



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 200327-0090]

RIN 0648-BI76

List of Fisheries for 2020

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

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its final List of Fisheries (LOF) for 2020, as required by the Marine Mammal Protection Act (MMPA). The LOF for 2020 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements.

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

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

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

SUPPLEMENTARY INFORMATION:

What is the List of Fisheries?

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

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

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

Fishery Classification Criteria

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

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

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

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

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

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

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

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

Other Criteria That May Be Considered

The tier analysis requires a minimum amount of data, and NMFS does not have sufficient data to perform a tier analysis on certain fisheries. Therefore, NMFS has classified certain fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, or according to factors discussed in the final LOF for 1996 (60 FR 67063; December 28, 1995) and listed in the regulatory definition of a Category II fishery. In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental mortality or serious injury is “frequent,” “occasional,” or “remote” by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fishermen reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries (50 CFR 229.2).

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

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

The LOF includes a list of marine mammal species and/or stocks incidentally killed or injured in each commercial fishery. The list of species and/or stocks incidentally killed or injured includes “serious” and “non-serious” documented injuries as described later in the List of Species and/or Stocks Incidentally Killed or Injured in the Pacific

Ocean and the Atlantic Ocean, Gulf of Mexico, and Caribbean sections. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs and injury determination reports. SARs are brief reports summarizing the status of each stock of marine mammals occurring in waters under U.S. jurisdiction, including information on the identity and geographic range of the stock, population statistics related to abundance, trend, and annual productivity, notable habitat concerns, and estimates of human-caused M/SI by source. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations. The best available scientific information used in the SARs and reviewed for the 2020 LOF generally summarizes data from 2012-2016. NMFS also reviews other sources of new information, including injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fishermen self-reports (*i.e.*, MMPA mortality/injury reports), and anecdotal reports from that time period. In some cases, more recent information may be available and used in the LOF.

For fisheries with observer coverage, species or stocks are generally removed from the list of marine mammal species and/or stocks incidentally killed or injured if no interactions are documented in the 5-year timeframe summarized in that year's LOF. For fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (*e.g.*, fishery has low observer coverage and stranding network data include evidence of fisheries interactions that cannot be

attributed to a specific fishery) species and stocks may be retained for longer than 5 years. For these fisheries, NMFS will review the other sources of information listed above and use its discretion to decide when it is appropriate to remove a species or stock.

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

The best available information on the level of observer coverage and the spatial and temporal distribution of observed marine mammal interactions is presented in the SARs. Data obtained from the observer program and observer coverage levels are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. Starting with the 2005 SARs, each Pacific and Alaska SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including the observer coverage in those fisheries. For Atlantic fisheries, this information can be found in the LOF Fishery Fact Sheets. The SARs 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 and other resources referenced during the tier analysis may include: level of observer coverage; target species; levels of fishing effort; spatial and temporal distribution of fishing effort; characteristics of fishing gear and operations; management and regulations; and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources website at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal->

stock-assessment-reports-region. Information on observer coverage levels in Category I, II, and III fisheries can be found in the fishery fact sheets on the NMFS Office of Protected Resources' website: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>. Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's website: <https://www.fisheries.noaa.gov/national/fisheries-observers/national-observer-program>.

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

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

Are high seas fisheries included on the LOF?

Beginning with the 2009 LOF, NMFS includes high seas fisheries in Table 3 of the LOF, along with the number of valid High Seas Fishing Compliance Act (HSFCA) permits in each fishery. As of 2004, NMFS issues HSFCA permits only for high seas fisheries analyzed in accordance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The authorized high seas fisheries are broad in scope and encompass multiple specific fisheries identified by gear type. For the purposes of the LOF, the high seas fisheries are subdivided based on gear type (*e.g.*, trawl, longline, purse seine, gillnet, troll, etc.) to provide more detail on composition of effort

within these fisheries. Many fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery, but an extension of a fishery operating within U.S. waters (listed in Table 1 or 2). NMFS designates those fisheries in Tables 1, 2, and 3 by a “*” after the fishery’s name. The number of HSFCA permits listed in Table 3 for the high seas components of these fisheries operating in U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels/participants holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

HSFCA permits are valid for 5 years, during which time Fishery Management Plans (FMPs) can change. Therefore, some vessels/participants may possess valid HSFCA permits without the ability to fish under the permit because it was issued for a gear type that is no longer authorized under the most current FMP. For this reason, the number of HSFCA permits displayed in Table 3 is likely higher than the actual U.S. fishing effort on the high seas. For more information on how NMFS classifies high seas fisheries on the LOF, see the preamble text in the final 2009 LOF (73 FR 73032; December 1, 2008). Additional information about HSFCA permits can be found at <https://www.fisheries.noaa.gov/permit/high-seas-fishing-permits>.

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

Starting with the 2010 LOF, NMFS developed summary documents, or fishery fact sheets, for each Category I and II fishery on the LOF. These fishery fact sheets

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

Am I required to register under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain a marine mammal authorization to lawfully take non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How do I register, renew and receive my Marine Mammal Authorization Program authorization certificate?

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

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

Vessel or gear owners who participate in fisheries in these regions and have not received authorization certificates by the beginning of the calendar year, or with renewed fishing licenses, must contact the appropriate NMFS Regional Office (see **FOR FURTHER INFORMATION CONTACT**). Authorization certificates may also be obtained by visiting the MMAP website <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#obtaining-a-marine-mammal-authorization-certificate>.

The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)). Although efforts are made to

limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal license or permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries.

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

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

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

Mortality/injury reporting forms and instructions for submitting forms to NMFS can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal->

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

Am I required to take an observer aboard my vessel?

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

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

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

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

Information regarding the LOF and the MMAP, including registration procedures and forms; current and past LOFs; descriptions of each Category I and II fishery and some Category III fisheries; observer requirements; and marine mammal mortality/injury reporting forms and submittal procedures; may be obtained at:

<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries>, or from any NMFS Regional Office at the addresses listed below:

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

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

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

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

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

Sources of Information Reviewed for the 2020 LOF

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

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

The LOF for 2020 was based on, among other things, stranding data; fishermen self-reports; and SARs, primarily the 2018 SARs, which are based on data from 2012-2016. The SARs referenced in this LOF include: 2016 (82 FR 29039; June 27, 2017), 2017 (83 FR 32093; July 11, 2018) and 2018 (84 FR 28489; June 19, 2019). The SARs

are available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>.

Comments and Responses

NMFS received six comment letters on the proposed LOF for 2020 (84 FR 54543; October 10, 2019). Comments were received from the Center for Biological Diversity (CBD), Hawaii Longline Association (HLA), Maine Lobstermen's Association (MLA), Marine Mammal Commission (Commission), Western Pacific Regional Fishery Management Council (WPRFMC) and a joint letter from Lund's Fisheries and The Town Dock. Responses to substantive comments are below; comments on actions not related to the LOF are not included.

General Comments

Comment 1: CBD expresses concern regarding the diminishing quality, quantity and timeliness of marine mammal and commercial fisheries interactions public data. As noted in the Commission's 2018 report (MMC 2018), current resources do not allow NMFS to meet its obligations under MMPA section 117 (16 U.S.C. 1386). The lack of accurate and up-to-date stock assessment reports compromises the integrity of fishery regulations and undermines public oversight. The LOF is the conduit for information in the stock assessment reports to be used in the regulation of fisheries. The lack of recent Scientific Review Group meeting minutes and recommendations hinders the public's ability to review new science that should be incorporated into the LOF for 2020.

Response: When NMFS reviews the LOF annually, we use the best available scientific information, including the SARs. The SARs generally provide the most current

and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations; there may also be more recent reports that include bycatch estimates. The MMPA requires NMFS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available and at least once every three years for non-strategic stocks. NMFS publishes a notice of availability and solicits public comments on the draft SARs annually. We strive to distribute the SRG meeting recommendations, minutes and correspondence in a timely manner, but the timeline this year was residually affected by the 2018-2019 partial government shutdown.

Comments on Commercial Fisheries in the Pacific Ocean

Comment 2: The Commission recommends NMFS reclassify both the Category II Yakutat salmon set gillnet and SE Alaska salmon drift gillnet fisheries as Category I fisheries. The Commission notes that NMFS reported a new abundance estimate for the Southeast Alaska (SEAK) stock of harbor porpoise in the 2016 SAR. That SAR also reported a population-size estimate of 975 porpoises and an estimated minimum population size (Nmin) of 896, which produced a PBR of 8.9 porpoises.

The Commission states that low levels of observer coverage of the Yakutat salmon set gillnet fishery in 2007 and 2008 (5.3 and 7.6 percent, respectively) documented four harbor porpoise mortalities, which, when extrapolated, yielded an estimated mean annual M/SI of 22 animals. Similarly, observations of portions of the SE Alaska salmon drift gillnet fishery in 2012 and 2013 (6.4 and 6.6 percent observer coverage, respectively) documented two harbor porpoise mortalities, which, when extrapolated, yielded an estimated mean annual M/SI of 12 animals. Therefore, the total

M/SI estimate was 34 harbor porpoises annually. The Commission notes that these estimates have not changed in subsequent SARs. The M/SI for the SEAK harbor porpoise stock is nearly four times larger than its PBR, and the M/SI for each fishery exceeds PBR individually.

Despite the uncertainty in the stock-size and M/SI estimates, the data reported in the SAR are the best available estimates for this stock, and clearly meet the criteria for a Category I classification for the Yakutat salmon set gillnet and SE Alaska salmon drift gillnet fisheries.

Response: As stated in the **Federal Register** notice for the final 2018 SARs (see 84 FR 28489, June 19, 2019, comment 17), the PBR level of 8.9 for the SEAK harbor porpoise stock was estimated based on a survey that covered only a portion of the currently-recognized distribution of this stock, and it included commercial fishery mortalities or serious injuries that occurred far north of the surveyed areas. We are concerned about the SEAK harbor porpoise stock, and we are collecting additional information on stock structure and abundance to reduce uncertainties in the data available to manage this stock, and we have prioritized the Southeast Alaska drift gillnet fishery for additional observer coverage, should resources become available. From these studies, we anticipate being able to better evaluate management concerns related to the AK Southeast Alaska salmon drift gillnet and AK Yakutat salmon set gillnet fisheries, including their classification on the future LOF. For the 2020 LOF, NMFS retains the Category II classification for the Yakutat salmon set gillnet and SE Alaska salmon drift gillnet fisheries.

