Authors

The primary authors of this notice are the staff members of the Arkansas Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this section is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 14, 2011.

Gabriela Chavarria,

Acting Director, Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 110207104–1112–02]

RIN 0648–BA76

List of Fisheries for 2012

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 2012, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2012 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.

DATES: Comments must be received by July 28, 2011.

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 Nathan Frey, OMB, by fax to 202–395–7285 or by e-mail to *Nathan_Frey@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.

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: Laura Engleby;

NMFS, Southwest Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Charles Villafana;

NMFS, Northwest Region, 7600 Sand Point Way NE., Seattle, WA 98115, Attn: 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 1100, Honolulu, HI 96814–4700, Attn: Lisa Van Atta.

FOR FURTHER INFORMATION CONTACT: Melissa Andersen, Office of Protected Resources, 301–713–2322; David Gouveia, Northeast Region, 978–281–9280; Laura Engleby, Southeast Region, 727–551–5791; Elizabeth Petras, Southwest Region, 562–980–3238; Brent Norberg, Northwest Region, 206–526–6733; Bridget Mansfield, Alaska Region, 907–586–7642; Lisa Van Atta, Pacific Islands Region, 808–944–2257. 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)). 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 includes: Level of observer coverage, target species, levels of fishing effort, spatial and temporal distribution of fishing effort, characteristics of fishing gear and operations, management and regulations, and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources' 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 the Category III fishery fact sheets along with the final 2013 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/*). 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 MMPA?

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 may receive an authorization certificate by contacting the Southeast Regional Office or 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.

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 229.36. A description of each TRT and copies of each TRP can be found at: *http://www.nmfs.noaa.gov/pr/interactions/trt/.*

Sources of Information Reviewed for the Proposed 2012 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 2012 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; and the final SARs for 1996 (63 FR 60, January 2, 1998), 2001 (67 FR 10671, March 8, 2002), 2002 (68 FR 17920, April 14, 2003), 2003 (69 FR 54262, September 8, 2004), 2004 (70 FR 35397, June 20, 2005), 2005 (71 FR 26340, May 4, 2006), 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), and 2010 (76 FR 34054, June 10, 2011). 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. Below, NMFS describes the fisheries classified as Category I or II on the 2012 LOF that were not classified as such on a previous LOF (and therefore have not yet been defined on the LOF). Additional details for Category I and II fisheries operating in U.S. waters are included 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.

Hawaii Charter Vessel Fishery

The ''HI charter vessel'' fishery is primarily a troll fishery targeting large pelagic species including billfish (*Xiphias galdius, Makaira* and *Tetrapterus* spp.), tunas (*Thunnas* spp.), mahi mahi (*Coryphaena* spp.) and ono (*Acanthocybium solandri*). Other species are also landed, including kawakawa and rainbow runner. Trolling gear usually consists of short, stout fiberglass rods and lever-drag hand-cranked reels. Up to six lines may be trolled when outrigger poles are used to keep the lines from tangling, using both artificial (lures) and natural baits. Some charter vessels also take patrons on deep sea bottomfishing trips. Charter vessels fish year-round throughout the Main Hawaiian Islands. The Island of Hawaii accounts for the largest share of the entire charter fleet in the state, primarily due to its reputation as the best location to catch blue marlin. According to a survey of charter vessel operators, the vessels typically operate about 7.5 miles from shore, with an average maximum distance from shore of 22.5 miles (Hamilton, 1998). Troll vessels often fish at anchored fish aggregation devices (FADs), drifting logs or flotsam, and areas of sharp changes in bottom topography that may aggregate fish. Additionally, charter vessels are also known to troll through groups of dolphins to target tuna associated with the dolphins (Baird unpublished data cited in Courbis *et al.,* 2010).

Hawaii state law allows sales of fish caught during sportfishing charter boat trips provided that the seller (usually, but not always, the captain) possesses a valid Commercial Marine License (CML) from the Hawaii Department of Land and Natural Resources (DLNR), Division of Aquatic Resources (DAR). Every licensee must provide DLNR/DAR with a monthly trip report. Based on survey results of charter boat operators (Hamilton, 1998), the majority of charter fishing operators in Hawaii sell at least some portion of their catch. There has not been observer coverage in this fishery.

Hawaii Trolling, Rod and Reel Fishery

The ''HI trolling, rod and reel'' fishery used troll gear to target yellowfin tuna, blue marlin, mahi mahi, ono, and skipjack tuna, and also lands bycatch of sailfish, spearfish, kawakawa, albacore, rainbow runner, and sharks. Bigeye tuna make up a very minor proportion of total reported troll catch. Compared to the ''HI charter vessel'' described above fishery, which also uses troll gear and methods, the ''HI trolling, rod and reel'' fishery targets and catches more yellowfin tuna (about 80 percent by weight), compared to charter vessels' catch of marlin (40–50 percent by weight). Troll fishing is conducted by towing lures or baited hooks from a moving vessel, using big game-type rods and reels as well as hydraulic haulers, outriggers and other gear. Up to six lines rigged with artificial lures or live bait may be trolled when outrigger poles are used to keep gear from tangling. When using live bait, trollers move at slower speeds to permit the bait to swim ''naturally.'' Small boat trolling is Hawaii's largest commercial fishery in terms of participation, although it catches a relatively modest volume of fish amounting to about 3,000 mt annually. The fishery operates year-round in the MHI, with vessels tending to fish within 25–50 miles of land and trips lasting only one day. Troll vessels fish in areas where water masses converge and where the underwater topography changes dramatically, such as near submarine cliffs or oceanic seamounts. Troll vessels also fish near anchored FADs, or search for drifting logs or flotsam that aggregate tuna, mahi mahi, and ono. Additionally, troll vessels are also known to troll through groups of dolphins to target tuna associated with the dolphins (Baird unpublished data cited in Courbis *et al.,* 2010).

The small-vessel troll fishery includes poorly differentiated commercial, recreational, and subsistence components. Many fishermen who are fishing primarily for recreation may sell their fish to cover their expenses. All fishery participants who fish, or land at least one fish with an intent to sell, within 3 miles of the shoreline (*i.e.,* within State waters) are required by the State of Hawaii to have a CML, and vessel operators are required to file state catch reports reporting the fishing effort, catch, discards, and landings during each fishing trip. A longline prohibited area of the Main Hawaiian Islands was established by the WPRFMC in 1992 in part to reduce gear conflicts between the Hawaii-based longline fleet and the troll fleet. There has not been observer coverage in this fishery.

Southeastern U.S. Atlantic, Gulf of Mexico Stone Crab Trap/Pot Fishery

The ''Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot'' fishery operates primarily nearshore in the State of Florida. Stone crab fishing outside of this area is likely very minimal. In 2010, the State of Florida issued 1,282 commercial stone crab licenses and 1,190,285 stone crab trap tags. Florida state regulations limit recreational stone crab trap/pot numbers to five per person. The season for commercial and recreational stone crab harvest is from October 15 to May 15. Traps are the exclusive gear type used for the commercial and recreational stone crab fishery. Commercial traps must be designed to conform to the specifications established under U.S. 50 CFR 654.22, as well as State of Florida statutes. Baited traps are frequently set in waters of 65 ft (19.8 m) depth or less in a double line formation, generally 100–300 ft (30.5–91.4 m) apart, running parallel to a bottom contour. The margins of seagrass flats and bottoms with low rocky relief are also favored areas for trap placement. Buoys are attached to the trap/pot via float line. In Florida, commercial trap/pot buoys are required to be marked with the letter ''X,'' but there are no specific marking requirements for recreational crab traps.

