

Although other non-emergency issues not on the agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in the agenda 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 Council's intent to take action to address the emergency.

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

Dated: December 18, 2024.

**Rey Israel Marquez,**

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

[FR Doc. 2024-30627 Filed 12-23-24; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XE533]

#### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Tuesday, January 14, 2025 at 9 a.m.

**ADDRESSES:** Webinar registration URL information: <https://nefmc-org.zoom.us/meeting/register/tJlkduigrzspGdBXNMk5OW3Do9LXrpcMR7nR>.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

**SUPPLEMENTARY INFORMATION:**

## Agenda

The Scallop Advisory Panel will meet to Review 2025 Scallop Work Priorities, including a work plan for this calendar year. The discussion will focus on the development of a Long-Term Strategic Plan. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

## Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

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

Dated: December 18, 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-XE168]

#### Final 2023 Marine Mammal Stock Assessment Reports

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

**ACTION:** Notice; response to comments.

**SUMMARY:** As required by the Marine Mammal Protection Act (MMPA), NMFS has considered public comments for revisions of the 2023 marine mammal stock assessment reports (SARs). This notice announces the availability of 66 final 2023 SARs that were updated and finalized.

**ADDRESSES:** The 2023 final SARs are available in electronic form via the internet at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>

## FOR FURTHER INFORMATION CONTACT:

Zachary Schakner, Office of Science and Technology, 301-427-8106, [Zachary.Schakner@noaa.gov](mailto:Zachary.Schakner@noaa.gov); Nancy Young, 206-526-4297, [Nancy.Young@noaa.gov](mailto:Nancy.Young@noaa.gov), regarding Alaska regional stock assessments; Jessica McCordic, 508-495-2396, [Jessica.McCordic@noaa.gov](mailto:Jessica.McCordic@noaa.gov), regarding Atlantic, Gulf of Mexico, and Caribbean regional stock assessments; or Jim Carretta, 858-546-7171, [Jim.Carretta@noaa.gov](mailto:Jim.Carretta@noaa.gov), regarding Pacific regional stock assessments.

## SUPPLEMENTARY INFORMATION:

### Background

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (USFWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States, including the U.S. Exclusive Economic Zone (EEZ). These SARs must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury (M/SI) from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial SARs were completed in 1995.

The MMPA requires NMFS and USFWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available and at least once every three years for non-strategic stocks. The term "strategic stock" means a marine mammal stock: (A) for which the level of direct human-caused mortality exceeds the potential biological removal level or PBR (defined by the MMPA 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); (B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act (ESA) within the foreseeable future; or (C) which is listed as a threatened species or endangered species under the ESA or is designated as depleted under the MMPA. NMFS and USFWS are required to revise a SAR if they determine the review indicates that the status of the

stock has changed or can be more accurately determined.

In order to ensure that marine mammal SARs constitute the best scientific information available, the updated SARs under NMFS' jurisdiction are peer-reviewed within NMFS Science Centers and by members of three regional independent scientific review groups established under the MMPA to independently advise NMFS and the USFWS on marine mammals. As a result of the time involved in the assessment of new scientific information, revision, and peer-review of the SARs, the period covered by the 2023 final SARs is generally 2017 through 2021.

NMFS reviewed the status of all marine mammal strategic stocks and considered whether significant new information was available for all other stocks under NMFS' jurisdiction. As a result of this review, NMFS revised or developed new reports for 66 stocks in the Alaska, Atlantic, and Pacific regions to incorporate new information. The 2023 revisions to the SARs consist primarily of updated or revised human-caused M/SI estimates and updated abundance estimates. This publication also finalizes (1) a new SAR for a newly described species, Sato's beaked whale (2) revisions to the stock structure of West Coast harbor porpoise that splits the Northern California–Southern Oregon stock into two stocks (the Northern California–Southern Oregon stock and the Central Oregon stock) and (3) name changes for all stocks with '4-Islands' in the name to 'Maui Nui' to align with the original Hawaiian names of various islands and places where the stocks reside.

The 2023 revisions to the abundance and trend sections of the main Hawaiian Islands insular false killer whale section of the false killer whale SAR are not being finalized at this time because of a delay in the publication of updated abundance estimates. The mortality and serious injury information has been updated together with the other false killer whale stocks represented in this SAR. The abundance and trend sections for main Hawaiian Islands insular false killer whales will be revised in a subsequent SAR cycle. The draft 2023 SAR for the Washington Inland Waters harbor seal stocks is not being finalized at this time given that the draft Pearson *et al.* estimates of abundance and trends remain unpublished. This SAR will be revised in a subsequent cycle when the abundance estimates for these stocks are published.

NMFS received comments on the draft 2023 SARs from the Marine Mammal Commission (Commission);

the Department of Fisheries and Oceans Canada (DFO); two fishing industry associations (Hawaii Longline Association (HLA) and Maine Lobstermen's Association (MLA)); an environmental non-governmental organization (Center for Biological Diversity); two Alaska Natives Organizations (Chugach Regional Resources Commission and the Aleut Community of St. Paul Island); and the Western Pacific Regional Fishery Management Council (Council). Our responses to substantive comments are below. We have not responded to comments that failed to raise a significant point for us to consider (*e.g.*, comments that are out of scope of the draft SARs). We appreciate the Commission's program-level comments and will take them into consideration, as appropriate, in the future.

