters and authorized through State licenses, the success of integration will depend heavily on cooperative efforts with the various State fisheries agencies. Once integration is completed in states where it is possible, participants in this fishery would not be required to register separately under the MMPA or pay the $25 fee.

To provide additional time for NMFS to work with states to integrate the MMPA registration process with existing State or Federal license, registration, or permit systems, NMFS has delayed the compliance date for fisheries added or elevated to Category II in the 2001 LOF to register with NMFS and obtain an authorization certificate until January 1, 2002. The delay affects the following fisheries: Atlantic Blue Crab Trap/Pot; California Longline; North Carolina Inshore Gillnet; North Carolina Long Haul Seine; Northeast Drift Gillnet; Northeast Trap/Pot; Virginia Pound Net; and, Southeast Atlantic Gillnet. Except for the delayed registration requirement, NMFS emphasizes that these fisheries are considered to be Category II fisheries on the date that the 2001 LOF becomes effective, and are required to comply with all other requirements of Category II fisheries (i.e., comply with applicable take reduction plan requirements, carry observers if requested, and report all incidental injuries or mortalities of marine mammals that occur during commercial fishing operations to NMFS). Category I and II fisheries not listed above must be registered and obtain a valid authorization certificate.

Comments on Fisheries in the Atlantic Ocean, Caribbean, or Gulf of Mexico

Comment 3: One commenter stated that the Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery may warrant elevation to Category II. Interactions with bottlenose dolphin are documented and additional observer effort should be placed in this fishery. The commenter noted that gillnet fishermen in North Carolina have stated in public meetings that they believe dolphins preferentially follow and forage in and around shrimp boats, and could therefore become entangled in the nets.

Response: NMFS is evaluating stranding and observer data for this fishery to determine the degree of interaction between this fishery and marine mammals. NMFS will summarize the data in the proposed 2002 LOF.

Comment 4: One commenter was concerned that gillnets in the Caribbean may be interacting with marine mammals in greater numbers than current data supports and recommended placing observers in these fisheries.

Response: NMFS is currently monitoring marine mammal strandings in the Caribbean to determine whether marine mammals are interacting with the Caribbean gillnet fishery.

Comment 5: One commenter stated that the buoy that entangled a bottlenose dolphin in the Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot fishery was attached at the other end of the line to a cement block. This is an unorthodox practice, it is probably illegal, and it could have been done by anyone.

Response: NMFS agrees with the commenter. Further investigation indicated that this gear configuration is not a normal component of the stone crab fishery. NMFS will remove bottlenose dolphin (Eastern Gulf of Mexico coastal stock) from the species list for the Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot fishery.

Comment 6: One commenter noted that there has never been a report of manatees becoming entangled in lobster or stone crab gear.

Response: Upon consultation with the Fish and Wildlife Service, which has jurisdiction over manatees, the report of a manatee entangled in the spiny lobster trap/pot fishery was determined to be incorrect and was removed from the citation in the 2001 LOF. NMFS did not identify a manatee interaction with the stone crab gear in the proposed 2001 LOF.

Comment 7: One commenter noted that NMFS identified the stock of a

bottlenose dolphin killed incidental to the Florida spiny lobster trap/pot fishery as from the Western North Atlantic coastal stock; however, the incident occurred in the Gulf of Mexico.

Response: NMFS agrees with the commenter. NMFS will remove the Western North Atlantic coastal stock of bottlenose dolphin from the Florida spiny lobster trap/pot fishery and replace it with the Eastern Gulf of Mexico coastal stock. NMFS notes that this animal was released alive although the condition of the animal was unknown.

Comment 8: One commenter stated that using the two-tiered fishery classification criteria in combination with an overly precautionary PBR calculation methodology ensures that even a fishery with a very limited interaction level is listed under Category II.

Response: Section 118(c)(1)(A) of the MMPA requires NMFS to publish a list of commercial fisheries and classify each fishery based on whether it has a frequent (Category I), occasional (Category II), or remote likelihood or no known (Category III) incidental mortality and serious injury of marine mammals. To make an objective determination regarding what should be classified as ''frequent'', ''occasional'', or ''remote,'' NMFS developed criteria to use when mortality and serious injury data and abundance data are available. The fishery classification criteria consists 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 PBR level for each marine mammal stock. Thus, the rate of interaction of a fishery with a marine mammal stock with a low PBR can be significant even it appears to be a minimal problem based on the size of the fishery or frequency of interactions.

The MMPA defines PBR to mean, ''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.'' The PBR level is the product of the following factors: (a) the minimum population estimate of the stock, (b) one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size, and (c) a recovery factor of between 0.1 and 1.0. The parameters in the PBR calculation are used because they are assumed to provide adequate accommodation of the amount of uncertainty observed in marine mammal and commercial fishery interactions. Extensive modeling has shown the PBR calculation to be robust to an appropriate range of bias and variance.

Additionally, in the absence of representative information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS determines whether the incidental serious injury or mortality is ''occasional'' 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.

Comment 9: One commenter supported elevation of the Northeast Trap/Pot Fishery.

Response: Comment noted. The reclassification includes a Category II designation for crab trap/pot fisheries such as red crab and jonah crab fisheries but also includes fisheries of other species groups, such as hagfish, that are also caught in traps and pots.

Comments on the Atlantic Squid, Mackerel, and Butterfish Trawl Fishery

Comment 10: One commenter supported elevation of this fishery to Category I.

Response: Comment noted. NMFS agrees and is elevating this fishery to Category I in the 2001 LOF.

Comment 11: One commenter stated that the consideration for elevation of the Atlantic squid, mackerel, and butterfish trawl fishery to Category I was precipitated in part by the observed take of one white-sided dolphin and one pilot whale during 1996-1998. According to the commenter, the data were not available to determine the applicability of using the ratio estimator method to expand the dolphin take to 161 animals. The commenter also stated that this approach may be an improper manipulation of the data since no correlation exists between fish catch and marine mammal interactions, and further inspection of the trip-level information regarding these two incidents is necessary.

Response: The proposed elevation of this fishery was based on the data presented in the draft 2000 SAR, which indicated a serious injury/mortality rate of greater than 50 percent of the PBR for both pilot whale and common dolphin stocks. In the final 2000 SAR, the PBR of the pilot whale stock(s) was increased from 78 to 113. As a result, the incidental serious injury/mortality for that stock during the period of analysis for this LOF no longer exceeds 50 percent of the PBR. In the final 2000 SAR, the PBR for the common dolphin stock was also increased (from 107 to 227). However, the serious injury/mortality of this stock remains in excess of PBR. Thus, NMFS is elevating the fishery in this LOF, but the action is now based solely on takes of common dolphins. As described in the final 2000 SAR, 3 mortalities were observed in this fishery in 1996 and one in 1997. NMFS is not making a correlation between fish catch and marine mammal interactions. NMFS uses total landings as a proxy for effort.

NMFS data and analysis presented in the stock assessment reports are peer-reviewed and also made available for public review and comment, and we believe the data and analysis presented in the stock assessment reports are appropriate and scientifically justifiable. However, NMFS encourages the commenter to review and provide comment on the draft 2001 stock assessment reports.

Comments on the Mid-Atlantic Coastal Gillnet Fishery

Comment 12: Comments were received both for and against elevation of this fishery. The commenters opposed to this action referenced problems with the coastal bottlenose dolphin stock assessment report with regard to stock size, stock structure, and PBR.

Response: NMFS has decided not to elevate the fishery at this time. Although a Category I designation is warranted based on estimates of take relative to the current PBR of 25 for this stock, NMFS has new information regarding the coastal bottlenose dolphin stock that was not available at the time of the preparation of the proposed LOF. Therefore, NMFS has determined that it is more appropriate to evaluate the appropriate categorization of this fishery once the new stock information has been reviewed through the NMFS stock assessment report process. The Mid-Atlantic coastal gillnet fishery remains in Category II in this LOF.

Comments on the Atlantic Ocean, Caribbean, and Gulf of Mexico Large Pelagics Longline and Large Pelagics Drift Gillnet Fisheries

Comment 13: One commenter stated that inappropriate data and analysis were used in the 2000 draft stock assessment reports for marine mammals

that interact with the Atlantic pelagic longline fishery.

Response: NMFS believes data and analysis presented in the stock assessment reports are peer-reviewed and also made available for public review and comment, and we believe the data and analysis presented in the stock assessment reports are appropriate and scientifically justifiable. However, NMFS encourages the commenter to review and provide comment on the draft 2001 stock assessment reports.

Comment 14: NMFS should remove the Atlantic pelagic drift gillnet fishery from the 2001 LOF because that fishery is now closed.

Response: NMFS proposed to remove this fishery from the LOF because NMFS regulations now prohibit driftnetting for the swordfish and tuna component of this fishery. The listing for the Atlantic Ocean, Caribbean, and Gulf of Mexico large pelagics drift gillnet fishery is removed in this LOF. Any large or small mesh drift gillnet fisheries that do occur are incorporated into other LOF gillnet listings.

Comment 15: NMFS should review and revise, as necessary, the species listed for each fishery to ensure that only those species known to incur injury or mortality incidental to specific fisheries are listed. NMFS should delete species that have not been documented or otherwise verified to have been seriously injured or killed by pelagic longline fishing gear. The commenter specifically identified species that NMFS should review.

Response: NMFS will investigate whether the available data warrant changing the list of species that interact with this fishery. The species list in the LOF is reflective of historical information, rather than the most recent 5 years of data as presented in the SARs. The LOF tables list the marine mammal species/stocks incidentally injured or killed, including non-serious injuries, in each fishery based on observer data, logbook data, stranding reports, fishers' reports, anecdotal reports, and other sources of information. The list of species/stocks in the LOF includes all species or stocks known to incur injury or mortality for a given fishery; however, not all species or stocks identified are necessarily independently responsible for a fishery's classification.

Comment 16: One commenter requested that NMFS subdivide the fishery into three regional fisheries in the LOF to more accurately reflect the biology of marine mammals to facilitate establishing a standardized process for monitoring effort, estimating serious injury and incidental mortality, and evaluating the effectiveness of reduction efforts.

Response: NMFS addressed similar comments in the final LOF for 1997 (see Comment/Response 37 in 62 FR 33, January 2, 1997) and the final LOF for 1999 (see Comment/Response 18 in 64 FR 9067, February 24, 1999). In reviewing those actions, we determined that there was insufficient justification for a regional subdivision of the fishery. At this time, we are not aware of any new management efforts or changes in marine mammal take that would warrant a regional subdivision of the fishery.

