2007–2009 indicating continued attainment. Preliminary data for the 2010 ozone season available to date are consistent with continued attainment. As provided in 40 CFR 51.918, if EPA finalizes this determination, it would suspend the requirements for the Baton Rouge area to submit planning SIPs related to attainment of the 1997 8-hour ozone NAAQS for this area, for so long as the area continues to attain the standard.

VI. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality, and would, if finalized, result in the suspension of certain Federal requirements, and would not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 14, 2010.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 2010–15471 Filed 6–24–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 100216088–0093–01]

RIN 0648–AY69

List of Fisheries for 2011

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

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its proposed List of Fisheries (LOF) for 2011, as required by the Marine Mammal Protection Act (MMPA). The proposed 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 in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

DATES: Comments must be received by August 24, 2010.

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

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

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

Comments regarding the burden-hour estimates, or any other aspect of the collection of information requirements contained in this proposed rule, should be submitted in writing to Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or to David Rostker, OMB, by fax to 202–395–7285 or by e-mail to *David_Rostker@omb.eop.gov.*

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

See **SUPPLEMENTARY INFORMATION** for a listing of all Regional Offices.

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, 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 proposed 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 observers and the level of observer coverage 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 in the LOF, including observer coverage. 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. 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/.* Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's Web site: *http://www.st.nmfs.gov/st4/nop/.*

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

This proposed rule includes three tables that list all U.S. commercial fisheries by LOF Category. Table 1 lists all of the fisheries in the Pacific Ocean (including Alaska); Table 2 lists all of the fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; and Table 3 lists all U.S.-authorized fisheries on the high seas. A fourth table, Table 4, lists all 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 Seas Fishing Compliance Act (HSFCA) permits in each fishery. As of 2004, NMFS issues HSFCA permits only for high seas fisheries analyzed in accordance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The authorized high seas fisheries are broad in scope and encompass multiple specific fisheries identified by gear type. For the purposes of the LOF, the high seas fisheries are subdivided based on gear type (*e.g.,* trawl, longline, purse seine, gillnet, troll, etc.) to provide more detail on composition of effort within these fisheries. Many fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery, but an extension of a fishery operating within U.S. waters (listed in Table 1 or 2). NMFS designates those fisheries in Tables 1, 2, and 3 by a "*" after the fishery's name. The number of HSFCA permits listed in Table 3 for the high seas components of these fisheries operating in U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels/participants holding these 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 include 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, regulations managing the fishery, applicable take reduction teams or plans, 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. 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 Program 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?

The registrations of vessel or gear owners that participate in Pacific Islands, Southwest, or Alaska regional fisheries are automatically renewed and participants should receive an authorization certificate by January 1 of each new year. Vessel or gear owners in Northwest regional fisheries receive authorization with each renewed State fishing license, the timing of which varies based on target species. Vessel or gear owners who participate in these regions and have not received authorization certificates by January 1 or with renewed fishing licenses must contact the appropriate NMFS Regional Office (*see* **ADDRESSES**).

Vessel or gear owners participating in Southeast or Northeast regional fisheries may receive an authorization certificate by calling the relevant NMFS Regional Office or visiting the relevant NMFS Regional Office Web site (*see* How Do I Receive My Authorization Certificate and Injury/Mortality Reporting Forms?).

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.* 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, and Gulf of Mexico large pelagic 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 proposed rule provides a list of fisheries affected by take reduction teams and plans. Take reduction plan regulations can be found at 50 CFR 229.30 through 229.36.

Sources of Information Reviewed for the Proposed 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 fisheries 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 proposed 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 (which will be available for review and comment later during the public comment period for this proposed 2011 LOF). The SARs are available at: *http://www.nmfs.noaa.gov/pr/sars/.*

Fishery Descriptions

Beginning with the final 2008 LOF (72 FR 66048, November 27, 2007), NMFS describes each Category I and II fishery on the LOF. Below, NMFS describes the fisheries classified as Category I or II on the 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 summaries available at: *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 (proposed to be elevated to Category II in this proposed rule) 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.

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 estimated number of vessels/participants in a particular fishery, and the species/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 proposed changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), CA (California), FL (Florida), GMX (Gulf of Mexico), HI (Hawaii), MA (Massachusetts), MD (Maryland), ME (Maine), NC (North Carolina), NJ (New Jersey), NY (New York), OR (Oregon), SC (South Carolina), VA (Virginia), WA (Washington), and WNA (Western North Atlantic).

Commercial Fisheries in the Pacific Ocean

Fishery Classification

WA Coastal Dungeness Crab Pot/Trap Fishery

NMFS proposes to elevate the "WA coastal Dungeness crab pot/trap" fishery (proposed to be split from the Category III "WA Dungeness crab pot" fishery and renamed the "WA coastal Dungeness crab pot/trap" fishery in this proposed rule) from Category III to Category II based on the serious injury of a humpback whale (CA/OR/WA stock) entangled in Dungeness crab pot/trap gear in WA state waters in 2008 (draft 2010 SAR). The estimated annual mortality and serious injury of humpback whales (CA/OR/WA stock) due to interactions with all fisheries (Tier 1 analysis) is approximately 3.6 animals/year, which exceeds 10 percent of the stock's PBR level of 11.3 (draft 2010 SAR). The single serious injury in the "WA coastal Dungeness crab pot/trap" fishery in 2008 (Tier 2 analysis) results in an average mortality and serious injury rate of 0.2 humpback whales per year (when averaged over the latest five year data period), or 1.7 percent of PBR, meeting the criteria for a Category II classification. There have been no reported humpback whale entanglements in crab fisheries in the inland waters of WA. There is no observer coverage in this fishery.

CA/OR Thresher Shark/Swordfish Drift Gillnet Fishery

NMFS proposes to reclassify the "CA/OR thresher shark/swordfish drift gillnet" fishery from Category I to Category III. NMFS observed this fishery from 2004 through 2008 at coverage levels ranging from 13.5 percent to 20.9 percent. There have been no observed serious injury or mortality of any marine mammal stock for which the average total fishery mortality and serious injury exceeds 10 percent of the stock's PBR (draft 2010 SARs). This fishery was classified as Category I based on the level of serious injury and mortality of short-finned pilot whales (CA/OR/WA stock) in this fishery exceeding the stock's PBR level. However, a short-finned pilot whale has not been observed killed or injured in this fishery in the most recent five years of data (2004–2008), indicating that the serious injury or mortality of short-finned pilot whales is now zero (draft 2010 SAR). NMFS will continue to observe this fishery under authority of the Highly Migratory Species FMP (50 CFR 660.719) and monitor levels of marine mammal mortality and serious injury in this fishery. Further, all Pacific Offshore Cetacean Take Reduction Plan measures (50 CFR 229.31) continue to apply to this fishery.

CA Anchovy, Mackerel, Sardine Purse Seine Fishery

NMFS proposes to reclassify the "CA anchovy, mackerel, sardine purse seine" fishery from Category II to Category III. This fishery was classified as Category II based on the serious injury or mortality of bottlenose dolphins (CA/OR/WA offshore stock) reported in logbooks from the early 1990s. Since that time there have been no reports of interactions with bottlenose dolphins, and there is no other available information to suggest that this fishery is causing serious injury or mortality of bottlenose dolphins. The serious injury or mortality caused by this fishery to

other marine mammal stocks is less than 1 percent of each stock's PBR (draft 2010 SAR), thus NMFS is proposing that this fishery be placed in Category III. Observer coverage in this fishery has been limited, with observer coverage in 2008 at less than 1 percent.

