

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

04/21/2006

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 01/27/2006.

TITLE: Alaska Seabird Avoidance Program

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0474

EXPIRATION DATE: 04/30/2009

| BURDEN: | RESPONSES | HOURS | COSTS(\$,000) |
|----------------|-----------|--------|---------------|
| Previous | 2,000 | 16,000 | 10 |
| New | 2,000 | 16,000 | 10 |
| Difference | 0 | 0 | 0 |
| Program Change | | 0 | 0 |
| Adjustment | | 0 | 0 |

TERMS OF CLEARANCE: None

NOTE: The agency is required to display the OMB control number and inform respondents of its legal significance (see 5 CFR 1320.5(b)).

| | |
|--------------------------|--|
| OMB Authorizing Official | Title |
| Donald R. Arbuckle | Deputy Administrator, Office of Information and Regulatory Affairs |

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

| | |
|---|--|
| <p>1. Agency/Subagency originating request</p> | <p>2. OMB control number b. <input type="checkbox"/> None a. _____ - _____</p> |
| <p>3. Type of information collection (<i>check one</i>)</p> <p>a. <input type="checkbox"/> New Collection</p> <p>b. <input type="checkbox"/> Revision of a currently approved collection</p> <p>c. <input type="checkbox"/> Extension of a currently approved collection</p> <p>d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired</p> <p>e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired</p> <p>f. <input type="checkbox"/> Existing collection in use without an OMB control number</p> <p>For b-f, note Item A2 of Supporting Statement instructions</p> | <p>4. Type of review requested (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Regular submission</p> <p>b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____</p> <p>c. <input type="checkbox"/> Delegated</p> |
| | <p>5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| | <p>6. Requested expiration date</p> <p>a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____</p> |
| <p>7. Title</p> | |
| <p>8. Agency form number(s) (<i>if applicable</i>)</p> | |
| <p>9. Keywords</p> | |
| <p>10. Abstract</p> | |
| <p>11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>)</p> <p>a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms</p> <p>b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government</p> <p>c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government</p> | <p>12. Obligation to respond (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Voluntary</p> <p>b. <input type="checkbox"/> Required to obtain or retain benefits</p> <p>c. <input type="checkbox"/> Mandatory</p> |
| <p>13. Annual recordkeeping and reporting burden</p> <p>a. Number of respondents _____</p> <p>b. Total annual responses _____</p> <p> 1. Percentage of these responses collected electronically _____ %</p> <p>c. Total annual hours requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p> 1. Program change _____</p> <p> 2. Adjustment _____</p> | <p>14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>)</p> <p>a. Total annualized capital/startup costs _____</p> <p>b. Total annual costs (O&M) _____</p> <p>c. Total annualized cost requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p> 1. Program change _____</p> <p> 2. Adjustment _____</p> |
| <p>15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>)</p> <p>a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management</p> <p>b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research</p> <p>c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance</p> <p>d. <input type="checkbox"/> Audit</p> | <p>16. Frequency of recordkeeping or reporting (<i>check all that apply</i>)</p> <p>a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure</p> <p>c. <input type="checkbox"/> Reporting</p> <p> 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly</p> <p> 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually</p> <p> 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____</p> |
| <p>17. Statistical methods</p> <p>Does this information collection employ statistical methods</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> | <p>18. Agency Contact (person who can best answer questions regarding the content of this submission)</p> <p>Name: _____</p> <p>Phone: _____</p> |

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
ALASKA SEABIRD AVOIDANCE PROGRAM
OMB CONTROL NO.: 0648-0474**

INTRODUCTION

Increased concerns have arisen about the incidental capture of non-target species in various fisheries throughout the world. Incidental capture can be economically wasteful, it impacts living marine resources, and the accidental killing of non-harvested animals may be aesthetically aversive. Incidental catch of non-target marine species such as marine mammals, sea turtles, and seabirds has generated growing concern over the long-term ecological effects of such bycatch in longline and other fisheries conducted in many areas of the world's oceans.

In response to these concerns, the United Nations' Food and Agriculture Organization (FAO) called for an expert consultation on the issue of global seabird bycatch in longline fisheries. As a result of the consultation, the FAO adopted an International Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries (IPOA-S) in 1999. The IPOA-S applies to "States" (hereafter Countries) in whose waters longline fishing is being conducted by their own or foreign vessels, and to Countries that conduct longline fishing on the high seas and in the exclusive economic zones (EEZs) of other Countries. The IPOA-S is a voluntary measure that calls on Countries to: (1) assess the degree of seabird bycatch in their longline fisheries; (2) develop individual national plans of action to reduce seabird bycatch in longline fisheries that have a seabird bycatch problem; and (3) develop a course of future research and action to reduce seabird bycatch. The National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries (NPOA-S) is to be implemented consistent with the FAO Code of Conduct for Responsible Fisheries and all applicable rules of international law, and in conjunction with relevant international organizations.

The United States developed its NPOA-S in 2001 (see attached). Development of the NPOA-S was a collaborative effort between the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (FWS) and the Department of State (DOS), carried out in large part by the Interagency Seabird Working Group (ISWG) consisting of representatives from those three agencies. This partnership approach recognizes the individual agency management authorities covering seabird interactions with longline fisheries. Also in 2001, NMFS appointed its National Seabird Coordinator to head up its NPOA implementation initiatives. This work requires maintenance of a national perspective through coordinated regional activities.

NMFS manages U.S. fisheries under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and the High Seas Fishing Compliance Act. FWS manages birds predominately under the authority of the Endangered Species Act and the Migratory Bird Treaty Act. In addition, DOS has the lead role in international negotiations on fisheries conservation and management issues that should help promote IPOA-S implementation by encouraging other nations to develop NPOA-Ss. Given each agency's responsibilities, the NPOA-S was developed collaboratively by NMFS and FWS. This collaborative effort has increased communication between seabird specialists and fishery managers in FWS and NMFS. Maintaining this cooperation is a high priority for both agencies

This statement supports a collection of information for a Seabird Avoidance Plan (Plan) in the hook-and-line fisheries for groundfish in the EEZ off Alaska and for Individual Fishing Quota (IFQ) sablefish and Pacific halibut fisheries in waters off Alaska. Management of the Pacific halibut (hereafter halibut) fishery in and off of Alaska is based on an international agreement between Canada and the United States and is given effect in the United States by the Northern Pacific Halibut Act of 1982. The Magnuson-Stevens Act authorizes the North Pacific Fishery Management Council to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. Regulations governing this program are set out in regulations at 50 CFR Part 679.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et. seq.*) (ESA) provides the primary legal framework for the conservation and recovery of species in danger of or threatened with extinction. Section 7(a)(2) of the ESA 9 (attached) requires that each Federal agency ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat of such species

This collection describes an activity of National Marine Fisheries Service, Alaska Region (NMFS) intended to reduce the incidental take of the short-tailed albatross and other seabird species. The goal of the Plan is to potentially benefit the endangered short-tailed albatross population and populations of other seabird species and to reduce the risk of potential serious economic impacts to the Alaska hook-and-line fisheries. If the incidental take limit of short-tailed albatross and other seabird species under the section 7 ESA consultation were exceeded, fishery closures could become a possibility under the section 7 consultation process.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Operators of vessels using hook-and-line gear must complete and maintain a Plan when fishing for:

- Pacific halibut in the IFQ and Western Alaska Community Development Quota (CDQ) management programs (0 to 200 nautical miles (nm));
- IFQ sablefish in EEZ waters (3 to 200 nm) and waters of the State of Alaska (0 to 3 nm), except waters of Prince William Sound and areas in which sablefish fishing is managed under a State of Alaska limited entry program (Clarence Strait, Chatham Strait); and
- Groundfish (except IFQ sablefish) with hook-and-line gear in the U.S. EEZ waters off Alaska (3-200 nm).

The Plan is used to determine compliance of the vessel with the Seabird Avoidance Program by United States Coast Guard (USCG) boarding personnel, National Oceanic and Atmospheric

Administration (NOAA) Fisheries Office for Law Enforcement (OLE) personnel, and NOAA Observer Program personnel.

The Plan form is available on NMFS home page at <http://www.fakr.noaa.gov/protectedresources/seabirds/torilines/form.pdf>. The Plan must be completed and signed by the vessel operator and displayed onboard the vessel, perhaps in a notebook or folder. Prior to departing for a fishing trip, the owner or operator must discuss his Plan with the crew of the vessel, instructing and training them through seabird avoidance gear drills. The Plan must be made available for inspection upon request by an authorized officer of the USCG or OLE. For observed vessels, a copy of the Plan must be given to the observer if requested and should be discussed with the observer during a pre-departure meeting.

Seabird Avoidance Plan

Vessel name

Operator printed name, signature, and date of signature. This signature indicates all crew members have read the plan and are familiar with it.

Type of seabird avoidance measure or device used onboard (check all that apply)

- Paired streamer line
- Lining tube (Underwater setting device)
- Single streamer line, with snap gear
- Single streamer line (indicate additional device)
- Buoy bag line (indicate additional device)
- Other avoidance measure (describe)

If using single streamer lines or buoy bag lines in the EEZ, one or more additional devices must be used, as indicated. If strategic offal discharge is selected as an additional device, describe the procedure. In addition to required measures, other techniques for seabird avoidance are used, describe the procedure. In the EEZ, use at least one of the following additional device.

- Add weights to groundline
- Use a second buoy bag line or streamer line
- Strategic offal discharge to distract birds. Describe procedure.

List and describe the function each crew station will perform for all tasks related to deploying, adjusting, and monitoring the performance of deployed seabird avoidance measures and devices. If the vessel carries an observer, indicate which crew station is responsible during sampled hauls for retaining seabirds for observer's sampling.

Diagram and describe the sequence of actions taken by the crew to deploy and retrieve the seabird avoidance measures and devices. Draw arrows to show location of gear deployment and gear retrieval.

| Seabird Avoidance Plan, Respondent | |
|---|-----------------|
| Number of respondents | 2,000 |
| Total annual responses | 2,000 |
| Responses per respondent = 1 | |
| Total burden hours (2000x 8) | 16,000 |
| Time per response = ranges between 4 and 12 hr (8 hr) | |
| Total personnel cost (16000 x \$35) | 560,000 |
| Personnel cost = 25 | |
| Total miscellaneous cost (2000 x \$5) | \$10,000 |
| Notebook, folder = 5 | |

| Seabird Avoidance Plan, Federal Government | |
|---|----------|
| Total annual responses | 0 |
| Total burden hours | 0 |
| Total personnel cost | 0 |
| Total miscellaneous cost | 0 |

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the following paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The seabird avoidance program does not require the submittal of any information to NMFS. The form may be downloaded from the NMS Protected Resources website.

