SUPPLEMENTARY INFORMATION: After a lengthy, open, and inclusive rulemaking process including an advance notice of proposed rulemaking (ANPRM), a notice of proposed rulemaking (NPRM), public meetings, and consultation with the Access Board and the Department of Justice (DOJ), the Department of Transportation issued a final rule (49 CFR part 39) applying the ADA to the policies and practices of passenger vessel operators (PVOs). The rule was issued on July 6, 2010 (75 FR 38878) with an effective date of November 3, 2010. The final rule included a request for comment on three issues: service animals, mobility aids, and the general consistency of Part 39 with recent DOJ rules under Titles II and III of the ADA. The Department worked closely with DOJ to ensure that part 39, as published, is fully consistent with DOJ ADA rules. The question raised in the request for comments was whether it would be appropriate for the Department to make changes to the rule that could differ from the DOJ rules in some respects.

The Department received over 30 comments. About two-thirds of these were from advocates of psychiatric service animals (PSAs). They supported considering such animals to be service animals and opposed permitting emotional service animals (ESAs) to be considered as service animals. Two disability organizations supported the use of ESAs on ships and urged the Department to permit them to travel with their users. The Department is not making any changes in its rules in response to these comments. Part 39's existing definition of service animals encompasses PSAs. The preamble to the final rule made clear that ESAs, consistent with DOJ rules, are not considered to be service animals that PVOs are required to accommodate, though the Department said that it is a good idea for PVOs to accept ESAs.

Two organizations representing PVOs commented on the rule. Both urged that the Department's rules be consistent with those of DOJ. DOT regards its existing rules as being consistent with those of DOJ, in general as well as with respect to particular matters such as service animals and mobility aids. The Department is not making any substantive changes to its rules, which consequently will remain consistent with those of DOJ.

One of these organizations pointed out that the DOJ ADA rules become effective in six months rather than four, and that a DOJ provision on hotel reservations had an 18-month effective date. It asked that DOT change its effective dates to be consistent with these DOJ dates. The Department believes that these requests are reasonable. Consequently, we are changing the effective date for most provisions of the rule from November 3, 2010, to January 3, 2011. In addition to being consistent with the DOJ time frame, this extension will permit more time for the Department to work on guidance and interpretations that will assist regulated parties and the public to implement the new rules smoothly. We will also extend the effective date for the cabin reservations section of the rule to January 3, 2012. In addition to being consistent with the DOJ time frame for hotel reservations, this extension will provide additional time for PVOs to make necessary changes to their computer systems to carry out the regulatory requirements.

Some commenters made comments outside the scope of the Department's request for comment. One of the PVO organizations expressed its disagreement with various provisions of the final rule and sought clarification of others. Other comments asked for clarifications on some issues, such as where complaints should be sent or coverage of coastwise vessels carrying passengers not for hire. We will not respond to those comments here, since they are beyond the scope of the Department's request for comments, but we would note that, in the normal course of business, the Department regularly provides interpretations of or guidance concerning new regulatory provisions. We will do so in the case of Part 39 where necessary and appropriate.

Regulatory Process Matters

This stay of effective dates relates to an underlying final rule that was significant for purposes of Executive Order 12886 and the Department's Regulatory Policies and Procedures. However, this notice makes no changes in the text of the final regulation, and the changes to the effective date of the rule are not themselves significant. These changes do not impose any additional costs or burdens on any regulated parties, and they provide regulated entities, including small entities, additional time to comply with the regulations. For this reason, the Department certifies that these changes to the effective dates do not impose significant economic effects on a substantial number of small entities.

Issued at Washington, DC, November 2, 2010.

Ray LaHood,

Secretary of Transportation.

[FR Doc. 2010–28236 Filed 11–5–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 100216088–0454–02]

RIN 0648–AY69

List of Fisheries for 2011

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 2011, as required by the Marine Mammal Protection Act (MMPA). The final LOF for 2011 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of serious injury and mortality of marine mammals that occurs incidental to each fishery. The classification of a fishery 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 requirements.

DATES: This final rule is effective January 1, 2011.

ADDRESSES: *See* **SUPPLEMENTARY INFORMATION** for a listing of all Regional Offices. Comments regarding the burden-hour estimates, or any other aspect of the collection of information requirements contained in this final rule, should be submitted in writing to Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or to Nathan Frey, OMB, by fax to 202–395–7285 or by e-mail to *Nathan_Frey@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Melissa Andersen, Office of Protected Resources, 301–713–2322; David Gouveia, Northeast Region, 978–281–9280; Laura Engleby, Southeast Region, 727–551–5791; Elizabeth Petras, Southwest Region, 562–980–3238; Brent Norberg, Northwest Region, 206–526–6733; Bridget Mansfield, Alaska Region, 907–586–7642; Lisa Van Atta, Pacific Islands Region, 808–944–2257. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1–800–

877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Availability of Published Materials

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

NMFS, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930–2298, Attn: Marcia Hobbs;

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

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

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

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

NMFS, Pacific Islands Region, Protected Resources, 1601 Kapiolani Boulevard, Suite 1100, Honolulu, HI 96814–4700, Attn: Lisa Van Atta.

What is the list of fisheries?

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

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

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

Fishery Classification Criteria

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

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

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

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

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

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

Because fisheries are classified on a per-stock basis, a fishery may qualify as one Category for one marine mammal stock and another Category for a different marine mammal stock. A fishery is typically classified on the LOF at its highest level of classification (*e.g.,* a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II).

Other Criteria That May Be Considered

In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental serious injury or mortality is "frequent," "occasional," or "remote" by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries (50 CFR 229.2). Further, eligible commercial fisheries not specifically identified on the LOF are deemed to be Category II fisheries until the next LOF is published (50 CFR 229.2).

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

The LOF includes a list of marine mammal species or stocks incidentally killed or injured in each commercial fishery. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations. NMFS also reviews other sources of new information, including observer data, stranding data, and fisher self-reports.

In the absence of reliable information on the level of mortality or injury of a marine mammal stock, or insufficient observer data, NMFS will determine whether a species or stock should be added to, or deleted from, the list by considering other factors such as: changes in gear used, increases or decreases in fishing effort, increases or decreases in the level of observer coverage, and/or changes in fishery

management that are expected to lead to decreases in interactions with a given marine mammal stock (such as a fishery management plan (FMP) or a take reduction plan (TRP)). NMFS will provide case-specific justification in the LOF for changes to the list of species or stocks incidentally killed or injured.

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

Data obtained from the observer program and observer coverage levels are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. The best available information on the level of observer coverage, and the spatial and temporal distribution of observed marine mammal interactions, is presented in the SARs. Starting with the 2005 SARs, each SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including observer coverage in those fisheries. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Fishery information presented in the SARs' appendices includes: Level of observer coverage, target species, levels of fishing effort, spatial and temporal distribution of fishing effort, characteristics of fishing gear and operations, management and regulations, and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources' Web site at: *http://www.nmfs.noaa.gov/pr/sars/*. Information on observer coverage levels in Category I and II fisheries can also be found in the Category I and II fishery summary documents on the NMFS Office of Protected Resources Web site: *http://www.nmfs.noaa.gov/pr/interactions/lof/*. Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's Web site: *http://www.st.nmfs.gov/st4/nop/*.

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

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

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

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

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

NMFS developed summary documents for each Category I and II fishery on the LOF. These summaries provide the full history of each Category I and II fishery, including: When the fishery was added to the LOF, the basis for the fishery's initial classification, classification changes to the fishery, changes to the list of species or stocks incidentally killed or injured in the fishery, fishery gear and methods used, observer coverage levels, fishery management and regulation, and applicable take reduction plans or teams, if any. These summaries are updated after each final LOF. The summaries can be found under "How Do I Find Out if a Specific Fishery is in Category I, II, or III?" on the NMFS Office of Protected Resources' Web site: *http://www.nmfs.noaa.gov/pr/interactions/lof/*.

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?

NMFS has integrated the MMPA registration process, the Marine Mammal Authorization Program (MMAP), with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Participants in these fisheries are automatically registered under the MMAP and are not required to submit registration or renewal materials directly under the MMAP. In the Pacific Islands, Southwest, Northwest, and Alaska regions, NMFS will issue vessel or gear owners an authorization certificate; in the Northeast and Southeast Regions, NMFS will issue vessel or gear owners notification of registry and directions on obtaining an 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 permit systems distinguish between fisheries as

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

How do I receive my authorization certificate and injury/mortality reporting forms?

All vessel or gear owners that participate in Pacific Islands, Southwest, Northwest, or Alaska regional fisheries will receive their authorization certificates and/or injury/mortality reporting forms via U.S. mail or with their State or Federal license at the time of renewal. Vessel or gear owners participating in the Northeast and Southeast Regional Integrated Registration Programs will receive their authorization certificates and/or injury/mortality reporting forms as follows:

1. Northeast Region vessel or gear owners participating in Category I or II fisheries for which a State or Federal permit is required may receive their authorization certificate and/or injury/mortality reporting form by contacting the Northeast Regional Office at 978–281–9328 or by visiting the Northeast Regional Office Web site (*http://www.nero.noaa.gov/prot_res/mmap/certificate.html*) and following the instructions for printing the necessary documents.

2. Southeast Region vessel or gear owners participating in Category I or II fisheries for which a Federal permit is required, as well as fisheries permitted by the states of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas will receive notice of registry and may receive their authorization certificate and/or injury/mortality reporting form by contacting the Southeast Regional Office at 727–551–5758 or by visiting the Southeast Regional Office Web site (*http://sero.nmfs.noaa.gov/pr/pr.htm*) and following the instructions for printing the necessary documents.

How do I renew my registration under the MMPA?

In Pacific Islands, Southwest, or Alaska regional fisheries, registrations of vessel or gear owners are automatically renewed and participants should receive an authorization certificate by January 1 of each new year. In Northwest regional fisheries, vessel or gear owners receive authorization with each renewed state fishing license, the timing of which varies based on target species. In Northeast regional fisheries, authorization certificates will be mailed directly to all applicable State and Federal permit holders who have registered their permits during the previous calendar year. Vessel or gear owners who participate in these regions and have not received authorization certificates by January 1 or with renewed fishing licenses must contact the appropriate NMFS Regional Office (*see* **ADDRESSES**).

In Southeast regional fisheries, vessel or gear owners may receive an authorization certificate by contacting the Southeast Regional Office or visiting the Southeast Regional Office Web site (*http://sero.nmfs.noaa.gov/pr/pr.htm*) and following the instructions for printing the necessary documents.

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

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a fishery listed on the LOF must report to NMFS all incidental injuries and mortalities of marine mammals that occur during commercial fishing operations, regardless of the category in which the fishery is placed (I, II or III) within 48 hours of the end of the fishing trip. "Injury" is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported. Injury/mortality reporting forms and instructions for submitting forms to NMFS can be downloaded from: *http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf* or by contacting the appropriate Regional office (*see* **ADDRESSES**). Reporting requirements and procedures can be found in 50 CFR 229.6.

Am I required to take an observer aboard my vessel?

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

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

Table 4 in this final rule provides a list of fisheries affected by take reduction plans and teams. Take reduction plan regulations can be found at 50 CFR 229.30 through 229.36.

Sources of Information Reviewed for the Final 2011 LOF

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

NMFS also reviewed other sources of new information, including marine mammal stranding data, observer program data, fisher self-reports, FMPs, and ESA documents.

The final LOF for 2011 was based, among other things, on information provided in the NEPA and ESA documents analyzing authorized high seas fisheries, the final SARs for 1996 (63 FR 60, January 2, 1998), 2001 (67 FR 10671, March 8, 2002), 2002 (68 FR 17920, April 14, 2003), 2003 (69 FR 54262, September 8, 2004), 2004 (70 FR 35397, June 20, 2005), 2005 (71 FR 26340, May 4, 2006), 2006 (72 FR 12774, March 19, 2007), 2007 (73 FR 21111, April 18, 2008), 2008 (74 FR 19530, April 29, 2009), 2009 (75 FR 12498, March 16, 2010), and the draft SARs for 2010 (75 FR 46912, August 4, 2010). The SARs are available at: *http://*

www.nmfs.noaa.gov/pr/sars/. State and regional abbreviations used in the following sections include: CA (California), FL (Florida), GA (Georgia), GMX (Gulf of Mexico), HI (Hawaii), NC (North Carolina), OR (Oregon), SC (South Carolina), VA (Virginia), WA (Washington), and WNA (Western North Atlantic).

