

2011, IBR approved for §§ 770.1(c) and 770.3.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 229

[Docket No. 170303230-8047-02]

RIN 0648-BG72

#### List of Fisheries for 2018

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

**ACTION:** Final rule.

**SUMMARY:** The National Marine Fisheries Service (NMFS) publishes its final List of Fisheries (LOF) for 2018, as required by the Marine Mammal Protection Act (MMPA). The LOF for 2018 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on 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 (TRP) requirements.

**DATES:** The applicability date of this final rule is March 9, 2018.

**ADDRESSES:** Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:**

Kristy Long, Office of Protected Resources, 301-427-8402; Allison Rosner, Greater Atlantic Region, 978-281-9328; Jessica Powell, Southeast Region, 727-824-5312; Dan Lawson, West Coast Region, 562-980-3209; Suzie Teerlink, Alaska Region, 907-586-7240; Kevin Brindock, Pacific Islands Region, 808-725-5146. 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:**

#### 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 mortality and serious injury of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The classification of a fishery on 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 (SARs) 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 (OSP). This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

**Tier 1:** Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock. 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 will be placed in Category III (unless those fisheries interact with other stock(s) for 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:** Tier 2 considers fishery-specific mortality and serious injury for a particular stock.

**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 (*i.e.*, frequent incidental mortality and serious injury of marine mammals).

**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 (*i.e.*, occasional incidental mortality and serious injury of marine mammals).

**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 (*i.e.*, a remote likelihood of or no known incidental mortality and serious injury of marine mammals).

Additional details regarding how the categories were determined are provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086; August 30, 1995).

Because fisheries are classified 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 classified 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). Stocks driving a fishery's classification are denoted with a superscript "1" in Tables 1 and 2.

#### Other Criteria That May Be Considered

The tier analysis requires a minimum amount of data, and NMFS does not have sufficient data to perform a tier analysis on certain fisheries. Therefore, NMFS has classified certain fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, or according to factors discussed in the final LOF for 1996 (60 FR 67063; December 28, 1995) and listed in the regulatory definition of a Category II fishery: 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 mortality or serious injury is "frequent," "occasional," or "remote" 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 fishermen 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).

Further, eligible commercial fisheries not specifically identified on the LOF are deemed to be Category II fisheries until the next LOF is published (50 CFR 229.2).

#### **How does NMFS determine which species or stocks are included as incidentally killed or injured in a fishery?**

The LOF includes a list of marine mammal species and/or stocks incidentally killed or injured in each commercial fishery. The list of species and/or stocks incidentally killed or injured includes “serious” and “non-serious” documented injuries as described later in the List of Species and/or Stocks Incidentally Killed or Injured in the Pacific Ocean and the Atlantic Ocean, Gulf of Mexico, and Caribbean sections. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs and injury determination reports. 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 interaction with commercial fishing operations. The best available scientific information used in the SARs reviewed for the 2018 LOF generally summarizes data from 2010–2014. NMFS also reviews other sources of new information, including injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fishermen self-reports (*i.e.*, MMPA mortality/injury reports), and anecdotal reports from that time period. In some cases, more recent information may be available and used in the LOF, but in an effort to be consistent with the most recent SARs and across the LOF, NMFS typically restricts the analysis to data within the five-year time period summarized in the current SAR.

For fisheries with observer coverage, species or stocks are generally removed from the list of marine mammal species and/or stocks incidentally killed or injured if no interactions are documented in the five-year timeframe summarized in that year’s LOF. For

fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (*e.g.*, fishery has low observer coverage and stranding network data include evidence of fisheries interactions that cannot be attributed to a specific fishery) species and stocks may be retained for longer than five years. For these fisheries, NMFS will review the other sources of information listed above and use its discretion to decide when it is appropriate to remove a species or stock.

#### **Where does NMFS obtain information on the level of observer coverage in a fishery on the LOF?**

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. Data obtained from the observer program and observer coverage levels are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. Starting with the 2005 SARs, each Pacific and Alaska SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including the observer coverage in those fisheries. For Atlantic fisheries, this information can be found in the LOF Fishery Fact Sheets. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are generally not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Fishery information presented in the SARs’ appendices and other resources referenced during the tier analysis may include: Level of observer coverage; target species; levels of fishing effort; spatial and temporal distribution of fishing effort; characteristics of fishing gear and operations; management and regulations; and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources website at: <http://www.nmfs.noaa.gov/pr/sars/>. Information on observer coverage levels in Category I, II, and III fisheries can be found in the fishery fact sheets on the NMFS Office of Protected Resources’ website: <http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html>. Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program’s website: <http://www.st.nmfs.gov/observer-home/>.

#### **How do I find out if a specific fishery is in Category I, II, or III?**

The LOF includes three tables that list all U.S. commercial fisheries by Category. Table 1 lists all of the commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists all of the commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; and Table 3 lists all U.S.-authorized commercial fisheries on the high seas. A fourth table, Table 4, lists all commercial fisheries managed under applicable TRPs or take reduction teams (TRTs).

#### **Are high seas fisheries included on the LOF?**

Beginning with the 2009 LOF, NMFS includes high seas fisheries in Table 3 of the LOF, along with the number of valid High Seas Fishing Compliance Act (HSFCA) permits in each fishery. As of 2004, NMFS issues HSFCA permits only for high seas fisheries analyzed in accordance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The authorized high seas fisheries are broad in scope and encompass multiple specific fisheries identified by gear type. For the purposes of the LOF, the high seas fisheries are subdivided based on gear type (*e.g.*, trawl, longline, purse seine, gillnet, troll, etc.) to provide more detail on composition of effort within these fisheries. Many fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery, but an extension of a fishery operating within U.S. waters (listed in Table 1 or 2). NMFS designates those fisheries in Tables 1, 2, and 3 by a “\*” after the fishery’s name. The number of HSFCA permits listed in Table 3 for the high seas components of these fisheries operating in U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels/participants holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

HSFCA permits are valid for five years, during which time Fishery Management Plans (FMPs) can change. Therefore, some vessels/participants may possess valid HSFCA permits without the ability to fish under the permit because it was issued for a gear type that is no longer authorized under the most current FMP. For this reason, the number of HSFCA permits

displayed in Table 3 is likely higher than the actual U.S. fishing effort on the high seas. For more information on how NMFS classifies high seas fisheries on the LOF, see the preamble text in the final 2009 LOF (73 FR 73032; December 1, 2008). Additional information about HSFCA permits can be found at: <http://www.nmfs.noaa.gov/ia/permits/highseas.html>.

#### **Where can I find specific information on fisheries listed on the LOF?**

Starting with the 2010 LOF, NMFS developed summary documents, or fishery fact sheets, for each Category I and II fishery on the LOF. These fishery fact sheets provide the full history of each Category I and II fishery, including: When the fishery was added to the LOF; the basis for the fishery's initial classification; classification changes to the fishery; changes to the list of species and/or stocks incidentally killed or injured in the fishery; fishery gear and methods used; observer coverage levels; fishery management and regulation; and applicable TRPs or TRTs, if any. These fishery fact sheets are updated after each final LOF and can be found under "How Do I Find Out if a Specific Fishery is in Category I, II, or III?" on the NMFS Office of Protected Resources' website: <http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html>, linked to the "List of Fisheries by Year" table. NMFS is developing similar fishery fact sheets for each Category III fishery on the LOF. However, due to the large number of Category III fisheries on the LOF and the lack of accessible and detailed information on many of these fisheries, the development of these fishery fact sheets is taking significant time to complete. NMFS began posting Category III fishery fact sheets online with the LOF for 2016.

#### **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 to lawfully take non-endangered and non-threatened marine mammals incidental to commercial fishing operations. 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 and receive my Marine Mammal Authorization Program (MMAP) authorization certificate?**

NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program (MMAP), with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Participants in these fisheries are automatically registered under the MMAP and are not required to submit registration or renewal materials.

In the Pacific Islands, West Coast, and Alaska regions, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail or with their state or Federal license or permit at the time of issuance or renewal.

In the West Coast Region, authorization certificates may be obtained from the website [http://www.westcoast.fisheries.noaa.gov/protected\\_species/marine\\_mammals/fisheries\\_interactions.html](http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/fisheries_interactions.html).

In the Alaska Region, authorization certificates may be obtained by visiting the Alaska Regional Office website <https://alaskafisheries.noaa.gov/pr/mmmapregistration>.

In the Greater Atlantic Region, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year. Certificates may also be obtained by visiting the Greater Atlantic Regional Office website <http://www.greateratlantic.fisheries.noaa.gov/mmmap/>.

In the Southeast Region, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year. Vessel or gear owners can receive additional authorization certificates by contacting the Southeast Regional Office at 727-209-5952 or by visiting the Southeast Regional Office website [http://sero.nmfs.noaa.gov/protected\\_resources/marine\\_mammal\\_authorization\\_program/](http://sero.nmfs.noaa.gov/protected_resources/marine_mammal_authorization_program/) and following the instructions for printing the 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)). 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 license or 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 license or permit is required must register with NMFS by contacting their appropriate Regional Office (see **ADDRESSES**).

#### **How do I renew my registration under the MMAP?**

In Alaska regional and Greater Atlantic regional fisheries, registrations of vessel or gear owners are automatically renewed and participants should receive an authorization certificate by January 1 of each new year. Certificates can also be obtained from the region's website. In Pacific Islands regional fisheries, vessel or gear owners receive an authorization certificate by January 1 for state fisheries and with their permit renewal for Federal fisheries. In West Coast regional fisheries, vessel or gear owners receive authorization either with each renewed state fishing license in Washington and Oregon, with their permit renewal for Federal fisheries (the timing of which varies based on target species), or via U.S. mail. Vessel or gear owners who participate in fisheries in these regions and have not received authorization certificates by January 1 or with renewed fishing licenses must contact the appropriate NMFS Regional Office (see **FOR FURTHER INFORMATION CONTACT**). In Southeast regional fisheries, vessel or gear owners' registrations are automatically renewed and participants will receive an authorization certificate via U.S. mail automatically at the beginning of each calendar year. Additional authorization certificates are available for printing on the Southeast Regional Office website [http://sero.nmfs.noaa.gov/protected\\_resources/marine\\_mammal\\_authorization\\_program/](http://sero.nmfs.noaa.gov/protected_resources/marine_mammal_authorization_program/).

#### **Am I required to submit reports when I kill or injure 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 fishery listed on the LOF must report to NMFS all incidental mortalities and injuries of marine mammals that occur during commercial fishing operations, regardless of the category in which the fishery is placed (I, II, or III) within 48 hours of the end of the fishing trip or,

in the case of non-vessel fisheries, fishing activity. "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.

Mortality/injury reporting forms and instructions for submitting forms to NMFS can be found at: <http://www.nmfs.noaa.gov/pr/interactions/mmap/#form> or by contacting the appropriate regional office (see **FOR FURTHER INFORMATION CONTACT**). Forms may be submitted via any of the following means: (1) Online using the electronic form; (2) emailed as an attachment to [nmfs.mireport@noaa.gov](mailto:nmfs.mireport@noaa.gov); (3) faxed to the NMFS Office of Protected Resources at 301-713-0376; or (4) mailed to the NMFS Office of Protected Resources (mailing address is provided on the postage-paid form that can be printed from the web address listed above). Reporting requirements and procedures can be found in 50 CFR 229.6.

#### **Am I required to take an observer aboard my vessel?**

Individuals participating in a Category I or II fishery are required to accommodate an observer aboard their vessel(s) upon request from NMFS. MMPA section 118 states that the Secretary is not required to place an observer on a vessel if the facilities for quartering an observer or performing observer functions are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; thereby authorizing the exemption of vessels too small to safely accommodate an observer from this requirement. However, U.S. Atlantic Ocean, Caribbean, or Gulf of Mexico large pelagics longline vessels operating in special areas designated by the Pelagic Longline Take Reduction Plan implementing regulations (50 CFR 229.36(d)) will not be exempted from observer requirements, regardless of their size. Observer requirements can be found in 50 CFR 229.7.

#### **Am I required to comply with any marine mammal TRP regulations?**

Table 4 provides a list of fisheries affected by TRPs and TRTs. TRP regulations can be found at 50 CFR 229.30 through 229.37. A description of each TRT and copies of each TRP can be found at: <http://www.nmfs.noaa.gov/pr/interactions/trt/teams.html>. It is the

responsibility of fishery participants to comply with applicable take reduction regulations.

#### **Where can I find more information about the LOF and the MMAP?**

Information regarding the LOF and the MMAP, including: Registration procedures and forms; current and past LOFs; descriptions of each Category I and II fishery and some Category III fisheries; observer requirements; and marine mammal mortality/injury reporting forms and submittal procedures; may be obtained at: <http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html>, or from any NMFS Regional Office at the addresses listed below:

NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930-2298, Attn: Allison Rosner;

NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Jessica Powell;

NMFS, West Coast Region, Long Beach Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, Attn: Dan Lawson;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802, Attn: Suzie Teerlink; or

NMFS, Pacific Islands Regional Office, Protected Resources Division, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818, Attn: Kevin Brindock.

