NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 03/06/2014

Department of Commerce
National Oceanic and Atmospheric Administration

FOR CERTIFYING OFFICIAL: Simon Szykman
FOR CLEARANCE OFFICER: Jennifer Jessup

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 01/29/2014

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201312-0648-015
AGENCY ICR TRACKING NUMBER:
TITLE: Applications and Reporting Requirements for Incidental Taking of Marine Mammals by Specified Activities Under the Marine Mammal Protection Act.
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0151
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: 03/31/2017 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	87	26,410	361,575
New	96	13,486	100,700
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	9	-12,924	-260,875
Change due to PRA Violation	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Dominic J. Mancini
Acting Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs			
IC Title	Form No.	Form Name	CFR Citation
IHA Application			
IHA draft interim and annual reports and final annual report			50 CFR 216.104
LOA initial application, preparation for regs and annual LOA application			50 CFR 216.105
LOA draft and fianl annual reports and draft and final comprehensive reports			50 CFR 216.105

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
DOC/NOAA/NMFS

2. OMB control number
a. 0648 - 0151
b. [ ] None

3. Type of information collection (*check one*)
a. [ ] New Collection
b. [ ] Revision of a currently approved collection
c. [✔] Extension of a currently approved collection
d. [ ] Reinstatement, without change, of a previously approved collection for which approval has expired
e. [ ] Reinstatement, with change, of a previously approved collection for which approval has expired
f. [ ] Existing collection in use without an OMB control number
For b-f, note Item A2 of Supporting Statement instructions

4. Type of review requested (*check one*)
a. [✔] Regular submission
b. [ ] Emergency - Approval requested by ____/____/____
c. [ ] Delegated

5. Small entities
Will this information collection have a significant economic impact on a substantial number of small entities? [ ] Yes [✔] No

6. Requested expiration date
a. [✔] Three years from approval date b. [ ] Other Specify:____/____

7. Title
Applications and Reporting Requirements for the Incidental Take of Marine Mammals by Specified Activities (other than Commercial Fishing Operations) under the Marine Mammal Protection Act.

8. Agency form number(s) (*if applicable*)

9. Keywords

10. Abstract

The Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1361 et seq.) prohibits the “taking” of marine mammals unless otherwise authorized or exempted by law. The National Marine Fisheries Service (NMFS) uses the information collection to: evaluate the proposed activity’s impact on marine mammals; arrive at the appropriate determinations required by the MMPA and other applicable laws prior to issuing or denying the authorization; and monitor impacts of activities for which take authorizations have been issued.

11. Affected public (*Mark primary with "P" and all others that apply with "x"*)
a. x Individuals or households
b. x Business or other for-profit
c. x Not-for-profit institutions
d. ___ Farms
e. P Federal Government
f. x State, Local or Tribal Government

12. Obligation to respond (*check one*)
a. [ ] Voluntary
b. [ ] Required to obtain or retain benefits
c. [✔] Mandatory

13. Annual recordkeeping and reporting burden
a. Number of respondents: 95
b. Total annual responses: 95
1. Percentage of these responses collected electronically: 100 %
c. Total annual hours requested: 13,486
d. Current OMB inventory: 26,410
e. Difference: -12,924
f. Explanation of difference
1. Program change: ____
2. Adjustment: -12,924

14. Annual reporting and recordkeeping cost burden (*in thousands of dollars*)
a. Total annualized capital/startup costs: 0
b. Total annual costs (O&M): 101
c. Total annualized cost requested: 101
d. Current OMB inventory: 362
e. Difference: -261
f. Explanation of difference
1. Program change: ____
2. Adjustment: -261

15. Purpose of information collection (*Mark primary with "P" and all others that apply with "X"*)
a. ___ Application for benefits
b. x Program evaluation
c. ___ General purpose statistics
d. ___ Audit
e. x Program planning or management
f. ___ Research
g. P Regulatory or compliance

16. Frequency of recordkeeping or reporting (*check all that apply*)
a. [ ] Recordkeeping
b. [ ] Third party disclosure
c. [✔] Reporting
1. [ ] On occasion 2. [ ] Weekly 3. [ ] Monthly
4. [ ] Quarterly 5. [ ] Semi-annually 6. [✔] Annually
7. [ ] Biennially 8. [✔] Other (describe) Interim (90-day)

17. Statistical methods
Does this information collection employ statistical methods
[ ] Yes [✔] No

18. Agency Contact (person who can best answer questions regarding the content of this submission)
Name: Jeannine Cody
Phone: (301) 427-8415

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 signed by Helen Golde	Date 12/13/2013
Signature of NOAA Clearance Officer	
Signature BRABSON.SARAH.1365710488 Digitally signed by BRABSON.SARAH.1365710488 DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=OTHER, cn=BRABSON.SARAH.1365710488 Date: 2014.03.20 10:41:16 -04'00'	Date

SUPPORTING STATEMENT
APPLICATIONS AND REPORTING REQUIREMENTS FOR THE INCIDENTAL TAKE OF MARINE MAMMALS BY SPECIFIED ACTIVITIES (OTHER THAN COMMERCIAL FISHING OPERATIONS) UNDER THE MARINE MAMMAL PROTECTION ACT
OMB CONTROL NO. 0648-0151

A. JUSTIFICATION

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

This request is for extension of a current information collection.

The Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1361 *et seq.*) prohibits the "take" of marine mammals unless otherwise authorized or exempted by law. Among the provisions that allow for lawful take of marine mammals, sections 101(a)(5)(A) and (D) of the MMPA direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States (U.S.) citizens who engage in a specified activity (other than commercial fishing), within a specified geographical region, if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review. Authorization for incidental takings shall be granted if the Secretary, acting by delegation through the National Marine Fisheries Service (NMFS) finds that the taking will have a negligible impact on the species or stock(s) and will not have an immitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

Issuance of an incidental take authorization (Authorization) under section 101(a)(5)(A) or (D) of the MMPA requires three sets of information collection:

(1) a complete application for an Authorization, as set forth in our implementing regulations at 50 CFR 216.104, which provides the information necessary for us to make the necessary statutory determinations;

(2) information relating to required monitoring; and

(3) information related to required reporting.

These collections of information enable us to:

(1) evaluate the proposed activity's impact on marine mammals;

(2) arrive at the appropriate determinations required by the MMPA and other applicable laws prior to issuing the Authorization; and

(3) monitor impacts of activities for which we, NMFS, have issued Authorizations to determine if predictions regarding impacts on marine mammals were valid.

Letters of Authorization – MMPA § 101(a)(5)(A)

In 1981, Congress amended the MMPA to provide for Authorizations for activities other than commercial fishing, provided that we found that the takings would consist of small numbers and would have no more than a "negligible impact" on those marine mammal species not listed as depleted under the MMPA, and not having an "immitigable adverse impact" on subsistence harvests of these species by Alaskan Natives. NMFS, may prescribe regulations authorizing take for periods of up to five consecutive years. Implementing regulations require that any such regulations set forth:

- Permissible methods and the specified geographical region of taking;
- The means of effecting the least practicable adverse impact on the species or stock and its habitat and on the availability of the species or stock for "subsistence" uses; and,
- Requirements for monitoring and reporting, including requirements for the independent peer-review of proposed monitoring plans where the proposed activity may affect the availability of a species or stock for taking for subsistence uses.

