

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R07-OAR-2006-0925; FRL-8250-8]

Approval and Promulgation of Implementation Plans; State of Missouri**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision pertains to Grossman Iron and Steel's Source Registration Permit, number SR00.045A. This permit, issued by the City of St. Louis, will control particulate matter (PM₁₀) emissions from Grossman Iron and Steel Company. This proposed approval will make the permit Federally enforceable.

DATES: Comments on this proposed action must be received in writing by January 3, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2006-0925 by one of the following methods:

1. *http://www.regulations.gov*: Follow the online instructions for submitting comments.

2. *E-mail*: algie-eakin.amy@epa.gov.

3. *Mail*: Amy Algie-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier*: Deliver your comments to: Amy Algie-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Amy Algie-Eakin at (913) 551-7942, or by e-mail at algie-eakin.amy@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no

relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: November 24, 2006.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E6-20432 Filed 12-1-06; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 229**

[Docket No. 061106290-6290-01, I.D. 101706C]

RIN 0648-AV01

List of Fisheries for 2007

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

ACTION: Proposed rule; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) is publishing its proposed List of Fisheries (LOF) for 2007, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2007 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must categorize each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of serious injury and mortality of marine mammals that occurs incidental to each fishery. The categorization of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions

of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

DATES: Comments must be received by January 3, 2007.

ADDRESSES: Send comments to Chief, Marine Mammal Conservation Division, Attn: List of Fisheries, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via email to 2007LOF.comments@noaa.gov or to the Federal eRulemaking portal: <http://www.regulations.gov> (follow instructions for submitting comments).

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

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

FOR FURTHER INFORMATION CONTACT:

Melissa Andersen, Office of Protected Resources, 301-713-2322; David Gouveia, Northeast Region, 978-281-9328; Laura Engleby, Southeast Region, 727-824-5312; Elizabeth Petras, Southwest Region, 562-980-3238; Brent Norberg, Northwest Region, 206-526-6733; Bridget Mansfield, Alaska Region, 907-586-7642; Alecia Van Atta, Pacific Islands Region, 808-973-2937.

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

SUPPLEMENTARY INFORMATION:**Availability of Published Materials**

Information regarding the LOF and the Marine Mammal Authorization Program, including registration procedures and forms, current and past LOFs, observer requirements, and marine mammal injury/mortality reporting forms and submittal procedures, may be obtained at: <http://www.nmfs.noaa.gov/pr/interactions/mmap>, or from any NMFS Regional Office at the addresses listed below.

Regional Offices

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930-2298, Attn: Marcia Hobbs;
 NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Teletha Mincey;

NMFS, Southwest Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, Attn: Lyle Enriquez;

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

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

NMFS, Pacific Islands Region, Protected Resources, 1601 Kapiolani Boulevard, Suite 1100, Honolulu, HI, 96814-4700.

What is the List of Fisheries?

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

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

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

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock, and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362 (20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. This definition can also be found in the

implementing regulations for section 118 of the MMPA (50 CFR 229.2).

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

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

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

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

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

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

Other Criteria That May Be Considered

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

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

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

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

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

Data obtained from observers and the level of observer coverage are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. The best available information on the level of observer coverage, and the spatial and temporal distribution of observed marine mammal interactions, is presented in the SARs. Starting in 2005, each SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because Category III fisheries are not required to accommodate observers aboard vessels due to the remote likelihood of

mortality and serious injury of marine mammals. Information presented in the SARs' appendices include: level of observer coverage, target species, levels of fishing effort, spatial and temporal distribution of fishing effort, gear characteristics, management and regulations, and protected species interactions.

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

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

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

Am I Required to Register Under the MMPA?

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

How Do I Register?

Vessel or gear owners must register with the Marine Mammal Authorization Program (MMAP) by contacting the relevant NMFS Regional Office (see ADDRESSES) unless they participate in a fishery that has an integrated registration program (described below). Upon receipt of a completed registration, NMFS will issue vessel or gear owners an authorization certificate. The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)).

What is the Process for Registering in an Integrated Fishery?

For some fisheries, NMFS has integrated the MMPA registration

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

Which Fisheries Have Integrated Registration Programs?

The following fisheries have integrated registration programs under the MMPA:

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

How Do I Renew My Registration Under the MMPA?

Vessel or gear owners that participate in fisheries that have integrated registration programs (described above) are automatically renewed and should receive an authorization certificate by January 1 of each new year, with the exception of Washington and Oregon Category II fisheries. Washington and Oregon fishers receive authorization with each renewed state fishing license, the timing of which varies based on

target species. Vessel or gear owners who participate in an integrated fishery and have not received authorization certificates by January 1 or with renewed fishing licenses (Washington and Oregon) must contact the appropriate NMFS Regional Office (see ADDRESSES). Vessel or gear owners that participate in fisheries that do not have integrated registration programs and that have previously registered in a Category I or II fishery will receive a renewal packet from the appropriate NMFS Regional Office at least 30 days prior to January 1 of each new year. It is the responsibility of the vessel or gear owner in these fisheries to complete their renewal form and return it to the appropriate NMFS Regional Office at least 30 days in advance of fishing. Individuals who have not received a renewal packet by January 1 or are registering for the first time must request a registration form from the appropriate Regional Office (see ADDRESSES).

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

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a Category I, II, or III fishery must report to NMFS all incidental injuries and mortalities of marine mammals that occur during commercial fishing operations. "Injury" is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported. Injury/mortality report forms and instructions for submitting forms to NMFS can be downloaded from: http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf. Reporting requirements and procedures can be found in 50 CFR 229.6.

Am I Required to Take an Observer Aboard My Vessel?

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

Am I Required to Comply With Any Take Reduction Plan Regulations?

Fishers participating in a Category I or II fishery are required to comply with

any applicable take reduction plans. Take reduction plan requirements can be found at 50 CFR 229.30–34.

Sources of Information Reviewed for the Proposed 2007 LOF

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

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

The LOF for 2007 was based, among other things, on information provided in the final SARs for 1996 (63 FR 60, January 2, 1998), the final SARs for 2001 (67 FR 10671, March 8, 2002), the final SARs for 2002 (68 FR 17920, April 14, 2003), the final SARs for 2003 (69 FR 54262, September 8, 2004), the final SARs for 2004 (70 FR 35397, June 20, 2005), the final SARs for 2005 (71 FR 26340, May 4, 2006), and the draft SARs for 2006 (71 FR 42815, July 28, 2006). All SARs are available at: <http://www.nmfs.noaa.gov/pr/sars/>.

Summary of Changes to the LOF for 2007

The following summarizes changes to the LOF in 2007 in fishery classification, fisheries listed on the LOF, the number of participants in a particular fishery, and the species and/or stocks that are incidentally killed or seriously injured in a particular fishery. The placement and definition of U.S. commercial fisheries for 2007 are identical to those provided in the LOF for 2006 with the following exceptions.