CA Squid Purse Seine Fishery

NMFS proposes to reclassify the "CA squid purse seine" fishery from Category II to Category III. This fishery was classified as Category II due to the serious injury or mortality of long-beaked common dolphins (CA stock). The draft 2010 SAR for long-beaked common dolphin (CA stock) indicates that the average total fishery mortality and serious injury for this stock is below 10 percent of its PBR (Tier 1 analysis) and is considered insignificant and approaching a zero mortality and serious injury rate, meeting the criteria for a Category III classification. Long-beaked common dolphins and short-beaked common dolphins are the only marine mammals that have been observed seriously injured or killed in this fishery. Observer coverage is this fishery is low, at less than 2 percent from 2004–2007.

CA Tuna Purse Seine Fishery

NMFS proposes to reclassify the "CA tuna purse seine" fishery from Category II to Category III. The "CA tuna purse seine" fishery was classified as Category II by analogy to the Category II "CA squid purse seine" fishery. Since NMFS is proposing to reclassify the "CA squid purse seine" fishery to Category III in this proposed rule, NMFS also proposes to reclassify the "CA tuna purse seine" fishery. Observer coverage in this fishery is low, at less than 2 percent from 2004–2007.

Addition of Fisheries

NMFS proposes to add the "HI kaka line" fishery to the LOF as Category III. This fishery is managed by the State of HI, and includes fishing effort with gear consisting of a mainline less than one nautical mile in length to which multiple branchlines with baited hooks are attached. The mainline is set horizontally. Target species include various nearshore and pelagic species. While this fishery has gear that may be analogous to the Category II "HI shortline" fishery, the gear is fixed on or near the bottom, or in shallow midwater. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. This fishery is not currently observed.

NMFS proposes to add the "HI vertical longline" fishery to the LOF as Category III. This fishery is managed by the State of HI. The fishery is prosecuted using a vertical mainline less than one nautical mile in length, suspended from the surface with a float, from which leaders with baited hooks are attached, and ending with a terminal weight. Target species include various pelagic fish species. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 18 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "HI crab net" fishery to the LOF as Category III. This fishery is managed by the State of HI. This fishery is prosecuted using ring nets set manually from the shoreline, mainly in estuarine areas, to catch various crab species. The nets are used singly, and are not connected with a ground line. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 8 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "HI hukilau net" fishery to the LOF as Category III. This is a beach seine fishery managed by the State of HI. Target species include inshore and reef fish. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 36 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "HI lobster tangle net" fishery to the LOF as Category III. This fishery is managed by the State of HI. This fishery is prosecuted using large mesh net to entangle spiny and slipper lobsters. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 2 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "HI bullpen trap" fishery to the LOF as Category III. This fishery is managed by the State of HI, and includes fishing with a net(s) fixed in position to form a large stationary enclosure. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 4 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "WA Puget Sound Dungeness crab pot/trap" fishery to the LOF as Category III (proposed to be split from the Category III "WA Dungeness crab pot" fishery in this proposed rule, with the coastal fishery proposed for Category II). This fishery is managed by the State of WA, and includes effort in inland marine waters south of the U.S./Canada border and east to Cape Flattery. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, warranting a Category III classification. The Puget Sound crab fishery is a limited entry fishery with 249 permits. In 2009, the 249 permits were owned by 150 individuals. This fishery is not currently observed.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to change the name of the Category III "HI squiding, spear" fishery to the "HI spearfishing" fishery to reflect the multiple target species of spearfishing.

NMFS proposes to change the name of the Category III "HI Main Hawaiian Islands, Northwestern Hawaiian Islands deep sea bottomfish" fishery to the "HI Main Hawaiian Islands deep-sea bottomfish handline" fishery. The fishery in the Northwest Hawaiian Islands was closed at the end of 2009 and the addition of "handline" to the name clarifies the gear type used in the fishery.

NMFS proposes to move the Category III "HI Kona crab loop net" fishery 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 to more accurately describe the gear type used in this fishery. This fishery uses fine-stranded netting stretched over a round or square metal frame to form a flat net. Multiple nets are attached to a mainline, set on sandy bottoms like a string of traps, and used to entangle crabs in the mesh.

NMFS proposes to add "Tangle Net" to the name of the Category III "Purse Seine, Beach Seine, Round Haul and Throw Net Fisheries" heading in Table 1, to include the "HI lobster tangle net" fishery (proposed to be added to the LOF as Category III in this proposed rule).

NMFS proposes to split the Category III "WA Dungeness crab pot" fishery into two separate fisheries: the Category II "WA coastal Dungeness crab pot/trap" fishery (*see* above under "Fishery Classifications" for more details) and the Category III "WA Puget Sound Dungeness crab pot/trap" fishery (*see* above under "Fishery Additions" for more details).

NMFS proposes to add a superscript "2" after the Category II "CA yellowtail, barracuda, and white seabass drift gillnet (mesh ≥3.5 in and <14 in)" fishery in Table 1 to denote that this fishery is classified by analogy to the Category II "CA halibut/white seabass and other species set gillnet (≥3.5 in mesh)" fishery. The "CA halibut/white seabass and other species set gillnet (≤ 3.5 in mesh)" fishery is classified as Category II based on the entanglement and serious injury of a humpback whale in 2008. The "CA yellowtail, barracuda, and white seabass drift gillnet (mesh ≥3.5 in and <14 in)" fishery operates in similar areas and similar seasons with the "CA halibut/white seabass and other species set gillnet (≥3.5 in mesh)" fishery, thus it is reasonable that either fishery may cause serious injury or mortality of humpback whales.

Number of Vessels/Persons

NMFS proposes to update the estimated number of persons/vessels in the "CA/OR thresher shark/swordfish drift gillnet" fishery (proposed to be reclassified as Category III in this proposed rule) from 85 to 45.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA halibut/white seabass and other species set gillnet" fishery from 58 to 50.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA yellowtail, barracuda, and white seabass drift gillnet" fishery from 24 to 30.

NMFS proposes to update the estimated number of persons/vessels in the "CA squid purse seine" fishery (proposed to be reclassified as Category III in this proposed rule) from 64 to 65.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA spot prawn pot" fishery from 29 to 27.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA Dungeness crab pot" fishery from 625 to 534.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA/OR/WA sablefish pot" fishery from 155 to 309.

NMFS proposes to update the estimated number of persons/vessels in the Category III "CA anchovy, mackerel, sardine purse seine" fishery from 63 to 65.

