

### **Am I Required to Comply With Any Take Reduction Plan Regulations?**

Fishers participating in a Category I or II fishery are required to comply with any applicable take reduction plans.

### **Sources of Information Reviewed for the Proposed 2003 LOF**

NMFS reviewed the marine mammal incidental serious injury and mortality information presented in the Stock Assessment Reports (SARs) for all observed fisheries to determine whether changes in fishery classification were warranted. NMFS also reviewed other sources of new information, including marine mammal stranding data, observer program data, fisher self-reports, and other information that is not included in the SARs.

NMFS SARs provide the best available information on both the level of serious injury and mortality of marine mammals that occurs incidental to commercial fisheries and the PBR levels for marine mammal stocks.

The information contained in the SARs is reviewed by regional scientific review groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and the Caribbean. The SRGs were created by the MMPA to review the science that goes into the stock assessment reports and to advise NMFS on population status and trends, stock structure, uncertainties in the science, research needs, and other issues.

The proposed LOF for 2003 was based on information provided in the final SARs for 1996 (63 FR 60, January 2, 1998), the final SARs for 2001 (67 FR 10671, March 8, 2002), and the draft SARs for 2002 (67 FR 19417, April 19, 2002).

### **Summary of Changes to the Proposed LOF for 2003**

With the following exceptions, the placement and definitions of U.S. commercial fisheries are identical to those provided in the LOF for 2002. The following summarizes changes in fishery classification, fishery definition, fisheries listed on the LOF, number of participants in a particular fishery, and the species and/or stocks that are incidentally killed or seriously injured in a particular fishery, that are proposed for the 2003 LOF.

### **Commercial Fisheries in the Pacific Ocean: Fishery Classification**

#### *Alaska Bering Sea Aleutian Islands Groundfish Trawl Fishery*

NMFS proposes to elevate the Alaska (AK) Bering Sea and Aleutian Islands (BSAI) groundfish trawl fishery to

Category II based on a review of observer data from 1995–1999 and the following tier analysis. Observer coverage in the AK BSAI groundfish trawl fishery ranged from 53 percent to 76 percent per year between 1990 and 2000. Marine mammal species incidentally injured or killed in the AK BSAI groundfish trawl fishery include: western North Pacific stock of humpback whales, eastern North Pacific stock of resident killer whales, eastern North Pacific stock of transient killer whales, central North Pacific stock of humpback whales, western U.S. stock of Steller sea lions, northeast Pacific stock of fin whales, North Pacific stock of Pacific white-sided dolphin, Bering Sea stock of harbor porpoise, Eastern Pacific stock of northern fur seals, Bering Sea stock of harbor seals, Alaska stock of bearded seals, Alaska stock of ringed seals, Alaska stock of spotted seals, Alaska stock of Dall's porpoise, Alaska stock of ribbon seals, CA breeding stock of northern elephant seals, Alaska stock of sea otters, and Alaska stock of Pacific walrus.

**Tier 1 Evaluation:** Total annual incidental mortality and serious injury across all fisheries is greater than or equal to 10 percent of the PBR levels for the following stocks: western North Pacific humpback whales, eastern North Pacific resident killer whales, eastern North Pacific transient killer whales, central North Pacific humpback whales, and western U.S. Steller sea lions. Therefore, the AK BSAI Groundfish Trawl Fishery is subject to Tier 2 analysis.

**Tier 2 Evaluation:** Total annual mortality and serious injury of the western North Pacific stock of humpback whales in this fishery is 0.4 animals per year, or 57.1 percent of the PBR level (0.7 animals per year). Because this level of mortality and serious injury exceeds 50 percent of the PBR level, this fishery qualifies for elevation to Category I.

Total annual mortality and serious injury of the eastern North Pacific transient stock of killer whales in this fishery is 0.6 animals per year, or 14.3 percent of the PBR level (2.8 animals per year). Because this level of mortality and serious injury exceeds 1 percent of the PBR level but is less than 50 percent of the PBR level, this fishery qualifies for elevation to Category II.

Total annual mortality and serious injury of the eastern North Pacific resident stock of killer whales in this fishery is 0.6 animals per year, or 8.3 percent of the PBR level (7.2 animals per year). Because this level of mortality and serious injury exceeds 1 percent of the PBR level but is less than 50 percent

of the PBR level, this fishery qualifies for elevation to Category II.

Total annual mortality and serious injury of the central North Pacific stock of humpback whales in this fishery is 0.4 animals per year, or 5.4 percent of the PBR level (7.4 animals per year). Because this level of mortality and serious injury exceeds 1 percent of the PBR level but is less than 50 percent of the PBR level, this fishery qualifies for elevation to Category II.

Total annual mortality and serious injury of the western U.S. stock of Steller sea lions in this fishery is 7.8 animals per year, or 3.8 percent of the PBR level (208 animals per year). Because this level of mortality and serious injury exceeds 1 percent of the PBR level but is less than 50 percent of the PBR level, this fishery qualifies for elevation to Category II.

The data presented above, specifically the serious injury and mortality of western North Pacific humpback whales, appears to justify placement of the AK BSAI groundfish trawl fishery into Category I. However, NMFS considered additional information about the data. The PBR level for western North Pacific humpback whales is based on a minimum population estimate of 367 animals, which may be an underestimate of the true population size. Recent vessel surveys of a small portion of the Bering Sea resulted in an estimate of approximately 1,100 humpback whales. However, it is not possible to determine what portion of this estimate can be assigned to the central stock versus the western stock of humpback whales. If the minimum population estimate for the western stock is underestimated by only 43 animals, total annual mortality and serious injury in this fishery would be less than 50 percent of the PBR level and the fishery would qualify for Category II.

Additionally, it is not known whether the humpback whale mortalities incidental to this fishery (1 in 1998 and 1 in 1999) should be assigned to the western or central stocks. The mortalities are assigned to both stocks (i.e., 2 mortalities assigned to the western stock and 2 mortalities assigned to the central stock) and therefore the mortalities are “double-counted” in the above tier analysis. If one mortality was from the western stock and one mortality was from the central stock, NMFS could not justify placing this fishery in Category I.

Finally, this analysis reflects observer data through 1999. Based on preliminary data from 2000, one unidentified large whale was killed incidental to this fishery. Photographs