Commercial Fisheries in the Pacific Ocean

Fishery Classification

AK Cook Inlet Salmon Set Gillnet Fishery

NMFS proposes to elevate the “AK Cook Inlet salmon set gillnet fishery” from Category III to Category II based on a documented serious injury/mortality of a Central North Pacific (CNP) humpback whale from entanglement in 2005. From 2001–2005, 17 documented serious injuries and mortalities of CNP humpback whales were directly attributable to commercial U.S. fisheries under state or Federal management. Therefore, annual average serious injury and mortality of this stock is 3.4 animals per year for the same period, or 26.36 percent of the PBR (PBR = 12.9). The single serious injury/mortality in the AK Cook Inlet salmon set gillnet fishery translates to an annual average mortality and serious injury of 0.2 animals per year, or 1.55 percent of the stock's PBR (PBR = 12.9). Category II classification is necessary based on the mean serious injury and mortality of humpback whale (CNP) exceeding 1 percent of its PBR. Consequently, NMFS proposes to elevate the AK Cook Inlet salmon set gillnet fishery to Category II.

Addition of Fisheries to the LOF

WA, OR Sardine Purse Seine Fishery

NMFS proposes to add the “WA, OR sardine purse seine fishery” as a Category III fishery. This fishery has 42 participants. The 2006 LOF contains the California portion of the fishery in the Category II “CA sardine purse seine fishery” (proposed to be merged with the anchovy and mackerel portion of the “CA anchovy, mackerel, tuna purse seine fishery” to create the “CA anchovy, mackerel, sardine purse seine fishery” on the 2007 LOF). The Washington and Oregon portion of the sardine purse seine fishery should be listed separately because incidental taking of marine mammals in the this fishery has not been documented. Initially the coastwide sardine harvest guideline, distributed across the entire west coast Exclusive Economic Zone (EEZ), had separate allocations between the Federally managed limited entry fishery off California and the state regulated fisheries off Oregon and Washington. Observations made under the divided allocation indicated that the California portion of the fishery warranted listing as a Category II fishery, owing to rare incidental taking of California sea lions and by analogy with other Category II purse seine fisheries. However, no incidental take of

marine mammals was observed in the northern portion of the fishery off Oregon and Washington. Harvest allocations for the two areas were combined in 2005, however fishing effort in the northern state-managed fishery is expected to remain limited in timing and area and the fishery should be listed separately to reflect that no incidental take has been documented.

Oregon and Washington issued 26 and 16 permits, respectively, for the fishery in 2004 and the fishery is managed as a limited entry fishery. Observer coverage in the sardine purse seine fishery in the Pacific Northwest, ranging from 4 to 27 percent between 2000–2004, documented no incidental take of marine mammals off Oregon and Washington. The absence of observed serious injuries or mortalities indicates there is a remote likelihood of serious injuries or mortalities in this fishery. Therefore, NMFS proposes to add this fishery to the LOF in Category III.

CA Halibut Bottom Trawl Fishery

NMFS proposes to add the “CA halibut bottom trawl fishery” as a Category III fishery. There has not been a Federal observer program initiated for this fishery and there are no documented marine mammal serious injury or mortalities incidental to this fishery.

The “CA halibut bottom trawl fishery” is currently an open-access fishery operating primarily outside state waters. This fishery is not part of the Federal Groundfish Fishery Management Plan (FMP), or any other FMP, and is therefore managed by the California Department of Fish and Game (CDFG) in both state and Federal waters. There is limited fishing allowed between one and three miles offshore within the halibut fishing grounds between Point Arguello and Point Mugu, California. In 2006, the CDFG implemented a permit program for this fishery. Approximately 125 vessels meet the minimum criteria established by CDFG for permit but only 53 permits have been issued.

CA Tuna Purse Seine Fishery

See discussion below under “CA purse seine fisheries”.

AK Cook Inlet Salmon Purse Seine Fishery

NMFS proposes to add the “AK Cook Inlet salmon purse seine fishery” as a Category II based on a documented mortality of a Central North Pacific (CNP) humpback whale in this fishery. The LOF has never included this fishery, although it has existed under state management for many years. This

fishery has 82 participants. This oversight is likely the result of an incomplete inclusion in the LOF of AK state-managed fisheries, as well as a lack of documented serious injuries or mortalities in this fishery. NMFS assumes that this humpback whale belongs to the CNP stock based on the known distribution of the this stock, and because there is no known overlap of this fishery with the Western Central North Pacific stock of humpback whales.

From 2001–2005, 17 documented serious injuries and mortalities of CNP humpback whales were directly attributable to commercial U.S. fisheries under state or Federal management. Therefore, annual average serious injury and mortality of this stock is 3.4 animals per year for the same time period, or 26.36 percent of the PBR (PBR = 12.9). The single mortality in the AK Cook Inlet salmon purse seine fishery translates to an annual average mortality and serious injury of 0.2 animals per year, or 1.55 percent of the stock's PBR. Category II classification is necessary based on the mean serious injury and mortality of CNP humpback whales exceeding 1 percent of PBR. Consequently, NMFS proposes to add the AK Cook Inlet salmon purse seine fishery to the LOF as a Category II.

AK Kodiak Salmon Purse Seine Fishery

NMFS proposes to add the "AK Kodiak salmon purse seine fishery" as a Category II based on a documented mortality of a CNP humpback whale in this fishery. The LOF has never included this fishery, although it has existed under state management for many years. This fishery has 370 participants. This oversight is likely the result of an incomplete inclusion in the LOF of AK state-managed fisheries, as well as a lack of documented serious injuries or mortalities in this fishery. NMFS assumes that this humpback whale belongs to the CNP stock based on the known distribution of the this stock, and because there is no known overlap of this fishery with the Western Central North Pacific stock of humpback whales.

From 2001–2005, 17 documented serious injuries and mortalities of CNP humpback whales were directly attributable to commercial U.S. fisheries under state or Federal management. Therefore, annual average serious injury and mortality of this stock is 3.4 animals per year for the same time period, or 26.36 percent of the PBR (PBR = 12.9). The single mortality in the AK Kodiak salmon purse seine fishery translates to an annual average mortality and serious injury of 0.2 animals per year, or 1.55

percent of the stock's PBR (PBR = 12.9). Category II classification is necessary based on the mean serious injury and mortality of CNP humpback whales exceeding 1 percent of PBR. Consequently, NMFS proposes to add the AK Kodiak salmon purse seine fishery to the LOF as a Category II.

Removal of Fisheries from the LOF

CA Sardine Purse Seine Fishery

See discussion for "CA purse seine fisheries" under Fishery Name and Organizational Changes and Clarifications.

CA Herring Purse Seine Fishery

NMFS proposes to remove the "CA herring purse seine fishery". This fishery was phased out by CDFG for biological and economic reasons. The fishery was eliminated in 1998.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to modify the definition of superscript ⁽¹⁾in "Table 1-List of Fisheries Commercial Fisheries in the Pacific Ocean" from "...1 fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent, but less than 50 percent of the stock's PBR" to read "...1 fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent of the stock's PBR." The current definition only defines a stock influencing the elevation of a fishery to Category II, and not to Category I, where annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the stock's PBR (August 30, 1995; 60 FR 45088). Modifying the definition by deleting "...but less than 50 percent" allows marine mammal stocks responsible for all Category I and II fishery classifications to be evident.

Hawaii Inshore Gillnet Fishery

NMFS proposes to modify the name of the "Hawaii gillnet fishery" to the "Hawaii inshore gillnet fishery" to reflect the location of effort in this fishery.

