



MARINE MAMMAL COMMISSION

4 March 2019

Ms. Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the National Marine Fisheries Service's (NMFS) proposed policies and procedures for the administration and maintenance of the National Inventory of Marine Mammals (NIMM) with regard to the goals, policies, and requirements of the Marine Mammal Protection Act (the MMPA). The inventory database would be made publicly available via an online system and would include various reporting requirements¹.

The Commission believes that the collection of inventory data is necessary and supports NMFS's proposed policies and procedures for NIMM, which should provide a more accurate and transparent representation of marine mammals held in captivity. In particular, the Commission believes that it is appropriate for NIMM to maintain both historical and current data² since Congress's intent was for the inventory to track the history of³ individual marine mammals over time⁴ up to and after the death of that animal⁵. The Commission similarly believes that it is important for facilities and owners to document and report neonatal deaths⁶. To avoid any unnecessary ambiguity, NMFS clarified what constitutes a birth⁷ versus a stillbirth⁸. Finally, the

¹ Reporting of inventory data is required by facilities that house and owners of marine mammals under section 104(c)(10) of the MMPA.

² Facilities and owners also would be able to revise existing inventory information.

³ And data on.

⁴ Including when an animal is captured or born, from where an animal is acquired (including from the wild and whether it was a stranded animal), when and to where an animal is transported, etc.

⁵ Cause of death (COD) must be reported "when determined," which may be months after an animal has died depending on various post-mortem analyses.

⁶ NMFS noted in the *Federal Register* notice that neonatal deaths have been under-reported by some entities. The Commission understands that, in some instances, animals that die within 48 hours of birth have not been included in the inventory—while in other instances, animals that die within 30 days of birth have not not been included in the inventory. Neither of which are consistent with the reporting requirements under 104(c)(10) of the MMPA or Congress's intent.

⁷ Birth is defined as the emergence of a living marine mammal from the body of its mother, regardless of how long it survives.

⁸ Stillbirth is defined as the emergence of a dead fetus from the body of its mother including late-term miscarriages.

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Commission appreciates that NMFS incorporated the Commission's informal comments⁹ regarding the structure and content of the COD tiers in NMFS's proposed policies and procedures. The Commission recommends that NMFS finalize its policies and procedures for NIMM, including, but not limited to, incorporating historical and current inventory data, defining births and stillbirths as proposed and requiring neonatal deaths to be reported, incorporating the COD tiers as proposed, and making all such data available online.

In addition to increasing the accuracy and transparency of marine mammal inventory data, the Commission believes that making such data available online will allow for efficient data sharing between facilities and owners and the public, thus preempting Freedom of Information Act (FOIA) requests. The Commission would strongly encourage the U.S. Fish and Wildlife Service (FWS) to implement a similar, publicly-accessible online system for marine mammal inventory data.

The Commission believes that the proposed activities are consistent with the purposes and policies of the MMPA. Kindly contact me if you have any questions concerning the Commission's comments and recommendation.

Sincerely,



Peter O. Thomas, Ph.D.,
Executive Director

cc: Dr. Mary Cogliano, FWS

⁹ Including applicable citations.