

regarding the State's October 4, 2012, draft SIP revision, documenting the omission of (1) the PM_{2.5} increments in Tennessee's Class I variance provisions at 1200-03-09-.01(4)(n)3, including the administrative change to replace the term "particulate matter" with "PM_{2.5}, PM₁₀" (consistent with federal rule at 40 CFR 51.166(c) and (p)(5)); and (2) the administrative changes to the definition of "baseline date" at 1200-03-09-.01(4)(b)15(i) and (ii)(I) to replace the term "particulate matter" with "PM₁₀." TDEC has indicated they intend to address these inadvertent omissions in the final SIP submission to be consistent with the federal provisions promulgated in the PM_{2.5} PSD Increments-SIL-SMC rule.

EPA's authority to implement the PM_{2.5} SILs at paragraph (k)(2) of section 51.166 and 52.21 and SMC at paragraph (i)(5) of section 51.166 and 52.21 for PSD purposes as promulgated in the October 20, 2010 PM_{2.5} PSD Increments-SILs-SMC Rule, was challenged by the Sierra Club. *Sierra Club v. EPA*, 705 F.3d 458 (D.C. Cir. 2013). On January 22, 2013, the D.C. Circuit Court issued an order vacating and remanding to the EPA for further consideration those portions of the October 20, 2010, rule addressing the PM_{2.5} SILs, except for the parts codifying the PM_{2.5} SILs in the NSR rule at 40 CFR 51.165(b)(2). In addition the D.C. Circuit Court also vacated parts of the October 20, 2010, rule establishing the PM_{2.5} SMC finding that those parts of the rule exceed the EPA's statutory authority. *Sierra Club v. EPA*, 705 F.3d 458, 469. See the docket for today's action for more information on the litigation and the court's decision using docket ID EPA-R04-OAR-2012-0894. As a result of the January 22, 2013, D.C. Circuit order and consultations with EPA Region 4, TDEC has indicated that in the State's final SIP submission to adopt the regulations promulgated in the PM_{2.5} Increments-SILs-SMC Rule, they intend to request EPA not take action to approve into the Tennessee SIP the PM_{2.5} SILs and SMC. Accordingly, EPA is not proposing action at this time on any portions of Tennessee's PSD SIP submission regarding the PM_{2.5} SILs and SMC provisions described at 40 CFR 51.166 and 52.21, which have now been vacated and remanded.

V. Proposed Action

EPA is proposing to approve portions of Tennessee's October 4, 2012, draft SIP revision adopting PSD PM_{2.5} Increments promulgated in the October 20, 2010, PM_{2.5} PSD Increments-SILs-SMC rule. EPA is not, however, proposing action to approve in this

rulemaking the portion of Tennessee's October 4, 2012, draft SIP revision incorporating the PM_{2.5} SILs and SMC thresholds and provisions promulgated in EPA's PM_{2.5} PSD Increment-SILs-SMC Rule. EPA has reviewed Tennessee's October 4, 2012, draft SIP revision, and has made the preliminary determination that this portion of the draft SIP revision is approvable because it is consistent with section 110 of the CAA and EPA regulations regarding NSR permitting.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 F43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 8, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 121024581-3333-01]

RIN 0648-BC71

List of Fisheries for 2013

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

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its proposed List of Fisheries (LOF) for 2013, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2013 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 serious injury and mortality of marine mammals that occurs incidental to each fishery. The classification of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements. The fishery classifications and list of marine

mammal stocks incidentally injured or killed described in the Final LOF for 2012 remain in effect until the effective date of the Final LOF for 2013.

DATES: Comments must be received by May 22, 2013.

ADDRESSES: Send comments by any one of the following methods.

(1) *Electronic Submissions:* Submit all electronic comments through the Federal eRulemaking portal: <http://www.regulations.gov> (follow instructions for submitting comments).

(2) *Mail:* Chief, Marine Mammal and Sea Turtle Conservation Division, Attn: List of Fisheries, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

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

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Brandon Sousa, Office of Protected Resources, 301-427-8498; Allison Rosner, Northeast Region, 978-281-9328; Jessica Powell, Southeast Region, 727-824-5312; Elizabeth Petras, Southwest Region, 562-980-3238; Brent Norberg, Northwest Region, 206-526-6550; Bridget Mansfield, Alaska Region, 907-586-7642; Nancy Young, Pacific Islands Region, 808-944-2282. 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 serious injury and mortality 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 (SAR) and other relevant sources, and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387(c)(1)(C)).

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

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

Fishery Classification Criteria

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

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

tier (Tier 2) of analysis to determine their classification.

Tier 2, Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level (i.e., frequent incidental mortality and serious injuries of marine mammals).

Tier 2, Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level (i.e., occasional incidental mortality and serious injuries of marine mammals).

Tier 2, Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level (i.e., a remote likelihood or no known incidental mortality and serious injuries of marine mammals).

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

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).

Other Criteria That May Be Considered

There are several fisheries on the LOF classified as Category II that have no recent documented injuries or mortalities of marine mammals, or fisheries that did not result in a serious injury or mortality 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, 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 serious injury or mortality 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 fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries” (50 CFR 229.2).

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 or stocks incidentally killed or injured in each commercial fishery. 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. 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. NMFS also reviews other sources of new information, including observer data, stranding data, and fisher self-reports.

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

How does NMFS determine the levels of observer coverage in a fishery on the LOF?

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. The best available information on the level of observer coverage and the spatial and temporal distribution of observed marine mammal interactions, is presented in

the SARs. Starting with the 2005 SARs, each SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including observer coverage in those fisheries. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are 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 may include: level of federal 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 Web site at: <http://www.nmfs.noaa.gov/pr/sars/>. Information on observer coverage levels in Category I and II fisheries can also be found in the Category I and II fishery fact sheets on the NMFS Office of Protected Resources Web site: <http://www.nmfs.noaa.gov/pr/interactions/lof/>. Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program’s Web site: <http://www.st.nmfs.gov/st4/nop/>.

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

This proposed rule includes three tables that list all U.S. commercial fisheries by LOF 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 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).

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 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’ Web site: <http://www.nmfs.noaa.gov/pr/interactions/lof/>, linked to the “List of Fisheries by Year” table. NMFS plans to

develop 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 will take significant time to complete. NMFS anticipates posting Category III fishery fact sheets along with the final 2014 LOF, although this timeline may be revised as this exercise progresses.

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 authorization certificate and injury/mortality reporting forms?

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 directly under the MMAP. In the Pacific Islands, Southwest, Northwest, and Alaska regions, NMFS will issue vessel or gear owners an authorization certificate and/or injury/mortality reporting forms via U.S. mail or with their state or Federal license at the time of renewal. In the Northeast region, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year; but vessel or gear owners must request or print injury/mortality reporting forms by contacting the NMFS Northeast Regional Office at 978-281-9328 or by visiting the Northeast Regional Office Web site (<http://www.nero.noaa.gov/mmap>). In the Southeast region, NMFS will issue vessel or gear owners notification of registry and vessel or gear owners may receive their authorization certificate and/or injury/mortality reporting form by contacting the Southeast Regional Office at 727-209-5952 or by visiting

the Southeast Regional Office Web site (<http://sero.nmfs.noaa.gov/pr/mm/mmap.htm>) and following the instructions for printing the necessary documents.

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 permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries. Individuals fishing in Category I and II fisheries for which no state or Federal permit is required must register with NMFS by contacting their appropriate Regional Office (see **ADDRESSES**).

How do I renew my registration under the MMAP?

In Pacific Islands, Southwest, Alaska, or Northeast 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. In Northwest regional fisheries, vessel or gear owners receive authorization with each renewed state fishing license, the timing of which varies based on target species. Vessel or gear owners who participate 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 **ADDRESSES**).

In Southeast regional fisheries, vessel or gear owners registrations are automatically renewed and participants will receive a letter in the mail by January 1 instructing them to contact the Southeast Regional Office to have an authorization certificate mailed to them or to visit the Southeast Regional Office Web site (<http://sero.nmfs.noaa.gov/pr/mm/mmap.htm>) to print their own certificate.

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

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a fishery

listed on the LOF must report to NMFS all incidental injuries and mortalities 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. "Injury" is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported. Injury/mortality reporting forms and instructions for submitting forms to NMFS can be downloaded from: http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf or by contacting the appropriate Regional office (see **ADDRESSES**). Reporting requirements and procedures can be 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 an observer will not be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe; thereby, exempting vessels too small to accommodate an observer from this requirement. However, observer requirements will not be exempted, regardless of vessel size, for U.S. Atlantic Ocean, Caribbean, 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)). Observer requirements can be found in 50 CFR 229.7.

Am I required to comply with any marine mammal take reduction plan regulations?

Table 4 in this proposed rule provides a list of fisheries affected by TRPs and TRTs. TRP regulations can be found at 50 CFR 229.30 through 229.37. A description of each TRT and copies of each TRP can be found at: <http://www.nmfs.noaa.gov/pr/interactions/trt/>. 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 Marine Mammal Authorization

Program, including registration procedures and forms, current and past LOFs, information on each Category I and II fishery, observer requirements, and marine mammal injury/mortality reporting forms and submittal procedures, may be obtained at: <http://www.nmfs.noaa.gov/pr/interactions/lof/>, or from any NMFS Regional Office at the addresses listed below:

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

NMFS, Northwest Region, 7600 Sand Point Way NE., Seattle, WA 98115, Attn: Brent Norberg, Protected Resources Division;

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

NMFS, Pacific Islands Region, Protected Resources, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814, Attn: Nancy Young.

Sources of Information Reviewed for the Proposed 2013 LOF

NMFS reviewed the marine mammal incidental serious injury and mortality information presented in the SARs for all fisheries to determine whether changes in fishery classification were warranted. The SARs are based on the best scientific information available at the time of preparation, including the level of serious injury and mortality of marine mammals that occurs incidental to commercial 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 data, observer program data, fisher self-reports, reports to the SRGs, conference papers, FMPs, and ESA documents.

The proposed LOF for 2013 was based, among other things, on information provided in the NEPA and ESA documents analyzing authorized high seas fisheries; stranding data;

fishermen self-reports through the MMAP; the final SARs for 2006 (72 FR 12774, March 19, 2007), 2007 (73 FR 21111, April 18, 2008), 2008 (74 FR 19530, April 29, 2009), 2009 (75 FR 12498, March 16, 2010), 2010 (76 FR 34054, June 10, 2011), and 2011 (77 FR 29969, May 21, 2012); and the draft SARs for 2012 (77 FR 47043, August 7, 2012). The SARs are available at: <http://www.nmfs.noaa.gov/pr/sars/>.

Fishery Descriptions

Beginning with the final 2008 LOF (72 FR 66048, November 27, 2007), NMFS describes each Category I and II fishery on the LOF. In each LOF, NMFS describes the fisheries classified as Category I or II that were not classified as such on a previous LOF (and therefore have not yet been described in the LOF). Descriptions of all Category I and II fisheries operating in U.S. waters may be found in the SARs, FMPs, and TRPs, through state agencies, or through the fishery summary documents available on the NMFS Office of Protected Resources Web site (<http://www.nmfs.noaa.gov/pr/interactions/lof/>). Additional details for Category I and II fisheries operating on the high seas are included in various FMPs, NEPA, or ESA documents.

