

SUPPORTING STATEMENT
BASIC REQUIREMENTS FOR SPECIAL EXCEPTION PERMITS AND
AUTHORIZATIONS TO TAKE, IMPORT AND EXPORT MARINE MAMMALS AND
ENDANGERED AND THREATENED SPECIES AND FOR MAINTAINING A
CAPTIVE MARINE MAMMAL INVENTORY UNDER THE MARINE MAMMAL
PROTECTION ACT, THE FUR SEAL ACT, AND THE ENDANGERED SPECIES ACT
OMB CONTROL NO. 0648-0084

A. JUSTIFICATION

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

This request is for revision and extension of a currently approved information collection.

The National Marine Fisheries Service (NMFS) Office of Protected Resources Permits and Conservation Division (Permits Division) has the responsibility for processing permits for the taking of marine mammals under the Marine Mammal Protection Act (MMPA) and endangered and threatened species under the Endangered Species Act (ESA).

This information collection applies to protected species for which NMFS is responsible, including the marine mammal species of cetaceans (whales, dolphins and porpoises) and pinnipeds (seals and sea lions); and threatened and endangered species including sawfish (largetooth and smalltooth), sea turtles (in water), sturgeon (Atlantic and shortnose), and certain foreign species. The information collection may be used for future listed species. This information collection excludes permits for taking salmonids and other Pacific fish species, which are processed in the NMFS Regional Offices under a separate information collection.

This request is for a revision and extension of a currently approved information collection. The currently-approved application and reporting requirements are being revised to (1) create separate sections for marine mammals versus non-mammal species where doing so will result in less burden to the applicant (e.g., for scientific methods); (2) clarify to applicants why the information is required and what level of detail is needed for our analyses; (3) create 'enhanced help' features (e.g., pop-up windows) in the online application system, Authorizations and Permits for Protected Species (APPS; <https://apps.nmfs.noaa.gov/>) to make the instructions more accessible; (4) create a streamlined application and online module in APPS for scientific research permits involving only import, export, or receipt of biological samples (e.g., where no animals in the wild are affected); (5) make photography and public display permit applications accessible via APPS; and (6) make the marine mammal inventory for captive marine mammals a web-based database available to the public.

This information collection includes instructions for applying for:

- MMPA and ESA scientific research and enhancement permits,
- MMPA Letters of Intent under the General Authorization,
- MMPA photography permits, and
- MMPA public display permits.

The information collection also includes marine mammal public display inventory forms including the

- Mammal Transfer/Transport Notification,
- Marine Mammal Data Sheet, and
- Person/Holder/Facility Sheet.

The collection instruments (e.g., the above listed application instructions and forms) with justification of the information collection requirements are included.

The Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; MMPA), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; ESA), and the Fur Seal Act of 1966 (16 U.S.C. 1151 *et seq.*; FSA), hereafter referenced collectively as "the Acts," mandate the protection and conservation and prohibit the taking, importation, and export of marine mammal and endangered and threatened species or their parts or products except under certain limited circumstances.

Exemptions for scientific research and enhancement (marine mammals and threatened and endangered species), and educational or commercial photography and public display (non-listed marine mammals) are allowed, provided permits are applied for and received, or other necessary authorizations are obtained.

[Marine Mammal Protection Act \(MMPA\)](#) - Section 101(a)(1) of the MMPA states: "...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 or enhancing the survival or recovery of a species or stock...".

Section 104(b) requires that "Any permit issued under this section shall (1) be consistent with any applicable regulation established by the Secretary...and (2) specify (A) the number and kind of animals which are authorized to be taken or imported, (B) the location and manner (which manner must be determined by the Secretary to be humane) in which they may be taken, or from which they may be imported, (C) the period during which the permit is valid, and (D) any other terms or conditions which the Secretary deems appropriate."

Section 104(c) states: "Any permit...shall specify, in addition to the conditions required by subsection (b) of this section, the methods of capture, supervision, care, and transportation which must be observed..." And finally: "Any person authorized to take or import a marine mammal for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock shall furnish to the Secretary a report on all activities carried out by him pursuant to that authority."

Under section 104(c)(3)(C) of the MMPA, as amended, persons may be authorized to take marine mammals in the wild by Level B harassment. Level B harassment is defined in 50 CFR 216.3 as "any act of pursuit, torment, or annoyance which has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild", for purposes of *bona fide* scientific research.

Persons interested in conducting Level B harassment for scientific purposes must submit a letter of intent in accordance with the interim final rule published on October 3, 1994 and submit certain information outlined at 50 CFR 216.45(b) under the General Authorization.