50 CFR 216.105. Once we issue the regulations to authorize the taking, those conducting the activity must request and obtain a subsequent Letter of Authorization from us. Once we issue the Authorization, the applicant must abide by the prescribed reporting requirements.

Incidental Harassment Authorization – MMPA § 101(a)(5)(D)

In 1994, Congress amended MMPA section 101(a)(5) to establish an expedited process by which U.S. citizens can apply for an authorization to take incidentally, but not intentionally, small numbers of marine mammals by harassment. This amendment eliminates the need for applying for regulations but retains the requirements for applications for the Incidental Harassment Authorization, including monitoring and reporting interactions with marine mammals. This type of Authorization does not reduce the paperwork burdens significantly on the activity, but, rather, it expedites our review and subsequent approval or denial of the application. The 1994 amendments also established specific time limits for public notice and comment on requests for an Incidental Harassment Authorization.

The Endangered Species Act

In 1986, Congress amended both the MMPA, under the Incidental Take Program, and the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq*.) to authorize takings of depleted (and endangered or threatened) marine mammals. The amendments required that the taking (lethal, injurious, or harassment) would be small in number and would have a negligible impact on marine mammals. The 1986 amendments provided for an authorization to incidentally take ESA-listed marine mammals provided the taking (including mortality) was authorized under section 101(a)(5) of the MMPA. As a result, we must authorize any take of ESA-listed marine mammals under both the MMPA as well as the ESA.

The National Environmental Policy Act

Issuance of an Authorization is subject to our conducting an environmental review under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq*.) which may take the form of either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). Adequate and complete applications allow us to determine whether an EA or EIS is appropriate

because the information provided is sufficient to complete our NEPA analyses. On the other hand, incomplete applications or applications without sufficient information on the environmental impact of the proposed activity would typically delay our evaluation under NEPA.

2. <u>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</u>.

If the applicant determines that their activity has the potential to cause take they may request an Authorization and/or regulations from us to obtain an exemption under the MMPA. Once the applicant determines that it is appropriate to request an Authorization and/or regulations Authorization and/or regulations, it is their responsibility to collect the information required to answer the fourteen questions listed in 50 CFR 216.104(a)(1-14) (See Appendix A) to support their request.

The collection of information is the responsibility of the individual, organization, state, local, or tribal government, or business petitioning us for an authorization to allow the incidental, but not intentional, taking of small numbers of marine mammals. Without this collection of information requirement, we cannot authorize the incidental taking of marine mammals for the applicant's activities. The Authorization does not permit the underlying activity and only authorizes the incidental take of marine mammals during the course of that activity. Failure to obtain an Authorization and/or regulations does not mean the activity cannot take place, but if an applicant takes a marine mammal (by harassment, injury, serious injury, or mortality) while conducting that activity, the applicant may be subject to prosecution under the MMPA or vulnerable to third party litigation.

The Director, Office of Protected Resources will use the information collection as:

(1) a basis for a decision on issuance or denial of an Authorization and/or regulations under the MMPA (application); and

(2) a basis for monitoring and evaluating the impacts of the authorized activity's impact on marine mammals (monitoring and reporting);

<u>Information Collection – Application and Supporting Documentation</u>

The regulations for an Authorization (Incidental Harassment Authorization or Letter of Authorization) require applicants to include responses to fourteen questions listed in 50 CFR 216.104(a)(1-14) (See Appendix A).

All applications for marine mammal Authorizations and/or regulations must include this information in sufficient detail necessary for us to conduct appropriate analyses and make necessary findings under the MMPA and other applicable laws. In addition to the information collection required under 50 CFR 216.104, applicants often voluntarily provide environmental analyses, raw data, and/or geospatial data files to further support their request for an ITA.

We use the information to:

(1) review the application and ensure that it is adequate and complete.

(2) determine the status of the proposed action under the ESA and NEPA.

(3) determine the size, scope and duration of the proposed activity (Questions 1 and 2).

(4) determine the environmental setting of the activity (Questions 3 and 4).

(5) complete an analysis of the effects of the action on marine mammals, their habitat, and subsistence uses (including methods of take) (Questions 5 -10).

(6) verify an estimate of the numbers of animals likely to be taken (Questions 5-10).

(7) ensure that the applicant included adequate mitigation measures (Question 11).

(8) ensure the applicant included adequate monitoring and reporting measures (Question 13).

Question 14 requests information on what plans the applicant may have to conduct research on the impacts on marine mammals from the activity. This information is requested to effectuate legislative intent behind the 1981 Amendments to the MMPA (H. Rept. 97-228, p. 20) that persons operating under the incidental take authority engage in appropriate research designed to reduce incidental take. For activities conducted in the Arctic, the MMPA and/or implementing regulations require that the applicant's monitoring plan undergo an independent review.

We review the application and analyze the information collection to make statutory findings under the MMPA that the taking: will be small; will have a negligible impact on the species or stock(s) (Questions 1-11); and will not have an immitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant) (Questions 8, 11, and 12). The authorization (if issued) must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and monitoring and reporting of such takings.

Our review of a complete application is followed by one 30-day public comment period in the *Federal Register* for an Incidental Harassment Authorization (Section 101(a)(5)(D)) or by two public comment periods (*i.e.*, one 30-day and one 45-day period) for regulations and subsequent Letters of Authorization (Section 101(a)(5)(A)).

Information Collection – Monitoring and Reporting

We use monitoring requirements and interim, annual, and comprehensive reports to determine:

(1) if the activity took place as described in the request for an Authorization;

(2) if the applicant complied with the terms and conditions of the Authorization;

(3) if the applicant conducted the monitoring plan as authorized;

(4) if the taking of marine mammals was more than that authorized; and

(5) if the impacts of the activity are consistent with what we anticipated and permitted in the Authorization.

The reports must include a description of the activity including the time, location, and place; a summary of the monitoring program; and an assessment of the effects of the activity on marine mammals including the estimated level of incidental take by species.

We may require additional reporting requirements (submission of raw data and/or geospatial data files) on a case-by-case basis for activity-specific regulations and authorizations.

Compliance with the Information Quality Act Guidelines

We disseminate the information collection to the public to provide a detailed description of the proposed action and to explain how we arrived at a determination (either preliminary or final) that an Authorization and/or a regulation is or is not appropriate under the MMPA.

The information collected is available to the public under the Freedom of Information Act and on-line at: http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications. We provide the information in a standard data format (Adobe PDF files) and provide unit style conventions within the *Federal Register* notice to facilitate the public's understanding.

Before disseminating information in any format, we review the data internally (pursuant to Section 515 of Public Law 106-554) to ensure that they are scientifically sound and meet standards for data quality. The review process for Authorizations and/or regulations includes review of the application by the principal drafter of the Authorization to ensure that the applicant has met the requirements under section 101(a)(5) of the MMPA. The principal drafter's supervisor and the National Oceanographic and Atmospheric Administration's (NOAA) Office of General Counsel review the proposed and final Federal Register notices for the Authorization and/or regulation, as well as the actual Authorization or regulation. If applicable, a NMFS biologist also conducts an independent review of the action's effects on ESA-listed species under Section 7 of the ESA. The MMPA also requires that the U.S. Marine Mammal Commission review all applications for Authorizations and/or regulations and provide written recommendations to us.

Our dissemination of all electronic information adheres to the standards set out in Appendix III, Security of Automated Information Resources, Office of Management and Budget Circular A-130; the Computer Security Act; and the Government Information Security Reform Act.

We will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See Response #10 of this Supporting Statement for more information on confidentiality and privacy.