In response to a comment from MLA that noted NMFS relied on an incorrect population size estimate for the NARW SAR, we have further revised the NARW SAR to include the latest and best available estimate on NARW abundance, which also now incorporates an improvement to the underlying model to allow for the potential of recruitment based on observed calves (Linden 2024a,b). However, we note that the issue of having multiple abundance estimates for the NARW population using the same general model is not new. It is an outcome of the timing of the SAR cycle and when the data are available to perform an updated model run.

Since 2017, NMFS has produced annual NARW population size estimates in collaboration with the New England Aquarium, which are released at the North Atlantic Right Whale Consortium's annual meeting, typically in October each year. In 2023, NMFS began publishing these estimates in stand-alone peer-reviewed Technical Memorandum to provide full and transparent documentation of the estimation process and results (*e.g.*, Linden 2023, Linden 2024b). However, the timing of the release of these estimates has not allowed for their straightforward incorporation into the contemporaneous final NARW SAR. This is, in part, because NMFS' marine mammal SARs are typically reviewed by the SRGs in early spring, subsequently made available for public comment, and then finalized with a notice in the **Federal Register**. Abundance estimates produced in October are, therefore, not typically available for inclusion in the latest SAR before SRG review and public comment. Nevertheless, NMFS agrees with MLA that the NARW abundance estimates produced each

October should generally be considered the best available scientific information on the population size of NARWs for that year, as long as all necessary review requirements, including peer review, have been satisfied. Furthermore, NMFS recognizes that having multiple abundance estimates for the NARW population publicly available in various stages of the SAR process, including multiple estimates for any given single year, creates confusion and ambiguity as to what is the best available and most recent estimate of the population size.

To address this timing issue for the final 2023 SAR and minimize similar timing issues going forward, NMFS is modifying certain procedural steps in developing the NARW SAR. Specifically, the final 2023 NARW SAR has been updated to include the latest abundance estimate published in Linden (2024b) in October 2024, along with the most recent human-caused mortality and serious injury data based on Henry *et al.* 2024. In future SAR cycles, NMFS anticipates it will proceed similarly to include the most recent data available in the most recent NARW SAR when finalized.

A key aspect of the NARW stock assessment process that allows for NMFS to incorporate the best available science into the final SAR is that unless the model used to estimate population abundance is significantly modified, additional runs of the model to produce newer estimates only necessitate a Level 1 review per NMFS' *Guidelines for Preparing Stock Assessment Reports Pursuant to the Marine Mammal Protection Act* (NMFS 2023, hereafter the GAMMS). Per the GAMMS section 3.6 Ensuring Appropriate Peer Review of New Information peer review, Level 1, "For routine data updates and analyses using methods unchanged from previously peer-reviewed and published analyses for the affected stock, there is no need for additional peer review before including such information in draft SARs for review by the SRG and co-management partners (when applicable)." Under Level 1, updated annual abundance estimates and data on human-caused M/SI are explicitly provided as examples of new information that meets the criteria for Level 1 peer review, provided they "employ[s] methods that are not substantively changed from previously peer-reviewed and published analyses." In cases where a model used for a marine mammal stock assessment is substantively changed, the GAMMS direct NMFS to follow Level 2 peer-review, which states that "NMFS should consult with the SRG and co-management partners (when applicable)

about further peer review, including that of the SRG, before such information is included in the draft SAR.”

For the 2023 NARW SAR, the population abundance model was indeed substantively modified to improve the estimates by allowing the model to accommodate for potential recruitment into the population based on observed calves (Linden 2024a). Following this, the improved model was then used to produce an updated annual abundance estimate of the population (Linden 2024b). In accordance with the GAMMS Level 2 peer review guidance, NMFS requested a review of the model improvements (Linden 2024a) by the Atlantic SRG in October 2024 and received positive feedback, noting that the improved model provides the best available estimate of NARW abundance. Following this, NMFS also sought a review of its application of the improved model to produce an updated NARW abundance estimate from the Atlantic SRG. While the Atlantic SRG chair indicated SRG review was unnecessary given that the new information met the GAMMS Level 1 peer review guidance, the chair nonetheless provided a positive review of the new abundance estimate (Linden 2024b). For the updated information on human-caused M/SI that became available after publication of the draft 2023 NARW SAR (Henry *et al.* 2024), NMFS did not seek additional peer review given that the new information meets the GAMMS Level 1 peer review guidance. Additionally, NMFS had already provided the updated information to the Atlantic SRG for review at their annual meeting in February 2024.

In summary, given MLA’s comment and the best scientific information that has become available and peer reviewed since publication of the draft 2023 NARW SAR, the final 2023 NARW SAR has been updated to include the most recent and best available scientific information on NARW population abundance and human-caused mortality and serious injury of the stock.

