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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 180522499-9223-02]

RIN 0648-BH96

List of Fisheries for 2019

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

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its final List of Fisheries (LOF) for 2019, as required by the Marine Mammal Protection Act (MMPA). The LOF for 2019 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements.

DATES: The effective date of this final rule is *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

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

FOR FURTHER INFORMATION CONTACT: Jaclyn Taylor, Office of Protected Resources, 301-427-8402; Allison Rosner, Greater Atlantic Region, 978-281-9328; Jessica Powell, Southeast Region, 727-824-5312; Dan Lawson, West Coast Region, 562-980-3209; Suzie Teerlink, Alaska Region, 907-586-7240; Kevin Brindock, Pacific Islands Region, 808-725-5146. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

What is the List of Fisheries?

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

How does NMFS determine in which category a fishery is placed?

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

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362 (20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (OSP). This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

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

Tier 2: Tier 2 considers fishery-specific mortality and serious injury for a particular stock.

Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level (*i.e.*, frequent incidental mortality and serious injury of marine mammals).

Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level (*i.e.*, occasional incidental mortality and serious injury of marine mammals).

Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level (*i.e.*, a remote likelihood of or no known incidental mortality and serious injury of marine mammals).

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

Because fisheries are classified on a per-stock basis, a fishery may qualify as one category for one marine mammal stock and another category for a different marine mammal stock. A fishery is typically classified on the LOF at its highest level of classification (*e.g.*, a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II). Stocks driving a fishery's classification are denoted with a superscript "1" in Tables 1 and 2.

Other Criteria That May Be Considered

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

the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental mortality or serious injury is “frequent,” “occasional,” or “remote” by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fishermen reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries (50 CFR 229.2).

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

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

The LOF includes a list of marine mammal species and/or stocks incidentally killed or injured in each commercial fishery. The list of species and/or stocks incidentally killed or injured includes “serious” and “non-serious” documented injuries as described later in the List of Species and/or Stocks Incidentally Killed or Injured in the Pacific Ocean and the Atlantic Ocean, Gulf of Mexico, and Caribbean sections. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs and injury determination reports. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock’s PBR level and level of interaction with commercial fishing operations. The best available scientific information used in the SARs and reviewed for the 2019 LOF generally summarizes data from 2011-2015. NMFS also reviews other sources of new information, including injury

determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fishermen self-reports (*i.e.*, MMPA mortality/injury reports), and anecdotal reports from that time period. In some cases, more recent information may be available and used in the LOF.

For fisheries with observer coverage, species or stocks are generally removed from the list of marine mammal species and/or stocks incidentally killed or injured if no interactions are documented in the five-year timeframe summarized in that year's LOF. For fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (*e.g.*, fishery has low observer coverage and stranding network data include evidence of fisheries interactions that cannot be attributed to a specific fishery) species and stocks may be retained for longer than five years. For these fisheries, NMFS will review the other sources of information listed above and use its discretion to decide when it is appropriate to remove a species or stock.

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

The best available information on the level of observer coverage and the spatial and temporal distribution of observed marine mammal interactions is presented in the SARs. Data obtained from the observer program and observer coverage levels are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. Starting with the 2005 SARs, each Pacific and Alaska SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including the observer coverage in those fisheries. For Atlantic fisheries, this information can be found in the LOF

Fishery Fact Sheets. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are generally not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Fishery information presented in the SARs' appendices and other resources referenced during the tier analysis may include: level of observer coverage; target species; levels of fishing effort; spatial and temporal distribution of fishing effort; characteristics of fishing gear and operations; management and regulations; and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources website at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. Information on observer coverage levels in Category I, II, and III fisheries can be found in the fishery fact sheets on the NMFS Office of Protected Resources' website: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>. Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's website: <https://www.fisheries.noaa.gov/national/fisheries-observers/national-observer-program>.

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

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

Are high seas fisheries included on the LOF?

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

HSFCA permits are valid for five years, during which time Fishery Management Plans (FMPs) can change. Therefore, some vessels/participants may possess valid HSFCA permits without the ability to fish under the permit because it was issued for a gear type that is no longer authorized under the most current FMP. For this reason, the number of HSFCA permits displayed in Table 3 is likely higher than the actual U.S. fishing effort on the high seas. For more

information on how NMFS classifies high seas fisheries on the LOF, see the preamble text in the final 2009 LOF (73 FR 73032; December 1, 2008). Additional information about HSFCA permits can be found at <https://www.fisheries.noaa.gov/node/23351>.

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

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

Am I required to register under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain

a marine mammal authorization to lawfully take non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How do I register and receive my Marine Mammal Authorization Program (MMAP) authorization certificate?

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

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

In the West Coast Region, authorization certificates may be obtained from the website http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/fisheries_interactions.html.

In the Alaska Region, authorization certificates may be obtained by visiting the National MMAP website <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#obtaining-a-marine-mammal-authorization-certificate>.

In the Greater Atlantic Region, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year. Certificates may

also be obtained by visiting the Greater Atlantic Regional Office website

<https://www.greateratlantic.fisheries.noaa.gov/mmap>.

In the Southeast Region, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year. Vessel or gear owners can receive additional authorization certificates by contacting the Southeast Regional Office at 727-209-5952 or by visiting the National MMAP website:

<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#obtaining-a-marine-mammal-authorization-certificate>.

The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)). Although efforts are made to limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal license or permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries.

Individuals fishing in Category I and II fisheries for which no state or Federal license or permit is required must register with NMFS by contacting their appropriate Regional Office (see **ADDRESSES**).

How do I renew my registration under the MMAP?

In Alaska, Greater Atlantic, and Southeast regional fisheries, registrations of vessel or gear owners are automatically renewed and participants should receive an authorization certificate by January 1 of each new year. Certificates can also be obtained from the region's

website. In the Pacific Islands regional fisheries, vessel or gear owners receive an authorization certificate by January 1 for state fisheries and with their permit renewal for Federal fisheries. In West Coast regional fisheries, vessel or gear owners receive authorization either with each renewed state fishing license in Washington and Oregon, with their permit renewal for Federal fisheries (the timing of which varies based on target species), or via U.S. mail. Vessel or gear owners who participate in fisheries in these regions and have not received authorization certificates by January 1 or with renewed fishing licenses must contact the appropriate NMFS Regional Office (see **FOR FURTHER INFORMATION**). Additional authorization certificates are available for printing on the National MMAP website:

<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#obtaining-a-marine-mammal-authorization-certificate>.

Am I required to submit reports when I kill or injure a marine mammal during the course of commercial fishing operations?

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a fishery listed on the LOF must report to NMFS all incidental mortalities and injuries of marine mammals that occur during commercial fishing operations, regardless of the category in which the fishery is placed (I, II, or III) within 48 hours of the end of the fishing trip or, in the case of non-vessel fisheries, fishing activity. “Injury” is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported.

Mortality/injury reporting forms and instructions for submitting forms to NMFS can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#reporting-a-death-or-injury-of-a-marine-mammal-during-commercial-fishing-operations> or by contacting the appropriate regional office (see **FOR FURTHER INFORMATION**). Forms may be submitted via any of the following means: (1) online using the electronic form; (2) emailed as an attachment to nmfs.mireport@noaa.gov; (3) faxed to the NMFS Office of Protected Resources at 301-713-0376; or (4) mailed to the NMFS Office of Protected Resources (mailing address is provided on the postage-paid form that can be printed from the web address listed above). Reporting requirements and procedures are found in 50 CFR 229.6.

Am I required to take an observer aboard my vessel?

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

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

Table 4 provides a list of fisheries affected by TRPs and TRTs. TRP regulations are found at 50 CFR 229.30 through 229.37. A description of each TRT and copies of each TRP can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams>. It is the responsibility of fishery participants to comply with applicable take reduction regulations.

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

Information regarding the LOF and the MMAP, including registration procedures and forms; current and past LOFs; descriptions of each Category I and II fishery and some Category III fisheries; observer requirements; and marine mammal mortality/injury reporting forms and submittal procedures; may be obtained at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries>, or from any NMFS Regional Office at the addresses listed below:

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

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

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

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

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

Sources of Information Reviewed for the 2019 LOF

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

NMFS also reviewed other sources of new information, including marine mammal stranding and entanglement data, observer program data, fishermen self-reports, reports to the SRGs, conference papers, FMPs, and ESA documents.

The LOF for 2019 was based on, among other things, stranding data; fishermen self-reports; and SARs, primarily the 2017 SARs, which are based on data from 2011-2015. The SARs referenced in this LOF include: 2015 (81 FR 38676; June 14, 2016), 2016 (82 FR 29039; June 27, 2017), and 2017 (83 FR 32093; July 11, 2018). The SARs are available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>.

Comments and Responses

NMFS received seven comment letters on the proposed LOF for 2019 (83 FR 53422; October 23, 2018). Comments were received from the Marine Mammal Commission (Commission), Hawaii Longline Association (HLA), Maine Lobstermen's Association (MLA), two individuals, a joint letter from Lund's Fisheries and The Town Dock, and a joint letter from Center for Biological Diversity (CBD), Humane Society of the United States (HSUS) and Whale and Dolphin Conservation (WDC). Responses to substantive comments are below; comments on actions not related to the LOF are not included.

General Comments

Comment 1: A commenter notes that NMFS discussed the factors used to classify fisheries by analogy on the LOF in the final 1996 LOF and acknowledges that fishing technologies have changed and improved since the 1996 final LOF. The commenter recommends NMFS update the factors used to classify fisheries by analogy on the LOF.

Response: NMFS has classified fisheries by analogy on the LOF that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals. Fishery classification by analogy was discussed in the final LOF for 1996 (60 FR 67063; December 28, 1995), and the factors for classifying by analogy are listed in the regulatory definition of a "Category II fishery" in 50 CFR 229.2.

The regulatory definition includes various factors to evaluate when classifying by analogy. 50 CFR 229.2 states, "In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, the Assistant Administrator will determine whether the taking is "occasional" by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target

species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator." If NMFS does not have enough information on the various factors listed above to complete a tier analysis, 50 CFR 229.2 states eligible commercial fisheries not specifically identified in the LOF are deemed to be Category II fisheries until the next list of fisheries is published. When classifying fisheries by analogy, NMFS applies this regulatory definition using the best available information when evaluating the other factors listed above. Therefore, NMFS is not updating the factors used to classify fisheries by analogy on the LOF.

Comment 2: A commenter notes that NMFS annually reviews the information presented in the current SARs, injury determination reports and other sources of new information to determine which species or stocks are included on the LOF as incidentally killed or injured in a fishery. The commenter believes the 2011-2015 data summarized in the SAR and the additional other sources of information are insufficient for identifying the species or stocks incidentally killed or injured in a fishery.