Hawaii Inshore Purse Seine Fishery

NMFS proposes to modify the name of the "Hawaii purse seine fishery" to the "Hawaii inshore purse seine fishery" to reflect the location of effort in this fishery.

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

NMFS proposes to modify the name of the "CA yellowtail, barracuda, white seabass, and tuna drift gillnet (mesh size

>3.5 inches and <14 inches) fishery" to delete "tuna" from the title. Thus, the name should be "CA yellowtail, barracuda, and white seabass drift gillnet (mesh size >3.5 inches and <14 inches) fishery". Targeting tuna with this type of drift gillnet was effectively prohibited with the adoption of the Highly Migratory Species (HMS) FMP in April, 2004. The HMS FMP allows vessels with drift gillnet of less than 14 inches to land no more than 10 HMS species (including tuna and excluding swordfish) per trip.

CA Purse Seine Fisheries

NMFS proposes to reorganize the "CA anchovy, mackerel, tuna purse seine fishery" and the "CA sardine purse seine fishery" by moving the tuna portion into a separate fishery and combining the sardine, anchovy, and mackerel portions into one fishery. The end result is to create the "CA anchovy, mackerel, sardine purse seine fishery" and the "CA tuna purse seine fishery".

The purse seine gear used, fishing methods and areas fished to target anchovy, mackerel, and sardine are similar, and all three fish species may be taken by vessels in this fishery. Harvest of anchovy, mackerel, and sardine is managed jointly by the state of California and NMFS under the Coastal Pelagic Species (CPS) FMP. The current fleet in the CA anchovy, mackerel, sardine purse seine fishery is approximately 100 vessels, with 61 permits issued to fish sardine.

The gear used and areas fished for tuna are different than for the other three species. Harvest of tuna is managed under the Highly Migratory Species FMP. Approximately 10 vessels made tuna landings using this gear in 2005. There are no documented marine mammal mortality or serious injuries in this fishery; however, NMFS proposes to retain the CA tuna purse seine fishery as Category II by analogy with other CA purse seine fisheries.

The Category II "CA squid purse seine fishery" will remain as currently listed. Although this fishery, like other fisheries targeting coastal pelagic species, is jointly managed by the state of California and NMFS under the CPS FMP, the methods used to target squid differ from those used to target other coastal pelagic species (i.e., gear is set at night with the aid of lights).

Number of Vessels/Persons

NMFS proposes to update the estimated number of participants in the "Commonwealth of Northern Mariana Islands tuna troll fishery" from 50 to 88.

NMFS proposes to update the estimated number of participants in the

“Guam tuna troll fishery” from 50 to 401.

NMFS proposes to update the estimated number of participants in the “American Samoa longline fishery” from 138 to 60.

NMFS proposes to update the estimated number of participants in the “Guam bottomfish fishery” from <50 to 200.

NMFS proposes to update the estimated number of participants in the “HI Main Hawaiian Islands, Northwestern Hawaiian Islands deep sea bottomfish fishery” from 387 to 300. The waters surrounding the Northwestern Hawaiian Islands (NWHI), out to a distance of approximately 50 nmi from the islands, have been designated as part of the NWHI Marine National Monument by Proclamation 8031 (June 15, 2006). Proclamation 8031 limits the number of bottomfish fishery participants in the Monument to 8 commercial fishermen permitted at the time of designation to fish for certain species within particular zones in the Monument. Commercial fishing in the Monument may continue until June 15, 2011.

List of Species That are Incidentally Injured or Killed

CA/OR Swordfish/Thresher Shark Drift Gillnet Fishery

NMFS proposes to remove the following marine mammals from the list of marine mammal species and stocks incidentally killed or seriously injured in the CA/OR swordfish/thresher shark drift gillnet fishery: Baird’s beaked whale (CA/OR/WA stock), bottlenose dolphin (CA/OR/WA offshore stock), Cuvier’s beaked whale (CA/OR/WA stock), killer whale (Eastern North Pacific offshore stock), Mesoplodont beaked whale (CA/OR/WA stock), northern fur seal (San Miguel Island stock), pygmy sperm whale (CA/OR/WA stock), Steller sea lion (Eastern U.S. stock), and striped dolphin (CA/OR/WA stock). None of these species have been observed taken in the fishery since October 30, 1997, when regulations were published implementing the Pacific Offshore Cetacean Take Reduction Plan (POCTRP). The POCTRP requires pingers (acoustic deterrent devices) be placed on drift gillnets and extenders (buoy lines) be at least 36 feet long. In addition, following notification from NMFS, vessel captains must attend skipper education workshops provided by NMFS Southwest Regional Office. Since implementation of the POCTRP, marine mammal bycatch in this fishery has declined and the species listed

above have not been observed killed or seriously injured in this fishery.

NMFS also proposes to change name of the humpback whale stock from “CA/OR/WA-Mexico” to “Eastern North Pacific”. The title for this stock was changed in the 2001 SAR to be consistent with stock names of other Pacific species. Due to a technical error, this change was not made to the humpback whale stock under this fishery.

CA Lobster, Prawn, Shrimp, Rock Crab, Fish Pot Fishery

NMFS proposes to add the humpback whale (Eastern North Pacific stock), gray whale (Eastern North Pacific stock), and harbor seal (CA stock) to the list of marine mammal species and stocks incidentally killed or seriously injured in the “CA lobster, prawn, shrimp, rock crab, fish pot fishery” based upon data from the NMFS Southwest Regional Office stranding and entanglement databases. Between 2000–2005, there were 14 sightings of free swimming humpback whales, gray whales, or unidentified whales entangled in fishing gear identified as pot or trap gear. Of these sightings, 11 entanglements were identified as crab pot gear and 3 were identified as other gear types (lobster and spot prawn). In addition, the stranding database has recorded one dead gray whale, one dead harbor seal, and one dead unidentified pinniped entangled or trapped in pot or fish trap gear. Currently there are insufficient data to elevate this fishery to Category II, but NMFS will continue to monitor marine mammal interactions with pot/trap gear and revisit the fishery’s classification in future LOFs.

WA, OR, CA Crab Pot Fishery

NMFS proposes to add the humpback whale (Eastern North Pacific) to the list of marine mammal species and stocks incidentally killed or seriously injured in the “WA, OR, CA crab pot fishery” based upon data from the NMFS Southwest Regional Office stranding and entanglement databases. Between 2000–2005, there were 14 sightings of free swimming humpback whales, gray whales, or unidentified whales entangled in fishing gear identified as pot or trap gear. Of these sightings, 11 entanglements were identified as crab pot gear and 3 were identified as other gear types (lobster and spot prawn). In addition, the stranding database has recorded one dead gray whale, one dead harbor seal, and one dead unidentified pinniped entangled or trapped in pot or fish trap gear. Currently there are insufficient data to elevate this fishery to Category II, but NMFS will continue

to monitor marine mammal interactions with pot/trap gear and revisit the fishery’s classification in future LOFs.

AK Prince William Sound Salmon Drift Gillnet

Due to a typographical error in the 2006 LOF, the South Central AK stock of sea otters was inadvertently removed from the list of stocks incidentally killed or seriously injured in the “AK Prince William Sound salmon drift gillnet fishery.” NMFS proposes to correct this error and place the stock back on the list of species and stocks incidentally killed or seriously injured in this fishery.