NMFS proposes to update the estimated number of persons/vessels in the following HI fisheries to reflect the number of licensees reporting landings in 2009. Category I: "HI deep-set (tuna target) longline/set line" from 129 to 127. Category II: "HI shortline" from 11 to 21. Category III: "HI inshore gillnet" from 5 to 39; "HI Kona crab loop net" from 42 to 41; "HI opelu/akule net" from 12 to 20; "HI inshore purse seine" from 23 to 8; "HI throw net, cast net" from 14 to 28; "HI trolling, rod and reel" from 1,321 to 2,210; "HI crab trap" from 22 to 9; "HI fish trap" from 19 to 11; "HI lobster trap" from 0 to 3; "HI shrimp trap" from 5 to 1; "HI aku boat, pole, and line" from 4 to 6; "HI inshore handline" from 307 to 460; "HI tuna handline" from 298 to 531; "HI handpick" from 37 to 53; "HI lobster diving" from 19 to 36; "HI spearfishing" (proposed name change in this proposed rule) from 91 to 163; and "HI Main Hawaiian Islands deep-sea bottomfish handline" (proposed name change in this proposed rule) from 300 to 580.

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes to add humpback whale (CA/OR/WA stock) to the list of species/stocks incidentally killed or injured in the "WA coastal Dungeness crab pot/trap" fishery (proposed to be elevated to Category II in this proposed rule). NMFS further proposes to include a superscript "1" following the humpback whale (CA/OR/WA stock) in Table 1, indicating that this stock is driving the classification of the fishery. A humpback whale (CA/OR/WA stock) was entangled and seriously injured in Dungeness crab pot/trap gear in WA state waters in 2008 (draft 2010 SAR). The single serious injury results in an average mortality and serious injury rate of 0.2 humpback whales per year (when averaged over the latest 5 year data period), or 1.7 percent of the stock's PBR of 11.3 (draft 2010 SAR).

NMFS proposes to remove short finned pilot whales (CA/OR/WA stock) from the list of species/stocks incidentally killed or injured in the "CA/OR thresher shark/swordfish drift gillnet" fishery (proposed to be reclassified as Category II in this proposed rule). This fishery has been observed at approximately 20 percent for the period 2004–2008 (approximately 13.5 percent in 2008) and during that period there were no observed interactions with short-finned pilot whales.

NMFS proposes to remove bottlenose dolphin (CA/OR/WA offshore stock) from the list of species/stocks incidentally killed or injured in the "CA anchovy, mackerel, sardine purse seine" fishery (proposed to be reclassified as Category III in this proposed rule). The information on the serious injury or mortality of bottlenose dolphins in this fishery was based upon logbooks from the early 1990s. Since that time there have been no reports of bottlenose dolphin interactions in this fishery (draft 2010 SAR) and there is no other available information to suggest that this fishery is causing serious injury or mortality of bottlenose dolphins. Observer coverage in this fishery has been limited, with less than 1 percent observer coverage in 2008.

NMFS proposes to remove Risso's dolphin (CA/OR/WA stock) from the list of species/stocks incidentally killed or injured in the Category III "CA pelagic longline" fishery. There have been no interactions in the latest 5 years of data (draft 2010 SAR). The last observed entanglement of a marine mammal in this fishery occurred in 2003. Observer coverage in this fishery ranged from 12 to 50 percent from 2003–2005, and was 100 percent from 2006–2008.

NMFS proposes to add humpback whale (CA/OR/WA stock) 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. In the 2010 proposed LOF (74 FR 27739; June 11, 2009), NMFS requested public comment and/or information on two reports to the Large Whale Disentanglement Program of a humpback whale entangled in, and seriously injured by, pink monofilament gillnet gear (May 10, 2007, offshore of Dana Point, CA, and seen later the same day off Palos Verdes, CA). NMFS has since received additional information regarding this entangled humpback whale. Based upon the area of the entanglement and the type of gear on the whale, NMFS considers it most likely that the gear involved in this entanglement was from the "CA halibut/white seabass and other species set gillnet (>3.5 in mesh)" fishery. One serious injury or mortality of a humpback whale (CA/OR/WA stock) would result in an annual mortality and serious injury rate of 0.2 animals per year (when averaged over five years) or 1.7 percent of the stock's PBR of 11.3 (draft 2010 SAR), which is consistent with a Category II classification. NMFS also proposes adding a superscript "1" after humpback whale (CA/OR/WA stock), indicating that this stock is driving the Category II classification of

the fishery. NMFS is requesting comments on this proposed change to the list of species/stocks incidentally killed or injured in this fishery. This proposed action does not change the Category II classification of the fishery. Observer coverage in this fishery was approximately 1 percent in 2006 and 17 percent in 2007. There was no observer coverage in 2004, 2005, or 2008.

NMFS proposes to remove the superscript "1" after CA sea lions (U.S. stock) and harbor seals (CA stock) in 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. These stocks are not driving the Category II classification of this fishery. There have been observed interactions with these stocks in this fishery in recent years; however, the average total fishery mortality and serious injury is less than 10 percent of the respective PBR for both stocks (Tier 1 analysis) (draft 2010 SAR). There was no observer coverage in this fishery in 2008.

NMFS proposes to remove the superscript "2" after the Category II "CA Dungeness crab pot" fishery in Table 1 (indicating the fishery is classified as Category II based on analogy to other Category II crab pot fisheries), and add a superscript "1" after humpback whale (CA/OR/WA stock) in the list of species/stocks incidentally killed or injured in this fishery (indicating that serious injury or mortality of this stock in this fishery is driving the Category II classification of this fishery). In 2008, NMFS received two reports of humpback whales entangled in, and seriously injured by, pot/trap fishing gear off the coast of California. NMFS determined that one humpback whale was entangled and seriously injured in "CA Dungeness crab pot" fishery gear off of Moss Landing. One serious injury or mortality of a humpback whale (CA/OR/WA stock) results in an annual mortality and serious injury rate of 0.2 animals per year (when averaged over five years) or 1.7 percent of the stock's PBR of 11.3 (draft 2010 SAR), which is consistent with a Category II classification. Therefore, this fishery should be classified based upon the level of serious injury or mortality of humpback whales (CA/OR/WA) rather than by analogy. The second humpback whale was reported entangled on August 5, 2008, in unidentified pot/trap gear in the Santa Barbara Channel. NMFS is requesting information from the public on which fishery may have been involved in this entanglement. This fishery is not currently observed.