4. Describe efforts to identify duplication.

No duplication exists with other information collections.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This collection-of-information does not impose a significant impact on small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Without this seabird avoidance program, endangered seabird species would go unprotected and perhaps go into extinction.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the OMB guidelines.

No special circumstances exist that would require information collection to be conducted in a manner inconsistent with OMB guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

NMFS published a notice in the Federal Register 70 FR 65888, November 1, 2005 soliciting public comments on the information collection. No comments were received.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift is provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The Plan stays on each vessel and is not sent to NMFS or any other agency. This information collection does not involve confidential information.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not involve information of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

Total estimated respondents: 2,000. Total estimated responses: 2,000. Total estimated annual burden hours: 16,000 hr. Total estimated personnel costs: \$560,000.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

Total estimated miscellaneous costs: \$10,000.

14. Provide estimates of annualized cost to the Federal government.

The Federal Government would not incur any ongoing costs, because The Plan is not submitted to NMFS Alaska Region. Rather, it is maintained on the vessel while fishing.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

No changes or adjustments have occurred.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected will not be published, and no statistical sampling of the information is planned.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

In accordance with OMB requirements, the control number and the expiration date of OMB approval are shown on the form.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

This information collection does not request exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

NOAA
National Marine Fisheries Service
Alaska Region

SEABIRD AVOIDANCE PLAN



1. Name of Vessel

2. Vessel Length (LOA) and Hook-and-Line Gear Type (e.g. snap gear, conventional gear, autoline gear)

3. Name and Signature of Owner or Operator (circle which) Date (month/day/year)

4. Select the diagram that best describes your vessel and gear and place here. See reference chart at end of instructions for selecting the diagram that best describes your fishing operation.

| | | | |
|---|---|---|--|
| 5. Type of Seabird Avoidance Measure or Device Used. (Check <u>all</u> that apply.) | | | |
| | Paired Streamer Line | *In the EEZ, at least one of the following additional devices must be used with Single Streamer Lines or Buoy Bag Lines (Check all that apply): | |
| | Lining Tube (Underwater setting device) | | |
| | Single Streamer Line, with Snap Gear | | |
| | Single Streamer Line* | <input type="checkbox"/> | Add weights to groundline |
| | Buoy Bag Line* | <input type="checkbox"/> | Use a 2 nd buoy bag line or streamer line |
| | | <input type="checkbox"/> | Strategic offal discharge to distract birds (Describe) |
| | Other avoidance measure (Describe) | | |

| | |
|---|--|
| 6. List and describe crew station assignments and the sequence of actions to deploy and retrieve the required seabird avoidance gear. | |
| Crew A | |
| Crew B | |
| Crew C | |
| Crew D | |
| Crew E | |
| Crew F | |

Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form please note the following: 1) The NMFS may not conduct or sponsor this information request, and you are not required to respond to this information request, unless the form displays a currently valid OMB control number; 2) This information is being used to implement the Seabird Avoidance Program; 3) Federal law and regulations require and authorize NMFS to manage seabird avoidance program in Alaska; 4) Completion of this plan is required of all persons seeking to participate in directed fishing using hook-and-line gear in waters off Alaska; 5) This information is mandatory and is required to monitor the seabird avoidance program under 50 CFR part 679, under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*) and under the Northern Pacific Halibut Act of 1982.

The Small Business Regulatory Enforcement Fairness Act requires agencies to publish one or more Small Entity Compliance Guides for each rule or group of related rules for which the agency prepares a Final Regulatory Flexibility Analysis. The Small Entity Compliance Guide is to be written in plain language and explain the actions a small entity must take to comply with the rule or group of rules. NMFS has prepared a Small Entity Compliance Guide for the seabird avoidance measures and it is available at <http://www.fakr.noaa.gov/protectedresources/seabirds/guide.htm> This *Seabird Avoidance Plan* will also serve to aid vessel operators in that it is written in plain language, contains illustrations of the required seabird avoidance measures, and describes most of the requirements that must be taken to comply with this rule. For the exact regulatory language, refer to Title 50 of the Code of Federal Regulations part 679.24(e).

INSTRUCTIONS

| |
|---|
| <p><u>Objective.</u> To ensure that vessel crews using longline gear (i.e. hook-and-line) are aware of the need to prevent the incidental mortality of seabirds and that each vessel has an effective plan for using the required seabird avoidance measures.</p> |
| <p><u>Compliance responsibility.</u> The Vessel Owner or Operator must complete and sign the Plan. A current Plan must be maintained onboard the vessel when using hook-and-line fishing gear. The signature of the Vessel Owner or Operator certifies that the Plan is current, that all crew members are aware of the required use of seabird avoidance measures specific to this vessel, that these measures are discussed and operationally planned, and each person’s specific responsibility is known and understood.</p> |
| <p><u>Changes.</u> A new Plan must be created and maintained if any changes occur in the information, e.g., operator, gear, crew station function.</p> |
| <p><u>Inspection.</u> The Plan must be made available for inspection upon request by an authorized officer of the U.S. Coast Guard or National Marine Fisheries Service. For observed vessels, a copy of the Plan must be made available to the observer on request and should be discussed with the observer during a pre-departure meeting.</p> |
| <p>1. Enter the name of the vessel</p> |
| <p>2. Enter the length (LOA) of the vessel and the type of hook-and-line gear used (e.g. snap, conventional, autoline)</p> |
| <p>3. Enter the name and signature of the Vessel Owner or Operator.</p> |
| <p>4. Diagram instructions: Seabird avoidance regulations are specific to vessel length, gear type and area fished. Select a diagram that best matches your gear and vessel and apply here. The diagram lists seabird avoidance requirements for your vessel and provides an illustration of the seabird avoidance gear and its proper deployment. If your gear and vessel do not match available categories perfectly, choose the closest match.</p> |
| <p>5. Enter type of seabird avoidance measure or device used onboard. If you use single streamer lines or buoy bag lines in the exclusive economic zone (EEZ), you must also use one or more additional devices, as indicated. If you select strategic offal discharge as an additional device, describe the procedure. If in addition to required measures you use other techniques for seabird avoidance, describe the procedure.</p> |

6. **List seabird avoidance tasks assigned to each crew member or crew station and the sequence of these tasks.** Include all tasks related to deployment, retrieval, adjustment and monitoring of all seabird avoidance gear and measures listed under #6. Include crew station responsible for retaining seabirds for the observer during observed hauls, if appropriate. In listing the sequencing of tasks, reflect the integration of deploying the fishing gear with the seabird avoidance tasks. Provide details that are specific to the type of hook-and-line gear you use (e.g., snap, conventional, autoline).

Answer or address the following questions for:

Deployment of gear

- (a) Which crew puts the bird avoidance gear and additional devices on the vessel?
- (b) Which crew deploys bird avoidance gear? When, relative to setting of the flag, buoy, and anchor line?
- (c) From what location is the bird avoidance gear deployed? What are the lines attached to? Davits? Rigging? Poles?
- (d) Who deploys additional devices?
- (e) Who observes and monitors that seabird avoidance gear and devices are functioning properly?
Are the streamer lines high enough?
Is buoy bag line deployed over the groundline? Is there adequate drag on the line to keep it taut?
- (f) Who is responsible for taking care of any deployment mishaps?
- (g) What do they do if the bird avoidance gear becomes tangled in the fishing gear?
Cut the streamer line? Back down? Is a break-away used?
- (h) Who adjusts the seabird avoidance gear and devices when necessary for better performance?

Retrieval of gear

- (a) Who retrieves the seabird avoidance gear and additional devices?
- (b) How is it retrieved? By hand? Using a hydraulic line puller?
- (c) Who gets the bird avoidance gear and additional devices ready for the next set?
- (d) Who retrieves and stores the fishing gear?
- (e) If seabird take does occur during an observed haul, who retrieves and retains seabirds for the observer? The rollerman? Gaffer?

For example:

Crew No. 1 prepares and deploys hook-and-line gear, retains seabirds for observer sampling, retrieves and stores hook-and-line gear, seabird avoidance gear, and additional devices.

Crew No. 2 is responsible for putting bird avoidance gear and additional devices on vessel, deploys bird avoidance gear and additional devices, retrieves bird avoidance gear and additional devices, prepares and stores bird avoidance gear and additional devices.

Crew No. 3 prepares and deploys hook-and-line gear, observes and monitors that gear is functioning properly, retrieves bird avoidance gear and additional devices, retrieves and stores hook-and-line gear and bird avoidance gear and additional devices.

REFERENCE CHART FOR SELECTING DIAGRAM THAT BEST DESCRIBES YOUR FISHING OPERATION

| Vessels Type | EEZ Seabird Avoidance Gear Requirements | Diagram Number | 'Inside Water' Seabird Avoidance Gear Requirements | Diagram Number |
|--|--|----------------|---|----------------|
| Vessels Greater Than 55 Ft Not Using Snap Gear | <i>Paired streamer lines meeting specified performance and material standards</i> | <i>1</i> | <i>Single streamer line meeting specified performance and material standards</i> | <i>2</i> |
| Vessels Greater Than 26 Ft to 55 Ft Not Using Snap Gear With Mast Poles And Rigging | <i>Single streamer line and one other device</i> | <i>3</i> | <i>>26 to 32 Ft, buoy bag line; >32 to 55 Ft single streamer line</i> | <i>4</i> |
| Vessels Greater Than 26 Ft to 55 Ft Not Using Snap Gear With-Out Mast Poles And Rigging | <i>Buoy bag line and one other device</i> | <i>5</i> | <i>One buoy bag line</i> | <i>6</i> |
| Vessels using Snap Gear | <i>Single streamer line and 1 other device Vessels > 55' performance standards required</i> | <i>7</i> | <i>Follow same 'Inside Water' gear requirements for vessels based on length and if your vessel has masts, poles, or rigging</i> | see above |

Art Credit: All vessel drawings by Nancy Behnken, graphic artist and commercial longline fisherman, Sitka, Alaska.

