pre-launch levels within 1 day of the launch.

### Authorization

Accordingly, NMFS has issued an LOA to AADC authorizing takes of marine mammals incidental to rocket launches at the KLC. Issuance of this LOA is based on findings, described in the preamble to the final rule (71 FR 4297, January 26, 2006) and supported by information contained in AADC's required 2006 annual report, that the activities described under this LOA will result in the take of small numbers of marine mammals, have a negligible impact on marine mammal stocks, and will not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses.

Dated: March 12, 2007.

**James H. Lecky,**

*Director, Protected Resources, National Marine Fisheries Service.*

[FR Doc. E7–4885 Filed 3–16–07; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 021207D]**

### Notice of Availability of Final Stock Assessment Reports

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

**ACTION:** Notice of availability; response to comments.

**SUMMARY:** As required by the Marine Mammal Protection Act (MMPA), NMFS has incorporated public comments into revisions of marine mammal stock assessment reports (SARs). These reports for 2006 are now final and available to the public.

**ADDRESSES:** Electronic copies of SARs are available on the Internet as regional compilations and individual reports at the following address: *http://www.nmfs.noaa.gov/pr/sars/*. You also may send requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments.

Copies of the Alaska Regional SARs may be requested from Robyn Angliss, Alaska Fisheries Science Center, 7600 Sand Point Way, BIN 15700, Seattle, WA 98115.

Copies of the Atlantic Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, NMFS, 8604 La Jolla Shores Drive, La Jolla, CA 92037–1508.

**FOR FURTHER INFORMATION CONTACT:** Tom Eagle, Office of Protected Resources, 301–713–2322, ext. 105, e-mail *Tom.Eagle@noaa.gov*; Robyn Angliss, Alaska Fisheries Science Center, 206–526–4032, email *Robyn.Angliss@noaa.gov*; Gordon Waring, Northeast Fisheries Science Center, email *Gordon.Waring@noaa.gov*; or Jim Carretta, Southwest Fisheries Science Center, 858–546–7171, email *Jim.Carretta @noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, the stock's Potential Biological Removal level (PBR), estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every 3 years for non-strategic stocks. NMFS and FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in each of the three regions.

As required by the MMPA, NMFS updated SARs for 2006, and the revised reports were made available for public review and comment (71 FR 42815, July 28, 2006). The MMPA also specifies that the comment period on draft SARs must be 90 days. NMFS received comments on the draft SARs and has revised the reports as necessary. The final reports for 2006 are available.

### Comments and Responses

At the end of the comment period on October 26, 2005 NMFS received letters from three organizations (Marine Mammal Commission (Commission), Hawaii Longline Association (HLA), and the Humane Society of the United States) and two individuals. Each letter contained more than one comment.

Unless otherwise noted, comments suggesting editorial or minor clarifying changes were included in the reports. Such editorial comments and responses to them are not included in the summary of comments and responses below. Other comments recommended development of Take Reduction Plans or to initiate or repeat large data collection efforts, such as abundance surveys or observer programs. Comments on the need to develop additional Take Reduction Plans are not related to the SARs; therefore, these comments are not included below. Comments recommending additional data collection (e.g., additional abundance surveys or observer programs) have been addressed in recent years. NMFS' resources for surveys or observer programs are fully utilized, and no new large surveys or observer programs may be initiated until additional resources are available or ongoing monitoring or conservation efforts can be terminated. Such comments on the 2006 SARs and responses to them may not be included in the summary below because the responses have not changed. Uncertainties in each of the reports (e.g., age of estimates, large coefficients of variation (CVs), or lack of available data) in each of the affected SARs are clearly indicated.

In some cases, NMFS' responses state that comments would be considered for, or incorporated into, future revisions of the SAR rather than being incorporated into the final 2006 SARs. The delay is due to review of the reports by the regional SRGs. NMFS provides preliminary copies of updated SARs to SRGs prior to release for public review and comment. If a comment on the draft SAR results in a substantive change to the SAR, NMFS may discuss the comment and prospective change with the SRG at its next meeting prior to incorporating the change. Some new events that may affect marine mammal status or take (e.g., the establishment of the Northwest Hawaiian Islands National Monument in 2006) are not included in the 2006 SARs because these reports were initially drafted in the fall of 2005 to begin the internal and SRG review prior to their availability for public review and comment. Such new events would be incorporated in the

next revision of the SARs. In the example of the Northwest Hawaiian Islands National Monument, the draft 2007 SAR for Hawaiian monk seals will include reference to its establishment and the subsequent implications for monk seal status.

*Comments on National Issues*

*Comment 1:* The Commission recommended that NMFS work with Federal and state fisheries management agencies and the fishing industry to develop a fair and sustainable funding strategy to support effective observer programs for collecting information on incidental mortality and serious injury.

*Response:* NMFS established a National Observer Program in 1999 to combine program-specific observer effort for efficiency and to promote sustainable funding for a comprehensive marine resource observer program. The National Observer Program has been working with fishery management agencies and the fishing industry to meet these objectives and will continue to do so. The National Observer Program, in coordination with all six NMFS regions, has initiated development of a National Bycatch Report to compile species- and fishery-specific bycatch estimates for fish, marine mammals, sea turtles, and sea birds. This initiative will incorporate the development of fishery improvement plans to improve the collection of bycatch data and bycatch estimation methodologies. These improvement plans will also provide a comprehensive assessment of resources required to improve bycatch in U.S. commercial fisheries.

*Comment 2:* The Commission recommended that NMFS adjust its guidelines for preparing stock assessment reports to ensure consistent methods for identifying strategic stocks.

*Response:* NMFS revised the guidelines in 2005 to promote such consistency. In the most recent meetings of the three regional SRGs, each SRG recommended a joint meeting to evaluate various aspects of the PBR/SAR process. If the results of the joint SRG meeting suggest another review and revision of guidelines for preparing SARs, NMFS would initiate the process to review and revise the guidelines.

*Comment 3:* Although SARs generally report non-fishery-related mortality from anthropogenic sources, one source, scientific research on marine mammals, is generally not addressed. SARs should include mortality that is attributable to scientific research.

*Response:* Research-related mortality and serious injury is included in the 2007 draft reports in the Alaska and Atlantic regions. The information will be made available to the authors of Pacific SARs beginning with the 2008 reports. Although such reporting is necessary to be fully consistent with the provisions of MMPA section 117, NMFS notes that such mortality or serious injury is rare and is not likely to alter the status of any stock.

*Comment 4:* A number of SARs rely on unpublished information. The guidelines for SARs stipulate that literature used for key aspects of stock assessment should be peer reviewed. Efforts should be made to assure that information reported in SARs comes from published sources and/or to assure that NMFS employees providing this information incorporate it in published reports in the future.

