

**Comments by the Center for Regulatory Effectiveness (“CRE”) on  
Submission for Office of Management and Budget (“OMB”) for  
Clearance: Information Collection Request (“ICR”) under the  
Paperwork Reduction Act (44 U.S.C. 35)(“PRA”),  
National Oceanic and Atmospheric Administration (“NOAA”),  
Applications and Reporting Requirements for the Incidental Take of  
Marine Mammals by Specified Activities (other than Commercial  
Fishing Operations) under the  
Marine Mammal Protection Act (“MMPA”),  
OMB Control Number: 0648–0151,  
<http://www.gpo.gov/fdsys/pkg/FR-2014-01-29/pdf/2014-01627.pdf> ,  
Comments filed electronically on February 27, 2014, to  
[OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov)**

CRE commented to NOAA on this ICR before NOAA/NMFS submitted it to OMB. CRE’s comments to NOAA are available at <http://thecre.com/pdf/CRE-ICR.0648-0515.pdf> .

NOAA responds to CRE’s comments at pages 7-10 of NOAA’s Supporting Statement, which accompanies the ICR sent to OMB for review, and which is available at [http://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=201312-0648-015](http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201312-0648-015) . NOAA’s response in its Supporting Statement generally agrees with CRE’s comments. For example,

- NOAA agrees with CRE that NOAA will have to conduct a new PRA /ICR burden analysis and review if and when NOAA proposes rules for MMPA takes by oil and gas seismic in the Gulf of Mexico (“GoM”).

- NOAA agrees with CRE that NOAA will have to conduct a new PRA/ICR burden analysis and review if and when the agency requires companies to comply with NOAA’s draft Acoustic Guidance, which is available online at [http://www.nmfs.noaa.gov/pr/acoustics/draft\\_acoustic\\_guidance\\_2013.pdf](http://www.nmfs.noaa.gov/pr/acoustics/draft_acoustic_guidance_2013.pdf) .

- NOAA agrees with CRE that NOAA has to comply with Information Quality Act (“IQA”) Guidelines in its development of new Acoustic Guidance. See page 5 of NOAA’s Supporting Statement for a discussion of IQA Guidelines compliance. NOAA’s IQA Guidelines are available at [http://www.cio.noaa.gov/services\\_programs/info\\_quality.html](http://www.cio.noaa.gov/services_programs/info_quality.html) .

Based on our understanding of NOAA’s response to CRE’s comments as set forth above, we do not oppose this ICR.

Finally, we note that NOAA has explained that NOAA’s draft Acoustic Guidance, which is discussed above, is classified “as a Highly Influential Scientific Assessments (HISA) by the Office of Management and Budget (OMB)” because it “could have a potential impact of more than \$500 million in any one year on either the public or private sector; or...the dissemination is novel, controversial, or precedent-setting; or [it has] significant interagency interest.” Page 2, at [http://www.nmfs.noaa.gov/pr/acoustics/draft\\_acoustic\\_guidance\\_2013.pdf](http://www.nmfs.noaa.gov/pr/acoustics/draft_acoustic_guidance_2013.pdf) .

We reiterate that NOAA does not have an ICR for its draft Acoustic Guidance, or for rules for MMPA takes by oil and gas seismic in the GoM. This NOAA ICR currently under review by OMB does not cover NOAA’s draft Acoustic Guidance or GoM Take rules.

We thank you for the opportunity to submit these comments.

**The Center for Regulatory Effectiveness**