

Response: The calculation of a PBR level for transboundary marine mammal stocks was considered on a case-by-case basis. General guidelines for migratory and non-migratory stocks were developed but were not applied in those instances where the guidelines were inconsistent with what is known about the biology of the marine mammal stock of concern. For migratory stocks, PBR level calculations are generally based upon the portion of the stock found in waters under U.S. jurisdiction or the proportion of the year that a migratory stock spends in waters under U.S. jurisdiction, and mortalities from foreign fisheries were generally included in the estimate of total mortality but not in the estimate of mortality incidental to U.S. fishing operations. For non-migratory stocks, the PBR level was calculated based on the abundance estimate of the stock residing in U.S. territorial waters and the Exclusive Economic Zone (EEZ). Restricting PBR level calculations in such a manner was considered appropriate because NMFS can only regulate incidental mortality and serious injury with respect to fishing activities under U.S. jurisdiction. Mortality and serious injury incidental to foreign fishing operations outside the U.S. EEZ generally do not affect the status of the stock (strategic vs. non-strategic) and are not included in the estimate of fishing mortality; thus, incidental takes of marine mammals by foreign fishing vessels should not affect the classification of U.S. commercial fisheries and will not affect the ability of U.S. commercial fishers to compete with foreign fishers.

Comments on Fisheries in the Northeast Region

Comments on the Gulf of Maine Mackerel Trawl Fishery

Comment 10: The commenter questioned NMFS' allegation that significant effort is not expected in the Gulf of Maine mackerel trawl fishery. As fisheries are coming under effort restrictions for groundfish in the Gulf of Maine, more effort is likely in herring and mackerel fisheries, as these stocks are more abundant. Although this fishery may not merit a separate listing from the combined trawl fishery for squid, mackerel, and butterfish, attention needs to be paid to the likely increase in effort.

Response: Since a new listing for the Atlantic squid, mackerel, and butterfish trawl was created in the 1996 LOF, the listing for the Gulf of Maine mackerel trawl fishery is duplicative and has been deleted in the 1997 LOF. The squid,

mackerel, butterfish trawl fishery is retained in Category II in the 1997 LOF. NMFS anticipates that additional information on effort in this fishery will be available from fishing vessel and dealer logbooks. NMFS agrees that there is potential for expansion of the mackerel trawl fishery since the stock is currently considered underexploited. However, because the economic viability of this fishery is uncertain, effort may not increase appreciably in the near future.

Fishers who hold a Federal permit for the squid, mackerel, butterfish fishery will be registered automatically under the new integrated registration system. Fishers who participate in the state component of this fishery must obtain registration materials from NMFS and must submit the completed registration and a \$25 fee to be authorized under the MMPA (see instructions under Registration).

Comments on the Finfish Aquaculture Fishery

Comment 11: Harbor seals should be added as interacting with the Finfish Aquaculture Fishery.

Response: The addition of harbor seals as an interacting stock is due to the entanglement of harbor seals in aquaculture pens. NMFS has no further information to indicate any marine mammal stocks other than harbor seals interacting with this fishery during the 1990–1994 period.

Offshore Monkfish Bottom Gillnet Fishery

Comment 12: The offshore monkfish bottom gillnet fishery should be divided into components of the Northeast Multispecies sink gillnet fishery and the U.S. Mid-Atlantic coastal gillnet fishery.

Response: NMFS agrees. This change will impact several vessels that were using sink gillnet gear but were not required to be permitted under the Multispecies Fishery Management Plan (FMP) because they were targeting monkfish and/or dogfish, which are not currently included under the Multispecies FMP. Monkfish was listed as a target species in the 1996 LOF for the Northeast Multispecies sink gillnet fishery but not for the Mid-Atlantic gillnet fishery. Fishers who hold a Federal permit for the multispecies sink gillnet fishery will be registered automatically under the new integrated registration system. Fishers who target only monkfish and do not have a Federal multispecies permit must obtain registration materials from NMFS and must submit the completed registration and a \$25 fee to be authorized under the

MMPA (see instructions under Registration).

Comment 13: It was not reflected in the proposed LOF that any interactions between the offshore monkfish bottom gillnet fishery and marine mammals were recorded in the course of observation from the observer program, nor were anecdotal reports provided. Why is the monkfish bottom gillnet fishery being subjected to the requirements of the MMPA? If there have been reports of interactions with marine mammals in the course of the fishing operations of the sink gillnet dogfish and monkfish fisheries, then these reports should be presented in the Federal Register as sufficient to classify them as the proposed rule states. Without that documentation, this fishery is being classified for unjust and unsound scientific reasoning until such fact and proof come forward.

Response: NMFS recognizes that quantitative information was not provided in the proposed LOF in support of the combination of the offshore monkfish bottom gillnet fishery with the New England multispecies sink gillnet fishery in Category I or with the U.S. mid-Atlantic coastal gillnet fishery in Category II, depending on the geographic location in which the fisher operates. As indicated in the proposed LOF, the offshore monkfish bottom gillnet fishery should be combined with the New England multispecies sink gillnet fishery or the U.S. mid-Atlantic coastal gillnet fishery, primarily because the offshore monkfish gillnet fishery uses tied-down sink gillnet gear, which is similar to the gear type used for flounder in the multispecies fishery, and thus, is an extension of current fisheries already in existence and is not a separate fishery. Vessels occasionally set strings of nets for monkfish in the same area and on the same trip as strings of nets set for groundfish. Thus, because the gear is similar, there is no practical distinction between the fisheries.

Comments on the Classification of the Lobster Pot Fishery

A. Comments regarding the data used to classify the fishery.

Comment 14: What is the definition of "serious injury" as it pertains to the lobster pot fishery classification and who determines whether the injury was serious?

Response: See response to comment 3 regarding the definitions of "injury" and "serious injury" under 50 CFR 229.2.

National guidelines for determining what constitutes a serious injury have not been established. The Atlantic Scientific Review Group (SRG), which