Comments on the Atlantic Blue Crab Trap/Pot Fisheries

Comment 17: One commenter supported elevation of this fishery to Category II.

Response: Comment noted. NMFS agrees and is elevating this fishery to Category II in the 2001 LOF.

Comment 18: One commenter opposed elevation of the Atlantic blue crab trap/pot fishery to Category II.

Response: Comment noted. NMFS disagrees and is elevating this fishery to Category II in the 2001 LOF.

Comment 19: Three commenters opposed the implementation of the rule requiring Delaware crab licensees to register for marine mammal authorization, citing no known incident of marine mammals becoming entangled in crab pot gear in Delaware waters.

Response: Bottlenose dolphins are found in Delaware waters seasonally. NMFS is not aware of any evidence that either the crab pot fishery or the behavior of bottlenose dolphins in Delaware waters is different than in areas where takes have been documented or in a manner such that entanglement is not likely to occur. Since the distribution of the species overlaps the distribution of the fishery, there is a potential for incidental take. Therefore, inclusion of Delaware waters in the fishery listing is warranted. Also see response to Comment 2 for information on registration.

Comment 20: One commenter recommended that the issue of potential threats of this fishery to bottlenose dolphin be referred to the Bottlenose Dolphin Take Reduction Team.

Response: It is not the role of take reduction teams to decide what data are appropriate for inclusion in the LOF. The determination of data to use in the LOF is made by NMFS with advice from the Scientific Review Groups through the SAR process, to which the public can also provide input. The role of any take reduction team is to make recommendations on reducing the serious injury and mortality of marine mammals incidental to the various fisheries in which the impacts have been documented. However, NMFS will present data on this fishery to the take reduction team, and the take reduction team will have opportunity to review the data and provide comments on how it is collected, analyzed, and interpreted.

Comment 21: One commenter stated that in spite of the large number of blue crab trap/pots that are in use in North Carolina, this gear poses minimum threat to bottlenose dolphin because of the low number of documented interactions.

Response: The level of risk is determined relative to the PBR of the marine mammal stock in question, not relative to the size of the fishery. In addition, the threat of any one fishery must be viewed in the context of takes from all fisheries known to cause serious injury/mortality. For stocks with low PBRs, even rare interactions can represent a significant threat of serious injury/mortality relative to PBR. Between 1994 and 1998, 22 bottlenose dolphin carcasses (4.4 dolphins per year on average) recovered by the Stranding Network between North Carolina and Florida's Atlantic coast displayed evidence of possible interaction with a trap/pot fishery (i.e., rope and/or pots attached, or rope marks). Data for states from Virginia north have not yet been examined in this context, but may include additional animals. Given that other sources of annual serious injury and mortality estimates (e.g., observer data) related to the Atlantic Blue Crab Trap/Pot Fishery are unavailable, the stranding data were used as a minimum estimate of annual serious injury and mortality. Although the probability of a single blue crab trap/pot interacting with a bottlenose dolphin may be small, the large amount of gear and the evidence provided from stranding data indicate that there is an occasional likelihood of serious injury or mortality to bottlenose dolphin from blue crab trap/pot gear.

Comment 22: One commenter stated that the description of the geographic range of the Atlantic blue crab trap/pot fishery is incorrect. It is not possible for an area to lie north of 72°30′ W longitude, the description does not clearly identify whether or not internal State waters are included in the geographic range of the fishery, and the offshore boundary of the range of the fishery is not identified. If the offshore boundary is intended to be 72°30′ W, it far exceeds the geographic range of the fishery since blue crab trap/pots are primarily fished in coastal waters.

Response: NMFS is aware that the Atlantic blue crab trap/pot fishery generally occurs to the west of 72°30′ W longitude. However, this line was chosen because it is a pre-existing line in the LOF and was originally designated to be consistent with a line recognized in Northeast fishery management plans. NMFS has chosen to use this line as a division between the Atlantic blue crab trap/pot fishery and the Northeast trap/pot fishery. The 72°30′ W line is administratively efficient because it is the same line dividing the Northeast sink gillnet and Mid-Atlantic coastal gillnet fisheries. The Atlantic blue crab trap/pot fishery includes all Atlantic blue crab effort west of a line extending due south from the south shore of Long Island at 72°30′ W, and south and east of the line beginning at the intersection of the outer boundary of the EEZ and 83°00′ W, then northward along that meridian to 24°35′ N (near the Dry Tortugas Islands), then eastward along that parallel. This includes state waters. For the full definition of the line of demarcation between the Atlantic Ocean and the Gulf of Mexico see 50 CFR 600.105(c)).

Comment 23: One commenter stated that the elevation of this fishery is precipitated by a level of mortality that exceeds a threshold percentage of PBR. However, the PBR estimate for bottlenose dolphin is not scientifically defensible.

Response: See response to Comment 8. NMFS acknowledges that there is new information regarding the coastal bottlenose dolphin stock that was not available at the time of the preparation of the proposed LOF (see response to Comment 12). The occasional documented occurrence of bottlenose dolphin interactions with the Atlantic blue crab fishery, in addition to bottlenose dolphin stranding data showing possible indications of pot interactions, indicate a Category II designation for the Atlantic blue crab fishery is warranted at this time until additional information indicates a different listing is warranted. Unlike observer programs, which provide an estimate of total mortality in a particular fishery, stranding data and documented takes represent a minimum count of the potential levels of interaction, and therefore serve to indicate potential problems, rather than quantifying them.

Comment 24: One commenter stated that the information considered in the Tier 2 evaluation for this fishery is geographically inconsistent with the data used to determine the status of the bottlenose dolphin stock. The agency is using marine mammal mortality estimates from areas that are not incorporated in the bottlenose dolphin stock assessment.

Response: Most of the Atlantic marine mammal stocks are migratory, and there is potential for a high degree of variability in abundance throughout the range at any given time. Thus, in order to estimate abundance of a stock, it is necessary to determine the optimal sampling strategy based on the most likely scenario for obtaining a reliable estimate of the stock in question. For example, although individuals of the Gulf of Maine/Bay of Fundy harbor porpoise stock travel to the Mid-Atlantic, NMFS conducts the assessment in the extreme northeast portion of the summer range because the stock is concentrated for breeding in that time/area. The sampling strategy for the bottlenose dolphin abundance estimate was chosen as the best and most practicable survey scheme given knowledge of stock structure at that time. NMFS acknowledges that the abundance estimate in the 2000 SAR is problematic given new information about stock structure, and we will consider any new information in the next annual revision to the SAR. However, the abundance estimate in the 2000 SAR remains the currently published estimate for the entire coastal stock complex.

Comment 25: One commenter stated that the dolphin mortality estimate for this fishery is derived solely from stranding network information. The training and expertise necessary to accurately determine fisheries interactions is not consistent throughout the region.

Response: NMFS accepts and works within the limitations of stranding data. Mortalities are not counted as fishery interactions unless the training and expertise of the respective stranding network personnel is appropriate to evaluate whether there are indications of such interaction, or appropriate voucher specimens (e.g., photos) are available to confirm the determination. Fishing gear often leaves very clear marks on the skin of cetaceans such that it is possible to see mesh and knots in the case of gillnets or to clearly determine that a line was twisted multi-filament line as opposed to monofilament. The stranding network personnel are also instructed to take a very conservative approach when evaluating whether the carcass of a stranded animal exhibits signs of fishery interaction. Typically, the majority of stranded carcasses are assigned to a category entitled ''cannot be determined'' if there is uncertainty, if the carcass is too decomposed, or if stranding network personnel trained in recognizing signs of human interaction do not actually have the opportunity to examine the carcass and voucher specimens are unavailable. Additionally, NOAA Technical Memorandum NMFS-OPR-15, Gross Evidence of Human-Induced Mortality in Small Cetaceans, by Andrew J. Read and Kimberly T. Murray, July 2000, was designed to assist marine mammal researchers and stranding network members distinguish between fatal injuries due to human activities from those of natural causes.

Comment 26: While it may be appropriate to use stranding data to focus observer programs, it is not appropriate to use stranding data to estimate total mortality for a given mammal stock.

Response: NMFS does not use stranding data to estimate total mortality. Stranding data are used to provide a minimum count of animals that may have been killed or seriously injured incidental to fishing activities. However, NMFS agrees that currently stranding data cannot be used to extrapolate mortality and serious injury for an entire fishery. NMFS does use stranding data to focus observer programs.

Comment 27: One commenter stated that the derivation of estimates of mortality and serious injury from this gear based on stranding records is inappropriate. Because observer data relative to bottlenose dolphin serious injury and mortality estimates for this fishery are unavailable, the mortality and serious injury from this gear cannot be reliably estimated.

Response: NMFS agrees that stranding data cannot be used to extrapolate mortality and serious injury for an entire fishery because the level of fishing effort relative to a given stranding is unknown. Therefore, the catch-per-unit-effort cannot be calculated and an extrapolation to the total level of effort cannot be performed. Observer data are preferable if the coverage is sufficient to detect takes. However, there are some fisheries, particularly fisheries with many participants such as the blue crab fishery, for which it is not practicable to conduct a marine mammal observer program of sufficient sampling power given the current level of resources and technology. There is a similar problem with detecting large whale serious injury/mortality in the lobster pot fishery, yet entanglements of whales in this gear continue to be reported from sources outside of the observer program. NMFS uses the best available data to determine whether there is a potential for occasional serious injury or

mortality of marine mammals incidental to the operation of a fishery. In the case of the blue crab fishery, stranding data are the best available data at the present time, and these data support elevation of the fishery to Category II. Furthermore, NMFS considers these data to be a minimum estimate of the total serious injury or mortality because not all animals that die as a result of entanglements are expected to strand. Also, some animals strand as a result of fishery-interactions, but because of the condition of the carcass when found, it is not possible to attribute the cause of death to a fishery-interaction. Those animals would therefore not be counted and would lead to an underestimate of the number of animals that strand as a result of fishery-interactions. Also see response to Comment 25.

Comments on the Mid-Atlantic Pound Net Fishery

Comment 28: One commenter supported the elevation of this fishery to Category II.

Response: NMFS appreciates the commenter's support of the proposed action. However, in this LOF, NMFS has revised both the name and the boundaries of the proposed fishery. Only pound nets fished in Virginia waters will be elevated to Category II. All other pound net effort will remain in the Category III Mid-Atlantic mixed species stop seine/weir/pound net fishery (see ''Fishery Name and Organizational Changes'' section). The Virginia pound net fishery will include all pound net effort in Virginia waters, regardless of leader mesh size. NMFS has decided to limit the Category II pound net fishery to Virginia waters because bottlenose dolphin entanglements in pound nets appear to be concentrated in Virginia waters.