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

Fishery Classification

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

NMFS proposes to downgrade the “mid-Atlantic mid-water trawl (including pair trawl) fishery” from Category I to Category II based on data presented in the draft 2006 SAR. This fishery was elevated to Category I on the 2001 LOF based on the estimated incidental serious injury and mortality of the western north Atlantic (WNA) stock of common dolphins exceeding 50 percent of the stock’s PBR during the period from 1996–1998. Based on the most recent data presented in the draft 2006 SAR, the mean serious injury and mortality of common dolphins (WNA) in the mid-Atlantic mid-water trawl (including pair trawl) fishery was 0, or 0 percent of PBR (PBR= 1000) while the mean serious injury and mortality of white sided dolphins (WNA) was 4.3 percent of PBR (PBR= 379). As a result, NMFS has determined that a Category I classification for the mid-Atlantic mid-water trawl fishery is no longer warranted. However, a Category II classification is necessary based on the mean serious injury and mortality of white sided dolphins (WNA) exceeding 1 percent of its PBR. Consequently, NMFS proposes to downgrade the mid-Atlantic mid-water trawl (including pair trawl) fishery from Category I to Category II.

NMFS also proposes to remove the superscript (1) from common dolphins (WNA), long-finned pilot whales (WNA), and short-finned pilot whales (WNA) in Table 2. The mean mortality and serious injury levels presented in the draft 2006 LOF for common dolphins (WNA) was 0 percent of PBR, and for short-finned and long-finned pilot whales (WNA) was 0.3 percent of PBR; therefore, serious injury and mortality of common dolphins (WNA) and long-finned and short-finned pilot

whales (WNA) is no longer driving the categorization of this fishery. The serious injury and mortality of white-sided dolphins (WNA) continues to drive the classification of this fishery as a Category II.

Addition of Fisheries to the LOF

Mid-Atlantic Flynet Fishery

NMFS proposes to add the “Mid-Atlantic flynet” fishery as Category II. The flynet fishery currently operates from the Oregon Inlet to Cape Hatteras, NC between October and April, and operates in both Federal and state waters. Flynet fishing gear is characterized by high profile trawls that fish just off the bottom, targeting summer flounder, croaker, and weakfish. Flynets range from 8–12 ft (24 to 36 m) across, with wing mesh sizes of 16–64 in. (41–163 cm). Mesh size is smaller closer to the tailbag, where the mesh size is 3.5 in (9 cm) square hung. Flynet fishing is no longer permitted south of Cape Hatteras in order to protect weakfish stocks. As of 2002, there were 21 vessels utilizing flynet fishing gear. This is largely an opportunistic fishery, meaning that fishermen may have flynets on their vessels as well as other gear, and generally use them to harvest large schools of target fish. NMFS has placed observers on a voluntary basis on flynet vessels operating out of Wanchese, NC, and approximately 12 trips have been observed. Although no marine mammals have been observed incidentally seriously injured or killed, the similarity of this gear to other Category II bottom trawl fisheries warrants its classification as a Category II fishery by analogy.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to modify the definition of superscript (1) in Table 2, “List of Fisheries Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean” from “...1 fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent, but less than 50 percent of the stock’s PBR” to read “...1 fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent of the stock’s PBR.” The current definition only defines a stock influencing the elevation of a fishery to Category II, and not to Category I, where annual mortality and serious injury of a stock in a given fishery are greater than or equal to 50 percent of the stock’s PBR (60 FR 45088, August 30, 1995). Modifying the definition by deleting “...but less than 50 percent” allows marine mammal stocks responsible for

all Category I and II fishery classifications to be evident.

Southeastern U.S. Atlantic Shark Gillnet Fishery

NMFS proposes to clarify that fishermen in the “Southeastern U.S. Atlantic shark gillnet” fishery include those using gillnets set in a sink, stab, set, strike, or drift fashion to target sharks. Traditionally, the 6 vessels considered to comprise this fishery used gillnets in either a drift or strikenet configuration. However, observers placed on various gillnet vessels in the Southeast have also documented the use of sink, stab, and set gillnets to target sharks by fishermen with a directed shark permit issued by NMFS under the FMP for Atlantic Tunas, Swordfish, and Sharks (50 CFR 635). A more accurate estimate of the number of vessels currently targeting sharks in the Southeast using gillnets is up to 30 vessels, although the fishery is dynamic with vessels configuring their gear to target a variety of other species as well.

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

NMFS proposes to clarify the target species in the “Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery” to also include fishermen using pelagic longlines to target or land dolphin and wahoo. Fishing for dolphin and wahoo using longline gear involves shortening the gangions (the lines that serve to attach the hook to the mainline) so that they fish closer to the surface. Observers have noted that fishermen generally modify only sections of the pelagic longline gear set to target dolphin or wahoo, with the rest of the gear configured to target swordfish, tuna, and/or sharks. The number of vessels that regularly modify sections of their gear to target dolphin and wahoo is unknown, and there is no record of any observed vessel modifying their gear to fish only for dolphin and wahoo. Although fishermen using longlines to catch dolphin or wahoo are required to be permitted under the NMFS FMP for the Dolphin and Wahoo Fishery of the Atlantic in order to land these species, because they are only modifying a section of the gear to target dolphin or wahoo, they must also have a permit issued by NMFS under the FMP for Atlantic Tunas, Swordfish, and Sharks (50 CFR 635) to land pelagic species caught on unmodified sections of the gear. For these reasons, fishing for dolphin or wahoo using pelagic longline gear is considered part of the “Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery”.

Northeast Sink Gillnet Fishery, Northeast Anchored Float Gillnet Fishery, and Northeast Drift Gillnet Fishery

NMFS proposes to change the language defining the “Northeast sink gillnet”, the “Northeast anchored float gillnet”, and the “Northeast drift gillnet” fisheries by removing “...from the Maine/Canada border through the waters east of 72° 30’W...” (62 FR 33, January 2, 1997) from all three fisheries descriptions and replacing this with “...from the U.S./Canada border to Long Island, NY, at 72° 30’W. long. South to 36° 33.03’N. lat. And east to the eastern edge of the EEZ...”. This wording is more consistent with proposed management area boundaries for gillnet fisheries under the Atlantic Large Whale Take Reduction Plan (ALWTRP) regulations. As the ALWTRP management areas for gillnet fisheries consider the LOF definitions, consistency between the two boundaries may reduce confusion.

Northeast Sink Gillnet Fishery

NMFS proposes to expand the list of target species associated with the “Northeast sink gillnet fishery”. Upon the classification of sturgeon as a prohibited species in state and Federal waters, NMFS removed the “Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet fishery” from the LOF. Gillnet fishing for shad in the Northeast was reorganized and recategorized into the “Northeast sink gillnet fishery”, “Northeast anchored float gillnet fishery”, and/or the “Northeast drift gillnet fishery” depending on the type of gear used (66 FR 6545, January 22, 2001). The “Offshore monkfish gillnet fishery” was also removed from the LOF in 1997 (62 FR 33, January 2, 1997) and monkfish were to be integrated into either the “Northeast sink gillnet fishery” or the “U.S. mid-Atlantic coastal gillnet fishery” depending on where the fish were targeted. Monkfish gillnetting in the Gulf of Maine was already considered to be an extension of the “Northeast sink gillnet fishery” (60 FR 67063, December 28, 1995).

