The Service expects to receive a report on the biological status of the northern population (southern Michigan and the adjacent portions of Indiana and Ohio) of the copperbelly water snake during this comment period. Parties wishing to receive a copy of the northern population report or other significant data received during this comment period are invited to furnish their address to the Service.

Therefore, by this notice the Service is reopening the comment period to solicit and receive additional data and comments on the proposal and to receive addresses from parties who want to receive a copy of the northern population report. The Service is especially interested in receiving data that have become available since the September 30, 1995, close of the previous comment period.

Data and comments which have been previously submitted do not need to be resubmitted. When the Service makes its final determination whether to list the copperbelly water snake as a threatened species all previously received materials will be considered along with newly submitted material. Data and comments received during this and earlier comment periods may lead to final regulations that differ from the proposal of August 18, 1993.

Author

The primary author of this notice is Ronald L. Refsnider, U.S. Fish and Wildlife Service, Division of Endangered Species, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111–4056 (612–725–3536).

Authority

Authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

Dated: July 10, 1996.

William F. Hartwig,

Regional Director, Region 3, Fort Snelling, MN.

[FR Doc. 96–17985 Filed 7–15–96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 950605147–6189–04; I.D. 040996D]

RIN 0648–AH33

Proposed List of Fisheries for 1997

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

ACTION: Proposed rule; request for comments.

SUMMARY: This action proposes changes for 1997 to the List of Fisheries (LOF) required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 1997 reflects new information on commercial fisheries, marine mammals, and interactions between commercial fisheries and marine mammals. Under the MMPA, a commercial fishery is to be placed on the LOF in one of three categories based upon the level of serious injuries and mortalities that occur to marine mammals incidental to that fishery. The LOF informs the public of the level of interactions with marine mammals in various U.S. commercial fisheries and which fisheries are subject to certain provisions of the Marine Mammal Protection Act (MMPA) such as the requirement to register for Authorization Certificates. This action also proposes to revise the process for registering for such a certificate, under certain circumstances, to allow greater flexibility and to reduce associated paperwork and other burdens.

DATES: Comments on the proposed rule must be received by October 15, 1996.

ADDRESSES: Send comments to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

Comments regarding the burden-hour estimates or any other aspect of the collection of information requirements contained in this proposed rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, OMB, Attention: NOAA Desk Officer, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robyn Angliss, Office of Protected Resources, 301–713–2322; Douglas Beach, Northeast Region, 508–281–9254; Charles Oravetz, Southeast Region, 813–570–5301; James Lecky, Southwest Region, 310–980–4015; Brent Norberg, Northwest Region, 206–526–6140; Steven Zimmerman, Alaska Region, 907–586–7235.

SUPPLEMENTARY INFORMATION:

Background

History of the List of Fisheries

The annual publication of a LOF placing all U.S. commercial fisheries into one of three categories based on the levels of incidental serious injury and mortality of marine mammals in the fishery is required by section 118 of the Marine Mammal Protection Act, as amended in 1994. Proposed and final regulations implementing section 118 of the MMPA were published in 1995 (60 FR 31666, June 17, 1995, and 60 FR 45086, August 30, 1995, respectively). These regulations replaced those published to implement old section 114, and establish the procedures NMFS now uses to manage incidental interactions between marine mammals and U.S. commercial fisheries.

Definitions of the fishery classification criteria for Category I, II, and III fisheries are found in the implementing regulations for section 118 (50 CFR part 229). Because classification of fisheries in the LOF depends on the definitions of the criteria, the following explanation of the criteria is provided. Although this information is available in the preambles to final rule implementing section 118 and to the LOF for 1996, it is repeated here because of the importance of this information to understanding how fisheries are classified.

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 the rate, in numbers of animals per year, of serious injuries and mortalities due to commercial fishing relative to the Potential Biological Removal (PBR) level for the each marine mammal stock.

Tier 1. If the total annual mortality and serious injury across all fisheries that interact with a stock is less than or equal to 10 percent of the PBR level of such a stock, then all fisheries interacting with this stock would be placed in Category III. Otherwise, these fisheries are subject to the next tier to determine their classification.

Tier 2—Category I. Annual mortality and serious injury of a stock in a given

fishery is greater than or equal to 50 percent of the PBR level.

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

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

Tier 1, therefore, considers the cumulative fishery mortality and serious injury for a particular stock, while Tier 2 considers fishery-specific mortality for a particular stock. Additional details regarding how threshold percentages between the categories were determined are provided in the preamble to the final rule implementing section 118.