Fishery Descriptions

Beginning with the final 2008 LOF (72 FR 66048, November 27, 2007), NMFS describes each Category I and II fishery on the LOF. Below, NMFS describes the fisheries classified as Category I or II on the 2011 LOF that were not classified as such on a previous LOF (and therefore have not yet been defined on the LOF). Additional details for Category I and II fisheries operating in U.S. waters are included in the SARs, FMPs, and TRPs, through state agencies, or through the fishery summary documents available on the NMFS Office of Protected Resources Web site (*http://www.nmfs.noaa.gov/pr/interactions/lof/.*) Additional details for Category I and II fisheries operating on the high seas are included in various FMPs, NEPA, or ESA documents.

WA Coastal Dungeness Crab Pot/Trap Fishery

Washington's coastal commercial crab grounds extend from the Columbia River estuary to Cape Flattery, including Grays Harbor and Willapa Bay. The coastal crab fishery is a limited entry fishery with 228 license holders, of which approximately 200 are active annually. Each coastal crab license is assigned a maximum pot limit of either 300 or 500 pots. Pots are fished individually and must be marked with an identification number. Surface marker buoys must also be tagged for identification. The fishery opens on or about December 1 when the majority of male crabs have recovered from the fall molt and shell condition has hardened. The season runs through September 15. In 1997 Congress granted Washington, Oregon and California jurisdiction to manage Dungeness Crab fisheries outside of state waters to the 200 mile limit of the U.S. EEZ. Under Washington state regulations, pots can be no larger than 13 cubic feet and must be equipped with specified escape rings for undersize crab and a biodegradable release mechanism to allow crabs to escape from pots that become separated from the buoy or have otherwise become lost. There is a summer FMP, which is part of the larger Washington Coastal Dungeness Crab FMP, in place to protect crabs that enter the molt prior to the September 15 season ending date. This summer FMP allows for in-season closures of the fishery if the percentage of early molting crab reaches a certain level.

Southeastern U.S. Atlantic, Gulf of Mexico Shrimp Trawl Fishery

The "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery is a pelagic or bottom trawl fishery operating virtually year-round in the Atlantic Ocean from North Carolina through Florida, and in the Gulf of Mexico from Florida through Texas. Effort occurs in estuarine, near shore coastal waters, and along the continental slope of the Atlantic and estuarine, near shore coastal, and offshore continental shelf and slope waters in the Gulf of Mexico. The fishery targets brown, pink and white shrimp within estuaries, and near coastal and offshore regions; and targets Royal Red shrimp along the deep continental slope. Commercial shrimp vessels most commonly employ a double-rig otter trawl, which normally includes a lazy line attached to each bag's codend. The lazy line floats free during active trawling, and as the net is hauled back, it is retrieved with a boat- or grappling-hook to assist in guiding and emptying the trawl nets. Shrimp trawl soak time is about three hours; the fishery typically operates from sunset to sunrise when shrimp are most likely to swim higher in the water column. Although shrimp trawlers are required under ESA regulations to use turtle excluder devices to reduce sea turtle bycatch (50 CFR 223.206), the fishery currently does not use any method or gear modification to deter, or reduce bycatch of, marine mammals. 2009 data indicate there are approximately 4,950 shrimp trawl vessels operating in the Southeast Atlantic and Gulf of Mexico with an estimated 76,884 vessel trips.

Comments and Responses

NMFS received 9 comment letters on the proposed 2011 LOF (75 FR 36318, June 25, 2010). Comments were received from the California Wetfish Producers Association, Hawaii Longline Association, Marine Mammal Commission, Natural Resources Defense Council, Oregon Department of Fish and Wildlife, United States Department of Interior, Washington Department of Fish and Wildlife, Western Pacific Fishery Management Council, and one private individual. Comments on issues outside the scope of the LOF were noted, but are not responded to in this final rule.

General Comments

Comment 1: Since 2005, the Marine Mammal Commission (Commission) has recommended NMFS include observer coverage for each fishery on the LOF for use in evaluating the amount of confidence to place on reports of mortality or serious injury (or lack thereof) for marine mammals stocks. The Commission appreciated NMFS' efforts to provide additional information for Category I and II fisheries on the NMFS Web site. However, the Commission further recommended NMFS describe in the LOF the basis for confirming that a fishery warrants a Category III classification. The Commission also stated it would be useful to also have information on observer coverage in Category III fisheries to determine whether reliable information was collected to justify a Category III listing or if a fishery is Category III based on a lack of information.

Response: NMFS generally agrees with the Commission that it is important for NMFS to provide its basis for classifying a fishery on the LOF. However, including observer coverage information in each LOF on its own will not fully explain why a fishery is classified as Category I, II, or III. As described in the preamble of each proposed and final LOF, including this final rule, NMFS classifies fisheries on the LOF based on an assessment of several factors. One of these factors includes information collected through observer programs. However, in many cases observer data for various fisheries are either inadequate or non-existent; therefore, quantitative data on the frequency of incidental mortality and serious injury is unavailable. Per the requirements in the MMPA's implementing regulations, in the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS determines whether the incidental serious injury or mortality is "occasional" or "remote" by "evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, the species and distribution of marine mammals in the area, and at the discretion of the Assistant Administrator for Fisheries" (50 CFR 229.2). Therefore, including the level of observer coverage for each fishery in the LOF will not provide the reader with a complete picture of why a fishery is classified on the LOF as Category I, II, or III.

NMFS includes the information used as the basis to classify a fishery as Category I, II, or III, on the LOF for the

year in which the fishery was added to the LOF and/or reclassified on the LOF. If there is no change to the fishery in subsequent LOFs, the information outlining why a fishery is classified as Category I, II, or III, is not then repeated in each subsequent LOF. Considering that the LOF is an annual rule that presents changes to previous LOFs, repeating this information in each LOF would create a **Federal Register** notice that would be overly lengthy and cumbersome for the readers to consider on an annual basis. For this reason, NMFS provides this information on Category I and II fisheries via the fishery summaries to be considered at the readers' discretion and included these on the NMFS Office of Protected Resources' Web site: *http://www.nmfs.noaa.gov/pr/interactions/lof/.*

While NMFS has included, and will continue to include, the information used as the basis to classify a fishery as Category III in the appropriate LOF for the year in which each Category III fishery was added to, or reclassified on, the LOF, NMFS agrees that summarizing this information in one location could be useful for the reader. Therefore, NMFS will consider how to best provide this information for the readers, without creating an annual LOF rule that is overly lengthy and cumbersome, during the development of the 2012 LOF.

Comment 2: Ms. Monasevitch noted that Tables 1–3 do not list the number of marine mammal species/stocks incidentally killed or injured, only the species/stock name. Can the counts be provided?

Response: The number of marine mammal species/stocks incidentally killed or injured in each fishery on the LOF is included in tabular format in each Stock Assessment Report (SAR) and are therefore not repeated in each LOF. Please visit the NMFS Office of Protected Resources Web site to review the SARs by region or by stock: *http://www.nmfs.noaa.gov/pr/sars/.*

Comment 3: The Department of the Interior (DOI) requested NMFS continue to coordinate with the Fish and Wildlife Service (FWS) on issues involving marine mammals under FWS management jurisdiction, including providing any reports of southern sea otters (which are excluded from the MMPA's section 118 provisions for authorizing incidental take) killed or injured in a commercial fishery.

Response: NMFS will continue to coordinate with the FWS on all issues involving marine mammals under FWS jurisdiction, including sea otters, walrus, manatees, and polar bears. NMFS will also continue to provide FWS with all reports of interactions between commercial fisheries and all marine mammal species under FWS jurisdiction, including southern sea otters, that the Agency receives.

Comment 4: The Hawaii Longline Association (HLA) asserted that NMFS cannot make final determinations in the LOF based on information that appears in draft SARs and has not been subjected to the public review and comment process. The HLA stated that the draft 2010 SAR is based, in significant part, on information contained in unpublished reports, "working" papers, and reports containing "preliminary estimates." The HLA asserted that this information is not sufficient to meet the MMPA's best available scientific information standard and that decisions based on this information is contrary to the MMPA, the Administrative Procedure Act (APA), and general principles of administrative transparency and scientific rigor.

Response: NMFS responded to a similar comment on the final 2001 LOF (*see* comment/response 61; 66 FR 42780 August 15, 2001). NMFS agrees that the annual LOF must be based on the best available scientific information. For this reason, NMFS proposes changes to the annual LOF on the most current, peer-reviewed version of the SARs. The draft 2010 SARs used as the basis for the proposed and final 2011 LOFs were reviewed by the authors' peers within NMFS Fisheries Science Centers and by the Regional SRGs, which were established by the MMPA 117(d) to advise NMFS on the status of marine mammal stocks and to provide input on the draft SARs before they are released for public input. Basing the LOF on best available scientific information includes basing the LOF on the most current analyzed data. The data presented in the annual SARs have an average of a two-year time delay because of the time needed to properly analyze the data and complete the peer-review process. For that reason, the SRG-reviewed draft SAR presents the most current analyzed data and is considered the best available scientific information. When a peer-reviewed draft SAR is available, the final SAR from the previous year is no longer the best available information on which to base changes to the annual LOF. Therefore, by basing LOF changes on the most recent peer-reviewed SAR, whether draft or final, NMFS satisfies the requirements of the MMPA.

NMFS ensures transparency in the LOF rulemaking process by making the draft SARs available for public review prior to or during the public comment period for each proposed LOF. The proposed 2011 LOF opened for a 60-day public review period on June 25, 2010 (closing August 24, 2010). The draft 2010 SARs opened for a 90-day public review period on August 4, 2010. This allowed 20 days for review of the draft 2010 SARs before the close of the proposed 2011 LOF's public comment period. The overlapping availability of the public comment periods on the proposed LOF and the draft SARs allows the public to review the information upon which the LOF is based.

Comments on Commercial Fisheries in the Pacific Ocean

Comment 5: The DOI supported the continued inclusion of southwest AK northern sea otters, south central AK northern sea otters, and Pacific walrus on the list of species/stocks incidentally killed or injured in the "AK Kodiak salmon set gillnet," "AK Prince William Sound salmon drift gillnet," and "AK BSAI flatfish trawl" fisheries, respectively.

Response: NMFS has retained southwest AK northern sea otters, south central AK northern sea otters, and Pacific walrus on the list of species/stocks incidentally killed or injured in the "AK Kodiak salmon set gillnet," "AK Prince William Sound salmon drift gillnet," and "AK BSAI flatfish trawl" fisheries in this final rule.

Comment 6: The Washington Department of Fish and Wildlife (WDFW) strongly supported splitting the Washington Dungeness crab pot/trap fishery into two distinct fisheries by separating the inland "Puget Sound Dungeness crab pot/trap" fishery from the "WA coastal Dungeness crab pot/trap" fishery. The Puget Sound and coastal Dungeness crab pot/trap fisheries are both managed by WDFW but are managed under separate licensing programs and different management regimes. With no known incidental mortalities or serious injuries to marine mammals in the "Puget Sound Dungeness crab pot/trap" fishery, WDFW supported the proposal to classify the "Puget Sound Dungeness crab pot/trap" fishery under Category III in the LOF.

Response: The WA Dungeness crab trap/pot fishery is split into two fisheries in this final rule, with the "WA coastal Dungeness crab trap/pot" fishery classified as Category II and the "WA Puget Sound Dungeness crab trap/pot" fishery is classified as Category III.

Comment 7: As stated in comment 6 above, the WDFW supported elevating the "WA coastal Dungeness crab pot/trap" fishery from Category III to Category II. With the elevation of this

fishery to Category II, WDFW further requested NMFS' advice and assistance in meeting the requirements under the MMPA. WDFW staff is available to work with NMFS to create an implementation plan that minimizes the disruption to the fishery while ensuring that MMPA requirements are met.

Response: NMFS is currently working with WDFW and will continue to do so to ensure that the MMPA requirements are met, while minimizing the disruption to the fishery. The NMFS Northwest Regional Office has agreed to work with the WDFW on developing the MMAP Certificates for coastal crabbers. WDFW is currently reviewing NMFS' proposed text for these Certificates.

Comment 8: The Commission recommended NMFS provide additional justification for splitting the "WA Dungeness crab pot/trap" fishery into two fisheries, including pointing out arguments that the risks to marine mammals from the two proposed fisheries are different. The Commission noted that, while the two proposed fisheries do differ based on geography, the decision to split the fisheries should be based on meaningful evidence that the risks posed to marine mammal species are different and that the Puget Sound fishery is not likely to take any marine mammals and does not require an observer program. Additional evidence might include a difference in fishing practices or gear on the coast versus those in Puget Sound, or evidence of different movement patterns of humpback whales and other marine mammals, such as sea otters.