Under section 104(c)(6) of the MMPA, a permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild and that does not exceed Level B harassment. Regulations specific to photography permits (50 CFR 216.42, Reserved) have not been proposed but applicants are currently provided with interim guidance for photography permit applications, included in this package. This guidance is similar to that required for the General Authorization because the type of takes and level of harassment authorized under these are similar in nature.

Section 104(c)(8) of the MMPA eliminates the need for a permit or additional authorization to possess, sell, purchase, transport, or export captive marine mammals, or their progeny, for public display purposes, provided the recipient and holder meet applicable criteria. However, a 15-day advance notification is required prior to the transport, transfer, sale, or other disposition of captive marine mammals.

Further, section 104(c)(10) of the MMPA, as amended, directs the Secretary to establish and maintain an inventory of captive marine mammals consisting only of the information specified in Section 104(c)(10)(A-H). In addition to the section 104 provisions, section 402(b) states that the Secretary shall "...collect and update, periodically, existing information on..." marine mammal rehabilitation procedures and practices.

Permits are required for captures from the wild, first time imports, and for retaining a releasable stranded animal for purposes of public display. Provisions implementing specific requirements for public display permits, previously codified at 50 CFR 216.39, have not been finalized; these permits continue to be processed in accordance with 50 CFR 216.33.

The regulations at [50 CFR part 216, subpart D](#) [published May 10, 1996 (61 FR 21926)] consolidate permitting and authorization requirements under the MMPA and ESA for marine mammals. The ESA regulations at [50 CFR 222.308](#) specify that "Permits for marine mammals shall be issued in accordance with part 216, subpart D of this chapter."

The regulations at 50 CFR 216 provide procedures for the disposition of rehabilitated stranded marine mammals under special exception permits, marine mammal research and enhancement permits (including ESA-listed marine mammals), disposition of marine mammal parts, letters of intent under the General Authorization, and reporting requirements.

[Fur Seal Act of 1966 \(FSA\)](#) - Section 104 of the FSA, as amended in 1983, provides for the Secretary to conduct research on fur seal resources of the North Pacific and to permit, subject to such terms and conditions as he deems desirable, the taking, transportation, importation, exportation, or possession of fur seals or their parts for educational, scientific, or exhibition purposes. Because northern fur seals are also marine mammals, to avoid duplication,

applications for permits for scientific research are also processed under the MMPA regulations of part 216, subpart D (59 FR 50372, October 3, 1994).

[The Endangered Species Act \(ESA\)](#) - Section 9 of the ESA prohibits, except under permit, importation, taking, possessing or selling any endangered species of fish or wildlife. In accordance with section 10(a)(1)(A) the Secretary may permit, under such terms and conditions as he/she may prescribe, taking of listed species for scientific purposes or to enhance the propagation or survival of the affected species.

A final rule published in the *Federal Register* in May 1996 revised 50 CFR 222.23(b) permit application procedures so that marine mammal permits would be issued in accordance with the provisions of 50 CFR part 216, subpart D, as mentioned above.

The regulations implementing the authority to issue permits for scientific research or enhancement for other ESA-listed species are found at 50 CFR 222. The regulations contain information collections for applications for scientific research and enhancement permits and reporting requirements for permits.

When endangered species are involved, the Permits Division is required to consult with the NMFS Endangered Species Division under section 7 of the ESA to determine whether the permitted activities may jeopardize the continued existence of ESA-listed species. The scientific research and enhancement permit application instructions provide information required for such consultations in hopes to eliminate the need to ask applicants for additional information during the consultation process and reduce the overall processing time for permits involving ESA-listed species.

[National Environmental Policy Act \(NEPA\)](#) (42 U.S.C. 4321 *et seq.*) – Issuance of a permit is considered a major federal action, which is subject to NEPA. While issuance of permits are generally categorically excluded from the requirements to prepare extensive environmental analyses, under certain circumstances (e.g., if the activity is highly controversial) preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) may be necessary.

If an application does not contain sufficient information on the environmental impact of the proposed activity to determine whether an EA or EIS is necessary, or if the information is insufficient to complete such analyses, the application may be returned or processing may be delayed. An EA/EIS must consider the potential environmental impacts of the proposed research using the description of the activities provided in the application and the best available information on the effects of such activities.

The permit application instructions include questions pertaining to NEPA to facilitate complete applications and reduce the processing time for permits requiring more extensive NEPA analyses.

