

SUPPORTING STATEMENT
NORTHWESTERN HAWAIIAN ISLANDS NATIONAL MARINE MONUMENT
OMB CONTROL NO. 0648-0548

A. JUSTIFICATION

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

President Bush established the Northwestern Hawaiian Islands Marine National Monument by issuing Presidential Proclamation 8031 on June 15, 2006 (71 FR 36443, June 26, 2006) under the authority of the Antiquities Act (Act) (16 U.S.C. 431). The Proclamation reserves all lands and interests in lands owned or controlled by the Government of the United States in the Northwestern Hawaiian Islands (NWHI), including emergent and submerged lands and waters, out to a distance of approximately 50 nautical miles (nmi) from the islands. The outer boundary of the Monument is approximately 100 miles wide and extends approximately 1200 miles around coral islands, seamounts, banks, and shoals. The area includes the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, the Midway National Wildlife Refuge, the Hawaiian Islands National Wildlife Refuge, and the Battle of Midway National Memorial.

The Secretary of Commerce, through the National Oceanic and Atmospheric Administration (NOAA), has primary responsibility regarding the management of the marine areas of the Monument, in consultation with the Secretary of the Interior. Similarly, the Secretary of the Interior, through the Fish and Wildlife Service (FWS), has sole responsibility for management of the areas of the Monument that overlay the Midway Atoll National Wildlife Refuge, the Battle of Midway National Memorial, and the Hawaiian Islands National Wildlife Refuge, in consultation with the Secretary of Commerce.

The Proclamation includes restrictions and prohibitions regarding activities in the Monument consistent with the authority provided by the Act. The Proclamation prohibits access to the Monument except when passing through the Monument without interruption or as allowed under a permit issued by the agencies. Vessels passing through the Monument without interruption are required to notify the agencies upon entering into and leaving the Monument. Individuals wishing to access the Monument to conduct certain regulated activities must first apply for and be granted a permit issued by the agencies pursuant to the Proclamation. Applicants must certify compliance with certain vessel monitoring system requirements.

On August 29, 2006, NOAA and FWS published a final rule in the *Federal Register* (71 FR 51134) codifying the provisions of the Proclamation at 50 CFR Part 404. The agencies have since worked extensively with the State to ensure the permitting requirements and processes of all three entities are sufficiently coordinated to ensure applicants for permits for Monument activities require only a single application and receive one, combined agency permit.

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

The information submitted by permit applicants will be used by the agencies' staff to decide whether to approve or deny a permit application. In making this decision, the agencies will consider such factors as:

- the professional qualifications and financial ability of the applicant as related to the proposed activity;
- the duration of the activity and its effects;
- the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity;
- the extent to which the conduct of the activity may diminish or enhance the qualities for which the Monument was designated;
- the end value of the activity; and
- other such matters as agency staff deem appropriate.

In addition to informing the agencies' decisions on permit applications, information submitted in permit applications and reports submitted pursuant to permit conditions may also be used by the agencies to, in some circumstances, inform—

- administrative appeals of permit decisions;
- decisionmaking on a permit amendment request or another permit application; or
- other management actions (e.g., emergency response and enforcement).

In terms of frequency of use, the information submitted in permit applications will, in general, only be used at the time the application is submitted to make a final decision on the application. Some of the information may also be used subsequent to the initial decisionmaking to inform management actions or decisionmaking. For example, a survey of a project location by one permit applicant may be used by the agencies in the future to respond to a vessel grounding in the same area in addition to facilitating the agencies' decision on that application. Information submitted in a report will be used to periodically assess the permittee's compliance with permit terms and conditions and to assist in evaluating the appropriateness of the permitted activity.

As explained in the preceding paragraphs, the information gathered has utility. The agencies will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA and FWS standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Publication is not planned; however, prior to any dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

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

All permit-related guidance and documents will be found on the Monument website. In addition, the agencies are currently developing an Internet-based permit tracking system. This system will ultimately allow permit applicants to submit their permit applications, logs, and final reports via the Internet. In addition, the agencies will accept electronic permit applications, logs, and reports via email. Individuals passing through the Monument without interruption can provide the required notification via email as well. Certifications of vessel monitoring systems (VMS) must be faxed.

4. Describe efforts to identify duplication.

The agencies and the State have developed a fully coordinated and integrated permitting system for the Monument that minimizes duplication wherever possible. Applicants will be required to submit only a single application for a combined permit that meets the requirements of both the agencies and the State.

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

This collection of information has minimal impact on small entities such as small businesses, organizations, or government bodies. The majority of permit applications are for activities conducted by large institutions (such as academic institutions), individuals, and government agencies. There may be some small impact on small businesses that wish to conduct commercial activities within the Monument; however this impact is not likely to include a significant financial burden.

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

If the information collection is not conducted, or is conducted less frequently, then it is likely that the management objectives of the agencies could not be met. The agencies must be able to allow the conduct of otherwise prohibited activities to facilitate important research, education and management activities. Furthermore, the permit process allows these activities to take place under controlled conditions to ensure that the primary mandate of resource protection is fulfilled.

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

No special circumstances exist, are foreseen or anticipated requiring the collection of information to be conducted in a manner inconsistent with the OMB guidelines.

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

The agencies published a final rule in the *Federal Register* on August 29, 2006, which codified the provisions of the Proclamation (71 FR 51134). No public comments on the information collection requirements set forth in the rule were received. In addition, most of these information requirements were subject of public input during the preceding sanctuary designation process.

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

No payments or gifts will be provided to any respondents.

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

Permit applicants are requested to indicate any information that is considered proprietary business information. Such information is typically exempt from disclosure to anyone requesting information pursuant to the Freedom of Information Act (FOIA). The agencies will make all possible attempts to protect such proprietary information, consistent with all applicable FOIA exemptions in 5 U.S.C. 552(b). Typically exempt information includes trade secrets, commercial and financial information (5 U.S.C. 552(b)(4)). For all permit types, personal information affecting an individual's privacy will be kept confidential consistent with 5 U.S.C. 552(b)(6).

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.

No sensitive questions are asked.

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

This collection of information has six different categories distinguished by the number of responses per permit and the time per response. Please see the Applicant Burden table following this support statement for response and burden totals. Annual responses total 190,637. Annual hours total 1456. The form and instructions to applicants that will be used to collect most categories of information (as specified below) is included in this request.

(a) General Permits:

Scope of this category. This category includes all permits not specifically addressed in other permit types listed below; typically permit applications for scientific research, education, and management activities permits fall into this category.

Burden estimate. Each respondent will submit an application for a permit, a cruise log (or some other form of activity report) and a final summary report after the activity is complete for an average of three responses per permit. On average, each response is expected to take the respondent 5 hours to complete (longer for the application, shorter for the logs/reports). The agencies estimate that it will process approximately 33 permit applications under this category (99 responses) annually resulting from the final rule. The total burden hours from this rule would be 495 burden hours annually under this category.

Applicant guidelines. The form (with instructions containing guidance on what is required) to be used to collect this information was developed cooperatively between the agencies and the State.

(b) Special Ocean Use Permits:

Scope of this category. This category includes all permit applications processed for special ocean uses pursuant to the Proclamation.

Burden Estimate. For special ocean use permits an application, a final report, and a financial report is required for each permit (total of 3 responses per permit). An average response time of 24 hours is estimated for each of these activities. Financial reports (due on December 31 of each year) may take less time but the application will take more time particularly if additional NEPA documentation is required and prepared by the respondent. As a result of the proposed rule, the agencies expect a total of 5 permit applications under this category each year for a total of 15 responses and 360 burden hours annually.

Applicant guidelines. The form (with instructions containing guidance on what is required) to be used to collect this information was developed cooperatively between the agencies and the State.

(c) Native Hawaiian Practice Permits:

Scope of this category. This category includes all permit applications for the conduct of Native Hawaiian practices within the Monument.

Burden Estimate. For this category, an average time of 5 hours is estimated for each response (more for the application, less for the reports). The agencies estimate it will process approximately 3 permit applications in this category each year for a total of 6 responses and 30 burden hours annually.

Applicant guidelines. The form (with instructions containing guidance on what is required) to be used to collect this information was developed cooperatively between the agencies and the State.

(d) Recreation Permits:

Scope of this category. This category includes all requests to conduct non-extractive recreational activities within the Midway Atoll Special Management Area of the Monument.

Burden Estimate. For this category, each respondent will submit an application for a permit, an activity report, and a final summary report after the activity is complete for an average of three responses per permit. The agencies estimate an applicant would require an average of 5 hours per response (more for the applicant, less for the reports). The agencies estimate a total of 2

permit applications under this category each year, for a total burden hour estimate of 30 hours annually.

Applicant guidelines. The form (with instructions containing guidance on what is required) to be used to collect this information was developed cooperatively between the agencies and the State.

(e) Entry and Exit Notification:

Scope of this category. This category includes all notices to the agencies of entry into and exit from the Monument. This category includes notification by persons conducting legal commercial bottomfishing and persons engaged in passage without interruption.

Burden Estimate. The agencies estimate there would be approximately 37 respondents passing through the proposed sanctuary without interruption and an additional 8 individuals making 100 commercial fishing trips each year, for a total of 137 responses annually. Each respondent would have to provide notification twice (one entry and one exit notification), for a total of 274 responses. For this category, the agencies estimate each response would require 5 minutes, for a total of 1,370 minutes (23 hours) per year.

Applicant guidelines. The procedures for providing notice are included in the final rule as well as the Proclamation itself.

(f) VMS Installation:

Scope of this category. This category includes all holders of Monument permits (42), as well as the eight permitted fishing vessels fishing in the Monument area (8).

Burden Estimate. Installation takes an average of 4 hours (annualized over 4 years, the life of the unit, burden time is 1 hour. Thus, the total annualized burden would be 50 hours.

Applicant guidelines. Installation instructions would be obtained from Thrane & Thrane, the manufacturer.

(g) VMS Maintenance:

Scope of this category. All owners of VMS units, per (f).

Burden Estimate. Annual maintenance of VMS units averages 4 hours.

Applicant guidelines. Maintenance guidelines would be obtained from Thrane & Thrane, the manufacturer.

(h) VMS Unit Certification:

Scope of this category. This category includes all certifications to NOAA's Office of Law Enforcement (OLE) that an installed VMS complies with the applicable requirements.

Burden Estimate. The agencies estimate there would be approximately 50 respondents subject to this certification requirement, on a one-time basis. This estimate includes all applicants for general permits, special ocean permits, Native Hawaiian Practice permits, recreational activities permits, and commercial fishing vessels annually. Each certification would take 5 minutes to complete, for a total of 4 hours per year.

Applicant guidelines. Information on the applicant's VMS certification is requested as part of the attached permit application form and instructions.

(i) Hourly VMS Reports:

Scope of this category. This category includes all Monument and bottomfish permit holders who have purchased a VMS unit for use in the Monument.

Burden Estimate. Hourly transmission of position takes 5 seconds. The current estimate is that a vessel would average 159 days per year in the Monument, with 24 transmissions per day.

Applicant guidelines. Having the unit on, and transmitting the vessel's position, is required from a vessel's entrance into the Monument until its exit. No further guidance to applicants is required.

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

The cost of the Thrane & Thrane Sailor specified unit is \$3,596 (annualized over 4 years, the life of the unit = \$899). Transmission costs are \$1.28 per day. The current estimate is that a vessel would average 159 days per year in the Monument. Copying, mailing and faxing of other reports total \$174 annually.

The estimated annual costs are \$55,224 (\$44,950 in capital costs and \$10,274 operations and maintenance costs). Please see the Applicant Burden table following this support statement.

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

The cost to the Federal government for each of the permit types is listed in the attached table. All costs are for time to process applications and reports. Hours estimated annually are 1318, at \$13 per hour, with the total cost \$17,132.

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

The number of respondents and hours listed in item 13 of OMB 83-I have been adjusted based on the actual experience gathered by agency and state staff during the Monument's first research season. There are fewer than expected commercial vehicle trips involving entering and exiting the Monument, resulting in a decrease of 6 burden hours. However, the time for completion of general, Native Hawaiian practices and recreation permits and reports had been underestimated; adjusted estimates result in an increase of 434 burden hours. The net burden hour increase is thus 428.

The costs are as estimated previously (minus \$10 from VMS certification due to an earlier calculation error). The costs approved by OMB were \$630 less than the figures in the supporting statement, as at the time of submission, there was no allowance for more than two decimal places in the cost per response. The net adjusted increase in cost is \$620.

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

The information collected will not be published.

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

The expiration date for OMB approval of the information collection will be displayed.

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

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

Applicant Burden

Permit type	Permits and other Reporting per Year	Responses per Requirement	Total Responses	Avg. Hours/Response	Total Hours	Annual Recordkeeping/Reporting Cost per Response (\$)	Total Annual Cost (\$)
(a) General	33	3	99	5	495	\$1.00	\$99
(b) Special Ocean Use	5	3	15	24	360	\$1.00	\$15
(c) Native Hawaiian Practices	3	2	6	5	30	\$1.00	\$6
(d) Recreation	2	3	6	5	30	\$1.00	\$6
(e) Entry & Exit Notice	137	2	274	5 minutes	23	\$0.00	\$0
(f) Purchase and installation of VMS*	50	NA	NA	4	50	\$899 (initial cost: \$3595)	\$44,950
(g) VMS maintenance	50	NA	NA	4	200	\$0	\$0
(h) VMS Certification	50	0.25	12.5	5 minutes	4	\$0.25	\$3
(i) Hourly VMS reports	50	3805	190,250	5 seconds	264	\$1.28/day	\$10,145
TOTAL	380**		190,663		1456		\$55,224

* VMS installation and activation hours and purchase costs are annualized by dividing by 4 years, the expected service life.

** Total *respondents* are only 87 (42 permittees (a)-(d), plus 37 individuals transiting without interruption, plus 8 bottomfishers).

Federal Government Burden

Permit type	Responses per year	Hours per permit	Total hours	Labor cost per hour (\$)	Total annual cost (\$)
(a) General	99	10	990	13	\$12,870
(b) Special Ocean Use	15	12	180	13	\$2340
(c) Native Hawaiian Practices	4	10	40	13	\$520
(d) Recreation	6	10	60	13	\$780
(g) Entry & Exit Notice	274	5 minutes	23	13	\$297
(f) VMS Certification	50	30 minutes	25	13	\$325
TOTAL	448		1318		\$17,132