Response: When NMFS reviews the LOF annually, we use the best available scientific information including the SARs. The SARs provide the most current and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations. The MMPA requires NMFS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available and at least once every three years for non-strategic stocks. NMFS publishes a notice of availability and solicits public comments on the draft SARs annually. Additionally, NMFS can use more recent data provided it has been peer reviewed and is publicly available.

Comments on Commercial Fisheries in the Pacific Ocean

Comment 3: CBD, HSUS and WDC support adding the North Pacific stock of sperm whales to the list of species and/or stocks incidentally killed or injured in the Alaska Bering Sea, Aleutian Islands halibut longline fishery. The commenters also recommend NMFS elevate the Alaska Bering Sea, Aleutian Islands halibut longline fishery to a Category I fishery because the mean estimated annual mortality (1.5 sperm whales) exceeds the PBR level in the proposed 2018 stock assessment report of 0.5 sperm whales.

Response: NMFS has added the North Pacific stock of sperm whales to the list of species and/or stocks incidentally killed or injured in the Alaska Bering Sea, Aleutian Islands halibut longline fishery.

NMFS uses the classification criteria described in the preamble to classify fisheries as Category I, Category II, or Category III. The 2019 LOF is based on the final 2017 SARs, which do not define a PBR for the North Pacific sperm whale stock. The draft 2018 SAR includes a PBR that applies to a small portion of the stock's range and as such is considered an underestimate.

Comment 4: CBD, HSUS and WDC recommend elevating the Gulf of Alaska sablefish longline fishery to a Category I fishery, because the mortality and serious injury of the North Pacific stock of sperm whales exceeds the PBR level of 0.5 sperm whales in the draft 2018 SARs.

Response: See Response to Comment 3.

Comment 5: CBD, HSUS and WDC support adding the Central North Pacific stock of humpback whale to the list of species and/or stocks incidentally killed or injured in the Category

III AK Prince William Sound salmon set gillnet fishery. The commenters note, that unless there is genetic or photo-identification information to the contrary, the LOF should state that the two 2015 strandings were from the ESA-listed Mexico distinct population segment (DPS). NMFS is in the process of reviewing the humpback whale stock structure, and the commenters recommend that the LOF note the relevant humpback whale DPS until the stock structure review is finalized.

Response: NMFS has added the Central North Pacific stock of humpback whale to the list of species and/or stocks incidentally killed or injured AK Prince William Sound salmon set gillnet fishery.

Because only the Central North Pacific stock of humpback whale occurs in Prince William Sound, the two 2015 humpback whale M/SI reports in Prince William Sound were only applied to the Central North Pacific stock. As the commenters note, NMFS is in the process of reviewing the stock structure of humpback whales under the MMPA. Currently, the management units for humpback whales are not defined with the same delineations under the ESA and MMPA. As the LOF is a requirement of the MMPA, it uses MMPA stocks as management units rather than referencing a species or DPS from the ESA. In cases where M/SI occurs in an area of overlapping stocks, the M/SI is assigned to both stocks.

Comment 6: CBD, HSUS and WDC support adding the southern sea otter to the list of species and/or stocks incidentally killed or injured in the Category II California spiny lobster fishery.

Response: NMFS has added the southern sea otter to the list of species and/or stocks incidentally killed or injured in the Category II California spiny lobster fishery as proposed.

Comment 7: CBD, HSUS and WDC express concern that neither NMFS nor the California Department of Fish and Wildlife have attempted to monitor or estimate total marine mammal interactions in the California spiny lobster fishery since the fishery was listed as Category II. The commenters note that the Pacific Scientific Review Group recommended NMFS convene a take reduction team for fisheries that are known to entangle humpback whales along the West Coast and to evaluate the large number of entanglements to determine if they constitute an unusual mortality event. CBD, HSUS and WDC agree and request NMFS convene a take reduction team for all California pot and trap fisheries, including the California spiny lobster fishery.

Response: NMFS acknowledges that opportunistic reports of whale entanglements provide only a minimum accounting of entanglements that may be occurring.

Section 118(f)(3) of the MMPA provides that NMFS may prioritize convening take reduction teams and developing TRPs when insufficient funding is available. MMPA section 118(f)(3) contains specific priorities for developing TRPs. NMFS has insufficient funding available to simultaneously develop and implement TRPs for all strategic stocks that interact with Category I or Category II fisheries. As provided in MMPA section 118(f)(6)(A) and (f)(7), NMFS uses the most recent SAR and LOF as the basis to determine its priorities for establishing TRTs and developing TRPs. In addition, NMFS continues to collect data to categorize fixed gear fisheries and assess their risk to large whales off the U.S. west coast. Accordingly, given these factors and NMFS' priorities, implementation of developing a TRP for the California spiny lobster fishery and other similar Category II fisheries has been deferred under section 118 as other stocks/fisheries are a higher priority for any available funding for establishing new TRPs.

Comment 8: CBD, HSUS and WDC support adding the Eastern North Pacific stock of blue whales to the list of species and/or stocks incidentally killed or injured in the Category II CA Dungeness crab pot fishery. The commenters recommend that the final 2019 LOF include the three prorated serious injuries (2.25 serious injuries) that were caused by an unidentified fishery interaction in 2015 and 2016. The commenters note that 4.25 blue whales were seriously injured in 2015 and 2016 in fishing gear, and that the annual average, calculated over five years, is 0.85 blue whales, or 37 percent of the PBR level. Because the CA Dungeness crab pot fishery is the only known fishery to interact with blue whales, the commenters request that NMFS attribute all of these interactions to the CA Dungeness crab pot fishery for the purposes of the LOF.

Response: NMFS has added the Eastern North Pacific stock of blue whales to the list of species and/or stocks incidentally killed or injured in the CA Dungeness crab pot fishery based on documented entanglements. NMFS appreciates that the commenters have provided a proration for three serious injuries in unidentified fishing gear in 2015 and 2016, but this analysis is not included in the final 2017 SAR. The final 2017 SAR (Carretta *et al.*, 2018) and Human-Related Serious Injury and Mortality Report (Carretta *et al.*, 2018a) for the Eastern North Pacific stock of blue whales do not provide or report on any established methodology for assigning mortality or serious injury or mortality from entanglements with unidentified gear. Further, the gear from the 2015 entangled whale was consistent with several deep-set fisheries that do not include the CA Dungeness crab pot fishery (Carretta *et al.*, 2018a).

Comment 9: CBD, HSUS and WDC recommend that NMFS elevate the CA Dungeness crab pot fishery to a Category I fishery. Commenters note that in 2018, three confirmed blue

whale entanglements were reported as of October, one of which was attributed to the CA Dungeness crab pot fishery. As previously noted in Comment 8, they believe blue whale entanglements in unidentified pot/trap fisheries should be attributed to the CA Dungeness crab pot fishery.

CBD, HSUS and WDC cite a 2013 NMFS Technical Memorandum that states the highest risk of blue whale entanglement was with the Dungeness crab pot fishery from October to December around San Francisco Bay and Bodega Bay. Without changes to the fishery at the opening of the season, the commenters believe blue whale entanglements are likely to continue to occur because of the co-occurrence of blue whales and the California Dungeness crab pot fishery.

Response: NMFS does not assign M/SI to a particular fishery unless there is documented evidence that the fishery is responsible for the M/SI. We continue to use the information provided in the SARs for classifying fisheries on the LOF.

We appreciate the reference to analysis conducted by NMFS regarding the co-occurrence of whales and fixed fishing gear along the U.S. West Coast (Saez *et al.*, 2013). However, management of commercial and recreational fisheries are outside the scope of the LOF.

Comment 10: A commenter recommends using permitting data and fisheries self-reported fishing activity data as a more effective way to track the estimated number of vessels/persons in the American Samoa bottomfish handline fishery.

Response: There are no Federal permitting requirements for the bottomfish handline fishery in American Samoa. The number of fishers was estimated by using the average number of fishers per trip multiplied by the number of trips per day times the numbers of dates in the

calendar year by gear type; the total was a combination of weekend and weekday stratum estimates. This method can be found in the most recent Annual Stock Assessment and Fishery Evaluation Report for American Samoa (WPRFMC, 2017). The current method provides the most accurate means of estimating participation given available data.

Comment 11: With respect to NMFS' proposal to remove the Main Hawaiian Islands (MHI) Insular stock of false killer whales from the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery, the HLA supports the proposal while the Commission does not support the proposal.

The Commission notes that although no interactions were definitively attributed to MHI Insular false killer whales during the timeframe for the 2019 LOF, the 2017 SAR for the Hawaii false killer complex indicated that there was a small probability of the fishery interacting with MHI Insular false killer whales in 2011 and 2012. The Commission also notes that small numbers of interactions between MHI Insular false killer whales and the deep-set longline fishery may have occurred in the last 12 years (NMFS SARs 2012-2017) and rare events, such as interactions between the deep-set longline fishery and the MHI Insular stock, can go undetected for years, especially when observer coverage is low. The Commission also notes that three interactions within or close to the known range of the MHI Insular stock were documented in 2018 (data presented to the False Killer Whale Take Reduction Team) and field observations of MHI Insular false killer whales continue to document 'line' scars that are consistent with injuries sustained through interaction with longline gear, some of which could have been from the deep-set longline fishery. Therefore, the Commission recommends that NMFS retain MHI Insular

false killer whales on the list of stocks incidentally killed or injured in the deep-set longline fishery.

Response: In the proposed LOF for 2019, NMFS proposed removing MHI Insular false killer whales from the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery, primarily because no mortality or serious injuries from the insular stock had been observed from 2013 through 2017, according to the 2017 SAR. In those five years, only six false killer whale mortalities and serious injuries were observed inside the exclusive economic zone (EEZ).

However, between February 8, 2018, and January 15, 2019, six additional false killer whale mortality and serious injuries have been observed inside the EEZ. Three of these mortalities and serious injuries occurred close to the outer boundary of the Main Hawaiian Islands Longline Fishing Prohibited Area, in close proximity to the outer boundary of the MHI Insular false killer whale stocks' range. While the interactions occurred within the pelagic stock boundary, the interactions have not yet been evaluated for assignment to insular or pelagic stocks in the SAR. The recent occurrence of three mortalities and serious injuries over a relatively short time period near the outer range of the insular stock has led us to reconsider our proposal to remove the insular stock from the list of stocks incidentally killed or injured by the deep-set longline fishery prior to SAR evaluation.