NMFS is examining the nature of pound net, weir, and staked trap fisheries along the east coast, and when more information is available on the nature of these related fisheries, NMFS will determine whether the potential for take warrants reclassification of the pound net fishery in areas other than Virginia.

Comment 29: One commenter opposed the elevation of the Mid-Atlantic pound net fishery to Category II.

Response: Comment noted. See response to Comment 28 for information on the elevation of this fishery.

Comment 30: One commenter recommended that the issue of potential threats of this fishery to bottlenose dolphin be referred to the Bottlenose Dolphin Take Reduction Team.

Response: See response to Comment 20.

Comment 31: One commenter stated that it is not appropriate to list a fishery as Category II on the basis of data that suggest that the fishery has occasional takes of bottlenose dolphin. In a study conducted by NMFS in 1988 to 1999, no bottlenose dolphin entanglements were observed in North Carolina pound nets in approximately 4,000 observed sets. North Carolina Division of Marine Fisheries (NCDMF) studies observing 91 pound net trips, each with multiple sets, also observed no marine mammal interactions.

Response: By definition, a Category II fishery is one that has occasional incidental serious injury and mortality of marine mammals (50 CFR 229.2). NMFS was not aware of the NCDMF pound net study until after the proposed 2001 LOF was published. Based on the NCDMF study, the NMFS Beaufort Laboratory's observation of the North Carolina pound net fishery, NMFS will leave the North Carolina pound net fishery in Category III under the current Mid-Atlantic stop seine/weir/pound net fishery. NMFS notes that upon further investigation by North Carolina Division of Marine Fisheries gear specialists, the marks from the stranded animal that was attributed to the North Carolina Long Haul Seine Fishery in the proposed 2001 LOF suggests entanglement in pound net gear. However, based on the information available, it is unclear whether a pound net or long haul seine entangled the animal. The NMFS Beaufort Laboratory will continue to observe the pound net fishery to study sea turtles, and will monitor whether any interactions with bottlenose dolphin are observed. Additionally, NMFS will continue to monitor the fishery through stranding data. NMFS will determine the appropriate name of the fishery given the ongoing analysis of similar gear types along the entire East Coast in a future LOF.

Comment 32: The tier 2 evaluation of this fishery referenced two bottlenose dolphin carcasses found in the leads of pound nets in Virginia during 1993-1997. The pound net fishery in Virginia is much different than the North Carolina fishery, which occurs in much shallower water with leads constructed with smaller mesh sizes.

Response: See responses to Comments 28 and 31. NMFS will continue to seek information on whether different mesh sizes used in pound net leads result in differential bycatch rates of bottlenose dolphins or any other marine mammal stock.

Comment 33: The statement in the tier 2 evaluation of this fishery that other sources (than stranding data) of annual serious injury and mortality are not available is incorrect. The pound nets observed by NMFS and the NCDMF should qualify as other sources of annual serious injury and mortality and should be used to estimate bottlenose dolphin serious injury and mortality.

Response: NMFS was not aware of the NCDMF study until after the proposed 2001 LOF was published. See response to Comment 31.

Comments on the North Carolina Long Haul Seine Fishery

Comment 34: One commenter supported the elevation of the North Carolina long haul seine fishery to Category II.

Response: Comment noted. NMFS agrees and has elevated this fishery to Category II in the 2001 LOF.

Comment 35: One commenter opposed the elevation of the North Carolina long haul seine fishery to Category II.

Response: Comment noted. NMFS disagrees and has elevated this fishery to Category II in the 2001 LOF.

Comment 36: One commenter stated that the issue of potential threats of this fishery to bottlenose dolphin be referred to the Bottlenose Dolphin Take Reduction Team.

Response: See response to Comment 20.

Comment 37: One commenter reported that effort in this fishery has decreased to less than 20 crews and is expected to continue to decline because of infringement of fixed gear fisheries into traditional long haul fishing areas and competition from more efficient and less labor intensive fisheries. The prosecution of this fishery, which occurs primarily in the open waters of Pamlico Sound, and the construction of the gear would make it extremely difficult for a bottlenose dolphin to become entangled in the gear.

Response: NMFS is aware of effort changes in this fishery. However, given the documented release of three animals from a long haul seine fishery, NMFS feels a Category II listing is warranted at this time. NMFS acknowledges that the prosecution of this fishery may affect the type of interaction with bottlenose dolphin (e.g., rather than being entangled they are encircled by the gear). However, a Category II designation would enable NMFS to address these occasional interactions through the take reduction team process and to better assess the extent of the problem.

Comment 38: One commenter stated that from 1992 through 2000, the NCDMF conducted studies to characterize this fishery and collect bycatch data, observing 51 long haul trips. No bottlenose dolphin interactions were observed during the study.

Response: NMFS was not aware of the NCDMF study until after the proposed 2001 LOF was published. However, NMFS believes that in light of the low level of observer coverage, additional observations are needed. If further observations indicate that interactions with bottlenose dolphins are rare, then NMFS will change the listing of this fishery accordingly.

Comments on the Gulf of Mexico Gillnet Fishery

Comment 39: One commenter noted that there is no evidence that the Gulf of Mexico King and Spanish mackerel gillnet fishery has been involved in the accidental entanglement or subsequent mortality of bottlenose dolphins and requested that NMFS designate the fishery as Category III.

Response: NMFS has decided to reevaluate the available data, and meanwhile maintain this fishery in Category III in the 2001 LOF. NMFS will continue to monitor serious injury and mortality of marine mammals in gillnet fisheries in the Gulf of Mexico and propose classification changes that are warranted by the data and other available information.

Comment 40: One commenter supported the elevation of the Gulf of Mexico gillnet fishery to Category II and noted that additional data may indicate that this fishery warrants elevation to Category I.

Response: Comment noted. See response to Comment 39.

Comments on Fisheries in the Pacific Ocean

Comment 41: One commenter stated that many of the Alaskan gillnet fisheries remain in Category III despite evidence that where gillnets and cetaceans coincide, entanglements occur. The commenter believes that observer effort would provide evidence that interactions in this region are greater than expected.

Response: NMFS is currently placing observers in Alaskan gillnet fisheries on a rotational basis and will use the data obtained to evaluate whether the current categorization of those fisheries is correct. The Alaska Marine Mammal Observer Program (AMMOP) is currently conducting a survey to make specific recommendations on methods to observe these small-boat fisheries. The remoteness, extreme environmental conditions, and short open seasons associated with these fisheries requires extensive knowledge of the fishing characteristics and geography before an efficient and effective observer program can be implemented. AMMOP observed the drift gillnet and set gillnet fisheries in Cook Inlet in 1999 and 2000 and is concentrating on the Kodiak salmon gillnet fisheries for 2001 and 2002. Suggestions from the Alaska Scientific Review Group will help determine where the most pressing needs will be for observer coverage, based on possible frequency and severity of marine mammal interactions. The Category II fisheries will have priority for observer coverage, but as the program expands, there will be more effort put into investigating the categorization of the Category III fisheries as well.

Comment 42: One commenter stated that the Bering Sea Aleutian Islands (BSAI) groundfish trawl fishery and the BSAI groundfish longline fishery should be placed in Category II because the annual take of killer whales (North Pacific Northern resident stock or Eastern North Pacific Northern transient stock) attributable to both fisheries exceeds 1 percent of PBR. Additionally, the take of humpback whales (Western North Pacific stock or Central North Pacific stock) and Steller sea lions (Western U.S. stock) exceeds 1 percent of PBR for the BSAI groundfish trawl fishery.

Response: Estimates of mortality and serious injury and the classification of the BSAI groundfish trawl and longline fisheries is based on high levels of industry-supported observer coverage. Observer coverage ranges between 53-74 percent in the BSAI groundfish trawl fishery and between 27-80 percent in the BSAI groundfish longline fishery, yielding mortality and serious injury estimates with a relatively high degree of confidence. The mortality and serious injury estimates are only slightly above 10 percent of PBR. At the current level, the serious injury and mortality rates are likely having a negligible impact on the stocks. Therefore, a reclassification is not necessary at this time.

Comment 43: One commenter noted that many Hawaiian fisheries are conducted with gear types known to interact with cetaceans but that there is little observer coverage and a poorly supported stranding network in Hawaii. Additional effort to gather information on interactions is warranted.

Response: all Hawaiian fisheries are currently classified as Category III because they are believed to have a remote likelihood or no known incidental mortality or serious injury of marine mammals. Under the MMPA, NMFS only has the authority to require observers in Category I and II fisheries except as described in 50 CFR 229.7(d). Additionally, other than a rotating observer program in the Alaska Region, existing marine mammal observer programs are tied directly to existing take reduction plans. NMFS will not be able to implement large, new observer programs for marine mammals until new funds are available or until the success of the current take reduction plans makes the associated observer programs unnecessary.

Comment 44: One commenter stated that the CA angel shark/halibut and other species large mesh (>3.5 inch) set gillnet fishery is separated into two fisheries in the Pacific SARs.

Response: Only one fishery exists. NMFS will correct the Pacific SARs to clarify that only one fishery exists.

Comment 45: One commenter stated that the LOF places all salmon drift gillnet fisheries in Puget Sound into a single Category II fishery, which excludes treaty fishing from this designation. The Pacific SAR treats these fisheries separately in the SAR for the Washington Inland stock of the harbor porpoise. The SAR lists the estimated annual mortality from the ''Puget Sound treaty and non-treaty sockeye salmon gillnet'' component of the fishery as 15 animals. Given that this mortality is greater than 50 percent of the PBR for this stock (20), this fishery is more appropriately categorized as a Category I fishery.

Response: The proposed 1996 LOF (60 FR 31666, June 16, 1995) and the final rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995) explains that treaty Indian tribal fisheries are conducted pursuant to the tribes' treaty rights. Existing treaty Indian fishing rights are not affected by the amendments to the MMPA, and therefore tribal fisheries are conducted under the authority of the Indian treaties rather than the MMPA. As a result, NMFS does not include reference to tribal fisheries in the LOF. The rationale for the categorization of the Puget Sound salmon drift gillnet fishery (excluding tribal fishing) is included in the 1996 LOF (60 FR 67063, December 28, 1996).