NMFS proposes to add false killer whale (Palmyra Atoll stock) to the list of marine mammal stocks incidentally injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery. One false killer whale was seriously injured in this fishery inside the Palmyra Atoll EEZ in 2007, resulting in an average mortality and serious injury rate of 0.3 whales per year for the period 2004–2008, or 4.7 percent of the stock's PBR of 6.4 (draft 2010 SAR). Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to add false killer whale (HI Insular stock) to the list of marine mammal stocks incidentally injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery. One false killer whale was non-seriously injured within the range of the HI Insular stock from 2004–2008. Based on the pro-rating method used by the NMFS Southwest and Pacific Islands Fisheries Science Centers to estimate takes using the proportions of observed interactions that resulted in death, serious injury, or non-serious injury, this non-serious injury results in an average mortality and serious injury rate of 0.6 whales per year for the period 2004–2008, or 98.3 percent of the stock's PBR of 0.61 (*see* the draft 2010 SAR for additional information on the pro-rating method used by the NMFS Southwest and Pacific Islands Fisheries Science Centers). NMFS further proposes to include a superscript "1" following the false killer whale (HI Insular stock) in Table 1, indicating that this stock is driving the classification of the fishery. Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to change the stock of bottlenose dolphin injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery from "HI stock" to "HI Pelagic stock." The bottlenose dolphin stock structure was revised for the draft 2010 SAR, and the stock that interacts with the deep-set longline fishery is now the HI Pelagic stock (draft 2010 SAR). One bottlenose dolphin was seriously injured in this fishery in 2006 inside the Hawaiian Islands EEZ, resulting in an average mortality and serious injury rate of 0.2 bottlenose dolphins per year, or 1.1 percent of the stock's PBR of 18 (draft 2010 SAR). Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to change the stock of pantropical spotted dolphin injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery from "stock unknown" to "HI stock." One pantropical spotted dolphin was killed in this fishery on the high seas in 2008, resulting in an average mortality and serious injury rate of 0.6 pantropical spotted dolphins per year for the period 2004–2008 (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), the PBR is calculated only for the portion of the stock occurring within the Hawaiian Islands EEZ. Therefore, the serious injury of this animal cannot be compared to the PBR of this stock. Observer coverage for this fishery during this time period ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to remove the superscript "1" after humpback whale (Central North Pacific stock) in the Category II "HI shallow-set (swordfish target) longline/set line" fishery because serious injury or mortality of this stock is no longer driving the Category II classification of this fishery. There was one serious injury and one non-serious injury of humpback whales observed in this fishery from 2004–2008, with 100 percent observer coverage. The one serious injury results in an average serious injury and mortality rate of 0.2 humpback whales per year, or 0.33 percent of the stock's PBR of 61.2 (draft 2010 SAR). This is less than one percent of the stock's PBR: Therefore, serious injury and mortality of this stock is no longer driving the Category II classification of this fishery.

NMFS proposes to change the stock of bottlenose dolphin injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery from "stock unknown" to "HI Pelagic stock." The bottlenose dolphin stock structure has been revised for the draft 2010 SAR, and the stock that interacts with the shallow-set longline fishery is now the HI Pelagic stock (draft 2010 SAR). The draft 2010 SAR also clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters.

NMFS proposes to add a superscript "1" after bottlenose dolphin (HI Pelagic stock) in the Category II "HI shallow-set (swordfish target) longline/set line" fishery, indicating that serious injury or mortality of this stock is driving the Category II classification of this fishery. From 2004–2008, three serious injuries of this stock were documented outside of U.S. EEZs with 100 percent observer coverage, resulting in an average serious injury and mortality rate of 0.6 bottlenose dolphins per year. During the same time period, one bottlenose

dolphin was observed seriously injured within the Hawaiian Islands EEZ with 100 percent observer coverage, resulting in an average serious injury and mortality rate of 0.2 bottlenose dolphins per year, or 1.1 percent of the stock's PBR of 18 (draft 2010 SAR). Additionally, there are documented mortalities and serious injuries of other marine mammal stocks by the "HI shallow-set (swordfish target) longline/set line" fishery on the high seas, as described below. While there are no PBRs calculated for these stocks outside of the Hawaiian Islands EEZ, NMFS cannot rule out the potential for incidental take to exceed 1 percent of any stock's PBR. NMFS proposes to retain this fishery in Category II based on the occasional documented mortalities and serious injuries of these other marine mammal stocks.

NMFS proposes to add striped dolphin (HI stock) to the list of marine mammal stocks incidentally injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery. One striped dolphin (HI stock) was seriously injured in this fishery in 2008 in waters outside of U.S. EEZs with 100 percent observer coverage, resulting in an average mortality and serious injury rate of 0.2 striped dolphins per year outside U.S. EEZs, for the period 2004–2008 (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stock of striped dolphins includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), the PBR is calculated only for the portion of the stock occurring within the Hawaiian Islands EEZ. Therefore, the serious injury of this animal cannot be compared to the PBR of this stock.

NMFS proposes to add false killer whale (HI Pelagic stock) to the list of marine mammal stocks incidentally injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery. NMFS observed one non-serious injury of a false killer whale (HI Pelagic stock) in this fishery in 2008 within the range of the HI Pelagic stock inside the Hawaiian Islands EEZ, with 100 percent observer coverage (draft 2010 SAR).

NMFS proposes to add *Kogia* spp. whale (HI stock) to the list of marine mammal stocks incidentally injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery. NMFS observed one non-serious injury of a *Kogia* spp. whale (HI stock) (i.e., a pygmy or dwarf sperm whale) in this fishery in 2008 in waters outside of U.S. EEZs, with 100 percent observer coverage (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stocks of both pygmy and dwarf sperm whales include animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), PBRs are calculated only for the portion of the stocks occurring within the Hawaiian Islands EEZ.

NMFS proposes to change the stock of Bryde's whale injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery from "stock unknown" to "HI stock." NMFS observed one non-serious injury of a Bryde's whale in this fishery in 2005 outside of U.S. EEZs, with 100 percent observer coverage. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), PBR is calculated only for the portion of the stock occurring within the Hawaiian Islands EEZ.

NMFS proposes to change the stock of Risso's dolphin injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery from "stock unknown" to "HI stock." Eight serious injuries and two mortalities of Risso's dolphins were observed in this fishery from 2005–2008 outside of U.S. EEZs, with 100 percent observer coverage, resulting in an average serious injury and mortality rate of 2.0 Risso's dolphins per year outside the U.S. EEZ, for the period 2004–2008. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), the PBR is calculated only for the portion of the stock occurring within the Hawaiian Islands EEZ. Therefore, the serious injuries and mortalities of these animals cannot be compared to the PBR of this stock.

NMFS proposes to remove sperm whale (stock unknown) from the list of species or stocks incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery. There have been no documented takes of sperm whales in this fishery in the latest 5 years of data, with 100 percent observer coverage (draft 2010 SAR).

NMFS proposes to change the name of the stock of false killer whales listed as being incidentally injured or killed in the Category II "American Samoa longline" fishery from "stock unknown" to "American Samoa." This stock is newly defined in the draft 2010 SAR. Two false killer whales were killed or seriously injured by the fishery in 2008, resulting in an average mortality and serious injury rate of 7.8 whales per year for the period 2006–2008, with approximately 8 percent observer coverage (draft 2010 SAR). No abundance estimates are available for this stock; therefore, a PBR level cannot be calculated and the serious injuries or mortalities of these animals cannot be compared against the PBR of this stock. (draft 2010 SAR).

NMFS proposes to add rough-toothed dolphin (American Samoa stock) to the list of species or stocks incidentally killed or injured in the Category II "American Samoa longline" fishery. This stock is newly defined in the draft 2010 SAR. One rough-toothed dolphin was seriously injured by the fishery in 2008, resulting in an average mortality and serious injury rate of 3.6 dolphins per year for the period 2006–2008, with approximately 8 percent observer coverage (draft 2010 SAR). No abundance estimates are available for this stock; therefore, a PBR level cannot be calculated and the serious injury of this animal cannot be compared to the PBR of this stock (draft 2010 SAR).