This information collection meets the standards for utility under the Paperwork Reduction Act, as we use the information collection to meet statutory requirements under the MMPA, ESA (e.g., ESA section 7 and/or section 10), and NEPA.

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.

Applicants may transmit an electronic application or report (e.g., a Microsoft Word (.doc) or Adobe Acrobat (.pdf) file) via email or deliver paper forms via hand delivery, the U.S. Postal Service, or by an overnight delivery service. During the processing of the application for an Authorization, we correspond with the applicant either by e-mail or by telephone.

All Authorization applications and reports are available on the internet as Adobe Acrobat .pdf files at http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications as electronic format allows the public easy access to applications and activity reports. The interested public may also obtain a copy of the application by writing to the Office of Protected Resources, Permits and Conservation Division or by telephoning the contact listed in the *Federal Register* notice.

The application instructions are available for downloading on our website at http://www.nmfs.noaa.gov/pr/permits/incidental.htm. Upon request, we can forward these instructions to the interested party via e-mail in either Adobe Acrobat .pdf or Microsoft Word .doc format.

4. Describe efforts to identify duplication.

We and the U.S. Fish and Wildlife Service (USFWS), Department of the Interior (DOI), are responsible for different species under the MMPA. Our agency manages and conserves whales, dolphins, porpoise, seals, and sea lions and the USFWS is responsible for the manatee, dugong, sea otter, walrus, and polar bear populations. *The applicant may submit a single application to both agencies when there is a potential to take a marine mammal species within the same activity under each agency's jurisdiction.*

The Bureau of Ocean Energy Management (BOEM) of the DOI has an overlapping collection requirement with us and the USFWS for reporting impacts on the marine environment from offshore oil and gas activities. This is a large information collection which mostly does not involve us (or the USFWS). There is a small overlap of collecting responsibilities when oil companies apply for an Authorization. When there is an overlap, we work cooperatively with the USFWS, and BOEM to implement unified mitigation, monitoring and reporting requirements to reduce duplicative information collection on the part of the applicant.

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

There should not be a significant burden to small businesses or other small entities. We do not anticipate significant impacts to small businesses, unless they are involved in an activity that will otherwise have an unauthorized taking of a marine mammal (e.g., they have not applied for an Incidental Take Authorization and are subject to prosecution).

We anticipate that the affected applicants would include university researchers; oil and gas exploration companies, other energy companies, and their contractors. While contractors fall within the category of a small business, in many cases they supply the information required under this collection to Federal agencies, and thereby obtain a benefit. Otherwise, they are unaffected.

In cases where a small businesses might be affected (such as oil rig removal contractors in the Gulf of Mexico), we would contact a larger entity (e.g., the American Petroleum Institute or BOEM) associated with the activity to gather the necessary information. Thus, the small business would provide us with minimal information (such as company name and appropriate contact) in order to obtain an Authorization and/or regulations under the larger entity requesting an Authorization and/or regulations conducting the activity.

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

Without the information collection, required by statute and regulations, we would be:

(1) unaware of the applicant's need for an exemption to the MMPA's moratorium on taking marine mammals;

(2) unable to evaluate the proposed activity's impact on marine mammals;

(3) unable to arrive at the appropriate determinations required by the MMPA and other applicable laws prior to issuing the authorization;

(4) unable to meet the "shall allow" or "shall issue" requirements of the MMPA due to the agency's inability to make the appropriate determinations without adequate information; and

(5) unable to monitor impacts of activities for which take authorizations have been issued to determine if predictions regarding impacts on marine mammals were valid.

The interim (e.g., 90-day), annual, and/or comprehensive report must summarize activities conducted during the reporting period. If the applicant does not submit this information, we would not be able to adequately monitor compliance with the terms and conditions of the Authorization. Additionally, we use the information mined from the annual reports in making management decisions to aid in our assessment of potential impacts of the incidental take on marine mammals. We also use this information to comply with any analyses required under section 7 of the ESA and/or the NEPA.

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

Not Applicable.

8. Provide information on 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 Federal Register Notice published on September 6, 2013 (78 FR 54866) solicited public comment on this information collection.

We received one comment from the Marine Mammal Commission in support of our request to collect the required information and a comment letter from the Center for Regulatory Effectiveness that raised four issues. Below we briefly respond to the CRE's issues in addition to directly responding to them in a follow-up letter.

> **Summary of CRE Issue 1**: NMFS does not explain why the proposed burden hour estimates in the current information collection request (78 FR 54866, September 6, 2013) are lower than the existing burden estimates, even though the total number of respondents is greater.

Response: We based our burden estimates on discussions with current Authorization holders from four different sectors (e.g., oil and gas, state agency, offshore energy, and non-profit) and an accounting of the number and different types of actions that we have processed during the past three years (2010 – 2013). We concur that the total number of respondents has increased (95 compared to 71) and that total annual burden hours has decreased (13,486 compared to 26,410); however, the makeup of our applicant pool and the nature and complexity of their requested activities may vary from one information collection request cycle to the next. This inter-cycle variability will contribute to fluctuations in estimations.

Based on our review of the 2010-2013 data, we observed an increase of non-federal respondents requesting Incidental Harassment Authorizations (45 in 2007-2010; 59 in 2010-2013). Based on the 2013 survey results, we estimated an approximately 900-hour decrease in the estimated length of time response related to Incidental Harassment Authorization requests compared to our 2010 estimates. This resulted in an estimated decrease of 7,514 total burden hours (15,070 hours in 2010; 7,556 hours in 2013). We could attribute this to several factors:

- We have increased our outreach efforts with first-time applicants to help them understand the intent of our information collection request (e.g., the 14 Questions) and produce complete applications. These information exchanges occur via phone/email from applicants and during professional society meetings and other national and international protected species meetings and workshops.
- Applicants renewing Incidental Take Authorizations are more familiar with the application process and have streamlined their operations to produce complete applications for renewals in less time than in previous years.
- Finally, the complexity of the information required in applications or reports varies greatly due to the following: (a) level of controversy over the activity; (b) level and type of incidental take of marine mammals; and (c) level of unresolved questions involving the activity's long-term impact on marine mammals, habitat and/or subsistence needs for marine mammals. Thus, response times will vary for the public based upon the complexity of the requested action.

Conversely, we observed a decrease in the number of respondents requesting regulations based on our review of the 2010-2013 data. We attribute this to several factors:

- Existing regulations, once issued, are effective up to five years and the number of respondents has dropped accordingly during the 2010-2013 period. This process allows respondents to reduce their burden estimates for applying for Letters of Authorizations under existing regulations due to the streamlined application process.

Our estimated burden estimates for regulations and/or Letters of Authorizations have changed very little from the 2010 estimates, but due to decreased responses, the total hours have decreased (11,340 hours in 2010; 5,930 hours in 2013).

Summary of CRE Issue 2: NMFS will need a new information collection requirement for a new rulemaking governing take incidental to oil and gas activities in the Gulf of Mexico because it cannot estimate the burden of these Gulf of Mexico take rules until they are final.

Response: We addressed this issue in Response to CRE comment #1. Our estimated burden estimates for regulations and/or Letters of Authorizations (5,930 hours) have decreased from

the 2010 estimates included in our current information collection due in part to respondents applying for Letters of Authorizations which requires fewer burdens because of the streamlined application process under current regulations.