Response: As described in the proposed 2011 LOF and further explained in the comments supplied by WDFW (comment 6) the coastal and Puget Sound Dungeness crab trap/pot fisheries are managed under separate licensing programs and different management regimes. The State of WA already considers these as separate fisheries. More importantly, the migratory routes of humpback whales pass though the coastal waters off of the State of WA, but the migratory routes do not pass through Puget Sound. Individual humpback whales have been reported to occasionally enter Puget Sound, but NMFS has received no reports of these individuals interacting with or becoming entangled in Puget Sound Dungeness crab trap/pot gear. Trap/pot gear for both the coastal and Puget Sound Dungeness crab trap/pot fisheries are uniquely marked for identification and, therefore, NMFS is able to ascertain with which fishery a humpback whale has interacted. Individual sea otters occasionally enter Puget Sound but they have not been reported interacting with crab gear. There was one sighting of a gray whale trailing crab trap/pot gear in Puget Sound in 2003. However, this animal was successfully disentangled and released uninjured. There have been no reported interactions since that time.

The Puget Sound region has heavily populated coastlines and is a major recreational boating area. There are also several active marine mammal sighting hotlines in the region. Should entanglements of marine mammals occur in the inland waters, the potential for observation and reporting by boaters or the public on the shore is high.

Comment 9: The Commission recommended NMFS consult with the FWS, tribal authorities, and other relevant groups on the need for observer coverage of the WA Dungeness crab pot/trap fisheries both along the outer coast and in Puget Sound to assess bycatch risks for sea otters in WA state.

Response: As recommended, NMFS consulted with state and tribal crab managers. The states of WA and OR, and the Northwest Indian Fisheries Commission reported that they have received no information indicating interactions between sea otters and crab fisheries are occurring. WDFW has received complaints in some areas of harbor seals or sea lions raiding pots for bait, but not sea otters. The WA population of sea otters is at the population's Optimum Sustainable Population (OSP) level and continues to grow (FWS 2009 SAR). According to FWS' 2009 SAR there has been only one stranding incident of a northern sea otter, in 2003, where human interaction may have been implicated based on necropsy findings. In this case, the animal died from trauma, possibly a boat strike.

Comment 10: The CA Wetfish Producers Association agreed with multiple proposed changes to the LOF, including reclassifying the "CA anchovy, mackerel, sardine purse seine" and "CA squid purse seine" fisheries from Category II to Category III; updating the number of vessels participating in the "CA anchovy, mackerel, sardine purse seine fishery;" and removing bottlenose dolphins (CA/OR/WA offshore stock) from the list of species/stocks incidentally killed or injured in the "CA anchovy, mackerel, sardine purse seine" fishery.

Response: NMFS has finalized each of the proposed changes referenced in Comment 10 in this final rule.

Comment 11: The CA Wetfish Producers Association noted the number of vessels participating in the "CA squid purse seine" fishery is proposed to be increased from 64 to 65 vessels. However, according to CA Department of Fish and Game authorities, the number of squid vessel permits sold in 2010 is 71 transferable vessel permits and 9 non-transferable vessel permits, for a total of 80 vessels eligible to participate in the squid fishery.

Response: NMFS appreciates the information and has updated Table 1 to reflect that the estimated number of vessels/persons participating in the Category III "CA squid purse seine" fishery is 80.

Comment 12: The Oregon Department of Fish and Wildlife (ODFW) requested that OR be removed from the name of the "CA/OR thresher shark/swordfish drift gillnet" fishery. ODFW noted that the OR commercial drift gillnet fishery historically existed as an extension of the CA fishery, targeting swordfish as allowed under ODFW's Developmental Fisheries Program. For the last few years this fishery has been inactive and OR has not issued permits for such a fishery in state waters. Also, swordfish were removed from the program in 2009. OR no longer issues state permits for drift gillnet gear.

Response: NMFS appreciates the information provided by ODFW and has changed the name of the fishery to the Category III "CA thresher shark/swordfish drift gillnet (≥ 14 in mesh)" fishery in this final rule.

Comment 13: The DOI recommended NMFS continue to include CA sea otters on the list of species/stocks incidentally killed or injured in the "CA halibut/white seabass and other species set gillnet" fishery and add CA sea otters to the list of species/stocks incidentally killed or injured in the "CA coonstripe shrimp, rock crab, tanner crab pot or trap" and "CA spiny lobster trap" fisheries. Due to lack of observer coverage, the FWS does not have recent data to confirm that sea otters are injured or killed in these fisheries; however, experiments have shown that sea otters can enter these traps and drown.

Response: NMFS removed southern sea otters from the list of species/stocks incidentally killed or injured in the Category III "CA coonstripe shrimp, rock crab, tanner crab pot or trap" and "CA spiny lobster trap" fisheries in the 2009 LOF. As detailed in the proposed 2009 LOF (73 FR 33760, June 13, 2008), NMFS extensively reviewed each of the CA pot and trap fisheries, including available information on marine mammal species that interact with these fisheries. At that time, NMFS had records of one southern sea otter being taken in the "CA targeting spiny lobster, coonstripe shrimp, finfish, rock crab, or

tanner crab trap/pot" fishery in November 1987 and one southern sea otter interacting with the "CA spot prawn trap" fishery in 1991. NMFS has received no new or additional information since the 2009 LOF to suggest that sea otters are being incidentally killed or injured by these gear types. Therefore, NMFS has not included sea otters on the list of species/stocks incidentally killed or injured in these two fisheries. If additional information becomes available to indicate that southern sea otters have been injured or killed in CA trap/pot fisheries in recent years, NMFS will consider including this species on the LOF at that time.

Comment 14: The Commission supported retaining the "HI shallow-set (swordfish target) longline/set line" fishery as Category II based on the mortality and serious injury rate of bottlenose dolphins (HI pelagic stock) and the additional information documenting takes of marine mammals from other stocks.

Response: The "HI shallow-set (swordfish target) longline/set line" fishery is classified as Category II in this final rule.

Comment 15: The HLA noted that the proposed LOF classifies the "HI shallow-set (swordfish target) longline/set line" fishery as Category II by the fishery's serious injury and mortality rate for bottlenose dolphin, which is only 1.1 percent of the stock's PBR, and because of documented mortalities and serious injuries of other stocks on the high seas for which PBRs are unknown. The HLA disagreed with this justification and argued that NMFS must make the LOF determinations based on the best available science, not speculation that takes may exceed 1 percent of a stock's PBR. The HLA further stated that in the absence of knowledge about the identity or abundance of stocks with which a fishery may have interactions, NMFS cannot assume that any interactions may exceed 1 percent of the stock's PBR.

Response: As noted in the draft 2010 SAR, the HI Pelagic stock of bottlenose dolphins includes animals found both within the U.S. EEZ around the Hawaiian Islands and in adjacent international waters, but because data on abundance, distribution, and human-caused impacts are largely lacking for international waters, the status of the stock is evaluated based on data from U.S. EEZ waters. In the SAR, the stock's PBR is calculated only for the portion of the stock within the U.S. EEZ around the Hawaiian Islands.

The average annual level of mortalities and serious injuries of the HI pelagic stock of bottlenose dolphins that occurs incidental to the HI shallow-set longline fishery inside the U.S. EEZ around the Hawaiian Islands is greater than 1 percent and less than 50 percent of the stock's PBR level. This level of mortality and serious injury is close to, but exceeds, the threshold between Categories II and III (*e.g.,* mortality and serious injury greater than 1 percent of PBR), and thus a Category II classification is warranted (50 CFR 229.2). Details regarding how the threshold percentages between 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).

In NMFS' proposal to classify this fishery in the proposed 2011 LOF, NMFS noted that there are documented injuries and mortalities of numerous other species and stocks of marine mammals on the high seas, which are listed in Table 3 for the high seas component of the shallow-set longline fishery ("Western Pacific Pelagic (Shallow-set component)"). There are no abundance estimates or PBRs currently available for most of these marine mammals on the high seas, and quantitative comparison of mortality and serious injury against PBR is therefore not possible. NMFS is not assuming that interactions on the high seas exceed 1 percent of any stock's PBR. Rather, these interactions provide a qualitative indication that the shallow-set fishery's interactions with marine mammals on the high seas are "occasional." 50 CFR 229.2 provides that in the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, the Assistant Administrator will determine whether the incidental serious injury or mortality is "occasional" by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator.

As noted in the preamble of the proposed 2011 LOF and the response to a similar comment in the final 2010 LOF (74 FR 58859, November 16, 2009; comment/response 17) regarding high seas fisheries classification, the high seas portion of the shallow-set longline fishery is an extension of the fishery operating within U.S. waters, and not a separate fishery. A fishery is classified on the LOF as its highest level of classification (*e.g.,* a fishery qualifying for Category II for one marine mammal stock and Category III for another marine mammal stock will be listed as Category II). Since the "Western Pacific Pelagic (Shallow-set component)" and "HI shallow-set (swordfish target) longline/set line" are two components of the same fishery, targeting the same species and employing the same gear, fishing techniques, and methods to deter marine mammals, distinguished from each other only by which side of the 200 nmi EEZ boundary they operate, and the component of the fishery operating in U.S. waters is classified as Category II, the high seas component of the fishery is also classified as Category II.

Comment 16: The Commission recommended NMFS list the "HI kaka line" and the "HI vertical longline" fisheries as Category II fisheries and work with the State of HI to create an effective observer program for each fishery. NMFS noted in the proposed 2011 LOF, and the Commission concurred, that the "HI kaka line" fishery may be analogous to the Category II Hawaii shortline fishery. The Commission also considered the vertical longline fishery to be analogous because the gear is similar and presents similar risks to marine mammals. The Commission believed that an appropriate approach would be to establish an observer program to better characterize the nature and level of the interactions of these fisheries with marine mammals, before assuming that such interactions do not or only rarely occur.

Response: At this time, there is no information to support a Category II classification for either of these two fisheries. NMFS did note in the proposed 2011 LOF that the kaka line fishery may be analogous to the shortline fishery because the gear used is similar in one respect, specifically a mainline less than 1 nautical mile in length to which multiple branchlines with baited hooks are attached. However, NMFS further stated in the proposed LOF that the gear in the "HI kaka line" fishery is oriented differently in the water than the gear in the "HI shortline" fishery, with "HI kaka line" fishery gear being fixed on or near the bottom or in shallow midwater.

50 CFR 229.2 states that in absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental serious injury or mortality is "frequent," "occasional," or "remote" by evaluating

other factors. Therefore, NMFS also examined other factors and considers the "HI kaka line" and "HI vertical line" fisheries to be sufficiently different from the HI-based longline fisheries and the HI shortline fishery in terms of the fish species targeted, methods of setting gear, and location and orientation of the gear in the water column, to pose a lower risk to marine mammals such that the likelihood of incidental interactions is remote. Additionally, while there are anecdotal reports of interactions between the shortline fishery and marine mammals, there is no such information regarding the kaka line or vertical longline fisheries. If additional information becomes available that would indicate an elevation in classification is necessary, NMFS will consider reclassification of one or both of these fisheries at that time.

Comment 17: The Natural Resources Defense Council (NRDC) urged NMFS to reconsider the proposed classification of the "HI trolling, rod and reel" and "HI charter vessel" fisheries as Category III given their bycatch of pantropical spotted dolphins. The NRDC provided multiple literature citations documenting dolphins taking lures and being hooked when HI troll fishermen "fish" on the dolphins, including spotted dolphins, to catch associated tuna. The NRDC stated that one serious injury or mortality a year for pantropical spotted dolphins would exceed the regulatory ceiling of 1 percent of the PBR of 61 (2010 SAR, which also states that future assessments may divide the HI population into smaller island-associated stocks). The NRDC asserts that where the frequency of bycatch is unknown, NMFS is required to determine whether serious injury or mortality is "remote" by taking into account other factors, including target species and fishing techniques (50 CFR 229.2).

Response: NMFS will review the information provided by the commenter and consider adding this species to the list of species or stocks incidentally killed or injured in one or both of these fisheries in the next proposed LOF. NMFS will also consider reclassification of one or both of these fisheries at that time, if circumstances warrant.

Comment 18: The HLA reiterated past comments that NMFS inaccurately delineates the pelagic false killer whale stock, therefore underestimating the false killer whale population with which the "HI deep-set (tuna target) longline/set line" fishery interacts and exaggerating the importance of those rare interactions.

Response: NMFS responded to similar comments on the 2010 LOF (74 FR 58859; November 16, 2009; comments/responses 17 and 24), which are incorporated in this response by reference. This comment does not specifically address the classification of fisheries or the marine mammal species and stock incidentally killed or injured in a fishery, but rather disputes the delineation of those stocks and stock population estimates. Classifications on the LOF are based on the information provided in the annual SARs. The SARs report marine mammal stock delineations and include discussions of the uncertainties in the data used to base stock delineations. NMFS urges the commenter to submit these comments during the public comment period for the draft SARs.

