

continued existence of the eastern oyster species/subspecies.

#### Summary and Synthesis of Analysis of the Factors Identified in ESA Section 4(a)(1)

While eastern oyster abundance has declined from historic highs, especially in the northern portion of the species' range, the eastern oyster is still present in all areas throughout its historic distribution. According to the survey results, even at the low abundance levels in some areas, recruitment is sufficient to maintain the viability of eastern oyster populations throughout the species' range except in a portion of the mid-Atlantic (e.g., Long Island Sound, Peconic Bay, Hudson Raritan Estuary). This area represents a small portion of the large geographic range of the species and/or hypothetical subspecies and would not be expected to significantly impact or impede larval transport and exchange to and from more productive areas to the north or south. The area also represents a minor percentage of the overall potential oyster biomass and of the total spawning potential of the species/hypothetical subspecies. We conclude that recruitment in other portions of the range is more than sufficient to maintain the continued existence of the species and/or hypothetical subspecies.

In all cases, the analysis of all five factors indicate that the continued existence of the species or hypothetical subspecies is not at risk now or in the foreseeable future. While threats that may be significant at a regional or local level to the species exist, we do not consider any to be overwhelmingly dominant or advancing at a significant rate which would result in the species or hypothetical subspecies becoming threatened or endangered.

#### Listing Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, that are being made to protect such species. After reviewing the best available scientific and commercial information for the eastern oyster, we have determined that neither the species nor

the potential subspecies warrants listing as threatened or endangered at this time.

While listing the species or hypothetical subspecies under the ESA is not warranted at this time, the BRT and the peer reviewers identified specific research and/or monitoring needs that are considered very important to the long-term conservation and preservation of the eastern oyster. These include the following: fishery independent surveys (quantitative stock assessments for the entire range); effective population size estimates; monitoring of the effectiveness of conservation/restoration efforts; additional genetic analyses to determine population structure with a focus on local or regional adaptations; research on proximity-recruitment relationship; research on effects of combined and chronic stresses including changes due to climate change; continued research on disease susceptibility and development of selectively bred disease tolerant strains; emerging role of endocrine disrupting pollutants; delineation of oyster habitat; compatibility of existing information; continued ecological risk associated with other oyster or other alien species introductions; control and abatement of threats from all sources; development of a standard monitoring protocol on a local or regional level; and research on the effects of changes in coastal development and demographics.

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

Dated: June 22, 2007.

**Samuel D. Rauch III,**

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

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 229

[Docket No. 070417093-7109-01]

RIN 0648-AV54

#### List of Fisheries for 2008

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** The National Marine Fisheries Service (NMFS) is publishing its proposed List of Fisheries (LOF) for

2008, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2008 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must categorize each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of serious injury and mortality of marine mammals that occurs incidental to each fishery. The categorization of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

**DATES:** Comments must be received by August 27, 2007.

**ADDRESSES:** Send comments to Chief, Marine Mammal and Sea Turtle Conservation Division, Attn: List of Fisheries, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via e-mail to [2008LOF.comments@noaa.gov](mailto:2008LOF.comments@noaa.gov), via fax to 301-427-2522, or to the Federal eRulemaking portal: <http://www.regulations.gov> (follow instructions for submitting comments).

Comments regarding the burden-hour estimates, or any other aspect of the collection of information requirements contained in this proposed rule, should be submitted in writing to Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or to David Rostker, OMB, by fax to 202-395-7285 or by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov).

See **SUPPLEMENTARY INFORMATION** for a listing of all Regional offices.

#### FOR FURTHER INFORMATION CONTACT:

Melissa Andersen, Office of Protected Resources, 301-713-2322; David Gouveia, Northeast Region, 978-281-9328; Nancy Young, Southeast Region, 727-551-5607; Elizabeth Petras, Southwest Region, 562-980-3238; Brent Norberg, Northwest Region, 206-526-6733; Bridget Mansfield, Alaska Region, 907-586-7642; Lisa Van Atta, Pacific Islands Region, 808-944-2257.

Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

#### SUPPLEMENTARY INFORMATION:

#### Availability of Published Materials

Information regarding the LOF and the Marine Mammal Authorization Program, including registration

procedures and forms, current and past LOFs, observer requirements, and marine mammal injury/mortality reporting forms and submittal procedures, may be obtained at: <http://www.nmfs.noaa.gov/pr/interactions/mmmap>, or from any NMFS Regional Office at the addresses listed below.

#### Regional Offices

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930-2298, Attn: Marcia Hobbs;  
 NMFS, Southeast Region, 263 13<sup>th</sup> Avenue South, St. Petersburg, FL 33701, Attn: Teletha Mincey;  
 NMFS, Southwest Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, Attn: Lyle Enriquez;  
 NMFS, Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115, Attn: Permits Office;  
 NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9<sup>th</sup> Street, Juneau, AK 99802; or  
 NMFS, Pacific Islands Region, Protected Resources, 1601 Kapiolani Boulevard, Suite 1100, Honolulu, HI 96814-4700.

#### What is the List of Fisheries?

Section 118 of the MMPA requires NMFS to place all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The categorization of a fishery in the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. NMFS must reexamine the LOF annually, considering new information in the Marine Mammal Stock Assessment Reports (SAR) and other relevant sources, and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387(c)(1)(C)).

#### How Does NMFS Determine in which Category a Fishery is Placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized here.

##### *Fishery Classification Criteria*

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock, and then addresses the impact of individual fisheries on each

stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362 (20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

*Tier 1:* If the total annual mortality and serious injury of a marine mammal stock, across all fisheries, is less than or equal to 10 percent of the PBR level of the stock, all fisheries interacting with the stock would be placed in Category III (unless those fisheries interact with other stock(s) in which total annual mortality and serious injury is greater than 10 percent of PBR). Otherwise, these fisheries are subject to the next tier (Tier 2) of analysis to determine their classification.

*Tier 2, Category I:* Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level.

*Tier 2, Category II:* Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level.

*Tier 2, Category III:* Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level.

While Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock, Tier 2 considers fishery-specific mortality and serious injury for a particular stock. Additional details regarding how the categories were determined are provided in the preamble to the proposed rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995).

Since fisheries are categorized on a per-stock basis, a fishery may qualify as one Category for one marine mammal stock and another Category for a different marine mammal stock. A fishery is typically categorized on the LOF at its highest level of classification (e.g., a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II).

##### *Other Criteria That May Be Considered*

In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine

mammals by a commercial fishery, NMFS will determine whether the incidental serious injury or mortality qualifies for Category II by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries (50 CFR 229.2).

#### How Does NMFS Determine which Species or Stocks are Included as Incidentally Killed or Seriously Injured in a Fishery?

The LOF includes a list of marine mammal species or stocks incidentally killed or seriously injured in each commercial fishery, based on the level of serious injury or mortality in each fishery relative to the PBR level for each stock. To determine which species or stocks are included as incidentally killed or seriously injured in a fishery, NMFS annually reviews the information presented in the current SARs. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock's PBR level and level of mortality or serious injury incidental to commercial fishing operations. NMFS also reviews other sources of new information, including observer data, stranding data and fisher self-reports.

In the absence of reliable information on the level of mortality or serious injury of a marine mammal stock, or insufficient observer data, NMFS will determine whether a species or stock should be added to, or deleted from, the list by considering other factors such as: changes in gear types used, increases or decreases in fishing effort, increases or decreases in the level of observer coverage, and/or changes in fishery management that are expected to lead to decreases in interactions with a given marine mammal stock (such as a Fishery Management Plan or a Take Reduction Plan). NMFS will provide case specific justification in the LOF for changes to the list of species or stocks incidentally killed or seriously injured.

#### How do I Determine the Level of Observer Coverage in a Fishery?

Data obtained from observers and the level of observer coverage are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. The best available information on the level of observer coverage, and the spatial and temporal distribution of observed

marine mammal interactions, is presented in the SARs. Starting with the 2005 SARs, each SAR includes an appendix with detailed descriptions of each Category I and II fishery in the LOF. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because under the MMPA Category III fisheries are not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Information presented in the SARs' appendices include: level of observer coverage, target species, levels of fishing effort, spatial and temporal distribution of fishing effort, gear characteristics, management and regulations, and interactions with marine mammals.

NMFS refers readers to the SARs for the most current information on the level of observer coverage for each fishery. Copies of the SARs are available on the NMFS Office of Protected Resource's Web site at: <http://www.nmfs.noaa.gov/pr/sars/>. Additional information on observer coverage in commercial fisheries can be found on the NMFS National Observer Program's Web site: <http://www.st.nmfs.gov/st4/nop/>.

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

This proposed rule includes two tables that list all U.S. commercial fisheries by LOF Category. Table 1 lists all of the fisheries in the Pacific Ocean (including Alaska). Table 2 lists all of the fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

#### **Are High Seas Fisheries Included in the LOF?**

Currently, high seas fisheries in which U.S. persons or vessels participate are not included in the LOF. However, NMFS is considering the inclusion of U.S.-authorized high seas fisheries (fisheries operating beyond 200 nmi of U.S. coasts) in future LOFs. At this time, NMFS is gathering available information on the number of vessels permitted and/or actively fishing in U.S.-authorized high seas fisheries, gear types used, and marine mammal-fishery interactions data included in documents published under the Magnuson-Stevens Fisheries Conservation and Management Act (MSA), National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and MMPA, and from relevant Regional Fishery Management Organizations (RFMO) and the International Whaling Commission (IWC).

NMFS faces significant challenges in accurately categorizing high seas fisheries in the LOF. As discussed under "Fishery Classification Criteria", fisheries are categorized in the LOF based on the level of mortality and serious injury of marine mammal stocks relevant to the stock's PBR level. PBR levels are calculated based on the stock's abundance using data presented in the SARs, required under section 117 of the MMPA. Section 117 requires NMFS to prepare SARs for marine mammal stocks occurring "in waters under the jurisdiction of the United States". NMFS does not develop SARs, or PBR levels, for marine mammal stocks on the high seas. As a result, NMFS does not have sufficient information on marine mammal stock abundances or the level of marine mammal-fishery interactions on the high seas to classify high seas fisheries on the LOF at this time. NMFS will continue to explore options for the potential inclusion of high seas fisheries in a future LOF using available information. NMFS will also continue to gather available information on existing U.S.-authorized high seas fisheries, marine mammal stock abundances on the high seas, and levels of marine mammal-fishery interactions on the high seas in order to accurately categorize high seas fisheries for potential inclusion on future LOFs.

#### **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?**

Vessel or gear owners 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 an authorization certificate. The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)).

#### **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. Participants in these fisheries are automatically registered under the MMPA and are not required to submit registration or renewal materials or pay the \$25 registration fee. The following section indicates which fisheries are integrated fisheries and has a summary of the integration process for each Region. Vessel or gear owners who operate in an integrated fishery and have not received an authorization certificate by January 1 of each new year or with renewed state fishing licenses (as in Washington and Oregon) must contact their NMFS Regional Office (see **ADDRESSES**). Although efforts are made to limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries. Individuals fishing in Category I and II fisheries for which no state or Federal permit is required must register with NMFS by contacting their appropriate Regional Office (see **ADDRESSES**).

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

The following fisheries have integrated registration programs under the MMPA:

1. All Alaska Category II fisheries;
2. All Washington and Oregon Category II fisheries;
3. Northeast Regional fisheries for which a state or Federal permit is required;
4. All Southeast Regional fisheries for which a Federal permit is required, as well as fisheries permitted by the states of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas; and
5. The Hawaii Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, Oceanic Sharks Longline/Set line Fishery.

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

Vessel or gear owners that participate in fisheries that have integrated registration programs (described above) are automatically renewed and should receive an authorization certificate by January 1 of each new year, with the

exception of Washington and Oregon Category II fisheries. Washington and Oregon fishers receive authorization with each renewed state fishing license, the timing of which varies based on target species. Vessel or gear owners who participate in an integrated fishery and have not received authorization certificates by January 1 or with renewed fishing licenses (Washington and Oregon) must contact the appropriate NMFS Regional Office (see **ADDRESSES**). Vessel or gear owners that participate in fisheries that do not have integrated registration programs and that have previously registered in a Category I or II fishery will receive a renewal packet from the appropriate NMFS Regional Office at least 30 days prior to January 1 of each new year. It is the responsibility of the vessel or gear owner in these fisheries to complete their renewal form and return it to the appropriate NMFS Regional Office 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 must 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 gear owner or operator (in the case of non-vessel fisheries), participating in a Category I, II, or III fishery must report to NMFS all incidental injuries and mortalities of marine mammals that occur during commercial fishing operations. "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 presence of any wound or other evidence of injury, and must be reported. Injury/mortality report forms and instructions for submitting forms to NMFS can be downloaded from: [http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap\\_reporting\\_form.pdf](http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf). Reporting requirements and procedures 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. Take reduction plan requirements can be found at 50 CFR 229.30–34.

