

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 10/15/2007

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Barry West
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 08/13/2007

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200708-0648-002
AGENCY ICR TRACKING NUMBER:
TITLE: Marine Mammal Stranding Report/Marine Mammal Rehabilitation Disposition Report
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0178

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 10/31/2010

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	4,800	2,400	2,000
New	4,800	2,400	2,448
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	448
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Marine Mammal Stranding Report - Level A Data - Not for profits	89-864	Marine Mammal Stranding Report - Level A Data	
Marine Mammal Stranding Report - Level A - State, Local or Tribal Government	89-864	Marine Mammal Stranding Report - Level A	
Marine Mammal Rehabilitation Disposition Report	89-878	Marine Mammal Rehabilitation Disposition Report	

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

**SUPPORTING STATEMENT
MARINE MAMMAL STRANDING REPORTS/
MARINE MAMMAL REHABILITATION DISPOSITION REPORT
OMB CONTROL NO.: 0648-0178**

A. Justification

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

Under the Marine Mammal Protection Act (MMPA) Section 402, the Secretary of Commerce (Secretary), who has delegated responsibility under this Act to the National Oceanic and Atmospheric Administration (NOAA) Assistant Administrator for National Marine Fisheries Service (NMFS) is responsible for collecting information on strandings which the Secretary will compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals. The Secretary is also responsible for collection of information on other life history and reference level data, including marine mammal tissue analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.

Specifically, the collection of this information is authorized and mandated under three provisions of the MMPA. Under the MMPA, the Secretary is charged with the protection and management of marine mammals. In addition, determinations must be made on the sustainability of population stocks, on the impact of fisheries and other human activities on marine mammals and endangered species, and on the health of marine mammals and related environmental considerations. NOAA, NMFS has the responsibility to carry out these mandates.

Section 402(b) of the MMPA (16 U.S.C. 1421a) requires the Secretary to collect and update information on strandings. It further provides that the Secretary shall compile and analyze, by region, the species, numbers, conditions, and causes of illnesses and deaths in stranded marine mammals. Section 404 (a) of the MMPA (16 U.S.C. 1421c) mandates that the Secretary respond to unusual marine mammal mortality events. Without a historical baseline provided by marine mammal information collected from strandings, detection of such events could be difficult and the investigation could be impeded. Section 401 (b) of the MMPA (16 U.S.C. 1421) requires NMFS to facilitate the collection and dissemination of reference data on the health of marine mammal populations in the wild and to correlate health with physical, chemical, and biological environmental parameters. In order to perform this function, NMFS must standardize data collection protocols for health and correlations. Data and samples collected from stranded animals are a critical part of the implementation of this mandate of the MMPA.

Specifically, the data from the Marine Mammal Stranding Report forms provide NMFS with information on the morphology, life history, biology, general health, health and stranding trends, causes of mortality, and distribution of marine mammal species. These data provide reference information necessary to detect epizootic diseases such as the one implicated in the bottlenose dolphin die-off in 1987-88, the leptospirosis outbreak in California sea lions in 1984, and the morbillivirus epizootic in bottlenose dolphins in the Gulf of Mexico in 1994. These data also provide information which may help in making assessments on the status of population stocks. Recording data on gross mortalities may serve as an indicator that a particular population is impacted, threatened or at increased risk, and when provided in a timely manner, may aid in dynamic management practices. Changes in sex ratios, age composition, or age at sexual

maturity may also indicate stressed populations and can be detected with stranding data. Stranding data also provide an important baseline for detecting and monitoring the impacts of environmental phenomena, such as El Niño, seen in California sea lions and gray whales in 1998, and Harmful Algal Blooms (HABs) such as domoic acid (repeatedly detected in California) and brevetoxin or red tide (seen most recently in the 2004 bottlenose dolphin die-off along the Florida Panhandle).

Stranding records can be a tool for alerting management personnel to changes in incidental mortality of marine mammals due to human activities such as fisheries by-catch. Evidence of significant harbor porpoise mortalities due to gill net fisheries off the mid-Atlantic coast was provided by the Stranding Network in early 1993. This provided fishery managers with clues to seasonal and geographical information on fishery impact. Information obtained from strandings can also provide indications of enforcement problems. As an example, in March 1993, large numbers of dead pinnipeds washed in on the central Washington coast. Stranding Network information provided proof that over half of the animals had been shot.

Registration of tissues retained from strandings is mandatory under 50 CFR 216.22(c). With limited exceptions, the MMPA prohibits the purchase or sale of marine mammals or marine mammal parts. It also prohibits the possession of marine mammals or marine mammal parts taken in violation of the Act. In order to provide adequate enforcement of the Act while still allowing legitimate activities, it is necessary to document the inventory of tissues that are legally held. The Marine Mammal Stranding Report form provides information which may be used for registration of marine mammal parts taken under stranding authority and for tracking of such legally obtained samples. The use of these forms assists us in standardizing this procedure.

The Marine Mammal Rehabilitation Disposition Report provides NMFS with information on the disposition of animals brought in for rehabilitation, the success of medical treatment, and the number of animals released. This information will assist the Agency in tracking marine mammals that move into captive display and in the monitoring of rehabilitation and release. These data will also be used to assess the burden on stranding network centers. This form will be filled out only in the case of live-stranded marine mammals. The form will be required in all six NMFS Regions. Each of the NMFS regions approves and issues a Stranding Agreement or other form of agreement to marine mammal rehabilitation centers under §112(c) of the MMPA, which allows the Secretary to enter into agreements in order to fulfill the general purposes of the Act, and under §403 of the MMPA, which provides specific authority to enter into such stranding response agreements. These data will be monitored as part of the Rehabilitation Facilities Inspection program to be implemented in 2007.

Under MMPA section 104(c)(10) [16 U.S.C. 1374(c)(10)], NMFS is required to maintain an inventory of live marine mammals held under permits for rehabilitation or captive display. The data in the Marine Mammal Rehabilitation Disposition report are required to monitor and track animals during rehabilitation and during transfer to permanent-captive status licensed under 7 U.S.C. 2131 et seq. For public display facilities, which participate in the program as a rehabilitation center, reporting becomes a critical record if the animal is retained and put on display. If that happens, reporting requirements transfer to that mandated under OMB Control No.: 0648-0084.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The Marine Mammal Stranding Network (Network) is made up of individuals authorized by NOAA Fisheries [i.e., via Stranding Agreement or another official agreement under §112(c) of the MMPA which allows the Secretary to enter into agreements in order to fulfill the general purposes of the Act] to collect scientific data and specimens, record information on stranding events with the NMFS Regional Coordinator, and assist local and Federal authorities in the response to stranded marine mammals under §109(h) of the MMPA. They are also authorized in assisting with detection and investigation of marine mammal mortality events. The majority of Network members are affiliated with academic institutions, aquaria, rehabilitation centers, or state, federal, and local agencies. Members are requested to submit basic data on all strandings including date and location, species, condition of animal, sex of animal, length, disposition of the animal and tissues or specimens, and any personal observations. The Network members will complete the stranding form as part of their immediate response and forward the form to the NMFS regional coordinators in a timely manner, as specified in the Stranding Agreement. Non-Governmental members of the Network are exempted from the prohibition on taking marine mammals through the issuance of a Stranding Agreement under §112(c) of the MMPA, which allows the Secretary to enter into agreements in order to fulfill the general purposes of the Act, and under §403 of the MMPA, which provides specific authority to enter into such stranding response agreements. Researchers may also obtain tissues from stranded marine mammals through the Network. The Stranding Agreement relieves scientists and responders of the cumbersome process of applying for scientific research permits, but researchers must obtain an approval letter from the NMFS Regional Office, signed by the Regional Administrator, authorizing such collections.

Stranding network participants benefit by gaining access to information, data exchange and tissue samples, which might otherwise not be available. Analyses of tissues from strandings by the Network and research laboratories have significantly contributed to the body of knowledge on which management decisions are made and enhanced our understanding of marine mammal health. Non-scientists participating in the Network receive the satisfaction of aiding wildlife, enhancing wildlife conservation, and furthering scientific understanding of these species. Stranding network members also provide important expertise and involvement in Unusual Mortality Event (UME) investigations, when an unusual number of animals are found stranded and an official investigation is launched to determine the factors involved.

As indicated above, the information is used by the Agency in making resource management decisions and in fulfilling responsibilities under the MMPA. In addition to detecting serious pathogens, diseases, pollution loads, evidence of anthropogenic impacts on marine mammals, investigations into UMEs, and providing life history information about marine mammal stocks, records of mortalities due to fishery by-catch are used in implementing the fisheries management regime in §118 of the MMPA. This mandates that mortality levels be below the potential biological removal level of the marine mammal stock. As an example of the value of such information, stranding reports alerted the Agency to a potentially serious interaction between harbor porpoise and coastal gillnet fisheries in the Mid-Atlantic region. In addition, the Agency is continuing to monitor strandings in the Mid-Atlantic to guide observer placement on fisheries.

Prior to the receipt of stranding information, NMFS was unaware of the problem.

Section 118 of the MMPA generally provides that Take Reduction Plans be developed through Take Reduction Teams for strategic stocks of marine mammal that interact with Category I fisheries (those with frequent incidental mortality and serious injury of marine mammals) and Category II fisheries (occasional incidental mortality and serious injury of marine mammals). The data provided by Marine Mammal Stranding Reports may be used by the Take Reduction Teams to identify gear types, seasons, and geographical locations in which fisheries impact marine mammals.

Summaries of stranding data are provided to Congress, the media, and the public in the NMFS Annual Report on the MMPA and posted on the NMFS web page. In addition, the stranding data serve as the raw database for the Marine Mammal Events Program of the Smithsonian Institution, which archives data on cetacean strandings. The data obtained are used in mortality investigations, technical memoranda, and peer reviewed publications.

Scientists, state management agencies, and conservation organizations have used the information and tissues collected in conjunction with response to stranding events. A substantial number of publications have resulted from stranding data to include information on basic morphology and distribution of marine mammals, biochemistry, diseases of marine mammals, and on the potential for interaction with fisheries.

In 2004, 4,784 strandings were reported by the stranding network (3,123 dead and 1661 live) The Marine Mammal Rehabilitation Disposition Report provides NMFS with information on the disposition of animals brought in for rehabilitation, types of disease and other health related issues upon admission, types of and response to medical treatment, and the number of animals released. This information assists the Agency in tracking marine mammals that are transferred to captive display facilities following a determination of nonreleasability and in the monitoring of rehabilitation facilities and release protocols. The data is used to assess the burden on stranding network centers. This form is filled out only in the case of live-stranded marine mammals that are transferred to a rehabilitation facility. The form is used by all six NMFS Regions.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. The NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. As stated in the "Data Access" section found on the rear of the forms, upon written request (including those under the Freedom of Information Act (FOIA)), certain fields of both reports will be provided to the requestor provided that credit is given to the Marine Mammal Stranding Network and the NMFS. All other data may be released to the requestor after permission has been obtained from the contributing stranding network members and the NMFS. The privacy standards under FOIA, preventing the release of personal information including home phone numbers and addresses, will be respected. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meets all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The Marine Mammal Health and Stranding Response Program National Database, which has been in development since 2001, is in its initial stages of implementation. Development occurred with the input and comment by many members of the stranding network, including all of the Regional Coordinators and a group of network participants who were selected as beta-testers. A staggered rollout has been implemented since 2004, with training sessions at regional stranding network meetings. By the end of 2009, the Database should be fully implemented in all six NOAA Fisheries regions, and stranding network participants will be entering their data directly into the database using the internet. In the initial stages of use, we ask that stranding network members continue to submit paper data forms to their Regional Coordinator (the status quo procedure), for verification purposes. After the initial phase has passed, the stranding network participants may solely enter their data online. The database very closely reflects the paper forms referenced in this collection, the Level A Data form and the Rehabilitation Disposition form.

4. Describe efforts to identify duplication.

Although some duplication of reporting (multiple users reporting the same event) may result from the large number of stranding network members responding to and reporting stranding events, it has not been a problem to date. Regional NMFS personnel eliminate any duplication during data entry and storage. Centralizing the data in the National Database will provide the most efficient means to distribute information upon requests from other Federal agencies (e.g., Navy, Smithsonian Institute, etc.), Network members, state and local managers. Once the database is completed and functional, data requests will be more manageable thus decreasing the workload on the NMFS Regional Stranding Coordinators and Network Members.

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

Collection and centralization of data across areas involving small entities (i.e., typically not-for-profit organizations) should minimize the burden of each organization building and maintaining on their own independent databases. Since stranding network members can view data from other groups in a centralized database, communication and cooperation between the Network members should increase.

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

If the information collection was not conducted by NMFS, either another Federal agency or private organization would need to act in its place as coordinator for the data. If the material and data were not collected, the U.S. Government would not be able to implement Title IV of the MMPA and meet the requirements of the MMPA outlined in response to number 1. In addition, U.S. Government decisions on the management of marine mammals and the management of fisheries would not be made from the best available information.

Section 404 of the MMPA mandates that the Secretary respond to unusual marine mortality events. Response time is critical especially in the instance of an unusual mortality event. The NMFS regional stranding coordinators require near real time data to alert NMFS when an unusual mortality event is occurring. In addition, without a historical baseline provided by information collected from strandings, detection and investigation of such events is more difficult.

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

Because detection and response to mortality events or other problems having an impact on marine mammals is extremely time sensitive, quarterly reporting is not a viable option.

