

(NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review. NMFS has determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

#### Authorization

NMFS has issued a renewal IHA to ACOE for the take of small numbers of seven marine mammal species incidental to the Debris Dock Replacement Project in Sausalito, CA, valid from July 15, 2024 through July 14, 2025.

Dated: June 10, 2024.

**Angela Somma,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2024–12998 Filed 6–12–24; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XE020]

#### Fisheries of the U.S. Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

**ACTION:** Notice of SEDAR 84 Assessment Webinar VI for U.S. Caribbean Yellowtail Snapper and Stoplight Parrotfish.

**SUMMARY:** The SEDAR 84 assessment process of U.S. Caribbean yellowtail snapper and stoplight parrotfish will consist of a Data Workshop, and a series of assessment webinars, and a Review

Workshop. See **SUPPLEMENTARY INFORMATION.**

**DATES:** The SEDAR 84 Assessment Webinar VI will be held Tuesday, July 2, 2024, from 10 a.m. to 12 p.m., Eastern Time.

**ADDRESSES:** The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

*SEDAR address:* 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: [Julie.neer@safmc.net](mailto:Julie.neer@safmc.net).

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar VI are as follows:

Panelists will review and discuss and finalize the assessment modeling for stoplight parrotfish in St. Croix.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least (5) business days prior to each workshop.

**Note:** The times and sequence specified in this agenda are subject to change.

*Authority:* 16 U.S.C. 1801 *et seq.*

Dated: June 7, 2024.

**Rey Israel Marquez,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XD818]

#### Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Issuance of Permits

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

**ACTION:** Notice.

**SUMMARY:** The NMFS is issuing permits to authorize the incidental, but not intentional, take of specific Endangered Species Act (ESA)-listed marine mammal species or stocks under the Marine Mammal Protection Act (MMPA), in certain U.S. commercial fisheries.

**DATES:** These permits are effective for a 3-year period beginning June 13, 2024.

**ADDRESSES:** Reference materials for the permits are available on the internet at: <https://www.fisheries.noaa.gov/action/>

*negligible-impact-determinations-and-mmpa-section-101a5e-authorization-commercial-0* or <https://www.regulations.gov/docket/NOAA-NMFS-2024-0003>. Other supporting information is available on the internet including: recovery plans for the ESA-listed marine mammal species, <https://www.fisheries.noaa.gov/national/conservation/conservation-species-act>; 2024 MMPA List of Fisheries (LOF), <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>; the most recent Marine Mammal Stock Assessment Reports (SAR) by region, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>, and stock, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock>; and Take Reduction Teams (TRT) and Plans, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams>.

**FOR FURTHER INFORMATION CONTACT:** Elena Duke, NMFS Pacific Islands Region, 808-725-5085, [Elena.Duke@noaa.gov](mailto:Elena.Duke@noaa.gov); Suzie Teerlink, NMFS Alaska Region, (907) 586-7240, [Suzie.Teerlink@noaa.gov](mailto:Suzie.Teerlink@noaa.gov); or Jaclyn Taylor, NMFS Office of Protected Resources, (301) 427-8402, [Jaclyn.Taylor@noaa.gov](mailto:Jaclyn.Taylor@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The MMPA requires NMFS to authorize the incidental take of ESA-listed marine mammals in commercial fisheries provided it can make the following determinations: (1) the incidental

mortality and serious injury (M/SI) from commercial fisheries will have a negligible impact on the affected species or stocks; (2) a recovery plan for all affected species or stocks of threatened or endangered marine mammals has been developed or is being developed pursuant to the ESA; and (3) where required under MMPA section 118, a take reduction plan (TRP) has been developed or is being developed, a monitoring program is established, and vessels participating in the fishery are registered. NMFS has determined that certain commercial fisheries meet these three requirements and are issuing permits to these fisheries to authorize the incidental take of ESA-listed marine mammal species or stocks under the MMPA for a period of 3 years.

**Background**

The MMPA LOF classifies each commercial fishery as a Category I, II, or III fishery based on the level of mortality and injury of marine mammals occurring incidental to each fishery as defined in 50 CFR 229.2. Section 118(c)(2) of the MMPA requires fishing vessels that operate in Category I and II fisheries to register with NMFS and are subsequently authorized to incidentally take marine mammals during commercial fishing operations. However, that authorization is limited to those marine mammals that are not listed as threatened or endangered under the ESA. Section 118(a)(2) of the MMPA, 16 U.S.C. 1387(a)(2), also requires an additional authorization at section 101(a)(5) of the MMPA, 16 U.S.C. 1371, for incidental taking of ESA-listed marine mammals. Section 101(a)(5)(E) of the MMPA, 16 U.S.C. 1371, states that NMFS, as delegated by the Secretary of Commerce, for a period of up to 3 consecutive years shall allow

the incidental, but not intentional, taking of marine mammal species or stocks designated as depleted because of their listing as an endangered species or threatened species under the ESA, 16 U.S.C. 1531 *et seq.*, by persons using vessels of the United States, while engaging in commercial fishing operations, if NMFS makes certain determinations. NMFS must determine, after notice and opportunity for public comment, that: (1) incidental M/SI from commercial fisheries will have a negligible impact on the affected species or stock; (2) a recovery plan has been developed or is being developed for such species or stock pursuant to the ESA; and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with section 118 of the MMPA, and a TRP has been developed or is being developed for such species or stock.

The LOF includes a list of marine mammal species or stocks incidentally killed or injured in each commercial fishery. We evaluated ESA-listed stocks or species included on the final 2024 MMPA LOF (89 FR 12257, February 16, 2024) as killed or seriously injured following NMFS' Procedural Directive 02-238 "Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals." Based on this evaluation, we proposed to issue permits under MMPA section 101(a)(5)(E) to vessels registered in four Category I or Category II commercial fisheries, as classified on the final 2024 MMPA LOF, to incidentally kill or seriously injure individuals from specific ESA-listed marine mammal stocks, as listed in table 1 below (89 FR 15843, March 5, 2024).

**TABLE 1—COMMERCIAL FISHERIES AUTHORIZED TO TAKE (M/SI) SPECIFIC THREATENED AND ENDANGERED MARINE MAMMALS INCIDENTAL TO FISHING OPERATIONS**

Commercial fishery	LOF category	ESA-listed marine mammal stock
HI deep-set longline/Western Pacific pelagic longline (HI deep-set component) <sup>1</sup> .	I .....	False killer whale, Main HI Islands Insular.
AK Bering Sea, Aleutian Islands flatfish trawl .....	II .....	Bearded seal, Beringia Humpback whale, Western North Pacific Ringed seal, Arctic Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands pollock trawl .....	II .....	Bearded seal, Beringia Humpback whale, Mexico-North Pacific Humpback whale, Western North Pacific Ringed seal, Arctic Steller sea lion, Western U.S.
AK Gulf of Alaska sablefish longline .....	II .....	Sperm whale, North Pacific Steller sea lion, Western U.S.