#### **Sources of Information Reviewed for the Proposed 2008 LOF**

NMFS reviewed the marine mammal incidental serious injury and mortality information presented in the SARs for all observed fisheries to determine whether changes in fishery classification were warranted. NMFS' SARs are based on the best scientific information available at the time of preparation, including the level of serious injury and mortality of marine mammals that occurs incidental to commercial fisheries and the PBR levels of marine mammal stocks. The information contained in the SARs is reviewed by regional Scientific Review Groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and Caribbean. The SRGs were created by the MMPA to review the science that informs the SARs, and to advise NMFS on population status and trends, stock structure, uncertainties in the science, research needs, and other issues.

NMFS also reviewed other sources of new information, including marine mammal stranding data, observer program data, fisher self-reports, and other information that may not be included in the SARs.

The proposed LOF for 2008 was based, among other things, on information provided in the final SARs for 1996 (63 FR 60, January 2, 1998), the final SARs for 2001 (67 FR 10671, March 8, 2002), the final SARs for 2002 (68 FR 17920, April 14, 2003), the final SARs for 2003 (69 FR 54262, September 8, 2004), the final SARs for 2004 (70 FR 35397, June 20, 2005), the final SARs for 2005 (71 FR 26340, May 4, 2006), the final SARs for 2006 (72 FR 12774, March 19, 2007), and the draft SARs for 2007. All the SARs are available at: <http://www.nmfs.noaa.gov/pr/sars/>.

#### **Fishery Descriptions**

Many fisheries on the LOF only partially been described in the LOF, or not at all. While detailed information describing each fishery in the LOF is included in the SARs, within a Fishery Management Plan (FMP) or Take Reduction Plan (TRP), or by state agencies, general descriptive information is important to include in the LOF for improved clarity. Below, NMFS briefly describes each Category I

and II fishery in the proposed LOF for 2008. Fisheries are defined based on the gear and fishing methods, target species, temporal and spatial distribution, and management and regulatory schemes. NMFS refers readers to the SARs for more additional information on Category I and II fisheries.

#### *Category I and II Commercial Fisheries in the Pacific Ocean*

HI Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, Oceanic Sharks Longline/Set Line Fishery

The Category I HI longline fishery targets swordfish, tuna, billfish, mahi mahi, wahoo, and oceanic sharks. The basic unit of gear is a 30–40 mi (48–64 km) long mainline made of 0.13–0.16 in (3.2–4.0 mm) diameter monofilament line, with 800–1,000 hooks attached to the mainline. Deployment and retrieval of gear must occur at night. Shallow swordfish sets are required to use size 18/0 circle hooks with a 10-degree offset and mackerel bait. Using squid bait is prohibited. For deep sets, all float lines must be at least 20 m (65.6 ft) long with a minimum of 15 branch lines attached to the mainline between any 2 floats, except for basket-style longline gear that may have as few as 10 branch lines. The use of any light emitting device is prohibited and vessels may not land or possess more than 10 swordfish at any time. The fishery operates over a huge geographic range extending north-south from 40°N. lat. to the equator and east-west from Kure Atoll to as far as 135°W. long. Fishing for swordfish generally occurs north of Hawaii (as much as 2,000 mi (3,219 km) from Honolulu), whereas fishing for tunas occurs primarily around the main Hawaiian Islands and south of the Hawaiian Islands. The fishery operates year-round, with effort generally lower in the third quarter of the year.

The HI longline fishery is managed in part under the FMP for Pelagic Fisheries of the Western Pacific Region. The shallow-set swordfish component has annual fleetwide limits on interactions with leatherback and loggerhead sea turtles, an annual fleetwide limit of 2,120 shallow sets north of the equator per year, and a requirement for operators to annually participate in a protected species workshop and get a valid protected species certification. Also, regulations mandate 100 percent observer coverage in the shallow-set component of the fishery and at least 20 percent observer coverage in the deep-set component.

**CA/OR Thresher Shark/Swordfish Drift Gillnet Fishery (≥14 in Mesh)**

The Category I CA/OR thresher shark/swordfish drift gillnet fishery primarily targets common and pelagic thresher sharks, swordfish, and mako shark using a 1000-fathom (6,000 ft; 1,829 m) gillnet with stretched mesh size from 18–22 in (46–56 cm) with a 14-in (35.6 cm) minimum. Other species caught include: pelagic thresher, bigeye thresher, shortfin mako, blue shark, albacore, other tunas, dorado, groundfish, coastal pelagics, and crab. One end of the net is typically attached to the vessel and is set at dusk and allowed to drift during the night, typically for 12–14 hours. Fishing effort extends from the U.S.-Mexico border north to waters off of Oregon, with the majority of effort occurring from October to December. Oregon restricts landings to swordfish only.

This fishery is a limited entry fishery managed under the Pacific Highly Migratory Species (HMS) FMP and by regulations under the Pacific Offshore Cetacean Take Reduction Plan (POCTRP), including multiple area-season closures and gear restrictions, a requirement for pingers on drift gillnets, a requirement that extenders (buoy lines) be at least 36 ft (11 m) long, and a requirement for vessel captains to attend skipper education workshops.

**CA Angel Shark/Halibut and Other Species Set Gillnet Fishery (<3.5 in mesh)**

The Category I CA angel shark/halibut and other species set gillnet fishery targets angel shark and halibut from the U.S.-Mexico border north to Monterey Bay using 200 fathom (1,200 ft; 366 m) gillnet with a stretch mesh size of 8.5 in (31.6 cm). Net soak duration is typically 8–10, 19–24, or 44–49 hours at a depth ranging from 15–50 fathoms (90–300 ft; 27–91 m) with most sets from 15–35 fathoms (90–210 ft; 27–64 m). No more than 1500 fathoms (9,000 ft; 2,743 m) of gill or trammel net may be fished in combination for CA halibut and angel shark. Fishing occurs year-round, with effort generally increasing during summer months and declining during last the 3 months of the year. The central CA portion of the fishery from Point Arguello to Point Reyes has been closed since September, 2002, following a ban on gillnets inshore of 60 fathoms (360 ft; 110 m). Set gill nets have been prohibited in state waters south of Point Arguello and within 70 fathoms (420 ft; 128 m) or one mile (1.6 km), whichever is less, around the Channel Islands since 1990. The California Department of Fish and Game (CDFG) manages the fishery

as a limited entry fishery with gear restrictions and area closures.

**CA Yellowtail, Barracuda, and White Seabass Drift Gillnet Fishery (mesh size >3.5 in. and <14 in.)**

The Category II CA yellowtail, barracuda, and white seabass drift gillnet fishery targets primarily yellowtail and white seabass, and secondarily barracuda, with target species typically determined by market demand on a short-term basis. Drift gillnets are up to 6,000 ft (1,829 m) long and are set at the surface. The mesh size depends on target species and is typically 6.0–6.5 in (15–16.5 cm). When targeting yellowtail and barracuda, the mesh size must be ≥3.5 in (9 cm); when targeting white seabass, the mesh size must be ≥6 in (15.2 cm). From June 16 to March 14 not more than 20 percent, by number, of a load of fish may be white seabass with a total length of 28 in (71 cm). A maximum of ten white seabass per load may be taken, if taken in gillnet or trammel nets with meshes from 3.5–6.0 in (9–15 cm) in length. The fishery operates year-round, primarily south of Point Conception with some effort around San Clemente Island and San Nicolas Island. This fishery is a limited entry fishery with various gear restrictions and area closures managed by the CDFG. Targeting tuna with this type of gear was effectively prohibited in April, 2004, under the Pacific HMS FMP.

**CA Anchovy, Mackerel, Sardine Purse Seine Fishery**

The Category II CA anchovy, mackerel, sardine purse seine fishery targets wetfish (anchovy, mackerel, and sardine), with the target species primarily driven by availability and market demand. The fishery uses purse seines, drum seines, and lampara nets using standard seining techniques. A typical purse seine net is 185 fathoms (1,110 ft; 338 m) long, 22 fathoms (132 ft; 40 m) deep, and 1,600 meshes deep with each mesh measures 1.25 in (3 cm). The fishery operates year-round predominantly in southern CA (including the Channel Islands) from San Pedro, San Diego, Oceanside, and Dana Point, then north to San Francisco. This fishery is a limited entry fishery, and the mackerel and sardine fisheries are quota fisheries. The fishery is managed in accordance with the Coastal Pelagic Species (CPS) FMP.

**CA Tuna Purse Seine Fishery**

The Category II CA tuna purse seine fishery targets yellowfin, skipjack, and bluefin tuna using purse seine nets similar to those used to target Coastal

Pelagic Species (see the description under “CA anchovy, mackerel, sardine purse seine fishery”). The fishery operates from May to October south of Point Conception to the U.S.-Mexico border and in the Southern California Bight. The fishery is managed under the Pacific HMS FMP. This fishery is considered an opportunist fishery, meaning that fishers only target tuna when certain oceanographic and market conditions exist to make the fishery viable. Effort in the fishery is highly variable, ranging from zero to ten participants annually over the past several years.

**CA Squid Purse Seine Fishery**

The Category II CA squid purse seine fishery targets market squid using several gear types. From 1997–2001, 98 percent of fishermen used purse (77 percent) or drum (21 percent) seine nets. Other types used were lampara, dip, and brail nets. The fishery uses lights (shielded and oriented downward, with a maximum of 30,000 watts) to aggregate spawning squid. The fishery operates year-round with the effort focusing north of Point Conception from April to September and south of Point Conception from October to March. El Nino events cause northern landings to increase, while La Nina events cause southern landings to increase.

The fishery is managed by the CDFG and is monitored under the CPS FMP and the Market Squid FMP. Commercial squid purse seine fishing is prohibited year-round from noon on Friday until noon on Sunday to allow a 2-day consecutive uninterrupted period of spawning. All vessels must be permitted and comply with a mandatory logbook program for fishing and lighting. Since 2001, a seasonal harvest guideline is set to limit further expansion of the fishery.

**CA Pelagic Longline Fishery**

The Category II CA pelagic longline fishery includes both shallow-set and deep-set gear targeting swordfish and bigeye, albacore, and yellowfin tuna. The fishery operates in waters outside of the U.S. Exclusive Economic Zone (EEZ) because the Pacific HMS FMP prohibits targeting swordfish with longlines within 200 nmi of shore. In 2004, the CA-based shallow-set longline fishery was closed due to anticipated levels of sea turtle interactions. The following is a general description of the shallow-set fishery as it operated prior to 2004 and the current deep-set longline fishery.

Prior to 2004, shallow-set longlines operated year-round primarily targeting swordfish with 15–45 mi (24–72 km) of mainline rigged with 72-ft (22-m) gangions at approximately 197 ft (60 m)

intervals. A shallow-set typically has 800–1,300 hooks with large squid or mackerel for bait. Most shallow-set fishing took place at night when swordfish are at the surface, using various colored lightsticks. A shallow-set mainline is deployed for 4–7 hours and left to drift unattached for 7–10 hours. At this time there is no CA-based shallow-set longline fishing due to anticipated levels of sea turtle interactions.

Deep-set longlines operate year-round primarily targeting tuna with 4–46.6 mi (7–75 km) mainline rigged with 25.6–36 ft (7.8–10.9 m) gangions with 15–16 branchlines set between floats. Deep-set longlines are set at dawn with an average 12 hour soak time. The deep-set sag of the mainline is between 328–1,050 ft (100–320 m) below the water's surface. A deep-set typically contains 270–1,900 hooks with double weighted leaders and sardine for bait. Deep-sets use a variety of hooks including size 38 tuna hooks, size 9 J-hooks, and size 16/0 circle hooks. A small scale deep-set longline fishery began in January 2005 and continues currently. One hundred percent observer coverage is required in the deep-set longline fishery.

#### OR Swordfish Floating Longline Fishery

The Category II OR swordfish floating (i.e., surface or pelagic) longline fishery targets swordfish using a buoyed mainline fitted with leaders and baited hooks. The mainline is fished near the surface and is suspended from buoys. Swordfish longlines may not exceed 1,000 fathoms (6,000 ft; 1,829 m) in length and must be attached at one end to the vessel when fishing. The gear is typically set in the evening and retrieved in the morning. Fishing could occur year-round; however, effort generally terminates by late fall. This fishery, like the "CA pelagic longline" fishery discussed above, is managed under the Pacific HMS FMP, which prohibits targeting swordfish with longlines within the EEZ. Shallow-set methods used for swordfish are also prohibited east of 150°W. long. While this fishery can operate outside the U.S. EEZ, it is a developmental fishery with virtually no participants. There were no active permit holders in this fishery from 2000–2005. As a result, NMFS is proposing to remove this fishery from the 2008 LOF. Please see "Summary of Changes to the LOF for 2008" for more information.