Summary – An applicant who wishes to obtain an exemption to the take prohibitions of the Acts for activities on marine mammals and ESA-listed species must provide justification as to why

NMFS should grant them a permit or authorization consistent with the provisions of the Acts and implementing regulations. NMFS needs the information provided in the application in order to make an informed decision on whether to grant or deny the permit or Letter of Confirmation. This includes determining whether the taking, import, or export is necessary, humane, will not operate to the disadvantage of the species, and is consistent with the purposes and policies of the Acts and implementing regulations.

Taking, importing, or exporting without a permit or authorization is a violation of the Acts and subject to prosecution.

Public display inventory reports allow NMFS to meet a Congressional mandate and make information available to the general public regarding marine mammals in captivity, which are considered a public trust resource.

2. Explain how, by whom, how frequently, and for what purpose the information will 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.

The Director, Office of Protected Resources, NMFS will use the information to determine whether the proposed taking, import, or export meets the goals and objectives of the Acts and regulations and as a basis for deciding whether to issue or deny a permits or authorization. If certain information required by the Acts and regulations is not provided, NMFS cannot complete a review of the application and the application processing is suspended. For marine mammals, the MMPA also requires that the Marine Mammal Commission review all permit applications.

The information in applications for permits is submitted and reviewed once unless the submission is inadequate, in which case the application is returned with explanation of the deficiencies. Revised applications are reviewed again for completeness, and ESA permits are also reviewed by ESA section 7 consulting biologists. Unless an amendment of the permit is necessary, the applicant need not submit new information once an application is deemed complete. Permit holders may apply for amendments/modifications to permits to change species, location, methods, number of animals, and duration of the permit. They may apply for authorizations to change personnel, add authorized parts recipients, and to allow film companies or other non-essential personnel to accompany researchers in the field for specific purposes. Those authorizations require additional information for processing. As permits are valid for at least up to 5 years, a less frequent collection of information is not appropriate for these applications.

Holders of marine mammals on public display submit reports when they wish to transport or relinquish custody of animals, export animals, and when an animal gives birth or dies in captivity. They must also provide 15 day notification of transfers and transports, and 30 day notification of births and deaths. The marine mammal inventory reports are mandated by Congress and are used to keep track of the captive marine mammals in public display facilities.

Reports required annually by MMPA permits (50 CFR 216.38 of the regulations and §104(c)(1) of the MMPA) are used by NMFS to ensure that the terms and conditions of the permit are being complied with, to evaluate the potential impacts of research activities on marine mammals, and to coordinate permit activities to ensure that unnecessarily duplicative and potentially cumulative harassments are kept to a minimum.

Reports required by the ESA permits [50 CFR 222.308(d)(5)) and section 10(a)(2)(C)] are also used by NMFS to ensure that the terms and conditions of the permit are being complied with and that the taking of the affected species is not appreciably reducing the likelihood of the survival and recovery of the species.

The information collected is available to the public under the Freedom of Information Act (all permit applications and inventory forms) and on-line through the Authorizations and Permits for Protected Species (APPS) database (<https://apps.nmfs.noaa.gov/>) for scientific research and enhancement permits, General Authorizations, and photography permits. For this revision, we are adding programming for:

- a new application module and collection instrument for applications to import/export protected species parts for scientific research, where no takes of live animals is involved and which requires less information to complete;
- accepting photography and public display permits via APPS; and
- adding an enhanced help feature whereby applicants can have a help pop up window for each “box” or section within the APPS that they can print or read by section rather than having to read a long PDF document.

We have also:

- removed unnecessary instructions for using the APPS system, which can be found in a separate chapter; this focuses the reader on the information needed to address the regulatory and statutory issuance criteria and provides the foundation for the enhanced help feature;
- moved information that was previously in appendices into the instructions, as we found most applicants did not read the appendices;
- split the scientific research and enhancement instructions between mammals (MMPA and ESA marine mammals) and non-mammals (ESA fish and sea turtles); this makes it easier to give more specific guidance pertaining to those taxa, as mammals are very different from fish and turtles, and the majority of permit holders either work on mammals or non-mammals but not both;
- added more information regarding issuance criteria (e.g., defining what the statutory requirements for bona fide research and humane methods are); and
- added more guidance for how to count and report takes by taxa.

For this collection revision in particular, we recently emailed all current permit holders and specifically requested input on the above revisions including:

- clarity of the instructions;
- data elements to be recorded; and
- accuracy of the estimated burden hours (e.g., the number of dedicated hours required to complete the application and report as listed in the Additional Information section).

The information may be 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 NOAA standards for confidentiality, privacy, and electronic information. See response to Question 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 quality control measures and a pre-dissemination 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.

