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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC062

Marine Mammal Stock Assessment Reports

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

ACTION: Notice of availability; response to comments.

SUMMARY: As required by the Marine Mammal Protection Act (MMPA), NMFS has incorporated public comments into revisions of marine mammal stock assessment reports (SARs). All but ten of the 2012 reports are final and available to the public.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, 301-427-8402, Shannon.Bettridge@noaa.gov; Robyn Angliss, Alaska Fisheries Science Center, 206-526-4032, Robyn.Angliss@noaa.gov; Gordon Waring, Northeast Fisheries Science Center, 508-495-2311, Gordon.Waring@noaa.gov; or Jim Carretta, Southwest Fisheries Science Center, 858-546-7171, Jim.Carretta@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

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

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

reviewed the status of marine mammal stocks as required and revised reports in each of the three regions.

As required by the MMPA, NMFS updated SARs for 2012, and the revised reports were made available for public review and comment for 90 days (77 FR 47043, August 7, 2012). NMFS received comments on the draft SARs and has revised the reports as necessary. Subsequent to soliciting public comment on the draft 2012 SARs, NMFS revised the 2011 abundance estimates for ten Atlantic marine mammal stocks and the 2010 northeast sink gillnet serious injury and mortality estimates for several others. This new information prompted the agency to revise the SARs for the following marine mammal stocks: fin whale, western North Atlantic stock; sei whale, Nova Scotia stock; minke whale Canadian east coast stock; sperm whale, North Atlantic stock; Cuvier's beaked whale, western North Atlantic stock; Gervais' beaked whale, western North Atlantic stock; Sowerby's beaked whale, western North Atlantic stock; Risso's dolphin, western North Atlantic stock; Atlantic white-sided dolphin, western North Atlantic stock; and harbor porpoise, Gulf of Maine/Bay of Fundy stock. NMFS solicited public comment on the revised draft 2012 SARs for these ten stocks (78 FR 3399, January 16, 2013). The public comment period on the revised reports closes on April 16, 2013 and the reports will subsequently be finalized. This notice announces the availability of the final 2012 reports for the 114 stocks that are currently finalized. These reports are available on NMFS' website (see ADDRESSES).

Comments and Responses

NMFS received letters containing comments on the draft 2012 SARs from the Marine Mammal Commission (Commission), the U.S. Navy (Pacific Fleet), nine non-

governmental organizations (The Humane Society of the United States, Center for Biological Diversity, Garden State Seafood Association, Maine Lobstermen's Association, Inc., Cape Cod Commercial Hook Fishermen's Association, Hawaii Longline Association, Alaska Seafood Cooperative, Pacific Seafood Processors Association, and Groundfish Forum), the Western Pacific Regional Fisheries Management Council, and one individual.

Many comments recommended initiation or repetition of large data collection efforts, such as abundance surveys, observer programs, or other efforts to estimate mortality. Many comments, including those from the Commission, recommending additional data collection (e.g., additional abundance surveys or observer programs) have been addressed in previous years. Although NMFS agrees that additional information would improve the SARs and inform conservation decisions, resources for surveys and observer programs are fully utilized, and no new large surveys or other programs may be initiated until additional resources are available. Such comments on the 2012 SARs, and responses to them, may not be included in the summary below because the responses have not changed. Comments on actions not related to the SARs (e.g., listing a marine mammal species under the Endangered Species Act (ESA)) are not included below. Comments suggesting editorial or minor clarifying changes were incorporated in the reports but are not included in the summary of comments and responses below.

In some cases, NMFS' responses state that comments would be considered or incorporated in future revisions of the SARs rather than being incorporated into the final 2012 SARs. These delays are due to the schedule of the review of the reports by the regional SRGs. NMFS provides preliminary copies of updated SARs to SRGs prior to

release for public review and comment. If a comment on the draft SAR suggests a substantive change to the SAR, NMFS may discuss the comment and prospective change with the SRG at its next meeting.

Comments on National Issues

Comment 1: The Commission recommends that NMFS convene a workshop or series of workshops to explore novel ideas for detecting entanglements and ship strikes, improving information on their frequency and trends, reducing the bias in estimates of large whale mortality and serious injury caused by these interactions, and considering possible options for addressing these risk factors.

Response: NMFS recognizes and is attempting to address the concerns raised by the Commission through a variety of staff actions, discussed below. NMFS recognizes the threats to recovery of large whales posed by entanglements with fishing gear and collisions with ships and has implemented several regulations aimed at reducing these threats. The agency continues to conduct extensive research to quantify these threats and develop mitigation measures to reduce them. In 2010, NMFS convened a ship strike reduction workshop on reducing vessel strikes of large whales in California. In 2012, NMFS staff served on the steering committee of an international workshop on maritime transport and biodiversity conservation, aimed at developing a plan to reduce the risk of whale ship strikes. NMFS staff are members of the International Whaling Commission's (IWC) Ship Strike Subcommittee and are involved in the planning of an upcoming IWC workshop on ship strike reduction. NOAA continues to work closely with the U.S. Coast Guard on developing routing measures to reduce the risk of ship strikes in United States waters. With respect to reducing fishing gear entanglements, NMFS continues to

fund and conduct gear research aimed at reducing the risk of large whale entanglements and is developing new regulations to reduce the entanglement risk associated with vertical lines.

In 2012, NMFS finalized its procedure for determining serious injury for marine mammals, which includes quantitative methods for accounting for injury cases where the outcome cannot be determined, methods for accounting for successful post-interaction mitigation efforts, and injury determination processes specific to large cetaceans, small cetaceans and pinnipeds. This is expected to provide a more accurate estimate of total human-caused serious injury and mortality to marine mammals.

Comment 2: The Commission recommends that NMFS, in conjunction with theFWS, more completely assess human effects on marine mammals by (1) developing a framework for describing the full effects, both direct and indirect, of all human activities that may cause serious injury or mortality of marine mammals and then (2) incorporating that framework into stock assessment reports so that decision-makers are informed not only about the known information on a stock but also about the degree of uncertainty regarding the other risk factors that may be affecting the stock's status and what would be required to reduce that uncertainty.

Response: The SARs discuss the potential effects of human activities on marine mammals to an extent (e.g., effects of sonar), but NMFS acknowledges that this could be more thoroughly and consistently discussed in the reports and will strive to do so. The Guidelines for Assessing Marine Mammal Stocks (GAMMS III) workshop participants recommended to NMFS that SARs describe uncertainties in key factors such as human-caused mortality and serious injury and include a statement on whether existing data

would be sufficient to detect a precipitous decline if one was occurring. The draft revised GAMMS include a characterization of uncertainty in the reports.

Comment 3: The Commission recommends that NMFS consider the feasibility and advisability of providing explicit technical guidance on trend analysis and, for each stock assessment with no trend analysis, require an explicit explanation for why such an analysis could not be completed.

Response: NMFS acknowledges that the SARS for many stocks currently do not have trend analyses and the reports often do not explicitly provide the reason for this absence. In such cases where trend analyses are not available, NMFS will include in the reports an explanation for why the analysis could not be completed. Two recent papers (Moore and Barlow 2011, and Moore and Barlow 2013) provide quantitative methods for marine mammal trend analysis, which NMFS intends to apply to other stocks where there is sufficient information to do so.

Comment 4: The Commission recommends that NMFS establish an internal review process to standardize the updating of the SARs within and across regions and consider using a copy editor to check for completeness, errors, and consistency.

Response: NMFS strives to produce reports that are complete and error-free and will continue to work to standardize the reports within and across regions.

Comments on Atlantic Regional Reports

Comment 5: The Commission recommends that NMFS expand Table 2 in the North Atlantic right whale report to include right whale #3903 as a serious injury and the unidentified dead right whale seen on 18 May 2006 as an entanglement-related mortality,

and recalculate the five-year average of entanglement-related mortality and serious injury.

Response: Cause of death for the 18 May 2006 event is unknown. The last sentence from the Cassoff et al. (2011) paper on this event (http://www.int-res.com/articles/feature/d096p175.pdf) indicates that there is still too much doubt about cause of death to make a determination; therefore, #3903 was not included in the serious injury list. "Although there was insufficient information to determine cause of death, entanglement was a probable factor, especially since there were no external injuries from a ship strike or predation, although blunt trauma with no external signs could not be ruled out." Because there is too much doubt to make a determination of cause of death for #3903, this right whale will not be added to the list of human-caused serious injury and mortality records.

Comment 6: The Commission recommends that NMFS expand the section of the North Atlantic right whale report on fishery-related mortality and serious injury to include the total number of entanglements between 2006 and 2012.

Response: The GAMMS call for the presentation of serious injury and mortality in 5-year data periods. We recognize the increased interest in this particular stock, but feel it is outside the scope of the SAR to present more than 5 years of serious injury and entanglement records. Total numbers of entanglement cases reviewed for the applicable 5-year period are presented in the Mortality and Serious Injury Determination reports (see http://www.nefsc.noaa.gov/publications/crd/crd1211/ for the most recent reports). Only those cases that have been found to be confirmed human-caused serious injury and mortality are presented in Table 2 of the SAR.

Comment 7: The Commission recommends that NMFS expand the report for the Gulf of Maine harbor porpoise either to include a trend analysis and explanation or to describe the reasons that the analysis and explanation cannot be provided. If the latter, then the Service also should explain how it plans to rectify the problem(s).