Requirements for Vessels Participating in Category I and II Fisheries

The primary functions of the LOF are to inform the public of the levels of interactions with marine mammals in various commercial fisheries and to identify fisheries for which efforts to reduce these interactions may be necessary. In addition, the LOF informs the fishing industry of which fisheries are subject to certain provisions of the MMPA.

Registration. Fishers participating in Category I or II fisheries must be registered under the MMPA, as required by 50 CFR 229.4. Unless the Authorization Certificate program for a fishery is integrated and coordinated with existing fishery license, registration or permit systems and related programs, fishers must obtain a registration packet from NMFS and submit the completed registration form and the required registration fee to the NMFS Regional Office in which their fishery operates. Normally, NMFS will send the fisher an Authorization Certificate, program decal, and reporting forms within 60 days of receiving the registration form and registration fee.

NMFS has successfully integrated registration under the MMPA with state fishery registration in Washington and Oregon and is actively pursuing integration with state fishery registration in Alaska. The benefits of integration with existing programs have included a reduction or elimination of fees for some commercial fishers, a reduction in paperwork that must be completed by the fisher, and a reduction in paperwork that must be completed by NMFS.

NMFS is proposing to provide additional flexibility for integrated registration systems so that, if registration information is supplied by NMFS or by a State participating in the integrated system for a fishery, individual fishers are not required to fill out forms or submit information but automatically will be issued Authorization Certificates. NMFS will continue to integrate registration with existing programs where possible.

Reporting. Vessel owners or operators, or fishers, in the case of non-vessel fisheries, in Category I, II, or III fisheries must comply with 50 CFR 229.6 and report all incidental mortality and injury of marine mammals during the course of commercial fishing operations to NMFS Headquarters or appropriate NMFS Regional Office. ''Injury'' is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear, or any animal that is released with fishing gear entangling, trailing or perforating any part of the body is considered injured and must be reported. Instructions for submission of reports are found at 50 CFR 229.6(a).

Observers. Finally, fishers participating in Category I and II fisheries may be required, upon request, to accommodate an observer on board their vessels. Observer requirements may be found at 50 CFR 229.7.

Timing of the Publication of the 1996 LOF

Because of other regulatory activities that occurred concurrently, such as the preparation and publication of the final implementing regulations for section 118 of the MMPA, the LOF for 1996 was published on December 28, 1995 (60 FR 67063) instead of the target date of October 1, 1995. Due to this delay, there was a very short time period between the publication of the 1996 LOF and the publication of this proposed LOF for 1997. NMFS focused its analysis for the proposed LOF for 1997 on those fisheries it committed to future review in the 1996 LOF.

NMFS hopes to have available revised estimates of incidental serious injury and mortality in U.S. commercial fisheries, and revised PBR levels for the proposed LOF for 1998.

Proposed Changes to the LOF

The following specific changes are proposed for the LOF that would take effect in 1997. Fisheries are placed into Category I, II, or III based on the classification scheme defined in the final rule implementing section 118 (60 FR 45086–45106, August 30, 1995). With the exception of these specific proposed changes, NMFS proposes to retain the fishery classifications as published in the final LOF for 1996.

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

U.S. Atlantic Tuna Purse Seine Fishery

The bluefin tuna purse seine fishery, which is largely prosecuted in the Gulf of Maine, was placed in Category III in the 1994 LOF, but was inadvertently omitted from the 1996 LOF. In 1995, five bluefin tuna purse seine permit holders reported landings in August and September. Because there is also a yellowfin tuna purse seine fishery, which is largely prosecuted in the U.S. mid-Atlantic and was not previously listed in the LOF, the two target species are combined in this proposed LOF under the name ''U.S. Atlantic tuna purse seine fishery''.

NMFS has received reports of interactions between the bluefin tuna purse seine fishery and marine mammals. However, the marine mammals were released uninjured. Because incidental serious injuries and mortalities are not expected in this fishery, this fishery is proposed to be placed in Category III.

Gulf of Maine Mackerel Trawl Fishery

A combined trawl fishery for squid, mackerel, and butterfish was created in the 1996 LOF. A separate listing for a component of that fishery, the Gulf of Maine mackerel trawl fishery, is duplicative and is proposed to be deleted from the LOF. NMFS does not anticipate significant effort in the mackerel trawl fishery in the Gulf of Maine in the future.

Finfish Aquaculture Fishery

Records of harbor seal incidental mortality and serious injury have been reported for this fishery, though at a level that does not warrant a change in categories. However, NMFS proposes to add ''Harbor seal, Western North Atlantic stock'' as a marine mammal stock that incurs serious injury and mortality incidental to this fishery.

