



BILLING CODE: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 219

[Docket No. 150413360-5636-02]

RIN 0648-BF02

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to
Northeast Fisheries Science Center Fisheries Research; Correction**

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

ACTION: Proposed rule; correction; extension of public comment period.

SUMMARY: This document contains corrections to the preamble to the proposed regulations published on July 9, 2015, that would establish a framework for authorizing the take of marine mammals incidental to the NEFSC's fisheries research activities in the Atlantic coast region for a five-year period, 2015-2020. This action is necessary to correct errors in the estimates presented for Level B harassment of northern bottlenose whales (*Hyperoodon ampullatus*), dwarf sperm/pygmy sperm whales (*Kogia spp.*), bottlenose dolphins (*Tursiops truncatus*), and harbor seals (*Phoca vitulina*). This action also corrects errors in the mortality estimates presented for gray seals (*Haliophoca grypus*) and harbor seals.

The **Federal Register** proposed rule indicated that written comments were due by August 10, 2015, which allowed 30 calendar days for public input. NMFS has decided to extend the

public comment period by 7 calendar days, to August 17, 2015, which allows a total of 37 days for public input.

DATES: NMFS has extended the public comment period for this action from August 10, 2015, to August 17, 2015. NMFS must receive written comments and information no later than August 17, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2015-0078, by any of the following methods:

- **Electronic submission:** Submit all electronic public comments via the federal e-Rulemaking Portal. Go to *www.regulations.gov*, enter 0648-BF02 in the “Search” box, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. To help NMFS process and review comments more efficiently, please use only one method to submit comments. All comments received are a part of the public record. NMFS will generally post the comments on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a proposed rule on July 9, 2015 (80 **FR** 39542) to establish a framework for authorizing the take of marine mammals incidental to the NEFSC's fisheries research activities in the Atlantic coast region for a five-year period, 2015-2020. NMFS refers the reader to the July 9, 2015, **Federal Register** notice (80 **FR** 39542) for background information concerning the proposed regulations. The information in the notice of proposed rulemaking is not repeated here.

This correction revises the description contained in the preamble of the estimates of five species of marine mammals to be taken by Level B harassment and the estimates of gray and harbor seals to be taken by mortality.

Need for Correction

As published, the preamble to the final regulations contains errors or typos which may prove to be misleading and need to be clarified. These errors and omissions were also incorrectly recorded within the regulatory text and should be clarified there as well.

1. On page 39588, in Table 11, the entries for harbor seal, gray seal, and unidentified pinniped are corrected to read as follows:

Table 11 - Total Estimated M/SI + Level A Due to Gear Interaction in the Atlantic Coast Region, 2015-2020.

Species	Est. 5-year total, trawl ¹	Est. 5-year total, gillnet ¹	Est. 5-year total, longline ¹	Est. 5-year total, fyke net ¹	Total, all gears
***** Harbor seal *****	5	5	0	5	15
***** Gray seal *****	5	5	0	5	15
*****	1	1	1	1	4

Unidentified pinniped *****					
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¹Please see preceding text for derivation of take estimates.

2. On page 39595, in Table 20, the entries for *Kogia* spp., gray seal, and harbor seal are corrected to read as follows:

Table 20 – Summary Information Related to Proposed Annual Take Authorization in the Atlantic Coast Region, 2015-2020.

Species ¹	Proposed total annual Level B harassment authorization	Percent of estimated population	Proposed total M/SI + Level A authorization, 2015-2020	Estimated maximum annual M/SI + Level A ²	PBR ³	% PBR ⁴	Stock trend ⁵
***** <i>Kogia</i> spp. *****	24	0.63	0	0	n/a	-	?
***** Gray seal ***** ¹	10; 8,000 ⁷	2.42	15	3.6	1,469	0.25	↑
***** Harbor seal *****	1,678; 20,000 ⁷	2.48	15	3.6	1,662	0.22	?

¹For species with multiple stocks in the Atlantic coast regions or for species groups (*Kogia* spp. and Mesoplodont beaked whales), indicated level of take could occur to individuals from any stock or species (not including coastal and estuarine stocks of bottlenose dolphins).

