

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 10/15/2007

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Barry West
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 06/20/2007

ACTION REQUESTED: Extension without change of a currently approved collection

TYPE OF REVIEW REQUESTED: Regular

ICR REFERENCE NUMBER: 200706-0648-002

AGENCY ICR TRACKING NUMBER:

TITLE: Applications and Reporting Requirements for Incidental Taking of Marine Mammals by Specified Activities Under the Marine Mammal Protection Act.

LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change

OMB CONTROL NUMBER: 0648-0151

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 10/31/2010

DISCONTINUE DATE:

| BURDEN: | RESPONSES | HOURS | COSTS |
|--|-----------|--------|-------|
| Previous | 54 | 12,376 | 0 |
| New | 142 | 20,456 | 1,361 |
| Difference | | | |
| Change due to New Statute | 0 | 0 | 0 |
| Change due to Agency Discretion | 0 | 0 | 0 |
| Change due to Agency Adjustment | 88 | 8,080 | 1,361 |
| Change Due to Potential Violation of the PRA | 0 | 0 | 0 |

TERMS OF CLEARANCE:

OMB Authorizing Official:

Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

| IC Title | Form No. | Form Name | CFR Citation |
|---|----------|-----------|--------------|
| Applications and Reportings, Business | | | 50 CFR 216 |
| Applications and reports, not for profit institutions | | | 50 CFR 216 |
| Applications and reports, state and local government | | | 50 CFR 216 |

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

| | |
|--|---|
| 1. Agency/Subagency originating request | 2. OMB control number b. <input type="checkbox"/> None a. _____ - _____ |
| 3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions | 4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated |
| 7. Title | 5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 8. Agency form number(s) (<i>if applicable</i>) | 6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____ |
| 9. Keywords | |
| 10. Abstract | |
| 11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government | 12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory |
| 13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____ | 14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____ |
| 15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit | 16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____ |
| 17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No | 18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____ |

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

| | |
|--|------|
| Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office) | |
| Signature | Date |
| Signature of NOAA Clearance Officer | |
| Signature | Date |

**SUPPORTING STATEMENT
APPLICATIONS AND REPORTING REQUIREMENTS FOR INCIDENTAL TAKING
OF MARINE MAMMALS BY SPECIFIED ACTIVITIES UNDER
THE MARINE MAMMAL PROTECTION ACT
OMB CONTROL NO.: 0648-0151**

A. JUSTIFICATION

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

The Marine Mammal Protection Act of 1972 (**MMPA, 16 U.S.C. 1361 et seq.**) imposed, with certain exceptions, a moratorium on the taking of marine mammals. “Taking” means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture or kill any marine mammal and can be either intentional or incidental. Civil or criminal penalties may result from taking a marine mammal without an exemption or authorization.

Section 101(a)(5)(A) of the MMPA directs the Secretary of Commerce to allow, upon request, the taking of small numbers of marine mammals incidental to specified activities under implementing regulations that, among other things, establish the permissible methods of taking, provided the National Marine Fisheries Service (NMFS) can determine that the taking will be small in number, have no more than a negligible impact on marine mammals and will not have an unmitigable adverse impact on the subsistence needs of Alaskan Natives. In supporting legislative reports, the U.S. Congress clearly placed the responsibility for providing the information necessary to make determinations on the activity participants themselves, not on NMFS. After regulations are issued to authorize the taking, those conducting the activity must obtain Letters of Authorization (LOA) and annual reports must be submitted. Procedural regulations outlining the requirements for the submission of requests are contained in **50 CFR 216** Subpart I. Specific regulations governing authorized activities are contained in subsequent subparts to 50 CFR 216. Section 101(a)(5)(A) of the MMPA also requires applicants to monitor and report interactions with marine mammals. This information is necessary to verify the statements made by the applicant, and the determinations made by NMFS. By implementing a system having generic regulations for an activity, and authorizing LOAs under those regulations, paperwork burdens are significantly reduced on those receiving LOAs (if the universe is more than one) since they do not need to duplicate the information necessary to support their activity's marine mammal take.

Section 101(a)(5)(D) of the MMPA provides an expedited process by which citizens of the United States can apply for an authorization to take incidentally, but not intentionally, small numbers of marine mammals by harassment (authorizations under Section 101(a)(5)(A) and (D) cannot be granted to non-U.S. citizens or corporations.) This amendment eliminates the need for applying for regulations, but retains the requirements for applications for the permit (called an Incidental Harassment Authorization (IHA)), monitoring and reporting interactions with marine mammals. Although this does not reduce the paperwork burdens significantly on the activity to provide to NMFS, it expedites NMFS review and approval of the application. Accordingly, IHAs are normally issued within 4 months as opposed to 7-12 months for LOAs.

2. Explain 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, then explain how the collection complies with all applicable Information Quality Guidelines.

Under this program, the collection of information is the responsibility of the individual, organization or independent scientist petitioning NMFS for either regulations or a "permit" (LOA/IHA) to allow a taking of marine mammal incidental to the activity. The information required to be provided in requests for regulations or authorizations (50 CFR 216.104) is used by NMFS and the general public to evaluate the impacts of the proposed activity on marine mammals and in making the findings and either issuing regulations and LOAs, or IHAs, required by the MMPA. To issue regulations and authorizations to govern the taking, NMFS must (1) find that the taking will (a) be small, (b) not have more than a negligible impact on the species and (c) not have an unmitigable adverse impact on the availability of the species for subsistence uses, (2) prescribe regulations or conditions in the authorization (LOA/IHA) setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, and (3) prescribe regulations or conditions to the Authorization, pertaining to the monitoring and reporting of such taking.

For incidental take applications, the information items requested from applicants are found in 50 CFR 216.104(a), which is attached. Information items (1) and (2) are necessary for NMFS to judge the size, scope and duration of the proposed activity, while items (3) and (4) are necessary to describe the environmental setting of the activity. Information requests (5) through (10) are to ensure that the expected impact from the activity will have no more than a negligible impact on the affected marine mammals, their critical habitat, and, if appropriate, on affected subsistence lifestyles of Alaskan natives. Information item (11) is required to meet the statutory requirement in section 101(a)(5)(A)(ii)(I) to ensure that the taking is effecting the least practicable impact on the species and habitat.

Information item (12) is required to ensure that the activity will not have an unmitigable adverse impact on the subsistence needs for marine mammals in Alaska. This information item ensures that the industry has and will continue to communicate with the appropriate affected Alaskan Native communities. Failure to do so may result in a delay in processing the application due to the longer time period needed to review the activity and ensure the activity would not result in an unmitigable impact on Native subsistence needs for marine mammals. However, if the applicant's activity does not take place in Arctic waters (where Native Alaskan subsistence activities occur), information items (8) and (12) are not applicable and can be ignored. Because the MMPA requires small take authorizations to have an appropriate level of monitoring and reporting, information item (13) requests that this information be provided.

Finally, information item (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 small take authority engage in appropriate research designed to reduce the incidental take. Often research is undertaken in lieu of monitoring (when monitoring may not be practicable or effective) or when serious unanswered questions on the impacts on marine mammals remain). For "research" undertaken in the Arctic by oil and gas companies, this research is reviewed by a peer review process (required by the MMPA) that can either be independent document review, a workshop, or both.

The information contained in the application is reviewed by NMFS and, is provided to the general public (as required by the MMPA) for a period of 30 days (for IHAs) and 45 days (for regulations/LOAs). NMFS' analysis involved in making the statutory determinations requires detailed information on the activity, the affected marine mammals, and how the activity may affect the animals directly or indirectly through alterations of the habitat. This information meets the "practical utility" of the Paperwork Reduction Act (PRA) as all information is used in the NMFS analyses and for meeting other statutory requirements (e.g., section 7 and/or 10 of the Endangered Species Act and the National Environmental Policy Act (NEPA)). For example, before allowing the taking of ringed seals incidental to winter seismic activities in the Arctic, based in major part upon information provided by the applicant, NMFS prepared an Environmental Assessment under NEPA, that evaluated the available data to determine the area affected by the activity, the usage of the habitat by ringed seals, if ringed seal are displaced, the effects of displacement on the population, how the habitat is altered, and the effects of the alteration on the population. Without a complete application, NMFS would be required to obtain this information, resulting in significant delays in issuing the applicant an authorization.

It should be noted that information contained in a request for an LOA (under regulations) varies by activity. It is used to determine if the applicant falls within the scope of the specific regulations or if the application for an IHA is warranted. Information required concerns the dates, location, methods and level of activity to determine if the specific regulations and the statute cover the potential taking.

As with an application for regulations and LOAs under section 101(a)(5)(A) of the MMPA, information in a request for an IHA under section 101(a)(5)(D) needs to contain both a description of the activity and an assessment of the impacts on marine mammals in the vicinity of the activity. The application for an IHA needs to be as detailed as a request for regulations if the activity will have the same level of impact (or public controversy).

NMFS uses interim (90-day) and annual reports to determine if the activity took place as described in the request for an LOA or IHA, if the monitoring plan submitted was conducted, to determine if the taking of marine mammals was more than that authorized, and to determine if the holder of the LOA or IHA complied with other requirements included in the authorization. For example, in Alaska, regulations and authorizations include requirements for cooperating with the whaling communities to ensure that oil and gas exploratory activities do not reduce the availability of marine mammals for subsistence hunting. Ninety-day and annual reports must include a description of the activity including 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 take by species. Although not commonly imposed, additional reporting requirements may be required on a case-by-case basis under activity-specific regulations and authorizations issued under those regulations or an IHA. When interim reports are determined unnecessary to ensure that the activity was having no more than a negligible impact, the requirement for this report is waived in the individual IHA or LOA.

If the information is not collected, the incidental taking could not be authorized by NMFS. However, it is made clear to applicants and the public that issuance of regulations LOAs and IHAs are not a permit to conduct the activity, only to incidentally take marine mammals during the course of that activity. Failure to obtain an LOA or IHA does not mean the activity cannot take place, but if a marine mammal is taken (harassed, injured or killed) while conducting that

activity, the operator may be subject to prosecution under the MMPA or vulnerable to third party litigation.

It is anticipated that some of the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to a predissemination review pursuant to section 515 of Public Law 106-554.

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

The application instructions are available for downloading on the [Office of Protected Resources](#) home page. Also, they can be forwarded upon request via E-mail in .PDF format.

Applicants/Permit Holders may submit applications and reports in Word and Adobe formats via e-mail or surface mail. Electronic format allows the public easy access to applications and activity reports as they are posted on the Office of Protected Resources (OPR) Home page for downloading.

4. Describe efforts to identify duplication.

NMFS and the U.S. Fish and Wildlife Service (USFWS), Department of the Interior (USDOI), share responsibilities under the MMPA, with each agency being responsible for different species. Parallel regulations minimize duplication of effort on the part of those applicants "taking" marine mammal species under both agencies' jurisdiction. When marine mammal species under each agency's jurisdiction may be taken by the same activity, applicants can submit a single application to both agencies.

In addition, the Minerals Management Service (MMS) of the USDOI has an overlapping collection with NMFS 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 NMFS (or the USFWS). There is a small overlap of collecting responsibilities when (such as in the Arctic) oil companies apply for IHAs or LOAs. When there is an overlap, NMFS and MMS work cooperatively to ensure that there is no duplication. For example, in the Gulf of Mexico, NMFS will complete a final rule this summer (2007) on issuing LOAs for the removal of offshore oil structures. NMFS or its contractors monitor the activity, collect the data and submit the data report to NMFS, MMS and other agencies with responsibilities and interests. MMS does not independently collect the same data. In addition, NMFS is drafting rules for publication later this summer that would regulate the taking of marine mammals by the Gulf of Mexico offshore seismic industry for oil exploration. For this component of the offshore industry, NMFS' monitoring and reporting requirements are likely to be more comprehensive than MMS' and therefore, will supplant the MMS information collection requirement. MMS will continue to collect information on other components of the offshore industry. In both cases,

these rules were requested by MMS and both agencies are working cooperatively to implement a unified mitigation, monitoring and reporting system.

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

NMFS does not anticipate small businesses being significantly affected, unless they are involved in an activity that will otherwise have an unauthorized taking of a marine mammal (i.e., they have not applied for a small take authorization). Most potentially affected applicants are identified as university researchers; oil and gas exploration companies, other energy companies, and their contractors. While contractors may be considered small businesses, in many cases they are contracted to supply the information required under this collection, and thereby obtain a benefit. Otherwise, they are unaffected.

In those cases where small businesses might be affected (such as oil rig removal contractors in the Gulf of Mexico), NMFS seeks out a larger entity (such as, in the activities mentioned previously, the American Petroleum Institute or the MMS) to gather the necessary information. Small contractors then need only provide NMFS with minimal information (such as company name and appropriate contact) in order to obtain an LOA.

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

Requests for regulations and authorizations are on an as-needed basis. However, by law, regulations can be effective for only a period of 5 years or less. The period of validity for an LOA is determined on a case-by-case basis depending upon the specific activity, usually depending upon the reporting period. IHAs are limited by statute to a period no greater than 1 year.

Without an application, NMFS would be unaware of the applicant's need for an exemption to the MMPA's moratorium on taking marine mammals. Information previously supplied or otherwise available can be referenced and need not be submitted. Documents required by that law can be either used in preparation of a submission for a request for regulations or submitted as supporting documentation depending upon the content of the NEPA documents.

The information needs to be provided by the applicant based on the applicants' knowledge of the activity and its impacts and previous experience. This information, as well as other information available to NMFS, is used in making the findings and issuing the regulations. This ensures that the best available information is used, as required by 50 CFR Part 216. In addition, under the permit provisions of the MMPA, applicants have the burden to demonstrate that the taking of marine mammals will be consistent with the purposes, policies and provisions of the MMPA (see Section 104(d)(3)). In describing the burden of proof requirement, Congress noted in the legislative history that "If the burden is not carried--and it is by no means a light burden--the permit may not be issued. The effect of this set of requirements is to insist that the management of the animal populations be carried out with the interests of the animals as the prime considerations." (H.R. Rep. No. 707, 92nd Cong. (1971)).

A reporting period is tailored to the specific activity, whether seasonal, annual or periodic. A reporting period greater than annual may not ensure adequate monitoring of the activity, and may be viewed as not being responsive to the mandates of Congress as expressed in the MMPA.

Wherever possible, however, multi-year reporting would be authorized. Also, whenever possible, either the 90-day or the annual report is waived; especially if the reports would be duplicative.

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

This collection is consistent with Office of Management and Budget (OMB) guidelines.

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

NOAA published a request for review and comment on the subject collection of information on September 8, 2000 (65 FR 54500). No comments were received either during or after the 60-day public comment period. NOAA published a second request for review and comment on the subject collection of information on October 20, 2003 (68 FR 5991). One comment was received. This commenter represents approximately 33 percent of the IHA applications represented in Item 12(A)(c) below. The average time for the cited IHA applications was approximately 285 hours, with diminishing time needed corresponding to increasing experience in what analyses are needed. Prior to 2003, this applicant was not a participant in the IHA program. Since the quality and quantity of work done by the Lamont Doherty Earth Observatory is significantly greater than many other applicants (due to litigation threat), NMFS modified the burden estimate for IHA applications for the 2004-2007 period to distinguish between "simple" and "complex" applications and reports. In addition, NMFS received an e-mail from a contractor for the U.S. Navy that, while having PRA requirements that were within the range projected for reports and regulations, it had significantly higher estimates for LOA requests. However, at the time (2003) this contractor was employed by the U.S. Navy, a military activity, and is therefore exempt from the PRA.

Recently, NOAA published a third request for review and comment on the subject collection of information on February 6, 2007 (72 FR 5420). One comment was received. The Center for Regulatory Effectiveness (CRE) raises three issues to which NMFS will respond:

Issue 1. This Information Collection Request (ICR) does not and cannot authorize some information collections that the National Marine Fisheries Service (NMFS) recently imposed in Incidental Take Authorizations (ITA) under the MMPA (16 U.S.C. § 1361 et. seq.). Some of these collections cannot produce accurate and reliable information. Consequently, they flunk the "practical utility" standard of the PRA and they do not meet the Utility and Objectivity/Accuracy/Reliability standards of the Information Quality Act (IQA), 44 U.S.C. § 3516 et seq.

Response: Incidental Harassment Authorizations (IHAs) were issued to 3 companies for conducting seismic surveys in the Beaufort and Chukchi Seas in 2006. These companies submitted applications with the information items described previously and were issued IHAs. One of the IHA conditions was for observers to monitor areas distant from the seismic vessel to

ensure that no significant impacts to feeding and migrating marine mammals would occur. This condition was not imposed under section 101(a)(5)(D) of the MMPA, but under NEPA as NMFS issued a "mitigated Finding of No Significant Impact" which required certain measures be contained in the IHAs. Without these measures, NMFS would not be in compliance with NEPA and could not issue the IHAs, and no company would have been authorized (by MMS) to conduct seismic in the Arctic in 2006 without imposition of this requirement. In regards to practicality, these zones were successfully monitored in 2006 in the Beaufort Sea and have been proposed by the oil industry for 2007. In the Chukchi Sea, aerial monitoring was not conducted due to (1) litigation and (2) aircraft safety concerns (lack of alternative landing site availability in bad weather). The oil industry, in cooperation with NOAA (Boulder) and the State of Alaska are developing an environmental monitoring program using unmanned aerial vehicles (UAVs) to replace manned aircraft. The oil industry and NOAA are working with the FAA to obtain authorization to use this technology in 2008 or 2009. However, monitoring the activity of the IHA holder is not a part of this Information Collection.

Issue 2: NMFS should more completely identify and describe the information collections it asks OMB to approve, and the public to comment. The general information collection requirements contained in 50 CFR Part 216 are not the same information collections that NMFS requires in ITAs issued to individual applicants.

Response: The application instructions are contained in 50 CFR 216.104 and on our homepage; no additional information is required, although NMFS can request more detailed information be provided if it determines that information is needed to make the required determinations under the MMPA. If that information is not available through the applicant and/or through a literature search, then an IHA may not be issued. The marine mammal observer-monitoring requirement is not an information collection and therefore, does not need to be discussed here. However, marine mammal observations are required by the MMPA to ensure that the impacts to marine mammals and Arctic native subsistence uses of marine mammals are not significant. Without those determinations, an ITA (IHA/LOA) cannot be issued.

Issue 3: NMFS should explain how its ICR Control OMB Control Number 0648-0151 is consistent with the MMS' ICR OMB Control Number 1010-0154. In its Supporting Statement for ICR 1010-0154, MMS justified its ICR by stating: "No other Federal agency has the responsibility for collecting information relative to the impacts of Outer Continental Shelf (OCS) oil and gas exploration, development, and production activities. Similar information does not exist and has not been collected. Respondents will report to MMS, and, in turn, MMS will provide the required information to NMFS and FWS. Therefore, there will be no additional burden to the public."

Response: This issue was addressed in Justification Item 4.

In addition to the above *Federal Register (FR)* notices, the MMPA requires notice and opportunity for public comment on the promulgation of regulations when an application is submitted as part of the request for regulations. The information collection items required in requests for small take authorizations were published in 1982, 1988 and 1995, as proposed rules with an opportunity for public comment. A FR notice requesting comments on the paperwork burden was also published at the proposed (60 FR 28379, May 31, 1995) and interim (61 FR 15884, April 10, 1996) rule stage. No comments were received in response to these PRA collection notices. Lastly, comments on the individual PRA collection is requested whenever NMFS publishes a proposed rule to authorize a taking under section 101(a)(5)(A) of the MMPA.

NMFS publishes approximately two proposed rules under this program annually. Although NMFS anticipates that the Center for Regulatory Effectiveness (CRE) will comment in the future, no PRA related comments have been received in the past.

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

No payments or gifts were provided.

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

The information collection is a matter of public record and no material of a confidential nature is required.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No sensitive questions are asked.

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

A. Due principally to increased volume of applications for incidental take authorizations, the total annual burden hours is currently estimated at 20,456 hours, as shown in Table 1. 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 activity's long-term impact on marine mammals, habitat and/or subsistence needs for marine mammals. The lower the level of concern over each of the three items, the lower the information burden on the applicant.

B. Total labor cost to the applicants is approximately \$9,940: cost of "handling" 142 applications/reports annually at 1 hour each at \$35 hr X 2.0 overhead.

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

There are no identified costs associated with capital and start-up components. All costs are associated with staff and contractor preparation of applications and reports. However, the U.S. Navy has implemented a data base program called Living Marine Resources Information System (LMRIS) to expedite information for preparing applications under this program and to assess activity program impacts under the National Environmental Policy Act, the Endangered Species Act and Executive Order (EO) 12114. This database is available to non-government organizations in addition to the U.S. Government. At this time, all data inputs to the LMRIS system are provided by NMFS. Also, private consulting firms have designed, implemented and are contracting out computer software programs to assist applicants in estimating marine mammal take levels needed as part of LOA/IHA applications. One of the companies is a small business that is benefiting from marketing its product; a second is not a small business, but is a large, international consulting firm.

Costs associated with providing the applications and reports, such as data entry, copying, filing, and mailing are accounted for under the contractor overhead charges but cannot be extracted in detail without contacting affected individuals and companies. Total cost of shipping via special handling (U.S. Mail, Priority Shipping) is estimated at \$1,360.50.

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

Total cost to the Government next year and beyond is expected to be approximately \$337,500 for 3 Full Time Employee (FTE)s (1 PB-4 and 1 PB-3 in Hdqtrs.; 1 contractor X 1.5 (overhead and printing)).

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

An increase in total collection hours over previous estimate has been modified for several reasons: (1) an increase in the number of applicants for regulations and IHAs; (2) an increase in the reporting burden for certain activities and (3) an increase in time spent responding to the questions in the application instructions. The increase in the number of applicants and in burden hours are not due to a change in the requirements but instead due to increased public interest and oversight, and the threat of litigation by non-governmental entities.

The increase in costs is not a true increase: these costs had not been separated out from contractor costs, previously.

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

There are no plans for the government to publish the data. However, at times the information contained in annual reports have been extracted, reanalyzed and published in peer-reviewed journals by scientists employed by the applicants for LOAs/IHAs.

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.

There are no plans not to display the expiration date provided by OMB.

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

No exceptions to the certification statement are required

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The information collection described in this request does not employ statistical methods (except in order to estimate marine mammal incidental take levels, which reduces monitoring costs on the applicants).

TABLE I.**Subpart I****General Implementing Regulations for Incidental Takes**

| Information collection | Average responses per year (non-federal) | Hours per response | Total hours per year |
|-------------------------------|---|---------------------------|-----------------------------|
| Petition for Regulations | 2 | 483 | 966 |
| LOA application - simple | 30 | 3 | 90 |
| LOA application - complex | 8 | 120 | 960 |
| LOA reports - simple | 30 | 20 | 600 |
| LOA reports - complex | 8 | 285 | 2280 |
| IHA application - simple | 12 | 160 | 1920 |
| IHA application - complex | 20 | 285 | 5700 |
| IHA reports - simple | 12 | 120 | 1440 |
| IHA reports - complex | 20 | 325 | 6500 |
| TOTALS | 142 | | 20,456 |

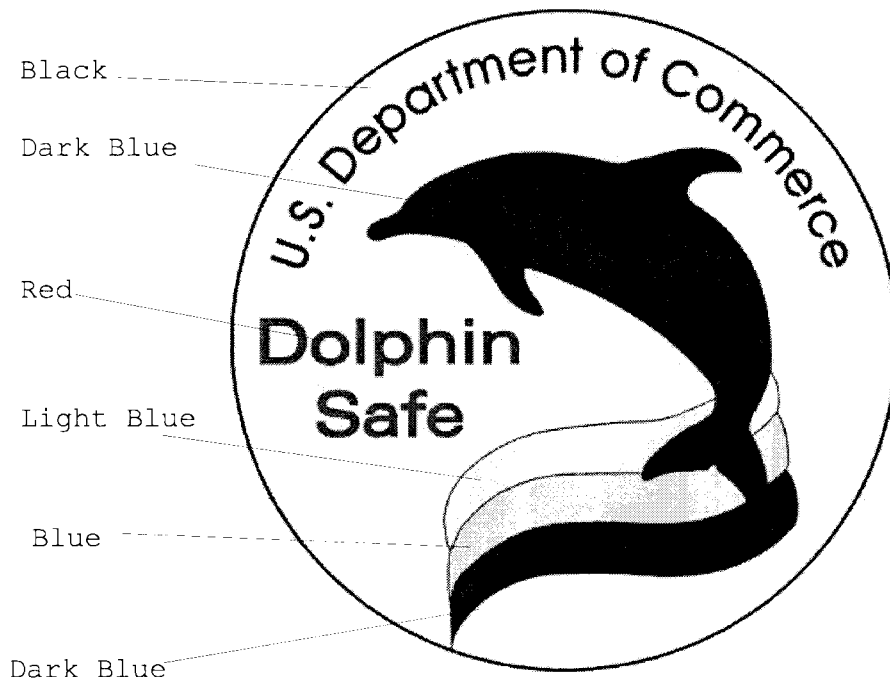


Figure 1.

(b) *Location and size of the official mark.* The official mark on labels must allow the consumer to identify the official mark and be similar in design and scale to figure 1. A full color version of the official mark is available at <http://swr.ucsd.edu/dsl.htm>.

[65 FR 34410, May 30, 2000]

Subpart I—General Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities

SOURCE: 61 FR 15887, Apr. 10, 1996, unless otherwise noted.

§216.101 Purpose.

The regulations in this subpart implement section 101(a)(5) (A) through (D) of the Marine Mammal Protection

Act of 1972, as amended, 16 U.S.C. 1371(a)(5), which provides a mechanism for allowing, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region.

§216.102 Scope.

The taking of small numbers of marine mammals under section 101(a)(5) (A) through (D) of the Marine Mammal Protection Act may be allowed only if the National Marine Fisheries Service:

(a) Finds, based on the best scientific evidence available, that the total taking by the specified activity during the specified time period will have a negligible impact on species or stock of marine mammal(s) and will not have

an unmitigable adverse impact on the availability of those species or stocks of marine mammals intended for subsistence uses;

(b) Prescribes either regulations under §216.106, or requirements and conditions contained within an incidental harassment authorization issued under §216.107, setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species or stock of marine mammal and its habitat and on the availability of the species or stock of marine mammal for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance; and

(c) Prescribes either regulations or requirements and conditions contained within an incidental harassment authorization, as appropriate, pertaining to the monitoring and reporting of such taking. The specific regulations governing certain specified activities are contained in subsequent subparts of this part.

§216.103 Definitions.

In addition to definitions contained in the MMPA, and in §216.3, and unless the context otherwise requires, in subsequent subparts to this part:

Arctic waters means the marine and estuarine waters north of 60° N. lat.

Citizens of the United States and *U.S. citizens* mean individual U.S. citizens or any corporation or similar entity if it is organized under the laws of the United States or any governmental unit defined in 16 U.S.C. 1362(13). U.S. Federal, state and local government agencies shall also constitute citizens of the United States for purposes of this part.

Incidental harassment, incidental taking and *incidental, but not intentional, taking* all mean an accidental taking. This does not mean that the taking is unexpected, but rather it includes those takings that are infrequent, unavoidable or accidental. (A complete definition of "take" is contained in §216.3).

Negligible impact is an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through ef-

fects on annual rates of recruitment or survival.

Small numbers means a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.

Specified activity means any activity, other than commercial fishing, that takes place in a specified geographical region and potentially involves the taking of small numbers of marine mammals.

Specified geographical region means an area within which a specified activity is conducted and that has certain biogeographic characteristics.

Unmitigable adverse impact means an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by:

(i) Causing the marine mammals to abandon or avoid hunting areas;

(ii) Directly displacing subsistence users; or

(iii) Placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

§216.104 Submission of requests.

(a) In order for the National Marine Fisheries Service to consider authorizing the taking by U.S. citizens of small numbers of marine mammals incidental to a specified activity (other than commercial fishing), or to make a finding that an incidental take is unlikely to occur, a written request must be submitted to the Assistant Administrator. All requests must include the following information for their activity:

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

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

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

§216.104

50 CFR Ch. II (10–1–02 Edition)

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

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

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

(7) The anticipated impact of the activity upon the species or stock of marine mammal;

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

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

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

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

(12) Where the proposed activity would take place in or near a traditional Arctic subsistence hunting area and/or may affect the availability of a species or stock of marine mammal for Arctic subsistence uses, the applicant must submit either a plan of cooperation or information that identifies what measures have been taken and/or will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses. A plan must include the following:

(i) A statement that the applicant has notified and provided the affected

subsistence community with a draft plan of cooperation;

(ii) A schedule for meeting with the affected subsistence communities to discuss proposed activities and to resolve potential conflicts regarding any aspects of either the operation or the plan of cooperation;

(iii) A description of what measures the applicant has taken and/or will take to ensure that proposed activities will not interfere with subsistence whaling or sealing; and

(iv) What plans the applicant has to continue to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation;

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

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

(b)(1) The Assistant Administrator shall determine the adequacy and completeness of a request and, if determined to be adequate and complete, will begin the public review process by publishing in the FEDERAL REGISTER either:

(i) A proposed incidental harassment authorization; or

(ii) A notice of receipt of a request for the implementation or reimplementation of regulations governing the incidental taking.

(2) Through notice in the FEDERAL REGISTER, newspapers of general circulation, and appropriate electronic media in the coastal areas that may be affected by such activity, NMFS will invite information, suggestions, and comments for a period not to exceed 30 days from the date of publication in the FEDERAL REGISTER. All information and suggestions will be considered by the National Marine Fisheries Service in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization or conditions governing the issuance of an incidental harassment authorization.

(3) Applications that are determined to be incomplete or inappropriate for the type of taking requested, will be returned to the applicant with an explanation of why the application is being returned.

(c) The Assistant Administrator shall evaluate each request to determine, based upon the best available scientific evidence, whether the taking by the specified activity within the specified geographic region will have a negligible impact on the species or stock and, where appropriate, will not have an unmitigable adverse impact on the availability of such species or stock for subsistence uses. If the Assistant Administrator finds that the mitigating measures would render the impact of the specified activity negligible when it would not otherwise satisfy that requirement, the Assistant Administrator may make a finding of negligible impact subject to such mitigating measures being successfully implemented. Any preliminary findings of "negligible impact" and "no unmitigable adverse impact" shall be proposed for public comment along with either the proposed incidental harassment authorization or the proposed regulations for the specific activity.

(d) If, subsequent to the public review period, the Assistant Administrator finds that the taking by the specified activity would have more than a negligible impact on the species or stock of marine mammal or would have an unmitigable adverse impact on the availability of such species or stock for subsistence uses, the Assistant Admin-

istrator shall publish in the FEDERAL REGISTER the negative finding along with the basis for denying the request.

§ 216.105 Specific regulations.

(a) For all petitions for regulations under this paragraph, applicants must provide the information requested in § 216.104(a) on their activity as a whole, which includes, but is not necessarily limited to, an assessment of total impacts by all persons conducting the activity.

(b) For allowed activities that may result in incidental takings of small numbers of marine mammals by harassment, serious injury, death or a combination thereof, specific regulations shall be established for each allowed activity that set forth:

(1) Permissible methods of taking;

(2) Means of effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses; and

(3) 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.

(c) Regulations will be established based on the best available information. As new information is developed, through monitoring, reporting, or research, the regulations may be modified, in whole or in part, after notice and opportunity for public review.

§ 216.106 Letter of Authorization.

(a) A Letter of Authorization, which may be issued only to U.S. citizens, is required to conduct activities pursuant to any regulations established under § 216.105. Requests for Letters of Authorization shall be submitted to the Director, Office of Protected Resources. The information to be submitted in a request for an authorization will be specified in the appropriate subpart to this part or may be obtained by writing to the above named person.

(b) Issuance of a Letter of Authorization will be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations.

§216.107

50 CFR Ch. II (10-1-02 Edition)

(c) Letters of Authorization will specify the period of validity and any additional terms and conditions appropriate for the specific request.

(d) Notice of issuance of all Letters of Authorization will be published in the FEDERAL REGISTER within 30 days of issuance.

(e) Letters of Authorization shall be withdrawn or suspended, either on an individual or class basis, as appropriate, if, after notice and opportunity for public comment, the Assistant Administrator determines that:

(1) The regulations prescribed are not being substantially complied with; or

(2) The taking allowed is having, or may have, more than a negligible impact on the species or stock or, where relevant, an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

(f) The requirement for notice and opportunity for public review in §216.106(e) shall not apply if the Assistant Administrator determines that an emergency exists that poses a significant risk to the wellbeing of the species or stocks of marine mammals concerned.

(g) A violation of any of the terms and conditions of a Letter of Authorization or of the specific regulations shall subject the Holder and/or any individual who is operating under the authority of the Holder's Letter of Authorization to penalties provided in the MMPA.

§216.107 Incidental harassment authorization for Arctic waters.

(a) Except for activities that have the potential to result in serious injury or mortality, which must be authorized under §216.105, incidental harassment authorizations may be issued, following a 30-day public review period, to allowed activities that may result in only the incidental harassment of a small number of marine mammals. Each such incidental harassment authorization shall set forth:

(1) Permissible methods of taking by harassment;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) 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.

(b) Issuance of an incidental harassment authorization will be based on a determination that the number of marine mammals taken by harassment will be small, will have a negligible impact on the species or stock of marine mammal(s), and will not have an unmitigable adverse impact on the availability of species or stocks for taking for subsistence uses.

(c) An incidental harassment authorization will be either issued or denied within 45 days after the close of the public review period.

(d) Notice of issuance or denial of an incidental harassment authorization will be published in the FEDERAL REGISTER within 30 days of issuance of a determination.

(e) Incidental harassment authorizations will be valid for a period of time not to exceed 1 year but may be renewed for additional periods of time not to exceed 1 year for each reauthorization.

(f) An incidental harassment authorization shall be modified, withdrawn, or suspended if, after notice and opportunity for public comment, the Assistant Administrator determines that:

(1) The conditions and requirements prescribed in the authorization are not being substantially complied with; or

(2) The authorized taking, either individually or in combination with other authorizations, is having, or may have, more than a negligible impact on the species or stock or, where relevant, an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

(g) The requirement for notice and opportunity for public review in paragraph (f) of this section shall not apply if the Assistant Administrator determines that an emergency exists that poses a significant risk to the wellbeing of the species or stocks of marine mammals concerned.

(h) A violation of any of the terms and conditions of an incidental harassment authorization shall subject the

holder and/or any individual who is operating under the authority of the holder's incidental harassment authorization to penalties provided in the MMPA.

§ 216.108 Requirements for monitoring and reporting under incidental harassment authorizations for Arctic waters.

(a) Holders of an incidental harassment authorization in Arctic waters and their employees, agents, and designees must cooperate with the National Marine Fisheries Service and other designated Federal, state, or local agencies to monitor the impacts of their activity on marine mammals. Unless stated otherwise within an incidental harassment authorization, the holder of an incidental harassment authorization effective in Arctic waters must notify the Alaska Regional Director, National Marine Fisheries Service, of any activities that may involve a take by incidental harassment in Arctic waters at least 14 calendar days prior to commencement of the activity.

(b) Holders of incidental harassment authorizations effective in Arctic waters may be required by their authorization to designate at least one qualified biological observer or another appropriately experienced individual to observe and record the effects of activities on marine mammals. The number of observers required for monitoring the impact of the activity on marine mammals will be specified in the incidental harassment authorization. If observers are required as a condition of the authorization, the observer(s) must be approved in advance by the National Marine Fisheries Service.

(c) The monitoring program must, if appropriate, document the effects (including acoustical) on marine mammals and document or estimate the actual level of take. The requirements for monitoring plans, as specified in the incidental harassment authorization, may vary depending on the activity, the location, and the time.

(d) Where the proposed activity may affect the availability of a species or stock of marine mammal for taking for subsistence purposes, proposed monitoring plans or other research pro-

posals must be independently peer-reviewed prior to issuance of an incidental harassment authorization under this subpart. In order to complete the peer-review process within the time frames mandated by the MMPA for an incidental harassment authorization, a proposed monitoring plan submitted under this paragraph must be submitted to the Assistant Administrator no later than the date of submission of the application for an incidental harassment authorization. Upon receipt of a complete monitoring plan, and at its discretion, the National Marine Fisheries Service will either submit the plan to members of a peer review panel for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan. The applicant must submit a final monitoring plan to the Assistant Administrator prior to the issuance of an incidental harassment authorization.

(e) At its discretion, the National Marine Fisheries Service may place an observer aboard vessels, platforms, aircraft, etc., to monitor the impact of activities on marine mammals.

(f)(1) As specified in the incidental harassment authorization, the holder of an incidental harassment authorization for Arctic waters must submit reports to the Assistant Administrator within 90 days of completion of any individual components of the activity (if any), within 90 days of completion of the activity, but no later than 120 days prior to expiration of the incidental harassment authorization, whichever is earlier. This report must include the following information:

(i) Dates and type(s) of activity;

(ii) Dates and location(s) of any activities related to monitoring the effects on marine mammals; and

(iii) Results of the monitoring activities, including an estimate of the actual level and type of take, species name and numbers of each species observed, direction of movement of species, and any observed changes or modifications in behavior.

(2) Monitoring reports will be reviewed by the Assistant Administrator and, if determined to be incomplete or inaccurate, will be returned to the

§216.111

holder of the authorization with an explanation of why the report is being returned. If the authorization holder disagrees with the findings of the Assistant Administrator, the holder may request an independent peer review of the report. Failure to submit a complete and accurate report may result in a delay in processing future authorization requests.

(g) Results of any behavioral, feeding, or population studies, that are conducted supplemental to the monitoring program, should be made available to the National Marine Fisheries Service before applying for an incidental harassment authorization for the following year.

Subpart J—Taking of Ringed Seals Incidental to On-Ice Seismic Activities

SOURCE: 63 FR 5283, Feb. 2, 1998, unless otherwise noted.

EFFECTIVE DATE NOTE: At 63 FR 5283, Feb. 2, 1998, subpart J was revised, effective Feb. 2, 1998, to Dec. 31, 2002.

§216.111 Specified activity and specified geographical region.

Regulations in this subpart apply only to the incidental taking of ringed seals (*Phoca hispida*) and bearded seals (*Erignathus barbatus*) by U.S. citizens engaged in on-ice seismic exploratory and associated activities over the Outer Continental Shelf of the Beaufort Sea of Alaska, from the shore outward to 45 mi (72 km) and from Point Barrow east to Demarcation Point, from January 1 through May 31 of any calendar year.

§216.112 Effective dates.

Regulations in this subpart are effective from February 2, 1998 through December 31, 2002.

§216.113 Permissible methods.

The incidental, but not intentional, taking of ringed and bearded seals from January 1 through May 31 by U.S. citizens holding a Letter of Authorization, issued under §216.106, is permitted during the course of the following activities:

50 CFR Ch. II (10–1–02 Edition)

(a) On-ice geophysical seismic activities involving vibrator-type, airgun, or other energy source equipment shown to have similar or lesser effects.

(b) Operation of transportation and camp facilities associated with seismic activities.

§216.114 Mitigation.

(a) All activities identified in §216.113 must be conducted in a manner that minimizes to the greatest extent practicable adverse effects on ringed and bearded seals and their habitat.

(b) All activities identified in §216.113 must be conducted as far as practicable from any observed ringed or bearded seal or ringed seal lair. No energy source must be placed over an observed ringed seal lair, whether or not any seal is present.

§216.115 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization are required to cooperate with the National Marine Fisheries Service and any other Federal, state, or local agency monitoring the impacts on ringed or bearded seals.

(b) Holders of Letters of Authorization must designate qualified on-site individuals, as specified in the Letter of Authorization, to observe and record the presence of ringed or bearded seals and ringed seal lairs along shot lines and around camps, and the information required in paragraph (d) of this section.

(c) Holders of Letters of Authorization must conduct additional monitoring as required under an annual Letter of Authorization.

(d) An annual report must be submitted to the Assistant Administrator for Fisheries within 90 days after completing each year's activities and must include the following information:

- (1) Location(s) of survey activities.
- (2) Level of effort (e.g., duration, area surveyed, number of surveys), methods used, and a description of habitat (e.g., ice thickness, surface topography) for each location.
- (3) Numbers of ringed seals, bearded seals, or other marine mammals observed, proximity to seismic or associated activities, and any seal reactions observed for each location.

Title I—Conservation and Protection of Marine Mammals

Moratorium and Exceptions

16 U.S.C. 1371

Sec. 101. (a) [IMPOSITION; EXCEPTIONS.] — There shall be a moratorium on the taking and importation of marine mammals and marine mammal products, commencing on the effective date of this Act, during which time no permit may be issued for the taking of any marine mammal and no marine mammal or marine mammal product may be imported into the United States except in the following cases:

(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 104(c)(5), may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 104(c)(5), which is consistent with the purposes and policies of section 2 of this Act. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.

(2) Marine mammals may be taken incidentally in the course of commercial fishing operations and permits may be issued therefor under section 104 subject to regulations prescribed by the Secretary in accordance with section 103, or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103. Such authorizations may be granted under title III with respect to purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, subject to regulations prescribed under that title by the Secretary without regard to section 103. In any event it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate. The Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. For purposes of applying the preceding sentence, the Secretary—

(A) shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States;

(B) in the case of yellowfin tuna harvested with purse seine nets in the eastern tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that--

(i)(I) the tuna or products therefrom were not banned from importation under this paragraph before the effective date of section 4 of the International Dolphin Conservation Program Act; or

(II) the tuna or products therefrom were harvested after the effective date of section 4 of the International Dolphin Conservation Program Act by vessels of a nation which participates in the International Dolphin Conservation Program, and such harvesting nation is either a member of the Inter-American Tropical Tuna Commission or has initiated (and within 6 months thereafter completed) all steps required of applicant nations, in accordance with article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;

(ii) such nation is meeting the obligations of the International Dolphin Conservation Program and the obligations of membership in the Inter-American Tropical Tuna Commission, including all financial obligations; and

(iii) the total dolphin mortality limits, and per-stock per-year dolphin mortality limits permitted for that nation's vessels under the International Dolphin Conservation Program do not exceed the limits determined for 1997, or for any year thereafter, consistent with the objective of progressively reducing dolphin mortality to a level approaching zero through the setting of annual limits and the goal of eliminating dolphin mortality, and requirements of the International Dolphin Conservation program;

(C) shall not accept such documentary evidence if--

(i) the government of the harvesting nation does not provide directly or authorize the Inter-American Tropical Tuna commission to release complete and accurate information to the Secretary in a timely manner--

(I) to allow determination of compliance with the International Dolphin Conservation Program; and

(II) for the purposes of tracking and verifying compliance with the minimum requirements established by the Secretary in regulations promulgated under subsection (f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)); or

(ii) after taking into consideration such information, funding of the InterAmerican Tropical Tuna Commission, and any other relevant information, including information that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the International Dolphin Conservation Program, the Secretary, in consultation with the Secretary of State, finds that the harvesting nation is not in compliance with the International Dolphin Conservation Program.

(D) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);

(E) shall, six months after importation of yellowfin tuna or tuna products has been banned under this section, certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)) for as long as such ban is in effect; and

(F)(i) except as provided in clause (ii), in the case of fish or products containing fish harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a large-scale driftnet in the South Pacific Ocean after July 1, 1991, or in any other water of the high seas after January 1, 1993, and

(ii) in the case of tuna or a product containing tuna harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the tuna or tuna product was not harvested with a large-scale driftnet anywhere on the high seas after July 1, 1991.

For purposes of subparagraph (F), the term "driftnet" has the meaning given such term in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note), except that, until January 1, 1994, the term "driftnet" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed five kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3)(A) The Secretary, on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, is authorized and directed, from time to time, having due regard to the distribution, abundance, breeding habits, and times and lines of migratory movements of such marine mammals, to determine when, to what extent, if at all, and by what means, it is compatible with this Act to waive the requirements of this section so as to allow taking, or importing of any marine mammal, or any marine mammal product, and to adopt suitable regulations, issue permits, and make determinations in accordance with sections 102, 103, 104, and 111 of this title permitting and governing such taking and importing, in accordance with such determinations: *Provided, however,* That the Secretary, in making such determinations, must be assured that the taking of such marine mammal is in accord with sound principles of resource protection and conservation as provided in the purposes and policies of this Act: *Provided further, however,* That no marine mammal or no marine mammal product may be imported into the United States unless the Secretary certifies that the program for taking marine mammals in the country of origin is consistent with the provisions and policies of this Act. Products of nations not so certified may not be imported into the United States for any purpose, including processing for exportation.

(B) Except for scientific research purposes, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock as provided for in paragraph (1) of this subsection, or as provided for under paragraph (5) of this subsection, during the moratorium no permit may be issued for the taking of any marine mammal which has been designated by the Secretary as depleted, and no importation may be made of any such mammal.

(4)(A) Except as provided in subparagraphs (B) and (C), the provisions of this Act shall not apply to the use of measures—

(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

(iii) by any person, to deter a marine mammal from endangering personal safety; or

(iv) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of a marine mammal.

(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.

(5)(A) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specified geographical region, the Secretary shall allow, during periods of not more than five consecutive years each, the incidental, but not intentional, taking by citizens while engaging in that activity within that region of small numbers of marine mammals of a species or population stock if the Secretary, after notice (in the Federal Register and in newspapers of general circulation, and through appropriate electronic media, in the coastal areas that may be affected by such activity) and opportunity for public comment—

(i) finds that the total of such taking during each five-year (or less) period concerned will have a negligible impact on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or, in the case of a cooperative agreement under both this Act and the Whaling Convention Act of 1949, pursuant to section 112(c); and

(ii) prescribes regulations setting forth—

(I) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses; and

(II) requirements pertaining to the monitoring and reporting of such taking.

(B) The Secretary shall withdraw, or suspend for a time certain (either on an individual or class basis, as appropriate) the permission to take marine mammals under subparagraph (A) pursuant to a specified activity within a specified geographical region if the Secretary finds, after notice and opportunity for public comment (as required under subparagraph (A) unless subparagraph (C)(i) applies), that—

(i) the regulations prescribed under subparagraph (A) regarding methods of taking, monitoring, or reporting are not being substantially complied with by a person engaging in such activity; or

(ii) the taking allowed under subparagraph (A) pursuant to one or more activities within one or more regions is having, or may have, more than a negligible impact on the species or stock concerned.

(C)(i) The requirement for notice and opportunity for public comment in subparagraph (B) shall not apply in the case of a suspension of permission to take if the Secretary determines that an emergency exists which poses a significant risk to the well-being of the species or stock concerned.

(ii) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this paragraph.

(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

(I) will have a negligible impact on such species or stock, and

(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f) or pursuant to a cooperative agreement under section 119.

(ii) The authorization for such activity shall prescribe, where applicable—

(I) permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119,

(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119, and

(III) requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119.

(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for taking by harassment that occurs in compliance with such authorization.

(E)(i) During any period of up to 3 consecutive years, the Secretary shall allow the incidental, but not the intentional, taking by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and a take reduction plan has been developed or is being developed for such species or stock.

(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a significant change in the information or conditions used to determine such list.

(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.

(vi) This subparagraph shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).

(6)(A) A marine mammal product may be imported into the United States if the product—

(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel;

(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

(B) For the purposes of this paragraph, the term—

(i) "Native inhabitant of Russia, Canada, or Greenland" means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

(ii) "cultural exchange" means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.

(b) [EXEMPTIONS FOR ALASKAN NATIVES.]— Except as provided in section 109, the provisions of this Act shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

(1) is for subsistence purposes; or

(2) is done for purposes of creating and selling authentic native articles of handicrafts and clothing: *Provided*, That only authentic native articles of handicrafts and clothing may be sold in interstate commerce: *And provided further*, That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing, and painting; and

(3) in each case, is not accomplished in a wasteful manner.

Notwithstanding the preceding provisions of this subsection, when, under this Act, the Secretary determines any species or stock of marine mammal subject to taking by Indians, Aleuts, or Eskimos to be depleted, he may prescribe regulations upon the taking of such marine mammals by any Indian, Aleut, or Eskimo described in this subsection. Such regulations may be established with reference to species or stocks, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the purposes of this Act. Such regulations shall be prescribed after notice and hearing required by section 103 of this title and shall be removed as soon as the Secretary determines that the need for their imposition has disappeared. In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.

(c) TAKING IN DEFENSE OF SELF OR OTHERS. — It shall not be a violation of this Act to take a marine mammal if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours. The Secretary may seize and dispose of any carcass.

(d) GOOD SAMARITAN EXEMPTION. — It shall not be a violation of this Act to take a marine mammal if—

(1) such taking is imminently necessary to avoid serious injury, additional injury, or death to a marine mammal entangled in fishing gear or debris;

(2) reasonable care is taken to ensure the safe release of the marine mammal, taking into consideration the equipment, expertise, and conditions at hand;

(3) reasonable care is exercised to prevent any further injury to the marine mammal; and

(4) such taking is reported to the Secretary within 48 hours.

(e) ACT NOT TO APPLY TO INCIDENTAL TAKINGS BY UNITED STATES CITIZENS EMPLOYED ON FOREIGN VESSELS OUTSIDE THE UNITED STATES EEZ. — The provisions of this Act shall not apply to a citizen of the United States who incidentally takes any marine mammal during fishing operations outside the United States exclusive economic zone (as defined in section 3 of the Magnuson-Stevens Fishery Conser-

vation and Management Act (16 U.S.C. 1802) when employed on a foreign fishing vessel of a harvesting nation which is in compliance with the International Dolphin Conservation Program.

they also will become a matter of public record.

Dated: January 31, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-1820 Filed 2-5-07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Applications and Reporting Requirements for the Incidental Take of Marine Mammals by Specified Activities Under the Marine Mammal Protection Act

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 9, 2007.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Kenneth R. Hollingshead, (301) 713-2055, ext. 128 or ken.hollingshead@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Marine Mammal Protection Act (MMPA) prohibits the taking by harassment, injury, or mortality of marine mammals unless exempted or authorized by permit. The incidental-take program authorizes the taking of marine mammal incidental to maritime activities (military, oil industry, oceanographic research). It is the responsibility of the activity to determine if it might have a "taking" and, if it does, to apply for an authorization. Applications are

necessary for NOAA to know that an authorization is needed and to determine whether authorization can be made under the MMPA. The reporting requirements are mandated by the MMPA and are necessary to ensure that determinations made concerning the impact on marine mammals are valid.

II. Method of Collection

Applications and reports are submitted by paper copy via overnight delivery and via e-mail to provide us with the .pdf and .doc copies that we use to work on the application and for posting for the public to download and review. While our application instructions are posted on the Web, we do not have the ability to accept applications via the Web. We are currently beta-testing the system for accepting applications for scientific research permits which we may be able to apply to this information collection also.

III. Data

OMB Number: 0648-0151.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; not-for-profit institutions; and State, Local, or Tribal Government.

Estimated Number of Respondents: 72.

Estimated Time Per Response: 483 hours for a request for new or the renewal of regulations; 45 hours for an application for Letter of Authorization (response times vary significantly based on the complexity of the application); 200 hours for an application for an Incidental Harassment Authorization; and 93-120 hours for a 90-day, quarterly, or annual report under a Letter of Authorization or Incidental Harassment Authorization.

Estimated Total Annual Burden Hours: 12,376.

Estimated Total Annual Cost to Public: \$1,359.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 31, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-1822 Filed 2-5-07; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020107B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for an EFP to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application from the University of New England (UNE) that would allow Northeast multispecies vessels to possess spiny dogfish for a spiny dogfish life history study contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Spiny Dogfish Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made.

DATES: Comments on this document must be received on or before February 21, 2007.

ADDRESSES: Comments may be submitted by e-mail. The mailbox address for providing e-mail comments is DA7-25@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: "Comments on UNE dogfish possession EFP proposal." Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn