

**APPLICATION INSTRUCTIONS  
AND SUPPLEMENTAL INFORMATION  
FOR  
SCIENTIFIC RESEARCH OR ENHANCEMENT  
PERMITS  
UNDER THE  
ENDANGERED SPECIES ACT  
MARINE MAMMAL PROTECTION ACT  
FUR SEAL ACT**

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**INTRODUCTION**

The Endangered Species Act of 1973 (ESA) prohibits, with certain exceptions, the taking<sup>1</sup> of species listed as threatened or endangered. The ESA provides for the issuance of permits by either the National Marine Fisheries Service (NMFS) or the U.S. Fish and Wildlife Service (USFWS) to take threatened or endangered species for scientific research purposes and/or to enhance a species propagation or survival. Under the ESA, NMFS and USFWS share management responsibility for marine mammals<sup>2</sup> and for threatened and endangered sea turtles (NMFS for sea turtles in the water, and USFWS for sea turtles on land). Species for which NMFS has sole responsibility under the ESA include salmon, shortnose sturgeon, smalltooth sawfish, white abalone, and certain corals. NMFS regulations implementing the provisions of the ESA can be found at 50 CFR Parts 216 and 222-226; USFWS regulations can be found at 50 CFR Part 17.

The Marine Mammal Protection Act of 1972 (MMPA) places a moratorium, with certain exceptions, on the taking and importing of marine mammals and marine mammal products. One exception provides for the issuance of permits by either NMFS or USFWS, depending on the species involved, to take<sup>3</sup> marine mammals for purposes of scientific research, public display, enhancing the survival or recovery of a species or stock, or educational or commercial photography. NMFS and USFWS regulations implementing the permit provisions of the MMPA can be found at 50 CFR Part 216 and 50 CFR Part 18, respectively.

The Fur Seal Act of 1966 (FSA) provides for research on fur seals of the North Pacific and permits for the taking, transport, import, export, or possession of fur seals of the North Pacific or their parts for educational, scientific, or exhibition purposes. Since northern fur seals are also marine mammals, to avoid duplication, applications for scientific research permits are also processed under the MMPA regulations of 50 CFR Part 216.

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<sup>1</sup> Under the ESA, the term “take” is defined as: *To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.*

<sup>2</sup> NMFS has management authority for cetaceans (whales and dolphins) and pinnipeds (except walruses). USFWS has management authority for sea and marine otters, polar bears, walruses, manatees, and dugongs.

<sup>3</sup> Under the MMPA, the term “take” is defined as: *To harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.*

### **Activities/Species for Which These Instructions Apply**

These permit instructions provide the format for preparing applications for scientific research and/or enhancement permits to take, import, or export species and specimens of species for which NMFS has management responsibility, which includes the following:

- **cetaceans and pinnipeds (except walruses) under the provisions of the MMPA and ESA (if applicable);**
- **sea turtles in the water under the provisions of the ESA; and**
- **shortnose sturgeon, smalltooth sawfish, and white abalone under the provisions of the ESA.**

These application instructions are available as a PDF or Microsoft Word document from the NMFS Office of Protected Resources web site: <http://www.nmfs.noaa.gov/pr/>.

If the proposed research or enhancement activity includes species under the jurisdiction of both NMFS and USFWS, a joint permit from NMFS and USFWS is recommended, or you may choose to apply for separate permits. If the proposed activity involves only species under the jurisdiction of USFWS, applicants should contact the USFWS directly to request a permit (see section below, “USFWS Permits” for contact information for USFWS).

Species lists and information on the status of species under the MMPA, ESA, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) are available by calling the Permits, Conservation and Division (hereinafter Permits Division) or on the following web site: [http://apps.nmfs.noaa.gov/docs\\_cfm/species\\_lists.cfm](http://apps.nmfs.noaa.gov/docs_cfm/species_lists.cfm) .

For information on applying for permits to conduct other types of activities (*e.g.*, commercial/educational photography) involving the taking of marine mammals under the MMPA, or the taking of salmon under the ESA, please see Appendix I and NMFS’ web sites: [www.nmfs.noaa.gov/pr/permits/](http://www.nmfs.noaa.gov/pr/permits/) and <http://apps.nmfs.noaa.gov/index.cfm>.

### **Guidelines for Preparing Your Application**

**If you have any questions concerning the preparation of your application, please contact the Permits, Conservation and Education Division (Permits Division) at (301) 713-2289.**

#### ***Where to Send Your Application***

Submit a signed original, one hard copy, and an electronic copy of the application to the Chief, Permits, Conservation and Education Division, Office of Protected Resources, 1315 East-West Highway, F/PR1 Room 13705, Silver Spring, Maryland 20910-3226. The electronic copy must be in Word, WordPerfect, or PDF, and can be included on a 3.5" disk or CD, or sent as an email attachment (contact the Permits Division for a current email address).

### ***When to Apply***

**Applications involving threatened or endangered species should be submitted at least one year prior** to the planned initiation of research. Such applications require consultation under Section 7 of the ESA (see below for further information).

**Applications for non-ESA listed marine mammals** (*i.e.*, animals not designated as threatened or endangered under the ESA) **should be submitted at least six months in advance** of the proposed research.

All permit applications require a mandatory 30-day public comment period and are subject to analysis under the National Environmental Policy Act (see below for further information).

### ***Give Complete Information***

The permit processing “clock” does not begin until the Permits Division has determined that an application is complete. An application must be considered complete before the Permits Division can publish a Notice of Receipt in the *Federal Register*, which initiates a 30-day public comment period. Please avoid the use of technical jargon as much as possible because your application will be available to the public for review. As part of the review process, the Permits Division will forward your application to the appropriate NMFS Region(s) and subject matter experts, where takes of marine mammals are involved, to the Marine Mammal Commission (see Appendix II, “Definitions”) for review and comment.

**Incomplete applications cannot be processed.** The Permits Division may return incomplete applications or request additional information from an applicant. If the requested information is not received within 60 days of the request, the application will be returned. Therefore, please provide complete and specific information according to the instructions. To expedite processing, when a question does not apply, please indicate “Not Applicable” (N/A) and provide a brief explanation as to why not.

Applications that do not adhere to the requirements for content and format will be considered incomplete and may be returned to the applicant or may result in processing delays if the applicant needs to be contacted for additional information. To facilitate review, information should be presented in the designated categories/headings, and in the order listed. Use of additional subheadings to clarify the application may be added at the discretion of the applicant. Line spacing, font size and style are at the discretion of the applicant, but the application must be readily legible. We suggest Times New Roman 12 pt font. **Do not submit bound applications.**

You are encouraged to contact the Permits Division with any questions in advance of submitting an application. It is helpful to draft an application and send it to the Permits Division for preliminary review. If possible, please send the draft electronically (contact the Permits Division for a current e-mail address) to save on paper and postage. Permits Division staff will review your draft application and assist you in ensuring that it is complete. Once the application is complete, a signed copy of the application should be mailed to the Permits Division at the address above.

### ***Endangered Species Act Consultation***

Under Section 7 of the ESA, all federal agencies are required, “in consultation with and with the assistance of the Secretary, to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of designated critical habitat.” For species under NMFS jurisdiction, consultation is with NMFS Endangered Species Division. For species under USFWS jurisdiction, consultation is with USFWS.

Thus, before the Permits Division can recommend issuance of a permit to take, import, or export threatened or endangered species, it must consult with the NMFS Endangered Species Division or the USFWS, and obtain a written statement with an opinion, and summary of the information on which the opinion is based, that the issuance of the permit is not likely to jeopardize any threatened or endangered species. This written statement is known as a biological opinion. The requirement for consultation also includes any ESA-listed species that may be in the proposed research area, even if they are not the subject of the research or enhancement, as well as any designated critical habitat that may be affected by the proposed activities. Consultation involves the Permits Division providing an “initiation package” to the Endangered Species Division or USFWS.

### **The ESA Section 7 initiation package consists of the following:**

- a description of the action being considered (in the application and proposed permit);
- a description of the specific area that may be affected by the action (*i.e.*, the action area);
- a description of any ESA-listed species or critical habitat that may be affected by the action (including the species name, listed status, distribution, status and trend of the population, why it was listed, existing threats, range-wide distribution at the species level, and whether critical habitat is involved);
- a description of the manner in which the action may affect any ESA-listed species or critical habitat, and an analysis of cumulative effects;
- relevant reports, including any Environmental Analysis, Environmental Impact Statements, Biological Assessments, or other analyses prepared on the proposal; and
- any other relevant studies or information available on the action, the affected species, or critical habitat (this includes permit annual reports, most recent publications, etc.).

The information the applicant provides in the permit application is necessary for the ESA Section 7 consultation process. In some cases, the Permits Division may have to contact the applicant for clarifying or additional information during this process.

### ***National Environmental Policy Act***

The National Environmental Policy Act of 1969 (NEPA) was enacted to ensure that the government gives proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment. Issuance of a permit is considered a major federal action, and NMFS is required to comply with NEPA.

If a threatened or endangered species is involved in a proposed research or enhancement activity, if the activity is considered controversial, or under other certain circumstances, 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/EIS is necessary, or if the information is insufficient to complete such analyses, the application may be returned to the applicant or processing may be delayed.

