

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
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 and authorizations for the taking, importing, and exporting of marine mammals under the Marine Mammal Protection Act (MMPA) and Fur Seal Act (FSA), and endangered and threatened species under the Endangered Species Act (ESA). Under the MMPA, we, the Permits Division, also have the responsibility for maintaining an inventory of marine mammals on public display.

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 NMFS West Coast Regional Offices under a separate information collection.

This information collection includes instructions for applying for:

- MMPA/ESA scientific research and enhancement permits,
- ESA scientific research and enhancement permits,
- MMPA/ESA scientific research permits for import and export of protected species parts,
- 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:

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

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

Exceptions 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 activities 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. Holders of marine mammals must also report births of marine mammals within 30 days of the date of birth. Further, Section 104(c)(10) of the MMPA, as amended, directs the Secretary to establish and maintain an inventory of captive marine mammals with information specified in Section 104(c)(10)(A-H). Permits are required for captures from the wild, imports, and retaining a releasable stranded marine mammal 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 also provide procedures for the disposition of rehabilitated stranded marine mammals, applying for marine mammal research and enhancement permits (including ESA-listed marine mammals), disposition of marine mammal parts, and applying for letters of intent under the General Authorization.

[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 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, import, export, or taking endangered species of fish or wildlife and threatened species with the same protections afforded via regulation. 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 ESA-listed 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 Act Interagency Cooperation 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 burden and overall processing 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 for environmental reasons) 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. All of the permit application instructions include questions pertaining to impacts to the environment to facilitate complete applications and ensure sufficient information is included in order to make the appropriate determination on the level of NEPA analysis required.

Summary –The required information in this collection is used to make the determinations required by the MMPA, FSA, ESA and their implementing regulations prior to issuing a permit; to establish appropriate permit conditions; to evaluate the impacts of the proposed activity on protected species; and, to ensure compliance with the Acts. Permits authorize what is described in the application. An applicant who wishes to obtain an exception 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. They must also describe the proposed activities (how many animals and the research and other methods) and anticipated effects on the target and non-target species, and must include information to assess environmental impacts in accordance with NEPA. NMFS needs the information provided in the application in order to make an informed decision on whether to grant or deny the permit or authorization. This includes, among other things, determining whether the taking, import, or export is necessary, humane, will not operate to the disadvantage of the species, will not jeopardize the continued existence of the species or destroy or modify critical habitat, will not have a significant impact on the environment, will be conducted by qualified personnel with adequate resources, and whether the proposed activity is consistent with the purposes and policies of the Acts and all applicable implementing regulations. Taking, importing, or exporting without a permit or authorization is a violation of the Acts and subject to prosecution. The marine mammal inventory forms ensure legal

compliance with MMPA reporting requirements and allow NMFS to maintain the National Inventory of Marine Mammals (NIMM), as required by the MMPA.

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 Permits Division and the Director, Office of Protected Resources, use the information to determine whether the proposed taking, import, or export is consistent with the Acts and regulations and as a basis for deciding whether to issue or deny a permit 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 or, additional information is requested to complete the application. Revised applications are reviewed again for completeness, and ESA permit applications are also reviewed by ESA section 7 consulting biologists. Once a permit application is deemed complete, the Acts require that we publish notice in the *Federal Register* making each application available to the public for comment for a minimum of 30 days. Applications are also sent for review to subject-matter experts within or outside the agency. As mentioned above, the Marine Mammal Commission reviews all marine mammal permit applications.

Once issued, MMPA permits are valid for a maximum of five years; ESA permits may be valid for up to 10 years. Unless an amendment of the permit is necessary, the applicant need not submit new information for the application once it is deemed complete. Permit holders may apply for major amendments or modifications to permits to change species, location, methods, number of animals, and duration of the permit; these amendments or modifications are subject to a 30-day public comment period. Permit holders may apply for minor amendments and authorizations to change personnel, add authorized parts recipients, and to allow film companies or other non-essential personnel to accompany researchers for specific purposes (e.g., documentary films). Those authorizations require additional information for processing but are not required to have a public comment period. As permits are valid for at least 5 years and up to 10 years, a less frequent collection of information is not appropriate for these applications.