Comment 3: CBD acknowledges NMFS proposed to add the Western U.S. stock of Steller sea lion, which is listed as endangered under the ESA, to the list of species/stocks incidentally killed or injured in the Category II AK Bering Sea Aleutian Islands Pacific cod longline fishery. They note that the LOF includes many fisheries that take endangered and threatened marine mammals, but no U.S. fishery currently has a valid MMPA authorization under section 101(a)(5)(E) to take ESA-listed marine mammals (16 U.S.C. 1371(a)(5)(E)). CBD recommends NMFS monitor, analyze and mitigate fisheries' interactions with endangered marine mammals in compliance with Federal statutes.

Response: The AK Bering Sea Aleutian Islands Pacific cod longline fishery, along with other federally-managed fisheries, are monitored for marine mammal bycatch through the North Pacific Observer Program, and these data are then considered in the LOF. Publication of the LOF does not authorize take of threatened or endangered marine mammals incidental to commercial fishing. Under section 101(a)(5)(E) of the MMPA, NMFS issues permits for the incidental taking of threatened or endangered species listed under the ESA, if it can be determined that (1) mortality and serious injury incidental to commercial fisheries would have a negligible impact on the affected species or stock, (2) a recovery plan for that species or stock has been developed or is being developed, and (3) where required under section 118, a monitoring program has been established, vessels are registered, and a TRP has been developed or is being developed. Further, classifications made under the LOF are based on the best available science, and are not

dependent on, or related to, the current status of other regulatory processes, including the issuance of authorizations under section 101(a)(5)(E) of the MMPA.

Comment 4: CBD supports reclassifying the CA coonstripe shrimp fishery from a Category III to a Category II fishery based on an entangled humpback whale that would have been classified as a serious injury if the whale had not been subsequently disentangled.

Response: NMFS has reclassified the CA coonstripe shrimp fishery from a Category III to a Category II fishery.

Comment 5: CBD recommends NMFS reclassify the Category III WA/OR/CA groundfish, bottomfish longline/set line fishery as a Category II fishery based on observed injuries and mortalities of sperm whales reported in Jannot *et al.* 2018. CBD states the CA/OR/WA stock of sperm whales has a PBR of 2.5 animals per year, and the total annual fishery-related M/SI of sperm whales is above 10 percent of PBR.

Response: For the proposed 2020 LOF, NMFS reviewed Jannot *et al.* 2018 and considered the estimates of sperm whale bycatch presented. Upon further investigation, the estimates provided in Jannot *et al.* 2018 were based on an observed vessel collision in 2007 that was characterized as a non-serious injury. This non-serious injury was evaluated and reported in the most recent SAR for CA/OR/WA sperm whales (Carretta *et al.* 2019). Given that this information does not suggest that mortality or serious injury of CA/OR/WA sperm whales has been occurring as a result of the WA/OR/CA groundfish, bottomfish longline/set line fishery, NMFS will not reclassify the Category III WA/OR/CA groundfish, bottomfish longline/set line fishery at this time.

Comment 6: CBD recommends NMFS add the AT1 transient stock of killer whales to the list of species/stocks incidentally killed or injured in the Category II CA Dungeness crab pot fishery, based on an entanglement in 2015 (NMFS-WCR 2018).

Response: As stated in the **Federal Register** notice for the final 2018 SARs (see 84 FR 28489, June 19, 2019, comment 24), based on genetic analysis, the killer whale that became entangled in commercial California Dungeness crab pot gear in 2015 was identified as a transient killer whale with a mitochondrial DNA (mtDNA) haplotype that has been found in transient killer whales in the Pribilof Islands and western Aleutian Islands. However, the whale cannot be assigned to a specific stock because mtDNA haplotypes are unique to ecotypes of killer whales (*e.g.*, resident, transient, offshore) but not to populations. Therefore, we will assign this mortality to both the Gulf of Alaska, Aleutian Islands, and Bering Sea Transient killer whale stock and the West Coast Transient killer whale stock in the next revisions of these SARs and in the NOAA Technical Memorandum that contains information on human-caused mortality and injury of NMFS-managed Alaska marine mammal stocks in 2013-2017 (Delean *et al.* in press). Therefore, NMFS will not add the AT1 transient stock of killer whales to the list of species/stocks incidentally killed or injured in the Category II CA Dungeness crab pot fishery in the 2020 LOF. NMFS will use this information in future LOFs when reviewing and updating the list of species/stocks incidentally killed or injured in the Category II CA Dungeness crab pot fishery.

Comment 7: CBD does not support NMFS' proposal to remove the Hawaii stock of sperm whale from the list of species/stocks incidentally killed or injured in the

Category I Hawaii deep-set longline fishery because observer coverage is only 20 percent. CBD notes the lack of observed mortalities or injuries does not mean injuries and mortalities are not occurring.

Response: The 2020 LOF is based on the 2018 SARs, which report fishery interactions from 2012-2016; this is the best scientific and commercial information available for the time period examined. There were no sperm whale mortalities or injuries in the Hawaii deep-set longline fishery during the 2012-2016 time period reported in the SARs. NMFS has removed the Hawaii stock of sperm whale from the list of species/stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Comment 8: The HLA recommends NMFS remove the MHI Insular stock of false killer whale from the list species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery as proposed in the 2019 LOF. NMFS retained this stock in the final 2019 LOF, and HLA expresses concern that this was contrary to the best available science.

HLA notes that (a) the False Killer Whale Take Reduction Plan (FKWTRP) closed the deep-set longline fishery for almost the entire range of the MHI Insular and NWHI stocks, (b) since this change was made in 2013 there have been no interactions between the fishery and an animal from either stock, and (c) there has never been a deep-set longline fishery interaction in the very small area of the stocks' respective ranges that are not closed to longline fishing. The commenter also states that no information has been presented to the False Killer Whale TRT or the Pacific Scientific Review Group

suggesting any of the 2018 and 2019 false killer whale interactions referenced by NMFS in the 2019 final rule (84 FR 22051) have been or will be attributed to the MHI Insular stock of false killer whale. HLA requests that NMFS remove the MHI Insular stock of false killer whales from the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Response: As noted in the 2019 LOF (84 FR 22051, June 17, 2019), for fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (*e.g.*, fishery has evidence of fisheries interactions that cannot be attributed to a specific fishery, and stranding network data include evidence of fisheries interactions that cannot be attributed to a specific fishery), stocks may be retained on the LOF for longer than five years. For these fisheries, NMFS will review the other sources of relevant information to determine when it is appropriate to remove a species or stock from the LOF.

As described in the 2019 LOF (84 FR 22051, June 17, 2019), six false killer whale mortalities and serious injuries incidental to the deep-set longline fishery were observed inside the EEZ around Hawaii, including three mortalities and serious injuries that occurred close to the outer boundary of the Main Hawaiian Islands Longline Fishing Prohibited Area, in close proximity to the outer boundary of the MHI Insular false killer whale stocks' range. These interactions have not yet been evaluated for assignment to insular or pelagic stocks in the SAR. Additionally, the MHI Insular false killer whale range overlaps with areas that are open to deep-set longline fishing and MHI Insular false killer whales have been documented with injuries consistent with fisheries interactions

that have not been attributed to a specific fishery (Baird *et al.*, 2014). For the above reasons, NMFS retains the MHI Insular false killer whale stock on the list of species and/or stocks killed or injured incidental to the Category I HI deep-set longline fishery.

Comment 9: HLA restates a previous comment and recommends NMFS reclassify the Hawaii shallow-set longline fishery as a Category III fishery. HLA notes that the Hawaii shallow-set longline fishery has 100 percent observer coverage, and only one serious injury has been observed in the EEZ since 2008. HLA states the 2017 SAR attributes a 0.1 M/SI to the shallow-set longline fishery for the pelagic stock of false killer whales in the U.S. EEZ. However, the 0.1 M/SI rate is derived entirely from a 2012 interaction on which NMFS was unable to make a serious injury determination, and which was given a “cannot-be-determined” determination. This determination was then prorated as 0.3 M/SI because, in the previous five years, there were three interactions between the shallow-set longline fishery and the pelagic false killer whale stock in the EEZ. HLA believes if the “cannot-be-determined” determination for the 2012 interaction is prorated based upon the five-year look-back period used in the 2017 SAR (2011-2015), then the M/SI rate would be 0.0, because there were only two other interactions from 2011-2015, both of which were determined to be non-serious. Therefore, HLA recommends the shallow-set longline fishery should be reclassified as a Category III fishery.

Response: This comment has been addressed previously (see 84 FR 22051, June 17, 2019, comment 13; 83 FR 5349, February 7, 2018, comment 26). NMFS uses the classification criteria described in the preamble to classify fisheries as Category I,

Category II, or Category III. A fishery is classified under Category II if the annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the stock's PBR level. Additional details regarding categorization of fisheries is provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086; August 30, 1995). The false killer whale interaction in 2012 that resulted in a "cannot be determined" determination was prorated following the methods described in the 2017 SAR (Carretta *et al.*, 2018), which prorates serious versus non-serious injuries using the historic rate of serious injury, while accounting for changes in gear following implementation of the FKWTRP in 2013. This proration resulted in a 0.3 M/SI for the pelagic false killer whale stock as reported in the 2017 SAR, which is 1.07 percent of PBR and within the range of 1–50 percent of PBR, requiring NMFS to classify the fishery as a Category II fishery, consistent with section 118 of the MMPA.

Comment 10: HLA supports removing the Hawaii stock of sperm whale from the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Response: NMFS has removed the Hawaii stock of sperm whale from the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Comment 11: HLA supports removing the Hawaii stock of short-finned pilot whale from the list of species and/or stocks incidentally killed or injured in the Category II Hawaii shallow-set longline fishery.