*Response:* This comment misinterprets the guidelines for preparing SARs. The guidelines, which when published in 1995 and revised in 1997, were parts of larger reports of workshops, do not include statements regarding standards for review of information in SARs. Wade and Angliss (1977, Guidelines for Assessing Marine Mammal Stocks: Report of the GAMMS Workshop April 3–5, 1996, Seattle, Washington, NOAA Tech. Mem. NMFS-OPR–12.) included a summary of discussions among NMFS staff, members of SRGs, and representatives of the Commission which noted general agreement that peer-reviewed information was the most reliable and encouraged the use of peer review when possible. However, there is sometimes a trade-off between peer review and freshness of information, and the MMPA requires SARs to be based upon the best available scientific information. Consequently, each new estimate or other key element of a SAR is not necessarily subjected to peer review; however, the methods and analyses that produce the estimates used in SARs should be published in peer-reviewed journals or in a similar forum that is most appropriate, such as a NOAA Technical Memorandum. Merrick (1999, Report of the Joint Scientific Review Group Workshop, April 13–14, 1999, Seattle, Washington, NOAA Tech. Mem. NMFS-NE–154) summarizes additional discussion and agreements on information used in SARs and was in general agreement with Wade and Angliss (1977).

*Comments on Alaska Regional Reports*

*Comment 5:* One comment noted that Steller sea lion abundance and trends are estimated from research occurring at one rookery.

*Response:* Estimates of Steller sea lion abundance trends result from surveys of many haulouts and rookeries throughout the range of the population. For specific lists of which haulouts and rookeries are surveyed, the SAR refers to published reports, such as Fritz and Stinchcomb, 2005 and Loughlin and York, 2000.

*Comment 6:* Use of data acquired through personal communication is discouraged in the GAMMS report, and major issues of management and policy should not be made on the basis of these data. For example, a new boundary for the Western stock of Steller sea lions has been proposed and the citation for active Asian haulouts and rookeries that would fall under a new stock boundary is attributed to an unpublished or reviewed personal communication.

*Response:* NMFS makes every effort to rely on information in peer-reviewed publications and to use unpublished data or ''personal communication'' as little as possible. Further, NMFS replaces ''unpublished data'' or ''personnel communication'' citations with peer reviewed publications as soon as the more substantiated reference is available. However, when peer-reviewed data are unavailable and will not be available in the immediate future, the best scientific information available may sometimes come from personal communication or another non-reviewed source. With regard to changes in the structure of the western Steller sea lion stock, new publications occurred between the draft and final SAR which indicated lack of clarity about the proposed stock boundary between the western stock and a hypothetical Asian stock. The final SAR describes the different analyses and retains the original stock identification.

*Comment 7:* One commenter objected to the removal of fishery self-report information from the commercial fisheries mortalities sections of the SARs. The reports are negatively biased but are as reliable as stranding data which have been retained in the SARs. Fishery self-reports should remain in the SARs.

*Response:* Fishery self-reports are not as reliable as stranding data. Stranding reports are reviewed and assessed to promote correct species identification. Humpback whale stranding reports are reviewed by both agency staff and members of the Alaska SRG prior to inclusion in the SARs. Because the number of self-reports submitted annually has declined drastically, most self-reported mortalities are more than 10 years old. Based on the unreliability and age of available self-report data, NMFS does not include these data in the body of the SARs. However, the data will continue to be reported in an

appendix to the SARs as additional information.

*Comment 8:* In other regions, stocks that are declining set the PBR as ''undetermined'' (e.g., Hawaiian monk seals) or as zero (North Atlantic right whales), because the stocks do not meet the assumptions inherent to calculating a PBR. In the Alaska region several stocks are declining, including the western stock of Steller sea lions and northern fur seals; therefore, it would be precautionary to adopt the same practice as other regions (note that the Alaska region has set the Cook Inlet beluga whale PBR as ''undetermined''). This rationale should be used for all stocks in which declines are apparent, even if the declines are not a result of anthropogenic mortality.

*Response:* In the Alaska SARs, a case-by-case approach is taken when assessing whether the PBR should be set to ''undetermined'' for a declining stock. For the Cook Inlet beluga stock, setting the PBR to ''undetermined'' was appropriate because the stock has been at a critically low abundance (2005 abundance of 278) for several years and the stock shows no signs of recovery, even after initiating very conservative management of the subsistence harvest, which was the largest source of human-related mortality.

The western stock of Steller sea lions is currently at a low level relative to the historical size of the population, but the number of animals (47,885) is substantially larger than the abundance of the Cook Inlet beluga whale stock, and the ability of the population to sustain some level of human-related impact is larger. Further, it is no longer clear that the population remains in decline. While the population was clearly in decline until 2000, recent estimates in 2002 and 2004 may indicate that the population may have stabilized. Thus, it is not necessary to set the PBR level as ''undetermined'' as a precautionary management step.

The northern fur seal population is currently declining, but is very large. Human-related mortality or serious injury does not contribute substantially to the decline. However, northern fur seals, with an abundance estimate of 721,935, are one of the most abundant marine mammals in Alaska. Thus, it is not necessary to set the PBR level as ''undetermined'' as a precautionary management step.

*Comment 9:* Previous stock assessments have provided point estimates for native subsistence harvest, as well as upper and lower estimates based on bounds of confidence. Given the low precision of these estimates, this information should be included so that reviewers may gauge the possible range of impacts.

*Response:* Several years ago, NMFS received a recommendation to remove the upper and lower estimates for the subsistence harvest of all stocks because, for most stocks, this information is not available. For the stocks where this information is available, the reliability of the information is unknown. In all cases, the primary literature where this information can be found is cited. More detailed information is contained in the references cited in the SARs.

*Comment 10:* Data provided in the draft recovery plan for Steller sea lions indicated that the trend in pup counts for the Western stock was not uniform and that declines were still occurring at some key trend sites. This information should be included in this stock assessment.

*Response:* Data from the draft recovery plan will be included in the draft 2007 Steller sea lion SARs.

*Comment 11:* The slightly upward trend in subsistence harvest of Western Steller sea lions, which is approaching PBR and may exceed it, given the likely margin of error, is of concern.

*Response:* NMFS agrees that mortality and serious injury of Steller sea lions approaching PBR are of concern and continues a dialog with Alaska Native subsistence users through the co-management process.

*Comment 12:* One commenter objected to the elimination of age and sex of sea lions killed in native subsistence hunts. It remains unclear why the NMFS proposed to delete this information. The MMPA provides for the SRG to advise on issues of uncertainty relative to mortality of animals in certain age and sex classes. Having this information in the SARs makes the discussion easier and more transparent.

*Response:* NMFS eliminated this information upon consultation with the Alaska SRG because sex and age class information was of little value without modeling to put the information into the context of the stock's population dynamics. The additional information is available in the references cited in the SAR.

*Comment 13:* One commenter objected to a clause in the SAR for the Western stock of Steller sea lions (‘‘ if the population is still declining''). The statement is unnecessary and provides a misleading impression of the stock's status. NMFS should be precautionary in its assessments.

*Response:* Given the recent counts of Steller sea lions, it is no longer clear that the abundance is still in decline. The statement ''if the population is still declining'' is an accurate reflection of the current uncertainty in the trend.

*Comment 14:* Because the population trajectory for the Eastern stock of Steller sea lions differs in a portion of its range (e.g., Central California), NMFS may wish to consider viewing management actions for portions of this stock rather than basing them on the trajectory for the stock as a whole.

