

Federal Communications Commission.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 229

[021213308-3165-02, I.D. 111802B]

RIN 0648-AQ60

#### List of Fisheries for 2003

**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 2003 as required by the Marine Mammal Protection Act (MMPA). The final LOF for 2003 reflects new information on interactions between commercial fisheries and marine mammals. Under the MMPA, NMFS must place each commercial fishery on the LOF into one of three categories based upon the level of serious injury and mortality of marine mammals that occurs 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 August 14, 2003. However, compliance with the requirement to register with NMFS and to obtain an authorization certificate is not required until January 1, 2004, 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 several regional offices. See **SUPPLEMENTARY INFORMATION** for addresses of the offices.

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**FOR FURTHER INFORMATION CONTACT:** Tanya Dobrzynski, Office of Protected Resources, 301-713-2322; Kim Thounhurst, Northeast Region, 978-281-9138; Juan Levesque, Southeast Region, 727-570-5312; Cathy Campbell, Southwest Region, 562-980-4060; Brent Norberg, Northwest Region, 206-526-

6733; Bridget Mansfield, Alaska Region, 907-586-7642. 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:

Information may be obtained at the following offices:

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930-2298, Attn: Marcia Hobbs.

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

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

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

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

#### Compliance Date for Registration Under the MMPA

Compliance with the requirement to register with NMFS and to obtain an authorization certificate is not required until January 1, 2004, for fisheries elevated to Category II in this final rule. These fisheries are: Gulf of Mexico gillnet fishery; California yellowtail, barracuda, white seabass, tuna drift gillnet fishery; and both the Mid-Atlantic mixed species trap/pot fishery and the U.S. Mid-Atlantic and Southeast U.S. Atlantic black seabass trap/pot fishery, which will be combined with the Northeast trap/pot fishery in the newly-defined Atlantic mixed species trap/pot fishery for the 2003 LOF. The above mentioned fisheries are considered to be Category II fisheries on August 14, 2003, and are required to comply with all requirements of Category II fisheries (*i.e.*, complying with applicable take reduction plan requirements and carrying observers, if requested), other than the registration requirement, on that date.

#### 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 (16 U.S.C. 1387(c)(1)). The categorization of a fishery in the LOF determines whether participants in that fishery may be

required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

#### How Does NMFS Determine in Which Category a Fishery Is Placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized in the response to comment 1 in the preamble below.

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

#### How Do I Register?

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

#### What Is the Process for Registering in an Integrated Fishery?

For some fisheries, NMFS has integrated the MMPA registration process with existing state and Federal fishery license, registration, or permit systems and related programs. Participants in these fisheries are automatically registered under the MMPA and are not required to submit registration or renewal materials or pay the \$25 registration fee. Following is a list of integrated fisheries and a

summary of the integration process for each Region. Fishers who operate in an integrated fishery and have not received registration materials should contact their NMFS Regional Office listed in the first paragraph of **SUPPLEMENTARY INFORMATION**.

#### **Which Fisheries Have Integrated Registration Programs?**

The following fisheries have integrated registration programs under the MMPA:

1. all Alaska Category II fisheries;
2. all Washington and Oregon Category II fisheries;
3. Northeast Regional fisheries for which a state or Federal permit is required. Individuals fishing in fisheries for which no state or Federal permit is required must register with NMFS by contacting the Northeast Regional Office (see **ADDRESSES**); and
4. all North Carolina, South Carolina, Georgia, and Florida Category II fisheries for which a state permit is required.

#### **How Do I Renew My Registration Under the MMPA?**

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

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

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

submit reports can be found in 50 CFR 229.6.

#### **Am I Required To Take an Observer Aboard My Vessel?**

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

#### **Am I Required To Comply With Any Take Reduction Plan Regulations?**

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

#### **Sources of Information Reviewed for the 2003 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 stranding 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.

The information contained in the SARs is reviewed by regional scientific review groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and the Caribbean. 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, stock structure, uncertainties in the science, research needs, and other issues.

The LOF for 2003 was based on information provided in the final SARs for 1996 (63 FR 60, January 2, 1998), the final SARs for 2001 (67 FR 10671, March 8, 2002), and the draft (67 FR 19417, April 19, 2002) and final (68 FR 17920, April 14, 2003) SARs for 2002.

#### **Comments and Responses**

NMFS received 16 comment letters on the proposed 2003 LOF (68 FR 1414, January 10, 2003) from environmental, commercial fishing, and federal and state agency interests. Issues outside the scope of the LOF are not responded to in this final rule. In particular, there were several comments regarding the SARs that will be handled through future SAR reviews and revisions where

appropriate as SAR revisions undergo separate public review and comment. Typographic errors noted by commenters were corrected where appropriate.

#### **General Comments**

*Comment 1:* Two commenters questioned the appropriateness of the current tier-based fishery classification system in terms of how it distinguishes Category I and II fisheries from Category III fisheries. Both commenters argued that whether a fishery exceeds PBR, and not the percentage of a stock's PBR incidentally killed or seriously injured in a fishery, should be the threshold NMFS uses to distinguish among different fishery classifications given that this is the standard established in the MMPA.

*Response:* NMFS disagrees that PBR should be the threshold used to separate fisheries that result in "frequent" and "occasional" incidental mortality and serious injury from fisheries that have "a remote likelihood of or no known incidental mortality or serious injury of marine mammals." The rationale for this threshold was explained in the proposed rule (60 FR 31666, June 16, 1995) and final rule (60 FR 45086, August 30, 1995) for the management of unintentional taking of marine mammals incidental to commercial fishing operations under section 118 of the MMPA.

The current fishery classification system is based on a two-tiered, stock-specific approach that first addresses the total impacts of all fisheries on each marine mammal stock and then addresses the impacts of individual fisheries on each stock. Tier 1 considers the additive fishery mortality and serious injury for a particular stock, while Tier 2 considers fishery-specific mortality for a particular stock. This approach is based on the rate, in numbers of animals per year, of serious injuries and mortalities due to commercial fishing relative to a stock's PBR level. Under the Tier 1 analysis, if the total annual mortality and serious injury across all fisheries that interact with a stock is less than or equal to 10 percent of the PBR level of such a stock, then all fisheries interacting with this stock would be placed in Category III. Otherwise, these fisheries are subject to the next tier to determine their classification. Under the Tier 2 analysis, those fisheries in which annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the stock's PBR level are placed in Category I, while those fisheries in which annual mortality and serious injury is greater

than 1 percent and less than 50 percent of the stock's PBR level are placed in Category II. Individual fisheries in which annual mortality and serious injury is less than or equal to 1 percent of the PBR level would be placed in Category III. The threshold between Tier 1 and Tier 2 was set at 10 percent of the PBR level based on recommendations that arose from a PBR Workshop held in La Jolla, California in June 1994. The Workshop Report indicated that if the total annual incidental serious injury and mortality level for a particular stock did not exceed 10 percent of the PBR level, the amount of time necessary for that population to achieve the optimum sustainable population level would only increase by 10 percent. Thus, 10 percent of the PBR level for a particular stock was equated to "biological insignificance." This approach ensures that fisheries are categorized based on their impacts on stocks and allows NMFS to focus resources on those fisheries that have more than a negligible impact on marine mammals.