Response: NMFS agrees that a trend analysis would be a useful addition to the harbor porpoise SAR as well as many of the other reports. We are working toward that goal with increased modeling efforts, but it may still be several years before trend analysis is available.

Comment 8: The Commission recommends that NMFS contact Canadian officials to (1) determine the feasibility of an analysis of port catch levels to estimate the number of harbor porpoises caught in the Canadian Bay of Fundy sink gillnet fishery since 2002, and (2) pursue the development of a reliable means for estimating harbor porpoise bycatch in the Canadian Bay of Fundy.

Response: NMFS agrees with these recommendations and has initiated communication with Canadian officials and hopes in the near future to improve upon the Canadian statistics provided in the SAR.

Comment 9: The MMC recommends that NMFS conduct the required surveys of the western North Atlantic harbor and gray seal stocks, incorporate the results into the stock assessment reports, and use that information in its management of those stocks and the risk factors affecting them.

Response: NMFS agrees there is a pressing need for updated abundance estimates for harbor and gray seals in United States waters. Counting of digital aerial images from our 2012 Gulf of Maine harbor seal abundance survey, our seasonal southeastern

Massachusetts and gray and harbor seal monitoring surveys, and our 2010-2012 gray seal pupping surveys is underway. The resulting data will be used to develop a new abundance estimate for harbor seals. The seasonal surveys will provide an index of harbor seal and gray seal numbers and information from the pupping surveys will be used to develop a gray seal population growth model. The modeling project, however, is dependent on funding.

Comment 10: The SAR fails to provide even the most basic stock information on the western Atlantic gray seal population and, instead, lists all its stock parameters as unknown. This complete lack of data is particularly disturbing considering the indisputable explosion in gray seal numbers that has occurred on Cape Cod in recent years.

Response: NMFS concurs that the gray seal population in New England waters has been increasing, particularly in the Cape Cod region. The Northeast Fisheries Science Center (NEFSC) has been monitoring the New England gray seal pupping colonies and conducting seasonal surveys of southeast Massachusetts haul-out sites since 2005. The NEFSC expects to complete the counting of the archived digital survey images by spring 2013. These data will provide an index of harbor seal and gray seal numbers, and can be used to develop a gray seal population growth model. The completion of the modeling project, however, is dependent on funding.

Comment 11: We are encouraged to see a continued increase in the minimum population estimate, now at 444 animals, for North Atlantic right whales. It would be informative if the SAR could include an estimate of the number of those whales not included in this estimate because they were not re-sighted since 2008.

Response: It would be outside the bounds and focus of the SAR to report the number of whales not used in the estimate. That is a random number subject to varying recapture rates and as such we disagree that it is an informative number.

Comment 12: The Draft 2012 humpback whale SAR attributes all serious injury and mortality observed in the southeast and mid-Atlantic region to the Gulf of Maine stock unless a whale is definitively identified to another stock. Photo-identification research conducted in 2002 determined that less than 50% of the (humpback whales photographed in the) southeastern and mid-Atlantic states were identified as Gulf of Maine stock and that it is likely that Canadian whales were under-represented. While this is somewhat outdated, it should be used to inform assumptions on the population identity of these whales rather than attributing 100% of serious injury and mortality to the Gulf of Maine stock as was done in the draft 2012 SAR. We urge use of a more representative pro-rated method for assigning mid-Atlantic serious injury and mortality to the Gulf of Maine stock.

Response: The current approach of assigning serious injuries and mortalities to the stock of humpback whales, when known, and assigning all unknown stock injuries and mortalities to the Gulf of Maine stock provides some measure of precaution with respect to the impact of serious injuries and mortalities on the Gulf of Maine stock. However, the tally of observed serious injuries and mortalities almost certainly underestimates the actual number, given that some fraction of serious injuries and mortalities are not observed. Therefore, the possible inclusion of non-Gulf of Maine whales is unlikely to exceed the true mortality of the Gulf of Maine stock.

Comment 13: The SARs attribute the annual North Atlantic right whale human-caused serious injury and mortality data for entanglements and ship strikes to either the United States or Canada. We do not believe that United States fisheries should be held responsible for serious injury or mortality that occurs in Canadian fisheries since those fisheries are not part of our management plan. Therefore, understanding where the human-caused serious injury or mortality takes place is extremely important in more accurately assessing progress against PBR.

Response: NMFS agrees that understanding the geographic source of fishery interactions is important for management needs. However, in many cases gear is recovered after having been on the animal for some time, and it is difficult to determine where the actual interaction/entanglement occurred geographically because the animal has likely moved since the original interaction. In cases where gear is recovered, the lack of a universal marking system hampers determination of gear source.

Comment 14: The North Atlantic right whale SAR acknowledges that the location where the animal was first sighted and the date of the sighting do not necessarily indicate where or when the serious injury or mortality occurred. Yet this exact information is used to assign the serious injury or mortality to either the United States or Canada. Additional information sources must be consulted in making these determinations such as the NMFS analysis of gear removed from whales, data from Center for Coastal Studies, and necropsy data.

Response: NMFS uses all reliable available information to try to determine if the location of the entanglement differs from the location of the initial observation.

Comment 15: The summary information presented in Table 1 shows the same figure for both Nmin and Nbest for both North Atlantic right and humpback whales. Since the minimum population estimate for right whales is based on a census of individual whales, a separate estimate of Nbest should be included for this species. Similarly, Nbest should be included for humpback whales.

Response: Stock assessment guidelines require only an Nmin for calculation of PBR. Nbest is not required but is often available when an abundance estimate is derived from a sampling process. For the census count, as is used for the North Atlantic right whale and humpback whale estimate, there is only a minimum number generated with no associated range. We have considered using line-transect or mark-recapture estimators to produce an Nmin, but these approaches are likely to lead to a less accurate estimate of Nmin than the current approach.

Comment 16: Appendix III includes a description of the Northeast/Mid-Atlantic American Lobster trap/pot fishery. The section on temporal and spatial distribution of the fishery states that "fishing effort is intense and increasing throughout the range of the resource." This statement should be corrected to reflect that effort in the lobster fishery is not increasing throughout the range of the resource.

Response: NMFS concurs. This statement has been removed from the report.

Comment 17: Table 2 of the North Atlantic right whale SAR lists mortalities and serious injuries. We believe that an animal was omitted from the list of animals entangled in 2009 that appears to have been seriously injured as a result of entanglement: Right whale #1019 (Radiator) was seen and photographed entangled in July 2009 well south of Nantucket.

Response: The extent and configuration of the gear entanglement of North Atlantic right whale #1019 is unknown. The fate of the animal is also unknown, so this interaction was not included in the list of serious injuries.

Comment 18: In the section on Annual Human-Caused Serious Injury and Mortality for North Atlantic right whales, NMFS makes an inaccurate (or at best misleading) statement regarding the number of entangled whales between 2006-2010. First, unless there are clear gear markings to indicate where the entangling gear was set, there is no way to be sure where an animal became entangled so attributing entanglements to United States (versus Canadian) gear is seldom possible. Second, there were more than "8 entanglements" during this 5-year time period. Third, even if NMFS erroneously wrote "entanglement" rather than "fishery-related serious injury and mortality," this too would be incorrect, as Table 2 of the SAR lists 9 fishery-related serious injuries and entanglements, not eight. Fourth, each year there are a number of "floaters" for which cause of death is never established. As a result of these numerous problems with the new verbiage trying to estimate the number of animals either entangled or presumed dead pre- and post-take reduction plan, we suggest simply removing this new language regarding the number of entanglements.

Response: In response to attributing serious injuries and mortalities to nationality, we state in footnote 'a' of the serious injury and mortality table: "The date sighted and location provided in the table are not necessarily when or where the serious injury or mortality occurred; rather, this information indicates when and where the whale was first reported beached, entangled, or injured." NMFS agrees that accurately attributing entanglements to United States (versus Canadian) gear is seldom possible.

The new verbiage added dividing the entanglement and ship strike cases into pre- and post-reduction plan/ship strike rule periods was suggested by the SRG at the February 2012 review meeting. NMFS has revised the sentence to read: "Of the 8 reported fisheries entanglements from United States waters during this 5-year time period that were classified as serious injury or mortality, 5 were reported before the Atlantic Large Whale Take Reduction Plan's sinking-groundline rule went into effect in April 2009, and 3 were reported after enactment of the rule." The 8 from United States waters is correct. However, we did find an erroneous 8, which we have corrected to 9, in the fishery-related serious injury and mortality section, as that number refers to both United States and Canadian records.

Comment 19: We reiterate a perennial request for information with less than a 2-year time lag for North Atlantic right whales. Since the estimates of mortality are minimums and based solely on sightings and strandings of dead whales, there is no need for extra time in reporting to allow for extrapolation of effort as is the case with small cetacean bycatch. It would be useful to have up-do-date information.

Response: The abundance estimate for North Atlantic right whales is at most one year behind that for other stocks in the Atlantic and Gulf of Mexico SAR. The accounting process to obtain the minimum number alive requires two years of sightings to get a stable count, after which the data are analyzed and entered into the SAR in the third year. All animals are not seen every year; waiting two years assures that greater than 90% of the animals still alive will be included in the count.

Comment 20: We believe that there are humpback whales on the large whale disentanglement website last seen trailing significant amounts of gear that could qualify

them as seriously injured based on criteria S6 of the NMFS guidelines (NMFS Instruction, 2012).

Response: The new NMFS Serious Injury Determination Policy will not be applied until the 2013 SAR. The 2012 SAR uses the previous guidelines for determination of serious injury.