All application instructions are available on the internet as PDF or Word documents (at <http://www.nmfs.noaa.gov/pr/permits/>), and applications can be emailed, faxed, or mailed to applicants if requested. Applications for scientific research and enhancement permit, Letters of Intent under the General Authorization, and photography permits are available via the on-line system, APPS, found at <https://apps.nmfs.noaa.gov/>. The intent of the APPS on-line system is to provide a user-friendly and efficient electronic format for the public to apply for these permits as an alternative to our paper application. The system has now been expanded to include a separate module for applying to only import or export protected species parts (e.g., no live animals involved) and photography permits; and, it will later be expanded to include public display permits, within the next 3 years.

Applicants are able to submit these applications and reports electronically via APPS, thus reducing the need to submit paper applications. Applicants, however, can submit paper or electronic permit and authorization application materials and reports depending on their preference. It is required by the regulations [50 CFR 216.33 (a) and 222.308 (b)(13)] that the application be signed, and a signature must be on file (emailed, faxed, or mailed in) for both paper and on-line submissions.

Paper files and electronic records are maintained for the Administrative Record for each permit file. The files include application and permit processing information. Electronic records are maintained in APPS and on the NMFS Office of Protected Resources shared network.

Electronic applications are distributed to NMFS and other expert reviewers during the permit process. During application processing, NMFS corresponds electronically with the applicant as much as possible and automated e-mails are generated by APPS and sent to remind permit holders of when reports are due and when permits expire.

As required by regulation (50 CFR 216.33 (d) and 222.303(b)), a summary of each application is published in the *Federal Register* (which is available online on a real-time basis), and from that anyone from the interested public may contact NMFS for the complete application, which can be

sent to them electronically. Or, the public can search and view publicly-available applications online via APPS.

Public display inventory materials and reports are paper forms that are received by email, fax, or by mail, and are entered into an electronic database (National Inventory of Marine Mammals, NIMM). The forms used by public display facilities to report marine mammal inventory changes and transfers and transports of animals are available as fillable and printable PDF forms on the Office of Protected Resources website at <http://www.nmfs.noaa.gov/pr/permits/inventory.htm>. Information on the submitted forms is entered into the NIMM electronic inventory database.

The NIMM database tracks all NMFS regulated marine mammals held in captive facilities within the United States and also includes foreign facilities when U.S. source marine mammals are exported. NIMM is a web-based program that replaced the previous DOS-based inventory system (Permit Program Information Management System, PPIMS) in September 2012. NIMM currently produces two types of reports: (1) a summary of marine mammals that lists the current holding facility or the facility where the animal died, and (2) data sheets that reflect the history of any particular animal's movements. These reports are currently available via hard copy or can be electronically transmitted in the form of a PDF file. Inventory data is frequently requested by the public and made available under the Freedom of Information Act (FOIA).

NMFS is in the process of programming the NIMM system to be a publicly accessible website where marine mammal inventory information can be accessed directly by marine mammal holders and the general public. The first phase of the development is converting the database to a web-based interface for internal NMFS use. Beta testing is complete and this production phase is scheduled to occur in early August 2016. Testing will be performed to ensure data has been properly transferred. The second phase of development will be to allow holders of marine mammals in captivity access to the site where they can verify and update their inventory data. This is anticipated to be completed by September 30, 2016. The last phase of development is allowing the public access to the site so that instead of requesting inventory data via FOIA's, they will be able to search for data directly on NIMM. The last phase is anticipated to be complete sometime in FY2017.

NMFS previously had a Cooperative Agreement with the private entity, the International Species Information System (ISIS), which is used by the public display industry. However, marine mammal inventory information is no longer shared between NMFS and ISIS as had been done in the past. The cooperative agreement was dependent on the development of a new zoological database, which would have incorporated NMFS needs into the development. Timing and finances prevented this cooperative agreement from moving forward. Holders of marine mammals in captivity may voluntarily choose to use ISIS as part of their record keeping, but it is a separate database from NIMM.

4. Describe efforts to identify duplication.

There is no overlap or duplication for MMPA actions under the ESA or FSA because a single application and permit covers all requirements of these Acts. The Permits Division also includes

non-mammal ESA-listed species into the scientific research and enhancement permit application to better streamline processing efforts.

To avoid duplication with requirements under the ESA for section 7 consultations and requirements under the National Environmental Policy Act, these instructions include information requirements for these statutes as applicable so that duplicative information will not be required during the permit process.