Final

United States
National Plan of Action
for
Reducing
the
Incidental Catch of Seabirds in Longline Fisheries

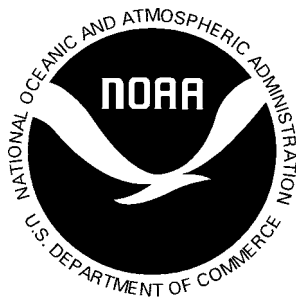
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Photograph of Short-tailed Albatross by Dr. Hiroshi Hasegawa



DEPARTMENT OF COMMERCE
National Oceanic and
Atmospheric Administration
National Marine Fisheries Service



Final United States National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries

Silver Spring, MD 20910
February 2001

U. S. DEPARTMENT OF COMMERCE

Donald L. Evans, Secretary

National Oceanic and Atmospheric Administration

Scott B. Gudes, Acting Under Secretary

National Marine Fisheries Service

William T. Hogarth, Ph.D., Acting Assistant Administrator for Fisheries

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U.S. FINAL NATIONAL PLAN OF ACTION FOR REDUCING THE INCIDENTAL CATCH OF SEABIRDS IN LONGLINE FISHERIES

Executive Summary

Increased concerns have arisen about the incidental capture of non-target species in various fisheries throughout the world. Incidental capture can be economically wasteful, it impacts living marine resources, and the accidental killing of non-harvested animals may be aesthetically aversive. Incidental catch of non-target marine species such as marine mammals, sea turtles, and seabirds has generated growing concern over the long-term ecological effects of such bycatch in longline and other fisheries conducted in many areas of the world's oceans.

The United States has voluntarily developed the U.S. *National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries* (NPOA-S) to fulfill a national responsibility to address seabird bycatch in longline fisheries, as requested in the *International Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries* (IPOA-S). The IPOA-S applies to "States" (hereafter Countries) in whose waters longline fishing is being conducted by their own or foreign vessels, and to Countries that conduct longline fishing on the high seas and in the exclusive economic zones (EEZs) of other Countries. The IPOA-S is a voluntary measure that calls on Countries to: (1) assess the degree of seabird bycatch in their longline fisheries; (2) develop individual national plans of action to reduce seabird bycatch in longline fisheries that have a seabird bycatch problem; and (3) develop a course of future research and action to reduce seabird bycatch. The NPOA-S is to be implemented consistent with the *FAO Code of Conduct for Responsible Fisheries* and all applicable rules of international law, and in conjunction with relevant international organizations.

Development of the NPOA-S was a collaborative effort between the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (FWS) and the Department of State (DOS), carried out in large part by the Interagency Seabird Working Group (ISWG) consisting of representatives from those three agencies. This partnership approach recognizes the individual agency management authorities covering seabird interactions with longline fisheries. NMFS manages U.S. fisheries under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and the High Seas Fishing Compliance Act. FWS manages birds predominately under the authority of the Endangered Species Act and the Migratory Bird Treaty Act. In addition, DOS has the lead role in international negotiations on fisheries conservation and management issues that should help promote IPOA implementation by encouraging other nations to develop NPOAs. Given each agency's responsibilities, the NPOA-S was developed collaboratively by NMFS and FWS. This collaborative effort has increased communication between seabird specialists and fishery managers in FWS and NMFS. Maintaining this cooperation is a high priority for both agencies.

The NPOA-S contains the following themes:

1. Action Items: NMFS, with the assistance of the Regional Fishery Management Councils (Councils), the NMFS Regional Science Centers, and FWS, as appropriate, should conduct the following activities:
 - Detailed assessments of its longline fisheries for seabird bycatch within 2 years of the adoption of the NPOA-S;
 - If a problem is found to exist within a longline fishery, measures to reduce this seabird bycatch should be implemented within 2 years. These measures should include data collection, prescription of mitigation measures, research and development of mitigation measures and methods, and outreach, education, and training about seabird bycatch; and
 - NMFS, in collaboration with the appropriate Councils and in consultation with FWS, will prepare an annual report on the status of seabird mortality for each longline fishery, including assessment information, mitigation measures, and research efforts. FWS will also provide regionally-based seabird population status information that will be included in the annual reports.
- 2.) Interagency Cooperation: The continuation, wherever possible, of the ongoing cooperative efforts between NMFS and FWS on seabird bycatch issues and research.
- 3.) International Cooperation: The United States' commitment, through the DOS, NMFS and FWS, to advocate the development of National Plans of Action within relevant international fora.

The development of the NPOA-S has emphasized that all U.S. longline fisheries have unique characteristics, and that the solution to seabird bycatch issues will likely require a multi-faceted approach requiring different fishing techniques, the use of mitigating equipment, and education within the affected fisheries. Therefore, the NPOA-S does not prescribe specific mitigation measures for each longline fishery. Rather, this NPOA-S provides a framework of actions that NMFS, FWS, and the Councils, as appropriate, should undertake for each longline fishery. By working cooperatively, fishermen, managers, scientists, and the public may use this national framework to achieve a balanced solution to the seabird bycatch problem and thereby promote sustainable use of our nation's marine resources.

Introduction

There has been growing concern over the long-term ecological effects of seabird bycatch in longline fisheries conducted in many areas of the world's oceans. The United States has voluntarily developed the U.S. *National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries* (NPOA-S) to fulfill a national responsibility to address seabird bycatch in longline fisheries, as requested in the *International Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries* (IPOA-S). Specifically, "the NPOA-S is a plan that a State designs, implements, and monitors to reduce the incidental catch of seabirds in longline fisheries." In 1997, the Food and Agriculture Organization of the United Nations (FAO) Committee on Fisheries (COFI) considered a joint proposal from the United States and Japan for a Consultation on *Guidelines for a Plan of Action* for reducing incidental (i.e., unintentional) seabird catch in longline fisheries. The proposal culminated in the development of

the IPOA-S, which was endorsed by COFI in February 1999, commended by the March 1999 FAO Fisheries Ministerial, and adopted by the June 1999 FAO Council and November 1999 FAO Conference.

The IPOA-S applies to “States” (hereafter Countries) in whose waters longline fishing is being conducted by their own or foreign vessels, and to Countries that conduct longline fishing on the high seas and in the exclusive economic zones (EEZs) of other Countries. The IPOA-S is a voluntary measure that calls on Countries to: (1) assess the degree of seabird bycatch in their longline fisheries; (2) develop individual national plans of action to reduce seabird bycatch in longline fisheries that have a seabird bycatch problem; and (3) develop a course of future research and action to reduce seabird bycatch. The NPOA-S is to be implemented consistent with the FAO *Code of Conduct for Responsible Fisheries* and all applicable rules of international law, and in conjunction with relevant international organizations.

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Although incidental catch of seabirds in longline fisheries is often termed “bycatch,” the Magnuson-Stevens Act specifically excludes seabirds from the definition of “fish” and, therefore, bycatch¹. For the purpose of this NPOA, however, the term “bycatch” refers to incidental, or unintentional, seabird catch or mortality, and the term “seabird” refers to those bird species that habitually obtain their food from the sea below the low water mark.

¹Unless certain requirements under the ESA are involved, the Magnuson-Stevens Act does not *require* the implementation of measures to reduce incidental catch of seabirds. However, the Magnuson-Stevens Act authorizes implementation of fishery management measures designed to protect the marine environment from the effects of fishing activities. In order to strengthen NMFS’ ability to effectively implement seabird conservation measures in all U.S. fisheries, NMFS and FWS are supporting an amendment to the Magnuson-Stevens Act that would change the definition of bycatch to include seabirds and would require fishery management plans to specifically address seabird bycatch.

Purpose

The purpose of the NPOA-S is to provide an action plan that reduces seabird bycatch in U.S. longline fisheries, to provide national-level policy guidance on reducing seabird bycatch in U.S. longline fisheries, and to require that NMFS, in cooperation with FWS, conduct an assessment of all U.S. longline fisheries to determine whether a seabird bycatch problem exists. This NPOA-S further requires NMFS, in cooperation with FWS, to work through the regional fishery management council (Council) process in partnership with longline fishery representatives to develop and implement seabird bycatch mitigation measures in those fisheries that have a seabird bycatch problem. Such measures should attempt to reduce seabird bycatch to the maximum extent practicable.

In addition to guidance on conducting seabird bycatch assessments and reducing seabird bycatch, this NPOA-S provides guidance to the Councils, NMFS, and FWS for the following seven Action Elements:

- I. Collecting seabird bycatch data
- II. Developing proposed time frames for implementing seabird bycatch mitigation measures
- III. Developing and evaluating mitigation measures
- IV. Conducting research on mitigation measures
- V. Conducting outreach, education, and training programs to help fishermen avoid and minimize seabird bycatch, and reduce mortality of seabird bycatch that cannot be avoided
- VI. Developing national and international reporting requirements, and
- VII. Continued collaboration between NMFS and FWS.

Although this NPOA-S does not include quantitative criteria for determining what constitutes a seabird bycatch problem, NMFS, in consultation with FWS, should make a determination that is consistent with applicable federal laws, Executive Order 13186, the FAO *Code of Conduct for Responsible Fisheries*, and the NMFS Bycatch Plan (NMFS 1998c). Specifically, a “problem” may include an unacceptable level of seabird take that has a measurable negative effect on a seabird population, or unacceptable take of a bird species, as determined by FWS and NMFS. Seabird bycatch assessments should be completed as soon as practicable, which should be within 1 year and will be no later than 2 years after publication of this NPOA-S. Within 1 year after a seabird bycatch problem is found to exist, the appropriate NMFS Region should develop a seabird bycatch reduction program that details fishery-specific seabird bycatch reduction measures. The programs will address the seven action elements of the NPOA-S (I through VII listed above), and will clearly describe the criteria used to determine that a seabird bycatch problem exists.