Comment 19: The HLA restated an ongoing comment that there are significant uncertainties and errors perpetuated in NMFS' SARs, which are then used to generate inaccurate LOFs. The HLA disagreed that it would be prudent for NMFS to make LOF determinations for 2011 based on data that NMFS knows will become stale (as defined by NMFS guidelines) in 2010. The HLA recommended that NMFS, at the least, expressly recognize the uncertainty underlying its estimates and decisions.

Response: Changes to the 2011 LOF are largely based on the 2009 SARs, as updated in the draft 2010 SARs. The draft 2010 SARs for many of the Hawaiian cetacean stocks present abundance estimates based on data from a 2002 NMFS shipboard line-transect survey of the U.S. EEZ around the Hawaiian Islands (Hawaiian Islands Cetacean and Ecosystem Assessment Survey, or HICEAS). The NMFS Guidelines for Assessing Marine Mammal Stocks (GAMMS) note that confidence in the reliability of abundance estimates declines with age, and recommend that minimum population estimates older than 8 years should be considered unknown, and therefore should not be used to calculate PBR (*http://www.nmfs.noaa.gov/pr/pdfs/sars/gamms2005.pdf*). As of 2011, data derived from the 2002 survey will be considered too uncertain for stock assessment. NMFS is currently conducting a new cetacean assessment survey in the U.S. EEZ around the Hawaiian Islands (HICEAS II) in August-December 2010. It is anticipated that the HICEAS II survey will result in updated abundance estimates for all Hawaiian cetaceans. Preliminary estimates will likely be available by the end of 2011 or early 2012. However, the currently available data and estimates still constitute the best available information within existing NMFS parameters, and therefore are appropriately included in the 2010 SARs and 2011 LOF.

Comment 20: The HLA recommended NMFS not add false killer whales (HI insular stock) to the list of marine mammal stocks incidentally killed or injured in the "HI deep-set (tuna target) longline/set line" fishery. The HLA stated that the best available science does not demonstrate that the deep-set fishery has ever interacted with an animal from the insular stock. The HLA further stated that the one interaction that NMFS purports to assign to the deep-set fishery occurred well beyond the range in which the insular stock animals have been scientifically observed.

Response: NMFS determines which species or stocks are included on the list of species/stocks incidentally killed or injured in a fishery by annually reviewing, in part, the information presented in the current SARs, which are based on 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 LOF does not analyze or evaluate the SARs. The commenter questions the validity of the data and calculations contained within the SAR for false killer whales, and thus it would be more appropriate for this comment to be submitted during the public comment period for the draft SAR.

The draft 2010 SAR for false killer whales indicates an average of 0.6 false killer whales (HI insular stock) are killed or seriously injured per year incidental to the Hawaii deep-set longline fishery. One non-serious injury was observed within the newly defined overlap zone between the HI insular and HI pelagic stocks of false killer whales. Total estimated takes were prorated based on the proportions of observed interactions that resulted in death, serious injury, or non-serious injury. Further, takes of false killer whales of unknown stock origin within the insular/pelagic stock overlap zone were prorated based on the density of each stock in that area. No genetic samples are available to establish stock identity for these takes, but both stocks are considered at risk of interacting with longline gear within this region. Additionally, the draft 2010 SAR reports that from 2004–2008, two unidentified cetaceans that may have been false killer whales were seriously injured in the deep-set longline fishery, within the insular stock range. Efforts are currently underway to develop methods of prorating the unidentified animals by species and stock, taking into account

geographic differences in their ranges and observed rates of documented interactions with each species. For these reasons, NMFS is adding the HI insular stock of false killer whales to the list of marine mammal stocks incidentally killed or injured in the HI deep-set longline fishery, as proposed in the proposed 2011 LOF.

Comment 21: The HLA recommended NMFS not label the false killer whales on which the "HI deep-set (tuna target) longline/set line" fishery interacts on the high seas as "HI Pelagic." The HLA asserted that such a designation ignores the fact that high seas false killer whale interactions may occur with animals from other international high seas stocks, a larger Eastern North Pacific stock, or the Palmyra stock.

Response: The draft 2010 SAR clarifies that the HI pelagic stock of false killer whales includes animals found both within the U.S. EEZ around the Hawaiian Islands and adjacent international waters. The deep-set longline fishery has documented interactions with false killer whales just outside of the U.S. EEZ around the Hawaiian Islands, as reported in the draft 2010 SAR, and these are almost certainly from the HI pelagic stock. Therefore, NMFS is adding false killer whale (HI pelagic stock) to the list of species/stocks incidentally killed or injured in the "Western Pacific Pelagic (Deep-set component)" fishery on Table 3, as proposed in the 2011 proposed LOF.

The draft 2010 SAR also reports that while the range of the HI pelagic stock of false killer whales extends into international waters, the full offshore range of the stock beyond the EEZ is poorly known. NMFS agrees with HLA that the deep-set longline fishery may be interacting with false killer whales from other stocks on the high seas, beyond the (unknown) range of the HI pelagic stock. For this reason, NMFS will retain false killer whale (stock unknown) on the list of marine mammal species and stocks incidentally killed or injured in the "Western Pacific Pelagic (deep-set component)" fishery on Table 3.

Similarly, marine mammals from other pelagic stocks are also killed or injured by both the deep-set and shallow-set longline fisheries on the high seas at varying distances beyond the U.S. EEZ around the Hawaiian Islands, and some of the interactions may be from unknown high seas stocks beyond the (unknown) range of the transboundary HI pelagic stocks. NMFS will examine the spatial patterns of observed mortality and injury of the other pelagic stocks and any information on the stock identity of these animals, and may propose the addition of unknown stocks for some or all of these marine mammal species in the proposed 2012 LOF, if warranted.

The range of the Palmyra Atoll stock of false killer whales is currently defined in the draft 2010 SAR as the U.S. EEZ around Palmyra Atoll. Therefore, this stock is listed as incidentally killed or injured in the U.S. EEZ portion of the deep-set longline fishery, the "HI deep-set (tuna target) longline/set line" fishery, on Table 1, and not in Table 3 for the high seas component of the fishery.

Comment 22: The Western Pacific Fishery Management Council (WPFMC) requested NMFS clarify the justification for proposing to classify the "HI shortline" fishery as Category II based on analogy to other fisheries and based on anecdotal reports of interactions. The WPFMC requested that NMFS explain what is meant by proposing to list this fishery by analogy, including how a fishery may be categorized at all when there are no reported or known interactions with marine mammals. In addition, the WPFMC questioned NMFS' use of anecdotal reports of interactions with marine mammals and speculations that this fishery caused documented false killer whale dorsal fin disfigurements to support a proposed Category II classification.

Response: Fisheries are classified on the annual LOF via NMFS' well-documented process of analyzing known or estimated levels of mortality and serious injury relative to a stock's PBR level (as outlined in the preamble of each proposed and final LOF, including this final rule). In some cases, a fishery that has no recent documented injuries or mortalities of marine mammals may be classified in Category II by analogy to another Category I or II fishery or fisheries that use similar gear types, fishing methods, and/or fish in similar areas that are known to cause mortality and serious injury of marine mammals. In those instances, additional available information (such as qualitative data from stranding reports, fishermen self-reports, or anecdotal information) may also be used to indicate that serious injury or mortality of marine mammals may be occurring that is likely to exceed the Category III threshold (50 CFR 229.2). NMFS indicates those fisheries classified as Category II by analogy to another Category I or II fishery in Tables 1 and 2 by placing a "[2]" after the fishery's name. Only marine mammal mortality and serious injury that can be assigned to a specific fishery is included in the list of species/stocks incidentally killed or injured for that fishery. Marine mammal species and stocks are not added to the list of species/stocks incidentally killed or injured by analogy.

The "HI shortline" fishery was originally added to the LOF in 2010. NMFS listed the fishery in Category II by analogy to the Category I "HI deep-set (tuna target) longline" and Category II "HI shallow-set (swordfish target) longline" fisheries because of similarities between the three fisheries in the gear used, the areas fished, and species targeted that indicated the "HI shortline" fishery likely poses a similar risk of killing or seriously injuring marine mammals. Additionally, NMFS received anecdotal reports of marine mammal interactions in the "HI shortline" fishery, though the species involved and the extent of the interactions was unknown. While dorsal fin disfigurements documented in individuals from the insular stock of false killer whales (Baird and Gorgone 2005) are consistent with injuries from unidentified fishing line, it is unknown at present whether these injuries might have been caused by longline gear, shortline gear, or other hook-and-line gear used around the main Hawaiian Islands. Because the species of marine mammals involved in the reported interactions was unknown, there are no species currently listed on the LOF as incidentally injured or killed in the "HI shortline" fishery.

Classifying a fishery as Category II provides NMFS the authority to place observers on board the vessels to gain more information on the actual level of interactions with marine mammals occurring in the fishery. Funding is not currently available to establish such an observer program for the "HI shortline" fishery, but when and if funding becomes available in the future, NMFS will coordinate with the state of HI to consider developing and implementing an observer program for this fishery.

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

Comment 23: The Commission supported the elevation of the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery from Category III to Category II and the addition of Atlantic spotted dolphin (northern Gulf of Mexico stock) to the list of species/stocks incidentally killed or injured in this fishery.

Response: The "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery is classified as Category II in this final rule.

Comment 24: The Commission recommended NMFS set the boundary

between the Northeast and Mid-Atlantic bottom trawl fisheries at the location that will result in the most reliable estimates of bycatch for the two fisheries. In the proposed LOF, NMFS proposed to change the boundary used to separate these fisheries from 72°30′ W. long. to 70° W. long. The latter is used by the Northeast Fisheries Science Center for estimating marine mammal bycatch. For the fisheries involved, this change may have a number of implications that the Commission is not able to evaluate based upon the information provided in the proposed rule. The key consideration for the Commission is that incidental taking of marine mammals is correctly attributed to the two fisheries.

Response: NMFS agrees that maintaining consistency for estimating incidental marine mammal bycatch is essential; therefore, the proposed change will provide this consistency necessary to ensure appropriate incidental takes are attributed to the correct fishery. NMFS does not foresee any additional current or future management implications associated with this change.

Comment 25: The Commission reiterated a past recommendation that NMFS develop new methods to produce accurate estimates of effort for several Mid-Atlantic and New England fisheries. The Commission suggested that the methods may need to change depending on the nature of the fisheries (*e.g.,* how often vessels return to port, how large the vessels are, and whether they can carry observers). Although the Commission understood that actual effort levels may not be known, the new method of measuring effort reveals significant uncertainty in key fishery information that may confound other measures of the fishery and its effects. The Commission asserted that while these changes may not have a direct effect on fisheries policy or observer coverage, the broader and longer-term implications of the changes and the associated uncertainty are unknown but potentially significant for management of the marine environment.

Response: Table 2 lists each Northeast and Mid-Atlantic fishery on the LOF, including the estimated number of persons/vessels active in the fishery. Currently, a clear measure of effort for all state fisheries in the Northeast and Mid-Atlantic has not been determined due to the manner in which many state permits allow for the use of multiple gear types. Therefore, NMFS has determined that this column in Table 2 for Northeast and Mid-Atlantic fisheries will be representative of current permit holders, state and Federal, that have the potential to participate in a particular fishery. As stated in the proposed 2011 LOF, NMFS recognizes there may be disparity between permit holders listed and actual fishery effort; however, the numbers provided in the LOF are used for descriptive purposes and will not be used in determining current or future management of fisheries or observer coverage designations.

Comment 26: The DOI supported the continued inclusion of the Florida subspecies of the West Indian manatee on the list of species/stocks incidentally killed or injured in the "Atlantic blue crab trap/pot" and "Gulf of Mexico blue crab trap/pot" fisheries.

Response: NMFS has retained the Florida subspecies of the West Indian manatee on the list of species/stocks incidentally killed or injured in the "Atlantic blue crab trap/pot" and "Gulf of Mexico blue crab trap/pot" fisheries in this final rule.

Comment 27: The DOI recommended NMFS remove the Antillean subspecies of the West Indian manatee from the list of species/stocks incidentally killed or injured in the "Caribbean gillnet" and "Caribbean haul/beach seine" fisheries. The DOI is unaware of any manatees taken in either fishery. In addition, use of all haul/beach seine nets and the use of gill and trammel nets in river mouths, rivers, and lagoons in Puerto Rico has been prohibited since 2004.

Response: NMFS agrees with the DOI recommendation to remove the Antillean subspecies of the West Indian manatee from the list of species/stocks incidentally killed or injured in the "Caribbean gillnet" and "Caribbean haul/beach seine" fisheries. Based on information provided in the FWS' 2009 SAR, lack of evidence from stranding events, and the implementation of Puerto Rico Regulation 678 of the 2004 Fisheries Law, the Antillean subspecies of the West Indian manatee has been removed from the list of species/stocks incidentally killed or injured in these fisheries in this final rule.