Holders of marine mammals on public display must report when an animal gives birth within 30 days of the date of the birth and must report the date and cause of death when determined. As a policy, we request death information within 30 days, consistent with birth reporting. They must also provide notification of transfers (i.e., change in custody) and transports (i.e., change in location) at least 15 days prior to the transfer or transport. The marine mammal inventory reporting is mandated by Congress.

Reports required annually by MMPA permits (50 CFR 216.38 of the regulations and Section 104(c)(1) of the MMPA) and ESA permits (50 CFR 222.308(d)(5)) and Section 10(a)(2)(C) of

the ESA) 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 protected species, to ensure that unnecessarily duplicative and potentially cumulative harassments are kept to a minimum, and to ensure that permit holders are making the results of their work accessible to the public (e.g., through publication of scientific papers). For ESA species, reports are also used to determine that the taking of the affected species is not appreciably reducing the likelihood of the survival and recovery of the species, and to determine if re-initiation of ESA Section 7 consultation is required.

Permit applications for scientific research and enhancement permits and General Authorizations are available to the public on-line through the Authorizations and Permits for Protected Species (APPS) database (<https://apps.nmfs.noaa.gov/>). We propose to make photography and parts applications available in APPS. The public may also request information collected in this collection (permit applications, reports, and public display inventory information) under the Freedom of Information Act.

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 information protected under the Privacy Act 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 <https://www.fisheries.noaa.gov/permits-and-forms#protected-resources>), and applications can be emailed, faxed, or mailed to applicants if requested. Applications for scientific research and enhancement permit and Letters of Intent under the General Authorization 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. We are proposing to expand the APPS system to include a separate module for applying for photography permits and permits to only import or export protected species parts (i.e., “parts permits” with no live animals involved); and, it may later be expanded to include public display permits.

Applicants who apply online are able to submit these applications and reports electronically via APPS. Applicants, however, can still 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. We are working to make all of Administrative Records electronic by 2020.

Electronic applications are distributed by email to NMFS experts, other expert reviewers, and the Marine Mammal Commission 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 (NIMM.inventory@noaa.gov), 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 <https://www.fisheries.noaa.gov/national/marine-mammal-protection/national-inventory-marine-mammals>. NMFS staff enters the information on the submitted forms 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. NMFS is in the process of programming the NIMM system to be accessible to the regulated marine mammal holders to enter their inventory information as an option in lieu of submitting forms via email.

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 inventory reports are generally made available as an Excel file but are also made available via a PDF or a mailed hard copy if requested. Inventory information is frequently requested by the public and made available under the Freedom of Information Act (FOIA).

4. Describe efforts to identify duplication.

There is no overlap or duplication for permits requested under the MMPA, ESA, or FSA because a single application and permit covers all requirements of these Acts. For example, if a

researcher proposes to work on ESA-listed endangered Steller sea lions, MMPA-depleted Northern fur seals, and non-endangered California sea lions (protected only under the MMPA), the researcher would apply for one permit using one set of instructions to cover the ESA, MMPA, and FSA. One permit would be issued under all three Acts.

To avoid duplication with requirements under the ESA for necessary Section 7 consultations and requirements under NEPA, the instructions included in this instrument collection also include information requirements for these statutes, as applicable.

There may be duplication of information for researchers required to obtain approval by an Institutional Animal Care and Use Committee (IACUC) under the Animal Welfare Act (AWA), which is administered by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS). However, researchers should be able to use the same information in an MMPA/ESA permit application in their IACUC application, and vice versa. We accept IACUC approvals and protocols to support determinations under the MMPA that the proposed research is humane, but it does not substitute for the requirements under the MMPA or ESA because these laws are separate from the AWA. As well, researchers may have to apply for and obtain special use permits to work on marine mammals and endangered species in protected areas such as National Marine Sanctuaries, National Parks, or to work in Antarctica; such permits are under separate jurisdictions.