Summary of Changes to the LOF for 2012

The following summarizes changes to the LOF for 2012 in fishery classification, fisheries listed in the LOF, the estimated number of vessels/participants in a particular fishery, and the species or stocks that are incidentally killed or injured in a particular fishery. The classifications and definitions of U.S. commercial fisheries for 2012 are identical to those provided in the LOF for 2011 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/OR Thresher Shark/Swordfish Drift Gillnet Fishery

NMFS proposes to elevate the ''CA thresher shark/swordfish drift gillnet'' fishery from Category III to Category II. NMFS observed this fishery from 2004 through 2009 at coverage levels ranging from 13.3 percent to 20.9 percent. NMFS reclassified this fishery from Category I to Category III on the 2011 LOF (75 FR 68468; November 8, 2010), because NMFS Southwest Observer Program reports indicated there were no serious injuries or mortalities of any marine mammal stock for which the average total fishery mortality and serious injury exceeded 10 percent of the stock's PBR (2010 SARs). However, NMFS received a mortality/injury self-report through the MMAP from a fisherman indicating a humpback whale was entangled in 2009 during operations of this fishery. Based on the information in this self-report and follow-up discussion with the reporting fisherman, NMFS Science Center staff determined this whale to be seriously injured because the animal was cut loose and released alive with entangling and trailing gear. The location of the entanglement off of Southern CA indicates the animal was most likely part of the CA/OR/WA stock of humpback whales. The total annual mortality and serious injury of humpback whales (CA/OR/WA stock) in all fisheries exceeds 10 percent of the stock's PBR (Tier 1 analysis). This single serious injury results in an average mortality and serious injury rate of 0.2 humpback whales per year (when averaged over the last 5 years of data) in this fishery (Tier 2 analysis), or 1.8 percent PBR of 11.3 (2010 SAR), warranting a Category II classification. This fishery is currently observed under the authority of the Highly Migratory Species FMP (50 CFR 660.719) and must comply with Pacific Offshore Cetacean TRP regulations (50 CFR 229.31).

HI Charter Vessel and HI Trolling, Rod and Reel Fisheries

NMFS proposes to elevate the ''HI charter vessel'' and ''HI trolling, rod and reel'' fisheries from Category III to Category II based their fishing techniques and anecdotal reports of hookings of Pantropical spotted dolphins (HI stock) (Rizutto 2007, Courbis *et al.,* 2009). There is no observer coverage in either of these fisheries, and no quantitative data are available to conduct a tier analysis.

However, as described in the preamble of this proposed rule, in the absence of reliable information on the frequency of incidental serious injuries and mortalities, MMPA regulations specify that NMFS should determine whether the incidental serious injury or mortality is ''occasional'' *(i.e.,* Category II) by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the NMFS Assistant Administrator (50 CFR 229.2).

Charter and commercial trolling vessels in HI frequently troll multiple lines through groups of spotted dolphins to target schools of tunas that aggregate below the dolphins. Eighteen of 47 (38%) opportunistic sightings of Pantropical spotted dolphins near the Main Hawaiian Islands between November 2006 and July 2008 included one or more (with a maximum of six) troll fishing vessels actively ''fishing on'' groups of the dolphins (Baird unpublished data cited in Courbis *et al.,* 2010). Fishermen have reported that spotted dolphins occasionally take lures or bait and are hooked in the mouth, or are sometimes hooked in the body (Rizzuto, 2007; Baird unpublished data cited in Courbis *et al.,* 2010). In one anecdotal report, a fisherman released a hooked dolphin by cutting the fishing line as short as possible to the animal, but the hook remained in the animal's mouth (Rizzuto, 2007). While NMFS scientists have not made a determination on the severity of injuries in these anecdotal reports, a hook in the mouth of a small cetacean is considered a serious injury and a hook in the body could be considered an injury according the most current and best available information (Andersen *et al.,* 2008).

As stated above, quantitative information on the level of serious injury or mortality is not available for these fisheries. However, NMFS can project the likely level of serious injury and mortality in these fisheries based on the available information presented in the previous paragraph. The PBR for Pantropical spotted dolphins (HI stock) is 61; however, NMFS may split this stock into several smaller, island-associated stocks in the future (2010 SAR), which would result in lower PBRs for each new stock. Given the fishing techniques, evidence of takes from eyewitness reports, and the level of effort in these two fisheries (2,305 vessels combined), NMFS projects that each fishery will have at least one incidental serious injury or mortality of a Pantropical spotted dolphin (HI stock) per year. This level of take represents a minimum of 1.6 percent of PBR of 61 in each fishery; therefore, Category II classification is warranted for both the ''HI charter vessel'' and ''HI trolling, rod and reel'' fisheries.

Number of Vessels/Persons

NMFS proposes to update the estimated number of persons/vessels in the following HI fisheries to reflect the number of licensees reporting landings in 2010.

Category I: ''HI deep-set (tuna target) longline/set line'' from 127 to 124.

Category II: ''American Samoa longline'' from 60 to 26; ''HI shortline'' from 21 to 13; and ''HI trolling, rod and reel'' from 2,210 to 2,191.

Category III: ''HI inshore gillnet'' from 39 to 44; ''HI crab net'' from 8 to 5; ''HI Kona crab loop net'' from 41 to 46; ''HI opelu/akule net'' from 20 to 16; ''HI hukilau net'' from 36 to 27; ''HI lobster tangle net'' from 2 to 1; ''HI inshore purse seine'' from 8 to 5; ''HI throw net, cast net'' from 28 to 22; ''HI crab trap'' from 9 to 5; ''HI fish trap'' from 11 to 13; ''HI lobster trap'' from 3 to 1; ''HI shrimp trap'' from 1 to 2; ''HI kaka line'' 28 to 24; ''HI vertical longline'' from 18 to 10; ''HI aku boat, pole, and line'' from 6 to 2; ''HI inshore handline'' from 460 to 416; ''HI tuna handline'' from 531 to 445; ''HI handpick'' from 53 to 61; ''HI lobster diving'' from 36 to 39; ''HI spearfishing'' from 163 to 144; ''HI fish pond'' from N/A to 16; and ''HI Main Hawaiian Islands deep-sea bottomfish handline from 580 to 569.

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes to add humpback whale (CA/OR/WA stock) to the list of species or stocks incidentally killed or injured in the ''CA thresher shark/swordfish drift gillnet'' fishery (proposed to be elevated to Category II in this proposed rule). NMFS further proposes to include the notation ''[1]'' following humpback whale (CA/OR/WA stock) in Table 1, indicating that this stock is driving the classification of the fishery. NMFS received a mortality/injury self-report through the MMAP from a fisherman indicating a humpback whale was entangled while operating in this fishery in 2009. Based on the information in this self-report and follow-up discussion with the reporting fisherman, NMFS Science Center staff determined this whale to be seriously injured because the animal was cut loose and released alive with entangling and trailing gear. The single serious injury results in an average mortality and serious injury rate of 0.2 humpback whales per year (when averaged over the latest 5 year data period), or 1.8 percent of the stock's PBR of 11.3 (2010 SAR). Observer coverage in this fishery from 2004 through 2009 ranged from 13.3 percent to 20.9 percent.

NMFS proposes to add Pantropical spotted dolphin (HI stock) to the list of species or stocks incidentally killed or injured in the ''HI charter vessel'' and ''HI trolling, rod and reel'' fisheries (both proposed to be elevated to Category II in this proposed rule). NMFS further proposes to include a superscript ''[1]'' following the Pantropical spotted dolphin (HI stock) in Table 1 for each fishery, indicating that this stock is driving the classification of these fisheries. As described above under ''Fishery Classification,'' charter and commercial trolling vessels in HI frequently troll multiple lines through groups of Pantropical spotted dolphins to target schools of tunas that aggregate below the dolphins. Fishermen have reported that Pantropical spotted dolphins occasionally take lures or bait, and are sometimes released with hooks in the mouth or the body. While NMFS scientists have not made a determination on the severity of injuries in these anecdotal reports, a hook in the mouth of a small cetacean is considered a serious injury and a hook in the body could be considered an injury according to the current and best available information (Andersen *et al.,* 2008). Further, the PBR for Pantropical spotted dolphins (HI stock) is 61 (2010 SAR). Given the fishing techniques, evidence of takes from eyewitness reports, and the level of effort in these two fisheries, NMFS projects that each fishery will have at least one incidental serious injury or mortality of a Pantropical spotted dolphin per year, or 1.6 percent of PBR. There has not been observer coverage in either of these fisheries.

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

Fishery Classification

Southeastern U.S. Atlantic, Gulf of Mexico Stone Crab Trap/Pot Fishery

NMFS proposes to elevate the ''Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot'' fishery from Category III to Category II based on analogy to the Category II ''Atlantic blue crab trap/pot'' fishery, and serious injury and mortality to bottlenose dolphins (multiple stocks) reported in stranding data. As stated in the preamble of this proposed rule, in the absence of reliable or quantitative information, NMFS must determine if a

fishery causes ''occasional'' serious injury or mortality to marine mammals (*i.e.,* Category II) by considering other factors (*e.g.,* fishing techniques, gear used) (50 CFR 229.2). A Category II classification for the ''Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot'' fishery is warranted by analogy to the Category II ''Atlantic blue crab trap/pot'' fishery because the fisheries use similar fishing techniques, habitat and gear; therefore, posing a similar level of risk of interactions resulting in serious injury or mortality to bottlenose dolphins. Additionally, from 2002–2010, 3 bottlenose dolphin strandings (multiple stocks) resulting in serious injury or mortality were confirmed to result from interactions with stone crab trap/pot gear. Further, 7 bottlenose dolphin (multiple stocks) strandings resulting in serious injury or mortality were confirmed to result from interactions with a southeast trap/pot fishery, plausibly the stone crab fishery because of its spatial and temporal overlap with the strandings. The ten strandings from 2002–2010 strongly suggest the stone crab fishery has ''occasional incidental mortality and serious injury of marine mammals'' (50 CFR 229.2), further warranting a Category II classification. There has not been observer coverage in this fishery.