<sup>1</sup> The Western Pacific pelagic longline (HI deep-set component) is the corresponding high seas component of the HI deep-set longline fishery as defined on the MMPA LOF.

Category III fisheries are those commercial fisheries that have a remote likelihood of or no known incidental mortality or serious injury of marine

mammals (MMPA section 118(c)(1)(A)(iii)). All commercial fisheries classified as Category III on the most current LOF do not require MMPA

101(a)(5)(E) authorization so long as any mortality or injury of marine mammals incidental to their operations is reported pursuant to MMPA section 118(e).

Furthermore, per NMFS' Procedural Directive 02–204–02 (procedural directive), “Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E)” (NMFS 2020), NMFS considers such Category III fisheries to have a negligible impact on that marine mammal stock or species.

Thus, we incorporate by reference all Category III fisheries included in the 2024 MMPA LOF (89 FR 12257, February 16, 2024) as not subject to the ESA prohibition against incidentally taking marine mammals from endangered or threatened species and not subject to any penalties, provided any mortalities or injuries are reported as required under MMPA section 118(e).

In addition, specifically for the purposes of MMPA section 101(a)(5)(E), commercial fisheries classified as Category I or II on the LOF solely because of incidental M/SI of non-ESA-listed marine mammals meet the definition of a Category III commercial fishery with respect to ESA-listed stocks or species because the fishery has a remote likelihood of or no known incidental M/SI of ESA-listed marine mammals (NMFS 2020). In other words, if the commercial fishery is a Category I or II fishery because of incidental take of non-ESA listed marine mammals, we consider it a Category III fishery here. We have determined that the following Category I and II commercial fisheries meet this criteria:

#### Category I

- Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline; and
- AK Southeast salmon drift gillnet;

#### Category II

- AK Bristol Bay salmon drift gillnet;
- AK Kodiak salmon set gillnet;
- AK Peninsula/Aleutian Islands salmon set gillnet;
- AK Yakutat salmon set gillnet; and
- HI shallow-set longline/Western Pacific pelagic longline (HI shallow-set component).

These fisheries do not require 101(a)(5)(E) authorization and are not subject to the ESA prohibition against incidentally taking marine mammals from endangered or threatened stocks and not subject to any penalties, provided any marine mammal mortalities or injuries are reported as required under MMPA section 118(e).

NMFS regularly evaluates other commercial fisheries for purposes of making a negligible impact determination (NID) and issuing section 101(a)(5)(E) authorizations with the annual LOF as new information becomes available. More information about the fisheries in table 1 is available

in the 2024 MMPA LOF (89 FR 12257, February 16, 2024) and on the internet at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>.

For each commercial fishery listed in table 1, we reviewed the best available scientific information to determine if the fishery met the three requirements of MMPA section 101(a)(5)(E) for issuing a permit. This information is included in the 2024 MMPA LOF (89 FR 12257, February 16, 2024), the SARs for these species (available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports>), recovery plans for these species (available at: <https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act>), and other relevant information, as detailed further in the documents describing the preliminary and final determinations supporting the permits (available at: <https://www.regulations.gov/docket/NOAA-NMFS-2024-0003>).

#### Basis for Determining Negligible Impact

Prior to issuing a MMPA 101(a)(5)(E) permit to take ESA-listed marine mammals incidental to commercial fishing, NMFS must determine if the M/SI incidental to commercial fisheries will have a negligible impact on the affected marine mammal species or stocks. NMFS satisfies this requirement by making a NID. Although the MMPA does not define “negligible impact,” NMFS has issued regulations providing a qualitative definition of “negligible impact,” defined in 50 CFR 216.103, as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

#### Criteria for Determining Negligible Impact

NMFS uses a quantitative approach for determining negligible impact detailed in NMFS Procedural Directive 02–204–02 (directive), “Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E),” which became effective on June 17, 2020 (NMFS 2020). The procedural directive is available online at: <https://www.fisheries.noaa.gov/national/laws-and-policies/protected-resources-policy-directives>. The directive describes NMFS' process for determining whether incidental M/SI from commercial fisheries will have a negligible impact on ESA-listed marine mammal species/

stocks (the first requirement necessary for issuing a MMPA section 101(a)(5)(E) permit as noted above).

The directive first describes the derivation of two Negligible Impact Thresholds (NIT), which represent levels of removal from a marine mammal species or stock. The first, Total Negligible Impact Threshold (NIT<sub>t</sub>), represents the total amount of human-caused M/SI that NMFS considers negligible for a given stock. The second, lower threshold, Single NIT (NIT<sub>s</sub>) represents the level of M/SI from a single commercial fishery that NMFS considers negligible for a stock. NIT<sub>s</sub> was developed in recognition that some stocks may experience non-negligible levels of total human-caused M/SI but one or more individual fisheries may contribute a very small portion of that M/SI, and the effect of an individual fishery may be considered negligible.

The directive describes a detailed process for using these NIT values to conduct a NID analysis for each fishery classified as a Category I or II fishery on the MMPA LOF. The NID process uses a two-tiered analysis. The Tier 1 analysis first compares the total human-caused M/SI for a particular stock to NIT<sub>t</sub>. If NIT<sub>t</sub> is not exceeded, then all commercial fisheries that kill or seriously injure the stock are determined to have a negligible impact on the particular stock. If NIT<sub>t</sub> is exceeded, then the Tier 2 analysis compares each individual fishery's M/SI for a particular stock to NIT<sub>s</sub>. If NIT<sub>s</sub> is not exceeded, then the commercial fishery is determined to have a negligible impact on that particular stock. For transboundary, migratory stocks, because of the uncertainty regarding the M/SI that occurs outside of U.S. waters, we assume that total M/SI exceeds NIT<sub>t</sub> and proceed directly to the Tier 2 NIT<sub>s</sub> analysis. If a commercial fishery has a negligible impact across all ESA-listed stocks, then the first of three findings necessary for issuing a MMPA 101(a)(5)(E) permit to the commercial fishery has been met (*i.e.*, a NID). If a commercial fishery has a non-negligible impact on any ESA-listed stock, then NMFS cannot issue a MMPA 101(a)(5)(E) permit for the fishery to incidentally take ESA-listed marine mammals.

These NID criteria rely on the best available scientific information, including estimates of a stock's minimum population size and human-caused M/SI levels, as published in the most recent SARs and other supporting documents, as appropriate. Using these inputs, the quantitative NITs allow for straightforward calculations that lead to clear negligible or non-NIDs for each

commercial fishery analyzed. In rare cases, robust data may be unavailable for a straightforward calculation, and the directive provides instructions for completing alternative calculations or assessments where appropriate.