Some duplication may occur with the public display inventory, NIMM, and a private company that maintains zoo and aquarium animal information. However, any duplicative reporting is voluntary on the part of the marine mammal holders. The inventory reports for NIMM are required by the MMPA.

NMFS and the U.S. Fish and Wildlife Service (USFWS) share responsibilities under the MMPA and ESA for issuing permits under Section 104 of the MMPA and Section 10(a)(1)(A) of the ESA. 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 their 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) administered by the USFWS. Some duplication is unavoidable because the USFWS must issue 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.

1There should not be a significant burden to small businesses or other small entities. Permits are valid for up to 10 years to provide continuity in research and avoid the need to apply for a permit annually. MMPA permits may be valid for 5 years, and ESA permits may be valid for a 10-year period. Over the next 3 years, we plan to propose extended durations (e.g., up to 10 years) of MMPA permits via a proposed and final rule to amend the regulations at 50 CFR 216.35.

Permit reports are required annually, except under special circumstances when an incident report is required (e.g., exceeding authorized take by killing an animal). We provide a web page for researchers to review the information required in a report in advance of the report being due at <https://www.fisheries.noaa.gov/national/endangered-species-conservation/reports-protected-species-permits>.

Information requests for holders of marine mammals on public display are short forms and do not require much time to complete. These reports are accessible online and can be submitted via email as described above. We are working to make the NIMM online inventory system available to the regulated community to submit their inventory information directly online as an option in lieu of filling out and emailing a form.

Because permit applicants and holders of marine mammals use computers in the conduct of their daily work as researchers, professional filmmakers, and public display marine mammal holders, they do not have to purchase computers or other equipment simply to apply for a permit or to email information in this information collection. NMFS developed APPS, the online application system, in 2008 to simplify information collection processes as described above.

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, FSA, 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. Without a permit, researchers and others who work with protected species could not conduct their work legally.

Transfers, transports, and births of marine mammals in public display facilities must be reported within a statutory timeframe. If the information is not provided, the holders of marine mammals would be in violation of the MMPA.

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 and births of marine mammals in captivity must be reported within 30 days of the date of the birth. These are statutory requirements 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 conditions with similar reporting requirements as the General Authorization to allow for NMFS Regional coordination of activities to minimize impacts to the species or stocks. For permit reports involving 1 significant 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 of the event, and an incident report must be submitted within two weeks. When such incidents occur, permit holders must cease activities until the event has been reviewed by NMFS. The timing of these reports allows for a quick response by NMFS to determine the magnitude of the impacts to protected species, whether additional mitigation measures are required before the permitted activities can continue, or if ESA section 7 consultation must be re-initiated prior to the activities continuing.

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.

On February 15, 2019, we published a *Federal Register* notice ([84 FR 4443](#)) seeking comment on policies and procedures for implementing NMFS' National Inventory of Marine Mammals (NIMM). In response to a request from the Alliance of Marine Mammal Parks and Aquariums, we extended the public comment period on NIMM to July 31, 2019 (84 FR 15593). We received substantial comments on NIMM (available at: <https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0012>), and in response, we included some proposed revisions to marine mammal inventory reporting in the separate PRA *Federal Register* notice ([84 FR 50409](#)) for this instrument collection.

The PRA *Federal Register* notice ([84 FR 50409](#)) published on September 25, 2019. We proposed to revise the currently-approved special exception permit application instructions to:

- (1) improve readability by changing the font, adding color, removing jargon, eliminating extraneous text, incorporating bullets and numbered lists, and reorganizing sentence structure;
- (2) be more user-friendly by consolidating pages, shortening and moving background information to the end, and removing sections that don't apply to specific permit types;
- (3) eliminate the requirement for applicants to provide scientific names of protected species;
- (4) update the information required to use unmanned aircraft systems;
- (5) reduce time spent asking for additional information from applicants by eliminating the requirement for proposed take numbers to be included in both the narrative and table sections of the application;
- (6) require most permit personnel to use a specialized qualifications form instead of submitting resumes, thus reducing time spent clarifying personnel experience;
- (7) provide examples of qualification forms for different personnel types;
- (8) provide detailed procedure options for those requesting parts permits;
- (9) put questions about potential effects to the environment in plain language;
- (10) improve organizational structure of the public display instructions, since those applicants do not submit via our online system;
- (11) include examples of take tables for import and capture from the wild in the public display instructions; and
- (12) clarify that researchers may apply for an ESA scientific research permit for up to a 10-year duration (versus 5-year duration for other permits, which may change to 10 years in the future).

