



MARINE MAMMAL COMMISSION

16 November 2015¹

Ms. Nicole R. LeBoeuf
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 Ms. LeBoeuf:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the notice regarding the proposed List of Fisheries for 2016 (80 Fed. Reg. 58427). The Commission generally concurs with the proposed changes for 2016, but provides the following recommendations for your consideration.

Alaska bottomfish fisheries

The National Marine Fisheries Service (NMFS) proposes to reclassify the Alaska Bering Sea/Aleutian Islands Pacific Cod Longline Fishery (BSAI PCL Fishery) from Category III to Category II based on an observer-reported death in 2012 of a Gulf of Alaska, Bering Sea/Aleutian Islands transient killer whale that was entangled by gear used in this fishery. NMFS reports that, over the most recent five-year period with data, the rate of mortality and serious injury to killer whales in this stock by the BSAI PCL Fishery was 0.2 animals per year, or 3.4 percent of the potential biological removal (PBR) of 5.9. Therefore, the fishery meets the criterion for classification as a Category II fishery (mean annual mortality and serious injury between 1 and 50 percent of PBR). The Commission concurs with NMFS that the BSAI PCL Fishery should be elevated to a Category II fishery.

The Commission notes that killer whales from this and other stocks continue to be killed or seriously injured by longline and trawl fisheries that operate in the Bering Sea and Aleutian Islands. Therefore, the Commission recommends that NMFS maintain statistically adequate levels of observer coverage in all longline and trawl fisheries, and continue to develop and implement gear types and deployment methods to minimize the likelihood of interactions of killer whales and other marine mammals with those fisheries.

Interactions between killer whales and fishing gear or vessels are rare but are expected to occur periodically. For the List of Fisheries, NMFS bases each classification on a comparison of the fishery's mortality and serious injury rate with the stock's PBR, where these two metrics are derived from the most recent five years of information. In a related context, NMFS argued that alternative methods that average data over longer periods should be used in such comparisons. Therefore, the Commission recommends that NMFS consider the application of such or similar methods to the classification of this and other fisheries that rarely interact with marine mammals.

¹ This letter is a revision of the letter regarding 80 Fed. Reg. 58427 submitted on 29 October 2015.

Alaska salmon purse seine fisheries

Because no mortalities or serious injuries have been reported during the most recent five years of available information, NMFS proposes to reclassify the Alaska Kodiak and Cook Inlet Salmon Purse Seine Fisheries from Category II to Category III. The Commission recommends, however, that NMFS retain their Category II status because these fisheries are unobserved. Historically these fisheries have taken Central North Pacific humpback whales, and, in the absence of observers onboard the vessels, it is not possible to be certain that takes of this or similar species are not continuing to occur. The Commission recognizes that because PBR for this stock of humpback whales is much greater than the current known level of mortality and serious injury, that an occasional take by one of these fisheries would be unlikely to trigger a reclassification. However, without observer coverage in these fisheries, and in others that have taken, or have the potential to take, humpback whales, it is not possible to be certain that the rate of mortality and serious injury is not exceeding the thresholds that would trigger a reclassification. In addition, the Commission notes that several other Alaska purse seine fisheries are also unobserved, and therefore, the Commission recommends that NMFS assess the potential for those fisheries to take humpback whales or similar species and, if appropriate, reclassify them as Category II fisheries, by analogy as is discussed below.

California Halibut Bottom Trawl Fishery

NMFS proposes to add five stocks of marine mammals to the list of stocks incidentally killed or injured in the Category III CA Halibut Bottom Trawl Fishery. However, NMFS does not provide information on the sources of information upon which this proposal is based, nor does it provide any information about the number of interactions, their outcomes, or their magnitudes relative to PBR. In the absence of such information it is difficult to assess the importance of five stocks being added in one year, although the Commission suggests that the number of stocks alone is sufficient to indicate the fishery may pose a greater threat to marine mammals, although of uncertain magnitude, than was previously understood. Therefore, the Commission recommends that NMFS investigate the circumstances and details of the reported interactions and consider elevating the CA Halibut Bottom Trawl Fishery to a Category II fishery, if warranted.

Hawaii hook-and-line fisheries

NMFS proposes to add the Northwestern Hawaiian Islands stock of false killer whales to the list of species and/or stocks killed or injured in the Category I Hawaii Deep-Set (tuna target) Longline/Set Fishery. In addition, NMFS proposes to add a note to that list that highlights the fact that the rate of mortality and serious injury of the Main Hawaiian Islands Insular stock of false killer whales is estimated to be three times greater than its PBR of 0.3. Because the latter stock is endangered, its PBR is so low, and the mortality and serious injury rate are relatively high, every effort should be made to ensure that takes of Main Hawaiian Islands Insular false killer whales are not taking place in other fisheries.

Recent information on dorsal fin scarring suggests that fishery interactions involving the endangered Main Hawaiian Islands Insular stock occur more frequently than those involving the Hawaii Pelagic stock (Baird et al. 2014). In addition, several different types of fish hooks were recently recovered from the stomach of a stranded Main Hawaiian Islands Insular false killer whale.