Marine mammal stranding data from 2002–2010 suggest the stone crab trap/pot fishery interacts with the following strategic marine mammal stocks, resulting in serious injury or mortality: (1) Bottlenose dolphin, Central FL coastal; (2) bottlenose dolphin, Jacksonville estuarine system; (3) bottlenose dolphin, Indian River Lagoon estuarine system; (4) bottlenose dolphin, Biscayne Bay ; (5) bottlenose dolphin, Lemon Bay estuarine system; and (6) bottlenose dolphin, Pine Sound [sic], Charlotte Harbor, Gasparilla Sound estuarine system. This fishery also interacts with the non-strategic bottlenose dolphin, Eastern GMX coastal stock. The PBR level is known for two of the seven bottlenose dolphin stocks interacting with this fishery: Central FL coastal stock (51) and Eastern GMX coastal stock (66) (2010 SARs). PBR is unknown or undetermined for the remaining five stocks. Therefore, a LOF classification based on serious injury and mortality as a percentage of PBR cannot be directly calculated for most of these stocks.

Addition of Fisheries

NMFS proposes to add the ''RI floating trap'' fishery as Category III. The ''RI floating trap'' fishery is described as a maze of vertical nets anchored to the bottom and stretched to the water's surface by attached buoys. The nets are anchored to the bottom and may be secured to the shore. These nets are set similar to weir/pound nets. At least four reflective buoys (high-flyers) mark the traps. One buoy is located at the shoreward end of the leader, one at the seaward end of the leader adjacent to the head of the trap, and two buoys at the seaward side of the head of the trap. Nets are set seasonally between May and October and primarily target scup, striped bass, and squid. Floating fish traps are executed only in RI state waters. There is currently no observer coverage for this fishery. No marine mammal interactions have been reported for this gear type and strandings data do not provide evidence for interactions. Given this fishery's close proximity to shore and the absence of evidence for marine mammal injury or mortality resulting from this gear, a Category III classification is warranted. There are currently nine companies that hold state permits for participating in this fishery. NMFS is soliciting public comment to obtain more information on this fishery and whether or not similar floating trap fisheries exist elsewhere.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to clarify the spatial boundary of the Category II ''Northeast bottom trawl'' fishery. In the 2011 LOF, NMFS modified the trawl fishery boundary definitions to more accurately depict the boundaries used for calculating marine mammal bycatch estimates. Currently the Northeast bottom trawl fishery boundary is defined as: ''from the Maine-Canada border through waters east of 70° W. long.'' NMFS proposes to clarify this boundary to read as follows: ''The Northeast bottom trawl fishery includes all U.S. waters south of Cape Cod, MA that are east of 70° W and extending south to the intersection of the Exclusive Economic Zone (EEZ) and 70° W (approximately 37° 54′ N), as well as all U.S. waters north of Cape Cod to the Maine-Canada border.''

NMFS proposes to clarify the spatial boundary of the Category II ''Mid-Atlantic bottom trawl'' fishery. In the 2011 LOF, NMFS modified the trawl fishery boundary definitions to more accurately depict the boundaries used for calculating marine mammal bycatch estimates. Currently the Mid-Atlantic bottom trawl fishery boundary is defined as: ''Cape Cod, MA, to Cape Hatteras, NC, in waters west of 70° W. long. and north of a line extending due east from the North Carolina/South Carolina border.'' NMFS proposes to clarify this boundary to read as follows: ''all waters due east from the NC/SC border to the EEZ and north to Cape Cod, MA in waters west of 70° W. long.''

NMFS proposes to update the spatial boundary of the Category II ''Northeast mid-water trawl'' fishery. Currently, this fishery's spatial boundary is defined as ''occurs primarily in ME State waters, Jeffrey's Ledge, southern New England, and Georges Bank during the winter months when the target species continues its southerly migration from the Gulf of ME/Georges Bank, into mid-Atlantic waters'' (72 FR 35393, June 28, 2007). As a result of reviewing trip locations from vessel trip report data, the NMFS Northeast Fisheries Science Center (NEFSC) separates the Northeast and Mid-Atlantic trawl fisheries at 70° W. long. in marine mammal bycatch analyses. Therefore, to maintain consistency with how the NEFSC defines these fisheries, NMFS proposes to further clarify the spatial boundary for this fishery. NMFS proposes to add the following to the spatial distribution: ''The Northeast mid-water trawl fishery includes all U.S. waters south of Cape Cod, MA that are east of 70° W and extending south to the intersection of the EEZ and 70° W (approximately 37° 54′N), as well as all U.S. waters north of Cape Cod to the Maine-Canada border.''

NMFS proposes to update the spatial boundary for the Category II ''Mid-Atlantic mid-water trawl'' fishery. Currently, this fishery's spatial boundary is defined as: ''The fishery for Atlantic mackerel occurs primarily from southern New England through the mid-Atlantic from January to March and in the Gulf of Maine during the summer and fall (May to December). This fishery is managed under the federal Atlantic Mackerel, Squid, and Butterfish FMP using an annual quota system.'' As noted in the paragraph above, the NEFSC separates the Northeast and Mid-Atlantic trawl fisheries at 70° W. long. Therefore, to further clarify the spatial distribution of this fishery, NMFS proposes to add the following to the spatial distribution: ''The Mid-Atlantic mid-water trawl fishery includes all waters due east from the NC/SC border to the EEZ and north to Cape Cod, MA in waters west of 70° W. long.''

Number of Vessels/Persons

NMFS proposes to update the estimated number of vessels/persons in the ''Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot'' fishery (proposed to be elevated to Category II in this proposed rule) from 4,453 to 1,282.

NMFS proposes to update the estimated number of vessels/persons in the Category III ''FL spiny lobster trap/pot'' fishery from 2,145 to 1,268.

NMFS proposes to update the estimated number of vessels/persons for several Mid-Atlantic and New England fisheries in order to reflect the potential state and Federal permit effort. NMFS acknowledges that these estimations are inflations of actual effort; however, they represent the potential effort for each fishery, given the multiple gear types state permits may allow for. These changes do not necessarily represent a change in industry effort. Federal permit information was collected through Federal Vessel Trip Report and by querying Federal permit databases. State permit information was collected through the MMAP registration process.

Category I: ''Mid-Atlantic gillnet'' from 5,495 to 6,402; ''Northeast sink gillnet'' from 7,712 to 3,828; and ''Northeast/Mid-Atlantic American lobster trap/pot'' from 12,489 to 11,767.

Category II: ''Chesapeake Bay inshore gillnet'' from 1,167 to 3,328; ''Northeast anchored float gillnet'' from 662 to 414; ''Northeast drift gillnet'' from 608 to 414; ''Mid-Atlantic mid-water trawl'' from 546 to 669; ''Mid-Atlantic bottom trawl'' from 1,182 to 1,388; ''Northeast mid-water trawl (including pair trawl)'' from 953 to 887; ''Northeast bottom trawl'' from 1,635 to 2,584; Atlantic blue crab trap/pot from 6,479 to 10,008; ''Atlantic mixed species trap/pot'' from 1,912 to 3,526; ''Mid-Atlantic menhaden purse seine'' from 54 to 56; ''Mid-Atlantic haul/beach seine'' from 666 to 874; and ''VA pound net'' from 52 to 231.

Category III: ''Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge'' from 258 to >230; ''Northeast, Mid-Atlantic bottom longline/hook & line'' from 1,183 to >1,281; ''DE River inshore gillnet'' from 60 to unknown; ''Long Island Sound inshore gillnet'' from 20 to unknown; ''RI, southern MA (to Monomy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet'' from 32 to unknown; ''Gulf of Maine Atlantic herring purse seine'' from >7 to >6; ''U.S. Mid-Atlantic eel trap/pot'' from >700 to unknown; and ''Atlantic shellfish bottom trawl'' from > 67 to >86.