As noted in the section of the LOF proposed rule describing how NMFS determines which species or stocks are included as incidentally killed or injured in a fishery, for fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (e.g., fishery has evidence of fisheries interactions

that cannot be attributed to a specific fishery and stranding network data include evidence of fisheries interactions that cannot be attributed to a specific fishery), stocks may be retained for longer than five years. For these fisheries, NMFS will review the other sources of relevant information to determine when it is appropriate to remove a species or stock.

The MHI Insular false killer whale's range overlaps with areas that are open to deep-set longline fishing and MHI Insular false killer whales have been documented with injuries consistent with fisheries interactions that have not been attributed to a specific fishery (Baird *et al.*, 2014). Although the SARs are based on the best available scientific information and provide the most current and inclusive information on each stock, including range, abundance, PBR, and level of interaction with commercial fishing operations, NMFS also reviews other sources of information, including injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, and anecdotal reports from that time period. The six recent observed false killer whale mortalities and serious injuries that occurred in 2018 and 2019, including three near the outer boundary of the insular false killer whale's range, have not yet been incorporated in the SARs. These 2018 and 2019 false killer whale mortalities and serious injuries will be more fully evaluated in future SARs. Nevertheless, these interactions are relevant information that persuade us to maintain the insular false killer whale stock in the LOF at this time, pending a full analysis of these interactions in a future SAR. For the above reasons, NMFS has decided to retain the MHI Insular false killer whale stock on the list of species and/or stocks killed or injured incidental to the HI deep-set longline fishery.

Comment 12: The HLA restates a previous comment that the Hawaii deep-set longline fishery does not interact with the Northwestern Hawaiian Islands (NWHI) stock of false killer

whales. HLA notes that (a) the False Killer Whale Take Reduction Plan closed the deep-set longline fishery for almost the entire range of the MHI insular and NWHI stocks, (b) since this change was made in 2013 there have been no interactions between the fishery and an animal from either stock, and (c) there has never been a deep-set longline fishery interaction in the very small area of the stocks' respective ranges that are not closed to longline fishing. HLA requests that NMFS remove these the NWHI stock of false killer whales from the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Response: This comment has been addressed previously (see 78 FR 53336, August 29, 2013, comment 11; 79 FR 14418, March 14, 2014, comment 4; 79 FR 77919, December 29, 2014, comment 2; 81 FR 20550, April 8, 2016, comment 5; and 83 FR 5349, February 7, 2018, comment 21). NMFS determines which species or stocks are included as incidentally killed or injured in a fishery by annually reviewing the information presented in the current SARs, among other relevant sources. The SARs are based on the best available scientific information and provide information on each stock, including range, abundance, PBR, and level of interaction with commercial fishing operations.

The 2019 LOF is based on the 2017 SARs, which report fishery interactions from 2011-2015; this is the best scientific and commercial information available for the time period examined. As reported in the 2017 SAR, nine false killer whales were taken in the deep-set longline fishery within the Hawaiian EEZ between 2011 and 2015, two occurred within the pelagic-NWHI overlap zone. Applying the proration methods described in detail in the 2017 SAR for takes in overlap zones, NMFS estimates a five-year average mortality and serious injury level of 0.4 NWHI false killer whales per year incidental to the Hawaii-based deep-set longline

fishery from 2011-2015 (Carretta *et al.*, 2018). NMFS retained the NWHI stock of false killer whales on the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Comment 13: HLA recommends NMFS reclassify the Hawaii shallow-set longline fishery as a Category III fishery. HLA notes that the Hawaii shallow-set longline fishery has 100% observer coverage and only one serious injury has been observed in the EEZ since 2008. HLA states the 2017 SAR attributes a 0.1 M/SI to the shallow-set longline fishery for the pelagic stock of false killer whales in the U.S. EEZ. However, the 0.1 M/SI rate is derived entirely from a 2012 interaction that NMFS was unable to make a serious injury determination and was given a cannot be determined (CBD) determination. This CBD was then prorated as 0.3 M/SI because, in the previous five years, there were three interactions between the shallow-set longline fishery and the pelagic false killer whale stock in the EEZ. HLA believes if the 2012 CBD interaction is prorated based upon the five-year look-back period used in the 2017 SAR (2011-2015), then the M/SI rate would be 0.0 because there were only two other interactions from 2011-2015, both of which were determined to be non-serious. Therefore, HLA recommends the shallow-set longline fishery should be reclassified as a Category III fishery.

Response: This comment has been addressed previously (see 83 FR 5349, February 7, 2018, comment 26). NMFS uses the classification criteria described in the preamble to classify fisheries as Category I, Category II, or Category III. A fishery is classified under Category II if the annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the stock's PBR level. Additional details regarding categorization of fisheries is provided in the preamble to the final rule implementing section 118 of the MMPA

(60 FR 45086; August 30, 1995). The false killer whale interaction in 2012 that resulted in a “CBD” determination was prorated following the methods described in the 2016 SAR (Carretta *et al.*, 2017), which prorates serious versus non-serious injuries using the historic rate of serious injury while accounting for changes in gear following implementation of the False Killer Whale Take Reduction Plan in 2013. This proration resulted in a 0.3 M/SI for the pelagic false killer whale stock as reported in the 2016 SAR, which is 1.07 percent of PBR and within the range of 1–50 percent of PBR, requiring NMFS to classify the fishery as a Category II fishery consistent with section 118 of the MMPA.

Comment 14: HLA restates a previous comment opposing the inclusion of the Hawaii stock of *Kogia* species (Hawaii) on the list of species and/or stocks incidentally killed or injured in the Hawaii deep-set longline fishery. HLA requests that NMFS remove *Kogia* species from the list of species and/or stocks incidentally killed or injured in the deep-set longline fishery, because the 2017 SAR does not identify any observed interactions between either of the Hawaii *Kogia* stocks and the deep-set longline fishery.

Response: Although the 2013 SAR does not include observed interactions with Hawaii pygmy whales and dwarf sperm whales, a *Kogia* spp. M/SI was observed in the Hawaii deep-set longline fishery on February 25, 2014, resulting in a serious injury (Carretta *et al.*, 2017a). The 2017 SAR did not include updates to *Kogia* spp.; NMFS plans to update the *Kogia* spp. stock assessment in the 2018 SAR.

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

Comment 15: Lund's Fisheries and The Town Dock note the longfin small mesh bottom trawl squid fishery is included on the LOF in both of the Category II Northeast and mid-Atlantic

bottom trawl fisheries. In 2018, the Marine Stewardship Council determined that the U.S. Northeastern Longfin Inshore Squid Small Mesh Bottom Trawl Fishery, harvested by small mesh bottom trawls in U.S. waters between the Gulf of Maine and Cape Hatteras, NC, was certified as a sustainable fishery. The commenters request NMFS conduct a tier analysis of long-finned pilot whale mortality and serious injury in the small mesh and large mesh bottom trawl fisheries and consider classifying the small mesh and large mesh bottom trawl fisheries as separate fisheries on the LOF.

Response: NMFS received the request for an updated assessment for long-finned pilot whales and the subsequent request to use this information for analyses under the LOF, including splitting the bottom trawl fishery based on mesh size. At this time, we are unable to provide an update to the LOF classifications impacted by long-finned pilot whale bycatch without further information about pilot whale abundance in Canada. Updated Canadian stock assessments are currently being calculated and are expected in 2019. Future SARs will include updates to the pilot whale assessments as information becomes available.

Comment 16: The Commission does not agree with NMFS' proposal to remove the Western North Atlantic stock of gray seals from the list of species and/or stocks incidentally killed or injured in the Category II mid-Atlantic mid-water trawl fishery. The Commission recommends NMFS retain the Western North Atlantic stock of gray seals on the list of species and/or stocks incidentally killed or injured because NMFS' guidelines allow it to keep a stock with no deaths or injuries within the LOF timeframe on the list if there was no observer coverage of the fishery, or if there is evidence to suggest that undocumented interactions are occurring. Although there was observer coverage of the mid-Atlantic mid-water trawl fishery during the

2019 LOF timeframe, that coverage was nominal – just 2 to 6 percent. As previously noted by the Commission, rare mortality or serious injury events can be missed for several years, especially when observer coverage is extremely low. The Commission also notes the 2018 draft SAR for Western North Atlantic gray seals documented continued strandings within the range of the mid-Atlantic mid-water trawl fishery, and some of these stranding had signs of fisheries interactions. Therefore, the Commission recommends that NMFS retain Western North Atlantic gray seals on the list of stocks incidentally killed or injured in the mid-Atlantic mid-water trawl fishery.

Response: In general, species are listed as incidentally killed or injured in a particular fishery based on data observed from the last five years. The list contained in the LOF is not intended to serve as a historical overview of takes as that data is available in individual species SARs as well as Appendix III.

From 2011-2015, no mortalities or injuries of gray seals were observed or reported in the mid-Atlantic mid-water trawl fishery (Hayes *et al.*, 2018). During this time-frame, the estimated percent observer coverage (trips) for the mid-Atlantic midwater trawl fishery was 41, 21, 7, 5, and 3%, respectively. Observer coverage includes both observers and at-sea monitors and averages 15.8% from 2011-2015. While strandings may occur in areas that overlap with the range of the mid-Atlantic mid-water trawl fishery, there are also several other fisheries that operate in this area. There is no evidence to support that these strandings were caused by the mid-Atlantic mid-water trawl fishery specifically. The removal of the Western North Atlantic stock of gray seals from the list of species incidentally killed or injured (Table 2) in this fishery does not impact the categorization of the fisheries in question as other species taken are driving

the current categorization. NMFS will annually monitor bycatch of marine mammals in the Mid-Atlantic Mid-water trawl fishery, and will make adjustments to Table 2 should takes occur again in the future. NMFS has removed the Western North Atlantic stock of gray seals from the list of species and/or stocks incidentally killed or injured in the Category II mid-Atlantic mid-water trawl fishery.

Comment 17: The MLA requests NMFS reclassify the Maine lobster fishery as a stand-alone fishery, instead of including the fishery as part of the broader Category I Northeast/mid-Atlantic American lobster pot fishery.

MLA notes that the Maine lobster fishery is the largest lobster fishery, representing 83 percent of U.S. American lobster landings (NOAA Commercial Fisheries Statistics), and data concerning the Maine lobster fishery's interaction with endangered large whales should be separated from that of other fishery regions with different levels of endangered large whale interactions. MLA states that in 2017, the state of Maine issued 5,900 lobster licenses. The majority (4,700) are small operations fishing seasonally from May through November within state waters.

MLA notes the 2018 draft North Atlantic right whale SAR identifies 28 individual serious injury and mortality cases from 2012 to 2016. Of these cases, two were attributed to the Canadian snow crab fishery, one to a U.S. trap/pot fishery and one to an unknown U.S. fishery where no gear was recovered. The gear in the other 24 cases could not be attributed to a particular fishery or country and nine had no gear present at all.