Ultimately, this approach is based on the fact that the MMPA established both a short-term and a long-term goal with respect to take reduction plans for reducing marine mammal mortality and serious injury incidental to commercial fishing operations. MMPA section 118(f)(2) provides: "The immediate goal of a take reduction plan for a strategic stock shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal established for that stock under section 117. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans." NMFS established the tier-based fishery classification system with each goal in mind, and specifically, to ensure that fisheries progressively move toward the long-term goal of the MMPA.

*Comment 2:* One commenter requested that NMFS better describe the information used and the basis for estimating incidental mortality and serious injury of marine mammals, specifically for fisheries where the level of take is uncertain but considered significant.

*Response:* NMFS appreciates this comment and believes that it would be useful to provide a background document that better describes the types of information and methods used to estimate incidental mortality and serious injury of marine mammals and classify fisheries so that the public could better understand the rationale for each fishery classification. NMFS will consider the development of such a document in the future as time and resources permit. Generally, NMFS uses information on incidental mortality and serious injury provided in the annual SARs as the basis for fishery classifications. SARs contain a list of references that demonstrate the published information used and also describe how the data on incidental mortality and serious injury for a given stock were ascertained. NMFS refers the commenter to the SARs for marine mammal stocks in the U.S. Copies of the SARs are available on the NMFS Office of Protected Resource's Web site at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Stock\\_Assessment\\_Program/sars.html](http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html).

*Comment 3:* One commenter recommended that NMFS distinguish between commercial and non-commercial (e.g., recreational, subsistence, personal use) pot fisheries given that non-commercial fisheries may use practices and gear types that result in interactions with marine mammals.

*Response:* NMFS agrees that it is important to address all potential sources of fishery-related incidental mortality and serious injury of marine mammals. Furthermore, the agency understands that there are fisheries in which both commercial and non-commercial fisheries use the same gear and deploy it in the same manner and that both can result in incidental mortality and serious injury of marine mammals. While the MMPA does not currently provide NMFS with the authority to categorize or monitor non-commercial fisheries with respect to marine mammal interactions, NMFS is currently seeking this authority through the administration's proposal to reauthorize the MMPA. Nonetheless, where possible, NMFS has collected information on incidental mortality and serious injury of marine mammals resulting from non-commercial fisheries.

*Comment 4:* One commenter urged NMFS to ensure consistency in methods used from fishery to fishery to determine the true level of incidental mortality and/or serious injury of marine mammals.

*Response:* NMFS agrees with the commenter that applying its methods consistently in the determination of estimates of marine mammal mortality and serious injury incidental to fishing is essential. Through the workshops on Guidelines for Assessing Marine Mammal Stocks (GAMMS) held in 1994 and 1996 and the accompanying GAMMS reports, which are available on the NMFS Office of Protected Resources Web site at [http://www.nmfs.noaa.gov/prot\\_res/PR2/Stock\\_Assessment\\_Program/sars.html](http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html), NMFS has developed guidelines to ensure consistency in the methods used and analysis of information to determine rates of marine mammal incidental mortality and serious injury resulting from fishing.

#### **Comments on Fisheries in the Pacific Ocean**

*Comments on the Alaska Bering Sea and Aleutian Islands (BSAI) Groundfish Longline/Setline Fishery*

*Comment 5:* One commenter stated that NMFS should reclassify the Alaska BSAI groundfish longline/setline fishery as Category II given the level of killer whale takes in the fishery.

*Response:* According to the 2002 SARs, the BSAI groundfish longline/setline fishery incurred an average of 0.8 incidental mortalities/serious injuries of eastern North Pacific northern resident killer whales between 1995 and 1999, or 11 percent of the stock's PBR, which qualifies the fishery as Category II. However, the PBR for this stock is an underestimate because (1) the minimum abundance estimate is based on a count of known individuals rather than an estimate of population size and (2) the abundance estimate does not include resident animals identified during research cruises in the Gulf of Alaska and Bering Sea in 2001–2002. NMFS expects that the minimum population estimate will increase as a result of the recent research. Should the minimum population estimate increase slightly, the PBR level would also increase, and the estimated mortality level incidental to this fishery would not be sufficiently high to trigger its placement in Category II. Therefore, given that the PBR level is likely an underestimate and the incidental mortality and serious injury rate is so close to the threshold between Category II and Category III, NMFS will retain this fishery in Category III at this time.

*Comments on the Hawaii (HI) Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, and Oceanic Sharks Longline/Setline Fishery*

*Comment 6:* One commenter stated that NMFS should reclassify the Hawaii swordfish, tuna, billfish, mahi mahi, wahoo, and oceanic sharks longline/setline fishery as Category I given that takes of false killer whales in the fishery exceed the marine mammal stock's PBR level. The commenter expressed concern that sea turtle regulations that went into effect have not helped reduce marine mammal takes. The commenter also expressed concern about the results of recent abundance surveys for false killer whales.

*Response:* In 2002, NMFS conducted an abundance survey to estimate abundance for marine mammals inhabiting waters off the Hawaiian islands, including areas in which the HI swordfish, tuna, billfish, mahi mahi, wahoo, and oceanic sharks longline/setline fishery operates. NMFS is currently analyzing the results of this survey and will include this information in the Draft Stock Assessment Reports (SARs) for 2004. NMFS will use the updated SARs to re-evaluate the classification of this fishery for the 2004 LOF.

*Comments on the Alaska Crustacean Pot Fishery*

*Comment 7:* One commenter stated that NMFS should divide the Alaska crustacean pot fishery into different components based on variation in geographic area, season, depth, gear type, and interaction with humpback whales to help NMFS determine which element of the fishery is having the greatest number of interactions with humpback whales.

*Response:* The LOF currently groups all Alaska pot fisheries into the "Alaska crustacean pot fishery." However, this fishery does not exist as a single entity in terms of fishery operations or management. Rather, multiple crustacean fisheries target different species over distinct geographic areas and during separate seasons within the exclusive economic zone off Alaska and in state waters on an annual basis. These differences are recognized by NMFS, the North Pacific Fishery Management Council, and the State of Alaska, and are reflected in the numerous management specifications and restrictions captured in regulations promulgated under the Fishery Management Plan for the Bering Sea and Aleutian Islands King and Tanner Crabs and under Alaska state management plans for various crab and other

crustacean fisheries, including shrimp, in state waters.

Additionally, Alaska crustacean fisheries are known to result in incidental mortality and serious injury of marine mammals in some areas (e.g., Southeast Alaska), but not in others (e.g., the Bering Sea). For purposes of future Lists of Fisheries, all crustacean fisheries in Alaska will be reviewed for correct delineations to accurately reflect existing fishery management regimes. Based on this review, NMFS will propose adjustments to this and other Alaska fisheries and will reevaluate data on marine mammal interactions in these fisheries accordingly for the 2004 LOF.

