

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 04/22/2008

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Suzanne Hilding
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 12/13/2007

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200711-0648-013
AGENCY ICR TRACKING NUMBER:
TITLE: Reporting of Sea Turtle Entanglement in Pot Gear Fisheries
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0496

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 04/30/2011

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	45	45	1,000
New	45	45	675
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	-325
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Reporting of Sea Turtle Entanglement in Pot Gear Fisheries	NA	Sea Turtle Entanglement Guidelines and Form	

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 b. <input type="checkbox"/> None 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
REPORTING OF SEA TURTLE ENTANGLEMENT IN POT GEAR FISHERIES
OMB CONTROL NO.: 0648-0496**

A. JUSTIFICATION

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

Four species of sea turtle migrate northward along the continental shelf of the eastern U.S. to forage in near shore habitats during the spring, summer and fall months. These include juvenile and sub-adult loggerhead, Kemp's ridley, and green turtles; and sub-adult and adult leatherback turtles. From 1990-2000, 92 entangled leatherbacks were reported, by boaters, fisherman, United States Coast Guard (USCG), and Sea Turtle Stranding Network members, from New York through Maine. A sea turtle entanglement is defined as any situation in which a sea turtle is wrapped in the lines associated with fixed gear. Since 2004, when this collection was originally approved, over 100 reports of sea turtle entanglements have been received. Additional leatherbacks were stranded with line wraps or evidence of prior entanglement. Loggerhead turtles entangled in pot gear have also been reported in the northeast, though to a lesser extent than leatherbacks. The proliferation of pot gear in shelf waters, where sea turtles are known to forage, suggests that the potential for interaction is high. National Marine Fisheries Service (NMFS), Northeast Region is working to reduce sea turtle mortality associated with fixed gear interactions through the establishment of the Sea Turtle Disentanglement Network (STDN). The STDN consists of responders from the stranding network, USCG, state agencies, Sea Grant, universities, private organizations, and local officials. These agencies have become involved in the STDN through an interest in disentanglement, unique experience and/or availability, and by direct recruitment. For example, the USCG, local harbor masters, and state Marine Patrols have been recruited into the STDN because of their vessel resources and availability to be out on the water during the summer. All STDN responders have been specially trained in sea turtle disentanglement. The objectives of the STDN program include: (1) promoting of reporting and increasing successful disentanglement; (2) developing and disseminating disentanglement guidelines for vessels permitted for fishing with pot gear; (3) developing disentanglement tools specific to sea turtles; and (4) establishing a trained and equipped network to respond to reported entanglement incidents. The Sea Turtle Disentanglement Guidelines and the Sea Turtle Entanglement Report Form have been distributed to members of the STDN for the documentation of all entanglement and disentanglement events.

The collection of this information on sea turtle entanglement in pot gear fisheries is necessary to ensure sea turtles are being conserved and protected, as mandated by the **Endangered Species Act of 1973, as amended**. Documenting the accurate occurrence of sea turtle incidental take in pot gear fisheries will help to determine if regulatory actions or management measures are necessary to protect sea turtles entangled in pot gear. This information will help NMFS better assess the pot gear fisheries (lobster, whelk, crab, fish trap) and their impacts on sea turtle populations in the northeast region (Maine to Virginia). Lack of observer coverage for the majority of these fisheries makes this information collection especially critical.

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 Sea Turtle Disentanglement Guidelines and Sea Turtle Entanglement Report Form (OMB Control No.: 0648-0496) were disseminated to the STDN in July of 2004 after Office of Management and Budget (OMB) emergency clearance, effective June 25, 2004. Full OMB clearance occurred in December of 2004.

Since the Sea Turtle Disentanglement Guidelines and Sea Turtle Entanglement Report Forms were disseminated in 2004, members of the STDN and the public have been requested to call and inform NMFS of any sea turtle entanglements they encounter. Information provided in these phone calls includes: name and type of reporting vessel, vessel cell phone number or radio call channel, reporter name and home phone number, date/time of report (and/or sighting event), location (latitude and longitude), description of turtle for species identification, condition of turtle alive or dead, description of entangling gear (rope, line, buoys, colors, ID numbers), location of entangling gear on turtle (head, flippers, single wrap, multiple wraps), description of any visible injuries, weather/sea conditions at the scene, and if photo documentation can be obtained. This information can also be reported via FAX or mail.

This information has been collected and housed by NMFS, Northeast Region, Protected Resources Division when a sea turtle entanglement event occurs. Reports and documentation of dead or injured sea turtles have also been obtained. During the past 3 and one half years, this information has been used to monitor the level of incidental take of sea turtles in pot gear fisheries in the Northeast Region. The information has been distributed to the NMFS, Northeast Fisheries Science Center and the Office of Protected Resources, as needed and as requested. Sea turtles are typically present in the northeast (Maine to Virginia) from May to November, therefore reporting and information collection has only occurred during these months.

Since 2004 we have received a record number of sea turtle entanglement reports and documentation has been of much higher quality. We have been able to obtain more high quality images and video, increasing the number of “confirmed” reports and increasing our understanding of sea turtle entanglement in pot gear. The “Buoy/Pot ID” field on the Sea Turtle Entanglement Report Form has proven especially valuable in allowing us to trace the gear on the turtle back to the gear owner and conduct a follow-up interview with the fisherman. Gear collection from sea turtle entanglement events (to be sent to NMFS for analysis) has also increased. We have been able to use the data collected to help identify the best and safest methods and tools for disentangling sea turtles, with the direct result of decreasing the mortality of pot gear interactions. NMFS has specifically used the information collected in the “Gear Description” section to positively identify the fishery involved (i.e. lobster, whelk, crab) in each entanglement, which allows for better monitoring the number of takes per fishery. Information collected on the nature of the entanglement, including the location of the entangling gear on the turtle, have helped create a base of information which may help us determine how and why the turtles are becoming entangled in the gear. This information may help direct future gear modification research and potential management measures. The use of this data is consistent with the general actions stated in the sea turtle recovery plans (i.e., minimize mortality from commercial fisheries).

NMFS, Northeast Region is currently planning a Workshop, which will convene members of the STDN, fishery managers, endangered species managers, industry, and sea turtle biologists to discuss all aspects of sea turtle/pot gear interactions. A portion of the information collected from the STDN and the general public on sea turtle entanglements will be presented as a starting point for discussions on the overall issue of sea turtle entanglements in fixed gear fisheries. It is anticipated that the workshop will result in potential research or methods to reduce the risk of sea turtle entanglements.

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. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (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 collection of information in question involves reporting the entanglement and disentanglement of sea turtles via a telephone call or hard copy of the Sea Turtle Entanglement Report Form (FAX or mailed). These methods of reporting are the most effective means to collect this information. While information could be collected via electronic mail, it is believed that most responders will have an easier time reporting via a telephone call or FAX. This would be particularly important in order to obtain real-time information from the scene of the entanglement via cellular phone or Very high frequency (VHF) Channel 16. As we only want trained and authorized responders engaging in disentanglement activities, we would only consider posting the disentanglement guidelines and report form on a private website with limited access. Members of the general public are requested to report all entanglements to the STDN or NMFS directly, it is then the STDN or NMFS that will fill out the Sea Turtle Entanglement Report Form based on the phone conversation.

4. Describe efforts to identify duplication.

Historically, NMFS did not collect this information directly but occasionally received reports from a variety of agencies and the public. The establishment of the STDN brings those agencies together with consistent disentanglement guidelines and a consistent report form to standardize the collection of this information. These documents will enable NMFS to ensure that takes are being reported and responded to immediately and to collect data on sea turtle entanglements on a real-time basis. This will also allow NMFS to ensure that sea turtle disentanglement is done correctly and that a trained and authorized responder is involved in the disentanglement. This specific type of reporting as requested in the Sea Turtle Disentanglement Guidelines and Sea Turtle Entanglement Report Form has not been previously required or requested.

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

This information collection will not have a significant impact on small entities. This collection of information does involve small entities but the impacts are minimized by the relatively infrequent nature of the reporting (i.e., only from May to November, with an estimated 45 reports annually) and the reporting by telephone, FAX, or mail. The costs of documentation involving photographs would be minimized through the use of disposable cameras and non-disposable digital cameras supplied by NMFS and distributed to members of the STDN. NMFS would cover costs associated with shipping photos, video, and any removed gear.

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

NMFS believes that sea turtle entanglement in pot gear is a significant source of mortality for leatherback and loggerhead sea turtles based on anecdotal reports and information collected to-date by the STDN and by the Sea Turtle Stranding and Salvage Network (STSSN). Due to lack of observer coverage of most pot gear fisheries, NMFS will not have any means of assessing sea turtle take in pot gear fisheries if this information is not collected. If NMFS does not continue to disseminate disentanglement guidelines and report forms, the incoming information on sea turtle entanglement in pot gear fisheries will become inconsistent, lack important data, and may not reach NMFS until long after the event. More importantly, disentanglement will continue to be performed by untrained and unauthorized responders who may cut the anchoring line and leave life-threatening entangling gear on the turtle. All information collection is opportunistic and therefore is only collected as frequently as an entangled turtle is encountered.

NMFS, Northeast Region has dedicated a significant amount of funding and staff time to establishing the STDN and this reporting information is essential to further those efforts and ensure that sea turtles are being disentangled correctly. Additionally, if injured turtles are taken and not reported to NMFS, those turtles would not receive the necessary medical care that is critical to their survival. Similarly, dead turtles found entangled in pot gear would also not be transported to a stranding and rehabilitation facility for a necropsy (if the condition of the turtle enables this), and as such, important information on the health of the turtle, and potentially the determination on the cause of death, would be lost. Acquiring this information to fulfill the aforementioned objectives is an important aspect of the NMFS, Northeast Region sea turtle program.

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

The collection of this information may be inconsistent with the OMB guidelines, Item #1. Item #1 states that, the information collection should not require respondents to report information more often than quarterly. Real-time reporting of entangled sea turtles is critical to ensuring that a trained and authorized responder is involved in the disentanglement. Real-time reports and documentation would thus need to be collected more frequently than on a quarterly basis. Sea turtles are generally only found in northeast waters from May to November, but there is no schedule for when a sea turtle may be found entangled during that time. For example, three

entangled sea turtles may be encountered in one week, or one entangled sea turtle may be encountered in a month. NMFS would request that all of those entanglements be reported as they occur. Therefore, there is the potential for responders to report sea turtle entanglements more often than quarterly. While the reporting of sea turtle entanglement may occur more often than quarterly, it will not occur all year round.

As stated above, we only want trained and authorized responders engaging in disentanglement activities, therefore, we would only consider posting the disentanglement guidelines and report form on a private website with limited access. Therefore, a fillable and printable version of the form will be available to the public by request, and will be available to all STDN responders on the NMFS, Northeast Region, Marine Mammal and Sea Turtle Stranding and Disentanglement Network webpage, network member private access page.

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.

A PRA Federal Register notice for this renewal was published on July 26, 2007 (72 FR 41062). No comments were received as a result of this notice.

In early 2007, in preparation for PRA renewal, the Sea Turtle Disentanglement Guidelines and Sea Turtle Entanglement Report Form were reviewed and updated with input from the following organizations external to NMFS: the Northeast Region (NER) Sea Turtle Stranding and Salvage Network, Provincetown Center for Coastal Studies, state agencies, United States Coast Guard, US Fish and Wildlife Service, and Sea Grant.

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

No payments or gifts will be provided to respondents.

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

Personal identifiers and any commercial information will be kept confidential to the extent permitted under the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Department of Commerce FOIA regulations (15 CFR Part 4, Subpart A), the Trade Secrets Act (18 U.S.C. 1905), and NOAA Administrative Order 216-100.

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 collection of information does not involve any questions of a sensitive nature.

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

The total hour estimate for the reporting requirement was determined from the following information:

The estimated annual number of reports for the next three years was based on recent data regarding encounters in northeast waters. Prior to NMFS efforts to promote reporting through increased outreach, 92 entangled leatherbacks were reported from Maine to New York from 1990 to 2000. This figure represents reports only from the Sea Turtle Stranding and Salvage Network (STSSN) and should be considered a minimum number because during that time period reports of entanglements were not specifically requested by the STSSN. In 2002, NMFS, Northeast Region established STDN as a dedicated disentanglement network. The STDN operates as a part of the larger STSSN, which was established in 1980 to collect information on and document sea turtle strandings along the US Gulf of Mexico and Atlantic coasts. The STSSN is made up of Federal, state, local and private agencies/organizations that are Federally authorized to respond to sea turtle strandings. From this figure, the average number of entangled leatherbacks in waters from Maine to New York per year is 8.36. Since 2001, NMFS has increased outreach efforts with the STSSN and US Coast Guard and formed the STDN. In 2002, 9 entanglements were reported from Maine to Virginia. In 2003, 15 entanglements were reported from Maine to Virginia. Since OMB approval in 2004, 39 entanglements were reported from Maine to Virginia. In 2005, 31 entanglements were reported, and in 2006, 6 reports were received. In 2007, a minimum of 34 reports have been received (reports may still be coming in). It is anticipated that the number of annual reports will increase. In the 2004 renewal request, we anticipated 15 respondents reporting 3 entanglement events per year for a total of 45 entanglement reports per year. Based on the number of respondents and number of reports received since 2004, we believe this estimate is still valid.

The hourly burden was calculated by assuming a phone call to NMFS will last for a maximum of one hour. The time of one hour per report is based on reports where the responder is on scene and needs to be talked through the disentanglement steps or is the person standing by while a disentanglement responder is dispatched to the scene. Such scenarios encompass the majority of sea turtle entanglement reports. Therefore, with 45 reports lasting one hour per report, the hourly burden would be 45 hours. The STDN responder would be asked to fill out the Sea Turtle Entanglement Report Form or NMFS staff would fill out the form based on their conversation with the responder or initial observer. Follow-up information, the time for which is included in the one-hour estimate, would include the shipping of photographic or video documentation and collected gear:

$$\begin{aligned} 15 \text{ respondents} \times 3 \text{ reports/respondent} &= 45 \text{ reports total} \\ 45 \text{ reports} \times \text{one hour} &= 45 \text{ hours.} \end{aligned}$$

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).

The cost burden was obtained by using the information on anticipated numbers of reports as presented in question #12 and the following information. An estimated 45 reports are anticipated

annually). The cost of a one hour phone call was estimated to be \$15 per call. Therefore, an average annual total cost estimate is \$675 (45 x \$15) for all responders annually.

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

The estimated cost to the Federal government will be only in terms of staff hours and supplies. An anticipated 45 reports will be called in to NMFS, and each call is expected to last a maximum of one hour. NMFS staff will be able to compile any written report/notes during this phone call. As such, the hourly burden on NMFS would be 45 hours. In addition, NMFS staff would receive and compile the Sea Turtle Entanglement Report Forms and input the data into a database. Each report is expected to take a maximum of 20 minutes to enter including obtaining follow-up information if any fields are left blank. This would require an additional 10 hours of staff time for a total hourly burden on NMFS of 40 hours. The financial burden would depend upon the pay band level of the party answering the phone call and entering the data. The staff fielding these calls and entering this data likely will be pay band level II. However, this task would be included in the respective staff's performance plan and would not be an additional monetary requirement (as it is included in the staff's current salary).

Supplies would include the purchase of approximately 3 new disentanglement kits each year which would be distributed amongst the STDN responders as new equipment is needed. Kits include disentanglement tools and equipment, documentation supplies, and safety gear. Each kit costs approximately \$500.00, for a total cost of **\$1500.00** annually. Digital cameras are used to document the majority of disentanglement events: however, it is anticipated that 5 disposable cameras will be needed each year for responders. The purchase of 5 disposable cameras at \$10.99 per camera is a total of \$54.95 (**\$55**). Additional costs would be the development of disposable camera film at \$8.00 per camera for a total of **\$40**. NMFS would also cover shipping of report forms, pictures, disposable cameras, video, and any removed gear. The cost of this would vary depending on weight of gear shipped (with or without pot, multiple pots, etc.). In the majority of events, photos and report forms will be transferred electronically by email or fax, with no associated shipping costs. However, it is estimated that 5 events each year will require the use of a disposable camera or associated video. The shipment of these materials would likely cost between \$1 and \$10. Therefore, the shipment of 5 cameras/video tapes throughout the season would cost an average total of **\$50**.

