

and uses a gear type with the potential to take various species of marine mammals, NMFS believes that placing this fishery in Category II is warranted until additional information can be collected. When more reliable information becomes available, the level of marine mammal mortality and serious injury in this fishery will be reassessed. (See response to Comment 9 regarding the level of harbor porpoise serious injuries and mortalities in this fishery.)

Comment 11: One commenter noted that there is no mention of humpback whale interactions with the Prince William Sound salmon drift gillnet or the AK Peninsula/Aleutians salmon drift gillnet fisheries. The commenter believed that this species may have been inadvertently omitted from the list of species involved in interactions with these fisheries.

Response: NMFS has no information regarding any humpback mortalities or serious injuries in the Prince William Sound or Alaska Peninsula/Aleutian Islands drift gillnet fisheries.

Comment 12: The proposed LOF states that the classification of the Southeast Alaska salmon drift gillnet fishery is based on observer and strandings data and does not mention logbook data. The stock assessment for humpback whales mentions that logbook data from salmon and herring gillnet fisheries indicate that humpbacks are entangled. The commenter presumed that since the Southeast Alaska salmon drift gillnet fishery is the only gillnet fishery with humpbacks listed as taken, it is logbook reports from this fishery that led to the statement in the SARs. Given that logbooks are known to under report interactions, the commenter believed that this fishery might be more appropriately classified as a Category I fishery.

Response: Stranding data is used to document humpback whale interactions with the Southeast Alaska salmon drift gillnet fishery. There are no reported humpback mortalities or serious injuries for this fishery in the logbook data. The currently available data support placing this fishery in Category II based on humpback whale and harbor porpoise mortalities. The annual level of harbor porpoise mortality and serious injury in this fishery based on logbook reports was 3.25 per year, or 1.3 percent of the PBR level. There were no humpback mortalities or serious injuries reported in logbooks for drift gillnet fisheries, but there were Category III reports from fishers indicating mortalities occurred in 1989 and 1994, not 1993 and 1994 as stated in the SAR.

Comment 13: Drift and set gillnet fisheries in Cook Inlet, Yakutat, Alaska Peninsula/Aleutian Islands, Kodiak Island and Bristol Bay are not listed as interacting with humpback whales. Given the information in the SARs that logbook data from salmon and herring gillnet fisheries indicate that humpbacks are entangled, these fisheries should be considered to interact with this species. It also seems likely that these fisheries all interact with harbor porpoise. The commenter noted that a NMFS Federal Register notice dealing with harbor porpoise acknowledged that wherever harbor porpoise and gillnets coincide, harbor porpoise are caught. Further, in the Federal Register notice (60 FR 45399) that lists fisheries permitted to take endangered and threatened species under section 101(a)(5)(e) of the MMPA, these set gillnet fisheries are specifically permitted to take Steller sea lions, although no Steller sea lions are listed in the LOF as interacting with these fisheries. Also, the Southeast Alaska salmon purse seine, Alaska herring roe food/bait purse seine fisheries and salmon troll do not have humpbacks listed as a species with which it interacts, even though the SARs indicate they do interact. Finally, there are fisheries with "none documented" listed as their interactions, but the commenter believes that analogy to other fisheries might indicate otherwise.

Response: The list of marine mammals that interact with each fishery has been revised. Only marine mammal species that have incurred documented mortalities and injuries in a given fishery are included in this list. Analogy is not used to determine which stocks interact with a particular fishery.

There may be discrepancies between the list of marine mammal species identified in the LOF published pursuant to section 118 and the list published pursuant to section 101(a)(5)(E), due to an attempt by NMFS to issue interim permits to all fisheries that may have interactions with marine mammal species listed under the Endangered Species Act, while the section 118 LOF includes only those marine mammal species or stocks with documented injuries and mortalities incidental to a particular commercial fishery.

Comment 14a: The Alaska Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet fisheries are acknowledged as likely to have occasional interactions with marine mammals, yet have been placed in Category III because these interactions are believed to "result in directed takes for subsistence purposes." Because

these fisheries do not have observer data available, and given that they interact with harbor porpoise and beluga whales, the commenter believes these fisheries should be placed in Category II and be subject to observer coverage.

Response: NMFS believes that virtually all takes of marine mammals related to these fisheries are actually directed takes by Alaska Natives for subsistence use. Any marine mammals that are taken incidentally in these fisheries are likewise retained for subsistence use by Alaskan Natives. NMFS is currently developing co-operative agreements with Alaska Native organizations for the management of marine mammals in Alaska used for subsistence purposes. The number of animals taken in the above fisheries and used for subsistence will be considered through co-management agreements rather than under section 118.

Comment 14b: The Alaska salmon troll and sablefish longline/set line fisheries intentionally killed orcas in the past, and it is optimistic to believe that these intentional killings will cease simply because they are now illegal. The commenter believes that these fisheries warrant further monitoring and should be placed in Category II.

Response: See the response to Comment 1 for explanation of how intentional lethal takes will be addressed by NMFS. NMFS does not have data documenting incidental mortalities or serious injuries of killer whales for these fisheries.

Comments on Fisheries in the Northwest Region

Comment 15: The Columbia River salmon fishery is appropriately placed in Category III.

Response: NMFS agrees.

Comment 16: The California/Oregon/Washington (CA/OR/WA) thresher shark/swordfish/blue shark drift gillnet fishery should be renamed in the final LOF to accurately reflect the target species and the current state licensing practices for the fishery. The Washington portion of the fishery should be deleted since there is no Washington licensed swordfish gillnet fishery.

Response: The CA/OR thresher shark/swordfish drift gillnet fishery has been renamed. The reference to blue shark has been removed because this species may not be landed in Oregon and is not a target species in the California fishery. The reference to Washington has been removed because this fishery does not occur in waters off Washington, nor does Washington State permit the