Comment 21: For multiple stocks of Atlantic coastal bottlenose dolphin, the SARs were not updated, even though most are strategic stocks. There has been additional annual fishery-related mortality since the prior update in 2010 both in commercial fisheries and recreational fishing gear and additional strandings, some with signs of human interaction. New information on strandings and entanglements should have triggered an update in the SAR for any of these strategic stocks of bottlenose dolphins. We note that the Southeast region provided updates on at least the stranding and fishery-related mortality data for bottlenose stocks in the Gulf of Mexico, and the same should be done as well for all strategic stocks of bottlenose dolphins in the Atlantic.

Response: NMFS focused efforts for the 2012 SARS on stocks in the Gulf of Mexico due to the Deepwater Horizon oil spill (that began on 20 April 2010) and the unprecedented Northern Gulf of Mexico Unusual Mortality Event that began February 1, 2010 and was ongoing as of November 18, 2012. All Atlantic bottlenose dolphin SARs will be updated for 2013.

Comment 22: Although long-finned pilot whales are listed as a strategic stock in the NMFS SARs table and fishery-related mortality has been documented in pelagic fisheries, the SAR was not updated. Annual updates are required for strategic stocks, particularly in the face of new information on mortality. Further, though NMFS has

separated SARs for long- and short-finned pilot whales in the Atlantic and provided PBRs for each, mortality estimates are still "lumped," which makes it impossible to determine whether fishery-related mortality is disproportionately affecting one species more than the other. The agency should update fishery-related mortality for all strategic stocks on an annual basis and should prioritize efforts to assign mortality to either one of these species or the other.

Response: NMFS has been working towards splitting mortality estimates for pilot whale species in the Atlantic. Because abundance estimates are made during the summer but historically most fishery-related mortality takes place in the fall and early winter, the distribution of the two species during the times of greatest mortality has been poorly understood. NMFS conducted a ship-based survey in fall 2011 to help address this issue. Both pilot whale SARs will be updated in 2013 using the information from the fall 2011 survey, and mortality estimates will be split between the two pilot whale species.

Comment 23: In the SAR for the Northern Gulf of Mexico bay, sound and estuarine bottlenose dolphin stocks in Table 1, most have not been assessed for abundance for 20 years. Since they were last assessed, there have been several declarations of Unusual Mortality Events in their ranges, and the effects of the Deepwater Horizon spill reached into quite a number of these bays. We also note that the table listing the multiple stocks in this complex of bay, sound and estuarine dolphins contains stocks for which there are also separate stock assessments (e.g., the Barataria Bay and Choctawhatchee Bay stocks are among several in the list in Table 1 that also have their own SAR). Any stock that has its own SAR should be removed from the table in the SAR for bay, sound and estuarine bottlenose dolphins to avoid confusing readers.

Response: NMFS is working towards a method to prioritize the many Gulf of Mexico bay, sound and estuary stocks of bottlenose dolphins for assessment purposes. As most of these stocks are not amenable to standard aerial or ship-based abundance survey using line-transect methods, NMFS first convened a workshop, partially funded by the Marine Mammal Commission, in 2010 to discuss and compile best practices for mark-recapture abundance estimation methods specifically aimed at bottlenose dolphins in estuarine habitats. With stocks prioritized and a robust method for abundance estimation in place, it will be possible to begin targeting specific stocks. In 2012 NMFS conducted necessary field work to start stock structure analyses for several estuarine stocks in Texas.

NMFS would like to retain the information for all the bottlenose dolphins in the multiple bay, sound and estuary stocks SAR but will note in Table 1 those stocks that have an individual SAR (e.g., Barataria Bay).

Comment 24: The Humane Society of the United States and Center for Biological Diversity commend the agency for providing more in depth information on effects from the Deepwater Horizon oil spill and subsequent declarations of Unusual Mortality Events.

Response: NMFS acknowledges this comment.

Comment 25: Given records of ongoing takes of bottlenose dolphins from several stocks in the menhaden fishery (including fisher self-reports, research-related takes and NMFS records from the 1990s), NMFS must prioritize added observer coverage of this fishery given the co-occurrence of the menhaden fishery with dolphins and the sporadic self-reports of lethal takes (which the agency acknowledges to be under-reports).

Response: NMFS agrees and, as such, implemented a pilot observer program for the Gulf of Mexico menhaden fishery during the 2011 fishing season. The goal of the pilot program was to characterize protected species bycatch, specifically sea turtles and bottlenose dolphins. During the pilot program we learned there are challenges associated with observing this fishery. For example, observing from the main ship (for safety reasons) provided limited visibility for protected species bycatch. In addition, the small number of participants triggers confidentiality requirements. We are evaluating the potential for additional observer coverage and/or methods for observing this fishery, provided resources become available. Meanwhile, we will continue monitoring fishermen self-reports and stranding data.

Comments on Pacific Regional Reports

Comment 26: The MMC recommends that NMFS first verify that compliance with the measures of the 1997 take reduction plan for sperm whales remains at a high level and monitor any changes in fishery effort that might systematically affect entanglement risk and then reconvene the take reduction team only if either of those efforts reveals deficiencies.

Response: NMFS analyzed data from this fishery recently, including compliance with acoustic pinger use and extender lengths (Carretta and Barlow 2011). Pinger use compliance was >99% in all observed sets dating back to 1998. A small fraction of sets (3.7%) experienced some pinger failure during this study, but the recent entanglement of two sperm whales occurred in a set where all pingers were functioning. The entanglement of sperm whales in this fishery is an extremely rare event (10

entanglements observed in 8,000 sets), and NMFS continues to investigate potential factors responsible for such events.

Comment 27: The MMC recommends that NMFS continue to plan and request funding for the necessary surveys to estimate abundance of Pacific Coast harbor seals but also consider alternative assessment approaches to update stock assessment reports for harbor seals along the Pacific coast.

Response: A survey of Washington Inland waters harbor seals is planned for 2014. There are currently no funds available for conducting surveys of harbor seals on the outer coasts and Washington and Oregon.

Comment 28: The MMC recommends that NMFS review all available information on stock structure for Pacific Island stocks of melon-headed whales, pantropical spotted dolphins, and rough-toothed dolphins and update the stock assessment reports accordingly.

Response: All Hawaii SARs will be updated with new stock structure, abundance, and mortality information in 2013. New science relating to the stock structure of melon-headed whales, spotted dolphins, and rough-toothed dolphins will be reviewed and new stock boundaries may be implemented as appropriate.

Comment 29: The Hawaiian monk seal is critically endangered, and the PBR should be zero -- not undetermined. With a declining population trend and an already critically low abundance, the PBR should be zero. Hawaiian monk seals are critically endangered and are on a trajectory toward extinction. An "undetermined" PBR is misleading and can be misinterpreted.

Response: The GAMMS are clear on this issue: "In unusual situations, the formula Congress added to the MMPA to calculate PBR (Nmin*0.5Rmax*Fr) results in a number that is not consistent with the narrative definition of PBR (the maximum number of animals, not including natural mortality, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its OSP). An underlying assumption in the application of the PBR equation is that marine mammal stocks exhibit certain dynamics. Specifically, it is assumed that a depleted stock will naturally grow toward OSP and that some surplus growth may be removed while still allowing recovery. Such a situation arises when a stock is below its OSP and is declining or stable, yet human-caused mortality is not a major factor in the population's trend. Thus, for unknown reasons, the stock's dynamics do not conform to the underlying model for calculating PBR. For example, Hawaiian monk seals are endangered, declining, and below OSP (based upon the abundance prior to the 1970s), yet human-caused mortality is insufficient to account for the decline or a failure to increase. A limited removal would not reduce the population's ability to reach or maintain its OSP after the major factors affecting the stock have been identified and addressed. Therefore, in these unusual situations, NMFS may report PBR as undetermined.

Comment 30: The Hawaiian monk seal SAR should be updated to include the four seals slain within the past year in the Main Hawaiian Islands under suspicious circumstances, including some that may have been shot or bludgeoned. Additionally, the SAR should be updated to include the increased incidents of hooking.

Response: The 2012 SAR updates information through 2010 and contains the slain and hooked Hawaiian monk seal information through 2010 only. The draft 2013 SAR will report on more recent data.

Comment 31: Some of the areas of the Hawaiian monk seal SAR lag in reporting current information on threats. For example, ciguatoxins, potent algal neurotoxins that concentrate in fish preyed upon by monk seals, have been reported in Hawaiian monk seals, which could pose a significant threat to the seals (Bottein et al. 2011). There should also be updated information on Hawaiian monk seal diet, as well as more recent data on plastic entanglements and shark predation based upon information gathered by NMFS. There was also a problem in the past year with an aggressive monk seal killing other seals.

Response: The 2012 Hawaiian monk seal SAR updates information through 2010. This SAR was drafted in 2011 and thus only contains complete information through the previous year, 2010. Regarding ciguatoxin, the Bottein et al. (2011) paper represents an advance in detection of these compounds. However, whether and to what degree they may influence monk seal mortality is not known, and the focus of stock assessments is on human-caused mortality. More recent information will be included in the 2013 draft SAR.