*Response:* Separating the central California portion of the eastern stock of Steller sea lions was discussed and ultimately rejected by the Steller sea lion recovery team. At this time, NMFS will retain the animals in central California area in the eastern stock for management purposes. It is not surprising that populations of marine mammals or other species fluctuate in the margins of their ranges.

*Comment 15:* The northern fur seal and Steller sea lion, western stock, SARs state that because the stock ''is declining for unknown reasons that are not explained by the level of direct human-caused mortality, there is no guarantee that limiting those mortalities to the level of the PBR will reverse the decline''. While this may be true, it is also true that limiting the anthropogenic mortalities will prevent them from contributing to the decline. This logic is contradicted by the rationale used in the Cook Inlet beluga SAR which designates an ''undetermined'' PBR. The PBR for fur seals should be undetermined.

*Response:* NMFS explained its rationale for including a PBR for these stocks in the response to comment 8. It is not necessarily true that limiting anthropogenic mortality in a declining stock would prevent such mortality from contributing substantially to the decline.

*Comment 16:* One commenter strongly supports the urgent need to sub-divide harbor seal stocks into discrete management units and expresses disappointment that NMFS has again postponed this decision. These stocks should be re-classified so that each will have appropriate PBR and assessments of trends and status.

*Response:* As in past responses to public comments on the SARs, NMFS reiterates its commitment to work with its co-managers in the Alaska Native community to make recommendations regarding stock structure of harbor seals in Alaska.

*Comment 17:* It is unfortunate that abundance estimates of harbor seals are still calculated based on 1996–2000 surveys and that all, or at least part, of the 2001–2005 surveys data remain unreported in the SAR. That data from 2000 remain unpublished six years after

they are gathered is unfortunate, to say the least.

*Response:* In recent years, analysis of the harbor seal abundance information has been slowed due to a backlog of data and advances in abundance estimate procedures. New estimates for 2001–05 are under development and should be available for inclusion in the draft SARs for 2008.

*Comment 18:* The subsistence harvest data for ice seals (spotted, bearded, ringed, and ribbon) are old and there are no ongoing efforts to collect more recent data. NMFS should include a chart that reports annual subsistence harvests

*Response:* NMFS has insufficient resources to collect information on the subsistence harvest of ice seals on an annual basis. Old information on harvests will be retained as the best available information on harvest levels until more current information becomes available, and the dates of these estimates will be retained so that the underlying uncertainty is obvious. NMFS will consider the inclusion of a chart reporting annual subsistence harvests for future versions of the SARs and after consultation with the SRG.

*Comment 19:* NMFS should remedy the factors leading to its inability to estimate a PBR and assess stock status for all stocks of ice seals. Considering that harvest data are old and ice conditions are deteriorating significantly, it is vital that updated estimates be made.

*Response:* NMFS will pursue the collection of information needed to identify stocks and estimate the PBR levels and harvest data for ice seals when resources are available.

*Comment 20:* It is unclear why NMFS made changes to the Habitat Concerns sections of ice seal SARs that downgrades the assessment of changes in climate from ''drastic'' to ''significant''.

*Response:* This modification to the report should not be interpreted to indicate a difference in the assessed level for effects of climate change. The published literature used to document these specific habitat concerns actually uses the term ''significant'', which is defined and supported quantitatively.

*Comment 21:* The population estimates for the Beaufort Sea, Chukchi Sea, and Eastern Bering Sea beluga whale stocks are substantially and inappropriately outdated, and the stocks are subjected to harvest-related and incidental mortality. These stocks should be considered potentially strategic for these reasons.

*Response:* The SAR for these four stocks of beluga whales are next scheduled for a review and update in 2008, and this comment will be considered at that time.

*Comment 22:* The Cook Inlet beluga whale stock is of considerable concern. We support the adopted precautionary PBR set at ''undetermined'' and believe the stock should be listed as endangered under the Endangered Species Act (ESA).

*Response:* NMFS agrees with the PBR comment. A status review of the Cook Inlet beluga stock is currently underway. The report of the biological information related to their status is available at: http://www.afsc.noaa.gov/Publications/ProcRpt/PR%202006–16.pdf.

*Comment 23:* One commenter supports the precautionary approach used when reducing the Alaska Resident killer whale abundance estimate based on the age of the data.

*Response:* NMFS agrees.

*Comment 24:* The data used for developing the population estimate for Northern Resident killer whale are at least 6 years old. NMFS should update this in the near future and given the low PBR (2), we are concerned about the lack of Canadian fishery mortality information. NMFS should work with Canada to obtain these data.

*Response:* The SAR for the Northern Resident killer whale stock is next scheduled for a review and update in 2008, and this comment will be considered at that time.

*Comment 25:* The abundance and sightings data for AT1 transient killer whale stock are old and should be updated.

*Response:* The abundance of AT1 killer whales is monitored each year by an independent researcher, who is a member of the SRG. The report cites personal communication with that research for an abundance estimate of eight whales in 2004. Since 2004, the researcher's observations have not indicated that the status of the stock has changed or that the status could be assessed more accurately. Therefore, NMFS has not revised the rerport. As new information is presented indicating a change in abundance, NMFS will incorporate such a change in future revisions of the report.

*Comment 26:* The use of an abundance estimate for Pacific white-sided dolphin that is outdated and derived from personal communications is inappropriate. The region has appropriately left the PBR undefined.

*Response:* NMFS agrees.

*Comment 27:* It is inappropriate to re-classify the Pacific white-sided dolphin stock as non-strategic simply because there is no evidence that take exceeds PBR. There is also no evidence that it does not. There is no PBR and no reliable fishery data even though there is acknowledgment that takes are likely to occur in fisheries. The stock should be retained as strategic.

*Response:* NMFS disagrees. Although many of the fisheries that overlap with this stock are observed, and some fisheries are subject to high levels of observer coverage, no mortality or serious injury of Pacific white-sided dolphins has been observed. In addition, there have been no self reports or stranding data indicating that serious injuries or mortalities have occurred. Because the estimated level of serious injury and mortality is zero, this stock should no longer be designated as ''strategic'' despite uncertainty due to age of the abundance estimate.

*Comment 28:* The surveys used for estimating Southeast Alaska harbor porpoise abundance are older than recommended under GAMMS. Re-analyzing these data does not make them new. Therefore the PBR should be undetermined.

*Response:* NMFS recognizes that the estimates for the harbor porpoise stock in southeast Alaska are dated. Setting the PBR level as ''undetermined'' is not necessary as updated abundance estimate for this stock is forthcoming due to surveys conducted in 2006.

*Comment 29:* One commenter agreed that all three stocks of harbor porpoise in Alaska should be classified as strategic.

*Response:* NMFS agrees.

*Comment 30:* Using the region's rationale for classifying Alaska harbor porpoise stocks as strategic, the Alaska stock of Dall's porpoise should also be classified as strategic. The abundance data are old and cannot be used to estimate either a minimum population or PBR. While there are no data to indicate that mortality exceeds PBR, there are no data to indicate that it does not, since PBR is undetermined.