Comments on the Hawaii Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, Oceanic Sharks Longline/Set Line (Hawaii Longline) and California Longline Fisheries

Comment 46: Two commenters supported the proposed elevation of the Hawaii longline/set line fishery to Category II. One of the commenters also supported the addition of the California

longline fishery to Category II, but also noted that additional data may indicate that these two fisheries warrant elevation to Category I.

Response: NMFS has decided not to elevate the Hawaii longline fishery to Category II in the 2001 LOF because of changes in the operation of the fishery and ongoing and planned data collection efforts that will improve knowledge about the level of marine mammal serious injury and mortality incidental to this fishery. NMFS will to continue to monitor serious injury and mortality in the Hawaii longline fishery and propose classification changes that are warranted by the data and other available information. See the response to Comment 48 for additional information on the reasons why NMFS decided to maintain the Hawaii longline fishery in Category III. The California longline fishery is elevated to Category II in the 2001 LOF.

Comment 47: Two commenters opposed the elevation of the Hawaii longline fishery to Category II.

Response: NMFS has decided to maintain the Hawaii longline fishery in Category III in the 2001 LOF. See response to Comment 48 for additional information on the reasons why NMFS decided to maintain the Hawaii longline fishery in Category III.

Comment 48: Two commenters stated that NMFS did not appropriately analyze the data in determining the appropriate classification of the Hawaii longline fishery. One commenter stated that the crux of the category analysis is not whether a fishery interacts with a marine mammal, but whether it has caused a defined amount of mortality and serious injury. To be in Category II, a fishery must cause ''occasional'' incidental mortality and serious injury of marine mammals.

One commenter stated that the abundance estimates and PBR levels used in the 2000 Pacific SARs were based on 12 aerial surveys conducted within 25 nautical miles of the main Hawaiian Islands. Therefore, NMFS is unable to perform the tier 1 and tier 2 analysis that it sets forth for other category elevations. These surveys covered approximately 20,000 square miles, while the Hawaii longline fishery operates in an area over 4.5 million square nautical miles. Since no comprehensive marine mammal surveys have been completed for the remaining area in which the fishery operates, the survey data were used. This assessment should be extended to the entire range of the fishery and then compared to the take to arrive at a meaningful determination.

One commenter noted that in the explanation of the proposed elevation of the Hawaii longline fishery, NMFS did not discuss the tier 1 or tier 2 analysis, instead NMFS states that the fishery has been documented to interact with false killer whales, short-finned pilot whales, and several species of dolphins. NMFS cites no surveys, studies, or other information to indicate the number of interactions that may have occurred with these species or whether those numbers rise to the levels required by the regulations.

One commenter stated that NMFS has failed to discuss whether the removal rate for these species by all fisheries, collectively, meets the requirement of the Category II definition.

One commenter stated that NMFS strict protocol for data analysis was ignored. The proposed elevation for the Hawaii longline fishery is not legally or scientifically supported.

One commenter stated that NMFS is required to use these alternative, qualitative factors to inform its analysis of whether a marine mammal's removal rate rises to annual levels comparable to ten percent of PBR with other fisheries, and one percent of PBR alone. NMFS has not performed this analysis, and even if it has, NMFS did not identify even one of the qualitative factors to make its decision.

One commenter noted that NMFS states that the re-categorization of this fishery is consistent with the way NMFS has addressed other U.S. pelagic longline fisheries. Fisheries should not be categorized by ''analogy'' if adequate research was not conducted.

Response: Determination of ''frequent'', ''occasional'', and ''remote'' in the LOF, as required by the MMPA, is subjective. To make the process more objective, NMFS developed criteria to use when mortality and serious injury data and abundance data are available. The criteria developed consists of a two-tiered, stock-specific approach, that first addresses the total impact of all fisheries on each marine mammal stock [tier 1], and then addresses the impact of individual fisheries on each stock [tier 2] by comparing the total annual mortality and serious injury of a stock of marine mammals with that stock's PBR level. 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 PBR level for each marine mammal stock. As defined in 50 CFR 229.2, ''a commercial fishery that occasionally causes mortality or serious injury of marine mammals is one that, collectively with other fisheries, is responsible for the annual removal of more than 10 percent of any marine mammal stock's potential biological removal level and that is, by itself, responsible for the annual removal of between 1 and 50 percent, exclusive of any stocks's potential biological removal level.''

As described in the proposed 2001 LOF, the draft 2000 Pacific SARs present data about the stocks of marine mammals that interact with the Hawaii longline fishery and calculate a rate of serious injury and mortality between the fishery and each stock of marine mammals based on observer data. NMFS acknowledges in the SARs and in the proposed 2001 LOF that the aerial surveys conducted for marine mammals within the U.S. EEZ off of Hawaii underestimate the abundance and PBR level for those stocks. In the absence of more complete abundance estimates, NMFS recognizes that these values are considered minimum population estimates. As a result, NMFS did not base the proposal to elevate the Hawaii longline fishery to Category II strictly on a comparison between PBR and marine mammal mortality and serious injury (tier 1 and tier 2 analysis).

However, if data to conduct a quantitative tier analysis are unavailable or inappropriate, NMFS may use other, qualitative factors to determine the appropriate classification of a fishery. The definition of Category II fisheries in 50 CFR 229.2 provides for this situation, stating that, ''in the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, the Assistant Administrator will determine whether the incidental serious injury or mortality is ''occasional'' 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.'' When using qualitative data, NMFS only needs to determine if the interaction rises to the level of ''occasional.''

Three types of information were used to support the proposal to elevate the Hawaii longline fishery to Category II. First, observer data provided evidence of interactions between the Hawaii longline fishery and marine mammals that NMFS determined was more than a rare occurrence. As explained earlier in this response, the rate of interaction is determined by comparing the number of animals per year that are killed or seriously injured incidental to commercial fishing operations. It is not

based on a comparison of the number of animals killed or seriously injured to the number of sets made by a fishery. Therefore, the rate of interaction with a fishery with a marine mammal stock with a low PBR can be significant even if it appears to be a minimal problem based on the size of the fishery.

Second, the Hawaii longline fishery has been documented to interact with a number of marine mammal species, including false killer whales, short-finned pilot whales, and several species of dolphins. The Pacific SARs explain in detail the interactions between this fishery and each stock of marine mammals. The citation for the SARs used to develop the proposed 2001 LOF was provided in the proposed rule and was available for reference by the public. NMFS does not present detailed information on analysis, studies, and surveys in the LOF because that information is available in the SARs. NMFS also has records of an interaction between the Hawaii longline fishery and a sperm whale in 1999 and a humpback whale in 1991, both of which are listed as endangered under the Endangered Species Act and strategic under the Marine Mammal Protection Act.

Third, all other pelagic longline fisheries in the U.S. are classified as Category I or II. The use of analogy with other U.S. pelagic longline fisheries is appropriate because of the similarities between the Hawaii longline fishery and other U.S. pelagic longline fisheries in terms of the gear used and the target species.

However, despite this information, NMFS has decided to maintain the Hawaii longline fishery in Category III for three reasons. First, NMFS is planning to conduct a new abundance survey in 2002 to estimate abundance for marine mammals inhabiting waters off of the main Hawaiian Islands and the Northwest Hawaiian Islands, including areas in which the Hawaii longline fishery operates. The data obtained from the abundance estimates will yield revised PBR levels for marine mammal stocks, which can then be compared to mortality and serious injury estimates from observer data in a tier analysis.

Second, since publication of the proposed rule, a Biological Opinion (B.O.) on Proposed Authorization of Pelagic Fisheries under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region was issued by NMFS (March 30, 2001). The B.O. included several Reasonable and Prudent Alternatives (RPAs) to address the adverse effects of the Hawaii longline fishery on green, leatherback, and loggerhead turtles. The requirements included in the RPAs will change the operation of the Hawaii longline fishery. One of the RPAs prohibits swordfish style fishing methods. Although intended to reduce turtle bycatch, these RPAs should also reduce marine mammal bycatch incidental to the Hawaii longline fishery.

Third, the B.O. includes terms and conditions to implement the RPAs, including continuing the Hawaii longline observer program at an annual average level of 20 percent. The observer coverage will allow NMFS to monitor serious injury and mortality to marine mammals that occurs incidental to the Hawaii longline fishery.

The three factors will increase data and knowledge about marine mammals and serious injury and mortality of marine mammals incidental to the Hawaii longline fishery. NMFS will monitor the fishery and propose any classification changes that are warranted by the data.

Comment 49: One commenter stated that there have been no drastic changes in the level of interactions observed with this fishery and marine mammals or in the range of species encountered. The implementation of the 50 nautical mile closed area around the Northwestern Hawaiian Islands has eliminated interactions with monk seals, decreasing diversity and interaction rate. NMFS should clarify the term ''diversity'' as applied to the Hawaii longline fishery and if a specific number of species must interact with a fishery for it to qualify for recategorization.

Response: The MMPA does not define ''diverse'' or specify a threshold number of species or individuals when applied to fishery interactions with marine mammal species. The term ''diversity'' was used to explain that several species of marine mammals have been observed to interact with the Hawaii longline fishery. There is not a threshold number of species with which a fishery interacts for the fishery to qualify for recategorization. However, there are criteria defining the frequency of interaction between a fishery and marine mammals that are used to determine if a fishery qualifies to be recategorized. See 50 CFR 229.2 for additional information on the criteria used to categorize a fishery.

Comment 50: One commenter notes that NMFS stated that the draft 2000 Pacific SARs present data about these stocks of marine mammals and calculate a rate of interaction between the Hawaii longline fishery and each stock based on observer data. Because the proposed rule does not define the rate, the public is unable to comment on that rate. NMFS gives no information on the stock assessment numbers or PBR numbers of these species, so it is impossible to properly comment on NMFS' reliance on this information.

Response: The proposed rule cited the draft 2000 Pacific SARs as a source of information about the stocks of marine mammals that interact with the Hawaii longline fishery, including the calculating of the rate of interaction between the Hawaii longline fishery and each stock of marine mammals based on observer data. The citation for the SARs used to develop the proposed 2001 LOF was provided in the proposed rule and was available for reference by the public. NMFS does not present detailed information on analysis, studies, and surveys in the LOF because that information is cited in the SARs.

Additionally, all data presented in the SARs undergoes a peer-review process through the regional Scientific Review Groups to ensure that the data and analysis used are scientifically justifiable and appropriate. The SARs are also made available each year for public review and comment.