Response: NMFS has removed the Hawaii stock of short-finned pilot whale from the list of species and/or stocks incidentally killed or injured in the Category II Hawaii shallow-set longline fishery.

Comment 12: WPRFMC provides clarification on the source of information used to revise the number of vessels/persons for the American Samoa bottomfish handline fishery in the proposed rule from 1,092 to 2,095. NMFS began citing the Council's Annual Stock Assessment and Fishery Evaluation (SAFE) report for the fishery participation data in the 2019 LOF, which resulted in the number of vessels/persons revised from 17 in the previous LOF to 1,092 in the 2019 LOF; and the subsequent revision to 2,095 in the proposed 2020 LOF. WPRFMC notes the method used in the Annual SAFE Report estimates participation for the American Samoa bottomfish fishery by multiplying the average number of fishers per trip by the number of trips per day, and then by the number of dates in the calendar year by gear type. The commenter also states this method does not generate a count of unique fishermen in the fishery, but rather an estimation of the cumulative number of fishermen participating in the bottomfish fishery in a calendar year, representing duplicate counts of fishermen throughout the year. The method also results in an overestimation of fishery participation, as it does not account for days without bottomfish fishing effort and consequently assumes that bottomfish fishing occurs every day in the calendar year.

The WPRFMC Plan Team determined this method to be an inappropriate approach for tracking fishery participation trends and removed the metric from the 2018 Annual SAFE Report (published in July 2019). The Plan Team also noted that the fishery

participation metric estimate of 2,095 reported in the 2017 Annual SAFE Report was likely an estimation error, rather than a true doubling of effort from 2016 to 2017.

WPRFMC recommends NMFS use information from the Environmental Assessment for the Specification of the 2016-2017 Annual Catch Limits for the American Samoa bottomfish fishery for the 2020 LOF, which describes the fishery as a small scale fishery consisting of fewer than 30 part-time, relatively small commercial vessels landing between 6,000- 35,000 pounds (2,722-15,876 kilograms) annually.

Response: Following review of the 2018 Annual SAFE Report and the 2017 Environmental Assessment, NMFS updates the estimated number of vessels/persons in the American Samoa bottomfish handline fishery as being fewer than 30 vessels in the LOF for 2020.

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

Comment 13: CBD does not support NMFS' proposal to remove the WNA stocks of hooded seal and long-finned pilot whale from the list of species/stocks incidentally killed or injured in the Category I Northeast sink gillnet fishery. The commenter states observer coverage from 2012-2016 was low (15, 11, 18, 14 and 10 percent each year, respectively) and interactions with these stocks may be unobserved.

Response: No hooded seal or long-finned pilot whale mortalities or injuries were observed or reported in the Northeast sink gillnet fishery from 2012-2016 (Hayes *et al.*, 2019). The last observed M/SI of these stocks in the Northeast sink gillnet fishery was in 2004 and 2010. In general, we list species/stocks incidentally killed or injured in a

particular fishery based on data observed from the last 5 years. The list contained in the LOF is not intended to serve as a historical overview of mortalities and injuries, as that data is available in individual species SARs, as well as in Appendix III of the SAR.

From 2012-2016, observer coverage for the Northeast sink gillnet fishery was 2, 3, 5, 6 and 8 percent each year, respectively. Additionally, while some strandings did occur during this timeframe in Massachusetts, none of the stranded animals (live or dead) showed evidence of human interaction.

NMFS has removed the Western North Atlantic stocks of hooded seals and long-finned pilot whales from the list of species and/or stocks incidentally killed or injured in the Category I Northeast sink gillnet fishery. NMFS will annually monitor bycatch of marine mammals in the Northeast sink gillnet fishery and will make adjustments to Table 2, should takes be observed in the future.

Comment 14: The MLA recommends NMFS reclassify the Maine lobster fishery as a stand-alone fishery, instead of including the fishery as part of the broader Category I Northeast/mid-Atlantic American lobster pot fishery.

The commenter requests that NMFS categorize Maine's exempt waters lobster fishery as a Category III fishery, due to the rarity of whale sightings and lack of documented M/SI with this sector of the American lobster fishery. MLA notes Maine's exempt waters lobster fishery is a small boat fishery which uses smaller ropes and lighter gear, compared to other segments of the Northeast lobster fishery.

MLA also requests that NMFS categorize Maine's non- exempt waters lobster fishery as a Category II fishery, based on the decline in right whale sightings, lack of

documented right whale entanglements, lack of observed interactions from the Federal observer program, and the efficacy of TRP measures implemented in 2009 and 2014.

The commenter states that multiple data sources, including acoustic surveys, right whale sightings data, and low copepod concentrations, document that right whales are extremely rare in Maine's exempt waters, are not found in large numbers in Maine's non-exempt waters, and are unlikely to feed in these areas. In addition, MLA notes, there has been only one right whale entangled in Maine gear in April 2002, and the entanglement was determined to be a non-serious injury. There are two additional non-serious injury entanglement cases that involved Maine lobster gear. However, Maine lobster gear was not the primary entangling gear in these cases.

Response: The information provided by the commenter is insufficient for splitting the Northeast/Mid-Atlantic American lobster trap/pot into multiple fisheries. Fisheries are categorized based on the gear types used, how the gear is fished, and the behavior of the fishery related to the risk to marine mammals. Multiple states participate in the American lobster trap/pot fisheries, using a wide variety of gear and gear configurations throughout a large portion of coastal waters. While we recognize this variety within the fishery at large, there are no clear boundaries to divide gear use across the wider area, as suggested by this comment. Importantly, the state of Maine does not use unique gear configurations, compared to gear configurations used in other states, and gear configurations within Maine's waters are not uniform or divided across the geographic boundaries (*i.e.*, exemption lines) that MLA has identified. Further, gear marking and right whale

monitoring efforts throughout Maine waters are insufficient to determine that the gear or area presents a different risk to large whales.

MLA suggests that differences in rope diameter used by the inshore fishery (*i.e.* fisheries exempted under the Atlantic Large Whale TRP management requirements) are sufficient to reduce any risk to large whales, and thereby make it a distinct fishery. The commenter indicates that coastal lobster fisheries in Maine state waters utilize 3/8th diameter line and fish doubles and, therefore, pose less of a risk to right whales than other fisheries. While this may characterize a portion of the inshore fishery, this information is based on a small sample size from self-reported surveys conducted by Maine's Department of Marine Fisheries and does not take into account varying breaking strength or other variability within this fishery. In this same study, high variability in line diameter used and number of pots trawled in the coastal fishery was also shown. According to Summers *et al.* 2019 (Assessment of Vertical Line Use in Gulf of Maine Region Fixed Gear Fisheries presentation to Atlantic Large Whale TRT), of the 647 responses received from Maine permitted lobster fishermen (approximately 15 percent of the total of actively fishing permitted Maine vessels), less than 60 percent of that sample included those who fish between 0-3 nautical miles from shore. While the majority of this small sample size responded that they primarily fish single and double pots, some voluntary respondents answered that they fish a range between 5-30+ pot trawls. While there were fewer responses citing these higher trawl numbers, it shows the variability of the Maine state lobster fishery. The 3/8th line diameter and limited trap/pots justification is not uniform

throughout the inshore area and is not unique to Maine waters; therefore, these areas are not representative of a unique fishery compared to the rest of the lobster fishery.

MLA also cites a lack of right whale sightings in Maine state waters as justification for reclassifying the Maine lobster fisheries. However, it is important to recognize that whale sighting information is related to monitoring efforts, which are largely a reflection of survey resource prioritization. Until this point, right whale surveys have focused on areas where high abundance and social/feeding aggregations are known to occur, due to resource constraints. As noted at the October 2018 TRT meeting, this is an artifact of prioritizing the monitoring of population and health assessments through mark recapture methods that require maximizing photo-identification opportunities, rather than prioritizing coverage of the entire range of right whales. Despite the lack of directed survey efforts, from 2014-2018, there were at least six right whale opportunistic sightings reported and documented in Maine waters in the North Atlantic Right Whale Consortium's sightings database (Industrial Economics Inc., personal communication). Also, bioacoustic gliders implemented between December 2018 and April 2019 had several potential detections of right whales in the Maine inshore waters (Baumgartner, in review). This shows that the right whales are present in Maine state waters, even those overlapping exempted areas. Given the population distribution shifts and critical status of the population, we are allocating resources towards broader surveys that will provide further insight into the habitat use and distribution of these whales; these broader surveys will include regular aerial and acoustic surveys of Maine waters throughout the upcoming year.

As the commenter stated, there are three right whale entanglement cases (E11-11, E43-12, and E36-16) where gear has been recovered with red tracers, which is the gear marking scheme required in the Northern Inshore Trap/Pot fishery management area, a management area that overlaps Maine, New Hampshire, and Massachusetts state waters. In two of these cases, the specific trap/pot fishery was not identified. Therefore, it cannot be ruled out that the entanglements (one of which resulted in a mortality) may have occurred off the coast of Maine in non-exempt waters. The commenter referenced Case E36-16 (which was confirmed to be Massachusetts lobster gear from the Northern Inshore Trap/Pot management area) as an example of why the Maine state fisheries should have a separate designation compared to other lobster fisheries. However, we consider this example as evidence as to why all lobster fisheries should remain classified together. Given that there are limited differences between the gear used in the waters throughout the current management areas, this example shows that lobster gear poses a potential risk to right whales in any area where right whale and lobster fishery distributions overlap.

With this request, the commenter is also not taking into consideration the high percentage of multiple sightings of unidentified entanglements, with first sightings in either the U.S. or in Canada. Over the past 5 years, there have been 4.15 M/SI entanglements documented annually where the origin of the entanglement is unknown (Hayes *et al.*, in review). NMFS has proposed two ways to include these M/SI in risk assessment reduction measure metrics: by taking the total unknown entanglements and dividing them in half to allocate 50 percent of the unknown entanglements to U.S.

fisheries and 50 percent to Canadian fisheries, or by assigning the incident to the country the entanglement was first sighted in as the country of origin. Both options produced similar results; the range of entanglements for U.S. fisheries is 0.2-2.45 (2.075 if the risk is divided by 50 percent). The median M/SI entanglement potential is 1.325 animals per year, or 165 percent of PBR.