#### OR Blue Shark Floating Longline Fishery

The Category II OR blue shark floating (i.e., surface or pelagic) longline fishery targets blue sharks off the coast of OR

using a buoyed mainline fitted with leaders and baited hooks. The mainline is fished near the surface and is suspended from buoys. Shark longlines must be marked at each terminal surface end with a pole and flag, an operating light, a radar reflector, and a buoy showing clear identification and gear owner. The gear is typically set in the evening and retrieved in the morning. The fishery occurs year-round, however, effort generally terminates in the fall. This fishery is managed under the Pacific HMS FMP, which prohibits targeting highly migratory species such as blue shark with longlines within the U.S. EEZ. While this fishery can operate outside the U.S. EEZ, the number of Oregon Developmental Fishery Permits for fishing blue shark using a floating longline is limited to 10. From 2000–2005, there were fewer than 5 permits issued annually for this fishery. As a result, NMFS is proposing to remove this fishery from the 2008 LOF. Please see "Summary of Changes to the LOF for 2008" for more information.

#### WA Puget Sound Regional Salmon Drift Gillnet

The Category II WA Puget Sound regional salmon drift gillnet fishery targets coho, pink, sockeye, chinook, and chum salmon in inland marine waters (state waters) south of the U.S.-Canada border and east of the Bonilla-Tatoosh line at the entrance to the Strait of Juan de Fuca. Drift gillnet gear consists of single web construction, not exceeding 300 fathoms (1,800; 549 m) in length, attached at one end of the vessel. The minimum mesh size varies from 5–7 in (13–18 cm) depending on the target species. While the depths fished vary, fishermen strive to keep the net off of the bottom. The drift times vary depending on the fishing area, tidal condition, and catch. This fishery is a limited entry fishery with seasonal openings, area closures, and gear restrictions. Regulations governing incidental take of marine mammals do not apply to tribal members exercising fishing treaty rights within this fishery.

#### AK Prince William Sound Salmon Drift Gillnet Fishery

The Category II AK Prince William Sound salmon drift gillnet fishery targets salmon using drift gillnet gear with soak times of 15 minutes to 3 hours. The gear is set both during the day and night, with 10–14 sets per day. The fishery operates from mid-May to the end of September in the Prince William Sound Fisheries Management Area, the Copper River, and the Bering Sea. The Prince William Sound Fisheries Management Area consists of

11 districts with six hatcheries contributing to the salmon fisheries. This drift gillnet fishery is managed by the Alaska Department of Fish and Game (ADFG) as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Peninsula/Aleutian Islands Salmon Drift Gillnet Fishery

The Category II AK Peninsula/Aleutian Islands salmon drift gillnet fishery targets salmon using drift gillnet gear with soak times of 2–5 hours. The gear is set during the day and night, with 3–8 sets per day. The fishery operates from mid-June to mid-September in two districts north of the Alaska Peninsula (Northern and Northwestern), and four districts south of the AK Peninsula (Unimak, Southwestern, Southcentral, and Southeastern). This drift gillnet fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Peninsula/Aleutian Islands Salmon Set Gillnet Fishery

The Category II AK Peninsula/Aleutian Islands salmon set gillnet fishery targets salmon using set gillnet with the gear set every 2 hours during the day and night. The gear is set with continuous soak times during the opener. Salmon may only be fished commercially during periods known as openers established by ADFG in-season. During some periods of the season fishing may be continuous with openers lasting days or even many weeks at a time. The ADFG posts weekly notices of fishing openers and announces the openers on regular radio channels a few days or a few hours before each opener. Fishing periods are often extended by Emergency Order during the last 24 hours of the opener.

This fishery generally operates from June 18 to mid-August in two districts north of the AK Peninsula (Northern and Northwestern), and four districts south of the AK Peninsula (Unimak, Southwestern, Southcentral, and Southeastern). Set gillnet fishing effort also occurs off Atka and Amelia Islands. This set gillnet fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Southeast Salmon Drift Gillnet Fishery

The Category II AK Southeast salmon drift gillnet fishery targets salmon using drift gillnet gear with soak times of 20 minutes to 3 hours. The gear is set during the day and night, with 6–20 sets per day. This fishery generally

operates from June 18 to early October in five main fishing areas off Southeast AK, as well as at Annette Island, in terminal harvest areas (THA) adjacent to hatchery facilities, and for hatchery cost recovery. The majority of salmon are caught by drift gillnets in the five main fishing areas (81 percent in 2003) and the THAs (13 percent in 2003), with small contributions from Annette Island (4 percent in 2003), and for hatchery cost recovery (1.8 percent in 2003). This drift gillnet fishery is managed by ADFG as a limited entry fishery, with gear restrictions (mesh and net size) and area closures.

#### AK Cook Inlet Salmon Drift Gillnet Fishery

The Category II AK Cook Inlet salmon drift gillnet fishery targets salmon using drift gillnet gear with soak times of 15 minutes to 3 hours, or continuously. The gear is set during the day, with 6–18 sets per day. This fishery generally operates from June 25 to end of August in the Central District of the Upper Cook Inlet. Drift gillnet fishing effort for sockeye salmon peaks in mid to late July. Currently, drift gillnet fishing for salmon in the Cook Inlet occurs in the Central District area only for the two regular 12-hour openers on Mondays and Thursdays. This drift gillnet fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Cook Inlet Salmon Set Gillnet Fishery

The Category II AK Cook Inlet salmon set gillnet fishery targets salmon using set gillnet gear with continuous soak times during the opener. Fishing effort occurs during the day and night in the Upper Cook Inlet; while fishing effort occurs only during the day in the Lower Cook Inlet, except during fishery extensions. In the Upper Cook Inlet, the catch is picked from the net (i.e., the net is tended) each day during a slack tide; while the catch is picked from the net every 2–6 hours in the Lower Cook Inlet. The net becomes dry with low tide. The fishery generally operates from June 2 to mid-September in Cook Inlet. This set gillnet fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Yakutat Salmon Set Gillnet Fishery

The Category II AK Yakutat salmon set gillnet fishery targets salmon using set gillnet gear with continuous soak times during the opener, during the day and night. The catch is picked from the net every 2–4 hours each day or continuously during peak fishing times.

The fishery generally operates from June 4 to the end of August. The Yakutat salmon set gillnet fishery consists of multiple set gillnet fisheries occurring in two fishing districts, the Yakutat District and the Yakataga District. As many as 25 different areas in the Yakutat and Yakataga Districts are open to commercial fishing each year. The Yakutat District fisheries primarily target sockeye and coho salmon, although all species of salmon are harvested. The Yakataga District fisheries target coho salmon. With a few exceptions, set gillnetting is confined to the intertidal area inside the mouths of rivers and streams, and to the ocean waters immediately adjacent to each. Due to the terminal nature of these fisheries, ADFG has been able to develop salmon escapement goals for most of the major, and several of the minor, fisheries. This set gillnet fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Kodiak Salmon Set Gillnet Fishery

The Category II AK Kodiak salmon set gillnet fishery targets salmon using set gillnet gear with continuous soak times during the opener. Fishing effort occurs during the day, with the catch is picked from the net 2 or more times each day. The majority of set gillnets are attached to a shore lead up to 80 fathoms (480 ft; 146 m) long in a straight line to a king buoy offshore, with numerous anchor lines and buoys holding the net in place. The last 25 fathoms (150 ft; 46 m) of the gillnet is usually formed into a fish trap, also called a hook. The fishery generally operates from June 9 to the end of September or early October. Many areas are open until early October, but most fishermen remove the nets by early September. As the runs progress in late July and change from sockeye to pink salmon, the ADFG often reduces the length of openers if escapement goals have not been met. Fishing effort begins to reduce in mid to late August as salmon runs begin to decline.

This fishery consists of 2 Districts, the Northwest District from Spruce Island to the south side of Uyak Bay, and the Alitak Bay District located on the southwestern corner of Kodiak island. In most years, the Northwest District is fished by approximately 100 permit holders and constitutes approximately 70 percent of the annual fishing effort, while the Alitak Bay District is fished by approximately 70 permit holders and constitutes approximately 30 percent of the annual fishing effort. Traditionally, the Northwest District is open for the majority of June and July, while effort in the Alitak Bay District typically occurs

5 to 7 days out of every 10 days during the fishing season. This set gillnet fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Bristol Bay Salmon Drift Gillnet Fishery

The Category II AK Bristol Bay salmon drift gillnet fishery targets salmon using drift gillnet gear with continuous soak times for part of the net, while other parts of the net are tended. Fishing effort occurs during the day and night, with a continuous number of sets per day. This fishery generally operates from June 17 to the end of August in Bristol Bay. Approximately 80 percent of the salmon catch in Bristol Bay is caught with drift gillnets. The Bristol Bay management area consists of five management districts including all coastal and inland waters from Cape Newenham to Cape Mershikof. There are eight major river systems in the area, and these form the largest commercial sockeye salmon fishery in the world. Although sockeye salmon is the most abundant salmon species that returns to Bristol Bay each year, chinook, chum, coho, and pink salmon returns are also important to the fishery. This drift gillnet fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Bristol Bay Salmon Set Gillnet Fishery

The Category II AK Bristol Bay salmon set gillnet fishery targets salmon using set gillnet gear with continuous soak times during the opener, but the net is dry during low tide. Fishing effort occurs during the day and night, with 2 or more continuous sets per day. This fishery generally operates from June 17 to the end of August or mid-September in the same areas in Bristol Bay as the AK Bristol Bay salmon drift gillnet fishery discussed above. Approximately 20 percent of the salmon catch in Bristol Bay is caught with set gillnets. This set gillnet fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Metlakatla/Annette Island Salmon Drift Gillnet Fishery

The Category II AK Metlakatla/Annette Island salmon drift gillnet fishery targets salmon using drift gillnet gear off Annette Island in Southeast AK. This drift gillnet fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures. The tribal portion of this

fishery is separate from the AK Southeast drift gillnet fishery only for regulation purposes. The fisheries are considered the same for LOF categorization purposes.

#### AK Southeast Salmon Purse Seine Fishery

The Category II AK Southeast salmon purse seine fishery targets salmon using purse seine gear with soak times of 20–45 minutes. Fishing effort occurs mostly in daylight hours, except at the peak of the season, with 6–20 sets per day. The fishery generally operates from the end of June to September. In 2003, purse seine fishing ran through November 12 in THAs. Regulations allow purse seine fishing to occur in certain fishing districts, and also in certain THAs, hatchery cost recovery areas, and the Annette Island Fishery Reserve. This purse seine fishery accounts for approximately 80 percent of the total salmon harvest in Southeast AK, and approximately 87 percent of the fish caught are pink salmon. This purse seine fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Cook Inlet Salmon Purse Seine Fishery

The Category II AK Cook Inlet salmon purse seine fishery targets salmon using purse seine gear in Cook Inlet from June 1 to October 31. Purse seines must be between 90 fathoms (540 ft; 165 m) and 250 fathoms (1,500 ft; 457 m) long, and 100 meshes and 325 meshes deep. Detachable or loose leads are not permitted. In Cook Inlet, purse seines may be used in the Southern District, Kamishak Bay District, Outer District, Eastern District, and Chinitna Bay Subdistrict east of a line from the crane on the south shore to the largest boulder on the landward end of Glacier Spit. This purse seine fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Kodiak Salmon Purse Seine Fishery

The Category II AK Kodiak salmon purse seine fishery targets salmon using purse seine gear from June 1 to October 31, with fishing periods open by regulation and emergency orders. Purse seine gear must have a mesh size of less than 7 in (18 cm). Purse seine gear must be between 100 fathoms (600 ft; 183 m) and 200 fathoms (1,200 ft; 366 m) long, and between 100 meshes and 325 meshes deep. At least 50 fathoms (300 ft; 91 m) of a purse seine must be 150 meshes in depth. One lead, no more than 100 fathoms (600 ft; 183 m) in

length, may be used with each purse seine. The aggregate length of a seine and lead may not exceed 250 fathoms (1,500 ft; 457 m). Leads must be removed from the water within two hours after a season or fishing period closure. Overlapping panels of net web may not be used in seine leads.

This fishery occurs in the Kodiak Area, including all waters of AK south of Cape Douglas (58° 51.10'N. lat.), west of 150°W. long., north of 55° 30'N. lat., and north and east of the southern entrance of Imuya Bay. This purse seine fishery is managed by ADFG as a limited entry fishery with gear restrictions (mesh and net size) and area closures.

#### AK Bering Sea and Aleutian Islands (BSAI) Flatfish Trawl Fishery

The Category II AK BSAI flatfish trawl fishery targets flatfish using trawl gear in the U.S. EEZ of the eastern Bering Sea and the portion of the North Pacific Ocean adjacent to the Aleutian Islands, which is west of 170°W. long. up to the U.S.-Russian Convention Line of 1867. Management measures for the BSAI groundfish fisheries constrain fishing both temporally and spatially. This fishery is federally managed under the BSAI FMP. The authorized gear, fishing season, criteria for determining fishing seasons, and area restrictions by gear type are defined in the regulations implementing the BSAI FMP (50 CFR part 679).

