

**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.

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. 1 Explain how, by whom, how frequently, and for what purpose the information will be used. 1 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 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 satisfy the small numbers requirement, where applicable; 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 October 3, 2016 (81 FR 67984) soliciting public comment on this information collection.

We received one comment during the public review and comment period, which was from the Center for Regulatory Effectiveness (CRE). The CRE comment raised four issues, and in each of these CRE refers to the Proposed Information Request (ICR) as the "*Acoustic ICR*". Each of the four issues raised by CRE address NMFS' new *Acoustic Guidance* and the "*Acoustic ICR*". We would like to clarify that the Proposed ICR requested comments on "Applications and Reporting Requirements for the Incidental Take of Marine Mammals by Specified Activities..." While NMFS' *Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing* (Technical Guidance or *Acoustic Guidance*)¹ is relevant to applications that may potentially incidentally take marine mammals due to acoustic stimuli, there are other activities in addition to acoustics that may be included in Incidental Take Authorization (ITA)

¹ NMFS published the Technical Guidance in 2016. It has since been revised following a review under Executive Order 13795. That revision is expected to publish in early 2018.

applications due to their potential to incidentally take marine mammals. Therefore, it is not accurate to refer to the ICR as the “Acoustic ICR”. Each of the four issues raised by CRE addresses concerns about NMFS’ 2016 Acoustic Guidance specifically, and none of the issues are relevant to the ICR.

The Acoustic Guidance was available for public review and comment previously, as noted in CRE’s comment. In fact, the Acoustic Guidance has undergone internal review, four external peer reviews, three public comment periods, and received informal input from key federal partners. The comment period on the initial draft guidance opened in December, 2013 (78 FR 78822) and closed on March 13, 2014 (79 FR 4672). The second public comment period opened on July 31, 2015 and closed September 14, 2015 (80 FR 45642), and the third public comment period opened on March 16, 2016 and closed March 30, 2016 (81 FR 14095). NMFS responded to CRE’s comments on the acoustic guidance as part of these public comment periods. In addition to responding to CRE comments on the acoustic guidance from public review comments pertaining to that guidance, NMFS responded directly to CRE in two correspondences to address their concerns about the acoustic guidance. All comments received through each of the public review periods are available on regulations.gov, and we will not repeat comments/responses here. However, where CRE comments may be applicable to the ICR, we have provided brief responses below. In addition to the replies below, NMFS will prepare a letter to directly respond to CRE in a follow-up letter.

One comment provided by CRE stated that they believe the Acoustic Guidance and the “Acoustic ICR” would increase the information collection burden. However, the reason given for this assertion was due to a “requirement” to monitor larger exclusion zones due to the new acoustic guidance. Monitoring of exclusion zones is an aspect of mitigation and is only one potential mitigation measure that may be implemented. However, monitoring of exclusion zones has nothing to do with information collection burden associated with an ITA application. Further, there is no requirement for monitoring exclusion zones associated with the new acoustic guidance. As explained in previous correspondence with CRE, the acoustic guidance “does not dictate acoustic exclusion zones for avoiding or reducing marine mammal impacts, which are independent management decisions made in the context of the particular activity and full effects analysis, taking into account relevant regulatory standards.”

CRE also commented that NMFS will have to demonstrate IQA compliance for the Acoustic Guidance. This comment was previously addressed during public review of the Acoustic Guidance in response to a similar comment by CRE at that time (81 FR 51699, Comment/Response #8). In that response, NMFS noted that there is no collection of information requirement associated with the acoustic guidance. However, in that response NMFS noted that “NMFS information collection for Applications and Reporting Requirements for Incidental Taking of Marine Mammals by Specified Activities Under the Marine Mammal Protection Act, OMB approval number 0648-0151, could be affected by applicants using the Technical Guidance, possibly in added response time to prepare applications [...]” NMFS also stated that it would consider the effect of the new acoustic guidance, specifically whether a revision in the burden hour estimates is appropriate, and invite public input on its assessment, as part of the ICR under the PRA. As stated in NMFS’ FR Notice for the ICR (81 FR 67984), “NMFS does not anticipate that the new guidance will substantially add to the overall burden to applicants for incidental take authorizations. This is due to the fact that, recognizing that action proponents have varying abilities to model and estimate exposure, and that the new guidance may be more complex than some action proponents are able to incorporate, NMFS provided an alternative

methodology with an associated spreadsheet for use as an aid. Action proponents already using more complex modeling capabilities would simply modify their modeling efforts using the new criteria, and action proponents without the ability to do more complex modeling may opt to use the alternative methodology spreadsheet. Therefore, the estimated time per response is not affected by the guidance.” In addition, use of the Acoustic Guidance is not mandatory if a scientifically rigorous method can be substituted (see NMFS 2018 Revised Technical Guidance, p. 6, fn. 2). There were no responses from project proponents refuting this assessment and, as noted above, CRE’s comment on the additional information collection burden is not relevant to ICR.

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 December 2016, 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, four authorization holders responded—representing three different sectors (i.e., oil and gas, state agency, and the U.S. Department of Navy [Navy]). The Navy responded with hours and estimates for the Authorizations as a whole and did not break hours/costs into separate pieces (i.e., only presented the timeframe and costs for IHA and LOA processes from start to finish, versus breaking out hours and costs for applications, reports, etc). Therefore, the Navy responses were not able to be used for burden hour estimates. However, the Navy responses were used for responses to clarity, accuracy, and utility as discussed below.

Contact	Type
U.S. Department of Navy	Federal Government
Port of Kalama	State
BlueCrest	Business (oil and gas)
California Department of Transportation	State

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 8.75. One respondent noted that the instructions are quite clear, “particularly in comparison to similar application guidance from other regulatory agencies”, and stated appreciation for the fact that application requirements are spelled out specifically in the application, are readily available online, and are easy to locate on the NOAA website. One comment noted that different staff work on processing ITA applications and there are at times additional requests for information specific to individual NMFS reviewers. This comment still rated clarity as high (scored 8 out of 10).

Response: NMFS shares this last concern and is in process of several program improvements that will further standardize our processes.

Accuracy: One comment stated that it was difficult to assess the burden estimates because they track effort in terms of cost versus time, and stated that they work with NMFS extensively beyond the submittals of the application package in the development and review of documentation. Two respondents replied that it was difficult to provide the information requested in the PRA request letter (i.e., it was difficult to estimate burden hours and costs) due to the range of types and complexity of the projects for which they seek Authorizations. The other comments stated that NMFS' estimates were fairly accurate to possibly slightly high.

Response: NMFS does recognize that there is additional work beyond what is reflected in the development of the application and subsequent reports. However, the objective of this study was to obtain regarding the burden of the development of the application and subsequent reports specifically.

Utility: Only one comment addressed the question of utility of the data NMFS requests, and that response noted that they would like to have a better understanding of what NOAA does with the data in summary reports.

Response: As stated in the application instructions, the purpose of monitoring and reporting is to increase knowledge of the species, and the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities. Also as noted in the application instructions, the goal is to minimize burdens by coordinating reporting requirements with other schemes already applicable to persons conducting such activities.

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 15,291 hours, as shown in Table 1 and Table 2. We based our burden estimates on discussions with current Authorization holders from three different sectors (e.g., oil and gas, state agency, and other non-NOAA Federal agencies) and an accounting of the number and different types of actions that we have processed during the past three-year (2013 – 2016) effort.

As our application process has not changed with the exception of the new Acoustic Technical Guidance (Implemented August 2016), we do not anticipate a substantial increase in burden hours. As stated in the FR notice for the Proposed Information Collection Comment Request (81 FR 67984), “NMFS does not anticipate that the new guidance will substantially add to the overall burden to applicants for incidental take authorizations. This is due to the fact that, recognizing that action proponents have varying abilities to model and estimate exposure, and that the new guidance may be more complex than some action proponents are able to incorporate, NMFS provided an alternative methodology with an associated spreadsheet for use as an aid. Action proponents already using more complex modeling capabilities would simply modify their modeling efforts using the new criteria, and action proponents without the ability to do more complex modeling may opt to use the alternative methodology spreadsheet. Therefore, the estimated time per response is not affected by the guidance.” There were no comments received that disagree with this assessment from any project proponents. Further, the Technical Guidance has been in effect for more than a year and has not been shown to increase burden hours, nor has NMFS been informed by applicants that burden hours have increased as a result of implementing the Guidance. Even the comment from CRE (which is not a project proponent), which stated that the Acoustic Guidance will increase the information collection burden, did not refute this assessment because the increased burden referenced in CRE’s comment was attributed to the need to monitor increased exclusion zones “imposed by the Guidance.” First and foremost, this comment is not relevant to information collection, as monitoring exclusion zones is part of mitigation as opposed to collecting information for the ITA application. Second, the Acoustic Guidance does not impose or dictate any exclusion zones. The Guidance determines zones in which acoustic injury may occur; however, exclusion zones (which are part of mitigation) are determined on a case-specific basis, based on a variety of factors, and may encompass all or only a portion of an injury zone. Finally, as the Acoustic Guidance itself states, use of the Acoustic Guidance is not mandatory (see NMFS 2018 Revised Technical Guidance, p. 6, fn. 2).

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	2016 Estimate
Estimated Number of Respondents	93
Estimated Number of Responses	93
Estimated Annualized Burden Hours	15,291

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)	Previous Est. Total Annual Burden (hours)	Est. Total Annual Burden (hours)
IHA Application	19	281	5,015	5,339
IHA Interim Draft Report	1	30	4	30
IHA Draft Report	19	140	2,262	2,660
IHA Final Report	19	28	275	532
LOA - Initial Application Preparation for Regulations	1	1,200	1,100	1,200
LOA - Annual LOA Application	10	70	770	700
LOA - Draft Annual Report	10	225	2,420	2,250
LOA - Final Annual Report	10	70	715	700
LOA - LOA Draft Comprehensive Report	2	640	625	1,280
LOA - LOA Final Comprehensive Report	2	300	300	600
Totals	93		13,486	15,291

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 \$1,082.00 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 Authorization holders from three different sectors (e.g., oil and gas, state agency, and non-profit) from previous efforts. As our burden hours and costs are not anticipated to have changed substantially, and due to the fact that none of the respondents to our PRA data request provided cost information, we estimate that the cost burden would be approximately the same.

Table 3. Estimated total annual cost burden.

Summary	2016 Estimate
Estimated Total Annual Cost to Public	\$100,626

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

We estimate the annual cost to the Federal government at \$701,550 for 10 Full Time Equivalents (FTE) calculated at \$45 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	281	\$240,255
IHA Interim Draft Report	1	30	\$1,350
IHA Draft Annual Report	19	140	\$119,700
IHA Final Annual Report	19	28	\$23,940
LOA - Initial Application Preparation for Regulations	1	1,200	\$54,000
LOA - Annual LOA Application	10	70	\$31,500
LOA - Draft Annual Report	10	225	\$101,250
LOA - Final Annual Report	10	70	\$31,500
LOA - LOA Draft Comprehensive Report	2	640	\$57,600
LOA - LOA Final Comprehensive Report	2	300	\$27,000
		Total	\$688,095

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 three different sectors (e.g., oil and gas, state agency, and Federal government) and an accounting of the number and different types of actions that we have processed during the past three years (2013 – 2016). The total number of respondents has remained in line with the previous PRA effort (93 compared to 96) and the breakdown of non-Federal applicants for Incidental Harassment Authorizations and regulations/Letters of Authorization has also remained in line with the previous effort reporting information. The total annual burden hours have increased somewhat (15,291 compared to 13,486); 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. Most of the 1,805 increase in burden hours, comes from approximately doubling the average time to complete the IHA Final Report and the LOA draft and final comprehensive reports (see Table 2).

Adjustments to Recordkeeping/Reporting Costs

NMFS has not adjusted the total annual cost to the respondents from the previous estimate

\$100,700, but this breaks down to approximately \$1,082 per respondent due to the slightly fewer respondents (93 compared to 95 previously).

NMFS has also adjusted the total annual cost to the Federal government from the previous estimate of \$385,700 to \$634,860 due to the addition of two new higher pay-band positions and increases in pay that raised the average hourly rate from the previous \$35/hour to \$45/hour.

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.