*Comment 8:* Two commenters felt that NMFS should reclassify the Alaska crustacean pot fishery as Category I or II based on its level of interactions with humpback whales. The commenters felt the inability to determine the specific fishery that entangled humpback whales should not make it impossible to classify the fishery as Category I or II and stated that design of the fishing gear should be sufficient.

*Response:* See response to Comment 7. The inability to determine the fishery in which the entanglements occurred does not prevent NMFS from classifying fisheries. NMFS regulations at 50 CFR 229.2 provide that the Assistant Administrator will, in the absence of reliable information, determine whether the incidental serious injury or mortality is "occasional" by evaluating other factors such as fishing techniques, gear used, seasons and areas fished, and the species and distribution of marine mammals in the area.

NMFS has not reclassified this fishery at this time because, in addition to more appropriately delineating the Alaska crustacean pot fishery and looking at marine mammal incidental mortality and serious injury rates within different sectors of the fishery, the agency is currently evaluating the stock structure of Central North Pacific humpback whales. We will take this comment into consideration as we further define stock structure of Central North Pacific humpback whales as well as consider separating and reclassifying portions of the Alaska crustacean pot fishery, if appropriate, for the 2004 LOF.

*Comment 9:* One commenter noted that the Central North Pacific stock of humpback whales should be added to the list of stocks that interact with the Alaska crustacean pot fishery given that NMFS mentioned in the text of the proposed rule that it is currently evaluating interactions between this stock and the fishery.

*Response:* NMFS will add the Central North Pacific stock of humpback whales

to the list of stocks that interact with this fishery.

*Comments on the BSAI Groundfish Trawl Fishery*

*Comment 10:* NMFS received comments supporting and opposing reclassification of the BSAI groundfish trawl fishery from Category III to Category II. One commenter in favor of the reclassification stated that it is more appropriate to reclassify the fishery as Category I given uncertainty concerning the level of interactions occurring between the fishery and North Pacific humpback whales. One commenter opposed to reclassifying the fishery questioned the quality of the data on which NMFS based this decision as well as the appropriateness of double-counting humpback whales between the Western and Central North Pacific stocks. This commenter also requested that NMFS divide the fishery into smaller components given the sheer size and diversity of the fishery.

*Response:* Where there is considerable uncertainty regarding to which stock a serious injury or mortality should be assigned, NMFS exercises a conservative approach of assigning the serious injury or mortality to both stocks. Clearly, if information were available regarding the location of take, genetics of the animal taken, or other information that would conclusively link mortality to a specific stock, NMFS would use it to assign the take to a specific stock. In the meantime, the agency will review the serious injuries and mortalities incidental to this fishery to determine whether any of the takes of concern can be conclusively linked to a specific stock.

As with the Alaska crustacean pot fishery, this comment highlights the fact that a single BSAI groundfish trawl fishery, as currently listed in the annual LOF, does not exist as one homogenous fishery in terms of fishery operations or management, but rather, as a diverse group of fisheries that use different trawl gear types and target different groundfish species over distinct geographic areas and during different seasons within the Bering Sea on an annual basis. These fisheries are currently managed as separate entities. For instance, the BSAI groundfish trawl fisheries are managed by gear type (including pelagic and non-pelagic trawl gear), by target species (including pollock, Pacific cod, Atka mackerel, and various flatfish and rockfish complexes), and by geographic regions within the BSAI. These differences are recognized by NMFS and the North Pacific Fishery Management Council and are reflected in the numerous management

specifications and restrictions captured in regulations promulgated under the Fishery Management Plan for the Bering Sea and Aleutian Islands.

Additionally, sectors within these fisheries are recognized by statute (the American Fisheries Act) and regulatory management measures endorsed by the North Pacific Fishery Management Council and implemented by NMFS. Such sectors include the head and gut sector of each of the Pacific cod and Atka mackerel trawl fisheries, and the catcher/processor and inshore processor sectors, as well as their associated catcher vessel fleets. In some cases, these sectors also comprise legally defined co-operatives. Distinct management measures for these recognized fisheries include separate harvest restrictions by time and area based on target species, non-target groundfish bycatch, and prohibited species catch, as well as time and area closures based on marine mammal management measures. These distinct fisheries are further recognized in several Biological Opinions promulgated under Section 7 of the Endangered Species Act and in Environmental Impact Statements on the fisheries promulgated under the National Environmental Policy Act.

There is a likelihood that the incidental mortality and serious injury of marine mammals varies among BSAI groundfish trawl fisheries, based on gear type, time and area of operations, and target groundfish species. For this and all the above reasons, NMFS will not reclassify the fishery designated as the "BSAI groundfish trawl fishery" as Category II in the 2003 LOF. Rather, NMFS will propose fishery delineations within this fishery that accurately reflect the existing fishery management regimes for the BSAI groundfish trawl fisheries, and will analyze rates of marine mammal incidental mortality and serious injury within these new delineations accordingly, for the 2004 LOF.

A one year delay in this process will not adversely affect NMFS' ability to monitor marine mammal interactions with this fishery, because, although currently in Category III, these fisheries already carry a minimum of 30 percent observer coverage for vessels 60 ft. (18.3 m.) length overall (LOA) and over, and a vast majority of the participating vessels maintain 100–200 percent observer coverage by regulation for purposes of fisheries management.

Additionally, there are other Federal and state fisheries listed in the LOF that warrant similar review for similar reasons. Therefore, for purposes of the List of Fisheries, all Federal and state

fisheries in Alaska will be reviewed for correct delineations to accurately reflect the existing fishery management regimes for the 2004 LOF.

*Comment 11:* One commenter stated that NMFS should reassess its methods to monitor the Alaska BSAI groundfish trawl fishery to ensure that observer coverage is appropriately distributed to monitor humpback whale takes.

*Response:* NMFS believes that the level and distribution of observer coverage in the BSAI groundfish trawl fishery is sufficient to monitor marine mammal interactions, including those involving humpback whales, and to identify issues of concern. Currently, there is a requirement for 100-percent observer coverage of vessels in this fishery that exceed 124 ft. (37.8 m.) LOA. In some cases, pursuant to the American Fisheries Act and Community Development Quota programs, 200-percent observer coverage is required on vessels that exceed this length. For vessels between 124 ft. (37.8 m.) and 60 ft. (18.3 m.) LOA, 30 percent observer coverage is required. Observers are not required on catcher vessels that deliver codends to catcher processors or motherships or on vessels less than 60 ft. (18.3 m.) LOA.

NMFS' Alaska Regional office is currently working with the North Pacific Fishery Management Council to review the issue of appropriate observer coverage in federal groundfish fisheries, as well as halibut fisheries. All vessel categories in these fisheries, including those not currently required to carry observers, will be reviewed over the next several years to assess appropriate observer coverage levels for a suite of management and scientific needs.