#### AK Bering Sea and Aleutian Islands (BSAI) Pollock Trawl Fishery

The Category II AK BSAI pollock trawl fishery targets flatfish using trawl gear in the same location as the AK BSAI flatfish trawl fishery described above. The use of non-pelagic trawl gear in the directed fishery for pollock is prohibited. This fishery is federally managed under the BSAI FMP. Management measures for the BSAI groundfish fisheries constrain fishing both temporally and spatially. The gear authorized, fishing year, criteria for determining fishing seasons, and area restrictions by gear type are defined in the regulations implementing the BSAI FMP (50 CFR part 679).

#### AK Bering Sea and Aleutian Islands (BSAI) Pacific Cod Longline Fishery

The Category II AK BSAI Pacific cod longline fishery targets Pacific cod using longline gear in the same location as the AK BSAI flatfish trawl fishery described above. This fishery is federally managed under the BSAI FMP. Management measures for the BSAI groundfish fisheries constrain fishing both temporally and spatially. The gear

authorized, fishing year, criteria for determining fishing seasons, and area restrictions by gear type are defined in the regulations implementing the BSAI FMP (50 CFR part 679).

#### AK Bering Sea Sablefish Pot Fishery

The Category II AK Bering Sea sablefish pot fishery targets sablefish using pot gear in the same location as the AK BSAI flatfish trawl fishery described above. This fishery is Federally managed under the BSAI FMP and is operated under Individual Fishing Quotas. Management measures for the BSAI groundfish fisheries constrain fishing both temporally and spatially. The gear authorized, fishing year, criteria for determining fishing seasons, and area restrictions by gear type are defined in the regulations implementing the BSAI FMP (50 CFR part 679).

#### *Category I and II Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean*

##### Northeast Sink Gillnet Fishery

The Category I Northeast sink gillnet fishery targets Atlantic cod, haddock, pollock, yellowtail flounder, winter flounder, witch flounder, American plaice, windowpane flounder, spiny dogfish, monkfish, silver hake, red hake, white hake, ocean pout, skate spp, mackerel, redfish, and shad. This fishery uses sink gillnet gear, which is anchored gillnet (bottom-tending net) fished in the lower one-third of the water column. The dominant material is monofilament twine with stretched mesh sizes from 6–12 in (15–30.5 cm) and string lengths from 600–10,500 ft (183–3,200 m), depending on the target species. Large mesh (10–14 in [25–35.6 cm]) sink gillnets, either tied down or set upright without floats using a polyfoam core floatline, are used when targeting monkfish. The fishery operates from the U.S.-Canada border to Long Island, NY, at 72° 30'W. long. south to 36° 33.03'N. lat. (corresponding with the Virginia/North Carolina border) and east to the eastern edge of the EEZ, including the Gulf of Maine, Georges Bank, and Southern New England, and excluding Long Island Sound or other waters where gillnet fisheries are listed as Category III. Fishing effort occurs year-round, peaking from May to July primarily on continental shelf regions in depths from 30–750 ft (9–228.6 m), with some nets deeper than 800 ft (244 m).

This fishery is managed by the Northeast Multispecies (Groundfish) FMP. This fishery is also managed by the Atlantic Large Whale Take Reduction Plan (ALWTRP) and the

Harbor Porpoise Take Reduction Plan (HPTRP) to reduce the risk of entanglement of right, humpback, and fin whales, and harbor porpoises, respectively. The fishery is primarily managed by Total Allowable Catch (TAC) limits; individual trip limits (quotas); effort caps (limited number of days at sea per vessel); time and area closures; and gear restrictions.

#### Mid-Atlantic Gillnet Fishery

The Category I mid-Atlantic gillnet fishery targets monkfish, spiny dogfish, smooth dogfish, bluefish, weakfish, menhaden, spot, croaker, striped bass, large and small coastal sharks, Spanish mackerel, king mackerel, American shad, black drum, skate spp., yellow perch, white perch, herring, scup, kingfish, spotted seatrout, and butterfish. The fishery uses drift and sink gillnets, including nets set in a sink, stab, set, strike, or drift fashion, with some unanchored drift or sink nets used to target specific species. The dominant material is monofilament twine with stretched mesh sizes from 2.5–12 in (6.4–30.5 cm), and string lengths from 150–8,400 ft. (46–2,560 m). This fishery operates year-round west of a line drawn at 72° 30'W. long. south to 36° 33.03'N. lat. and east to the eastern edge of the EEZ and north of the North Carolina/South Carolina border, not including waters where Category II and Category III inshore gillnet fisheries operate in bays, estuaries, and rivers. At this time, these Category II and Category III fisheries include: the Chesapeake Bay inshore gillnet; North Carolina inshore gillnet; Delaware River inshore gillnet; Long Island Sound inshore gillnet; and Rhode Island, southern Massachusetts (to Monomy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet. This fishery includes any residual large pelagic driftnet effort in the mid-Atlantic and any shark and dogfish gillnet effort in the mid-Atlantic zone described. The fishing effort is prosecuted right off the beach (6 ft [1.8 m]) or in nearshore coastal waters to offshore waters (250 ft [76 m]).

Gear in this fishery is managed by several Federal FMPs and Inter-State FMPs managed by the Atlantic States Marine Fisheries Commission (ASMFC), the ALWTRP, the HPTRP, and the Bottlenose Dolphin Take Reduction Team (BDTRT). Fisheries are primarily managed by TACs; individual trip limits (quotas); effort caps (limited number of days at sea per vessel); time and area closures; and gear restrictions and modifications.

#### Atlantic Ocean, Caribbean, Gulf of Mexico Large Pelagics Longline Fishery

The Category I Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery targets swordfish, yellowfin tuna, bigeye tuna, bluefin tuna, albacore tuna, dolphin fish, wahoo, shortfin mako shark, and a variety of other shark species. The fishery uses a mainline of >700 lb (317.5 kg) test monofilament typically ranging from 10–45 mi (16–72 km) long. Bullet-shaped floats are suspended at regular intervals along the mainline and long sections of gear are marked by radio beacons. Long gangion lines of 200–400 lb (91–181 kg) test monofilament of typically 100–200 ft (30.5–61 m) are suspended from the mainline. Only certain sized hooks and baits are allowed based on fishing location. Hooks are typically fished at depths between 40–120 ft (12–36.6 m). Longlines targeting tuna are typically set at dawn are hauled near dusk, while longlines targeting swordfish are typically set at night and hauled in the morning. Gear remains in the water typically for 10–14 hours. Fishermen generally modify only select sections of longline gear to target dolphin or wahoo, with the remaining gear configured to target swordfish, tuna, and/or sharks.

This fishery operates year-round and occurs within and outside the U.S. EEZ throughout Atlantic, Caribbean and Gulf of Mexico waters. The fishery has historically been composed of five relatively distinct segments with different fishing practices and strategies, including: Gulf of Mexico yellowfin tuna fishery; South Atlantic-Florida east coast to Cape Hatteras swordfish fishery; Mid-Atlantic and New England swordfish and bigeye tuna fishery; U.S. distant water swordfish fishery; and Caribbean Islands tuna and swordfish fishery. In addition to geographical area, these segments have historically differed by percentage of various target and non-target species, gear characteristics, and deployment techniques.

This fishery is managed under the Consolidated Atlantic HMS FMP. The dolphin and wahoo portions of the fishery are managed under the South Atlantic FMP for Dolphin and Wahoo. Regulations under the MSA address the target fish species, as well as bycatch species protected under the ESA and/or the MMPA. A portion of this fishery is the subject of the Pelagic Longline Take Reduction Team (PLTRT), convened in 2005. NMFS is currently developing regulations to implement the Take Reduction Plan.

#### Northeast/Mid-Atlantic American Lobster Trap/Pot Fishery

The Category I Northeast/mid-Atlantic American lobster trap/pot fishery targets American lobster primarily with traps, while 2–3 percent of the target species is taken by mobile gear (trawls and dredges). The fishery operates in inshore and offshore waters from Maine to New Jersey and may extend as far south as Cape Hatteras. Approximately 80 percent of American lobster are harvested from state waters; therefore, the ASMFC has a primary regulatory role. The EEZ portion of the fishery operates under regulations from the Federal American Lobster FMP. Both the EEZ and state fishery are operating under Federal regulations from the ALWTRP.

#### Northeast Anchored Float Gillnet Fishery

The Category II Northeast anchored float gillnet fishery targets mackerel, herring (particularly for bait), shad, and menhaden using gillnet gear of any size anchored and fished in the upper two-thirds of the water column. The fishery operates from the U.S.-Canada border to Long Island, NY, at 72° 30'W. long south to 36° 33.03'N. lat. and east to the eastern edge of the EEZ, not including Long Island Sound or other waters where gillnet fisheries are listed as Category III. The fishery is managed under the Interstate FMPs for Atlantic Menhaden and Shad. A total closure of the American shad ocean intercept fishery was fully implemented in January, 2005.

#### Northeast Drift Gillnet Fishery

The Category II Northeast drift gillnet fishery targets species other than large pelagics, including shad, herring, mackerel, and menhaden. This fishery uses drift gillnet gear, which is gillnet gear not anchored to the bottom and is free-floating on both ends or free-floating at one end and attached to the vessel at the other end. Mesh sizes are likely less than those used to target large pelagics. The fishery includes any residual large pelagic driftnet effort in New England and occurs at any depth in the water column from the U.S.-Canada border to Long Island, NY, at 72° 30'W. long. south to 36° 33.03'N. lat. and east to the eastern edge of the EEZ. The fishery is managed under the Interstate FMPs for Atlantic Menhaden and Shad. A total closure of the American shad ocean intercept fishery was fully implemented in January, 2005.

#### Chesapeake Bay Inshore Gillnet Fishery

The Category II Chesapeake Bay inshore gillnet fishery targets menhaden

and croaker using gillnet gear with mesh sizes ranging from 2.75–5 in (7–12.7 cm), depending on the target species. The fishery operates between the Chesapeake Bay/Bridge Tunnel and the mainland. The fishery is managed under the Interstate FMPs for Atlantic Menhaden and Atlantic Croaker.

#### Northeast Mid-Water Trawl (Including Pair Trawl) Fishery

The Category II Northeast mid-water trawl fishery targets Atlantic herring with bycatch of several finfish species, predominantly mackerel, spiny dogfish, and silver hake. This fishery uses primarily mid-water (pelagic) trawls (single and paired), which is trawl gear designed, capable, or used to fish for pelagic species with no portion designed to be operated in contact with the bottom. The fishery occurs primarily in Maine State waters, Jeffrey's Ledge, southern New England, and Georges Bank during the winter months when the target species continues its southerly migration from the Gulf of Maine/Georges Bank, into mid-Atlantic waters. The fishery is managed jointly by the Mid-Atlantic Fishery Management Council and the ASMFC as a migratory stock complex.

#### Mid-Atlantic Flynet Fishery

The following definition is proposed in the 2008 LOF. For the existing 2007 definition, see "Fishery Name and Organization Changes and Clarifications" for Atlantic, Gulf of Mexico and Caribbean fisheries below.

The Category II mid-Atlantic flynet fishery is a multispecies fishery composed of nearshore and offshore components that operate along the eastern coast of the mid-Atlantic United States. Flynets are high profile trawls similar to bottom otter trawls. These nets typically range from 80–120 ft (24–36.6 m) in headrope length, with wing mesh sizes of 16–64 in (41–163 cm), following a slow 3:1 taper to smaller mesh sizes in the body, extension, and codend sections of the net. The nearshore fishery operates from October to April inside of 30 fathoms (180 ft; 55 m) from North Carolina to New Jersey. This nearshore fishery targets Atlantic croaker, weakfish, butterfish, harvestfish, bluefish, menhaden, striped bass, kingfishes, and other finfish species. Flynet fishing is no longer permitted south of Cape Hatteras in order to protect weakfish stocks. The offshore component operates from November to April outside of 30 fathoms (180 ft; 55 m) from the Hudson Canyon off New York, south to Hatteras Canyon off North Carolina. These deeper water fisheries target bluefish,

Atlantic mackerel, *Loligo* squid, black sea bass, and scup (72 FR 7382, February 15, 2007). *Illex* Squid are also targeted offshore (70–200 fathoms [420–1,200 ft; 128–366 m]) during summer months from May to September.

#### Northeast Bottom Trawl Fishery

The Category II Northeast bottom trawl fishery uses bottom trawl gear to target species included in the NE Multispecies FMP, Summer Flounder FMP, and Scup and Seabass FMP, including, but not limited to: Atlantic cod, haddock, pollock, yellowtail flounder, winter flounder, witch flounder, American plaice, Atlantic halibut, redfish, windowpane flounder, summer flounder, spiny dogfish, monkfish, silver hake, red hake, white hake, ocean pout, and skate spp. The fishery operates year-round, with a peak from May to July, from the Maine-Canada border through waters east of 72° 30'W. long., primarily on the continental shelf and throughout the Gulf of Maine, Georges Bank, and Southern New England. The fishery is primarily managed by TACs, individual trip limits (quotas), effort caps (limited number of days at sea per vessel), time and area closures, and gear restrictions.