Comment 32: The draft long-beaked dolphin report notes that dolphins of this species have died as a result of past Navy training exercises. The new stock assessment report should provide more information on the impacts of sonar and other training exercises given the proposed continuation and/or expansion of those activities for the Southern California and Hawaii Training Ranges. Additionally, along California's coast,

mortality of long-beaked dolphins has been documented due to domoic acid toxicity, a neurotoxin associated with algal blooms. Although domoic acid toxicity is mentioned in the SAR, it may be important to note that this risk is likely to increase. Studies suggest that the toxicity of these algal blooms will increase up to 5-fold due to ocean acidification (Tatters et al. 2012).

Response: While observed impacts to long-beaked common dolphin from Navy training exercises (such as those noted in the SAR) are relatively straightforward to quantify, undetected impacts of these activities are difficult to quantify. Currently only qualitative statements about the impacts of such activities are included in the SAR, as discussed by Danil and St. Leger (2011). Language related to potential increases in the toxicity of algal blooms responsible for domoic acid mortality events has been added to the SAR.

Comment 33: The southern resident killer whale population evaluation should be restricted to evaluating the more relevant population growth trends since 1987, to discount impacts from the aquarium trade removals in the 1960s. Looking at a more limited time period, the population is actually declining, not growing.

Response: Since the first complete census of this stock in 1974 when 71 animals were identified, the number of southern resident killer whales has fluctuated annually. There have been periods of increases and declines over this time, and there is no justification in choosing any particular starting year in determining if this stock is declining or growing. The population size as of the 2010/2011 census season was 87 animals. Text in this section of the SAR has been modified to reflect the variability in population size since the first census was conducted until present.

Comment 34: The southern resident killer whale SAR should also describe the threat to the killer whales from limited prey availability. The 2011 SAR notes that "this population appears to be Chinook salmon specialists (Ford and Ellis 2006, Hanson et al. 2010), and there is some evidence that changes in coast-wide Chinook abundance has affected this population (Ford et al. 2009)." NMFS' recent biological opinions confirm that evidence.

Response: The SAR currently contains language and references regarding potential effects of limited prey availability on this population of killer whales.

Comment 35: The new records of movements of the western stock of gray whales to the United States waters (Weller et al. 2012) suggests that the SAR should obtain more information and consider calculating PBR for this stock of whales as they are at risk of being caught by United States fisheries and would be at risk from a proposed Makah tribal hunt of gray whales.

Response: NMFS plans on preparing a separate stock assessment report for the western stock of gray whales in 2013.

Comment 36: At least two cases of apparent human-related injury do not appear to have been accounted in the gray whale SAR. Two gray whales with apparent trauma were examined by Cascadia Research in April 2009 and a gray whale that stranded in California in April 2009 had apparent propeller cuts along one side. This section should be checked to update mortalities.

Response: One of the two gray whales examined by Cascadia Research in April 2009 is already listed in the draft SAR. The April 27 record has the geographic attribution of Whidbey Island, although the animal was first seen floating off Camano

Island. The carcass was towed to nearby Whidbey Island for necropsy. The second record was reviewed in the preparation of the draft SAR, and the source of the trauma was not definitively human-related. The California stranding from Sunset Beach is listed in the draft SAR (April 5, 2009 whale with apparent propeller cuts).

Comment 37: Though the region may have reviewed the stock assessments for the ESA-listed stocks (e.g., blue whales, humpback whales, etc.), there is no mention made of this. This assurance should be provided to reassure reviewers that the region was diligent in monitoring these stocks. New information on abundance or mortality triggers the requirement to revise the SAR for a strategic stock. The SARs for ESA-listed stocks should be updated annually in the face of annual mortality.

Response: Strategic stocks are reviewed annually, but revisions to the stock assessment may not necessarily be made unless new information on mortality would change the status of that stock. NMFS will add language to the preface of future Pacific region SARs that will inform reviewers and public commenters of this action each year.

Comment 38: NMFS should work to obtain more data on Hawaii spinner dolphin stocks. The military exercises planned in the range of spinner dolphins pose a threat to them and should be discussed here. The takes predicted in the Southern California and Hawaii Training Range for 2014-2019 are extremely large numbers.

Response: NMFS has added a statement of the potential impact of naval activities on spinner dolphins in Hawaii due to the proximity of naval training exercises for main Hawaiian Islands stocks. NMFS is working with its research partners to collect additional information on spinner dolphin stocks in Hawaii. Significant progress has been made in recent years with recognition of five distinct island-associated stocks within

the main and Northwestern Hawaiian Islands and a sixth pelagic stock. As additional information becomes available on stock abundance and movements, it will be reflected in the SAR and considered as part of incidental harassment and other take authorizations. Such authorizations are analyzed through the NMFS permitting process.

Comment 39: While we commend the region for including literature as recent as 2012 to inform the false killer whale SAR, there is updated literature used in consideration of the proposed listing of the insular stock that is not considered in the SAR that may provide further insight into stock movements and boundaries (e.g., Chivers et al 2011). It also may be worth noting that there is currently no mechanism to address the excessive levels of fishery-related mortality. NMFS still has not published the take reduction plan for false killer whales and has indicated that portions of the plan recommended by the take reduction team will likely not be part of any final plan. As such, we are concerned that there will be continued depredation of stocks by fisheries.

Response: Chivers et al. 2011 and Baird et al. In press were added to the text and list of citations to better reflect the breadth of support for the separation of the Hawaii insular stock, now known as the Main Hawaiian Islands insular stock, from other false killer whale populations. The final take reduction plan outlining regulatory and non-regulatory measures intended to reduce false killer whale bycatch in Hawaii's longline fisheries was published on November 29, 2012. Requirements such as longline area closures and measures to improve captain and crew response to hooked and entangled marine mammals went into effect on December 31, 2012, and gear requirements for the deep-set longline fishery take effect on February 27, 2013. Nearly all take reduction measures recommended by the take reduction team were implemented as part of the final

plan (77 FR 71260, 29 November, 2012). The reference in the SAR has been updated to reflect the recent publication of the new fishery rules and summarize the implemented measures.

Comment 40: There appear to be at least two populations of melon-headed whales in the Hawaiian archipelago. There is a small population resident off the northwest region of the island of Hawaii and a larger population that ranges throughout the main Hawaiian Islands (Aschettino 2010). As melon-headed whales may be susceptible to impacts from navy training exercises, the presence of a small population with a restricted range in an area adjacent to where naval exercises may be undertaken should be noted. Aschettino (Id.) also notes evidence of fisheries interactions for both the Big Island resident population and the Main Hawaiian Islands population. This should be updated in the next SARs.

Response: All Hawaii SARs will be updated with new stock structure, abundance, and mortality information in 2013. New science relating to the stock structure of melon-headed whales, spotted dolphins, and rough-toothed dolphins will be reviewed, and new stock boundaries may be implemented as appropriate.

Comment 41: Hawaii spotted dolphins should be split into management stocks and managed to protect local populations that may be adversely impacted by commercial and recreational fisheries. Recent genetic analyses support the separation of pantropical spotted dolphins found in the Hawai‘i, O‘ahu, and 4-islands area regions into different populations (Courbis 2011). This should be updated in the next SARs.

Response: See response to comment 40.

Comment 42: There are new genetic studies indicating that there should be separate SARs for rough-toothed dolphins. There is high site fidelity and small populations of these dolphins that appear to warrant separate management approaches (Baird et al. 2008, Albertson 2011, poster). This should be updated in the next SARs.

Response: See response to comment 40.

Comment 43: The Western Pacific Regional Fishery Management Council finds inconsistencies in NMFS' interpretation of population trend data for different stocks of false killer whales. The Council agrees that changes in survey methodology and oceanographic conditions preclude using the 2002 and 2010 abundance estimates as a direct measure of population trend for the pelagic stock of false killer whales. However, we find that NMFS has not consistently applied the above reasoning in evaluating the insular stock population trend. The Council therefore requests that NMFS apply consistent scientific reasoning in inferring population trends for the insular and pelagic stocks of false killer whales.

Response: Considerably more data are available to evaluate trends of main Hawaiian Islands insular false killer whales than are available for the pelagic stock. Only two abundance estimates are available for the pelagic stock, each with overlapping coefficients of variation (CV), and it is not possible to assess whether this stock may be increasing, decreasing, or stable. In contrast, data on insular stock trends include aerial survey data from the 1980s, 1990s and early 2000s, and recent estimates of abundance from small vessel surveys resulting in identification of a large portion of the population. These data together allow for a robust assessment of population trend for the insular

stock. Uncertainties in the trend assessment were tested in sensitivity trials in Oleson et al. (2010), with the outcome of all plausible models indicating a declining population.

Comment 44: The Western Pacific Regional Fishery Management Council finds the declining population trend attributed to the insular stock to be inconsistent with observed data since 2000. The draft 2012 SAR cites the Status Review of Hawaiian insular false killer whales to show that the current decline of the insular stock is occurring at an average rate of 9% since 1989. The SAR also reports that the population estimate for the insular stock based on a photographic mark-recapture study during 2000-2004 was 123 animals. Applying the 9% annual decline to the 123 insular false killer whales in 2000, the population in 2012 would be estimated at approximately 40 animals. Alternatively, starting with 123 animals in 2004 would result in approximately 58 animals in 2012. However, the current best estimate of the insular false killer whales according to the draft 2012 SAR is 151 animals, significantly higher than would be expected based on the quantified population trend. This simple exercise highlights possible inaccuracies in NMFS' assumptions regarding the insular stock population trend. The Council therefore requests that NMFS reanalyze the insular stock population trend based on the best available information.