The shipment of gear would vary depending on size and weight, but would likely cost between \$10 and \$60. Any gear recovered from an entanglement that weighs more than 15 lbs. would be photo documented and held by the STDN member until it could be personally transferred to NMFS via direct pick-up. Additionally, several sets of gear are personally transferred to NMFS due to the close proximity between the STDN responders and NMFS personnel. Based on the number of reported events between 2004 and 2007 (110) and the number of events during that time where gear was collected (36), it is estimated that gear will be collected for one third or less of all reported cases, estimated at 10 to 15 events each year. If gear was collected from 15 events during a given year, it is estimated that half of all gear would be personally transferred to NMFS due to size/weight or proximity to NMFS personnel. Therefore, in a given year approximately eight pieces of gear would be shipped following an entanglement event. If the eight sets of gear were shipped at \$60, the total cost of shipping gear would be **\$480** each year

The average total annualized cost to the Federal Government would thus be \$2,125.

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 to these sections.

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

It is not anticipated that the results of this collection will be published.

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.

Expiration Date can be displayed on both the Guidelines and Form.

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

This item is not applicable to this information collection request.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection request does not employ statistical methods.

SEA TURTLE DISENTANGLEMENT GUIDELINES

Updated: September 2007

INITIAL REPORT:

When initial report is received, collect the following information from the caller:

- Name of reporting vessel
- Type of vessel
- Vessel cell phone number or radio call channel
- Observer name and home phone number
- Date/Time of report (and/or sighting event)
- Location (Latitude and Longitude)
- Description of turtle for species ID
- Status of turtle– alive or dead
- Description of entangling gear (rope, line, buoys, colors)
- Location of entangling gear on turtle (head, flippers, single wrap, multiple wraps)
- Description of any visible injuries
- Weather/sea conditions at the scene

Ask the caller the following questions:

- Are you still on scene with the turtle? [If not, when was it last seen?]
- How long can you stand by?
- Can you stand by until an authorized disentanglement responder* arrives? [Provide an ETA for the responder]
- Are there other vessels nearby that could help with standing by [if needed]?
- Does the turtle appear to be anchored or making way? If making way, estimate swimming speed and direction.
- Can you take photographs or video of the turtle and the gear?

*If the report is received from a commercial fisherman and they have prior experience dealing with entangled turtles, they should be encouraged to assist the disentanglement responder. Commercial fishermen are generally well equipped and often have experience in successfully releasing turtles safely. This is particularly advised if the responder is unable to get on scene in a timely manner. It is preferred that the turtle be released by the fishermen, with guidance from the responder, than to lose the opportunity to intervene, possibly resulting in the death of the turtle. The responder should request all information required to complete the Sea Turtle Entanglement Report Form.

HOW TO APPROACH AN ENTANGLED SEA TURTLE:

- Look for moving or unusually clumped buoys and lines near the turtle.
- Approach turtle slowly and carefully until vessel is alongside, then stop the vessel.
- Record latitude/longitude and time at turtle's initial location.

HOW TO ASSESS AND DOCUMENT THE ENTANGLEMENT:

- Is the turtle moving, attempting to swim away from the vessel or diving?
- How is the turtle entangled: flippers (front right, front left, etc.), head, or shell?

- Are there single or multiple wraps of line on the turtle?
- Are the wraps restricting the turtle's movement or cutting into the skin?
- Is the turtle bleeding?
- Are there any other new or old injuries (such as propeller wounds)?

HOW TO DISENTANGLE:

The goal is to release the turtle free of all gear

- Do not get into the water with the turtle or bring it aboard. Work from the vessel with the turtle in the water.
- Determine which line is under strain from anchoring or drifting gear.
- Grapple the anchoring line and maintain a firm hold to keep turtle close to the vessel without lifting the turtle above the water. To avoid losing the turtle before completely disentangled, ***do not release or cut this line before trying to remove all other gear.***
- Try to unravel the gear from the turtle without cutting. Be careful around powerful flippers, jaws, and claws.
- If the gear cannot be removed by unraveling and the turtle is at risk of strangulation, drowning, or further injury, try to cut the line.
- Avoid cutting the turtle by pulling line away from the turtle with a boat hook before cutting.
- If gear must be cut, tie it off to the boat or existing gear to avoid losing the gear. Save all cut off/removed gear for analysis on shore (see *Documentation*).
- If you cannot free the turtle of ***ALL gear***, report the last known location, area landmarks, wind and current speed and direction, and any identifying characteristics about the turtle or gear. Report this information to ***978-281-9531*** or ***VHF Channel 16***.

HOW TO RELEASE:

- Leave engines in neutral and release the turtle from the last line (the anchoring line).
- Record the latitude/longitude and time of release.
- Ensure that the turtle is safely away from the vessel before starting the engines.
- Observe turtle behavior after release. Did it dive and/or swim away or did it remain relatively immobile at the surface?

DOCUMENTATION FOR LIVE OR DEAD ENTANGLED SEA TURTLES:

- Log critical information (time, location, sea turtle description, signs of injury, behavior of live turtles) when you encounter an entangled sea turtle. Please report the entanglement event to the NOAA Fisheries Service, Northeast Region Stranding Hotline at ***978-281-9531*** or ***VHF Channel 16***. Responders should fill out the Sea Turtle Entanglement Report Form and send to the address or fax number below. If you do not have a copy of this form, please call ***978-281-9300 x 6520*** to request one.
- Log information about gear (line type, color and diameter, buoy/float type and color, buoy/pot ID #s), and final location of gear (brought ashore, left at site, etc.). Retain all gear that is removed. Please call ***978-281-9300 x 6520*** to arrange for gear to be transferred for analysis. If gear cannot be brought ashore, please photograph and video the gear.
- If possible, obtain **photographic and/or video documentation** of the incident from

encounter to release. Photograph/video the turtle (head and shell), the gear, any wraps of line on the turtle and sites of injury. If the turtle is a leatherback, photograph the pink markings on the head for individual identification purposes. Please email or mail copies of photographs/video to the address below. We will return copies of the photos/video to you upon your request.

Mailing Address for Photos, Video, and Report Forms:

Sara McNulty, Sea Turtle Disentanglement Coordinator
NOAA Fisheries Service, Northeast Region
One Blackburn Drive
Gloucester, MA 01930
Ph: 978-281-9300 x6520

Fax Number and Email for Report Forms:

978-281-9394
sara.mcnulty@noaa.gov

Mailing Address for Gear Collected from Disentangled Sea Turtles:

Al Blott, Gear Specialist
NOAA Fisheries Service
PO Box 1692, 113 Bruce Boyer St
Kingston, RI 02852
(401) 294-0442

The collection of information on sea turtle entanglement is necessary to ensure sea turtles are being conserved and protected, as mandated by the Endangered Species Act of 1973, as amended. Your voluntary collection and submission of this information will help achieve this objective. The public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. 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. 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. Personal identifiers and any commercial information will be kept confidential to the extent permitted under the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Department of Commerce FOIA regulations (15 CFR Part 4, Subpart A), the Trade Secrets Act (18 U.S.C. 1905), and NOAA Administrative Order 216-100. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to (NOAA Fisheries, Northeast Region Protected Resources Division, One Blackburn Drive, Gloucester, MA 01930).

OMB Control No.: 0648-0496; Expiration Date: 12/31/2007

SEA TURTLE ENTANGLEMENT REPORT FORM

FIELD #:

NMFS #:

EVENT CONFIRMATION: Confirmed Not Confirmed If Confirmed, How? _____**INITIAL OBSERVER** Name: _____ Phone: _____

Address/Affiliation: : _____

EXAMINER / RESPONDER (if different from initial observer)

Name: _____ Phone: _____

Address: _____

Organization: _____

SPECIES (Check ONE) DC = Leatherback OK = Olive Ridley CC = Loggerhead EI = Hawksbill LK = Kemp's Ridley HY = Hybrid CM = Green UN = Unidentified

of Entangled Animals: _____

LOCATION

State: _____ County: _____

Nearest Port/Town: _____

Body of water: _____

Locality Details: _____

Latitude: _____

Longitude: _____

Stranded ashore: YES NO**PHOTO DOCUMENTATION**Photos/Video Taken: YES NO

Disposition of Photos: _____

DATE OF INITIAL REPORT: Year: _____ Month: _____ Day: _____

CONDITION: (Check one)

 0. Alive 1. Fresh dead 2. Moderate decomposition 3. Severe decomposition 4. Dried carcass

Sea/Weather Conditions: _____

DATE OF ASSESSMENT/DISENTANGLEMENT:

Year: _____ Month: _____ Day: _____

CONDITION: (Check one)

 0. Alive 1. Fresh dead 2. Moderate decomposition 3. Severe decomposition 4. Dried carcass

Sea/Weather Conditions: _____

HUMAN INTERACTION INFORMATIONFishery Interaction: YES - Describe the Interaction: _____Signs of Boat Strike: YES NO CBD Not Examined - Describe: _____Other Human Interaction: YES NO CBD Not Examined - Describe: _____**GEAR DESCRIPTION** 1. Lobster Pot(s) 4. Fish Pot(s) 7. Unknown Pot Gear 2. Whelk/Conch Pot(s) 5. Fish Trap (Pound net/Weir) 8. Unknown Gear/Line 3. Crab Pot(s) 6. Gillnet Gear 8. Other _____If Pot Gear, Indicate the type of set: single double trawl unknownIf Gillnet Gear, Indicate the entangling portion of gear: end line/ buoy netting unknown**LINE DESCRIPTION**Line 1 diameter: _____ cm in actual estimated type: _____ color: _____Line 2 diameter: _____ cm in actual estimated type: _____ color: _____Line 3 diameter: _____ cm in actual estimated type: _____ color: _____**BUOY DESCRIPTION**

Number of Buoys: _____

Buoy 1 - Color(s): _____ Shape/Style: _____ Buoy ID number(s): _____

Buoy 2 - Color(s): _____ Shape/Style: _____ Buoy ID number(s): _____

Buoy 3 - Color(s): _____ Shape/Style: _____ Buoy ID number(s): _____

GEAR COLLECTED: YES NO Disposition of gear: _____Was all the gear removed: YES NO

If NO, Describe remaining gear and its position on the turtle: _____

LIVE TURTLE DISPOSITION 1. Left at site, no action taken 2. Disentangled and released on site 3. Partially disentangled and released on site 4. Lost during disentanglement 5. Euthanized (consult NMFS/USFWS) 6. Collected for treatment 6. Relocated to: _____ 7. Other: _____ 8. Unknown**CARCASS DISPOSITION** 1. Left at site 2. Towed ashore 3. Buried: on beach
 off beach 4. Scientific collection 5. Educational collection 6. Other: _____ 7. Unknown**SAMPLE INFORMATION**NECROPSIED: YES NO

Date: _____

Necropsied by: _____

BIOPSIED: YES NO

Disposition of biopsy: _____

Other Sampling: _____

MORPHOLOGICAL DATA	TAG/MARK DATA	Checked for Flipper Tags?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
SEX: <input type="checkbox"/> Unknown <input type="checkbox"/> Male <input type="checkbox"/> Female		Scanned for PIT Tags?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
How was sex determined: <input type="checkbox"/> Necropsy <input type="checkbox"/> Tail length (<i>adults only</i>)				
Length of tail beyond carapace: _____ <input type="checkbox"/> cm <input type="checkbox"/> in <input type="checkbox"/> actual <input type="checkbox"/> estimated	<u> </u> <i>Tag #</i>	<i>Flipper Placement</i>	<i>Applied</i>	<i>Present</i>
Straight Carapace Length**: _____ <input type="checkbox"/> cm <input type="checkbox"/> in <input type="checkbox"/> actual <input type="checkbox"/> estimated	_____ <i>Type</i>	LF LR RF RR	<input type="checkbox"/>	<input type="checkbox"/>
Curved Carapace Length**: _____ <input type="checkbox"/> cm <input type="checkbox"/> in <input type="checkbox"/> actual <input type="checkbox"/> estimated	_____	LF LR RF RR	<input type="checkbox"/>	<input type="checkbox"/>
Weight _____ <input type="checkbox"/> lbs <input type="checkbox"/> kg <input type="checkbox"/> actual <input type="checkbox"/> estimated	_____	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
**Carapace measurements are notch to tip (see diagram below)	Carcass painted: <input type="checkbox"/> YES <input type="checkbox"/> NO If painted, color _____			

RELEASE INFORMATION
 Behavior at release: active moderately active inactive
 Describe behavior: _____

ENTANGLEMENT DIAGRAM AREA

Please provide a diagram of the entangling gear on the turtle. Also mark any new or healed wounds, abnormalities, and tag locations.

EVENT SUMMARY AND ADDITIONAL REMARKS:

DISCLAIMER

These data should not be used out of context or without verification. This should be strictly enforced when reporting signs of human interaction data.

The collection of information on sea turtle entanglement is necessary to ensure sea turtles are being conserved and protected, as mandated by the Endangered Species Act of 1973, as amended. Your voluntary collection and submission of this information will help achieve this objective. The public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NMFS standards for confidentiality, privacy, and electronic information. 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. Personal identifiers and any commercial information will be kept confidential to the extent permitted under the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Department of Commerce FOIA regulations (15 CFR Part 4, Subpart A), the Trade Secrets Act (18 U.S.C. 1905), and NOAA Administrative Order 216-100. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to (NMFS, Northeast Region Protected Resources Division, One Blackburn Drive, Gloucester, MA 01930).



Instructions for Completing the Sea Turtle Entanglement Report Form For distribution to STDN Response Agencies

Field #: Indicate the Field Number given to the animal/event by the response organization. This should be a unique ID, which will never change. It is possible for more than one agency to respond to an individual animal, in which case a single event may have more than one Field #.

NMFS ID #: NOAA's National Marine Fisheries Service (NMFS) will assign a regional number to each entanglement event. Please leave this section blank.

Event Confirmation: Check box for Confirmed or Not Confirmed, and describe how the event has been confirmed. Confirmed events are those in which at least one of the following applies:

- 1) A trained Sea Turtle Disentanglement Network (STDN) responder was on scene to witness the event,
- 2) Photos or video were taken to document the entanglement event, or
- 3) An experienced or reliable source eye witnessed the event and is able to clearly and definitively detail the entanglement, the gear, and the sea turtle involved*

*Confirmation of an event based on #3 is subject to NMFS discretion.

Initial Observer: The initial observer is the individual who encountered the entangled turtle first hand and reported it to the STDN either directly or through another individual or agency. Please record the full name and contact information including phone number and address for the initial observer. If the report was relayed to your organization by the USCG or another intermediate source, do not put the intermediate source as the Initial Observer. If name/address info is not available or was not collected, please indicate a general description of the initial observer (i.e. recreational boater or commercial fisherman).

Examiner/Responder: The examiner/responder is the person who handled, disentangled, and collected data on the turtle in the field, or attempted to do so, but was unable to relocate the animal. Please include the full name and provide a complete address and phone number where the responder can be reached. This may be the Initial Observer, if the initial observer also disentangled the turtle, either on their own or by direction from the STDN. Please indicate if the initial observer disentangled the turtle based on verbal direction from the STDN.

Species: Check only one box. Refer to a species identification guide to determine the species. When possible, take photos of the turtle for species verification. Photos of the carapace and head are most useful. If you are unsure about the species ID, take several photos from different angles. Do not guess. Please contact NMFS if you need sea turtle identification materials.

Location: Fill in all fields in this section.

State/County: Indicate the state and county where the event occurred. If the event occurred in the EEZ, indicate EEZ waters off X-state.

Nearest Port/Town: Indicate the nearest port or town.

Body of water: Note the body of water, be as specific as possible, but only reference places that can be readily found on maps, do not use "local" names. It may be necessary to detail multiple bodies of water (i.e. X-Harbor, in Y-Bay).

Locality Details: Include a general description of the event location, including proximity to land (i.e. 2 miles south of Monomoy Light House, Nantucket Sound). Please only reference places that can be readily found on maps, do not use "local" names. **Latitude/Longitude:** Make every effort to collect the GPS location for all entanglement events. If you are given Loran units by the Initial Observer, please make an effort to convert that location to Lat/long, but also provide the Loran location.