#### Virginia Pound Net Fishery

The Category II Virginia pound net fishery targets weakfish, spot, and croaker using stationary gear in nearshore coastal and estuarine waters off Virginia. Pound net gear includes a large mesh lead posted perpendicular to the shoreline and extending outward to the corral, or "heart," where the catch accumulates. This fishery includes all pound net effort in Virginia State waters, including waters inside the Chesapeake Bay. The fishery is managed under Interstate FMPs for Atlantic Croaker and Spot, and is subject to BDTRP implementing regulations.

#### Atlantic Mixed Species Trap/Pot Fishery

The Category II Atlantic mixed species trap/pot fishery's targets species including, but not limited to, hagfish, shrimp, conch/whelk, red crab, Jonah crab, rock crab, black sea bass, scup, tautog, cod, haddock, Pollock, redfish (ocean perch) white hake, spot, skate, catfish, stone crab, and American eel. The fishery includes all trap/pot operations for species other than American lobster and blue crab from the Maine-Canada border south through the waters east of the fishery management demarcation line between the Atlantic Ocean and the Gulf of Mexico (50 CFR 600.105), but does not include the following Category I, II, and III trap/pot

fisheries: Northeast/Mid-Atlantic American lobster trap/pot; Atlantic blue crab trap/pot; Florida spiny lobster trap/pot; Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot; U.S. Mid-Atlantic eel trap/pot fisheries; and the Southeastern U.S. Atlantic, Gulf of Mexico golden crab fishery (68 FR 1421, January 10, 2003). The fishery is managed under various Interstate FMPs.

#### Atlantic Blue Crab Trap/Pot Fishery

The Category II Atlantic blue crab trap/pot fishery targets blue crab using pots baited with fish or poultry typically set in rows in shallow water. The pot position is marked by either a floating or sinking buoy line attached to a surface buoy. The fishery occurs year-round from the south shore of Long Island at 72° 30'W. long. in the Atlantic and east of the fishery management demarcation line between the Atlantic Ocean and the Gulf of Mexico (50 CFR 600.105), including state waters. The fishery is managed under state FMPs, and is subject to BDTRP and ALWTRP implementing regulations.

#### Mid-Atlantic Bottom Trawl Fishery

The Category II mid-Atlantic bottom trawl fishery uses bottom trawl gear to target species including, but not limited to, bluefish, croaker, monkfish, summer flounder (fluke), winter flounder, silver hake (whiting), spiny dogfish, smooth dogfish, scup, and black sea bass. The fishery occurs year-round from Cape Cod, MA, to Cape Hatteras, NC, in waters west of 72° 30'W. long. and north of a line extending due east from the North Carolina/South Carolina border. The gear is managed by several state and Federal FMPs that range from Massachusetts to North Carolina.

#### Mid-Atlantic Mid-Water Trawl (Including Pair Trawl) Fishery

The Category II mid-Atlantic mid-water trawl fishery targets Atlantic mackerel, *Loligo* squid, *Illex* squid, and Atlantic butterfish using mainly mid-trawl gear, with some bottom trawls. The fishery is dominated by small-mesh otter trawls, but *Loligo* squid are also taken by inshore pound nets and fish traps in spring and summer. The fishery for *Illex* occurs offshore, mainly in continental shelf and slope waters during summer months (June to September), from southern New England to Cape Hatteras, NC. The fishery for *Loligo* occurs mostly offshore near the edge of the continental shelf during fall and winter months (October to March), and inshore during spring and summer (April to September) in southern New England and mid-Atlantic waters. The fishery for Atlantic

mackerel occurs primarily in southern New England and the mid-Atlantic from January to March, and in the Gulf of Maine during summer and fall (May to December). Atlantic butterfish are mainly caught as bycatch in the directed squid and mackerel fisheries due to their northerly inshore migration in summer months and southerly offshore migration in winter months. The fishery is managed by the Federal Squid, Mackerel, Butterfish FMP. The *Illex* and *Loligo* fisheries are managed by moratorium permits, gear and area restrictions, quotas, and trip limits. The Atlantic mackerel and Atlantic butterfish fisheries are managed by an annual quota system.

#### Mid-Atlantic Haul/Beach Seine Fishery

The Category II mid-Atlantic haul/beach seine fishery targets striped bass, mullet, spot, weakfish, sea trout, bluefish, kingfish, and harvestfish using seines with one end secured (e.g., swipe nets and long seines) and seines secured at both ends or those anchored to the beach and hauled up on the beach. The beach seine system also uses a bunt and a wash net that are attached to the beach and extend into the surf. The beach seines soak for less than 2 hours. The fishery occurs in waters west of 72° 30'W. long. and north of a line extending due east from the North Carolina-South Carolina border. Fishing on the Outer Banks, NC, occurs primarily in the spring (April to June) and fall (October to December). The fishery is managed under the Interstate FMPs for Bluefish and for Atlantic Striped Bass of the Atlantic Coast from Maine through North Carolina, and is subject to BDTRP implementing regulations.

#### Mid-Atlantic Menhaden Purse Seine Fishery

The Category II mid-Atlantic menhaden purse seine fishery targets menhaden and thread herring using purse seine gear. Most sets occur within 3 mi (4.8 km) of shore with the majority of the effort occurring off North Carolina from November to January, and moving northward during warmer months to southern New England. The fishery is managed under the Interstate FMP for Atlantic Menhaden.

#### Southeastern U.S. Atlantic Shark Gillnet Fishery

The Category II Southeastern U.S. Atlantic shark gillnet fishery targets large and small coastal sharks (blacktip, blacknose, finetooth, bonnethead, and sharpnose) using gillnets set in a sink, stab, set, strike, or drift fashion. Mesh size is typically greater than 5 in (13

cm), but may be as small as 2.87 in (7.3 cm) when targeting small coastal sharks. Drift gillnets most commonly use a mesh size of 5 in (13 cm) and average 10.2 hours from setting the gear through completion of haulback; sink gillnets most frequently use a mesh size of 7 in (18 cm) soaking for approximately 2.7 hours; and strike gillnets use the largest mesh size of 9 in (23 cm) soaking for approximately 0.8 hours. This fishery has traditionally operated in coastal waters off Florida and Georgia.

This fishery is managed under the Consolidated Atlantic HMS FMP, the ALWTRP, and the BDTRP, and is subject to ESA biological opinion requirements. Regulations implemented under the MSA address managed target species, as well as bycatch species, including some protected under the ESA and MMPA (e.g., sea turtles, smalltooth sawfish, and right whales). Under the ALWTRP, various restrictions are in place during right whale calving season from November 15 through April 15.

#### Southeast Atlantic Gillnet Fishery

The Category II Southeast Atlantic gillnet fishery targets finfish including, but not limited to, king mackerel, Spanish mackerel, whiting, bluefish, pompano, spot, croaker, little tunny, bonita, jack crevalle, cobia, and striped mullet. This fishery does not include gillnet effort targeting sharks as part of the "Southeastern U.S. Atlantic shark gillnet" fishery. This fishery uses gillnets set in sink, stab, set, or strike fashion. The fishery operates in waters south of a line extending due east from the North Carolina-South Carolina border and south and east of the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico. The majority of fishing effort occurs in Federal waters since South Carolina, Georgia, and Florida prohibit the use of gillnets, with limited exceptions, in state waters.

Fishing for king mackerel, Spanish mackerel, cobia, cero, and little tunny in Federal waters is managed under the Coastal Migratory Pelagic Resources (CMPR) FMP. None of the other target species are Federally managed under the MSA. In state waters, state and ASMFC Interstate FMPs apply. The fishery is also subject to BDTRP implementing regulations.

#### North Carolina Inshore Gillnet Fishery

The Category II North Carolina inshore gillnet fishery targets species including, but not limited to, southern flounder, weakfish, bluefish, Atlantic croaker, striped mullet, spotted seatrout, Spanish mackerel, striped bass, spot,

red drum, black drum, and shad. This fishery includes any fishing effort using any type of gillnet gear, including set (float and sink), drift, and runaround gillnet for any target species inshore of the COLREGS lines in North Carolina. This fishery is managed under state and ASMFC interstate FMPs, applying net and mesh size regulations, and seasonal area closures in the Pamlico Sound Gillnet Restricted Area (PSGNRA). This fishery is subject to BDTRP implementing regulations.

#### Gulf of Mexico Gillnet Fishery

The Category II Gulf of Mexico gillnet fishery targets a wide variety of target species, including, but not limited to: black drum, sheepshead, weakfish, mullet, spot, croaker, king mackerel, Spanish mackerel, Florida pompano, flounder shark, menhaden, bluefish, blue runner, ladyfish, spotted seatrout, croaker, kingfish, and red drum. This fishery operates year-round using any type of gillnet, including strike and straight gillnets, in waters north of the U.S.-Mexico border and west of the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico. Gillnet gear is prohibited in Texas and Florida State waters, but fixed and runaround gillnets are currently used in Louisiana, Mississippi, and Alabama, with highly variable fishing effort.

Fishing for king mackerel, Spanish mackerel, cobia, cero, little tunny, dolphin, and bluefish are managed under the CMPR FMP. In the Gulf of Mexico, CMPR FMP species are the only Federally managed species for which gillnet gear is authorized, and only run-around gillnetting for these species is allowed. In state waters, state and Gulf States Marine Fisheries Commission (GSMFC) Interstate FMPs apply.

#### North Carolina Long Haul Seine Fishery

The Category II North Carolina long haul seine fishery targets species including, but not limited to, weakfish, spot, croaker, menhaden, bluefish, spotted seatrout, and hogfish using multi-filament seines consisting of a 1,000–2,000 yard (3,000–6,000 ft) net pulled by two boats for 1–2 nmi (2–4 km). Fish are encircled and concentrated by pulling the net around a fixed stake. The fishery includes fishing with long haul seine gear to target any species in waters off North Carolina, including estuarine waters in Pamlico and Core Sounds and their tributaries. The fishery occurs from February to November, with peak effort occurring from June to October. The fishery is managed under ASMFC interstate FMPs and the BDTRP.

#### North Carolina Roe Mullet Stop Net Fishery

The Category II North Carolina roe mullet stop net fishery targets striped mullet from October to November using a stationary, multi-filament anchored net extended perpendicular to the beach. Once the catch accumulates near the end of the stop net, a beach haul seine is used to capture fish and bring them ashore. The stop net is traditionally left in the water for 1–5 days, but can be left as long as 15 days. This fishery is unique to Bogue Banks, NC. This fishery is managed under the NC Striped Mullet FMP and the BDTRP.

#### Gulf of Mexico Menhaden Purse Seine Fishery

The Category II Gulf of Mexico menhaden purse seine fishery targets menhaden and thread herring using purse seine gear in bays, sounds, and nearshore coastal waters along the Gulf of Mexico coast. The majority of the fishing effort is concentrated off Louisiana and Mississippi, with lesser effort in Alabama and Texas State waters. Florida prohibits the use of purse seines in state waters. The fishery is managed under the GSMFC Interstate Gulf Menhaden FMP.

#### Summary of Changes to the LOF for 2008

The following summarizes changes to the LOF for 2008 in fishery classification, fisheries listed in the LOF, the number of participants in a particular fishery, and the species and/or stocks that are incidentally killed or seriously injured in a particular fishery. The classifications and definitions of U.S. commercial fisheries for 2008 are identical to those provided in the LOF for 2007 with the following exceptions.

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

##### Fishery Classification

NMFS proposes to elevate the “CA yellowtail, barracuda, and white seabass drift gillnet (mesh size >3.5 inches and <14 inches)” fishery (proposed to be changed to “CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 inches and <14 inches)” fishery in this proposed rule) from a Category II fishery to a Category I fishery based upon observer documented interactions with the CA stock of long-beaked common dolphins in 2003 and 2004. The estimated annual mortality of long-beaked common dolphins in this fishery is 9 dolphins. The PBR for the CA stock of long-beaked common dolphin is 11 animals (draft U.S. Pacific SAR for 2007). Therefore, the estimated

annual serious injury and mortality in this fishery is approximately 82 percent of the stock’s PBR. Category I classification is necessary because the mean serious injury and mortality of the CA stock of long-beaked common dolphins in this fishery exceeds 50 percent of its PBR. NMFS also proposes to remove the superscript “2” (i.e., a Category II fishery classification based on analogy with another fishery) from this fishery and add a superscript “1” (which represents which stocks are driving a fishery’s classification) after long-beaked common dolphin in Table 1, as bycatch of the CA stock of long-beaked common dolphin is driving the proposed reclassification to Category I.

##### Removal of Fisheries from the LOF

NMFS proposes to remove the Category II “OR blue shark floating longline” fishery and the Category II “OR swordfish floating longline” fishery from the LOF. The Pacific HMS FMP regulations (50 CFR 660.712(a)) and ESA regulations (50 CFR 223.206(d)(9)) prohibit the use of longline gear to target HMS species in the U.S. Pacific EEZ and prohibit the use of shallow-set longline gear outside the U.S. Pacific EEZ. As a result, the State of Oregon is no longer issuing developmental permits for these fisheries.