#### Comments on National Issues

*Comment 1:* The Commission recommends that NMFS establish a consistent approach for describing M/SI within the text of the SARs, adhering to the current Guidelines for Preparing Stock Assessment Reports Pursuant to the Marine Mammal Protection Act (NMFS 2023), and reporting total human-caused and fisheries-related M/SI in the summary tables by region.

*Response:* We strive for consistency in all information in the summary tables. We continue to implement the revised

GAMMS as we determine revisions are warranted on a stock-by-stock basis with the goal of improving consistency over time.

#### Comments on Alaska Issues

*Comment 2:* The Commission recommends that NMFS’ annual reports of human-caused M/SI of marine mammals in Alaska be made available at the time of the public comment period to enable informed review, rather than citing an in-preparation report (*e.g.*, Freed *et al.* (in prep.) is cited in the draft 2023 Alaska SARs). The Commission suggests that if the report has not yet been published by the time the draft SARs are released, the information should be made available in another way, such as a preliminary or abbreviated report.

*Response:* We recognize that it may be helpful to SAR reviewers to access the supporting M/SI report while reviewing the draft SARs. The timelines for injury and mortality data acquisition and finalization (sometimes involving genetic analysis for species identification), injury severity determination and review, and report writing, review, and publication mean that a final report may not be available before draft SARs are released for public comment. Our current practice is to make the newest year of preliminary data available to the Alaska Scientific Review Group (SRG) and Marine Mammal Commission ahead of the annual Alaska SRG meeting. If future reports are not published before publication of the draft SARs, we will aim to make the 5-year preliminary dataset corresponding with the draft SARs and/or a draft report available to the public upon request.

*Comment 3:* The Chugach Regional Resources Commission (CRRC) provided information on research by its Alutiiq Pride Marine Institute and capabilities of its marine mammal program. The CRRC provided two reports that are not currently cited in the draft 2023 SARs: a report compiling marine mammal harvest data from 1984–2014 in the Chugach region (Keating *et al.* 2023), and a report summarizing the status and data available for Steller sea lions, harbor seals, harbor porpoise and Dall’s porpoise in the CRRC region (Rehberg 2023).

*Response:* We appreciate the proactive engagement by CRRC and the information provided in the two reports. We reviewed the reports specifically for information about Steller sea lions, the only species covered in the reports for which the SAR was revised in 2023, and determined the reports do not provide additional information that was not

already presented in the SAR. We encourage CRRC to share information on any future surveys and harvest data that can be reviewed during future review and revisions of the SARs.

*Comment 4:* The Aleut Community of St. Paul Island commented that the Eastern Pacific northern fur seal SAR was not revised in 2023 and an update is needed because newly available scientific research showing that nutritional limitations are one likely cause of the continued population decline would allow NMFS to more accurately determine the status of the stock. Specifically, they cited (1) McHuron *et al.* (2019) for finding evidence that food limitation could be contributing to reduced reproductive success and that long-term prey limitations could be causing reduced pup production; (2) McHuron *et al.* (2020) for concluding that increasing the prey available in important locations was the most feasible way to “reduce maternal foraging effort and consequently increase pup growth rates;” and (3) Divine *et al.* (2022) for reinforcing the conclusions of the two McHuron *et al.* papers by Indigenous knowledge holders.

The Aleut Community of St. Paul Island also commented that the updated SAR must include an estimate of mortality due to prey competition from commercial fishing, claiming that such mortality is human caused and is incidental to human activities. They cited Short *et al.* (2021) as providing estimates of the mortality of first-year pups due to prey competition.

*Response:* NMFS reviewed the strategic Eastern Pacific northern fur seal SAR at the beginning of the 2023 SAR cycle and determined that the new scientific information available, including published literature and updated M/SI estimates, did not indicate that the stock’s strategic status under the MMPA had changed or that NMFS could more accurately determine the stock’s status (*see* 16 U.S.C. 1386(c)(2)). As part of the annual SAR review for strategic stocks, NMFS reviewed the Eastern Pacific northern fur seal SAR in 2024 and determined, based on the best available scientific information, that a revision is warranted. We will consider the scientific information provided by the commenter as we develop the 2024 SAR.

#### Comments on Atlantic Issues

*Comment 5:* The Department of Fisheries and Oceans Canada disagrees with the country of origin assignments for observed human-caused mortality and serious injury in the North Atlantic

right whale (NARW) SAR for NARWs #3893, #3920, #4094, and #3125.

*Response:* In regards to NARW #3893, #3920, #4094, and #3125, we refer DFO to our response to their comment on this issue in the **Federal Register** notice for the final 2022 SARs (88 FR 54592, 54593 (Aug. 11, 2023) (response to comment #5)). We also note that the serious injury of NARW #4094 in 2017 is no longer included in the 2023 NARW SAR given that it was updated to include the available M/SI data from the most recent 5-year time (2018–2022).

