

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

02/22/2006

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 11/01/2005.

TITLE: Report of Whaling Operations

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0311

EXPIRATION DATE: 02/28/2009

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	93	48	0
New	93	48	0
Difference	0	0	0
Program Change		0	0
Adjustment		0	0

TERMS OF CLEARANCE: None

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

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# 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.**

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

## 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  
REPORT OF WHALING OPERATIONS  
OMB CONTROL NO.: 0648-0311**

**A. JUSTIFICATION**

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

The information to be submitted under this collection of information is necessary to comply with obligations under the International Convention for the Regulation of Whaling (1946). The Schedule of the Convention is binding on the United States and requires that this information be submitted for all whaling operations authorized by the International Whaling Commission (IWC), including the aboriginal subsistence whaling currently conducted by Alaska Eskimos and the Makah Tribe. The Whaling Convention Act (16 U.S.C. 916 et seq.) authorizes the collection of this information. Information on the retrieval and use of dead whales (“stinkers”) is requested in order to have a record of all whales brought to shore and to ensure that whales killed under the IWC quotas are not claimed to have been found dead.

The required reports from whaling captains must include at least the following information:

- (1) The number, dates, and locations of each strike, attempted strike, or landing;
- (2) The length (taken as the straight-line measurement from the tip of the upper jaw to the notch between the tail flukes) and the sex of the whales landed;
- (3) The length and sex of a fetus, if present in a landed whale; and
- (4) An explanation of circumstances associated with the striking or attempted striking of any whale not landed.

Any person salvaging a “stinker” shall submit to the Assistant Administrator or his/her representative an oral or written report describing the circumstances of the salvage within 12 hours of such salvage.

The reports are to be submitted to the Native American whaling commission, which then submits them to NMFS. There are two Native American whaling commissions in operation. These are the Alaskan Eskimo Whaling Commission (AEWC), which oversees whaling in the ten traditional whaling villages in Alaska, and the Makah Whaling Commission, which oversees whaling in Neah Bay, WA on the Makah reservation.

**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.**

The reports from the individual whaling captains are used on a daily basis during the whaling seasons by the relevant Native American Whaling Commission to monitor the hunt and ensure that quotas are not exceeded. In addition, the information is reported yearly to the IWC, which uses it to monitor compliance with its regulations. Biological information on the size and sex of the whale, length and sex of any fetus, etc. are used on an “as needed” basis by scientists and by the Scientific Committee of the IWC as part of an ongoing effort to monitor the recovery of the

harvested species (bowhead and gray whales) and to understand the population dynamics of both species.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. See response #10 of this Supporting Statement for 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.**

Whaling captains may report catches by telephone or fax if they are available, but this is not required. The AEWG currently faxes summaries of whaling activities to NOAA on an occasional basis. The basis for adopting these means of collection are pragmatic--given the small number of reporting individuals, any available method for notifying the AEWG of catches is acceptable. Because of the remote villages in which whaling takes place, however, the use of new information technology to reduce the burden on the public would be effective only to the degree that it is available and affordable to subsistence hunters.

The Makah whaling operation is very small-scale (one whale killed so far). There are no limitations on how the information is to be submitted.

There is no form for this collection of information. Therefore, no form is available electronically.

**4. Describe efforts to identify duplication.**

NOAA is the agency responsible for managing whaling. Therefore, there is no other source of this information, and no other agency requires similar reports.

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

This collection of information has no impact on small businesses. Whaling is not a business. The meat from aboriginal subsistence whaling cannot be sold. Traditional native handicrafts from whalebone can be sold, but the reporting of whaling operations will have no effect on such sales.

The collection of information will affect some tribal governments. The Makah Tribal Council is involved in collecting information about Makah whaling. Although whaling itself has had a major impact on the Makah Tribal Council, because of the opposition of anti-whaling groups, this collection of information would not have a significant impact. So far, the Makah has killed only one whale since the IWC approved its request for a quota in 1997.

The large majority of whalers belong to the Alaska Eskimo Whaling Commission, which has no legal status but to which the Eskimo whalers have given authority to regulate their whaling. The

reporting burden on the AEWG is considered insignificant. The time required to report is not great, and these entities would need to gather much of the information anyway in order to monitor quota compliance.

No other tribes have expressed an interest in whaling to the U.S. Government.

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

If the information were not collected, the United States would be in violation of its obligations to the IWC. The most egregious violation could be exceeding the quota authorized by the IWC.

If the information were collected less frequently, quotas might be exceeded inadvertently.

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

The collection of information would be inconsistent with the first two OMB guidelines for information collections (not requiring respondents to report information more often than quarterly, and not requiring respondents to prepare a written response in fewer than thirty days after they receive a request). The collection is otherwise consistent with the OMB guidelines. In order to ensure that the quota is not exceeded, whaling captains need to report to the Native American Whaling Commission as soon as a strike is made. The whaling seasons in Alaska are short, and in good years the small quotas given to each village can be filled within a few days.

**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.**

The last formal consultation with the AEWG on reporting requirements was in 1998, when the most recent cooperative agreement was signed. The existing reporting format was devised by the AEWG and they are free to change the format.

NOAA consulted with the Makah Tribal Council in 2001 when the most recent cooperative agreement was signed. It agreed to provide the information needed by the IWC and contained in this collection of information.