NMFS has not identified instances where duplicative information is required for stranded marine mammal placement disposition. This information is coordinated with NMFS Regional Offices as required by regulation (50 CFR 216.27).

Some duplication has been identified with the public display inventory, NIMM, and the private company, ISIS, as mentioned above in Question 3. However, any duplicative reporting is voluntary on the part of the marine mammal holders, as they are not required to report to ISIS and ISIS is not a federal agency mandated to collect inventory information. The inventory reports for NIMM, though, are required by the MMPA.

NMFS and the U.S. Fish and Wildlife Service (USFWS) share responsibilities under the MMPA and ESA for certain species (e.g., marine mammals). The USFWS has jurisdiction over walrus, polar bears, sea otters, dugongs, and manatee. NMFS has jurisdiction over cetaceans and pinnipeds except walrus. If an applicant wishes to work with species under both NMFS and USFWS jurisdictions, they must secure permits from both agencies. The USFWS requests similar information but has a different application process (<http://www.fws.gov/permits/>). Prior to launching our online application system, APPS, NMFS and the USFWS processed joint permits for applicants seeking to conduct work with species under both agencies' jurisdictions. The USFWS was not able to provide funding to program APPS to include their species; thus, we no longer process joint permits with USFWS, or if we do, it is on a limited and case-by-case basis.

For applicants importing or exporting species or parts, two applications may be required, one for the MMPA/ESA permit, and one for the Convention on International Trade of Endangered Species of Flora and Fauna (CITES). Some duplication is unavoidable because the USFWS issues CITES permits for all CITES-listed plants and wildlife.

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

There should not be a significant burden to small businesses or other small entities. The information is submitted one time for each permit, unless the applicant requests a modification or amendment to the permit. Permits are typically issued for up to 5 years to provide continuity in research and avoid the need to apply for a permit each year. MMPA permits may be extended another 5 years, and ESA permits may be issued for a 10 year period.

Permit reports are required annually, except under special circumstances when an incident report is required (e.g., exceeding authorized take). Applicants are requested to provide only that information required by the Acts and implementing regulations and as described in the

applications. Information requests for holders of marine mammals on public display are short forms and do not require much time to complete.

Because the majority of permit applicants and holders of marine mammals use computers in the conduct of their research and administration of their public display activities, NMFS has developed APPS, an online application system, to simplify information collection processes as described above in Question 3.

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

1Without a permit application that follows the MMPA and ESA statutory and regulatory requirements, NMFS cannot legally grant such permits. If annual permit reports are not submitted, NMFS will not be able to adequately monitor the permit activities and compliance with permit conditions. The information gained from the annual reports is also used in making management decisions to aid in the recovery of listed species, assessing impacts of the permitted activities on the subject species, and in assisting with analyses required under section 7 of the ESA and NEPA.

Transfers, transports, exports, birth, and deaths of marine mammals in public display facilities must be reported within a statutory timeframe. If the information is not provided, the public would not have access to information on the status of animals in captivity, which are considered a public trust resource.

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

The collection is consistent with OMB guidelines except for the following:

- A notification report must be provided at least 15 days in advance of a proposed transport, transfer, or export of public display marine mammals, which is a statutory requirement imposed by Congress.
- Section 216.45 of the MMPA implementing regulations requires General Authorization Letter of Confirmation holders to notify the Regional Administrator (RA) at least two weeks in advance of starting the research to allow the RA to coordinate activities with others researchers that may be working in the area. The coordination of research decreases the impact of multiple activities on the marine species. The General Authorization does not provide an exemption from the ESA prohibitions. Unless a Letter of Confirmation holder also has an ESA permit, taking of an ESA-listed species during conduct of the research must be reported within 12 hours and the research suspended.

- Permits for research and enhancement have similar reporting requirements to allow for NMFS Regional coordination of activities to minimize impacts to the species or stocks. In some cases for permit reports involving 1significant events taking place (e.g., mortality or serious injury of an animal, exceeding the authorized take, or the taking of a species not authorized by the permit), notification for these events must take place typically within two days to two weeks after the event, to allow for quick response by NMFS and the Permit Holder to incidents with a significant impact on protected and listed species and that were not authorized by the permit and therefore not anticipated.

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

A Federal Register Notice, published on March 14, 2016 (81 FR 13341), solicited public comment. NMFS received one comment from the Marine Mammal Commission in support of the information collection. No other comments were received.