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

NMFS proposes to modify the name of the Category III “CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less” to the “CA set gillnet fishery (mesh size <3.5 inches)”. This definition better describes the fishery and is consistent with the California Fish and Game Code regulating state commercial fisheries in marine waters.

NMFS proposes to modify the name of the Category II (proposed for elevation to a Category I in this proposed rule) “CA yellowtail, barracuda, and white seabass drift gillnet (mesh size >3.5 inches and <14 inches)” fishery to “CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 inches and <14 inches)” fishery. This change is consistent with the minimum mesh size allowed in this fishery, 3.5 in (8.9 cm), as defined in California’s Fish and Game Code.

NMFS received comments on the 2007 LOF regarding take of humpback and gray whales in Category III trap/pot fisheries on the Pacific Coast, which prompted NMFS to review the various west coast pot and trap fisheries. Reports to the Marine Mammal Stranding Network in the Pacific

Northwest (OR and WA) indicate that gray whale entanglements in commercial crab gear occurs in both states; however, no takes of humpback whales in crab gear have been reported in the Northwest Region from 2001 to present. The 2005 Alaska SAR for the Eastern North Pacific stock of gray whale estimated the total fisheries incidental serious injury and mortality for this stock at less than 10 percent of the stock’s PBR level. The crab fisheries in Oregon and Washington are both state regulated limited entry fisheries and both states have recently enacted regulations to reduce and limit the number of pots used by fishery participants. NMFS anticipates that incidental serious injury and mortality of gray and humpback whales in OR and WA crab fisheries is unlikely to increase; therefore, NMFS is not recommending reclassification of the crab pot fishery at this time. NMFS will continue to analyze information from the remaining pot fisheries along the west coast for potential recategorization of certain west coast trap/pot fisheries in future LOFs.

##### Number of Vessels/Persons

NMFS proposes to update the estimated number of vessels or persons in the Category III “CA abalone” fishery from 111 to zero. The State of California closed the commercial abalone fishery in 1997 due to declines in all five species of abalone. The State of California is currently involved in a fishery development process that may allow a limited red abalone fishery at San Miguel Island, CA. NMFS will continue to monitor this fishery and update the LOF as appropriate.

NMFS proposes to update the estimated number of vessels or persons in the Category III “CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less” (proposed to be changed to the “CA set gillnet (mesh size <3.5 inches)” fishery in this proposed rule) from 341 to 304, based upon the number of permits issued in the herring fishery and the number of vessels that use this gear to target other fish species. The number of active vessels in this fishery varies yearly.

NMFS proposes to update the estimated number of vessels or persons in the Category II “CA anchovy, mackerel, and sardine purse seine” fishery from 100 to 63.

NMFS proposes to update the estimated number of vessels or persons in the Category II “CA squid purse seine” fishery from 65 to 71.

NMFS proposes to update the estimated number of vessels or persons

in the Category III “Hawaii inshore gillnet” fishery from 35 to 5.

#### List of Species That are Incidentally Injured or Killed

NMFS proposes to add the Hawaiian stocks of striped dolphin and Bryde’s whale to the list of marine mammal species and stocks incidentally injured or killed in the “Hawaii swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line” fishery based on observed serious injury and mortalities in the HI-based longline fishery. A Bryde’s whale was observed injured in 2005 and a striped dolphin was observed killed in 2006.

NMFS proposes to remove the Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock of killer whales from the Category II “AK Bering Sea and Aleutian Islands Pacific cod longline” fishery and the Category III “AK Bering Sea and Aleutian Islands Greenland turbot longline” fishery. Genetic analyses of tissue samples collected by observers over the past few years have indicated that the mortalities incidental to these two fisheries were resident killer whales (2006 Final SARs [72 FR 12774, March 19, 2007]). Genetic analyses indicated that the mortalities incidental to the “Bering Sea and Aleutian Islands pollack trawl” fishery were transient killer whales (2006 Final SARs [72 FR 12774, March 19, 2007]). Therefore, the transient stock of killer whales remains on the list of species or stocks incidentally killed or injured in the pollack trawl fishery.

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

##### Addition of Fisheries to the LOF

NMFS proposes to add the “Georgia cannonball jellyfish trawl” fishery as a Category III fishery. This is an experimental mid-water trawl fishery targeting cannonball jellyfish and operating in state and Federal waters off of Georgia between February and April. Participation in this fishery requires a permit and the use of a turtle excluder device (TED). Eight vessels were issued permits each year between 2004–2006. However, the number of active vessels decreased from 8 in 2004 to 1 in 2006, and the Georgia Department of Natural Resources (DNR) expects participation in this experimental fishery to remain low. The Georgia DNR conducts bycatch assessments in experimental fisheries permitted by the state. Less than 5 percent of the fishery has been assessed for the last several years combined. No marine mammal species or stocks have been observed incidentally seriously injured or killed in this fishery (Pers.

Comm., Julie Califf, Georgia DNR; Atlantic States Marine Fisheries Commission, 2006).

##### Removal of Fisheries from the LOF

NMFS proposes to remove the Category III “U.S.-mid Atlantic hand seine” fishery from the LOF. This fishery was added to the LOF in 1996 based on historical information and was placed in Category III by analogy to other hand seine fisheries (60 FR 31681, June 16, 1995). No marine mammal stocks have been documented as seriously injured or killed in this fishery. No new information on this fishery has been identified since its addition in 1996, and therefore NMFS proposed to remove it from the LOF.

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

###### Southeast Atlantic Gillnet Fishery

NMFS proposes to remove shad from the list of target species associated with the Category II “Southeast Atlantic gillnet” fishery. A total closure of the ocean intercept fishery for American shad was implemented January 1, 2005, under Amendment 1 to the Interstate FMP for Shad and River Herring. Remaining gillnet effort targeting shad and river herring in inshore rivers and bays is included in the Category III “Southeast Atlantic inshore gillnet” fishery.

###### Mid-Atlantic Gillnet Fishery

NMFS proposes to clarify the boundaries and excluded fisheries in the Category I “mid-Atlantic gillnet” fishery. Currently, the boundaries for the mid-Atlantic gillnet fishery are defined as including “fishing for any target species using any type of gillnet gear west of a line drawn at 72° 30’W. long. south to 36° 33.03’N. lat. and east to the eastern edge of the EEZ and north of the North Carolina-South Carolina border” (71 FR 70346, December 4, 2006). NMFS proposes to clarify this boundary definition through the addition of the following language, “North Carolina-South Carolina border, but not including waters where gillnet fisheries are listed as Category II and Category III. At this time, these Category II and Category III fisheries include: the Chesapeake Bay inshore gillnet; North Carolina inshore gillnet; Delaware River inshore gillnet; Long Island Sound inshore gillnet; and Rhode Island, southern Massachusetts (to Monomy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet”.

##### Atlantic Mixed Species Trap/Pot Fishery

NMFS proposes to clarify the boundaries and excluded fisheries in the Category II “Atlantic mixed species trap/pot” fishery. Currently, the boundaries are defined as extending throughout the U.S. Atlantic waters from Maine to Florida (68 FR 1420, January 10, 2003). NMFS proposes to clarify this boundary definition, as well as those fisheries not included in the definition, by adding the following, “The Atlantic mixed species trap/pot fishery (Category II) includes all trap/pot operations for species from the Maine-Canada border down through the waters east of the fishery management demarcation line between the Atlantic Ocean and the Gulf of Mexico (50 CFR 600.105), but does not include the following Category I, II, and III trap/pot fisheries: Northeast/Mid-Atlantic American lobster trap/pot; Atlantic blue crab trap/pot; Florida spiny lobster trap/pot; Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot; U.S. Mid-Atlantic eel trap/pot fisheries; and the Southeastern U.S. Atlantic, Gulf of Mexico golden crab fishery (68 FR 1421, January 10, 2003)”.

NMFS also proposes to expand the list of fish species targeted by the Category II “Atlantic mixed species trap/pot” fishery. NMFS added this Category II fishery to the 2003 LOF to encompass the “Northeast trap/pot”, the “mid-Atlantic mixed species trap/pot”, the “U.S. mid-Atlantic and Southeast U.S. Atlantic black sea bass trap/pot” fisheries and any other trap/pot fisheries otherwise not identified in the LOF, based on the use of similar gear and the potential for marine mammal entanglements. In the final 2007 LOF (72 FR 14474, March 28, 2007), NMFS expanded the target fish species in the Atlantic mixed species trap/pot fishery to include, but not be limited to: hagfish, shrimp, conch/whelk, red crab, Jonah crab, rock crab, black sea bass, scup, tautog, cod, haddock, pollock, redfish (ocean perch), white hake, spot, skate, catfish and American eel (not included in the LOF’s “U.S. Mid-Atlantic eel trap/pot” fishery description). NMFS has recently become aware that this fishery is targeting an additional species, cunner. Therefore, NMFS proposes to expand the list of species associated with this fishery to also include cunner.

###### Mid-Atlantic Flynet Fishery

NMFS believes that at this time, changes to the current Category II “mid-Atlantic flynet” fishery definition are warranted for maintaining consistency

with the North Carolina definitions of the “flynet fishery” and other Federal definitions for this fishery (CFR 50 CFR 697.2; 72 FR 7382, February 15, 2007). NMFS proposes to clarify this fishery definition by replacing the current definition provided in the LOF in 2007 (71 FR 70345, December 4, 2006) with the following language: “The flynet fishery is a multispecies fishery composed of nearshore and offshore components that operate along the eastern coast of the mid-Atlantic United States. Flynets are high profile trawls similar to bottom otter trawls. These nets typically range from 80–120 ft (24–36.6 m) in headrope length, with wing mesh sizes of 16–64 in (41–163 cm), following a slow 3:1 taper to smaller mesh sizes in the body, extension, and codend sections of the net. The nearshore fishery operates from October to April inside of 30 fathoms (180 ft–55 m) from North Carolina to New Jersey. This nearshore fishery targets Atlantic croaker, weakfish, butterfish, harvestfish, bluefish, menhaden, striped bass, kingfishes, and other finfish species. Flynet fishing is no longer permitted south of Cape Hatteras in order to protect weakfish stocks. The offshore component operates from November to April outside of 30 fathoms (180 ft; 55 m) from the Hudson Canyon off New York, south to Hatteras Canyon off North Carolina. These deeper water fisheries target bluefish, Atlantic mackerel, *Loligo* squid, black sea bass, and scup (72 FR 7382, February 15, 2007). *Illex* squid are also targeted offshore (70–200 fathoms [420–1,200 ft; 128–366 m]) during summer months from May to September.”

NMFS acknowledges that concerns have been raised over the possible colloquial nature of this fishery and will continue working with mid-Atlantic states and NMFS regional Fisheries Science Centers to resolve these concerns. Through this proposed 2008 LOF, NMFS also solicits additional public comments, or information, concerning characteristics associated with the “Flynet Fishery” from New Jersey to North Carolina.

#### List of Species That are Incidentally Seriously Injured or Killed

NMFS proposes to add the Northern Gulf of Mexico continental shelf and Eastern Gulf of Mexico coastal stocks of bottlenose dolphins to the list of marine mammal species and stocks incidentally injured or killed in the “Southeastern U.S. Atlantic, Gulf of Mexico, shark bottom longline/hook-and-line” fishery. Three interactions with bottlenose dolphins have been documented through the Commercial Shark Fishery

Observer Program, which monitored the fishery between 1994 and 2004. Two of the interactions involved “hooked” dolphins released alive (1999 and 2002), and one interaction resulted in a mortality (2003) [Pers. Comm., G. Burgess and A. Morgan; Burgess and Morgan, 2003A; Burgess and Morgan, 2003B]. Based on the spatial information provided by the observer program, NMFS determined that the dolphins were likely part of the Gulf of Mexico coastal and continental shelf stocks. Although bycatch estimates for the shark bottom longline fishery have not been extrapolated for marine mammal stocks, NMFS believes that interactions with bottlenose dolphins are rare. This fishery is currently observed with an annual target of 3.9 percent coverage. No bottlenose dolphins have been observed injured or killed within the last five years. However, the fishery still operates in the same general areas and uses the same type of gear; therefore, NMFS believes the fishery continues to present a low level of risk for interactions.

NMFS proposes to change the name of the bottlenose dolphin stocks incidentally seriously injured or killed in the “Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline” and “Gulf of Mexico butterfish trawl” fisheries from “Bottlenose dolphin, Northern Gulf of Mexico outer continental shelf” to “Bottlenose dolphin, Northern Gulf of Mexico oceanic”, and from “Bottlenose dolphin, Northern Gulf of Mexico continental shelf edge and slope” to “Bottlenose dolphin, Northern Gulf of Mexico continental shelf”. The names of these stocks were changed in the 2003 and 2005 SARs and the LOF should have also been updated at that time. This proposal corrects that oversight.