The “Alaska Bering Sea and Aleutian Islands rockfish trawl” fishery is proposed for reclassification from Category III to Category II. Rockfish species fished include Pacific Ocean perch, northern rockfish, rougheye rockfish, shortraker rockfish, and other rockfish. Fishing effort in this fishery takes place in the U.S. Exclusive Economic Zone of the Eastern Bering Sea and the portion of the North Pacific Ocean adjacent to the Aleutian Islands, which is west of 170°W longitude up to the U.S.-Russian Convention Line of 1867. Pacific Ocean perch in the Aleutian Islands is allocated under the Amendment 80 catch share program to the trawl gear sectors. Northern rockfish, rougheye rockfish, shortraker rockfish, and other rockfish do not have directed fisheries but are caught incidentally in other fisheries. There are currently an estimated 28 vessels licensed in this fishery.

Summary of Changes to the LOF for 2013

The following summarizes changes to the LOF for 2013 in fishery classification, the estimated number of vessels/participants in a particular fishery, the species or stocks that are incidentally killed or injured in a particular fishery, and the fisheries that are subject to a take reduction plan. The classifications and definitions of U.S.

commercial fisheries for 2013 are identical to those provided in the LOF for 2012 with the proposed changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), CA (California), DE (Delaware), FL (Florida), 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 Classification

CA Thresher Shark/Swordfish Drift Gillnet Fishery

NMFS proposes to reclassify the “CA thresher shark/swordfish drift gillnet” fishery from Category II to Category I. NMFS has observed this fishery from 2005 through 2010 at coverage levels ranging from 11.9% to 20.9%. NMFS reclassified this fishery from Category III to Category II on the 2012 LOF (76 FR 73912; November 29, 2011).

In 2010, two sperm whales likely from the CA/OR/WA stock were observed entangled in this fishery (one dead and one seriously injured), which resulted in a bycatch estimate of 16 sperm whales in 2010. There were no observed sperm whale entanglements in the “CA thresher shark/swordfish drift gillnet” during the prior four years (2006 through 2009). These were the first observed entanglements of sperm whales in the “CA thresher shark/swordfish drift gillnet” fishery since 1998. Based on the most recent five years of available information, the average serious injury/mortality of the CA/OR/WA stock of sperm whales in this fishery is 3.2 per year, which is greater than 213% of the PBR level of 1.5. Therefore, reclassification of the “CA thresher shark/swordfish drift gillnet” fishery to Category I is appropriate under 50 CFR 229.2. This fishery is currently observed under the authority of the MMPA (50 CFR 229.4(h)) and the Highly Migratory Species FMP (50 CFR 660.719) and must comply with Pacific Offshore Cetacean TRP regulations (50 CFR 229.31).

Bering Sea and Aleutian Islands Rockfish Trawl Fishery

NMFS proposes to reclassify the “Alaska Bering Sea and Aleutian Islands Rockfish trawl” fishery from Category III to Category II based on an observed mortality of a killer whale (Gulf of Alaska, Aleutian Islands, Bering Sea transient stock). Although extrapolated data estimating actual marine mammal

serious injury and mortalities are available in the draft 2012 Alaska Stock Assessment Reports, observed serious injury/mortality was used in the 2013 LOF tier analysis for this fishery. The analytical methods for extrapolating estimated serious injury and mortality from observed data have undergone further review and revision subsequent to the draft SAR publication; a NOAA Technical Memorandum containing a description of the methodology is expected in spring 2013. The revised methods will be applied to the analysis that will form the basis for the 2014 LOF recommendations. Serious injury/mortality to one killer whale from either the North Pacific Alaska resident stock or the Gulf of Alaska, Aleutian Islands, Bering Sea transient stock caused by the fishery occurred between 2007 and 2010. The mean observed annual mortality for the 2007–2010 period for killer whales (Gulf of Alaska, Aleutian Islands, Bering Sea transient stock) caused by this fishery is 0.25, and overall observed mean annual mortality across all fisheries is 1.25. The PBR for this stock is 5.5. Serious injury/mortality for the stock across all fisheries is greater than 10% of PBR (0.55), and serious injury/mortality caused by this fishery is between 1% and 50% of PBR (.055 to 2.25). Therefore, serious injury/mortality of this stock drives the fishery's proposed Category II classification, and NMFS proposes to add a superscript "1" to denote this in Table 1.

Alaska Bering Sea/Aleutian Islands Pacific Cod Longline Fishery

NMFS proposes to reclassify the "Alaska Bering Sea/Aleutian Islands Pacific cod longline" fishery from Category II to Category III. Category II classification for this fishery was driven by serious injury/mortality to killer whales (Alaska Resident stock) documented in 2003. The fishery was originally classified in Category II in the 2005 LOF after NMFS determined the fishery caused serious injury/mortality of killer whales (Eastern North Pacific resident stock) at 0.8 animals per year, or 11.11% of the stock's PBR level of 7.2.

Based on the most recent available information, there have been no serious injuries or mortalities of killer whales (Alaska Resident stock) in the fishery since 2003. Therefore, NMFS proposes to reclassify this fishery as Category III.

Alaska Bering Sea Sablefish Pot Fishery

NMFS proposes to reclassify the "Alaska Bering Sea sablefish pot fishery" from Category II to Category III. Category II classification for this fishery

was driven by serious injury/mortality of humpback whales (Central North Pacific and Western North Pacific stock). The fishery was reclassified to Category II in the 2005 LOF based on interactions with humpback whales documented in 2002. Estimated serious injury and mortality of humpback whales (Central North Pacific stock) at that time was 0.2 animals per year, or 2.7% of PBR (PBR=7.4). Estimated serious injury and mortality of humpback whales (Western North Pacific stock) was 0.2 animals per year, or 28.57% of PBR (2005 PBR=0.7).

No serious injuries or mortalities to these stocks or to any other marine mammal stocks by the Bering Sea sablefish pot fishery have been documented since 2002. Therefore, NMFS proposes to place this fishery in Category III.

Hawaii Charter Vessel and Hawaii Trolling, Rod and Reel Fisheries

In the proposed 2012 LOF, NMFS proposed elevating the "Hawaii charter vessel" and "Hawaii trolling, rod and reel" fisheries from Category III to Category II on the basis of the fisheries' interactions with Pantropical spotted dolphins. In the Final 2012 LOF, NMFS concluded that insufficient information existed to support a reclassification and that the agency would reconsider elevating these fisheries in the 2013 LOF. NMFS has reviewed the most recent information and determined that the "Hawaii charter vessel" and "Hawaii trolling, rod and reel" fisheries should remain classified as Category III fisheries.

NMFS Pacific Islands Regional Office is engaging in an ongoing effort with the State of Hawaii's Department of Land and Natural Resources to examine existing fisheries data, and researchers are gathering more information on fishing behavior around Pantropical spotted dolphins. Based on the most current information available, NMFS has again considered whether serious injury or mortality of Pantropical spotted dolphins in the fisheries is "occasional" or a "remote likelihood." The regulatory definition of a Category II commercial fishery is one that, collectively with other fisheries, is responsible for the annual removal of more than 10% of any marine mammal stock's PBR level, and that is by itself responsible for the annual removal of between 1% and 50%, exclusive, of any stock's PBR level (50 CFR 229.2). The Final 2011 SAR and more recent bycatch estimates indicate no serious injuries or mortalities of Pantropical spotted dolphins observed in the Hawaii-based longline fisheries within

the U.S. Exclusive Economic Zone (EEZ) (Carretta *et al.*, 2012b; McCracken, 2011). The SAR reports no other sources of recent mortalities except anecdotal reports of hookings in the troll fisheries (Carretta *et al.*, 2012b).

Current information does not suggest that total commercial fishery-related mortality and serious injury of the stock exceeds 10% of the PBR of 61 (i.e., 6.1 serious injuries or mortalities per year). NMFS bases this conclusion on the following:

- (1) The lack of mortality/serious injury reports in the Final 2011 SARs and recent bycatch estimates;
- (2) The reportedly small number of participants in the troll and charter fisheries who opportunistically fish in close proximity to spotted dolphin groups;
- (3) The limited geographic and temporal scope of dolphin groups that are known to associate with tuna in Hawaiian waters and fished by local trollers;
- (4) The likelihood that some portion of that trolling effort around dolphins is recreational and would not count toward an estimation of risk that the commercial fisheries pose to the dolphins;
- (5) The likelihood that not all interactions between dolphins and the troll fisheries are serious injuries, particularly if an animal is snagged in an appendage or in the body by a hook being dragged through the water. A hooking in the body or an appendage, though case specific, is more likely to be a non-serious injury than an ingested hook, according to NMFS policy for distinguishing serious from non-serious injury of marine mammals (<http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm>);
- (6) The lack of any direct evidence of serious injury or mortality of spotted dolphins in the troll and charter vessel fisheries; and

(7) The lack of any other identified sources of incidental mortality/serious injury of this stock of spotted dolphins. There have been no observed or estimated mortalities or serious injuries of spotted dolphins in the Hawaii-based longline fisheries within the U.S. EEZ around Hawaii since 2005, though there are an estimated 0.5 serious injuries or mortalities per year in the deep-set longline fishery on the high seas (Carretta *et al.*, 2012b; McCracken 2011).

The fishing technique of trolling in close proximity to groups of Pantropical spotted dolphins, where and when it occurs, presents a heightened risk to the marine mammals. However, this information alone does not provide sufficient evidence with which to

conclude that dolphins are being seriously injured or killed on an occasional basis as a result of these practices. In the absence of evidence of mortality/serious injury, NMFS concludes based on the available information that a Category III classification for the troll and charter fisheries is appropriate.

If new information suggests a level of fishery-related mortality/serious injury would, across all fisheries, exceed 10% of the stock's PBR level, NMFS will recommend appropriate action in future LOFs. Additionally, if the Hawaii pelagic stock of Pantropical spotted dolphins is split into several smaller stocks (with smaller PBRs) in a future

SAR, we will reevaluate the impact of the fisheries on those smaller stocks.

Number of Vessels/Persons

NMFS proposes to update the estimated number of vessels/persons in the commercial fisheries in the Pacific Ocean (Table 1). Updates are based on state and federal fisheries permit data. The estimated number of vessels/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/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort. However, in these cases, the numbers represent the potential effort for each fishery, given the multiple gear types several state permits may allow for.