There is a great deal of informal contact between NOAA and both Native American Whaling Commissions in which any problems in reporting can be handled as they arise.

A Federal Register Notice (copy attached) solicited public comment. One comment was received during the public comment period and was not included in the summary. The comment raised concerns regarding whaling in general and hunting by Native American tribes.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payments or gifts to respondents is offered or considered.

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

Confidentiality of the information provided cannot be assured. The summaries of the information are reported to the International Whaling Commission and are a matter of international record. The individual reports are releasable under the Freedom of Information Act. However, either Native American Whaling Commission has not identified confidentiality of the data supplied under this collection of information as an issue.

The AEWEC provides NOAA with the names of the whaling captains and the approximate location of strikes. Because the ice conditions vary each year and the migration patterns are unpredictable, releasing information on location of strikes does not reveal likely locations for future whale hunting.

The public watches the Makah hunt closely. The location of each strike is well known, whether or not it is provided to the Government through this collection of 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.**

There are no questions of a sensitive nature required by these regulations.

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

The time for each individual report was estimated as follows: Marking gear takes less than 5 minutes. It takes about 5 minutes to measure a whale. Determining sex is a matter of visual inspection and takes one minute. Determining the size and sex of a fetus takes less time, since measuring the smaller animal is quicker. It takes about two minutes to write down an approximate location, to the level of detail provided by the Native American Whaling Commission. It takes about 10 minutes to call the Commission to report the catch. If a whale is struck but not landed, a description of the circumstances is required. This might take 15 minutes, plus the 10 minutes to call in the report, but there would be no requirements for measurements. An estimate of 0.5 hours per whale struck is, therefore, judged to be a reasonable estimate of an individual report. The same estimate applies to “stinker” reports. For reasons that can be imagined, “stinkers” are rarely landed. In most years there are no “stinker” reports.

There are approximately 50 whaling captains. However, many of them do not strike or land a whale in a given year. The current maximum number of bowhead whales allowed to be struck by Alaska Eskimos is 75. In addition the Makah Tribe may take up to 5 gray whales per year. The total number of whales struck each year should be at most 80, and, in practice is less than that number in most years. Therefore the maximum number of whales harvested that would require responses would not exceed 80.

The cooperative agreement with the AEWG requires that they provide a full report to NOAA following the conclusion of the spring hunt and following the conclusion of the fall hunt on the information required above. The cooperative agreement with the Makah Tribe requires that they report following the years hunt. Thus there are three required written reports for end of season information.

Additionally, there are requirements for interim reports occasionally throughout the hunting season to provide information on the number of whales struck and landed. This requirement is monthly for the AEWG during the spring and fall seasons, and weekly for the Makah Tribe during periods when hunts are being conducted. These reports can be written or oral, but the AEWG currently provides these reports via fax. This is estimated to entail 10 reports a year. .

There are no specific forms required for the submission of information by the whaling captains, nor is there a specific form for the Native American Whaling Commissions to report to NOAA. Each Commission developed the current format of the reports.

The Native American Whaling Commissions must compile the captains' reports and submit them to NOAA. It is estimated to take about 5 minutes to type in each whale report. Based on a maximum of 80 whales, this would amount to 6 hours, 40 minutes per year.

Faxing the information to NOAA is estimated to take 5 minutes thirteen times a year (three end of season reports, and ten reports during the seasons). This would amount to one hour and five minutes per year.

The total amount of time required for Native American Whaling Commissions reporting is judged, therefore, to be about 7 hours and 45 minutes per year.

The summary of the burden is:

50 captains (maximum) make a total of a maximum of 80 responses/yr x .5 hrs/response Total = 40 hours

2 Commissions make approximately 13 reports a year:  
(80 whale maximum x 5 minutes each to record = 6 hours, 40 minutes)  
(13 reports faxed each year x 5 minutes each to send = 1 hour, 5 minutes)  
Total = 7 hours, 45 minutes

Total Burden = 52 respondents, approximately 80 individual responses, 13 reports, and 47 hours, 45 minutes.

**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).**

Annual costs to the respondents are practically zero. The whalers can call in their reports to the AEWG, so there is a telephone cost. The AEWG has a computer for other reasons and likewise has a fax machine and telephones for general activities. The only costs would be telephone calls

and the cost of the fax reports. The set up for the Makah Tribal Council is similar. Total costs are estimated at \$100 or less.

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

The annualized costs to the U.S. Government is calculated as follows:

Thirteen reports submitted to be filed: 0.3 hours X 13 = 3.9 hours  
Compilation of reports for submission to IWC: 2 hours

Total time: 5.9 hours @ \$35.93/hour = \$211.87.

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

There are no changes reported.

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

The required information will be submitted to the IWC, which publishes a summary of the report each year in its Annual Report. The Annual Report is compiled by the IWC Secretariat staff and is published at the IWC's expense.

**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.**

The collection is contained only in regulations. Because a form has been determined to be impractical, display of the expiration date is not warranted.

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

No exceptions have been identified.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

The information collected is used to determine when a small quota of whales has been reached. The number of whales needs to be determined exactly, so that the quota is not exceeded and so that the full quota is available for subsistence use. Because of the small number of whales allowed to be struck, a complete count is feasible and accurate. Statistical sampling would be inaccurate and either leads to exceeding the quota or under-utilization of the quota. Therefore, this section is not relevant to the proposed regulations.

(b) The relevant Native American whaling organization shall monitor the whale hunt and keep tally of the number of whales landed and struck. When a quota is reached, the organization shall declare the whaling season closed, and there shall be no further whaling under that quota during the calendar year. If the organization fails to close the whaling season after the quota has been reached, the Assistant Administrator may close it by filing notification in the FEDERAL REGISTER.

**§ 230.7 Salvage of stinkers.**

(a) Any person salvaging a stinker shall submit to the Assistant Administrator or his/her representative an oral or written report describing the circumstances of the salvage within 12 hours of such salvage. He/she shall provide promptly to the Assistant Administrator or his/her representative each harpoon, lance, or explosive dart found in or attached to the stinker. The device shall be returned to the owner thereof promptly, unless it is retained as evidence of a possible violation.

(b) There shall be a rebuttable presumption that a stinker has been struck by the captain whose mark appears on the harpoon, lance, or explosive dart found in or attached thereto, and, if no strike has been reported by such captain, such strike shall be deemed to have occurred at the time of recovery of the device.

**§ 230.8 Reporting by whaling captains.**

(a) The relevant Native American whaling organization shall require each whaling captain licensed pursuant to

§ 230.5 to provide a written statement of his/her name and village of domicile and a description of the distinctive marking to be placed on each harpoon, lance, and explosive dart.

(b) Each whaling captain shall provide to the relevant Native American whaling organization an oral or written report of whaling activities including but not limited to the striking, attempted striking, or landing of a whale and, where possible, specimens from landed whales. The Assistant Administrator is authorized to provide technological assistance to facilitate prompt reporting and collection of specimens from landed whales, including but not limited to ovaries, ear plugs, and baleen plates. The report shall include at least the following information:

(1) The number, dates, and locations of each strike, attempted strike, or landing.

(2) The length (taken as the straight-line measurement from the tip of the upper jaw to the notch between the tail flukes) and the sex of the whales landed.

(3) The length and sex of a fetus, if present in a landed whale.

(4) An explanation of circumstances associated with the striking or attempted striking of any whale not landed.

(c) If the relevant Native American whaling organization fails to provide the required reports, the Assistant Administrator may require the reports to be submitted by the whaling captains directly to the National Marine Fisheries Service.

**SUBCHAPTER E—TRANSPORTATION AND LABELING OF FISH OR WILDLIFE [RESERVED]**

-CITE-

16 USC CHAPTER 14 - REGULATION OF WHALING

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING

-HEAD-

CHAPTER 14 - REGULATION OF WHALING

-MISC1-

SUBCHAPTER I - WHALING TREATY ACT

Sec.

901 to 915. Repealed.

SUBCHAPTER II - WHALING CONVENTION ACT

- 916. Definitions.
- 916a. United States Commissioner.
  - (a) Appointment.
  - (b) Deputy Commissioner.
  - (c) Compensation.
- 916b. Acceptance or rejection by United States Government of regulations, etc.; acceptance of reports, recommendations, etc., of Commission.
- 916c. Unlawful acts.
  - (a) Whaling, transporting, or selling violations; records; reports.
  - (b) Acts of commission or omission.
- 916d. Licenses.
  - (a) Issuance.
  - (b) Licenses and fees required.
  - (c) Disposition of fees.
  - (d) Application; conditions precedent.
  - (e) Additional conditions.
- 916e. Failure to keep returns, records, reports.
- 916f. Violations; fines and penalties.
- 916g. Enforcement.
  - (a) Enforcement officers; arrests; search and seizure of vessels; disposal of property.
  - (b) Stay of execution upon posting of bond; bond requirements.
- 916h. Cooperation between Federal and State and private agencies and organizations in scientific and other programs.
  - (a) Agency cooperation.
  - (b) Authorization for Federal agency cooperation.
- 916i. Taking of whales for biological experiments.
- 916j. Allocation of responsibility for administration and enforcement.
  - (a) Administration and general enforcement.
  - (b) Enforcement relating to whaling vessels.
  - (c) Enforcement by officers and employees of coastal States.
- 916k. Regulations; submission; publication; effectiveness.
- 916l. Authorization of appropriations.

-End-

-CITE-

16 USC SUBCHAPTER I - WHALING TREATY ACT

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER I - WHALING TREATY ACT

-HEAD-

SUBCHAPTER I - WHALING TREATY ACT

-End-

-CITE-

16 USC Secs. 901 to 915

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER I - WHALING TREATY ACT

-HEAD-

Secs. 901 to 915. Repealed. Aug. 9, 1950, ch. 653, Sec. 16, 64  
Stat. 425

-MISC1-

Sections, act May 1, 1936, ch. 251, Secs. 1-15, 49 Stat.  
1246-1249, related to hunting of whales. See sections 916 to 9161  
of this title.

-End-

-CITE-

16 USC SUBCHAPTER II - WHALING CONVENTION ACT

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

SUBCHAPTER II - WHALING CONVENTION ACT

-SECREP-

SUBCHAPTER REFERRED TO IN OTHER SECTIONS  
This subchapter is referred to in sections 1371, 1402 of this  
title.

-End-

-CITE-

16 USC Sec. 916

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916. Definitions

-STATUTE-

When used in this subchapter -

(a) Convention: The word "convention" means the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946, by the United States of America and certain other governments.

(b) Commission: The word "Commission" means the International Whaling Commission established by article III of the convention.

(c) United States Commissioner: The words "United States Commissioner" mean the member of the International Whaling Commission representing the United States of America appointed pursuant to article III of the convention and section 916a of this title.

(d) Person: The word "person" denotes every individual, partnership, corporation, and association subject to the jurisdiction of the United States.

(e) Vessel: The word "vessel" denotes every kind, type, or description of water craft or contrivance subject to the jurisdiction of the United States used, or capable of being used, as a means of transportation.

(f) Factory ship: The words "factory ship" mean a vessel in which or on which whales are treated or processed, whether wholly or in part.

(g) Land station: The words "land station" mean a factory on the land at which whales are treated or processed, whether wholly or in part.

(h) Whale catcher: The words "whale catcher" mean a vessel used for the purpose of hunting, killing, taking, towing, holding onto, or scouting for whales.

(i) Whale products: The words "whale products" mean any unprocessed part of a whale and blubber, meat, bones, whale oil, sperm oil, spermaceti, meal, and baleen.

(j) Whaling: The word "whaling" means the scouting for, hunting, killing, taking, towing, holding onto, and flensing of whales, and the possession, treatment, or processing of whales or of whale products.

(k) Regulations of the Commission: The words "regulations of the Commission" mean the whaling regulations in the schedule annexed to and constituting a part of the convention in their original form or as modified, revised, or amended by the Commission from time to time, in pursuance of article V of the convention.

(l) Regulations of the Secretary of Commerce: The words "regulations of the Secretary of Commerce" mean such regulations as may be issued by the Secretary of Commerce, from time to time, in accordance with sections 916i and 916j of this title.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 2, 64 Stat. 421; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-MISC1-

SHORT TITLE

Section 1 of act Aug. 9, 1950, provided: "That this Act [enacting this subchapter] may be cited as the 'Whaling Convention Act of 1949'."

SEPARABILITY

Section 15 of act Aug. 9, 1950, provided that: "If any provision of this Act [this subchapter] or the application of such provisions to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby."

-TRANS-

TRANSFER OF FUNCTIONS

In subsec. (1), "Secretary of Commerce" substituted for "Secretary of the Interior" in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

-MISC2-

WILDLIFE SANCTUARY FOR HUMPBACK WHALES IN WEST INDIES

Pub. L. 99-630, Nov. 7, 1986, 100 Stat. 3514, provided: "That the President shall, in concert with the International Whaling Commission, seek a treaty or other appropriate international agreement establishing a wildlife sanctuary for humpback whales in the West Indies, in the area encompassing the Turks Islands, Mouchoir Passage, Silver Bank Passage, Navidad Bank, and such additional areas in the West Indies as may be necessary to ensure the protection of the breeding grounds of the humpback whales."

MORATORIUM ON COMMERCIAL KILLING OF WHALES

Pub. L. 96-60, title IV, Sec. 405, Aug. 15, 1979, 93 Stat. 403, provided that:

"(a) The Congress finds and declares that -

"(1) whales are a unique marine resource of great esthetic and scientific interest to mankind and are a vital part of the marine

ecosystem;

"(2) the protection and conservation of whales are of particular interest to citizens of the United States;

"(3) in 1971 the Congress adopted resolutions requesting the Secretary of State to negotiate a ten-year moratorium on the commercial killing of whales;

"(4) the United States, which effectively banned all commercial whaling by United States nationals in December 1971, has sought an international moratorium on the commercial killing of whales since 1972;

"(5) the United Nations Conference on the Human Environment adopted a resolution in 1972 calling for a ten-year moratorium on commercial whaling;

"(6) the United Nations Governing Council for Environment Programs in 1973 and 1974 confirmed such call for a ten-year moratorium, and the Council continues to support ongoing efforts relating to whale conservation;

"(7) the International Convention for the Regulation of Whaling, signed in 1946, as implemented by the International Whaling Commission, is not providing adequate protection to whales;

"(8) the data-gathering structure established under the International Whaling Commission has not provided all the available data necessary for sound whale conservation;

"(9) there is strong evidence that the members of the International Whaling Commission continue to import, in some instances in increasing amounts, whale products from countries not members of the Commission; and

"(10) defects in the implementation of the International Convention for the Regulation of Whaling by the International Whaling Commission allow harvests of the declining whale species.

"(b) The Congress urges -

"(1) the International Whaling Commission to agree to a moratorium on the commercial killing of whales; and

"(2) Brazil, Denmark, Iceland, Japan, Norway, the Soviet Union, and the Republic of Korea, as parties to the International Convention for the Regulation of Whaling and which still engage in commercial whaling, and Chile, the People's Republic of China, Peru, Portugal, the Democratic Republic of Korea, Spain, and Taiwan, as countries which are not parties to the Convention and which still engage in commercial whaling, to recognize and comply voluntarily with a moratorium on the commercial killing of whales, as endorsed by the United Nations Conference on the Human Environment and the United Nations Governing Council for Environment Programs."

-End-

-CITE-

16 USC Sec. 916a

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916a. United States Commissioner

-STATUTE-

(a) Appointment

The United States Commissioner shall be appointed by the President, on the concurrent recommendations of the Secretary of State and the Secretary of Commerce, and shall serve at the pleasure of the President.

(b) Deputy Commissioner

The President may appoint a Deputy United States Commissioner, on the concurrent recommendations of the Secretary of State and the Secretary of Commerce. The Deputy United States Commissioner shall serve at the pleasure of the President and shall be the principal technical adviser to the United States Commissioner, and shall be empowered to perform the duties of the Commissioner in case of the death, resignation, absence, or illness of the Commissioner.

(c) Compensation

The United States Commissioner and Deputy Commissioner, although officers of the United States Government, shall receive no compensation for their services.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 3, 64 Stat. 421; 1970 Reorg. Plan. No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-TRANS-

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

-MISC1-

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 916 of this title.

-End-

-CITE-

16 USC Sec. 916b

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916b. Acceptance or rejection by United States Government of regulations, etc.; acceptance of reports, recommendations, etc., of Commission

-STATUTE-

The Secretary of State is authorized, with the concurrence of the Secretary of Commerce, to present or withdraw any objections on behalf of the United States Government to such regulations or amendments of the schedule to the convention as are adopted by the Commission and submitted to the United States Government in accordance with article V of the convention. The Secretary of State is further authorized to receive on behalf of the United States Government reports, requests, recommendations, and other communications of the Commission, and to act thereon either directly or by reference to the appropriate authority.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 4, 64 Stat. 422; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-TRANS-

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

-SECRETF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 916k of this title.

-End-

-CITE-

16 USC Sec. 916c

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916c. Unlawful acts

-STATUTE-

(a) Whaling, transporting, or selling violations; records; reports  
It shall be unlawful for any person subject to the jurisdiction of the United States (1) to engage in whaling in violation of the convention or of any regulation of the Commission, or of this subchapter, or of any regulation of the Secretary of Commerce; (2) to ship, transport, purchase, sell, offer for sale, import, export, or have in possession any whale or whale products taken or processed in violation of the convention, or of any regulation of the Commission, or of this subchapter, or of any regulation of the

Secretary of Commerce; (3) to fail to make, keep, submit, or furnish any record or report required of him by the convention, or by any regulation of the Commission, or by any regulation of the Secretary of Commerce, or to refuse to permit any officer authorized to enforce the convention, the regulations of the Commission, this subchapter, and the regulations of the Secretary of Commerce, to inspect such record or report at any reasonable time.

(b) Acts of commission or omission

It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to do any act prohibited or to fail to do any act required by the convention, or by this subchapter, or by any regulation adopted by the Commission, or by any regulation of the Secretary of Commerce.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 5, 64 Stat. 422; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-TRANS-

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

-MISC1-

#### EMERGENCY ASSISTANCE FOR SUBSISTENCE WHALE HUNTERS

Pub. L. 107-372, title IV, Sec. 403, Dec. 19, 2002, 116 Stat. 3102, provided that: "Notwithstanding any provision of law, the use of a vessel to tow a whale taken in a traditional subsistence whale hunt permitted by Federal law and conducted in waters off the coast of Alaska is authorized, if such towing is performed upon a request for emergency assistance made by a subsistence whale hunting organization formally recognized by an agency of the United States Government, or made by a member of such an organization, to prevent the loss of a whale."

-SECRET-

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 916f of this title.

-End-

-CITE-

16 USC Sec. 916d

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916d. Licenses

-STATUTE-

(a) Issuance

No person shall engage in whaling without first having obtained an appropriate license or scientific permit. Such licenses shall be issued by the Secretary of Commerce or such officer of the Department of Commerce as may be designated by him: Provided, That the Secretary, in his discretion and by appropriate regulation, may waive the payment of any license fee or the requirement that a license first be obtained, in connection with the salvage of any "Dauhval" or unclaimed dead whale found floating or stranded.

(b) Licenses and fees required

The following licenses and fees shall be required for each calendar year or any fraction thereof and shall be nontransferable except under such conditions as may be prescribed by the Secretary:

(1) Land-station license for primary processing of whales, \$250.

(2) Land-station license for secondary processing of parts of whales delivered to it by a land station licensed as a primary processor, \$100.

(3) Factory-ship license for primary processing of whales delivered by whale catchers, \$250.

(4) License for any vessel used exclusively for transporting whale products from a factory ship to a port during the whaling season, \$100.

(5) Whale-catcher license, \$100.

(c) Disposition of fees

All moneys derived from the issuance of whaling licenses shall be covered into the Treasury of the United States, and no license fee shall be refunded by reason of the failure of any person to whom a license has been issued to utilize the facility in whaling for which such license was issued.

(d) Application; conditions precedent

Any person, in making application for a license to operate a whale catcher, must furnish evidence or affidavit satisfactory to the Secretary of Commerce that, in addition to conforming to other applicable laws and regulations, (1) the whale catcher is adequately equipped and competently manned to engage in whaling in accordance with the provisions of the convention, the regulations of the Commission, and the regulations of the Secretary of Commerce; (2) gunners and crews will be compensated on some basis that does not depend primarily on the number of whales taken; and (3) no bonus or other partial remuneration with relation to the number of whales taken shall be paid to gunners and crews in respect of the taking of any whales, the taking of which is prohibited.

(e) Additional conditions

Any person, in making application for a license to operate a land station or a factory ship must furnish evidence or affidavits to the satisfaction of the Secretary of Commerce that, in addition to conforming to other applicable laws and regulations, such land station or factory ship is adequately equipped to comply with provisions of the convention, of the regulations of the Commission, and of the regulations of the Secretary of Commerce with respect to the processing of whales or the manufacture of whale products.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 6, 64 Stat. 422; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-TRANS-

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

-MISC1-

REFUND OF LICENSE FEES PAID UNDER SUBCHAPTER I OF THIS CHAPTER

Section 16 of act Aug. 9, 1950, provided in part that the Secretary of the Interior is authorized to refund any part of a license fee paid under former section 908 of this title that is in excess of the license fee required under this section.

-End-

-CITE-

16 USC Sec. 916e

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916e. Failure to keep returns, records, reports

-STATUTE-

Any person who fails to make, keep, or furnish any catch return, statistical record, or any report that may be required by the convention, or by any regulation of the Commission, or by this subchapter, or by a regulation of the Secretary of Commerce, or any person who furnishes a false return, record, or report, upon conviction, shall be subject to such fine as may be imposed by the court not to exceed \$500, and shall in addition be prohibited from whaling, processing, or possessing whales and whale products from the date of conviction until such time as any delinquent return, record, or report shall have been submitted or any false return, record, or report shall have been replaced by a duly certified correct and true return, record, or report to the satisfaction of the court. The penalties imposed by section 916f of this title shall not be invoked for failure to comply with requirements respecting returns, records, and reports.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 7, 64 Stat. 423; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-TRANS-

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

-End-

-CITE-

16 USC Sec. 916f

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916f. Violations; fines and penalties

-STATUTE-

Except as to violations defined in clause 3 of subsection (a) of section 916c of this title, any person violating any provision of the convention, or of any regulation of the Commission, or of this subchapter, or of any regulation of the Secretary of Commerce upon conviction, shall be fined not more than \$10,000 or be imprisoned not more than one year, or both. In addition the court may prohibit such person from whaling for such period of time as it may determine, and may order forfeited, in whole or in part, the whales taken by such person in whaling during the season, or the whale products derived therefrom or the monetary value thereof. Such forfeited whales or whale products shall be disposed of in accordance with the direction of the court.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 8, 64 Stat. 423; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-TRANS-

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

-SECFEF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 916e of this title.

-End-

-CITE-

16 USC Sec. 916g

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916g. Enforcement

-STATUTE-

(a) Enforcement officers; arrests; search and seizure of vessels; disposal of property

Any duly authorized enforcement officer or employee of the Department of Commerce; any Coast Guard officer; any United States marshal or deputy United States marshal; any customs officer; and any other person authorized to enforce the provisions of the convention, the regulations of the Commission, this subchapter, and the regulations of the Secretary of Commerce, shall have power, without warrant or other process but subject to the provisions of the convention, to arrest any person subject to the jurisdiction of the United States committing in his presence or view a violation of the convention or of this subchapter, or of the regulations of the Commission, or of the regulations of the Secretary of Commerce and to take such person immediately for examination before a justice or judge or any other official designated in section 3041 of title 18; and shall have power, without warrant or other process, to search any vessel subject to the jurisdiction of the United States or land station when he has reasonable cause to believe that such vessel or land station is engaged in whaling in violation of the provisions of the convention or this subchapter or the regulations of the Commission, or the regulations of the Secretary of Commerce. Any person authorized to enforce the provisions of the convention, this subchapter, the regulations of the Commission, or the regulations of the Secretary of Commerce shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this subchapter, and shall have power with a search warrant to search any vessel, person, or place at any time. The judges of the United States district courts and the United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Subject to the provisions of the convention, any person authorized to enforce the convention, this subchapter, the regulations of the Commission, and the regulations of the Secretary of Commerce may seize, whenever and wherever lawfully found, all whales or whale products taken, processed, or possessed contrary to the provisions of the convention, of this subchapter or the regulations of the Commission, or of the regulations of the Secretary of Commerce.

Any property so seized shall not be disposed of except pursuant to the order of a court of competent jurisdiction or the provisions of subsection (b) of this section, or, if perishable, in the manner prescribed by regulations of the Secretary of Commerce.

(b) Stay of execution upon posting of bond; bond requirements

Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on receiving from the claimant of the property a bond or stipulation for double the value of the property with sufficient surety to be approved by a judge of the district

court having jurisdiction, conditioned to deliver the property seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 9, 64 Stat. 423; Pub. L. 90-578, title IV, Sec. 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 101-650, title III, Sec. 321, Dec. 1, 1990, 104 Stat. 5117.)

-CHANGE-

CHANGE OF NAME

"United States magistrate judges" substituted for "United States magistrates" in subsec. (a) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "United States magistrates" substituted for "United States commissioners" in subsec. (a) pursuant to Pub. L. 90-578. See chapter 43 (Sec. 631 et seq.) of Title 28.

-TRANS-

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

In subsec. (a), "Department of Commerce" substituted for "United States Fish and Wildlife Service of the Department of the Interior" and "Secretary of Commerce" for "Secretary of the Interior", see note set out under section 916 of this title.

United States Fish and Wildlife Service, consisting of Bureau of Commercial Fisheries and Bureau of Sport Fisheries and Wildlife, succeeded and replaced Fish and Wildlife Service of Department of the Interior under provisions of Fish and Wildlife Act of 1956, as originally provided in section 742b(a) and (d) of this title.