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

A Federal Register Notice was published on April 17, 2007. Comments were received from 4 individuals or groups. These comments are posted as part of the ROCIS submission. Briefly, the comments focused on clarification of the new terms added to the forms. We clarified the terms and will provide expanded guidance in the instructions manual that will be posted on the NOAA website along with the forms. Also, we deleted a field regarding unusual mortality events. This field will be captured in the Group Event screen completed by NMFS employees.

Agency personnel participate in annual meetings of the regional stranding network members to discuss stranding events, clarify data requirements, and offer guidance with the reporting process. In addition, Regional Stranding Coordinators (agency employees) meet more frequently (annually) with members of their regions, and are always available for questions or comments.

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

No payments or gifts are provided to respondents.

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

The respondents are instructed to not include personal information including phone numbers and e-mail addresses. In accordance with the Freedom of Information Act (FOIA) and Privacy Act, any personal information inadvertently included may be redacted from a response to a request for information by another party depending on the information and circumstances. No assurances of confidentiality are necessary or provided to respondents.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The information collection does not require the submission of information of a sensitive nature.

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

There are 74 organizations who are authorized by NMFS to participate in the Marine Mammal Stranding Network and about 30 federal, state and local governmental organizations that actively respond to stranded marine mammals. Thirty of the 74 organizations also rehabilitate animals. These responders are mandated to file stranding response incidents with NMFS as marine mammals strand. Therefore, the number of reports filed per respondent varies considerably. Many Network members do not have an occasion to respond to a stranding during a year; however, a few may file up to several hundred reports. The Marine Mammal Stranding Network responded to 3,905 stranded animals in 2001 and 4,620 in 2002. The annual average response is estimated at 4,000, representing Level A Forms. Approximately 800 live stranded animals will be taken into rehabilitation annually and will require Rehabilitation Disposition forms. There are two required forms: the Marine Mammal Stranding Report and the Marine Mammal Rehabilitation Disposition Report. These forms will be required nationwide; however, the Marine Mammal Rehabilitation Disposition Report is only required for live animal strandings. Each form is filled out twice, once on paper and once by entry into the database, at the current time. In the future, only database entry will be required. It is estimated that the average time necessary to complete each form is 30 minutes, which is inclusive of both the paper form and for entry into the national database. The total annual response time for the two forms is shown below.

Type of report	Approx. # of responses annually	Time per Response	Approx. # hours required
Level A Form	4,000	30 minutes	2,000
Rehabilitation Disposition Report	800	30 minutes	400
Totals	4,800		2,400

Using an average wage rate of \$20/hour, the annualized cost to all respondents is estimated at approximately \$40,000 and \$8000 for the forms, respectively. For all respondents combined, the total annual cost of reporting is approximately \$48,000. For approximately 400 respondents, the cost to each will vary depending on number of strandings, but is estimated to be \$120 to complete these forms annually.

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

There should be no additional cost to respondents in terms of capital and start-up costs. The sole cost for operations would involve the cost of reproducing the paper forms, and postage for

mailing the completed reports to the appropriate NMFS Regional Office. This cost is estimated to be approximately \$2,448 annually for the entire network, although it should be less because respondents often submit multiple stranding reports at one time. This cost was calculated using 4,800 forms * \$0.10 (photocopying) = \$480 and 4,800 forms * \$0.41 (postage) = \$1,968, totaling \$2,448.

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

It is estimated that ten staff months are involved in data processing and analysis. An estimate of three staff months was provided by the Southwest Region which has the highest number of strandings. Two staff months has been applied to the Northeast, Northwest, and Southeast Regions. An estimate of one staff month has been applied to Alaska and the Pacific Islands Regions, where the total number of reports are considerably less than in other Regions. Two staff month have been estimated for headquarters staff. The total cost to the Federal government is estimated at \$76,220. This figure includes:

\$ 51,272 in salaries

\$ 11,746 for leave at a rate of 22.9 percent of salaries

\$ 13,182 for employer's contribution to benefits at 25.7% percent of salaries.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

Respondents have been redefined to be entities, rather than individuals responding from those entities. The total burden has not changed. In the future, only online data entry will be required, but for the first phase of the National Database we are continuing to require the paper form for Quality Assurance/Quality Control purposes. The number of respondents and the number of responses per respondent have not changed from the current approval. Costs have increased slightly due to the increased postage rate.

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

Data from the Marine Mammal Stranding form and the Marine Mammal Disposition form will be entered into the database, reviewed by the NMFS regional stranding coordinators, summarized, and compiled. The regional stranding coordinators will summarize and provide data upon written request. Information may also be used as baselines for comparisons of die-offs and may be included in official NMFS tech memos, peer reviewed publications, and posted on the NMFS web.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Such approval is not sought.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

Response to Public Comments (received comments from 4 members of the public):

1. Two comments recommended removing the check box related unusual mortality events on the Marine Mammal Stranding Report Form - Level A. *We agree and have done so. This information will be documented by the NMFS regional stranding coordinator on the Level A data sheet and/or National Marine Mammal Stranding Database in a special designated field labeled Group Events.*
2. Three comments recommended defining the term “limited” and “complete” necropsy that is listed on both of the forms – Marine Mammal Stranding Report Form – Level A and the Marine Mammal Rehabilitation Disposition Form. *We agree and will provide definitions in the accompanying Examiner’s Guide to be distributed to the Stranding Network. Briefly, a “complete necropsy” is any necropsy where the majority of organs are collected according to established protocols and a “limited necropsy” is any necropsy where either the condition of the animal or other factors limit a complete necropsy. We also added the terms under this section “carcass fresh” and “carcass frozen/thawed” to better establish the condition of the specimen upon the time of necropsy.*
3. A comment was made inquiring about the interpretation of “whole carcass” vs. “partial carcass” under the section entitled Morphometric Data on the Marine Mammal Stranding Report Form - Level A. *These terms will further be defined in the accompanying Examiner’s Guide to be distributed to the Stranding Network. Briefly, these terms do relate to length measurements to document whether there the carcass was complete and intact or only a partial specimen was available for measurement.*
4. A comment was made inquiring about the definition of the term “Stranding Agreement or Authority” that is used on both forms. *This term will further be defined in the accompanying Examiner’s Guide to be distributed to the Stranding Network. Briefly, this term refers to the Stranding Agreement holder or agency through which the examiner has been authorized to take marine mammals or marine mammal parts. If the examiner is a member of a Designee Organization, this refers to the name of the Stranding Agreement holder under whom the examiners organization is designated.*
5. A comment was made for clarification of the term “Age Class” that is used on both forms. *Terms for adult, subadult, yearling, and pup/calf will be defined in the accompanying Examiner’s Guide to be distributed to the Stranding Network. More detailed information regarding species specific age determination can be found in the literature.*
6. A recommendation was made to include documenting if post release biomonitoring was carried out, disposition of this information, and specific details including type of tag, size, expected duration, etc. *We agree and added this to the Tag Data field in the Marine Mammal Rehabilitation Disposition form. We*

- consider specific details about the tag beyond Level A data but they could be obtained through a point of contact (i.e., data disposition). We will include this instruction in the Examiner's Guide to be distributed to the Stranding Network.*
7. A recommendation was made to include documenting where a completed Human Interaction Data Sheet was completed on the Marine Mammal Stranding Report Form - Level A. *At this time, NMFS does not have an OMB approved form for these data so we will include this in the form. We anticipate developing a form for capturing these data in the near future.*
 8. A comment was made to delete detailed information on the Marine Mammal Stranding Report - Level A form regarding date and facility if an animal is transferred to rehabilitation. *At this time, we feel that this information is important to capture on both forms for consistency and will not make the recommended change.*
 9. A comment was made to include a description on the Marine Mammal Stranding Report Form - Level A under Tag Data of marking an animal if it had been examined and left at the site. *We believe that this can be conveyed in the accompanying Examiner's Guide to be distributed to the Stranding Network without making a change on the Marine Mammal Stranding Report – Level A Form.*
 10. A comment was made to expand the information regarding Sample and Specimen Disposition field in the Marine Mammal Rehabilitation Disposition form. *We are in the process of completing a field on our National Marine mammal Stranding Database to capture this information which will be more user friendly than documenting these data by hand.*
 11. A comment was made to include on the Marine Rehabilitation Disposition form if the attending veterinarian had signed off on the release recommendation and the last day of medication (in addition to antibiotics). *We agree and are in the process of developing a health certificate that will capture this information. This will require PRA and OMB clearance. In the meantime, we are currently satisfied with the section capturing information on “health release screen” and last day of antibiotic administration.*
 12. A comment was made regarding the information in the FRN on the total annual cost to the public being under estimated. *We agree that this value is under estimated and have increased it to \$2,448. This value represents not the cost of labor to collect the data but the actual costs associated with capital/start up (e.g. for electronic equipment) and recordkeeping/reporting costs (i.e., photocopying, notarization if applicable, phone calls if not toll-free or local, postage and/or fax costs). Our goal is to completely transition this process over to electronic data collection. We anticipate this occurring in three years and thus will include the costs of computers. However at this time, we have not mandated that these data*

are submitted to NMFS electronically. We receive data in all forms (i.e., hand written and electronic).

13. A comment was made disagreeing with our estimation of time per response of 30 minutes as referenced in the FRN. *We increased this value from the last submission and believe this to be an average time to fill out these forms. We acknowledge that there is a range depending on expertise of an individual. Also, this estimation is not based on the time to collect the actual data.*

From: "Patricia Lawson" <Patricia.Lawson@noaa.gov>
To: "Stephen McCulloch" <McCulloch@HBOI.edu>
Cc: <Jenny.Litz@noaa.gov>; "Janet Whaley" <Janet.Whaley@noaa.gov>
Sent: Monday, June 11, 2007 3:55 PM
Subject: Re: FW: [seusmmsn] Level A form renewal - HBOI Reply

Steve,
Thank you for your comment.
Best,
Patricia

Stephen McCulloch wrote:

Dear Patricia:

Please see my comments and suggestion below.

Regards,
Steve

-----Original Message-----

From: Stephen McCulloch
Sent: Monday, June 11, 2007 12:27 PM
To: 'jenny.litz@noaa.gov'; seusmmsn@yahoogroups.com
Subject: RE: [seusmmsn] Level A form renewal - HBOI Reply

Jenny, et al:

Upon cursory review, my only comment would be a notation to the Draft Rehabilitation Form. There appears to be no provision to note or maintain record of post-release monitoring effort or results. In the past, we have usually provided a post-release summary report under separate cover. These data would be useful to further evaluate the success of the rehabilitation and learn more. Perhaps, such a (supplemental) section could be inclusive of the proposed rehabilitation data form. Please forgive me if I missed anything along the way, as the rest of the docs appear straightforward and are sufficient for our needs.

Best all -
Stephen D. McCulloch
Founder / Program Manager
Marine Mammal Research and Conservation Program

HARBOR BRANCH OCEANOGRAPHIC INSTITUTION
Center for Coastal Research
5600 U.S. 1 North
Ft. Pierce, FL 34946
Ph: 772.465.2400, x604
Fx: 772.595.3332

<http://www.hboi.edu>
<http://www.protectwilddolphins.org>

<http://www.protectfloridawhales.org>

HARBOR BRANCH - CONFIDENTIALITY NOTICE

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Subject: [seusmmsn] Level A form renewal - comments due by June 18th!!!!

From: <jenny.litz@noaa.gov>

Date: Mon, 11 Jun 2007 11:52:44 -0400

To: <seusmmsn@yahoogroups.com>

To: <seusmmsn@yahoogroups.com>

Hi everyone-

Our current level A forms expire at the end of August. Attached are the drafts for the new version of the Level A form and rehab disposition form, as well as, the Federal Register Notice (FRN). Headquarters is still working on the final formatting of the forms. Please review and comment as instructed in the FRN by June 18th!

"ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov)."

Thanks!

Jenny

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From: <dHynek@doc.gov>
To: <Jenny.Litz@noaa.gov>
Cc: <Janet.Whaley@noaa.gov>; <Patricia.Lawson@noaa.gov>; <Sarah.Brabson@noaa.gov>
Sent: Wednesday, June 13, 2007 12:12 PM
Attach: pic14309.gif; pic07616.gif
Subject: Re: Fwd: RE: [seusmmsn] Level A form renewal - comments due by June 18th!!!!

Hi Jenny,

Sarah Brabson, the NOAA PRA Liaison, should get any comments as well.

Diana Hynek

[Jenny.Litz@noaa.g](mailto:Jenny.Litz@noaa.gov)

ov

To

06/12/2007 01:01 PM dHynek@doc.gov,
Patricia.Lawson@noaa.gov

cc

Janet.Whaley@noaa.gov

Subject

Fwd: RE: [seusmmsn] Level A form
renewal - comments due by June
18th!!!!

Hi Diane and Patricia-

I asked our network members to submit comments as instructed in the FRN but they seem to be emailing them to me. Is it sufficient for me to forward these to you or do you need me to ask them to resend them to you?

Janet - I think these are really good points, especially the first one about UMEs and the limited vs. complete necropsy definition again.

Jenny

----- Message from "McLellan, William" <mclellanw@uncw.edu> on Tue, 12 Jun 2007 11:52:44 -0400 -----

To: Jenny.Litz@noaa.gov, seusmmsn@yahoogroups.com

cc: "McLellan, William" <mclellanw@uncw.edu>

Subject: RE: [seusmmsn] Level A form renewal - comments due by June 18th!!!!