NMFS receives input regularly from the scientific research and public display community, and other interested parties such as the Marine Mammal Commission, on the availability of data, frequency of collection, clarity of instructions and record keeping, the amount of burden imposed, and ways to minimize burden. Such information exchanges occur via phone and email from permit applicants/holders during application processing, during regular correspondence with the Marine Mammal Commission’s permit officer, and during meetings such as the Biennial Conference on Marine Mammals, the American Zoo Registrars’ annual meetings, the American Zoological Association’s annual meetings, and other national and international protected species meetings and workshops.

For this revision, we are adding programming for:

- a new application module and collection instrument for applications to import/export protected species parts for scientific research, where no takes of live animals is involved and which requires less information to complete;
- accepting photography and public display permits via APPS; and
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We have also:

- removed unnecessary instructions for using the APPS system, which can be found in a separate chapter; this focuses the reader on the information needed to address the regulatory and statutory issuance criteria and provides the foundation for the enhanced help feature;

- moved information that was previously in appendices into the instructions, as we found most applicants did not read the appendices;
- split the scientific research and enhancement instructions between mammals (MMPA and ESA marine mammals) and non-mammals (ESA fish and sea turtles); this makes it easier to give more specific guidance pertaining to those taxa, as mammals are very different from fish and turtles, and the majority of permit holders either work on mammals or non-mammals but not both;
- added more information regarding issuance criteria (e.g., defining what the statutory requirements for bona fide research and humane methods are); and
- added more guidance for how to count and report takes by taxa.

For this collection revision in particular, we recently emailed all current permit holders and specifically requested input on the above revisions including:

- clarity of the instructions;
- data elements to be recorded; and
- accuracy of the estimated burden hours (e.g., the number of dedicated hours required to complete the application and report as listed in the Additional Information section).

Thus far we have received input on the new MMPA-ESA parts permit application, as it is the first revision we requested comments on. We received responses from four permit holders who have previously applied for an MMPA-ESA parts permit. One respondent said they had no substantive comments. Two commented that the number of burden hours (20) was appropriate. Three respondents provided minor comments that added to clarity on how the instructions were worded. One of those respondents indicated the background literature could be burdensome, so we amended that section to qualify it could be a “brief” background literature review.

We also received feedback on the General Authorization Letter of Intent from one permit holder, who suggested clarifying information regarding justification for sample size and take numbers. The applicant indicated that not all marine mammal studies are hypothesis-driven and therefore may not need a statistically robust power analysis. Some studies focus on abundance estimates and gathering as much data as possible, and the number of animals taken is often based on the number of the animals in an area; or, may be affected by being limited by weather and visibility in the field.

We therefore amended the request for take number justification to include these considerations. Because this type of research may be done on other species under the ESA and ESA-MMPA scientific research permits, we also amended those to include this consideration for determining sample sizes/take numbers. The commenter also requested clarification on how to explain the number of approaches versus the number of attempts needed to take photographs or samples, and we added clarification in the Take Procedures table of the application. No comments were submitted on the number of burden hours.

We are currently awaiting feedback on the remainder of the applications. We anticipate similar responses for clarity in verbiage. If any feedback is received that would support a substantial revision to the instructions, or a revision in the number of burden hours, we will submit an

addendum to this submission. Otherwise, we plan to incorporate clarifying language wherever it may be needed based on permit holder feedback.

In the past, we solicited information prior to the public launch of our online system, APPS, which occurred in October 2008. We asked a group of permit holders to test the system and provide feedback. These beta testers were recruited at various professional meetings and conferences throughout the year. We used their responses to improve APPS and the online application instructions including such items as improving online navigation and increasing the number of characters allowed for fillable fields. Other comments received after going live with APPS led to improving the “search” page to give the public more options to search for permits (e.g., by species and location). In some cases we are not able to address comments received. For example, we have received comments that the landscape take table format is difficult to use and should be changed to allow users to freeze panes when scrolling through the table, or to import an Excel file. This was not something that could be programmed within the APPS system.

Once applicants have applied using our online system, the next time they apply for a 5-year permit they have the ability to copy their application online, thus reducing the time to apply for subsequent permits. They are still required to ensure the information is up to date, and in some cases, they make no changes to the original application and they have to provide updated information based on the prior permitted activities.

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

No payment or gifts will be provided to respondents.

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

No assurance of confidentiality is given. A notice of receipt of permit applications is required to be published in the *Federal Register* and applications and supporting documentation are available for review by the public during processing and during the life of the permit. The public is able to search on-line via APPS and obtain information available to the public in an electronic format. All permit and authorization documentation including reports and the MMIRS is subject to the [Freedom of Information Act](#) (FOIA). However, any personal information that is subject to the Privacy Act is redacted when released under FOIA. The information in this collection is part of a Privacy Act System of Records, COMMERCE/NOAA #12, Marine Mammals, Endangered and Threatened Species, Permits and Exemptions Applicants.

