

seabass, and tuna drift gillnet fishery as a Category II fishery.

Response: NMFS agrees and has added the fishery to the LOF as a Category II fishery.

Comment 16: One commenter recommended that NMFS address this fishery under the Pacific Offshore Cetacean Take Reduction Plan (POCTRP).

Response: NMFS believes that it is premature at this point to include this fishery as part of the POCTRP because this fishery has little known interaction with marine mammals. In an effort to better assess this fishery's potential to entangle marine mammals and to determine the species of marine mammals, if any, that are incidentally killed or seriously injured in this fishery, NMFS began placing observers on a small number of vessels participating in this fishery beginning in summer 2002. NMFS will use the information collected through this observer program to re-evaluate the categorization of this fishery in the 2004 LOF and to reassess whether this fishery should be subject to the POCTRP.

Comments on the California/Oregon (OR) Thresher Shark/Swordfish Drift Gillnet Fishery (>14 in. mesh)

Comment 17: Several commenters supported reclassification of the CA/OR thresher shark/swordfish drift gillnet fishery from Category I to Category II.

Response: NMFS agrees and has reclassified the fishery from Category I to Category II.

Comment 18: One commenter stated that reclassification of the CA/OR thresher shark/swordfish drift gillnet fishery from Category I to II is premature given the level of sperm whale takes that occur in the fishery.

Response: NMFS does not believe that it is premature to reclassify the CA/OR thresher shark/swordfish drift gillnet fishery from Category I to Category II. This fishery fits the criteria that were developed for defining a Category II fishery. These fishery classification criteria, which were subject to review and comment in 1995, consist of a two-tiered, stock specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. Thus, a fishery that interacts with several marine mammal stocks can still be classified as a Category II fishery if the annual mortality and serious injury of each of these marine mammal stocks is greater than 1 percent but less than 50 percent of each stock's PBR level. This is the case for the CA/OR thresher shark/swordfish drift gillnet fishery,

thus NMFS is reclassifying this fishery as a Category II fishery.

Comment 19: One commenter supported reclassification of this fishery from Category I to II, but urged NMFS to maintain observer coverage in the fishery given the history of marine mammal takes in the fishery, the uncertainty of the long-term efficacy of pingers, and the levels of sperm whale takes in the fishery.

Response: NMFS will maintain observer coverage in this fishery to continue to monitor the effectiveness of the POCTRP and to ensure the appropriate categorization of the fishery.

Comments on Fisheries in the Atlantic Ocean, Caribbean, or Gulf of Mexico

Comments on the Mid-Atlantic Coastal Gillnet Fishery

Comment 20: One commenter noted that reclassification of the Mid-Atlantic coastal gillnet fishery as a Category I fishery is appropriate based on the level of incidental mortality and serious injury of Western North Atlantic coastal bottlenose dolphins in this fishery.

Response: NMFS agrees and has reclassified the fishery as Category I as proposed.

Comments on the Gulf of Mexico Gillnet Fishery

Comment 21: One commenter supported reclassification of the Gulf of Mexico gillnet fishery as Category II but said that, based on documented interactions with bottlenose dolphin stocks, the complexity of the stocks themselves, and the current scant level of monitoring in this fishery, a Category I classification would be more appropriate for this fishery.

Response: NMFS believes that data uncertainties regarding marine mammal interactions in this fishery and bottlenose dolphin stock structure, as well as the declining level of gillnet fishing activity in the Gulf of Mexico, support a Category II classification. If new information indicates that take rates relative to population status are higher than currently estimated such that a Category I classification is warranted, NMFS would propose such a reclassification in the future.

Comment 22: One commenter stated that NMFS should separate the Gulf of Mexico king and Spanish mackerel gillnet fisheries from the rest of the Gulf of Mexico gillnet fisheries and retain mackerel gillnet fisheries in Category III because of the lack of evidence of bottlenose dolphin takes in this portion of the fishery.

Response: Because NMFS relies primarily on strandings data for

information about incidental marine mammal mortality and serious injury in the Gulf of Mexico, it is often difficult to attribute stranded marine mammals that show clear signs of gear interaction to a specific portion of a fishery. Nonetheless, NMFS' observer data from the Mid-Atlantic and South Atlantic show that mackerel gillnet fisheries have resulted in entanglement of bottlenose dolphins. In addition, the Atlantic SRG recommended that NMFS use its discretion under 50 CFR 229.2, which enables the Assistant Administrator to evaluate factors including, but not limited to fishing techniques and gear used, to classify all gillnet fisheries as at least Category II given that observer data clearly show incidental mortality and serious injury of marine mammals where gillnet fisheries occur.

Comments on the Gulf of Mexico Menhaden Purse Seine Fishery

Comment 23: One commenter stated that the Gulf of Mexico menhaden purse seine fishery should be listed as Category I based on information in the 1999 SAR, which indicates that fishery-related mortality and serious injury from this fishery exceeds PBR for the Gulf of Mexico bay, sound, and estuarine stocks of bottlenose dolphins. The commenter recommended that NMFS institute an observer program to obtain better information on this fishery.

Response: With regard to reclassifying this fishery as Category I, NMFS responded to this request in the 1999 LOF (see Comment/Response 14 in 64 FR 9067, February 24, 1999), and the same rationale applies. In summary, because of the lack of certainty regarding stock structure of the Gulf of Mexico bay, sound and estuarine bottlenose dolphins and the lack of observer coverage to accurately estimate fishery-related mortalities in this fishery, NMFS is retaining this fishery as Category II at this time. NMFS is currently investigating stock structure of Gulf of Mexico bottlenose dolphins in order to better define these stocks in the future.

Also, as stated when this fishery was originally elevated to Category II status, this fishery coincides principally with the coastal stocks of bottlenose dolphins in the Gulf of Mexico. The original change in classification was based on PBR for Gulf of Mexico coastal stocks. NMFS agrees that more current observer data are necessary.

Comments on the Atlantic Mixed Species Trap/Pot Fishery

Comment 24: One commenter supported inclusion of various Category