MLA states that based on NMFS entanglement records from 2000 to 2018, there has been only one right whale (#3120) confirmed entangled in Maine gear in April 2002 and the

entanglement did not result in a mortality or serious injury. The only other record of Maine gear listed in the NMFS entanglement database relates to right whale #3146. However, the Maine lobster gear was a minor portion of a large gear ball the whale had been carrying and was not the primary entanglement.

MLA believes that based on recent data showing a shift in right whale distribution away from the Gulf of Maine, and lack of data on interactions between Maine lobster gear and right whales, NMFS should list the Maine state waters lobster fishery as a Category III fishery, and the Maine Federal waters lobster fishery as a Category II fishery.

Response: Entanglement in trap/pot gear is one of the largest threats that North Atlantic large whales face and attributing gear from entanglement events to a specific fishery and geographic location is difficult. The long distances the whales travel and transport gear before being sighted; rarity of actually sighting an entangled whale compared to the estimated entanglement rates; lack of adequate observer coverage on trap/pot fisheries, particularly state trap/pot fisheries; challenges in recovering gear if a whale is disentangled; and low likelihood that recovered gear is marked with an adequate location identifier all complicate our ability to identify discrete locations where entanglements occur.

The Atlantic Large Whale Take Reduction Team (Team) has spent many meetings and years grappling with this problem. NMFS introduced the concept of gear marking in 1998 under the Atlantic Large Whale Take Reduction Plan (Plan). The gear marking strategy has been continually updated over the past two decades, with the more recent refinements being added in 2015 to continue helping determine where the highest risk of entanglement occurs. However, despite the current gear marking requirements, recovering gear entangling whales that possesses

gear marks has remained low. This may indicate that whales are becoming entangled in areas where gear marking is not currently required or that the current gear marking strategy is inadequate to determine the spatial risk of where entanglements occur. Through the Team process, we are exploring additional ways to continue refining gear marking to help address these important questions.

While recovering marked gear from entangled large whales is rare, there were three documented cases between 2011-2016 where gear was recovered from disentangled North Atlantic right whales that were marked with red markings. Under the Plan gear marking requirements, this red marking represents the Northern Inshore State Waters and Northern Nearshore trap/pot Atlantic Large Whale Take Reduction Plan management areas, which includes areas where Maine lobstermen fish. Specifically, both areas are large and incorporate waters off Massachusetts, New Hampshire; and offshore. Both areas also overlap Maine state waters and Federal waters where Maine lobstermen operate. The specific trap/pot gear from two of these entanglements could not be identified. However, gear from one of the entanglement events (the 2016 event) with red markings was identified as lobster gear. With increased gear marking in the future, we will be better able to determine if fisheries in specific geographic areas should be reviewed for changes to categorization on the LOF. We commend the state of Maine for pursuing additional gear marking independent of the Team process. Additionally, if Maine state and Federal fisheries implement gear modifications to eliminate risk to large whales, such as vertical lineless technologies, we would evaluate that fishing gear according to the level of risk posed to marine mammals especially if it that risk is different from traditional fishing gear.

Comment 18: CBD, HSUS and WDC request NMFS consider the impacts of the mid-Atlantic gillnet fishery on the endangered North Atlantic right whale, because there is a clear analog in the mid-Atlantic to risk that is well known in the Northeast. The commenters recommend adding the North Atlantic right whale to the list of stocks incidentally killed or injured in the mid-Atlantic gillnet fishery.

The commenters note that survey data, as well as opportunistic sightings and stranding data, suggest that right whales use the waters south of Nantucket and Martha's Vineyard year-round. According to the Northeast Fisheries Management Council, these waters are also a high use area for gillnet and pot/trap fisheries. CBD, HSUS and WDC note right whales are known to interact with gillnet fisheries and appear to do so disproportionately to other gear types. For example, 33 percent (8/24) of the right whale entanglement cases documented between 2010 and 2013 were in gear consistent with the gillnet fishery.

CBD, HSUS and WDC also note the distribution of right whales has dramatically shifted since 2010, likely in response to changes in climate and prey availability. As a result, it would appear that right whales' year-round use of the potentially productive waters in the mid-Atlantic is likely to increase and, as a result, so will their risk of entanglement in gillnets in the area. This increased risk to right whales should be considered in the categorization of the mid-Atlantic gillnet fishery.

Response: The mid-Atlantic gillnet fishery is listed as a Category I fishery in the 2019 LOF. The list of species and/or stocks incidentally killed or injured in the mid-Atlantic gillnet fishery includes those species the fishery has killed/injured during the last five years. The North Atlantic right whale is not included in this list because we do not have information that links this

fishery to an entangled right whale from 2011-2015 (Hayes *et al.*, 2018). As previously stated, Table 2 does not serve as a historical reference of takes within a fishery or serve as an inclusive list for potential risk a fishery poses to species.

Between 2011-2015, there were two North Atlantic right whale entanglements in gillnet gear where the specific fishery and location of the entanglement could not be identified. In this timeframe, there were an additional 22 entanglements where the entangling gear and location could not be identified. Because North Atlantic right whales entanglements have been documented in unidentified gillnet gear, we acknowledge that gillnets throughout the range pose a threat of entanglement or serious injury to this species, especially given the level of uncertainty regarding where large whale entanglements occurs. We recognize this risk by including this fishery in management efforts associated with the Atlantic Large Whale Take Reduction Team and Plan (see Table 4).

Comment 19: CBD, HSUS and WDC support adding the northern Gulf of Mexico stock of sperm whales to the list of species and/or stocks incidentally killed or injured in the Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery and recommends adding a reference in the LOF to support this change.

Response: NMFS has added the northern Gulf of Mexico stock of sperm whales to the list of species and/or stocks incidentally killed or injured in the Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery as proposed. Additional information about the northern Gulf of Mexico sperm whale entanglement in the pelagic longline fishery is available in NOAA Technical Memorandum, NOAA NMFS-SEFSC-709 (Garrison and Stokes, 2017).

Comments on Aquaculture

Comment 20: In response to NMFS' request for information on existing and anticipated gear types used for coastal and offshore aquaculture facilities, CBD, HSUS and WDC provided information on finfish, longline, marine algae and shellfish aquaculture. CBD, HSUS and WDC commented on the risk of cetacean entanglements in fish pens, longline aquaculture, marine algae culture and shellfish aquaculture fixed gear.

CBD, HSUS and WDC noted two humpback whales were entangled in a single Canadian aquaculture array in 2016. Both whales were reportedly entangled in the array's anchorage system with at least one of the whales dying as a result of the entanglement. In addition, an endangered North Pacific right whale was found seriously entangled in a shellfish aquaculture array in Korea.

Response: NMFS thanks the commenters for providing this information on various aquaculture operations and will review and consider it in future LOFs.

Summary of Changes from the Proposed Rule

NMFS retains the MHI Insular stock of false killer whales on the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery based on the overlap of the stock's range with HI deep-set longline fishing operations and the documentation of MHI Insular false killer whale injuries consistent with fisheries interactions that have not been attributed to a specific fishery.

Summary of Changes to the LOF for 2019

The following summarizes changes to the LOF for 2019, including the estimated number of vessels/persons in a particular fishery, and the species and/or stocks that are incidentally killed or injured in a particular fishery. The classifications and definitions of U.S. commercial fisheries

for 2019 are identical to those provided in the LOF for 2018. State and regional abbreviations used in the following paragraphs include: AK (Alaska), BSAI (Bering Sea and Aleutian Islands), CA (California), DE (Delaware), FL (Florida), GOA (Gulf of Alaska), GMX (Gulf of Mexico), HI (Hawaii), MA (Massachusetts), ME (Maine), NC (North Carolina), NY (New York), OR (Oregon), RI (Rhode Island), SC (South Carolina), VA (Virginia), WA (Washington), and WNA (Western North Atlantic).

Commercial Fisheries in the Pacific Ocean

Fishery Name and Organizational Changes and Clarification

NMFS adds a superscript “1” to the CA/OR/WA stock of short-finned pilot whale to indicate it is driving the Category II classification of the CA thresher shark/swordfish drift gillnet (≥ 14 inch (in) mesh).

Number of Vessels/Persons

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

Category I

- HI deep-set longline fishery from 143 to 142 vessels/persons

Category II

- HI shallow-set longline fishery from 22 to 13 vessels/person
- American Samoa longline fishery from 18 to 20 vessels/persons

Category III

- American Samoa bottomfish handline from 17 to 1092 vessels/person.

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

NMFS adds the Hawaii stock of rough-toothed dolphin to the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

NMFS adds the Western North Pacific and Central North Pacific humpback whale stocks to the list of species and/or stocks incidentally killed or injured in the Category II AK Kodiak salmon set gillnet fishery.

NMFS adds the Eastern Chukchi Sea, Eastern Bering Sea, and Bristol Bay stocks of beluga whale to the list of species and/or stocks incidentally killed or injured in the Category II AK Bering Sea, Aleutian Islands pollock trawl fishery.

NMFS adds the southern sea otter to the list of species and/or stocks incidentally killed or injured in the Category II CA spiny lobster fishery.

NMFS adds the Eastern North Pacific stock of blue whales to the list of species and/or stocks incidentally killed or injured in the Category II CA Dungeness crab pot fishery. In addition, NMFS adds a superscript "1" to the stock to indicate it is driving the classification of the fishery.

NMFS adds the Eastern North Pacific AK resident stock of killer whale and AK spotted seal to the list of species and/or stocks incidentally killed or injured in the Category II AK Bering Sea, Aleutian Islands Pacific cod longline fishery.

NMFS adds the Western U.S. stock of Steller sea lion to the list of species and/or stocks incidentally killed or injured in the Category II AK Gulf of Alaska sablefish longline fishery.

NMFS adds the Central North Pacific stock of humpback whale to the list of species and/or stocks incidentally killed or injured in the Category III AK Prince William Sound salmon set gillnet fishery.

NMFS adds the Western North Pacific stock of humpback whale to the list of species and/or stocks incidentally killed or injured in the Category III AK Kodiak salmon purse seine fishery.

NMFS adds the Central North Pacific stock of humpback whale to the list of species and/or stocks incidentally killed or injured in the Category III AK Southeast salmon purse seine fishery.

NMFS adds the Eastern Pacific stock of northern fur seal and North Pacific stock of sperm whale to the list of species and/or stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Islands halibut longline fishery.

NMFS adds the AK stock of bearded seal to the list of species and/or stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Islands Pacific cod trawl fishery.