Fishery-specific measures to reduce seabird bycatch should then be developed through the Council process, integrated into Fishery Management Plans (FMPs), or included in FMP amendments or regulatory amendments, and submitted to the Secretary of Commerce for approval. Management measures mitigating seabird bycatch will be developed within 2 years after a seabird bycatch problem is found to exist. Every effort will be taken to expedite this time

line and, where feasible, documented area- and fishery-specific mitigation measures will be implemented as expeditiously as practicable. Public participation is provided during the Council process for developing these mitigation measures, and additional opportunity for public comment is provided during the NMFS implementation process on proposed seabird bycatch regulations.

Background

National and international initiatives highlight the need to address fisheries bycatch issues, including seabird bycatch. The FAO *Code of Conduct for Responsible Fisheries* was adopted in 1995 by the FAO Conference and calls for Countries to “take appropriate measures to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species ... and promote, to the extent practicable, the development and use of selective, environmentally safe and cost effective gear and techniques.” (FAO *Code of Conduct for Responsible Fisheries*, Article 7.6.9).

In the United States, a longline is defined as “a line that is deployed horizontally and to which gangions and hooks or pots are attached. Longlines can be stationary, anchored, or buoyed lines that may be hauled manually, electrically, or hydraulically” (50 CFR 600.10). This definition includes demersal, or bottom set, longlines for groundfish and sharks, as well as pelagic (set at or near the surface or within the water column) longlines for sharks, tunas, swordfish and other species. There are other regional terms for longline gear, including hook-and-line gear and tub trawl. For the purposes of this NPOA-S, the term “longline” refers only to hook-and-line gear and does not include gear with pots attached.

Although the IPOA-S does not define the term “longline,” the international fishing community has a common understanding of the equipment and techniques used in longline fisheries. Longline gear is hook-and-line gear that is generally deployed from the vessel’s stern, with the main line and attached hooks following the vessel in a downward sloping diagonal line until it enters the water. The baited hooks on this main line remain in the air or near the water surface and are accessible to seabirds for varying times and distances depending on the size of the vessel, sea conditions, gear deployment equipment and methods, and the specific longline gear configuration.

Longline fishing vessels also discharge offal in the form of discarded fish, fish scraps from cleaned fish, and used or discarded bait. The availability of “free” food in the form of offal and bait attracts seabirds to longline fishing operations. Most seabirds that are killed during longline operations are attracted to the baited hooks when the gear is being set. The birds are sometimes accidentally hooked or entangled while feeding on baits near the surface and are dragged underwater and killed by drowning or by strangulation. Birds are also hooked or entangled during the haul back process but these birds are usually released alive.

The factors potentially affecting seabird hooking and entanglement on longline gear are complex and include geographic location of fishing activity, time of day, season, type of fishing operation

and gear used, bait type, condition of the bait (frozen, thawed, dyed), length of time baited hooks remain at or near the surface of the water, water and weather conditions, availability of food (including bait and offal), bird size, bird behavior (feeding and foraging strategies), and physical condition of the bird. Most seabird species probably interact with longline fishing gear; however, only the larger species have the physical capabilities and feeding strategies to face frequent interactions and potential hookings. The highest density of large seabirds in the United States occurs in the Pacific Ocean. NMFS regulations designed to reduce seabird bycatch in the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA) groundfish longline fisheries were approved and implemented in 1997, in the Pacific halibut longline fishery in 1998, and in the Hawaii pelagic longline fishery in 2001. In addition, NMFS plans to promulgate new seabird bycatch mitigation regulations in Alaska longline fisheries to provide additional seabird protection. Such measures will be based on the results of scientific research and on ESA requirements. Several research projects on seabird-longline interactions have been completed in the Pacific by U.S. researchers, and additional seabird bycatch research is currently underway.

NMFS published a bycatch reduction policy document entitled *Managing the Nation's Bycatch: Programs, Activities, and Recommendations for the National Marine Fisheries Service* (NMFS Bycatch Plan; NMFS 1998c). The NMFS Bycatch Plan addresses harvested fish species as well as non-harvested and protected species such as seabirds. It also presents national objectives, priorities, and strategies for avoiding and reducing bycatch, and for minimizing mortality of bycatch that cannot be avoided. The document reviews bycatch reduction efforts already completed or underway, provides recommendations for evaluating existing bycatch management and research programs, and suggests future efforts to reduce bycatch and bycatch mortality.

NMFS and FWS believe that implementation of the NPOA-S, the FAO *Code of Conduct for Responsible Fisheries*, the Council-developed FMPs and FMP amendments promulgated under the Magnuson-Stevens Act, Executive Order 13186, and the NMFS Bycatch Plan will significantly reduce seabird bycatch in longline fisheries conducted within U.S. waters. Managing seabird bycatch in U.S. fisheries is a partnership effort that will require cooperation among the Councils, NMFS, FWS, the longline fishing industry, individual longline vessel owners and operators, fishing gear manufacturers, conservation organizations, and other interested groups and individuals.

Statutory Authority and Agency Responsibility

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) is the primary U.S. law dealing with marine fisheries resources and fishing activities in U.S. Federal waters (those waters extending seaward from coastal state waters to the 200-mile limit). The predecessor of the Magnuson-Stevens Act was the Fishery Conservation and Management Act, passed into law in 1976, which established the conservation and management of U.S. marine fishery resources and helped develop U.S. domestic fisheries within the U.S. 200-mile fisheries conservation zone. This area became known as the U.S. exclusive economic zone (EEZ) following President Ronald Reagan's 1983 proclamation.

In 1996, Congress ushered in a new era in marine fisheries management, making significant revisions to the Magnuson-Stevens Act through the Sustainable Fisheries Act (SFA). The SFA amendments address a number of fishery conservation and management issues, and include measures to help ensure that FMPs prevent overfishing, rebuild overfished fisheries, identify and protect essential fish habitat, minimize bycatch and the mortality of bycatch that cannot be avoided, and consider the effects of management actions on fishing communities and on the safety of fishermen at sea.

The Magnuson-Stevens Act creates eight regional fishery management councils (Councils) and requires the Councils to prepare FMPs for fisheries under their jurisdictions that “require conservation and management.” The FMPs and FMP amendments must be consistent with the Magnuson-Stevens Act’s 10 national standards (§ 301(a)), the rest of the Magnuson-Stevens Act, and other applicable laws, such as ESA. After developing an FMP or amendment, the Council submits it along with implementing regulations to NMFS, and NMFS may approve, disapprove, or partially disapprove the submission on behalf of the Secretary. NMFS makes the Councils’ recommendations available for additional public review and comment (in part, by publication of proposed regulations) and must consider this additional public input before taking final action to approve, disapprove, or partially approve a Council’s recommendations. Disapproval must be based on the fact that the submission is inconsistent with applicable law (e.g., the Magnuson-Stevens Act, ESA, National Environmental Policy Act).

If conservation and management measures are necessary for a fishery, and the appropriate Council fails to act within a reasonable time, NMFS may prepare an amendment to an existing FMP, or a new FMP if appropriate, on behalf of the Secretary (Secretarial FMP). In addition, if NMFS finds that an emergency exists, the agency may promulgate emergency regulations to address the emergency without regard to whether an FMP is in place. Emergency regulations are valid for 180 days, and may be extended once under certain conditions for an additional 180 days.

The Council system has provided local, state and regional fishery participants and other interested parties a substantial role in managing U.S. fisheries and fishery resources. Council membership consists of representatives from Federal agencies, the commercial and recreational fisheries sectors, coastal state governments, and members of the public knowledgeable in regional fishery issues. These representatives serve for three-year terms. The appropriate NMFS Regional Administrator sits on each Council as the single voting representative from the Federal government. Councils are bound by various provisions in the Magnuson-Stevens Act (e.g., all meetings of the Councils and their committees are open to the public, with a few exceptions).

In addition to managing fisheries resources for conservation purposes, the Councils are responsible for recommending, through their FMPs and FMP amendments, allocations of fishery resources among various, and often competing, users (e.g., between commercial and recreational fishermen). In developing their FMPs and FMP amendments, the Councils hold public hearings and meetings to obtain the views of various fishery participants and other interested parties.

They must consider these views before taking final action on a given Council recommendation.

Management measures for highly migratory species in the Atlantic Ocean including tunas, swordfish, sharks, and billfish are developed directly by NMFS under the authority of the Secretary of Commerce, rather than by a regional fishery management council. For the purpose of the NPOA-S, however, any reference to a regional fishery management council will also include the management process for species included in the Atlantic Tunas, Swordfish, and Sharks FMP and the Atlantic Billfish FMP.

In carrying out its mandate under the Magnuson-Stevens Act, NMFS ensures that fishery management actions comply with other applicable U.S. laws and policies that protect seabirds, such as the ESA, MBTA, and Executive Orders, such as E.O. 13186. Federal fishery management actions that may affect seabird species that are listed as threatened or endangered under the ESA require NMFS to consult with FWS under section 7 of ESA. Thus, if a listed seabird may be captured or harmed in a fishery conducted under the Magnuson-Stevens Act, NMFS (as the action agency that regulates the fishery) is required to consult with the FWS (as the consulting agency) to determine the most effective means of protecting seabirds during fishery operations. ESA requires NMFS to mitigate impacts of fisheries on endangered and threatened species such as the Short-tailed Albatross.

In addition, the recent Presidential Executive Order (“Responsibilities of Federal Agencies to Protect Migratory Birds,” EO 13186, 10 January 2001, *Federal Register* 66(11):3853-3856) directs Federal agencies taking actions that have, or are likely to have, a measurable negative effect on migratory bird populations to work with FWS to develop an agreement to conserve those bird populations.

The United States has recognized the importance of the migratory bird resource by ratifying international treaties with Canada, Mexico, Japan, and Russia for the conservation of that shared resource. These treaties impose substantive obligations on the United States for the conservation of migratory birds and their habitats. The United States meets these treaty obligations through implementation of the Migratory Bird Treaty Act, as amended (Act). The FWS administers the Act, which protects some 836 bird species, including approximately 150 seabird species.

In addition to the Magnuson-Stevens Act requirements, the NMFS Bycatch Plan provides policy guidance to NMFS, the Councils, and other partners such as states, interstate fishery commissions, the fishing industry, and the conservation community. Implementing the NPOA-S will also help meet U.S. goals for seabird bycatch reduction pursuant to international agreements, including the IPOA-S and the *FAO Code of Conduct for Responsible Fisheries*.