In addition, we proposed to remove the requirement that permit applicants provide the name and contact information of Authorized Recipients who may receive protected species parts. Moving forward, we propose to allow permit holders to designate their own Authorized Recipients, which will give them more flexibility and autonomy and will save time by removing the need to request an authorization letter. We also proposed to make photography and parts permit applications accessible via our online application system, APPS.

We proactively sent an email to approximately 200 permit holders (including responsible parties, principal investigators, and primary contacts for each currently-active permit) notifying them of the availability of this public comment period and summarizing the proposed changes for their awareness. We received comments from four permit holders, the Alliance of Marine Mammal Parks and Aquariums, the Animal Welfare Institute (on behalf of a number of non-governmental organizations), the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, and the U.S. Marine Mammal Commission. These comments included support for some of the changes as well as a number of substantial comments. These comments are summarized, and our responses to the comments and actions we propose to take, are included in Attachment 1.

The PRA *Federal Register* notice also proposed that, in addition to providing holders of marine mammals (i.e., Owners and Facilities) electronic forms to complete and submit marine mammal inventory information via email, fax, or mail (as is currently done), the online inventory, NIMM, would be accessible to holders of marine mammals for those who would like to report their

inventory information online. We proposed revisions to the current inventory form known as the marine mammal data sheet (MMDS) to:

- (1) define birth and clarify that a birth must be reported if the marine mammal is born alive, no matter how long it lives;
- (2) clarify that stillbirths are not required to be reported; and
- (3) standardize reporting of cause of death (when determined) to include a simple, two-tier system that reflects the primary body system or circumstance of the cause of death (Tier 1) with the significant findings underlying that body system or circumstance (Tier 2). This information could also be entered in the online format noted above.

The PRA *Federal Register* notice included our responses to comments received regarding these three points during the February 15 to July 31, 2019 comment period on NIMM.

We proactively sent an email to over 100 zoos and aquariums subject to MMPA inventory reporting for marine mammals on public display, and to interested constituents, notifying them of the availability of this public comment period and summarizing the proposed changes to NIMM and the public display permit application for their awareness. We received comments from the Alliance of Marine Mammal Parks and Aquariums, the Animal Welfare Institute, and the Marine Mammal Commission, which included a number of substantive comments against some of the changes, as well as support for some. These comments are summarized, and our responses to the comments and actions we propose to take, are included in Attachment 2.

In addition to seeking comment through the above *Federal Register* notices, we regularly solicit and receive 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 annual and bi-annual conferences such as the American Fisheries Society, the Biennial Conference on the Biology of Marine Mammals, the Southeast and Mid-Atlantic Marine Mammal Symposium, the International Sea Turtle Symposium, and annual meetings related to public display (e.g., the Association of Zoos and Aquariums, Alliance of Marine Mammal Parks and Aquariums, and the Zoo Registrars Association).

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. We again received the same comment during this current PRA notice (see

Attachment 1). This is not something that could be programmed within the APPS system due to programming, staffing, and financial limitations, but it is something we plan to explore in the near future. Once applicants have applied using our online APPS 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 follow the application instructions including updating information on what they have accomplished over the previous permit and ensure the information is up to date based on the most recent scientific publications. We do find that in many cases, permit applicants simply copy the application and make no changes to the original application. This requires us to either (1) withdraw the application, send them the application instructions, and ask that they resubmit a complete, updated application; or (2) send specific questions and ask them to provide updated information based on the prior permitted activities and best available science.

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.