U.S. North Atlantic Coastal Gillnet Fisheries

NMFS proposes to change the names and revise the boundaries of the ''New England multispecies sink gillnet'' and the ''U.S. mid-Atlantic coastal gillnet'' fisheries to reflect a change in the Northeast Multispecies Fishery Management Plan (FMP) and to eliminate a boundary overlap.

The ''New England multispecies sink gillnet fishery (including species as defined in the Multispecies Fishery Management Plan and spiny dogfish and monkfish)'' is proposed to be changed to ''Northeast Multispecies sink gillnet fishery (including but not limited

to species as defined in the Northeast Multispecies Fishery Management Plan, dogfish, and monkfish).'' The southern boundary of the Northeast Multispecies sink gillnet fishery is proposed to be changed from 71°40′ W. long. to 72°30′ W. long.

The ''U.S. Mid-Atlantic coastal gillnet fishery'', defined in the 1992 LOF as ''mid-Atlantic coastal gillnet fishery (includes, but is not limited to, Atlantic croaker, Atlantic mackerel, Atlantic sturgeon, black drum, bluefish, herring, menhaden, scup, shad, striped bass, sturgeon, weakfish, white perch, yellow perch),'' is proposed to be changed to ''U.S. Mid-Atlantic coastal gillnet fishery (including but not limited to, Atlantic croaker, Atlantic mackerel, Atlantic sturgeon, black drum, bluefish, herring, menhaden, scup, shad, striped bass, sturgeon, weakfish, white perch, yellow perch, dogfish, and monkfish).'' The eastern boundary for the mid-Atlantic coastal gillnet fishery is proposed to be the 72°30′ W. long. line, running south from the southern Long Island shoreline; the southern boundary for this fishery is proposed to be a line drawn from the North Carolina-South Carolina border eastward to the 72°30′ line.

NMFS anticipates having additional data from observer programs and from other sources to use in re-evaluating these fisheries. In addition, studies are underway to provide NMFS with new information on the nature of these fisheries, which have traditionally been difficult to define or observe because of their highly seasonal nature.

Offshore Monkfish Bottom Gillnet Fishery

The offshore monkfish bottom gillnet fishery was a new fishery that was placed in Category III in the 1996 LOF. However, because of the location of the fishery and the type of gear typically employed, this fishery should have been considered a new component of two existing fisheries instead of a new, separate fishery. Monkfish will be added as a target species to the Northeast Multispecies sink gillnet fishery and to the U.S. mid-Atlantic coastal gillnet fishery, as defined in the above section on the U.S. North Atlantic coastal gillnet fisheries. Thus, fishers targeting monkfish using gillnets either will be in the U.S. mid-Atlantic coastal gillnet fishery, and placed with that fishery in Category II, or in the Northeast Multispecies sink gillnet fishery, and placed with that fishery in Category I. Gulf of Maine and U.S. Mid-Atlantic Lobster Fisheries.

1. *Summary*. Currently there are two lobster fisheries in the LOF, the ''Gulf of Maine, U.S. Mid-Atlantic Inshore Lobster Trap/Pot Fisheries'' and the ''Gulf of Maine, U.S. Mid-Atlantic Offshore Lobster Trap/Pot Fisheries.'' Based on a review of 1990–1994 large whale entanglement reports received by the agency and new information received about the prosecution of the lobster fishery, the inshore and offshore fisheries are proposed to be combined into a single fishery, and referred to as the ''Gulf of Maine, U.S. Mid-Atlantic Lobster Trap/Pot Fishery.'' This fishery is proposed to be placed in Category I in the 1997 LOF.

2. *Combining lobster fisheries*. The two lobster fisheries described in the 1996 LOF are proposed to be combined because there is currently no practical way to distinguish between ''inshore'' and ''offshore'' fisheries with regard to differences in marine mammal take. Definitions of ''inshore'' and ''offshore'' or a discussion of what constitutes an inshore fishery versus an offshore fishery were not presented in the previous LOFs.

Generally, as the distances from shore increase, so do the size of the pots, number of pots, and number and size of associated lines and surface gear. There is no evidence to indicate that significant changes in fishing operations occur at the boundary between state waters and the exclusive economic zone. In some cases, gear used in state waters is indistinguishable (larger pots and long strings, similar surface gear) from that used 161 km (100 miles) offshore.

Comments are specifically requested from the public on whether there is a practical operational distinction between the inshore and offshore sectors of the fishery. Comments should consider factors such as geographic location, gear characteristics, and fishing practices such as tending gear. Comments also should consider how interactions with marine mammals should be attributed if separate fisheries are recommended.