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

Fishery Classification

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

NMFS proposes to elevate the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery from Category III to Category II based on interactions reported through observer reports, stranding data, and fisheries research data (2009 SAR), with multiple strategic marine mammal stocks (bottlenose dolphin, SC coastal; bottlenose dolphin, GA coastal; bottlenose dolphin, Northern Gulf of Mexico coastal (Eastern, Northern, and Western); and bottlenose dolphin, Gulf of Mexico bay, sound and estuarine) and non-strategic marine mammal stocks (bottlenose dolphin, Northern Gulf of Mexico continental shelf; and spotted dolphin, Northern Gulf of Mexico). The PBR levels are known only for two of these stocks, the SC coastal and GA coastal stocks of bottlenose dolphins. The PBR levels are unknown or undetermined for the remaining stocks because of outdated population estimates (*e.g.*, estimates are over 8 years old) and lack of abundance and mortality data necessary to calculate a PBR level. For this reason, the annual serious injury and mortality rate as it

compares to each stock's PBR cannot be calculated for most of these stocks.

As stated in the preamble of this proposed rule, in the absence of reliable information, NMFS determines whether a Category II classification is warranted for a given fishery (*i.e.*, the fishery has occasional incidental mortality and serious injury of marine mammals) by 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 or distribution of marine mammals in the area, or at the discretion of the Assistant Administrator (see 50 CFR 229.2). Due to the lack of PBR data and low observer coverage, NMFS conducted a qualitative analysis to determine the appropriate classification for the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery. NMFS reviewed the best scientific data available, including known and observed serious injuries and mortalities of bottlenose and other dolphin species obtained during extremely low observer coverage (less than 1 percent). NMFS considered the low level of observer coverage; number and type of documented interactions with trawl gear; levels of fishing effort; type of fishing gear used; lack of deterrence gear or methods; fishing process including soak time; and spatial and temporal co-occurrence of the shrimp trawl fishery and strategic marine mammal stocks. Based on this information, summarized in the following paragraph, NMFS proposes classifying this fishery in Category II.

This fishery was observed between 1992 and 2006 under a voluntary program, which became mandatory in 2007. Observer coverage has been less than 1 percent for all observed years. Even with low coverage, NMFS observed 12 dolphin takes (of which 11 animals were seriously injured or killed) in this fishery since 1993. Eleven of these takes occurred since 2002. Because observer data sheets often listed "dolphin" and did not specify the species, NMFS can only confirm that 4 of the 12 takes were bottlenose dolphins. Based on the location of the 8 observed takes that were not identified to species, the takes may be either bottlenose dolphins or Atlantic spotted dolphins. However, bottlenose dolphins are ubiquitous, and are the most commonly found cetacean throughout Southeastern U.S. coastal waters, bays, sounds and estuaries.

In addition to observer reports of marine mammals seriously injured or killed in this fishery, the final 2009 SARs note that "occasional interactions with bottlenose dolphins have been observed [in the shrimp trawl fishery], and there is infrequent evidence of interactions from stranded animals." The lack of stranding evidence is not unusual. Some fisheries (*i.e.* gillnet and trap/pot) leave distinctive wounds on stranded animals, which are often found still entangled with tell-tale gear. However, it is thought that serious injuries or mortalities to marine mammals from trawl fisheries are less obvious on gross inspection: Cause of death is more likely to be by blunt trauma from trawl doors, or drowning by enclosure in, rather than by entanglement with the net.

Marine Mammal Authorization Program records indicate one dolphin take in shrimp trawl gear in South Carolina in 2002. Thirteen additional dolphin takes, ten since 2002, have been documented by NMFS in Southeast U.S. research trawl operations, and/or relocation trawls conducted in conjunction with dredging and other marine construction activities. Twelve of the thirteen takes resulted in serious injury or mortality, and one out of the thirteen was an Atlantic spotted dolphin, the remaining animals were bottlenose dolphins. There are no substantive differences between commercial fishing and relocation trawls, although relocation trawls are not equipped with turtle excluder devices (TEDs), and soak time is considerably less (usually about 30 minutes) than commercial shrimp trawls.

Removal of Fisheries

NMFS proposes to remove the separate listing for the "Mid-Atlantic flynet" fishery (Category II) from the LOF and incorporate the participants of this fishery into the "Mid-Atlantic bottom trawl" fishery (Category II). For additional information, see the "Fishery Name and Organizational Changes and Clarifications" section below.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to incorporate the Category II "Mid-Atlantic flynet" fishery into the Category II "Mid-Atlantic bottom trawl" fishery. Bottom otter trawl nets include a variety of net types, including flynets; therefore, the term "flynet" does not refer to a unique gear type and is better suited to be listed within the "Mid-Atlantic bottom trawl" fishery definition. Additionally, flynets are not used to target *Illex* squid offshore. NMFS therefore proposes replacing the current definition for the "Mid-Atlantic bottom trawl" fishery presented in the proposed 2009 LOF (73 FR 33776, June 13, 2008) with the following fishery definition: "The Mid-Atlantic bottom trawl fishery uses bottom trawl gear to target species including, but not limited to, bluefish, croaker, monkfish, summer flounder (fluke), winter flounder, silver hake (whiting), spiny dogfish, smooth dogfish, scup, and black sea bass. The fishery occurs year-round from Cape Cod, MA, to Cape Hatteras, NC, in waters west of 70° W. long. and north of a line extending due east from the NC/SC border. In areas where 70° W. long. is east of the EEZ, the EEZ serves as the eastern boundary. The gear is managed by several state and Federal FMPs. The Mid-Atlantic bottom trawl fishery also includes gear types such as flynets utilized in the mid-Atlantic region. The Mid-Atlantic bottom trawls using flynets target species through nearshore and offshore components that operate along the east coast of the mid-Atlantic United States. Flynets typically range from 80–120 ft (24–36.6 m) in headrope length, with wing mesh sizes of 16–64 in (41–163 cm), following a slow 3:1 taper to smaller mesh sizes in the body, extension, and codend sections of the net. The nearshore fishery operates from October to April inside of 30 fathoms (180 ft; 55 m) from NJ to NC. This nearshore fishery targets Atlantic croaker, weakfish, butterfish, harvestfish, bluefish, menhaden, striped bass, kingfish species, and other finfish species. Flynet fishing is no longer permitted in Federal waters south of Cape Hatteras in order to protect weakfish stocks. The offshore component operates from November to April outside of 30 fathoms (180 ft; 55 m) from the Hudson Canyon off NY, south to Hatteras Canyon off NC. These deeper water fisheries target bluefish, Atlantic mackerel, *Loligo* squid, black sea bass, and scup."