For special exception permits, a notice of receipt of permit applications is required by the Acts and their implementing regulations to be published in the *Federal Register*. Thus, we make the applications and supporting documentation submitted by the applicants available for review by the public once an application is deemed complete. During the public comment period and after a permit is issued, the public is able to search on-line via APPS and access MMPA and ESA scientific research and enhancement permit applications (including MMPA and ESA parts permits) and Letters of Intent under the General Authorization. All permit and authorization documentation including annual reports, and the marine mammal inventory, 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 such information of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.

Table 1. Estimate in hours of burden of collection of information with average hourly wages.

Information Collection	Type of Respondent (e.g., Profession)	# of Respondents	Annual # of Responses / Respondent	Total # of Annual Responses	Burden Hrs / Response	Total Annual Burden Hrs	Hourly Wage Rate (for Type of Respondent)	Total Annual Wage Burden Costs
Scientific research and enhancement (SR/EN)	Researcher (Zoologist and Wildlife Biologist)	35	1	35	50	1750	32.58	57015
SR/EN parts only	Researcher (Zoologist and Wildlife Biologist)	12	1	12	20	240	32.58	7819.2
Public display (PD)	Zoo Registrar (Executive Administrative Assistant)	3	1	3	40	120	29.59	3550.8
Photography (PH)	Film producer	5	1	5	10	50	43.19	2159.5
General Authorization (GA)	Researcher (Zoologist and Wildlife Biologist)	10	1	10	10	100	32.58	3258
Major amendments/modifications to permits	Any of the above (Researcher salary used b/c most predominant)	20	1	20	35	700	32.58	22806
Minor/ authorizations	Any of the above (Researcher salary used b/c most predominant)	155	1	155	3	465	32.58	15149.7
GA changes	Researcher (Zoologist and Wildlife Biologist)	15	1	15	2	30	32.58	977.4
SR/EN reports	Researcher (Zoologist and Wildlife Biologist)	145	1	145	12	1740	32.58	56689.2
SR/EN parts only reports	Researcher (Zoologist and Wildlife Biologist)	35	1	35	8	280	32.58	9122.4
PD reports	Zoo Registrar (Executive Administrative Assistant)	3	1	3	2	6	29.59	177.54
PH reports	Film producer	5	1	5	2	10	43.19	431.9
GA reports	Researcher (Zoologist and Wildlife Biologist)	35	1	35	8	280	32.58	9122.4
PD inventory forms	Zoo Registrar (Executive Administrative Assistant)	135	1	135	2	270	29.59	7989.3
General permit record keeping	Any of the above (Researcher salary used b/c most predominant)	215	1	215	2	430	32.58	14009.4
General PD inventory record keeping	Registrar	135	1	135	2	270	29.59	7989.3
Totals		963		963		6741		218267.04

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).

Table 2. Estimate of annual cost burden excluding burden hours.

Information Collection	# of Respondents	Annual # of Responses / Respondent	Total # of Annual Responses	Cost Burden / Respondent	Total Annual Cost Burden
All	20	1	20	0.55	11
All	15	1	15	\$40	600
All	15	1	15	25	375
TOTALS			48		986

The total annual operations and maintenance cost burden is estimated to remain at \$1,000. These costs were estimated from discussions with NMFS staff that receive applications. We are now accepting more electronic submissions online via APPS, or via email for those applications not available online and are now accepting electronic signatures or PDFs of signed documents. Thus, we continue to have fewer applicants mailing applications or other permit-related documents. While estimated mailing costs have gone up, our overall cost burden estimate has stayed the same

We do not estimate any additional costs beyond those necessary by normal business practices and/or research purposes (i.e., 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.

Table 3. Estimated annualized cost to the Federal Government.

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	ZP IV	118,000	75%		88500
	ZP III	108,000	75%		81000
	ZP III	108,000	75%		81000
	ZP III	108,000	75%		81000
	ZP III	105,000	75%		78750
	ZP III	99,000	75%		74250
	ZP III	80,000	75%		60000
Contractor Cost		88,000	75%		66000
Travel					
Other Costs (misc. office supplies)					5,000
TOTAL					615,500

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

Table 4. Program changes and reasons.