### Negligible Impact Determinations

NMFS evaluated the impact of each commercial fishery (listed in table 1 above) following the directive and based on the best available scientific information, made NIDs. These NID analyses are presented in accompanying MMPA 101(a)(5)(E) evaluation documents that provide summaries of the information used to evaluate each ESA-listed stock documented on the 2024 MMPA LOF as killed or injured incidental to the fishery (available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>). The final MMPA 101(a)(5)(E) evaluation documents are available at: <https://www.regulations.gov/docket/NOAA-NMFS-2024-0003>.

The following stocks listed in table 1 are transboundary stocks: Western North Pacific stock of humpback whale, Mexico-North Pacific stock of humpback whale, North Pacific stock of sperm whale, Western U.S. stock of Steller sea lion, Beringia stock of bearded seal, and Arctic stock of ringed seal. As noted above, because of the uncertainty regarding M/SI that occurs outside of U.S. waters for transboundary stocks, we assumed that total M/SI exceeds NIT<sub>s</sub> for the above transboundary stocks and proceeded directly to the Tier 2 NIT<sub>s</sub> analysis.

The most recent SARs for several stocks listed in table 1 include fishery-related M/SI not assigned to a specific commercial fishery (information provided in NID analyses summaries where applicable below). This unattributed fishery-related M/SI could be from any number of commercial, recreational, or subsistence fisheries, including fisheries listed in table 1. Because data are not currently available to assign the unattributed fishery-related M/SI to a specific commercial fishery, we did not include unattributed mortality in the calculations for NID Tier 2 analyses (described below). NMFS is actively monitoring the fisheries in table 1 through fishery observer programs. If additional fishery-related M/SI is documented through the observer programs that indicate additional M/SI of the stocks listed in table 1, then NMFS will re-evaluate the appropriate NID and the permit.

Based on the criteria outlined in the directive, the most recent SAR, and the best available scientific information,

NMFS has determined that the M/SI incidental to the four Category I and II fisheries listed in table 1 will have a negligible impact on the associated ESA-listed marine mammal stocks. Accordingly, this MMPA 101(a)(5)(E) requirement is satisfied for these commercial fisheries (see MMPA 101(a)(5)(E) determination document is available at: <https://www.regulations.gov/docket/NOAA-NMFS-2024-0003>). Summaries of the NID analyses are provided below.

#### *HI Deep-Set Longline/Western Pacific Pelagic Longline (HI Deep-Set Component) Fishery*

The Category I HI deep-set longline/Western Pacific pelagic longline (HI deep-set component) fishery has documented incidental M/SI of the main HI Islands (MHI) insular stock of false killer whale in the 2023 draft SAR (Carretta *et al.* In press). The total annual average human caused M/SI for this stock (0.1) does not exceed NIT<sub>s</sub> (0.258); thus, the Tier 1 analysis is satisfied and all commercial fisheries are considered to have a negligible impact on this stock (see accompanying MMPA 101(a)(5)(E) evaluation document linked above for NIT calculation).

#### *AK Bering Sea, Aleutian Islands Flatfish Trawl Fishery*

The Category II AK Bering Sea, Aleutian Islands flatfish trawl fishery has documented incidental M/SI of the Western U.S. stock of Steller sea lion in the 2023 draft SAR (Young *et al.* In press). The 2023 SAR includes mean annual total commercial fishery-related M/SI (39) for the Western U.S. stock of Steller sea lion. This comprises M/SI from all commercial fisheries, including the AK Bering Sea, Aleutian Islands flatfish trawl fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial fishery. The SAR also includes unattributed fishery-related M/SI (1.9) for the stock, which is not assigned to a specific commercial fishery.

The estimated M/SI of Steller sea lions (Western U.S. stock) in the AK Bering Sea, Aleutian Islands flatfish trawl fishery is 13, based on observer data. Since this M/SI (13) is less than NIT<sub>s</sub> (38.87), NMFS determined that the AK Bering Sea, Aleutian Islands flatfish trawl fishery has a negligible impact on the Western U.S. stock of Steller sea lion (see accompanying MMPA 101(a)(5)(E) evaluation document).

The Category II AK Bering Sea, Aleutian Islands flatfish trawl fishery has documented M/SI of the Western North Pacific stock of humpback whale

in the 2022 final SAR (Young *et al.* 2023). The 2022 SAR includes mean annual total commercial fishery-related M/SI (0.012) for the Western North Pacific stock of humpback whale. This comprises M/SI from all commercial fisheries, including the AK Bering Sea, Aleutian Islands flatfish trawl fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial fishery. The SAR also includes unattributed fishery-related M/SI (0.001) for the stock, which is not assigned to a specific commercial fishery. This unattributed fishery-related M/SI could be from any number of commercial, recreational, or subsistence fisheries, including the AK Bering Sea, Aleutian Islands flatfish trawl fishery.

The estimated M/SI of humpback whales (Western North Pacific stock) in the AK Bering Sea, Aleutian Islands flatfish trawl fishery is 0, based on observer data. Since this M/SI (0) is less than NIT<sub>s</sub> (0.439), NMFS determined that the AK Bering Sea, Aleutian Islands flatfish trawl fishery has a negligible impact on the Western North Pacific stock of humpback whale (see accompanying MMPA 101(a)(5)(E) evaluation document).

The Category II AK Bering Sea, Aleutian Islands flatfish trawl fishery has documented incidental M/SI of the Beringia stock of bearded seal in the 2020 final SAR (Muto *et al.* 2021). The mean annual total commercial fishery-related M/SI of the Beringia stock of bearded seal is 1.8, and all attributed to trawl fisheries. The estimated M/SI of bearded seals (Beringia stock) in the AK Bering Sea, Aleutian Islands flatfish trawl fishery is 1.2, based on observer data. Since this M/SI (1.2) is less than NIT<sub>s</sub> (213.5), NMFS determined that the AK Bering Sea, Aleutian Islands flatfish trawl fishery has a negligible impact on the Beringia stock of bearded seal (see accompanying MMPA 101(a)(5)(E) evaluation document).

The Category II AK Bering Sea, Aleutian Islands flatfish trawl fishery has documented incidental M/SI of the Arctic stock of ringed seal in the 2020 final SAR (Muto *et al.* 2021). The mean annual total commercial fishery-related M/SI of the Arctic stock of ringed seal is 4.8, and all attributed to trawl fisheries. The estimated M/SI of ringed seals (Arctic stock) in the AK Bering Sea, Aleutian Islands flatfish trawl fishery is 4.6, based on observer data. Since this M/SI (4.6) is less than NIT<sub>s</sub> (123.6), NMFS determined that the AK Bering Sea, Aleutian Islands flatfish trawl fishery has a negligible impact on the Arctic stock of ringed seal (see accompanying MMPA 101(a)(5)(E) evaluation document).

