

Purpose

Section 101(a)(5)(E) of the Marine Mammal Protection Act (MMPA) requires National Marine Fisheries Service (NMFS) to authorize the incidental take of marine mammals listed under the Endangered Species Act (ESA) in a commercial fishery for a period of up to three years if NMFS determines the following criteria have been met:

1. Incidental mortality and serious injury (M/SI) from commercial fisheries will have a negligible impact on the affected species/stock;
2. A recovery plan has been developed or is being developed for such species/stock; and
3. Where required under MMPA Section 118, a monitoring program has been established, vessels are registered, and a take reduction plan has been developed or is being developed for such species/stock.

This form documents NMFS' evaluation of whether a fishery can be authorized under MMPA Section 101(a)(5)(E). To determine if M/SI incidental to a specific commercial fishery will have a negligible impact on a specific stock(s), this evaluation employs the process and standards laid out in [NMFS Procedure 02-204-02, Criteria for Determining Negligible Impact under MMPA Section 101\(a\)\(5\)\(E\)](#), and is based on the most recent final [MMPA List of Fisheries \(LOF\)](#) and the most recent [Marine Mammal Stock Assessment Reports \(SARs\)](#).

Commercial Fishery Information

Commercial Fishery: _____

Region: _____

Final List of Fisheries (LOF) Year: _____ LOF Category: _____ Fishery Management: _____

ESA-Listed Marine Mammal Stock(s) Seriously Injured or Killed Incidental to this Fishery:

1) _____	4) _____
2) _____	5) _____
3) _____	6) _____

ESA-Listed Marine Mammal Stock(s) Driving LOF Classification: _____

Additional Fishery Information:

Available on Fishery Fact Sheet
Fact Sheet Link: _____

Fishery Fact Sheet Not Available (if applicable)
Information from Other Source: _____

Stock #1 Information

Stock: _____ Transboundary: _____

N_{min} : _____ Not Applicable R_{max} : _____

Data Source: _____ Year: _____

Negligible Impact Analysis

Tier 1 analysis is not applicable because the stock is transboundary *Only conduct Tier 2 analysis if this option is selected*

Tier 1 analysis is applicable *Continue below to Tier 1 Analysis if this option is selected*

Tier 1 Analysis

Average Annual Human-Caused M/SI

Including SIs averted (i.e., human intervention or self-release)

Date Range: _____ Total Human-Caused M/SI: _____

Tier 1 Analysis (i.e., NIT Threshold #1) Formula: $NIT_t = N_{min} \times 0.5R_{max} \times 0.1$

N_{min} Available:

NIT_t : _____

Total Human-Caused M/SI > NIT_t Total

Human-Caused M/SI \leq NIT_t

N_{min} Unavailable:

N_{min} Threshold for NIT_t : _____

N_{min} likely > Threshold N_{min} for NIT_t

N_{min} likely \leq Threshold N_{min} for NIT_t

Result from Tier 1 Analysis: _____

Tier 2 Analysis

Average Annual Human-Caused M/SI

Including SIs averted (i.e., human intervention or self-release)

Date Range: _____ Individual Comm. Fishery M/SI: _____

Individual M/SI unavailable or likely underestimated due to M/SI from unidentified fishing gear:

If yes, explain below:

The SAR also includes unattributed fishery-related M/SI (_____) for the stock, which is not assigned to a specific commercial fishery. This unattributed fishery-related M/SI could be from any number of _____

_____ including, the _____

fishery. In accordance with NMFS Procedural Directive 02-204-02, because the data are not currently available to assign the unattributed fishery-related M/SI to a specific commercial fishery, we did not include unattributed mortality in the calculations for the NID Tier 2 analysis (NMFS 2020).

Tier 2 Analysis (i.e., NIT Threshold #2) Formula: $NIT_s = N_{min} \times 0.5R_{max} \times 0.013$

N_{min} Available:

NIT_s : _____

Individual Fishery M/SI > NIT_s

Individual Fishery M/SI \leq NIT_s

N_{min} Unavailable:

N_{min} Threshold for NIT_s : _____

N_{min} likely > Threshold N_{min} for NIT_s

N_{min} likely \leq Threshold N_{min} for NIT_s

Result from Tier 2 Analysis: _____

Stock#2 Information

Stock: _____ Transboundary: _____

N_{min} : _____ Not Applicable R_{max} : _____

Data Source: _____ Year: _____

Negligible Impact Analysis

Tier 1 analysis is not applicable because the stock is transboundary *Only conduct Tier 2 analysis if this option is selected*

Tier 1 analysis is applicable *Continue below to Tier 1 Analysis if this option is selected*

Tier 1 Analysis

Average Annual Human-Caused M/SI

Including SIs averted (i.e., human intervention or self-release)

Date Range: _____ Total Human-Caused M/SI: _____

Tier 1 Analysis (i.e., NIT Threshold #1) Formula: $NIT_t = N_{min} \times 0.5R_{max} \times 0.1$

N_{min} Available:

NIT_t : _____

Total Human-Caused M/SI > NIT_t Total

Human-Caused M/SI \leq NIT_t

N_{min} Unavailable:

N_{min} Threshold for NIT_t : _____

N_{min} likely > Threshold N_{min} for NIT_t

N_{min} likely \leq Threshold N_{min} for NIT_t

Result from Tier 1 Analysis: _____

Tier 2 Analysis

Average Annual Human-Caused M/SI

Including SIs averted (i.e., human intervention or self-release)

Date Range: _____ Individual Comm. Fishery M/SI: _____

Individual M/SI unavailable or likely underestimated due to M/SI from unidentified fishing gear:

If yes, explain below:

The SAR also includes unattributed fishery-related M/SI (_____) for the stock, which is not assigned to a specific commercial fishery. This unattributed fishery-related M/SI could be from any number of _____

_____ including, the _____

fishery. In accordance with NMFS Procedural Directive 02-204-02, because the data are not currently available to assign the unattributed fishery-related M/SI to a specific commercial fishery, we did not include unattributed mortality in the calculations for the NID Tier 2 analysis (NMFS 2020).

Tier 2 Analysis (i.e., NIT Threshold #2) Formula: $NIT_s = N_{min} \times 0.5R_{max} \times 0.013$

N_{min} Available:

NIT_s : _____

Individual Fishery M/SI > NIT_s

Individual Fishery M/SI \leq NIT_s

N_{min} Unavailable:

N_{min} Threshold for NIT_s : _____

N_{min} likely > Threshold N_{min} for NIT_s

N_{min} likely \leq Threshold N_{min} for NIT_s

Result from Tier 2 Analysis: _____

Summary of Negligible Impact Determination(s)

Commercial Fishery: _____

Stock:	Negligible Impact:
1)	
2)	
3)	
4)	
5)	
6)	

Overall Negligible Impact Determination:

Based on criteria outlined in in [NMFS Procedure 02-204-02, Criteria for Determining Negligible Impact under MMPA Section 101\(a\)\(5\)\(E\)](#), and the best scientific information and data available, the mortality and serious injury of ESA-listed marine mammals incidental to the fishery evaluated here will have _____

Criterion #2: Recovery Plan Status

Stock:	Recovery Plan Status:
1)	
2)	
3)	
4)	
5)	
6)	

Criterion #3: MMPA Section 118 Requirements

Monitoring program: _____

Vessel registration: _____

Take reduction plan: _____

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