NMFS proposes to update the estimated number of persons/vessels operating in the Pacific Ocean as follows:

| Category | Fishery | Estimated number of participants (final 2012 LOF) | Estimated number of participants (proposed 2013 LOF) |
|-------------------|--|---|--|
| I | HI deep-set (tuna target) longline/set line | 124 | 129 |
| II (proposed I) | CA thresher shark/swordfish drift gillnet | 45 | 25 |
| II | AK Bristol Bay Salmon drift gillnet | 1862 | 1863 |
| II | AK Bristol Bay salmon set gillnet | 983 | 982 |
| II | AK Cook Inlet salmon drift gillnet | 571 | 569 |
| II | AK Kodiak salmon purse seine | 370 | 379 |
| II (proposed III) | AK Bering Sea, Aleutian Islands Pacific cod longline | 54 | 154 |
| II | AK Peninsula/Aleutian Islands salmon set gillnet | 115 | 114 |
| II | AK Yakutat salmon set gillnet | 166 | 167 |
| II | HI shallow-set (swordfish target) longline/set line | 28 | 20 |
| II | American Samoa longline | 26 | 24 |
| II | HI shortline | 13 | 11 |
| II | AK Southeast salmon drift gillnet | 476 | 474 |
| III | AK Bering Sea, Aleutian Islands Greenland Turbot longline | 29 | 36 |
| III | AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet | 824 | 1702 |
| III | AK roe herring and food/bait herring gillnet | 986 | 990 |
| III | AK roe herring and food/bait purse seine | 361 | 367 |
| III | AK salmon purse seine (excluding salmon purse seine fisheries listed as Category II) | 936 | 935 |
| III | AK salmon troll | 2045 | 2008 |
| III | AK Gulf of Alaska Pacific cod longline | 440 | 107 |
| III | AK halibut longline/set line (State and Federal waters) | 2521 | 2280 |
| III | AK State-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish). | 1448 | 1323 |
| III | AK miscellaneous finfish otter/beam trawl | 317 | 282 |
| III | AK shrimp otter trawl and beam trawl (statewide and Cook Inlet) | 32 | 33 |
| III | AK statewide miscellaneous finfish pot | 293 | 243 |
| III | AK BSAI crab pot | 297 | 296 |
| III | AK Gulf of Alaska crab pot | 300 | 389 |
| III | AK southeast Alaska crab pot | 433 | 415 |
| III | AK Southeast Alaska shrimp pot | 283 | 274 |
| III | AK shrimp pot, except southeast | 15 | 210 |
| III | AK Octopus/squid pot | 27 | 26 |
| III | AK miscellaneous finfish handline/hand troll and mechanical jig | 445 | 456 |
| III | AK North Pacific halibut handline/hand troll and mechanical jig | 228 | 180 |
| III | AK herring spawn on kelp pound net | 415 | 411 |
| III | AK Southeast herring roe/food/bait pound net | 6 | 4 |
| III | AK urchin and other fish/shellfish | 570 | 521 |
| III | AK North Pacific halibut, AK bottom fish, WA/OR/CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries. | 1,302 (102 AK) | 1,320 (120 AK) |
| III | HI inshore gillnet | 44 | 36 |
| III | HI opelu/akule net | 16 | 22 |
| III | HI inshore purse seine | 5 | < 3 |
| III | HI throw net, cast net | 22 | 29 |
| III | HI hukilau net | 27 | 26 |
| III | HI lobster tangle net | 1 | 0 |
| III | American Samoa tuna troll | <50 | 7 |
| III | HI trolling, rod and reel | 2,191 | 1,560 |
| III | Commonwealth of the Northern Mariana Islands tuna troll | 88 | 40 |
| III | Guam tuna troll | 401 | 432 |
| III | HI kaka line | 24 | 17 |

| Category | Fishery | Estimated number of participants (final 2012 LOF) | Estimated number of participants (proposed 2013 LOF) |
|----------|---|---|--|
| III | HI vertical longline | 10 | 9 |
| III | HI crab trap | 5 | 9 |
| III | HI fish trap | 13 | 9 |
| III | HI lobster trap | 1 | <3 |
| III | HI shrimp trap | 2 | 4 |
| III | HI crab net | 5 | 6 |
| III | HI Kona crab loop net | 46 | 48 |
| III | American Samoa bottomfish | <50 | 12 |
| III | Commonwealth of the Northern Mariana Islands bottomfish | <50 | 28 |
| III | Guam bottomfish | 200 | >300 |
| III | HI aku boat, pole, and line | 2 | 3 |
| III | HI Main Hawaiian Islands deep-sea bottomfish handline | 569 | 567 |
| III | HI inshore handline | 416 | 378 |
| III | HI tuna handline | 445 | 459 |
| III | Western Pacific squid jig | 6 | 1 |
| III | HI bullpen trap | 4 | <3 |
| III | HI black coral diving | 1 | <3 |
| III | HI handpick | 61 | 57 |
| III | HI lobster diving | 39 | 29 |
| III | HI spearfishing | 144 | 143 |

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

NMFS proposes to update the list of species or stocks incidentally killed or injured by fisheries in the Pacific Ocean (Table 1). The agency notes here that while only “serious injuries” and mortalities are used to categorize fisheries as Category I, II, or III, the list of species or stocks incidentally killed or injured includes stocks that have any documented injuries, including “non-serious” injuries. For information on how NMFS determines whether a particular injury is serious or non-serious, please see NMFS Instruction 02–038–01, “Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals” (<http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm>). NMFS proposes the following updates:

NMFS proposes to add sperm whales (CA/OR/WA stock) and bottlenose dolphins (CA/OR/WA offshore stock) to the list of species/stocks incidentally killed or injured in the “CA thresher shark/swordfish drift gillnet” fishery. NMFS further proposes adding a superscript “1” after sperm whale (CA/OR/WA stock), indicating that this stock is a driver for the Category I classification of the fishery. NMFS also proposes to remove the superscript “1” from the humpback whale (CA/OR/WA stock), because while that stock was driving a Category II classification, levels of serious injury/mortality to that stock are not high enough to drive the proposed Category I classification for that fishery.

NMFS proposes to add bottlenose dolphins (CA/OR/WA offshore stock) to the list of species taken in the “WA/OR/CA groundfish, bottomfish longline/set line” fishery based on a 2009 observer report of an entangled bottlenose dolphin attributed to the CA/OR/WA offshore stock in the Category III “WA/OR/CA groundfish, bottomfish longline/set line” fishery. The dolphin was entangled in a buoy line, cut free from the gear, released alive, and swam away with cuts on its tail. This report has not yet appeared in the Pacific Marine Mammal SARs.

NMFS proposes to add short-finned pilot whales (Hawaiian stock), to the list of species or stocks incidentally killed or injured in the “HI shallow-set (swordfish target) longline” fishery. The Final 2011 SAR reports no observed injuries or mortalities of short-finned pilot whales in the fishery from 2004–2008, but one serious injury of an unidentified cetacean (a “blackfish”) on the high seas in 2008 that may have been a short-finned pilot whale (Carretta *et al.*, 2012b). A more recent analysis uses a model to prorate blackfish interactions to short-finned pilot whale and false killer whale stocks (see model details in McCracken, 2010). That analysis resulted in a revised estimate of 0.1 short-finned pilot whale mortalities and serious injuries per year in the shallow-set longline fishery for the period 2006–2010 (McCracken, 2011). The fishery has 100% observer coverage.

NMFS proposes to remove Bryde’s whales (Hawaiian stock), from the list of species or stocks incidentally killed or injured in the “Hawaii shallow-set

(swordfish target) longline” fishery. The Final 2011 SAR reported one non-serious injury of a Bryde’s whale in the fishery in 2005 (Carretta *et al.*, 2012b). However, more recent data indicate that no Bryde’s whales have been injured or killed in the fishery in the last five years (McCracken, 2011). Therefore, NMFS proposes to delete the stock from the list of marine mammals incidentally injured or killed by the fishery. The fishery has 100% observer coverage.

In the “HI shallow-set (swordfish target) longline” fishery, NMFS proposes to add a superscript “1” following false killer whale (Hawaii pelagic stock), to indicate the stock is driving the fishery’s Category II classification. The fishery has 100% observer coverage. This determination was made based on analysis of the draft 2012 SAR (Carretta *et al.*, 2012a). In the tier 1-analysis, NMFS finds that the total of average annual mortalities and serious injuries for this stock across all fisheries within the U.S. EEZ around Hawaii is 13.8 (Carretta *et al.*, 2012a). False killer whales (Hawaii pelagic stock) have a PBR of 9.1. Thus, annual mortality and serious injury is 151.6% of PBR, exceeding 10% of PBR. In the tier-2 analysis, the shallow-set longline fishery has an average annual serious injury/mortality rate of 0.2 (Carretta *et al.*, 2012a). This is 2.2% of the 9.1 PBR level, between 1% and 50% of PBR. Therefore, the stock is a driver of the fishery’s Category II classification.

The “Hawaii shallow-set (swordfish target) longline” fishery was previously classified as Category II based on mortalities and serious injuries of bottlenose dolphin (Hawaii pelagic

stock). Review of the most recent information indicates that, across all U.S. fisheries within the U.S. EEZ, total mortalities and serious injuries of this stock (0.4 per year) do not exceed 10% of its PBR of 18 (Carretta *et al.*, 2012b). NMFS proposes to remove the superscript “1” following bottlenose dolphin (Hawaii pelagic stock), to indicate the stock is no longer driving the fishery’s Category II classification. However, as discussed above, because recent data analyzed for the 2013 LOF indicate that false killer whales (Hawaii pelagic stock) are seriously injured or killed by this fishery at a Category II level, the fishery remains classified as Category II.

NMFS proposes to remove humpback whales (Central North Pacific stock) from the list of species or stocks incidentally killed or injured in the “Hawaii deep-set (tuna target) longline” fishery. Though the fishery has had non-serious injuries of this stock in the past (one each in 2001, 2002, and 2004), the most recent five-year period for which information is readily available indicates that the fishery caused no documented injuries or deaths to this stock during this period (Forney, 2010; McCracken, 2011; Allen and Angliss, 2012a; Allen and Angliss, 2012b). The fishery has approximately 20% observer coverage. Therefore, NMFS proposes to delete the stock from the list of marine mammals incidentally injured or killed by the fishery.

NMFS proposes to remove Blainville’s beaked whales (Hawaiian stock), from the list of species or stocks incidentally killed or injured in the “Hawaii deep-set (tuna target) longline” fishery. The most recent five-year period for which information is readily available indicates that the fishery caused no documented injuries or deaths to Blainville’s beaked whales during this period (McCracken, 2011). Therefore, NMFS proposes to delete the stock from the list of marine mammals incidentally injured or killed by the fishery. The fishery has approximately 20% observer coverage.

NMFS proposes to add pantropical spotted dolphins (Hawaii stock) to the list of species or stocks incidentally injured or killed in the Category III “Hawaii trolling, rod and reel” and “Hawaii charter vessel” fisheries. As noted in the discussion above regarding the “Hawaii trolling, rod and reel” and “Hawaii charter vessel” fisheries classification, available information indicates that pantropical spotted dolphins are incidentally injured in these fisheries at low levels. There is no observer coverage in these fisheries. NMFS notes here, again, that while

classification of a fishery in Category I, II, or III under the MMPA requires evidence of “serious injury or mortality,” the list of species or stocks incidentally injured or killed requires only evidence of “injury,” a term that includes non-serious injuries. While NMFS does not propose to reclassify these fisheries, the agency finds that sufficient evidence exists to list the Pantropical spotted dolphin as an incidentally injured stock in these fisheries.

NMFS proposes several changes to the list of marine mammal stocks incidentally killed or injured in the Category II “Alaska Bering Sea and Aleutian Islands Flatfish trawl” fishery. First, NMFS proposes to add gray whales (Eastern North Pacific stock) to the list of incidentally injured or killed stocks. Serious injury/mortality to a gray whale in this fishery was documented in 2010. Second, NMFS proposes to add humpback whales (Western North Pacific stock) to the list of species or stocks incidentally injured or killed by this fishery. Serious injury/mortality to a humpback whale by this fishery was documented in 2010. Mean annual serious injury/mortality for the 2007–2010 period for humpback whales (Western North Pacific stock) caused by this fishery is 0.25, and overall mean annual serious injury/mortality across all fisheries is 0.62. The PBR for this stock is 2.6. Serious injury/mortality for this stock across all fisheries is greater than 10 percent of PBR (0.26). Serious injury/mortality caused by this fishery is between 1 percent and 50 percent of PBR (0.026 to 1.3). Therefore, serious injury/mortality of this stock is a driver of the fishery’s existing Category II classification and NMFS proposes to add a superscript “1” to denote this in Table 1. Third, NMFS proposes to add killer whales (Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock) to the list of incidentally injured or killed stocks. Serious injury/mortality to a killer whale was documented in 2008 and 2009. Mean annual serious injury/mortality for the 2007–2010 period for killer whales caused by this fishery is 0.75, and overall mean annual serious injury/mortality across all fisheries is 1.37. The PBR for this stock is 5.5. Serious injury/mortality for the stocks across all fisheries is greater than 10 percent of PBR (.55), and serious injury/mortality caused by this fishery is between 1 percent and 50 percent of PBR (.055 to 2.25). Therefore, serious injury/mortality of this stock drives the fishery’s Category II classification, and NMFS proposes to add a superscript “1” to denote this in Table 1. Fourth, NMFS

proposes to add ringed seals (Alaska stock) to the list of stocks incidentally injured or killed by the fishery. Serious injury/mortality to ringed seals was documented in 2008 and 2009.