*AK Bering Sea, Aleutian Islands Pollock Trawl Fishery*

The Category II AK Bering Sea, Aleutian Islands pollock trawl fishery has documented incidental M/SI of the Western U.S. stock of Steller sea lion in the 2023 draft SAR (Young *et al.* In press). The 2023 SAR includes mean annual total commercial fishery-related M/SI (39) for the Western U.S. stock of Steller sea lion. This comprises M/SI from all commercial fisheries, including the AK Bering Sea, Aleutian Islands flatfish trawl fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial fishery. The SAR also includes unattributed fishery-related M/SI (1.9) for the stock, which is not assigned to a specific commercial fishery.

The estimated M/SI of Steller sea lions (Western U.S. stock) in the AK Bering Sea, Aleutian Islands pollock trawl fishery is 6.8, based on observer data. Since this M/SI (6.8) is less than  $NIT_s$  (38.87), NMFS determined that the AK Bering Sea, Aleutian Islands pollock trawl fishery has a negligible impact on the Western U.S. stock of Steller sea lion (see accompanying MMPA 101(a)(5)(E) evaluation document).

The Category II AK Bering Sea, Aleutian Islands pollock trawl fishery has documented incidental M/SI of the Arctic stock of ringed seal in the 2020 final SAR (Muto *et al.* 2021). The estimated M/SI of ringed seals (Arctic stock) in the AK Bering Sea, Aleutian Islands pollock trawl fishery is 0.2, based on observer data. Since this M/SI (0.2) is less than  $NIT_s$  (123.6), NMFS determined that the AK Bering Sea, Aleutian Islands pollock trawl fishery has a negligible impact on the Arctic stock of ringed seal (see accompanying MMPA 101(a)(5)(E) evaluation document).

The Category II AK Bering Sea, Aleutian Islands pollock trawl fishery has documented M/SI of the Western North Pacific stock of humpback whale in the 2022 final SAR (Young *et al.* 2023). The 2022 SAR includes mean annual total commercial fishery-related M/SI (0.012) for the Western North Pacific stock of humpback whale. This comprises M/SI from all commercial fisheries, including the AK Bering Sea, Aleutian Islands pollock trawl fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial fishery. The SAR also includes unattributed fishery-related M/SI (0.001) for the stock, which is not assigned to a specific commercial fishery.

The estimated M/SI of humpback whales (Western North Pacific stock) in

the AK Bering Sea, Aleutian Islands pollock trawl fishery is 0.008, based on observer data. Since this M/SI (0.008) is less than  $NIT_s$  (0.439), NMFS determined that the AK Bering Sea, Aleutian Islands pollock trawl fishery has a negligible impact on the Western North Pacific stock of humpback whale (see accompanying MMPA 101(a)(5)(E) evaluation document).

The Category II AK Bering Sea, Aleutian Islands pollock trawl fishery has documented M/SI of the Mexico-North Pacific stock of humpback whale in the 2022 final SAR (Young *et al.* 2023). The 2022 SAR includes mean annual total commercial fishery-related M/SI (0.36) for the Mexico-North Pacific stock of humpback whale. This comprises M/SI from all commercial fisheries, including the AK Bering Sea, Aleutian Islands pollock trawl fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial fishery. The SAR also includes unattributed fishery-related M/SI (0.05) for the stock, which is not assigned to a specific commercial fishery.

The estimated M/SI of humpback whales (Mexico-North Pacific stock) in the AK Bering Sea, Aleutian Islands pollock trawl fishery is 0.03, based on observer data. As described in the 2022 final SAR, the minimum population estimate ( $N_{min}$ ) for this stock is considered unknown (Young *et al.* 2023), and therefore  $NIT_s$  cannot be calculated directly. Using the process outlined in the directive (NMFS 2020), a threshold  $N_{min}$  for  $NIT_s$  was calculated. The threshold  $N_{min}$  for  $NIT_s$  is 69.93. Since it is likely that the minimum population for the Mexico-North Pacific stock of humpback whale exceeds the threshold  $N_{min}$ , NMFS has determined that the AK Bering Sea, Aleutian Islands pollock trawl fishery has a negligible impact on the Mexico-North Pacific stock of humpback whale (see accompanying MMPA 101(a)(5)(E) evaluation document).

The Category II AK Bering Sea, Aleutian Islands pollock trawl fishery has documented incidental M/SI of the Beringia stock of bearded seal in the 2020 final SAR (Muto *et al.* 2021). The estimated M/SI of bearded seal (Beringia stock) in the AK Bering Sea, Aleutian Islands pollock trawl fishery is 0.6, based on observer data. Since this M/SI (0.6) is less than  $NIT_s$  (213.5), NMFS determined that the AK Bering Sea, Aleutian Islands pollock trawl fishery has a negligible impact on the Beringia stock of bearded seal (see accompanying MMPA 101(a)(5)(E) evaluation document).

*AK Gulf of Alaska Sablefish Longline Fishery*

The Category II AK Gulf of Alaska sablefish longline fishery has documented M/SI of North Pacific stock of sperm whale in the 2020 final SAR (Muto *et al.* 2021). The estimated M/SI of sperm whales (North Pacific stock) in the AK Gulf of Alaska sablefish longline fishery is 1.1, based on observer data.

As noted in the SAR, current and historical abundance estimates of sperm whales in the North Pacific are based on limited data and are considered unreliable; caution should be exercised in interpreting published estimates. Further, sperm whales are far-ranging and exhibit sex segregation and stock overlap that together make population size estimation difficult (Muto *et al.* 2021). More specifically, females and juveniles are unlikely to occur in this area, so the abundance estimate includes only males. As described in the 2020 final SAR, a  $N_{min}$  can be calculated for this stock using the population estimate of 345 (coefficient of variation (CV) = 0.43) from surveys in the Gulf of Alaska in 2015, the  $N_{min}$  is then derived from the estimate and CV and results in a  $N_{min}$  of 244 sperm whales. However, this  $N_{min}$  (244) is an underestimate for the entire stock because it is based on surveys of a small portion of the stock's extensive range and it does not account for animals missed on the trackline or for females and juveniles in tropical and subtropical waters (Muto *et al.* 2021). Therefore, using the process outlined in the directive (NMFS 2020), we calculated a threshold  $N_{min}$  for  $NIT_s$ , which is 4,230.8. Genetic evidence suggests that the males sampled in the sub-Arctic come from multiple populations at lower latitudes including the West Coast ( $N_{min}$  = 1,270) and Hawai'i ( $N_{min}$  = 4,486) stocks as well as the Eastern Tropical Pacific stock and thus do not represent the males from a single population (Mesnick *et al.* 2011). Given the uncertainty of the stock assessment and the underestimated abundance, NMFS has determined that it is likely that the abundance is greater than the threshold  $N_{min}$  and that the AK Gulf of Alaska sablefish longline fishery has a negligible impact on the North Pacific stock of sperm whale (see accompanying MMPA 101(a)(5)(E) evaluation document).