Effective implementation of the NPOA-S will require the longline fishing industry to be closely involved with NMFS, FWS, and conservation organizations in developing fishery-specific seabird bycatch mitigation measures. Industry involvement is important because longline fishermen who have experience in individual longline fisheries have gained first-hand knowledge

of how seabirds interact with those fisheries. Their knowledge and expertise is required to help develop and refine seabird bycatch mitigation measures and to evaluate their effectiveness. They recognize that these measures increase fishing efficiency and reduce seabird mortality, so they are invaluable for developing effective, long-term solutions to seabird bycatch.

NMFS acknowledges that assessing seabird bycatch and assessing the effectiveness of mitigation measures is costly and that the final NPOA includes ambitious objectives and goals. Additional funding needs for implementing the final NPOA need to be addressed by the individual management entities. NMFS has historically not received sufficient appropriated funds to monitor seabird bycatch in all U.S. longline fisheries. The cost of previous seabird bycatch mitigation research studies ranged between \$150,000 and \$227,000. NMFS further acknowledges that cooperation with the fishing industry led to the use of commercial longline vessels in seabird mitigation research studies, which resulted in significant cost savings. NMFS will use the final NPOA-S as guidance in its strategic planning and budget processes.

International Fishery Management Measures to Conserve Seabirds

Several international fishery management organizations and foreign nations have adopted conservation and management measures to reduce seabird bycatch by regulating regional longline fishing fleets. For example:

- The Convention for the Conservation of Antarctic Living Marine Resources adopted voluntary measures in 1992 to minimize interactions with seabirds by longline vessels in the Convention area. These measures include use of a bird-scaring device while setting longlines, night setting, avoidance of offal dumping, weighted ground lines when possible, and the use of thawed bait.
- The Commission for the Conservation of Southern Bluefin Tuna (CCSBT) adopted a recommendation that includes collection of fishery data, use of seabird bycatch mitigation measures, and education of fishermen about species, including seabirds, that are ecologically related to the fishery. All member nations of CCSBT are required to use bird-scaring lines during longline setting and hauling operations.
- The International Pacific Halibut Commission requests voluntary information on seabird bycatch from participants in their fishery. Operators of vessels fishing for Pacific halibut off Alaska are required by NMFS to comply with the same seabird avoidance regulations that are in place for the groundfish longline fisheries off Alaska. These measures require that longline fishermen: (1) Use hooks that when baited, sink as soon as they are put in the water; (2) discharge offal in a manner that distracts seabirds away from baited hooks, either aft of the hauling station or on the opposite side of the vessel from the hauling station; (3) make every reasonable effort to ensure that birds brought aboard alive are released alive and that wherever possible, hooks are removed without jeopardizing the life of the bird; (4) on vessels longer than or equal to 26 ft (7.9m) length overall the

operator of the vessel must employ one or more of the following seabird avoidance measures: (a) Tow a streamer line or lines during deployment of gear, (b) tow a buoy, board, stick or other device during deployment of gear at a distance appropriate to prevent birds from taking hooks, (c) deploy hooks underwater through a lining tube at a depth sufficient to prevent birds from settling on hooks during deployment of gear, or (d) deploy gear only during hours of darkness, using only the minimum vessel's lights necessary for safety.

- The Australian NPOA will be based on its domestic *Threat Abatement Plan for the Incidental Catch of Seabirds During Oceanic Longline Fishing Operations* (TAP). The objective of the TAP is to reduce seabird bycatch in all fishing areas, seasons, or fisheries to below 0.05 seabirds per thousand hooks, based on year 2000 fishing levels. The TAP aims to significantly reduce seabird bycatch during oceanic longline operations in the Australian Fishing Zone within 5 years by: prescribing the appropriate modifications to fishing practices or equipment (mitigation measures), providing for development of new mitigation measures, educating fishers and the public, and collecting information necessary to improve knowledge of seabird-longline fishery interactions.
- Since 1993, New Zealand (N.Z.) has required all tuna longline vessels to use seabird scaring devices (tori lines) while operating in the N.Z. EEZ, and also requires that all N.Z. vessels fishing outside the N.Z. EEZ to use tori lines. The intent of the N.Z. NPOA is to significantly reduce fishing-related seabird capture in all fisheries within the next 5 years. The N.Z. NPOA-S will move towards establishing limits on seabird mortalities in each of the fisheries where fishing-related incidental seabird capture has been reported. In order to provide adequate information on which to base such limits, the N.Z. NPOA-S identifies targets for observer coverage, management actions, and mitigation research for each of its fisheries. The NPOA-S calls for achieving adequate levels of observer coverage to detect and reliably estimate levels of incidental seabird capture, and calls for management actions that may include required mitigation regulations or voluntary codes of practice in all fisheries that have interactions with seabirds.

U.S. Fishery Management Measures to Conserve Seabirds

The decline of foreign fishing operations after 1976 within the U.S. EEZ and government financial support programs for domestic fishermen led to the growth and development of the U.S. offshore fishing fleet. With this expansion came increased interactions by U.S. vessels with seabirds, marine mammals, and sea turtles that were incidentally captured during fishing operations. NMFS regulations designed to reduce seabird bycatch in the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA) groundfish longline fisheries were approved and implemented in 1997, in the Pacific halibut longline fishery in 1998, and are under development for the Hawaii pelagic longline fishery. Research is underway in Alaska and Hawaii longline fisheries to determine the effectiveness of existing seabird bycatch measures and to improve those measures.

While seabird bycatch data are collected in most NMFS observer programs, U.S. fisheries bycatch research and data collection has focused historically on targeted and non-targeted fish species, marine mammals, and sea turtles, not seabirds. Collecting seabird data through logbooks and scientific observations has not been given the same priority as for other protected species, especially in those regions that do not have ESA-listed seabird species that interact with longline gear. Additionally, the experimental designs for some bycatch research were developed for non-bird species, which may be sufficiently different from seabirds in terms of migratory behavior and geographic range to prevent simple extrapolation of the limited seabird data to larger geographic areas. Future efforts should collect data for statistically valid seabird bycatch assessments. Additional funding should be sought to expand observer coverage in general, to collect data for statistically valid seabird bycatch assessments, including seabird species catch per unit effort, and to evaluate mitigation measures.

The U.S. National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries NPOA-S

Development of the NPOA-S

FWS has expertise and primary legal responsibility for seabird conservation and management, while NMFS has expertise and responsibility for managing longline fisheries. In recognition of this expertise and responsibility, the Assistant Administrator of NMFS and the FWS Director agreed to collaborate on the development of the NPOA-S and to conduct this effort through the work of the Interagency Seabird Working Group (ISWG). The resulting NPOA-S is a collaborative interagency effort that has increased communication between seabird specialists and fishery managers in FWS and NMFS. Maintaining this cooperation is a high priority for both agencies.

There is considerable variation between different longline fisheries in the United States, including differences in target species, geographic location, baits, gear types and configuration, methods employed, depth fished, time of day, season, weather, vessel characteristics, and seabird species present and vulnerable. Consequently, the individual characteristics of each longline fishery may interact in complex ways to affect seabird bycatch rates. The biological and life history characteristics of individual seabird species also affect the risk of incidental capture and the population-level impact of longline fishery mortality. These differences will likely require that unique seabird bycatch solutions be developed for each individual longline fishery where assessments show a seabird bycatch problem exists. These characteristics will need to be taken into consideration as the Councils and NMFS, in collaboration with the FWS, develop individual seabird bycatch reduction programs.

Implementation of the NPOA-S

The initial process for NPOA-S implementation will occur over the course of the next 4 years. Assessments of all U.S. longline fisheries will be completed within 2 years. In those fisheries where a seabird bycatch problem is found to exist a mitigation program will be developed within 3 years and implemented within 4 years. In all longline fisheries where an initial determination is made that no seabird bycatch problem exists, a re-assessment will be conducted within 4 years of such a determination.

Implementation of the NPOA-S may vary among Council jurisdictional areas and longline fisheries. Some Councils need to start or complete seabird bycatch assessments for the longline fisheries within their jurisdictional area, and each fishery may require individually tailored seabird management measures. This NPOA-S provides the Councils with flexibility to develop effective seabird mitigation measures for individual longline fisheries. In U.S. longline fisheries where seabird bycatch problems are already known to exist, including Alaska demersal groundfish and Hawaii pelagic longline fisheries, regulations are already in place or under development to mitigate seabird bycatch. The North Pacific and Western Pacific Fishery Management Councils are well positioned to develop seabird bycatch reduction programs needed to implement the NPOA-S, because they have already conducted seabird bycatch assessments and developed regulations to implement seabird bycatch reduction measures.

Role of the ISWG

The ISWG is composed of agency staff from NMFS, FWS, and DOS. The ISWG should continue to address seabird bycatch issues and help coordinate the implementation of the NPOA-S and IPOA-S. Future activities of the ISWG may include, but are not necessarily limited to, the following:

- Assist in development and review of regional seabird bycatch programs and individual Council Plans of Action
- Assist in assessing the adequacy and effectiveness of these programs
- Assist in drafting of the NPOA-S Implementation Report that is to be included in the biennial report to FAO on Code of Conduct for Responsible Fisheries
- Promote and coordinate implementation of the NPOA-S and the IPOA-S in all relevant U.S., international, and regional fisheries organizations
- Advise on training for Regional and Council staff on how to conduct seabird assessments and develop regional seabird bycatch reduction programs, and
- Brief the public and interested parties on the status of the NPOA-S, additional efforts to reduce seabird bycatch in other fisheries, and on related efforts.

Action Elements of the NPOA-S

For those areas where longline fisheries occur, this NPOA-S strongly encourages that the following actions to be taken:

I. *Assessment:* NMFS, in cooperation with FWS, will conduct regional assessments of seabird interactions with longline fishing gear within no longer than 2 years of the adoption of the NPOA-S where none have been completed. NMFS and FWS will work in partnership with the Councils to conduct the assessments and determine the extent and nature of seabird interactions within each longline fishery conducted under a Council's area of authority. The assessment will address the following:

- Criteria used to evaluate the need for seabird bycatch mitigation and management measures
- Longline fishing fleet data (numbers and characteristics of vessels)
- Fishing techniques data (demersal, pelagic, and other pertinent technical information)
- Fishing areas (by season and geographic location)
- Fishing effort data (seasons, species, catch, number of sets, and number of hooks/year/fishery)
- Status of seabird populations in the fishing areas, if known
- Estimated total annual seabird species-specific catch and catch-per-unit-effort (number/1,000 hooks set/species/fishery)
- Existing area and species-specific seabird bycatch mitigation measures and their effectiveness in reducing seabird bycatch
- Efforts to monitor seabird bycatch (e.g., observer program and logbooks), and
- Statement of conclusions and decision to develop and implement mitigation measures as needed.