NMFS adds the AK stock of harbor seal and Western U.S. stock of Steller sea lion to the list of species and/or stocks incidentally killed or injured in the Category III AK Gulf of Alaska flatfish trawl fishery.

NMFS adds the AK stock of harbor seal to the list of species and/or stocks incidentally killed or injured in the Category III AK Gulf of Alaska Pacific cod trawl fishery.

NMFS adds the Western U.S. stock of Steller sea lion to the list of species and/or stocks incidentally killed or injured in the Category III AK Gulf of Alaska rockfish trawl fishery.

NMFS adds the Western Arctic stock of bowhead whale to the list of species and/or stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Islands crab pot fishery.

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

Fishery Name and Organizational Changes and Clarification

NMFS removes the superscript “1” from the Northern migratory coastal stock of bottlenose dolphin to indicate this stock is no longer driving the Category I classification of the Mid-Atlantic gillnet fishery.

NMFS removes the superscript “1” from the Gulf of Maine stock of harbor porpoise to indicate this stock is no longer driving the Category I classification of the Northeast sink gillnet fishery.

NMFS adds a superscript “1” to the Western North Atlantic offshore stock of bottlenose dolphin to indicate it is driving the Category II classification of the Mid-Atlantic bottom trawl fishery.

NMFS adds a superscript “1” to the Southern migratory coastal stock of bottlenose dolphin to indicate it is driving the Category II classification of the Atlantic blue crab trap/pot fishery.

NMFS adds a superscript “1” to the Gulf of Mexico Northern Coastal stock of bottlenose dolphin to indicate it is driving the Category II classification of the Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery.

Number of Vessels/Persons

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

Category I

- Northeast sink gillnet fishery from 4,332 to 3,163 vessels/persons
- Northeast/Mid-Atlantic American lobster trap/pot fishery from 10,163 to 8,485

vessels/persons

Category II

- Mid-Atlantic mid-water trawl (including pair trawl) fishery from 382 to 320 vessels/persons
- Mid-Atlantic bottom trawl fishery from 785 to 633 vessels/persons
- Northeast mid-water trawl (including pair trawl) fishery from 1,087 to 542 vessels/persons

Category III

- Atlantic mixed species trap/pot fishery from 3,436 to 3,332 vessels/persons.

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

NMFS removes the WNA stock of harp seal from the stocks listed as incidentally killed or injured in the Category I Mid-Atlantic gillnet fishery.

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

NMFS adds the Gulf of Mexico Eastern Coastal stock of bottlenose dolphin to the list of species and/or stocks incidentally killed or injured in the Category II Gulf of Mexico gillnet fishery.

NMFS removes the WNA stock of gray seal from the stocks listed as incidentally killed or injured in the Category II Mid-Atlantic mid-water trawl fishery.

NMFS removes the Canadian east coast stock of minke whale from the stocks listed as incidentally killed or injured in the Category II Northeast mid-water trawl fishery.

NMFS adds two stocks of bottlenose dolphins to the list species and/or stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery, including: (1) Mobile Bay, Bonsecour Bay; and (2) Mississippi River Delta.

NMFS removes the WNA stock of gray seal from the stocks listed as incidentally killed or injured in the Category III Gulf of Maine Atlantic herring purse seine fishery.

NMFS removes two stocks of pilot whales from the list of species and/or stocks incidentally killed or injured in the Category III U.S. Atlantic tuna purse seine fishery, including: (1) WNA stock of long-finned pilot whale; and (2) WNA stock of short-finned pilot whale.

Commercial Fisheries on the High Seas

Number of Vessels/Persons

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

Category I

- Atlantic highly migratory species longline fishery from 79 to 67 vessels/persons
- Western Pacific pelagic longline (HI deep-set component) fishery from 143 to 142 vessels/persons

Category II

- Pacific highly migratory species drift gillnet fishery from 4 to 6 vessels/persons
- Atlantic highly migratory species trawl fishery from 2 to 1 vessels/persons

- South Pacific tuna purse seine fishery from 35 to 38 vessels/persons
- South Pacific albacore troll longline fishery from 9 to 11 vessels/persons
- South Pacific tuna longline fishery from 4 to 3 vessels/persons
- Western Pacific pelagic longline (HI shallow-set component) fishery from 22 to 13 vessels/persons
- Pacific highly migratory species handline/pole and line fishery from 42 to 48 vessels/persons
- South Pacific albacore troll handline/pole and line fishery from 11 to 15 vessels/persons
- Western Pacific pelagic handline/pole and line fishery from 5 to 6 vessels/persons
- South Pacific albacore troll fishery from 22 to 24 vessels/persons
- South Pacific tuna troll fishery from 4 to 3 vessels/persons

Category III

- Northwest Atlantic bottom longline fishery from 1 to 2 vessels/persons
- Pacific highly migratory species longline fishery from 105 to 128 vessels/persons
- Pacific highly migratory species purse seine fishery from 7 to 10 vessels/persons
- Northwest Atlantic trawl fishery from 2 to 4 vessels/persons
- Pacific highly migratory species troll fishery from 149 to 150 vessels/persons

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

NMFS adds the Hawaii stock of fin whale, Guadalupe fur seal and unknown stock of Mesoplodon species to the list of species and/or stocks incidentally killed or injured in the Category II Western Pacific Pelagic (HI shallow-set component) longline fishery.

Fisheries affected by Take Reduction Teams and Plans

NMFS corrects an administrative error in Table 4. Under “affected fisheries” for the Pacific Offshore Cetacean Take Reduction Plan, NMFS updates the CA thresher shark/swordfish drift gillnet (≥ 14 in mesh) from Category I to Category II. This fishery was reclassified in the 2018 LOF (83 FR 5349, February 7, 2018), but the change was not reflected in Table 4.

List of Fisheries

The following tables set forth the list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska), Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean, Table 3 lists commercial fisheries on the high seas, and Table 4 lists fisheries affected by TRPs or TRTs.

In Tables 1 and 2, the estimated number of vessels or persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels or persons in the fishery. NMFS acknowledges that, in some cases, these estimates may be inflations of actual effort. For example, the State of Hawaii does not issue fishery-specific licenses, and the number of participants reported in the LOF represents the number of commercial marine license holders who reported using a particular fishing gear type/method at least once in a given year, without considering how many times the gear was used. For these fisheries, effort by a single participant

is counted the same whether the fisherman used the gear only once or every day. In the Mid-Atlantic and New England fisheries, the numbers represent the potential effort for each fishery, given the multiple gear types for which several state permits may allow. Changes made to Mid-Atlantic and New England fishery participants will not affect observer coverage or bycatch estimates, as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Tables 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal). If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be updated to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, contact the relevant regional office (contact information included above in **SUPPLEMENTARY INFORMATION**).

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

Tables 1, 2, and 3 also list the marine mammal species and/or stocks incidentally killed or injured (seriously or non-seriously) in each fishery based on SARs, injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network

data, fishermen self-reports (*i.e.*, MMPA reports), and anecdotal reports. The best available scientific information included in these reports is based on data through 2015. This list includes all species and/or stocks known to be killed or injured in a given fishery but also includes species and/or stocks for which there are anecdotal records of a mortality or injury. Additionally, species identified by logbook entries, stranding data, or fishermen self-reports (*i.e.*, MMPA reports) may not be verified. In Tables 1 and 2, NMFS has designated those species/stocks driving a fishery's classification (*i.e.*, the fishery is classified based on mortalities and serious injuries of a marine mammal stock that are greater than or equal to 50 percent (Category I), or greater than 1 percent and less than 50 percent (Category II), of a stock's PBR) by a "1" after the stock's name.

In Tables 1 and 2, there are several fisheries classified as Category II that have no recent documented mortalities or serious injuries of marine mammals, or fisheries that did not result in a mortality or serious injury rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063; December 28, 1995), and according to factors listed in the definition of a "Category II fishery" in 50 CFR 229.2 (*i.e.*, fishing techniques, gear types, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fishermen reports, stranding data, and the species and distribution of marine mammals in the area). NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by a "2" after the fishery's name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the exclusive economic zone (EEZ) boundary and therefore operate both within U.S.

waters and on the high seas. These fisheries, though listed separately between Table 1 or 2 and Table 3, are considered the same fisheries on either side of the EEZ boundary. NMFS has designated those fisheries in each table by a "*" after the fishery's name.

Table 1 - List of Fisheries -- Commercial Fisheries in the Pacific Ocean

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
<u>LONGLINE/SET LINE FISHERIES:</u>		
HI deep-set longline * ^	142	Bottlenose dolphin, HI Pelagic False killer whale, MHI Insular ¹ False killer whale, HI Pelagic ¹ False killer whale, NWHI Humpback whale, Central North Pacific Kogia spp. (Pygmy or dwarf sperm whale), HI Pygmy killer whale, HI Risso's dolphin, HI Rough-toothed dolphin, HI Short-finned pilot whale, HI Sperm whale, HI Striped dolphin, HI
CATEGORY II		
<u>GILLNET FISHERIES:</u>		
CA thresher shark/swordfish drift gillnet (≥14 in mesh) *	18	Bottlenose dolphin, CA/OR/WA offshore California sea lion, U.S. Dall's porpoise, CA/OR/WA Humpback whale, CA/OR/WA Long-beaked common dolphin, CA Minke whale, CA/OR/WA Northern elephant seal, CA breeding Northern right-whale dolphin, CA/OR/WA Pacific white-sided dolphin, CA/OR/WA Risso's dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA Short-finned pilot whale, CA/OR/WA ¹ Sperm Whale, CA/OR/WA ¹
CA halibut/white seabass and other species set gillnet (>3.5 in mesh)	50	California sea lion, U.S. Harbor seal, CA Humpback whale, CA/OR/WA ¹ Long-beaked common dolphin, CA Northern elephant seal, CA breeding Sea otter, CA Short-beaked common dolphin, CA/OR/WA
CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and <14 in) ²	30	California sea lion, U.S. Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
AK Bristol Bay salmon drift gillnet ²	1,862	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Spotted seal, AK Steller sea lion, Western U.S.
AK Bristol Bay salmon set gillnet ²	979	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Spotted seal, AK
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA ¹ Harbor seal, GOA Humpback whale, Central North Pacific Humpback whale, Western North Pacific Sea otter, Southwest AK Steller sea lion, Western U.S.
AK Cook Inlet salmon set gillnet	736	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Humpback whale, Central North Pacific ¹ Sea otter, South central AK Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	569	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA ¹ Harbor seal, GOA Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet ²	162	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific
AK Peninsula/Aleutian Islands salmon set gillnet ²	113	Harbor porpoise, Bering Sea Northern sea otter, Southwest AK Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	537	Dall's porpoise, AK Harbor porpoise, GOA ¹ Harbor seal, GOA Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Sea otter, South central AK Steller sea lion, Western U.S. ¹

