

PRA Justification: Application Instructions for Public Display Permits

50 CFR 216.43 reserved for public display provisions not codified; section 104(c) of the MMPA as amended by P.L. 103-238.

Application instructions for public display permit applicants reflect the 1994 amendments to the MMPA and are processed according to 50 CFR part 216, subpart D, as applicable. Section 104(c) (2) of the MMPA was amended whereby the need to obtain a public display permit is limited to captures of marine mammals from the wild or import of marine mammals.

Section I-III of the application instructions correspond to general permit application submission, review, and decisions procedures pursuant to 50 CFR 216.33 for persons seeking special exception permits.

Information requested in Section IV, the Previous Permits Section VII, and Certification Section VIII at the end of the application are also general requirements for special exception permits (see scientific research and enhancement permit application justification discussion for regulatory citations and purpose of requested information).

The following is discussed in detail here for public display permits:

Section IV. E. Import Requirements: 50 CFR part 14; 50 CFR 216.35(c-d); 216.36(a)(iii). Since the AWA standards for care, maintenance and transportation of marine mammals are not enforceable by APHIS until the marine mammal reaches the U.S., National Marine Fisheries Service (NMFS) can condition permits to ensure the well-being of the animals while in transit in the foreign country and to ensure that the applicant has planned appropriately for the animal(s) during transport. Except for purposes of scientific research or enhancement, the import of pregnant, lactating, or either unweaned or less than 8 month old marine mammals at the time of taking or transfer/transport is prohibited under Section 102 of the MMPA, unless such import is necessary for the protection or welfare of the marine mammal. Applicants must submit this information if they propose to import marine mammals under the authority of a public display permit. An applicant proposing to import a live animal for public display must demonstrate that the manner of taking in the foreign country was consistent with what would be allowed in the U.S. or on the high seas under the jurisdiction of the MMPA, to ensure that animals are taken humanely as required by the MMPA. The applicant must state whether the import proposed will result in replacement takes or an increased demand to take marine mammals from the wild. This information is necessary to consider cumulative effects and any indirect impacts of permit issuance, and to avoid circumstances leading to unauthorized taking of marine mammals.

Section V. Export: 50 CFR 216.33(b)(1-2). A permit is not required for the export of marine mammals for public display purposes. However, these exports must meet standards comparable to those applicable to the transport of marine mammals between U.S. facilities (16 U.S.C. 1374 *et seq.*). These requirements are provided to applicants for information.

Section VI. General Requirements for Public Display: This section requests the applicant to submit information necessary to address the requirements of Section 104(c)(2)(A) of the MMPA, which limits the issuance of public display permits to applications who (1) are licensed or registered under the AWA by APHIS; (2) offer a program for education or conservation purposes that is based on

professionally recognized standards of the public display industry; and (3) maintain a facility that is open to the public on a regularly scheduled basis with access not restricted other than by an admission fee. Without submission of the information requested in this application, NMFS would not be able to determine whether the applicant meets the three issuance criteria.