*Comment 6:* MLA states the NARW SAR must disclose the limits of the Pace model, explain how those limitations have been addressed, and clarify how new information is incorporated into the model. MLA identified the following limitations: the model remains sensitive to new data and has highly variable outputs, especially at the end of the time series when it is not known if an unseen whale has died or simply not been detected, does not account for natural mortality and predation and assumes all estimated mortality is human-caused, assumes an equal sex ratio and probability of mortality, and the model's initial estimated population decline from 2011 to 2015 occurred during a time when NARW geographic distribution shifted to areas lacking survey effort and recapture rates declined significantly.

*Response:* Regarding model sensitivity to new data, natural mortality and assumed human-caused mortality, and limitations of the model due to geographic distribution shifts, MLA provided substantively identical comments on the 2022 NARW SAR. MLA has not presented any new information that was not considered and addressed in our response to their comments on these issues for the 2022 NARW SAR. Therefore, we refer to our responses on the 2022 NARW SAR (88 FR 54592, 54594 (response to comment #6)).

Regarding the model assuming an equal sex ratio and probability of mortality, in response to MLA's comment on this issue for the 2022 SARs, we revised the NARW SAR to clarify that “[t]he model does not assume an equal sex ratio and allows survival and capture rates to differ between the sexes.” However, MLA comments that this issue remains and cites Pace (2021), which states, “We estimated the relative effective detection effort as the mean adult female capture probability for the era.” To clarify, the MLA incorrectly attributes a quote from Pace *et al.* (2021) to Pace (2021). Pace *et al.* (2021) was a specific analysis for

exploring hypotheses related to undetected (cryptic) mortality. The population estimate in the 2023 NARW SAR, using the methods of Pace *et al.* (2017) and further refined in Pace (2021), specified separate capture and survival probabilities for males and females. In addition, the population model has now been further refined and improved to accommodate the potential for recruitment into the population based on observed calves (Linden 2024a,b), which underwent additional peer review by the Atlantic SRG and was determined to be the best available science on NARW abundance.

*Comment 7:* MLA claims the draft NARW SAR does not include the best scientific information available on the population size because the draft SAR states that the NARW population size (as of 2021) is 340 whales, and NMFS published a technical memorandum in October 2023 reporting that the NARW population size was 364 whales in 2021 and 356 whales in 2022. MLA claims this has major consequences for other key metrics in the SAR.

*Response:* In response to MLA's comment on this issue, we have updated the final 2023 NARW SAR to include the most recent and best available scientific information on NARW population abundance and human-caused mortality and serious injury of the stock (see Background section) that was just recently released in October. In addition, we updated the M/SI data in the NARW SAR to include data from the most recent 5-year time period (2018–2022) for which they are available.

However, it is important to note that for NARWs, small changes in population size have minimal effect on their PBR level and, thus, management targets. The PBR level for NARWs has been 0.7 since the final 2021 NARW SAR was published and less than 1 since 1995 when the first NARW SAR was published following the 1994 amendments to the MMPA. PBR in the final 2023 SAR for NARWs is 0.73. While we have revised the SAR to include the most recent available estimate on the population's size, it does not significantly impact other metrics in the SAR. Until such time that the minimum population size is greater than 500 NARWs, the PBR level benchmark for the stock will remain below 1 individual whale. Moreover, regardless of the stock's PBR level, NARWs will remain a strategic and depleted stock under the MMPA as long as the species is listed under the ESA.

*Comment 8:* MLA states that NMFS' determination that 87 percent of undetected, assumed carcasses

represent whales killed by fishing entanglements is unsupported and arbitrary because the draft 2023 SAR states that entanglement is more likely to be detected than vessel strikes and which raises concern with NMFS' method of apportioning unknown sources of human-caused mortality. MLA also comments that significant discussion about vessel strike data and management was struck from the 2023 NARW SAR without any justification.

*Response:* Regarding the percentage of undetected mortality assumed to be from entanglement, MLA provided substantively identical comments on the 2022 NARW SAR. MLA has not presented any new information that was not considered and addressed in our response to their comments on this issue for the 2022 NARW SAR. Therefore, we refer to our responses on the 2022 NARW SAR (88 FR 54592, 54594 (response to comment #7)).

With respect to the removal of some discussion on vessel strike management measures, NMFS is striking this text because it believes it is overly detailed and already covered in general in the SAR and in more detail in the cited studies. The text simply elaborated on the specifics of the studies except in the case of Hayes *et al.* (2018), which we have now added. To keep the SAR concise while continuing to include the best available scientific information on vessel strike management measures, we are opting to generally summarize and cite relevant studies going forward. The sentence referring to the study by Kelly *et al.* (2020) was not stricken but instead moved up to the preceding paragraph to improve readability.

*Comment 9:* MLA states the NARW draft SAR must estimate M/SI by fishery and failure to do so ignores the best scientific information available. Specifically, MLA states table 2 should be revised to summarize data on the country of origin of NARW entanglements during the relevant period, considering scientific observations of entangling gear and differences in conservation programs between countries.

*Response:* MLA provided a substantively identical comment on the draft 2022 NARW SAR. MLA has not presented any new information that was not already considered and addressed in our response to their comment on the 2022 NARW SAR. We refer MLA to our response on the 2022 NARW SAR (88 FR 54592, 54595 (response to comment #8)).

*Comment 10:* MLA comments that the draft 2023 NARW SAR does not include information on commercial fisheries that interact with the stock as required

by Section 117(a)(4) of the MMPA and the SAR should include data on the severity of entanglements, citing New England Aquarium reports, and report observed data, such as the 90 percent decline in lobster gear entanglements since 2010. MLA claims that by omitting this relevant data, NMFS fails to comply with the MMPA. MLA also comments that the draft SAR inaccurately claims that scarring is a better indicator of fisheries' interaction than entanglement records, ignoring data that suggests most entanglements are minor, misrepresenting the effects of existing measures.

*Response:* MLA provided a substantively identical comment on the draft 2022 NARW SAR. MLA has not presented any new information that was not already considered and addressed in our response to their comments on this issue for the 2022 NARW SAR. We refer MLA to our response to their comment on the 2022 NARW SAR (88 FR 54592, 54595 (response to comment #9)).

*Comment 11:* MLA comments that the NARW SAR should include additional available scientific information about NARW behavior and associated risk of harm from fishing gear, specifically, the SAR should describe population density (e.g., the SAR should not strike language describing "peak detection" in Canadian waters and add these details where relevant), include recent scientific literature that confirms areas NARW have shifted their habitat usage (e.g., long-term passive acoustic data show that "NARWs appear to have shifted from previously prevalent northern grounds, such as the Bay of Fundy and greater Gulf of Maine (regions 3 and 4) to spending more time in mid-Atlantic regions year-round"), and include recently published modeling work, which predicts "decreased habitat suitability across the Gulf of Maine" and "suggest[s] that regions outside the current areas of conservation focus may become increasingly important habitats for *E. glacialis* under future climate scenarios."

*Response:* MLA provided substantively identical comments on the 2022 NARW SAR while citing new scientific information. We revised the SAR to include the studies cited by MLA (e.g., Ross *et al.* 2023; Meyer-Gutbrod *et al.* 2023)); however, these studies further support the information included in the SAR. We refer to our responses on the 2022 NARW SAR (88 FR 54592, 54594 (response to comment #10)). In addition, we note the 2023 SAR includes an updated summary of distribution shifts and their relationship to climate changes throughout. Changes

to the text, such as striking the previous reference to peak detections in Canada, were made to ensure the information summarized in the SAR is based on the best scientific information available, including more recent publications.

*Comment 12:* MLA notes that the draft SAR under-reports calving data because it omits data describing the rebound in calving after 2018 and recommends renaming the "Other Mortality" heading to "Vessel Strike-Related Mortality and Serious Injury" as is done for the section on M/SI from fishery-related M/SI.

*Response:* Regarding calving data and headings, MLA provided substantively identical comments on the draft 2022 NARW SAR. MLA has not presented any new information that was not already considered and addressed in our response to their comments on this issue for the 2022 NARW SAR. We refer MLA to our previous response on the 2022 NARW SAR (88 FR 54592, 54596 (response to comment #11)). We note that Figure 4 in the 2023 NARW SAR shows the calving rate data from 1990 to 2022, the most recent year for which full data are available, using an Apparent Productivity Index (API). We explain that the fluctuating abundance observed from 1990 to 2020 makes interpreting a count of calves by year less clear than measuring population productivity, which we index by dividing the number of detected calves by the estimated adult and subadult population each year. Finally, rather than give a year by year accounting of the calving rates in the body of the text (which is already presented in Figure 4), we have struck the sentence stating that "[n]o calves were born in the winter of 2017–2018."

*Comment 13:* MLA comments that Kenney (2018) should not be cited in the SAR because it fails to account for biological processes (e.g., natural death) and assumes a constant calving rate that is higher than the rate included in the draft SAR.

*Response:* MLA provided an identical comment on the 2022 NARW SAR. MLA has not presented any new information that was not already considered and addressed in our response to their comments on this issue for the 2022 NARW SAR. Therefore, we refer MLA to our previous response on the 2022 NARW SAR (88 FR 54592, 54596 (response to comment #12)).

*Comment 14:* MLA states the decline in NARW body size does not correlate to observed birth rates, ignores potential causation by vessel traffic, and is not meaningful. MLA claims the decline in NARW body size does not correlate with calving rates and there are significant

limits to the inferences that can be made from Stewart *et al.* (2021). MLA also claims NMFS' statement that "entanglement will continue to impact calving rates, and the declining trend in abundance will likely continue" incorrectly assumes that entanglements are a meaningful driver to the purported decline in body size.

*Response:* Regarding NARW body size, MLA provided a substantively identical comment on the 2022 NARW SAR. MLA has not presented any new information that was not already considered and addressed in our response to their comments on this issue for the 2022 NARW SAR. Therefore, we refer MLA to our previous response (88 FR 54592, 54596 (response to comment #13)). Regarding the statement on entanglements, we note that MLA mischaracterizes the interpretation of Stewart *et al.* 2021 and 2022 in the NARW SAR with respect to the effects of entanglement. The SAR only briefly describes the empirical results of Stewart *et al.* 2021 and 2022 (i.e., North Atlantic right whale are growing to shorter adult lengths than in previous decades, and smaller females have longer inter-birth intervals than larger females) and notes that their findings (i.e., some calving rate variability is related to variability in nutrition) may be related to a combination of changes in feeding habitats and increased energy expenditures related to non-lethal entanglements, which is supported by several other studies (Meyer-Gutbrod and Greene 2014; Meyer-Gutbrod *et al.* 2021; Meyer-Gutbrod *et al.* 2023; Record *et al.* 2019; Rolland *et al.* 2016; Pettis *et al.* 2017; van der Hoop *et al.* 2017). Nevertheless, we have deleted the specific sentence, in part, because with the most recent abundance estimate, the population appears to no longer be declining.

#### Comments on Pacific Issues

*Comment 15:* The Commission comments that the Pantropical spotted dolphin, Hawai'i Island SAR states that mean annual takes are undetermined for this stock, as well as for the O'ahu and Maui Nui Stocks. While the summary table lists M/SI as "unk" for the O'ahu and Maui Nui Stocks, it lists both fisheries and total human-caused M/SI as "≥0.2" for the Hawai'i Island Stock. The Commission recommends that NMFS either provide explanatory text within the SAR to justify the estimate of "≥0.2" for M/SI or change the estimate to be "unk".

*Response:* The erroneous values in the summary table have been changed to

unknown,' to match what appears in the SAR.

*Comment 16:* The Commission comments that descriptions of "other factors" that may be causing decline or impeding recovery were not included in the revised SARs for four strategic stocks: Sperm whale—California/Oregon/Washington stock, blue whale—Eastern North Pacific (ENP) stock, fin whale—California/Oregon/Washington Stock, and sei whale—ENP stock. The Commission recommends that NMFS revise these SARs to describe any other factors and, if there are no data to indicate that other factors may be affecting the stock, then this should be clearly stated.

*Response:* The draft ENP blue whale SAR included an "other factors" section, and we have added a summary of these factors to the SARs referenced above that lacked them.

*Comment 17:* HLA comments that the draft 2023 SAR removes the Pelagic Stock designation without explanation and replaces it with a "management area," reporting all required information for this area instead of a stock. HLA disagrees with this because the MMPA requires information to be reported for "stocks," not "management areas", NMFS did not follow its own guidance for revising stock designations. HLA also commented that the "management area" does not accurately represent the Pelagic Stock's range and the best available scientific information because animals have been tracked and recorded outside of the management area and using the management area for Nmin and PBR and comparing such to all fishery M/SI creates inaccuracies.

*Response:* NMFS is neither replacing the Pelagic Stock with a new assessment area nor defining new demographically independent populations or designating new stocks. Rather, the draft SAR proposed to use information on what is the known range for the Hawai'i Pelagic False killer whale stock to identify an appropriate area over which to assess the stock (termed "Management Area" in the draft SAR and now "Assessment Area" in the Final SAR). This area reflects the most comprehensive synthesis of existing biological data on the stock, ensures comparisons of PBR to human-caused M/SI are commensurate, and follows NMFS' GAMMS. Specifically, Section 3.4.4 on transboundary stocks in the GAMMS states "For non-migratory transboundary stocks (*e.g.*, stocks with broad pelagic distributions that extend into international waters), an area-apportioned Nmin based on abundance estimates relevant to managing marine mammals under U.S. jurisdiction

should be provided and used to calculate an adjusted PBR." The SAR has always noted that the range of the Hawai'i Pelagic Stock of false killer whales likely extends beyond the U.S. EEZ, but until the 2023 SAR, NMFS only assessed the stock based on data from within the EEZ because data were not available to estimate abundance outside of the EEZ. Following the 2023 changes to GAMMS (NMFS 2023), NMFS re-evaluated the appropriateness of only using data from within the EEZ to assess PBR relative to human-caused M/SI. The GAMMS (section 3.1) discourages reliance on political boundaries like the EEZ that do not represent a stock's true biological and ecological range and is counter to the MMPA's objective of maintaining stocks as functioning elements of their ecosystems. Based on the availability of data to estimate abundance outside of the EEZ following the density surface models for the central Pacific provided in Bradford *et al.* (2020) and a review of the available biological data on stock range, we determined that it was more appropriate to assess the stock based on the newly identified assessment area. An assessment of this stock over this area better reflects the stock's true status as compared to an assessment that only covers the EEZ, and it is based on biologically relevant false killer whale ranging data. As noted with previous boundary changes (in Bradford *et al.* 2015, 2020), NMFS revises the area over which the stock is assessed as new information or analyses become available that indicate the known stock range should be revised. This change, from assessing the stock within the EEZ to assessing within a broader area (*i.e.*, assessment area) reflects application of the best available data on abundance and human-caused M/SI and is similar to other revisions NMFS makes when additional data, including data with broader spatial coverage, become available to assess a stock. In summary, the new assessment area better represents the known biological and ecological range of the Hawai'i Pelagic stock and more effectively allows for management of the stock over its full known distribution, consistent with MMPA objectives. NMFS has revised the SAR to clarify that the EEZ only population size, Nmin, and PBR are included for comparison to previous assessments only.

The methodology and resulting Hawai'i Pelagic stock assessment area was reviewed by the Pacific Scientific Review Group (PSRG) during their 2023 annual meeting and was modified based on their recommendations. At the time

the area was established, there were no data available on the presence of false killer whales from the Hawai'i pelagic stock outside this area. NMFS did not receive any comments on alternative biologically data-driven approaches to define the assessment area, and as such, we are retaining the area as presently defined following the recommendations of the PSRG. As noted in the comment from HLA, a Hawai'i pelagic false killer whale tagged near the main Hawaiian Islands made a brief excursion a short distance outside of the current assessment area following PSRG review and the publication of the draft SAR. We have added clarifying language to the SAR to explicitly note that the assessment area does not represent the full stock range and therefore, N<sub>min</sub>, PBR, and human-caused M/SI are considered minimum estimates. NMFS will review the cited data along with the best scientific information available on the stocks range to determine whether a SAR revision is warranted. *Comment 18:* HLA comments that NMFS substantially underestimates the population size of the FKW Pelagic Stock and that the proposed "management area" draws an arbitrary line within a portion of the full range of the Pelagic Stock, which NMFS estimates to contain 5,528 whales.

*Response:* The MMPA defines a stock as "a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature." 16 U.S.C. 1362(11). The best scientific information available suggests that, based on their proximity and fidelity to central Pacific waters around Hawai'i, the Hawai'i pelagic false killer whales are a demographically-independent population and as such, they are managed as a single stock under the MMPA. We know through telemetry tracks and resightings of individual whales that the whales regularly use and return to the waters around Hawai'i. Through reliance on data collected from these whales, we defined an assessment area (referred to as management area in the draft SAR) that represents the greatest known extent of the Hawai'i pelagic stock's range at the time it was established, and as such, the N<sub>min</sub> estimate derived from this area is the greatest N<sub>min</sub> estimate for the stock that is supported by the available data that still meets the requirement of the MMPA that N<sub>min</sub> "(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and (B) provides reasonable assurance that the stock size

is equal to or greater than the estimate.” (16 U.S.C. 1362(27)). HLA’s comment references a larger abundance, which appears to be for false killer whales in the central Pacific. The relatively lower abundance estimated within the assessment area as compared to the abundance estimated for the full central Pacific is a reflection of the habitat suitability and the relatively lower densities of false killer whales in subtropical and temperate waters relative to the tropical equatorial region.

**Comment 19:** HLA and the Council comment that recovery factor that is greater than 0.5 should be used because the Hawai’i pelagic stock of false killer whale is not considered depleted, strategic, or threatened, the status of the stock is known, and such is supported by the best available scientific information.

**Response:** Section 3.2.4 of the GAMMS states the default recovery factor for depleted, threatened, and stocks of unknown status should be 0.5 based on a coefficient of variation (CV) equal or less than 0.3; however, if the CV is greater than 0.3, the recovery factor should be decreased to 0.48 to 0.40 depending on the CV. The status of the stock relative to its Optimum Sustainable Population is unknown. Based on public comment, NMFS has reevaluated its choice of recovery factor and has modified the recovery factor and PBR within the SAR to reflect a recovery factor of 0.44, an intermediate value that is derived from the relative abundance of false killer whales within and outside of the EEZ and the greater certainty within the Hawai’i EEZ (CV <0.3) and significant uncertainty around the magnitude of M/SI attributed to foreign fleets operating outside of the EEZ but within the assessment area.

**Comment 20:** HLA recommends the SAR should be revised to reflect zero M/SI from the deep-set fishery for both the insular and NWHI stocks based on the best available information.

**Response:** The Hawai’i-based deep-set longline fishery’s efforts overlap with a small portion of the Main Hawaiian Islands (MHI) Insular stock and the Northwestern Hawaiian Islands (NWHI) stock boundaries; although, there has not been an observed interaction within the overlap area with the MHI insular stock. There have been three observed interactions within the overlap area with the NWHI stock. The first two were in 2012, within the current Longline Exclusion Zone, prior to TRT changes that eliminated the seasonal contraction of that area. The third was in 2019, outside the current Longline Exclusion Zone but within the overlap area of the NWHI stock and the pelagic stock

boundary. This interaction was first presented in the 2021 SAR and remains within the current assessment. As long as there is fishing effort within these stock boundaries or unless the stock identity of a bycaught animal is established, accounting for possible impact to the NWHI and MHI insular stocks is in accordance with current bycatch evidence and with GAMMS section 3.1.