²This column represents the total number of incidents of M/SI + Level A that could potentially accrue to the specified species or stock and is the number carried forward for evaluation in the negligible impact analysis (later in this document). To reach this total, we add one to the total for each pinniped or delphinid that may be captured in longline or gillnet gear, one to the total for each delphinid that may be captured in trawl gear, and one pinniped that may be captured in fyke net gear. This represents the potential that the take of an unidentified pinniped or delphinid could accrue to any given stock captured in that gear. The proposed take authorization is formulated as a five-year total; the annual average is used only for purposes of negligible impact analysis. We recognize that portions of an animal may not be taken in a given year.

³See Table 3 and following discussion for more detail regarding PBR.

⁴Estimated maximum annual M/SI + Level A expressed as a percentage of PBR.

⁵See relevant SARs for more information regarding stock status and trends. Interannual increases may not be interpreted as evidence of a trend.

⁷The first number represents estimated annual Level B take by acoustic sources. The second number represents estimated annual Level B take by the physical disturbance during surveys in Penobscot Bay.

3. On page 39595, in Table 20, add a new entry for the northern bottlenose whale to read as follows:

Table 20 – Summary Information Related to Proposed Annual Take Authorization in the Atlantic Coast Region, 2015-2020.

Species ¹	Proposed total annual Level B harassment authorization	Percent of estimated population	Proposed total M/SI + Level A authorization, 2015-2020	Estimated maximum annual M/SI + Level A ²	PBR ³	% PBR ⁴	Stock trend ⁵
***** Harbor seal *****	1,678; 20,000 ⁷	2.48	15	3.6	1,662	0.22	?
Northern bottlenose whale	10	n/a	0	0	n/a	-	?
***** Unidentified delphinids *****							

¹For species with multiple stocks in the Atlantic coast regions or for species groups (*Kogia spp.* and Mesoplodont beaked whales), indicated level of take could occur to individuals from any stock or species (not including coastal and estuarine stocks of bottlenose dolphins).

²This column represents the total number of incidents of M/SI + Level A that could potentially accrue to the specified species or stock and is the number carried forward for evaluation in the negligible impact analysis (later in this document). To reach this total, we add one to the total for each pinniped or delphinid that may be captured in longline or gillnet gear, one to the total for each delphinid that may be captured in trawl gear, and one pinniped that may be captured in fyke net gear. This represents the potential that the take of an unidentified pinniped or delphinid could accrue to any given stock captured in that gear. The proposed take authorization is formulated as a five-year total; the annual average is used only for purposes of negligible impact analysis. We recognize that portions of an animal may not be taken in a given year.

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⁷The first number represents estimated annual Level B take by acoustic sources. The second number represents estimated annual Level B take by the physical disturbance during surveys in Penobscot Bay.

List of Subjects in 50 CFR Part 219

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Accordingly, 50 CFR part 219 is corrected as follows:

**PART 219 – REGULATIONS GOVERNING THE TAKING AND IMPORTING OF
MARINE MAMMALS**

**Subpart D – Taking Marine Mammals Incidental to Northeast Fisheries Science Center
Fisheries Research in the Atlantic Coast Region**

1. The authority citation for part 219 continues to read as follows:

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

2. In § 219.33:

- A. Revise paragraph (b) (1) (i) (H).
- B. Revise paragraph (b) (1) (i) (K).
- C. Add paragraph (b) (1) (i) (Z).
- D. Revise paragraph (b) (1) (ii) (A).
- E. Revise paragraph (b) (1) (ii) (C).
- F. Revise paragraphs (b) (2) (ii) (A) and (b) (2) (ii) (B).
- G. Revise paragraph (b) (4) (ii) (A).

The revisions and addition are set out below:

§ 219.33 Permissible methods of taking.

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(b) * * *

(1) * * *

(i) * * *

(H) Pygmy or dwarf sperm whale (*Kogia spp.*) – 24;

* * * * *

(K) Bottlenose dolphin (*Tursiops truncatus*) – 1,294;

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(Z) Northern bottlenose whale (*Hyperoodon ampullatus*) – 10;

* * * * *

(ii) * * *

(A) Gray seal (*Halichoerus grypus*) – 8,010;

* * * * *

(C) Harbor seal (*Phoca vitulina*) – 21,678.

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(2) * * *

(ii) * * *

(A) Gray seal – 5;

(B) Harbor seal – 5;

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(4) * * *

(ii) * * *

(A) Gray seal – 5;

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Dated: July 29, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