The Category II AK Gulf of Alaska sablefish longline fishery has documented incidental M/SI of the Western U.S. stock of Steller sea lion in the 2023 draft SAR (Young *et al.* In press). The 2023 SAR includes mean annual total commercial fishery-related M/SI (39) for the Western U.S. stock of

Steller sea lion. This comprises M/SI from all commercial fisheries, including the AK Gulf of Alaska sablefish longline fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial fishery. The SAR also includes unattributed fishery-related M/SI (1.9) for the stock, which is not assigned to a specific commercial fishery.

The estimated M/SI of Steller sea lions (Western U.S. stock) in the AK Gulf of Alaska sablefish longline fishery is 1.9, based on observer data. Since this M/SI (1.9) is less than  $NIT_s$  (38.87), NMFS determined that the AK Gulf of Alaska sablefish longline fishery has a negligible impact on the Western U.S. stock of Steller sea lion (see accompanying MMPA 101(a)(5)(E) evaluation document).

### Recovery Plans

Recovery plans for Steller sea lions, sperm whales, and false killer whales (MHI insular) have been completed (see <https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act>).

A new recovery plan for humpback whales is being developed. In 2016, NMFS revised the listing status of the humpback whale under the ESA. The globally listed endangered species was divided into 14 distinct population segments (DPSs), the species-level listing was removed, and NMFS listed four DPSs as endangered and one DPS as threatened (81 FR 62260, September 8, 2016). In June 2022, NMFS published a recovery outline for the Central America, Mexico, and Western North Pacific DPSs of humpback whales (<https://www.fisheries.noaa.gov/resource/document/recovery-outline-central-america-mexico-and-western-north-pacific-distinct>). The recovery outline serves as an interim guidance document and, with the existing species-wide recovery plan, directs recovery efforts, including recovery planning, for the Central America, Mexico, and Western North Pacific DPSs of humpback whales. Once finalized, the new recovery plan will replace the species-wide recovery plan that was published in 1991.

Recovery plans for bearded and ringed seals are also being developed.

Accordingly, the requirement that a recovery plan has been developed or is being developed pursuant to the ESA is satisfied.

### Take Reduction Plans

The MMPA section 118 requires the development and implementation of a TRP for each strategic stock that

interacts with a Category I or II fishery. Subject to available funding, the Secretary shall give highest priority to the development of TRPs for species or stocks whose M/SI exceeds potential biological removal (PBR) level, have a small population size, and which are declining most rapidly. The stocks considered for these permits are designated as strategic stocks under the MMPA because the stocks or a component of the stocks are listed as threatened species or endangered species under the ESA (MMPA section 3(19)(C)).

The MMPA establishes short- and long-term goals of a TRP. The short-term goal of a TRP is to reduce M/SI of marine mammals incidentally taken in commercial fisheries to levels below the PBR for stocks. The long-term goal is to reduce M/SI of marine mammals incidentally taken in commercial fisheries to levels below the insignificant threshold, defined by NMFS as 10 percent of a stock's PBR level (50 CFR 229.2). The obligations to develop and implement a TRP are subject to the availability of funding. MMPA section 118(f)(3) (16 U.S.C. 1387(f)(3)) contains specific priorities for developing TRPs when funding is insufficient. NMFS has insufficient funding available to simultaneously develop and implement TRPs for all strategic stocks that interact with Category I or Category II fisheries. As provided in MMPA section 118(f)(6)(A) and (f)(7), NMFS uses the SAR and LOF as the basis to determine its priorities for establishing TRT and developing TRPs. Information about NMFS' marine mammal TRTs and TRPs may be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams>.

The HI deep-set longline fishery, for the affected marine mammal species or stocks (table 1), has a TRP in place.

Both the AK Bering Sea, Aleutian Islands flatfish trawl and AK Bering Sea, Aleutian Islands pollock trawl fisheries, for the affected marine mammals species or stocks (table 1) have met the long-term goals of a TRP (*i.e.*, M/SI of marine mammals incidentally taken in these fisheries is below the insignificant threshold, which is 10 percent of a stock's PBR level).

PBR and incidental M/SI for each stock listed in table 1 in the AK Bering Sea, Aleutian Islands flatfish trawl fishery are as follows:

- Bearded seal, Beringia—PBR = 8,210, M/SI = 1.2, M/SI as percent of the stock's PBR = 0.01 percent;

- Humpback whale, Western North Pacific—PBR = 0.2, M/SI = 0, M/SI as percent of stock's PBR = 0 percent;
- Ringed seal, Arctic—PBR = 4,755, M/SI = 4.6, M/SI as percent of the stock's PBR = 0.097 percent; and
- Steller sea lion, Western U.S.—PBR = 299, M/SI = 13, M/SI as percent of the stock's PBR = 4.3 percent.

PBR and incidental M/SI for each stock listed in table 1 in the AK Bering Sea, Aleutian Islands pollock trawl fishery are as follows:

- Bearded seal, Beringia—PBR = 8,210, M/SI = 0.6, M/SI as percent of the stock's PBR = 0.007 percent;
- Humpback whale, Mexico-North Pacific—PBR is undetermined, M/SI = 0.03;<sup>1</sup>
- Humpback whale, Western North Pacific—PBR = 0.2, M/SI = 0.008, M/SI as percent of stock's PBR = 4 percent;
- Ringed seal, Arctic—PBR = 4,755, M/SI = 0.2, M/SI as percent of the stock's PBR = 0.004 percent; and
- Steller sea lion, Western U.S.—PBR = 299, M/SI = 6.8, M/SI as percent of the stock's PBR = 2.2 percent.

Marine mammal M/SI incidental to each commercial fishery (AK Bering Sea, Aleutian Islands flatfish trawl, and AK Bering Sea, Aleutian Islands pollock trawl) is below 10 percent of each stock's PBR; thus it is already below the insignificance threshold and approaching a zero M/SI rate (*i.e.*, achieved the long-term goal of a TRP). MMPA section 118(b) requires fisheries to reduce incidental M/SI to insignificant levels and states that fisheries that maintain insignificant M/SI levels shall not be required to further reduce those rates. Therefore, the AK Bering Sea, Aleutian Islands flatfish trawl and AK Bering Sea, Aleutian Islands pollock trawl fisheries cannot be required to further reduce M/SI rates associated with marine mammal species or stocks. As a result, further take reduction planning is not appropriate at this time.