Stranded Ashore: Please check "yes" if the animal stranded on a beach or other land mass naturally. Please check "no" if the disentanglement occurred in the water and the animal was not brought to shore. Also check "no" if the animal was collected from the water and brought to a rehab facility. If this is the case, make sure you indicate that the animal was collected for treatment under "Live Turtle Disposition".

Date of Initial Report: Please indicate the date the turtle was first encountered. This date should indicate when the Initial Observer encountered the turtle.

Condition: Check the box for the condition code that best describes the turtle. If the turtle is dead and seems intermediate between two codes, pick the one that fits the best. If the turtle smells at all, it is not fresh dead. If uncertain about the condition, provide a description of the animals condition (the look and feel of the skin, smells, and amount of bloating) in “Event Summary and Additional Remarks”.

Sea/Weather Conditions: Indicate briefly the weather conditions; this may include the winds, sea state, precipitation, and temperature.

Date of Assessment Disentanglement

Please indicate the date the turtle was disentangled or assessed. This date should indicate when the person listed as the Examiner/Responder was on scene.

Condition: Check the box for the condition code that best describes the turtle. If the turtle is dead and seems intermediate between two codes, pick the one that fits the best. If the turtle smells at all, it is not fresh dead. If uncertain about the condition, provide a description of the animals condition (the look and feel of the skin, smells, and amount of bloating) in “Event Summary and Additional Remarks”.

Sea/Weather Conditions: Indicate briefly the weather conditions; this may include the winds, sea state, precipitation, and temperature.

Photo Documentation

Please indicate if photos or video were taken. Photos should be taken of the sea turtle for ID confirmation, the gear, and the overall entanglement. Under disposition, please indicate where the photos are located and if they were sent to NMFS.

NOTE: All photos should be sent to NMFS for inclusion in the event record.

Human Interaction Information: In this section we are looking for information on any visible human interactions, including: fishery interactions, vessel/boat strikes, marine debris ingestion/entanglement, mutilation, or others. However, the main purpose for this form is to collect information on Fixed Gear Fishery Interactions.

Fishery Interaction:

This form should ONLY be used if the answer to this question is YES. Therefore, it is the only possible choice. If any gear is present on or inside an animal, then you have a confirmed fishery interaction.

On the line provided, please detail the location of the gear on the animal and any injuries associated with the presence of the gear.

Signs of Boat Strike: Please indicate if there are signs of a boat strike. The injuries do not have to be new or associated with the entanglement.

- “Yes” indicates that the animal was checked for injuries and signs of a boat strike were found.
- “No” indicates that the animal has been fully checked for injuries and no signs of boat strike could be found.
- “CBD” stands for Could not Be Determined, this indicates one of the following: (1) you have examined the animal and Could not Determine whether the marks you saw were signs of boat strike, or (2) you could not properly and fully examine the animal.
- “Not Examined” indicates that the animal was not checked for these injuries. This may be the case if the turtle is disentangled by a boater and the report is relayed to the STDN.

One the line provided, please describe the injuries and their current state (open wound, bleeding, beginning to heal, scarring).

Other Human Interaction: Please indicate if there are signs of human interaction *other than* a boat strike or fishery interaction. The injuries do not have to be new or associated with the entanglement.

- “Yes” indicates that the animal was checked for injuries and signs of human interaction were found.
- “No” indicates that the animal has been fully checked for injuries and no signs of human interaction could be found.
- “CBD” stands for Could not Be Determined, this indicates one of the following: (1) you have examined the animal and Could not Determine whether the marks you saw were signs of human interaction, or (2) you could not properly and fully examine the animal.
- “Not Examined” indicates that the animal was not checked for these injuries. This may be the case if the turtle is disentangled by a boater and the report is relayed to the STDN.

One the line provided, please describe the injuries and their current state (open wound, bleeding, beginning to heal, scarring).

Gear Description: Check one box to indicate the type of gear involved in the entanglement.

- If a *buoy, line, and pot* are present on the animal – please check Unknown Pot Gear; do not guess at the fishery involved. You may check a specific fishery *if* you have confirmation of the target species by the gear owner, or some other experience that positively determines the gear type. If there is an identifying number on the buoy or trap, NMFS may be able to later determine the associated fishery. At that time, NMFS will update the form with the correct gear classification.
- If only a *buoy and line* are present on the animal - please check Unknown Gear/Line not Unknown Pot Gear; do not assume it is from a pot fishery unless you are absolutely positive. If there is an identifying number on the buoy, NMFS may be able to later determine the associated gear type and fishery. At that time, NMFS will update the form with the correct gear classification.
- If *only line* is present on the animal, please indicate Unknown Gear/Line.

If pot gear, indicate the number of pots involved. Check Unknown if you do not know if it was a single or multiple pot trawl.

If gillnet gear, indicate the portion of gear that was entangling the turtle.

Line Description: Provide the line diameter, type, and color for all sections of line involved in the entangling gear.

Buoy Description: Provide the color, shape, and ID numbers for all buoys or floats involved in the entangling gear.

Gear Collected: Indicate if the gear was collected, and where the gear is currently located. This field should indicate the location of the gear at the time the form is submitted to NMFS. If the location of the gear changes after the form is submitted, please contact the Sea Turtle Disentanglement Coordinator with the updated gear location. If the gear has been transferred to NMFS, please indicate the method and date of transfer (i.e. Fed Ex'd on 6/7/07). The transfer and collection of all gear taken off an endangered or threatened sea turtle requires a Chain of Custody form. Please contact the Sea Turtle Stranding Coordinator for more information on Chain of Custody.

Was all gear removed? Please indicate if the turtle was fully or partially disentangled. If unsure, please do not state that all the gear was removed. Gear remaining on an animal may be life threatening, therefore, please provide as much information as possible on the location and nature of the gear remaining on the animal. If a buoy is attached to the remaining gear, include the color, type, and any ID numbers for comparison to future entanglement reports.

Live Turtle Disposition: This section pertains to live animals only. If the event involves a dead sea turtle leave this section blank and see “Carcass Disposition”. Please check the box that applies to disposition of the live animal immediately after the disentanglement response effort. If the animal was relocated to a different location for release, please indicate the release location. If the animal was collected for treatment, please indicate where the animal was taken.

Carcass Disposition: This section pertains to dead animals only, if the event involves a live sea turtle, please leave this section blank and see “Live Turtle Disposition”. Please check the box that applies to the location of the carcass after the response effort.

Sample Information: This section pertains to both live and dead sea turtle sampling. For all dead animals, the necropsy section must be filled out by checking either yes or no. Please also indicate if a biopsy was taken from a live or dead animal for genetics or other sampling purposes, and any other samples that were taken (i.e. aging samples).

Morphological Data: Immature sea turtles can not be sexed externally, so please check unknown if dealing with a live immature turtle. Adult male turtles will have a tail that extends well beyond the posterior tip of the carapace. If you document a turtle with a long tail, please measure the length of the tail beyond the carapace and record the measurement. Please be aware that juvenile males may not show this characteristic, therefore, if unsure about the age of the animal, do not use tail length for sex determination.

Carapace measurements for leatherback sea turtles are always notch to tip. Please indicate the carapace straight and curved lengths. Please also estimate the weight of the animal; in most cases you will be unable to determine an actual weight, so this field will depend on your experience with the weights of similar sized animals. This will

likely be an extremely rough estimate, please leave blank if unsure. Please indicate if the reporting source provides a total length rather than a carapace length.

Tag/Mark Data:

Existing tags: Check all four flippers of the turtle for flipper tags or evidence of lost tags (tear-out scars). Please indicate if the animal was checked for existing PIT or flipper tags. If tags are found, record all tag numbers, where the tags were located, and the return address inscribed on the tag.

Applied Tags: Tagging should only be done by trained and authorized responders. Please detail the number, type, and placement of all tags placed on the animal.

Carcass Painting: If the event involves a dead animal, indicate if the carcass was painted and what color. NMFS recommends painting all dead floating carcasses by either spray paint or grease sticks. Painted carcasses can help eliminate recounting the same animal if it is resighted.

Release Information: This section applies only to live animals that are released on site or relocated and immediately released. This section does not apply to live animals collected for treatment that are released after a period of time in rehab.

Please classify the behavior of the animal when released as active, moderately active, or inactive. Please also further describe the behaviors in your own words (animal dove immediately, or the animal lingered at the surface for a couple of minutes then dove out of sight). Behavior descriptions help us to further determine the health of the animal at the time of disentanglement and release.

Entanglement Diagram Area: Please use the drawings provided to diagram the nature of the entanglement and the placement of the gear on the turtle. Also mark any new or healed wounds, abnormalities, and tag locations.

Event Summary and Additional Remarks: DO NOT LEAVE THIS SECTION BLANK! Please provide a summary of the disentanglement event, including: progression of events, overall behavior of the animal, and time on scene. Provide any other unusual circumstances, wounds, or injuries to the turtle. If not already provided, please indicate how the animal was entangled, number of wraps on each appendage, any wounds caused by the wraps. Please indicate if the owner of the gear was somehow involved in the disentanglement event. Any other remarks on the case are welcome.

Please send the Entanglement Report via email, mail or fax to:

**Sara McNulty
Sea Turtle Stranding and Disentanglement Coordinator
NOAA Fisheries Service, Northeast Region
One Blackburn Drive
Gloucester, MA 01930**

**sara.mculty@noaa.gov
Fax: 978-281-9394**

The collection of information on sea turtle entanglement is necessary to ensure sea turtles are being conserved and protected, as mandated by the Endangered Species Act of 1973, as amended. Your voluntary collection and submission of this information will help achieve this objective. The public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NMFS standards for confidentiality, privacy, and electronic information. 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. Personal identifiers and any commercial information will be kept confidential to the extent permitted under the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Department of Commerce FOIA regulations (15 CFR Part 4, Subpart A), the Trade Secrets Act (18 U.S.C. 1905), and NOAA Administrative Order 216-100. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to (NMFS, Northeast Region Protected Resources Division, One Blackburn Drive, Gloucester, MA 01930).

SECTION 515 PRE-DISSEMINATION REVIEW & DOCUMENTATION GUIDELINES

Background

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554, aka the Data Quality Act or Information Quality Act) directed the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies.” OMB complied by issuing guidelines which direct each federal agency to 1) issue its own guidelines; 2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with the OMB 515 Guidelines or the agency guidelines; and 3) report periodically to OMB on the number and nature of complaints received by the agency and how the complaints were handled. The OMB Guidelines can be found at:

<http://www.whitehouse.gov/omb/fedreg/reproducible2.pdf>

The Department of Commerce Guidelines can be found at: <http://www.osec.doc.gov/cio/oipr/iqg.htm>

The NOAA Section 515 Information Quality Guidelines, created with input and reviews from each of the components of NOAA Fisheries, went into effect on October 1, 2002. **The NOAA Information Quality Guidelines are posted on the NOAA home page under “Information Quality.”** <http://www.noaanews.noaa.gov/stories/iq.htm>

The guidelines apply to a wide variety of government information products and all types of media, including printed, electronic, broadcast or other. The guidelines define “Information” as, “any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.” For example, this definition includes information that an agency disseminates from a web page. The guidelines define “Dissemination” as, “agency initiated or sponsored distribution of information to the public.” Explicitly **not** included within this term is distribution limited to “government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law.” It also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes. (See the NOAA IQ Guidelines, pgs 5-6).

To assist in Data Quality Act compliance, NOAA Fisheries has established a series of actions that should be completed for each new information product subject to the Data Quality Act. (See “Information Generation and Compliance Documentation” and “Pre-Dissemination Review” below.) **In addition to the information contained in this document, familiarity with the NOAA Section 515 Information Quality Guidelines (<http://www.noaanews.noaa.gov/stories/iq.htm>) is crucial for NOAA Fisheries employees who engage in the generation and dissemination of information.**

Information Generation and Compliance Documentation

- The fundamental step in the process is to create a Sec. 515 Information Quality file for each new information product. To aid in this process, a Section 515 Pre-Dissemination Review and Documentation form has been created. These guidelines are intended to serve as a supplement to the Pre-Dissemination Review and Documentation Form. The basic steps to the documentation process are outlined below.
- Complete general information (e.g., author/responsible office, title/description) section of the form.
- Determine the information category (i.e., original data; synthesized products; interpreted products; hydrometeorological, hazardous chemical spill, and space weather warnings, forecasts, and advisories; experimental products; natural resource plans; corporate and general information). **For most information products, you will only need to check one box.** More complex documents may be an “aggregate” of different categories of information products.
- Generate the information in a way that meets each of the applicable standards for the appropriate information category. See the NOAA Information Quality Guidelines.
- Document how the standards for **utility, integrity and objectivity** are met for each information product, describing what measures were taken to meet each of the applicable standards. Use the 2 page Pre-Dissemination Review & Documentation Form to document compliance with the Utility and Integrity standards contained in NOAA’s Information Quality Guidelines. The Utility and Integrity standards pertain to all categories of information disseminated by NOAA. Use these guidelines (pgs 4-11) to document compliance with the applicable objectivity standards for your information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.
- Maintain the Sec. 515 Information Quality file in a readily accessible place. [Pre-Dissemination Review](#)
- Before information is disseminated, it must be reviewed for compliance with the NOAA Sec. 515 Information Quality Guidelines. This is accomplished by reviewing the information and the Sec. 515 Information Quality file.
- The Pre-Dissemination Review should be conducted during the normal course of clearing the information product for release. The person conducting the Pre-Dissemination Review will sign and date the Pre-Dissemination Review & Documentation Form. The reviewing official must be at least one level above the person generating the information product.
- The Pre-Dissemination Review form and the supporting information quality documentation must accompany the information product through the clearance process and be maintained on file.

Completing the Section 515 Pre-Dissemination Review & Documentation Form

Using the Section 515 Pre-Dissemination Review & Documentation Form and these guidelines, document how the information product meets the

following standards for **Utility, Integrity and Objectivity**. **Please note:** Use the Pre-Dissemination Review & Documentation Form to document how the information product complies with the Utility and Integrity standards that pertain to all categories of information products. The Utility and Integrity standards are presented here for your convenience. Use these guidelines to explain how the information product meets the applicable Objectivity standards for the information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.

I. Utility of Information Product

Utility means that disseminated information is useful to its intended users. "Useful" means that the content of the information is helpful, beneficial, or serviceable to its intended users, or that the information supports the usefulness of other disseminated information by making it more accessible or easier to read, see, understand, obtain or use.

- A. Is the information helpful, beneficial or serviceable to the intended user? Explain.
- B. Who are the intended users of the data or information product? (e.g., the American public; other federal agencies; state and local governments; recreational concerns; national and international organizations). Is this data or information product an improvement over previously available information? Is it more detailed or current? Is it more useful or accessible to the public? Has it been improved based on comments or interactions with users?
- C. What media are used in the dissemination of the information? Printed publications? CD-ROM? Internet?
Is the product made available in a standard data format?
Does it use consistent attribute naming and unit conventions to ensure that the information is accessible to a broad range of users with a variety of operating systems and data needs?

II. Integrity of Information Product

Integrity refers to security - the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. Prior to dissemination, NOAA information, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. **Please note: all electronic information disseminated by NOAA adheres to the standards set forth in paragraph A below. If the information product is disseminated electronically, simply circle paragraph II(A) on the form.** You may also contact your IT Manager for further information.

Explain (circle) how the information product meets the following standards for integrity:

- A. All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, "Security of Automated Information Resources," OMB Circular A-130; the Computer Security Act; and the Government Information Security Reform Act.
- B. If information is confidential, it is safeguarded pursuant to the Privacy Act and Titles 13, 15, and 22 of the U. S. Code (confidentiality of census, business and financial information).
- C. Other/Discussion
(e.g., 50 CFR 600, Subpart E, Confidentiality of Statistics of the Magnuson-Stevens Fishery Conservation and Management Act; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the Marine Mammal Protection Act.)

III. Objectivity of Information Product

(1) Indicate which one of the following categories of information products apply for this product (check one):

- Original Data - go to Section A
- Synthesized Products - go to Section B
- Interpreted Products - go to Section C
- Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories - go to Section D
- Experimental Products - go to Section E
- Natural Resource Plans - go to Section F
- Corporate and General Information - go to Section G

(2) Describe how this information product meets the applicable objectivity standards.