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.

There are no requirements for submission of information of a sensitive nature.

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

Estimated total of responses, 991 (prev. 971), and annual hours, 7,245 (prev. 7,730)

Total number of respondents – 536 (same as 2013)

- 61 Applicants for permits and General Authorizations
- 210 Permit holders
- 35 General Authorization holders
- 215 Holders of public display marine mammals
- 15 Rehabilitation facilities

After publication in the *Federal Register*, we realized we had not provided a separate estimate for the new parts permit. We estimated that collection instrument to average 20 hours to complete, compared to the research and enhancement application for takes of live animals, which averages 50 hours to complete. Below is a table that includes those estimates and a revised total number of burden hours.

Calculations with revised SR/EN parts permit included in estimates:

| Type of information | Estimated number per year | Hours to complete | Total hours per year |
|---|-----------------------------|-------------------|--|
| Permit and authorization applications (requiring environmental analyses under NEPA, MMPA and/or ESA) | | | |
| Scientific research and enhancement (SR/EN) | 40 | 50 | 2,000 (prev 2,250) |
| <i>Scientific research and enhancement for parts only (SR/EN parts only)(new)</i> | <i>5</i> | <i>20</i> | <i>100 (prev combined with above) (net -150)</i> |
| Public display (PD) | 3 | 30 | 90 |
| Photography (PH) | 3 | 10 | 30 |
| General Authorization (GA) | 10 | 10 | 100 |
| Amendments/Modifications to existing permits and authorizations | | | |
| Major (actions requiring environmental analyses under NEPA and/or ESA or a public comment period) | 20 (30 prev.) | 35 | 700 (1,050 prev) (-350) |
| Minor/Authorizations (Actions not requiring environmental review or a public comment period) | 155 (125 prev.) | 3 | 465 (375 prev) (+90) |
| GA changes | 15 | 2 (3 prev) | 30 (45 prev) (-15) |
| Reports to existing permits and authorizations and for public display inventory | | | |
| SR/EN | 180 | 12 | 2,160 (2,520 prev) |
| <i>SR/EN parts only (new)</i> | <i>30</i> | <i>10</i> | <i>300 (prev combined with above) (net -60)</i> |
| PD | 5 | 2 | 10 |
| PH | 5 | 2 | 10 |
| GA | 35 | 8 | 280 |
| PD Inventory | 215 | 2 | 430 |
| Record Keeping | | | |
| SR/EN | 210 | 2 | 420 |
| PD | 5 | 2 | 10 |
| PH | 5 | 2 | 10 |
| GA | 35 | 2 | 70 |
| Retain or transfer rehabilitated animals | 15 | 2 | 30 |
| TOTAL | 991 (971 prev.)(+20) | | 7,245 (7,730 prev.) (-485) |

All permit and authorization applications require environmental analyses under NEPA. Marine mammal permits require analyses under the MMPA, and many marine mammals and other species require analyses under the ESA. These analyses require ample time to complete. Of the different types of permits and authorizations, scientific research and enhancement (SR/EN) permits are the most complex and often involve multiple species and procedures.

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

The total annual operations and maintenance cost burden is estimated at \$1,000, half the cost as currently approved. These costs were estimated from discussions with NMFS staff who receive applications and process permits. The majority of applicants now apply for permits on-line via APPS. Also, we are now accepting more electronic submissions via email for those applications not available online and are now accepting electronic signatures. Thus, we continue to have fewer applicants mailing applications or other permit-related documents. Therefore, while estimated mailing costs have gone up, our overall cost burden estimate has decreased.

The estimates include costs for postage at \$0.49 (increased from \$0.46), overnight express service deliveries at approximately \$40 per package (e.g., Fed Ex letter) or less if not shipped overnight, and certified or express U.S. postal deliveries estimated at \$25 per package (flat rate).

We do not estimate any additional costs beyond those necessary by normal business practices and/or research purposes (e.g., no costs for equipment such as computers because our applicants would already have computers). To publish research results or to justify research funding, a permit holder must maintain detailed records. Holders of marine mammals on public display are required to maintain inventory records for all animals in their collections. Therefore, we are not aware of any additional costs incurred by holders associated with this information collection.