*Response:* Although the abundance estimate is old, the last estimate of this population indicated that the population is very abundant. Further, there is no information that would indicate that the abundance has changed appreciably over the past several years; observer programs on the fisheries overlapping with this stock have not reported substantial incidental mortality or serious injury. NMFS will continue to calculate a PBR for the Alaska stock of Dall's porpoise.

*Comment 31:* The fact that there are no recent estimates of abundance, that PBR is unknown, and that fishery-related mortality could be occurring in all stocks of beaked whales in Alaska (Baird's, Cuvier's, and Stejneger's)

argues for designating these stocks as strategic.

*Response:* NMFS recognizes that the abundance estimates are old and, in consultation with the SRG will consider whether to continue reporting the PBR for these stocks in future reports.

*Comments on Atlantic Regional Reports*

*Comment 32:* We reiterate our belief that data on mortalities of large whales (e.g., humpback, finback and Northern right whale) can be provided on a more timely basis than data on small cetaceans and should be more current than 2004. The need to extrapolate observed mortality of small cetaceans to fleet-wide mortality estimates results in the understandable situation in which small cetacean mortality estimates are only for years up to 2004. But the ''body count'' of ship-struck or entangled large whales needs no such extrapolation and the data should be the most recently available - in this case at least through 2005.

*Response:* A review of entanglement and injury reports is not a straight forward ''body count'' because the evidence has to be evaluated to distinguish between serious and non-serious injury. After each case has been evaluated and a determination made for each injury, the results are subjected to scientific review. This process was not complete when the 2006 draft SARs were completed for review by the SRGs; therefore, the mortality estimates for large whales consist of the latest year of information that has been subjected to evaluation and scientific review. The latest reviewed information will be included as SARs are updated in the future. NMFS will consider changes to this procedure in future meetings with the SRG.

*Comment 33:* For short and long-finned pilot whales, Risso's dolphins and white-sided dolphins, estimates of mortality and other important information have been withheld pending presentation to a take reduction team that met in September 2006. The new verbiage states that the data are undergoing ''scientific review'' which implies review by the SRG. This is not the case, and the language should be changed to reflect that this is solely an internal NMFS review. We assume these data will be incorporated in the next SAR.

*Response:* Reference to the Take Reduction Team has been removed. The new information is expected to be included in the 2007 SARs, and it will have been subjected to scientific review, including the SRG, before the draft is made available for public review and comment.

*Comment 34:* Until new information is available, it is not appropriate to omit older information. Reviewers need to have some estimates on which to base a general understanding of fisheries that interact with the species (e.g., the discussion of various bottom trawl fisheries and incidental mortality of Risso's dolphins and pilot whales). Please reinstate the original omitted verbiage until it can be replaced by newer information.

*Response:* The older numbers were calculated using different analytical methods, and the fisheries have been revised. The old information is not applicable to the new categories, and its inclusion could be confusing and misleading to reinstate the old data. Therefore, NMFS has omitted the older information.

*Comment 35:* We renew our request that NMFS continue its focal efforts to define the boundaries of short-finned and long-finned pilot whales which are taken in multiple fisheries and yet are managed with a single PBR as though they are a single stock. The NMFS has been undertaking analysis of stock boundaries for pilot whales that it is inappropriately managing as a single stock This sort of analysis should be discussed, or at least alluded to in the SAR so that reviewers understand that efforts are underway to appropriately separate the two stocks as was done for harbor seals in Alaska.

*Response:* The SARs were revised to allude to ongoing research activity to identify stock boundaries and assign abundance and mortality accordingly.

*Comments on Pacific Regional Reports*

*Comment 36:* It is inappropriate to remove discussion of various anthropogenic threats to the Southern Resident stock of killer whales as well as mention of this stock's special status in Canada, into which the stock's range extends.

*Response:* The discussion relating to the natural and anthropogenic threats of this stock was included in the report during its status review. When the status under the ESA was changed due to the stock's listing as ''endangered'', the narrative in the ''Status of the Stock'' section became unnecessary.

*Comment 37:* Recent information on gillnet-related mortality of Hawaiian monk seals was not included in the draft stock assessment and a clarification on whether monk seal interactions with gillnets typically involve debris or active gear was requested.

*Response:* No gillnet deaths are listed in the table because none were documented during the 5 years covered in the table. There was one recent pup death (2006), but it is not included in the draft 2007 SAR which covers fishery data through 2005. The reason for this is that preparation of the 2007 draft SAR occurs in late 2006, before complete annual data for 2006 are available. There was a gillnet-related serious injury in 2005 that will appear in the 2007 draft table. Monk seal entanglement in debris, whether the remains of fishing gear or other material, is reported in the section of the report on other human-caused mortality rather than in the fishery mortality section.

*Comment 38:* Personal communications are used as the source of information for mortality of the San Miguel Island stock of northern fur seals from 2001 and 2003. Effort should be made to assure that these sorts of information come from published sources where possible and/or to assure the NMFS employees providing this information incorporate it into published reports for future use.

*Response:* The SAR has been changed to cite Marine Mammal Stranding Network records maintained by NMFS Regional Offices as the source of information for fishery-related strandings. Because this information is meant only as background rather than as an estimate of fishery-caused mortality or serious injury, the information may not be included in a future publication.

*Comment 39:* In the face of evidence that mortality of short-finned pilot whales is occurring (with wide CVs) and the knowledge that this fishing gear is insufficiently monitored, it would be precautionary to consider the stock strategic until more precise abundance and mortality information is available.

*Response:* The assessments explicitly take uncertainties in mortality and abundance estimates into account in a standardized way, consistent with the guidelines developed for assessing marine mammal stocks. The level of uncertainty in mortality and abundance of short-finned pilot whales is within the range of those addressed in these guidelines. Mortality estimates are based on 12–26 percent observer coverage in the Hawaii-based longline fleet. The PBR for the Hawaiian stock of short-finned pilot whales is 65 animals. There was no mortality or serious injury documented within the Hawaiian EEZ during 2000–2004. Therefore, a strategic designation is not warranted.

*Bottlenose Dolphin, California Coastal Stock*

*Comment 40:* NMFS is applying a new methodology for calculating PBR because the stock spends only part of its time in U.S. waters. It appears a portion

of the PBR is allocated to Mexico. The SAR states a correction factor of 0.82 could be used if the population were distributed randomly and then notes that the populations is not distributed randomly. Thus, use of 0.82 as the correction factor seems inappropriate

*Response:* Decreasing PBR for transboundary stocks is not a new methodology, and the method used for this report is consistent with NMFS' guidelines for calculating PBR for stocks that spend only a portion of the time in waters under U.S. jurisdiction. It was first used in 1995 for humpback whales, CA/OR/WA stock. Although the commenter suggested an implicit allocation of PBR to Mexico, PBR is not allocated. Rather, at the end of the year, human-caused mortality is compared to PBR to assess the stock's status (strategic vs. non-strategic). In the case of California coastal bottlenose dolphins, NMFS has no estimate for human-caused mortality outside the U.S. Exclusive Economic Zone and has reduced the PBR so that the effect of human-caused mortality and serious injury in the U.S. is not underestimated. The report states explicitly that the correction factor of 0.82 is applied until sufficient information is available to calculate an appropriate correction. When research yields sufficient information to calculate a more appropriate correction, the newer value will be used. Until then, use of the interim correction provides a better approximation of the effect of human-caused mortality and serious injury in the U.S. than an uncorrected PBR would provide.