3. *Special problems*. The lobster fishery is one of the largest fisheries in the Northeast. It is estimated that there are 14,000 combined state and federal lobster trap/pot permit holders. This information is based on a fishery from Maine through New Jersey, although the fishery may extend as far south as Cape Hatteras in some years.

A confounding problem in analyzing the impacts of this fishery is that many whales are capable of dragging lobster gear some distance from the location in which it was originally set. For example, a northern right whale carried part of a lobster trawl from the Bay of Fundy for three months before it was spotted in Massachusetts waters. In addition, a 4.3–meter (14–foot) minke whale dragged a pair trap (a two-trap string) 9.2 km (5.5 miles) before it was sighted and disentangled. Thus, either of the fishers, upon returning to the location at which they had originally set the gear, would not have known whether an entanglement had occurred or whether the missing gear was dislodged by mobile gear or for other reasons.

NMFS has provided observer coverage designed to sample the lobster catch for this fishery, at least 66 days in some years, which has not identified a marine mammal bycatch problem. Due to the whale behavior described above and the size of the lobster fishery, the agency believes that traditional observer coverage will not be effective in this fishery. Alternative monitoring programs such as aerial surveys, enhanced stranding and disentanglement network reporting, and additional gear marking requirements may be considered as alternatives to traditional observer coverage.

4. *Interactions between the lobster fishery and marine mammals*. As described in the following analysis, serious injuries and/or mortalities of marine mammals are known to occur in the lobster fishery. An examination of large whale entanglement records from sources other than an observer program reveals that large whale entanglements occur in gear which is reported as ''lobster gear'', ''lobster pot warp'', ''line like lobster pot warp'', or in similar terms. Generally, these reports describe the whale's condition and provide a basic description of how the gear is entangling the animal so that a rescue can be planned. The reports often do not contain the detail necessary to assign the entanglements to a particular fishery or location. On many occasions, the whale is not re-sighted, so a close examination of the gear cannot be attempted. In some cases, additional supportive information may be available to confirm the gear type and origin, but sources of that information have not been fully investigated at this time.

For this analysis, NMFS has been conservative in attributing available records of entanglements to this fishery and has used only 18 of 42 (43 percent) of the available 1990–1994 line entanglement (as opposed to net entanglement) records. The reasons for this approach include: (1) Records have been excluded where gear was only reported as ''line'' or ''line like lobster pot warp'' since NMFS cannot confirm at this time whether lobster pot warp or line from some other fixed or mobile gear was involved; (2) records were

excluded if there was insufficient information on degree of injury or marine mammal species identification; 3) records were excluded if the whale disentangled itself; and 4) records were excluded if gear was known to be of non-U.S. origin or gear was of unknown origin but the entanglement was first sighted in non-U.S. waters. In addition, records of entanglements prior to 1990 or after 1994 were not considered in this analysis.

Tier 1 evaluation. Annual serious injury and mortality levels across all fisheries for humpback, northern right whale, and minke whale stocks interacting with this fishery exceed 10 percent of the PBR levels for all three species.

Tier 2 evaluation. One record of serious injury and/or mortality of a northern right whale, 11 records of serious injury and/or mortality of humpback whales, and 6 records of serious injury and/or mortality of minke whales were reported for this fishery from 1990–1994. These records cannot be extrapolated to a total kill estimate and therefore represent a minimum serious injury and/or mortality rate (from a 5-year average) of 0.2 per year for northern right whales, 2.2 per year for humpback whales, and 1.2 per year for minke whales. This rate is greater than 1% but less than 50 percent of the PBR level for humpback and minke whales, but equal to 50 percent of the PBR level for northern right whales. Therefore this fishery is proposed to be placed in Category I in the 1997 LOF.

In addition to the one right whale entanglement used in the above analysis, the agency has received at least one report of a right whale entanglement after 1994 as well as during the 1990–1994 period which may be attributable to the lobster fishery, including a video of a temporarily entangled right whale calf in Cape Cod Bay in 1995. Further verification is anticipated on a 1993 report of an entangled right whale sighted near Munson Canyon and one in 1994 sighted off Plum Island, Massachusetts.

5. *Registration of the lobster fishery*. Annual registration for an MMPA Authorization Certificate is required for participants in Category I and II fisheries. NMFS will consider registration options for the lobster fishery that will minimize the registration burden on lobster fishers.

The lobster fishery is currently licensed under a combination of several state and federal systems. NMFS will work with the New England and Mid-Atlantic states to integrate registration under the MMPA with state lobster fishery registration. NMFS intends to coordinate registration for the federally managed lobster fishery with the MMPA registration program.