NMFS proposes to change the name of the humpback whale stock incidentally killed/injured from “Western North Atlantic (WNA)” to “Gulf of Maine” for the “Northeast sink gillnet” (Category I), “Northeast/mid-Atlantic American lobster trap/pot” (Category I), “Northeast anchored float gillnet” (Category II), and “Gulf of Maine, U.S. mid-Atlantic tuna, shark, swordfish hook-and-line/harpoon” (Category III) fisheries to reflect the interactions taking place between these fisheries and humpback whales from the Gulf of Maine feeding stock. During 2002, the Gulf of Maine stock was classified as a separate feeding stock based on research conducted along the Nova Scotian Shelf that showed a strong fidelity by individual whales to this region. The reclassification was based on the assumption that, were this

subpopulation wiped out, repopulation by immigration from adjacent areas would not occur on any reasonable timescale (U.S. Atlantic and Gulf of Mexico Stock Assessments, 2005; 71 FR 26340, May 4, 2006). Subsequent support included genetic analyses conducted by Pasb 1 et al. in 1995. During the Comprehensive Assessment of North Atlantic Humpback Whales, the International Whaling Commission also acknowledged that evidence existed for treating the Gulf of Maine as a separate stock for the purpose of management (IWC 2002).

#### List of Fisheries

The following two tables list U.S. commercial fisheries according to their assigned categories under section 118 of the MMPA. The estimated number of vessels/participants is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants in a fishery, the number from the most recent LOF is used.

The tables also list the marine mammal species and stocks 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 mortality or injury in a given fishery, but also includes species or stocks for which there are anecdotal records of interaction. Additionally, species identified by logbook entries may not be verified. Bycatch of species or stocks identified is not necessarily driving a fishery’s classification in a given Category. NMFS has designated those stocks driving a fishery’s classification (i.e., the fishery is classified based on serious injuries and mortalities of a marine mammal stock greater than 50 percent [Category I], or greater than 1 percent and less than 50 percent [Category II], of a stock’s PBR) by a “1” after the stock’s name.

There are several fisheries classified in Category II that have no recently documented interactions with marine mammals, or interactions that did not result in a serious injury or mortality. Justification for classifying these fisheries, which are greater than 1 percent of a stock’s PBR level, is by analogy to other gear types that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995), and according to factors listed in the definition of a

“Category II fishery” in 50 CFR 229.2. NMFS has designated those fisheries

originally listed by analogy in Tables 1 and 2 by a “2” after the fishery’s name.

Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska);

Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Category I		
GILLNET FISHERIES:		
CA angel shark/halibut and other species set gillnet (>3.5 in. mesh)	58	California sea lion, U.S. Harbor seal, CA Harbor porpoise, Central CA <sup>1</sup> Long-beaked common dolphin, CA Northern elephant seal, CA breeding Sea otter, CA Short-beaked common dolphin, CA/OR/WA
CA yellowtail, barracuda, and white seabass drift gillnet fishery (mesh size $\geq$ 3.5 inches and <14 inches)	24	California sea lion, U.S. Long-beaked common dolphin, CA <sup>1</sup> Short-beaked common dolphin, CA/OR/WA
CA/OR thresher shark/swordfish drift gillnet ( $\geq$ 14 in. mesh)	85	California sea lion, U.S. Dall’s porpoise, CA/OR/WA Fin whale, CA/OR/WA Gray whale, Eastern North Pacific Humpback whale, Eastern North Pacific Long-beaked common dolphin, CA Northern elephant seal, CA breeding Northern right-whale dolphin, CA/OR/WA Pacific white-sided dolphin, CA/OR/WA Risso’s dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA Short-finned pilot whale, CA/OR/WA <sup>1</sup> Sperm whale, CA/OR/WA
LONGLINE/SET LINE FISHERIES:		
HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line	140	Blainville’s beaked whale, HI Bottlenose dolphin, HI False killer whale, HI <sup>1</sup> Humpback whale, Central North Pacific Pantropical spotted dolphin, HI Risso’s dolphin, HI Short-finned pilot whale, HI Spinner dolphin, HI Sperm whale, HI
Category II		
GILLNET FISHERIES:		
AK Bristol Bay salmon drift gillnet <sup>2</sup>	1,903	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Spotted seal, AK Steller sea lion, Western U.S. <sup>1</sup>
AK Bristol Bay salmon set gillnet <sup>2</sup>	1,014	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Spotted seal, AK

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK Cook Inlet salmon set gillnet	745	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Humpback whale, Central North Pacific <sup>1</sup> Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	576	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA <sup>1</sup> Harbor seal, GOA Steller sea lion, Western U.S.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA <sup>1</sup> Harbor seal, GOA Sea otter, Southwest AK Steller sea lion, Western U.S.
AK Metlakatla/Annette Island salmon drift gillnet <sup>2</sup>	60	None documented
AK Peninsula/Aleutian Islands salmon drift gillnet <sup>2</sup>	164	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific
AK Peninsula/Aleutian Islands salmon set gillnet <sup>2</sup>	116	Harbor porpoise, Bering Sea Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	541	Dall's porpoise, AK Harbor porpoise, GOA <sup>1</sup> Harbor seal, GOA Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Sea Otter, South Central AK Steller sea lion, Western U.S. <sup>1</sup>
AK Southeast salmon drift gillnet	481	Dall's porpoise, AK Harbor porpoise, Southeast AK Harbor seal, Southeast AK Humpback whale, Central North Pacific <sup>1</sup> Pacific white-sided dolphin, North Pacific Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet <sup>2</sup>	170	Gray whale, Eastern North Pacific Harbor seal, Southeast AK Humpback whale, Central North Pacific (Southeast AK)
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded)	210	Dall's porpoise, CA/OR/WA Harbor porpoise, inland WA <sup>1</sup> Harbor seal, WA inland
PURSE SEINE FISHERIES:		
AK Southeast salmon purse seine	416	Humpback whale, Central North Pacific <sup>1</sup>
AK Cook Inlet salmon purse seine	82	Humpback whale, Central North Pacific <sup>1</sup>
AK Kodiak salmon purse seine	370	Humpback whale, Central North Pacific <sup>1</sup>
CA anchovy, mackerel, sardine purse seine	63	Bottlenose dolphin, CA/OR/WA offshore <sup>1</sup> California sea lion, U.S. Harbor seal, CA
CA squid purse seine	71	Common dolphin, unknown Short-finned pilot whale, CA/OR/WA <sup>1</sup>
CA tuna purse seine <sup>2</sup>	10	None documented
TRAWL FISHERIES:		

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK Bering Sea, Aleutian Islands flatfish trawl	26	Bearded seal, AK Harbor porpoise, Bering Sea Harbor seal, Bering Sea Killer whale, AK resident <sup>1</sup> Northern fur seal, Eastern North Pacific Spotted seal, AK Steller sea lion, Western U.S. <sup>1</sup> Walrus, AK
AK Bering Sea, Aleutian Islands pollock trawl	120	Dall's porpoise, AK Harbor seal, AK Humpback whale, Central North Pacific <sup>1</sup> Humpback whale, Western North Pacific <sup>1</sup> Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient <sup>1</sup> Minke whale, AK Ribbon seal, AK Spotted seal, AK Steller sea lion, Western U.S. <sup>1</sup>
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Pacific cod longline	114	Killer whale, AK resident <sup>1</sup> Ribbon seal, AK Steller sea lion, Western U.S.
CA pelagic longline <sup>2</sup>	6	California sea lion, U.S. Risso's dolphin, CA/OR/WA
POT, RING NET, AND TRAP FISHERIES:		
AK Bering Sea sablefish pot	6	Humpback whale, Central North Pacific <sup>1</sup> Humpback whale, Western North Pacific <sup>1</sup>
Category III		
GILLNET FISHERIES:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	1,922	Harbor porpoise, Bering Sea
AK miscellaneous finfish set gillnet	3	Steller sea lion, Western U.S.
AK Prince William Sound salmon set gillnet	30	Harbor seal, GOA Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	2,034	None documented
CA set gillnet (mesh size <3.5 inches)	304	None documented
Hawaii inshore gillnet	5	Bottlenose dolphin, HI Spinner dolphin, HI
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing)	24	Harbor seal, OR/WA coast
WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet	913	None documented
WA, OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S. Harbor seal, OR/WA coast
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
PURSE SEINE, BEACH SEINE, ROUND HAUL AND THROW NET FISHERIES:		
AK Metlakatla salmon purse seine	10	None documented
AK miscellaneous finfish beach seine	1	None documented

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
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
WA, OR sardine purse seine	42	None documented
HI Kona crab loop net	42	None documented
HI opelu/akule net	12	None documented
HI inshore purse seine	23	None documented
HI throw net, cast net	14	None documented
WA (all species) beach seine or drag seine	235	None documented
WA, OR herring, smelt, squid purse seine or lampara	130	None documented
WA salmon purse seine	440	None documented
WA salmon reef net	53	None documented
DIP NET FISHERIES:		
CA squid dip net	115	None documented
WA, OR smelt, herring dip net	119	None documented
MARINE AQUACULTURE FISHERIES:		
CA marine shellfish aquaculture	unknown	None documented
CA salmon enhancement rearing pen	>1	None documented
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented
OR salmon ranch	1	None documented
WA, OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
TROLL FISHERIES:		
AK North Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries	1,530 (330 AK)	None documented
AK salmon troll	2,335	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	< 50	None documented
CA/OR/WA salmon troll	4,300	None documented
Commonwealth of the Northern Mariana Islands tuna troll	88	None documented
Guam tuna troll	401	None documented
HI trolling, rod and reel	1,321	None documented

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Greenland turbot longline	12	Killer whale, AK resident
AK Bering Sea, Aleutian Islands rockfish longline	17	None documented
AK Bering Sea, Aleutian Islands sablefish longline	63	None documented
AK Gulf of Alaska halibut longline	1,302	None documented
AK Gulf of Alaska Pacific cod longline	440	None documented
AK Gulf of Alaska rockfish longline	421	None documented
AK Gulf of Alaska sablefish longline	412	Sperm whale, North Pacific Steller sea lion, Eastern U.S.
AK halibut longline/set line (State and Federal waters)	3,079	Steller sea lion, Western U.S.
AK octopus/squid longline	7	None documented
AK state-managed waters groundfish longline/setline (including sablefish, rockfish, and miscellaneous finfish)	731	None documented
American Samoa longline	60	None documented
WA, OR, CA groundfish, bottomfish longline/set line	367	None documented
WA, OR North Pacific halibut longline/set line	350	None documented
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	8	Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	87	Harbor seal, Bering Sea Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands rockfish trawl	9	None documented
AK Gulf of Alaska flatfish trawl	52	None documented
AK Gulf of Alaska Pacific cod trawl	101	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	83	Fin whale, Northeast Pacific Northern elephant seal, North Pacific Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	45	None documented
AK food/bait herring trawl	3	None documented
AK miscellaneous finfish otter or beam trawl	6	None documented
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	58	None documented
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl	2	None documented
CA halibut bottom trawl	53	None documented

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
WA, OR, CA groundfish trawl	585	California sea lion, U.S. Dall's porpoise, CA/OR/WA Harbor seal, OR/WA coast Northern fur seal, Eastern Pacific Pacific white-sided dolphin, CA/OR/WA Steller sea lion, Eastern U.S.
WA, OR, CA shrimp trawl	300	None documented
POT, RING NET, AND TRAP FISHERIES:		
AK Aleutian Islands sablefish pot	8	None documented
AK Bering Sea, Aleutian Islands Pacific cod pot	76	None documented
AK Bering Sea, Aleutian Islands crab pot	329	None documented
AK Gulf of Alaska crab pot	unknown	None documented
AK Gulf of Alaska Pacific cod pot	154	Harbor seal, GOA
AK Southeast Alaska crab pot	unknown	Humpback whale, Central North Pacific (Southeast AK)
AK Southeast Alaska shrimp pot	unknown	Humpback whale, Central North Pacific (Southeast AK)
AK octopus/squid pot	72	None documented
AK snail pot	2	None documented
CA lobster, prawn, shrimp, rock crab, fish pot	608	Gray whale, Eastern North Pacific Harbor seal, CA Humpback whale, Eastern North Pacific Sea otter, CA
OR, CA hagfish pot or trap	25	None documented
WA, OR, CA crab pot	1,478	Gray whale, Eastern North Pacific Humpback whale, Eastern North Pacific
WA, OR, CA sablefish pot	176	None documented
WA, OR shrimp pot/trap	254	None documented
HI crab trap	22	None documented
HI fish trap	19	None documented
HI lobster trap	0	Hawaiian monk seal
HI shrimp trap	5	None documented
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline and mechanical jig	100	None documented
AK North Pacific halibut handline and mechanical jig	93	None documented
AK octopus/squid handline	2	None documented
American Samoa bottomfish	<50	None documented
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented
Guam bottomfish	200	None documented
HI aku boat, pole and line	4	None documented

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
HI Main Hawaiian Islands, Northwest Hawaiian Islands deep sea bottomfish	300	Hawaiian monk seal
HI inshore handline	307	None documented
HI tuna handline	298	Hawaiian monk seal
WA groundfish, bottomfish jig	679	None documented
Western Pacific squid jig	6	None documented
HARPOON FISHERIES:		
CA swordfish harpoon	30	None documented
POUND NET/WEIR FISHERIES:		
AK herring spawn on kelp pound net	452	None documented
AK Southeast herring roe/food/bait pound net	3	None documented
WA herring brush weir	1	None documented
BAIT PENS:		
WA/OR/CA bait pens	13	California sea lion, U.S.
DREDGE FISHERIES:		
Coastwide scallop dredge	108 (12 AK)	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	1	None documented
AK clam	156	None documented
WA herring spawn on kelp	4	None documented
AK dungeness crab	3	None documented
AK herring spawn on kelp	363	None documented
AK urchin and other fish/shellfish	471	None documented
CA abalone	0	None documented
CA sea urchin	583	None documented
HI black coral diving	1	None documented
HI fish pond	N/A	None documented
HI handpick	37	None documented
HI lobster diving	19	None documented
HI squidding, spear	91	None documented
WA, CA kelp	4	None documented
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection	637	None documented
WA shellfish aquaculture	684	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		

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

Fishery Description	Estimated # of vessels/per-sons	Marine mammal species and stocks incidentally killed/injured
AK, WA, OR, CA commercial passenger fishing vessel	>7,000 (1,107 AK)	Killer whale, stock unknown Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
HI charter vessel	114	None documented
LIVE FINFISH/SHELLFISH FISHERIES:		
CA finfish and shellfish live trap/hook-and-line	93	None documented

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

<sup>1</sup>Fishery classified based on serious injuries and mortalities of this stock, which are greater than 1 percent of the stock's PBR.