If NMFS or a Council assesses seabird bycatch in a longline fishery and determines that a seabird bycatch problem does exist, then a mitigation plan will be developed within 1 year to implement the following action items within 2 years. Additionally, NMFS and the Councils will review such a determination on a regular basis (at least every 4 years), and take into account changes such as expansion or reduction of existing longline fisheries or the development of new fisheries. If, based on an initial or a subsequent assessment, it is determined that a seabird bycatch problem (e.g., impact on a population or unacceptable take of a species) does not exist, then no additional action is necessary until the next periodic assessment (within 4 years).

II. *Data Collection:* Seabird bycatch data collection programs should collect statistically reliable data to determine seabird bycatch rates in longline fisheries and to evaluate the effectiveness of mitigation measures. Such programs will be incorporated into existing fishery observer programs wherever possible. Ongoing data collection efforts, including the NMFS Observer Program, will be expanded to include detailed data on seabird interactions. Some progress towards this goal has been made regionally, but efforts will be expanded across all U.S. longline fisheries in order to determine which fisheries have seabird bycatch problems. This effort will be facilitated and coordinated by the recently created NMFS National Observer Program.

III. *Prescription of Mitigation Measures:* Where appropriate, longline fishery-specific seabird mitigation methods should be prescribed by the Councils for longline fisheries with seabird bycatch problems. These measures should be of known efficiency and be cost-effective for the fishing industry. Councils should implement several different mitigation measures based on the particular circumstances of individual longline fisheries if bycatch reduction can be improved by combining different mitigation measures or devices. See the technical note in Appendix 1 for suggested measures.

NMFS and the Councils, in collaboration with FWS, will examine each individual longline fishery, even prior to the completion of the formal assessments, to determine whether the precautionary imposition of seabird bycatch mitigation is appropriate and practicable. These management measures should be incorporated into FMP or regulatory amendments and submitted to NMFS for approval and implementation.

IV. *Research and Development of Mitigation Measures and Methods:* NMFS, in consultation with FWS, will work in partnership with the Councils and longline fishermen to conduct research on seabird bycatch, develop the most practical and effective seabird deterrent measures, evaluate the effectiveness of those measures, and evaluate and improve other technologies and practices that reduce seabird bycatch. This may include incentive programs and recognition of individual fishermen that achieve low seabird bycatch rates.

Seabird bycatch reduction will be supported through continuing research into new gear designs and fishing techniques. The IPOA-S includes descriptions of gear modifications and fishing techniques currently being used and tested in the various longline fisheries around the world. It is important to reiterate that seabird bycatch reduction measures developed for one fishery may not be equally successful in other fisheries.

V. *Outreach, Education, and Training About Seabird Bycatch:* NMFS and FWS will:

- Develop mechanisms to raise awareness among fishermen, fishing industry associations, gear manufacturers, and other groups concerning the need to reduce seabird bycatch in longline fisheries. This should include designing and implementing seabird bycatch outreach programs for fishermen, fisheries managers, gear technologists, maritime architects, shipbuilders, conservationists, and other partners. These programs should improve understanding of seabird bycatch problems and the importance of using mitigation measures. Outreach programs should include educational curricula and guidelines that will be disseminated through workshops, videos, handbooks, brochures, and posters. The program should focus on both the conservation aspects of managing seabird bycatch and the economic benefits of increased fishing efficiency that result from eliminating bait loss to seabirds.
- Make available the NPOA-S, IPOA-S, and other information on seabird bycatch in longline fisheries.
- Promote the implementation of the NPOA-S within U.S. fisheries.
- Provide information about seabird bycatch technical and financial assistance, and

- Provide education to Council, NMFS, and FWS personnel on seabird bycatch assessments and reduction measures.

VI. Reporting: NMFS, in collaboration with the appropriate Councils and in consultation with FWS, will prepare an annual report on the status of seabird mortality for each longline fishery, including assessment information, mitigation measures, and research efforts. FWS will also provide regionally-based seabird population status information that will be included in the annual reports. The reports will be submitted annually as part of the Stock Assessment and Fishery Evaluation (SAFE) Report that is already provided on an annual basis by NMFS and made widely available. Such annual reports will be compiled and incorporated into NMFS' biennial status report to FAO on its implementation of the *Code of Conduct for Responsible Fisheries*. The ISWG may participate in the compilation, drafting, and review of the NPOA-S section of the biennial report to FAO.

VII. Collaboration between NMFS and the FWS on Seabird Issues: NMFS and FWS will continue to promote and implement the NPOA-S. This should be accomplished at the regional level through the Council process and by the FWS through research needed to assess and monitor seabird populations and to improve population assessment methodologies. The ISWG should continue to collaborate on seabird bycatch issues at both the national and international levels.

NMFS and FWS will:

- Participate in the Council process to help develop, implement, review, and recommend changes to regional seabird bycatch programs, recognizing that FWS currently has no vote on the Councils
- Assess all U.S. longline fisheries to determine whether a seabird bycatch problem exists
- Conduct collaborative research to determine the effectiveness of seabird bycatch mitigation measures, further refine those measures, and develop new measures
- Continue to develop and review fishery observer programs that collect seabird bycatch data
- Seek additional funding to expand observer programs and increase collection of seabird data
- Conduct outreach, education, and public awareness programs on seabird bycatch issues
- Provide recognition to fishermen and organizations that promote seabird bycatch reduction
- Develop incentive programs to encourage further seabird bycatch reductions
- Participate in national and international seabird bycatch meetings and workshops
- Assess, at least every 4 years, the implementation of the NPOA-S and individual fishery seabird bycatch mitigation plans to determine their effectiveness
- Continue ESA Section 7 Consultations as required
- Continue working through the ISWG to promote and coordinate implementation of the NPOA-S and the IPOA-S in all relevant international and regional fisheries organizations, and
- Develop consolidated biennial national status reports on seabird bycatch reduction to

provide to FAO.

TABLE OF PROPOSED TIMELINE FOR NPOA-S IMPLEMENTATION

| ACTIVITY | DATE DUE |
|---|--|
| Seabird Bycatch Assessment | within 2 years of adoption of NPOA-S |
| Develop Regional Seabird Bycatch Reduction Programs | within 1 year of identifying a seabird bycatch problem |
| Prescription of Seabird Measures and other NPOA-S Action Elements | within 2 years of determining that a seabird bycatch problem exists |
| Seabird Bycatch Data Collection incorporated in New and Existing Observer Programs | as soon as practicable |
| Regional NPOA-S Implementation Report | submitted in the SAFE Report that is provided annually by NMFS and widely distributed |
| NPOA-S Implementation Report within the U.S. Report to FAO on Implementation of the Code of Conduct for Responsible Fisheries | biennial report that compiles regional U.S. seabird bycatch reduction activities and other measures the United States has taken to implement the NPOA-S and IPOA-S |

TABLE OF ORGANIZATIONAL ROLES FOR SEABIRD BYCATCH REDUCTION

| Action Items | NMFS | FWS | Council |
|---|-------------|------------|----------------|
| 1. Participate in the FMC process to review and recommend improvements to regional seabird bycatch programs | X | X | X |
| 2. Conduct research on the effectiveness of seabird bycatch mitigation measures | X | X | |
| 3. Develop or improve seabird bycatch data collection in fishery observer programs | X | X | X |
| 4. Develop and conduct seabird bycatch education and outreach programs for fishermen and other interested individuals and organizations | X | X | X |
| 5. Train the NMFS fishery observers in seabird identification and data collection | X | X | |
| 6. Recognize achievements of fishermen and fishing organizations that promote seabird bycatch reduction | X | X | X |
| 7. Participate in national and international meetings and workshops to promote seabird bycatch reduction | X | X | X |
| 8. Provide information on seabird populations (distribution, abundance, population trends and demographic parameters) | | X | |
| 9. Participate in the NPOA Interagency Seabird Working Group to coordinate implementation of the NPOA-S and IPOA-S | X | X | |
| 10. Develop annual regional and biennial national reports on seabird bycatch | X | X | |
| 11. Summarize information on fishing methods, fishing effort, and fishery observer programs | X | | |
| 12. Summarize seabird bycatch data from NMFS longline fishery observer programs | X | | |

(i) the Secretary applies such prohibition to such species at the request of the State, or

(ii) the Secretary applies such prohibition after he finds, and publishes his finding, that an emergency exists posing a significant risk to the well-being of such species and that the prohibition must be applied to protect such species. The Secretary's finding and publication may be made without regard to the public hearing or comment provisions of section 553 of title 5, United States Code, or any other provision of this Act; but such prohibition shall expire 90 days after the date of its imposition unless the Secretary further extends such prohibition by publishing notice and a statement of justification of such extension.

(h) REGULATIONS.-The Secretary is authorized to promulgate such regulations as may be appropriate to carry out the provisions of this section relating to financial assistance to States.

(i) APPROPRIATIONS.-

(1) To carry out the provisions of this section for fiscal years after September 30, 1988, there shall be deposited into a special fund known as the cooperative endangered species conservation fund, to be administered by the Secretary, an amount equal to five percent of the combined amounts covered each fiscal year into the Federal aid to wildlife restoration fund under section 3 of the Act of September 2, 1937, and paid, transferred, or otherwise credited each fiscal year to the Sport Fishing Restoration Account established under 1016 of the Act of July 18, 1984.

(2) Amounts deposited into the special fund are authorized to be appropriated annually and allocated in accordance with subsection (d) of this section.

INTERAGENCY COOPERATION

Sec. 7.

(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS.-

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

(3) Subject to such guidelines as the Secretary may establish, a Federal agency shall consult with the Secretary on any prospective agency action at the request of, and in cooperation with, the prospective permit or license applicant if the applicant has reason to believe that an endangered species or a threatened species may be present in the area affected by his project and that implementation of such action will likely affect such species.