NMFS proposes to remove the American eel from species targeted in Category II "Atlantic mixed species trap/pot" fishery as initially listed in the 2008 Proposed LOF (72 FR 35402; June 28, 2007). NMFS believes that this target species is adequately represented by the Category III "U.S. Mid-Atlantic eel trap/pot" fishery as this fishery takes place in mostly fresh, brackish, and coastal areas from ME to FL and inside the fishery demarcation line that serves as the western boundary for the "Atlantic mixed species trap/pot" fishery. This change would require a new fishery definition for the Category II "Atlantic mixed species trap/pot" fishery. The new definition would be as follows: "The Category II 'Atlantic mixed species trap/pot' fishery's targets species

including, but not limited to: Hagfish, shrimp, conch/whelk, red crab, Jonah crab, rock crab, black sea bass, scup, tautog, cod, haddock, Pollock, redfish (ocean perch), white hake, spot, skate, catfish, and stone crab. The fishery includes all trap/pot operations from the U.S.-Canada border south through the waters east of the fishery management demarcation line between the Atlantic Ocean and the Gulf of Mexico (50 CFR 600.105), but does not include the following Category I, II, and III trap/pot fisheries: Northeast/Mid-Atlantic American lobster trap/pot; Atlantic blue crab trap/pot; FL spiny lobster trap/pot; Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot; U.S. Mid-Atlantic eel trap/pot; and the Southeastern U.S. Atlantic, Gulf of Mexico golden crab fisheries. The fishery is managed under various Interstate FMPs."

NMFS proposes to clarify the target species defined for the Category II "Northeast drift gillnet" fishery. The fishery definition provided in the 2008 Proposed LOF (72 FR 35401; June 28, 2007), included language excluding large pelagic species from the species targeted. However, this fishery should include any residual large pelagic drift gillnet effort. The language provided in the 2001 Proposed LOF (66 FR 6553; January 21, 2001) added language to include target species other than large pelagics in the fishery definition; however, the change did not remove large pelagics from the list of targeted species. Therefore, NMFS recommends changing the definition for the "Northeast drift gillnet" fishery to: "* * * targets species including shad, herring, mackerel, and menhaden and any residual large pelagic driftnet effort in New England. This fishery uses drift gillnet gear, which is gillnet gear not anchored to the bottom and is free-floating on both ends or free-flowing at one end and attached to the vessel at the other end. It occurs at any depth in the water column from the U.S.-Canada border to Long Island, NY, at 72°30′ W. long. south to 36°33.03 N. lat. and east to the eastern edge of the EEZ."

NMFS proposes to update the bodies governing the Category II "Northeast mid-water trawl" fishery. In the 2008 Proposed LOF (72 FR 35402; June 28, 2007) NMFS stated that "[t]he fishery is managed jointly by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission (ASMFC) as a migratory stock complex." Atlantic herring are managed by the New England Fishery Management Council and through the ASFMC and mackerel is managed under the Mid-Atlantic Fisheries Management Council. Therefore, NMFS proposes to edit this statement to read "[t]he Northeast bottom trawl fishery is managed jointly by the New England Fishery Management Council, Mid-Atlantic Fishery Management Council, and the ASMFC."

NMFS proposes to update the FMPs applicable to the Category II "Northeast bottom trawl" and the Category I "Northeast sink gillnet" fisheries. The current definition for the "Northeast bottom trawl" fishery states "[t]he Category II "Northeast bottom trawl" fishery uses bottom trawl gear to target species included in the Northeast Multispecies FMP, Summer Flounder FMP, and Scup and Seabass FMP, including, but not limited to: Atlantic cod, haddock, pollock, yellowtail flounder, winter flounder, witch flounder, American plaice, Atlantic halibut, redfish, windowpane flounder, summer flounder, spiny dogfish, monkfish, silver hake, red hake, white hake, ocean pout, and skate spp * * *. The fishery is primarily managed by Total Allowable Catch (TAC) limits, individual trip limits (quotas), effort caps (limited number of days at sea per vessel), time and area closures, and gear restrictions." NMFS recommends changing this definition to "[t]he Category II "Northeast bottom trawl" fishery uses bottom trawl gear to target species including, but not limited to: Atlantic cod, haddock, pollock, yellowtail flounder, winter flounder, witch flounder, American plaice, Atlantic halibut, redfish, windowpane flounder, summer flounder, spiny dogfish, monkfish, silver hake, red hake, white hake, ocean pout, and skate spp * * *. The fishery is primarily managed by TACs, individual trip limits (quotas), effort caps (limited number of days at sea per vessel), time and area closures, and gear restrictions under several interstate and federal FMPs." Additionally, the Northeast sink gillnet fishery definition currently lists the fishery as being " * * * managed by the Northeast Multispecies (Groundfish) FMP." NMFS proposes to change this sentence to " * * * managed by several interstate and federal FMPs."

NMFS proposes to update spatial boundaries for the Category II "Northeast bottom trawl" and "Mid-Atlantic bottom trawl" fisheries. Currently the "Northeast bottom trawl" fishery's spatial boundary is defined as "from the U.S.- Canada border through waters east of 72°30′ W. long." and the "Mid-Atlantic bottom trawl" fishery's spatial boundary is defined as "Cape Cod, MA, to Cape Hatteras, NC, in waters west of 72°30′ W. long. and north of a line extending due east from the NC/SC border." However, marine mammal bycatch estimates conducted by Northeast Fisheries Science Center (NEFSC) for these fisheries are made using 70° W. long. as the dividing boundary as a result of reviewing trip locations from vessel trip reports. Therefore, to maintain consistency with the SAR process for how fisheries are defined, NMFS proposes to change the spatial boundary for the "Northeast bottom trawl" fishery to "from the U.S.-Canada border through waters east of 70° W. long." and the "Mid-Atlantic bottom trawl" fishery's spatial boundary to "Cape Cod, MA, to Cape Hatteras, NC, in waters west of 70° W. long. and north of a line extending due east from the NC/SC border. In areas where 70° W. long. is east of the EEZ, the EEZ serves as the eastern boundary."

Number of Vessels/Persons

NMFS proposes to update the estimated vessels/persons for several mid-Atlantic and New England fisheries listed under Table 2 to reflect the potential state and Federal permit effort. Past numbers used in the LOF for many of the Northeast and Mid-Atlantic fisheries have represented only active Federal permits and did not incorporate state permit information. NMFS acknowledges that these estimates are inflations of actual effort and that in some cases actual effort may be decreasing; however, the estimates 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 of the LOF will not affect observer coverage or bycatch estimates, as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Table 2 only serves 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. Federal permit information was collected through fishing vessel trip reports and by querying Federal permit databases. State permit information was collected through the MMAP registration process. NMFS proposes to update the estimated number of persons/vessels in the following New England and Mid-Atlantic and fisheries:

Category I: Mid-Atlantic gillnet from >670 to 5,495; Northeast sink gillnet from 341 to 7,712; and Northeast/Mid-Atlantic American lobster trap/pot from 13,000 to 12,489.

Category II: Chesapeake Bay inshore gillnet from 45 to 1,167; NC inshore gillnet from 94 to 2,250; Northeast anchored float gillnet from 133 to 662; Northeast drift gillnet from unknown to 608; Mid-Atlantic mid-water trawl from 620 to 546; Mid-Atlantic bottom trawl from >1,000 to 1,182 (also includes participants from the "Mid-Atlantic flynet" fishery, proposed to be merged with the "Mid-Atlantic bottom trawl" fishery in this proposed rule); Northeast mid-water trawl (including pair trawl) from 17 to 953; Northeast bottom trawl from 1,052 to 1,635; Atlantic blue crab trap/pot from >16,000 to 6,479; Atlantic mixed species trap/pot from unknown to 1,912; Mid-Atlantic menhaden purse seine fishery from 22 to 54; Mid-Atlantic haul/beach seine from 25 to 666; N.C. long haul seine from 33 to 372; and Virginia pound net from 41 to 52.