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
AK Southeast salmon drift gillnet	474	Dall's porpoise, AK Harbor porpoise, Southeast AK Harbor seal, Southeast AK Humpback whale, Central North Pacific ¹ Pacific white-sided dolphin, North Pacific Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet ²	168	Gray whale, Eastern North Pacific Harbor Porpoise, Southeastern AK Harbor seal, Southeast AK Humpback whale, Central North Pacific (Southeast AK)
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded)	210	Dall's porpoise, CA/OR/WA Harbor porpoise, inland WA ¹ Harbor seal, WA inland
<u>TRAWL FISHERIES:</u>		
AK Bering Sea, Aleutian Islands flatfish trawl	32	Bearded seal, AK Gray whale, Eastern North Pacific Harbor porpoise, Bering Sea Harbor seal, Bering Sea Humpback whale, Western North Pacific ¹ Killer whale, AK resident ¹ Killer whale, GOA, AI, BS transient ¹ Northern fur seal, Eastern Pacific Ringed seal, AK Ribbon seal, AK Spotted seal, AK Steller sea lion, Western U.S. ¹ Walrus, AK
AK Bering Sea, Aleutian Islands pollock trawl	102	Bearded Seal, AK Beluga whale, Bristol Bay Beluga whale, Eastern Bering Sea Beluga whale, Eastern Chukchi Sea Dall's porpoise, AK Harbor seal, AK Humpback whale, Central North Pacific Humpback whale, Western North Pacific Northern fur seal, Eastern Pacific Ribbon seal, AK Ringed seal, AK Spotted seal, AK Steller sea lion, Western U.S. ¹
AK Bering Sea, Aleutian Islands rockfish trawl	17	Killer whale, ENP AK resident ¹ Killer whale, GOA, AI, BS transient ¹
<u>POT, RING NET, AND TRAP FISHERIES:</u>		

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
CA spiny lobster	194	Bottlenose dolphin, CA/OR/WA offshore Humpback whale, CA/OR/WA ¹ Gray whale, Eastern North Pacific Southern sea otter
CA spot prawn pot	25	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA ¹
CA Dungeness crab pot	570	Blue whale, Eastern North Pacific ¹ Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA ¹
OR Dungeness crab pot	433	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA ¹
WA/OR/CA sablefish pot	309	Humpback whale, CA/OR/WA ¹
WA coastal Dungeness crab pot	228	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA ¹
<u>LONGLINE/SET LINE FISHERIES:</u>		
AK Bering Sea, Aleutian Islands Pacific cod longline	45	Dall's Porpoise, AK Killer whale, Eastern North Pacific AK resident Killer whale, GOA, BSAI transient ¹ Northern fur seal, Eastern Pacific Ringed seal, AK Spotted seal, AK
AK Gulf of Alaska sablefish longline	295	Sperm whale, North Pacific Steller sea lion, Western U.S.
HI shallow-set longline * ^	13	Blainville's beaked whale, HI Bottlenose dolphin, HI Pelagic False killer whale, HI Pelagic ¹ Humpback whale, Central North Pacific Risso's dolphin, HI Rough-toothed dolphin, HI Short-finned pilot whale, HI Striped dolphin, HI
American Samoa longline ²	20	Bottlenose dolphin, unknown Cuvier's beaked whale, unknown False killer whale, American Samoa Rough-toothed dolphin, American Samoa Short-finned pilot whale, unknown
HI shortline ²	9	None documented
CATEGORY III		
<u>GILLNET FISHERIES:</u>		

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	1,778	Harbor porpoise, Bering Sea
AK Prince William Sound salmon set gillnet	29	Harbor seal, GOA Humpback whale, Central North Pacific Sea otter, South central AK Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	920	None documented
CA set gillnet (mesh size <3.5 in)	296	None documented
HI inshore gillnet	36	Bottlenose dolphin, HI Spinner dolphin, HI
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing)	24	Harbor seal, OR/WA coast
WA/OR Mainstem Columbia River eulachon gillnet	15	None documented
WA/OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S. Harbor seal, OR/WA coast
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
<u>MISCELLANEOUS NET FISHERIES:</u>		
AK Cook Inlet salmon purse seine	83	Humpback whale, Central North Pacific
AK Kodiak salmon purse seine	376	Humpback whale, Central North Pacific Humpback whale, Western North Pacific
AK Southeast salmon purse seine	315	Humpback whale, Central North Pacific
AK Metlakatla salmon purse seine	10	None documented
AK roe herring and food/bait herring beach seine	10	None documented
AK roe herring and food/bait herring purse seine	356	None documented
AK salmon beach seine	31	None documented
AK salmon purse seine (Prince William Sound, Chignik, Alaska Peninsula)	936	Harbor seal, GOA Harbor seal, Prince William Sound
WA/OR sardine purse seine	42	None documented

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
CA anchovy, mackerel, sardine purse seine	65	California sea lion, U.S. Harbor seal, CA
CA squid purse seine	80	Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA
CA tuna purse seine *	10	None documented
WA/OR Lower Columbia River salmon seine	10	None documented
WA/OR herring, smelt, squid purse seine or lampara	130	None documented
WA salmon purse seine	75	None documented
WA salmon reef net	11	None documented
HI lift net	17	None documented
HI inshore purse seine	<3	None documented
HI throw net, cast net	23	None documented
HI seine net	24	None documented
<u>DIP NET FISHERIES:</u>		
CA squid dip net	115	None documented
<u>MARINE AQUACULTURE FISHERIES:</u>		
CA marine shellfish aquaculture	unknown	None documented
CA salmon enhancement rearing pen	>1	None documented
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented
WA salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
WA/OR shellfish aquaculture	23	None documented
<u>TROLL FISHERIES:</u>		
WA/OR/CA albacore surface hook and line/troll	705	None documented
CA halibut hook and line/handline	unknown	None documented
CA white seabass hook and line/handline	unknown	None documented

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
AK Bering Sea, Aleutian Islands groundfish hand troll and dinglebar troll	unknown	None documented
AK Gulf of Alaska groundfish hand troll and dinglebar troll	unknown	None documented
AK salmon troll	1,908	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	13	None documented
CA/OR/WA salmon troll	4,300	None documented
HI troll	2,117	Pantropical spotted dolphin, HI
HI rod and reel	322	None documented
Commonwealth of the Northern Mariana Islands tuna troll	40	None documented
Guam tuna troll	432	None documented
<u>LONGLINE/SET LINE FISHERIES:</u>		
AK Bering Sea, Aleutian Islands Greenland turbot longline	4	Killer whale, AK resident
AK Bering Sea, Aleutian Islands sablefish longline	22	None documented
AK Bering Sea, Aleutian Islands halibut longline	127	Northern fur seal, Eastern Pacific Sperm whale, North Pacific
AK Gulf of Alaska halibut longline	855	None documented
AK Gulf of Alaska Pacific cod longline	92	Steller sea lion, Western U.S.
AK octopus/squid longline	3	None documented
AK state-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish)	464	None documented
WA/OR/CA groundfish, bottomfish longline/set line	367	Bottlenose dolphin, CA/OR/WA offshore
WA/OR Pacific halibut longline	350	None documented
CA pelagic longline	1	None documented in the most recent five years of data
HI kaka line	15	None documented

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
HI vertical line	3	None documented
<u>TRAWL FISHERIES:</u>		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	13	Bearded seal, AK Ribbon seal, AK Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	72	Ringed seal, AK Steller sea lion, Western U.S.
AK Gulf of Alaska flatfish trawl	36	Harbor seal, AK Northern elephant seal, North Pacific Steller sea lion, Western U.S.
AK Gulf of Alaska Pacific cod trawl	55	Harbor seal, AK Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	67	Dall's porpoise, AK Fin whale, Northeast Pacific Northern elephant seal, North Pacific Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	43	Steller sea lion, Western U.S.
AK Kodiak food/bait herring otter trawl	4	None documented
AK shrimp otter trawl and beam trawl	38	None documented
AK state-managed waters of Prince William Sound groundfish trawl	2	None documented
CA halibut bottom trawl	47	California sea lion, U.S. Harbor porpoise, unknown Harbor seal, unknown Northern elephant seal, CA breeding Steller sea lion, unknown
CA sea cucumber trawl	16	None documented
WA/OR/CA shrimp trawl	300	None documented
WA/OR/CA groundfish trawl	160-180	California sea lion, U.S. Dall's porpoise, CA/OR/WA Harbor seal, OR/WA coast Northern fur seal, Eastern Pacific Pacific white-sided dolphin, CA/OR/WA Steller sea lion, Eastern U.S.
<u>POT, RING NET, AND TRAP FISHERIES:</u>		
AK Bering Sea, Aleutian Islands sablefish pot	6	None documented
AK Bering Sea, Aleutian Islands Pacific cod pot	59	None documented

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
AK Bering Sea, Aleutian Islands crab pot	540	Bowhead whale, Western Arctic Gray whale, Eastern North Pacific
AK Gulf of Alaska crab pot	271	None documented
AK Gulf of Alaska Pacific cod pot	116	Harbor seal, GOA
AK Gulf of Alaska sablefish pot	248	None documented
AK Southeast Alaska crab pot	375	Humpback whale, Central North Pacific (Southeast AK)
AK Southeast Alaska shrimp pot	99	Humpback whale, Central North Pacific (Southeast AK)
AK shrimp pot, except Southeast	141	None documented
AK octopus/squid pot	15	None documented
CA/OR coonstripe shrimp pot	36	Gray whale, Eastern North Pacific Harbor seal, CA
CA rock crab pot	124	Gray whale, Eastern North Pacific Harbor seal, CA
WA/OR/CA hagfish pot	54	None documented
WA/OR shrimp pot/trap	254	None documented
WA Puget Sound Dungeness crab pot/trap	249	None documented
HI crab trap	5	Humpback whale, Central North Pacific
HI fish trap	9	None documented
HI lobster trap	<3	None documented in recent years
HI shrimp trap	10	None documented
HI crab net	4	None documented
HI Kona crab loop net	33	None documented
<u>HOOK-AND-LINE, HANDLINE, AND JIG FISHERIES:</u>		
AK Bering Sea, Aleutian Islands groundfish jig	2	None documented
AK Gulf of Alaska groundfish jig	214	Fin whale, Northeast Pacific
AK halibut jig	71	None documented
American Samoa bottomfish	1092	None documented