Also, we request comments on the individual PRA collection burden estimates whenever we propose new rulemaking to authorize a taking under section 101(a)(5)(A) of the MMPA. During the proposed rulemaking, we describe that the rule contains collection of information requirements subject to the PRA and include the estimated burden hours for that collection. The estimated hours include the time for gathering the required data and completing and reviewing the collection of information including annual reports. We also ask that the public send comments to us and to the OMB regarding our burden estimates or any other aspect of the collection of information, including suggestions for reducing the burdens. To our knowledge, we have not received any PRA-related comments from actual respondents related to the estimated burden hours for any collection.

Summary of CRE Issue 3: NMFS will need a new information collection requirement for the new acoustic criteria that will apply to oil and gas offshore seismic operations considered within the new rulemaking governing take incidental to oil and gas activities in the Gulf of Mexico. Neither the current ICR nor the proposed extension ICR could possibly cover these new acoustic criteria because NMFS has not even proposed the new criteria yet. NMFS could not estimate the burden of these new acoustic criteria until they are final.

Response: NOAA is in the process of developing Acoustic Guidelines for assessing the effects of anthropogenic sound on marine mammal species under our jurisdiction. Specifically, it provides noise exposure levels for onset of permanent threshold shift and temporary threshold shifts for all sound sources and behavioral response zones for seismic surveys. Its intended use is for analysts/managers and other relevant stakeholders, including other federal agencies to better predict a marine mammal's response to sound exposure in a manner that has the potential to trigger certain requirements under one or more of our statutes (e.g., the MMPA, ESA, and the National Marine Sanctuaries Act).

Internal review of the draft Acoustic Guideline document has occurred and followed Information Quality Act protocols. The external peer review process began in July 2013 and has not concluded at this time. After peer review, NOAA will seek public comment on the scientific and implementation aspects of the document. Once NOAA addresses the peer review and public comments, it will finalize and release the Acoustic Guidelines.

As the CRE states in its comments, the Agency has not proposed or released the new criteria for public review and comment and we concur that accurately estimating the burden hours for our information collection related to respondents using the future acoustic criteria for oil and gas offshore seismic operations is not possible at this time. However, the release and adoption of the acoustic criteria will not change our information collection requirement as the 14 Questions will remain the same.

We addressed the issue of revising burden estimates for information collection related to any proposed rulemaking in Response to CRE comment #2. Once NOAA finalizes and implements the Acoustic Guidelines, we will include in any subsequent rulemaking an assessment of the burden hours required to complete the collection of information. The respondent and the public may send comments to us and to the OMB regarding our burden

estimates or any other aspect of the collection of information, including suggestions for reducing the burdens.

Summary of CRE Issue 4: NMFS will have to demonstrate that ICRs for new rulemaking governing take incidental to oil and gas activities in the Gulf of Mexico and for the new Acoustic Criteria Guidelines comply with Information Quality Act guidelines.

Response: With respect to rulemaking, we addressed this issue in Question #2. The Acoustic Guidelines compliance with the Information Quality Act is not directly germane to our collection of information requirements. However, we addressed this issue in Question #3.

External Consultation: We receive input regularly from the Marine Mammal Commission, industry, the scientific community, and other interested parties, to obtain their views on the availability of data, frequency of collection, clarity of instructions and record keeping, the amount of burden imposed, and ways to minimize burden. Such information exchanges occur via phone/email from applicants and during professional society meetings such as the Biennial Conference on Marine Mammals and other national and international protected species meetings and workshops.

Solicitation of Comments from Stakeholders: In April 2013, we contacted six respondents for feedback on the information collection via a short survey (Appendix B). We asked the respondents to answer three short questions on: (1) the clarity of our instructions for submitting and completing an Incidental Take Authorization; (2) the accuracy of previous burden estimates; (3) and their thoughts on the utility on the data collected. Out the six contacted, only four authorization holders responded—representing four different sectors (e.g., oil and gas, state agency, offshore energy, and non-profit).

Contact	**Type**
Point Blue Conservation Science	Non-Profit Organization
Sonoma County Water Agency	State
Apache Alaska Corporation	Business (oil and gas)
Cape Wind Associates	Business (offshore energy)

Clarity: All four respondents submitted a score for the clarity of instructions. On a scale of 0 to 10 (0 = Not Clear; 10 = Extremely Clear), the average score was 7.5. One respondent noted that the instructions for submitting an application were clear, but requested more discrete information on estimating animal densities and the methods for estimating take under the MMPA. We acknowledge the respondents' concern and are currently working on general guidance for applicants that would suggest approaches for estimating take.

Accuracy: Two respondents answered that our burden estimates were higher than their accounting; one agreed that our estimates were close to their estimates, and the fourth respondent noted that additional compliance with ESA and NEPA statutes led to increased effort to collect information for those consultations/analyses in addition to the MMPA burden hours.

Utility: Most replied that the data collected was useful and relevant. One respondent recommended streamlining the data collected through the NEPA process to reduce

paperwork. .We acknowledge the respondents' concern and continue to work towards streamlining our information collection to meet the requirements of both MMPA and NEPA.

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

We do not provide payments or gifts to respondents.

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

The information collection is a matter of public record (with the exception of classified military materials), and the MMPA and our regulations do not require the submission of confidential material.

The statute and our regulations require that we publish a notice of receipt of an application in the *Federal Register* requesting comments on the proposed action. The interested public can review the application and supporting documentation at http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications and submit comments electronically. For each *Federal Register* notice, we include a disclaimer that a commenter should not submit Personal Identifying Information (for example, name, address, etc.), confidential business information, or otherwise sensitive or protected information with his/her public comment, as we typically post the comments online without change.

The authorization documentation, including reports, is subject to the Freedom of Information Act (FOIA). However, any personal information that is subject to the Privacy Act is redacted if contained within documents released under FOIA.

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.

The statute and regulations do not require the submission of sensitive material.

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

We estimate the total annual burden hours at 13,486 hours, as shown in Table 1 and Table 2. We based our burden estimates on discussions with current Authorization holders from four different sectors (e.g., oil and gas, state agency, offshore energy, and non-profit) and an accounting of the number and different types of actions that we have processed during the past three years (2010 – 2013).

The complexity of the information required in applications or reports varies greatly due to the following: (a) level of controversy over the activity; (b) level and type of incidental take of marine mammals; and (c) level of unresolved questions involving the activity's long-term impact on marine mammals, habitat and/or subsistence needs for marine mammals. Response times will vary for the public based upon the complexity of the requested action.

Table 1 - Estimated total annual burden hours.

Summary	2013 Estimate
Estimated Number of Respondents	95
Estimated Number of Responses	95.4 (95)
Estimated Annualized Burden Hours	13,486

Table 2 – Detailed estimated of total annual burden hours.

Estimated Information Collection Activity	No. of Responses Annualized Over 3 Years (Non-Federal)	Est. Length of Time per Response (hours)	Est. Total Annual Burden (hours)
IHA Application	19.7	255	5,015
IHA Interim Draft Report	0.3	11	4
IHA Draft Report	19.7	115	2,262
IHA Final Report	19.7	14	275
LOA - Initial Application Preparation for Regulations	1	1,100	1,100
LOA - Annual LOA Application	11	70	770
LOA - Draft Annual Report	11	220	2,420
LOA - Final Annual Report	11	65	715
LOA - LOA Draft Comprehensive Report	1	625	625
LOA - LOA Final Comprehensive Report	1	300	300
Totals	**95 (rounded up to 96 in ROCIS)**		**13,486**

13. <u>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 Question 12 above)</u>.