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes to add the following stocks to the list of species or stocks incidentally killed or injured in the Category I ''Atlantic Ocean, Caribbean, Gulf of Mexico large pelagic longline'' fishery: Killer whale (GMX oceanic stock), sperm whale (GMX oceanic stock), and Gervais beaked whale (GMX oceanic stock). A killer whale (GMX oceanic stock) and a sperm whale (GMX oceanic stock) were each injured in this fishery in 2008, and a Gervais beaked whale (GMX oceanic stock) was injured in this fishery in 2007. Further, NMFS proposes to update the name of the Atlantic spotted dolphin stock from ''Northern GMX'' to ''GMX continental and oceanic'' to reflect the stock name in the 2010 SAR. Observer coverage in this fishery from 2004–2007 ranged from 4–7 percent, with coverage exceeding 10 percent in some areas and regions (2010 SAR).

NMFS proposes to combine bottlenose dolphin (GA coastal stock) and bottlenose dolphin (SC coastal stock) listed as incidentally killed or injured in the Category II ''Southeast Atlantic gillnet'' fishery and rename the stock as ''bottlenose dolphin (SC/GA coastal stock)'' to reflect the stock name in the 2010 SAR.

NMFS proposes to add bottlenose dolphin (Northern FL coastal stock) to the list of species or stocks incidentally killed or injured in the Category II ''Southeastern U.S. Atlantic shark gillnet'' fishery. There were 2 takes (level of injury undetermined) of bottlenose dolphins that occurred in drift gillnet gear in 2002 and 2003 just south of the range of the Northern FL coastal stock, and the dolphins were possibly from this stock (2010 SAR). There has been no observer coverage in this fishery in recent years.

NMFS proposes to add bottlenose dolphin (Northern GMX coastal stock) and bottlenose dolphin (GMX continental shelf stock) to the list of species or stocks incidentally killed or injured in the Category II ''Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl'' fishery. A bottlenose dolphin was killed in this fishery in 2003 and could have belonged to the Northern GMX coastal stock or a GMX bay, sound and estuarine stock (which is already included on the list of species or stocks killed or injured in this fishery). Additionally, 1 or more of 6 unidentified dolphins taken in this fishery from 1992–2008 could be from this stock (2010 SAR). A bottlenose dolphin (GMX continental shelf stock) was killed in this fishery in 2008. However, the PBR for this stock is undetermined, so NMFS cannot determine the exact percentage of PBR this take would represent. Additionally, 3 or 4 unidentified dolphins injured or killed in this fishery from 1992–2008 could be from this stock (2010 SAR). Further, NMFS proposes to update the name of the Atlantic spotted dolphin stock from ''Northern GMX'' to ''GMX continental and oceanic,'' and combine the bottlenose dolphin (GA coastal stock) and bottlenose dolphin (SC coastal stock) and rename the stock as ''bottlenose dolphin (SC/GA coastal stock),'' to reflect the stock names in the 2010 SAR. Observer coverage currently averages about 1 percent of the total fishery effort (2010 SAR).

NMFS proposes to combine bottlenose dolphin (GA coastal stock) and bottlenose dolphin (SC coastal stock) on the list of species or stocks incidentally killed or injured in the Category II ''Atlantic blue crab trap/pot'' fishery and rename the stock as ''bottlenose dolphin (SC/GA coastal stock)'' to reflect the stock name in the 2010 SAR.

NMFS proposes to add bottlenose dolphin (Southern NC estuarine system stock) to the list of species or stocks incidentally killed or injured in the Category II ''NC long haul seine'' fishery. Three bottlenose dolphins were caught and released alive in this fishery; however, the level of injury for these three dolphins was undetermined. The 2010 SAR states that this fishery is known to interact with this stock. There has been no observer coverage in this fishery.

NMFS proposes to add bottlenose dolphin (Northern NC estuarine system stock) to the list of species or stocks incidentally killed or injured in the Category II ''VA pound net'' fishery. Stranding data for 2004–2008 indicate 17 bottlenose dolphins (Northern NC estuarine system stock) were killed in pound net gear and 3 were released alive. The level of injury for the 3 dolphins released alive was undetermined. These interactions occurred primarily inside estuarine waters near the mouth of the Chesapeake Bay in summer months. Nine of these mortalities occurred during the summer (July–September) and, therefore, could be from the Northern NC estuarine system stocks. The 2010 SAR states that this fishery is known to interact with this stock. There has not been formal observer coverage in this fishery; however, the Northeast Fishery Observer Program (NEFOP) has monitoring and characterization that occurs sporadically in this fishery.

NMFS proposes to add bottlenose dolphin (Central FL coastal stock) to the list of species or stocks incidentally killed or injured in the Category III ''FL spiny lobster trap/pot'' fishery. From 2002–2010, 4 bottlenose dolphin serious injuries or mortalities (multiple stocks) were confirmed to result from interactions with a southeast trap/pot fishery, plausibly the spiny lobster fishery because of its spatial and

temporal overlap with the strandings (2010 SAR). The 2010 SAR further indicates that at least one of these 4 takes was from the Central FL coastal stock. There has not been observer coverage in this fishery.

NMFS proposes to add the following stocks to the list of species or stocks incidentally killed or injured in the ''Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot'' fishery (proposed to be elevated to Category II in this proposed rule): Bottlenose dolphin (Central FL coastal stock), bottlenose dolphin (Eastern GMX coastal stock), bottlenose dolphin (FL Bay stock), bottlenose dolphin (GMX bay, sound, estuarine stock, FL west coast portion), bottlenose dolphin (Indian River Lagoon estuarine system stock), bottlenose dolphin (Jacksonville estuarine system stock), and bottlenose dolphin (Northern GMX coastal stock). From 2002–2010, 3 bottlenose dolphin serious injuries or mortalities were confirmed to result from interactions with the stone crab fishery, and 7 bottlenose dolphin serious injuries or mortalities were confirmed to result from interactions with a southeast trap/pot fishery, plausibly the stone crab fishery based on spatial and temporal overlap with these strandings (2010 SAR). The 2010 SARs indicate that the serious injuries or mortalities were confirmed and/or could have been from the stocks listed above. This fishery has not been observed.

NMFS proposes to add bottlenose dolphin (GMX continental shelf stock) to the list of species or stocks incidentally killed or injured in the Category III ''Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line'' fishery. One bottlenose dolphin was killed and one was seriously injured in this fishery in 2010, one reported in a 2010 NMFS Observer Program report and one observed and photo documented report from a local researcher and NMFS gear expert. In 2009, the observer coverage in the fishery was 1.7 percent (5.5 percent for the longline portion, nearly 0 percent for the modified buoy portion, and .07 percent for the vertical line portion). The PBR for this stock is undetermined; therefore, NMFS cannot determine what percentage of PBR these mortalities represent.

NMFS proposes to add bottlenose dolphin (GMX bay, sound, and estuarine stock) to the list of species or stocks incidentally killed or injured in the Category III ''Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel'' fishery. Stranding data from 2002–2009 indicate 6 bottlenose dolphins stranded with recreational hook and line gear (confirmed by gear analysis) and an additional 2 bottlenose dolphins were released after disentanglement from this gear. There was also one dead bottlenose dolphin entangled in what the NMFS gear analysis team thought was recreational gear or commercial longline gear. Further, from 2002–2009 there were 29 additional strandings of bottlenose dolphins that were entangled in gear consistent with recreational hook and line gear. This gear can be attributed to either vessels operating in the ''Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel'' fishery or individual recreational fishers. Given the large number of stranding events, it is highly likely that one or more of the strandings resulted from interactions with this commercial fishery. The GMX bay, sound, and estuarine stock includes 32 distinct stocks, and for 29 of those stocks the PBR is undetermined. Given that fact, and the uncertainties surrounding the number of animals taken in this specific fishery and their exact stock assignment, NMFS cannot determine the percentage of PBR these takes represent. There has not been observer coverage in this fishery.