The proposed rule would provide additional flexibility for integrated registration systems so that, for qualified programs, individual fishers would not be required to fill out forms or submit registration information but automatically would be issued registrations and Authorization Certificates. Once an alternative registration system is developed, and a reduction in administration costs is realized, NMFS will waive the registration fee for the lobster fishery.

Commercial Fisheries in the Pacific Ocean

Oregon Swordfish/Blue Shark Surface Longline Fishery

The Oregon swordfish/blue shark surface longline fishery was classified as a Category II fishery in the 1996 LOF based on analogy with other pelagic longline fisheries. NMFS proposes to separate this fishery into two fisheries based upon the target species to reflect the current licensing practices of the Developmental Fisheries Program in the State of Oregon. The two fisheries would be the: ''Oregon swordfish floating longline fishery'' and ''Oregon blue shark floating longline fishery.'' There are 20 participants and 10 participants in these fisheries, respectively. Both fisheries would remain in Category II in 1997.

California Squid Purse Seine Fishery

The California squid purse seine fishery was classified as a Category III fishery in the 1996 LOF. However, the Pacific Scientific Review Group, established under section 117 of the MMPA, recommended that the squid purse seine fishery be monitored with an observer program because of lack of information about marine mammal mortalities and historical interactions between this fishery and short-finned pilot whales.

Incidental mortality of pilot whales has occurred historically in the California squid purse seine fishery. Twelve pilot whales were observed and reported entangled in this manner during the 1980 season (Miller et al. 1983). Miller et al. (1983) also reported that pilot whales were occasionally shot in the squid purse fishery when lethal deterrence was legal. Heyning and Woodhouse (1994) analyzed stranding data between 1975-90 and found 14 short-finned pilot whales stranded or floating dead (most during the late 1970's). They believe that these pilot whales were incidentally killed in the squid purse seine fishery. All animals that were examined had stomachs full of market squid; none that were stranded had evidence of bullet holes, and commercial squid boats were reported to have been working those areas at the time.

Short-finned pilot whales were once common off Southern California, especially near Santa Catalina Island (Barlow et al. 1995). Dohl et al. (1980) estimated that a resident population of 400 short-finned pilot whales occurred in California, with a seasonal increase of up to 2,000 individuals. Short-finned pilot whales disappeared from the area after the strong 1982-83 El Nino event, and few sightings were made between 1984-92 (Barlow et al. 1995). Because the 1991-92 aerial and shipboard cetacean surveys only sighted one short-finned pilot whale, there is no estimate of population size available at this time. However, six sightings of short-finned pilot whales were made during another ship survey off California in 1993, and a population estimate will be available in the near future. In addition, short-finned pilot whales are also incidentally killed in the offshore drift gillnet fishery for thresher shark and swordfish. Thirteen short-finned pilot whales were observed incidentally killed between 1990-94 in this fishery. Thus, short-finned pilot are rare, but present in the area (Forney 1994).

Currently, purse seine vessels that fish for mackerel, tuna, and anchovies (a Category II fishery) use the same gear to fish for squid in the winter off southern California. The number of vessels has remained relatively stable in southern California, with approximately 65 squid purse seine vessels in operation. Over the last few years, squid purse seine effort and landings have increased. In the absence of reliable information indicating the frequency of interaction, NMFS must determine whether a fishery is a Category II fishery by evaluating other factors (60 FR 45086, August 30, 1995). Because of historical evidence and possible significant interactions with the short-finned pilot whale, NMFS is proposing to re-categorize the squid purse seine fishery from Category III to Category II.

NMFS is concerned about the lack of recent data on which to base this proposed fishery classification and about the apparent change in distribution of the short-finned pilot whale in California waters. NMFS specifically requests comments on these two aspects of this proposed reclassification.

Re-evaluation of Other Fisheries

Gulf of Maine, U.S. Mid-Atlantic Tuna, Shark, and Swordfish Hook and Line/ Harpoon Fisheries

An examination of entanglement records from sources other than observer data reveals that large whale entanglements occur in gear reported as ''tuna gear'', ''tuna dart'', ''line with tuna ball'', etc. Generally, these reports describe the whale's condition and provide a general description of how the gear is entangling the animal so that a rescue can be planned. The reports often do not contain the detail necessary to definitively identify the responsible fishery or the location where the entanglement occurred. On many occasions, the whale is not resighted, so a close examination of the gear cannot be attempted. In some cases, additional supportive information may be available to confirm the gear type and origin, but sources of that information have not been fully investigated at this time. NMFS will continue to monitor these entanglements and will verify the origin of the gear if possible. Until the data can be verified and additional information is obtained on the hook and line/harpoon fisheries for tuna, shark and swordfish, NMFS proposes to retain the large pelagics hook-and-line/harpoon fisheries in Category III in the LOF.