NMFS proposes several changes to the list of marine mammal stocks incidentally killed or injured in the Category II “Alaska Bering Sea and Aleutian Islands Pollock trawl” fishery. First, NMFS proposes to add ringed seals (Alaska stock) to the list of incidentally injured or killed stocks by this fishery. Serious injury/mortality to ringed seals was documented in 2008 and 2009 in this fishery. Second, NMFS proposes to add bearded seals (Alaska stock) to the list of incidentally injured or killed stocks by this fishery. Injury/mortality to bearded seals was documented in 2007, 2008, 2009, and 2010. Third, NMFS proposes to add Northern fur seals (Eastern Pacific stock) to the list of incidentally injured or killed stocks by this fishery. Injury/mortality to fur seals was documented in 2007, 2008, and 2010. Fourth, NMFS proposes to remove killer whales (Eastern North Pacific, Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock) from the list of incidentally injured or killed marine mammal stocks by this fishery. There have been no documented injuries or mortalities to killer whales by this fishery since 2003. Fifth, NMFS proposes to remove minke whales (Alaska stock) from the list of incidentally injured or killed marine mammal stocks by this fishery. There have been no documented injuries or mortalities to minke whales by this fishery since 2000.

NMFS proposes several changes to the list of marine mammal stocks incidentally injured or killed by the proposed Category III “Alaska Bering Sea and Aleutian Islands Pacific Cod longline” fishery. First, NMFS proposes to add Northern fur seals (eastern Pacific stock) to the list of species or stocks incidentally injured or killed by this fishery. Serious injury/mortality to Northern fur seals was documented in 2010. Second, NMFS proposes to add Dall’s Porpoise (Alaska stock) to the list of marine mammal stocks incidentally injured or killed by the fishery. Serious injury/mortality to Dall’s porpoise was documented in 2009. Third, NMFS proposes to remove Steller sea lions (Western United States stock) from the list of species or stocks incidentally injured or killed by this fishery. There have been no documented injuries or mortalities of Steller sea lions (Western United States stock) in this fishery since 2006. Fourth, NMFS proposes to remove ribbon seals (Alaska stock) from the list

of species or stocks incidentally injured or killed by this fishery. There have been no documented injuries or mortalities of ribbon seals (Alaska stock) in this fishery since 2001. Fifth, NMFS proposes to remove killer whales (Alaska Resident stock) from the list of species or stocks incidentally injured or killed by this fishery. There have been no documented injuries or mortalities of killer whales (Alaska Resident stock) in this fishery since 2000.

NMFS proposes to add Steller sea lions (Western United States stock) to the list of marine mammal stocks incidentally injured or killed by the Category III “Gulf of Alaska Pacific Cod longline” fishery. Serious injury/mortality to Steller sea lions (Western United States stock) by this fishery was documented in 2008 and 2010. Mean annual serious injury/mortality for the 2007–2010 period for Steller sea lions (Western United States stock) caused by this fishery is 4.4, and overall mean annual serious injury/mortality across all fisheries is 28.25. The PBR for this stock is 275. Serious injury/mortality for this stock across all fisheries is therefore slightly greater than 10 percent of PBR (27.5). While data from the SARs suggests serious injury/mortality caused by the fishery amounts to 1.6% of PBR, more recent results using updated methodologies for estimating total actual serious injury/mortality indicate serious injury/mortality is substantially less than 1% of PBR. Therefore, NMFS proposes to add the stock to the list of marine mammal stocks incidentally

injured or killed by the fishery but not reclassify the fishery at this time. Therefore, the stock does not drive the fishery’s classification.

NMFS proposes to remove Steller sea lions (Eastern United States stock) from the list of marine mammals incidentally injured or killed by the Category III “Gulf of Alaska Sablefish longline” fishery. There has been no documented injury/mortality of the stock in this fishery since 2000.

NMFS proposes to remove Steller sea lions (Eastern United States stock) from the list of marine mammals incidentally injured or killed by the Category III “Alaska Halibut longline” fishery. There has been no documented injury/mortality to the stock by this fishery since 1995.

NMFS proposes to add ribbon seal (Alaska stock) to the list of marine mammal stocks incidentally injured or killed by the Category III “Atka Mackerel trawl” fishery. Serious injury/mortality to ribbon seals (Alaska stock) in this fishery was documented in 2007 and 2009.

NMFS proposes to remove harbor seals (Bering Sea stock) from the list of marine mammals incidentally injured or killed by the Category III “Bering Sea/Aleutian Islands Pacific Cod trawl” fishery. There has been no documented injury or mortality to the stock by this fishery since 2004.

NMFS proposes to remove humpback whales (Western North Pacific stock) and (Central North Pacific stock) from the list of marine mammals incidentally injured or killed by the proposed

Category III “Alaska Bering Sea sablefish pot” fishery. There have been no documented injuries or mortalities to these stocks by the fishery over the last five years.

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

Number of Vessels/Persons

NMFS proposes to update the estimated number of vessels/persons in the commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean (Table 2). Updates are based on state and federal fisheries permit data. The estimated number of vessels/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/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort. However, in these cases, the numbers represent the potential effort for each fishery, given the multiple gear types several state permits may allow.

NMFS proposes the following updates to the estimated number of vessels/persons in commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

| Category | Fishery | Estimated number of participants (final 2012 LOF) | Estimated number of participants (proposed 2013 LOF) |
|----------|--|---|--|
| I | Atlantic Ocean, Caribbean, Gulf of Mexico large pelagic longline | 94 | 420 |
| I | Northeast Sink Gillnet | 3,828 | 4,375 |
| I | Mid Atlantic Gillnet | 6,402 | 5,509 |
| I | Northeast/Mid Atlantic American Lobster Trap/Pot | 11,767 | 11,693 |
| II | North Carolina inshore gillnet | 2,250 | 1,323 |
| II | Southeast Atlantic gillnet | 779 | 357 |
| II | Atlantic blue crab trap/pot | 10,008 | 8,557 |
| II | Northeast Anchored Float Gillnet | 414 | 421 |
| II | Northeast Mid Water Trawl (including pair trawl) | 887 | 1,103 |
| II | Mid Atlantic Mid Water Trawl (including pair trawl and flynet) | 669 | 322 |
| II | Mid Atlantic Beach Haul Seine | 874 | 565 |
| II | Northeast Bottom Trawl | 2,584 | 2,987 |
| II | Virginia Pound Net | 231 | 67 |
| II | Northeast Drift Gillnet | 414 | 311 |
| II | Atlantic Mixed Species Trap/Pot | 3,526 | 3,467 |
| II | Mid Atlantic Bottom Trawl | 1,388 | 631 |
| II | Chesapeake Bay Inshore Gillnet | 3,328 | 1,126 |
| II | Mid Atlantic Menhaden Purse Seine | 56 | 5 |
| III | Atlantic Shellfish Bottom Trawl | >86 | >58 |
| III | Gulf of Maine Atlantic Herring Purse Seine | >6 | >7 |
| III | Northeast, Mid-Atlantic Bottom Longline/Hook & Line | >1,281 | >1,207 |
| III | Gulf of Maine, U.S. Mid-Atlantic Sea Scallop Dredge | >230 | >403 |
| III | Gulf of Maine herring and Atlantic mackerel stop seine/weir | Unknown | >1 |
| III | Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon | >403 | 428 |

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes the following additions and deletions from the list of marine mammal species and stocks incidentally killed or injured in commercial fisheries in the Atlantic, Gulf of Mexico, and Caribbean found in Table 2 of the LOF. These additions and deletions are based on information contained in the U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments, strandings data, and/or observer data. The agency notes here that while only “serious injuries” and mortalities are used to categorize fisheries as Category I, II, or III, the list of species or stocks incidentally killed or injured includes stocks that have any documented injuries, including “non-serious” injuries. For information on how NMFS determines whether a particular injury is serious or non-serious, please see NMFS Instruction 02–038–01, “Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals” (<http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm>). NMFS proposes the following updates:

NMFS proposes two changes to the “Atlantic Ocean, Caribbean, Gulf of Mexico large pelagic longline” fishery. NMFS proposes to remove bottlenose dolphin (Northern Gulf of Mexico continental shelf stock) and to remove Gervais beaked whales (Gulf of Mexico oceanic stock) from the list of marine mammal stocks incidentally injured or killed in the fishery. There have been no documented injuries or mortalities of the stocks in this fishery over the last five years.

NMFS proposes to remove bottlenose dolphin (Eastern Gulf of Mexico coastal stock) from the list of marine mammal stocks incidentally injured or killed in the “Gulf of Mexico gillnet” fishery. There have been no documented injuries or mortalities of the stock in this fishery over the last five years. Additionally, this stock’s distribution and fishery effort no longer overlap.

NMFS proposes to remove Atlantic spotted dolphins (Western North Atlantic stock) from the list of marine mammal stocks incidentally injured or killed in the “Southeastern U.S. Atlantic shark gillnet” fishery. There have been no documented injuries or mortalities to the stock by this fishery over the last five years.

NMFS proposes to remove bottlenose dolphins (Eastern Gulf of Mexico coastal stock) from the list of marine mammal stocks incidentally injured or killed in the “Gulf of Mexico menhaden purse seine” fishery. There have been no documented injuries or mortalities to the stock by this fishery over the last five years. Additionally, this stock’s distribution and fishery effort no longer overlap.

NMFS proposes to remove dwarf sperm whales (Western North Atlantic stock) from the list of marine mammal stocks incidentally injured or killed in the “Caribbean gillnet” fishery. There have been no documented injuries or mortalities to the stock by this fishery over the last five years.

NMFS proposes to add bottlenose dolphin (Southern South Carolina/ Georgia coastal stock) to the “Georgia cannonball jellyfish trawl” fishery based on observed mortalities in April 2011 and March 2012. The potential biological removal level and the total annual human-caused mortality and serious injury for this stock is currently unknown (Waring *et al.* 2012).

NMFS proposes to add minke whales (Canadian East Coast stock) to the list of species incidentally killed or injured in the Category II “Northeast bottom trawl” fishery based on observed mortalities of minke whales reported in 2004 (one animal) and 2008 (two animals).

NMFS proposes to add Risso’s dolphins (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category I “Mid-Atlantic gillnet” fishery. The 2006–2010 average annual mortality and serious injury estimate for this fishery is 6.4 animals per year (Waring *et al.* 2012b).

NMFS proposes to add long-finned pilot whales (Western North Atlantic stock) and short-finned pilot whales (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category I “Northeast sink gillnet” fishery based on the observed take of one pilot whale (species unknown) in 2010. The average annual mortality and serious injury of pilot whales in this fishery is unknown at this time (Waring *et al.* 2012a).

NMFS proposes to add common dolphins (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category II “Northeast mid-water trawl” fishery. Common dolphin mortality was observed in this fishery in 2010 (Waring *et al.* 2012b) and in 2012. An expanded annual mortality and serious injury estimate for this fishery has not yet been calculated (Waring *et al.* 2012b).