The sample size of recovered gear from entanglements is small, and much of the retrieved gear is unmarked and cannot be attributed to a particular location. Currently, gear marking is not required in exempted areas. The lack of marks on retrieved gear may indicate that the current marking scheme is inadequate, or that entanglements are occurring in areas where gear is not currently marked, such as international waters or current exempted areas. The state of Maine is currently pursuing a gear marking regime in these exempted waters that will provide additional data about entanglement risk in these areas. The MLA states that there are “zero instances” in any data set of Maine of lobster gear associated with a right whale serious injury or mortality, and that the only known entanglement in which Maine lobster gear was the primary entangling gear occurred in 2002 and resulted in a non-serious injury determination. We recognize that there has only been one confirmed mortality (in 2012) in American lobster gear in the past decade. All other documented lobster interactions were determined to result in non-serious injuries. However, there have been a number of entanglements for which interventions occurred because these entanglements were determined to be resulting in serious injuries (Henry *et al.*, 2019). According to NMFS’ “Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals (NMFS 2015, 02-238-01),” cases

that would have been serious injuries prior to disentanglement are not counted against PBR in the SAR, but they are included in the recorded takes for the LOF and associated management measures. Aerial surveys, whale watching boats, the presence of other fisheries, and the presence of, and associated outreach by, a disentanglement team contribute to the higher reporting of entanglement sightings in certain areas (*i.e.* Massachusetts) than in Maine state waters and offshore waters. However, that does not mean the risk is nonexistent in other areas where entanglements are not observed. With 85 percent of all right whales exhibiting entanglement scars, it is reasonable and prudent to assume that entanglements are indeed occurring in areas where observations have not yet been reported.

As stated above, we find that there is insufficient information to suggest that Maine's fisheries should be split from the American lobster trap/pot fisheries, because the gear used in Maine waters are not unique from other states. Further, we maintain that entanglement data indicates that the gear used across this fishery remains a risk to right whales. Should Maine fisheries make significant changes to their gear configurations that differentiate these fisheries from other lobster trap/pot fisheries, such as eliminating vertical lines, we will reconsider this decision.

Comment 15: Lund's Fisheries and The Town Dock restate a previous comment requesting that NMFS conduct a tier analysis of long-finned pilot whale M/SI in the small mesh and large mesh bottom trawl fisheries, and that NMFS consider classifying the small mesh and large mesh bottom trawl fisheries as separate fisheries on the LOF. The commenters note the small mesh bottom trawl longfin squid fishery is included on the

LOF in both of the Category II Northeast and mid-Atlantic bottom trawl fisheries. In 2018, the Marine Stewardship Council determined that the U.S. Northeastern Longfin Inshore Squid Small Mesh Bottom Trawl Fishery, harvested by small mesh bottom trawls in U.S. waters between the Gulf of Maine and Cape Hatteras, NC, was certified as a sustainable fishery.

Response: Separating the small mesh and large mesh trawl fisheries is not appropriate with respect to evaluating the risk posed to marine mammals by the fisheries. Further, given that the fisheries operate in similar manners, in similar locations, and given that many small mesh trawl fisheries go between coastal and offshore waters, it would be difficult to distinguish between fisheries for such an analysis.

As previously stated (see 84 FR 22051, June 17, 2019, comment 15), we did not reclassify any of the trawl fisheries based on upcoming draft population assessments for the long finned pilot whale. The 2019 draft SARs (84 FR 65353, November 27, 2019) combines the U.S. and Canadian population assessments from 2016 survey efforts for long-finned pilot whales throughout their range, from central Virginia north to Labrador. This estimate is larger than that previously reported in the SAR, because the updated estimate is derived from a survey area extending from Newfoundland to Florida, which is about 1,300,000 km² larger than the 2011 survey area used in the previous SAR. In addition, the newer survey estimates in U.S. waters were corrected for availability bias (due to diving behavior), whereas the earlier estimates were not corrected.

The new minimum population estimate for this stock is 30,627 animals, with a PBR of 306. The Northeast bottom trawl fishery has a mean combined annual mortality

of 15 pilot whales (4.9 percent of PBR). Therefore, the Category II classification for this fishery remains appropriate.

Comment 16: CBD does not support NMFS' proposal to remove the Florida stock of West Indian manatee from the list species/stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery. CBD notes that while it may be true that, from 2008 to 2012, there were no documented fishery related injuries or mortalities in shrimp trawl fisheries (USFWS 2014), it is unknown whether the fishery monitoring was adequate to estimate unobserved or undocumented interactions.

Response: In general, we list species/stocks incidentally killed or injured in a particular fishery based on data collected from the last 5 years. The list contained in the LOF is not intended to serve as a historical overview of mortalities and injuries, as that data is available in individual species SARs. Observer programs provide data that is included in the SARs. All manatee deaths and injuries are monitored extensively through the Florida Fish and Wildlife Conservation Commission's Marine Mammal Pathobiology Laboratory carcass recovery and necropsy program, as well as their accessory field labs around the State of Florida. There has been no additional evidence from this effort to suggest mortality or injury from the shrimp trawl fishery. Following consultation with the U.S. Fish and Wildlife Service (USFWS), and as included in the proposed rule, in this 2020 LOF NMFS has removed the Florida stock of West Indian manatee from the list of species and/or stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery.

Summary of Changes from the Proposed Rule

NMFS updates the estimated number of vessels/persons in the Category III American Samoa bottomfish handline fishery from 1,092 vessels/persons to fewer than 30 vessels/persons.

Summary of Changes to the LOF for 2020

The following summarizes changes to the LOF for 2020, including the classification of fisheries, the estimated number of vessels/persons in a particular fishery, and the species and/or stocks that are incidentally killed or injured in a particular fishery. NMFS re-classifies one fishery in the LOF for 2020. The classifications and definitions of U.S. commercial fisheries for 2020 are identical to those provided in the LOF for 2019, except for the changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), CA (California), GMX (Gulf of Mexico), HI (Hawaii), NC (North Carolina), OR (Oregon), WA (Washington), and WNA (Western North Atlantic).

Commercial Fisheries in the Pacific Ocean

Classification of Fisheries

NMFS renames the Category III CA/OR coonstripe shrimp fishery to the CA coonstripe shrimp fishery and clarifies that the OR coonstripe shrimp pot fishery is a component of the Category III WA/OR shrimp pot/trap fishery. NMFS also reclassifies the CA coonstripe shrimp fishery from a Category III to a Category II fishery.

Fishery Name and Organizational Changes and Clarification

NMFS clarifies that the Category II AK Southeast salmon drift gillnet fishery and Category III AK Southeast salmon purse seine fishery include both the AK Metlakatla salmon drift gillnet fishery and the AK Metlakatla salmon purse seine fishery. Based on this clarification, NMFS also removes the Category III AK Metlakatla salmon purse seine fishery from the LOF.

Number of Vessels/Persons

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

Category I

- HI deep-set longline fishery from 142 to 145 vessels/persons;

Category II

- HI shallow-set longline fishery from 13 to 18 vessels/persons;
- American Samoa longline fishery from 20 to 15 vessels/persons;
- CA thresher shark/swordfish drift gillnet (≥ 14 inch (in) mesh) fishery from 18 to 14 vessels/persons;
- CA halibut/white seabass and other species set gillnet (> 3.5 in mesh) fishery from 50 to 37 vessels/persons;
- CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥ 3.5 in and < 14 in) fishery from 30 to 22 vessels/persons;
- WA Puget Sound Region salmon drift gillnet fishery from 210 to 154 vessels/persons;
- CA coonstripe shrimp pot fishery from 36 to 14 vessels/persons;

- CA spiny lobster fishery from 194 to 186 vessels/persons;
- CA spot prawn pot fishery from 25 to 23 vessels/persons;
- CA Dungeness crab pot fishery from 570 to 501 vessels/persons;
- OR Dungeness crab pot fishery from 433 to 342 vessels/persons;
- WA/OR/CA sablefish pot fishery from 309 to 155 vessels/persons;
- WA coastal Dungeness crab pot fishery from 228 to 197 vessels/persons;

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

NMFS adds the Eastern North Pacific stock of gray whale to the list of species/stocks incidentally killed or injured in the Category II CA thresher shark/swordfish drift gillnet (≥ 14 in mesh) fishery.

NMFS adds the Eastern North Pacific stock of gray whale to the list of species/stocks incidentally killed or injured in the Category II CA halibut/white seabass and other species set gillnet (> 3.5 in mesh) fishery.

NMFS adds the Alaska stock of ribbon seal to the list of species/stocks incidentally killed or injured in the Category II AK Bering Sea Aleutian Islands rockfish trawl fishery.

NMFS adds CA/OR/WA stock of humpback whale to the list of species/stocks incidentally killed or injured in the Category II CA coonstripe shrimp pot fishery.

NMFS adds the California stock of long-beaked common dolphin to the list of species/stocks incidentally killed or injured in the Category II CA spot prawn pot fishery.

NMFS adds the Western U.S. stock of Steller sea lion to, and removes the Alaska stock of Dall's porpoise from, the list of species/stocks incidentally killed or injured in the Category II AK Bering Sea Aleutian Islands Pacific cod longline fishery.

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

NMFS adds four stocks to the list of species/stocks incidentally killed or injured in the Category III to WA/OR/CA groundfish, bottomfish longline/set line fishery: (1) U.S. stock of California sea lion; (2) California breeding stock of Northern elephant seal; (3) CA/OR/WA stock of sperm whale; and (4) Eastern U.S. stock of Steller sea lion.

NMFS adds the Alaska stock of Dall's porpoise to the list of species/stocks incidentally killed or injured in the Category III AK Kodiak salmon purse seine.

NMFS adds the Eastern U.S. stock of Steller sea lion to the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska halibut longline fishery.