You may submit a draft EA with your application to facilitate processing. The Permits Division will review and accept a draft EA if it is determined to be sufficient. Otherwise, the Permits Division will prepare an EA or EIS on 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. Depending on workload, resources, and the complexity of the research proposal, preparation of an EA may take six months or more. Preparation of a final EIS typically takes well over a year. Please contact the Permits Division at (301) 713-2289 for guidance regarding whether or not an EA or EIS is needed.

### ***Letters of Confirmation under the General Authorization***

The 1994 amendments to the MMPA established a streamlined “General Authorization” (GA) procedure for obtaining permission to conduct research activities involving only Level B harassment<sup>4</sup> (e.g., photo-identification, aerial surveys) of marine mammals. If your research meets these criteria, you may be eligible to obtain a letter of confirmation under the GA. Research on marine mammals listed as endangered or threatened under the ESA, including research that would qualify for the GA, requires an ESA/MMPA scientific research permit. You should contact the Permits Division to confirm whether your research can be covered under the GA. Interim Final Regulations implementing the GA (50 CFR 216.45) were published by the Service in the *Federal Register* on October 3, 1994 (59 FR 50372) and are available on the Service’s web site at [http://www.nmfs.noaa.gov/pr/permits/mmpa\\_permits.htm#ga](http://www.nmfs.noaa.gov/pr/permits/mmpa_permits.htm#ga) .

*NOTE: In the event that your proposed research involve (1) both ESA listed and non-ESA listed species; and/or (2) both Level A and Level B harassment, you must apply for a scientific research permit.*

### ***Current or Previous Permit Holders***

If you currently hold or have held a NMFS permit in the past, a new application cannot be processed until all reports required to date under those permits have been submitted and determined to be complete and in compliance with reporting requirements.

### ***Permit Amendments/Modifications***

Scientific research and enhancement permits may be amended or modified by the Director, Office of Protected Resources in response to or independent of a request from the Permit Holder named in the permit. The Permit Holder must submit requests for amendments to permits in writing to the Chief, Permits, Conservation and Education Division, Office of Protected

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<sup>4</sup> Harassment (as defined in the MMPA) – Any act of pursuit, torment, or annoyance which - 1) Level A harassment: has the potential to injure a marine mammal or marine mammal stock in the wild; or 2) Level B harassment: has the potential to disturb a marine mammal or marine mammal stock in the wild by causing a disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Resources at the address listed above. An application for an amendment or modification must follow the same format as the original permit application, and should address all applicable sections of these instructions, including a detailed description of the purpose and nature of the proposed changes. Where a section has been previously addressed and will not change, you may simply make reference to your original permit application.

Major amendment and modification requests include the following:

- changing the species to be taken or imported/exported;
- increasing the number of animals to be taken or imported/exported;
- changing or adding locations;
- changing methods which may result in an increased level of take or risk of adverse impact; and
- extending a permit for more than 12 months.

Major amendments undergo a 30-day public review and are processed in the same manner as a permit application.

Minor changes not involving the changes above may be authorized at the discretion of the Director without public review. A one-year extension of a permit may be granted as a minor amendment prior to the expiration of your permit provided that no additional takes or major changes to the permit are requested.

Amendments and modifications are subject to additional analyses under NEPA and the ESA.

### ***Permit Fees***

Section 104(g) of the MMPA and 50 CFR Section 222.308 (for ESA species) provide the authority to establish and charge a reasonable permit fee. However, there is no fee at this time.

### ***USFWS Permits***

Application instructions for sea turtles on land and marine mammal species under USFWS jurisdiction can be obtained by calling the USFWS Division of Management Authority at (800) 358-2104 or by visiting the USFWS web site at <http://permits.fws.gov/>.

### ***CITES Import/Export Permits***

U.S. regulations require that imports or exports of wildlife or parts thereof listed in Appendix I or II to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)<sup>5</sup> be accompanied by the proper CITES permit or documentation (50 CFR 23). If the species you are importing or exporting is listed on Appendix I or II, you must secure a CITES permit in addition to the required permits under the ESA and/or MMPA.

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<sup>5</sup> CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between Governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. CITES works by subjecting international trade in specimens of selected species to certain controls. All import, export, re-export and introduction from the sea of species covered by the Convention has to be authorized through a licensing system.



The USFWS Division of Management Authority (see telephone number and web site, above) is responsible for implementing CITES. The CITES status of threatened and endangered species and marine mammals under NMFS and USFWS jurisdiction is indicated on the following web site: <http://www.cites.org/> .

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**APPLICATION INSTRUCTIONS**

**I. TITLE OF APPLICATION**

Indicate in the title whether you are requesting a permit for scientific research, enhancement, or both, and the applicable statute(s) (Endangered Species Act, Marine Mammal Protection Act, and/or Fur Seal Act). For example: "Application for a scientific research permit under the Endangered Species Act and Marine Mammal Protection Act."

*For assistance in selecting a title, please contact the Permits, Conservation and Education Division (Permits Division) at (301) 713-2289.*

**II. DATE OF APPLICATION**

Indicate date application was completed and sent to the Permits Division.

**III. APPLICANT AND PERSONNEL**

**A. Contact Information for Applicant and Personnel**

Provide the following contact information for the Applicant/Permit Holder, Principal Investigator (PI), and all Co-investigators (CIs) directly involved in the proposed activities. *Refer to Appendix II, Definitions, for explanations of PI, CI, etc.*

Name

Title

Institutional Affiliation

Mailing Address

Physical Address (if different from mailing address)

Telephone number

Fax number

E-mail address

If the Applicant/Permit Holder is an institution, governmental entity, partnership, or corporation, specify a Responsible Party (*i.e.*, the individual who has signature authority for the institution, etc.). Indicate the relationship between this entity and the PI. There can be **only one Applicant/Permit Holder and only one PI** for each application/permit. The Applicant/Permit Holder can be the same as the PI. Permits are not transferable from one Permit Holder to another and the Applicant/Permit Holder cannot be changed. The Responsible Party, PI, and CIs on a permit can be changed at the request of the Permit

Holder and with approval by the Chief, Permits Division. There can be more than one CI on an application/permit.

List any other persons (*e.g.*, veterinarians, research assistants, or students) to be directly involved in the taking, import, or export. For sea turtle research, you must provide the name of a veterinarian who would respond in the event of an emergency during your activities.

Indicate the primary contact for correspondence during the permit review process. If that person is other than the Applicant/Permit Holder, PI, or a CI, please include their name and the contact information requested above.

## **B. Qualifications and Experience**

Attach a summary of qualifications (*e.g.*, resume, curriculum vitae) for the Applicant, PI, and CIs, and the activities to be carried out by each. Include relevant publications and information on the individual's previous experience with the activities proposed in the application. Do not include personal information such as social security number or date of birth, as the application will be available to the public.

Also provide this information for any veterinarians that would be involved in the research and the duties they would be performing (if they are not designated as CIs).

## **IV. PROPOSAL**

### **A. Summary**

Provide a brief summary, not more than 200 words, of the proposed research and/or enhancement project. This summary will be published in the *Federal Register* Notice of Receipt for a 30-day public comment period, and therefore should be understandable to a lay reader. The summary should include **concise** statements of the following information:

- purpose of the research or enhancement activity;
- target species (both common and scientific names);
- type and manner of take (*e.g.*, photo-identification, capture, biopsy sampling), import and/or export;
- numbers of animals to be taken for each activity, or number of specimens to be imported and/or exported, by species (over a specified time, *e.g.*, per year);
- numbers and kinds of non-target marine mammals and species listed under the Endangered Species Act (ESA) that may be taken incidentally, as applicable;
- specific geographic location(s) of the take, including locations from which animals will be imported, or to which they will be exported, as applicable; and
- requested period of the permit<sup>6</sup>.

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<sup>6</sup>Note that permits are issued for up to a five-year period.

## B. Introduction

### 1. Species

- a. List the **target species** (common and scientific names) and, as applicable, the subspecies, stock, population group and range that may be taken, imported, or exported.
- b. List any **non-target species**, including but not limited to, marine mammals, reptiles, sea birds, sharks, etc., that could be affected by your activities. Also include any ESA-listed species (plant or animal) that may occur in the study area, and therefore, may be affected (*e.g.*, disturbed, harassed, or injured) incidentally during the course of your proposed activities. Include any species under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) that may be incidentally taken.
- c. As applicable, indicate the status of each species or stock listed above as determined under the ESA (threatened or endangered), Marine Mammal Protection Act (MMPA; depleted, strategic), and Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES Appendix I, II, or III). Species information is available at the following web sites:

<http://www.nmfs.noaa.gov/pr/species/>

<http://www.nmfs.noaa.gov/pr/sars/>

<http://www.fws.gov/>

<http://www.cites.org/>

### 2. Background/Literature Review

- a. Provide a succinct review of the current knowledge of the problem under investigation, with appropriate citations, to demonstrate the following:
  - whether your proposed activities are different from or build upon past research being cited;
  - whether your activities would duplicate previous efforts, and if so, why;
  - whether your proposed activities are necessary and would contribute to the conservation and/or management of the subject species; and/or
  - whether your proposed activities will result in necessary biological information.
- b. Include complete literature citations in the “References” section at the end of your application.

### 3. Hypothesis/Objectives and Justification

- a. Provide a clear statement of the objectives and expected significance of the proposed research and/or enhancement activities. For scientific research, include the hypothesis being tested. For enhancement, describe how the activity relates to enhancing the survival or recovery of the species in the wild. Explain the rationale

for the proposed activities and methods and explain how your study design will allow you to meet your objectives. Also justify the following:

- choice of species; and
- number of animals or specimens to be used (include a power analysis or other sample size estimation to determine whether the sample size is sufficient to provide statistically significant results).

**b.** The following Statutory and Regulatory requirements must be addressed for the target species, as applicable.

**(1)** For ESA-listed species:

- Justify use of an ESA-listed species rather than a non-listed species, including a discussion of possible alternatives.
- Provide a statement of:
  - whether the proposed project has broader significance than the individual researcher's goals (*e.g.*, does the project respond to recommendations of a national or international scientific body charged with research or management of the endangered species and if so, how?); and
  - whether the research will contribute to the objectives identified in the species recovery or conservation plan, and if so, how the proposed project will meet those objectives. If there is no recovery or conservation plan, indicate how your research will otherwise contribute to conservation of the species.

**(2)** For ESA-listed marine mammals and MMPA-depleted species:

- Explain why the proposed research cannot be conducted using an alternative species or stock (as above).
- Explain how the expected research results would:
  - directly benefit the species or stock;
  - contribute significantly to fulfilling a critically important research need; identify, evaluate, or resolve conservation problems for the species or stock; and/or
  - contribute significantly to understanding the basic biology or ecology of the species.

**(3)** For enhancement activities on marine mammals:

- Explain how the proposed activity will:
  - contribute to maintaining or increasing distribution or abundance;
  - enhance the health or welfare of the species or stock; and/or
  - ensure the survival or recovery of the species or stock in the wild.
- Indicate how the enhancement activity is consistent with the species conservation or recovery plan.

- (4) For enhancement activities involving captive maintenance of threatened, endangered, or depleted species of marine mammals:
- Also discuss how the proposed captive maintenance will contribute directly to the survival or recovery of the species by either:
    - maintaining a viable gene pool;
    - increasing productivity;
    - providing necessary biological information; and/or
    - establishing animal reserves.
  - If these animals are to be removed from the wild for captive maintenance, discuss how the benefit to the species outweighs alternatives that do not require removal from the wild. Indicate what plans are in place for returning animals and any offspring to the wild. If animals are going to remain in permanent captivity, additional justification is required.

## C. **Methods**

It is important to provide complete details for all activities to facilitate analyses required under the ESA, MMPA, and NEPA, as applicable.

### 1. **Duration of Project and Location of Taking**

- a. Clearly specify the proposed start date and end date of your research or field seasons and overall duration of the project. Indicate specific dates (with location if multiple locations will be used) of the proposed taking, import, or export where known.

*NOTE: permits are issued for up to a five-year period.*

- b. Identify all locations in which the activities will occur. Locations should be identified as specifically as possible within a general area (*e.g.*, specific islands, bays, latitude/longitude, river kilometers, etc., within a specified geographic region or state). Include a map of the study area if available. In the case of aerial or vessel surveys, also indicate the coordinates outlining the proposed survey area(s).

If the location you will be working in has been given any special status (*e.g.*, National Marine Sanctuary, State Reserve, etc.), indicate the name of the protected area. Are your proposed activities consistent with the protective status of the site, and could the activities effectively be carried out at an alternative location? For any activities to be conducted in protected areas, justification for the choice of location is required.

Provide a brief (*e.g.*, one paragraph) physical description of the locations in which you will be working.

For imports, indicate the country of origin/export to the U.S.; for exports, indicate the destination country. Include U.S. ports of import/export to be used (see Appendix II, “Definitions”, for U.S. designated ports).

**2. Types of Activities, Methods, and Numbers of Animals or Specimens to be Taken or Imported/Exported**

This section applies to research or enhancement activities on live animals in the wild or in captivity, and any collection, import, or export of parts taken from live or dead animals.

- a. Include a **Take Table** of your proposed activities, as shown below, with the following information:
- species;
  - life stage (*e.g.*, larvae, hatchling, pup, calf; sub-adult; adult) and reproductive condition (*e.g.*, pre-spawning fish, lactating marine mammals); if you are proposing to take immature animals, including dependent mammals, specify the minimum age at the time of taking;
  - sex;
  - expected take or import/export (include the maximum number of individuals proposed to be taken by each type of activity **annually or over a specified time period**);
  - number of times an animal would be repeatedly taken each year, as applicable;
  - take action (*i.e.*, types of collection methods and activities that will be performed on each animal, or import/export);
  - transport methods, as applicable;
  - location of take, import or export; and
  - dates or time period when each activity will occur (*e.g.*, quarterly, January through March, etc.).

**Incidental harassment:** Indicate in the Take Table the annual maximum number of marine mammals or ESA-listed species, by species and location, that may be harassed or harmed incidental to your activities or that could occur in the study area, as applicable.

**Table 1. Proposed activities over a specified period.**

Species	Life Stage	Sex	Expected Take or Import/Export	Number of Takes per Individual	Take Action	Transport	Location	Dates/Time Period

- b. Provide a **narrative account** of research and/or enhancement methods. Provide the number and manner in which animals or animal parts would be taken (*e.g.*, aerial survey and photo-identification; capture, tagging, and blood sampling; collection of specific parts from dead animals and analyses; etc.), imported or exported. Provide detailed descriptions of methodologies to be used for each activity. Cite references where applicable. If the application is for a new technique or methodology, provide sufficient information to allow evaluation of its relative merits and potential effects on the animals and environment.

Indicate whether individual animals will be taken more than once per year (*e.g.*, recapture for instrument retrieval) and the frequency of the take per individual (*e.g.*, number of times per year or field season). State whether the same animals will be taken in more than one manner, and if so, how (*e.g.*, capture, blood sample, biopsy, and flipper tag). For specimen sampling, indicate type, location, size, and/or volume of samples to be taken and methods of preserving, shipping, and analyzing samples.

*Refer to Appendix III for specific information to include in the narrative description of your methods.*

Provide information on the target species' life history with regard to how your proposed activities coincide with or avoid sensitive physiological/biological periods such as reproductive seasons and maternal care.

Indicate the minimum number of animals that would need to be taken in order to reach your objectives or statistical requirements, in the event the maximum number is not obtainable due to circumstances beyond your control. Also indicate the estimated number of non-target species identified in Section IV.B.1.b above (including but not limited to marine mammals, ESA-listed species, sea birds, sharks, etc.) that may be affected each year, and the manner in which they may be affected.

***For import and export activities:*** Provide a detailed description of how the animals or parts to be imported were or would be taken in the country of origin, addressing the humaneness of collection of live animals from the wild and sample collection from live animals; or, how an animal died (*e.g.*, natural stranding or died incidental to fisheries), as applicable. Provide documentation regarding the legality of the take in the country of origin where available. Describe shipment/transport methods for import/export. If an import would be necessary for the protection or welfare of a marine mammal, discuss the circumstances involved and any alternatives considered. ***See also "Sample collection and analysis" in Appendix III.***

### **3. Additional Information for Removing Animals from the Wild into Captivity and Research or Enhancement on Captive or Rehabilitating Animals**

In addition to the above-requested information, when proposing to remove an animal from the wild (for permanent or temporary captivity) and/or to conduct research or enhancement activities on captive animals (including marine mammals in rehabilitation), as applicable:

- a. Explain why removal from the wild is necessary and why suitable animals cannot be obtained from captive or rehabilitated stock.
- b. Provide a description of the enclosure or cage to be used for temporary holding and transport, mode of transportation, name of transportation company, special care during transport, and the length of time required for the transfer from the capture site to the initial holding facility, and then to the permanent holding facility. Provide a



list of personnel who will be involved in and/or accompanying the animals during transport and whether a veterinarian will be present, and their qualifications.

- c. *For marine mammals:* If the source stock is to be beached/stranded marine mammals undergoing rehabilitation, indicate the name and location of the rehabilitation facility.
- d. If the source stock is from animals already in captivity (other than beached/stranded animals in rehabilitation) indicate the name and location of the facility and identify the specific animals (by NOAA ID number where applicable) involved in the proposed activity.
- e. *For marine mammals:* Include a copy of any license or registration issued by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture, any outstanding variances granted, and the most recent APHIS inspection report.
- f. Provide a written statement from the responsible veterinarian or expert certifying that the facilities, methods of care and maintenance, and methods of transport will be adequate to ensure the well-being of the animals *and, for marine mammals,* will comply with all care and transport standards established under the Animal Welfare Act.
- g. *For ESA-listed species:* Describe the care and maintenance of the animals, including a complete description of the facilities where they will be maintained. This includes the dimensions of the pools or other holding facilities and the number, sex, and age of animals by species to be held in each; the water supply, amount, and quality; the diet, amount and type; sanitation practices; and qualifications and experience of the husbandry staff.
- h. Indicate whether a captive breeding program will be established and if so, provide justification in accordance with the species conservation or recovery plan as applicable for enhancement activities. *For ESA-listed species,* indicate if you are willing to participate in a captive breeding program if requested by NMFS.
- i. Indicate the disposition of captive animals at the termination of research or enhancement activities.
- j. If release of captive animals to the wild is proposed, state the length of time the animals will be held, no matter how temporary, and describe the protocols for the release, including post-release monitoring protocols. Include in the release protocol mitigation for the following:
  - disease transmission between released animals and the wild population;
  - potential genetic exchanges between introduced and endemic stocks;
  - ability of the released animals to forage and protect themselves from predators;
  - and

- elimination of behavioral patterns acquired during captivity that could prove detrimental to the released animals or the social structure of local populations.

#### **4. Lethal Take**

- If **intentional** lethal take is involved, provide an explanation of why a non-lethal method is not feasible; and, for depleted, endangered, or threatened species, describe how the research results will directly benefit the species or stock or fulfill a critically important research need. Provide detailed methods of lethal take, number of animals to be taken, and protocols for tissue collection and carcass disposal.
- If **unintentional** mortality or serious injury<sup>7</sup> is possible as a result of the proposed activities, indicate the maximum number of animals from each species that could die or be seriously injured incidental to the research per year. Please note that this refers not only to animals that die during the conduct of research, but also to those that may succumb, at some later time, due to effects of research such as capture myopathy, adverse reaction to drugs, infection at the site of intrusive procedures, or abandonment of dependent young. Describe the potential ways that animals may die incidental to the proposed activities and include protocols for tissue collection and carcass disposal.

#### **5. Exports of Marine Mammals from the U.S.**

- Foreign applicants requesting the export of marine mammals, or marine mammal parts/products from the U.S., must submit their applications to NMFS through the appropriate agency of the foreign government (*e.g.*, the CITES management authority). The appropriate agency of the foreign government must certify the accuracy of the information submitted in the application.
- If the application is for the export from the U.S. of living marine mammals subject to the MMPA, ESA, or Fur Seal Act (FSA), then the appropriate agency of the foreign government must certify that the laws and regulations of the government involved allow enforcement of requirements equivalent to the requirements of the ESA, MMPA, FSA, and AWA, as applicable, and that the government involved will enforce such requirements.

#### **D. Research Effects and Mitigation Measures**

*The information you provide on the effects of your activities on the subject animals is critical for completing the analyses required under the applicable statutes (MMPA, AWA, ESA, and NEPA). Please provide complete information to facilitate timely processing of your application. Include references where available. References may include both published and unpublished sources of information. If no information is available for the proposed species, inferences may be made from other species.*

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<sup>7</sup> Serious injury is defined by regulation as any injury that will likely result in mortality.

## **1. Effects**

- a.** Clearly indicate the known or anticipated effects (*i.e.*, stress, pain, suffering, injury; effects on behaviors such as resting, foraging, migration, mating, nursing, etc.) of each activity proposed (*e.g.*, effects of capture, blood sample, tag; effects of aerial and vessel survey/close approach, etc.) on the target species in the application, based on published or unpublished data or information on other species.

Considerations of risk assessment are of particular importance for completing this section. For example, describe what it is about an activity that puts an animal at risk and explain how different activities both individually and combined may pose a risk to the animal. Explain the anticipated effects on the individual animals as well on the population or stock as a whole, and what this determination is based on. Include citations for any relevant references and be prepared to provide copies if requested.

- b.** Also describe any potential effects of incidental harassment or take of conspecifics or other non-target species (*e.g.*, other marine mammals, fish, or invertebrates; any threatened or endangered animals including fish, birds, reptiles, and mammals) in the study area.

***Refer to Appendix III for specific information to include in the description of the effects of your activities.***

## **2. Measures to minimize effects**

For each activity, describe all measures to be taken to minimize adverse effects and to ensure that the activity will be conducted in a humane manner, with minimal disturbance and/or harm. For example: describe measures that would be taken to minimize the potential for stress, pain, injury, infection, and mortality during capture, restraint, and intrusive procedures. If using sedatives or immobilizing agents, discuss measures that would be taken if an animal had an adverse reaction to the drug. For active acoustic work (*e.g.*, controlled exposure experiments), describe measures that would be taken to minimize the potential for disturbance, injury, and mortality from exposure to the sound. Indicate measures that would be taken to minimize any incidental disturbance of non-target animals and any potential adverse reactions, including the potential for injury or death (*e.g.*, from a stampede).

## **3. Monitoring effects of activities**

Indicate any post-handling or post-disturbance monitoring procedures that would be conducted to evaluate the effects of the proposed activities and/or to ensure animals have recovered.

## **4. Alternatives**

- a.** If the proposed activities will or may cause stress, discomfort, pain, suffering, injury, or mortality, you must explain why there are no feasible alternative methods (*e.g.*, less intrusive procedures) for obtaining the data or information being sought.

*For research on marine mammals and where your institution requires the following:* Indicate the status of your Institutional Animal Care and Use Committee (IACUC) review and approval. If the protocols have been approved, submit the signed approval for the activities proposed in this application and include any comments from the IACUC. If the protocols have not been approved, indicate why.

Applicants are strongly encouraged to submit a copy of the protocols that have been submitted to and approved by their IACUC, as additional support for choice of species, numbers of animals, and methodologies.

*NOTE:* The PI, CIs, or other individuals listed in this application cannot vote during the IACUC review of the application.

Animal Welfare Act requirements for IACUC's apply to all research facilities, which include institutions, organizations, or people that use or intend to use live animals in research, tests, or experiments; and, that receive funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the U.S. for the purpose of carrying out research, tests, or experiments.

A field study that "involves an invasive procedure, harms, or materially alters the behavior of an animal under study" is subject to IACUC review and approval.

**E. Resources Needed to Accomplish Objectives**

Attach copies of any relevant formal research proposals, contracts, or letters of agreement that would demonstrate the financial or logistical resources available to the applicant to conduct and complete the proposed activities. Include the name and address of sponsors, cooperating institutions/researchers, or contractors. Explain any coordination that will occur with these or other individuals or organizations to minimize duplication in effort.

**F. Publication of Results**

Indicate where and, if possible, when, the research results would be published or otherwise made available to the public and the scientific community.

## **V. National Environmental Policy Act Considerations**

*Under the National Environmental Policy Act (NEPA), NMFS is required to determine whether issuance of your proposed permit would, in combination with other factors, result in significant cumulative impacts on the human environment, which includes the biological components of the environment. In order for NMFS to make this determination, your application must contain sufficient information to conclude whether an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required, or if the research and/or enhancement permit is categorically excluded from the requirement to prepare an EA or EIS, and to prepare an EA or EIS where applicable. Please answer, to the best of your knowledge, the following questions. Please note that a simple “yes” or “no” is not sufficient. Please provide a detailed explanation for each response. The information below will be used, along with the information you have provided on the types of activities proposed and their effects on animals, in determining the potential impacts of your research on the environment.*

1. Will your research or enhancement activity involve equipment (e.g., scientific instruments) or techniques that are new, or may be considered innovative or experimental? If yes, are they likely to be adopted by other researchers in the future?
2. Does your activity involve the collection, handling, or transport of potentially infectious agents or pathogens (e.g., biological specimens such as blood), and/or does your activity involve the use or transport of hazardous substances (e.g., toxic chemicals)? If so, provide a description of protocols to be used to ensure human safety from injury or zoonotic disease transmission.
3. If any of your activities occur in or near unique geographic areas (such as National Marine Sanctuaries, Marine Protected Areas, State National Parks or Wilderness Areas, Wildlife Refuges, Wild and Scenic Rivers, designated Critical Habitat for endangered species, Essential Fish Habitat, etc.), would any aspect of your activities impact the physical environment, such as by direct alteration of substrate (e.g., bottom trawling, net setting, anchoring vessels or buoys, erecting blinds or other structures, disrupting nesting bird habitat, etc.)?
4. Do you know if your work could affect entities listed in or eligible for listing in the National Register of Historic Places, or cause loss or destruction of scientific, cultural, or historic resources (e.g., archeological resources, species used for subsistence purposes, etc.)? If so, list the sites and explain how they might be affected or why they would not be affected.
5. Would any of your proposed activities include actions that might involve the transportation of any material, biological or otherwise, from one area to another (e.g., transport of animals or tissues, ballast water discharge, working in sensitive remote areas, etc.). If so, please explain the types of activities and indicate any measure you would take to prevent the possible introduction or spread of non-indigenous or invasive species (including plants, animals, microbes, or other biological agents).

## **VI. Previous and Other Permits**

### **A. Previous Permits**

If the applicant, PI, or CIs have been issued previous permits for the taking, import, or export of species under NMFS jurisdiction, indicate permit numbers and ensure that all reports required to date have been submitted. Applications for new permits or permit amendments/modifications cannot be processed until all reporting requirements for previous permits have been satisfied.

### **B. Other Permits**

State Parks or Reserves, National Marine Sanctuaries, National Parks, etc., may also require you to obtain a permit for activities within their jurisdiction. It is your responsibility to obtain these additional permits. These permits may place restrictions or requirements on your activities in addition to any NMFS may impose under the ESA or MMPA.

Indicate what other Federal, State, or local permits (*e.g.*, USFWS, National Marine Sanctuaries, the Army Corps of Engineers, National Park Service, etc.) are necessary and have been sought and/or issued in connection with the requested research or enhancement activities.

Please be aware that research in the coastal zone surrounding various states including Alabama, Hawaii, Washington, and Guam and the Commonwealth of the Northern Marianas, must meet the criteria for Coastal Zone Consistency before a permit can be issued. These jurisdictions have up to six months to make a determination of consistency. It is the applicant's responsibility to seek this determination. Please state if such a determination has been sought and when a decision is expected.

## **VII. References**

This is the bibliography for the entire application. You must include complete citations for any referenced material cited. Citations must include: the names of all authors, article title, book or journal title, volume number, page numbers, year of publication, name and location of publisher. For technical memorandum, thesis, or other similar publications, sufficient information should be provided to allow for document retrieval.

Referenced materials must be made available to the Permits Division upon request, as needed for evaluation of the application, or preparation of any necessary ESA and/or NEPA analyses.

### **VIII. Certification and Signature**

The following Certification, followed by the signature, name, and title of the applicant or Responsible Party, must be submitted as the concluding section of the application. Note that the list of statutes (ESA, MMPA, and FSA) in this certification should correspond to those indicated in your application title.

*"I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under one or more of the following statutes and the regulations promulgated there under, as indicated in Section I of this application:*

*The Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and regulations (50 CFR Part 222); and/or*

*The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and regulations (50 CFR Part 216); and/or*

*The Fur Seal Act of 1966 (16 U.S.C. 1151-1175).*

*I also understand that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties provided under the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, or the Fur Seal Act of 1966, whichever are applicable."*

Signature of Applicant and Date of Signature

Typed or Printed Name of Applicant

Title of Applicant

**Additional Information:**

Under section 104(c) of the MMPA and section 10(a)(1)(A) of the ESA, persons may be authorized to take marine mammals and threatened and endangered species, respectively, for purposes of scientific research or enhancing the survival of the species. Interested persons are required to submit an application in accordance with the Acts and the implementing regulations at 50 CFR part 216, subpart D, and 50 CFR part 222. These regulations are available at the following web site: <http://www.gpo.gov/>. MMPA section 104 is available at: <http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa104.pdf>. ESA section 10(a)(1)(A) is available at: [http://www.nmfs.noaa.gov/pr/pdfs/laws/esa\\_section10.pdf](http://www.nmfs.noaa.gov/pr/pdfs/laws/esa_section10.pdf).

The information requested in this application is required and is used to determine whether the activities described in the application are consistent with the purposes and policies of the Acts and their implementing regulations.

Public reporting burden for this collection of information is estimated to average 32 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Chief, Permits Conservation and Education Division, Office of Protected Resources, F/PR1, NOAA/National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

All permit documentation, including the application, permit and amendments, reports, inventory information, and any other associated documents are considered public information and as such, are subject to the Freedom of Information Act.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.



**APPLICATION INSTRUCTIONS  
AND SUPPLEMENTAL INFORMATION  
FOR SCIENTIFIC RESEARCH OR ENHANCEMENT  
PERMITS UNDER THE  
ENDANGERED SPECIES ACT  
MARINE MAMMAL PROTECTION ACT  
FUR SEAL ACT**

**APPENDICIES**

**APPENDIX I: OVERVIEW OF PERMITS/AUTHORIZATIONS**

The Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) provide for the following types of permits/authorizations:

**Scientific Research and/or Enhancement Permits**

Under Section 10 of the Endangered Species Act of 1973 (ESA), permits may be issued to take threatened or endangered species for scientific purposes or to enhance the propagation or survival of a species. Research conducted pursuant to a permit issued under the ESA must be consistent with the objectives identified in the species recovery or conservation plan, or otherwise likely to contribute to conservation of the species. National Marine Fisheries Service (NMFS) regulations implementing the provisions of the ESA section 10 can be found at 50 CFR Parts 222-226.

Under Section 104 of the MMPA, permits may be issued for the taking of marine mammals for scientific research and/or enhancement purposes. Research conducted on marine mammals must be *bona fide* (i.e., scientific research on marine mammals, the results of which – likely would be accepted for publication in a referred scientific journal; are likely to contribute to the basic knowledge of marine mammal biology or ecology; or are likely to identify, evaluate, or resolve conservation problems). NMFS regulations implementing the provisions of the MMPA Section 104 can be found at 50 CFR Part 216.

*Note:* NMFS may authorize the use of healthy rehabilitated beached/stranded marine mammals for research purposes in lieu of taking animals from wild populations (50 CFR 216.27). Where a captive marine mammal is necessary for the conduct of scientific research, particularly in the case of U.S. coastal pinnipeds, such as California sea lions (*Zalophus californianus*), applicants must justify the need for capturing animals from the wild rather than obtaining them from rehabilitated beached/stranded stock. For information on the availability of these animals contact the appropriate NMFS Regional Office:

<http://www.nmfs.noaa.gov/pr/health/coordinators.htm>

**Research and Enhancement Permits involving Sea Turtles on Land**

Permits to conduct research or enhancement activities on endangered or threatened sea turtles are issued by the U.S. Fish and Wildlife Service (USFWS) for turtles on land, including beached/stranded sea turtles and sea turtles in rehabilitation. Application instructions for sea

turtles on land can be obtained by calling the USFWS Division of Management Authority at (800) 358-2104 or by visiting their web site at <http://permits.fws.gov/>.

### **Salmon Research and Enhancement Permits under the ESA**

Permits to conduct research or enhancement on endangered or threatened salmon are issued by the NMFS Northwest and Southwest Regional Offices. Information may be obtained by visiting their web sites: Northwest Region main page: <http://www.nwr.noaa.gov> and the Southwest Region main page: <http://swfsc.noaa.gov> or by calling the Endangered Species Division, Office of Protected Resources at (301) 713-1401 for further information.

### **Commercial or Educational Photography Permits for Marine Mammals**

The 1994 amendments to the MMPA provided new authority to issue permits for educational and commercial photography involving only Level B harassment<sup>8</sup> of non-ESA listed marine mammals<sup>9</sup>. Presently, NMFS is reviewing such applications on a pilot basis and may publish a Proposed Rule in the *Federal Register* based in part on the information obtained from these applications (50 CFR 216.42).

The commercial photography application instructions can be obtained at the following web site: [http://www.nmfs.noaa.gov/pr/permits/mmpa\\_permits.htm#photo](http://www.nmfs.noaa.gov/pr/permits/mmpa_permits.htm#photo)

*NOTE:* These permits apply only to commercial or educational photography of non-ESA listed species with methods involving only Level B harassment. These permits do not provide any authorization for activities involving ESA-listed species, methods involving Level A harassment, or scientific research.

### **Letters of Confirmation under the General Authorization**

The 1994 amendments to the MMPA established a streamlined “General Authorization” (GA) procedure for obtaining permission to conduct research activities involving only Level B harassment (*e.g.*, photo-identification, aerial surveys). If your research meets these criteria, you may be eligible to obtain a letter of confirmation under the GA. Note that research on ESA-listed marine mammals requires a separate permit. You should contact the Permits Division to confirm whether your research can be covered under the GA. Interim Final Regulations implementing the GA (50 CFR 216.45) were published by the Service in the *Federal Register* on October 3, 1994 (59 FR 50372) and are available on the Service’s web site at [http://www.nmfs.noaa.gov/pr/permits/mmpa\\_permits.htm#ga](http://www.nmfs.noaa.gov/pr/permits/mmpa_permits.htm#ga).

*NOTE:* In the event that your proposed research activities involve either (1) both ESA listed and non-ESA listed species, and/or (2) both Level A and Level B harassment activities, the scientific research permit requirements take precedence over the GA.

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<sup>8</sup> Harassment (as defined in the MMPA) – Any act of pursuit, torment, or annoyance which –  
1) Level A harassment: has the potential to injure a marine mammal or marine mammal stock in the wild; or 2)  
Level B harassment: has the potential to disturb a marine mammal or marine mammal stock in the wild by causing a disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

<sup>9</sup> A list of marine mammal species and information on the status of the species under the ESA is available at the following web site: [http://apps.nmfs.noaa.gov/docs\\_cfm/species\\_lists.cfm](http://apps.nmfs.noaa.gov/docs_cfm/species_lists.cfm).

### **Public Display of Marine Mammals**

Public display permits are required for the capture of marine mammals in the wild, for the importation of marine mammals, and for obtaining releasable rehabilitated marine mammals for purposes of public display. Applications for a public display permit can be found at [http://www.nmfs.noaa.gov/pr/permits/mmpa\\_permits.htm#display](http://www.nmfs.noaa.gov/pr/permits/mmpa_permits.htm#display) or by calling the NMFS Permits, Conservation and Education Division at (301) 713-2289.

A NMFS permit is **not** required for publicly displaying marine mammals. Public display of marine mammals is based on three criteria. Facilities holding and maintaining marine mammals for public display purposes must: (1) maintain facilities that are open to the public on a regularly scheduled basis with access that is not limited or restricted other than by charging an admission fee; (2) offer a program of education or conservation that is based on professionally recognized standards of the public display community; and (3) be registered or hold an exhibitor's license, issued by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA/APHIS), under the Animal Welfare Act (AWA; 7 U.S.C. 2131 *et seq.*). See Appendix IV for more information on the AWA.

Permits are **not** issued for the exportation of marine mammals for public display. The receiving holder/facility must meet standards that are comparable to those applicable to domestic facilities and/or permit holders under the MMPA, and the appropriate agency of the foreign government must submit a statement certifying that: (1) the application is accurate; (2) the laws and regulations of the government involved have equivalent provisions to the MMPA and AWA, and that such laws will be enforced; and (3) the government will provide comity to requests made by NMFS (*e.g.*, requests to enforce the requirements of the MMPA or comparable laws with respect to the facility).

A stranded marine mammal that has been classified as non-releasable may be held for the purposes of public display without a permit and in accordance to the three public display criteria. A permit is required to hold a releasable marine mammal in captivity for any purpose including public display.

### **Import/Export of Pre-Act Parts**

A letter of authorization is required for importing or exporting “pre-Act” parts under NMFS jurisdiction for commercial or personal use. Pre-Act parts are either those marine mammal parts taken prior to enactment of the MMPA, or those parts of species listed under the ESA that are at least 100 years old. Instructions for how to apply for authorization to import or export pre-Act parts may be found at: [http://www.nmfs.noaa.gov/pr/permits/parts\\_instructions.htm](http://www.nmfs.noaa.gov/pr/permits/parts_instructions.htm).

### **Receipt of Marine Mammal Parts from the NMFS Stranding Network under the MMPA**

If you would like to receive marine mammal parts taken from marine mammals (that stranded after 1972) for use in scientific research, education, or curation, please contact the appropriate NMFS Stranding Network Coordinator. Contact information for Stranding Network Coordinators can be found at <http://www.nmmfs.noaa.gov/pr/health/coordinators.htm>. *NOTE: If you intend to develop cell lines from such parts for research purposes, you must apply for a scientific research permit using the application instructions for scientific research purposes.*

### **Incidental Take Permits/Authorizations under the MMPA and/or ESA**

If you are conducting a non-research related activity that may affect marine mammals or ESA-listed species, you may need an incidental harassment authorization, incidental take permit, or coverage through the ESA Section 7 process (and issuance of an incidental take statement under section 7(b)(4)). If you are conducting research on animals incidentally taken during some other activity (*i.e.*, the capture is not part of your research), you must ensure that the animals have been taken legally. For example, if you are going to sample, tag, and measure sea turtles that have been captured incidentally in a fishery, you need to make sure that the capture of the turtles was legal. In this instance it would be appropriate to request a research permit to conduct the tagging, measuring and tissue sampling, but not for the capture. To determine what type of coverage you would need, visit the following web sites:

<http://www.nmfs.noaa.gov/pr/permits/guide.htm>

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>

[http://www.nmfs.noaa.gov/pr/permits/esa\\_permits.htm](http://www.nmfs.noaa.gov/pr/permits/esa_permits.htm)

## APPENDIX II: DEFINITIONS

**Acute behavioral response** - Repeated, prolonged or excessive instances of behavior, brought on by any act or omission of the researcher and manifested by, among other actions on the part of an animal, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities, attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movement; movement away from researchers by pinnipeds, including a stampede; or the abandonment of a previously frequented area.

**Animal and Plant Health Inspection Service (APHIS)** – Part of the U.S. Department of Agriculture that has responsibility for administering the provisions of the Animal Welfare Act to regulate the care and treatment of warm blooded animals bred for commercial sale, used in research, transported commercially, or exhibited to the public, except those animals used for agricultural purposes. APHIS has established regulations and standards for animal care, including “Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals” (9 CFR Ch. 1, Subpart E).

**Animal Welfare Act** (AWA; 7 U.S.C. 2131 *et seq.*) – Federal statute created in 1966 to “(1) insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment; (2) assure the humane treatment of animals during transportation in commerce; and (3) protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.”

**Applicant/ Permit Holder** - Person, institution, or agency that is ultimately responsible for all activities of any individual who is operating under the authority of the permit. *NOTE:* there can be only one person/institution/agency designated as the Applicant/Permit Holder.

**Approach** – For the purposes of cetacean research: a continuous sequence of maneuvers (episode) involving a vessel, aircraft, or researcher's body in the water, including drifting, directed toward a cetacean or group of cetaceans for the purposes of conducting authorized research which involves one or more instances of coming closer than 100 yards to that cetacean or group of cetaceans.

**Attempt** - An effort made to accomplish some permitted activity whether or not the objective is accomplished (*e.g.*, a tag or biopsy dart deployment from a crossbow, air gun, or pole that may or may not result in a successful deployment).

**Biological Opinion** – Under Section 7 of the Endangered Species Act, “a written statement setting forth the Secretary’s opinion and a summary of the information on which the opinion is based”. Biological opinions are produced in fulfillment of a federal agency’s requirements under the ESA “to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of designated critical habitat.”

**Bona fide scientific research** (as defined under the MMPA) - Scientific research on marine mammals conducted by qualified personnel, the results of which: 1) likely would be accepted for publication in a refereed scientific journal; 2) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or 3) are likely to identify, evaluate or resolve conservation problems. Research that is not on marine mammals, but that may incidentally take marine mammals, is not included in this definition.

**Code of Federal Regulations (CFR)** – Regulations created by various federal agencies to support and explain federal statutes. The NMFS and USFWS have created wildlife and fisheries regulations to support and clarify sections of the MMPA and ESA (50 CFR 1 – 599). Specifically, parts 17, 18, 216, 222-226, and 402 are applicable to research and enhancement permits for marine mammals and endangered and threatened species under NMFS and USFWS jurisdiction.

**Co-investigator (CI)** - The on-site representative of a Principal Investigator (PI) who has qualifications comparable to the PI and who is authorized to conduct or directly supervise the conduct of the taking, import, and export activities authorized under a permit. There can be numerous CIs designated under a single permit. For example, there could be separate CIs in charge of distinct activities/projects under a permit, or responsible for distinct geographic areas under a permit.

**Distinct Population Segment (DPS)** – A subgroup of a vertebrate species that is treated as a species for purposes of listing under the Endangered Species Act. It is required that the subgroup is separable from the remainder of and significant to the species to which it belongs.

**Enhancement permits** - Permits “issued for the recovery of a species or stock where taking or importation: a) is likely to contribute significantly to maintaining or increasing distribution or numbers necessary to ensure the survival or recovery of the species or stock; and b) is consistent with any conservation plan adopted by the Secretary [NMFS or USFWS] for the species or stock, or if there is no conservation or recovery plan in place, with the Secretary’s evaluation of action required to enhance the survival or recovery of the species or stock...”

**Evolutionary Significant Unit (ESU)** - A section of a population that 1) is reproductively isolated from other conspecific population units, or 2) represents an important component in the evolutionary history of a species.

**Flipper tag** – A plastic or metal tag attached to the flipper of a sea turtle, phocid, or otariid and used for identification of individual animals.

**Handling/restraint time** - The amount of time that an animal is physically handled or restrained during research activities (*i.e.*, weighed, measured, tagged, biopsied, etc.).

**Harassment** (as defined in the MMPA) – Any act of pursuit, torment, or annoyance that 1) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or 2) has the potential to disturb a marine mammal or marine mammal stock in

the wild by causing a disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Harassment includes the disruption of the normal behavior or prior activity of an animal by any act or omission. This disruption of normal behavior may be manifested by, among other actions on the part of the animal, interruptions of breeding, nursing, or resting activities; a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; attempts by a cetacean to shield a calf from a vessel or human observer by tail swishing or by other protective movement; movement away from researchers by pinnipeds, including a stampede; or the abandonment of a previously frequented area.

**Hard parts** - Any bone, tooth, baleen, treated pelt, or other part of an animal that is relatively solid or durable.

**Holding time** - The time from capture to the time of release.

**Humane** (as defined in the MMPA) - The method of taking, import, export, or other activity that involves the least possible degree of pain and suffering practicable to the animal involved.

**Intrusive research** (as defined under the MMPA) - A procedure conducted for bona fide scientific research involving: A break in or cutting of the skin or equivalent, insertion of an instrument or material into an orifice, introduction of a substance or object into the animal's immediate environment that is likely either to be ingested or to contact and directly affect animal tissue (*i.e.*, chemical substances), or a stimulus directed at animals that may involve a risk to health or welfare or that may have an impact on normal function or behavior (*i.e.*, audio broadcasts directed at animals that may affect behavior). For captive animals, this definition does not include: 1) A procedure conducted by the professional staff of the holding facility or an attending veterinarian for purposes of animal husbandry, care, maintenance, or treatment, or a routine medical procedure that, in the reasonable judgment of the attending veterinarian, would not constitute a risk to the health or welfare of the captive animal; or 2) A procedure involving either the introduction of a substance or object (*i.e.*, as described in this definition) or a stimulus directed at animals that, in the reasonable judgment of the attending veterinarian, would not involve a risk to the health or welfare of the captive animal.

**Live car** - A tank of flowing and/or oxygenated water on a boat or shore where fish are placed to keep them alive.

**Marine Mammal Commission (MMC)** – The MMC is an independent agency of the U.S. Government, established under Title II of the Marine Mammal Protection Act. In enacting the Act in 1972, Congress recognized that those federal agencies with primary regulatory responsibility for marine mammal programs may have potentially conflicting missions and had, in some instances, failed to prevent the over-harvesting and endangerment of stocks. Thus, the MMC was created to provide independent oversight of the marine mammal conservation policies and programs being carried out by the federal regulatory agencies. The MMC is charged with developing, reviewing, and making recommendations on domestic and international actions and

policies of all federal agencies with respect to marine mammal protection and conservation and with carrying out a research program.

**Net checking** - A complete and thorough visual check of a net either by snorkeling the net in clear water or by pulling up on the top line such that the full depth of the net is viewed along the entire length.

**Permit Holder** - Person, institution, or agency that is ultimately responsible for all activities of any individual who is operating under the authority of the permit.

**PIT tag** - Passive integrated transponder tags, inserted into study animals for purposes of individual identification. These internal tags are read by scanning with a special reader.

**Ports, Designated** - U.S. Customs ports designated for the importation or exportation of wildlife. These ports include the following:

- Anchorage, AK
- Atlanta, GA
- Baltimore, MD
- Boston, MA
- Chicago, IL
- Dallas/Fort Worth, TX
- Honolulu, HI
- Houston, TX
- Los Angeles, CA
- Louisville, KY
- Memphis, TN
- Miami, FL
- Miami, FL
- New Orleans, LA
- New York, NY
- Newark, NJ
- Portland, OR
- San Francisco, CA
- Seattle, WA

**Principal Investigator (PI)** - The individual primarily responsible for the taking, importation, exportation, and any related activities conducted under a permit issued for scientific research or enhancement purposes. The PI must have qualifications, knowledge and experience relevant to the type of research activities authorized by the permit.

**Rehabilitation** (as defined under the MMPA) - Treatment of beached and stranded marine mammals taken under section 109(h) of the MMPA with the intent of restoring the marine mammal's health and, if necessary, behavioral patterns, for release back to the wild.

**Researchers** – Researchers include personnel involved in the permitted activities, including the Permit Holder, Principal Investigator, Co-investigator(s), and Research Assistants.



**Research Assistant (RA)** - Individual who works under the direct and on-site supervision of the CI or PI. The qualifications and experiences of the RA must be commensurate with his/her assigned responsibilities.

**Responsible Party** - The Responsible Party is an official who has the legal authority to bind the organization. Where an applicant for a permit is an organization/institution/agency rather than an individual, the application must be signed by the Responsible Party. In addition, the permit, which is a legally binding document, must be signed by the Responsible Party to validate it.

**Sanctuary net** - A fish net that holds water during transfer.

**Secretary** – The Secretary of Commerce (NMFS) or the Secretary of the Interior (USFWS).

**Serious injury** - Any injury that will likely result in a mortality.

**Soft parts** - Any part that is not a hard part, *e.g.* blood, blubber, or other tissue samples. Soft parts do not include urine or fecal material.

**Stranded marine mammal** (as defined under the MMPA) - A marine mammal specimen under the jurisdiction of the Secretary of Commerce, if: 1) the specimen is dead and is on a beach or shore, or is in the water within the Exclusive Economic Zone of the U.S.; or 2) the specimen is alive, and is on a beach or shore and is unable to return to the water, or is in the water within the Exclusive Economic Zone of the U.S. where the water is so shallow that the specimen is unable to return to its natural habitat under its own power.

**Take** – **As defined in the MMPA:** To harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes by regulatory definition, without limitation, any of the following: the collection of dead animals, or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild. **As defined in the ESA:** To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

**Take table** - An tabular outline, by species, age, and sex, of the type of activities requested in an application or authorized in a permit over a specified time period, including the number of takes per activity, the number of takes per individual, and the location of takes and activities.

**Trotline** - A fishing line that lays on the bottom of a river or bay, usually with smaller lines off it. Bait is attached at various points along the line.

### APPENDIX III: ADDITIONAL GUIDANCE ON APPLICATION

**As applicable, include the following information in the narrative description of the methods you propose to use (Section IV. C. 2 of Application Instructions):**

**Acoustics:** Provide all of the following operational details about the sound source: frequency, source level characteristics including descriptive statistics (*i.e.*, minimum, maximum, mean; how source levels vary as a function of time), source depth in water column, signal duration, duty cycle, and energy output.

Please specify the anticipated maximum received level of sound at the target animals and expected behavioral or physical responses of target and non-target animals. Consider and discuss possible effects on marine species other than mammals and sea turtles. Include a discussion of mitigation and monitoring measures that would be employed such as ramp-up or shutdown protocols and observer protocols. You are also encouraged to provide results of a propagation model appropriate to the geographic location and time of year proposed for the broadcasts.

For acoustic studies on captive animals, in addition to the information above, provide what is known about baseline hearing parameters, sensitivity of methods in measuring noise impacts, and what follow-up measurements will be taken.

**Aerial and boat surveys:** Indicate type of aircraft or vessel, flight altitudes, approach distance of boats to animals, and frequency of surveys. Provide details on the type of survey you are conducting (*e.g.*, line transect). If surveys will include photo-identification, indicate whether the survey craft will break from the transect and approach target animals more closely. If photo-identification or other activity will require multiple approaches, indicate the maximum number of approaches per animal.

**Capture:** Describe capture methods in detail, including number of persons used to capture, if applicable, and how you will approach and physically capture an animal. For nets, include size of net, net mesh size, deployment method, and soak time if applicable. For traps, describe the dimensions of the trap and deployment or operation. Include any net or trap monitoring protocols.

**Handling/Restraint:** Describe handling/restraint methods in detail. Indicate maximum handling/restraint time needed per animal to complete the proposed procedures, and number of persons required for restraint. Indicate whether sedatives or immobilizing drugs will be used and if so, type, dosage, and route of administration. Indicate maximum duration of sedation/immobilization and whether reversal and/or emergency drugs and resuscitation equipment would be used if necessary. For pinnipeds, indicate approximate time needed on a rookery/haul-out to conduct the procedures.

**Import/export:** Provide a detailed description of how the animals or parts to be imported were or would be taken in the country of origin, addressing the humaneness of collection of live animals

from the wild and sample collection from live animals, or how an animal died (*e.g.*, natural stranding or died incidental to fisheries), as applicable. Provide documentation regarding the legality of the take in the country of origin. Describe shipment/transport methods for import/export. If an import would be necessary for the protection or welfare of a marine mammal, discuss the circumstances involved and any alternatives considered. See also “*Sample collection and analysis*” below.

**Marking:** Indicate type of mark (*e.g.*, hot-brand, flipper tag, bleach, photo-ID, etc.) and describe the method used to mark the animal. For example, for hot- or freeze-branding, describe location of brand on animal, type of branding iron, iron temperature, contact time, total size of brand (*e.g.*, three 5-cm by 8-cm characters); and indicate whether anesthesia will be used and if not, why. Also describe mark-recapture methodologies.

**Sample collection and analysis:** Give protocols for how all specimens will be collected, citing references where appropriate, and include safe handling procedures for working with hazardous and biological materials. Describe all parts/samples (*e.g.*, blood, blubber biopsy, fin clip, etc.) that will be taken, imported, or exported, including a description of size (*e.g.*, 5 mg blubber biopsy) or volume (*e.g.*, 50 ml blood) and number of samples that will be taken per animal. Indicate the amount needed for the various analyses proposed.

Describe how samples will be stored, transported, shipped, and analyzed. Indicate if any analyses will be contracted out or otherwise completed by persons not listed as Co-investigators in this application. List and attach statements of agreement from these collaborators to the application (if available).

Provide a description of what arrangements have been made, if any, for disposition of any parts or samples remaining after the research or enhancement activities are complete, including curation at your institution. Describe any arrangements made with a museum or other institutional collection to ensure that remaining tissues will be available for scientific research or enhancement purposes.

Please note that NMFS has established a National Marine Mammal Tissue Bank that is a source and repository of material for qualified researchers. For more information on receiving or donating tissues, contact the Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources (301) 713-2232 or visit the following web site:  
<http://www.nmfs.noaa.gov/pr/health/tissue/> .

**Scientific instruments:** Provide a complete description (weight and external dimensions) of any equipment to be attached to or implanted in an animal (*e.g.*, TDR, VHF tag, PIT tag, etc.), as well as a description of the method of attachment or implantation (and removal where applicable), location of placement on the animal, number of attachments/implantations per animal (*e.g.*, TDR and satellite tag) and whether they are combined or not, anticipated duration of attachment or implantation, and method of retrieval or tag release. Describe hydrodynamic drag properties for external tags, with citations if possible. For sonic tags, also include emission frequency. Describe protocol for tracking and monitoring instrumented animals.

**As applicable, include the following information in the description of the effects of your activities on animals (Section IV. D. 1 of Application Instructions):**

***Acoustics:*** Describe anticipated responses of the target individuals to the sound. Discuss known or possible effects of the sound on the target individual, such as disturbance, temporary threshold shift, or permanent threshold shift. If behavioral or physiological effects are possible from exposure, discuss what proportion of animals exposed to the sound is likely to respond or be affected. Also discuss known or possible effects of the sound on non-target animals that may be within the area of propagation.

***Aerial and boat surveys:*** Describe anticipated responses of individuals of each proposed species to survey craft. If the survey method is known or likely to result in disturbance, discuss what proportion of animals exposed to the survey is likely to respond and the nature and duration of their response.

***Capture:*** Describe anticipated responses (*e.g.*, evading approach; exhibiting stress response with increased respirations, etc.) of individuals of each proposed species to capture in general, and to the proposed capture method in particular. Also indicate whether the capture method is known or likely to result in injury or mortality, and what proportion of animals subjected to the method could be injured or die, based on previous experience or published work.

For any non-target species that may be incidentally caught, describe what effects this could have on those species. Also indicate whether your nets or capture methods could affect the physical or biological environment, such as by alteration or disturbance of substrate or vegetation.

***Handling/Restraint:*** Describe anticipated responses of individuals of each proposed species to the types of handling and restraint proposed, including effects of sedatives or immobilizing agents if used. For example, indicate if individuals struggle and show signs of stress during restraint, etc., and describe how they react. Indicate the physiological response to any drug administered and clearance time of the drug. Also indicate whether the handling and restraint methods are known or likely to result in injury or mortality and what proportion of animals subjected to the method is likely to be injured or die. Also indicate who will be administering sedatives and immobilizing agents and what experience, training, or other qualifications they have to do so.

***Import/Export:*** For import/export activities that involve live animals, describe how the animals will respond to the transport, the duration of transport, and mitigation to minimize stress and injury during transport. Indicate the qualifications of the individuals accompanying the animals during transport. If an import/export would be necessary for the protection or welfare of a marine mammal, discuss the circumstances involved and special mitigation to be implemented.

***Incidental Harassment:*** Describe the anticipated responses of any non-target animals of the proposed species, including conspecifics and other species in the area, to your activities. If the proposed activities are known or likely to result in disturbance, discuss what proportion of animals exposed are likely to respond and the nature and duration of their response.

**Marking:** Describe anticipated responses of marked individuals of each proposed species to the application of the mark (*e.g.*, flipper tag, branding, etc.). Discuss known or possible effects of the mark on survival (including impacts on foraging ability and predator avoidance) and reproduction of the animal. Also indicate whether the marking method is known or likely to result in pain, infection, injury, or mortality. Include information on healing time where applicable. If infection or mortality is possible, indicate what proportion of animals subjected to the proposed procedure is likely to develop infection or die.

**Sample Collection:** Describe anticipated responses of individuals of each proposed species to each type of sampling method (*e.g.*, venipuncture, tissue biopsy, tooth pulling). Describe healing time where applicable. Also indicate whether the sampling methods are known or likely to result in pain, infection, or mortality. If infection or mortality is possible, indicate what proportion of animals subjected to the proposed procedure is likely to develop an infection or die.

**Scientific Instruments:** Describe anticipated responses of individuals of each proposed species to both the instrument attachment method and the presence of the instrument itself. For external instruments, include effects of drag. Also include a discussion, providing references, of known or possible effects of the instrument on movement, survival (including impacts on foraging ability and predator avoidance), and reproduction of the animal. If placing instruments on/in lactating mammals, discuss known or possible effects of the instrument on the female's ability to care for her dependent young. Indicate whether the tag attachment method is known or likely to result in stress, pain, injury, infection, or mortality. Also indicate whether the presence of the tag is known or likely to result in injury or infection.

## APPENDIX IV: RELEVANT STATUTES

### Animal Welfare Act

The Animal Welfare Act (AWA) (U.S.C. 2131 *et seq.*) was enacted in 1966 to “(insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment; (2) assure the humane treatment of animals during transportation in commerce; and (3) protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.”

The U.S. Department of Agriculture’s Animal and Plant Health Inspection Service (USDA/APHIS), has responsibility under the AWA for captive warm-blooded animals, including marine mammals. APHIS has established regulations and standards for animal care, including “Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals” (9 CFR Ch.1, Subpart E).

Most U.S. facilities maintaining animals as defined under the AWA, including marine mammals, are required to be licensed or registered by APHIS. For information concerning the AWA and its requirements and the name and address of the Veterinarian in Charge in the State concerned, contact the Regulatory Enforcement and Animal Care staff, USDA/APHIS (301/734-7833) or visit <http://www.aphis.usda.gov/>

Your application will be forwarded to APHIS for review and comment if your research or enhancement activities involve (1) the use of captive marine mammals, including marine mammals in rehabilitation, and/or (2) free-ranging animals if substantial AWA issues are identified during the initial review of the application.

For research to be conducted on captive (including rehabilitating) animals and/or any intrusive procedures to be conducted on captive or free-ranging animals, applicants are strongly encouraged to submit, with their permit application, a copy of the protocols submitted to their institution’s Animal Care and Use Committee (IACUC). A copy of the approval granted by the IACUC must accompany your application. The PI, CIs, or other individuals listed in this application cannot vote during the IACUC review of the application (9 CFR 2.31 (d)).

**NOTE:** Animal Welfare Act requirements for IACUC’s apply to all research facilities. “Research facilities” are defined in APHIS regulations (9 CFR 1.1) to mean “any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals in commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments....”

Under this definition, a researcher may qualify as a “research facility” even if animals are not brought into captivity. Based on APHIS regulations (9 CFR 1.1 and 2(d)(1)) a field study that “involves an invasive procedure, harms, or materially alters the behavior of an animal under study” is subject to IACUC review and approval.

### **Endangered Species Act**

The Endangered Species Act (ESA) (7 U.S.C. 16; 16 U.S.C. 4660 *et seq.*) was enacted in 1973 to conserve threatened and endangered plants and animals and their habitats. The law prohibits any action that results in a “taking<sup>10</sup>” of a listed species, or that adversely affects its habitat. The law also prohibits the import, export, and interstate and foreign commerce of listed species with the appropriate authorizations.

The ESA prohibits, with certain exceptions, the taking of species listed as threatened or endangered. The ESA provides for the issuance of permits to take threatened or endangered species for scientific research purposes and/or to enhance a species propagation or survival. Under the ESA, the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) share management responsibility for marine mammals and for threatened and endangered sea turtles (NMFS for sea turtles in the water, and USFWS for sea turtles on land). NMFS has sole responsibility under the ESA for salmon, shortnose sturgeon, smalltooth sawfish, and white abalone. NMFS regulations implementing the provisions of the ESA can be found at 50 CFR Parts 216 and 222-226; USFWS regulations can be found at 50 CFR Part 17.

Under Section 7 of the ESA, all federal agencies are required, “in consultation with and with the assistance of the Secretary, to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of designated critical habitat.” Thus, before issuing permits affecting ESA-listed species, the Permits Division must consult with the NMFS Endangered Species Division or the USFWS and obtain a written statement that the issuance of the permit is not likely to jeopardize any protected species. This written statement is known as a biological opinion. Federal regulations allow a minimum of 135 days for this consultation process.

### **Freedom of Information Act**

The Freedom of Information Act (FOIA) (5 U.S.C. 552) was enacted in 1966 to ensure that the federal government makes government information available to the public when requested. Certain restrictions apply to the release of information (*e.g.*, classified documents).

### **Fur Seal Act**

The Fur Seal Act (FSA) (16 U.S.C. 1151-1187) was enacted in 1966 to prohibit the taking of North Pacific fur seals, except by Alaska natives for subsistence purposes or by a permit issued by NMFS. NMFS’ regulations implementing the FSA for Alaska native purposes can be found at 50 CFR Part 215. Applications for permits for scientific research on northern fur seals are processed under the MMPA regulations of 50 CFR Part 216.

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<sup>10</sup> Under the ESA, the term “take” is defined as: *To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.*

### **Marine Mammal Protection Act**

The Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361-1407) was enacted in 1972 in partial response to growing concerns among scientists and the general public that certain species and populations of marine mammals were in danger of extinction or depletion as a result of human activities. The MMPA includes a general moratorium on the taking<sup>11</sup> and importing of marine mammals, with certain exceptions, on the taking and importing of marine mammals and marine mammal products. One exception provides for the issuance of permits by either NMFS or USFWS, depending on the species involved<sup>12</sup>, to take marine mammals for purposes of scientific research, public display, enhancing the survival or recovery of a species or stock, or educational or commercial photography. NMFS and USFWS regulations implementing the permit provisions of the MMPA can be found at 50 CFR Part 216 and 50 CFR Part 18, respectively.

### **National Environmental Policy Act**

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) was enacted in 1969 to ensure that the government gives proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment. Issuance of a permit is considered a major federal action and NMFS is required to comply with NEPA. Some applications may require additional environmental analyses under NEPA, which can substantially increase the time required for processing. If a threatened or endangered species is involved in a proposed research or enhancement activity, if the activity is considered controversial, or under other certain circumstances, preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) may be necessary.

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<sup>11</sup> Take (as defined in the MMPA): *To harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes by regulatory definition, without limitation, any of the following: the collection of dead animals, or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild.*

<sup>12</sup> NMFS has management authority for cetaceans (whales and dolphins) and pinnipeds (except walruses). USFWS has management authority for sea and marine otters, polar bears, walruses, manatees, and dugongs.



## APPENDIX V: NMFS REGIONAL OFFICES

Regional Office	Regional Jurisdiction
NMFS Alaska Region, P.O. Box 21668 Juneau, AK 99802-1668 Tel (907)586-7221; fax (907)586-7249	Alaska [including Arctic Ocean, Bering, Beaufort, Chukchi Seas]
NMFS Northwest Region 7600 Sand Point Way NE, BIN C15700 Seattle, WA 98115-0700 Tel (206)526-6150; fax (206)526-6426	Colorado, Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming
NMFS Southwest Region 501 West Ocean Blvd., Suite 4200 Long Beach, CA 90802-4213 Tel (562)980-4001; fax (562)980-4018	Arizona, California, Nevada,
NMFS Northeast Region One Blackburn Drive Gloucester, MA 01930-2298 Tel (978)281-9200; fax (978)281-9371	Connecticut, Delaware, District of Columbia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin
NMFS Southeast Region 263 13 <sup>th</sup> Avenue South St. Petersburg, FL 33701 Tel (727)824-5312; fax (727)824-5309	Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas
NMFS Pacific Islands Region 1601 Kapiolani Blvd., Room 1110 Honolulu, HI 96814-4700 Tel (808)973-2937; fax (808)973-2941	Hawaii, U.S. Pacific Islands [including American Samoa, Guam, Northern Mariana Islands]