Comment 51: One commenter noted that NMFS does not state whether the interactions resulted in the ''removal'' of an animal as required by the Category II definition.

Response: When conducting a tier analysis, NMFS compares the total annual mortality and serious injury of a stock of marine mammals with that stock's PBR level. As cited in the proposed rule and as explained in the response to Comment 50, the SARs explain the interactions that have occurred between a fishery and a marine mammal in more detail, including whether the interaction caused serious injury or mortality.

Comment 52: One commenter stated that recategorizing the Hawaii longline fishery would impose an additional burden on the longline fishery by requiring the owner of each vessel to obtain a marine mammal authorization certificate.

Response: Owners or operators of vessels or gear engaged in a Category I or II fishery are required to register with NMFS to obtain a marine mammal authorization and pay a $25 fee unless NMFS has integrated the MMPA registration process with an existing State and Federal license, registration, or permit system. If the Hawaii longline fishery was elevated to Category II, the MMPA registration program would have been integrated with the Hawaii longline limited access permit system, and therefore participants in the Hawaii longline fishery would not have been required to register separately and pay

the $25 fee, posing no additional burden on participants of the fishery.

Comment 53: One commenter stated that the requirements of a Category II classification would include the burden of mandatory use of logbooks and observer programs.

Response: A Category II classification does not require the use of logbooks. However, all fishers, regardless of the classification of their fishery in the LOF, are required to report all incidental injuries or mortalities of marine mammals within 48 hours after the end of each fishing trip during which the incidental mortality or injury occurred, or, for non-vessel fisheries, within 48 hours of the occurrence. Category I and II fisheries are required to accommodate an observer on board upon request. Observer coverage is already required for the Hawaii longline fishery to comply with the Endangered Species Act, and in the course of their duties, those observers collect data on marine mammals. Therefore, the vessels in the Hawaii longline fishery will not have been subjected to additional observer requirements if the fishery had been elevated to Category II.

Comment 54: One commenter stated that if the Hawaii longline fishery is elevated to Category II, fishermen will face additional paperwork and licensing burdens. This burden will soon be eclipsed, however, by the requirement that all vessels accommodate observers at the request of the Federal government. Fishermen might even be required to pay for those observers. In addition, as a Category II fishery, vessels will be subject to fishing restrictions developed under a take reduction plan, which is clearly not ecologically required in this case. NMFS has not demonstrated that such additional expenses are necessary.

Response: The elevation of a fishery to Category I or II could have three consequences. First, owners or operators of vessels or gear engaged in a Category I or II fishery are required to register with NMFS to obtain a marine mammal authorization and pay a $25 fee unless NMFS has integrated the MMPA registration process with existing State and Federal license, registration, or permit systems. See response to Comment 52 for additional information on the registration process.

Second, owners of vessels or gear operating in a Category I or II fishery are required to accommodate an observer on board upon request. This provision allows NMFS to collect data to better characterize marine mammal interactions. See response to Comment 53 for additional information on observer coverage in the Hawaii longline fishery.

Third, fishers participating in a Category I or II fishery are required to comply with any applicable take reduction plans. Currently, no take reduction plan exists for the Hawaii longline fishery. Funding available for take reduction plans is currently being used for the development and implementation of other take reduction plans, and therefore NMFS has no plans to convene a take reduction team for the Hawaii longline fishery in the foreseeable future. Therefore, recategorization of the Hawaii longline fishery to Category II would not have been expected to place additional burden or expense on participants in that fishery.

Comment 55: One commenter stated that using data more than five years old (as in the citation of the humpback whale in 1991) may violate the time limit for data citation.

Response: As general guidance, NMFS uses five years of data to calculate a mean annual mortality and serious injury for marine mammals for use in the SARs. However, there is no specific time limit for data citation and NMFS scientists determine the most appropriate data to use on a case-by-case basis. The data and resulting analyses are peer reviewed by NMFS' Scientific Review Groups and are also made available for public review and comment.

Comment 56: One commenter stated that the citation of an interaction with a humpback whale in 1991 may not have been with a longline deployed by this fishery, but with a short longline deployed by tuna handline fishermen.

Response: As documented in the 2000 SAR, fishery observers recorded one humpback whale from the Central North Pacific stock entangled in pelagic longline gear in 1991.

Comment 57: One commenter presented a calculation for false killer whales and concluded that the PBR should be 229 whales instead of the 0.8 whales as stated in the FR notice and SARs.

Response: How PBR is calculated is outside of the scope of this rulemaking. The data that is used to prepare the LOF is based on NMFS SARs. All data presented in the SARs undergoes a peer-review process through the regional Scientific Review Groups to ensure that the data and analysis used are scientifically justifiable and appropriate. The SARs are also made available each year for public review and comment.

Comment 58: One commenter noted that the proposed 2001 LOF added the California longline fishery to Category II. However, this fishery is not listed as an authorized fishery subject to the jurisdiction of the Pacific Fishery Management Council. This omission needs to be remedied on the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) List of Fisheries.

Response: NMFS will review the MSFCMA List of Fisheries and make appropriate changes.

Comment 59: One commenter stated that inaccurate data were used to justify the categorization of the California longline fishery in Category II. The proposed LOF mentioned that logbooks showed an interaction with a Hawaiian monk seal in the California longline fishery, but also that NMFS believes the identification to be incorrect.

Response: The mention of the Hawaiian monk seal in a logbook was not thought to be correct, and therefore NMFS did not consider that report in the decision of whether or not to propose categorizing the California longline fishery as Category II.

Additional Comments

Comment 60: One commenter stated that NMFS has not identified the economic consequences of the rule as required by the Regulatory Flexibility Act. NMFS has not satisfied its obligations under the National Environmental Policy Act, since the Environmental Assessment on which it relies is over five years old. Nor has NMFS evaluated properly whether the proposed rule will in fact have no effect on endangered or threatened species under the Endangered Species Act because implementation of a take reduction plan could benefit humpback whales.

Response: As explained in the Classification section of the proposed rule, NMFS reviewed and explained the economic consequences as required by the Regulatory Flexibility Act and certified that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

NMFS obligations under the National Environmental Policy Act and Endangered Species Act are also satisfied. As explained in the Classification section of the proposed rule and in the Classification section to this final rule, the final 2001 LOF would not make any significant change in the management of reclassified fisheries, and, therefore, it would not change the analysis or conclusion of the 1995 Environmental Assessment. For any management action taken, for example development of a Take Reduction Plan, NMFS would prepare environmental

documents specific to that action as required under NEPA and section 7 of the ESA.

Comment 61: One commenter requested an extension of the public comment period because the public comment period on the proposed 2001 LOF closed before the 2000 final SARs were released.

Response: The proposed rule explained NMFS process for incorporating information from the SARs in the proposed and final LOF (66 FR 6547). NMFS specifically structured the SAR and LOF cycles so that the draft SARs would be used in the proposed LOF. If information in the final SARs changes as a result of public comment on the draft SARs, that new information is incorporated into the final LOF. This cycle ensures that the LOF uses the most recent available data to categorize fisheries. Additionally, when the draft SARs are made available for public comment, they have already been extensively peer-reviewed by the Scientific Review Groups. Both the SARs and LOF are available for public comment and both documents are revised each year, providing considerable opportunity for public comment.

Comment 62: One commenter stated that the classification of aquaculture facilities in Category III is inappropriate. Despite prohibitions, shooting of marine mammals continues to occur and is likely to increase with the increase in Federal support for aquaculture.

Response: The intentional lethal take of marine mammals was made illegal by the 1994 amendments to the MMPA, except in situations where it is imminently necessary in self defense or to save the life of a person in immediate danger. Incidental, but not intentional, serious injury or mortality to marine mammals from commercial fishing operations are used for categorizing fisheries for the LOF, as stated in section 118(c) of the MMPA. The incidental serious injury and mortality rate of marine mammals in aquaculture facilities places those facilities in Category III.

Summary of Changes to the LOF for 2001

With the following exceptions, the placement and definitions of U.S. commercial fisheries are identical to those provided in the LOF for 2000. The following summarizes changes in fishery classification, fishery definition, 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 2001.

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

Fishery Classification

The ''Atlantic Squid, Mackerel, Butterfish Trawl Fishery'' is moved from Category II to Category I.

The ''Atlantic and Gulf of Mexico Blue Crab Trap/Pot Fishery'' is divided into two fisheries, the ''Atlantic Blue Crab Trap/Pot Fishery'' and the ''Gulf of Mexico Blue Crab Trap/Pot Fishery.'' The ''Atlantic Blue Crab Trap/Pot Fishery'' is elevated from Category III to Category II. NMFS is maintaining the ''Gulf of Mexico Blue Crab Trap/Pot Fishery'' in Category III to reevaluate the available data on this fishery's interactions with marine mammals. NMFS will continue to monitor serious injury and mortality in the ''Gulf of Mexico Blue Crab Trap/Pot Fishery'' and will propose classification changes that are warranted by the data and other available information.

The ''North Caroline Inshore Gillnet Fishery'' is moved from Category III to Category II.

All Southeastern Atlantic Gillnet Fisheries (except for the separate Category II ''Southeastern U.S. Atlantic Shark Gillnet Fishery'') are moved from Category III to Category II and renamed the ''Southeast Atlantic Gillnet Fishery.'' The ''Southeast Atlantic Gillnet Fishery'' includes the ''Florida East Coast Pelagics King and Spanish Mackerel Gillnet Fishery,'' and the shad component of the previous ''Southeast U.S. Atlantic Coastal Shad, Sturgeon Gillnet Fishery.'' New information since publication of the proposed rule indicates that there are an additional 139 participants in the Southeast shad component of this fishery. This increases the total number of participants in the ''Southeast Atlantic Gillnet Fishery'' to 779.

Addition of Fisheries to the LOF

The ''Caribbean Gillnet Fishery'' is added to the LOF as a Category III fishery.

The ''Caribbean Mixed Species Trap/Pot Fishery'' is added to the LOF as a Category III fishery.

The ''Gulf of Mexico Haul/Beach Seine Fishery'' is added to the LOF as a Category III fishery.

The ''Gulf of Mexico Mixed Species Trap/Pot Fishery'' is added to the LOF as a Category III fishery.

The ''Gulf of Mexico Mixed Species Trawl Fishery'' is added to the LOF as a Category III fishery.

The ''Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean Cast Net Fishery'' is added to the LOF as a Category III fishery.