NMFS adds two stocks to the list of species/stocks incidentally killed or injured in the Category III AK Bering Sea Aleutian Islands Pacific cod trawl fishery: (1) Alaska stock of ribbon seal; and (2) Alaska stock of bearded seal.

NMFS removes the Hawaii stock of sperm whale from the list of species/stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

NMFS removes the Alaska stock of Dall's porpoise from the list of species/stocks incidentally killed or injured in the Category II AK Aleutian Islands pollock trawl fishery.

NMFS removes the Hawaii stock of short-finned pilot whale from the list of species/stocks incidentally killed or injured in the Category II HI shallow-set longline fishery.

NMFS removes two stocks from the list of species/stocks incidentally killed or injured in the Category II American Samoa longline fishery including: (1) unknown stock of Cuvier's beaked whale; and (2) unknown stock of bottlenose dolphin.

NMFS removes the Alaska stock of ribbon seal from the list of species/stocks incidentally killed or injured in the Category III AK Aleutian Islands Atka mackerel trawl fishery.

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

Fishery Name and Organizational Changes and Clarification

NMFS adds a superscript "1" to the Western North Atlantic stock of gray seals to indicate it is driving the Category I classification of the Northeast sink gillnet fishery.

NMFS adds a superscript "1" to the Central Georgia estuarine stock of bottlenose dolphins to indicate it is driving the Category II classification of the Atlantic blue crab trap/pot fishery.

NMFS adds a superscript "1" to the Western North Atlantic stock of gray seals to indicate it is driving the Category II classification of the mid-Atlantic bottom trawl fishery.

NMFS removes the superscript “1” from the Western North Atlantic stock of long-finned pilot whales to indicate the stock is no longer driving the Category I classification of the Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery.

Number of Vessels/Persons

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

Category I

- Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery from 280 to 201 vessels/persons;

Category II

- NC inshore gillnet fishery from 2,850 to 2,676 vessels/persons;
- Southeastern U.S. Atlantic shark gillnet fishery from 23 to 21 vessels/persons;
- Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot fishery from 1,384 to 1,101 vessels/persons;
- Atlantic blue crab trap/pot fishery from 7,714 to 6,679 vessels/persons;
- NC long haul seine fishery from 30 to 22 vessels/persons.

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

NMFS adds the Western North Atlantic stock of hooded seal to the list of species/stocks incidentally killed or injured in the Category I Mid-Atlantic gillnet fishery.

NMFS adds the Sarasota Bay, Little Sarasota Bay stock of bottlenose dolphin to the list of species/stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot fishery.

NMFS adds the Mississippi River Delta stock of bottlenose dolphin to the list species/stocks incidentally killed or injured in the Category II Gulf of Mexico menhaden purse seine fishery.

NMFS adds the Mobile Bay, Bonsecour Bay stock of bottlenose dolphin to the list of species/stocks incidentally killed or injured in the Category III Gulf of Mexico blue crab trap/pot fishery.

NMFS removes two stocks from the list of species/stocks incidentally killed or injured in the Category I Northeast sink gillnet fishery: (1) Western North Atlantic stock of hooded seal; and (2) Western North Atlantic long-finned pilot whale.

Following consultation with the USFWS, NMFS removes the Florida stock of West Indian manatee from the list of species/stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery.

Commercial Fisheries on the High Seas

Number of Vessels/Persons

NMFS updates the estimated number of HSFCA permits for high seas fisheries (Table 3) as follows:

Category I

- Atlantic highly migratory species longline fishery from 67 to 53 HSFCA permits;
- Western Pacific pelagic longline (HI deep-set component) fishery from 142 to

145 HSFCA permits;

Category II

- Pacific highly migratory species drift gillnet fishery from 6 to 5 HSFCA permits;
- South Pacific tuna purse seine fishery from 38 to 33 HSFCA permits;
- South Pacific albacore troll longline fishery from 11 to 6 HSFCA permits;
- South Pacific tuna longline fishery from 3 to 2 HSFCA permits;
- Western Pacific pelagic longline (HI shallow-set component) fishery from 13 to 18 HSFCA permits;
- Pacific highly migratory species handline/pole and line fishery from 48 to 41 HSFCA permits;
- South Pacific albacore troll handline/pole and line fishery from 15 to 11 HSFCA permits;
- Western Pacific pelagic handline/pole and line fishery from 6 to 5 HSFCA permits;
- Atlantic highly migratory species troll fishery from 1 to 0 HSFCA permits;
- South Pacific albacore troll fishery from 24 to 17 HSFCA permits;
- South Pacific tuna troll fishery from 3 to 1 HSFCA permits;
- Western Pacific pelagic troll fishery from 6 to 5 HSFCA permits;

Category III

- Northwest Atlantic bottom longline fishery from 2 to 3 HSFCA permits;
- Pacific highly migratory species longline fishery from 128 to 108 HSFCA

permits;

- Pacific highly migratory species purse seine fishery from 10 to 5 HSFCA permits;
- Pacific highly migratory species troll fishery from 150 to 119 HSFCA permits.

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

NMFS removes the Hawaii stock of sperm whale from the list of species/stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

NMFS removes the Hawaii stock of short-finned pilot whale from the list of species/stocks incidentally killed or injured in the Category II HI shallow-set longline fishery.

List of Fisheries

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

In Tables 1 and 2, the estimated number of vessels or persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels or persons in the fishery. NMFS acknowledges that, in some cases, these

estimates may be inflations of actual effort. For example, the State of Hawaii does not issue fishery-specific licenses, and the number of participants reported in the LOF represents the number of commercial marine license holders who reported using a particular fishing gear type/method at least once in a given year, without considering how many times the gear was used. For these fisheries, effort by a single participant is counted the same whether the fisherman used the gear only once or every day. In the Mid-Atlantic and New England fisheries, the numbers represent the potential effort for each fishery, given the multiple gear types for which several state permits may allow. Changes made to Mid-Atlantic and New England fishery participants will not affect observer coverage or bycatch estimates, as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Tables 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal). If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be updated to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, contact the relevant regional office (contact information included above in **SUPPLEMENTARY INFORMATION**).

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

accounted for in Tables 1 and 2. Many vessels holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

Tables 1, 2, and 3 also list the marine mammal species and/or stocks incidentally killed or injured (seriously or non-seriously) in each fishery based on SARs, injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fishermen self-reports (*i.e.*, MMAP reports), and anecdotal reports. The best available scientific information included in these reports is based on data through 2016. This list includes all species and/or stocks known to be killed or injured in a given fishery, but also includes species and/or stocks for which there are anecdotal records of a mortality or injury. Additionally, species identified by logbook entries, stranding data, or fishermen self-reports (*i.e.*, MMAP reports) may not be verified. In Tables 1 and 2, NMFS has designated those species/stocks driving a fishery's classification (*i.e.*, the fishery is classified based on mortalities and serious injuries of a marine mammal stock that are greater than or equal to 50 percent (Category I), or greater than 1 percent and less than 50 percent (Category II), of a stock's PBR) by a "1" after the stock's name.

In Tables 1 and 2, there are several fisheries classified as Category II that have no recent documented mortalities or serious injuries of marine mammals, or fisheries that did not result in a mortality or serious injury rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known

to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063; December 28, 1995), and according to factors listed in the definition of a “Category II fishery” in 50 CFR 229.2 (*i.e.*, fishing techniques, gear types, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fishermen reports, stranding data, and the species and distribution of marine mammals in the area). NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by adding a “2” after the fishery’s name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the exclusive economic zone (EEZ) boundary and therefore operate both within U.S. waters and on the high seas. These fisheries, though listed separately on Table 1 or 2 and Table 3, are considered the same fisheries on either side of the EEZ boundary. NMFS has designated those fisheries in each table by a “*” after the fishery’s name.

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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
<u>LOGLINE/SET LINE FISHERIES:</u>		
HI deep-set longline * ^	145	Bottlenose dolphin, HI Pelagic False killer whale, HI Pelagic ¹ False killer whale, MHI Insular ¹ False killer whale, NWHI Humpback whale, Central North Pacific Kogia spp. (Pygmy or dwarf sperm whale), HI Pygmy killer whale, HI Risso's dolphin, HI Rough-toothed dolphin, HI Short-finned pilot whale, HI Striped dolphin, HI
CATEGORY II		
<u>GILLNET FISHERIES:</u>		
CA thresher shark/swordfish drift gillnet (≥14 in mesh) *	14	Bottlenose dolphin, CA/OR/WA offshore California sea lion, U.S. Dall's porpoise, CA/OR/WA Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA Long-beaked common dolphin, CA Minke whale, CA/OR/WA Northern elephant seal, CA breeding Northern right-whale dolphin, CA/OR/WA Pacific white-sided dolphin, CA/OR/WA Risso's dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA Short-finned pilot whale, CA/OR/WA ¹ Sperm Whale, CA/OR/WA ¹
CA halibut/white seabass and other species set gillnet (>3.5 in mesh)	37	California sea lion, U.S. Gray whale, Eastern North Pacific 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	22	California sea lion, U.S. Long-beaked common dolphin, CA 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.
AK Bristol Bay salmon set gillnet ²	979	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Spotted seal, AK
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA ¹ Harbor seal, GOA Humpback whale, Central North Pacific Humpback whale, Western North Pacific Sea otter, Southwest AK Steller sea lion, Western U.S.
AK Cook Inlet salmon set gillnet	736	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Humpback whale, Central North Pacific ¹ Sea otter, South central AK Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	569	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA ¹ Harbor seal, GOA Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet ²	162	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific
AK Peninsula/Aleutian Islands salmon set gillnet ²	113	Harbor porpoise, Bering Sea Northern sea otter, Southwest AK Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	537	Dall's porpoise, AK Harbor porpoise, GOA ¹ Harbor seal, GOA Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Sea otter, South central AK Steller sea lion, Western U.S. ¹