-End-

-CITE-

16 USC Sec. 916h

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916h. Cooperation between Federal and State and private agencies and organizations in scientific and other programs

-STATUTE-

(a) Agency cooperation

In order to avoid duplication in scientific and other programs, the Secretary of State, with the concurrence of the agency, institution, or organization concerned, may direct the United States Commissioner to arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the convention.

(b) Authorization for Federal agency cooperation

All agencies of the Federal Government are authorized, on request of the Commission, to cooperate in the conduct of scientific and other programs, or to furnish facilities and personnel for the purpose of assisting the Commission in the performance of its duties as prescribed by the convention.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 10, 64 Stat. 424.)

-End-

-CITE-

16 USC Sec. 916i

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916i. Taking of whales for biological experiments

-STATUTE-

Nothing contained in this subchapter shall prevent the taking of whales and the conducting of biological experiments at any time for purposes of scientific investigation in accordance with scientific permits and regulations issued by the Secretary of Commerce or shall prevent the Commission from discharging its duties as prescribed by the convention.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 11, 64 Stat. 424; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-TRANS-

#### TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 916 of this title.

-End-

-CITE-

16 USC Sec. 916j

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916j. Allocation of responsibility for administration and enforcement

-STATUTE-

(a) Administration and general enforcement

The Secretary of Commerce is authorized and directed to administer and enforce all of the provisions of this subchapter and regulations issued pursuant thereto and all of the provisions of the convention and of the regulations of the Commission, except to the extent otherwise provided for in this subchapter, in the convention, or in the regulations of the Commission. In carrying out such functions he is authorized to adopt such regulations as may be necessary to carry out the purposes and objectives of the convention, the regulations of the Commission, this subchapter, and with the concurrence of the Secretary of State, to cooperate with the duly authorized officials of the government of any party to the convention.

(b) Enforcement relating to whaling vessels

Enforcement activities under the provisions of this subchapter relating to vessels engaged in whaling and subject to the jurisdiction of the United States primarily shall be the responsibility of the Secretary of the Treasury in cooperation with the Secretary of Commerce.

(c) Enforcement by officers and employees of coastal States

The Secretary of Commerce may authorize officers and employees of the coastal States of the United States to enforce the provisions of the convention, or of the regulations of the Commission, or of this subchapter, or of the regulations of the Secretary of Commerce. When so authorized such officers and employees may function as Federal law-enforcement officers for the purposes of this subchapter.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 12, 64 Stat. 425; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-TRANS-

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

-SECFEF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 916 of this title.

-End-

-CITE-

16 USC Sec. 916k

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 916k. Regulations; submission; publication; effectiveness

-STATUTE-

Regulations of the Commission approved and effective in accordance with section 916b of this title and article V of the convention shall be submitted for appropriate action or publication in the Federal Register by the Secretary of Commerce and shall become effective with respect to all persons and vessels subject to the jurisdiction of the United States in accordance with the terms of such regulations and the provisions of article V of the convention.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 13, 64 Stat. 425; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-TRANS-

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 916 of this title.

-End-

-CITE-

16 USC Sec. 916l

01/19/04

-EXPCITE-

TITLE 16 - CONSERVATION  
CHAPTER 14 - REGULATION OF WHALING  
SUBCHAPTER II - WHALING CONVENTION ACT

-HEAD-

Sec. 9161. Authorization of appropriations

-STATUTE-

There is hereby authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the convention and of this subchapter, including (1) contributions to the Commission for the United States share of any joint expenses of the Commission agreed by the United States and any of the other contracting governments, and (2) the expenses of the United States Commissioner and his staff, including (a) personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5; (b) travel expenses without regard to subchapter I of chapter 57 of title 5 and section 5731(a) of title 5; (c) transportation of things, communication services; (d) rent of offices; (e) printing and binding without regard to section 501 of title 44, and section 5 of title 41; (f) stenographic and other services by contract, if deemed necessary, without regard to section 5 of title 41; (g) supplies and materials; (h) equipment; (i) purchase, hire, operation, maintenance, and repair of aircraft, motor vehicles (including passenger-carrying vehicles), boats, and research vessels.

-SOURCE-

(Aug. 9, 1950, ch. 653, Sec. 14, 64 Stat. 425.)

-REFTEXT-

REFERENCES IN TEXT

The civil-service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

-COD-

CODIFICATION

In cl. (a), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1923, as amended" on authority of Pub. L. 89-554, Sec. 7(b), Sept. 6, 1966, 80 Stat. 631 (the first section of which enacted Title 5, Government Organization and Employees), and of section 1106(a) of act Oct. 28, 1949, ch. 782, title XI, 63 Stat. 972, which provided that references in other laws to the Classification Act of 1923 shall be considered to mean the Classification Act of 1949.

In cl. (b), "subchapter I of chapter 57 of title 5 and section 5731(a) of title 5" substituted for "the Travel Expense Act of 1949 and section 10 of the Act of March 3, 1933 (U.S.C., title 5, sec. 73b)" on authority of Pub. L. 89-554, Sec. 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

In cl. (e), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (U.S.C., title 44, sec. 111)" on authority of Pub. L. 90-620, Sec. 2(b), Oct. 22, 1968, 82 Stat. 1305, the first section of which enacted Title 44, Public Printing and Documents.

-End-

Application accepted by Commissioner of Customs: June 8, 2005.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

[FR Doc. E5-3256 Filed 6-21-05; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Application and Reports for Scientific Research and Enhancement Permits Under the Endangered Species Act

**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 August 22, 2005.

**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](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Leslie Schaeffer, 503-230-5433 or [leslie.schaeffer@noaa.gov](mailto:leslie.schaeffer@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) imposed prohibitions against the taking of endangered species. Section 10 of the ESA allows permits authorizing the taking of endangered species for research/enhancement purposes. The corresponding regulations established procedures for persons to apply for such permits. In addition, the regulations set forth specific reporting requirements for such permit holders.

The regulations contain two sets of information collections: (1) Applications for research/enhancement permits, and (2) reporting requirements for permits issued.

The required information is used to evaluate the impacts of the proposed activity on endangered species, to make the determinations required by the ESA prior to issuing a permit, and to establish appropriate permit conditions. To issue permits under ESA section 10(a)(1)(A), the National Marine Fisheries Service (NMFS) must determine that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of the ESA.

The currently approved application and reporting requirements are being revised to apply only to Pacific salmon and steelhead, as requirements regarding other species are being addressed in a separate information collection. Clarification of some of the narrative will also be provided, based on previous applicants' responses and submitted applications and reports.

##### II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include e-mail of electronic forms, and mail and facsimile transmission of paper forms.

##### III. Data

*OMB Number:* 0648-0402.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Non-profit institutions; State, local, or tribal government; and businesses or other for-profit organizations.

*Estimated Number of Respondents:* 113.

*Estimated Time Per Response:* 30 hours for permit applications; 10 hours for permit modification requests; 10 hours for annual reports; and 20 hours for final reports.

*Estimated Total Annual Burden Hours:* 2,280.

*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: June 16, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-12261 Filed 6-21-05; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Report of Whaling Operations.

**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 August 22, 2005.

**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](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Cheri McCarty, Office of Protected Resources, (301) 713-2322 or [Cheri.Mccarty@noaa.gov](mailto:Cheri.Mccarty@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

Native Americans are allowed to conduct certain aboriginal subsistence whaling in accordance with the provisions of the International Whaling Commission (IWC). In order to respond to obligations under the International Convention for the Regulation of Whaling, and the IWC, captains participating in these operations must submit certain information to the

relevant Native American whaling organization about strikes on and catch of whales. Anyone retrieving a dead whale is also required to report. Captains must place a distinctive permanent identification mark on any harpoon, lance, or explosive dart used, and must also provide information on the mark and self-identification information. The relevant Native American whaling organization receives the reports, compiles them, and submits the information to NOAA.

The information is used to monitor the hunt and to ensure that quotas are not exceeded. The information is also provided to the International Whaling Commission, which uses it to monitor compliance with its requirements.

## II. Method of Collection

Reports may be made by phone or fax. Information on equipment marks must be made in writing. No form is used.

## III. Data

*OMB Number:* 0648-0311.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Individuals or households; State, local, or tribal governments.

*Estimated Number of Respondents:* 52.

*Estimated Time Per Response:* 30 minutes for reports on whales struck or on recovery of dead whales; 5 minutes for providing the relevant Native American whaling organization with information on the mark and self-identification information; 5 minutes for marking gear; and 5 hours for the relevant Native American whaling organization to consolidate and submit reports.

*Estimated Total Annual Burden Hours:* 48.

*Estimated Total Annual Cost to Public:* \$100.

## 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: June 16, 2005.

### Gwellnar Banks,

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-12262 Filed 6-21-05; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Haddock Bycatch Notification of Landing

**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 August 22, 2005.

**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](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Brian R. Hooker, Fishery Policy Analyst, Sustainable Fisheries Division, One Blackburn Drive, Gloucester, MA 01930, 978-281-9220.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The National Marine Fisheries Service (NMFS) Northeast Region manages Northeast (NE) multispecies and herring fisheries of the Exclusive Economic Zone (EEZ) of the Northeastern United States through the NE Multispecies and Herring Fishery Management Plans (FMPs). The New England Fishery Management Council prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act). The regulations implementing the FMPs are specified under 50 CFR 648.80 and 648.200

The recordkeeping and reporting requirements at § 648.80(d)(9) and (e)(8) form the basis for this collection of information. NMFS Northeast Region requests information from Category 1 herring vessel owners/operators in order to facilitate enforcement of haddock possession limits and monitor the bycatch of haddock in the herring fishery. The failure to collect information on Category 1 herring vessel activity or collecting it less frequently could undermine efforts to facilitate enforcement. This information is important in determining the impact of herring vessel operations on groundfish fishing mortality. The information is a prior notification of landing submitted through a vessel monitoring system (VMS). The cost of operation and installation of the VMS for Category 1 herring vessels is accounted for under OMB Control Number 0648-0404. This information, upon receipt, results in an increasingly more efficient and accurate database for management and monitoring of fisheries of the Northeastern U.S. EEZ.

## II. Method of Collection

Information is collected electronically through the vessel's VMS.

## III. Data

*OMB Number:* 0648-0525.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 105.

*Estimated Time Per Response:* 5 minutes.

*Estimated Total Annual Burden Hours:* 56.

*Estimated Total Annual Cost to Public:* \$335.

## 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