#### **Sources of Information Reviewed for the 2018 LOF**

NMFS reviewed the marine mammal incidental mortality and serious injury information presented in the SARs for all fisheries to determine whether changes in fishery classification are warranted. The SARs are based on the best scientific information available at the time of preparation, including the level of mortality and serious injury of marine mammals that occurs incidental to commercial fishery operations 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 marine mammal population status, trends, and 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, fishermen self-reports, reports to the SRGs, conference papers, FMPs, and ESA documents.

The LOF for 2018 was based on, among other things, stranding data; fishermen self-reports; and SARs, primarily the 2016 SARs, which are based on data from 2010-2014. The SARs referenced in this LOF include: 2014 (80 FR 50599; August 20, 2015), 2015 (81 FR 38676; June 14, 2016), 2016 (82 FR 29039; June 27, 2017). The SARs are available at: <http://www.nmfs.noaa.gov/pr/sars/>.

#### **Comments and Responses**

NMFS received letters containing comments on the proposed LOF for 2018 (82 FR 47424; October 12, 2017) from the Marine Mammal Commission (Commission); five non-governmental organizations (Center for Biological Diversity (CBD), Hawaii Longline Association (HLA), Southeast Alaska Fishermen's Alliance (SEAFA), Southeast Alaska Sperm Whale Avoidance Project (SEASWAP), and Turtle Island Restoration Network (TIRN); and two individuals. Responses to substantive comments are below; comments on actions not related to the LOF are not included.

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

*Comment 1:* The Commission believes that NMFS' approach to classifying the Gulf of Alaska sablefish longline (GOA SLL) fishery based on the statutory definitions of fishery categories in the MMPA, in the absence of an estimate of PBR, is appropriate. Further, the Commission states that NMFS has the discretion to classify a fishery as Category I in the absence of the data necessary to calculate mortality and serious injury (M/SI) as a fraction of PBR. The Commission notes that while the current M/SI is almost certainly greater than 10 percent of PBR, exactly where M/SI as a percentage of PBR falls relative to the Category I and II thresholds depends on what proportion of the stock's U.S. range was surveyed, and other factors not taken into account in NMFS' analysis. The Commission recommends that the GOA SLL fishery should be classified as at least a Category II fishery. However, two other commenters, SEASWAP and SEAFA, oppose the proposed change to reclassify the GOA SLL from a Category III to a Category II fishery based on interactions with sperm whales. These commenters disagree that these temporary sperm whale entanglements resulted in serious injuries and assert that prorating these serious injuries to mortalities is not appropriate (see

comments 3, 4, and 5 below). They urge NMFS to retain the existing Category III ranking for the fishery.

*Response:* NMFS agrees with the Commission and has reclassified the fishery as Category II. Given our analysis of the estimated mean annual M/SI attributed to the GOA SLL fishery, and our best available information regarding the North Pacific sperm whale stock, the AK Gulf of Alaska sablefish pot fishery will be classified as Category II in the 2018 LOF; NMFS will continue to consider all available data in its future classifications of this fishery.

*Comment 2:* The Commission recommends that NMFS give high priority to: (1) Surveying enough of the range of sperm whales to provide a reliable estimate of PBR for the portion of the stock that occupies the EEZ in Alaska, (2) increasing observer coverage in the GOA SLL fishery (currently 14–19 percent), and (3) developing a take reduction plan for the North Pacific stock of sperm whales. The Commission comments that these actions will enable NMFS to more definitively classify the GOA SLL fishery and to mitigate the bycatch problem.

*Response:* NMFS agrees with the Commission on the need for reliable estimates of abundance and PBR for the North Pacific sperm whale stock; however, the funding necessary for surveying sperm whales in the Gulf of Alaska is currently unavailable. Next, observer coverage is determined through the Annual Deployment Plan (ADP) process, which provides a statistically-based sampling approach for the random deployment of human observers onto longline vessels operating in the Gulf of Alaska. The ADP is part of a larger annual process where NMFS consults with the North Pacific Fishery Management Council and its Scientific and Statistical Committee on to determine the amount of coverage for an upcoming year. This method is described in the 2018 ADP (available at <https://www.afsc.noaa.gov/Publications/ProcRpt/PR2017-07.pdf>). Regarding take reduction plans, NMFS' available resources for Take Reduction Teams (TRTs) are fully utilized at this time. When NMFS lacks sufficient funding to convene a TRT for all stocks that interact with Category I and II fisheries, NMFS gives highest priority for developing and implementing new take reduction plans to species and stocks whose level of incidental mortality and serious injury exceeds PBR, that have a small population size, and that are declining most rapidly, pursuant to MMPA section 118(f)(3).

*Comment 3:* SEASWAP and SEAFA assert that NMFS' assignment of the

significant injury and 75 percent mortality rate to temporary sperm whale entanglements is unsubstantiated and inconsistent with the determination criteria used for other cetacean species, such as beluga and humpback whales. SEASWAP and SEAFA request that NMFS lower the pro-rated mortality rate for sperm whales.

*Response:* NMFS implemented a policy for distinguishing serious from non-serious injury of marine mammals to increase transparency and consistency nationwide in assessing and quantifying serious injuries of marine mammals in 2012 (NMFS 2012). This policy serves as the basis for evaluating injury reports of marine mammals. The policy involves applying guidelines to determine whether an injury should be considered serious and describes a variety of injuries specific to large cetaceans, small cetaceans, and pinnipeds. The policy and guidelines cover most types of injury and were developed to fit data rich as well as data poor injury events.

Criteria for evaluating large whale injuries include three types of entanglements. Two of these types are “constricting wrap,” a serious injury (SI), and “loose wrap, bridled or draped gear,” a non-serious injury (NSI). If documentation of a confirmed entanglement is inadequate to assign an entanglement to either of these types a third category is used, “evidence of entanglement.” Events falling in this category are prorated. To prorate, the number of events assigned to this category within the assessment period is multiplied by 0.75. This value was calculated based on 114 documented entanglement events with known outcomes that occurred between 2004 and 2008, of which 85 (75 percent) resulted in the whales' deteriorating health or death. Although more severe or prolonged entanglements may be more likely to be reported, the 0.75 prorating reflects the probability that some confirmed entanglement reports lacking detail will be of minor events.

SEASWAP and SEAFA are correct that using a prorate value of 0.75 for sperm whale entanglements reflects assumptions about the fate of the entangled animals. We would welcome data analyses or other information from SEASWAP on sperm whale interactions with longline fisheries that would help inform future injury determinations. The 0.75 value is based on the best available information.

The other injury determinations referenced by SEASWAP are also consistent with NMFS' policy and guidelines for distinguishing serious from non-serious injury. The vessel

strike that left a piece of whale skin on a vessel's hull was categorized as a “superficial laceration” and a vessel strike under “vessel any size less than 10 knots,” both of which are considered non-serious injuries. Injuries to small cetaceans, such as beluga whales, are assigned to a category from a list specific to small cetaceans. The beluga entangled in gillnet that was later freed from gear was assigned to the “anchored, immobilized, entangled, or entrapped before being freed without gear attached” category. This category does not have a defined injury value, and instead requires a case-specific assessment. NMFS evaluated the record of the injury and considered it a non-serious injury because the animal was able to surface while entangled and was confirmed to be free of gear when released.

*Comment 4:* SEASWAP and SEAFA disagree with the conclusion in the March 2016 NOAA report (NOAA–TM–AFSC–315) that the temporary sperm whale entanglements reported during 2010–2014 resulted in 6.25 dead sperm whales. They further assert that of the five cases described by observers, not one included a documented case of the whales remaining entangled or having visible injury from the entanglement, yet “serious injury” was assigned in four cases (Haul numbers 225, 7, 82, and 116). SEASWAP and SEAFA urge NOAA to reassign these “significant injury” designations to “non-serious injury.”

*Response:* When we review entanglement records, we pay close attention to the observer's recorded description of events. When an observer codes an interaction as “entangled in gear (not trailing gear),” we still assess whether gear could have remained on the animal post hoc. Fishery observers are not trained to assess the severity of marine mammal injuries, and we do not use their assessment of injury severity. This explains the differences SEASWAP noted between the observer's assessment on the marine mammal interaction form and the final injury determinations as reported in “Human-Caused Injury and Mortality of NMFS-managed Alaska Marine Mammal Stocks, 2010–2014” (Helker *et al.*, 2016).

In response to SEASWAP's and SEAFA's comments, we will reevaluate these entanglements and injury determinations; if we determine any changes to the injury determinations due to these entanglements are necessary, they will be reviewed consistent with NMFS policy and reported in the 2018 Marine Mammal Stock Assessment Reports and Human-

caused Serious Injury and Mortality Report.

*Comment 5:* SEASWAP and SEAFA disagree with NMFS' extrapolation of the observed temporary entanglements to the sperm whale/GOA SLL fishery interactions, including the pro-rating to the unobserved fleet, and assert that NMFS is oversimplifying sperm whale behavior near fishing boats. SEAFA argues that because some sperm whales have been documented as serial longline depredators, the actual M/SI is likely less than NMFS' estimate and it is inappropriate to extrapolate across the fleet. SEAFA comments that NMFS does not provide enough information to verify if the extrapolated data is reasonable and how these data were handled prior to and following the restructuring of the observer program to correct for bias in observer coverage.

*Response:* Extrapolating bycatch events that are observed in fisheries with partial observer coverage, such as components of the GOA SLL fishery, is standard practice. Bycatch extrapolation relies on the observed bycatch in a sampled portion of a fishery to estimate the bycatch across that entire fishery. Depredation by sperm whales is a common occurrence in this fishery, and an entanglement preceded by depredation is treated no differently than other bycatch events since it reflects one of the risks posed to marine mammals by the fishery.

The methodology for estimating bycatch is explained in NOAA Tech. Memo. NMFS-AFSC-260 (Breiwick 2013) and has not changed appreciably since that time. Specifically, the serious injuries are extrapolated only within a stratum defined by the NMFS statistical area, three categories of vessel size (>125, between 60 and 125, <60), and three time periods (January to April, May through August, September through December). The two serious injuries that were extrapolated in 2012 occurred in vessels between 60 and 125 feet, whereas the one serious injury in 2013 that was extrapolated occurred on a vessel <60 feet, so the observer coverage within that stratum is much lower, which is what is actually used to extrapolate the serious injury. We do not extrapolate observed bycatch in one stratum to strata where no bycatch was observed. For simplicity, we do not report the observer coverage within the extrapolated strata, but instead report observer coverage for the entire fishery across all strata. Therefore, it is not possible for the reader to extrapolate the observed bycatch to estimate the total bycatch (see Breiwick 2013).

*Comment 6:* SEAFA notes that the proposed rule suggests breaking the

Category III AK Miscellaneous finfish handline/hand troll and mechanical jig fishery into several fisheries by gear type and geography. In order to maintain consistency with the State of Alaska fishery permits, SEAFA recommends the new names for the groundfish troll fisheries be (2) AK BSAI groundfish hand troll and dinglebar troll and (4) AK Gulf of Alaska groundfish hand troll and dinglebar troll.

*Response:* NMFS agrees. We will adopt and use the suggested clarifications to fisheries names (AK Bering Sea, Aleutian Islands groundfish hand troll and dinglebar troll and AK Gulf of Alaska groundfish hand troll and dinglebar troll) in the 2018 LOF.

*Comment 7:* SEAFA comments that it is unclear whether the proposed updates in Table 1 for the "estimated number of vessels/persons" participating in a fishery reflects the total number of potential participants or the number of actual participants in a fishery. SEAFA recommends that NMFS consult with the State of Alaska's Commercial Fisheries Entry Commission for the most accurate information about the number of available permits versus the number of permits actively fished, particularly for the AK Southeast shrimp pot fishery and AK Southeast Alaska crab pot fisheries.

*Response:* NMFS has been making efforts to report the category "estimated number of vessels/persons" across Table 1 more consistently. As SEAFA points out, this is especially important for fisheries where there is a large discrepancy between the number of valid permits versus the number of active permits. Where possible, Table 1 will report the number of active permits to most accurately depict the relative effort of each fishery. In response to this comment, we have revisited the number of participants for the AK Southeast shrimp pot fishery and AK Southeast Alaska crab pot fishery and identified that the wrong permit count was used for the AK Southeast shrimp pot fishery. To correct this, in the final LOF NMFS changed the estimated number of vessels/persons for this fishery to the number of active permits (99).

*Comment 8:* TIRN and CBD comment that before listing the AK Gulf of Alaska sablefish pot fishery as a Category III fishery, NMFS should analyze the data of all Alaska and West Coast sablefish pot fisheries and humpback interactions and compare it to an updated humpback whale stock assessment. They recommend that, as a precautionary measure, the fishery should be listed as Category II. TIRN and CBD assert that, in the absence of statistically-reliable

data regarding humpback whale serious injuries and mortalities for Alaska pot fisheries, NMFS must list these fisheries as Category II until: (a) The MMPA humpback stock is revised to be consistent with the ESA stock listings and (b) NMFS uses available fishing effort and humpback abundance data to determine co-occurrence.