As noted above and in the SAR, the  $N_{min}$  (244) for the North Pacific stock of sperm whales "is an underestimate for the entire stock because it is based on surveys of a small portion of the stock's extensive range and it does not account for animals missed on the trackline or

<sup>1</sup>  $N_{min}$  for the Mexico-North Pacific stock of humpback whale in the winter and summer areas is 2,241 and 766, respectively. Both of these estimates of abundance are based on data collected more than 15 years ago. As stated in the 2022 SAR, because  $N_{min}$  is considered unknown, PBR is undetermined. Based on the dated  $N_{min}$  for this population, that NMFS believes the population to be either stable or increasing, and the incidental M/SI of 0.03 in the AK Bering Sea, Aleutian Islands pollock trawl fishery, NMFS estimates the M/SI is below 10 percent of the stock's PBR.

for females and juveniles in tropical and subtropical waters” (Muto *et al.* 2021). A TRP for M/SI of the North Pacific stock of sperm whales in the AK Gulf of Alaska sablefish longline fishery is under development and will progress as information gaps are addressed.

In addition, the AK Gulf of Alaska sablefish longline fishery has met the long-term goal of a TRP for the Western U.S. stock of Steller sea lion (*i.e.*, M/SI incidentally taken in this fisheries is below the insignificant threshold, which is 10 percent of a stock’s PBR level). PBR for the Western U.S. stock of Steller sea lion is 299 and incidental M/SI in the AK Gulf of Alaska sablefish longline fishery is 1.9 which is 0.6 percent of PBR.

All of the evaluated fisheries listed in table 1, for the affected marine mammal species or stocks, have a TRP in place, achieved the long-term goal of MMPA section 118(f), or based on NMFS’ priorities, implementation of a TRP is currently deferred under section 118 as other stocks/fisheries are a higher priority for any available funding for establishing new TRPs. Accordingly, the requirement under MMPA section 118 to have TRPs in place or in development is satisfied (see determinations supporting the permits available on the internet at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0003>).

#### Monitoring Program

Under MMPA section 118(d), NMFS is to establish a program for monitoring incidental M/SI of marine mammals from commercial fishing operations. Each of the fisheries listed in table 1 is monitored by NMFS fishery observer programs. Accordingly, the requirement under MMPA section 118 to have a monitoring program in place is satisfied.

#### Vessel Registration

MMPA section 118(c) requires that vessels participating in Category I and II fisheries register to obtain an authorization to take marine mammals incidental to fishing activities. NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program, with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Therefore, the requirement for vessel registration is satisfied.

#### Conclusions for Permits

Based on the above evaluation for each commercial fishery listed in table 1 as it relates to the three requirements of MMPA section 101(a)(5)(E), we are issuing MMPA 101(a)(5)(E) permits to the commercial fisheries in table 1 to

authorize the incidental take of ESA-listed species or stocks during commercial fishing operations. If, during the 3-year authorization, there is a significant change in the information or conditions used to support any of these determinations, NMFS will re-evaluate whether to amend or modify the authorization, after notice and opportunity for public comment. If the authorization for an individual fishery in table 1 becomes amended, modified, or invalidated for any reason during the 3-year period, the authorizations for the other commercial fisheries in table 1 will continue unchanged and effective until the end of the 3-year period.

#### ESA Section 7 and National Environmental Policy Act Requirements

ESA section 7(a)(2) requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any species listed under the ESA, or destroy or adversely modify designated critical habitat of any ESA-listed species. The effects of these four commercial fisheries on ESA-listed marine mammals in table 1, were analyzed in the appropriate ESA section 7 Biological Opinions on the commercial fishery, and incidental take was exempted under the ESA for those ESA-listed marine mammals for each of these fisheries in accordance with the Biological Opinions’ incidental take statement. Under section 7 of the ESA, Biological Opinions quantify the effects of the proposed action on ESA-listed species and their critical habitat and, where appropriate, exempt take of ESA-listed species that is reasonably certain to occur, as specified in the incidental take statement.

Under MMPA section 101(a)(5)(E), NMFS analyzes previously documented M/SI incidental to commercial fisheries through the NID process, and when the necessary findings can be made, issues a MMPA section 101(a)(5)(E) permit that allows for an unspecified amount of incidental taking of specific ESA-listed marine mammal stocks while engaging in commercial fishing operations. Thus, the applicable standards and resulting analyses under the MMPA and ESA differ, and as such, do not always align.

The National Environmental Policy Act (NEPA) requires Federal agencies to evaluate the impacts of alternatives for their actions on the human environment. Because these permits would not modify any fishery operation and the effects of the fishery operations have been evaluated in accordance with NEPA, no additional NEPA analysis beyond that conducted for the

associated Fishery Management Plans is required for these permits. Issuing the permits would have no additional impact on the human environment or effects on threatened or endangered species beyond those analyzed in these documents.

#### Comments and Responses

On March 5, 2024, NMFS published a notice and request for comments in the **Federal Register** for the proposed issuance of permits under MMPA section 101(a)(5)(E) (89 FR 15843). The public comment period closed on April 4, 2024. NMFS received three comment letters on the proposed issuance of the permits and underlying preliminary determinations. The Center for Biological Diversity (CBD) opposed issuing the permits. In addition, two comment letters (one in support of issuing the permits and one opposed to issuing the permits) were submitted from members of the public. Only responses to significant comments pertaining to the proposed permits and preliminary determinations under MMPA section 101(a)(5)(E) are addressed below.

*Comment 1:* CBD comments that NMFS has not developed TRPs for most of the stocks in the proposed permits as required under MMPA section 101(a)(5)(E). They further comment that the MMPA’s goal is to reduce M/SI for a strategic stock from all commercial fishing operations and state that not all the stocks in the proposed permits are approaching a zero M/SI rate.

*Response:* The MMPA’s short-term goal of a TRP is to reduce M/SI of marine mammals incidentally taken in commercial fisheries to levels below a stock’s PBR. The MMPA’s long-term goal is to reduce M/SI of marine mammals incidentally taken in commercial fisheries to levels below the insignificant threshold, defined by NMFS as 10 percent of a stock’s PBR level (50 CFR 229.2). Both the AK Bering Sea, Aleutian Islands flatfish trawl and AK Bering Sea, Aleutian Islands pollock trawl fisheries, for the affected marine mammals species or stocks (table 1) have met the long-term goals of a TRP (*i.e.*, M/SI of marine mammals incidentally taken in these fisheries is below the insignificant threshold, which is 10 percent of a stock’s PBR level) (see Take Reduction Plans section).

