required fee, and statement (yes/no) regarding whether any marine mammals were incidentally killed or injured during the previous calendar year covering all registered Category I or II fisheries.

Decals or other physical evidence would be required to be displayed as proof of current registration. In those instances where NMFS is successful in incorporating the registration process with existing licensing systems, fishers will be notified of the accepted "physical evidence" requirements.

A replacement decal would be issued, if requested, to replace a lost or damaged decal. In nonvessel fisheries, the decal would have to be affixed to the Certificate. Annual decals would be issued along with the Certificates in subsequent years.

The Authorization Certificate or a copy thereof would have to be on board the vessel while it is operating in a Category I or II fishery, or, in the case of a nonvessel fishery, a copy of the Certificate would have to be in the possession of the person in charge of the fishing operations. A copy of the Certificate would have to be made available upon request to any state or Federal government official authorized to enforce the provisions of the MMPA or to any designated agent of NMFS.

Suspension or Revocation of Authorization Certificates

Under the proposed regulations, NMFS could suspend or revoke a Certificate or deny a Certificate renewal for any vessel if the Certificate holder (1) fails to report as required under proposed § 229.6, or (2) fails to take aboard an observer in a Category I or II fishery as required under proposed §229.7, if requested. In addition, NMFS could revoke or suspend a Certificate for any vessel that fails to comply with other terms and conditions of the Authorization Certificate or the regulations governing the incidental taking of marine mammals during commercial operations under this section. NMFS could suspend or revoke a Certificate or could deny a Certificate renewal for any vessel which fails to comply with a take reduction plan or emergency regulations under this section. The suspension, revocation or denial could occur without notice or opportunity for hearing in the case of failure to submit required reports. Other actions would be subject to NOAA's civil procedures contained in subpart D of 15 CFR part 904. Previous failure to comply with the requirements of section 114 of the MMPA would not bar authorization under this section for an

owner who complies with the requirements of this section.

Requirements for Category III Fisheries

Under section 118(c) of the MMPA and these proposed regulations, owners of vessels engaged only in Category III fisheries are not required to register with NMFS or to obtain an Authorization Certificate to legally incidentally take marine mammals during commercial fishing operations. However, they would be required to report all incidental mortality and injury and make all reasonable efforts to release animals unharmed. Where necessary to address immediate and adverse impacts to marine mammal stocks, NMFS could place observers aboard Category III vessels if there is reason to believe that such vessels may be causing the incidental mortality and serious injury to such a stock.

Reporting Requirements

As required by section 118(e) of the MMPA and the proposed regulations, vessel owners or operators engaged in Category I, II, or III fisheries would have to report all incidental mortality and injury of marine mammals during the course of commercial fishing operations to NMFS Headquarters or appropriate NMFS Regional Office. NMFS proposes to define an "injury" (proposed § 229.2) as a wound or other physical harm. Any animal that requires assistance to escape from entanglement in fishing gear would also be considered injured and would have to be reported.

Reports would have to be submitted by mail or other means such as FAX within 48 hours after the end of each fishing trip during which the incidental mortality or injury occurred. The "end of a fishing trip" (proposed § 229.2) would mean the time of a vessels' return to port after a fishing trip. NMFS would provide a standard postage-paid form and instructions for recording information for this purpose. If a fisher participates in more than one fishery during a single fishing trip, a separate report would be required to be submitted for each such fishery. Report forms would require information on: The fishery, gear type and fish species involved; the marine mammal species (or description of the animal(s) if species is not known), number, date, and location of marine mammal incidental takes and whether an injury or mortality occurred. Failure to report incidental mortality or injury of marine mammals during the course of commercial fishing operations would result in suspension or revocation of the Authorization Certificate and denial of Authorization Certificate renewal

requests until the vessel owner complies with reporting requirements of proposed § 229.6 of this part.

Monitoring Program

As required by section 118(d) of the MMPA, NMFS would establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations. A "serious injury" (proposed § 229.2) would be defined as any injury of a marine mammal during a commercial fishing operation that will likely result in mortality of that marine mammal. The purposes of the monitoring program as specified in section $11\overline{8}(d)(\overline{1})$ of the MMPA are to: (1) Obtain statistically reliable estimates of incidental mortality and serious injury of marine mammals; (2) determine the reliability of reports of incidental mortality and injury of marine mammals obtained from fishers' reports; and (3) identify changes in fishing methods or technology that may increase or decrease incidental mortality or serious injury of marine mammals. The monitoring program would use information from observer programs, fishers' reports, and marine mammal stranding reports.

Observer Program

Section 118(d)(2) authorizes NMFS to place observers aboard vessels, as necessary, to monitor incidental mortality and serious injury of marine mammals during commercial fishing operations for vessels engaged in Category I or II fisheries. Under the proposed regulations, the owner of a vessel engaged in a Category I or II fishery would be required to take aboard an observer if requested by NMFS or a contractor of NMFS, to do so. The extent of observer coverage would be based on the ability to obtain statistically reliable estimates of incidental mortality and serious injury in each individual fishery and could include up to 100 percent observer coverage of a fishery. The specific design of the observer program, including how long an observer would be placed on a particular vessel, would vary among fisheries.

As required by section 118(d)(4), the highest priority for allocating observers among fisheries would be for those commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks listed as endangered or threatened species under the ESA. To the extent practicable, the next highest priority for allocation would be for those commercial fisheries that have incidental mortality and serious injury of marine mammals from strategic stocks. A "strategic stock" is a