We estimate the total annual cost burden to the respondents at $100,700 (approximately $1,060.00 per respondent), as shown in Table 3. The reporting and recordkeeping estimates include costs for equipment/software (not required, but incidental based on respondents' needs), copying and printing, faxing/telephony, and postage and shipping.

We base these estimates on discussions with current Authorization holders from three different sectors (e.g., oil and gas, state agency, and non-profit)

Table 3. Estimated total annual cost burden.

Summary	2013 Estimate
Estimated Total Annual Cost to Public	$100,700

14. <u>Provide estimates of annualized cost to the Federal government</u>.

We estimate the annual cost to the Federal government at $385,700 for 10 Full Time Equivalents (FTE) calculated at $35 per hour in Table 4.

Table 4 - Estimated annualized cost to the Federal government.

Type of Action	Number of Responses Annualized over a 3 Year Period (Non-Federal)	Processing Time (hrs)	Estimated Federal Costs
IHA Application	19.7	300	$206,850
IHA Interim Draft Report	1	80	$2,800
IHA Draft Annual Report	19.7	80	$55,160
IHA Final Annual Report	19.7	50	$34,475
LOA - Initial Application Preparation for Regulations	1	350	$12,250
LOA - Annual LOA Application	11	50	$19,250
LOA - Draft Annual Report	11	80	$30,800
LOA - Final Annual Report	11	40	$15,400
LOA - LOA Draft Comprehensive Report	1	80	$2,800
LOA - LOA Final Comprehensive Report	1	40	$1,400
		Total	**$385,700**

15. <u>Explain the reasons for any program changes or adjustments</u>.

<u>Adjustments to Reponses and Burden</u>

We based our burden estimates on discussions with current Authorization holders from four different sectors (e.g., oil and gas, state agency, offshore energy, and non-profit) and an accounting of the number and different types of actions that we have processed during the past three years (2010 – 2013). The total number of respondents has increased (95 compared to 71) and the total annual burden hours have decreased (13,486 compared to 26,410); however, the makeup of our applicant pool and the nature and complexity of their requested activities may vary from one information collection request cycle to the next. This inter-cycle variability will contribute to fluctuations in estimations.

Based on our review of the 2010-2013 data, we observed an increase of non-federal respondents requesting Incidental Harassment Authorizations (45 in 2007-2010; 59 in 2010-2013). Based on the 2013 survey results, we estimated an approximately 900-hour decrease in the estimated length of time response related to Incidental Harassment Authorization requests compared to our 2010 estimates. This resulted in an estimated decrease of 7,514 total burden hours (15,070 hours in 2010; 7,556 hours in 2013). We could attribute this to several factors:

- We have increased our outreach efforts with first-time applicants to help them understand the intent of our information collection request (e.g., the 14 Questions) and produce complete applications. These information exchanges occur via phone/email from applicants and during professional society meetings and other national and international protected species meetings and workshops.
- Applicants renewing Incidental Take Authorizations are more familiar with the

application process and have streamlined their operations to produce complete applications for renewals in less time than in previous years.

- Finally, the complexity of the information required in applications or reports varies greatly due to the following: (a) level of controversy over the activity; (b) level and type of incidental take of marine mammals; and (c) level of unresolved questions involving the activity's long-term impact on marine mammals, habitat and/or subsistence needs for marine mammals. Thus, response times will vary for the public based upon the complexity of the requested action.

Conversely, we observed a decrease in the number of respondents requesting regulations based on our review of the 2010-2013 data. We attribute this to several factors:

- Existing regulations, once issued, are effective up to five years and the number of respondents has dropped accordingly during the 2010-2013 period. This process allows respondents to reduce their burden estimates for applying for Letters of Authorizations under existing regulations due to the streamlined application process.

Despite the drop in the number of respondents requesting regulations, our estimated burden estimates for regulations and/or Letters of Authorizations have changed very little from the 2010 estimates, but due to decreased responses, the total hours have decreased (11,340 hours in 2010; 5,930 hours in 2013).

Adjustments to Recordkeeping/Reporting Costs

NMFS has adjusted the total annual cost to the respondents from the previous estimate of $361,575 to $100,700 (approximately $1,060 per respondent). The previous capital cost of $358,000 is no longer applicable, based on surveying representatives from the oil and gas industry.

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

There are no immediate plans for the government to publish the data. However, at times the public may extract the information contained in annual reports to analyze and publish the information in peer-reviewed journals.

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.

We have no plans to not display the expiration date provided by OMB.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The information collection described in this request does not employ statistical methods.

NOAA FISHERIES SERVICE

The primary objective of this management must be to maintain the health and stability of the marine ecosystem; this in theory indicates that animals must be managed for their benefit and not for the benefit of commercial exploitation. The effect of this set of requirements is to insist that the management of animal populations be carried out with the interest of the animals as the prime consideration.
– House of Representatives, No. 707, 92nd Congress, 1st Session, 18, 22 [December 4, 1971]

Office of Protected Resources and the Marine Mammal Protection Act

The Marine Mammal Protection Act of 1972 was enacted in response to increasing concerns among scientists and the public that significant declines in some species of marine mammals were caused by human activities. The Act established a national policy to prevent marine mammal species and population stocks from declining beyond the point where they ceased to be significant functioning elements of the ecosystems of which they are a part. Nowhere else in the world had a government made the conservation of healthy and stable ecosystems as important as the conservation of individual species.

The Department of Commerce through the National Marine Fisheries Service is charged with protecting whales, dolphins, porpoises, seals, and seal lions. Walrus, manatees, otters, and polar bears are protected by the Department of the Interior through the U.S. Fish and Wildlife Service. The Animal and Plant Health Inspection Service, a part of the Department of Agriculture, is responsible for regulations managing marine mammals in captivity.

Innovative Features

In addition to shifting the focus of conservation from species to ecosystems, the Act contains many innovative features never before established in legislation. It:

- Presented a single comprehensive federal program to the place of former state-run programs;
- Included protection for population stocks in addition to species and subspecies. A population stock is “a group of marine mammals of the same species or smaller taxa in a common spatial arrangement that interbreed when mature;”
- Shifted the burden from resource managers to resource users to show that proposed taking of living marine resources would not adversely affect the resource or the ecosystem;
- Established the concept of “optimum sustainable populations” (OSP) to ensure healthy ecosystems. Prior to the Act, the management of marine species was aimed at producing a “maximum sustainable yield” (MSY) to ensure the species replenished itself for an adequate harvest in subsequent years; and
- Directed federal agencies to seek changes in international agreements, such as the Whaling Convention and the North Pacific Seal Convention corresponding to the Act.

Protection

The MMPA established a moratorium on the taking of marine mammals in U.S. waters. It defines “take” to mean “to hunt harass, capture, or kill” any marine mammal or attempt to do so. The inclusion of harassment in the definition was a groundbreaking action by Congress. Exceptions to the moratorium can be made through permitting actions for take incidental to commercial fishing and other nonfishing activities; for scientific research; and for public display at licensed institutions such as aquaria and science centers.

The moratorium generally does not apply to Alaska natives who live on the Alaskan coast. The MMPA contains provisions allowing for take for subsistence use or to create and sell “authentic articles of handicrafts and clothing” without permits or authorizations. The taking must not be “accomplished in a wasteful manner,” and the Secretaries of Commerce and the Interior may regulate the taking of a depleted species or stock, regardless of the purpose for which it is taken.

What You Can Do

People can positively affect changes in our ecosystems and help protect marine species by learning about the issues and changing behaviors. You can make a difference. Go to www.nmfs.noaa.gov/pr or www.mmc.gov to find out more about marine mammal species and stocks.

Jennifer Jessup
Departmental Paperwork Clearance Officer
Department of Commerce
Room 6616
14th and Constitution Avenue NW
Washington, D.C. 20230
JJessup@doc.gov

COMMENTS BY THE CENTER FOR REGULATORY EFFECTIVENESS ("CRE") ON PROPOSED INFORMATION COLLECTION REQUEST ("ICR"), APPLICATIONS AND REPORTING REQUIREMENTS FOR THE INCIDENTAL TAKE OF MARINE MAMMALS BY SPECIFIED ACTIVITIES (OTHER THAN COMMERCIAL FISHING OPERATIONS) UNDER THE MARINE MAMMAL PROTECTION ACT ("MMPA"), OMB CONTROL NUMBER 0648-0151, 78 FR 58446 (SEPT. 6, 2013). FILED ELECTRONICALLY ON NOVEMBER 4, 2013, at JJessup@doc.gov

I. Executive Summary

The proposed extension ICR contains burden estimates that are inconsistent with the burden estimates in the current ICR.

Neither the current ICR nor the proposed extension ICR could possibly cover MMPA Take rules for oil and gas seismic in the Gulf of Mexico because there are no such rules yet. NMFS will need to allow additional public comment on a new ICR for any such rules.

Neither the current ICR nor the proposed extension ICR could possibly cover new MMPA acoustic criteria for oil and gas seismic because there are no such new criteria yet. NMFS will need to allow additional public comment on a new ICR for any new criteria.

NMFS will have to demonstrate that ICRs for GOM Take Rules and for new acoustic criteria comply with Information Quality Act ("IQA") Guidelines.

NMFS should take the actions set forth below in section VI of these comments.

II. The Proposed Extension ICR's Burden Estimates are Inconsistent with the Current ICR's Burden Estimate

The Federal Register notice for this ICR states, "This request is for an extension of a currently approved information collection."[1] Yet the burden estimates for the proposed extension ICR differ significantly from the burden estimates for the current ICR. The Supporting Statement for the current ICR estimates 71 respondents and contains the following burden estimates:

> "NMFS estimates the total annual burden hours at 26,410 hours, as shown in Table 1 and Table 2. NMFS based these estimates on discussions with nine current ITA holders (oil and gas companies, a research institution, a non-profit organization, and state/local governments)."[2]

By contrast, the proposed extension ICR estimates 95 total respondents and only 14,109 estimated total annual burden hours.[3]

NMFS does not explain why burden estimates are less for the proposed extension ICR, even though the total number of respondents is greater for the proposed extension ICR.

III. NMFS Will Need a New ICR for Gulf of Mexico Take Rules

NMFS is developing MMPA rules for marine mammal takes by the oil and gas industry in the Gulf of Mexico.[4] Neither the current ICR nor the proposed extension ICR could possibly cover these new GOM Take rules because NMFS has not even proposed the new rules yet. NMFS could not estimate the burden of these GOM take rules until they are final.

When and if NMFS does promulgate final GOM Take rules under the MMPA, then NMFS will have to propose a new ICR to cover the requirements of the new Take rules, and NMFS will have to allow public comment on that new ICR.

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[1] Page 54866, at http://www.gpo.gov/fdsys/pkg/FR-2013-09-06/pdf/2013-21660.pdf.
[2] Supporting Statement, page 8 at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201009-0648-008.
[3] Page 54866, at http://www.gpo.gov/fdsys/pkg/FR-2013-09-06/pdf/2013-21660.pdf .
[4] See, *e.g.,* BOEM's petition for GOM take rules under the MMPA, at http://www.nmfs.noaa.gov/pr/pdfs/permits/boemre_application2011.pdf .

IV. NMFS Will Need a New ICR for New Acoustic Criteria

NMFS is developing new acoustic criteria to apply to oil and gas offshore seismic operations that are regulated as Takes under the MMPA.[5] NMFS' information collection requirements under the MMPA will depend and be based on compliance with these new acoustic criteria. Consequently, the new acoustic criteria will affect ICR burden estimates.

Neither the current ICR nor the proposed extension ICR could possibly cover these new acoustic criteria because NMFS has not even proposed the new criteria yet. NMFS could not estimate the burden of these new acoustic criteria until they are final.

When and if NMFS does promulgate final new acoustic criteria under the MMPA, then NMFS will have to propose a new ICR to cover the requirements of the new acoustic criteria, and NMFS will have to allow public comment on that new ICR.

We note that BOEM and OMB agree that when BOEM changes its acoustic criteria and other offshore oil and gas seismic requirements, then BOEM has to prepare a new ICR and allow public comment on an ICR for the new requirements.[6] There is no reason for NMFS to act differently.

V. NMFS will have to Demonstrate that ICRs for GOM Take Rules and for New Acoustic Criteria Comply with Information Quality Act Guidelines

NMFS' Supporting Statement for the current ICR states that NMFS will ensure that the covered information meets IQA Guidelines:

> "Before disseminating information in any format, data are reviewed internally (pursuant to Section 515 of Public Law 106-554) to ensure that they are scientifically sound and meet standards for data quality. The review process for ITAs includes review of the application by the principal drafter of the ITA to ensure that the applicant has met the requirements under section 101(a)(5) of the MMPA. The principal drafter's supervisor and NOAA's Office of General Counsel review the proposed and final Federal Register notices for the ITA, as

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[5] NMFS discusses its development of these new MMPA acoustic criteria at http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm .

[6] See, *e.g.,* pages4-6 at http://www.thecre.com/creipd/wp-content/uploads/2009/06/GOM.Scoping.pdf . These prior CRE comments are incorporated by reference into CRE's comments on the extension ICR.

> well as the actual ITA. If applicable, a NMFS biologist also conducts an independent review of the action's effects on ESA-listed species under Section 7 of the ESA."[7]

We commend NMFS for ensuring IQA Guidelines compliance. We ask that NMFS publicly commit to ensuring IQA compliance for the proposed extension ICR and for any new ICRS that are necessary for, *e.g.,* GOM Take rules or new acoustic criteria.

VI. Recommended Actions

In its Supporting Statement to OMB for the proposed extension ICR, NMFS should revise its burden estimates to eliminate or satisfactorily explain the discrepancy between the current ICR burden estimates and the proposed extension ICR burden estimates.

In its Supporting Statement to OMB for the proposed extension ICR, NMFS should include the following statements:

> *This ICR does not cover MMPA Take rules for oil and gas seismic in the Gulf of Mexico, and it does not cover new MMPA acoustic criteria for offshore oil and gas seismic.*
>
> *If NMFS publishes new MMPA Take rules for oil and gas seismic in the Gulf of Mexico, and/or NMFS publishes new MMPA acoustic criteria for offshore oil and gas seismic, then NMFS will publish a new proposed ICR(s) to cover those actions. NMFS will allow public comment on the new proposed ICR(s) before NMFS sends the ICR(s) to OMB for review.*
>
> *NMFS will not require compliance with MMPA GOM Take rules and/or new MMPA acoustic criteria for offshore oil and gas until and unless OMB approves the new ICR(s) for them.*

We thank you for the opportunity to submit these comments, and we look forward to NMFS' response to them.