*Response:* NMFS considers data from several sources for the mean annual M/SI estimates and LOF process, including observer data, self-reports, and stranding data. We acknowledge that reliable data are not always available and that analogous fisheries can provide more insight into the potential for incidental M/SI. However, these situations require a clear justification for which fishery is being considered analogous and why. In the case of the AK Gulf of Alaska sablefish pot fishery, NMFS considers the newly authorized fishery to be most analogous with the other sablefish pot fisheries in the State, which are Category III. Further, the AK Gulf of Alaska sablefish pot fishery has observer coverage, and NMFS will continue to consider any new data collected by the observer program or other sources in future LOF analyses.

*Comment 9:* TIRN and CBD recommend that humpback whales be listed as marine mammal species and/or stocks incidentally killed or injured in the AK Aleutian Islands sablefish pot fishery and the Category III AK Bering Sea sablefish pot fishery, based on observer records that humpback whales have been incidentally caught in both these fisheries.

*Response:* The species and/or stocks listed as incidentally killed or injured in Table 1 includes the species and/or stocks in which there are recent reports of incidental mortality or injury by a particular fishery consistent with the information reported in the SARs. Typically, species and/or stocks are removed from Table 1 when recent data do not include documented mortality or injury of that species or stock. NMFS has a report of a humpback whale considered seriously injured in the AK Bering Sea sablefish pot fishery in 2002. However, NMFS has observed this fishery since that time and there were no documented injuries or mortalities. Therefore, in 2013, NMFS removed humpback whales from the list of species/stocks killed or injured in this fishery (78 FR 53336, August 29, 2013).

*Comment 10:* TIRN and CBD support combining the Category III AK Aleutian Islands sablefish pot fishery in the LOF with the Category III AK Bering Sea sablefish pot fishery for consistency with other regional designations in the

LOF, but urge NMFS to analyze humpback whale interactions first before listing this combined fishery as Category III.

*Response:* The LOF uses data consistent with the SARs, which is generally from a 5-year rolling window to evaluate a fishery's impacts to marine mammal stocks. For the 2018 LOF, 2010–2014 data are considered in the LOF tier analyses. There are no documented reports of incidental M/SI of humpback whales during this time in either of the fisheries being combined. Given all available data, including recent observer data for the AK Bering Sea sablefish pot fishery, NMFS believes that Category III is most appropriate for this location, target species, and gear type. Thus, we will classify the newly combined AK Bering Sea, Aleutian Island sablefish pot fishery as Category III.

*Comment 11:* The Commission concurs with NMFS that the CA thresher shark/swordfish drift gillnet fishery should be reclassified from Category I to Category II based on the most recent estimate of M/SI for the California/Oregon/Washington stock of sperm whales in this fishery.

*Response:* NMFS agrees and has reclassified the CA thresher shark/swordfish drift gillnet ( $\geq 14$  in mesh) fishery from Category I to Category II based on the most recent estimates of marine mammal M/SI in this fishery.

*Comment 12:* TIRN and CBD comment that more than a year has passed since the listing of the Central America humpback whale distinct population segment (DPS), and reported entanglements are at record highs in the area off California that is the near-exclusive feeding grounds for this DPS. They assert that NMFS should consider the Central American humpback whale DPS as a relevant stock in its determinations for the 2018 List of Fisheries.

*Response:* For the 2018 LOF, NMFS relied upon information on the current status of humpback whale stocks on the U.S. west coast as described in the most recent SAR available (Carretta *et al.*, 2017a). The most recent SAR available does not contain an MMPA stock delineation for humpback whales that corresponds with the recent ESA-listing decision that established several DPSs of humpback whales that may be present in U.S. west coast waters. While NMFS may consider updates to humpback whale stock delineations under the MMPA in light of the recent ESA-listing decision, we will continue to rely upon the most current SAR for the status of humpback whale stocks on the U.S. west coast relative to human-

caused M/SI and the classification of fisheries under the MMPA LOF. Currently, there is no Central America DPS stock of marine mammals delineated under the MMPA. NMFS is currently evaluating the humpback whale stock structure under the MMPA with respect to the ESA listing.

*Comment 13:* CBD and TIRN urge NMFS to designate the CA Dungeness crab pot fishery as a Category I fishery because it frequently entangles, seriously injures, and kills imperiled humpback whales. CBD and TIRN state that the PBR calculation for the international stock of Central America humpbacks results in an estimated PBR of 0.8 humpback whales per year, and the best estimate of minimum average annual M/SI is 1.35 whales per year, well above the PBR estimate. They further maintain that the average numbers of annual M/SI is an underestimate as it is based on reported entanglements, and does not account for many entanglements that go unobserved, and does not include the 2016 entanglement of 19 humpback whales in the CA Dungeness crab pot fishery. CBD and TIRN suggest that according to the historical rate of serious injury determinations, 84 percent of these entanglements, or 16 whales, resulted in a serious injury or mortality and this is well above the PBR estimate. CBD and TIRN assert that the available information clearly demonstrates that NMFS should reclassify the fishery as Category I.

*Response:* The most recent SAR for humpback whales on the U.S. west coast does not establish or provide a PBR for the Central America DPS of humpback whales because it is not a delineated MMPA stock, as explained in Comment 12 above. Until such time that the SAR reports a PBR for an MMPA stock delineation of humpback whales that may more closely reflect the Central America DPS as suggested by the commenter, calculation of hypothetical PBRs by any other sources are considered premature. NMFS will continue to rely upon the most recent SAR for the calculation of PBR for humpback whale stocks on the U.S. west coast for classifying fisheries under the LOF. In addition, commenters reference data sources from 2016 that have not yet been reviewed for M/SI in the SARs; NMFS will use those data for classifying fisheries once they have been incorporated into the SARs.

*Comment 14:* CBD and TIRN state that preliminary evidence shows that the CA Dungeness crab pot fishery, and not the Oregon or Washington Dungeness crab pot fishery, primarily impacts the Central America humpback whale DPS.

They recommend that without additional information, all interactions of the CA Dungeness crab pot fishery should be assigned to the Central America DPS.

*Response:* As described in Comment 12 above, the most current SAR does not delineate a Central America DPS of humpback whales as a stock under the MMPA. Until such time that the humpback whale stock structure under the MMPA with respect to the ESA listing has been completed, assignment of M/SI to humpback stocks in the SAR and under the LOF will continue to reflect the current MMPA stock delineations.

*Comment 15:* CBD and TIRN recommend that NMFS add blue whales, ENP, Offshore killer whales, and the western North Pacific gray whale to the list of species incidentally killed or injured in the CA Dungeness crab pot fisheries.

*Response:* Entanglement data from the U.S. west coast that has been reviewed for M/SI include recent data through 2015 (Carretta *et al.*, 2017b). We note that through 2015, no blue whale injuries have been documented in the CA Dungeness crab pot fishery. Information on entanglements reported in 2016 and 2017 referenced by commenters will be used to inform the list of marine mammal stocks incidentally killed or injured in any U.S. west coast fisheries once it has been incorporated into the SARs, at which time NMFS will use those data for the LOF.

We thank the commenter for pointing out that we omitted the identity of the killer whale stock associated with a dead killer whale reported to NMFS in 2015 that was entangled with CA Dungeness crab gear. NMFS is currently reviewing the available information regarding the identification of the stock of killer whales to which this individual belongs. Once this information has been evaluated and reported in a future SAR, NMFS will add the appropriate stock of killer whales to the list of marine mammal stocks incidentally killed or injured by the CA Dungeness crab fishery in the LOF. As stated previously, entanglement information from 2016 has not yet been evaluated for M/SI and will not be used to inform the list of marine mammal stocks incidentally killed or injured in any U.S. west coast fisheries at this time.

NMFS acknowledges that the most recent SAR suggests that because some Western North Pacific gray whales occur in U.S. waters, there is a possibility these whales could be killed or injured by ship strikes or entangled in fishing gear within U.S. waters. However, while

it may be possible that at least one or more Western North Pacific gray whales have been among the many gray whales reported entangled on the U.S. west coast historically, NMFS recognizes that relatively few of those instances are known to have involved gear from the CA Dungeness crab fishery. We also acknowledge that many other U.S. commercial fisheries on the U.S. west coast have been identified as associated with entanglements of gray whales historically, and it is likely other U.S. commercial, tribal, and foreign fisheries from countries surrounding gray whale migration routes that have not been identified have also been involved. In the absence of more specific information from any particular entanglement of gray whales that involved CA Dungeness crab gear to suggest those entanglements involved a Western North Pacific gray whale, NMFS does not have sufficient data to conclude that Western North Pacific gray whales have been entangled in CA Dungeness crab gear versus other fisheries throughout the range of gray whales; thus, we will not include Western North Pacific gray whales on the list of stocks incidentally killed or injured in the CA Dungeness crab fishery at this time. Based on the relative population sizes of the Western North Pacific and Eastern North Pacific stocks of gray whales, and what is known about migrations of the Western North Pacific stock to the eastern North Pacific (Moore and Weller 2013), NMFS has concluded the likelihood that any of the particular gray whales that are known to have interacted with CA Dungeness crab fishery were Western North Pacific stock gray whales is extremely low. NMFS strives to collect photographic or genetic data from entangled gray whales that may allow for stock and will continue to develop and promote this aspect as a key data need surrounding all gray whale strandings and entanglements.

*Comment 16:* TIRN and CBD oppose NMFS' proposal to lower the CA thresher shark/swordfish drift gillnet fishery classification from Category I to Category II. They note that NMFS' decreased annual take estimate of sperm whales may not adequately reflect the mortality or serious injury that the fishery causes for sperm whales. In addition, TIRN/CBD comment that the MMPA Section 101(a)(5)(E) authorization to take humpback and sperm whales by this fishery has expired, and a reclassification of the fishery to Category II prior to the completion of the rulemaking process for a new authorization is premature. Based on the uncertainty stemming from

low observer coverage and the past observation of sperm whale M/SI, and the pending MMPA authorization rule-making, TIRN/CBD urge NMFS to maintain the CA thresher shark/swordfish drift gillnet fishery's classification as Category I.

*Response:* The reclassification of this fishery from Category I to Category II is based upon published scientific information that includes estimates of bycatch and subsequent M/SI in this fishery that are considered robust given annual variance in observer coverage rates. These estimates are based on methodologies that represent an improved approach to estimate relatively rare bycatch events over time compared to methods referenced in previous SARs and classifications under the LOF. NMFS has determined these estimates are appropriate to inform the LOF classification of the CA thresher shark/swordfish drift gillnet ( $\geq 14$  in mesh) fishery as Category II. Further, classifications made under the LOF are based on the best available science and are not dependent or related to the current status of other regulatory processes including the issuance of authorizations under section 101(a)(5)(E) of the MMPA.

*Comment 17:* TIRN and CBD support NMFS' proposal to add the CA/OR/WA stock of Dall's porpoise to the list of stocks incidentally killed or injured in the Category I California thresher shark/swordfish drift gillnet ( $\geq 14$  in mesh) fishery based on a 2014 observed entanglement.

*Response:* NMFS agrees and has added the CA/OR/WA stock of Dall's porpoise to the list of stocks incidentally killed or injured in the Category I CA thresher shark/swordfish drift gillnet ( $\geq 14$  in mesh) fishery.

*Comment 18:* TIRN and CBD recommend, based on interactions between 2010 through 2016, that NMFS add Guadalupe fur seals to the list of species and/or stocks incidentally killed or injured in the California drift gillnet fishery, and the gillnet fisheries that operate from Tillamook County, OR, to Jefferson County, WA, such as the WA Willapa Bay drift gillnet, WA/OR lower Columbia River drift gillnet, and the WA Grays Harbor salmon drift gillnet fishery.

*Response:* NMFS has reviewed the available information on Guadalupe fur seal interactions and M/SI associated with gillnet entanglements from 2010–2014. Based on information that is available (Carretta *et al.*, 2017a and Carretta *et al.*, 2017b), we are not able to determine the fishery origin of Guadalupe fur seal strandings that have been associated with gillnet

entanglements. Guadalupe fur seals have a wide range that brings them into potential contact with numerous gillnet fisheries that include U.S. commercial fisheries as well as tribal and foreign fisheries from neighboring countries. While we continually aim to improve our ability to evaluate incoming information and identify the origins of fishing gear present on all stranded marine mammals, we will not attribute any Guadalupe fur seal M/SI to any U.S. gillnet fisheries or list Guadalupe fur seals as a marine mammal stock that is killed or injured by any U.S. gillnet fisheries at this time absent more specific information regarding the origins of gillnet interactions.

*Comment 19:* TIRN and CBD recommend NMFS add Guadalupe fur seals to the list of species and/or stocks incidentally killed or injured in the Hawaii deep-set and Hawaii shallow-set longline fisheries based on 2015 and 2016 reported interactions.

*Response:* The recently observed Guadalupe fur seal interaction from 2015 has not yet been included in a SAR, an injury determination has not been finalized for this interaction, and the interaction has not yet been evaluated as part of the tier analysis for these fisheries. This species will be included in a future LOF, as appropriate.