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

NMFS proposes to update the estimated vessels/persons in the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery (proposed to be elevated to Category II in this proposed rule) from >18,000 to 4,950.

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes to add bottlenose dolphin (WNA offshore stock) to the list of species/stocks incidentally killed or injured in the Category II "Mid-Atlantic bottom trawl" fishery. One freshly dead bottlenose dolphin was observed taken in October 2009, during a trip targeting *Loligo* squid, and three freshly dead bottlenose dolphins were observed taken in August 2009 during a trip targeting *Illex* squid. The estimated annual serious injury and mortality rate based on these four mortalities is 0.8 animals/year, or 0.14 percent of the stock's PBR level of 566 (2008 SAR, the most recent SAR to report a PBR for this stock). These mortalities were observed and reported in the August 2009 and October 2009 Northeast Fisheries Observer Program Incidental Take Reports (*http://www.nefsc.noaa.gov/fsb/*). Observer coverage in these fisheries varies from year-to-year. Observer coverage in the *Illex* fishery from 1996–2007 ranged from 0–14 percent (with higher percentages in more recent years); observer coverage in the *Loligo* fishery from 1996–2007 ranged from 0–5 percent (with higher percentages in more recent years) (final 2009 SARs).

NMFS proposes to add the Atlantic spotted dolphin (Northern GMX stock) to the list of species/stocks incidentally killed or injured in the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery (proposed to be elevated to Category II in this proposed rule). An Atlantic spotted dolphin (Northern GMX stock) was killed in 2006 in Southeast U.S. research trawl operations and/or relocation trawls conducted in conjunction with dredging and other marine construction activities. There are no substantive differences between commercial fishing and relocation trawls, although relocation trawls are not equipped with turtle excluder devices (TEDs), and soak time is considerably less (usually approximately 30 minutes) than commercial shrimp trawls. As noted above in NMFS' proposal to elevate the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery" to Category II, most of the observer reports from this fishery list only "dolphin" as the marine mammal killed or injured, and NMFS was able to conclusively identify only four of the twelve takes in this fishery since 2002 as bottlenose dolphins. Based on the location of the observed takes for the 8 unidentified dolphins, the remainder of the observed takes can either be bottlenose dolphin or Atlantic spotted dolphin (final 2009 SAR). Therefore, given the low observer coverage in this fishery, the location of the observed takes for the unidentified dolphin species in this fishery, and the observed mortality of an Atlantic spotted dolphin in research trawl operations that operate in a similar area and manner to commercial shrimp trawl operations, it is reasonable that takes of Atlantic spotted dolphins are also occurring in the commercial fishery.

NMFS proposes to add the bottlenose dolphin (Northern NC estuarine system stock) 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. Stranding records reported that one bottlenose dolphin was removed dead from a NC pound net in August 2004 (2009 SAR). There is no observer coverage in this fishery.

NMFS proposes to update all of the stock names for bottlenose dolphins injured or killed incidental to Category I, II, and III fisheries in the Atlantic, based on the revised stock structure presented in the final 2008 and 2009 SARs. NMFS proposes to replace all references to "bottlenose dolphin, WNA coastal" with the following stocks for each of the following fisheries:

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. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

2. "NC inshore gillnet" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system; bottlenose dolphin, Southern NC estuarine system. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

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. NMFS proposes to retain the superscript "2" after the fishery in Table 2 (indicating that the fishery is listed on the LOF by analogy to other Category I or II fisheries).

4. "Southeastern U.S. Atlantic shark gillnet" fishery (Category II): Bottlenose dolphin, Central FL coastal. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after this new stock because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

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. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

6. "Mid-Atlantic menhaden purse seine" fishery (Category II): Bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal. NMFS proposes to retain the superscript "2"after the fishery in Table 2 (indicating that the fishery is listed on the LOF by analogy to other Category I or II fisheries).

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. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

8. "NC long haul seine" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after this new stock because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

9. "NC roe mullet stop net" fishery (Category II): Bottlenose dolphin, Southern NC estuarine system. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after this new stock because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

10. "VA pound net" fishery (Category II): Bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

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. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to include a superscript "1" after each of these stocks in Table 2 (indicating it is driving the classification of this fishery) because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

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

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

Number of Vessels/Persons

NMFS proposes to update the estimated number of HSFCA permits in the High Seas Atlantic highly migratory species fishery for the following gear types: Longline from 72 to 77; handline/pole and line from 1 to 2; and trawl from 2 to 3.

NMFS proposes to update the estimated number of HSFCA permits in the High Seas Pacific highly migratory species fishery 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.

NMFS proposes to update the estimated number of HSFCA permits in the High Seas South Pacific Albacore Troll fishery for the following gear types: Troll from 53 to 59.

NMFS proposes to update the estimated number of HSFCA permits in the High Seas South Pacific Tuna fishery for the following gear types: Longline from 3 to 8; and purse seine from 36 to 35.

NMFS proposes to update the estimated number of HSFCA permits in the High Seas Western Pacific Pelagic fishery for the following gear types: Deep-set longline from 129 to 127; 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

NMFS proposes to change the stock of false killer whales injured or killed in the Category I "Western Pacific Pelagic (Deep-set component)" fishery from "stock unknown" to "HI Pelagic stock." This fishery is an extension of the Category I "HI deep-set (tuna target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, six serious injuries and one non-serious injury of false killer whales were observed in this fishery outside of U.S. EEZs from 2004–2008. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to change the stock of pantropical spotted dolphin injured or killed in the Category I "Western Pacific Pelagic (Deep-set component)" fishery from "stock unknown" to "HI stock." This fishery is an extension of the Category I "HI deep-set (tuna target) longline/set line" fishery operating within the U.S. EEZ, and is not a

separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, one pantropical spotted dolphin was observed incidentally killed in this fishery on the high seas in 2008 (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to change the stock of bottlenose dolphin injured or killed in the Category I "Western Pacific Pelagic (Deep-set component)" fishery from "HI" to "HI Pelagic stock." This fishery is an extension of the Category I "HI deep-set (tuna target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, the bottlenose dolphin stock structure has been revised for the draft 2010 SAR, and the stock that interacts with the deep-set longline fishery is now the HI Pelagic stock (draft 2010 SAR). The draft 2010 SAR clarifies that the HI Pelagic stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters.

NMFS proposes to add striped dolphin (HI stock) and *Kogia* spp. whale (HI stock) to the list of marine mammal stocks incidentally injured or killed in the Category II "Western Pacific Pelagic (Shallow-set component)" fishery. This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, one striped dolphin was observed seriously injured in this fishery in 2008 in waters outside of the U.S. EEZ and one *Kogia* spp. whale (i.e., a pygmy or dwarf sperm whale) was observed non-seriously injured in this fishery in 2008, in waters outside of U.S. EEZs (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage in this fishery is 100 percent (draft 2010 SAR).