**Comment 21:** The Council recommends that NMFS not use the management area boundary and associated abundance estimate using the Species Distribution Models (SDMs) in the FKW SAR or for any management purposes. For the area inside the EEZ, the Council recommends that NMFS use the design-based abundance estimation approach as the basis for assessing the stock until such time that a more rigorous and independent evaluation of the SDM approach can be completed. The Council’s Scientific and Statistical Committee (SSC) found that the design-based approach is the most appropriate for estimating abundance inside the EEZ around Hawai’i, as it utilizes data from the EEZ-wide cetacean survey intended for deriving abundance estimates, and provides the most robust estimate of the abundance for the corresponding area at the time of the 2017 survey. The Council further recommends that NMFS prioritize conducting surveys outside the EEZ to gather additional tagging and genetics data suitable for assessing that portion of the population. Considering that the proposed management area encompasses all recent Hawai’i deep-set longline fishery interactions, the proposed boundary likely overestimates the relative impact of the U.S. fleet on the pelagic stock while underestimating the impact of foreign fleets.

**Response:** As discussed in Comment 17, NMFS has clarified in the Hawai’i pelagic stock section of the SAR that EEZ-only population size, Nmin, and PBR are included for comparison to previous assessments only. The SSC’s recommendation to rely upon the design-based estimates neglected to consider the potential biases associated with encounter rate variation for this and other stocks. The issue was explored in depth within Bradford *et al.* (2020) and by the PSRG and forms the basis of NMFS’ use of the model-based estimates for assessment purposes, as detailed within the SAR. The full abundance approach (*i.e.*, the design and model-based estimates) was reviewed by three independent experts and the PSRG, collectively including several experts in quantitative assessments, including SDMs. NMFS recently completed a 30-day survey

outside the assessment area (referred to as management area in the draft SAR) and in a region of predicted high false killer whale density, with the explicit goal of collecting additional biological data to inform analysis of population structure for pelagic false killer whales. NMFS will review the best scientific information available, including survey and tagging data, to determine whether a SAR revision is warranted during the next SAR review cycle. The magnitude of possible foreign fleet bycatch does not alter the conclusion that the U.S. fleet incidental M/SI exceeds PBR and must be managed according to the take reduction process mandated in the MMPA.

**Comment 22:** The Council requested NMFS provide an explanation for the reduced abundance estimate for the pelagic stock inside the EEZ in the draft SAR (2,038) compared to Bradford *et al.* 2020 (2,086).

**Response:** The discrepancy between the draft 2023 SAR and Bradford *et al.* 2020 is noted in the draft SAR. This discrepancy is because the abundance estimate of 2,038 Hawai’i pelagic false killer whales refers to the abundance of animals within the EEZ portion of the assessment area (referred to as management area in the draft SAR); there is a small portion of the EEZ that is outside of the assessment area, which accounts for the small reduction in abundance between the two estimates.

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Dated: December 18, 2024.

**Evan Howell,**

*Director, Office of Science and Technology, National Marine Fisheries Service.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[RTID 0648–XE538]

**Determination of Overfishing or an Overfished Condition**

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

**ACTION:** Notice.

**SUMMARY:** This action serves as a notice that NMFS, on behalf of the Secretary of

Commerce (Secretary), has found that Puerto Rico Caribbean spiny lobster and Mid-Atlantic Coast golden tilefish are now subject to overfishing, Klamath River fall Chinook salmon and Queets Spring/Summer Chinook salmon continue to be overfished, and the Western and Central North Pacific Ocean Striped Marlin continues to be subject to overfishing. NMFS, on behalf of the Secretary, is required to provide this notice whenever it determines that a stock or stock complex is subject to overfishing, overfished, or approaching an overfished condition.

**FOR FURTHER INFORMATION CONTACT:** Diana Perry, (301) 427–7863.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 304(e)(2) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1854(e)(2), NMFS, on behalf of the Secretary, must notify councils, and publish a notice in the **Federal Register**, whenever it determines that a stock or stock complex is subject to overfishing, overfished, or approaching an overfished condition.

NMFS has determined that Puerto Rico Caribbean spiny lobster is now subject to overfishing. This determination is based on the most recent assessment completed in 2022 and using data through 2021 that found that the fishing mortality rate (F) exceeds the maximum fishing mortality threshold (MFMT). NMFS has notified the Caribbean Fishery Management Council of its requirement to end overfishing on this stock.

NMFS has determined that Mid-Atlantic Coast golden tilefish is now subject to overfishing. This determination is based on the most recent assessment completed in 2024 using data through 2023, which found that the F exceeds the MFMT. NMFS has notified the Mid-Atlantic Fishery Management Council of its requirement to end overfishing.

NMFS has determined that Klamath River fall-run Chinook salmon and Queets Spring/Summer Chinook salmon continue to be overfished. These determinations are based on the 3-year geometric mean of the annual spawning escapement for each stock completed in 2024, and using data from 2021–2023 for the Klamath River fall-run Chinook salmon stock and data from 2020–2022 for the Queets spring/summer Chinook salmon stock which fall below their respective minimum stock size threshold. NMFS continues to work with the Pacific Fishery Management Council to rebuild the Klamath River fall-run Chinook and Queets spring/summer Chinook salmon stocks.