Response: NMFS thanks the Council for pointing out an omission in the draft 2012 SAR. The 2000-2004 estimate used in the Population Viability Analysis (PVA) presented in the Hawaiian insular false killer whale Status Review was 162 (CV=0.23) animals, rather than the older estimate of 123 (CV=0.72) animals listed in the SAR. The updated abundance estimate for the 2000-2004 period has now been included within the SAR. All estimates are described in detail in Oleson et al. (2010). However, the exercise

conducted by the Council does not correctly consider the time period of the two estimates (from 2000-2004 to 2006-2009) and does not incorporate uncertainty in the estimates of population abundance and trend. Also, it does not provide an accurate evaluation of the trend analyses conducted as part of the Status Review. NMFS is required to use many factors in calculating the abundance trend, as carefully described in Oleson et al. (2010) – we attempt to summarize those factors here. The PVA used all available data, including minimum counts, encounter rates, and abundance estimates, as well as estimates of environmental stochasticity, the impact of Allee effects, and catastrophic events. The Status Review explicitly acknowledged the relatively small change in population size from the 2000-2004 estimate of 162 individuals and the 2006-2009 estimate of either 151 or 170 individuals, suggesting that a two-stage model may also be appropriate. Most iterations of the PVA were parameterized with the higher 2006-2009 abundance of 170 individuals that is now considered an overestimate, as animals seen near Kauai now known to associate with the Northwest Hawaiian Islands (NWHI) stock were included in that estimate. Thus, the second rate of change could be seen as overly optimistic, as it attempted to incorporate the higher 2006-2009 abundance. The impact of using the lower 2006-2009 estimate on the risk of extinction can be seen in Appendix 2 (model 9) of Oleson et al. (2010).

Comment 45: Based on the new abundance estimate and all other available evidence, the Western Pacific Regional Fishery Management Council believes that the Hawaii longline fishery has had significantly less impact on the false killer whale population than has been implied over the last decade. According to NMFS, incidental take of false killer whales in the Hawaii deep-set longline fishery has exceeded PBR

since 2000 when a SAR for Hawaii false killer whales was first produced. Given that take exceeding PBR in the long-term is considered unsustainable, the false killer whale population interacting with the longline fishery would be expected to show a decline. However, available data do not suggest that the pelagic stock has experienced a decline, and a stable or increasing trend is much more likely for the pelagic stock than a declining trend. This calls into question the assumptions used in marine mammal stock assessments, the calculation of PBR, and evaluation of fishery impacts on marine mammal populations. Given the lack of evidence indicating a population decline of the pelagic stock of false killer whales, NMFS should consider setting the recovery factor higher than 0.5.

Response: NMFs concurs with the Council's comment on the 2012 draft SARs that acknowledges that environmental variability and lack of information on the entire range of the pelagic false killer whale stock precludes any trend analysis for this stock. In this comment, the Council is implying that such trend analyses may be appropriate. At this time, inadequate data exist to assess trends in abundance for this stock, and it is inappropriate to assume the fishery has had no effect when surveys covered only a fraction of the range of the population, without any information on the dependence of the distribution of this stock on environmental conditions. The population remains at unknown status such that use of a recovery factor equal to 0.5 is appropriate and warranted.

Comment 46: The draft 2012 SAR for the Hawaiian Islands stock complex of spinner dolphins description under the human-caused mortality and serious injury section in nearly all Hawaii dolphin SARs is irrelevant and represents an inaccurate interpretation

of the cited study. Furthermore, NMFS observer data from the Main Hawaiian Islands bottomfish fishery between 2003 and 2005 indicate that there has been no observed incidental take of cetaceans in this fishery. The Council believes the observer program data represent the best available information on human-caused mortality and serious injury for the bottomfish fishery and requests that NMFS include these as a measure of interactions in the fishery rather than using the target catch damage rates currently used in the SARs.

Response: The information on interaction rates from the 1995 study will continue to be included as it represents the best available historical data for the bottomfish fishery. NMFS appreciates the Council's reference to more recent data from the Observer Program from 2003 to 2005, a short period when the NWHI fishery was observed at 18-25% coverage. This information is now included in the SAR. The Main Hawaiian Islands bottomfish fishery has never been observed.

Comment 47: The draft 2012 SAR for Hawaiian monk seals includes descriptions of recent intentional killings in the Main Hawaiian Islands, followed by the claim that "more seals are likely intentionally killed than are reported or discovered." However, no scientific justification or reference is provided to support this claim, and it appears to be speculative. NMFS should avoid such speculation and use the best available scientific information in the SARs as required under Section 117(a) of the MMPA.

Response: The intentional killing of monk seals in the Main Hawaiian Islands is well-documented, although it is extremely unlikely that all carcasses of seals killed intentionally are discovered and reported. Studies of the recovery rates of carcasses of marine mammal species have shown that the probability of detecting and documenting all

deaths (whether from human or natural causes) is quite low (Peltier et al. 2012; Williams et al. 2011; Perrin et al. 2010; Punt and Wade 2010). Text to address this uncertainty has been incorporated in the SAR.

Comment 48: The SARs annually contain descriptions of United States commercial fisheries in Appendix I. No revisions were proposed in the draft 2012 SAR for the Pacific Ocean. However, upon review of the fishery descriptions in the Final 2011 SARs, the Council notes that descriptions for Hawaii Category III fisheries (Hawaii gillnet, lobster trap, inshore handline, deep sea bottomfish handline & jig, and tuna handline and jig fisheries) are outdated and require revisions. Necessary revisions include, but are not limited to, the following: (1) Number of active permit holders and total effort for the Hawaii Category III fisheries have not been updated since 2000; (2) there are currently no lobster and bottomfish fisheries in the NWHI due to the establishment of the Papahanaumokuakea Marine National Monument that prohibited unpermitted removal of monument resources; (3) the Main Hawaiian Islands bottomfish fishery in federal waters is managed under the Fishery Ecosystem Plan for the Hawaiian Archipelago and operates under an annual catch limit. The fishery is co-managed with the State of Hawaii, which has adopted complementary measures in state waters.

Response: NMFS will update all fishery descriptions in the 2013 SARs and will consult with local Council staff regarding whether other updates may be warranted.

Comment 49: The Hawaii Longline Association appreciates that NMFS has updated the abundance estimate for the Hawaii pelagic false killer whale stock ("Pelagic Stock") based on the best available scientific information. However, certain aspects of the Draft SAR's characterization of the 2010 Hawaii EEZ survey data are inaccurate and,

accordingly, we propose language that accurately reflects the available information. The Draft SAR is not consistent with the best available scientific information in two additional respects: (i) the Draft SAR's statement that no population trend data are available for the Pelagic Stock and (ii) the use of a 0.5 recovery factor value in the calculation of the Pelagic Stock's potential biological removal.

Response: The Hawaii Longline Association proposed revisions to the text in the Hawaii pelagic false killer whale stock SAR regarding the possibility of positive bias in sightings as a result of vessel attraction; this language has been incorporated with a few changes. Including additional bootstrap variance on the various parameters in the 2010 estimate would not inform this issue (other than showing that most of the variance comes from the encounter rate) and would seem to be superfluous information for a SAR. It remains that the bootstrap CV on the density (and abundance) estimates resulted in an estimate with confidence intervals that overlap with those of the 2002 estimate. That alone negates our ability to make a trend estimate as infinite scenarios (including a decline) are possible (lognormal 95% CIs for the two estimates are 484 (103-2274) and 1,503 (462-4884)). The population remains at unknown status, such that use of a recovery factor equal to 0.5, given the CV on the mortality and serious injury estimate, is appropriate and warranted.

Comment 50: The certainty with which NMFS has confirmed a new, separate false killer whale stock in the NWHI stock is not scientifically justified. This decision was made on a very limited data set and the agency's rush to judgment about the separateness of this new "stock" appears to reflect an aversion to attributing new

sightings of hundreds of whales to already established stocks, not the best available information.

Response: NMFS disagrees that the designation of new stocks is not scientifically justified. The separation of the NWHI stock and the Hawaii insular and pelagic stocks is sound and based on multiple lines of evidence including genetic analyses indicating significant differentiation in both mtDNA and nucDNA, photo-ID indicating separation from the tight social network of the Main Hawaiian Islands animals, and satellite telemetry data suggesting island and atoll association within the NWHI. The data on false killer whale stock structure, including the new NWHI stock, have been evaluated both for demographic independence, the benchmark for separation under the MMPA, and for evolutionary separation, the more stringent standard for separation under the ESA.

Comment 51: NMFS's serious injury determinations regarding the deep-set fishery's interactions with the Pelagic Stock are not accurate. NMFS's contention that the deep-set fishery has caused serious injuries in excess of PBR for a period of years cannot be reconciled with the best available evidence, which shows that false killer whale populations in the Hawaii EEZ have increased, or at a minimum remained stable, during the same time that the deep-set fishery has supposedly caused serious injuries at an unsustainable rate. NMFS should implement changes in the process through which serious injuries are determined.

Response: At this time, the available data do not provide sufficient information to statistically determine trends in abundance, particularly since only a portion of the range of this stock has been surveyed. It is therefore incorrect to conclude the population is stable or increasing. The MMPA clearly states that a stock for which mortality and

serious injury exceeds the PBR is strategic, and false killer whales have consistently met this definition since the first SAR for Hawaiian false killer whales in 2000.

The process by which injuries are determined to be serious or not serious has been developed and peer-reviewed over many years by experts in marine mammal biology and health, and is based on the best available science (see Andersen et al. 2008; NOAA 2012a; NOAA 2012b). Prorating is done in accordance with NMFS guidelines using appropriate statistical techniques, and has been peer-reviewed by the Pacific SRG and other qualified scientists.