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
Commonwealth of the Northern Mariana Islands bottomfish	28	None documented
Guam bottomfish	>300	None documented
HI aku boat, pole, and line	<3	None documented
HI bottomfish handline	578	None documented in recent years
HI inshore handline	357	None documented
HI pelagic handline	534	None documented
WA groundfish, bottomfish jig	679	None documented
Western Pacific squid jig	0	None documented
<u>HARPOON FISHERIES:</u>		
CA swordfish harpoon	6	None documented
<u>POUND NET/WEIR FISHERIES:</u>		
AK herring spawn on kelp pound net	291	None documented
AK Southeast herring roe/food/bait pound net	2	None documented
HI bullpen trap	3	None documented
<u>BAIT PENS:</u>		
WA/OR/CA bait pens	13	California sea lion, U.S.
<u>DREDGE FISHERIES:</u>		
AK scallop dredge	108 (5 AK)	None documented
<u>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</u>		
AK clam	130	None documented
AK Dungeness crab	2	None documented
AK herring spawn on kelp	266	None documented
AK miscellaneous invertebrates handpick	214	None documented
HI black coral diving	<3	None documented
HI fish pond	5	None documented

Fishery Description	Estimated # of vessels/ Persons	Marine mammal species and/or stocks incidentally killed or injured
HI handpick	46	None documented
HI lobster diving	19	None documented
HI spearfishing	163	None documented
WA/CA kelp	4	None documented
WA/OR bait shrimp, clam hand, dive, or mechanical collection	201	None documented
OR/CA sea urchin, sea cucumber hand, dive, or mechanical collection	10	None documented
<u>COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:</u>		
AK/WA/OR/CA commercial passenger fishing vessel	>7,000 (1,006 AK)	Killer whale, unknown Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
<u>LIVE FINFISH/SHELLFISH FISHERIES:</u>		
CA nearshore finfish live trap/hook-and-line	93	None documented
HI aquarium collecting	90	None documented

List of Abbreviations and Symbols Used in Table 1: AI - Aleutian Islands; AK - Alaska; BS - Bering Sea; CA - California; ENP - Eastern North Pacific; GOA - Gulf of Alaska; HI - Hawaii; MHI - Main Hawaiian Islands; OR - Oregon; WA - Washington; ¹ Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR; ² Fishery classified by analogy; * Fishery has an associated high seas component listed in Table 3; ^ The list of marine mammal species and/or stocks killed or injured in this fishery is identical to the list of species and/or stocks killed or injured in high seas component of the fishery, minus species and/or stocks that have geographic ranges exclusively on the high seas. The species and/or stocks are found, and the fishery remains the same, on both sides of the EEZ boundary. Therefore, the EEZ components of these fisheries pose the same risk to marine mammals as the components operating on the high seas.

Table 2 - List of Fisheries -- Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
<u>GILLNET FISHERIES:</u>		
Mid-Atlantic gillnet	3,950	Bottlenose dolphin, Northern Migratory coastal Bottlenose dolphin, Southern Migratory coastal ¹ Bottlenose dolphin, Northern NC estuarine system ¹ Bottlenose dolphin, Southern NC estuarine system ¹ Bottlenose dolphin, WNA offshore Common dolphin, WNA Gray seal, WNA Harbor porpoise, GME/BF Harbor seal, WNA Humpback whale, Gulf of Maine Minke whale, Canadian east coast
Northeast sink gillnet	3,163	Bottlenose dolphin, WNA offshore Common dolphin, WNA Fin whale, WNA Gray seal, WNA Harbor porpoise, GME/BF Harbor seal, WNA Harp seal, WNA Hooded seal, WNA Humpback whale, Gulf of Maine Long-finned pilot whale, WNA Minke whale, Canadian east coast North Atlantic right whale, WNA Risso's dolphin, WNA White-sided dolphin, WNA
<u>TRAP/POT FISHERIES:</u>		
Northeast/Mid-Atlantic American lobster trap/pot	8,485	Humpback whale, Gulf of Maine Minke whale, Canadian east coast North Atlantic right whale, WNA ¹
<u>LONGLINE FISHERIES:</u>		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline*	280	Atlantic spotted dolphin, Northern GMX Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA False killer whale, WNA Harbor porpoise, GME, BF Kogia spp. (Pygmy or dwarf sperm whale), WNA Long-finned pilot whale, WNA ¹ Mesoplodon beaked whale, WNA Minke whale, Canadian East coast Pantropical spotted dolphin, Northern GMX Pygmy sperm whale, GMX Risso's dolphin, Northern GMX Risso's dolphin, WNA Rough-toothed dolphin, Northern GMX Short-finned pilot whale, Northern GMX Short-finned pilot whale, WNA ¹ Sperm whale, Northern GMX
CATEGORY II		
<u>GILLNET FISHERIES:</u>		
Chesapeake Bay inshore gillnet ²	248	Bottlenose dolphin, unknown (Northern migratory coastal or Southern migratory coastal)
Gulf of Mexico gillnet ²	248	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, and estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal
NC inshore gillnet	2,850	Bottlenose dolphin, Northern NC estuarine system ¹ Bottlenose dolphin, Southern NC estuarine system ¹
Northeast anchored float gillnet ²	852	Harbor seal, WNA Humpback whale, Gulf of Maine White-sided dolphin, WNA
Northeast drift gillnet ²	1,036	None documented
Southeast Atlantic gillnet ²	273	Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Northern FL coastal Bottlenose dolphin, SC/GA coastal Bottlenose dolphin, Southern migratory coastal
Southeastern U.S. Atlantic shark gillnet	23	Bottlenose dolphin, unknown (Central FL, Northern FL, SC/GA coastal, or Southern migratory coastal) North Atlantic right whale, WNA
<u>TRAWL FISHERIES</u>		
Mid-Atlantic mid-water trawl (including	320	

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
pair trawl)		Harbor seal, WNA
Mid-Atlantic bottom trawl	633	Bottlenose dolphin, WNA offshore ¹ Common dolphin, WNA ¹ Gray seal, WNA Harbor seal, WNA Risso's dolphin, WNA ¹ White-sided dolphin, WNA
Northeast mid-water trawl (including pair trawl)	542	Common dolphin, WNA Gray seal, WNA Harbor seal, WNA Long-finned pilot whale, WNA ¹
Northeast bottom trawl	2,238	Bottlenose dolphin, WNA offshore Common dolphin, WNA Gray seal, WNA Harbor porpoise, GME/BF Harbor seal, WNA Harp seal, WNA Long-finned pilot whale, WNA Risso's dolphin, WNA White-sided dolphin, WNA ¹
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	4,950	Atlantic spotted dolphin, GMX continental and oceanic Bottlenose dolphin, Charleston estuarine system Bottlenose dolphin, Eastern GMX coastal ¹ Bottlenose dolphin, GMX bay, sound, estuarine ¹ Bottlenose dolphin, GMX continental shelf Bottlenose dolphin, Mississippi River Delta Bottlenose dolphin, Mobile Bay, Bonsecour Bay Bottlenose dolphin, Northern GMX coastal ¹ Bottlenose dolphin, SC/GA coastal ¹ Bottlenose dolphin, Southern migratory coastal Bottlenose dolphin, Western GMX coastal ¹ West Indian manatee, Florida
<u>TRAP/POT FISHERIES:</u>		
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot ²	1,384	Bottlenose dolphin, Biscayne Bay estuarine Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, FL Bay Bottlenose dolphin, GMX bay, sound, estuarine (FL west coast portion) Bottlenose dolphin, Indian River Lagoon estuarine system Bottlenose dolphin, Jacksonville estuarine system Bottlenose dolphin, Northern GMX coastal
Atlantic mixed species trap/pot ²	3,332	Fin whale, WNA Humpback whale, Gulf of Maine

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
Atlantic blue crab trap/pot	7,714	Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Central GA estuarine system Bottlenose dolphin, Charleston estuarine system ¹ Bottlenose dolphin, Indian River Lagoon estuarine system Bottlenose dolphin, Jacksonville estuarine system Bottlenose dolphin, Northern FL coastal ¹ Bottlenose dolphin, Northern GA/Southern SC estuarine system Bottlenose dolphin, Northern Migratory coastal Bottlenose dolphin, Northern NC estuarine system ¹ Bottlenose dolphin, Northern SC estuarine system Bottlenose dolphin, SC/GA coastal Bottlenose dolphin, Southern GA estuarine system Bottlenose dolphin, Southern Migratory coastal ¹ Bottlenose dolphin, Southern NC estuarine system West Indian manatee, FL
<u>PURSE SEINE FISHERIES:</u>		
Gulf of Mexico menhaden purse seine	40-42	Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau Bottlenose dolphin, Northern GMX coastal ¹ Bottlenose dolphin, Western GMX coastal ¹
Mid-Atlantic menhaden purse seine ²	19	Bottlenose dolphin, Northern Migratory coastal Bottlenose dolphin, Southern Migratory coastal
<u>HAUL/BEACH SEINE FISHERIES:</u>		
Mid-Atlantic haul/beach seine	359	Bottlenose dolphin, Northern Migratory coastal ¹ Bottlenose dolphin, Northern NC estuarine system ¹ Bottlenose dolphin, Southern Migratory coastal ¹
NC long haul seine	30	Bottlenose dolphin, Northern NC estuarine system ¹ Bottlenose dolphin, Southern NC estuarine system
<u>STOP NET FISHERIES:</u>		
NC roe mullet stop net	1	Bottlenose dolphin, Northern NC estuarine system Bottlenose dolphin, unknown (Southern migratory coastal or Southern NC estuarine system)
<u>POUND NET FISHERIES:</u>		
VA pound net	26	Bottlenose dolphin, Northern migratory coastal Bottlenose dolphin, Northern NC estuarine system Bottlenose dolphin, Southern Migratory coastal ¹
CATEGORY III		
<u>GILLNET FISHERIES:</u>		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
Caribbean gillnet	>991	None documented in the most recent five years of data
DE River inshore gillnet	unknown	None documented in the most recent five years of data
Long Island Sound inshore gillnet	unknown	None documented in the most recent five years of data
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet	unknown	None documented in the most recent five years of data
Southeast Atlantic inshore gillnet	unknown	Bottlenose dolphin, Northern SC estuarine system
<u>TRAWL FISHERIES:</u>		
Atlantic shellfish bottom trawl	>58	None documented
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, Northern GMX continental shelf
Gulf of Mexico mixed species trawl	20	None documented
GA cannonball jellyfish trawl	1	Bottlenose dolphin, SC/GA coastal
<u>MARINE AQUACULTURE FISHERIES:</u>		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
<u>PURSE SEINE FISHERIES:</u>		
Gulf of Maine Atlantic herring purse seine	>7	Harbor seal, WNA
Gulf of Maine menhaden purse seine	>2	None documented
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
U.S. Atlantic tuna purse seine *	5	None documented in most recent five years of data
<u>LOGLINE/HOOK-AND-LINE FISHERIES:</u>		
Northeast/Mid-Atlantic bottom longline/hook-and-line	>1,207	None documented
Gulf of Maine, U.S. Mid-Atlantic tuna, shark, swordfish hook-and-line/harpoon	2,846	Bottlenose dolphin, WNA offshore Humpback whale, Gulf of Maine
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other	>5,000	Bottlenose dolphin, GMX continental shelf