AK Southeast salmon drift gillnet	474	Dall's porpoise, AK Harbor porpoise, Southeast AK Harbor seal, Southeast AK Humpback whale, Central North Pacific ¹ Pacific white-sided dolphin, North Pacific Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet ²	168	Gray whale, Eastern North Pacific Harbor Porpoise, Southeastern AK Harbor seal, Southeast AK Humpback whale, Central North Pacific (Southeast AK)
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded)	154	Dall's porpoise, CA/OR/WA Harbor porpoise, inland WA ¹ Harbor seal, WA inland
<u>TRAWL FISHERIES:</u>		
AK Bering Sea, Aleutian Islands flatfish trawl	32	Bearded seal, AK Gray whale, Eastern North Pacific Harbor porpoise, Bering Sea Harbor seal, Bering Sea Humpback whale, Western North Pacific ¹ Killer whale, AK resident ¹ Killer whale, GOA, AI, BS transient ¹ Northern fur seal, Eastern Pacific Ringed seal, AK Ribbon seal, AK Spotted seal, AK Steller sea lion, Western U.S. ¹ Walrus, AK
AK Bering Sea, Aleutian Islands pollock trawl	102	Bearded Seal, AK Beluga whale, Bristol Bay Beluga whale, Eastern Bering Sea Beluga whale, Eastern Chukchi Sea Harbor seal, AK Humpback whale, Central North Pacific Humpback whale, Western North Pacific Northern fur seal, Eastern Pacific Ribbon seal, AK Ringed seal, AK Spotted seal, AK Steller sea lion, Western U.S. ¹
AK Bering Sea, Aleutian Islands rockfish trawl	17	Killer whale, ENP AK resident ¹ Killer whale, GOA, AI, BS transient ¹ Ribbon seal, AK
<u>POT. RING NET. AND TRAP FISHERIES:</u>		
CA coonstripe shrimp pot	14	Gray whale, Eastern North Pacific Harbor seal, CA Humpback whale, CA/OR/WA

CA spiny lobster	186	Bottlenose dolphin, CA/OR/WA offshore Humpback whale, CA/OR/WA ¹ Gray whale, Eastern North Pacific Southern sea otter
CA spot prawn pot	23	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA ¹ Long-beaked common dolphin, CA
CA Dungeness crab pot	501	Blue whale, Eastern North Pacific ¹ Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA ¹
OR Dungeness crab pot	342	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA ¹
WA/OR/CA sablefish pot	155	Humpback whale, CA/OR/WA ¹
WA coastal Dungeness crab pot	197	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA ¹
<u>LONGLINE/SET LINE FISHERIES:</u>		
AK Bering Sea, Aleutian Islands Pacific cod longline	45	Killer whale, Eastern North Pacific AK resident Killer whale, GOA, BSAI transient ¹ Northern fur seal, Eastern Pacific Ringed seal, AK Spotted seal, AK Steller sea lion, Western U.S.
AK Gulf of Alaska sablefish longline	295	Sperm whale, North Pacific Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
HI shallow-set longline * ^	18	Blainville's beaked whale, HI Bottlenose dolphin, HI Pelagic False killer whale, HI Pelagic ¹ Humpback whale, Central North Pacific Risso's dolphin, HI Rough-toothed dolphin, HI Striped dolphin, HI
American Samoa longline ²	15	False killer whale, American Samoa Rough-toothed dolphin, American Samoa Short-finned pilot whale, unknown
HI shortline ²	9	None documented
CATEGORY III		
<u>GILLNET FISHERIES:</u>		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	1,778	Harbor porpoise, Bering Sea

AK Prince William Sound salmon set gillnet	29	Harbor seal, GOA Humpback whale, Central North Pacific Sea otter, South central AK Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	920	None documented
CA set gillnet (mesh size <3.5 in)	296	None documented
HI inshore gillnet	36	Bottlenose dolphin, HI Spinner dolphin, HI
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing)	24	Harbor seal, OR/WA coast
WA/OR Mainstem Columbia River eulachon gillnet	15	None documented
WA/OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S. Harbor seal, OR/WA coast
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
<u>MISCELLANEOUS NET FISHERIES:</u>		
AK Cook Inlet salmon purse seine	83	Humpback whale, Central North Pacific
AK Kodiak salmon purse seine	376	Dall's porpoise, AK Humpback whale, Central North Pacific Humpback whale, Western North Pacific
AK Southeast salmon purse seine	315	Humpback whale, Central North Pacific
AK roe herring and food/bait herring beach seine	10	None documented
AK roe herring and food/bait herring purse seine	356	None documented
AK salmon beach seine	31	None documented
AK salmon purse seine (Prince William Sound, Chignik, Alaska Peninsula)	936	Harbor seal, GOA Harbor seal, Prince William Sound
WA/OR sardine purse seine	42	None documented
CA anchovy, mackerel, sardine purse seine	65	California sea lion, U.S. Harbor seal, CA
CA squid purse seine	80	Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA
CA tuna purse seine *	10	None documented

WA/OR Lower Columbia River salmon seine	10	None documented
WA/OR herring, smelt, squid purse seine or lampara	130	None documented
WA salmon purse seine	75	None documented
WA salmon reef net	11	None documented
HI lift net	17	None documented
HI inshore purse seine	<3	None documented
HI throw net, cast net	23	None documented
HI seine net	24	None documented
<u>DIP NET FISHERIES:</u>		
CA squid dip net	115	None documented
<u>MARINE AQUACULTURE FISHERIES:</u>		
CA marine shellfish aquaculture	unknown	None documented
CA salmon enhancement rearing pen	>1	None documented
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented
WA salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
WA/OR shellfish aquaculture	23	None documented
<u>TROLL FISHERIES:</u>		
WA/OR/CA albacore surface hook and line/troll	705	None documented
CA halibut hook and line/handline	unknown	None documented
CA white seabass hook and line/handline	unknown	None documented
AK Bering Sea, Aleutian Islands groundfish hand troll and dinglebar troll	unknown	None documented
AK Gulf of Alaska groundfish hand troll and dinglebar troll	unknown	None documented
AK salmon troll	1,908	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	13	None documented

CA/OR/WA salmon troll	4,300	None documented
HI troll	2,117	Pantropical spotted dolphin, HI
HI rod and reel	322	None documented
Commonwealth of the Northern Mariana Islands tuna troll	40	None documented
Guam tuna troll	432	None documented
<u>LONGLINE/SET LINE FISHERIES:</u>		
AK Bering Sea, Aleutian Islands Greenland turbot longline	4	Killer whale, AK resident
AK Bering Sea, Aleutian Islands sablefish longline	22	None documented
AK Bering Sea, Aleutian Islands halibut longline	127	Northern fur seal, Eastern Pacific Sperm whale, North Pacific
AK Gulf of Alaska halibut longline	855	Steller sea lion, Eastern U.S.
AK Gulf of Alaska Pacific cod longline	92	Steller sea lion, Western U.S.
AK octopus/squid longline	3	None documented
AK state-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish)	464	None documented
WA/OR/CA groundfish, bottomfish longline/set line	367	Bottlenose dolphin, CA/OR/WA offshore California sea lion, U.S. Northern elephant seal, California breeding Sperm whale, CA/OR/WA Steller sea lion, Eastern U.S.
WA/OR Pacific halibut longline	350	None documented
CA pelagic longline	1	None documented in the most recent five years of data
HI kaka line	15	None documented
HI vertical line	3	None documented
<u>TRAWL FISHERIES:</u>		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	13	Bearded seal, AK Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	72	Bearded seal, AK Ribbon seal, AK Ringed seal, AK Steller sea lion, Western U.S.

AK Gulf of Alaska flatfish trawl	36	Harbor seal, AK Northern elephant seal, North Pacific Steller sea lion, Western U.S.
AK Gulf of Alaska Pacific cod trawl	55	Harbor seal, AK Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	67	Dall's porpoise, AK Fin whale, Northeast Pacific Northern elephant seal, North Pacific Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	43	Steller sea lion, Western U.S.
AK Kodiak food/bait herring otter trawl	4	None documented
AK shrimp otter trawl and beam trawl	38	None documented
AK state-managed waters of Prince William Sound groundfish trawl	2	None documented
CA halibut bottom trawl	47	California sea lion, U.S. Harbor porpoise, unknown Harbor seal, unknown Northern elephant seal, CA breeding Steller sea lion, unknown
CA sea cucumber trawl	16	None documented
WA/OR/CA shrimp trawl	300	None documented
WA/OR/CA groundfish trawl	160-180	California sea lion, U.S. Dall's porpoise, CA/OR/WA Harbor seal, OR/WA coast Northern fur seal, Eastern Pacific Pacific white-sided dolphin, CA/OR/WA Steller sea lion, Eastern U.S.
<u>POT, RING NET, AND TRAP FISHERIES:</u>		
AK Bering Sea, Aleutian Islands sablefish pot	6	None documented
AK Bering Sea, Aleutian Islands Pacific cod pot	59	None documented
AK Bering Sea, Aleutian Islands crab pot	540	Bowhead whale, Western Arctic Gray whale, Eastern North Pacific
AK Gulf of Alaska crab pot	271	None documented
AK Gulf of Alaska Pacific cod pot	116	Harbor seal, GOA
AK Gulf of Alaska sablefish pot	248	None documented
AK Southeast Alaska crab pot	375	Humpback whale, Central North Pacific (Southeast AK)
AK Southeast Alaska shrimp pot	99	Humpback whale, Central North Pacific (Southeast AK)
AK shrimp pot, except Southeast	141	None documented

AK octopus/squid pot	15	None documented
CA rock crab pot	124	Gray whale, Eastern North Pacific Harbor seal, CA
WA/OR/CA hagfish pot	54	None documented
WA/OR shrimp pot/trap	254	None documented
WA Puget Sound Dungeness crab pot/trap	249	None documented
HI crab trap	5	Humpback whale, Central North Pacific
HI fish trap	9	None documented
HI lobster trap	<3	None documented in recent years
HI shrimp trap	10	None documented
HI crab net	4	None documented
HI Kona crab loop net	33	None documented
<u>HOOK-AND-LINE, HANDLINE, AND JIG FISHERIES:</u>		
AK Bering Sea, Aleutian Islands groundfish jig	2	None documented
AK Gulf of Alaska groundfish jig	214	Fin whale, Northeast Pacific
AK halibut jig	71	None documented
American Samoa bottomfish	fewer than 30	None documented
Commonwealth of the Northern Mariana Islands bottomfish	28	None documented
Guam bottomfish	>300	None documented
HI aku boat, pole, and line	<3	None documented
HI bottomfish handline	578	None documented in recent years
HI inshore handline	357	None documented
HI pelagic handline	534	None documented
WA groundfish, bottomfish jig	679	None documented
Western Pacific squid jig	0	None documented
<u>HARPOON FISHERIES:</u>		
CA swordfish harpoon	6	None documented
<u>POUND NET/WEIR FISHERIES:</u>		