*Comment 41:* The stock assessment does not state whether or not estimates of mortality are available from Mexican waters.

*Response:* The stock assessment states that coastal gillnet fisheries exist in Mexico and may take animals from this population, but no details are available. The statement means that estimates of mortality in Mexico are not available. NMFS will continue to seek information on possible fishery interactions with this stock in Mexican waters.

*Comment 42:* Concern was expressed that observer coverage in the halibut set gillnet fishery has been nonexistent to low over the last several years. A clarification of fishery-related mortality for this stock was also requested.

*Response:* A renewed observer program began in the California halibut set gillnet fishery in 2006, which will provide approximately 10 percent observer coverage for this fishery. Fishery-related mortality is included in Table 1 of the stock assessment report, which details one animal that was entangled in 3.5 inch mesh netting from an unknown fishery

Harbor Porpoise, Oregon and Washington Stocks

*Comment 43:* Oregon and Washington harbor porpoise abundance data are from an unpublished source.

*Response:* Oregon and Washington harbor porpoise abundance data from the most recent aerial surveys have not yet been published but will be published in the future. The methodologies and analyses used in these abundance estimates have been peer-reviewed and applied for years.

*Comment 44:* In the report for the Oregon and Washington coast stock, the chart showing fishery-related mortality states that there was ''no fishery'' for the past several years for the Northern Washington marine set gillnet fishery. The text should briefly discuss possible reasons for this.

*Response:* Text has been added to the Oregon/Washington Coast harbor porpoise SAR to discuss the reduction in fishing effort in the Northern Washington marine set gillnet fishery in recent years due to reduced numbers of chinook salmon (a target species) in coastal waters.

*Comment 45:* The SAR for the Washington inland waters stock provides a substantially higher estimate of abundance than in the previous SAR and a much greater minimum population estimate. It would be helpful to discuss possible reasons for this.

*Response:* The abundance of the Washington Inland Waters harbor porpoise stock has increased since the previous survey in 1996. The most recent abundance estimate for this stock is an average of estimates from surveys in 2002 and 2003 and both of these surveys produced very similar results. Calves comprised 10 percent of the counts in 2002 and 2003 compared to 2 percent of the count in 1996, suggesting an increase in reproduction which would provide population growth. During this same time, the percentage of calves in counts of the Oregon/Washington Coast stock of harbor porpoise remained the same (10 percent in both the 1997 and 2002 surveys). Information in the SAR is limited to a reporting of the abundance estimates and does not include the explanation above because NMFS has maintained the SARs as very brief presentations of the information required by the MMPA; interested readers can obtain the literature cited in each SAR for addition details.

False Killer Whales, Hawaii Stock

*Comment 46:* NMFS should explain the limitations and the agency's use of the population data currently available, as well as clarify the discussion of mortality and serious injury attributable to the fishery in the SAR.

*Response:* The population data in the current SAR are used according to established and published guidelines (Wade and Angliss, 1997, and the 2005 revisions to the guidelines, both of which are available on the Internet; see ADDRESSES). Details of the mortality and serious injury attributable to the fishery are provided in the reference cited in the SAR (Forney and Kobayashi). The SARs are intended to summarize results of references related to population status, not reproduce details available in the cited reports.

*Comment 47:* NMFS should provide a range of plausible abundance estimates, minimum population estimates, and PBR levels for false killer whales in the Hawaiian Economic Exclusive Zone (EEZ), similar to the approach used for false killer whales in the Palmyra Atoll EEZ.

*Response:* The estimated range of plausible estimates for the Palmyra Atoll EEZ was previously provided because there were no survey data available for that geographic region. In contrast, there have been multiple surveys (Barlow, 2006, Mobley et al., 2001, Baird et al., 2003, 2005, within waters of the Hawaiian EEZ (one extending throughout the EEZ and the others closer to the Main Hawaiian Islands). All existing data indicate that the population size of false killer whales in Hawaiian EEZ waters is small. When survey data are available, it is always preferable to use the actual data, rather than rely on plausible estimates based on surveys conducted elsewhere. In the 2007 draft SAR the range of plausible estimates for the Palmyra EEZ has accordingly been replaced with the actual estimates of the 2005 shipboard survey in that region.

*Comment 48:* Issue a revised draft SAR, which addresses the concerns expressed in this comment letter, and submit it for meaningful public comment.

*Response:* The comments on this SAR did not warrant revision of the SAR. As new information becomes available, NMFS will update the SAR and solicit public review and comment as required by the MMPA.

*Comment 49:* NMFS should undertake a new population survey that accounts for the known seasonality of false killer whale abundance in the Hawaiian EEZ and the presence of false killer whales near the Main Hawaiian Islands and outside the EEZ.

*Response:* NMFS will continue to conduct population surveys and improve analysis methodology for the

assessment of cetaceans in U.S. waters as resources. However, there is no scientific evidence of seasonality in occurrence of false killer whales within the Hawaiian EEZ (see detailed comments below). During 2005, a survey was completed that provided additional data for estimation of false killer whale abundance in waters of the Hawaiian EEZ, the Palmyra Atoll EEZ, in international waters these two EEZ, and westward to the Johnston Atoll EEZ.

*Comment 50:* NMFS should revise its 1998 guidelines on mortality and serious injury to provide an accurate methodology for assessing the impacts of fishery-related take of false killer whales.

*Response:* NMFS, in conjunction with the Commission, FWS, and representatives of regional SRGs, reviewed and revised its guidelines for preparing SARs in 2003 and issued final revisions in 2005 following public review and comment. The guidelines provide accurate methodologies for evaluating mortality and serious injury of marine mammals incidental to commercial fishing and other sources. The SAR guidelines note that NMFS anticipates periodic review and revision of the SAR guidelines to incorporate new information and experience in implementing the MMPA. Also, see response to comment 4.

*Comment 51:* The numerous flaws in extrapolating from the limited population data available for the Hawaiian stock of false killer whales have been acknowledged for some time.

*Response:* The ''flaws'' alleged in this comment refer to older population data that are not used for the current assessment and are provided in the stock assessment report only as background information. The current abundance estimate, based on the 2002 survey, is not subject to these same limitations, and there is no scientific evidence to suggest that this estimate is biased or is an underestimate of the population size.

*Comment 52:* The population estimate appears to be extrapolated from a single false killer whale sighting made during the 2002 survey, and numerous false killer whales have been sighted in the Main Hawaiian Islands. Consequently, the SAR must acknowledge the high degree of uncertainty and potential for error.