*Comment 20:* HLA opposes including the Hawaii stock of *Kogia* species (Hawaii) on the list of species injured or killed in the Hawaii-based deep-set longline fishery. HLA requests that NMFS remove *Kogia* species from the list of stocks that are interacting with the deep-set longline fishery, because the most recent SAR (2013) for Hawaii pygmy whales and dwarf sperm whales identifies no observed interactions between either of these stocks and this fishery. However, two other commenters, TIRN and CBD, support NMFS' proposal to add the Hawaii stock of *Kogia* spp. to the list of stocks incidentally killed or injured in the Category I HI deep-set longline fishery based upon the serious injury of a pygmy or dwarf sperm whale in 2014 in this fishery.

*Response:* Although the 2013 SAR does not include observed interactions with Hawaii pygmy whales and dwarf sperm whales, a *Kogia* spp. interaction was observed in the Hawaii deep-set longline fishery on February 25, 2014, resulting in a serious injury (Carretta *et al.*, 2017b). This injury determination has been finalized, and the interaction is included in the draft 2017 SAR (82 FR 60181; December 19, 2017).

*Comment 21:* The HLA restates a previous comment that the Hawaii-

based deep-set longline fishery does not interact with the MHI insular or Northwestern Hawaiian Islands (NWHI) stocks of false killer whales. HLA notes that (a) the False Killer Whale Take Reduction Plan closed the deep-set longline fishery for almost the entire range of the MHI insular and NWHI stocks, (b) since this change was made in 2013 there have been no interactions between the fishery and an animal from either stock, and (c) there has never been a deep-set longline fishery interaction in the very small area of the stocks' respective ranges that are not closed to longline fishing. HLA requests that NMFS remove these two stocks from the list of marine mammals that interact with the deep-set longline fishery, as the best available information demonstrates the fishery is not interacting with either of these stocks.

*Response:* This comment has been addressed previously (see 78 FR 53336, August 29, 2013, comment 11; 79 FR 14418, March 14, 2014, comment 4; 79 FR 77919, December 29, 2014, comment 2; and 81 FR 20550, April 8, 2016, comment 5). NMFS determines which species or stocks are included as incidentally killed or injured in a fishery by annually reviewing the information presented in the current SARs, among other relevant sources. The SARs are based on the best available scientific information and provide information on each stock, including range, abundance, PBR, and level of interaction with commercial fishing operations. Determinations in the LOF are based on the information reported in the SARs.

The 2018 LOF is based on the 2016 SARs, which report fishery interactions from 2010–2014; this is the best scientific and commercial information available for the time period examined. As reported in the 2016 SAR, 12 false killer whales were taken within the Hawaiian EEZ between 2010 and 2014, ten of those occurred within the range of the pelagic stock, and two occurred within an overlap zone that included the range of more than one false killer whale stock. Applying the proration methods described in detail in the 2016 SAR for takes in overlap zones, NMFS estimates a five-year average mortality and serious injury level of 0.1 MHI insular and 0.4 NWHI false killer whales per year incidental to the Hawaii-based deep-set longline fishery from 2010–2014 (Carretta *et al.*, 2017a). NMFS is retaining the stocks on the list of marine mammal stocks incidentally killed or injured in the Hawaii deep-set longline fishery.

*Comment 22:* HLA opposes including the pygmy killer whale (Hawaii stock)

on the list of species injured or killed in the Hawaii-based deep-set fishery. HLA requests that NMFS remove the pygmy killer whale from the list of stocks that are interacting with the deep-set fishery, because the most recent SAR (2013) identifies no observed interactions between the stock and the deep-set longline fishery.

*Response:* The 2013 SAR reports marine mammal interactions with the deep-set fishery that occurred between 2007 and 2011. Although the 2013 SAR does not include any observed interactions with pygmy killer whales, an interaction was observed between a pygmy killer whale and the Hawaii deep-set longline fishery on January 5, 2013, resulting in a serious injury (Carretta *et al.*, 2017b). This injury determination has been finalized, and the interaction is included in the draft 2017 SAR (82 FR 60181; December 19, 2017).

*Comment 23:* TIRN and CBD support NMFS' proposal to add the Central North Pacific stock of humpback whale to the list of stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery based upon the serious injury of a humpback in 2014 in this fishery.

*Response:* NMFS agrees and has added the Central North Pacific stock of humpback whale to the list of stocks incidentally killed or injured in the Hawaii deep-set longline fishery.

*Comment 24:* TIRN and CBD recommend that the California/Oregon/Washington (CA/OR/WA) humpback whale stock be added to the list of species or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery based upon known M/SI to the Central North Pacific humpback stock from interaction with this fishery in 2014. In addition, they comment that NMFS is currently considering an exempted fishing permit to allow the use of both deep-set and shallow-set longline gear within the West Coast EEZ, which would provide this fishery greater access to this stock and further increase the pressure on the stock.

*Response:* The LOF relies on information reported in the SARs to add/remove species/stocks that are killed or injured in a particular fishery. The 2016 SAR reports a humpback whale from the Central North Pacific stock was seriously injured in 2014 in the Category I Hawaii deep-set longline fishery; consequently, this stock is included in the list of stocks incidentally killed or injured in this fishery. The SAR does not list any mortalities or injuries of the CA/OR/WA humpback whale stock in the Hawaii

deep-set fishery in 2014; consequently, this stock is not included in the list of stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

*Comment 25:* TIRN and CBD request that the CA/OR/WA humpback whale stock be added to the list of stocks incidentally killed or injured in the Category I Hawaii shallow-set longline fishery. They assert that the fishery's potential for interactions with this stock is justified by the inclusion of the Central North Pacific humpback whale stock in the list of species and/or stocks incidentally killed or injured. In addition, TIRN/CBD comment that NMFS currently is considering an exempted fishing permit to allow the use of both deep-set and shallow-set longline gear within the West Coast EEZ, which would provide this fishery greater access to this stock and further increase the pressure on the stock.

*Response:* NMFS uses the criteria described in the preamble to classify fisheries and list species or stocks that may be incidentally killed or injured by those fisheries. Under these criteria, NMFS lists species or stocks as incidentally killed or injured based on documented mortalities or injuries using the best scientific information available (*i.e.*, SARs). Because there are no documented mortalities or injuries of CA/OR/WA humpbacks, NMFS is not including this stock as incidentally killed or injured by the Category I Hawaii shallow-set longline fishery. Should NMFS approve an exempted fishing permit for the deep-set and shallow-set longline fishery operating within the U.S. West Coast EEZ, NMFS will continue to use all relevant information to inform future LOFs.

*Comment 26:* HLA contends that the best available science does not support a determination that the Hawaii-based shallow-set longline fishery has "occasional" interactions with the pelagic false killer whale stock and should therefore be listed as Category III. They note that the 2016 SAR attributes a 0.3 M/SI rate to the shallow-set fishery for the Pelagic FKW Stock in the U.S. EEZ, which amounts to 1.07 percent of the Pelagic FKW Stock's PBR level. However, the 0.3 M/SI rate derives entirely from an interaction that occurred in 2012 for which NMFS was unable to make an injury determination (*i.e.* "cannot be determined" or "CBD" determination). Further, the "CBD" interaction was prorated as 0.3 M/SI because, in the previous five years, there had been three EEZ interactions between the shallow-set fishery and the Pelagic FKW Stock, only one of which (in 2009) was "serious" (a one-third

M/SI rate). HLA notes that if the 2012 “CBD” interaction is prorated based upon the five-year lookback period used in the 2016 SAR (2010–14) (the best available data), then it would be 0.0 because there were only two other interactions in 2010–14, both of which were determined to be non-serious. HLA argues that the Category II status of the shallow-set fishery hinges on a single interaction in 2012 for which no injury determination was made and that NMFS prorated based upon data that is no longer relevant or accurate. For these reasons, HLA recommends the shallow-set fishery be listed as Category III, as the fishery is more accurately described as having a “remote likelihood” of interaction with the stock.

*Response:* NMFS uses the classification criteria described in the preamble to classify fisheries as Category I, Category II, or Category III. A fishery is classified under Category II if the annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the stock’s PBR level. Additional details regarding categorization of fisheries is provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086; August 30, 1995). The false killer whale interaction in 2012 that resulted in a “CBD” determination was prorated following the methods described in the 2016 SAR (Carretta *et al.*, 2017a), which prorates serious versus non-serious injuries using the historic rate of serious injury while accounting for changes in gear following implementation of the False Killer Whale Take Reduction Plan in 2013. This proration resulted in a 0.3 M/SI for the Pelagic FKW stock as reported in the 2016 SAR, which is 1.07 percent of PBR and within the range of 1–50 percent of PBR, requiring NMFS to classify the fishery as a Category II fishery consistent with section 118 of the MMPA.

*Comment 27:* HLA opposes including the rough-toothed dolphin (Hawaii stock) on the list of species injured or killed in the Hawaii-based shallow-set fishery. HLA requests that NMFS remove the rough-toothed dolphin from the list of stocks that are interacting with the shallow-set fishery, because the most recent SAR (2013) identifies no observed interactions between the stock and the shallow-set longline fishery.

*Response:* The 2013 SAR reports marine mammal interactions with the shallow-set fishery that occurred between 2007 and 2011. Although the 2013 SAR does not include observed interactions with rough-toothed dolphins, an interaction was observed

between a rough-toothed dolphin and the Hawaii shallow-set longline fishery on April 24, 2013, resulting in a mortality (Carretta *et al.*, 2017b). This interaction has been finalized and is included in the draft 2017 SAR (82 FR 60181, December 19, 2017).

*Comment 28:* HLA restates a previous comment that the LOF should distinguish between high seas stocks and U.S. EEZ stocks when listing stocks with which fisheries interact, and requests that NMFS revise the LOF to attribute species interactions in transboundary fisheries to only those geographic regions where interactions are actually observed. HLA recommends that if NMFS does not revise the LOF, then they should include a footnote in the LOF to clarify, for certain stocks and fisheries, that interactions have only been observed on the high seas or in the U.S. EEZ, as appropriate. HLA notes that NMFS readily separates transboundary stocks into high seas and U.S. EEZ components for reporting purposes in its SARs and for the purpose of comparing M/SI rates to PBR levels (a trigger for the take reduction planning process), and asserts that the LOF should make similar distinctions when reporting the stocks with which fisheries interact.

*Response:* This comment has been addressed previously (see 79 FR 14418, March 14, 2014, comment 7; 79 FR 77919, December 29, 2014, comment 5; and 81 FR 20550, April 8, 2016, comment 8). As described in the preamble, NMFS has included high seas fisheries in Table 3 of the LOF since 2009. Several fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery but an extension of a fishery operating within U.S. waters. For these fisheries, the lists of species or stocks injured or killed in Table 3 are identical to their Tables 1 or 2 counterparts, except for those species or stocks with distributions known to occur on only one side of the EEZ boundary. Because the fisheries and the marine mammal lists are the same, takes of these animals are not being attributed to one geographic area or the other, even when that information may be available. This parallel list structure is explained in the footnotes for each table. We are not including additional footnotes to individual stocks and fisheries to indicate whether interactions have only been observed on the high seas or in the U.S. EEZ, but that information may be available in previous LOFs when species and stocks are added or deleted.

### Summary of Changes From the Proposed Rule

NMFS renames the newly classified fisheries, “AK BSAI groundfish troll” and the “AK Gulf of Alaska groundfish troll,” as listed in the proposed LOF for 2018, to “AK BSAI groundfish hand troll and dinglebar troll” and “AK Gulf of Alaska groundfish hand troll and dinglebar troll,” respectively. This change is the result of public comment on the proposed rule and maintains consistency with the State of Alaska fishery permits.

NMFS corrects the estimated number of vessels/persons for the AK Southeast shrimp pot fishery (Table 1) from 210, as listed in the proposed LOF for 2018, to 99 in the final LOF based on a reanalysis of permit data.

NMFS corrects the estimated number of vessels/persons for the Gulf of Maine, U.S. Mid-Atlantic tuna, shark, swordfish hook-and-line/harpoon in the Atlantic Ocean, Gulf of Mexico, and Caribbean (Table 2) from 3,084, as listed in the proposed LOF for 2018, to 2,846 in the final LOF based on a review of permit data. Permits for this fishery are based on target species rather than gear type, so these numbers indicate the total number of fishers that have the potential to use the specified gear type.

### Summary of Changes to the LOF for 2018

The following summarizes changes to the LOF for 2018, including the classification of fisheries, fisheries listed, the estimated number of vessels/persons in a particular fishery, and the species and/or stocks that are incidentally killed or injured in a particular fishery. NMFS re-classifies two fisheries in the LOF for 2018. Additionally, NMFS adds two fisheries to the LOF and removes 12 fisheries from the LOF. NMFS makes changes to the estimated number of vessels/persons and list of species and/or stocks killed or injured in certain fisheries. The classifications and definitions of U.S. commercial fisheries for 2018 are identical to those provided in the LOF for 2017 with the changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), BSAI (Bering Sea and Aleutian Islands), CA (California), DE (Delaware), FL (Florida), GOA (Gulf of Alaska), GMX (Gulf of Mexico), HI (Hawaii), MA (Massachusetts), ME (Maine), NC (North Carolina), NY (New York), OR (Oregon), RI (Rhode Island), SC (South Carolina), VA (Virginia), WA (Washington), and WNA (Western North Atlantic).

