



MARINE MAMMAL COMMISSION

23 November 2018

Dr. Shannon Bettridge, Chief,
Marine Mammal and Sea Turtle Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Dr. Bettridge:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the National Marine Fisheries Service's (NMFS) notice regarding the proposed List of Fisheries (LOF) for 2019 (83 Fed. Reg. 53422). The Commission generally concurs with the proposed changes for 2019, and provides the following comments and recommendations for your consideration.

Main Hawaiian Islands (MHI) Insular stock of false killer whales

Interactions between the Category I Hawaii deep-set longline (DSL) fishery and false killer whales are common (e.g., NMFS 2017 Stock Assessment Report (SAR)).¹ The overlap between the DSL fishing grounds and the range of the Pelagic stock of false killer whales is high, but low for the MHI Insular stock. Although most reported interactions have been assumed to involve the Pelagic stock, a few interactions could have involved the MHI Insular stock (NMFS stock assessment reports 2012-2017).

NMFS has proposed to remove MHI Insular false killer whales from the list of stocks incidentally killed or injured in the DSL fishery because no interactions have been documented during the 2011-2015 timeframe being considered in the 2019 LOF. Nonetheless, there are at least four reasons why this stock should not be removed from the list:

1. Although no interactions were definitively attributed to MHI Insular false killer whales during the timeframe for the 2019 LOF, the 2017 SAR for the Hawaii false killer complex indicated that there was a small probability of the fishery interacting with MHI Insular false killer whales in 2011 and 2012.
2. Small numbers of interactions between MHI Insular false killer whales and the DSL fishery may have occurred in the last 12 years (NMFS stock assessment reports 2012-2017). Rare events, such as interactions between the DSL fishery and the MHI Insular stock, can go undetected for years, especially when observer coverage is low.²

¹ Recent stock assessment reports are available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock>

² Observer coverage in this fishery from 2011 to 2015 varied between 20.2 and 20.6 percent.

3. Three interactions that were within or close to the known range of the MHI Insular stock were documented in 2018 (data presented to the False Killer Whale Take Reduction Team).
4. Field observations of MHI Insular false killer whales continue to document 'line' scars that are consistent with injuries sustained through interaction with longline gear, some of which could have been from the DSLL fishery.

Therefore, the Commission recommends that NMFS retain MHI Insular false killer whales on the list of stocks incidentally killed or injured in the DSLL fishery.

Western North Atlantic (WNA) stock of gray seals

NMFS has proposed to remove WNA gray seals from the list of stocks incidentally killed or injured in the Category II Mid-Atlantic mid-water trawl (MAMWT) fishery because no interactions were documented during the timeframe being considered in the 2019 LOF (2011-2015). Typically, NMFS removes a stock from the list of stocks of incidentally killed or injured in a fishery, when none have been killed or injured in the five-year timeframe analyzed in the given LOF (typically the most recent five years of data). However, NMFS' guidelines allow it to keep a stock with no deaths or injuries in the LOF timeframe on the list if there was no observer coverage of the fishery, or if there is evidence to suggest that undocumented interactions are occurring. Although there was observer coverage of the MAMWT fishery during the 2019 LOF timeframe, that coverage was nominal – just 2 to 6 percent. As noted above, rare events can be missed for several years in a row, especially when observer coverage is extremely low. Further, the 2018 draft SAR for WNA gray seals documented continued strandings within the range of the MAMWT fishery, and some of these had signs of fisheries interactions. Therefore, the Commission recommends that NMFS retain WNA gray seals on the list of stocks incidentally killed or injured in the MAMWT fishery.

Thank you for the opportunity to comment on the draft 2019 List of Fisheries. Please contact me if you have any questions about our recommendations or rationale.

Sincerely,



Peter O. Thomas, Ph.D.,
Executive Director