

Overview of Sections 117 and 118 of the Marine Mammal Protection Act (MMPA)

*Mandates Associated with
Stock Assessments and Takings of Marine Mammals
Incidental to Commercial Fishing Operations*



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Mandates Associated with Stock Assessments and Takings of Marine Mammals Incidental to Commercial Fishing Operations

- **Goals of the MMPA**
- **Section 117**
 - Stock Assessment Reports.
- **Section 118**
 - Annual List of Fisheries process.
 - Marine Mammal Authorization Program.
 - Take Reduction Plan.
 - Take Reduction Team.

Overarching MMPA Goals

- **To maintain the optimum sustainable population (OSP) and ecosystem function of marine mammal stocks**
- **Focus on human-caused mortality (i.e., bycatch)**
 - Section 117
 - Use the abundance estimate to set a mortality threshold or Potential Biological Removal (PBR) level.
 - Use of the bycatch estimates to determine a species or population's status relative to the PBR level.
 - Section 118
 - When mortality of a strategic stock that interacts with a Category I or II fishery is greater than PBR management is triggered.
 - NMFS establishes TRTs to assist in the development of TRPs.
 - » Immediate goal (reduce mortality below PBR within 6 months of TRP implementation)
 - » Long-term goal (reduce mortality to insignificant levels within 5 years of TRP implementation)

Reducing Bycatch- 3 Part Strategy

1. Stock Assessment Reports (SARs)

- Population size
- Growth
- Human-caused takings
- PBR level
- Status (e.g. strategic, depleted)

2. Annual List of Fisheries and Marine Mammal Authorization Program

- Categorize Fisheries
- Register Category I and II
- Monitor Category I and II
- All categories report takings

3. Take Reduction Plans

Defining PBR

“The maximum number of animals, excluding natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population”

Strategic Stocks

- **Listed as threatened or endangered under the Endangered Species Act (ESA), or depleted under MMPA.**
 - Depleted Stock: A species or population stock that is below its optimum sustainable population or is listed as an endangered species or a threatened species under ESA.
- **Taking > PBR**
 - Take: to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.
- **Likely to become listed under ESA**

List of Fisheries (LOF)

- **Prioritizes and identifies fisheries according to the degree of mortality and serious injury that occurs incidental to commercial fishing**
- **Two-tiered, stock specific approach**
 - **Tier 1: relationship between marine mammal mortality/serious injuries and all fisheries**
 - If...total mortality/serious injury across all fisheries $\leq 10\%$ PBR
 - Then...all fisheries Category III
 - Else...go to tier 2
 - **Tier 2: relationship between marine mammal mortality/serious injury and a specific fishery**
 - **Category I (*frequent occurrence*):** Annual mortality/serious injury is greater than or equal to 50% of the PBR level.
 - **Category II (*occasional occurrence*):** Annual mortality/serious injury is greater than 1% and less than 50% of the PBR level.
 - **Category III (*rare occurrence*):** Annual mortality/serious injury is less than or equal to 1% of the PBR level.

Examples of Fishery Categorizations

- **Category I**
 - Northeast/Mid-Atlantic American lobster trap/pot
 - Northeast sink gillnet
 - Mid-Atlantic coastal gillnet
- **Category II**
 - Atlantic mixed species trap/pot (e.g. hagfish, Jonah crab)
 - Atlantic blue crab trap/pot
 - Southeastern U.S. Atlantic shark gillnet
 - Southeast Atlantic gillnet
 - Atlantic herring mid-water trawl
 - Northeast and Mid-Atlantic bottom trawl
 - Atlantic Squid, mackerel and butterfish trawl
- **Category III**
 - Southeast U.S. Atlantic, Gulf of Mexico golden crab trap/pot
 - Delaware Bay inshore gillnet

Fishery Classification Criteria

- **In the absence of reliable data indicating the frequency of incidental mortality and serious injury, NMFS may evaluate other factors (Analogy):**
 - Fishing techniques
 - Gear used
 - Methods used to deter marine mammals
 - Target species
 - Seasons
 - Areas fished
 - Qualitative data from logbooks or fisher reports
 - Stranding data
 - The species and distribution of marine mammals in the area

Marine Mammal Authorization Program

- **To engage in the lawful incidental taking of marine mammals in a Category I or II commercial fishery, an owner of a vessel must:**
 - Register under the MMAP.
 - Show physical evidence of a current and valid authorization.
 - Report marine mammal injury or mortality.
 - Take an observer if requested.
 - Comply with applicable take reduction plan and emergency regulations.

Observer Programs

- **NMFS is required to establish a program to monitor incidental mortality and serious injury of marine mammals in commercial fisheries to:**
 - Obtain statistically reliable estimates
 - Determine the reliability of reports
 - Identify changes in fishing methods and technology that may increase or decrease incidental mortality and serious injury

Reporting

- Applies to all U.S. commercial fisheries.
- Report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to NMFS within 48 hours of the end of each fishing trip, or for non-vessel fisheries, within 48 hours of the occurrence
- Standard form

Integration

- **NMFS shall integrate and coordinate the granting and administration of authorizations to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.**
- **Fisheries with integrated registration programs:**
 - Northeast and Southeast Regional fisheries for which a state or Federal permit is required.
- **If integrated, fishermen do not have to submit an MMAP registration form or processing fee (\$25) to NMFS.**
- **At the beginning of each year, permitted vessel owners in integrated fisheries are automatically enrolled in the MMAP.**
 - To obtain the MMAP certificate for the year, the terms and conditions of the authorization, and marine mammal injury and mortality reporting forms fishermen may either download the information from the NER or SER web sites or call the NER or SER offices.

Take Reduction Teams and Plans

- **The 1994 Amendments to the MMPA made a number of changes in the regulations governing the incidental taking of marine mammals in the course of commercial fishing operations, including:**
 - establishment of take reduction teams for strategic stocks of marine mammals which interact with certain fisheries
 - development and implementation of take reduction plans

Take Reduction Teams

- **Tasked with the development of Take Reduction Plans**
- **Members will have expertise regarding the conservation/biology of the marine mammal species or the fishing practices which result in the take of such species, e.g.**
 - Fishing Associations/Fishermen
 - Federal/State Representatives
 - Councils/Commissions
 - Scientists
 - Conservationists

Take Reduction Plans

“The Secretary (NMFS) shall develop and implement a take reduction plan (TRP) designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a Category I or II fishery”

Take Reduction Plan Goals

- **Immediate Goal**

- “...reduce, within 6 months of its implementation, incidental mortality or serious injury of marine mammals incidentally taken in commercial fishing operations to levels less than PBR...”

- **Long-Term Goal**

- Also know as the Zero Mortality Rate Goal (ZMRG)
- “...to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals...to insignificant levels approaching a zero mortality and serious injury rate...”
- Insignificant levels approaching a zero (ZMRG) is defined as 10% of the PBR level

Content of TRPs

- **Review of SARs and new information.**
- **Estimate of total number of marine mammals being taken annually by species and by fishery.**
- **Discussion of all alternate measures considered and reviewed by team and why rejected/accepted.**
- **Recommended regulatory and voluntary measures.**
- **Estimates of the percentage of the required bycatch reduction that will be achieved by each recommended measure.**
- **Monitoring plans to determine the success of each measure.**
- **Recommended dates for achieving specific objectives of the TRP.**
- * **TRPs for stocks listed under the ESA must be consistent with any ESA Recovery Plan.**

TRP Development Process

- **Not later than 6 months after establishment of the TRT, a draft TRP shall be submitted to NMFS.**
- **Draft TRP should be consensus; if not, major/minor views will be included.**
- **NMFS reviews draft TRP and within 60 days publishes in Federal Register (FR), including any changes it deems appropriate and proposed regulations to implement the plan.**
- **Ninety day public review/comment period.**
- **Sixty days after close of comment period, NMFS will issue a final plan and implementing regulations.**
- **Team will meet every six months, or other interval, to monitor plan implementation.**
- * **If the TRT does not submit a plan within six months, no later than eight months after team establishment, NMFS will publish in the FR a proposed plan and implementing regulations.**

Potential Take Reduction Measures

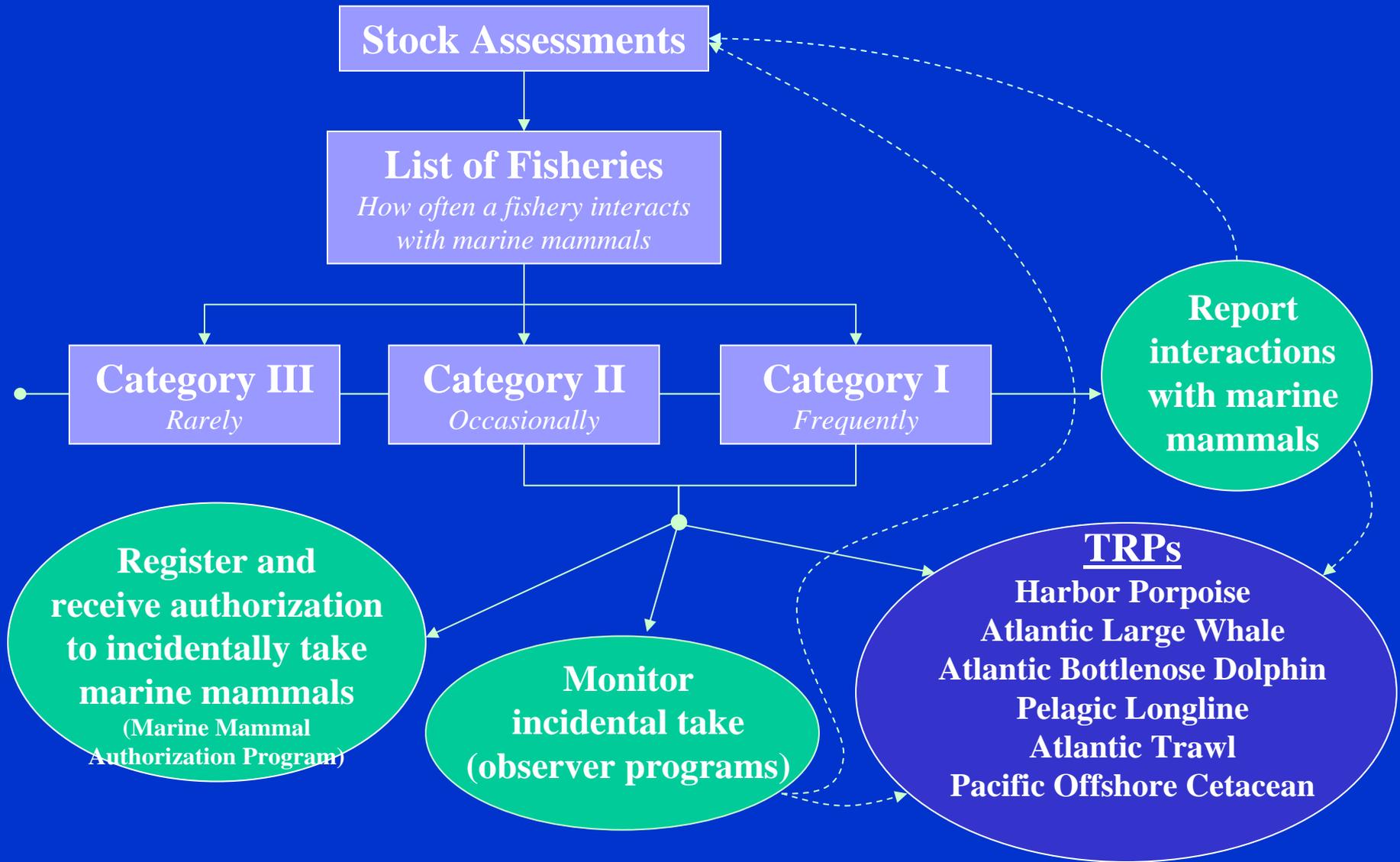
- Fishery-specific limits on bycatch (quotas)
- Time/area closures
- Alternative fishing gear/techniques/technologies
- Skipper's panels/educational workshops to convey importance of reducing take

Take Reduction Plans

- **Category III fisheries are considered to have a negligible impact on marine mammals**
- **Focus attention on Category I and II fisheries that interact with strategic stocks**
- **Examples:**
 - Atlantic Large Whale TRP fishery examples include:
 - Northeast sink gillnet.
 - Mid-Atlantic coastal gillnet.
 - Northeast/Mid-Atlantic trap/pot.
 - Harbor Porpoise TRP fishery examples include:
 - Northeast sink gillnet.
 - Mid-Atlantic coastal gillnet.

Marine Mammal/Commercial Fisheries Interactions

“Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate...”



Web Sites for Take Reduction Plans

- **Harbor Porpoise TRP:**

<http://www.nero.noaa.gov/porptrp/>

- **Atlantic Large Whale TRP:**

<http://www.nero.noaa.gov/whaletrp/>

- **Atlantic Bottlenose TRP:**

<http://sero.nmfs.noaa.gov/pr/mm/dolphins/bdconservation.htm>

- **Pelagic Longline TRP:**

<http://www.nmfs.noaa.gov/pr/interactions/trt/teams.htm#pl>

- **Atlantic Trawl Gear TRP:**

http://www.nero.noaa.gov/prot_res/atgtrp/index.html

- **Pacific Offshore Cetacean TRP:**

<http://www.nmfs.noaa.gov/pr/interactions/trt/teams.htm#poc>