Comment 52: Several of the draft SAR's conclusions regarding the Hawaii insular false killer whale stock (the "Insular Stock") are not correct. Specifically, the best available scientific information does not (i) suggest that the Insular Stock has declined in abundance or (ii) support the allocation of a deep-set fishery interaction to the Insular Stock. In addition, the use of a 0.1 recovery factor is inappropriate until, if, and when the Insular Stock is listed as an endangered species.

Response: This stock was listed as endangered under the ESA as of December 28, 2012 (77 FR 70915). The name of this stock has been changed to the "Main Hawaiian Islands insular stock" throughout the SAR to reflect the name given during the ESA listing. Prior to listing, NMFS conducted an ESA status review of Hawaii insular false killer whales (Oleson et al. 2010) that represents the best available scientific information on the status of this stock. The PVA conducted by the Biological Review Team (BRT) indicates with high certainty that the population has declined. No new information is available since the 2010 Status Review that negates the findings of the BRT. The BRT concluded that Hawaiian insular false killer whales are at high risk of extinction as a

result of either small scale incremental impacts over time or a single catastrophic event. The combination of a decline in abundance, a high risk of extinction, and a small population size warranted a recovery factor of 0.1 for this stock prior to their listing, which was supported by the Pacific SRG.

The partial allocation of a single 2006 take within the Main Hawaiian Islands insular-pelagic overlap zone is supported by the best available data on the range of the insular and pelagic stocks. The reference to the NMFS statement that there are "no documented serious injuries or mortalities of [Insular Stock] animals incidental to Hawaii's longline fisheries" (75 FR 2853, 19 January, 2010) does not include the entire sentence from the Federal Register notice, which clearly states that the provided information comes from the 2008 and 2009 SARs, prior to reevaluation of the insular stock boundary and the implementation of the insular-pelagic overlap zone.

Comment 53: The US Navy would request for the final long-beaked common dolphin SAR deletion of the sentence as unwarranted: "Exposure to blast trauma resulting from underwater detonations is a habitat concern for this stock and the cumulative impacts of these detonations at the population level is unknown (Danil and St. Leger 2011)", and deletion of the blast trauma statement "… and mortality resulting from blast trauma (0.8 animals per year for the 5-yr period 2007 to 2011)."

Response: Danil and St. Leger (2011) state that the population-level impacts of such blast-trauma events require careful consideration. This acknowledges that while this was the first such event documented by the Navy in this region, not all blast trauma events are necessarily detected. NMFS supports the mitigation measures that the Navy implemented following this event and acknowledges that such measures will reduce the

probability of future events. NMFS acknowledges that this type of activity represents a local threat to dolphins in the testing area, unlike habitat threats that could have much larger spatial and quantitative impacts. Language in the SAR has been changed from "habitat concern" to "local concern."

Calculation of an average annual mortality based on various human-caused sources is required under Section 117 of the MMPA, which states that NMFS must "estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey." The use of a 5-year average annual mortality for past human-caused mortality and serious injury is standard in stock assessment reports and is used for all sources of human-caused mortality. The language in the SAR is not intended to imply that future blast trauma events will occur every year at a level of 0.8 animals per year but rather is an annual average of the most recent past 5-year period over which human-caused mortality is evaluated from each source. Conversely, an absence of detected blast trauma events in a given year does not constitute "evidence of absence" of these events.

Comment 54: I would like to suggest that the CA-OR-WA minke whale stock extends north into British Columbia, Southeast Alaska, Prince William Sound and along the Gulf of Alaska coast to about Unimak Pass in the Aleutian Islands. I base this assertion on the similar spatial distribution patterns in these northern regions to that in the CA-OR-WA stock. My suggestions would be a CA-OR-WA-BC-AK stock, although I know that BC waters are not under the purview of NMFS.

Response: While the distribution of minke whales may be concentrated in shelf waters within the large area described, there are no data that support the lumping of CA-OR-WA stock minke whales with animals from Canada and Alaska. In the absence of such evidence, the GAMMS recommend defining management units at a smaller spatial scale to avoid local depletion, particularly as the source and magnitude of anthropogenic impacts may vary regionally.

Comments on Alaska Regional Reports

Comment 55: The Commission recommends that NMFS meet with the Commission to discuss the impending changes in the Arctic and consider the development of (a) a long-term assessment strategy to characterize population abundance, stock status, and ecological and human interactions as climate disruption continues and (b) a long-term management strategy that anticipates the risks to ice seals and develops pro-active measures to avoid or minimize those risks.

Response: NMFS appreciates the Marine Mammal Commission's interest and would welcome the opportunity to discuss these and other issues of mutual concern.

Comment 56: The Commission recommends that NMFS continue its efforts to (1) collaborate with the Alaska Native community to monitor the abundance and distribution of ice seals and (2) use seals taken in the subsistence harvest to obtain data on demography, ecology, life history, behavior, health status, and other pertinent topics; among other things, subsistence harvests provide opportunities to collect valuable data on ice seal populations in many parts of their ranges while minimizing the logistical requirements and costs.

Response: NMFS continues to work with Alaska Native partners to obtain data on ice seal stocks, including information on abundance and distribution, demography, ecology, life history, subsistence harvest, and other data pertinent to assessing the status of these stocks.

Comment 57: The Commission recommends that NMFS revise its stock assessments for the north Kodiak, south Kodiak, and Cook Inlet harbor seal stocks by (1) reducing the recovery factor to be consistent with the Service's 2005 guidelines, (2) recalculating their PBR values, (3) updating the stock assessment reports accordingly, including changing the status of the north Kodiak stock, and (4) working with Native communities to ensure that harvest numbers, when combined with other human-related serious injuries and deaths, do not exceed the PBR for the north Kodiak stock.

Response: The GAMMS state that, "stocks that are not known to be decreasing, taken primarily by aboriginal subsistence hunters, could have higher Fr values, up to and including 1.0, provided that there have not been recent increases in the levels of takes." In the case of these 3 stocks, the trend is unknown, there are no additional indications the stocks are decreasing, they are taken primarily by aboriginal subsistence hunters, and there is no apparent increase in the level of takes. NMFS is currently developing new methods for analysis of abundance and trend for each of the stocks. Results from this new analysis will inform future decisions regarding the determination of recovery factor. Additionally, the assignment of subsistence harvest and fisheries mortalities to a particular stock is imprecise, because the stocks are mixed during most of the year, when harbor seals are not tied to their breeding locations. As noted in response to other

comments, NMFS continues to work with Alaska Native partners to obtain subsistence harvest data.

Comment 58: The Commission recommends that NMFS conduct the research needed to (1) analyze and describe the risks to North Pacific right whales associated with increasing shipping traffic in the Bering Sea and North Pacific, paying particular attention to Unimak Pass, and of entanglement in fishing gear and (2) use that information to design management measures that will minimize the risk of ship strikes and entanglement, and that it ensure its activities do not significantly increase the risk faced by the whales.

Response: NMFS is also concerned about the North Pacific right whale population. With a current estimate of 31 animals in the eastern population, the population is critically endangered. At the present time, there is no evidence that entanglement in fishing gear is a major problem for this population; photographs of right whales in the National Marine Mammal Laboratory catalogue show no entanglement scars. In addition, the Alaska Fisheries Science Center is working with the Marine Conservation Alliance, a fishing industry group, to examine the overlap of fixed gear with right whales in the Bering Sea, and will produce a report on this analysis in the coming year. With regard to shipping, it will be difficult to reliably quantify the risk of ship strikes to right whales in Unimak Pass or elsewhere because we have very little information on seasonal right whale distribution. NMFS is considering the emerging issue of increased shipping in the Arctic with various management bodies and stakeholders, and is working toward a coordinated, proactive approach to this topic. In addition, the research needs identified by the Commission are part of the recently

published draft Recovery Plan for North Pacific right whales (78 FR 4835, January 23, 2013).

Comment 59: The Commission recommends that NMFS make every effort to expedite the analysis of all passive acoustic, satellite telemetry, and other data available for North Pacific right whales, update the stock assessment report accordingly, and use those data to develop protective measures for this population.

Response: NMFS has already conducted and published results of some of this work, including papers on a low-latitude match and an aerial acoustics technique together with new data on the past illegal Soviet catches (the primary reason for the eastern population's critically endangered status). Other papers summarizing the distribution, acoustic research, and satellite tagging data are in preparation. NMFS is currently seeking funding for a study clarifying whether the northern limit of the right whale's range in the Bering Sea extends to and above the Bering Strait.

Comment 60: The Commission recommends that NMFS revise the stock assessment report for the North Pacific right whale stock to indicate that based on knowledge of migratory patterns of similar species, Hawaii and Mexico could be low latitude habitats used more regularly by North Pacific right whales than currently recognized.

Response: As noted by Brownell et al. (2001) and Clapham et al. (2004), there is very little evidence from historical whaling and sighting data, or from archaeology, that either Hawai'i or Baja California were ever a significant habitat for right whales. There has been no new information since those publications that would significantly alter that conclusion.

Comment 61: There is an acknowledgement in the Steller seal lion (Western stock) SAR that there is a marked difference in trends of abundance for this stock depending on the specific trend site. Yet the gains in some portions of the range have been assumed to compensate for the losses in other portions of the range with a PBR calculated for the entire stock from the western Aleutians to the eastern Gulf of Alaska. This seems inappropriately risk prone. The region should consider managing Steller sea lions on a finer scale to more appropriately illustrate the need for conservative management in portions of the species' range where declines are ongoing.