AK herring spawn on kelp pound net	291	None documented
AK Southeast herring roe/food/bait pound net	2	None documented
HI bullpen trap	3	None documented
<u>BAIT PENS:</u>		
WA/OR/CA bait pens	13	California sea lion, U.S.
<u>DREDGE FISHERIES:</u>		
AK scallop dredge	108 (5 AK)	None documented
<u>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</u>		
AK clam	130	None documented
AK Dungeness crab	2	None documented
AK herring spawn on kelp	266	None documented
AK miscellaneous invertebrates handpick	214	None documented
HI black coral diving	<3	None documented
HI fish pond	5	None documented
HI handpick	46	None documented
HI lobster diving	19	None documented
HI spearfishing	163	None documented
WA/CA kelp	4	None documented
WA/OR bait shrimp, clam hand, dive, or mechanical collection	201	None documented
OR/CA sea urchin, sea cucumber hand, dive, or mechanical collection	10	None documented
<u>COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:</u>		
AK/WA/OR/CA commercial passenger fishing vessel	>7,000 (1,006 AK)	Killer whale, unknown Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
<u>LIVE FINFISH/SHELLFISH FISHERIES:</u>		
CA nearshore finfish live trap/hook-and-line	93	None documented
HI aquarium collecting	90	None documented

List of Abbreviations and Symbols Used in Table 1:

AI - Aleutian Islands; AK - Alaska; BS - Bering Sea; CA - California; ENP - Eastern North Pacific; GOA - Gulf of Alaska; HI - Hawaii; MHI - Main Hawaiian Islands; OR - Oregon; WA - Washington;

¹ Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR;

² Fishery classified by analogy;

* Fishery has an associated high seas component listed in Table 3;

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

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

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

Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline*	201	Atlantic spotted dolphin, Northern GMX Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA False killer whale, WNA Harbor porpoise, GME, BF Kogia spp. (Pygmy or dwarf sperm whale), WNA Long-finned pilot whale, WNA Mesoplodon beaked whale, WNA Minke whale, Canadian East coast Pantropical spotted dolphin, Northern GMX Pygmy sperm whale, GMX Risso's dolphin, Northern GMX Risso's dolphin, WNA Rough-toothed dolphin, Northern GMX Short-finned pilot whale, Northern GMX Short-finned pilot whale, WNA ¹ Sperm whale, Northern GMX
CATEGORY II		
<u>GILLNET FISHERIES:</u>		
Chesapeake Bay inshore gillnet ²	248	Bottlenose dolphin, unknown (Northern migratory coastal or Southern migratory coastal)
Gulf of Mexico gillnet ²	248	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, and estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal
NC inshore gillnet	2,676	Bottlenose dolphin, Northern NC estuarine system ¹ Bottlenose dolphin, Southern NC estuarine system ¹
Northeast anchored float gillnet ²	852	Harbor seal, WNA Humpback whale, Gulf of Maine White-sided dolphin, WNA
Northeast drift gillnet ²	1,036	None documented
Southeast Atlantic gillnet ²	273	Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Northern FL coastal Bottlenose dolphin, SC/GA coastal Bottlenose dolphin, Southern migratory coastal
Southeastern U.S. Atlantic shark gillnet	21	Bottlenose dolphin, unknown (Central FL, Northern FL, SC/GA coastal, or Southern migratory coastal) North Atlantic right whale, WNA
<u>TRAWL FISHERIES</u>		
Mid-Atlantic mid-water trawl (including pair trawl)	320	Harbor seal, WNA
Mid-Atlantic bottom trawl	633	Bottlenose dolphin, WNA offshore ¹ Common dolphin, WNA ¹

		Gray seal, WNA ¹ Harbor seal, WNA Risso's dolphin, WNA ¹ White-sided dolphin, WNA
Northeast mid-water trawl (including pair trawl)	542	Common dolphin, WNA Gray seal, WNA Harbor seal, WNA Long-finned pilot whale, WNA ¹
Northeast bottom trawl	2,238	Bottlenose dolphin, WNA offshore Common dolphin, WNA Gray seal, WNA Harbor porpoise, GME/BF Harbor seal, WNA Harp seal, WNA Long-finned pilot whale, WNA Risso's dolphin, WNA White-sided dolphin, WNA ¹
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	4,950	Atlantic spotted dolphin, Northern Gulf of Mexico Bottlenose dolphin, Charleston estuarine system Bottlenose dolphin, Eastern GMX coastal ¹ Bottlenose dolphin, GMX bay, sound, estuarine ¹ Bottlenose dolphin, GMX continental shelf Bottlenose dolphin, Mississippi River Delta Bottlenose dolphin, Mobile Bay, Bonsecour Bay Bottlenose dolphin, Northern GMX coastal ¹ Bottlenose dolphin, SC/GA coastal ¹ Bottlenose dolphin, Southern migratory coastal Bottlenose dolphin, Western GMX coastal ¹
<u>TRAP/POT FISHERIES:</u>		
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot ²	1,101	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 Bottlenose dolphin, Sarasota Bay, Little Sarasota Bay
Atlantic mixed species trap/pot ²	3,332	Fin whale, WNA Humpback whale, Gulf of Maine
Atlantic blue crab trap/pot	6,679	Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Central GA estuarine system ¹ Bottlenose dolphin, Charleston estuarine system ¹ Bottlenose dolphin, Indian River Lagoon estuarine system Bottlenose dolphin, Jacksonville estuarine system Bottlenose dolphin, Northern FL coastal ¹ Bottlenose dolphin, Northern GA/Southern SC estuarine system

		Bottlenose dolphin, Northern Migratory coastal Bottlenose dolphin, Northern NC estuarine system ¹ Bottlenose dolphin, Northern SC estuarine system Bottlenose dolphin, SC/GA coastal Bottlenose dolphin, Southern GA estuarine system Bottlenose dolphin, Southern Migratory coastal ¹ Bottlenose dolphin, Southern NC estuarine system West Indian manatee, FL
<u>PURSE SEINE FISHERIES:</u>		
Gulf of Mexico menhaden purse seine	40-42	Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Mississippi River Delta Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau Bottlenose dolphin, Northern GMX coastal ¹ Bottlenose dolphin, Western GMX coastal ¹
Mid-Atlantic menhaden purse seine ²	19	Bottlenose dolphin, Northern Migratory coastal Bottlenose dolphin, Southern Migratory coastal
<u>HAUL/BEACH SEINE FISHERIES:</u>		
Mid-Atlantic haul/beach seine	359	Bottlenose dolphin, Northern Migratory coastal ¹ Bottlenose dolphin, Northern NC estuarine system ¹ Bottlenose dolphin, Southern Migratory coastal ¹
NC long haul seine	22	Bottlenose dolphin, Northern NC estuarine system ¹ Bottlenose dolphin, Southern NC estuarine system
<u>STOP NET FISHERIES:</u>		
NC roe mullet stop net	1	Bottlenose dolphin, Northern NC estuarine system Bottlenose dolphin, unknown (Southern migratory coastal or Southern NC estuarine system)
<u>POUND NET FISHERIES:</u>		
VA pound net	26	Bottlenose dolphin, Northern migratory coastal Bottlenose dolphin, Northern NC estuarine system Bottlenose dolphin, Southern Migratory coastal ¹
CATEGORY III		
<u>GILLNET FISHERIES:</u>		
Caribbean gillnet	>991	None documented in the most recent five years of data
DE River inshore gillnet	unknown	None documented in the most recent five years of data
Long Island Sound inshore gillnet	unknown	None documented in the most recent five years of data
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet	unknown	None documented in the most recent five years of data

Southeast Atlantic inshore gillnet	unknown	Bottlenose dolphin, Northern SC estuarine system
<u>TRAWL FISHERIES:</u>		
Atlantic shellfish bottom trawl	>58	None documented
Gulf of Mexico butterfly trawl	2	Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, Northern GMX continental shelf
Gulf of Mexico mixed species trawl	20	None documented
GA cannonball jellyfish trawl	1	Bottlenose dolphin, SC/GA coastal
<u>MARINE AQUACULTURE FISHERIES:</u>		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
<u>PURSE SEINE FISHERIES:</u>		
Gulf of Maine Atlantic herring purse seine	>7	Harbor seal, WNA
Gulf of Maine menhaden purse seine	>2	None documented
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
U.S. Atlantic tuna purse seine *	5	None documented in most recent five years of data
<u>LOGLINE/HOOK-AND-LINE FISHERIES:</u>		
Northeast/Mid-Atlantic bottom longline/hook-and-line	>1,207	None documented
Gulf of Maine, U.S. Mid-Atlantic tuna, shark, swordfish hook-and-line/harpoon	2,846	Bottlenose dolphin, WNA offshore Humpback whale, Gulf of Maine
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line	>5,000	Bottlenose dolphin, GMX continental shelf
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line	39	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX continental shelf
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon	680	None documented
U.S. Atlantic, Gulf of Mexico trotline	unknown	None documented
<u>TRAP/POT FISHERIES</u>		
Caribbean mixed species trap/pot	>501	None documented