NMFS proposes to add Risso's dolphin (WNA stock) to the list of species or stocks incidentally killed or injured in the Category II ''Mid-Atlantic bottom trawl'' fishery. In 2010, fifteen Risso's dolphins were observed killed in this fishery: One was killed during a bottom otter trawl trip targeting summer flounder in April 2010; one was killed during a bottom otter trawl trip targeting monkfish in April 2010; eight were killed in a bottom otter trawl trip targeting *Illex* squid in June 2010; and five were killed in bottom otter trawls again targeting *Illex* squid in October 2010. These recorded takes occurred west of 70° W. long., which serves as the boundary between the Northeast and Mid-Atlantic bottom trawl fisheries. These mortalities were observed and reported in the April 2010, June 2010, and October 2010 NEFOP Incidental Take Reports (*http://www.nefsc.noaa.gov/fsb/*). The total annual estimated average fishery-related mortality or serious injury to this stock during 2004–2008 was 20 Risso's dolphins (2010 SAR). However, no takes were attributed to the Mid-Atlantic bottom trawl fishery during this time. The fifteen takes that occurred during 2010 in this fishery represents more than 1 percent of the stock's PBR of 124. Therefore NMFS also proposes to include the notation ''[1] '' next to this stock in Table 2 to indicate that the stock is driving the Category II classification of the fishery. Observer coverage in this fishery from 1997–2008 ranged from 0 to 13.3 percent (2010 SAR).

NMFS proposes to add harbor seal (WNA stock) to the list of species or stocks incidentally killed or injured in the Category II ''Mid-Atlantic bottom trawl'' fishery. In March 2009, a harbor seal was killed in a bottom trawl targeting *Loligo* squid and operating west of 70° W. long., which serves as the boundary between the Northeast and Mid-Atlantic bottom trawl fisheries. The PBR for this stock is unknown (2010 SAR); therefore, it is unknown what percentage of PBR this mortality represents. However, given the most recent PBR reported for this stock was 2,746 (2009 SAR), it is unlikely that this one mortality equates to a rate of annual serious injury and mortality that exceeds 1 percent of PBR. Therefore, this stock is not driving the classification of this fishery. This mortality was observed and reported in the March 2009 NEFOP Incidental Take Reports (*http://www.nefsc.noaa.gov/fsb/*). Observer coverage in this fishery from 1997–2008 was 0 to 13.3 percent (2010 SAR).

NMFS proposes to add bottlenose dolphin (WNA offshore stock) to the list of species or stocks incidentally killed or injured in the Category II ''Northeast bottom trawl'' fishery. From 2009–2010, five bottlenose dolphins (WNA offshore stock) were killed in this fishery: One bottlenose dolphin was killed during a trip targeting groundfish in April 2009; three were killed on during a trip targeting *Illex* squid in August 2009; and one was killed in a bottom otter trawl targeting *Loligo* squid in March 2010. The most recent total mean estimated annual fishery-related mortality for this stock is unknown (2010 SAR), but these 5 mortalities in one year represent less than 1 percent of the stock's PBR of 566. In the 2011 LOF, the three August 2009 takes were incorrectly attributed to the Category II ''Mid-Atlantic bottom trawl'' fishery. However, these three takes occurred east of 70° W. long., which serves as the boundary between the Northeast and Mid-Atlantic bottom trawl fisheries, and therefore should be attributed to the ''Northeast bottom trawl'' fishery. These mortalities were observed and reported in the April 2009, August 2009 and March 2010 Northeast Fisheries Observer Program Incidental Take Reports (*http://www.nefsc.noaa.gov/fsb/*). Observer coverage in this fishery from 1994–2008 was 0.1 to 8 percent (2010 SAR).

NMFS proposes to add gray seal (WNA stock) to the list of species or stocks incidentally killed or injured in the Category II ''Northeast bottom trawl'' fishery. In November 2009, a gray seal was killed in a bottom trawl targeting *Loligo* squid and operating east of 70° W. long., which serves as the boundary between the Northeast and Mid-Atlantic bottom trawl fisheries. The PBR for this stock is currently undetermined because the minimum population size is unknown (2010 LOF); therefore, it is unknown what percentage of PBR this mortality represents and whether the take is driving the Category II classification of the fishery. However, the stock's abundance appears to be increasing in U.S. waters and the total U.S. fishery-related serious injury and mortality can be considered insignificant and approaching a zero mortality or serious injury rate (2010 SAR). This mortality was observed and reported in the November 2009 NEFOP Incidental Take Reports (*http://www.nefsc.noaa.gov/fsb/*). Observer coverage in this fishery from 1994–2008 was 0.1 to 8 percent (2010 SAR).

Commercial Fisheries on the High Seas

Fishery Classification

NMFS proposes to elevate the high seas ''Pacific highly migratory species drift gillnet'' fishery from Category III to Category II. This fishery is an extension of the ''CA thresher shark/swordfish drift gillnet'' fishery operating within the U.S. EEZ, and is not a separate fishery. NMFS proposes to elevate the component of the fishery operating in U.S. waters to Category II in this proposed rule (see above under ''Commercial Fisheries in the Pacific Ocean'' for details); therefore, NMFS also proposes to elevate the high seas component of the fishery because it remains the same fishery on either side of the EEZ boundary.

NMFS proposes to correct an error in the 2011 LOF by reclassifying the high seas ''Pacific highly migratory species longline'' fishery from Category II to Category III. This fishery is an extension of the Category III ''CA pelagic longline'' fishery operating within the U.S. EEZ, and is not a separate fishery. The component of the fishery operating in U.S. waters was reclassified as Category III in the final 2011 LOF. However, the high seas component of the fishery inadvertently remained listed as Category II on the 2011 LOF. Since the high seas component of the fishery is the same as the fishery operating within the U.S. EEZ, and is not a separate fishery, it should be classified in the same Category as the fishery operating within the U.S. EEZ.

Removal of Fisheries

NMFS proposes to remove the Category II high seas ''Pacific highly migratory species trawl'' fishery. There are no active HSFCA permits for this gear type in this fishery.

NMFS proposes to remove the Category II high seas ''South Pacific albacore troll trawl'' fishery. There are no active HSFCA permits for this gear type in this fishery.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to change the name of the Category I high seas ''Western Pacific pelagic (deep-set component) longline'' fishery to the ''Western Pacific pelagic (HI deep-set component) longline'' fishery to more clearly reflect that there is one HI-based deep-set longline fishery that operates both within the U.S. EEZ and on the high seas.

NMFS proposes to change the name of the Category II high seas ''Western Pacific pelagic (shallow-set component) longline'' fishery to the ''Western Pacific pelagic (HI shallow-set component) longline'' fishery to more clearly reflect that there is one HI-based shallow-set longline fishery that operates both within the U.S. EEZ and 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. The proposed updated numbers of HSFCA permits reflect the current number of permits in the NMFS National Permit System database.

High seas Atlantic highly migratory species fishery for the following gear types: Longline from 77 to 81; and handline/pole and line from 2 to 3.

High seas Pacific highly migratory species fishery for the following gear types: Pot from 7 to 3; longline from 75 to 85; handline/pole and line from 25 to 30; multipurpose from 7 to 5; purse seine from 8 to 7; and troll from 271 to 258.

High seas South Pacific albacore troll fishery for the following gear types: Pot from 5 to 3; and troll from 59 to 51.

High seas South Pacific tuna fishery for the following gear types: Longline from 8 to 11; and purse seine from 35 to 33.

High seas Western Pacific pelagic fishery for the following gear types: Deep-set longline from 127 to 124; pot from 7 to 3; handline/pole and line from 10 to 8; multipurpose from 5 to 4; trawl from 3 to 1; and troll from 40 to 32.

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes to add humpback whale (CA/OR/WA stock) to the list of marine mammal stocks incidentally injured or killed in the high seas ''Pacific highly migratory species gillnet'' fishery (proposed to be elevated to Category II in this proposed rule). This fishery is an extension of the ''CA thresher shark/swordfish drift gillnet'' fishery (proposed to be elevated to Category II in this proposed rule) operating within the U.S. EEZ, and is not a separate fishery. A humpback whale was reported as seriously injured in the component of the fishery operating in U.S. waters in 2009. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species or stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species or stocks killed or injured in the component operating in U.S. waters, minus coastal stocks.

NMFS proposes to correct an error in the 2011 LOF by removing Risso's dolphin (CA/OR/WA stock) from the list of marine mammal stocks incidentally injured or killed in the high seas ''Pacific highly migratory species longline'' fishery (proposed to be reclassified to Category III in this proposed rule). This fishery is an extension of the Category III ''CA pelagic longline'' fishery operating within the U.S. EEZ, and is not a separate fishery. Risso's dolphin (CA/OR/WA stock) was removed from the list of species or stocks killed or injured in the component of the fishery operating in U.S. waters in the final 2011 LOF. However, the stock inadvertently remained listed as killed or injured in the high seas component of this fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species or stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species or stocks killed or injured in the component operating in U.S. waters, minus coastal stocks.

NMFS proposes to add Blainville's beaked whale (unknown stock), bottlenose dolphin (unknown stock), Pantropical spotted dolphin (unknown stock), Risso's dolphin (unknown stock), short-finned pilot whale (unknown stock), and striped dolphin (unknown stock), to the list of species or stocks injured or killed in the Category I high

seas ''Western Pacific pelagic (HI deep-set component)'' fishery. This fishery is an extension of the Category I ''HI deep-set (tuna target) longline/set line'' fishery operating within the U.S. EEZ, and is not a separate fishery. The proposed addition of these unknown stocks is not due to additional observed takes; it is however an acknowledgement of uncertainty in the stock identification for species of marine mammals taken by this fishery outside of the U.S. EEZ (*i.e.,* on the high seas). In the 2011 LOF, NMFS made several changes to the stocks listed as taken in this fishery because the 2010 SAR noted that the HI pelagic stocks include animals found both within the U.S. EEZ around the Hawaiian Islands and in adjacent high seas. However, the stock boundaries are unknown. Therefore, this fishery may be taking animals from the HI pelagic stocks, or from unknown, undefined stocks beyond the range of the HI pelagic stocks. Until further information is available to assign animals taken on the high seas to a specific stock, NMFS proposes adding ''unknown'' stocks for each of the species listed to acknowledge this uncertainty and to be consistent with the SARs.

NMFS proposes to add bottlenose dolphin (unknown stock), Byrde's whale (unknown stock), *Kogia* spp. whale (unknown stock), Risso's dolphin (unknown stock), and striped dolphin (unknown stock), to the list of species or stocks injured or killed in the Category II high seas ''Western Pacific pelagic (HI shallow-set component)'' fishery. This fishery is an extension of the Category II ''HI shallow-set (swordfish target) longline/set line'' fishery operating within the U.S. EEZ, and is not a separate fishery. The proposed addition of these unknown stocks is not due to additional observed takes; it is however an acknowledgement of uncertainty in the stock identification for species of marine mammals taken by this fishery outside of the U.S. EEZ (*i.e.,* on the high seas). In the 2011 LOF, NMFS made several changes to the stocks listed as taken in this fishery because the 2010 SAR noted that the HI pelagic stocks include animals found both within the U.S. EEZ around the Hawaiian Islands and in adjacent high seas. However, the stock boundaries are unknown. Therefore, this fishery may be taking animals from the HI pelagic stocks, or from unknown, undefined stocks beyond the range of the HI pelagic stocks. Until further information is available to assign animals taken on the high seas to a specific stock, NMFS proposes adding ''unknown'' stocks for each of the species listed to acknowledge this uncertainty and to be consistent with the SARs.

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. Tables 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal). If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be updated to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, 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.

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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
LONGLINE/SET LINE FISHERIES:		
HI deep-set (tuna target) longline/set line *^	124	Blainville's beaked whale, HI Bottlenose dolphin, HI Pelagic False killer whale, HI Insular[1] False killer whale, HI Pelagic[1] False killer whale, Palmyra Atoll Humpback whale, Central North Pacific Pantropical spotted dolphin, HI Risso's dolphin, HI Short-finned pilot whale, HI Striped dolphin, HI
CATEGORY II		
GILLNET FISHERIES:		
CA halibut/white seabass and other species set gillnet (>3.5 in mesh)	50	California sea lion, U.S. Harbor seal, CA Humpback whale, CA/OR/WA[1] Long-beaked common dolphin, CA Northern elephant seal, CA breeding Sea otter, CA Short-beaked common dolphin, CA/OR/WA
CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and <14 in) [2]	30	California sea lion, U.S. Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA
CA thresher shark/swordfish drift gillnet (≥14 in mesh) *	45	California sea lion, U.S. Humpback whale, CA/OR/WA[1] 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
AK Bristol Bay salmon drift gillnet[2]	1,862	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Spotted seal, AK Steller sea lion, Western U.S.

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
AK Bristol Bay salmon set gillnet[2]	983	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 Steller sea lion, Western U.S.
AK Cook Inlet salmon set gillnet	738	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Humpback whale, Central North Pacific[1] Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	571	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA[1] Harbor seal, GOA Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet[2]	162	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific
AK Peninsula/Aleutian Islands salmon set gillnet[2]	115	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 Pacific white-sided dolphin, North Pacific Sea otter, South Central AK Steller sea lion, Western U.S.[1]
AK Southeast salmon drift gillnet	476	Dall's porpoise, AK Harbor porpoise, Southeast AK Harbor seal, Southeast AK Humpback whale, Central North Pacific[1] Pacific white-sided dolphin, North Pacific Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet[2]	166	Gray whale, Eastern North Pacific Harbor seal, Southeast AK Humpback whale, Central North Pacific (Southeast AK)

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded)	210	Dall's porpoise, CA/OR/WA Harbor porpoise, inland WA[1] Harbor seal, WA inland
PURSE SEINE FISHERIES:		
AK Cook Inlet salmon purse seine	82	Humpback whale, Central North Pacific[1]
AK Kodiak salmon purse seine	370	Humpback whale, Central North Pacific[1]
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands flatfish trawl	34	Bearded seal, AK Harbor porpoise, Bering Sea Harbor seal, Bering Sea Killer whale, AK resident[1] Northern fur seal, Eastern Pacific Spotted seal, AK Steller sea lion, Western U.S.[1] Walrus, AK
AK Bering Sea, Aleutian Islands pollock trawl	95	Dall's porpoise, AK Harbor seal, AK Humpback whale, Central North Pacific Humpback whale, Western North Pacific Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient[1] Minke whale, AK Ribbon seal, AK Spotted seal, AK Steller sea lion, Western U.S.[1]
POT, RING NET, AND TRAP FISHERIES:		
AK Bering Sea sablefish pot	6	Humpback whale, Central North Pacific[1] Humpback whale, Western North Pacific[1]
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]
TROLL FISHERIES:		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
HI trolling, rod and reel	2,191	Pantropical spotted dolphin, HI[1]
LONGLINE/SET LINE FISHERIES:		
HI shallow-set (swordfish target) longline/ set line *^	28	Bottlenose dolphin, HI Pelagic[1] Bryde's whale, HI False killer whale, HI Pelagic Humpback whale, Central North Pacific Kogia sp. whale (Pygmy or dwarf sperm whale), HI Risso's dolphin, HI Striped dolphin, HI
American Samoa longline[2]	26	False killer whale, American Samoa Rough-toothed dolphin, American Samoa
HI shortline[2]	13	None documented
AK Bering Sea, Aleutian Islands Pacific cod longline	54	Killer whale, AK resident[1] Ribbon seal, AK Steller sea lion, Western U.S.
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
HI charter vessel	114	Pantropical spotted dolphin, HI[1]
CATEGORY III		
GILLNET FISHERIES:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	824	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	986	None documented
CA set gillnet (mesh size <3.5 in)	304	None documented
HI inshore gillnet	44	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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
PURSE SEINE, BEACH SEINE, ROUND HAUL, THROW NET AND TANGLE NET FISHERIES:		
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	0	None documented
AK octopus/squid purse seine	0	None documented
AK roe herring and food/bait herring beach seine	4	None documented
AK roe herring and food/bait herring purse seine	361	None documented
AK salmon beach seine	31	None documented
AK salmon purse seine (excluding salmon purse seine fisheries listed as Category II)	936	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	16	None documented
HI inshore purse seine	5	None documented
HI throw net, cast net	22	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
HI hukilau net	27	None documented
HI lobster tangle net	1	None documented
DIP NET FISHERIES:		
CA squid dip net	115	None documented
WA/OR smelt, herring dip net	119	None documented
MARINE AQUACULTURE FISHERIES:		
CA marine shellfish aquaculture	unknown	None documented
CA salmon enhancement rearing pen	>1	None documented
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented
OR salmon ranch	1	None documented
WA/OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
TROLL FISHERIES:		
AK North Pacific halibut, AK bottom fish, WA/OR/CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries *	1,302 (102 AK)	None documented
AK salmon troll	2,045	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	<50	None documented
CA/OR/WA salmon troll	4,300	None documented
Commonwealth of the Northern Mariana Islands tuna troll	88	None documented
Guam tuna troll	401	None documented
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Greenland turbot longline	29	Killer whale, AK resident
AK Bering Sea, Aleutian Islands rockfish longline	0	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
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	440	None documented
AK Gulf of Alaska rockfish longline	0	None documented
AK Gulf of Alaska sablefish longline	291	Sperm whale, North Pacific Steller sea lion, Eastern U.S.
AK halibut longline/set line (State and Federal waters)	2,521	Steller sea lion, Western U.S.
AK octopus/squid longline	2	None documented
AK State-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish)	1,448	None documented
WA/OR/CA groundfish, bottomfish longline/set line	367	None documented
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	24	None documented
HI vertical longline	10	None documented
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	9	Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	93	Harbor seal, Bering Sea Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands rockfish trawl	10	None documented
AK Gulf of Alaska flatfish trawl	41	None documented
AK Gulf of Alaska Pacific cod trawl	62	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	62	Fin whale, Northeast Pacific Northern elephant seal, North Pacific Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	34	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
AK food/bait herring trawl	4	None documented
AK miscellaneous finfish otter / beam trawl	317	None documented
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	32	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.
POT, RING NET, AND TRAP FISHERIES:		
AK statewide miscellaneous finfish pot	293	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	297	None documented
AK Gulf of Alaska crab pot	300	None documented
AK Gulf of Alaska Pacific cod pot	154	Harbor seal, GOA
AK Southeast Alaska crab pot	433	Humpback whale, Central North Pacific (Southeast AK)
AK Southeast Alaska shrimp pot	283	Humpback whale, Central North Pacific (Southeast AK)
AK shrimp pot, except Southeast	15	None documented
AK octopus/squid pot	27	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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
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	5	None documented
HI fish trap	13	None documented
HI lobster trap	1	Hawaiian monk seal
HI shrimp trap	2	None documented
HI crab net	5	None documented
HI Kona crab loop net	46	None documented
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline/hand troll and mechanical jig	445	None documented
AK North Pacific halibut handline/hand troll and mechanical jig	228	None documented
AK octopus/squid handline	0	None documented
American Samoa bottomfish	<50	None documented
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented
Guam bottomfish	200	None documented
HI aku boat, pole, and line	2	None documented
HI Main Hawaiian Islands deep-sea bottomfish handline	569	Hawaiian monk seal
HI inshore handline	416	None documented
HI tuna handline	445	None documented
WA groundfish, bottomfish jig	679	None documented
Western Pacific squid jig	6	None documented
HARPOON FISHERIES:		
CA swordfish harpoon	30	None documented
POUND NET/WEIR FISHERIES:		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
AK herring spawn on kelp pound net	415	None documented
AK Southeast herring roe/food/bait pound net	6	None documented
WA herring brush weir	1	None documented
HI bullpen trap	4	None documented
BAIT PENS:		
WA/OR/CA bait pens	13	California sea lion, U.S.
DREDGE FISHERIES:		
Coastwide scallop dredge	108 (12 AK)	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	0	None documented
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	570	None documented
CA abalone	0	None documented
CA sea urchin	583	None documented
HI black coral diving	1	None documented
HI fish pond	16	None documented
HI handpick	61	None documented
HI lobster diving	39	None documented
HI spearfishing	144	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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
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.
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; [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; ^ 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 # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
GILLNET FISHERIES:		
Mid-Atlantic gillnet	6,402	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 Short-finned pilot whale, WNA White-sided dolphin, WNA
Northeast sink gillnet	3,828	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 Minke whale, Canadian east coast North Atlantic right whale, WNA Risso's dolphin, WNA White-sided dolphin, WNA
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	11,767	Harbor seal, WNA Humpback whale, Gulf of Maine Minke whale, Canadian east coast North Atlantic right whale, WNA[1]

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
LONGLINE FISHERIES:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline *	94	Atlantic spotted dolphin, GMX continental and oceanic Atlantic spotted dolphin, WNA Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, Northern GMX continental shelf Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA Gervais beaked whale, GMX oceanic 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
CATEGORY II		
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet[2]	3,328	None documented in the most recent 5 years of data
Gulf of Mexico gillnet[2]	724	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, and estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal
NC inshore gillnet	2,250	Bottlenose dolphin, Northern NC estuarine system[1] Bottlenose dolphin, Southern NC estuarine system[1]
Northeast anchored float gillnet[2]	414	Harbor seal, WNA Humpback whale, Gulf of Maine White-sided dolphin, WNA
Northeast drift gillnet[2]	414	None documented
Southeast Atlantic gillnet[2]	779	Bottlenose dolphin, Southern Migratory coastal Bottlenose dolphin, SC/GA coastal Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Northern FL coastal
Southeastern U.S. Atlantic shark gillnet	30	Atlantic spotted dolphin, WNA Bottlenose dolphin, Central FL coastal[1] Bottlenose dolphin, Northern FL coastal North Atlantic right whale, WNA

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
TRAWL FISHERIES		
Mid-Atlantic mid-water trawl (including pair trawl)	669	Bottlenose dolphin, WNA offshore Common dolphin, WNA Long-finned pilot whale, WNA Risso's dolphin, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA[1]
Mid-Atlantic bottom trawl	1,388	Bottlenose dolphin, WNA offshore Common dolphin, WNA[1] Harbor seal, WNA Long-finned pilot whale, WNA[1] Risso's dolphin, WNA[1] Short-finned pilot whale, WNA[1] White-sided dolphin, WNA
Northeast mid-water trawl (including pair trawl)	887	Harbor seal, WNA Long-finned pilot whale, WNA[1] Short-finned pilot whale, WNA[1] White-sided dolphin, WNA
Northeast bottom trawl	2,584	Bottlenose dolphin, WNA offshore Common dolphin, WNA Gray seal, WNA Harbor porpoise, GME/BF Harbor seal, WNA Harp seal, WNA Long-finned pilot whale, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA[1]
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	4,950	Atlantic spotted dolphin, GMX continental and oceanic Bottlenose dolphin, 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
TRAP/POT FISHERIES:		
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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
Atlantic mixed species trap/pot[2]	3,526	Fin whale, WNA Humpback whale, Gulf of Maine
Atlantic blue crab trap/pot	10,008	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]
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	40-42	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Northern GMX coastal[1] Bottlenose dolphin, Western GMX coastal[1]
Mid-Atlantic menhaden purse seine[2]	56	Bottlenose dolphin, Northern Migratory coastal Bottlenose dolphin, Southern Migratory coastal
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	874	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]
STOP NET FISHERIES:		
NC roe mullet stop net	13	Bottlenose dolphin, Southern NC estuarine system[1]
POUND NET FISHERIES:		
VA pound net	231	Bottlenose dolphin, Northern NC estuarine system Bottlenose dolphin, Northern Migratory coastal[1] Bottlenose dolphin, Southern Migratory coastal[1]
CATEGORY III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
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
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	>86	None documented
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, Northern GMX continental shelf
Gulf of Mexico mixed species trawl	20	None documented
GA cannonball jellyfish trawl	1	None documented
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	>6	Harbor seal, WNA Gray seal, WNA
Gulf of Maine menhaden purse seine	>2	None documented
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
U.S. Atlantic tuna purse seine *	5	Long-finned pilot whale, WNA Short-finned pilot whale, WNA
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	>1,281	None documented in the most recent 5 years of data
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon	>403	Humpback whale, Gulf of Maine
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line	>5,000	Bottlenose dolphin, GMX continental shelf

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line	<125	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX continental shelf
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon	1,446	None documented
U.S. Atlantic, Gulf of Mexico trotline	unknown	None documented
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented
Caribbean spiny lobster trap/pot	>197	None documented
FL spiny lobster trap/pot	1,268	Bottlenose dolphin, Biscayne Bay estuarine Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, FL Bay estuarine
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine West Indian manatee, FL
Gulf of Mexico mixed species trap/pot	unknown	None documented
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented
U.S. Mid-Atlantic eel trap/pot	unknown	None documented
STOP SEINE/WEIR/POUND NET/FLOATING TRAP FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	unknown	Gray seal, WNA Harbor porpoise, GME/BF Harbor seal, WNA Minke whale, Canadian east coast White-sided dolphin, WNA
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net)	unknown	Bottlenose dolphin, Northern NC estuarine system
RI floating trap	9	None documented
DREDGE FISHERIES:		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
Gulf of Maine mussel dredge	unknown	None documented
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	>230	None documented
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented
U.S. Mid-Atlantic offshore surf clam and quahog dredge	unknown	None documented
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	None documented in the most recent 5 years of data
Gulf of Mexico haul/beach seine	unknown	None documented
Southeastern U.S. Atlantic haul/beach seine	25	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection	20,000	None documented
Gulf of Maine urchin dive, hand/mechanical collection	unknown	None documented
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net	unknown	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
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	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Category I		
LONGLINE FISHERIES:		
Atlantic Highly Migratory Species * +	81	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	Blainville's beaked whale, HI Blainville's beaked whale, unknown Bottlenose dolphin, HI Pelagic Bottlenose dolphin, unknown False killer whale, HI Pelagic False killer whale, unknown Humpback whale, Central North Pacific 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		
DRIFT GILLNET FISHERIES:		
Atlantic Highly Migratory Species	1	Undetermined
Pacific Highly Migratory Species * ^	3	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
TRAWL FISHERIES:		
Atlantic Highly Migratory Species **	3	Undetermined
CCAMLR	0	Antarctic fur seal

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Western Pacific Pelagic	1	Undetermined
PURSE SEINE FISHERIES:		
South Pacific Tuna Fisheries	33	Undetermined
Western Pacific Pelagic	3	Undetermined
POT VESSEL FISHERIES:		
Pacific Highly Migratory Species **	3	Undetermined
South Pacific Albacore Troll	3	Undetermined
Western Pacific Pelagic	3	Undetermined
LONGLINE FISHERIES:		
CCAMLR	0	None documented
South Pacific Albacore Troll	11	Undetermined
South Pacific Tuna Fisheries **	11	Undetermined
Western Pacific Pelagic (HI Shallow-set component) * ^+	28	Bottlenose dolphin, HI Pelagic Bottlenose dolphin, unknown Bryde's whale, HI Bryde's whale, 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 Striped dolphin, HI Striped dolphin, unknown
HANDLINE/POLE AND LINE FISHERIES:		
Atlantic Highly Migratory Species	3	Undetermined
Pacific Highly Migratory Species	30	Undetermined
South Pacific Albacore Troll	8	Undetermined
Western Pacific Pelagic	8	Undetermined
TROLL FISHERIES:		
Atlantic Highly Migratory Species	7	Undetermined
South Pacific Albacore Troll	51	Undetermined
South Pacific Tuna Fisheries **	3	Undetermined
Western Pacific Pelagic	32	Undetermined
LINERS NEI FISHERIES:		

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Pacific Highly Migratory Species **	1	Undetermined
South Pacific Albacore Troll	1	Undetermined
Western Pacific Pelagic	1	Undetermined
FACTORY MOTHERSHIP FISHERIES:		
Western Pacific Pelagic	1	Undetermined
MULTIPURPOSE VESSELS NEI FISHERIES:		
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		
LONGLINE FISHERIES:		
Pacific Highly Migratory Species * +	84	None documented in the most recent 5 years of data
PURSE SEINE FISHERIES		
Atlantic Highly Migratory Species *^	0	Long-finned pilot whale, WNA Short-finned pilot whale, WNA
Pacific Highly Migratory Species * ^	7	None documented
TROLL FISHERIES:		
Pacific Highly Migratory Species *	258	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	Category I Mid-Atlantic gillnet Northeast/Mid-Atlantic American lobster trap/pot Northeast sink gillnet Category II Atlantic blue crab trap/pot Atlantic mixed species trap/pot Northeast anchored float gillnet Northeast drift gillnet Southeast Atlantic gillnet Southeastern U.S. Atlantic shark gillnet* Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot^+
Bottlenose Dolphin Take Reduction Plan (BDTRP) - 50 CFR 229.35	Category I Mid-Atlantic gillnet Category II Atlantic blue crab trap/pot 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 stone crab trap/pot+ VA pound net
Harbor Porpoise Take Reduction Plan (HPTRP) - 50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic)	Category I Mid-Atlantic gillnet Northeast sink gillnet
Pelagic Longline Take Reduction Plan (PLTRP) – 50 CFR 229.36	Category I Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline
Pacific Offshore Cetacean Take Reduction Plan (POCTRP) - 50 CFR 229.31	Category II CA thresher shark/swordfish drift gillnet (≥14 in mesh)
Take Reduction Teams	Affected Fisheries
Atlantic Trawl Gear Take Reduction Team (ATGTRT)	Category II Mid-Atlantic bottom trawl Mid-Atlantic mid-water trawl (including pair trawl) Northeast bottom trawl Northeast mid-water trawl (including pair trawl)
False Killer Whale Take Reduction Team (FKWTRT)	Category I HI deep-set (tuna target) longline/set line Category II HI shallow-set (swordfish target) longline/set line

* 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; +Fishery is proposed to be elevated to Category II in this proposed rule.

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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 69,000 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 3,600 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, and 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.

References

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Dated: June 22, 2011.

Samuel D. Rauch III,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 110208116–1315–01]

RIN 0648–BA75

Atlantic Highly Migratory Species; Electronic Dealer Reporting Requirements

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

ACTION: Proposed rule; request for comments; notice of public hearings.

SUMMARY: This proposed rule would require that Federal Atlantic swordfish, shark, and tunas dealers report commercially harvested Atlantic sharks, swordfish, and bigeye, albacore, yellowfin, and skipjack (BAYS) tunas to NMFS through an electronic reporting system. At this time, Atlantic Highly Migratory Species (HMS) dealers would not be required to report bluefin tuna through this electronic reporting system, as a separate reporting system is currently in place for this species. This rulemaking also proposes that a dealer would only be authorized to receive commercially harvested Atlantic sharks, swordfish, and BAYS tunas if the dealer's previous reports have been submitted by the dealer and received by NMFS in a timely manner. Any delinquent reports would need to be submitted by the dealer and received by NMFS before a dealer could receive commercially harvested Atlantic sharks, swordfish, and BAYS tunas from a Federally permitted U.S. vessel. Finally, this rulemaking proposes that all first receivers of commercially harvested Atlantic sharks, swordfish, and BAYS tunas by Federally permitted U.S. vessels must obtain a corresponding Federal Atlantic swordfish, shark, and/or tunas dealer permit. First receivers must report the associated catch to NMFS through the electronic reporting system. These measures are necessary to ensure timely and accurate reporting, which is critical for quota monitoring and management of these species.

DATES: Written comments must be received on or before August 12, 2011. NMFS will hold eight public hearings on this proposed rule in July 2011. For specific dates and times, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: The public hearings will be held in Massachusetts, New York, New Jersey, North Carolina, Florida, and Louisiana. For specific locations see the **SUPPLEMENTARY INFORMATION** section of this document.

You may submit comments, identified by ''0648–BA75,'' by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal at *http://www.regulations.gov.* Please do not submit electronic comments via e-mail, as doing so is likely to delay the timely review and consideration of submitted comments.
- *Fax:* 301–713–1917, Attn: Karyl Brewster-Geisz.
- *Mail:* National Marine Fisheries Service, c/o HMS Management Division, SF/1, 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope ''Comments on Proposed Rule for Electronic Dealer Reporting.''
- *Instructions:* All comments received are part of the public record and generally will be posted to Portal *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive 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.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Delisse Ortiz with the Atlantic Highly Migratory Species Management Division and by e-mail to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jackie Wilson at 240–338–3936, or Karyl Brewster-Geisz or Delisse Ortiz at 301–713–2347.

Copies of this proposed rule and related documents, including a Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA), for this action are available online at the HMS Management Division Web site: *http://www.nmfs.noaa.gov/sfa/hms/.*

SUPPLEMENTARY INFORMATION:

Background

Atlantic HMS are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.,* and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* Under the MSA, NMFS must ensure consistency with the National Standards and manage fisheries to maintain optimum yield, rebuild overfished fisheries, and prevent overfishing. Under the ATCA, the Secretary of Commerce is required to promulgate regulations, as may be necessary and appropriate, to implement the recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under MSA and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). The implementing regulations for Atlantic HMS are at 50 CFR part 635.

Atlantic HMS Dealer Reporting

On December 13, 1991 (56 FR 65007), and October 18, 1994 (59 FR 52453), NMFS published in the **Federal Register** final regulations, effective December 10, 1991, and January 1, 1995, respectively, requiring dealers who receive swordfish and sharks to obtain an annual Federal dealer permit and report to NMFS every two weeks. These reports were either ''positive'' reports, where dealers reported the amount and species bought from fishermen, or ''negative'' reports, where dealers indicated no transactions for the reporting period. Swordfish and shark dealers reported voluntarily to NMFS until a rulemaking on August 31, 1990 (55 FR 35643), which required swordfish dealers to report monthly to NMFS as of October 1, 1990. Dealers were first required to report sharks to NMFS on a bi-weekly basis according to the October 18, 1994, rule.

On August 15, 2001 (66 FR 42801), NMFS required dealers to submit bi-weekly reports of BAYS tunas to NMFS. Prior to this rule, which became effective on September 14, 2001, NMFS required dealers to report BAYS only