(4) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d).

(b) OPINION OF SECRETARY.-

(1)

(A) Consultation under subsection (a)(2) with respect to any agency action shall be

concluded within the 90-day period beginning on the date on which initiated or, subject to subparagraph (B), within such other period of time as is mutually agreeable to the Secretary and the Federal agency;

(B) in the case of an agency action involving a permit or license applicant, the Secretary and the Federal agency may not mutually agree to conclude consultation within a period exceeding 90 days unless the Secretary, before the close of the 90th day referred to in subparagraph (A)-

(i) if the consultation period proposed to be agreed to will end before the 150th day after the date on which consultation was initiated, submits to the applicant a written statement setting forth-

(I) the reasons why a longer period is required;

(II) the information that is required to complete the consultation;
and

(III) the estimated date on which consultation will be completed; or

(ii) if the consultation period proposed to be agreed to will end 150 or more days after the date on which consultation was initiated, obtains the consent of the applicant to such period.

The Secretary and the Federal agency may mutually agree to extend a consultation period established under the preceding sentence if the Secretary, before the close of such period, obtains the consent of the applicant to the extension.

(2) Consultation under subsection (a)(3) shall be concluded within such period as is agreeable to the Secretary, the Federal agency, and the applicant concerned.

(3)

(A) Promptly after conclusion of consultation under paragraph (2) or (3) of subsection (a), the Secretary shall provide to the Federal agency and the applicant, if any, a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. If jeopardy or adverse modification is found, the Secretary shall suggest those reasonable and prudent alternatives which he believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action.

(B) Consultation under subsection (a)(3), and an opinion based by the Secretary incident to such consultation, regarding an agency action shall be treated respectively as a consultation under subsection (a)(2), and as an opinion issued after consultation under such subsection, regarding that action if the Secretary reviews the action before it is commenced by the Federal agency and finds, and notifies such agency, that no significant changes have been made with respect to the action and that no significant change has occurred regarding the information used during the initial consultation.

(4) If after consultation under subsection (a)(2) of this section, the Secretary concludes that-

(A) the agency action will not violate such subsection, or offers reasonable and prudent alternatives which the Secretary believes would not violate such subsection;

(B) the taking of an endangered species or a threatened species incidental to the agency action will not violate such subsection; and

(C) if an endangered species or threatened species of a marine mammal is involved, the taking is authorized pursuant to section 1371(a)(5) of this title;

the Secretary shall provide the Federal agency and the applicant concerned, if any, with a written statement that-

(i) specifies the impact of such incidental taking on the species,

(ii) specifies those reasonable and prudent measures that the Secretary considers necessary or appropriate to minimize such impact,

(iii) in the case of marine mammals, specifies those measures that are necessary to comply with section 1371(a)(5) of this title with regard to such taking, and

(iv) sets forth the terms and conditions (including, but not limited to, reporting requirements) that must be complied with by the Federal agency or

applicant (if any), or both, to implement the measures specified under clauses (ii) and (iii).

(c) BIOLOGICAL ASSESSMENT.-

(1) To facilitate compliance with the requirements of subsection (a)(2) each Federal agency shall, with respect to any agency action of such agency for which no contract for construction has been entered into and for which no construction has begun on the date of enactment of the Endangered Species Act Amendments of 1978, request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action. Such assessment shall be completed within 180 days after the date on which initiated (or within such other period as is mutually agreed to by the Secretary and such agency, except that if a permit or license applicant is involved, the 180-day period may not be extended unless such agency provides the applicant, before the close of such period, with a written statement setting forth the estimated length of the proposed extension and the reasons therefor) and, before any contract for construction is entered into and before construction is begun with respect to such action. Such assessment may be undertaken as part of a Federal agency's compliance with the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(2) Any person who may wish to apply for an exemption under subsection (g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in cooperation with the Secretary and under the supervision of the appropriate Federal agency.

(d) LIMITATION ON COMMITMENT OF RESOURCES.-After initiation of consultation required under subsection (a)(2), the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2).

(e)

(1) ESTABLISHMENT OF COMMITTEE.-There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the "Committee").

(2) The Committee shall review any application submitted to it pursuant to this section and determine in accordance with subsection (h) of this section whether or not to grant an exemption from the requirements of subsection (a)(2) of this action for the action set forth in such application.

(3) The Committee shall be composed of seven members as follows:

(A) The Secretary of Agriculture.

(B) The Secretary of the Army.

(C) The Chairman of the Council of Economic Advisors.

(D) The Administrator of the Environmental Protection Agency.

(E) The Secretary of the Interior.

(F) The Administrator of the National Oceanic and Atmospheric Administration.

(G) The President, after consideration of any recommendations received pursuant to subsection (g)(2)(B) shall appoint one individual from each affected State, as determined by the Secretary, to be a member of the Committee for the consideration of the application for exemption for an agency action with respect to which such recommendations are made, not later than 30 days after an application is submitted pursuant to this section.

(4)

(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(5)

(A) Five members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee, except that, in no case shall any representative be considered in determining the existence of a quorum for the transaction of any function of the Committee if that function involves a vote by the Committee on any matter before the Committee.

(B) The Secretary of the Interior shall be the Chairman of the Committee.

(C) The Committee shall meet at the call of the Chairman or five of its members.

(D) All meetings and records of the Committee shall be open to the public.

(6) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

(7)

(A) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

(B) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this paragraph.

(C) Subject to the Privacy Act, the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

(D) The Committee may use the United States mails in the same manner and upon the same conditions as a Federal agency.

(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

(8) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

(9) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

(10) In no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.

(f) REGULATIONS.-Not later than 90 days after the date of enactment of the Endangered Species Act Amendments of 1978, the Secretary shall promulgate regulations which set forth the form and manner in which applications for exemption shall be submitted to the Secretary and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any agency action include but not be limited to-

(1) a description of the consultation process carried out pursuant to subsection (a)(2) of this section between the head of the Federal agency and the Secretary; and

(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a)(2) of this section.

(g) APPLICATION FOR EXEMPTION AND REPORT TO THE COMMITTEE.-

(1) A Federal agency, the Governor of the State in which an agency action will occur, if any, or a permit or license applicant may apply to the Secretary for an exemption for an agency action of such agency if, after consultation under subsection (a)(2), the Secretary's opinion under

subsection (b) indicates that the agency action would violate subsection (a)(2). An application for an exemption shall be considered initially by the Secretary in the manner provided for in this subsection, and shall be considered by the Committee for a final determination under subsection (h) after a report is made pursuant to paragraph (5). The applicant for an exemption shall be referred to as the "exemption applicant" in this section.

(2)

(A) An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f), not later than 90 days after the completion of the consultation process; except that, in the case of any agency action involving a permit or license applicant, such application shall be submitted not later than 90 days after the date on which the Federal agency concerned takes final agency action with respect to the issuance of the permit or license. For purposes of the preceding sentence, the term "final agency action" means (i) a disposition by an agency with respect to the issuance of a permit or license that is subject to administrative review, whether or not such disposition is subject to judicial review; or (ii) if administrative review is sought with respect to such disposition, the decision resulting after such review. Such application shall set forth the reasons why the exemption applicant considers that the agency action meets the requirements for an exemption under this subsection.

(B) Upon receipt of an application for exemption for an agency action under paragraph (1), the Secretary shall promptly

(i) notify the Governor of each affected State, if any, as determined by the Secretary, and request the Governors so notified to recommend individuals to be appointed to the Endangered Species Committee for consideration of such application; and

(ii) publish notice of receipt of the application in the Federal Register, including a summary of the information contained in the application and a description of the agency action with respect to which the application for exemption has been filed.

(3) The Secretary shall within 20 days after the receipt of an application for exemption, or within such other period of time as is mutually agreeable to the exemption applicant and the Secretary

(A) determine that the Federal agency concerned and the exemption applicant have-

(i) carried out the consultation responsibilities described in subsection (a) in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to the proposed agency action which would not violate subsection (a)(2);

(ii) conducted any biological assessment required by subsection (c); and

(iii) to the extent determinable within the time provided herein, refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d); or

(B) deny the application for exemption because the Federal agency concerned or the exemption applicant have not met the requirements set forth in subparagraph (A) (i), (ii), and (iii). The denial of an application under subparagraph (B) shall be considered final agency action for purposes of chapter 7 of title 5, United States Code.

(4) If the Secretary determines that the Federal agency concerned and the exemption applicant have met the requirements set forth in paragraph (3)(A) (i), (ii) and (iii) he shall, in consultation with the Members of the Committee, hold a hearing on the application for exemption in accordance with sections 554, 555, and 556 (other than subsection (b) (1) and (2) thereof) of title 5, United States Code, and prepare the report to be submitted pursuant to paragraph (5).

(5) Within 140 days after making the determinations under paragraph (3) or within such other period of time as is mutually agreeable to the exemption applicant and the Secretary, the Secretary shall submit to the Committee a report discussing-

(A) the availability of reasonable and prudent alternatives to the agency action, and

the nature and extent of the benefits of the agency action and of alternative courses of action consistent with conserving the species of the critical habitat;

(B) a summary of the evidence concerning whether or not the agency action is in the public interest and is of national or regional significance;

(C) appropriate reasonable mitigation and enhancement measures which should be considered by the Committee; and

(D) whether the Federal agency concerned and the exemption applicant refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d).

(6) To the extent practicable within the time required for action under subsection (g) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under this subsection shall be in accordance with sections 554, 555, and 556 (other than subsection (b)(3) of section 556) of title 5, United States Code.

(7) Upon request of the Secretary, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Secretary to assist him in carrying out his duties under this section.

(8) All meetings and records resulting from activities pursuant to this subsection shall be open to the public.

(h) EXEMPTION.-

(1) The Committee shall make a final determination whether or not to grant an exemption within 30 days after receiving the report of the Secretary pursuant to subsection (g)(5). The Committee shall grant an exemption from the requirements of subsection (a)(2) for an agency action if, by a vote of not less than five of its members voting in person-

(A) it determines on the record, based on the report of the Secretary, the record of the hearing held under subsection (g)(4), and on such other testimony or evidence as it may receive, that-

(i) there are no reasonable and prudent alternatives to the agency action;

(ii) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest;

(iii) the action is of regional or national significance; and

(iv) neither the Federal agency concerned nor the exemption applicant made any irreversible or irretrievable commitment of resources prohibited by subsection (d); and

(B) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as are necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned.

