

efforts to reduce the incidental take of seabirds in fisheries are consistent with the Magnuson-Stevens Act's objective to conserve and manage the marine environment. In addition, the NMFS guidelines for implementing the Magnuson-Stevens Act's national standards for fishery conservation and management note that other applicable laws, such as the Marine Mammal Protection Act, the ESA, and the Migratory Bird Treaty Act (MBTA), require that Councils consider the impact of conservation and management measures on living marine resources other than fish; i.e. marine mammals and birds.

National and International Bycatch Reduction Initiatives

Several national and international initiatives highlight the need to address fisheries bycatch issues, including the incidental take of seabirds. The United Nation's Food and Agriculture Organization (FAO) Code of Conduct for Responsible Fisheries, adopted in 1995, contains a call for states to "take appropriate measures to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species,...and promote, to the extent practicable, the development and use of selective, environmentally safe and cost effective gear and techniques." (Article 7.6.9.) NMFS's strategic document, *Managing the Nation's Bycatch: Programs, Activities, and Recommendations for the National Marine Fisheries Service (NMFS Bycatch Plan)*, sets forth national objectives, goals, and recommendations, all intended to address current programs and future efforts to reduce bycatch and bycatch mortality of marine resources, including seabirds. Consistent with the Code of Conduct for Responsible Fisheries, the FAO held a technical consultation to address the incidental take of seabirds in longline fisheries. The resulting *International Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fishing* (IPOA-S), is a voluntary plan endorsed by the FAO's Committee on Fisheries (COFI) in February 1999 and ultimately adopted by the FAO Conference in November 1999. The United States developed and is implementing a *National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fishing* (NPOA-S) to fulfill our national responsibility described in the IPOA-S. Implementation is being carried out at the regional level through team efforts by a NMFS National Seabird Coordinator and designated staff in each NMFS region and fishery science center.

Efforts are also coordinated with designated staff in each of the regional fishery management councils, regional offices of the U.S. Fish & Wildlife Service (USFWS), and the Department of State. Additionally, NMFS has formed an International Bycatch Reduction Task Force that will work with foreign governments and regional fisheries management organizations to reduce the bycatch of sea turtles and seabirds in longline fisheries and promote the conservation and management of sharks. NMFS believes that its complementary implementation of the Code of Conduct for Responsible Fisheries, the NMFS Bycatch Plan, the IPOA-S, and the NPOA-S should result in the reduction of seabird incidental take in the Alaska hook-and-line fisheries. This plan will require the joint and cooperative efforts of NMFS, the Councils, the USFWS, the affected commercial longline fishing industry, environmental non-governmental organizations, and other interested groups.

Incidental Seabird Mortality off Alaska

Awareness of the issue of seabird incidental take and incidental mortality in commercial fishing operations off Alaska has been heightened in recent years. Further information on this issue was provided in the preambles to the proposed and final rules implementing seabird avoidance measures in the GOA and BSAI hook-and-line groundfish fisheries (62 FR 10016 March 5, 1997, and 62 FR 23176 April 29, 1997) and in the Pacific halibut fishery off Alaska (62 FR 65635 December 15, 1997, and 63 FR 11161 March 6, 1998) and the EA/RIR/FRFAs prepared for those actions.

Council Action

At the December 1998 Council meeting, industry representatives requested that the Council revise and strengthen the seabird avoidance measures that are currently required by Federal regulation. Current regulations require that operators of vessels greater than or equal to 26 ft (7.9 m) LOA and using hook-and-line gear in the groundfish and halibut fisheries must employ one or more of the following seabird avoidance measures: (i) Tow a streamer line or lines during deployment of gear to prevent birds from taking hooks; (ii) tow a buoy, board, stick or other device during deployment of gear, at a distance appropriate to prevent birds from taking hooks (multiple devices may be employed); (iii) deploy hooks underwater through a lining tube at a depth sufficient to prevent birds from settling on hooks during deployment of

gear; or (iv) deploy gear only during the hours specified below, using only the minimum vessel's lights necessary for safety.

All operators of these vessels must also conduct fishing operations in the following manner: (i) use hooks that when baited, sink as soon as they are put in the water; (ii) if offal is discharged while gear is being set or hauled, it must be discharged in a manner that distracts seabirds from baited hooks, to the extent practicable. The discharge site on board a vessel must be either aft of the hauling station or on the opposite side of the vessel from the hauling station; and (iii) make every reasonable effort to ensure that birds brought on board alive are released alive and that wherever possible, hooks are removed without jeopardizing the life of the birds. This request was made because two short-tailed albatrosses were taken in September 1998 and because the industry group perceives that some individual fishermen may not always be using seabird avoidance measures as carefully as is necessary to effectively reduce seabird incidental take.

These takes of endangered short-tailed albatross in the BSAI groundfish fishery highlight a seabird incidental take problem. Seabird avoidance measures must be used consistently and conscientiously if they are to be effective at reducing seabird incidental take. Under the ESA section 7 consultation on the 1999 GOA and BSAI groundfish fisheries, the USFWS anticipated that four short-tailed albatrosses could be taken in 1999 and 2000. USFWS extended its 1999 Biological Opinion until superseded by a subsequent biological opinion. No short-tailed albatrosses have been reported taken since 1998. Based on the ESA section 7 consultation in 1998 on the effects of the Pacific halibut fishery, the USFWS anticipates that two short-tailed albatrosses could be taken every 2 years. If the 2-year incidental take limit is exceeded in either the groundfish or the halibut fisheries, NMFS must immediately reinstitute section 7 consultation and review with USFWS the need for possible modification of the reasonable and prudent measures established to minimize take of short-tailed albatrosses.

The NMFS North Pacific Groundfish Observer Program office has documented incidental take of seabird species in the GOA and BSAI groundfish fisheries since 1989. Estimates of the annual seabird incidental take for the Alaska groundfish fisheries, based on 1993 to