Comment 28: The DOI recommended NMFS remove the Florida subspecies of the West Indian manatee from the list of species/stocks incidentally killed or injured in the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery. The DOI is unaware of any manatees taken in this fishery since 1987.

Response: NMFS appreciates this comment. However, NMFS does not support removing the Florida subspecies of the West Indian manatee from the list of species/stocks incidentally killed or injured in the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery at this time. There has been at least one confirmed take in this fishery since 1987; a manatee that was killed by a commercial shrimp trawler, with an observer aboard, in Georgia in 1997. Also, according to the FWS' 2009 SAR, the bait shrimp fishery was suggested to cause three unconfirmed manatee mortalities in 1990. Furthermore, observer coverage for the shrimp trawl fishery has been less than 1 percent since 1992. Due to extremely low observer coverage, confirmed and unconfirmed takes by the fishery, and the spatial and temporal co-occurrence of the shrimp trawl fishery and the Florida subspecies of the West Indian manatee, NMFS believes there is at least a remote likelihood of incidental mortality and serious injury for the Florida subspecies of the West Indian manatee. Therefore, NMFS is retaining this species on the list of species/stocks incidentally killed or injured in the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery.

Comment 29: The Commission recommended NMFS increase observer coverage in the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery and conduct the stock assessments necessary to estimate reliable potential biological removal levels for the affected marine mammal stocks.

Response: As stated in response to similar comments on past LOFs, NMFS continues to agree about the importance of increasing observer coverage for the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery, as well as investigating stock structure and abundance of bottlenose dolphins in the Gulf of Mexico.

Increasing observer coverage for these fisheries remains a priority if resources become available. Meanwhile, NMFS will continue monitoring fishermen self-reports and stranding data, as well as fishery observer reports. NMFS remains focused on increasing the capacity of the stranding network especially in the Gulf of Mexico. NMFS provided human interaction trainings at the 2010 National Marine Animal Health and Stranding Network Conference. As a result of the BP/Deepwater Horizon MC252 oil spill response and restoration efforts, NMFS is working to strengthen infrastructure and increase the capacity of the stranding network which are now critical in monitoring the health of marine mammal stocks in the Gulf of Mexico, and will also be useful for assessing the extent of fishery interactions.

NMFS supports further investigation of stock structure and abundance of affected marine mammal stocks in the

Gulf of Mexico. PBR is undetermined for most stocks because the population estimates are greater than eight years old and/or resources were unavailable to conduct surveys where information is outdated. However, due to the BP/Deepwater Horizon MC252 oil spill response and restoration efforts, additional surveys and mark-recapture studies are being conducted for some bay, sound, and estuarine stocks of marine mammals in the Gulf of Mexico. Results from these studies will provide updated abundance estimates and PBR for some stocks. Stock assessments for Gulf of Mexico cetaceans remain a priority if resources become available. These additional efforts will provide baseline data for stock structure and abundance estimates for some marine mammal stocks.

Summary of Changes to the LOF for 2011

The following summarizes changes to the LOF for 2011 in fishery classification, fisheries listed in the LOF, the number of participants in a particular fishery, and the species and stocks that are incidentally killed or injured in a particular fishery. The classifications and definitions of U.S. commercial fisheries for 2011 are identical to those provided in the LOF for 2010 with the changes outlined below.

Commercial Fisheries in the Pacific Ocean

Fishery Classification

The "WA coastal Dungeness crab pot/trap" fishery (split from the Category III "WA Dungeness crab pot" fishery and renamed the "WA coastal Dungeness crab pot/trap" fishery in this rule) is elevated from Category III to Category II.

The "CA thresher shark/swordfish drift gillnet" fishery (renamed from the "CA/OR thresher shark/swordfish drift gillnet" fishery in this rule) is reclassified from Category I to Category III.

The "CA anchovy, mackerel, sardine purse seine" fishery is reclassified from Category II to Category III.

The "CA squid purse seine" fishery is reclassified from Category II to Category III.

The "CA tuna purse seine" fishery is reclassified from Category II to Category III.

Addition of Fisheries

The "HI kaka line" fishery is added to the LOF as Category III.

The "HI vertical longline" fishery is added to the LOF as Category III.

The "HI crab net" fishery is added to the LOF as Category III.

The "HI hukilau net" fishery is added to the LOF as Category III.

The "HI lobster tangle net" fishery is added to the LOF as Category III.

The "HI bullpen trap" fishery is added to the LOF as Category III.

The "WA Puget Sound Dungeness crab pot/trap" fishery (split from the Category III "WA Dungeness crab pot" fishery in this rule) is added as a separate Category III fishery on the LOF.

Fishery Name and Organizational Changes and Clarifications

The Category III "HI squiding, spear" fishery is renamed as the "HI spearfishing" fishery.

The Category III "HI Main Hawaiian Islands, Northwestern Hawaiian Islands deep sea bottomfish" fishery is renamed as the "HI Main Hawaiian Islands deep-sea bottomfish handline" fishery.

The Category III "HI Kona crab loop net" fishery is moved from the "Purse Seine, Beach Seine, Round Haul, and Throw Net Fisheries" heading in Table 1 to the "Pot, Ring Net, and Trap Fisheries" heading.

"Tangle Net" is added to the name of the Category III "Purse Seine, Beach Seine, Round Haul and Throw Net Fisheries" heading in Table 1.

The Category III "CA/OR thresher shark/swordfish drift gillnet" fishery is renamed the "CA thresher shark/swordfish drift gillnet" fishery.

The Category III "WA Dungeness crab pot" fishery is split into two separate fisheries, the Category II "WA coastal Dungeness crab pot/trap" fishery and the Category III "WA Puget Sound Dungeness crab pot/trap" fishery.

A superscript "2" is added after the Category II "CA yellowtail, barracuda, and white seabass drift gillnet (mesh ≥ 3.5 in and < 14 in)" fishery in Table 1.

Number of Vessels/Persons

The estimated numbers of persons/vessels participating in the following Category II CA/OR/WA fisheries are updated: "CA halibut/white seabass and other species set gillnet" fishery from 58 to 50; "CA yellowtail, barracuda, and white seabass drift gillnet" fishery from 24 to 30; "CA spot prawn pot" fishery from 29 to 27; "CA Dungeness crab pot" fishery from 625 to 534; and "CA/OR/WA sablefish pot" fishery from 155 to 309.

The estimated numbers of persons/vessels in the following Category III CA/OR/WA fisheries are updated: "CA thresher shark/swordfish drift gillnet" fishery (renamed from "CA/OR thresher shark/swordfish drift gillnet" fishery in this rule) from 85 to 45; "CA squid purse seine" fishery from 64 to 80; and "CA anchovy, mackerel, sardine purse seine" fishery from 63 to 65.

The estimated number of persons/vessels in the Category I "HI deep-set (tuna target) longline/set line" fishery is updated from 129 to 127.

The estimated number of persons/vessels in the Category II "HI shortline" fishery is updated from 11 to 21.

The estimated numbers of persons/vessels in the following Category III HI fisheries are updated: "HI inshore gillnet" fishery from 5 to 39; "HI Kona crab loop net" fishery from 42 to 41; "HI opelu/akule net" fishery from 12 to 20; "HI inshore purse seine" fishery from 23 to 8; "HI throw net, cast net" fishery from 14 to 28; "HI trolling, rod and reel" fishery from 1,321 to 2,210; "HI crab trap" fishery from 22 to 9; "HI fish trap" fishery from 19 to 11; "HI lobster trap" fishery from 0 to 3; "HI shrimp trap" fishery from 5 to 1; "HI aku boat, pole, and line" fishery from 4 to 6; "HI inshore handline" fishery from 307 to 460; "HI tuna handline" fishery from 298 to 531; "HI handpick" fishery from 37 to 53; "HI lobster diving" fishery from 19 to 36; "HI spearfishing" fishery from 91 to 163; and "HI Main Hawaiian Islands deep-sea bottomfish handline" fishery from 300 to 580.

List of Species or Stocks Incidentally Killed or Injured

Humpback whale (CA/OR/WA stock) is added to the list of species/stocks incidentally killed or injured in the Category II "WA coastal Dungeness crab pot/trap" fishery, followed by a superscript "1".

Humpback whale (CA/OR/WA stock) is added 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, followed by a superscript "1".

Short finned pilot whales (CA/OR/WA stock) is removed from the list of species/stocks incidentally killed or injured in the Category II "CA thresher shark/swordfish drift gillnet" fishery (renamed from "CA/OR thresher shark/swordfish drift gillnet" fishery in this rule).

Bottlenose dolphin (CA/OR/WA offshore stock) is removed from the list of species/stocks incidentally killed or injured in the Category III "CA anchovy, mackerel, sardine purse seine" fishery.

Risso's dolphin (CA/OR/WA stock) is removed from the list of species/stocks incidentally killed or injured in the Category III "CA pelagic longline" fishery.

The superscript "1" after CA sea lions (U.S. stock) and harbor seals (CA stock) is removed from 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.

The superscript "2" is removed after the Category II "CA Dungeness crab pot" fishery in Table 1 and a superscript "1" is added after humpback whale (CA/OR/WA stock) in the list of species/stocks incidentally killed or injured in this fishery.

False killer whale (Palmyra Atoll stock) is added to the list of species/stocks incidentally injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery.

False killer whale (HI Insular stock) is added to the list of species/stocks incidentally injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery, followed by a superscript "1".

The stock of bottlenose dolphin incidentally killed or injured in the Category I "HI deep-set (tuna target) longline/set line" fishery is changed from "HI stock" to "HI Pelagic stock."

The stock of pantropical spotted dolphin incidentally killed or injured in the Category I "HI deep-set (tuna target) longline/set line" fishery is changed from "stock unknown" to "HI stock."

The superscript "1" is removed after humpback whale (Central North Pacific stock) in the list of species/stocks incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery.

The stock of bottlenose dolphin incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery is changed from "stock unknown" to "HI Pelagic stock."

A superscript "1" is added after bottlenose dolphin (HI Pelagic stock) in the list of species/stocks incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery.

Striped dolphin (HI stock) is added to the list of species/stocks incidentally injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery.

False killer whale (HI Pelagic stock) if added to the list of species/stocks incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery.

Kogia spp. whale (HI stock) is added to the list of species/stocks incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery.

The stock of Bryde's whale incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery is changed from "stock unknown" to "HI stock."

The stock of Risso's dolphin incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery is changed from "stock unknown" to "HI stock."

Sperm whale (stock unknown) is removed from the list of species/stocks incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery.

The stock of false killer whale incidentally killed or injured in the Category II "American Samoa longline" fishery is changed from "stock unknown" to "American Samoa."

Rough-toothed dolphin (American Samoa stock) is added to the list of species/stocks incidentally killed or injured in the Category II "American Samoa longline" fishery.

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

Fishery Classification

The "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery is elevated from Category III to Category II.

Removal of Fisheries

The separate listing for the Category II "Mid-Atlantic flynet" fishery is removed from the LOF.

Fishery Name and Organizational Changes and Clarifications

The Category II "Mid-Atlantic flynet" fishery is incorporated into the Category II "Mid-Atlantic bottom trawl" fishery and the fishery definition for the "Mid-Atlantic bottom trawl" fishery is updated to reflect this change.

American eel is removed as a species targeted in Category II "Atlantic mixed species trap/pot" fishery and the fishery definition is updated to reflect this change.

The list of target species for the Category II "Northeast drift gillnet" fishery is updated and the fishery definition is updated to reflect this change.

The list of bodies governing the Category II "Northeast mid-water trawl" fishery is updated and the fishery definition is updated to reflect this change.

The list of FMPs applicable to the Category II "Northeast bottom trawl" and the Category I "Northeast sink gillnet" fisheries are updated and the fishery definitions are updated to reflect this change.

The spatial boundaries for the Category II "Northeast bottom trawl" and "Mid-Atlantic bottom trawl" fisheries are updated and the fishery definitions are updated to reflect this change.

Number of Vessels/Persons

The estimated numbers of persons/vessels in the following Category I fisheries are updated: "Mid-Atlantic gillnet" fishery from > 670 to 5,495; "Northeast sink gillnet" fishery from 341 to 7,712; and "Northeast/Mid-Atlantic American lobster trap/pot" fishery from 13,000 to 12,489.