NMFS proposes to add gray seals (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category II “Northeast mid-water trawl” fishery. One gray seal mortality was observed in this fishery in March 2012. An expanded annual mortality and injury rate for this fishery has not yet been generated (Waring *et al.* 2012b).

NMFS proposes to add gray seals (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category II “Mid-Atlantic bottom trawl” fishery. Two gray seal mortalities were observed in July 2011. An expanded annual mortality and injury rate for this fishery has not yet been generated.

Commercial Fisheries on the High Seas

Number of Vessels/Persons

NMFS proposes to update the estimated number of HSFCA permits in multiple high seas fisheries for multiple gear types (Table 3). The proposed updated numbers of HSFCA permits reflect the current number of permits in the NMFS National Permit System database.

| Category | High seas fishery | Number of HSFCA permits (final 2012 LOF) | Number of HSFCA permits (proposed 2013 LOF) |
|----------|--|--|---|
| I | Atlantic Highly Migratory Species Longline | 81 | 79 |
| II | Atlantic HMS Drift Gillnet | 1 | 2 |
| II | Pacific HMS Drift Gillnet | 3 | 4 |
| II | Atlantic HMS Trawl | 3 | 5 |
| II | Western Pacific Pelagic Trawl | 1 | 0 |
| II | South Pacific Tuna Purse Seine | 33 | 38 |
| II | South Pacific Tuna Longline | 11 | 10 |
| II | Pacific HMS Handline/Pole and Line | 30 | 40 |
| II | South Pacific Albacore Handline/Pole and Line | 8 | 7 |
| II | Western Pacific Pelagic Handline/Pole and Line | 8 | 6 |

| Category | High seas fishery | Number of HSFCA permits (final 2012 LOF) | Number of HSFCA permits (proposed 2013 LOF) |
|----------|-------------------------------|--|---|
| II | Atlantic HMS Troll | 7 | 5 |
| II | South Pacific Albacore Troll | 51 | 36 |
| II | Western Pacific Pelagic Troll | 32 | 22 |
| III | Pacific HMS Longline | 84 | 96 |
| III | Pacific HMS Purse Seine | 7 | 6 |
| III | Pacific HMS Troll | 258 | 263 |

List of Species or Stocks Incidentally Killed or Injured in High Seas Fisheries (Table 3)

NMFS proposes to update the list of species or stocks incidentally killed or injured by fisheries in High Seas Fisheries (provided in Table 3). The agency notes here that while only “serious injuries” and mortalities are used to categorize fisheries as Category I, II, or III, the list of species or stocks incidentally killed or injured includes stocks that have any documented injuries, including “non-serious” injuries. For information on how NMFS determines whether a particular injury is serious or non-serious, please see NMFS Instruction 02–038–01, “Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals” (<http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm>). NMFS proposes the following updates:

NMFS proposes to remove humpback whales (Central North Pacific stock) and Blainville’s beaked whales (Hawaiian and unknown stocks) from the list of species and stocks incidentally killed or injured in the “Western Pacific Pelagic (HI Deep-set component)” fishery, to be consistent with the Table 1 recommendations above. As noted on the 2012 LOF, this high seas fishery is an extension/component of the existing “Hawaii deep-set longline” fishery operating within U.S. waters, listed on Table 1. The marine mammal species or stocks listed as killed or injured in the fishery on Table 3 have either been observed taken by the fishery on the high seas, or are included so that the list is identical to the list of species or stocks killed or injured in the U.S. waters component of the fishery (on Table 1) because the high seas component of the fishery poses the same risk to marine mammals as the component operating in U.S. waters. Thus, NMFS proposes to remove these stocks from the list of species/stocks injured or killed in the high seas component of the fishery, to be consistent with the list of species/stocks in the U.S. waters component of the fishery.

NMFS proposes to remove Bryde’s whales (Hawaiian and unknown stocks) and add short-finned pilot whales (Hawaiian and unknown stocks) to the list of species and stocks incidentally killed or injured in the “Western Pacific Pelagic (HI Shallow-set component)” fishery, to be consistent with the Table 1 recommendations above. As noted on the 2012 LOF, this high seas fishery is an extension/component of the existing “Hawaii shallow-set longline” fishery operating within U.S. waters, listed on Table 1. The marine mammal species or stocks listed as killed or injured in the fishery on Table 3 have either been observed taken by the fishery on the high seas, or are included so that the list is identical to the list of species or stocks killed or injured in the U.S. waters component of the fishery (on Table 1), because the high seas component of the fishery poses the same risk to marine mammals as the component operating in U.S. waters. Additionally, as noted in the 2012 LOF, NMFS included “unknown” stocks of the species observed taken on the high seas to acknowledge that, since stock boundaries are undefined on the high seas, the fishery may be interacting with unknown, undefined stocks beyond the range of the Hawaii pelagic stocks. Therefore, NMFS proposes to remove Bryde’s whales (Hawaiian and unknown stocks) and add short-finned pilot whales (Hawaiian and unknown stocks) to the list of species/stocks injured or killed in the high seas component of the fishery to be consistent with the list of species/stocks injured or killed in the U.S. waters component of the fishery.

Fisheries Affected by Take Reduction Teams and Plans

NMFS proposes to update the list of fisheries affected by take reduction teams and plans found in Table 4 of the LOF.

In the Atlantic, Gulf of Mexico, and Caribbean region, two updates are proposed: The Atlantic portion of the “Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery” is subject to the Bottlenose Dolphin Take Reduction Plan (BDTRP), and the

“Chesapeake Bay inshore gillnet fishery” is also subject to the BDTRP. The “Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery” was reclassified to Category II in the 2011 LOF. The Atlantic portion of this fishery is known to interact with the Bottlenose dolphin, South Carolina/Georgia coastal stock. This stock is strategic and managed under the BDTRP. For that reason, this fishery will be included within the scope of the BDTRP. The “Chesapeake Bay inshore gillnet fishery” utilizes a gear type that is known to cause serious injury and mortality to bottlenose dolphins. This fishery has the potential for interacting with three bottlenose dolphin stocks (Southern migratory coastal, Northern migratory coastal, and Northern North Carolina estuarine) managed under the BDTRP. For these reasons, this fishery will be included within the scope of the BDTRP.

In the Pacific Ocean region, the False Killer Whale Take Reduction Plan final rule and implementing regulations were published in the **Federal Register** on November 29, 2012 (77 FR 71260). Therefore, NMFS proposes to add “False Killer Whale Take Reduction Plan (FKWTRP)—50 CFR 229.37” to the list of take reduction plans. Affected fisheries include the Category I “Hawaii deep-set (tuna target) longline/set line” and Category II “Hawaii shallow-set (swordfish target) longline/set line” fisheries.

List of Fisheries

The following tables set forth the proposed 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/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/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort, such as for many of the Mid-Atlantic and New England fisheries. However, in these cases, the numbers represent the potential effort for each fishery, given the multiple gear types several state permits may allow for. 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. Table 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, NMFS refers the reader to contact the relevant regional

office (contact information included above in **SUPPLEMENTARY INFORMATION**).

For high seas fisheries, Table 3 lists the number of currently valid HSFCA permits 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.

Tables 1, 2, and 3 also list the marine mammal species or stocks incidentally killed or injured in each fishery based on observer data, logbook data, stranding reports, disentanglement network data, and MMAP reports. This list includes all species or stocks known to be injured or killed in a given fishery but also includes species or stocks for which there are anecdotal records of an injury or mortality. Additionally, species identified by logbook entries, stranding data, or fishermen self-reports (i.e., MMAP reports) may not be verified. In Tables 1 and 2, NMFS has designated those stocks driving a fishery's classification (i.e., the fishery is classified based on serious injuries and mortalities of a marine mammal stock that are greater than 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 injuries or mortalities of marine mammals, or fisheries that did not result in a serious injury or mortality 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 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). 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 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 fishery 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 number of vessels/persons | Marine mammal species and stocks incidentally killed or injured |
|---|-------------------------------------|---|
| CATEGORY I | | |
| <i>LONGLINE/SET LINE FISHERIES:</i> HI deep-set (tuna target) longline/set line *^ | 129 | Bottlenose dolphin, HI Pelagic. False killer whale, HI Insular. ¹ False killer whale, HI Pelagic. ¹ False killer whale, Palmyra Atoll. Pantropical spotted dolphin, HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Striped dolphin, HI. |
| <i>GILLNET FISHERIES:</i> CA thresher shark/swordfish drift gillnet (≥14 in mesh) * .. | 25 | Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Humpback whale, CA/OR/WA. Long-beaked common dolphin, CA. Northern elephant seal, CA breeding. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA. Sperm Whale, CA/OR/WA. ¹ |
| CATEGORY II | | |
| <i>GILLNET FISHERIES:</i> 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. |

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

| Fishery description | Estimated number of vessels/ persons | Marine mammal species and stocks incidentally killed or injured |
|---|---|--|
| CA yellowtail, barracuda, and white seabass drift gillnet (mesh size \geq 3.5 in and <14 in) ² . | 30 | Northern elephant seal, CA breeding. Sea otter, CA. Short-beaked common dolphin, CA/OR/WA. California sea lion, U.S. |
| AK Bristol Bay salmon drift gillnet ² | 1,863 | Long-beaked common dolphin, CA. Short-beaked common dolphin, CA/OR/WA. 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. |
| AK Bristol Bay salmon set gillnet ² | 982 | Steller sea lion, Western U.S. 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. Sea otter, Southwest AK. |
| AK Cook Inlet salmon set gillnet | 738 | Steller sea lion, Western U.S. Beluga whale, Cook Inlet. Dall's porpoise, AK. Harbor porpoise, GOA. Harbor seal, GOA. |
| AK Cook Inlet salmon drift gillnet | 569 | Humpback whale, Central North Pacific. ¹ Steller sea lion, Western U.S. Beluga whale, Cook Inlet. Dall's porpoise, AK. Harbor porpoise, GOA. ¹ Harbor seal, GOA. |
| AK Peninsula/Aleutian Islands salmon drift gillnet ² | 162 | Steller sea lion, Western U.S. Dall's porpoise, AK. Harbor porpoise, GOA. Harbor seal, GOA. |
| AK Peninsula/Aleutian Islands salmon set gillnet ² | 114 | Northern fur seal, Eastern Pacific. Harbor porpoise, Bering Sea. 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. |
| AK Southeast salmon drift gillnet | 474 | Pacific white-sided dolphin, North Pacific. Sea otter, South Central AK. Steller sea lion, Western U.S. ¹ Dall's porpoise, AK. Harbor porpoise, Southeast AK. Harbor seal, Southeast AK. |
| AK Yakutat salmon set gillnet ² | 167 | Humpback whale, Central North Pacific. ¹ Pacific white-sided dolphin, North Pacific. Steller sea lion, Eastern U.S. Gray whale, Eastern North Pacific. Harbor Porpoise, Southeastern AK. Harbor seal, 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 | Humpback whale, Central North Pacific (Southeast AK). Dall's porpoise, CA/OR/WA. Harbor porpoise, inland WA. ¹ Harbor seal, WA inland. |
| <i>PURSE SEINE FISHERIES:</i> | | |
| AK Cook Inlet salmon purse seine | 82 | Humpback whale, Central North Pacific. ¹ |
| AK Kodiak salmon purse seine | 379 | Humpback whale, Central North Pacific. ¹ |
| <i>TRAWL FISHERIES:</i> | | |
| AK Bering Sea, Aleutian Islands flatfish trawl | 34 | 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 |