The Center for Regulatory Effectiveness

www.TheCre.com

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[7] Supporting Statement, page 5, at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201009-0648-008

Date: April 24, 2013

To: Marine Mammal Protection Act (MMPA) Authorization Holder

Re: Request for Information on Your MMPA Incidental Take Authorization

Hello,

The Paperwork Reduction Act of 1995 (PRA) prevents federal agencies from placing undue burdens on the public when asking for information. To comply with the PRA, we would seek public comment, through a 60-day *Federal Register* notice, on the information collection requirements for a Marine Mammal Protection Act Incidental Take Authorization (ITA).

As a part of this process we must:

- estimate an applicant's paperwork and response burden (*i.e*., time and cost) for an Incidental Harassment Authorization (IHA) or a Letter of Authorization (LOA) application; and
- seek input on the clarity of our instructions, the accuracy of previous reported estimates, and the usefulness of the information collected pre- and post-activity.

We'll present a summary of this information in the *Federal Register* notice. If you would like to submit estimates for time and cost and provide your opinion on our ITA process, please fill out the enclosed table and answer three quick questions. f a particular activity in the table does not apply to your situation, please note N/A.

Your organization is not required to complete this survey, but we appreciate your willingness to do so. Once you've finished the survey, please return this table to me at jeannine.cody@noaa.gov by Friday, May 3, 2013. Also, if you have any questions, feel free to call me at 301.427-8415.

Thank you.

Jeannine Cody

Jeannine Cody

Activity (*Please note N/A, if not applicable.*)	**Time to Complete (Hours)**
IHA Application Preparation	
Initial LOA Application Preparation for 5-year Regulations	
Subsequent Annual/Bi-Annual LOA Application	
Environmental Assessment	
Preparation of an Interim Report for an IHA	
Preparation of a Draft Annual Report for an IHA or LOA	
Preparation of a Final Annual Report IHA or LOA	
Preparation of a LOA Draft Comprehensive Report	
Preparation of a LOA Final Comprehensive Report	
Activity	**Estimated Cost (Dollars)**
Equipment (computers, software)	
Copying / Printing	
Faxing / Phone Calls	
Postage / Shipping	

Question 1:
On a scale from 1 to 10, how clear are the instructions for submitting and completing an Incidental Take Authorization? (0 = Not Clear; 10=Extremely Clear)

Brief Answer:

Question 2:
How accurate are the burden estimates shown in Attachment #1 (Page 3) for your organization? (e.g., much lower than my estimate, very close to my estimate, much higher than my estimate)

Brief Answer:

Question 3:
What are your thoughts on the utility on the data that we collect from your organization?

Brief Answer:

Table 1 – 2010 Survey Results of Time Spent on ITA Applications and Reports

Information Collection Activity	Estimated Length of Time to Prepare	
	Hours	Days
IHA Application	399	50
IHA Interim Draft Report	310	39
IHA Draft Annual Report	422	52
IHA Final Annual Report	163	20
LOA - Initial Application Preparation for Regulations	1,100	138
LOA - Annual LOA Application	70	9
LOA - Draft Annual Report	220	28
LOA - Final Annual Report	65	8
LOA - LOA Draft Comprehensive Report	625	78
LOA - LOA Final Comprehensive Report	300	38

* We calculated business days as 8-hour increments.

Appendix A - Application Questions for Incidental Take Authorizations
Information Collection for OMB Control No. 0648-0151, Expiration Date 1/31/2014

Applications for either regulations and subsequent Letters of Authorization or Incidental Harassment Authorizations must include responses to the following 14 questions as required under 50 CFR 216.104(a)(1-14).

We post the 14 Questions on our website.

1. A detailed description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals;

2. The date(s) and duration of such activity and the specific geographical region where it will occur;

3. The species and numbers of marine mammals likely to be found within the activity area;

4. A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks of marine mammals likely to be affected by such activities;

5. The type of incidental taking authorization that is being requested (i.e., takes by harassment only; takes by harassment, injury and/or death) and the method of incidental taking;

6. By age, sex, and reproductive condition (if possible), the number of marine mammals (by species) that may be taken by each type of taking identified in paragraph (a)(5) of this section, and the number of times such takings by each type of taking are likely to occur;

7. The anticipated impact of the activity upon the species or stock;

8. The anticipated impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses;

9. The anticipated impact of the activity upon the habitat of the marine mammal populations, and the likelihood of restoration of the affected habitat;

10. The anticipated impact of the loss or modification of the habitat on the marine mammal populations involved;

11. The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance;

12. Where the proposed activity would take place in or near a traditional Arctic subsistence hunting area and/or may affect the availability of a species or stock of marine mammal for Arctic subsistence uses, the applicant must submit either a "plan of cooperation" or information that identifies what measures have been taken and/or will be taken to

minimize any adverse effects on the availability of marine mammals for subsistence uses.

13. The suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity. Monitoring plans should include a description of the survey techniques that would be used to determine the movement and activity of marine mammals near the activity site(s) including migration and other habitat uses, such as feeding. Guidelines for developing a site-specific monitoring plan may be obtained by writing to the Director, Office of Protected Resources; and

14. Suggested means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking and evaluating its effects.

MARINE MAMMAL COMMISSION

9 September 2013

Jennifer Jessup
Departmental Paperwork Clearance Officer
Department of Commerce
Room 6616
14th and Constitution Avenue, Northwest
Washington, DC 20230

Dear Ms. Jessup:

The Marine Mammal Commission (the MMC) has reviewed the Department of Commerce's notice (78 Fed. Reg. 54866) regarding information collection requirements under the Marine Mammal Protection Act (the MMPA), specifically under sections 101(a)(5)(A) and (d). The National Marine Fisheries Service (NMFS) requires certain types of information to make the necessary findings and issue authorizations under the statute and implementing regulations. The relevant entities are then required to submit information needed to track their compliance with specific monitoring and reporting measures and to ensure protection of marine mammals.

Collection of the information is necessary to ensure the protection and conservation of marine mammal populations, allow NMFS to make the required findings for issuing the appropriate authorizations, and ensure that the goals of the MMPA are met. Therefore, the MMC supports the Department's request to collect the required information.

Please contact me if you need additional information to support the Department's request.

Sincerely,

Rebecca J. Lent

Rebecca J. Lent, Ph.D.
Executive Director

Cc. Mr. P. Michael Payne

4340 East-West Highway • Room 700 • Bethesda, MD 20814-4498 • T: 301.504.0087 • F: 301.504.0099
www.mmc.gov

Date: April 24, 2013

To: Marine Mammal Protection Act (MMPA) Authorization Holder

Re: Request for Information on Your MMPA Incidental Take Authorization

Hello,

The Paperwork Reduction Act of 1995 (PRA) prevents federal agencies from placing undue burdens on the public when asking for information. To comply with the PRA, we would seek public comment, through a 60-day *Federal Register* notice, on the information collection requirements for a Marine Mammal Protection Act Incidental Take Authorization (ITA).

As a part of this process we must:

- estimate an applicant's paperwork and response burden (*i.e*., time and cost) for an Incidental Harassment Authorization (IHA) or a Letter of Authorization (LOA) application; and
- seek input on the clarity of our instructions, the accuracy of previous reported estimates, and the usefulness of the information collected pre- and post-activity.