The estimated numbers of persons/vessels in the following Category II fisheries are updated: "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery from > 18,000 to 4,950; "Chesapeake Bay inshore gillnet" fishery from 45 to 1,167; "NC inshore gillnet" fishery from 94 to 2,250; "Northeast anchored float gillnet" fishery from 133 to 662; "Northeast drift gillnet" fishery from unknown to 608; "Mid-Atlantic mid-water trawl" fishery from 620 to 546; "Mid-Atlantic bottom trawl" fishery from > 1,000 to 1,182; "Northeast mid-water trawl (including pair trawl) " fishery from 17 to 953; "Northeast bottom trawl" fishery from 1,052 to 1,635; "Atlantic blue crab trap/pot" fishery from > 16,000 to 6,479; "Atlantic mixed species trap/pot" fishery from unknown to 1,912; "Mid-Atlantic menhaden purse seine" fishery from 22 to 54; " fishery Mid-Atlantic haul/beach seine" fishery from 25 to 666; "NC long haul seine" fishery from 33 to 372; and "VA pound net" fishery from 41 to 52.

The estimated numbers of persons/vessels in the following Category III fisheries are updated: "U.S. Mid-Atlantic offshore surf clam and quahog dredge" fishery from 100 to unknown; "Gulf of Maine urchin dive, hand/mechanical collection" fishery from < 50 to unknown; "Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge" fishery from 233 to 258; "Gulf of Maine mussel dredge" fishery from > 50 to unknown; "Gulf of Maine, U.S. Mid-Atlantic tuna/shark/swordfish hook & line/harpoon" fishery from 26,223 to > 403; "Northeast, Mid-Atlantic bottom longline/hook & line" fishery from 46 to 1,183; "U.S. Mid-Atlantic mixed species stop seine/weir/pound net" fishery from 751 to unknown; "Gulf of Maine herring and Atlantic mackerel stop seine/weir" fishery from 50 to unknown; "Gulf of Maine Atlantic herring purse seine" fishery from 30 to > 7; "Gulf of Maine menhaden purse seine" fishery from 50 to > 2; and "Atlantic shellfish bottom trawl" fishery from 972 to > 67.

List of Species or Stocks Incidentally Killed or Injured

West Indian manatee (Antillean subspecies) is removed from the list of species/stocks incidentally killed or

injured in the Category III "Caribbean gillnet" and "Caribbean haul/beach seine" fisheries.

Bottlenose dolphin (WNA offshore stock) is added to the list of species/stocks incidentally killed or injured in the Category II "Mid-Atlantic bottom trawl" fishery.

Atlantic spotted dolphin (Northern GMX stock) is added to the list of species/stocks incidentally killed or injured in the Category II "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery.

Bottlenose dolphin (Northern NC estuarine system stock) is added to the list of species/stocks incidentally killed or injured in the Category III "U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net)" fishery.

The stock names for bottlenose dolphins incidentally killed or injured in all Category I, II, and III fisheries in the Atlantic are updated from "WNA coastal" to:

1. "Mid-Atlantic gillnet" fishery (Category I): Bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal; bottlenose dolphin, Northern NC estuarine system; bottlenose dolphin, Southern NC estuarine system. A superscript "1" is retained after each of these stocks in Table 2.

2. "NC inshore gillnet" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system; bottlenose dolphin, Southern NC estuarine system. A superscript "1" is retained after each of these stocks in Table 2.

3. "Southeast Atlantic gillnet" fishery (Category II): Bottlenose dolphin, Southern Migratory coastal; bottlenose dolphin, SC coastal; bottlenose dolphin, GA coastal; bottlenose dolphin, Northern FL coastal; bottlenose dolphin, Central FL coastal. The superscript "2" is retained after the fishery in Table 2.

4. "Southeastern U.S. Atlantic shark gillnet" fishery (Category II): Bottlenose dolphin, Central FL coastal. A superscript "1" is retained after this stock in Table 2.

5. "Atlantic blue crab trap/pot" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system; bottlenose dolphin, Southern NC estuarine system; bottlenose dolphin, Charleston estuarine system; bottlenose dolphin, Northern GA/Southern SC estuarine system; bottlenose dolphin, Southern GA estuarine system; bottlenose dolphin, Jacksonville estuarine system; bottlenose dolphin, Indian River Lagoon estuarine system; bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal; bottlenose dolphin, Northern FL coastal; bottlenose dolphin, Central FL coastal; bottlenose dolphin, SC coastal; bottlenose dolphin, GA coastal. A superscript "1" is retained after each of these stocks in Table 2.

6. "Mid-Atlantic menhaden purse seine" fishery (Category II): Bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal. The superscript "2" is retained after the fishery in Table 2.

7. "Mid-Atlantic haul/beach seine" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system; bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal. A superscript "1" is retained after each of these stocks in Table 2.

8. "NC long haul seine" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system. A superscript "1" is retained after this stock in Table 2.

9. "NC roe mullet stop net" fishery (Category II): Bottlenose dolphin, Southern NC estuarine system. A superscript "1" is retained after this stock in Table 2.

10. "VA pound net" fishery (Category II): Bottlenose dolphin, Northern Migratory coastal; Bottlenose dolphin, Southern Migratory coastal. A superscript "1" is retained after each of these stocks in Table 2.

11. "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery (proposed to be elevated to Category II in this proposed rule): Bottlenose dolphin, SC coastal; bottlenose dolphin, GA coastal. A superscript "1" is retained after each of these stocks in Table 2.

12. "FL spiny lobster trap/pot" fishery (Category III): Bottlenose dolphin, Biscayne Bay estuarine; bottlenose dolphin, FL Bay estuarine.

13. "Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot" fishery (Category III): Bottlenose dolphin, Biscayne Bay estuarine.

14. "Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel" fishery (Category III): Bottlenose dolphin, Southern NC estuarine system; bottlenose dolphin, Indian River Lagoon estuarine system; bottlenose dolphin, Biscayne Bay estuarine.

Commercial Fisheries on the High Seas

Fishery Classifications

The High Seas "Pacific highly migratory species drift gillnet" fishery is reclassified from Category I to Category III.

The High Seas "Pacific highly migratory species purse seine" fishery is reclassified from Category II and III. This fishery is an extension of the "CA tuna purse seine" fishery operation in U.S. waters (reclassified as Category III in this rule). NMFS inadvertently retained the high seas portion of this fishery as Category II in the proposed 2011 LOF. However, since the High Seas "Pacific highly migratory species purse seine" fishery is an extension of the fishery operating in U.S. waters, and not a separate fishery, it is classified on the LOF the same as the component of the fishery operating in the U.S. waters. In this case Category III.

Number of Vessels/Persons

The estimated number of HSFCA permits in the Category I High Seas Atlantic highly migratory species fishery is updated for the following gear types: Longline from 72 to 77.

The estimated number of HSFCA permits in the Category II High Seas Atlantic highly migratory species is updated for the following gear types: Handline/pole and line from 1 to 2; and trawl from 2 to 3.

The estimated number of HSFCA permits in the Category II High Seas Pacific highly migratory species fishery is updated for the following gear types: Drift gillnet from 4 to 3; longline from 62 to 75; handline/pole and line from 22 to 25; trawl from 3 to 2; and troll from 249 to 271.

The estimated number of HSFCA permits in the Category II High Seas South Pacific Albacore Troll fishery is updated for the following gear types: Troll from 53 to 59.

The estimated number of HSFCA permits in the Category II High Seas South Pacific Tuna fishery is updated for the following gear types: Longline from 3 to 8; and purse seine from 36 to 35.

The estimated number of HSFCA permits in the Category I High Seas Western Pacific Pelagic fishery for the following gear types: Deep-set longline from 129 to 127.

The estimated number of HSFCA permits in the Category II High Seas Western Pacific pelagic fishery for the following gear types: Handline/pole and line from 9 to 10; trawl from 4 to 3; and troll from 44 to 40.

List of Species or Stocks Incidentally Killed or Injured

False killer whale (HI pelagic stock) is added to the list of species/stocks incidentally killed or injured in the Category I "Western Pacific pelagic longline (Deep-set component)" fishery.

The stock of pantropical spotted dolphin incidentally killed or injured in the Category I "Western Pacific pelagic longline (Deep-set component)" fishery

is changed from "stock unknown" to "HI stock."

The stock of bottlenose dolphin incidentally killed or injured in the Category I "Western Pacific pelagic longline (Deep-set component)" fishery is changed from "HI" to "HI Pelagic stock."

Striped dolphin (HI stock) and *Kogia* spp. whale (HI stock) are added to the list of species/stocks incidentally killed or injured in the Category II "Western Pacific pelagic longline (Shallow-set component)" fishery.

The stock of bottlenose dolphin incidentally killed or injured in the Category II "Western Pacific pelagic longline (Shallow-set component)" fishery is changed from "stock unknown" to "HI Pelagic stock."

The stock of Bryde's whale incidentally killed or injured in the Category II "Western Pacific pelagic longline (Shallow-set component)" fishery is changed from "stock unknown" to "HI stock."

The stock of Risso's dolphin incidentally killed or injured in the Category II "Western Pacific pelagic longline (Shallow-set component)" fishery is changed from "stock unknown" to "HI stock."

Sperm whale (stock unknown) is removed from the list of species/stocks incidentally killed or injured in the Category II High Seas "Western Pacific pelagic longline (Shallow-set component)" fishery.

Short-finned pilot whale (CA/OR/WA) is removed from the list of species/stocks incidentally killed or injured in the Category III "Pacific highly migratory species drift gillnet" fishery.

List of Fisheries

The following tables set forth the final list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. In Tables 1 and 2, the estimated number of vessels/participants participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort; however, they represent the potential effort for each fishery, given the multiple gear types several state permits may allow for. Changes made to New England and Mid-Atlantic fishery participants listed in Table 2 in this final rule will not affect observer coverage or bycatch estimates as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Table 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal) in the LOF. 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 corrected to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, NMFS refers the reader to contact the relevant regional office (contact information included above in **SUPPLEMENTARY INFORMATION**).

For high seas fisheries, Table 3 lists the number of currently valid HSFCA permits held. Although this likely overestimates the number of active participants in many of these fisheries, the number of valid HSFCA permits is the most reliable data on the potential effort at this time.

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

In Tables 1 and 2, there are several fisheries classified in Category II that have no recent documented injuries or mortalities of marine mammals, or fisheries that did not result in a serious injury or mortality rate greater than 1 percent of a stock's PBR level. NMFS has classified these fisheries by analogy to other Category I or II fisheries that operate similar gear types 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. NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by a "2" after the fishery's name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the EEZ boundary, and therefore operate both within U.S. waters and on the high seas. NMFS has designated those fisheries in each Table by a "*" after the fishery's name.

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 Take Reduction Plans or Teams.

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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
LONGLINE/SET LINE FISHERIES:		
HI deep-set (tuna target) longline/set line *	127	Blainville's beaked whale, HI Bottlenose dolphin, HI Pelagic False killer whale, HI Insular[1] False killer whale, HI Pelagic[1] False killer whale, Palmyra Atoll Humpback whale, Central North Pacific Pantropical spotted dolphin, HI Risso's dolphin, HI Short-finned pilot whale, HI Striped dolphin, HI
CATEGORY II		
GILLNET FISHERIES:		
CA halibut/white seabass and other species set gillnet (>3.5 in mesh)	50	California sea lion, U.S. Harbor seal, CA Humpback whale, CA/OR/WA[1] Long-beaked common dolphin, CA Northern elephant seal, CA breeding Sea otter, CA Short-beaked common dolphin, CA/OR/WA
CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and <14 in) [2]	30	California sea lion, U.S. Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA
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]	983	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Spotted seal, AK
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA[1] Harbor seal, GOA Sea otter, Southwest AK Steller sea lion, Western U.S.