Other Fisheries

In the 1996 LOF, NMFS indicated that the annual incidental serious injury and mortality levels of marine mammals in several fisheries would be re-evaluated in a future LOF. New data were not yet available for adequate re-evaluations of the level of serious injury and mortality incidental to some Atlantic trap/pot fisheries, the Atlantic inshore gillnet fisheries, the North Atlantic bottom trawl fishery, and several other fisheries described in the 1996 LOF. NMFS recognizes that incidental serious injuries and mortalities may occur at some level in some of these fisheries and will continue to monitor these interactions.

Definitions of Various U.S. North Atlantic Trawl Fisheries

Since the publication of the 1996 LOF, it has come to NMFS' attention that there is confusion regarding the definitions of the trawl fisheries. NMFS is concerned that the current fishery definitions may not reflect current fishing practices. It is often difficult for a fisher to determine under which category his/her vessel falls, and therefore whether or not to register in the Marine Mammal Authorization Program and be prepared for possible observer coverage. The absence of a clear understanding of the definitions of certain fisheries may confound the classification of certain fisheries in the LOF. Thus, NMFS is specifically requesting comments from the public on appropriate definitions of the trawl fisheries.

The following are the trawl fisheries as listed in the LOF for 1996. Definitions of the fisheries are included for those fisheries not described by target species and gear type in the fishery name.

U.S. Atlantic Large Pelagics Pair Trawl Fishery

This fishery is in Category I and currently consists of seven pairs of vessels. This fishery is characterized by the use of two vessels to cooperatively haul trawl net gear.

Atlantic Mackerel, Squid, and Butterfish Trawl Fishery

This fishery is in Category II and currently consists of approximately 260 vessels/persons. This fishery consists of the ''Mid-Atlantic squid trawl'' and the ''Mid-Atlantic mackerel trawl'' fisheries as defined in the 1994 LOF. These fisheries were combined, proposed to include the butterfish trawl fishery in order to parallel the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries of the North Atlantic, and proposed to be identified as the ''Atlantic mid-water trawl fishery'' in the proposed LOF for 1996 (60 FR 31680, June 16, 1995). In response to a public comment indicating that it was incorrect to call the squid trawl fishery a mid-water trawl fishery, the name of the fishery was changed in the final LOF for 1996 to the ''Atlantic squid, mackerel, and butterfish trawl'' fishery to reflect the species targeted and to parallel the relevant FMP (60 FR 67070, December 28, 1995).

North Atlantic Bottom Trawl Fishery

This fishery was placed in Category III in the 1996 LOF and currently consists of 1,052 vessels/persons. This fishery was renamed from the ''Gulf of Maine, mid-Atlantic groundfish trawl'' fishery to include a specific list of species targeted (60 FR 31681, June 16, 1995). Although the list of species targeted was not provided in the final LOF for 1996, the proposed LOF for 1996 indicted that this fishery targets species included in, but not limited to, all species described in the Northeast Multispecies, and Summer Flounder FMPs and scup and seabass which may be included in the Summer Flounder FMP at a later date.

Gulf of Maine Mackerel Trawl Fishery

This fishery was placed in Category III in the 1996 LOF and currently consists of approximately 30 vessels. This fishery is proposed to be combined with the squid, mackerel, butterfish trawl fishery in this proposed LOF.

Mid-Atlantic Mixed Species Trawl Fishery

This fishery was placed in Category III in the 1996 LOF and currently consists of more than 1,000 vessels/persons.

Gulf of Maine and Mid-Atlantic Sea Scallop Trawl Fishery

This fishery was placed in Category III in the 1996 LOF and currently consists of 215 vessels/persons.

Gulf of Maine, Southern North Atlantic, and Gulf of Mexico Herring Trawl Fishery

This fishery was placed in Category III in the 1996 LOF and currently consists of five vessels/persons.

U.S. Atlantic Monkfish Trawl Fishery

This fishery was a new fishery that was placed in Category III in the 1996 LOF and consists of an unknown number of participants. This fishery harvests monkfish in the deep waters off the Atlantic coast. Some participants in this fishery use a modified beam trawl; most use otter trawls. In addition, some participants in the scallop dredge fishery target monkfish using dredge gear during off-days for scallops as well as targeting scallops and monkfish simultaneously.

Bluefish, Croaker, and Flounder Trawl Fishery

This fishery is in Category III and currently includes approximately 550 vessels/participants.

Other Proposed Changes

Annual registration is one of the requirements of the MMPA which would apply to participants in Category I and II fisheries. NMFS is considering registration options that will ensure compliance with the MMPA while minimizing the registration burden to fishers. As noted above, NMFS has successfully integrated registration under the MMPA with state fishery registration in Washington and Oregon under current regulations, is pursuing an integrated registration system with Alaska, and would consider integrated registration systems for other fisheries such as the Gulf of Maine, U.S. Mid-Atlantic Lobster Trap/Pot Fishery.

The proposed rule would provide additional flexibility for integrated registration systems so that, if MMPA

Authorization Certificate registration information is supplied through integration with state systems, interjurisdictional fisheries programs, and federally managed fisheries, individual fishers would not required to fill out forms or submit registration information but automatically would be issued registrations and Authorization Certificates.

The benefits of integrating MMPA registration with existing fishery registration or permit programs have included a reduction in paperwork that must be completed by the fisher, a reduction in paperwork that must be completed by NMFS, and reduced staff burdens for NMFS. NMFS will consider reducing or waiving registration fees for the fisheries where an integrated registration program can be arranged.

Classification

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Under existing regulations certain fishers must register, obtain an Authorization Certificate, and pay a fee of $25. Such a certificate authorizes the taking of certain marine mammals incidental to commercial fishing operations. Currently, approximately 13,000 fishers are registered. This proposed rule, if adopted, would require the registration of additional fishers in fisheries that are classified as Category I and II, including approximately 14,000 participants in the Gulf of Maine, U.S. Mid-Atlantic Lobster Trap/Pot Fishery. NMFS will consider waiving or reducing the registration fee for fisheries where an integrated registration program can be arranged. In any case, the fee, with respect to expected revenues, is not considered significant. As a result, a regulatory flexibility analysis was not prepared. This proposed rule has been determined to be not significant for purposes of E.O. 12866.

This proposed rule does not contain new collection-of-information requirements subject to the Paperwork Reduction Act. Further, proposed regulatory changes are designed to provide additional flexibility and to reduce paperwork burdens. However, the proposed reclassification of some fisheries to Category I or II would be expected to increase the number of fishers that may be subject to collection-of-information requirements.

Although this collection has been approved previously by the Office of Management and Budget (OMB) under OMB control numbers 0648–0224 and 0648–0225, because of new collection requirements as a result of the reclassification of some fisheries to Category I and II, this proposed rule is being resubmitted to OMB for review and approval. The average reporting burden under the existing requirements is 0.25 hours for each fisher who is required to register for an Authorization Certificate and 0.17 hours for each report of marine mammal injury or mortality. Those burdens are not expected to change significantly if this proposed rule is adopted, and may actually decrease as a result of proposed changes in the registration system to reduce those burdens. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

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

The Assistant Administrator for Fisheries, NOAA, prepared an environmental assessment (1995 EA) under the National Environmental Policy Act for regulations to implement section 118 of the MMPA. The 1995 EA concluded that implementation of those regulations would not have a significant impact on the human environment and is available upon request (see **ADDRESSES**). For the proposed LOF, NMFS is constrained by the MMPA with respect to the information that may be considered; changes in the implementing regulations are minor and procedural in nature and do not change the analysis or conclusion of the 1995 EA.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Imports, Indians, Marine Mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: July 10, 1996.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is proposed to be amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. In § 229.4, paragraphs (a), (b) and (e) are revised to read as follows:

§ 229.4 Requirements for Category I and II fisheries.

(a) *General.* (1) In order to lawfully incidentally take a marine mammal in the course of a commercial fishing operation in a Category I or II fishery, a valid Certificate of Authorization authorizing such a taking must be on board the vessel or, in the case of nonvessel fisheries, must be in the possession of the person in charge of the fishing operation. The owner of a vessel or nonvessel fishing gear is responsible for obtaining a Certificate of Authorization.

(2) The administration of Authorization Certificates under this part will be integrated and coordinated with existing fishery license, registration, or permit systems and related fishery management programs wherever possible. These fishery management programs may include, but are not limited to, state or interjurisdictional fisheries programs. If the administration of Authorization Certificates is integrated into a fishery management program, NMFS will publish a notice in the Federal Register announcing the integrated program and summarizing how a person may register under that program or how registration will be achieved. Additional efforts will be made to contact participants in the affected fishery via other appropriate means of notification.

(b) *Registration.* (1) The owner of a vessel, or for nonvessel gear fisheries, the owner of gear who participates in a Category I or II fishery is required to be registered for a Certificate of Authorization.

(2) Unless a notice is published in the Federal Register announcing an integrated Authorization Certificate/ fishery management program, the owner of a vessel, or for nonvessel fishery, the owner of the gear must submit the following information using the format specified by NMFS:

(i) Name, address, and phone number of owner;

(ii) Name, address, and phone number of operator, if different from owner, unless the name of the operator is not known or has not been established at the time the registration is submitted;

(iii) For a vessel fishery, vessel name, length, and U.S. Coast Guard documentation number or state vessel registration number, and if applicable, state commercial vessel license number and for a nonvessel fishery, a description of the gear and state commercial license number, if applicable.

(iv) A list of all Category I and II fisheries in which the fisher may engage during next calendar year;

(v) The approximate time, duration, and location of each such fishery operation, and the general type and nature of use of the fishing gear and techniques used; and

(vi) A certification signed and dated by the owner of an authorized representative of the owner as follows: ''I hereby certify that I am responsible for the vessel or gear described in this registration, that I have reviewed all information contained in this registration, and that the information is true and complete to the best of my knowledge.''

(3) If a notice is published in the Federal Register announcing an integrated Authorization Certificate/fishery management program, the owner of a vessel, or for nonvessel fishery, the owner of the gear may register by following the directions provided in that notice. In some cases, an integrated Authorization Certificate/fishery management program may automatically register participants in a fishery for Authorization Certificates. If a person receives a registration to which he or she is not entitled or if the registration contains incorrect, inaccurate or incomplete information, the person shall notify NMFS within 10 days following receipt. A registration must be signed and dated by the owner or an authorized representative of the owner unless it contains incorrect, inaccurate or incomplete information. If for some reason a person who expects to receive automatic registration does not receive that registration within the time specified in the notice announcing the integrated Authorization Certificate/fishery management program, the person shall notify NMFS as directed in the notice or may apply for registration by submitting the information required under paragraph (b)(1)(i) through (vi).

* * * * *

(e) *Issuance.* (1) NMFS will issue an Authorization Certificate and annual decal to an owner or a representative of the owner who submits a completed registration and the required fee, or is registered under an integrated Authorization Certificate/fishery management program and has paid any required fee, provided that the registrant has complied with the requirements of this section and §§ 229.6 and 229.7.

(2) NMFS will renew an Authorization Certificate and issue a new annual decal to an owner or a representative of the owner who submits updated registration or renewal registration which includes a statement (yes/no) whether any marine mammals were killed or injured during the current or previous calendar year and the required fee, or who is registered under an integrated Authorization Certificate/fishery management program and has paid any required fee, provided that the registrant has complied with the requirements of this section and §§ 229.6 and 229.7.

(3) If a person receives an Authorization Certificate or an annual decal to which he or she is not entitled, the person shall notify NMFS within 10 days following receipt. In order for a Authorization Certificate to be valid, the certification must be signed and dated by the owner or an authorized representative of the owner.

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[FR Doc. 96–18002 Filed 7–11–96; 11:45 am]
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50 CFR Part 679

[Docket No. 960703187–6187–01; I.D. 062096B]

RIN 0648–AI96

Fisheries of the Exclusive Economic Zone off Alaska; Allow Longline Pot Gear

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to allow the use of longline pot gear in the directed sablefish fishery in the Bering Sea. Sablefish hook-and-line fishermen in the Bering Sea have faced increasing depredation of hooked sablefish by killer whales. The use of longline pot gear would effectively prevent such depredation. This action is necessary to protect Bering Sea sablefish harvests and is intended to resolve a conflict between fishermen and a species protected under the Marine Mammal Protection Act of 1972 (MMPA).

DATES: Comments must be received by August 15, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, Room 453, 709 W. 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this action may be obtained from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99510–2252.

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) according to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). This FMP, implemented by regulations at 50 CFR parts 600, and 679, provides for changes to gear restrictions by regulatory amendment without amendment to the FMP. The regulations pertaining to this action, at § 679.24, specify gear types that may legally be employed to harvest sablefish in the Bering Sea. Killer whales (*Orcinus orca*) are protected under the MMPA, which prohibits harassment of marine mammals and authorizes the Secretary of Commerce to consult with and assist regional fishery management councils to reduce takings of marine mammals incidental to commercial fishing operations.

In September 1995, commercial fishing industry representatives reported to the Council that the annual Bering Sea sablefish quota had been underharvested due in part to interactions with killer whales. While fishermen retrieve their hook-and-line gear when fishing for sablefish, killer whales frequently pick sablefish off the hooks. Sablefish consumed by killer whales in this manner represent undocumented fishing mortality. Even though the sablefish quota may be underharvested by fishermen, overall fishing mortality could actually be higher than the specified quota, resulting in overharvests. Although NMFS is not able to quantify the amount of killer whale-caused fishing mortality, such mortality is a conservation concern to the extent that the amount of overharvests introduces