<sup>1</sup>Fishery classified based on serious injuries and mortalities of this stock, which are greater than 1 percent of the stock's PBR.

<sup>2</sup>Fishery classified by analogy.

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

Fishery Description	Estimated # of vessels/per-sons	Marine mammal species and stocks incidentally killed/injured
Category I		
GILLNET FISHERIES:		
Mid-Atlantic gillnet	>670	Bottlenose dolphin, WNA coastal <sup>1</sup> Bottlenose dolphin, WNA offshore Common dolphin, WNA Gray seal, WNA Harbor porpoise, GME/BF <sup>1</sup> Harbor seal, WNA Harp seal, WNA Humpback whale, Gulf of Maine <sup>1</sup> Long-finned pilot whale, WNA Minke whale, Canadian east coast Short-finned pilot whale, WNA White-sided dolphin, WNA
Northeast sink gillnet	341	Bottlenose dolphin, WNA offshore Common dolphin, WNA Fin whale, WNA Gray seal, WNA Harbor porpoise, GME/BF <sup>1</sup> Harbor seal, WNA Harp seal, WNA Hooded seal, WNA Humpback whale, Gulf of Maine <sup>1</sup> Minke whale, Canadian east coast <sup>1</sup> North Atlantic right whale, WNA <sup>1</sup> Risso's dolphin, WNA White-sided dolphin, WNA
LONGLINE FISHERIES:		

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline	94	Atlantic spotted dolphin, Northern GMX Atlantic spotted dolphin, WNA Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, Northern GMX continental shelf Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA Long-finned pilot whale, WNA <sup>1</sup> Mesoplodon beaked whale, WNA Northern bottlenose whale, WNA Pantropical spotted dolphin, Northern GMX Pantropical spotted dolphin, WNA Pygmy sperm whale, WNA <sup>1</sup> Risso's dolphin, Northern GMX Risso's dolphin, WNA Short-finned pilot whale, Northern GMX Short-finned pilot whale, WNA <sup>1</sup>
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	13,000	Fin whale, WNA Harbor seal, WNA Humpback whale, Gulf of Maine <sup>1</sup> Minke whale, Canadian east coast <sup>1</sup> North Atlantic right whale, WNA <sup>1</sup>
Category II		
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet <sup>2</sup>	45	None documented
Gulf of Mexico gillnet <sup>2</sup>	724	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, and estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal
North Carolina inshore gillnet	94	Bottlenose dolphin, WNA coastal <sup>1</sup>
Northeast anchored float gillnet <sup>2</sup>	133	Harbor seal, WNA Humpback whale, Gulf of Maine White-sided dolphin, WNA
Northeast drift gillnet <sup>2</sup>	unknown	None documented
Southeast Atlantic gillnet <sup>2</sup>	779	Bottlenose dolphin, WNA coastal
Southeastern U.S. Atlantic shark gillnet	30	Atlantic spotted dolphin, WNA Bottlenose dolphin, WNA coastal <sup>1</sup> North Atlantic right whale, WNA
TRAWL FISHERIES:		
Mid-Atlantic mid-water trawl (including pair trawl)	620	Bottlenose dolphin, WNA offshore Common dolphin, WNA Long-finned pilot whale, WNA Risso's dolphin, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA <sup>1</sup>
Mid-Atlantic bottom trawl	>1,000	Common dolphin, WNA <sup>1</sup> Long-finned pilot whale, WNA <sup>1</sup> Short-finned pilot whale, WNA <sup>1</sup>
Mid-Atlantic flynet <sup>2</sup>	21	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
Northeast mid-water trawl (including pair trawl)	17	Harbor seal, WNA Long-finned pilot whale, WNA <sup>1</sup> Short-finned pilot whale, WNA <sup>1</sup> White-sided dolphin, WNA
Northeast bottom trawl	1,052	Common dolphin, WNA Harbor porpoise, GME/BF Harp seal, WNA Long-finned pilot whale, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA <sup>1</sup>
TRAP/POT FISHERIES:		
Atlantic blue crab trap/pot	>16,000	Bottlenose dolphin, WNA coastal <sup>1</sup> West Indian manatee, FL <sup>1</sup>
Atlantic mixed species trap/pot <sup>2</sup>	unknown	Fin whale, WNA Humpback whale, Gulf of Maine
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	50	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Northern GMX coastal <sup>1</sup> Bottlenose dolphin, Western GMX coastal
Mid-Atlantic menhaden purse seine <sup>2</sup>	22	Bottlenose dolphin, WNA coastal
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	25	Bottlenose dolphin, WNA coastal <sup>1</sup>
North Carolina long haul seine	33	Bottlenose dolphin, WNA coastal <sup>1</sup>
STOP NET FISHERIES:		
North Carolina roe mullet stop net	13	Bottlenose dolphin, WNA coastal <sup>1</sup>
POUND NET FISHERIES:		
Virginia pound net	187	Bottlenose dolphin, WNA coastal <sup>1</sup>
Category III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA West Indian manatee, Antillean
Delaware River inshore gillnet	60	None documented
Long Island Sound inshore gillnet	20	None documented
Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet	32	None documented
Southeast Atlantic inshore gillnet	unknown	None documented
TRAWL FISHERIES:		
Atlantic shellfish bottom trawl	972	None documented
Gulf of Mexico butterflyfish trawl	2	Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, Northern GMX continental shelf
Gulf of Mexico mixed species trawl	20	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
Georgia cannonball jellyfish trawl	1	None documented
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	>18,000	Bottlenose dolphin, WNA coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine West Indian Manatee, FL
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	30	Harbor seal, WNA Gray seal, WNA
Gulf of Maine menhaden purse seine	50	None documented
Florida west coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
U.S. Atlantic tuna purse seine	5	Long-finned pilot whale, WNA Short-finned pilot whale, WNA
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	46	None documented
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon	26,223	Humpback whale, Gulf of Maine
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	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX continental shelf
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon	1,446	None documented
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented
Caribbean spiny lobster trap/pot	>197	None documented
Florida spiny lobster trap/pot	2,145	Bottlenose dolphin, Eastern GMX coastal
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine West Indian manatee, FL
Gulf of Mexico mixed species trap/pot	unknown	None documented
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot	4,453	None documented
U.S. Mid-Atlantic eel trap/pot	>700	None documented
STOP SEINE/WEIR/POUND NET FISHERIES:		

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
Gulf of Maine herring and Atlantic mackerel stop seine/weir	50	Gray seal, Northwest North Atlantic Harbor porpoise, GME/BF Harbor seal, WNA Minke whale, Canadian east coast White-sided dolphin, WNA
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the North Carolina roe mullet stop net)	751	None documented
DREDGE FISHERIES:		
Gulf of Maine mussel	>50	None documented
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	233	None documented
U.S. Mid-Atlantic/Gulf of Mexico oyster	7,000	None documented
U.S. Mid-Atlantic offshore surf clam and quahog dredge	100	None documented
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	West Indian manatee, Antillean
Gulf of Mexico haul/beach seine	unknown	None documented
Southeastern U.S. Atlantic, haul/beach seine	25	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection	20,000	None documented
Gulf of Maine urchin dive, hand/mechanical collection	>50	None documented
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net	unknown	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel	4,000	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, WNA coastal

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

<sup>1</sup> - Fishery classified based on serious injuries and mortalities of this stock, which are greater than 1 percent of the stock's PBR.

<sup>2</sup> - Fishery classified by analogy.

### Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule would not have a significant economic impact on a substantial number of small entities. The factual basis leading to the certification is repeated below.

Under existing regulations, all fishers participating in Category I or II fisheries must register under the MMPA, obtain an Authorization Certificate, and pay a

fee of \$25 (with the exception of those in regions with a registration process integrated with existing state and Federal permitting processes). Additionally, fishers may be subject to a Take Reduction Plan (TRP) and requested to carry an observer. The Authorization Certificate authorizes the taking of marine mammals incidental to commercial fishing operations. NMFS has estimated that approximately 42,000 fishing vessels, most of which are small entities, operate in Category I or II fisheries, and therefore, are required to

register. However, registration has been integrated with existing state or Federal registration programs for the majority of these fisheries so these fishers do not need to register separately under the MMPA. Currently, approximately 350 fishers register directly with NMFS under the MMPA authorization program.

Though this proposed rule will affect approximately 350 small entities, the \$25 registration fee, with respect to anticipated revenues, is not considered a significant economic impact. If a vessel is requested to carry an observer,

fishers will not incur any direct economic costs associated with carrying that observer. Potential indirect costs to individual fishers required to take observers may include: lost space on deck for catch, lost bunk space, and lost fishing time due to time needed to process bycatch data. However, effective monitoring will rotate observers among a limited number of vessels in a fishery at any given time and each vessel within an observed fishery has an equal probability of being requested to accommodate an observer. Therefore, the potential indirect costs to individual fishers are expected to be minimal since observer coverage would only be required for a small percentage of an individual's total annual fishing time. In addition, section 118 of the MMPA states that an observer will not be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe, thereby exempting vessels too small to accommodate an observer from this requirement. As a result of this certification, an initial regulatory flexibility analysis is not required and was not prepared. In the event that reclassification of a fishery to Category I or II results in a TRP, economic analyses of the effects of that plan will be summarized in subsequent rulemaking actions.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of fishers under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648-0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal injuries or 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 collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of

information displays a currently valid OMB control number.

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

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA in June 1995. NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This proposed rule would not make any significant change in the management of reclassified fisheries, and therefore, this proposed rule is not expected to change the analysis or conclusion of the 2005 EA. If NMFS takes a management action, for example, through the development of a TRP, NMFS will first prepare an environmental document, as required under NEPA, specific to that action.

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

This proposed rule 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, stranding and sighting data, or take reduction teams.

This proposed 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.

#### References

Atlantic States Marine Fisheries Commission. 2006. Draft Report. Characterization of Georgia Commercial and Recreational Fisheries by Gear Type: The Potential for Interaction with Sea Turtles.

Burgess, G. and A. Morgan. 2003A. Final Report NA97FF0041. Renewal of

an observer program to monitor the directed commercial shark fishery in the Gulf of Mexico and South Atlantic.

Burgess, G. and A. Morgan. 2003B. Final Report NA16FM1598, National Marine Fisheries Service Award. Renewal of an observer program to monitor the directed commercial shark fishery in the Gulf of Mexico and South Atlantic: 2002(2) and 2003(1) fishing seasons.

Burgess, G. and A. Morgan. 2007. Personal Communication.

Califf, J. 2007. Personal Communication.

Dated: June 21, 2007.

**Samuel D. Rauch III,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 070607119-7119-01]

RIN 0648-AV11

#### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes a regulation to implement the annual harvest guideline for Pacific sardine in the U.S. exclusive economic zone (EEZ) off the Pacific coast for the fishing season of January 1, 2007, through December 31, 2007. This harvest guideline has been calculated according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific sardine off the Pacific coast.

**DATES:** Comments must be received by July 30, 2007.

**ADDRESSES:** Submit comments on this proposed rule, identified by 0648-AV11, by any of the following methods:

- E-mail: [0648-AV11.SWR@noaa.gov](mailto:0648-AV11.SWR@noaa.gov). Include the identifier "0648-AV11" in the subject line of the message.
- Federal e-Rulemaking portal: <http://www.regulations.gov>. Following the instructions for submitting comments.