We'll present a summary of this information in the *Federal Register* notice. If you would like to submit estimates for time and cost and provide your opinion on our ITA process, please fill out the enclosed table and answer three quick questions. f a particular activity in the table does not apply to your situation, please note N/A.

Your organization is not required to complete this survey, but we appreciate your willingness to do so. Once you've finished the survey, please return this table to me at jeannine.cody@noaa.gov by Friday, May 3, 2013. Also, if you have any questions, feel free to call me at 301.427-8415.

Thank you.

Jeannine Cody

Jeannine Cody

Activity (*Please note N/A, if not applicable.*)	**Time to Complete (Hours)**
IHA Application Preparation	
Initial LOA Application Preparation for 5-year Regulations	
Subsequent Annual/Bi-Annual LOA Application	
Environmental Assessment	
Preparation of an Interim Report for an IHA	
Preparation of a Draft Annual Report for an IHA or LOA	
Preparation of a Final Annual Report IHA or LOA	
Preparation of a LOA Draft Comprehensive Report	
Preparation of a LOA Final Comprehensive Report	
Activity	**Estimated Cost (Dollars)**
Equipment (computers, software)	
Copying / Printing	
Faxing / Phone Calls	
Postage / Shipping	

Question 1:
On a scale from 1 to 10, how clear are the instructions for submitting and completing an Incidental Take Authorization? (0 = Not Clear; 10=Extremely Clear)

Brief Answer:

Question 2:
How accurate are the burden estimates shown in Attachment #1 (Page 3) for your organization? (e.g., much lower than my estimate, very close to my estimate, much higher than my estimate)

Brief Answer:

Question 3:
What are your thoughts on the utility on the data that we collect from your organization?

Brief Answer:

Table 1 – 2010 Survey Results of Time Spent on ITA Applications and Reports

Information Collection Activity	Estimated Length of Time to Prepare	
	Hours	Days
IHA Application	399	50
IHA Interim Draft Report	310	39
IHA Draft Annual Report	422	52
IHA Final Annual Report	163	20
LOA - Initial Application Preparation for Regulations	1,100	138
LOA - Annual LOA Application	70	9
LOA - Draft Annual Report	220	28
LOA - Final Annual Report	65	8
LOA - LOA Draft Comprehensive Report	625	78
LOA - LOA Final Comprehensive Report	300	38

* We calculated business days as 8-hour increments.

proceeding; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previously completed segment of this proceeding, then the cash deposit rate will be the all-others rate of 3.76 percent, as established in the less-than-fair value investigation.[9] These deposit requirements, when imposed, shall remain in effect until further notice.

Notifications

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: August 30, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. Discussion of Methodology
4. Recommendation

[FR Doc. 2013–21775 Filed 9–5–13; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See Orders,* 73 FR at 45404.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Applications and Reporting Requirements for the Incidental Take of Marine Mammals by Specified Activities (Other Than Commercial Fishing Operations) Under the Marine Mammal Protection Act

AGENCY: National Oceanic and Atmospheric Administration, 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 November 5, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jeannine Cody, (301) 427–8401 or *ITP.Cody@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1361 *et seq.*) prohibits the ''take'' of marine mammals unless otherwise authorized or exempted by law. Among the provisions that allow for lawful take of marine mammals, sections 101(a)(5)(A) and (D) of the MMPA direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing), within a specified geographical region if, after notice of a proposed authorization to the public for review and public comment: (1) We make certain findings; and (2) the taking is limited to harassment.

We (National Marine Fisheries Service) shall grant authorization for the incidental taking of small numbers of marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring and reporting of such taking. We have defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Issuance of an incidental take authorization (Authorization) under section 101(a)(5)(A) or 101(a)(5)(D) of the MMPA requires three sets of information collection: (1) A complete application for an Authorization, as set forth in our implementing regulations at 50 CFR 216.104, which provides the information necessary for us to make the necessary statutory determinations; (2) information relating to required monitoring; and (3) information related to required reporting. These collections of information enable us to: (1) Evaluate the proposed activity's impact on marine mammals; (2) arrive at the appropriate determinations required by the MMPA and other applicable laws prior to issuing the authorization; and (3) monitor impacts of activities for which we have issued Authorizations to determine if our predictions regarding impacts on marine mammals remain valid.

II. Method of Collection

Respondents have a choice of submitting either electronic or paper forms. Methods of submittal include email, mail, overnight delivery service, and/or facsimile transmissions.

III. Data

OMB Control Number: 0648–0151.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Non-profit institutions; state, local, or tribal government; business or other for-profit organizations.

Estimated Number of Respondents: 95.

Estimated Time per Response: 255 hours for an Incidental Harassment Authorization (IHA) application; 11 hours for an IHA interim report (if applicable); 115 hours for an IHA draft annual report; 14 hours for an IHA final annual report (if applicable); 1,100 hours for the initial preparation of an application for new regulations; 70 hours for an annual Letter of Authorization (LOA) application; 220 hours for a LOA draft annual report; 65 hours for a LOA final annual report (if applicable); 625 hours for a LOA draft comprehensive report; and 300 hours for a LOA final comprehensive report. Response times will vary for the public based upon the complexity of the requested action.

Estimated Total Annual Burden Hours: 14,109.

Estimated Total Annual Cost to Public: $360 in recordkeeping/reporting costs and $0 in capital costs (if applicable).

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: August 30, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–21660 Filed 9–5–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Marine Mammal Health and Stranding Response Program, Level A Stranding and Rehabilitation Disposition Data Sheet

AGENCY: National Oceanic and Atmospheric Administration, 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 November 5, 2013.

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

FOR FURTHER INFORMATION CONTACT: Angela Collins-Payne, (301) 427–8438 or *angela.collins-payne@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

The marine mammal stranding report provides information on strandings so that the National Marine Fisheries Service (NMFS) can compile and analyze, by region, the species, numbers, conditions, and causes of illnesses and deaths in stranded marine mammals. NMFS requires this information to fulfill its management responsibilities under the Marine Mammal Protection Act (16 U.S.C. 1421a). NMFS is also responsible for the welfare of marine mammals while in rehabilitation status. The data from the marine mammal rehabilitation disposition report are required for monitoring and tracking of marine mammals held at various NMFS-authorized facilities. This information is submitted primarily by members of the marine mammal stranding networks which are authorized by NMFS.

II. Method of Collection

Paper applications, electronic reports, and telephone calls are required from participants, and methods of submittal include the Internet through the NMFS National Marine Mammal Stranding Database; facsimile transmission of paper forms; or mailed copies of forms.

III. Data

OMB Control Number: 0648–0178.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: State governments; not-for-profit institutions; business or other for-profit organizations.

Estimated Number of Respondents: 400.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 2,900.

Estimated Total Annual Cost to Public: $1,299.

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 repository of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden and submission 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: August 30, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–21671 Filed 9–5–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC852

Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The SEDAR Steering Committee will meet to discuss the SEDAR process and assessment schedule. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR Steering Committee will meet from 1 p.m. Tuesday, October 1, 2013, until 12 p.m. Wednesday, October 2, 2013.

ADDRESSES:

Meeting address: The Steering Committee meeting will be held at the Hampton Inn, Charleston/West Ashley, 678 Citadel Haven Drive, Charleston, SC 29414; telephone: (843) 573–1200.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: John Carmichael, SEDAR Program Manager; telephone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *john.carmichael@safmc.net.*

SUPPLEMENTARY INFORMATION: The items of discussion are as follows:

1. Review progress of ongoing assessment projects.