*Response:* The population estimate is based on the overall encounter rate of false killer whales during an extensive 5–month ship survey, according to established line-transect methodology. Although the observation of only one false killer whale sighting during these surveys increases the uncertainty (CV) around the estimate, it is a valid scientific estimate. This uncertainty is clearly stated in the SAR. This comment focuses only on the sighting and does not note the survey effort by well-trained observers using powerful binoculars that produced no additional false killer whale sightings, despite many sightings of other dolphins and whales. The lack of false killer whale sightings through much of the survey indicates that false killer whales are sparsely distributed over a very large area in the Pacific Ocean. Observations of false killer whale sightings around the main Hawaiian Islands include many of the same individuals, seen repeatedly over many years by other researchers. The incidence of resightings in these nearshore waters indicates that the population of false killer whales around the Hawaiian Islands is small.

*Comment 53:* Assuming 236 is the mean for calculating the CV, the estimated population could be anywhere from -30 to 472.

*Response:* The range of populations sizes suggested in this comment is inappropriate. Abundance estimates generally have log-normally distributed errors, and the resulting 90 percent confidence interval of the population estimate, calculated for a CV=1.13, is 44–1,252.

*Comment 54:* NMFS must explain why the abundance and minimum population estimates for Hawaiian false killer whales are lower in the draft SAR than in previous SARs, even though these estimates are based on the same 2002 survey.

*Response:* Following submission of the original analysis as a manuscript for publication in Marine Mammal Science, a reviewer recommended some improvements to the analyses. These improvements were made, and the revised analysis yielded slightly lower estimates. Such an approach is in accordance with standard review procedures. Thus, the lower estimate resulted from an improved analysis of the same survey data.

*Comment 55:* The abundance survey was conducted between August and November, a time of year when false killer whales abundance and pod size is believed to be low. Reliable anecdotal information, confirmed by the results of an analysis by NMFS's Pacific Islands Fisheries Science Center (supporting information was included in the comment), indicates that the Hawaiian stock of false killer whales exhibits seasonal behavior.

*Response:* There is no scientific evidence of seasonality in false killer whale abundance or pod size within the Hawaiian EEZ. In contrast to the comment's claim of seasonality, the information supplied by the commenter states that ''month'' was not a significant factor in the observer data analyzed. In addition, ongoing studies of cetaceans around the main Hawaiian Islands (Baird *et al.*, 2003, 2005, cited in the SAR) have documented false killer whales in nearly all months surveyed, with no evidence of seasonality in their occurrence. Additional published information cited by the commenter indicates seasonal influence on distribution of false killer whales; however, these papers refer to the seasonal occurrence of this tropical species in temperate waters off Japan, Russia and Canada, rather than the tropical waters around Hawaii.

*Comment 56:* Given the difficulties in observing false killer whales, the extreme limitations of the known data, and the seasonal variations in abundance and pod size, extrapolations from the sighting of a single individual, assumed to represent a very modest pod size of 10 individuals, cannot reasonably be supported as a basis for reliable population estimate.

*Response:* MMPA section 117 requires NMFS to prepare marine mammal stock assessment reports that are ''based on the best scientific information available.'' The abundance estimate for false killer whales was based on an extensive ship-board survey designed and conducted by experts in marine mammal population assessment. The survey design and subsequent data analyses were consistent with peer-reviewed, established methods, and the results have been published in the peer-reviewed literature. Accordingly, the estimates presented are based on the ''best scientific information available'', as required by the MMPA.

*Comment 57:* NMFS applied a diving correction factor of 0.76, meaning that NMFS estimates that about 75 percent of false killer whale species should be observable at the surface of the ocean during survey work. False killer whales are a cryptic species that follow schools of prey species, such as tuna. In many cases, commercial fisheries have experienced severe depredation of catch by false killer whales, yet participants in the fishery have not seen signs of the species at the surface of the water. Accordingly, NMFS' assumptions regarding diving behavior are biased and do not reflect the species actual behaviors.

*Response:* NMFS disagrees. The commenter has misunderstood the application and significance of the correction factor of 0.76 applied by

NMFS and is inappropriately comparing observations made by personnel on fishing vessels to observations made by trained marine mammal observers using high-powered binoculars during dedicated marine mammal surveys. The correction factor of 0.76 does not represent the proportion of time animals are at the surface, as suggested by the commenter. Rather, the correction factor accounts for animals that are present on the survey trackline, (that is, during the time the vessel was in sight of the animals, the animals were at the surface at least briefly along the trackline), but not detected by the observer. Although animal behavior is part of the correction, there are other important factors that must be considered, such as weather (e.g., wind), the height of the viewing platform, the number of observers, and the use of high powered binoculars. The correction factor developed by NMFS is appropriate and scientifically valid for estimation of abundance based on the NMFS ship survey.

*Comment 58:* The population estimates contained in the draft SAR are prone to underestimation because they are premised on the assumption that the Hawaiian population of false killer whales is genetically distinct.

*Response:* NMFS disagrees. The line-transect methodology used to estimate the abundance of false killer whales does not rely on genetic distinctness. Rather, it reflects the total number of animals estimated to have been in the study area during the survey period. Furthermore, the genetic distinctness of false killer whales around the main Hawaiian Islands (described in the SAR) is based on an analysis of a large number of samples collected throughout the eastern and central Pacific, not merely on two samples obtained by fishery observers. NMFS continues to collect additional samples when possible and will refine stock structure as additional evidence becomes available; however, it is important to note that the finding of unique haplotypes around the main Hawaiian Islands confirms that these animals represent a distinct stock. NMFS will continue to provide updated information in the SARs as new results become available.

*Comment 59:* The actual distribution of the Hawaiian population of false killer whales is unknown. It is a certainty that the Hawaiian population of false killer whales is not geographically confined to the Hawaiian EEZ, as suggested by NMFS's regulatory definition of the stock. However, the extent of the stock's distribution beyond the Hawaiian EEZ is unknown, and so is the relative abundance of the population within the nearshore and open ocean areas of the EEZ. Nevertheless, the population estimate contained in the draft SAR assumes a static population confined to the Hawaiian EEZ.

*Response:* NMFS agrees with this comment only to the limited extent that stock or population structure of false killer whales in the Pacific Ocean is unknown. NMFS disagrees with the assertions, '' as suggested by NMFS' regulatory definition of the stock'' and ''the draft SAR assumes a static population confined to the Hawaiian EEZ''.