General Standard: Information is presented in an accurate, clear, complete, and unbiased manner, and in proper context. The substance of the information is accurate, reliable, and unbiased; in the scientific, financial or statistical context, original and supporting data are generated and the analytical results are developed using sound, commonly accepted scientific and research methods. "Accurate" means that information is within an acceptable degree of imprecision or error appropriate to the particular kind of information at issue and otherwise meets commonly accepted scientific, financial and statistical standards.

If the information is "influential," that is, it is expected to have a genuinely clear and substantial impact on major public policy and private sector decisions, it is noted as such and it is presented with the highest degree of transparency. If influential information constitutes an assessment of risks to human health, safety or the environment, indicate whether the risk assessment was qualitative or quantitative, and describe which SDWA-adapted quality standards at page 9 of NOAA's Section 515 Information Quality Guidelines were applied to the information product.

Use of third party information in the product (information not collected or generated by NOAA) is only done when the information is of known quality and consistent with NOAA's Section 515 Guidelines; any limitations, assumptions, collection methods, or uncertainties concerning the information are taken into account and disclosed.

Specific Standards: Specific objectivity standards for categories of information products disseminated by NOAA are listed below. Document how the general and specific objectivity standards for the particular information product were met.

A. Original Data

Original Data are data in their most basic useful form. These are data from individual times and locations that have not been summarized or processed to higher levels of analysis. While these data are often derived from other direct measurements (e.g., spectral signatures from a chemical analyzer, electronic signals from current meters), they represent properties of the environment. These data can be disseminated in both real time and retrospectively. Examples of original data include buoy data, survey data (e.g., living marine resource and hydrographic surveys), biological and chemical properties, weather observations, and satellite data.

Objectivity of original data is achieved using sound quality control techniques.

Detail how the data collection methods, systems, instruments, training, and/or tools are appropriate to meet the requirements of the intended users.

Were the methods, systems, instruments, etc., validated before use?

Were standard operating procedures (SOPs) followed for time series data collections? If not, document the valid scientific reasons for the deviation.

Document the quality control techniques used, for example:

- Gross error checks for data that fall outside of physically realistic ranges (e.g., a minimum, maximum or maximum change)
- Comparisons made with other independent sources of the same measurement
- Examination of individual time series and statistical summaries
- Application of sensor drift coefficients determined by a comparison of pre- and post-deployment calibrations
- Visual inspection of data

Describe any evolution and/or improvements in survey techniques, instrument performance and/or data processing.

Have metadata record descriptions and explanations of the methods and quality controls to which original data are subjected been included in the disseminated product? If not, they must be made available upon request.

B. Synthesized Products

Synthesized Products are those that have been developed through analysis of original data. This includes analysis through statistical methods; model interpolations, extrapolations, and simulations; and combinations of multiple sets of original data.

While some scientific evaluation and judgment is needed, the methods of analysis are well documented and relatively routine.

Examples of synthesized products include summaries of fisheries landings statistics, weather statistics, model outputs, data display through Geographical Information System techniques, and satellite-derived maps.

The objectivity of synthesized products is achieved by using data of known quality, applying sound analytical techniques, and reviewing the products or processes used to create them before dissemination. For synthesized products, please document the following:

Identify data sources (preferred option) or be prepared to make them available upon request.

Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities?

Are the methods used to create the synthesized product published in standard methods manuals or generally accepted by the relevant scientific and technical communities? Are the methods documented in readily accessible formats by the disseminating office?

Describe the review process used to ensure the validity of the synthesized product or the procedures used to create them, e.g., statistical procedures, models, or other analysis tools.

If the synthesized product is unique or not regularly produced, was this product reviewed by internal and/or external experts?

If this is a routinely produced synthesized product, was the process for developing the product reviewed by internal and/or external experts?

Does the synthesized product include information about the methods used to create the product? If not, the methods must be made available upon request.

C. Interpreted Products

Interpreted Products are those that have been developed through interpretation of original data and synthesized products. In many cases, this information incorporates additional contextual and/or normative data, standards, or information that puts original data and synthesized products into larger spatial, temporal, or issue contexts. This information is subject to scientific interpretation, evaluation, and judgment. Examples of interpreted products include journal articles, scientific papers, technical reports, and production of and contributions to integrated assessments.

Objectivity of interpreted products is achieved by using data of known quality or from sources acceptable to the relevant scientific and technical communities and reliable supporting products, applying sound analytical techniques, presenting the information in the proper context, and reviewing the products before dissemination.

Are all data and information sources identified or properly referenced?

Are the methods used to create the interpreted product generally accepted by the relevant scientific and technical communities?

Is information concerning the quality and limitations of the interpreted product provided to help the user assess the suitability of the product for the user's application?

Describe the review process used to ensure that the product is valid, complete, unbiased, objective and relevant. For example, peer reviews, ranging from internal peer review by staff who were not involved in the development of the product to formal, independent, external peer review. The review should be conducted at a level commensurate with the importance of the interpreted product.

Does the interpreted product include a description of the methods used to create the product? If not, they must be made available upon

request.

D. Hydrometeorological, Hazardous Chemical Spill, and Space Weather

Warnings, Forecasts, and Advisories

Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories are time-critical interpretations of original data and synthesized products, prepared under tight time constraints and covering relatively short, discrete time periods. As such, these warnings, forecasts, and advisories represent the best possible information in given circumstances. They are subject to scientific interpretation, evaluation, and judgment. Some products in this category, such as weather forecasts, are routinely prepared. Other products, such as tornado warnings, hazardous chemical spill trajectories, and solar flare alerts, are of an urgent nature and are prepared for unique circumstances.

Objectivity of information in this category is achieved by using reliable data collection methods and sound analytical techniques and systems to ensure the highest possible level of accuracy given the time critical nature of the products.

What is the source of the data or information used in the product? Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities? Are the sources included in the information product? If not, they must be made available upon request. Are the methods used to create the product generally accepted by the relevant scientific and technical communities?

Please note if individual best judgment was used due to the time-critical nature of the product.

What mechanisms were used to evaluate the accuracy of the information product? Statistical analysis may be carried out for a subset of products for verification purposes.

E. Experimental Products

Experimental products are products that are experimental (in the sense that their quality has not yet been fully determined) in nature, or are products that are based in part on experimental capabilities or algorithms. Experimental products fall into two classes.

They are either (1) disseminated for experimental use, evaluation or feedback, or (2) used in cases where, in the view of qualified scientists who are operating in an urgent situation in which the timely flow of vital information is crucial to human health, safety, or the environment, the danger to human health, safety, or the environment will be lessened if every tool available is used. Examples of experimental products include imagery or data from non-NOAA sources, algorithms currently being tested and evaluated, experimental climate forecasts, and satellite imagery processed with developmental algorithms for urgent needs (e.g., wildfire detection).

Objectivity of experimental products is achieved by using the best science and supporting studies available, in accordance with sound and objective scientific practices, evaluated in the relevant scientific and technical communities, and peer-reviewed where feasible.

Describe the science and/or supporting studies used, the evaluation techniques used, and note any peer-review of the experimental product. Were the results of initial tests or evaluations made available where possible? Describe the review, by the appropriate NOAA unit, of the experimental products and capabilities documentation, along with any tests or evaluations.

Are explicit limitations provided concerning the quality of the experimental product? Is the degree of uncertainty indicated?

Describe the testing process used, e.g., the experimental product or capabilities are used only after careful testing, evaluation, and review by NOAA experts, and then are approved for provisional use only by selected field offices or other NOAA components. This process is repeated as needed to ensure an acceptable and reliable level of quality.

F. Natural Resource Plans

Natural Resource Plans are information products that are prescribed by law and have content, structure, and public review processes (where applicable) that will be based upon published standards, e.g., statutory or regulatory guidelines. Examples of such published standards include the National Standard Guidelines (50 CFR Part 600, Subpart D), Essential Fish Habitat Guidelines, and Operational Guidelines - Fishery Management Plan Process, all under the Magnuson-Stevens Fishery Conservation and Management Act; and the National Marine Sanctuary Management Plan Handbook (16 U.S.C. section 1434) under the National Marine Sanctuary Act. These Natural Resource Plans are a composite of several types of information (e.g., scientific, management, stakeholder input, and agency policy) from a variety of internal and external sources. Examples of Natural Resources Plans include fishery, protected resource, and sanctuary management plans and regulations, and natural resource restoration plans.

Objectivity of Natural Resource Plans will be achieved by adhering to published standards, using information of known quality or from sources acceptable to the relevant scientific and technical communities, presenting the information in the proper context, and reviewing the products before dissemination.

What published standard(s) governs the creation of the Natural Resource Plan? Does the Plan adhere to the published standards? (See the NOAA Sec. 515 Information Quality Guidelines, Section II(F) for links to the published standards for the Plans disseminated by NOAA.)

Was the Plan developed using the best information available? Please explain.

Have clear distinctions been drawn between policy choices and the supporting science upon which they are based? Have all supporting materials, information, data and analyses used within the Plan been properly referenced to ensure transparency?

Describe the review process of the Plan by technically qualified individuals to ensure that the Plan is valid, complete, unbiased, objective and relevant. For example, internal review by staff who were not involved in the development of the Plan to formal, independent, external peer review. The level of review should be commensurate with the importance of the Plan and the constraints imposed by legally enforceable deadlines.

G. Corporate and General Information

Corporate or general information includes all non-scientific, non-financial, non-statistical information. Examples include program and organizational descriptions, brochures, pamphlets, education and outreach materials, newsletters, and other general descriptions of NOAA operations and capabilities.

Corporate and general information disseminated by NOAA must be presented in a clear, complete, and unbiased manner, and in a context that enhances usability to the intended audience. To the extent possible, identify the sources of the disseminated information, consistent with confidentiality, privacy and security considerations and protections, and taking into account timely presentation, the medium of dissemination, and the importance of the information, balanced against the resources required and the time available.

Information disseminated by NOAA is reliable and accurate to an acceptable degree of error as determined by factors such as the importance of the information, the intended use, time sensitivity, expected degree of permanence, relation to the primary mission(s) of the disseminating office, and the context of the dissemination, balanced against the resources required and the time available.

For non-scientific, non-statistical information, has the information product been reasonably determined to be factually correct in the view of the disseminating office as of the time of dissemination?

Describe the review process for the information product. Review can be accomplished in a number of ways, including but not limited to combinations of the following:

- Active personal review of information by supervisory and management layers, either by reviewing each individual dissemination, or selected samples, or by any other reasonable method.
- Use of quality check lists, charts, statistics, or other means of tracking quality, completeness, and usefulness.
- Process design and monitoring to ensure that the process itself imposes checks on information quality .
- Review during information preparation.
- Use of management controls.
- Any other method, which serves to enhance the accuracy, reliability and objectivity of the information.

THE FREEDOM OF INFORMATION ACT

5 U.S.C. § 552

As Amended in 2002

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public--

- (A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
- (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
- (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
- (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
- (E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying--

- (A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;
- (C) administrative staff manuals and instructions to staff that affect a member of the public;
- (D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and
- (E) a general index of the records referred to under subparagraph (D);

unless the materials are promptly published and copies offered for sale. For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each case the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of an index on request at a cost not to exceed the direct cost of duplication. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if--

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, and except as provided in subparagraph (E), each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term "search" means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall not make any record available under this paragraph to--

(i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or

(ii) a representative of a government entity described in clause (i).

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that--

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section--

(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the

amount of the fee; or

(II) for any request described in clause (ii)(II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed \$250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo, provided that the court's review of the matter shall be limited to the record before the agency.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action. In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause is shown.

(D) Repealed by Pub. L. 98-620, Title IV, 402(2), Nov. 8, 1984, 98 Stat. 3335, 3357.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall--

(i) determine within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B)(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of

subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular requests--

(I) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(iv) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for the aggregation of certain requests by the same requestor, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated.

(C)(i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(ii) For purposes of this subparagraph, the term "exceptional circumstances" does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing the request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional circumstances exist for purposes of this subparagraph.

(D)(i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.

(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.

(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records--

(I) in cases in which the person requesting the records demonstrates a compelling need; and

(II) in other cases determined by the agency.

(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure--

(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time of the determination.

(iv) A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

(v) For purposes of this subparagraph, the term "compelling need" means--

(I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(vi) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person's knowledge and belief.

(F) In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

(b) This section does not apply to matters that are--

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where such deletion is made.

(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and--

(A) the investigation or proceeding involves a possible violation of criminal law; and

(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(d) This section does not authorize the withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(e)(1) On or before February 1 of each year, each agency shall submit to the Attorney General of the United States a report which shall cover the preceding fiscal year and which shall include--

(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(B)(i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

(ii) a complete list of all statutes that the agency relies upon to authorize the agency to withhold information under subsection (b)(3), a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld;

(C) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median number of days that such requests had been pending before the agency as of that date;

(D) the number of requests for records received by the agency and the number of requests which the agency processed;

(E) the median number of days taken by the agency to process different types of requests;

(F) the total amount of fees collected by the agency for processing requests; and

(G) the number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

(2) Each agency shall make each such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means.

(3) The Attorney General of the United States shall make each report which has been made available by electronic means available at a single electronic access point. The Attorney General of the United States shall notify the Chairman and ranking minority member of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means.

(4) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

(5) The Attorney General of the United States shall submit an annual report on or before April 1 of each calendar year which shall

include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term--

(1) "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) "record" and any other term used in this section in reference to information includes any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format.

(g) The head of each agency shall prepare and make publicly available upon request, reference material or a guide for requesting records or information from the agency, subject to the exemptions in subsection (b), including--

(1) an index of all major information systems of the agency;

(2) a description of major information and record locator systems maintained by the agency; and

(3) a handbook for obtaining various types and categories of public information from the agency pursuant to chapter 35 of title 44, and under this section.

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Last Updated December 23, 2002

PART 4--DISCLOSURE OF GOVERNMENT INFORMATION Subpart A--Freedom of Information Act

Sec. 4.1 General.

(a) The information in this part is furnished for the guidance of the public and in compliance with the requirements of the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552). This part sets forth the procedures the Department of Commerce (Department) and its components follow to make publicly available the materials and indices specified in 5 U.S.C. 552(a)(2) and records requested under 5 U.S.C. 552(a)(3). Information routinely provided to the public as part of a regular Department activity (for example, press releases issued by the Office of Public Affairs) may be provided to the public without following this part.

(b) As used in this subpart, component means any office, division, bureau or other unit of the Department listed in Appendix A to this part (except that a regional office of a larger office or other unit does not constitute a separate component).

Sec. 4.2 Public reference facilities.

(a) The Department maintains public reference facilities (listed in Appendix A to this part) that contain the records the FOIA requires to be made regularly available for public inspection and copying; furnishes information; receives and processes requests for records under the FOIA; and otherwise assists the public concerning Department operations under the FOIA.

(b) Each component of the Department shall determine which of its records are required to be made available for public inspection and copying, and make those records available either in its own public reference facility or in the Department's Central Reference and Records Inspection Facility. Each component shall maintain and make available for public inspection and copying a current subject-matter index of its public inspection facility records. Each index shall be updated regularly, at least quarterly, with respect to newly included records. In accordance with 5 U.S.C. 552(a)(2), the Department has determined that it is unnecessary and impracticable to publish quarterly or more frequently and distribute copies of the index and supplements thereto.

(c) Each component shall make public inspection facility records created on or after November 1, 1996 available electronically through the Department's "FOIA Home Page" link found at the Department's World Wide Web site (<http://www.doc.gov>). Information available at the site shall include:

(1) Each component's index of its public inspection facility records, which indicates which records are available electronically; and

(2) The general index referred to in paragraph (d)(3) of this section.

(d) The Department shall maintain and make available for public inspection and copying:

(1) A current index providing identifying information for the public as to any matter that is issued, adopted, or promulgated after July 4, 1997, and that is retained as a record and is required to be made available or published. Copies of the index are available upon request after payment of the direct cost of duplication;

(2) Copies of records that have been released and that the component that maintains them determines, because of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records;

(3) A general index of the records described in paragraph (d)(2) of this section;

(4) Final opinions and orders, including concurring and dissenting opinions made in the adjudication of cases;

(5) Those statements of policy and interpretations that have been adopted by a component and are not published in the Federal Register; and

(6) Administrative staff manuals and instructions to staff that affect a member of the public.

Sec. 4.3 Records under the FOIA.

(a) Records under the FOIA include all Government records, regardless of format, medium or physical characteristics, and include electronic records and information, audiotapes, videotapes, and photographs.

(b) Under the FOIA, the Department has no obligation to create, compile, or obtain from outside the Department a record to satisfy a request. In complying with a request for electronic data, whether the Department creates or compiles records (as by undertaking significant programming work) or merely extracts them from an existing database may be unclear. The Department shall in any case undertake reasonable efforts to search for the information in electronic format.

(c) Department officials may, upon request, create and provide new records pursuant to user fee statutes, such as the first paragraph of 15 U.S.C. 1525, or in accordance with authority otherwise provided by law. Such creation and provision of records is outside the scope of the FOIA.

(d) Components shall preserve all correspondence pertaining to the requests they receive under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by Title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Components shall not dispose of records while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

Sec. 4.4 Requirements for making requests.

(a) A request for records of the Department which are not customarily made available to the public as part of the Department's regular informational services must be in writing (and may be sent by mail, facsimile, or E-mail), and shall be processed under the FOIA, regardless whether the FOIA is mentioned in the request. Requests should be mailed to the Department component identified in Appendix A to this part that maintains those records, or may be sent by facsimile or E-mail to the numbers or addresses, respectively, listed at the Department's "FOIA Home Page" link found at the Department's World Wide Web site (<http://www.doc.gov>). If the proper component cannot be determined, the request should be sent to the central facility identified in Appendix A to this part. The central facility will forward the request to the component(s) it believes most likely to have the requested records. For the quickest handling, the

request (and envelope, if the request is mailed) should be marked ``Freedom of Information Act Request. ''

(b) For requests for records about oneself, Sec. 4.24 contains additional requirements. For requests for records about another individual, either a written authorization signed by the individual permitting disclosure of his or her records to the requester or proof that the individual is deceased (for example, a copy of a death certificate or an obituary) facilitates processing the request.

(c) The records requested must be described in enough detail to enable Department personnel to locate them with a reasonable amount of effort. If possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record, and the name and location of the office where the record is located. Also, if records about a court case are sought, the title of the case, the court in which the case was filed, and the nature of the case should be included. If known, any file designations or descriptions of the requested records should be included. In a general, the more specifically the request describes the records sought, the greater the likelihood that the Department will be able to locate those records. If a component determines that a request does not reasonably describe records, it shall inform the requester what additional information is needed or how the request is otherwise insufficient, to enable the requester to modify the request to meet the requirements of this section.

\1\ The United States Patent and Trademark Office (USPTO), which is established as an agency of the United States within the Department of Commerce, operates under its own FOIA **regulations** at 37 CFR part 102, subpart A. Accordingly, requests for USPTO records should be sent directly to the USPTO.

Sec. 4.5 Responsibility for responding to requests.

(a) In general. Except as stated in paragraph (b) of this section, the proper component of the Department to respond to a request for records is the component that first receives the request and has responsive records, or the component to which the Departmental Freedom of Information Officer assigns lead responsibility for responding to the request. Records responsive to a request shall include only those records within the Department's possession and control as of the date the proper component receives the request.

(b) Consultations and referrals. If a component receives a request for a record in its possession in which another Federal agency subject to the FOIA has the primary interest, the component shall refer the record to that agency for direct response to the requester. Ordinarily, the agency that originated a record will be presumed to have the primary interest in it. A component shall consult with another Federal agency before responding to a requester if the component receives a request for a record in which another Federal agency subject to the FOIA has a significant interest, but not the primary interest; or another Federal agency not subject to the FOIA has the primary interest or a significant interest (see Sec. 4.8 for additional information about referrals of classified information).

(c) Notice of referral. Whenever a component refers a document to another Federal agency for direct response to the requester, it ordinarily shall notify the requester in writing of the referral and inform the requester of the name of the agency to which the document was referred.

(d) Timing of responses to consultations and referrals. All consultations and referrals shall be handled in chronological order, based on when the FOIA request was received by the first Federal agency.

(e) Agreements regarding consultations and referrals. Components may make agreements with other Federal agencies to eliminate the need for consultations or referrals for particular types of records.

Sec. 4.6 Time limits and expedited processing.

(a) In general. Components ordinarily shall respond to requests according to their order of receipt.

(b) Initial response and appeal. Subject to paragraph (c)(1) of this section, an initial response shall be made within 20 working days (i.e., excluding Saturdays, Sundays, and legal public holidays) of the receipt of a request for a record under this part by the proper component identified in accordance with Sec. 4.5(a), and an appeal shall be decided within 20 working days of its receipt by the Office of the General Counsel.

(c) Unusual circumstances. (1) In unusual circumstances as specified in paragraph (c)(2) of this section, an official listed in Appendix B to this part may extend the time limits in paragraph (b) of this section by notifying the requester in writing as soon as practicable of the unusual circumstances and of the date by which processing of the request is expected to be completed. If the extension is for more than ten working days, the component shall provide the requester an opportunity either to modify the request so that it may be processed within the applicable time limit, or to arrange an alternative time frame for processing the request or a modified request.

(2) As used in this section, unusual circumstances means, but only to the extent reasonably necessary to properly process the particular request:

(i) The need to search for and collect the requested records from field facilities or other establishments separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are the subject of a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another component or Federal agency having a substantial interest in the determination of the request.

(3) If a component reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, the component may aggregate them. Multiple requests involving unrelated matters will not be aggregated.

(d) Multitrack processing. (1) A component may use two or more processing tracks by distinguishing between simple and more complex requests based on the number of pages involved, or some other measure of the amount of work and/or time needed to process the request, and whether the request qualifies for expedited processing as described in paragraph (e) of this section.

(2) A component using multitrack processing may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing. A component doing

so shall contact the requester by telephone, E-mail, or letter, whichever is most efficient in each case.

(e) Expedited processing. (1) Requests and appeals shall be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) The loss of substantial due process rights;

(iii) A matter of widespread and exceptional media interest involving questions about the Government's integrity which affect public confidence; or

(iv) An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing should be sent to the component listed in Appendix A to this part that maintains the records requested.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category described in paragraph (e)(1)(iv) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category described in paragraph (e)(1)(iv) of this section must also establish a particular urgency to inform the public about the Government activity involved in the request, beyond the public's right to know about Government activity generally.

(4) Within ten calendar days of its receipt of a request for expedited processing, the proper component shall decide whether to grant it and shall notify the requester of the decision. Solely for purposes of calculating the foregoing time limit, any request for expedited processing shall always be considered received on the actual date of receipt by the proper component. If a request for expedited processing is granted, the request shall be given priority and processed as soon as practicable, subject to Sec. 4.11(i). If a request for expedited processing is denied, any appeal of that decision shall be acted on expeditiously.

Sec. 4.7 Responses to requests.

(a) Grants of requests. If a component makes a determination to grant a request in whole or in part, it shall notify the requester in writing. The component shall inform the requester in the notice of any fee to be charged under Sec. 4.11 and disclose records to the requester promptly upon payment of any applicable fee. Records disclosed in part shall be marked or annotated to show the applicable FOIA exemption(s) and the amount of information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted shall also be indicated on the record, if feasible.

(b) Adverse determinations of requests. If a component makes an adverse determination regarding a request, it shall notify the requester of that determination in writing. An adverse determination is a denial of a request in any respect, namely: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not readily reproducible in the form or format sought by the requester; a determination that what has been requested is not a record subject to the FOIA (except that a determination under Sec. 4.11(j) that records are to be made available under a fee statute other than the FOIA is not an adverse determination); a determination against the requester on any disputed fee matter, including a denial of a request for a reduction or waiver of fees; or a denial of a request for expedited processing. Each denial letter shall be signed by an official listed in Appendix B to this part, and shall include:

(1) The name and title or position of the denying official;

(2) A brief statement of the reason(s) for the denial, including applicable FOIA exemption(s);

(3) An estimate of the volume of records or information withheld, in number of pages or some other reasonable form of estimation. This estimate need not be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable FOIA exemption; and

(4) A statement that the denial may be appealed, and a list of the requirements for filing an appeal under Sec. 4.10(b).

Sec. 4.8 Classified Information.

In processing a request for information classified under Executive Order 12958 or any other executive order concerning the classification of records, the information shall be reviewed to determine whether it should remain classified. Ordinarily the component or other Federal agency that classified the information should conduct the review, except that if a record contains information that has been derivatively classified by a component because it contains information classified by another component or agency, the component shall refer the responsibility for responding to the request to the component or agency that classified the underlying information. Information determined to no longer require classification shall not be withheld on the basis of FOIA exemption (b)(1) (5 U.S.C. 552(b)(1)), but should be reviewed to assess whether any other FOIA exemptions should be invoked. Appeals involving classified information shall be processed in accordance with Sec. 4.10 (c).

Sec. 4.9 Business Information.

(a) In general. Business information obtained by the Department from a submitter will be disclosed under the FOIA only under this section.

(b) Definitions. For the purposes of this section:

(1) Business information means commercial or financial information, obtained by the Department from a submitter, which may be protected from disclosure under FOIA exemption (b)(4) (5 U.S.C. 552(b)(4)).

(2) Submitter means any person or entity outside the Federal Government from which the Department obtains business information, directly or indirectly. The term includes corporations; state, local and tribal governments; and foreign governments.

(c) Designation of business information. A submitter of business information should designate by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers protected from disclosure under FOIA exemption (b)(4). These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer period.

(d) Notice to submitters. A component shall provide a submitter with prompt written notice of a FOIA request or administrative appeal that seeks its business information whenever required under paragraph (e) of this section, except as provided in paragraph (h) of this section, in order to give the submitter an opportunity under paragraph

(f) of this section to object to disclosure of any specified portion of that information. Such written notice shall be sent via certified mail, return receipt requested, or similar means. The notice shall either describe the business information requested or include copies of the requested records containing the information. If notification of a large number of submitters is required, notification may be made by posting or publishing the notice in a place reasonably likely to accomplish notification.

(e) When notice is required. Notice shall be given to the submitter whenever:

(1) The submitter has designated the information in good faith as protected from disclosure under FOIA exemption (b)(4); or

(2) The component has reason to believe that the information may be protected from disclosure under FOIA exemption (b)(4).

(f) Opportunity to object to disclosure. A component shall allow a submitter seven working days (i.e., excluding Saturdays, Sundays, and legal public holidays) from the date of receipt of the written notice described in paragraph (d) of this section to provide the component with a statement of any objection to disclosure. The statement must identify any portions of the information the submitter requests to be withheld under FOIA exemption (b)(4), and describe how each qualifies for

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protection under the exemption: that is, why the information is a trade secret, or commercial or financial information that is privileged or confidential. If a submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to disclosure of the information. Information a submitter provides under this paragraph may itself be subject to disclosure under the FOIA .

(g) Notice of intent to disclose. A component shall consider a submitter's objections and specific grounds under the FOIA for nondisclosure in deciding whether to disclose business information. If a component decides to disclose business information over a submitter's objection, the component shall give the submitter written notice via certified mail, return receipt requested, or similar means, which shall include:

(1) A statement of reason(s) why the submitter's objections to disclosure were not sustained;

(2) A description of the business information to be disclosed; and

(3) A statement that the component intends to disclose the information seven working days from the date the submitter receives the notice.

(h) Exceptions to notice requirements. The notice requirements of paragraphs (d) and (g) of this section shall not apply if:

(1) The component determines that the information should not be disclosed;

(2) The information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with Executive Order 12600; or

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous, in which case the component shall provide the submitter written notice of any final decision to disclose the information seven working days from the date the submitter receives the notice.

(i) Notice to submitter of FOIA lawsuit. Whenever a requester files a lawsuit seeking to compel the disclosure of business information, the component shall promptly notify the submitter.

(j) Corresponding notice to requester. Whenever a component provides a submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, the component shall also notify the requester. Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, the component shall notify the requester.

Sec. 4.10 Appeals from initial determinations or untimely delays.

(a) If a request for records is initially denied in whole or in part, or has not been timely determined, or if a requester receives an adverse initial determination regarding any other matter under this subpart (as described in Sec. 4.7(b)), the requester may file a written appeal, which must be received by the Office of General Counsel within thirty calendar days of the date of the written denial or, if there has been no determination, may be submitted anytime after the due date, including the last extension under Sec. 4.6(c), of the determination.

(b) Appeals shall be decided by the Assistant General Counsel for Administration (AGC-Admin), except that appeals from requests initially denied by the AGC-Admin shall be decided by the General Counsel. Appeals should be addressed to the AGC-Admin, or the General Counsel if the records were initially denied by the AGC-Admin. The address of both is: U.S. Department of Commerce, Office of General Counsel, Room 5875, 14th Street and Constitution Avenue NW, Washington, DC 20230. Both the letter and the appeal envelope should be clearly marked "Freedom of Information Appeal". The appeal must include a copy of the original request, the initial denial, if any, and a statement of the reasons why the records requested should be made available and why the initial denial, if any, was in error. No opportunity for personal appearance, oral argument or hearing on appeal is provided.

(c) Upon receipt of an appeal involving records initially denied on the basis of FOIA exemption (b)(1), the records shall be forwarded to the Deputy Assistant Secretary for Security (DAS) for a declassification review. The DAS may overrule previous classification determinations in whole or in part if continued protection in the interest of national security is no longer required, or no longer required at the same level. The DAS shall advise the AGC-Admin, or the General Counsel, as appropriate, of his or her decision.

(d) If an appeal is granted, the person who filed the appeal shall be immediately notified and copies of

the releasable documents shall be made available promptly thereafter upon receipt of appropriate fees determined in accordance with Sec. 4.11.

(e) If no determination on an appeal has been sent to the requester within the twenty working day period specified in Sec. 4.6(b) or the last extension thereof, the requester is deemed to have exhausted all administrative remedies with respect to the request, giving rise to a right of judicial review under 5 U.S.C. 552(a)(6)(C). If the requester initiates a court action against the Department based on the provision in this paragraph, the administrative appeal process may continue.

(f) The determination on an appeal shall be in writing and, when it denies records in whole or in part, the letter to the requester shall include:

- (1) A brief explanation of the basis for the denial, including a list of the applicable FOIA exemptions and a description of how they apply;
- (2) A statement that the decision is final for the Department;
- (3) Notification that judicial review of the denial is available in the district court of the United States in the district in which the requester resides, or has his or her principal place of business, or in which the agency records are located, or in the District of Columbia; and
- (4) The name and title or position of the official responsible for denying the appeal.

Sec. 4.11 Fees.

(a) **In general.** Components shall charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except when fees are limited under paragraph (d) of this section or when a waiver or reduction of fees is granted under paragraph (k) of this section. A component shall collect all applicable fees before sending copies of requested records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(b) **Definitions.** For purposes of this section:

(1) Commercial use request means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests through litigation. Components shall determine, whenever reasonably possible, the use to which a requester will put the requested records. If it appears that the requester will put the records to a commercial use, or if a component has reasonable cause to doubt a requester's asserted non-commercial use, the component shall provide the requester a reasonable opportunity to submit further clarification.

(2) Direct costs means those expenses a component incurs in providing a particular service. Such expenses would include, for example, the labor costs of the employee performing the service (the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits). Not included in direct costs are overhead expenses such as the costs of space, heating, or lighting of the facility in which the service is performed.

(3) Duplication means the making of a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies may take the form of paper, microform, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others. A component shall honor a requester's specified preference of form or format of disclosure if the component can reproduce the record in the requested form or format with reasonable effort.

(4) Educational institution means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution, and that the records are sought to further scholarly research rather than for a commercial use.

(5) Noncommercial scientific institution means an institution that is not operated on a "commercial" basis, as that term is defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research rather than for a commercial use.

(6) Representative of the news media, or news media requester means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only if they can qualify as disseminators of "news") that make their products available for purchase or subscription by the general public. For "freelance" journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but components shall also look to the past publication record of a requester in making this determination. To be in this category, a requester must not be seeking the requested records for a commercial use. However, a request for records supporting the news-dissemination function of the requester shall not be considered to be for a commercial use.

(7) Review means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes processing any record for disclosure, for example, redacting it and marking any applicable exemptions. Review costs are recoverable even if a record ultimately is not disclosed. Review time does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) Search means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Components shall ensure that searches are done in the most efficient and least expensive manner reasonably possible.

(c) **Fees.** In responding to FOIA requests, components shall charge the fees summarized in chart form in paragraphs (c)(1) and (c)(2) of this section and explained in paragraphs (c)(3) through (c)(5) of this section, unless a waiver or reduction of fees has been granted under paragraph (k) of this section.

(1) The four categories and chargeable fees are:

Category	Chargeable fees
(i) Commercial Use Requesters.....	Search, Review, and Duplication.
(ii) Educational and Non-commercial Scientific Institution Requesters.	Duplication (excluding the cost of the first 100 pages).
(iii) Representatives of the News Media	Duplication (excluding the cost of the first 100 pages).
(iv) All Other Requesters	Search and Duplication (excluding the cost of the first 2 hours of search and 100 pages).

(2) Uniform fee schedule.

Service	Rate
(i) Manual search	Actual salary rate of employee involved, plus 16 percent of salary rate.
(ii) Computerized search	Actual direct cost, including operator time.
(iii) Duplication of records:	
(A) Paper copy reproduction.....	\$.16 per page
(B) Other reproduction (e.g., computer disk or printout, microfilm, microfiche, or microform).	Actual direct cost, including operator time.
(iv) Review of records (including redaction).	Actual salary rate of employee conducting review, plus 16 percent of salary rate.

(3) **Search.** (i) Search fees shall be charged for all requests--other than requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media--subject to the limitations of paragraph (d) of this section. Components shall charge for time spent searching even if they do not locate any responsive records or if they withhold any records located as entirely exempt from disclosure. Search fees shall be the direct costs of conducting the search by the involved employees.

(ii) For computer searches of records, requesters will be charged the direct costs of conducting the search, although certain requesters (as provided in paragraph (d) (1) of this section) will be charged no search fee and certain other requesters (as provided in paragraph (d) (3) of this section) are entitled to the cost equivalent of two hours of manual search time without charge.

(4) **Duplication.** Duplication fees shall be charged to all requesters, subject to the limitations of paragraph (d) of this section. For a paper photocopy of a record (no more than one copy of which need be supplied), the fee shall be \$.16 cents per page. For copies produced by computer, such as tapes or printouts, components shall charge the direct costs, including operator time, of producing the copy. For other forms of duplication, components shall charge the direct costs of that duplication.

(5) **Review.** Review fees shall be charged to requesters who make a commercial use request. Review fees shall be charged only for the initial record review, in which a component determines whether an exemption applies to a particular record at the initial request level. No charge shall be imposed for review at the administrative appeal level for an exemption already applied. However, records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies, and the costs of that review are chargeable. Review fees shall be the direct costs of conducting the review by the involved employees.

(d) Limitations on charging fees.

(1) No search fee shall be charged for requests from educational institutions, noncommercial scientific institutions, or representatives of the news media.

(2) No search fee or review fee shall be charged for a quarter-hour period unless more than half of that period is required for search or review.

(3) Except for requesters seeking records for a commercial use, components shall provide without charge:

(i) The first 100 pages of duplication (or the cost equivalent); and

(ii) The first two hours of search (or the cost equivalent).

(4) If a total fee calculated under paragraph (c) of this section is \$20.00 or less for any request, no fee shall be charged. If such total fee is more than \$20.00, the full amount of such fee shall be charged.

(5) The provisions of paragraphs (d) (3) and (4) of this section work together. This means that for requesters other than those seeking records for a commercial use, no fee shall be charged unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages totals more than \$20.00.

(e) Notice of anticipated fees over \$20.00. If a component determines or estimates that the total fee to be charged under this section will be more than \$20.00, the component shall notify the requester of the actual or estimated fee, unless the requester has stated in writing a willingness to pay a fee as high as that anticipated. If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee. If the component has notified a requester that the actual or estimated fee is more than \$20.00, the component shall not consider the request received for purposes of calculating the time limit in Sec. 4.6(b) to respond to a request, or process it further, until the requester agrees to pay the anticipated total fee. Any agreement to pay should be memorialized in writing. A notice under this paragraph shall offer the requester an opportunity to contact Departmental personnel to discuss modifying the request to meet the requester's needs at a lower cost.

(f) Charges for other services. Apart from the other provisions of this section, if a component decides, as a matter of administrative discretion, to comply with a request for special services, the component shall charge the direct cost of providing them. Such services could include certifying that records are true copies or sending records by other than ordinary mail.

(g) Charging interest. Components shall charge interest on any unpaid bill starting on the 31st calendar day following the date of billing the requester. Interest charges shall be assessed at the rate provided in 31 U.S.C. 3717 and accrue from the date of the billing until the component receives payment. Components shall take all steps authorized by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, to effect payment, including offset, disclosure to consumer reporting agencies, and use of collection agencies.

(h) Aggregating requests. If a component reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the component may aggregate those requests and charge accordingly. Among the factors a component shall consider in deciding whether to aggregate are the closeness in time between the component's receipt of the requests, and the relatedness of the matters about which the requests are made. A component may generally presume that multiple requests that involve related matters made by the same requester or a closely related group of requesters within a 30 calendar day period have been made in order to avoid fees. If requests are separated by a longer period, a component shall aggregate them only if a solid basis exists for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters shall not be aggregated.

(i) Advance payments. (1) For requests other than those described in paragraphs (i)(2) and (3) of this section, a component shall not require the requester to make an advance payment: a payment made before work is begun or continued on a request. Payment owed for work already completed (i.e., a payment before copies are sent to a requester) is not an advance payment.

(2) If a component determines or estimates that a total fee to be charged under this section will be more than \$250.00, the component shall not consider the request received for purposes of calculating the time limit in Sec. 4.6(b) to respond to a request, or process it further, until it receives payment from the requester of the entire anticipated fee.

(3) If a requester has previously failed to pay a properly charged FOIA fee to any component or other Federal agency within 30 calendar days of the date of billing, a component shall require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the component begins to process a new request or continues to process a pending request from that requester. For purposes of calculating the time limit in Sec. 4.6(b) to respond to a request, the component shall not consider the request received until it receives full payment of all applicable fees and interest in this paragraph.

(4) Upon the completion of processing of a request, if a specific fee is determined to be payable and appropriate notice has been given to the requester, a component shall make records available to the requester only upon receipt of full payment of the fee.

(j) Other statutes specifically providing for fees. The fee schedule of this section does not apply to fees charged under any statute (except for the FOIA) that specifically requires an agency to set and collect fees for particular types of records. If records responsive to requests are maintained for distribution by agencies operating such statutorily based fee schedule programs, components shall inform the requesters how to obtain records from those sources. Provision of such records is not handled under the FOIA.

(k) Requirements for waiver or reduction of fees. (1) Records responsive to a request will be furnished without charge, or at a charge reduced below that established under paragraph (c) of this section, if the requester asks for such a waiver in writing and the responsible component determines, after consideration of information provided by the requester, that the requester has demonstrated that:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government; and

(ii) Disclosure of the information is not primarily in the commercial interest of the requester.

(2) To determine whether the first fee waiver requirement is met, components shall consider the following factors:

(i) The subject of the request: whether the subject of the requested records concerns the operations or activities of the Government. The subject of the requested records must concern identifiable operations or activities of the Federal Government, with a connection that is direct and clear, not remote or attenuated.

(ii) The informative value of the information to be disclosed: whether the disclosure is ``likely to contribute '' to an understanding of Government operations or activities. The disclosable portions of the requested records must be meaningfully informative about Government operations or activities in order to be ``likely to contribute '' to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be likely to contribute to such understanding.

(iii) The contribution to an understanding of the subject by the public likely to result from disclosure: whether disclosure of the requested information will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a representative of the news media satisfies this consideration. Merely providing information to media sources is insufficient to satisfy this consideration.

(iv) The significance of the contribution to public understanding: whether the disclosure is likely to contribute ``significantly '' to public understanding of Government operations or activities. The public's understanding of the subject in question prior to the disclosure must be significantly enhanced by the disclosure.

(3) To determine whether the second fee waiver requirement (i.e., that disclosure is not primarily in the commercial interest of the requester) is met, components shall consider the following factors:

(i) The existence and magnitude of a commercial interest: whether the requester has a commercial interest that would be furthered by the requested disclosure. Components shall consider any commercial interest of the requester (with reference to the definition of ``commercial use request '' in paragraph (b)(1) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters shall be given an opportunity to provide explanatory information regarding this consideration.

(ii) The primary interest in disclosure: whether any identified commercial interest of the requester

is sufficiently great, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester. ' ' A fee waiver or reduction is justified if the public interest standard (paragraph (k)(1)(i) of this section) is satisfied and the public interest is greater than any identified commercial interest in disclosure. Components ordinarily shall presume that if a news media requester has satisfied the public interest standard, the public interest is the primary interest served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market Government information for direct economic return shall not be presumed to primarily serve the public interest.

(4) If only some of the records to be released satisfy the requirements for a fee waiver, a waiver shall be granted for those records.

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraphs (k)(2) and (3) of this section, insofar as they apply to each request.

§ 1905. — Disclosure of confidential information generally.

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[Laws in effect as of January 24, 2002]

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[CITE: 18USC1905]

TITLE 18--CRIMES AND CRIMINAL PROCEDURE

PART I--CRIMES

CHAPTER 93--PUBLIC OFFICERS AND EMPLOYEES

Sec. 1905. Disclosure of confidential information generally

Whoever, being an officer or employee of the United States or of any department or agency thereof, any person acting on behalf of the Office of Federal Housing Enterprise Oversight, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311-1314), or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined under this title, or imprisoned not more than one year, or both; and shall be removed from office or employment.

(June 25, 1948, ch. 645, 62 Stat. 791; Pub. L. 96-349, Sec. 7(b), Sept. 12, 1980, 94 Stat. 1158; Pub. L. 102-550, title XIII, Sec. 1353, Oct. 28, 1992, 106 Stat. 3970; Pub. L. 104-294, title VI, Sec. 601(a)(8), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107-347, title II, Sec. 209(d)(2), Dec. 17, 2002, 116 Stat. 2930.)

Historical and Revision Notes

Based on section 176b of title 15, U.S.C., 1940 ed., Commerce and Trade; section 216 of title 18, U.S.C., 1940 ed.; section 1335 of title 19, U.S.C., 1940 ed., Customs Duties (R.S. Sec. 3167; Aug. 27, 1894, ch. 349, Sec. 24, 28 Stat. 557; Feb. 26, 1926, ch. 27, Sec. 1115, 44 Stat. 117; June 17, 1930, ch. 497, title III, Sec. 335, 46 Stat. 701; Jan. 27, 1938, ch. 11, Sec. 2, 52 Stat. 8).

Section consolidates section 176b of title 15, U.S.C., 1940 ed., Commerce and Trade; section 216 of title 18, U.S.C., 1940 ed., and section 1335 of title 19, U.S.C., 1940 ed., Customs Duties. Words "or of any department or agency thereof" and words "such department or agency" were inserted so as to eliminate any possible ambiguity as to scope of section. (See definition of "department" and "agency" in section 6 of this title.)

References to the offenses as misdemeanors, contained in all of said sections, were omitted in view of definitive section 1 of this title.

The provisions of section 216 of title 18, U.S.C., 1940 ed., relating to publication of income tax data by "any person", were omitted as covered by section 55(f)(1) of title 26, U.S.C., 1940 ed., Internal Revenue Code.

Minor changes were made in translations and phraseology.

References in Text

The Antitrust Civil Process Act, referred to in text, is Pub. L. 87-664, Sept. 19, 1962, 76 Stat. 548, as amended, which is classified generally to chapter 34 (Sec. 1311 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1311 of Title 15 and Tables.

Amendments

2002--Pub. L. 107-347 inserted ``or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5," after ``(15 U.S.C. 1311-1314),". 1996--Pub. L. 104-294 substituted ``fined under this title" for ``fined not more than \$1,000".

1992--Pub. L. 102-550 inserted ``any person acting on behalf of the Office of Federal Housing Enterprise Oversight," after ``or agency thereof,".

1980--Pub. L. 96-349 provided for punishment and removal from office of an agent of the Department of Justice as defined in the Antitrust Civil Process Act for disclosure of confidential information.

Effective Date of 2002 Amendment

Amendment by Pub. L. 107-347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107-347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

Section Referred to in Other Sections

This section is referred to in title 5 sections 3374, 3704; title 7 sections 136h, 450i, 2009cc-10, 5662; title 15 sections 330b, 771, 773, 796, 1193, 1335a, 2217, 2613; title 21 sections 350c, 355a, 360ll, 360nn; title 26 section 7213; title 29 section 664; title 30 section 1423; title 33 sections 1318, 1320, 1322, 1369, 1513; title 42 sections 300j-4, 2210b, 4912, 5916, 5919, 6274, 6921, 6927, 6991d, 7135, 7412, 7542, 7607, 7621, 9208, 9310, 9604, 9660, 11023, 11042, 13253, 13255, 13293; title 46 section 4309; title 49 sections 106, 1114, 30167, 32307, 32505, 32708, 32912, 33116, 60117.

Administrative Management and Executive Secretariat

NAO 216-100

PROTECTION OF CONFIDENTIAL FISHERIES STATISTICS Eff: 7/18/94; Iss: 7/26/94

SECTION 1. PURPOSE.

. 01 This Order:

a. prescribes policies and procedures for protecting the confidentiality of data submitted to and collected by the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS) as authorized or required by law;

b. informs authorized users of their obligations for maintaining the confidentiality of data received by NMFS;

c. provides for operational safeguards to maintain the security of data; and

d. states the penalties provided by law for disclosure of confidential data.

SECTION 2. SCOPE.

This Order covers all confidential data received, collected, maintained, or used by NMFS.

SECTION 3. DEFINITIONS.

. 01 **Access to data** means the freedom or ability to use data, conditioned by a statement of nondisclosure and penalties for unauthorized use.

. 02 **Aggregate or summary form** means data structured so that the identity of the submitter cannot be determined either from the present release of the data or in combination with other releases.

. 03 **Agreement** refers to all binding forms of mutual commitment under a stated set of conditions to achieve a specific objective.

. 04 **Assistant Administrator** means the Assistant Administrator for Fisheries, NOAA, or a designee authorized to have access to confidential data.

. 05 **Authorized Use/User.**

a. **Authorized use** is that specific use authorized under the governing statute, regulation, order, contract or agreement.

b. An **authorized user** is any person who, having the need to collect or use confidential data in the performance of an official activity, has read this Order and has signed a statement of nondisclosure affirming the user's understanding of NMFS obligations with

respect to confidential data and the penalties for unauthorized use and disclosure.

. 06 **Confidential data** means data that are identifiable with any person, accepted by the Secretary, and prohibited by law from being disclosed to the public. The term "as used" does not convey data sensitivity for national security purposes [See Executive Order (E.O.) 12356 dated April 2, 1982].

. 07 **Data** refers to information used as a basis for reasoning, discussion, or calculation that a person may submit, either voluntarily or as required by statute or regulation.

. 08 **GC** means the Office of General Counsel, NOAA.

. 09 **Person** means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of such governments, including Regional Fishery Management Councils (Councils).

. 10 **Public** means any person who is not an authorized user.

. 11 **Region** means NMFS Regional field offices, Fisheries Science Centers, and associated laboratories.

. 12 **Source document** means the document, paper, or electronic format on which data are originally recorded.

. 13 **State employee** means any member of a State agency responsible for developing and monitoring the State's program for fisheries or Marine Mammal Protection Act (MMPA) program.

. 14 **Submitter** means any person or the agent of any person who provides data to NMFS either voluntarily or as required by statute or regulation.

SECTION 4. POLICY.

For data subject to this Order, it is NMFS policy that:

a. confidential data shall only be disclosed to the public if required by the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, or by court order. Disclosure of data pursuant to a subpoena issued by an agency of competent jurisdiction is a lawful disclosure. Disclosure pursuant to a subpoena must be approved by GC;

b. individual identifiers shall be retained with data, unless the permanent deletion is consistent with the needs of NMFS and good scientific practice [See Section 6.02c]; and

c. a notice is required on all report forms requesting data and must comply with 5 U.S.C. 552a(e)(3) and Paperwork Reduction Act requirements in NAO 216-8, Information Collections and Requirements Needing Office of Management and Budget Clearance. [See E.O. 12600 of June 23, 1987, for additional information regarding the rights of submitters to designate commercial confidential data at the time of submission.]

SECTION 5. OPERATIONAL RESPONSIBILITIES.

. 01 The Regional Director of each region (or, in the case of headquarters, each Office

Director) has the responsibility to maintain the confidentiality of all data collected, maintained, and disclosed by the respective region.

. 02 Each region shall submit to the Assistant Administrator specific procedures governing the collection, maintenance, and disclosure of confidential data. These documents shall be compiled as regional handbooks following the guidelines and standards:

a. handbooks are to be developed in detail to ensure the maintenance of confidential data on a functional basis in each region; and

b. handbooks shall be coordinated through the National Data Management Committee (a NMFS group established by the Assistant Administrator to develop data management policies and procedures) and reviewed annually. The regional handbooks will address, at minimum, the contents of Sections 6-7.

SECTION 6. PROCEDURES.

. 01 **Data Collection.** To collect data, the Secretary may use Federal employees, contractor employees, or, pursuant to an agreement, State employees.

a. General Requirements.

1. Personnel authorized to collect Federal data must maintain all documents containing confidential data in secure facilities; and

2. may not disclose confidential data, whether recorded or not, to anyone not authorized to receive and handle such data.

b. Specific Requirements.

1. Each Federal or contractor employee collecting or processing confidential data will be required to read, date, and sign a statement of nondisclosure, that affirms the employee's understanding of NMFS obligations with respect to confidential data and the penalties for unauthorized use and disclosure of the data. Upon signature, the employee's name will be placed on record as an "authorized user," and the employee will be issued certification.

2. Data collected by a contractor must be transferred timely to authorized Federal employees; no copies of these data may be retained by the contractor. NMFS may permit contractors to retain aggregated data. A data return clause shall be included in the agreement. All procedures applicable to Federal employees must be followed by contractor employees collecting data with Federal authority.

3. Under agreements with the State, each State data collector collecting confidential data will sign a statement at least as protective as the one signed by Federal employees, which affirms that the signer understands the applicable procedures and regulations and the penalties for unauthorized disclosure.

.02 Maintenance.

a. Maintenance is defined as the procedures required to keep confidential data secure from the time the source documents are received by NMFS to their ultimate disposition, regardless of format. [See National Institute of Standards and Technology "Computer Security Publications, List 91" for guidance.]

b. Specific procedures in regional handbooks must deal with the following minimum security requirements, as well as any others that may be necessary because of the specific data, equipment, or physical facilities:

1. the establishment of an office or person responsible for evaluating requests for access to data;
2. the identifications of all persons certified as authorized users. These lists shall be kept current and reviewed on an annual basis;
3. the issuance of employee security rules that emphasize the confidential status of certain data and the consequences of unauthorized removal or disclosure;
4. the description of the security procedures used to prevent unauthorized access to and/or removal of confidential data;
5. the development of a catalog/inventory system of all confidential data received including: the type of source document; the authority under which each item of data was collected; any statutory or regulatory restriction(s) which may apply; and routing from the time of receipt until final disposition; and
6. The development of an appropriate coding system for each set of confidential data so that access to data that identifies, or could be used to identify, the person or business of the submitter is controlled by the use of one or more coding system(s). Lists that contain the codes shall be kept secure.

c. The permanent deletion of individual identifiers from a database shall be addressed on a case-by-case basis. Identifiers may only be deleted after:

1. future uses of data have thoroughly been evaluated, e.g., the need for individual landings records for allocating shares under an individual transferable quota program;
2. consultation with the agency(s) collecting data (if other than NMFS), the relevant Council(s), and NMFS Senior Scientist; and
3. concurrence by the Assistant Administrator has been received prior to deletion.

.03 Access to Data Subject to This Order.

a. **General Requirements.** In determining whether to grant a request for access to confidential data, the following information shall be taken into consideration:

1. the specific types of data required;
2. the relevance of the data to the intended uses;
3. whether access will be continuous, infrequent, or one-time;
4. an evaluation of the requester's statement of why aggregate or nonconfidential summaries of data would not satisfy the requested needs; and
5. the legal framework for the disclosure, in accordance with GC and this Order.

b. **Within NMFS.** NMFS employees requesting confidential data must have certification as being authorized users for the particular type of data requested.

c. **Councils.** Upon written request by the Council Executive Director:

1. "authorized user" status for confidential data collected under the Magnuson Fishery Conservation and Management Act (Magnuson Act) may be granted to a Council for use by the Council for conservation and management purposes consistent with the approval of the Assistant Administrator as described in 50 CFR 603.5;
2. "authorized user" status for confidential data, collected under the Magnuson Act and MMPA, will be granted to Council employees who are responsible for Fishery Management Plan development and monitoring; and
3. Councils that request access to confidential data must submit, on an annual basis, a copy of their procedures for ensuring the confidentiality of data to the region, or in the case of intercouncil fisheries, regions. The procedures will be evaluated for their effectiveness and, if necessary, changes may be recommended. As part of this procedure, an updated statement of nondisclosure will be included for each employee and member who requires access to confidential data.

d. **States.**

1. Requests from States for confidential data shall be directed in writing to the NMFS office that maintains the source data.
2. Each request will be processed in accordance with any agreement NMFS may have with the State:
 - (a) confidential data collected **solely** under Federal authority will be provided to a State by NMFS only if the Assistant Administrator finds that the State has authority to protect the confidentiality of the data comparable to, or more stringent than, NMFS' requirements; and
 - (b) the State will exercise its authority to limit subsequent access and use of the data to those uses allowed by authorities under which the data was collected.
3. If the State has no agreement with NMFS for the collection and exchange of confidential data, the request shall be treated as a public request and disclosure may be denied subject to FOIA or the Privacy Act.
4. Where a State has entered into a cooperative exchange agreement with another State(s), NMFS will facilitate transfer or exchange of State collected data in its possession if:
 - (a) NMFS has written authorization for data transfer from the head of the collecting State agency; and
 - (b) the collecting State has provided NMFS a list of authorized users in the recipient State(s); and
 - (c) the collecting State agrees to hold the United States Government harmless for any suit that may arise from the misuse of the data.

e. **Contractors.**

1. Pursuant to an agreement with NMFS, a NMFS contractor (including universities, Sea Grant investigators, etc.) may be granted "authorized user" status consistent with this Order if the use furthers the mission of NMFS.

2. The region will notify the contractor of its decision on access in writing within 30 calendar days after receipt of the request.

3. Contingent upon approval, the contractor will be provided with details regarding conditions of data access, any costs involved, formats, timing, and security procedures. If the request is denied, the reason(s) for denial will be given by the NMFS office involved. The denial will not preclude NMFS consideration of future requests from the contractor.

4. If access is granted, language in the agreement specifically dealing with confidentiality of data will be required. The language shall include all of the relevant portions of this Order and shall prohibit the further disclosure of the data. No data may be retained beyond the termination date of the agreement; and any disclosure of data derived from the accessed confidential data must be approved by NMFS.

5. Each agreement shall be reviewed by GC prior to its execution, and shall, to the extent possible, be consistent with the model agreement contained in Appendix D (Not included --WebEd).

f. **Submitters.** The Privacy Act allows for data to be released back to the submitter upon receipt and verification of a written request stating the data required.

04. Requests for Confidential Data. NMFS is authorized to collect data under various statutes [See Appendix A (Not include --WebEd)]. Two types of statutes govern the disclosure of confidential data collected by the Federal Government, those that contain specific and non-discretionary language within the Act, and those that provide overall guidance to the Federal Government. Sections of these Acts that deal with exceptions to disclosure may be found in Appendix B (Not included -- WebEd).

a. Magnuson Act and MMPA.

1. Data collected under 16 U.S.C. 1853 (a) or (b), and 16 U.S.C. 1383a (c),(d),(e),(f),or (h) will be handled in the following manner:

(a) data will only be disclosed to Federal employees and Council employees who are responsible for management plan development and monitoring; State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person; a Council for conservation and management purposes [not applicable for MMPA data] or when required by court order. [See 50 CFR 229.10 and part 603];

(b) Council advisory groups are not permitted access to such confidential data [See 50 CFR 601.27(b)];

(c) requests from States that do not have an agreement with the Secretary will be processed in accordance with the Privacy Act or FOIA; and

(d) data collected by an observer under 16 U.S.C. 1853 (a) or (b) are not considered to have been "submitted to the Secretary by any person," and therefore are not confidential under Section 6.04.a of this Order. Data collected by an observer may be withheld from disclosure under the Privacy Act, or subsections (b)(3),(4),(5),(6), or (7) of FOIA.

2. Confidential data submitted to the Secretary under other Sections of the Magnuson Act or MMPA may only be disclosed in accordance with the Privacy Act or FOIA. Types of data and the collection authority may include among others:

(a) Processed Product Data -- 16 U.S.C. 1854(e);

(b) Fish Meal and Oil, Monthly -- 16 U.S.C. 1854(e);

(c) Data Collected Under State Authority and Provided to NMFS -- 16 U.S.C. 1854(e); and

(d) Tuna-Dolphin Observer Program -- 16 U.S.C. 1361 et seq.

b. **South Pacific Tuna Act.** Data collected under South Pacific Tuna Act 16 U.S.C. 973j is protected from disclosure to the public in accordance with section 973j(b).

c. **Other Statutes.** Confidential data collected under other NMFS programs as authorized by statutes other than South Pacific Tuna Act (16 U.S.C 973j), MMPA (16 U.S.C. 1361 et seq.), and Magnuson Act (16 U.S.C. 1801 et seq.), may only be disclosed to the public in accordance with the Privacy Act and FOIA. Types of data and the collection authority may include among others:

(1) Monthly Cold Storage Fish Report -- 16 U.S.C. 742(a);

(2) Market News Data -- 16 U.S.C. 742(a); and

(3) Seafood Inspection Data -- 7 U.S.C. 1621 et seq.

d. **Special Procedures.**

1. **Cold Storage Summary Reports.** NMFS publishes monthly cold storage holdings of fishery products. Advance knowledge of the content of these reports could give those who trade in the products an opportunity to gain competitive advantage. Therefore, in addition to the confidential protection provided to individual reports, the monthly summary report will not be disclosed to the public until 3:00 p.m. Eastern Time of the official release date. Release dates for these data are published 1 year in advance in November, and can be obtained from the NMFS Fisheries Statistics Division.

2. **Surplus commodity purchases by USDA.** NMFS and the Department of Agriculture (USDA) have an interagency agreement relating to the purchase of surplus fishery products. NMFS is responsible for providing confidential data and recommendations to the USDA regarding these purchases. Advance knowledge of these data could cause a competitive advantage or disadvantage to the general public, fishing industry, and the program. Therefore, all NMFS personnel engaged in the surplus commodity purchase program will be required to sign a specific "USDA Responsibility Statement." A copy will be maintained in the Office of Trade Services.

3. **Agreements for Disclosure of Confidential Data.** A letter of agreement may authorize the disclosure of confidential data when both the Government and the submitter agree to disclosure of the data. The need to provide security for the data will vary depending on the type of data collected and the form of the disclosure. Disclosure can be undertaken if all the following conditions are met:

(a) the person has agreed in writing to the disclosure and is aware that disclosure is irrevocable;

(b) the recipient has been informed in writing of the sensitivity of the data; and

(c) the wording of the agreement has been approved by GC.

. 05 Disposal. NAO 205-1, NOAA Records Management Program, shall govern the disposition of records covered under this Order.

SECTION 7. PENALTIES.

. 01 **Civil and Criminal.** Persons who make unauthorized disclosure of confidential data may be subject to civil penalties or criminal prosecution under:

- a. Trade Secrets Act (18 U.S.C. 1905);
- b. Privacy Act (5 U.S.C. 552a(i)(1));
- c. Magnuson Act (16 U.S.C. 1858); and
- d. MMPA (16 U.S.C. 1375).

. 02 **Conflict of Interest.** Employees are prohibited by Department of Commerce employee conduct regulations [15 CFR part 0] and by ethics regulations applicable to the Executive Branch [5 CFR 2635.703] from using nonpublic information subject to this Order for personal gain, whether or not there is a disclosure to a third party.

. 03 **Disciplinary Action.** Persons may be subject to disciplinary action, including removal, for failure to comply with this Order. Prohibited activities include, but are not limited to, unlawful disclosure or use of the data, and failure to comply with implementing regulations or statutory prohibitions relating to the collection, maintenance, use and disclosure of data covered by this Order.

SECTION 8. EFFECT ON OTHER ISSUANCES. None.

Budget Rent-A-Car Corporation
 Dollar Rent-A-Car Systems, Inc.
 Donlen Corporation
 Enterprise Rent-A-Car
 Enterprise Fleet Services¹
 GE Capital Fleet Services
 Hertz Rent-A-Car Division (subsidiary of The
 Hertz Corporation)
 Lease Plan USA, Inc.
 PHH Vehicle Management Services/PHH
 Arval
 U-Haul International, Inc. (Subsidiary of
 AMERCO)
 Wheels Inc.

¹ Indicates a newly listed company, which must file a report beginning with the report due October 25, 2005.

² National Car Rental System, Inc., and Alamo Rent-A-Car Inc., became ANC Rental Corporation in 2002.

Issued on: July 13, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05-14139 Filed 7-22-05; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 050224044-5185-02; I.D. 092304A]

RIN 0648-AS57

Sea Turtle Conservation; Exceptions to Taking Prohibitions for Endangered Sea Turtles

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is allowing any agent or employee of NMFS, the U.S. Fish and Wildlife Service (FWS), the U.S. Coast Guard, or any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife, when acting in the course of his or her official duties, to take endangered sea turtles encountered in the marine environment if such taking is necessary to aid a sick, injured, or entangled endangered sea turtle, or dispose of a dead endangered sea turtle, or salvage a dead endangered sea turtle that may be useful for scientific and educational purposes. This action is necessary to provide equal conservation and protection measures to stranded endangered sea turtles as is afforded for threatened sea turtles under 50 CFR 223.206.

DATES: Effective August 24, 2005.

FOR FURTHER INFORMATION CONTACT:

Therese Conant, phone: 301-713-1401, fax: 301-427-2523.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act (ESA). Kemp's ridley (*Lepidochelys kempi*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles are listed as endangered. Loggerhead (*Caretta caretta*), green (*Chelonia mydas*), and olive ridley (*Lepidochelys olivacea*) sea turtles are listed as threatened, except for breeding colony populations of green turtles in Florida and on the Pacific coast of Mexico and breeding colony populations of olive ridleys on the Pacific coast of Mexico which are listed as endangered. NMFS and the FWS share jurisdictional responsibility for sea turtles under the ESA. FWS has responsibility in the terrestrial environment and NMFS has responsibility in the marine environment.

Under the ESA and its implementing regulations, taking endangered sea turtles - even incidentally - is prohibited. The ESA allows take of threatened species; however, section 4(d) of the ESA allows NMFS to implement regulations for the conservation of threatened species. NMFS implemented a section 4(d) regulation that extended the take prohibitions to threatened sea turtles with exceptions identified in 50 CFR 223.206 which allows appropriate handling of sick, injured, entangled, or dead threatened sea turtles found in the marine environment. The take of endangered species may be authorized by an incidental take statement pursuant to section 7 or a permit or programmatic permit regulation issued pursuant to section 10 of the ESA.

Surveying, documenting and responding to sick, injured, entangled, and dead turtles have been ongoing for over 30 years and became institutionalized in 1980 with the establishment of the NMFS' Sea Turtle Stranding and Salvage Network (STSSN). The STSSN consists of agents or employees of NMFS, the FWS, the U.S. Coast Guard, or any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife. The FWS grants authority to each state with an official ESA section 6 agreement for permitting land-based activities (i.e., on the beach and in holding facilities) related to the STSSN. FWS also implemented regulations to allow any

employee or agent of FWS, NMFS, or a state conservation agency, to aid, dispose, salvage or humanely remove endangered species that constitute a demonstrable threat to human safety (50 CFR 17.21). NMFS currently has ESA section 6 agreements with only 10 states/territories: Florida, Georgia, South Carolina, North Carolina, Maryland, New Jersey, New York, Massachusetts, Puerto Rico, and U.S. Virgin Islands (note: On June 11, 1997, NMFS entered into a Memorandum of Agreement with the California Department of Fish and Game, Office of Oil Spill Prevention and Response to aid sick, injured or stranded sea turtles impacted by oil and other hazardous material spills). The STSSN encompasses all U.S. states and territories. The ESA does not allow exceptions to takings for endangered species through section 4(d). Therefore, NMFS is granting authority under ESA section 10(a)(1)(A) to provide for the aid, collection, and disposition of, stranded endangered sea turtles found in the marine environment. By definition, the term 'stranded' includes live endangered sea turtles that are sick, injured, or entangled and dead endangered sea turtles found in the marine environment. Because the activities of the STSSN are similar in nature and scope, NMFS is issuing this final programmatic permit by regulation pursuant to section 10(a)(1)(A). Implementing this section 10(a)(1)(A) provides consistency with FWS regulations that allow such activities on land as described in 50 CFR 17.21. For a description of the activities related to the STSSN, see the proposed rule published on March 29, 2005 (70 FR 15800).

Comments on the Proposed Rule and Changes to the Final Rule

NMFS did not receive any public comments germane to the proposed rule. However, upon further internal agency review, NMFS is making two minor changes to clarify the requirements of the final rule. First, NMFS is requiring that all equipment (tagging equipment, tape measures, etc.) that comes in contact with turtles exhibiting fibropapilloma, be cleaned with a mild bleach solution. Fibropapilloma is a tumor-forming and debilitating transmissible disease of sea turtles. A herpes virus and retrovirus have been identified in association with fibropapilloma, but the etiology of the disease has not been determined. Cleaning equipment that has come in contact with fibropapilloma turtles may help prevent transmission. Second, NMFS is replacing the specification that passive integrated transponder (PIT)

tags be applied 'subcutaneously' with a specification that such tags will be applied according to best practice and approved scientific protocols. This is necessary to ensure that the most current protocols are used. Protocols are based on the results of directed research (permitted through separate actions) for development of tagging methods, and are conveyed through annual STSSN training programs and through published literature (e.g., The World Conservation Union Marine Turtle Specialist Group's 2002 Research and Management Techniques for the Conservation of Sea Turtles).

Summary

The STSSN was established in response to the need to better understand threats to sea turtles in the marine environment and to provide aid to stranded sea turtles, or dispose of a dead endangered sea turtle, or salvage a dead endangered sea turtle that may be useful for scientific and educational purposes. Maintaining a stranding network is identified as a recovery task in all federal sea turtle recovery plans. The extensive training requirements, comprehensive data collection, and frequent review and evaluation of these programs, satisfy the requirements described for individual directed research permits. Actions taken by stranding and entanglement networks improve survivability of sick, injured, entangled or stranded turtles and improve our knowledge about population structure, the etiology of disease, environmental stressors and manmade threats in the marine environment. This final rule authorizes activities that clearly provide a bona fide and desirable benefit to the enhancement and survival of endangered sea turtles.

For the reasons described above, the Assistant Administrator for Fisheries has determined that this permit by regulation complies with section 10 of the ESA. The activity and the exceptions provided for in this permit by regulation are being undertaken in good faith. No individual or organization receives any financial gain or any career advancement as a result of their volunteer activities for the STSSN. Further, the activity will increase the probability, for each rescued endangered sea turtle, of survival and reproduction of that sea turtle. This activity can therefore operate only to the advantage of endangered species involved. Further, this activity is consistent with relevant purposes and policy set forth in ESA section 2. The STSSN was established for the sole purpose of the conservation of

endangered sea turtles. Maintaining a stranding network is identified as a recovery task in all federal sea turtle recovery plans. NMFS is using its authority under 10(a)(1)(A) to issue this regulation for the specific purpose of conserving endangered sea turtles. While the STSSN and the rescuing of endangered sea turtles does not impact water resources in any state, it is worth noting that the STSSN is at its heart a cooperative effort between NMFS, FWS and state conservation agencies.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule does not contain new reporting or recordkeeping requirements.

This final rule does not duplicate, overlap or conflict with other Federal rules.

This final rule does not limit state policymaking or preempt state law and, therefore, does not contain policies with federalism implications under Executive Order 13132.

For the proposed rule, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the rule, if adopted, would not have a significant economic impact on a substantial number of small businesses, organizations, or governments pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.* The factual basis for the certification was published in the proposed rule. No comments were received regarding the economic impacts of this action. As a result, no regulatory flexibility analysis was prepared.

Dated: July 20, 2005.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 50 CFR part 222 is amended as follows:

PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

■ 1. The authority citation for 50 CFR part 222 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

■ 2. In subpart C, § 222.310 is added to read as follows:

§ 222.310 Permit authority for designated agents and employees of specified Federal and state agencies.

(a) This section constitutes a programmatic permit, pursuant to 16 U.S.C. 1539(a)(1)(A), that authorizes activities by agents and employees of Federal and state agencies, as described in paragraph (b) of this section, to aid stranded endangered sea turtles, and to salvage, collect data from, and dispose of, dead carcasses of endangered sea turtles in the marine environment. For purposes of this section, 'stranded' means endangered sea turtles, in the marine environment, that are alive but sick, injured, or entangled.

(b) If any member of any endangered species of sea turtle is found stranded or dead in the marine environment, any agent or employee of the National Marine Fisheries Service, the Fish and Wildlife Service, the U.S. Coast Guard, or any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife who is designated by his or her agency for such purposes, may, when acting in the course of his or her official duties, take such endangered sea turtles if such taking is necessary to aid a stranded sea turtle, or dispose of or salvage a dead sea turtle, or collect data from a dead sea turtle which may be useful for scientific and educational purposes. Live turtles will be handled as described in § 223.206(d)(1). Whenever possible, live sea turtles shall be returned to their aquatic environment as soon as possible. The following data collection activities for live turtles while they are in the marine environment are allowed:

(1) Turtles may be flipper and passive integrated transponder (PIT) tagged, prior to release. Flipper tags will be applied to the trailing edge of either the front or rear flippers with standard tagging applicators after the tagging area has been cleaned with alcohol or iodine solution. PIT tags will be inserted according to best practice, approved scientific protocols, after cleaning the insertion site with alcohol or iodine solution. Before application of flipper tags or insertion of PIT tags, all flippers and the neck/shoulder area will be examined and scanned for the presence of any pre-existing flipper or PIT tags.

(2) Turtles may also be weighed, measured, and photographed prior to release.

(3) When handling turtles exhibiting fibropapilloma, all equipment (tagging equipment, tape measures, etc.) that

comes in contact with the turtle shall be cleaned with a mild bleach solution.

(c) Every action shall be reported in writing to the Assistant Administrator, or authorized representative, via the agency or institution designated by the state to record such events. Reports shall contain the following information:

(1) Name and position of the official or employee involved;

(2) Description of the sea turtle(s) involved including species and condition of the animal;

(3) When applicable, description of entangling gear, its location on the turtle, and the amount of gear left on the turtle at release;

(4) Method, date and location of disposal of the sea turtle(s), including, if applicable, where the sea turtle(s) has been retained in captivity; and

(5) Such other information as the Assistant Administrator, or authorized representative, may require.

[FR Doc. 05-14619 Filed 7-22-05; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 050708183-5183-01; I.D. 070505D]

RIN 0648-AT45

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gulf Grouper Recreational Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; interim measures; request for comments.

SUMMARY: This temporary rule implements management measures for the recreational grouper fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico, as requested by the Gulf of Mexico Fishery Management Council (Council), to reduce overfishing of red grouper. This rule establishes a seasonal closure of the recreational fishery for all Gulf grouper species and reduces both the recreational bag limit for red grouper and the aggregate grouper bag limit. The intended effects are to reduce overfishing of red grouper in the Gulf of Mexico and to minimize potential adverse impacts on other grouper stocks that could result from a shift in fishing

effort from red grouper to other grouper species.

DATES: This rule is effective August 9, 2005 through January 23, 2006.

Comments must be received no later than 5 p.m., eastern standard time, on August 24, 2005.

ADDRESSES: You may submit comments on this temporary rule by any of the following methods:

- *E-mail:* 0648-AT45. *Interim@noaa.gov*. Include in the subject line the following document identifier: 0648-AT45.
- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Phil Steele, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Fax:* 727-824-5308; Attention: Phil Steele.

Requests for copies of documents supporting this rule may be obtained from the Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727-551-5784; fax: 727-824-5308; e-mail: phil.steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

In October 2000, based on the results of a 1999 stock assessment, NMFS declared the red grouper stock overfished and undergoing overfishing. The 2002 stock assessment indicated the red grouper stock was in an improved condition and no longer overfished. However, the stock had not yet reached the biomass level (B_{MSY}) that is capable of producing maximum sustainable yield on a continuing basis. Therefore, a rebuilding plan was still necessary to restore the stock to the B_{MSY} level in 10 years or less. On June 15, 2004, NMFS implemented Secretarial Amendment 1 to the FMP to end overfishing of red grouper and rebuild the stock. The amendment established a commercial quota, a 2-fish recreational bag limit, and a 10-year rebuilding plan for red grouper. In addition, the amendment reduced the shallow-water and deep-water grouper commercial quotas and provided for closure of the entire

commercial shallow-water grouper fishery when either the commercial shallow-water quota or commercial red grouper quota is reached.

The 10-year red grouper rebuilding plan is based on a stepped rebuilding strategy. During the first 3-year interval (2003-2005) of the plan, the allowable biological catch (ABC) is 6.56 million lb (2.98 million kg) gutted weight (GW), which equates approximately to a 9.4-percent reduction in both commercial and recreational landings compared to the average landings during 1999-2001. Based on historical landings, the commercial fishery would account for 81 percent of the ABC (5.31 million lb (2.41 million kg)), and the recreational fishery would account for 19 percent (1.25 million lb (0.57 million kg)). In both 2003 and 2004, recreational red grouper landings exceeded the 1.25-million lb (0.57-million kg) GW target level, while commercial landings were less than the 5.31-million lb (2.41-million kg) GW commercial quota. Recreational landings in 2003 were only slightly greater than the target level and totaled 1.35 million lb (0.61 million kg) GW. However, in 2004, recreational landings were nearly 2.5 times greater than the recreational target level, totaling 3.10 million lb (1.4 million kg) GW.

During the March 7-10, 2005, Council meeting, the Council reviewed red grouper landings and concluded that without additional regulations recreational red grouper landings in 2005 are again likely to exceed the recreational target level. Based on average recreational landings during 2003 and 2004, it is estimated that as much as a 43-percent reduction in recreational red grouper landings is needed to end overfishing in 2005. Although the Council intends to consider permanent recreational management measures as part of a regulatory amendment in 2006, action is needed in the interim to reduce recreational red grouper landings in 2005. The Council passed a motion and subsequently submitted a letter requesting NMFS to implement an interim rule to reduce the 2005 recreational red grouper catch to levels consistent with the rebuilding plan specified in Secretarial Amendment 1.

Provisions of This Temporary Rule

The purpose of this temporary rule is to reduce the likelihood of overfishing red grouper, while minimizing biological impacts on gag and other groupers that could result from shifts in effort due to red grouper management actions. To achieve this objective, this temporary rule reduces the red grouper

Estimated Total Annual Cost to Public: \$747.

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: July 20, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-14460 Filed 7-25-07; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Gear-Marking Requirements for the Harbor Porpoise Take Reduction Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

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 September 24, 2007.

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 David Gouveia or david.gouveia@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Federal regulations found at 50 CFR 229.34 limits the number of gillnets that can be used in certain fisheries in the mid-Atlantic that appear to be most closely linked with accidental catch of harbor porpoises. The fishermen in these fisheries must obtain and attach numbered tags for their nets. Because the number of tags per vessel is capped, the tagging program helps to limit the number of nets in use and helps NOAA identify the number in use.

II. Method of Collection

Requests for tags are submitted to NOAA on a paper form.

III. Data

OMB Number: 0648-0357.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 2,450.

Estimated Time per Response: 1 minute to attach a tag to a net and 2 minutes to request tags.

Estimated Total Annual Burden Hours: 41.

Estimated Total Annual Cost to Public: \$1,212.

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: July 20, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-14463 Filed 7-25-07; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Reporting of Sea Turtle Entanglement in Pot Gear Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

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 September 24, 2007.

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 Sara McNulty, (978) 281-9300 ext. 6520 or sara.mculty@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information involves sea turtles becoming accidentally entangled in active or discarded fixed fishing gear. These entanglements may prevent the recovery of endangered and threatened sea turtle populations. The National Marine Fisheries Service (NMFS) has established the Sea Turtle Disentanglement Network to promote reporting and increase successful disentanglement of sea turtles. As there is limited observer coverage of pot gear fisheries, NMFS relies on the U.S. Coast Guard, fishing industry, stranding network, federal, state, and local

authorities, and the public for this information. The information provided will help NMFS better assess pot gear fisheries (lobster, whelk/conch, crab, fish trap) and their impacts on sea turtle populations in the northeast region (Maine to Virginia).

II. Method of Collection

Reports are made by telephone, or by fax or email.

III. Data

OMB Number: 0648-0496.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; Individuals or households; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government.

Estimated Number of Respondents: 45.

Estimated Time per Response: 60 minutes.

Estimated Total Annual Burden Hours: 45.

Estimated Total Annual Cost to Public: \$675.

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: July 20, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-14464 Filed 7-25-07; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Public Comment Period for the Revised Management Plan for the Wells (Maine) National Estuarine Research Reserve.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce is announcing a thirty day public comment period on the revised Wells (Maine) National Estuarine Research Reserve Management Plan which will begin on the day this announcement is published. Comments should be sent within the comment period in hard copy or e-mail to Doris Grimm at Doris.Grimm@noaa.gov or NOAA's Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

The Wells National Estuarine Research Reserve was designated in February 1984 pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. Pursuant to 15 CFR 921.33(c), a state must revise its management plan every five years. The reserve has been operating under a management plan approved in 1996. The submission of this plan fulfills this requirement and sets a course for successful implementation of the goals and objectives of the reserve.

Since the last management plan, the Wells Reserve acquired two key parcels of land, changed its boundary, constructed needed facilities, and has implemented several system-wide programs. It acquired the 27-acre Alheim property and the 2½-acre Lord parcel, and changed its boundary to include 359 acres of the watershed areas of the Reserve. The Reserve built the Maine Coastal Ecology Center, new interpretive exhibits, the Alheim Commons dormitory, and the Forest Learning Shelter, and equipped and opened the Coastal Resource Library. This new management plan serves as the primary guidance document for the

operation of the Wells Reserve's core and system-wide programs in research and monitoring, education and coastal training, and resource management and stewardship. The plan provides guidance on the acquisition of land to be added to the Reserve and on the construction and renovation of buildings and exhibits that support NERR programs. It also guides the Reserve in important related programs, such as volunteerism and outreach to communities to encourage stewardship of coastal resources in southern Maine.

The Wells Reserve is a public/private partnership whose administrative oversight is vested in the Reserve Management Authority (RMA). This independent state agency was established in 1990 to support and promote the interests of the Wells Reserve. The RMA has a Board of Directors composed of representatives having a property, management, or program interest in the Wells Reserve. The RMA members represent the Maine Department of conservation, the U.S. Fish and Wildlife Service, the Town of Wells, the Laudholm Trust, the Maine State Planning Office, and the National Oceanic and Atmospheric Administration.

FOR FURTHER INFORMATION CONTACT:

Doris Grimm at (301) 563-7107 or Laurie McGilvray at (301) 563-1158 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910. For copies of the Wells Management Plan revision, visit <http://www.wellsreserve.org>.

Dated: July 20, 2007.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-AV61

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 3 to the Fishery Management Plan for the Spiny Lobster Fishery of the Caribbean and Amendment 5 to the Joint Fishery Management Plan for the Spiny Lobster Fishery Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and