Hi Jenny

My comments on the Level A form are:

Would someone responding to a carcass, and collecting Level A only, know that the event is an "Official Unusual Mortality Event"? After consultation has been requested and approved there would be the possibility of knowing this, but leading up to the determination it wouldn't be known. I would think that the determination of a specific carcass scored as "in" or "out" of a UME has been and should only be made by the UME Coordinator and the Regional Coordinator.

Will there be a definition for a "Limited" and a "Complete" necropsy?

And finally, we find it important to know if the carcass was investigated before or after it was frozen. There is the check box Frozen for Later Examination which gets at this, but might add Necropsy check boxes for Fresh or Frozen carcass. Again, the info can be gotten at from the Carcass Status checklist, but if there is space, it could be added in Necropsied checklist.

Thanks for the opportunity to comment.

WAM

William McLellan
Biology and Marine Biology
UNC Wilmington
601 South College Road
Wilmington, NC 28403
mclellanw@uncw.edu
910-962-7266 office
910-962-4066 fax

From: seusmmsn@yahoogroups.com [mailto:seusmmsn@yahoogroups.com] On Behalf Of jenny.litz@noaa.gov
Sent: Monday, June 11, 2007 11:53 AM
To: seusmmsn@yahoogroups.com
Subject: [seusmmsn] Level A form renewal - comments due by June 18th!!!!

Hi everyone-

Our current level A forms expire at the end of August. Attached are the drafts for the new version of the Level A form and rehab disposition form, as well as, the Federal Register Notice (FRN). Headquarters is still working on the final formatting of the forms. Please review and comment as instructed in the FRN by June 18th!

"ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov)."

Thanks!
Jenny

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—,.,.—



ALLIANCE OF MARINE MAMMAL PARKS AND AQUARIUMS

An international organization dedicated to conservation through public display, education, and research

July 2, 2007

Ms. Diana Hynek
Departmental Paperwork Clearance Officer
Department of Commerce
14th and Constitution Avenue, NW Room 6625
Washington, DC 20230

BY E-MAIL: dHynek@doc.gov

Dear Ms Hynek:

This letter responds to the NOAA National Marine Fisheries Service Notice in the Federal Register on April 17, 2007, requesting comments on the paperwork burden of information collection by facilities participating in the agency's Marine Mammal Health and Stranding Response Program as well as two revised documents used by network participants – the Marine Mammal Stranding Report – Level A Data and the Marine Mammal Rehabilitation Disposition Report.

The Alliance is an international association of marine life parks, aquariums, zoos, research facilities, and professional organizations dedicated to the highest standards of care for marine mammals and to their conservation in the wild through public education, scientific study, and wildlife presentations. Collectively, the Alliance membership represents the greatest body of experience and knowledge about marine mammal husbandry. Alliance members are also respected for their expertise with stranded cetaceans and other marine mammals. Over the years, this extensive experience has been garnered from countless efforts to rescue, nurse back to health, and release stranded whales and dolphins. The Alliance is a strong supporter of the agency's stranding network. Many Alliance members participate directly or care for non-releasable stranding animals.

The Alliance responded with comments to these forms and this issue in early 2004. As then, Alliance members do not agree with the low estimation of the total annual cost to the public noted in this Federal Register document. The "affected public" clearly includes institutions that participate in the stranding network. Alliance members active in the stranding network estimate that the basic data takes them approximately one hour to complete, which is double what the agency estimates. While this Notice specifically requests information on the paperwork burden, we would like to note that this does not take into account the response time of network participants, some of whom cover huge areas of the coastline.

Nor does it take into account the staff and volunteer time and varied activities necessary for the form to be properly completed. These figures should be adjusted to more accurately reflect the time invested by stranding network participants.

The NMFS Federal Register Notice requests recommendations to minimize the reporting burden on stranding network participants. While the creation of the National Marine Mammal Stranding Database only requires reporting to the national database, network participants should, and do, keep their own database, which is often more extensive. The value of a well-managed national database is clearly recognized; however, the agency should understand that the new data entry requirements have not reduced the burden on network participants.

The Alliance continues to have concerns about the Level A Data Form. The form can be easily misunderstood, which could lead to inaccurate reporting. Alliance members are unclear what the agency would define for certain revised portions of the form. For example, as with all of the data fields, the following revised or unclear terminology on the form needs to be defined and explained.

- “Stranding Agreement or Authority”
- “Official Unusual Mortality Event”
- “Age Class” (especially for cetaceans)
- “Whole” or “Partial” Carcass (related to availability of total length??)
- “Limited” or “Complete” Necropsy

It would also be advisable for the agency to know if the responder(s) completed a Human Interaction Data Sheet for the stranding. This could be included as a check box under the section on “Findings of Human Interaction”.

Clarity and continuity are also issues with the Marine Mammal Rehabilitation Disposition Report. The comments above regarding the need for definition and explanation also apply to this form in the fields requesting “Age Class” and “Limited” or “Complete” necropsy. In addition, those items on the form that require a circle will be difficult to reproduce on electronic forms.

The importance and relevance of research with stranded animals has never been more striking as experts warn about the perils facing marine mammals in the oceans today. The collection of biological data from both stranded marine mammals that have died on beaches or been rescued by Alliance members helps scientists gain valuable insight into life histories, diet, animal health, and population dynamics. This work helps researchers explore a host of ocean mysteries, providing a glimpse into the state of our oceans and rivers and the pollution levels and diseases affecting wild marine mammal populations. Studies of tissue samples taken from beached animals helped document the spread of pesticides and industrial chemicals into the global food chain. Stranded animals also help researchers track the toll from human activities.

Page Three - Hynek

The Alliance appreciates the agency's interest in comments on the forms and the time it takes to fill them out. Most importantly, NMFS and its network participants must partner to assure that the forms are clear and comprehensive. The data compiled must be accurate if it is to help scientists and the agency, which is charged with protecting marine mammals in the wild. We would be happy to help the NMFS in any way possible to assure these goals.

Sincerely,

Marilee Menard

Marilee Menard
Executive Director

MARINE MAMMAL STRANDING REPORT - LEVEL A DATA

FIELD #: _____ NMFS REGIONAL #: _____ NATIONAL DATABASE#: _____
(NMFS USE) (NMFS USE)

COMMON NAME: _____ GENUS: _____ SPECIES: _____

EXAMINER Name: _____ Affiliation: _____

Address: _____ Phone: _____

Stranding Agreement or Authority: _____

<p>LOCATION OF INITIAL OBSERVATION</p> <p>State: _____ County: _____</p> <p>City: _____</p> <p>Body of Water: _____</p> <p>Locality Details: _____</p> <p>Lat (DD): _____ N Long (DD): _____ W</p> <p><input type="checkbox"/> Actual or <input type="checkbox"/> Estimated</p> <p>How Determined: (check ONE)</p> <p><input type="checkbox"/> GPS <input type="checkbox"/> Map <input type="checkbox"/> Internet/Software</p>	<p>OCURRENCE DETAILS <input type="checkbox"/> Restrand GE# _____</p> <p>Group Event: <input type="checkbox"/> YES <input type="checkbox"/> NO (NMFS Use)</p> <p>If Yes, Type: <input type="checkbox"/> Cow/Calf Pair <input type="checkbox"/> Mass Stranding # Animals: _____ <input type="checkbox"/> Actual <input type="checkbox"/> Estimated</p> <p>Findings of Human Interaction: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Could Not Be Determined (CBD)</p> <p>If Yes, Choose one or more: <input type="checkbox"/> 1. Boat Collision <input type="checkbox"/> 2. Shot <input type="checkbox"/> 3. Fishery Interaction</p> <p><input type="checkbox"/> 4. Other Human Interaction: _____</p> <p>How Determined (Check one or more): <input type="checkbox"/> External Exam <input type="checkbox"/> Internal Exam <input type="checkbox"/> Necropsy <input type="checkbox"/> Other</p> <p>Gear Collected? <input type="checkbox"/> YES <input type="checkbox"/> NO Gear Disposition: _____</p> <p>Other Findings Upon Level A: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Could Not Be Determined (CBD)</p> <p>If Yes, Choose one or more: <input type="checkbox"/> 1. Illness <input type="checkbox"/> 2. Injury <input type="checkbox"/> 3. Other: _____</p> <p>How Determined (Check one or more): <input type="checkbox"/> External Exam <input type="checkbox"/> Internal Exam <input type="checkbox"/> Necropsy <input type="checkbox"/> Other: _____</p>
--	---

INITIAL OBSERVATION

Date: Year: _____ Month: _____ Day: _____

First Observed: Beach or Land Floating Swimming

CONDITION AT INITIAL OBSERVATION (Check ONE)

1. Alive 2. Fresh dead 3. Moderate decomposition 4. Advanced Decomposition 5. Mummified/Skeletal 6. Condition Unknown

LEVEL A EXAMINATION Not Able to Examine

Date: Year: _____ Month: _____ Day: _____

CONDITION AT EXAMINATION (Check ONE)

1. Alive 2. Fresh dead 3. Moderate decomposition 4. Advanced Decomposition 5. Mummified/Skeletal 6. Unknown

INITIAL LIVE ANIMAL DISPOSITION (Check one or more)

1. Left at Site 2. Immediate Release at Site 3. Relocated 4. Disentangled 5. Died at Site 6. Euthanized at Site 7. Transferred to Rehabilitation: Date: _____ Facility: _____ 8. Died during Transport 9. Euthanized during Transport 10. Other: _____

CONDITION/DETERMINATION (Check one or more)

1. Sick 2. Injured 3. Out of Habitat 4. Deemed Releasable 5. Abandoned/Orphaned 6. Inaccessible 7. Location Hazardous a. To animal b. To public 8. Unknown/CBD 9. Other: _____

MORPHOLOGICAL DATA

SEX (Check ONE) 1. Male 2. Female 3. Unknown 4. Adult 5. Subadult 6. Yearling 7. Pup/Calf 8. Unknown

AGE CLASS (Check ONE)

Whole Carcass Partial Carcass

Straight length: _____ cm in actual estimated

Weight: _____ kg lb actual estimated

PHOTOS/VIDEOS TAKEN: YES NO

Photo/Video Disposition: _____

TAG DATA Tags Were:

Present at Time of Stranding (Pre-existing): YES NO

Applied during Stranding Response: YES NO

ID#	Color	Type	Placement* (Circle ONE)	Applied	Present
_____			D DF L LF LR RF RR	<input type="checkbox"/>	<input type="checkbox"/>
_____			D DF L LF LR RF RR	<input type="checkbox"/>	<input type="checkbox"/>
_____			D DF L LF LR RF RR	<input type="checkbox"/>	<input type="checkbox"/>

* D= Dorsal; DF= Dorsal Fin; L= Lateral Body
 LF= Left Front; LR= Left Rear; RF= Right Front; RR= Right Rear

CARCASS STATUS (Check one or more)

1. Left at Site 2. Buried 3. Rendered 4. Towed: Lat _____ Long _____ 5. Sunk: Lat _____ Long _____ 6. Frozen for Later Examination 7. Landfill 8. Unknown 9. Other: _____

SPECIMEN DISPOSITION (Check one or more)

1. Scientific collection 2. Educational collection 3. Other: _____

Comments: _____

NECROPSIED NO YES Limited Complete

Carcass Fresh Carcass Frozen/Thawed

NECROPSIED BY: _____ **Date** _____

MARINE MAMMAL REHABILITATION DISPOSITION REPORT

FIELD #: _____ NMFS REGIONAL # _____ NATIONAL DATABASE#: _____
(NMFS USE) (NMFS USE)

COMMON NAME: _____ GENUS: _____ SPECIES: _____

REHABILITATION FACILITY: _____ Affiliation: _____

Address: _____ Phone: _____

<p>STRANDING/BIRTH HISTORY <input type="checkbox"/> Restrand</p> <p>Date: Year: _____ Month: _____ Day: _____</p> <p>Location: State: _____ County: _____ City: _____</p> <p>Sex: <input type="checkbox"/> 1. Male <input type="checkbox"/> 2. Female</p> <p>Was this animal born to a female in rehab? <input type="checkbox"/> 1. NO <input type="checkbox"/> 2. YES; Female's ID #: _____</p>	<p>ADMISSION INTO REHABILITATION</p> <p>Date: Year: _____ Month: _____ Day: _____</p> <p>Received From: _____</p> <p>Straight Length: _____ <input type="checkbox"/> cm <input type="checkbox"/> in <input type="checkbox"/> actual <input type="checkbox"/> estimate</p> <p>Weight: _____ <input type="checkbox"/> kg <input type="checkbox"/> lb <input type="checkbox"/> actual <input type="checkbox"/> estimate</p>																								
<p>MEDICAL RECORD</p> <p>Pre-Release Health Screen Date: Year: _____ Month: _____ Day: _____</p> <p>Last Day of Antibiotics: Year: _____ Month: _____ Day: _____</p>	<p>SPECIMEN TRACKING</p> <p>Samples Collected: <input type="checkbox"/> 1. YES <input type="checkbox"/> 2. NO</p> <p><input type="checkbox"/> 1. Scientific collection</p> <p><input type="checkbox"/> 2. Education collection</p> <p><input type="checkbox"/> 3. Other: _____</p>																								
<p>MORPHOLOGICAL DATA AT DISPOSITION</p> <p>Animal Morphological Data at Time of Disposition: Age Class at Time of Disposition:</p> <p>Straight Length: _____ <input type="checkbox"/> cm <input type="checkbox"/> in <input type="checkbox"/> actual <input type="checkbox"/> estimate <input type="checkbox"/> 1. Adult <input type="checkbox"/> 3. Yearling <input type="checkbox"/> 5. Unknown</p> <p>Weight: _____ <input type="checkbox"/> kg <input type="checkbox"/> lb <input type="checkbox"/> actual <input type="checkbox"/> estimate <input type="checkbox"/> 2. Subadult <input type="checkbox"/> 4. Pup/Calf</p>																									
<p><input type="checkbox"/> 1. Transferred to Another Rehabilitation Facility</p> <p>Year: _____ Month: _____ Day: _____</p> <p>Facility: _____</p> <p>Address: _____</p> <p>Comments: _____</p> <hr/> <p><input type="checkbox"/> 2. Temporarily Transferred to Research Facility</p> <p>Year: _____ Month: _____ Day: _____</p> <p>Facility: _____</p> <p>Comments: _____</p> <p>NMFS Permit #: _____</p> <hr/> <p><input type="checkbox"/> 3. Deemed Nonreleasable and Transferred to Research Facility</p> <p>Year: _____ Month: _____ Day: _____</p> <p>Facility: _____</p> <p>Comments: _____</p> <p>NMFS PIMS #: _____</p> <hr/> <p><input type="checkbox"/> 4. Deemed Nonreleasable and Transferred to Permanent Captivity</p> <p>Year: _____ Month: _____ Day: _____</p> <p>Facility: _____</p> <p>Comments: _____</p> <p>NMFS PIMS #: _____</p> <hr/> <p>5. Died <input type="checkbox"/> Euthanized</p> <p>Year: _____ Month: _____ Day: _____</p> <p>Location: _____</p> <p>Cause of Death: _____</p> <p>Comments: _____</p> <hr/> <p>NECROPSIED <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> Limited <input type="checkbox"/> Complete</p> <p><input type="checkbox"/> Carcass Fresh <input type="checkbox"/> Carcass Frozen Thawed</p> <p>NECROPSIED BY: _____ Date _____</p>	<p><input type="checkbox"/> 6. Released</p> <p>Year: _____ Month: _____ Day: _____</p> <p>State: _____ County: _____ City: _____</p> <p>Locality Details: _____</p> <p>Latitude (DD): _____ N</p> <p>Longitude(DD): _____ W</p> <hr/> <p>TAG DATA</p> <p>Tags Were:</p> <p>Present at time of stranding (Pre-existing): <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>Applied during Stranding Response: <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>Applied During Rehabilitation: <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">ID#</th> <th style="text-align: left;">Color</th> <th style="text-align: left;">Type</th> <th style="text-align: left;">Placement* (Circle ONE)</th> <th style="text-align: left;">Applied</th> <th style="text-align: left;">Present</th> </tr> </thead> <tbody> <tr> <td>_____</td> <td>_____</td> <td>_____</td> <td>D DF L LF LR RF RR</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>_____</td> <td>_____</td> <td>_____</td> <td>D DF L LF LR RF RR</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>_____</td> <td>_____</td> <td>_____</td> <td>D DF L LF LR RF RR</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table> <p>* D= Dorsal; DF= Dorsal Fin; L= Lateral Body LF= Left Front; LR= Left Rear; RF= Right Front; RR= Right Rear</p> <hr/> <p>Post Release Biomonitoring <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>Data Disposition: _____</p>	ID#	Color	Type	Placement* (Circle ONE)	Applied	Present	_____	_____	_____	D DF L LF LR RF RR	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	D DF L LF LR RF RR	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	D DF L LF LR RF RR	<input type="checkbox"/>	<input type="checkbox"/>
ID#	Color	Type	Placement* (Circle ONE)	Applied	Present																				
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TITLE IV—Marine Mammal Health and Stranding Response

Establishment of Program

16 U.S.C. 1421

Sec. 401. (a) ESTABLISHMENT. — The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, establish a program to be known as the "Marine Mammal Health and Stranding Response Program".

(b) PURPOSES. — The purposes of the Program shall be to—

(1) facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild;

(2) correlate the health of marine mammals and marine mammal populations, in the wild, with available data on physical, chemical, and biological environmental parameters; and

(3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with section 404.

Determination; Data Collection and Dissemination

16 U.S.C. 1421a

Sec. 402. (a) DETERMINATION FOR RELEASE. — The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

(b) COLLECTION. — The Secretary shall, in consultation with the Secretary of the Interior, collect and update, periodically, existing information on—

(1) procedures and practices for—

(A) rescuing and rehabilitating stranded marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

(3) strandings, which the Secretary shall compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals; and

(4) other life history and reference level data, including marine mammal tissue analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.

(c) AVAILABILITY. — The Secretary shall make information collected under this section available to stranding network participants and other qualified scientists.

Stranding Response Agreements

16 U.S.C. 1421b

Sec. 403. (a) IN GENERAL. — The Secretary may enter into an agreement under section 112(c) with any person to take marine mammals under section 109(h)(1) in response to a stranding.

(b) REQUIRED PROVISION. — An agreement authorized by subsection (a) shall—

(1) specify each person who is authorized to perform activities under the agreement; and

(2) specify any terms and conditions under which a person so specified may delegate that authority to another person.

(c) REVIEW. — The Secretary shall periodically review agreements under section 112(c) that are entered into pursuant to this title, for performance adequacy and effectiveness.

Unusual Mortality Event Response

16 U.S.C. 1421c

Sec. 404. (a) RESPONSE. —

(1) WORKING GROUP. — (A) The Secretary, acting through the Office, shall establish, in consultation with the Secretary of the Interior, a marine mammal unusual mortality event working group, consisting of individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, marine conservation, and medical science, to provide guidance to the Secretary and the Secretary of the Interior for—

(i) determining whether an unusual mortality event is occurring;

(ii) determining, after an unusual mortality event has begun, if response actions with respect to that event are no longer necessary; and

(iii) developing the contingency plan in accordance with subsection (b), to assist the Secretary in responding to unusual mortality events.

(B) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to the marine mammal unusual mortality event working group established under this paragraph.

(2) RESPONSE TIMING. — The Secretary, in consultation with the Secretary of the Interior, shall to the extent necessary and practicable—

(A) within 24 hours after receiving notification from a stranding network participant that an unusual mortality event might be occurring, contact as many members as is possible of the unusual mortality event working group for guidance; and

(B) within 48 hours after receiving such notification—

(i) make a determination as to whether an unusual mortality event is occurring;

(ii) inform the stranding network participant of that determination; and

(iii) if the Secretary has determined an unusual mortality event is occurring, designate an Onsite Coordinator for the event, in accordance with subsection (c).

(b) CONTINGENCY PLAN. —

(1) IN GENERAL. — The Secretary shall, in consultation with the Secretary of the Interior and the unusual mortality event working group, and after an opportunity for public review and comment, issue a detailed contingency plan for responding to any unusual mortality event.

(2) CONTENTS. — The contingency plan required under this subsection shall include—

(A) a list of persons, including stranding network participants, at a regional, State, and local level, who can assist the Secretary in implementing a coordinated and effective response to an unusual mortality event;

(B) the types of marine mammal tissues and analyses necessary to assist in diagnosing causes of unusual mortality events;

(C) training, mobilization, and utilization procedures for available personnel, facilities, and other resources necessary to conduct a rapid and effective response to unusual mortality events; and

(D) such requirements as are necessary to—

(i) minimize death of marine mammals in the wild and provide appropriate care of marine mammals during an unusual mortality event;

(ii) assist in identifying the cause or causes of an unusual mortality event;

(iii) determine the effects of an unusual mortality event on the size estimates of the affected populations of marine mammals; and

(iv) identify any roles played in an unusual mortality event by physical, chemical, and biological factors, including contaminants.

(c) ONSITE COORDINATORS. —

(1) DESIGNATION. — (A) The Secretary shall, in consultation with the Secretary of the Interior, designate one or more Onsite Coordinators for an unusual mortality event, who shall make immediate recommendations to the stranding network participants on how to proceed with response activities.

(B) An Onsite Coordinator so designated shall be one or more appropriate Regional Directors of the National Marine Fisheries Service or the United States Fish and Wildlife Service, or their designees.

(C) If, because of the wide geographic distribution, multiple species of marine mammals involved, or magnitude of an unusual mortality event, more than one Onsite Coordinator is designated, the Secretary shall, in consultation with the Secretary of the Interior, designate which of the Onsite Coordinators shall have primary responsibility with respect to the event.

(2) FUNCTIONS. — (A) An Onsite Coordinator designated under this subsection shall coordinate and direct the activities of all persons responding to an unusual mortality event in accordance with the contingency plan issued under subsection (b), except that—

(i) with respect to any matter that is not covered by the contingency plan, an Onsite Coordinator shall use his or her best professional judgment; and

(ii) the contingency plan may be temporarily modified by an Onsite Coordinator, consulting as expeditiously as possible with the Secretary, the Secretary of the Interior, and the unusual mortality

event working group.

(B) An Onsite Coordinator may delegate to any qualified person authority to act as an Onsite Coordinator under this title.

Unusual Mortality Event Activity Funding

16 U.S.C. 1421d

Sec. 405. (a) ESTABLISHMENT OF FUND. — There is established in the Treasury an interest bearing fund to be known as the "Marine Mammal Unusual Mortality Event Fund", which shall consist of amounts deposited into the Fund under subsection (c).

(b) USES. —

(1) IN GENERAL. — Amounts in the Fund—

(A) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior—

(i) to compensate persons for special costs incurred in acting in accordance with the contingency plan issued under section 404(b) or under the direction of an Onsite Coordinator for an unusual mortality event;

(ii) for reimbursing any stranding network participant for costs incurred in preparing and transporting tissues collected with respect to an unusual mortality event for the Tissue Bank; and

(iii) for care and maintenance of marine mammal seized under section 104(c)(2)(D); and

(B) shall remain available until expended.

(2) PENDING CLAIMS. — If sufficient amounts are not available in the Fund to satisfy any authorized pending claim, such claim shall remain pending until such time as sufficient amounts are available. All authorized pending claims shall be satisfied in the order received.

(c) DEPOSITS INTO THE FUND. — There shall be deposited into the Fund—

(1) amounts appropriated to the Fund;

(2) other amounts appropriated to the Secretary for use with respect to unusual mortality events; and

(3) amounts received by the United States in the form of gifts, devises, and bequests under subsection (d).

(d) ACCEPTANCE OF DONATIONS. — For purposes of carrying out this title and section 104(c)(2)(D), the Secretary may accept, solicit, and use the services of volunteers, and may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

Liability

16 U.S.C. 1421e

Sec. 406. (a) IN GENERAL. — A person who is authorized to respond to a stranding pursuant to an agreement entered into under section 112(c) is deemed to be an employee of the government for purposes of chapter 171 of title 28, United States Code, with respect to actions of the person that are—

(1) in accordance with the agreement; and

(2) in the case of an unusual mortality event, in accordance with—

(A) the contingency plan issued under section 404(b);

(B) the instructions of an Onsite Coordinator designated under section 404(c); or

(C) the best professional judgment of an Onsite Coordinator, in the case of any matter that is not covered by the contingency plan.

(b) LIMITATION. — Subsection (a) does not apply to actions of a person described in that subsection that are grossly negligent or that constitute willful misconduct.

National Marine Mammal Tissue Bank and Tissue Analysis

16 U.S.C. 1421f

Sec. 407. (a) TISSUE BANK. —

(1) IN GENERAL. — The Secretary shall make provision for the storage, preparation, examination, and archiving of marine mammal tissues. Tissues archived pursuant to this subsection shall be known as the "National Marine Mammal Tissue Bank".

(2) GUIDANCE FOR MARINE MAMMAL TISSUE COLLECTION, PREPARATION, AND ARCHIVING. — The Secretary shall, in consultation with individuals with knowledge and expertise in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for marine mammal tissue collection, preparation, archiving, and quality control procedures, regarding—

(A) appropriate and uniform methods and standards for those activities to provide confidence in marine mammal tissue samples used for research; and

(B) documentation of procedures used for collecting, preparing, and archiving those samples.

(3) SOURCE OF TISSUE. — In addition to tissues taken during marine mammal unusual mortality events, the Tissue Bank shall incorporate tissue samples taken from other sources in the wild, including—

(A) samples from marine mammals taken incidental to commercial fishing operations;

(B) samples from marine mammals taken for subsistence purposes;

(C) biopsy samples; and

(D) any other samples properly collected.

(b) TISSUE ANALYSIS. — The Secretary shall, in consultation with the Marine Mammal Commission, the Secretary of the Interior, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for analyzing tissue samples (by use of the most effective and advanced diagnostic technologies and tools practicable) as a means to monitor and measure overall health trends in representative species or populations of marine mammals, including—

(1) the levels of, and if possible, the effects of, potentially harmful contaminants; and

(2) the frequency of, and if possible, the causes and effects of abnormal lesions or anomalies.

(c) DATA BASE. —

(1) IN GENERAL. — The Secretary shall maintain a central data base which provides an effective means for tracking and accessing data on marine mammals, including relevant data on marine mammal tissues collected for and maintained in the Tissue Bank.

(2) CONTENTS. — The data base established under this subsection shall include—

(A) reference data on the health of marine mammals and populations of marine mammals; and

(B) data on species of marine mammals that are subject to unusual mortality events.

(d) ACCESS. — The Secretary shall, in consultation with the Secretary of the Interior, establish criteria, after an opportunity for public review and comment, for access to—

(1) marine mammal tissues in the Tissue Bank;

(2) analyses conducted pursuant to subsection (b); and

(3) marine mammal data in the data base maintained under subsection (c);

which provide for appropriate uses of the tissues, analyses, and data by qualified scientists, including stranding network participants.

Authorization of Appropriations

16 U.S.C. 1421g

Sec. 408. There is authorized to be appropriated—

(1) to the Secretary for carrying out this title (other than sections 405 and 407) \$250,000 for each of fiscal years 1993 and 1994;

(2) to the Secretary for carrying out section 407, \$250,000 for each of fiscal years 1993 and 1994; and

(3) to the Fund, \$500,000 for fiscal year 1993.

Definitions

16 U.S.C. 1421h

Sec. 409. In this title, the following definitions apply:

- (1) The term "Fund" means the Marine Mammal Unusual Mortality Event Fund established by section 405(a).
- (2) The term "Office" means the Office of Protected Resources, in the National Marine Fisheries Service.
- (3) The term "stranding" means an event in the wild in which—
 - (A) a marine mammal is dead and is—
 - (i) on a beach or shore of the United States; or
 - (ii) in waters under the jurisdiction of the United States (including any navigable waters); or
 - (B) a marine mammal is alive and is—
 - (i) on a beach or shore of the United States and unable to return to the water;
 - (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or
 - (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.
- (4) The term "stranding network participant" means a person who is authorized by an agreement under section 112(c) to take marine mammals as described in section 109(h)(1) in response to a stranding.
- (5) The term "Tissue Bank" means the National Marine Tissue Bank provided for under section 407(a).
- (6) The term "unusual mortality event" means a stranding that—
 - (A) is unexpected;
 - (B) involves a significant die-off of any marine mammal population; and
 - (C) demands immediate response.

Permits

16 U.S.C. 1374

Sec. 104. (a) [ISSUANCE.] — The Secretary may issue permits which authorize the taking or importation of any marine mammal. Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections 101(a)(5) or 306, or subsection (h) of this section.

(b) [REQUISITE PROVISIONS.] — Any permit issued under this section shall—

(1) be consistent with any applicable regulation established by the Secretary under section 103 of this title, and

(2) specify—

(A) the number and kind of animals which are authorized to be taken or imported,

(B) the location and manner (which manner must be determined by the Secretary to be humane) in which they may be taken, or from which they may be imported,

(C) the period during which the permit is valid, and

(D) any other terms or conditions which the Secretary deems appropriate.

In any case in which an application for a permit cites as a reason for the proposed taking the overpopulation of a particular species or population stock, the Secretary shall first consider whether or not it would be more desirable to transplant a number of animals (but not to exceed the number requested for taking in the application) of that species or stock to a location not then inhabited by such species or stock but previously inhabited by such species or stock.

(c) [IMPORTATION FOR DISPLAY OR RESEARCH.] —

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

(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

(i) offers a program for education or conservation purposes that is based on professionally

recognized standards of the public display community;

(ii) is registered or holds a license issued under 7 U.S.C. 2131 et seq.; and

(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall be limited to—

(i) for the purpose of public display, the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

(ii) for the purpose of scientific research, the responsibility to meet the requirements of paragraph (3), and

(iii) for the purpose of enhancing the survival or recovery of a species or stock, the responsibility to meet the requirements of paragraph (4).

(D) If the Secretary—

(i) finds in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A) (i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

(E) No marine mammal held pursuant to a permit issued under subparagraph (A), or by a person exercising rights under subparagraph (C), may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).

(3)(A) The Secretary may issue a permit under this paragraph for scientific research purposes to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose. The Secretary may issue a permit under this paragraph before the end of the public review and comment period required under subsection (d)(2) if delaying issuance of the permit could result in injury to a species, stock, or individual, or in loss of unique research opportunities.

(B) No permit issued for purposes of scientific research shall authorize the lethal taking of a marine mammal unless the applicant demonstrates that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock that is depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

(C) Not later than 120 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994 [August 28, 1994], the Secretary shall issue a general authorization and implementing regulations allowing bona fide scientific research that may result only in taking by Level B harassment of a marine mammal. Such authorization shall apply to persons which submit, by 60 days before commencement of such research, a letter of intent via certified mail to the Secretary containing the following:

(i) The species or stocks of marine mammals which may be harassed.

(ii) The geographic location of the research.

(iii) The period of time over which the research will be conducted.

(iv) The purpose of the research, including a description of how the definition of bona fide research as established under this Act would apply.

(v) Methods to be used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general

authorization, the Secretary shall issue a letter to the applicant confirming that the general authorization applies, or, if the proposed research is likely to result in the taking (including Level A harassment) of a marine mammal, shall notify the applicant that subparagraph (A) applies.

(4)(A) A permit may be issued for enhancing the survival or recovery of a species or stock only with respect to a species or stock for which the Secretary, after consultation with the Marine Mammal Commission and after notice and opportunity for public comment, has first determined that—

(i) taking or importation 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

(ii) taking or importation is consistent (I) with any conservation plan adopted by the Secretary under section 115(b) of this title or any recovery plan developed under section 4(f) of the Endangered Species Act of 1973 for the species or stock, or (II) if there is no conservation or recovery plan in place, with the Secretary's evaluation of actions required to enhance the survival or recovery of the species or stock in light to the factors that would be addressed in a conservation plan or a recovery plan.

(B) A permit issued in accordance with this paragraph may allow the captive maintenance of a marine mammal from a depleted species or stock only if the Secretary—

(i) determines that captive maintenance is likely to contribute to the survival or recovery of the species or stock by maintaining a viable gene pool, increasing productivity, providing biological information, or establishing animal reserves;

(ii) determines that the expected benefit to the affected species or stock outweighs the expected benefit of alternatives which do not require removal of animals from the wild; and

(iii) requires that the marine mammal or its progeny be returned to the natural habitat of the species or stock as soon as feasible, consistent with the objectives of any applicable conservation plan or recovery plan, or of any evaluation by the Secretary under subparagraph (A).

The Secretary may allow the public display of such a marine mammal only if the Secretary determines that such display is incidental to the authorized maintenance and will not interfere with the attainment of the survival or recovery objectives.

(5)(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada, to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada by the applicant. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that—

(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level;

(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 113(d).

(C)(i) The Secretary shall undertake a scientific review of the impact of permits issued under this paragraph on the polar bear population stocks in Canada within 2 years after the date of enactment of this paragraph [April 30, 1996]. The Secretary shall provide an opportunity for public comment during the course of such review, and shall include a response to such public comment in the final report on such review.

(ii) The Secretary shall not issue permits under this paragraph after September 30, 1996, if the Secretary determines, based on the scientific review, that the issuance of permits under this paragraph is having a significant adverse impact on the polar bear population stocks in Canada. The Secretary may review such determination annually thereafter, in light of the best scientific information available, and shall complete the review not later than January 31 in any year a review is undertaken. The Secretary may issue permits under this paragraph whenever the Secretary determines, on the basis of such annual review, that the issuance of permits under this paragraph is not having a significant adverse impact on the polar bear population stocks in Canada.

(D) The Secretary of the Interior shall, expeditiously after the expiration of the applicable 30 day period under subsection (d)(2), issue a permit for the importation of polar bear parts (other than internal organs) from polar bears taken in sport hunts in Canada before the date of enactment of the Marine Mammal Protection Act Amendments of 1994 [April 30, 1994], to each applicant who submits, with the permit application, proof that the polar bear was legally harvested in Canada by the applicant. The Secretary shall issue such permits without regard to the provisions of subparagraphs (A) and (C)(ii) of this paragraph, subsection (d)(3) of this section, and sections 101 and 102. This subparagraph shall not apply to polar bear parts that were imported before the effective date of this subparagraph [June 12, 1997].

(6) A permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild only to an applicant which submits with its permit application information indicating that the taking will be limited to Level B harassment, and the manner in which the products of such activities will be made available to the public.

(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3); or

(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

(B)(i) A person which has a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), which has possession of a marine mammal that gives birth to progeny shall—

(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

(C) Any progeny of a marine mammal born in captivity before the date of the enactment of the Marine Mammal Protection Act Amendments of 1994 [April 30, 1994] and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2)(A), by persons exercising rights under paragraph (2)(C), and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information which shall be provided by a person holding a marine mammal under this Act:

(A) The name of the marine mammal or other identification.

(B) The sex of the marine mammal.

(C) The estimated or actual birth date of the marine mammal.

(D) The date of acquisition or disposition of the marine mammal by the permit holder.

(E) The source from whom the marine mammal was acquired including the location of the take from the wild, if applicable.

(F) If the marine mammal is transferred, the name of the recipient.

(G) A notation if the animal was acquired as the result of a stranding.

(H) The date of death of the marine mammal and the cause of death when determined.

(d) [APPLICATION PROCEDURES; NOTICE; HEARING; REVIEW.] —

(1) The Secretary shall prescribe such procedures as are necessary to carry out this section, including the form and manner in which application for permits may be made.

(2) The Secretary shall publish notice in the Federal Register of each application made for a permit under this section. Such notice shall invite the submission from interested parties, within thirty days after the date of the notice, of written data or views, with respect to the taking or importation proposed in such application.

(3) The applicant for any permit under this section must demonstrate to the Secretary that the taking or importation of any marine mammal under such permit will be consistent with the purposes of this Act and the applicable regulations established under section 103 of this title.

(4) If within thirty days after the date of publication of notice pursuant to paragraph (2) of this subsection with respect to any application for a permit any interested party or parties request a hearing in connection therewith, the Secretary may, within sixty days following such date of publication, afford to such party or parties an opportunity for such a hearing.

(5) As soon as practicable (but not later than thirty days) after the close of the hearing or, if no hearing is held, after the last day on which data, or views, may be submitted pursuant to paragraph (2) of this subsection, the Secretary shall (A) issue a permit containing such terms and conditions as he deems appropriate, or (B) shall deny issuance of a permit. Notice of the decision of the Secretary to issue or to deny any permit under this paragraph must be published in the Federal Register within ten days after the date of issuance or denial.

(6) Any applicant for a permit, or any party opposed to such permit, may obtain judicial review of the terms and conditions of any permit issued by the Secretary under this section or of his refusal to issue such a permit. Such review, which shall be pursuant to chapter 7 of Title 5, United States Code, may be initiated by filing a petition for review in the United States district court for the district wherein the applicant for a permit resides, or has his principal place of business, or in the United States District Court for the District of Columbia, within sixty days after the date on which such permit is issued or denied.

(e) [MODIFICATION, SUSPENSION, AND REVOCATION.] —

(1) The Secretary may modify, suspend, or revoke in whole or part any permit issued by him under this

section—

(A) in order to make any such permit consistent with any change made after the date of issuance of such permit with respect to any applicable regulation prescribed under section 103 of this title,

(B) in any case in which a violation of the terms and conditions of the permit is found, or

(C) if, in the case of a permit under subsection (c)(5) authorizing importation of polar bear parts, the Secretary, in consultation with the appropriate authority in Canada, determines that the sustainability of Canada's polar bear population stocks are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear population stocks throughout their range.

(2) Whenever the Secretary shall propose any modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Secretary with respect to such proposed modification, suspension, or revocation. Such proposed action by the Secretary shall not take effect until a decision is issued by him after such hearing. Any action taken by the Secretary after such a hearing is subject to judicial review on the same basis as is any action taken by him with respect to a permit application under paragraph (5) of subsection (d) of this section.

(3) Notice of the modification, suspension, or revocation of any permit by the Secretary shall be published in the Federal Register within ten days from the date of the Secretary's decision.

(f) [POSSESSION OF PERMIT BY ISSUUEE OR HIS AGENT.] — Any permit issued under this section must be in the possession of the person to whom it is issued (or an agent of such person) during—

(1) the time of the authorized or taking importation;

(2) the period of any transit of such person or agent which is incident to such taking or importation; and

(3) any other time while any marine mammal taken or imported under such permit is in the possession of such person or agent.

A duplicate copy of the issued permit must be physically attached to the container, package, enclosure, or other means of containment, in which the marine mammal is placed for purposes of storage, transit, supervision, or care.

(g) [FEES.] — The Secretary shall establish and charge a reasonable fee for permits issued under this section.

(h) [GENERAL PERMITS.] — (1) Consistent with the regulations prescribed pursuant to section 103 of this title and the requirements of section 101 of this title, the Secretary may issue an annual permit to a United States purse seine fishing vessel for the taking of such marine mammals, and shall issue regulations to cover the use of any such annual permits.

(2) Such annual permits for the incidental taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean shall be governed by section 306 of this Act, subject to the regulations issued pursuant to section 303 of this Act.

(3)(A) The Secretary shall, commencing on January 1, 1985, undertake a scientific research program to monitor for at least five consecutive years, and periodically as necessary thereafter, the indices of abundance and trends of marine mammal population stocks which are incidentally taken in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

(B) If the Secretary determines, on the basis of the best scientific information available (including that obtained under the monitoring program), that the incidental taking of marine mammals permitted under the general permit referred to in paragraph (2) is having a significant adverse effect on a marine mammal population stock, the Secretary shall take such action as is necessary, after notice and an opportunity for an agency hearing on the record, to modify the applicable incidental take quotas or requirements for gear and fishing practices (or both such quotas and requirements) for such fishing so as to ensure that the marine mammal population stock is not significantly adversely affected by the incidental taking.

(C) For each year after 1984, the Secretary shall include in his annual report to the public and the Congress under section 103(f) a discussion of the proposed activities to be conducted each year as part of the monitoring program required by subparagraph (A).

(D) There are authorized to be appropriated to the Department of Commerce for purposes of carrying out the monitoring program required under this paragraph not to exceed \$4,000,000 for the period beginning October 1, 1984, and ending September 30, 1988.

Penalties

16 U.S.C. 1375

Sec. 105. (a)(1) Any person who violates any provision of this title or of any permit or regulation issued thereunder, except as provided in section 118, may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each unlawful taking or importation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary for good cause shown. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

(2) In any case involving an alleged unlawful importation of a marine mammal or marine mammal product, if such importation is made by an individual for his own personal or family use (which does not include importation as an accommodation to others or for sale or other commercial use), the Secretary may, in lieu of instituting a proceeding under paragraph (1), allow the individual to abandon the mammal or product, under procedures to be prescribed by the Secretary, to the enforcement officer at the port of entry.

(b) Any person who knowingly violates any provision of this title or of any permit or regulation issued thereunder (except as provided in section 118) shall, upon conviction, be fined not more than \$20,000 for each such violation, or imprisoned for not more than one year, or both.

Marine Mammal Protection Act (MMPA) Title I

[Federal Cooperation With States - 16 U.S.C. 1379](#)

Sec. 109.

(a) [STATE ENFORCEMENT OF STATE LAWS OR REGULATIONS PROHIBITED WITHOUT TRANSFER TO STATE OF MANAGEMENT AUTHORITY BY SECRETARY.] — No State may enforce, or attempt to enforce, any State law or regulation relating to the taking of any species (which term for purposes of this section includes any population stock) of marine mammal within the State unless the Secretary has transferred authority for the conservation and management of that species (hereinafter referred to in this section as "management authority") to the State under subsection (b)(1).

(b) [FINDINGS PREREQUISITE TO TRANSFER OF AUTHORITY; STATE PROGRAM; IMPLEMENTATION.]

—

(1) Subject to paragraph (2) and subsection (f), the Secretary shall transfer management authority for a species of marine mammal to a State if the Secretary finds, after notice and opportunity for public comment, that the State has developed and will implement a program for the conservation and management of the species that—

(A) is consistent with the purposes, policies, and goals of this Act and with international treaty obligations;

(B) requires that all taking of the species be humane;

(C) does not permit the taking of the species unless and until—

(i) the State has determined, under a process consistent with the standards set forth in subsection (c)—

(I) that the species is at its optimum sustainable population (hereinafter in this section referred to as "OSP"), and

(II) the maximum number of animals of that species that may be taken without reducing the species below its OSP, and

(ii) the determination required under clause (i) is final and implemented under State law, and, if a cooperative allocation agreement for the species is required under subsection (d)(1), such an agreement is implemented;

(D) does not permit the taking of a number of animals of the species that exceeds the maximum number determined pursuant to subparagraph (C)(i)(II), and, in the case of taking for subsistence uses (as defined in subsection (f)(2)), does not permit the taking of a number of animals that would be inconsistent with the maintenance of the species at its OSP;

(E) does not permit the taking of the species for scientific research, public display, or enhancing the survival or recovery of a species or stock, except for taking for such purposes that is undertaken by, or on behalf of, the State;

(F) provides procedures for acquiring data, and evaluating such data and other new evidence, relating to the OSP of the species, and the maximum take that would maintain the species at that level, and, if required on the basis of such evaluation, for amending determinations under subparagraph (C)(i);

(G) provides procedures for the resolution of differences between the State and the Secretary that might arise during the development of a cooperative allocation agreement under subsection (d)(1); and

(H) provides for the submission of an annual report to the Secretary regarding the administration of the program during the reporting period.

(2) During the period between the transfer of management authority for a species to a State under paragraph (1) and the time at which the implementation requirements under paragraph (1)(C)(ii) are complied with—

(A) the State program shall not apply with respect to the taking of the species within the State for any purpose, or under any condition, provided for under section 101; and

(B) the Secretary shall continue to regulate, under this title, all takings of the species within the State.

(3) After the determination required under paragraph (1)(C)(i) regarding a species is final and implemented under State law

Marine Mammal Protection Act (MMPA) Title I

and after a cooperative allocation agreement described in subsection (d)(1), if required, is implemented for such species—

(A) such determination shall be treated, for purposes of applying this title beyond the territory of the State, as a determination made in accordance with section 103 and as an applicable waiver under section 101(a)(3);

(B) the Secretary shall regulate, without regard to this section other than the allocations specified under such an agreement, the taking of the species—

(i) incidentally in the course of commercial fishing operations (whether provided for under section 101(a)(2) or (4)), or in the course of other specified activities provided for under section 101(a)(5), in the zone described in section 3(14)(B), and

(ii) for scientific research, public display, or enhancing the survival or recovery of a species or stock (other than by, or on behalf of, the State), except that any taking authorized under a permit issued pursuant to section 101(a)(1) after the date of the enactment of the 1981 amendment to this sub-section [October 9, 1981] allowing the removal of live animals from habitat within the State shall not be effective if the State agency disapproves, on or before the date of issuance of the permit, such taking as being inconsistent with the State program; and

(C) section 101(b) shall not apply.

(c) [STANDARDS WITH WHICH STATE PROCESS MUST COMPLY.] — The State process required under subsection (b)(1)(C) must comply with the following standards:

(1) The State agency with management authority for the species (hereinafter in this section referred to as the "State agency") must make an initial determination regarding the factors described in clause (i) of that subsection. The State agency must identify, and make available to the public under reasonable circumstances, the documentation supporting such initial determination. Unless request for a hearing under paragraph (2) regarding the initial determination is timely made, the initial determination shall be treated as final under State law.

(2) The State agency shall provide opportunity, at the request of any interested party, for a hearing with respect to the initial determination made by it under paragraph (1) at which interested parties may—

(A) present oral and written evidence in support of or against such determination; and

(B) cross-examine persons presenting evidence at the hearing.

The State agency must give public notice of the hearing and make available to the public within a reasonable time before commencing the hearing a list of the witnesses for the State and a general description of the documentation and other evidence that will be relied upon by such witnesses.

(3) The State agency, solely on the basis of the record developed at a hearing held pursuant to paragraph (2), must make a decision regarding its initial determination under paragraph (1) and shall include with the record a statement of the findings and conclusions, and the reason or basis therefore, on all material issues.

(4) Opportunity for judicial review of the decision made by the State agency on the record under paragraph (3), under scope of review equivalent to that provided for in section 706(2) (A) through (E) of Title 5, United States Code, must be available under State law. The Secretary may not initiate judicial review of any such decision.

(d) [COOPERATIVE ALLOCATION AGREEMENTS.] —

(1) If the range of a species with respect to which a determination under paragraph (1)(C)(i) of subsection (b) is made extends beyond the territorial waters of the State, the State agency and the Secretary (who shall first coordinate with the Marine Mammal Commission and the appropriate Regional Fishery Management Council established under section 302 of the Act of April 13, 1976 (16 U.S.C. 1852)) shall enter into a cooperative allocation agreement providing procedures for allocating, on a timely basis, such of the number of animals, as determined under paragraph (1)(C)(i)(II) of subsection (b), as may be appropriate with priority of allocation being given firstly to taking for subsistence uses in the case of the State of Alaska, and secondly to taking for purposes provided for under section 101(a) within the zone described in section 3(14)(B).

(2) If the State agency requests the Secretary to regulate the taking of a species to which paragraph (1) applies within the zone described in section 3(14)(B) for subsistence uses or for hunting, or both, in a manner consistent with the regulation by the State agency of such taking within the State, the Secretary shall adopt, and enforce within such zone, such of the State agency's regulatory provisions as the Secretary considers to be consistent with his administration of section 101(a) within

Marine Mammal Protection Act (MMPA) Title I

such zone. The Secretary shall adopt such provisions through the issuance of regulations under section 553 of Title 5, United States Code, and with respect to such issuance the Regulatory Flexibility Act, the Paperwork Reduction Act, Executive Order No. 12291, dated February 17, 1981, and the thirty-day notice requirement in subsection (d) of such section 553 shall not apply. For purposes of sections 105, 106, and 107, such regulations shall be treated as having been issued under this title.

(e) [REVOCAION OF TRANSFER OF MANAGEMENT AUTHORITY.] —

(1) Subject to paragraph (2), the Secretary shall revoke, after opportunity for a hearing, any transfer of management authority made to a State under subsection (b)(1) if the Secretary finds that the State program for the conservation and management of the species concerned is not being implemented, or is being implemented in a manner inconsistent with the provisions of this section or the provisions of the program. The Secretary shall also establish a procedure for the voluntary return by a State to the Secretary of species management authority that was previously transferred to the State under subsection (b)(1).

(2)

(A) The Secretary may not revoke a transfer of management authority under paragraph (1) unless—

(i) The Secretary provides to the State a written notice of intent to revoke together with a statement, in detail, of those actions, or failures to act, on which such intent is based; and

(ii) during the ninety-day period after the date of the notice of intent to revoke—

(I) the Secretary provides opportunity for consultation between him and the State concerning such State actions or failures to act and the remedial measures that should be taken by the State, and

(II) the State does not take such remedial measures as are necessary, in the judgment of the Secretary, to bring its conservation and management program, or the administration or enforcement of the program, into compliance with the provisions of this section.

(B) When a revocation by the Secretary of a transfer of management authority to a State becomes final, or the State voluntarily returns management authority to the Secretary, the Secretary shall regulate the taking, and provide for the conservation and management, of the species within the State in accordance with the provisions of this Act (and in the case of Alaskan Natives, section 101(b) and subsection (i) of this section shall apply upon such revocation or return of management authority).

(f) [TRANSFER OF MANAGEMENT AUTHORITY TO STATE OF ALASKA.] —

(1) The Secretary may not transfer management authority to the State of Alaska under subsection (b)(1) for any species of marine mammal unless—

(A) the State has adopted and will implement a statute and regulations that insure that the taking of the species for subsistence uses—

(i) is accomplished in a nonwasteful manner,

(ii) will be the priority consumptive use of the species, and

(iii) if required to be restricted, such restriction will be based upon—

(I) the customary and direct dependence upon the species as the mainstay of livelihood,

(II) local residency, and

(III) the availability of alternative resources; and

(B) the State has adopted a statute or regulation that requires that any consumptive use of marine mammal species, other than for subsistence uses, will be authorized during a regulatory year only if the appropriate agency first makes findings,

Marine Mammal Protection Act (MMPA) Title I

based on an administrative record before it, that—

(i) such use will have no significant adverse impact upon subsistence uses of the species, and

(ii) the regulation of such use, including, but not limited to, licensing of marine mammal hunting guides and the assignment of guiding areas, will, to the maximum extent practicable, provide economic opportunities for the residents of the rural coastal villages of Alaska who engage in subsistence uses of that species.

(2) For purposes of paragraph (1), the term "subsistence uses" means the customary and traditional uses by rural Alaska residents of marine mammals for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of marine mammals taken for personal or family consumption; and for barter, or sharing for personal or family consumption. As used in this paragraph—

(A) The term "family" means all persons related by blood, marriage, or adoption, or any person living within a household on a permanent basis.

(B) The term "barter" means the exchange of marine mammals or their parts, taken for subsistence uses—

(i) for other wildlife or fish or their parts, or

(ii) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

(g) [ENVIRONMENTAL IMPACT STATEMENT NOT REQUIRED.] — Neither the transfer of management authority to a State under subsection (b)(1), nor the revocation or voluntary return of such authority under subsection (e), shall be deemed to be an action for which an environmental impact statement is required under section 102 of the National Environmental Policy Act of 1969.

(h) [TAKING OF MARINE MAMMALS AS PART OF OFFICIAL DUTIES.] —

(1) Nothing in this title or title IV shall prevent a Federal, State, or local government official or employee or a person designated under section 112(c) from taking, in the course of his or her duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for—

(A) the protection or welfare of the mammal,

(B) the protection of the public health and welfare, or

(C) the nonlethal removal of nuisance animals.

(2) Nothing in this title shall prevent the Secretary or a person designated under section 112(c) from importing a marine mammal into the United States if such importation is necessary to render medical treatment that is not otherwise available.

(3) In any case in which it is feasible to return to its natural habitat a marine mammal taken or imported under circumstances described in this subsection, steps to achieve that result shall be taken.

(i) [REGULATIONS COVERING TAKING OF MARINE MAMMALS BY ALASKAN

NATIVES.] — The Secretary may (after providing notice thereof in the Federal Register and in newspapers of general circulation, and through appropriate electronic media, in the affected area and providing opportunity for a hearing thereon in such area) prescribe regulations requiring the marking, tagging, and reporting of animals taken pursuant to section 101(b).

(j) [GRANTS TO DEVELOP OR ADMINISTER STATE CONSERVATION AND MANAGEMENT PROGRAMS.] — The Secretary may make grants to States to assist them—

(1) in developing programs, to be submitted for approval under subsection (b), for the conservation and management of species of marine mammals; and

(2) in administering such programs if management authority for such species is transferred to the State under such subsection. Grants made under this subsection may not exceed 50 per centum of the costs of developing a State program

Marine Mammal Protection Act (MMPA) Title I

before Secretarial approval, or of administering the program thereafter.

(k) [DELEGATION OF ADMINISTRATION AND ENFORCEMENT TO STATES.] — The Secretary is authorized and directed to enter into cooperative arrangements with the appropriate officials of any State for the delegation to such State of the administration and enforcement of this title: *Provided*, That any such arrangement shall contain such provisions as the Secretary deems appropriate to insure that the purposes and policies of this Act will be carried out.

(l) [AUTHORIZATION OF APPROPRIATIONS.] —

(1) There are authorized to be appropriated to the Department of the Interior, for the purposes of carrying out this section, not to exceed \$400,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(2) There are authorized to be appropriated to the Department of Commerce, for the purposes of carrying out this section, not to exceed \$225,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

Regulations and Administration

16 U.S.C. 1382

Sec. 112. (a) [CONSULTATION WITH FEDERAL AGENCIES.] — The Secretary, in consultation with any other Federal agency to the extent that such agency may be affected, shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this title.

(b) [COOPERATION BY FEDERAL AGENCIES.] — Each Federal agency is authorized and directed to cooperate with the Secretary, in such manner as may be mutually agreeable, in carrying out the purposes of this title.

(c) [CONTRACTS, LEASES, AND COOPERATIVE AGREEMENTS.] — The Secretary may enter into such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this title or title IV and on such terms as he deems appropriate with any Federal or State agency, public or private institution, or other person.

(d) [ANNUAL REVIEW; SUSPENSION OF PROGRAM.] — The Secretary shall review annually the operation of each program in which the United States participates involving the taking of marine mammals on land. If at any time the Secretary finds that any such program cannot be administered on lands owned by the United States or in which the United States has an interest in a manner consistent with the purposes of policies of this Act, he shall suspend the operation of that program and shall include in the annual report to the public and the Congress required under section 103(f) of this Act his reasons for such suspension, together with recommendations for such legislation as he deems necessary and appropriate to resolve the problem.

(e) [MEASURES TO ALLEVIATE IMPACTS ON STRATEGIC STOCKS.] — If the Secretary determines, based on a stock assessment under section 117 or other significant new information obtained under this Act, that impacts on rookeries, mating grounds, or other areas of similar ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, the Secretary may develop and implement conservation or management measures to alleviate those impacts. Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment.

Taking of Marine Mammals Incidental to Commercial Fishing Operations

16 U.S.C. 1387

Sec. 118. (a) IN GENERAL. —

(1) Effective on the date of enactment of this section [April 30, 1994], and except as provided in section 114 and in paragraphs (2), (3), and (4) of this subsection, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section [April 30, 2001].

(2) In the case of the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 101(a)(5)(E) of this Act shall apply.

(3) Sections 104(h) and title III, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

(4) This section shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).

(5) Except as provided in section 101(c), the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

(6) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

(b) ZERO MORTALITY RATE GOAL. —

(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section [April 30, 2001].

(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality and serious injury rates.

(3) Three years after such date of enactment [April 30, 1997], the Secretary shall review the progress of all commercial fisheries, by fishery, toward reducing incidental mortality and serious injury to insignificant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any commercial fishery for which additional information is required to accurately assess the level of incidental mortality and serious injury of marine mammals in the fishery.

(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (f).

(c) REGISTRATION AND AUTHORIZATION. —

(1) The Secretary shall, within 90 days after the date of enactment of this section [July 29, 1994]—

(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114(b)(1) and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery), with respect to commercial fisheries that have—

(i) frequent incidental mortality and serious injury of marine mammals;

(ii) occasional incidental mortality and serious injury of marine mammals; or

(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A) (i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

(i) is a vessel of the United States; or

(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A) (i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned and used in the fishery an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such exemption is valid;

(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel;

(iii) report as required by subsection (e); and

(iv) comply with any applicable take reduction plan and emergency regulations issued under this section.

(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A) (i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A) (i) or (ii) who—

(i) fails to obtain from the Secretary an authorization for such vessel under this section;

(ii) fails to maintain a current and valid authorization for such vessel; or

(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the

Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and for violations of clauses (i) and (ii) shall be subject to the penalties of this title, and for violations of clause (iii) shall be subject to a fine of not more than \$100 for each offense.

(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement a take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A) (i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (e), instances of incidental mortality or injury of marine mammals in the course of that fishery.

(4)(A) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (e) and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar authorization under this section for an owner who complies with the requirements of this section.

(B) The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with a take reduction plan or emergency regulations issued under this section.

(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of sections 105 and 107, and may be subject to section 106.

(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Regional Fishery Management Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

(d) MONITORING OF INCIDENTAL TAKES. —

(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations. The purposes of the monitoring program shall be to—

(A) obtain statistically reliable estimates of incidental mortality and serious injury;

(B) determine the reliability of reports of incidental mortality and serious injury under subsection (e);
and

(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

(2) Pursuant to paragraph (1), the Secretary may place observers on board vessels as necessary, subject to the provisions of this section. Observers may, among other tasks—

(A) record incidental mortality and injury, or by catch of other nontarget species;

(B) record numbers of marine mammals sighted; and

(C) perform other scientific investigations.

(3) In determining the distribution of observers among commercial fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

(A) The requirement to obtain statistically reliable information.

(B) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery.

(C) The requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage.

(D) To the extent practicable, the need to minimize costs and avoid duplication.

(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from strategic stocks.

(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks for which the level of incidental mortality and

serious injury is uncertain.

(5) The Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

(6) The Secretary is not required to place an observer on a vessel in a fishery if the Secretary finds that—

(A) in a situation in which harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

(B) the facilities on a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

(C) for reasons beyond the control of the Secretary, an observer is not available.

(7) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A) (i) or (ii).

(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

(A) to Federal employees whose duties require access to such information;

(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

(C) when required by court order; or

(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

(9) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

(e) **REPORTING REQUIREMENT.** — The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

(2) The name and address of the vessel owner or operator.

(3) The name and description of the fishery.

(4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

(f) TAKE REDUCTION PLANS. —

(1) The Secretary shall develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(1)(A) (i) or (ii), and may develop and implement such a plan for any other marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.

(2) The immediate goal of a take reduction plan for a strategic stock shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established for that stock under section 117. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.

(3) If there is insufficient funding available to develop and implement a take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A) (i) or (ii), the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that have a small population size, and those which are declining most rapidly.

(4) Each take reduction plan shall include—

(A) a review of the information in the final stock assessment published under section 117(b) and any substantial new information;

(B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken or seriously injured each year during the course of commercial fishing operations, by fishery;

(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury;

(D) recommended dates for achieving the specific objectives of the plan.

(5)(A) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months of the plan's implementation, such mortality and serious injury

to a level below the potential biological removal level.

(B) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation, the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term "maximum extent practicable" means to the lowest level that is feasible for such fisheries within the 6-month period.

(6)(A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment under section 117(b) for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

(i) establish a take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

(B) The Secretary may request a take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

(C) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices which result in the incidental mortality and serious injury of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests.

(D) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

(E) Members of take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), the following procedures shall apply in the development of the take reduction plan for the stock:

(A)(i) Not later than 6 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

(E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

(8) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

(A)(i) Not later than 11 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities

considered by the team, and the views of both the majority and minority.

(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

(E) The Secretary and the take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

(9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement a take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

(C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and

(D) monitor, in accordance with subsection (d), the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.

(10)(A) Notwithstanding paragraph (6), in the case of any stock to which paragraph (1) applies for which a final stock assessment has not been published under section 117(b)(3) by April 1, 1995, due to a proceeding under section 117(b)(2), or any Federal court review of such proceeding, the Secretary shall establish a take reduction team under paragraph (6) for such stock as if a final stock assessment had been published.

(B) The draft stock assessment published for such stock under section 117(b)(1) shall be deemed the final stock assessment for purposes of preparing and implementing a take reduction plan for such stock under this section.

(C) Upon publication of a final stock assessment for such stock under section 117(b)(3) the Secretary shall immediately reconvene the take reduction team for such stock for the purpose of amending the take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (7)(F) or (8)(F), as appropriate.

(D) A draft stock assessment may only be used as the basis for a take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 117(a)(5)(A) and shall revoke any regulations to implement a take reduction plan for such stock.

(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

(11) Take reduction plans developed under this section for a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act.

(g) EMERGENCY REGULATIONS. —

(1) If the Secretary finds that the incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:

(A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall—

(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce incidental mortality and serious injury in that fishery; and

(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.

(B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall—

(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

(C) In the case of a stock or species for which a take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (c)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

(ii) immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine if a take reduction team should be established; and

(iii) may, where necessary to address such adverse impact on a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii), if the Secretary has reason to believe such vessels may be causing the incidental mortality and serious injury to marine mammals from such stock.

(2) Prior to taking action under paragraph (1) (A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Regional Fishery Management Councils, State fishery managers, and the appropriate take reduction team (if established).

(3) Emergency regulations prescribed under this subsection—

(A) shall be published in the Federal Register, together with an explanation thereof;

(B) shall remain in effect for not more than 180 days or until the end of the applicable commercial fishing season, whichever is earlier; and

(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for emergency regulations no longer exist.

(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

(h) PENALTIES. — Except as provided in subsection (c), any person who violates this section shall be subject to the provisions of sections 105 and 107, and may be subject to section 106 as the Secretary shall establish by regulations.

(i) ASSISTANCE. — The Secretary shall provide assistance to Regional Fishery Management Councils, States,

interstate fishery commissions, and Indian tribal organizations in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

(j) CONTRIBUTIONS. — For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

(k) CONSULTATION WITH SECRETARY OF THE INTERIOR. — The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

(l) DEFINITIONS. — As used in this section and section 101(a)(5)(E), each of the terms "fishery" and "vessel of the United States" has the same meaning it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).

National Marine Fisheries Service/NOAA, Commerce

§ 216.22

U.S.C. 1001, or to penalties under the Marine Mammal Protection Act of 1972.

(b) Either one of two exhibits shall be attached to such affidavit, and will contain either:

(1) Records or other available evidence showing that the product consists of or is composed in whole or in part of marine mammals taken prior to the effective date of the MMPA. Such records or other evidentiary material must include information on how, when, where, and by whom the animals were taken, what processing has taken place since taking, and the date and location of such processing; or

(2) A statement from a government agency of the country of origin exercising jurisdiction over marine mammals that any and all such mammals from which the products sought to be imported were derived were taken prior to December 21, 1972.

(c) No pre-Act marine mammal or pre-Act marine mammal product may be imported unless the requirements of this section have been fulfilled.

(d) This section has no application to any marine mammal or marine mammal product intended to be imported pursuant to §§ 216.21, 216.31 or § 216.32.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50375, 50376, Oct. 3, 1994]

§ 216.15 Depleted species.

The following species or population stocks have been designated by the Assistant Administrator as depleted under the provisions of the MMPA.

(a) Hawaiian monk seal (*Monachus schauinslandi*).

(b) Bowhead whale (*Balaena mysticetus*).

(c) North Pacific fur seal (*Callorhinus ursinus*). Pribilof Island population.

(d) Bottlenose dolphin (*Tursiops truncatus*), coastal-migratory stock along the U.S. mid-Atlantic coast.

(e) Eastern spinner dolphin (*Stenella longirostris orientalis*).

(f) Northeastern offshore spotted dolphin (*Stenella attenuata*).

(g) Cook Inlet, Alaska, stock of beluga whales (*Delphinapterus leucas*). The stock includes all beluga whales occurring in waters of the Gulf of Alaska north of 58° North latitude including, but not limited to, Cook Inlet, Kamishak Bay, Chinitna Bay, Tuxedni

Bay, Prince William Sound, Yakutat Bay, Shelikof Strait, and off Kodiak Island and freshwater tributaries to these waters.

[53 FR 17899, May 18, 1988, as amended at 58 FR 17791, Apr. 6, 1993; 58 FR 45074, Aug. 26, 1993; 58 FR 58297, Nov. 1, 1993; 59 FR 50376, Oct. 3, 1994; 65 FR 34597, May 31, 2000]

§ 216.16 Prohibitions under the General Authorization for Level B harassment for scientific research.

It shall be unlawful for any person to:

(a) Provide false information in a letter of intent submitted pursuant to § 216.45(b);

(b) Violate any term or condition imposed pursuant to § 216.45(d).

[59 FR 50376, Oct. 3, 1994]

Subpart C—General Exceptions

§ 216.21 Actions permitted by international treaty, convention, or agreement.

The MMPA and these regulations shall not apply to the extent that they are inconsistent with the provisions of any international treaty, convention or agreement, or any statute implementing the same relating to the taking or importation of marine mammals or marine mammal products, which was existing and in force prior to December 21, 1972, and to which the United States was a party. Specifically, the regulations in subpart B of this part and the provisions of the MMPA shall not apply to activities carried out pursuant to the Interim Convention on the Conservation of North Pacific Fur Seals signed at Washington on February 9, 1957, and the Fur Seal Act of 1966, 16 U.S.C. 1151 through 1187, as in each case, from time to time amended.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50376, Oct. 3, 1994]

§ 216.22 Taking by State or local government officials.

(a) A State or local government official or employee may take a marine mammal in the normal course of his duties as an official or employee, and no permit shall be required, if such taking:

§216.22

50 CFR Ch. II (10-1-01 Edition)

(1) Is accomplished in a humane manner;

(2) Is for the protection or welfare of such mammal or for the protection of the public health or welfare; and

(3) Includes steps designed to insure return of such mammal, if not killed in the course of such taking, to its natural habitat. In addition, any such official or employee may, incidental to such taking, possess and transport, but not sell or offer for sale, such mammal and use any port, harbor, or other place under the jurisdiction of the United States. All steps reasonably practicable under the circumstances shall be taken by any such employee or official to prevent injury or death to the marine mammal as the result of such taking. Where the marine mammal in question is injured or sick, it shall be permissible to place it in temporary captivity until such time as it is able to be returned to its natural habitat. It shall be permissible to dispose of a carcass of a marine mammal taken in accordance with this subsection whether the animal is dead at the time of taking or dies subsequent thereto.

(b) Each taking permitted under this section shall be included in a written report to be submitted to the Secretary every six months beginning December 31, 1973. Unless otherwise permitted by the Secretary, the report shall contain a description of:

- (1) The animal involved;
- (2) The circumstances requiring the taking;
- (3) The method of taking;
- (4) The name and official position of the State official or employee involved;
- (5) The disposition of the animal, including in cases where the animal has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and
- (6) Such other information as the Secretary may require.

(c) Salvage of dead stranded marine mammals or parts therefrom and subsequent transfer.

(1) *Salvage.* In the performance of official duties, a state or local government employee; an employee of the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, or any other Federal agency with jurisdiction

and conservation responsibilities in marine shoreline areas; or a person authorized under 16 U.S.C. 1382(c) may take and salvage a marine mammal specimen if it is stranded and dead or it was stranded or rescued and died during treatment, transport, captivity or other rehabilitation subsequent to that stranding or distress if salvage is for the purpose of utilization in scientific research or for the purpose of maintenance in a properly curated, professionally accredited scientific collection.

(2) *Registration.* A person salvaging a dead marine mammal specimen under this section must register the salvage of the specimen with the appropriate Regional Office of the National Marine Fisheries Service within 30 days after the taking or death occurs. The registration must include:

- (i) The name, address, and any official position of the individual engaged in the taking and salvage;
- (ii) A description of the marine mammal specimen salvaged including the scientific and common names of the species;
- (iii) A description of the parts salvaged;
- (iv) The date and the location of the taking;
- (v) Such other information as deemed necessary by the Assistant Administrator.

(3) *Identification and curation.* The Regional Director will assign a single unique number to each carcass, and the parts thereof, that are salvaged under the provisions of this section. The person who salvaged the specimen may designate the number to be assigned. After this number is assigned, the person who salvaged the specimen must permanently mark that number on each separate hard part of that specimen and must affix that number with tags or labels to each soft part of that specimen or the containers in which that soft part is kept. Each specimen salvaged under this section must be curated in accordance with professional standards.

(4) *No sale or commercial trade.* No person may sell or trade for commercial purposes any marine mammal specimen salvaged under this section.

(5) *Transfer without prior authorization.* A person who salvages a marine mammal specimen under this section may transfer that specimen to another person if:

(i) The person transferring the marine mammal specimen does not receive remuneration for the specimen;

(ii) The person receiving the marine mammal specimen is an employee of the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, or any other Federal agency with jurisdiction and conservation responsibilities in marine shoreline areas; is a person authorized under 16 U.S.C. 1382(c); or is a person who has received prior authorization under paragraph (c)(6) of this section;

(iii) The marine mammal specimen is transferred for the purpose of scientific research, for the purpose of maintenance in a properly curated, professionally accredited scientific collection, or for educational purposes;

(iv) The unique number assigned by the National Marine Fisheries Service is on, marked on, or affixed to the marine mammal specimen or container; and

(v) Except as provided under paragraph (c)(8) of this section, the person transferring the marine mammal specimen notifies the appropriate Regional Office of the National Marine Fisheries Service of the transfer, including notification of the number of the specimen transferred and the person to whom the specimen was transferred, within 30 days after the transfer occurs.

(6) *Other transfers within the United States.* Except as provided under paragraphs (c)(5) and (c)(8) of this section, a person who salvages a marine mammal specimen, or who has received a marine mammal specimen under the provisions of this section, may not transfer that specimen to another person within the United States unless the Regional Director of the appropriate Regional Office of the National Marine Fisheries Service grants prior written authorization for the transfer. The Regional Director may grant authorization for the transfer if there is evidence that the conditions listed under paragraphs (c)(5)(i), (c)(5)(iii), and (c)(5)(iv) of this section are met.

(7) *Transfers outside of the United States.* A person who salvages a marine mammal specimen, or a person who has received a marine mammal specimen under the provisions of this section, may not transfer that specimen to a person outside of the United States unless the Assistant Administrator grants prior written authorization for the transfer. The Assistant Administrator may grant authorization for the transfer if there is evidence that the conditions listed under paragraphs (c)(5)(i), (c)(5)(iii), and (c)(5)(iv) of this section are met.

(8) *Exceptions to requirements for notification or prior authorization.* A person may transfer a marine mammal specimen salvaged under this section without the notification required in paragraph (c)(5)(v) of this section or the prior authorization required in paragraph (c)(6) of this section if:

(i) The transfer is a temporary transfer to a laboratory or research facility within the United States so that analyses can be performed for the person salvaging the specimen; or

(ii) The transfer is a loan of not more than 1 year to another professionally accredited scientific collection within the United States.

[39 FR 1852, Jan. 15, 1974, as amended at 56 FR 41307, Aug. 20, 1991]

§ 216.23 Native exceptions.

(a) *Taking.* Notwithstanding the prohibitions of subpart B of this part 216, but subject to the restrictions contained in this section, any Indian, Aleut, or Eskimo who resides on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, if such taking is:

(1) By Alaskan Natives who reside in Alaska for subsistence, or

(2) For purposes of creating and selling authentic native articles of handicraft and clothing, and

(3) In each case, not accomplished in a wasteful manner.

(b) *Restrictions.* (1) No marine mammal taken for subsistence may be sold or otherwise transferred to any person other than an Alaskan Native or delivered, carried, transported, or shipped in interstate or foreign commerce, unless:

Animal Welfare Act as Amended (7 USC, 2131-2156)

(7 U.S.C. §§ 2131 et. seq.)

Section 1. (a) This Act may be cited as the "**Animal Welfare Act**".

(b) The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order--

- (1) 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) to assure the humane treatment of animals during transportation in commerce; and
- (3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use. The Congress further finds that--

- (1) the use of animals is instrumental in certain research and education for advancing knowledge of cures and treatment for diseases and injuries which afflict both humans and animals;
- (2) methods of testing that do not use animals are being and continue to be developed which are faster, less expensive, and more accurate than traditional animal experiments for some purposes and further opportunities exist for the development of these methods of testing;
- (3) measures which eliminate or minimize the unnecessary duplication of experiments on animals can result in more productive use of Federal funds; and
- (4) measures which help meet the public concern for laboratory animal care and treatment are important in assuring that research will continue to progress.

(7 U.S.C. § 2131) (P.L. 89-544, § 1, Aug. 24, 1966, 80 Stat. 350; P.L. 91-579, § 2, Dec. 24, 1970, 84 Stat. 1560; renumbered and amended by P.L. 94-279, § 2, Apr. 22, 1976, 90 Stat. 417)

Section 2. When used in this Act--

(a) The term "Person" includes any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity;

(b) The term "Secretary" means the Secretary of Agriculture of the United States or his representative who shall be an employee of the United States Department of Agriculture;

(c) The term "commerce" means trade, traffic, transportation, or other commerce

(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1),

(d) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;

(e) The term "research facility" means any school (except an elementary or secondary school), institution, organization, or person that

Animal Welfare Act as Amended

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: *Provided*, That the Secretary may exempt, by regulation, any such school, institution, organization, or person that does not use or intend to use live dogs or cats, except those schools, institutions, organizations, or persons, which use substantial numbers (as determined by the Secretary) or live animals the principal function of which schools, institutions, organizations, or persons, is biomedical research or testing, when in the judgment of the Secretary, any such exemption does not vitiate the purpose of this Act;

(f) The term "dealer" means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include

(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat and who derives no more than \$500 gross income from the sale of other animals during any calendar year;

(g) The term "animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warmblooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes or as a pet; but such term excludes horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for improving animal nutrition, breeding, management or production efficiency, or for improving the quality of food or fiber. With respect to a dog the term means all dogs including those used for hunting, security, or breeding purposes;

(h) The term "exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary, and such term includes carnivals, circuses, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and country fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary;

(i) The term "intermediate handler" means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce; and

(j) The term "carrier" means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business or transporting any animals for hire.

(k) The term "Federal agency" means an Executive agency as such term is defined in section 105 of Title 5, United States Code, and with respect to any research facility means the agency from which the research facility means the agency from which the research facility receives a Federal award for the conduct of research, experimentation, or testing, involving the use of animals;

(l) The term "Federal award for the conduct of research, experimentation, or testing, involving the use of animals" means any mechanism (including a grant, award, loan, contract, or cooperative agreement) under which Federal funds are provided to support the conduct of such research;

(m) The term "quorum" means a majority of the Committee members;

(n) The term "Committee" means the Institutional Animal Committee established under section 13(b); and

(o) The term "Federal research facility" means each department, agency, or instrumentality of the United States, which uses live animals for research of experimentation.

(7 U.S.C. § 2132) (P.L. 89-544, § 2, Aug. 24, 1966, 80 Stat. 350; P.L. 91-579, § 3, Dec. 24, 1970, 84 Stat. 1560; P.L. 94-279 §§ 3, 4, Apr. 22, 1976, 90 Stat. 417, 418; P.L. 99-198, Title XVII, § 1756(a), Dec. 23, 1985., 99 Stat. 1650)

Section 3. The Secretary shall issue licenses to dealers and exhibitors upon application therefore in such form and manner as he may prescribe and upon payment of such fee established pursuant to section 23 of this Act: *Provided*, That no such license shall be issued

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Proposed Information Collection; Comment Request; Marine Mammal Stranding Report/Marine Mammal Rehabilitation Disposition Report**

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 18, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patricia Lawson, 301-713-2322 or patricia.lawson@noaa.gov.

SUPPLEMENTARY INFORMATION:**I. Abstract**

The marine mammal stranding report provides information on strandings so that the National Marine Fisheries Service (NMFS) can compile and analyze by region the species, numbers, conditions, and causes of illnesses and deaths in stranded marine mammals. The Agency requires this information to fulfill its management responsibilities under the Marine Mammal Protection Act (16 U.S.C. 1421a). The Agency is also responsible for the welfare of marine mammals while in rehabilitation status. The data from the marine mammal rehabilitation disposition report are required for monitoring and tracking of marine mammals held at various NMFS-authorized facilities. This information is submitted primarily by volunteer members of the marine mammal stranding networks who are authorized by the Agency.

II. Method of Collection

Paper applications, electronic reports, and telephone calls are required from participants, and methods of submittal include Internet through the NMFS

National Marine Mammal Stranding Database and facsimile transmission of paper forms.

III. Data

OMB Number: 0648-0178.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; and business or other for-profit organizations.

Estimated Number of Respondents: 400.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 2,400.

Estimated Total Annual Cost to Public: \$78.44.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 11, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-7216 Filed 4-16-07; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Notice of Intent To Prepare and Environmental Impact Statement (EIS) for the Proposed Approval of a Coastal Management Program for the State of Illinois Under the Coastal Zone Management Act (CZMA) of 1972, As Amended**

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

ACTION: Notice of intent to prepare an EIS; request for comments.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4231, *et seq.*), the Council on Environmental Quality Regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulation (CFR) parts 1500-1508), and NOAA policy and procedures (NOAA Administrative Orders (NAO) 216-6), the NOS Office of Ocean and Coastal Resource Management (OCRM) is issuing this notice to advise the public of its intent to prepare an EIS evaluating potential environmental impacts associated with approving and providing annual funding for the State of Illinois' Coastal Management Program under the CZMA. Interested parties who wish to submit suggestions, comments on substantive information regarding the scope of content of the proposed DEIS, extent of the action, range of alternatives, and types of impacts, are invited to provide written comments to the designated officials below. Currently there are no scoping meetings planned, as many meetings and workshops have already been held for Federal, State and local agencies as well as the public in Illinois. The meetings and written comments will be documented and summarized in a scoping report included in the DEIS for public comment.

SUPPLEMENTARY INFORMATION: The National Coastal Zone Management (CZM) Program is a voluntary partnership between the Federal Government and U.S. coastal States and territories authorized by the CZMA. OCRM administers program at the Federal level and works with State coastal zone management partners to:

- Preserve, protect, develop and, where possible, restore and enhance the resources of the nation's coastal zone for this and succeeding generations;
- Encourage and assist the states to exercise effectively their responsibilities in the coastal zone to achieve wise use of land and water resources, giving full consideration to ecological, cultural, historic, and aesthetic values, as well as the need for compatible economic development;
- Encourage the preparation of special area management plans to provide increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas and improved predictability in government decisionmaking; and
- Encourage the participation, cooperation, and coordination of the