False killer whales are widely distributed in tropical and warm temperate waters of the Pacific Ocean. The available data indicate that there is population structure; however, there is insufficient information to identify each demographically independent aggregation (stock) or to identify the boundaries between adjacent aggregations. In the face of this uncertainty, NMFS has identified stocks (as management units) in accordance with the agency's established guidelines, which, in turn, were based, among other things, upon the policies and purposes of the MMPA. The initial guidelines and subsequent revisions of them were based upon workshops with participants from NMFS, FWS, the Commission, and representatives of the three regional SRGs and were made available for public review and comment (59 FR 40527, August 9, 1994; 62 FR 3005, June 2, 1997; and 69 FR 67541, November 18, 2004). Each set of guidelines has addressed stocks such as false killer whales that are broadly distributed in pelagic waters beyond the U.S. EEZ. The 1995 and 1997 guidelines stated, ''For situations where a species with a broad pelagic distribution which extends into international waters experiences mortalities within the U.S. EEZ, PBR calculations should be based on the abundance in the EEZ area unless there is evidence for movement of individuals between the EEZ and offshore pelagic areas.'' In the subsequent review and revision of the guidelines (2003–2005), NMFS modified these instructions to be more clear, due in large part to uncertainties and distribution of false killer whales in the Pacific Ocean. The current guidelines state, ''For situations where a species with a broad pelagic distribution which extends into international waters experiences mortalities within the U.S. EEZ, PBR calculations should be based on the abundance in the EEZ. If there is evidence for movement of individuals between the EEZ and offshore pelagic areas and there are estimates of mortality from U.S. and other sources throughout the stock's range, then PBR calculations may be based upon a range-wide abundance estimate for the stock.''

False killer whales are distributed beyond the U.S. EEZ surrounding Hawaii and are taken in fisheries within and outside the EEZ. Fishery mortality and serious injury within the EEZ can be estimated from data collected by fishery observers in the U.S. fishing fleet within and outside the EEZ. Mortality and serious injury incidental to fishing by vessels of other nations is unknown; however, these vessels do not fish within the U.S. EEZ and, accordingly, do not kill marine mammals within the U.S. EEZ.

Although it would be ideal to have sufficient information to identify the complete stock structure and boundaries for all false killer whales in the Pacific Ocean, to estimate mortality and serious injury from human-causes from all stocks, and to estimate the abundance (thus, calculate a PBR) for each stock of false killer whales, such a case does not exist, which results in several uncertainties. Accordingly, NMFS has limited the effect of uncertainty by identifying the Hawaiian stock to assess the impact of U.S. fishery-caused mortality and serious injury where the existing data allow. Such an approach allows NMFS to compare U.S. fishery-caused mortality and serious injury to a PBR where the stock is subject only to loss from U.S. fisheries. To do otherwise would be inconsistent with established guidelines, sound principles of wildlife management, and the purposes and policies of the MMPA.

*Comment 60:* Given the limited population data available for false killer whales in the Hawaiian EEZ, NMFS should explain why it did not use an approach similar that employed for the Palmyra Atoll.

*Response:* NMFS has not used this approach because it would not be based on the best scientific information available. A range of estimated plausible estimates was previously provided for the Palmyra Atoll EEZ because there were no survey data available for that geographic region. In contrast, there have been multiple surveys (Barlow, 2006, Mobley *et al.* 2001, Baird *et al.*, 2003, 2005) within waters of the Hawaiian EEZ (one extending throughout the EEZ and the others closer to the Main Hawaiian Islands). All existing data indicate that the population size of false killer whales in Hawaiian EEZ waters is small. When survey data are available, it is appropriate to use the actual data and associated estimates, rather than rely on

plausible estimates based on surveys conducted elsewhere.

*Comment 61:* There are serious uncertainties in the existing population data and flaws in the agency's assumptions about take attributable to the Hawaii longline fishery that case NMFS to underestimate false killer whale populations and overestimate fishery-related mortality and serious injury.

*Response:* NMFS agrees that there are uncertainties in the data. However, the assessments explicitly take these uncertainties into account in a standardized way, consistent with the guidelines developed for assessing marine mammal stocks. There is no scientific evidence that indicates the abundance of false killer whales is underestimated or the mortality and injury of false killer whales in the Hawaii-based long-line fishery is overestimated. The methods used to estimate abundance have been peer-reviewed and published in a respected scientific journal. Furthermore, several of the unidentified cetaceans that were injured or killed in the fishery were likely short-finned pilot whales or false killer whales, based on the observer's descriptions. These animals were not included in the estimation of serious injury and mortality of false killer whales; therefore, fishery-related mortality and serious injury were likely underestimated, not overestimated.

*Comment 62:* NMFS has not explained its rationale for classifying all take by the longline fishery as mortality or serious injury. Participants in a workshop on false killer whales have confirmed the view that the NMFS's working assumption (i.e. that all hookings results in death or serious injury) is likely to be incorrect.

*Response:* This comment mis-characterizes NMFS' approach to distinguishing between serious and non-serious injury by saying that NMFS considers all take by the longline fishery or all hookings to be serious injuries. The paper by Forney and Kobayashi (2005), reviewed and accepted by the SRG and cited in the SAR, clearly describes the rationale and process by which injuries are classified either as serious or as not serious.

*Comment 63:* NMFS should revisit its 1998 guidelines for distinguishing between serious and non-serious injury to develop a more refined method of assessing false killer whale takes.

*Response:* NMFS plans to review and, as appropriate, revise its guidance for distinguishing between serious and non-serious injury. A workshop initiating such an effort was originally scheduled for November 2006; however, it was postponed for budget reasons. When funding for FY 2007 is finalized by Congress, NMFS will assess options to convene the workshop and initiate the review of its serious injury guidance.

*Comment 64:* The Hawaiian pelagic longline fishery includes two separately managed fishing efforts, the shallow set swordfish fishery and the deep-set tuna fishery, which operate at different times of the year. Yet, NMFS does not distinguish between the swordfish and tuna fishery or address how bait, gear, timing and seasonal differences between the two pelagic longline fisheries affect the take of false killer whales. As a result, the draft SAR inaccurately suggests that the entire pelagic longline fishery should be treated as a uniform industry subject to the same false killer whale restrictions.

*Response:* NMFS disagrees. The report on mortality and serious injury of cetaceans in the Hawaii-based longline fishery (Forney and Kobayashi, 2005) clearly outlines the methodology used to differentiate between the different types of longline fishing that takes place. Estimates are based on a stratified analysis that takes into account differences in the types of cetaceans that interact with each component of the fishery, as well as inter-annual changes in fishing behavior and effort, such as those caused by regulations to protect sea turtles. The SAR reports the level of estimated serious injury and mortality of false killer whales but does not describe the details of the methods used in the estimates, which are available in the cited literature. Furthermore, the Hawaii-based longline fishery is under no restriction due to its false killer whale interactions.

*Comment 65:* The draft SAR over-generalizes the number and nature of false killer whale takes attributable to the Hawaiian pelagic longline fishery. Figure 3 in the SAR contains markers for ''possible'' false killer whale takes. However the draft SAR does not reveal why these possible takes should be considered false killer whales rather than other cetacean species. Figure 3, therefore, creates an unsupportable implication that the fishery has taken more false killer whales than indicated by fishermen's logs and observer reports.