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

The estimated annual cost to the Federal Government is \$440,775 (previously \$415,000) calculated at \$45 per hour, as follows:

| Type of Action | Estimated number per year | Processing Time (avg. per action) | Total cost per year in \$ |
|--|---------------------------|-----------------------------------|---------------------------|
| Processing permit and authorization applications | | | |
| SREN Permit Applications | 40 (prev. 45) | 120 | 216,000 |
| SREN Parts Applications (new) | 5 (prev. 0) | 80 | 18,000 |
| PD Permit Applications | 3 | 120 (prev 80) | 16,200 |
| Photography Permit Applications | 3 | 80 (prev 40) | 10,800 |
| General Authorization (GA) | 10 | 30 | 13,500 |
| Processing amendments to existing permits and authorizations | | | |
| Major | 20 (prev. 30) | 80 | 72,000 |
| Minor/Authorizations | 155 (prev. 125) | 5 | 34,875 |
| GA changes | 15 | 5 | 3,375 |
| Reviewing reports to existing permits and authorizations and for public display inventory | | | |
| Permits (all) | 210 | 4 (prev 2) | 37,800 |

| Type of Action | Estimated number per year | Processing Time (avg. per action) | Total cost per year in \$ |
|---|---------------------------|-----------------------------------|---------------------------|
| GA | 35 | 2 | 3,150 |
| PD Inventory | 215 | 1 | 9,675 |
| Retain or transfer rehabilitated animals | 15 | 8 | 5,400 |
| | | | |
| Estimated total cost | | | \$440,775 |

The estimated annual number of permit applications and modification requests and total number of facilities holding marine mammals and Permit Holders are listed in Question 12 above and adjustments are described in Question 15 below.

15. Explain the reasons for any program changes or adjustments.

Program Changes:

We added a new application for persons only importing/exporting parts, which is a type of scientific research and enhancement permit (SR/EN) that requires less information because no live animals are involved. The estimated burden hours for this collection are 20, with a total of 100, corroborated by input from parts permit holders.

The separation of the SR/EN parts permit application (20 hours) from the SR/EN applications for live animals (50 hours) resulted in a net decrease of 250 hours.

We also estimate the number of burden hours for filling out a parts permit report (10 hours) is slightly less than for permits involving live animals (12 hours) because the parts permit requires less information on the effects of the activities but requires a detailed inventory of the samples. This results in a net decrease of 60 hours.

Adjustments:

We separated marine mammal permit applications from ESA-listed fish and sea turtle applications, but we expect the number of burden hours to be the same for those (50) and therefore they are lumped in our analysis.

SR/EN Permits (total) – The total number of SR/EN permits is estimated the same (45) per year, which is slightly higher than averaged over the past 3 years, but allows for years in which certain batched permits expire and are all submitted in the same year. Generally, we do not anticipate large increases or decreases in the number of applications received each year, as permits are valid for a 5-year period. The number of permits expiring and the number of new applications received are usually similar in number each year except in years when large batches expire at the same time.

Public Display – No change in the number of public display holders (215). There is no related permit application burden for simply maintaining animals on public display; public display facilities are not required to apply for permits unless they are importing or collecting marine mammals from the wild. There are very few such applications (no change in number of applications). The burden hours for public display inventory reporting and record keeping have not changed.

Photography Permits – No changes to photography permit application, reporting, or record keeping.

General Authorization – No changes to General Authorization application, reporting, or record keeping.

Amendments/Modifications to Existing Permits and Authorizations: There was a decrease in the average number of major amendments received annually (from 30 to 20 [-10] resulting in 350 fewer hours), an increase in the average number of minor amendments received annually (from 125 to 155, resulting in 90 additional hours), and a decrease in the number of hours required to complete GA changes (from 3 to 2 hours, resulting in 15 fewer hours for GA changes).

Total net adjustments: Twenty more responses and 275 fewer hours.

In 2016, we programmed APPS to allow us to further distinguish minor amendments to include those requiring a fully amended permit v. those that only require an authorization letter, which takes less time. Thus, for the next submission in 2019, we will have more refined data.

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

Permit-related activities are summarized and published in The Marine Mammal Commission Annual Report to Congress the subsequent year after permits have been issued. This report is a general summary of the number of applications received and the number of permits and authorizations issued. This report is available on the Commission's web site (<http://www.mmc.gov/>), which in turn is available on the Office of Protected Resources' web site (<http://www.nmfs.noaa.gov/pr/>). A hard copy of the Marine Mammal Inventory Report Summary is available to the public at any time, upon request. Currently there are no other plans for publication of the information collected.

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.

Not Applicable.

18. Explain each exception to the certification statement.

Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The information collection does not employ statistical methods.