NMFS has recently become aware of additional species being targeted and, therefore, proposes to expand the list of fish species to include, but not be limited to: all species defined in the Northeast Multispecies FMP (American plaice, Atlantic cod, Atlantic halibut, haddock, ocean pout, offshore hake, pollock, red hake [ling], redbfish, silver hake [whiting], white hake, windowpane flounder, winter flounder, witch flounder and yellowtail flounder),

as well as spiny dogfish, monkfish, shad, skate and mackerel.

Northeast Anchored Float Gillnet Fishery

NMFS proposes to expand the list of target species associated with the “Northeast anchored float gillnet fishery” to include, but not be limited to: shad, herring, mackerel and menhaden. NMFS proposed the 2001 reclassification of the “Gulf of Maine small pelagics surface gillnet fishery” to the “Northeast anchored pelagic gillnet fishery” (66 FR 6545, January 22, 2001) to incorporate fishing effort in other Northeast areas and to include catch other than small pelagics. However, due to changes in recording gillnet fishing effort and the need to better distinguish Atlantic gillnet fisheries by gear type, the fishery was classified as the “Northeast anchored float gillnet” (66 FR 42780, August 15, 2001). Upon the classification of sturgeon as a prohibited species in state and Federal waters, NMFS removed the “Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet fishery” from the LOF. Gillnet fishing for shad in the Northeast was reorganized and recategorized into the “Northeast sink gillnet fishery”, “Northeast anchored float gillnet fishery”, and/or the “Northeast drift gillnet fishery depending on the type of gear used (66 FR 6545, January 22, 2001).

Northeast Drift Gillnet Fishery

NMFS proposes to clarify the list of target species associated with the “Northeast drift gillnet fishery”. Upon the classification of sturgeon as a prohibited species in state and Federal waters, NMFS removed the “Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet fishery” from the LOF. Gillnet fishing for shad in the Northeast is included in the “Northeast sink gillnet fishery”, “Northeast anchored float gillnet fishery”, and/or the “Northeast drift gillnet fishery” depending on the type of gear used. NMFS therefore proposes to expand the list of target species in the Northeast drift gillnet to include, but not be limited to, shad, herring, mackerel and menhaden.

Mid-Atlantic Gillnet Fishery

NMFS proposes to expand the list of target species associated with the “Mid-Atlantic gillnet fishery” to include, but not be limited to: Atlantic croaker, mackerel, black drum, bluefish, herring, menhaden, scup, shad, striped bass, weakfish, white perch, yellow perch, shark (large and small coastal shark, dogfish), and monkfish. This fishery

includes recently expanded gillnet effort for large and small coastal shark in the mid-Atlantic. Atlantic sturgeon are listed as a species of concern under the Endangered Species Act, and a moratorium on possession and harvest of this species currently exists throughout the U.S. East Coast.

In addition, NMFS proposes to clarify the type of gear associated with this fishery to include gillnets set in a sink, stab, set, strike, or drift fashion. This fishery includes any residual large pelagic driftnet effort in the mid-Atlantic.

NMFS also proposes to change language defining the mid-Atlantic gillnet fishery by removing “...west of 72° 30'W. and north of a line extending due east from the North Carolina/South Carolina border...” (62 FR 33, January 2, 1997) and replacing this with “...west of a line drawn at 72° 30'W. long south to 36° 33.03'N. lat. and east to the eastern edge of the EEZ and north of the North Carolina/South Carolina border...”. This wording is more consistent with proposed management area boundaries for gillnet fisheries under the ALWTRP regulations. As the ALWTRP management areas for gillnet fisheries consider the LOF definitions, consistency between the two boundaries may reduce confusion.

Atlantic Mixed Species Trap/Pot Fishery

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

Number of Vessels/Persons

NMFS proposes to update the number of participants in the “Southeastern U.S. Atlantic shark gillnet fishery” from 6 to 30.

NMFS proposes to update the number of participants in the “Mid-Atlantic gillnet fishery” from >655 to >670 to include the 15 participants targeting shark (e.g., large and small coastal shark, dogfish) in this fishery.

List of Species That are Incidentally Seriously Injured or Killed

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

NMFS proposes to add Northern bottlenose whales (Western North Atlantic stock) to the list of species and stocks incidentally killed or seriously injured in the “Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery”. A bottlenose whale was observed to be entangled and seriously injured in this fishery in 2001.

NMFS has reviewed the other species listed as incidentally killed or seriously injured in this fishery. Although some species have not been observed to have been seriously injured or killed within the most recent 5-year timeframe for which estimates of marine mammal bycatch are made, the fishery still operates in the same general areas and uses the same type of gear, with the exception of the requirement for fishermen to now use circle hooks. The impacts of the use of circle hooks on reducing marine mammal incidental serious injury and mortality are still being analyzed. Therefore, NMFS has determined that no other changes to the list of species killed or seriously injured in this fishery is warranted at this time. NMFS will reassess the list of species incidentally seriously injured or killed in this fishery as more information becomes available.

Mid-Atlantic Haul/Beach Seine Fishery

NMFS proposes to remove harbor porpoise (Gulf of Maine/Bay of Fundy stock) from the list of species or stocks incidentally killed or seriously injured in the “Mid-Atlantic haul/beach seine fishery”. The most recent SAR (2005) highlights the most recent 5-years of data (from 1999–2003), as well as anecdotal or historical information, as records of interaction. There is no current evidence to indicate harbor porpoises are killed or seriously injured in the Mid-Atlantic haul/beach seine fishery.

Gulf of Maine Atlantic Herring Purse Seine Fishery

NMFS proposes to remove harbor porpoise (Gulf of Maine/Bay of Fundy stock) from the list of species or stocks incidentally killed or seriously injured in the “Gulf of Maine Atlantic herring purse seine fishery”. The most recent

SAR (2005) highlights the most recent 5–years of data (from 1999–2003), as well as anecdotal or historical information, as records of interaction. There is no current evidence to indicate harbor porpoises are killed or seriously injured in the Gulf of Maine Atlantic herring purse seine fishery.

Mid-Atlantic Gillnet Fishery

NMFS proposes to remove the superscript (1) from bottlenose dolphin (Western North Atlantic offshore stock) and minke whale (Canadian east coast stock) on the list of stocks incidentally killed or seriously injured in the “Mid-Atlantic gillnet fishery”. In 1996 the mid-Atlantic gillnet fishery was elevated from category III to category II based on a tier analysis focused on the incidental mortality and serious injury of harbor porpoise, coastal bottlenose dolphin, and humpback whales (60 FR 67081, December 28, 1995). For re-classification to a category I fishery in the 2002 LOF, the tier analysis was based on the incidental mortality and serious injury of coastal bottlenose dolphins (68 FR 1422, January 10, 2003). Though offshore bottlenose dolphins and minke whales have the potential to interact with the mid-Atlantic gillnet fishery, these species have not influenced the fishery classification or its elevation; therefore,

NMFS proposes to remove the superscript (1).

Northeast Bottom Trawl

NMFS proposes to correct a typographical error in the 2006 LOF, Table 2, by removing the superscript ⁽¹⁾ after harp seals (WNA) in the “Northeast bottom trawl fishery”. Mortality and serious injury of harp seals (WNA) does not drive the categorization of this fishery.