*Response:* NMFS disagrees that the SAR over-generalizes the number and nature of false killer whale takes attributable to the longline fishery. The report on mortality and serious injury of cetaceans in the Hawaii-based longline fishery (Forney and Kobayashi, 2005) clearly describes that the characterization of some unidentified cetacean takes as possible false killer whale takes is based on the observers' descriptions of the animals. To clarify this, we have added text to the final 2006 SAR that the designation as possible false killer whales was based on the observers' descriptions. Figure 3 in the Draft SAR presents the most accurate picture of false killer whale mortality and serious injury in the Hawaii-based longline fishery, and the caption clearly describes the source of the information. The inference that a reader makes from Figure 3 is not important from a conservation or management perspective. Rather, the important information from a management perspective in the SAR is the number of fishery-caused mortalities and serious injuries included in the text and the summary table. The ''possible'' takes are not included in the mortality and serious injury attributed to the fishery.

*Comment 66:* Successful catch depredation indicates that there are false killer whale interactions with the fishery which do not result in mortality or significant injury. As written, it is not clear whether the take accounted for in Figure 3 and/or Table 1 of the draft SAR includes this information.

*Response:* Forney and Kobyashi, 2005, clearly explains that only interactions resulting in hooking and/or entanglement of cetaceans are included, not other types of interactions, such as depredation. We have added some text to the Draft 2006 SAR to clarify this. However, NMFS does not intend to expand SARs to include every possible bit of information related to the affected stock of marine mammals. The MMPA is clear that certain information is required, and NMFS has implemented MMPA section 117 to produce concise SARs that contain only the brief summaries required by the Act. Each SAR contains an extensive literature cited section so that interested readers may obtain more detail than is included in the SAR.

*Comment 67:* NMFS must explain why the estimated mortality and serious injury to false killer whales increased in the 2006 draft SAR, when the estimated overall interactions with the longline fishery decreased. To the extent NMFS believes the answer lies in maintaining a consistent 5–year time period for analyzing mortality and serious injury, HLA submits that such an approach is not reasonable given the rarity of an observed false killer whale take. HLA believes the more prudent approach is to consider observer data from all 11 years for which it is available in order to account for the variable nature of take data.

*Response:* NMFS disagrees. The fishery underwent significant regulatory modification, including seasons and gear, to protect sea turtles beginning in 2000, and the gear and set characteristics of the fishery changed. Thus, it would not be appropriate to include data for the earlier fishing practices. The guidelines for assessing marine mammal stocks recommend using the most recent 5 years of available data to balance the use of current information with the need to average across multiple years for rarely observed events.

Dated: March 13, 2007.

**James H. Lecky,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

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**BILLING CODE 3510–22–S**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Office of the Secretary of Defense (Health Affairs)/TRICARE Management Activity

**AGENCY:** Department of Defense.

**ACTION:** Notice of a disease management demonstration project for TRICARE Standard beneficiaries.

**SUMMARY:** This notice is to advise interested parties of a Military Health System (MHS) demonstration project entitled Disease Management Demonstration Project for TRICARE Standard Beneficiaries. Although there are many similarities between TRICARE Standard and TRICARE Prime as to the preventive health care services that may be provided in the current benefit, there are services that are expressly excluded under TRICARE Standard that may be offered under TRICARE Prime which are the essence of a disease management (DM) program. TRICARE currently requires the Managed Care Support Contractors (MCSCs) to provide ''disease management services'' under the current contracts, without specific guidance. Based upon the current legal statutes authorizing preventive health care services, TRICARE must conduct a demonstration under 10 U.S.C. 1092 in order to offer TRICARE Prime benefits to TRICARE Standard beneficiaries under the DM program already in existence. (Section 734 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (henceforth NDAA 2007) does not give any broader authority than exists today). Under this demonstration, disease management services will be provided to TRICARE Standard beneficiaries as part of the current MHS DM programs. The demonstration project will enable the MHS to provide uniform policies and practices on disease and chronic care management throughout the TRICARE network. Additionally, the demonstration will help determine the effectiveness of DM programs in improving the health status of beneficiaries with targeted chronic diseases or conditions, and any associated cost savings.

**DATES:** *Effective Date:* April 1, 2007. This demonstration will remain in effect until March 31, 2009.

**ADDRESSES:** TRICARE Management Activity (TMA), Office of the Chief Medical Officer, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3206.

**FOR FURTHER INFORMATION CONTACT:** CDR Cynthia Gantt, Office of the Chief Medical Officer—TRICARE Management Activity, telephone (703) 681–0064.

**SUPPLEMENTARY INFORMATION:**

#### A. Background

The Military Health System (MHS) is a $33 billion dollar enterprise, consisting of 76 military hospitals, over 500 military health clinics, and an extensive network of private sector health care partners, which provides medical care for over 9 million beneficiaries and active duty service members. Of these beneficiaries, approximately 5 million are classified as TRICARE Prime enrollees and 4.2 million are TRICARE Standard participants.

The MHS is facing significant fiscal challenges in the coming years due to the rising costs of providing health care, coupled with recent expansions to the pool of eligible beneficiaries. The MHS recognizes these challenges and has implemented several new initiatives to help control costs. Disease management (DM) programs have become popular in the private sector as a means to accomplish this goal, with varying levels of effectiveness having been documented. The MHS has the opportunity to become a leader in DM, due to its population of long term or life time eligible beneficiaries and robust information systems.

#### B. MHS Disease Management Program

On September 1, 2006, the MHS implemented a new DM initiative based on a consistent approach across all three managed care regions, focusing on asthma and congestive heart failure. These programs run by the Managed Care Support Contractors (MCSCs) include beneficiaries from military treatment facilities and those seen by civilian healthcare providers within the TRICARE network. In this revised uniform approach to DM, the Government, with the assistance of a program evaluation contractor, provides the MCSCs risk-stratified patient lists and conducts a formal evaluation across all three Regions using national benchmarks.

TRICARE's approach to disease management is two-fold: (1) Keep the well healthy with a focus on healthy lifestyles, disease prevention and health promotion and (2) maintain an active disease management program for high risk beneficiaries with specific chronic disease conditions. Evidence-based clinical practice guidelines (CPGs) and educational resources developed jointly by the Departments of Defense (DoD) and Veterans Affairs (VA) are used in both the military treatment facility and MCSC DM programs.

The MHS DM program directly supports the MHS strategic goal of effective patient partnerships by advocating the use of evidence-based practice guidelines and emphasizing patient self management skills. The goals of the DM initiatives are to improve clinical outcomes, increase patient and provider satisfaction, and ensure appropriate utilization of resources.

#### C. Current TRICARE Standard Benefit

Under 10 U.S.C. 1079(a)(13), TRICARE may cost share only services or supplies that are medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by an authorized provider. There is additional statutory authority that describes what are preventive health care services. Under 10 U.S.C. 1074d, members and former members of the uniformed services are entitled to preventive health care services including cervical cancer screening, breast cancer screening, and screening for colon and prostate cancer, all at intervals and using methods the Secretary considers appropriate. These same services are available to them and all dependents in MTFs under 10 U.S.C. 1077(a)(14), and to all covered beneficiaries under TRICARE under 10 U.S.C. 1079(a)(2). Under 10 U.S.C. 1079(a)(2)(B), other health promotion and disease prevention visits for those over six years of age are authorized under TRICARE Standard only when done in connection with immunizations or with diagnostic or preventive cancer screening tests. (See also, 32 CFR 199.4(g)(37)).