Any final determination by Committee under this subsection shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

(2)

(A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action-

(i) regardless whether the species was identified in the biological assessment; and

(ii) only if a biological assessment has been conducted under subsection (c) with respect to such agency action.

(B) An exemption shall be permanent under subparagraph (A) unless-

(i) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation under subsection (a)(2) or was not

identified in any biological assessment conducted under subsection (c), and
(ii) the Committee determines within 60 days after the date of the Secretary's finding that the exemption should not be permanent.

If the Secretary makes a finding described in clause (i), the Committee shall meet with respect to the matter within 30 days after the date of the finding.

(i) REVIEW BY SECRETARY OF STATE.-Notwithstanding any other provision of this Act, the Committee shall be prohibited from considering for exemption any application made to it, if the Secretary of State, after a review of the proposed agency action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any application made under this section that the granting of any such exemption and the carrying out of such action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

(j) Notwithstanding any other provision of this Act, the Committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security.

(k) SPECIAL PROVISIONS.-An exemption decision by the Committee under this section shall not be a major Federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): Provided, That an environmental impact statement which discusses the impacts upon endangered species or threatened species or their critical habitats shall have been previously prepared with respect to any agency action exempted by such order.

(l) COMMITTEE ORDERS.-

(1) If the Committee determines under subsection (h) that an exemption should be granted with respect to any agency action, the Committee shall issue an order granting the exemption and specifying the mitigation and enhancement measures established pursuant to subsection (h) which shall be carried out and paid for by the exemption applicant in implementing the agency action. All necessary mitigation and enhancement measures shall be authorized prior to the implementing of the agency action and funded concurrently with all other project features.

(2) The applicant receiving such exemption shall include the costs of such mitigation and enhancement measures within the overall costs of continuing the proposed action. Notwithstanding the preceding sentence the costs of such measures shall not be treated as project costs for the purpose of computing benefit-cost or other ratios for the proposed action. Any applicant may request the Secretary to carry out such mitigation and enhancement measures. The costs incurred by the Secretary in carrying out any such measures shall be paid by the applicant receiving the exemption. No later than one year after the granting of an exemption, the exemption applicant shall submit to the Council on Environmental Quality a report describing its compliance with the mitigation and enhancement measures prescribed by this section. Such report shall be submitted annually until all such mitigation and enhancement measures have been completed. Notice of the public availability of such reports shall be published in the Federal Register by the Council on Environmental Quality.

(m) NOTICE.-The 60-day notice requirement of section 11(g) of this Act shall not apply with respect to review of any final determination of the Committee under subsection (h) of this section granting an exemption from the requirements of subsection (a)(2) of this section.

(n) JUDICIAL REVIEW.-Any person, as defined by section 3(13) of this Act, may obtain judicial review, under chapter 7 of title 5 of the United States Code, of any decision of the Endangered Species Committee under subsection (h) in the United States Court of Appeals for (1) any circuit wherein the agency action concerned will be, or is being, carried out, or (2) in any case in which the agency action will be, or is being, carried out outside of any circuit, the District of Columbia, by filing in such court within 90 days after the date of issuance of the decision, a written petition for review. A copy of such petition shall be transmitted by the clerk of the court to the Committee and the Committee shall file in the court the record in the proceeding, as provided in section 2112, of title 28, United States Code. Attorneys designated by the Endangered Species Committee may appear for, and represent the Committee in any action for review under this subsection.

(o) EXEMPTION AS PROVIDING EXCEPTION ON TAKING OF ENDANGERED SPECIES.-

Notwithstanding sections 1533(d) and 1538(a)(1)(B) and (C) of this title, sections 1371 and 1372 of this title, or any regulation promulgated to implement any such section-

(1) any action for which an exemption is granted under subsection (h) of this section shall not be considered to be a taking of any endangered species or threatened species with respect to any activity which is necessary to carry out such action; and

(2) any taking that is in compliance with the terms and conditions specified in a written statement provided under subsection (b)(4)(iv) of this section shall not be considered to be a prohibited taking of the species concerned.

(p) EXEMPTIONS IN PRESIDENTIALLY DECLARED DISASTER AREAS. In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974, the President is authorized to make the determinations required by subsections (g) and (h) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 401 or 402 of the Disaster Relief Act of 1974, and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to reduce the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding any other provision of this section, the Committee shall accept the determinations of the President under this subsection.

INTERNATIONAL COOPERATION

Sec. 8.

(a) FINANCIAL ASSISTANCE.-As a demonstration of the commitment of the United States to the worldwide protection of endangered species and threatened species, the President may, subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), use foreign currencies accruing to the United States Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation of any endangered species or threatened species listed by the Secretary pursuant to section 4 of this Act. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section under such terms and conditions as he deems appropriate. Whenever foreign currencies are available for the provision of assistance under this section, such currencies shall be used in preference to funds appropriated under the authority of section 15 of this Act.

(b) ENCOURAGEMENT OF FOREIGN PROGRAMS.-In order to carry out further the provisions of this Act, the Secretary, through the Secretary of State shall encourage-

(1) foreign countries to provide for the conservation of fish or wildlife and plants including endangered species and threatened species listed pursuant to section 4 of this Act;

(2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such conservation; and

(3) foreign persons who directly or indirectly take fish or wildlife or plants in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out with such assistance as he may provide, conservation practices designed to enhance such fish or wildlife or plants and their habitat.

(c) PERSONNEL.-After consultation with the Secretary of State, the Secretary may-

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the conservation of fish or wildlife or plants, and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife, or plant management, research and law enforcement and to render professional assistance abroad in such matters.

(d) INVESTIGATIONS.-After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this Act.

Material, a producer and exporter of superalloy degassed chromium from Japan and mandatory respondent in this investigation, did not act to the best of its ability. Thus, the Department continues to find that the use of adverse facts available is warranted under section 776(a)(2) of the Act. See *Preliminary Determination*, 70 FR at 48539–48540.

Final Determination of Investigation

We determine that the following weighted average dumping margins exist for the period January 1, 2004, through December 31, 2004:

| Manufacturer or Exporter | Weighted-Average Margin (percent) |
|---------------------------|-----------------------------------|
| JFE Material Co., Ltd. .. | 129.32 |
| All Others | 129.32 |

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.211(b)(1), we will instruct Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of subject merchandise from Japan entered, or withdrawn from warehouse, for consumption on or after August 18, 2005, the date of the publication of our preliminary determination. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or

after the effective date of the suspension of liquidation (*i.e.*, August 18, 2005).

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: October 25, 2005.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–21769 Filed 10–31–05; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Individual Fishing Quota Cost Recovery Program Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before January 3, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, 907–586–7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Magnuson-Stevens Fishery Conservation and Management Act requires that the Secretary of Commerce conduct a Cost Recovery Program to cover the management and enforcement costs of the Alaska Individual Fishing Quota (IFQ) Program. This Cost Recovery Program requires IFQ permit holders to submit information about the value of landings of IFQ species and to calculate and submit fees. The Cost Recovery Program requires Registered Buyers to submit information about the value and volume of landings of IFQ species.

II. Method of Collection

Paper fee submission forms (mailed with payment) or report and payment online.

III. Data

OMB Number: 0648–0398.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; and business or other for-profits organizations.

Estimated Number of Respondents: 2,700.

Estimated Time per Response: 2 hours to complete IFQ Permit Holder Fee Submission Form; 2 hours to complete IFQ Registered Buyer Ex-vessel Value and Volume Report; 2 hours to complete the appeal process; and 30 minutes for prepayment of fees.

Estimated Total Annual Burden Hours: 5,504.

Estimated Total Annual Cost to Public: \$2,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 26, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05-21686 Filed 10-31-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Coastal and Estuarine Land Conservation Planning, Protection or Restoration

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before January 3, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Elaine Vaudreuil, 301-713-3155 ext. 103 or Elaine.Vaudreuil@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The FY 2002 Commerce, Justice, State Appropriations Act directed the Secretary of Commerce to establish a Coastal and Estuarine Land Conservation Program (CELCP) to protect important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion, and to issue guidelines for this program delineating the criteria for grant awards. The guidelines establish procedures for eligible applicants who choose to participate in the program to use when developing state conservation plans, proposing or soliciting projects under this program, applying for funds, and carrying out projects under this program in a manner

that is consistent with the purposes of the program. Guidelines for the CELCP can be found on NOAA's Web site at: <http://www.ocrm.nos.noaa.gov/landconservation.html> or may be obtained upon request via the contact information listed above. NOAA also has, or is given, authority under the Coastal Zone Management Act, annual appropriations or other authorities, to issue funds to coastal states, localities or other recipients for planning, conservation, acquisition, protection, restoration, or construction projects. This information collection enables NOAA to implement the CELCP, under its current or future authorization, and facilitate the review of similar projects under different, but related, authorities.

II. Method of Collection

The Project Application Checklist, paper or electronic grant applications and performance reports, are required from participants. Other supporting information is submitted in accordance with guidance. The information can be submitted in paper or electronic format.

III. Data

OMB Number: 0648-0459.

Form Number: None.

Type of Review: Regular submission.

Affected Public: State, local, or tribal government; not-for-profit institutions.

Estimated Number of Respondents: 50.

Estimated Time per Response: 35 hours for a CELCP plan; 10 hours for a project application and checklist; and 5 hours for semi-annual and annual reporting.

Estimated Total Annual Burden Hours: 1,007.

Estimated Total Annual Cost to Public: \$516.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection;

they also will become a matter of public record.

Dated: October 26, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05-21687 Filed 10-31-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Seabird Avoidance Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before January 3, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, 907-586-7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service Alaska Region actively seeks reduction of seabird incidental take in longline (hook-and-line) fisheries off Alaska through the Seabird Avoidance Program. The primary requirements of the Seabird Avoidance Program are: (1) Seabird avoidance gear must be onboard, made available for inspection upon request by specified persons, and must be used while hook-and-line gear is being deployed; (2) Use of a line or lines designed to deter seabirds from taking baited hooks (paired streamer line, single streamer line, or buoy bag line); (3) Offal discharge methods, including removal of hooks from any offal that is discharged;