List of Fisheries

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

The tables also list the marine mammal species and stocks incidentally killed or injured in each fishery based on observer data, logbook data, stranding reports, and fisher reports. This list includes all species or stocks

known to experience mortality or injury in a given fishery, but also includes species or stocks for which there are anecdotal records of interaction. Additionally, species identified by logbook entries may not be verified. Not all species or stocks identified are the reason for a fishery’s placement in a given category. NMFS has designated those stocks that are responsible for a current fishery’s classification by a “1”.

There are several fisheries classified in Category II that have no recently documented interactions with marine mammals, or interactions that did not result in a serious injury or mortality. Justifications for placement of these fisheries, which are greater than 1 percent of a stock’s PBR level, are by analogy to other gear types that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995), and according to factors listed in the definition of a “Category II fishery” in 50 CFR 229.2. NMFS has designated those fisheries originally listed by analogy in Tables 1 and 2 by a “2” after the fishery’s name.

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

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Category I		
GILLNET FISHERIES:		
CA angel shark/halibut and other species set gillnet (> 3.5 in. mesh)	58	California sea lion, U.S. Harbor seal, CA Harbor porpoise, Central CA ¹ Long-beaked common dolphin, CA Northern elephant seal, CA breeding Sea otter, CA Short-beaked common dolphin, CA/OR/WA
CA/OR thresher shark/swordfish drift gillnet (≥ 14 in. mesh)	85	California sea lion, U.S. Dall’s porpoise, CA/OR/WA Fin whale, CA/OR/WA Gray whale, Eastern North Pacific Humpback whale, Eastern North Pacific Long-beaked common dolphin, CA Northern elephant seal, CA breeding Northern right-whale dolphin, CA/OR/WA Pacific white-sided dolphin, CA/OR/WA Risso’s dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA Short-finned pilot whale, CA/OR/WA ¹ Sperm whale, CA/OR/WA
LONGLINE/SET LINE FISHERIES:		

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line	140	Blainville's beaked whale, HI Bottlenose dolphin, HI False killer whale, HI ¹ Humpback whale, Central North Pacific Pantropical spotted dolphin, HI Risso's dolphin, HI Short-finned pilot whale, HI Spinner dolphin, HI Sperm whale, HI
Category II		
GILLNET FISHERIES:		
AK Bristol Bay salmon drift gillnet ²	1,903	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Spotted seal, AK Steller sea lion, Western U.S. ¹
AK Bristol Bay salmon set gillnet ²	1,014	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Spotted seal, AK
AK Cook Inlet salmon set gillnet	745	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Humpback whale, Central North Pacific ¹ Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	576	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA ¹ Harbor seal, GOA Steller sea lion, Western U.S.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA ¹ Harbor seal, GOA Sea otter, Southwest AK Steller sea lion, Western U.S.
AK Metlakatla/Annette Island salmon drift gillnet ²	60	None documented
AK Peninsula/Aleutian Islands salmon drift gillnet ²	164	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific
AK Peninsula/Aleutian Islands salmon set gillnet ²	116	Harbor porpoise, Bering Sea Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	541	Dall's porpoise, AK Harbor porpoise, GOA ¹ Harbor seal, GOA Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Steller sea lion, Western U.S. ¹

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK Southeast salmon drift gillnet	481	Dall's porpoise, AK Harbor porpoise, Southeast AK Harbor seal, Southeast AK Humpback whale, Central North Pacific ¹ Pacific white-sided dolphin, North Pacific Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet ²	170	Gray whale, Eastern North Pacific Harbor seal, Southeast AK Humpback whale, Central North Pacific (Southeast AK)
CA yellowtail, barracuda, and white seabass drift gillnet fishery (mesh size > 3.5 inches and < 14 inches) ²	24	California sea lion, U.S. Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA
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 ¹ Harbor seal, WA inland
PURSE SEINE FISHERIES:		
AK Southeast salmon purse seine	416	Humpback whale, Central North Pacific ¹
AK Kodiak salmon purse seine	370	Humpback whale, Central North Pacific ¹
CA anchovy, mackerel, tuna purse seine	110	Bottlenose dolphin, CA/OR/WA offshore ¹ California sea lion, U.S. Harbor seal, CA
CA squid purse seine	65	Common dolphin, unknown Short-finned pilot whale, CA/OR/WA ¹
CA tuna purse seine ²	10	Common dolphin, unknown None documented
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands flatfish trawl	26	Bearded seal, AK Harbor porpoise, Bering Sea Harbor seal, Bering Sea Killer whale, AK resident ¹ Northern fur seal, Eastern North Pacific Spotted seal, AK Steller sea lion, Western U.S. ¹ Walrus, AK
AK Bering Sea, Aleutian Islands pollock trawl	120	Dall's porpoise, AK Harbor seal, AK Humpback whale, Central North Pacific ¹ Humpback whale, Western North Pacific ¹ Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient ¹ Minke whale, AK Ribbon seal, AK Spotted seal, AK Steller sea lion, Western U.S. ¹
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Pacific cod longline	114	Killer whale, AK resident ¹ Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient ¹ Ribbon seal, AK Steller sea lion, Western U.S.
CA pelagic longline ²	6	California sea lion, U.S. Risso's dolphin, CA/OR/WA

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
OR swordfish floating longline ²	0	None documented
OR blue shark floating longline ²	1	None documented
POT, RING NET, AND TRAP FISHERIES:		
AK Bering Sea sablefish pot	6	Humpback whale, Central North Pacific ¹ Humpback whale, Western North Pacific ¹
Category III		
GILLNET FISHERIES:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	1,922	Harbor porpoise, Bering Sea
AK miscellaneous finfish set gillnet	3	Steller sea lion, Western U.S.
AK Prince William Sound salmon set gillnet	30	Harbor seal, GOA Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	2,034	None documented
CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less	341	None documented
Hawaii inshore gillnet	35	Bottlenose dolphin, HI Spinner dolphin, HI
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing)	24	Harbor seal, OR/WA coast
WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet	913	None documented
WA, OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S. Harbor seal, OR/WA coast
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
PURSE SEINE, BEACH SEINE, ROUND HAUL AND THROW NET FISHERIES:		
AK Metlakatla salmon purse seine	10	None documented
AK miscellaneous finfish beach seine	1	None documented
AK miscellaneous finfish purse seine	3	None documented
AK octopus/squid purse seine	2	None documented
AK roe herring and food/bait herring beach seine	8	None documented
AK roe herring and food/bait herring purse seine	624	None documented
AK salmon beach seine	34	None documented
AK salmon purse seine (except Southeast Alaska, which is in Category II)	953	Harbor seal, GOA
WA, OR sardine purse seine	42	None documented
HI Kona crab loop net	42	None documented
HI opelu/akule net	12	None documented
HI inshore purse seine	23	None documented