Response: The Alaska Regional Office has been considering options for more fine-scale management of Steller sea lions for some time (with areas such as those in the Recovery Plan). For example, we considered fine-scale population trends in the 2010 Biological Opinion on the effects of the Alaska groundfish fisheries on the Western distinct population segment (DPS), and we are examining trends in portions of the Eastern DPS as we consider possible delisting. NMFS Alaska Regional Office will continue to investigate this approach.

Comment 62: Steller sea lions (Western stock) is one of several stocks for which there is an acknowledgement that fisheries known to interact with the stock are not being monitored by observers and may not have been monitored in over a decade. In this case, the SAR states that "observer data on state fisheries dates as far back as 1990; however, these are the best data available to estimate takes in these fisheries. No observers have been assigned to several fisheries that are known to interact with this stock." This must be remedied to provide a better understanding of fishery-related impacts, particularly in areas where there are ongoing declines.

Response: NMFS has previously responded to this comment (see 77 FR 29969, May 21, 2012, comment 62) as follows: ‘‘NMFS is working with fishing industry and Alaska state partners on implementing adaptive sampling in the federal observer program that covers fisheries managed by the State of Alaska. The adaptive sampling methods are designed to increase data collection efficiency. NMFS has recently directed funds to observer effort in nearshore drift gillnet fisheries in southeast Alaska.”

Comment 63: This Steller sea lions (Western stock) SAR is one of many SARs for pinnipeds in Alaska stating that “[a]s of 2009, data on community subsistence harvests are no longer being collected. Therefore the most recent 5-years of data (2004-2008) will be retained and used for estimating annual mortality…” This is a deplorable approach to management of a stock that is declining in inhabited portions of its range and/or where hunting of this endangered species may be ongoing. NMFS must correct this data deficit as soon as possible.

Response: NMFS agrees that it is important to understand the magnitude of Steller sea lion subsistence harvest. A successful marine mammal harvest monitoring program cannot be developed exclusively in the federal domain and must be supported by Alaska Native hunters and communities. In December 2010 and March 2011 NMFS partnered with the Indigenous People’s Council on Marine Mammals to convene two workshops of marine mammal hunters and Alaska Native Organization (ANO) representatives to begin to develop a statewide program for monitoring subsistence hunting and harvests. NMFS continues to work with our ANO partners on harvest monitoring programs within the annual ANO co-management funding program.

Comment 64: The need for better accounting of mortality is particularly poignant for Steller sea lions (Western stock) because there is every reason to believe that human-related mortality exceeds the PBR. The section on "status of the stock" states that the current levels of anthropogenic mortality and serious injury are below the PBR simply because anthropogenic mortality is at a level a few dozen animals less than the PBR. This does not account for the fact that (as acknowledged in the SAR) fishery-related mortality data are absent; and, thus, the estimate of fishery impacts is likely an under-estimate. Nor does it take into consideration the complete lack of effort to collect data on native subsistence take. Thus the statement that the average annual mortality of 231.8 is below the PBR of 275 is overly optimistic and likely inaccurate.

Response: Previous responses (75 FR 12498, March 16, 2010, Comment 19; 76 FR 34054, June 10, 2011, Comment 11) have addressed comments pertaining to the need for current and accurate estimates of subsistence takes for pinnipeds in Alaska, including the western stock of Steller sea lions. Observer coverage in the Federal groundfish fisheries remains relatively high, and serious injury and mortality (SI/M) estimates from these fisheries are estimated based on observed SI/M. The best available data are used to estimate SI/M for Alaska state fisheries and included in the total SI/M estimate.

Comment 65: We believe NMFS should consider whether the ongoing declines of Northern fur seals warrant listing this stock as threatened under the Endangered Species Act. Fur seals were listed as depleted in 1988, as a consequence of a decline to less than 50 percent of its population of the 1950's. See: 53 FR 17888 (May18, 1988). Since that time, just in the past 20 years, the stock has once again lost approximately 50 percent of its abundance (i.e., estimated at 182,437 in 1992 and 93,627 in 2010).

Response: The Eastern Pacific stock of northern fur seals is composed of breeding aggregations on St. Paul Island, St. George Island, and Bogoslof Island. NMFS concurs with the commenter in the estimated percent reduction in abundance; however, the actual abundance is about 4.5 times higher than presented for St. Paul Island alone. The commenter is incorrect in the description of the estimated abundance of the stock of northern fur seals as 93,627; in fact that is the estimate of pups born on St. Paul Island in 2010. The estimated population abundance is 611,617 for the eastern Pacific Stock. While NMFS is concerned about the statistically significant decline in pup production on the Pribilof Islands, we do not believe the entire stock is threatened with extinction. The protections afforded northern fur seals under the MMPA are adequate to implement management measures to promote increases in overall stock abundance. NMFS has invested significantly in a vital rates study by tagging annual cohorts and adult female northern fur seals over the past three years. The continuation of this study to mark and re-sight individuals will allow NMFS to estimate survival and reproductive rates on St. Paul and St. George and determine where management measures will be most effective towards stock recovery. The results of this work will not be realized until a series of annual cohorts have been re-sighted and individual cohort survival and reproductive rates can be estimated.

Comment 66: Lake Iliamna seals should be separated and recognized as a separate stock (reasons detailed in comment letter). Whether the Iliamna Lake seal is a stock of harbor seal or if the Iliamna Lake seal is a stock of spotted seal, or a separate species of Phoca, extirpation of the Iliamna Lake seal would result in a gap in the range of harbor seal or spotted seal.

Response: NMFS and co-management partners in the Alaska Native community designated 12 stocks of harbor seals based on local knowledge, as well as historical and recent data. NMFS is in the process of evaluating the evidence for discreteness of the harbor seals in Lake Iliamna, including their genetic relatedness to other harbor seals and seasonal variation in numbers of seals in the lake. NMFS recently received a petition to list Iliamna harbor seals as threatened or endangered under the ESA. If NMFS determines that the petition presents substantial information indicating that listing may be warranted, NMFS will undertake a status review, which would include a thorough evaluation of whether these seals constitute a population that is eligible for listing.

Comment 67: The table showing abundance and trends in harbor seals shows some management stocks with declining trends and others stabilized. Neither the text nor Table 9a, that provides minimum abundance estimates for each of the management stocks, provide CVs for the estimates of abundance. If available, these should be provided to elucidate the appropriateness of the recovery factor that was provided. Using the same recovery factor (0.5) in calculating PBR for all of the management stocks, whether stable or declining and with no CV provided for the estimates, seems risk prone.

Response: Table 9a in the SAR provides Nmin estimates for each of the 12 harbor seal stocks. CVs for the estimates of abundance have been added to the final SAR.

Comment 68: NMFS should determine a PBR for beluga whales based on a conservative estimate as proposed in the revisions of the stock assessment guidelines.

Response: The revised GAMMS III have not been finalized; therefore, the PBR calculation is based upon the current guidelines (GAMMS II).

Comment 69: The Cook Inlet beluga population is not increasing, and we agree that setting a PBR allowing take of the species is inappropriate. The PBR should be set at zero to avoid a misconception that an undetermined PBR places no limit on take. Further, there are continuing proposals for oil and gas exploration and port expansion in their habitat. While NMFS continues to assert that there is no significant impact from each of these proposed projects, many of them subject these belugas to harmful sound levels and ensonification of their habitat (e.g., NMFS, 2012). NMFS must prioritize necropsy of any dead belugas found in Cook Inlet. We believe that the continued insult to their habitat has been given short shrift in the discussion of habitat impact and recent litigation has asserted that NMFS has not properly considered and mitigated impacts.

Response: Similar to Hawaiian monk seals (see response to comment #29) and as stated in the SAR, the Cook Inlet beluga stock does not meet the assumptions inherent to the use of PBR. NMFS has decided it would not be appropriate to calculate a maximum number that may be removed while allowing the population to achieve OSP; therefore, PBR for Cook Inlet beluga whales is undetermined. NMFS has previously responded to similar comments pertaining to Cook Inlet beluga habitat (75 FR 12498, March 16, 2010, Comment 1 and 6), and specifically to the ''habitat concerns'' section of the Cook Inlet beluga SAR (76 FR 34054, June 10, 2011, Comment 22).

Comment 70: NMFS must update abundance estimates for harbor porpoises that are over 8 years old, many of which are even 15 years old. To the extent that these data are currently unavailable, NMFS should apply the new GAMMS strategy for determining PBR when data is old. These abundance data need to be collected for better management.

Response: The revised guidelines for assessing marine mammal stocks (GAMMS III) have not been finalized; therefore, the PBR calculation is based upon the current guidelines (GAMMS II).

Comment 71: The Dall's porpoise SAR should be updated with more current population estimates. Rather than undetermined PBR for stocks with data more than 8 years old, the worst-case scenario should be assumed for establishing PBR as proposed in the draft GAMMS III.

Response: NMFS is in the process of analyzing abundance and trends of Dall's porpoise in Southeast Alaska; however, these data are currently not available and include only a portion of the range for this stock. Once this analysis is complete, NMFS will update the Dall's porpoise SAR with new information.

Comment 72: NMFS should obtain a reliable estimate of the sperm whale population size and set a PBR.