**Commercial Fisheries in the Pacific Ocean**

*Classification of Fisheries*

NMFS reclassifies the CA thresher shark/swordfish drift gillnet (≥14 inch (in) mesh) fishery from Category I to Category II.

NMFS reclassifies the Category III AK Gulf of Alaska sablefish longline fishery to Category II based on M/SI of North Pacific sperm whales.

*Addition of Fisheries*

NMFS adds the AK BSAI halibut longline fishery as a Category III fishery.

NMFS adds the AK Gulf of Alaska sablefish pot fishery as a Category III fishery.

*Removal of Fisheries*

NMFS removes the following Category III fisheries from the LOF:

- AK miscellaneous finfish set gillnet fishery
- AK miscellaneous finfish beach seine fishery
- AK miscellaneous finfish purse seine fishery
- AK octopus/squid purse seine fishery
- AK BSAI rockfish longline fishery
- AK Gulf of Alaska rockfish longline fishery
- AK halibut longline/set line (state and Federal waters)
- AK miscellaneous finfish otter/beam trawl fishery
- AK statewide miscellaneous finfish pot fishery

- AK snail pot fishery
- AK octopus/squid handline fishery
- AK abalone fishery

*Fishery Name and Organizational Changes and Clarification*

NMFS clarifies that the Category II AK BSAI rockfish trawl fishery includes sablefish as a target species.

NMFS adds a superscript “1” to the CA/OR/WA stock of humpback whale to indicate it is driving the Category II classification of the CA spiny lobster fishery.

NMFS renames the Category III AK salmon purse seine (excluding salmon purse seine fisheries listed elsewhere) fishery to AK salmon purse seine (Prince William Sound, Chignik, Alaska Peninsula) fishery.

NMFS clarifies that the Category III AK Gulf of Alaska rockfish trawl fishery includes sablefish as a target species.

NMFS renames the Category III AK food/bait herring trawl fishery to AK Kodiak food/bait herring otter trawl fishery.

NMFS renames the Category III AK shrimp otter trawl and beam trawl (statewide and Cook Inlet) fishery to AK shrimp otter trawl and beam trawl fishery.

NMFS renames the Category III AK State-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl fishery to AK State-managed waters of Prince William Sound groundfish trawl fishery.

NMFS combines the Category III AK Aleutian Islands sablefish pot fishery in the LOF with the Category III AK Bering Sea sablefish pot fishery for consistency with other regional designations in the LOF. The combined fishery is named the AK BSAI sablefish pot fishery.

NMFS separates the Category III AK miscellaneous finfish handline/hand troll and mechanical jig fishery into several fisheries by gear and geography for improved fishery categorization of potential impacts to marine mammals. The new Category III fishery names are: (1) AK BSAI groundfish jig, (2) AK BSAI groundfish hand troll and dinglebar troll, (3) AK Gulf of Alaska groundfish jig, (4) AK Gulf of Alaska groundfish hand troll and dinglebar troll.

NMFS renames the Category III AK North Pacific halibut handline/hand troll and mechanical jig fishery to AK halibut jig fishery for clarity and consistency.

NMFS renames the Category III AK urchin and other fish/shellfish fishery to AK miscellaneous invertebrates hand pick fishery for clarity and consistency.

NMFS makes an administrative change to the Category III Alaska scallop dredge fishery to be renamed AK scallop dredge for consistency.

*Number of Vessels/Persons*

NMFS updates the estimated number of vessels/persons in the Pacific Ocean (Table 1) as follows:

Category	Fishery	Number of vessels/persons (2017 LOF)	Number of vessels/persons (2018 LOF)
I	HI deep-set longline	139	143
II	HI shallow-set longline	20	22
II	American Samoa longline	20	18
III	AK Gulf of Alaska crab pot	381	271
III	AK Gulf of Alaska Pacific cod pot	128	116
III	AK Southeast Alaska crab pot	41	375
III	AK Southeast Alaska shrimp pot	269	99
III	AK shrimp pot, except Southeast	236	141
III	AK octopus/squid pot	26	15
III	AK herring spawn on kelp	339	266
III	AK miscellaneous invertebrates handpick	398	214
III	American Samoa bottomfish handline	24	17
III	AK commercial passenger fishing vessel	2,702	1,006

*List of Species and/or Stocks Incidentally Killed or Injured in the Pacific Ocean*

NMFS adds the Central North Pacific stock of humpback whale to the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

NMFS adds the Hawaii stock of Kogia spp. (Pygmy or dwarf sperm whale) to

the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

NMFS adds the CA/OR/WA stock of Dall’s porpoise to the list of species and/or stocks incidentally killed or injured in the Category I CA thresher shark/swordfish drift gillnet (≥14 in mesh) fishery.

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

*Number of Vessels/Persons*

NMFS updates the estimated number of vessels/persons in the Atlantic Ocean, Gulf of Mexico, and Caribbean (Table 2) as follows:

Category	Fishery	Number of vessels/persons (2017 LOF)	Number of vessels/persons (2018 LOF)
I	Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline	420	280
II	Southeastern U.S. Atlantic shark gillnet	30	23
III	Gulf of Maine, U.S. Mid-Atlantic tuna, shark, swordfish hook-and-line/harpoon	428	2,846
III	Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	<125	39
III	Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon.	1,446	680

*List of Species and/or Stocks Incidentally Killed or Injured in the Atlantic Ocean, Gulf of Mexico, and Caribbean*

NMFS adds the Northern Gulf of Mexico stock of rough-toothed dolphin to the list of species and/or stocks incidentally killed or injured in the Category I Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery.

NMFS removes the WNA stock of white-sided dolphin from the species and/or stocks listed as incidentally killed or injured in the Category II Mid-Atlantic mid-water trawl fishery.

NMFS adds the WNA stock of white-sided dolphin to the list of species and/or stocks incidentally killed or injured in the Category II Mid-Atlantic bottom trawl fishery.

NMFS adds the WNA offshore stock of bottlenose dolphin to the list of species and/or stocks incidentally killed or injured in the Category III Gulf of Maine, U.S., Mid-Atlantic tuna, shark,

swordfish hook-and-line/harpoon fishery.

NMFS adds three stocks to the list of species and/or stocks incidentally killed or injured in the Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel fishery. The three stocks are: (1) WNA stock of short-finned pilot whale and (2) Barataria Bay estuarine system stock and (3) Mississippi Sound, Lake Borgne, Bay Boudreau stock of bottlenose dolphins.

NMFS corrects three administrative errors in Table 2. Under species and/or stocks listed as incidentally killed or injured in the Atlantic Ocean, Caribbean, Gulf of Mexico large pelagic longline fishery, NMFS updates the stock name for Atlantic spotted dolphin from “GMX continental and oceanic” to “Northern GMX”. Second, in the Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel fishery, NMFS updates the stock name for bottlenose dolphin from “Southern SC/GA coastal” to “SC/GA coastal”. Lastly, NMFS removes the

WNA stocks of Risso’s dolphin and white-sided dolphin from the species and/or stocks listed as incidentally injured or killed in the Category I Mid-Atlantic gillnet fishery.

**Commercial Fisheries on the High Seas**

*Removal of Fisheries*

NMFS removes the Category II Atlantic highly migratory species drift gillnet fishery from the LOF as there are currently no participants.

*Fishery Name and Organizational Changes and Clarification*

NMFS designates the list of species and/or stocks incidentally killed or injured in a fishery from “undetermined” to “no information” for clarity that no data are available on mortalities or injuries incidental to a particular fishery.

*Number of Vessels/Persons*

NMFS updates to the estimated number of vessels/persons on the High Seas (Table 3) as follows:

Category	Fishery	Number of vessels/persons (2017 LOF)	Number of vessels/persons (2018 LOF)
I	Atlantic highly migratory species longline	86	79
I	Western Pacific pelagic longline (HI deep-set component)	139	143
I	Pacific highly migratory species drift gillnet	5	4
II	Atlantic highly migratory species trawl	1	2
II	South Pacific tuna purse seine	38	35
II	Western Pacific pelagic purse seine	3	1
II	South Pacific albacore troll longline	10	9
II	South Pacific tuna longline	2	4
II	Western Pacific pelagic longline (HI shallow-set component)	20	22
II	Atlantic highly migratory species handline/pole and line	3	2
II	Pacific highly migratory species handline/pole and line	46	42
II	South Pacific albacore troll handline/pole and line	7	11
II	Western Pacific pelagic handline/pole and line	2	5
II	Atlantic highly migratory species troll	2	1
II	South Pacific albacore troll	30	22
II	Western Pacific pelagic troll	17	6
III	Pacific highly migratory species longline	114	105
III	Pacific highly migratory species purse seine	6	7
III	Northwest Atlantic trawl	1	2
III	Pacific highly migratory species troll	187	149

*List of Species and/or Stocks Incidentally Killed or Injured on the High Seas*

NMFS adds the Hawaii stock of *Kogia* spp. (Pygmy or dwarf sperm whale) to the list of species and/or stocks incidentally killed or injured in the

Category I Western Pacific Pelagic (HI deep-set component) longline fishery.

NMFS adds the Central North Pacific stock of humpback whale to the list of

species and/or stocks incidentally killed or injured in the Category I Western Pacific Pelagic (HI deep-set component) longline fishery.

#### List of Fisheries

The following tables set forth the list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. 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 3 lists commercial fisheries on the high seas, and Table 4 lists fisheries affected by TRPs or TRTs.

In Tables 1 and 2, the estimated number of vessels or persons participating in fisheries operating within U.S. waters 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, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels or persons in the fishery. NMFS acknowledges that, in some cases, these estimates may be inflations of actual effort. For example, the State of Hawaii does not issue fishery-specific licenses, and the number of participants reported in the LOF represents the number of commercial marine license holders who reported using a particular fishing gear type/method at least once in a given year, without considering how many times the gear was used. For these fisheries, effort by a single participant is counted the same whether the fisherman used the gear only once or every day. In the Mid-Atlantic and New England fisheries, the numbers represent the potential effort for each fishery, given the multiple gear types for which several state permits may allow. Changes made to Mid-Atlantic and New England fishery participants will not

affect observer coverage or bycatch estimates, as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Tables 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal). If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be updated to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, contact the relevant regional office (contact information included above in **SUPPLEMENTARY INFORMATION**).

For high seas fisheries, Table 3 lists the number of valid HSFCA permits currently held. Although this likely overestimates the number of active participants in many of these fisheries, the number of valid HSFCA permits is the most reliable data on the potential effort in high seas fisheries at this time. As noted previously in this LOF, the number of HSFCA permits listed in Table 3 for the high seas components of fisheries that also operate within U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

Tables 1, 2, and 3 also list the marine mammal species and/or stocks incidentally killed or injured (seriously or non-seriously) in each fishery based on SARs, injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fishermen self-reports (*i.e.*, MMPA reports), and anecdotal reports. The best available scientific information included in these reports is based on data through 2012. This list includes all species and/or stocks known to be killed or injured in a given fishery but also includes species and/or stocks for which there are anecdotal records of a

mortality or injury. Additionally, species identified by logbook entries, stranding data, or fishermen self-reports (*i.e.*, MMPA reports) may not be verified. In Tables 1 and 2, NMFS has designated those species/stocks driving a fishery's classification (*i.e.*, the fishery is classified based on mortalities and serious injuries of a marine mammal stock that are greater than or equal to 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.