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
AK Cook Inlet salmon set gillnet	738	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Humpback whale, Central North Pacific[1] Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	571	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA[1] Harbor seal, GOA Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet[2]	162	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific
AK Peninsula/Aleutian Islands salmon set gillnet[2]	115	Harbor porpoise, Bering Sea Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	537	Dall's porpoise, AK Harbor porpoise, GOA[1] Harbor seal, GOA Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Sea otter, South Central AK Steller sea lion, Western U.S.[1]
AK Southeast salmon drift gillnet	476	Dall's porpoise, AK Harbor porpoise, Southeast AK Harbor seal, Southeast AK Humpback whale, Central North Pacific[1] Pacific white-sided dolphin, North Pacific Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet[2]	166	Gray whale, Eastern North Pacific Harbor seal, Southeast AK Humpback whale, Central North Pacific (Southeast AK)
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded)	210	Dall's porpoise, CA/OR/WA Harbor porpoise, inland WA[1] Harbor seal, WA inland
PURSE SEINE FISHERIES:		
AK Cook Inlet salmon purse seine	82	Humpback whale, Central North Pacific[1]
AK Kodiak salmon purse seine	370	Humpback whale, Central North Pacific[1]
TRAWL FISHERIES:		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
AK Bering Sea, Aleutian Islands flatfish trawl	34	Bearded seal, AK Harbor porpoise, Bering Sea Harbor seal, Bering Sea Killer whale, AK resident[1] Northern fur seal, Eastern Pacific Spotted seal, AK Steller sea lion, Western U.S.[1] Walrus, AK
AK Bering Sea, Aleutian Islands pollock trawl	95	Dall's porpoise, AK Harbor seal, AK Humpback whale, Central North Pacific Humpback whale, Western North Pacific Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient[1] Minke whale, AK Ribbon seal, AK Spotted seal, AK Steller sea lion, Western U.S.[1]
POT, RING NET, AND TRAP FISHERIES:		
AK Bering Sea sablefish pot	6	Humpback whale, Central North Pacific[1] Humpback whale, Western North Pacific[1]
CA spot prawn pot	27	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA[1]
CA Dungeness crab pot	534	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA[1]
OR Dungeness crab pot	433	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA[1]
WA/OR/CA sablefish pot	309	Humpback whale, CA/OR/WA[1]
WA coastal Dungeness crab pot/trap	228	Gray whale, Eastern North Pacific Humpback whale, CA/OR/WA[1]
LONGLINE/SET LINE FISHERIES:		
HI shallow-set (swordfish target) longline/ set line *	28	Bottlenose dolphin, HI Pelagic[1] Bryde's whale, HI False killer whale, HI Pelagic Humpback whale, Central North Pacific Kogia sp. whale (Pygmy or dwarf sperm whale), HI Risso's dolphin, HI Striped dolphin, HI
American Samoa longline[2]	60	False killer whale, American Samoa Rough-toothed dolphin, American Samoa
HI shortline[2]	21	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
AK Bering Sea, Aleutian Islands Pacific cod longline	54	Killer whale, AK resident[1] Ribbon seal, AK Steller sea lion, Western U.S.
CATEGORY III		
GILLNET FISHERIES:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	824	Harbor porpoise, Bering Sea
AK miscellaneous finfish set gillnet	3	Steller sea lion, Western U.S.
AK Prince William Sound salmon set gillnet	30	Harbor seal, GOA Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	986	None documented
CA set gillnet (mesh size <3.5 in)	304	None documented
CA thresher shark/swordfish drift gillnet (≥14 in mesh) *	45	California sea lion, U.S. Long-beaked common dolphin, CA Northern elephant seal, CA breeding Northern right-whale dolphin, CA/OR/WA Pacific white-sided dolphin, CA/OR/WA Risso's dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA
HI inshore gillnet	39	Bottlenose dolphin, HI Spinner dolphin, HI
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing)	24	Harbor seal, OR/WA coast
WA/OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet	913	None documented
WA/OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S. Harbor seal, OR/WA coast
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
PURSE SEINE, BEACH SEINE, ROUND HAUL, THROW NET AND TANGLE NET FISHERIES:		
AK Southeast salmon purse seine	415	None documented in the most recent 5 years of data
AK Metlakatla salmon purse seine	10	None documented
AK miscellaneous finfish beach seine	1	None documented
AK miscellaneous finfish purse seine	0	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
AK octopus/squid purse seine	0	None documented
AK roe herring and food/bait herring beach seine	4	None documented
AK roe herring and food/bait herring purse seine	361	None documented
AK salmon beach seine	31	None documented
AK salmon purse seine (excluding salmon purse seine fisheries listed as Category II)	936	Harbor seal, GOA
CA anchovy, mackerel, sardine purse seine	65	California sea lion, U.S. Harbor seal, CA
CA squid purse seine	80	Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA
CA tuna purse seine *	10	None documented
WA/OR sardine purse seine	42	None documented
WA (all species) beach seine or drag seine	235	None documented
WA/OR herring, smelt, squid purse seine or lampara	130	None documented
WA salmon purse seine	440	None documented
WA salmon reef net	53	None documented
HI opelu/akule net	20	None documented
HI inshore purse seine	8	None documented
HI throw net, cast net	28	None documented
HI hukilau net	36	None documented
HI lobster tangle net	2	None documented
DIP NET FISHERIES:		
CA squid dip net	115	None documented
WA/OR smelt, herring dip net	119	None documented
MARINE AQUACULTURE FISHERIES:		
CA marine shellfish aquaculture	unknown	None documented
CA salmon enhancement rearing pen	>1	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented
OR salmon ranch	1	None documented
WA/OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
TROLL FISHERIES:		
AK North Pacific halibut, AK bottom fish, WA/OR/CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries *	1,302 (102 AK)	None documented
AK salmon troll	2,045	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	<50	None documented
CA/OR/WA salmon troll	4,300	None documented
Commonwealth of the Northern Mariana Islands tuna troll	88	None documented
Guam tuna troll	401	None documented
HI trolling, rod and reel	2,210	None documented
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Greenland turbot longline	29	Killer whale, AK resident
AK Bering Sea, Aleutian Islands rockfish longline	0	None documented
AK Bering Sea, Aleutian Islands sablefish longline	28	None documented
AK Gulf of Alaska halibut longline	1,302	None documented
AK Gulf of Alaska Pacific cod longline	440	None documented
AK Gulf of Alaska rockfish longline	0	None documented
AK Gulf of Alaska sablefish longline	291	Sperm whale, North Pacific Steller sea lion, Eastern U.S.
AK halibut longline/set line (State and Federal waters)	2,521	Steller sea lion, Western U.S.

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
AK octopus/squid longline	2	None documented
AK State-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish)	1,448	None documented
WA/OR/CA groundfish, bottomfish longline/set line	367	None documented
WA/OR North Pacific halibut longline/set line	350	None documented
CA pelagic longline	6	None documented in the most recent 5 years of data
HI kaka line	28	None documented
HI vertical longline	18	None documented
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	9	Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	93	Harbor seal, Bering Sea Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands rockfish trawl	10	None documented
AK Gulf of Alaska flatfish trawl	41	None documented
AK Gulf of Alaska Pacific cod trawl	62	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	62	Fin whale, Northeast Pacific Northern elephant seal, North Pacific Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	34	None documented
AK food/bait herring trawl	4	None documented
AK miscellaneous finfish otter / beam trawl	317	None documented
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	32	None documented
AK State-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl	2	None documented
CA halibut bottom trawl	53	None documented
WA/OR/CA shrimp trawl	300	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
WA/OR/CA groundfish trawl	160-180	California sea lion, U.S. Dall's porpoise, CA/OR/WA Harbor seal, OR/WA coast Northern fur seal, Eastern Pacific Pacific white-sided dolphin, CA/OR/WA Steller sea lion, Eastern U.S.
POT, RING NET, AND TRAP FISHERIES:		
AK statewide miscellaneous finfish pot	293	None documented
AK Aleutian Islands sablefish pot	8	None documented
AK Bering Sea, Aleutian Islands Pacific cod pot	68	None documented
AK Bering Sea, Aleutian Islands crab pot	297	None documented
AK Gulf of Alaska crab pot	300	None documented
AK Gulf of Alaska Pacific cod pot	154	Harbor seal, GOA
AK Southeast Alaska crab pot	433	Humpback whale, Central North Pacific (Southeast AK)
AK Southeast Alaska shrimp pot	283	Humpback whale, Central North Pacific (Southeast AK)
AK shrimp pot, except Southeast	15	None documented
AK octopus/squid pot	27	None documented
AK snail pot	1	None documented
CA coonstripe shrimp, rock crab, tanner crab pot or trap	305	Gray whale, Eastern North Pacific Harbor seal, CA
CA spiny lobster	225	Gray whale, Eastern North Pacific
OR/CA hagfish pot or trap	54	None documented
WA/OR shrimp pot/trap	254	None documented
WA Puget Sound Dungeness crab pot/trap	249	None documented
HI crab trap	9	None documented
HI fish trap	11	None documented
HI lobster trap	3	Hawaiian monk seal
HI shrimp trap	1	None documented
HI crab net	8	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
HI Kona crab loop net	41	None documented
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline/hand troll and mechanical jig	445	None documented
AK North Pacific halibut handline/hand troll and mechanical jig	228	None documented
AK octopus/squid handline	0	None documented
American Samoa bottomfish	<50	None documented
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented
Guam bottomfish	200	None documented
HI aku boat, pole, and line	6	None documented
HI Main Hawaiian Islands deep-sea bottomfish handline	580	Hawaiian monk seal
HI inshore handline	460	None documented
HI tuna handline	531	None documented
WA groundfish, bottomfish jig	679	None documented
Western Pacific squid jig	6	None documented
HARPOON FISHERIES:		
CA swordfish harpoon	30	None documented
POUND NET/WEIR FISHERIES:		
AK herring spawn on kelp pound net	415	None documented
AK Southeast herring roe/food/bait pound net	6	None documented
WA herring brush weir	1	None documented
HI bullpen trap	4	None documented
BAIT PENS:		
WA/OR/CA bait pens	13	California sea lion, U.S.
DREDGE FISHERIES:		
Coastwide scallop dredge	108 (12 AK)	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	0	None documented
AK clam	156	None documented
WA herring spawn on kelp	4	None documented
AK Dungeness crab	2	None documented
AK herring spawn on kelp	266	None documented
AK urchin and other fish/shellfish	570	None documented
CA abalone	0	None documented
CA sea urchin	583	None documented
HI black coral diving	1	None documented
HI fish pond	N/A	None documented
HI handpick	53	None documented
HI lobster diving	36	None documented
HI spearfishing	163	None documented
WA/CA kelp	4	None documented
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection	637	None documented
WA shellfish aquaculture	684	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK/WA/OR/CA commercial passenger fishing vessel	>7,000 (2,702 AK)	Killer whale, stock unknown Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
HI charter vessel	114	None documented
LIVE FINFISH/SHELLFISH FISHERIES:		
CA nearshore finfish live trap/hook-and-line	93	None documented

List of Abbreviations and Symbols Used in Table 1: AK - Alaska; CA - California; GOA - Gulf of Alaska; HI - Hawaii; OR - Oregon; WA - Washington; [1] Fishery classified based on serious injuries and mortalities of this stock, which are greater than 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR; [2] Fishery classified by analogy; * Fishery has an associated high seas component listed in Table 3.

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

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
GILLNET FISHERIES:		
Mid-Atlantic gillnet	5,495	Bottlenose dolphin, Northern Migratory coastal[1] Bottlenose dolphin, Southern Migratory coastal[1] Bottlenose dolphin, Northern NC estuarine system[1] Bottlenose dolphin, Southern NC estuarine system[1] Bottlenose dolphin, WNA offshore Common dolphin, WNA Gray seal, WNA Harbor porpoise, GME/BF Harbor seal, WNA Harp seal, WNA Humpback whale, Gulf of Maine Long-finned pilot whale, WNA Minke whale, Canadian east coast Short-finned pilot whale, WNA White-sided dolphin, WNA
Northeast sink gillnet	7,712	Bottlenose dolphin, WNA offshore Common dolphin, WNA Fin whale, WNA Gray seal, WNA Harbor porpoise, GME/BF[1] Harbor seal, WNA Harp seal, WNA Hooded seal, WNA Humpback whale, Gulf of Maine Minke whale, Canadian east coast North Atlantic right whale, WNA Risso's dolphin, WNA White-sided dolphin, WNA
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	12,489	Harbor seal, WNA Humpback whale, Gulf of Maine Minke whale, Canadian east coast North Atlantic right whale, WNA[1]

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
LONGLINE FISHERIES:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline *	94	Atlantic spotted dolphin, Northern GMX Atlantic spotted dolphin, WNA Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, Northern GMX continental shelf Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA Long-finned pilot whale, WNA[1] Mesoplodon beaked whale, WNA Northern bottlenose whale, WNA Pantropical spotted dolphin, Northern GMX Pantropical spotted dolphin, WNA Risso's dolphin, Northern GMX Risso's dolphin, WNA Short-finned pilot whale, Northern GMX Short-finned pilot whale, WNA[1]
CATEGORY II		
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet[2]	1,167	None documented in the most recent 5 years of data
Gulf of Mexico gillnet[2]	724	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, and estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX Coastal
NC inshore gillnet	2,250	Bottlenose dolphin, Northern NC estuarine system[1] Bottlenose dolphin, Southern NC estuarine system[1]
Northeast anchored float gillnet[2]	662	Harbor seal, WNA Humpback whale, Gulf of Maine White-sided dolphin, WNA
Northeast drift gillnet[2]	608	None documented
Southeast Atlantic gillnet[2]	779	Bottlenose dolphin, Southern Migratory coastal Bottlenose dolphin, GA coastal Bottlenose dolphin, Central FL coastal Bottlenose dolphin, Northern FL coastal Bottlenose dolphin, SC coastal
Southeastern U.S. Atlantic shark gillnet	30	Atlantic spotted dolphin, WNA Bottlenose dolphin, Central FL coastal[1] North Atlantic right whale, WNA
TRAWL FISHERIES:		