Response: NMFS agrees that an abundance estimate, trend, and PBR are needed for sperm whales in Alaska and will continue to seek resources for necessary surveys (77 FR 29969, June 10, 2011, Comment 71).

Comment 73: The humpback whale SAR Appendix 8 only provides information on mortality through 2007 despite the fact that more updated information is available in individual SARs. This appendix should be updated through 2010.

Response: NMFS is currently working on a technical memorandum summarizing all Alaska marine mammal injury assessments for 2007-2011, including humpback whales, using guidance provided in the Marine Mammal Serious Injury Policy and Procedural Directives that became effective 27 January 2012. These data will be

available in the Tech Memo in 2013 and will no longer be included as an Appendix in the SAR.

Comment 74: NMFS should update the SARs for the ice seals—spotted, bearded, ringed and ribbon seals. The ice seals should be classified as strategic, and accordingly their SARs should be updated every year. Additionally, given the limited understanding of stock abundance and trends and the lack of CVs surrounding abundance estimates, the formula provided for calculating PBRs for all of these seals errs in utilizing an inappropriate recovery factor of 0.5. A more precautionary recovery factor should be used for these stocks following the most recent final GAMMS that suggest lower recovery factors for stocks with greater uncertainty in estimates of abundance (NMFS, 2005). We are particularly alarmed that several SARs for ice seals contain language acknowledging that "[a]s of 2009, data on community subsistence harvests are no longer being collected…" This warrants an explanation. Why are anthropogenic impacts not being tracked on a timely basis for these intentional harvests? This is particularly important for these stocks for which no abundance or trend information is available and that depend on habitat that the SARs acknowledge to be degraded.

Response: NMFS agrees that information on subsistence harvest is necessary for ice-associated seals. A successful marine mammal harvest monitoring program cannot be developed exclusively in the federal domain and must be supported by Alaska Native hunters and communities. In December 2010 and March 2011, NMFS partnered with the Indigenous People's Council on Marine Mammals to convene two workshops of marine mammal hunters and ANO representatives to begin to develop a statewide program for monitoring subsistence hunting and harvests. NMFS continues to work with our ANO

partners by prioritizing harvest monitoring programs within the annual ANO co-management funding program. Even so, the subsistence harvest of ice-associated seals in Alaska appears to be sustainable, and the significant concerns about the future status of ice seals stem from climate change and associated habitat loss, not subsistence harvest.

Comment 75: The draft 2012 reports on Steller sea lions do not reflect the most current or accurate information regarding total population and trend for the United States Western DPS or the entire Western DPS. For example, the draft SAR does not provide any population trend for the total population of the U.S. Western DPS Steller sea lion stock in its entirety. The total population of the U.S. Western DPS has increased to 52,209 in 2011, an increase of 41% from 2000. The best estimate for Steller sea lions in Russia is 25,000 to 28,000 animals. Therefore the best estimate of the entire Western DPS population in 2011 would be 77,000 – 80,000 (with 52,000 in the U.S. Western DPS and 25,000-28,000 in Russia). From 2000 to 2011, the total population estimate for the entire Western DPS has increased 54% to 60%. The SAR should provide the best total estimate of the total population for the entire U.S Western DPS stock and the entire Western DPS. The disclaimer concerning the pup multiplier and the reference to Holmes 2007 should be deleted as Holmes 2007 (and the hypothesized reduced natality in Central gulf of Alaska and extension to the entire Western DPS) does not represent the best available or current science.

Response: NMFS agrees with the estimate of 52,000 for the U.S. Western DPS Steller sea lion population in 2011, and agrees that the best current estimate (i.e., 2011) for Steller sea lion abundance in Russia is between 25,000 and 28,000, and that the total western DPS population is between 77,000 and 80,000. However, NMFS does not agree

with how the commenter calculated the percent change in the western DPS population between estimates derived in 2000 and 2011. NMFS' estimate of percent change based on pup counts at western DPS rookeries that were surveyed in both years in the United States (N=31) indicates a 17% increase between 2001-02 (8,639 pups) and 2011 (10,139 pups). These two pup counts are not estimates of the total pup production in these years but sums of counts at the 31 largest rookeries; in 2011, the 31 largest rookeries had the vast majority (87%=10,139/11,600) of all pups born in the western DPS in the United States. NMFS does not have a similar estimate of total pup production for 2001-02 since aerial surveys were not used to count pups then; and, consequently, several major haul-outs and some smaller rookeries that have been consistently surveyed during aerial surveys since 2005 were not counted during the 2001-02 surveys. Estimates of change in abundance of non-pups in the western DPS in the United States between 2000 and 2011 are based on counts at two groups of trend sites. The 1990s trend sites (N=161) had a total of 23,836 non-pups in 2000 and 27,168 in 2008, an increase of 14%; the 2000s trend sites (N=232) had 25,251 non-pups in 2000 and 30,147 in 2008, an increase of 19%. Consequently, estimates for the change in western Steller sea lion abundance in the United States between 2000 and 2011 range between 14% and 19%, less than half the 41% cited by the commenter.

While the western Steller sea lion SAR provides information about abundance in Russia, only information about the portion of the stock residing in United States waters is used to estimate Nmin and to calculate PBR. The GAMMS instructs that for stocks that span international boundaries, the PBR for United States fisheries is calculated based on the abundance estimate of the stock residing in United States waters.

Comment 76: The minimum population for the Western DPS of Steller sea lions should be revised upward as it excludes known counts. Exclusion of these additional counts ignores the best available scientific information.

Response: In order for Steller sea lion non-pup counts (from aerial photographs) to represent a consistent index of the total non-pup population from year to year, only animals on land are counted. During the breeding season, only a small fraction of non-pups are at sea; non-pups spend most of their time on land. Animals in the water are counted only when it is known they were disturbed from the land to the water during the survey. In those circumstances, every effort is made to only count those animals that entered the water and are still relatively close to shore. Surveys are designed to occur during the season and time of day when non-pups are most likely to be hauled out on land, which maximizes the opportunity of obtaining a consistent index count of non-pups each year.

Comment 77: The Western DPS of Steller sea lion SAR should be revised to include the population trend for the total U.S. Western DPS and the entire Western DPS. The current draft only contains estimates for fragmented sections of the population in sub-areas (and sections of sub-areas as in the Central Aleutian Islands), but the SAR inexplicably provides no overall trend for the total population for the U.S. Western DPS and Western DPS. If sub-area trends for non-pups are to be included, the SAR should be more explicit as to how non-pup trends to 2011 are being derived – when the 2011 non-pup survey only covered 75% of the non-pup survey sites.

Response: NMFS is currently working on estimating trends for the entire U.S. Western DPS of Steller sea lions through 2012, as well as for each of the sub-areas. These results will be included in the 2013 SAR.

Comment 78: The draft Western DPS of Steller sea lion SAR should be revised to include the most recent total population estimate for the Russian population (25,000 – 28,000).

Response: The most recent estimate for the Russian population of Steller sea lion (25,000 to 28,000) referenced by the commenter is based on a presentation at the Alaska Marine Science Symposium in January 2012. These data became available after the draft 2012 SAR was prepared, and the SRG has not reviewed them in the context of the SAR. NMFS intends to update the draft 2013 SAR with this information once it has undergone expert review.

Comment 79: The draft Western DPS of Steller sea lion SAR should consider revising the recovery factor from 0.1 to 0.3 as the U.S. Western DPS stock is steadily increasing with known human take (subsistence and fishery interactions). The U.S. Western DPS has increased +41% from 2000 to 2011 and is 98% of the downlisting population threshold. Revision of the recovery factor for an increasing population is consistent with the GAMMS.

Response: The GAMMS instruct that the default recovery factor for stocks of endangered species should be 0.1. Changes to recovery factors for listed stocks can be made after careful consideration and SRG review. However, given that the current annual level of incidental U. S. Commercial fishery-related mortality exceeds 10% of the PBR and cannot be considered insignificant and approaching a zero mortality and

serious injury rate, combined with the relatively high CVs for commercial fishery mortality estimates, it is prudent that NMFS be conservative in managing this endangered stock. Therefore, NMFS will not increase the recovery factor at this time.

Comment 80: The Western DPS of Steller sea lion SAR should be revised to accurately describe the extent (range and magnitude) of movement of Western DPS and Eastern DPS SSLs, both males and females. The reference to "a few migrants" (p. 2) should be deleted. The reference to Phillips 2011 does not support this assertion. A more thorough evaluation of the effects of observed movement by males and females on stock structure should be conducted.

Response: Phillips et al. (2011) is a phylogeographic study of Steller sea lions and is not cited in reference to movements between the western and eastern stocks of Steller sea lions in the SARs. There are documented movements of a few individuals between the geographic division of the eastern and western stocks; however, these cases are minimal and are not significant enough to affect stock structure. Demographics of these migrant individuals is being examined further, and the SAR will be reviewed and updated as appropriate in the draft 2013 SARs.

Comment 81: Given the Center for Independent Experts (CIE) review and Independent Scientific Review Panel findings and conclusions, the 2012 Western DPS of Steller sea lion SAR should not include the scientifically flawed information or constructs that were found to have little scientific basis in the 2010 Biological Opinion. Our detailed comments are provided in Attachment 1 to this letter.

Response: The CIE review was conducted in August 2012, after the draft 2012 Western DPS of Steller sea lion SAR was released for public comment. NMFS will

consider incorporating any significant findings and new information resulting from the CIE review in the draft 2013 SARs.

Dated: March 25, 2013.

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