In Tables 1 and 2, there are several fisheries classified as Category II that have no recent documented mortalities or serious injuries of marine mammals, or fisheries that did not result in a mortality or serious injury rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear 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 (*i.e.*, fishing techniques, gear types, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fishermen reports, stranding data, and the species and distribution of marine mammals in the area). NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by a "2" after the fishery's name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the exclusive economic zone (EEZ) boundary and therefore operate both within U.S. waters and on the high seas. These fisheries, though listed separately between Table 1 or 2 and Table 3, are considered the same fisheries on either side of the EEZ boundary. NMFS has designated those fisheries in each table by a "\*" after the fishery's name.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
<b>CATEGORY I</b>		
<i>LOGLINE/SET LINE FISHERIES:</i>		
HI deep-set longline* ^ .....	143 .....	Bottlenose dolphin, HI Pelagic, False killer whale, MHI Insular, <sup>1</sup> False killer whale, HI Pelagic, <sup>1</sup> False killer whale, NWHI, Humpback whale. Central North Pacific, <i>Kogia spp.</i> (Pygmy or dwarf sperm whale), HI, Pygmy killer whale, HI, Risso's dolphin, HI, Short-finned pilot whale, HI, Sperm whale, HI, Striped dolphin, HI.
<b>CATEGORY II</b>		
<i>GILLNET FISHERIES:</i>		
CA thresher shark/swordfish drift gillnet (≥14 in mesh) * ....	18 .....	Bottlenose dolphin, CA/OR/WA offshore, California sea lion, U.S., Dall's porpoise, CA/OR/WA, Humpback whale, CA/OR/WA, Long-beaked common dolphin, CA, Minke whale, CA/OR/WA, 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, Sperm Whale, CA/OR/WA. <sup>1</sup>
CA halibut/white seabass and other species set gillnet (>3.5 in mesh).	50 .....	California sea lion, U.S., Harbor seal, CA, Humpback whale, CA/OR/WA <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 (mesh size ≥3.5 in and <14 in) <sup>2</sup> .	30 .....	California sea lion, U.S., Long-beaked common dolphin, CA, Short-beaked common dolphin, CA/OR/WA.
AK Bristol Bay salmon drift gillnet <sup>2</sup> .....	1,862 .....	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.
AK Bristol Bay salmon set gillnet <sup>2</sup> .....	979 .....	Beluga whale, Bristol Bay, Gray whale, Eastern North Pacific, Harbor seal, Bering Sea, Northern fur seal, Eastern Pacific, Spotted seal, AK.
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 Cook Inlet salmon set gillnet .....	736 .....	Beluga whale, Cook Inlet, Dall's porpoise, AK, Harbor porpoise, GOA, Harbor seal, GOA, Humpback whale, Central North Pacific <sup>1</sup> , Sea otter, South central AK, Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet .....	569 .....	Beluga whale, Cook Inlet, Dall's porpoise, AK, Harbor porpoise, GOA <sup>1</sup> , Harbor seal, GOA, Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet <sup>2</sup> .....	162 .....	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> .....	113 .....	Harbor porpoise, Bering Sea, Northern sea otter, Southwest AK, Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet .....	537 .....	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 .....	474 .....	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> .....	168 .....	Gray whale, Eastern North Pacific, Harbor Porpoise, Southeastern AK, 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.
<i>TRAWL FISHERIES:</i>		
AK Bering Sea, Aleutian Islands flatfish trawl .....	32 .....	Bearded seal, AK, Gray whale, Eastern North Pacific, Harbor porpoise, Bering Sea, Harbor seal, Bering Sea, Humpback whale, Western North Pacific <sup>1</sup> , Killer whale, AK resident, <sup>1</sup> Killer whale, GOA, AI, BS transient, <sup>1</sup> Northern fur seal, Eastern Pacific, Ringed seal, AK, Ribbon seal, AK, Spotted seal, AK, Steller sea lion, Western U.S. <sup>1</sup> , Walrus, AK.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
AK Bering Sea, Aleutian Islands pollock trawl .....	102 .....	Bearded Seal, AK, Dall's porpoise, AK, Harbor seal, AK, Humpback whale, Central North Pacific, Humpback whale, Western North Pacific, Northern fur seal, Eastern Pacific, Ribbon seal, AK, Ringed seal, AK, Spotted seal, AK, Steller sea lion, Western U.S. <sup>1</sup>
AK Bering Sea, Aleutian Islands rockfish trawl .....	17 .....	Killer whale, ENP AK resident <sup>1</sup> , Killer whale, GOA, AI, BS transient. <sup>1</sup>
<i>POT, RING NET, AND TRAP FISHERIES:</i>		
CA spiny lobster .....	194 .....	Bottlenose dolphin, CA/OR/WA offshore, Humpback whale, CA/OR/WA <sup>1</sup> , Gray whale, Eastern North Pacific.
CA spot prawn pot .....	25 .....	Gray whale, Eastern North Pacific, Humpback whale, CA/OR/WA <sup>1</sup> .
CA Dungeness crab pot .....	570 .....	Gray whale, Eastern North Pacific, Humpback whale, CA/OR/WA <sup>1</sup> .
OR Dungeness crab pot .....	433 .....	Gray whale, Eastern North Pacific, Humpback whale, CA/OR/WA <sup>1</sup> .
WA/OR/CA sablefish pot .....	309 .....	Humpback whale, CA/OR/WA <sup>1</sup> .
WA coastal Dungeness crab pot .....	228 .....	Gray whale, Eastern North Pacific, Humpback whale, CA/OR/WA <sup>1</sup> .
<i>LONGLINE/SET LINE FISHERIES:</i>		
AK Bering Sea, Aleutian Islands Pacific cod longline .....	45 .....	Dall's Porpoise, AK, Killer whale, GOA, BSAI transient <sup>1</sup> . Northern fur seal, Eastern Pacific, Ringed seal, AK. Sperm whale, North Pacific.
AK Gulf of Alaska sablefish longline .....	295 .....	Blainville's beaked whale, HI, Bottlenose dolphin, HI Pelagic, False killer whale, HI Pelagic <sup>1</sup> . Humpback whale, Central North Pacific, Risso's dolphin, HI, Rough-toothed dolphin, HI, Short-finned pilot whale, HI, Striped dolphin, HI.
HI shallow-set longline * .....	22 .....	Bottlenose dolphin, unknown, Cuvier's beaked whale, unknown, False killer whale, American Samoa, Rough-toothed dolphin, American Samoa, Short-finned pilot whale, unknown.
American Samoa longline <sup>2</sup> .....	18 .....	None documented.
HI shortline <sup>2</sup> .....	9 .....	None documented.
<b>CATEGORY III</b>		
<i>GILLNET FISHERIES:</i>		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet.	1,778 .....	Harbor porpoise, Bering Sea.
AK Prince William Sound salmon set gillnet .....	29 .....	Harbor seal, GOA, Sea otter, South central AK, Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet .....	920 .....	None documented.
CA set gillnet (mesh size <3.5 in) .....	296 .....	None documented.
HI inshore gillnet .....	36 .....	Bottlenose dolphin, HI, Spinner dolphin, HI.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24 .....	Harbor seal, OR/WA coast.
WA/OR Mainstem Columbia River eulachon gillnet .....	15 .....	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.
<i>MISCELLANEOUS NET FISHERIES:</i>		
AK Cook Inlet salmon purse seine .....	83 .....	Humpback whale, Central North Pacific.
AK Kodiak salmon purse seine .....	376 .....	Humpback whale, Central North Pacific.
AK Southeast salmon purse seine .....	315 .....	None documented in the most recent five years of data.
AK Metlakatla salmon purse seine .....	10 .....	None documented.
AK roe herring and food/bait herring beach seine .....	10 .....	None documented.
AK roe herring and food/bait herring purse seine .....	356 .....	None documented.
AK salmon beach seine .....	31 .....	None documented.
AK salmon purse seine (Prince William Sound, Chignik, Alaska Peninsula).	936 .....	Harbor seal, GOA, Harbor seal, Prince William Sound.
WA/OR sardine purse seine .....	42 .....	None documented.
CA anchovy, mackerel, sardine purse seine .....	65 .....	California sea lion, U.S., Harbor seal, CA.
CA squid purse seine .....	80 .....	Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA.
CA tuna purse seine * .....	10 .....	None documented.
WA/OR Lower Columbia River salmon seine .....	10 .....	None documented.
WA/OR herring, smelt, squid purse seine or lampara .....	130 .....	None documented.
WA salmon purse seine .....	75 .....	None documented.
WA salmon reef net .....	11 .....	None documented.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
HI lift net .....	17 .....	None documented.
HI inshore purse seine .....	<3 .....	None documented.
HI throw net, cast net .....	23 .....	None documented.
HI seine net .....	24 .....	None documented.
<b>DIP NET FISHERIES:</b>		
CA squid dip net .....	115 .....	None documented.
<b>MARINE AQUACULTURE FISHERIES:</b>		
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.
WA salmon net pens .....	14 .....	California sea lion, U.S., Harbor seal, WA inland waters.
WA/OR shellfish aquaculture .....	23 .....	None documented.
<b>TROLL FISHERIES:</b>		
WA/OR/CA albacore surface hook and line/troll .....	705 .....	None documented.
CA halibut hook and line/handline .....	unknown .....	None documented.
CA white seabass hook and line/handline .....	unknown .....	None documented.
AK Bering Sea, Aleutian Islands groundfish hand troll and dinglebar troll .....	unknown .....	None documented.
AK Gulf of Alaska groundfish hand troll and dinglebar troll .....	unknown .....	None documented.
AK salmon troll .....	1,908 .....	Steller sea lion, Eastern U.S., Steller sea lion, Western U.S.
American Samoa tuna troll .....	13 .....	None documented.
CA/OR/WA salmon troll .....	4,300 .....	None documented.
HI troll .....	2,117 .....	Pantropical spotted dolphin, HI.
HI rod and reel .....	322 .....	None documented.
Commonwealth of the Northern Mariana Islands tuna troll .....	40 .....	None documented.
Guam tuna troll .....	432 .....	None documented.
<b>LONGLINE/SET LINE FISHERIES:</b>		
AK Bering Sea, Aleutian Islands Greenland turbot longline .....	4 .....	Killer whale, AK resident.
AK Bering Sea, Aleutian Islands sablefish longline .....	22 .....	None documented.
AK Bering Sea, Aleutian Islands halibut longline .....	127 .....	None documented.
AK Gulf of Alaska halibut longline .....	855 .....	None documented.
AK Gulf of Alaska Pacific cod longline .....	92 .....	Steller sea lion, Western U.S.
AK octopus/squid longline .....	3 .....	None documented.
AK state-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish) .....	464 .....	None documented.
WA/OR/CA groundfish, bottomfish longline/set line .....	367 .....	Bottlenose dolphin, CA/OR/WA offshore.
WA/OR Pacific halibut longline .....	350 .....	None documented.
CA pelagic longline .....	1 .....	None documented in the most recent five years of data.
HI kaka line .....	15 .....	None documented.
HI vertical line .....	3 .....	None documented.
<b>TRAWL FISHERIES:</b>		
AK Bering Sea, Aleutian Islands Atka mackerel trawl .....	13 .....	Ribbon seal, AK, Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl .....	72 .....	Ringed seal, AK, Steller sea lion, Western U.S.
AK Gulf of Alaska flatfish trawl .....	36 .....	Northern elephant seal, North Pacific.
AK Gulf of Alaska Pacific cod trawl .....	55 .....	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl .....	67 .....	Dall's porpoise, AK, Fin whale, Northeast Pacific, Northern elephant seal, North Pacific, Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl .....	43 .....	None documented.
AK Kodiak food/bait herring otter trawl .....	4 .....	None documented.
AK shrimp otter trawl and beam trawl .....	38 .....	None documented.
AK state-managed waters of Prince William Sound groundfish trawl .....	2 .....	None documented.
CA halibut bottom trawl .....	47 .....	California sea lion, U.S., Harbor porpoise, unknown, Harbor seal, unknown, Northern elephant seal, CA breeding, Steller sea lion, unknown.
CA sea cucumber trawl .....	16 .....	None documented.
WA/OR/CA shrimp trawl .....	300 .....	None documented.
WA/OR/CA groundfish trawl .....	160–180 .....	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.
<b>POT, RING NET, AND TRAP FISHERIES:</b>		
AK Bering Sea, Aleutian Islands sablefish pot .....	6 .....	None documented.
AK Bering Sea, Aleutian Islands Pacific cod pot .....	59 .....	None documented.
AK Bering Sea, Aleutian Islands crab pot .....	540 .....	Gray whale, Eastern North Pacific.
AK Gulf of Alaska crab pot .....	271 .....	None documented.
AK Gulf of Alaska Pacific cod pot .....	116 .....	Harbor seal, GOA.
AK Gulf of Alaska sablefish pot .....	248 .....	None documented.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
AK Southeast Alaska crab pot .....	375 .....	Humpback whale, Central North Pacific (Southeast AK).
AK Southeast Alaska shrimp pot .....	99 .....	Humpback whale, Central North Pacific (Southeast AK).
AK shrimp pot, except Southeast .....	141 .....	None documented.
AK octopus/squid pot .....	15 .....	None documented.
CA/OR coonstripe shrimp pot .....	36 .....	Gray whale, Eastern North Pacific, Harbor seal, CA.
CA rock crab pot .....	124 .....	Gray whale, Eastern North Pacific, Harbor seal, CA.
WA/OR/CA hagfish pot .....	54 .....	None documented.
WA/OR shrimp pot/trap .....	254 .....	None documented.
WA Puget Sound Dungeness crab pot/trap .....	249 .....	None documented.
HI crab trap .....	5 .....	Humpback whale, Central North Pacific.
HI fish trap .....	9 .....	None documented.
HI lobster trap .....	<3 .....	None documented in recent years.
HI shrimp trap .....	10 .....	None documented.
HI crab net .....	4 .....	None documented.
HI Kona crab loop net .....	33 .....	None documented.
<b>HOOK-AND-LINE, HANDLINE, AND JIG FISHERIES:</b>		
AK Bering Sea, Aleutian Islands groundfish jig .....	2 .....	None documented.
AK Gulf of Alaska groundfish jig .....	214 .....	Fin whale, Northeast Pacific.
AK halibut jig .....	71 .....	None documented.
American Samoa bottomfish .....	17 .....	None documented.
Commonwealth of the Northern Mariana Islands bottomfish.	28 .....	None documented.
Guam bottomfish .....	>300 .....	None documented.
HI aku boat, pole, and line .....	<3 .....	None documented.
HI bottomfish handline .....	578 .....	None documented in recent years.
HI inshore handline .....	357 .....	None documented.
HI pelagic handline .....	534 .....	None documented.
WA groundfish, bottomfish jig .....	679 .....	None documented.
Western Pacific squid jig .....	0 .....	None documented.
<b>HARPOON FISHERIES:</b>		
CA swordfish harpoon .....	6 .....	None documented.
<b>POUND NET/WEIR FISHERIES:</b>		
AK herring spawn on kelp pound net .....	291 .....	None documented.
AK Southeast herring roe/food/bait pound net .....	2 .....	None documented.
HI bullpen trap .....	3 .....	None documented.
<b>BAIT PENS:</b>		
WA/OR/CA bait pens .....	13 .....	California sea lion, U.S.
<b>DREDGE FISHERIES:</b>		
AK scallop dredge .....	108 (5 AK) .....	None documented.
<b>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</b>		
AK clam .....	130 .....	None documented.
AK Dungeness crab .....	2 .....	None documented.
AK herring spawn on kelp .....	266 .....	None documented.
AK miscellaneous invertebrates handpick .....	214 .....	None documented.
HI black coral diving .....	<3 .....	None documented.
HI fish pond .....	5 .....	None documented.
HI handpick .....	46 .....	None documented.
HI lobster diving .....	19 .....	None documented.
HI spearfishing .....	163 .....	None documented.
WA/CA kelp .....	4 .....	None documented.
WA/OR bait shrimp, clam hand, dive, or mechanical collection.	201 .....	None documented.
OR/CA sea urchin, sea cucumber hand, dive, or mechanical collection.	10 .....	None documented.
<b>COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:</b>		
AK/WA/OR/CA commercial passenger fishing vessel .....	>7,000 (1,006 AK).	Killer whale, unknown, Steller sea lion, Eastern U.S., Steller sea lion, Western U.S.
<b>LIVE FINFISH/SHELLFISH FISHERIES:</b>		
CA nearshore finfish live trap/hook-and-line .....	93 .....	None documented.
HI aquarium collecting .....	90 .....	None documented.