NMFS proposes to change the stock of bottlenose dolphin injured or killed in the Category II "Western Pacific Pelagic (Shallow-set component)" fishery from "stock unknown" to "HI Pelagic stock." This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammal species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, the bottlenose dolphin stock structure as revised for the draft 2010 SAR and the stock that interacts with the deep-set longline fishery is now the HI Pelagic stock (draft 2010 SAR). The draft 2010 SAR also clarifies that the HI Pelagic stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters.

NMFS proposes to change the stock of Bryde's whale injured or killed in the Category II "Western Pacific Pelagic (Shallow-set component)" fishery from "stock unknown" to "HI stock." This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, one non-serious injury was observed in this fishery in 2005 outside of U.S. EEZs. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage in this fishery is 100 percent (draft 2010 SAR).

NMFS proposes to change the stock of Risso's dolphin injured or killed in the Category II "Western Pacific Pelagic (Shallow-set component)" fishery from "stock unknown" to "HI stock." This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, eight serious injuries and two mortalities of Risso's dolphins were observed in this fishery from 2005–2008 outside of the U.S. EEZ. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage in this fishery is 100 percent (draft 2010 SAR).

NMFS proposes to remove sperm whale (stock unknown) from the list of marine mammal stocks incidentally injured or killed in the Category II High Seas "Western Pacific Pelagic (Shallow-set component)" fishery. This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. There have been no documented takes of sperm whales in this fishery in the last 5 years, under 100 percent observer coverage (draft 2010 SAR).

List of Fisheries

The following tables set forth the proposed list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. In Tables 1 and 2, the estimated number of vessels/participants 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 proposed 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 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 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.

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

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
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.

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

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
		Northern fur seal, Eastern Pacific.
		Spotted seal, AK.
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 Kodiak salmon set gillnet	188	Harbor porpoise, GOA.[1]
		Harbor seal, GOA.
		Sea otter, Southwest AK.
		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 U.S.-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded).	210	Dall's porpoise, CA/OR/WA.
		Harbor porpoise, inland WA.[1]
		Harbor seal, WA inland.
PURSE SEINE FISHERIES:		
AK Cook Inlet salmon purse seine	82	Humpback whale, Central North Pacific.[1]
AK Kodiak salmon purse seine	370	Humpback whale, Central North Pacific.[1]
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands flatfish trawl	34	Bearded seal, AK.
		Harbor porpoise, Bering Sea.
		Harbor seal, Bering Sea.
		Killer whale, AK resident.[1]
		Northern fur seal, Eastern Pacific.
		Spotted seal, AK.
		Steller sea lion, Western U.S.[1]
		Walrus, AK.
AK Bering Sea, Aleutian Islands pollock trawl	95	Dall's porpoise, AK.
		Harbor seal, AK.
		Humpback whale, Central North Pacific.
		Humpback whale, Western North Pacific.
		Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient.[1]
		Minke whale, AK.
		Ribbon seal, AK.
		Spotted seal, AK.
		Steller sea lion, Western U.S.[1]
POT, RING NET, AND TRAP FISHERIES:		

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

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
AK Bering Sea 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.
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/OR 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 recent years.
AK Metlakatla salmon purse seine	10	None documented.
AK miscellaneous finfish beach seine	1	None documented.
AK miscellaneous finfish purse seine	0	None documented.
AK octopus/squid purse seine	0	None documented.
AK roe herring and food/bait herring beach seine	4	None documented.
AK roe herring and food/bait herring purse seine	361	None documented.
AK salmon beach seine	31	None documented.
AK salmon purse seine (excluding salmon purse seine fisheries listed as Category II).	936	Harbor seal, GOA.

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

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CA anchovy, mackerel, sardine purse seine	65	California sea lion, U.S. Harbor seal, CA.
CA squid purse seine	65	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.
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.
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 recent years.
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.

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

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CA halibut bottom trawl	53	None documented.
WA/OR/CA shrimp trawl	300	None documented.
WA/OR/CA groundfish trawl	160–180	California sea lion, U.S. Dall's porpoise, CA/OR/WA. Harbor seal, OR/WA coast. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, CA/OR/WA. Steller sea lion, Eastern U.S.
POT, RING NET, AND TRAP FISHERIES:		
AK statewide miscellaneous finfish pot	293	None documented.
AK Aleutian Islands sablefish pot	8	None documented.
AK Bering Sea, Aleutian Islands Pacific cod pot	68	None documented.
AK Bering Sea, Aleutian Islands crab pot	297	None documented.
AK Gulf of Alaska crab pot	300	None documented.
AK Gulf of Alaska Pacific cod pot	154	Harbor seal, GOA.
AK Southeast Alaska crab pot	433	Humpback whale, Central North Pacific (Southeast AK).
AK Southeast Alaska shrimp pot	283	Humpback whale, Central North Pacific (Southeast AK).
AK shrimp pot, except Southeast	15	None documented.
AK octopus/squid pot	27	None documented.
AK snail pot	1	None documented.
CA coonstripe shrimp, rock crab, tanner crab pot or trap	305	Gray whale, Eastern North Pacific. Harbor seal, CA.
CA spiny lobster	225	Gray whale, Eastern North Pacific.
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.
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.
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.

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

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
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 No. 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]
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.

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

Fishery description	Estimated No. of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
		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 recent years.
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:		
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]

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

Fishery description	Estimated No. of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
		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]
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.
		West Indian manatee, Antillean.
DE River inshore gillnet	60	None documented in recent years.
Long Island Sound inshore gillnet	20	None documented in recent years.
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet.	32	None documented in recent years.
Southeast Atlantic inshore gillnet	U	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.
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	U	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 recent years.
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	U	None documented.

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

Fishery description	Estimated No. of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented.
Caribbean spiny lobster trap/pot	>197	None documented.
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	U	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	U	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).	U	Bottlenose dolphin, Northern NC estuarine system.
DREDGE FISHERIES:		
Gulf of Maine mussel dredge	U	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	U	None documented.
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	West Indian manatee, Antillean.
Gulf of Mexico haul/beach seine	U	None documented.
Southeastern U.S. Atlantic haul/beach seine	25	None documented.
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented.
Gulf of Maine urchin dive, hand/mechanical collection	U	None documented.
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net.	U	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.

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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 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:		
Pacific Highly Migratory Species * ^	8	None documented
South Pacific Tuna Fisheries	35	Undetermined
Western Pacific Pelagic	3	Undetermined

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
POT VESSEL FISHERIES:		
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:		

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Western Pacific Pelagic	1	Undetermined
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 Short-finned pilot whale, CA/OR/WA
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 I CA/OR 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/

BILLING CODE 3510–22–C

Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis leading to the certification is set forth below.

Under existing regulations, all individuals participating in Category I or II fisheries must register under the MMPA and obtain an Authorization Certificate. The Authorization Certificate authorizes the taking of non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Additionally, individuals may be subject to a 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 proposed rule.

If a vessel is requested to carry an observer, individuals will not incur any direct economic costs associated with carrying that observer. Potential indirect costs to individuals required to take observers may include: Lost space on deck for catch, lost bunk space, and lost fishing time due to time needed 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 proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of individuals under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal injuries or mortalities has been approved by OMB under OMB control number 0648–0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

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

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

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

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

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

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

Dated: June 18, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–15318 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–22–P