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
HI throw net, cast net	14	None documented
WA (all species) beach seine or drag seine	235	None documented
WA, OR herring, smelt, squid purse seine or lampara	130	None documented
WA salmon purse seine	440	None documented
WA salmon reef net	53	None documented
DIP NET FISHERIES:		
CA squid dip net	115	None documented
WA, OR smelt, herring dip net	119	None documented
MARINE AQUACULTURE FISHERIES:		
CA marine shellfish aquaculture	unknown	None documented
CA salmon enhancement rearing pen	>1	None documented
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented
OR salmon ranch	1	None documented
WA, OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
TROLL FISHERIES:		
AK North Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries	1,530 (330 AK)	None documented
AK salmon troll	2,335	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	> 50	None documented
CA/OR/WA salmon troll	4,300	None documented
Commonwealth of the Northern Mariana Islands tuna troll	88	None documented
Guam tuna troll	401	None documented
HI trolling, rod and reel	1,321	None documented
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Greenland turbot longline	12	Killer whale, AK resident Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient
AK Bering Sea, Aleutian Islands rockfish longline	17	None documented
AK Bering Sea, Aleutian Islands sablefish longline	63	None documented
AK Gulf of Alaska halibut longline	1,302	None documented
AK Gulf of Alaska Pacific cod longline	440	None documented
AK Gulf of Alaska rockfish longline	421	None documented
AK Gulf of Alaska sablefish longline	412	Sperm whale, North Pacific Steller sea lion, Eastern U.S.
AK halibut longline/set line (State and Federal waters)	3,079	Steller sea lion, Western U.S.

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK octopus/squid longline	7	None documented
AK state-managed waters groundfish longline/setline (including sablefish, rockfish, and miscellaneous finfish)	731	None documented
American Samoa longline	60	None documented
WA, OR, CA groundfish, bottomfish longline/set line	367	None documented
WA, OR North Pacific halibut longline/set line	350	None documented
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	8	Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	87	Harbor seal, Bering Sea Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands rockfish trawl	9	None documented
AK Gulf of Alaska flatfish trawl	52	None documented
AK Gulf of Alaska Pacific cod trawl	101	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	83	Fin whale, Northeast Pacific Northern elephant seal, North Pacific Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	45	None documented
AK food/bait herring trawl	3	None documented
AK miscellaneous finfish otter or beam trawl	6	None documented
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	58	None documented
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl	2	None documented
CA halibut bottom trawl	53	None documented
WA, OR, CA groundfish trawl	585	California sea lion, U.S. Dall's porpoise, CA/OR/WA Harbor seal, OR/WA coast Northern fur seal, Eastern Pacific Pacific white-sided dolphin, CA/OR/WA Steller sea lion, Eastern U.S.
WA, OR, CA shrimp trawl	300	None documented
POT, RING NET, AND TRAP FISHERIES:		
AK Aleutian Islands sablefish pot	8	None documented
AK Bering Sea, Aleutian Islands Pacific cod pot	76	None documented
AK Bering Sea, Aleutian Islands crab pot	329	None documented
AK Gulf of Alaska crab pot	unknown	None documented
AK Gulf of Alaska Pacific cod pot	154	Harbor seal, GOA
AK Southeast Alaska crab pot	unknown	Humpback whale, Central North Pacific (Southeast AK)
AK Southeast Alaska shrimp pot	unknown	Humpback whale, Central North Pacific (Southeast AK)
AK octopus/squid pot	72	None documented

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK snail pot	2	None documented
CA lobster, prawn, shrimp, rock crab, fish pot	608	Gray whale, Eastern North Pacific Harbor seal, CA Humpback whale, Eastern North Pacific Sea otter, CA
OR, CA hagfish pot or trap	25	None documented
WA, OR, CA crab pot	1,478	Humpback whale, Eastern North Pacific Gray whale, Eastern North Pacific
WA, OR, CA sablefish pot	176	None documented
WA, OR shrimp pot/trap	254	None documented
HI crab trap	22	None documented
HI fish trap	19	None documented
HI lobster trap	0	Hawaiian monk seal
HI shrimp trap	5	None documented
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline and mechanical jig	100	None documented
AK North Pacific halibut handline and mechanical jig	93	None documented
AK octopus/squid handline	2	None documented
American Samoa bottomfish	<50	None documented
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented
Guam bottomfish	200	None documented
HI aku boat, pole and line	4	None documented
HI Main Hawaiian Islands, Northwest Hawaiian Islands deep sea bottomfish	300	Hawaiian monk seal
HI inshore handline	307	None documented
HI tuna handline	298	Hawaiian monk seal
WA groundfish, bottomfish jig	679	None documented
Western Pacific squid jig	6	None documented
HARPOON FISHERIES:		
CA swordfish harpoon	30	None documented
POUND NET/WEIR FISHERIES:		
AK herring spawn on kelp pound net	452	None documented
AK Southeast herring roe/food/bait pound net	3	None documented
WA herring brush weir	1	None documented
BAIT PENS:		
WA/OR/CA bait pens	13	California sea lion, U.S.
DREDGE FISHERIES:		

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Coastwide scallop dredge	108 (12 AK)	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	1	None documented
AK clam	156	None documented
WA herring spawn on kelp	4	None documented
AK dungeness crab	3	None documented
AK herring spawn on kelp	363	None documented
AK urchin and other fish/shellfish	471	None documented
CA abalone	111	None documented
CA sea urchin	583	None documented
HI black coral diving	1	None documented
HI fish pond	N/A	None documented
HI handpick	37	None documented
HI lobster diving	19	None documented
HI squidding, spear	91	None documented
WA, CA kelp	4	None documented
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection	637	None documented
WA shellfish aquaculture	684	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK, WA, OR, CA commercial passenger fishing vessel	>7,000 (1,107 AK)	Killer whale, stock unknown Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
HI charter vessel	114	None documented
LIVE FINFISH/SHELLFISH FISHERIES:		
CA finfish and shellfish live trap/hook-and-line	93	None documented

List of Abbreviations and Symbols Used in Table 1: AK - Alaska; CA - California; GOA - Gulf of Alaska; HI - Hawaii; OR - Oregon; WA - Washington; ¹ - Fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent of the stock's PBR; ² - Fishery classified by analogy.

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

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

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 stocks incidentally killed/injured
Mid-Atlantic gillnet	>670	Bottlenose dolphin, WNA coastal ¹ Bottlenose dolphin, WNA offshore Common dolphin, WNA Gray seal, WNA Harbor porpoise, GME/BF ¹ Harbor seal, WNA Harp seal, WNA Humpback whale, Gulf of Maine ¹ Long-finned pilot whale, WNA Minke whale, Canadian east coast Short-finned pilot whale, WNA White-sided dolphin, WNA
Northeast sink gillnet	341	Bottlenose dolphin, WNA offshore Common dolphin, WNA Fin whale, WNA Gray seal, WNA Harbor porpoise, GME/BF ¹ Harbor seal, WNA Harp seal, WNA Hooded seal, WNA Humpback whale, WNA ¹ Minke whale, Canadian east coast ¹ North Atlantic right whale, WNA ¹ Risso's dolphin, WNA White-sided dolphin, WNA
LONGLINE FISHERIES:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline	94	Atlantic spotted dolphin, Northern GMX Atlantic spotted dolphin, WNA Bottlenose dolphin, GMX outer continental shelf Bottlenose dolphin, GMX, continental shelf edge and slope Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA Long-finned pilot whale, WNA ¹ Mesoplodon beaked whale, WNA Northern bottlenose whale, WNA Pantropical spotted dolphin, Northern GMX Pantropical spotted dolphin, WNA Pygmy sperm whale, WNA ¹ Risso's dolphin, Northern GMX Risso's dolphin, WNA Short-finned pilot whale, Northern GMX Short-finned pilot whale, WNA ¹
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	13,000	Fin whale, WNA Harbor seal, WNA Humpback whale, WNA ¹ Minke whale, Canadian east coast ¹ North Atlantic right whale, WNA ¹
Category II		
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet ²	45	None documented
Gulf of Mexico gillnet ²	724	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, and estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal
North Carolina inshore gillnet	94	Bottlenose dolphin, WNA coastal ¹