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
Mid-Atlantic mid-water trawl (including pair trawl)	546	Bottlenose dolphin, WNA offshore Common dolphin, WNA Long-finned pilot whale, WNA Risso's dolphin, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA[1]
Mid-Atlantic bottom trawl	1,182	Bottlenose dolphin, WNA offshore Common dolphin, WNA[1] Long-finned pilot whale, WNA[1] Short-finned pilot whale, WNA[1] White-sided dolphin, WNA
Northeast mid-water trawl (including pair trawl)	953	Harbor seal, WNA Long-finned pilot whale, WNA[1] Short-finned pilot whale, WNA[1] White-sided dolphin, WNA
Northeast bottom trawl	1,635	Common dolphin, WNA Harbor porpoise, GME/BF Harbor seal, WNA Harp seal, WNA Long-finned pilot whale, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA[1]
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	4,950	Atlantic spotted dolphin, Northern GMX Bottlenose dolphin, GA coastal[1] Bottlenose dolphin, SC coastal[1] Bottlenose dolphin, Eastern GMX coastal[1] Bottlenose dolphin, Western GMX coastal[1] Bottlenose dolphin, GMX bay, sound, estuarine[1] West Indian manatee, FL
TRAP/POT FISHERIES:		
Atlantic blue crab trap/pot	6,479	Bottlenose dolphin, Charleston estuarine system[1] Bottlenose dolphin, Indian River Lagoon estuarine system[1] Bottlenose dolphin, Jacksonville estuarine system[1] Bottlenose dolphin, GA coastal[1] Bottlenose dolphin, Northern GA/Southern SC estuarine system[1] Bottlenose dolphin, Southern GA estuarine system[1] Bottlenose dolphin, Northern Migratory coastal[1] Bottlenose dolphin, Southern Migratory coastal[1] Bottlenose dolphin, Central FL coastal[1] Bottlenose dolphin, Northern FL coastal[1] Bottlenose dolphin, Northern NC estuarine system[1] Bottlenose dolphin, Southern NC estuarine system[1] Bottlenose dolphin, SC coastal[1] West Indian manatee, FL[1]

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
Atlantic mixed species trap/pot[2]	1,912	Fin whale, WNA Humpback whale, Gulf of Maine
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	40-42	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Northern GMX coastal[1] Bottlenose dolphin, Western GMX coastal[1]
Mid-Atlantic menhaden purse seine[2]	54	Bottlenose dolphin, Northern Migratory coastal Bottlenose dolphin, Southern Migratory coastal
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	666	Bottlenose dolphin, Northern NC estuarine system[1] Bottlenose dolphin, Northern Migratory coastal[1] Bottlenose dolphin, Southern Migratory coastal[1]
NC long haul seine	372	Bottlenose dolphin, Northern NC estuarine system[1]
STOP NET FISHERIES:		
NC roe mullet stop net	13	Bottlenose dolphin, Southern NC estuarine system[1]
POUND NET FISHERIES:		
VA pound net	52	Bottlenose dolphin, Northern Migratory coastal[1] Bottlenose dolphin, Southern Migratory coastal[1]
CATEGORY III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA
DE River inshore gillnet	60	None documented in the most recent 5 years of data
Long Island Sound inshore gillnet	20	None documented in the most recent 5 years of data
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet	32	None documented in the most recent 5 years of data
Southeast Atlantic inshore gillnet	unknown	None documented
TRAWL FISHERIES:		
Atlantic shellfish bottom trawl	>67	None documented
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, Northern GMX continental shelf

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
Gulf of Mexico mixed species trawl	20	None documented
GA cannonball jellyfish trawl	1	None documented
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	>7	Harbor seal, WNA Gray seal, WNA
Gulf of Maine menhaden purse seine	>2	None documented
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
U.S. Atlantic tuna purse seine *	5	Long-finned pilot whale, WNA Short-finned pilot whale, WNA
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	1,183	None documented in the most recent 5 years of data
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon	>403	Humpback whale, Gulf of Maine
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line	>5,000	None documented
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line	<125	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX continental shelf
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon	1,446	None documented
U.S. Atlantic, Gulf of Mexico trotline	unknown	None documented
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented
Caribbean spiny lobster trap/pot	>197	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
FL spiny lobster trap/pot	2,145	Bottlenose dolphin, Biscayne Bay estuarine Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, FL Bay estuarine
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, & estuarine West Indian manatee, FL
Gulf of Mexico mixed species trap/pot	unknown	None documented
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot	4,453	Bottlenose dolphin, Biscayne Bay estuarine
U.S. Mid-Atlantic eel trap/pot	>700	None documented
STOP SEINE/WEIR/POUND NET FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	unknown	Gray seal, Northwest North Atlantic Harbor porpoise, GME/BF Harbor seal, WNA Minke whale, Canadian East Coast White-sided dolphin, WNA
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net)	unknown	Bottlenose dolphin, Northern NC estuarine system
DREDGE FISHERIES:		
Gulf of Maine mussel dredge	unknown	None documented
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	258	None documented
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented
U.S. Mid-Atlantic offshore surf clam and quahog dredge	unknown	None documented
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	None documented in the most recent 5 years of data
Gulf of Mexico haul/beach seine	unknown	None documented

Fishery Description	Estimated # of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
Southeastern U.S. Atlantic haul/beach seine	25	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection	20,000	None documented
Gulf of Maine urchin dive, hand/mechanical collection	unknown	None documented
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net	unknown	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel	4,000	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Biscayne Bay estuarine Bottlenose dolphin, Indian River Lagoon estuarine system Bottlenose dolphin, Southern NC estuarine system

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

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

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Category I		
LONGLINE FISHERIES:		
Atlantic Highly Migratory Species * +	77	Atlantic spotted dolphin, WNA Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA Long-finned pilot whale, WNA Mesoplodon beaked whale, WNA Pygmy sperm whale, WNA Risso's dolphin, WNA Short-finned pilot whale, WNA
Western Pacific Pelagic (Deep-set component) * ^+	127	Blainville's beaked whale, HI Bottlenose dolphin, HI Pelagic False killer whale, HI Pelagic False killer whale, unknown Humpback whale, Central North Pacific Pantropical spotted dolphin, HI Risso's dolphin, HI Short-finned pilot whale, HI Striped dolphin, HI
Category II		
DRIFT GILLNET FISHERIES:		
Atlantic Highly Migratory Species	1	Undetermined
TRAWL FISHERIES:		
Atlantic Highly Migratory Species **	3	Undetermined
Pacific Highly Migratory Species **	2	Undetermined
CCAMLR	0	Antarctic fur seal
South Pacific Albacore Troll	2	Undetermined
Western Pacific Pelagic	3	Undetermined
PURSE SEINE FISHERIES:		
South Pacific Tuna Fisheries	35	Undetermined
Western Pacific Pelagic	3	Undetermined
POT VESSEL FISHERIES:		

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Pacific Highly Migratory Species **	7	Undetermined
South Pacific Albacore Troll	5	Undetermined
Western Pacific Pelagic	7	Undetermined
LONGLINE FISHERIES:		
CCAMLR	0	None documented
Pacific Highly Migratory Species * +	75	Risso's dolphin, CA/OR/WA
South Pacific Albacore Troll	11	Undetermined
South Pacific Tuna Fisheries **	8	Undetermined
Western Pacific Pelagic (Shallow-set component) * ^+	28	Bottlenose dolphin, HI Pelagic Bryde's whale, HI Humpback whale, Central North Pacific Kogia sp. whale (Pygmy or dwarf sperm whale), HI Risso's dolphin, HI Striped dolphin, HI
HANDLINE/POLE AND LINE FISHERIES:		
Atlantic Highly Migratory Species	2	Undetermined
Pacific Highly Migratory Species	25	Undetermined
South Pacific Albacore Troll	8	Undetermined
Western Pacific Pelagic	10	Undetermined
TROLL FISHERIES:		
Atlantic Highly Migratory Species	7	Undetermined
South Pacific Albacore Troll	59	Undetermined
South Pacific Tuna Fisheries **	3	Undetermined
Western Pacific Pelagic	40	Undetermined
LINERS NEI FISHERIES:		
Pacific Highly Migratory Species **	1	Undetermined
South Pacific Albacore Troll	1	Undetermined
Western Pacific Pelagic	1	Undetermined
FACTORY MOTHERSHIP FISHERIES:		
Western Pacific Pelagic	1	Undetermined

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
MULTIPURPOSE VESSELS NEI FISHERIES:		
Atlantic Highly Migratory Species	1	Undetermined
Pacific Highly Migratory Species **	7	Undetermined
South Pacific Albacore Troll	4	Undetermined
Western Pacific Pelagic	5	Undetermined
Category III		
DRIFT GILLNET FISHERIES:		
Pacific Highly Migratory Species * ^	3	Long-beaked common dolphin, CA 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
PURSE SEINE FISHERIES		
Pacific Highly Migratory Species * ^	8	None documented
TROLL FISHERIES:		
Pacific Highly Migratory Species *	271	None documented

List of Terms, Abbreviations, and Symbols Used in Table 3:
GMX- Gulf of Mexico.
NEI - Not Elsewhere Identified.
WNA - Western North Atlantic.
* Fishery is an extension/component of an existing fishery operating within U.S. waters listed in Table 1 or 2. The number of permits listed in Table 3 represents only the number of permits for the high seas component of the fishery.
** These gear types are not authorized under the Pacific HMS FMP (2004), the Atlantic HMS FMP (2006), or without a South Pacific Tuna Treaty license (in the case of the South Pacific Tuna fisheries). Because HSFCA permits are valid for five years, permits obtained in past years exist in the HSFCA permit database for gear types that are now unauthorized. Therefore, while HSFCA permits exist for these gear types, it does not represent effort. In order to land fish species, fishers must be using an authorized gear type. Once these permits for unauthorized gear types expire, the permit-holder will be required to obtain a permit for an authorized gear type.
+ The marine mammal species or stock listed as killed or injured in this fishery has been observed taken by this fishery on the high seas.
^ The list of marine mammal species killed or injured in this fishery is identical to the list of marine mammal species killed or injured in U.S. waters component of the fishery, minus coastal stocks, because the marine mammal species 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 fisheries operating in U.S. waters.

Table 4 - Fisheries Affected by Take Reduction Teams and Plans

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

* Only applicable to the portion of the fishery operating in U.S. waters.
For a description of each Take Reduction Team and copies of Take Reduction Plans, access:
http://www.nmfs.noaa.gov/pr/interactions/trt/

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Classification

At the proposed rule stage for this action, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. Therefore a Final Regulatory Flexibility Analysis was not required and none has been prepared. The factual basis leading to the certification is set forth below.

Under existing regulations, all individuals participating in Category I or II fisheries must register under the MMPA and obtain an Authorization Certificate. The Authorization Certificate authorizes the taking of non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Additionally, individuals may be subject to a Take Reduction Plan (TRP) and requested to carry an observer. NMFS has estimated that approximately 72,000 fishing vessels, most of which are small entities, may operate in Category I or II fisheries, and therefore, are required to register with NMFS. The MMPA registration process is integrated with existing state and Federal licensing, permitting, and registration programs. Therefore, individuals who have a state or Federal fishing permit or landing license, or who are authorized through another related state or Federal fishery registration program, are currently not required to register separately under the MMPA or pay the $25 registration fee. Therefore, there are no direct costs to small entities under this final rule.

If a vessel is requested to carry an observer, individuals will not incur any direct economic costs associated with carrying that observer. Potential indirect costs to individuals required to take observers may include: Lost space on deck for catch, lost bunk space, and lost fishing time due to time needed to process bycatch data. For effective monitoring, however, observers will rotate among a limited number of vessels in a fishery at any given time and each vessel within an observed fishery has an equal probability of being requested to accommodate an observer. Therefore, the potential indirect costs to individuals are expected to be minimal because observer coverage would only be required for a small percentage of an individual's total annual fishing time. In addition, section 118 of the MMPA states that an observer will not be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe, thereby exempting vessels too small to accommodate an observer from this requirement. As a result of this certification, an initial regulatory flexibility analysis is not required and was not prepared. In the event that reclassification of a fishery to Category I or II results in a TRP, economic analyses of the effects of that plan would be summarized in subsequent rulemaking actions.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of individuals under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal injuries or mortalities has been approved by OMB under OMB control number 0648–0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (*see* **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

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

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

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

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

This final 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 final 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., and A.M. Gorgone. 2005. False killer whale dorsal fin disfigurements as a possible indicator of long-line fishery interactions in Hawaiian waters. Pacific Science 59: 593–601.

Dated: November 1, 2010.

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[FR Doc. 2010–28073 Filed 11–5–10; 8:45 am]

BILLING CODE 3510–22–P