

0648-0084 – Proposed Revisions

To be consistent with NMFS' final rule (89 FR 100393; December 12, 2024) effective on January 13, 2025, we are revising all MMPA Section 104 permit and authorization application instructions to remove the 5-year limit on MMPA permit and authorization durations. The revised instructions provide guidance to applicants about what to consider when requesting their permit duration, and require applicants to justify their requested permit duration. This revision applies to MMPA Section 104 permit and authorization applications. For consistency, we are also revising the ESA Section 10(a)(1)(A) scientific research and enhancement permit application instructions to clarify applicants must provide a justification for the requested permit duration (there is no duration limit on ESA permits, and guidance on duration is already provided in these application instructions).

We also propose to create a separate set of ESA Section 10(a)(1)(A) scientific research and enhancement permit application instructions for corals because pillar corals (*Dendrogyra cylindrus*) have been listed as endangered under the ESA (89 FR 101993; December 17, 2024). Creating a separate set of instructions is designed to tailor and streamline the application process for pillar coral applicants. These revisions may be applied to other species of coral requiring an ESA Section 10(a)(1)(A) scientific research or enhancement permit in the future.

In addition, we propose to change the estimating and reporting of takes during unmanned aircraft system (UAS) operations in MMPA Section 104 permit applications to follow the guidance for vessel or ground-based activities (within 100 yards for baleen and sperm whales and 50 yards for other cetaceans and pinnipeds), rather than the current 1,000 feet guidance used for manned aircraft. As a result of public comments, we have updated the guidance for UAS surveys to count take when flying within 50 yards of all cetacean species. This change will include additional guidance in MMPA Section 104 permit application instructions that will improve take number estimates and reporting. The intent is to reduce burden on applicants, improve the reasonableness of take estimates, and increase the accuracy of their subsequent reporting. These proposed changes will be included in all instructions involving Level B harassment of marine mammals in the wild, including MMPA permit applications for scientific research and enhancement, commercial and educational photography, and public display (those authorizing capture in the wild); and MMPA Letters of Intent under the General Authorization for scientific research.

We propose to revise the MMPA Letter of Intent under the General Authorization for scientific research application instructions to be consistent with the implementing regulations at 50 CFR 216.45. The proposed changes include reducing the amount of information requested from applicants when describing the purpose of the project (e.g., take number rationale), anticipated effects, and mitigation. As described above for MMPA

Section 104 permit applications, we propose to provide additional guidance in the application instructions to improve take number estimates and reporting for UAS operations and revise the application instructions to remove the 5-year limit on the requested duration. These changes will better align our guidance with the statutory definition of Level B harassment under the MMPA (16 U.S.C. 1362(18)) and allow us to accurately quantify and assess the impacts of the takes that are likely to occur.

We are also streamlining the amount of information required in the instructions for importing marine mammals for public display to better align with the statutory requirements. The revisions include splitting this set of instructions into two separate applications, one for importation of marine mammals for public display and one for capture of marine mammals from the wild for public display. This will ensure we can make a determination that the manner of taking or importation is humane, as required by the MMPA, and is consistent with the Animal Welfare Act.

Last, we are in the process of revising the current online application system known as APPS (Authorizations and Permits for Protected Species; <https://apps.nmfs.noaa.gov/>), which dates back to 2008, for MMPA Section 104 and ESA Section 10(a)(1)(A) permit applications. The revision of the online application system is necessary for many reasons, including to improve information security and ease of use. As part of the redesign, we have split the information fields of the application instructions into small text boxes in APPS that ask briefer and more specific questions. This allows applicants to provide less information overall while still adequately addressing the required application criteria and providing better alignment with the Word and PDF application instructions included in this instrument collection. The overall user experience and functionality of the online application system will be improved and streamlined from the currently available APPS system, although the specific information requested remains limited to what is described in our application instructions.