

MARINE MAMMAL COMMISSION
4340 EAST-WEST HIGHWAY, ROOM 905
BETHESDA, MD 20814

27 August 2007

Mr. David Cottingham
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 Mr. Cottingham:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the notice of proposed rulemaking regarding the List of Fisheries for 2008 (*Federal Register* 72: 35393-35419). The Commission offers the following comments and recommendations.

RECOMMENDATIONS

Based on its review of the proposed 2008 List of Fisheries, the Marine Mammal Commission

- concurs with the National Marine Fisheries Service that the “CA yellowtail, barracuda, and white seabass drift gillnet fishery” should be elevated from a Category II to a Category I fishery because the estimated annual serious injury and mortality of long-beaked common dolphins incidental to the fishery exceeds 50 percent of the stock’s potential biological removal level;
- commends the Service for describing all Category I and II fisheries within the *Federal Register* notice publishing the proposed List of Fisheries;
- reiterates a previous recommendation that the Service describe the level of observer coverage for each fishery when it publishes the List of Fisheries;
- reiterates previous recommendations that the Service (1) expedite its investigation of bottlenose dolphin stock structure in the Gulf of Mexico, (2) expand its efforts to collect reliable information on serious injury and mortality rates of marine mammals incidental to Gulf of Mexico fisheries, and (3) reevaluate the classification of Gulf of Mexico fisheries as information becomes available;
- commends the Service for its support of depredation studies and encourages the Service to continue and enhance its efforts to evaluate and address this developing issue; and
- commends the Service for its support of efforts to address concerns regarding trap and pot fisheries and encourages the Service to continue its work with regional fisheries management councils to improve monitoring and mitigation of serious injury and mortality rates incidental to those fisheries.

RATIONALE

The Marine Mammal Commission commends the National Marine Fisheries Service for describing all Category I and II fisheries within the *Federal Register* notice publishing the proposed List of Fisheries. Additional descriptive material is provided in fishery management plans, as appendices to the stock assessment reports, and elsewhere, but the Commission believes these descriptions provide important context for readers attempting to evaluate the List of Fisheries.

Consistent with its recommendations regarding the 2005 to 2007 Lists of Fisheries, the Marine Mammal Commission again recommends that the Service describe the level of observer coverage for each fishery when it publishes the List of Fisheries. The Service indicated in its response to comments on the draft 2007 List of Fisheries that it would “present information associated with the level of observer coverage or lack of observer coverage, if available, as part of the justification for proposing changes in future [lists].” However, information on observer coverage is not provided in the justification for reclassifying the California yellowtail, barracuda, and white seabass drift gillnet fishery in the current draft List of Fisheries. Further, the Commission also believes observer information is important for justifying the status quo. Without such information, it is not possible to determine whether a given fishery was adequately observed and no marine mammals were taken or the fishery was not adequately observed and mortality and serious injury may have occurred but were not documented.

In previous letters reviewing the 2003 through 2007 Lists of Fisheries, the Commission expressed concerns about marine mammal interactions with Gulf of Mexico fisheries, particularly the blue crab trap/pot fishery and the menhaden purse seine fishery. The Commission recommended that the National Marine Fisheries Service expedite its investigation of bottlenose dolphin stock structure and reevaluate the classification of Gulf of Mexico fisheries. The Commission further recommended that the Service expand its efforts to collect reliable information on serious injury and mortality rates of marine mammals incidental to Gulf of Mexico fisheries, with priority given to instituting an observer program for the menhaden purse seine fishery and expanding efforts to evaluate bottlenose dolphin entanglement in blue crab trap/pot gear. The Service has initiated efforts to address some of these issues and has indicated that it intends to reevaluate these fisheries as new information becomes available, particularly information regarding the stock structure of bottlenose dolphins in the Gulf of Mexico. Nonetheless, the Commission remains concerned about marine mammal interactions with Gulf of Mexico fisheries, believes that more active management is needed in this region, and therefore reiterates its previous recommendations.

In its letter commenting on the draft 2007 List of Fisheries, the Commission expressed concern regarding two developing issues—fisheries interactions associated with depredation and those associated with trap and pot gear. In its response to those comments, the Service summarized its support of research efforts “to better understand the nature of depredation-related interactions, to reduce the risk of serious injury and mortality to marine mammal stocks, and to investigate potential mitigation strategies.” The Marine Mammal Commission commends the National Marine

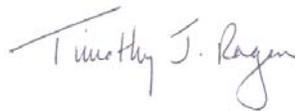
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Fisheries Service for its support of depredation studies and encourages the Service to continue and enhance its efforts to evaluate and address this developing issue.

With regard to trap and pot gear fisheries, the Service provided a similar summary of its support of research efforts as well as outreach efforts to encourage voluntary reductions in the amount of potentially entangling gear. The Service also initiated a review of west coast trap and pot fisheries in 2007. The Marine Mammal Commission commends the National Marine Fisheries Service for its support of efforts to address concerns regarding trap and pot fisheries and encourages the Service to continue its work with regional fisheries management councils to improve monitoring and mitigation of serious injury and mortality incidental to those fisheries.

Please let me know if you have any questions regarding the above recommendations and comments.

Sincerely,

A handwritten signature in cursive script that reads "Timothy J. Ragen". The signature is written in dark ink and is positioned above the printed name and title.

Timothy J. Ragen, Ph.D.
Executive Director