List of Abbreviations and Symbols Used in Table 1: AI—Aleutian Islands; AK—Alaska; BS—Bering Sea; CA—California; ENP—Eastern North Pacific; GOA—Gulf of Alaska; HI—Hawaii; MHI—Main Hawaiian Islands; OR—Oregon; WA—Washington.

<sup>1</sup> Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR.

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

\* Fishery has an associated high seas component listed in Table 3.

^ The list of marine mammal species and/or stocks killed or injured in this fishery is identical to the list of species and/or stocks killed or injured in high seas component of the fishery, minus species and/or stocks that have geographic ranges exclusively on the high seas. The species and/or stocks are found, and the fishery remains the same, on both sides of the EEZ boundary. Therefore, the EEZ components of these fisheries pose the same risk to marine mammals as the components operating on the high seas.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
<b>CATEGORY I</b>		
<i>GILLNET FISHERIES:</i>		
Mid-Atlantic gillnet .....	3,950 .....	Bottlenose dolphin, Northern Migratory coastal <sup>1</sup> , Bottlenose dolphin, Southern Migratory coastal <sup>1</sup> , Bottlenose dolphin, Northern NC estuarine system <sup>1</sup> , Bottlenose dolphin, Southern NC estuarine system <sup>1</sup> , Bottlenose dolphin, WNA offshore, Common dolphin, WNA, Gray seal, WNA, Harbor porpoise, GME/BF, Harbor seal, WNA, Harp seal, WNA, Humpback whale, Gulf of Maine, Minke whale, Canadian east coast.
Northeast sink gillnet .....	4,332 .....	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, Long-finned pilot whale, WNA, Minke whale, Canadian east coast, North Atlantic right whale, WNA, Risso's dolphin, WNA, White-sided dolphin, WNA.
<i>TRAP/POT FISHERIES:</i>		
Northeast/Mid-Atlantic American lobster trap/pot .....	10,163 .....	Humpback whale, Gulf of Maine, Minke whale, Canadian east coast, North Atlantic right whale, WNA <sup>1</sup> .
<i>LONGLINE FISHERIES:</i>		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline*.	280 .....	Atlantic spotted dolphin, Northern GMX, Bottlenose dolphin, Northern GMX oceanic, Bottlenose dolphin, WNA offshore, Common dolphin, WNA, Cuvier's beaked whale, WNA, False killer whale, WNA, Harbor porpoise, GME, BF, Kogia spp. (Pygmy or dwarf sperm whale), WNA, Long-finned pilot whale, WNA <sup>1</sup> , Mesoplodon beaked whale, WNA, Minke whale, Canadian East coast, Pantropical spotted dolphin, Northern GMX, Pygmy sperm whale, GMX, Risso's dolphin, Northern GMX, Risso's dolphin, WNA, Rough-toothed dolphin, Northern GMX, Short-finned pilot whale, Northern GMX, Short-finned pilot whale, WNA <sup>1</sup> .
<b>CATEGORY II</b>		
<i>GILLNET FISHERIES:</i>		
Chesapeake Bay inshore gillnet <sup>2</sup> .....	248 .....	Bottlenose dolphin, unknown (Northern migratory coastal or Southern migratory coastal).
Gulf of Mexico gillnet <sup>2</sup> .....	248 .....	Bottlenose dolphin, GMX bay, sound, and estuarine, Bottlenose dolphin, Northern GMX coastal, Bottlenose dolphin, Western GMX coastal.
NC inshore gillnet .....	2,850 .....	Bottlenose dolphin, Northern NC estuarine system <sup>1</sup> , Bottlenose dolphin, Southern NC estuarine system <sup>1</sup> .
Northeast anchored float gillnet <sup>2</sup> .....	852 .....	Harbor seal, WNA, Humpback whale, Gulf of Maine, White-sided dolphin, WNA.
Northeast drift gillnet <sup>2</sup> .....	1,036 .....	None documented.
Southeast Atlantic gillnet <sup>2</sup> .....	273 .....	Bottlenose dolphin, Central FL coastal, Bottlenose dolphin, Northern FL coastal, Bottlenose dolphin, SC/GA coastal, Bottlenose dolphin, Southern migratory coastal.
Southeastern U.S. Atlantic shark gillnet .....	23 .....	Bottlenose dolphin, unknown (Central FL, Northern FL, SC/GA coastal, or Southern migratory coastal), North Atlantic right whale, WNA.
<i>TRAWL FISHERIES:</i>		
Mid-Atlantic mid-water trawl (including pair trawl) .....	382 .....	Gray seal, WNA, Harbor seal, WNA.
Mid-Atlantic bottom trawl .....	785 .....	Bottlenose dolphin, WNA offshore, Common dolphin, WNA <sup>1</sup> , Gray seal, WNA, Harbor seal, WNA, Risso's dolphin, WNA <sup>1</sup> , White-sided dolphin, WNA.
Northeast mid-water trawl (including pair trawl) .....	1,087 .....	Common dolphin, WNA, Gray seal, WNA, Harbor seal, WNA, Long-finned pilot whale, WNA <sup>1</sup> , Minke whale, Canadian East Coast.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
Northeast bottom trawl .....	2,238 .....	Bottlenose dolphin, WNA offshore, Common dolphin, WNA, Gray seal, WNA, Harbor porpoise, GME/BF, Harbor seal, WNA, Harp seal, WNA, Long-finned pilot whale, WNA, Risso's dolphin, WNA, White-sided dolphin, WNA <sup>1</sup> .
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl ....	4,950 .....	Atlantic spotted dolphin, GMX continental and oceanic, Bottlenose dolphin, Charleston estuarine system, Bottlenose dolphin, Eastern GMX coastal <sup>1</sup> , Bottlenose dolphin, GMX bay, sound, estuarine <sup>1</sup> , Bottlenose dolphin, GMX continental shelf, Bottlenose dolphin, Northern GMX coastal, Bottlenose dolphin, SC/GA coastal <sup>1</sup> , Bottlenose dolphin, Southern migratory coastal, Bottlenose dolphin, Western GMX coastal <sup>1</sup> , West Indian manatee, Florida.
<i>TRAP/POT FISHERIES:</i>		
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot <sup>2</sup> .	1,384 .....	Bottlenose dolphin, Biscayne Bay estuarine, Bottlenose dolphin, Central FL coastal, Bottlenose dolphin, Eastern GMX coastal, Bottlenose dolphin, FL Bay, Bottlenose dolphin, GMX bay, sound, estuarine (FL west coast portion), Bottlenose dolphin, Indian River Lagoon estuarine system, Bottlenose dolphin, Jacksonville estuarine system, Bottlenose dolphin, Northern GMX coastal.
Atlantic mixed species trap/pot <sup>2</sup> .....	3,436 .....	Fin whale, WNA, Humpback whale, Gulf of Maine.
Atlantic blue crab trap/pot .....	7,714 .....	Bottlenose dolphin, Central FL coastal, Bottlenose dolphin, Central GA estuarine system, Bottlenose dolphin, Charleston estuarine system <sup>1</sup> , Bottlenose dolphin, Indian River Lagoon estuarine system, Bottlenose dolphin, Jacksonville estuarine system, Bottlenose dolphin, Northern FL coastal <sup>1</sup> , Bottlenose dolphin, Northern GA/Southern SC estuarine system, Bottlenose dolphin, Northern Migratory coastal, Bottlenose dolphin, Northern NC estuarine system <sup>1</sup> , Bottlenose dolphin, Northern SC estuarine system, Bottlenose dolphin, SC/GA coastal, Bottlenose dolphin, Southern GA estuarine system, Bottlenose dolphin, Southern Migratory coastal, Bottlenose dolphin, Southern NC estuarine system, West Indian manatee, FL.
<i>PURSE SEINE FISHERIES:</i>		
Gulf of Mexico menhaden purse seine .....	40–42 .....	Bottlenose dolphin, GMX bay, sound, estuarine, Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau, Bottlenose dolphin, Northern GMX coastal <sup>1</sup> , Bottlenose dolphin, Western GMX coastal <sup>1</sup> .
Mid-Atlantic menhaden purse seine <sup>2</sup> .....	19 .....	Bottlenose dolphin, Northern Migratory coastal, Bottlenose dolphin, Southern Migratory coastal.
<i>HAUL/BEACH SEINE FISHERIES:</i>		
Mid-Atlantic haul/beach seine .....	359 .....	Bottlenose dolphin, Northern Migratory coastal <sup>1</sup> , Bottlenose dolphin, Northern NC estuarine system <sup>1</sup> , Bottlenose dolphin, Southern Migratory coastal <sup>1</sup> .
NC long haul seine .....	30 .....	Bottlenose dolphin, Northern NC estuarine system <sup>1</sup> , Bottlenose dolphin, Southern NC estuarine system.
<i>STOP NET FISHERIES:</i>		
NC roe mullet stop net .....	1 .....	Bottlenose dolphin, Northern NC estuarine system, Bottlenose dolphin, unknown (Southern migratory coastal or Southern NC estuarine system).
<i>POUND NET FISHERIES:</i>		
VA pound net .....	26 .....	Bottlenose dolphin, Northern migratory coastal, Bottlenose dolphin, Northern NC estuarine system, Bottlenose dolphin, Southern Migratory coastal <sup>1</sup> .
<b>CATEGORY III</b>		
<i>GILLNET FISHERIES:</i>		
Caribbean gillnet .....	>991 .....	None documented in the most recent five years of data.
DE River inshore gillnet .....	unknown .....	None documented in the most recent five years of data.
Long Island Sound inshore gillnet .....	unknown .....	None documented in the most recent five years of data.
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet.	unknown .....	None documented in the most recent five years of data.
Southeast Atlantic inshore gillnet .....	unknown .....	Bottlenose dolphin, Northern SC estuarine system.
<i>TRAWL FISHERIES:</i>		
Atlantic shellfish bottom trawl .....	>58 .....	None documented.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
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.
GA cannonball jellyfish trawl .....	1 .....	Bottlenose dolphin, SC/GA coastal.
<b>MARINE AQUACULTURE FISHERIES:</b>		
Finfish aquaculture .....	48 .....	Harbor seal, WNA.
Shellfish aquaculture .....	unknown .....	None documented.
<b>PURSE SEINE FISHERIES:</b>		
Gulf of Maine Atlantic herring purse seine .....	>7 .....	Harbor seal, WNA, Gray seal, WNA.
Gulf of Maine menhaden purse seine .....	>2 .....	None documented.
FL 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.
<b>LONGLINE/HOOK-AND-LINE FISHERIES:</b>		
Northeast/Mid-Atlantic bottom longline/hook-and-line .....	>1,207 .....	None documented.
Gulf of Maine, U.S. Mid-Atlantic tuna, shark, swordfish hook-and-line/harpoon..	2,846 .....	Bottlenose dolphin, WNA offshore, 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 .....	Bottlenose dolphin, GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	39 .....	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.	680 .....	None documented.
U.S. Atlantic, Gulf of Mexico trotline .....	unknown .....	None documented.
<b>TRAP/POT FISHERIES:</b>		
Caribbean mixed species trap/pot .....	>501 .....	None documented.
Caribbean spiny lobster trap/pot .....	>197 .....	None documented.
FL spiny lobster trap/pot .....	1,268 .....	Bottlenose dolphin, Biscayne Bay estuarine Bottlenose dolphin, Central FL coastal, Bottlenose dolphin, Eastern GMX coastal, Bottlenose dolphin, FL Bay estuarine, Bottlenose dolphin, FL Keys.
Gulf of Mexico blue crab trap/pot .....	4,113 .....	Bottlenose dolphin, Baratavia Bay, Bottlenose dolphin, Eastern GMX coastal, Bottlenose dolphin, GMX bay, sound, estuarine, Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau, Bottlenose dolphin, Northern GMX coastal, Bottlenose dolphin, Western GMX coastal, 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.
U.S. Mid-Atlantic eel trap/pot .....	unknown .....	None documented.
<b>STOP SEINE/WEIR/POUND NET/FLOATING TRAP/FYKE NET FISHERIES:</b>		
Gulf of Maine herring and Atlantic mackerel stop seine/weir.	>1 .....	Harbor porpoise, GME/BF, Harbor seal, WNA, Minke whale, Canadian east coast, Atlantic 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 NC roe mullet stop net).	unknown .....	Bottlenose dolphin, Northern NC estuarine system.
RI floating trap .....	9 .....	None documented.
Northeast and Mid-Atlantic fyke net .....	unknown .....	None documented.
<b>DREDGE FISHERIES:</b>		
Gulf of Maine sea urchin dredge .....	unknown .....	None documented.
Gulf of Maine mussel dredge .....	unknown .....	None documented.
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge .....	>403 .....	None documented.
Mid-Atlantic blue crab dredge .....	unknown .....	None documented.
Mid-Atlantic soft-shell clam dredge .....	unknown .....	None documented.
Mid-Atlantic whelk dredge .....	unknown .....	None documented.
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge .....	7,000 .....	None documented.
New England and Mid-Atlantic offshore surf clam/quahog dredge.	unknown .....	None documented.
<b>HAUL/BEACH SEINE FISHERIES:</b>		
Caribbean haul/beach seine .....	15 .....	None documented in the most recent five years of data.
Gulf of Mexico haul/beach seine .....	unknown .....	None documented.
Southeastern U.S. Atlantic haul/beach seine .....	25 .....	None documented.
<b>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</b>		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000 .....	None documented.
Gulf of Maine urchin dive, hand/mechanical collection .....	unknown .....	None documented.

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

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net.	unknown .....	None documented.
<b>COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:</b> Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000 .....	Bottlenose dolphin, Barataria Bay estuarine system, Bottlenose dolphin, Biscayne Bay estuarine, Bottlenose dolphin, Central FL coastal, Bottlenose dolphin, Choctawhatchee Bay, Bottlenose dolphin, Eastern GMX coastal, Bottlenose dolphin, FL Bay, Bottlenose dolphin, GMX bay, sound, estuarine, Bottlenose dolphin, Indian River Lagoon estuarine system, Bottlenose dolphin, Jacksonville estuarine system, Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau, Bottlenose dolphin, Northern FL coastal, Bottlenose dolphin, Northern GA/ Southern SC estuarine, Bottlenose dolphin, Northern GMX coastal, Bottlenose dolphin, Northern migratory coastal, Bottlenose dolphin, Northern NC estuarine, Bottlenose dolphin, Southern migratory coastal, Bottlenose dolphin, Southern NC estuarine system, Bottlenose dolphin, SC/GA coastal, Bottlenose dolphin, Western GMX coastal, Short-finned pilot whale, WNA.

List of Abbreviations and Symbols Used in Table 2: DE—Delaware; FL—Florida; GA—Georgia; GME/BF—Gulf of Maine/Bay of Fundy; GMX—Gulf of Mexico; MA—Massachusetts; NC—North Carolina; NY—New York; RI—Rhode Island; SC—South Carolina; VA—Virginia; WNA—Western North Atlantic.

<sup>1</sup> Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR.

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

\* Fishery has an associated high seas component listed in Table 3.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS

Fishery description	Number of HSFCAs permits	Marine mammal species and/or stocks incidentally killed or injured
<b>CATEGORY I</b>		
<b>LONGLINE FISHERIES:</b> Atlantic Highly Migratory Species * .....	79	Atlantic spotted dolphin, WNA, Bottlenose dolphin, Northern GMX oceanic, Bottlenose dolphin, WNA offshore, Common dolphin, WNA, Cuvier's beaked whale, WNA, False killer whale, WNA, Killer whale, GMX oceanic, Kogia spp. whale (Pygmy or dwarf sperm whale), WNA, Long-finned pilot whale, WNA, Mesoplodon beaked whale, WNA, Minke whale, Canadian East coast, Pantropical spotted dolphin, WNA, Risso's dolphin, GMX, Risso's dolphin, WNA, Short-finned pilot whale, WNA.
Western Pacific Pelagic (HI Deep-set component) * ^ .....	143	Bottlenose dolphin, HI Pelagic, False killer whale, HI Pelagic, Humpback whale, Central North Pacific, Kogia spp. (Pygmy or dwarf sperm whale), HI, Pygmy killer whale, HI, Risso's dolphin, HI, Short-finned pilot whale, HI, Sperm whale, HI, Striped dolphin, HI.
<b>CATEGORY II</b>		
<b>DRIFT GILLNET FISHERIES:</b> Pacific Highly Migratory Species * ^ .....	4	Long-beaked common dolphin, CA, Humpback whale, CA/OR/WA, 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.
<b>TRAWL FISHERIES:</b> Atlantic Highly Migratory Species ** .....	2	No information.
CCAMLR .....	0	Antarctic fur seal.
<b>PURSE SEINE FISHERIES:</b> South Pacific Tuna Fisheries .....	35	No information.
Western Pacific Pelagic .....	1	No information.
<b>LONGLINE FISHERIES:</b> CCAMLR .....	0	None documented.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS—Continued

Fishery description	Number of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
South Pacific Albacore Troll .....	9	No information.
South Pacific Tuna Fisheries ** .....	4	No information.
Western Pacific Pelagic (HI Shallow-set component) * ^ .....	22	Blainville's beaked whale, HI, Bottlenose dolphin, HI Pelagic, False killer whale, HI Pelagic, Humpback whale, Central North Pacific, Northern elephant seal, CA breeding, Risso's dolphin, HI, Rough-toothed dolphin, HI, Short-beaked common dolphin, CA/OR/WA, Short-finned pilot whale, HI, Striped dolphin, HI.
<b>HANDLINE/POLE AND LINE FISHERIES:</b>		
Atlantic Highly Migratory Species .....	2	No information.
Pacific Highly Migratory Species .....	42	No information.
South Pacific Albacore Troll .....	11	No information.
Western Pacific Pelagic .....	5	No information.
<b>TROLL FISHERIES:</b>		
Atlantic Highly Migratory Species .....	1	No information.
South Pacific Albacore Troll .....	22	No information.
South Pacific Tuna Fisheries ** .....	4	No information.
Western Pacific Pelagic .....	6	No information.
<b>CATEGORY III</b>		
<b>LONGLINE FISHERIES:</b>		
Northwest Atlantic Bottom Longline .....	1	None documented.
Pacific Highly Migratory Species .....	105	None documented in the most recent 5 years of data.
<b>PURSE SEINE FISHERIES:</b>		
Pacific Highly Migratory Species * ^ .....	7	None documented.
<b>TRAWL FISHERIES:</b>		
Northwest Atlantic .....	2	None documented.
<b>TROLL FISHERIES:</b>		
Pacific Highly Migratory Species * .....	149	None documented.

List of Terms, Abbreviations, and Symbols Used in Table 3: CA-California; GMX-Gulf of Mexico; HI-Hawaii; OR-Oregon; WA-Washington; WNA-Western North Atlantic.

\*Fishery is an extension/component of an existing fishery operating within U.S. waters listed in Table 1 or 2. The number of permits listed in Table 3 represents only the number of permits for the high seas component of the fishery.

\*\* These gear types are not authorized under the Pacific HMS FMP (2004), the Atlantic HMS FMP (2006), or without a South Pacific Tuna Treaty license (in the case of the South Pacific Tuna fisheries). Because HSFCA permits are valid for five years, permits obtained in past years exist in the HSFCA permit database for gear types that are now unauthorized. Therefore, while HSFCA permits exist for these gear types, it does not represent effort. In order to land fish species, fishers must be using an authorized gear type. Once these permits for unauthorized gear types expire, the permit-holder will be required to obtain a permit for an authorized gear type.

^ The list of marine mammal species and/or stocks killed or injured in this fishery is identical to the list of marine mammal species and/or stocks killed or injured in U.S. waters component of the fishery, minus species and/or stocks that have geographic ranges exclusively in coastal waters, because the marine mammal species and/or stocks are also found on the high seas and the fishery remains the same on both sides of the EEZ boundary. Therefore, the high seas components of these fisheries pose the same risk to marine mammals as the components of these fisheries operating in U.S. waters.

TABLE 4—FISHERIES AFFECTED BY TAKE REDUCTION TEAMS AND PLANS

Take reduction plans	Affected fisheries
Atlantic Large Whale Take Reduction Plan (ALWTRP)—50 CFR 229.32	<i>Category I:</i> Mid-Atlantic gillnet, Northeast/Mid-Atlantic American lobster trap/pot, Northeast sink gillnet. <i>Category II:</i> Atlantic blue crab trap/pot, Atlantic mixed species trap/pot, Northeast anchored float gillnet, Northeast drift gillnet, Southeast Atlantic gillnet, Southeastern U.S. Atlantic shark gillnet*, Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot. ^
Bottlenose Dolphin Take Reduction Plan (BDTRP)—50 CFR 229.35 ....	<i>Category I:</i> Mid-Atlantic gillnet. <i>Category II:</i> Atlantic blue crab trap/pot, Chesapeake Bay inshore gillnet fishery, Mid-Atlantic haul/beach seine, Mid-Atlantic menhaden purse seine, NC inshore gillnet, NC long haul seine, NC roe mullet stop net, Southeast Atlantic gillnet, Southeastern U.S. Atlantic shark gillnet, Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl ^, Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot ^, VA pound net.
False Killer Whale Take Reduction Plan (FKWTRP)—50 CFR 229.37 ..	<i>Category I:</i> HI deep-set longline. <i>Category II:</i> HI shallow-set longline.

TABLE 4—FISHERIES AFFECTED BY TAKE REDUCTION TEAMS AND PLANS—Continued

Take reduction plans	Affected fisheries
Harbor Porpoise Take Reduction Plan (HPTRP)—50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic).	<i>Category I:</i> Mid-Atlantic gillnet, Northeast sink gillnet.
Pelagic Longline Take Reduction Plan (PLTRP)—50 CFR 229.36 .....	<i>Category I:</i> Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline.
Pacific Offshore Cetacean Take Reduction Plan (POCTRP)—50 CFR 229.31.	<i>Category I:</i> CA thresher shark/swordfish drift gillnet (≥14 in mesh).
Atlantic Trawl Gear Take Reduction Team (ATGTRT) .....	<i>Category II:</i> Mid-Atlantic bottom trawl, Mid-Atlantic mid-water trawl (including pair trawl), Northeast bottom trawl, Northeast mid-water trawl (including pair trawl).

\*Only applicable to the portion of the fishery operating in U.S. waters; ^Only applicable to the portion of the fishery operating in the Atlantic Ocean.

**Classification**

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) at the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received on that certification, and no new information has been discovered to change that conclusion. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

This rule contains collection-of-information (COI) requirements subject to the Paperwork Reduction Act. The COI for the registration of individuals 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). The requirement for reporting marine mammal mortalities or injuries 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 COI. Send comments regarding these reporting burden estimates or any other aspect of the COI, 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 COI, subject to the requirements of the Paperwork Reduction Act, unless that COI displays a currently valid OMB control number.

This rule has been determined to be not significant for the purposes of Executive Orders 12866 and 13563.

This rule is not expected to be an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

In accordance with the Companion Manual for NAO 216–6A, NMFS determined that publishing this LOF qualifies to be categorically excluded from further NEPA review. Issuance of this final rule is consistent with categories of activities identified in Categorical Exclusion G7 of the Companion Manual, and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual for NAO 216–6A that would preclude application of this categorical exclusion. If NMFS takes a management action, for example, through the development of a TRP, NMFS would first prepare an Environmental Impact Statement (EIS) or Environmental Assessment (EA), as required under NEPA, specific to that action.

This rule would not affect species listed as threatened or endangered under the ESA or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this 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 consult under ESA section 7 on that action.

This rule would 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 rule would 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.

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