

**Supporting Statement A for
Paperwork Reduction Act Submission**

OMB Control Number 1018-XXXX

**Incidental Take of Marine Mammals During Oil and Gas Exploration
Activities in the Chukchi Sea and Adjacent Coast of Alaska**

50 CFR 18.27 and 50 CFR 18, Subpart I

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

The Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361 et seq.) imposed, with certain exceptions, a moratorium on the taking of marine mammals. Section 101(a)(5)(A) of the MMPA directs the Secretary of the Interior to allow, upon request by citizens of the United States, the taking of small numbers of marine mammals incidental to specified activities (other than commercial fishing) if the Secretary makes certain findings and prescribes specific regulations that, among other things, establish permissible methods of taking. Once we (Fish and Wildlife Service) issue specific regulations, applicants seeking to conduct activities must request a Letter of Authorization (LOA) for the specific activity and submit onsite monitoring reports and a final report of the activity to the Secretary. Regulations at 50 CFR 18.27 outline the procedures and requirements for submitting a request. Specific regulations governing authorized activities in the Chukchi Sea are in 50 CFR 18, subpart I.

The information collection requirements in 50 CFR 18, subpart I are almost identical to the requirements for incidental take of marine mammals in the Beaufort Sea, which is approved under OMB Control Number 1018-0070.

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

We will use the information that we collect to verify the finding required to issue incidental take regulations, to decide if we should issue an LOA, and, if issued, what conditions should be contained in the LOA. In addition, we will analyze the information to determine impacts to the marine mammals and the availability of those marine mammals for subsistence purposes of Alaskan Natives.

This is a nonform collection. Applicants can find requirements in 50 CFR 18, subpart I. 50 CFR 18.27(d) requires that the applicant provide information on the activity as a whole, which includes, but is not limited to, an assessment of total impacts by all persons conducting the activity. The regulations provide the applicant with a detailed description of information that we need to evaluate the proposed activity and determine whether or not to issue specific regulations and, subsequently, LOAs. The information includes:

- Description of the activities or class of activities that can be expected to result in incidental taking of marine mammals.

- Dates and duration of such activity.
- Specific geographical region where the activity will occur.

Based on the best available scientific information, each applicant must:

- Estimate the species and numbers of marine mammals likely to be incidentally taken by age, sex, and reproductive condition.
- Estimate the type of taking (e.g., disturbance by sound, injury, etc.) as well as the number of times each type of taking is likely to occur.
- Describe the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks likely to be affected by such activities.
- Anticipated impacts of an activity on marine mammal habitats.
- Likelihood of restoration of affected habitat.
- Impact of habitat loss or modification on the marine mammal population involved.

This information is necessary so that we can anticipate the impact of the activity on the species or stocks and on the availability of the species or stocks for subsistence uses. Under requirements of the MMPA, we cannot authorize a take unless the total of all takes will have a negligible impact on the species or stocks and, where appropriate, will not have an unmitigable adverse impact on the availability of the species or stocks for subsistence uses.

Applicants must provide information on the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of affecting the least practicable adverse impact upon the affected species or stocks, their habitat, and, where relevant, their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. This information is necessary to ensure that all available means for minimizing the incidental take associated with a specific activity are considered by the applicant. The MMPA requires the Service to specify the means of affecting the least practicable impact on the species or stock, its habitat, and its availability for subsistence uses.

We ask applicants to suggest means of:

- Accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species through analysis of the level of taking or impacts.
- Minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity.
- Encouraging and coordinating research opportunities, informing the Service of plans and activities related to reducing incidental taking from such specified activities, and evaluating their effects.

These requirements ensure that applicants are aware of related monitoring and research efforts that can be applied to their situation, and that the monitoring and reporting imposed by the Service are the least burdensome to the applicant.

The regulations also require that each holder of an LOA submit a monitoring report indicating the nature and extent of all takes of marine mammals that occurred incidentally to the specific activity. Since the inception of incidental take regulations for polar bears (*Ursus maritimus*) and Pacific walrus (*Odobenus rosmarus divergens*), we have required monitoring and reporting during oil and gas industry activities. The purpose of monitoring and reporting requirements is to assess the effects of industrial activities on polar bears and walrus to ensure

that take is minimal to polar bear and walrus populations, and to detect any unanticipated effects of take. The monitoring focus has been site-specific, area-specific, or population-specific. Site-specific monitoring measures animal-human encounter rates, outcomes of encounters, and trends of animal activity in the industrial areas, such as polar bear numbers, behavior, and seasonal use. Area-specific monitoring includes analyzing animal spatial and temporal use trends, sex/age composition, and risk assessment to unpredictable events, such as oil spills. Population-specific monitoring includes investigating species life history parameters, such as population size, recruitment, survival, physical condition, status, and mortality.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].

Applicants may submit information via email or in an electronic format, thus, reducing the burden on the applicant of having to provide hard copies of reports or other documents.

4. Describe efforts to identify duplication.

The Service and the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, share responsibilities under the MMPA with each agency being responsible for different species. While the Service and NOAA-Fisheries may have similar regulations, they apply to different species of marine mammals. Therefore, information collection is not duplicated.

When available, we provide information from other sources to prospective applicants and encourage them to use it to supplement, or even supplant, their own information collection efforts, thereby reducing their information collection burden.

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

This information collection will not impact small businesses or other small entities. The regulations are specific to oil and gas industry exploration, development, and production activities in the Chukchi Sea and adjacent coast of Alaska. Companies primarily focused on oil and gas exploration, development, and production will provide the information.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The MMPA requires that we determine what impacts proposed activities will have to marine mammals. The MMPA requires that a determination of negligible impact to the species or stock be made prior to issuance of regulations. Also, a determination must be made that the activity will not have an unmitigable adverse impact on the availability of these species for subsistence uses by Alaska Natives. If we do not collect the information described in this supporting statement, we could not allow incidental taking under provisions of the MMPA and possibly the specific activity could not take place.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner:**
- * **requiring respondents to report information to the agency more often than quarterly;**
 - * **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
 - * **requiring respondents to submit more than an original and two copies of any document;**
 - * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
 - * **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
 - * **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
 - * **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
 - * **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Visual sightings and interactions with polar bears or Pacific walruses are not predictable. If the encounter is persistent, the respondent must contact the Service to report the encounter and to request Service expertise in assistance. We also request that the respondent verbally report an encounter with a polar bear or a Pacific walrus at the time of occurrence and follow up with a written report.

8. **Provide the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice (or in response to a PRA statement) and describe actions taken by the agency in response to these comments.**

Describe 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. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

On June 1, 2007, we published a proposed rule in the Federal Register (72 FR 30670) to establish regulations on incidental take of marine mammals in the Chukchi Sea. Because activities and requirements are nearly identical for the Beaufort and Chukchi Seas, we planned to combine the information collections in one ICR under 1018-0070. However, we did not publish the final rule for the Chukchi Sea prior to the expiration date for the Beaufort Sea requirements, and we separated the requests for approval. This ICR includes requirements to cover only activities in the Chukchi Sea. The proposed rule for incidental take regulations in the Chukchi Sea invited interested members of the public and affected agencies to comment on the proposed information collection and recordkeeping activities for both the Chukchi and Beaufort Seas. The comment period for the proposed information collection was open for 60-days, closing on July 31, 2007. We have addressed all comments in the preamble to the final

rule. Among the comments received, the following relate to information collection activities:

Comment: The proposed regulations require MMOs to report the latitude and longitude of walrus or polar bear observations. In most instances, this information is proprietary, and a confidentiality agreement would be needed. In addition, even with a signed confidentiality agreement, many clients may not release this information until after the conclusion of the lease sale.

Response: We understand this concern and have provided clarification that the latitude and longitude of walrus or polar bear observations from the seismic vessel must be submitted after lease sales have occurred. Lease Sale 193 in the Chukchi Sea region occurred in February 2008, prior to the next anticipated exploration season. Therefore, we do not anticipate any further location-specific proprietary issues and will expect full and complete reporting of project locations.

Comment: The Service should require that monitoring reports and information be submitted in the format of GIS data layers and computerized data that can easily be linked to geographic features.

Response: The Service will consider this recommendation. Currently we are working with Industry to improve the collection and management of monitoring information and data as it becomes available from the operators. Depending on the type of monitoring information requested, GIS applications are a form of data reporting that is being considered.

Comment: The Service requirement to conduct aerial surveys in the Chukchi introduces too great a safety risk to workers. This should not be required. There are other monitoring techniques that can be just as effective.

Response: Holders of an LOA are required to monitor the potential impacts of their activities on walrus and polar bears and subsistence use of these resources. The responsibility of designing and implementing programs to achieve these monitoring objectives lies with the applicant seeking the exemption from the MMPA. The Service is willing to consider any monitoring protocols and methods that meet monitoring objectives.

Comment: In accordance with the Paperwork Reduction Act, were all the reporting requirements identified in the regulations at Section 18.118 of the proposed rule (72 FR 30697-30700; June 1, 2007) subjected to OMB review and approval?

Response: All reporting requirements as outlined in Section 18.118 were included in the Service's request to OMB for approval under the Paperwork Reduction Act.

We consulted with the following industry representatives on: (1) whether or not the collection of information is necessary for the proper performance of the functions of the Service, including whether or not the information will have practical utility; (2) the accuracy of our estimate of the burden for this collection; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents.

Mr. Greg Horner, ASRC Energy Services, Inc., Anchorage Alaska (907) 277-4611;
Ms. Caryn Rea, ConocoPhillips Alaska, Inc., Anchorage, Alaska: (907) 265-6515;
Ms. Susan Childs, Shell Exploration and Production, Anchorage, Alaska: (907) 646-7112;

Ms. Marilyn Crockett, Alaska Oil and Gas Association, Anchorage, Alaska: (907) 272-9497. Industry representatives suggested that the time required for completing an application should be increased to 300 hours and the time for completing a request for an LOA should be increased to 24 hours. Based on this information, we adjusted our burden estimates (see item 12).

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We do not make any payment or gifts to respondents.

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

The information collected is a matter of public record; however, companies submit confidential geological and geophysical maps with requests to conduct geophysical seismic programs. Section 522(b)(9) of the Freedom of Information Act (5 U.S.C. 552, as amended) allows us to withhold “geological and geophysical information and data, including maps, concerning wells.” Therefore, we will not release this information in response to a FOIA request.

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.

We do not ask questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

For oil and gas activities in the Chukchi Sea area, we estimate that up to 10 oil and gas-associated companies will request 12 LOAs and submit monitoring reports annually. We anticipate that there will be an annual average of six on-site observation reports per LOA. The total annual burden associated with the requests will be approximately 792 hours during years when applications for regulations are required (see table). We estimate that companies will invest approximately 33.5 hours per project (24 hours per request for an LOA, 1.5 hours for onsite observation reporting requirements, and 8 hours for each final monitoring report).

The total dollar value of the burden hours associated with this information collection is \$118,800, based on an average environmental consultant fee of approximately \$150 per hour. We determined this estimate based on actual cost information provided by the oil and gas companies that we contacted during our outreach. See item 8 for contact information.

Type of Action	Annual Number of Responses	Average Burden Hours per Action	Total Annual Burden Hours	Annual Burden@ \$150.00 per hour
One time application for procedural regulations	1 (per term of regulations)	300	300	\$ 45,000
LOA Requests	12	24	288	43,200
Onsite Monitoring and Observation Reports	72	1.5	108	16,200
Final Monitoring Report	12	8	96	14,400

Total	97	792	\$118,800
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13. Provide an estimate of the total annual [nonhour] cost burden to respondents or recordkeepers resulting from the collection of information.

We do not anticipate any nonhour costs for respondents.

14. Provide estimates of annualized costs to the Federal Government.

We estimate the annual cost to the Federal Government to be \$101,000. We expect one GS-12 employee to undertake all of the work associated with this information collection. We estimate the annual personnel costs to the Government to equal one FTE for a GS-12 adjusted for benefits and regional differential. Estimated costs are:

- \$ 90,000 – 1 FTE (GS-12 salary/benefits/Alaska differential)
- 2,000 – printing costs for issuance of LOAs (four per year)
- 9,000 – average annual cost for printing and publication of proposed and final rules (one each over 3-year period)

15. Explain the reasons for any program changes or adjustments.

We are reporting as a program change 97 responses and 792 burden hours for this new information collection.

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

We do not publish the information in the form in which it is received. We do analyze the information annually to determine impacts resulting from incidental take authorizations.

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

We will display the OMB control number and expiration date.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are no exceptions to the certification statement.