The ''North Carolina Long Haul Seine Fishery'' is added to the LOF as a Category II fishery. This fishery is separate from the Category II ''Mid-Atlantic Haul/Beach Seine Fishery.''

In the proposed LOF for 2001, NMFS proposed to add two fishery listings to the LOF: the ''Northeast Anchored Pelagic Gillnet Fishery'' and the ''Northeast Drift Gillnet Fishery.'' Since the proposed rule was published, NMFS has changed how gillnet fishing effort data are recorded. In response, NMFS identified four categories of gillnet fishing effort: (1) Anchored Sink Gillnet, (2) Drift Sink Gillnet, (3) Anchored Float Gillnet, and (4) Drift Float Gillnet. To distinguish fisheries by the type of gillnet used, NMFS revised the gillnet fishery classification. The Category I ''Northeast Sink Gillnet Fishery'' uses anchored sink gillnet gear. The Category II ''Northeast Anchored Pelagic Gillnet Fishery'' identified in the proposed LOF is renamed the ''Northeast Anchored Float Gillnet Fishery.'' Drift sink gillnet and drift float gillnet gear are included in the Category II ''Northeast Drift Gillnet Fishery.''

The ''Northeast Trap/Pot Fishery'' is added to the LOF as a Category II fishery.

The ''Southeastern U.S. Atlantic, Gulf of Mexico Golden Crab Trap/Pot Fishery'' is added to the LOF as a Category III fishery.

The ''Southeastern U.S. Atlantic, Gulf of Mexico Stone Crab Trap/Pot Fishery'' is added to the LOF as a Category III fishery.

The ''Virginia Pound Net Fishery'' is added to the LOF as a Category II fishery. In the proposed LOF for 2001, NMFS proposed to elevate the pound net fishery in the entire Mid-Atlantic area to Category II based on evidence of coastal bottlenose dolphin mortality in pound net leaders in Virginia. NMFS determined that interactions between bottlenose dolphins and pound nets in the Chesapeake Bay area, specifically in the Virginia-water portion, occasionally occur. In addition to the data presented in the proposed 2001 LOF, several recent mortalities of bottlenose dolphins in pound net leaders have occurred in the Chesapeake Bay area. Other pound net effort in the Mid-Atlantic is incorporated into the Category III ''U.S. Mid-Atlantic Mixed Species Stop Seine/Weir/Pound Net Fishery.''

Removals of Fisheries from the LOF

The ''Atlantic Ocean, Caribbean, Gulf of Mexico Large Pelagics Drift Gillnet Fishery'' is removed from the LOF. Any large or small mesh drift gillnet fisheries

that do occur are incorporated into other LOF gillnet listings.

The Category III ''Gulf of Maine, Southeast U.S. Atlantic Coastal Shad, Sturgeon Gillnet Fishery'' is removed from the LOF. Sturgeon is a prohibited species in State and Federal waters, and gillnet fishing for shad in the southeast is now included in the Category II ''Southeast Atlantic Gillnet Fishery.'' Gillnet fishing for shad in the Northeast is included in the Category I ''Northeast Sink Gillnet Fishery,'' the Category II ''Northeast Anchored Float Gillnet Fishery'', or the Category II ''Northeast Drift Gillnet Fishery,'' depending on the type of gear used. Gillnet fishing for shad in the Mid-Atlantic is included in the Category II ''U.S. Mid-Atlantic Coastal Gillnet Fishery.''

Fishery Name and Organizational Changes

The Category III ''Bluefish, Croaker, Flounder Trawl Fishery'' is incorporated into the Category III ''Mid-Atlantic Mixed Species Trawl Fishery.''

The Category III ''Gulf of Mexico Inshore Gillnet Fishery,'' the ''Gulf of Mexico Coastal Gillnet Fishery,'' and the ''Gulf of Mexico King and Spanish Mackerel Gillnet Fishery'' are combined into the Category III ''Gulf of Mexico Gillnet Fishery.''

The Category II ''Gulf of Maine Small Pelagics Surface Gillnet Fishery'' is incorporated into the Category II ''Northeast Anchored Float Gillnet Fishery.''

The Category I ''Gulf of Maine, U.S. Mid-Atlantic Lobster Trap/Pot Fishery'' is renamed the ''Northeast/Mid-Atlantic American Lobster Trap/Pot Fishery.''

The Category III ''Gulf of Maine, U.S. Mid-Atlantic Mixed Species Trap/Pot Fishery'' is separated into the Category II ''Northeast Trap/Pot Fishery'' and the Category III ''Mid-Atlantic Mixed Species Trap/Pot Fishery.''

The title of the Category II ''Haul Seine Fisheries'' category is renamed ''Haul/Beach Seine Fisheries'' for clarity.

The title of the Category III ''Haul Seine Fisheries'' category is renamed ''Haul/Beach Seine Fisheries'' and the ''Beach Seine Fisheries'' category is removed for clarity.

The Category II ''Mid-Atlantic Haul Seine Fishery'' is split into the Category II ''North Carolina Long Haul Seine Fishery'' and the Category II ''Mid-Atlantic Haul/Beach Seine Fishery.''

The Category III ''Mid-Atlantic, Southeastern U.S. Atlantic, Gulf of Mexico Shrimp Trawl Fishery'' is renamed the ''Southeastern U.S. Atlantic, Gulf of Mexico Shrimp Trawl Fishery.''

The Category III ''Southeastern U.S. Atlantic, Gulf of Mexico Snapper-Grouper and Other Reef Fish Bottom Longline/Hook-and-Line Fishery'' is renamed the ''Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean Snapper-Grouper and Other Reef Fish Bottom Longline/Hook-and-Line Fishery.''

The Category III ''Southeastern U.S. Atlantic, Caribbean Haul Seine Fishery'' is divided into the Category III ''Southeastern U.S. Atlantic Haul/Beach Seine Fishery'' and the Category III ''Caribbean Haul/Beach Seine Fishery.'' The ''Caribbean Haul/Beach Seine Fishery'' combines the Category III ''Caribbean Haul Seine Fishery'' and the Category III ''Caribbean Beach Seine Fishery.''

The Category III ''U.S. Mid-Atlantic Mixed Species Stop/Seine/Weir Fishery'' is renamed the ''U.S. Mid-Atlantic Mixed Species Stop Seine/Weir/Pound Net(except the North Carolina Roe Mullet Stop Net) Fishery.''

The Category III ''Southeastern U.S. Atlantic, Gulf of Mexico, Caribbean Spiny Lobster Trap/Pot Fishery'' is split into the Category III ''Florida Spiny Lobster Trap/Pot Fishery'' and the Category III ''Caribbean Spiny Lobster Trap/Pot Fishery.''

Number of Vessels/Persons

The estimated number of participants in the ''Atlantic Ocean, Caribbean, Gulf of Mexico Large Pelagics Longline Fishery'' is updated to 443. This represents the number of permits issued, not active participants.

The estimated number of participants in the ''Calico Scallops Trawl Fishery'' is updated to 12.

The estimated number of participants in the ''Florida Spiny Lobster Trap/Pot Fishery'' is updated to 2,145.

List of Species That Are Incidentally Injured or Killed by a Particular Fishery

The reference to a West Indian Manatee, FL stock is removed, and the stock of the bottlenose dolphin is changed to Eastern Gulf of Mexico coastal stock for the ''Florida Spiny Lobster Trap/Pot Fishery.''

The North Atlantic humpback whale stock is added to the list of species or stocks interacting with the ''Mid-Atlantic Menhaden Purse Seine Fishery.'' A humpback whale was reported by a fishery as entangled in a purse seine and released alive.

The Atlantic spotted dolphin stock is added to the ''Southeastern U.S. Atlantic Shark Gillnet Fishery,'' due to an observed take of the animal incidentally caught and released alive.

The reference to the Bottlenose dolphin, Eastern Gulf of Mexico coastal stock, was removed from the ''Southeastern U.S. Atlantic Gulf of Mexico Stone Crab Trap/Pot Fishery.''

Commercial Fisheries in the Pacific Ocean

Addition of Fisheries to the LOF

The ''Alaska Herring Spawn on Kelp Pound Net Fishery is added to the LOF as a Category III fishery. This fishery includes fisheries of Southeast Alaska and Prince William Sound.

The ''Alaska Snail Pot Fishery'' is added to the LOF as a Category III fishery. This fishery targets three species of sea snails in the Bering Sea using small pots (less than 18 inches, 45.7 cm).

The ''California Longline Fishery'' is added to the LOF as a Category II fishery. This fishery is primarily directed at swordfish caught outside of the U.S. EEZ off of California, but unloading their catch in California ports.

Fishery Name and Organizational Changes

The Category III ''Alaska Clam Hand Shovel Fishery'' and the ''Alaska Clam Mechanical/Hydraulic Fishery'' are renamed the ''Alaska Clam Fishery.''

The ''Alaska Southern Bering Sea, Aleutian Islands, and Western Gulf of Alaska Sablefish Longline/Set Line (Federally Regulated Waters) Fishery'' is split into the into the ''Alaska Bering Sea, Aleutian Islands Groundfish Longline/Set Line (Federally Regulated Waters, Including Miscellaneous Finfish and Sablefish) Fishery'', the ''Alaska Gulf of Alaska Groundfish Longline/Set Line (Federally Regulated Waters, Including Miscellaneous Finfish and Sablefish),'' and the ''Alaska State-Managed Waters, Groundfish Longline/Set Line (Including Sablefish, Rockfish, and Miscellaneous Finfish)'' Fishery. The ''Alaska State Waters Sablefish Longline/Set Line Fishery'' and the ''Alaska Miscellaneous Finfish/Groundfish Longline/Set Line Fishery'' would be incorporated appropriately into the three new fisheries. All of these fisheries are Category III fisheries.

The ''Alaska Octopus/Squid ''Other'' Fishery'' is renamed the ''Alaska Octopus/Squid Pot Fishery.''

The ''Alaska Southeast Alaska Herring Food/Bait Pound Net Fishery'' is renamed the ''Alaska Southeast Herring Roe/Food/Bait Pound Net Fishery.''

The ''Southeast Alaska Salmon Drift Gillnet Fishery'' is renamed the ''Alaska Southeast Salmon Drift 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 1996 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 fishers' reports. This list includes all species or stocks known to incur injury or mortality in a given fishery. However, not all species or stocks identified are necessarily independently responsible for a fishery's categorization. There are a few fisheries that are in Category II that have no recently documented interactions with marine mammals. Justifications for placement of these fisheries are by analogy to other gear types that are known to injure or kill marine mammals, as discussed in the final LOF for 1996 (60 FR 45086, December 28, 1995).