Before convening a TRT, it is critical to have a sufficient level of data on abundance and mortality available to inform TRT discussions and support successful TRP development (16 U.S.C. 1387(f)(4)). At a minimum, abundance and observer data are needed to estimate

PBR and commercial fishery-related M/SI levels, which are used to determine TRP goals and whether those goals have been met (16 U.S.C. 1387(f)(2)). Without this crucial information, a TRT is not able to make informed decisions and meaningful recommendations to NMFS. Moreover, if abundance and stock structure data are substantially biased, it could result in an ineffective TRP (e.g., measures developed and implemented are not sufficient to reduce M/SI of a stock and stock declines or lack of recovery could continue). Thus, the first step in development of a TRP, prior to convening a TRT, is to ensure the availability of critical underlying data.

There are key technical uncertainties in the current North Pacific sperm whale SAR that must be addressed. In general, sperm whales' unusual hierarchical social and population structure present difficulties in modeling population dynamics and estimating abundance given their deep diving behavior. There is little current information about the broad-scale distribution of sperm whales in Alaska waters, and a "reliable" abundance estimate for the entire stock is considered unavailable because the abundance data is more than 8 years old (see Muto *et al.* 2021). Further, determining the relationship between high latitude large males (such as those present in Alaska waters) to breeding groups is essential to understanding population dynamics, and whether the current stock contains one or more demographically independent populations. As discussed above, the current North Pacific sperm whale abundance estimate is based on a small portion of the population (largely males) and therefore, the data to evaluate the impact of commercial fisheries on this population is substantially biased. NMFS is taking the necessary steps to address these uncertainties and will review and revise the North Pacific sperm whale SAR in accordance with section 117(c) of the MMPA (16 U.S.C. 1386(c)).

Most recently, in April 2024 at the 69th Scientific Committee (SC69B) meeting of the International Whaling Commission (IWC), NMFS scientists on the U.S. delegation to the IWC Scientific Committee proposed a workshop to conduct an assessment of sperm whale populations in the Eastern North Pacific. The Scientific Committee recognized that it has been almost 20 years since the last effort to assess the status of North Pacific sperm whale population and agreed to establish an intersessional correspondence group to help assess available data for a North Pacific sperm whale assessment and

develop a workshop proposal. This work is necessary to prepare for a future in-depth assessment of North Pacific sperm whales under the auspices of the IWC, which would inform the work of a TRT. Following the process described in NMFS Procedural Directive 02–204–03 *Reviewing and Designating Stocks and Issuing Stock Assessment Reports under the Marine Mammal Protection Act* (NMFS 2019), NMFS is investigating whether the existing North Pacific stock of sperm whales constitutes one or more demographically independent populations, which, depending on the findings, could lead to a revised stock structure for North Pacific stock of sperm whales.

Therefore, and as described in the Take Reduction Plan sections of the proposed permits (89 FR 15843, March 5, 2024), and this **Federal Register** notice, all of the evaluated fisheries listed in table 1, for the affected marine mammal species or stocks, have a TRP in place, achieved the long-term goal of TRPs (see 16 U.S.C. 1387(f)(2)), or implementation of a TRP is under development and will progress as information gaps are addressed. Accordingly, the requirement under MMPA section 118 to have TRPs in place or in development is satisfied.

*Comment 2:* CBD states that the NITs defined in NMFS' "Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E)" are set at the same level as PBR and are insufficiently protective. They further commented that NMFS misrepresented the mean estimated annual M/SI of MHI false killer whales in the HI deep-set longline fishery (0.3), and that the correct value should be 0.1. CBD requests NMFS set a negligible impact threshold lower than PBR and evaluate whether the correct M/SI exceeds that threshold.

*Response:* CBD's comments on the NITs as described in NMFS' "Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E)" were previously addressed by NMFS and are available at: <https://www.fisheries.noaa.gov/action/criteria-determining-negligible-impact-under-mmpa-section-101a5e>. NMFS reviewed the M/SI information provided by CBD and revised the NID analysis for the HI deep-set longline fishery using the most recent data in the draft 2023 SAR (Carretta *et al.* In press). The total annual average human caused M/SI for the MHI insular stock of false killer whale (0.1) does not exceed NIT<sub>i</sub> (0.258). Using the revised NID analysis results in the same NID as in the proposed permit for the HI deep-set

longline fishery. The Tier 1 analysis is satisfied, and all commercial fisheries are considered to have a negligible impact on this stock (see accompanying MMPA 101(a)(5)(E) evaluation document).

*Comment 3:* CBD comments that NMFS did not use the correct abundance estimate for the Western North Pacific stock of humpback whale in the NID analyses for the proposed permits. They state NMFS used a N<sub>min</sub> of 1,007, which is for the entire Western North Pacific humpback whale population, instead of the N<sub>min</sub> of 75 for the portion of Western North Pacific humpback whale population in U.S. waters.

*Response:* NMFS disagrees. While NMFS' procedural directive "Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E)" does not specify that the N<sub>min</sub> used in the analysis be the N<sub>min</sub> for U.S. waters, section 101(a)(5)(E) requires "the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock." 16 U.S.C. 1371(a)(5)(E)(i)(I). Consistent with this statutory requirement, NMFS used N<sub>min</sub> for the Western North Pacific stock of humpback whale. As noted in the **Federal Register** notice for the proposed permits (89 FR 15843, March 5, 2024), the Western North Pacific stock of humpback whale is a transboundary stock. Because of the uncertainty regarding M/SI that occurs outside of U.S. waters for transboundary stocks, we assumed that total M/SI exceeds NIT<sub>i</sub> and proceeded directly to the Tier 2 NIT<sub>s</sub> analysis. NMFS conducted the Tier 2 NIT<sub>s</sub> analysis using the stock wide N<sub>min</sub> (1,007) for the Western North Pacific humpback whale given that 2022 SAR provides some M/SI data for commercial fisheries outside of U.S. waters.

*Comment 4:* CBD states that NMFS estimated fishery M/SI in U.S. waters and only assigned 2 out of every 100 humpback whale M/SI to the Western North Pacific stock of humpback whales instead of assigning each M/SI to each humpback whale stock. CBD asserts that NMFS did not discuss the potential for underestimated stock-specific M/SI when partitioning M/SI among overlapping stocks in the SAR, as required by the Guidelines for Assessing Marine Mammal Stocks (GAMMS).

*Response:* Insofar as CBD alleges NMFS used the incorrect M/SI value in its NID analysis, NMFS disagrees. The NID analysis and 101(a)(5)(E) permit evaluation are based on the best scientific information available as summarized in the published SARs. The



process of apportioning M/SI in areas with overlapping stocks is part of the SAR process, which includes review by a statutorily established scientific review group and its own opportunity for public review and comment (*see* 16 U.S.C. 1386(b),(d); 88 FR 4162, Jan. 24, 2023; 88 FR 54592, August 11, 2023).