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Northeast anchored float gillnet ²	133	Harbor seal, WNA Humpback whale, WNA White-sided dolphin, WNA
Northeast drift gillnet ²	unknown	None documented
Southeast Atlantic gillnet ²	779	Bottlenose dolphin, WNA coastal
Southeastern U.S. Atlantic shark gillnet	30	Atlantic spotted dolphin, WNA Bottlenose dolphin, WNA coastal ¹ North Atlantic right whale, WNA
TRAWL FISHERIES:		
Mid-Atlantic mid-water trawl (including pair trawl)	620	Bottlenose dolphin, WNA offshore Common dolphin, WNA Long-finned pilot whale, WNA Risso's dolphin, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA ¹
Mid-Atlantic bottom trawl	>1,000	Common dolphin, WNA ¹ Long-finned pilot whale, WNA ¹ Short-finned pilot whale, WNA ¹
Mid-Atlantic flynet ²	21	None documented
Northeast mid-water trawl (including pair trawl)	17	Harbor seal, WNA Long-finned pilot whale, WNA ¹ Short-finned pilot whale, WNA ¹ White-sided dolphin, WNA
Northeast bottom trawl	1,052	Common dolphin, WNA Harbor porpoise, GME/BF Harp seal, WNA ¹ Long-finned pilot whale, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA ¹
TRAP/POT FISHERIES:		
Atlantic blue crab trap/pot	>16,000	Bottlenose dolphin, WNA coastal ¹ West Indian manatee, FL ¹
Atlantic mixed species trap/pot ²	unknown	Fin whale, WNA Humpback whale, Gulf of Maine
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	50	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Northern GMX coastal ¹ Bottlenose dolphin, Western GMX coastal
Mid-Atlantic menhaden purse seine ²	22	Bottlenose dolphin, WNA coastal
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	25	Bottlenose dolphin, WNA coastal ¹
North Carolina long haul seine	33	Bottlenose dolphin, WNA coastal ¹
STOP NET FISHERIES:		
North Carolina roe mullet stop net	13	Bottlenose dolphin, WNA coastal ¹
POUND NET FISHERIES:		
Virginia pound net	187	Bottlenose dolphin, WNA coastal ¹

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

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Category III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA West Indian manatee, Antillean
Delaware River inshore gillnet	60	None documented
Long Island Sound inshore gillnet	20	None documented
Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet	32	None documented
Southeast Atlantic inshore gillnet	unknown	None documented
TRAWL FISHERIES:		
Atlantic shellfish bottom trawl	972	None documented
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX outer continental shelf Bottlenose dolphin, Northern GMX continental shelf edge and slope
Gulf of Mexico mixed species trawl	20	None documented
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	>18,000	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine West Indian Manatee, FL
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	30	Harbor seal, WNA Gray seal, WNA
Gulf of Maine menhaden purse seine	50	None documented
Florida west coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
U.S. Atlantic tuna purse seine	5	Long-finned pilot whale, WNA Short-finned pilot whale, WNA
U.S. Mid-Atlantic hand seine	>250	None documented
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	46	None documented
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon	26,223	Humpback whale, WNA
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line	>5,000	None documented
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line	<125	None documented
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon	1,446	None documented

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 stocks incidentally killed/injured
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented
Caribbean spiny lobster trap/pot	>197	None documented
Florida spiny lobster trap/pot	2,145	Bottlenose dolphin, Eastern GMX coastal
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX Bay, Sound, & Estuarine West Indian manatee, FL
Gulf of Mexico mixed species trap/pot	unknown	None documented
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot	4,453	None documented
U.S. Mid-Atlantic eel trap/pot	>700	None documented
STOP SEINE/WEIR/POUND NET FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	50	Gray seal, Northwest North Atlantic Harbor porpoise, GME/BF Harbor seal, WNA Minke whale, Canadian east coast White-sided dolphin, WNA
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the North Carolina roe mullet stop net)	751	None documented
DREDGE FISHERIES:		
Gulf of Maine mussel	>50	None documented
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	233	None documented
U.S. Mid-Atlantic/Gulf of Mexico oyster	7,000	None documented
U.S. Mid-Atlantic offshore surf clam and quahog dredge	100	None documented
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	West Indian manatee, Antillean
Gulf of Mexico haul/beach seine	unknown	None documented
Southeastern U.S. Atlantic, haul/beach seine	25	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection	20,000	None documented
Gulf of Maine urchin dive, hand/mechanical collection	>50	None documented
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net	unknown	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		

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

Fishery Description	Estimated ¹ of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel	4,000	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, WNA coastal

List of Abbreviations and Symbols Used in Table 2: FL - Florida; GA - Georgia; GME/BF - Gulf of Maine/Bay of Fundy; GMX - Gulf of Mexico; NC - North Carolina; SC - South Carolina; TX - Texas; WNA - Western North Atlantic; ¹ - Fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent of the stock's PBR; ² - Fishery classified by analogy.

Classification

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

Under existing regulations, all fishers participating in Category I or II fisheries must register under the MMPA, obtain an Authorization Certificate, and pay a fee of \$25 (with the exception of those in regions with a registration integrated with existing state and Federal permitting processes). Additionally, fishers may be subject to a take reduction plan and requested to carry an observer. The Authorization Certificate authorizes the taking of marine mammals incidental to commercial fishing operations. NMFS has estimated that approximately 42,000 fishing vessels, most of which are small entities, operate in Category I or II fisheries, and therefore, are required to register. However, registration has been integrated with existing state or Federal registration programs for the majority of these fisheries so that the majority of fishers do not need to register separately under the MMPA. Currently, less than 360 fishers register directly with NMFS under the MMPA authorization program.

Though this proposed rule would affect less than 360 small entities, the \$25 registration fee, with respect to anticipated revenues, is not considered a significant economic impact. If a vessel is requested to carry an observer, fishers will not incur any economic costs associated with carrying that observer. As a result of this certification, an initial regulatory flexibility analysis was not prepared. In the event that reclassification of a fishery to Category I or II results in a take reduction plan, economic analyses of the effects of that

plan will be summarized in subsequent rulemaking actions.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of fishers under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648-0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal injuries or mortalities has been approved by OMB under OMB control number 0648-0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

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

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

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA (1995 EA). NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This proposed rule would not make any

significant change in the management of reclassified fisheries, and therefore, this proposed rule is not expected to change the analysis or conclusion of the 2005 EA. If NMFS takes a management action, for example, through the development of a Take Reduction Plan (TRP), NMFS will first prepare an environmental document, as required under NEPA, specific to that action.

This proposed rule would not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under ESA section 7 for that action.

This proposed rule 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 proposed 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.

Dated: November 27, 2006.

Samuel D. Rauch III,

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

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