



# Marine Mammal Protection Act Section 101(a)(5)(E) Fishery Evaluation Form

For Category I and II Commercial Fisheries

## 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: HI deep-set longline/Western Pacific pelagic longline (HI deep-set component)

Region: Pacific Islands

Final List of Fisheries (LOF) Year: 2024 LOF Category: I Fishery Management: Federal

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

- |                                                       |          |
|-------------------------------------------------------|----------|
| 1) <u>False killer whale, main HI Islands insular</u> | 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: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables#table-1-category-i>

Fishery Fact Sheet Not Available (if applicable)

Information from Other Source:

## Criterion #1: Negligible Impact Determination

### Stock #1 Information

Stock: False killer whale, main HI Islands insular Transboundary: No

$N_{min}$ : 129.0000  Not Applicable  $R_{max}$ : 0.0400

Data Source: Draft SAR Year: 2023

### 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: 2017-2021 Total Human-Caused M/SI: .03

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

$N_{min}$ Available:	$N_{min}$ Unavailable:
$NIT_t$ : <u>0.258</u> Total Human-Caused M/SI > $NIT_t$ Total <input type="checkbox"/> Human-Caused M/SI $\leq$ $NIT_t$ <input checked="" type="checkbox"/>	$N_{min}$ Threshold for $NIT_t$ : _____ $N_{min}$ likely > Threshold $N_{min}$ for $NIT_t$ <input type="checkbox"/> $N_{min}$ likely $\leq$ Threshold $N_{min}$ for $NIT_t$ <input type="checkbox"/>

Result from Tier 1 Analysis: Negligible impact

### 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:	$N_{min}$ Unavailable:
$NIT_s$ : _____ Individual Fishery M/SI > $NIT_s$ <input type="checkbox"/> Individual Fishery M/SI $\leq$ $NIT_s$ <input type="checkbox"/>	$N_{min}$ Threshold for $NIT_s$ : _____ $N_{min}$ likely > Threshold $N_{min}$ for $NIT_s$ <input type="checkbox"/> $N_{min}$ likely $\leq$ Threshold $N_{min}$ for $NIT_s$ <input type="checkbox"/>

Result from Tier 2 Analysis: \_\_\_\_\_

## Summary of Negligible Impact Determination(s)

Commercial Fishery: HI deep-set longline/Western Pacific pelagic longline (HI deep-set component)

Stock:	Negligible Impact:
1) False killer whale, main HI Islands insular	Yes
2)	
3)	
4)	
5)	
6)	

### Overall Negligible Impact Determination:

Based on criteria outlined 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 a negligible impact on all relevant ESA-listed marine mammal stocks or species.

## Criterion #2: Recovery Plan Status

Stock:	Recovery Plan Status:
1) False killer whale, main HI Islands insular	Already Developed
2)	
3)	
4)	
5)	
6)	

## Criterion #3: MMPA Section 118 Requirements

Monitoring program: Yes

Vessel registration: Yes

Take reduction plan: Already Developed

## References

Carretta, J.W., E.M. Oleson, K.A. Forney, M.M. Muto, D.W. Weller, A.R. Lang, J. Baker, B. Hanson, A.J. Orr, J. Barlow, J.E. Moore, and R.L. Brownell. In Press. Draft U.S. Pacific Marine Mammal Stock Assessments: 2023. U.S. Department of Commerce. NMFS-SWFSC-XXX.