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
reef fish bottom longline/hook-and-line		
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line	39	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX continental shelf
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon	680	None documented
U.S. Atlantic, Gulf of Mexico trotline	unknown	None documented
<u>TRAP/POT FISHERIES</u>		
Caribbean mixed species trap/pot	>501	None documented
Caribbean spiny lobster trap/pot	>197	None documented
FL spiny lobster trap/pot	1,268	Bottlenose dolphin, Biscayne Bay estuarine Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, FL Bay estuarine Bottlenose dolphin, FL Keys
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Barataria Bay Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal West Indian manatee, FL
Gulf of Mexico mixed species trap/pot	unknown	None documented
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented
U.S. Mid-Atlantic eel trap/pot	unknown	None documented
<u>STOP SEINE/WEIR/POUND NET/FLOATING TRAP/FYKE NET FISHERIES:</u>		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	>1	Harbor porpoise, GME/BF Harbor seal, WNA Minke whale, Canadian east coast Atlantic white-sided dolphin, WNA
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe	unknown	Bottlenose dolphin, Northern NC estuarine system

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
mullet stop net)		
RI floating trap	9	None documented
Northeast and Mid-Atlantic fyke net	unknown	None documented
<u>DREDGE FISHERIES:</u>		
Gulf of Maine sea urchin dredge	unknown	None documented
Gulf of Maine mussel dredge	unknown	None documented
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	>403	None documented
Mid-Atlantic blue crab dredge	unknown	None documented
Mid-Atlantic soft-shell clam dredge	unknown	None documented
Mid-Atlantic whelk dredge	unknown	None documented
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented
New England and Mid-Atlantic offshore surf clam/quahog dredge	unknown	None documented
<u>HAUL/BEACH SEINE FISHERIES:</u>		
Caribbean haul/beach seine	15	None documented in the most recent five years of data
Gulf of Mexico haul/beach seine	unknown	None documented
Southeastern U.S. Atlantic haul/beach seine	25	None documented
<u>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</u>		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection	20,000	None documented
Gulf of Maine urchin dive, hand/mechanical collection	unknown	None documented
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net	unknown	None documented
<u>COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:</u>		
Atlantic Ocean, Gulf of Mexico, Caribbean	4,000	Bottlenose dolphin, Barataria Bay estuarine system Bottlenose dolphin, Biscayne Bay estuarine

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
commercial passenger fishing vessel		Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Choctawhatchee Bay Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, FL Bay Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Indian River Lagoon estuarine system Bottlenose dolphin, Jacksonville estuarine system Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau Bottlenose dolphin, Northern FL coastal Bottlenose dolphin, Northern GA/Southern SC estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Northern migratory coastal Bottlenose dolphin, Northern NC estuarine Bottlenose dolphin, Southern migratory coastal Bottlenose dolphin, Southern NC estuarine system Bottlenose dolphin, SC/GA coastal Bottlenose dolphin, Western GMX coastal Short-finned pilot whale, WNA

List of Abbreviations and Symbols Used in Table 2: DE - Delaware; FL - Florida; GA - Georgia; GME/BF - Gulf of Maine/Bay of Fundy; GMX - Gulf of Mexico; MA - Massachusetts; NC - North Carolina; NY - New York; RI - Rhode Island; SC - South Carolina; VA - Virginia; WNA - Western North Atlantic; ¹ Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR; ² Fishery classified by analogy; * Fishery has an associated high seas component listed in Table 3.

Table 3 - List of Fisheries -- Commercial Fisheries on the High Seas

Fishery Description	# of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
Category I		
<u>LONGLINE FISHERIES:</u>		
Atlantic Highly Migratory Species *	67	Atlantic spotted dolphin, WNA Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA False killer whale, WNA Killer whale, GMX oceanic Kogia spp. whale (Pygmy or dwarf sperm whale), WNA Long-finned pilot whale, WNA Mesoplodon beaked whale, WNA Minke whale, Canadian East coast Pantropical spotted dolphin, WNA Risso's dolphin, GMX Risso's dolphin, WNA Short-finned pilot whale, WNA
Western Pacific Pelagic (HI Deep-set component) * ^	142	Bottlenose dolphin, HI Pelagic False killer whale, HI Pelagic Humpback whale, Central North Pacific Kogia spp. (Pygmy or dwarf sperm whale), HI Pygmy killer whale, HI Risso's dolphin, HI Short-finned pilot whale, HI Sperm whale, HI Striped dolphin, HI
Category II		
<u>DRIFT GILLNET FISHERIES:</u>		
Pacific Highly Migratory Species * ^	6	Long-beaked common dolphin, CA Humpback whale, CA/OR/WA Northern right-whale dolphin, CA/OR/WA Pacific white-sided dolphin, CA/OR/WA Risso's dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA
<u>TRAWL FISHERIES:</u>		
Atlantic Highly Migratory Species **	1	No information
CCAMLR	0	Antarctic fur seal
<u>PURSE SEINE FISHERIES:</u>		
South Pacific Tuna Fisheries	38	No information

Fishery Description	# of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
Western Pacific Pelagic	1	No information
<u>LONGLINE FISHERIES:</u>		
CCAMLR	0	None documented
South Pacific Albacore Troll	11	No information
South Pacific Tuna Fisheries **	3	No information
Western Pacific Pelagic (HI Shallow-set component) * ^	13	Blainville's beaked whale, HI Bottlenose dolphin, HI Pelagic False killer whale, HI Pelagic Fin whale, HI Guadalupe fur seal Humpback whale, Central North Pacific Mesoplodon sp., unknown Northern elephant seal, CA breeding Risso's dolphin, HI Rough-toothed dolphin, HI Short-beaked common dolphin, CA/OR/WA Short-finned pilot whale, HI Striped dolphin, HI
<u>HANDLINE/POLE AND LINE FISHERIES:</u>		
Atlantic Highly Migratory Species	2	No information
Pacific Highly Migratory Species	48	No information
South Pacific Albacore Troll	15	No information
Western Pacific Pelagic	6	No information
<u>TROLL FISHERIES:</u>		
Atlantic Highly Migratory Species	1	No information
South Pacific Albacore Troll	24	No information
South Pacific Tuna Fisheries **	3	No information
Western Pacific Pelagic	6	No information
Category III		
<u>LONGLINE FISHERIES:</u>		
Northwest Atlantic Bottom Longline	2	None documented
Pacific Highly Migratory Species	128	None documented in the most recent 5 years of data
<u>PURSE SEINE FISHERIES</u>		
Pacific Highly Migratory Species * ^	10	None documented
<u>TRAWL FISHERIES:</u>		
Northwest Atlantic	4	None documented

Fishery Description	# of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
<u>TROLL FISHERIES:</u>		
Pacific Highly Migratory Species *	150	None documented

List of Terms, Abbreviations, and Symbols Used in Table 3:

CA - California; GMX- Gulf of Mexico; HI - Hawaii; OR - Oregon; WA - Washington; WNA - Western North Atlantic.

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

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

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

Table 4 - Fisheries Affected by Take Reduction Teams and Plans

Take Reduction Plans	Affected Fisheries
Atlantic Large Whale Take Reduction Plan (ALWTRP) – 50 CFR 229.32	<u>Category I</u> Mid-Atlantic gillnet Northeast/Mid-Atlantic American lobster trap/pot Northeast sink gillnet <u>Category II</u> Atlantic blue crab trap/pot Atlantic mixed species trap/pot Northeast anchored float gillnet Northeast drift gillnet Southeast Atlantic gillnet Southeastern U.S. Atlantic shark gillnet* Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot ^
Bottlenose Dolphin Take Reduction Plan (BDTRP) – 50 CFR 229.35	<u>Category I</u> Mid-Atlantic gillnet <u>Category II</u> Atlantic blue crab trap/pot Chesapeake Bay inshore gillnet fishery Mid-Atlantic haul/beach seine Mid-Atlantic menhaden purse seine NC inshore gillnet NC long haul seine NC roe mullet stop net Southeast Atlantic gillnet Southeastern U.S. Atlantic shark gillnet Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl^ Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot^ VA pound net
False Killer Whale Take Reduction Plan (FKWTRP) – 50 CFR 229.37	<u>Category I</u> HI deep-set longline <u>Category II</u> HI shallow-set longline
Harbor Porpoise Take Reduction Plan (HPTRP) – 50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic)	<u>Category I</u> Mid-Atlantic gillnet Northeast sink gillnet
Pelagic Longline Take Reduction Plan (PLTRP) – 50 CFR 229.36	<u>Category I</u> Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline
Pacific Offshore Cetacean Take Reduction Plan (POCTRP) – 50 CFR 229.31	<u>Category II</u> CA thresher shark/swordfish drift gillnet (≥14 in mesh)
Atlantic Trawl Gear Take Reduction Team (ATGTRT)	<u>Category II</u> Mid-Atlantic bottom trawl Mid-Atlantic mid-water trawl (including pair trawl) Northeast bottom trawl Northeast mid-water trawl (including pair trawl)

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

Classification

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

This rule contains existing collection-of-information (COI) requirements subject to the Paperwork Reduction Act and would not impose additional or new COI requirements. The COI for the registration of individuals under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648-0293 (0.15 hours per report for new registrants). The requirement for reporting marine mammal mortalities or injuries has been approved by OMB under OMB control number 0648-0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the COI. Send comments regarding these reporting burden estimates or any other aspect of the COI, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

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

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

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

In accordance with the Companion Manual for NOAA Administrative Order (NAO) 216-6A, NMFS determined that publishing this LOF qualifies to be categorically excluded from further NEPA review, consistent with categories of activities identified in Categorical Exclusion G7 ("Preparation of policy directives, rules, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature, or for which the environmental effects are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or on a case-by-case basis") of the Companion Manual and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual for NAO 216-6A that would preclude application of this categorical exclusion. If NMFS takes a management action, for example, through the development of a TRP, NMFS would first prepare an Environmental Impact Statement (EIS) or Environmental Assessment (EA), as required under NEPA, specific to that action.

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

This rule would have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

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Samuel D. Rauch, III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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