Commercial fisheries in the Pacific Ocean (including Alaska) are included in Table 1; commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean are included in Table 2. An asterisk (*) indicates that the stock is a strategic stock; a plus (+) indicates that the stock is listed as threatened or endangered under the Endangered Species Act.

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
Category I		
GILLNET FISHERIES:		
CA angel shark/halibut and other species large mesh (>3.5in) set gillnet.	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 Northern elephant seal, CA breeding Sea otter, CA
CA/OR thresher shark/swordfish drift gillnet	130	Steller sea lion, Eastern U.S.*+ Sperm whale, CA/OR/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 Short-beaked common dolphin CA/OR/WA Long-beaked common dolphin CA/OR/WA Northern right whale dolphin, CA/OR/WA Short-finned pilot whale, CA/OR/WA* Baird's beaked whale, CA/OR/WA Mesoplodont beaked whale, CA/OR/WA Cuvier's beaked whale, CA/OR/WA Pygmy sperm whale, CA/OR/WA California sea lion, U.S. Northern elephant seal, CA breeding Humpback whale, CA/OR/WA-Mexico* Minke whale, CA/OR/WA Striped dolphin, CA/OR/WA Killer whale, CA/OR/WA Pacific coast Northern fur seal, San Miguel Island
Category II		
GILLNET FISHERIES:		
AK Bristol Bay salmon drift gillnet	1,903	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern Pacific* Harbor seal, Bering Sea Beluga whale, Bristol Bay Gray whale, Eastern north Pacific Spotted seal, AK Pacific white-sided dolphin, North Pacific
AK Bristol Bay salmon set gillnet	1,014	Harbor seal, Bering Sea Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Northern fur seal, Eastern Pacific* Spotted seal, AK
AK Cook Inlet salmon drift gillnet	576	Steller sea lion, Western U.S.*+ Harbor seal, GOA Harbor porpoise, GOA Dall's porpoise, AK Beluga whale, Cook Inlet*+

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
AK Cook Inlet salmon set gillnet	745	Steller sea lion, Western U.S.*+ Harbor seal, GOA Harbor porpoise, GOA Dall's porpoise, AK Beluga whale, Cook Inlet*+
AK Kodiak salmon set gillnet	188	Harbor seal, GOA Harbor porpoise, GOA Sea otter, AK
AK Metlakatla/Annette Island salmon drift gillnet	60	None documented
AK Peninsula/Aleutian Islands salmon drift gillnet	164	Northern fur seal, Eastern Pacific* Harbor seal, GOA Harbor porpoise, Bering Sea Dall's porpoise, AK
AK Peninsula/Aleutian Islands salmon set gillnet	116	Steller sea lion, Western U.S.*+ Harbor porpoise, Bering Sea
AK Prince William Sound salmon drift gillnet	541	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern Pacific* Harbor seal, GOA Pacific white-sided dolphin, North Pacific Harbor porpoise, GOA Dall's porpoise, AK Sea Otter, AK
AK Southeast salmon drift gillnet	481	Steller sea lion, Eastern U.S.*+ Harbor seal, Southeast AK Pacific white-sided dolphin, North Pacific Harbor porpoise, Southeast AK Dall's porpoise, AK Humpback whale, central North Pacific*+
AK Yakutat salmon set gillnet	170	Harbor seal, Southeast AK Gray whale, Eastern North Pacific
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).	725	Harbor porpoise, inland WA Dall's porpoise, CA/OR/WA Harbor seal, WA inland
PURSE SEINE FISHERIES:		
AK Southeast salmon purse seine	416	Humpback whale, central North Pacific*+
CA anchovy, mackerel, tuna purse seine	150	Bottlenose dolphin, CA/OR/WA offshore California sea lion, U.S. Harbor seal, CA
CA squid purse seine	65	Short-finned pilot whale, CA/OR/WA*
TRAWL FISHERIES:		
AK miscellaneous finfish pair trawl	2	None documented
LONGLINE FISHERIES:		
California longline	45	California sea lion
OR swordfish floating longline	2	None documented
OR blue shark floating longline	1	None documented
Category III		
GILLNET FISHERIES:		
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	Steller sea lion, Western U.S.*+ Harbor seal, GOA
AK roe herring and food/bait herring gillnet	2,034	None documented
CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less.	341	None documented
Hawaii gillnet	115	Bottlenose dolphin, HI Spinner dolphin, HI
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24	Harbor seal, OR/WA coast
WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet.	913	None documented
WA, OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S. Harbor seal, OR/WA coast
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
PURSE SEINE, BEACH SEINE, ROUND HAUL AND THROW NET FISHERIES:		
AK Metlakatla salmon purse seine	10	None documented
AK miscellaneous finfish beach seine	1	None documented
AK miscellaneous finfish purse seine	3	None documented

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
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	Bottlenose dolphin, CA coastal California sea lion, U.S. Harbor seal, CA
CA sardine purse seine	120	None documented
HI opelu/akule net	16	None documented
HI purse seine	18	None documented
HI throw net, cast net	47	None documented
WA (all species) beach seine or drag seine	235	None documented
WA, OR herring, smelt, squid purse seine or lampara	130	None documented
WA salmon purse seine	440	None documented
WA salmon reef net	53	None documented
DIP NET FISHERIES:		
CA squid dip net	115	None documented
WA, OR smelt, herring dip net	119	None documented
MARINE AQUACULTURE FISHERIES:		
CA salmon enhancement rearing pen	>1	None documented
OR salmon ranch	1	None documented
WA, OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
TROLL FISHERIES:		
AK north Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries.	1,530 (330 AK)	None documented
AK salmon troll	2,335	Steller sea lion, Western U.S.*+ Steller sea lion, Eastern U.S.*+
American Samoa tuna troll	<50	None documented
CA/OR/WA salmon troll	4,300	None documented
Commonwealth of the Northern Mariana Islands tuna troll	50	None documented
Guam tuna troll	50	None documented
HI net unclassified	106	None documented
HI trolling, rod and reel	1,795	None documented
LONGLINE/SET LINE FISHERIES:		HI trolling, rod and reel
AK Bering Sea, Aleutian Islands groundfish longline/set line (federally regulated waters, including miscellaneous finfish and sablefish).	115	Northern elephant seal, CA breeding Killer whale, Eastern North Pacific resident Killer whale, transient Steller sea lion, Western U.S.*+ Pacific white-sided dolphin, North Pacific Dall's porpoise, AK Harbor seal, Bering Sea
AK Gulf of Alaska groundfish longline/set line (federally regulated waters, including miscellaneous finfish and sablefish).	876	Steller sea lion, Western U.S.*+ Harbor seal, Southeast AK Northern elephant seal, CA breeding
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
CA shark/bonito longline/set line	10	None documented
HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line.	140	Humpback whale, Central North Pacific*+ False killer whales, HI Risso's dolphin, HI Bottlenose dolphin, HI Spinner dolphin, HI Short-finned pilot whale, HI Sperm whale, HI
WA, OR, CA groundfish, bottomfish longline/set line	367	None documented
WA, OR North Pacific halibut longline/set line	350	None documented
TRAWL FISHERIES:		

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
AK Bering Sea and Aleutian Islands Groundfish Trawl	166	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern pacific* Killer whale, Eastern North Pacific resident Killer whale, Eastern North Pacific transient Pacific white sided dolphin, North Pacific Harbor porpoise, Bering Sea Harbor seal, Bering Sea Harbor seal, GOA Bearded seal, AK Ringed seal, AK Spotted seal, AK Dall's porpoise, AK Ribbon seal, AK Northern elephant seal, CA breeding Sea otter, AK Pacific walrus, AK Humpback whale, Central North Pacific*+ Humpback whale, Western North Pacific*+
AK food/bait herring trawl	3	None documented
AK Gulf of Alaska groundfish trawl	198	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern Pacific* Harbor seal, GOA Dall's porpoise, AK Northern elephant seal, CA breeding Fin whale, Northeast Pacific
AK miscellaneous finfish otter or beam trawl	6	None documented
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	58	None documented
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl	2	None documented
WA, OR, CA groundfish trawl	585	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern Pacific* Pacific white-sided dolphin, central North Pacific Dall's porpoise, CA/OR/WA California sea lion, U.S. Harbor seal, OR/WA coast
WA, OR, CA shrimp trawl	300	None documented
POT, RING NET, AND TRAP FISHERIES:		
AK Bering Sea, Gulf of Alaska finfish pot	257	Harbor seal, GOA Harbor seal, Bering Sea Sea otter, AK
AK crustacean pot	1,852	Harbor porpoise, 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	None documented
WA, OR, CA sablefish pot	176	None documented
WA, OR shrimp pot & trap	254	None documented
HI crab trap	22	None documented
HI fish trap	19	None documented
HI lobster trap	15	Hawaiian monk seal*+
HI shrimp trap	5	None documented
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline and mechanical jig	100	None documented
AK North Pacific halibut handline and mechanical jig	93	None documented
AK octopus/squid handline	2	None documented
American Samoa bottomfish	<50	None documented
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented
Guam bottomfish	<50	None documented
HI aku boat, pole and line	54	None documented
HI deep sea bottomfish	434	Hawaiian monk seal*+
Hi inshore handline	650	Bottlenose dolphin, HI
HI tuna	144	Rough-toothed dolphin, HI Bottlenose dolphin, HI Hawaiian monk seal*+
WA groundfish, bottomfish jig	679	None documented
HARPOON FISHERIES:		
CA swordfish harpoon	228	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

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
BAIT PENS:		
WA/OR/CA bait pens	13	None documented
DREDGE FISHERIES:		
Coastwide scallop dredge	108 (12 AK)	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	1	None documented
AK clam	156	None documented
WA herring spawn on kelp	4	None documented
AK dungeness crab	3	None documented
AK herring spawn on kelp	363	None documented
AK urchin and other fish/shellfish	471	None documented
CA abalone	111	None documented
CA sea urchin	583	None documented
HI coral diving	2	None documented
HI fish pond	10	None documented
HI handpick	135	None documented
HI lobster diving	6	None documented
HI squiding, spear	267	None documented
WA, CA kelp	4	None documented
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection.	637	None documented
WA shellfish aquaculture	684	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK, WA, OR, CA commercial passenger fishing vessel	>7,000 (1,107 AK)	None documented
HI ''other''	114	None documented
LIVE FINFISH/SHELLFISH FISHERIES:		
CA finfish and shellfish live trap/hook-and-line	93	None documented

* Marine mammal stock is strategic.

+ stock is listed as threatened or endangered under the Endangered Species Act (ESA) or as depleted under the MMPA. List of Abbreviations Used in Table 1: AK, Alaska; CA , California; HI, Hawaii; GOA, Gulf of Alaska; OR, Oregon, and WA, Washington

TABLE 2—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally injured and killed
Category I		
GILLNET FISHERIES:		
Northeast sink gillnet	341	North Atlantic right whale, WNA*+ Humpback whale, WNA*+ Minke whale, Canadian east coast Killer whale, WNA White-sided dolphin, WNA* Bottlenose dolphin, WNA offshore Harbor porpoise, GME/BF* Harbor seal, WNA Gray seal, WNA Common dolphin, WNA * Fin whale, WNA *+ Spotted dolphin, WNA False killer whale, WNA Harp seal, WNA
LONGLINE FISHERIES:		

TABLE 2—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally injured and killed
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline ..	<200	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:		
Northeast/Mid-Atlantic American lobster trap/pot	13,000	North Atlantic right whale, WNA*+ Humpback whale, WNA*+ Fin whale, WNA*+ Minke whale, Canadian east coast Harbor seal, 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*
Category II		
GILLNET FISHERIES:		
North Carolina inshore gillnet	94	Bottlenose dolphin, WNA coastal*+
Northeast anchored float gillnet	133	Humpback whale, WNA*+ White-sided dolphin, WNA* Harbor seal, WNA
Northeast drift gillnet	unknown	None documented
Southeast Atlantic gillnet	779	Bottlenose dolphin, WNA coastal
Southeastern U.S. Atlantic shark gillnet	12	Bottlenose dolphin, WNA coastal* North Atlantic right whale, WNA*+ Atlantic spotted dolphin, WNA
U.S. Mid-Atlantic coastal gillnet	>655	Humpback whale, WNA*+ Minke whale, Canadian east coast Bottlenose dolphin, WNA offshore Bottlenose dolphin, WNA coastal*+ Harbor porpoise, GME/BF* Harbor seal, WNA Harp seal, WNA Long-finned pilot whale, WNA* Short-finned pilot whale, WNA* White sided dolphin, WNA Common dolphin, WNA
TRAWL FISHERIES:		
Atlantic herring midwater trawl (including pair trawl)	17	Harbor seal, WNA
TRAP/POT FISHERIES:		
Atlantic blue crab trap/pot	>16,000	Bottlenose dolphin, WNA coastal* West Indian manatee, FL
Northeast trap/pot	unknown	Fin whale, WNA
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	50	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	25	Bottlenose dolphin, WNA coastal* Harbor porpoise, GME/BF*
North Carolina long haul seine	33	Bottlenose dolphin, WNA coastal*
STOP NET FISHERIES:		
North Carolina roe mullet stop net	13	Bottlenose dolphin, WNA coastal*
POUND NET FISHERIES:		

TABLE 2—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally injured and killed
Virginia pound net	187	Bottlenose dolphin, WNA coastal*
Category III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA West Indian manatee, Antillean
Chesapeake Bay inshore gillnet	45	Harbor porpoise, GME/BF
Delaware Bay inshore gillnet	60	Humpback whale, WNA*+ Bottlenose dolphin, WNA coastal*+ Harbor porpoise, GME/BF*
Gulf of Mexico gillnet	724	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX Bay, Sound, and Estuarine*
Long Island Sound inshore gillnet	20	Humpback whale, WNA*+ Bottlenose dolphin, WNA coastal*+ Harbor porpoise, GME/BF*
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*
TRAWL FISHERIES:		
Calico scallops trawl	12	None documented
Crab trawl	400	None documented
Georgia, South Carolina, Maryland whelk trawl	25	None documented
Gulf of Maine, Mid-Atlantic sea scallop trawl	215	None documented
Gulf of Maine northern shrimp trawl	320	None documented
Gulf of Mexico butterfish trawl	2	Atlantic spotted dolphin, Eastern GMX Pantropical spotted dolphin, Eastern GMX
Gulf of Mexico mixed species trawl	20	None documented
Mid-Atlantic mixed species trawl	>1,000	None documented
North Atlantic bottom trawl	1,052	Long-finned pilot whale, WNA* Short-finned pilot whale, WNA* Common dolphin, WNA* White-sided dolphin, WNA* Striped dolphin, WNA Bottlenose dolphin, WNA offshore
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	>18,000	Bottlenose dolphin, WNA coastal*+
U.S. Atlantic monkfish trawl	unknown	Common dolphin, WNA*
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	30	Harbor porpoise, GME/BF* Harbor seal, WNA Gray seal, WNA
Gulf of Maine menhaden purse seine	50	None documented
Florida west coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
Mid-Atlantic menhaden purse seine	22	Bottlenose dolphin, WNA coastal*+ Humpback whale, WNA*+
U.S. Atlantic tuna purse seine	unknown	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 Humpback whale, WNA
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.	124	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		
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 Gulf of Mexico coastal

TABLE 2—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally injured and killed
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
Mid-Atlantic mixed species trap/pot	unknown	Humpback whale, Gulf of Maine Minke whale, Canadian east coast Harbor porpoise, GM/BF
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
U.S. Mid-Atlantic and Southeast U.S. Atlantic black sea bass trap/pot.	30	None documented
STOP SEINE/WEIR/POUND NET 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 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	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 2: FL - Florida; NC - North Carolina; GA - Georgia; SC - South Carolina; GME/BF - Gulf of Maine/Bay of Fundy; TX - Texas; GMX - Gulf of Mexico; WNA - Western North Atlantic.

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 final rule would not have a significant economic impact on a substantial number of small entities, as certified in the proposed rule. For convenience, the factual basis leading to the certification is repeated below, updated with new information available on the number of participants since publication of the proposed rule and a delay in the compliance date for registering with NMFS.

Under existing regulations, all fishers participating in Category I or II fisheries must register, obtain an Authorization Certificate, and pay a fee of $25. The Authorization Certificate authorizes the taking of marine mammals incidental to commercial fishing operations. NMFS has estimated that approximately 22,400 fishing vessels operate in Category I or II fisheries, and, therefore, are required to register. However, the registration for the majority of these fishers has been integrated with existing state or Federal registration programs, and those fishers do not need to register separately under the MMPA. Currently, approximately 3,800 fishers register directly with NMFS under the MMPA authorization program.

This rule would require the registration of approximately 17,138[1] additional fishers. Fisheries that are elevated to Category II in this final rule and whose participants would be required to register with NMFS include: the North Carolina Inshore Gillnet Fishery (94 participants); the Southeast Atlantic Gillnet Fishery (779 participants); and the Atlantic Blue Crab Fishery (>16,000). Fisheries that have been added to Category II of the LOF in this final rule include: the California Longline Fishery (45 participants); the Virginia Pound Net Fishery (187 participants); the Northeast Trap/Pot Fishery (unknown number of participants); the North Carolina Long Haul Seine Fishery (33 participants); and, the Northeast Drift Gillnet Fishery (unknown number of participants).

[1] This number includes 16,000 fishers who have historically participated in the Atlantic Blue Crab Trap/Pot Fishery. NMFS is currently evaluating the current number of participants in this fishery and will provide that information in a future LOF cycle.

Participants in fisheries elevated to Category II or added to the LOF may already participate in Category I or II fisheries for which they currently register under the MMPA or participate in Federal or state fisheries with integrated registration programs, and, therefore, would not be required to register separately under the MMPA or pay an additional $25 registration fee.

NMFS is planning to integrate registration requirements with other fisheries to minimize the registration burden on fishers as soon as possible. NMFS would waive the registration fee for fisheries where an integrated registration program can be arranged.

To further reduce the burden of registering, NMFS has delayed the compliance date for fisheries added or elevated to Category II in this final rule to register with NMFS and obtain an authorization certificate until January 1, 2002. The delay will give NMFS more time to work to integrate the MMPA registration process with existing state or Federal license, registration, or permit systems. As a result, NMFS expects that fewer than 2,000 fishers are likely to have to register directly with NMFS. The delay affects the following fisheries: Atlantic blue crab trap/pot; California longline; North Carolina inshore gillnet; North Carolina long haul seine; Northeast drift gillnet; Northeast trap/pot; Virginia Pound Net; and, Southeast Atlantic gillnet. These fisheries are considered to be Category II fisheries on the date that the 2001 LOF becomes effective and are required to comply with all other requirements of Category II fisheries (i.e., comply with applicable take reduction plan requirements, carry observers if requested, and report all incidental injuries or mortalities of marine mammals that occur during commercial fishing operations to NMFS). Category I and II fisheries not listed above must be registered and obtain a valid authorization certificate.

The $25 registration fee, with respect to anticipated revenues, is not considered significant. As a result of this certification, a regulatory flexibility analysis was not prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of information for the registration of fishers under the MMPA has been approved by the OMB under OMB control number 0648-0293 (0.25 burden hours per report for new registrants and 0.15 burden hours per report for renewals). 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 collection 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 Office of Management and Budget (OMB) control number.

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

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

This final rule will 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 final rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under section 7 of the ESA specific for that action.

This final rule will 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 final rule will 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.

August 7, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 000323080–1196–03; I.D. 031500A]

RIN 0648–AN97

Atlantic Highly Migratory Species (HMS); Atlantic Tunas Reporting, Fishery Allocations and Regulatory Adjustments

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

ACTION: Final rule.

SUMMARY: NMFS amends the regulations governing the Atlantic HMS fisheries to implement mandatory dealer reporting of all purchases of Atlantic bigeye, albacore, yellowfin, and skipjack (BAYS) tunas: to adjust the north-south dividing line for the Atlantic bluefin tuna (BFT) Angling category subdivisions and the associated subquota percentages allocated to each area, to clarify the requirement that imports, exports, and re-exports of bluefin tuna (both Atlantic and Pacific subspecies) be accompanied by a Bluefin Tuna Statistical Document (BSD), and to facilitate enforcement of, and compliance with, certain regulations. The regulatory amendment is necessary to comply with the United States' obligations under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Atlantic Tunas Convention Act (ATCA), and the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP).

DATES: Effective September 14, 2001.

ADDRESSES: Copies of supporting documents, including the HMS FMP, are available from the Highly Migratory Species Management Division, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Any comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Christopher Rogers, Acting Chief, Highly Migratory Species Management Division, Office of