Although it is unclear which fisheries are involved, it seems likely that most, if not all, hook-and-line fisheries in Hawaii that overlap with the range and habitats used by this stock pose a risk of hook ingestion or entanglement, and, therefore, of mortality and serious injury. In this regard, interactions between false killer whales and hook-and-line fisheries operating around Hawaii are documented in the literature (Shallenberger 1981, Nitta and Henderson 1993) and on the internet.²

Although the probability of such interactions occurring during any given fishing event may be very small, some fisheries have large fleets (e.g., the Hawaii troll fishery), which raises the overall probability of interactions substantially. Because these fisheries are not observed, estimates of the number of interactions, or the rate of mortality and serious injury, are not available. Therefore, the Commission recommends that NMFS assess the potential for interactions between Main Hawaiian Islands Insular false killer whales and hook-and-line fisheries that overlap with the range and habitats used by this stock, and reclassify, by analogy to other hook-and-line fisheries (e.g., Hawaii longline fisheries), those fisheries with which Main Hawaiian Islands insular false killer whales are likely to interact. At a minimum, the Commission recommends that NMFS reclassify the Hawaii troll fishery from Category III to Category II based on analogy to hook-and-line fisheries using longlines. The Commission also recommends that NMFS appoint a Hawaii troll fishery representative to the Hawaii False Killer Whale Take Reduction Team.

Classification ‘by analogy’

When information on mortality and serious injury in a Category III fishery is unavailable because the fishery is not observed, that fishery can still be designated as a Category I or II fishery ‘by analogy’ to other fisheries that are observed (80 Fed. Reg. 58428). As a practical matter, knowing which fisheries might be eligible to be reclassified ‘by analogy’ requires knowledge of the observer coverage in Category III fisheries. However, this information is often difficult to uncover. Following multiple recommendations by the Commission, NMFS has begun to publish fact sheets for Category III fisheries, which include information on observer coverage. Because only a handful of Category III fisheries now have fact sheets, the Commission urges NMFS to complete the development of the fact sheets for all Category III fisheries.

Information provided in support of changes to the List of Fisheries

Evaluating proposed changes to the classification of fisheries, or the additions or removals of stocks to/from the list of stocks incidentally killed or injured, requires, at a minimum, readily available information on mortality and serious injury rates, details of interactions/takes, PBRs, and observer coverage. Ideally, that information should be summarized along with the proposed changes to the List of Fisheries. This ideal is met in some cases (Atlantic, Gulf of Mexico, and Pacific Islands regions), but not in others (Pacific and Alaska regions). The Commission recommends that NMFS consistently summarize the information noted above, as necessary, to evaluate proposed changes to the List of Fisheries in 2016 and subsequent List of Fisheries reports.

² <http://www.hawaiinewsnow.com/Clip/11887112/false-killer-whale-snags-big-island-fishermans-catch>
<https://news.google.com/newspapers?nid=1917&dat=19860522&id=WQwhAAAAIIBAJ&sjid=XnIFAAAAIIBAJ&pg=3121,5808154&hl=en>

Removals from the lists of species or stocks incidentally killed or injured

The draft 2016 List of Fisheries proposes the addition to, or deletion from, the lists of species or stocks incidentally killed or injured for several fisheries. The Commission concurs in most cases with those changes. However, in two cases NMFS proposes to remove stocks for fisheries that have very low rates of observer coverage: (1) the Western North Atlantic stocks of Risso's and white-sided dolphins from the list of stocks incidentally killed or injured in the Category I Mid-Atlantic Gillnet Fishery, and (2) the Western North Atlantic stocks of common dolphins, long-finned pilot whales, and short-finned pilot whales from the list of stocks incidentally killed or injured in the Category II Mid-Atlantic Mid-Water Trawl (Including Pair Trawl) Fishery. The removal of these stocks is based on the lack of reports or observations of interactions in the last five years. Because self-reporting by fishermen is uncommon and these fisheries have very low rates of observer coverage (2-3 percent in the first case, and 3-20 percent (mean = 6.9 percent) in the second case), the lack of reported incidents is an insufficient basis for making changes to the list. The guidance provided with the proposed 2016 List of Fisheries states:

For fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (e.g., fishery has low observer coverage and stranding network data include fisheries that cannot be attributed to a specific fishery) species and stocks may be retained for longer than five years. For these fisheries, NMFS will review the other sources of information listed above and use its discretion to decide when it is appropriate to remove a species or stock.

Therefore, the Commission recommends that those stocks not be removed from the list of stocks incidentally killed or injured in the corresponding fisheries listed above until NMFS provides its review and rationale for removal.

Thank you for the opportunity to comment on the proposed research program. Please contact me if you have any questions about our recommendations and rationale.

Sincerely,



Rebecca J. Lent, Ph.D.
Executive Director

References

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Ms. Nicole R. LeBoeuf
16 November 2015
Page 5

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