

serious injury/mortality in non-lobster trap/pot fisheries would be at the Category I level because, while the exact number of participants is unknown, there are far fewer participants in these fixed gear fisheries than in the lobster fishery. Therefore, NMFS proposes to capture these other trap/pot fisheries in the newly named Atlantic mixed species trap/pot fishery and to classify this fishery as Category II.

Specifically, this fishery would combine the Category II Northeast trap/pot fishery, the Category III Mid-Atlantic mixed species trap/pot fishery, and the Category III U.S. Mid-Atlantic and Southeast U.S. Atlantic black sea bass trap/pot fishery and include any other trap/pot gear that is not included in other trap/pot fisheries specifically identified in the LOF. An estimate of the number of participants in the Atlantic mixed species trap/pot fishery is currently unavailable. The marine mammal species or stocks incidentally injured and killed in these trap/pot fisheries include the Western North Atlantic stock of fin whales, the Gulf of Maine stock of humpback whales, the Canadian east coast stock of Minke whales, and the Gulf of Maine/Bay of Fundy stock of harbor porpoise.

The Category I Northeast/Mid-Atlantic American lobster trap/pot fishery and the Category II Atlantic blue crab trap/pot fishery would retain their separate listings under the LOF. The Category III Florida spiny lobster trap/pot, Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot, and U.S. Mid-Atlantic eel trap/pot fisheries would remain as separate fisheries in Category III because the operation of these trap/pot fisheries does not overlap with right whale distribution and these particular fisheries are not known to interact with marine mammals except on rare occasions. The Southeastern U.S. Atlantic, Gulf of Mexico golden crab fishery would also remain a separate fishery in Category III because this fishery is a deep water fishery that does not use vertical buoy lines typically used in other trap/pot fisheries.

Gulf of Mexico Blue Crab Trap/Pot Fishery

NMFS continues to monitor incidental mortality and serious injury of marine mammals in the Gulf of Mexico blue crab trap/pot fishery. Initially, NMFS proposed to elevate the fishery to Category II in the 2001 LOF based on documented interactions with Gulf of Mexico stocks of bottlenose dolphins. NMFS will continue to monitor this fishery while maintaining it in Category III in the 2003 LOF. Over

the next year, NMFS will work with the Gulf States Marine Fisheries Commission and the National Sea Grant Extension Enhancement Program to improve data on bottlenose dolphin entanglements and to reduce incidental takes of bottlenose dolphins in this fishery by removing derelict traps and educating crabbers. NMFS will reevaluate this fishery in the 2004 LOF.

Gulf of Mexico Gillnet Fishery

NMFS proposes to elevate the Gulf of Mexico gillnet fishery to Category II. In the 2001 LOF (66 FR 42780, August 15, 2001), NMFS combined the Category III Gulf of Mexico inshore gillnet, Gulf of Mexico coastal gillnet, and Gulf of Mexico king and Spanish mackerel gillnet fisheries into one fishery named the "Gulf of Mexico gillnet fishery." NMFS initially proposed to elevate this fishery to Category II based on documented interactions with Gulf of Mexico stocks of bottlenose dolphins. Ultimately, NMFS decided to reevaluate the available data and maintained the fishery in Category III in the 2001 LOF.

Estimates of incidental mortality and serious injury of marine mammals in this fishery are derived primarily from stranding data. Although gillnet effort has been declining in the Gulf of Mexico, a reevaluation of stranding data indicates that bottlenose dolphin strandings continue to occur in areas where gillnet fishing occurs. Because of the small population size of some of the dolphin stocks in the bays, sounds, and estuaries of the Gulf of Mexico, the PBR levels for these stocks are also low, and one interaction every few years can exceed the thresholds for Tier I and Category I and II levels. Based on analogy with other gillnet fisheries, the Atlantic Scientific Review Group's recommendation that NMFS elevate all gillnet fisheries to at least Category II unless there is evidence to the contrary, and the stranding data presented in the following Tier analysis, NMFS proposes to elevate the Gulf of Mexico gillnet fishery to Category II. There are approximately 724 participants in this fishery. The species or stocks incidentally injured and killed in this fishery include the Western, Northern, and Eastern Gulf of Mexico coastal stocks of bottlenose dolphins and the Gulf of Mexico Bay, Sound, and Estuarine stocks of bottlenose dolphins. Gulf of Mexico Bay, Sound, and Estuarine stocks of bottlenose dolphins have been broken down into a series of smaller stocks based on geographic area (e.g., Charlotte Harbor, Mississippi River Delta) given information that these bottlenose dolphins exhibit finely-scaled population structure and occur in

relatively discrete communities throughout these areas. PBR levels have been calculated for each smaller stock where abundance estimates are available.

Tier 1 Evaluation: NMFS reviewed data from stranded bottlenose dolphins from the Gulf of Mexico that were necropsied and examined for signs of human interaction. Between 1997 and 2000, stranding network members in Gulf of Mexico states recovered 39 bottlenose dolphins from the Gulf of Mexico Bay, Sound, and Estuarine stocks (approximately 10 animals per year) that died as a result of human interactions. Of the 39 animals recovered, up to 12 showed evidence that gillnet interactions could have caused the resulting mortality. Of the 12 animals with signs of gillnet interaction, the cause of death of 5 of the animals was clearly attributable to gillnet gear. Therefore, gillnet gear accounted for the mortality of a minimum of 1.25 animals per year, averaged over the 4 years from 1997 to 2000. More specifically, the 5 dolphins were distributed in the following areas over a period of 4 years from 1997 to 2000: 1 from Charlotte Harbor (PBR = 1.5 animals per year) for an annual mortality of 17 percent of the PBR level; 2 from Mississippi Sound (PBR = 13 animals per year) for an annual mortality of 4 percent of the PBR level; and one each from the Mississippi River Delta and Vermillion Bay, where abundance estimates, and therefore the PBR levels, are unknown because no dolphins were sighted in surveys of those areas. Incidental mortality and serious injury of Charlotte Harbor bottlenose dolphins in this fishery alone exceeds 10 percent of the PBR level for this stock. Therefore, this fishery is subject to Tier 2 analysis.

Tier 2 Evaluation: The incidental mortality and serious injury of Charlotte Harbor bottlenose dolphins and Mississippi Sound bottlenose dolphins in the Gulf of Mexico gillnet fishery exceeds 1 percent of the PBR level, but is less than 50 percent of the PBR level, for each of these marine mammal stocks. Therefore, NMFS proposes to elevate this fishery to Category II.

Mid-Atlantic Coastal Gillnet Fishery

NMFS proposes to elevate the Mid-Atlantic coastal gillnet fishery to Category I as justified by the following tier analysis. Marine mammal species and stocks incidentally injured and killed by this fishery include: the Gulf of Maine stock of humpback whales, the Canadian east coast stock of Minke whales, the western North Atlantic (WNA) offshore and coastal stocks of bottlenose dolphin, the Gulf of Maine/