



# NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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## Action Memo

File Number: REP 17-043

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**Agenda Date** 12/4/2017

**Agenda Number:** B9

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**Dan Hull, Chairman**  
**David Witherell, Executive Director**

**SUBJECT:**

Protected Species Report

**STAFF CONTACT:** Steve MacLean

**ACTION REQUIRED:**

- Review Protected Species Report
- Action as necessary

**BACKGROUND:**

2018 Proposed List of Fisheries

On October 12, 2017, NMFS published the [proposed List of Fisheries \(LOF\) for 2018](https://www.federalregister.gov/documents/2017/10/12/2017-21837/list-of-fisheries-for-2018) [\(<https://www.federalregister.gov/documents/2017/10/12/2017-21837/list-of-fisheries-for-2018>\)](https://www.federalregister.gov/documents/2017/10/12/2017-21837/list-of-fisheries-for-2018). There are a number of changes for Alaska fisheries, as noted below:

- NMFS proposes to reclassify the Category III AK Gulf of Alaska sablefish longline fishery to Category II based on interactions with sperm whales. The 2016 Stock Assessment Report (SAR) for the North Pacific stock of sperm whale does not have a minimum abundance estimate (Nmin) or estimate for Potential Biological Removal (PBR). Because of this uncertainty, NMFS cannot conclude that the fishery meets the definition for Category III fisheries, "a remote likelihood of or no known incidental mortality of serious injury of marine mammals". Instead, NMFS proposes reclassifying the fishery as Category II, defined as "occasional incidental mortality and serious injury of marine mammals". The change from Category III to Category II fishery would require the owners of vessels engaging in the Category II fishery to obtain a marine mammal authorization by registering with the [Marine Mammal Authorization Program \(MMAP\)](http://www.nmfs.noaa.gov/pr/interactions/mmap) [\(<http://www.nmfs.noaa.gov/pr/interactions/mmap>\)](http://www.nmfs.noaa.gov/pr/interactions/mmap), and to accommodate an observer onboard upon request. More information about requirements for Category II fisheries is available at the [NOAA List of Fisheries page](http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html) [\(<http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html>\)](http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html).
- NMFS proposes to add the AK BSAI halibut longline fishery as a Category III fishery, by analogy to other sablefish pot fisheries in Alaska.
- NMFS proposes to add the AK Gulf of Alaska sablefish pot fishery as a Category III fishery, by analogy to other sablefish pot fisheries in Alaska.
- NMFS proposes removing a number of Category III fisheries in Alaska because the species identified are not target species for the gear or fishery identified.
- NMFS also proposes to rename a number of fisheries and clarify details of some fisheries.

Comments on the Proposed List of Fisheries for 2018 were due to NMFS by November 13, 2017.

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#### Center for Biological Diversity petition

On November 13, 2017, the Center for Biological Diversity submitted a Petition to list the California Dungeness crab pot fishery as Category I (**attached**). CBD claims that the fishery qualifies as a Category I fishery because it frequently entangles, seriously injures, and kills humpback whales from the Central American stock, offshore killer whales, and western North Pacific gray whales.

Although this petition does not directly affect Alaskan fisheries, both offshore killer whales and the western North Pacific gray whales occur in waters where Alaskan fisheries take place.

#### Bowhead whales

In June 2017, the Council was updated on the occurrence of bowhead whales entangled in Bering Sea crab pot gear, and the apparent increase in the number of whales seen with entanglement scars. At this meeting, Dr. Craig George with the North Slope Borough Department of Wildlife Management is here to present data on some historical and current data on bowhead whale entanglement rates, how those rates compare to cetacean entanglements, worldwide, and thoughts on the next steps for Bering-Chukchi-Beaufort Sea bowheads and Alaska fisheries.

#### Ringed seals

On December 4, 2017, the United States Court of Appeals for the Ninth Circuit will hear arguments in Alaska Oil and Gas Association v. Penny Pritzker, challenging the decision of the U.S. District Court for Alaska that the Agency's decision to list the Arctic species of ringed seal as threatened under the ESA was arbitrary, capricious and an abuse of discretion.

#### Steller sea lions

NMFS will soon be initiating a 5-year review for the endangered western DPS Steller sea lions under the ESA. Under section 4(c)(2) of the ESA, NMFS is required to conduct 5-year reviews to ensure that the listing classifications of species are accurate based on the best scientific and commercial data available. Thus, NMFS will soon publish in the Federal Register a notice requesting submission of any information on the status, threats, and recovery of the species that has become available since the final listing determination in 1997. The Federal Register notice will include more details as to the 5-year review process, the kinds of information that the Agency seeks, and the timelines for submission of such information (60 days from publication of the notice).