*Comment 5:* CBD asserts that NMFS did not adequately explain why the  $N_{\min}$  and PBR from the SAR were not used for the NID analysis for the AK Gulf of Alaska sablefish longline fishery. They state that the NID analysis for the North Pacific stock of sperm whale incidentally killed or injured in the AK Gulf of Alaska sablefish longline fishery ignores the SAR's  $N_{\min}$  and PBR. The North Pacific sperm whale SAR includes a  $N_{\min}$  of 244 and PBR of 0.5; however, the NID analysis uses a threshold abundance of 4,230.8 sperm whales. CBD notes that just because the estimate of 244 sperm whales is an underestimate does not mean that the estimate is "unavailable" and does not warrant an alternative calculation in the NID analysis. They continue further that the SAR caveats the PBR by stating it "does not account for females and juveniles in tropical and subtropical waters," but that since the fishery operates in the Gulf of Alaska it is not reasonable to compare M/SI in U.S. waters to the population as a whole.

*Response:* Following the GAMMS, NMFS publishes all known population estimates and calculates a PBR wherever possible in the SARs. However, in some cases, the abundance estimate and corresponding  $N_{\min}$  are only a small portion of the stock's range and/or are not representative for other reasons. In the case of the North Pacific stock of sperm whale, a "reliable" abundance estimate for the entire stock is considered unavailable because the abundance data is more than 8 years old (*see* Muto *et al.* 2021). Additionally,  $N_{\min}$  is considered an underestimate for the entire stock because surveys are from only a small portion of the stock's range and it does not take into account females and juveniles in tropical and subtropical waters (*see* Muto *et al.* 2021). The calculated PBR (0.5 animals) for this stock is deemed "not reliable" as an index for the entire stock and is generally not used for management purposes for the entire stock (*see* Muto *et al.* 2021). Therefore, we considered  $N_{\min}$  unavailable for the purpose of the NID. In accordance with NMFS' "Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E)", the NIT<sub>s</sub> threshold approach is used in the NID analysis where no estimate of  $N_{\min}$  is available, which indicates that a minimum  $N_{\min}$

threshold of 4,230 must be likely for the stock in order to arrive at a NID.

*Comment 6:* CBD comments that total human-caused M/SI of the Western North Pacific stock of humpback whale exceeds the stock-wide PBR (3.4). In addition, they state NMFS has not estimated undocumented M/SI for the stock in the summer or winter feeding areas. CBD asserts that U.S. commercial fisheries incidentally killed or injured 5.27 humpback whales (Western North Pacific, Hawai'i and Mexico-North Pacific stocks) in 5 years. CBD further used NMFS' apportionment method to note that the estimated M/SI of Western North Pacific humpback whales is 0.02108, which exceeds 10 percent of the stock's PBR in U.S. waters and cannot be considered insignificant and approaching a zero M/SI rate.

*Response:* NMFS follows a standardized process for estimating annual fishery M/SI in the SARs. As noted by CBD, M/SI of humpback whales in Alaska is allocated using the "NMFS, Alaska Region Occurrence of Endangered Species Act (ESA) Listed Humpback Whales off Alaska" guidance document. However, in cases where the stock origin is known, such as for the December 23, 2020 humpback whale serious injury documented in Mexico, the M/SI is assigned only to the confirmed stock and not allocated to all stocks. CBD incorrectly included this Mexico M/SI in their M/SI estimation for Western North Pacific stock humpback whales. Removing the M/SI from the Mexico North Pacific stock from the calculation results in a mean annual commercial fisheries mortality of Western North Pacific stock of 0.012 and is less than 10 percent of PBR. Further, when we include the October 15, 2018 entanglement where the whale was released from gear by trained responders (but is not included in the SAR because the outcome is expected to be a non-serious injury after intervention), the total mean annual commercial fisheries mortality of Western North Pacific stock is 0.016 and is less than 10 percent of PBR.

As noted above, the most recent SAR for the Western North Pacific stock of humpback whale includes fishery-related M/SI not assigned to a specific commercial fishery. This unattributed fishery-related M/SI could be from any number of commercial, recreational, or subsistence fisheries, including fisheries listed in table 1. Because data are not currently available to assign the unattributed fishery-related M/SI to a specific commercial fishery, we did not include unattributed mortality in the calculations for NID Tier 2 analysis. NMFS is actively monitoring the

fisheries in table 1 through fishery observer programs. If additional fishery-related M/SI is documented through the observer programs that indicate additional M/SI of the Western North Pacific stock of humpback whale, then NMFS will re-evaluate the appropriate NID and the permit.

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Dated: June 7, 2024.

**Catherine Marzin,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XE031]

#### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's (Council) Tilefish Advisory Panel will hold a public meeting.

**DATES:** The meeting will be held on Thursday, June 27, 2024, from 2 p.m. to 4 p.m., EST. For agenda details, see **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** The meeting will be held via webinar. Webinar connection, agenda items, and any additional information will be available at [www.mafmc.org/council-events](http://www.mafmc.org/council-events).

*Council address:* Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; [www.mafmc.org](http://www.mafmc.org).

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to discuss recent performance of the blueline and golden tilefish commercial and recreational fisheries and develop Fishery Performance Reports. These reports will be considered by the Scientific and Statistical Committee, the Monitoring Committee, and Mid-

Atlantic Fishery Management Council when setting 2025 blueline and 2025-2027 golden tilefish catch and landings limits as well as commercial or recreational management measures.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden at the Council Office, (302) 526-5251, at least 5 days prior to the meeting date.

*Authority:* 16 U.S.C. 1801 *et seq.*

Dated: June 7, 2024.

**Key Israel Marquez,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XE022]

#### Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

**ACTION:** Notice of SEDAR 95 Atlantic Migratory Cobia Life History Webinar I.

**SUMMARY:** The SEDAR 95 assessment of the Atlantic stock of cobia will consist of a series of data and assessment webinars. See **SUPPLEMENTARY INFORMATION**.

**DATES:** The SEDAR 95 Atlantic Migratory Cobia Life History Webinar I has been scheduled for Monday, July 1, 2024, from 1 p.m. to 3 p.m., Eastern. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice.

**ADDRESSES:** The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

*SEDAR address:* 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; [www.sedarweb.org](http://www.sedarweb.org).

**FOR FURTHER INFORMATION CONTACT:** Julie A. Neer, SEDAR Coordinator; (843) 571-4366; email: [Julie.neer@safmc.net](mailto:Julie.neer@safmc.net).

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the SEDAR 95 Atlantic Migratory Cobia Life History Webinar I are as follows:

Discuss and review available life history data and provide recommendations for use in the assessment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically