

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R7-FHC-2017-N039; FF07CAMM00-178-FXES111607MRG01]

Information Collection Request Sent to the Office of Management and Budget for Approval; Incidental Take of Marine Mammals During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on March 31, 2017. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before May 4, 2017.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-5806 (fax) or OIRA_DOCKET@OMB.eop.gov (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275

Leesburg Pike, Falls Church, VA 22041-3803 (mail), or madonna_baucum@fws.gov (email). Please include "1018-0070" in the subject line of your comments. You may review the ICR online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections under review by OMB.

FOR FURTHER INFORMATION CONTACT: Christopher Putnam, Supervisory Fish and Wildlife Biologist, Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Rd., MS 341, Anchorage, AK 99503-6199 (mail), or at christopher_putnam@fws.gov (email).

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection includes requirements associated with specified oil and gas industry activities and their incidental taking of polar bears, Pacific walrus, and northern sea otters in Alaska. The Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361 *et seq.*), imposed, with certain exceptions, a moratorium on the taking of marine mammals. Section 101(a)(5)(A) of the MMPA directs the Secretary of the Interior to allow, upon request by citizens of the United States, the taking of small numbers of marine mammals incidental to specified activities (other than commercial fishing) if the Secretary makes certain findings and prescribes specific regulations that, among other things, establish permissible methods of taking.

Applicants seeking to conduct activities must request a Letter of Authorization (LOA) for the specific activity and submit onsite monitoring

reports and a final report of the activity to the Secretary. This is a nonform collection. Regulations at 50 CFR 18.27 outline the procedures and requirements for submitting a request. Specific regulations governing authorized activities in the Beaufort Sea are in 50 CFR part 18, subpart J. Regulations governing authorized activities in the Chukchi Sea are in 50 CFR part 18, subpart I. These regulations provide the applicant with a detailed description of information that we need to evaluate the proposed activity and determine if it is appropriate to issue specific regulations and, subsequently, LOAs.

We use the information to verify the findings required to issue incidental take regulations, to decide if we should issue an LOA, and, if issued, what conditions should be included the LOA. In addition, we analyze the information to determine impacts to polar bears and Pacific walrus and the availability of those marine mammals for subsistence purposes of Alaska Natives.

II. Data

OMB Control Number: 1018-0070.

Title: Incidental Take of Marine Mammals During Specified Activities, 50 CFR 18.27 and 50 CFR 18, Subparts I and J.

Service Form Number(s): None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Oil and gas industry companies.

Respondent's Obligation: Required to obtain or retain a benefit.

Estimated Number of Annual Respondents: 20.

Frequency of Collection: On occasion.

Type of action	Number of annual respondents	Number of responses each	Total annual responses	Average completion time (hours)	Total annual burden hours
Incidental Take of Marine Mammals—Application for Regulations ¹	20	0.1	2	150	300
Incidental Take of Marine Mammals—LOA Requests	20	1.25	25	24	600
Incidental Take of Marine Mammals—Onsite Monitoring and Observation Reports	20	15	300	1.5	450
Incidental Take of Marine Mammals—Final Monitoring Report	20	1.25	25	10	250
Polar Bear Den Detection Report	4	1	4	50	200
Total	84	356	1,800

¹ Occurs once every 5 years.

Estimated Nonhour Cost Burden: We estimate the nonhour cost burden to be \$200,000 for the Polar Bear Den Detection Survey and Report (4 responses X \$50,000 each).

III. Comments

On January 11, 2017, we published a notice in the **Federal Register** (82 FR 3350) informing the public of our intent to request revisions of this information collection and soliciting comments for 60 days. The public comment period

closed on March 13, 2017. We received six comments in response to that notice. The comments and our responses are summarized below.

Comment (1): The Marine Mammal Commission (Commission) expressed support for the information collection

request. The Commission stated that they believe that the requested information is necessary for the Service to evaluate incidental take applications and to determine whether to issue incidental take regulations and associated LOAs, as required under the MMPA. The Commission also agrees that the cost and burden estimates are appropriate. The Commission suggested that the Service should request that oil and gas industry companies submit information electronically (including both the applications and monitoring reports) and then make that information publicly accessible, barring any confidentiality concerns. The Commission further suggested that the Service make the collected information publicly accessible consistent with the manner in which the National Marine Fisheries Service handles its incidental take authorizations and regulations.

Our Response: We agree with the Commission that our information requests are necessary and appropriate for us to meet our obligations under the MMPA. We note that we recommend that oil and gas industry companies submit information electronically, though we do accept information in a variety of formats to accommodate convenience. We collect information primarily via electronic mail. Information that is restricted for confidentiality or privacy reasons is summarized and anonymized prior to public availability. The Service periodically posts issued authorizations and summaries of monitoring report data on our Web site and in other public media. The Service believes that we provide the public access to relevant information in a transparent manner while also fulfilling our responsibility to protect confidential information.

Comment (2): One commenter opposed the killing of polar bears, walrus, seals, or any other wildlife by the oil and gas industry. The commenter also thinks the Arctic should not be open to energy exploration and suggested significant fines for anyone killing those animals.

Our Response: The information collection authorization, and the associated MMPA incidental take regulations, do not authorize the lethal or injurious take of any wildlife, including polar bears and walrus, nor do they authorize any activities, including oil and gas industry activities. The MMPA provides for both civil and criminal penalties for violations of the MMPA. The commenter did not address the information collection requirements, and we did not make any changes to our information collection; we therefore have no further response.

Comment (3): One commenter claimed that the proposed information collection does not comply with the MMPA and that the proposed method of information collection would constitute an unlawful taking under the MMPA. The commenter claimed that the proposed information collection allows for intentional takings of polar bears. The commenter suggested that the proposed information collection must impose much stricter standards on obtaining data. The commenter further suggested that mandatory polar bear disturbance mitigation requirements should be imposed for any LOAs issued under the MMPA incidental take regulations.

Our Response: We disagree with the commenter's understanding and interpretation of the MMPA, the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this information collection authorization, and related enacting regulations, terms, and requirements. The commenter did not address the information collection requirements, and we did not make any changes to our information collection; we therefore have no further response.

Comments (4–6): Three oil and gas industry companies operating in Alaska and subject to our collection of information under this authorization provided substantially similar comments. The commenters support our request for information collection authorization and agree that our collection of information is necessary and useful, is not overly burdensome at current levels, and that our estimate of the burden and costs associated with collecting information is generally accurate. However, the commenters expressed a concern that the burden and costs in certain cases are occasionally greater than our estimate. For example, the location and monitoring of maternal polar bear dens or situations when individual polar bears linger in an area for an extended time require additional monitoring. The commenters suggested that it would improve the usefulness of the collected information, and provide a benefit for the regulated public, if the Service would provide more frequent public summaries and analyses of collected information. For example, the commenters suggested more frequent summary and analysis of numbers of reported polar bear observations. The commenters also supported the continued use of electronic methods of information collection and reporting to reduce the burden and increase efficiency.

Our Response: We agree that our collection of information from oil and gas industry companies is necessary and

useful, is not overly burdensome, and that our estimate of the burden and costs is generally accurate. Regarding specific cases where the burden or cost is greater than the estimate, we point out that the estimate we provide is an annualized average over the 3-year period of the information collection authorization for all of the regulated public subject to our collection of information. We are confident that the overall estimates are generally accurate. Nevertheless, we will continue to work with the regulated public to ensure that our information collection is not unduly burdensome and that our estimates accurately reflect reality. Furthermore, we are currently developing additional technological capability to collect information electronically and to enhance our ability to provide feedback to the public with relevant information products based on the information we collect.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Authority: The authorities for this action are the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: March 30, 2017.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

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