

NOAA Fisheries' Regulatory Policy and Guidelines Concerning Viewing Marine Mammals in the Wild

The U.S. Marine Mammal Protection Act (MMPA) prohibits the “take”(i.e., harassment) of marine mammals in U.S. waters¹. Further, the Endangered Species Act also prohibits the taking of threatened and endangered species. To support the protections provided in the MMPA for species under NOAA Fisheries' jurisdiction (whales, dolphins, porpoises, seals and sea lions), NOAA Fisheries has specifically promulgated **regulations** explaining what types of activities are considered “takes” and “harassment,” including specific prohibitions on: (1) aircraft or vessel operations that disturb marine mammals; (2) feeding or attempting to feed marine mammals; (3) approaching North Pacific humpback whales closer than 100 yds (90 m) in Hawaii and Alaska waters; and (4) approaching right whales closer than 500 yds (460 m) in the North Atlantic. In addition, NOAA Fisheries is considering the development of regulations to prevent harassment or harm to wild marine mammals caused by inappropriate human interactions, such as close approach, swim with and touching.

The term “take” is defined in the MMPA as: *“to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.”* Further, the term “harassment” is defined as: *“any act of pursuit, torment, or annoyance which – (1) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (2) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).”* The term “take” is further defined in NOAA Fisheries regulations (50 CFR 216.3) to include: *“the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild.”*

Through its education and outreach efforts, NOAA Fisheries has developed voluntary **guidelines** that promote responsible marine mammal and sea turtle viewing. In addition to the regulations noted above (which hold the force of law), these voluntary guidelines are disseminated through various brochures and outreach materials to educators, researchers, government officials, businesses and the general public. Some of the broad guidelines are listed below. Details on the guidelines can be found on-line at: www.nmfs.noaa.gov/prot_res/MMWatch/MMViewing.html

- X Remain at least 50 yards from dolphins, porpoise, seals, sea lions and sea turtles and 100 yards from large whales.
- X Limit observation time to 30 minutes.
- X Never encircle, chase or entrap animals with boats.
- X Place boat engine in neutral if approached by a wild marine mammal.
- X Leave the water if approached while swimming.
- X Never feed wild marine mammals.

¹ This prohibition also applies to U.S. citizens on the high seas in international waters.

NOAA Fisheries Policy on Human Interactions With Wild Marine Mammals

The Marine Mammal Protection Act does not provide for a permit or other authorization process to view or interact with wild marine mammals, except for specific listed purposes such as scientific research. Therefore, interacting with wild marine mammals should not be attempted and viewing marine mammals must be conducted in a manner that does not harass the animals. NOAA Fisheries cannot support, condone, approve or authorize activities that involve closely approaching, interacting or attempting to interact with whales, dolphins, porpoises, seals or sea lions in the wild. This includes attempting to swim with, pet, touch or elicit a reaction from the animals. NOAA Fisheries believes that such activities constitute "harassment" as defined in the MMPA since they involve acts of pursuit, torment or annoyance that have the potential to injure or disrupt the behavioral patterns of wild marine mammals.