Information Collection	Respondents		Responses		Burden Hours		Reason for change or adjustment
	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	
ESA and ESA/MMPA scientific research and enhancement (SR/EN)	35	40	35	40	1750	2000	Decrease in number of SR/EN applications received over past 3 years and anticipated next 3 years
SR/EN parts only	12	5	12	5	240	100	Increase in number of parts applications received over past 3 years and anticipated next 3 years
Public display (PD)	3	3	3	3	120	90	Received comments that 30 hours was a low estimate; we increased to 50 hours
Photography (PH)	5	3	5	3	50	30	Increase in number of PH applications received over past 3 years and anticipated next 3 years
General Authorization (GA)	10	10	10	10	100	100	No change
Major amendment/ modification to permits	20	20	35	35	700	700	No change
Minor amendment/ modification to permits	155	155	155	155	465	465	No change
GA changes	15	15	15	15	30	30	No change
SR/EN reports	145	180	145	180	1740	2160	Decrease in number of SR/EN active permits and anticipated next 3 years
SR/EN parts only reports	35	30	35	30	280	300	Increase in number of active parts permits and anticipated next 3 years
PD reports	3	5	3	5	6	10	Decrease in number of active PD permits and anticipated next 3 years
PH reports	5	3	5	3	10	6	Increase in number of PH permits and anticipated next 3 years
GA reports	35	35	35	35	280	280	No change
PD inventory forms	135	215	135	215	270	430	Decreased number of PD facilities reporting; more accurate number from NIMM database of U.S. facilities holding marine mammals (e.g., removed foreign facilities previously included)

Information Collection	Respondents		Responses		Burden Hours		Reason for change or adjustment
	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	
All permits general record keeping	215	255	215	255	430	510	Decrease in number of active permits and anticipated next 3 years
PD inventory general record keeping	135	215	135	215	270	430	Decreased number of PD facilities reporting; more accurate number from NIMM database of U.S. facilities holding marine mammals (e.g., removed foreign facilities previously included)
Total for Collection	963	1,189	963	1,189	6,741	7,641	Changes related to updated data in most cases; increased burden hours for PD applications

Table 5. Annualized cost to government changes.

Information Collection	Labor Costs		Miscellaneous Costs		Reason for change or adjustment
	Current	Previous	Current	Previous	
0068-0084	615,500	440,775		0	Salary increases in pay for performance CAPS system over past 3 years; previously didn't include misc. costs (included misc. office supplies this time)
Total for Collection	615,500	440,775		0	

FORMS:

Being Deleted:

The below forms have been deleted from the collection as they only included justification, which has been provided in the PRA Supporting Statement.

PRA Justification: Application Instructions for Public display Permits
 General Authorization Letter of Intent and photography Permits - Justification

PRA Justification: Public display Forms

NMFS Marine Mammal and Endangered Species Research and Enhancement Permits and Parts Permit - Justification for Collection of Information

Requesting a Modification – This instruction document is being deleted; pursuant to the sponsor, they never had an “instruction document”. There is no specified format or instructions for a modification, the party only needs to provide information on what needs to be modified.

New:

Qualifications Form – required by applicants instead of resumes.

Permit Report Form – this is not new to the collection, but was not previously included in ROCIS.

ROCIS:

IC Removed:

Retain or Transfer Rehabilitated Animals – this IC is part of the Public Display Inventory that falls under the “Reports” IC.

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

As mentioned above, permit applications submitted by researchers, filmmakers, and zoos and aquariums are published in a *Federal Register* notice making the application available for a minimum 30-day public comment period, as required by law. In those notices, we summarize the activities in one to two paragraphs and refer the public to (1) the APPS online system for the full application, (2) a contact email to request a copy of applications not yet available via APPS, or in some cases, (3) to a web page with the application as a PDF. We also publish a *Federal Register* notice of issuance to inform the public that a permit(s) has been issued.

The marine mammal inventory (known as a Marine Mammal Inventory Report Summary) is available as a downloaded Excel file from NIMM to the public via FOIA online, but we do not publish this information unless requested under FOIA.

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.

The expiration date will be displayed on this information collection.

18. Explain each exception to the certification statement.

There are no exceptions for compliance with provisions in the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The information collection does not employ statistical methods.