Caribbean spiny lobster trap/pot	>197	None documented
FL spiny lobster trap/pot	1,268	Bottlenose dolphin, Biscayne Bay estuarine Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, FL Bay estuarine Bottlenose dolphin, FL Keys
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Barataria Bay Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau Bottlenose dolphin, Mobile Bay, Bonsecour Bay Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal West Indian manatee, FL
Gulf of Mexico mixed species trap/pot	unknown	None documented
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented
U.S. Mid-Atlantic eel trap/pot	unknown	None documented
<u>STOP SEINE/WEIR/POUND NET/FLOATING TRAP/FYKE NET FISHERIES:</u>		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	>1	Harbor porpoise, GME/BF Harbor seal, WNA Minke whale, Canadian east coast Atlantic white-sided dolphin, WNA
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net)	unknown	Bottlenose dolphin, Northern NC estuarine system
RI floating trap	9	None documented
Northeast and Mid-Atlantic fyke net	unknown	None documented
<u>DREDGE FISHERIES:</u>		
Gulf of Maine sea urchin dredge	unknown	None documented
Gulf of Maine mussel dredge	unknown	None documented
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	>403	None documented
Mid-Atlantic blue crab dredge	unknown	None documented
Mid-Atlantic soft-shell clam dredge	unknown	None documented

Mid-Atlantic whelk dredge	unknown	None documented
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented
New England and Mid-Atlantic offshore surf clam/quahog dredge	unknown	None documented
<u>HAUL/BEACH SEINE FISHERIES:</u>		
Caribbean haul/beach seine	15	None documented in the most recent five years of data
Gulf of Mexico haul/beach seine	unknown	None documented
Southeastern U.S. Atlantic haul/beach seine	25	None documented
<u>DIVE, HAND/MECHANICAL COLLECTION FISHERIES:</u>		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection	20,000	None documented
Gulf of Maine urchin dive, hand/mechanical collection	unknown	None documented
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net	unknown	None documented
<u>COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:</u>		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel	4,000	Bottlenose dolphin, Barataria Bay estuarine system Bottlenose dolphin, Biscayne Bay estuarine Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Choctawhatchee Bay Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, FL Bay Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Indian River Lagoon estuarine system Bottlenose dolphin, Jacksonville estuarine system Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau Bottlenose dolphin, Northern FL coastal Bottlenose dolphin, Northern GA/Southern SC estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Northern migratory coastal Bottlenose dolphin, Northern NC estuarine Bottlenose dolphin, Southern migratory coastal Bottlenose dolphin, Southern NC estuarine system Bottlenose dolphin, SC/GA coastal Bottlenose dolphin, Western GMX coastal Short-finned pilot whale, WNA

List of Abbreviations and Symbols Used in Table 2:

DE - Delaware; FL - Florida; GA - Georgia; GME/BF - Gulf of Maine/Bay of Fundy; GMX - Gulf of Mexico; MA - Massachusetts; NC - North Carolina; NY - New York; RI - Rhode Island; SC- South Carolina; VA - Virginia; WNA - Western North Atlantic;

¹ Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR;

² Fishery classified by analogy;

* Fishery has an associated high seas component listed in Table 3.

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

Fishery Description	# of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
Category I		
<u>LONGLINE FISHERIES:</u>		
Atlantic Highly Migratory Species *	53	Atlantic spotted dolphin, WNA Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA False killer whale, WNA Killer whale, GMX oceanic Kogia spp. whale (Pygmy or dwarf sperm whale), WNA Long-finned pilot whale, WNA Mesoplodon beaked whale, WNA Minke whale, Canadian East coast Pantropical spotted dolphin, WNA Risso's dolphin, GMX Risso's dolphin, WNA Short-finned pilot whale, WNA
Western Pacific Pelagic (HI Deep-set component) * ^	145	Bottlenose dolphin, HI Pelagic False killer whale, HI Pelagic Humpback whale, Central North Pacific Kogia spp. (Pygmy or dwarf sperm whale), HI Pygmy killer whale, HI Risso's dolphin, HI Short-finned pilot whale, HI Striped dolphin, HI
Category II		
<u>DRIFT GILLNET FISHERIES:</u>		
Pacific Highly Migratory Species * ^	5	Long-beaked common dolphin, CA Humpback whale, CA/OR/WA Northern right-whale dolphin, CA/OR/WA Pacific white-sided dolphin, CA/OR/WA Risso's dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA
<u>TRAWL FISHERIES:</u>		
Atlantic Highly Migratory Species **	1	No information
CCAMLR	0	Antarctic fur seal
<u>PURSE SEINE FISHERIES:</u>		
South Pacific Tuna Fisheries	33	No information
Western Pacific Pelagic	1	No information

<u>LONGLINE FISHERIES:</u>		
CCAMLR	0	None documented
South Pacific Albacore Troll	6	No information
South Pacific Tuna Fisheries **	2	No information
Western Pacific Pelagic (HI Shallow-set component) * ^	18	Blainville's beaked whale, HI Bottlenose dolphin, HI Pelagic False killer whale, HI Pelagic Fin whale, HI Guadalupe fur seal Humpback whale, Central North Pacific Mesoplodon sp., unknown Northern elephant seal, CA breeding Risso's dolphin, HI Rough-toothed dolphin, HI Short-beaked common dolphin, CA/OR/WA Striped dolphin, HI
<u>HANDLINE/POLE AND LINE FISHERIES:</u>		
Atlantic Highly Migratory Species	2	No information
Pacific Highly Migratory Species	41	No information
South Pacific Albacore Troll	11	No information
Western Pacific Pelagic	5	No information
<u>TROLL FISHERIES:</u>		
Atlantic Highly Migratory Species	0	No information
South Pacific Albacore Troll	17	No information
South Pacific Tuna Fisheries **	1	No information
Western Pacific Pelagic	5	No information
Category III		
<u>LONGLINE FISHERIES:</u>		
Northwest Atlantic Bottom Longline	3	None documented
Pacific Highly Migratory Species	108	None documented in the most recent 5 years of data
<u>PURSE SEINE FISHERIES</u>		
Pacific Highly Migratory Species * ^	5	None documented
<u>TRAWL FISHERIES:</u>		
Northwest Atlantic	4	None documented
<u>TROLL FISHERIES:</u>		
Pacific Highly Migratory Species *	119	None documented

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

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

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

** These gear types are not authorized under the Pacific 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 5 years, permits obtained in past years exist in the HSFCA permit database for gear types that are now unauthorized. Therefore, while HSFCA permits exist for these gear types, it does not represent effort. In order to land fish species, fishers must be using an authorized gear type. Once these permits for unauthorized gear types expire, the permit-holder will be required to obtain a permit for an authorized gear type.

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

Table 4. Fisheries Affected by Take Reduction Teams and Plans

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

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

Classification

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

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

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

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

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

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

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

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

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

References

Baird, R.W., S.D. Mahaffy, A.M. Gorgone, T. Cullins, D.J. McSweeney, E.M. Oelson, A.L.

Bradford, J. Barlow, D.L. Webster. False Killer Whales and Fisheries Interaction in Hawaiian Waters: Evidence for Sex Bias and Variation Among Populations and Social Groups. 2014. *Marine Mammal Science* 31(2): 579-590.

Carretta, J.V., K.A. Forney, E.M. Oleson, D.W. Weller, A.R. Lang, J. Baker, M.M. Muto, B.

Hanson, A.J. Orr, H. Huber, M.S. Lowry, J. Barlow, J.E. Moore, D. Lynch, L. Carswell,

- and R.L. Brownell Jr. 2019. U.S. Pacific Marine Mammal Stock Assessments: 2018. NOAA Technical Memorandum NOAA-TM-NMFS-SWFSC-617. 382 p.
- Carretta, J.V., E. Oleson, K.A. Forney, J. Baker, J.E. Moore, D.W. Weller, A.R. Lang, M.M. Muto, B. Hanson, A.J. Orr, H. Huber, M.S. Lowry, J. Barlow, D. Lynch, L. Carswell, and R.L. Brownell Jr. 2018. U.S. Pacific Marine Mammal Stock Assessments: 2017. NOAA Technical Memorandum NOAA-TM-NMFS-SWFSC-602. 161 p. Delean, B. J., V. T. Helker, M. M. Muto, K. Savage, S. Teerlink, L. A. Jemison, K. Wilkinson, and J. Jannot. In press. Human-caused mortality and injury of NMFS-managed Alaska marine mammal stocks, 2013-2017. U.S. Department of Commerce, NOAA Tech. Memo. NMFSAFSC-XXX, XX p.
- Hayes, S.A., E. Josephson, K. Maze-Foley, and P.E. Rosel, editors. 2019. U.S. Atlantic and Gulf of Mexico Marine Mammal Stocks Assessments, 2018. NOAA Technical Memorandum NOAA Technical Memorandum NMFS-NE-258. 306 p. Henry A., M. Garron, A. Reid, D. Morin, W. Ledwell, T.C.N. Cole. 2019. Serious injury and mortality determinations for baleen whale stocks along the Gulf of Mexico, United States East Coast, and Atlantic Canadian Provinces, 2012-2016. U.S. Department of Commerce, Northeast Fish Sci Cent Ref Doc. 19-13; 54 p.
- Jannot, J.E., K.A. Somers, V. Tuttle, J. McVeigh, J.V. Carretta, and V. Helker. 2018. Observed and Estimated Marine Mammal Bycatch in U.S. West Coast Groundfish Fisheries, 2002–16. U.S. Department of Commerce, NWFSC Processed Report 2018-03. 45 p.

<https://doi.org/10.25923/fkf8-0x49> U.S. Fish and Wildlife Service (USFWS). 2014. West Indian Manatee (*Trichechus manatus*) – Florida stock assessment report. Jacksonville, FL. 17 p. (Available at <https://www.fws.gov/ecological-services/es-library/pdfs/West-Indian-Manatee-FL-Final-SAR.pdf>)

Marine Mammal Commission (MMC). 2018. Stock Assessment Reports: What is missing and what are the costs? <https://www.mmc.gov/wp-content/uploads/SARs-2018-update.pdf>.

National Marine Fisheries Service West Coast Region (NMFS-WCR). 2018. 2017 West Coast Entanglement Summary. 8 p. (Available at:

<https://www.fisheries.noaa.gov/webdam/download/97058165>)

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

Dated: March 30, 2020.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

[FR Doc. 2020-06908 Filed: 4/15/2020 8:45 am; Publication Date: 4/16/2020]