*Comment 12:* One commenter requested that NMFS clarify whether harbor seals or harbor porpoises should be removed from the list of species incidentally killed/seriously injured in the BSAI groundfish trawl fishery.

*Response:* NMFS clarifies that in the proposed rule for the 2003 List of Fisheries the agency proposed to remove Gulf of Alaska (GOA) harbor seals from the list of species interacting with the BSAI groundfish trawl fishery. Reevaluation of existing data on incidental mortality and serious injury, together with information on the BSAI groundfish trawl fishery, confirms that the range of the GOA harbor seal stock overlaps with the BSAI groundfish trawl fishery. Therefore, NMFS will retain this stock on the list of species interacting with the BSAI groundfish trawl fishery. The proposed deletion of the GOA harbor seal in this case was in error.

#### *Comments on Alaska Cook Inlet Salmon Drift and Set Gillnet Fisheries*

*Comment 13:* Some commenters stated that reclassifying the Alaska Cook Inlet salmon drift and set gillnet fisheries as Category III is premature given that a decrease in observed interactions is likely due to declining numbers of Cook Inlet beluga and that reclassification should be based on estimated takes, not observed takes. Commenters recommended the fisheries be kept in Category II with continued observer coverage.

*Response:* NMFS has determined that classification of the Alaska Cook Inlet salmon set gillnet fishery as a Category III fishery is appropriate based on the lack of any observed serious injuries or mortalities of marine mammals in that fishery after two consecutive years of observer coverage that occurred from 1999–2000. In contrast, analysis completed since the proposed rule was published indicates that one mortality of harbor porpoise in the Cook Inlet salmon drift gillnet fishery in 2000 extrapolates to a mortality estimate of 27 animals in 2000, or an average of 13.5 per year for 1999 and 2000. This level of incidental mortality and serious injury is adequate to retain the Cook Inlet salmon drift gillnet fishery in Category II. Therefore, NMFS will retain this fishery as Category II.

NMFS agrees that when classifying a fishery based on observer data, observed serious injuries and mortalities should be extrapolated to estimate the total level of incidental serious injury and mortality in that fishery. Observed levels of incidental mortality and serious injury were used previously only because the analysis for extrapolation had not yet been completed. The observed levels of serious injury and mortality indicated a Category II classification was appropriate, and the extrapolated estimate still supports this.

*Comment 14:* One commenter requested that NMFS clarify what it was proposing with respect to the AK Cook Inlet salmon drift gillnet fishery.

*Response:* NMFS clarifies that it initially proposed to reclassify the AK Cook Inlet salmon drift gillnet fishery as Category III. Upon further analysis of 2000 data, NMFS will retain this fishery as Category II in the 2003 LOF (see response to Comment 13 above).

#### *Comments on the California (CA) Yellowtail, Barracuda, White Seabass, and Tuna Drift Gillnet Fishery*

*Comment 15:* One commenter expressed support for the addition of the CA yellowtail, barracuda, white

seabass, and tuna drift gillnet fishery as a Category II fishery.

*Response:* NMFS agrees and has added the fishery to the LOF as a Category II fishery.

*Comment 16:* One commenter recommended that NMFS address this fishery under the Pacific Offshore Cetacean Take Reduction Plan (POCTRP).

*Response:* NMFS believes that it is premature at this point to include this fishery as part of the POCTRP because this fishery has little known interaction with marine mammals. In an effort to better assess this fishery's potential to entangle marine mammals and to determine the species of marine mammals, if any, that are incidentally killed or seriously injured in this fishery, NMFS began placing observers on a small number of vessels participating in this fishery beginning in summer 2002. NMFS will use the information collected through this observer program to re-evaluate the categorization of this fishery in the 2004 LOF and to reassess whether this fishery should be subject to the POCTRP.

*Comments on the California/Oregon (OR) Thresher Shark/Swordfish Drift Gillnet Fishery (>14 in. mesh)*

*Comment 17:* Several commenters supported reclassification of the CA/OR thresher shark/swordfish drift gillnet fishery from Category I to Category II.

*Response:* NMFS agrees and has reclassified the fishery from Category I to Category II.

*Comment 18:* One commenter stated that reclassification of the CA/OR thresher shark/swordfish drift gillnet fishery from Category I to II is premature given the level of sperm whale takes that occur in the fishery.

*Response:* NMFS does not believe that it is premature to reclassify the CA/OR thresher shark/swordfish drift gillnet fishery from Category I to Category II. This fishery fits the criteria that were developed for defining a Category II fishery. These fishery classification criteria, which were subject to review and comment in 1995, consist of a two-tiered, stock specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. Thus, a fishery that interacts with several marine mammal stocks can still be classified as a Category II fishery if the annual mortality and serious injury of each of these marine mammal stocks is greater than 1 percent but less than 50 percent of each stock's PBR level. This is the case for the CA/OR thresher shark/swordfish drift gillnet fishery,

thus NMFS is reclassifying this fishery as a Category II fishery.

*Comment 19:* One commenter supported reclassification of this fishery from Category I to II, but urged NMFS to maintain observer coverage in the fishery given the history of marine mammal takes in the fishery, the uncertainty of the long-term efficacy of pingers, and the levels of sperm whale takes in the fishery.

*Response:* NMFS will maintain observer coverage in this fishery to continue to monitor the effectiveness of the POCTRP and to ensure the appropriate categorization of the fishery.

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

*Comments on the Mid-Atlantic Coastal Gillnet Fishery*

*Comment 20:* One commenter noted that reclassification of the Mid-Atlantic coastal gillnet fishery as a Category I fishery is appropriate based on the level of incidental mortality and serious injury of Western North Atlantic coastal bottlenose dolphins in this fishery.

*Response:* NMFS agrees and has reclassified the fishery as Category I as proposed.

*Comments on the Gulf of Mexico Gillnet Fishery*

*Comment 21:* One commenter supported reclassification of the Gulf of Mexico gillnet fishery as Category II but said that, based on documented interactions with bottlenose dolphin stocks, the complexity of the stocks themselves, and the current scant level of monitoring in this fishery, a Category I classification would be more appropriate for this fishery.

*Response:* NMFS believes that data uncertainties regarding marine mammal interactions in this fishery and bottlenose dolphin stock structure, as well as the declining level of gillnet fishing activity in the Gulf of Mexico, support a Category II classification. If new information indicates that take rates relative to population status are higher than currently estimated such that a Category I classification is warranted, NMFS would propose such a reclassification in the future.

*Comment 22:* One commenter stated that NMFS should separate the Gulf of Mexico king and Spanish mackerel gillnet fisheries from the rest of the Gulf of Mexico gillnet fisheries and retain mackerel gillnet fisheries in Category III because of the lack of evidence of bottlenose dolphin takes in this portion of the fishery.

*Response:* Because NMFS relies primarily on strandings data for

information about incidental marine mammal mortality and serious injury in the Gulf of Mexico, it is often difficult to attribute stranded marine mammals that show clear signs of gear interaction to a specific portion of a fishery. Nonetheless, NMFS' observer data from the Mid-Atlantic and South Atlantic show that mackerel gillnet fisheries have resulted in entanglement of bottlenose dolphins. In addition, the Atlantic SRG recommended that NMFS use its discretion under 50 CFR 229.2, which enables the Assistant Administrator to evaluate factors including, but not limited to fishing techniques and gear used, to classify all gillnet fisheries as at least Category II given that observer data clearly show incidental mortality and serious injury of marine mammals where gillnet fisheries occur.

*Comments on the Gulf of Mexico Menhaden Purse Seine Fishery*

*Comment 23:* One commenter stated that the Gulf of Mexico menhaden purse seine fishery should be listed as Category I based on information in the 1999 SAR, which indicates that fishery-related mortality and serious injury from this fishery exceeds PBR for the Gulf of Mexico bay, sound, and estuarine stocks of bottlenose dolphins. The commenter recommended that NMFS institute an observer program to obtain better information on this fishery.

*Response:* With regard to reclassifying this fishery as Category I, NMFS responded to this request in the 1999 LOF (see Comment/Response 14 in 64 FR 9067, February 24, 1999), and the same rationale applies. In summary, because of the lack of certainty regarding stock structure of the Gulf of Mexico bay, sound and estuarine bottlenose dolphins and the lack of observer coverage to accurately estimate fishery-related mortalities in this fishery, NMFS is retaining this fishery as Category II at this time. NMFS is currently investigating stock structure of Gulf of Mexico bottlenose dolphins in order to better define these stocks in the future.

Also, as stated when this fishery was originally elevated to Category II status, this fishery coincides principally with the coastal stocks of bottlenose dolphins in the Gulf of Mexico. The original change in classification was based on PBR for Gulf of Mexico coastal stocks. NMFS agrees that more current observer data are necessary.

*Comments on the Atlantic Mixed Species Trap/Pot Fishery*

*Comment 24:* One commenter supported inclusion of various Category

III trap/pot fisheries into a new generic trap/pot listing in Category II.

*Response:* NMFS agrees and the generic Category II "Atlantic mixed species trap/pot" fishery has been established.

*Comment 25:* One commenter stated that the newly-defined Atlantic mixed species trap/pot fishery should be addressed under the Atlantic Large Whale Take Reduction Plan (ALWTRP) and Harbor Porpoise Take Reduction Plan (HPTRP).

*Response:* NMFS added representatives of this fishery complex to the Atlantic Large Whale Take Reduction Team (ALWTRT) and raised this issue at the ALWTRT's meeting in April 2003. NMFS will be working with the ALWTRT to incorporate measures to address this fishery in the ALWTRP. With regard to the HPTRP, NMFS is not aware of any harbor porpoise interactions with trap/pot gear in recent years. The harbor porpoise (Gulf of Maine/Bay of Fundy stock) was listed as interacting with the fish trap/pot fisheries in the Northeast in the original LOF in 1989. However, NMFS is reevaluating that information during a review of older entanglement data and plans to update the list of interacting stocks in a future LOF based on a review of all available data. Based on data currently available, it is not appropriate to address trap/pot fisheries under the HPTRP at this time, although gillnet fisheries used to obtain bait for these fisheries may already be regulated under the HPTRP.

*Comment 26:* One commenter stated that NMFS provided no scientific justification for classifying the Atlantic mixed species trap/pot fishery as Category II other than "by analogy." The commenter objected to the imposition of registration costs that this classification would have on fishermen.

*Response:* Classification by analogy refers to the exercise of administrative discretion using relevant information such as fishing techniques, gears used, and stranding data, as described in the definition of a Category II fishery included in the final rule for the Section 118 implementing regulations (60 FR 45086, August 30, 1995, codified at 50 CFR 229.2) to determine whether a fishery results in "occasional" incidental mortality and serious injury of marine mammals.

The generic Northeast trap/pot fishery is already a Category II fishery pursuant to the 2001 LOF. For the 2003 LOF, NMFS has combined the generic Category III trap/pot fisheries in the Mid-Atlantic and Southeast with the generic Category II Northeast trap/pot fishery and redefined the fishery as the

Atlantic mixed species trap/pot fishery. The new Atlantic mixed species trap/pot fishery is appropriately classified as Category II based on known entanglement of cetaceans and pinnipeds in this gear type. The presence of trap/pot gear in areas and at times when these marine mammals are present is likely to result in occasional incidental mortality or serious injury of marine mammals.

Since implementation of the 2002 LOF, NMFS automatically registers all Atlantic fishers with current state or federal fishing permits for fisheries designated as Category I or II and has waived the registration fee for the Marine Mammal Authorization Permit. Therefore, there will be no economic burden associated with registration under the MMPA.

*Comment 27:* One commenter concurred with classifying Atlantic pot fisheries at least at the Category II level given that they include gears already known to incidentally take marine mammals. However, the commenter thought that Category I would be a more appropriate classification and said a lower Category is not warranted simply because the operation of Southeast trap/pot fisheries does not overlap with right whale distribution. The commenter said these fisheries entangle other species such as bottlenose dolphins and other small cetaceans and noted that this information was not provided in the LOF when justifying categorization of the fishery.

*Response:* Although the definition of a Category II fishery in 50 CFR 229.2 provides that NMFS may use a number of factors in determining whether incidental serious injury or mortality is "occasional," the definition of a Category I fishery does not provide the same level of flexibility for administrative discretion in determining what is "frequent." If new information becomes available suggesting that takes in the Atlantic mixed species trap/pot fishery results in a rate of incidental mortality or serious injury of 50 percent or greater of the PBR for a marine mammal stock, then it would be appropriate to consider elevation of those fisheries to Category I.

Data indicate that interactions between bottlenose dolphins and the spiny lobster and stone crab trap/pot fisheries in the Atlantic, Caribbean and Gulf of Mexico are rare. Additionally, NMFS has no data regarding interactions between bottlenose dolphins and other trap/pot fisheries in the Southeast or Mid-Atlantic. NMFS will continue to define and evaluate other trap/pot fisheries in the Atlantic, Caribbean, and Gulf of Mexico and

consider whether to reclassify them based on incidental mortality and serious injury of marine mammals in the 2004 LOF.

*Comments on the Atlantic Ocean, Caribbean, Gulf of Mexico Large Pelagics Longline Fishery*

*Comment 28:* One commenter stated that NMFS should update the lists of species incidentally killed or seriously injured in the Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery based on data presented in the 2002 Stock Assessment Reports. The commenter specifically identified species that NMFS should review.

*Response:* Unlike the SARs, which focus on the most recent 5 years of data, the list of marine mammals incidentally killed or seriously injured in a given fishery in the LOF often includes all species or stocks known to experience mortality or serious injury in a given fishery and may also include species for which there are anecdotal or historical, but not necessarily current, records of interaction based on a variety of data types (e.g., logbooks, strandings data, observer data). This helps the agency better understand the nature and types of interactions that occur in each fishery. NMFS plans to evaluate how best to present historical versus current data on marine mammal-fishery interactions in future Lists of Fisheries and will make any necessary changes in the LOF tables once that evaluation is complete.

*Comment 29:* One commenter suggested that NMFS subdivide the pelagic longline fishery into three regional fisheries in the LOF to reflect variations in geographic region, target species, vessel size, area-specific regulations, and time of year. The commenter noted specifically that the Atlantic portion of the longline fishery should be divided into northern and southern components with a boundary line at Cape Hatteras, North Carolina.

*Response:* NMFS appreciates the information provided by the commenter on potential subdivisions of the pelagic longline fishery and notes that we addressed similar comments in the final LOF for 1997 (see Comment/Response 37 in 62 FR 33, January 2, 1997), the final LOF for 1999 (see Comment/Response 18 in 64 FR 9067, February 24, 1999), and the final LOF for 2001 (see Comment/Response 16 in 66 FR 42784, August 15, 2001). At this time, however, NMFS is not aware of any information to suggest that there is differential marine mammal incidental mortality/serious injury in the pelagic longline fishery along geographic lines. Therefore, subdivision of this fishery as

the commenter suggests is not appropriate at this time. While subdivision of this fishery along ecosystem lines similar to that done for inshore fisheries may be considered in the future, the analysis to support such a division is not currently available.

NMFS will, whenever possible, define fisheries the way they are defined in federal, regional, or state fishery management programs. This will (1) help NMFS fulfill its statutory obligations by coordinating registration under the MMPA with existing fishery management programs, (2) provide a "common name" for a fishery that can be used by NMFS, fishers, and state and regional fishery managers, and (3) allow NMFS to more easily collect information on fishery statistics, such as the number of participants, target species, length of fishing season, etc.

*Comment 30:* One commenter requested that NMFS add the Western North Atlantic (WNA) pygmy sperm whale to the list of marine mammals incidentally killed or seriously injured in the pelagic longline fishery based on the report of a serious injury of a pygmy sperm whale in this fishery in 2000.

*Response:* NMFS agrees and will add the WNA pygmy sperm whale to the list of marine mammals incidentally taken in this fishery.

#### *Comments on the Gulf of Mexico Blue Crab Trap/pot Fishery*

*Comment 31:* One commenter stated that NMFS should reclassify the Gulf of Mexico blue crab trap/pot fishery at least as Category II and expressed concern that the agency did not provide adequate justification for not reclassifying the fishery.

*Response:* NMFS has decided not to reclassify this fishery in the 2003 LOF because the bottlenose dolphin stock structure in the Gulf of Mexico is not well defined at this time. Additionally, the available data on strandings with signs of crab trap/pot interaction are relatively few in number. Therefore, NMFS believes it is more appropriate to reevaluate this fishery relative to PBRs for bay, sound, and estuarine stocks of bottlenose dolphins when the Gulf of Mexico bottlenose dolphin stock structure is better understood. NMFS is currently investigating the stock structure of bottlenose dolphins in the Gulf of Mexico to better define these stocks in the future.

In the coming year, NMFS will work with the Gulf States Marine Fisheries Commission (GSMFC) and the Sea Grant program to better monitor bottlenose dolphin takes in this fishery, to educate blue crab fishermen about marine mammal interaction issues and ways to

reduce takes in the fishery, and to continue work on the derelict trap/pot removal program, believed to be an important source of marine mammal mortality and serious injury in the fishery. The NMFS Southeast Regional Office will monitor the progress in this fishery closely and reevaluate it for reclassification in the future.

*Comment 32:* Some commenters objected to future consideration of the Gulf of Mexico blue crab trap/pot fishery as Category II given the lack of solid data to support the fishery's reclassification. The commenters expressed particular concern about the lack of scientific rigor of the strandings data used in this analysis.

*Response:* See Comment/Response 31 above. NMFS has decided not to reclassify this fishery at this time and instead will work with the GSMFC and Sea Grant program to educate crabbers about ways to reduce interactions with marine mammals in this fishery.

NMFS believes that strandings data are an important source of information on marine mammal mortality and serious injury in the Gulf of Mexico blue crab trap/pot fishery and has developed a proposal to strengthen strandings programs throughout the Southeast region, including the Gulf of Mexico, to improve data quality in the coming years. NMFS' proposal includes recommendations aimed at ensuring adequate geographic coverage of strandings programs, improving accuracy of strandings data, increasing reporting frequency and response time, facilitating communication between strandings responders and individuals reporting marine mammal takes, ensuring a centralized repository, involving fishermen in gear interaction determinations, and providing guidance to enforcement agents about their role in stranding response. NMFS will reevaluate this fishery in the 2004 LOF.

#### **Summary of Changes to the LOF for 2003**

With the following exceptions, the placement and definitions of U.S. commercial fisheries are identical to those provided in the LOF for 2002. The following summarizes changes in fishery classification, fishery name, fisheries listed on the LOF, number of participants in a particular fishery, and the species and/or stocks that are incidentally killed or seriously injured in a particular fishery, that are revised in the 2003 LOF.

#### **Commercial Fisheries in the Pacific Ocean**

##### *Fishery Classification*

The "California/Oregon Thresher Shark/Swordfish Drift Gillnet Fishery ( $\geq$  14 in. mesh)" is moved from Category I to Category II.

The "AK Cook Inlet Salmon Set Gillnet Fishery" is moved from Category II to Category III.

##### *Addition of Fisheries to the LOF*

The "CA Yellowtail, Barracuda, White Seabass, and Tuna Drift Gillnet Fishery (mesh size > 3.5 inches and < 14 inches)" is added to the LOF as a Category II fishery.

##### *Removals of Fisheries from the LOF*

The "CA Shark/Bonito Longline/Set Line Fishery" is removed from the LOF.

##### *Fishery Name and Organizational Changes and Clarifications*

The "CA Angel Shark/Halibut and Other Species Large Mesh (>3.5 in. mesh) Set Gillnet Fishery" is renamed the "CA Angel Shark/Halibut and Other Species Set Gillnet Fishery (>3.5 in. mesh)."

The "CA Longline Fishery" is renamed the "CA Pelagic Longline Fishery."

The "CA/OR Thresher Shark/Swordfish Drift Gillnet Fishery" is renamed the "CA/OR thresher shark/swordfish drift gillnet fishery ( $\geq$ 14 in. mesh)."

##### *Number of Vessels/Persons*

The estimated number of participants in the "AK Bering Sea Aleutian Islands Groundfish Longline/Set Line Fishery" is updated to 148.

The estimated number of participants in the "AK Gulf of Alaska Groundfish Longline/Set Line Fishery" is updated to 1030.

The estimated number of participants in the "AK Bering Sea Aleutian Islands Groundfish Trawl Fishery" is updated to 157.

The estimated number of participants in the "AK Gulf of Alaska Groundfish Trawl Fishery" is updated to 145.

The estimated number of participants in the "AK Bering Sea, Gulf of Alaska Finfish Pot Fishery" is updated to 314.

The estimated number of participants in the "CA Pelagic Longline Fishery" is updated to 30.

The estimated number of participants in the "CA/OR Thresher Shark/Swordfish Drift Gillnet Fishery ( $\geq$ 14 in. mesh)" is updated to 113.

The estimated number of participants in the "WA Puget Sound Region Salmon Drift Gillnet Fishery" is updated to 225.



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

The Northeast Pacific stock of fin whales is added to the list of marine mammal species and stocks incidentally injured or killed in the "AK Bering Sea and Aleutian Islands groundfish trawl fishery" because this stock is known to interact with this fishery and was inadvertently omitted from the list of marine mammal species in the past.

The Central North Pacific stock of humpback whales is added to the list of marine mammal species and stocks incidentally injured or killed in the "Alaska crustacean pot fishery" because of evidence that this stock has interacted with components of this fishery.

The CA coastal stock of bottlenose dolphins is removed from the list of marine mammal species and stocks incidentally injured or killed in the "CA herring purse seine fishery."

The CA/OR/WA stock of fin whales and the eastern North Pacific stock of gray whales are both added to the list of marine mammal species and stocks incidentally injured or killed in the "CA/OR thresher shark/swordfish drift gillnet fishery (≥14 in. mesh)."

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

*Fishery Classification*

The "Gulf of Mexico Gillnet Fishery" is moved from Category III to Category II.

The "Mid-Atlantic Coastal Gillnet Fishery" is moved from Category II to Category I.

The "Mid-Atlantic Mixed Species Trap/Pot Fishery" and the "U.S. Mid-Atlantic and Southeast U.S. Atlantic Black Seabass Trap/Pot Fishery," formerly Category III fisheries, are combined with the "Northeast Trap/Pot

Fishery," currently Category II, and any other trap/pot fishery gear in the Atlantic that is not included in other trap/pot fisheries specifically identified in the LOF, into the "Atlantic Mixed Species Trap/Pot Fishery." This newly-defined fishery is classified as Category II.

*Addition of Fisheries to the LOF*

See discussion of the "Atlantic Mixed Species Trap/Pot Fishery" above.

*Fishery Name and Organizational Changes and Clarifications*

The "Southeastern U.S. Atlantic, Gulf of Mexico, U.S. Mid-Atlantic Pelagic Hook-and-Line/Harpoon Fishery" is renamed the "Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean Pelagic Hook-and-Line/Harpoon Fishery."

*Number of Vessels/Persons*

The estimated number of participants in the "Southeastern U.S. Atlantic Shark Gillnet Fishery" is updated to 6.

The estimated number of participants in the "U.S. Atlantic Tuna Purse Seine Fishery" is updated to 5.

The estimated number of participants in the "Southeastern U.S. Atlantic, Gulf of Mexico Shark Bottom Longline/Hook-and-Line Fishery" is updated to <125.

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

The Western North Atlantic pygmy sperm whale is added to the list of marine mammal species and stocks incidentally injured or killed in the "Atlantic Ocean, Caribbean, Gulf of Mexico Large Pelagics Longline Fishery" given the report of a serious injury of this stock in this 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 fisher reports. This list includes all species or stocks known to experience injury or mortality in a given fishery, but also includes species or stocks for which there are anecdotal or historical, but not necessarily current, records of interaction. Additionally, species identified by logbook entries may not be verified. Not all species or stocks identified are the reason for a fishery's placement in a given category. There are a few fisheries that are in Category II that have no recently documented interactions with marine mammals. Justifications for placement of these fisheries are by analogy to other gear types that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995), and according to factors listed in the definition of "Category II fishery" in 50 CFR 229.2.

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

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
<b>Category I</b>		
GILLNET FISHERIES: CA angel shark/halibut and other species set gillnet (>3.5 in mesh)	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.
<b>Category II</b>		
GILLNET FISHERIES:		

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
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.
AK Bristol Bay salmon set gillnet .....	1,014	Pacific white-sided dolphin, North Pacific. 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.
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, GOA. 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 gillnet 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.
CA/OR thresher shark/swordfish drift gillnet (≥14 in. mesh) ..	113	Steller sea lion, Eastern U.S. Sperm whale, CA/OR/WA. Dall's porpoise, CA/OR/WA. Fin whale, CA/OR/WA. Gray whale, eastern North Pacific. Northern Pacific white-sided dolphin, CA/OR/WA. Southern 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.
CA yellowtail, barracuda, white seabass, and tuna drift gillnet fishery (mesh size > 3.5 inches and < 14 inches).	24	None documented.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line—Treaty Indian fishing is excluded).	225	Harbor porpoise, WA. Dall's porpoise, CA/OR/WA. Harbor seal, WA inland.
<b>PURSE SEINE FISHERIES</b>		
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.
<b>TRAWL FISHERIES</b>		
AK miscellaneous finfish pair trawl .....	2	None documented.
<b>LONGLINE FISHERIES</b>		
CA pelagic longline .....	30	California sea lion.
OR swordfish floating longline .....	2	None documented.
OR blue shark floating longline .....	1	None documented.
<b>Category III</b>		
<b>GILLNET FISHERIES:</b>		
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. Harbor porpoise, Bering Sea.
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet.	1,922	
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.
<b>PURSE SEINE, BEACH SEINE, ROUND HAUL AND THROW NET FISHERIES:</b>		
AK Metlakatla salmon purse seine .....	10	None documented.
AK miscellaneous finfish beach seine .....	1	None documented.
AK miscellaneous finfish purse seine .....	3	None documented.
AK octopus/squid purse seine .....	2	None documented.
AK roe herring and food/bait herring beach seine .....	8	None documented.
AK roe herring and food/bait herring purse seine .....	624	None documented.
AK salmon beach seine .....	34	None documented.
AK salmon purse seine (except Southeast Alaska, which is in Category II).	953	Harbor seal, GOA.
CA herring purse seine .....	100	California sea lion, U.S. Harbor seal, CA.
CA sardine purse seine .....	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.
<b>DIP NET FISHERIES:</b>		
CA squid dip net .....	115	None documented.
WA, OR smelt, herring dip net .....	119	None documented.
<b>MARINE AQUACULTURE FISHERIES:</b>		
CA salmon enhancement rearing pen .....	>1	None documented.
OR salmon ranch .....	1	None documented.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
WA, OR salmon net pens. ....	14	California sea lion, U.S. Harbor seal, WA inland waters.
<i>TROLL FISHERIES:</i>		
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.
<i>LOGLINE/SET LINE FISHERIES:</i>		
AK Bering Sea, Aleutian Islands groundfish longline/set line (federally regulated waters, including miscellaneous finfish and sablefish).	148	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).	1,030	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.
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. None documented.
WA, OR, CA groundfish, bottomfish longline/set line .....	367	None documented.
WA, OR North Pacific halibut longline/set line .....	350	None documented.
<i>TRAWL FISHERIES:</i>		
AK Bering Sea and Aleutian Islands Groundfish Trawl .....	157	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, Gulf of Alaska. 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. Fin whale, Northeast Pacific.
AK food/bait herring trawl .....	3	None documented.
AK Gulf of Alaska groundfish trawl .....	145	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.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
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.
<i>POT, RING NET, AND TRAP FISHERIES:</i>		
AK Bering Sea, Gulf of Alaska finfish pot .....	314	Harbor seal, GOA. Harbor seal, Bering Sea.
AK crustacean pot .....	1,852	Sea otter, AK. Harbor porpoise, Southeast AK. Humpback whale, Central North Pacific.
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.
<i>HANDLINE AND JIG FISHERIES:</i>		
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. Rough-toothed dolphin, HI.
HI tuna .....	144	Bottlenose dolphin, HI. Hawaiian monk seal.
WA groundfish, bottomfish jig .....	679	None documented.
<i>HARPOON FISHERIES:</i> CA swordfish harpoon .....	228	None documented.
<i>POUND NET/WEIR FISHERIES:</i>		
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.
<i>BAIT PENS:</i> WA/OR/CA bait pens .....	13	None documented.
<i>DREDGE FISHERIES:</i> Coastwide scallop dredge .....	108	None documented.
	(12 AK)	
<i>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</i>		
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 squidding, 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.
<i>COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:</i>		

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
AK, WA, OR, CA commercial passenger fishing vessel .....	>7,000 (1,107 AK)	None documented.
HI "other" .....	114	None documented.
LIVE FINFISH/SHELLFISH FISHERIES: CA finfish and shellfish live trap/hook-and-line.	93	None documented.

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

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

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

<i>GILLNET FISHERIES:</i> Mid-Atlantic coastal .....	>655	Humpback whale, Gulf of gillnet Maine. 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.
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.
<i>LOONGLINE FISHERIES:</i> 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. Pygmy sperm whale, WNA.
<i>TRAP/POT FISHERIES:</i> 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.
<i>TRAWL FISHERIES:</i>		

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 killed/injured
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.
<b>Category II</b>		
<i>GILLNET FISHERIES:</i>		
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.
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 .....	(1)	None documented.
Southeast Atlantic gillnet .....	779	Bottlenose dolphin, WNA coastal.
Southeastern U.S. Atlantic shark gillnet .....	6	Bottlenose dolphin, WNA coastal. North Atlantic right whale, WNA. Atlantic spotted dolphin, WNA.
<i>TRAWL FISHERIES:</i>		
Atlantic herring midwater trawl (including pair trawl) .....	17	Harbor seal, WNA.
<i>TRAP/POT FISHERIES:</i>		
Atlantic blue crab trap/pot .....	>16,000	Bottlenose dolphin, WNA coastal. West Indian manatee, FL.
Atlantic mixed species trap/pot .....	(1)	Fin whale, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. Harbor porpoise, GM/BF.
<i>PURSE SEINE FISHERIES:</i>		
Gulf of Mexico menhaden purse seine .....	50	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal.
<i>HAUL/BEACH SEINE FISHERIES:</i>		
Mid-Atlantic haul/beach seine .....	25	Bottlenose dolphin, WNA coastal. Harbor porpoise, GME/BF.
North Carolina long haul seine .....	33	Bottlenose dolphin, WNA coastal.
<i>STOP NET FISHERIES:</i>		
North Carolina roe mullet stop net .....	13	Bottlenose dolphin, WNA coastal.
<i>POUND NET FISHERIES:</i> Virginia pound net .....		
	187	Bottlenose dolphin, WNA coastal.
<b>Category III</b>		
<i>GILLNET FISHERIES:</i>		
Caribbean gillnet .....	>991	Dwarf sperm whale, WNA. West Indian manatee, Antillean. Harbor porpoise, GME/BF.
Chesapeake Bay inshore gillnet .....	45	Humpback whale, WNA.
Delaware Bay inshore gillnet .....	60	Bottlenose dolphin, WNA coastal. Harbor porpoise, GME/BF.
Long Island Sound inshore gillnet .....	20	Humpback whale, WNA. Bottlenose dolphin, WNA coastal. Harbor porpoise, GME/BF.
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. Harbor porpoise, GME/BF.
<i>TRAWL FISHERIES:</i>		
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.

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 killed/injured
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 .....	(1)	Common dolphin, WNA.
<i>MARINE AQUACULTURE FISHERIES:</i>		
Finfish aquaculture .....	48	Harbor seal, WNA.
Shellfish aquaculture .....	(1)	None documented.
<i>PURSE SEINE FISHERIES:</i>		
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 .....	5	None documented.
U.S. Mid-Atlantic hand seine .....	>250	None documented.
<i>LOGLINE/HOOK-AND-LINE FISHERIES:</i>		
Gulf of Maine tub trawl groundfish bottom longline/hook-and-line.	46	Harbor seal, WNA. Gray seal, Northwest North Atlantic. Humpback whale, WNA. Humpback whale, WNA.
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon.	26,223	
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper- grouper and other reef fish bottom longline/hook-and-line.	>5,000	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	<125	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon.	1,446	None documented.
<i>TRAP/POT FISHERIES:</i>		
Caribbean mixed species trap/pot .....	>501	None documented.
Caribbean spiny lobster trap/pot .....	>197	None documented.
Florida spiny lobster trap/pot .....	2,145	Bottlenose dolphin, Eastern GMX coastal.
Gulf of Mexico blue crab trap/pot .....	4,113	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX Bay, Sound, & Estuarine. West Indian manatee, FL.
Gulf of Mexico mixed species trap/pot .....	(1)	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot.	10	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot.	4,453	None documented.
U.S. Mid-Atlantic eel trap/pot .....	>700	None documented.
<i>STOP SEINE/WEIR/POUND NET FISHERIES:</i>		
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.
<i>DREDGE FISHERIES:</i>		
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.
<i>HAUL/BEACH SEINE FISHERIES:</i>		
Caribbean haul/beach seine .....	15	West Indian manatee, Antillean.
Gulf of Mexico haul/beach seine .....	(1)	None documented.
Southeastern U.S. Atlantic, haul/beach seine .....	25	None documented.



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 killed/injured
<i>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</i>		
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.	(1)	None documented.
<i>COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:</i>		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	None documented.

<sup>1</sup> Unknown.

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

### Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. No comments were received regarding the economic impact of this rule. As a result, no regulatory flexibility analysis was prepared.

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

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

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA (1995 EA). The 1995 EA concluded that implementation of those regulations would not have a significant impact on the human environment. This 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 to 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 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.

Dated: July 9, 2003.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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