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

| Fishery description | Estimated number of vessels/ persons | Marine mammal species and stocks incidentally killed or injured |
|---|--------------------------------------|---|
| AK Bering Sea, Aleutian Islands pollock trawl | 95 | 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. |
| Bering Sea, Aleutian Islands rockfish trawl | 28 | Bearded Seal, AK. 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 Killer whale, ENP AK resident. ¹ Killer whale, GOA, AI, BS transient ¹ |
| <i>POT, RING NET, AND TRAP FISHERIES:</i> | | |
| CA spot prawn pot | 27 | Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA. ¹ |
| CA Dungeness crab pot | 534 | 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/trap | 228 | Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA. ¹ |
| <i>LOGLINE/SET LINE FISHERIES:</i> | | |
| HI shallow-set (swordfish target) longline/set line *^ | 20 | Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic. ¹ Humpback whale, Central North Pacific. Kogia sp. whale (Pygmy or dwarf sperm whale), HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Striped dolphin, HI. |
| American Samoa longline ² | 24 | False killer whale, American Samoa. Rough-toothed dolphin, American Samoa. |
| HI shortline ² | 11 | None documented. |
| CATEGORY III | | |
| <i>GILLNET FISHERIES:</i> | | |
| AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet. | 1702 | Harbor porpoise, Bering Sea. |
| AK miscellaneous finfish set gillnet | 3 | Steller sea lion, Western U.S. |
| AK Prince William Sound salmon set gillnet | 30 | Harbor seal, GOA. Steller sea lion, Western U.S. |
| AK roe herring and food/bait herring gillnet | 990 | None documented. |
| CA set gillnet (mesh size <3.5 in) | 304 | 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 herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet. | 913 | None documented. |
| WA/OR lower Columbia River (includes tributaries) drift gillnet. | 110 | California sea lion, U.S. Harbor seal, OR/WA coast. |
| WA Willapa Bay drift gillnet | 82 | Harbor seal, OR/WA coast. Northern elephant seal, CA breeding. |
| <i>PURSE SEINE, BEACH SEINE, ROUND HAUL, THROW NET AND TANGLE NET FISHERIES:</i> | | |
| AK Southeast salmon purse seine | 415 | None documented in the most recent 5 years of data. |
| AK Metlakatla salmon purse seine | 10 | None documented. |
| AK miscellaneous finfish beach seine | 1 | None documented. |
| AK miscellaneous finfish purse seine | 2 | None documented. |
| AK octopus/squid purse seine | 0 | None documented. |
| AK roe herring and food/bait herring beach seine | 6 | None documented. |
| AK roe herring and food/bait herring purse seine | 367 | None documented. |

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

| Fishery description | Estimated number of vessels/persons | Marine mammal species and stocks incidentally killed or injured |
|---|-------------------------------------|---|
| AK salmon beach seine | 31 | None documented. |
| AK salmon purse seine (excluding salmon purse seine fisheries listed as Category II). | 935 | Harbor seal, GOA. |
| 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 sardine purse seine | 42 | None documented. |
| WA (all species) beach seine or drag seine | 235 | None documented. |
| WA/OR herring, smelt, squid purse seine or lampara | 130 | None documented. |
| WA salmon purse seine | 440 | None documented. |
| WA salmon reef net | 53 | None documented. |
| HI opelu/akule net | 22 | None documented. |
| HI inshore purse seine | <3 | None documented. |
| HI throw net, cast net | 29 | None documented. |
| HI hukilau net | 26 | None documented. |
| HI lobster tangle net | 0 | None documented. |
| <i>DIP NET FISHERIES:</i> | | |
| CA squid dip net | 115 | None documented. |
| WA/OR smelt, herring dip net | 119 | None documented. |
| <i>MARINE AQUACULTURE FISHERIES:</i> | | |
| CA marine shellfish aquaculture | unknown | None documented. |
| CA salmon enhancement rearing pen | >1 | None documented. |
| CA white seabass enhancement net pens | 13 | California sea lion, U.S. |
| HI offshore pen culture | 2 | None documented. |
| OR salmon ranch | 1 | None documented. |
| WA/OR salmon net pens | 14 | California sea lion, U.S. Harbor seal, WA inland waters. |
| <i>TROLL FISHERIES:</i> | | |
| AK North Pacific halibut, AK bottom fish, WA/OR/CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries.* | 1,320 (120 AK) | None documented. |
| AK salmon troll | 2,008 | Steller sea lion, Eastern U.S. Steller sea lion, Western U.S. |
| American Samoa tuna troll | 7 | None documented. |
| CA/OR/WA salmon troll | 4,300 | None documented. |
| HI trolling, rod and reel | 1,560 | Pantropical spotted dolphin, HI |
| Commonwealth of the Northern Mariana Islands tuna troll. | 40 | None documented. |
| Guam tuna troll | 432 | None documented. |
| <i>LONGLINE/SET LINE FISHERIES:</i> | | |
| AK Bering Sea, Aleutian Islands Pacific cod longline | 154 | Dall's Porpoise, AK. Northern fur seal, Eastern Pacific. |
| AK Bering Sea, Aleutian Islands rockfish longline | 0 | None documented. |
| AK Bering Sea, Aleutian Islands Greenland turbot longline. | 36 | Killer whale, AK resident. |
| AK Bering Sea, Aleutian Islands sablefish longline | 28 | None documented. |
| AK Gulf of Alaska halibut longline | 1,302 | None documented. |
| AK Gulf of Alaska Pacific cod longline | 107 | Steller sea lion, Western U.S. |
| AK Gulf of Alaska rockfish longline | 0 | None documented. |
| AK Gulf of Alaska sablefish longline | 291 | Sperm whale, North Pacific. |
| AK halibut longline/set line (State and Federal waters) ... | 2,280 | None documented in the most recent 5 years of data. |
| AK octopus/squid longline | 2 | None documented. |
| AK State-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish). | 1,323 | None documented. |
| WA/OR/CA groundfish, bottomfish longline/set line | 367 | Bottlenose dolphin, CA/OR/WA offshore. |
| WA/OR North Pacific halibut longline/set line | 350 | None documented. |
| CA pelagic longline | 6 | None documented in the most recent 5 years of data. |
| HI kaka line | 17 | None documented. |
| HI vertical longline | 9 | None documented. |
| <i>TRAWL FISHERIES:</i> | | |
| AK Bering Sea, Aleutian Islands Atka mackerel trawl | 9 | Ribbon seal, AK. Steller sea lion, Western U.S. |
| AK Bering Sea, Aleutian Islands Pacific cod trawl | 93 | Steller sea lion, Western U.S. |
| AK Gulf of Alaska flatfish trawl | 41 | Northern elephant seal, NP. |
| AK Gulf of Alaska Pacific cod trawl | 62 | Steller sea lion, Western U.S. |
| AK Gulf of Alaska pollock trawl | 62 | Dall's porpoise, AK. Fin whale, Northeast Pacific. Northern elephant seal, North Pacific. |

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

| Fishery description | Estimated number of vessels/ persons | Marine mammal species and stocks incidentally killed or injured |
|---|--------------------------------------|---|
| AK Gulf of Alaska rockfish trawl | 34 | Steller sea lion, Western U.S. |
| AK food/bait herring trawl | 4 | None documented. |
| AK miscellaneous finfish otter/beam trawl | 282 | None documented. |
| AK shrimp otter trawl and beam trawl (statewide and Cook Inlet). | 33 | None documented. |
| AK State-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl. | 2 | None documented. |
| CA halibut bottom trawl | 53 | None documented. |
| WA/OR/CA 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. |
| <i>POT, RING NET, AND TRAP FISHERIES:</i> | | |
| AK statewide miscellaneous finfish pot | 243 | None documented. |
| AK Aleutian Islands sablefish pot | 8 | None documented. |
| AK Bering Sea, Aleutian Islands Pacific cod pot | 68 | None documented. |
| AK Bering Sea, Aleutian Islands crab pot | 296 | None documented. |
| AK Bering Sea sablefish pot | 6 | None documented. |
| AK Gulf of Alaska crab pot | 389 | None documented. |
| AK Gulf of Alaska Pacific cod pot | 154 | Harbor seal, GOA. |
| AK Southeast Alaska crab pot | 415 | Humpback whale, Central North Pacific (Southeast AK). |
| AK Southeast Alaska shrimp pot | 274 | Humpback whale, Central North Pacific (Southeast AK). |
| AK shrimp pot, except Southeast | 210 | None documented. |
| AK octopus/squid pot | 26 | None documented. |
| AK snail pot | 1 | None documented. |
| CA coonstripe shrimp, rock crab, tanner crab pot or trap | 305 | Gray whale, Eastern North Pacific. Harbor seal, CA |
| CA spiny lobster | 225 | Gray whale, Eastern North Pacific. |
| OR/CA hagfish pot or trap | 54 | None documented. |
| WA/OR shrimp pot/trap | 254 | None documented. |
| WA Puget Sound Dungeness crab pot/trap | 249 | None documented. |
| HI crab trap | 9 | None documented. |
| HI fish trap | 9 | None documented. |
| HI lobster trap | <3 | Hawaiian monk seal. |
| HI shrimp trap | 4 | None documented. |
| HI crab net | 6 | None documented. |
| HI Kona crab loop net | 48 | None documented. |
| <i>HANDLINE AND JIG FISHERIES:</i> | | |
| AK miscellaneous finfish handline/hand troll and mechanical jig. | 456 | None documented. |
| AK North Pacific halibut handline/hand troll and mechanical jig. | 180 | None documented. |
| AK octopus/squid handline | 0 | None documented. |
| American Samoa bottomfish | 12 | None documented. |
| 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 Main Hawaiian Islands deep-sea bottomfish handline | 567 | Hawaiian monk seal. |
| HI inshore handline | 378 | None documented. |
| HI tuna handline | 459 | None documented. |
| WA groundfish, bottomfish jig | 679 | None documented. |
| Western Pacific squid jig | <3 | None documented. |
| <i>HARPOON FISHERIES:</i> | | |
| CA swordfish harpoon | 30 | None documented. |
| <i>POUND NET/WEIR FISHERIES:</i> | | |
| AK herring spawn on kelp pound net | 411 | None documented. |
| AK Southeast herring roe/food/bait pound net | 4 | None documented. |
| WA herring brush weir | 1 | None documented. |
| HI bullpen trap | <3 | None documented. |
| <i>BAIT PENS:</i> | | |
| WA/OR/CA bait pens | 13 | California sea lion, U.S. |
| <i>DREDGE FISHERIES:</i> | | |
| Coastwide scallop dredge | 108 (12 AK) | None documented. |
| <i>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</i> | | |
| AK abalone | 0 | None documented. |

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

| Fishery description | Estimated number of vessels/persons | Marine mammal species and stocks incidentally killed or injured |
|--|-------------------------------------|--|
| AK clam | 156 | None documented. |
| WA herring spawn on kelp | 4 | None documented. |
| AK Dungeness crab | 2 | None documented. |
| AK herring spawn on kelp | 266 | None documented. |
| AK urchin and other fish/shellfish | 521 | None documented. |
| CA abalone | 0 | None documented. |
| CA sea urchin | 583 | None documented. |
| HI black coral diving | <3 | None documented. |
| HI fish pond | 16 | None documented. |
| HI handpick | 57 | None documented. |
| HI lobster diving | 29 | None documented. |
| HI spearfishing | 143 | None documented. |
| WA/CA kelp | 4 | None documented. |
| WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection. | 637 | None documented. |
| WA shellfish aquaculture | 684 | None documented. |
| COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES: | | |
| AK/WA/OR/CA commercial passenger fishing vessel | >7,000 (2,702 AK) | Killer whale, stock unknown. Steller sea lion, Eastern U.S. Steller sea lion, Western U.S. |
| HI charter vessel | 114 | Pantropical spotted dolphin, HI. |
| LIVE FINFISH/SHELLFISH FISHERIES: | | |
| CA nearshore finfish live trap/hook-and-line | 93 | None documented. |

List of Abbreviations and Symbols Used in Table 1: AK—Alaska; CA—California; GOA—Gulf of Alaska; HI—Hawaii; OR—Oregon; WA—Washington; ¹Fishery classified based on serious injuries and mortalities of this stock, which are greater than 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR; ²Fishery classified by analogy; *Fishery has an associated high seas component listed in Table 3; ^ The list of marine mammal species or stocks killed or injured in this fishery is identical to the list of species or stocks killed or injured in high seas component of the fishery, minus species or stocks have geographic ranges exclusively on the high seas. The species 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 number of vessels/ persons | Marine mammal species and stocks incidentally killed or injured |
|------------------------------|--------------------------------------|--|
| CATEGORY I | | |
| GILLNET FISHERIES: | | |
| Mid-Atlantic gillnet | 5,509 | Bottlenose dolphin, Northern Migratory coastal. ¹ 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. Harp seal, WNA. Humpback whale, Gulf of Maine. Long-finned pilot whale, WNA. Minke whale, Canadian east coast. Risso's dolphin, WNA. Short-finned pilot whale, WNA. White-sided dolphin, WNA. |
| Northeast sink gillnet | 4,375 | Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Fin whale, WNA. Gray seal, WNA. Harbor porpoise, GME/BF. ¹ Harbor seal, WNA. Harp seal, WNA. Hooded seal, WNA. Humpback whale, Gulf of Maine. Long-finned Pilot whale, WNA. Minke whale, Canadian east coast. North Atlantic right whale, WNA. |

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

| Fishery description | Estimated number of vessels/ persons | Marine mammal species and stocks incidentally killed or injured |
|---|--------------------------------------|---|
| <p><i>TRAP/POT FISHERIES:</i> Northeast/Mid-Atlantic American lobster trap/pot</p> | 11,693 | <p>Risso's dolphin, WNA. Short-finned Pilot whale, WNA. White-sided dolphin, WNA. Harbor seal, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. North Atlantic right whale, WNA.¹</p> |
| <p><i>LOONGLINE FISHERIES:</i> Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline*</p> | 420 | <p>Atlantic spotted dolphin, GMX continental and oceanic. Atlantic spotted dolphin, WNA. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Cuvier's beaked whale, WNA. Killer whale, GMX oceanic. Long-finned pilot whale, WNA.¹ Mesoplodon beaked whale, WNA. Northern bottlenose whale, WNA. Pantropical spotted dolphin, Northern GMX. Pantropical spotted dolphin, WNA. Risso's dolphin, Northern GMX. Risso's dolphin, WNA. Short-finned pilot whale, Northern GMX. Short-finned pilot whale, WNA.¹ Sperm whale, GMX oceanic.</p> |

CATEGORY II

| | | |
|---|-------|--|
| <p><i>GILLNET FISHERIES:</i> Chesapeake Bay inshore gillnet²</p> | 1,126 | None documented in the most recent 5 years of data. |
| <p>Gulf of Mexico gillnet²</p> | 724 | <p>Bottlenose dolphin, GMX bay, sound, and estuarine. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal.</p> |
| <p>NC inshore gillnet</p> | 1,323 | <p>Bottlenose dolphin, Northern NC estuarine system.¹ Bottlenose dolphin, Southern NC estuarine system.¹</p> |
| <p>Northeast anchored float gillnet²</p> | 421 | <p>Harbor seal, WNA. Humpback whale, Gulf of Maine. White-sided dolphin, WNA.</p> |
| <p>Northeast drift gillnet²</p> | 311 | None documented. |
| <p>Southeast Atlantic gillnet²</p> | 357 | <p>Bottlenose dolphin, Southern Migratory coastal. Bottlenose dolphin, SC/GA coastal. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Northern FL coastal.</p> |
| <p>Southeastern U.S. Atlantic shark gillnet</p> | 30 | <p>Bottlenose dolphin, Central FL coastal.¹ Bottlenose dolphin, Northern FL coastal. North Atlantic right whale, WNA.</p> |
| <p><i>TRAWL FISHERIES</i></p> | | |
| <p>Mid-Atlantic mid-water trawl (including pair trawl)</p> | 322 | <p>Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Long-finned pilot whale, WNA. Risso's dolphin, WNA. Short-finned pilot whale, WNA. White-sided dolphin, WNA.¹</p> |
| <p>Mid-Atlantic bottom trawl</p> | 631 | <p>Bottlenose dolphin, WNA offshore. Common dolphin, WNA.¹ Gray seal, WNA. Harbor seal, WNA. Long-finned pilot whale, WNA.¹ Risso's dolphin, WNA.¹ Short-finned pilot whale, WNA.¹ White-sided dolphin, WNA.</p> |
| <p>Northeast mid-water trawl (including pair trawl)</p> | 1,103 | <p>Gray seal, WNA. Harbor seal, WNA. Long-finned pilot whale, WNA.¹ Short-finned pilot whale, WNA.¹ Common dolphin, WNA. White-sided dolphin, WNA.</p> |
| <p>Northeast bottom trawl</p> | 2,987 | <p>Bottlenose dolphin, WNA offshore.</p> |

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

| Fishery description | Estimated number of vessels/ persons | Marine mammal species and stocks incidentally killed or injured |
|---|--------------------------------------|---|
| Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl .. | 4,950 | Common dolphin, WNA. Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Harp seal, WNA. Long-finned pilot whale, WNA. Minke whale, Canadian East Coast. Short-finned pilot whale, WNA. White-sided dolphin, WNA. ¹ Atlantic spotted dolphin, GMX continental and oceanic. Bottlenose dolphin, SC/GA coastal. ¹ Bottlenose dolphin, Eastern GMX coastal. ¹ Bottlenose dolphin, GMX continental shelf. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal. ¹ Bottlenose dolphin, GMX bay, sound, estuarine. ¹ West Indian manatee, FL. |
| <i>TRAP/POT FISHERIES:</i> | | |
| Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot ² | 1,282 | 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 | 3,467 | Fin whale, WNA. |
| Atlantic blue crab trap/pot | 8,557 | Humpback whale, Gulf of Maine. Bottlenose dolphin, Charleston estuarine system. ¹ Bottlenose dolphin, Indian River Lagoon estuarine system. ¹ Bottlenose dolphin, Jacksonville estuarine system. ¹ Bottlenose dolphin, SC/GA coastal. ¹ Bottlenose dolphin, Northern GA/Southern SC estuarine system. ¹ Bottlenose dolphin, Southern GA estuarine system. ¹ Bottlenose dolphin, Northern Migratory coastal. ¹ Bottlenose dolphin, Southern Migratory coastal. ¹ Bottlenose dolphin, Central FL coastal. ¹ Bottlenose dolphin, Northern FL coastal. ¹ Bottlenose dolphin, Northern NC estuarine system. ¹ Bottlenose dolphin, Southern NC estuarine system. ¹ West Indian manatee, FL. ¹ |
| <i>PURSE SEINE FISHERIES:</i> | | |
| Gulf of Mexico menhaden purse seine | 40–42 | Bottlenose dolphin, GMX bay, sound, estuarine. Bottlenose dolphin, Northern GMX coastal. ¹ Bottlenose dolphin, Western GMX coastal. ¹ |
| Mid-Atlantic menhaden purse seine ² | 5 | Bottlenose dolphin, Northern Migratory coastal. Bottlenose dolphin, Southern Migratory coastal. |
| <i>HAUL/BEACH SEINE FISHERIES:</i> | | |
| Mid-Atlantic haul/beach seine | 565 | Bottlenose dolphin, Northern NC estuarine system. ¹ Bottlenose dolphin, Northern Migratory coastal. ¹ Bottlenose dolphin, Southern Migratory coastal. ¹ |
| NC long haul seine | 372 | Bottlenose dolphin, Southern NC estuarine system. Bottlenose dolphin, Northern NC estuarine system. ¹ |
| <i>STOP NET FISHERIES:</i> | | |
| NC roe mullet stop net | 13 | Bottlenose dolphin, Southern NC estuarine system. ¹ |
| <i>POUND NET FISHERIES:</i> | | |
| VA pound net | 67 | Bottlenose dolphin, Northern NC estuarine system. Bottlenose dolphin, Northern Migratory coastal. ¹ Bottlenose dolphin, Southern Migratory coastal. ¹ |
| CATEGORY III | | |
| <i>GILLNET FISHERIES:</i> | | |
| Caribbean gillnet | >991 | None documented in the most recent 5 years of data. |
| DE River inshore gillnet | unknown | None documented in the most recent 5 years of data. |
| Long Island Sound inshore gillnet | unknown | None documented in the most recent 5 years of data. |

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

| Fishery description | Estimated number of vessels/ persons | Marine mammal species and stocks incidentally killed or injured |
|---|--------------------------------------|---|
| RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet. | unknown | None documented in the most recent 5 years of data. |
| Southeast Atlantic inshore gillnet | unknown | None documented. |
| TRAWL FISHERIES: | | |
| Atlantic shellfish bottom trawl | >58 | None documented. |
| Gulf of Mexico butterfish trawl | 2 | Bottlenose dolphin, Northern GMX oceanic. |
| Gulf of Mexico mixed species trawl | 20 | Bottlenose dolphin, Northern GMX continental shelf. |
| GA cannonball jellyfish trawl | 1 | None documented. |
| MARINE AQUACULTURE FISHERIES: | | Bottlenose dolphin, South Carolina/Georgia. |
| Finfish aquaculture | 48 | Harbor seal, WNA. |
| Shellfish aquaculture | unknown | None documented. |
| PURSE SEINE FISHERIES: | | |
| Gulf of Maine Atlantic herring purse seine | >7 | Harbor seal, WNA. |
| Gulf of Maine menhaden purse seine | >2 | Gray seal, WNA. |
| FL West Coast sardine purse seine | 10 | None documented. |
| U.S. Atlantic tuna purse seine * | 5 | Bottlenose dolphin, Eastern GMX coastal. |
| LONGLINE/HOOK-AND-LINE FISHERIES: | | Long-finned pilot whale, WNA. |
| Northeast/Mid-Atlantic bottom longline/hook-and-line | >1,207 | Short-finned pilot whale, WNA. |
| Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon. | 428 | None documented. |
| Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-groupers and other reef fish bottom longline/hook-and-line. | >5,000 | Humpback whale, Gulf of Maine. |
| Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line. | <125 | Bottlenose dolphin, GMX continental shelf. |
| Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon. | 1,446 | Bottlenose dolphin, Eastern GMX coastal. |
| U.S. Atlantic, Gulf of Mexico trotline | unknown | Bottlenose dolphin, Northern GMX continental shelf. |
| TRAP/POT FISHERIES | | None documented. |
| 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. |
| Gulf of Mexico blue crab trap/pot | 4,113 | Bottlenose dolphin, Eastern GMX coastal. |
| Gulf of Mexico mixed species trap/pot | unknown | Bottlenose dolphin, FL Bay estuarine. |
| Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot. | 10 | Bottlenose dolphin, Western GMX coastal. |
| U.S. Mid-Atlantic eel trap/pot | unknown | Bottlenose dolphin, Northern GMX coastal. |
| STOP SEINE/WEIR/POUND NET/FLOATING TRAP FISHERIES: | | Bottlenose dolphin, Eastern GMX coastal. |
| Gulf of Maine herring and Atlantic mackerel stop seine/weir. | >1 | Bottlenose dolphin, GMX bay, sound, estuarine. |
| U.S. Mid-Atlantic crab stop seine/weir | 2,600 | West Indian manatee, FL. |
| U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net). | unknown | None documented. |
| RI floating trap | 9 | None documented. |
| DREDGE FISHERIES: | | Harbor porpoise, GME/BF. |
| Gulf of Maine mussel dredge | unknown | Harbor seal, WNA. |
| Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge | >403 | Minke whale, Canadian east coast. |
| U.S. Mid-Atlantic/Gulf of Mexico oyster dredge | 7,000 | White-sided dolphin, WNA. |
| U.S. Mid-Atlantic offshore surf clam and quahog dredge | unknown | None documented. |
| HAUL/BEACH SEINE FISHERIES: | | Bottlenose dolphin, Northern NC estuarine system. |
| Caribbean haul/beach seine | 15 | None documented. |
| Gulf of Mexico haul/beach seine | unknown | None documented. |
| Southeastern U.S. Atlantic haul/beach seine | 25 | None documented. |

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

| Fishery description | Estimated number of vessels/ persons | Marine mammal species and stocks incidentally killed or injured |
|--|--------------------------------------|--|
| <i>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</i> 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. |
| <i>COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:</i> Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel. | 4,000 | Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, GMX bay, sound, estuarine. Bottlenose dolphin, Indian River Lagoon estuarine system. Bottlenose dolphin, Southern NC estuarine system. |

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; SC—South Carolina; VA—Virginia; WNA—Western North Atlantic.

¹ Fishery classified based on serious injuries and mortalities of this stock, which are greater than 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 | Number of HSFCA permits | Marine mammal species and stocks incidentally killed or injured |
|--|-------------------------|---|
| Category I | | |
| <i>LOGLINE FISHERIES:</i> Atlantic Highly Migratory Species ** | 79 | Atlantic spotted dolphin, WNA. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Cuvier's beaked whale, WNA. Long-finned pilot whale, WNA. Mesoplodon beaked whale, WNA. Pygmy sperm whale, WNA. Risso's dolphin, WNA. Short-finned pilot whale, WNA. |
| Western Pacific Pelagic (HI Deep-set component) * ^ + | 124 | Bottlenose dolphin, HI Pelagic. Bottlenose dolphin, unknown. False killer whale, HI Pelagic. False killer whale, unknown. Pantropical spotted dolphin, HI. Pantropical spotted dolphin, unknown. Risso's dolphin, HI. Risso's dolphin, unknown. Short-finned pilot whale, HI. Short-finned pilot whale, unknown. Striped dolphin, HI. |
| | | Striped dolphin, unknown. |
| Category II | | |
| <i>DRIFT GILLNET FISHERIES:</i> Atlantic Highly Migratory Species | 2 | Undetermined. |
| Pacific Highly Migratory Species * ^ | 4 | 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. |
| <i>TRAWL FISHERIES:</i> Atlantic Highly Migratory Species ** | 5 | Undetermined. |
| CCAMLR | 0 | Antarctic fur seal. |
| Western Pacific Pelagic | 0 | Undetermined. |
| <i>PURSE SEINE FISHERIES:</i> South Pacific Tuna Fisheries | 38 | Undetermined. |

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS—Continued

| Fishery description | Number of HSFCA permits | Marine mammal species and stocks incidentally killed or injured |
|--|-------------------------|---|
| Western Pacific Pelagic | 3 | Undetermined. |
| <i>POT VESSEL FISHERIES:</i> | | |
| Pacific Highly Migratory Species ** | 3 | Undetermined. |
| South Pacific Albacore Troll | 3 | Undetermined. |
| Western Pacific Pelagic | 3 | Undetermined. |
| <i>LONGLINE FISHERIES:</i> | | |
| CCAMLR | 0 | None documented. |
| South Pacific Albacore Troll | 11 | Undetermined. |
| South Pacific Tuna Fisheries ** | 10 | Undetermined. |
| Western Pacific Pelagic (HI Shallow-set component) * ^ + | 28 | Bottlenose dolphin, HI Pelagic. Bottlenose dolphin, unknown. Humpback whale, Central North Pacific. Kogia sp. whale (Pygmy or dwarf sperm whale), HI. Kogia sp. whale (Pygmy or dwarf sperm whale), unknown. Risso's dolphin, HI. Risso's dolphin, unknown. Short-finned pilot whale, HI. Short-finned pilot whale, unknown. Striped dolphin, HI. Striped dolphin, unknown. |
| <i>HANDLINE/POLE AND LINE FISHERIES:</i> | | |
| Atlantic Highly Migratory Species | 3 | Undetermined. |
| Pacific Highly Migratory Species | 40 | Undetermined. |
| South Pacific Albacore Troll | 7 | Undetermined. |
| Western Pacific Pelagic | 6 | Undetermined. |
| <i>TROLL FISHERIES:</i> | | |
| Atlantic Highly Migratory Species | 5 | Undetermined. |
| South Pacific Albacore Troll | 36 | Undetermined. |
| South Pacific Tuna Fisheries ** | 3 | Undetermined. |
| Western Pacific Pelagic | 22 | Undetermined. |
| <i>LINERS NEI FISHERIES:</i> | | |
| Pacific Highly Migratory Species ** | 1 | Undetermined. |
| South Pacific Albacore Troll | 1 | Undetermined. |
| Western Pacific Pelagic | 1 | Undetermined. |
| <i>FACTORY MOTHERSHIP FISHERIES:</i> | | |
| Western Pacific Pelagic | 1 | Undetermined. |
| <i>MULTIPURPOSE VESSELS NEI FISHERIES:</i> | | |
| Atlantic Highly Migratory Species | 1 | Undetermined. |
| Pacific Highly Migratory Species ** | 5 | Undetermined. |
| South Pacific Albacore Troll | 4 | Undetermined. |
| Western Pacific Pelagic | 4 | Undetermined. |
| Category III | | |
| <i>LONGLINE FISHERIES:</i> | | |
| Pacific Highly Migratory Species * + | 96 | None documented in the most recent 5 years of data. |
| <i>PURSE SEINE FISHERIES</i> | | |
| Atlantic Highly Migratory Species * ^ | 0 | Long-finned pilot whale, WNA. Short-finned pilot whale, WNA. |
| Pacific Highly Migratory Species * ^ | 6 | None documented. |
| <i>TROLL FISHERIES:</i> | | |
| Pacific Highly Migratory Species * | 263 | None documented. |

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

GMX—Gulf of Mexico; NEI—Not Elsewhere Identified; 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 HMS FMP (2004), the Atlantic HMS FMP (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 marine mammal species or stocks listed as killed or injured in this fishery has been observed taken by this fishery on the high seas.

^ The list of marine mammal species or stocks killed or injured in this fishery is identical to the list of marine mammal species or stocks killed or injured in U.S. waters component of the fishery, minus species or stocks that have geographic ranges exclusively in coastal waters, because the marine mammal species 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 | <p><i>Category I:</i> Mid-Atlantic gillnet. Northeast/Mid-Atlantic American lobster trap/pot. Northeast sink gillnet.</p> <p><i>Category II:</i> 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. ^</p> |
| Bottlenose Dolphin Take Reduction Plan (BDTRP)—50 CFR 229.35 | <p><i>Category I:</i> Mid-Atlantic gillnet.</p> <p><i>Category II:</i> 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.</p> |
| False Killer Whale Take Reduction Plan (FKWTRP)—50 CFR 229.37 .. | <p><i>Category I:</i> HI deep-set (tuna target) longline/set line.</p> <p><i>Category II:</i> HI shallow-set (swordfish target) longline/set line.</p> |
| Harbor Porpoise Take Reduction Plan (HPTRP)—50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic). | <p><i>Category I:</i> Mid-Atlantic gillnet. Northeast sink gillnet.</p> |
| Pelagic Longline Take Reduction Plan (PLTRP)—50 CFR 229.36 | <p><i>Category I:</i> Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline.</p> |
| Pacific Offshore Cetacean Take Reduction Plan (POCTRP)—50 CFR 229.31. | <p><i>Category II:</i> CA thresher shark/swordfish drift gillnet (≥14 in mesh).</p> |
| Atlantic Trawl Gear Take Reduction Team (ATGTRT) | <p><i>Category II:</i> Mid-Atlantic bottom trawl. Mid-Atlantic mid-water trawl (including pair trawl). Northeast bottom trawl. Northeast mid-water trawl (including pair trawl).</p> |
| False Killer Whale Take Reduction Team (FKWTRT) | <p><i>Category I:</i> HI deep-set (tuna target) longline/set line.</p> <p><i>Category II:</i> HI shallow-set (swordfish target) longline/set line.</p> |

* 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 that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis leading to the certification is set forth below.

Under existing regulations, all individuals participating in Category I or II fisheries must register under the MMPA and obtain an Authorization Certificate. The Authorization Certificate authorizes the taking of non-endangered and non-threatened marine

mammals incidental to commercial fishing operations. Additionally, individuals may be subject to a TRP and requested to carry an observer. NMFS has estimated that up to approximately 59,500 fishing vessels, most of which are small entities, may operate in Category I or II fisheries and, therefore, are required to register with NMFS. Of these, approximately 28 are new to a Category I or II fishery as a result of this proposed rule. The MMPA registration process is integrated with existing state and Federal licensing, permitting, and registration programs. Therefore, individuals who have a state or Federal fishing permit or landing license, or who are authorized through another

related state or Federal fishery registration program, are currently not required to register separately under the MMPA or pay the \$25 registration fee. Therefore, there are no direct costs to small entities under this proposed rule.

If a vessel is requested to carry an observer, individuals will not incur any direct economic costs associated with carrying that observer. Potential indirect costs to individuals required to take observers may include: lost space on deck for catch, lost bunk space, and lost fishing time due to time needed by the observer to process bycatch data. For effective monitoring, however, observers will rotate among a limited number of vessels in a fishery at any given time

and each vessel within an observed fishery has an equal probability of being requested to accommodate an observer. Therefore, the potential indirect costs to individuals are expected to be minimal because observer coverage would only be required for a small percentage of an individual's total annual fishing time. In addition, section 118 of the MMPA states that an observer will not be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe, thereby exempting vessels too small to accommodate an observer from this requirement. As a result of this certification, an initial regulatory flexibility analysis is not required and was not prepared. In the event that reclassification of a fishery to Category I or II results in a TRP, economic analyses of the effects of that TRP would be summarized in subsequent rulemaking actions.

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

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

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

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA in June 1995. NMFS revised that EA relative to classifying U.S.

commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This proposed rule would not make any significant change in the management of reclassified fisheries; therefore, this proposed rule is not expected to change the analysis or conclusion of the 2005 EA. The Council of Environmental Quality (CEQ) recommends agencies review EAs every five years; therefore, NMFS reviewed the 2005 EA in 2009. NMFS concluded that, because there have been no changes to the process used to develop the LOF and implement section 118 of the MMPA (including no new alternatives and no additional or new impacts on the human environment), there is no need to update the 2005 EA at this time. If NMFS takes a management action, for example, through the development of a TRP, NMFS would first prepare an environmental document, as required under NEPA, specific to that action.

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

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

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

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Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs National Marine Fisheries Service.

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