

**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. 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.

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, 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);

Information Collection – Application and Supporting Documentation

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. 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).

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. Provide estimates of annualized cost to the Federal government.

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. Explain the reasons for any program changes or adjustments.

Adjustments to Responses and Burden

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.